

Tax Reform

Real Estate Transactions

February 2025

Brief Background



In continuation of the Legal Advisories on the regulation of the Tax Reform under Complementary Law No. 214/2025 (LC No. 214/2025), this presentation addresses the main features of the **Specific Regime for Real Estate** Transactions, summarizing the rules applicable to the following activities/transactions involving real estate:



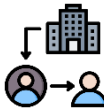
Sale / Transfer



Onerous Act for the Transfer or Creation of a Real Right



Lease, Onerous Assignment, and Letting



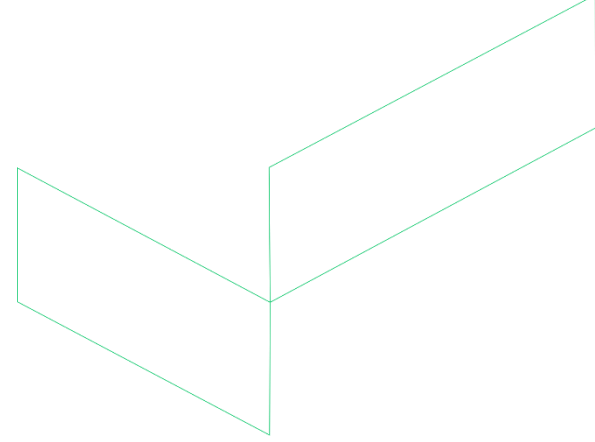
Real Estate Administration and Brokerage Services



Civil Construction Services

The general rules applicable to the IBS and CBS, as addressed in the first Legal Advisory of this series, apply on a subsidiary basis to the provisions of the Specific Regime.

At the end, we will present a **comparative table** of the main features of each real estate transaction subject to the special rules.



Common Rules

Common Rules



Taxable Events

- Transactions involving **real estate** carried out by taxpayers subject to the regular IBS/CBS regime relating to:
 - > Sale or transfer (including real estate development projects and land subdivision)
 - > Onerous assignment and acts for the transfer or creation of real rights
 - > Lease, onerous assignment, and letting
 - > Administration and brokerage services
 - > Civil construction services

Taxpayers

- Legal entities that carry out taxable transactions involving real estate.
- Individuals in the following cases:
 - > Lease, assignment, or letting, provided that:
 - Total revenue from such transactions exceeded R\$ 240,000 in the previous year, or exceeds such threshold by more than 20% in the current year (R\$ 288,000)
 - The transactions involve more than 3 properties in the previous year.
 - > Sale or assignment of rights, provided that the transactions involve more than 3 properties in the previous year that have been held by the taxpayer for less than 5 years.
 - > Sale or assignment of rights over more than one property built by the individual themselves in the previous 5 years.

Non-Taxable Events

- Exchange transactions involving real estate, **except** with respect to the **cash boot (torna)**
- Creation or transfer of **security real rights (direitos reais de garantia)**
- Transactions involving real estate carried out by endowment fund management organizations (Law No. 13,800/2019) for the purposes of investment by the fund itself



The non-taxation of exchange transactions does not extend to **settled purchase and sale transactions (promissory note pro soluto)** followed by a debt acknowledgment and a promise of payment in kind of a real estate unit, where such transactions characterize an economic activity of the taxpayer

Sale of Property Pledged as Collateral

- A **sale or transfer** of a property **pledged as collateral** in favor of a creditor subject to the Specific Regime for Real Estate Transactions **is not subject to IBS/CBS** upon:
 - > Consolidation of ownership of the property by the creditor
 - > Sale of the property by the creditor, if the grantor of the collateral is not an IBS/CBS taxpayer
- If the grantor of the collateral is an IBS/CBS taxpayer, the sale by the creditor shall be taxed under the same rules that would have applied had the sale been carried out by the original owner (grantor of the collateral)



Impacts on Individuals

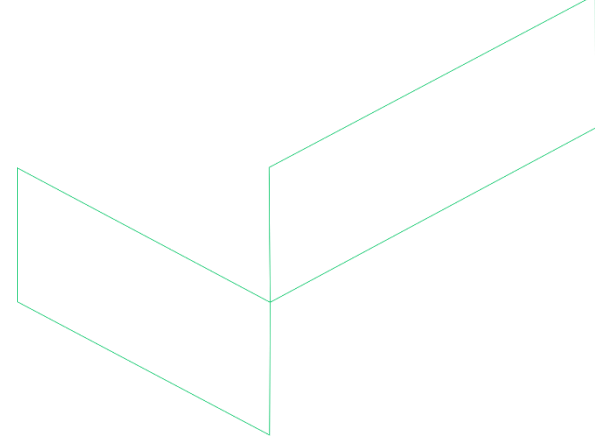
- Individuals may be IBS/CBS taxpayers under certain conditions (see previous slide).
- IBS/CBS is levied in addition to income taxation, with personal income tax (IRPF) calculated based on progressive income tax rates of up to 27.5%.
- There is no statutory provision permitting the amount of IBS/CBS to be deducted from the income tax base.

Impacts on Holding Companies

- Asset holding companies that carry out transactions involving real estate will be IBS/CBS taxpayers.
- The tax burden of such companies is expected to increase with the implementation of IBS/CBS, which impacts the assessment of the formation of new structures of this type.

Impacts on FIIs and FIAGROs

- The President of the Republic vetoed provisions that established 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 with respect to their transactions involving real estate, which should only affect so-called brick-and-mortar funds.
- If the veto is upheld, FIIs and FIAGROs will become subject to IBS/CBS under the same rules applicable to legal entities that carry out transactions involving real estate, as detailed in this Advisory, with a **negative impact on the profitability** of such funds.
- **Leveraged funds** (e.g., funds that have assigned receivables to finance the construction or acquisition of properties) may have their planning compromised by the implementation of IBS/CBS, due to financial commitments assumed prior to the creation of these taxes.
- There may be a need to pass on the IBS/CBS burden to tenants, which may be challenging, particularly in the case of tenants that are not IBS/CBS taxpayers.



Sale / Transfer



Triggering Event (Tax Occurrence)

- At the time of the act of **sale or transfer**, deemed to occur:
 - > On the date of **execution of the sale** or transfer agreement, even if through a preliminary agreement or any other instrument evidencing a commitment; or
 - > When a **suspensive condition** to which the sale or transfer is subject is fulfilled
- In the case of real estate development projects and land subdivision, IBS/CBS on the sale of real estate units shall be due upon each payment

Rates

CBS + State IBS + Municipal IBS

- Reduction of **50%** on the rate of each federative entity

Non-cumulative Taxation

- General rule applicable to **sales and transfers in general**
 - > Acquisition from a taxpayer subject to the **regular regime generates** an IBS/CBS credit for the acquirer that is also a taxpayer subject to the regular regime
- Specific rule for **real estate development projects and land subdivision**:
 - > The seller may offset credits appropriated in connection with the acquisition of goods and services
 - > Any credit balance may be subject to:
 - **Until the completion** of the development project or land subdivision: a refund request to the account linked to the segregated estate (patrimônio de afetação)
 - **After the completion** of the development project or land subdivision: a refund request or offset against IBS/CBS due on other taxable transactions
- Credit appropriation is prohibited with respect to amounts deducted from the tax base

Sale / Transfer



Tax Base



Sale / Transfer Value



Additions



Adjustment Credit (AC)



Social Credit (Redutor Social)

See next slides

- Interest, monetary adjustments and variations, fines, additions, and charges
- Additions arising from adjustments to the transaction value
- Conditional discounts
- Other amounts charged or received as part of the transaction value (including insurance and fees)

- Amount to be **deducted** from the tax base upon the sale or transfer of:
 - > New residential property: **R\$ 100,000**
 - > Residential Lot: **R\$ 30,000**
- The deduction amount **is capped at the tax base** and is subject to monthly adjustment by the IPCA price index from the date of publication of the LC
- Applied to the tax base after deduction of the Adjustment Credit
- Limited to a **single use** per property

The Adjustment Credit and the Social Credit apply only to transactions carried out by taxpayers subject to the regular IBS/CBS regime



What is the Adjustment Credit (Redutor de Ajuste)?

- The Adjustment Credit shall be deducted from the tax base upon sale or transfer and is composed of:
 1. Initial Value:
 - Properties **acquired by December 31, 2026**:
 - ✓ acquisition value; **OR**
 - ✓ **reference value**, at the taxpayer's election
 - Properties **under construction as of December 31, 2026**:
 - ✓ land acquisition value; **AND**
 - ✓ value of costs and expenses related to production or commercialization
 - Properties **acquired from January 1, 2027 onward**: acquisition value
 2. ITBI (Real Estate Transfer Tax), ground rent (laudêmio), and urban, environmental, and other contributions paid to public authorities for the development of the project
- The Adjustment Credit shall be **adjusted by the IPCA price index** from the date of its creation until the date on which IBS/CBS becomes due
- The Adjustment Credit value is **attached to the property** and shall be:
 - > **Transferred** at the same (adjusted) value in sales to acquirers **subject to the regular** IBS/CBS regime, propagating through the chain
 - > **Extinguished** in sales to an acquirer **not subject** to the regular regime

The **reference value** shall be determined by tax authorities based on:

- > Prices prevailing in the real estate market
- > Information provided by federative entities and registry and notarial services
- > Characteristics of the property

Sale / Transfer



What is the Adjustment Credit (Redutor de Ajuste)?

- The example below illustrates the effect of the Adjustment Credit and credit rules on real estate transactions, using a hypothetical rate of 10%.



Calculation per Sale Transaction	1	2	3	4
Sale Value	100	150	300	600
Adjustment Credit (AC)		100 (Initial AC value, 1st purchase by a taxpayer)	100 (initial AC is maintained)	100 (initial AC is maintained)
IBS/CBS Tax Base		50 (150 - 100)	200 (300 - 100)	500 (600 - 100)
IBS/CBS Debit	N/A (seller is not an IBS/CBS taxpayer)	5 (50 x 10%)	20 (200 x 10%)	50 (500 x 10%)
IBS/CBS Credit		zero (prior transaction with a non-taxpayer generates no credit)	5 (IBS/CBS from prior transaction)	20 (IBS/CBS from prior transaction)
IBS/CBS Payable		5 (5 - zero)	15 (20 - 5)	30 (50 - 20)

Upon acquisition by a non-taxpayer, the AC is extinguished.

The mechanism ensures that taxation falls only on **real estate appreciation** and avoids cumulative taxation.

In the example, the total tax in the chain (50) is equivalent to the application of the rate (10%) to the real estate appreciation in the chain of transactions (500).

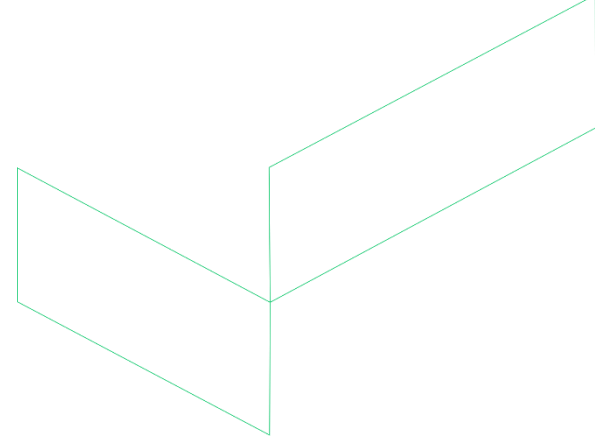


RET Transition

- The Special Taxation Regime (Regime Especial de Tributação – RET), set forth in Law No. 10,931/2004, allows real estate development projects subject to a segregated estate (patrimônio de afetação) to be taxed at a single rate of 4%, which currently covers corporate income tax (IRPJ), social contribution on net profit (CSLL), PIS, and COFINS.
- As a result of the Tax Reform amendments, **from 2027 onward**, the RET will cover only IRPJ and CSLL, based on the following rates:
 - > 0.47% on revenue, for the construction of residential properties under the Minha Casa Minha Vida Program (PMCMV); or
 - > 1.92% on revenue, in all other cases.
- For projects whose **RET was approved by 2028**, the taxpayer may **opt** to pay **CBS** as follows:
 - > In the case of **real estate development projects**:
 - 0.53% on revenue, for properties within the PMCMV; or
 - 2.08% on revenue, in all other cases.
 - > In the case of **land subdivision: 3.65% on revenue.**

The election entails the following:

- Non-application of IBS.
- Prohibition on credit appropriation in connection with the development project subject to the RET.
- Non-application of the Adjustment Credit or Social Credit to sales or transfers.
- Reversal of IBS/CBS credits arising from costs and expenses related to the project.



Onerous Act for the Transfer or Creation of a Real Right

Onerous Act for the Transfer or Creation of a Real Right



Tax Base



- Interest, monetary adjustments and variations, fines, additions, and charges
- Additions arising from adjustments to the transaction value
- Conditional discounts
- Other amounts charged or received as part of the transaction value

Rates

CBS + State IBS + Municipal IBS

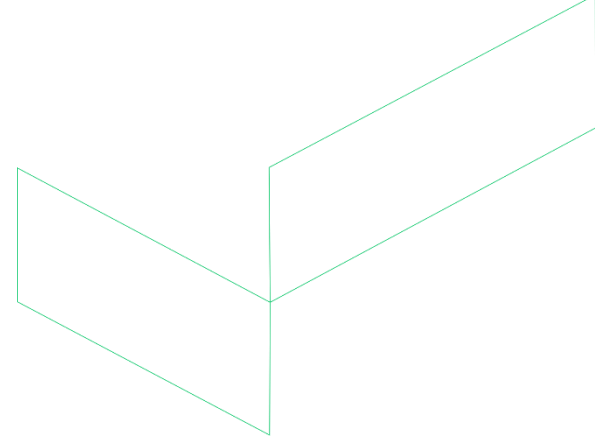
- Reduction of **50%** on the rate of each federative entity

Triggering Event (Tax Occurrence)

- At the time of **execution of the act**, including any subsequent adjustments, except those relating to collateral

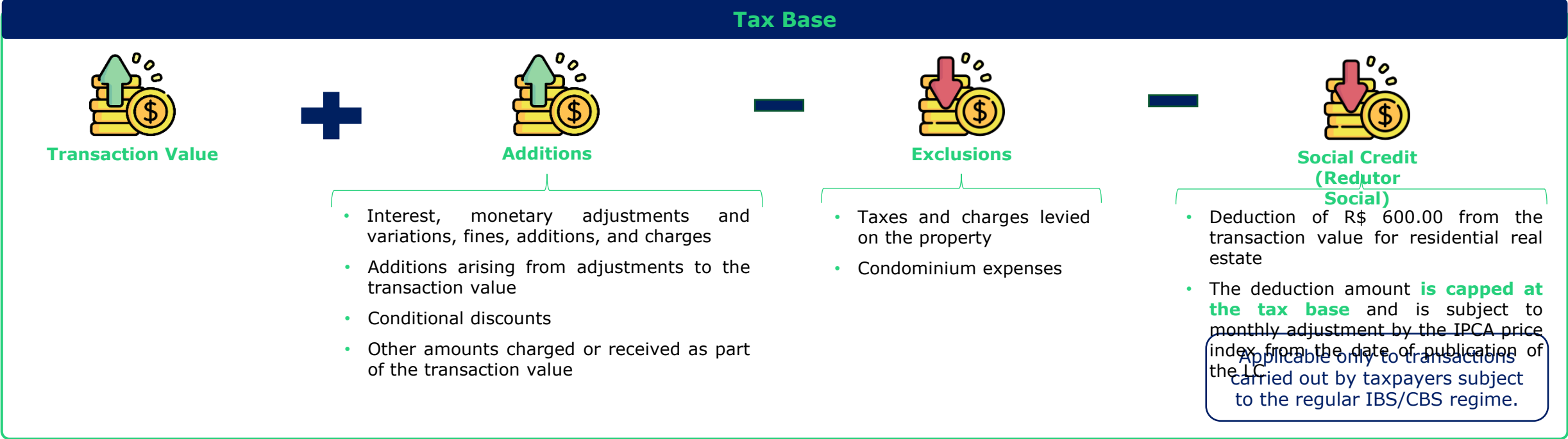
Non-cumulative Taxation

- No specific rules – general IBS/CBS rules apply



Lease, Onerous Assignment, and Letting

Lease, Onerous Assignment, and Letting



Rates

CBS + State IBS + Municipal IBS

- Reduction of **70%** on the rate of each federative entity

Triggering Event (Tax Occurrence)

Upon each **payment**

Non-cumulative Taxation

General IBS/CBS rules apply

A **lease, onerous assignment, or letting of residential real estate** by a taxpayer subject to the regular IBS/CBS regime, for a period of **up to 90 days**, shall be taxed under the rules applicable to the **Specific Regime for Hotel Services**

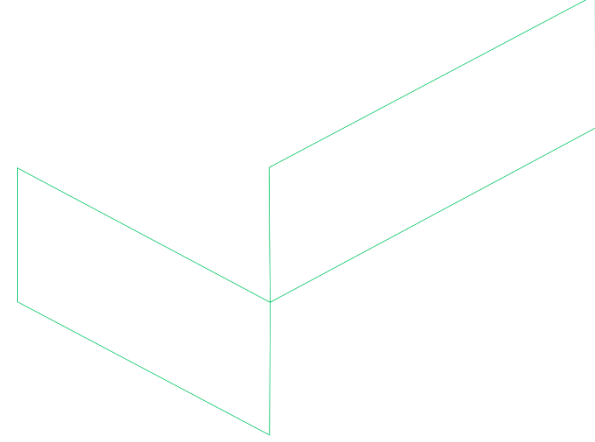


Transition for Fixed-Term Contracts

- In the case of lease, onerous assignment, or letting of real estate under fixed-term contracts, the taxpayer may elect to pay IBS/CBS at the rate of 3.65% on gross revenue received, subject to the following:
 - > Property: **Non-residential:**
 - The agreement must be (i) executed by January 16, 2025 and (ii) registered with the Real Estate Registry (RGI) or made available to the Brazilian Federal Revenue Service (RFB) and Managing Committee by December 31, 2025.
 - The election is valid until the end of the original term of the agreement.
 - > Residential Property:
 - The agreement must be **executed by January 16, 2025.**
 - The election is valid until the end of the original term of the agreement or December 31, 2028, whichever occurs first.

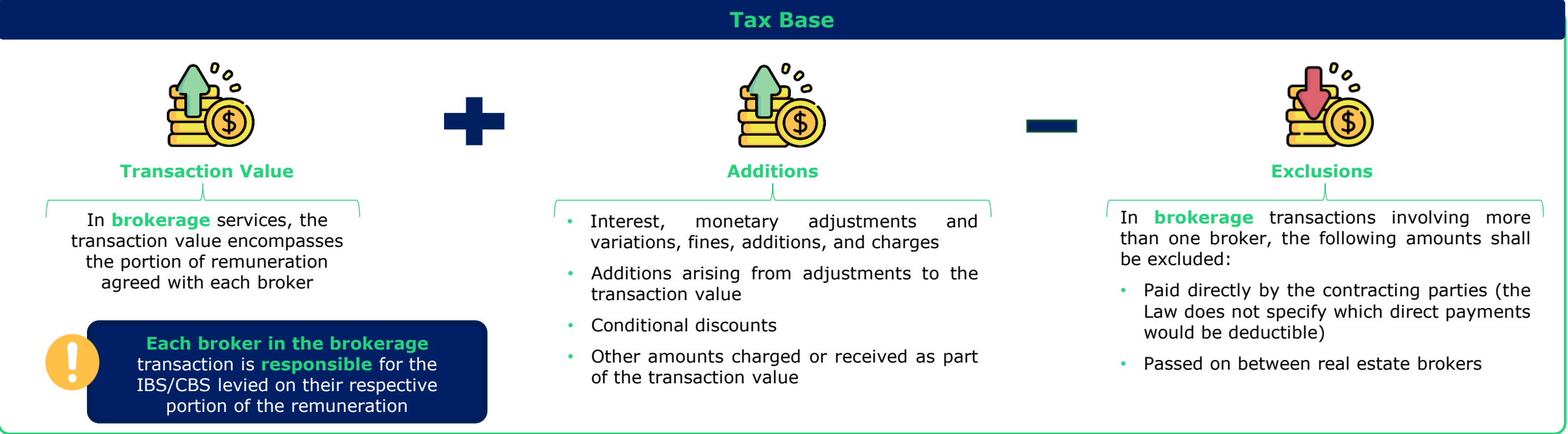
The election entails the following:

- Prohibition on credit appropriation in connection with transactions involving the property.
- Non-application of the Social Credit.
- Reversal of IBS/CBS credits arising from costs and expenses related to the property.



Real Estate Administration and Brokerage Services

Real Estate Administration and Brokerage Services



Rates

CBS + State IBS + Municipal IBS

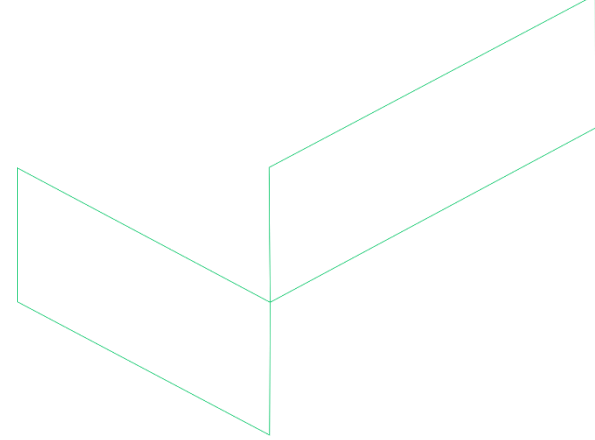
- Reduction of **50%** on the rate of each federative entity

Triggering Event (Tax Occurrence)

Upon each **payment** for the contracted service

Non-cumulative Taxation

- No specific rules – general IBS/CBS rules apply



Civil Construction



Tax Base



Transaction Value



Additions

- Interest, monetary adjustments and variations, fines, additions, and charges
- Additions arising from adjustments to the transaction value
- Conditional discounts
- Other amounts charged or received as part of the transaction value



IBS/CBS shall be assessed separately for each civil construction project (including real estate development projects and land subdivisions), so that each project is treated as a distinct cost center

Rates

CBS + State IBS + Municipal IBS

- Reduction of **50%** on the rate of each federative entity

Non-cumulative Taxation

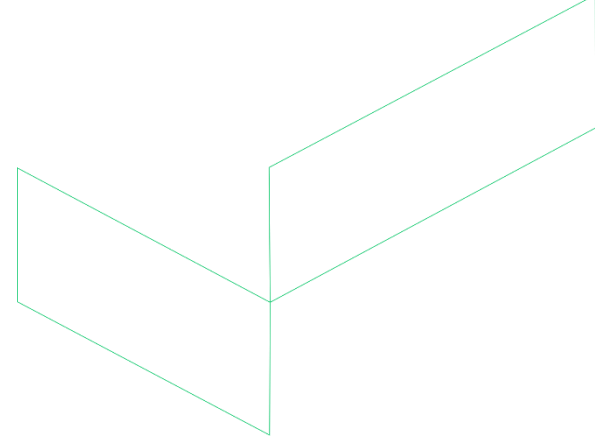
- **General IBS/CBS** rules apply
- **Exception:** where the recipient is not a taxpayer under the regular IBS/CBS regime, the credit appropriated by the construction company in connection with the acquisition of construction materials used in the project is limited to the amount of the debit relating to the service rendered.



The exception **does not** apply where the recipient is an IBS/CBS taxpayer or is part of the direct public administration, an autarchy, or a public foundation

Triggering Event (Tax Occurrence)

- **Rendering of the contracted service.**
- As detailed in the Legal Advisory on the General Rules of the Tax Reform ([click here to access](#)), in the case of continuous performance services, the triggering event is deemed to occur at the time payment for the service becomes due.



Comparative Summary

Comparative Summary



	Sale / Transfer in General	Real Estate Development and Land Subdivision	Onerous Acts for Transfer / Creation of Real Rights	Lease, Onerous Assignment, and Letting	Administration and Brokerage	Civil Construction
Tax Base	Revenues, with deductions (Adjustment and Social Credits)	Revenues, with deductions (Adjustment and Social Credits)	Revenues, without deductions	Revenues, with deductions (expenses and Social Credit)	Revenues, with exclusions in brokerage	Revenues, without deductions
Rate	50% reduction	50% reduction	50% reduction	70% reduction	50% reduction	50% reduction
Triggering Event	Act of sale / transfer (execution of contract)	Each payment	Execution of the act	Each payment	Each payment	Rendering of service
Non-cumulative Taxation	General Rule – transaction between IBS/CBS taxpayers generates credit for the acquirer	Specific Rule – possibility of credit appropriation from the acquisition of goods and services	General Rule – transaction between IBS/CBS taxpayers generates credit for the acquirer	General Rule – transaction between IBS/CBS taxpayers generates credit for the acquirer	General Rule – transaction between IBS/CBS taxpayers generates credit for the acquirer	Specific Rule – limitation on credit appropriation for the acquisition of construction materials

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