

THE ROLE OF TAX AGENTS IN TAXPAYERS' TAX COMPLIANCE

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ABSTRACT

This paper aims to analyze the role of tax agents in tax compliance. The works that analyze this phenomenon can be divided into two major groups. Firstly, those that examine the role of tax agents, from the perspective of taxpayers, which indicate that their perception of tax complexity is the great motive to use tax agents' service. Secondly, studies which analyze the tax agents' attitude. A first subgroup analyzes the impact of professionals' tax knowledge in tax compliance; some authors argue that increasing of tax knowledge implies the decreasing of noncompliance, other authors argue exactly the opposite. A second subgroup of studies finds that the attitude of the tax agents may be contradictory, in easier situations, they help in reducing tax noncompliance; in more ambiguous situations, they tend to use their tax knowledge to provide tax benefits to their customers, increasing evasion and tax planning.

KEYWORDS

Tax Agent. Tax Complexity. Tax Compliance. Tax knowledge. Taxpayer

1. INTRODUCTION

This paper aims to analyze the various lines of research and the explanatory models, at the international level, about the role of tax agents¹ in the compliance of taxpayers' obligations. It also intends to examine whether these explanatory models can be applied to the Portuguese reality, because of Portuguese tax agents' particularities.

In the international context, in many countries, such as in the Anglo-Saxon, in Japan, in Portugal, and others, taxation is increasingly based in the self-assessment of taxpayers², but, this fact doesn't become taxpayers more tax independent; by contrast, it has progressively amplified the hiring of tax professionals (Long and Caudill, 1987; Klepper and Nagin, 1989; Niemiowski and Wearing, 2003; McKerchar, 2005). In order to choose this theme, we have considered that in these countries tax agents replace the taxpayers in the complying of the majority of their tax obligations. Thus, the impact of their advices, decisions and attitudes, in the taxation area, will have its effect in the sphere of taxpayers' tax compliance.

¹ International literature calls tax agents, also, as tax preparers, tax professionals and tax practitioners.

² As state some authors as Sakurai and Braithwaite (2003) and McKerchar (2005).

2. LITERATURE REVIEW

Accordingly, we found that in the last five decades, internationally, many studies have been conducted about taxpayers' tax compliance, mainly on the perspective of understanding the decisions of the taxpayer. Nevertheless, the constant search for the better understanding of this subject has led some scholars to note the importance of tax agents activity, in tax compliance context. However, academic research about “[...] tax compliance did not consider the potential impact of the tax preparer on the compliance decision.” (Hite and McGill, 1992, p.390). Thus, in the early 80's it was found that there is a gap of knowledge in this area.

In this scope, Ayres *et al.* (1989, p.300), in one of the early works that emphasized the role of these professionals, argue that “The role of third-party preparers has become a critical part of the present system of voluntary compliance [...]”, additionally, Erard (1993, p.163) advocates that “Tax practitioners possess the means to exert an extraordinary influence on the tax compliance process.”

In this context, it appears, from the 80s years until our days, some studies, about the Anglo-Saxon countries, particularly about the US [United States], Canada and Australia realities, which intend to determine the tax agents' role in tax compliance, establishing the relationship between their job and the perception of tax complexity.

For a better understanding, we divided the works into sub-themes and we found that it's possible to identify two major lines of studies. The researches which seek to understand the role of tax agents in taxpayers' perspective (main motivation to hiring a tax agent) and those that aim to determine whether the attitudes and decisions of tax agents increases or decreases tax compliance.

In the first group, we found studies which indicate the taxpayers' perception of tax complexity, including ambiguity and uncertainty, about tax systems, tax laws and about fill tax returns, as the great motive to taxpayers use the service of tax agents. In this line of studies are works as Slemrod and Sorum (1984), Long and Caudill (1987), Slemrod (1988), Beck *et al.* (1989), Dubin *et al.* (1992) and Niemiowski and Wearing (2003). Thus, according to those authors, tax agents are important in reducing taxpayers' uncertainty. As state Hite and McGill (1992, p.390), about the conclusions of some oldest studies, “[...] taxpayers are primarily interested in filing a correct tax return.”

During, particularly the 90s years, some authors, such as Collins *et al.* (1990), Hite and McGill (1992)³ and Tran (1999)⁴, question if tax complexity is indeed the main reason to taxpayers use the service of a tax agent. These authors investigate if the main reason for these hiring could be the tax savings. However, the results of these studies confirm the previous ones. They conclude taxpayers essentially seeking to have their tax return correctly filled and conservative advices. In this context, we emphasize, particularly, the work of Hite *et al.* (1992) which concluded that the owners of smallest businesses, in the hiring of a tax agent, aim to take greater advantage of the ambiguity and uncertainty of tax law, within the least possible risk; however, this is their third motivation to engage tax agents, not the first.

In the second group, there are studies that examine the role of tax agent from the perspective of the attitudes of professionals themselves. We will divide these works into three types, those who advocate a reduction of tax compliance through because of the aggressivity of tax agents' attitude, those who argue the opposite, and finally, the works which verify the existence of contradictory behavior of these professionals.

Thus, there are studies, as Bonner (1984), Eriksen and Fallan (1996), Park and Hyun (2003) and O'Donnell *et al.* (2005), that highlight the importance of the experience and knowledge, in the field

³ Both about US.

⁴ About Australia.

of taxation, as determinants tax agents' attitudes, and even ordinary citizens, deal with complex situations and also their attitude towards tax compliance.

In this sub-group of research, we emphasize some works as Eriksen and Fallan (1996) and O'Donnell *et al.* (2005) which conclude that, as higher is professionals tax knowledge, including their experience in this field, less aggressive will be their advices and more tax compliant will be their attitudes. As the main reason for this positive relationship between knowledge and tax compliance, these authors point a greater perception of the possibility of detection and the weight of penalties.

In contrast, Ayres *et al.* (1989) argue that tax knowledge and experience in the tax field of the CPA⁵ make them more likely to take positions in favor of their clients, comparatively with tax agents not registered, because of their experience and proximity with those who working in the tax authority. This closeness gives them privileged access to “[...] the unwritten rules [...] and have opportunities to developed informal working relations with IRS personnel which can be used to facilitate the resolution of issues through bargaining to the client’s benefit.” (Ayres *et al.*, 1989, p.302)

It will be important to note that Stephenson (2007) has recently conducted a study that concludes there is no difference between tax agents registered and unregistered, in this area. However, they observe that, due to their experience and dimensional structure, CPA which work in one of the biggest four companies have a more aggressive attitude towards tax compliance, comparatively with those who work alone, or in small firms.

Finally, about the last sub-group, Klepper and Nagin (1989), Klepper *et al.* (1991), Hite and McGill (1992), Erard (1993) and Stephenson (2007) deepened further their studies on the more, or less, aggressive postures of tax agents' advices, establishing a relationship between this posture and tax complexity (particularly on ambiguity field). They observe two opposite positions of these professional, in face of tax complexity, and particularly about ambiguity. In simpler and linear situations, especially in practical matters, such as the increasing computerization of tax compliance, they have a positive influence on tax compliance, in situations more complex and ambiguous, they tend to make use of their tax knowledge to handle the gray areas of law, on behalf of their client's tax savings.

3. DISCUSSION ABOUT THE APPLICABILITY OF EXISTING MODELS IN THE PORTUGUESE CASE

About the applicability to the Portuguese case, of these explanatory models of tax agents' role, based on the reality of some Anglo-Saxon countries, we note that due to some peculiarities of the Portuguese professionals, these models can't be used without some redefinitions.

We point out three essential aspects of the Portuguese case, very different from the reality explored in the studies: (i) The majority of these studies are based in the service provided by tax agents to individuals, however, in Portuguese reality, most of the tax agents clients are companies and biggest self-employees (ii) In Portugal, relatively to taxpayers mentioned above, the use of a tax agent's service, in the relations with tax administration, is required (iii) In the US “[...] the regulations which govern practice before IRS [Treasury Department Circular N° 230] serve to provide some protection from penalties both to the client and to the practitioner.” (Ayres *et al.*, 1989, p.302), however, in Portugal, both tax law and the statutes of the profession provide strong penalties for tax agents, in case of tax noncompliance detection.

⁵ US registered tax agents.

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