

# GMS Flash Alert



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## Brazil - Changes to Individual Taxation, Reporting of Foreign Income and Assets

On April 30, 2023, the new Brazilian government published Provisional Measure (“MP”) No. 1,171/2023<sup>1</sup> which introduces some changes to taxation rules applicable to individuals, such as the progressive federal income tax table’s brackets and the taxation of foreign income (financial investments, controlled entities, and trusts) by individuals residing in Brazil. The MP also allows for inflation adjustments on the value of assets and rights located abroad, and revokes some other provisions.

The MP has immediate effect as from its publishing date (May 1, 2023); however, it should be converted into law within 60 days, extendable for equal period, to remain applicable.

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### WHY THIS MATTERS

After many years without relevant changes to the individual income tax and reporting legislation in Brazil, the MP provides several important updates which will impact all tax residents in Brazil who receive earnings from foreign sources and/or hold assets and rights abroad.

The MP also contains legal provisions increasing the taxes due by individual tax residents in Brazil and creating new reporting requirements, these provisions would be applicable only as from the next tax year (i.e., as from January 1, 2024, or a later date to be confirmed in the new law). However, under Brazilian rules, this MP is currently approved and valid for a 60-day period, extendable for 60 days more; but it must be approved at the end of that period to be converted into law and to remain valid after this period.

International assignees outside of Brazil but subject to Brazilian tax law and Brazil-inbound assignees subject to Brazilian tax law – and their employers and tax service providers – should make themselves aware of these changes as different forms of income will be taxed under new rules. And several favorable rules for capital gains on sales of assets held overseas, and exchange rate gains on assets acquired abroad have been repealed. This could create issues around timely compliance and payment of any tax owed.

Employers may need to consider their budget projections for assignments due to the changes. Furthermore, employers may need to make the necessary payroll adjustments and update hypothetical taxes for tax-equalized assignees.

## Main Aspects of MP N°. 1,171/2023

### New Progressive Tax Table

As from May 2023, the individual income tax will be calculated according to the following monthly table:

Income Tax brackets (BRL)	Tax rate (%)	Deductible Amount* (BRL)
Up to 2,112	zero	Zero
From 2,112.01 to 2,826.65	7.5	158.40
From 2,826.66 to 3,751.05	15	370.40
From 3,751.06 to 4,664.68	22.5	651.73
Up to 4,664.68	27.5	884.96

Source: KPMG in Brazil

\* Taxpayers will apply the maximum rate in their tax bracket to total income, then deduct the respective deductible amount. This aids in the progressivity of the tax system.

Moreover, as an alternative to the currently allowed monthly income tax deductions, a simple monthly discount corresponding to 25 percent of the maximum exempt amount of the progressive tax table may be used if it is more beneficial to the taxpayer.

### Financial Investments Abroad

As from January 1, 2024, there will be a separate tax calculation and reporting obligation for tax residents in Brazil receiving the following earnings from capital invested abroad:

- financial investments;
- profit and dividends from subsidiaries;
- assets and rights held by a trust.

Such calculation will take on board the tax rates and thresholds noted below, with no deductions allowed:

Thresholds	Tax Rate
Earnings up to BRL 6,000.00 per year	0%
Earnings from BRL 6,000.01 to BRL 50,000.00 per year	15%
Earnings above BRL 50,000.00 per year	22.5%

Source: KPMG in Brazil

The earnings mentioned by the MP will be included in the Income Tax Return and subjected to income taxation when they are effectively received by the individual, upon redemption, amortization, sale, maturity, or settlement of financial investments.

### Profit Abroad

As from January 1, 2024, the profit and dividends received by individual tax residents in Brazil from foreign entities that are domiciled in tax havens or have their own corporate income lower than 80 percent will be taxed at the end of each calendar year, regardless of their distribution decision.

The MP determines how the profit of subsidiaries will be calculated, including the conversion of these amounts into local (Brazilian) currency, the taxation event, the allowed deductions and offsets, and how it must be reported in the Individual Income Tax Returns.

### Capital Gain Taxation

The MP revokes the exemption previously applied to capital gains (profit) on the sale of assets held abroad by tax residents in Brazil, when the asset had been acquired during their period of non-tax residence.

### Exchange Rate Variance

Previously, gains from the exchange rate variance on assets acquired abroad with earnings originally received in foreign currency were considered tax exempt in Brazil. The MP has also revoked this exemption.

### Foreign Assets and Rights Value Update

Tax residents in Brazil can now choose to update the value of rights and assets held abroad that are disclosed on their individual income tax return as per their respective market value as of December 31, 2022. As such, the difference from the market value to the acquisition cost of the asset will be taxed at a 10-percent tax rate.

The option must be exercised as per the rules and deadline to be set forth by the Brazilian tax authorities, and it has already been announced that the updates **can be applied collectively or separately for each asset** or right abroad, with the applicable tax payable by November 30, 2023.

Assets and rights ALLOWED to have their value updated are the following:

- financial investments;
- properties in general, or assets that represent rights to real estate;
- vehicles, aircraft, vessels, and other movable property subject to registration in general, even if in fiduciary sale; and
- ownership of subsidiary entities.

Assets and rights that CANNOT have their value updated are the following:

- assets and rights that have not been reported in the 2023-2022 Brazil Income Tax Return (filed by May 31, 2023);
- assets and rights that have been disposed of, written off, or settled on a date prior to when the option addressed by this MP is formalized; and
- jewel, stones, and precious metals, pieces of art, antiques of historical or archeological value, domestic or sport animals, and animal-based reproduction genetic material subject to registration in general, even if these are subject to conditional sale.

### Trusts

The assets and rights included in a trust structure abroad will be considered as:

- under the ownership of the settlor after the establishment of the trust;

— under the ownership of the beneficiary at the time of distribution by the trust to the beneficiary or at the settlor’s passing (whichever occurs first).

The MP also states that income and capital gains related to the assets and rights owned by the trust to be earned from January 1, 2024, will be considered earned by the holder of such assets and rights on the respective date and subject to the applicable individual income taxation.

Additionally, it has determined rules for taxation if the trust has a foreign subsidiary, and it defines the legal nature of a possible distribution of the trust to the beneficiary.

As from January 1, 2024, the trust’s assets and rights must be reported **directly** by its holder in the holder’s Brazil Annual Income Tax Return in terms of their acquisition cost. Moreover, the MP also sets out the guidelines clarifying amendments to trust reporting in previously-filed income tax returns, and includes the definitions of trust, trustee, settlor, beneficiary, among others.

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## KPMG INSIGHTS

The Provisional Measure enacted by Brazil’s new government contains a number of changes that, simply put, alter the tax treatment of individual income, whether that income comes from employment or financial investments overseas. The trust regime has undergone some important reforms. And the valuation of foreign assets for Brazilian tax residents – and, hence, their taxation – will change, as well.

For new assignees inbound to Brazil, pre-departure and/or on-arrival conversations with those who will be subject to Brazilian tax law should include mention of applicable tax rates, thresholds and brackets, exemptions, valuation rules for overseas assets they hold, reporting requirements, and the impact on the assignee.

Employers and employees concerned about the effect of the above-noted changes and how to budget for and otherwise plan the employee’s assignment, should contact their qualified tax professional or a member of the Global Mobility Services team with KPMG in Brazil (see the Contacts section).

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## FOOTNOTE:

1 To see (in Portuguese) Provisional Measure (“MP”) No. 1,171/2023 (*Medida Provisória, n. 1.171, publicada no Diário Oficial da União, em 30/04/2023, Edição: 81-G, Seção: 1 - Extra G*), [click here](#).

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## Contact us

For additional information or assistance, please contact your local GMS or People Services professional or the following professional with the KPMG International member firm in Brazil:



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**The information contained in this newsletter was submitted by the KPMG International member firm in Brazil.**

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