



**Receita Federal**

**Challenges in Determining the Tax Base for Extractive Industries**

**Risk Based Compliance Strategies for Extractive Industries in Brazil**

**Tax Compliance Risk Management in Oil and Gas Industry –  
Brazilian Cases**

**Federal Tax Auditor Jorge Luís Cabral**



## **Brazilian Oil and Gas Industry – Tax Legislation Background**

- Brazil has been prospecting Oil and Gas since 1930's.
- In 1970's, Brazil found the Campos Basin deposits.
- In 1990's, Brazil broke the Petrobras monopoly, and started the challenge to attract foreign investors that should leverage our investment level in this sector.

### **Brazilian Oil and Gas Industry – Tax Legislation 1990's conditions**

- Concerns about the capacity of the supply to support a great entrance of new players.
- Narrow price margins – US\$ 20.00/bbl
- Brazil wasn't an important exploratory province yet.
- Brazil wasn't Investment Grade.



# Brazilian Oil and Gas Industry – Tax Legislation Background

## Two Different Approaches

### Import Tax – REPETRO

- Attracting Investments.
- Exemption for raw materials, inputs and parts – industrial process - DRAWBACK .
- Exemption for spare parts and accessories and temporary admission – operational process.
- All import material and the equipment produced must stay in the country temporarily – Ownership abroad.
- Tailored to Oil and Gas Sector.



# **Brazilian Oil and Gas Industry – Tax Legislation Background**

## **Two Different Approaches**

### **Internal Revenue**

- General Tax Rules.
- General Lapsing Tax Cycle.
- Absence of a deferral tax mechanism to this sector.



# Brazilian Oil and Gas Industry – Tax Legislation Background

## Stress Line Between the Two Approaches

### REPETRO

Temporary contracts  
Ownership abroad

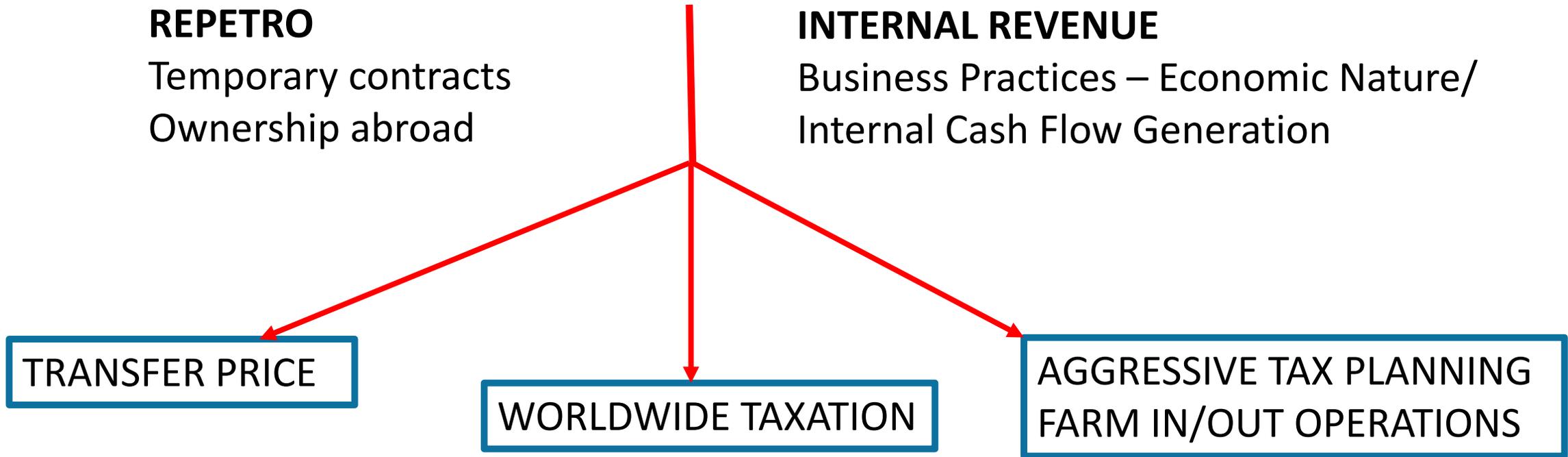
### INTERNAL REVENUE

Business Practices – Economic Nature/  
Internal Cash Flow Generation

TRANSFER PRICE

WORLDWIDE TAXATION

AGGRESSIVE TAX PLANNING  
FARM IN/OUT OPERATIONS





# Brazilian Oil and Gas Industry – Tax Compliance Risk Management

## Available Instruments

- Withholding Tax - services contracted abroad.
- Third Part Information – Regulatory Agency (ANP) and Exchange Operations.
- Larger Taxpayers Offices – Rio de Janeiro and São Paulo.
- Taxpayer Segmentation Assessment.



# Brazilian Oil and Gas Industry – Tax Compliance Risk Management

## Assesment Procedure

- 1. Know the enemy and the battlefield** - Research and get a closely understanding of the sector business environment.
- 2. Know yourself** - Build a Tax Role Model.
- 3. Attack the enemy's strategy** - Compare the related account disclosed data with the Tax Role Model.



# Brazilian Oil and Gas Industry – Tax Compliance Risk Management

## Assessement Procedure

- 4. Choose the battle** - Apply cut-off rules based in relevance and third part information.
- 5. Enforce the battle** - Cite the choosen Tax Payers to present the contracts.
- 6. Win before battle** - With these information adjust the model or program na audit procedure.



## **Brazilian Oil and Gas Industry – Tax Compliance Risk Management Cases**

1. Farm out agreement of a production field between two foreign companies , which had no capital gain in Brazil, but the farmor has account a US\$ 1.6 billion as capital gain in it´s home country. All the capital gain was about the sale of the equipment.
2. Engineering Service contracts using specialized vessels, which are splited in freight contract and service contract. The freight contract has zero rate withholding tax and assume about 90% of the entire value of all operation. The service contract responds for only 10% of the agreement value.



# Brazilian Oil and Gas Industry – Tax Compliance Risk Management

## Results

- We have charged the Taxpayers **US\$ 6.673 billion** since 2010, as result of this assesement procedure.
- **US\$ 1.032 billion** were already paid of this total.



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# Brazilian Oil and Gas Industry – Tax Compliance Risk Management

THANK YOU .

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