

If you are not able to read this e-mail click [here](#).



# VELLOZA, GIROTTO E LINDENBOJM

*Advogados Associados*

Year 8 - Special Edition 10 - 19/03/2008

## Special Edition 10

### IOF – New Legal Provisions

Decree no. 6,391, dated 03.13.08, amends Decree no. 6,306, dated 12.14.07 ("New RIOF"), in relation to provisions on the Tax on Financial Transactions (*Imposto sobre Operações Financeiras* – "IOF").

#### I.1 Credit Transactions

- **Clarifications on the additional (0.38%) in the IOF/Credit taxable base in the cases it specifies.**

Pursuant to the new wording of the legal provision the additional IOF rate of (0.38%) shall be levied on credit transactions having fixed principal amounts, independently of the term of the transaction. The annual caps of 1.5% and 3% only relate to the levy of the daily IOF rates of 0.0041% (legal entities) and 0.0082% (individuals) respectively. Therefore, even if the credit transaction reaches the IOF annual ceiling this additional (0.38%) still needs to be ascertained and collected to the fiscal authorities.

- **Non-levy of the Additional Tax Rate in the Renewal of Credit Transactions wherein there is no Debtor Substitution**

The additional tax rate of 0.38% referred to above shall not be levied in cases of extension, renewal, novation, composition, consolidation, confession, or other similar cases, and credit transactions in which there is no substitution of the obligor (debtor), inasmuch new funds are not delivered or made available to the obligor.

- **Non-levy of the Additional Tax Rate in Credit Transactions Linked to Exports and in Forward Transactions of Export Exchange Agreements (ACC and ACE)**

Credit transactions linked to exports, as well as those supporting or promoting such exports, and transactions related to forward transactions of export exchange agreements (ACC and ACE) were excluded from the list of transactions subject to the additional IOF/Credit rate of 0.38%.

- **Credit Transactions Related to the Transfer of Funds: Loss of the Zero Tax Rate Benefit**

Credit transaction relating to the pass-on of funds obtained abroad, carried out by a financial institution, is no longer covered by the zero tax rate. Thus, from March 17, 2008, the passing on of funds will be an IOF/Credit taxable event at a rate of 0.0041% for legal entities and of 0.0082% for individuals.

#### I.2 Exchange Transactions

- **IOF/Exchange Tax Rate Alterations**

The recent Decree has also changed the tax treatment of several exchange transactions, which previously enjoyed either a zero tax rate or were subject to a general rate of 0.38%, was altered by the recent Decree.

The currently in force IOF/Exchange rates are:

TRANSACTIONS	TAX RATE
Currency loans with a minimum average term of up to 90 days;	5,38%
Fulfillment of obligations of credit card administrators or (banks, as credit card issuers) arising from the acquisition of goods and services abroad carried out by the credit card holders;	2,38%
Fulfillment of obligations of credit card administrators or (banks, as credit card issuers) arising from the acquisition of goods and services from abroad, when the credit card holders are the federal government, the State, Municipal, Federal District, their foundations or government corporation;	Zero
Related to the payment of import of services;	0,38%
Related to the inflow of income from the export of goods and services into the country;	Zero
Related to the transfer, within the limits and conditions set by the Brazilian Securities and Exchange Commission ("CVM"), to and from abroad, regarding investments made by Brazilian mutual funds in the international market;	Zero
Transactions settled 03.17.08, related to the transfer to and from abroad of funds to be invested in the country by a foreign investor, in variable income, carried out in stock market or futures and commodities markets, except derivative transactions with predetermined earnings;	Zero

In settlements of exchange transactions for the inflow of funds into the country, carried out by a foreign investor, as of 03.17.08, to be invested in the financial and capital markets (except transactions with Derivatives, Initial Public Offering and subscription of shares);	1,5%
In settlements of exchange transactions carried out to repatriate funds invested by a foreign investor in the financial and capital markets;	0,38%
In settlements of exchange transactions for the remittance of interest on net equity and dividends earned by a foreign investor;	Zero
In settlements of exchange transactions for the inflow of funds into the country from 03.17.08, for the acquisition of shares by a foreign investor in a public offering registered with the CVM or for the subscription of shares, provided that, in both cases, the issuing companies have the proper registration authorizing such trading of shares in the stock market;	Zero
Carried out by international air freight companies, domiciled abroad, for the remittance of funds arising from their local revenues;	Zero
Carried out by financial institutions to pass on to the domestic market funds obtained abroad settled after 03.17.08;	Zero
Related to the inflow of foreign currency for covering expenses carried out in the country with credit cards issued abroad;	Zero
The purchase of foreign currency by an institution authorized to operate in the exchange market, hired simultaneously with a sale transaction, exclusively when requested in a regulatory provision;	Zero
Other exchange transactions;	0,38%

Decree no. 6,391, dated 03.12.08. Published in the Federal Official - DOU of 03.13.08.

**THIS IS A MERELY AN INFORMATIVE NEWSLETTER, RESTRICTED TO VGL CLIENTS. QUESTIONS AND CLARIFICATIONS ON THE MATTERS CONTAINED HEREIN SHOULD BE ADDRESSED TO OUR OFFICE.**

São Paulo	Rio de Janeiro	Brasília
> Av. Paulista, 901 17º e 18º andares Bela Vista - São Paulo - SP CEP 01311-100 Tel.: (55-11) 3145.0055 Fax: (55-11) 3145.0050	> Rua da Assembléia, 10 Sala 1801 Rio de Janeiro - RJ CEP 20011-901 Tel.: (55-21) 2509.0055 Fax: (55-21) 2509.1566	> SRTV Sul, Quadra 710 Cj. D, nº 100 Sala 234 Brasília - DF CEP 70340-000 Tel.: (55-61) 323-8848 Fax: (55-61) 426-7306

If you would like to cancel the subscription to our Newsletter, reply to this e-mail using as subject "remove"