



Tax reform

Taxation of goods and services in Brazil

December
2023

What will the new taxation rules be like after the enactment of EC 132 (previously PEC 45) by the National Congress?

Reform on the taxation of goods and services

Looking back

In the past months, the House of Representatives and the Senate discussed the final wording of the Reform on the Taxation of Goods and Services. They took into consideration comments and suggestions on hearings with representatives of different economic sectors.

What are the next steps?

- The **first round** of the Tax Reform was finished on December 15, 2023. The last step was the enactment of the PEC¹ upon a joint session of the two houses.

The enactment took place on December 20, 2023, as PEC 45 was converted into EC 132², which was issued on December 21, 2023

- The **second round** of the Tax Reform will be the regulation of all subject through infraconstitutional legislation (complementary and ordinary laws).

Next legislative activities

The Executive Branch must present to the National Congress:

- **In 180 days as of the enactment**, the bills of law mentioned by the EC 132 such as:
 - a. Complementary laws for the introduction of IBS³ and CBS⁴, specific and favorable regimes as well as the administration committee; and
 - b. Ordinary law for the introduction of IS⁵.
- **In 90 days as of the enactment**, the bills of law to reform income and payroll taxation

¹ Proposta de Emenda à Constituição (PEC) – Constitutional Amendment Bill

² Emenda a Constituição (EC) – Constitutional Amendment

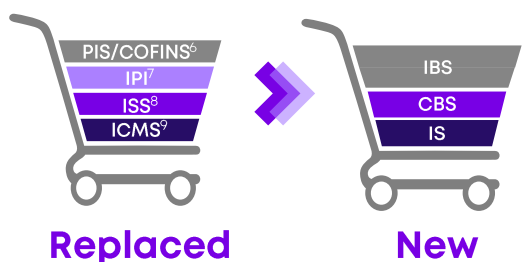
³ Imposto sobre Bens e Serviços (IBS) – Goods and Services Tax

⁴ Contribuição sobre Bens e Serviços (CBS) – Contribution on Goods and Services

⁵ Imposto Seletivo (IS) – Excise Tax

What will the consumption taxation be like?

NEW AND REPLACED TAXES



Besides IBS, CBS, and IS, **EC 132** provides for the possibility of creation of a contribution on primary and semi-finished products (see page 7 for further details).

Broad taxation

- IBS and CBS will be collected on the transactions with tangible and intangible goods, including rights, services, and non-habitual imports.
- Flat rate (possibly around 27% according to studies from the Ministry of Finance) + few tax benefits

Full non-cumulative system

- Broad credit basis on contracted activities - virtually all expenses subject to taxation will be eligible for credits (except those related to personal use and consumption)
- Guaranteed maintenance and use of export credits
- Credits potentially linked to an effective payment of the tax by the supplier

Simplification and application of the destination principle

- Simplification of the current system, reducing tax jurisdiction conflicts
- IBS and CBS will not be included in their own calculation basis (no gross-up will be applied)
- IBS and CBS will follow the destination principle

Administration committee

- Joint action between the Union, States, Municipalities and the Federal District for the administration and collection of IBS and CBS, as well as in the formatting and conduction of administrative litigation related to these taxes

⁶ Contribuições para o Programa de Integração Social e Financiamento da Seguridade Social (**PIS/Cofins**) – Gross Revenue Contributions

⁷ Imposto sobre Produtos Industrializados (**IPI**) – Tax on Manufactured Products

⁸ Imposto sobre Serviços (**ISS**) – Tax on Services

⁹ Imposto sobre Circulação de Mercadorias e Serviços (**ICMS**) – State Value-Added Tax

IBS AND CBS RATES REDUCED BY 60%



Education



Health services, medical devices
and accessibility for PwD¹⁰ as well as
medicines



Basic menstrual health and personal
hygiene and cleaning products



Urban, semi-urban and metropolitan
public collective transport of
passengers by road and metro



Food for human consumption



Agricultural, aquacultural, fishing,
forestry and fresh plant extractive
products; agricultural and
aquaculture inputs



National artistic, cultural, event,
journalistic and audiovisual
productions, sporting activities and
institutional communication



Goods and services related to
sovereignty and national security,
information security and
cybersecurity

EXEMPTION OR REDUCTION OF IBS AND CBS RATES BY 100%



Urban, semi-urban and
metropolitan public collective
transport of passengers by road
and metro



Health services, medical devices
and accessibility for PwD;
medicines; basic menstrual
health care products



“Basic food basket”, vegetables,
fruits and eggs



Services provided by a non-profit
Scientific, Technological and
Innovation Institution (IBS and CBS)
+ Prouni higher education
(only CBS)



Urban rehabilitation of historic
areas and critical areas for urban
recovery and conversion



Rural producer with annual
income of up to BRL 3.6 million

¹⁰ People with disabilities (**PwD**)

TAX RATE REDUCTION BY 30%



Provision of intellectual professional services, of a scientific, literary or artistic nature, provided that they are subject to supervision by a professional council

The tax reductions will be reviewed every 5 years

SPECIFIC TAX REGIMES FOR IBS AND CBS



Fuels and lubricants (one-stage taxation with uniform rates and prohibited appropriation of credits from acquisitions)



Hotels, amusement parks and theme parks, travel and tourism agencies, bars and restaurants, sporting activity developed by *Sociedade Anônima do Futebol* and regional aviation (change in tax rates, calculation basis, crediting)



Financial services, transactions with real estate, health care plans and lotteries (changes in tax rates, crediting and calculation basis)



Diplomatic missions, consular offices, etc.



Cooperatives (optional and differentiated credit regime)



Public passenger transport by intercity and interstate road, rail, and waterway

The following sectors were included in specific regimes in previous versions of the PEC, but were excluded from the final draft:

- sanitation and highway concession services
- provision of the shared structure of telecommunications services
- goods and services that promote the circular economy
- Micro-generation and distributed energy mini-generation

OTHER TAX REGIMES FOR IBS AND CBS



Exemption from capital assets: full and immediate credit; deferral; or 100% reduction in tax rates



Favored regime for low-carbon hydrogen systems



Cashback to reduce social inequalities



Presumed CBS credit until 2032 in the production of electric and hybrid vehicles



Small rural producer – whose revenue is less than BRL 3.6 million updated by IPCA¹¹ – can choose to be an IBS/CBS taxpayer



Presumed credit to the taxpayer purchasing (i) independent freight transporter services for a non-taxpaying individual and (ii) waste and materials intended for recycling, reuse or reverse logistics, from an individual, cooperative or other form of popular organization

Contracts with Direct Public Administration, its authorities and foundations: full allocation of IBS and CBS collections to the respective entity of which the public body is part

IS

- **Taxable event:** Production, extraction, commercialization or import of goods and services that are harmful to health or the environment, cf. ordinary law
- **Rate:** defined by law, limited to 1% of the market value of the asset for extraction
- **Calculation basis:** same as CBS and IBS (IS is part of the base of these taxes, but is not included in its own calculation basis)
- **One-stage taxation:** one time collection on the relevant good or service
- **Particularities:**
 - *it will not be collected on (i) exports (except in the case of extraction) and operations with electrical energy and telecommunications; and (ii) goods and services taxed at a rate reduced by 60% of IBS and CBS*

¹¹ Índice Nacional de Preços ao Consumidor Amplo (IPCA) – Broad Consumer Price Index

OTHER TAXES

CONTRIBUTION ON PRIMARY AND SEMI-FINISHED PRODUCTS:

May be introduced by a State/Federal District that, on March 30, 2023, charged contributions for infrastructure and housing as a condition for enjoying special ICMS regimes

- Rate and tax base cannot be higher than those of current contributions
- Institution of the new contribution implies the extinction of the previous one
- Same allocation of revenue as current contributions and extinction deadline on December 31, 2043

IPVA¹²:

IPVA will be collected on the ownership of land, water, and air motor vehicles, except for:

- Agricultural and aircraft operator certified to provide services to third parties;
- Vessels owned by a legal entity that holds a license to provide water transport services or by an individual or legal entity that practices industrial, artisanal, scientific, or subsistence fishing;
- Platforms capable of moving in the water by their means, including those whose main purpose is the exploration of economic activities in territorial waters and in the exclusive economic zone and vessels that have this same main purpose; and
- Tractors and agricultural machinery.

ITCMD¹³:

- Taxing powers concerning movable property, securities, and credits will be of the State in which the deceased person was a resident, or the donor is a resident
- It will be progressive according to the corresponding amounts
- It will not be collected on donations to non-profit entities with public/social relevance, including welfare and charitable organizations of religious entities as well as scientific and technological institutes, under the criteria to be provided by law

CONTRIBUTION ON SECURITY MONITORING:

- Municipalities/ Federal District will be able to introduce contributions to fund and improve the service of monitoring systems for the security and preservation of public places, in addition to that allocated to the funding and improvement of public lighting, already provided for in the original text of the House of Representatives.

¹²Imposto sobre a Propriedade de Veículos Automotores (IPVA) – Vehicle Tax

¹³Imposto sobre Transmissão Causa Mortis e Doação (ITCMD) – Gift and Inheritance Tax

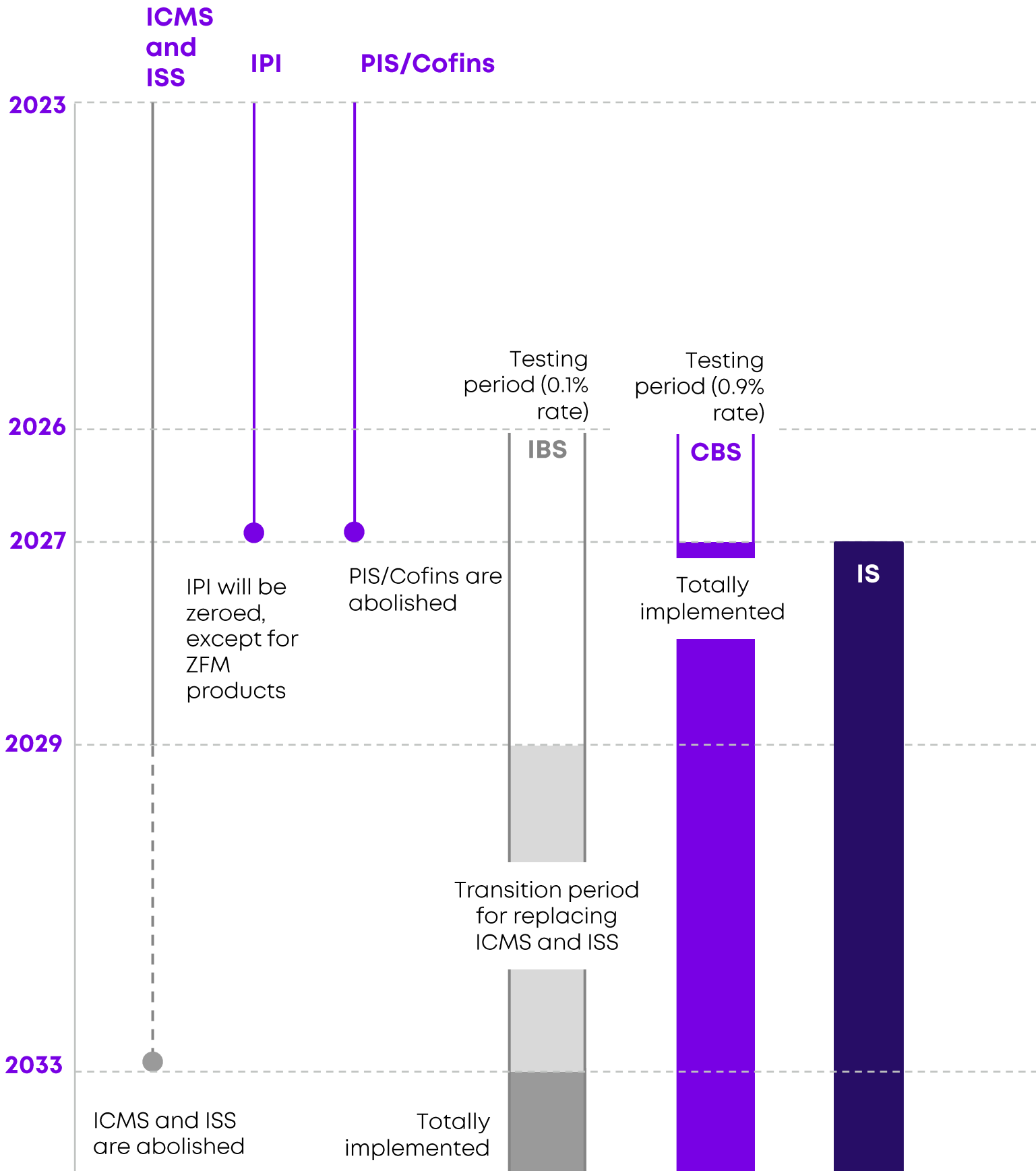
ZFM¹⁴ AND FTA¹⁵

- IBS/CBS: the laws introducing IBS and CBS will establish the necessary mechanisms to ensure the competitive advantage of ZFM and FTA
- IPI: rates zeroed in 2027, except for products with industrialization incentivized in the ZFM

¹⁴ Zona Franca de Manaus (**ZFM**) – Manaus Free Trade Zone

¹⁵ Free Trade Areas (**FTA**)

Transition regime



What will be discussed through Complementary Law?

The complementary laws that should be introduced after the enactment of EC 132 are the most important pieces of the Tax Reform puzzle

- Among others, the following subjects are in the scope of the complementary laws:
 - Implementation of the IBS and CBS – with the definition of the thresholds for the calculation of the reference tax rates to be established by Senate Resolution.
 - Term and manner for the credit refund
 - Definition of the Administration Committee functions
 - Definition of the scope of services and products subject to tax rate reductions
 - Definition of the scope and mechanics related to the specific taxation regimes applicable to certain services and products (e.g., financial services, transactions with real estate, health care plans, etc.)
 - Forecast of deferral and exemption hypotheses applicable to special customs regimes and export processing zones
 - Federal administrative tax litigation
 - Criteria for defining the destination of the operation
- Beyond the complementary laws:
 - Ordinary Federal Law shall define the products to be subject to IS
 - State laws may introduce contributions on primary and semi-finished products

Lefosse

Lefosse's Tax Team closely monitors the changes that impact the Brazilian market. For further clarification on this matter, or others that may be of interest to you, **contact our professionals**. To find out more, **access our exclusive analysis** on the main changes of the EC 132 and the sectorial impacts **here**.



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