

Deutsch-Brasilianische Industrie- und Handelskammer • vol.1 • 2026

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Deutsch-Brasilianische
Industrie- und Handelskammer
Câmara de Comércio e Indústria
Brasil-Alemanha

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Sanctions, Tariffs and Instability: Contractual Strategies to Protect Cross-Border Business Between Brazil and the EU

Geopolitical instability is no longer a remote risk scenario; it has become a structural feature of international trade. The war in Ukraine, the continued expansion of sanctions regimes, renewed tariff discussions among major economies and shifting alignments between the United States, the European Union and other global actors have reshaped the environment in which Brazil-EU transactions operate. These developments are not abstract political events. They directly affect supply chains, pricing, payment flows and regulatory exposure.

For companies engaged in trade between Brazil and the European Union, this context demands more than reactive compliance. It requires deliberate contractual architecture and forward-looking risk assessment.

Tariff volatility is an immediate and tangible concern. Changes in customs duties, anti-dumping measures or retaliatory tariffs can materially affect the economic assumptions underlying long-term supply contracts. Where margins are narrow or prices fixed long term, even moderate increases may undermine viability. Yet many agreements remain silent on tariff allocation. When costs rise unexpectedly, disputes follow. Companies should therefore determine explicitly whether tariff risks are absorbed by the seller, passed through to the buyer, shared proportionally or addressed through predefined adjustment mechanisms. In infrastructure, energy or industrial supply arrangements, such allocation is not a secondary issue – it is central to maintaining contractual equilibrium and preserving long-term commercial viability.

Beyond tariffs, contractual clauses addressing disruption must be reassessed in light of geopolitical instability. Sanctions, export bans or government-imposed restrictions may render performance impossible, potentially activating force majeure protections depending on the contractual framework. More frequently, however, instability produces substantial economic imbalance rather than strict impossibility. The loss of a logistics route, intensified export control scrutiny or a significant tariff escalation may fundamentally al-

ter the commercial basis of the contract. Performance, however, may remain legally permissible. In these circumstances, hardship clauses providing for structured renegotiation become essential tools for preserving contractual viability. Material adverse change (MAC) clauses, particularly in transactional contexts, should likewise be calibrated to address sustained regulatory or geopolitical deterioration rather than short-term market fluctuation. Their effectiveness ultimately depends on realistic drafting, clearly defined thresholds and coherence within the broader risk allocation framework.

The strategic importance of governing law and dispute resolution clauses should not be underestimated. In periods of diplomatic tension, predictability and enforceability gain particular relevance. Selecting a stable governing law and a neutral forum, often international arbitration, reduces jurisdictional uncertainty and enhances enforceability. Clear provisions on applicable law, jurisdiction and enforcement pathways provide a structured mechanism for addressing disputes that may arise from political or regulatory shocks, thereby reinforcing commercial confidence.

Sanctions clauses and supply chain due diligence now constitute an indispensable layer of contractual governance. Modern sanctions regimes extend far beyond traditional embargoes and often carry extraterritorial implications. A counterparty's ownership structure, financing arrangements or downstream distribution network may expose a transaction to regulatory risk beyond the immediate contractual relationship. Contracts should therefore incorporate compliance representations, audit rights, suspension or termination mechanisms triggered by restrictive measures and clear obligations concerning export controls and end-use verification. In multi-tier supply chains, contractual alignment across suppliers, distributors and subcontractors becomes critical to ensure consistent compliance standards.

At the same time, contractual drafting cannot operate in isolation. Screening procedures, continuous monitoring of counterparties, export control assessments and coordination between legal, compliance, logistics and commercial teams are necessary to transform contractual provisions into operational safeguards. Risk allocation must be embedded in governance structures; otherwise even carefully drafted clauses may prove insufficient.

Beyond operational compliance, geopolitical risk increasingly requires attention at senior management level. Decisions regarding tariff allocation, renegotiation triggers or termination rights are not merely legal drafting choices; they influence pricing strategy, supply chain configuration and long-term

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commercial exposure. Periodic contractual “stress testing” – evaluating how existing clauses would operate in scenarios involving sanctions expansion, tariff escalation or regulatory tightening – allows companies to identify structural vulnerabilities before disruption materializes.

In the current geopolitical landscape, legal certainty in cross-border transactions is no longer guaranteed by multilateral trade frameworks alone. It is increasingly shaped through deliberate contractual design and proactive risk allocation. For Brazil-EU business relationships, where regulatory environments differ significantly and sanctions exposure may carry extraterritorial implications, this contractual discipline becomes even more critical. Reviewing contractual templates, stress-testing key clauses and aligning contractual mechanisms with internal compliance structures should form part of regular business planning. In volatile trade environments, contractual foresight is not merely a legal precaution; it is a practical instrument for preserving stability and sustaining long-term cross-border partnerships.

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Investitionen in Brasilien – Geschäftsumfeld, Anreize und Herausforderungen

1. Das Geschäftsumfeld für Investitionen in Brasilien

Brasilien hat die internationale Wirtschaftskrise im Zusammenhang mit der Covid-19-Pandemie konsequent überwunden und sich zu einem stärkeren und attraktiveren globalen Akteur entwickelt. Ein hohes Maß an wirtschaftlicher Diversifizierung, ein starker Binnenmarkt, eine große Auswahl an Handelspartnern und ein robustes, reguliertes Finanzsystem waren entscheidend dafür, dass die schlimmsten Auswirkungen der Krise erfolgreich abgefedert werden konnten. Neben politischer Stabilität und einem reibungslosen Funktionieren der Institutionen hat das Land eine überraschende Währungsstabilität, zunehmende Haushaltsdisziplin, wachsende internationale Reserven, solide makroökonomische Indikatoren und einen schnell wachsenden Binnenmarkt erreicht.

All dies macht Brasilien heute zu einem der vielversprechendsten Schwellenmärkte der Welt und zu einem der attraktivsten Märkte für ausländische Investoren.

Trotz des wachsenden Interesses und Vertrauens in Brasilien haben potenzielle Investoren jedoch nach wie vor einige negative Vorstellungen von den Stärken und Schwächen des Landes und tun sich weiterhin schwer, komplexe regulatorische und rechtliche Fragen zu überwinden. Unternehmen können aufgrund des komplexen Steuerumfelds, der Bürokratie und der mangelhaften Infrastruktur mit Herausforderungen konfrontiert sein.

Allerdings hat Brasilien 2025 eine Steuerreform verabschiedet, die, nach vollständiger Implementierung, das Steuersystem erheblich vereinfachen. Des Weiteren wurden die Regeln in Bezug auf Verrechnungspreise grundsätzlich den OECD-Regeln angepasst.

Um Ihr Verständnis der Herausforderungen und der Möglichkeiten für eine erfolgreiche Investition zu verbessern, ist es von entscheidender Bedeutung, auf erfahrene Berater zurückzugreifen, die sich mit dem wirtschaftlichen Um-



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feld, den Finanz- und Steuervorschriften, ausländischen Investitionen und Fusionen und Übernahmen sowie mit der brasilianischen Politik und Kultur und anderen Themen bestens auskennen.

Um Ihre Investition in Brasilien zu unterstützen, haben wir einige der wichtigsten Bedenken und Risiken identifiziert, mit denen ein potenzieller Investor konfrontiert sein könnte.

2. Anreize und Herausforderungen für Investitionen in Brasilien

2.1. Investitionsanreize

Mehrere Länder, die derzeit zum BRICS gehören, sind weltweit dafür bekannt, dass sie enorme Erfolgsaussichten und Wachstumspotenziale bieten. Die Herausforderungen für Investoren in Brasilien sind jedoch geringer als in anderen Schwellenländern. Brasilien ist ein Land, das reich an natürlichen Ressourcen ist, über eine junge Erwerbsbevölkerung verfügt und einen weitgehend unerschlossenen Binnenmarkt hat, was es zu einer Nation mit großem Potenzial macht. In den letzten drei Jahrzehnten hat das Land eine solide Grundlage für Wachstum geschaffen, die durch wirtschaftliche und politische Stabilität gestützt wird, und ist damit besser denn je positioniert, um sein Potenzial auszuschöpfen.

Die Erfolgsaussichten, die Brasilien bietet, gründen auf dem schnellen Wirtschaftswachstum, dem Anstieg des Pro-Kopf-BIP, der Expansion der Märkte in verschiedenen Sektoren, dem Wachstum der Mittelschicht, der Zunahme der städtischen Bevölkerung und dem höheren Energieverbrauch. Zu den Herausforderungen zählen hingegen eine unzureichende Infrastruktur, ineffiziente Regierungsführung, weit verbreitete Korruption und ein hohes Maß an Ungleichheit und Armut.

Brasilien weist jedoch Merkmale auf, die es von anderen Investitionszielen unterscheiden. Im Bereich der Regierungsführung und Finanzen ist das Land eine stabile Demokratie mit gut etablierten Institutionen. Nach makroökonomischen Anpassungen und größerer politischer Stabilität ist das wirtschaftliche Umfeld Brasiliens weniger volatil geworden. Der internationale Handel ist gewachsen, angetrieben durch exportfreundliche Regierungspolitik. Das Land verfügt über eine moderne und strenge Umweltgesetzgebung sowie ein ausgereiftes und widerstandsfähiges Finanzsystem. Die Inflation ist seit 30 Jahren unter Kontrolle.

Darüber hinaus ist das Geschäftsumfeld in Brasilien vielversprechend. Das Land ist derzeit die zehntgrößte Volkswirtschaft der Welt und die größte in Südamerika, mit einer wachsenden Präsenz auf den globalen Märkten. Es verfügt über gut entwickelte Agrar-, Bergbau-, Fertigungs- und Dienstleistungssektoren, die von einer breiten und diversifizierten industriellen Basis getragen werden. Ausländische Investoren können die meisten verfügbaren Steueranreize nutzen, darunter unter bestimmten Voraussetzungen die steuerliche Absetzbarkeit von Goodwill. Die lokalen Kapital- und Anleihemärkte haben sich deutlich verbessert, mit einer steigenden Zahl von Börsengängen (IPOs) in den letzten Jahren. Auch die Wahrnehmung des Länderrisikos hat sich erheblich verbessert.

Brasilianische Unternehmen befinden sich in einem Transformationsprozess, in dessen Rahmen sie bewährte Praktiken der Unternehmensführung und Rechnungslegung einführen und die lokalen Standards an internationale Rechnungslegungsstandards (CRS/IFRS) angleichen. Obwohl Korruption nach wie vor ein Problem darstellt, hat sich die öffentliche Sicherheit in den letzten Jahren deutlich verbessert.

Brasilien hat 2016 das OECD-Übereinkommen über die gegenseitige Amtshilfe in Steuersachen ratifiziert und sich verpflichtet, ab 2018 Berichte gemäß der EU-Richtlinie über die Zusammenarbeit der Verwaltungsbehörden im Bereich der Besteuerung (Richtlinie 2011/16) in der am 1. Januar 2016 geänderten Fassung zu erstellen.

Brasilien unterhält friedliche Beziehungen zu seinen Nachbarn und bietet über den Mercosur zollfreien Zugang zu den Märkten der Vollmitgliedstaaten wie Argentinien, Paraguay, Uruguay und Bolivien sowie Zollvorteile für assoziierte Mitgliedstaaten wie Chile, Kolumbien, Ecuador, Guyana, Peru, Suriname und Panama.

Das Land ist außerdem reich an natürlichen Ressourcen wie Energie, Mineralien und Rohstoffen und weltweit führend in der Entwicklung und Produktion von Biokraftstoffen, insbesondere Ethanol. Der Verbrauchermarkt wächst rasant, insbesondere aufgrund des Wachstums der Mittelschicht.

Langfristige Strategien und Investitionen, beispielsweise zur Verbesserung der Infrastruktur, stehen weiterhin ganz oben auf der Agenda der Regierung.

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2.2. Herausforderungen für Investitionen

Trotz der Fortschritte gibt es nach wie vor erhebliche Herausforderungen. Das regulatorische Umfeld ist komplex, insbesondere in Bezug auf Steuern und Arbeitsrecht. Hohe Lohn-, Umsatz- und Einkommensteuern sowie häufige Gesetzesänderungen können sich auf Geschäftspläne auswirken und das Risiko von Eventualverbindlichkeiten erhöhen.

Im Hinblick auf Joint Ventures, Fusionen und Übernahmen, halten sich brasilianische Unternehmen nicht immer an internationale Antikorruptionsstandards. Außerbilanzielle Transaktionen und inkonsistente Rechnungslegungspraktiken sind weit verbreitet, was die Qualität der Finanzinformationen beeinträchtigt. Viele Unternehmen, insbesondere kleine oder familiengeführte Unternehmen, erfordern nach der Übernahme Investitionen in Bereichen wie Governance, interne Kontrollen, IT-Integration und Personalmanagement.

Die Umstrukturierung von Unternehmen kann aufgrund hoher Kosten für die Kündigung von Arbeitsverhältnissen schwierig sein. Bürokratie und Regulierung beeinträchtigen bestimmte Branchen und Regionen. Darüber hinaus mangelt es in weniger industrialisierten Regionen an Infrastruktur und Vertriebskanälen, und das unzureichende Bildungssystem schränkt das Angebot an qualifizierten Arbeitskräften ein.

Brasilien hinkt auch bei Investitionen in Innovation und Forschung hinterher. Brasilianische Unternehmen haben nach wie vor Schwierigkeiten, internationale Markenbekanntheit zu erlangen, obwohl sich dies verbessert.

Zu den wichtigsten Problemen, die bei Due Diligence-Prüfungen festgestellt wurden, gehören Steuer-, Umwelt- und Arbeitsrisiken, informelle Geschäftspraktiken, schlecht dokumentierte Transaktionen mit verbundenen Parteien, fehlende angemessene interne Kontrollen, unzureichende Rechnungslegungspraktiken, unregelmäßige Kontenabstimmungen und schlechte Kassenführung.

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Dividend Taxation in Brazil: Key Impacts for Non-Resident Shareholders

1. Introduction

For nearly 30 years, Brazil maintained a full exemption regime for dividends distributed to resident and non-resident shareholders. This policy played a significant role in attracting investment. However, Law No. 15,270/2025 reintroduced dividend taxation as of January 1, 2026.

The government justified the measure as a way to broaden the tax base, enhance progressivity, and fund income tax reductions for lower-income individuals. Although the reform aligns Brazil with international practice, dividend taxation is typically accompanied by a reduction in corporate income tax. In Brazil, however, the 34% combined corporate income tax rate (IRPJ and CSLL) was maintained and a still to be regulated credit mechanism was introduced, applicable where the combined effective tax burden on corporate profits and distributed dividends exceeds the 34%, as further detailed below.

The Law also amended the taxation of dividends distributed to resident individuals; however, this article focuses only on the changes applicable to non-residents.

2. New dividend tax regime in Brazil and key impacts for non-resident shareholders

The main changes introduced by Law No. 15,270/2025 in dividend distributions include:

- 10% withholding income tax (WHT) on dividends remitted to non-resident shareholders (individuals or legal entities), irrespective of the amount distributed.
- Transitional rule allowing profits accrued until December 31, 2025, to remain exempt if approved by that date and paid until the end of 2028.



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The Law also introduced an optional credit mechanism, allowing the non-resident shareholder to claim a tax credit when the effective taxation at company level plus the 10% WHT exceeds 34%. Its practical implementation depends on further regulation and may involve significant complexity. Moreover, many Brazilian companies are subject to the presumed profit tax regime, under which the effective corporate income tax rate is often lower than 34%. In such cases, or where tax incentives apply, the likelihood of triggering the credit mechanism is reduced.

As a result, the 10% WHT may increase the cost of profit repatriation. The overall impact depends on how dividends are treated in the shareholder's country of residence and the availability of double taxation relief.

Brazil has a relatively limited DTT network and no treaty with Germany. Under most treaties, Brazil retains the right to tax dividends, and treaty rates are generally higher than the 10% WHT established by Law No. 15,270/2025. Therefore, treaties typically do not reduce Brazilian WHT on dividends.

The main benefit of treaty protection lies in double taxation relief in the shareholder's country of residence, through foreign tax credits or exemption regimes. Yet, in light of the credit mechanism introduced by Law No. 15,270/2025, the availability or extent of a foreign tax credit in the shareholder's jurisdiction may be subject to challenge by the relevant foreign tax authorities.

Moreover, notwithstanding the application of participation exemption regimes, commonly provided under domestic law and by DTTs with Brazil, the new dividend taxation will ultimately increase the overall tax burden at the group level, given that dividends distributed by Brazilian companies were previously not subject to taxation.

In light of the new regime and the potential impacts, alternative remuneration strategies may be considered to optimize tax efficiency.

3. Alternatives to Dividend Remuneration

3.1. Interest on Equity

Interest on Equity (JCP) allows companies to remunerate shareholders based on their equity, while treating the payment as a deductible expense for corporate income tax purposes.

Deductibility is limited to:

- The application of the long-term interest rate over the adjusted net equity; and
- 50% of net income or retained earnings, whichever is higher.

Payments of JCP to non-residents are currently subject to WHT at a rate of 17.5%, increased from 15%, as of January 1. Given its deductibility at the 34% corporate income tax rate, JCP may generate a net tax advantage compared to non-deductible dividends. In simplified terms, the 34% deduction offset by 17.5% WHT may result in a potential tax spread of approximately 16.5%, before considering foreign tax effects.

Brazil's most recent treaties (e.g., with Switzerland, the United Arab Emirates, and Singapore) expressly classify JCP under Article 11 (interest), generally capping WHT at 15%, below the domestic 17.5% rate.

However, the tax treatment in the shareholder's jurisdiction is decisive. In Germany, for instance, JCP is generally treated as dividend income but does not benefit from the participation exemption regime ("Schachtelprivileg"), being subject to 25% corporate income tax. In such cases, JCP may not be efficient at group level.

3.2. Intercompany loans

Interest on intercompany loans is generally subject to 15% WHT and is deductible for corporate income tax purposes, provided transfer pricing and thin capitalization rules are met.

Considering the 34% deduction and 15% WHT, the potential tax spread may reach approximately 19%, before foreign taxation. Additionally, repayment of principal amount is not subject to WHT, providing flexibility for cash repatriation.

As with JCP, the tax treatment in the lender's jurisdiction must be assessed to determine overall efficiency.

4. Closing remarks

The reintroduction of dividend taxation marks a significant shift in Brazil's tax landscape. Non-resident shareholders must reassess profit repatriation strategies and consider alternatives such as JCP and intercompany loans. The deductibility at the corporate level makes it particularly attractive when compared to non-deductible profit distributions subject to 10% WHT.

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Still, the taxation applicable at the level of the non-resident shareholder must be carefully analyzed to determine the overall efficiency of the remuneration alternatives.

Groups investing through non-treaty jurisdictions may consider restructuring to access treaty benefits, provided anti-abuse rules and treaty shopping concerns are carefully addressed.

In this evolving environment, proactive tax planning and careful coordination between Brazilian and foreign tax rules are essential to balance efficiency and compliance.

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Brazil-European Union data transfers: adequacy recognition under the LGPD

On January 26, 2026, the Brazilian National Data Protection Agency (*Agência Nacional de Proteção de Dados - ANPD*) published Resolution No. 32/2026, taking a historic step by recognizing the European Union (EU) as a jurisdiction that provides a level of personal data protection adequate to that established under the Brazilian General Data Protection Law (*Lei Geral de Proteção de Dados Pessoais - LGPD*). This recognition was formalized pursuant to Article 33, item I, of the LGPD, which addresses the “adequacy” mechanism for international data transfers.

International Data Transfers: Why do they matter?

An international data transfer occurs when personal information is sent from Brazil to another country or when access is granted from abroad. Prior to Resolution No. 32/2026, for such transfers to take place lawfully, organizations were required to adopt specific mechanisms set forth in Article 33 of the LGPD, such as:

- specific contractual clauses for a given transfer;
- standard contractual clauses;
- binding corporate rules;
- seals, certifications, and duly issued codes of conduct;
- other specific legal instruments.

Although effective, these mechanisms often entailed high costs, technical complexity, and bureaucratic procedures in negotiation and compliance processes.

Resolution No. 32/2026: What has changed?

This decision means that Brazilian companies may now transfer personal data to the territory of the European Union — as well as to three member countries of the European Economic Area (Iceland, Liechtenstein, and Norway) and to EU institutions — with greater simplicity and legal certainty. The recognized adequacy significantly reduces, in many cases, the need for additional legal instruments previously required for international transfers.



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Limitations and necessary safeguards

Despite this progress, Resolution No. 32/2026 does not entirely eliminate other LGPD requirements. However, this adequacy decision does not apply to international data transfers carried out exclusively for purposes of public security, national defense, state security, or activities related to the investigation and prosecution of criminal offenses. Additionally, the adequacy decision will be subject to reassessment within four years from the date this Resolution enters into force.

Strategic Considerations for the Corporate Environment

For organizations, the entry into force of Resolution No. 32/2026 requires coordinated and strategic action. Key recommended practices include:

1. Mapping all international data flows and identifying which destinations may directly benefit from the adequacy decision;
2. Reviewing contracts and privacy policies, adjusting international transfer clauses to reflect the new regulatory framework;
3. Maintaining robust security controls and measures, regardless of the mechanism used for data transfers;
4. Strengthening corporate data governance, aligning with international standards and internal accountability and audit mechanisms.

Conclusion

The LGPD has transformed the way companies handle personal data in Brazil, consolidating principles of protection, transparency, and accountability. The publication of ANPD Resolution No. 32/2026, recognizing the European Union as providing an adequate level of data protection, represents a regulatory milestone that enhances legal certainty, simplifies international data transfers, and strengthens the foundations for global business operations.

In a context of digital transformation and global integration, understanding and correctly applying data protection rules is a strategic differentiator for organizations of all sizes. Resolution No. 32/2026 not only reduces technical and legal barriers but also signals that Brazil is aligned with international best practices in data protection, creating a more competitive and trustworthy environment for cross-border operations.

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Between towers, PPPs and fiber: how tax reform may reshape the essential contracts of the telecommunications ecosystem

The tax reform may upend the telecommunications landscape by reopening the debate on the nature of towerco and infrastructure sharing contracts. What has long been treated as leasing — and therefore outside the scope of IBS/CBS — may be reinterpreted, with potential effects on costs, margins, and even underlying logic of infrastructure sharing.

In the telecom ecosystem, few elements are as central — and yet as often underestimated — as contracts involving the lease and paid rights of use of passive infrastructure. These arrangements sustain daily operations of major carriers, small providers (PPPs), and towercos, enabling both 5G deployment and FTTH expansion. Site leases, collocation (space and power), build-to-suit agreements, duct use, pole sharing, and dark fiber arrangements (IRU/leasing) have long been interpreted predominantly as property-based transactions, falling outside the scope of consumption taxation. Although not telecom services themselves, they enable regulated service provision and tie directly to efficiency and network-expansion strategies.

This comfort zone is now coming to an end. With tax reform and a broad-based system, any paid transaction involving goods — tangible, intangible or rights — falls within the scope of Tax on Goods and Services (IBS) and Contribution on Goods and Services (CBS). In practical terms, what was treated as mere infrastructure availability becomes a taxable consumption event. As a result, operators and towercos must reassess their business models not only in terms of financial impacts, but also because the new taxation may reshape contractual logic in the sector.

Constitutional Amendment 132/2023 launched Brazil's consumption-tax reform. Beginning this year, the IBS and the CBS will gradually replace ICMS, ISS, PIS, Cofins and part of IPI. Unlike the current regime, the new model applies broad incidence to tangible and intangible goods, rights and services — expressly including leases.

This technical point carries significant consequences. Activities traditionally seen as mere availability of passive infrastructure will now be directly taxed.



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Historically, ICMS and ISS did not apply, and even PIS/Cofins were often excluded based on case law recognizing the absence of service provision. Under the new system, this distinction disappears: for tax purposes, passive infrastructure becomes consumable good.

The traditional separation between leasing/cession and telecom service provision once ensured legal certainty. Disputes on ICMS or ISS rarely succeeded when activities involved only possession and availability of assets. Under IBS/CBS, this separation becomes less relevant, as all paid transactions are taxed regardless of their proprietary or service nature. Practically speaking, infrastructure-access costs will play a greater role in network-expansion decisions. Litigation may decrease, but contractual precision and tax compliance will gain importance.

Tax obligations also become more significant. Complementary Law 214/2025 assigns to the lessor the duty to issue the Electronic Fiscal Document (DFE), including IBS/CBS details. This shifts established dynamics, especially because many lessors — notably PPPs and regional providers — may not yet have the fiscal maturity of major operators or towercos. Although tax authorities have indicated that some operations may temporarily continue using service invoices, companies must rapidly adapt to the new DFE, whose official layout is still pending publication. With the transition underway, technological uncertainty already affects accounting processes and tax-system configuration.

A sensitive issue is the potential joint liability of the lessee — major carriers and PPPs — when the lessor fails to issue a valid fiscal document. LC 214 is explicit: if payment occurs without proper documentation, the recipient becomes liable. This changes contracting logic: a well-drafted contract is no longer enough; parties must also monitor each other's tax compliance. Governance and compliance capacity may become decisive in risk allocation and even in the selection of infrastructure suppliers.

Another emerging discussion related to the specific regime for real estate, which grants a 70% reduction in IBS/CBS rates. The challenge is that the law does not clearly define which assets qualify as “real estate.” Under the Civil Code, real estate includes land and everything permanently attached to it. This raises a key question: could towers, poles and other fixed structures be classified as real estate? If so, part of the sector's contracts would benefit from reduced taxation; if not, they remain subject to full rates. As LC 214 does not clarify the issue, future regulations or administrative rulings will likely address it — and until then, uncertainty persists.

In essence, these issues affect how the sector prices, allocates risks and structures passive-infrastructure contracts. While the reform does not change telecom regulation itself, it recalibrates economic incentives. By increasing the cost and compliance burden associated with essential infrastructure, the new tax architecture influences decisions on contracting, sharing, or internalizing assets.

With the transition underway, the sector must accelerate its adaptation agenda: contract review, tax-system updates, supplier negotiation and close regulatory monitoring. By broadly taxing the availability of goods, the reform places indirect taxation at the center of operational strategy. This is not only about adjusting contracts – it is about rethinking how passive infrastructure is provided, monetized and documented in Brazil.

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Resolution BCB No. 519 and the Consolidation of a New Regulatory Standard for DTVMs and Virtual Asset Service Providers

The entry into force of Resolution BCB No. 519, issued by the Central Bank of Brazil, on February 2, 2026, represents a significant milestone in the restructuring of the authorization framework applicable to securities distributors (DTVMs), foreign exchange brokerage firms, and virtual asset service providers (VASPs). The regulation not only systematizes existing procedures but also elevates the level of regulatory scrutiny, particularly with respect to governance, organizational structure, and ongoing compliance obligations.

One of the most notable features of the new framework is the expansion of the scope of regulatory oversight. Authorization is no longer viewed as a one-time act limited to the incorporation phase; rather, it becomes part of an ongoing supervisory cycle. Material structural changes, corporate reorganizations, changes in control or management, and capital adjustments are now subject to assessment in light of their consistency with the regulatory standards required by the Central Bank.

The underlying rationale is straightforward: meeting formal requirements at the outset is insufficient. Institutions must maintain structural consistency and regulatory alignment throughout their lifecycle. The supervisory authority is now equipped with clearer tools to evaluate whether the proposed governance arrangements, internal controls, and operational structure are effectively aligned with the complexity and risk profile of the intended activities. Where weaknesses or inconsistencies are identified, the Central Bank may require corrective measures and, ultimately, deny the authorization request.

This approach is particularly significant for virtual asset service providers. Companies that initially operated under a predominantly technological or innovation-driven model are now subject to regulatory standards comparable to those applied to traditional financial institutions, including heightened expectations regarding internal controls, the qualifications and integrity of

senior management, and the robustness of the corporate structure. Innovation remains welcome, but it must be supported by sound governance and transparency.

Special attention should also be given to the transitional framework applicable to VASPs that were already operating at the time Resolution BCB No. 519 entered into force. The phased authorization procedure reflects the Central Bank's intention to ensure an orderly transition. While recognizing the existence of previously established operations, the regulation requires these entities to demonstrate compliance with the new standards, including those related to controlling shareholders and the adequacy of their internal organization.

Another key aspect of Resolution BCB No. 519 is the Central Bank's authority to condition authorization upon the fulfillment of specific requirements. The authorization decision is no longer limited to a binary approval or rejection; it may include conditions such as structural adjustments, operational reorganizations, or additional evidence of financial capacity. This mechanism enhances the regulator's preventive oversight, allowing potential risks to be addressed before the commencement or expansion of activities.

The Resolution further reinforces ongoing supervisory powers by establishing clear grounds for revocation of authorization. Prolonged inactivity, failure to comply with regulatory obligations, or material deviations from the approved business plan may justify withdrawal of authorization. In this context, the business plan assumes substantive regulatory relevance: it is not merely a formal document, but a benchmark against which supervisory authorities may assess continued compliance.

From a corporate perspective, the treatment of capital increases and changes involving qualified shareholdings underscores the Central Bank's focus on the stability of control and the integrity of investors. Capital injections, the entry of new shareholders, and internal reorganizations are no longer viewed solely through a business lens; they form part of the regulatory risk assessment framework. Requirements for timely notification and, in certain circumstances, prior review strengthen transparency and traceability in changes of control.

Strategically, the new regime reshapes competitive dynamics. Barriers to entry are effectively raised, requiring meaningful investment in governance,

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compliance structures, and technological systems commensurate with the scale and risk of operations. At the same time, the framework fosters greater legal certainty and institutional credibility, which may support market consolidation and attract institutional capital.

In conclusion, Resolution BCB No. 519 formally integrates virtual asset activities into the Central Bank of Brazil's supervisory perimeter and reinforces oversight of DTVMs and VASPs under a model centered on structural coherence and continuous monitoring. For market participants, the primary challenge is not merely to obtain authorization, but to design and maintain business models capable of sustaining the regulatory standards now firmly established.

Complementary Law No 224/2025: Reduction of Federal Tax Benefits

Federal tax, financial and credit benefits have undergone significant changes following the enactment of Complementary Law No. 224/2025 (‘LC 224/2025’). The new legislation introduces revised criteria both for the granting of incentives by the Federal Government and for their use by taxpayers, with immediate repercussions from 2026 onwards.

The new statute must be examined from a dual standpoint. From a public finance perspective, LC 224/2025 established new conditions for future legal proposals creating federal tax benefits, requiring that such proposals be accompanied by an estimate of the revenue loss and of the corresponding private investment commitments, all to comply with expenditure control policies.

From the taxpayers’ point of view, the primary effect of LC 224/2025 is the reduction of several special tax regimes commonly relied upon in corporate tax planning in Brazil. This does not entail the abolishment of all benefits, but rather a limitation of their impact, depending on the nature of the tax treatment involved.

1. The Reduction Framework

Understanding Complementary Law No. 224/2025 demands a combined analysis of federal tax legislation.

Under Article 4 of LC 224/2025, the reduction applies to tax incentives related to PIS/COFINS contributions, PIS-Import, COFINS-Import, Corporate Income Tax (IRPJ), the Social Contribution on Net Profits (CSLL), Import Tax (II), Tax on Manufactured Products (IPI) and social security contribution, provided that such mechanisms are listed in the Tax Expenditure Report attached to Brazil’s 2026 Annual Budget (Law No. 15.321/2026) and/or in Paragraph 1 of said Article 4.

In general, the benefits are restrained to 90% (ninety percent) of their original economic effect. Accordingly: (i) special regimes providing exemption or zero-rate taxation become subject to a corresponding 10% (ten percent) standard tax rate; (ii) incentives with a tax base or a tax due reduction are limited to 90% (ninety percent) of the provision; and (iii) financial or tax credits are likewise restricted to 90% (ninety percent) of their previous amount, with similar logic applying to the other situations governed by LC 224/2025.



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These changes already apply to Corporate Income Tax (IRPJ) and Import Tax (II) benefits, as they have been in force since January 1, 2026. With respect to the other federal taxes covered by the measure (IPI, PIS/COFINS, CSLL and social security contributions), the threshold takes effect as from April 1, 2026.

2. Affected Benefits: Practical Examples

As noted above, the reduction mechanism does not impose on all federal regimes. LC 224/2025 and its regulations clarify that certain benefits are not subject to the limitation, particularly the tax treatment applicable to companies established in the Manaus Free Trade Zone, taxpayers under the Simples Nacional regime and research and development (R&D) incentives granted under the so-called “Law of Good” (Law No. 11.196/2005).

In addition, special regimes that are granted for a fixed term and that subject taxpayer to commitments will not be affected. For instance, the legislation provides that investment projects approved by the Federal Government by December 31, 2025, such as those under REIDI (Special Incentive Regime for Infrastructure Development), are not subject to the restrictions introduced by LC 224/2025. In our view, the same rationale should apply to other federal benefits, conditioned upon counterparts, in order to preserve legal certainty.

These aspects reinforce the need for an individual analysis of the legislation’s impact on business operations, taking into account the legal nature of the benefits, the taxes and other specific features of each taxation. Even so, certain practical examples help illustrate LC 224/2025’s outcome.

Various sector-specific regimes, including those for the chemical, agricultural and automotive industries, fall within the scope of the new framework, which is likely to increase operational costs and, in certain cases, consumer prices. The reduction of exemption regimes, zero-rate arrangements and tax credits leads to a higher overall burden on imports, input procurement and the production chain as a whole. In this context, it is worth highlighting that the restrictions by LC 224/2025 operate cumulatively: if multiple incentives are granted within the same transaction, such as a reduced tax rate combined with a reduced tax base, the 90% threshold affects each taxation accordingly.

There are also repercussions for taxable income deductions, notably those related to the PAT (Worker Food Program) and the “Empresa Cidadã” Program, an incentive linked to maternity and paternity leave. The new rules increase income taxation in 2026 projections, as the amount eligible for deduction, whether from the taxable base or from the tax due, is now limited to a 90% cap.

However, LC 224/2025 goes beyond income tax deductions. One of its most significant (and controversial!) provisions raises the tax burden under the presumed profit regime (‘lucro presumido’), through an upward adjustment of the legal presumption percentages.

3. Presumed Profit Regime

LC 224/2025 modified the presumed profit regime by increasing the tax burden of Corporate Income Tax (IRPJ) and the Social Contribution on Net Profits (CSLL) assessed under this system. The law establishes a 10% (ten percent) rise in the presumption percentages levied upon annual gross revenue exceeding BRL 5,000,000 (five million reais).

Taxpayers with gross revenue of up to BRL 78,000,000 (seventy-eight million reais) may opt for the presumed profit regime, under which income taxes are calculated by fixed percentages, ranging from 1.6% to 32%, depending on the economic activity, upon the earnings of the year.

This framework was originally designed as a simplified method for IRPJ and CSLL taxation. Following the enactment of LC 224/2025, however, the presumed profit regime was treated as a fiscal incentive, which has resulted in an increased burden for companies operating under this model.

For purposes of the increased presumption margins, the legislation provides that the portion of annual gross revenue exceeding BRL 5,000,000 must be proportionally determined, taking into account: (i) each monthly or quarterly assessment period throughout the year; and (ii) the revenue of each economic activity, if the taxpayer is subject to different presumption percentages.

The new presumption percentages apply as from January 1, 2026 for IRPJ and as from the second quarter of 2026 for CSLL, requiring companies under the presumed profit regime to reassess and adapt their procedures separately for each tax.

4. Judicial Challenges

Effective since its publication, LC 224/2025 has been subject to judicial scrutiny.

The National Confederation of Industry (CNI) has filed Direct Action of Unconstitutionality (ADI) No. 7,920 before Brazil’s Federal Supreme Court (STF), challenging LC 224/2025’s rule that safeguards only tax benefits whose counterpart obligations were approved by the Federal Government by December 31, 2025. The CNI argues that this statute infringes the principles of vested rights and legal certainty. The case remains pending judgment.

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Taxpayers under the presumed profit regime have also sought judicial protection against the tax burden increase arising from LC 224/2025. Courts have already issued decisions in favor of companies, on the grounds that the presumed profit regime is a tax assessment method rather than a fiscal incentive and therefore should not fall within the scope of the law's threshold.

Further arguments are likely to consolidate throughout the year. One concerns the deferral of the law's effects to 2027, given that the identification of the affected incentives depends on the 2026 Annual Budget, enacted through Law No. 15,346/2026, on January 14, 2026. According to the Federal Constitution, it is argued that provisions resulting in an increase of the income tax burden may only take effect in the subsequent fiscal year.

Questions have also been raised regarding the prohibition on tax credits set forth in Article 5 of Decree No. 12,808/2025. This restriction is debatable, since where taxation occurs at a prior stage, the corresponding credit is essential to ensure tax neutrality.

5. LC 224/2025: Recommended Actions

Against this backdrop, the current scenario is still evolving and calls for an assessment of issues related to legal certainty, vested rights, the interaction with the Annual Budget Law and judicial challenges by taxpayers.

In this context, companies are advised to review their federal benefits, update their 2026 projections and closely monitor legal and judicial developments, particularly in cases where the threshold may lead to a higher tax burden of their operations.

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A Fresh Perspective on Social Security Contributions on Performance Awards, as Outlined by the Brazilian Federal Revenue

Companies often reward employees who achieve extraordinary performance by paying bonuses or awards based on specific metrics or positive results obtained. Prior to the labor reform (Law No. 13,467/2017), such performance awards or premiums were typically referred to as bonuses, gratuities, or sporadic and occasional payments.

Depending on how such payments were made, especially if they were paid on a regular basis and as compensation for expected job performance, the Federal Revenue often assessed taxpayers, as it deemed such payments to be of a salary nature, charging social security contributions on these amounts at an average rate of 31.8%, plus fines and Selic interest.

At that time, in administrative and judicial defenses, taxpayers argued that non-habitual payments should not be included in the calculation basis of social security contributions, since they fell under the category of “amounts received as occasional gains and allowances expressly detached from salary” (Article 28, paragraph 9, item “e”, subitem “7” of Law No. 8,212/1991).

This legal provision was frequently used to support the payment of bonuses, occasional gratuities, or premiums/awards, as none of these concepts had a legal definition. It is also important to note that, from a social security standpoint, the terminology used by the employer does not determine the legal nature of a payment; the actual nature prevails. Thus, if a payment with salary characteristics is merely labeled as a bonus, the Federal Revenue will investigate its true purpose.

Accordingly, before the reform, habituality was a key factor in determining whether such payments should be treated as salary and, consequently, whether they should be included in the calculation basis of social security contributions.¹

¹ STJ, Special Appeal No. 107,441/MG, 2nd Panel, Reporting Justice Ari Pargendler, Official Gazette of March 1, 1999; CARF Decision No. 2402-007.617, session of October 8, 2019.

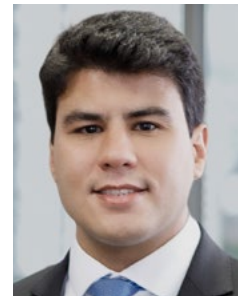


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With the enactment of Law No. 13,467/2017, paragraphs 2 and 4 of Article 457 expressly established that premiums and allowances do not form part of an employee's salary, even when paid habitually. The reform also introduced a definition of 'premiums' as "discretionary (liberal) benefits granted by the employer, in the form of goods, services, or cash, to an employee or group of employees, as a result of performance exceeding what is ordinarily expected".²

Despite the innovation, the legislative text did not provide legal security for taxpayers because the provision was unclear and allowed several different interpretations. Consequently, the practical implementation of the premium/award arrangement outlined in the legislation became infeasible.

To address the divergent interpretations, particularly regarding the concept of employer "discretion/liberality", the Federal Revenue issued the COSIT Consultation Solution ("SC") No. 151 of 2019. The solution established that premiums excluded from social security contributions are: (1) those paid exclusively to employees, individually or collectively, not reaching the amounts paid to individual taxpayers (e.g., statutory directors); (2) are not restricted to cash amounts and may be paid in the form of goods or services; (3) cannot arise from a legal obligation or express agreement, since that would compromise the element of employer liberality/discretionary.; and (4) must result from performance that exceeds what is ordinarily expected, requiring the employer to objectively demonstrate both the expected performance and the amount exceeded.

However, SC COSIT No. 151/2019 imposed contradictory requirements, since the Federal Revenue simultaneously prohibits express agreements (to preserve "liberality") while demanding objective proof of "expected performance" and "how much" that performance was exceeded — elements that typically require formal documentation-, among others.

After extensive debate on the topic, the Federal Revenue issued SC COSIT No. 10/2026, which amended SC COSIT No. 151/2019 and introduced greater flexibility to the rules governing the payment of premiums/awards. The new interpretation clarifies that the mere establishment of objective criteria in inter-

² While Provisional Measure No. 808/2017 was in effect, it defined '*prêmios*' (premiums/awards) as 'discretionary payments granted by the employer up to twice per year in the form of goods, services, or monetary amounts to employees, groups of employees, or third parties engaged in its economic activity due to performance exceeding that ordinarily expected in the course of their job duties.' However, since Congress did not vote on the aforementioned Provisional Measure within the legal deadline, the measure expired in April 2018.

nal company regulations does not disqualify the payment as a discretionary. However, the payment of premiums remains prohibited when based on law, employment contract, or collective bargaining agreement, as these eliminate the element of employer liberality.

Nevertheless, compliance with internal regulations does not, by itself, create a presumption that the legal requirements have been met. If, during an audit, the authorities gather evidence indicating that the regulatory content stems from a prior agreement that creates an obligation between the parties — even indirectly — they may still assess social security contributions on the amounts paid.

In this context, the updated interpretation of liberality and prior agreement, although recent, reflects a shift in the Federal Revenue's approach. It adopts a more taxpayer-friendly perspective and seeks to make premiums/awards a viable form of variable compensation — a mechanism increasingly relevant in today's corporate environment.

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Stand März 2026

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