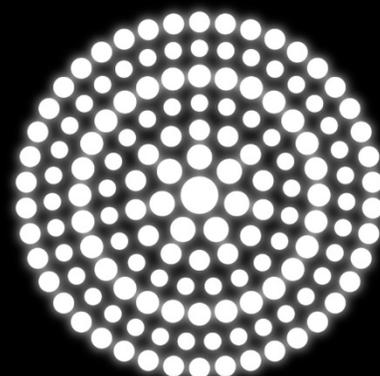


## International Tax Brazil Highlights 2021

Updated January 2021



### Recent developments

For the latest tax developments relating to Brazil, see [Deloitte tax@hand](#).

### Investment basics

**Currency:** Brazilian Real (BRL)

**Foreign exchange control:** Companies generally do not need prior authorization for a foreign exchange transaction, although a record of the transaction must be registered electronically with the central bank.

**Accounting principles/financial statements:** Publicly traded companies and nonpublic companies with assets exceeding BRL 240 million, or gross revenue exceeding BRL 300 million must have external auditors. Only publicly traded companies must publish annual account reports using Brazilian GAAP (which follow IFRS). Annual reports, balance sheets, income statements, and minutes of annual meetings must be published in the official gazette and another well-known newspaper. A nonpublic corporation also must publish its financial statements if shareholder equity is at least BRL 2 million.

**Principal business entities:** These are the limited liability company (LTDA), and corporation (SA). Branches are rare, since they may operate in Brazil only through a specific ministerial decree.

### Corporate taxation

Rates	
Corporate income tax rate	15% (34% including surtax)
Branch tax rate	15% (34% including surtax)
Capital gains tax rate	15% (34% including surtax)

**Residence:** A company is resident in Brazil if it is incorporated in Brazil.

**Basis:** Resident companies are taxed on worldwide income. A foreign company is subject to Brazilian taxation only if it carries out certain sales activities in Brazil through an agent or representative that is domiciled in the country and that has the power to legally bind the foreign seller, or through a domestic branch of the foreign seller. A representative acting as an agent will not give rise to a taxable presence in Brazil if the final transaction is concluded abroad by the nonresident company. Branches are taxed in the same way as subsidiaries.

**Taxable income:** The basic income tax applies to operating profits derived by a company in Brazil. Operating profits are defined as gross operating receipts, less the cost of goods sold or services rendered; commercial, administrative, and operating expenses; and other charges, reserves, and losses authorized by law.

Brazilian companies may opt annually to be taxed on the actual or presumed profit method. The “lucro real” method is based on actual annual or quarterly taxable income whereas the “lucro presumido” method, which is available if certain requirements are satisfied, is based on quarterly estimated or deemed taxable income.

Qualifying small enterprises with annual gross income not exceeding BRL 4.8 million may elect to be taxed under a simplified regime (for purposes of corporate income tax, federal excise tax (IPI), federal social contributions on gross income (PIS and COFINS), state VAT on sales and services (ICMS), tax on services (ISS), and social security contributions).

**Rate:** Corporate income tax (IRPJ) is levied on the taxable profits of an entity at a rate of 15%. However, taking into account the surtax and the social contribution on net profits (see “Surtax” below), the combined nominal rate is 34%.

**Surtax:** In addition to the statutory corporate income tax rate of 15%, a 10% surtax is imposed on annual income in excess of BRL 240,000, and a 9% social contribution tax (CSLL) is levied on adjusted net income. For financial institutions, the CSLL rate is 20%.

**Alternative minimum tax:** There is no alternative minimum tax.

**Taxation of dividends:** Dividends received by Brazilian individuals and entities from Brazilian companies (and income derived from premiums on the issuance of new shares) are not included in taxable income.

**Capital gains:** Capital gains are treated the same way as ordinary income (subject to restrictions on the offsetting of capital losses against ordinary profits in certain cases).

Capital gains derived by a nonresident on an investment registered with the central bank (i.e., foreign direct investment) are subject to progressive rates ranging from 15% to 22.5% (15% on gains that do not exceed BRL 5 million; 17.5% on gains over BRL 5 million up to and including BRL 10 million; 20% on gains over BRL 10 million up to and including BRL 30 million; and 22.5% on gains over BRL 30 million). A 25% rate applies to gains derived by a resident of a tax haven.

Foreign investors in the financial market (i.e., portfolio investments) are subject to different rates and exemptions.

**Losses:** Losses must be segregated as “operating” or “nonoperating.” Nonoperating losses may be set off only against nonoperating gains. Tax losses incurred in one fiscal year may be carried forward indefinitely, but the amount of the carryforward that can be utilized is limited to 30% of taxable income in each carryforward year. The carry back of losses is not permitted. Taxpayers may not utilize losses where they underwent a cumulative change in business activities and ownership between the dates the losses were generated and utilized (e.g., certain restructurings or reorganizations).

**Foreign tax relief:** A foreign tax credit for qualifying foreign taxes paid is available to offset the IRPJ and CSLL imposed on foreign-source income. Further limitations on the credit include a per-company limitation for foreign subsidiaries (some consolidation of branches and of lower-tier subsidiaries is allowed) and foreign branches.

**Participation exemption:** There is no specific participation regime, although dividends received from other Brazilian companies are not included in taxable income (see “Taxation of dividends,” above).

**Holding company regime:** There is no holding company regime.

**Incentives:** R&D projects and information technology qualify for some direct assistance and tax relief. An exclusion is allowed from the corporate income tax base of 60% to 100% of R&D project expenses. The IPI on the acquisition of assets is reduced and accelerated depreciation is allowed for R&D assets.

Subsidized financing is available to purchase capital goods, invest in infrastructure projects, and build ships.

Export sectors qualify for duty drawback on imports, and for special financing through an export promotion program. Exporters of manufactured goods are entitled to a tax refund of a percentage of the value of their export revenue, depending on the type of goods exported.

There also are regional incentives for federal and state taxes, granted by the Brazilian government.

## Compliance for corporations

**Tax year:** The tax year is the calendar year.

**Consolidated returns:** Consolidated returns are not permitted; each company must file a separate return.

**Filing and payment:** Every business entity in Brazil (including corporations, special purpose entities, consortia, and branches of foreign companies) must file an annual income tax return for the previous calendar year by the last business day of July. Corporate income taxes (IRPJ and CSLL) usually are due on annual adjusted profits with monthly or quarterly advance payments; any excess tax paid may offset future taxes (under certain circumstances). A simplified regime is available for smaller companies, whereby taxpayers remit corporate income taxes quarterly (based on gross revenues).

**Penalties:** Late payment of IRPJ and CSLL is subject to penalties and interest.

**Rulings:** While there is no advance tax ruling system, Brazil allows formal consultations on the application of tax laws to the taxpayer's specific facts. The decisions are binding on all taxpayers, with the possibility of an appeal depending on the existence of inconsistent separate decisions, in which case an affected taxpayer may request a final statement that binds all taxpayers that have received decisions on the same facts/law.

## Individual taxation

Rates		
Individual income tax rate	Taxable income	Rate
	Up to BRL 22,848	0%
	BRL 22,849 – BRL 33,920	7.5%
	BRL 33,921 – BRL 45,012	15%
	BRL 45,013 – BRL 55,976	22.5%
	Over BRL 55,976	27.5%
Capital gains tax rate	Progressive rates from 15% to 22.5%	

**Residence:** In addition to citizens, the following individuals are considered tax residents: naturalized foreigners; foreigners who are permanent residents; foreigners who hold a permanent visa (which was available for new applicants up until 21 November 2017); foreigners who have a temporary visa with a local employment contract from the date of arrival; and foreigners who hold a temporary visa, but no local employment contract, after completing 183 days of residence in Brazil within any 12-month period.

**Basis:** Resident individuals are taxed on their worldwide income. Nonresidents are taxed only on income from Brazilian sources.

**Taxable income:** Taxable income includes wages, salaries, bonuses, consulting fees and commissions, premiums, directors' fees, and dividends and interest from foreign sources. It also includes most allowances connected with employment. The formal profit sharing paid by a Brazilian employer to employees is exempt only for INSS and severance fund purposes under certain conditions. Dividends received from Brazilian sources are exempt from tax.

**Rates:** No tax is levied on annual income up to and including BRL 22,848. Tax is levied as follows: 7.5% on income from BRL 22,849 up to and including BRL 33,920; 15% on income from BRL 33,921 up to and including BRL 45,012; 22.5% on income from BRL 45,013 up to and including BRL 55,976; and 27.5% on income exceeding BRL 55,976.

Nonresidents of a nontreaty country are taxed at a flat rate of 25% (on earned income) or 15% (on other income, except dividends paid from a Brazilian company, which are exempt from tax).

**Capital gains:** Capital gains are subject to progressive rates ranging from 15% to 22.5%.

**Deductions and allowances:** Instead of itemizing deductions, taxpayers may elect the standard annual deduction of 20% of taxable income, up to a maximum of BRL 16,754.

Deductions and allowances may include (subject to additional restrictions): social security taxes paid by the employee; contributions to private Brazilian pension plans (up to 12% of gross income); alimony or pension payments under a court order; expenses incurred by self-employed individuals to generate business income or maintain the source of such income; a standard deduction per dependent up to BRL 2,275; educational expenses, up to an annual limit of BRL 3,561; unreimbursed payments for health insurance plans and medical, dental, psychotherapy, and physical therapy expenses; and documented contributions to approved Brazilian cultural, artistic, and audio-visual activities, and donations to Brazilian Child and Youth Counsels, up to 6% of tax due or 3% if the donation is at the time the tax return is filed.

**Foreign tax relief:** Foreign tax relief may be available depending on the existence of a tax treaty or reciprocal treatment by the other country (regardless of a treaty).

## Compliance for individuals

**Tax year:** The tax year is the calendar year.

**Filing status:** There is an option for married individuals to file a joint tax return for the household.

**Filing and payment:** Tax is paid on a monthly basis, either through withholding from salary, or by advance payment for the self-employed. Monthly advance payments also are required for income received outside of Brazil by Brazilian tax residents.

All residents who are subject to income tax must file a final annual tax return by the last business day of April of the following year. The return must include a statement indicating all property and rights (domestic or foreign).

In addition to filing an income tax return, a resident individual who owns more than USD 100,000 in assets abroad on 31 December must report these assets to the Brazilian central bank by 5 April each year. Resident individuals who own more than USD 100 million in assets on 31 March, 30 June, 30 September, and/or on 31 December of a given year also must report these assets to the Brazilian central bank by 5 June, 5 September, and 5 December of the given year, and 5 April of the following year, respectively.

**Penalties:** Late filing of the income tax return will result in a penalty of 1% per month on the tax due (up to a maximum of 20% on the tax due). A minimum penalty of BRL 166 applies if no tax was due. A maximum penalty of BRL 250,000 applies for the late or incorrect filing of the Brazilian central bank return.

## Withholding tax

<b>Rates</b>				
<b>Type of payment</b>	<b>Residents</b>		<b>Nonresidents</b>	
	<b>Company</b>	<b>Individual</b>	<b>Company</b>	<b>Individual</b>
<b>Dividends</b>	0%	0%	0%	0%
<b>Interest</b>	15%-22.5%	15%-22.5%	15%/25%	15%/25%
<b>Royalties</b>	0%	0%	15%/25%	15%/25%
<b>Fees for technical services</b>	1.5%	0%	15%/25%	15%/25%

**Dividends:** No withholding tax is imposed on dividend distributions to a nonresident that are paid out from retained IFRS profits.

No withholding tax is imposed on dividend distributions to a resident.

**Interest:** Interest paid to a nonresident generally is subject to a 15% withholding tax unless the rate is reduced under a tax treaty. The rate is 25% if the recipient is resident in a tax haven.

Interest derived from domestic loans have rates that apply to fixed income investments, which are subject to regressive withholding tax rates as follows: 22.5% on interest due for a term of up to 180 days; 20% on interest due for a term between 181 days and 360 days; 17.5% on interest due for a term between 361 days and 720 days; and 15% on interest due for a term greater than 720 days.

**Royalties:** The general withholding tax rate on royalty payments is 15% unless the rate is reduced under a tax treaty. The rate is 25% if the recipient is resident in a tax haven.

No withholding tax is imposed on royalty payments to a resident.

**Fees for technical services:** The general withholding tax rate on technical service and technical assistance fees, administrative assistance fees, and similar payments to nonresidents is 15% unless the rate is reduced under a tax treaty. The rate is 25% if the recipient is resident in a tax haven.

Certain domestic professional service payments are subject to a 1.5% withholding tax (as well as 1% CSLL, 3% COFINS, and 0.65% PIS).

**Branch remittance tax:** There is no branch remittance tax.

## Anti-avoidance rules

**Transfer pricing:** Brazil's transfer pricing rules apply only to cross-border transactions between related parties and transactions with entities located in tax haven jurisdictions. The rules deviate substantially from the OECD transfer pricing guidelines; they do not adopt the arm's length principle but use fixed margins to calculate the transfer price. The rules also provide that interest derived from a cross-border loan is subject to certain limits, regardless of whether the loan agreement is registered with the Brazilian central bank. The limits vary depending on the type of currency adopted and interest (fixed or variable), and take into account market rates and a spread determined by the Minister of Finance.

For inbound financial transactions, where the Brazilian taxpayer is paying interest to a foreign related party, the annual spread is limited to a maximum rate of 3.5%. For outbound financial transactions, where the Brazilian taxpayer is receiving interest from a foreign related party, the annual spread has a minimum rate of 2.5%.

**Interest deduction limitations:** Under the thin capitalization rules, interest paid to related parties that are not located in a tax haven jurisdiction, and that do not benefit from a preferential tax regime may be deducted on an accrual basis for corporate income tax purposes only if (i) the expenses meet the general requirements of deductibility (necessary, usual, and duly documented), and (ii) both of the following thresholds are met: (a) the related party debt-to-equity ratio does not exceed 2:1, calculated based on the proportion of related party debt to direct equity investment made by related parties, and (b) the overall debt-to-equity ratio does not exceed 2:1, calculated based on the proportion of total debt to total direct equity investment made by related parties.

Interest paid to an entity or individual located in a tax haven or that benefits from a preferential tax regime (regardless of whether the parties are related) may be deducted only if the expenses (i) are necessary for the company's activities, and (ii) both of the following thresholds are met: (a) the amount of the Brazilian entity's indebtedness to the tax haven/preferential tax regime resident does not exceed 30% of the net equity of the Brazilian entity, and (b) the Brazilian entity's total indebtedness to all entities located in a tax haven jurisdiction or benefiting from a preferential tax regime does not exceed 30% of the net equity of the Brazilian entity.

Excess interest is treated as a nondeductible expense for IRPJ and CSLL purposes.

The transfer pricing rules affecting cross-border loans remain in effect, as do the general requirements for deductibility.

**Controlled foreign companies:** Profits earned by CFCs of Brazilian entities are included in the base for calculating the IRPJ and CSLL liability of the Brazilian controlling company on 31 December of each calendar year. Under certain conditions, profits earned by foreign affiliates (noncontrolled subsidiaries) will be taxed only upon distribution.

Provided certain requirements are met, Brazilian taxpayers have the option to make an irrevocable election each calendar year to consolidate the profits and losses of CFCs through 2022, and to carry forward any losses.

A Brazilian controlling company, depending on its business sector, may be entitled to a 9% deemed credit, through 2022, on profits earned abroad by its CFCs. The credit may be used to offset the income tax related to the CFC's profits included in the controlling company's taxable income.

**Hybrids:** Brazilian corporate income tax law allows a deduction for interest on net equity (INE) paid or credited to shareholders, limited to the higher of 50% of the current year's net profit or 50% of the company's retained earnings. The amount available for the deduction is computed by multiplying the company's net equity balance by an official remuneration rate published by the Brazilian central bank (TJLP rate). INE is treated as interest for withholding tax purposes (i.e., subject to withholding tax at a 15% rate on the gross amount; 25% if paid to a person located in a tax haven jurisdiction).

**Economic substance requirements:** Brazil's tax authorities have provided the definition of the term "substantial economic activities" for purposes of determining whether certain Danish and Dutch regimes should be deemed privileged tax regimes and, therefore, be included on Brazil's "grey list." A foreign holding company in Denmark or the Netherlands will be deemed to carry out substantial economic activities if it has the appropriate operating capacity to meet its corporate purposes, including having a sufficient number of qualified employees and adequate physical premises to effectively manage its operations.

**Disclosure requirements:** Related-party transactions and CFC information must be disclosed in the annual income tax return. Country-by-country (CbC) reporting standards, aligned with OECD standards, also apply.

**General anti-avoidance rule:** General anti-avoidance rules apply. Under the rules, any amount paid, credited, delivered, used, or remitted directly or indirectly to an entity or individual incorporated or resident in a tax haven jurisdiction, or

benefiting from a preferential tax regime may be deducted only if the taxpayer can identify the beneficial “recipient” of the proceeds; provide evidence that the entity or individual has the operational capacity to carry out the transaction for which the payment is made; and submit documentation showing the purchase price paid and the receipt of the goods, rights, or the use of services (see above under “Transfer pricing” and “Interest deduction limitations” for additional rules specific to interest payments). In addition, ultimate beneficial owner disclosure rules apply to certain taxpayers.

## Indirect taxes on goods and services

**State VAT (ICMS):** ICMS is a state VAT levied on the circulation and import of goods, and the provision of interstate and intermunicipal transportation and communications services. ICMS is levied at rates ranging from 4% to 25%. ICMS calculations must be kept in proper fiscal books. Return filing and payment are on a monthly basis.

**Federal excise tax (IPI):** IPI is a federal excise tax levied on the manufacture of goods and the import of goods into Brazil. Exports are exempt. IPI rates depend on the type of product, with an average rate of 20%. Return filing and payment are on a monthly basis.

**Municipal tax (ISS):** ISS is a municipal tax imposed on the supply and import of services (other than services subject to ICMS) with rates ranging from 2% to 5%. Exports of services may be exempt under certain conditions. Return filing and payment are on a monthly basis.

**Federal social contributions (PIS/COFINS):** The PIS/PASEP (social integration program) and COFINS (tax for social security financing) are federal taxes imposed on gross revenue (but not considered an income tax). Where a Brazilian entity pays corporate income tax based on actual income, the PIS/PASEP and COFINS are 1.65% and 7.6%, respectively. Where a Brazilian entity pays corporate income tax under the deemed taxable income regime, the PIS/PASEP and COFINS are 0.65% and 3%, respectively. In the former case, the Brazilian entity may use input PIS/PASEP and COFINS credits to offset its PIS/PASEP and COFINS liabilities. Export transactions are exempt, if the related funds have entered Brazil. With respect to the importation of goods and services, PIS/PASEP and COFINS generally are applicable at a rate of 11.75% and 9.25%, respectively. PIS/PASEP and COFINS are paid monthly, with monthly returns required.

## Other taxes on corporations and individuals

Unless otherwise stated, the taxes in this section apply both to companies and individuals and are imposed at the national level.

**Social security contributions:** Employers are required to contribute 8% of wages to each employee’s deferred salary account for the severance fund, as well as 20% of an employee’s wages to the public pension system (National Institute for Social Security or INSS), and a maximum of 8.8% for other social security taxes. In some business sectors, the 20% INSS contribution has been replaced by a contribution levied on gross revenue (this is on a temporary basis until 31 December 2020). Employees contribute 8% to 11% to social security, depending on their salary categories.

**Payroll tax:** There is no payroll tax.

**Capital duty:** There is no capital duty.

**Real property tax (IPTU):** IPTU is collected annually by the municipality where the property is located and is calculated on a deemed “sales price” of the property. The tax rate varies by municipality but generally is in the range of 0.3% to 1.5%. The rural property tax (ITR) is an annual federal tax assessed on the ownership of rural property at rates ranging from 0.03% to 20%, depending on the region, and the utilization of the property.

**Transfer tax (ITBI):** ITBI is a municipal real estate transfer tax due upon the transfer of title to real property (land and buildings). The tax rate is progressive from 2% to 6%, calculated, broadly, on the sales price. The buyer is responsible for payment of the tax.

**Stamp duty:** There is no stamp duty.

**Net wealth/worth tax:** There is no net wealth/worth tax.

**Inheritance/estate tax (ITCMD):** For individuals, states are authorized to tax inheritances at rates of up to 8%.

## Other

### Financial transactions tax (IOF)

The IOF is imposed on foreign exchange, credit/loan, and security transactions. The general rate for most foreign exchange transactions is 0.38%. For short term (i.e., less than six months) cross border loans, the rate is 6% on the principal amount. A maximum rate of 1.88% (calculated using specific methods and conditions) applies on the principal amount of domestic loans (where the lender is a legal entity). For security transactions, the rates depend on the type of transaction (ranging from 0% to a maximum daily rate of 1.5%).

### Levy on importation of technical services and royalties (CIDE)

The CIDE is imposed at a rate of 10% on the importation of technical services and royalties.

### Import duty (II)

II is a federal duty levied on the importation of tangible goods. Rates depend on the type of product, ranging from 0%-35%.

**Tax treaties:** Brazil has concluded around 30 tax treaties that are currently effective. Brazil has not signed the OECD multilateral instrument (MLI). For information on Brazil's tax treaty network, visit [Deloitte International Tax Source](#).

**Tax authorities:** Brazilian Revenue Service

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