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Indirect taxes in Brazil - From the internet to the metaverse

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When I was asked to write this article about Brazilian indirect taxes in the Metaverse, I was immediately transported back two decades, to the early years of my career.

The year was 2000. I remember, as if it was yesterday, being asked, as a trainee in tax consulting firm, to find out what I could about indirect taxes in the then novel "internet".

I could not have received a better assignment. A young student of the law whose ambition was to dominate the difficulties in Brazil's complex system of indirect taxes being asked to apply his knowledge to something that was considered the vanguard of technology? It was almost a dream.

Where to look for information? Obviously, at the time the source of information was not the internet itself: it wasn't possible to do a Google search, and other online research tools, while they existed, were not available to the vast majority of internet users.

So I set off for the firm's library. Shelves of thousands of physical books, repositories of knowledge, along with collections of decisions running to hundreds of volumes. I spent days reading the indexes and tables of contents of books and collections of decisions and paid many visits to the offices of the federal, state and municipal tax authorities.

Despite the difficulty in obtaining information, I was able to put together a file with copies of all the cases and other sources relevant to the topic. I wrote an extensive report that came, essentially, to the following conclusion: "the internet is a new world of immense possibilities and the legislation governing indirect taxes is not prepared for it." I went on to say that "the decisions that may be applicable nonetheless deal with factual situations that are quite dissimilar, and are far from indicating any specific outcome."

In the end, I and my much more experienced colleagues concluded that the Brazilian indirect taxation system was not prepared to charge taxes on almost anything that was happening on the internet.

Twenty-two years later, here I am, a great deal more knowledgeable about Brazil's tax system, a dedicated reader of tax decisions and relatively informed as to the changes in legislation dealing with day-to-day developments in the internet.

But it is that very internet that has helped to bring into being an entirely unknown world. A world that, to be honest, is difficult for me to understand and even to believe in.

If someone in 2000 had told me that in a few years I could have reduced all those months of research to a matter of minutes on my laptop, using half a dozen key words, I certainly would not have believed it.

Still, it's true. And today, the concept of the Metaverse tells me that I can, through my avatar (although I don't have one yet), enter a virtual, "almost physical", library and look for the titles and content that interest me using the same laptop computer that I use to do searches on Google.

What in this new world, in which people will live a large part of their lives (or so they say), can be taxed?

Obviously, transactions will take place in the Metaverse involving both virtual and non-virtual currency, and the State will do all that it can to tax those transactions.

Nonetheless, just as with my early mission to understand taxation of the internet, I tend to think that because the Metaverse is a new world of infinite possibilities, the legislation governing indirect taxes is still far from predicting those possibilities and demanding payment of its due.

Likewise, decisions by the courts can be applied by analogy, but the precedents also fall short of dealing with the facts of this new technological world as something that can be taxed.

Last, those of use who work with tax law must get to work. We will have to study this new and almost unimaginable reality, which is so different from what we know today.

We will have to wait and see how quickly Brazil's legislators can provide for taxable events in the Metaverse, since in my view that is the only way the Government can collect its share. We will also have to wait for the conclusions of the courts before we can be certain of how, where, when, how much and to whom taxes should be paid on the capital that circulates in the Metaverse.

>>> This article is part of the e-book "Metalaw: Reflections on Law in the Metaverse".
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