The Week in Review

On the Economic Front

State and Municipal Debt

On March 31st, Finance Minister Joaquim Levy and the PMDB caucus were able to again delay a Senate vote on a bill that would change the price index used to make the annual adjustments in taxes owed to the federal government by states and municipalities. The proposed change in the index would result in lower future payments. Levy stated that the federal government is committed to changing the states' debt index by February 1, 2016, since by then it will be known if Brazil has reached its 2015 fiscal goal and can afford to make the change.

This issue is one of many that the Finance Minister is negotiating with the Congress as part of the larger fiscal adjustment package, a topic on which he spent seven hours testifying before the Senate Committee on Economic Affairs (*Comissão de Assuntos Econômicos* - CAE). He stated that at this point, no new taxes are expected to be proposed this year; and the fiscal adjustment will increase the country's productivity, international competitiveness, national savings, and should help rebalance Brazil's economy.

On the Political Front

G20 and IMF Meetings in Washington

On April 17-19, ministers of finance and central bank presidents of countries around the world will meet in Washington, DC for the 2015 Spring Meetings of the World Bank Group and the International Monetary Fund. The G20 will also hold meetings on April 16th. Joaquim Levy, Minister of Finance, and Alexandre Tombini, President of BACEN have already been confirmed to attend. Levy will stay in Washington DC from April 15 to 22, and Tombini from 15 to 20.

Task Forces

Healthcare

Genetic Patrimony: On Tuesday, the Senate approved the Genetic Patrimony Bill (PLC - 2/15). The text approved is similar to what was approved by the Senate Committee on Environment (*Comissão de Meio Ambiente* - CMA).

Highlights of changes include:

» The Brazilian Institute of Environment and Renewable Natural Resources (*Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis* – IBAMA) and the Ministry of Agriculture (*Ministério da Agricultura, Pecuária e Abastecimento* - MAPA) joint supervision responsibility for the access of genetic patrimony on species targeted for agricultural activities;

» Definition by Executive Decree of a product subject to benefit sharing;

» Mandatory hearing of indigenous defense entities in agreements that involve access to the traditional knowledge.

However, some points that need further discussion will be discussed separately, such as:

» The definition of 'element of main added value,' which means that the benefit sharing would only be mandatory when the component of genetic patrimony is one of the main elements of added value of the final product;

» The exemption from tax and benefits sharing for the genetic exploration performed before 2000.

The forecast is that the points that need further discussion will be voted on in the next Senate session, on April 14. After all the points that will be discussed separately are voted on, the bill must return to the House of Representatives, which will have ten days to analyze it, otherwise votes on other bills in the House will be halted.

It is worth mentioning that the executive branch aims to approve the text as it came from the House, without changes, and the House will likely not approve the changes.

Innovation

Internet Framework Law: the comment period on the Brazilian Internet Framework Law (Lei n.12965/14) originally scheduled to end on March 31st, was extended until April 31st. Comments may be sent to participacao.mj.gov.br/marcocivil/

The Brazilian Internet Framework bill was drafted by the Ministry of Justice (*Ministério da Justiça* - MJ) and signed into law by President Rousseff in April 2014. The executive branch still needs to publish a complementary law to regulate it, which will be done by executive decree. Contributions received during the comment period will be considered during the regulatory writing process. Once the regulatory draft is finalized, it will be submitted for a new comment period.

The comments are organized into four main issues: net neutrality, data storage, online privacy, and other subjects. On the online privacy issue, the main categories are:

» Content tracking: to include an article that regulates content tracking, such as a timeframe for data to be stored by service providers;

» Right to be forgotten: inspired by the European model under which users can demand that personal information be taken offline when considered inadequate, irrelevant, or excessive;

» Spam: to include an article that establishes penalties for companies that spam.

Please note that the Draft Bill on Personal Data has its own distinct comment period, open to contributions until April 30th.

Tax and Investment

ICMS Tax Incentives: On Tuesday, the Senate approved bill 130/14 (*Projeto de Lei do Senado* - PLS), which addresses state ICMS tax incentives. Many states attempt to attract companies by offering ICMS tax incentives, their largest source of tax revenues. Currently, the National Council of Finance Policy (*Conselho Nacional de Política Fazendária* - CONFAZ) must authorize any state tax grants by unanimity, which is very difficult to achieve. The bill, which will now be analyzed in the House of Representatives, would reduce the approval threshold to a supermajority of representatives of CONFAZ, making it easier to gain legal approval for ICMS state tax incentives. It would also retroactively approve all tax incentives that states have established.

The National Confederation of Industry (*Confederação Nacional da Indústria* - CNI*)* supports the bill, which is part of its legislative agenda for 2015. Several companies have made investments based on ICMS tax incentives. Since many of the incentives were granted without CONFAZ's consent, their legal status has been questioned, which could result in companies being forced to make large past-due tax payments. By removing the need for a unanimous approval by CONFAZ, the bill would improve chances that states could legally offer ICMS tax incentives, thereby preserving their autonomy to promote public policy incentive investment in productive activity. By validating past incentives, it would also remove any doubt regarding their legal status.

Outsourcing: On Tuesday, in a first round of voting, the House of Representatives approved under “urgency status” Bill 4330/2004. The bill regulates outsourcing contracts in the labor market. The House is scheduled to make a second vote on the individual provisions of the bill next Tuesday. If passed, the bill will then go to the Senate. The bill has been under discussion in the House for the past 10 years. In particular, since 2011 it has had the steady attention of representatives, union leaders, and associations, creating a long and heated debate. Labor rights advocates argue that the law could lead to insecurity in the labor market, while entrepreneurs argue that the legislation would promote more jobs in the formal sector. The bill allows the hiring of outsourced services for any activity and does not limit the type of service that can be outsourced, as is now the case in Brazil. The bill would also allow outsourcing for public enterprises.

Special Committee on Multi-level Marketing: On March 30th, a Select Committee (Comissão Especial – CESP) was created to analyse bill 6170/13 (Projeto de Lei – PL), which would regulate multi-level marketing activities in Brazil. To proceed, 26 members must be nominated to form the committee, which will then elect a president who will nominate a rapporteur. Once the committee is installed, a new deadline for amendments to the bill will be set. In the previous legislative year, a select committee was also created to discuss the matter, but the bill was not brought to a vote by the end of the session.

Drawback Exemption Manual: On Monday, the Brazilian Federal Revenue Office (Receita Federal do Brasil - RFB) published the second edition of the Handbook for the Drawback Exemption System, which can be found here.

As part of an export and broader economic stimulus, the Brazilian Federal Government launched a number of fiscal initiatives, including the drawback regime (duty drawback), which consists of the suspension, exemption, or refund of the taxes on assets that were used in the productive chain of exported goods. The drawback exemption releases companies from paying the Import Tax (Imposto de Importação – II) and reduces to zero the rate of the Tax on Industrialized Products (Imposto sobre Produtos Industrializados - IPI) and other social contribution taxes.

Anti-Corruption: On Wednesday, the Comptroller General Office published rules needed to regulate the Brazilian Anti-Corruption Law. Among them are those which:

- Regulate the calculus methodology for fines;
- Regulate the functioning of the National Registry of Suspended and Unapt Companies (*Cadastro Nacional de Empresas Inidôneas e Suspensas* - CEIS) and of the National Registry of Punished Companies (*Cadastro Nacional de Empresas Punidas* – CNEP). The entities of the executive, legislative, and judicial branches must inform and keep updated in the register the data concerning sanctions applied by them.The information available through the system will be announced on the Transparency Portal of the Federal Government;
- Establish which information will be presented by companies for compliance programs to be evaluated by the Comptroller General Office, if sanctions are applied and noting that the compliance programs will be analyzed according to the status and the specificities of each company;
- Define the procedures for the investigation of administrative responsibility and to establish leniency agreements.

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The Pulse

Dilma's First 100 Days

Few expected that President Rousseff would enjoy much of a honeymoon in her second term, but it would have been difficult to predict the confluence of economic and political problems she has faced.

Since the start of President Rousseff's second term on January 1, 2015, recently released data reveal a dramatic economic decline. The inflation rate stands at 8.13%, well above the target ceiling of 6.5% and nearly two percentage points higher than at the beginning of the year. The Brazilian Real-U.S. dollar exchange rate has depreciated 15% since January 1st, from BRL$ 2.66 to R$ 3.12, and 28% since a year ago, falling from BRL$ 2.26. The annual benchmark interest rate has climbed to 12.75% from 10.75% one year ago and 11.75% 100 days ago. Unemployment and other economic indicators reinforce this negative trend.

Politically, the President is perhaps worse off. She has seen repeated legislative defeats in both Houses of Congress and lost control of the coalition that was her one-time pillar of support. Rousseff has fired four of her cabinet ministers in three months, two of them holding critical positions in her inner circle. In addition to the loss of trusted advisors, the cabinet reshuffling may also signal a change in political party influence within the government.

Disagreement among important ministers are on display weekly in the news, highlighted recently by a spat between Finance Minister Joaquim Levy and General Secretary of the Presidency Miguel Rossetto over a bill that eases outsourcing for private companies. The latest change in the Rousseff Administration came on its 99th day, when the President appointed Vice President Michel Temer to coordinate the government's political actions. This could be an effective move since Temer may be able to reunite his PMDB party, the largest in Congress, around Rousseff. But if he fails, Rousseff will have very few new cards to play.

By all accounts, 2015 is a lost year for Brazil, but how the government, business, and society respond will have much to do with the outlook for 2016 and beyond. Current estimates suggest a slow economic recovery for 2016, with Brazil getting back on its feet and moving toward long-term modest growth. This appears to be the norm for Brazil in the 21st Century, which along with its now-established institutional stability—despite protests and other expressions of dissatisfaction—may be enough for the private sector to remain "bullish" on Brazil in the long run.

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