Brazilian Tax Reform Highlights: Oil & Gas

Overview & **Future** Perspectives

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Oil & Gas
Considerations and potential impacts of EC 132/23

Overview of current taxation:

Service Providers

- Incidence of ISS, PIS and COFINS;
- Possibility of applying tax and customs regimes such as REPETRO, Drawback, Temp. Admin., REB.

Midstream and Downstream (Flow, distribution, storage and commercialization)

- Single-phase PIS, COFINS, and ICMS-ST for some fuels;
- CIDE on the import and commercialization of oil and derivatives, natural gas, derivatives, and ethyl alcohol fuel;
- ICMS not applicable to interstate operations with petroleum and derivatives;
- IPI immunity for petroleum derivatives, fuels, and minerals.

Upstream - Exploration and Production

- Non-incidence of ICMS on the extraction of crude oil and natural gas:
- Operation essentially incentivized by REPETRO (Sped and Industrialization).

Particularities among taxpayers in this segment:

- Single-phase tax and tax substitution;
- Ad-Rem and Ad-Valorem rates;
- Special Customs Regimes;
- Possibility of State Incentives for Oil and Natural Gas Refining activities;
- Possibility of ICMS exemption or reduced tax burden, equivalent to 3%, as per ICMS Agreement 03/18 (REPETRO-SPED);
- Different tax treatments depending on the tax classification (NCM);
- Diversity of rates applicable to natural gas (12% to 20%).

Points of Attention: New Taxation Model

Taxes applicable: ✔ **IBS** ✔ **CBS** ✔ **IS (extraction)**
Taxes Non-applicable: State Contribution

✓ Specific regime for fuels and lubricants

- Possibility of a single-phase charge for fuels and lubricants at a fixed value per unit of measurement. Currently, the single-phase doesn't extend to lubricants;
- Possible standardization of rates applicable to operations with natural gas;
- The purchaser can take advantage of credits on the fuels and lubricants purchased for consumption in their activity;
- Fixed percentage of 1% Selective Tax on the extraction of non-renewable resources. Further, the criterion of goods harmful to health and the environment could generate a levy on other stages of the chain and also on fossil fuels;
- Preservation of the favored treatment for biofuels, ensuring competitive advantage over fossil fuels;
- Potential increase in tax complexity in the seven-year transition period due to the coexistence of the two calculation regimes;
- A Complementary Law will regulate the maintenance of special customs regimes and ways to reduce the tax burden on capital goods, which could impact regimes widely used by the industry (e.g. REPETRO SPED, DRAWBACK, REB);
- To use the ICMS Tax or Financial Benefits Compensation Fund, it will be necessary to meet the requirements and conditions of the granted benefit and follow criteria to be defined by Complementary Law.

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