MATTOS FILHO

# Brazil's Tax Reform

**Constitutional Amendment Bill (PEC) No. 45 – Key features of the version approved in the House of Representatives**

## Key Features

### Taxes extinguished

- PIS
- COFINS
- IPI
- ISS
- ICMS

### Dual IVA (VAT)

The federal government will levy **CBS** exclusively; a National Council will determine how **IBS** collection is divided between Brazil's states and municipalities

### Specific tax regimes

Fuels and lubricants, financial services, real estate transactions, healthcare plans and lotteries, government procurements, cooperative societies, hotel services, amusement/theme parks, restaurants and regional aviation services

### Transition period

From 2026 (CBS and IBS established). PIS/COFINS will not be levied from 2027. ICMS, ISS and IPI will end in 2033.

### Tax base

VAT (CBS and IBS) will be levied on tangible and intangible goods and services

### Manaus Free Trade Zone (ZFM)

AM

Mechanisms will be created to ensure the zone remains competitive and has a different tax treatment

### Calculation method

IBS and CBS will not be included in the calculation base of goods and services (i.e., no cascading taxation)

### Digital platforms

IBS and CBS will be levied on imported goods and services, even if supplied by entities who do not regularly pay taxes in Brazil

### State-level sales tax (ICMS) incentives

Complementary law will establish criteria for incentive-related compensation, which will be paid for via federal funding

### CBS & IBS rates

**Rules:**
CBS – Single rate
IBS – Standardized rate in each state/municipal entity for all products, services and related rights. States and municipalities are able to adopt the standard rate or establish their own.

**Exceptions:**
Exceptional regimes, including a 60% IBS reduction for certain goods and services such as education, healthcare, and agricultural products and inputs. Exemptions authorized for public transportation, and 100% reduction authorized for medications, medical devices, staple food packages (*cestas básicas*), and higher education services (Prouni), among others

### Tax credit refunds

- Starting from 2032, ICMS credits may be offset (upon approval), with IBS credits in 240 installments. Balances will be adjusted in line with the consumer price index (IPCA)
- PIS and COFINS credits will be offset with IBS and CBS – if not possible, complementary Law will rule the reimbursement. For CBS, they will be reimbursed within 60 days, with cash refund programs established via complementary law

### Unified legislation

CBS and IBS will be subject to the same triggering events, calculation bases, non-incidence hypotheses, and taxpayers; specific, exceptional, or favored tax regimes; as well as rules covering non-cascading taxation and tax credits

### Regional Development Fund (FDR)

Potential use in infrastructure, scientific development, and job-creation projects

### National Council

27 members for the states and the Federal District &
27 members for the municipalities and the Federal District

**Quorum required for approval:**

- An absolute majority of the State and Federal District representatives' votes, provided they represent at least 60% of the country's population; **and**
- An absolute majority of the municipal and Federal District representatives' votes.

### Immunity

**IBS and CBS** immunity for non-profit entities

These entities do not require certification for CBS immunity

### ITCMD

**ITCMD will not be levied** on donations received by non-profit institutions that work with public and social causes

## Status

1. Proposal submitted ✓
2. Reviewed by commissions in House of Representatives ✓
3. Approved in the House of Representatives – two rounds of voting ✓
4. It is possible that the Senate Economic Affairs Committee's (CAE) **Tax System Evaluation Working Group** will analyze the bill. Created by Senator Vanderlan Cardoso (Social Democratic Party/Goiás), the group had its first meeting on June 14, 2023.
5. After the committees review the bill (if requested to do so), the text will be analyzed by the Senate in plenary (three-fifths majority required – 49 senators)
6. If approved in both Houses without changes, Congress will enact the bill as a constitutional amendment

   If any substantial changes are made (i.e., beyond the wording), the bill must be sent back to the House of Representatives for further review

Any changes made in one House must be subsequently approved in the other

## Our Expertise

### Legal support with the legislative process for the tax reform

Strategic analysis of the proposed amendments, reviews of the amendments from a constitutional and legal perspective and the bill's potential impacts, among other services

### Legal advice on tax reform impacts and tax litigation

Assessments and analysis of the potential impacts on different sectors' tax burdens, the impact of tax credits on transactions, complying with ancillary tax obligations, among other services. Analysis of aspects that taxpayers may seek to challenge via litigation.