Revista Brasileira de Políticas Públicas e Internacionais

# The policy and control of tax expenditures in the light of the Federal Constitution and the Fiscal Responsibility Law: a case study of the Government of the State of Ceará.

*A política e o controle dos gastos tributários à luz da Constituição Federal e da Lei de Responsabilidade Fiscal: estudo de caso do Governo do Estado do Ceará*

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*DOI: [10.22478/ufpb.2525-5584.2022v7n1.61070]*

*Recebido em: 06/10/2021*
*Aprovado em: 06/06/2022*

**Abstract:** The revenue waiver policy of the government of the state of Ceará moved in 2019 the amount of R$ 1,106 billion reais in 2019 and R$ 1. 204 billion by 2020. These values are based on the estimate contained in the Annual Budget Law - LOA, and in 2019, the amount effectively waived was R$ 1,227 billion reais. We emphasize that these values refer exclusively to the waivers made under the Industrial Development Fund - IDI, however, no other waivers were evidenced. Thus, the objective of the article is to evaluate the policy of revenue waiver within the State of Ceará. The methodology used was based on an exploratory survey on the subject through research on the applicable legislation and corporate systems of the government of Ceará, aiming to collect information about the composition and operationalization of revenue waivers granted and practiced by the government of Ceará. The data analysis techniques used for methodological conduct were the documentary examination of planning instruments and related legislation, as well as interviews with the actors of the tax incentives policy. The results indicate the need to define a Tax Reference System on revenue waivers, to control general and non-general revenue waivers, to improve procedures on the process of forecasting, measurement, control, effectiveness, and transparency of revenue waivers. Finally, the government should plan, manage, and control these resources, because they have great materiality and relevance, especially if confronted with those dedicated to education, health, and safety.

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**Keywords:** Tax Expenses; Reference Tax System; Public Sector.

**Resumo:** A política de gastos tributários do Governo do Estado do Ceará movimentou o montante de R$ 1.106 bilhões de reais em 2019 e R$ 1. 204 bilhões de reais em 2020. Estas importâncias estão baseadas na estimativa constante na Lei Orçamentária Anual - LOA, sendo que, em 2019, o importe efetivamente renunciado foi de R$ 1.227 bilhões de reais. Estes valores se referem exclusivamente às renúncias realizadas no âmbito do Fundo de Desenvolvimento Industrial - FDI, porém, não foram evidenciadas outras desistências praticadas. Assim, o objetivo deste ensaio é avaliar a política de gastos tributários no âmbito do Estado do Ceará. A metodologia utilizada baseou-se num levantamento exploratório por meio de pesquisas acerca da legislação aplicável e nos sistemas corporativos do Governo cearense, objetivando coletar informações atinentes à composição e à operacionalização dos dispêndios tributários concedidos e praticados pelo Governo estadual. As técnicas de análise de dados utilizadas para a conduta metodológica foram a análise descritiva dos indicadores orçamentários e contábeis e o exame documental dos instrumentos de planejamento e de legislação correlata, bem como dos demonstrativos contábeis. Os resultados expressam a necessidade de se definir um sistema de referência tributária sobre as renúncias de receitas, de se efetivar o controle dos gastos tributários de caráter geral e não geral, de melhorar os procedimentos sobre previsão, mensuração, controle, efetividade e e transparência das renúncias de receitas. Por fim, o Governo deverá planejar, gerir e controlar estes recursos, porquanto ostentam materialidade e grande relevância, especialmente se confrontados com os dedicados a educação, saúde e segurança.

**Palavras-chave:** Gastos Tributários; Sistema Tributário de Referência; Setor Público.

## 1. Introduction

Tax expenditures are considered a means of public policy and must be contained in evaluation and control mechanisms. (Carvalho Júnior, 2019; Botelho; Abrantes, 2020). It is observed that when the State, as a normative and regulatory agent of economic activity, instead of intervening in the economic or social reality, through the use of budgeted revenues - that is, applying resources in direct expenses - decides to act by managing the use of revenue waivers, is before tax expenditures (GAO, 2012; Mello, 2016; Oliveira, 2020).

As Corcelli (2021) teaches, the reasons for the expansion of tax expenditures observed recently in the Brazilian economy are numerous, such as: i) the reduction in the capacity to carry out public investments with a view to stimulating aggregate demand; ii) the negative effects of the regressive and complex tax structure on industrial competitiveness; and iii) the launch of industrial policies as a set of tax incentives.

It is tangible within the States that there are serious problems with distorted tax benefits, "tax war", distribution of revenues between States and the concentration of revenue in some sectors - such as electricity, fuel, telecommunications and vehicles, incentives to imports and export encumbrances (Bolzan; Bianchi, 2017; Paes, 2019). This abdication of revenue is an exception to the rule and obviously implies a loss of revenue (Bolzan; Bianchi, 2017).

The Federal Court of Accounts - TCU (2018) shows that tax, financial and credit benefits, in general, represent distortions to the free market and indirectly result in a greater tax burden for activities or sectors that are not benefited. In fact, in a context of fiscal restriction, the amounts associated with these benefits should be considered with greater caution due to their influence on public accounts (TCU, 2014; Corcelli, 2021).

Therefore, tax expenditures are intended to: stimulate and encourage certain activities or sectors, to promote the growth of regions, as well as contribute to economic and social balance. The resources that are not collected by the State must be reverted in the form of benefits directed to society (Tronquini; Limberger, 2017; Carvalho Júnior, 2019; IMF, 2019; Corcelli, 2021).

In this perspective, its assessment and control become influential for the inspection work of control bodies, such as audit courts and general controllerships, regarding the effectiveness of these fiscal policies (TCU, 2014; TCU, 2018; Corcelli, 2021). The correct supervision of public resources requires consideration not only of explicit public expenditures, but also those carried out indirectly through the tax system, and specifically by tax expenditures (Carvalho Júnior, 2019; Andrade, 2015; Corcelli, 2021) .

In this way, audit courts, in compliance with their constitutional powers, undertake to inspect the waivers of revenue granted by federal entities, through processes of financial, operational and compliance audits, among other inspection instruments (TCU, 2014; TCU, 2018; Carvalho Júnior, 2019).

Based on the literature on tax expenditures, the objective of this step is to carry out a study on the policy of these expenditures, evaluating procedures and controls on revenue waiver adopted by the Government of the State of Ceará. Within this scope, these specific objectives are sought to be achieved: a) to describe, in the context of the Federal Government, the conceptual framework on tax expenditures and its reference tax system; and b) analyze the controls over the tax expenditure policy of the Government of Ceará.

The methodology used consisted of a bibliographic and documentary review of the literature and infraconstitutional provisions applied to the species studied here, adopted in Brazil and, specifically, in the State of Ceará. In fact, the study is classified as descriptive and exploratory, with qualitative analysis and case study, through document analysis of budget laws and the law on budget guidelines and the general balance of the State of Ceará, for the periods referring to 2010, 2014, 2019 and 2020.

The main results of this essay recognize the important role of reference tax systems in Brazil, which establish guidelines and the conduct of the “State” in proposing the conception, implementation, follow-up and monitoring of adopted tax benefits.

The results also show the current process at the federal level, where it is advanced, and, in the State of Ceará, its non-existence.

The data from this study allow the visualization of tax expenditures as a relevant public policy in the process of economic and social stimuli that also add public value to society. In relation to Ceará, there is clearly a need to improve the policy of fiscal incentives not resulting from programs.

This writing is organized into four sections, including the introduction reported herein. The next one contains the literature review. In the immediately subsequent section, the context of the study is shown, in order, subsequently, to outline the case study analysis, and the final considerations. In the finishing segment, the main results are highlighted and proposals for future research are offered.

## 2. Theorical Framework

### *2.1.Tax expenses and their concept*

The State is prepared to act in the economic domain as an agent in the market or regulator of the economy itself (Botelho; Abrantes, 2020). As a normative and regulatory agent, the State is capable of inducing or directing the behavior of economic agents, pursuant to article 174 of the 1988 Federal Constitution. tax expenditures as an instrument of influence over sectors of the economy and even to achieve typical goals of social and economic policies (Andrade, 2015; Botelho; Abrantes, 2020).

The fiscal waivers budget contains provisions relating to waivers and budgetary controls, representing concrete recognition that fiscal subsidies are conformations of Government spending and are linked to modes of government assistance (Bolzan; Bianchi, 2017).

The concept of tax expenditures emerged, at the same time, in the United States and Germany, in the 1960s, being, in the first country, integrated in the budget piece through a chapter. In the aforementioned European State, the Tax Subsidies and Preferences Report described the measurement of tax expenditures. In Latin America, Brazil was a pioneer, in 1989, by publishing its first tax expenditure report, which encouraged the generalization and improvement of the measurement of taxpayer expenditures (CIAT, 2011; Tronquini; Limberger, 2017; Botelho; Abrantes, 2020).

According to Mello (2016), the international debate on the subject is growing. Organizations such as OECD (Organization for Economic Cooperation and Development), IMF (International Monetary Fund) and IDB (Inter-American Development Bank) encourage countries that use tax expenditures to invest in adequate methods of identification: i) of the studies that preceded its elaboration; ii) how they were implemented; iii) the governance of each of these tax expenditures; and iv) analysis of the efficiency and effectiveness of the respective policies.

It is essential that tax expenditures promote the participation of the private sector in the economy and reduce the costs associated with public expenditure, in order to promote economic and social development. It is evident, however, that there is a loss of revenue for the State, influencing the efficiency of resource allocation in the economy and the inequity that it is capable of promoting (GAO, 2005; OECD, 2010; Tronquini; Limberger, 2017). If poorly designed and carried out without planning, however, they are likely to cause discontinuity of public policies, violating fundamental rights and, as a result, disrespecting the dignity of the human person (Tronquini; Limberger, 2017).

Thus, there is enormous interest in measuring and controlling tax expenditures, as the possibility of increasing tax rates is increasingly limited, due to the loss granted to a particular sector or groups of taxpayers (GAO, 2005; OECD, 2010; CIAT, 2011; TCU, 2014; TCU, 2018).

Despite this, the relevance of measuring tax expenditures goes beyond collection, as it is also linked to fiscal transparency (GAO, 2005; IMF, 2008; Bolzan; Bianchi, 2017). Thus, when quantifying public spending, which operates through the tax system, conditions are created to consider the real size of Government action (GAO, 2005; OECD, 2010).

Furthermore, with regard to the debate on the complexity of the tax system, it is known that the creation of tax expenditures, recurrently, reduces transparency, enabling it to increase administration costs and make the system more complex (GAO, 2005; TCU, 2014; TCU, 2018; Oliveira, 2020); well so – it must be expressed – tax expenditures constitute an atypical and invisible modality of public expenditure, always carried out through legal provisions. This application of resources differs from expenditures made through budget expenditures, as they do not pass through the budget execution stages, becoming a type of "out-of-budget" expenditure. (Azevedo; Cabello, 2020).

The inefficiency of control over the inflows of this type of public policy, in addition to its low transparency, is pointed out in reports by the World Bank and by organizations such as the International Budget Partnership (IBP) as something relevant to be considered by governments (Azevedo; Cabello, 2020). As a result of its low control, as it is not associated with budgetary controls, it also came to be called "shadow spending". (Henriques, 2009).

Former expositi , the Inter-American Center for Tax Administration (CIAT), in 2011, carried out research in ten Latin American countries[1] and found that all states surveyed have regular practices.

In terms of the legal approach, the existence of legal norms that impose the obligation to measure tax expenditures, only Argentina, Ecuador and Uruguay do not need this legal obligation to do so. For other countries, there is a legal-legal approach that determines the measurement of tax expenditures (CIAT, 2011).

All countries identify tax expenditures through a reference tax system, based on infra-constitutional legislation, whether of a tax nature or not. Chile and the Dominican Republic, in turn, register, in some specific cases, through a reference system based on a theoretical conceptual framework.

Finally, all these countries believe that tax expenditures cause a loss of revenue and imply a deviation from a general provision (CIAT, 2011; Oliveira, 2020). Meanwhile, Brazil, Chile, Ecuador, Spain, Peru and the Dominican Republic add the perspective that tax spending also pursues economic or social policy objectives. Finally, only Brazil, Spain and Peru believe that tax expenditures increase the economic availability of the taxpayer (CIAT, 2011).

In Brazil, the Internal Revenue Service, according to the report called Statement of Indirect Government Expenditures of a Tax Nature - (Tax Expenditures) points out that tax expenditures are indirect expenditures by the Government made through the tax system, in order to meet economic and social objectives , and constitute an exception to the reference tax system, reducing the potential collection and, consequently, increasing the economic availability of the taxpayer (RFB, 2019).

Tax spending policies started to be encouraged as a result of the understanding of the possibility of tax equity, administrative efficiency, reduction of regional disparities and economic benefit to sectors not served by the State (RFB, 2019; Botelho; Abrantes, 2020).

Therefore, the development of regions and consequent reductions in socioeconomic inequalities and territories were also made possible by the CF/88, as in the case of the application of tax spending policies, provided that public spending with exemptions, amnesties, waivers and other benefits is annually demonstrated of a financial nature (Botelho & Abrantes, 2020).

According to Mello (2016), two approaches are generally used: i) one of conceptual content; and ii) one with legal or normative content. The conceptual approach considers theoretical studies on definitions of characteristics of the taxes that make up the reference tax system and is based on these definitions to say what appears, or not, as a standard deviation. The legal or normative approach, in turn, takes into account data from the current tax legislation as a basis for defining the reference system, making it possible to identify tax expenditures in comparison to that.

There is no agreement regarding the way in which the reference system should be determined, on the contrary, there is great difficulty in reaching a fully accepted reference.

### *2.2. Tax expenditures from the perspective of the Federal Constitution and the Fiscal Responsibility Law*

The concept of tax expenditure involves a high degree of subjectivity, consequently, this lack of consensus gives rise to a variety of terms used interchangeably (Pureza, 2011; Corcelli, 2021). Furthermore, the authors diverge as to its purpose, as well as with regard to its possible consequences for public finances (Bolzan; Bianchi, 2017; Corcelli, 2021).

According to the Finance Department of Rio Grande do Sul (2018), according to the report called Statements of Tax Exemptions, tax expenditures are conceptualized as express provisions in the tax legislation that reduce the potential tax collection.

According to the RFB (2019) and according to the STN (2020), tax expenditures are all tax reliefs and any situations that promote exemptions, immunities, amnesties, rate reductions, deductions, credits, deferrals of tax obligations, simplified regimes , and returns or refunds.

Corcelli (2021) and RFB (2018) point out that the purposes of these tax exemptions are: a) to simplify and/or reduce management costs; b) promote equity; c) adjust deviations; d) offset expenses incurred by taxpayers with services not performed by the State; e) counterbalance actions that complement the typical functions of the State carried out by civil entities; f) equalize incomes across regions; and g) encourage a certain sector of the economy.

Henrique (2009) and Azevedo & Cabelo (2020) emphasize the existence of the objective in the definition of tax expenditures, classifying them as: a) extrafiscal; (b) economic and social; (c) programmatic; and (d) achievable through direct spending.

From the perspective of Oliveira (2020), from a normative point of view, it is highlighted that Brazilian legislation does not establish a concept for revenue waiver. The rule that came closest to this was the LRF, which expresses, in § 1 of art. 14, an exemplary list of items included as revenue waiver for law enforcement purposes: "[...] amnesty, remission, subsidy, presumed credit, non-general exemption granting, rate change or base change calculation that implies a detailed reduction of taxes or contributions, and other benefits that correspond to differentiated treatment". (BRASIL, 2000).

The benefit, however, will only be considered a waiver of revenue, for the purposes of art. 14 of the LRF, when it bears a non-general character, that is, it is restricted to a certain region of the territory of the founding federative unit, or even intended for certain taxpayers (Martins, 2013).

Brazilian legislation does not clearly specify what tax expenditure is, but reinforces its aspect of differentiated treatment to the detriment of the general rule (Oliveira, 2020). The legal command does not offer reservations for amnesties, remissions, subsidies and presumed credits, the exemption, however, is only considered a waiver of revenue when granted on a non-general basis, as well as the change of rate or the modification of the calculation base (TCE- BH, 2019).

Federal Law No. 12,465/2011, which provides for guidelines for the preparation and execution of the 2012 Federal Budget Law, defined tax expenditures as:

> Art. 89, § 2 […] indirect government expenditures arising from the current tax system that aim to meet economic and social objectives, explained in the norm that exempts the tax, constituting an exception to the reference tax system and that exclusively reach a certain group of taxpayers, producing a reduction in the potential collection and, consequently, increasing the economic availability of the taxpayer.

It is evident, from the concept, the requirement of a character of exception or exclusivity in the reduction of the potential collection, reaching only a certain group of taxpayers. It is inferred, in fact, that not every measure that reduces the potential collection will imply a waiver of revenue, but only those that have an exception character to the reference tax system and that reach, exclusively, a certain group of taxpayers (TCE-BH, 2019 ).

Therefore, it is noted that tax expenditures must be managed as carefully as budget expenditures if governments are to make efficient use of their limited financial resources. This means that the cost of tax expenditures must be identified, measured and reported, so as to allow comparison of their monetary value with that of budget expenditures (IMF, 2019).

In Brazil, the quantification of the waiver of income began to be studied much more closely after the 1988 Constitution was promulgated (BRASIL, 1988). Since the Fiscal Responsibility Law came into effect, the Federal Government has carried out a survey of tax expenditures on federal taxes, presenting and publishing, together with the budget, the appropriate estimates, as expressed by Bolzan; Bianchi, 2017).

The Fiscal Responsibility Law - LRF points out that, when granting fiscal incentives to promote the balance of socioeconomic development between the various regions of Brazil, it is necessary to act in a planned and transparent manner, under which risks and deviations are prevented capable of affecting the balance of public accounts.

In this context, the LRF legitimized the adoption of mechanisms that result in tax waivers, which have been used by government officials to encourage improvements in the development of certain regions or certain sectors of productive activity, provided that it is accompanied by a detailed study and planning that identify the immediate and future consequences on the collection and the appropriate compensation measures (Bolzan; Bianchi, 2017).

In an attempt to neutralize such abuses, the LRF brought a series of requirements to validate the tax waiver. In this sense, the first requirement for any revenue waiver is the enactment of a specific law by the federated unit that grants the benefit. This is what art. 150, §6, combined with art. 167, II, both from CF/88 (Martins, 2013).

As emphasized by Martins (2013) and art. 14 of the LRF, the observance and fulfillment of the specified requirements are mandatory : i) carrying out an estimate of the budget-financial impact expected by the resignation in the fiscal year in which it should start and, also, in the following two years; ii) proof of the intended waiver in accordance with the provisions of the Waiver's Budget Guidelines Law; iii) demonstration that the waiver was considered in the estimate of revenue in the LOA and also that it will not affect the fiscal result targets set out in the LDO's Fiscal Target Annex.

In terms of the literature and current legislation, budget and financial inflow estimates are instrumental in the fiscal control necessary for the sustainability of public accounts. Thus, it is necessary to quantify the fiscal impact of the proposed normative change, in order to, then, delimit the required extension of the respective compensatory measure, so as not to jeopardize the previously established fiscal trajectory (Corcelli, 2021).

Therefore, shock estimates play a key role in implementing mandatory budget controls. Therefore, the budget shock of legislative proposals directs and constrains public policy decision-making on revenue waivers (Corcelli, 2021).

Thus, the Fiscal Responsibility Law, dealing specifically with tax revenue waivers, highlights the requirement that the Budget Guidelines Law - LDO contain a statement of the estimate and compensation of the revenue waiver. In addition, its article 14 provides that any measure that implies granting or expanding an incentive or benefit of a tax nature from which revenue waiver arises must be accompanied by an estimate of the budget-financial shock (BRASIL, 2000; STN, 2020).

As an alternative to the item above, the federative entity is entitled to adopt compensation measures, through the increase in revenue, arising from the increase in rates, expansion of the calculation basis, increase or creation of a tax or contribution. In this case, the resignation pursued will only enter into force when the aforementioned measures are implemented. It is true that such requirements aim to protect the public interest by neutralizing, even if partially, predominantly political criteria in the granting of tax benefits.

The text of the Magna Carta, by art. 165, § 6, as well as the Constitution of Ceará, in Item V, paragraph 3 of art. 203, determine that the Annual Budget Law project - LOA be accompanied by a regionalized statement of the effect, on revenues and expenses, arising from exemptions, amnesties, remissions, subsidies and benefits of a financial, tax and credit nature (BRASIL, 1988; CEARÁ, 1989).

According to TCU (2018) and STN (2020), financial and credit benefits are related to financing granted by financial institutions with more favorable rates and terms than those practiced in the market. Furthermore, in essence, they are characterized by the loss of revenue resulting from the differentiated treatment in the granting of credit operations.

Benefits of a tax nature, on the other hand, are related to condescension resulting from departures from the so-called Tax Reference System. Therefore, to discern its concept, it is necessary to understand the meaning of the Tax Reference System, which is a theoretical conceptual framework on tax expenditures (GAO, 2012; Oliveira, 2020; Botelho; Abrantes, 2020; STN, 2020) .

According to RFB, (2019) and STN (2020), the Tax Reference System is a normative-legal approach, based on current tax legislation, accounting standards, economic principles, tax principles and specialized doctrine, which allows for identifying and sort the revenue disclaimers.

It appears that the importance of identifying the actual indirect expenses, from a legal point of view, is to enforce the determinations of the Federal Constitution/88 in its arts. 70, 150, §6 and 165, §6, of the Fiscal Responsibility Law in its arts. 4th, §2nd, inc. V, and 14; and the principle of transparency in public spending (Mello, 2016; STN, 2020).

Waivers of tax revenue are resources not collected by the State due to the existence of benefits and incentives that reduce the tax burden on certain taxpayers. In these circumstances, revenue waivers affect public resources because they are no longer collected and they would finance explicit public spending programs for the benefit of those to whom the tax burden is reduced (CIAT, 2011; GAO, 2012).

Thus, in the area of public policy evaluation, tax expenditures are instruments among the various means available to governments, which should be constantly subject to evaluation, both with regard to the justification of a specific state intervention, and with relative to their relative efficiency, compared to other available expedients (IDB, 2009).

The studies by Paes (2019) and Corcelli (2021) demonstrate that the effects of the policy of forgoing revenues on economic growth, output, consumption, capital and employment were estimated. As a result of these facts, there is an interest in including them in the fiscal analysis, that is, to have a complete overview of public sector expenditures (GAO, 2012; Oliveira, 2020).

From another perspective, Carvalho Júnior (2019) points out that tax expenditures are divided into two parts: those resulting from programs and those that do not arise from programs.

Tax expenditures not resulting from programs need at least two types of control: one under the fiscal aspect and the other with regard to the objectives to be achieved. The first control (fiscal) is to measure the amount of the waiver and the second (goals) to assess its socioeconomic result.

As a rule, they do not require conditional individual consideration, as these incentives carry, in their essence, the natural difficulties of fiscal control, unlike what occurs with programmatic incentives, which, as they are linked to concrete programs, express some ease, compared to non-program incentives.

Tax expenses arising from programs require formal consideration from beneficiaries. The control of tax incentives is divided into two parts: the technical framework and control of program execution.

In the next section, it is observed that, in the case study, controls on tax expenditures in the State of Ceará are predominant in fiscal incentives arising from the program.

## 3. Methodology

It is imperative that the evaluation of public policies involve different areas of knowledge and consider different methodologies. When it comes to tax waivers, it is also necessary to consider the specifics in the design of these policies. Thus, the assessment of tax expenditures requires adaptation of concepts, criteria and assessment methodologies to the particularities of these instruments (Oliveira, 2020).

In terms of approaching the problem, this study is classified as qualitative (Raupp; Beuren, 2013), since the objective is to identify the amounts and controls related to public policies on revenue waivers practiced by the Government of the State of Ceará.

As for the objective, the research is classified as descriptive and explanatory, because it seeks to identify the waivers of revenue proposed by the Secretariat of Finance - SEFAZ and Secretariat of Economic and Labor Development - SEDET of the State of Ceará. The demand now carried out is descriptive, as there is concern with recording, analysis, classification and interpretation of data, without any interference in them. The research is also explanatory, as it sought to identify the factors and controls that influence the occurrence of an accurate phenomenon (Raupp; Beuren, 2013).

With regard to the technical procedures used, this investigation is instrumentalized through documentary research, through the survey of information on the electronic portals of the two aforementioned secretariats and on the Transparency Portal of the State of Ceará.

The theoretical survey was carried out, aiming to contextualize the research through the identification of concepts about tax waivers in general, using the available literature. Research was also carried out with a view to identifying concepts and approaches to tax waivers on the websites of the following institutions: Federal Court of Accounts and State Courts of Accounts; Capes Journal Portal, Academic Google, Ipea, GAO and Ministry of Economy.

This study also configures an exploratory search of a bibliographic and documentary nature, based on secondary data, whose scope is to verify the implications of tax expenditures in light of the achievement of the literature and infra-constitutional provisions applied to tax expenditures adopted in Brazil and, specifically, that of the State of Ceará.

The target population of the study is the State of Ceará, as a component of the Brazilian Federation. The data collection instruments used were simple observation and documentary research. For data selection, the transparency portal and the electronic portals of the Secretariat of Planning, Budget and Management, of the Secretariat of Finance - SEFAZ and Secretariat of Economic and Labor Development - SEDET, of the State of Ceará, were used, where the budget bills, the Budget Guidelines Law and the General Balance Sheet of the State of Ceará, from 2019 to 2020.

Based on the collected material, an analysis was undertaken to identify the main characteristics of the public policy model for revenue waivers adopted by the Government of the State of Ceará.

## 4. Data Analysis and Discussion

### *4.1. Case Study: Tax Spending in the State of Ceará*

The institution, concession, evaluation and control of tax incentives resulting from the program by the Government of Ceará begins with the selection of activities that are in tune with the guidelines and strategic objectives of the State. These options are materialized in specific legislation, determining the characteristics and levels of tax benefits for each program and activity (CEARÁ, 2020).

The concession follows a procedural rite, which ranges from the company's request to approval by the State Council for Industrial Development of Ceará - CEDIN, the highest decision-making body, chaired by the Governor, who is empowered to deliberate on the industrial development policy and of State incentives (CEARÁ, 2017).

Regarding financial controls, a private financial agent is hired to carry out this control. It should be noted that the Technical Committee of the Industrial Development Fund - FDI, an auxiliary body of CEDIN, aims to carry out the economic, financial, operational and tax assessment of the projects presented by companies interested in investing in the State and enjoying the incentives (CEARÁ, 2017).

The monitoring of tax incentives granted, the annual monitoring, which measures the level of employment, investments, investments in social actions, as well as the constant monitoring of the amounts released, are under the responsibility of the Ceará State Development Agency - ADECE, linked to the Secretariat for Economic and Labor Development - SEDET.

Also regarding monitoring, the commitments made to be entitled to the incentives are evaluated. If there is a failure to comply with it, penalties are adopted, ranging from a fine and correction of defaulted amounts to the loss of benefits enjoyed. Ultimately, the extinction of contracts entered into is foreseen, with compensation for any damages to the State (CEARÁ, 2020).

With regard to the methodology for evaluating the efficiency, effectiveness and effectiveness of programs or projects that use relinquished resources, constant evaluations are carried out in all business units, comparing the levels of incentives granted with the benefits generated, such as the number of jobs created, investments made, contributions to culture and sport, in addition to investments in technology (CEARÁ, 2017).

Decree No. 32.438/2017 proves that the enjoyment of this benefit lacks compliance with the predefined rules in the tax program offered, which requires a formal consideration from the beneficiaries. As seen, the criterion used to classify this non-general tax benefit is close to that used to classify waivers arising from the program.

With regard to the budgetary-financial aspect of tax expenditures, the 2016/2019 Pluriannual Plan - PPA shows them through the Ceará Industry Development Program, which presented a budget credit in the amount of BRL 28,632,800.31 and committed only R$ 5,500,000.00, obtaining a budget execution of 19.21% and with a physical execution of only 52.99% (CEARÁ (b), 2019). There is, therefore, a low efficiency and results of the Cearense Industry Development program.

Below, the budget and financial data related to fiscal incentives granted by the Government of Ceará for the period 2010, 2014, 2019 and 2020 are shown, with the aim of observing their evolution and behavior.

Table 1 expresses the evolution of revenue waiver in relation to estimates of total revenue, state tax revenue and GDP for the State of Ceará in the period 2010, 2014, 2019 and 2020, according to the respective annual budget laws and data from the Yearbook of the State of Ceará, obtained from IPECE-data. It is important to point out that, for the purposes of preparing the LOA, the State of Ceará only considered the revenue deriving from the FDI as a waiver of revenue.

**Table 01:** Percentage overview of tax expenses (BRL - Thousands of Reais)

| | Data | | | | Waivers Partipation | | |
|---|---|---|---|---|---|---|---|
| **Períod** | **GDP** | **Total revenue** | **Tax revenue** | **Waivers** | **GDP** | **% total revenue** | **% tax revenue** |
| **2010** | 79.336.299,00 | 13.805.307,00 | 5.838.565,00 | 754.371,00 | 0,95% | 5,46% | 12,92% |
| **2014** | 126.054.472,00 | 20.865.476,00 | 14.974.739,00 | 879.329,00 | 0,70% | 4,21% | 5,87% |
| **2019** | 152.177.164,00 | 24.884.474,00 | 16.721.182,00 | 1.106.777,00 | 0,73% | 4,45% | 6,62% |
| **2020** | 145.816.158,55 | 28.762.924,00 | 16.425.470,00 | 1.151.712,00 | 0,78% | 4,00% | 7,01% |

**Source:** Own elaboration.

Tax revenue for the year 2020, in the amount of BRL 16,425 billion, indicated a retraction of 2.58%, in nominal values, when compared to its performance in the year 2019, as shown in Table 1.

The revenue waiver for the year 2010 was estimated at R$754 million, representing 0.9% of the Gross Domestic Product, 5.46% of the revenue administered by the Government of the State of Ceará and 12.92% of the tax revenue.

In 2014, the revenue waiver was estimated at R$ 879 million, representing 0.70% of the Gross Domestic Product, 4.21% of the revenue administered by the Government of the State of Ceará and 5.87% of the tax revenue. It is observed that the share of revenue waivers decreased compared to 2010, despite its nominal evolution of 16.5% (see Table 1).

Meanwhile, in 2019, the revenue waiver was estimated at R$ 1.106 billion, representing 0.73% of the Gross Domestic Product, 4.45% of the revenue administered by the Government of the State of Ceará and 6.62% of the tax revenue. This value represents a nominal increase of 26% compared to 2014 (see Table 1).

Finally, the revenue waiver for the year 2020 was estimated at R$ 1,151 billion, representing 0.78% of the Gross Domestic Product, 4% of the revenues administered by the Government of the State of Ceará and 7.01% of the tax revenues (see Table 1).

**Table 02:** Evolution % of GDP, Total and Tax Revenues and Revenue Waiver

| Data | Δ% 2019/2014 | Δ% 2014/2010 |
|---|---|---|
| GDP | 21% | 58% |
| Total revenue | 19% | 51% |
| Tax revenue | 12% | 156% |
| Revenue Waiver | 26% | 16% |

**Source:** Own elaboration.

It can be seen in Table 2 that the expansion of the waiver of revenue was more accentuated, showing an inverse behavior of what was expected, as the waiver of revenue should encourage its increase in the other analyzed variables.

The indicators shown in Table 3 show the participation of revenue waivers in relation to authorized expenditures, only treasury source, by function: education, health and public safety.

**Table 03:** Share of revenue waiver in relation to expenses, by function (R$ - Thousands of Reais)

| | Expense Budget, by function | | | | Waiver Participation | | |
|---|---|---|---|---|---|---|---|
| **Períod** | **Education** | **Health** | **Safety** | **Revenue Waiver** | **% Educ.** | **% Health** | **% Safety** |
| **2010** | 2.014.938 | 1.108.876 | 725.651 | 754.371 | 37% | 68% | 104% |
| **2014** | 2.246.260 | 1.767.229 | 1.504.365 | 879.329 | 39% | 50% | 58% |
| **2019** | 1.535.280 | 2.683.140 | 2.564.503 | 1.106.777 | 72% | 41% | 43% |
| **2020** | 1.712.429 | 2.594.663 | 3.174.724 | 1.151.712 | 67% | 44% | 36% |

**Source:** Own elaboration.

The revenue waiver for the year 2010 was estimated at R$754 million, representing 37% of expenditure on education, 68% of expenditure on health and 104% of expenditure on security.

It is noteworthy the fact that fiscal incentives were, in 2010, higher than the expenses destined to public security (104%), approaching the expenses related to health (68%) and more than a 1/3, approximately, related to to the amounts spent on education. Source: Treasury (see Table 3).

In 2014, the revenue waiver was estimated at R$ 879 million, representing 39% of education expenditure, 50% of health expenditure and 58% of security expenditure (see Table 3). In the period 2014/2010, it appears that, as a percentage of revenue waivers grew 16%, a percentage higher than authorized expenditure on education = 11.5% (see Table 4).

Compared to 2014, the value of tax incentives for spending on education increased to 39%, however, for health and safety expenditure, there was a percentage reduction, 50% and 58%, respectively (see Table 4).

**Table 04:** Evolution % of expenses, by functions, and Revenue Waiver Data*

| **Data*** | **Δ% 2019/2014** | **Δ% 2014/2010** |
| --- | --- | --- |
| Education expenses | -32% | 11,5% |
| Health expenses | 52% | 59% |
| Safety expenses | 70% | 103% |
| Revenue Waivers | 26% | 16% |

**Caption:** *Values referring only to the treasure source
**Source:** Own elaboration.

While, in 2019, the revenue waiver was estimated at BRL 1.106 billion, representing 72% of expenditure on education, 41% of expenditure occurred with health and 43% of expenditure happened with security (see Table 3). This value represents a nominal increase of 26% compared to 2014. It is peculiar that the resources directed to education had a reduction of 32% (see Table 4).

Finally, the revenue waiver for the year 2020 was estimated at R$1,151 billion, representing 67% of education expenditure, 44% of health expenditure and 36% of security expenditure (see Table 3).

From a budgetary perspective, the three budgetary functions of government (education, security and health), in 2019, represented 35% of the total resources authorized for the exercise. Meanwhile, tax expenditures accounted for 16.32% of total expenditures (BGE, 2019).

Regarding the waivers of general or non-general revenue arising from programs, it was found that there were no concession, follow-up and monitoring controls.

Thus, also, the inexistence of a Tax Reference System model, of a methodology for estimating tax expenditures and of a budgetary-financial impact study was found. This fact, therefore, contradicts the provisions of article 14, items I and II, of the LRF, of article 165, paragraph 6 of the CF/88, article 203, paragraph 3, item V of the State Constitution of Ceará/89 and the Instructions on Accounting Procedures No. 16 - IPC16 issued by the STN.

## 5. Considerations

Considering the objective of this work, the evaluation of public policy aimed at tax expenditures in the State of Ceará pointed out deficiencies in the fulfillment of constitutional provisions (art. 165 § 6), of article 203, § 3, Item V of CE/89 , of the Fiscal Responsibility Law (art. 14, items I and II) and the Instructions on Accounting Procedures No. 16 - IPC16 issued by the STN.

It was found that the accounting, legal and administrative formalities in relation to the process of concession and expansion, control, monitoring, monitoring and inspection of tax waivers practiced and in force in the government of Ceará are directed only to incentives arising from the programs, not covering those not arising.

In this way, the effects of the lack of monitoring of fiscal benefits not resulting from programs affect the transparency of the formulation of public policies, the decision-making process for the allocation of public resources and the distribution of the tax burden, by sector and region, which is likely to influence the results of the Ceará economy.

In addition, regarding the aspects provided for by IPC 16 and by MCASP (2018), the non-compliance with accounting procedures causes inconsistent information and statements on the revenue waivers provided for in the Financial Statements, in the Budget Guidelines Law and in the Annual Budget Law.

Furthermore, these failures influence government planning of revenue and tax benefits and are important in legislative decisions, which should not be adopted in the absence of complete and adequate information, because their effects influence the economy and the budget.

There was also a lack of a tax reference system model, a methodology to estimate tax expenditures and a budget-financial impact study, meaning an inadequacy in registration, measurement, permanent monitoring and transparency and disclosure of the values of the estimated and granted benefits, of their socioeconomic and fiscal results on the policy of attraction and promotion of industrial activity in the State of Ceará.

As a limitation of this research, there is the perspective of the study on revenue waivers being related to a region of Brazil, which reduces the generalization of the results on tax expenditures. Another limitation was having carried out a case study, as a longitudinal design would be desirable, due to the dynamics of the economic and social impact produced by a policy of tax incentives.

Additional studies are needed to test the propositions developed in this experiment, making them indispensable, in order to enrich the understanding of the specifics regarding tax expenditures. The gap in the literature that addresses tax expenditures was filled.

Regarding practical implications and for society, the correction of the aforementioned deficiencies will influence the improvement in the reliability of the data in the fiscal and accounting statements; there will be an improvement in the provision of reliable information on tax expenditures; the tax benefits will be correctly measured; there will be an improvement in the monitoring of processes for promoting economic activities through the concession and expansion of tax benefits; and it will be possible to increase the economy and the effectiveness of the government program.

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