

RESOLUTION Nº 1,969

Defines criteria to be observed in foreign leasing operations.

According to the terms of article 9th of Law nº 4,595, dated 12.31.1964, the CENTRAL BANK OF BRAZIL hereby makes it public knowledge that, at a meeting held on 09.30.1992 and in light of the provision in Law nº 6,099, dated 09.12.1974, with the alterations introduced by Law nº 7,132, dated 10.26.1983, and in Executive Act nº 1,811, dated 10.27.1980, the National Monetary Council,

R E S O L V E D:

Art. 1st - The leasing contracts referred to in Law nº 6,099, dated 09.12.1974, between an entity domiciled abroad and the lessee of the good in the country, may be formalized for the following minimum periods:

- a) 2 (two) years, when the useful life of the good is equal to or less than 5 (five) years;
- b) 3 (three) years in all other cases.

Art. 2nd - New and used capital goods, movable and immovable goods may be included in leasing operations, with due observance of the norms governing import operations, as appropriate, for their entry into the country.

Art. 3rd - To reduce the income withholding tax rate on the value of the remittances abroad consequent upon such operations, setting the rate at:

- a) 2.5% (two and one half percent), in those cases in which the value of the leasing contract is less than 75% (seventy five percent) of the value of the good leased;
- b) 5% (five percent) in all other cases.

Art. 4th - In the case of a leasing contract between a lessor-buyer domiciled abroad and a lessee-seller domiciled in the country, its value should be less than 75% (seventy five percent) of the cost of the good that is the subject of the leasing operation and the good in question should be acquired through on sight payment.

Art. 5th - The income withholding tax rate on the value of remittances abroad consequent upon operations with terms equal to or greater than 5 (five) years will be reduced by 100% (one hundred percent).

Art. 6th - For purposes of registration of the operation, in its examination of the conditions referred to in paragraph 1st of article 16 of Law nº 6,099, dated 09.12.1974, the Central Bank of Brazil will utilize criteria similar to those applied to financed import operations, after having heard the position of the Department of Foreign Trade (DECEX) of the Ministry of the Economy, Finance and Planning, in that which is suitable, and further observing:

I - that the total value of the contracted counterinstallments, including all changes and the residual value, may not be greater than the value of the good would be were it to be acquired through the system of financed imports and that, in any case, the proportionality between the term of the contract and the useful life of the good should be observed;

II - that the contractual installments (fixed installments) should be distributed in time in such a way that, at any moment during the validity of the contract, the proportion between the total already remitted and the value of the leasing operation is not greater than the proportion existent between the period already elapsed and the total period of the operation;

III - until the date of the declaration of delivery and acceptance, overall payments to the lessor abroad may total up to 15% (fifteen percent) of the value of the operation and are limited to the amount of the residual value.

Art. 7th - To delegate authority to the Central Bank of Brazil to issue those complementary norms and adopt those measures deemed necessary for execution of the provision in this Resolution.

Art. 8th - This Resolution shall go into effect on the date of its publication.

Art. 9th - To revoke Resolutions nº 666, dated 12.17.1980, nº 788, dated 01.11.1983, nº 789, dated 01.11.1983, nº 983, dated 12.13.1984, and nº 1,863, dated 09.03.1991.

Brasília (DF), September 30, 1992

Francisco Roberto André Gros
PRESIDENT

(D.O., 10.21.1992)