Tax: Private Company Acquisitions (Brazil)

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A Practice Note discussing Brazilian tax law issues to consider when acquiring a private company or a business in Brazil. It considers taxes payable on a share or asset sale, available tax reductions, deferrals and exemptions, potential group tax costs, tax issues relating to cross-border dividends, interest and other payments, and the taxation of warranty and indemnity payments.

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In many jurisdictions, the differing tax consequences of share and asset purchases or alternative transactions are often an important factor in determining the preferred structure of a private company acquisition or sale. While both parties have an interest in minimizing their own tax exposure, the choice of structure can result in competing tax costs and implications (both immediate and post-acquisition) for the buyer and seller.

In cross-border transactions, the potential impact from multiple tax regimes may further complicate the analysis. For example, a buyer may need to consider whether it wants to acquire the target company directly from the buyer's home jurisdiction or through an intermediate holding company or other vehicle organized in a different jurisdiction as part of a broader global tax strategy. Because tax rules are complex and vary significantly by country, the parties should consider engaging expert tax advisers in each relevant jurisdiction.

Before engaging in a cross-border transaction in Brazil, the parties should consider the local tax costs and implications of the acquisition structure. This Note outlines:

- The transaction transfer taxes, capital gains tax, VAT or sales tax, and any other taxes payable on a share sale and an asset sale in Brazil.
- Available tax reductions, deferrals, and exemptions.
- What group tax costs could arise after acquisition.
- The tax issues that could arise on dividend payments to and from foreign companies.
- The tax issues relating to cross-border interest and other payments, together with any exemptions and reliefs.
- The taxation of warranty and indemnity payments.

For more information on acquisition structures in Brazil, see Practice Note, Acquisition Structures: Comparing Asset and Share Purchases (Brazil).

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Transfer Taxes

Share Sales

There are currently no transfer taxes payable on the sale of shares in a private company in Brazil.

Asset Sales

In an asset or business sale, transfer taxes may apply on a municipal level to the sale of the underlying assets between legal entities. Transfer taxes apply to assets that are immovable property (such as land and buildings) or rights related to that property (other than liens) if either:

- The sale does not take place as part of a merger, spin-off, or amalgamation.
- As part of a merger, spin-off, or amalgamation:
  - the sale is not for the entirety of the vendor's assets; and
  - the acquiring party's main business is the selling, purchasing, or leasing of immovable property or rights related to that property (other than liens).

Real estate transfer tax (*Imposto sobre Transmissão de Bens Imóveis*) (ITBI) varies by municipality. The applicable tax legislation for the transaction is that of the municipality where the immovable property is located. In the city of São Paulo, for instance, ITBI is taxed as follows:

- **Taxable person.** Either:
  - the buyer of immovable property or rights related to that property; or
  - the assignor, if the transaction involves the assignment of rights to immovable property resulting from purchase and sale agreements.
- **Tax base.** Calculated over the greater of:
  - the assessed value of the immovable property; or
  - the value attributed to the immovable property in the transaction in question.
- **Rate.** At a rate of 3% over the tax base. Exceptions apply to certain types of financing, reducing rates by 0.5% for up to BRL100,000 of the financed amount, from 22 February 2022.

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Transfer Tax Reductions, Deferrals, and Exemptions

Structuring a transaction as a sale of shares in a private company successfully prevents ITBI taxation of the underlying real estate assets. Supreme Federal Court decisions distinguish the sale of shares of a company that owns immovable property from the sale of rights to that immovable property.

Because ITBI does not apply to sales in the context of mergers, spin-offs or amalgamations, subject to restrictions (see Transfer Taxes), a seller can create a vehicle through a spin-off to hold the underlying assets that are to be sold, allowing a buyer to subsequently merge with that vehicle and gain ownership over the immovable property. However, because Brazilian courts tend to deny effect to abusive structures and tax authorities tend to privilege substance over form during tax assessments, municipal tax authorities may investigate a transaction using this structure to determine whether the only purpose for its implementation was ITBI avoidance.

Brazil has enacted a General Anti-Avoidance Rule allowing tax authorities to disregard transactions intended to avoid tax liability. However, this law has not yet been fully implemented, pending further legislation to determine its scope and how it will be implemented. The Supreme Court recently ruled that this rule is constitutional but added that taxpayers could seek to improve their tax consequences through legitimate planning. The Supreme Court recognized that the scope of the rule was still pending further legislation.

Capital Gains Tax

Capital gains taxes are potentially payable by the seller on a share sale or asset sale in Brazil. Corporate income tax in Brazil is applied through three regimes. The regime applicable to a specific taxpayer depends on:

- The taxpayer's income.
- The industry in which it carries out its activities.
- To some extent, the taxpayer's choice of regime.

Under all three regimes, capital gains taxes apply to the sale of shares or assets, but these taxes can vary substantially from regime to regime.

Actual Profit Regime

Under the actual profit regime, income is booked on an accrual basis, with some exceptions. This means that profits and losses are accounted when they occur, not when the corresponding cash flows take place. Capital gains are added to gross income and other gains from secondary activities.

At the beginning of each tax year, taxpayers can choose to calculate their corporate income tax liabilities quarterly or annually. If taxpayers decide to calculate their corporate income tax liabilities annually, they must make either:

- Monthly payments on an estimated basis.

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- Payments based on interim balance sheets.

However, on a corporate event such as a merger, spin-off, or amalgamation, taxpayers must prepare interim balance sheets as of the date of the event. This interim balance sheet serves as a basis to compute corporate income taxes applicable to the event, at the following rates:

- 15% corporate income tax, increased by a 10% rate applicable to the portion of adjusted net profits exceeding BRL240,000 per year (or BRL20,000 per month, if the tax is computed monthly).
- An additional 9% Social Contribution on Net Profits (*Contribuição Social sobre o Lucro Líquido*) (CSLL).

Currently, different CSLL rates apply to certain entities. For financial institutions, the rate is 20%, and for credit cooperatives, it is 15%. These rates could be raised to 21% and 16%, respectively, from August 2022 to the end of 2022 if Congress approves Provisional Measure no 1,115/22 by mid-August 2022.

The tax base for capital gains derived from the sale of permanent underlying assets is the difference between their book value and the sale price. The capital gain comprises the overall corporate income tax and CSLL bases for the relevant period.

Presumed Profit Regime

Under the presumed profit regime, the taxpayer chooses to adopt either:

- The accrual method, as in the actual profit regime (see Actual Profit Regime).
- The cash method, in which profits and losses are accounted for income tax purposes when the cash flows take place.

Corporate income tax is computed on a pre-established percentage of quarterly gross income and is available for companies with a yearly gross income of up to BRL78 million. However, presumed percentages do not apply to capital gains, which are taxed on the total amount at the same rates as in the actual profit regime, on a quarterly basis, except when capital gains arise from a corporate event. In that case, taxpayers must assess their taxes for the interim period up to the date of the event.

Simplified Regime

The simplified regime for tax collection (*Simples Nacional*) (SIMPLES) applies to small and medium-sized enterprises with annual gross income not exceeding BRL4.8 million, with an additional BRL4.8 million threshold for export profits originating in the sale of goods and services.

The SIMPLES regime uses a percentage rate that varies depending on the taxpayer's gross income and the nature of its business activities. The percentage rate includes corporate income taxes, the municipal tax on services, and state VAT, but not capital gains.

From 1 January 2017, capital gains earned under SIMPLES are subject to a progressive rate scheme:

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- 15% to capital gains not exceeding BRL5 million.
- 17.5% to capital gains exceeding BRL5 million and not greater than BRL10 million.
- 20% to capital gains exceeding BRL10 million and not greater than BRL30 million.
- 22.5% to capital gains exceeding BRL30 million.

These same rates apply to natural persons and to foreign sellers of Brazilian assets.

Capital Gains Tax Reductions, Deferrals, and Exemptions

Strict regulations apply to capital gains taxes on share sales. Some exceptions allow for a taxpayer to reduce or defer overdue taxes, for example under a periodic tax regularization program or a special regime for a specific industry. However, these reductions or deferrals are not certainties that a taxpayer can rely on before the sale.

Exemptions from capital gains taxes on share sales apply to specific and limited circumstances, such as:

- Shares acquired before 1988.
- Sales in the stock exchange by foreigners.
- Sales of shares held by specific funds, for example, Brazilian private equity investment funds (*Fundos de Investimento em Participações*) (FIPs).

There are no reductions, deferrals, or exemptions available regarding capital gains resulting from asset sales.

Sales Taxes

Share Sales

Sales taxes such as value added tax (VAT) are generally not imposed on a share purchase in Brazil.

Asset Sales

In an asset purchase in Brazil, each asset is subject to taxes according to the respective type of asset being purchased. For instance, inventory sales are generally subject to VAT, excise tax, and social contributions on gross income through the Program of Social Integration (*Programa de Integração Social)*, which fund's Brazil's unemployment insurance system, and the Contribution for the Financing of Social Security (*Contribuição para o Financiamento da Seguridade Social*), known together as PIS/COFINS.

Fixed asset sales may be subject to excise tax and VAT depending on facts and circumstance. Additionally, real property is subject to ITBI (see Transfer Taxes).

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Acquisitions are often structured as share sales to minimize the additional cost and complexity associated with sales taxes to take advantage of the preferential treatment available for business sales. However, if the acquisition includes the seller's premises or physical establishment, the transaction is not subject to VAT and excise tax because inventory is not physically moved.

Recovery of Sales Taxes

Sales taxes paid in a business or asset sale are generally recoverable in subsequent sales of inventory, or by depreciation of fixed assets. The acquirer can only recover sales taxes by using those taxes as credit against sale taxes imposed in later sales of acquired inventory.

Other Taxes

No other taxes generally apply to a share sale or a business/asset sale unless the transfer of shares or assets is linked to additional circumstances that trigger other types of transfer taxes, such as the Brazilian tax on inheritance (*Imposto sobre Transmissão Causa Mortis e Doação*) (ITCMD). The ITCMD applies to *causa mortis* (that is, in contemplation of death) transfers or donations of any property or rights.

An asset purchase usually does not involve other tax attributes of the seller, but depending on the extent of assets being purchased, the buyer could be responsible for tax liabilities associated with business transactions carried out with the assets before the purchase.

Tax Implications

Purchase Price Not Final at Closing

Capital gains taxes are computed on amounts determined as of the date on which the sale is carried out, according to the rules of each income tax regime (see Capital Gains Tax). Whenever conditions precedent or other requirements make a component of the price indeterminate at closing, capital gains taxes payable on that component are computed only when those conditions precedent are fulfilled. As the amounts are determined, the taxpayer must compute the capital gains taxes and pay them, subject to the rules of each method (accrual or cash basis).

All or Part of the Consideration Not Paid in Cash

When all or part of the consideration is paid in a form other than cash, for example an asset contribution, the tax treatment depends on whether the taxpayer is a natural or legal person.

For natural persons, capital gains taxes apply to the excess of the amount of value the buyer receives in consideration for the asset contribution over the asset's value as declared on income tax returns.

For legal persons, when assets are transferred to a legal entity in consideration for shares of that entity, capital gains taxes on asset contributions apply to the difference between the book value and the fair value of the assets transferred, with fair value determined by appraisal.

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The transferor can defer capital gains tax by booking capital gains separately in an account linked to the acquired transferee stock. The transferor only books the gains as profits when:

- The transferor sells or liquidates the acquired stock.
- The transferee sells the assets, amortizes them, depreciates them, depletes them, writes them off, or contributes them in exchange for shares of another legal entity.

If the above events do not take place within five years of the corporate event, the transferor must book the capital gains as profits in fractions of at least 1/60th per month.

(Article 17, Law No. 12,973/2014.)

Grant or Exercise of an Option over Shares

Taxation of stock options in Brazilian private companies varies depending on the nature of the beneficiary and how the option is structured.

If the beneficiary is a natural person, stock option plans may be treated as wages or investments. Brazilian administrative tribunals are still determining the correct characterization of stock option plans.

If stock option plans are considered employee wages or bonuses, they are subject to:

- Withholding taxation at source, up to 27.5%.
- Social security contributions, including a proportional increase in employee benefits such as paid leave.

If stock option plans are considered an investment and therefore not a part of the employee's remuneration, capital gains taxes apply to the difference between the option price and the ask price of the shares.

If the beneficiary is a legal person, capital gains taxes apply to the difference between the option price and the ask price on exercise. For rates and rules, see Capital Gains Tax.

Hive Down

Hiving down a target business to a newly formed entity (that is, transferring the target business to a newly formed or an already existing subsidiary of the seller (Newco), and then selling the shares) is a common structure used when the buyer wants to reduce the risk of inheriting tax liabilities from the seller. If assets are transferred to the new entity for market value, the seller is subject to corporate income tax and CSLL on the corresponding gains. Because corporate tax rates on capital gains are higher than the rates imposed on resident individuals and non-residents, this structure should be implemented on a case-by-case analysis.

Net Operating Losses

In a share purchase, if the target company in Brazil is entitled to tax benefits or has accrued net operating losses, those desirable tax attributes are generally maintained if the target remains operating in the same line of business.

Premium Paid by Buyer

In a share purchase in Brazil, the price premium paid by the buyer may be deducted from corporate income tax if certain requirements are met, including:

- A direct or reverse merger between the target and the buyer.
- A demonstration of the purchase price allocation among the book value of assets, their fair market value, and goodwill.

Companies Within the Same Group

Tax Losses

There are no group tax relief systems in Brazil. Each entity must file its own individual income tax returns. Companies cannot carry forward tax losses after corporate events such as amalgamations, mergers, or spin-offs.

However, recent tax regularization programs temporarily have allowed group relief to offset outstanding tax debt, including debts the company is challenging in the judiciary or in administrative tribunals. This type of program is not a regular practice, and companies should not rely on it being continued in the future for group relief.

Under a relief program introduced in 2017 that expires in 2022, Brazilian law allows offsetting of negative and positive results in controlled foreign companies at the level of the Brazilian parent company (see Profits of a Foreign Subsidiary). Although this is technically not group relief, it does present an advantage over the allowed amount of domestic loss offset within companies, which is limited to 30% of taxable profits.

Dividends

Dividends Paid to Foreign Companies

Dividends paid to foreign shareholders from a Brazilian source are exempt from income tax in Brazil and are not subject to any withholding obligations.

Dividends Paid to Brazilian Shareholders

There are no differences in the tax treatment of dividends paid by Brazilian companies to foreign companies or individuals as opposed to domestic shareholders.

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However, dividends paid by companies domiciled abroad to Brazilian shareholders are subject to tax as ordinary income. Brazil may allow a credit or exemption for dividends paid by companies domiciled in treaty jurisdictions. For non-treaty jurisdictions, the credit method applies if the taxpayer can show reciprocal treatment.

Dividends paid by foreign subsidiaries to a Brazilian parent company are generally considered as pre-tax income unless they are paid out of current profits earned before the end of the year.

Profits of a Foreign Subsidiary

Circumstances exist where the profits of a foreign subsidiary, even if undistributed, can be taxed in the hands of a parent company which is tax resident in Brazil. The main sources of controlled foreign company legislation (CFC rules) in Brazil are Law No. 12,973/2014 and Normative Instruction No. 1,674/2016. The CFC rules apply to:

- Controlled foreign companies, defined as companies in which the Brazilian shareholder owns, directly or indirectly, permanent rights that entitle it to elect the majority of directors and dictate corporate decisions.
- Affiliated foreign companies, defined as those in which the Brazilian shareholder:
  - has an active role in defining the company's financial and operating policy;
  - holds 20% or more of the company's stock;
  - does not fall within the definition of controlled foreign companies above.

The profits of controlled or affiliated foreign companies connected with oil and gas exploration activities are carved out from the CFC rules.

The CFC rules for controlled foreign companies and affiliated foreign companies are essentially the same, with one exception. The CFC rules are voluntary for affiliated companies unless:

- The affiliated foreign company is domiciled in a tax jurisdiction with a nominal corporate income tax rate lower than 20%.
- The affiliated foreign company is domiciled in a gray-listed or blacklisted jurisdiction, under the applicable regulations.

Under the CFC rules, undistributed profits of controlled foreign companies are automatically taxed in Brazil. Foreign tax credits are available for corporate income taxes and dividend withholding tax paid abroad by subsidiaries, limited to the amount of corresponding corporate income taxation (including both income taxes and CSLL (social contribution on net profits)) due in Brazil.

Also, until calendar year 2022, Brazilian parent companies can consolidate in their accounts positive and negative results of foreign controlled or affiliated companies, in amounts proportional to the parent's share in those companies. Brazilian parent companies can use this benefit until either:

- The conditions for mandatory application of the CFC rules to affiliated foreign companies described above take place.

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- The foreign entity starts generating at least 80% active income.

Until calendar year 2022, Law No. 12,973/2014 creates a presumed income tax credit of 9% for income originating in controlled foreign or affiliated foreign companies engaged in certain industries, including beverage, food, infrastructure, construction, transformation, mineral extraction, and exploration of public resources in the company's jurisdiction via concession. Brazilian parent companies can use this tax credit until either:

- The conditions for mandatory application of the CFC rules to affiliated foreign companies described above take place.

- The foreign entity starts generating at least 80% active income.

An extension of these beneficial tax treatments or deductions for Brazilian parent companies beyond 2022 is contingent on further authorizing legislation.

Interest

Withholding Obligation

A withholding obligation exists on interest paid by a company which is tax resident, or which has a permanent establishment, in Brazil to foreign companies or individuals. The general withholding rate is 15% for interest paid by a Brazilian company to foreign companies or individuals. A 25% rate applies when the company or individual is in a gray-listed or blacklisted country (Normative Instruction No. 1,037/2010, as amended).

Withholding rates may be lowered to zero for interest paid to foreign companies or individuals that do not reside in gray-listed or blacklisted countries when:

- The interest originates from loans contracted abroad, issued by a financial institution residing in a foreign jurisdiction that has entered a double-taxation treaty with Brazil, for terms longer than 15 years at market rates.

- The interest originates from foreign bonds issued by Brazilian entities and authorized by the Brazilian Central Bank that were issued before 31 December 1991.

- The interest is discount interest related to foreign exchange export securities.

- The interest is related to export finance credit contracted abroad.

- The interest originates from securities acquired on or after 1 January 2011 that are publicly traded by Brazilian legal entities not classified as financial institutions.

- The interest is paid by an investment fund with a portfolio consisting of at least 85% securities issued by entities incorporated to implement investments, research and development, or innovation-oriented projects, among other specific requirements listed in Article 1 of Law No. 12,431/2011.

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- The interest is paid by Brazilian investment funds with foreign shareholders and resources invested in cash deposits or in assets subject to income tax exemptions or zero income tax rates.

Tax Liability for Interest Accrued on Escrowed Amounts

Brazilian banks must withhold taxes from payments to the account holder for interest accrued on escrowed amounts. Because the parties to a transaction are free to choose the account holder, their choice effectively determines the party that is charged with tax liabilities relating to the interest on the escrow account.

In other words, in selecting the account holder, the parties effectively select the person charged with the tax liability because the bank automatically withholds the tax amount.

Restrictions on Capital Structure

Under Law No. 12,249/2010 and Normative Instruction No. 1,154/2011, interest expenses that a Brazilian subsidiary incurs when making payments to a foreign parent company or other related party, including when financial institutions serve as mere intermediaries in the operation, are subject to certain thresholds. The applicable threshold depends on whether the foreign related party is located in a gray-listed or a blacklisted jurisdiction (Normative Instruction No 1,037/2010, as amended).

When the company is indebted to related parties not residing in gray-listed or blacklisted jurisdictions, the restrictions are:

- Indebtedness with any foreign related party cannot exceed twice the value of that party's stake in the Brazilian entity.
- If the related party holds no stake in the Brazilian entity, indebtedness with the related party cannot exceed twice the value of the Brazilian entity's net equity.
- The Brazilian entity's overall indebtedness with related parties cannot exceed twice the overall value of related party investments in the Brazilian entity.
- If no related party holds a stake in the Brazilian entity, overall indebtedness with related parties cannot exceed twice the value of the Brazilian entity's net equity.

Interest expenses related to indebtedness exceeding the above restrictions is not deductible for Brazilian income tax purposes.

When the company is indebted to related or non-related parties residing in gray-listed or blacklisted jurisdictions, interest expenses are deductible only if:

- The expenses are necessary for the Brazilian subsidiary's operations.
- Overall indebtedness does not exceed 30% of the Brazilian entity's net equity.

These stricter limits also apply when any intervening parties, including guarantors or attorneys-in-fact, are residents of or domiciled in gray-listed or blacklisted jurisdictions.

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Intra-group loans are also subject to transfer pricing regulations in Brazil and are subject to limitations on the amount of interest charged. Limits on interest rates for deduction purposes are calculated individually per contract based on the currency of the loan, the type of interest rate (fixed or floating), and the date on which the loan was concluded, using Brazilian government bonds for comparison regarding yield.

Taxation of Warranty and Indemnity (W&I) Payments

Brazilian taxation of warranty and indemnity payments depends on how these payments are drafted in the share purchase agreement or the master investment agreement.

If payments are to be treated as a reduction of the purchase price amount and if the triggering of those payments falls within the statute of limitations (that is, five years after the taxable event), the buyer and seller must both adjust income tax returns and accounting for the transaction:

- If the seller makes warranty or indemnity payments to the buyer, the buyer must adjust its amortizable goodwill amount due to a purchase price amount adjustment. The seller must issue an amended federal income tax return indicating a smaller capital gains tax base on the sale. The seller is entitled to capital gains tax credits for excess taxes paid.

- If the buyer makes warranty or indemnity payments to the seller, the buyer must account for an increase in amortizable goodwill due to a purchase price amount adjustment. The seller must account for capital gains for the period when the payment accrued (or was received, depending on the method) (see Purchase Price Not Final at Closing).

Alternatively, if payments are to be treated as compensation entirely separate from the purchase price amount (for example, as compensation for loss of profits), they may trigger corporate income taxation on the amount received by the buyer or the seller. Corporate income taxation includes:

- Corporate income tax and CSLL at a combined 34% rate.

- PIS at 1.65%.

- COFINS at 7.6%.

If the payments are to be treated as damages, the parties can try to reduce taxes or prevent taxation altogether, but the tax authorities may try to tax them regardless.

The parties should carefully plan their choice (that is, whether the warranty and indemnity payments should be treated as purchase price adjustments) before drafting the agreement. Corporate income tax, PIS, and COFINS effectively diminish the fair amount due to the seller or the buyer as a warranty or indemnity payment. Also, tax credits originating from an overshoot of the purchase price amount or deferrals in capital gains tax through contractual penalties may be grounds for investigation by the tax authorities.

Warranty and Indemnity Insurance Policies

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Payments received based on claims made under a warranty and indemnity (W&I) insurance policy purchased by a party to the transaction are generally not subject to tax to the extent of damages or losses suffered that are covered by the payments, but any excess is subject to tax as other income.

Preventing Treaty Abuse

Brazil is a party to tax treaties with several countries to avoid double taxation and otherwise recognizes with certain other countries reciprocal tax treatment. Earlier tax treaties with Brazil imposing restrictions on tax treaty abuse included a simplified version of the **Organization for Economic Co-Operation and Development's** (OECD) "limitation of benefits" approach to **base erosion and profit shifting** (BEPS), but more recent treaties adopted the "principal purpose" test. For more information on the OECD's limitation of benefits approach and principal purpose test, see Practice Note, Double tax treaties: an introduction: Limitation of benefits.

Anti-Hybrid Rules and Fixed Ratio Limit

Brazil does not have specific anti-hybrid rules to prevent mismatched profit-shifting arrangements. However, in 2010, it enacted **thin capitalization** controls that generally impose a debt-equity ratio. Domestic **transfer pricing** rules also impose limitations on intercompany loans based on market rates or the six-month deposits LIBOR rate. These rules are generally compliant with BEPS Action 4. For more information on the BEPS proposal for hybrid mismatches, see Practice Note, OECD multilateral instrument on BEPS: Substantive provisions. See also Country Q&A, Thin capitalisation: Brazil and Legal Update, OECD: 2022 edition of transfer pricing guidelines.

Royalties

Royalty payments made by Brazilian residents to foreign parties are generally subject to withholding income tax at 15%. An increased rate of 25% applies to beneficiaries domiciled in low tax jurisdictions, and a preferential rate as low as 10% may apply for beneficiaries domiciled in certain treaty jurisdictions depending on the type of royalty being paid. Royalty payments pertaining to transactions with technology transfers are also subject to a 10% contribution for *Contribuição sobre Intervenção do Domínio Econônomico* (CIDE).

CIDE is also imposed on technical services, including management fees and development of software. However, standardized software licenses are not subject to CIDE. The Brazilian Revenue Service (*Receita Federal do Brasil*) recently took the position that payments for **software as a service** (SaaS) must also be treated as technical services. Technical services are also subject to PIS/COFINS social contributions at 9.25%.

Royalty payments are generally not subject to the municipal tax on services, except for licensing of both standard or commissioned software, which is subject to tax from 2% to 5%, and trademarks.

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