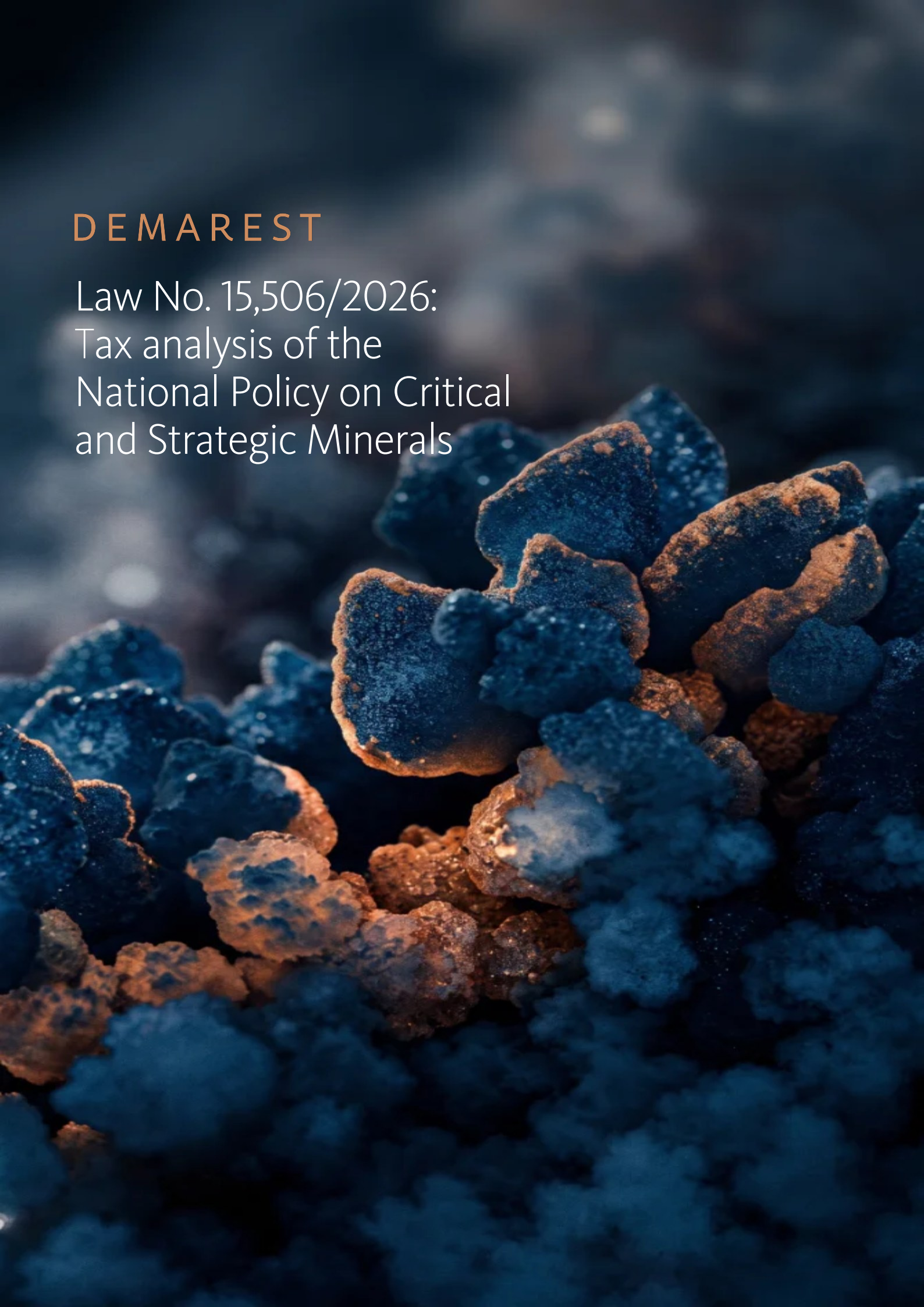




DEMAREST

Law No. 15,506/2026:
Tax analysis of the
National Policy on Critical
and Strategic Minerals

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INTRODUCTION

A new policy for mineral industrialization

Law No. 15,506, dated September 16, 2026, establishes the National Policy on Critical and Strategic Minerals (“PNMCE”) as well as the National Council for the Industrialization of Critical and Strategic Minerals (“CIMCE”). The text was approved by the Federal Senate on September 2, 2026 (Bill No. 2,780/2024), was sanctioned without vetoes, published in a special edition of the Federal Official Gazette on September 16, 2026, and entered into force on the date of its publication (Article 51).

On the same date, Decree No. 13,118/2026 was published, regulating the law solely with respect to the structure, composition, and operation of the CIMCE, and establishing the Advisory Group on Critical and Strategic Minerals, a collegiate body linked to the Office of the President of the Republic. The decree complies with the 90-day deadline established in Article 45 of the law for the establishment of the council, but does not regulate any of the tax measures, which remain subject to subsequent implementing acts.

From a tax perspective, the approved text concentrates its measures on four fronts:



Four tax fronts

MAIN MEASURE

ARTICLES 16 TO 22

20%

PFMCE tax credit

The main one is the Federal Program for the Beneficiation and Transformation of Critical and Strategic Minerals ("PFMCE"), which may grant a tax credit of up to 20% of eligible expenditures on the beneficiation and mineral transformation of critical and strategic minerals and on urban mining, as set out in regulations, which may be offset against federal taxes or refunded in cash (Articles 16 to 22).

INFRASTRUCTURE

ARTICLE 47

REIDI

Mining joins the regime

The second is the express inclusion of the mining of critical and strategic minerals under the Special Incentive Regime for Infrastructure Development ("REIDI") (Article 47), a regime that applies to the Social Integration Program ("PIS") and the Social Security Financing Contribution ("COFINS") until December 31, 2026, and that Supplementary Law No. 214/2025 extended to the Tax on Goods and Services ("IBS") and the Contribution on Goods and Services ("CBS").

FINANCING

ARTICLES 40 AND 50

Debentures

Incentivized and infrastructure

The third is the extension of tax-incentivized debentures and infrastructure debentures to eligible mineral projects (Articles 40 and 50).

GUARANTEES

ARTICLE 14

Exemption

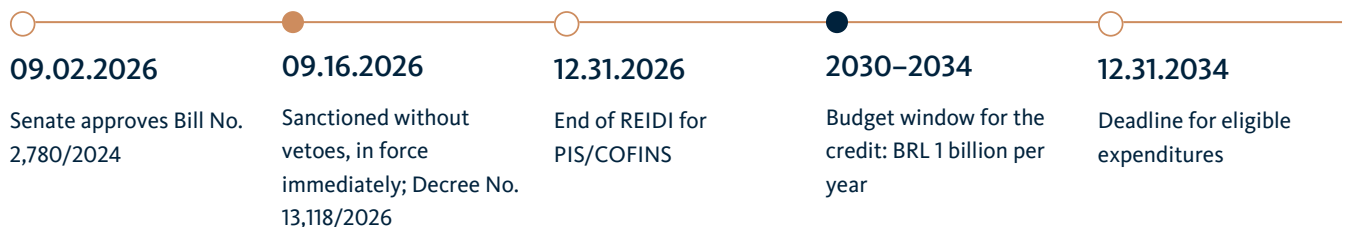
IRPJ and CSLL on guarantee funds

The fourth is the exemption from the Corporate Income Tax ("IRPJ") and the Social Contribution on Net Profit ("CSLL") of the income from the guarantee funds created under the law (Article 14).

Article 39

Article 39, although placed in the section entitled "Tax and Financial Incentives", merely provides that the Federal Government, the states, the Federal District, and the municipalities must coordinate to implement incentive measures in their territories, without specifying what those measures are. It is a programmatic rule, with no real content as a tax incentive, since there is no sanction for non-compliance by the federated entities.

TIMELINE



Map of the tax measures

Status of each instrument after enactment and Decree No. 13,118/2026.

PROVISION	INSTRUMENT	TAX EFFECT	STATUS
Articles 16 to 22	PFMCE	Tax credit of up to 20% of eligible expenditures, returned as a CSLL credit, which may be offset against taxes administered by the Brazilian Federal Revenue Service ("RFB") or refunded in cash.	Not self-executing. Percentages, criteria, qualification, competitive procedure, verification, and limits depend on implementing regulations that have not yet been issued. The decree only specifies which bodies within the CIMCE are responsible for establishing guidelines and deciding on qualification.
Article 47	REIDI	Includes mining, extraction, beneficiation, transformation, and urban mining of critical and strategic minerals in the regime.	Sanctioned. Requires project approval and qualification, as well as an update of the infra-legal rules for the new sector.
Articles 40 and 50	Debentures	Extension of the tax-incentivized debentures of Law No. 12,431/2011 and of the infrastructure debentures of Law No. 14,801/2024 to eligible mineral projects.	Sanctioned. Depends on the classification of priority projects and on the update of Decree No. 11,964/2024.
Article 14	FGAM / funds under the law	Exemption from IRPJ and CSLL, including on net gains and withholdings on financial investments.	The statutory rule is effective, but the provision requires an original forecast in the Annual Budget Law (LOA), although the specific requirements for compliance have not yet been established.
Article 46	Term of the benefits	Limits the term of the provisions that grant, expand, or renew tax benefits to five years.	Sanctioned without vetoes. The rule is incompatible with Supplementary Law No. 235/2026 and with the timing structure of the other provisions of the law.

The CSLL tax credit for the PFMCE

up to 20%

of eligible expenditure, proportional to value added

BRL 1 bn

global cap per calendar year, from 2030 to 2034

2034

deadline for expenditures in Brazil

Articles 16 to 18

The PFMCE is authorized by Article 16, with the purpose of constituting a source of funds to foster beneficiation, mineral transformation, and urban mining. Article 17 determines that the program grant a CSLL tax credit to companies incorporated under Brazilian law, with head office and management in Brazil, and that incur expenditures on those activities within the national territory until December 31, 2034. Article 18 sets a global cap of BRL 1 billion per calendar year between 2030 and 2034 (§ 1), allows any balance not used in a given year to be carried over to the following years until 2034 (§ 5), and provides that the credit shall correspond to a percentage of up to 20% of the eligible expenditure, proportional to the value added along the chain (§§ 2 and 12).

Article 18, § 8

Companies or consortia of companies that win a competitive procedure and produce any of the following products are eligible for the CSLL tax credit:

- concentrates;
- battery-grade concentrates (carbonates, hydroxides, sulfates, oxides, spheroids, cathode active materials, and precursors);
- concentrates of a grade suitable for the production of permanent magnets for electric motors (oxides, chlorides, and metals or alloys);
- phosphate, potassium, and nitrogen fertilizers; energy storage systems; and
- others to be defined by the CIMCE, a power that Decree No. 13,118/2026 assigned to the council's Plenary (Article 3, XVI, and Article 7, VII).

Article 21
Law No. 9,430/1996, Art. 74
RFB NI No. 2,055/2021

The credit is not a reduction of the CSLL due. Article 21 provides that it will be “returned” as a CSLL credit and may be offset against the company’s own debts, due or falling due, relating to taxes administered by the RFB, or refunded in cash, “subject to the specific legislation”, which refers to the restrictions of Article 74 of Law No. 9,430/1996, and to the rules of RFB Normative Instruction No. 2,055/2021. The possibility of a cash refund is especially relevant for projects that, because of the implementation and ramp-up period, do not generate a sufficient tax base to absorb the incentive.

Law No. 14,902/2024
Law No. 14,789/2023

The structure reproduces that of the financial credit of the Mover Program (Law No. 14,902/2024, Articles 15 to 17), but without two elements that recent legislation usually provides: a deadline for the refund, present both in Mover (Article 17, § 3) and in the new rules on investment subsidies under Law No. 14,789/2023 (Article 10, sole paragraph), and the exclusion of the credit from the tax bases of federal taxes (Law No. 14,789/2023, Article 11).



No refund deadline
present in Mover and Law No.
14,789/2023



No exclusion from tax bases
provided in Law No.
14,789/2023, Art. 11

Article 18, § 9

Long-term purchasers

Article 18, § 9, states that the credit may also be granted to legal entities that enter into long-term contracts, of at least five years, to purchase the products of eligible companies. But the text does not define the calculation basis of the purchaser’s credit, the relationship between that credit and the producer’s credit, or the rules preventing duplication on the same volume produced.

Article 18, § 10

Non-compliance

Failure to implement the approved project, or its implementation in breach of the law or the regulations, will subject the project holder to a fine of up to 20% of the amount of the tax credit that would have been allocated to the project and to the payment of an amount equivalent to the tax credits improperly refunded or offset, or the reversal of the credits formed by virtue of the benefit, by the last business day of the month following the month of the breach.

REIDI and the consumption tax reform

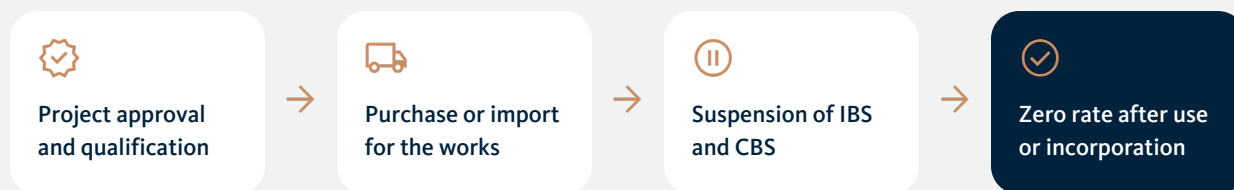
Article 47
Law No. 11,488/2007, Art. 2

Article 47 amends Article 2 of Law No. 11,488/2007 to expressly include mining among the sectors eligible for REIDI, specifying that the sector covers extraction, beneficiation, mineral transformation, and urban mining of critical and strategic minerals.

SL No. 214/2025, Art. 106

The amendment is not limited to PIS/COFINS, which are being phased out. Article 106 of Supplementary Law No. 214/2025 provides for the suspension of IBS and CBS on imports and domestic purchases of machinery, apparatus, instruments, equipment, construction materials, and services intended for the infrastructure works of REIDI beneficiaries, with conversion into a zero rate after use or incorporation into fixed assets and a fruition period limited to five years from qualification.

HOW IT WORKS FOR IBS AND CBS



Fruition limited to five years from qualification.

Decree No. 6,144/2007

The inclusion of mining in Law No. 11,488/2007, therefore, has a direct impact on the IBS and CBS regime. Even so, REIDI presupposes an approved project and the qualification of the legal entity. Decree No. 6,144/2007 and the sectoral ordinances will have to be adapted to define, for the mining sector, which projects, works, and expenditures qualify, which ministry will approve the projects and how the interface with the RFB and, as regards IBS, with the IBS Management Committee will work. Decree No. 13,118/2026 does not regulate this issue.

4

Tax-incentivized debentures and infrastructure debentures

Article 40

Article 40 extends to critical and strategic mineral projects two regimes that should be distinguished.

LAW NO. 12,431/2011

Tax-incentivized debentures

 The incentive falls on the investor

Under the tax-incentivized debentures of Law No. 12,431/2011, the incentive falls on the investor: the income is subject to income tax at a zero rate for individuals and at 15% for legal entities, in the cases provided by law.

LAW NO. 14,801/2024

Infrastructure debentures

 The incentive falls on the issuer

Under the infrastructure debentures of Law No. 14,801/2024, the investor is taxed under the general fixed-income rules, but the issuer may, in addition to deducting the interest in the ordinary manner, exclude 30% of the interest paid from taxable income (lucro real) and from the CSLL tax base.

Decree No. 11,964/2024

Both regimes are regulated by Decree No. 11,964/2024, which defines the sectors and the priority projects. The approved law allows these instruments for the beneficiation, transformation, and urban mining of critical and strategic minerals.

Article 40, II and § 3

Expenses relating to the prospecting, exploration, and evaluation of mineral deposits, to extraction and to mine development, when linked to an eligible beneficiation and mineral transformation project, may be considered part of the investment projects for purposes of the tax benefits relating to the debentures (Article 40, II and § 3). There is reasonable doubt as to what this “link” would be and how it would be verified in practice: any exploration project for critical or strategic minerals, or only when there is already, for instance, an approved Economic Development Plan (PAE) providing for eligible beneficiation and mineral transformation?

§ 4 and Article 50

The rule limits the issuance of incentivized securities to an amount equivalent to the capital expenditures of the projects (§ 4) and, regarding the amendment to Law No. 14,801/2024, sets a maximum annual revenue of BRL 5 billion for mining-sector companies wishing to issue the debentures of that law (Article 50).

5

Tax matters that still depend on regulation

The approved text leaves to regulation elements that define the economic reach of the benefits and, in some cases, the very possibility of using them. The regulations will define percentages, eligibility criteria, processing tiers, qualification and competitive procedures, offset and refund rules, and the adaptation of the existing regimes to the mining sector. The chart below distinguishes, by subject matter, between provisions already established by statute and those that still require implementing action by the Executive Branch.

TOPIC	● WHAT THE LAW ALREADY SETS	○ WHAT THE REGULATIONS OR A SUBSEQUENT ACT MUST DEFINE
Qualification for the PFMCE Article 16	● Program focused on beneficiation, processing, and urban mining activities. ● Eligibility guidelines are to be established by the CIMCE Plenary, while approval decisions fall under the responsibility of the Executive Committee (Decree No. 13,118/2026, Articles 7(VI) and 10(III)).	○ Minimum percentage of domestic goods and services; ○ Possible obligation to allocate output to the domestic market; ○ Minimum Capex and Opex expenditures; ○ Other qualification commitments.
CSLL tax credit Articles 17 and 18, § 2	● Cap of up to 20% of eligible expenditures. ● Overall limit of BRL 1 billion per year from 2030 to 2034. ● Expenditures incurred through December 31, 2034.	○ Effective percentage applicable to each tier or project. ○ Operational definition of eligible expenditures. ○ Time of formation of the credit. ○ Treatment of expenses incurred before 2030. ○ Whether or not the credit itself is taxed.
Selection of beneficiaries Article 18, §§ 7 and 11	● Only priority projects, previously qualified by CIMCE, may compete.	○ Criteria for the competitive and ranking procedures. ○ Tie-breaking. ○ Timetable. ○ Effects of selection. ○ Grounds for loss of qualification.
Eligible products Article 18, § 8	● Initial list of concentrates, battery-grade products, magnet-related materials, fertilizers, and storage systems.	○ The CIMCE may include other products, materially changing the reach of the incentive.
Long-term contracts Article 18, § 9	● Purchasers with contracts of at least five years may also receive the credit.	○ Basis of the purchaser's credit. ○ Relationship with the producer's credit. ○ Whether duplication is barred. ○ Proof of the contract.

TOPIC	● WHAT THE LAW ALREADY SETS	○ WHAT THE REGULATIONS OR A SUBSEQUENT ACT MUST DEFINE
Non-compliance Article 18, § 10	● Repayment/reversal of the credit and fine of up to 20%.	○ Grading of the fine. ○ Triggering events. ○ Collection procedures. ○ Non-compliance criteria.
Credit tiers Article 18, § 12	● Percentage must be proportional to value added.	○ Minimum processing thresholds and percentages for each tier. ○ Criteria for value added in Brazil (Article 2, XIX).
Qualification, control and size Article 18, § 13	● Provides for the verification of the program's conditions.	○ Procedures and deadlines. ○ Verification methods. ○ Annual revenue cap for companies eligible for the PFMCE.
Offset and refund Article 21	● Credit may be offset against federal taxes or refunded in cash.	○ Deadline, order, documentation, and audit. ○ Refund procedure, within a period shorter than the four years required by the GloBE Rules for a qualified refundable tax credit. ○ Processing of the remaining balance and possible offset restrictions.
Debentures Article 40	● Definition of eligible activities and certain priority projects.	○ Additional priority criteria. ○ General requirements. ○ Classification under Decree No. 11,964/2024.
REIDI Article 47	● Inclusion of the mining sector in Law No. 11,488/2007.	○ Adaptation of Decree No. 6,144/2007 and sectoral acts for approval, qualification, and delimitation of eligible works and purchases.



The “original forecast in the annual budget law” condition

Beyond these points, four provisions make the fruition or application of the benefit conditional on an “original forecast in the annual budget law”:

Article 14

Exemption of the funds

Article 40

Debentures

Article 47

Extension of REIDI

Article 50

Amendment to Law No. 14,801/2024

SL No. 235/2026

The wording requires attention because Supplementary Law No. 235/2026, of August 27, 2026, published the following day, excluded the PNMCE bills, for the 2026 fiscal year, from Article 14-A of the Fiscal Responsibility Law, Article 5 of Supplementary Law No. 224/2025, and Articles 29 and 140 to 149 of the 2026 Budget Guidelines Law (LDO). The supplementary law removed the general restriction, but does not eliminate the conditions that the law retained in its provisions. Thus, regulations will have to clarify how this condition is to be deemed satisfied, especially for the 2026 fiscal year, whose budget law has already been published.

6

CRITICAL ANALYSIS

Critical analysis of the approved law

Articles 17 to 21

PFMCE tax credit

The PFMCE tax credit is the main tax measure of the approved text. Articles 17 to 21 allow a credit of up to 20% of expenditures on beneficiation, mineral transformation, and urban mining, returned as CSLL and offsettable against taxes administered by the RFB or refundable in cash. If well regulated, the design may significantly reduce the cost of establishing industrial stages in Brazil.

Original bill

The original bill provided for four main tax measures:

Non-incidence of the withholding income tax (“IRRF”) on certain payments abroad for technology used in mineral transformation;

Express inclusion of the projects in the Lei do Bem;

Extension of REIDI to extraction and transformation; and

Creation of a special customs regime for goods intended for exploration, extraction, and transformation.

Canada and Australia

These measures were positive but insufficient. The problem lay in the difference in intensity compared to foreign regimes. In Canada, it is worth noting the deduction of Canadian Exploration Expenses, the accelerated amortization of Canadian Development Expenses, the flow-through share system, and the Critical Mineral Exploration Tax Credit, which adds a 30% credit for certain exploration expenses. In Australia, the immediate deduction of exploration expenses and the Critical Minerals Production Tax Incentive, structured as a refundable credit of 10% of eligible processing and refining costs, for up to ten years per project.

The PFMCE introduces a benefit closer to the tax credits adopted abroad and, by allowing cash refunds, reduces dependence on current taxable profit. At the same time, it creates no equivalent incentive for the mineral exploration phase and removes the benefits for foreign technology and the special customs regime that appeared in the version analyzed in 2025.

Article 18, §§ 1, 3, 4, 7, and 12

The text sets a 20% cap for the tax credit, and the applicable percentage will depend on the value added and on the processing tiers to be defined by the regulations (Article 18, § 12). In addition, the credits are limited to BRL 1 billion per year, between 2030 and 2034, for the entire mining sector. The amounts must appear in the budget bill, and the grant will depend on a competitive procedure (§§ 1, 3, 4, and 7). For this reason, the investor will still be unable to incorporate the benefit into the project’s economic model. It will be necessary to know the regulations, the tier applicable to the project, the annual volume of funds, and the selection criteria. The quality of the incentive will depend on the objectivity of these rules and on the possibility of estimating the amount actually recoverable.

Articles 17 and 18

The text also leaves a timing-related doubt. Article 17 provides for the possibility of granting the tax credit to companies that incur expenditures until December 31, 2034, but Article 18 sets global limits only for the years 2030 to 2034. What happens, then, to expenditures incurred in 2034, or to expenditures not used as the basis for tax credits in prior years? The law does not clarify whether expenditures incurred between the law's entry into force, on September 16, 2026, and 2029 may form a tax credit for use from 2030 onward. The question is relevant for projects that will be implemented before the start of the program's budget window. The regulations will have to address the issue; if the solution restricts rights in a manner not provided by law, litigation may follow.

THE TIMING DOUBT

2026

2027

2028

2029

2030

2031

2032

2033

2034

09.16.2026 to 2029

Do expenditures form a credit for use from 2030?

The law is silent.

2030 to 2034 · Art. 18

Global caps of BRL 1 billion per year

12.31.2034 · Art. 17

Expenditure deadline. And those of 2034 itself?

6.2

The PFMCE against foreign regimes and domestic precedents

Australia

ITAA 1997, Division 419

The comparison with foreign regimes has gained new elements since September 2025. In Australia, the Critical Minerals Production Tax Incentive was enacted by the Future Made in Australia (Production Tax Credits and Other Measures) Act 2025, of February 14, 2025. Today, it integrates Division 419 of the Income Tax Assessment Act 1997: a refundable credit of 10% of eligible processing and refining costs for 31 listed minerals, available for up to ten years per facility between July 1, 2027, and June 30, 2040, with no global cap and no selection procedure. A taxpayer that meets the requirements is entitled to the credit; it does not compete for it.

6.2 · THE PFMCE AGAINST FOREIGN REGIMES

REGIME	INTENSITY	CASH	CAP AND SELECTION	TRANSFERABLE
Brazil PFMCE	Up to 20% of beneficiation, transformation, and urban mining expenditures	Refund, no statutory deadline	BRL 1 bn/year · competitive procedure	No
Australia CMPTI	10% of processing and refining costs, up to 10 years per facility	Refundable credit	No cap · no selection	—
Canada CMETC e CTM ITC	30% on exploration expenses (flow-through) and 30% on investments	CTM ITC refundable	—	—
US § 45X IRC	10% of production costs; phase-down 2031–2033, repealed from 2034	For certain taxpayers	—	Yes
Argentina RIGI	25% income tax, accelerated amortization, and 30-year stability	VAT tax credit certificates	Access via VPU	Certificates and tax losses

Summary chart based on the analysis. “—” indicates an aspect not addressed.

Canada

In Canada, the 30% Critical Mineral Exploration Tax Credit, tied to flow-through shares, was maintained for agreements entered into until March 31, 2027, and had its list of eligible minerals expanded in Budget 2025, alongside the Clean Technology Manufacturing Investment Tax Credit, a 30% refundable credit on investments in the extraction and processing of critical minerals.

United States § 45X IRC Public Law 119-21

In the United States, the section 45X credit of the Internal Revenue Code, created by the Inflation Reduction Act of 2022, equals 10% of the production costs of critical minerals and electrode active materials, is transferable to third parties and, for certain taxpayers, may be received in cash. Public Law 119-21, of July 4, 2025, reduced the intensity of the stimulus by phasing down the credit for minerals produced between 2031 and 2033 and eliminating it from 2034, and by barring the benefit to prohibited foreign entities, a restriction that parallels the screening mechanism of Article 3, § 2, of the Brazilian law.

Argentina
Law No. 27,742/2024
Decree No. 749/2024

Argentina: the RIGI

In Argentina, the Régimen de Incentivo para Grandes Inversiones (“RIGI”) occupies Title VII of Law No. 27,742/2024 (Articles 164 to 228), regulated by Decree No. 749/2024, and is accessible only through a Single Project Vehicle (“VPU”), a company whose corporate purpose is limited to the approved project. Mining is one of the sectors expressly covered, alongside energy, steelmaking, infrastructure, as well as oil and gas.

Article 183

For income tax purposes, Article 183:

- sets a flat rate of 25% on all profits of the VPU (against 35% under the general regime);
- allows the taxpayer to elect accelerated amortization of qualifying assets (movable assets in at least two annual installments, and infrastructure, mines and forests with useful life reduced to 60%); and
- authorizes the deduction of tax losses without time limit, with the option of transferring them to third parties if not absorbed after five years.

25%	7%→3.5%	30 years
flat income tax rate for the VPU	dividends and remittances, after seven years	of tax, customs, and FX stability

Dividends and profit remittances from the VPU are taxed at 7%, a rate that falls to 3.5% seven years after adhesion, and the tax on bank debits and credits may be fully computed as a payment on account of income tax.

Indirect taxes and foreign trade

For indirect taxes and foreign trade, the VPU may pay the VAT on purchases, construction, and imports of fixed assets and infrastructure by means of Tax Credit Certificates, negotiable and freely transferable by suppliers, which eliminates the build-up of credit balances during implementation. There is an import duty exemption for capital goods, parts and components. The export duties charged in Argentina – known as derechos de exportación or retenciones – cease to apply three years after adhesion, or two years for Long-Term Strategic Export Projects. All of this is covered by a guarantee of tax, customs, and foreign exchange stability for thirty years, which may be extended for stages reaching USD 1 billion in investment, and by a clause protecting against more burdensome subsequent rules.



Article 3, § 1
CTN, Art. 178
STF Precedent No. 544

Stability as a principle, with no instrument to enforce it.

Law No. 15,506/2026 states regulatory stability as a principle (Article 3, § 1), but offers the investor no instrument to make it enforceable, so that protection against the withdrawal of tax benefits will continue to depend on Article 178 of the National Tax Code (“CTN”) and on Precedent (Súmula) No. 544 of the Federal Supreme Court (“STF”). It would be highly desirable, in a scenario of far-reaching reforms of the National Tax System, for Brazil to adopt fiscal stabilization agreements at least for critical and strategic mineral projects, also covering the revenues derived from Financial Compensation for Mineral Exploitation (“CFEM”) and from mining fees (such as the state and municipal fees for the monitoring, registration, and inspection of mineral resources – “TFRM” and “TARFs”).

6.3

Law No. 14,902/2024
Law No. 14,789/2023
Law No. 15,079/2024, Art. 37

Domestic precedents

Domestically, the design of the PFMCE is not unprecedented. Article 18 of the law reproduces almost literally the technique of Article 15 of Law No. 14,902/2024 (Mover Program), which provides for annual global caps, authorization of credits for subsequent years in multi-year projects, and inclusion of the amounts in the budget bill. Law No. 14,789/2023 adopts a similar structure for the investment subsidy tax credit, and Law No. 15,079/2024, in Article 37, authorizes the conversion of the Superintendence for the Development of the Amazon (“SUDAM”) and the Superintendence for the Development of the Northeast (“SUDENE”) incentives into a “financial credit classifiable as a Qualified Refundable Tax Credit”. None of these models allows the transfer of the credit to third parties, unlike in the provisions of the United States (section 45X) and Argentina (RIGI certificates).

Both the Mover Program and Law No. 14,789/2023 set a deadline for the refund by the RFB (the forty-eighth and the twenty-fourth month, respectively); Law No. 14,789/2023 establishes that the credit must not be computed in the tax bases of IRPJ, CSLL, PIS, and COFINS; and Law No. 15,079/2024 expressly qualifies the credit for purposes of the GloBE Rules.

	MOVER 14,902/2024	LAW NO. 14,789/2023	LAW NO. 15,079/2024	LAW NO. 15,506/2026
RFB refund deadline	48th month	24th month	—	Silent
Credit excluded from IRPJ, CSLL, PIS, and COFINS bases	—	Yes	—	Silent
Qualification under GloBE Rules	—	—	Express	Silent
Transfer to third parties	No	No	No	No

Law No. 15,506/2026 is silent on all three points. The silence regarding the taxation of the credit itself is the most serious: without an express exclusion rule, there is a probable risk that the RFB will treat the refundable CSLL credit as taxable revenue, which would reduce the effective benefit from 20% to approximately 13%.

NOMINAL CREDIT

20%

EFFECTIVE BENEFIT, IF TAXED

→ ≈ 13%

6.4

Cash Refund, Pillar Two, and the CSLL Surtax

Law No. 15,079/2024
RFB NI No. 2,228/2024

After approval by the House of Representatives, the possibility of refunding the CSLL credit could bring the benefit close to a Qualified Refundable Tax Credit (“QRTC”) for purposes of the GloBE Rules. The Senate preserved that feature, which remained unchanged upon enactment. The issue requires attention because Law No. 15,079/2024, which established the CSLL Surtax (Adicional da CSLL) as a qualified domestic minimum top-up tax (“QDMTT”) through RFB Normative Instruction No. 2,228/2024, introduced the concept of a qualified refundable tax credit into Brazilian law.

QRTC

Under the GloBE Rules, a credit that meets the QRTC requirements, that is, one that the law structures so as to be paid in cash or cash equivalents within four years from the date on which the conditions are met, is treated as income in computing GloBE income, and not as a reduction of covered taxes. The difference is that a non-qualified credit reduces the numerator of the effective tax rate and may push it below 15%, while a qualified credit increases the denominator and keeps the effective rate at a higher level.

NON-QUALIFIED CREDIT

$$\frac{\text{Covered taxes} - \text{credit}}{\text{GloBE income}}$$

Reduces the numerator. The effective rate may fall below 15%.

QRTC · PAID WITHIN 4 YEARS

$$\frac{\text{Covered taxes}}{\text{GloBE income} + \text{credit}}$$

Increases the denominator. The effective rate is kept at a higher level.

IIR and UTPR

For multinational groups subject to the minimum tax, the consequence arises first in Brazil: if the incentive lowers the effective tax rate of the Brazilian jurisdiction below 15%, the CSLL Surtax will make up the difference, and the benefit granted under the PFMCE will be returned to the Treasury by the same company that received it. Only in the absence or insufficiency of the Brazilian QDMTT would the top-up migrate to a foreign jurisdiction, through the Income Inclusion Rule (IIR) or the Undertaxed Profits Rule (UTPR).

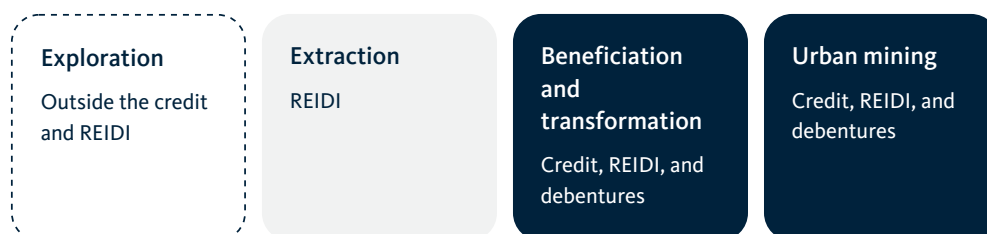
Article 21

The law sets no deadline for the refund; it merely authorizes offset or cash payment. The regulations must create a clear procedure, a defined deadline of less than four years, and an effective right to receive the unused balance, in line with what Law No. 14,789/2023 and Mover did by statute to prevent the tax credit from being recaptured by the CSLL Surtax or by additional taxation abroad.

6.5

Mineral exploration

The exploration phase concentrates geological risk, requires capital before revenue is generated, and is usually carried out by companies without taxable profit. That is why mechanisms such as flow-through shares and refundable credits are particularly useful at this stage.



Law No. 11,488/2007, Art. 2

The sanctioned law does not solve this problem. The credit of up to 20% covers beneficiation, transformation, and urban mining, but not mineral exploration. In addition, the expanded REIDI does not include it either, since the new Article 2 of Law No. 11,488/2007 mentions extraction, beneficiation, transformation, and urban mining.

Article 2, XVIII
Article 36, § 1, II, “a”

Exploration appears in the debenture regime only when linked to a beneficiation or transformation project. A junior company, for example, dedicated to the discovery and evaluation of deposits – a figure that the law defines (Article 2, XVIII) and designates as a partner in the application of R&D&I funds (Article 36, § 1, II, “a”) – will probably remain outside the main tax incentive and has limited access to the incentivized financing of Article 40.

6.6

REIDI

SL No. 214/2025, Arts. 106 and 108

The law expressly includes mining in Law No. 11,488/2007. The measure gained importance with Supplementary Law No. 214/2025, which extended to REIDI the suspension of IBS and CBS on purchases and imports intended for infrastructure works, with conversion into a zero rate after use or incorporation. Even with the full and immediate credit that Article 108 of Supplementary Law No. 214/2025 ensures on the acquisition of capital goods, the suspension retains value for capital-intensive projects, because it avoids the build-up of credit balances during implementation and the wait for refunds.

The regulations will have to determine the eligible works and purchases in the mining context. The definition should take into account the integrated nature of the projects, including internal energy, water, and access infrastructure, conveyor belts, auxiliary facilities, and structures linked to beneficiation and transformation.

6.7

Debentures

Article 40

Article 40 expands two distinct regimes. Under the tax-incentivized debentures of Law No. 12,431/2011, the tax benefit falls on the investor and may reduce the issuer's funding cost. Under the infrastructure debentures of Law No. 14,801/2024, the issuer may additionally exclude 30% of the interest paid from taxable income and from the CSLL base, subject to the legal requirements.

Decree No. 11,964/2024

Both regimes already operate in other infrastructure sectors through Decree No. 11,964/2024, whose list of sectors and priority projects will need to be updated, and Law No. 14,801/2024 limits in time the issuances that qualify (until December 31, 2030, under the current wording), which narrows the useful window of the instrument.

The text includes beneficiation, transformation, and urban mining and allows expenses on prospecting, exploration, evaluation of deposits, extraction, and mine development when linked to an eligible beneficiation or transformation project. The linkage requirement preserves the gap identified in mineral exploration: the incentive may not serve, on a stand-alone basis, companies whose business model is to explore, prove resources and reserves, and then develop, sell, or partner to exploit the asset.

6.8

Credit for long-term purchasers

Article 18, § 9

Article 18, § 9, allows the credit to be granted to legal entities that enter into contracts of at least five years to purchase products from eligible companies. The rule may encourage long-term contracts and provide demand stability to projects, the function that offtake agreements perform in mining finance.

From a tax standpoint, however, the basic mechanics of the credit are missing. The law does not define whether the purchaser's credit will be calculated on the purchase price, on a share of the producer's expenditures, or on some other parameter. Nor does it clarify whether producer and purchaser may receive credits relating to the same volume of production, or whether the purchaser's credit consumes the 20% cap and the annual budget cap of BRL 1 billion in competition with the producer's credit.

6.9

FGAM exemption

Article 14
Article 9, §§ 1 and 2, I

Article 14 exempts from IRPJ and CSLL the income of the funds created under the law, including monthly net gains and withholding at source on financial investments. The purpose is to preserve the fund's resources and avoid taxation of financial returns during the accumulation and use of the guarantees. The technique is consistent with the private nature of the FGAM (Article 9, § 1), which has its own assets, has no guarantee from the Federal Government (Article 9, § 2, I), and is liable for its obligations up to the limit of its assets.

Article 15
Article 10, § 1, III

The rule is objective and does not depend on regulation to define its content. Two points, however, remain open. The first is the clause requiring an "original forecast in the annual budget law", whose manner of satisfaction the regulations will have to clarify, failing which the exemption may remain suspended in 2026 for a merely formal reason. The second is the silence as to the quotaholder: the exemption covers the fund's income, but says nothing about the taxation of the quotas' returns upon redemption or amortization, about the deductibility of any loss on the compulsory subscription under Article 15, or about the nature, for the quotaholder, of the payment of quotas with mineral rights titles (Article 10, § 1, III) – a situation that may amount to the disposal of an intangible asset with a capital gain or loss. These are matters the regulations may guide, but which a silent statute leaves to possible litigation.

The PNMCE tax framework

The table below summarizes the tax framework of the PNMCE following the enactment of the law and the issuance of Decree No. 13,118/2026:



Key developments

- Establishment of the PFMCE, with a tax credit of up to 20% of eligible expenditures.
- Tax credit granted against CSLL, with the possibility of cash reimbursement.
- Expansion of REIDI to the mining of critical and strategic minerals, with implications for IBS and CBS.
- Expansion of access to incentivized debentures and infrastructure debentures.
- Exemption from IRPJ and CSLL for FGAM revenues.
- CIMCE established and structured by Decree No. 13,118/2026.



Points requiring further regulation

- Operationalization of the tax credit: tiers, percentages, and eligible expenditures.
- Eligibility and competitive selection procedures.
- Cash reimbursement within a period of less than four years.
- Treatment of expenditures incurred prior to 2030.
- Practical scope of REIDI for the mining sector (Decree No. 6,144/2007).
- Classification of debentures under Decree No. 11,964/2024.
- Means of satisfying the requirement of “original appropriation in the Annual Budget Law (LOA)”.



Remaining gaps

- No provision addressing the taxation of the tax credit.
- No express recognition of the tax credit as QRTC for Pillar Two purposes.

DEMAREST

Demarest's Tax team remains available to provide any additional clarification.

SÃO PAULO

RIO DE JANEIRO

BRASÍLIA

BELO HORIZONTE

www.demarest.com.br

