RCMOS - Multidisciplinary Scientific Journal of Knowledge.
ISSN: 2675-9128. Sao Paulo-SP.

Year I, v.1, n.1, Jan/July 2021. | submission: 21/02/2021 | accepted: 23/02/2021 | publication: 25/02/2021

Tax burden on offshore service companies : *the ISS in offshore service provision*

Tax burden on offshore service companies: the ISS in offshore service provision

ALEX PORTO ALEGRE DE ALMEIDA

SUMMARY

With the growing expansion of the oil and natural gas extraction and production market and the consequent manifestation of tax potential, several currents of opinion have emerged regarding the taxation of such activity, with regard to the power of Municipalities to tax services of any nature provided in their offshore projections. The meaning of the term *offshore will be demonstrated,* as well as a brief history of the ISS, and a comparison will be made with what the Brazilian Constitution deals with. Article 12 of Decree Law 406/68 will also be reviewed, the rules of which were maintained in Complementary Law No. 116/2003, which defines the service provider establishment as the place of provision of the service, with exceptions in the case of civil construction. This divergence has resulted in tax disputes between Municipalities, some demanding the tax because the service provider establishment is in their territory, as interpreted by art. 12 of DL 406/68, others, due to the fact that the service provided is being effectively provided in its maritime projections, applying the understanding of the STJ (Place of effective provision of the service). In view of the explanation, one must ask: is it possible to charge ISS on the provision of *offshore* services by a Municipality? Given that the territorial sea is an exclusive asset of the Federal Union? By concluding that the services performed in maritime waters, that is, *offshore* services cannot constitute a hypothesis of incidence of ISS, given that maritime waters do not comprise the territory of the Municipality, where it is the exclusive competence of the Union, which in turn, does not have tax competence to be an active subject of a tax hypothesis to which the material criterion is already used to demand another tax.

Keywords: ISS, *Offshore,* Unconstitutionality.

INTRODUCTION

With the growing expansion of the oil and gas extraction and production market natural and the consequent manifestation of contributory potential, hence, several currents regarding the taxation of such activity, with regard to the power of Municipalities to tax services of any nature provided in their projections maritime.

The present study is, in terms of objectives, a research of characteristics exploratory, as to procedures, of paper sources, as to the object, is a bibliographic research.

In the first chapter, we will demonstrate what the term *offshore means,* and a brief history of the ISS and make a comparison of what the Brazilian Constitution deals with, in its article 156, section III, the Municipality holds the power to tax services any nature, article 12 of Decree Law 406/68 is verified, whose discipline was maintained in Complementary Law No. 116/2003, defines the place of service provision as the service provider, except in cases of civil construction, for which the charge of the ISS will be made where the actual provision occurs.

The second chapter provides an understanding of the collection of ISS in operations carried out in maritime waters and demonstrates the understanding of the Superior Court of Justice which decided that the Municipality is competent to demand payment of the ISS is where *offshore* services are actually provided . addressed. Such divergence results in the tax dispute between Municipalities, some demanding the tax because the service provider is in its territory, according to the interpretation of art. 12 of DL 406/68, others, due to the fact that the service provided being effectively provided in its maritime projections, applying the understanding of the STJ (Place of effective provision of the service). Given the explanation, one must ask: is it possible to charge ISS on *offshore* service provision by Municipality? Since the territorial sea is an exclusive asset of the Federal Union?

As these are disputes between federative entities, in which there is great interest from Municipalities, in relation to the collection of taxes and the lack of case law that define the form of taxation of operations carried out in maritime waters, it is up to verify the constitutionality of the aforementioned charge, due to the great relevance of this sector in the Brazilian economy.

THEORETICAL BASIS

1 - *OFFSHORE*

Rosenba apud Moraes and Trisciuzzi (2008, p. 4) comments that companies *offshore* are so called because they are generally provided for in the legislation of the countries to which they are prohibition on such companies conducting business within the country's own jurisdiction in that had been established – hence the term *offshore,* which in English means “outside the borders”, because companies, by law, must only conduct business in other jurisdictions other than that in which it was incorporated.

Contrary to the concept now presented, Rodrigues and Silva (2012, p. 68) describe the type of activities carried out in the *offshore regime,* which include oil companies that explore oil and gas extraction and production activities natural in maritime areas.

We will bring to this work the focus concerning the tax on services of any nature, its tax jurisdiction, its generating fact in the provision of services on the high seas, that is, in *offshore operations.*

2- TAX ON SERVICES OF ANY NATURE – ISS

The Tax on Services of Any Nature, known as ISS or ISSQN, comes from a large-scale modification by Constitutional Amendment No. 18, 1st. 12.1965, in the Brazilian Tax System, providing Municipalities, in their Article 15, the ability to collect taxes on the provision of services.

Therefore, it is necessary to make a brief summary, with regard to the criterion ISS space, to which we will bring what is set out in Decree Law No. 406/68, in its article 12, as follows:

> Art. 12. The place of provision of the service is considered to be:
>
> a) that of the service provider establishment or, in the absence of an establishment, that of the service provider's domicile;

RCMOS - Multidisciplinary Scientific Journal of Knowledge.
ISSN: 2675-9128. Sao Paulo-SP.

> b) in the case of civil construction, the place where the service is carried out.

It can be seen that the aforementioned Standard deals with the spatial criterion of the ISS as the location where the service provision was effectively carried out, that is, the municipal territory where the effective provision occurs.

In this understanding, the Superior Court of Justice ruled as follows: understanding:

> Divergence Appeals. ISS. Jurisdiction. Place of Service Provision. Precedents
>
> For the purposes of levying ISS – Tax I – on Services – the location where the taxable event occurred is important, as the criterion for determining the jurisdiction of the collecting Municipality and the enforceability of the tax credit, even if the content of art. 12, paragraph *a,* of Decree-Law 406/68 is revealed.
>
> II- Appeals Rejected. (STJ, 2000, p.66)

Having viewed the topic by the STJ, it is clear that the text presented above is in perfect harmony with the Federal Constitution of 1988, where it is up to the Municipality where the service was actually provided, the authority to collect the ISS tax.

However, Complementary Law No. 116/2003, which is the legal diploma that regulates the aforementioned tax, in its article 3, part *"a",* treats it as due to Municipality where the provider's establishment is located as follows:

> "Art. 3º The service is considered to have been provided and the tax is due at the location of the service provider's establishment or, in the lack of establishment, at the provider's place of residence (...)".

It is worth noting that the same art. 3, part *"b",* provides for the hypothesis of incidence in the place where the services were performed, listing items I to XXII.

However, according to Pires *et al* (2011, p. 100-101) many Municipalities simply ignored what is provided for in the complementary legal norm and started to demand the ISS on all services provided in its territory, regardless of the location of the service provider establishment.

However, the municipal legislation that deals with the matter, the recipients of the services were required to collect the tax (ISS) from providers in other municipalities, who in turn were required to be collected by their Municipality of residence. Considering a specific case of double taxation, as stated in art. 164, section III of the CTN.

Still in this context, Susy Gomes Hoffman explains:

> We conclude, then, that, although Complementary Law 116/03 brings the rule of jurisdiction of art. 3, the constitutional discipline of the ISS must be considered first, since the taxation of the tax jurisdiction only allows the irradiation of the effects of taxation in the territory of the Municipality. (HOFFMANN, 2005, p. 522)

In this sense, there is also a failure to comply with the principle of territoriality exposed by Carvalho, as follows:

> 'In the discipline of the Constitutional Text, one sees the ever-present concern to prevent the legislative activity of each of the political entities from interfering with the others, achieving the harmony that the constituent conceived. This is the reason for establishing the guideline according to which the legislation produced by the political entity is in force in its territory and outside it, only within the written limits in which its extraterritoriality is recognized by the agreements in which it participates. In this line of reasoning, the legal norms issued by a State are in force to cover facts that occur within its geographic limits, the same occurring with the Municipalities and with the Union itself'. (CARVALHO, 2002, p. 85-86, *apud,* Pires *et al,* 2011, p.102-103).

Still on this thought, Pires *et al* (2011, p. 102) states that, by the Principle of Territoriality, the legal tax rules are only in force in the territory to which the political entity edits them.

5

RCMOS - Multidisciplinary Scientific Journal of Knowledge.
ISSN: 2675-9128. Sao Paulo-SP.

In this sense, the STJ ruled as follows:

> TAX. ISS. ITS DEMAND BY THE MUNICIPALITY IN WHOSE TERRITORY THE FACT OCCURRED GENERATOR.
>
> INTERPRETATION OF ARTICLE 12 OF THE DECREE-LAW NO. 406/68
>
> Although the law considers the place of service provision, the service provider establishment (art. 12 of Decree-Law no. 406/68), it intends that the ISS belongs to the municipality in whose territory the generating event occurred.
>
> It is the location where the service is provided that indicates the municipality responsible for imposing the tax (ISS), so as not to violate the implicit constitutional principle that grants that (municipality) the power to tax services provided within its territory.
>
> Municipal law cannot be endowed with extraterritoriality, so as to have effects on an event that occurred in the territory of a municipality where it cannot have effect.
>
> Appeal that is dismissed without distinction. (STJ, 1995, p.162).

Márcio Branco verifies the aforementioned theme without leaving room for doubt:

> Regarding services performed on board oil exploration or production platforms, located in maritime regions (territorial sea, contiguous zone, exclusive economic zone and Brazilian continental shelf), the taxable event is considered to have occurred at the location of the service provider's establishment (art. 3, § 3 of Complementary Law No. 116/03).
>
> It can be seen that the above provisions undermine the intention of some municipalities to extend their tax jurisdiction to maritime regions based on other criteria, such as geographic coordinates. (BRANCO, 2005, p. 526-527).

In this context, according to Carneiro's theoretical legacy (2011, p. 347), double taxation, which is the collection of a tax by two or more different political entities on the same generating fact, it is a practice prohibited under Brazilian Law, since it is an invasion of tax jurisdiction, which violates the Brazilian Magna Carta.

RCMOS - Multidisciplinary Scientific Journal of Knowledge.
ISSN: 2675-9128. Sao Paulo-SP.

As an example of this panorama, the institution of the ISS is verified by Municipality of Niterói:

> "The Municipality of Niterói, where a large part of onshore activities focused on the Oil and Gas sector are concentrated, changed its legislation to charge ISS based on the location of the service provision, starting in 2009.
>
> Evidently, services related to the execution of works and electromechanical assembly of platforms and other vessels are already subject to the tax of the location of the services (...) established in other Municipalities, such as Rio de Janeiro or São Paulo, for example, will not only be subject to the ISS of the location of their bases, but will also suffer withholding of the ISS of Niteroi, (...)" (PIRES, *et al* , 2011, p. 110-111).

Pires *et al* (2011, p. 111), finds that the legislation of Niterói (Law No. 2,628/2008) was not limited to establishing the simple occurrence of the provision of the service in its municipal territory for the incidence of ISS and yes, the mere hiring of the service by a recipient domiciled in Niterói, even if the service is performed in place other than your tax domicile, giving rise to the obligation to collect of the said tax to the Municipality in question. Nevertheless, the said Municipality also adopted the criteria set out in Complementary Law No. 116/2003, applicable to cases of companies established in Niterói and that provide services outside the Municipality.

This is provided for in Law No. 2,628/2008, in its article 68. , items I and III, as he follows:

> I- In any case, when the service is carried out in its territory, that is, it is provided, executed, delivered or consumed there, or, even, when the recipient or contractor is located there;
>
> (...)
> III- if applicable, when the location of the service provider establishment is located in Niterói or, in the absence thereof, its domicile.

However, the law of Niterói (Law No. 2,628 of 12/30/2008) applies on the basis universal its competence to collect ISS, since the rule that deals with the matter imposes taxation on the service provided, the linking of the paying source and, service provider establishment, with only one of these elements being required to be directly linked to the aforementioned Municipality.

In this context, the Municipality of Macaé, provides in its Complementary Law No. 053/2005, also adopts the criterion of the location of the service provision in its territory, explains in detail in article 172, paragraphs 1 to 4, the incidence of ISS for generating facts explained below:

> Art. 172 Tax on Services of Any Nature – ISSQN has as its triggering event the provision of services listed in Annex I of this Law (...):
>
> **§ 1.** The tax is also levied on services originating from abroad or whose provision began abroad.
>
> **§ 2.** Except for the exceptions expressed in the list of services included in this Law, the services mentioned therein are not subject to the Tax on Operations Relating to the Circulation of Goods and Provision of Interstate Transportation Services and
>
> Intermunicipal and Communication Tax – ICMS, even if its provision involves the supply of goods.
>
> **§ 3.** The tax also applies to services provided through the use of public goods and services economically exploited through authorization, permission or concession, with the payment of a tariff, price or toll by the end user of the service.
>
> **§ 4.** The incidence of the tax does not depend on the name given to the service provided.

Still checking the Municipality of Macaé, art. 174 of the Complementary Law, edited by the political entity, brings the understanding of article 4 of Complementary Law No. 116/2003 with regard to the place where the service is provided, as seen below:

> Art. 174 The place where the taxpayer carries out the activity of providing services, permanently or temporarily, and which constitutes an economic or professional unit, is considered a service provider establishment, with the following being irrelevant to characterize it:
> names of headquarters, branch, agency, service point, subsidiary, representative or contact office or any others that may be used.

8

RCMOS – Multidisciplinary Scientific Journal of Knowledge.
ISSN: 2675-9128. Sao Paulo-SP.

Therefore, it is concluded that the collection by the Municipalities of Niterói and Macaé, is unconstitutional with regard to the provision of services *offshore,* since by the hierarchy of Laws, the infra-constitutional legislator cannot establish a tax that is not provided for in the Brazilian Magna Carta. Both Niterói and Macaé, use the rules established by Decree Law No. 406/68, article 12, as legal basis for abusive ISS charges, even knowing that Complementary Law No. 116/2003, revoked the aforementioned Decree Law, bringing to light the establishment providing services to incidence of ISS and, in the absence thereof, the domicile of the provider.

3- THE COMPETENCE OF INSTITUTION OF ISS IN OPERATIONS *OFFSHORE*

With the growing market for oil and natural gas extraction and exploration, where in 2008 the oil sector announced the need to hire vessels and drilling rigs, the need for responsible companies was seen by exploration blocks in contracting outsourced services to maintain the platforms, ships and other vessels or artificial islands in full operation. Therefore, there was significant growth in relation to service providers. offshore service .

In this sense, there is a need to verify the constitutionality of the charges of ISS in *offshore* operations , as there are currently major discrepancies in in relation to undue ISS charges, as it is known, many municipalities charge unduly the tax, considering that the territorial sea strip is a constant part of its territory.

For the definition of the competence of the ISS institution, the Federal Constitution of 1988 gave Municipalities the power to collect the aforementioned tax, therefore, if makes it necessary to analyze the limits of this competence, since it is of utmost importance to assessment of this matter, as there has been a huge divergence of interpretation of the legal standards that deal with the aforementioned matter.

Having said this, it is important to highlight that the Municipality holds the capacity to establish of the Tax on Services of Any Nature (ISSQN) in its territory, as per is stated in the Federal Constitution, in its article 156, section III. However, it is possible

9

charge ISS on *offshore* service provision by the Municipality? Since the sea
Is territorial property an exclusive asset of the Federal Union?

According to Pires *et al* (2011, p. 113) based on the case law of the STJ regarding Decree Law No. 406/68, there are Municipalities that defend the application of projections of municipal boundaries for the division of oil *royalties* as a basis for municipal tax jurisdiction in maritime waters, however, the Constitution Federal is expressly direct with regard to the right of Municipalities, as per is provided for in article 20, paragraph 1.

Still in this sense, the applicability of this understanding is questionable, given that that the territorial sea is an exclusive asset of the Federal Union (CF/88 art. 30, VI), being such analogy is unacceptable for the Municipality to charge ISS on the installments of services in maritime waters.

In this understanding, Buschmann *(http:// www.bea.adv.br/ publico/ pubmvb/ 018.pdf)* explains that this type of charge will in accordance with the Constitutional Norm and, furthermore, the aforementioned author emphasizes that there is no municipal territorial sea and, as explained previously, the territorial sea is exclusive legislative competence of the Union.

Even if what is set out in art. 3, § 3, of the Complementary Law were applicable 116/2003, the aforementioned paragraph can be considered unconstitutional, as it does not It is up to the complementary legislator to determine the tax jurisdiction of Municipalities not provided for in the Federal Constitution.

The Court of Justice of the State of Rio de Janeiro issued a ruling to the effect the non-incidence of ISS on Petrobras' *offshore* service providers to which was in dispute with the Municipality of Quissamã, as follows:

"CIVIL PROCEDURE. PRECAUTIONARY ACTION. PRECAUTIONARY MEASURE OF DISPLAY OF DOCUMENTS. APPROVAL OF

ANTICIPATION OF RELIEF. PRELIMINARY INJUNCTION. PRECAUTIONARY RELIEF OF A MUNICIPALITY

RCMOS - Multidisciplinary Scientific Journal of Knowledge.
ISSN: 2675-9128. Sao Paulo-SP.

THAT PLEAMS THAT PETROBRAS BRING TO THE FILES DOCUMENTS RELATING TO CONTRACTS KEPT WITH SUPPLIERS, IN ORDER THAT VERIFY THE OCCURRENCE OF FACTS ISSON GENERATORS.

In addition to the questionable legality of the route chosen by the Municipality to obtain information about the offshore operations of the aforementioned state-owned company, the preliminary injunction granted deserves to be reformed, as its granting depended on the recognition of the aroma of good law, which does not exist in the records.
The territorial projections of the IBGE demarcation lines do not make the offshore platform — where PETROBRAS carries out its exploratory activities — an extension of the territory of the coastal Municipalities, influencing only the setting of the value of compensation and royalties" as established in Law No. 7525/86. Appeal provided by plan."

(TJRJ – 18th Civil Chamber – Preliminary injunction – Proc. 2005.002.18931 – rel. Des. MARCO ANTONIO IBRAHIM – Municipality of Quissamã X Petrobras).

Therefore, the statement of projection of municipal territorial sea is null and void, since violates the principle of territoriality provided for in the National Tax Code, in its Article 102, such measure would take effect if the Union entered into an agreement with the Municipalities coastal areas for the purpose of collecting the aforementioned tax.

However, the Municipality of Macaé assured itself of the STJ's understanding (with based on Decree No. 406/68) and published Complementary Law No. 053/2005, in its art. 176, paragraph I, which follows:

Art. 176. The following are also considered service locations for the purposes of levying ISSQN:
I - the continental shelf, the territorial sea and the exclusive economic zone of the Municipality of Macaé, including the aerial and maritime projections of its continental area;

It can be seen that the Municipality's regulation already provides for the incidence of ISS on operations in maritime waters, which is unconstitutional, since the legislation municipal is not endowed with extraterritoriality.

RCMOS – Multidisciplinary Scientific Journal of Knowledge.
ISSN: 2675-9128. Sao Paulo-SP.

Therefore, Professor Manoel Gonçalves Filho demonstrates in his opinion attached to the ADI (Direct Action of Unconstitutionality) before the Policy Council Treasury Department of the Ministry of Finance – CONFAZ the following:

> 7. The territorial sea in Brazilian law is exclusively within the spatial domain of the central power, that is, the Brazilian State. It is not included in the territory of any State or any Municipality.
>
> The Constitution does not say so expressly, but it clearly demonstrates it. In fact, it leaves no room for any other power other than the federal one to make decisions regarding matters concerning the sea. The demonstration is easy. It is the exclusive responsibility of the Union to legislate on maritime law (art. 22, I). It is the responsibility of the federal police to exercise maritime police functions (art. 144, § 1, III). The federal courts are responsible for judging crimes committed on board ships (art. 109, IX). Etc. 8. It should be added that the Union is attributed by the Charter the ownership of the territorial sea. In other words, its resources. In fact, art. 20, VI includes the territorial sea among the assets of the Union (See my Comments on the 1988 Constitution. São Paulo, Saraiva, 1st ed. 1990, p. 152. 2nd ed. 1997, p. 148).
> (STF, 2002, p.29).

Therefore, it is understood that municipal legislation, which is subject to the principles established in the Higher Law, is applied based on the same foundations. The powers of the Union are sovereign and national, while those of the Municipalities refer to local interests, as stated in article 30, item I of the Federal Constitution itself. The continental shelf, the territorial sea and the exclusive economic zone do not fall within the scope of matters of this nature and, therefore, do not cover the incidence of municipal legislation.

However, it was stated in this study that the Magna Carta establishes limits to the tax powers of each taxing entity. The aim was to affirm that each rule for assigning tax jurisdiction performs a dual function, while that, when predicting the situations in which a certain competence can be exercised, establishes that any and all situations not foreseen within its scope is excluded from taxation.

12

RCMOS - Multidisciplinary Scientific Journal of Knowledge.
ISSN: 2675-9128. Sao Paulo-SP.

For Marcelo Caron Batista, even if it gives rise to the materiality of the tax municipal, an event that occurred outside the geographic limits of the Municipality falls within the tax jurisdiction of the Federal Union, as taught by the tax expert:

> It is therefore defended, even through rapid analysis of the subject, which the Union legislator may, understanding it appropriate, because only he can competes, to establish ISS on the provision of services in maritime waters, being prohibited to the Municipality do so, under penalty of unconstitutionality (...). (BAPTISTA, 2005, p. 546)

Thus, by establishing that the Municipalities and the Federal District have competence to establish a tax on the provision of services, determines the Federal Constitution, simultaneously, that there is no competence to any other entity federated to be the active subject in the event of incidence whose material criterion is now studied, even though we talk about the spatial aspect of maritime waters, making the collection of ISS for services performed in maritime waters is unconstitutional.

CONCLUSION

After checking the most distinct currents regarding the matter now studied, it is necessary to know whether, in fact, there is taxation concerning services performed in maritime waters, commonly known as *offshore.* Previously, however, the answer sought is understood and too conclusive. question alluded to at the beginning of this research, it is necessary to ratify the doctrines here found to support this conclusion.

Firstly, it is clear that Decree Law No. 406/68, in its article 12, defines the hypothesis of incidence of the ISS tax at the location of the effective provision of the service, as a basis for charging ISS (whether onshore establishment or location of effective service at sea). The rule issued by DL 406/68 was later adopted by Law Complementary nº 116/2003, where the Municipality may determine in its municipal law that the tax is due because the establishment is located in its territory.

13

It was verified, however, from the assumptions involved here, that the jurisprudence of the Superior Court of Justice is in harmony with the Federal Constitution, as consolidates the interpretation that a Municipality cannot charge a tax whose fact tax law, which is the provision of services in its territorial domain (art. 156, III, OF CF/88) occurs outside its limits.

Therefore, there is no Constitutional provision that gives the Municipality competence tax to impose rules on activities carried out in maritime waters (outside its territorial domain).

It should also be noted that taxation by the place of provision of services, although is in accordance with the case law of the STJ, in the case of service provision *offshore,* violates the provisions of the Brazilian Magna Carta, given that there is no way benefit from any criteria that are not constitutionally provided for draw up maritime projections of the Municipalities.

It should be considered that the foundations set out here do not form part of the territory of the Municipality the territorial sea, the exclusive economic zone or the continental shelf, the said federative entity could not tax events that occurred in its maritime projections, violating the principle of territoriality provided for in article 102 of the CTN, since its tax jurisdiction is exercised only within its territorial limits.

It is therefore concluded that services carried out in maritime waters, that is, *offshore* services cannot constitute a case for the incidence of ISS, since the waters maritime areas do not comprise the territory of the Municipality, where it is the exclusive competence of Union, which in turn, does not have tax authority to be an active subject of hypothesis tax in which the material criterion is already used to demand another tax.

REFERENCES

_____. Superior Court of Justice. Divergence Appeals filed against the decision handed down in Special Appeal No. 130,792/97 – CE. Private Security Guard Corps Ltda – CORPVS and Others and Municipality of Juazeiro do Norte. Rapporteur: Min.
Ari Pargendler. Rapporteur for the decision: Min. Nancy Andrigui. By majority. April 7, 2000. Official Gazette of the Union, June 12, 2000, p.66.

14

_____. Superior Federal Court. Direct Action of Unconstitutionality No. 2,080-3/RJ (Precautionary Measure). National Confederation of Transportation – CNT and Governor of the State of Rio de Janeiro and Another. Rapporteur: Min. Sydney Sanches, February 6, 2002. Unanimous. Official Gazette of the Union, March 22, 2002, p.29.

_____. Superior Court of Justice. Special Appeal No. 54002/PE. Rapporteur: Min. Democritus Reinaldo. April 5, 1995. Unanimous. Official Gazette of the Union, May 8, 1995, Available at http://www.gdt-p. rio.com.br/reunioes2006/aguasmaritimas.ppt. - Accessed on: October 21, 2012.

_____. Complementary Law No. 116 – July 31, 2003. Provides for the Tax on Services of Any Nature, under the jurisdiction of the Municipalities and the Federal District, and contains other provisions. Published in the DOU OF August 1, 2003.

BAPTISTA, Marcelo Caron. **ISS: from text to standard.** São Paulo, Quartier Latin, 2005.

BRANCO, Marcio. The new system of taxation of international services and the import of services in the oil industry. ***In:*** **Studies and opinions: oil and gas law.** RIBEIRO, Marilda Rosado de Sá (Org). Rio de Janeiro: Renovar, 2005.
BRAZIL, Constitution of the Federative Republic of Brazil of 1988.

BRAZIL, Secretary from the Revenue Federal of < http://www.receita.fazenda.gov.br/legislacao/rir/default.htm> Accessed on June 28, 2012.

BUSCHMANN, Marcus Vinicius < http://www.bea.adv.br/publico/pubmvb/018.pdf> Accessed on 10/15/2012.

COÊLHO, Sacha Calmon Navarro. **Brazilian Tax Law Course** - 2009 – Rio de Janeiro – 10th edition – Forense Publishing, 2009.

HOFFMANN, Susy Gomes. The Tax on Services of Any Nature. ***In:*** **Studies and opinions: oil and gas law.** RIBEIRO, Marilda Rosado de Sá (Org.). New York: Routledge, 2005.

NITERÓI, Law No. 2,628 of December 30, 2008. Amends Law No. 2,597 of September 30, 2008 and contains other provisions. Executive Branch, Niterói, RJ, 2008.

MACAÉ, Complementary Law No. 053 of September 30, 2005. Institutes the Tax Code of the Municipality of Macaé. Executive Branch, Macaé, RJ, 2008.

MACHADO, Hugo de Brito. **Tax Law Course –** 2010 – São Paulo – 31st edition – Malheiros Editores, 2010.
MORAES, MCC; TRISCIUZZI, CRF Business Benefits of *Offshore Implementations:* Brazil – Uruguay Case. In: 18th Brazilian Accounting Congress, 8, 2008, Gramado. **Proceedings...** Rio de Janeiro: UERJ, 2008, p. 4.

PIRES, Adilson Rodrigues *et al.* **Tax Aspects related to the Oil and Gas Industry** – 2011- São Paulo – MP Editora – 2011.

TJRJ – 18th Civil Chamber – Preliminary injunction – Proc. 2005.002.18931 – rel. Des. MARCO ANTONIO IBRAHIM – Mun. Quissamã X Petrobras. Available at <http://www.gdt-rio.com.br/reunioes2006/aguasmaritimas.ppt> Accessed on 10/15/2012.

16