

Considerations on tax efficiency for taxing in the 21st century *

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ABSTRACT

In democracies, taxation is the necessary form of defraying services and public programs that are indispensable to citizens in Social States. However, besides being refrained from removing the condition of economic development from a society through maximum taxation (confiscatory taxation), taxation cannot be held back from enabling the necessary resources for income distribution and equalization of social differences, due to the threat of it becoming an aggravating element of economic and social distortions on society. Thus, the implementation of an efficient tax policy is substantiated by the creation of effective mechanisms to enable the Democratic Social State of Law to achieve its goals. This article presents a bibliographical reviewing of efficiency in taxation matters and how to accomplish it in Brazil, so that taxes are transformed into efficient mechanisms of lowering social inequalities.

Keywords: Fiscal State. Taxations. Efficiency. Tax Policy. Social Development.

1. INTRODUCTION

The legitimacy of the State of Law, founded within a concept of social contract, has been renewed in recent years through the perspective of democracy, since it came to be “founded on neocontractualism and on the procedural assertion of freedom, justice, legal certainty, equality, transference, clarity and efficiency, which are irradiated through the list of fundamental principles” (TORRES, 2006, p. 69) and, consequently, in the States’ own administrative and legislative activities. Mainly because it has been proven, despite the reservations of Lisboa and Latif (2014, p. 43), that democracy is the political regime which has been able, more than any other models of government, to provide benefits to society. After all, in democracy, among other things, (a) social conflicts can be solved with nonviolent negotiation (which enables the development and consolidation of economic, political and cultural institutions, as well as the accumulation of coexistent learning); (b) by preserving individual freedom and the right to property ownership, people’s creativity and initiative can be directed to the search of a greater collective good; by not restricting the claims and demands of the

* Submission date: 12/Jan/2015; Acceptance date: 26/Jan/2015.

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various social sectors, the emergence of more egalitarian and productive societies are enabled and; (d) society is able to learn how to better manage wealth and distribute the benefits from economic growth in a more equitable manner (SCHWARTZMAN, 2014, p. 01-02 and 33).¹

With regard to Brazil's re-democratization, in the late 1980's, it is important to note that said process culminated in the moment in which the indexes of concentration on income, social inequality and marginalization of enormous contingents of population had reached the worst levels in our history (MEIRA, 2014, p. 35; LISBOA and LATIF, 2014, p. 37). This situation was partially aggravated by regional distortions and inequalities, lack of universal healthcare, education, and basic sanitation. Additionally, there was low economic growth and hyperinflation in the period. Because of this, the Constitutional Assembly attempted to resolve such issues through the delineation/organization of a broad Social Democratic State in the current Constitution, mainly through numerous programmatic norms² which significantly increased the obligations of federal entities and Brazilian society itself. However, the accomplishment of this State model, brought up by the 1988's Constitution, is that it demanded and continues to demand a broad range of tax revenue fronts, since the State was obliged to lower its participation in companies and economic sectors, during the process of macroeconomic correction in the middle 1990's. Also, since taxes are naturally the necessary means to satisfy the elected necessities of the social pact (OLIVEIRA, 2014, p. 508), there has

¹ To that respect, Schwartzman defends that: "without going further, it suffices to mention that, in the whole world, richer and more developed countries are the most democratic ones. And despite the argument on whether it is wealth that enables democracy or democracy that enables wealth, the European and North American experiences indicate that, whilst more consolidated democracies have a consistent history of progress, the attempts of solving social and economic problems through authoritarian means have invariably led to failure, if not to tragedy. The most recent experiences of Asia could suggest the opposing hypothesis, but the main Asian economies – Japan, South Korea, India, Indonesia – are democracies, and in China itself one can observe a strong relation between economic and social growth, the progressive widening of freedoms and the strengthening of legal and institutional systems" (SCHWARTZMAN, Simon. *Democracia, desenvolvimento e governabilidade, in A via democrática: como o desenvolvimento econômico e social ocorre no Brasil* – org. Simon Schwartzman. Rio de Janeiro: Elsevier, 2014, p. 01-36, p. 01-02).

² According to Meira, such purposes were established in the current Constitution's preamble ("we, representatives of the Brazilian people, gathered in Constitutional National Assembly to institute a Democratic State, destined to assure the exercise of social and individual rights, freedom, security, well-being, development, equality and justice as supreme values of a society that is fraternal, pluralist and free from prejudice, founded in social and committed harmony, in the internal and international order, with the pacific solution of controversies, promulgate, under God's protection, the following Constitution of the Federal Republic of Brazil") in its fixation on the idea that sovereignty, citizenship, dignity of the human person and the social values of work and free initiative and political pluralism would be the foundation of the Democratic State of Law. Additionally, it laid out as fundamental goals of the Federal Republic of Brazil, in the construction of a free, just and solidary society, national development, eradication of poverty and marginalization, reduction of social and regional inequalities and promotion of good (without prejudices related to origin, race, sex, color, age and any other forms of discrimination) (MEIRA, José de Castro. *Constituição, tributos e carga tributária, in Tributação: democracia e liberdade – em homenagem à Ministra Denise Martins Arruda* – coord. Betina Treiger Grupnmacher; org. Ariane Bini de Oliveira, Nayara Tataren Sepulcri e Smith Barreni. São Paulo: Noeses, 2014, p. 35-59, p. 37).

been a significant increase in GDP-related taxing, which, ever since, has generated a profound discussion on the approach of a just distribution of such an onus upon Brazilian society.

Despite the grave social situation and the need for implementing strong policies of income redistribution, ever since the Constitution of 1988 was promulgated, the previous taxation regime has almost entirely been kept in the current Constitutional system. That is to say, the trinomial of tributary facts on consumption, income and patrimony was preserved; also, the tributary competences were distributed between federal entities and the regimes of compensation for regional inequalities – through tax revenue redistribution and the possibility of sectorial or regional taxing distinctions – were also redistributed. The current tributary model has kept the regressive and indirect taxation of various taxes of the previous tributary system (MEIRA, 2014, p. 57; PINTOS-PAYERAS, 2008, p. 53), brought up other types of regressive, cumulative, and/or indirect taxation (such as, for example, the contributions of intervention on the economic domain for public lighting, etc.), and stimulated fiscal wars for obtaining private investments. On the other hand, the current tributary system has strengthened the taxpayer's rights and guarantees (mainly through widening its list) and broadened tributary immunities (FISCHER, 2014, p. 592).

With that in mind, the changes in the national tributary system were not expressive, despite the understanding of its chaotic nature, of fiscal policy's "institutionalized profiteering" (LISBOA and LATIF, 2014, p. 38 and 48)³ and incapability of providing for the State's financing needs and the economic/social development of Brazilians. It is also important to note that the current taxation model aims to resolve social issues by focusing on the distribution of tax burden, in relation to the economic and/or contributive capacity of society and of taxpayers, and on the need of personalization of taxes (MEIRA, 2014, p. 38), in addition to observing numerous tributary rights and guarantees, such as, for example, the one which forbids taxation

³ Lisboa and Latif note that: "in Brazil, profiteering has revealed itself to be quite stable, despite its suboptimal results. Its long prevalence can derive from various factors. Firstly, the practice of such factors reflects generalized beliefs in the nature of a successful process of development. Since it is far from the technological frontier, according to national *developmentism*, an alternative policy for convergence of *per capita* income in developed countries would be necessary. Such policy would imply temporary protection of domestic industry, in relation to external competition, in order to enable productivity gains and ensure posterior competitiveness with developed countries. Secondly, there is uncertainty over public policies and alternative practices – *e.g.*, over the consequences of commerce liberalization in the country's economy and the eventually affected groups, Thirdly, profiteering creates politically-voiced groups which depend upon such policies and react to the proposed changes. Fourthly, the lack of transparency on the policies' taxes hinder the democratic debate on the available options and its opportunity costs. Lastly, for many years, the national *developmentism* was successful in creating cycles of economic growth, notwithstanding the frequent periodical crises – characterized by fiscal unbalance, high inflation and crises on external accounts – attributed to exogenous shocks" (LISBOA, Marcos de Barros e LATIF, Zeina Abdel. *Democracia e crescimento no Brasil, in A via democrática: como o desenvolvimento econômico e social ocorre no Brasil* – org. Simon Schwartzman. Rio de Janeiro: Elsevier, 2014, p. 37-90, p. 48).

with confiscatory effect and the one that establishes that taxation has to be equal for taxpayers in equivalent situations (article 150, II and IV, Federal Constitution of 1988).

However, despite being more and more able to obtain State resources and enable a relative income distribution (especially through social programs of income distribution or social inclusion through public financing, such as FIES, PROUNI, Science without borders, etc.), taxation has not ceased to be an obstacle to the country's economic and social development, despite the recent technological progresses on inspection and control of tributary obligations and the sensible improvement of "fiscal intelligence." This is because the burden of taxation is still borne with greater intensity by the underprivileged population, in comparison to the richer portion of society (which maintains or aggravates the mentioned social injustices). Also, because tax evasion is still high, increase of taxation has not enabled improvements on public policies in the same ratio of tax collection growth.⁴

Therefore, if a pessimistic vision of the current national tributary system is not possible, neither is it possible to sustain an optimistic vision that "never in the history of this country"⁵ the tributary system was so able to resolve social and economic issues of the current and future generations. Quite the contrary. There is a lot to be advanced, especially in relation to taxation's efficiency for improving social and economic conditions, mainly because the issue of efficiency "plays a relevant role in the enforcement of judicial principles and rules" (TORRES, 2006, p. 69) in the tributary scope, and because, unlike what Saraiva Filho defends (2006, p. 293), efficiency bears profound interrelation with the necessary tributary norms and policies related to the functioning of the economy and social protection networks and can also be fundamental to resolving the complex issues of employment globalization and climate change that will be faced in this century.

Notwithstanding, Meira's pondering (2014, p. 36) should also be applied to this study, since this analysis solely aims to present some reflections on the issue of the efficiency of Brazilian's tributary policy, as a response to non-attended – or not fully attended – social needs since 1988. Moreover, this study aims to shine some "lights" – though diffuse and not strong –

⁴ According to Mota (MOTA, Ricardo Ferreira. Tributação indireta e análise econômica (e interdisciplinar) do direito, in **Revista tributária e de finanças públicas**, ano 21, vol. 108, jan./fev., 2013, p. 159 – apud MEIRA, 2014, p. 47), "by examining the public expenses on health, from 1995 to 2004, it has increased only 14.5%, while tax collection and GDP, as seen between 2000 and 2010, has respectively increased 264.49% and 212.32%. Public expenses on health represented 3.89% of the GDP, which was reduced to 3.66% in 2004, being lower than the proven expenses on health, which was kept stable at to 4.64% of the GDP, on both referred years".

⁵ Editor's note to non-Brazilian readers: "Never in the history of this country" was a phrase often used by Lula, former Brazilian President (2003-2010), whenever he wanted to emphasize anything he considered a notable achievement of his government.

upon which tributary policy Brazil should adopt, so that taxation satisfactorily resolves the issue of financing public policies.

2. EFFICIENCY OF TAX MATTERS: DELINEATIONS AND PONDERINGS OF ITS EXTENSION OF TAX MATTERS.

The concepts of what “efficiency of tax matters” is are various. This is primarily because the content of what efficiency is, on a pragmatic plane, depends upon the function of its use. In fact, it can bear different meanings, depending on if it is applied to the fields of private or public action (FISCHER, 2006, p. 261). Unlike Gabardo defends (2002, p. 22), we understand that the definition of “efficiency of tax matters” is relatively less complex than understanding what “efficiency” is, since the former expression does not present such an ambiguous content as the latter, mainly because the former only identifies an imposed circumscription to the principle of administrative efficiency. That is to say, “efficiency of tax matters” is nothing more than the application of the principle of efficiency in the context of the State’s tributary action.

In order to ontologically understand what “efficiency of tax matters” is, it is necessary to examine a critical process of demystification of this expression’s content (FISCHER, 2006, p. 262). For that purpose, it is possible to identify the concept of “efficiency of tax matters” by determining the meaning of the term “efficiency” and through its consequent decomposition on the tributary sphere. However, this method should take into account Gabardo’s warning (2002, p.23) that the academic identification of what “efficiency” is should not be limited to linguistic explanations, since the term can present varied meaning and significance, given the locus *in* which it is applied. This is because “the scientific perspective determines the applied vision, which is altered according to the interpreter’s judging values”, because “the option for an emphasis on the term’s axiological nature (notably the element “mean”) or on its teleological essence (notably the element “end”) brings up distinct connotations”. Or, one can also understand it through the adequacy of the principle of administrative efficiency in the tributary field, noting that such adequacy is no more difficult than the one made through the previous method, despite being less complex (COSTA- CORRÊA, 2006).

With how the latter method is concerned, we understand that it is possible to extract at least three distinct meanings/significances of the phrase “efficiency of tax matters”, through the adequacy of the principle of administrative efficiency. First, there is an idealistic notion that indicates that the applicability of efficiency is desirable to the State’s administrative and tributary activity, even though its judicial sense is so fluid and programmatic that its control

becomes difficult, which makes it more of an axiological principle of the Public Power than a basic norm of concrete content to be applied by the Public Administration (MELLO, 1999, p. 75; BASTOS, 2002, p. 539-540). Second, there is a pragmatic notion which values the achievement of better results with scarce means and lower costs, (ARAÚJO e VIDAL, 2001, p. 275-276; JUSTEN FILHO, 2005, p. 84-86; TAVARES, 2002, p. 875; GASPARINI, 1995, p. 50). That is to say, it calls for obtaining higher collection with the lowest possible cost, in order to enable (through rational organization of means and human, material, and institutional resources) the provision of high quality public services with equal economic conditions to consumers (SILVA, 2005, p. 337). The pragmatic notion of efficiency therefore expresses the idea of “making it happen with rationality”, being, for this reason, attached to a more economic rather than a judicial idea. Last, there is a purposeful notion, which emphasizes the Public Administration’s necessity to carry out its activities in the most adequate, reasonable, and efficient possible manner, as a way of achieving social interest.

This way, it is imposed

[...] to both direct and indirect Public Administration, as well as to its agents, the pursuit of common good, through the exercises of its competences in a manner that is impartial, neutral, transparent, participative, efficient, without bureaucracy and always in the search of quality, with the primacy for adopting legal and moral criteria, both necessary to the best possible usage of public resources, in a way of preventing waste and guaranteeing a higher social profitability (MORAES, 2003, p. 791)

Thus, efficiency of tax matters can be directly related to the adequacy of spending the collected values. In this sense, efficiency of tax matters can be defined as “the Public Administration’s obligation to utilizing the State’s public resources in the most pertinent and adequate way, in favor of society” (MARTINS, 2006a, p. 31). That is to say, one verifies efficiency of tax matters when tax policy, through its mechanisms and legal instruments, is capable of generating development and fiscal justice, and thus making tax collection a natural and necessary consequence to the proportional generation of public services for the community, in relation to the imposed tributary obligations, without harming the citizens’ contributive capacity. Therefore, efficiency of tax matters can be a synonym for transparency, normality and legality of the public administrator’s set of actions, when the purpose is to generate practical results without formalities or bureaucracies that imply wastage of the collected values (ABRÃO, 2006, p. 83). However, efficiency of tax matters can also be related to the maximum possible tax collection. In fact, Machado (2006, p. 54- 55) defends that efficiency of tax matters consists of...

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[...] the execution of taxing activity in a way of providing the maximum result, that is to say, the highest possible tax collection without prejudice to the accomplishment of the State's essential goal, which consists of the legal system's preservation as an instrument of accomplishing common good, with the minimum sacrifice to taxpayers.

We understand that efficiency of tax matters cannot just imply the incessant search for raising tax collection in itself, since taxation is limited by the taxpayer's fundamental rights and guarantees (FISCHER, 2006, p. 267). The efficiency of tax matters through maximum taxation's opposing perspective, the prism of economy (FISCHER, 2006, p. 267). That is to say, efficiency of tax matters can mean the attainment of higher revenue with the least spending (whether it is under the perspective of tax institution and regulation, or administrative activity). In this sense, it is similar to the principle of practicality, because it aims to legitimize the usage of technical norms by the legislator (*e.g.* tributary substitution and legal fictions and presumptions) which enable a more agile and less burdensome tax collection, thus preventing evasion and enabling constitutionally-adequate interpretations and enforcement of the law by public agents, leading to the most adequate technical and functional harnessing of administrative tasks (FISCHER, 2006, p. 268-270).

Nonetheless, efficiency of tax matter does not logically imply minimum taxation, mainly because, in a Social State, economic and social development require taxation that is adequate to finance social needs and is, therefore, incompatible with minimum tax collection. We understand that such positions are not divergent, because efficiency of tax matters, as a principle, should be examined by the aspects of: (a) the State's spending capability – which is tied to the correct usage of collected resources; (b) the justice of taxation by generating economic and social development – which is measured by “the exact detection of the limits of contributive capacity and the impositions and necessary stimuli for the progress of society” (MARTINS, 2006a, p. 31); and (c) the just combat of tax evasion – in order to prevent taxation from enabling lack of competitiveness. And because there will only be efficiency of tax matters if all three aspects are jointly observed – noting that any disfiguration of one of the three aspects implies mismatches in all of them and, consequently, refrains efficiency of tax matters from happening (MARTINS, 2006a, p. 31).

This is why, even in a Social Tributary State, it is not feasible for taxes to be collected first and expenses calculated second. The correct logic should be the efficient definition of possible spending, so that one can determine how much tax collection will be necessary to face such expenses, and not the contrary (that is to say, establishing how much can be collected, in order to determine what will be spent). Efficiency of tax matters cannot be synonymous for

either maximum or minimum tax collection. Taxation is efficient if it does not use more (or less) resources than what is necessary for an effective and efficient coverage of public spending, in a given society.

In another sense, Goldschmidt and Velloso (2006, p. 190-196) assert that efficiency of tax matters can be analyzed through the “efficiency-legality” prism and the “efficiency-vector” prism. In the first prism, the authors claim that, since the State of Law is ruled by legality, administrators’ conducts would also be guided by legality and, consequently, would act efficiently every time the law is observed. Thus, the “efficiency-legality” prism is held up not only as a guarantee for the administrated ones, but also as a limit to the activity of administrative agents, which configures a real “instrument of stagnation or inertia” for public acting, since the “efficiency-legality” prism does not allow public agents to innovate, reshape or improve. Instead, they are imposed with “the brainless tasks of fulfilling/observing the legal system (GOLDSCHMIDT and VELLOSO, 2006, p. 190).⁶ In the second prism, the efficiency can be analyzed as a “vector” to the “constant search for improvement” (GOLDSCHMIDT and VELLOSO, 2006, p. 190). In this case, efficiency “is fundamentally directed to the Legislative Branch, whose legislating activity should always ponder criteria of cost-benefit, effectiveness of measures versus inherent burdens” (2006, p. 192). This is why they understand that efficiency of tax matters maintains “intimate relation with the principle of proportionality, representing an instrument of control an adequacy of the means to the ends” (2006, p. 195).

In other words, to Goldschmidt and Velloso (2006, p. 195), efficiency of tax matters is verified in the necessity of Public Powers to act according to the end of norms, in a way of attributing them with their best performance, “by conciliating agility, cost reduction (economy), simplification and transparency, attentive to demands of convenience, proportionality,

⁶ In this sense, Goldschmidt and Velloso note that “such circumstance, apart from bringing up the inherent weight of demotivation, impairs, if not almost entirely destroys, the possibilities of optimizing processes, as such term is understood in its broadest sense, as it pertains to procedural and material law, which considers public activity as a whole. The auditor, for example, cannot refrain from demanding the interweaving of books, declarations and documents which the law considers obligatory, even if it finds a cheaper and more dynamic way of fulfilling its duty of verification. Likewise, the auditor cannot refrain from adopting a given practice for considering it incoherent, tautological, exaggerated, irrelevant or even unjust, despite having the ideal solution in mind (the most rational and efficient), and even if it is clear that the Public Administration is wasting time and money”. This is due to the fact that “rationality and optimization of processes presuppose, as a rule, the possibility of reformulation. And, within such context, the venerated – for obvious and historical reasons – principle of legality bears, as a counterpart for the duty to act strictly according to the law, the obligation of not doing what the law does not determine [...]. Its creative activity is strictly forbidden in the same way strict legality obliges the auditor to act, in the imposing tax law, in a fully bound manner” (GOLDSCHMIDT, Fabio Brun and VELLOSO, Andrei Pitten. *Princípio da eficiência em matéria tributária*, in **Princípio da eficiência em matéria tributária** – org. Ives Gandra da Silva Martins. *Pesquisas Tributária – Nova série*, n. 12. São Paulo: Revista dos Tribunais, 2006, p. 190-215, p. 191).

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confidence, and continuity (a postulate whose counterpart is the right of the administrated ones to demand efficient administration, in all of its forms)” and, “from the legislative standpoint, efficiency is also attained with the structuring of an authentic tributary policy, aimed towards economic growth and optimization of tax collection, with minimum interference or imposition of burden, both of bureaucratic and financial nature, to the taxpayer”.

There will be efficiency of tax matters when the legislator, in the creation or regulation of taxes, structures the organization of the tributary system in such a way that contributes, optimizes, and promotes, to the maximum, the development of society, and not simply a rise in taxation (FISCHER, 2006, p. 268). That is to say, efficiency of tax matters will occur when the set of juridical norms which orient the national tributary system (especially in relation to tributary competence and regulation of conduct or the Fiscus’ and contributors’ way of acting), in its fiscal and extra-fiscal aspects, optimizes tax inspection and collection, through the observance of constitutional principles (notably, the principle of contributive capacity) and just distributions of tax revenues, and enables the country’s economic and social development (SARAIVA FILHO, 2006, p. 302).

Therefore, one understands that efficiency of tax matters is only observed when the tributary system, as a whole, presents an organization that is rational, impartial, neutral, transparent, effective, without bureaucracy, and of lesser economic waste of means and resources (human, material, and institutional) that are necessary to the institution. These include resources used in ascertainment, inspection, possible refund, and application of resources, resulting from tributary norms. Additionally, the tributary system must enable or, at least, not hinder the conducting of services that provide for the common good (COSTA-CORRÊA, 2006, p. 241).

Limits to the efficiency on tax matters

Firstly, it is important to note that we agree with Machado (2006, p. 53) when he asserts that questioning the limits of efficiency of tax matters invariably leads to the idea that such expression should be a synonym for “maximum tax collection”. However, as already mentioned, we understand that such an argument is founded on an erroneous utilitarian perspective, because, in fact, the goal of taxation is to provide the necessary means of attaining common good, that is to say, taxation is only a means or “instrument” (MACHADO, 2006, p. 53) for the State to provide the reduction of social distortions among its members, as these distortions hinder people from obtaining equal promotion and preservation of their human dignity.

Thus, the limit to efficiency of tax matters is found not only in the judicial principles that instruct taxation in Brazil (MACHADO, 2006, p. 55), but also in the taxpayer's own fundamental rights and guarantees (FISCHER, 2006, p. 271). In this sense, the limits can be the principles of legality and isonomy (MACHADO, 2006, p. 55),⁷ as well as the republican principles of economy and reasonability (VARGAS, 2006, p. 217-218), or even the principles of contributive capacity, confiscation effect, isonomy, and proportionality between the level of tax collection and the extension and quality of public services, direct or indirect, which are provided to society (MARTINS, 2006. P. 31-32).

Nonetheless, the limit to efficiency of tax matters also depends upon the correct and effective identification of economically-worthy facts, prone to taxation, and that enable a selective, progressive, extra-fiscal taxation, according to the taxpayer's fundamental rights and guarantees and the limits of ethics, morals, and the solidary capacity of bearing the direct and indirect burden of a taxation that ultimately provides the necessary funds to ensure the exercise of public functions and fiscal Justice (COSTA-CORRÊA, 2006, p. 241). Besides, if efficiency of tax matters implies the need for attributing sense to the tax matter which grants greater effectiveness to constitutional norms and that favor political and social integration in society, one can assert that the constitutional program itself is a limit to tributary efficiency (VARGAS, 2006, p. 217-218). In order to be just (MARTINS, 2006a, p. 45; COSTA-CORRÊA, 2006, p. 252), the tax cannot be "arbitrary, excessive, or poorly spent" – because "strictly speaking, there can only be the principle of efficiency on a country's tax policy, if the same principle is present within the policy of resource-spending" (MARTINS, 2006a, p.46).⁸

Thus, "the principle of efficiency must always be invoked when there is unmanageability, inefficiency, or corruption in public expenditure" (MARTINS, 2006, p. 47) in order for the taxes to be efficient and so that they are not turned into an evil within themselves

⁷ Hugo de Brito Machado notes, however, that "even in a simple tax collection policy, the observance of all judicial principles is indispensable, notably the principle of legality" (MACHADO, Hugo de Brito. *Princípio da eficiência em matéria tributária*, in **Princípio da eficiência em matéria tributária** – org. Ives Gandra da Silva Martins. Pesquisas Tributária Nova série, n. 12. São Paulo: Revista dos Tribunais, 2006, p. 50-68, p. 57).

⁸ According to Ives Gandra da Silva Martins, "there is no principle of efficiency of compulsory tax policy if the same efficiency is not present in the State's spending policy. There is no partial efficiency. A policy is entirely efficient, or it is clearly inefficient. One can either possess both or none, that is to say, there is no efficiency of tax policy if there is no efficiency of spending policy. If the latter is wasteful, incorrect, or corrupt, society will automatically be more demanded than it should be, in order to receive public services, and the excessive revenue, regardless of how good the system is, will represent the very opposite of the principle of efficiency. The 'condominium members' will be charged with more than a "condominium or tax policy". A fair tax implies fair application of the resources derived from it, within the interest of society" (MARTINS, Ives Gandra da Silva. *Princípio da eficiência em matéria tributária*, in **Princípio da eficiência em matéria tributária** – org. Ives Gandra da Silva Martins. Pesquisas Tributária – Nova série, n. 12. São Paulo: Revista dos Tribunais, 2006, p. 29-49, p. 46-47).

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(FERNANDES, 2014, p. 516). In this sense, the legitimacy of imposing taxation depends upon controlling public spending because “only the efficient and responsible management of public expenditure can legitimize tax charging” (TORRES, 2006, p. 75). Additionally, the current Federal Constitution states that the control of budget execution should consider the principles of legality, economy and legitimacy of government expenditure (TORRES, 2006, p. 77), which is why only the fast, efficient, safe, transparent, and evaluating control of public expenditure legitimizes taxes as the price for freedom (TORRES, 2006, p. 77).

In spite of Machado’s (2006, p. 63) understanding that, even though efficiency can (and should) be imposed upon public expenditure, it does not seem possible to assert that the illegitimacy of tax collection be founded solely on the defiance of said principle, on the execution of public expenditure. Neither is it possible to conclude that one cannot consider the taxpayer’s remission based on the illegitimacy of a tax, derived from improperly carrying out public expenditure (MACHADO, 2006, p. 63-64), which is why he asserts that “the solution for the issue of the efficiency principle’s defiance in the execution of public expenditure is to be searched in the field of politics,” since “law still does not provide the adequate instrument for carrying this difficult task out” (MACHADO, 2006, p. 64).

We understand that, besides being limited by both the distribution of competence stated in the Constitution and the constitutional guarantees of the taxpayer, which configure an “open normative system”, given the content of article 150 of 1988’s Federal Constitution, which states that, apart from the listed guarantees, others also exist (VARGAS, 2006, p. 218-219), the power of taxing is also limited by the “guarantee of efficiency” and by the “guarantee of adequate destination of tax collection” because, since the obligational tax relation is both bilateral and derived from the causal nexus between taxation and public expenditure, taxpayers have the fundamental duty of paying taxes and the fundamental rights of doing so within constitutional limits, as well as of demanding the collected values to be applied according to the constitutional return program through public services (VARGAS, 2006, p. 219; KANAYAMA, 2014, p.483). In this sense, Vargas (2006, p. 222) notes that

The State is only legitimized to impose tax due to its function of service provider; not just any service provider, but a rather efficient one. From the moment in which it does not provide services, or does so in an inefficient manner, it loses legitimacy to impose tax; the tributary competence becomes materially unconstitutional, as public services are either not provided or poorly provided.

Nonetheless, it is relevant to note that Fischer (2006, p. 271-272) remarked that there are ends and values which are prioritized in a Democratic State of Law, such as the Brazilian

State, and mainly that

[...] budget is the appropriate means to beginning to fulfil such ends and values. If there is complete budget freedom, and if the budget does not bear high degrees of linkage, then it is necessary to say that the Constitution's own normative strength loses a great deal of its relevance. That is to say, the optimization of the Magna Carta implies the optimization of revenue allocation: utilizing it is to enable, as much as possible, the achievement of a Democratic State of Law, a free, just and solidary society.

Therefore, collectivity always has the possibility of discussing the active State Model and, consequently, the necessity and utility of paying certain taxes. Mainly because “everyone simultaneously has the duty of financially supporting the State and the right (right-duty) of having a voice in regard to the tax imposed upon us” (NABAIS, 2005, p. 135), or rather, “as a fundamental duty, tax cannot be taken as a mere power to the State, nor as a mere sacrifice to citizens, but rather as an indispensable contribution to an organized life on a fiscal state” (NABAIS, 1998, p. 679). Thus, if the State chooses to spend its resources on ends that are incompatible with the legal system (FISCHER, 2006, p. 272), taxpayers can invoke the “principle of efficiency of tax matters”, in order to materially delegitimize taxes demanded by the State. This is mainly, because the Brazilian constitutional system does not enable taxation to be fully justified, by a direct and exclusive reason, by the duty of social solidarity (COSTA-CORRÊA, 2006, p. 251).

This is why we understand that it is possible to discuss the legitimacy of Brazilian taxation, due to the State's administrative and tributary inefficiency, and such discussion should imply examining not only the question of controlling the State's spending capacity, but also the analysis of the legitimacy of the duty to fiscal solidarity (that is to say, whether such duty is founded on collective interests or supplanted by the State's necessity in maintaining other unnecessary activities and functions to the compliance social interests and needs and to the exercise of essential functions of Public Power) (COSTA-CORRÊA, 2006, p. 252). In other words, it is understood that inefficiency of tax matters delegitimizes the tributary impositions because efficiency is both the content and axiological limit of the duty to fiscal solidarity as well as the conceptual matrix of the minimum existential and the economic-contributive capacity (COSTA-CORRÊA, 2006, p. 252).

Besides, if it is the State's duty to promote fair taxation for public needs and interests and for the correct and efficient exercise of public functions, individuals must be certain that the imposed taxation is necessary only to solve costs derived from the compliance with and exercise of such needs and interests. Thus, each and every tributary onus that is necessary for

maintaining power structures and counter-orders of rulers are unjust and derived from the State's excessive expenditure, and therefore their demand should be regarded illegitimate for being inefficient and contrary to the preservation of the minimum existential and the economic-contributive capacity (COSTA-CORRÊA, 2006, p. 253). However, we agree with Saraiva Filho (2006, p. 291-292), when he asserts that such an issue requires, for its solution, an effective pondering of colliding values (such as, for example, efficiency and democracy). So much so that:

[...] if the appreciation of reasons or the choice for the act's object fits, in any way, in the efficiency as imagined by the legislator, so that one can find reasonability within the sense of efficiency, even if a divergence of opinion occurs, the act must be kept, in respect to democracy and to the principle of separation of Powers, so that the magistrate's judgement of efficiency does not substitute the legislator's efficiency acumen, mostly because the Constitution does not intend to make a second-degree administrator out of the magistrate, as far as the administrative merit is concerned (SARAIVA FILHO, 2006, p. 292).

3. DISTINCTION BETWEEN TAX POLICY AND COLLECTION POLICY: A PARAMETER FOR THE EFFICIENT TAXATION ON A DEMOCRATIC SOCIAL STATE OF LAW.

According to Martins (2006, p. 33),

[...] tax policy must have various purposes, notably, fiscal justice to guide resource allocation, promote economic development, assure full employment, fight inflation, ensure the equilibrium on the balance of international payments, meet social goals, and allow fiscal coordination between the government's political, juridical and administrative goals.

Hence, "what distinguishes, through the prism of efficiency, a collection policy from a tax policy is that the former generates little economic and social development, as well as tributary injustice, and the latter provides social and economic growth and fiscal justice" (MARTINS, 2006a, p. 37).

In another perspective, Machado (2006, p. 57) understands that the distinction between tax and collection policies is that:

[...] while in an authentic tax policy, which involves the search for effectiveness of the tax's extra-fiscal function, the desired goal is the change of a given behavior, or of a given situation on the economy, and the efficiency is measured by the degree of such goal's accomplishment; in a simple collection policy, the desired goal is simply to increase the amount of collected money.

According to Torres (2006, p. 73-74)

[...] what distinguishes an authentic tax policy from a simple collection policy, through the prism of efficiency, is the adherence, by part of the legislation, jurisprudence and administration, to the plurality of the principles of the tributary system's legitimization [...] namely equality, reasonability, ponderation,

practicability, simplification, competition, economy and transparency”.

According to Goldschmidt and Velloso (2006, p. 197), the distinction between an authentic tax policy from a simple collection policy is made since the former

[...] aims, from Adam Smith to the magnificent opus of Fritz Neumark, to promote transparency, facilitation of compliance to tributary obligations, simplification of forms (books, guides, declarations, reports, demonstrations). Additionally, it works towards the decrease of administration costs and increase of collection”

Mainly because any tax policy must be

[...] thought and oriented to: (a) the foment of labor (and, within that, labor force, its volume, the facilitation of new labor force entry, work capacity, and mood), given the fact that this is the factor which firstly denotes the volume and speed of economic growth; (b) the foment of investment (through the reduction of taxes upon societies and the possibility of compensation for the losses); (c) the generation of internal savings (which, according to an unanimous voice of economists, constitutes fundamental pillar of economic growth). (GOLDSCHMIDT and VELLOSO, 2006, p. 198).

While, on the other hand, a collection policy consists of the random overlapping of tributary incidences, obligations, and reveals an “exclusive preoccupation with the continuous increase of entries, without providing logic, coherence and solidity (towards perpetuation) to the tributary system (GOLDSCHMIDT and VELLOSO, 2006, p. 198).

According to Vargas (2006, p. 230),

[...] an authentic tax policy is the one that contemplates tax collection as a means of reaching social goals which are portrayed in the constitutional program, that is to say, linking the power of taxing to the power/duty of providing adequate public services, as well to the extra-fiscal ends of taxation and the taxpayer’s contributive capacity, whilst a collection policy “contemplates collection as an end within itself, without any goals but that of collection”.

Nonetheless, it is understood that the distinction between tax policy and collection policy implies the fixation of four premises. Notably:

The first premise has been fixated, though superficially. Taxing and collecting are understood as distinct situations; not through a practical standpoint, since both are destined to provide the State with financial means, but for their axiological weight, given the fact that both present (or are founded on) distinct values – taxation, more on the justice value; whilst collection, on the practical value of financial capture. However, such distinction cannot and should not mean that the situations have tight content (limits), that is to say, taxation also has a fiscal finality, in the same way that mere collection can be directed towards the implementation of fiscal Justice – even though, in both cases, such axiological contents are secondary.

The second premise derives from the first one and is thus understood as a minor premise, which exposes the certainty that fair fiscal norms are created in a way of evincing its tributary side, whilst collection norms ‘create only some tributary res – or even a tributary turmoil.

The third premise identifies that taxation generates a bigger social gain to collectivity than mere collection, since it has been proven [...] that, as a rule, the countries which

have a tax policy benefit more than those that have only a collection policy, because 'the true tax policy ultimately provides economic development and fiscal Justice, which consequently generates more revenue, less social trauma, and higher economic competitiveness.

The fourth premise evinces that one cannot differentiate taxation from collection by a failure to conform to the tributary burden's magnitude, because [...] once the tributary norms are norms of social rejection, tax burden will always be unmeasured to taxpayers, since they: (a) understand that goals and needs are poorly established; (b) believe in the existence of superfluous spending; feel that they always bear the burden; (d) verify the existence of differential practical treatment to tax evaders; (e) attest that inspection facilitates impunity and illegality and (f) prove that revenue is increased even with tax evasion (COSTA-CORREIA, 2006, p. 243-244).

That consequently leads to the understanding that a tax policy will be that which organizes all of tributary, fiscal extra-fiscal norms, rationally, impartially, neutrally, transparently, without bureaucracy and with less economic expenditure of means and resources (human, material and institutional) than are necessary for total compliance of wealth redistribution, implementation of the concrete content of the principle of fiscal solidarity (namely, the preservation of the minimum existential, prohibition of confiscation and application of objective contributive capacity) and the realization of constitutional rights and guarantees.

Instituting a tax policy should be the main goal of taxation itself, given the fact that its constitution does not allow it, as time goes by, to be transformed in collection policy, increasing the tributary system's inefficiency – as the improvement of collection efficiency will promote higher incidence for tributary norms and, consequently, will force a part of taxpayers to informality, increasing tax policy's inefficiency and gradually turning it into a mere collection policy (FISCHER, 2006, p. 271).

4. REFLECTIONS ON HOW TO MAKE TAXATION MORE EFFICIENT AND TRANSFORMING IT IN AN EFFICIENT MECHANISM FOR DECREASING SOCIAL INEQUALITIES.

Tax is the price one pays to live in society and the abdication of this portion of property is what enables the maintenance of individuals' freedom through the existence of the State and its promoted public services, for the equalization of social inequalities (NABAIS, 1998, CAMPELLO, 2014, p. 645). Therefore, taxes enable the conditions for the Modern State's implementation (VITA, 2014, p. 663).

Thus, taxation has been pointed out by both liberals and socialists as an instrument for reducing social inequalities and promoting income redistribution in today's society (PIKETTY, 2014, p. 11-12), whether by taxing previously untaxed facts, by stimulating savings and investment through the taxation of consumption, or by adopting progressive taxation over income and patrimony (PIKETTY, 2014, p. 28 and 39-40). The reason is that the State cannot

be a mere Fiscal State, but a true Tributary State (NABAIS, 1998). That is to say, it should not tax as an end in itself, but rather for the realization of policies and social expenditure which mainly aim to reduce social inequalities (KANAYAMA, 2014, p. 498).

The adoption of the duty to fiscal solidarity and the need to respect the taxpayer's contributive capacity – through negating tributary excesses and through the need for imposing progressive taxation, given the difference of contributive capacity between taxpayers – supplanted the model which contemplated taxation as an obligation *ex imperium lege* (founded on coercion and that enabled the unmeasured expansion of taxation until the very limit of human indignity) for implementing a model in which, due to fiscal solidarity, the taxpayer's tributary duty is to share the effectiveness of social policies and expenditure by the State, and not a duty of unrestricted, solidary, and obligatory liability for the State's costs (COSTA-CORRÊA, 2006, p. 253).

In a Democratic Social State of Law, the costs of public policies – and not of all the State's expenses – are shared by taxes, since a fiscal policy implies a justice policy, and not a mere policy of interests (TIPKE and YAMASHITA, 2002, p. 28). That is to say, public expenditure should be limited by the possibility of an efficient tributary collection of society's necessary resources for such ends – being exceptionally admitted the withdrawal of society's monetary values, in order to, through public policies, ensure that such resources are returned in the same social portion obliged by its tributary financing (COSTA-CORRÊA, 2006, p. 254) – because taxation and the control of its destination are relevant instruments of realization, promotion, and financing of the Democratic Social State of Law (FISCHER, 2014, p. 593).

In this sense, the value of fiscal solidarity and the corresponding fiscal obligation exist only when the collective value overcomes the State's individual, personalist, and egotistical value of collecting (SACCHETO, 2005, p. 11-22; COSTA-CORRÊA, 2006, p. 254), because the existence of a fundamental duty of payment does not exempt the State from its commitments to society, nor does it minimize the control power that society has over the ways and means of applying collected tributary resources (GRECO, 2005, p. 182).

Interruption of economic activity's targeting through taxation.

Preliminarily, it is important to note that “governments, competent though they might be, cannot replace the infinity of decisions and individual initiatives which strengthen and provide dynamism to contemporary societies and economies” (SCHWARTZMAN, 2014, p.11) – which is why “the attempts of creating big systems of centralized planning, almost always,

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lead to creating expensive and incompetent bureaucratic machines, if not to disastrous policies and to suffocating individual initiatives” (SCHWATZMAN, 2014, p. 11). Also, “democratic regimes do not require big plans, but rather well- studied and well-defined sectorial policies which can develop effective actions in areas such as education, innovation, public transportation, energy, environment, social protection, health, public security, and administration of metropolitan urban complexes” (SCHWARTZMAN, 2014, p. 12) – given the fact that “few national or local governments in Latin America have the capability of fully addressing such issues [...] and, when such capability exists, it is usually developed more in areas of economic police, financial administration and fiscal policy, rather than in others” (SCHWARTZMAN, 2014, p. 12).

One can see within Brazil a range of regulated sectors which make public intervention much more detailed than in other countries, so much so that it has enabled the constitution to possess specific tributary modalities for directing fiscal resources to public policies in these areas and maintaining the interests of such sectors (LISBOA and LATIF, 2014, p. 39). Besides, temporary periods of high economic growth have contributed to strengthening policies of public intervention – so much so that “incentives, protections and privileges proliferate in Brazil and go far beyond usual fiscal incentives and transference of public resources” (such as, for example, subsidized loans, protectionism, price controlling, and roles of national content) – which distorts the correct perception of these areas’ social costs and their revocation or reduction (LISBOA and LATIF, 2014, p. 39-40).⁹

In Brazil, the institutionalization of such profiteering instruments, along with other fiscal policies, provides an increase in inflation, low economic growth, deterioration of public expenditure, and, more recently, social agitation due to the expansion of social policies. In addition, because of this, the Brazilian State finds itself on a crossroad: how can a State increase social expenditure without raising taxes? Would the increase of profiteering policies be the answer to the issue? No, because in Brazil, such practices are not only high, but also very opaque and have not generated the desired social return (LISBOA and LATIF, 2014, p. 80).

Another point that deserves reflection is the question of protecting certain economic sectors – whether by adopting high taxation for importing goods and services or through

⁹ In this sense, Lisboa and Latif note that: “decentralizing mechanisms benefit concession and, many times, are not approved by the public budget, the little transparency of the policies’ impacts, the reduced access to data for the independent analysis of results and its diffuse costs, in society’s perspective, are translated into minor efficiency of process or greater production costs, hindering the democratic deliberation of public policies and resulting in high tributary burden and poor provision of public goods”.

fixating coefficients of national content on goods and services – because maintaining such “profiteering” practices, though they might initially enable minimum productivity gains, generate and maintain inefficient companies, as well as end up entailing high social costs for the other sectors of economy (LISBOA and LATIF, 2014).

Therefore, it is understood that the best solution would be to interrupt all profiteering policies, since it is recognized that certain exemptions (MEIRA, 2014, p. 58) or the significant reduction of indirect taxes’ aliquots, over fundamental consumption products, could generate a strong income supplement for poorer families, which would assist the public policies’ programs of income transference because, fundamentally,

[...] what distinguishes the good from the bad practices is not their corresponding foment, but whether or not the government, in its direct or indirect action, is oriented by society’s most basic interests, through the political mandate bestowed upon it, and if it does so with the best usage of available resources in society” (SCHWARTZAMAN, 2014, p. 27).

Social targeting through taxation

The search for improving social condition implies the expansion of opportunity equality between the members of a society. And since taxation is an important instrument for correcting social distortions and for social/functional differentiation (VITA, 2014, p. 662), the imposition of taxes must take into account the taxpayer contributive capacity and, consequently, should be tempered, balanced – with greater or lesser intensity, so that it is neither isonomic nor unjust –, and carried out in an equivalent manner to the economic and contributive capacity of its members.

Only the taxation’s non-uniformity can provide the improvement of underprivileged taxpayer’s social conditions – economically and socially –, since the distinctions of spectrums of contributive and economic capacity must impose taxation that is distinctly and progressively closer to social distinctions, so that redistribution of income in society is possible (by also providing public services or tributary affirmative actions – FISCHER, 2014, p. 593) through bettering economic and social conditions of socially and economically underprivileged sectors, as well as providing the necessary conditions for constructing the minimum existential, which enables human beings to maintain autonomy (CAMPELLO, 2014, p. 638).

However, it is important to note that, despite the distinctions between the levels of economic and contributive capacities of the members of a society, we believe that tributary isonomy is an important instrument for an efficient taxation. For such, isonomy must be applied only when identifying aliquots for types of products or services to be taxed, in the moment of

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their production or consumption. That is to say, the distinction of taxation must be made in relation to the levels of patrimony or income, not in relation to production and consumption. To put it in other terms, types of durable goods, food or services can and must have diverse aliquots given their consumption essentiality, or in relation to the induction (or not) of its consumption. However, products or services of a certain should always be taxed with a similar aliquot – therefore, aliquots for food and basic services should always be smaller than aliquots for electronic goods, cars, travels, etc.

Such a position – apart from increasing efficiency, equity, certainty, convenience and economy of tax collection – would enable a differentiated taxation, in relation to levels of economic and contributive capacities. Besides, the certainty that a given set of products or services (*e.g.* food or education) is taxed with the same aliquot, regardless of their price or luxurious character, would lead taxpayers, who present a more fragile economic and contributive capacity (slowly and with improvement of social conditions), to consume products of higher “quality” or more “luxurious” – hence reducing the social distance to the portion of people with higher economic and contributive capacity. However, in order for the differentiation of taxation in levels of essentiality or selectivity occur – which take into account the equivalence of economic and contributive capacities – it is necessary that taxation be fundamentally proportional and progressive (MEIRA, 2014, p. 44). This way, less essential products must have higher aliquots in relation to the more essential ones, or whose consumption is privileged by extra-fiscal matters.

Direct taxation versus indirect taxation

It is important to note that adopting indirect taxing for increasing tributary burden causes irreparable harms to society and to economy, such as, for example, scarcity of goods, products or goods and services which are essential to society, reducing economic activity and investment, while increasing fiscal evasion (MEIRA, 2014, p. 45-46). In addition to that, expanding social expenditure, subsidized or financed by indirect taxation, provokes a regressive process that hit mainly the social layers which do not benefit from such social programs, because they have superior income indicatives to those required for benefitting from the programs (MEIRA, 2014, p. 56). However, the role of taxation in reducing social inequalities is an ambiguous one: on the one hand, it allocates the necessary financial resources towards the expansion of social programs; but, on the other hand, it decreases the effects of such social programs, due to the cited regressive process and the indirect incidence over the consumption of goods and services. Therefore, taxation should be based upon a direct taxation, by therefore

taxing income and patrimony more than production and consumption.

In this sense, we agree with Campello (2014, p. 650) when he asserts that “taxes should be evaluated as an element of the general property system, which they themselves help to create”, given the fact that the State, sustained by taxes, is the fundamental institution for the exercise of the right to ownership and mainly because

[...] appealing to a natural level of the right to ownership, justifier of pre-tributary gross income, would be legitimate as such income is the product of a system from which tax is inseparable. The reason being is that the right to ownership is a consequence of such system, which is maintained by taxes (CAMPELLO, 2014, p. 651).

Besides, direct taxation

[..] (re)creates a linkage of major codifications, in which politics observes the economy and verifies the misalignment between a poor majority and a rich minority, trying to rebalance these factors through replicating communications of capital transfer (through taxes) from the minority to the majority, which work as programs of specific purpose in the economic system (VITA, 2014, p. 666).

That is to say, direct taxation enables recreating forms of capital transfer from capitalized social sectors to non-capitalized ones; in other words, direct taxation, in some sense, enables peripheral and central layers to be balanced (VITA, 2014, p. 666). Additionally, since such distributive solidarity, derived from direct taxation, (re)establishes the conditions for democracy to work, it provides “the conditions for the majority to be heard, since the State must be its representative, even if it must not ever forget the minority” (VITA, 2014, p. 666).

Transparency and control of tax collection

Tributary norms are of social rejection, that is to say, people fulfil tributary obligations because they fear the effects of noncompliance and because they do not like to pay taxes. However, tax collection could be bettered if taxpayers defined the destination of the money, or if the relation between revenues and public expenditure were more transparent, that is to say, where the collected values are being spent on (KANAYAMA, 2014, p. 492). It is then possible to improve tax collection – by diminishing taxpayer’s discomfort – if: (a) the perception of efficient usage of public resources is improved; (b) the discretion of public expenditure is diminished and if, consequently, the public revenue’s linkage (*earmarking*) to effective social expenditure occurs or; (c) there is tributary accountability (KANAYAMA, 2014, p. 492).

In relation to linking public revenues to expenditure, it is necessary to punctuate that, apart from the constitutional *numerus clausus* restriction imposed upon the usage of such diligence, the sole linkage of revenues to certain expenses or social programs does not suffice

for an effective improvement of tax collection to be verified.

It is fundamental that expenses or promised social programs be effectively carried out, that is to say, that the collected resources over a linking rubric are carried out by the Public Power; that the collected resources are added to the values which were previously destined to such expenses or social programs. Otherwise, the measure will be transformed into a mere collecting mechanism and, as time goes by, the popular support of taxation will be revised, which can even lead to the revocation of such measures – see the example of CPMF,¹⁰ which initially had the support of population, since its resources would be destined to improving public health; however, since they were allocated to the defrayal of existing expenses, it lost its popular support and, therefore, its collection was not renewed.

It behooves the State to present, publicly and transparently, the reasons which lead to the institution of a surcharge of taxes, so that society can determine whether or not such reasons are true, legitimate, and constitutional (KANAYAMA, 2014, p. 499). Furthermore, transparency on tax policy would reduce the “profiteering and *developmentist*” pressure and consequently enable a strong reduction of incentive and fiscal benefit systems, as well as greater tributary efficiency through greater isonomy in distributing the tributary cost between the various taxpayers in our economy. It could also improve the legitimacy crisis of 2013, as the population would certify that collected resources are not enough to meet all social demands – especially with how a significant improvement on services of education and health is concerned.

Transparency on the collection-expenditure relationship would avoid the entropy of perceiving the State’s role in post-modern society, since taxation would no longer “be seen as an element of inefficient capital expenditure, but rather an element of freedom, by providing the access to all public services and a network of social protection, with active involvement from the subjects of society (democracy)” (VITA, 2014, p. 665). Also, it would reduce society’s pressure towards the quality of public services provided to citizens and enable society to understand the social progresses and setbacks caused by taxation.

6. CONCLUSION

Even though Brazilian tax collection has become more efficient with the institutionalization of certain mechanisms (*e.g.* the Law of Fiscal Liability – which demands the implementation of management practices and planning in order to stimulate tax collection

¹⁰ Editor’s note to non-Brazilian readers: “CPMF” was a “fiscal contribution”, enforced in Brazil from 1997 to 2007, over virtually every bank transactions.

with adequate and transparent methods), it is necessary to better institutionalize control, transparency, and responsibility of public expenditure in Brazil, so that taxpayers can effectively plan their activities' tributary costs, as well as inspect, charge, and hold administrators responsible for wastage of collected values (NOGUEIRA, 2014, p. 736), thus enabling a more efficient taxation, capable of fostering economic and social development of both current and future generations.

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