Brazil

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What's new?

Summary of updates/Changes to R&D and government incentives from 1 January 2019 through 31 October 2020

- The Minister of Economy has presented a draft bill (No. 3,887/2020) as the first phase of the Brazilian Tax Reform, which will be discussed and voted in the two legislative houses and, if approved, will enter into force six months after its publication. If approved, this tax reform is expected to revise the available incentives.
- The deadline for the Ministry of Science, Technology and Innovation (MCTI) R&D Form submission has been postponed from 31 July 2020 to 30 November 2020 due to COVID-19, and the calculated tax incentive must be reported in the corporate income tax return, the deadline for which has been postponed from 31 July 2020 to 30 September 2020.
- In December 2019, new legislation was issued for tax incentives related to IT companies and a decree regulating the program was published in May 2020. The new IT program eliminates the reduction in the excise tax due on the sale of computer goods and introduces a federal tax credit of up to 13.65% of the amount invested in R&DI to be offset against other federal taxes due.

Featured government incentives

Incentive name	Description	Maximum percentage	Qualification standards	Key exclusions or issues
Incentives for R&D	Super deductions, accelerated depreciation, and an exemption from excise tax	• Super deductions of 160% to 200%. An extra 20% deduction is available for IP-related development expenses, but only if a patent is registered • Special depreciation/ amortization for R&D assets • Certain deductions related to equipment, machinery, and tools acquired and dedicated exclusively for R&D activities • 50% reduction in IPI (federal excise tax) on equipment, machinery, and tools dedicated to R&D	Only R&D expenditure incurred in Brazil is eligible for the incentives Payments made to small businesses for the implementation of research projects also qualify Payments made to contractors for technical services may be qualified if the taxpayer does not transfer the technical risk of the development to the contractor	To qualify for the super deduction, a company must have a tax clearance certificate for the entire calendar year in which the incentive is taken
State VAT (ICMS) incentives	• Reduction in monthly state ICMS due • Deferral of ICMS due on fixed asset and raw material imports and local acquisitions • Grants or subsidies for sales of government-owned land	• Up to a 100% reduction in the monthly ICMS due • Deferral of the levy of ICMS on raw materials at the time the final products are sold and for fixed assets, deferral of ICMS until the time of sale, transfer, or disposal of the assets • Subsidy of up to 100% of the land; • The type and level of incentives differ in each state, and also depend on the activities performed by the company, the number of employees, raw material acquisitions, plant location, distance from the state capital, and the impact on the state's economy	The incentives are managed by the finance or economic development state departments and are granted by each state for investments in sectors considered relevant to local economic development (mainly industries and distribution centers)	Each state has its own legislation, with different requirements, credits, and terms Tax credits from the incentive may not be distributed to shareholders but must be reinvested in the company's operations or used to absorb losses from previous years

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Featured government incentives (continued)

Incentive name	Description	Maximum percentage	Qualification standards	Key exclusions or issues
75% corporate income tax (IRPJ) reduction	Reduction in IRPJ and non-refundable surcharges due for 10 years	75% reduction in the company's IRPJ liability	Investment in the establishment, expansion, or modernization of projects in the infrastructure, tourism, agribusiness, informatics, and industry sectors in the north and northeast regions of Brazil, plus a list of specific least developed 196 municipalities in the northern region of the states of Minas Gerais and Espírito Santo	In January 2019, the government extended the deadline for companies to apply for the IRPJ reduction to 31 December 2023. To qualify, the company must have an investment project, or one in progress as of 2023 and the application for benefits must be submitted and approved by the government by 31 December 2023 Tax credits from the incentive may not be distributed to shareholders, but must be reinvested in the company's operations or used to absorb losses from previous years

Industries most often affected by government incentives in country

	Technology, Media & Telecom		Financial Services
●	Telecom, Media & Entertainment	●	Banking & Capital Markets
●	Technology	●	Insurance
	Consumer		Investment Management
●	Consumer Products		Real Estate
●	Retail, Wholesale & Distribution		**Life Sciences & Health Care**
●	Automotive	●	Health Care
●	Transportation, Hospitality & Services	●	Life Sciences
	Energy, Resources & Industrial		**Government & Public Services**
●	Power & Utilities		Health & Social Care
●	Mining & Metals		Defense, Security & Justice
●	Oil, Gas, & Chemicals		Civil Government
●	Industrial Products & Construction		International Donor Organizations
			Transport

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Type	National incentive?	State, provincial, regional or local incentives?[1]	Filing deadlines imposed?	Is the claim made in advance or arrears?[2]	Nature of incentive	Maximum benefit available to large enterprises	Maximum benefit available to small and medium-sized enterprises
Innovation							
Research & development (R&D)	Permanent incentive	No	Permanent incentive No	National: Arrears Local: No	Super deductions and accelerated depreciation on total R&D expenditure for companies meeting certain requirements. Qualifying R&D expenditure includes wages, salaries, raw materials, and certain payments made to third parties that are directly attributable to the conduct of qualified R&D	Super deduction of between 160% and 180% (a benefit of 20.4%–27.2% of qualified R&D expenditure). An extra 20% deduction is allowed for qualifying costs incurred in developing a patent that is registered. 100% accelerated depreciation is allowed on machinery, equipment, instruments, and intangibles purchased for R&D	Super deduction of between 160% and 180% (a benefit of 20.4%–27.2% of qualified R&D expenditure). An extra 20% deduction is allowed for qualifying costs incurred in developing a patent that is registered. 100% accelerated depreciation is allowed on machinery, equipment, instruments, and intangibles purchased for R&D
R&D grant (national): Tax credit for IT companies	Temporary incentive	No	Permanent incentive	Advance	Tax credit (available until 2029) for companies that develop or produce certain IT goods and services and invest at least 4% in R&D activities	Credit of up to 13.65% of qualifying R&D expenditure according to site location for technologies developed in Brazil	Credit of up to 13.65% of qualifying R&D expenditure according to site location for technologies developed in Brazil
Rotal 2030 Incentives	Temporary incentive	No	Permanent incentive	Advance	Tax incentives for automotive industry	Additional income tax deduction (equal to 34% of 30%–45% of qualifying R&D expenditure), import duty exemptions, and a 1% or 2% IPI reduction on certain vehicles	Additional income tax deduction (equal to 34% of 30%–45% of qualifying R&D expenditure), import duty exemptions, and a 1% or 2% IPI reduction on certain vehicles

Key: = PERMANENT INCENTIVE = TEMPORARY INCENTIVE = NEGOTIABLE = NO = LIMITED APPLICABILITY = NOT APPLICABLE

Notes:

1. Green means that this incentive is currently in effect. Yellow means that the incentive has limited applicability, i.e., the requirements for this incentive limit its value to most companies. Red means that there is no incentive.
2. If the response is advance, this means that the government must approve the award of the incentive prior to the commencement/completion of the project/activity. If the response is arrears, this means that the award of the incentive is determined at the end of the tax period or after the completion of the qualifying project or activity. Most tax incentives are considered to be claimed in arrears because they are reported on tax returns.

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Investment							
Capex: Ex tariff regime for imports of capital, computers, and telecommunica-tions assets	Temporary	No	Permanent	Advance	Temporary reduction of import duty on goods classified as capital, data and telecommunications assets in the Mercosur Harmonized Tariff Schedule, and that do not have a locally produced counterpart. All the current regimes are valid through December 2021	Temporary reduction of import duty to 2% or 0%	Temporary reduction of import duty to 2% or 0%
Capex: Corporate income tax reduction for projects in north/northeast regions	Temporary	No	Permanent Project must be submitted by 31 December 2023	Advance	75% corporate income tax (IRPJ) reduction for companies with capex investments in the north and northeast regions of Brazil, the state of Mato Grosso, and part of the states of Espirito Santo and Minas Gerais and that operate in specific economic sectors	75% reduction in IRPJ and non-refundable surcharges due on operating profit, granted for a 10-year term	75% reduction of IRPJ and non-refundable surcharges due on operating profit, granted for a 10-year term
Capex: Corporate income tax reinvestment for projects in north/northeast regions	Temporary	No	Permanent Project must be submitted by 31 December 2023	Advance	30% corporate income tax (IRPJ) reinvestment for companies with capex investments in the north and northeast regions of Brazil, the state of Mato Grosso, and part of the states of Espirito Santo and Minas Gerais and that operate in specific economic sectors	30% reduction in IRPJ and non-refundable surcharges due on operating profit	30% reduction in IRPJ and non-refundable surcharges due on operating profit
Capex: REIDI special incentive regimes	Permanent	No	Permanent	Advance	Suspension of PIS and COFINS on acquisitions (imports as well as domestic acquisitions) of machinery, devices, equipment, and services for infrastructure	PIS and Cofins suspension (approximately 9.25% of qualifying investment)	PIS and Cofins suspension (approximately 9.25% of qualifying investment)
Capex: State VAT (ICMS) incentives	No	Temporary	No	Advance	ICMS incentives for qualifying capex investments. Eligibility and amounts vary from state to state, depending on location, type of activity, economic segment, number of employees, R&D investment, and other factors	Up to 100% reduction of ICMS/VAT due on sales	Up to 100% reduction of ICMS/VAT due on sales

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Type	National incentive?	State, provincial, regional or local incentives?[1]	Filing deadlines imposed?	Is the claim made in advance or arrears?[2]	Nature of incentive	Maximum benefit available to large enterprises	Maximum benefit available to small and medium-sized enterprises
Investment (continued)							
Capex: Municipal tax incentives	NO	TEMPORARY INCENTIVE	NO	Advance	Eligibility and amounts vary from municipality to municipality; incentives may include reduction in municipal taxes (services, properties) and fees (licensing and others), and land and infrastructure investment subsidies	Varies	Varies
Capex: Manaus Free Trade Zone (MFTZ) incentives	TEMPORARY INCENTIVE	TEMPORARY INCENTIVE	NO	Advance	Import duty reduction, excise tax exemption, and PIS/COFINS exemption/reduction on investments for the implementation of new sites, introduction of new production/ product lines or to increase productive capacity of activities considered of fundamental interest and located in the MFTZ	• 88% reduction in import duty for consumables used in industrialization; • Excise tax exemption; • PIS/COFINS exemption for imported goods and internal sales between industries within MFTZ, and 3.65% rate (5.6% reduction) on finished goods sales to the rest of the country	• 88% reduction in import duty for consumables used in industrialization; • Excise tax exemption; • PIS/COFINS exemption for imported goods and internal sales between industries within MFTZ, and 3.65% rate (5.6% reduction) on finished goods sales to the rest of the country
Capex: Export Processing Zones (EPZ)	TEMPORARY INCENTIVE	TEMPORARY INCENTIVE	PERMANENT INCENTIVE	Advance	Tax incentives for qualifying companies/ projects in Export Processing Zones (free trade areas aimed at attracting companies engaged in the production of goods to be traded worldwide)	Exemption of Federal taxes (II: Import Tax; IPI: Tax on Manufactured Products; PIS: Social Contribution on Gross Revenue; Cofins: Social Contribution – Tax Presumptive Profit; AFRMM: Additional Freight Charge for the Renovation of the Merchant Navy) on domestic or imported raw materials and capital goods (new or used)	Exemption of Federal taxes (II: Import Tax; IPI: Tax on Manufactured Products; PIS: Social Contribution on Gross Revenue; Cofins: Social Contribution – Tax Presumptive Profit; AFRMM: Additional Freight Charge for the Renovation of the Merchant Navy) on domestic or imported raw materials and capital goods (new or used)

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Country background

The general IRPJ rate in Brazil is 34%. The incentives listed below are available for companies that operate under the Lucro Real tax regime (actual profit method), under which the company must generate a profit during the year in which the incentive is claimed.

Brazilian federal, regional, state, and municipal jurisdictions provide incentives that are focused on the development of new industrial and commercial businesses. Usually, the main entry criteria is capital expenditure (capex) investment; however, secondary criteria may include labor, training expenditures, social benefits and environmental investment.

Innovation Incentives

Research & development (R&D)

Nature of incentives

Super deduction and enhanced super deduction

The super deduction is equal to 160% of the total R&D expenditure.

If the entity increases the number of researchers dedicated exclusively to research projects by up to 5% in a given year, the super deduction increases to 170%, and if headcount increases by more than 5% in a given year, the super deduction increases to 180% of qualifying expenses. Employees who relocate internally to work exclusively on qualified research projects may be taken into account in calculating the increase in the number of researchers. Unused deductions may not be carried forward or back.

Enhanced super deduction for patents

An extra 20% deduction is allowed for qualifying costs incurred in developing a patent, but the super deduction is granted only if the patent is registered. Since the taxpayer's eligibility for claiming the super deduction is delayed until the patent is registered, few taxpayers take advantage of this provision. Unused deductions may not be carried forward or back.

Depreciation/amortization

For income tax purposes, 100% depreciation is allowed in the year of acquisition of new machinery, equipment, and instruments dedicated to R&D, as well as 100% amortization for intangibles used in R&D.

Eligible industries and qualifying costs

Eligibility is broad and is not limited to particular industries.

Activities undertaken to achieve technological innovation qualify for the R&D tax incentives. These activities include designing new products or processes, as well as the addition of new functionalities or characteristics to a product or process, resulting in incremental improvements in quality or productivity. Software development qualifies as an R&D activity if it is undertaken to advance scientific or technical goals.

R&D expenditure includes wages, salaries, and certain payments made to third parties (e.g., laboratory tests, etc.) that are directly attributable to the conduct of qualified R&D activities.

The Brazilian tax authorities have issued guidance on the following issues:

Professionals partially dedicated to R&D: Where applicable, employment contracts of employees that are partially dedicated to qualifying research projects should specifically indicate that the employees work as researchers in technological innovation projects. If the employment agreement is not specific as to these activities, expenses connected with the employees that are partially dedicated to R&D cannot be included in the R&D tax incentive calculation.

R&D subcontracting: Tax incentives for subcontracting expenses are limited to the following:

- Contracts with service providers, provided the hiring company assumes the responsibility for enterprise risk management and control of project expenditure;
- Payments made to small businesses for the implementation of research projects, even if the subcontracted party participates in the profitability of the final economic results of the project; and
- Part of the qualified expense amounts incurred for contracted technical services, such as laboratory trials and testing, provided the taxpayer does not participate in the execution of the services.

Expenses related to administrative and indirect services are not eligible even if they are associated with a research project. Such expenses include security, cleaning, maintenance, library, and documentation services, as well as coordination, administration, and financial monitoring of research projects.

Rota 2030

Automotive manufacturers, importers, auto parts manufacturers, and companies carrying out certain strategic automotive-related R&D activities in Brazil may be eligible for the following tax incentives for a five-year period (which may be renewed twice):

- An additional income tax deduction for R&D expenditure (equal to 34% of 30%–45% of R&D expenditure incurred in Brazil) as from 1 January 2019;

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- An exemption from import duty as from 1 January 2019 for imported parts and components (where no national equivalent is available) to be used in the manufacturing of automotive products; and
- A 1% or 2% reduction of the IPI (excise tax) on vehicles that meet certain requirements related to energy efficiency and other performance indicators, as from 1 January 2022.

The income tax deduction may be applied in conjunction with other tax incentives (such as specific IPI deemed credits for companies involved in R&D, benefits granted in the free trade zone in Manaus, IPI deemed credits for companies located in the North and Northeast regions, and certain R&D-related incentives).

To benefit from the Rota 2030 incentives, the company must meet the following requirements:

- Be in compliance with federal tax rules;
- Spend on R&D the minimum percentage of gross revenue from sales of products and services per calendar year indicated in the following table:

Minimum revenue percentage	2019	2020	2021	2022	2023
Companies that produce/import cars and auto parts or strategic systems for the production of such vehicles and auto parts or new strategic solutions applicable to mobility and logistics	0.70%	0.85%	1%	1.2%	1.2%
Companies that produce trucks and heavy vehicles	0.40%	0.50%	0.6%	0.75%	0.75%

- Be subject to income tax and have elected the actual profit method; and
- Have a separate cost center for R&D.

Intellectual property (IP) and jurisdictional restrictions

Only expenditure incurred in Brazil is eligible for the incentives (except for the reduction in the IPI (tax on industrial profits) discussed below). The resulting IP does not have to be held within Brazil.

Other considerations

To qualify for the super deduction, a company must have a tax clearance certificate for the entire calendar year in which the incentive is taken.

The total amount of the tax incentive must be reported on the income tax return (ECF - Digital Tax Bookkeeping) by the end of July of the following fiscal year (the 30 July 2020 deadline has been postponed to 30 September 2020). Technical information on the R&D activities/projects of the relevant fiscal year must be reported annually on the MCTI R&D online form by the end of July of the following fiscal year (the 30 July 2020 deadline has been postponed to 30 November 2020).

Specific accounting controls are required, i.e., the chart of accounts must present specific accounts indicating the R&D expenditure. The tax authorities require an internal control of costs and expenses for each R&D project, using consistent and standardized criteria throughout the fiscal year, and a detailed and specific recording of all expenditure.

A group of technical specialists will conduct a technical review of the claims, as well as the alignment of the nature and costs of the activities.

Equipment, machinery, and tools used exclusively for R&D may be deducted at the time the expense is paid or incurred. The depreciation expense recognized for accounting purposes must be added back on the income tax computation. However, if assets initially acquired for use in R&D activities are subsequently sold or used for other activities, the difference between the expenses paid or incurred and the expenses already added back must be added back to the income tax computation in the period the asset is sold or used for other activities.

Equipment, machinery, and tools that are used exclusively for R&D receive a 50% reduction of the IPI due. This incentive must be claimed at the time the research-related equipment, machinery, or tools are acquired.

ITC incentive

In December 2019, new legislation was issued for tax incentives related to IT companies and a decree regulating the program was published in May 2020. In general terms, the new legislation replaced the excise tax (IPI) incentives for information, technology, and communications (ITC) products, by introducing a federal tax credit of up to 13.65% of the amount invested in R&DI to be offset against other federal taxes due.

Companies that develop or produce ITC goods and services according to their respective PPBs (Basic Productive Processes) and invest at least 4% of gross revenues in R&DI activities are eligible for this credit. The amount is deducted from the basis of the corporate income tax and social contribution on net income and may be carried forward for up to five years.

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Investment Incentives

Capex—IRPJ reduction in north and northeast regions

A 10-year 75% reduction in IRPJ is provided to companies (i) with capex investments in the north and northeast regions of Brazil, the state of Mato Grosso, and part of the states of Espírito Santo and Minas Gerais; (ii) that are in an economic segment that is considered priority for regional development (infrastructure, industries, agribusiness, tourism, IT); and (iii) that invest to implement, expand, diversify or improve projects.

Capex—IRPJ reinvestment in north and northeast regions

An incentive for reinvestment is granted to the same companies eligible for and can be used in conjunction with the 75% IRPJ reduction in the north and northeast regions. Companies can obtain a 30% reduction in the tax due. When used in conjunction with the IRPJ reduction, the reinvestment incentive applies to the IRPJ due after the 75% reduction. The taxpayer must deposit 30% of the IRPJ due in a Federal Development Bank, plus 50% of the 30% of the IRPJ from its own funds (i.e., 15% of the IRPJ). To receive a refund of the deposit, the company must submit and receive approval for a technical project attesting to the investment in the acquisition of equipment to modernize the plant.

Capex—Incentives regime for infrastructure development (REIDI)

Special incentives are available for the development of infrastructure (transportation, energy, oil, gas, water and sanitation, irrigation, and pipeline projects) and are valid for five years. The incentives consist of the suspension of the social integration program contribution (PIS/PASEP) and social security financing contribution (COFINS) on the acquisition of equipment and services for the projects, usually approximately 9.25%. The suspension is converted to a zero-rate transaction at the time the goods are incorporated in the company's fixed assets.

Capex—State ICMS incentives

A company can receive up to a 100% reduction in the VAT (ICMS) due. The state tax incentives usually are managed by the finance or economic development departments of each state and are granted for industrial undertakings with investments in designated priority sectors. Each state establishes specific financial and tax incentive programs to stimulate local economic development.

State negotiated non-tax business incentives

Depending on the relevancy of investment projects, state governments may grant financial benefits through a negotiation process. As result of the negotiation, the company may enter into a memorandum of understanding with the government that will result in the provision of benefits, such as grants or subsidized sales of land areas for project implementation and infrastructure facilitation (road access, electric power, etc.).

Ex-tariff regime for imports of capital, computers, and telecommunication assets

This regime aims to reduce the acquisition costs of imported capital, computers, and telecommunication assets. The regime consists of an import tax reduction (usually ranging between 2% and 14%) and is applicable only to goods that do not have a locally produced counterpart.

Export Processing Zone (EPZ)

The industrial projects established in Brazilian EPZs must be greenfield investments, and at least 80% of the company's total gross revenue sales should originate from exports. The start-up of a company operation into an EPZ depends on the EPZ administrator's acceptance; the approval of industrial projects by the National Council of Export Processing (CZPE); and the previous authorization by Customs and Environmental Brazilian authorities.

Companies located in an EPZ will benefit from tax incentives, such as an exemption from Federal taxes (import tax (II), tax on manufactured products (IPI), social contribution on gross revenue (PIS); social contribution–tax presumptive profit (Cofins), additional freight charge for the renovation of the Merchant Navy (AFRMM)) on domestic or imported raw materials and capital goods (new or used), and an exemption from license and authorization fees (sanitary, national security, and environmental fees).

Long-term legal certainty is also an important attribute of this regime, considering that Federal incentives are granted for 20 years and can be extended for an equal period.

Other Incentives

Municipal tax incentives

Several municipalities offer tax incentives to promote investments, such as a reduction in the tax on services (ISS) and an exemption from property tax for IT companies and construction of manufacturing sites.

Manufacturing projects in Amazon region Manaus Free Trade Zone (MFTZ)

The MFTZ is a free import and export trade area where special fiscal incentives apply. The objective of the program is to create an industrial, commercial, and agricultural center in the Amazon region under economic conditions that allow development, given local factors and the great distance separating it from its markets. Tax incentives granted in the MFTZ are an 88% reduction in import duty on the inputs of industrial goods, exemption from the IPI, and a 5.6% reduction of PIS/PASEP and COFINS contributions (from to 9.25% to 3.65%). Additionally, the State can provide a reduction of the ICMS.