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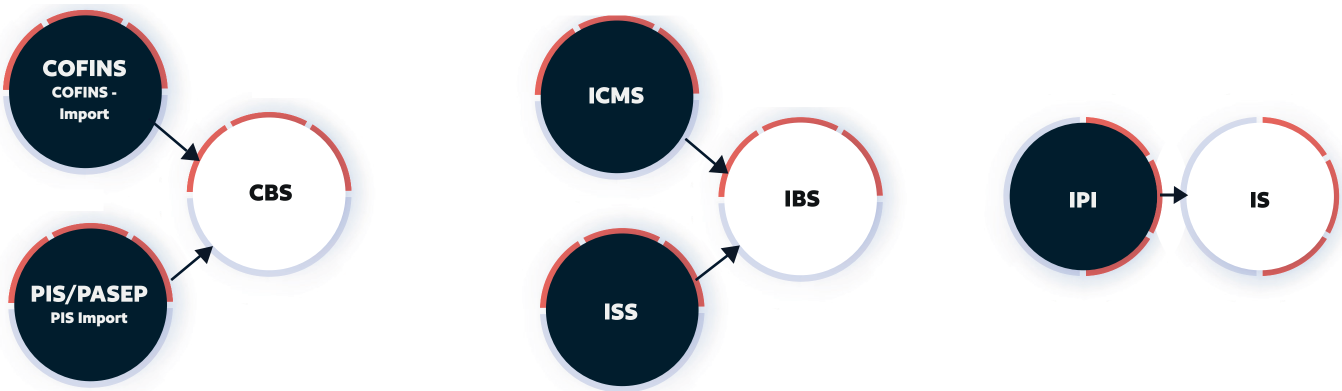
# Brazilian Senate approves **Tax Reform.**

Following the approval of the bill of constitutional amendment (PEC 45/2019) by the Constitutionality Technical Commission (CCJ), the Brazilian Senate approved the text of the reform, which introduces significant changes to the Brazilian tax system, mostly focused on the taxation on consumption.

The Senate Plenary approved the proposal in two voting rounds, with 53 favorable votes, 24 opposed votes, and no abstentions. 49 favorable votes were required to approve the bill (3/5 of the members of the Senate). Now the bill has to return to the House of Deputies to be submitted to a new approval, since the original text was modified in the Senate.

The bill's main goal is to simplify the tax system, by means of the replacement of  the current taxes – Tax on Industrialized Products, Turnover Taxes (PIS/PASEP, PIS-Import, COFINS and COFINS-Import), State Value Added (ICMS), Service Tax (ISS), levied on goods, services and rights – **with a Contribution on Goods and Services (CBS), a Tax on Goods and Services (IBS), and an Excise Tax (IS)**.




## A) Summary of the Bill approved by the House of Deputies

The CBS will be levied at federal level, in lieu of the turnover taxes, while the IBS will be levied jointly at state and municipal levels in lieu of the ICMS and ISS taxes. Both IBS and CBS were designed as Value Added Taxes, charged only on the amounts aggregated at each stage of the production or commercial chain of goods, services or rights, excluding values paid in previous stages via a tax credit mechanism.

The **main points** of the bill of tax reform approved by the House of Deputies are:

- CBS and IBS are expected to function as a dual VAT levied at Federal (CBS) and joint State-City (IBS) levels.
- Both taxes are meant to have the same:
  - Taxable events;
  - Base of calculation;
  - Taxpayers;
  - Constitutional exemptions;
  - Special, different or favorable regimes;
  - Tax credit rules;

- IBS/CBS should have a broad taxable base, levied on any kind of goods (material and immaterial) and services;
- IBS/CBS should be non-cumulative (input tax credits on any goods and service);
- IBS will be levied at destination;
- Standard tax rate, with few specific rates for certain products/services;
- Manaus Free Trade Zone and "Simples" regime maintained;
- Specific tax regimes should be foreseen for i.e., real estate, financial services, insurance, fuels;
- Taxable event: CBS and IBS will be levied on import and transactions with goods, services and rights;
- Law: IBS will be levied at joint State and City level. It will be regulated by Complementary Law, but State and City will determine the tax rate;
- Transition period: PIS/COFINS will cease to exist in 2027; ICMS/ISS will cease to exist in 2032;

• CBS and IBS rates shall increase gradually, while the rates of the current taxes fade away;
• Rates: IBS rate will be uniform in the whole country and will result from the State rate plus the City rate;
• Tax benefits: reduced rates for basic food ("cesta básica"), public transport, medical items, agribusiness inputs and products, female hygiene and others;
• Cashback system: will be adopted to reimburse the tax paid by low-income families;
• ICMS remaining credits: after ceasing to exist, any remaining ICMS tax credits may be offset against IBS for 20 years, indexed by IPCA.

## B) Changes introduced by the Senate

However, the bill presented by congressman Baleia Rossi (MDB-SP) and approved by the House of Deputies earlier this year was modified by the Senate's rapporteur, Eduardo Braga (MDB-AM), who incorporated several changes to the text. Among the **main changes to the text approved at the House of Deputies**, we highlight the following:

**New sectors will have a reduced rate of 30 or 60% of the standard rate of the future Value Added Tax (VAT), such as:**
• Institutional communication;
• Cleaning products, consumed by low-income families;
• Enteral or parenteral nutrition;
• Liberal professionals, regulated by laws;
• Extended basic basket products to be defined by complementary law.

**Zero rate on the following transactions:**
• Services provided by nonprofit scientific, technological, and innovation institutions (ICTs);
• Cars acquired by taxi drivers and people with disabilities;
• Medicine and medical devices acquired by the Public Administration and nonprofit social assistance entities;
• Urban rehabilitation of historic areas and critically deteriorated and converted urban areas.

**Specific regimes for:**
• Travel agencies;
• Public concessions to operate highways;
• Collective passenger transport by road, rail, waterway and air;
• Transactions involving an international treaty or convention;
• Diplomatic missions;
• Sanitation services;
• Telecommunications;
• Football societies, which should have a unified payment regime;
• Intercity and interstate public transport services, which should bear a specific regime, instead of a reduced rate.

**Every five years, the specific regimes should be reviewed to assess the cost-benefit**, in which case benefited sectors must follow economic, social and environmental performance targets; depending on the review, the law will determine a transition regime for the standard rate.

The text also provides for a **cashback offset against the energy and cooking gas bills of low-income families**. The reimbursement would apply at the time the electricity bill is issued, but details should be regulated by complementary law.

As per the **Excise Tax**, the modifications are the following:

• The proposal maintains the idea that the tax can be levied on products that cause harm to health or the environment, with rates to be defined by law;
• The tax is subject to the annual principle, according to which the tax can only be charged in the year following the sanction of the law;
• The objective of this tax is not to collect, but to regulate the market and punish harmful conduct;
• The tax may be levied on fuels;
• A 1% rate may apply on the production of non-renewable natural resources, such as ore and crude oil;
• Weapons and ammunition should be subject to the tax, except when supplied to the public administration;
• Telecommunication services and energy cannot be subject to the Excise Tax, neither products that compete with those produced in the Manaus Trade Free Zone.

**Trade Free Zone:** create an **Economic Domain Intervention Contribution (CIDE)** levied on the import, production or commercialization of goods that are produced in the Manaus Trade Free Zone.

**State Contribution:** the bill maintains the possibility that States levy a **Contribution on Primary and Semi-finished Products** that may be charged until 2043, provided that the State have fiscal equilibrium fund in place before April 2023.