The Brazilian Ministry of Mines and Energy has published a regulation (Ordinance 252/2019) under which companies in the oil and gas sector may claim tax incentives for foreign investments made in priority investment projects in oil, natural gas and biofuel infrastructure areas through debentures issued by Brazilian entities established as corporations.

The regulation defines priority investment projects as projects that aim to implement, expand, maintain, recover, adjust or modernize the following activities:

• Exploration and production of oil and natural gas
• Transfer and transportation of oil and oil by-products, natural gas and biofuels
• Outflow of oil and natural gas production
• Natural gas treatment and processing
• Underground natural gas storage
• Natural gas liquefaction and liquefied natural gas regasification
• Production and storage of fuels and oil by-products
• Provision of piped gas local services
• Biofuels production and storage
For foreign investors to benefit from the incentives, the funds issued by the Brazilian companies as debentures must be used to invest in infrastructure projects focused on the previously listed activities (for this reason, such debt instruments are commonly referenced as “infrastructure debentures”).

Income derived by foreign investors from investing in infrastructure debentures is exempt from financial and withholding taxes when paid or credited to the foreign beneficiary. In this sense, infrastructure debentures may be an interesting alternative for private long-term financing from abroad.

The granting of the tax benefits is subject to certain conditions, such as the characteristics of the investor, the issuing entity and the debentures. As such, foreign investors should analyze all those factors before investing.

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