



Brazilian Tax Reform Highlights:

Technology, Media,
Entertainment & Telecom

Overview & **Future** Perspectives



Building a better
working world

TMT segment

Considerations and potential impacts of EC 132/23

Overview of current taxation:

Tecnology (software + hardware)

- ISS, ICMS, ICMS-ST, IPI and PIS and COFINS, both cumulative and non-cumulative (multiplicity of possible situations);
- ICMS incentives (hardware) and reduced ISS rate (software and other services);
- Computer Law, PADIS and etc.;
- SIMPLES taxpayers (e.g., developers and technical service providers).

Mídia and entertainment

- ISS, ICMS e PIS e COFINS, both cumulative and non-cumulative (multiplicity of possible situations);
- Non-occurrence of IPI.

Telecom and similars

- Cumulativity for PIS and COFINS;
- ICMS incentives (multiplicity of possible situations);
- Non-occurrence of IPI;
- Incidence of ISS in activities not classified as "telecommunication".

Marketplaces

- ISS, ICMS, ICMS-ST e PIS e COFINS (multiplicity of possible situations);
- Non-occurrence of IPI (except import);
- SIMPLES taxpayers

Particularities among taxpayers in this segment:

- Conflicts of competence between entities (Union, States and Municipalities);
- Difficulty in conceptualizing related to tax incidence (e.g., embedded software, imported software, classification of revenues, streaming, etc.);
- Tax benefits by agreement terms with states;
- Tax residues especially in cases of non-cumulative PIS and COFINS, transactions subject to ISS and transactions subject to ICMS incentives;
- Several rates for ISS;
- Possibility of exemptions, reductions or other tax relief in contracts with Public Administration.



Points of Attention: New Taxation Model

Incident Taxes: ✓ IBS ✓ CBS ✗ IS

- ✓ Maintenance of the ZFM
- ✓ Non-occurrence of IS in Telecommunications guaranteed by the Constitutional Amendment



- Great complexity in defining "destination", considering that the sector involves (i) large fragmentation of customers (especially telecom customers); (ii) rights and intangibles of difficult verification of consumption and production of result (e.g., ERPs purchased by the head office whose use will be enjoyed by several establishments located in various locations);
- Potential difficulty of compliance in determining the rate, precisely because of the difficulty in identifying the place of consumption. Complementary law should regulate these gaps;
- Uncertainty regarding the incidence of IS for telecommunication (art. 155, § 3º, CF);
- Maintenance of the ZFM, but with little visibility of how to maintain its advantages, especially with the extinction of the IPI and the possibility of presumed credit when purchasing products produced there;
- Elimination of the cumulative regime of PIS and COFINS and other situations affected by tax incentives: potential increase in tax burden and costs associated with transactions;
- Doubts regarding the obligation to send the sector's specific obligations;
- Uncertainty regarding the tax treatment connected with the sector and not directly related to indirect taxation (e.g., Informatics Law);
- Possible increase in cost for SIMPLES optants, however, there is the option for non-cumulativity of IBS/CBS;
- Maintenance of Federal Rates and CIDEs (sectoral funds: FUST, FUNTTEL, FISTEL, CRFP and CONDECINE)
- Marketplace: possibility of payment by responsibility.

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