The neutrality principle and the economic efficiency of tax policy: an exploratory study of the legal-economic approach

O princípio da neutralidade e a eficiência económica da política fiscal: um estudo exploratório da abordagem jurídico-económica

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Abstract
This study explores the relationship between economic efficiency and the principle of fiscal neutrality and seeks to analyse the application of these concepts in public policy. Economic efficiency is considered one of the main objectives of tax policy and aims at the optimal allocation of public resources. The principle of neutrality seeks to avoid, in response to the effect of tax law enforcement, the existence of distortions in the economy and agents' behaviour. Legal-economic analysis is used to evaluate tax policies, considering the impact of legal rules on decisions and preferences. On the other hand, harmonising efficiency and neutrality criteria are currently considered a real challenge and essential for an exemplary implementation of tax policy. However, it is recognised that no tax is entirely neutral and ex-ante and ex-post analysis is critical to assessing the effectiveness of tax policies.


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Resumo
O estudo explora a relação entre a neutralidade fiscal e a eficiência económica na política fiscal contemporânea. A neutralidade fiscal, que estabelece que a tributação não deve ter impacto nas decisões económicas, é um princípio fundamental dos sistemas fiscais. No entanto, a eficiência económica visa otimizar a afetação de recursos e o bem-estar da sociedade, exigindo frequentemente estruturas fiscais que minimizem os desincentivos e as ineficiências. Encontrar um equilíbrio entre estes princípios é crucial para o desenvolvimento de políticas fiscais. A procura da neutralidade fiscal pode significar o sacrifício de medidas que aumentem a eficiência, enquanto que a prioridade à eficiência pode resultar em desigualdades. Os responsáveis políticos devem conciliar estes objetivos, tendo simultaneamente em conta as necessidades da sociedade e a justiça distributiva. O ensaio analisa a forma como a eficiência económica e a neutralidade orçamental são aplicadas nas políticas públicas, sendo a eficiência económica um objetivo primordial da política orçamental para otimizar a afetação dos recursos públicos. O princípio da neutralidade fiscal visa evitar distorções na economia e no comportamento dos indivíduos em resposta às leis fiscais. Para aprofundar estes conceitos, é utilizada uma análise jurídico-económica.


Introduction

From the state's point of view, the main objective of fiscal policy is to increase public revenues (Soares, 2021, p. 119) and thus increase the financial resources available for public expenditure. However, measuring the efficiency of general revenue collection remains a scientific challenge at present (Mandl, Dierx, & Ilzkovitz, 2008, p. 2). According to tax theory, tax policy should allow the State to determine the tax revenue that can be collected in each economic year to enable better management of public expenditure and, eventually, better redistribution of income and wealth (Leijon, 2015, p. 4). According to Hansson and Henrekson (1996, p. 95), one of the main objectives of tax policies is to increase revenue collection while at the same time not negatively affecting the behaviour of economic agents. For the theory, in addition to affecting agents' behaviour, taxation also aims to correct market inefficiencies (Catarino, 2020, p. 205).
The effect of taxes on the behaviour of economic agents is relevant for analysing the principle of fiscal neutrality (Franco, 2011, p. 7) and the economic efficiency criterion for three reasons (Lang, 2008, p. 337). First, the elusive response of agents to changes in tax rates directly affects tax revenue and requires successive changes in the law to prevent illegitimate tax avoidance. Second, economic efficiency is directly dependent on the behaviour of economic agents, i.e., how they react to changes in tax law. And third, agents' behaviour is relevant for understanding the short-term economic effects of tax changes.

It is in this sense that, at the level of agents' decisions, tax theory argues that the economic effects of tax law should be as restricted as possible to avoid distortions of competition as much as possible. Indeed, the principle of neutrality argues that the tax system should be as neutral as possible (Börsch-Supan, & Quinn, 2018, p. 207). Public tax policies affect the behaviour of economic agents, and these, in turn, act to minimise the impact of the tax, thus affecting their choices. That is why, for Hansson and Henrekson, from this point of view, the best tax policies are those that do not produce any distortion in the choices of those agents (Hansson, & Henriksen, 1996, p. 95).

In addition to the principle of neutrality, other budgetary principles must also observe public policy of a fiscal nature (Leijon, 2015, p. 5). In this logic, Bamforth (1997, p. 135) states that the focus of neutrality should be kept together with the equality concept, which has been crucial for the growth of society and the tax system. Ultimately, for Peacock and Shaw (1974, p. 22), the impact of these principles depends directly on the choice of socio-economic objectives of political actors. The doctrine's lack of transparency (Graycar, 2020, p 155) and technical knowledge (Pickhardt, & Prinz, 2012, p. 81) of tax principles makes it challenging to pursue tax policy objectives. In this sense, we argue that a better perception of the principle of neutrality by public decision-makers strengthens the chances of successful implementation of tax policy, starting with the proposed objectives, such as compliance with current tax rules.

For doctrine, there are four basic principles of analysing fiscal policies: rationality (Komesar, 2001, p. 181), determination (Rosara, 2012, p. 134), effects (Avbelj, & Komárek, 2012, p. 242) and evaluation of decisions (Engelbrecht, & Nergelius, 2009, p. 232).

This essay deals with the valuation assumption and seeks to analyse the hypothesis of interconnection between the principle of fiscal neutrality and the criteria of economic efficiency through the legal-economic perspective. On the other hand, it aims to observe how institutional standards can influence financial decisions. This influence seems essential in discussing the neutrality principle and can be distortive and undesirable. Finally, the study...
assumes that the focus of neutrality, as a guiding principle of tax policy, corresponds to maximising efficiency.

**Economic Efficiency and Economic Analysis of Law**

Today, economic efficiency is a crucial term for economics and law. For Schäfer and Ott (2004, p. 8), the concept of efficiency is not related to the resources available but to the objectives to be pursued. According to the authors, a given economy is efficient if, and only if, under a given economic, social and political context, it is impossible to increase any individual's welfare without simultaneously worsening the situation of another, in line with Pareto's thinking (Schäfer, & Ott, 2004, p. 8). The Pareto optimum corresponds to an allocation of economic resources to one agent, beyond which it is not possible to make another reallocation without the loss of welfare of another. Resource allocations realised in these terms are those in which it is impossible to improve one individual's situation without harming another's situation.

Economic doctrine thus argues that in a situation of economic efficiency, the distribution of resources by society has reached its highest utility level (Costa, 2010, p. 18). On the other hand, the theory also argues that economics is centred on the perspective that economic man always acts rationally, that is, that actors, public and private, seek to maximise their utility, welfare or interests (Figueiró, & Seganfredo, 2021, p.187). Correlatively, according to Dominioni (2000, p. 17), one of the main objectives of the legal system is to maximise social utility and welfare. However, Kaplow and Shavell (1999, p. 78) point out that one of the main criticisms of the normative economic analysis theory is the excessive focus on efficiency, neglecting the problem of income redistribution.

The concept of efficiency, for the present study, corresponds to the situation in which it is now impossible to increase anyone's welfare of any individual without worsening the condition of another (Schäfer, & Ott, 2004, p. 8). Efficiency is one of the most relevant concepts for theory, and one of the operational difficulties of its application is to know "how" and "when" efficiency is achieved (Li, 2013, p. 125). According to classical economic doctrine, the best way to allocate resources and direct the rationality of agents in situations of scarcity is in which the economy can give the available resources according to the Pareto principle and the Kaldor-Hicks theory. Both theories are close in their objectives, the best allocation of scarce resources; however, the Kaldor-Hicks theory defends the possibility of developing a model of social compensation for the injured agent (Botelho, 2016, p. 31).
The normative perspective assumes that the case law should make 'economic' judgments by assessing legal rules to analyse whether they contribute to the efficient allocation of resources (Meyerson, 2009, p. 99). Indeed, the doctrine argues that economic analysis from the normative perspective aims to apply the normative system efficiently (Schäfer, & Ott, 2004, p. 3).

For Kaplow and Shavell (1999, p. 78), despite the visible advantages of applying normative analysis to economics, it is possible to find authors who strongly criticise the study and claim that agents (collective and individual) do not always respond to and respect legal rules as rational and welfare-maximising agents. In the light of agency theory, agents seek to maximise their welfare by circumventing the law (Pavel, 2021, pp. 73-74). Although the theoretical foundations of the normative analysis of the economy are, to a certain extent, debatable, especially in terms of the behaviour of agents, it is indisputable that one of its main objectives is to achieve economic efficiency through the better allocation of resources (Islam, & Yeemak, 2006, p. 57) and a better standardisation of the application of legal regulations (Pistor, 2002, p. 97).

According to Kaplow and Shavell (1999, p. 4), the basic goals of economic analysis of law are to address two fundamental inquiries regarding legal principles. The first is about how laws and other rules affect how people behave. The second focuses on the results of legally acceptable social norms. The doctrine states that Bentham's research served to define the field of analysis of this body of knowledge (Rodi, 2014, p. 4).

According to Kaplow and Shavell (1999, p. 4), the economic analysis of law evolved slowly until 1960 and resurfaced with four major studies' publications. The first significant contribution to the development of the financial analysis of law comes from the work developed by Coase, which emphasised the efficient allocation of public resources and considered externalities as a factor of economic inefficiency, but which could be corrected through negotiation between the affected parties, provided that transaction costs were reduced (Kessler, & Rubinfeld, 2007, p. 349). For Porto, Coase's most significant theoretical contribution stems from the relationship between the analysis of the behaviour of individuals and the theory of rational choice, that is, if, on the one hand, it is necessary to regulate the actions of agents, on the other hand, it is also indispensable to understand their nature (Porto, 2019, p. 25). The second contribution to this sub-area of knowledge stems from the work of Becker, a pioneer in the relationship between microeconomic analysis tools and human behaviour in committing crimes and applying the law (Becker, 1974, p. 1063). Another important work for the development of the economic analysis of law was developed by the
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authors Calabresi and Melamed at the level of rules, and they start from the assumption that business can be carried out without any associated transaction cost for both parties (Ratnapala, 2017, p. 356).

Last but not least, Posner's essays propose the adoption of economic consequentialism to normative analysis (Posner, 2003, p. 63). For the author, the proposal to interpret and apply economic pragmatism to the study of law assumes that it can be examined through its practical consequences, even if, hypothetically, it may dilute the legal reality in the economic one (Posner, 2003, p. 63).

For Mordfin and Nagorsky (2011, p. 8), research from the perspective of the economic analysis of law has been growing since 1970 and has acquired an increasing number of supporters. According to Schäfer and Ott (2004, p. 11), it is possible to limit the research area of the economic analysis of law into four parts: i) the rights distribution in society, as well as the structure and history of the legal system; ii) the impact of legal structure on the efficiency of normative allocation of resources; iii) the circumstances required for the creation of effective legal systems; and, iv) how to construct effective legal frameworks.

At the core of the economic analysis of law, in the perspective of Hiort and Leijon, is the analysis of the normative effects on the decisions and preferences of agents with a given income to obtain the best possible result (Hiort, & Leijon, 2015, p. 3). In this sense, Schäfer and Ott state that one of the main issues of this methodology is to analyse how society can allocate scarce public resources efficiently through the legal framework to obtain the best possible collective satisfaction (Schäfer, & Ott, 2004, p. 3).

**Economic Efficiency and the Principle of Neutrality in tax Policy**

One of legislators' main concerns is maximising the efficiency of legal rules (Trachtman, 2004, 51). This conception stems from the idea that the legal man is also a rational, selfish actor who seeks to maximise individual utility as a consumer and profit as a producer (Schäfer, & Ott, 2004, p. 51).

Economic efficiency does not necessarily have to be equivalent to the principle of fairness or equality. According to the theory, it involves the end result and does not concern rights, i.e., society can be efficient and unjust, thereby undermining the principles of justice and fairness (Garcia, 2012, p. 7). Efficiency is one of the principles Smith defines and results when the most excellent possible satisfaction is achieved from a given number of available resources (Smith, 1996 [1776], p. 282). Economic efficiency, therefore, is achieved when it is
not possible to increase the satisfaction of collective needs by providing more of one public service and less of another.

According to the doctrine, there are several ways of allocating resources to make a given tax consistent with the principles of equity and justice (Schäfer, & Ott, 2004, p. 11). For Schäfer and Ott, these allocation forms can be achieved through instruments available to public actors, such as the administrative process, political decision-making and negotiation situations (Schäfer, & Ott, 2004, p. 11).

According to McLure, Mutti, Thuronyi and Zodrow (2008, p. 302), defining a given tax rule as inefficient means that it is distortive. Thus, it is essential to analyse whether the tax objective is not distortive and ineffective and for political actors to ensure that the goal is neutral and that the criteria of equity and justice are met. Neutrality, therefore, directs tax policies towards efficiency (Soares, 2014, p. 25) and non-distortion (Postali, 2002, p. 228).

Regarding efficiency, economic theory has established the rules for a fiscal policy to be considered efficient. The first concerns the Pareto optimum (Schäfer, & Ott, 2004, p. 23), and the second the Kaldor-Hicks efficiency (Schäfer, & Ott, 2004, p. 28). The first rule (neutrality) occurs when improving a given person's situation necessarily causes a worsening problem for at least one other person (Schäfer, & Ott, 2004, p. 28). The second rule (efficiency) happens when actors decide in favour of a target group and simultaneously compensate another group with different preferences for the adverse effects of the decision (Schäfer, & Ott, 2004, p. 28). However, one of the problems with these rules is that they both disregard ideas of social justice.

As mentioned above, this essay aims to analyse the relationship between efficiency and the neutrality principle since we believe that neutrality is one of the intrinsic elements of efficiency maximisation.

For Bauer, Kourouxous and Krenn (2018, p. 41), the tax system should not affect agents' actions but direct them to adopt behaviours adjusted to the tax. On the other hand, they also argue that taxation should be produced so that taxpayers act as if there were no taxes (economic criterion of neutral taxation).

The tax system operates through two main elements: the tax base and tax rates. One of the tenets of economic theory is that tax policies shouldn’t have an impact on the effectiveness of production (Devereux, Auerbach, & Keen, 2020, p. 47). For Eskeland (2000, p. 16), productive efficiency is achieved by obtaining identical or similar rates of return. Kaldor, in turn, argues that the tax effect also directly affects the margin of return on public investment (APEC, 1983, p. 84).
As Baren (2011, p. 31) points out, the existence of arbitrary tax rules or different tax rates for the same tax base tends to distort the efficiency of tax revenue collection and, consequently, influence the decisions of public actors regarding the definition and implementation of the tax system (Le, Moreno-Dodson, & Bayraktar, 2012, p. 26). In principle, Auerbach and Smetters believes that the expenditure tax is the most technically efficient since it affects consumption behaviour and tends to increase the tax revenue collected (Auerbach, & Smetters, 2017, p. 153). A sound tax system is one in which taxes do not distort agents' decisions (O’Neill, & Orr, 2018, p. 19) and, conversely, do not affect the level and quantity of revenue collected (Soares, 2021, p. 205).

All tax systems cause some distortion since they aim, to some extent, at other ends, such as the redistribution of wealth and income (Diamond, & Vartiainen, 2012, p. 17). In this context of the existence of distortive tax systems, the doctrine has incessantly sought to design tax structures that minimise distortions. According to Devereux, Auerbach and Keen, if it were possible to create a tax system in which taxes did not distort the decision-making processes of economic agents, we would have an optimal tax system (Devereux, Auerbach, & Keen, 2020, p. 46). In Pinheiro's view, one of the problems associated with the desire to maintain the level of tax revenue stems from applying taxes that produce insufficient levels of income, which create distortions in the economy, jeopardising economic growth without solving the tax revenue issue (Pinheiro, 2009, p. 27).

For Diamond and Mirrlees (1971, p. 261), a tax is neutral when, theoretically, it can avoid distortion and inefficiency altogether. That is when agents are not forced to choose between two options that present the same level of return and risk before the tax is applied (Kanake, Kuria, Kimathi, & Kibera, 2023, p. 545). Thus, the tax is neutral, and the effect of the tax burden on total revenue collection is zero when disposable income and propensity to consume are critical variables for the level of tax revenue collection.

Authors such as Raskolnikov (2013, p. 545) recognise the difficulties of using and harmonising economics and law analysis methods in tax policy. Others argue that methodological harmonisation is feasible and consists of a four-stage analysis (Leijon, 2015, p. 18). According to Schäfer and Ott (2004, p. 11), tax policies should be assessed according to the nature and origin of the legal system, how the distribution of rights and burdens in society is realised and how legal structures can or cannot be implemented efficiently.

However, some of the fundamental objectives of the tax system, historically defined by Adam Smith, can be identified in Sweden's tax reform in 1991 (Norman, & McClure, 1997, p. 109). This is one of the most significant reforms undertaken by industrialised countries in
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the post-WWII period (Lindberg, 2013, p. 4). It adopted the strategy of reducing tax rates and broadening the tax base and affected a wide range of tax and economic benefits more or less substantially (Lindberg, 2013, p. 643). For the Swedish doctrine, the lack of a level playing field between public and private actors led to substantial losses of efficiency in applying tax rules and, consequently, revenue (Lindberg, 2013, p. 644). The overall objective was to achieve more economically efficient taxation (Hiort, & Leijon, 2015, p. 19). In addition to the general aim of fostering economic efficiency, it was also intended, within the limits possible, to reduce efficiency losses in the markets, especially in terms of tax revenue collection (Agénor, 2000, p. 557).

Indeed, tax policy is nowadays strongly related to income distribution, and legal-economic analysis quantifies the effects of tax changes proposed by policy actors on income distribution. The methodology can also be applied to other public policy areas or proposals.

Regarding the neutrality and uniformity of applying tax rules, the doctrine argues that both are difficult to define and measure (Brewer, & Picus, 2014, p. 349). The theory suggests that estimating the cost of tax distortions (Guiso, Haliassos, & Jappelli, 2002, p. 139) and efficiency costs (Stimmelmayr, 2007, p. 3) is one method of assessing the tax system's neutrality. Hiort and Leijon argue that neutrality gains can be achieved by broadening the tax base, identifying and evaluating tax expenditures, and reducing tax rates, especially those on consumption (Soares, 2021, p. 8).

As mentioned above, the doctrine suggests the adoption of four fundamental assumptions for reasonable taxation and an efficient legal structure (Hiort, & Leijon, 2015, p. 21). In reality, it isn't easy to find a single scientific answer to the question of how it is possible to design and implement a legal structure that is truly efficient. However, one of the most consensual elements in creating an efficient tax system is the principle of neutrality, fairness (Klosko, 2010, p. 86) and equality (Wolff, 2011, p. 611). We thus observe in these three principles, efficiency, impartiality and equity, the assumptions of reasonable taxation as defined by Adam Smith, i.e., tax should be applied identically, in a certain way, as little onerous for taxpayers as possible and, finally, in the most convenient way possible.

The Criteria of Neutrality and Economic Efficiency in Current Tax Policy

In our view, efficiency, according to the Institute of Applied Economic Research (1996, p. 388), reflects the effort, commitment, and ability of the tax administration to collect taxes and, on the other hand, the administrative resources that are allocated to their collection, with
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the lowest possible consumption of public resources. Efficiency also reflects the way in which taxes affect the decisions of economic agents (Pereira, 2018, p. 75). However, as the theory argues, we believe that greater tax collection capacity by the tax administration is not synonymous with maximum collection efficiency (Machado, 2006, p. 53).

Pereira (2018, p. 75) argues that taxes affect the efficiency of the tax system in various ways. Thus, in order for the tax system to be efficient, tax policies must seek to minimise the interference of taxes on the decisions of economic agents and promote the efficient correction of negative externalities. In fact, having examined the arguments of the doctrine, we can see that the absence of neutrality in current tax systems is a strong argument for political actors to make the respective corrections to the market since markets are not capable of optimising the allocation of resources (Jost, 2003, p. 46).

From our perspective, the principle of neutrality is related to the criterion of efficiency, which is only achieved if the tax system is truly neutral (Soares, 2014, p. 24). The aim of the principle is to ensure that the tax is as undistorting as possible because an efficient tax system is one of the instruments of state action to promote development, cohesion, the reduction of inequalities, and the active fight against exclusion (Silva, 2010, p. 23).

Taxes should be neutral, and neutrality should contribute to the efficiency of collection and ensure the best possible allocation of resources (OECD, 2014, p. 30). From the perspective of the OECD (2014, p. 30), tax distortion results when changes made through taxes produce changes in supply and demand that are different from those that would occur in the absence of the tax. In our opinion, neutrality implies that the tax system increases revenue and, at the same time, reduces discrimination in favour of or against any type of economic option. On the other hand, the principle stems from the view that tax principles should be applied equally to all forms of economic relationships without jeopardising the uniform and neutral application of tax law (OECD, 2014, p. 30).

In fact, neutrality refers to the attempt to reduce the effect of tax law on the decisions of economic agents, companies, or citizens, and one of the main objectives of taxes, regardless of their nature, is to increase tax revenue, develop equality of subjection to tax law, and reduce its influence on economic decision-making processes. (AICPA, 2001, p. 7).

The principle of neutrality portrays the attempt to reduce the existence of disparities in tax treatment between economic agents, exchanges, and rates on the part of the law (Lang, Melz, & Kristoffersson, 2009, pp. 203-204). In its absence, it leads to market distortions and, due to its nature, can only be interpreted in a given territory (Lang, Melz, & Kristoffersson, 2009, p. 204).
The principle of neutrality establishes a value (Caliendo, 2008, p. 113) and an end (Salanié, 2003, p. 59), namely to minimise the effects of taxation on people's decisions and choices in order to prevent distortions and inefficiencies in the market (Faveiro, 1984, p. 95). Neutrality is essential for producing a more economically efficient tax system (Smith, 1996, p. 282). Stiglitz, Ocampo, Spiegel, French-Davis, and Nayyar (2006, pp. 75–76), in turn, add the role of fiscal stabilisation, i.e., the ability of tax systems to adapt to economic cycles and fluctuations, and the objectives of neutrality.

In our view, like Faveiro's (1984, p. 95), neutrality is based on the need to discipline economic relations by establishing rules for resolving conflicts and imposing constraints on the freedom of action of economic agents. On the other hand, it is not an absolute principle and is based on tax exemption (as far as possible), respecting the absence of any kind of action to stimulate or penalise factors of production, the allocation of resources, or the tendency towards consumption, i.e., the tax must not alter or deviate from natural economic laws (Faveiro, 1984, p. 95). In fact, the principle has never been fully applied, and over time, it has lost prominence (Faveiro, 1984, p. 95).

In view of the above, the principle of neutrality, as well as complementing the criterion of economic efficiency, is also complementary to the principle of freedom of fiscal management, i.e., freedom of fiscal management is only materialised if the principle of neutrality is in force (Nabais, 2010, p. 19). At the level of the tax system, neutrality should tax all forms of income in the same way (Nunes, 2001, p. 46), and in our understanding, all consumption, regardless of the economic activity of the individuals. Currently, the principle has the same level of importance in the tax system as the principle of tax justice (Caliendo, 2008, p. 116).

**Final Considerations**

In this research, we have discussed the requirements for economic efficiency and any potential connections to the fiscal neutrality concept. On the other hand, we have analysed the requirements of economic efficiency from a legal-economic perspective.

We concluded that a good tax policy requires a set of objectives other than economic efficiency, such as the principles of neutrality, simplicity and equity. Tax policy that considers these principles thus tends to be closer to the maxims of reasonable taxation formulated by the economist Adam Smith. In assessing the efficiency criterion and the possible interrelationship between the benchmark and the principle of fiscal neutrality, we conclude...
that the relationship corresponds to the Pareto efficiency, also known as the Pareto optimum and should also be considered the economic efficiency of taxes.

Assuming that public agents also act rationally, economic efficiency applies to tax collection and can be divided into three parts. The first part relates to the efficiency of tax collection, the second to the efficiency of revenue allocation by public actors and the third corresponds to the interaction between the efficiency of tax collection and the way they are spent on public policies.

Public efficiency, in addition to an economic criterion, is also a mechanism for creating possibilities for public actors to act by Pareto efficiency towards a more efficient and reciprocally advantageous financial condition. That is, the principle of neutrality is not simply a legal assumption and should be seen as stemming from economic theory. A tax policy founded on neutrality is a non-distortive and economically more efficient policy.

Distortion in implementing the tax system is likely to affect the behaviour of economic agents and may also produce situations of tax inequality. One of the ways to develop and implement tax policies that are neutral and do not cause distortions is to adopt the assumptions of the theory of optimal taxation (Ferrara, 2010, p. 5) or Ramsey's fair tax system (Pratt, 2021, p. 21). However, as in any theoretical framework, in the study of tax policies, the principle of neutrality is not the only essential factor for creating and implementing a sound tax system. Nowadays, there is also a political will to formulate tax policies to keep them in line with other extra-tax objectives, such as the fair distribution of public resources, the proper application of the tax and adequate equity in the distribution of the tax burden.

For the policymaker to determine whether a given tax is distortive or not, there are several factors that, according to the doctrine, need to be assessed, i.e., a prior analysis of the possible effects of the tax base and tax rates becomes essential. On this point, Kirchler, Maciejovisky and Schnider argue that it is well-known among academics that legal provisions, such as the tax base, affect the actions of economic agents, both public and private (Golding, & Edmundson, 2008, p. 78). When political actors decide on the tax base, they seek not only to define the notion of income but also to ensure that all incomes are taxed similarly to cancel out the effects of transaction costs (a possible solution is the deduction of transaction costs).

Another factor that jeopardises the neutrality and efficiency of the tax concerns advance payments of tax (deferrals on account, special payments on account and additional payments on account). Due to the circumstances, certain taxable individuals are required to pay the tax, while others are required to apply for a deferment for the whole amount of the tax. Since this disparity is likely to have an impact on how economic agents behave and make decisions, it
should be as small as possible. In addition to the timing of the tax payment by taxable persons, the tax deduction rules for depreciation and amortisation of assets are likely to affect and produce unfounded inequalities. The same behaviour is also visible in tax expenditures. If tax rules influence agents' actions, then taxes are distortive.

When assessing the neutrality of the tax, non-Pigouvian (not aiming at market corrections), a broad legal-economic analysis should be conducted that considers the effects of tax rules and consumer behaviour. A possible indicator of a lack of tax neutrality is when taxpayers adjust their behaviour in line with tax legislation to gain from tax rules. These adjustments of agents' actions directly affect the efficiency of tax revenue collection.

The doctrine repeatedly accepts the value of the principle of neutrality. However, there is no neutral tax that does not influence the market and does not incite disturbances in agents' decision-making (Boettke, 2014, p. 381). However, there are cases in which public intervention is justified to correct market failures, and, in this sense, Pigouvian taxes are essential despite their influence on the efficiency of tax revenue collection.

Finally, it is also possible to conclude that it is essential to maintain, ex-ante, the tax system by the principle of neutrality, equity and efficiency and, ex-post, the effects of taxes on the behaviour of tax revenue collection and the actions of economic agents, verifying whether taxes are neutral or not.

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