



BUSINESS ENVIRONMENT AND OPPORTUNITIES IN BRAZIL

Overview | May 2011

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Preface

This guide is directed to companies seeking to do or to increase business in Brazil. It has been prepared as a summary of the necessary information to those who are interested in investments or looking for business opportunities in our country.

BDO RCS Auditores Independentes, the fifth largest auditing company in Brazil, is as of April 1st 2011 the BDO representative in the country. We are a full-service professional firm with expertise in business, financial and legal areas and strong networks in Brazil.

Our experienced professionals are well prepared to help you in handling inbound and outbound investments, tackling a diverse range of corporate and taxation issues. We will be very pleased to be at your service. If you have any general or specific questions, please contact any one of our partners.

The information presented in the following pages is an overview of the business environment and opportunities in Brazil, in a summarized way. This guide was updated on May 31th, 2011.

Additionally, we acknowledge the partners, which detailed information are presented in the last page, for reviewing, providing data, or offering constructive suggestions for the improvement of this work.

Raul Corrêa da Silva

Chairman and CEO

BDO RCS Auditores Independentes

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Highlights

Jurisdiction: BR

Last reviewed: June 2010

| | |
|--------------------------------|---|
| Tax authorities | <p>Ministério da Fazenda (Ministry of Finance) web: www.fazenda.gov.br</p> <p>Secretaria da Receita Federal (Federal Internal Revenue Department) web: www.receita.fazenda.gov.br</p> <p>Banco Central do Brasil (Brazilian Central Bank) web: www.bcb.gov.br</p> |
| Tax year | <p>January 1st. –December 31st. (calendar year)</p> <p>Companies may elect to use a non-calendar year for corporate accounting purposes. Income statements must be prepared as of December 31st. of each year to be used for income tax purposes.</p> |
| 2010 tax rates | <p>Corporate income is taxed at 15%. There is a 10% surcharge on net taxable income over R\$ 20,000 per month. Social contribution on net profit tax (CSLL) is levied on net taxable income at a rate of 9%.</p> <p>Income of individuals is tax free up to R\$ 1,499.15 per month. The tax rate for income from R\$ 1,499.16 to R\$ 2,246.75 is 7.5%. Income from R\$ 2,246.76 to R\$2,995.70 is taxed at 15%, from R\$ 2,995.71 to R\$ 3,743.19 at 22.5%, and income over R\$ 3,743.19 is taxed at 27.5%.</p> |
| VAT | <p>VAT rates vary from 7% to 25%, according to the State of the country and the type of products and/or services delivered.</p> |
| Capital gains tax (CGT) | <p>Capital gains from the disposal of fixed assets are included in taxable income of entities and taxed at standard corporate income tax rates. Capital gains of individuals must be included in the income tax return with other income, but are taxed at the standard rate of 15%. Income tax on capital gains from disposal of real estate by individuals may be reduced depending on time of ownership.</p> |

| | |
|--------------------------------------|---|
| Losses | Losses may be carried forward indefinitely and be used to offset income in subsequent years. The allowable loss deduction in any given year is limited to 30% of that year's taxable income. |
| Treaty network | 28 treaties in force. |
| Withholding tax (non-residents) | Income, interest, royalties and capital gains are all subject to a withholding tax of 15%. For royalties and technical assistance fees an additional withholding tax (CIDE) of 10% applies. Dividends are not subject to withholding tax. |
| Group consolidation | Brazil does not allow consolidated tax return filings. |
| Controlled Foreign Company CFC rules | Yes. |
| Thin capitalisation restrictions | Interest payments to the parent company or other affiliated companies abroad are deductible only if the indebtedness is not higher than twice the amount invested in the Brazilian company by the parent or affiliated companies located abroad. The limitation of indebtedness for companies located in low tax countries is 30% of the equity capital of the Brazilian company. |
| Currency | Real – R\$ |
| Exchange controls | Yes. |

Guide to Brazilian Citations

Jurisdiction: BR

Last reviewed: June 2010

| AUTHORITY | CITED AS |
|--|---|
| <p><i>SPECIFIC AUTHORITIES</i></p> <p>Contribution for Intervention in the Economic Domain Law (Lei da Contribuição de Intervenção no Domínio Econômico), Law N.º 10,336 of 2001</p> | <p>LCIDE Art <article #></p> |
| <p>Civil Code (Código Civil), Law N.º 10,406 of 2002</p> | <p>CC Art <article #></p> |
| <p>Consolidation of Labour Laws (Consolidação das Leis Trabalhistas), Law-decree N.º 4,542 of 1943</p> | <p>CLT Art <article #></p> |
| <p>Corporate Income Tax and Social Contribution on Net Profit Amendment (Altera a legislação do imposto de renda das pessoas jurídicas, bem como da contribuição social sobre o lucro líquido), Law N.º 9,249 of 1995</p> | <p>Alt IRPJ&CSLL Art <article #></p> |
| <p>Corporations Law (Lei das Sociedades Anônimas), Law N.º 6,404 of 1976</p> | <p>LSA Art <article #></p> |
| <p>Federal Constitution (Constituição Federal) of 1988</p> | <p>Constituição Federal Art <article #> Inciso <item #> par <paragraph #></p> |
| <p>Guarantee Fund for Time of Service Law (Lei do Fundo de Garantia por Tempo de Serviço), Law N.º 8,036 of 1990</p> | <p>LFGTS Art <article #></p> |
| <p>Income Tax Regulation (Regulamento do Imposto de Renda), Decree N.º 3,000 of 1999</p> | <p>RIR Art <article #> Inciso <item #> par <paragraph #> § <sentence #></p> |
| <p>International Capital and Foreign Exchange Market Regulation (Regulamento do Mercado de Câmbio e Capitais Internacionais) (translation at www.bcb.gov.br/RMCCINORMSNORM)</p> | <p>RMCCI</p> |

| | |
|--|--|
| Legal Opinion of the Taxation Scheme Coordinator (Parecer Normativo do Coordenador do Sistema de Tributação) N.º 231, 10 March 1971, Receita Federal | Parecer Normativo N.º 231 |
| National Tax Code (Código Tributário Nacional), Law N.º 5,172 of 1966 | CTN Art <article #> |
| Tax Adjustment Law (Lei de Ajuste Tributário), Law N.º 9,430 of 1996 | LAT Art <article #> |
| Tax Administrative Process Law (Lei de Procedimento Administrativo Fiscal), Decree N.º 70,235 of 1972 | PAF Art <article #> |
| <i>GENERAL CITATION METHODS</i> | |
| Complementary Laws (Leis Complementares) | Lei Complementar N.º <#> of <date> |
| Decrees (Decretos) | Decreto N.º <#> of <date> |
| Directions issued by government authorities (Instruções Normativas) | Instrução Normativa N.º <ref #>, <date>, <issuing authority> |
| Law-decrees (Decretos-Leis) | Decreto-Lei N.º <#> of <date> |
| Laws (Leis) | Lei N.º <#> of <date> |
| Ordinances (Portarias) | Portaria N.º <#>, <date>, <issuing authority> |
| Provisional Measures (Medidas Provisórias) | Medida Provisória N.º <#> of <date> |
| Resolutions (Resoluções) | Resolução N.º <#>, <date>, <issuing authority> |
| State Decrees | <name of State> Decreto Estadual N.º <#> of <date> |
| State Laws | <name of State> Lei Estadual N.º <#> of <date> |

Tax Treaties – Withholding Tax Rates

Jurisdiction: BR

Last reviewed: June 2010

(a) Tax treaty withholding tax rates

The following rates of Brazilian withholding tax apply to interest, patent and copyright royalties, and technical assistance fees under tax treaties concluded by Brazil. For royalties and technical assistance fees, an additional tax must be paid in Brazil. This tax is the CIDE and is levied at a rate of 10%.

| | <i>Interest</i> | <i>Royalties</i> | <i>Technical assistance fees</i> |
|------------------------------|-----------------|------------------|----------------------------------|
| | % | % | % |
| Non-treaty | 15 | 10/15 | 10/15 |
| Treaty: | | | |
| Argentina | 15 | 10/15 | 10/15 |
| Austria | 15 | 10/15 | 10/15 |
| Belgium | 15 | 10/15 | 10/15 |
| Canada | 15 | 10/15 | 10/15 |
| Chile | 15 | 10/15 | 10/15 |
| China (People's Republic of) | 15 | 10/15 | 10/15 |
| Czech Republic | 15 | 10/15 | 10/15 |
| Denmark | 15 | 10/15 | 10/15 |
| Ecuador | 15 | 10/15 | 10/15 |
| Finland | 15 | 10/15 | 10/15 |
| France | 15 | 10/15 | 10/15 |
| Hungary | 15 | 10/15 | 10/15 |
| India | 15 | 10/15 | 10/15 |
| Israel | 15 | 10/15 | 10/15 |
| Italy | 15 | 10/15 | 10/15 |
| Japan | 15 | 10/15 | 10/15 |
| Korea | 15 | 10/15 | 10/15 |
| Luxembourg | 15 | 10/15 | 10/15 |
| Mexico | 15 | 10/15 | 10/15 |
| Netherlands | 15 | 10/15 | 10/15 |
| Norway | 25 | 10/25 | 10/25 |
| Philippines | 15 | 10/15 | 10/15 |
| Portugal | 15 | 10/15 | 10/15 |
| Slovakia | 15 | 10/15 | 10/15 |
| South Africa | 15 | 10/15 | 10/15 |
| Spain | 15 | 10/15 | 10/15 |
| Sweden | 15 | 10/15 | 10/15 |
| Ukraine | 15 | 10/15 | 10/15 |

(b) Tax treaty developments

Germany

The tax treaty of 1975 between Brazil and Germany has been denounced and is no longer effective. Negotiations for a new treaty have commenced.

United States

On March 20th. 2007, Brazil and the US signed a tax information exchange agreement. This agreement will go into force on ratification and will allow the exchange of information on tax matters between Brazil and the US.

List of Abbreviations

Jurisdiction: BR

Last reviewed: June 2010

| | |
|------------|---------|
| Art | Article |
|------------|---------|

| | |
|------------|--|
| CAP | Cost plus method as an intercompany export pricing method (custo de aquisição ou de produção mais tributos e lucros) |
|------------|--|

| | |
|-----------|------------|
| CC | Civil Code |
|-----------|------------|

| | |
|------------|---|
| CDI | Industrial Development Council (Conselho de Desenvolvimento Industrial) |
|------------|---|

| | |
|------------|----------------------------|
| CFC | Controlled foreign company |
|------------|----------------------------|

| | |
|-------------|---|
| CIDE | Contribution for intervention in the economic domain (contribuição de intervenção no domínio econômico) |
|-------------|---|

| | |
|---------------|--|
| COFINS | Contribution for financing of social security (contribuição para financiamento da seguridade social) |
|---------------|--|

| | |
|------------|--|
| CPL | Cost plus method as an intercompany import pricing method (custo de produção mais margem de lucro presumida) |
|------------|--|

| | |
|-------------|--|
| CPMF | Tax on financial transactions (contribuição provisória sobre movimentação ou transmissão de valores e de créditos e direitos de natureza financeira) |
|-------------|--|

| | |
|-------------|---|
| CSLL | Social contribution on net profit (contribuição social sobre o lucro líquido) |
|-------------|---|

| | |
|------------|---|
| CVM | Brazilian Securities Commission (Comissão de Valores Mobiliários) |
|------------|---|

| | |
|------------|--|
| DOU | Official gazette (Diário Oficial da União) |
|------------|--|

| | |
|-------------|--|
| FGTS | Guarantee Fund for Time of Service (Fundo do Garantia do Tempo de Serviço) |
|-------------|--|

| | |
|-------------|---|
| FIFO | First-in first-out (inventory valuation method) |
|-------------|---|

| | |
|------------|---|
| FOB | Free on board (shipping term meaning price includes delivery to a specified location) |
|------------|---|

| | |
|-------------|---|
| ICMS | State tax (imposto sobre operações relativas à circulação de mercadorias e sobre prestação de serviços de transporte interestadual e intermunicipal e de comunicação) |
|-------------|---|

| | |
|-------------|---|
| IFRS | International Financial Reporting Standards |
|-------------|---|

| | |
|-------------|---|
| INPI | National Institute for Industrial Property (Instituto Nacional da Propriedade Industrial) |
|-------------|---|

| | |
|-------------|--|
| INSS | Social security contribution (Instituto Nacional do Seguro Social) |
|-------------|--|

| | |
|------------|--|
| IOF | Tax on credit and exchange transactions, insurance and securities (imposto sobre operações de crédito, câmbio e seguro, ou relativas a títulos ou valores mobiliários) |
|------------|--|

| | |
|------------|--|
| IPI | Tax on industrialized products (imposto sobre produtos industrializados) |
|------------|--|

| | |
|-----------------|---|
| IPTU | Municipal urban property tax (imposto sobre a propriedade predial e territorial urbana) |
| IPVA | Tax on ownership of automotive vehicles (imposto sobre a propriedade de veículos automotores) |
| IRPJ | Corporate income tax (imposto de renda de pessoa jurídica) |
| ISS | Municipal services tax (imposto sobre serviços) |
| ITBI | Municipal tax on disposal of real estate (imposto sobre transmissão de bens imóveis) |
| ITCMD | Gift and inheritance tax (imposto de transmissão causa mortis e doação) |
| ITR | Tax on rural property (imposto sobre a propriedade territorial rural) |
| LIFO | Last in first out (inventory valuation method) |
| LTDA | Limited company (sociedade limitada) |
| N.º (No) | Number |
| par | Paragraph |
| PDTI | Brazil's Industrial Technology Development Programme (Programa de Desenvolvimento Tecnológico Industrial) |
| PIC | Comparable uncontrolled price method as an intercompany import pricing method (preço comparável independente) |
| PIS | Social integration programme (programa de integração social) (tax) |
| PRL | Resale price method as an intercompany import pricing method (preço de revenda menos margem de lucro presumida) |
| PVA | Wholesaler's resale price method as an intercompany export pricing method (preço de venda por atacado no país de destino, diminuído do lucro) |
| PVV | Retailer's resale price method as an intercompany export pricing method (preços de venda a varejo no país de destino, diminuído do lucro) |
| PVEx | Comparable uncontrolled price method as an intercompany export pricing method (preço de venda nas exportações) |
| RMCCI | International Capital and Foreign Exchange Market Regulation (Regulamento do Mercado de Câmbio e Capitais Internacionais) |
| SA | Corporation (sociedade anônima) |
| SDI | Special Secretariat for Industrial Development (Secretaria Especial de Desenvolvimento Industrial) |
| SELIC | Official interest rate for tax purposes (sistema especial de liquidação e custódia) |
| TAB | Official tax table (tarifa aduaneira do Brasil) |
| TJLP | Long term interest rate (taxa de juros de longo prazo) |

ONE

General System Outline

1.1 Forms of doing business in Brazil

Jurisdiction: BR

Last reviewed: June 2010

(a) Civil Code

Until 2002, Brazil had a Civil Code (dated 1916) and a Commercial Code (dated 1850) with many different laws that ruled specific types of company formation. However, since 2003, Brazil has a Civil Code (CC) which contains the main legal sources regarding business organization. Art 966 of the CC considers an “empresário” (a person or a legal entity that performs a business activity) subject to company organization law.

(b) Company formation in Brazil

Companies may conduct trade or business in Brazil in one of several organizational forms as prescribed by the CC. The legislation provides six basic types of company formation as follows:

- sociedade simples (partnership)
- sociedade em nome coletivo (unlimited liability partnership)
- sociedade em comandita simples (partnership in which the managing partners have unlimited liability and the others have liability limited to subscribed capital)
- sociedade limitada (limited company)
- sociedade anônima (corporate), and
- sociedade em comandita por ações (company limited by shares).

(Please note the English description of the entity types is an approximation only). The most usual types are sociedade simples, sociedade limitada (LTDA) and sociedade anônima (SA).

Re. CC Art 966, 997 to 1092

Sociedade simples

“Sociedade simples” is a partnership between individuals within the same learned profession, working together for the same professional practice, eg lawyers, physicians or architects. “Sociedade” is a general term in Portuguese that has the same usual meaning as the corresponding English word “partnership”. For legal concerns it assumes a different meaning whose better synonym in English

could be “company”. According to the revoked legislation concerning company formation, there were two basic types of “sociedade”: the civil and the commercial. “Sociedade comercial”, as the expression suggests, refers to a business activity, and “sociedade civil” meant a form of association between individuals. According to the current legislation in force, the commercial company is called “sociedade empresária” and has to be established using one of following statutory forms.

Re. CC Art 997 to 1038

Sociedade em nome coletivo

This is a type of unlimited liability company or general partnership. Its main feature is that only individuals can be partners in a “sociedade em nome coletivo” and they have joint and unlimited responsibility for the company’s liabilities.

Re. CC Art 1039 to 1044

Sociedade em comandita simples

Two types of partners take part in a “sociedade em comandita simples”. The first type (called comanditados partners) must always be individuals that have joint and unlimited responsibility for the company’s liabilities. The second type (known as comanditários partners) may be an individual or a company and their responsibility is limited to the value of their shares. The articles of organization must designate the partner type of each partner.

Re. CC Art 1045 to 1051

Sociedade limitada

The “sociedade limitada” (LTDA) is the main type of company formation adopted in Brazil. It is similar to the limited liability company (LLC), a formation commonly adopted elsewhere in the world. In addition to the limited liability of the partners, the LTDA presents other advantages such as a flexible structure, no requirements regarding minimum capital nor issuing of financial statements. An LTDA must have at least two partners; however, it may by legal exception have only one partner for a period of 180 days. The capital must be divided in shares of equal or unequal value. The responsibility of each partner is limited to the partner’s effective amount of capital paid in for the company formation. The partners can be individuals or companies and are not required to be Brazilian nationals or residents, with a few exceptions. These exceptions are determined by special law and based on the type of activity performed. For example, only Brazilian nationals have the right to work for entities performing national security activities, journalistic and broadcasting activities.

Re. CC Art 1052 to 1087; Instrução Normativa No 76, 28 December 1998, Departamento Nacional de Registro do Comércio, Annex

Sociedade anônima

The “sociedade anônima” (SA) is a company organization, which is similar to an American corporation. The capital is divided into shares, which attribute the status of shareholders to their owners. An SA can be open or closed. An open held SA has shares registered in the stock exchange. It must be registered with the Brazilian Securities Commission (Comissão de Valores Mobiliários or CVM), which is responsible for monitoring open capital companies and has to comply with the CVM requirements concerning financial reporting. An SA is closed when its shares are not traded in the open capital market. In this case the company is not subject to CVM regulations, in addition to the general rules of the CC, there is a specific Corporations Law (LSA) giving details of SA organization.

The SA is managed by a minimum of two directors and optionally by a board of officers (directors).

Minimum capital requirements for an SA are based on the type of activity, eg financial institutions have minimum capital requirements.

SAs are required to issue financial statements.

Re. CC Art 1088 to 1089; www.cvm.gov.br/ingl/indexing.asp; LSA Art 138 and 176

Sociedade em comandita por ações

This is a type of company formation similar to an SA. The main difference is the fact that the “sociedade em comandita por ações” does not have a board of officers (conselho de administração) to manage the company. The director or manager must be a partner (comanditado) of the company, and has unlimited responsibility for the company's liabilities. The comanditários partners' liability is limited to the amount of their shares.

Sociedade em comandita por ações is required to issue financial statements.

Re. CC Art 1090 to 1092; LSA Art 280 to 284

(c) Structuring the Brazilian business – branch versus subsidiary

Advantages of a Brazilian branch

Only a few foreign companies operate in Brazil through a foreign branch because it is usually more advantageous, particularly for tax purposes, to set up a Brazilian SA or LTDA.

For example, the process of establishing a foreign branch is more expensive and time consuming than establishing a Brazilian subsidiary. In order to establish a foreign branch, the foreign company needs special authorization issued by the Brazilian Executive Authority. The request and the documents necessary for the authorization have to be approved by the executive authority. After approval, the executive authority issues the authorization setting the amount of capital required for operations of the branch.

The foreign company has to publish the authorization and all documents necessary for the approval in line with legal requirements together with official translations into Portuguese, such as:

- documents to prove the proper constitution of the foreign company according to foreign laws
- corporate by-laws
- specification of all directors of the foreign company with name, address, profession and shares of the company owned by the directors
- financial statements of the foreign company, and
- a copy of the resolution of the board of directors to establish the branch in Brazil and the proxy in Brazil with power to represent the foreign company and to accept special conditions determined by the executive authority.

The executive authority can establish special conditions for the branch, considering the Brazilian public benefit. After approval of the special conditions by the foreign company, the authorization is issued.

The branch must be registered at the Register of Companies of the appropriate Brazilian State after submitting all documents mentioned above and the deposit receipt for the amount of capital required for the operations of the branch.

A branch must prepare financial statements in accordance with the rules that apply to a Brazilian company, file them with the local commercial registry and publish them in the official gazette (the Diário Oficial da União or DOU). In addition, if the parent company is required to publish its own financial statements in its home country, these must also be published in Brazil.

The liability of a branch for debts and claims is not limited to its own capital, but rather to the capital of the parent company.

There are no minimum capital requirements for branch offices.

Re. CC Art 1134

Advantages of a Brazilian subsidiary

Brazilian SA or LTDA are the most commonly used business forms in Brazil by foreign investors. The major differences between an SA and an LTDA are:

- SAs may list their shares on stock exchanges and are required to publish their financial statements in the DOU, as well as in other newspapers with large circulation in the area.
- For LTDAs, on the other hand, no requirements exist to publish financial statements. Because of the privacy afforded by this type of company, the limited liability company is preferred by investors.

In both company forms, the partners' (shareholders') responsibility is limited to the amount of capital contributed.

An SA may be transformed into an LTDA at any time, and vice versa, without incurring any taxation.

A Brazilian subsidiary, whatever its form, has no restrictions on the payment of dividends, interest or the repatriation of capital to non-residents.

Interest payable by a Brazilian subsidiary to a non-resident is subject to a withholding tax of 15%.

Re. CC Art 1052; LSA Art 176

For the process of establishing a Brazilian entity, see (i) below.

Re. CC Art 997

(d) Financing the Brazilian business – loan capital versus share capital

Advantages of loan capital

- Loan interest is deductible from taxable profits to the extent accrued and registered with the Central Bank of Brazil. New rules with some limitations for thin capitalization have to be observed for interest payments to overseas parent and other affiliated companies beginning in 2010.
- If tax rates in the country of the overseas parent are lower than Brazilian tax rates, the payment of interest will result in a tax saving.
- Loans may be converted into shares, but not vice versa.

Advantages of share capital

- Share capital maximizes the Brazilian subsidiary's retained profits, which are not subject to taxation on distribution, and minimizes the overseas parent company's income in the absence of dividend.
- When tax rates in the parent company country are higher than in Brazil, this generates a tax saving until dividends are paid.

Re. LSA; RIR Art 654 and 662

(e) Acquiring a Brazilian subsidiary

When a Brazilian company is acquired, its tax debts are assumed by the purchaser. The book value of its assets is not increased to equal the purchase price of the shares. Losses incurred in one year may be carried forward to offset against taxable profits in subsequent periods with no time limits. The amount offset is, however, limited to 30% of taxable income.

Re. CTN Art 133; RIR Art 514

(f) Brazilian holding company

Brazilian legislation does not allow offset of profits and losses between companies within a group of companies. Accordingly, a Brazilian holding company could not offset interest paid on loans taken out to acquire a Brazilian subsidiary against the profits of that subsidiary. For acquisition purposes, it may be beneficial from a tax point of view for the subsidiary to borrow funds from the parent company. This will be advantageous when the parent company has losses but the subsidiary has profits, or when tax rates for the parent company are lower than abroad. The payments of interest made by the subsidiary to the parent company achieve a shift in profits. The capital gain arising from a Brazilian holding company's disposal of shares in its subsidiary is taxable in Brazil.

Re. RIR Art 425, 426 and 510

(g) Group of companies/consolidation

Consolidations are not allowed for tax purposes.

According to Brazilian commercial law, it is mandatory for an open SA (see (b) above) to issue consolidated financial statements if the SA owns shares of other companies corresponding to more than 30% of its own equity account.

Re. LSA Art 249 and 250

SAs may set up groups of companies. Consolidated financial statements of groups have to be issued together with the financial statements of the group controlling company. Formation of these groups is optional.

Re. LSA Art 249 and 265

(h) Offshore licensing company

All contracts and other agreements regarding transfer of technology must be registered with the National Institute for Industrial Property (INPI). When the corresponding royalties are paid, tax must be withheld on a percentage of the gross revenue. The normal tax rate is 15% for countries, which have a tax treaty with Brazil, and 25% for remittances to low tax countries. For payments of royalties and technical assistance fees with transfer of technical knowledge, an additional tax (CIDE) must be paid. The tax rate is 10%.

(i) Registration rules

The process of establishing a Brazilian entity is the same for all entity types (with an exception for sociedade simples). The steps are:

- Articles of association have to be issued by a lawyer. The lawyer must sign the articles of association. He is the person responsible for the content.

- Articles of association have to be registered with the Register of Companies within 30 days. Every Brazilian State has its own Register of Companies. The Registers are the competent authority for the registration of corporate by-laws and are generally located in the state capitals.
- The new entity has to be registered with federal tax authorities. After approval, the authorities issue a federal tax number (a CNPJ).
- If the activity of the company to be established includes sales of merchandise or products, the company has to be registered with the state tax authorities. The company must have a warehouse. This warehouse is subject to approval by the state tax authorities and municipal authorities. After inspection of the warehouse a state tax number is issued together with an authorization to use the warehouse.
- The company has to register its corporate by-laws with the municipal authorities. A tax number is issued for service providers.

For the sociedade simples (acting as a partnership), the steps are as follows:

- Articles of association have to be listed with a public notary (cartório de títulos e documentos) and signed by a lawyer.
- The new partnership has to be registered with federal tax authorities. After approval, the authorities issue a federal tax number (a CNPJ).
- The partnership has to register its corporate by-laws with the municipal authorities and a tax number will be issued.

Re. CC Art 997

(j) Special registration rules

Special registration is required for industries working in areas considered important for national security, such as the aircraft industry, arms manufacturing, natural gas and oil industry, mining activities and industries using hazardous goods.

Special registration is also required for food processing, or pharmaceutical and chemical industries.

Service providers such as financial institutions need an authorization and registration at the Central Bank (Banco Central do Brasil). Other service providers working in education, assurance, medical care, and transportation also need a special registration.

(k) Filing of corporate tax return

The deadline for filing a corporate tax return is June 30th. The filing date cannot be extended. Electronic filing is mandatory. Tax authorities issue a tax form every year with explanations and determining the deadline.

Re. RIR; Instrução Normativa No 849, May 19th. 2008, Secretaria da Receita Federal, Art 4

(I) Interest on late tax payment

Interest is due on late tax payments. The interest rate is the SELIC rate, which is the official interest rate for tax purposes.

Re. RIR Art 953

1.2 Tax rates on income

Jurisdiction: BR

Last reviewed: June 2010

(a) Tax rates

Taxes have to be paid by individuals and entities as a consequence of taxable events. The corporate income tax (IRPJ) is generally levied at a rate of 15%, plus 10% for taxable income that exceeds R\$ 20,000 per month. Tax rates for foreign resident companies are identical to the tax rates for Brazilian resident companies. Social contribution on net profit (CSLL) is levied at a rate of 9%. To compensate for the revocation of the CPMF tax, the CSLL rate for financial institutions increased to 15% as of May 1st, 2008.

For the 2010 tax year, income for individuals is taxed at the following withholding tax rates:

| Income per month [R\$] | Tax rate on that income [%] |
|--------------------------|-------------------------------|
| 0 to 1,499.15 | 0 |
| 1,499.16 to 2,246.75 | 7.5 |
| 2,246.76 to 2,995.70 | 15 |
| 2,995.71 to 3,743.19 | 22.5 |
| Over 3,743.19 | 27.5 |

The same income tax rates apply for individuals carrying on a business.

For further and detailed information on other Brazilian taxes.

Re. RIR Art 228; Medida Provisória No 451 of 15 December 2008; Medida Provisória No 413 of 3 January 2008

(b) Income subject to taxation

Worldwide income for resident individuals and entities is subject to Brazilian income tax. Taxable income consists of income resulting from capital, from labour, from a combination of both or from an increase of wealth not included in the definition of income above. Gain on sale of assets and interest income is included as taxable income. Dividends from Brazilian sources are excluded from taxable income, since dividends have already been taxed as taxable income of another entity.

Re. Constituição Federal Art 5 and 150 Inciso II

(c) Basis for calculation

According to Brazilian law, there are two ways of calculating corporate income tax (the IRPJ): the true or actual basis and the estimated basis.

True or actual basis

The IRPJ is calculated on the actual profits earned in the period and may be paid on a quarterly or annual basis. The taxable profit is the sum of all revenues acquired in the period, less all legitimate and deductible expenses incurred in the same period, if paid or, in some legally determined cases, just accrued. All expenses necessary for the ongoing business are "legitimate and deductible expenses". An expense is necessary if the business does not work without this type of expense.

Re. RIR Art 299

For IRPJ paid on a quarterly basis, the four quarters of the year are considered independent tax periods. Offset of tax losses with taxable income between two or more periods is permitted only within the limit of 30% of the taxable income of the next quarter.

Payment of the IRPJ on an annual basis must be based on monthly balance sheets and profit and loss statements. Entities electing an annual basis are required to make estimated payments each month. It is also possible to offset losses from one month against profits of another month. It is also possible to offset 30% of net income against accumulated losses from prior years.

Re. RIR Art 219 to 221

Estimated basis

Adoption of the estimated basis method depends on the fulfillment of certain conditions:

- the sum of all revenues of the prior year does not exceed R\$48m
- the company is not acting as a financial institution or working as a factoring establishment
- the company has no profits or gains from sources abroad, and
- the company has no fiscal benefits and has not paid income tax on the estimated basis with tax deferral or tax reduction.

The basis of assessment for income tax purposes is calculated by applying a percentage on the company's gross quarterly revenues. The percentage ranges from 8% for industrial and commercial companies to 32% for service providers. A 10% IRPJ surcharge is assessed for any quarter in which revenues exceed R\$60,000. IRPJ calculated on the estimated basis has to be paid quarterly.

Re. RIR Art 222 to 227 and Art 516 § 5

(d) Withholding tax

Withholding tax is levied on certain transactions involving companies or individuals residing outside Brazil. Tax rates vary from case to case. In most international transactions, such as interest remittances, the applicable rate is 15%, except for remittances to low tax countries. In this case, the rate is 25%. For payments of royalties, and payments for technical assistance or administrative advisory services to providers abroad, an additional tax (CIDE) must be paid. The rate for this tax is 10%.

Most of the tax withheld during a given month can be deducted from the Brazilian corporate tax (IRPJ) due under the true or actual basis (see (a) above) or from the balance of IRPJ due at the end of the calendar year. Whether the withheld tax can be deducted from income tax paid abroad depends on the rules stated in any tax treaty with the relevant country.

Withholding tax has to be paid by residents in the following situations:

- Taxable income received by Brazilian-resident individuals is subject to withholding tax, with the exception of capital gains. The tax rates vary from 7.5% to 27.5% for 2009 (see (a) above). Financial income, ie income from financial markets, is subject to a withholding tax at source of 15% if the income is fluctuating (eg income from the stock market). Fixed financial income, eg interest, is subject to a withholding at source of 22.5% for investments with a term of up to 180 days, at 20% for terms between 180 and 360 days, at 17.5% for terms between 360 and 720 days and at 15% for terms over 720 days. Capital gains derived by individuals must be included as income in the tax return, and are taxed at the standard rate of 15%.
- If the recipient is an entity providing services, the tax rate is 1.5% or 1%, depending on the classification of the service. Financial income is taxed in the same way as for individuals.

Capital gains derived by entities are taxed at standard corporate income tax rates and are included as taxable income in the income tax return.

Re. RIR Art 117 and 639

(e) Statute of limitations

The statute of limitations on income taxes is a period of five years.

Re. CTN Art 173

1.3 Accumulated earnings income

Jurisdiction: BR

Last reviewed: June 2010

There are no specific taxes levied on after-tax accumulations of profits.

1.4 Taxes on capital

Jurisdiction: BR

Last reviewed: June 2010

There are no capital taxes on the net worth or net assets of enterprises.

1.5 Local taxes

Jurisdiction: BR

Last reviewed: June 2010

There are no local income taxes, but some other local taxes are levied by the state and municipal governments.

1.6 Taxes on capital gains

Jurisdiction: BR

Last reviewed: June 2010

Capital gains from the disposal of fixed assets are included in taxable income and are taxed at standard corporate income tax rates. Capital losses are deductible in the same way as ordinary business losses, if they are related to the company's regular operations. Losses may be carried forward indefinitely, but cannot be carried back. The carry-forward loss deduction is limited to 30% of taxable income in each year to which it is carried.

When sale proceeds are receivable in instalments, the taxpayer may either include the whole capital gain in taxable income in the year of disposal or include in each year only that proportion of the gain corresponding to the instalments received, if the last instalment is due after the end of the year after the sale.

Re. Instrução Normativa No 213, October 7th. 2002, Secretaria da Receita Federal, Art 9

1.7 Calculating trading profits

Jurisdiction: BR

Last reviewed: June 2010

Trading profits are calculated for tax purposes in accordance with the financial accounts, but adjusted for the following major items. For discussion of current changes in Brazilian accounting practice, see (f) below.

(a) Taxable income

Taxable income for corporate income tax (IRPJ) purposes consists of gross receipts less deductible cost of sales and operating expenses, provisions, exempt income and relief for losses brought

forward up to a limit of 30% of adjusted profit. The cost of sales and expenses are deductible only if they were necessary in the production of income. All expenses necessary for the ongoing business are considered necessary (ie normal expenses necessary for the entity's activity and maintenance of the source of income). Expenses must have been paid or incurred to be deductible.

Charitable contributions are deductible in the following situations:

- for cultural projects, as determined by Law (Lei) No 8,313 of December 23th. 1991
- for schools and research entities up to 1.5% of the operating profit according to the Constituição Federal Art 213, and
- for service providers working for free for employees and related individuals of the contributing entity or if they are working for free for the local community, up to 2% of the operating profit.

Re. RIR Art 299 and 365

(b) Exempt income

The following items are exempt from corporate income tax:

- dividends or profits received by a resident business entity out of the previously taxed profits of another Brazilian resident entity, and
- credits resulting from the valuation investments in associated and subsidiary companies according to the equity method, when this valuation method is required by law.

(c) Valuation of inventory

A business entity, which has an integrated costing system coordinated with its accounting records, must value its inventory at cost or market value (replacement cost), whichever is lower. Average cost and "first-in first-out" (FIFO) are acceptable methods of determining cost; "last-in first-out" (LIFO) is not permitted for tax purposes. Standard cost systems are acceptable, but all variances must be adjusted periodically to ensure that actual costs are fully absorbed.

A business entity without an integrated costing system must value inventories of finished products at 70% of the highest sales price during the year and work-in-progress at either one and one-half times the highest cost of raw materials during the year or 80% of the finished products' valuation, whichever method it prefers.

Farmers have the option to value inventories at acquisition cost or at market value.

Other special valuation rules are applicable for inventories of books. If some books are unsaleable, an allowance for slow moving items can be recorded for tax purposes.

Re. RIR Art 294 to 297; Lei No 10,833 of December 29th. 2003 Art 85

(d) Capitalization of reserves and retained earnings

Increases in capital based on transfers from reserves or retained earnings are, in principle, exempt from taxation.

(e) Exchange fluctuations

Realized and unrealized foreign exchange gains are taxable, while such losses are deductible. Exchange gains and losses may be calculated on an accrual or cash basis.

Re. Medida Provisória No 2158-35 of 24 August 2001

(f) Accounting practice

On January 1st. 2008 a new law came into effect introducing changes to Brazilian accounting practice in order to bring it into line with International Financial Reporting Standards (IFRS). The main changes introduced are:

- Large sized companies, defined as a company or a group of companies under common control, whose total assets exceed R\$ 240m or whose total gross annual revenues exceed R\$ 300m, even if not organized as corporations, will be required to keep their books in line with the new accounting standards. Closely held corporations will only be affected by the new accounting rules to the extent they are adopted and confirmed by the Brazilian Federal Council of Accounting (CFC), although they may apply the new standards voluntarily. The Brazilian Federal Council of Accounting has recognized International Financial Reporting Standards (IFRS) as an accounting rule, which is mandatory for all Brazilian accountants.
- Public companies must prepare consolidated financial statements in accordance with IFRS as from 2010. The main types of transaction and accounting entries, which are likely to be affected by the change in rules are:
 - *asset revaluations*
 - *financial instruments (derivatives)*
 - *leasing contracts*
 - *accounting of ownership interests in subsidiaries*
 - *mergers, and*
 - *spin-offs.*

Although the law is already in force, some changes depend on new norms to be issued by the Brazilian Securities Commission (CVM) and the Central Bank of Brazil for entities, which depend on its authorization to do business.

The effects of enactment of the new law have no consequences for calculation of federal taxes until 2010 if the taxpayer selects the intermediary tax system (Regime Tributário de Transição) established by Brazilian tax authorities for the transition period. New federal tax rules will be issued for 2010 and the following years.

On January 28th. 2010, the Brazilian Federal Council of Accounting and the Brazilian Accounting Pronouncements Committee signed a Memorandum of Understanding (MoU) with the IASB that establishes 2010 as the target date for full convergence to IFRS, including for small and medium-sized enterprises, and establishes a framework for future co-operation between the organizations.

Re. Lei Nr 11.941 of May 27th. 2009; Lei Nr 11.638 of December 28th. 2007

1.8 Trading losses

Jurisdiction: BR

Last reviewed: June 2010

(a) Single company

As a rule, the activities of a single company are not separated and therefore its profits and losses are offset against each other. However, agricultural enterprises must separate their agricultural activities from other activities because losses on the former can only be offset against profits of the latter up to a limit of 30% of such profits. Profits and losses from different fiscal years can be offset without limits only for the agricultural activity. For other activities the limit of 30% has to be observed.

(b) Carry-forward

Net operating losses may be carried forward, but can only be offset against 30% of the current year's taxable income. Moreover, tax losses of an acquired company cannot be carried forward to offset the taxable income of a new activity, if there is modification in the ownership and in the activity of the company.

(c) Carry-back

Losses may not be carried back.

(d) Transfer of losses

Losses cannot be transferred to other Brazilian companies.

Re. RIR Art 509 and 512

1.9 Treatment of inventory/stock-in-trade

Jurisdiction: BR

Last reviewed: June 2010

(a) Valuation

Inventory is usually valued at the lower of cost or fair market value on the FIFO basis, or on an average cost basis. Alternatively, it may be valued simply at fair market value. Accepted accounting principles govern definitions of these terms.

(b) Opening value

The value of inventory at the beginning of any tax year must be determined on the same basis as at the preceding year-end.

(c) LIFO

The LIFO method of inventory valuation is not an acceptable valuation method.

Re. RIR Art 289 to 298; Decreto-Lei No 1,598 of 30 December 1977 Art 14 § 2

1.10 Depreciation

Jurisdiction: BR

Last reviewed: June 2010

(a) Fixed assets

The depreciation of a company's fixed assets is calculated in accordance with the expected useful life of each type of asset, taking into account the number of working shifts (one shift equals eight hours) in which the asset is used in a 24-hour period (ie the normal rate applies for one shift, one and one-half times the normal rate applies for two shifts and two times the normal rate applies for three shifts).

(b) Straight-line depreciation

This is the method usually allowed for tax purposes.

The rates shown below may be increased (except for buildings), if the taxpayer can prove that an asset has a shorter useful life than that which these rates presume. In this case, an appraisal by the National Technology Institute (Instituto Nacional de Tecnologia) may be used as evidence. The rates may also be increased by 50% when the asset is used on double work shifts and by 100% when it is used on triple work shifts.

The useful life of a second-hand asset for depreciation purposes is half the useful life of a similar new asset or the remaining useful life of the second-hand asset, since it was first used, whichever is higher.

Typical straight-line depreciation rates include:

| Type of asset | Rate [%] |
|--------------------------------|------------|
| Buildings | 4 |
| Machinery and office equipment | 10 |
| Tools | 10 to 20 |
| Automobiles and other vehicles | 20 |
| Computer hardware and software | 20 |

(c) Accelerated depreciation

Increased rates are also provided specifically as tax incentives. A business carrying out a major project may be permitted by the Industrial Development Council (CDI) to claim accelerated depreciation using double the normal rate of depreciation. Only new capital assets produced in Brazil are eligible. Accelerated depreciation is granted for three years commencing when the assets become operative.

Accelerated depreciation is merely fiscal (tax related) and does not have to be entered in the accounting records to be deductible. However, depreciation deducted for tax purposes, both normal and accelerated, may not exceed 100% of the cost of the asset (inflation adjusted, if applicable). Once total cost has been depreciated for tax purposes, any further depreciation charged in the financial statements must be added back in tax computation.

(d) Intangibles

Intellectual and artistic properties and other intangible assets that have a legally or contractually limited life may be amortized over that life. Amortization of intangibles that do not have a legally or contractually limited life cannot be deducted.

(e) Research and development expenditures

Expenditures for a new or improved production process may be deducted when they are incurred or amortized over a minimum period of five years, commencing when the new process becomes operative.

(f) Depletion allowance

A deduction is allowed for the depletion in value through exploitation of mines, other mineral deposits and forests. The deduction may be based on the year's production compared with total estimated resources or on the period of the concession.

(g) Revaluation of fixed assets

Fixed assets may be revaluated in the financial statements after appraisal by a professional. Depreciation based on the enhanced asset values is deductible for tax purposes. However, the amount in the revaluation reserve must be transferred to accumulated earnings and added to taxable income at the same rate that depreciation is charged. Also, if a revaluated asset is sold, the corresponding part of the reserve must be transferred to accumulated earnings and added to taxable income.

(h) Applicable legislation

For further and detailed information, see RIR Art 305 to 334.

1.11 Interest deductibility

Jurisdiction: BR

Last reviewed: June 2010

(a) Tax-deductible interest

Interest payable by a business entity is normally deductible when the expense is incurred. However, interest paid in advance is deductible in the period or periods to which it relates. The deduction of interest incurred during the preoperational phase of a business on loans to acquire or construct fixed assets may be deferred by amortization.

(b) Excess of interest

If interest payable by a private entity (eg, an SA, LTDA or other entity) to its shareholders/owners exceeds a fair market rate, the excess is treated as a distribution of profit and therefore a deduction is not permitted.

Another limitation was introduced for 2010, as follows: Interests payments to the parent company or to other affiliated companies abroad are deductible only if the indebtedness is necessary for the activity of the Brazilian company and if the indebtedness is not higher than twice the amount invested in the Brazilian company by the parent or affiliated companies located abroad. The limitation of indebtedness for companies located in low tax countries is 30% of the equity capital of the Brazilian company. The exceeding amount of interests is not deductible.

Re. Medida Provisória No 472 of December 15, 2009

(c) Borrowed funds

Interest payable on borrowed funds that are loaned to another entity or individual interest-free is not deductible since the funds are not used to produce income.

(d) Interest on net equity

It is possible for shareholders and quota holders to receive interest calculated on their invested capital. This interest, calculated at the long-term interest rate (TJLP), is subject to withholding tax of 15% at the time such interest is paid or registered and is deductible from the company's income tax (IRPJ) up to a limit of 50% of its accumulated profits plus earning reserves, or 50% of net income of the period. The company that pays the tax may choose which limit will be applied.

Re. RIR Art 374

(e) Applicable legislation

For further and detailed information, see RIR Art 347 to 348 and the sources indicated in those articles.

1.12 Alternative financing instruments

Jurisdiction: BR

Last reviewed: June 2010

There are no provisions or rules governing the treatment of alternative financing instruments, such as deeply-discounted or zero-coupon securities.

1.13 Dividends received

Jurisdiction: BR

Last reviewed: June 2010

Dividends received by a Brazilian corporation from another taxable Brazilian corporation are not included in the calculation of taxable income.

Foreign dividends received by resident individuals and/or entities are subject to income tax. The income tax rate is the same as for other taxable income to be declared on the income tax return.

Re. RIR Art 86, 103 and 394

If taxable income in Brazil is subject to an income tax abroad, the income tax paid abroad can be deducted from Brazilian taxable income, if Brazil has a tax treaty with the other country.

Re. RIR Art 103

1.14 Dividends paid

Jurisdiction: BR

Last reviewed: June 2010

Dividends paid are not subject to taxation, even if the beneficiary is a non-resident company or individual.

Re. Alt IRPJ&CSLL

1.15 Reduction of capital

Jurisdiction: BR

Last reviewed: June 2010

Foreign capital registered with the Central Bank of Brazil (Banco Central do Brasil) may be repatriated to its country of origin at any time without authorization. Returns in excess of the registered amount will be considered capital gains for the foreign investor, and thus is subject to 15% withholding tax.

According to the Civil Code, an LTDA must make public its decision to perform a capital decrease, and then wait a period of 90 days before the decision becomes effective.

Re. CC Art 1082 to 1084

In the specific case of repatriation of capital, the Central Bank of Brazil normally examines the net worth of the company involved, as shown on its balance sheet. If the net worth is negative, the Central Bank may decide that there was dilution of the investment, and may deny authorization for repatriation of a part of the investment in proportion to the negative result.

Re. RMCCI; Parecer Normativo No 231

1.16 Repurchase of shares

Jurisdiction: BR

Last reviewed: June 2010

Re. Parecer Normativo No 231

1.17 Liquidation

Jurisdiction: BR

Last reviewed: June 2010

(a) Liquidation

When liquidating, a company must file a tax return covering the period from the last tax return filed through to the liquidation date. For general company liquidation (general rules for all kinds of companies), see CC Art 1102 to 1112. For specific rules for SAs, see LSA Art 208 to 218. See also RIR Art 220.

(b) Distributions of paid-up capital

On liquidation, repayment of the company's paid-up capital is normally exempt from taxation.

Re. Alt IRPJ&CSLL Art 22

(c) Distribution of profits

On liquidation, the distribution of profits is tax-free.

1.18 Company groups

Jurisdiction: BR

Last reviewed: June 2010

Brazil does not have the concept of consolidation or grouping for tax purposes. Each company is therefore assessed and taxed separately.

Re. RIR Art 808

For requirements regarding the financial statements of groups of companies.

1.19 Other Brazilian taxes

Jurisdiction: BR

Last reviewed: June 2010

(a) Tax on industrialized products (IPI)

The tax on industrialized products (IPI) is a value added tax levied on the import of industrial goods and on the domestic industrialization of goods meant for the domestic market. Rates are assessed on the value of industrial goods as they are imported or shipped from domestic plants. The applicable tax rates vary according to how essential the product is: from 0% to 300%. Non-essential products, such as alcoholic beverages and cigarettes, may be taxed at the highest rate. Exports are tax free. IPI tax must be paid once a month or at the time of importation.

Re. Decreto No 4,544 of December 26th. 2002

(b) Tax on credit and exchange transactions, insurance and securities (IOF)

The tax on credit and exchange transactions, insurance and securities (IOF) is assessed on the amount of bank loans and similar transactions, the amount of foreign currency purchased or sold, insurance premiums and the price of securities sold or purchased. The sale or purchase of gold, defined by law as a financial asset or exchange instrument, is also subject to IOF. Tax rates vary from 0.1% to 25%. Financial transactions on the stock exchange are tax free.

Re. Decreto No 6,306 of December 14th. 2007

(c) Tax on financial transactions (CPMF)

Under the tax on financial transactions (CPMF), individuals and corporations were subject to a tax contribution of 0.38% on any amount being debited from their bank accounts. The main objective of this levy was to finance the Brazilian Government health programme.

The CPMF was revoked with effect as of January 1st. 2008.

Re. Lei No 9,311 of October 24th. 1996

(d) Export duties

Export duties are assessed on very few products, such as cashew nuts, leather, tobacco products, arms and ammunition.

Re. Decreto-Lei No 1,578 of October 11th. 1977

(e) State tax (ICMS)

A value added tax known as ICMS is levied on the circulation of goods (both imported and domestic), interstate and inter-municipal transportation, electric energy and communications. Such activities are taxable even if the transactions or services originated abroad. The basis for calculation of the tax is the value of the transaction including all related expenses, interest, accessories, bonuses, etc, but excluding unconditional discounts or rebates that have been granted. The tax is levied on the goods at the time they physically leave an industrial plant, or when they enter the State as imports. Rates vary from 7% to 25% depending on the State and the kind of goods; lower rates are due on interstate transactions (normally from 7% to 12%). The rate in São Paulo State is 18% and in Rio de Janeiro State generally 18% plus 1%. Exports are tax free.

The ICMS tax is mainly levied on the production step and all subsequent commercial steps after deduction of input tax. Alternatively, for products listed by law issued by the São Paulo State, the ICMS tax is levied only on the production step without further tax incidence for the following commercial steps.

Re. Constituição Federal Art 155 Inciso II; São Paulo Lei Estadual No 6,374 of 1 March 1989; Rio de Janeiro Decreto Estadual No 27,427 of November 17th. 2000

(f) Municipal urban property tax (IPTU)

The municipal urban property tax (IPTU) is levied annually on the value of urban real estate. Applicable tax rates are assessed on a yearly basis. The tax is generally paid in monthly instalments and calculated on the basis of the arbitrated value of the land and buildings, adjusted according to formulae prescribed by legislation. Each city, town or village considered as an autonomic political entity has its own regulations.

Re. Constituição Federal Art 156 Inciso I

(g) Tax on rural property (ITR)

The tax on rural property (ITR) is levied on the ownership, domain or possession of rural estates not located within the urban zone of any municipality. Rates vary from 0.03% to 20% of the declared value of the buildings and the degree of utilization of the land.

Re. Constituição Federal Art 153 Inciso VI

(h) Municipal tax on disposal of real estate (ITBI)

The municipal tax on disposal of real estate (ITBI) is a municipal tax and has to be paid for transactions (purchase or transfer) of real estate. The ITBI is levied at rates ranging from 0.5% to 2%. The ITBI rate for São Paulo is 2%.

Re. Constituição Federal Art 156 Inciso II

No ITBI tax has to be paid for transfers occurring as a consequence of inheritance, but gift and inheritance tax (ITCMD) is payable. ITCMD is a state tax. The rate is 4% for the State of São Paulo.

Re. Constituição Federal Art 155 Inciso I

(i) Municipal services tax (ISS)

The municipal services tax (ISS) is levied on the rendering of certain services listed in federal law. Rates vary from 2% up to 5% depending on the type of service and location of the company or individual rendering the service. In some cases (professional partnerships and the rendering of professional services by individuals) the tax is collected as a fixed annual sum. Service providers from abroad are also subject to ISS tax. The export of services is tax free.

Re. Lei Complementar No 116 of July 31st. 2003

(j) Tax on ownership of automotive vehicles (IPVA)

The tax on ownership of automotive vehicles (IPVA) is levied on the possession of automotive vehicles. Tax rates are based on the market value of the vehicle as set out in a table published annually by the state government. Tax levies are shared by the state (50%) and the municipality (50%).

Re. Constituição Federal Art 155 Inciso III

(k) Contribution for intervention in the economic domain (CIDE)

The contribution for intervention in the economic domain (CIDE) is levied on royalties and the transfer of technology, including technical and administrative advisory services, if paid to non-residents. The CIDE tax is also due on the import and sales of certain types of combustion fuels, such as petrol, diesel oil and kerosene, and is levied at a rate of 10%.

Re. LCIDE; Lei No 10,168 of December 29th. 2000; Lei No 10,332 of December 19th. 2001

(l) Social contribution taxes

Social integration programme (PIS)

The social integration programme (PIS) is a tax assessed on monthly corporate gross operational income. Companies may choose to pay the PIS tax on a cumulative or non-cumulative payment basis, except financial institutions, taxpayers which choose the estimated method to pay corporate tax and some specific industrial areas may only pay the PIS tax on the cumulative payment basis. The current rate of the PIS tax under the cumulative payment basis is 0.65% of a company's total monthly invoicing. Under the non-cumulative payment basis, the PIS tax operates as a value added tax (ie the amount of PIS tax paid by the company to vendors can be deducted when accounting to the tax authorities for PIS tax levied on sales), and the current rate is 1.65% of the company's total monthly invoicing. Exports are not subject to PIS tax.

PIS tax is levied on imports of services and goods at 1.65%. The tax base is the FOB import value including clearance charges, import duties, IPI (see (a) above), ICMS (see (e) above) and ISS (see (i) above), if applicable. The tax paid for this purpose is called PIS/importação. PIS/importação tax can be deducted from the PIS tax levied on sales revenues if non-cumulative payment of tax is chosen and the import of services and goods is necessary for the company's activity.

For non-profit entities, the PIS rate is 1% of payroll.

Contribution for financing social security (COFINS)

The contribution for financing social security (COFINS) is a tax assessed on monthly gross invoicing of goods and services. COFINS is assessed on monthly corporate gross operational income. The current rate is 7.6% of a company's total monthly invoicing for companies choosing the non-cumulative payment of tax, 3% for companies choosing the cumulative payment of tax, and 4% for financial institutions. For companies, which choose the non-cumulative payment of tax, the PIS tax operates as a value added tax (ie the amount of PIS tax paid by the company to vendors can be deducted when accounting to the tax authorities for PIS tax levied on sales), except in the case of financial institutions, taxpayers choosing the estimated method to pay corporate tax and some specific industrial areas.

Exports are not subject to COFINS.

COFINS is levied on imports of services and goods at a rate of 7.6%. The tax base is the FOB import value including clearance charges, import duties, IPI (see (a) above), ICMS (see (e) above), the COFINS tax and ISS (see (i) above), if applicable. The tax paid for this purpose is called COFINS/importação. If non-cumulative payment of tax is chosen, the COFINS/importação tax may be deducted from the COFINS tax levied on sales revenues.

Re. www.receita.fazenda.gov.br/Legislacao/LegisAssunto/pispascoffin/PisPasCofFin1.htm

Social security contributions (INSS)

Employees, including self-employed people, are assessed for social security contributions (INSS) on their salary, up to a limit of R\$3,416.54 per month, as follows (as of February 1st. 2010):

| Salary per month | Employees' general INSS contribution [%] |
|---------------------------------------|--|
| Up to R\$ 1,024.97 | 8 |
| Between R\$ 1,024.98 and R\$ 1,708.27 | 9 |
| Between R\$ 1,708.28 and R\$ 3,416.54 | 11 |

The maximum INSS contribution per month in local currency is R\$ 375.82.

Employers pay a 20% INSS contribution on payroll, without limit.

Re. www.mpas.gov.br/pg_secundarias/paginas_perfis/perfil_comprevidencia_04_01.asp

Guarantee Fund for Time of Service (FGTS)

The Guarantee Fund for Time of Service (Fundo de Garantia do Tempo de Serviço or FGTS) is a kind of severance pay fund ruled and managed by the federal government. Employers (both individual and corporate) must pay 8% of payroll into an FGTS account for the benefit of employees who may withdraw amounts from the fund on being dismissed without just cause (wrongful dismissal), and in a few other cases set forth in legislation. In some cases, the FGTS balance can be used to finance a home under a government-sponsored housing programme.

Re. LFGTS Art 15; RIR Art 345; www.mte.gov.br/fgts/oquee.asp

(m) Compulsory loans

The federal government may levy a compulsory loan whenever there is a need to cover extraordinary expenses deriving from public calamity, external war or its imminence, or in the case of public investment of urgent nature and of relevant national interest.

Re. Constituição Federal Art 148; CTN Art 15

(n) Specialty consumer goods

Sale of fuel (with the exception of diesel oil) by a retailer is subject to an excise tax. The rate of tax is 10%.

Re. LCIDE; Instrução Normativa No 422, May 17th. 2004, Secretaria da Receita Federal

(o) Workers' council tax (union dues)

Employers have to pay a workers' council tax in January of every calendar year. The tax varies according to the workers' council and has to be calculated on the social capital base. Employees have to pay the workers' council tax in April of every calendar year. The amount of the tax is the remuneration from one working day a year.

Re. CLT Art 578 and 591; Lei No 1,990 of March 11th. 2007

(p) Import tax

Merchandise imported to Brazil is subject to an import tax. The amount of tax is determined by reference to the imported quantity according to the official tax table (TAB) and the tariff table, with different rates according to the classification of goods.

Re. Decreto No 4,543 of December 26th. 2002

(q) Alternative minimum tax

Entities with sales revenues less than R\$2.4m for the calendar year are considered small entities and have the option to pay a minimum tax, called “simples nacional”. The payment of this minimum tax is a substitution for the payment of following taxes:

- corporate tax (IRPJ)
- social contribution on net profit (CSLL).
- turnover taxes (PIS), COFINS (see (l) above) and IPI (see (a) above)
- municipal services tax (ISS) (see (i) above), and
- the employer social contribution (INSS) (see (l) above).

The rates vary: for commercial establishments from 4% for sales revenues up to R\$120,000, to 11.61% on sales revenues up to R\$ 2.4m; for industrial entities from 4.5% for sales revenues up to R\$120,000 to 12.11% on sales revenues up to R\$2.4m; and for service providers from 4.5% to 16.85%.

Re. Lei Complementar No 123 of December 14th. 2006

(r) Gambling

Income from bingo gambling is subject to a 20% withholding tax rate. The tax is payable at the date of the income payment.

Re. RIR Art 677

1.20 Special incentives, grants, etc

Jurisdiction: BR

Last reviewed: June 2010

All companies, including those with foreign capital, may benefit from the incentives offered by the federal, state and municipal governments. However, the provision of tax incentives is not a current priority of the Brazilian Government, which is more interested in private-public partnership.

Re. Lei No 11,079 of December 30th. 2004

A number of the incentives described below are based on Brazil's Industrial Technology Development Programme (PDTI) (see www.finep.gov.br). Before a company begins a project under such a programme, a letter of consultation must be sent to the Industrial Development Council (CDI) through the Special Secretariat for Industrial Development (SDI), giving:

- details of the company, including its constitution, form and capital
- the value of its fixed assets
- its intended production levels

- the estimated volume of sales
- machinery to be acquired, and
- details of any previous projects approved by the CDI.

A company may proceed with a project only after receiving approval from the CDI.

To obtain regional incentives, an investor must initially send the agency concerned a formal letter outlining the project and asking whether it qualifies for the particular programme. If the investor obtains a favourable response, a three to four month period is typically allowed for a formal presentation, which should include detailed projections on financing, production cost, technology and marketing, as well as an exact description of what machinery must be imported and what can be obtained in Brazil. It takes the agencies about six months after submission of the formal presentation to approve a project. No fees are involved, and it is not necessary to ask an outside lawyer to make the application.

(a) Industrial and Agro-Industrial Technology Development Programme

Projects that operate under the Industrial and Agro-Industrial Technology Development Programme are entitled to a withholding tax credit of 50% from the withholding tax due on the remittance of royalties or the payment for technical services.

(b) Manaus Free-Trade Zone

The Manaus Free-Trade Zone is a free-trade area offering special tax incentives to attract industries to the underdeveloped Amazon region. Foreign goods used in the Manaus Free-Trade Zone for consumption, manufacturing or finishing, and goods imported for storage and re-export are exempt from import duties and federal tax. In some cases, the local government of the State of Amazonas may also grant industries an exemption from state tax, normally about 45%. Reductions of sales taxes (PIS and COFINS) are also granted. The normal tax rate for the two taxes is 9.25%, which can be reduced to 3.6%.

A prerequisite for the utilization of the tax incentives of the Manaus Free Trade Zone is the approval of a project by the local authority — SUFRAMA (Conselho de Administração da Superintendência da Zona Franca de Manaus). After approval of the project, the requesting company must complete construction of the manufacturing facilities within two years and the manufacturing process must begin within the following six months.

Re. www.suframa.gov.br/eng/index.cfm

(c) General incentives

Although not as important as tax incentives, some general incentives are available. These usually take the form of loans (at favourable interest rates) to approved enterprises operating in the special development areas. In parts of the country, the federal government has instituted major programmes to assist businesses involved in agriculture and cattle breeding. Under these programmes, the government provides credit, technical assistance, storage facilities and an extensive distribution network.

(d) Tax incentives

Tax incentives may be categorized as follows:

- accelerated depreciation
- investment of corporate income tax in approved projects
- incentives for exporters
- import tax relief, and
- employee welfare programmes.

(e) Accelerated depreciation

Subject to various conditions, accelerated depreciation may be claimed in addition to the normal depreciation charge in the case of major projects approved by the CDI, equal to one and one-half times the normal charge.

(f) Investment of IRPJ in approved projects

Any company operating in Brazil, whether Brazilian or foreign owned, may ask for approval to invest in approved incentive projects up to the extent of 24% of the corporate income tax (IRPJ) that it owes. Thus, a company with official approval may invest up to 24% of tax payable either in its own and related company projects, or in projects unconnected with the company via Government funds. In the case of the latter, the company is issued fund quota certificates, which may be auctioned, kept, or exchanged for shares the fund holds in companies operating in the incentive area or sector concerned.

(g) Incentives for exporters

Exporters of manufactured products may be granted the following incentives:

- exemption from the requirement to deduct Brazilian withholding tax from commissions paid to foreign agents and remittances of interest related to exports
- deductibility of foreign branch office expenses
- exemption from ICMS, a state-level value added tax, and
- IPI credit for PIS and COFINS paid on the acquisition of raw materials.

(h) Import tax relief

Projects approved by the CDI that involve the introduction of new technology are granted a reduction of import taxes on imports of equipment.

When goods are imported for processing in Brazil and re-exported or are imported as components for exports import taxes, ICMS and IPI may be waived under the drawback system. This incentive applies even when goods similar to those imported are available in Brazil.

Tax benefits, not restricted to Manaus but available throughout Brazil, are granted for all IT-product components (including products for the digital television industry) imported into and assembled in Brazil. Benefits include:

- a reduction of between 95% and 100% of federal sales tax, and
- a reduction of the state sales tax of up to 100% (depending on which State the production facilities are located).

Re. www.suframa.gov.br/eng/index.cfm

(i) Employee welfare programmes

An employer may, in addition to any actual expenditure incurred on an employee meal programme, deduct a further amount equal to that expenditure in computing taxable profits, subject to the approval of the Ministry of Labour and Employment. This further deduction may not, however, reduce the employer's tax liability by more than 4%. If this limit is exceeded, the excess may be carried forward and deducted in the following two years.

Re. RIR Art 229; www.mte.gov.br/Empregador/PAT/Legislacao/Default.asp

Computations for income tax purposes are made on a monthly basis, and the limits described above are considered to be one-twelfth for each month.

1.21 Foreign exchange transactions

Jurisdiction: BR

Last reviewed: June 2010

The monetary unit in Brazil is the real (R\$). The exchange rate is allowed to float freely, but only authorized dealers such as commercial banks may participate in currency exchange. Regulations mandate that all foreign currency transactions must be performed through these authorized agents. Other financing or saving companies are allowed to perform only specific exchange transactions. All exchange transactions must be registered at the Central Bank of Brazil by using a special form called "foreign exchange contract". Both residents and non-residents are allowed to maintain accounts in Brazilian currency in authorized Brazilian banks. Foreign currency accounts are generally not permitted in Brazil.

For further and detailed information see www.bcb.gov.br/?EXCHANGE, especially the RMCCI.

Brazil signed the United Nations' Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (often known as the Vienna Convention), which includes measures against money laundering, in June 1991. Brazil is also a member of FATF (the Financial Action Task Force). Brazil issued Law No 9,613 against money laundering and established the "Conselho de Controle de Atividades Financeiras – COAF" — a public entity of the Ministry of Finance to combat money laundering.

Re. Lei No 9,613 of March 3rd. 1998; Lei No 7,560 of December 19th. 1986; Decreto No 2,799 of October 8th. 1998; Portaria No 330, December 18th. 1998, Ministro de Estado da Fazenda; Portaria No 350, October 16th. 2002, Ministro de Estado da Fazenda; Lei Complementar No 105 of January 10th. 2001.

1.22 Intercompany pricing

Jurisdiction: BR

Last reviewed: June 2010

Where international operations involve related companies, the federal tax authority may question the prices or values at which the transactions are carried out when those prices differ from that ordinarily obtained in the domestic or foreign market. The tax authorities consider related companies to be:

- foreign entities with special relationships with Brazilian companies, and
- other Brazilian entities, such as subsidiaries, parent companies, companies with exclusive contracts and entities located in low tax countries.

(a) Import transactions

One of the following methods must be applied when determining prices in relation to import transactions, in order to avoid additional taxation. Any amount by which the price paid by a Brazilian subsidiary exceeds that calculated through one of the below-mentioned methods is defined as overprice and must be added to its taxable net income.

Comparable uncontrolled price method

The comparable uncontrolled price method (PIC) involves a comparison of the adopted price and the mathematical average of prices of equivalent or similar goods in the Brazilian domestic market, or from other countries, in purchase or sales transactions under similar payment conditions and terms.

Resale price method

Under the resale price method (PRL), the price is calculated by comparing it with the average resale price of the goods or rights, excluding:

- unconditional discounts given
- taxes and contributions incurred on sales
- commissions and brokerage fees paid, and
- in the case of imported goods used in production, a profit margin of 60% calculated on the resale price after deducting the amounts mentioned above and the value added in Brazil, or in all other cases a profit margin of 20% calculated on the resale price.

Other factors, such as quantity and payment terms and conditions may also be taken into consideration. This method generally may only be used when the imported product is intended for direct resale.

Cost plus method

The cost plus method (CPL) is defined as the average cost of production of equivalent or similar goods in the country of origin, increased by taxes and fees applied in the export transaction and by a profit margin of 20% on the total cost.

(b) Export transactions

All revenue derived from export transactions with related parties must meet an arm's length standard, meaning that the export revenue must be no less than 90% of the price calculated under one of the following methods. Any amount by which the average price calculated by one of the below-mentioned methods exceeds the export revenue must be added to the taxable net income of the exporter.

Comparable uncontrolled price method – export

Under the comparable uncontrolled price method for export (PVE_x), the price is determined by calculating the average export price the company charged to other customers for identical or similar property or services during the same tax year and under similar payment terms.

Wholesaler's resale price method

The wholesaler's resale price method (PVA) calculates the average sales price of identical or similar goods in the wholesale market in the country of destination. The price is then reduced by taxes included in the price charged in that country and a profit margin of 15%.

Retailer's resale price method

Under the retailer's resale price method (PVV), the average retail sales price of similar goods in the destination country is reduced by taxes included in the price charged in that country and a profit margin of 30%.

Cost plus method

Using the cost plus method (CAP), the price is determined by adding the average cost of production or acquisition of the exported goods, plus taxes charged in Brazil, plus a profit margin of 15%.

(c) Safe harbour exceptions

Some safe harbour exceptions to the export transfer pricing rules apply when:

- the taxable net profit equals at least 5% of the revenue from export transactions with related parties
- the net export revenue is no more than 5% of the net profit for the same period, or
- the average price of exported services during a period is higher than 90% of the average price to services rendered to domestic companies during the same period.

Re. LAT Art 18 to 24; www.receita.fazenda.gov.br/Legislacao/LegisAssunto/PrecoTransf.htm

1.23 Migration of companies

Jurisdiction: BR

Last reviewed: June 2010

Migration of companies or any kind of transfer of capital from Brazil to a foreign country requires registration with the Central Bank of Brazil. Further and detailed information can be found at www.bcb.gov.br/?EXCHANGE, especially the RMCCI.

Special closing procedures do not exist for companies that migrate from Brazil. The migrating companies are required to file a normal income tax return. Individual residents in Brazil are required to file a final income tax return before the exit date or within 30 days after the period of 12 months following the exit date.

Re. Instrução Normativa No 653, May 19th. 2006, Secretaria da Receita Federal; Instrução Normativa No 644, April 12th. 2006, Secretaria da Receita Federal

1.24 Corporate tax payment dates

Jurisdiction: BR

Last reviewed: June 2010

(a) Income tax

Corporate income tax (IRPJ) is generally computed and paid on a monthly basis and adjusted annually. IRPJ computed and paid on a quarterly basis is considered definitive. All companies must file annual income tax returns according to the calendar year, irrespective of the company's annual closing dates. A company may adopt a fiscal year for corporate purposes, but must file all tax returns on a calendar year basis. The return must be filed by June 30th. of the following year.

Re. RIR Art 808

(b) Withholding taxes

In some cases income is subject to withholding tax at source. A withholding tax is levied on transactions involving companies or individuals residing outside Brazil, except dividend payments and donations. Tax rates vary from case to case. In most international transactions, such as interest remittances, the applicable rate is 15%.

1.25 Advance rulings

Jurisdiction: BR

Last reviewed: June 2010

(a) Advance rulings granted

On request, the federal tax authority may give an advance ruling on the tax effect of a proposed transaction before its implementation. Federal public administration and representatives of economic or professional interests can file for an advance ruling at the central federal tax administration (Coordenador da Coordenação-Geral do Sistema de Tributação). All other entities can file for an advance ruling at the regional tax administration (Superintendente Regional da Receita Federal). Filing has to be made in writing.

Re. Lei No 9,430 of December 27th. 1996; PAF Art 48

(b) Requirement

No specific transactions require an advance ruling. However, Brazilian law grants the right to obtain an advance ruling to the taxpayer.

Re. RIR Art 991

(c) Binding of advanced rulings

No action against the filing entity by the tax authorities regarding the subject of the advance ruling is allowed until 30 days after the decision is issued by the tax authority.

Re. PAF Art 48

1.26 Tax audit

Jurisdiction: BR

Last reviewed: June 2010

(a) Tax audits

The tax authorities may conduct audits either due to special circumstances or as part of a routine inspection, in order to verify the accuracy of information given in tax filings. The taxpayer is required to provide all necessary information. If the authorities discover a violation, they will issue an infringement notice. This notice begins the process by which additional tax assessments may be made.

Re. CTN Art 142; PAF Art 7 to 14; www.receita.fazenda.gov.br/Legislacao/LegisAssunto/Fiscalizacao.htm

(b) Random audits

Companies are not audited frequently. The selection of companies for audit is not based on a specific set of rules published by the tax authorities. For audit purposes, the tax authorities tend to select companies with relatively high or low income or net worth.

Re. RIR Art 264

(c) Statute of limitations

In general, the tax authorities may audit taxpayers up to five years after the end of the tax year in question. Assessments can only be made based on audits which begin, but are not necessarily completed, within five years of the date on which the tax return was filed. Taxpayers should retain all records for at least five years.

Re. PAF; Lei No 8,748 of December 9th. 1993; Lei No 9,532 of December 10th. 1997; Lei No 10,522 of November 13th. 2002; Portaria No 3007, November 26th. 2001, Secretaria da Receita Federal

(d) Disputes and appeals

Within 30 days of receipt of an assessment or infringement notice, a taxpayer may file an appeal with the local office of the federal tax authority. If the decision goes against the taxpayer, the taxpayer may file a further appeal with the Taxpayers' Council, the federal administrative tax council in Brasilia. If the decision of the Taxpayers' Council is favourable to the taxpayer but not unanimous, the Minister of Finance has the power to override it. If the decision is adverse to the taxpayer, but not unanimous, the taxpayer may ask for it to be reconsidered. If the final decision after these procedures is unfavourable, the taxpayer may have the dispute decided by the court.

Re. RIR Art 844; PAF Art 15 to 36

(e) Penalties

If the tax authorities discover irregularities, the taxpayer is assessed on a fine equal to 75% to 225% of the tax liability. The normal fine is 75%, but higher rates may be levied if the authorities determine that there was fraudulent intent. If the taxpayer does not contest the assessment and pays the fine within the required period (normally 30 days), the fine may be reduced by 50%. Interest is also assessed and is calculated using a rate determined by the Central Bank of Brazil. Penalties of 20% of the tax due can also be assessed for late filing of tax returns and for late payment of tax due.

Re. RIR Art 957

(f) Client-attorney privilege

The client-attorney privilege is only extended to attorneys. The privileges do not extend to accountants and other tax advisers.

1.27 Tax audit - example

Typical Corporation Tax Calculation

Jurisdiction: BR

Last reviewed: June 2010

The following is a typical tax calculation for a company resident in Brazil with an accounting year ending December 31st, 2008:

| | R\$ | R\$ |
|---|---------|-----------------|
| Corporate income tax – 15% | | |
| Accounting profit | | 4,000,000 = |
| <i>Add:</i> | | |
| Penalties | 12,000 | |
| Non-deductible expenses..... | 23,000 | |
| Excess of allowance for bad debts | 2,400 | = 37,400 = |
| | | 4,037,400 = |
| <i>Deduct:</i> | | |
| Dividends received..... | 10,200 | |
| Accelerated depreciation (not recorded in books of account but allowable as a deduction for taxation purposes) | 1,200 | 11,400 |
| <i>Adjusted profit before carried forward losses</i> | | 4,026,000 = |
| Prior years' losses carried forward (limited to 30% of adjusted profit) | | (1,207,800) |
| <i>Taxable income</i> | | 2,818,200 = |
| Corporate income tax at 15% | 422,730 | |
| Corporate income tax at 10% (profits over R\$240,000) | 257,820 | 680,550 = |
| <i>Less:</i> | | |
| Advanced payments | 502,800 | |
| Withheld taxes | 82,500 | 585,300 |
| Balance payable, as per the income tax return | | 95,250 = |
| Social contribution – 9% | | |
| Accounting profit | | 4,000,000 |
| <i>Add:</i> | | |
| Non-deductible expenses..... | 23,000 | |
| Excess of allowance for bad debts | 2,400 | 25,400 |
| | | 4,025,400 = |
| <i>Deduct:</i> | | |
| Dividends received..... | 10,200 | |
| <i>Adjusted profit before carried forward losses</i> | | 4,015,200 |
| Prior years' losses carried forward (limited to 30% of adjusted profit) | | (1,204,560) |
| <i>Taxable income</i> | | 2,810,640 |
| Social contribution at 9%..... | | 252,958 = |
| <i>Less:</i> | | |
| Advanced payments | | (168,640) |
| Balance payable, as per income tax return | | 84,318 |
| Total income tax and social contribution payable | | 179,568 |

TWO

Inbound Investment

2.1 Exchange controls

Jurisdiction: BR

Last reviewed: June 2010

(a) Currency controls

The flow of funds into and out of Brazil is controlled by the Central Bank of Brazil. All inward investment must be registered with the bank. For further and detailed information see the RMCCI.

(b) Steps to register investment

Foreign capital has to be filed with the Central Bank of Brazil electronically by the receiving Brazilian company by the last day of the calendar year following the year of mandatory entry of the foreign investment in the books and records of the Brazilian company.

Re. Lei No 11,371 of November 28th. 2006; Resolução No 3,447, March 5th. 2007, Banco Central do Brasil

(c) Restriction on inward investment

For the most part, there are no restrictions on 100% foreign ownership. In exceptional cases, however, the law requires a local partner (see also item 'e' below). Inward investment must be registered as foreign investment with the Central Bank of Brazil.

(d) Right to repatriate funds

There are no restrictions on the repatriation of funds.

(e) Limitations on trading

National executive approval must be obtained to invest foreign capital in the following areas:

- defence and national security
- telecommunications, oil research, electricity and nuclear power generation, and
- financial institutions.

Re. Constituição Federal Art 172 and 192

(f) Health care restrictions

The Brazilian Federal Constitution forbids the direct or indirect participation of foreign companies or capital in Brazilian health care companies.

Re. Constituição Federal Art 199 Inciso I par 3

2.2 Trading in Brazil

Jurisdiction: BR

Last reviewed: June 2010

Companies not resident in Brazil are subject to corporate profits tax on Brazilian source profits, which are regarded as having a Brazilian source when they arise from goods traded in the country or the performance of any activity within the national borders.

Re. RIR Art 246

2.3 Brazilian branch

Jurisdiction: BR

Last reviewed: June 2010

(a) Calculating taxable trading profits

The Brazilian branch's taxable trading profits are calculated on the same basis as a Brazilian incorporated company. The branch must keep separate accounting records in Brazil, which show its profits from Brazilian sources.

(b) Branch profits tax

There is no branch profits tax. The tax rate applicable to branches is the same as the tax for Brazilian companies (15% plus an additional 10% on profits above R\$240,000 per year).

2.4 Brazilian administration or liaison office

Jurisdiction: BR

Last reviewed: June 2010

(a) Administrative or liaison activities

All income from administrative or liaison activities carried out in Brazil represents taxable income subject to corporate income tax (IRPJ).

When the amount of the Brazilian source income cannot be ascertained precisely, the federal tax authority may determine the taxable earnings by reference to indices or estimates of income earned by other businesses in the same field of activity.

(b) Tax rates

Profits of an administrative or liaison office of an overseas company are taxable at 15%.

Re. RIR Art 682 to 684

2.5 Other Brazilian source income of non-residents

Jurisdiction: BR

Last reviewed: June 2010

(a) Withholding tax

A withholding tax of 15% must be deducted at source when payments are made to a non-resident, except for dividends and donations (for particular payments see (b) to (d) below). Withholding tax payments to the tax authorities related to transfers abroad are generally due on the third working day of the week following the transaction, but in some cases it may be payable on the day of the transaction. Withholding tax payments for resident recipients are typically due 10 days after the transaction.

Re. RIR Art 865 Inciso I; Instrução Normativa No 252, December 3rd. 2002, Secretaria da Receita Federal.

(b) Interest paid to non-residents

Interest paid to non-residents is subject to a withholding tax of 15% (25% for low tax countries), provided the loan has been approved by the Central Bank of Brazil. Withholding tax rates may be reduced by treaty.

Re. RIR Art 783 § 3

(c) Royalties

Patent and copyright royalties and technical assistance fees payable abroad are subject to a 15% (25% for low tax countries) withholding tax and also to a 10% CIDE tax. Contracts, however, must be previously approved by the National Institute of Industrial Property (INPI).

Re. RIR Art 52, 53 and 241 par 9

(d) Rents

Rents payable in Brazil to a foreign real estate owner are subject to a 15% (25% for low tax countries) withholding tax, payable on the day of receipt.

Re. RIR Art 853

(e) Dividends

Dividends are not subject to withholding tax.

Re. Alt IRPJ&CSLL Art 10.

(f) Dual-resident companies

There are no rules with respect to the treatment of dual-resident companies.

2.6 Brazilian source capital gains of non-residents

Jurisdiction: BR

Last reviewed: June 2010

A company's capital gains are treated as ordinary business income and are subject to income tax at normal rates.

THREE

Outbound Investment

3.1 Foreign source income

Jurisdiction: BR

Last reviewed: June 2010

The Brazilian tax system is based on a global income concept. Foreign source income is subject to tax in Brazil.

Re. RIR Art 55

3.2 Foreign source losses

Jurisdiction: BR

Last reviewed: June 2010

Foreign source losses are deductible if they are realized. They may be deducted against foreign source income only, not against Brazilian income.

Re. RIR Art 55

3.3 Foreign branch income

Jurisdiction: BR

Last reviewed: June 2010

Profits earned abroad through a foreign branch or PE are taxable in Brazil.

Re. RIR Art 147 and 394 to 396

3.4 Foreign branch losses

Jurisdiction: BR

Last reviewed: June 2010

Losses incurred in a foreign branch are deductible against Brazilian corporate income tax (IRPJ), but only to the extent of profits earned abroad.

Re. RIR Art 509

3.5 Foreign source capital gains

Jurisdiction: BR

Last reviewed: June 2010

Capital gains arising to a Brazilian company from the disposal of assets or a foreign subsidiary are taxable in Brazil.

3.6 Controlled foreign companies

Jurisdiction: BR

Last reviewed: June 2010

Profits derived by a controlled foreign company (CFC), or its associated foreign company, are included in the taxable income of the controlling Brazilian entity in the income year in which the profits are derived and are hence subject to tax in Brazil. The attribution of income derived by a CFC to a controlling Brazilian entity occurs regardless of whether the profits are legally or economically available to the Brazilian taxpayer.

Attribution under these CFC rules applies as of January 1st, 2002.

Re. Alt IRPJ&CSLL

3.7 Other foreign rules

Jurisdiction: BR

Last reviewed: June 2010

The Brazilian Government publishes data according to the Dissemination Standards Bulletin Board issued by the Central Bank of Brazil.

3.8 Foreign tax credits/double tax relief

Jurisdiction: BR

Last reviewed: June 2010

Credit for income taxes paid abroad is available, but only to the extent of the additional Brazilian tax payable on the foreign income. The amount of income tax paid is converted to reais (R\$) based on the bank selling rate on the day the tax was paid. Additionally, Brazil must have a double tax treaty with the other country or the whole process has to accord with the reciprocity principle. Brazil has entered into tax treaties with a number of countries. These treaties apply only to income tax and not to any other taxes assessed by Brazil.

Excess tax credits on dividends, interest and royalties cannot be carried forward.

There are no special rules for foreign income that is payable.

Re. RIR Art 103

FOUR

Snapshot

G-20 and Brazil

The G-20 is an informal forum that promotes open and constructive discussion between industrial and emerging-market countries on key issues related to global economic stability. By contributing to the strengthening of the international financial architecture and providing opportunities for dialogue on national policies, international co-operation, and international financial institutions, the G-20 helps to support growth and development across the globe.

The G-20 was created as a response both to the financial crises of the late 1990s and is made up of 19 countries: Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, South Korea, Turkey, the United Kingdom and the United States of America. The European Union is also a member, represented by the rotating Council presidency and the European Central Bank. To ensure global economic forum and institutions work together, the Managing Director of the International Monetary Fund (IMF) and the President of the World Bank, plus the chairs of the International Monetary and Financial Committee and Development Committee of the IMF and World Bank, also participate in G-20 meetings on an ex-officio basis.

Unlike international institutions such as the Organization for Economic Co-operation and Development (OECD), IMF or World Bank, the G-20 (like the G-7) has no permanent staff of its own. The G-20 chair rotates between members, and is responsible for setting up a temporary secretariat during its stewardship.

Brazil is the chair in 2008. The Central Bank of Brazil and Ministry of Finance are in charge of elaborating and implementing all the Group's activities throughout the year. More specifically, Brazil is responsible for organizing six G-20 events, three technical workshops, two Deputies' meetings and the final meeting of Finance Ministers and Central Bank Governors.

During the Brazilian chairmanship, the themes "Clean Energy and the Commodity Markets" and "Competition in the Financial Sector" will be introduced, while the legacy themes "Reform of the Bretton Woods Institutions" and "Fiscal Space" will be taken up.

In September 2009, the leaders of G-20 nations released a statement encouraging "International Accounting bodies to redouble their efforts to achieve a single set of high quality, global accounting standards"

BDO RCS Auditores Independentes



Raul Corrêa da Silva [CPA]

Chairman and CEO

Accountant, Lawyer and Business Administrator post-graduated in Accounting and Financial Administration. Independent auditor registered at CVM and BACEN. 38 years experience in Audit. Awarded with the accounting merit medal Joaquim Monteiro de Carvalho – Regional Accounting Council – CRC-SP



Alfredo Marques [CPA]

Partner

Accountant, Actuary and Business Administrator. Independent Auditor registered at CVM, BACEN and SUSEP. 29 years experience in Audit. Specialized in IFRS for Financial Institutions and Insurance Companies.



Esmir de Oliveira [CPA]

Partner

Accountant and Business Administrator. Independent auditor registered at CVM. 23 years experience in Audit. Specialized in IFRS for Construction, Industrial and Commercial activities.



Fernando Pessoa [CPA]

Partner

Accountant, MBA in Business Administration. 17 years experience in tax, labor and corporate legalization consulting.



Francisco Reis [CPA]

Partner

Accountant and Master in Accounting Sciences. Independent Auditor registered at CVM and BACEN. 31 years experience in Audit. Specialized in IFRS for the Industrial and Commercial segments.



Jairo Soares [CPA]

Partner

Accountant, with Doctorate and Master at PUC-SP. Independent Auditor registered at CVM, BACEN and SUSEP. 32 years experience in Audit. College teacher in International Accounting at Fundação Santo André-SP. Specialized in IFRS for Financial Institutions.



Joachim Vaih [CPA]

Partner

Auditor, Tax Consultant and Business Administrator. 17 years experience in Audit and Consulting. Specialized in German GAAP and IFRS for the Industry sector and Financial Institutions.



Jorge Pessoa [CPA]

Partner

Accountant, Post-graduated in Financial and Accounting Administration, MBA in Business Management and Specialization in Business and Management. Independent Auditor registered at CVM Member of the Brazilian Independent Auditors Institute - IBRACON



José Santiago [CPA]

Partner

Accountant, Independent Auditor registered at CVM. 25 years experience in Audit. Specialized in IFRS for Construction, Industrial and Commercial activities.



Julian Clemente [CPA]

Partner

Accountant and Business Administrator Independent Auditor registered at CVM. 23 years experience in Audit. Specialized in IFRS for Construction, Industrial and Commercial activities.



Mauro Ambrósio [CPA]

Partner

Accountant, Lawyer and Business Administrator. Independent Auditor registered at CVM and BACEN. 23 years experience in Audit. Specialized in US GAAP for the Services sector related to Sustainability and Third Sector.



Mauro Johashi

Partner

Production Engineer with Post-graduation in Business Administration. Specialized in analysis of risk in mergers and acquisitions.



Paulo Tufani [CPA]

Partner

Accountant and Lawyer. Independent Auditor registered at CVM and BACEN. 33 years experience in Audit. Specialized in US GAAP for the industry sector.



Vitor Almeida [CPA]

Partner

Lawyer, Post-graduated in Labor Law, Graduating in Accounting Sciences. 16 years experience in Audit and Consulting for Companies in various sectors.

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