



cutting through complexity

MEDIA AND ENTERTAINMENT

Film Financing and Television Programming

A Taxation Guide

Sixth Edition

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Preface

KPMG LLP's (KPMG) *Film Financing and Television Programming: A Taxation Guide*, now in its sixth edition, is a fundamental resource for film and television producers, attorneys, tax, and finance executives involved with the commercial side of film and television production. The guide is recognized as a valued reference tool for motion picture and television industry professionals. Its primary focus is on the tax and business needs of the film and television industry with information drawn from the knowledge of KPMG International's global network of media and entertainment Tax professionals.

KPMG published the first guide more than 15 years ago as a resource for global coverage of incentives and tax updates as they apply to the film and television industry. Subsequent editions expanded into coverage of financing techniques, credits/incentives, and a thorough appendix of withholding tax rates—a valuable reference tool for all finance and tax professionals.

Each chapter of the sixth edition focuses on a single country and provides a description of commonly used financing structures in film and television, as well as their potential commercial and tax implications for the parties involved. Additionally, the United States chapter focuses on both federal and state incentives, highlighting the states that offer the more popular and generous tax and financial incentives. Key sections in each chapter include:

Introduction

A thumbnail description of the country's film and television industry contacts, regulatory bodies, and financing developments and trends.

Key Tax Facts

At-a-glance tables of corporate, personal, and VAT tax rates; normal non-treaty withholding tax rates; and tax year-end information for companies and individuals.

Financing Structures

Descriptions of commonly used financing structures in film and television in the country and the potential commercial tax implications for the parties involved. The section covers rules surrounding co-productions, partnerships, equity tracking shares, sales and leaseback, subsidiaries, and other tax-effective structures.

Tax and Financial Incentives

Details regarding the tax and financial incentives available from central and local governments as they apply to investors, producers, distributors, and actors, as well as other types of incentives offered.

Corporate Tax

Explanations of the corporate tax in the country, including definitions, rates, and how they are applied.

Personal Tax

Personal tax rules from the perspective of investors, producers, distributors, artists, and employees.

Appendices

Additionally, withholding tax tables setting forth the non-treaty and treaty-based dividend, interest, and film royalty withholding tax rates for the countries surveyed are included as an appendix and can be used as a preliminary source for locating the applicable withholding rates between countries.

KPMG and Member Firm Contacts

References to KPMG and KPMG International member firm contacts at the end of each chapter are provided as a resource for additional detailed information.

The sixth edition of KPMG's Film and Television Tax Guide is available in an online PDF format at www.kpmg.com/filmtax and on CD. The guide is searchable by country.

Please note: While every effort has been made to provide up-to-date information, tax laws around the world are constantly changing. Accordingly, the material contained in this book should be viewed as a general guide only and should not be relied upon without consulting your KPMG or KPMG International member firm Tax advisor.

Finally, we would sincerely like to thank all of the KPMG International member firm Tax professionals from around the world who contributed their time and effort in compiling the information contained in this book and assisting with its publication. Production opportunities are not limited to the 35 countries contained in this guide. KPMG and the other KPMG International member firms are in the business of identifying early-stage emerging trends to assist clients in navigating new business opportunities. We encourage you to consult a KPMG or KPMG International member firm Tax professional to continue the conversation about potential approaches to critical tax and business issues facing the media and entertainment industry.

Thank you and we look forward to helping you with any questions you may have.

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Chapter 04

Brazil

Introduction

Since 1994, with the issuance of *Plano Real*, Brazil has enjoyed a degree of economic stability with a broad basis for industry's growth. Brazil has produced many critically acclaimed films in recent years. Notable successes include *O Quatrilho*, *Four days in September*, *Central do Brasil*, *Elite Squad*, which received an Oscar nomination in the best foreign language film category, won the best film award at the Berlin Film Festival, won a Golden Globe award for best foreign language film, and won the best film award at the International Berlin Film Festival respectively and *City of God*, which received four Oscar nominations (directing, cinematography, film editing, and writing (adapted screenplay)).

There are also successful co-productions between Brazil and other foreign partners, such as *Rio – the Movie* (with USA, directed by Carlos Saldanha from *The Ice Age*) and *Waste Land* (with United Kingdom, which received an Oscar nomination for Best Documentary Feature and won the Audience Award for World Documentary in the Sundance Film Festival).

The Brazilian government considers film production an important industry and, as a result, a series of incentives to promote the local production of films and their distribution both locally and abroad have been introduced during the last years. The growth of film industry in Brazil can be illustrated by a number of national film festivals and events promoted by Ancine (Brazilian Agency of Cinema) as well as by national hubs for the development of the cinema industry.

Paulínia and Gramado are the main examples of cities involved in foment initiatives focused on the cinema industry. Paulínia (located in the State of São Paulo) has a Cinematographic Hub and hosts a local Film Festival since 2008. Gramado (located in the State of Rio Grande do Sul) hosts a renowned film festival annually since 1969, in which foreign productions may participate in a separated category for foreign full length films. Many other cities in Brazil also promote their own film festivals, such as Rio de Janeiro which hosts Rio's Festival and Anima Mundi (Brazilian International Animated Film Festival).

Brazil has been encouraging filmmaking for many years. Last year, the Federal government issued "Screen Quota" (Decree 7.414), an initiative to foment national film production that imposes a minimum quota of films produced in Brazil to be regularly displayed in local movie theaters. This initiative may also be extended to international co-productions duly approved by ANCINE.

Key Tax Facts

Corporate income tax rate	25% *
Social contribution tax on profits rate	9%
Highest personal income tax rate	27.5%
Service tax rates	2–2 a 5%
Sales tax rates	0–25%
Excise tax rates	0–330% (in general 10-15%)
<i>Normal non-treaty withholding tax rates:</i>	0%
Dividends	
Interest	15% or 25% * ²
Royalties	15% or 25% * ²
Services	15% or 25% * ³
Tax year-end: Companies	December 31
Tax year-end: Individuals	December 31

* 15% plus 10% on the amount of profit annually exceeding R\$240,000.

*² 25% tax rate in case the non resident is located in a low tax jurisdiction.

*³ Rate may vary according to the type of service rendered and the location of the non resident, whether a low tax jurisdiction or not.

Film Financing

Financing Structures

Today, very few sectors of the economy are off limits to the foreign investor. For instance, foreign ownership of media services was prohibited until 2002, when the Federal Constitution was amended in order to allow foreign investment in a media service provider entity; limited to a 30% of shareholding interest.

In regard to film or video productions, Brazilian legislation does not impose legal impediments to foreign investors. Nevertheless, ANCINE requires that a Brazilian producer must be hired by foreign producers to develop foreign audiovisual projects in Brazil (except for journalistic productions). In this case, the local producer will act as a representative before ANCINE.

Co-production

Any kind of co-production effort should be subject to the law applicable to ordinary businesses. Under Brazilian tax laws, entities engaged in film production and distribution can conduct their investments either through a branch, a limited liability company (*sociedade limitada*) or a corporation (*sociedade anônima*).

In general lines, a co-production is an engagement of residents and non residents working together in a project recognized by the authorities of both countries.

Currently, Brazil has co-production agreements with Argentina, Germany, Canada, Chile, Colombia, Spain, France, Italy, Portugal, Venezuela and Uruguay. There are also multi-lateral agreements such as the Latin-American co-production agreement and the Ibero-American cinematographic integration convention.

In addition, international co-productions are usually considered as national projects in their origin countries. In Brazil, co-production should be considered national provided that the project is registered before ANCINE and fulfills the requirements set forth in international co-production agreements (if applicable) or Brazilian law.

Branch of a Foreign Entity

Limited liability companies and corporations are more often incorporated in Brazil by multinational corporations in comparison to branches due to bureaucratic procedures set out for a branch's incorporation. Presently, the formation of a branch of a foreign corporation requires prior approval from the Federal Government, by means of a specific authorization from the Ministry of Industry and Commerce, which should be a very lengthy process.

Sociedade Limitada

A *sociedade limitada* (Ltda.) tends to be the most common approach for foreign companies intending to incorporate Brazilian subsidiaries. This is generally the case because the *limitada* is not required to be audited or to publish its financial statements (provided that the legal entity presents a gross revenue lower than R\$300,000,000 or an amount of assets lower than R\$240,000,000). In a *limitada*, the responsibility of the quotaholders for liabilities of the company is, with few exceptions, limited to the amount of the unsubscribed capital of the company. In case the capital is fully subscribed, quotaholders' responsibility is limited to their participation in the society.

A *limitada* must have at least two quotaholders, regardless of citizenship or residency. The share capital is divided into quotas, which may have different values, depending on what is determined in the articles of incorporation. In addition, the capital must be evaluated in Brazilian *Reais* (BRL). In the absence of any contrary agreement, voting rights and profit distributions will be proportional to the interest held by each quotaholder. In general, a manager can be indicated in the *limitada's* articles of incorporation.

As of January 11, 2003, the new Brazilian Civil Code entered in force and new rules were introduced for *limitadas*, including rules with respect to the number of quotaholders necessary to approve certain changes in corporate documents, and the inclusion of the *limitada's* corporate activities in its corporate name. It is necessary to point out that these new rules approximated the corporate requirements applicable to a S.A. (see below) to the *limitada*.

Companies, as well as individuals, may be quotaholders of a *limitada*. Non-resident quotaholders must grant a power of attorney to a representative in Brazil to receive service of notice and act on its behalf at meetings of the quotaholders.

Recently, Law 12,441/2011 created the EIRELI, (Individual Limited Liability Entity) which is a new type of entity that may have only one quotaholder.

Sociedade Anônima

The organization and operation of a sociedade anônima (S.A.) in Brazil is subject to Law 6,404/76 – also known as Corporations' Law, amended by Laws 9,457/97, 10,303/01 11,638/07 and 11,941/09 (which introduced several modifications into Corporation Law as an harmonization between BR-GAAP and IFRS). Corporations' Law was designed to stimulate the development of the Brazilian capital market and to provide additional protection for minority shareholders.

The S.A.s may be publicly held (in this case supervised by the Brazilian Securities Exchange Commission – CVM) or privately held, depending on whether their securities are accepted for trading in the securities market.

There are other forms of business organizations; however, they are unlikely to be used by a foreign investor.

Tax and Financial Incentives

Incentives for Film Production in Brazil

Film productions in Brazil may take advantage of two main sets of tax incentives, which are set forth in Laws 8,685/1993, also known as *Lei do Audiovisual* (for audiovisual projects only) and 8,313/1991, also known as *Lei Rouanet* (for cultural projects in general).

It is important to mention that companies that calculate their taxable income under the presumed profit system are not allowed to benefit from the incentives provided by *Lei Rouanet* and *Lei do Audiovisual*. For more details regarding the corporate income tax computation please refer to “Corporate Taxation” section.

According to Law 8,685/1993, focused on Brazilian audiovisual projects previously approved by ANCINE, there are two types of incentives that may grant income tax reductions until 2016: (i) in case of investments in independent Brazilian film productions through the purchase of quotas of distribution rights negotiated on the stock market, the individual may deduct up to 6% of its income tax due and the legal entity may deduct the investments from its income tax computation as well as from the income tax due (up to 3%); and (ii) in case of sponsoring of independent Brazilian film productions, the individuals/legal entities may deduct the expenses related to the sponsorship from the income tax due up to 6%/3%, respectively. However, expenses incurred with the sponsorship should not be deductible for income tax purposes. In principle, legal entities taking advantage of the tax incentives mentioned herein should observe a limit of 4% of maximum deduction of the income tax due.

Also, in regard to the withholding tax assessed on amounts remitted abroad in consideration for the acquisition of rights/exploration of licenses related to transmission of films and events in Brazil, audiovisual tax incentive may grant a tax reduction of 70% of the WHT levied provided that the amount is reinvested in the local development of independent productions in Brazil.

In order to qualify for the tax benefits of the *Lei do Audiovisual*, projects must satisfy the following requirements:

- At least five percent of the project must be self-financed or third-party financed
- Maximum financing amount of R\$4 million (for income tax deduction incentive) and R\$ 3 million (for withholding income tax reduction incentive)
- ANCINE’s approval for the project subject to investment/sponsorship

In regard to *Lei Rouanet*, this tax incentive may also grant tax reductions on the income tax due both by individuals and legal entities. In general lines, donations or sponsoring amounts invested directly to cultural projects or by way of a specific fund (National Culture Fund – FNC) may be deducted from the income tax due. In order to be eligible for this tax incentive, the cultural project should be pre-approved by the Culture Ministry or, when applicable, ANCINE.

As seen below, the *Rouanet* tax incentive establishes two distinct limitations for tax reduction on the income tax due.

For instance, a legal entity supporting general cultural projects by way of donations and sponsorships may deduct up to 40%/30% of these amounts from the income tax due, respectively, provided that this deduction does not exceed 4% of the income tax due.

Type of cultural project		Generic limitation	Total limitation
General cultural projects	Individuals	80% of amount donated	6%
		60% of sponsorship	
	Legal entities	40% of amount donated	4% (considering incentives from <i>Audiovisual</i>)
		30% of sponsorship	
Special cultural projects	Individuals	Amount donated/ sponsorship	6%
	Legal entities	Amount donated/ sponsorship	4% (considering incentives from <i>Audiovisual</i>)

Please note that the sum of investments in *Lei Rouanet* and *Lei do Audiovisual* together may not exceed 6%/4% percent of individuals/legal entities income tax payable, respectively.

For instance, a legal entity supporting general cultural projects by way of donations and sponsorships may deduct up to 40%/30% of these amounts from the income tax due, respectively, provided that this deduction does not exceed 4% of the income tax due.

Local tax benefits for encouraging cultural activities

Besides the initiatives from Federal Government such as *Audiovisual* and *Rouanet*, States and Municipalities also developed incentive programs in order to attract investments and foment cultural activities.

States as Rio de Janeiro, São Paulo, Minas Gerais and Rio Grande do Sul grants tax incentives focused on the development of culture. In general, investors and sponsor companies may deduct from the ICMS due the amount invested in cultural projects. In the same way, several municipalities also offer incentives to reduce the ISS due by companies that support or sponsor local cultural projects.

As a general rule, companies should be in compliance with its tax obligations in order to be eligible for the tax incentives.

Bank Financing

In addition to the tax benefits available, some Federal Development Banks can also support Brazilian independent motion pictures with financial investments.

The National Bank for Economic and Social Development (BNDES) operates a series of funding programs designed to stimulate the growth of Brazilian-owned industry, mainly through subsidized-rate financing. BNDES offers specific loans for companies intending to establish or expand facilities for the production of goods considered important to the social well-being of the population, finances the acquisition of such goods and promotes the expansion of private capital ownership by underwriting share issues. As a general rule, non resident companies may qualify for BNDES acquisition financing provided that local content of the equipment meets minimum requirements.

Also, BNDES has a specific financing program called *Cinema Perto de Você* (Theaters Near You). This program is designed to support the construction and improvement of movie theaters in specific cities indicated by ANCINE.

Other Financing Considerations

CONDECINE

Provisional Measure 2,228-1/2001, altered by Law 10,454/2002, introduced several changes in the film industry. The most significant change was the creation of a special contribution entitled "Contribution for the Development of the National Cinema Industry" (CONDECINE), which is levied on the marketing and promotion, production, and distribution of commercial motion picture and video works.

The CONDECINE will be due at a fixed amount once in five years per:

I – Title or chapter of motion picture or video work for the following market segments:

- i) Movie theater
- ii) Domestic video
- iii) Radio and TV
- iv) Electronic communication subscription services for the general public
- v) Other markets, as per a list attached to *Provisional Measure 2,228/01*

II – Title of advertising work for each market segment

Also, CONDECINE is also assessed at a rate of 11% on the amounts paid to non resident producers, distributors, or intermediaries, in consideration for the commercial use of motion picture or video works, or their purchase or import. An exemption of CONDECINE may take place in case the entity invests an amount correspondent to 3% of the income paid, credited, used, remitted, or delivered in Brazilian video and audio productions approved by ANCINE.

CONDECINE will be due in the date of the payment, credit, use or remittance of the income related to commercial use, acquisition or import of motion picture or video work.

CONDECINE may be reduced to:

- i) Twenty percent, in the case of Brazilian non-advertisement motion picture or video work
- ii) Thirty percent in the case of audiovisual works destined to the market share of exhibition movie theaters explored upon six copies; and also in the case of motion picture or video works for TV or radio produced twenty years before the registry of the contract with ANCINE

Also, it is important to mention that sport events, journalistic motion pictures and export operations of national motion pictures or video works and the broadcast of national content are exempted of CONDECINE.

The taxpayers liable for CONDECINE are the following entities:

- i) Owners of the commercial rights or license in Brazil
- ii) Producers, in case of Brazilian works, or owners of the exhibition license, in case of foreign works
- iii) Withholding entity/individual responsible for the payment, credit, use, remittance or delivery of the income from the commercial use, acquisition or import of motion picture or video

Note that tax treaties between Brazil and other countries do not cover CONDECINE (not included in income tax definition). Considering that CONDECINE should be levied on Brazilian payer, the non resident may not be entitled to a tax credit.

Special Contribution (CIDE)

CIDE is a special contribution levied on payments to non-residents in the form of royalties and technical services, at a rate of 10%. This contribution is imposed on the Brazilian payer (and not on the non resident).

Initially, CIDE was applicable only to certain royalties and services rendered involving the transfer of technology. However, as of January 1st, 2002, CIDE applies to all types of technical services and also to royalties related to the use of trademarks and copyrights.

Note that until December 31, 2013 the taxpayer may take a tax credit of 30% of the CIDE paid to be off-set against subsequent CIDE payments related to royalties from the use of trademarks and copyrights.

Compliance of Central Bank regulations

Brazilian Central Bank (BACEN) imposes foreign exchange controls for both inflow and outflow of funds into/from the country. In general lines, the investor should provide proper documentation to the private bank responsible for the transaction, which should be registered in Central Bank's electronic system (RDE)

With regard to financial transactions involving the remittance of rental income of home video and films may be performed through any Bank authorized by the Central Bank to operate in the foreign exchange market.

Corporate Taxation

Currently, corporate income tax (IRPJ) is assessed at a rate of 15%, plus a surtax of 10% on the amount of taxable income exceeding R\$240,000 per year.

In addition to the corporate income tax, there is also a social contribution (CSLL) charged at a 9% tax rate.

There are two main methods for income tax and social contribution tax computation—the actual profit system and the presumed profit system.

Actual Profit System

Under the actual profits system, taxable income is net accounting profit, adjusted for non-deductible expenses and non-taxable revenues. Taxpayers on the actual system may choose to calculate tax on a quarterly basis or on an annual basis. The election is made at the beginning of each calendar year and may not be changed for the remainder of the year. Under the quarterly basis, taxable income is computed and paid quarterly.

It is important to mention that some companies are legally obliged to be in the actual profit system, such as financial institutions, factoring companies or entities that accrue revenue higher than R\$48 million per year.

Presumed Profit System

If certain conditions are met, Brazilian entities may elect presumed profit system to calculate taxable income. Under the presumed system, taxable income is deemed to be equal to a fixed percentage of gross revenues. The applicable profit percentage depends upon the activity of the company and differs for corporate income tax and social contribution on profits.

For example, for companies engaged in render of services, a 32% of deemed profit margin is applied. To reach the taxable income, the presumed profit (which is obtained by multiplying the gross revenue by the presumed profit margin) is increased by revenues other than sales revenue, such as income from financial transactions and capital gains.

Note that only companies with gross revenues lower than or equal to R\$48 million per year, which are not financial institutions or factoring companies, that do not earn profits or gains from abroad and that do not qualify for an tax exemption or reduction of corporate income tax or social contribution on profits.

Withholding income tax obligations

The remittance of payments abroad is generally assessed by withholding income tax, which rates depend upon the nature of the payment, the residency of the beneficiary and the existence of tax treaties between Brazil and the country where the beneficiary is located. The most common rates range from 15% to 25%. As a general rule, income paid to beneficiaries located in low tax jurisdictions is subject to 25% withholding tax.

The following are the main withholding tax rates applicable to payments made to nonresidents:

- Interest – 15%
- Interest on equity – 15%
- Royalties – 15%
- Technical service and technical assistance fees – 15%
- Non technical service fees – 25%
- Lease and rental fees – 15%.

In regard to amounts paid to foreign producers and distributors related income derived from the exploration of foreign audiovisual productions of its acquisition or importation, withholding income tax should be assessed at a 25% rate.

In regard to amounts remitted abroad for the acquisition or remuneration in consideration of any type of right, including rights of transmission of films and events, WHT should be levied at a 15% tax rate.

The following are currently not subject to withholding tax (some requirements may apply):

- Dividends (if related to post-January 1996 profits) – 0%
- Interest and commission on export financing – 0%
- Interest and commission on export notes – 0%
- Export commissions – 0%
- Interest on certain government bonds – 0%
- Rental fees for aircraft and ship – 0%
- Air and sea charters, demurrage, container and freight payments to foreign companies – 0%
- International hedging – 0%

Indirect Taxation

Customs Duties

Import Tax (II)

In principle, the applicable rate depends on the fiscal code of the goods, set on Mercosur's (South Cone Market) Common External Tariff (TEC). The Mercosur Agreement provides that all member countries (Argentina, Brazil, Paraguay, Uruguay, and Venezuela) must apply the same import duty on goods from third-party countries, except for certain goods listed in each country's exception list (this list is generally driven by political or economic reason, i.e., the protection of local industry, the essentiality of the product to the importer country, among others). Customs duties rates among Mercosur countries is zero-rated, provided the products have a Mercosur certificate of origin. Mercosur origin rules are generally based on minimum local added value and changes in the classification of the product.

Importation

Brazilian legislation provides for the mandatory registration of all foreign or domestic motion pictures, home video, and television contracts distributed and transmitted within Brazil with the Ministry of Culture (Audiovisual Development Bureau).

Brazilian entertainment law provides that Brazilian film labs must produce the film prints that will be distributed within Brazil.

The importation of marketing materials is subject to duties, which may vary according to the item. Posters and black-and-white stills must be printed in Brazil, while negative and color stills may be imported.

Excise Tax

Excise Tax (IPI) is a federal tax levied on the import and manufacture of goods. In many aspects, IPI mechanics is similar to a VAT, since it is charged on the value aggregated to the merchandise. As a general rule, the IPI paid on a prior stage can be used to offset the IPI debts generated in subsequent operations. Similarly to the import tax, the applicable rate depends on the tax classification of the product.

IPI also has a regulatory nature, i.e., the Federal government may increase (or decrease) IPI's rates at any time as a way to implement financial and economic policies.

Additionally, IPI rates can be higher for non-essential products such as cigarettes, perfumes, etc. Export transactions are not subject to IPI.

ICMS (State VAT)

ICMS is a state tax levied on the import and physical movement of products. Rates may vary from 7 to 12 percent for interstate transactions and from 17 to 19 percent for intrastate or import transactions, which may vary according to the type of product involved.

ICMS is a non-cumulative tax and, therefore the ICMS paid on a prior stage may be used to offset the ICMS tax levied in subsequent operations. Export transactions are not subject to ICMS.

Service Tax

Service Tax (ISS) is a municipal tax assessed on revenues in connection to render of services. While ISS is a municipal tax, services subject to ISS are defined by a federal law (Complimentary Law 116/03). The applicable rate depends on the legislation of each municipality and on the service rendered. Rates may range from 2% to 5%.

Complimentary Law 116/03 introduced important changes to the ISS legislation. As of January 2004, ISS also applies to the import of services, which should be withheld by the Brazilian entity.

Furthermore, Complimentary Law 116/03 also provides an ISS exemption for revenues generated from the export of services. However, the definition of exported services specifically excludes services rendered in Brazil that showed results within the country (even if the Brazilian entity receives the payment from abroad).

PIS/COFINS

PIS (Social Integration Program) and COFINS (Social Security Financing Contribution) are charged on gross revenues through two regimes: cumulative and non-cumulative. Revenues related to export transactions are immune from these contributions.

Entities that are subject to the PIS/COFINS cumulative regime will be subject, in general, to a 0.65% tax rate for PIS and 3% tax rate for COFINS. On the other hand, PIS/COFINS taxpayers under the non-cumulative regime are subject to a 1.65% (PIS) and 7.6% (COFINS) rates and are allowed to recognize a tax credit for PIS/COFINS paid on certain inputs.

As a general rule, entities may opt between the non-cumulative or the cumulative regime of PIS/COFINS. However, some companies are obliged to adopt the cumulative system, such as entities assessing corporate income taxes under presumed profit system, financial institutions and health insurance companies, among others.

Tax on Financial Transactions (IOF)

IOF is a financial tax levied on financial transactions such as credit, exchange, insurance, securities, etc. The main IOF rate assessed on most currency exchange transactions is 0.38%. However, we must note that IOF legislation imposes specific rates according to the operation involved. For instance, the currency exchange transaction related to cross border loans with an average term lower than 720 days are subject to IOF at a 6% tax rate. It is important to mention that IOF rates may be increased (or reduced) at any time by the Brazilian government, without congressional endorsement.

Personal Taxation

Resident

Residents of Brazil, whether from a foreign nationality or not, are subject to tax on their worldwide income. Individuals reporting income received from abroad may take a credit on their annual tax return for taxes paid in the country of origin, provided that a reciprocal tax treatment takes place.

Income subject to tax includes all monetary remuneration and fringe benefits. In case of expatriates, the main items in this category is the cost of travel for family home leave and allowances for housing, educational, and medical or other expenses. Any reimbursement of taxes paid is included in taxable income. Non-monetary fringe benefits, such as the use of a company car or country club membership, are also included in taxable income. No distinction is made between personal expenses reimbursed by the company to the employee and personal expenses paid directly by the company. Moving allowances are usually non-taxable, but in certain circumstances, they may be treated differently.

Also, it is important to mention that non-residents individuals' earnings received in Brazil are subject to withholding income tax. They must communicate to the source of the payment the condition of non-resident.

Concept of Residency

Permanent Visa Test

Individuals transferring to Brazil on a permanent basis are subject to tax as residents upon the date of arrival.

On departure, the individual must report his or her income and pay any taxes due up to that date. The taxpayer will receive a final tax clearance (granting him or her non-resident tax status) that will enable him or her to request Central Bank permission to repatriate all assets held in local currency, provided that these assets have been properly reported on the annual tax returns.

Permanent working visas are generally granted to applicants who will perform management activities as business administrators, general managers, or directors of Brazilian companies (duly appointed as so in the company's articles of association).

The Brazilian company has basically two options to formalize the recruitment of an individual with a permanent visa: (i) with an employment contract, where the company will pay a monthly salary and will incur in other labor charges, as well as being included in the Brazilian company's payroll; or (ii) without an employment contract, where the company will pay a pro labore remuneration in Brazil. Specific rules must be observed for the issuance of a permanent visa for a non resident contracted to manage companies in Brazil.

Temporary Visa Test

The temporary visa is granted to foreign individuals under specific conditions, such as teachers, researchers or scientists, artists, individuals under technical assistance agreements, render of services agreements involving transfer of technology, among many others.

Individuals under render of services involving transfer of technology agreements, a temporary visa of 90 days (for short term agreements) or a work authorization valid for one year (for emergency situations or agreements not comprehended in the first situation) may be granted.

A temporary visa may also be applicable to artists and technicians related to entertainment activities to be performed in Brazil. The visa should be valid for 90 days and is not applicable to foreign artists with labor contracts with Brazilian entities.

Foreign individuals under labor contracts with local entities should hold a temporary visa of 2 years (subject to extension). The Brazilian employer must file the visa application and provide the required documents in order to hire the foreign employee.

Business Visa

In the business visa, the foreigner is allowed to participate in business meetings, conferences, summits, visit potential clients, study of Brazilian market, etc. However, the employee must not perform any kind of work for a local company during his stay in Brazil and neither receive any Brazilian-sourced remuneration, in order to avoid penalties such as fines and deportation. Business visa limits to 90 days the permanence of the individual (renewable for an equal period).

In any case, please note that eventual income earned from a Brazilian source should be subject to taxation in Brazil.

Capital Gains

In case a non resident individual sells an asset located in Brazil, capital gains will be subject to withholding tax at 15 percent (25 percent if the seller is located in a listed low tax jurisdiction) in Brazil

Allowances and Deductions

Taxpayers may deduct on income tax computation amounts paid to Social Security (INSS) and any alimony payments. A special deduction of R\$157,47 (as of April 2011) per dependent is granted as well. Unreimbursed medical, dental, and educational expenses, limited to R\$2,830.84 per student, are allowed as deductions only on the annual tax return.

Tax Rates

Tax is withheld at source on a monthly basis from 7.5 to 27.5 percent depending on income level (see below). This withholding tax is applicable only to payments made by Brazilian entities. When an expatriate is on a split-payroll basis, the amount paid abroad should not be subject to Brazilian withholding tax, but is subject to monthly tax, which must be paid by the end of the month following the month in which the income was received.

Tax is paid monthly in accordance with a five-bracket tax table. For the 2011 calendar year, individuals earning under R\$1,499.15 are exempt from taxation. Individuals (i) with a monthly income above R\$1,499.15 and under R\$2,246.75 are subject to a withholding tax of 7.5 percent of income reduced by a deduction of R\$112.43; (ii) with a monthly income above R\$2,246.75 and under R\$2,995.70 are subject to a withholding tax of 15 percent of income reduced by a deduction of R\$280.94; (iii) with a monthly income above R\$2,995.70 and under R\$3,743.19 are subject to a withholding tax of 22.5 percent of income reduced by a deduction of R\$505.62. Taxpayers whose monthly income is over R\$3,743.19 are taxed at a rate of 27.5 percent reduced by a deduction of R\$692.78.

Annual Tax Return

Annual returns must be filed by the end of April, reporting income earned in the previous calendar year.

All resident taxpayers are required to file as part of their tax return an annual statement of personal assets and liabilities held at December 31 of the taxable year in Brazil or abroad. Any increase in net assets not attributable to reported taxable or non-taxable income may be subject to tax.

The Brazilian Central Bank also imposes tax return filing for resident individuals or entities on an annual basis reporting all assets located abroad with a value equal to or exceeding US\$100,000.

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