The Brazilian Executive Branch published on 31 May 2017, Provisional Measure (PM) No. 783/2017, establishing a new tax amnesty program, the so-called PERT. The PM is effective on its publication date and must be converted into Law within 60 days (which may be extended for another 60 days) either as issued by the Executive Branch or as amended by the Brazilian Congress. If the PM is not be converted into Law within 60/120 days, then the PM will expire. The PM requires the Brazilian Tax Authority to issue guidance (e.g., a Normative Instruction) for the adequate implementation of the PERT by 30 June 2017.

**Eligibility**

The PERT is available to taxpayers whose tax debts are overdue as of 30 April 2017, including tax debts for which taxpayers have applied to prior tax amnesty programs and tax debts that are currently subject to administrative or judicial actions. To avail themselves of the PERT, taxpayers must submit their application by 31 August 2017.
### Payment alternatives for tax debts managed by the Brazilian Revenue Services

<table>
<thead>
<tr>
<th>Alternative I</th>
<th>Alternative II</th>
<th>Alternative III</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Down payment in cash of at least 20% of the taxpayer’s tax debt in five monthly installments due in August through December 2017</td>
<td>a) Down payment in cash of at least 20% of the taxpayer’s tax debt in five monthly installments due in August through December 2017</td>
<td>a) Down payment in cash of at least 20% of the taxpayer’s tax debt in five monthly installments due in August through December 2017</td>
</tr>
<tr>
<td>b) The balance may be either:</td>
<td>b) The balance may be either:</td>
<td>b) The balance may be either:</td>
</tr>
<tr>
<td>(i) Offset with the taxpayer’s net operating loss (NOL) carryforward or other tax credits</td>
<td>(i) Entirely paid off in January 2018 in a single cash payment, applying discounts of 90% on the interest amount and 50% on the penalties</td>
<td>(i) Entirely paid off in January 2018 in a single cash payment, applying discounts of 90% on the interest amount and 50% on the penalties</td>
</tr>
<tr>
<td>(ii) Paid off in cash in 60 installments</td>
<td>(ii) Paid in up to 145 monthly installments, applying discounts of 80% on the interest amount and 40% on penalties</td>
<td>(ii) Paid in up to 145 monthly installments, applying discounts of 80% on the interest amount and 40% on penalties</td>
</tr>
<tr>
<td></td>
<td>(iii) Paid in up to 175 monthly installments applying discounts of 50% on the interest amount and 25% on penalties; under this alternative, each of the 175 installments is determined based on the taxpayer’s gross receipts</td>
<td>(iii) Paid in up to 175 monthly installments applying discounts of 50% on the interest amount and 25% on penalties; under this alternative, each of the 175 installments is determined based on the taxpayer’s gross receipts</td>
</tr>
</tbody>
</table>

When the taxpayer’s overdue tax debts are equal to or less than BRL15 million (approximately US$4.6 million) and the taxpayer elects Alternative III, the PM establishes that: (i) the down payment must be of at least 7.5% (instead of 20%) of the taxpayer’s tax debt; and (ii) the balance (after the application of the corresponding discounts) may be offset with the taxpayer’s NOL carryforward or other tax credits.

### Payment alternatives for tax debts managed by the National Finance General Attorney (so-called PGFN)

<table>
<thead>
<tr>
<th>Alternative I</th>
<th>Alternative II</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) No down payment</td>
<td>a) Down payment in cash of at least 20% of the taxpayer’s tax debt in five monthly installments due in August through December 2017</td>
</tr>
<tr>
<td>b) Payment of the taxpayer’s tax debt in up to 120 monthly consecutive installments (subject to certain floor amounts)</td>
<td>b) The balance may be either:</td>
</tr>
<tr>
<td></td>
<td>(i) Entirely paid off in January 2018 in a single cash payment, applying discounts of 90% on the interest amount, 50% on the penalties and 25% on legal charges (including lawyers’ fees)</td>
</tr>
<tr>
<td></td>
<td>(ii) Paid in up to 145 monthly installments, applying discounts of 80% on the interest amount, 40% on penalties and 25% on legal charges (including lawyers’ fees)</td>
</tr>
<tr>
<td></td>
<td>(iii) Paid in up to 175 monthly installments, applying discounts of 50% on the interest amount, 25% on penalties and 25% on legal charges (including lawyers’ fees); under this alternative, each of the 175 installments is determined based on the taxpayer’s gross receipts</td>
</tr>
</tbody>
</table>
When the taxpayer's overdue tax debts are equal to or less than BRL15 million and the taxpayer elects Alternative II, the PM establishes that: (i) the down payment must be of at least 7.5% (instead of 20%) of the taxpayer's tax debt; and (ii) the balance (after the application of the corresponding discounts) should be paid in five monthly installments. After application of the penalty and interest reduction, offering real estate as payment to settle the debt is a possibility, provided the Tax Authorities approve this option.

**Offsetting of tax debt with NOL carryforward**

The NOL carryforward that the taxpayer may use to offset its tax debt under the PERT is the amount computed as of 31 December 2015, and reported as of 29 July 2016, by the taxpayer and the taxpayer's controlling and controlled Brazilian resident entities (either directly or indirectly controlled).

**Implications**

Companies with subsidiaries in Brazil should assess whether to apply for the PERT to pay off any overdue tax debts. They may also want to assess whether they should unwind risky tax positions and pay the resulting tax liability under the PERT. In conducting such assessment, the Brazilian entities should monitor the implementation guidance that the PM requires the Brazilian Tax Authority to issue by 30 June 2017, considering that the due date of the PERT application is 31 August 2017.
For additional information with respect to this Alert, please contact the following:

**Ernst & Young Serviços Tributários S.S., Business Tax Services, São Paulo**
- Frederico H God +55 11 2573 3232 frederico.h.god@br.ey.com
- Washington Coelho +55 11 2573 3446 washington.coelho@br.ey.com

**Ernst & Young Serviços Tributários S.S., Global Compliance and Reporting, São Paulo**
- Alexandre Hoeppers +55 11 2753 3658 alexandre.hoeppers@br.ey.com

**Ernst & Young Serviços Tributários S.S., International Tax Services, São Paulo**
- Gil F Mendes +55 11 2573 3466 gil.f.mendes@br.ey.com
- Gustavo Carmona +55 11 2573 5523 gustavo.carmona@br.ey.com

**Ernst & Young LLP (United Kingdom), Brazilian Tax Desk, London**
- Felipe Bastos Fortes +44 20 7980 0534 ffortes@uk.ey.com

**Ernst & Young LLP, Brazilian Tax Desk, New York**
- Marcelo F. Lira +1 212 773 6080 marcelo.lira@ey.com
- Erlan Valverde +1 212 773 7829 erlan.valverde@ey.com

**Ernst & Young LLP, Latin American Business Center, New York**
- Ana Mingramm +1 212 773 9190 ana.mingramm@ey.com
- Enrique Perez Grovas +1 212 773 1594 enrique.perezgrovas@ey.com
- Pablo Wejcman +1 212 773 5129 pablo.wejcman@ey.com

**Ernst & Young LLP (United Kingdom), Latin American Business Center, London**
- Jose Padilla +44 20 7760 9253 jpadilla@uk.ey.com
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1508-1600216 NY
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