



LEGALINK

INTERNATIONAL BUT PERSONAL

FIVE ADVANTAGES OF DOING BUSINESS IN...

FOR PRIVATE CLIENTS
AND CORPORATE ENTITIES



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BRAZIL

FELSBERG ADVOGADOS

1. A country of opportunities and a strong need for a modernized infrastructure

Brazil is a market of over 200,000,000 consumers, which is growing and has a strong need for infrastructure.

There is a current concern to improve the infrastructure, which is reflected in the passing of new legislation in the past months for the privatization of certain governmental assets (e.g., Fortaleza, Salvador, Porto Alegre and Florianópolis Airports) and in the awarding of concessions on a reasonably realistic schedule.

For the coming years there are several opportunities in infrastructure, such as:

(i) Investment Partnerships Program (PPI): Law 13,334 of September 13th 2016, provides for a framework under which projects on different regimes (common concessions, PPPs, authorized projects, etc.) shall evolve over the next few years;

(ii) Airports: The federal government intends to privatize relevant airports in Brazil, such as Maceió, State of Alagoas, João Pessoa, State of Paraíba and Santos Dumont Airport, in Rio de Janeiro;

(iii) Eletrobras: The federal government officially announced its intention to privatize the electricity company Eletrobras;

(iv) Privatization or restructuring of water and sanitation state companies: The privatization of this sector gained a new impulse in 2018 and should represent a great opportunity for private investors to take over this sector, in which private participation is still low (only 6% of operations are carried out by private companies in Brazil);

(v) Railways: The railway system in Brazil is still precarious and inconsistent with its territory and freight needs. By 2015, it had only 30,000 Km (23,000 km in operation), as compared with 228,000 Km in the United States;

(vi) Public lighting: The federal government is also supporting municipalities to implement long-term PPPs for their public lighting needs; and

(vii) Other opportunities: There are many other opportunities under the power and attributions of the federal, state and municipal administrations, including without limitation, opportunities in urban mobility (subways, monorails, rapid bus systems), social infrastructure (public hospitals, public schools, housing and projects, etc.), municipal concessions (waste management services, cemeteries, public parks, convention centres, etc.).

BRAZIL | FELSBURG ADVOGADOS**1. Fight against corruption makes compliant foreign investors become more competitive**

Prosecution against corruption criminal offenses has already put highly placed public officers and companies' officers in jail. The fight against corruption shall continue for the foreseeable future. Brazil and the investor community will benefit from a cleaner and fairer business and governmental environments. Indeed, foreign investors who are concerned about operating in a compliant manner become more competitive, as they do longer have to compete with companies that gain markets by making use of corruption practices.

2. Equal treatment to foreigners in a legal certain environment

Brazilian Constitution provides for that foreign entities are equal to nationals. Thus, except for a few exceptions justified by the sensitive nature of the area of the investment, there are no limitations for foreigners to invest in Brazil.

Furthermore, as a democracy, the principle of legality is observed as well as other basic principles that give a foreign investor a certain comfort to invest in the country, such as the non-retroactivity of the law, the immediate application of the law, the access to justice, etc.

In terms of IP protection, it is noteworthy that trademark and patents benefit from protection in compliance with international standards. Indeed, Brazil is a signatory of the main international intellectual property treaties (such as the Paris, Bern and Rome Conventions, and TRIPS).

3. Tax incentives

The use of tax incentives is a significant feature of the Brazilian business environment. Generally, tax concessions may be granted by Federal, State and/or Municipal tax authorities to encourage foreign and local investments, as well as to promote specific economic sectors and local social development.

Such incentives – which usually are comprised of tax exemptions, reductions, suspensions and/or special regimes – reduce the overall corporate tax burden, creating an investor-friendly environment. In most cases, taxpayers are required to comply with specific regulations, conditions and ancillary obligations. Besides the tax reductions, in certain areas investors may also be granted with other incentives, such as free-lease of land, urbanized road system, water supply and telecommunications networks, sanitary sewer and rainwater drainage, among others.

It is worth mentioning that Brazil has a main Free Trade Zone in the State of Amazonas (Zona Franca de Manaus – “ZFM”). Within the ZFM, several tax benefits are granted for industrial

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companies, and they are applicable to (i) Import Tax; (ii) Federal Excise Tax (“IPI”); (iii) Federal Social Contributions (“PIS/COFINS”); (iv) Income Tax (“IRPJ/CSLL”); (v) State VAT (“ICMS”); and/or (vi) Property Tax (“IPTU”).

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