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# Private Wealth 2026

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**Brazil: Law and Practice**
**& Trends and Developments**

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BVZ Advogados | Bastos, Bari, Vilela e Zugman

# BRAZIL


## Law and Practice

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**BVZ Advogados | Bastos, Bari, Vilela e Zugman** is a leading São Paulo-based Brazilian law firm, widely recognised for its sophisticated private wealth, tax and succession practice. The firm advises high-net-worth individuals, families and family-owned businesses whose combined assets exceed BRL10 billion (USD2 billion). Its multidisciplinary approach brings together deep expertise in tax, family, succession and corporate law, enabling the design and implementation of complex domestic and cross-border wealth-planning structures. The team regularly advises on family holding companies, lifetime gifts, wills, trusts, offshore structures, corporate reorganisations, governance arrangements and succession planning involving substantial and diversified assets. BVZ is particularly noted for combining technical excellence, strategic judgment and close partner involvement, providing tailored solutions that address legal, tax, family and business considerations in an integrated manner. Its track record includes high-value reorganisations, cross-border estate planning and sophisticated governance structures for prominent Brazilian families, entrepreneurs and leading business groups.

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## 1. Tax

### 1.1 Tax Regimes

For private wealth clients, the principal taxes are as follows.

- Income Tax (IRPF) – a federal tax levied on the worldwide income of Brazilian tax residents. Employment income is subject to progressive rates of up to 27.5%, while capital gains and certain financial income are generally taxed at rates ranging from 15% to 22.5%. Law No. 14,754/2023 introduced specific rules for offshore assets, controlled foreign entities and foreign trusts, making international wealth planning significantly more complex and strategic.
- Inheritance and Gift Tax (ITCMD) – a state tax levied on gratuitous transfers of assets upon death or by lifetime gift. Rates vary among the states and currently reach up to 8%, with a growing trend towards progressive taxation.

### 1.2 Exemptions

Brazil provides both constitutional tax immunities and statutory exemptions, which vary depending on the relevant tax and the competent taxing authority.

In the private wealth context, the principal reliefs are as follows.

- Income Tax (IRPF) – as a general rule, inheritances and lifetime gifts received by individuals can be recognised at book value and are not subject to income tax, although they may be subject to ITCMD.
- Inheritance and Gift Tax (ITCMD) – the Constitution grants immunity for certain transfers to qualifying non-profit entities pursuing public-interest purposes. In addition, each state establishes its own exemptions. In São Paulo, for example, lifetime gifts are exempt up to an annual threshold of 2,500 *Unidades Fiscais do Estado de São Paulo* (UFESP) (approximately BRL96,000 in 2026), with gifts between the same donor and donee aggregated for threshold purposes.
- Real Estate Transfer Tax (ITBI) – ITBI generally does not apply to real estate contributed to a company's share capital or to certain corporate reorganisations, provided the constitutional requirements are met. Municipal legislation may also provide additional exemptions.

### 1.3 Income Tax Planning

The principal income tax planning opportunities in Brazil include the following.

- Tax basis step-up through gifts – Brazilian tax law allows assets to be transferred by gift either at their historical tax basis or at fair market value. In such cases, the donor recognises the corresponding capital gain, while the donee acquires the asset with a tax basis equal to its fair market value. This mechanism is particularly relevant for real estate acquired many years ago, which may benefit from certain reductions in the taxable basis. In this context, it is common to assess whether the upfront capital gains tax is offset by the lower tax burden on a future disposal by the donee.
- Real estate holding companies – holding real estate through a company taxed under the presumed profits regime (*lucro presumido*) may reduce the tax burden on rental income and, in certain cases, on capital gains, while also facilitating succession planning. This potential opportunity must be weighed with other taxes applicable to legal entities, such as VAT taxes.
- Private pension plans – VGBL (Free Life Benefit Generator) plans are taxed only on investment gains upon redemption, while PGBL (Free Benefit Generator) plans allow eligible taxpayers to deduct contributions from their taxable income, subject to statutory limits. In addition, yields of VGBL might benefit of tax rate of 10% if the investment is kept for at least ten years.
- International structures – although Law No. 14,754/2023 significantly reduced tax deferral opportunities for offshore assets, international structures continue to play an important role in governance, succession planning and wealth management, being subject to a flat rate of 15% and allowing offset of losses, which is not allowed for onshore financial investments.

The principal risks include the application of ITCMD and, in certain cases, ITBI when implementing the structure, the ongoing costs of maintaining holding companies, and challenges to arrangements lacking a genuine business or succession purpose.

### 1.4 Pre-Immigration and Exit Planning

Brazil does not impose a specific exit tax on individuals who cease to be Brazilian tax residents.

Nevertheless, exit planning is important to ensure that worldwide taxation ceases and that the individual becomes subject to the non-resident tax regime, under which Brazilian taxation is generally limited to Brazilian-source income and gains relating to assets located in Brazil. This requires the proper completion of the formal tax exit procedures, including the filing of the Notice of Permanent Departure and the Final Tax Return upon Permanent Departure. Failure to complete these procedures may result in the individual continuing to be treated as a Brazilian tax resident.

Pre-immigration planning is also relevant. Before becoming a Brazilian tax resident, it is common to review foreign investment structures, including offshore entities, trusts and other wealth-holding vehicles, particularly following the changes introduced by Law No. 14,754/2023. Depending on the circumstances, it may also be advisable to consider the timing of asset disposals or wealth reorganisations before Brazilian tax residency begins.

### 1.5 Taxation of Real Estate Owned by Non-Residents and Non-Citizens

Non-residents and non-citizens may acquire and own Brazilian real estate, although they may be required to appoint a Brazilian legal representative for certain tax and administrative purposes.

- Direct ownership – rental income paid to non-residents is generally subject to withholding income tax at a rate of 15%, without the deductions available to Brazilian tax residents. On the other hand, Brazilian tax residents are subject to income tax on rentals subject to progressive rates of up to 27.5%. The disposal of Brazilian real estate is also subject to capital gains tax, generally at progressive rates ranging from 15% to 22.5%, which is the same rates applicable to Brazilian tax residents. Urban real estate is further subject to annual municipal property tax (IPTU), regardless of the owner's residence or nationality.
- Planning structures – a Brazilian holding company is one of the most common structures used for real estate planning. Depending on the circumstances, it may provide a more efficient tax treatment of rental income while facilitating governance and succession planning. The benefits of indirect ownership should be assessed against direct ownership, taking into account not only the taxation of rental income but also the tax consequences of a future disposal of the property or the liquidation of the holding company. This potential opportunity must be weighed with other taxes applicable to legal entities, such as VAT taxes.
- Other taxes and limitations – onerous transfers of real estate are generally subject to municipal ITBI. However, the contribution of real estate to the share capital of a holding company may benefit from the constitutional ITBI immunity, provided the applicable requirements are met. This immunity may not apply where the company's predominant activity consists of real estate transactions or where the value attributed to the property exceeds the amount effectively allocated to share capital. These issues are frequently subject to disputes in the Brazilian Judiciary.

Gifts and inheritances involving Brazilian real estate may also be subject to ITCMD, including where non-residents or cross-border elements are involved. The applicable state legislation and connecting factors should therefore be reviewed on a case-by-case basis.

### 1.6 Stability of Tax Laws

Brazilian tax legislation is characterised by frequent legislative amendments, constitutional reforms and evolving judicial precedent. Recent legislative, regulatory and enforcement developments have further increased uncertainty, favouring flexible structures that can be periodically reviewed. Tax and estate planning must therefore consider not only tax efficiency, but also governance, documentation, economic substance and potential controversy.

- Income Tax (IRPF) – Law No. 14,754/2023 introduced annual taxation for certain profits earned through foreign controlled entities and specific

rules for foreign trusts, substantially reducing the tax deferral historically associated with offshore structures. Offshore companies and trusts nevertheless remain relevant for investments, governance, asset protection and succession planning. Law No. 15,270/2025 introduced taxation on dividends distributed by Brazilian companies and minimum income tax rules for certain high-income individuals, requiring existing holding and investment structures to be reassessed.
- Real estate holding companies – the implementation of Brazil's new dual VAT system, composed of the IBS (*Imposto sobre Bens e Serviços*, or Tax on Goods and Services) and CBS (*Contribuição sobre Bens e Serviços*, or Contribution on Goods and Services), may reduce some of the tax advantages traditionally associated with real estate holding companies, particularly regarding rental income. These structures remain relevant for succession, governance and asset management, but should no longer be adopted based on tax savings alone.
- Real Estate Transfer Tax (ITBI) – the scope of the ITBI immunity for contributions of real estate to corporate capital remains uncertain. The Federal Supreme Court has already limited the immunity in certain situations, and Theme No. 1,348 will determine whether it applies to companies predominantly engaged in real estate activities.
- Inheritance and Gift Tax (ITCMD) – the tax reform made progressive ITCMD rates mandatory, increased the relevance of fair market value for asset valuation and introduced clearer rules for gifts and inheritances involving foreign elements.

Brazil is also considering a comprehensive revision of its Civil Code, which may affect family and succession law. In parallel, expanded information exchange, technological advances and increasingly sophisticated audits have increased scrutiny of domestic and cross-border wealth structures.

Overall, recent reforms have generally sought to broaden the tax base and increase government revenue rather than provide tax relief, reinforcing the need for periodic reviews of tax and estate planning structures.

## 1.7 Transparency and Increased Global Reporting

Brazil has adopted several measures to align its tax system with international transparency and anti-abuse standards. Key developments include the following.

- Anti-abuse measures – new transfer pricing rules aligned with the arm's length standard and Law No. 14,754/2023, which introduced specific tax rules for offshore entities, foreign investments and trusts, reducing the effectiveness of structures based primarily on tax deferral or opacity.
- International transparency – Brazil participates in the Common Reporting Standard (CRS) through the *e-Financeira* system, has an intergovernmental agreement with the United States to implement FATCA, and is a party to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.
- DAC 6 – Brazil is not subject to EU DAC 6, although Brazilian taxpayers may be indirectly affected where cross-border arrangements involve intermediaries or taxpayers subject to the European disclosure rules.
- Beneficial ownership – certain Brazilian and foreign entities must report their ultimate beneficial owners to the Brazilian Federal Revenue Service, including through the e-BEF (Brazil's electronic beneficial ownership reporting system). Brazil does not maintain a broadly accessible public beneficial ownership register. In an increasingly sophisticated enforcement environment, this information may be cross-checked against tax returns, financial data and corporate records to identify the individuals who ultimately control or benefit from domestic and cross-border structures, reconstruct transactions and assess whether their practical implementation is consistent with their legal form.

In practice, these measures require greater consistency between tax filings, corporate records and beneficial ownership information. International wealth structures remain available, provided they have adequate substance, legitimate non-tax purposes and proper documentation.

Brazil balances transparency and privacy by making information available to the tax authorities while preserving fiscal confidentiality and protecting personal data under applicable legislation.

## 2. Succession

### 2.1 Cultural Considerations in Succession Planning

Family-owned businesses play a central role in the Brazilian economy and, in many cases, constitute a family's principal asset. Succession planning therefore seeks not only to transfer wealth, but also to ensure business continuity and preserve family harmony across generations.

From a cultural perspective, many founders remain reluctant to relinquish control during their lifetime and generally favour a gradual succession process. It is common for ownership interests to be transferred to descendants through lifetime gifts of shares while the founders retain usufruct, voting rights or management powers. This allows the older generation to preserve control, income and day-to-day management while preparing the next generation to assume ownership and, ultimately, leadership of the family business.

There is also an increasing focus on family governance, particularly among high-net-worth entrepreneurial families. Family holding companies, shareholders' agreements, family protocols, wills and other estate planning tools are commonly used to establish governance, succession and dispute resolution mechanisms, helping to reduce conflicts among heirs and preserve family wealth over the long term.

### 2.2 International Planning

International succession planning has become increasingly relevant for Brazilian families holding foreign investments, offshore structures, overseas real estate or heirs residing in different jurisdictions. In these cases, succession planning must take into account the tax, succession and private international law rules applicable in each relevant jurisdiction.

Brazil maintains a network of double tax treaties, which may reduce instances of double taxation and provide greater legal certainty for cross-border investments. Although these treaties generally do not govern succession matters or inheritance and gift taxes, their provisions should be taken into account when structuring international wealth and investments, particularly in regard to income taxes.

Under Brazilian law, assets located in Brazil remain subject to Brazilian succession rules, including the forced heirship regime, under which at least 50% of the estate must be reserved for forced heirs. Assets located abroad, however, may be governed by the succession laws of the jurisdiction in which they are situated, making coordination among different legal systems essential.

In practice, international estate planning commonly combines different planning tools, including Brazilian and foreign wills, family holding companies, lifetime gifts with retained usufruct, foreign trusts, where applicable, and family governance arrangements. The objective is to ensure that the succession plan operates consistently across all relevant jurisdictions while minimising conflicts of law, parallel probate proceedings and unintended tax consequences.

The changes introduced by Law No. 14,754/2023 have further increased the need to integrate international tax and succession planning, particularly where offshore entities and foreign trusts are involved, as these structures are now subject to specific Brazilian tax and reporting rules.

### 2.3 Forced Heirship Laws

Brazil has a forced heirship regime. At least 50% of a deceased person's estate constitutes the legal reserve (*legítima*) and must be preserved for forced heirs, namely descendants, ascendants and the surviving spouse – depending on the marital property regime. The remaining 50% is the disposable portion, which may be freely allocated by will or through lifetime gifts, provided that the legal reserve is not impaired.

Brazilian law generally prohibits succession agreements concerning the estate of a living person. Accordingly, prospective heirs cannot validly waive, assign or divide future inheritance rights before the death of the asset owner. Alternative consensual arrangements are therefore limited to lifetime planning structures rather than binding inheritance agreements.

In practice, succession planning is commonly implemented through lifetime gifts, usufruct arrangements, family holding companies, shareholders' agreements and wills. These mechanisms facilitate the orderly transfer of wealth, preserve governance and reduce risk of disputes among heirs, while remaining subject to Brazil's forced heirship rules.

## 2.4 Marital Property

Brazilian law recognises different marital property regimes, each producing distinct consequences for asset ownership during marriage and upon divorce or death.

- Partial community property (*comunhão parcial de bens*) – this is the default regime. Assets acquired for consideration during the marriage are jointly owned, while assets owned before marriage and those received by gift or inheritance remain separate.
- Full community property (*comunhão universal de bens*) – as a general rule, all present and future assets become jointly owned, subject to limited statutory exceptions.
- Contractual separation of property (*separação convencional de bens*) – each spouse retains exclusive ownership, administration and disposal of his or her own assets throughout the marriage.
- Mandatory separation of property (*separação obrigatória de bens*) – this regime applies in specific situations established by law, such as marriages involving elderly individuals, although Brazilian case law may, in certain circumstances, recognise the sharing of assets acquired during the marriage.
- Final participation in acquisitions (*participação final nos aquestos*) – each spouse manages his or her own assets independently during the marriage, but upon divorce or death each may be entitled to share in the net assets acquired by the other during the marriage.

The chosen marital property regime directly affects succession planning, divorce, gifts, family holding companies and corporate reorganisations. As a general rule, the transfer or encumbrance of real estate requires the other spouse's consent, except where full separation of property applies or another statutory exception exists.

Brazil recognises prenuptial agreements, which must be executed by public deed before the marriage. Changes to the marital property regime after marriage are also permitted but require prior judicial approval and must not jeopardise third parties. A proposed reform of the Civil Code, still ongoing in the Brazilian Congress, may modify certain rules governing marital property regimes and spouses' succession rights.

## 2.5 Transfer of Property

In Brazil, the transfer of property during life (*inter vivos*) or on death (*causa mortis*) may have different effects on the recipient's tax basis for income tax purposes, depending on how the transfer is structured.

Under Article 23 of Law No. 9,532/1997, gifts and transfers on death may be made either at the asset's historical cost or at its fair market value.

If the transfer is made at historical cost, no capital gains tax is triggered for the transferor, and the recipient inherits the transferor's tax basis (carry-over basis).

Alternatively, if the transfer is made at fair market value, the difference between the fair market value and the historical cost is subject to capital gains tax in the hands of the transferor, while the recipient receives a stepped-up tax basis equal to the fair market value.

Regardless of the income tax election, gratuitous transfers are generally subject to inheritance and gift tax (ITCMD), which is normally assessed on the fair market value of the transferred asset under the applicable state legislation. Onerous transfers of real estate may also be subject to municipal real estate transfer tax (ITBI).

The ability to choose between historical cost and fair market value is an important estate planning tool, particularly for highly appreciated assets, as it allows taxpayers to balance the immediate capital gains tax cost against a higher tax basis for future disposals.

## 2.6 Transfer of Assets: Vehicle and Planning Mechanisms

Brazil does not provide a broad tax exemption for intergenerational transfers. Estate planning therefore focuses on reducing future tax costs, preserving control and facilitating succession through lawful planning structures.

The most common planning mechanisms include the following.

- Family holding companies – the principal succession planning vehicle in Brazil. Parents commonly contribute assets to the company and gradually transfer shares to their children while retaining usufruct or voting rights. Shareholders' agreements are frequently used to regulate governance and restrictions on future transfers.
- Lifetime gifts – gifts may be structured either at historical cost or fair market value under Article 23 of Law No. 9,532/1997, allowing the donor to choose between deferring capital gains tax or providing the recipient with a stepped-up tax basis.
- VGBL private pension plans – death benefits are generally treated as insurance or pension proceeds rather than inheritances and, in most states, remain outside the scope of ITCMD, although this treatment continues to generate litigation in some jurisdictions.
- Wills – commonly used to dispose of the disposable portion of the estate and typically combined with lifetime gifts and family holding companies as part of an integrated succession plan.
- Life insurance – under Brazilian law, life insurance proceeds are generally not subject to personal income tax or inheritance and gift tax (ITCMD). In addition, they do not form part of the deceased's estate for probate purposes and are therefore paid directly to the designated beneficiaries. As a result, life insurance may provide beneficiaries with immediate liquidity while facilitating the efficient transfer of wealth outside the probate process.

### 2.7 Transfer of Assets: Digital Assets

Brazil has no specific legislation governing digital inheritance. Accordingly, digital assets are generally subject to the ordinary rules of succession, with a distinction between assets with economic value, such as cryptocurrencies and tokenised assets, and purely personal digital assets, such as email accounts, social media profiles and cloud-based personal content.

Crypto-assets and other digital assets with economic value form part of the deceased's estate and may be transferred to heirs or beneficiaries under the general succession rules. Gratuitous transfers are generally subject to inheritance and gift tax (ITCMD), in accordance with the applicable state legislation.

In practice, the main challenge is access and control. Although heirs may be legally entitled to inherit crypto-assets and other digital assets, recovery may be impossible if the deceased did not leave the relevant private keys or access credentials. Access to digital accounts maintained by service providers may also depend on the provider's contractual policies, privacy rules and, in some cases, court orders.

For this reason, estate planning increasingly includes wills, inventories of digital assets and secure arrangements for the storage and transmission of access credentials, particularly where assets are held in self-custody.

## 3. Trusts, Foundations and Similar Entities

### 3.1 Types of Trusts, Foundations or Similar Entities

Brazil has no domestic trust equivalent. Estate planning therefore typically relies on corporate and succession planning tools, including family holding companies, lifetime gifts of shares with retained usufruct, wills, shareholders' agreements, domestic investment funds and, for philanthropic purposes, private foundations and associations.

Foreign trusts and foundations may also be used in cross-border planning. Although they are recognised for Brazilian tax purposes, they have no domestic civil law equivalent, and their tax, succession and reporting consequences must therefore be carefully analysed under Brazilian law.

Law No. 14,754/2023 significantly changed the tax treatment of these structures by introducing specific rules for foreign trusts and offshore entities held by Brazilian tax residents, as well as periodic taxation for certain closed-end investment funds. As a result, the historical tax deferral advantages of some offshore structures have been reduced, and planning has increasingly shifted towards family governance, asset protection and orderly succession rather than tax deferral alone.

### 3.2 Recognition of Trusts

Brazil has no domestic trust regime. As a civil law jurisdiction, trusts are not recognised as a legal institution under the Brazilian Civil Code and cannot be created under Brazilian law.

Foreign trusts may nevertheless be recognised for tax and private international law purposes in cross-border situations, although they are not treated as the equivalent of a domestic legal vehicle. Their tax, succession and proprietary effects must therefore be assessed under Brazilian law on a case-by-case basis.

Law No. 14,754/2023 expressly introduced tax rules for foreign trusts, adopting a transparent approach under which assets and income are generally attributed to the settlor or the beneficiaries, depending on whether the trust is revocable or irrevocable.

Despite this statutory tax framework, practical uncertainties remain because Brazilian civil law does not regulate trusts. As a result, succession effects, asset protection and the interaction between the foreign trust and Brazilian mandatory succession rules continue to require careful legal analysis.

In the cases where Brazilian families settle trust structures, in general the trust deed contemplates only assets located overseas, as Brazilian laws do not recognise this legal structure for purposes other than taxes.

### 3.3 Taxation of Trusts, Foundations and Similar Entities Located in Other Jurisdictions

Since Law No. 14,754/2023 came into effect on 1 January 2024, Brazilian tax residents who are settlors, beneficiaries or owners of foreign trusts, foundations or similar arrangements may be subject to Brazil's transparency and controlled foreign entity rules. Depending on the structure, income and gains may be subject to annual taxation in Brazil, regardless of actual distributions.

In revocable trusts, assets and income are generally attributed to the settlor until distribution. In irrevocable trusts, attribution generally shifts to the beneficiaries when the trust is created or becomes irrevocable. Gratuitous transfers of assets may also trigger inheritance and gift tax (ITCMD), subject to the applicable state legislation.

Merely acting as a trustee or other fiduciary does not generally give rise to Brazilian taxation, unless the individual receives taxable remuneration or acquires beneficial ownership of the assets.

As a result of these rules, international planning has shifted away from tax deferral and increasingly focuses on governance, asset protection, succession planning and coordinating Brazilian and foreign tax reporting obligations.

### 3.4 Tax Consequences of Fiduciary and Beneficiary Roles

Brazilian law does not impose specific tax consequences solely because a settlor or beneficiary also acts as a trustee, protector or other fiduciary. For Brazilian tax purposes, the key issue is how the foreign structure is characterised under Law No. 14,754/2023 and who is regarded as the beneficial owner of the assets and income.

Accordingly, the accumulation of fiduciary and beneficial functions does not, by itself, alter the tax treatment of the structure. The analysis instead focuses on the effective ownership of the assets, the degree of control exercised over them and the application of Brazil's tax transparency rules.

In practice, international structures commonly appoint independent fiduciaries and maintain clear governance documentation to demonstrate the separation between fiduciary functions and economic interests, thereby reducing uncertainty and potential challenges by the Brazilian tax authorities.

## 4. Family Business Planning

### 4.1 Asset Protection

As Brazil has no domestic trust regime, asset protection of assets located in Brazil is generally achieved through corporate vehicles, particularly family holding companies. Families commonly contribute real estate, investment assets and business interests to a holding company to centralise ownership, separate personal and business risks, and establish governance and succession rules.

These structures are often combined with shareholders' agreements, retained usufruct and other succession planning mechanisms. Their effectiveness is nevertheless subject to important legal limitations. Brazilian courts may pierce the corporate veil where a company is used to defraud creditors, abuse the corporate form, commingle assets or circumvent mandatory succession rules.

On the other hand, assets located abroad controlled by Brazilian tax-residents are commonly owned by means of private investment companies and trust structures.

Accordingly, effective asset protection planning must be supported by genuine governance, business or succession objectives and cannot rely solely on creditor protection or tax-driven purposes.

### 4.2 Succession Planning

Family business succession planning in Brazil generally combines corporate, succession and governance tools to facilitate the gradual transfer of ownership and control while reducing tax costs and family disputes.

The most common structure is a family holding company, through which operating businesses, real estate and investment assets are centralised. Founders commonly make lifetime gifts of shares or quotas to their heirs while retaining usufruct or voting rights, allowing them to preserve control and income during their lifetime. Gifts may also be structured at historical cost, deferring capital gains tax while facilitating the gradual transfer of ownership.

To reduce family conflict, holding structures are typically supported by shareholders' agreements, family protocols and governance provisions dealing with voting rights, dividend policy, transfer restrictions, family participation in management, remuneration and dispute resolution.

Wills generally complement these arrangements by disposing of the disposable portion of the estate. They remain subject to Brazil's forced heirship rules and do not eliminate the need for probate.

### 4.3 Transfer of Partial Interest

As a general rule, Brazilian inheritance and gift tax (ITCMD) legislation does not provide for an automatic discount to reflect lack of marketability, liquidity or control when a partial interest is transferred by gift or inheritance.

The ITCMD tax base is generally the fair market value of the transferred interest or, where market value cannot readily be determined, a value supported by accounting records, net equity or valuation evidence. In practice, tax authorities frequently rely on the proportional net asset value of the entity or the market value of its underlying assets, particularly in family holding companies.

Although valuation discounts may be supportable in specific circumstances, Brazilian law does not contain a settled statutory rule expressly recognising minority or marketability discounts for ITCMD purposes. Accordingly, the adopted valuation should be supported by appropriate technical evidence to withstand potential challenges by the tax authorities.

## 5. Wealth Disputes

### 5.1 Trends Driving Disputes

Wealth disputes in Brazil are increasingly driven by the interaction between succession planning, tax reforms and the growing internationalisation of family wealth.

The main areas of dispute include the following.

- Inheritance and gift tax (ITCMD) – gifts and estates involving foreign assets or parties, particularly

following the Brazilian Supreme Court's decision in Theme 825 and Complementary Law No. 227/2026, as well as valuation disputes involving family holding companies and closely held businesses.
- Income Tax (IRPF) – disputes concerning the application of Law No. 14,754/2023 to foreign trusts, offshore entities and other international wealth structures, as well as the income tax treatment of lifetime gifts, wealth reorganisations and the legal characterisation of succession planning transactions.
- Real estate transfer tax (ITBI) – litigation concerning the constitutional exemption for contributions of real estate to family holding companies and real estate entities.
- Succession planning – challenges to lifetime gifts, alleged infringements of forced heirship rules, the validity of wills and disputes concerning the governance and management of family holding companies.

In practice, these disputes commonly arise in probate proceedings, tax assessments, declaratory actions, writs of mandamus and other judicial proceedings involving asset valuation, the legal characterisation of transactions and the application of constitutional tax rules.

### 5.2 Mechanism for Compensation

Brazilian remedies in wealth disputes are primarily compensatory and restorative rather than punitive. Courts may annul gifts, wills, corporate acts or transfers that violate forced heirship rules, creditor rights, capacity requirements or formalities. They may also order collation of lifetime gifts, reduction of excessive donations, rendering of accounts, restitution of assets, restoration of the estate and damages where mismanagement or bad faith caused measurable loss.

In corporate succession disputes, remedies may include enforcement or annulment of shareholders' agreements, exclusion of a shareholder, buyout of quotas, appointment of an administrator, or judicial dissolution in extreme cases. Fiduciaries, executors, administrators and company managers may be required to account for their conduct and compensate the estate or beneficiaries for losses attributable to negligence, conflict of interest or breach of duty.

## 6. Roles and Responsibilities of Fiduciaries

### 6.1 Prevalence of Corporate Fiduciaries

Brazil does not have a domestic trust industry or professional trustees comparable to those found in common law jurisdictions. Nevertheless, fiduciary functions are common in other contexts, particularly in relation to investment fund administrators, fiduciary agents in debt issuances, estate administrators, executors and company directors and managers.

These professionals are subject to statutory fiduciary duties that go beyond those of ordinary service providers. Their obligations generally include duties of care, loyalty, transparency, conflict management and acting in the best interests of the investors, creditors, heirs or other beneficiaries they represent.

In the financial and capital markets, many of these functions are regulated and supervised by the Brazilian Securities Commission (CVM) and the Central Bank through licensing, disclosure and conduct requirements. Breaches may result in civil liability, administrative sanctions, fines and, where applicable, the loss of regulatory authorisation

### 6.2 Fiduciary Liabilities

As Brazil has no domestic trust regime, fiduciary liability primarily arises in regulated structures such as investment funds, securities offerings and other financial market transactions. In these contexts, fiduciary administrators, investment managers and fiduciary agents are subject to statutory and regulatory duties and may incur civil and administrative liability for breaches of duties of care, loyalty, good faith and conflict-of-interest management.

In relation to private foundations and companies, Article 50 of the Brazilian Civil Code may apply. Courts may pierce the corporate veil where there is abuse of the legal entity through misuse of purpose or commingling of assets. In such circumstances, the entity's liabilities may be extended to the directors, shareholders or controllers who caused or benefited from the abuse. This is an exceptional remedy and requires evidence of improper use of the legal entity.

Brazilian law generally permits the delegation of specialised functions to qualified third parties where authorised by law or by the governing documents. However, delegation does not normally relieve the fiduciary of supervisory duties or liability for wilful misconduct, fraud or gross negligence. Likewise, contractual provisions seeking to exclude liability for such conduct are generally unenforceable.

### 6.3 Fiduciary Regulation

Brazil has no trust-specific prudent investor rule, as trusts are not recognised under Brazilian law. Nevertheless, Brazilian law imposes general duties of care, diligence and good faith on persons responsible for managing another person's assets.

Foundation administrators, estate administrators, company directors and other fiduciaries must exercise the level of care expected of a reasonably diligent manager and may be held liable for negligent investment decisions or conflicts of interest.

In the financial and capital markets, licensed asset managers, fiduciary administrators and investment fund administrators are subject to regulation by the Brazilian Securities Commission (CVM), which imposes duties of care, suitability, risk management and acting in investors' best interests, reflecting principles similar to a prudent investor standard.

Where foreign trusts are involved, the fiduciary's investment duties are generally governed by the law applicable to the trust rather than by Brazilian law.

### 6.4 Fiduciary Investment

Brazil does not adopt a codified fiduciary investment theory comparable to the Modern Portfolio Theory, as trusts are not recognised under Brazilian law. Instead, fiduciaries and other asset managers are subject to general bona-fide parameters and statutory duties of care, diligence and loyalty, requiring them to act as reasonably prudent persons when managing another person's assets. Unlike the Modern Portfolio Theory, the Brazilian approach focuses on the prudence of individual management decisions rather than assessing investments on a portfolio-wide risk-and-return basis.

There is no general statutory requirement for diversification applicable to private foundations or family holding companies. However, fiduciary administrators, licensed asset managers and investment fund administrators regulated by the Brazilian Securities Commission (CVM) are subject to suitability, diversification, risk-management and best-interest obligations reflecting principles similar to those underlying the Modern Portfolio Theory.

As Brazil has no domestic trust regime, these issues arise primarily in relation to foundations and corporate vehicles. Private foundations may not be organised for profit, although they may own interests in operating companies as investments consistent with their institutional purposes. By contrast, family holding companies are widely used to own and manage operating businesses and remain subject to the ordinary rules of Brazilian corporate law, including directors' duties and general corporate governance requirements.

## 7. Citizenship and Residency

### 7.1 Requirements for Domicile, Residency and Citizenship

For civil law purposes, residence is the place where an individual ordinarily lives, while domicile is the place regarded as the centre of that person's legal affairs, generally combining physical presence with an intention to remain, subject to certain statutory forms of legal domicile.

For private wealth and tax purposes, tax residency is the most relevant connecting factor. Tax residency is governed by the income tax legislation and does not necessarily coincide with civil-law domicile. Broadly speaking, an individual becomes a Brazilian tax resident upon obtaining a permanent visa, entering into an employment relationship with a Brazilian employer or remaining in Brazil for more than 183 days, whether consecutive or not, within any twelve-month period.

Brazilian tax residents are subject to income tax on a worldwide basis, whereas non-residents are generally taxed only on Brazilian-source income, subject to applicable domestic law and any relevant tax treaties. Tax domicile generally refers to the place where the taxpayer is registered for the purposes of complying with Brazilian tax obligations. In practice, the Brazilian tax authorities have increasingly adopted a substance-over-form approach when assessing whether an individual qualifies as a Brazilian tax resident or non-resident. Beyond the formal statutory criteria, the tax authorities may examine the individual's factual circumstances, including personal, economic and professional ties with Brazil, particularly in situations involving cross-border mobility or the formal termination of Brazilian tax residency.

Brazilian citizenship is determined by the constitutional rules on nationality, whether acquired by birth (jus soli or, in certain circumstances, jus sanguinis) or through naturalisation. Citizenship, in itself, is not a connecting factor for Brazilian income tax purposes.

### 7.2 Expeditious Citizenship

Brazil does not offer citizenship by investment. Brazilian citizenship may be acquired by birth or through naturalisation under the Federal Constitution and immigration legislation.

Brazilian citizens by birth generally include individuals born in Brazil (jus soli) and, in certain circumstances, individuals born abroad to a Brazilian parent (jus sanguinis). Ordinary naturalisation generally requires permanent residence in Brazil for at least four years, Portuguese-language proficiency, the absence of a criminal conviction and integration into Brazilian society. The residence requirement is reduced to one year for nationals of Portuguese-speaking countries, individuals married to or in a stable union with a Brazilian citizen, and parents of a Brazilian child. It may be reduced to two years for individuals who have rendered, or are capable of rendering, relevant services to Brazil or who possess distinguished professional, scientific or artistic qualifications. Brazilian law also provides for extraordinary naturalisation for foreign nationals who have resided continuously in Brazil for more than fifteen years without a criminal conviction.

Although qualifying investments may provide a basis for obtaining residence, they do not confer citizenship or shorten the statutory naturalisation period. Foreign nationals may obtain residence by investing in a Brazilian company or acquiring urban real estate, provided the applicable investment thresholds and immigration requirements are met.

## 8. Planning for Minors, Adults with Disabilities and Elders

### 8.1 Special Planning Mechanisms

Brazilian law does not provide bespoke estate-planning vehicles designed exclusively for the financial protection of minors or persons with disabilities, such as special-needs trusts. Instead, their protection is achieved through the combined application of family, succession and legal-capacity rules, together with traditional estate-planning structures.

For minors, parental authority is generally exercised by the parents, who represent or assist the child and administer the child's assets in the child's best interests. If parental authority cannot be exercised, a guardianship (*tutela*) may be established, under which a court-appointed guardian manages the minor's affairs and property under judicial supervision. With respect to persons with disabilities, the Brazilian Statute of Persons with Disabilities provides that disability alone does not affect legal capacity. Only in exceptional circumstances, where an individual is unable to validly express his or her will in relation to financial or business matters, may a court impose a curatorship (*curatela*). Curatorship must be proportionate to the individual's needs and is generally limited to patrimonial and business matters, while preserving personal rights such as marriage, family life, voting and other fundamental civil rights.

In both situations, Brazilian law imposes significant restrictions on the management and disposal of assets. As a general rule, the disposal, encumbrance or transfer of certain assets – particularly real estate – and other transactions exceeding ordinary administration require prior judicial authorisation. Likewise, acts performed by a court-appointed curator beyond the ordinary management of the protected person's assets are also subject to judicial approval.

Against this background, family holding companies are the principal estate-planning mechanism for minors and individuals subject to curatorship. Rather than holding assets directly, families typically transfer them to a holding company and make lifetime gifts of the shares or quotas to future heirs. The principal objective is not only to accelerate succession, but also to establish governance rules reflecting the founder's wishes, including who will manage the assets, how decisions will be made, restrictions on transfers of equity interests and the distribution of profits. This structure promotes the orderly administration of family wealth and reduces the need for future court intervention, while remaining subject to the statutory protections applicable to minors and protected adults.

## 8.2 Appointment of a Guardian

In Brazil, most minors are not subject to guardianship, as they remain under the parental authority (*poder familiar*) of their parents, who are automatically responsible for representing or assisting the child and administering the child's assets without the need for a court appointment. Nevertheless, certain transactions involving the child's assets –particularly the disposal or encumbrance of real estate and other acts exceeding ordinary administration – generally require prior judicial authorisation.

Where parental authority cannot be exercised, a guardianship (*tutela*) may be established. Although parents may nominate a guardian by will or another legally recognised instrument, the appointment becomes effective only after confirmation by the court. In the absence of a valid nomination, the court appoints the guardian in accordance with the statutory order of preference and the child's best interests. Once appointed, the guardian remains subject to ongoing judicial supervision and, as a general rule, oversight by the Public Prosecutor's Office.

Curatorship (*curatela*) is an exceptional measure applicable to individuals who are unable to validly express their will in relation to patrimonial and business matters. It may only be established through court proceedings, and the court determines its scope according to the protected person's needs, generally limiting it to financial and business matters. As with guardianship, the curator remains subject to ongoing judicial supervision, and significant transactions exceeding ordinary administration typically require prior court approval.

## 8.3 Planning for Incapacity

Brazilian law does not recognise a durable power of attorney comparable to those available in many common law jurisdictions, under which an attorney-in-fact continues to act after the principal loses legal capacity. Where an adult is no longer able to validly express his or her will in relation to patrimonial and business matters, representation will generally require a court-appointed curator. Curatorship is an exceptional measure and must be proportionate to the protected person's needs.

In practice, family holding companies are among the principal planning mechanisms for potential incapacity. Assets are transferred to the holding company during the founder's lifetime, and its governance rules determine in advance who will manage the assets, how corporate decisions will be made, restrictions on transfers of ownership interests and the distribution of profits. As a result, the management of family wealth can continue with limited disruption even if one of the shareholders later becomes legally incapable.

This planning is commonly complemented by other instruments. Advance healthcare directives allow individuals to record their wishes regarding future medical treatment. Powers of attorney are also widely used to facilitate the management of assets and legal affairs while the principal retains legal capacity. However, they do not replace curatorship in cases of legal incapacity and are therefore generally used alongside corporate governance arrangements rather than as standalone incapacity-planning tools.

## 8.4 Elder Law

Brazil has no dedicated legal regime specifically aimed at financial planning for longevity. In practice, preparation for longer lives is achieved through a combination of public social security, supplementary pension plans, private investments and estate-planning structures.

The public social security system provides retirement benefits to individuals who satisfy the applicable contribution requirements. In parallel, the government encourages long-term retirement savings through the open supplementary pension system, principally the PGBL and the VGBL. Broadly speaking, PGBL contributions may qualify for income tax deductions within the statutory limits, whereas VGBL plans generally tax only the investment gains upon redemption or payment of benefits.

The government also promotes financial and pension education initiatives encouraging long-term savings, diversification of retirement income and financial planning.

In practice, particularly for high-net-worth families, these public measures are complemented by private wealth-planning strategies, including private pension plans, long-term investment portfolios, family holding companies, lifetime gifts with reserved usufruct, wills, shareholders' agreements and other governance arrangements designed to preserve wealth, facilitate succession, ensure continuity in the management of family assets and provide financial support for older generations.

## 9. Planning for Non-Traditional Families

### 9.1 Children

The Brazilian Constitution guarantees equality among biological, adopted and out-of-wedlock children, expressly prohibiting discriminatory treatment. A child's right to inherit or to be included in a class of beneficiaries is therefore protected regardless of how the child was conceived or brought into the family.

Under Brazilian law, children are treated as descendants of their legally established parents. Once a parent-child relationship is registered or judicially recognised, it produces full succession effects. Brazilian law also recognises socio-affective parenthood, based on emotional and social bonds developed through daily care. In adoption, the parental authority of the biological parents is generally extinguished and replaced by the adoptive family relationship.

Surrogacy arrangements are permitted only on an altruistic basis, as commercial surrogacy is prohibited in Brazil. The practice is governed mainly by ethical rules issued by the Federal Council of Medicine, which generally require the surrogate to be a relative of the intended parents up to the fourth degree, unless exceptional authorisation is granted. Upon birth, the child is registered under the intended parents' names and acquires full inheritance rights in that family unit.

### 9.2 Same-Sex Marriage

In Brazil, civil marriage and stable unions between same-sex couples are fully recognised and produce the same legal effects as those applicable to opposite-sex couples. This position was established by the Brazilian Supreme Court based on the constitutional principles of equality, human dignity, freedom and the prohibition of discrimination.

As a result, same-sex couples may choose any of the matrimonial property regimes available under Brazilian law and enjoy the same family, property and inheritance rights as opposite-sex couples. There are no tax or succession rules that apply differently solely because a couple is of the same sex.

In practice, same-sex couples have access to the same private wealth planning tools as any other couple, including prenuptial agreements or cohabitation agreements, wills, family holding companies, lifetime gifts and shareholders' agreements. These structures are commonly used to organise succession, preserve family wealth and establish governance arrangements in the same manner as for opposite-sex couples.

### 9.3 Cohabitation and Unmarried Couples

In Brazil, unmarried couples may be recognised as being in a stable union (*união estável*). Unlike marriage, a stable union arises from a public, continuous and lasting relationship with the intention of forming a family. Once recognised, however, it generally produces the same legal effects as marriage, including property and succession rights.

Unless the partners agree otherwise through a cohabitation agreement, the statutory property regime is generally the partial community of property. Stable partners also enjoy succession rights equivalent to those of spouses under Brazilian law.

The principal practical difference from marriage lies in proving the existence and commencement of the relationship. Marriage is evidenced by civil registration, whereas a stable union may exist without formal registration, although it is commonly documented by a public deed or cohabitation agreement to provide greater legal certainty. In the absence of formal documentation, judicial proceedings may be required to establish the existence of the stable union and its patrimonial consequences.

For tax and private wealth planning purposes, stable partners generally have access to the same planning mechanisms as married couples, including cohabitation agreements, wills, family holding companies and lifetime gifts.

## 10. Charitable Planning

### 10.1 Charitable Giving

Brazil encourages charitable giving primarily through targeted tax incentive regimes rather than through a broad income tax deduction for charitable donations.

For individuals, charitable donations are generally not deductible for income tax purposes unless they are made through specific statutory incentive programmes, such as those supporting culture, sport, healthcare, audiovisual projects and funds for children, adolescents and older persons. In these cases, part of the individual's income tax liability may be allocated to approved projects.

For companies subject to the actual profit regime (*lucro real*), certain incentivised donations may be deductible within the applicable statutory limits. Donations made outside these programmes are generally not deductible.

Qualifying charitable and non-profit organisations may benefit from constitutional tax immunity or statutory income tax exemptions, provided the relevant legal requirements are satisfied. The application of gift tax (ITCMD) to charitable donations depends on the legislation of the relevant state, many of which provide exemptions or immunities for qualifying charitable entities or purposes.

From an estate-planning perspective, philanthropic objectives are commonly achieved through lifetime gifts, wills and, in some cases, private foundations or associations, as Brazilian law does not provide structures equivalent to the charitable trusts found in many common law jurisdictions.

### 10.2 Common Charitable Structures

As Brazilian law does not provide structures equivalent to the charitable trusts found in many common law jurisdictions, charitable planning is generally carried out through associations and private foundations. In addition, associations and private foundations may be supported by endowment funds, which have become an increasingly relevant mechanism for financing long-term philanthropic activities.

Associations are non-profit entities formed by individuals to pursue a common charitable or public-interest purpose. Their principal advantages are flexibility in governance, relative ease of incorporation and the ability to adapt their activities over time. Their main disadvantage is that they depend on the participation of their members and generally provide less permanence than foundations.

Private foundations are legal entities established by permanently dedicating assets to a specific charitable or public-interest purpose. They are commonly used where a founder wishes to preserve wealth for philanthropy over the long term. Their principal advantages are permanence and the protection of dedicated assets. However, they are subject to stricter governance requirements and oversight by the Public Prosecutor's Office and offer less flexibility to amend their purposes or organisational structure.

Brazilian law also regulates endowment funds, which may be established to support civil associations, private foundations and other public-interest institutions. Under this framework, the principal capital is intended to be preserved, with philanthropic activities funded primarily through the income and returns generated by the endowed assets. The structure therefore provides a sustainable source of long-term funding while protecting the donated capital. However, an endowment fund is not itself an investment fund and is not subject to the regulatory framework applicable to investment funds supervised by the Brazilian Securities and Exchange Commission (CVM).

Accordingly, associations are generally preferred for operating charitable activities, whereas private foundations are more commonly used where the objective is to dedicate assets permanently to philanthropic purposes. Where the objective is to ensure the long-term financial sustainability of philanthropic activities while preserving the principal capital, an endowment fund may complement either structure.

# Trends and Developments

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**BVZ Advogados | Bastos, Bari, Vilela e Zugman** is a leading São Paulo-based Brazilian law firm, widely recognised for its sophisticated private wealth, tax and succession practice. The firm advises high-net-worth individuals, families and family-owned businesses whose combined assets exceed BRL10 billion (USD2 billion). Its multidisciplinary approach brings together deep expertise in tax, family, succession and corporate law, enabling the design and implementation of complex domestic and cross-border wealth-planning structures. The team regularly advises on family holding companies, lifetime gifts, wills, trusts, offshore structures, corporate reorganisations, governance arrangements and succession planning involving substantial and diversified assets. BVZ is particularly noted for combining technical excellence, strategic judgment and close partner involvement, providing tailored solutions that address legal, tax, family and business considerations in an integrated manner. Its track record includes high-value reorganisations, cross-border estate planning and sophisticated governance structures for prominent Brazilian families, entrepreneurs and leading business groups.

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## Estate and Succession Planning in Brazil: Navigating a Changing Legal and Tax Landscape

### *1. Introduction*

Brazil is undergoing one of the most significant transformations of its legal and tax framework in decades. While international attention has largely focused on the reform of indirect taxation, which will be phased in between 2027 and 2033, the changes affecting private wealth extend well beyond the taxation of goods and services.

Over the past few years, Brazil has experienced a broader process of legislative, regulatory and judicial transformation affecting the accumulation, ownership, income generation and transfer of wealth. Alongside successive tax reforms enacted since 2023, Congress is currently debating a comprehensive revision of the Brazilian Civil Code, which may significantly affect family law, succession and wealth planning. Although the outcome of that legislative process remains uncertain, it illustrates the extent to which the legal framework governing private wealth is evolving.

At the same time, Brazil has entered a new era of tax enforcement. Greater cooperation between tax authorities, the expansion of international information exchange mechanisms, technological advances in tax administration and increasingly sophisticated audit procedures have substantially increased the scrutiny applied to domestic and cross-border wealth structures.

Judicial developments have also become an important source of uncertainty. The Brazilian Federal Supreme Court (*Supremo Tribunal Federal* – STF) has assumed an increasingly prominent role in defining the constitutional boundaries of taxation, property rights and succession. As constitutional tax disputes frequently remain pending for several years before a final decision is reached, taxpayers and advisers are often required to make long-term planning decisions in an environment where fundamental legal questions have yet to be conclusively resolved.

Against this backdrop, estate and succession planning in Brazil is no longer driven solely by tax efficiency or succession objectives. Structures must now also be designed to withstand regulatory scrutiny, judicial uncertainty and potential tax controversy. Litigation risk, evidentiary standards and governance considerations have therefore become integral elements of wealth planning rather than issues to be addressed only after a tax assessment has been issued.

This article examines how recent legislative reforms, evolving tax policy and a more assertive enforcement environment are reshaping private wealth planning in Brazil.

### *2. Traditional wealth planning structures are being reshaped*

The recent legislative changes affecting Brazilian taxation should not be understood as isolated reforms. Their practical significance lies in the way they have altered the economic and legal rationale underlying many of the structures traditionally used in estate and succession planning.

Over the past two decades, Brazilian private wealth planning has relied on a relatively stable set of legal instruments – including family holding companies, offshore entities and lifetime wealth transfers. These structures remain widely used. However, the reasons for adopting them are evolving as legislative reforms, judicial developments and changing administrative practice reshape the balance between tax efficiency, governance and litigation risk.

Rather than making existing structures obsolete, the recent reforms have required advisers to reassess the key objectives they are intended to achieve. In many cases, succession planning, governance and asset protection have become the primary drivers of the structure, while tax efficiency has become a secondary – or at least less predictable – consideration.

#### *2.1. Real estate holding companies*

Family holding companies have traditionally been one of the most common estate planning vehicles in Brazil, particularly for families investing in real estate. Besides facilitating succession, governance and asset consolidation, these entities often produced significant tax savings by allowing rental income to be taxed under more favourable corporate tax regimes than those generally applicable to individuals.

The ongoing tax reform has significantly altered this landscape. Although its effects will be implemented gradually during the transition period, the new VAT system substantially reduces the tax advantages previously associated with many real estate holding structures, particularly those established primarily to generate tax savings on rental income.

This does not mean that real estate holding companies have lost their relevance. On the contrary, they remain valuable instruments for organising family ownership, facilitating intergenerational transfers, centralising asset management and implementing governance mechanisms. What has changed is their principal rationale. Increasingly, these structures are justified by succession, governance and asset management objectives rather than by tax efficiency alone.

For families with substantial real estate portfolios, the reform therefore requires a reassessment of existing holding structures. In some situations, they will continue to provide meaningful tax benefits. In others, their value will lie primarily in the legal and organisational advantages they offer. Thus, there is no one-size-fits-all approach to real estate planning.

### *2.2. Offshore structures*

Another significant development concerns the taxation of offshore assets.

For many years, Brazilian resident individuals were generally taxed on the profits of offshore companies only when those profits were effectively distributed. This deferral mechanism made foreign companies a common feature of international estate planning, particularly for investment portfolios intended to accumulate returns over the long term.

Law No. 14,754/2023 fundamentally altered that framework. As a general rule, the profits generated by controlled offshore entities are now subject to annual taxation in Brazil, irrespective of whether they have been distributed, subject to specific statutory exceptions and elective regimes. The reform represents one of the most significant changes to the Brazilian taxation of international wealth in recent decades. Although offshore companies continue to play an important role in international investment structures, succession planning and asset protection, the tax deferral that historically justified many of these arrangements has been substantially reduced.

The legislative changes also introduced rules governing the tax treatment of distributions made by foreign trusts, providing greater legal certainty and predictability and, as a result, enhancing the attractiveness and potential use of trusts as a wealth-planning tool.

Consequently, advisers increasingly evaluate offshore structures from a broader perspective. Questions relating to governance, jurisdictional stability, investment flexibility, cross-border succession and asset protection have become at least as important as the tax consequences of the structure itself. Tax efficiency therefore remains relevant, but it no longer constitutes the principal justification for many international wealth structures.

## *3. A new tax landscape for family wealth*

### *3.1. Inheritance and gift taxation: a rapidly evolving landscape*

Inheritance and gift taxation (ITCMD) has become one of the most dynamic areas of Brazilian private wealth planning. Over the past few years, constitutional reforms, legislative changes and judicial decisions have significantly transformed the legal framework governing the taxation of wealth transfers, increasing both the complexity of succession planning and the importance of periodically reviewing existing structures.

A notable feature concerns the valuation of transferred assets. Historically, disputes frequently arose over the appropriate tax base for gifts and inheritances involving closely held companies, family holding companies and other illiquid assets. Different valuation methodologies – including book value, net asset value and fair market value – often resulted in divergent positions between taxpayers and state tax authorities. For example, succession plans implemented several years ago based on the transfer of shares in family holding companies at book value may now produce significantly different tax consequences under the current framework.

More recently, new legislation has introduced a more uniform framework by adopting fair market value as the general standard for ITCMD purposes. While valuation disputes are unlikely to disappear, this reform reflects a broader trend towards greater consistency in the taxation of wealth transfers, together with an increased emphasis on robust valuation reports and supporting documentation.

A further development concerns the introduction of progressive tax rates. Several Brazilian states have reviewed – or are currently reviewing – their legislation to introduce progressive tax brackets, with rates reaching up to 8%, the current constitutional ceiling. Although the applicable rates continue to vary across jurisdictions, the overall trend is clear: larger transfers of wealth are increasingly subject to higher effective taxation.

Cross-border succession planning has also undergone a profound transformation. For many years, considerable uncertainty surrounded the taxation of inheritances and gifts involving assets located abroad or situations where the deceased, donor, heir or beneficiary had connections outside Brazil. Although several states attempted to levy ITCMD under their own legislation, the Federal Supreme Court (STF) held that such taxation required a complementary federal law to regulate conflicts of taxing jurisdiction. As a result, many cross-border successions and gifts remained outside the scope of state taxation for several years.

This legal landscape has now changed. Tax reform has established a national framework governing the taxation of cross-border inheritances and gifts. Although several states are still adapting their legislation to the new constitutional framework, the longstanding constitutional uncertainty surrounding these transactions has been substantially reduced.

Taken together, these developments illustrate a broader transformation in the role of inheritance and gift taxation within Brazilian estate planning. Historically, succession planning often focused on identifying tax-efficient transfer mechanisms. Today, equal attention must be given to valuation methodologies, progressive taxation, the location of assets and family members, and the interaction between different jurisdictions. As a result, inheritance and gift taxation has become a far more strategic component of estate planning than it was only a few years ago.

### *3.2. Taxation of family businesses: the new minimum tax on high-income individuals*

Another important change affecting Brazilian private wealth planning is the introduction of a minimum tax applicable to high-income individuals. The new regime forms part of a broader policy initiative aimed at increasing the taxation of an individual's income while preserving the traditional corporate income tax system.

Historically, Brazil has been unusual among major economies in exempting dividends distributed by Brazilian companies from personal income taxation. This feature has long influenced the way entrepreneurial families organised the ownership and succession of closely held businesses, often allowing profits to be accumulated within operating companies or family holding structures before being distributed to shareholders without additional taxation.

The new minimum tax substantially changes that landscape. Although the reform does not introduce a traditional dividend withholding tax applicable to all shareholders, it establishes an effective minimum level of taxation for high net worth individuals, including dividends. As a result, dividend distribution policies have become a central consideration in succession planning for business-owning families.

The reform is likely to influence a range of strategic decisions extending beyond taxation alone. Families may reconsider dividend policies, investment strategies, corporate financing arrangements and the allocation of profits between operating companies and holding structures. More broadly, succession plans that were designed under the previous exemption regime may require reassessment in light of the new rules.

Importantly, the reform illustrates a broader trend in Brazilian tax policy. Historically, advisers concentrated on taxes triggered by the transfer of wealth, particularly inheritance and gift taxation. The new minimum tax demonstrates that the taxation of wealth can no longer be analysed solely at the moment of succession. Increasingly, advisers must evaluate the taxation of wealth throughout its entire life cycle, including its generation, accumulation, distribution and eventual transfer to future generations.

### *4. From tax planning to tax resilience*

While legislative reforms have reshaped many of the legal structures traditionally used in estate planning, they tell only part of the story. Equally significant has been the transformation in the way Brazilian tax authorities scrutinise, challenge and litigate wealth planning arrangements.

For many years, estate planning in Brazil was primarily assessed from the perspective of legal validity and tax efficiency. Once an appropriate legal structure had been implemented, many families expected it to remain effective for decades with only limited adjustments. That assumption has become increasingly difficult to sustain.

Tax authorities at all levels have adopted a substantially more sophisticated approach to reviewing wealth planning structures. Enhanced access to financial information, advances in data analytics, rising cooperation between public authorities and greater specialisation within tax audit teams have significantly expanded the government's ability to identify, reconstruct and challenge complex transactions.

At the same time, international transparency initiatives have fundamentally changed the availability of information. Mechanisms such as the Common Reporting Standard (CRS) and the Foreign Account Tax Compliance Act (FATCA) have considerably reduced the informational asymmetry that historically characterised cross-border wealth structures. Offshore assets and foreign financial accounts that once depended largely on voluntary disclosure are now routinely reported through automatic exchange of information systems.

This evolution has also changed the nature of tax controversy. More often, disputes do not arise because taxpayers failed to disclose assets or transactions, but because tax authorities challenge the legal characterisation, economic substance or valuation of arrangements that have been fully disclosed.

#### *4.1. The growing importance of substance*

Perhaps the most significant development in recent years has been the increasing emphasis placed on the economic substance of wealth planning structures.

Although Brazilian tax legislation has long recognised taxpayers' right to organise their affairs efficiently, tax authorities have become increasingly willing to scrutinise whether transactions are supported by genuine legal, business or family purposes. Family reorganisations, succession arrangements and corporate restructurings are no longer analysed exclusively through their legal form, but also in light of their practical effects and underlying rationale.

This trend can be observed across several areas of private wealth planning. Tax authorities have increasingly challenged the tax neutrality of corporate reorganisations involving family holding companies, questioned the application of tax exemptions for real estate transfers made as capital contributions, disputed the valuation adopted for donations of closely held companies and scrutinised succession structures that rely primarily on formal legal steps without clear economic or governance justification. Cross-border arrangements involving trusts, offshore companies and changes of tax residence have likewise become subject to greater scrutiny, particularly where the authorities perceive inconsistencies between the legal structure adopted and its practical implementation.

These disputes do not necessarily reflect a change in the underlying legal rules. Rather, they demonstrate a broader shift in enforcement priorities. Transactions that might previously have attracted limited attention are now examined through a more comprehensive factual and evidentiary analysis, often involving the reconstruction of the sequence of events, the identification of the ultimate beneficiaries and the assessment of the commercial or family objectives underlying the arrangement.

As a result, documentation has assumed a much more prominent role. Corporate records, family governance documents, valuation reports, succession protocols and contemporaneous evidence explaining the reasons for a particular structure have become essential components of wealth planning. In many situations, these materials may prove as important as the legal documents implementing the transaction itself.

### *4.2. Tax controversy as part of estate planning*

A further development in Brazilian private wealth practice is that tax controversy is no longer viewed solely as a response to tax assessments. In practice, it has become an integral component of estate planning itself.

When designing succession structures today, advisers are expected not only to identify the applicable legal and tax rules, but also to anticipate how those rules are likely to be interpreted by tax authorities and, ultimately, by the courts. Questions relating to valuation methodologies, evidentiary standards, procedural risks and judicial precedents are therefore considered at the planning stage rather than only after a dispute has arisen.

This is particularly relevant in a legal environment where important tax issues often remain unresolved for extended periods. Questions involving the taxation of wealth transfers, the limits of tax planning, the interpretation of constitutional tax principles and the interaction between tax and private law frequently reach the higher courts and may take years – or even decades – to be conclusively resolved. During that period, taxpayers must make long-term succession decisions without the benefit of settled judicial guidance.

The result is a significant change in the way estate planning is conceived. The relevant question is no longer simply whether a structure complies with the applicable legislation, but whether it is capable of withstanding future scrutiny by tax authorities and judicial review. In practice, this requires advisers to evaluate not only the legal consequences of a proposed structure, but also its evidentiary robustness, governance framework, economic rationale and potential litigation risks.

Tax efficiency therefore remains an important objective of estate planning, but it is no longer sufficient on its own. Today, effective wealth planning requires legal structures that are not only technically sound, but also resilient enough to withstand a rapidly evolving legislative, regulatory and judicial environment.

### *5. Conclusion*

Brazilian private wealth planning is entering a new phase. Rather than introducing a standalone wealth tax, recent reforms have progressively redefined the taxation of private wealth through changes affecting the accumulation, ownership, transfer and distribution of family assets, coupled with a more sophisticated tax enforcement environment.

Importantly, these developments have not rendered traditional estate planning structures obsolete. Family holding companies, offshore structures, trusts and lifetime transfers remain essential tools for preserving wealth and facilitating succession. What has changed is the legal and tax environment in which these structures operate, requiring advisers to reassess long-standing assumptions and periodically review arrangements that may have been designed under a substantially different regulatory framework.

As a result, successful private wealth planning in Brazil increasingly depends on more than identifying tax-efficient solutions. It requires legal structures supported by clear governance objectives, robust documentation and sufficient flexibility to adapt to future legislative reforms, judicial developments and evolving tax policy. Equally, tax controversy can no longer be viewed merely as a response to assessments once they arise. It has become an important consideration in the design of wealth planning strategies from the outset.

Brazil's experience also illustrates a broader lesson. Significant changes in the taxation of private wealth do not necessarily require the introduction of a formal wealth tax – which has gained attention in international public debate across several jurisdictions. They may instead result from successive reforms to existing taxes, combined with increasingly effective enforcement mechanisms.

For advisers, the challenge is no longer simply to identify the most efficient legal structure, but to design structures capable of remaining effective as the legal and tax landscape continues to evolve. In this new environment, resilience has become the defining attribute of effective wealth planning.

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