

Scientific
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Clinical
Science**

**TAX AUDIT:
OPPORTUNITY TO
REDUCE THE LOAD
TAX AND RECOVERY
OF CREDIT BY HALF OF
THE BASIS OF EXCLUSION
ICMS OF THE BASE IN
CALCULATION OF PIS
AND OF COFINS**

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Abstract: Tax legislation is constantly changing, so there are several opportunities of tax theses that allow the reduction of the tax burden and the recovery of credits. O tax planning allows the company to avoid paying taxes improperly, form that this economy be likely to be reversed in investments and improvements in company. Against Furthermore, this article sought to demonstrate the repercussions on the thesis of exclusion of ICMS from the base in calculation of PIS and of the COFINS for catching up that goal took place a study in case in three real companies that filed this action, demonstrating the savings that these companies may get. In addition, from that, were addressed at most recent decisions of the Attorney's Office General of union about the theme.

Keywords: Tax Audit. Exclusion ICMS PIS and COFINS.

INTRODUCTION

The Legislation tax of Brazil it is in constant change, against from that becomes essential to keep track of your updates. In this context, several opportunities may arise to reduce the Tax Burden. Despite this, many organizations still fail to obtain benefits coming from of study of theses tax. That fact occurs with frequency and, many times, these organizations no have a sector accounting with one structure proper. Although that no at prevents in enjoy of that economy, then they can resort to the services in offices in audit what act specifically in that area. It can be very advantageous, since these offices have professionals well empowered and what study constantly the legislation tax of country.

In addition to Brazil's high tax burden, the complexity of the tax system becomes a hindering. According a study published in March in 2020, fur center of Studies tax and customs – CETAD, "in 2018, The Charge tax gross (CTB) reached 33.26% against 32.33% in 2017, indicating a positive variation of 0.93 percentage points." It is worth mentioning that the CTB "is defined as the ratio between the collection of taxes and GDP at market prices, both considered in terms nominal".

In the first half of 2021, taxes already amount to more than 1.282 trillion. in 2020 were collected over 2 trillion in taxes, about 19.19% of this total collected in taxes is referents to Tax About Circulation in goods and installment In services – ICMS, which is an automated network, created fur Institute Brazilian of planning tax - IBPT, in partnership with O The Federation of associations commercials of state in Are Paul- FACESP and Association Commercial in Are Paul- ACSP, in order to demonstrate all taxes collected in the three spheres of government: federal, state and municipal.

To plan tax prevents what the company Pay taxes in form undue. That economy, he

can be reversed in others areas, providing the possibility in investments and expansion. In view of this scenario, how can the tax audit contribute and support the organizations, in possibilities for reducing the tax burden that can be developed, either through recovery in credit?

Due The infinity in possibilities existing and for to preserve the relevance of this study, this one article chose to stick only to a tax thesis. Therefore, this article has the general goal explain about The decision judicial about The withdrawal of ICMS of the base in calculation of PIS and of the COFINS ffor this, the specific goals are: Conceptualize the theme, describing the DOT - Diagnosis tax opportunities; Discuss the most recent decisions of the Federal Superior Tribunal that deal with this theme; To analyze three companies what work thesis; and per the end to demonstrate step of calculated credit from of the exclusion of ICMS of the base in calculation of PIS and COFINS

THEORETICAL REFERENCE

AUDIT TAX

According to Crepaldi (2019), the audit tax It is one analysis thorough of information referents the area Supervisor in one organization, what Visa get possibilities in to eliminate irregularities and to prevent eventual liabilities tributaries, with the goal in conserve at bills tax lean and rationalized.

As the aforementioned author (2019, p.29) the tax audit "has as main goal to analyze if all at obligations tributary they are being followed correctly in one company." Against from that, it is in your responsibility to maintain "control and good progress from procedures that involve various processes, as payment and recovery in taxes or any others acts related to the Supervisor in one organization".

The goal of the audit tax It is to examine and to evaluate the planning tax and the

efficiency and efficiency from procedures and controls adopted for the operation, the payment and The recovery in taxes, fees and any others onus in nature tax-tax what affect in operations, assets and documents of the company. (CREPALDI, 2019 p.17)

The Federal Revenue Service of Brazil (RFB) is responsible for ensuring compliance with the legislation tax. Furthermore, there is the responsible per administer you taxes federal, such as:

- IRPF (Tax about the income of individuals)
- IRPJ (Tax about the income of people legal)
- IRRF (Tax about the income held back in source)
- CSLL (Contribution social about the liquid profit)
- IOF (Tax about operations in Credit, Exchange and Safe, edging to Securities or Values furniture)
- ITR (Tax territorial rural)
- IPI (tax on products industrialized)
- II (Tax in import)
- IE (Tax in export)
- contributions social security of people physical
- contributions social security of people legal
- Contribution for PIS/Pasep and COFINS
- Contribution in intervention at the domain economic incident about at operations performed with fuels)
- Contribution in intervention at the domain economic incident about the remittances to outside)
- AFRMM (Additional to freight to

renovation of the navy merchant)

- Rate of use of Siscomex
- income tax (tax on the income of people physical)
- IRPJ (Tax about the income of people legal) (RFB, 2021)

DIAGNOSIS OF OPPORTUNITIES TAX

The Diagnosis of opportunities tax It consists in identify at opportunities in reduction of the charge tax. In this phase, the planning of the audit tax, according to Crepaldi.(2019, p. 31) it is necessary “to have prior knowledge of the entity, its field of activity, the business explored, of the organization, of system accounting employee, of features operational, of the nature From active, From liabilities, of revenues and of expenses of the entity”.

Once these opportunities have been identified, the recovery can be carried out through the administrative route or through the judicial area.

- **Via administrative:** funds indemnities; Revision in PIS\COFINS; Balance Negative in IRPJ/CSLL; Monophasia / Rate 0%; Undue Payment; Investment Grant, in between others.
- **Via judicial:** Exclusion of ISS/ICMS of base in calculation of PIS and of the COFINS; Exclusion of PIS and of the COFINS of your base; 10% of Background in Guarantee of Time in Services, between others.

They exist countless possibilities in theses tax, but This one article is limited the articulate about the **exclusion of ICMS from the PIS and COFINS calculation basis**. We will detail the decision below. uttered for the minister Carmen Lucia and too much members of STF, detailing O right in delete the value of

ICMS, what compose the basis of calculation of PIS and of the COFINS and too much laws pertinent.

PROCEDURES FOR CREDIT REQUEST BY WAYS LEGAL

According Crepaldi (2019 P. 32), you must request, before starting the works in revision, the following documents:”

- Copy of swing patrimonial, demonstration of result of year, statement of changes in equity and balance sheet exercise analytics under review.
- Memoirs in calculations and receipts in withdrawals of Tax of Income and Social Contribution (in the case of taxes direct) and IPI, ICMS, ISS, PIS and COFINS (in the case of indirect taxes) during the year Copy of the media that contains the forms and annexes to be revised, duly filled.
- Copy of form and attachments presented at the exercise financial previous.
- Book in Calculation of Real profit, with bookkeeping updated up until the previous financial year, as well as the other fiscal books in verification from tributes, such as IPI, ICMS and ISS.
- Draft of the bookkeeping to be done in part “A” of the law relative to exercise financial under revision and at part “B” From adjustments still opened.
- Memories of calculations of the values collected, statements of anticipations collected

through retention at source, whose income be computed at determination of real profit.

- Referenced trial balance or working papers, if any, relating to filling out the form and attachments.
- statement of the movement accounting, identifying, at the Book Journal, the entries of the items that must be added or excluded of Net Income for the Year in determining the Real profit and from the base in calculation of CSLL
- obtaining, together to the representatives of the company, in all you Details about the nature from products or services sold, specific tax benefits and other information relevant to the sales, comparing them with those presented in the Declaration of Corporate Income Tax (DIPJ) and with those contained in Demonstration in Result of the Exercise. (Crepaldi 2019 P. 32)

This one article, has as focus deal with about the exclusion of ICMS of the base in calculation of PIS and of COFINS.

It is most commonly carried out per judicial avenues. For That verification, are necessary you following documents:

- SPED contributions;
- SPED Supervisor;
- SPED accounting;
- guides payed in PIS/COFINS;
- guides payed in ICMS;
- Invoices (issued per key in access).

For join with that action, does required to petition a warrant in safety.

[...] protect right liquid and right, no supported by **habeas corpus** or **habeas data**, whenever, illegally or with abuse of power, any person physical or legal suffer violation or there is fair fear of suffering it on the part of authority, of whatever category and be whatever the functions that exercise. (Brazil, 2009)

At the case of the thesis in Exclusion of ICMS of the base in Calculation of PIS and COFINS, that warrant Visa to recognize the right in delete the value in ICMS what currently compose the base in calculation of PIS and of the COFINS.

Article 195. Social security will be financed by society as a whole, in form direct and indirect, us terms of the law, through resources coming from budgets of the Unity, From States, of District Federal and From Counties, and of following contributions social: (See Amendment Constitution Number: 20, of 1998)

I - of employer, of the company and of the entity The Is it over there equated at form of the law, incidents on: (Wording given by Constitutional Amendment number: 20, 1998)

a) The leaf in salary and too much income of job payed or credited, in any capacity, to the individual who provides the service, same without bond employment; (Included for the Amendment Constitution Number: 20, of 1998)

b) The revenue or invoicing; (Included for the Amendment Constitution Number: 20, of 1998)

c) the profit;

The Law number: 5,172, in 25 in October in 1966 of National Code tax:

Article 110. Tax law cannot change the definition, content and scope of institutes, concepts and forms of private law, used, express or implicitly, for the Constitution Federal, by Constitutions of the States, or by the Organic Laws of the Federal District or

Municipalities, to define or limit tax powers. (Brazil, 1966)

Up until the edition of the Amendment Constitutional number: 20/98, at contributions to PIS and The COFINS had as hypothesis in incidence the invoicing of companies. After The edition of the alluded to amendment, taxes.

Most recently, with the advent of the Law number: 12,973/2014, changed the article 12 of the Decree-law number: 1,598/77, staying expressly consigned what if include at gross revenue – base in calculation for PIS/COFINS – taxes about incidents, among the which ICMS.

“ Article 12. The gross revenue comprises:

I - the product of the sale of goods in operations in account own;

II - the installment price in services in general;

III- the result earned in the operations in account alien; and

IV- at revenues of the activity or object main of the person legal

§ 1st The revenue liquid it will be the gross revenue diminished in:

I - returns and canceled sales;

II - discounts granted unconditionally;

III - taxes about incidents; and

IV - values arising of adjustment the value gift, in what treats the incised

VIII of the **caput** of article 183 of Law Number: 6,404, of December 15, 1976, of linked operations the gross revenue. (Brazil, 2014)

At version original of the Law number: 9,718/98, the concept in invoicing was the following one:

Article 3 The billing referred to in the previous article corresponds to the gross income of the legal entity. § 1º Gross revenue is understood to be totality of revenues earned for the person legal, being irrelevant the type of activity performed by it and the accounting classification adopted for at revenues. (Brazil, 98)

The unconstitutionality of the enlargement of the base in calculation of PIS/COFINS for the Law number: 9,718/98 already he was recognized by the Federal Supreme Tribunal, in the judgment of Extraordinary Resources, number: 357,950, 390,840, 358,273 and 346,084. So, deciding the Court supreme kept the incidence of exactions only about the result of the sale in goods and services, consonant if infers of the summary of Resolution 390,840 and Resolution: 800,145. As we can see in this part of the decision “This Cut declared to be unconstitutional O § 1st of article 3rd of the Law number: 9,718/98 what enlarged concept in gross revenue, violating the definition of invoicing disciplined in the original wording of article 195, incised I, of the Constitution Federal.” At the judgment of the Question in Order at the Extraordinary Resource number: 585,235/MG, Rapporteur the Minister Cesar Peluso, the Supreme Tribunal Federal recognized the repercussion general of that matter and ratified understanding above.” (STF, 2021)

Following the same decision-making line, recently, on 10/02/2017, the Federal Supreme Tribunal published the result of judgment of Extraordinary Resource, number: 574706 in character in repercussion General, relatively the inclusion of ICMS at basis of calculation of PIS and of the COFINS, whose decision he was published in 10/02/2017, considered what O PIS and the COFINS only they can focus about invoicing, concepts in which ICMS is not included. According to the decision rendered in the judgment published in 15 in March in 2017 referent to Extraordinary

Resource: 574, 706, Paraná:

The non-cumulative regime requires concluding, as long as one has the bookkeeping of the portion still to be offset from ICMS, not including all of it in the definition of billing used by this Supreme Tribunal Federal. ICMS

Article 3, § 2, incise I, in the end, da Law number: 9,718/1998 excluded those contributions from the calculation base the ICMS transferred in full to the States, must be emphasized what no there is as if Supreme Tribunal Federal, fur what no can it compose the calculation basis for purposes of levying PIS and COFINS (STF, 2017)

With The decision, left pending only the modulation from effects and reach of exclusion of ICMS of the base in calculation of PIS and of the COFINS of judgment about of the referred modulation was expected for March/2020, but he was postponed.

The Supreme Federal Tribunal, judged you embargoes in declaration of the Advocacy General of the Unity (AGU), what request what decision only you have effects after the judgment of resource. Fits highlight what in 13 in May, it happened the judgment from embargoes in declaration of Extraordinary Resource that refers about Tax Circulation in goods and services (ICMS) at base in calculation of PIS and of the COFINS (RE 574,706), a tribunal hearing he was marked fur Minister Luiz Fux, president of STF.

According to Conjuraction (2021) Supreme, in that judgment, needed to judge you embargoes in declaration of the Advocacy General of the Unity (AGU), what they asked the call “modulation”, for what decision only you have effects after judgment of resource. At organizations what owned such right, must plead quinquennium prescription.

Therefore, at companies must plead quinquennium prescription how much before, in mode what persisted at possibilities in catch up such values in decision favorable.

In 2021, after four years old of the decision in STF, at the judgment of resolution 574,706/PR fixed the thesis in that “ICMS does not form the basis of calculation for the incidence of PIS and COFINS”, the modulation of the effects of that decision. The STF, decided that the production of effects will take place after 03/15/2017, date of judgment RE number: 574,706. Only who filed at actions judicial and administrative before of that date, can recover you credits previous The March in 2017. According The integrates of the decision rendered:

Decision: Tribunal, per majority, welcomed, in part, you embargoes in declaration, for modular you effects of judged whose production there will be in if to give after 3.15.2017 - date in what judged Resolution number 574,706 and fixed The thesis with repercussion general “ ICMS composes the calculation basis for the purposes of levying PIS and COFINS” -, except for the legal and administrative actions filed up to the date of the session in what uttered the judgment, losers you ministers Edson Fachin, Weber and March Aurelius. Per majority, rejected you embargoes and the allegation in omission, obscurity or contradiction and, at the Score relative to ICMS excluded of the base in calculation of PIS-COFINS contributions, the understanding prevailed that this is of the ICMS detached, defeated the Ministers Nunes Marques, Roberto Barroso and Gilmar Mendes. All the terms of vote of the Rapporteur. Presidency of Minister Luiz Fux. Plenary, 05.13.2021 (Session held by videoconference - Resolution 672/2020/STF). (BRAZIL, 2021)

In 26 in May in 2021 The Attorney's Office General of the Farm National (PGFN), approved law number: 7.698/2021/ME, through Order Number: 246/2021/PGFN-ME. According to the publication, the PGFN recognizes that the ICMS highlighted in the invoices does not compose the calculation basis for incidence of PIS and of the COFINS, and what effects of this exclusion must if to

give after 15 in March in 2017, saved actions administrative and judicial protocolled up until that date:

TO APPROVE, for you ends and us terms of article 19, caput, and incised SAW, The, c/c article 19-A, III, and § 1st of the Law number: 10,522, in 2002.

7698/2021/ME, the end in what The Management tax pass The observe, in relation to all its procedures, and without prejudice to posterior observance of flow foreseen at the Ordinance joint PGFN/RFB Number: 01, of 2014, on the occasion of the publication of the judgment that judged the Declaratory Embargoes filed by the National Treasury in the resolution 574,706/PR, what: a) according to decided fur Supreme Tribunal Federal, on the occasion of the judgment of Theme 69 of the General Repercussion, "ICMS does not form the basis of calculation for the incidence of PIS and COFINS"; b) the effects of this decision must take place after 03.15.2017, excepted at actions judicial and administrative protocolled up until 03.15.2017; c) ICMS composes the base in calculation of PIS and COFINS contributions is highlighted in the invoices. go ahead The Secretary Special of the Revenue Federal of Brazil, as suggested. Furthermore, the Attorney General's Office of Active Debt of the Union and the FGTS and the Deputy Attorney General's Office for Consultancy and Tax Administrative Litigation. Brasilia, 24th of May 2021.

RICARDO SORIANO IN ALENCAR

Attorney General of the Farm National
(BRAZIL, 2021)

METHODOLOGY

According to Vergara (2016), at researches they can be classified how much to the ends and how much to the means. How much to the ends, for catch up the goal of this article he was used one search descriptive, what made possible to demonstrate as It is carried out one tax audit. According to the author

(2016, p.49) The search descriptive "exposes characteristics of determined population or in determined phenomenon. He can also to establish correlations in between variables and to define your nature. It has no commitment in explain the phenomena what describe, although serve in base for such explanation."

Regarding the means of investigation, bibliographic research was used, which allowed systematize at visions in many different authors about of theme addressed according to Vergara (2016, p.49), The search bibliographic he can be understood as "study systematized developed with base in material published in books, magazines, newspapers, networks electronics, this It is, material accessible to public in general". In addition, from that, other quite in investigation used he was the search in field in three big organizations what performed The thesis in exclusion of ICMS of the base in calculation of PIS and of COFINS According Vergara (2016, p.49), " field research is investigation empirical performed at the place Where occurs or occurred a phenomenon or what has in elements for explain it. He can include interviews, application of questionnaires, tests and Note participant or number:"

According to the author aforementioned, at the what if refers to the procedures in search used if the study in case, the end in understand in form most deep aspects most relevant of theme and establish a comparison between the three organizations studied. According to Vergara, this procedure "is limited to one or a few units, understood as a person, family, product, company, organ public, community or same country. Has character in depth and detailing. He can or no to be accomplished at the field." Although, such method it has disadvantages, such as the subjectivity.

STUDY IN CASE

He was accomplished a study in case

in three big companies in many different branches in acting. For to preserve the identity of companies, fictitious names will be used.

Alfa Transportes, which operates in the field of road transport of bulk cargo in Brazil for more than 30 years. The company values respect for the environment, punctuality and training professional and has if ruled in values as quality, ethic, responsibility, commitment and appreciation of people. Your thirst it is located at great Beautiful Horizon.

Beta Computers, with teams of representatives in Minas Gerais, São Paulo, Espírito Santo e Santa Catarina operates in the IT area and has been in the market for over 28 years. THE company has the mission in to secure to the customers satisfaction at purchase in products in Computing through e-commerce and sales channels. In addition, he is always looking for transparency in negotiations, sustainability economic and respect to client.

Gama Magazine, headquartered in Espírito Santo, operates in the e-commerce of home appliances, kitchen, children's line, home office and gamer. It was founded in 2018, its mission is to deliver quality products, efficiently, responsibly and ethically. Your values are lined in I work in team, innovation, agility and excellence in attendance.

Before in to introduce you results of company investigations mentioned above, it will be demonstrated tthe memory of calculation used.

The law 9,718 in 1998, are taxpayers of PIS and of COFINS as people legal of private law. As amended by the aforementioned law, to determine the calculation basis, are excluded of the recipe gross:

I - at sales canceled and unconditional discounts granted;

II - at reversals in provisions and recoveries in credits downloaded as loss, what no represent ticket in new revenues, result

positive of the evaluation in investment fur value of shareholders' equity and profits and dividends derived from holdings corporate, what have been computed as gross revenue;

IV - revenue from the sale of assets classified as assets no circulating that you have been computed as gross revenue;

V - a revenue recognized for the construction, recovery, expansion or improvement of infrastructure, the counterpart of which is intangible asset representing an exploration right, in the case of contracts grant of public services.

(Essay by Law Number: 12,973, in 2014)

At aliquots of this tax vary from a deal with the modality of taxation:

Profit Presumed: Incidence cumulative

At incidence cumulative the base in calculation It is the gross revenue, with at deductions allowed for the Law Number: 12,973. In that case, are applied the following rates:

- PIS: 0.65%
- COFINS: 3%

Calculation: Gross revenue - deductions allowed * Aliquot

Actual Profit: Non-Cumulative Incidence

At the regime non-cumulative the base in calculation It is the gross revenue, with at deductions allowed for the Law Number: 12,973. In that case, are applied the following rates:

- PIS: 1.65%
- COFINS: 7.6

Calculation: (Gross revenue – allowable deductions * Aliquot) – credits

In this incidence It is allowed subtract you credits in PIS/COFINS of value of tribute due. According we can understand from the calculation example in PIS below:

(+) gross revenue	R\$	760,000
(-) Goods and Services Used	R\$	87,200
(-) Depreciation	R\$	35,200
(-) returns	R\$	17,200

According to example, we have what is the value of the PIS due, incident about the gross revenue, It is in R\$ 12,540 ($760,000 \times 1.65\%$). Although, with credit in R\$ 2,303 ($1.65\% \times [87,200 + 35,200 + 17,200]$), the amount due is of BRL 10,237.

Fits highlight what at the regime in profit presumed no exists credit, only at the real profit It is possible to obtain this credit.

Calculation with ICMS deduction of the calculation basis of PIS and COFINS:

Value of the Basis of calculation – ICMS =
New base in calculation

After meet the new base in calculation, it is required redo the verification of PIS and of the COFINS with aliquots in each calculation system.

After finding the value with ICMS deduction from the PIS and COFINS calculation basis, it is necessary to determine the difference between the amount without deduction and the amount with the deduction, this will be the credit lifted up.

Result of findings:

Alpha transport – Real profit

ALPHA TRANSPORT			
VALUE WITHOUT DEDUCTION BASE			
YEAR	BASE VALUE CALCULATION	PIS	COFINS
2014	R\$ 279,151,628.49	R\$ 4,606,001.87	R\$ 21,215,523.77
2015	R\$ 261,210,803.23	R\$ 4,309,978.25	R\$ 19,852,021.05
2016	R\$ 330,740,820.65	R\$ 5,457,223.54	R\$ 25,136,302.37
2017	R\$ 338,152,032.47	R\$ 5,579,508.54	R\$ 25,699,554.47
2018	R\$ 285,749,371.73	R\$ 4,714,864.63	R\$ 21,716,952.25
TOTAL	R\$ 1,495,004,656.57	R\$ 24,667,576.83	R\$ 113,620,353.90

AMOUNT WITH BASE DEDUCTION

YEAR	Base value calculation	ICMS	Base value calculation	PIS	COFINS
2014	R\$ 279,151,628.49	R\$ 2,791,516.28	R\$ 276,360,112.21	R\$ 4,559,941.85	R\$ 21,003,368.53
2015	R\$ 261,210,803.23	R\$ 2,612,108.03	R\$ 258,598,695.20	R\$ 4,266,878.47	R\$ 19,653,500.84
2016	R\$ 330,740,820.65	R\$ 4,961,112.31	R\$ 325,779,708.34	R\$ 5,375,365.19	R\$ 24,759,257.83
2017	R\$ 338,152,032.47	R\$ 5,072,280.49	R\$ 333,079,751.98	R\$ 5,495,815.91	R\$ 25,314,061.15
2018	R\$ 285,749,371.73	R\$ 4,286,240.58	R\$ 281,463,131.15	R\$ 4,644,141.66	R\$ 21,391,197.97
TOTAL	R\$ 1,495,004,656.57	R\$ 19,723,257.69	R\$ 1,475,281,398.88	R\$ 24,342,143.08	R\$ 112,121,386.31

VALUE DIFFERENCE - CREDITS RAISED

YEAR	PIS	COFINS	TOTAL
2014	R\$ 46,060.02	R\$ 212,155.24	R\$ 258,215.26
2015	R\$ 43,099.78	R\$ 198,520.21	R\$ 241,619.99
2016	R\$ 81,858.35	R\$ 377,044.54	R\$ 458,902.89
2017	R\$ 83,692.63	R\$ 385,493.32	R\$ 469,185.95
2018	R\$ 70,722.97	R\$ 325,754.28	R\$ 396,477.25
TOTAL	R\$ 325,433.75	R\$ 1,498,967.58	R\$ 1,824,401.34

Beta computers - Real Profit

BETA COMPUTERS LTDA			
VALUE NO DEDUCTION OF ICMS OF THE BASIS OF CALCULATION OF PIS AND OF COFINS			
YEAR	BASE VALUE CALCULATION	PIS	COFINS
2016	R\$ 43,176,468.98	R\$ 712,411.74	R\$ 3,281,411.64
2017	R\$ 68,333,037.36	R\$ 1,127,495.12	R\$ 5,193,310.84
2018	R\$ 123,797,901.18	R\$ 2,042,665.37	R\$ 9,408,640.49
2019	R\$ -	R\$ -	R\$ -
2020	R\$ 136,547,739.42	R\$ 2,253,037.70	R\$ 10,377,628.20
TOTAL	R\$ 371,855,146.94	R\$ 6,135,609.92	R\$ 28,260,991.17

VALUE WITH DEDUCTION OF ICMS BASE PIS CALCULATION AND COFINS					
YEAR	BASE VALUE CALCULATION	ICMS	BASE VALUE CALCULATION	PIS	COFINS
2016	R\$ 43,176,468.98	R\$ 5,756,716.84	R\$ 37,419,752.14	R\$ 617,425.91	R\$ 2,843,901.16
2017	R\$ 68,333,037.36	R\$ 15,864,108.90	R\$ 52,468,928.46	R\$ 865,737.32	R\$ 3,987,638.56
2018	R\$ 123,797,901.18	R\$ 23,339,335.40	R\$ 100,458,565.78	R\$ 1,657,566.34	R\$ 7,634,851.00
2019	-	-	-	-	-
2020	R\$ 136,547,739.42	R\$ 70,690,117.46	R\$ 65,857,621.96	R\$ 1,086,650.76	R\$ 5,005,179.27
TOTAL	R\$ 371,855,146.94	R\$ 155,619,598.43	R\$ 216,235,548.51	R\$ 3,567,886.55	R\$ 19,471,569.99

VALUE DIFFERENCE - CREDITS RAISED			
YEAR	PIS	COFINS	TOTAL
2016	R\$ 94,985.83	R\$ 437,510.48	R\$ 532,496.31
2017	R\$ 261,757.80	R\$ 1,205,672.28	R\$ 1,467,430.07
2018	R\$ 385,099.03	R\$ 1,773,789.49	R\$ 2,158,888.52
2019	-	-	-
2020	R\$ 1,166,386.94	R\$ 5,372,448.93	R\$ 6,538,835.87
TOTAL	R\$ 2,567,723.37	R\$ 11,827,089.48	R\$ 10,697,650.77

Gamma Magazine – Real profit

GAMMA MAGAZINE			
VALUE NO DEDUCTION OF ICMS OF THE BASIS OF CALCULATION OF PIS AND OF COFINS			
YEAR	BASE VALUE CALCULATION	PIS	COFINS
2018	R\$ 3,291,127.50	R\$ 54,303.60	R\$ 250,125.69
2019	R\$ 30,470,195.19	R\$ 502,758.22	R\$ 2,315,734.83
2020	R\$ 6,836,351.27	R\$ 112,799.80	R\$ 519,562.70
TOTAL	R\$ 40,597,673.96	R\$ 669,861.62	R\$ 3,085,423.22

VALUE WITH ICMS DEDUCTION FROM PIS AND COFINS CALCULATION BASE

YEAR	BASE VALUE CALCULATION	ICMS	BASE VALUE CALCULATION	PIS	COFINS
2018	R\$ 3,291,127.50	R\$ 382,339.52	R\$ 2,908,787.98	R\$ 47,995.00	R\$ 221,067.89
2019	R\$ 30,470,195.19	R\$ 3,291,705.89	R\$ 27,178,489.30	R\$ 448,445.07	R\$ 2,065,565.19
2020	R\$ 6,836,351.27	R\$ 660,803.62	R\$ 6,175,547.65	R\$ 101,896.54	R\$ 469,341.62
TOTAL	R\$ 40,597,673.96	R\$ 4,334,849.03	R\$ 36,262,824.93	R\$ 598,336.61	R\$ 2,755,974.69

VALUE DIFFERENCE - CREDITS RAISED

YEAR	PIS	COFINS	TOTAL
2018	R\$ 6,308.60	R\$ 29,057.80	R\$ 35,366.41
2019	R\$ 54,313.15	R\$ 250,169.65	R\$ 304,482.79
2020	R\$ 10,903.26	R\$ 50,221.08	R\$ 61,124.33
TOTAL	R\$ 71,525.01	R\$ 329,448.53	R\$ 400,973.54

All at companies cleared above joined with the action judicial after 2017 with the decision uttered fur STF may recover you values previous in March 15, 2017. With that it is noticed the importance in a good planning tax, but also of the capacity in no only to accompany the progress of decisions of STF, but also to have the ability in if anticipate possible decisions. the companies that were more agile in realizing this possibility of a tax thesis will be more successful in the action. In the selected companies, the losses esteemed were at following:

Alpha Transport: BRL 958,738.14

Beta Computers: BRL 10,697,650.77
gamma Magazine: R\$ 00.00

In values real, the first View have up the print what The Beta computers he was the what had larger loss. But in terms percentages it is noticed what he was The Alpha transport he was the what had larger loss in relationship to the values initials of the action judicial. Already The gamma Magazine no had none loss, then your opening he was at the year in 2018, so the modulation in effects no affected your verification.

According to the calculation carried out, Alfa Transportes will lose more than BRL 171,018.15 in PIS and BRL 787,719.98 in COFINS, about 52.55% of value initial of the verification, what was in R\$ 1,824,401.34. Beta computers, will lose fence in R\$ 94,985.83 in PIS and R\$ 437,510.48 in COFINS, 4.98% of the verification initial at the value total in BRL 10,697,650.77.

This one article had as a problematic issue and shows the importance of the audit tax and prove what the audit could contribute and support organizations, either through reduction of the tax burden that can be developed, either through credit recovery. The hypothesis raised was what planning tax prevents what the company Pay taxes in form undue. That economy, could to be reversed

in others areas, providing the possibility in investments and expansion. The question he was confirmed, visa what although of companies have lost part of value accurate, still will get to recover part from values payed, what in the future may if to reverse in investments and improvements at company.

FINAL CONSIDERATIONS

After analyzing the data, we can conclude that the goals of this article were achieved: The theme was conceptualized, describing the DOT - Diagnosis of tax opportunities; it was discussed the most recent decisions of the Federal Superior Tribunal that deal with this issue; three were analyzed companies what work That thesis; and per the end it has been demonstrated step of calculated credit from of the exclusion of ICMS of the base in calculation of PIS and COFINS.

The topic addressed was still under discussion by the STF, this was the biggest limitation of this article. During The production of this article, he was carried out the modulation in effects, changing the verification initial of the thesis. With that, it is suggested new articles with a comparative in between at companies what started the thesis before in 15 in March in 2017 and at what joined with the action after that date.

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