



## ICEbreakers: Unlocking Brazil



### Hot topics

- **Ruling on branch taxation:** The tax authorities issued a private letter ruling on August 14, 2017, stating that a Brazilian branch of a nonresident nonprofit entity was entitled to the beneficial social security contribution (PIS/COFINS) rates normally available to Brazilian nonprofit organizations. The ruling confirms existing provisions in the corporate income tax code, which establish that Brazilian branches and agencies of nonresident legal entities are treated as resident legal entities for corporate income tax purposes in Brazil. The ruling also clarifies that Brazilian branches of foreign entities are entitled to the same tax exemptions and benefits that are available to resident entities. (A private letter ruling is issued in response to a written request submitted by a taxpayer; it is not binding on other taxpayers or the Brazilian tax authorities but it may be used as precedent in future similar requests.)
- **Reimbursement of remuneration costs paid by head office not taxable:** In another private letter ruling issued on August 23, 2017, the tax authorities addressed the tax treatment of reimbursement payments made by a Brazilian company to its foreign parent or a foreign related company. According to the authorities, payments made for the reimbursement of remuneration paid by the parent/related company to expatriates resident in Brazil are not subject to Brazilian withholding income tax or the social security contributions on revenue (i.e. PIS/COFINS). The ruling explains that a reimbursement that is not subject to tax is limited to the amount effectively paid to the expatriate. The expense may be deducted by the Brazilian company provided it is supported by an invoice and is necessary for the company's trade and business in Brazil.
- **"Tax wars":** A federal law enacted on August 7, 2017 aims to end the tax wars that have plagued the country for the past several decades as a result of unilateral VAT (ICMS) benefits granted by the states. The ICMS is levied by each of the states on the circulation of goods and the provision of telecommunications and interstate/inter-municipal transportation services. An "ICMS Agreement" will be introduced that will formalize the acceptance of certain ICMS benefits among all states where the benefits granted had not received the relevant approval and, therefore, were deemed not to be in accordance with constitutional principles.

### Other developments

**REPETRO customs regime extended:** The REPETRO regime aims to promote activities in the oil and gas sector by granting a suspension of federal taxes otherwise due. A decree issued on August 18, 2017 extends the REPETRO incentives for an additional 20 years; the incentives were due to expire at the end of 2020, but now have been extended through the end of 2040. The decree also introduces a rule that will allow goods imported under the "temporary admission" regime by oil and gas ventures and that cannot be physically removed (e.g. subsea equipment) to remain in Brazil and still benefit from the suspension of taxes. The decree introduces corporate income tax deduction rules for companies in the oil and gas sector and new maximum percentages for the application of the 0% withholding tax rate that will apply as from January 1, 2018.

### Legislative updates

**New immigration law:** A new immigration law published on May 25, 2017 replaces the foreigner statutes and incorporates certain aspects of the law that deals with nationality status and political rights. The new law relaxes some of the rules that apply to foreigners in the country, as well as the categories of visas. The law will become effective on November 21, 2017, and includes the following changes:

- The rules governing the terms for entry and staying in Brazil are significantly revised;
- A "visitor's visa" is introduced, which may be issued to individuals who come to Brazil for short periods of time for purposes of tourism or to engage in artistic, sport and business activities;
- The cases in which a temporary visa will be granted are expanded, and an exemption from the visa requirement is granted for maritime professionals in certain situations;
- The permanent visa is abolished and a new residence permit is introduced; and
- The types of travel documents that will be accepted for entry into Brazil are expanded to include a return authorization (for Brazilian citizens that do not have a valid passport), safe conduct, maritime identity card, etc.

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