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**RIO DE JANEIRO'S SPECIALIZED UNIT ON TAX COLLECTION:  
THE CHALLENGE OF INNOVATION DURING THE BRAZILIAN CRISIS**

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Acknowledgements: To my parents,  
sister and fiancé for the unconditional love and  
support. Love you.

## **ABSTRACT**

The State of Rio de Janeiro's experience in last years has shown some difficult on collecting declared tax debt, especially before taking them to court. Considering the challenges that Rio de Janeiro had faced with the oil price falling, royalties lose and actual economic crisis in Brazil, there is no doubt that a strategy is needed to increase state welfare.

This paper objective is to study about the planned strategy of Rio de Janeiro Secretariat of Treasure to innovate and create a new unit inside the secretariat called "Polo de Cobrança Amigável". This specialized tax collection structure will try to increase taxpayer's payments and reduce tax delinquency, without forgetting the big challenge of the actual economic crisis in Brazil.

Keywords: Tax compliance. Tax collection. Process Innovation. Tax debt. Rio de Janeiro State Finance Secretariat.

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## **1. INTRODUCTION**

Since the dawn of humanity, from the time that the beings started to live together in social units rather than immediate families, it was necessary to remove excess production of individuals to finance spending on behalf of the whole community. The proceeds from the collection were invested in various needs of social groups, aimed at collective benefit: the public goods. This way taxation had his first records, evolving until the present day to a structured and legal system of benefits and consideration of the individual and the state. In economic terms, taxation transfers wealth from households or businesses to the government of a nation.

As a compulsory installment, imposed to the whole society to achieve the common good, the individual can not choose between collecting or not collecting the tax that the law requires. Thus, sanctions have been created for those who legally obliged not do their duty. If this situation is checked by the tax authority, an assessment notice will be issued charging the tax due and corresponding fine (penalty), in order to limit and discourage the practice of tax evasion. Also, it is a struggle to assure that the taxes collected represent fairly the value individuals get out of collective action in order to avoid voluntary noncompliance

Sometimes, the taxpayer does declare his debts, according to law but, by any reason, does not pay it. This declaration is a debt acknowledgment of the firm. In Brazil, if this declared debt is not paid on time, it must be subscribed for a department to be directly charged in court. This subscription is known as “Dívida Ativa”, and it’s mandatory to be done before the judicial phase starts.

## 1. INTRODUCTION

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In the last years, the State of Rio de Janeiro (RJ) has been inoperative to receive the declared debits that are late, especially during administrative phase, before their subscription to be charged in court. Since 2010, after Resolution 282, there wasn't possible to the administration charge these declared debits, that stood waiting for "Dívida Ativa" subscription, without any other enforcement action in order to receive them.

The RJ's project to create a new unit specialized on tax collection ("Polo de Cobrança Amigável") proposes a change in order to systematize, to monitor and to improve contact with taxpayers and enhance tax collection. Therefore, the project is an opportunity to recover part of this credit that is owned to the State in a fast and safe way, as well as a strategy to increase State's welfare during the actual economic crisis.

## 2. RESEARCH RELEVANCE

Research means, briefly, seek answers to questions proposed on the issue. It is an activity aimed to the solution of problems through the scientific method employed. The honorable Rodolfo Mondolfo (1949)<sup>1</sup> pointed the definition: "*research comes as we become aware of a problem and we feel compelled to seek the solution.*"

The practice of research brings an accumulation of experience and knowledge in a structured and organized manner to achieve new learning and develop a critical awareness without vices and thus achieve a solution to the problem. According to the great philosopher Aristotle (1448)<sup>2</sup>: "*Learning is the greatest of pleasures not only to the philosophers but also to the rest of mankind, however small their capacity for it.*"

At the end of the work it is expected to offer the best option to solve the problem, as describes the philosopher Popper (1975)<sup>3</sup>, "*all scientific discussion should arise based on a problem which should offer an interim solution that should be criticized to eliminate the error.*"

The work can be defined as an exploratory research. Through this study it's expected to know more deeply this subject in order to make it clearer, modify understandings and ideas for the development of subsequent approaches, or build important issues for the conduct of the research. According to Gil (1999)<sup>4</sup>, "*exploratory researches aim to provide an overview of a particular fact, an approximate type.*"

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<sup>1</sup> MONDOLFO, Rodolfo. **Problemas y métodos investigación en La história de La filosofia.** 1949.

<sup>2</sup> ARISTÓTELES. **Poética.** 1448b.

<sup>3</sup> POPPER, Karl R. **A lógica da pesquisa científica.** São Paulo: Cultix, 1975.

<sup>4</sup> GIL, Antônio Carlos. **Métodos e Técnicas de Pesquisa Social.** São Paulo: Atlas, 1999.

### **3. THE BRAZILIAN NATIONAL TAX SYSTEM**

The current National Tax System (STN) was structured by the Brazilian Federal Constitution of 1988 (CF/88), entering into force on the first day of the fifth month following enactment (March 1, 1989). As the primary source of all laws, the Constitution defines the tax powers of political entities of the Federation (Federal, State, Federal District and Municipalities), revenue sharing and their linkages, limitations on the power to tax, among others.

The National Tax System consists of a set of complementary laws, resolutions of the Senate, laws and Federal, State and Municipal decrees, dealing with the basic structural aspects of our legal and tax planning, *ex vi* Article 2 of the National Tax Code (CTN) – Law 5172/66<sup>5</sup>. This system has, therefore, the function to set general rules and principles of taxation law to flawless performance.

The tax legislation is a branch of public law, whose fundamental principles are:

- The supremacy of public interest over private interest;
- The unavailability of public interest.

#### **3.1 TRIBUTES**

It can be said that the State exists for achieving the common good. And for this, it needs to obtain financial resources, which can be divided in two, known as: innate public revenue and

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<sup>5</sup> Art. 2º O sistema tributário nacional é regido pelo disposto na Emenda Constitucional nº 18, de 1º de dezembro de 1965, em leis complementares, em resoluções do Senado Federal e, nos limites das respectivas competências, em leis federais, nas Constituições e em leis estaduais, e em leis municipais.

### 3. THE BRAZILIAN NATIONAL TAX SYSTEM

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derived public revenue. The first type is given by a contract between the individual and the State, which is agreed in a volitional way. The second, in turn, stems from the “empire power of the State”, where the law requires the particular to pay the tribute regardless of his will. So it is true that the Brazilian tributes/ taxes are derived revenues.

The main definition of tribute is stated by CTN in its Article 3<sup>o6</sup>. This article lists the basics features of the tribute:

- cash benefit;
- compulsory;
- currency or whose value it can be expressed;
- does not constitute sanction tort;
- established by law;
- collected by fully bound administrative activity.

Tribute can be divided into five types, according to the Federal Constitution of 1988:

- Taxes;
- Fees;
- Contributions of improvement;
- Compulsory Loans;
- Special Contributions.

This study will take care of the taxes, specifically a state tax known as ICMS - Goods and Services Tax.

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<sup>6</sup> Art. 3º Tributo é toda prestação pecuniária compulsória, em moeda ou cujo valor nela se possa exprimir, que não constitua sanção de ato ilícito, instituída em lei e cobrada mediante atividade administrativa plenamente vinculada.

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#### 3.2 TAXES

The Federal Constitution establishes in its article 145, paragraph I, the power to institute taxes, and in its first paragraph a tendency to guide this institution of taxes: the personality and graduation according to the economic capacity of the taxpayer.

Art. 145 - The Union, the States, the Federal District and the Municipalities may institute the following tributes:

I - taxes;

[...]

§ 1 - Whenever possible, taxes shall have an individual character and shall be graded according to the economic capacity of the taxpayer and the tax administration, particularly to give effect to these objectives, identify, respecting the individual rights and under the law, equity, income and economic activities of the taxpayer. (translated)

The CTN, in Article 16<sup>7</sup>, consigns an important characteristic of taxes, able to differentiate it from other tributes types. The tax is a not a bound tribute. Its taxable event is an independent status of any state activity, and dependent only on the taxpayer activity. Still, whenever possible, it shall have personal aspects and respect the financial power of the taxpayer that supports the tribute.

The tribute taxing power is generally private to one level of government. This means that of the thirteen (13) existing taxes, each is assigned a level of government (Federal, State or Municipal) which can institute them, with few exceptions, privately.

The 13 taxes already in place and the relevant competent entity to institute them are:

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<sup>7</sup> Art. 16. Imposto é o tributo cuja obrigação tem por fato gerador uma situação independente de qualquer atividade estatal específica, relativa ao contribuinte.

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- Union: IPI (Excise Tax); IR (Income Tax); IOF (Tax on Financial Operations); II (Import Tax); IE (Export Tax); ITR (Rural Land Tax); IGF (wealth tax).
- States: ICMS (Tax on Goods and Services); Property taxes (Tax on Motor Vehicle Ownership); ITCMD (Tax Transfer Cause Mortis and Donation).
- Municipalities: ISS (Service Tax); IPTU (Urban Building and Land Tax); ITBI (Tax on Transfer of Real Estate).

#### 3.3 THE BRAZILIAN ICMS (STATE TAX ON CIRCULATION OF GOODS AND SERVICES)

The Federal Constitution defined the legal facts that would fit each taxing entity. To the States and the Federal District, the following taxes have been allocated, as stipulated in Article 155 of CF/88:

Art. 155. It is incumbent upon states and the Federal District to institute taxes on:

I - transfer by death and donation of any property or rights ;

II - operations relating to the movement of goods and on rendering of interstate and intermunicipal transportation and communication services , even when such transactions and renderings begin abroad;

III - ownership of automotive vehicles. (translated)

The ICMS is the tax charged upon sales, services, transportation, communication services, and supplying of any goods. It is applied whenever merchandise is transferred from one party to another and, therefore, circulates.

The ICMS has fiscal purposes, what means that it's aimed to increase tax collection. But the Federal Constitution allows it to be selective, based on the essentiality of the goods and

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services (CF, art. 155, § 2, III<sup>8</sup>), option which, if used, would provide visible extra fiscal aspects of the tribute. In this case, its incidence would be higher on goods and services consumed by people with higher ability to pay in order to redistribute income.

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<sup>8</sup> § 2º O imposto previsto no inciso II atenderá ao seguinte: (Redação dada pela Emenda Constitucional nº 3, de 1993)

III - poderá ser seletivo, em função da essencialidade das mercadorias e dos serviços.

## **4. THE STATE OF RIO DE JANEIRO'S PROJECT ON TAX COLLECTION**

### **4.1. SETTING THE BRAZILIAN CRISIS**

Since President Luís Inácio Lula da Silva was elected in 2002, the Brazilian Government drastically changed its economic policy. During his government, the economy began to grow more rapidly. But the PT party administration abandoned the tripod of economic policy, consisting of primary surplus of balanced budgets, free-floating currency exchange rates and inflation targeting, with an independent central bank. This *tripod of stability* was considered responsible for returning price stability to the country after the Real Plan.

The *tripod of stability* was completely reversed. Government banks (BNDES, Caixa Econômica Federal and Banco do Brasil) were ordered to give out low-interest loans. The government also started injecting huge amounts of public money into the real estate market. The real estate boom gave Brazilian families instantaneous sense of economic prosperity and the consumption grew hugely. A greater government intervention in the economy was seen, besides the welfarism and excessive stimulus to consumption. A deliberate policy increasing public spending.

This action over the years led to failure of public accounts and the impossibility of families continue increasing consumption. The total amount of public expenses exceeds the revenue. And this gap has increased. Brazil's economy experienced a contraction, after the boom of the previous decade.

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Between 2011 and 2015, the value of the Real fell from 1.55 Reals per US dollar to 3,89 Reals<sup>9</sup>. From September 2014 to February 2015, the largest energy corporation, Petrobras, lost 60% of its market value, besides the corruption scandals that surfaced due to its executives that demanded bribes from suppliers and contractors. Also, the price of many of the country's main exports fell due to falling demand.

Entrepreneurs no longer trust in Brazil and see their space occupied by the public sector, a crowding-out. Economic stagnation has taken the place of what was once robust economic growth. According to Organization for Economic Co-operation and Development (OECD)<sup>10</sup>, the Brazilian's GDP is expected to contract 0.8% this year. Unemployment is at 6% and rising. And inflation, according to IBGE<sup>11</sup>, has already accumulated 8,24% by September 2015 against 4,62% in the same period last year.

Considering the external environment, all Latin America and Caribbean have experienced a growth slowdown since 2010, according to the Economic Commission for Latin America (ECLA)<sup>12</sup>. The slowdown reflects the decrease in domestic demand by contraction in private consumption and investment, as well as fall in commodity prices. Lower growth is affecting employment and unemployment is expected to rise. Although inflation remains at low levels,

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<sup>9</sup> BANCO CENTRAL DO BRASIL. **Cotação do dólar**. October, 2015. Available at the internet: <<http://www4.bcb.gov.br/pec/taxas/batch/taxas.asp?id=txdolar>>. Visited: October, 2015.

<sup>10</sup> OECD. **OECD Data Brazil**. Available at the internet: <<https://data.oecd.org/brazil.htm>>. Visited: October, 2015.

<sup>11</sup> IBGE. **Índices de Preços ao Consumidor – IPCA e INPC**. September, 2015. Available at the internet: <[http://www.ibge.gov.br/home/estatistica/indicadores/precos/ipca/ipca-inpc\\_201509\\_1.shtm](http://www.ibge.gov.br/home/estatistica/indicadores/precos/ipca/ipca-inpc_201509_1.shtm)>. Visited: October, 2015.

<sup>12</sup> \_\_\_\_\_. ECLAC. Available at the internet: <<http://www.cepal.org/en>>. Visited: October, 2015.

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is has risen in economies of South America. The situation is worse in Brazil due the internal crisis.

Despite all of the dark clouds in the Brazilian skies, there are positive signs that the institutions are working, as pointed by Pedro Calmon<sup>13</sup>. Authorities had been investigating corruption, indicting and arresting people. The courts are convicting and sentencing them. People on the streets are outraged and protesting, a real democratic expression.

##### 4.2. SCENARIO OF RIO DE JANEIRO STATE

Considering the national scenario, it is not difficult to see that all States governments were deeply affected by the crisis. The 27 Brazilian States had crossed the first half of 2015 with R\$ 11,8 billion less when compared with the same period of 2014. The Rio de Janeiro State faced a reduction of 29,6% comparing these periods, and had the worst result among the other States.

Due to the reduction of oil royalties and price, and to the economic recession, Rio de Janeiro had faced many difficulties that clearly show that something must be done to change the actual situation and increase its revenue. The "Polo de Cobrança Amigável" project will take place to try to receive the credit due to it, and establish a debit management.

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<sup>13</sup> THE AFFILIATE NETWORK. **The Current Brazilian Crisis Explained**. April, 2015. Available at the internet: <<http://affiliatenetwork.navisio.com/2015/04/the-current-brazilian-crisis-explained/>>. Visited: November, 2015.

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### 4.3. TAX COLLECTION

Tax compliance is the basic obligation of taxpayers, which shall be fulfilled on time notwithstanding their other obligations. The statutory incidence of a tax indicates who is legally responsible for the tax.

Persons liable for tax shall provide the tax authorities with true, accurate and complete data, which the tax authorities need for tax collection. Taxpayers shall state their tax numbers in tax declarations, tax returns, applications, other documents and applications, addressed to the tax authorities. Taxpayers have the right to declare, charge and pay only the correct amount of tax due and in a way and within time limits defined by law or acts on the basis of law. In Rio de Janeiro Finance Secretariat (SEFAZ – RJ), there are two important tax declarations taxpayer usually do, known as GIA and DECLAN/DANS.

Nowadays, in RJ State, there is an expressive gap between amounts declared and really paid on time. The tax delinquency of debits formed declared by taxpayers is responsible for an important amount of tax noncompliance. The total unpaid tax debts since 2013 is over 7 billions.

Important to point the tax delinquency doesn't occur only because of taxpayers will, but also because of lack of technical knowledge and because of firm's deficient accountability and administration.

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The declared unpaid debits must be formally subscribed as “Divida Ativa” to be charged and collected in court. After being registered, a Department known as “Procuradoria” is responsible for the debt, and will take advantage of all necessary mechanisms to receive this debit in court.

In the last years, the State of Rio de Janeiro has been inoperative to receive the declared debits that are late during administrative phase, and stood waiting for “Dívida Ativa” subscription, without any other action in order to receive them.

This way, it's easy to see this previous procedure as inefficient. It takes debits directly to court before taking any action, without tax authority trying to solve the problem together with the taxpayers, understanding why the schedule date wasn't respected, and giving the taxpayer the opportunity to pay it before increasing costs for both. Also it wastes the opportunity to teach, educate taxpayers to next time be on time. There's no doubt that these actions would be worth full and would also reduce costs for both taxpayers and State.

##### **4.4. IMPORTANCE OF THE PROJECT**

The new guideline for tax collection, with dialogue and rapprochement to the taxpayer, suggests the creation of a division that radiates and exchange information and procedures, opening possibilities of monitoring the situation of each particular company.

#### 4. THE STATE OF RIO DE JANEIRO'S PROJECT ON TAX COLLECTION

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The main idea is to strengthen the link of the tax authority (Tax Auditor) with the taxpayer in order to establish a relationship of trust and cooperation. Also, Tax Auditors will act in accordance with principles of ethics of Public Administration and respect to personal dignity of taxpayers.

It's expected that, with the creation of this new unit responsible for tax collection and constant communication with taxpayers, the below benefits may be achieved:

- Reduction of tax delinquency;
- Increase tax collection;
- Make taxpayers much more conscious about tax liabilities;
- Improvement of State and taxpayer communication, reducing bureaucracy;
- Improve organization performance.

The new unit aims to create a service within the SEFAZ - RJ that meets an external and an internal demand, described in the following topics.

It proposes a creation of a tax management tool aimed to a continuous process. This idea of process is critical, as it will not be a one-off charge, but a set of procedures that will create a history and a change of attitude on both sides, ensuring continuity of service, information analysis, behavior and gradual increase in revenue. It is also planned to take to consideration the suggestions from taxpayers in order to improve the service. Finally, the possibility of an open channel with the Revenue Administration's chiefs brings the gain of recovery and treatment of consolidated data for analysis and future studies.

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### 4.4.1 INTERNAL DEMAND

The internal demand of the Finance Secretariat on this project is:

- search of unpaid debts;
- track and monitor taxpayers;
- exchange information and improve communication between the agencies involved
- continuous planning to improve the procedure.

### 4.4.2 EXTERNAL DEMAND

The external demand is the one that will benefit the taxpayers and the whole society:

- assist the ICMS taxpayer in tax management of his business;
- take the taxpayer to fulfill the principal obligation, with the corresponding payment.

## 4.5. OBJECTIVES OF THE PROJECT

The objective is the result to be achieved, can be divided into two: the ultimate goal and intermediate goals. According to the teacher Sylvia Vergara: "*The ultimate goal, if achieved, responds the problem. Intermediate goals are goals whose achievement depends on the achievement of the ultimate goal.*"<sup>14</sup>

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<sup>14</sup> VERGARA, Sylvia Constant. **Projetos e Relatórios de Pesquisa em Administração**. 2ª ed. São Paulo. Atlas. 1998.

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This project includes the implementation of a Unit specialized on monitoring and collecting tax arrears at the administrative level, in a constant process of verification and information. The unit will be based on the design of communication between management bodies in order to streamline the tax administration, as well as offer the taxpayer the possibility of aid for his planning and business management.

A second point needs to be emphasized: the friendly nature of this tax collection. After all, it is the first attempt to receive when you didn't heard yet the taxpayers, their reasons and their willingness to do the payment.

Given the importance of opening a service that handles confidential taxpayer information and SEFAZ – RJ databases, it is essential that these communications to businesses and their caregivers must be done on exclusive responsibility of the State Revenue Tax Auditors. Coordination of the service should be performed by Tax Auditors because it implies knowledge of tax management and inspection procedures.

It is expected that the creation initiative of this unit may constitute a landmark in SEFAZ relation with the ICMS taxpayer.

The unprecedented dialogue will provide the recovery of debts. The practices in force until then, would be postponed for future judicial executions, expensive, extremely time-consuming and, above all, uncertain. It is also worth mentioning that this channel for dialogue

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based on respect and consideration of possible difficulties of the taxpayer, will help to change the image of the public official, often dismissed as mere collector of irregularities.

The public administration, specially the tax administration, requires specific care and firm awareness of its social role.

## 5. INNOVATION AND EFFICIENCY IN PUBLIC ADMINISTRATION

According to Christine Greenhalgh and Mark Rogers<sup>15</sup>, *“innovation can be defined as the application of new ideas to the products, processes, or other aspects of the activities of a firm that lead to increased value.”*

The process innovation deals with the introduction of a new process for making or delivering goods and services. New production process can help improve productivity (efficiency) and profitability (revenue), but may need training. Decision makers will make improved assessments as they obtain more and better information about the new technique.

### 5.1. BENEFITS TO TAX ADMINISTRATION

New practices of government can develop and alter the relationship between the tax authority and taxpayer. Improve efficiency, effectiveness of tax administration. Usually, besides the process innovation, developing or reviewing Information Technology (IT) capacity is a key strategic goal.

Due to the continuous changes in global environment and continuous pressure to reach or exceed revenue targets, often with constant operating budgets, revenue agencies hope to take advantage of the innovative opportunities to:

- Improve revenue collection;
- Cost efficiencies savings;
- Improve customer service and voluntary compliance;

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<sup>15</sup> GREENHALG, Christine. ROGERS, Mark. **Innovation, Intellectual Property, and Economic Growth**. Princeton University Press. 2010.

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- Improve communications;
- Increase transparency.

Innovation in public administration explores conceptual issues related to best practices. It can help the organization maximize the utilization of resources and capacities to increase public value, improving good governance.

It is not an end in itself, but a means to improve public administration by enhancing life of taxpayers. Also, it can help improve the image and services of the public sector, helping government regain people's trust. At the same way, it can boost the pride of civil servants and encourage a culture of continuous improvement, an inspirational capacity and sense of possible improvement among the public servants.

### 5.2. CREATING A SPECIALIZED UNIT

As saw before, it is evident that innovation is central to modernize and transform governmental organizations. Public administration needs to readjust the policies and skills to effectively integrate into world economy, environment of constant change and challenges. Look for effective public service management in a dynamic society.

But the question is: Where should it start from? According to The Commonwealth Association of Tax Administrators of the United Kingdom, on the study of common issues

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and good practices on Information Technology for tax administration<sup>16</sup>, “*the first step an organization should undertake is to review and re-think how their process can be re-engineered to help achieve their vision, considering both the big picture and detail, and the needs of users*”. This redesigning of information flows and processes may or may not involve the use of IT.

According to a study of the International Monetary Fund on implementing a new specialized unit to improve taxpayers’ compliance<sup>17</sup>, the following elements of a collection enforcement program should be in place:

1. A separate and specialized collection enforcement division responsible exclusively for monitoring tax arrears and pursuing delinquent taxpayers;
2. Standard and transparent procedures, including notifying delinquent taxpayers, determining payment schedules, and imposing a levy on delinquent taxpayers assets (imposing a levy is not permitted in Brazil during administrative phase);
3. Sufficient skilled collection enforcement offices;
4. Tax arrears’ monitoring system to allow the unit to target its collection efforts and to identify those arrears that are recoverable, those that could be subject to payment agreements (not possible to negotiate value in Brazil), and those that could be written off (in Brazil it’s just possible if no longer legally collectable);
5. The necessary legal powers to allow tax administration do things above;
6. An appropriate system of sanctions and penalties that will discourage taxpayers from declaring and paying their taxes after the established due dates.

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<sup>16</sup> Commonwealth Secretariat. **Implementing Computerisation and Information Technology for Tax Administration**. Commonwealth Association of Tax Administrators. 2007.

<sup>17</sup> BAER, Katherine. **Improving taxpayers’ compliance: a review of a country experience**. Washington, D.C.: International Monetary Fund, 2002.

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Also, the tax administration's willingness to recover overdue tax debts quickly and aggressively, and government's support for the work of collection enforcement officers is really important. According to Katherine Baer, "*The government must be fully committed to setting up the unit, providing it with necessary resources (staffing, physical infrastructure, computers, etc), and supporting auditing and enforced collection effort*". This key element to the effectiveness of a project is fulfilled in RJ's strategy, since the structure was supported by the government. Inclusive, the new Unit's propaganda was broadcasted on TV and internet<sup>18</sup>, with the State Secretary of Finance Julio Bueno speech:

What we're trying to do is get closer taxpayers, show debts, discuss debts and receive it. Of course receiving it is not simple. Now is a difficult time for everyone, including businesses and citizens in general. (translated)

Furthermore, the administration needs to ensure that the New Unit is part of a broader tax administration reform aimed at improving the entire tax administration effectiveness.

The unit will need continuous reforms and modernization, like the rest of the tax administration, to remain effective and to keep up with changes in the economy and the taxpayer population. It is not a one-time innovation, and tax officials should not become complacent.

Also, some requirements will be necessary to the unit be effective:

- Sound legal framework;
- Clear and simple criteria for selecting taxpayers;

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<sup>18</sup> G1. **Governo do RJ cria comissão para cobrar dívida de 7 bi em ICMS.** August, 2015. Available at the internet: <<http://g1.globo.com/rio-de-janeiro/noticia/2015/08/governo-do-rj-cria-comissao-para-cobrar-divida-de-r-7-bi-em-icms.html>>. Visited: October, 2015.

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- Standard and transparent procedures;
- Make it a full-service unit to enable it have a more integrated compliance strategy;
- Clear reporting lines between the unit and taxpayer;
- Staff training;
- Identification and regular compilation of key performance indicators.

### 5.3. DATA TO SUPPORT CONTINUOUS DEVELOPMENT

It's relevant to take in consideration while analyzing the performance indicators that, even if the conditions above are met, the establishment of a unit cannot by itself strengthen taxpayer compliance and generate additional revenue when there is a prolonged downturn in the economy, just like the actual Brazilian crisis. The performance results may show negative distortions.

But, even in this negative scenario, the first data results show revenue recovery of 23% of outstanding debits just in the first month of the Rio de Janeiro's unit specialized work, and with a small quantity of officers engaged on it:

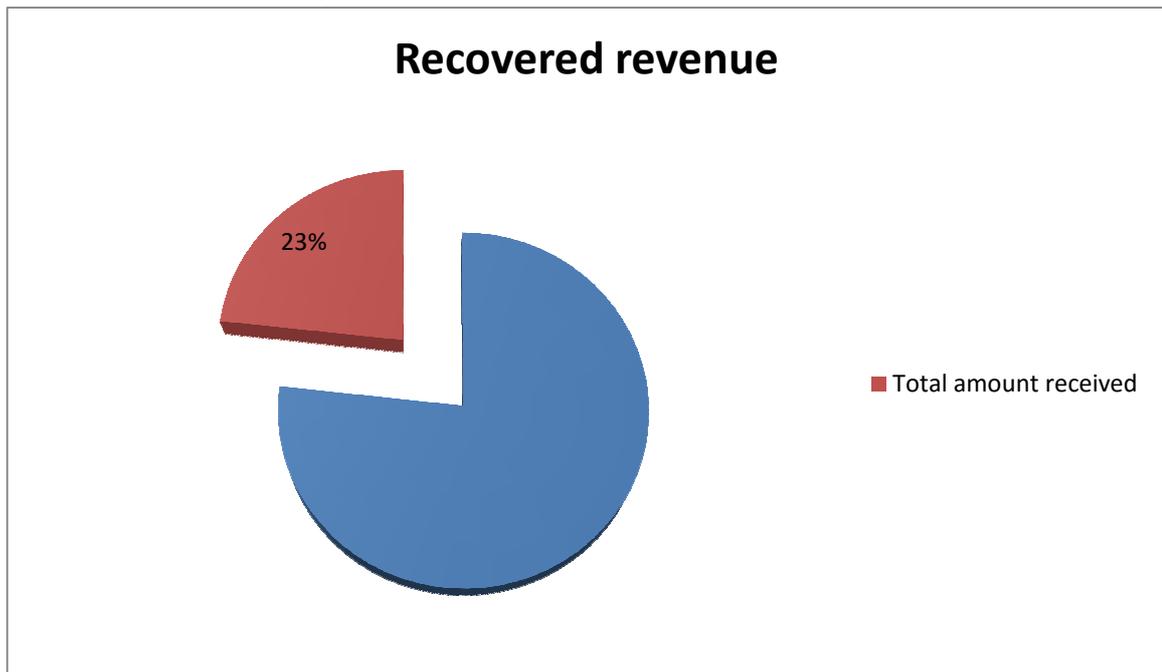
Table 1: Results for the first month of the new unit activity.

Tax Auditors in the Unit	Taxpayers contacted	Total amount discussed	Total amount received
5	87	R\$ 460 Million	R\$ 107 Million

## 5. INNOVATION AND EFFICIENCY IN PUBLIC ADMINISTRATION

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Figure 1: Recovered Revenue in the first month of the unit activity.



### 5.4. TAX COMPLIANCE AND ETHICS: KEY POINTS

Paying taxes must be made a legal responsibility of citizens, with enforcement and penalties for noncompliance. A tax administration and substantial taxpayers involvement is needed to operate the tax collection system and to ensure that it runs efficiently and equitably.

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According to Leonard E. Burman and Joel Slemrod<sup>19</sup> “*tax evasion has been around as long as taxes have*”. Or, as the humorist Dave Barry<sup>20</sup> used to say about tax compliance “*We’ll try to cooperate fully with IRS, because as citizens, we feel a strong patriotic duty not to go to jail*”.

From the economic analysis of tax compliance, Gary Becker<sup>21</sup> draws the assumption that individuals are rational decision-makers seeking to maximize expected utility, and that utility is a positive function of income. In his words:

A person commits an offense if the expected utility to him exceeds the utility he could get by using his time and other resources at other activities. Some persons become “criminals,” therefore, not because their basic motivation differs from that of other persons, but because their benefits and costs resulting from compliance and noncompliance with the law differ.

Hence, it must be ensured that the expected utility of noncompliance will be lower than the expected utility of compliance in order to deter individuals from acts of noncompliance.

According to Lynne Oats<sup>22</sup> the results of an exploratory analysis on ethics in tax practice of firms showed that risk management was identified as crucial by all the interviewees, but how it interacts with ethics was unclear to them. The central of risk management identified was the avoidance of expensive litigation and the preservation of the firm’s reputation.

A failure to recognize that a decision may have ethical implications may result in a failure to behave ethically.

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<sup>19</sup> E. BURMAN, Leonard. SLEMRD, Joel. **Taxes in America what everyone needs to know**. Oxford University Press. 2013.

<sup>20</sup> \_\_\_\_\_. **Dave Barry quotes**. Available at the internet: <<http://www.brainyquote.com/quotes/quotes/d/davebarry136048.html>>. Visited: October, 2015.

<sup>21</sup> BECKER, Gary S. **Crime and Punishment: An Economic Approach**. 1974

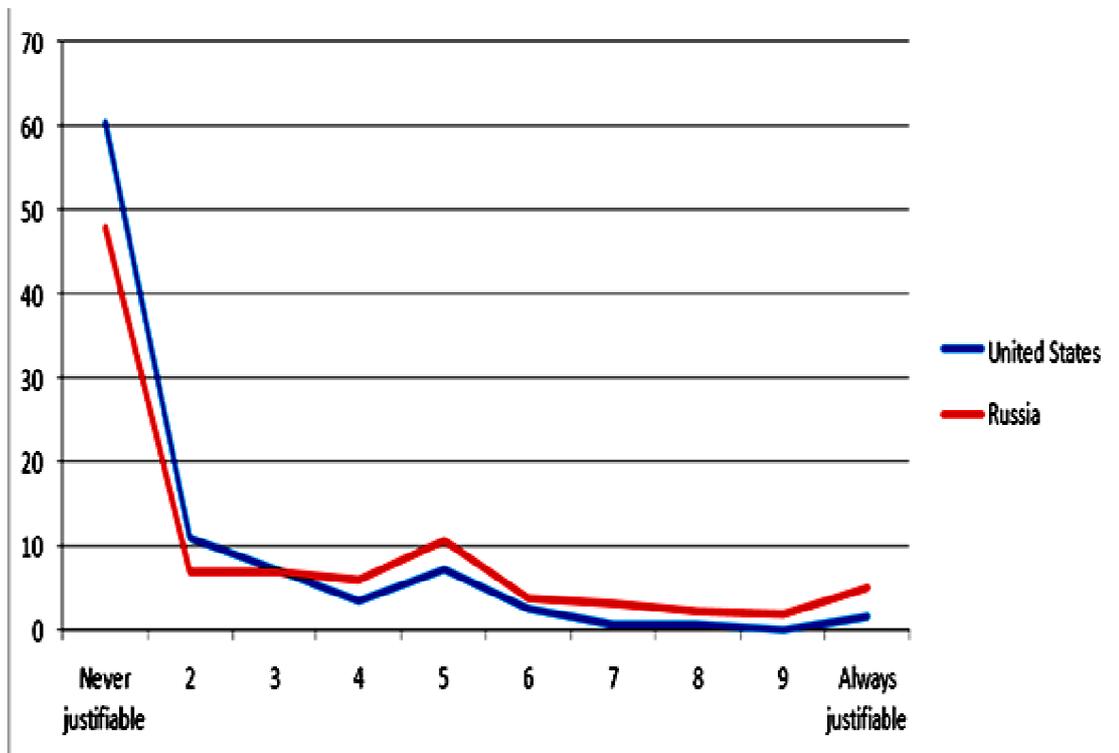
<sup>22</sup> OATS, Lynne. **Taxation: A fieldwork research handbook**. Routledge. 2012.

## 5. INNOVATION AND EFFICIENCY IN PUBLIC ADMINISTRATION

Some social scientist stress the importance of intrinsic motivation, under which taxpayers comply with tax liabilities because of civic virtue, or a sense of duty, and even suggest that more punitive enforcement policies can backfire by making people feel that they pay taxes because they have to, rather than because they ought to.

According to International Monetary Fund (IMF)<sup>23</sup>, surveys typically find that while most people strongly disapprove of evasion, many have weaker objections, as results for Russia and EUA displayed in the figure 2:

Figure 2: Public opinion about tax evasion



Extracted from <https://www.imf.org/external/np/pp/eng/2015/020215a.pdf>

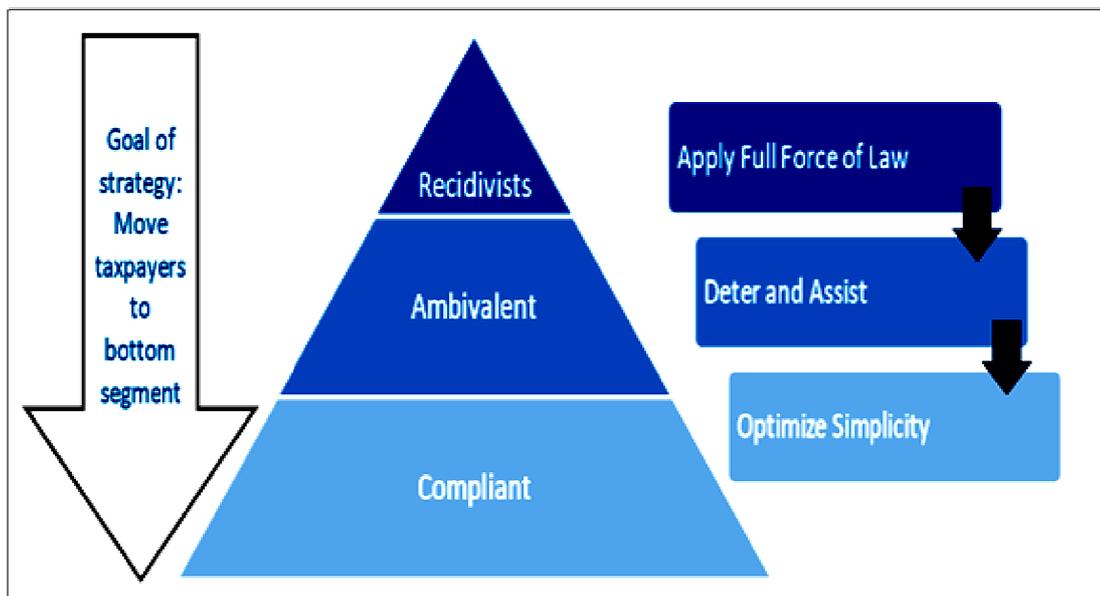
<sup>23</sup> International Monetary Fund. **Current challenges in revenue mobilization: improving tax compliance**. April 2015. Available via the Internet: <<https://www.imf.org/external/np/pp/eng/2015/020215a.pdf>> Visited: October, 2015.

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Also the Revenue Administrations should recognize individuals in their willingness to comply and structure interventions to move taxpayers to the compliant level as the pyramid below shows:

Figure 3: Moving taxpayers to the goal segment



Extracted from <https://www.imf.org/external/np/pp/eng/2015/020215a.pdf>

This way, the idea of changing taxpayers behavior and create a link of trust between them and the tax authority has a big importance in the project. The taxpayer-tax administration relationship shapes compliance. The education factor is important in order to achieve the society understanding of ethics on tax payment. Also, taxpayers must know that it's not only correct, but an obligation, and the full force of law can be applied. Anybody can choose not paying, and can be punished if trying so, expending much more.

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According to IMF studies<sup>24</sup>, “*compliance worsened markedly in countries most affected by the crisis, which exposed structural weaknesses in many tax administrations. (...) Measuring and analyzing ‘compliance gaps’ is a powerful first step to addressing noncompliance—and reducing them can raise significant amounts. (...) Policy design needs to be sensitive to compliance challenges, pointing to broad bases and potentially blunter tools in lower income countries.*”

Strengthening compliance has become a greater priority in many advanced and emerging economies since the financial crisis of 2008. It has been a development objective, both to enhance revenue and as essential to building strong and trusted public institutions.

New tools can help countries address compliance problems by analyzing gaps, comparing indicators with peers, and assessing their own performance. The Fiscal Affairs Department (FAD) provides policy and technical advice on public finance issues to the IMF's member countries through contributions to the work of area departments and technical assistance. In a study to strengthen compliance in Peru e Bolivia during the crisis<sup>25</sup> the FAD stressed the main elements:

- an improved strategy for taxpayer assistance and services, increasing the coverage of electronic invoicing and extending electronic services to taxpayer registration, return filing, and payment;

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<sup>24</sup> International Monetary Fund. **Current challenges in revenue mobilization: improving tax compliance**. April, 2015. Available via the Internet <<https://www.imf.org/external/np/pp/eng/2015/020215a.pdf>> Visited: October, 2015.

<sup>25</sup> International Monetary Fund. **Current challenges in revenue mobilization: improving tax compliance**. April, 2015. Available via the Internet <<https://www.imf.org/external/np/pp/eng/2015/020215a.pdf>> Visited: October, 2015.

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- implementing a risk management system, including enhancing the effectiveness of audit by restructuring this function, ensuring that the audit area is responsible for the entire audit process, redesigning the selective and high-coverage audit process, and restructuring the VAT refund process;
- strengthening IT systems by re-engineering registration and revenue collection systems, implementing an integrated taxpayer current account, and centralizing systems for enforced collection and auditing for tax and customs operations.

At the end of the three years, both countries had increased collections and reduced the VAT compliance gap, according to IMF. The study stressed that *“the keys to success were: strong leadership of the RAs; a management team committed to change; strengthening a culture of strategic planning; strengthening analytical capacity, measuring compliance gaps and using management and operational indicators; establishing a coordinated work plan with donors and TA providers; and medium term planning, adequately resourced.”*

Also, in the same study, it stated a guidance to Revenue Authorities (RA) of developing countries:

“Many RAs, especially in developing countries, could better focus their core operations on the major compliance risks. There is still much to do to balance the provision of taxpayer services (promoting voluntary compliance) with enforcement activities (tackling noncompliance). In many countries, including in crisis circumstances, FAD has recommended establishing specialized units and projects focused on the various taxpayer segments (large, medium, small, high wealth) (...) The possibility of audit remains a central deterrence tool, whose importance is amplified, not reduced, by the apparent tendency of taxpayers to over-estimate its true likelihood. (...) Taxpayer services—increasingly recognized as a key element in promoting compliance—are weak in many developing countries. Much more focus is often needed to modernize and design services to promote voluntary compliance.”

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The specialized units focused on taxpayer segmentation (size, hard-to-tax) are recognized as key for tailoring enforcement actions and the provision on taxpayer's services. In the last 8 years, a number of countries, including the United States (U.S.) and Australia, have been experimenting with innovative risk management techniques based on fostering a trusting and co-operative relationship with taxpayers.

According to IMF<sup>26</sup>, “*experience in supporting the adoption of the CRM in several countries, such as in South East Europe, has made clear that for most countries weak core operations and limited capacity to identify, analyze, and, ideally, measure compliance risks and gaps remain significant constraints to fully applying the CRM approach.*”

Figure 4: The Compliance Risk Management process



Source: OECD (2010)

<sup>26</sup> International Monetary Fund. **Current challenges in revenue mobilization: improving tax compliance**. April, 2015. Available via the Internet <<https://www.imf.org/external/np/pp/eng/2015/020215a.pdf>> Visited: October, 2015.

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OECD has endorsed this CRM model<sup>27</sup>. The goals of these risk management techniques initiatives are to improve resource allocation by revenue authorities, to reduce compliance costs for co-operative taxpayers, and to reduce incentives to participate in noncompliance behavior.

### 6.1 AUSTRALIAN APPROACH: A SUCCESS CASE IN DEBT MANAGEMENT

The Australian approach on tax collection consists in responsive regulation and motivational postures: Attitudes, Behavior, and Service Delivery. It measures, and understands the causes of compliance gaps, delivers mitigating and tailored responses (sometimes stressing facilitation of compliance, sometimes stressing deterrence), allocate resources appropriately to different taxpayer segments, and measure the impact of the mitigating actions taken.

In Australia, around two-thirds of tax debt is attributed to small businesses. Consequently, this sector of the community is a key priority for the Australian Tax Office (ATO) in terms of targeted debt management strategies. It engages with that sector directly to manage debt before it arises.

The Australian Small Business Assistance Program was established in July 2007 with the goal of providing small businesses with information and assistance at various stages of their life

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<sup>27</sup>OECD. Forum on tax administration: small/medium enterprise (SME) compliance. **Evaluating the effectiveness of compliance risk treatment strategies**. November, 2010. Available at the internet: <<http://www.oecd.org/tax/administration/46274278.pdf>> Visited: October, 2015.

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cycle<sup>28</sup>. This assistance Program basically provides advisory visits to taxpayers' offices, seminar and workshops to educate taxpayers and telephone calls.

The advisory visits to taxpayers' offices are demand-driven and focus on educating taxpayers rather than looking for evidence for audits. A different concept. Tax authorities provide guidance on VAT obligations, managing records and paper work, and complying with employer obligations, as well as helping them to set up a Business Portal, electronic accounting systems, and other electronic services. These assistance visits resulted in improved average time to lodge activity statements, more electronic lodgments, lower taxation debt on average than the broader population and reduced likelihood of future compliance action. According to IMF studies<sup>29</sup>, from 2011 to 2014, the Program has delivered over 32,000 such visits.

According to the Organization for Economic Co-operation and Development (OECD)<sup>30</sup>, *“the Australian Tax Office (ATO) has in place a debt management framework that is based on three elements which are: early collections, firmer action and strategic recovery. Early collections recognizes that the more aged a debt becomes, the more difficult and expensive it is to collect. Firm action provides a differentiated approach to taxpayer behavior where firmer action is taken against taxpayers who make no effort to manage their debt or who*

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<sup>28</sup> [https://www.ato.gov.au/About-ATO/Access,-accountability-and-reporting/In-detail/Annual-report/https://www.ato.gov.au/uploadedFiles/Content/CR/downloads/Annual\\_Report\\_2011-12/n0995-10-2012\\_js23899\\_w.pdf](https://www.ato.gov.au/About-ATO/Access,-accountability-and-reporting/In-detail/Annual-report/https://www.ato.gov.au/uploadedFiles/Content/CR/downloads/Annual_Report_2011-12/n0995-10-2012_js23899_w.pdf)

<sup>29</sup> INTERNATIONAL MONETARY FUND. **Current challenges in revenue mobilization: improving tax compliance.** April, 2015. Available via the Internet: <<https://www.imf.org/external/np/pp/eng/2015/020215a.pdf>>. Visited: October, 2015.

<sup>30</sup> OECD. **Forum on tax administration: Working smarter in Tax Debt Management. September, 2013.** Available at the internet: <[http://www.oecd.org/site/ctpfta/FTA\\_TOR\\_TaxDebtManagement.pdf](http://www.oecd.org/site/ctpfta/FTA_TOR_TaxDebtManagement.pdf)>. Visited: October, 2015.

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*deliberately and consistently engage in behavior to avoid their tax obligations. Where the ATO considers there is a greater risk of debt not being recovered, it may take strategic recovery action including initiating bankruptcy or business wind up proceedings.”*

The ATO’s tailored strategies to meet taxpayer needs are directed to support and assist viable small businesses and individuals who are experiencing short-term financial difficulties and who are willing to work together with tax authority to address their tax and superannuation debts. *“Targeted support includes tailored payment arrangements, remission of interest and penalties, and full or partial release from payment of certain debts<sup>31</sup>.”*

According to the agency’s annual report<sup>32</sup>, *“at June 2012 there were around 280,000 payment arrangements in place worth \$3.8 billion (€3.1 billion). Of these, 35,900 were interest-free arrangements worth \$688 million (€588 million), in place for small businesses”.*

In 2011-2012 the program improved the risk-based approach to debt management. It takes into account a taxpayer’s lodgment and payment history to determine the most appropriate treatment strategy. The individual analysis was made where the taxpayer had defaulted on a number of payment arrangements to assess their ongoing viability and led to an increase in the number of bankruptcy and wind-up applications.

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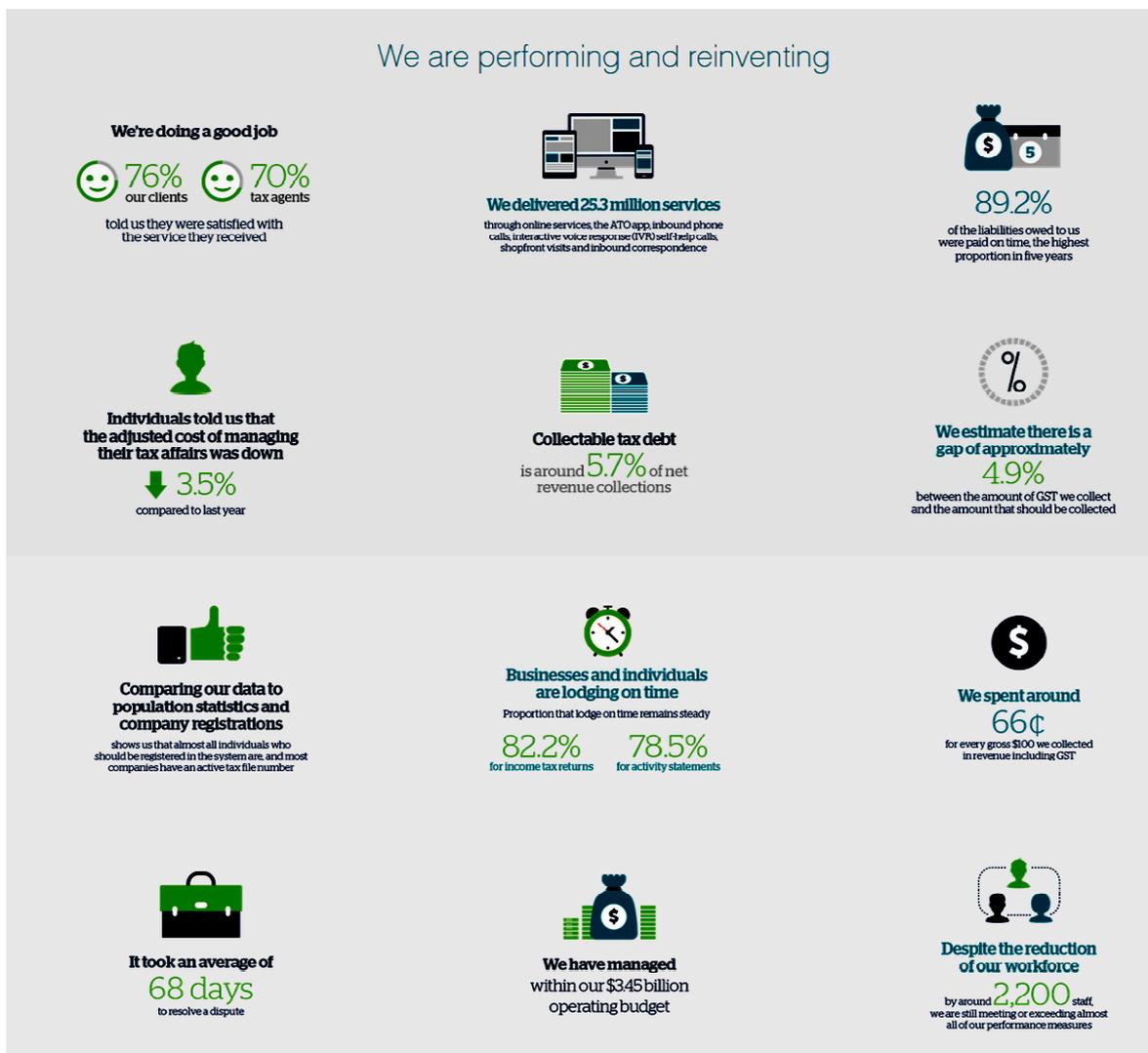
<sup>31</sup> OECD. **Forum on tax administration: Working smarter in Tax Debt Management. September, 2013.** Available at the internet: <[http://www.oecd.org/site/ctpfta/FTA\\_TOR\\_TaxDebtManagement.pdf](http://www.oecd.org/site/ctpfta/FTA_TOR_TaxDebtManagement.pdf)>. Visited: October, 2015.

<sup>32</sup> COMMISSIONER OF TAXATION, **Annual Report 2011-12**, ATO. Available at the internet: <<https://www.ato.gov.au/About-ATO/Annual-Reports/Annual-report-2011-12>>. Visited: October, 2015.

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The ATO annual Report 2014-2015<sup>33</sup>, that's divulgated in the organization's web site, shows that the performance data achieved are expressive and impressive:

Figure 5: ATO's performance data 2014-2015



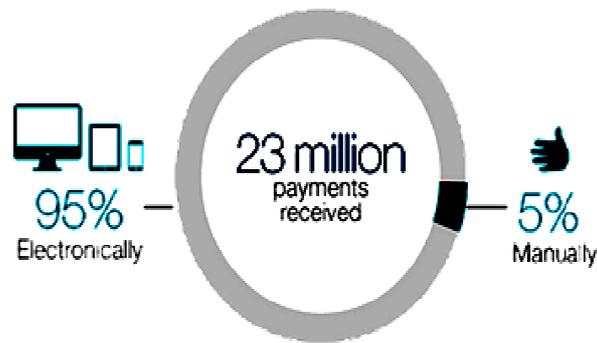
Source: Commissioner of Taxation - Annual Report (2014–15).

<sup>33</sup> AUSTRALIAN GOVERNMENT. **Australian Taxation Office Annual Report 2014-2015**. October, 2015. Available at the internet: <<https://www.ato.gov.au/About-ATO/Access,-accountability-and-reporting/In-detail/Annual-report/>>. Visited: October, 2015.

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Figure 6: ATO's data on tax liability

**FIGURE 2.4 Payments received, 2014–15**



**TABLE 2.4 Tax liabilities paid in full by due date, 2010–11 to 2014–15**

	2010–11	2011–12	2012–13	2013–14	2014–15
	%	%	%	%	%
Pay as you go (PAYG) withholding	94.9	95.1	95.2	95.3	95.0
Individuals – returns and instalments	70.8	70.1	69.5	68.5	69.1
Companies – returns and instalments	82.8	86.7	86.3	84.9	86.0
Goods and services tax	86.7	87.6	87.5	87.8	87.8
Excise	86.2	94.2	94.7	96.0	96.8
<b>OVERALL</b>	<b>87.5</b>	<b>89.1</b>	<b>89.1</b>	<b>88.6</b>	<b>89.2</b>

Source: Commissioner of Taxation - Annual Report (2014–15).

### 6.2 U.S. COLLECTION OF DELIQUENT DEBTS: IRS

The income tax collection has some specific characteristics in the United States (U.S.). The Internal Revenue Service (IRS) provides the taxpayer some alternative arrangements to pay the debts (full payment agreements of up to 120 days, installment agreements, offer in

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compromise, and delay collection), corresponding to the individual condition, as seen below. Also, the enforcement actions are heavy.

According the IRS Topic 201(The Balance Due Collection Process)<sup>34</sup>, if the taxpayer doesn't pay the tax in full when filled the tax return, he will receive a bill for the amount owed. This bill starts the collection process, which continues until the account is satisfied or until the IRS may no longer legally collect the tax. The first notice received will be a letter that explains the balance due and demands payment in full. It will include the amount of the tax, plus any penalties and interest accrued on the unpaid balance from the date the tax was due.

If the taxpayer can't pay it in full, he can pay as much as possible to reduce the accrual of interest to the account and explore other payments arrangements. The balance is subject to daily interest and a monthly late payment penalty. The IRS recommends alternative forms to the taxpayer pay the tax liability in full as soon as possible in order to minimize the penalty and interest charges, as states the Topic 202<sup>35</sup>:

You should consider financing the full payment of your tax liability through loans, such as a home equity loan from a financial institution or a credit card. The interest rate and any applicable fees charged by a bank or credit card company are usually lower than the combination of interest and penalties imposed by the Internal Revenue Code.

There's a full payment agreement of up to 120 days that can be requested. There is no user fee for a full payment agreement request; however, interest and any applicable penalties will continue to accrue until the liability is paid in full.

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<sup>34</sup> INTERNAL REVENUE SERVICE. **IRS Topic 201**. October, 2015. Available at the internet: <<https://www.irs.gov/taxtopics/tc201.html>>. Visited: November, 2015.

<sup>35</sup> INTERNAL REVENUE SERVICE. **IRS Topic 202**. October, 2015. Available at the internet: <<https://www.irs.gov/taxtopics/tc202.html>>. Visited: November, 2015.

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Also, if the taxpayer can't pay the balance in full immediately, IRS may be able to offer a monthly installment agreement. The request for an installment agreement can be done online, or a form (*Installment Agreement Request*) can be mailed with the bill, or even the installment agreement can be established over the phone.

The Direct debit installment agreement is encouraged through lower fees<sup>36</sup>: “*Direct debit installment agreements offer a lower user fee than other installment agreements and help you to avoid defaulting on your agreement by allowing timely payments automatically*”. Interest and late payment penalties will continue to accrue while the installment payments are made.

If the debt can't be fully paid under an installment agreement, the taxpayer can propose an offer in compromise (OIC), an agreement between the taxpayers and IRS payment of an agreed upon reduced amount. According to topic 204<sup>37</sup>:

Taxpayers who can fully pay the liabilities through an installment agreement or other means, will not be eligible for an OIC in most cases. (...) In most cases, the IRS will not accept an OIC unless the amount offered by a taxpayer is equal to or greater than the reasonable collection potential (the RCP). The RCP is how the IRS measures the taxpayer's ability to pay. The RCP includes the value that can be realized from the taxpayer's assets, such as real property, automobiles, bank accounts, and other property. In addition to property, the RCP also includes anticipated future income less certain amounts allowed for basic living expenses.

If more time to pay is needed, the taxpayer may ask the tax authority to delay collection. If the IRS determines that the taxpayer can't pay any tax debt due to a financial hardship (must be

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<sup>36</sup> INTERNAL REVENUE SERVICE. **IRS Topic 201**. October, 2015. Available at the internet: <<https://www.irs.gov/taxtopics/tc201.html>>. Visited: November, 2015.

<sup>37</sup> INTERNAL REVENUE SERVICE. **IRS Topic 204**. October, 2015. Available at the internet: <<https://www.irs.gov/taxtopics/tc204.html>>. Visited: November, 2015.

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proved through information about assets and monthly income and expenses), the IRS may temporarily delay collection by reporting the account as currently not collectible until the taxpayer's financial condition improves. The debt will increase because penalties and interest are charged until the payment of the full amount.

If noncompliance occurs and the taxpayer doesn't contact the IRS such as explained above to make an alternative payment arrangement, the IRS may take the following tax enforcement actions:

- Fill a Notice of Federal Tax Lien (legal claim to property);
- Serve a Notice of Levy (seize assets);
- Offset a refund to which the taxpayer is entitled.

According to IRS, the federal tax lien arises automatically when a taxpayer fail to pay in full the taxes owed within ten days after the first notice of taxes owed is sent and demanded for payment. Usually, once the lien arises, the IRS can't release it until the tax, penalty, interest, and recording fees are paid or until the IRS may no longer legally collect the tax. Also, IRS may levy (seize) assets such as wages, bank accounts, Social Security benefits and retirement income, as well as the property (including car, boat or real estate) can be sell to satisfy the tax debt. Obviously all future tax refunds can be seized too.

This strong tax enforcement reflects not only on tax compliance, but also on public opinion, as show in the cartoon below (figure 7):

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Figure 7: Cartoon showing public opinion about I.R.S



The collection enforcement prevents taxpayers from incurring tax arrears in the first place, and enforces timely collection of overdue taxes. These are some keys to ensure that taxpayers will stay current with their tax liabilities and to prevent growth in the stock of tax arrears.

## 7. CONCLUSION

Taxpayer's services are recognized as a key element on promoting compliance, and are usually weak in developing countries. The specialized unit segmentation is recognized for taking an important role on that. The improvement of these services can promote voluntary tax compliance.

The RJ's project "cobrança amigável" is a first step to improve tax compliance. It is a re-engineer of previous process, considering nowadays Finance Secretariat vision. And it is starting during a hard Brazilian period of crisis, that naturally worse compliance, opposing forces.

The improvement must not stop on this single project. A continuous improvement is strongly recommended in all bibliography studied on the subject in order to increase tax compliance statistics and shape taxpayers behavior. The opportunities to change and improve may never end.

Considering the start point of the project, some elements should be considered on implementing a specialized unit on tax collection and enforcement, according to researches done on this paper. Some missing elements on RJ project should be rethought urgently, since the unit implementation already started:

- It should establish standard and transparent written procedures as soon as possible. The procedures must be written since is a prescribed procedure to be followed routinely. The procedures should contemplate clear and simple criteria for selecting taxpayers and classifying their compliance level. Also, any

## 7. CONCLUSION

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necessary changes to the procedures can be identified and analyzed before taking place. It creates the necessity of continuous process improvement and risk evaluations.

- The tax auditors must be sufficient and skilled. The quantity of tax auditors working on the unit must reach a golden number. Staff training is mandatory. The team must be committed to change.
- Many other elements suggested by IMF, as payments agreements or arrears write off, are not possible to take place in Brazil without changing the CF. Hence, it won't be considered as option on this paper.
- The identification and regular compilation of key performance indicators.

The idea of changing taxpayers behavior and create a link of trust between them and the tax authority has a big importance in the project, as the Australian experience show us. Also, is essential to recognize taxpayers efforts to manage their debts, in order to provide a differentiated approach and firmer action in some cases. It is suggested to take to account a taxpayer's lodgment and payment history to determine the most appropriate treatment strategy. Hence, the goal strategy to move taxpayers to compliant segment must identify each of them, applying full force of law to recidivists, deter and assist the ambivalent, and optimize simplicity to the compliant ones.

The Australian initiative to visit taxpayers' offices to educate them rather than audit is new concept to Brazilian methods, but may be analyzed as a possibility to improve results.

## 7. CONCLUSION

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New tools to help RJ address compliance problems must be studied and implemented. Analyses of gaps, comparing indicators and performance data are essential. Also, implementing a compliance risk management system is strongly recommended, like OECD model. We recommend a deeply study of these indicators in a mastering course in order to find the correct measures and propose its systems with reliable data.

The IT systems should also be re-engineered, improving the coverage of electronic invoicing and extending electronic services. Stressed its importance, it must take place in another project.

It is important to highlight that, besides the recommended establish of specialized units in developing countries, especially during crisis, the audit remains a central deterrence tool. Its importance is amplified, not reduced. Taxpayers use to over-estimate its true likelihood. They must be aware that tax administration is there not only to help, but also to enforce.

Therefore, RJ's project is on the right way, but that's just a first modest change that must be improved as one process of debt management. It must be part of a broader tax administration reform aimed at improving the entire tax administration effectiveness.

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