

Tax Reform

Specific Regime – Financial Services

January 2025

Brief Background



In continuation of the Legal Advisories on the regulation of the Tax Reform, this presentation addresses the main features of the Specific Regime for Financial Services, focusing on four groups of activities:



Financial Intermediation (Credit Transactions, Foreign Exchange, Securities – TVM, Securitization, and Factoring)



Asset and Portfolio Management



Payment Arrangements



Insurance and Reinsurance

Other financial services subject to specific rules that will not be addressed in this material include: (i) financial leasing; (ii) consortium; (iii) stock exchanges; (iv) supplementary pension; (v) capitalization; (vi) financial services brokers; and (vii) virtual asset services

At the end, we will summarize the treatment of imports/exports of financial services and present a comparative table of the main features of the specific regimes applicable to all financial services.

Financial Services – Common Rules



Scope

Financial services provided by:

- ✓ Individuals and legal entities supervised by the Brazilian National Financial System (SFN); and
- ✓ **Other** providers:
 - **Participants** in payment arrangements that are not payment institutions; **credit securitization companies**; factoring companies; simplified credit companies; **correspondents** registered with the Central Bank of Brazil; and other providers that render financial services (i) in the course of an economic activity; (ii) on a regular basis or at a volume that characterizes an economic activity; or (iii) on a professional basis, even if such profession is unregulated.

Assessment Period

Monthly

Exceptions to the Specific Regime for Financial Services

- Banking **services** remunerated by **fees** and **commissions**
- **Fees** paid by the holder of a payment instrument to the **issuers** of such instruments
- Financial income of legal entities that **are not financial institutions (IFs)**

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Revenues subject to the **general rules** of CBS/IBS

WHAT ABOUT INVESTMENT FUNDS?

- The text approved by Congress subjected investment funds to IBS/CBS only in specific circumstances (e.g., FIDCs not classified as investment entities and funds that early-settle receivables from payment arrangements).
- The President of the Republic vetoed provisions that (i) **excluded** investment funds in general from the list of IBS/CBS **taxpayers** and (ii) provided that Real Estate Investment Funds (FII) and Agribusiness Investment Chain Funds (FIAGRO) **would only** be IBS/CBS taxpayers under certain circumstances.
- Stated objective of the Ministry of Finance: to include FIIs and FIAGROs in the IBS/CBS system.

Issue – this objective does not correspond precisely to what is set forth in the Complementary Law and may negatively impact the investment fund market in general:

1. As a general rule, transactions involving securities are **not** subject to IBS/CBS.

2. Rule **excepted** in the case of financial services, which include, for example, “transactions involving securities, including the **acquisition, trading, and settlement**” of securities

3. In theory, funds could be deemed “**other providers**”, a concept that encompasses entities that render financial services “in the course of an economic activity”.

4. FIIs and FIAGROs carry out transactions subject to IBS/CBS under the **specific regime for real estate** and would bear a **burden that does not currently exist** – we will address this topic in the advisory relating to that specific regime.

Financial Services – Common Rules



Rates

- **Nationally uniform**
- Set so as to maintain the tax burden on **credit transactions** of banking institutions as assessed during the period from January 1, 2022 to December 31, 2023
- The Law provides a methodology for arriving at the **IBS/CBS Target Amount**, based on the current PIS/COFINS of banks and non-recovered IPI/ISS/ICMS/PIS/COFINS amounts, as exemplified below:

PIS/COFINS	
Tax Base – Fees and Commissions	80,000,000
Tax Base – Other Revenues	2,000,000,000
Proportion of Tax Base – Other Revenues	96%
PIS/COFINS Debits – Other Revenues	93,000,000

IPI/ISS/ICMS/PIS/COFINS	
Non-Recovered Amounts	50,000,000
Applies Proportion of Tax Base – Other Revenues	48,000,000

IBS/CBS Target Amount
141,000,000

Takes into account "other revenues" less the deductible expenses under currently applicable legislation.

Constitutional Amendment No. 132 (EC 132) determines that IBS and CBS shall carry a tax burden equivalent to that currently applicable to the "credit transactions" of banks; however, the methodology set forth in LC 214 takes into account **all** revenues not derived from fees and commissions

Tax Base

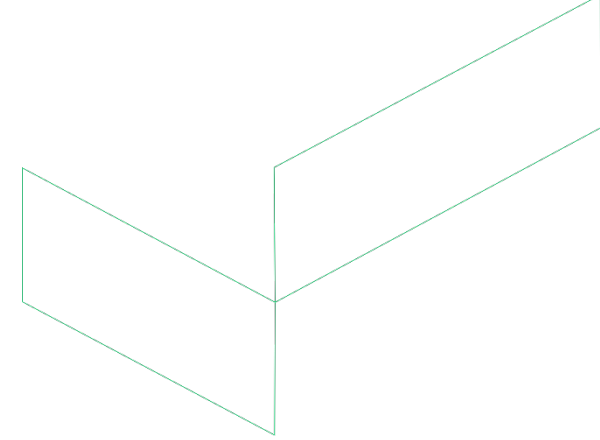
- As a general rule, it is the Revenue reduced by legally permitted **deductions**
- **Prohibited** deduction of **administrative expenses**
- A **negative** tax base may be deducted in subsequent periods, without monetary adjustment, for a maximum of 5 years

Non-cumulative taxation

- **Credit appropriation by the Provider:**
 - Providers **may** appropriate credits, **unless** the acquired good/service is subject to its **own specific rule**
 - **Prohibited** with respect to amounts that are **deducted** under specific regimes
- **Credit generation for the Recipient:**
 - Subject to the **conditions** of each specific regime
 - Credits appropriated based on **information provided** by providers to the **Managing Committee**

Ancillary Obligations

Entities must provide "information on transactions carried out," in the form prescribed by the Regulation



Financial Intermediation

Credit, Foreign Exchange, and Securities
Securitization and Factoring

Credit, Foreign Exchange, and Securities



Scope

- Credit Transactions (including funding and on-lending, advances, loans, financing, and discounting of instruments)
- Foreign Exchange
- Securities – TVM (including custody, brokerage, distribution, other forms of intermediation, and the activities of investment advisers and securities consultants)

CURRENT TAXATION

- **PIS/COFINS:**
 - Cumulative regime
 - Base: Operating revenues, with deductions
 - Rate: 4.65%
- **ISS:**
 - Subject (portion relating to services)
 - Rate: 2%–5%
- **ICMS/IPI:**
 - No credit appropriation

Tax Base



Does not include the principal in credit transactions

Corresponds to the **positive difference** between the cost and the transfer value of the **securities**

- Financial expenses related to the raising of funds
- Foreign exchange expenses relating to foreign exchange transactions
- Losses on transactions involving securities (TVM)
- Financial charges recognized as expenses, relating to debt instruments issued by the taxpayer
- Losses on the collection of credits from financial institutions' activities, including on the assignment of such credits and the granting of discounts at market value, pursuant to the income tax rules applicable to banks
- Investment advisers, consultants, and correspondents in credit, foreign exchange, and securities transactions, provided such activities are not performed by employees or officers of the company

Securitization and Factoring



Scope

- Securitization and Factoring

FIDCs

- The specific regime **applies** to FIDCs that:
 - Early-settle **commercial receivables** to be defined by the National Monetary Council (**CMN**)
 - **Not** classified as **investment entities**
- **Does not** extend to the **quotaholders** of such FIDCs

CURRENT TAXATION

Legal Entities

- **PIS/COFINS:**
 - Cumulative regime
 - Base: Operating revenues, with deductions
 - Rate: 4.65%
- **ISS:**
 - Subject (portion relating to services)
 - Rate: 2%–5%
- **ICMS/IPI:**
 - Not applicable
 - No credit appropriation

FIDCs

- **PIS/COFINS:**
 - Not applicable
- **ISS:**
 - Not applicable
- **ICMS/IPI:**
 - Not applicable
 - No credit appropriation

Tax Base



Discount applied in the early settlement of receivables



Expenses

- Financial expenses related to the raising of funds
- Securitization expenses relating to services not performed by employees or officers of the provider
- Losses on the collection of credits, on the assignment of such credits, and on the granting of discounts, provided they are carried out at market value

Losses that exceed taxable amounts in a given period may be offset in subsequent periods



Rates

Common rule for financial services

Credit Appropriation

Common rule for financial services

Credit Generation

- The activities covered by the specific regime for financial intermediation generate credits for recipients that are IBS/CBS taxpayers under the regular regime and are not subject to that same **specific regime**
 - ! For entities subject to this specific regime, the appropriation of credits depends on the relevant expense not being deductible for IBS/CBS assessment purposes
- There are **specific rules** for each activity:

Credit Transactions

▪ What gives rise to a credit?

- **Fees** and **commissions**
- **Amount effectively paid** under the cash basis that **exceeds the principal and the SELIC rate**

▪ Credit amount:

- Calculated at the **same rate** applicable to the transaction

Debt Issuance Transactions

▪ What gives rise to a credit?

- **Fees** and **commissions**
- **Amount effectively paid** under the cash basis that **exceeds the principal and the SELIC rate**

▪ Credit amount:

- Calculated at the **same rate** applicable to the transaction

▪ Exception for Public Offerings:

- **The provider shall deduct** the amount of interest/yields that exceeds the SELIC rate
- **The issuer shall not appropriate** a credit

Assignment of Receivables, Securitization, and Factoring

▪ What gives rise to a credit?

- **Fees** and **commissions**
- The portion of the **discount** that **exceeds the DI Rate**

▪ Credit amount:

- Calculated at the **same rate** applicable to the transaction

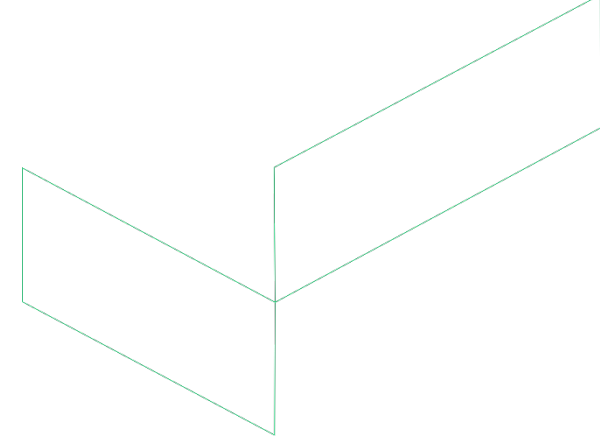
Foreign Exchange and Securities Transactions

▪ What gives rise to a credit?

- Only **Fees** and **commissions**
- ! **There is no credit** on **spread** in foreign exchange transactions, for example

▪ Credit amount:

- Amount of **IBS/CBS paid** by the provider



Asset and Portfolio Management

Asset and Portfolio Management



Scope

Asset and portfolio management, including management of investment funds

Tax Base

Transaction value, without deductions

Rates

- **Asset and portfolio management services:** common rule for financial services
- **Other services:** general IBS/CBS rule

Non-cumulative taxation

- **Credit appropriation by the Provider**
 - Common rule for financial services
- **Credit generation for the Recipient**
 - **Only** for the **investment fund** that is **IBS/CBS taxpayer** under the regular regime

CURRENT TAXATION

Fund Administrators

(as a general rule, financial institutions)

▪ PIS/COFINS:

- Cumulative regime
- Tax base: operating revenues, with deductions
- Rate: 4.65%

▪ ISS:

- Subject
- Rates Rio/SP: 2%

▪ ICMS/IPI:

- Not applicable
- No credit appropriation

Portfolio/Asset Managers

▪ PIS/COFINS:

- Cumulative or non-cumulative regime
- Tax base: revenues (with or without credit appropriation)
- Rate: 3.65% or 9.25%

▪ ISS:

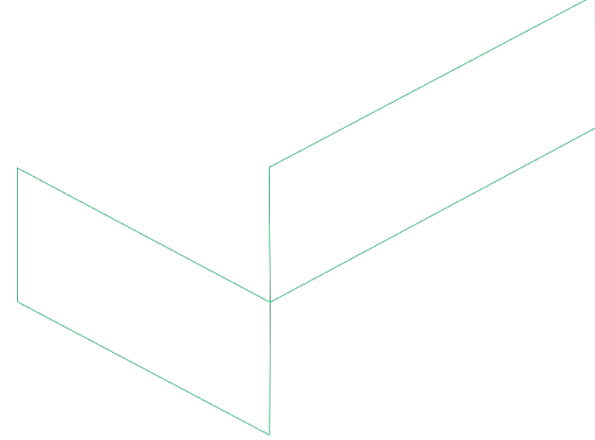
- Subject
- Rates Rio/SP: 2%

▪ ICMS/IPI:

- Not applicable
- No credit appropriation

Ancillary Obligations

- The administrator and distributor acting **on behalf and on account of funds** must provide information on funds, quotaholders, and the value of quotas
- The obligation may be waived if there is an agreement between the Managing Committee and a public authority (e.g., the Brazilian Securities and Exchange Commission – CVM)



Payment Arrangements

Payment Arrangements



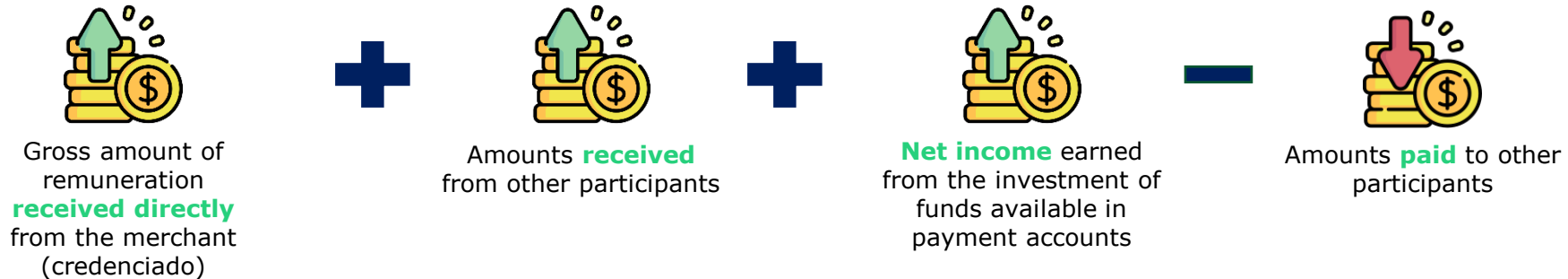
Scope

- All services related to merchant onboarding (credenciamento), capture, processing, and settlement of payment transactions, as well as other goods and services provided to the merchant (credenciado), other arrangement recipients, and among participants
- **Service Recipient:**
 - ✓ In merchant onboarding, capture, processing, and settlement of payment transactions = the merchant (credenciado)
 - ✓ In other services = the respective recipient
- The Issuer-Holder relationship is subject to the **general** incidence rules, **except** for credit transactions

CURRENT TAXATION

- **PIS/COFINS:**
 - Cumulative or non-cumulative regime
 - Tax base: revenues (with or without credit appropriation)
 - Rate: 3.65% or 9.25%
- **ISS:**
 - Subject
 - Rate: 2%-5%
- **ICMS/IPI:**
 - Not applicable
 - No credit appropriation

Tax Base



Payment Arrangements



Rates

Common rule for financial services

Ancillary Obligations

- **Acquirer:** information on merchants (credenciados), gross remuneration amounts, and amounts passed on to other participants
- **Other Participants:** gross remuneration amounts received from recipients or other participants, and amounts paid to other participants

Non-cumulative taxation

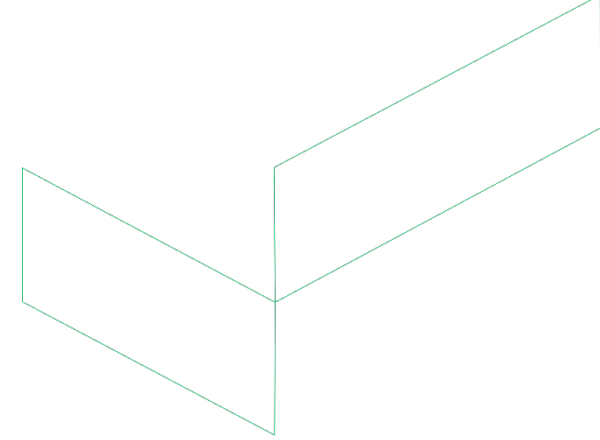
- **Credit appropriation by the Provider**
 - Common rule for financial services
- **Credit generation for the Recipient**
 - **Yes**, provided the merchant (Credenciado) or other participant is subject to the regular CBS/IBS regime
 - Calculated on the gross amount of remuneration owed to the acquirer (credenciadora) or to another participant

Settlement of Receivables from Payment Arrangements

- **Taxpayer:** buyer of the receivable (**including investment funds**)
- **Tax base:** discount applied, with deduction of (i) the SELIC future interest rate curve for the early settlement period and (ii) losses on the collection of credits from financial institutions' activities, including on the assignment of such credits and the granting of discounts at market value
 - ✓ Losses that exceed taxable amounts in a given period may be deducted in subsequent periods
- **Rate:** Common rule for financial services
- **Credit Generation:**
 - ✓ Yes, provided the seller of the receivable is an IBS and CBS taxpayer subject to the regular regime
 - ✓ Equivalent to the discount portion at the time of early settlement, under the cash basis method
- **Credit Appropriation:** Common rule for financial services



Quotaholders are not subject to IBS/CBS



Insurance and Reinsurance

Insurance and Reinsurance



Scope

Insurance (except health insurance) and reinsurance

Rates

Common rule for financial services

! Reinsurance and retrocession between insurers and reinsurers: zero rate

CURRENT TAXATION

- **PIS/COFINS:**
 - Cumulative regime
 - Base: Operating revenues, with deductions
 - Rate: 4.65%
- **ISS:**
 - Not applicable
- **ICMS/IPI:**
 - Not applicable
 - No credit appropriation

Tax Base



Premiums



Financial income **proportional** to premium revenues that **do not** generate credits for recipients



Expenses

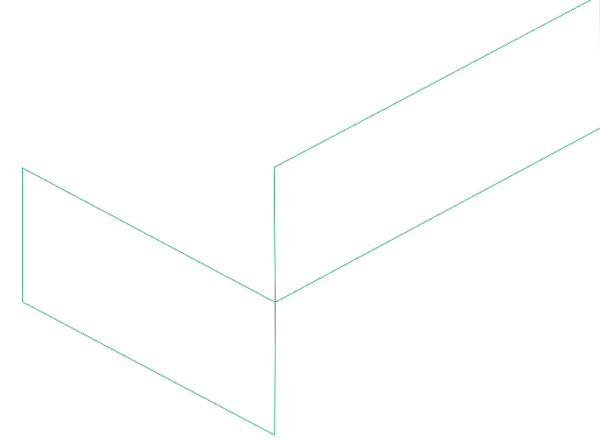
- Claims effectively paid to non-taxpayers under the regular regime
 - ✓ Relating to property and casualty insurance without survival coverage
 - ✓ Net of salvage and other reimbursements
- Cancellations and refunds of premiums
- Intermediation services
- Portions of premiums allocated to provisions or technical reserves of redeemable insurance

Credit Appropriation

Common rule for financial services

Credit Generation

- **Premiums:**
 - ✓ **Yes**, provided the recipient is a CBS/IBS taxpayer under the regular regime and is the insured party
 - ✓ Calculated based on the taxes paid on the value of the premiums
- **Claims:**
 - ✓ **Do not** generate credits and **are not** subject to IBS/CBS



Importation and Exportation of Financial Services

Importation and Exportation



Importation

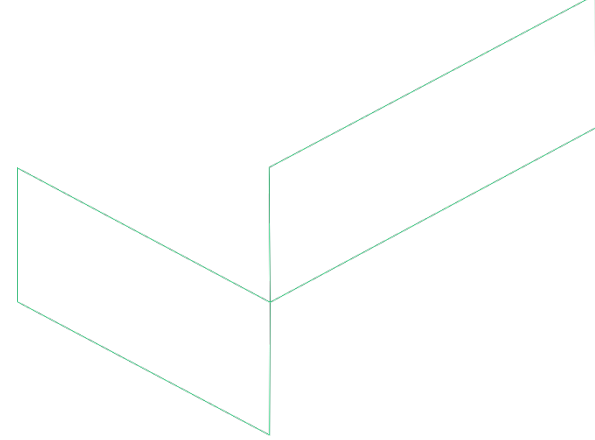
- **Scope**
 - Service rendered by a resident or domiciliary abroad:
 - ✓ Used, exploited, utilized, enjoyed, or accessed in Brazil; or
 - ✓ Related to real or personal property in Brazil; or
 - ✓ Performed in Brazil
- **Tax Base:**
 - Revenue of the provider
 - The Regulation will provide a **deemed margin** to emulate deductible expenses in Brazil
- **Rate:**
 - General Rule: **same rate** applicable to the transaction with a provider domiciled in Brazil
 - If the importer would be entitled to a credit were the same service rendered by a provider domiciled in Brazil: **zero rate, without credits**



The President of the Republic vetoed a provision that established a **zero rate** for importers carrying out financial intermediation transactions, without **prejudice** to the **deduction** of the corresponding expenses

Exportation

- **Scope**
 - Services rendered to **residents or domiciliaries abroad**
 - ! Tendency to resolve disputes regarding the place of the service's result
- **Exempt (immune)**
- **Deductions:**
 - Must be **reversed** in proportion to export revenue
- **Not considered exported:**
 - Services rendered to entities that are predominantly branch offices, subsidiaries, or investees of Brazilian residents that are not IBS/CBS taxpayers under the regular regime
 - Extends to **related parties** in accordance with the rules of the Complementary Law
 - In transactions on the financial and capital markets, predominance shall be verified exclusively through the applicable registries



Comparative Summary

Comparative Summary – Financial Services



	Financial Intermediation	Financial Leasing	Consortium	Asset Management	Payment Arrangements	Stock Exchanges	Insurance and Reinsurance	Supplementary Pension	Capitalization	Brokers	Virtual Assets
Tax Base	Revenues, with deductions		Fees / commissions / charges, without deductions	Transaction value	Revenues, with deductions	Transaction value	Revenues, with deductions			Transaction value	
Rate	Current Tax Burden on Bank Credit Transactions	Depends on type of lease and type of asset	Current Tax Burden on Bank Credit Transactions								
Credit Generation	Yes, subject to conditions and limits	Yes, subject to conditions		No	Yes, subject to conditions			No	Yes, subject to conditions		No
Credit Appropriation	Yes, except for deductible expenses										

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