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Progressive IPTU Quotas in the New Tax Code of Imperatriz, Maranhão

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Abstract: ***The Urban Property Tax (IPTU) is a tax within municipal jurisdiction, levied directly on properties located within urban boundaries. The objective of this study was to analyze the progressive rates of the IPTU in the New Tax Code of Imperatriz, Maranhão. To provide theoretical support for the development of this work, the teachings of Cardoso (2019), Correia et al. (2019), Amaro (2019), among others, were used. The research was conducted with a qualitative approach, with exploratory and descriptive objectives, and the procedures used were bibliographic and documentary research through consultations in books, articles, master's dissertations, and review of the New Tax Code of Imperatriz, Maranhão. Therefore, there was a provision for progressive rates in the IPTU of Imperatriz-MA, which the municipal government had not yet used, modernizing the Code. However, when implementing the progressive rate based on the social function of property, they immediately imposed a 5% tax without giving the population a period to adapt, failing to inform them of this increase, or implementing the increase progressively by 1% each year as the property is built, which would be a more effective way and would not raise taxation to such an extent that it makes it impossible for people to own a lot without building on it.***

Keywords: Rates, IPTU, Tax code, Tax.

1. INTRODUCTION

The Urban Property and Land Tax (IPTU) is a direct tax, whose competence lies with Brazilian municipalities, directly levied on real estate located within urban boundaries, primarily serving a revenue-raising function. It is also considered a tool that promotes the social relationship related to private property in the Brazilian context. From this perspective, the argument about tax progressivity emerges (Amaro, 2019).

The progressivity of IPTU is of paramount importance in the context of society and public administration, as it is a method to regulate, within legality, the way real estate or properties are used, thereby fulfilling what is stipulated by the master plan of each region.

In light of all these contexts, the aim of the study was to analyze the progressive rates of the IPTU through the New Tax Code of Imperatriz, Maranhão. The specific objectives were: to characterize the historical context of the Urban Property and Land Tax, to identify the concept of urban property, what it means to be an owner, the characteristics, constitution, and calculation basis of the Urban Property and Land Tax rates, and the progressive rate of the IPTU in the New Tax Code of Imperatriz, Maranhão.

To provide theoretical support for the development of this work, the teachings of Cardoso (2019), Correia et al. (2019), Amaro (2019), among others, were used. The research was conducted with a qualitative approach, with exploratory and descriptive objectives, and the procedures used were bibliographic and documentary research through consultations in books, articles, master's dissertations, and review of the New Tax Code of Imperatriz, Maranhão.

The importance of the research stemmed from the need to delve into the progressivity of the Urban Land Property Tax (IPTU) rate in the New Tax Code of Imperatriz-MA, in the light of the social function of property and the principle governing contributory capacity, which are irrelevant bases for understanding the jurisprudential and doctrinal discussion on the subject.

2. HISTORICAL CONTEXT OF THE URBAN PROPERTY AND LAND TAX (IPTU)

May 19, 1799, marked the initial milestone in the creation of the property tax then called the "Décima Urbana" (Urban Tenth), instituted by the then Queen of Portugal, D. Maria. However, this tax was only effectively established in Brazil with the arrival of the Portuguese Royal Family in the country in 1808, as the Napoleonic Empire had invaded the Lusitanian nation. (Cardoso, 2019).

Therefore, according to Amaro (2019), the "Décima Urbana" was established on June 27, 1808, governed by a royal decree issued by the Portuguese court, which was later consolidated by King D. João VI, with the aim of supplying the royal treasury. During this period, the municipality of São Sebastião in the state of Rio de Janeiro had few numbered properties, thus hindering the collection and enforcement of the Real Tax, as this identification was necessary to facilitate and classify the properties, which gave rise to Brazil's first property cadastre process.

According to data available on the website of the Secretariat of the Federal Revenue of Brazil-SRFB (2018), the first parishes in Rio de Janeiro to be considered as urban perimeters for the collection of the "Décima" were: Cabo Frio, Candelária, Engenho Velho, Ilha Grande, Parati, Santa Rita, São José, and Sé.

It should be noted that the royal decree was created on May 13, 1809, and effectively regulated the Décima Urbana, featuring a rate of 10% (ten percent), thus benefiting building owners located in the Court, towns, cities, and villages of Rio de Janeiro (Dias, 2019).

However, according to Correia et al. (2019), it was with the advent of the 1934 Constitution that the Property Tax became the exclusive competence of municipalities, a provision maintained by subsequent constitutions: 1937, 1946, 1967, 1969, and the current 1988 Federal Constitution, in which the municipality came to be considered an integral entity of the Brazilian federation.

2.1 Iptu - Urban Property and Land Tax

An urban property is one located within the urban perimeter established by municipal legislation, according to the Master Plan or more specific municipal constitutions indicated by Law n° *10.257/2001* which deals with the City Statute. Therefore, the purpose and characterization of this type of property are mainly associated with commercial, residential, industrial, and service activities, among others, and are not directly related to extractive or agricultural production (Correia et al, 2019).

According to Abreu (2019), the owner of an urban property is recognized in Article 1,228 of the current Civil Code; however, this individual is legally recognized as the owner of an asset or property, with the right to use (make use of), enjoy (benefit from), and transfer (dispose of) the thing, in addition to being able to review, in cases of, for example, improper possession or use, initiate legal proceedings, and if third parties use a property without proper formalization through a possession contract.

Despite these guarantees directed at the owner, they also have the duty to bear taxes on their property, among which is the Urban Property and Land Tax (IPTU), which applies to the ownership of properties located within urban areas; thus, it is the responsibility of municipalities as well as the Federal District (Barros, 2020).

The purpose of IPTU, according to Barreto (2020), is to collect financial resources into the municipal public treasury and the Federal District's treasury to enable investments in improvements such as: construction of schools, daycares, maintenance and expansion of health posts, paving, maintenance of streets, squares, leisure areas, etc.

For Dantas (2019), IPTU can be designated both in the case of building property, being the property that characterizes physical accession, and in the case of land property, which establishes the property by nature. Thus, the municipal legislator may choose to create a single tax or two taxes, one imposed on built properties and another taking into account unbuilt ones.

IPTU has legal provision in Article 32 and subsequent articles of the National Tax Code and Article 156, item I of the Federal Constitution, whose competence is restricted to municipalities and the Federal District, Articles 32 and 34 of the NTC, in Federal Law No. 10,257/01 - City Statute in articles 7°and 8° (Amaro, 2019).

The active subject of IPTU is the municipality or the Federal District, and the passive subjects are the taxpayer and the tax responsible party. It is established by Articles 121 and 122 of the NTC; that is, it is up to the public authorities to demand payment of the tax, while it is up to the passive subject to fulfill the obligation (Miranda, 2019).

The taxpayers of the urban property and land tax are, according to Martins (2018), individuals or legal entities who hold ownership or possession of the property by lawful title, in good faith, registered in the Real Estate Registry Office, and properly registered with the City Hall of the respective municipality where the tax applies.

The content of Article 25 of Law No. 8,245/1991, which governs the rental of urban properties and the procedures pertaining thereto. According to Brasil (1991, p. 34):

Article 25. If the tenant is assigned responsibility for paying taxes, charges, and ordinary condominium expenses, the landlord may collect such amounts together with the rent for the month to which they relate.

Sole paragraph. If the landlord advances the payments, the benefits arising therefrom shall accrue to them, unless the tenant fully reimburses them.

Thus, if there is a contractual clause requiring the tenant to pay the IPTU, this falls within the scope of Civil Law, because under Tax Law the taxpayer is the property owner, and the landlord may file a regressive action to collect the unpaid IPTU amount provided for in the contractual clause (Tristão, 2020).

As stated in Article 32 of the CTN, the triggering event for IPTU is the ownership, usufruct, or possession of a real property by nature or by physical accession, as defined in civil law, located in the urban area of the Municipality. Its tax base is legally provided for in Article 33, sole paragraph, which is the property's market value. The percentage applied to this tax base is called the rate. This IPTU rate is set by the municipality, with neither the Federal Constitution nor the CTN imposing any limitations. (Amaro, 2019).

According to Brasil (1991, p. 35), with the emergence of the triggering event and the characterization of the tax obligation, the need to assess the tax credit arises, which is a fiscal administrative procedure, as provided in Article 142 of the CTN, transcribed below:

Article 142 - It is the exclusive competence of the administrative authority to establish the tax credit through assessment, understood as the administrative procedure aimed at verifying the occurrence of the triggering event of the corresponding obligation, determining the taxable matter, calculating the amount of tax due, identifying the taxpayer, and, if applicable, proposing the application of the applicable penalty.

The occurrence of the triggering event of the tax obligation is observed, determining the taxable matter, calculating the amount due to the Municipal Public Treasury, identifying the taxpayer (taxpayer or tax responsible party), and finally, if necessary, imposing the applicable penalty in case of non-compliance with the obligation due to non-payment (Dias, 2019).

According to Lourenço (2007), the tax base is the economic magnitude established in the quantitative criterion in accordance with the tax law, as well as that which establishes the differentiation of tax types, aligned with the second paragraph of Article 145 and item I of Article 154 of the Federal Constitution, and is associated with the rate to establish the amount of tax to be paid.

The tax base serves to determine the value on which a tax rate will be applied, and in the case of IPTU, the rate will be applied to the property's market value. (Peter; Isquiedo; Pazinato, 2015).

Article 33 of the National Tax Code establishes the following regarding the tax base: For Brasil (1966, p. 12):

"The tax base is the property's market value. Sole paragraph. In determining the tax base, the value of movable property kept, permanently or temporarily, in the property for the purpose of its use, exploitation, improvement, or convenience is not considered."

Peter et al. (2015) emphasize that the taxable value of the property, determined by municipalities using effective methods and procedures to survey the characteristics of the urban area where the properties are located, thereby creating a generic value map for tax purposes, would be important in the average calculation of all properties.

According to Lourenço (2007), when the constitutional text states that the tax base should be the value of the property, the expression "value of the property" is the result of its physical situation: built or unbuilt; old or new; standard, whether luxury/fine/popular; small or large; plus its purpose—residential, commercial, industrial—and also combined with its location and the public services serving the city neighborhood. Thus, the tax base is the taxable value of the property.

2.2 Iptu Rates

According to Article n°7, in its paragraph 1°, of Federal Law n°10.257 of July 10, 2001, the premises for establishing the IPTU collection rate are, according to Brasil (2001, p. 76): urban property and territorial (IPTU) progressive over time, by increasing the rate for a period of five consecutive years. §1° The rate to be applied each year shall be fixed in the specific law referred to in the caput of Article 5° of this Law and shall not exceed twice the value for the previous year, respecting the maximum rate of fifteen percent.

According to Coelho (2020), the IPTU has a percentage and graduated rate levied on the taxable value of the property, thereby establishing a legal relationship of fiscal justice. The taxable value can be understood as the value established by a municipality's administrator following different criteria, which do not always follow the market value.

As provided in Article 182, § 4°, item II of the Constitution of the Republic, the IPTU may have progressive rates over time, aiming to compel the owner of an unbuilt, unused, or underused property located in an area demarcated by the Master Plan to give it the appropriate use, under penalty of incurring the sanction of expropriation of the property (Braga, 2019).

As it is a static economic patrimonial component, that is, whose value undergoes few changes over time, and when such a change occurs, the amount of real estate appreciation or depreciation itself will reveal sufficient evidence of the true contributory capacity of the taxpayer, considering that the taxable value alone naturally and proportionally grades the value of the tax obligation owed by the taxpayer (Barreto, 2020).

With regard to the fiscal progressivity of item I, the IPTU may be progressive based on the value of the property, that is, the higher the taxable value of the property, the higher the rate that will be levied on that tax base (Soares, 2017).

Thus, this progressivity aims to equalize the tax burden according to the taxpayer's economic capacity, as set forth in article 145, §1° of the Federal Constitution. To this end, the property itself is considered a presumptive sign of wealth, leading to the conclusion that the more valuable the property, the higher the IPTU amount to be paid by the owner (Amaro, 2019).

It is also worth highlighting in Alves' (2020) thinking that, despite the express authorization for fiscal progressivity based on the property's value, the Federal Supreme Court (STF) established in Precedent No. 589 that progressive IPTU taxation based on the number of properties owned by the taxpayer is unconstitutional.

Regarding the extrafiscal progressivity of item II, differentiated rates may be applied to IPTU based on the property's location and use. This means that properties located in specific areas of a municipality, as well as those used for residential, commercial, or industrial purposes, may be subject to higher or lower taxation depending on their appreciation (Viegas, 2020).

The use of this extrafiscal progressive taxation modality, like temporal progressivity, aims to fulfill the social function of property. Therefore, when establishing such differentiated rates, the municipality must act in compliance with the provisions of its master plan (Nascimento, 2018).

It is important to note that the STF, in Precedent No. 539, upheld the constitutionality of taxation with differentiated rates for properties owned by individuals who do not own another property. As explained, the extrafiscal progressivity of IPTU, in observance of the principle of the social function of property, operates not only through the application of differentiated rates under article 156, § 1°, item II, but also through the application of temporally progressive rates. While the former is preventive extrafiscal progressivity, the latter is punitive extrafiscal progressivity (Dias, 2019).

With regard to temporal progressivity, provided for in article 182, § 4°, item II of the Federal Constitution, as well as in Law No. 10.257/2001, it is a technique used to encourage the owner to appropriately utilize unbuilt, underutilized, or unused urban land. Souza (2019) further emphasizes Souza (2019, p. 23) that:

This constitutional provision - article 182, § 4° - empowers the municipal public authority, by means of a specific law for the area included in the master plan, to require, in accordance with federal law, the owner of unbuilt, underutilized, or unused urban land to promote its appropriate utilization, under penalty of, successively, compulsory subdivision or construction, temporally progressive IPTU, and if such measures are insufficient to compel the owner to achieve that end, expropriation with payment through public debt securities previously approved by the Federal Senate, with a redemption period of up to ten years, in equal and successive annual installments, ensuring the real value of compensation and legal interest.

Temporal progressivity translates into an increase in rates over five consecutive years, which must begin in the first fiscal year following the finding of non-compliance with the obligation to subdivide, build on, or utilize the urban land (Farias, 2018).

As long as the breach of this obligation continues, the increase in rates will persist (Bento, 2019). Similarly, once the intended purpose is achieved, that is, the obligation to subdivide or construct is fulfilled, the rate will return to normal in the following fiscal year, suspending the technique of temporal progressivity.

2.3 The Social Function of Property

According to Rodotà (2020), the term social function represents the individualization of an element that accompanies the property situation whenever there is a social utility defined by the legislator. To this end, the social function would be the discovery of the internal aspect of property, positioning itself as a component of its structure.

It is customary to consider the social function as synonymous with the terms social welfare and social utility. This is because the first idea that comes to mind when referring to the term is the protection of property due to the productive utility of goods, linked to increased production and wealth, as a form of economic and collective well-being (Barros, 2016).

Mozos (2017) states that property is conceived as a right to assign goods, with no further limitations than those established by law. In his view, the social function is neither able nor capable of creating new concepts of property, nor even new types of property, but only to nuance its limitations, especially since it does not directly affect the right, but only the destination given to the goods to which the right applies [5].

It is worth noting that the Federal Constitution itself does not provide an exception to the rule of the social function of private property, which is why its application should not be restricted to productive goods. This is because all goods have general and individual utility, linked to the satisfaction of demands worthy of protection, not necessarily from the production market, but also personal, existential, individual, or community-based, thereby fulfilling the social function (Figueiredo, 2019).

In 2001, Law No. 10,257, better known as the "City Statute", began to regulate Articles 182 and 183 of the 1988 Federal Constitution. In this way, it sought to direct the use of urban property for the collective good, safety, and environmental balance (Brasil, 1988).

Among the guidelines highlighted in article 2° of this law are the ordering of the city, control of urban land, subdivision of land, and construction; in order to curb excessive and inappropriate use in relation to the city's infrastructure, traffic, and speculative withholding. Special urbanization rules were also established for the regularization of land occupied by low-income populations (Amaro, 2019).

The City Statute also adopted other mechanisms aimed at regulating the full development of the social function of property in the city and ensuring the well-being of its inhabitants (Sales, 2019). The surface property right is one of them, as it allows for the infinite division of ownership rights by granting a third party the right to use the soil, subsoil, or airspace of the land through a onerous or gratuitous legal transaction.

Another mechanism, according to Brito (2019), is the right of preemption, whereby the Municipal Public Authority is granted preference to acquire urban real estate subject to onerous alienation, for a specified period and in a specified area. It is a powerful tool to combat tax evasion and well reflects the prevalence of collective over individual interest. In addition to these, there is the possibility of onerous granting and transfer of the right to build, provided for in articles 28, 31, and 35; these mechanisms allow the public authority to allocate and direct investments to underprivileged neighborhoods in the city.

2.4 Progressive Rate of the Iptu in the New Tax Code of Imperatriz, Maranhão

The municipality of Imperatriz, Maranhão, through Complementary Law No. 005/2022, which deals with the New Tax Code, states that the Urban Property and Land Tax (IPTU), aimed at property, has as its generating factor the due ownership, possession, or domain of any and all real property, by accession or physical nature, as established in civil law, provided it is located in the urban zone of the city of Imperatriz, under the conditions and forms set forth in this Complementary Law. (CMT, 2022).

The proposal to update the Municipal Tax Code (CMT) was established by the City Council of the municipality of Imperatriz; Complementary Law Project No. 005/2022 was submitted by the City Hall for approval in plenary, with the purpose of providing updates to Law 001/2003, approved in December 2003. The old CMT imposed higher taxes, and the new Law represents an evolution towards reducing the municipality’s tax burden. (CMT, 2022).

Article 10 of Law 005/2022 establishes that for the purposes of the provisions in the caput of art. 9° of the CMT, the urban zone is understood as the municipal zoning law, observing the minimum requirement of the existence of improvement factors indicated in the following clauses, made or maintained by the Judiciary, as emphasized by the CMT (2022, p. 05):

1) Paved road or sidewalk with stormwater drainage;
2) Water supply;
3) Sanitary sewage system;
4) Public lighting network, with or without poles for domestic distribution;
5) Primary school or health post, at a maximum distance of three kilometers from the property in question.

In this context, the modernization process of the Tax Code of Imperatriz-MA will directly result in reductions and exemptions in the amount of the Urban Property and Land Tax (IPTU). Therefore, non-profit associations and cooperatives, as well as public servants who work directly in the municipality’s labor activities and entities with social interests, will be exempt from paying the rate (Soares, 2022).

In addition, the update also increased the rates for residential homes from 0.5% to 0.7%, for industrial organizations from 1% to 1.2%, and for land in general, with a rate of 5% (CMT, 2022).

It is worth noting that the 5% tax applies exclusively to unbuilt land; therefore, this complies with progressive rates due to the social function of property, as the New Tax Code of Imperatriz is in accordance with the Brazilian Federal Constitution.

Still based on the municipality’s New Tax Code, individuals who own residential properties and use an alternative energy source through photovoltaic solar panels (solar energy) will receive a partial exemption from IPTU (BRITO, 2022).

As for taxpayers who pay the due tax amount in full by the scheduled due date, they receive a 30% discount. In this regard, it should be emphasized that these are direct discounts on the final rates and percentages of the amounts that land and property owners in Imperatriz will secure by committing to pay the tax.

3. CONCLUSION

Article 32 of the National Tax Code defines IPTU as the tax, within the competence of Brazilian municipalities, applicable to urban real estate and land property, whose triggering event is the property, the beneficial ownership, or the possession of property by accession or physical nature, as defined in the Federal Constitution of Brazil.

The progressivity of IPTU is thus understood as that where taxes have the primary function of raising revenue, which provides for the graduation of taxes according to each person's ability to contribute, through a proportional increase in rates in line with the rise in the value of taxable assets.

Property is considered a fundamental concept in compulsive and social relations, but its full exercise should not be established as an unlimited and absolute right. Therefore, the concept of the social function of property emerges as a response to the need to balance the more individual interests of owners with collective interests in the social context as a whole. For, in this sense, the social function in the context of property involves the owner's responsibility to use their assets in a way that contributes to social progress and collective well-being.

Therefore, there was a provision for progressive rates in the IPTU of Imperatriz-MA, which the municipal government had not yet implemented, modernizing the Code. However, it is important to emphasize that in the New Tax Code of Imperatriz, the 5% tax was established without providing a period for the population to adapt; there was no information that this increase would occur, or they could have resolved this situation by establishing the increase progressively, for example, charging 1% each year that the property remains unbuilt, which would be a more effective way and would not raise taxation so much as to make it unfeasible for people to own a lot without building on it.

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REFERENCES

[1] ABREU, Sacha Calmon Navarro. Curso de Direito Tributário Brasileiro. Rio de Janeiro: Forense, 2019.
[2] ALEXANDRE, Ricardo. Direito Tributário Esquematizado. 4. ed. Rio de Janeiro: Forense, 2010.
[3] AMARO, Luciano. Direito Tributário Brasileiro. São Paulo, Saraiva, 2019.
[4] BALEEIRO, Aliomar. Tax Law Course, São Paulo, Saraiva, 2019.
[5] BARRETO, Aires F. Municipal Tax Law Course, São Paulo, Saraiva, 2020.
[6] BARROS, Bernardo Ribeiro de. Compendium of Tax Law. 5th ed., revised, expanded and updated. Rio de Janeiro: Forense, 2020.
[7] CARDOSO, Anis. Tax Law Course. São Paulo: Saraiva, 2019.
[8] CORREIA, Hugo de Brito. Tax Law Course. 22nd ed., revised, updated and expanded. São Paulo: Malheiros, 2003. MELO, José Eduardo Soares de. Tax Law Course. 8th ed. São Paulo: Dialética, 2019.
[9] DIAS, Roque Antonio. Constitutional Tax Law Course. 20th ed., revised, expanded and updated. São Paulo: Malheiros, 2019.
[10] HARADA, Kiyoshi. Municipal Tax Law: Municipal Tax System. 6th Ed. São Paulo: Atlas, 2019.
[11] MARTINS, Alberto Borges and CAMPELLO, Carlos A. G. B. Municipal Financial Administration. São Paulo: Atlas, 2018.
[12] PAULSEN, Leandro. MELO, José Eduardo Soares de. Taxes: Federal, State and Municipal. ed. Revised and updated. Porto Alegre: Livraria do advogado, 2007.
[13] TRISTÃO, J. A. M. The tax administration of Brazilian municipalities: an assessment of revenue collection performance. Thesis (Doctorate in Administration) - Fundação Getúlio Vargas, São Paulo, 2020.