



**BDO Seidman, LLP**  
Accountants and Consultants

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# Brazilian Consulting Services Tax Alert

## Issue:

### **Brazilian Tax Savings Opportunity – New COFINS & PIS Taxes**

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Additionally, BDO Seidman, LLP maintains a **Brazilian Consulting Services Practice** in Miami. We invite your call to:

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## **Date/Timing:**

Effective immediately.

## **Affecting:**

Companies with Brazilian subsidiaries or operations.

## **Details:**

The recently enacted changes to the Brazilian revenue-based COFINS (Contribution for the Financing of Social Security) and the PIS (Social Integration Program Contribution) taxes raise several opportunities for companies to restructure and rethink their Brazilian businesses going forward.

The original idea behind the changes initiated in 2002 to these taxes was to make them non-cumulative, only levied on the mark-ups from the manufacturer through to the retailer. By raising the tax rates and allowing a credit system for listed expenses, the taxable basis was transformed from “gross revenue” to “adjusted net revenue”. In this way, expenses such as electricity, fuel, leases, interest, asset depreciation, etc. incurred by the taxpayer can be credited for the purposes of calculating monthly PIS and COFINS taxes.

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*Material Discussed in this newsletter is meant to provide general information and should not be acted on without obtaining professional advice tailored to your firm's individual needs.*

The PIS tax had been raised from 0.65% to 1.65% in 2002 and the COFINS tax rate was raised from 3% to 7.6% as of February 1<sup>st</sup>, 2004. Credits are not allowed for major ticket items such as labor costs. In addition, as per recently enacted rules, the COFINS and PIS will also be charged on the import of goods and services from overseas. In this case, the taxpayer is the importing company. For import companies, the rates are between 1,65% and 2% for the PIS tax purposes and between 7.6% and 10.3% for COFINS tax purposes depending on the product or service being imported.

Unfortunately, notwithstanding the noble objective of reducing the cascade affect these taxes had on all production phases, the credit system adopted has more than doubled the tax burden of many companies for tax purposes (especially for service and import companies). This has significantly increased the tax cost of doing business in Brazil.

The legality of these tax changes is currently being challenged by taxpayers on the basis that these new rules treat taxpayers differently and that their enactment was illegal in view of the current constitution (they were brought about through provisional measures, whereas only complementary laws can increase tax and not provisional measures).

## **Recommended Action:**

There are several situations in which the PIS and COFINS tax burden can be minimized for both Brazilian and US purposes. For example: (i) the credit system adopted allows taxpayers to choose to outsource some non-core activities and to elect a lease instead of ownership of real estate or machinery and/or equipment; (ii) the local company can obtain a loan to generate interest expenses. In all, the changes invite a thorough examination of your firm's business activities in Brazil to analyze how best to take advantage of credit-generating opportunities and, at the same time, save on the newly-transformed COFINS and PIS taxes.

### FOR MORE INFORMATION

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