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Indirect Tax Alert

News from Americas Tax Center

Brazilian Federal Revenue changes procedures applicable to special customs regimes for oil and gas industry

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The Brazilian Federal Revenue (RFB) has issued Normative Instruction (NI) 1880/2019, modifying NIs 1415/2013, 1600/2015 and 1781/2017, which cover the special customs regimes applicable to the oil and gas industry (i.e., Repetro, Repetro-Sped and Temporary Admission).

The "old" Repetro is a special regime that allows for the temporary admission of goods into Brazil with suspended taxes (NI 1415/2013), which is one special method under the general Temporary Admission regime (NI 1600/2015). The Repetro-Sped (NI 1781/2017) special regime introduced two new import methods with suspended taxes: (1) the permanent importation of goods; and (2) the local acquisition of raw materials, intermediate products and packaging materials to be used in the manufacture of goods in Brazil.

NI 1880/2019 includes provisions on the qualification and concession of the old Repetro regime and the guaranteed waiver of suspended taxes on the importation of goods under the Repetro-Sped regime. It also includes modifications to the annexes that define which goods are subject to the Repetro-Sped regime.

Additionally, NI 1880/2019 replaces the term "use" for "destination" of the goods, which allows more goods to be subject to the Repetro-SPED regime. The special regime applies to goods destined for the exploration, development and production of oil and natural gas. According to NI 1880/2019, the "destination"

requirement is met if the goods are installed; the goods are available in the places indicated in the concession, authorization, assignment or production-sharing contracts; or the goods are used in the exploration, development and production of oil and natural gas.

It also establishes the circumstances under which the regime may not be used and updates the application requirements.

Ancillary obligations

NI 1880/2019 allows importers to issue a Single Electronic Invoice (NFA-e) only for goods moved between establishments, warehouses and places of use, according to the state legislation rules in force.

Beneficiaries of the Repetro-Sped regime that import permanent goods or manufacture goods must use the traditional Electronic Invoice (NF-e) and are subject to one of the following methods: (1) importation or acquisition in the internal market of raw materials, intermediate products (i.e., products used in the production process) and packaging materials; or (2) importation of goods that will remain permanently in Brazil. Such beneficiaries must comply with the ancillary obligation of submitting the Digital Fiscal Bookkeeping (EFD-ICMS/IPI) to the tax authorities.

Storage activities period

NI 1880/2019 limits to three years the storage of goods subject to the Repetro-Sped regime, but not used in an activity related to the oil and gas industry. After three years, if the goods are still not used in an activity, all the suspended taxes must be collected with fines and interest.

New requests and deadline

Each new request for the use of the regime must include a service agreement and, when applicable, a time charter agreement, the application control number, insurance document, worksheet for the consolidation of contracts and list of goods admitted into Brazil.

The deadline for using the Repetro-Sped regime is no later than the date indicated in the Executive Order (ADE) granting the beneficiary's use of the special regime.

Other provisions

NI 1880/2019 also:

- ▶ Modifies the text of Item 101 of Annex II of NI 1781/2017 to include technical descriptions for sub-item "RSV"
- ▶ Limits contract payments under the Repetro-Sped regime according to the good's value
- ▶ Establishes that the application of the permanent import method will automatically terminate after five years, counted from the date of the import declaration registration
- ▶ Authorizes the RFB's unit responsible for customs clearance to analyze the application of the regime and control the period for which the Repetro-Sped regime is valid
- ▶ Allows requests to extend the Temporary Admission regime to be automatically granted, although the RFB may review the automatic grant, and limits the extension to the time that the goods are in Brazil

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