


Chapter 10

The Regulatory Impact Assessment of Green Tax Benefits in Portugal: The Case of Autonomous Taxation of Plug-In Hybrid Vehicles

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ABSTRACT

This paper aims to take part in the growing debate on the regulatory impact assessment (RIA) of legislation, in this case regarding the tax benefits used to fulfil of the aims of green taxation. The importance of this exercise was recently confirmed, in Portugal, with the creation of a technical unit for the evaluation of tax and customs policies (U-TAX), which may use different apply the methodologies developed by academic studies. The use of the qualitative and quantitative methodologies developed for the RIA of tax benefits are also applied to the legislative procedure leading to the adoption of measures of taxation to meet the aims of green policies. This exercise also considers the supranational origin of these initiatives, to follow the national

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options adopted in the transposition of global and European Union legislation under the form of tax benefits. These measures have been adopted for the transposition of legal acts of the European Union, but their success deserves further attention.

INTRODUCTION

This paper seeks to investigate the evaluation of the impacts generated by tax policies imposed for the adoption of better legislation in tax matters within the legislative procedures currently in place in the Constitution and ordinary legislation. This exercise aims to consider the most recent methodological developments, designed both by legal doctrine and legislation, for the improvement of the legislative procedures, as well as to design proposals to better these procedures, particularly in tax matters. This exercise has been at the forefront of most recent law-making efforts – in Portugal the Government created recently a technical unit for the evaluation of tax and customs policies (U-TAX), by Decree-Law n.º 19/2024, of 2 February. Tax benefits are one of the most relevant tools used by States to face the environmental challenges faced globally, as studied during this research, considering that the European Union is committed to becoming the first climate neutral continent in 2050 as part of the *European Green Deal*. The regulatory impact assessment of tax benefits is, therefore, a decisive tool to measure the fulfilment of the legislative aims of green policies, as this paper aims to discuss referring to the example of Autonomous Taxation of Expenses (ATE) in personal and corporate income taxation aimed at correcting consumers environmentally friendly behaviours – the results referred during the preparation of the State Budget for 2023 and the final execution will serve as reference.

EVIDENCE-BASED LEGISLATION

The challenges raised by the quality of the legislation are pursued by *Legisprudence* (WINTGENS, 2007) and have given rise to the demand of the same level of argumentative “justification” from the legislator as from the judge - part of a movement that has found various examples all over the world, from the work on “Better Regulation” by the Organization for the Economic Cooperation and Development (OECD) to the Mandelkern Report in the European Union (EU), where various tools have been developed to improve the exercise of the legislative function, both for States and the EU, directed at ensuring greater transparency and better evidentiary instruction of the legislative procedure, in both instances aimed at guaranteeing greater coherence in the legal system (CUNHA, 2025).

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