

Indirect financing, membership to social security installments and the consequences to social security

Financiamento indireto, adesão a parcelamentos previdenciários e as consequências à previdência social

Roberta Cristina Silva¹ⁱ

Orcid: <https://orcid.org/0000-0001-8827-0977>

Fernando de Almeida Santos²ⁱⁱ

Orcid: <https://orcid.org/0000-0002-1716-2802>

Francisco César Pinto da Fonseca³ⁱⁱⁱ

Orcid: <https://orcid.org/0000-0003-4339-4786>

Fabício José Piacente^{4iv}

Orcid: <https://orcid.org/0000-0001-8306-4541>

Abstract

The practice of indirect financing through social security contributions together with the expectation regarding the launch of the fiscal recovery plans, are motivators of this article. The research aimed to verify if the adherents to the Special Tax Regularization Plan-PERT / 2017 presented financial difficulties to timely payment. The program covers 184,547 concessions and a debit amount of R \$ 9,550,498,343.03. The investigation covered the hundred institutions with the highest social security debts and took place through the income earned and the results calculated at a time close to PERT / 2017 between 2014 and 2018. As methodological tools are the ABC Curve and the Analysis of Conglomerates. The practice of indirect financing was found, as 71% of the companies earned significant revenues, and 51% resulted in profits. As a contribution, the research brings a reflection on the equal treatment of defaulters, whose profiles are very different.

Keywords: indirect financing; social security installments; installment programs.

Resumo

A prática de financiamento indireto por meio das contribuições previdenciárias conjuntamente à expectativa quanto ao lançamento dos planos de recuperação fiscal são motivadores deste artigo. A pesquisa objetivou verificar se os aderentes ao Plano Especial de Regularização Tributária-PERT/2017 apresentavam dificuldades financeiras ao recolhimento tempestivo. O programa abrange 184.547 concessões e um montante devedor de R\$ 9.550.498.343,03. A investigação contemplou as cem instituições com os maiores débitos previdenciários e ocorreu mediante as receitas auferidas e os resultados apurados em momento próximo ao PERT/2017 entre 2014 e 2018. Como ferramentas metodológicas, utiliza-se a Curva ABC e a Análise de Conglomerados. A prática de financiamento indireto foi constatada, pois 71% das instituições auferiram receitas significativas, e 51% resultaram em lucro. Como contribuição, a pesquisa traz uma reflexão sobre o tratamento igualitário aos inadimplentes, cujos perfis são significativamente discrepantes.

Palavras-chave: financiamento indireto; parcelamento previdenciário; programas de parcelamento.

¹ Universidade Paulista (UNIP) - SP - Brasil. E-mail: robertasilvact@gmail.com

² Pontifícia Universidade Católica de São Paulo - PUC/SP – Brasil. E-mail: fernando@fernandoasantos.com.br

³ Pontifícia Universidade Católica de São Paulo - PUC/SP – Brasil. E-mail: fcpfviflo@gmail.com

⁴ Centro Paula Souza/SP – Brasil. E-mail: fabricao.piacente@fatec.sp.gov.br

1 Introdução

The manager positions himself between tax collecting, as the law states, and the delay of this obligation in order to pay other obligations they consider more important, among other reasons. In this sense, certain managers do not collect the social security contributions at the appropriate time, making use of the practice called “indirect financing”.

According to Lima (2015), indirect financing refers to the practice of not collecting taxes at the right time, assuming the punishment and legal consequences. In a study carried out, it was found that, when comparing the most advantageous option between bank financing and indirect financing, the latter presents better indicators regarding liquidity.

As for social security, there is a clear provision in the Federal Constitution of 1988 (CF/88), Article 194: “[...] social security comprises an integrated set of initiatives of the Public Authorities and society, aimed at ensuring the rights related to health, welfare and social assistance” (BRASIL, 1988).

From the FC/88, according to Fleury (2005), workers’ social rights began to be granted progressively based on the observance of the principles of social justice. Such principles, considered fundamental, created obligations regarding the extension and universalization of rights made possible by public policies.

Contrarily, there are managers who postpone, to the maximum, their collections of taxes, although they are obligatory and are under sanctions and penalties imposed by the Public Ministry of Finance in an attempt to inhibit evasion, which in its turn, involves the technologic acting by promoting data searching on the statements sent by the taxpayers to the Federal Revenue Service of Brazil (FRSB).

Such evasion process happens due to passive priorities, with no legal grounds, but which are claimed to be lawful by the taxpayers in debt. Furthermore, it is based on the debtors’ expectations regarding possible launches of Tax Recovery Plans offered - periodically - by the government, and which have had a high number of adherents.

Paes (2012) points out that it is possible for problems to arise in tax collection over time, since a large portion of the taxpayers (in debt) may feel tempted to practice indirect financing, which consists in not paying the due tax, aiming at the expectation of a possible launch of a new installment program with more advantageous options for the acquittance. Thus, the fiscal obligation not paid immediately is aggravated by the frequent grants of installment options.

Tax evasion affects the social security system, parallel to the expectation of adherence to the fiscal installments, thus corroborating the importance of analyzing this practice and its important impacts. As for these, the discourse in favor of the need to reform the entire Brazilian social security system due to the fiscal deficit stands out, although its causes are not discussed, but the final numbers. In this context, the following question arises: does indiscriminate indirect financing occur because of the entity’s financial need or because of the ease of adhering to fiscal recovery plans? Although both situations may occur, the question refers to the stimulus towards the bad payer, although with no effective need, to postpone the due payment.

In this sense, the general goal of the research, from which this article derives, is to analyze indirect financing through the opportune non-collection of taxes and the adhesion to installment programs.

The specific objectives are: (i) to investigate the financial reality of the entities adherent to programs. (ii) to reflect on the criteria established for the adherence to the programs; (iii) to quantify the amounts not collected at due time.

The delimitation of this study focuses on evasion regarding social security contributions, through concessions in the Special Program for Tax Regularization - SPTR/2017.

This article is justified by investigating if the achievement of business is due to the practice of indirect financing of the social security contributions through the artifice of tax

evasion and the expectation of future installment payments to regularize the taxpayer in debt. Such information can contribute to public policies, since, as highlighted by Konrad (2018), it is possible, through information, to demonstrate how existing fiscal gaps can be closed.

Laplante, Lynch and Verno (2021), When researching the relevance of the information for fiscal planning, point out that a company with high quality internal information collects, generates and consumes a large amount of data and knowledge that is accessible, useful, reliable and precise.

The justification extends through previous studies on the practice of adhesion to installments. Banker (2011), in his study called “The pros and cons of fiscal installments”, examines the losses that come tax evasion by waiting for the installment program and the culture of encouraging non-compliance with the tax obligation through the benefit of installment payment to defaulters.

In the article “Tax Authorities create debt addicts”, Fernandes and Veríssimo (2011) analyze the constancy of launches and adherences to installment programs.

The justification for this research substantially incurs in issues that permeate social security evasion, the incentive to this situation through the available installments, criminal practices regarding the scope of social security and the expectation of adherence to installments and the practice of indirect financing.

However, one of the conveniences is the fact that, upon joining the tax recovery program, the taxpayer is exempt from the fine, and is only charged with the monetary correction of the amount due.

The question is relevant to the management of taxes, the labor and social dictates related to timely social security collection and the issue that the employer, as responsible for the collection, fails to fulfill his obligation through the figure of the employee, who is a participant and funder of the system.

As a contribution, the study allows us to reflect, in an assertive way, on the equal treatment offered by the installment programs to the taxpayers in debt in completely different situations and with completely different profiles, in addition to not encouraging the “good payer” that conducts his institution with the collections made in a timely manner.

2 Theoretical reference

This article analyzes conceptual aspects that permeate business and social issues, in addition to reflecting on these elements as motivators for the so-called “social security breach” and the reform process of the system.

Fabretti (2017) highlights those social contributions were established by the Federal Constitution of 1988 and that, with Constitutional Amendment No. 20, of 1998, the concept of taxpayer was expanded beyond the employer, as both the company and the entity that is equivalent to it appear as such.

The aforementioned Article 195 elucidates that the "taxable event" of the social security contribution is delimited in item I, Subsection "a", when conceptualizing that payments and other income related to the provision of services, and even for those without employment relationship that are paid to any title for natural person, are framed in this concept.

Barbosa (2011) states that until the enactment of Federal Law No. 9,983/2000, the criminal conducts typified were contained in Article 95 of Federal Law No. 8,212/1991. However, with the enactment of the Law in 2000, article 95 was revoked, with the exception of its 2nd paragraph: in which, from then onwards, criminal offenses in the social security sphere became part of the Brazilian Penal Code.

The highly regarded “misappropriation”, according to Amaro (2016), went through legal restructuring, which resulted in higher fragility in terms of its support, given the prohibition of imprisonment for the occurrence of this debt.

This consists in, by definition, the practice of “failing to pay, in the legal period, the amount of the tax or social contribution, discounted or charged, as the passive subject of this obligation that should be collected to the public treasury”, according to Article 2, item II, of Federal Law nº 8.137/1990 (ABRÃO, 2015).

It should be noted that the act of deducting part of the salary by the employer, as well as the due social security payment, are obligations that, when not carried out, must legally incur a punishment.

According to Balera (2014), the National Social Security System (NSSS) is formed by three strands: health, social security and social assistance, which constitute the Social Security system. These elements form a specific integration, as they have the task of meeting social rights, implying rationality in administrative activity with the goal of protecting citizen users, providing them with social well-being and encouraging productive activities.

According to Santoro and Santoro (2015), Social Security has diverse aspects and coverage, by expressing characteristics of the State regime with an interventive and economic strain. Therefore, the Social Security System assures individual protection, in a collective perspective, through minimizing social risk.

The cost of Social Security is established in Federal Law nº 8.212/91, Article 11, that defines that, in the federal scope, the budget is composed by: Union revenue, social contribution revenue and revenue from other sources (BRASIL, 1991).

The FC/1988, in Article 201, disciplines the social security organization, framed in the “general regime” through the contributive and mandatory character, aiming to preserve financial balance of the ensured workers, as long as they are not linked to their own regimes, such as the military and public servants, and they do not perform paid activities or even are registered in the system as “optionally insured” (BARELLA E MUSSI, 2004).

Cunha (2019) points out that, currently, the main expense of the State is Social Security, and that it overcomes the expenses with education, safety and security. In 2018, the payments of pensions and social security benefits reached 715 billion reais, with a percentage of 53% of primary expenses, according to data compiled by the National Treasury.

According to the General Social Security Regulation (RGPS, 2019), the social security deficit in 2018 was 195.2 billion, given that total expenses reached the amount of BRL 586.3 billion, and collected BRL 391.2 billion. Compared to 2017, the deficit increased by about 7% and the growth in expenses was 5.2%, ending the year at BRL 586.4 billion.

According to the Federal Revenue Service of Brazil (FRSB), as stated on its website, under "List of Installments Granted" the total amount of social security installments granted in 2017 is 184,547 concessions. There are significant amounts which were not duly collected at the right time and total R\$ 9,550,498,343.03. The magnitude of the numbers of concessions, especially the amounts not collected, point to a phenomenon that needs attention of the Accounting and Actuarial Sciences, Economic Sciences and Administration as a whole.

2.1. Tax and social security installments

Tax payment installments is the division of the amount due and its additions in periodical installments, allowing for the opportunity of paying off the tax credit not paid at due time. This procedure implies the suspension and not the extinction of the tax credit, resulting from the installment payment of the taxpayer's debt. According to Sabbag (2016), installment payment is a tool whose form of payment of tax debts occurs after the deadline, since timely payment did not occur.

Martins (2018) believes that the tax installment payment incurs in two consequences: the confession of debt and the debtor's right to issue a positive certificate with negative effects, pursuant to Article 206 of the CTN. It also shows that the fine is not cancelled, unless there is a legal provision to do so.

Thus, we can observe that, upon subsequent adhesion to any installment payment, the confession of debt is therefore communicated, not extinguishing the act performed, that is, evasion.

Normally, tax installments by tax authorities happen in two ways: fiscal and social security, which have rules set by the installment program itself, thus segregating them by types of debts in the two modalities.

The frequency of the installment programs launch is as follows:

- Refis (Tax recovery program) – Federal Law nº 9.964/2000;
- Ordinary Installment – Federal Law nº 10.522/2002;
- Paes (Special Installment) – Federal Law nº 10.864/2003;
- Paex (Exceptional Installment) – Provisional Measure nº 303/2006;
- Crisis Refis – Federal Law nº 11.941/2009;
- DAU Social Security Installment - Joint Ordinance PGFN/RFB nº 11/2011;
- World Cup Installment - Federal Law nº 12.996/2014;
- Pert (Special Tax Regularization Program) - Law nº 13.496/2017.

In October 2019, the Provisional Measure for Legal Taxpayers was put into effect, whose proposal could be the solution for 1.9 million taxpayers in an irregular situation, in addition to aiming to minimize evasion (VERDELIO, 2019). However, it offers adhesion opportunity only to taxpayers who prove their needs regarding their ability to pay.

It can be determined, therefore, that the installment program proves to be a valid instrument to reduce evasion, since it simultaneously balances public financial reserves and the effective obligations of debtors with real needs, depending, for the latter, on the criteria adopted in order to encourage the good payers, guaranteeing them conditions for the development of their businesses. However, the constant launching of regularization plans can contribute to the increase in evasion, as this fact can lead to dependence in institutions and encourage them to exert pressure on government officials for systematic proposals for installment payment. As Fernandes and Veríssimo (2011) point out, in the last eleven years, the series of installments has created a "legion of addicts" in renegotiations, because, both within the scope of the Federal Revenue Service of Brazil (FRSB) and Social Security, adherents pay only the first installments and then abandon the payments.

Fochmann and Wolf (2019) carried out researches that demonstrate that the taxpayers are more willing to evade taxes by sub notifying positive income (for example, commercial revenue or non-commercial revenue) than reducing negative income (for example, deductions, credits or losses) which demonstrates the interests of the taxpayers in evading.

Andrade, Rodrigues and Consenza (2020) explain that, in order to fulfill its tax management objectives, a company usually manages and plans taxes in an adequate manner, delaying the payment of the tax debt and not reporting all tax risks, being fined for breaches of the law.

The fact that the financing is on tax debts or arising from penalties can motivate evasion. Ling et al. (2017) developed a study that provides evidence of the importance of tax evasion as a source of gains in customer relations.

Therefore, it is important to verify the development of public policies in order to avoid tax evasion.

2.2. Previous studies

Previous studies indicate that the constant launching of regularization programs contributes to the growing evasion, in addition to generating expectations on the taxpayers that do not pay their due amount in a timely manner. Chart 1 presents a sample of these studies on the theme, confirming this perspective.

Chart 1 - Previous Studies

Source	Year	Title	Research Object
Ana Magalhães	2017	Article: Tax evasion and default are equivalent to one third of the pension deficit.	Examination of the percentage of social security contributions of workers who do not enter the INSS coffers and the inefficiency of collection.
Bruno Rodrigues Teixeira de Lima	2015	Dissertation: The payment of federal taxes in installments as a form of indirect financing for companies.	Analysis of whether companies can finance themselves through federal taxes and whether this financing is attractive.
Nelson Leitão Paes	2014	Article: The effects of installment payments on tax collection.	Assessment of the impact that all these federal installments granted in such a short period of time had on the behavior of the taxpayer and the collection.
Amaury José Rezende Flávia Zóboli Alex Augusto Timm	2018	Article: Assessment of the impact of tax incentives on the returns and investment and financing policies of companies.	This article contributes to the debate on the relationship between tax incentives (government grants) and the value generation and allocation policies of Brazilian companies, however, until then, few conclusions could be drawn from the literature on this subject, in the economic context and Brazilian tax.
Gabriela Oliveira Justino Mendonça Nogueira Moisés Ozório Souza Neto José Mauro Madeiros Velôso Soares	2019	Article: Aggressive tax planning as a form of capitalization through Refis: a study in a family business.	This study proposed to analyze the financial savings that this choice can bring to a family business through aggressive tax planning in compliance with the Tax Recovery Program (Refis).

Source: Elaborated by the Authors.

According to the various studies analyzed, we can confirm that, by launching fiscal recovery plans, the public agent, through tenuous criteria established for adherence and without further detailing the profiles of potential applicants, encourages the bad taxpayer and discourages those who make their payments timely.

The study by Magalhães (2017) demonstrates results that tax collecting inefficiency has been rising constantly, represented by evasion debts that, in 2012, represented 22% and, in 2015, 33%. During this period, the contributions to social security not collected reached the threshold of 92 billion reais, bringing reflexes to the social security scenario.

In the second research, presented in Table 1, Rodrigues and Lima (2015), performs a comparative analysis between the financing options for the taxpayer. The study found that financing through financial institutions has a higher cost due to the free agreement deal when compared to the practice of default and adherence to tax recovery programs that are carried out at the SELIC (Special System for Settlement and Custody) rate. It also presents the calculation simulation that highlights this aspect (LIMA, 2015).

Paes (2014), in his research, investigated the effects of the frequent succession of installment payment programs on the probability of spontaneous tax collection by the taxpayer and on the collection. In order to do so, the author created a partial balance economic model together with a series of hypotheses that analyzed the behavior of the taxpayer and the collection. In its results, it states that the sequence of installments significantly reduces the taxpayer's intention to pay.

In his conclusion he states (PAES, 2014, p. 10):

It can be concluded that the tax installment mechanism is inadequate as a way to increase revenues and provide the correct incentives to taxpayers. What would be much more desirable is for the Brazilian Tax Administration to focus its efforts on modernizing and improving its administrative and judicial collection systems. This seems to be the way to offer taxpayers the appropriate incentives, so that those who do not spontaneously comply with their obligations are encouraged to comply, and not the opposite, which unfortunately has been the rule of recent installments.

In this sense, the first three studies bring forward aspects related to this article: impacts that hit Social Security facing the lack of timely tax collection; the practice of indirect financing being the more attractive the one based on the adhesion to fiscal recuperation programs; and the constant launch of installment programs as a possible encourager of social security evasion.

Medeiros (2010) highlights that the direct consequence of the asymmetry of information between employer and employee represents a moral risk. In the economic sphere, two parts can be observed regarding moral hazard: i) the action not subject to verification, by the employee; and ii) the part of the employing agent that has privileged information on the economic transaction.

It is attested that the employee cannot control the decisions and behavior of the person who is responsible for both the deduction from the payroll and its transfer to the competent body; consequently, the employee is unable to mitigate the asymmetry of information. (REIS, 2018).

In the article by Rezende, Dalmácio and Rathke (2018), through data analysis of 108 companies of the 653 registered with the Brazilian Securities Commission, in the period from 2011 to 2013, they observe that the companies that most remunerate their shareholders are the ones that most take advantage of tax incentives.

Nogueira, Souza Neto and Soares (2019) carried out an interesting research that highlights that it is more advantageous for the company to wait for financing by the Tax Recovery Program (Refis) and not go into debt to pay taxes, or use other devices to capitalize, in a way which discourages timely payment.

Severiano (2020) states that, although the program was targeted at companies in adverse situations, many others ended up benefiting abusively from these measures, using them as a cheaper form of financing, negatively affecting tax collection in the country, and consequently, the well-being of society.

The hypotheses analyzed in this study are as follows:

H₁: the financial result calculated by the institution confirms the need to adhere to the installment plan;

H₂: the installments granted in 2017 prove the indirect financing.

The hypotheses described are based on the circumstance of the existence of a real financial need that made it impossible to collect in a timely manner, based on the results obtained by the institutions in a period close to the adhesion to PERT/2017.

3 Methodology

The research methodology used in this study is based on descriptive/explanatory analysis. Descriptive research investigates existing relationships in order to determine the nature of these relationships. Explanatory research observes the aspects addressed in search of causal explanations that identify dimensions that elucidate the phenomena.

According to Gil (2010), researches characterized as explanatory are those that aim to identify facts or factors that confirm the occurrence of phenomena, in order to obtain knowledge about reality to rationally explain the reason for be of things.

The data collection allowed the tabulation in tables and charts to obtain a categorization, in such a way that they could be interpreted.

The research adopted a comparative approach, both quantitative and qualitative. Through the comparison, it was possible to establish a correlation between the collected data and other characteristics that permeate the object under study.

As Vergara (2016) points out, in the quantitative approach, the determination of the data chosen for the sample to be analyzed must be representative in the studied universe, which implies sampling rigor.

For Bardin (2010), content analysis is the observation made on the data available. This results in messages that may or may not confirm the logical deduction as to the knowledge held by the one who observes and, therefore, is the sender of the messages, in addition to the context that permeates the observed data.

The quantitative analysis was carried out using data available on the FRSB website, incorporating the amounts of installments granted and the National Register of Legal Entities (CNPJ). The data is considered primary, as it is available on the official website, and the values are collected and analyzed in order to verify whether they represent significant cash and whether they could be treated as a relevant incidence in the social security sphere.

Initially, the following analyses were performed: i) identification of the percentiles according to the amount owed, using the ABC Curve; ii) investigation of the profile of the 100 institutions who owe the most; and iii) separation of public and private institutions. It can be observed that there are institutions with different profiles, among them: public, private and third sector. It can also be observed that the public sector can have a surplus, but the premises of the public budget/finances foresee budgetary balance and not gain in the process, differently than the private companies.

According to Felini (2014), the ABC Curve was created by Vilfredo Pareto around 1897 in Italy while conducting a study on the distribution of income and wealth of the population.

Pozo (2017) affirms that, in the administrative sphere, the ABC Curve is used to make urgent decisions with a high volume of data, such as, for example: sales, salaries, Productions, stock evaluation, among others. The author also states that such procedure has the merit of classifying, by means of criteria or classes, the items analyzed in A, B and C, considering their respective values and quantities, observing the importance of the subdivision of classes, as presented in Chart 2:

Chart 2 - ABC Curve: classification

Classification	Items
A	Items that deserve attention for their relevance, with urgent character. In this category, steps must be taken quickly based on the monetary amount.
B	Items characterized as intermediates are found in this class. For these, the need for treatment with average care was considered.
C	This class comprises the bulky elements (in quantitative terms), but with less relevance in terms of monetary value. In this sense, they allow a longer period for analysis and action. They will only be dealt with after classes A and B have been analyzed..

Source: Elaborated by the authors based on Pozo (2017).

The ABC Curve was intended to segregate classes A, B and C by the amounts due (debtors) of the social security installments granted in 2017. This classification is justified by the criterion of amount due, and the concessions are classified as follows:

- Total debt up to R\$ 1,000,000.00
- Amounts due between R\$ 1,000,000.00 and R\$ 10,000,000.00.
- Amounts above R\$ 10,000,000.00

In the quantitative approach, the multivariate analysis was performed, which, as Rodrigues and Paulo (2017) state, is the grouping of statistical methods that takes place in simultaneous analysis aimed at the multiplicity of measurements on each object or phenomenon observed. They are methods that work with the analysis of more than two variables simultaneously, whose classification is divided into dependency and interdependence techniques.

Multivariate analysis encompasses several techniques, including cluster analysis. For Pohlmann (2017), cluster analysis is premised on grouping objects based on the objects' own characteristics, considering a predetermined selective criterion.

The sample was chosen using the ABC Curve consisting of 40 institutions contained in categorization A; was reduced to a total of 26 due to the exclusion of the twelve institutions without information, and two that have more than one installment.

In this Cluster Analysis, the clusters were created using the criterion of number of exercises with information available for the items "Revenues" and "Results", as shown in Table 1:

Table 1 - Cluster Elaboration

Clusters	Number of Institutions	Available Information
<i>Cluster 1</i>	9	5 financial years (2014 to 2018)
<i>Cluster 2</i>	8	3 or 4 financial years
<i>Cluster 3</i>	8	2 or 1 financial Years
<i>Cluster 4</i>	12	0 financial Years

Source: Elaborated by the Authors.

There are two basic assumptions in Cluster Analysis that should receive due attention: the representativeness of the sample and the impact of multicollinearity between the variables, as the latter reveals evidence of a strong correlation between two or more independent variables.

In short, the methodological procedures are identified in a consolidated manner in Chart 3:

Chart 3 - Analyzed Variables

Steps	Goals
Identification of the 100 largest debtors adhering to PERT/2017.	Know the largest debtor institutions.
ABC Curve	Identify group A, which deserves more attention, according to the concept of the ABC Curve.
Observation of the accounting information of the institutions listed in "A" in the period close to the adherence of PERT/2017 from 2014 to 2018.	Check the income earned and the results obtained.
Formulation of clusters.	Group the institutions by the number of years (fiscal years) with information (revenues and results) made available.
Calculate the percentages of the calculated values.	Certify whether the institutions were experiencing financial difficulties at the time close to the installment payment that took place in 2017.

Source: Elaborated by the Authors.

4 Presentation and discussion of results

As described in the methodology, using the ABC curve, the social security installments granted were classified into the following levels: with a total debt of up to R\$ 1,000,000.00; between BRL 1,000,000.00 and BRL 10,000,000.00; and amounts above BRL 10,000,000.00.

At first, it was possible to identify the percentiles in terms of debtor amounts and sequentially the profile of the 100 most debtor institutions, as well as the segregation between public and private entities.

Table 2 applies the ABC Curve to social security installments granted in 2017:

Table 2 – ABC curve: installments granted in 2017

Curve	Number of installments granted	Amounts Due	Totals
A	40	From R\$ 10,131,052.95 to R\$ 128,295,470.36	R\$ 798,382,824.49
B	811	From R\$ 1,000,399.76 to R\$ 9,844,316.39	R\$ 2,068,984,237.69
C	183.684	From R\$ 13.33 to R\$ 999,301.51	R\$ 6,683,131,280.85

Source: Elaborated by the Authors.

The ABC Curve categorized the classes as follows: "A" with only 40 CNPJs, but with the highest amounts due between the ranges of R\$ 10,131,052.95 and R\$ 128,295,470.36, comprising the minority of debtors.

Class B shows debts in the range up to R\$1,000,000.00 and comprises a total of 811 defaulters with amounts due between R\$1,000,399.76 and R\$9,844,316.39.

Class C was formed by the vast majority of items, with 183,684 installments granted in 2017, with the lowest amounts due within the range that comprises the debt between R\$ 13.33 and R\$ 999,301.51.

The cluster analysis was performed using the ABC Curve of the items that compose class A, the verification of the institutional realities occurred using the information provided by the entities themselves regarding the income earned and the results calculated between 2014 and 2018, this investigation being a specific objective guiding this study.

In this sense, it was possible to elaborate the following clusters:

a.) *Cluster 1*: composed of 9 institutions, whose information obtained refers to five years (2014 to 2018), presented in Table 3 with the amounts in revenue and results obtained.

In this cluster, it was possible to notice some similarities, such as, for example, significant amounts in the "earned income" item. Of the 45 billing values surveyed, approximately 78% are above 100 million.

The municipality of Ribeira do Amparo (BA), for example, has collected numbers in the millions. This aspect becomes relevant to show that there are significant financial movements throughout the period covered and this fact stems from the activity that each entity performs, thus not being classified as an inoperative entity.

Another observation to be highlighted refers to the fact that the payment of the social security contribution is not linked to the result of the business, but to the taxable event itself, which occurs through the established employment relationship.

As for the item "result for the financial year", it can be observed that in 56% of the total of 45 entries collected (of the 9 institutions in five years), there was a positive result, that is, the entities obtained significant profits, with 16 of them in the millions.

Therefore, the existence of a delaying maneuver regarding the payment of social security contributions due and the subsequent adhesion to the installment program is inferable. It is noteworthy that the analyzed period of five years close to the exercise of the concession

provides evidence on the situation of the entity in the relationship between expected adherence to installment payment and the opening of this instrument.

Table 3: Cluster 1

Institution	Year	Revenue	Results	Institution	Year	Revenue	Results
<i>JBS S/A</i>	2014	120,669,000.70	2,035,000.90	<i>Municipality of Mococa/SP</i>	2014	141,155,669.27	346,699.57
	2015	162,914,000.15	4,640,000.10		2015	161,933,544.77	5,153,720.55
	2016	170,380,000.50	3,760,000.00		2016	169,508,269.36	9,979,891.90
	2017	163,170,000.00	1,025,000.50		2017	179,321,652.78	11,309.69
	2018	181,680,000.20	2,100,000.10		2018	181,595,648.17	- 9,950,459.81
<i>Instituto de Saúde e Gestão Hospitalar</i>	2014	598,512,454.79	- 99,236,137.82	<i>Cecrisa Revestimentos Cerâmicos S.A.</i>	2014	675,262.00	68,477.00
	2015	677,502,682.10	- 22,899,990.73		2015	599,220.00	57,531.00
	2016	780,766,156.14	45,124,786.86		2016	547,624.00	- 23,866,000.00
	2017	797,968,012.57	- 2,217,496.09		2017	558,723.00	3,999,000.00
	2018	873,764,688.24	70,193,668.77		2018	651,818.00	- 13,364,000.00
<i>Mafrig Global Foods S.A.</i>	2014	5,486,436.00	- 739,472.00	<i>Municipality of Ribeira do Amparo/BA</i>	2014	7,235,890.00	136,001,118.00
	2015	6,083,412.00	- 1,173,281.00		2015	6,253,660.00	174,658,040.00
	2016	5,961,249.00	- 726,432.00		2016	7,077,884.00	173,343,235.00
	2017	7,599,730.00	- 483,472.00		2017	4,284,019.00	171,733,549.00
	2018	9,461,129.00	- 9,461,129.00		2018	2,189,473.00	42,009,950.00
<i>SBF Comércio de Produtos Esportivos Ltda</i>	2014	2,086,473.00	- 12,994.00	<i>Companhia Carris Portoalegrense</i>	2014	134,276,378.00	- 43,505,556.00
	2015	2,028,779.00	- 168,115.00		2015	144,749,300.00	- 50,740,380.00
	2016	1,847,242.00	- 59,509.00		2016	155,543,968.00	- 51,700,874.00
	2017	1,968,572.00	241,011.00		2017	153,541,000.00	- 43,187.00
	2018	873,764,688.24	148,748.00		2018	163,924,000.00	- 19,204.00
<i>Instituto Sócrates Guanaes – ISG</i>	2014	54,204,147.05	51,650.13				
	2015	64,160,947.79	- 49,421.56				
	2016	170,796,653.72	119,387.07				
	2017	164,340,563.89	57,237.88				
	2018	75,679,747.60	15,616,113.28				

Source: Elaborated by the Authors

Indirect financing practices are evident even with high revenues and profits, in contrast to the non-payment of social security contributions due and, even so, having adhered to PERT/2017 with considerable amounts.

b.) Cluster 2: composed of 8 institutions, in which the information comprises a minimum of three years, according to the respective amounts of the years made available by the institutions, presented in Table 4.

Cluster 2 is formed by 27 entries, with institutions that present results only in three or four years.

Of this universe, 74% of the revenues earned are above R\$ 100 million, with an emphasis on the existence of revenues above 1 billion. Thus, it was found that there are entities that are not inoperative and are highly profitable, which would imply - in logical, legal and economic terms - having collected the social security contribution in due time through the "taxable event" that occurred.

Table 4: *Cluster 2:*

Institution	Year	Revenue	Results
<i>Municipality of Ponta Grossa/PR</i>	2016	649,204,805.94	35,982,258.74
	2017	731,845,511.74	49,738,349.14
	2018	762,117,962.67	31,654,963.10
<i>IABAS – Instituto de Atenção Básica e Avançada à Saúde</i>	2014	379,260,616.00	812,772.00
	2015	376,870,657.00	11,417,763.00
	2016	676,210,228.00	1,297,172.00
<i>Municipality of Itaquaquecetuba/SP</i>	2016	435,098,717.00	(373,896,370)
	2017	423,990,340.00	(332,772,918)
	2018	443,923,481.00	(324,995,528)
<i>Farmácia e Drogeria Nissei</i>	2016	17,483.00	593.00
	2017	17,989.00	737.00
	2018	19,579.00	1,211.00
<i>Municipality of Poá/SP</i>	2016	435,098,717.00	(373,896,370.00)
	2017	423,990,304.00	(332,772,918.00)
	2018	443,923,481.00	(324,995,528.00)
<i>Empresa Maranhense de Ser. Hosp.- EMERSH</i>	2016	492,527,801.24	(13,074,635.22)
	2017	768,021,426.29	(54,525,207.41)
	2018	1,063,645,827.56	(4,954,769.69)
<i>Municipality of Bragança Paulista/SP</i>	2015	425,648,466.36	(64,429,948.85)
	2016	408,804,541.34	(18,249,601.37)
	2017	436,366,411.11	8,626,902.71
	2018	521,560,149.34	69,036,143.91
<i>Abril Comunicações S.A.</i>	2014	1,716,600.00	9140,720.00
	2015	1,283,238.00	(208,681.00)
	2016	997,320.00	(137,834.00)
	2017	977,719.00	(331,662.00)

Source: Elaborated by the Authors

Regarding the results presented, it is inferable that 48% of the entries were in a positive situation. In this sense, the cluster also suggests the practice of indirect financing.

c.) *Cluster 3:* composed of 8 institutions, whose Table 5 shows the information available for less than three years:

Table 5: *Cluster 3*

Institution	Year	Revenue	Results
<i>Toniolo, Busnello S/A</i>	2016	666,112,300.00	(49,874,246.00)
	2017	746,396,680.00	(36,469,789.00)
<i>Usina Caete S.A.</i>	2016	13,705.00	(18,706.00)
	2017	2,678.00	(4,070.00)
<i>Municipality of Boituva/SP</i>	2018	636,737,645.11	15,385,739.79
<i>Litucera Limpeza e Engenharia Ltda</i>	2016	353,791,236.52	3,961,493.17
<i>União de Lojas Leader S.A.</i>	2015	15,499,167.00	4,615,950.00
	2016	13,512,533.00	3,324,647.00
<i>Iguaçu Celulose Papel S.A.</i>	2014	330,444.00	(498.00)
	2015	387,196.00	(29,353.00)
<i>COMURG</i>	2014	381,954,901.27	(32,439,714.82)
	2015	436,750,162.84	(40,971,754.82)
<i>Uniesp S.A.</i>	2016	557,195.00	311,899.00
	2017	358,153.00	91,471.00

Source: Elaborated by the Authors.

In this cluster, the total is 14 entries and the percentage of income earned above R\$ 100 million represents 43%, thus reaffirming the premise that all organizations were active. As for the item "results", the same percentage is repeated for "earned income".

The Cluster 3 scenario also implies a potential practice of indirect financing for the same reasons as the previous clusters: non-timely payment and adherence to the installment program.

d.) *Cluster 4*: is made up of 12 institutions, in which the investigation did not identify any information for any of the years and on any of the items analyzed: revenue and results. Chart 4 presents the corporate name of the institution and the relevant sector:

Chart 4: *Cluster 4*

Institution	Sector
<i>Municipality of Tucano/BA</i>	Public
<i>Carbonífera Catarinense Ltda</i>	Private
<i>Municipality of Lauro de Freitas/BA</i>	Public
<i>Municipality of Parauapebas/PA</i>	Public
<i>Paquetá Calçados Ltda</i>	Private
<i>Municipality of Canarana/MT</i>	Public
<i>Municipality of Santarém/PA</i>	Public
<i>Municipality of Itamaraju/BA</i>	Public
<i>Municipality of São Gonçalo/RJ</i>	Public
<i>Carvalho & Fernandes Ltda</i>	Private
<i>Municipality of Americana/SP</i>	Public
<i>Municipality of Granja/CE</i>	Public

Source: Elaborated by the Authors.

It is important to point out that there are 9 public entities in this cluster, which meet the criteria of transparency, in accordance with current legislation.

In 2004 the Federal Government's Transparency Portal was launched by the Ministry of Transparency and Comptroller General of the Union (CGU). Its main objective was to access information about how public resources are used and what actions are taken by the public administration. This resulted from meeting the current legal requirements regarding transparency. (CGU, 2019).

The difficulty faced in our investigation is reaffirmed by Pascoaloto (2017) in studies on the transparency in agencies in the metropolitan region of São Paulo. The author found that few municipalities met the minimum requirements required by the Transparency Law.

In the cluster analysis, as mentioned in the methodology, important aspects were highlighted regarding the object of this article.

Initially, the investigative premise intended to gather a total of 130 entries, considering the 26 institutions in the five years analyzed. However, due to the lack of available information, the investigation was reduced to 86 entries.

The percentages calculated are significant in terms of revenues earned in the years investigated, as they resulted in 71% of institutions in the period above 100 million, and also institutions with revenues above 1 billion (equivalent to 8%). As for the results of the years that may result in the institutions' profit or loss and their impact on social security collection, it was identified that 51% of the results obtained showed profit.

Thus, we emphasize Paoliello's (2003) position on the ability to pay as a central concept in the economic sphere, highlighting social justice as a premise and goal of the tax law. Seeking

to achieve equality among taxpayers, this perspective is seen as a precept that guides Modern Tax Law, according to the author.

Based on the data presented, it is inferable that most of the institutions analyzed practice indirect financing, as the evidence clarifies.

Thus, the institutions identified by the FRSB have high amounts of revenue earned and positive results, presenting, this way, complete financial condition to pay the social security contributions at the appropriate time. However, since they did not collect said contributions, they were eligible to adhere to Pert/2017, unreasonably prolonging the term for payment of social security debts. In systemic terms, this decision impacts the organizational system (the aforementioned "good payers" and many other micro and small entrepreneurs), the tax system (draining of resources for those who least need the installment plan) and social justice (especially regarding social security).

Such aspects indicate indirect financing, as well as deficient tax management by the state inspection apparatus, in parallel with organizational practices and policies aimed at its own benefit.

The question on the non-payment of social security contributions in a timely manner prevails and falls on the equal treatment (without distinguishing criteria as to the need) at the time of adhesion, since it does not differentiate the small business from the big business, as well as the ones who are really in need, allowing the adhesion of taxpayers who are in a positive (and privileged) financial situation and with conditions to make the due and timely payment.

Finally, it is important to measure the social security deficit, which the Social Security Reform, approved in October 2019, would supposedly correct. According to Fabrini and Wiziack (2019), the reform proposal indicated that only 20% of the deficit would be covered, according to figures from the Federal Court of Accounts. According to the authors, the amount of R\$ 5.1 trillion would be necessary for the accounts to reach a positive character in the period between 2020 and 2029, but the approval of the reform would imply savings of only R\$ 800.3 billion.

According to Caram (2020), the gap in Social Security reached the amount of BRL 318.4 billion in 2019, historically reaching its highest record and an increase of 10% compared to the previous year. In this sense, it is observed that the significant amounts that make up the installments granted corroborate the social security problem and the growth of the gap. In this way, the costs of the reform will not be paid neither by those who have the most resources or by those who further deepen the so-called "break".

5 Final considerations

The goal of this article was to investigate the possible existence of the indirect financing practice in institutions.

As seen previously, such practice refers not Only to poor tax management, but also falls on the illicit matter of misappropriation, since part of the social security contribution is composed by the amount charged from the payments to the employee. After all, when the amounts owed do not reach the reserves of the social security system, through the responsibility of the employer, misappropriation is characterized.

The National Tax System is explicit when stating that social security collection is not an option, but an obligation of the person or institution that fits the taxpayer figure according to the generating factor occurred.

Likewise, the adhesion of a significant portion of institutions to installment payment programs is observed as a delaying maneuver, producing the externality of the strategic advantage that discourages the good taxpayer. After all, the conditions provided by fiscal

recovery plans are largely advantageous compared to the conditions offered by private financial institutions in terms of loans, or even market interest on other obligations paid after maturity.

One of the specific goals of this research is to reflect on the criteria established for adherence to the programs, which should be more thorough regarding reality and not simply the fact of evasion, in order to grant adhesion to the taxpayer who actually requires payment in installments to the detriment of non-payment due to financial need, excluding from this selection taxpayers who use indirect financing and future expectation of adhesion.

The investigation sought to focus on the uniqueness of the organizational profiles that adhered to the program in terms of the entity's financial situation close to the time of the payment in installments.

Analogously to previous studies, presented as a theoretical basis for this research, this study incurs on assertive correlations regarding the existence of an expectation of a future release for a probable adhesion, on reflexes suffered by Social Security to the detriment of the lack of payment in due time, on criminal practices related to social security, such as misappropriation.

However, in addition to these questions investigated by the cited authors, this research especially reaches the practice of indirect financing, since the financial realities of the entities presented through the clusters at a time close to adhesion, prove that there is no financial need due to revenues and profits, represented by significant amounts.

The first institution in the list of the 100 most in debt is JBS; however, other well-known organizations are part of the list, such as: *Bombril*, *Lojas Centauro*, *Uniesp*, *Empresa de Ônibus Vila Galvão*. public entities are included in this list, which meet the same membership criteria as private entities, despite having very different realities.

It should be pointed out that the conflicts regarding the distinction that the policies in force in the fiscal recovery plans offered to private entities should not be the same as those obtained by public entities. Its differentiation is based on the fact that there is a discrepancy in the aspects relevant to the distinction of these entities and, above all, in the activities they carry out.

In this sense, the study proposes a critical look and detailed analysis regarding the criteria established by the installment payment programs, and systematic investigation of the applicant's history at the time of granting.

In other words, and as a contribution to the academic and public debate, it is understood that the requests for adhesion granted should only serve taxpayers who prove difficulties in the financial moment faced in which the non-payment of social security occurred. The historical series of the entity in focus should also be observed. In this way, the practice of indirect financing would be limited in view of the impossibility of unjustified adhesion.

After the facts presented, it is observed that hypothesis H_1 was invalidated, as the results obtained in the institutions do not demonstrate the need to adhere to the payment in installments, specifically, the financial aspect.

In turn, it should be noted that H_2 was confirmed, through data analysis, it was found that there is a practice of indirect financing.

It should be noted that this article is not a criticism of the launch of installment payment programs or the use of this instrument, which is legally valid and supports the justified regularization of taxpayers in debt. The proposed reflection refers to the lack of rigor in adherence and equal treatment, not thorough and unclear, given to applicants, regardless of different circumstances (sometimes very different) that permeate the taxpayers.

For further research, an investigation into social security default related to the new recovery program arising from the Provisional Measure of the Legal Taxpayer is suggested, aiming specifically at identifying whether the criteria established for adherence are more rigorous compared to those of PERT/2017, and if any change entailed significant changes in

the profile of member organizations. We also recommend a study that separates public and private institutions and another that separates the original installments of regular payment of contributions from the results of penalties, inspections or disputes.

Finally, this article also suggests the continuation of research on the debate about the “social security deficit” related to social security default resulting from undue, indirect and unjustified installments.

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ⁱ Mestre em Ciências Contábeis e Atuariais - Pontifícia Universidade Católica de São Paulo - PUC/SP. Professora da Graduação da Universidade Paulista- UNIP/SP

ⁱⁱ Doutor em Ciências Sociais - Pontifícia Universidade Católica de São Paulo – PUC/SP. Professor do Mestrado em Ciências Contábeis, Controladoria e Finanças da PUC-SP

ⁱⁱⁱ Doutor em História Social – USP/SP. Professor do Doutorado em Ciências Sociais da PUC/SP. Professor na Fundação Getúlio Vargas – FGV/EAF-SP

^{iv} Doutor em Economia – Unicamp/SP. Professor do Mestrado Profissional em Gestão e Tecnologia em Sistemas Produtivos do Centro Paula Souza/SP