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# Brazil Tax Round-Up

#3 - July 2019



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### Agreement to avoid double taxation is signed by Brazil and Uruguay

On June 7, 2019, Brazil and Uruguay signed a Treaty to Avoid Double Taxation regarding income taxes and intending to prevent tax evasion and profits losses. The treaty will only enter into force after it is ratified by the Brazilian National Congress.

### Guide for filling tax information about cryptocurrencies transactions

On June 19, 2019, Copes Executive Declaratory Act No. 01 and 02/2019 were published, which offer guidance for filing the monthly form about cryptocurrencies transactions, which is regulated by Brazilian IRS Normative Ruling No. 1,888/2019.

### Creation of transition process after the termination of Petrobras' special tax regime granted by the State of Rio de Janeiro

On June 27, 2019, SEFAZ Resolution No. 49/2019 was published, which creates a transition process for the fulfillment of tax legislation after the termination of the special tax regime granted to Petrobras by the State of Rio de Janeiro. New rules will be enacted to regulate the activities performed by oil and gas Industry.

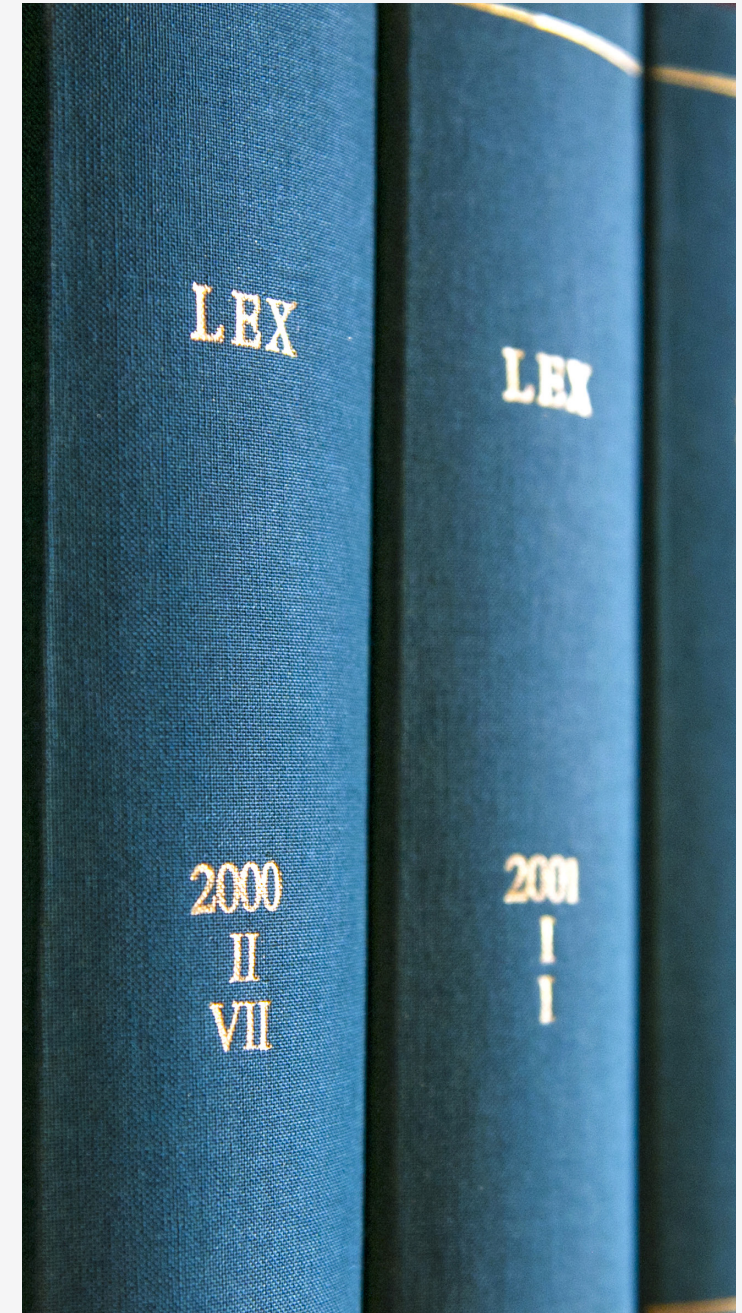
The transition process is valid between May 1 and August 31, 2019.

### Removal of San Marino from the list of countries considered tax havens

On June 28, 2019, Brazilian IRS Normative Ruling No. 1,896/2019 was published, removing San Marino from the list of countries considered as tax havens, which was set forth in the list of article 1 of Brazilian IRS Normative Ruling No. 1,037/2010.

### Extension of the term for migration of goods from Repetro to Repetro-Sped

On June 28, 2019, Decree No. 9,862/2019 was published, amending Decree No. 9,128/2017 to extend the term for the migration of assets imported under Repetro to Repetro-SPED until December 31, 2020.



## Deemed Profit Method on the provision of hospital services

On June 14, 2019, the Disit/SRRF03 Answer to Advance Tax Ruling Request No. 3015/2019 was published, establishing that for tax-triggering events in the provision of hospital services listed in "Item 4: Diagnostic Support Services and Therapy" of RDC Anvisa Resolution No. 50/2002, the rates of 8% for the Corporate Income Tax ("IRPJ") and 12% for the Social Contribution on Net Profits ("CSLL") can be used in the Deemed Profit Method.

## Opinion on the tax-deductibility of royalties paid to indirect controllers related to distribution of software

On June 21, 2019, Cosit Answer to Advance Tax Ruling Request No. 182/2019 was published, establishing that the royalties paid to indirect controllers from the same economic group as remuneration to the distribution of software are tax-deductible of IRPJ and CSLL tax bases. The Brazilian IRS understood that indirect controllers cannot be classified as partners, as provided in item "d" of the sole paragraph of article 71 of Law No. 4,506/1964 since they do not hold equity participation.



### Public hearing at STF to discuss fiscal federal conflicts

On June 25, 2019, a public hearing was held in the Supreme Federal Court (STF) to address federal conflicts over the seizures made by the Federal Union in the funds entitled to the states due to the non-payment of loan agreements.

### STF rules 30% lock-up to offset tax losses constitutional

On June 27, 2019, the Plenary Session of the STF ruled that the 30% lock-up to offset tax losses and the negative balance of the CSLL tax base is constitutional, a decision that will have with broad repercussions. (Appeal to the STF No. 591,334/SP)

### First judicial level decision establishes that restricted stock units and stock options are not subject to social security contributions

On June 29, 2019, the 2nd Federal Chamber of Campinas (SP) ruled that stock options and restricted stock units are not salary-related for purposes of taxation by social security contributions. (Writ of mandamus No. 5002951-79.2017.4.03.6105)

### STJ will decide if the wharfage services encompass the customs value

The First Section of the Superior Court of Justice ("STJ") will determine, in a decision that will have broad repercussions, if the wharfage services encompass the customs value for purposes of levying the Import Tax ("II"), Tax on Manufactured Products ("IPI") and Contributions on Revenues ("PIS e COFINS") . (Special Appeals to STJ No. 1,799,306, 1,799,308 and 1,799,309)

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