

Expanded abstract

Income tax, tax incentives and cooperatives in Latin America

The aim of this paper is to identify tax incentives from the income tax for the Latin America cooperatives, confirming whether their granting responds to the principle of tax equity and the recognition of the contribution that these organizations make to the economic and social development of countries.

Theoretically, it was established that compliance with the contributive capacity is a fundamental element of justice; however, the difficult application of such principle must be clarified, since sometimes the subjects do not have the conditions necessary to contribute and should be released from the tax. In this sense, it is argued that the cooperatives should be included in rules that contemplate the granting of tax incentives, since they contribute to the State through the economic, social, and environmental activities they carry out in favor of the population. Therefore, a tax scheme that differentiates them from profit-making corporations should be assigned in the legal regulations, which would be congruent with the theory, since an equitable treatment should be given to people who do not possess the same opportunities.

Regarding incentives, some arguments have been put forward for their elimination, such as: i) it is complicated to be rid of them when they have been introduced in the legislation; ii) they cause loss in revenue due to the increase in tax expenditure; iii) they complicate compliance with legal norms. Hence, arguments are not justifiable when it comes to assessing the contribution of cooperatives. However, recently there has been a tendency to reduce or get rid of the incentives, seeking that these organizations pay taxes in the same way profit-making corporations would.

Income tax is a direct tax levied on the income or profits of legal and natural persons. Its collection is the responsibility of the tax administrations and thus represents one of the main categories of income for the countries. For their part, the cooperatives are regulated by rules contained in the national legal regulations, where it is contemplated that they mainly carry out production, consumption, and service activities. In addition, it is agreed that their purpose is centered on the promotion of values and principles of the cooperative model.

The comparative method was selected for the methodology, with which it was possible to understand the foreign regulations by comparing legal systems and subsystems. The starting point was to recognize that in the seventeen selected countries there are economic and social divergences, but there are also similarities that are perceptible in the legal traditions that have endured in Latin America, in the tax systems and structures, as well as in the cooperative origin.

For the collection of the information, databases of international organizations were used, which were useful to determine divergences and convergences in economic matters. Then, a

painstaking review of official information was carried out, which came from the body of law in force within the national boundaries. We mainly consulted the national constitutions, laws, decrees, rules, and regulations of the tax administrations, all of them in force by December 2022.

To carry out the analysis and systematize the information, a system of synthesis was constructed to carry out the contrasts. The similarities and differences between the countries were highlighted to aid in the identification of the presence of the principle of tax equity in the legal norms and their practical application. Subsequently, the income tax laws were examined, identifying the rules that regulate the profit-making corporations and their levies expressed as rates, fees, or aliquots. Finally, the rules for cooperatives and the assumptions for which they are or are not exempt from taxation were explored, as well as the conditions that must be met.

The results show that incentives are contained in tax laws (six countries), cooperative legislations (eight countries), decrees (two countries) and, in Brazil, in its constitution. These are manifested through exemptions and, to a lesser extent, reductions and deferrals. In all, 15 countries apply exemptions, with tax reductions coexisting in some of them (Colombia, Chile and Mexico). Mexico also provides for tax deferral for production cooperatives.

This seems encouraging, since it would confirm that the granting of tax incentives responds to the practical application of the principle of equity, but this is not entirely true. In some countries, incentives are temporary, as it is in the case of El Salvador, Peru and Venezuela. In this sense, Venezuela approved a tax exemption for a year, in El Salvador for five years (renewable terms) and in Peru the term expires on December 31, 2023. In addition, Ecuador only exempts farmers and peasants' cooperatives, so the rest pay the tax as profit-making corporations do; in Nicaragua, the incentives are limited only for cooperatives with lower revenues.

With respect to countries that offer reduced income taxation, it was found that in Colombia exists a Special Internal Tax Law which levied the cooperatives at 20% and whose contribution is earmarked for education. Chile applies a 50% reduction and Mexico considers a tax reduction for production cooperatives in the primary sector.

Additionally, in Argentina, Honduras and Uruguay, the legislations contain norms that assign exemptions and at the same time apply additional taxes, thus seeking to have the cooperatives contribute with other taxes.

Regarding administrative restrictions to access incentives, it was observed that, in Argentina, Ecuador, El Salvador, Panama, Paraguay and Nicaragua the authorization of the tax administration is required to apply. The legal regulations warn of non-compliance of the requirements, in Colombia for instance, the cooperatives may be excluded from the special regime and will apply for reinstatement after three years have elapsed; meanwhile in Honduras, the tax authority may suspend, revoke, or limit the exemptions.

The results confirm that the granting of tax incentives is essential to promote the cooperative model, thus making it possible to comply with the legal mandate to promote it and with the principle of tax equity.

In conclusion, in Latin America, it is a regular practice keeping the tax incentives for the cooperatives, but it is not the same effect in all countries, due to the restrictions and the ad-

ministrative burden involved in applying for them. In addition, there is a tendency to limit their application and even eliminate them.

In consequence, the contribution that the cooperatives make to the economic and social development of the regions should be valued, since their contribution is focused on the needs of the population and the resolutions of the problems that the State does not address. For this reason, it is important to perform a thorough analysis about the national political tendencies which are seeking the disappearance of the beneficial regimes, since the complementary encumbrances and the temporary nature of their granting restrict the development of such organizations.

The limitations of the research can be seen as opportunities to create new perspectives that address the subject and encourage the comparative study of the legal systems and public policies that apply to cooperatives. Analyzing the tax structure in a national context and then making comparisons has a tinge of complexity. Notwithstanding, the perseverance of these organizations in national realities are an example of the positive effect on the people and their communities, this being the reason to encourage its promotion for common good. Studying the income tax, cooperatives and tax incentives in Latin America requires a greater number of studies comparing other tax elements, such as the taxable base in the determination of non-cooperative results and the possible authorized deductions that can reduce the tax burden and could represent a relevant tax incentive.

The original value of this paper is expressed through the contribution made to the economy, public, social and cooperativism studies. It highlights the comparative analysis of the legal regulations in the Latin American region, revealing the favorable schemes that encourage the promotion of cooperatives and discussing the rules of those countries that maintain public policies aimed at taxing the income of cooperatives.