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One or Trine: The (possible) impacts of the PEC 45/2019 on Brazilian fiscal decentralization

Uno ou Trino: Os (possíveis) impactos da PEC 45/2019 na descentralização fiscal brasileira

Uno o Trino: Los (posibles) impactos del PEC 45/2019 en la descentralización fiscal brasileña

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Abstract
During the passage of time, it is necessary for a legal system to introduce structural reforms, given the maximum effectiveness of Law. And, among the main reforms proposed to the Brazilian order, there is the tax reform, represented, above all, by the PEC 45/2019. Several points are innovative, such as the adoption of the Value Added Tax (VAT) - renamed Tax on Goods and Services (IBS) - on consumer goods, in the three federal spheres, the basis of which comes from five other taxes: Tax on Industrialized Products (IPI), Tax on Circulation of Goods and Services (ICMS), Tax on Services (ISS), Contribution to the Financing of Social Security (Cofins) and Social Integration Program (PIS); having specific rates for each federative entity and abolition of taxes such as the Tax on Financial Operations (IOF). However, would the creation or abolition of these taxes be positive or negative for the fiscal decentralization proposed in the 1988 Charter? An unsolvable dichotomy. Despite the selective rates for the three federative entities (Union, States and Municipalities), the Reform intends to create a central body, whose character would be to inspect such rates according to the total. There is, therefore, a paradox: between one and triune. Based on such affirmative assumptions, this article will have an exploratory character, with deduction as a method and data collection extracted from documents, bibliography and data taken from administrative bodies.
Keywords: Decentralization; Remodeling; Taxes.

Resumo
Durante o transcorrer do tempo, faz-se mister a um sistemajurídico instaurar reformas estruturantes, vista a máxima efetividade doDireito. E, dentre as principais reformas propostas ao ordenamento brasileiro, encontra-se a reforma tributária, representada, sobretudo, pela PEC 45/2019. Diversos pontos são inovadores, como a adoção doImposto de Valor Agregado (IVA) — renomeado Imposto sobre Bense Serviços (IBS) — sobre bens de consumo, nos três âmbitos federais,cuja base provém de outros cinco impostos: Imposto sobre Produtos Industrializados (IPI), Imposto sobre Circulação de Mercadorias e Serviços (ICMS), Imposto sobre Serviços (ISS), Contribuição para o Financiamento da Seguridade Social (Cofins) e Programa de Integração Social (PIS); tendo alíquotas específicas para cada ente federativo e abolição detributos como o Imposto sobre Operação Financeira (IOF). Entretanto,a criação ou abolição desses tributos

seria positiva ou negativa para descentralização fiscal proposta na Carta de 1988? Uma dicotomia insolucionável. Apesar das alíquotas seletivas para os três entes federativos (União, Estados e Municípios), a Reforma pretende criar um órgão central, cujo caráter seria fiscalizar tais alíquotas conforme atotal. Encontra-se, sendo assim, um paradoxo: entre uno e trino. Baseando-se em tais pressupostos afirmativos, o presente artigo terá um caráter exploratório, tendo a dedução como método e a coleta de dados extraída de documentos, bibliografia e dados retirados de órgãos administrativos.
Palavras-chave: Descentralização; Reforma; Tributos.

Resumen
Con el paso del tiempo, es necesario que un sistema legal introduzca reformas estructurales, en vista de la máxima efectividad de la Ley. Y, entre las principales reformas propuestas al orden brasileño, está la reforma tributaria, representada, sobre todo, por el PEC 45/2019. Varios puntos son innovadores, como la adopción del Impuesto al Valor Agregado (IVA) - rebautizado como Impuesto sobre Bienes y Servicios (IBS) - sobre bienes de consumo, en los tres ámbitos federales, cuya base proviene de otros cinco impuestos: Productos Industrializados (IPI), Impuesto a la Circulación de Bienes y Servicios (ICMS), Impuesto a los Servicios (ISS), Contribución al Financiamiento de la Seguridad Social (Cofins) y Programa de Integración Social (PIS); teniendo tasas específicas para cada entidad federativa y abolición de impuestos como el Impuesto a las Operaciones Financieras (IOF). Sin embargo, ¿la creación o abolición de estos impuestos sería positiva o negativa para la descentralización fiscal propuesta en la Carta de 1988? Una dicotomía irresoluble. A pesar de las tarifas selectivas para las tres entidades federativas (Unión, Estados y Municipios), la Reforma pretende crear un organismo central, cuyo carácter sería inspeccionar dichas tarifas según el total. Existe, por tanto, una paradoja: entre uno y trino. En base a tales supuestos afirmativos, este artículo tendrá un carácter exploratorio, con deducción como método y recolección de datos extraídos de documentos, bibliografía y datos extraídos de órganos administrativos.
Palabras clave: Descentralización; Remodelación; Impuestos.

1. Introduction

During periods of political and economic crisis, reforms are generally carried out to alleviate / remedy the problems exposed by the legal system, perhaps financial. Evidently, after the stagnation followed by the recession that occurred in the last decade, the reform scenario would change the legislative routine a lot, especially in the social security and tax spheres. Incubate, in the article, to expose one of the most forwarded projects, certainly the best known at the fiscal field: PEC 45/2019. Prepared in order to abolish five taxes in all federal spheres, namely IPI, PIS / CONFIS, ICMS and ISS, whose incidence is based on goods and services. However, would the lack of these taxes not compromise the revenue of these entities, thus generating strong impacts on the fiscal decentralization proposed by the 1988 Constitution? The question will guide the present article, since, as the reform aims to institute VAT at the federal level, allocating rates to States and Municipalities, one can perceive the One or Trine dichotomy (present in the title - the possible is only a reservation if the PEC not be approved) as a further clarification: would the tax reform proposed by PEC 45/2019 bring more benefits to the Union and harm to States and Municipalities?

To this end, the article will be structured in three topics: the first of them will address taxes destined for extinction by PEC 45/2019, therefore, they are obsolete and fragmentary, having as subtopics the referred taxes equated between Union, States, Federal District and Municipalities, exposing the generating facts, the calculation base and the efficiency / collection; the second will deal specifically with the text prepared by PEC 45/2019, emphasizing, above all, the system of substitutive rates for other taxes; finally, the third one will show an analysis on the tax system of the referred constitutional menu in the light of renowned jurisconsults. Once the structure is established, it will proceed with the methodology used during the course of the article. The method chosen had been deductive, in view of the analysis of the constitutional text and menu. As for the data collection procedure, the documentary was used, considering the constitutional text and the doctrine, the static one, present in the data related to efficiency. Finally, the conclusion will demonstrate the results of the research, presenting the most positive and negative aspects during the research.

2. The tax Jurisdiction of Federative Entities

According to the article 145 of the 1988 Constitution, whose character establishes the general principles of the National Tax System, it is incumbent upon the Union, the States, the Federal District and the Municipalities to institute taxes on the form of taxes, fees or improvement contributions. Such attributions refer, above all, to the article 1 of the mentioned constitutional text, where the Federative Republic of Brazil, formed by the indissoluble union of States and Municipalities and the Federal District, constitutes a Democratic State of Law. Furthermore, says (Mendes & Branco, 2015, s/n):

> The sharing of revenues, especially taxes, is a fundamental issue of the Brazilian federative pact, as well as of any fiscal state that is structured in the form of federation. As is known, the Brazilian model is characterized by a process of systoles and diastoles of financial power, sometimes concentrating revenues in the central entity, sometimes diluting them between regional or local entities, with the political scenario in force at each historical moment.

Therefore, tax decentralization, in the terms previously exposed, constitutes a conditio *sine qua non* for the federative pact and the structure proposed by the Democratic Rule of Law. Therefore, it is incumbent on discussing which tax species are allowed to each federative entity and their respective effects.

2.1 Union

It is necessary before elucidating the tax species of each entity to establish the competence of those referred to. To do so, note the article 147 / CF88: State taxes are incumbent on the Union, in Federal Territory, and, if the Territory is not divided into Municipalities, cumulatively, municipal taxes; the Federal District is responsible for municipal taxes. It is noted, given the above, that the criteria for establishing tax jurisdiction is the territory, with the effects produced in this particular geographic space. According to the article 153 of the Constitutional Charter, the Union is responsible for instituting the following taxes:

> I – import of foreign products;
> II - exportation, abroad, of national or nationalized products;
> III – income and earnings of any kind;
> IV – industrialized products;
> V – credit, foreign exchange and insurance transactions, or relating to bonds or securities;
> VI – rural territorial property;
> VII –big fortunes, under the terms of complementary law. (Brazil, 1988).

However, in order to better adapt the proposal of the article, only the tax whose existence is being threatened by PEC 45/2019 will be based.

2.1.1 Taxes over industrialized products

According to Torres (2011), the IPI is levied on production and initial circulation, and, together with the ICMS, which has greater expectations, it is a tax on goods and wealth. In other words, the aforementioned component constitutes one of the generating facts of the IBS proposed by the reform. Furthermore, says MachadoSegundo (2018, s/n):

> The IPI is selective due to the essentiality of the products, that is to say, their rates must be differentiated (higher or lower) depending on the degree of essentiality of the taxed asset. Essential products are provided with tax exemptions, with the application of a "zero rate" (which is nothing more than an exemption granted by the Executive Power based on the authorization it has to change tax rates), or with reduced rates. Superfluous or harmful products, such as cigarettes, in turn, are taxed at very high rates. The IPI is not cumulative, that is to say, the amount due by the taxpayer must be the difference between the tax related to the products left from the establishment and the one paid in relation to the products entered there. The balance verified, in a given period, in favor of the taxpayer is transferred to the following period or periods.

Therefore, it is necessary to discuss the efficiency of the aforementioned tax with regard to collection. To this end, the

table below shows the amounts collected for 2017 and 2018, according to the IPCA of December of last year.

Table 1: Collection of IPI - 2017 and 2018 (IPCA - december 2018) - in millions.

REVENUE	2018 [A]	2017 [B]	VAR. (%) [A]/[B]	PARTICIPATION (%)	
				2018	2017
IPI – TOTAL	55392	50971	8,68	3,75	3,61
I.P.I-FUMO	5221	5382	-2,99	0,35	0,38
I.P.I-BEVERAGE	2550	2988	-14,68	0,17	0,21
I.P.I-AUTOMOBILES	4384	4502	-2,63	0,3	0,32
I.P.I- LINKED TO IMPORTATION	18262	14765	23,69	1,23	1,05
I.P.I-OUTHERS	24976	23333	7,04	1,69	1,65

Source: Adapted from Receita Federal (2020).

Therefore, in view of the percentage of IPI collection at the federal level, whose participation in public revenue is neither huge nor negligible, it is necessary to analyze another tax, under a kind of social contribution: PIS E CONFINS.

2.1.2 Programs of Social Integration and Formation of the Civil Servant's Assets and Contribution to the Financing of Social Security

Contributions are essentially characterized by the fact that they are instituted to serve specific purposes. According to the article 149 of the 1988 Constitution, such a fiscal modality can be established with the following purposes: to cover social security, to serve other purposes of a social nature and interest of professional or economic categories, to intervene in the economic domain. In this respect, PIS and CONFINS are adapted to social costing, the taxable event being revenue or billing. Furthermore, these contributions have a dichotomous character, that is, they are either cumulative or not cumulative. According to Machado (2011, s/n):

> The contribution on billing (COFINS), from the Law n° 10.833/ 2003, has become *non-cumulative*. The same occurred with the contribution to the PIS, with the advent of the Law n°. 10.637/ 2002. Unlike what happens with the ICMS and the IPI, the non-cumulative nature of the contributions in question does not reach all taxpayers without distinction, but only those who are subject to the tax system, by the income tax and by the social contribution on the net profit, of the real profit. If the taxpayer fulfills the legal requirements and chooses the presumed profit system, with respect to the CSLL and the IRPJ, he will submit himself to the COFINS and PIS *cumulatively*.

As for the efficiency of tax collection, such taxes have the following references:

Table 2: PIS / Cofins collection in 2017 and 2018 (IPCA - december 2018).

REVENUE	2018 [A]	2017 [B]	VAR. (%) [A]/[B]	PARTICIPATION (%)	
				2018	2017
COFINS - CONTRIBUTION TO SOCIAL SECURITY	245.931	230.158	6,85	16,63	16,30
FINANCIAL ENTITIES	18.486	19.646	-5,91	1,25	1,39
OTHER COMPANIES	227.446	210.513	8,04	15,38	14,91
CONTRIBUTION TO THE PIS/PASEP	65.504	61.505	6,50	4,43	4,36
FINANCIAL ENTITIES	3.060	3.225	-5,11	0,21	0,23
OTHER COMPANIES	62.444	58.280	7,14	4,22	4,13

Source: Adapted from Receita Federal (2020).

Therefore, after discussing the taxes related to the Union and its participation in the composition of the budget, it is incubate to highlight the most important tax for fiscal health in the Federated States: the ICMS.

3. States and Federal District

Given the above about the taxes whose jurisdiction is fixed at the federal level, it is necessary to expose, through the constitutional text, the tax jurisdiction of the States and the Federal District. According to the article 155 of CF / 88, it is incumbent on the States and the Federal District to impose taxes on:

> I- cause of death and donation, of any assets or rights; [ITCMD]
> II-operations related to the circulation of goods and on the provision of interstate and intercity transport services and communication, even if the operations and services begin abroad; [ICMS]
> III - motor vehicle ownership. [IPVA]

However, only the ICMS, of the taxes previously highlighted, deserves an accurate analysis with regard to PEC 45/2019, as it constitutes the biggest change in the macroeconomic perspectives of the aforementioned menu. Therefore, it is up to a definition followed by a taxable event and calculation basis as done before, however, highlighting the obsolescence of this tax due to its efficiency over time.

According to Sabbag (2017) the ICMS, state tax, successor to the old Sales and Consignments Tax (IVC), was instituted by the tax reform of EC n. 18/65 and represents about 80% of the collection of the States. Furthermore, the tax is *multi-phased* (levies on added value, obeying the principle of non-cumulative - art. 155, § 2, I, CF), *real* (the person's conditions are irrelevant) and proportional, having, predominantly, a *fiscal character.*

Generating facts are: the circulation of goods, the interstate and municipal transport service; and communication services. First, as Paulsen (2015) says, operations are legal businesses; circulation is transfer of ownership, and not just physical movement; commodities are traded goods. Therefore, it is not a taxable event for the ICMS to simply transfer goods from one to another establishment of the same taxpayer. In addition, the equity transfers resulting from the payment of capital or the spin-off, incorporation, merger or transformation of companies do not constitute a movement of goods circulation. Secondly, Sabbag (2017) explains that transportation between Municipalities of the same federated unit (intercity) or between different States

(interstate) represents a taxable event of the ICMS, and it is important to highlight: such services must be costly, since the provision of free services incidence. Third, ICMS will be charged, notes Alexandre (2014, p. 625) on costly communication services, by any means, including generation, emission, reception, transmission, retransmission, distribution and expansion of these means of any kind. During the composition of the ICMS calculation base, according to Sabbag (2017, s / n), the following will be adopted:

> I - the value of the operation, in the case of merchandise circulation operation;
> II - the price of the service, in the case of transportation (intercity and interstate) and communication;
> III -the value of the goods or imported goods, included in an import document, converted into national currency at the same exchange rate used to calculate the import tax, plus IPI, IOF, II itself (Import Tax) and expenses customs;

Regarding the ICMS rates, Torres (2011) states that the CF thoroughly regulates the ICMS rates, distinguishing between those applicable to internal and interstate operations and installments. The first of these refers to residents of the State or interstate operations, with the final consumer not being a taxpayer in the other State. The second, defined by the Federal Senate, governs legal transactions between the states.

Having exposed the main characteristics of the most important tax of the Federative States, perhaps the one with the highest degree of collection, the need to analyze efficiency is incubiated. According to (Afonso; Lukic; Castro, 2018), the tax that most collects in Brazil is becoming obsolete due to the fact that this tax only applies to goods in an economy that is increasingly based on services.

Between 1996 and 2017, the Gross Tax Charge (CTB - defined as the ratio between the collection of taxes and GDP at market prices, both considered in nominal terms) evolved from 23% of GDP to 32.43%. However, the ICMS in relation to CTB showed a decrease in relation to the same period.

Table 3: Revenue tax by tax and competence - 2008 TO 2017 - In% of collection.

STATE REVENUES	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
ICMS	7,14	6,84	6,9	6,8	6,78	6,81	6,65	6,61	6,6	6,72
IPVA	0,55	0,6	0,55	0,55	0,56	0,55	0,56	0,6	0,62	0,62
ITCD	0,05	0,05	0,06	0,06	0,07	0,08	0,08	0,11	0,12	0,11
CONT. REG. PREV.	0,37	0,34	0,33	0,3	0,32	0,31	0,34	0,36	0,37	0,37
OUTROS	0,43	0,46	0,44	0,45	0,47	0,48	0,47	0,48	0,51	0,52

Source: Own authorship (2021).

After confirming the efficiency of the aforementioned, it remains to address a tax whose competence is subsidiary or residual to the ICMS, but which belongs to other federated entities: the municipalities. Such tax is levied on goods of any nature, being called ISS.

4. Municipalities

Given the previous competencies related to the Union and the States, together with the Federal District, the tax prerogatives attributed to the municipalities are exposed, according to the article156 of CF / 88:

I - urban land and property; [IPTU]
II - "inter alives" transmission, in any capacity, by way of an onerous act, of real estate, by nature or physical accession, and of real rights over real estate, except for guarantee, as well as assignment of rights to their acquisition; [ITBI]
III - services of any nature, not included in the article 155, II, defined in a complementary law. [ISS] (Brasil, 1988).

However, for the purposes of analysis, the remaining taxes are excluded to ascertain the fundamental characteristics and efficiency of ISS collection. According to Torres (2011, s/n):

> ISS is a residual tax. It focuses on services that are not essential and inextricably linked to the circulation of goods, industrial production, the circulation of credit, foreign currency and securities, since in all these economic facts there is a share of human labor.

Furthermore, it should be added that the ISS does not have its own taxable event and the calculation basis is the taxpayer's own revenue. In view of these aspects, it is necessary to analyze the efficiency of the tax.

Table 4: Tax revenue by tax and competence - 2008 to 2017 - in% of collection.

TAXES MUNICIPALITIES	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
ISS	2,40	2,54	2,59	2,63	2,82	2,76	2,93	2,83	2,66	2,65
IPTU	1,32	1,41	1,38	1,35	1,37	1,38	1,45	1,64	1,7	1,81
ITBI	0,41	0,41	0,46	0,5	0,53	0,56	0,57	0,51	0,47	0,47
CONT. REG. PREV.	0,39	0,4	0,4	0,4	0,41	0,44	0,45	0,5	0,52	0,52
OUTHERS	0,64	0,7	0,68	0,6	0,66	0,63	0,67	0,76	0,82	0,81

Source: Own authorship (2019).

In addition, depending on what was scored in the past, these taxes have subsidiary or residual competence to the ICMS.

5. The System Proposed by the PEC 45/2019

For the first time since the 1988 Federal Constitution came into force, a draft menu proposed such a profound change in the national tax system. According to the justification of the project, the objective is to propose a comprehensive reform of the Brazilian model of taxation of goods and services, by replacing five current taxes with a single tax on goods and services (IBS). To this end, five taxes would be replaced in the three spheres, all of which were once characterized in this article: IPI, PIS / CONFIS, ICMS and ISS. The tax, according to the project, which would take effect would be one on added value, the very famous IVA.

However, to meet the tax demand of federated entities whose revenue could not count on such important taxes, such as ICMS, PIS / CONFIS or ISS, the project proposes rates for each federative entity. Therefore, it is important to highlight a characteristic that differentiates IBS from the other exposed taxes: ISS is a cumulative tax by nature. The non-cumulative nature of the ICMS is frustrated by the non-return of accumulated credits and by the existence of a series of restrictions on the recovery of credits, with emphasis on the impossibility of taking credits in relation to part of the electricity and telecommunication services. In other words, the new tax claims to remedy the problems present in the ICMS whose collection has become obsolete, as highlighted in Table 3.

Depending on the project's justification, the tax will have the characteristics of a good VAT. For this purpose, it will focus on a broad base of goods, services, intangibles and rights, it is important, because the purpose of the tax is to tax consumption in all its forms, in addition, in all stages of the production process and full non-cumulativity. (also known as "financial credit") are essential for any tax paid in the previous stages of the production and marketing chain to be recovered. Regarding the federative issue, the project highlights:

> Operationally, the model will work as follows. There will be three IBS reference rates - one federal, one state and one municipal - that will be calibrated in order to replace the loss of revenue from the taxes that are being replaced by IBS. According to the proposal, the reference rates will be calculated by the Federal Audit Court and approved by the Federal Senate. For the Federal Government, the reference rate of the IBS will be that which restores the loss of revenue from PIS, Cofins and IPI, discounting the revenue gain resulting from the creation of the selective tax; for the States it will be the one that replenishes the ICMS revenue for all the States; and for the Municipalities it will be the one that replenishes the ISS revenue of the set of municipalities in the country. (Brazil, 2019).

For example, if a municipality loses 10% referring to ISS, IBS will have a rate of the same 10% for the entire tax base.

Furthermore, PEC 45/2019 defines the destination of each of the rates. The Union will be the sum of the individual rates with the following destinations:

> I - social security (current Cofins destination);
> II - financing of the unemployment insurance and wage bonus program (current allocation of 60% of the income of the PIS);
> III - financing of economic development programs (current allocation of 40% of PIS revenue, transferred to the BNDES);
> IV - State Participation Fund (current allocation of 21.5% of the revenue of the IPI);
> V - Municipality Participation Fund (current allocation of 24.5% of the revenue of the IPI);
> VI - financing programs for the productive sector in the North, Northeast and Center-West Regions (current allocation of 3% of the IPI);
> VII - transfers to the States and the Federal District, in proportion to the value of the respective exports of industrialized products (current destination of 10% of the IPI);
> VIII - maintenance and development of education (current allocation of 18% of IPI revenue, net of transfers to States and Municipalities).

As for the States, the same rule of the Union will follow, however, with other determinations:

> I - transfer to the municipalities of the State (current allocation of 25% of the ICMS);
> II - maintenance and development of education (current allocation of 25% of the ICMS revenue, net of transfers to the municipalities, referred to in item "i" of this list);
> III - maintenance and development of education (current allocation of 25% of the ICMS revenue, net of transfers to the municipalities, referred to in item "i" of this list);
> IV - other ICMS allocations that may be provided for in the State Constitution; and
> V - free allocation resources (corresponding to the ICMS revenue not linked to the other destinations in this list).

No caso dos Municípios, a alíquota municipal do IBS será composta pela soma de alíquotassingulares vinculadas às seguintes destinações:

> I - manutenção e desenvolvimento do ensino (destinação atual de 25% da receita do ISS);
> II - ações e serviços públicos de saúde (destinação atual de 15% da receita do ISS);
> III - outrasdestinações do ISS eventualmente previstas na Lei Orgânica do Município; e
> IV - recursos de alocação livre (correspondente à receita do ISS não vinculada às demaisdestinações desta lista)

Once the assumptions of the new tax are defined, an analysis of the proposal will be carried out in view of the

aspects described with regard to tax simplification and decentralization..

6. Analysis of the PEC 45/2019

As previously highlighted, PEC 45/2015 has the merit of primacy among the countless changes that have taken place in the constitutional tax system, as it aims to eliminate five taxes and establish an over-added value. However, the project suffered harsh criticism from legal consultants like Martins et al. (2019, s / n) where:

> This centralizing character is an unmistakable evidence of the unconstitutionality of the project. In fact, according to data from the National Treasury cited in the vote of the rapporteur of the matter in the Constitution and Justice Commission (CCJ) of the Chamber, 43% of the current collection of municipalities and 88% of the tax revenues of the States would be controlled by the central power. Such reallocation of competences and tax revenues is not in line with the federal pact. After all, it tends to weaken the financial autonomy of decentralized entities, with deleterious effects on the performance of their constitutional attributions, insofar as they would not be authorized to institute and collect the IBS, to promote the variation of rates according to the sector, the product or the economic and social circumstances of each moment.

Demais, uma reforma, neste nível, implicaria também em reformas nas esferas estatual e municipal, visto que, segundo Tendências Consultorias Integrada (2018), apenas 6 estados apresentam situação fiscal “boa” ou “muito boa”. Ou seja, a reforma tributária, principalmente, a PEC45/2019, possui um alto nível de complexidade. Neste aspecto, assina Martins et al. (2019, s/n):

> The aim is to revoke 19 provisions and introduce 141 others into the Constitution. With that, almost 40 new concepts would be created. In the first two years, the system would be adapted on a “trial and error” basis. During the first decade, the country would live with two parallel models, the new and the current. Taxpayers would be accountable to the three existing levels of inspection and to the one to be created to deal with the IBS. After the initial transition, there is no guarantee that the system would continue without changes. For this reason, the very 50-year period for states and municipalities to be compensated for the losses resulting from the new tax is doubtful. After all, for more than 15 years States have been fighting for the Union to compensate for the losses resulting from the elimination of ICMS-Exports, promoted by Constitutional Amendment (EC) 42/2003. Moreover, assuming the supposed neutrality of the model's revenue, in aggregate terms, the losses would have to be compensated with a higher tax burden.

Therefore, in view of the complexity and the (previous) unconstitutionality of PEC 45/2019, it is considered that this reform is not the best option to adjust the current tax system.

7. Final Considerations

In view of the above, it is stated that the expected results for this article are obtained. To that end, PEC 45/2019 would have negative effects on fiscal decentralization, and may harm article 1 of CF / 88, stone clause of the federative pact. Although the project “simplifies” fragmented collection, given the numerical reduction in the infraconstitutional laws related to the taxes on goods and services instituted by the federal entities, there is the complexity of the rates related to the lost revenue due to the extinction of taxes.

Furthermore, as highlighted, a reform in the constitutional scope would result in others in the federative scope, because the fiscal situation of the States and Municipalities is not satisfactory. And, taking into account the current political reality, the process would take a long time, perhaps even impossible. Therefore, although innovative, the PEC 45/2019 is not the best solution for the national tax system, therefore, between the one and the triune, constitutionally, the triune is valued.

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