

## Brazil: The Brazilian Government Changes Again The IOF Rules On Foreign Currency Loans

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As a result of the reduction of the liquidity in the international market, which affects the raising of loans abroad by Brazilian borrowers and the inflow of foreign currency funds into the country, the Brazilian government decided to reduce from five to two years the term of the transactions which are subject to the Brazilian Tax on Exchange Transactions (Imposto sobre Operações de Crédito, Câmbio e Seguro, ou relativas a Títulos ou Valores Mobiliários - IOF) at the rate of 6%.

This measure was announced by means of Decree No. 7751, of June 13, 2012 (Decree 7751/2012), published in the Official Gazette of the Union of June 14, 2012 and comprises all form of loans which are subject to registration with the Central Bank of Brazil (Banco Central do Brasil - Bacen), including not only direct loans (either banking or intercompany loans) but also bond issues in the international market, and symbolic exchange transaction for the renewal, renegotiation or transfer of existing loans.

Therefore, the IOF which is assessed on the entry of funds into Brazil or through symbolic exchange transactions is now applicable to any foreign currency loans contracted as from June 14, 2012 with an average minimum maturity term of 720 days<sup>1</sup>.

From now on, only for transactions exceeding the two year-period, there is no such taxation, because the applicable IOF rate is zero. However, if and when a transaction originally contracted for more than two year-period is prepaid, partially or totally, without complying the average minimum maturity term of two years, then the 6% IOF rate will apply, plus interest in arrears and a fine, which may vary from 5% to 100% of the total amount of the transaction, and a penalty of up to R\$ 100 thousand to be imposed by Bacen.

The IOF is a regulatory tax and the rates can be decreased or increased by the Executive Branch from zero to 25% (ceiling) whenever the authorities decide to foster or reduce the inflow of foreign currency funds into the country, in accordance with the monetary and exchange policy goals adopted by the Brazilian government.