



IBS AND CBS: IMPACTS ON REAL ESTATE LEASES

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**BEATRIZ BUENO DE MORAES GOMES DE SÁ
& FELIPE KNEIPP SALOMON**

LEVY & SALOMÃO
ADVOGADOS

The tax reform enacted by Constitutional Amendment No. 132/2023 and regulated by Supplementary Laws No. 214/2025 and 227/2026 will profoundly reshape the taxation of consumption in Brazil and will have significant impacts on the real estate sector.

The IBS, levied at the state and municipal levels, and the CBS, levied at the federal level, will replace ICMS, ISS, PIS, COFINS, IPI, and IOF (Tax on Financial Transactions, including insurance). The new taxes will feature a simplified collection system when compared to the current regime, a broad tax base, unified calculation criteria, and, as a general rule, will be charged separately from the listed price. These changes are expected to bring greater transparency and efficiency to the tax system.

In the real estate sector, the effects will be substantial. Individuals may become subject to the new taxation in a manner similar to legal entities. In addition, the separate charging of IBS and CBS will directly affect rental prices, requiring renegotiation to preserve margins on the landlord's side and to manage costs on the tenant's side.

This guide presents, in an objective manner, the main effects of the reform on real estate leases, including the specific tax treatment of leasing transactions, the transition regime, and the opportunities arising from the new tax model.

FOR INDIVIDUAL LANDLORDS

Who will be required to pay IBS and CBS?

An individual will become subject to IBS and CBS if, in the previous calendar year, both of the following conditions are met:

- Annual revenue from real estate leases and short term residential rentals exceeds BRL 240,000; and
- The individual carries out leasing transactions, including short term residential rentals, involving more than three properties.

Note 1: If total revenue in the current year exceeds the threshold by 20 percent, meaning BRL 288,000, the taxpayer becomes subject to taxation in that same calendar year.

Note 2: The thresholds mentioned above will be adjusted monthly for inflation based on the IPCA index starting in January 2025.

How will the tax be charged?

IBS and CBS will be levied on the full rental amount, including interest and monetary adjustment. However, a 70 percent reduction will apply to the standard rate. For example, if the general IBS and CBS rate is 28 percent, the effective rate applicable to leasing will be 8.4 percent.

What may be deducted?

The following amounts may be deducted from the taxable base:

- IPTU and other property related municipal charges;
- Condominium fees and notarial or registry fees; and
- A social deduction of BRL 600.00 per month, adjusted by IPCA since January 2025, for residential leases.

In summary: Consumption taxation, which previously did not apply to leases carried out by individuals, will now affect landlords with a larger number of properties and higher rental income. This change makes financial planning and ongoing accounting oversight increasingly important.

FOR CORPORATE LANDLORDS

Who is subject to IBS and CBS?

All rental income earned by a legal entity will be subject to IBS and CBS, even if property leasing is not part of the company's core business activity.

How will the tax be charged?

The general regime will apply, with a 70 percent reduction in the standard rate, calculated on the total rental amount.

What may be deducted?

The same deductions available to individuals, namely IPTU and other property related charges, condominium fees, notarial and registry fees, and the social deduction for residential leases, may be deducted from the taxable base.

In summary: The taxation of corporate leasing activities will be broader and more uniform, requiring careful tax planning and compliance.



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FOR SHORT TERM RESIDENTIAL RENTALS BY INDIVIDUALS

What qualifies as a short term residential rental?

These are residential leases with a duration of up to 90 consecutive days, such as those arranged through digital platforms or for tourism purposes.

How will they be taxed?

These transactions will be treated as hospitality services and will be subject to a 40 percent reduction in the standard IBS and CBS rate. For example, if the general rate is 28 percent, the applicable rate will be 16.8 percent. The tax is due at the time of payment and will be calculated on the total rental amount.

Who is considered a taxpayer?

The same criteria applicable to individual landlords apply here. An individual will be subject to IBS and CBS if, in the previous calendar year, both of the following conditions are met:

- Annual revenue from real estate leases and short term residential rentals exceeds BRL 240,000; and
- The individual carries out leasing transactions, including short term residential rentals, involving more than three properties.

Note 1: If total revenue in the current year exceeds the threshold by 20 percent, meaning BRL 288,000, the taxpayer becomes subject to taxation in that same calendar year.

Note 2: The thresholds mentioned above will be adjusted monthly for inflation based on the IPCA index starting in January 2025.

In summary: Short term rentals will be taxed in the same manner as hospitality services. Individuals who frequently operate in this market should pay close attention to the new tax requirements and compliance obligations.

FOR SHORT TERM RESIDENTIAL RENTALS BY CORPORATE LANDLORDS

Who is subject to IBS and CBS?

All revenue earned by a legal entity from short term residential rentals will be subject to IBS and CBS, even if property leasing is not part of the company's core business activity.

How will it be taxed?

These transactions will be treated as hospitality services and will be subject to a 40 percent reduction in the standard rate. The tax is due at the time of payment and will be calculated on the total rental amount.

TRANSITIONAL REGIME

When does it apply?

The special transitional regime applies to fixed term lease agreements executed by January 16, 2025, subject to the following conditions:

- **Non-residential leases:** The regime applies until the end of the contract term, provided that the agreement is registered with a notary public or real estate registry office by December 31, 2025, or is submitted to the Brazilian Federal Revenue Service and the IBS Steering Committee. Proof of the execution date must be established by either notarized signature recognition or a qualified electronic signature.
 - **Note:** The Brazilian Federal Revenue Service and the IBS Steering Committee have not yet issued regulations governing how contracts must be submitted. This matter is expected to be regulated in early 2026.
- **Residential leases:** The regime applies until the earlier of the end of the contract term or December 31, 2028. Registration of the agreement is not required. Proof of the execution date may be established by notarized signature recognition, a qualified electronic signature, or evidence of payment of the first month's rent, provided that such payment was made by the last day of the month following the first month of the contract term.

TRANSITIONAL REGIME

What is the applicable tax rule?

During the transitional period, a fixed IBS and CBS rate of 3.65 percent applies to gross revenue, with no right to claim IBS or CBS input tax credits.

What should be considered?

In certain cases, the transitional regime may result in a higher overall tax burden. The regular regime may prove more advantageous, particularly between 2027 and 2028, when only CBS will be collected. Assuming a CBS rate of 10 percent, with the 70 percent reduction, the effective burden would be 3 percent, with the right to claim input tax credits.

In summary: The transitional regime offers temporary predictability, but each contract should be carefully analyzed to ensure the most efficient tax treatment.

ISSUANCE OF ELECTRONIC TAX DOCUMENTS

What changes?

As of 2026, any landlord subject to IBS and CBS will be required to issue an electronic tax document for each leasing transaction. This represents an unprecedented compliance obligation for the real estate sector.

Registration of Individuals with the CNPJ

A Joint Notice issued by the Brazilian Federal Revenue Service and the IBS Steering Committee in December 2025 provides that, starting in July 2026, individuals subject to IBS and CBS must register with the National Registry of Legal Entities, known as the CNPJ. This registration requirement does not mean that the individual will be deemed to have incorporated a legal entity.

What remains to be defined?

There is still no formal guidance regarding which specific type of electronic tax document must be used to report leasing transactions. The December 2025 Joint Notice indicates that the official layout and technical specifications of the document are still under development.

ISSUANCE OF ELECTRONIC TAX DOCUMENTS

What are the consequences?

Supplementary Law No. 214/2025 requires that, as of 2026, taxpayers issue a tax document clearly indicating the IBS and CBS levied on their transactions. Taxpayers who comply with the applicable ancillary obligations are exempt from remitting these new taxes. Because the specific ancillary obligations applicable to real estate leasing transactions have not yet been defined, a Joint Notice issued by the Brazilian Federal Revenue Service and the IBS Steering Committee in December 2025 temporarily exempts these taxpayers from the payment of IBS and CBS.

This Joint Notice is particularly significant. Taxpayers who fail to comply with the required obligations will be subject to IBS and CBS at a rate of 1 percent starting in January 2026. Noncompliance may also create risks in relation to tenants, who may question the validity of the tax document issued by the landlord or the absence of such documentation.

In summary: It is essential to closely monitor guidance issued by the Brazilian Federal Revenue Service and the IBS Steering Committee and to prepare in advance in order to ensure compliance and avoid operational disruptions.

DIFFERENT TREATMENT OF REAL ESTATE INVESTMENT FUNDS (FIIs)

What changes?

Real Estate Investment Funds, known in Brazil as FIIs, are not subject to IBS or CBS. As a result, rental income earned by these funds is not subject to these taxes. This may improve pricing margins in certain transactions, such as residential leases to individuals, since the amount that would otherwise be charged as tax can be incorporated into the rental price.

What are the consequences?

Although rental income is not taxed, FIIs will not be entitled to claim IBS or CBS input tax credits on their acquisitions. These unrecoverable tax costs may ultimately be reflected in the rental price, affecting the fund's financial planning and return structure.

In summary: The non application of IBS and CBS makes FIIs potentially more tax efficient than leases carried out directly by corporate or individual taxpayers subject to these taxes. This creates a strategic opportunity within the real estate sector, particularly for investors seeking rental income with a lower overall tax burden.

DIFFERENT TREATMENT OF REAL ESTATE INVESTMENT FUNDS (FIIs)

Regulation of the Special Regime for FIIs - Supplementary Law No. 227/2026

In its original wording, Supplementary Law No. 214/2025 broadly provided that investment funds would not be considered taxpayers for purposes of IBS and CBS, except for those engaged in the early settlement of receivables, as specifically regulated therein. Supplementary Law No. 227/2026 amended Law No. 214/2025 to narrow the scope of this rule.

Under the revised framework, Real Estate Investment Funds that invest directly in real property, commonly referred to as “brick and mortar” funds, will not be treated as IBS or CBS taxpayers provided they meet requirements similar to those applicable for income tax exemption purposes:

- 1) Their units must be admitted to trading exclusively on a stock exchange or organized over the counter market.
- 2) They must have at least 100 unitholders. Law No. 214/2025 does not restrict multi class FIIs.
- 3) They may not have:
 - 3.1) An individual unitholder holding units representing 20 percent or more of the total outstanding units of the fund, or whose units entitle that unitholder to receive more than 20 percent of the fund’s total income distributions.

3.2) A group of related individual unitholders, defined as relatives up to the second degree, holding units representing 40 percent or more of the total outstanding units of the fund, or whose units entitle them to receive more than 40 percent of the fund's total income distributions.

3.3) Corporate unitholders that, individually or together with unitholders that are their controlling shareholders, subsidiaries, or affiliates, hold more than 50 percent of the fund's units, except where the unitholder is a closed pension fund entity.

FIs that do not meet the conditions above may still be treated as non taxpayers if more than 95 percent of their units are held by: (i) another FI that satisfies the requirements listed above; (ii) an investment fund established in Brazil exclusively to receive assets from supplementary pension plans or personal insurance plans; (iii) Brazilian pension entities and pension funds; or (iv) an investment fund that meets the requirements set out in items 1 through 3 above.

Supplementary Law No. 227/2026 also amended Supplementary Law No. 214/2025 to allow FIs to elect, at any time and on an irrevocable basis, to be subject to the regular IBS and CBS regime. In such case, rental income will become subject to IBS and CBS, allowing tenants to claim input tax credits and enabling the FI itself to claim IBS and CBS credits on its acquisitions. This option is particularly relevant for funds that enter into commercial lease agreements.



COMPARISON: PRE-REFORM, EARLY PHASE (2027), AND POST-REFORM (2033)

What changes?

Before the reform, corporate landlords were subject to PIS and COFINS at a combined rate of 3.65 percent under the presumed profit regime or 9.25 percent under the actual profit regime, reducing the net amount received. Individual landlords, by contrast, received the full rental amount, since consumption taxes did not apply to their leasing activity. In practice, these taxes were embedded in the rental price and were not separately identified to the tenant.

With the implementation of the tax reform, IBS and CBS will be charged separately from the listed rental price and clearly indicated to the tenant. As a result, the base rental price will be considered net of consumption taxes.

In the example below, which assumes a monthly rent of BRL 50,000, the impact of the reform on the amount effectively received by the landlord can be observed.

	Corporate Landlord - Presumed Profit	Corporate Landlord - Actual Profit	Individual Taxpayer
Pre-Reform	PIS/COFINS 3,65% → Net R\$ 48.175	PIS/COFINS 9,25% → Net R\$ 45.375	No PIS/COFINS → Net R\$ 50.000
Start of Reform (2027)	CBS 3% → Net R\$ 50.000	CBS 3% → Net R\$ 50.000	CBS 3% → Net R\$ 50.000
Post-Reform (2033)	IBS/CBS 8,4% → Net R\$ 50.000	IBS/CBS 8,4% → Net R\$ 50.000	IBS/CBS 8,4% → Net R\$ 50.000

In summary: The separate charging of IBS and CBS ensures greater transparency for tenants and preserves the landlord's net rental amount, enabling clearer negotiations and increasing predictability in leasing arrangements.

FORMATION AND REGISTRATION OF A REAL ESTATE INVESTMENT FUND (FII)

1. Definição da estrutura e estratégia do fundo

- Choose the type of FII (income, development, real estate receivable certificates, hybrid etc.).
- Define the investment policy, target audience, and term.
- Determine whether it will be a *closed end fund*, which is the case for most FIIs, or an open end fund.

2. Engagement of mandatory service providers

A FII may not operate without service providers authorized by the CVM.

The following are mandatory:

- **Fiduciary administrator** (responsible for the fund).
- **Asset manager.**
- **Custodian.**
- **Independent auditor.**
- **Bookkeeper and transfer agent.**
- **Distributor** (for the offering of units).

3. Preparation of the fund documents

Primarily prepared by the administrator and legal counsel:

- **FII regulations** (which constitute the core governing document).
- **Essential Information Form (FIE).**
- **Administration agreement.**
- Mandatory policies (including disclosure, voting, and risk management policies, etc.).

4. Filing of the registration request with the CVM

- The administrator files the request through **CVMWeb**.
- Submits all required documents.
- Pay the supervisory fee.

The CVM may grant **automatic registration** or conduct a prior review.

5. Granting of registration by the CVM

- The CVM issues the **Declaratory Act of Registration**.
- From that moment, the FII is formally constituted before the CVM.

6. Registration of the regulations with a Registry Office

- The administrator registers the fund regulations with the **Registry of Deeds and Documents (RTD)**.
- The registration ensures public disclosure and enforceability of the regulations.

7. Obtaining a CNPJ

- The administrator applied for a CNPJ through the **Brazilian Federal Revenue Service's National Collector system** (using legal nature code: 749 – *Real Estate Investment Fund*).

8. Registration of the public offering of units

In order to raise funds, the FII must conduct a public offering:

- Prepare the **prospectus**, distribution agreement, and marketing materials.
- Register the offering with the CVM under either the automatic or ordinary procedure pursuant to Resolution No. 160/2022.

This step may occur **in parallel** with the registration of the FII.

9. Subscription and payment of units

- The distributor and administrator coordinate the sale of the units.
- Investors subscribe and pay for the units in accordance with the offering schedule.

10. Commencement of fund operations

After reaching the minimum capital raise established in the regulations:

- The manager begins allocating the funds.
- The fund may acquire real estate assets, real estate receivables certificates, units of other FIIs, or invest in real estate development projects.
- The fund then begins regular operations.

11. Ongoing obligations

The administrator must keep the fund in compliance, including:

- Monthly and quarterly reports.
- Audited financial statements.
- Disclosure of material events.
- Annual report.

12. Registration of units for trading on B3 (optional)

- The administrator submits the listing request to B3.
- Compliance with admission and governance requirements.
- Assignment of a ticker symbol for trading.

Useful Operational Notes

- The registration of the fund and the registration of the public offering are separate procedures, although they may take place in parallel.
- All service providers must hold valid authorization from the CVM.
- The CVM may require amendments to the fund regulations or supporting documents before granting registration.
- For listed FIIs, the administrator must maintain appropriate communication channels and compliance structures in accordance with the rules of B3 and ANBIMA.
- The fund may only acquire real estate assets after the minimum capital contribution established in the regulations has been fully paid in.