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Taxation in Brazil

Deloitte, Haskins & Sells

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Taxation in Brazil

International
Tax and Business
Service

Taxation in Brazil

International Tax and Business Service

OCTOBER 1979

This book is based on the latest information available to Deloitte Haskins & Sells as of the above date. The offices of Deloitte Haskins & Sells in Brazil are located at the following addresses:

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Taxation in Brazil is part of a series that presents information on taxation in various countries of the world. The book is intended to supply information of a general character regarding taxation in Brazil for use as background when considering the conduct of business in that country. Specific questions should be answered by reference to the laws and regulations of the country and by consultation with professional advisors in the light of the particular circumstances.

Taxation in Brazil is published in two forms: in a loose-leaf edition and as a bound book. Only the loose-leaf edition may be supplemented or revised. These supplements will appear on blue-colored sheets inserted at the end of the book. These supplementary pages will be keyed to the original text by chapter and section numbers and should always be read in connection with the original text. In addition, revised information may be presented on pages inserted in the basic text to replace original pages. Revisions of this type are indicated by a date that appears on the bottom of each replacement page.

Rules governing taxation are subject to change and reinterpretation, in many cases with little or no advance notice. The information in this book is based on material available to Deloitte Haskins & Sells as of October 1979.

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Part 1: The Tax System

Tax Legislation and Administration

1.01 Enactment of Tax Legislation

The Brazilian tax system in its present form is largely based on the Eighteenth Amendment to the constitution adopted in December 1965. A new constitution adopted in January 1967, as amended, contains the present version of the Eighteenth Amendment. The National Tax Code originated in a law passed in October 1966. Since then, it has been amended many times, but has not been reenacted in its entirety.

The federal government, the states, and the municipalities legislate on taxation matters within designated spheres. Federal tax legislation is within the province of the President of Brazil and the Congress, which consists of the Chamber of Deputies and the Senate. The President, or any member or a committee of the Congress, generally may propose a law. When a bill is passed by Congress and sent to the President for approval, he may veto any part or all of it as unconstitutional or not in the public interest. If his veto is rejected by two-thirds of the members present at the joint session of deputies and senators, the bill must be promulgated as law. When the President sends a bill to Congress, he has the right to specify certain time limits that must be observed. The subject matter of a proposed law that has failed to obtain Congressional approval may be incorporated in a new bill in the same legislative session if proposed by an absolute majority of either Chamber.

The President has the right to issue decrees that have full legal force in matters of national security or public finances and in cases of urgency or relevant public interest. Within 60 days, Congress must approve or reject such decrees, but may not amend them. If Congress fails to act, the decree remains in force.

The government's fiscal year is the calendar year. The annual budget must be proposed by the President to Congress at least four months before the beginning of the next fiscal year and must be returned for his approval a month before the beginning of the next fiscal year. Budgets for capital expenditures covering several years are also required.

Income tax regulations are issued by the Ministry of Finance (1.02) and are consolidated from time to time by executive decree. The most recent consolidation took place in September 1975. Since then, a number of laws, regulatory decrees, and executive instructions have altered income tax law and procedures.

The constitution allocates the power to the federal government, the states, and the municipalities to impose specific taxes. Only in time of war may the federal government impose taxes in the same areas

as the states and municipalities. Taxes not specifically mentioned in the constitution may be imposed only on the federal level.

1.02 Tax Administration

Administration and collection of federal taxes are under the jurisdiction of the Ministry of Finance. The Ministry of Finance has a Secretariat of Federal Revenue to which certain powers have been delegated.

The tax courts (1.03) are organs of the Ministry of Finance and are composed of selected representatives of industry, commerce, and the Ministry. These representatives are appointed by the Minister of Finance under powers delegated by the President.

The Minister of Finance is authorized to register all individuals, whether or not they have to file an income tax return, and to issue identification cards to them. Entities intending to engage in commerce or industry must register with the Secretariat before they are allowed to operate. Proof of registration may be required for certain financial transactions and for dealings with the government. Fines may be imposed for failure to register or to show registration numbers on documents issued in connection with specified activities or transactions.

1.03 Judicial Review

A request for guidance on tax questions may be addressed by a taxpayer to the local Office of the Secretary of Federal Revenue (1.02), which forwards the request to a central Office of the Secretariat called Coordination of the Taxation System. The reply that the local office receives from the Tax System Coordinator is then furnished to the taxpayer. A local office may not issue a ruling unless it has first cleared the request through the Tax System Coordinator. However, if the local office is aware that the Coordinator has dealt with the subject in a published reply, it will so inform the inquirer.

To contest income tax assessments or demands for withholding tax within the administrative structure, a protest must be filed with the Secretariat within 30 days after receiving the notice. To contest the reply received to his protest, the taxpayer must, within 30 days after receipt of the notification, present the case to the tax court. If the tax court decision is unfavorable, the taxpayer may, within 30 days after notification of the decision, present a request for reconsideration giving his reasons. If the decision is still unfavorable, the taxpayer may resort to a court of law. Loss of the right to reconsideration through failure to observe the 30-day time limit does not prevent consideration of the merits of the taxpayer's case in a court of law. A taxpayer may also resort directly to a court of law instead of to a

tax court. Only courts of law may deal with a plea that a law is unconstitutional. Tax cases are sometimes taken to the Federal Court of Appeals and to the Supreme Court.

The Secretariat itself is subject to rules requiring decisions favorable to taxpayers, in certain circumstances, to be submitted to higher authorities within the Secretariat for review. When a tax court decision favorable to the taxpayer is not unanimous, it is the duty of a representative of the Ministry at the tax court to appeal to the Minister of Finance, who has power in such a situation to overrule the decision of the court. The Minister is also empowered to dispense with or to reduce a fine on grounds of equity.

1.04 Taxes Imposed by Local Authorities

The constitution provides that the authority to levy taxes in the following areas is reserved to the states: tax on transfers of real property, tax on circulation of merchandise, inheritance (but no tax has been levied), and taxes on legal documents regulated by state law. Constitutionally, municipalities can levy taxes on services of any nature, real estate, sales, and legal documents regulated by municipal law. (The rates and circumstances under which these taxes are levied are described in Chapter 13.) Other areas of taxation, including the income tax, are reserved for the federal government. The aim of these constitutional provisions is to avoid the same taxes being imposed by different levels of government.

Distinctive Features of the Brazilian Tax System

2.01 Summary

Brazil's major taxes include a personal and corporate income tax, a real property tax, a value added tax at both federal and state levels on goods imported and goods delivered in Brazil, a municipal tax on services rendered within the municipality, and various taxes on fuels, minerals, and electric power.

Brazil imposes no inheritance, capital gains (except in certain circumstances; see 6.05), or gift tax on personal property. Transfers of real property are subject to a state tax, including transfers by sale, gift, or inheritance.

2.02 Classification of Taxpayers

The main categories of Brazilian income taxpayers include:

1. Individuals residing in Brazil subject to individual income tax
2. Resident corporations subject to corporation income tax
3. Nonresidents, either individuals or corporations, subject to non-resident income tax

The income of all resident individuals is taxed at graduated individual tax rates (3.01). Resident corporations and limited liability partnerships are subject to corporate income tax (3.02). Individuals may, in certain circumstances, elect to be taxed on their business profits as corporations. Most businesses take one of two forms: a Brazilian corporation or a corporate partnership with limited liability. These are briefly described in the text that follows, as are closely owned corporate entities and Brazilian branches of a foreign company.

Corporation—*Sociedade Anônima* or *S.A.* An *S.A.* is the Brazilian equivalent of a corporation in the United States and a joint stock company or stock corporation in other countries. The certificate of incorporation is issued by the Commercial Registry Office in the state where the corporation is domiciled and is then published. All corporations must have at least two shareholders who may be individuals or corporations. At least 10% of the par value of each share must be paid into the corporation upon formation. The shareholder incurs liability only to the extent of his subscribed capital. Direction and supervision of the corporation are vested in an administrative council and board of directors. The administrative council, which must have at least three members who are Brazilian residents, is appointed by the shareholders at a general shareholders' meeting. This council elects the board of directors, which must have at least two members who are Brazilian residents, the body responsible to the council for the day-to-day operations of the corporation. At the option of the shareholders, at least three statutory auditors may also

be appointed. The statutes of the corporation must contain provisions for the appointment of statutory auditors, whose appointment may be permanent or temporary for a specific purpose. A general meeting of shareholders must be held once a year to appoint the members of the administrative council, name the statutory auditors, and approve the financial statements as well as the distribution of profits. Corporations whose shares are traded on the stock exchange (*open capital corporations*) must distribute at least 50% of their annual profits to the shareholders. The statutes may, however, reduce this requirement to not less than 25%. Corporations whose shares are not traded (*closed corporations*) are not subject to this distribution requirement. The financial statements and the minutes of shareholders' meetings must be published.

If a corporation is organized through a public offering of its shares (*open capital corporation*), additional formalities must be satisfied.

As mentioned in the discussion of partnerships later in this section, all partnerships are treated for tax purposes as if they were corporations, except for the tax on the unreasonable accumulation of profits (9.02).

Company Partnership with Limited Liability—*Limitada*. The *limitada* is a limited liability company that is sometimes referred to as a closed corporation. The rules that govern stock corporations also apply, in general, to limited liability companies, but the latter enjoy certain privileges and have certain restrictions not applicable to stock corporations. In a *limitada*, the number of member partners owning shares may not be less than two, but three is advisable. If there were only two, the death of one would dissolve the company. There is no maximum, but a large number of members may render a *limitada* unworkable. Members may be individuals or corporate entities, and may be residents or nonresidents. When the capital of a *limitada* is fully paid in, a member is not personally responsible for company debts. However, if the capital is unpaid, each member is jointly and individually responsible for the entire unpaid capital and not merely his own unpaid portion.

Members' shares are usually expressed in units, termed "quotas." Quotas are not usually represented by stock certificates, but are normally recorded in the articles of association. Voting rights are usually based on capital holdings, but can be otherwise. Quotas may not be transferred without the consent of all members, nor may the articles of association be altered without the approval of all members, but the articles may stipulate otherwise and other results may be required by operation of law.

One or more managers, who need not be members or residents, are appointed. No statutory auditor is required, nor need a limited liabil-

ity company publish its annual financial statements or minutes of meetings, or maintain a legal reserve.

Other Corporate Entities. Brazilian law provides for many other forms of corporate entities, such as partnerships of lawyers, accountants, and doctors; cooperatives; philanthropic associations, as well as sole proprietorships which are generally taxed as corporations. These other forms of corporate entities are generally taxed as stock corporations.

Branch of a Nonresident Corporation. The branch or other establishment of a nonresident corporation must comply with various requirements, including obtaining approval from the Minister of Industry and Commerce, before commencing business. Any alteration in its articles of association requires similar approval. A branch is required to publish annual financial statements, and must appoint a Brazilian resident with authority to act as its legal representative in Brazil. See 9.01 for the taxation of a branch of a foreign corporation.

2.03 Inclusive Concept of Income Taxation

Residents are taxed on their worldwide income and nonresidents on their Brazilian-source income. See 9.01 for a comparison of the taxation of resident and nonresident corporations, and 10.05 for the taxation of resident and nonresident individuals.

2.04 Tax Year and Base Period

An individual taxpayer must use the calendar year as the base period. A corporation or any other entity may select any annual accounting period and this becomes its fiscal year.

An entity is taxed on its income from inception to liquidation. Its first return covers the period from the start of business to the end of its fiscal year. For example, if the first fiscal year of a new company ends September 30, 1979, the first tax return will be filed in January 1980, and will cover the period from the date of formation to September 30, 1979. The next tax return will be for the 12 months ended September 30, 1980, and will be filed in January 1981.

A fiscal year may be changed without government permission provided a tax return is filed in each calendar year. Each tax return is based on the income of the fiscal year ended in the preceding calendar year (4.01). Consequently, a change in a fiscal year ending December 31 to one ending January 31 requires the entity to file a tax return in January of the year after the fiscal year-end covering one month's income. A change from a fiscal year ending January 31 to one ending December 31 would mean that the tax return filed in the year after the December 31 fiscal year-end would include income for 23 months. Although permission is not required to change a fiscal

year, a penalty is imposed on an entity that changes its fiscal year to declare results for a period of less than 12 months, if the entity had changed its fiscal year within the preceding three years. The following are examples of the tax return requirements of entities that change their fiscal years.

Example 1:

A company changes its fiscal year-end from December 31, 1979, to January 31, 1980. The following tax returns must be filed:

1. The tax return for the 12 months ended December 31, 1979, must be filed in 1980.
2. The tax return for the one month ended January 31, 1980, must be filed in 1981.
3. The tax return for the 12 months ended January 31, 1981, must be filed in 1982.

Example 2:

A company changes its fiscal year-end from January 1, 1979, to December 31, 1980. The following tax returns must be filed:

1. The tax return for the 12 months ended January 31, 1979, will be filed in 1980.
2. The tax return for the 23 months ended December 31, 1980, will be filed in 1981.

In both examples, a tax return is filed annually for periods of more or less than 12 months.

In the year an entity ceases to exist, it must file two tax returns: its usual return for the results of its fiscal year ending in the preceding calendar year, and a final return reporting results to dissolution. In certain circumstances, however, if the business continues under a different name, under new ownership, or with a change in its legal form, tax may continue to be paid as if there had been no change.

2.05 Tax Incentives

A number of income tax exemptions or reductions are granted to taxpayers operating or investing in the underdeveloped North and Northeast of Brazil. Similar incentives are available for those engaged in the fishing industry, as well as in the promotion of tourism, large-scale afforestation, and agriculture. For some industries, tax incentives take the form of accelerated depreciation deductions (7.02). The presumed profit on approved export sales is exempt from tax. This profit is calculated by use of the following formula:

$$\frac{\text{Net Export Sales} \times \text{Adjusted Profit}}{\text{Total Net Sales}}$$

Adjusted profit is defined as the book profit, but excludes interest income in excess of interest expense, income or loss on investments, and nonoperating results.

Tax exemption is provided for savings and loan associations. Individuals are provided with tax inducements to invest in securities calculated to stimulate the stock market and to help the underdeveloped areas. Overall limitations are imposed on some tax benefits. Some of the more important incentives are discussed in greater detail below.

Development Regions—SUDENE and SUDAM. Tax incentives to stimulate development in the Northeast of Brazil have been offered for many years. From time to time, new laws and decrees affecting investment in the Northeast and in the Amazon region in the North of Brazil have been issued. The Northeast and Amazon regions are known, respectively, as the areas of SUDENE and SUDAM (from the initials of the supervising government agencies).

New approved industrial and agricultural enterprises in the SUDENE or SUDAM regions, which commence operations by December 31, 1982, are granted a 50% or 100% income tax exemption for ten years with the possibility of a five-year extension. Similar enterprises that were in operation since 1963 in either or both areas are entitled to a 50% exemption from income tax until 1982. Substantial expansions of existing enterprises may qualify for the same incentives as new enterprises. Profits in an amount equal to the tax exemption may not be distributed as dividends, but must be capitalized.

Any business entity operating anywhere in or from Brazil and paying Brazilian income taxes may elect annually to invest up to 50% of its income tax otherwise payable in approved projects in the SUDENE or SUDAM regions. From such tax money investments, 50% is retained by the government to finance public projects and is not refundable, and the remaining 50% is for investment by the taxpayer in approved SUDENE and SUDAM projects. Thus, the maximum tax credit for one or more of such investments is 25% of the tax (50% of the 50% tax so invested). This investment tax credit is also available to entities operating in the SUDENE and SUDAM regions that are already entitled to the 50% income tax exemption mentioned in the preceding paragraph. Their maximum investment tax credit, then, is 25% of the tax on net income after the 50% exemption.

The amounts collected for investment are allocated to two funds (FINOR for the SUDENE region and FINAM for the SUDAM region), which invest these funds within their own or an associated company's industrial or agricultural projects, providing certain tests as to ownership of the project are met.

In addition to income tax incentives, enterprises operating in these regions may also benefit from exemptions from import duties on industrial equipment (13.01), reductions in or exemptions from the taxes on industrial products (13.04) and on circulation of merchandise (13.08), and from export incentives.

Fishing Industry. Concerns engaged in fishing or associated with a related industry, such as canning or marketing fish products, are granted an income tax exemption until 1982 on profits from activities that have been approved by SUDENE. Concerns not engaged in such industry may elect to take a 12½% tax credit by investing 25% of their income tax otherwise payable in government-approved projects. Such investments are directed into appropriate projects by a fund (FISSET).

Tourism. Hotels and other facilities to develop tourism (new construction or expansions approved by the National Tourism Council up to December 31, 1985) are granted income tax reductions of 50% (tourist restaurants) and 70% (tourist hotels) for periods not exceeding ten years from the date the Council approves the project. This incentive is only available to entities that are more than 50% owned by Brazilian nationals. All business entities may elect to take a 6% tax credit by investing in approved tourism projects.

Afforestation. Tax incentives are granted for investment in afforestation projects that involve at least 10,000 trees a year, provided prior approval is obtained from the Brazilian Forestry Development Institute. Individuals may deduct from income tax otherwise payable those costs that have been certified by the Institute as deductible expenses. Entities must record such costs as assets, but may deduct them from income tax otherwise payable to the extent of 12½% of tax payable. Entities not themselves engaged in afforestation may invest in third-party projects to the extent of 25% of tax for projects in the SUDENE and SUDAM regions, and 17½% elsewhere.

Agriculture. Individual farmers may deduct as much as 80% of Schedule G (10.02) net income for annual investments in farming. A similar deduction is granted to rural farming entities. The deduction is calculated by applying coefficients ranging from 1 to 6, which are set by the Finance Ministry, to various expenditures for farm improvements or contributions to the advancement of Brazilian agriculture in general. The deduction is allowed in arriving at net income from farming.

Individual farmers, but not farm entities, receive a further tax incentive as only 50% of farming net income is includable in taxable income or, if less, 5% of gross receipts from farming (10.03). New

farm entities established prior to December 1979 may claim the following income tax exemptions during the first four years of operations: 100% for the first two years, 50% for the third year, and 25% for the fourth year. In addition, agricultural projects that are approved for the SUDENE and SUDAM areas are eligible for the investment tax credit on new investment in these areas.

Tax Credit for Other Investments. Individuals may receive tax credits for certain types of investments. These tax credits range from 10% to 24%, varying with the individual's gross income. Such tax credits must be invested by taxpayers in approved financial institutions' investment funds that invest in shares of approved corporations. The investment certificates may be redeemed in cash within stated periods.

Individuals may also claim tax credits for investments in units of mutual funds, shares in investment corporations, debentures issued by corporate entities, deposits in savings accounts, shares in open capital corporate entities (9.05), units of tax incentive funds (such as FINOR and FINAM), and tourism, as discussed earlier. Such tax-credit investments are subject to different conditions as to holding period and amount of tax credit. The total tax credits that may be claimed by an individual vary from 30% to 60% of total tax due, varying with the amount of gross income and with the larger tax credits available to taxpayers with the lower gross incomes.

An investment tax credit, limited to 1% of the tax, is available to entities until 1980 for subscriptions to shares of the government-controlled Brazilian Aeronautics Corporation. The shares must be held at least two years. This credit is in addition to the credits discussed previously.

Export Incentives. A number of incentives are available for the promotion of exports. The profit on approved export sales is exempt from income tax. In addition, related expenses incurred abroad for promotion, advertising, participation in trade fairs and expositions, as well as the maintenance of foreign offices, are deductible.

Commissions, interest, and other charges payable abroad are exempt from the 25% withholding tax (5.02) if they are connected with export activities.

Exports of manufactured products are exempt from the taxes on industrial products (13.04) and circulation of merchandise (13.08). In addition, manufacturers and exporters may claim a credit for the taxes on industrial products and circulation of merchandise that would have been paid if the export sales had not been exempt. Such credits may be used to offset the same taxes on domestic sales and

any excess credits may be applied against other taxes. These credits may also be used to pay for raw materials and, in certain cases, may be refunded in cash. Moreover, the credit may be transferred to another entity controlled by the same shareholder. The credit is based on the value of the exports and cannot exceed 23.6% of such value. This credit is being reduced by 30% in 1979 and 20% per year thereafter until extinguished in 1983. Hypothetical tax rates may be set by regulations to provide credits on products that are otherwise tax exempt in the domestic market. Exemption from import duties (13.01) and from the tax on industrial products (13.04) may be granted for purchases of equipment to be used in the export business.

Employee Training and Feeding. Corporate entities may deduct 200% of expenditures for training employees. Such deduction cannot exceed 10% of the taxable profit, but any excess deduction may be carried forward for three years. Corporate entities may also deduct double the cost of meals provided for employees with a maximum limitation of 5% of taxable profits, but excess deductions may be carried forward for two years. The maximum cost which can be deducted, per meal provided, is also limited. The two incentives combined cannot exceed 10% of taxable profits. Both the training and food programs require prior approval of the Ministry of Labor.

2.06 Monetary Correction—Indexing

The inflation of Brazilian currency over the years has resulted in the use of price-level adjustments for financial, accounting, and tax purposes. These compulsory adjustments are known as monetary correction. Certain balance-sheet items must be revalued annually. Undischarged tax liabilities, unpaid social law obligations, as well as salaries and indemnities owed for more than three months must be monetarily corrected to the time of payment to determine the amount payable. Also, amounts stated in *cruzeiros* in the tax regulations are generally amended by the government annually if the wholesale price index shows an increase of more than 10% in the calendar year or more than 15% in the last three years (Appendix B). Income tax withheld from wages is also monetarily corrected in determining the employees' final tax liability. States and municipalities have adopted similar rules for monetary correction in assessing and collecting their taxes.

Monetary Correction of Balance Sheet Items. All business entities are required to correct monetarily certain items on their balance sheets. The items are fixed assets, permanent investments, deferred charges, and shareholders' equity. This is a new system of monetary correction that was introduced for fiscal years beginning after January 1, 1978. To follow the new system, certain adjustments relating

to prior years are required. These have to be made as of the beginning of the new fiscal year (opening balance sheet). The opening balance sheet adjustments relate to fixed assets and equity accounting for permanent investments.

“Fixed assets” include plant, machinery, equipment, land, and buildings. Under the prior method of monetary correction, the official coefficients used for this purpose were at least one year behind. A special coefficient was published to bring the monetary correction of fixed assets (net of accumulated depreciation) up to the close of the fiscal year immediately preceding the introduction of the new system. After fixed assets have been corrected, there is no longer a distinction between original cost and monetary correction; fixed assets are carried only at their corrected values. There is also no distinction between depreciation of original cost and amortization of monetary correction. The net monetary adjustment of fixed assets, recorded on the opening balance sheet, must first be used to offset certain deferred charges, such as deferred exchange losses, and may also be used to offset accumulated losses. Any remainder is recorded as a capital reserve.

All business entities must also record “relevant” investments on their opening balance sheets on the equity method. “Relevant” investments are defined as permanent investments that individually amount to 10% or collectively to 15% of the investors’ equity, in which the investor has significant influence over the investees’ business affairs and holds at least 20% of the investees’ capital. The opening balance sheet equity adjustment is determined by comparing the cost of the investment (including the par value of bonus shares received as a result of prior capital increases of the investee) with the investees’ shareholders’ equity as of the close of its latest fiscal year. An equity adjustment that is a credit must be recorded as a reserve. A debit adjustment is recorded as goodwill.

After these opening balance sheet adjustments have been made, the new monetary correction system can be introduced. The monetarily corrected balances of fixed assets and the equity value of permanent investments, as well as the opening balances of deferred charges and shareholders’ equity, are converted into multiples of a government bond (O.R.T.N.) based on the selling price of the bond on the date of the opening balance sheet. A separate register must be maintained for this purpose, except that business entities whose shareholders’ equity is less than Cr\$100,000,000* are exempted from the requirement of maintaining the register.

*The symbol Cr\$ is used for Brazilian *cruzeiros*.

Monetary correction of these balances is recorded annually as a charge or credit to income based on the difference between the purchase price of a government bond at the beginning and at the end of the fiscal year. Changes in the opening balances during the fiscal year must also be accounted for in multiples of the government bond.

Corporate business entities may record fixed assets in excess of their monetarily corrected value providing an appraisal is made by an independent appraiser and the difference between book and appraised value is credited to a reserve that is not available for dividends or increases of capital. Depreciation on such appraised values in excess of book values must be charged against this reserve.

In determining gains or losses on disposal of fixed assets and permanent investments (6.05) and in computing depreciation and amortization (7.02), the cost basis of these assets is increased by government bond indexing. An exception, however, applies to corporations going public. Corporations that wish to become open capital corporations (9.05), including those that merge and then open their capital to public subscription, may revalue their fixed assets tax free if the additional writeup is approved by a government agency and if the credit from the additional writeup is used to increase capital within a specified period. The additional shares have no cost basis to the shareholder; consequently, the entire sales proceeds are taxable when sold. The amount by which fixed assets are written up cannot be depreciated for tax purposes. If there is a loss on sale or retirement of such a fixed asset, the loss must be applied to future credits arising from compulsory monetary correction in accordance with official coefficients.

Price-level adjustments are also required for certain investments. Readjustable treasury obligations, and other qualifying debt obligations that contain provisions requiring official revaluation of principal, are adjusted in accordance with a table of coefficients established in or for such obligations. At maturity, such investments generally have a redemption value determined through the use of the official coefficients (6.08).

Part 2: Income Taxes

Tax Rates

3.01 Individuals

Individuals calculate their tax liability on income of the preceding calendar year (2.04) at progressive rates on successive brackets of income. The rates range from 5% to 55%. The income brackets are subject to annual monetary correction. For tax rate details, see the Rate Tables. For the computation of taxable income of individuals, see Chapter 10.

3.02 Corporations

Corporations and other business entities are subject to a tax rate of 35% of business profits up to 30 million cruzeiros and 40% on the excess. For years prior to 1979 the tax rate was a flat 30%. Public utilities are subject to a special rate of 17%. As described at 2.05, tax exemptions and abatements are available in various circumstances.

A special tax is payable by Brazilian corporations whose undistributed profit and reserves created out of profit exceed 100% of capital. The rate is 25% of the excessive profits retained (9.02). Disguised distributions of profit may also be subject to tax (6.09). For withholding tax rates applicable in a variety of circumstances, see Chapter 5.

Returns, Assessments, and Payment of Tax

4.01 Returns and Assessments

The annual income tax return of an individual for the calendar year must be filed in the following year, on or before due dates set by the government. Individuals may be allowed a discount on their tax for early tax payment (4.02). The income tax return of an entity must generally be filed within approximately four months after its balance-sheet date, except that for fiscal years ending between January and September, the tax return is not due until the following January. Entities and individuals in regions for which special tables of deadlines are published must consult those tables.

The Ministry of Finance defines the circumstances that require filing a tax return. An individual must file a return when his income exceeds a certain amount, when he receives any professional fees, or when he has any income at all as an owner, partner, director, or administrator of a proprietorship or entity. Also, regardless of his income, he must file a tax return if he is the owner of any of the following: an automobile; a residence of more than 100 square meters; a summer residence; a rural property that provides gross income in excess of certain amounts; bonds, stocks or club membership certificates valued in excess of certain amounts; or is a renter of unoccupied property. The requisite amounts are subject to annual adjustment (Appendix B).

Entities that have registered with the Secretariat as a prerequisite of doing business (1.02) must file an income tax return. The Ministry of Finance requires all entities domiciled in Brazil (whether or not they have any gross income or are exempt from taxation) to file an income tax return. Thus, charitable organizations, clubs, trade unions, educational institutions, foreign shipping and airline companies, investment companies, cooperatives, associations, syndicates, and small businesses are among the entities that must file a return.

The Secretariat generally mails tax forms to registered taxpayers (1.02). Forms may also be obtained at regional tax offices and local banks. Individuals must file their returns by delivering them to local banks. The returns of entities subject to regional tables of deadlines must be delivered by hand to designated banks or other filing places. Special collective extensions of time are sometimes granted. An individual or entity can ask for a 60-day extension when it is impossible to meet the deadline, but requests for extension based on the illness of an accountant or books in arrears have not been accepted.

Each entity must file a separate tax return. The return must be accompanied by such information as the Secretariat calls for in its annual instructions. An individual with income from various sources and localities must state the sources, localities, and amounts in

his return. An individual who is in business must declare the firm's results on the tax form appropriate to entities and include the profit paid or credited to him in his personal return. A husband's and wife's income is included in one return, unless they elect to file separate returns (10.04). The income of children must be included if they are claimed as dependents.

An individual or entity representing a foreign entity not established in Brazil must make a separate declaration of the profit earned in Brazil on behalf of the foreign entity. Returns other than annual returns are required of entities upon their dissolution and of individual residents leaving Brazil and not expecting to return.

4.02 Payment of Tax

Tax assessed on business profits is payable in monthly instalments usually completed in December. Entities that in the preceding year incurred a certain amount of tax (Appendix B) must pay their tax in 12 instalments, including provisional payments on account in months prior to the month of filing the return. The provisional payments are generally based on the tax paid during the preceding year, but no payments are required if it is known that the entity owes no tax because of a loss in the base year. As of January 1, 1980, corporate entities that have a fiscal year ending other than December 31 are required to make pre-payments of their tax liability starting in the second month following their fiscal year end.

Tax assessed on personal income is payable in 12 equal monthly instalments, commencing in the month assessed. Brazil has no provision requiring an individual to estimate his tax as a basis for payments or to make provisional payments on account in the months prior to filing, but tax is withheld on payrolls, dividends, and certain other types of income (Chapter 5). Individuals are granted a 6% discount for paying the entire tax at the time of assessment, instead of waiting for due dates.

The right to pay tax in instalments is lost through delay in filing a return and through delay in paying instalments. The right to pay in instalments does not apply when the tax results from a supplementary assessment (4.03). However, the taxpayer may petition for a special authorization to liquidate a tax debt in instalments.

Payment to the tax collectors of tax withheld (Chapter 5) is, in most cases, required either within the following month or within 30 days from the date the obligation to withhold arose. Tax withheld from dividends on registered shares owned by resident individuals or on bearer shares (5.02) must be paid within 30 days from the date the dividend was paid or credited. Tax withheld from individuals payable to nonresidents (5.02) must be paid prior to remittance or within 30 days after the meeting that approved the dividend.

Dividends on bearer shares that are unclaimed 120 days after the date of publication of the minutes of the meeting that authorized the distribution must be deposited in a special escrow account at the Bank of Brazil within 15 days after the end of the 120-day period. Unless such deposit is made, these unclaimed dividends are taxed as though the beneficiary were unidentified, and the withholding tax of 15% or 25% (5.02) must be paid within 30 days following the 120-day period.

A corporation's obligation to withhold the tax on bearer dividends when the shareholder elects to remain unidentified (5.02) does not arise until the income in question is paid or credited; the tax must be paid within 30 days thereafter.

Tax withheld from profit distributions of partnerships and Brazilian branches of foreign entities must be paid within 120 days from the balance-sheet date. Tax withheld from rental income of nonresidents is paid in the months of January and July.

The tax withheld upon negotiating bills of exchange, issuing debentures, or paying the interest thereon must usually be paid within 15 days (5.02).

See 5.02 for the graduated supplementary tax that applies if, during any three consecutive years, the average of dividends and profits remitted abroad is in excess of certain amounts.

4.03 Examination of Returns

Returns are subject to summary or detailed review at the tax assessment offices. The tax authorities may request further information from the taxpayer, usually by correspondence. The inspectors have the right to examine the taxpayer's books. To be acceptable as evidence, a balance sheet must be written into an entity's journal. Banks may be called upon to furnish copies of clients' accounts or any other information that may be requested. It is not customary for tax advisors to meet with tax inspectors to reach an agreement on assessments.

Requests for information must be answered within 20 days. If no reply is received, an assessment is issued on the basis of the information available, including evident signs of wealth. Assessments are also made by the tax office when the taxpayer has not filed a return, when he has filed an incorrect return, or when proper accounting records have not been kept.

The issuance of an assessment does not mean that the tax liability has been finally determined. An additional assessment may be issued within five years after January 1 of the year following the year

in which the return was filed. There is no time limit in connection with tax that has been withheld at source.

4.04 Interest and Penalties for Late Filing and Late Payment

If a return is filed late or income is omitted from the return, but the taxpayer voluntarily corrects the error and pays the tax due, interest at 1% a month is payable. In addition, a fine of 5% is payable for late payment if the delay does not exceed 30 days; and, if it exceeds 30 days, the fine is 10% for every six months or fraction thereof. The total delinquency fine is ordinarily limited to 30% of the original tax debt. Interest continues to accrue on the unpaid tax, including interest on the monetary correction of the unpaid tax (2.06).

Even when corporate returns are filed in accordance with the regional schedules of deadlines, and the taxes are paid when due and in the amounts then determined (4.01), they are still subject to a 5% to 30% delinquency fine if, when subsequently reviewed, they are found to be incorrect in arriving at taxable profit.

When assessments are imposed for failure to file a return or to file a correct return, the usual fine is 50% of the monetarily corrected tax underpayment, but for evident intent to defraud, the fine is 150% of the underpayment. These fines are increased from 50% to 75% and from 150% to 225% if the taxpayer fails to respond within 20 days to a request for explanations or replies without declaring all income. If an individual's return is incorrect because of deductions not allowed, the fine is also 50%. A 50% reduction of the fine is granted if the taxpayer pays assessments without disputing them.

If the Secretariat can establish a case of criminal tax evasion, the fine may be up to ten times the amount of the tax and jail sentences may also be imposed.

A variety of fines are imposed for other breaches of the regulations. If no penalties are otherwise imposed, infractions of the income tax law are subject to fines in amounts specified in the law. Concessions are occasionally introduced for limited periods to induce taxpayers to correct past deficiencies.

Withholding Taxes

5.01 Withholding of Income Tax on Wages

Employment income is subject to income tax withholding as determined by official tables (Rate Tables). These tables are based on total monthly income from employment less social law contributions (10.03) and allowances for dependents (10.04). Income from employment includes pensions, directors' fees, and partners' salaries, but does not include expense reimbursements. The employer forwards the tax withheld to the Secretariat in the following month or, if the Minister of Finance so determines, within the following quarter. For each calendar year, the employer provides each employee with a confirmation of his annual income and tax withheld. The Ministry of Finance issues an index which is used to correct monetarily all taxes withheld from payrolls during the calendar year to compensate for the loss in purchasing power of these withholdings. The employee attaches the employer's confirmation to his tax return and obtains a refund if the tax withheld exceeds his tax liability.

The amounts withheld from employees and from the remuneration of persons not employees for services in the SUDAM area to entities approved by the SUDAM are not forwarded to the Secretariat. Instead, these amounts are deposited in the *Banco da Amazonia* to be invested on behalf of the individuals in approved projects, either as capital or as loans.

5.02 Withholding on Interest, Dividends, and Other Payments

The information on withholding in the following paragraphs applies only to resident individuals and entities. For information applicable to nonresidents and to foreign entities, see the appropriate heading later in this section.

Interest. Interest paid by entities to individuals is subject to 10% withholding. Interest paid by one entity to another is not subject to withholding. Interest on government bonds and other securities paid to an individual is subject to 6% withholding. Other interest paid to bearers is subject to withholding of 15% when the bearer identifies himself and 40% when the bearer remains unidentified. Interest on fixed-term deposits is subject to withholding ranging from 6% to 8%, depending on the term of the deposit. For other details, see the Rate Tables.

Dividends. Dividends paid by a corporate entity to another corporate entity domiciled in Brazil are not subject to withholding. Dividends paid to individual registered or identified bearer shareholders are not subject to withholding, but the shareholder may elect the same withholding rates as are applied to unidentified bearer shares and the tax withheld at this rate is a final tax. Dividends on unidentified bearer shares are subject to 15% withholding when the dividend-

paying entity is an open-capital corporation and 25% when it is a closed-capital corporation. Dividends are sometimes paid from profits that have been subject to the 25% tax on unreasonable accumulation of profits (9.02). This 25% tax can be offset against any withholding due or can be used to compensate the recipient for other taxes.

Distributions of Partnership Profit. Partnership profits distributed to individuals are subject to 10% withholding, which is a prepayment on account of the final tax liability. The individual may opt for withholding of 25%, which becomes a final tax on this income. Distributions to entities are exempt from withholding.

Stock Dividends. Stock dividends can be subject to withholding tax in the same way as cash dividends. However, capitalizations are subject to their own rules and, as a result, a stock dividend subject to withholding tax is unusual (6.04).

Founders' Shares. Income from registered founders' shares (6.04) is subject to 10% withholding, and income from identified bearer shares is subject to 15% withholding. When founders' shares are owned by individuals, the withholding constitutes an advance payment of the total tax liability. Income from founders' shares owned by corporate entities is subject to 15% withholding. In the case of unidentified bearer founder shares, the withholding is 40%.

Other Income. All other payments by corporations (*Sociedades Anônimas*) to unidentified recipients are subject to 40% withholding. Payments of the same nature by partnerships (*limitadas*) are taxed as distributions to the partners and must be included in their individual income tax returns.

Entities must also withhold tax on other types of payments paid to individuals resident in Brazil. Frequently, such withholding is required only when payments exceed certain amounts per month or other period. These amounts are adjusted annually (Rate Tables).

Payments for services rendered when there is no employee relationship, such as commissions, fees, brokerage fees, and copyright royalties, and for the services of a commercial representative are also subject to withholding. Tax is usually withheld at rates based on a graduated scale. On payments to a contractor who is an individual, the rate is 8%. The tax withheld at source in all of these cases is in the nature of an advance payment, with the final tax liability being based on the payee's return.

Income from lotteries and betting is subject to tax withholding of 30%. Such income bears no further tax and need not be included in

the recipient's tax return. Withholding of 10% is required on indemnities paid for breach of contract other than employment contracts.

Nonresidents and Foreign Entities. Income paid or credited to non-resident individuals (10.05) or foreign entities (9.01) is usually subject to withholding tax of 25%. This rate is reduced to 15% if the profit earned in Brazil by branches of foreign entities is credited to a special account and used within the following year to expand the industrial plant of the branch.

Higher withholding rates may apply in certain circumstances. For example, the withholding tax deducted from dividends and profits remitted abroad is increased by a graduated supplementary tax if, during any period of three consecutive years, the average remittances (less regular withholding taxes) exceed 12% of the registered foreign capital including reinvested profits. For average remittances over 12%, 15%, and 25%, the supplementary tax rates applied to the excess portion of the remittances are 40%, 50%, and 60%. Registration of capital and profits with the Central Bank includes a determination of the foreign currency equivalent of *cruzeiros*. The supplementary tax for each three-year period must be paid by January 30 of the year following the last remittance and deducted from subsequent remittances. The regular withholding tax deducted from dividends and partnership profits is increased by 20% when capital is invested in activities of little use to the national economy and such activities have been so defined by executive decree.

Tax is withheld at the rate of 25% on amounts remitted or credited by a domestic distributor to nonresident suppliers of motion picture films, subject to the following special rules. The taxable amount on which the tax is withheld is arbitrarily fixed at 70% of the remittance or credit for films imported at a variable price and 100% of the remittance or credit for films imported at a fixed price. Since the 70% is an imputed profit, expenses incurred by the domestic distributor for the foreign film supplier may not be deducted from the remittance or credit in determining the amount subject to withholding. On films imported at a fixed price, the foreign film supplier is not, of course, charged with any distribution expenses and tax would be withheld on the entire fixed price. Amounts remitted or credited to foreign film suppliers may be deducted by a domestic distributor to the extent that they do not exceed 60% of gross distributing income. When such amounts exceed 60%, the excess is a nondeductible expense of the distributor. Expenses incurred outside Brazil, or for the account of a foreign film supplier, are not deductible by the domestic distributor in determining taxable income. Part of the tax withheld is paid to the Bank of Brazil for the credit of the Brazilian Film Corporation, which is 70% owned by the Ministry of Education.

In the case of nonresident individuals and entities, the income tax withheld is usually a final tax. When tax is withheld from the income of a nonresident, any tax previously withheld from the income for some other reason is taken into consideration (9.01).

Certain types of income of nonresidents are exempt from withholding tax, including:

- Freight and rentals of foreign ships and aircraft
- Commissions paid by exporters to their agents abroad
- Payment for technical services abroad consisting of checking the weight, quality, and packaging of goods to be shipped to Brazil

No withholding is required on the purchase price of imports, but interest paid to the seller on long-term payments and on other foreign financing is generally subject to withholding. Payments to foreign government agencies are exempt from such withholding when reciprocity exists as are payments by Brazilian airlines, if certain conditions are met.

Withholding tax on interest paid to foreign lenders is at the rate of 25%. However, the withholding is partly refunded to Brazilian borrowers. The refund is based on 85% of the amount withheld.

Income Subject to Tax

6.01 The Nature of Taxable Income—Nontaxables

The regulations do not define income, but give rules for the determination of taxable income. Ordinarily, an entity is assessed on the “net profit” determined in annual accounts, adjusted as may be necessary under the regulations. In prescribed circumstances, however, an estimated or arbitrarily determined profit may be the basis for assessment (4.01).

Under the heading “Income Subject to Declaration,” the regulations define real profit as operational profit plus or minus the net results of other transactions. Other transactions are not defined, but operational profit is the result of the normal activities of the entity and consists of gross operational income less costs, operating expenses, charges, provisions, and losses authorized by the regulations. These terms are then further explained. Under another heading of the regulations dealing with “basis of taxation,” the net profit is required to be increased or reduced by specified adjustments when applicable, in order to arrive at taxable profit. One of these required adjustments—excess of directors’ remuneration—refers to restrictions on deductibility already set forth under the heading “Income Subject to Declaration.” On the other hand, another of the adjustments—the exclusion of dividends received—is not mentioned under the earlier heading, and the listing of required adjustments makes no effort to differentiate between those already mentioned in connection with the definition of net profit and those not so mentioned.

When ascertaining taxable profit, an entity excludes dividends, partnership profits received, and the income from founders’ shares (6.04).

If an entity writes up the value of any assets, the increase in value is basically taxable income, but not when it results from monetary correction through the application of the official coefficients to fixed assets.

The discount portion of amounts received by individuals on the sale or redemption of certain Treasury bills that were marketed at a discount is exempt from tax.

The declarable income of an individual in each schedule (10.02) is defined as the gains obtained from capital and labor or from both combined, and from other receipts dealt with in the regulations. The regulations list the types of income included in each schedule, items that may be includable in several schedules depending on the circumstances, and items not includable in any schedule. Some items not includable are: life insurance proceeds; gifts and bequests; dismissal indemnities; and benefits from employment, such as free group life insurance, medical care, meals, uniforms, and family supplements. Schedule II, the last schedule, contains earnings from

capital or labor not included in the other schedules, such as income inferred by the Secretariat from exterior signs of wealth, and income corresponding to increases in a person's possessions when the Secretariat proves the increase is not in accordance with the declared income. Capital gains of individuals and entities are discussed at 6.05.

6.02 Business Income

As noted in 6.01, business income is defined in detail in the regulations. Generally, all of a corporation's revenue, including gains from sales of investments and fixed assets, is treated as ordinary business income. Taxable profit is the book profit, subject to the adjustments discussed in this booklet. The general principle is that only expenses incurred in earning income may be deducted.

6.03 Interest Income

Interest income and the increase in principal through monetary correction earned or paid are taxed in Brazil in the same manner. Interest and monetary correction income of foreign residents are taxed at the source at the rate of 25%. The Brazilian entity paying interest abroad receives, as a direct credit, a refund of 85% of the withholding tax paid.

Interest and monetary correction earned by Brazilian corporate entities from both domestic and foreign sources are included in income and are subject to income tax. Interest and monetary correction paid to a domestic corporate entity are not subject to withholding tax; and interest received from foreign sources is included in income, net of any foreign taxes withheld. No credit is allowed for foreign taxes paid by entities, unless specifically provided by treaty.

Resident individuals must include gross interest and monetary correction income in taxable income. Income taxes withheld at source are treated as advance payments of the final income tax liability.

Foreign nationals transferring residence to Brazil are exempt from income tax on unearned foreign income for five years from the date of transfer to Brazil.

Withholding taxes on interest are discussed in 5.02.

6.04 Dividends, Partnership Profits, and Income from Founders' Shares

Investment income in the form of dividends, partnership profits, and interest on debentures received by individuals and entities domiciled in Brazil is subject to withholding tax, as explained in 5.02. Such withholding tax may either completely discharge the tax liability, partially discharge the tax liability and be taken into consideration

later when tax is withheld on subsequent distribution of the same income, or be treated as an advance payment of the tax as finally determined when individuals or entities file their tax returns.

Dividends, partnership profits, and income from founders' shares are taxable, as explained below. Founders' shares represent shares without par value, which are usually issued to founders. Generally, they are issued in exchange for services and entitle the holders to a profit participation not exceeding 10% and to redemption as specified in the corporation's bylaws.

The income of a nonresident individual or entity is taxed by withholding and no further tax is payable thereon (5.02).

Dividends on unidentified bearer shares of a resident individual are taxed by withholding at the rate of 15% or 25% (5.02). Similarly, other dividends, partnership profits, and income from founders' shares may be taxed exclusively by withholding if the shareholder so elects; otherwise the income must be included in the shareholder's tax return.

Dividends, income from founders' shares, and partnership profits received by an entity are excluded from taxable profits, if distributed from business profits subject to tax. This exclusion applies even if the paying entity is temporarily exempt from payment of tax. For this reason, when successive distributions take place, the distributing entity must specifically identify its distribution as a redistribution.

Dividends received by individuals from corporations with open capital (9.05) are deductible from taxable income in an amount that changes each year because of monetary correction (Appendix B).

Tax-Free Capitalizations. Business profits, and the reserves to which business profits have been transferred, may be capitalized tax free. Additional shares received in such tax-free capitalizations have no cost basis in the hands of shareholders. The tax-free attributes of these capitalizations are subject to retroactive cancellation if a dissolution or a capital reduction takes place within the next five years. Tax-free capitalizations effected during the preceding five years do not become cancellable or taxable if mergers and reorganizations occur, unless they result in a net reduction in capital. As discussed in 2.06 and 9.05, corporate entities going public must increase their capital by the amount that fixed assets are revalued in excess of official monetary correction. The capital increase is nontaxable.

Capital increases resulting from monetary correction are nontaxable. Distributions by an entity out of the credits arising from monetary correction (2.06), in cash or in any form other than an increase in

capital, are subject to the rules for withholding tax on profit distributions and for reporting distributions in tax returns of recipients (Chapter 5).

6.05 Capital Gains and Losses

Corporate capital gains and losses on the disposal of property and investments constitute ordinary income and expense and are normally included in the taxable results of the year. However, special rules apply to losses on the sale of securities (7.09) and to casualty losses (7.10). Premiums received on the issue of debentures or capital shares are not taxable. Gain on sales of founders' shares or authorized but unissued shares are also not taxable, but the gain must be credited to a capital reserve.

In computing gains or losses, the cost basis of assets is adjusted in accordance with the requirements for monetary correction (2.06). Corporate entities may record as capital losses and deduct for income tax purposes the difference between the monetarily corrected cost of an investment in an associated or subsidiary company and the market value of its underlying net worth on merger. Similarly, capital gains on merger are taxable.

Individuals. Individuals are specifically taxable on income from the proceeds of sale of trademarks and patents, profit on the cession of rights other than rights to real property, and the proceeds received on redemption of founders' shares. Other than the above, most capital gains realized by most individuals are not taxable and capital losses are not deductible. Profits on occasional sales of real estate by a resident individual not in the real estate business are not taxable. Gains on sales of any corporate shares listed on a stock exchange, and on sales of other shares and partnership interests held for more than five years, are not taxable for resident individuals. Nonresident individuals and nonresident entities generally are subject to a 25% withholding tax when repatriating such otherwise nontaxable capital gains, if the remittance in foreign currency exceeds the investment registered at the Central Bank.

6.06 Income from Royalties, Copyrights, Patents, Etc.

Royalties and rents are not taxed at the source, except for nonresidents. Income from the sale or exploitation of patents and trademarks, as well as from technical service and management fees, is also taxed by withholding if it is the income of nonresidents (5.02). Resident persons and entities include such income in their annual returns for taxation through assessment with an exception—foreign currency remitted to Brazil for technical, management, or similar services rendered by Brazilian enterprises to concerns outside Brazil is specifically excluded from taxable income.

Payments of royalties and fees for technical or administrative services may constitute a distribution of profit (7.05), in part or in whole, for income tax purposes.

6.07 Insurance Proceeds and Annuities

Life insurance proceeds are not taxable to the estate of the deceased. Annuity payments in excess of the invested principal and any other distributions in excess of the sum insured are taxable income.

6.08 Redemption of Bonds and Shares

When government or corporate bonds issued with the monetary correction clause (2.06) are redeemed, the additional amount paid to the holder as monetary correction is taxable income. For rates of withholding, see 5.02 and the Rate Tables.

A corporation may amortize its shares out of profits, redeem its shares, buy out dissident shareholders, in certain circumstances buy and sell its own shares on a stock exchange, sell its own shares on a stock exchange for the account of shareholders who fail to pay calls, and reduce its capital by canceling uncalled portions or refunding paid-up capital. The tax law provides that individual shareholders must declare, under Schedule F (10.02), income received in the form of amortization of shares out of profits and must declare, under Schedule B, upon redemption or repayment of shares, the excess received over issuance or acquisition value.

Redemption payments constitute distributions of profit for purposes of the tax computations of the corporation and of the beneficiary. Corporate purchases of shares to be held as treasury stock are not considered redemptions and are not taxable as profit distributions.

6.09 Disguised Distributions of Profit

Six forms of disguised distributions of profit are cited in the regulations. They include benefiting a shareholder, partner, administrator, or person participating in profits, through excessive purchase prices or inadequate sales prices, and the granting of loans without the observance of prescribed conditions. Other examples include compensation for services and the payment of rents, royalties, and technical assistance fees in excess of market prices. In most cases, the loss to the corporate entity as a result of benefiting the other party is not deductible for tax purposes and the beneficiary must include the income in Schedule H (10.02).

Deduction Items

7.01 Business Expenses

The tax regulations contain rules for deducting costs and operating expenses. Operating expenses are basically expenses that are paid or incurred, necessary to the functioning of the business and to the maintenance of the source of revenue, usual or normal in that line of business, and subject to certain rules limiting or prohibiting the deductibility of items that constitute income to others (7.16). See 7.15 for the deduction of monetary correction of balance-sheet items.

7.02 Depreciation

The concept of the original cost of fixed assets does not exist under Brazilian tax regulations. The original cost plus monetary corrections under the old system have been combined into one item and converted into multiples of a government bond (2.06). Depreciation is calculated at rates authorized by the Secretariat, and the charge to expense is based on the amount by which the purchase price of a government bond has increased throughout the year. Salvage value is disregarded in these calculations.

The Secretariat is required to publish approved periods of useful asset lives, but, when this has not been done, the traditionally accepted depreciation rates are permissible, such as 10% for plant, equipment and furniture, and 20% for vehicles. Higher rates may be permitted if proof is furnished that they are appropriate. If the taxpayer and the Secretariat disagree, either may appeal to the National Technological Institute or other appropriate official organizations, and their resolutions classifying and assessing the useful lives of assets in specified industries are official unless superseded by administrative or judicial decisions. Higher depreciation rates may be justified for equipment used for more than the normal working day (eight hours a day). Depreciation of buildings and structures is allowed; the rate has been fixed by the Secretariat at 4% a year. The charge for depreciation is deductible from the month the item is installed, placed in service, or put into working condition.

Agricultural undertakings have the special privilege of depreciating machinery and equipment on the basis of one-half of its useful life. Equipment used in mining and exploiting timber resources may be depreciated over a lesser period than its normal useful life, if the period of exploitation is limited.

Accelerated Depreciation. To stimulate the renovation and modernization of industrial plant, accelerated depreciation deductions have been authorized for specified industries. The accelerated rates are three times the normal rates in each of the three years following the beginning of operation of the new installation. The project must

have been approved and deduction of accelerated depreciation specifically recommended by resolution of the appropriate executive group of the Industrial Development Commission, and the new equipment must have been made in Brazil.

Amortization. Amortization is allowed for certain rights that have a limited life, such as patents, manufacturing formulas and processes, copyrights, and concessions. Leasehold improvements and contractual rights may be similarly amortized. Again, the amount spent on the acquisition of these rights must be distinguished from the monetarily corrected value (2.06). The amortization of the asset is based on the amount, as a multiple of a government bond, recorded on the books and the charge is increased throughout the year as the purchase price of the bond increases. If the asset becomes useless before the end of the amortization period, the balance may be charged off as an expense of the year in which the loss of value occurs. See 7.05 for amortization of certain deferred expenses over five years.

7.03 Depletion and Other Items Attributable to Mineral and Timber Resources

The diminution in value through exploitation of mineral and timber resources is recognized by an annual exhaustion quota. This is determined on the basis of the year's production compared with known resources, or the period of concession, or the contract of exploitation.

Instead of a deduction for cost depletion, depletion at 20% of annual gross income from a mineral property may be allowed during the first 10 years of commercial production from the mineral property. The amount by which the 20% depletion allowance exceeds monetarily corrected cost (2.06) depletion must be added to the capital of the business entity. Such capitalization is free of tax (6.04).

Prospecting expenses incurred by a company holding a concession for this purpose may be written off when incurred or, if the taxpayer chooses, may be capitalized. The writeoff of capitalized expenses must be spread over not less than five years, unless the prospecting rights terminate in less than five years. The minimum of five years applies to preoperational expenses in general, to deferred expenses when new facilities have not entered into production or original facilities have not yet entered into full production, and specifically to the expenses of developing mineral resources deferred prior to production.

7.04 Bad Debts

A provision for bad debts is a deductible expense to the extent that it is necessary to provide for losses that are likely to occur. The

Secretariat is required by law to decree each year the maximum percentage of the receivables that may be set aside as a reserve. Until it does, 3% of receivables (except certain secured receivables) is, with some exceptions, the permitted maximum. Realized losses are charged against the reserve.

7.05 Payment of Rents, Royalties, and Technical Assistance Fees

The general rule for rent and royalty expenses is that they are deductible when necessary to maintain the possession, use, or benefit of income-producing property or rights and are not of a capital nature nor are they disguised distributions of profit. Deduction is not permitted for rents, royalties and technical assistance fees payable to partners or managers and their relatives which are considered to exceed market value (6.09) or for royalties, payable abroad that are not the subject of a contract registered with the Central Bank, are not in accordance with the Code of Industrial Property, and are not within the percentage limits fixed by the Ministry of Finance. For specified basic industries, the overall ceiling for the total of royalties and technical, administrative, and similar fees is 5% of the gross income from the product manufactured or sold; for other specified industries, the maximum percentages range from 2% to 4%. The maximum is 1% for industries that have not been allotted a higher percentage by the Ministry, and for royalties for the use of a trade name or trademark when such use does not involve a manufacturing patent or process.

Payments to an individual or entity domiciled abroad, whether a fixed amount or a percentage of income or profit, for technical, administrative, or similar assistance may be deductible if they meet certain conditions. They must be the subject of a contract registered with the Central Bank, actual services must be rendered, and they must be within the 1% to 5% limits fixed by the Ministry, as previously described. Deductibility is limited, however, to the first five years of the entity's functioning or of the introduction of a special production process, with the possibility of one five-year extension. Royalties and payments for technical, administrative, or similar assistance are not allowable deductions when paid to persons or entities abroad directly or indirectly controlling the voting capital of the payer or when paid by a branch in Brazil to its home office abroad.

The cost of technological research, including experiments to create or perfect products, processes, or formulas, and methods of production, administration, or sale may be written off as operational expense or, at the taxpayer's option, deferred for amortization over five years. Any amounts deferred are converted into multiples of a government bond based on the purchase price of the bond at the time

of the expense and are monetarily corrected as the value of the bond increases. Amortization is based on the increased amount.

All payments of rents, royalties, and technical assistance fees that do not fulfill the above conditions will be treated as distribution of profits.

7.06 Taxes

Income tax and related fines are not a deductible business expense nor are taxes levied as contributions for improvements. The transfer tax on real estate (13.09) may be treated as a business expense if the purchaser of the property so elects, instead of treating it as part of the cost of the asset. The tax on industrial products (13.04) and the tax on the circulation of merchandise (13.08) are value added taxes imposed on the manufacturer, importer, or seller who pays them after taking credit for taxes included in their purchases. These taxes remain part of the purchaser's cost of the goods in the case of fixed assets or where the purchaser is the final user of the goods.

Legally, taxes are deductible only if actually paid in the tax year to which they relate, unless payment is delayed by appeal procedures or the government or government-owned companies owe as much to the taxpayer as the tax due. However, in practice, this requirement of payment within the year does not impede the deductibility of taxes when the tax payable is included as a liability in the balance sheet and payment is made within the normal period allowed.

7.07 Interest and Foreign Exchange Losses

Interest is a deductible expense only if it relates to the accounting year to which it is charged and the interest accrued at the balance-sheet date has been credited to a payee and not to a general provision. Interest credited to payees is subject to withholding tax (5.02).

Foreign exchange losses are deductible expenses as accrued. Monetary correction of certain balance-sheet items may be used, within limits, to offset exchange losses (7.15).

7.08 Operating Losses

A loss in one tax year may be deducted from the real profits within the four following tax years. The loss available for such offset is the operating loss adjusted for tax purposes, after adding back non-deductible expenses. The profit against which the loss is offset is the operating profit similarly adjusted.

Some court decisions have held that a Brazilian branch of a foreign corporation may offset a loss against real profit only in computing its assessed tax and not for purposes of the nonresidents' withholding tax payable at source.

The adjusted tax loss available for offset is recorded in a tax register and can be used to reduce or eliminate future profits for four years, regardless of the fact that in the official books the business entity may have eliminated the loss by offsetting it against reserves or other accounts.

A three-year loss carryover is available to an individual farmer, provided the loss incurred from farming operations is adequately supported by appropriate books and records (10.03).

7.09 Worthless Stock, Securities, and Other Assets

A loss upon the sale of investments in shares, or of a partnership interest that exceeds 10% of the cost as adjusted (2.05), is deductible only (except for investment companies) if the sale is made on a stock exchange or at a public auction, if it is reported to the tax department within 30 days, and if it is proved that the amount realized bears a relation to market value or to net worth. Moreover, if the adjusted cost is more than 10% higher than market value or net worth, it may be used only if the purchase had been reported to the tax department within 30 days of acquisition and, in this case, it is also necessary to show the relation between the sales price and market value or net worth. If the purchase occurred before this rule was introduced (November 1958), an acquisition cost more than 10% higher than face value may be used only on proof that there was a relationship between cost and net worth at that time.

Income tax regulations permit writedowns to market value and write-offs of worthless stock and investments except that writeoffs of investments made as a result of fiscal incentives (2.05) are not deductible. When stocks are written off, the merchandise must be physically destroyed in the presence of an income tax inspector.

The net book value of obsolete fixed assets no longer in use may be written off and deducted for tax purposes.

Other assets that are considered worthless, such as permanent investments and the cost of intangible assets, may be deducted for tax purposes only on their eventual disposition. Reserves to provide for impairment of permanent investments are deductible, providing proof is submitted that the loss is permanent and the investment had been held for more than three years.

7.10 Casualty Losses

Unusual losses of property through accident, casualty, or obsolescence are permitted deductions if not reimbursed through insurance or other indemnification. Losses from defalcations or thefts are not deductible, unless a labor court investigation is set in motion or the matter is reported to the police.

An individual may claim deductions for extraordinary losses caused by fire, storm, shipwreck, or other accident of this nature, to the extent not compensated by insurance or other indemnification.

7.11 Charitable and Other Contributions

Corporate contributions to employees' clubs and to government organizations are permitted deductions. Contributions to institutes devoted to philanthropy, education, scientific and technological research, as well as to cultural and artistic activities, are deductible if the institutions are legally constituted in Brazil, are functioning, are registered with the tax department, do not distribute profits to their managers or supporters and members and, in the previous year, have supplied the tax department with statements of income and lists of contributions. Contributions to stimulate intellectual development in the form of prizes, scholarships, or courses of study in Brazil or abroad are permitted deductions, subject to specified safeguards. The deduction for contributions is limited to 5% of operational profit before such deduction.

Contributions by individuals to philanthropic and similar institutions, including those made in the form of scholarships, are also deductible expenses subject to conditions, some of which coincide with those for corporate contributions. Contributions may not exceed 10% of an individual's gross income.

7.12 Advertising, Entertainment, and Travel Expenses

Advertising or promotion expenses are deductible only when directly related to the taxpayer's business activities and recorded in the taxpayer's accounting records in a manner segregating them from other types of expense. A limitation on the deductible amount is imposed for free samples, which may not exceed 5% of sales or such other percentage as the Secretariat determines. If the Secretariat permits a higher percentage for special campaigns destined to have effect beyond the fiscal year, the extra expense must be amortized over not less than the three following years.

Entertainment expenses paid by an entity, including reimbursements of its officers' and employees' expenses, may be deducted.

Travel expenses incurred for business purposes are deductible. Travel expenses paid on behalf of wives and children of officers or employees and travel expenses of employees and their families from a foreign country to Brazil, or return, are not deductible by the corporate entity unless included as taxable income of the individual.

7.13 Legal Expenses

Legal expenses are allowed as deductions if they meet the test for the deductibility of expenses generally (7.01).

7.14 Insurance

Insurance premiums relating to business are allowable deductions. Insurance policies for which premium payments are deductible include fire and automobile insurance as well as life, accident, disability, and health insurance for the benefit of employees. Compulsory social security contributions may also be deductible providing they are actually paid in the tax year to which they relate; accruals at the balance-sheet date are deductible providing they are paid within the period allowed for payment.

Individual taxpayers are permitted personal deductions for life and personal accident insurance premiums providing the insurance is placed with a Brazilian insurance company. Premiums paid fall within the group of allowances whose total may not exceed 50% of an individual's gross income (10.04).

7.15 General and Special Reserves

Provisions for general contingencies, including general reserves for employee indemnities, for tax contingencies, and other contingencies are not allowable deductions, except that a reserve for bad debts (7.04) is deductible.

Specific reserves for adjusting assets in general to market value when this is below cost are allowed as deductions providing the writedowns are required by law. This provision includes adjustments in inventory valuations and in the carrying value of marketable securities.

Balance-Sheet Monetary Correction. All business entities must monetarily correct certain items on their balance sheets at the close of each fiscal year (2.06). The results of the monetary correction appear in an account in the income statement. Monetary correction of assets such as fixed assets, permanent investments, and deferred charges is credited to this account, and the monetary correction of shareholders' equity is charged to this account.

The balance in the monetary correction account is tax deductible if it is a debit. A credit balance is first used to offset exchange losses and monetary correction on all types of loans charged to expense and the balance, at the entity's option, is deferred. The amount deferred is taken into income in proportion to the reduction in the amount of permanent assets, existing at the time of deferment, as a result of depreciation, sale, or other factors.

7.16 Nondeductibles

The items that follow are not deductible for tax purposes even though they might be appropriate deductions for accounting purposes:

- Royalties payable to partners or directors and to their relatives and dependents (7.05)
- Royalties and technical assistance fees, etc., payable to a home office or controlling interest abroad (7.05)
- Interest on capital credited to owners or partners of an enterprise
- Disguised distributions of profit (6.09)
- Certain valuation reserves for investments (7.15)
- Income tax (7.06) and fines relating to taxes
- Expenses of transferring employees and their families from abroad, expenses connected with travel to their country of origin on vacation, and expenses incurred in eventual repatriation to their country of origin at the termination of their employment in Brazil, unless reported as additional compensation to the employee and subject to payroll withholding taxes and other compulsory payroll contributions

The compensation of directors, executives, partners, administrators of a legal entity, owners of business enterprises, and branch representatives of foreign corporations operating in Brazil is deductible to the extent of a maximum monthly salary for each such person. In addition, the number of such persons for whom monthly salaries may be deducted is limited to seven. Moreover, the deduction for the compensation of such a group within an entity may not exceed 30% of the taxable profit before the deduction (Appendix B).

There is also a specific monthly salary limit on the deduction for remuneration of a corporation's "fiscal council" (required to be appointed by company law) and for the remuneration of a member of an administrative council of any entity (Appendix B).

Bonuses and profit participations of directors and executives may not be deducted. The deduction of bonuses to employees is also subject to maximum amounts (Appendix B).

Alleged payments for commissions, gratuities, or similar purposes, when the transaction or motive for payment is not indicated and the voucher does not name the beneficiary, are not permitted deductions. Moreover, if such payment is made by a corporation, it is subject to a 40% withholding tax (5.02), and if the payer bears the withholding tax as well as the commission or other payment, grossing-up occurs. If the payment is made by an entity other than a corporation, it is required to be treated as profit paid to a partner or to the proprietor.

Accounting for Income and Expenses

8.01 Tax Accounting Generally

Business entities, except for certain small businesses, are required to maintain adequate books and records, including a journal with daily or monthly entries, an inventory book, a purchase register, and such subsidiary records as are necessary for the proper verification of income. The books and records must be in Brazilian currency and language, and must comply with certain legal formalities to be acceptable for the determination of income by the tax authorities. Income and expenses are normally determined on the accrual method.

8.02 Accrual of Business Income and Expenses

There are few guidelines or requirements in the tax law and regulations on accrual procedures. Cases where expense deferrals are required or permitted by the tax regulations have been referred to at 7.03 (preoperational expenses), 7.05 (technological research expenses), and 7.12 (advertising samples). Accrued expenses of known amount are deductible. A provision for estimated expenses is not usually allowable unless it qualifies as one of the specially permitted provisions, such as for bad debts, depreciation, and the technical reserves of insurance companies. Deductible expenses must have been paid or incurred, but the regulations require that some expenses must have been actually paid, such as taxes (with the exception noted at 7.06) and contributions. According to case law, a provision for staff bonuses is allowable if within the deductible limits (Appendix B), to the extent that such bonuses are paid or made available to the employees before the expiration of the period for filing the employer's income tax return.

8.03 Long-Term Contracts and Instalment Sales

Long-Term Contracts. Income derived from long-term operations in construction or real estate must be recognized on the percentage-of-completion method, except for construction on behalf of government entities which, at the taxpayer's option, can be recognized on the basis of cash receipts. Both methods may be used in one year for different contracts. Finance houses that receive income in advance for terms exceeding one accounting period are authorized to take up the profit therefrom on a time-expired basis.

Instalment Sales. The Secretariat holds generally that profit is realized for tax purposes at the time of sale, and that no legal justification exists for reporting the profit on a collection basis. Long-term instalment sales, for example, cannot be deferred and income recognized as instalments are collected. However, an exception is provided for the sale of land and buildings on terms that provide for instalment payments over a long term. In this case, profit may be recognized as the instalments are collected.

8.04 Inventories

The income tax regulations require that inventories be recorded in a formal inventory book at the cost of manufacture or purchase, or at market if lower, except that supplies and manufacturers' work in process must be recorded at cost. Losses through deterioration and obsolescence are deductible when evidenced by fiscal authorities or other official certification is obtained.

"Cost" for inventory valuation purposes is not clearly defined. Average or FIFO costs are permitted, but not LIFO. The practice is to avoid cost methods that increase reportable income as a result of inflation. Standard costs may be used as long as the annual profit is correctly ascertained.

Provisions Peculiar to Corporations

9.01 Resident and Nonresident Corporations Compared

One tax disadvantage of operating in Brazil as a branch of a foreign corporation rather than as a Brazilian subsidiary is that the annual profit, whether credited to the home office or not, is automatically subject to withholding tax (5.02), while a subsidiary incorporated in Brazil must withhold tax only from dividends or other profit distributions. A branch of a foreign corporation engaged in industry, however, may benefit from a reduced rate of withholding tax by investing profit in extensions of its industrial plant (5.02). Since the profit of a branch of a foreign corporation must be taxed at source as income of a nonresident, it is outside the scope of the tax on the undue retention of profits by corporations (9.02). A branch of a foreign corporation cannot be considered to have open capital (9.05).

Corporate income arising abroad is not taxable whether or not remitted to Brazil. Such income is, however, included in the corporate profits and, upon distribution, is subject to withholding tax (Chapter 5). On the other hand, a branch in Brazil records only the income and expense arising from its Brazilian activities, and the expenses of the home office or of an affiliated company abroad are not deductible. When a Brazilian business derives income from an activity partly in Brazil and partly abroad, and it is not possible to ascertain separately the profit produced in Brazil, the taxable profit is arbitrarily fixed at 20% of worldwide gross operational income. If a corporation, not established but represented in Brazil, effects sales in Brazil through its representative and the sales are invoiced directly from abroad, the taxable profit in Brazil is arbitrarily fixed at 20% of the sales price. Foreign shipping companies and airlines are exempt from Brazilian income tax if the Brazilian counterparts are exempt in the foreign country.

See 6.06 for a tax exemption provided for certain income derived from technical, administrative, or similar services rendered to firms abroad. The profit on export sales of manufactured products listed by the Ministry of Finance is not taxable.

9.02 Tax on Accumulated Profits

A tax at the rate of 25% is imposed on the unreasonable retention of profit by a Brazilian corporation. The tax is levied when accumulated profits, or reserves created out of profits, exceed 100% of the corporation's capital. The tax does not apply to limited liability companies (2.02) or to branches of foreign corporations. In practice, the 25% tax is in the nature of a prepaid withholding tax. When increases in reserves that have borne the tax are distributed as dividends, no tax is then withheld. If the tax cannot be used to offset

any withholdings on dividends, it may be used to pay other income taxes.

Liability for the tax arises if the annual general meeting fails to take steps to remove any excess of reserves. The annual meeting must be held within four months after the balance-sheet date, and if it does not approve a dividend or arrange to increase capital, the tax is payable upon the excess of reserves over capital or the increase in the excess, and the corporation must pay the tax within 30 days thereafter. Remedial action to eliminate the excess may effectively be taken at the annual meeting of shareholders. The legal reserve that corporations are obliged to maintain is not a reserve for purposes of this tax as long as the annual appropriation does not exceed 5% of the profit for the year and the legal reserve does not exceed 20% of capital. By case law, reserves include profits not credited to reserves and provisions for anticipated expenses.

9.03 Investment Holding Corporations

The dividend income of investment holding corporations is generally tax free. However, as equity accounting will be required in the majority of cases (2.06), dividends will no longer be credited to income, but will be used to reduce the equity value of the investment. See 6.04 for a limitation on the deduction of expenses of investment holding corporations. All other income is taxable at corporate tax rates.

Investment Companies and Mutual Investment Funds. Investment companies that are licensed by the Central Bank and whose sole object is to invest their capital in a diversified portfolio of stocks or other marketable securities are exempt from income tax providing they distribute earnings annually. Mutual funds are also exempt from income tax if they are managed by investment companies supervised by the Central Bank, distribute their earnings to members every year, and do not invest more than 10% of their assets in any one stock. Tax incentives are provided to encourage individuals to invest in investment companies and mutual funds.

9.04 Corporations with Open Capital

Brazilian corporations whose stock is traded or that have permission to trade on a stock exchange are considered open capital corporations. Such corporations are free from the obligation to withhold tax from certain dividends and are entitled to withhold tax on certain other dividends at a reduced rate (5.02). Shareholders of open capital corporations may deduct in their personal tax returns (a) a percentage of amounts paid each year for subscriptions to nominative shares, and (b) exclude dividends received up to a specified annual limit (Appendix B).

9.05 Liquidations, Mergers, and Other Corporate Changes

When a corporation, partnership, or proprietorship has completed liquidation of its assets and liabilities, it must file a final tax return within 30 days and pay any tax due. However, if a business is continued by a surviving partner or partners or by the estate of a deceased owner, or if the corporate form is changed (such as by converting a limited liability company into a corporation), or if it is merged into another corporation or entity, or if the change is a succession, the usual income tax continues to apply as if the change had not occurred.

When mergers and absorptions involve financial, industrial, or commercial enterprises that are considered to be of advantage to the national economy (2.06), the Ministry of Finance is authorized to issue rules for the evaluation of property and net worth to govern the tax effect on entities and on their owners.

Provisions Peculiar to Individuals

10.01 General

Individuals are subject to tax at progressive rates on their total net income, which is classified into the eight schedules listed below. Expenses related to the income in each schedule may be deducted except for Schedule F (10.03). From the combined net income of all schedules, family and other allowances are deductible (10.04). From the tax calculated at the progressive rates, tax credits are available for investments in many types of shares, etc. (2.05), and for income taxes withheld during the base period as monetarily corrected (Chapter 5). The amounts of gross income and property ownership that require the filing of an annual return, and the deductions and allowances provided, are stated in the Rate Tables and in Appendix B. These amounts are subject to annual adjustment for monetary correction.

10.02 Schedules of Income

Income of individuals is divided into the following schedules:

A—Interest on Brazilian government securities (federal, state, or municipal), but not including bearer securities whose owner elects to remain unidentified (5.02)

B—Other interest, including interest on foreign debt whether government or private, on nominative obligations or received by an identified owner of bearer obligations, but not including interest received for late payment of Schedule C income and Schedule H royalties

C—All forms of remuneration from employment, including remuneration of a director or other administrator, and employees' bonuses and profit-sharing payments

D—Earnings from independent work, such as professional fees, brokers' commissions, and authors' royalties

E—Rent income from real or personal property

F—Dividends on registered or identified-bearer shares, distributions of partnership profits, and other amounts classifiable for income tax purposes as distributions of profit, including any income arising abroad not declarable under Schedule B

G—Farming and related activities

H—Other income (6.01), including royalties (6.06) income determined on the basis of external signs of wealth (4.03), and capital gains on sale of shares (6.05)

See 5.02 for circumstances under which withholding taxes constitute a final tax and the income may be omitted from the individual's return.

10.03 Deductions from Schedular Income

Certain expenses may be deducted under all schedules (10.02), except Schedule F for which no deductions are allowed. In Schedules A and B, the only deductions are commissions and brokerage fees on the purchase and sale of securities.

Under Schedule C, deductions are allowed for trade union dues, contributions to the National Pensions Institute (12.01), and to other pension-paying organizations organized in Brazil, as well as interest on loans incurred for educational purposes. Technical literature and dues are also deductible, providing the individual's function is of a technical nature. The practice is to allow up to 5% of the remuneration without requiring evidence of expenditure. There are also deductions, under Schedule C, appropriate to commercial travelers, traveling inspectors, and others.

Under Schedule D, expenses necessary to earn professional income are deductible, but are limited generally to 20% of the gross income declared under this schedule unless the taxpayer keeps proper books and documents to demonstrate actual income and expense.

Schedules E and H deductions consist of expenses necessary for the production of rent and royalty income, including taxes, insurance, maintenance (limited to 10% of rent), collection expenses (limited to 5% of rent), and interest on the unpaid balance of the purchase price.

To determine farming income for Schedule G, an individual may estimate expenses if farming gross receipts do not exceed a nominal specified limit. However, elementary bookkeeping must, at least, be used in determining farm operating income when gross receipts exceed that limit; and formal bookkeeping is required if gross receipts exceed a still higher limit. The tax incentives discussed at 2.05 under the heading "Agriculture" may then be deducted. The remainder is subject to further deductions to arrive at taxable income. For base years after 1970, one-half of the remainder or, if less, 5% of gross receipts from farming is Schedule G taxable income.

10.04 Itemized Deductions and Personal Allowances

In addition to the schedular deductions discussed in 10.03, an individual may also deduct family allowances, medical expenses, and a group of other deductions whose group total is limited to 50% of total net income.

Family Allowances. A deduction determined each year on the basis of monetary correction is allowed for each dependent (Appendix B). The following qualify as dependents:

- Spouse
- Children, including adopted children and other children brought up by the taxpayer, under 21 years of age (up to 24 years if at college and, regardless of age, if an invalid)
- Adult daughter who is unmarried, married but abandoned without resources by the husband, or widowed and without means of support
- Parents, grandparents, brothers, and sisters who are incapacitated and unable to work and supported by the taxpayer
- Concubine after five years of cohabitation with a taxpayer who is legally separated from and not responsible for the maintenance of his wife

Separate returns may be filed by each spouse when each has income or when they were married under a contract that specifies separate property. When separate returns are filed, only the head of the family may claim the deductions for children. A child with his own income does not qualify as a deduction, unless the income is included in the parent's tax return.

Medical Expenses and Rent. Amounts paid to doctors, dentists, and hospitals for treatment of the taxpayer and dependents are deductible. Rent paid for living quarters is deductible up to a maximum annual amount (Appendix B).

Deductions Limited to 50% of the Total Net Income. Certain other deductions may be claimed, but in the aggregate they are limited to 50% of the total net income from all schedules (10.02). These deductions include the following:

- Interest on personal debts that is not deductible under one of the schedules, limited to a maximum annual amount (Appendix B)
- Premiums for life, accident, and hospitalization insurance placed in Brazil
- Casualty losses (7.10)
- Educational expenses of the taxpayer and dependents, limited to a maximum annual amount (Appendix B)
- Expenses approved by SUDAM of search for minerals and other natural resources, and expenses approved by SUDEPE of investigating possible activities of the fishing industry (2.05)

10.05 Resident and Nonresident Individuals Compared

Residents are taxed on their worldwide income, while nonresidents are subject to tax only on their Brazilian income. An individual is a resident for tax purposes if he maintains his domicile or permanent home in Brazil. Only residents can file a tax return and be taxed by assessment. Nonresidents are taxed at the source and do not file returns. An individual upon taking up residence in Brazil becomes subject to residents' withholding taxes in respect of income arising in Brazil, and is required to file an income tax return during the following year reporting income received between the date of arrival and December 31 of the year of arrival. Before leaving, an individual who is giving up residence in Brazil must file a return for the expired portion of the current year. There is a similar obligation upon those who take up residence and depart in the same year.

Nonresidents who stay in Brazil for less than 12 months and have income arising in Brazil are subject to nonresidents' withholding tax on such income, unless it is tax exempt. Deductions for expenses from the income of nonresidents are permitted only in connection with income from real property. Residents who are absent from Brazil for more than 12 months, except for reasons of study or government service, are taxed as nonresidents.

Relief from Double Taxation of Foreign Income

11.01 Tax Treaties

Brazil has entered into international tax treaties with other countries (Appendix A), but not with the United States. The basis of all treaties is the avoidance of double taxation on income subject to federal income tax and the reduction of withholding tax on income paid to business entities established in the treaty countries. In addition, there are provisions for the avoidance of taxation on shipping and airline profits provided reciprocal treatment is afforded to Brazilian income from these sources.

11.02 Credit for Foreign Income Taxes

Income of resident individuals arising abroad is taxable (10.05). Income tax paid by individuals to foreign countries may be offset against the Brazilian tax on such income, provided there is reciprocity of treatment for income arising in Brazil. The tax liability after such tax credit cannot be less than the tax liability without including the foreign income.

Pensions, Pension Funds, and Other Retirement Benefits

12.01 National Pensions Institute

Employees and employers are compulsory contributors to the National Pensions Institute. Directors and partners must also contribute, unless they are over 60 years of age and have not contributed previously. The contributions are allowable deductions from taxable income, and the pensions are taxable income, unless retirement is due to one of certain specified diseases. The Pensions Institute provides length-of-service pensions after not less than 30 years employment, old age pensions at age 65 for male and age 60 for female contributors and other benefits, such as disability and survivors' pensions. Employees who are entitled to a length-of-service pension, but continue to work, may obtain a monthly gratuity from the Institute. A pensioner may return to work, whereupon he becomes a contributor again, but continues to receive his pension. The contributions made while on a pension status are returned, plus monetary correction, at the time he stops working.

12.02 Retirement Benefits in Addition to the National Pensions Scheme

Pensions from former employers are taxable income to the recipients and deductible by the employer. But, pensions paid by former employers who have no legal obligation to pay them are not deductible. Premiums for group life insurance paid by an employer for the benefit of employees do not constitute income of the employees. Individual life insurance premiums paid by an employer on behalf of employees are considered to be employee remuneration; therefore, they are deductible as expenses of the employee as well as the employer, although an employee's life insurance deduction is subject to limitations (10.04). The face amount received under a life insurance policy in a lump sum or as an annuity is not taxable income, but any proceeds in addition to the sum insured are taxable. Premiums on life insurance placed outside Brazil are not deductible. Contributions to welfare funds in Brazil, other than to the National Pensions Institute, are deductible from Schedule C income (10.02), and retirement benefits therefrom are treated in the same way as life insurance income.

12.03 Employee Participation Fund

Employers are required, in accordance with the employee social integration program, to contribute to an employee participation fund for ultimate distribution to employees in Brazil. Contributions to the fund are based on a percentage of the employer-company's income tax liability and a percentage of gross revenues. Banks, insurance companies, and other businesses that do not sell products pay twice the percentage applicable to their income tax liability in lieu of a

percentage of gross revenue. The rates of contributions for most businesses are 5% of income tax payable and 0.75% of gross revenues.

The employer may deduct contributions to the fund. The contributions are paid to the Federal Savings Bank and maintained in blocked employee bank accounts that are interest bearing and are subject to automatic monetary correction. One-half of the contributions is credited to the company's employees proportionally to their salaries and wages, and the remainder is credited on the basis of length of service to those employed five years or longer by one employer.

The contributions credited to employees and the increment in their bank accounts are not taxable income, nor are withdrawals taxable income of the employees or their beneficiaries. Employees may withdraw the balance in their accounts only for prescribed purposes, such as at the time of marriage, to make a down payment on a home, upon becoming an invalid, and on retirement. Moreover, accrued interest and monetary correction may be withdrawn each year. Any balance in the account at death is paid to the employee's beneficiaries.

12.04 Employee Indemnity Fund

In addition to the employee participation fund, employers are required to make current contributions for their employees' eventual retirement or dismissal. An amount equal to 8% of the monthly gross compensation (including overtime and other paid fringe benefits) must be deposited each month in a blocked bank account in the name of each employee. The amounts deposited are tax deductible. The employees' accounts receive interest and monetary correction, and withdrawals are not taxable to the employee. Employees may withdraw the amounts credited to their account if dismissed by the employer without just cause and in other prescribed circumstances similar to those noted in 12.03.

Part 3: Other Taxes

Taxes on Sales, Transactions, Commodities, and Property

13.01 Import Duties

Duties on imports are levied either in accordance with a tariff rate on units or on an ad valorem basis, depending on the nature of the merchandise imported. Tables of classifications of merchandise subject to import duties and tariff rates are established by decrees issued by the President upon recommendations by the Tariff Policy Council of the Ministry of Finance. Changes are frequent and are published in the Official Gazette.

Exemptions from import duties may be granted for equipment to be used in the underdeveloped regions of the country or in the export business (2.05).

13.02 Export Duties

Export duties are levied by the federal government on a temporary and selective basis principally to control the effects of exchange transactions and the trade balance of Brazil. Duties are payable by the exporter, and are levied mainly on the export of raw materials and commodities. The National Council of Foreign Trade regulates these matters.

13.03 Tax on Agricultural Land

A tax is levied on the possession or use of agricultural land situated outside urban municipalities. The basic rate of tax is 0.2% of the current value of the land. This percentage is adjusted upward or downward, depending on the land's economic value, location, total area, and other factors.

13.04 Tax on Industrial Products

Manufactured products, including those that are imported, are subject to an excise tax, known as the "tax on industrial products." Under the law, a product is considered to be manufactured when it has undergone any process that modifies or changes its character or improves it for eventual consumption.

The tax is levied on a value-added basis at rates that are selective, depending on the necessity of the product. The rates range from 3% for the most essential products to 366% for cigarettes, and are frequently changed. The tax rates on selected products are shown in the Rate Tables.

The tax is due on the entire manufacturing process, including importation, transformation, improvement, assembly, and packing. A credit may be claimed for the tax paid by others and included in the cost of any ingredients or parts that go into the product. For this

purpose, each sales invoice must show the amount of tax included in the sale.

Export sales are exempt from the tax. Shipments to the Manaus Free Zone are also exempt, but the tax must be paid if the goods are returned to other parts of Brazil. Products subject to the tax on fuels, minerals, and electric power (13.06) are not subject to the tax on industrial products. Other exemptions are granted from time to time, frequently for limited periods. Such exemptions include the importation of essential equipment for certain industries and exporters, and certain sales to foreign travelers. For other tax incentives, see 2.05.

The tax on sales, less credit for taxes paid on purchases, must be paid within a period that varies from 15 to 165 days after the end of the month of sale, depending on the type of product sold. Penalties are imposed for failure to collect or pay the tax on time, and such unpaid taxes are subject to monetary correction (2.06).

13.05 Tax on Financial Transactions and Insurance Premiums

Credit institutions and banks, as well as insurance and finance companies are responsible for administering a federal tax on loans, discounts, and similar extensions of credit. The financing institution collects the tax from the borrower and remits its tax collections monthly to the Central Bank of Brazil, or to an officially designated local bank, for the account of the federal treasury. The tax is 1% of the principal sum borrowed when the debt has a maturity of 180 days or more or an indefinite maturity. On loans that mature in less than 180 days, the tax is 0.2% of the monthly balances of loans outstanding.

Insurance companies are also subject to a tax of 1% of premiums received on life and accident insurance and 2% of premiums on property and other insurance, except reinsurance, credit insurance on exports, and insurance on shipments of merchandise abroad. The tax is deposited monthly with the Central Bank of Brazil.

13.06 Tax on Fuels, Minerals, and Electric Power

A special and "single" tax is levied on the extraction, refining, and distribution of petroleum products including lubricants, on electric power generation and distribution, and on the extraction of minerals. Most of these activities are performed by corporations in which the federal government has a majority interest. This tax supersedes all other taxes that might be imposed on such activities on the federal, state, or municipal level, except for income tax and any government charges for services rendered.

The minerals extraction tax is based on the metric ton value set by the government and, depending on the kind of mineral, ranges from 1% to 15% of the value of the minerals extracted. Other rates vary, depending on the activities, and may be applied to the weight produced or extracted, or the number of kilowatts generated. Any tax paid in connection with the production of goods exported is refunded.

13.07 Taxes on Transport and Communication

Federal taxes are levied on motorized transport services outside the area of a municipality, while services of this nature within a municipality are subject to municipal taxes (13.10). A federal highway tax is imposed on motorized vehicles.

A tax is also levied on the transmission and receipt by any process of written, spoken, or visual messages, except for transmission and receipt within the geographical area of a municipality. The tax is levied on the sender; however, the rates have not yet been determined by the regulatory authorities.

13.08 Tax on Circulation of Merchandise

An added value tax is levied by the individual states on the circulation of merchandise from one industrial or business establishment to another, even within the same business enterprise. In many respects, this tax is similar to the federal tax on industrial products (13.04) and may be imposed on the same products. While that tax stops at the end of the manufacturing process, the tax on the circulation of merchandise continues to be imposed along the path of distribution until the product reaches the ultimate consumer. Also, the circulation tax is not limited to industrial products, but includes agricultural and all other products, unless they are specifically exempt.

The procedures for paying the tax on sales and claiming a credit for the tax paid on purchases are similar to those for the tax on industrial products. However, since the tax on circulation of merchandise is a state tax, special provision is made for claiming credit for taxes paid in other states, so that each state receives the tax only on the value added within its boundaries.

Although this is a state tax, certain federal rules apply. The rate on interstate sales is fixed by resolution of the federal Senate and, at the present time, is 11%. The states are also required to agree on uniform regional rates. By such agreements, the rates are 14% on interstate transfers in the Central and Southern regions of the country and 15% in the North and Northeast regions.

There are a number of exemptions from this tax, including sales of fixed assets with more than one year's use by the original purchaser

of fixed assets. Export sales of manufactured products are exempt, but exports of agricultural produce and other items are taxed at 13%, unless they are otherwise exempt. A number of such products are exempt or are taxed at reduced rates (2.05).

The tax is generally payable monthly. Penalties may be assessed for failure to pay. However, before such action is taken, taxpayers are generally given a chance to correct any irregularities.

13.09 Tax on Transfers of Real Property

A tax is imposed at the state level on the transfer of real property and rights to real property, but not on guarantees or mortgages connected with real property. Transfers by sale, gift, inheritance, or otherwise are taxable, but no tax is imposed on the transfer to an entity in exchange for its shares or in connection with a merger or consolidation, unless such entity predominantly deals in real estate.

The tax is imposed on the value of the property at rates that may not exceed ceilings established by the federal Senate. The rates are 2% on transfers by gift and inheritance, 1% on sales in general, and 0.5% on sales of residential buildings under the federal housing program.

13.10 Tax on Services of Any Nature

Services rendered are subject to a municipal tax in the municipality where the services are rendered, where an establishment is maintained, or where the person rendering the services is domiciled. Transport and communication services that extend beyond the limits of the municipality are not subject to this tax, but may be subject to federal tax (13.07). Services by employees and most banking services are exempt. Certain services that are rendered in conjunction with the sale of goods, such as building construction and repairs as well as the operation of hotels, are subject to this tax. In other cases, when the services are incidental to the sale of merchandise, only the tax on the circulation of merchandise applies (13.08).

The tax is levied on the value of the services rendered, but certain contractors may deduct the cost of materials acquired in connection with their services and the cost of services by subcontractors that have already been subject to this tax. The following are the maximum rates:

Civil engineering and architecture	2%
Games and public entertainment	10%
Other services	5%

13.11 Municipal Real Estate Tax

Land and buildings located within an urban area are subject to a municipal real estate tax, while property outside such areas may be subject to the federal tax on agricultural land (13.03). Urban areas are defined as those having at least two of the following five facilities: pavements, water mains, sewers, street lights, and public schools.

The tax is assessed annually on the basis of the current value of the property. The rates of tax vary among municipalities. In many cases, the tax rates approximate 1.2% of the property value.

13.12 Estate and Gift Taxes

There is no tax in Brazil on transfers of personal property by means of inheritance or gift. A transfer tax is imposed on transfers of real property. The rate of tax is 2% of the value of the property transferred as a result of inheritance or gift (13.09).

Employment Taxes

14.01 Social Security Contributions

Employers and employees must contribute to various funds set up under the social security programs. Contributions are paid monthly on the basis of the employees' earnings up to a limit of 20 times the highest minimum wage in effect at the time. The rates are as follows:

	Contributions Payable	
	Employees	Employers
	(%)	(%)
(a) Social security fund	8.0	8.0
(b) Social security on annual bonus (13th salary)		1.2
(c) Family supplement fund		4.0
(d) Education fund		2.5
(e) Apprenticeship service		1.0
(f) Social service		1.5
(g) Agricultural development		2.4
(h) Agrarian reform fund		0.2
(i) Maternity fund		0.3
	<u>8.0</u>	<u>21.1</u>

The contributions under (a), (b), (c), (d), (g), and (i) are based on earnings up to a limit of 20 times the highest minimum wage. The other contributions are based on earnings up to a limit of 10 times the highest minimum wage.

The contribution applicable to the annual bonus is paid by the employer monthly, so that, if there is no change in the salary during the year, a total contribution of 14.4% of the bonus will have been paid by the end of the year. The employer is then reimbursed for the employee's share by withholding one-half of the contribution (7.2%) from the bonus paid to the employee.

The family supplement fund is used to pay an allowance to employees with children under 14 years of age. Such allowances are not included in the employees' earnings on which the social security contributions are based.

14.02 Syndical Tax

A syndical tax amounting to one day's salary must be withheld from each employee's salary once a year, generally during the month of March. Employers also contribute once a year on the basis of the capital of the enterprise. This tax is used to finance labor unions.

14.03 Employment Charges

In addition to social security contributions, the employer must provide workmen's compensation insurance and certain other forms of protection for his employees (12.03 and 12.04). These payments are made by the employer alone and, in most cases, are required by law to be proportional to his total payroll.

A paid vacation, fixed at 30 days after one year of service, is entirely paid by the employer. If an employee leaves or is dismissed before taking his vacation, the employer must pay for the earned portion of the vacation entitlement. The employee has the right to request payment in cash for 10 days of his vacation entitlement.

Employers are also required by law to pay all employees a year-end bonus equivalent to one month's salary, which is based on salaries in force in December of each year. This bonus is known as the "13th month's salary."

Part 4: Rate Tables and Appendices

Income Tax—Individuals

(For the Tax Year 1979 and Base Year 1978)

Income Bracket (Cr\$)	Tax on Lower Amount (Cr\$)	% on Excess Over Lower Amount
0- 65,000	0	0
65,001- 92,000	0	5
92,001- 120,000	1,350	10
120,001- 157,000	4,150	15
157,001- 205,000	9,700	20
205,001- 270,000	19,300	25
270,001- 350,000	35,550	30
350,001- 460,000	59,550	35
460,001- 600,000	98,050	40
600,001- 950,000	154,050	45
950,001-1,400,000	311,550	50
1,400,000-upward	536,550	55

Notes:

1. Tax rates and brackets are effective January 1, 1979, and are applicable to income for the calendar year 1978.
2. If husband and wife file separate returns, each is entitled to exemption of the first Cr\$65,000. In such case, however, the allowance of Cr\$14,400 for a dependent spouse may not be deducted by either of them (10.04).

Income Tax—Entities

Business Profits (Cr\$)	%
0-30,000,000	35
In excess of 30,000,000	40

Notes:

1. Prior to 1979 the tax rate was 30% on total business profits.
2. The tax rate for public utilities is 17%.
3. There is also a tax on unreasonable retention of profits which amounts to 25%.

Withholding by Entities from Other Income (5.02)

	Rate %
Payments to individual public work contractors	8
Income from lotteries and betting	30
Indemnities for breach of contract, except employment contracts	10
Interest on credit balances of individuals	10
Interest and monetary correction on bills of exchange:	
Maturity from date of issue:	
Less than 180 days	10
180-359 days	9.5
360-539 days	8.5
540-719 days	8
720 days or more	7
Interest only on obligations payable with the same monetary correction that applies to Readjustable Treasury Obligations. (The monetary correction is exempt from withholding.):	
Maturity from date of issue:	
Less than 24 months	30
24-60 months	25
60 months or more	20
Interest on government bearer bonds	6
Discount income on debentures bought by individuals	15

Tax on Industrial Products (13.04)

(Selected Items Only)

Product	Rate %
Iron and steel	4-5
Factory machinery	5-24
Cargo vehicles:	
Trucks	5
Pickups	16
Passenger cars—depending on the weight	30-35
Parts for cargo vehicles	5
Parts for passenger cars	12
Wine	10-20
Beer	72
Whiskey	90
Cigars	15
Cigarettes	366

Withholding Tax on Wages (5.01)

(For the Year 1979)

Monthly Income Bracket* (Cr\$)	Tax on Lower Amount (Cr\$)	% on Excess Over Lower Amount
0- 7,500	0	0
7,501- 8,400	0	5
8,401-10,900	45	8
10,901-15,500	245	10
15,501-20,900	705	12
20,901-29,100	1,353	16
29,101-45,500	2,665	20
45,501-72,800	5,945	25
72,800-upward	12,770	30

*Tax is withheld on the amount of income after deductions for social security contributions (10.03) and family allowances for each dependent (10.04).

**Withholding from Income of Nonresidents
and Foreign Entities (5.02)**

	Rate %
General rate	25
Income credited to special account for extension of industrial plant	15
Supplementary tax for remittances exceeding the following percentages of registered foreign capital including reinvested profit:	
Excess over 12%	40
Excess over 15%	50
Excess over 25%	60
Income from motion picture films (based on 70% of remittance if films are imported at a variable price, and 100% of remittance if imported at fixed price)	25

Withholding from Dividends and from Other Distributions of Profits (5.02)

	Rate %
Dividends received by entities	None
Dividends received by individuals:	
If owner elects withholding:	
From a corporation without open capital	25
From a corporation with open capital	15
If owner elects to include dividends in his taxable income	None
Distributions of partnership profits:	
Received by entities	None
Received by individuals:	
If owner elects to include profits in his taxable income	10
If owner does not so elect	25
Income from founders' shares (6.04):	
On registered shares:	
Received by entities	15
Received by individuals	10
On bearer shares:	
Identified owner	15
Unidentified owner	40
Commissions and similar payments to unidentified persons or for unstated reasons	40

**Countries with Which Brazil
Has Entered into Tax Treaties**

Argentina

Austria

Belgium

Denmark

Finland

France

Germany

Italy

Japan

Norway

Portugal

Spain

Sweden

United Kingdom

Amounts Subject to Annual Adjustments Based on Monetary Correction

(For the Tax Year 1979 and Base Year 1978)

	(Cr\$)
Requirement for filing individual income tax returns (4.01):	
Gross annual income in excess of	65,000
Bonds owned in excess of	110,000
Rural property producing an income in excess of	135,000
Minimum income tax in preceding year for requirement to pay tax in 12 instalments starting in January (4.02)	142,400
Maximum monthly deduction allowed for remuneration of directors, partners, administrators of a legal entity, and owners of individual enterprises (limited to 30% of taxable profit before such deduction—7.16):	
Per person	38,500
For all persons (limited to seven)	269,500
Maximum monthly deduction for each member of the fiscal council of a corporation and each member of an administrative council of any entity	12,800
Maximum annual deduction allowed for bonus to each employee (other than 13th salary—7.16)	49,000
Maximum gross receipts for exemption from tax on business profits (2.02):	
Sales proprietorships	127,400
Others	21,400
Deductions from combined net income of all schedules (10.04):	
Family allowance for each dependent	14,400
Life insurance premiums—individuals	16,000
Interest—individuals	13,500
Rent—individuals	16,200
School fees—per individual	20,300
Dividends from corporations with open capital (9.05)	12,800

Specimen Tax Computation of a Brazilian Resident Corporation

	(Cr\$)	(Cr\$)
Computation of Taxable Profit:		
Net income for year per books, after providing for monetary correction of balance sheet (2.06)		1,915,000
Add—Nondeductible items:		
Per books (two directors)	950,000	
Allowed for tax (2 × 462,000) (Appendix B and 7.16) or 30% of taxable profit (See Note 3 below.)	<u>910,500</u>	39,500
Depreciation adjustment:		
Per books	100,000	
Allowed for tax (7.02)	<u>75,000</u>	25,000
Commissions to undesignated recipients (7.16)		5,000
Royalties (7.05 and 7.16)		145,000
Income tax (7.06 and 7.16)		250,000
Fines relating to taxes (7.16)		<u>10,000</u>
Total		2,389,500
Deduct:		
Profits and dividends received from other entities (6.04)		<u>265,000</u>
Taxable profit		<u>2,124,500</u>
Tax Computation:		
Income tax on taxable profit (3.02) (35% on Cr\$2,124,500)		<u>743,575</u>
Total income tax liability		<u>743,575</u>

(continued)

	(Cr\$)	(Cr\$)
Tax Computation:		
Total income tax (brought forward)		637,350
Deduct—Tax incentives claimed (2.05):		
SUDENE—25% (Note 1)	159,337	
Tax credit for other investments—1%	<u>6,373</u>	<u>165,710</u>
Net tax liability after incentive deductions (Note 2)		471,640
Deduct tax already paid before filing (4.02)		<u>110,000</u>
Net balance of tax payable		<u>361,640</u>
Notes:		
1. Gross amount to be shown as SUDENE investment—50% of the tax		318,675
Deduct—Nonrefundable retention by the government for investment in its own public projects—25% of the tax		<u>159,337</u>
Remainder to be invested in SUDENE by the corporation—25% of the tax		<u>159,338</u>
2. Portion of the tax applied to the government's general revenues		318,675
Applied by the government to its own public projects:		
National economic integration program	95,602	
Land purchase and land distribution program	<u>63,735</u>	<u>159,337</u>
Net tax liability of the corporation		<u>478,012</u>
3. Computation of deduction for directors' salaries:		
Taxable profit		2,124,500
Add: directors' remuneration		<u>910,500</u>
		3,035,000
30% thereof		910,500

Taxes on Representative Earned Incomes

(For the Tax Year 1979 and Base Year 1978)

Earned Income (1) (Cr\$)	Single With No Dependents (Cr\$)	Married Couple	
		No Children (Cr\$)	Two Children (Cr\$)
300,000	29,892	26,292	19,133
350,000	42,272	37,952	30,352
400,000	56,015	51,815	43,175
450,000	72,191	67,151	57,425
500,000	88,816	83,776	73,696
750,000	186,052	179,572	166,612
1,000,000	292,927	286,447	273,487
1,250,000	409,608	402,408	388,008
1,500,000	528,358	521,158	506,758

Note:

- Earned income represents an employee's wages before deductions from schedular income (10.03) and for family dependents allowances (10.04). The above computation reflects the following deductions and allowances:

Technical literature allowance (10.03):

5% of earned income

Social security contributions (10.03 and 12.01):

Twenty times monthly minimum wage:

January to April, Cr\$20,820

May to December, Cr\$28,940

8% of Cr\$20,820 for four months

8% of Cr\$28,940 for eight months

Cr\$ 6,662

18,522

Cr\$25,184

Married couple's family allowance (10.04):

Spouse

Cr\$14,400

Two children

28,800

Deduction for rent

16,200