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ON TAX PLANNING AND ITS CONNETION WITH CORPORATE GOVERNANCE AND THE ORGANIZATIONAL CYCLE OF THE COMPANY: brief notes

SOBRE O PLANEJAMENTO TRIBUTÁRIO E A SUA LIGAÇÃO COM A GOVERNANÇA CORPORATIVA E O CICLO ORGANIZACIONAL DA EMPRESA: breves apontamentos

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ABSTRACT: This article aims to address the connection between corporate governance, the company's organizational cycle and the tax planning strategy adopted by Brazilian companies. To this end, fundamental concepts on each of these themes will be presented, as well as their interactions and implications in the tax management of companies. In addition, practical cases of alignment of tax planning, corporate governance strategies and organizational cycle of Brazilian companies will be discussed, as well as their respective results in terms of cost reduction and profit maximization. The method used was the bibliographic and documentary review. The partial conclusion reached was that tax planning should be seen as a complementary tool to corporate governance and the company's organizational cycle, and not as an isolated strategy. The integration of these concepts allows the company to reach a higher level of business management, maximizing its results and contributing to the sustainable development of the business and society as a whole.
KEYWORDS: Tax planning. Corporate governance. Organizational life cycle. Tax evasion and tax avoidance. Brazilian companies.

RESUMO: Este artigo almeja abordar a conexão entre a governança corporativa, o ciclo organizacional da empresa e a estratégia de planejamento tributário adotada pelas empresas brasileiras. Para tanto, serão apresentados conceitos fundamentais sobre cada um desses temas, bem como suas interações e implicações na gestão tributária das empresas. Além disso, serão discutidos casos práticos de alinhamento de planejamento tributário, estratégias de governança corporativa e ciclo organizacional de companhias brasileiras, bem como seus respectivos resultados em termos de redução de custos e maximização de lucros. O método utilizado foi o de revisão bibliográfica e documental. A conclusão parcial obtida foi de que o

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planejamento tributário deve ser visto como uma ferramenta complementar à governança corporativa e ao ciclo organizacional da empresa, e não como uma estratégia isolada. A integração desses conceitos permite que a empresa alcance um patamar mais elevado de gestão empresarial, maximizando seus resultados e contribuindo para o desenvolvimento sustentável do negócio e da sociedade como um todo.
PALAVRAS-CHAVE: planejamento tributário; governança corporativa; ciclo de vida organizacional; evasão e elisão fiscal; empresas brasileiras.

Introduction

Tax planning is one of the main tools available so that companies can minimize their tax costs and, consequently, maximize their profits. However, its application must be carefully planned and executed, taking into account not only legal and regulatory requirements, but also the principles of corporate governance and the organizational cycle of the company.

Corporate governance is a set of practices and strategies that aim to improve the management and transparency of companies, protecting the interests of their shareholders and other stakeholders. In this context, tax planning should be seen as a tool that contributes to the effectiveness of corporate governance, allowing the company to comply with its tax obligations and reduce its tax burden in a legal and ethical way.

In addition, the organizational cycle of the company should also be considered in the preparation of tax planning. The company goes through different phases in its life cycle, from its creation to its maturity and eventual decline. At each stage, the company faces different challenges and needs, including tax issues. Therefore, it is essential that tax planning is adapted to the specific needs of each phase of the company's organizational cycle.

In this context, this scientific article aims to analyze the relationship between tax planning, corporate governance and the organizational cycle of the company. To this end, fundamental concepts on each of these themes will be presented, as well as their interactions and implications in the tax management of companies. In addition, practical cases of alignment of tax planning, corporate governance strategies and organizational cycle of Brazilian companies will be discussed, as well as their respective results in terms of cost reduction and profit maximization.

1. Notions about tax planning in Brazil

Tax planning is a common practice in the business world that seeks to minimize the tax burden of a company in a legal way.[1] It consists of analyzing the tax laws and identifying the best strategies to reduce the taxes that a particular company needs to pay.

In Brazil, tax planning is a fairly common practice among companies, since the tax burden is one of the highest in the world. (ANDRADE FILHO, 2015) Because of this, companies are looking for ways to reduce their costs and increase their competitiveness in the market. According to Humberto Bonavides Borges, tax planning is

> [...] a managerial technique that aims to protect industrial operations, mercantile businesses and services, in order to know the tax obligations and charges inserted in each of the respective relevant legal alternatives to, through legitimate means and instruments to adopt the one that enables the annulment, reduction or postponement of the tax burden. (BORGES. 2002, p. 65, free translation)[2]

Tax planning in Brazil involves the analysis of the different forms of taxation, such as the National Simple, Real Profit and Presumed Profit, and the choice of the best option for the company according to its economic activity and billing. In addition, it is important to consider the tax incentives offered by the

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[1] Interesting approach made by Ricardo Lobo Torres: "With the advent of the Fiscal State of Law, which centralizes taxation, the relations between freedom and tribute become, and to this day remain, absolutely essential: the tribute is born in the space opened by the *self-limitation of freedom* and constitutes the *price of freedom*, but by it it is *limited* and can come to oppress it, if it does not contain the *legality*.", free translation. “Com o advento do Estado Fiscal de Direito, que centraliza a fiscalidade, tornam-se, e até hoje se mantém, absolutamente essenciais as relações entre liberdade e tributo: o tributo nasce no espaço aberto pela *autolimitação da liberdade* e constitui o *preço da liberdade*, mas por ela se *limita* e pode chegar a oprimi-la, se não contiver a *legalidade*.”, original text. TORRES, 2013, p. 10.

[2] “[...] uma técnica gerencial que visa proteger as operações industriais, os negócios mercantis e as prestações de serviços, visando conhecer as obrigações e os encargos tributários inseridos em cada uma das respectivas alternativas legais pertinentes para, mediante meios e instrumentos legítimos para adotar aquela que possibilita a anulação, redução ou adiamento do ônus fiscal.” BORGES. 2002, p. 65, original text.

government, such as the Good Law, which allows companies to invest in research and development and reduce the amount of income tax due (BRAZIL. Law n°11.196/05).

However, care must be taken when carrying out tax planning in Brazil, since tax legislation is quite complex and can change frequently. Therefore, it is essential to have the help of professionals specialized in the area, such as accountants and tax lawyers, to ensure that the company complies with tax laws and avoids problems with the tax authorities.

Therefore, tax planning in Brazil is an important practice for companies that wish to reduce their costs and increase their competitiveness, as long as it is done in a legal and ethical way, with the help of professionals specialized in the area. So much so that, according to Hermes Marcelo Huck:

> As essential as economic, technical, commercial, market planning, etc., tax planning is one that aims at efficiency in its field, that is, the lowest tax burden, within the limits of the law. (HUCK, 1997, p. 148, free translation).[3]

In the international literature, there are sometimes several definitions to define *planejamento tributário*, such as tax planning or tax avoidance. The first term, being translated, has the same meaning as planejamento tributário in Portuguese. Tax avoidance, on the other hand, is characterized as a true *evitação de tributos*. Thus, with regard to tax planning, the challenge of the area is that there are no universally accepted definitions or constructs of tax avoidance, tax planning and tax aggressiveness.

The definition of tax planning goes in the direction of reducing the present value of tax payments and, consequently, increases the rate of return after taxes for the investor. That is, tax planning is the method that the taxpayer uses to reduce the tax base in a legal way. Tax evasion could not be considered as tax avoidance, since the former is considered a fraud. In Brazil, especially in the field of Law, the expressions Tax Avoidance and Tax Evasion are different ways of avoiding taxes.

1.1 Tax Evasion and Avoidance

[3] "Tão essencial quanto um planejamento econômico, técnico, comercial, de mercado etc., o planejamento tributário é aquele que visa a eficiência em seu campo, ou seja, o menor ônus tributário, dentro dos limites da lei." HUCK, 1997, p. 148, original text.

Tax evasion is the illegal practice of not paying taxes owed to the state. In other words, it is an unequal distribution of the duty to contribute with taxes due within a democratic society, because it corrupts with tax morality, with the principle of free competition and hurts the principle of equality in the application of the tax norm. (CALIENDO, 2023, p. 588) It occurs when individuals or legal entities omit information or declare values lower than the real ones to reduce their tax burden or simply fail to pay the taxes due (SANTOS. 2010, p.229).

This type of practice is harmful to society as a whole, since taxes are fundamental to the financing of public services and the development of the country. When companies and individuals do not pay the taxes due, the state does not have enough resources to invest in areas such as health, education, security and infrastructure.

Furthermore, tax evasion is an illegal practice and can result in sanctions and punishments such as fines, interest, and even criminal prosecution. Companies that practice tax evasion can also have their reputation damaged, which can negatively affect their business and relationships with customers and suppliers.

Therefore, it is important that companies and individuals are up to date with their tax obligations and fulfill their tax responsibilities. The best way to do this is through tax planning, which is a legal practice that seeks to reduce the tax burden ethically and in compliance with tax laws.

Tax avoidance, which resembles Tax Planning, is about avoiding the occurrence of the generating event or disguising the nature of the constituent elements of the tax obligation (CALIENDO, 2023, p. 588). This can occur in two distinct ways, the first being that which occurs by virtue of the law itself, within the legal limits; and the second for flaws, gaps or loopholes in the legislation.

Tax avoidance is a legal tax planning practice that seeks to reduce the tax burden on companies or individuals ethically and in compliance with tax laws. Unlike tax evasion – which is illegal – tax avoidance uses legal strategies to minimize the tax burden, always seeking the best form of taxation possible. (SAINTS, 2010, p.241).

Tax avoidance involves the use of tax incentives offered by the government, such as the Good Law, which allows companies to invest in research and development and write off the amount of income tax owed. In addition, tax avoidance may also involve choosing the best form of taxation, such as National Simple, Real Profit or Presumed Profit, according to the economic activity and billing of the company.

Although the distinguishing feature of evasion is illegality, there are many grey areas where the dividing line is not clear in practice, and sometimes tax authorities can inappropriately characterise particular cases. Thus, this distinction has its very fine line, given the complexity of the legislation and the openings for interpretations. Thus, Sacha Calmon Navarro Coêlho states that:

> Both in the illicit commissive evasion and in the tax avoidance there is an action of the taxpayer, intentional, with the objective of not paying or paying tribute to a minor. It differentiates them: (a) the nature of the means employed. In illicit evasion the means are always illicit (there will be fraud or simulation of fact, document or legal act. When more than one agent participates, collusion will occur). In elision the means are always lawful because they are not sealed by the legislator; (b) also, the timing of the use of these means. In illicit evasion the distortion of reality occurs at the moment when the legal-tax event (generating fact) occurs or after its occurrence. In the avoidance, the use of the means occurs before the realization of the legal-tax fact, or as Sampaio Dória suggests, before the hypothesis of tax incidence is externalized, because, optionally, the business will take the alternative legal form not described in the law as a presumption of incidence or at least will take the least onerous form. (COÊLHO. 1998, p.174, free translation).[4]

It must be taken into account that if the company does not use all legal opportunities to avoid taxes, it would be like giving a gift to the government, signaling a civic virtue. However, preventing more resources from being directed from the company to the government is also not a sign of an ethical bankruptcy, since no one should pay more taxes than is due, since taxes are compulsory and not voluntary contributions (ROCHA. 2019. p.85).

Although definitions sometimes do not fully converge, tax planning is generally developed into three central themes, known as "all parts, all taxes,

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[4] “Tanto na evasão comissiva ilícita como na elisão fiscal existe uma ação do contribuinte, intencional, com o objetivo de não pagar ou pagar tributo a menor. As diferencia: (a) a natureza dos meios empregados. Na evasão ilícita os meios são sempre ilícitos (haverá fraude ou simulação de fato, documento ou ato jurídico. Quando mais de um agente participar dar-se-á o conluio). Na elisão os meios são sempre lícitos porque não vedados pelo legislador; (b) também, o momento da utilização desses meios. Na evasão ilícita a distorção da realidade ocorre no momento em que ocorre o fato jurígeno-tributário (fato gerador) ou após sua ocorrência. Na elisão, a utilização dos meios ocorre antes da realização do fato jurígeno-tributário, ou como aventa Sampaio Dória, antes que se exteriorize a hipótese de incidência tributária, pois, opcionalmente, o negócio revestirá a forma jurídica alternativa não descrita na lei como pressuposto de incidência ou pelo menos revestirá a forma menos onerosa.” COÊLHO. 1998, p.174, original text.

and all costs." This implies the following: the planner must consider all the tax implications for all parties to the transaction. All parties involved include partners, employees, suppliers, customers and the government itself. It is necessary to analyze how the tax burden affects each of these parties and seek solutions that are beneficial to all.

In this sense, investment and financing decisions should consider not only explicit taxes – the amount of money dismissed to the tax authorities – but also implicit taxes – taxes that are paid indirectly in the form of lower rates of return before taxes on investments with tax benefits. All costs involve not only taxes, but also other costs such as payroll, rent, electricity, among others.

The planner must also recognize that all taxes represent one among many costs of companies. All costs involve not only taxes, but also other costs such as payroll, rent, electricity, among others. It is important to analyze all these costs – which must be considered in the planning process – and look for ways to reduce them in a legal and ethical way.

It seems that we have moved towards a broader concept of tax planning. In the sense that it is considered tax planning any act and / or strategy that aims to reduce the tax burden of companies.

1.2 The Laffer Curve

Some researches, in addition to addressing the "avoidance" of taxes and tax planning, aim to identify companies that have greater fiscal aggressiveness, and therefore aim at the managerial reduction of taxable income through tax planning actions. That is, they are activities whose objective is to reduce the taxable profit of companies. In this sense, the higher the taxation, the greater the incentive to the manager to reduce the taxable profit.

By raising the tax, at the end of the day you decrease people's productivity. And there's even a theoretical curve, the Laffer curve, that shows the effect of taxes, because theoretically the higher the tax, the more someone collects, but to a certain extent: the more someone raises the tax, the less the stimulus for production; Until it reaches a limit, where even increasing the tax rate, the collection tends to decrease. According to Adam Smith,

> [...] High taxes, sometimes because they reduce the consumption of the goods taxed, sometimes because they stimulate smuggling, often bring to the government less revenue than could be obtained with lower taxes. When the decrease in revenue is the effect of the reduction in consumption, there can be only one remedy: to lower the tax. (SMITH, 1998, p.145, free translation)[5]

The Laffer curve is an economic definition that shows how much the government collects from taxes by applying different rates. According to the curve, this relationship is not directly proportional – that is, at a certain point, an increase in taxation would result in lower revenue than before.

His concept was developed by the economist Arthur Laffer, who advocated lowering taxes levied on a society as a way to stimulate the economy. With this measure, lower taxation would indirectly result in an increase in state revenue. From this, it was concluded that the graphical representation between tax rate and tax revenue and would not be an ascending line, but a "curve" facing down – the so-called Laffer curve. (VASCONCELOS SILVA, 2021)

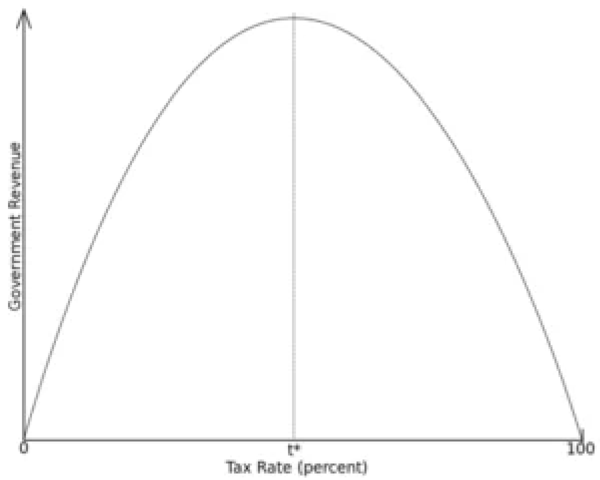

Figura 1 Fonte: Terraço Econômico

The Laffer curve is an economic theory that holds that reducing taxes can increase government tax revenue. It was created in the 1970s and is often used as an argument by tax reduction advocates.

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[5] "[...] impostos altos, às vezes pelo fato de reduzirem o consumo das mercadorias taxadas, às vezes por estimularem o contrabando, frequentemente trazem para o governo uma receita inferior daquela que se poderia obter com impostos mais baixos. Quando a diminuição da receita é efeito da redução do consumo, só pode haver um remédio: diminuir o imposto." SMITH, Adam. 1998, p.145, original text.

The theory of the Laffer curve assumes that, at a certain point, government tax revenue can be maximized by reducing the tax rate. This would occur because, by reducing taxes, there would be an increase in economic activity and, consequently, an increase in the tax base. Thus, even with a lower tax rate, the total collection would be higher.

On the other hand, if the tax rate is too high, it can discourage economic activity and lead to tax evasion, which would result in lower revenue for the government.

Therefore, the Laffer curve is important because it helps to understand the relationship between tax rate and tax collection. Although the theory is controversial, it continues to be used as an argument for tax cuts in several countries.

This moment is used for a provocation: would tax planning, in theory uninteresting/bad for the Treasury and beneficial for private companies, considering the graph shown, not also be beneficial for the State? It is possible that this is precisely the big why, the enabler of the taxpayer to be able to use strategies to reduce the tax burden of the company.

1.3 The phases of tax planning, according to Marco Aurélio Greco

With regard to the motivations of tax planning, in a broad sense and conjecturing all parties, all taxes and all costs, companies have several objectives when resorting to tax planning: linked to the capital market, on the remuneration of managers, regulatory and political costs, incentive plan and complexity of the tax environment and government policies.

The phases listed by Marcus Aurelius Greco, which in fact reflect theoretical positions that coexist historically, are: (1) Freedom, except simulation; (2) Freedom, except pathologies; and (3) Freedom with contributory capacity.

Freedom, except simulation. According to Marco Aurélio Greco, the ideological starting point of the authors who support this position is a view of tribute "as an aggression to individual assets", so that "Tax Law – as a set of rules that regulate the exercise of this power – becomes the shield for the citizen to defend himself against an invasion of the State".

The central point of this phase would be the *absolute freedom according to which the individual can act as he sees fit to dispose of his business, unless the acts are illicit, carried out after the generating event or with simulation* (GRECO. 2011. p.134). It is even argued that the business manager would have a kind of obligation to reduce the tax burden of the legal entity and maximize the profits of the entity.

Another consequence of this model is the perception that there would be a virtually absolute right of self-organization of the taxpayer. According to the author,

> if the Treasury can only charge through closed typicality and strict legality, then everything that is not subject to them will be an area not reached by the tax law, therefore of gap. Thus, when the taxpayer conducts himself within an area of gap can act calmly, because the Treasury cannot object. (GRECO. 2011. p.138, free translation)[6]

Freedom, except pathologies. In this analysis of the one that is pointed out by Greco with the Second Phase of the debate, the author deals with the freedom of tax planning, except for pathologies, which would be the abuse of rights, the fraud to the law and the simulation itself. Marco Aurélio Greco also deals with the abuse of legal forms and indirect legal business. (GRECO. 2011.ps. 194-2002).

Freedom with Contributory Capacity. For Greco, even in a case in which there is no illegality and, also, no pathology is identified, the principle of contributory capacity could authorize the disregard and requalification of the legal acts and transactions practiced by the taxpayer.

> In the third phase, another ingredient is added, which is the principle of contributory capacity that – because it is a constitutional tax principle – ends up eliminating the predominance of freedom, in order to temper it with the social solidarity inherent in the ability to contribute. That is, even if the acts practiced by the taxpayer are lawful, they do not suffer from any pathology; Even if they are absolutely correct in all their aspects (lawfulness, validity) even so the taxpayer can not act in the way he wants, because his action

[6] "Se o Fisco só pode cobrar mediante tipicidade fechada e legalidade estrita, então tudo aquilo que não estiver a elas submetido será uma área não alcançada pela lei tributária, portanto de lacuna. Assim, quando o contribuinte se conduzir dentro de uma área de lacuna poderá agir tranquilo, pois o Fisco nada poderá objetar". GRECO. 2011. p.138, original text.

> must also be seen from the perspective of contributory capacity. (GRECO. 2011. p.319, free translation).[7]

It is a turn in one hundred and eighty degrees in relation to the position defended in the First Phase, and, for Sérgio André da Rocha, the criteria of this Third Phase are not yet applicable. (ROCK. 2019. p. 111).

Further, aiming to reach the scope of the present work, two surveys that were conducted in Brazil will be analyzed, one of them in 2009 and another in 2014, which analyzed the role of corporate governance, or rather, the relationship between good corporate governance practices and tax planning, a theme that also leads to the return on assets and reputation of companies.

2. The levels of tax planning in Brazilian companies, according to good corporate governance practices and the organizational life cycle

Corporate governance is a set of practices and processes that determine how a company is managed and controlled. These practices aim to ensure transparency, ethics, accountability, social responsibility and fair and efficient decision-making within the company. Corporate governance is essential to a company's sustainability and long-term success, as it helps ensure that the interests of all stakeholders are taken into account.

The organizational life cycle of the company is composed of four distinct phases: birth, growth, maturity and decline. In the birth phase, the company is created and begins to develop its initial activities. In the growth phase, the company begins to expand its operations and increase its presence in the market. In the maturity phase, the company reaches its peak of success and stability, remaining competitive in the market. Finally, in the decline phase, the company begins to face financial and operational difficulties, which may lead to

[7] "Na terceira fase, acrescenta-se um outro ingrediente que é o princípio da capacidade contributiva que – por ser um princípio constitucional tributário – acaba por eliminar o predomínio da liberdade, para temperá-la com a solidariedade social inerente à capacidade contributiva. Ou seja, mesmo que os atos praticados pelo contribuinte sejam lícitos, não padeçam de nenhuma patologia; mesmo que estejam absolutamente corretos em todos os seus aspectos (licitude, validade) nem assim o contribuinte pode agir da maneira que bem entender, pois sua ação deverá ser vista também da perspectiva da capacidade contributiva". Cf. GRECO. 2011. p.319, original text.

the closure or restructuring of the company. It is important for companies to be aware of these phases and know how to adapt to each of them to ensure their long-term survival and success. (ADIZES, 1990, p.19).

It is essential to emphasize that, according to the phase of the organizational life cycle in which the company is, it will adopt a different tax planning, with greater or lesser aggressiveness. In this sense, it is necessary to investigate the relationship of companies that adopt good corporate governance practices and their choice for a particular tax planning strategy.

2.1 The influence of good corporate governance practices and their possible relationship with tax planning

Corporate governance practices include the clear definition of roles and responsibilities of board members, the creation of audit and compensation committees, the adoption of transparency and disclosure policies for financial and non-financial information, the implementation of internal controls, and the regular evaluation of the performance of the company and the board. (BOVESPA, *online*).

In addition, corporate governance is also related to the culture of the company and the way it is managed on a daily basis. An ethical business culture, in which the company's values and principles are respected and promoted, is fundamental to ensure the integrity and trust of stakeholders.

The adoption of good corporate governance practices can bring significant benefits to the company, such as increasing investor confidence, reducing risks and costs, improving reputation and attracting talent and customers. In addition, a company that adopts effective corporate governance practices is better prepared to face challenges and crises, as it has a solid decision-making and risk management structure. (IBGC, *online*).

> Corporate governance is the system by which companies and other organizations are directed, monitored and encouraged, involving the relationships between partners, board of directors, board of directors, supervisory and control bodies and other stakeholders. Good corporate governance practices convert basic principles into objective recommendations, aligning interests with the purpose of preserving and optimizing the long-term economic value of the organization, facilitating its access to resources and contributing to the quality of the organization's

> management, its longevity and the common good. (IBGC, *online,* free translation).[8]

Thus, corporate governance is a fundamental element for the success and sustainability of a company. By adopting good governance practices, the company can ensure transparency, ethics and social responsibility, as well as improve its reputation and its ability to face challenges and crises.

Corporate governance is not a fad, but a management improvement system (SILVA, 2012). This is an extremely important act for Brazilian companies, as it helps to ensure transparency, ethics and efficiency in business management. In Brazil, the adoption of these practices is still a challenge for many companies, but it is increasingly recognized as a necessity in order to ensure competitiveness and long-term sustainability.

Its successful implementation has the potential to bring benefits to companies, such as increasing investor confidence, reducing risks and costs, improving reputation, and attracting talent and customers. (IBGC, *online*). In addition, corporate governance can help prevent fraud and irregularities, which is especially important in a country where corruption is a chronic problem.

> There are two main potential benefits that good governance can bring to companies: the external benefits, associated with greater ease of fundraising and reduced cost of capital; and the internal benefits, linked to the improvement of the decision-making process in senior management. (SILVEIRA, 2010, p. 7, free translation).[9]

In Brazil, the Brazilian Corporation Law (Law No. 6,404/76) establishes the basic rules of corporate governance for publicly traded companies, but many privately held companies are also adopting these practices in search of competitive advantages and better results. In addition, the Brazilian Securities and Exchange Commission (CVM) has encouraged the establishment of

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[8] “Governança corporativa é o sistema pelo qual as empresas e demais organizações são dirigidas, monitoradas e incentivadas, envolvendo os relacionamentos entre sócios, conselho de administração, diretoria, órgãos de fiscalização e controle e demais partes interessadas. As boas práticas de governança corporativa convertem princípios básicos em recomendações objetivas, alinhando interesses com a finalidade de preservar e otimizar o valor econômico de longo prazo da organização, facilitando seu acesso a recursos e contribuindo para a qualidade da gestão da organização, sua longevidade e o bem comum”. IBCG, online, original text.

[9] “Existem dois potenciais benefícios principais que a boa governança pode acarretar às empresas: os benefícios externos, associados à maior facilidade de captação de recursos e à redução do custo de capital; e os benefícios internos, vinculados ao aprimoramento do processo decisório na alta gestão”. SILVEIRA, 2010, p. 7, original text.

corporate governance standards through norms and recommendations, such as the Brazilian Code of Corporate Governance.

One of the main challenges to its adoption is cultural resistance, especially in family businesses, which are often managed in an unprofessional and non-transparent manner. However, more and more Brazilian companies are realizing the benefits of this governance model and are adopting these practices in their operations.

Published in the Revista Contemporânea de Contabilidade da UFSC, the following research had as hypothesis that the higher the level of efficiency in tax planning of a company in the presence of good Corporate Governance practices, the lower its risk in relation to the financial market. The data for the research were collected from three specific sources: (a) the data from the reports of statements of added value (DVA) of the Brazilian publicly traded companies listed on the BOVESPA, and that responded to the survey of the magazine Exame, of Editora Abril, called Melhores & Maiores, between the years 2005 and 2009, data that were kindly provided by FIPECAFI/USP, institution that develops the analysis for the accomplishment of this work; (b) the data of the financial reports of the companies, obtained in the database of Economática Brasil, and, (c) the data of the level of corporate governance, according to the classification given by the CVM, obtained on the BM&FBOVESPA page, of the companies that make up the Theoretical Index of Corporate Governance (IGC), prepared and monitored by this institution.

It was concluded that the tax efficiency of an organization, achieved by the successful exercise in tax planning activities, promotes a reduction of its risk in relation to the capital market. It was also evidenced that, in order to achieve efficiency in tax planning, it is essential that companies are transparent in their actions and that there is a perfect alignment of their interests with those of the agents, a situation found in companies that practice corporate governance in their management.

It is emphasized, therefore, that it is not any type of tax planning that leads to the reduction of risk of companies. Those done in an innocuous, obscure, hidden way, aiming at the interest of the managers themselves, who consider purely and simply their short-term bonus, dissonant from the interests of the organization, seem to be perceived by the financial market, and are not offered the same benefit as those carried out within an environment of clarity and governance. (VELLO; MARTINEZ, 2014, ps. 117-140).

The second research, in turn, aimed to identify the relationship of dependence between the different segments of corporate governance and tax planning, segments of corporate governance and return on assets, and finally, tax planning and return on assets.

The database used in this study was generated from information contained in the tool of the *Comdinheiro* website. It was adopted for the collection of variables on the last day of December 2013, and the most liquid classes of shares (preferred or common) of each organization in the analyzed period were also considered, so that there would be no duplication of observations about the same company in the defined period. Companies that did not present all the necessary data for the proper calculations were excluded, leaving the final sample with 207 companies.

In the second survey, the results of the relationship between corporate governance and tax planning (ETR) showed that the chi-square test (x2) independence test was not significant at 10% (p=0.58). Given that no relationship was found from the chi-square independence test (x2), it is not necessary to perform ANACOR. Therefore, it is not plausible to describe any relationship, because these variables may be relating randomly. Regarding the relationship between corporate governance and return on assets, again no significant relationship was found at 10% (p=0.16). Therefore, it is not possible to reject the null hypothesis that there is no association between the categories.

As a result, it can be pointed out that it was not possible to describe the relationship between corporate governance and tax planning, nor between corporate governance and return on assets; however, it was possible to describe a relationship between tax planning and return on assets, in which companies that practice aggressive tax planning relate to low ROA, organizations with moderate tax planning relate to high ROA, and companies that do not opt for tax planning relate to average ROA. (POTIN; SILVA; REINA; SARLO NETO, 2006, ps. 455-478).

Therefore, it was possible to observe that, even though the temporal distance was small, the results obtained by researches made with such similar cutouts were different from each other. Therefore, in order to resolve such discrepancies, it is necessary to consider the effects related to the organizational life cycle of the company.

2.2 The effects of the company's organizational life cycle and its relationship with tax planning

The organizational life cycle of the company is a concept that has been widely studied and applied in business management. It refers to the process of development and evolution of a company over time, from its creation to its eventual decline or closure.

In this way, the cycle is composed of four distinct phases: birth, growth, maturity and decline. Each of these phases is characterized by different challenges, opportunities, and risks, and requires specific strategies and approaches to ensure the survival and success of the company. (FREZATTI; RELVAS; NASCIMENTO; JUNQUEIRA; BIDO, 2010, ps.387)

In the birth phase, the company is created and begins to develop its initial activities. At this stage, the company often has limited resources and faces many challenges, such as lack of funding, lack of brand recognition, and competition from larger companies. To overcome these challenges, it is important that the company has a clear and well-defined strategy, a solid business plan and a dedicated and competent team.

In the growth phase, the company begins to expand its operations and increase its presence in the market. At this stage, the company may be facing challenges such as the need to increase production, expansion into new markets, and competition with other companies. To overcome these challenges, it is important for the company to invest in human resources, technology and marketing, while maintaining a clear focus on its business objectives.

In the maturity phase, the company reaches its peak of success and stability, remaining competitive in the market. At this time, the company may be facing challenges such as the need to maintain innovation, competition with other established companies and the need to maintain the quality of products and services. To overcome these challenges, it is important that the company maintains a culture of innovation, invests in technology and continues to improve its internal processes.

Finally, in the decline phase, the company begins to face financial and operational difficulties, which may lead to the closure or restructuring of the company. Here, the company may face challenges such as lack of demand for the product or service, loss of market share, and competition from larger, more established companies. To overcome these challenges, it is important that the company is able to adapt to market changes, rethink its strategy and seek new opportunities.

> The growth and aging of organizations manifest themselves primarily in the interrelationship of two factors: flexibility and controllability. [...] Organizations when young are quite flexible, but they are not always controllable. As organizations age, this relationship changes. Controllability increases and flexibility decreases. (ADIZES, 1990, p.12, free translation).[10]

In short, the organizational life cycle of the company is a natural process that all companies face. Understanding the different phases of this cycle and knowing how to adapt to each of them is essential to ensure the survival and success of the company in the long term. *The organizational life cycle theory analyzes the phenomena related to the changes in the characteristics of organizations over time and their ability to adapt to the environment* (OLIVEIRA; ESCRIVÃO FILHO, 2009, p.160).

To deepen the understanding between the link between the organizational life cycle of a company and its respective tax planning strategy, we highlight the doctoral research of José Marcos da Silva (USP), supervised by Amaury José Rezende, whose objective was to identify whether the organizational life cycle stage impacts the level of tax planning.

The results indicate that companies in early and advanced stages of the organizational life cycle have higher levels of tax planning than companies in the maturity stage. Considering the tax planning metrics ETR Corrente, BTD and DVA, by life cycle, in the Kruskal Wallis tests, it was obtained that companies in early stages have higher levels of tax planning than companies of maturity. In the Advanced stages, it was found that the ETR Corrente, CashETR

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[10] "O crescimento e o envelhecimento das organizações manifestam-se primordialmente na inter-relação de dois fatores: flexibilidade e controlabilidade. [...] as organizações quando jovens são bastante flexíveis, mas nem sempre são controláveis. À medida que as organizações envelhecem, essa relação se altera. A controlabilidade aumenta e a flexibilidade diminui." ADIZES, 2002, p.2, original text.

and DVA metrics also have higher levels of tax planning than mature companies. The analyses by means of quantile regressions reaffirm these results for the BTD and Current ETR metrics.

These findings lead to the conclusion that early-stage companies have lower reputational costs due to a greater propensity to risk, due to their market share not yet being consolidated. Companies in advanced stages, given the low investment opportunities, adopt less defensive strategies, since in these stages they do not have favorable financial and economic conditions to raise funds, because the assets are already depreciated and do not serve as real collateral.

Therefore, the adoption of tax planning in the companies analyzed indicate that there is a relationship between the economic and financial particularities of the companies, classified by the stages of the life cycle, with the tax strategies adopted to obtain tax savings.

Tax planning is a strategy that companies can adopt to minimize the impacts of taxes on their finances and maximize their profits. However, tax planning must be tailored to the specific needs of each company in its phase of the organizational life cycle.

For example, a company in the growth phase may benefit from tax strategies that encourage investment in new projects and expansion, such as the use of tax incentives and special tax regimes. A company in the maturity phase can focus on reducing its tax costs, through strategies such as the reorganization of its business structure or the use of tax benefits to reduce its tax burden.

Therefore, the relationship between a company's organizational life cycle and tax planning is narrow and should be carefully considered by the company's accounting and finance managers and professionals. Planning and adjusting tax strategies according to the needs of each phase of the life cycle can help the company overcome challenges positively and remain competitive in the market.

2.3 Making necessary comments between tax planning and tax reform

In this area, it is possible to draw a parallel with the tax reform with regard to the tax planning of companies.

The tax reform can be roughly summarized as a proposal to change the laws in force in the country that will determine the form of collection of taxes, fees and taxes to be paid by taxpayers, so that the taxation system undergoes modernizations and possible corrections of problems of an economic and social nature.

In this sense, there is the Proposal for Constitutional Amendment (PEC) No. 45/2019 in progress in the Chamber of Deputies, which intends to propose the replacement of five distinct taxes – being them PIS, COFINS, IPI, ICMS and ISS – by a single tax to be called Goods and Services Tax (IBS), to be complemented by a federal selective tax to be determined.

In addition to this, there is also PEC No. 110/2019, pending in the Federal Senate, proposing the creation of a state tax with the same purpose as the IBS, but which in turn would replace nine other taxes – namely, IPI, IOF, PIS, Pasep, COFINS, Cide-fuel, Salary-Education, ICMS and ISS –, having a rate later fixed by Complementary Law.

In both PECs, the amendment of the National Tax System would have as its central objective, therefore, *the simplification and rationalization of taxation on the production and marketing of goods and the provision of services, a tax base currently shared by the Union, States, Federal District and Municipalities*. In other words, the PECs propose the extinction of multiple taxes to consolidate the tax bases into two new taxes: a) IBS, based on the way in which value-added taxes are collected in most developed countries; and b) selective tax, which falls specifically on some goods and services. (CHAMBER OF DEPUTIES, *online*).

The impact of this reform on the tax planning of a company, in theory, would be to modernize, as I have said before, the collection of taxes that, instead of being segmented into several different ones, would culminate in the establishment and collection of a single tax.

The aim of this is to make the tax system more eficiente,[11] which is a characteristic so fundamental to preserve the balance in competition and maintain the competitiveness of companies.

[11] Working with concepts of efficiency is essential to current law in general. In this sense, it is recommended for deepening: JOBIM, 2018; FREITAS, 2014; e ALFF, 2021.

Prioritizing simplification in the face of the complexity that we have today would make it easier for companies to have better access to the categories of collections and contributions that should be made, making not only the collection more efficient but also the tax planning act of each company in an ethical and legal way.

Since 1995, the National Confederation of Industry (CNI) indicates the complexity and difficulty of monitoring the national tax system as one of the biggest factors of inconvenience and objection of the productive sector. The CNI argues that, with the reform, the simplification of the rearrangement of taxes currently paid is one of the main factors of modernization in favor of maintaining the competitiveness of companies, which favors transparency of their activities and encourages economic growth. (CONFEDERAÇÃO NACIONAL DA INDÚSTRIA, *online*)

Final considerations

Given the above, it is concluded that tax planning is a fundamental tool for the efficient and sustainable management of companies, allowing them to comply with their tax obligations and maximize their profits in a legal and ethical way. For this, its application must be carefully planned and executed, taking into account not only the legal and regulatory requirements, but also the principles of corporate governance and the organizational cycle of the company.

Corporate governance is a concept that has gained more and more relevance in business management, as it allows companies to be more transparent, efficient and responsible towards their stakeholders. In this context, tax planning can contribute to the effectiveness of corporate governance, allowing the company to comply with its tax obligations and reduce its tax burden in a legal and ethical way, without compromising its reputation or its relationship with stakeholders.

Furthermore, adapting tax planning to the specific needs of each phase of the company's organizational cycle is essential to ensure the effectiveness of tax strategies. The company goes through different phases in its life cycle, each with its own challenges and needs. That said, it is critical that tax planning is adjusted to the specific needs of each phase, allowing the company to maximize its profits and remain competitive in the market.

In this context, tax planning should be seen as a complementary tool to corporate governance and the company's organizational cycle, and not as an isolated strategy. The integration of these concepts allows the company to reach a higher level of business management, maximizing its results and contributing to the sustainable development of the business and society as a whole.

Finally, it is important to note that with tax reform, regardless of which proposals or projects come into force, the way in which companies' tax plans are currently done would undergo changes. What is expected with this is that the standard that we have today will assume a more cost-effective characteristic for the maintenance of the competitiveness of companies and, therefore, encouraging the development of a more efficient tax system.

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