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VELLOZA & GIROTTTO  
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## **IOF/FX Derivatives**

### **IN RFB No. 1,256/2012: IOF/TVM Derivatives on hedge transactions carried out by export companies**

On March 08, 2012, Normative Instruction (“IN”) issued by the Brazilian Federal Revenue (“RFB”) No. 1,256, of March 07, 2012 (“**IN RFB No. 1,256/2012**”), was published on the Brazilian Federal Official Gazette, changing RFB Normative Instruction No. 1,207, of November 03, 2011 (“**IN RFB No. 1,207/2011**”), which regulates the levy of the Tax on Credit, Foreign Exchange, Insurance or Bonds and Securities Transactions (“**IOF**”), the type specifically levied on transactions involving bonds and securities (“**IOF/TVM**”), especially in connection with financial derivative contracts (“**IOF/TVM Derivatives**”).

Below is a summary of the changes brought about by IN RFB No. 1,256/2012:

#### **Possibility of discounting the IOF/TVM Derivatives due in connection with hedge transactions carried out by export companies**

Consonant to what has been established by Law No. 12,543, of December 08, 2011, IN RFB No. 1,256/2012 has added Article 8-A to IN RFB No. 1,207/2011, establishing that, with regard to hedge transactions, exporting legal entities, when qualified as taxpayers, may discount the amounts due as IOF/TVM Derivatives (ascertained and collected in accordance with Article 8 of such IN RFB No. 1,207/2011) from their IOF due in each period.

In case the performance of such discount is not possible, IN RFB No. 1,256/2012 provides that the relevant legal entity may request the reimbursement or the offset of the relevant amounts paid as IOF/TVM Derivatives, observing the conditions and procedures provided for in article 74 of Law No. 9,430, of December 27, 1996, and in IN RFB No. 900, of December 30, 2008.

However, IN RFB No. 1,256/2012 also provides that the amounts so discounted or offset may not be considered as deductible expenses for purposes of ascertainment of neither the company's actual profit (*lucro real*), nor its Social Contribution on Net Profits ("CSLL") tax basis.

### **Entry into force**

IN RFB No. 1,256/2012 has entered into force on the date of its publication (i.e., March 08, 2012).

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

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