



International Tax

## Brazil Tax Alert

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### Tax amnesty program revised and incentive for exporters reintroduced

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The Brazilian government published rules on 10 July 2014 (Provisional Measure 651 (PM 651/2014)) that revise the recently announced tax amnesty program and reintroduce the “Reintegra” program, under which exporters of manufactured goods are entitled to a tax refund of a percentage of the value of their exports. PM 651/14 will become effective once the Minister of Finance issues an ordinance; it is possible that the PM will apply retroactively as from 1 January 2014.

#### Tax amnesty

PM 651/2014 revises Law No. 12,996/2014, published on 20 June 2014, which reopened a tax amnesty program created in 2009. The amnesty allows taxpayers (both legal entities and individuals) to pay off certain Brazilian federal tax debts under less stringent conditions than otherwise would apply. The amnesty provides for generous reductions in various penalties, short-term interest and legal charges, but it requires taxpayers to make an upfront payment of a portion of the consolidated tax debt (see alert dated [27 June 2014](#)). The deadline for submission of an application to participate in the amnesty program is 25 August 2014. PM 651/2014 revises the up-front payment amount (which can be made in up to five installments), as follows:

Law No. 12,996/2014	PM 651/2014
No 5% tier	5% of consolidated debt (after reductions) of up to BRL 1 million
10% of consolidated debt (after reductions) of up to BRL 1 million	10% of consolidated debt (after reductions) over BRL 1 million and up to BRL 10 million
No 15% tier	15% of consolidated debt (after reductions) over BRL 10 million and up to BRL 20 million
20% of consolidated debt (after reductions) over BRL 1 million	20% of consolidated debt (after reductions) over BRL 20 million

PM 651/2014 allows taxpayers with debts that were due up to 31 December 2013 to use certain loss carryforwards generated up to 31 December 2013 and declared by 30 June 2014 to offset the installment payments of the debt remaining after the upfront payment. An election to

use loss carryforwards to offset such debts must be made by 30 November 2014, and the following conditions must be satisfied:

- At least 30% of the outstanding installment debt must be paid in cash; and
- All of the remaining installment debt must be paid off by the loss carryforwards.

PM 651/2014 also provides that, in addition to a taxpayer's own loss carryforwards, losses of Brazilian resident companies in the same economic group (controlled and uncontrolled entities, held through direct or indirect ownership) may be used to offset the tax debt, as long as the corporate structure has been in place from December 2011 up to the date the option is exercised to pay the balance of the installments using loss carryforwards.

The government is expected to issue further guidance on the implementation of the above procedures.

## Reintegra program

PM 651/14 re-introduces and makes permanent the Reintegra program that applied during 2012 and 2013. To allow exporters to recover residual tax costs incurred in the export production chain, the Reintegra program allows entities that export goods manufactured in Brazil to request a credit (which may be refunded or used to offset other federal taxes) ranging from 0.1% to 3% of their total export revenue, depending on the type of goods exported. A credit will be granted where the goods exported meet all of the following requirements:

- The goods are manufactured in Brazil;
- The goods are listed on the IPI table that is to be enacted through an act of the executive branch; and
- The cost of imported raw materials does not exceed the percentage limit of the export price of the goods, as determined under an act to be issued by the executive branch.

"Exports" for this purpose will include sales made to qualified trading companies.

Credits will be allocated to offset the federal social contributions on gross income (17.84% to the PIS and 82.16% to the COFINS), but may be offset against other federal debts or refunded if certain requirements are met. The credits will not be taken into account in computing PIS, COFINS, corporate income tax or the social contribution on net profits and, therefore, will be tax-exempt.

## Comments

The enactment of PM 651/2014 provides further benefits for taxpayers, with regard to the amnesty program by decreasing the upfront payment, and allowing the use of loss carryforwards (and, in an unprecedented move, losses of other group companies) to pay off the remaining installment debt. The Reintegra program also provides a benefit that may allow Brazilian exporters to become more competitive globally.

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