

# MEMORANDUM TO CLIENTS

04.17.2015

## **CONSTITUTIONAL AMENDMENT NO 87/2015 VAT (“ICMS”) LEVIED UPON INTERSTATE TRANSACTIONS TO FINAL CONSUMER**

On April 17, 2015, Brazilian Congress enacted the Constitutional Amendment no. 87/2015, which modified the Constitution’s Art. 155, 2nd paragraph, numbers VII and VIII, which set forth how to levy the VAT (“ICMS”) on interstate transactions.

According to the new provisions, the ICMS shall levy the interstate transactions at the interstate rate, which can be of 4% (four per cent), 7% (seven per cent) or 12% (twelve percent) according to the case. The interstate rate is applicable whether the consumer is an ICMS-taxpayer or not. The seller is obliged to pay the interstate rate to the State in which he/she is located. Before, the interstate rate was only applicable, if the consumer was an ICMS-taxpayer.

The difference between the amount charged according to the interstate tax rate and the amount charged according to the tax rate applied by the State in which the consumer is located (“internal tax rate”)<sup>1</sup> shall be paid to the latter. If the consumer is an ICMS-taxpayer, he/she is the person obliged to pay such amount to the State where he/she is located. If the consumer is not an ICMS-taxpayer, the seller has to pay such amount on his/her behalf.

We place ourselves at your reach for any clarification needed.

Yours truly,

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<sup>1</sup>Typically, the internal rates vary from 17% (seventeen per cent) to 19% (nineteen per cent).

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