

FEATURES OF TAX STRUCTURE AND TAX EVASION IN COLOMBIA

CARACTERIZACIÓN DE LA ESTRUCTURA TRIBUTARIA Y LA EVASIÓN DE IMPUESTOS EN COLOMBIA

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ABSTRACT

In order to comply with its obligations, the government determines the public budget, where it takes into account revenue such as taxes, levies and fees, therefore, it needs a tax system that determines the tributary burdens and the mechanisms for their collection. Among the problems that affect the economies of countries is tax evasion as this prevents the State from gathering the necessary economic resources to ensure the welfare of citizens.

The main objective of this article is to determine the reason why people evade their tax duties, and this is undertaken by means of a descriptive study, using a qualitative methodology.

Initially, we define and characterize tax systems worldwide as well as carrying out an analysis of their evolution and we identify those that are the most frequently used in European and Latin American countries; particularly with regards to Colombia, we analyze the evolution of tributary regulations related to taxable income and VAT taxes (IVA). Subsequently we establish definitions regarding tax evasion and we review antecedents concerning the rate of the income tax evasion in Colombia; and, finally, we study the causes that motivate people to commit this crime.

As part of the main investigative findings, we find that developed countries maintain a progressive system, while Latin American countries focus on a regressive system, prejudicial more to lower income people by means of indirect taxes. As a consequence of the social and economic inequality and the lack of effectiveness of the tributary system, people feel influenced to evade taxes, and thus this problem is attributed to social or cultural, political, economic, legal, technical and administrative aspects.

Keywords: tributary system; taxes; income; tax evasion.

RESUMEN

Para cumplir con sus obligaciones, el gobierno establece un presupuesto público, en donde tiene en cuenta una serie de ingresos, como los impuestos, gravámenes y tasas, por lo tanto, necesita un sistema tributario que determine las cargas impositivas y los mecanismos para su recaudo. Dentro de los problemas que afectan la economía de los países se encuentra la evasión de impuestos, debido a que esto impide que el Estado reúna los recursos económicos necesarios para asegurar el bienestar de los ciudadanos.

El objetivo principal de este artículo es establecer la razón por la cual las personas evaden sus deberes fiscales, para esto se realiza un estudio descriptivo teniendo en cuenta una metodología cualitativa.

Inicialmente se definen y caracterizan los sistemas tributarios a nivel mundial, al igual que se analiza su evolución y se identifican cuáles son los más utilizados en

países europeos y latinoamericanos; particularmente para Colombia, se analiza la evolución de las normas tributarias relacionadas con los impuestos de renta y de IVA. Posteriormente, se establecen definiciones sobre la evasión de impuestos y se revisan antecedentes sobre la tasa de evasión del impuesto de renta en Colombia. Finalmente, se estudian las causas que motivan a las personas a cometer este delito.

Como parte de los principales hallazgos, se encuentra que los países desarrollados mantienen un sistema progresivo, mientras que los latinoamericanos operan con un sistema regresivo, perjudicando en mayor medida a las personas de menores ingresos por medio de impuestos indirectos. Como consecuencia de la desigualdad social y económica y la falta de efectividad del sistema tributario, las personas se sienten influenciadas para evadir impuestos; así mismo, este problema se atribuye a aspectos sociales o culturales, políticos, económicos, jurídicos, técnicos y administrativos.

Palabras clave: sistema tributario; impuestos; renta; evasión de impuestos.

INTRODUCTION

Throughout history, societies have been characterized by the collection of tribute or taxes from their people to cover necessities, maintain ceremonial acts, and cover expenses for expansion as well as to maintain control and dominion over neighboring peoples.

As the world has evolved, societies have changed this perspective, since “man had the need to create rules, regulations and controls by means of legal instruments, in order to give them certainty, security and stability in their practice. Thanks to the birth of Laws and Standards” (Gómez, 2010, p. 7); therefore, each country designs its own tributary structure according to its needs.

Due to the fact that taxes allow the State to provide goods and services that generate welfare for citizens such as health, education, safety, among others (Gómez, 2010); the tributary system of the countries has regressive and progressive taxes. One of the main differences is that the former equally levies the income of citizens, while the latter takes into account the economic capacity of people, that is to say, that the higher their income the greater their tax contribution will be.

In this sense, it is the duty of citizens to contribute to the financing of the expenses and investments of the State through taxes, fees and contributions; however, for various reasons some people decide not to comply with their tributary obligation either partially or totally by means of tax evasion.

Regarding evasion, Colombia is one of the countries that have been characterized by having high percentages with respect to other countries in Latin America; nevertheless, by means of tax reforms and the implementation of collection mechanisms, it has become possible to reduce income tax evasion from 36% to 28% and the value-added tax (IVA) from 24% to 20% between the years 2002 and 2008 (Parra & Patiño, 2010).

Taking into account that this problem presents itself on a worldwide level and especially in emerging countries, a characterization of the tributary structure is undertaken in this article using several tax systems of European and Latin American countries as references. Likewise, the tax system in Colombia is analyzed in more detail, in order to know its evolution related to Income Tax and the VAT (IVA) and finally to identify the reason for tax evasion.

THE TRIBUTARY SYSTEM

Defining the tributary system

Countries have an estimated budget in which they consider the income needed to fulfill their obligations through public spending; due to this, it is fundamental that the government has a tributary system that allows it to raise sufficient financial resources.

A tax system can be defined as a set of fiscal rules that is focused on determining the tax burdens of contributors in each country, where its main objective is “to collect the income necessary to finance public expenditure. [...] which will be destined to financing public assets, social spending or other activities that have positive economic effects for society” (Villela, Lemgruber, & Jorratt, 2009, p. 4).

According to Stiglitz (2000), among the elements that the tributary system must contain so that it has a “good” functioning are that it must be economically efficient, simple and with low administrative costs, flexible to changes, fair in the load distribution and having political responsibility, that is to say, transparent.

Types of tributary systems

The tributary system is strengthened with the revenue obtained through taxes, rates and contributions. In principle taxes are composed of direct and indirect taxes, the former are those that tax the base of income, capital or property; thus, these taxes are levied implicitly upon the factors of production. Among this type of tax are the income individual tax and legal entity tax, the tax on wealth or patrimony and those taxes that are charged for the license payments and procedures of individuals.

Indirect taxes are those that are applied to the production or commercialization of goods and services, as well as to transactions; these have an impact on the final consumer and not on the producer because this is represented as a greater value of the prices of the goods and services sold, as it is the case of the VAT (IVA).

Depending on their imposition, taxes have an impact on expenditure through the taxation carried out in marketing or importing transactions such as tariffs and the VAT; they can also have a negative effect on people’s income, since it affects the value to be received in the disposal or remuneration of a good or service, as for example in the case of contributions, social donations and national and municipal income tax withholdings.

Within the tributary system there are regressive taxes that are usually indirect, which are charged to all people regardless of their level of income, which have a greater financial impact on people with lower incomes, among which the VAT is highlighted. Likewise, progressive taxes are those that are determined according to the economic capacity of the taxpayers and seek to generate a tax burden proportionally to their income, these tend to be direct taxes such as the tax returns of individuals, legal entities and liquid successions.

Evolution of the tributary system

In the history of mankind, the tributary system has always been present in the growth of nations from ancient times to the present age and it is in a state of constant evolution in order to meet the economic objectives of countries.

Initially, in the ancient age the great civilizations such as China, Mesopotamia, Babylon, India and Egypt by means of different manuscripts we can observe that kingdoms had appointed a person to collect the taxes in money or in kind. The tributary system was mainly focused on direct taxes, but also it was focused on some indirect taxes related to the production and commercialization of goods.

In Greece, taxes were mainly used to finance wars, but also the construction of the public works, temples and celebrations for their gods. Subsequently when there was an official conversion to democracy, a species of income tax was established that was applied progressively and according to Sanz (2017) “It favored small farmers by eliminating excessive taxes and canceling their mortgages” (p. 11).

Ancient Rome can be divided into different periods, among which the monarchy, the republic and the Empire are highlighted. In the first stage, Rome began its process of expansion by means of waging war and with the victories obtained was able to collect different kinds of wealth, as well as slaves. Therefore, the monarchy enjoyed a surplus of capital and the tributary system was focused mainly on direct taxes through the collection of war booty.

With the advent of the “Republic”, the Romans managed to have a greater political, economic and military position and thanks to this, they expanded throughout almost all of Italy and some Latin and Greek cities. The conquered towns formally became allies, but at the same time subjects that paid taxes since they were levied a direct tax and provisioning of the Roman army in exchange for having certain autonomy in the internal government.

During this time, “The republican Roman fiscal system was not uniform, it was not normalized and it lacked a clear and organized fiscal policy. Its supervision was insufficient and it experienced few changes during the High Empire” (Fernández, 1995, p. 160). Direct and indirect taxes were collected by private companies “Publicani” which generated problems of corruption and diversion of public resources.

In what is known as the Roman Empire, various tax reforms were presented focused on improving tax collection, since tax collectors “Publicani” were eliminated and this work became the responsibility of the officials of the Empire.

In this regard Emperor Augustus “modified direct taxes and established new indirect taxes, considered necessary to cover the many expenses that the state apparatus of the Roman Empire (army, bureaucracy, maintenance of the plebs...) required for support” (Fernández, 1995, p. 179).

Subsequently, indirect taxes were included that taxed an asset more than once, which for its time it was totally unknown, but which currently is applied as for example in the case of the importation of goods subject to tariffs, the VAT, among other charges. In the same way, direct taxes on income and properties of people were fortified, but this generated a very high tax burden for citizens and led to their evasion by means of different forms.

Finally, lack of control over the administration of resources and excessive tax burdens began to affect citizens and even the military because the costs of goods had increased in such a way that people began to produce their own products. The economy of Rome was affected and then later it caused the fall of the Empire along with other external factors.

Because of the experience acquired in ancient times, in the monarchies of the different countries, with the intervention of the church, the tax structure and the tributary system were reinforced with the determination of different procedures for calculating and collecting the different direct and indirect taxes and even some were taxes created such as the tithe and others of a “divine” nature that were used for the crusades.

Following the middle ages, the discovery of America allowed European countries, mainly Spain, Portugal and England, to once again have an economic boom and present different stages of accumulation of assets and monies. During this time in England, “the colonial system is synthesized as well as the system of public debt, the modern tax system and the protectionist system” (Marx, 1980, p. 368).

According to Vilella, Lemgruber, & Jorratt (2009) the current tributary system is used by governments to comply with their economic policy objectives since different reforms to this system may encourage or not savings, investment, employment, consumption of specific goods or services, among other aspects. That is to say, that this system is part of the mechanisms that the government has to achieve its contractionist or expansionist objectives and policies.

Tributary system in developed countries

In the world there have been multiple tax systems throughout history, but in recent decades there has been evidence of standardization in the member countries of the Organization for Economic Cooperation and Development (OECD), which has as its guiding principle to seek a social equality, fostered in an increasingly progressive tributary system, as can be seen in table 1, which records data from countries such as Italy, Denmark, France, Germany who are members of the OECD.

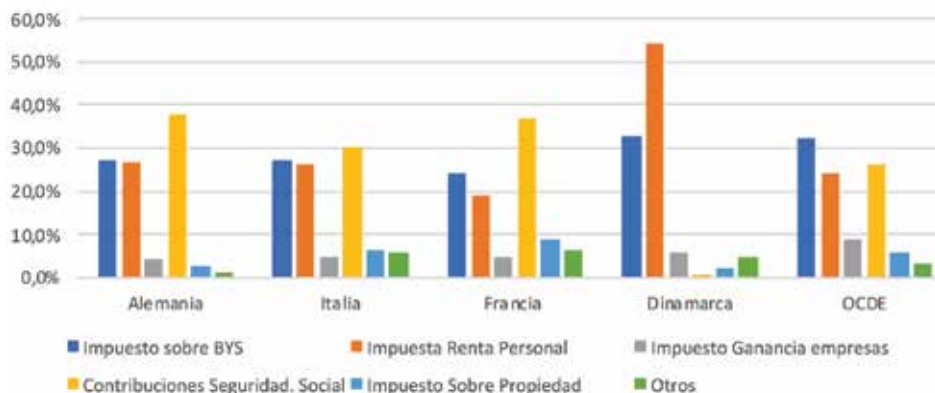
Table 1. Tributary system of countries that are part of the OECD

	Italy	Denmark	Spain	Germany
Administrative body	Italian Tax Agency	SKAT (Administration of Taxes and Customs)	Ministry of Finance and Public Accounts	- Federal Tax Office - Federal Fiscal Authority - Federal Customs Administration
Main source of tax revenue	Direct taxes	Direct taxes	Direct taxes	Direct taxes
Direct tax with greater collection	On income (13,9%)	On income (29,2%)	On Social Security (16,9%)	On Social Security (14%)
Indirect taxes with greater collection	On goods and services (11,7%)	On goods and services (15%)	On goods and services (11,1%)	On goods and services (10,1%)
Tributary system	Progressive	Progressive	Progressive	Progressive
Tax burden versus GDP	43,3%	46,6%	45,5%	36,9%

Source: Author's own data collection based on information from the OECD, (2016).

In the following figure it can be seen that the highest collection of tax revenues of these countries is through direct taxes, whose collection on average corresponds to 18,5% of the GDP. Some examples of this are, the income tax on levied on individuals, on the profits of companies, and on contributions to social security; however, the collection of indirect taxes has an average of 12% over the GDP resulting from consumption taxes such as the VAT.

Figure 1. Tax revenues with greater collection from OECD countries



Source: Author's own data collection based on information from the OECD, (2016).

Hence these countries have a progressive tax system, in which direct taxes predominate, since this takes into account the economic capacity of individuals and companies, based on their fiscal policies which seek the fostering of equality and social equity.

Tributary system in Latin America and the Caribbean

In Latin America and the Caribbean, the tributary system is different from countries in other continents, due to the fact that most of them have a type of regressive structure and the average collection generated by indirect taxes is 11,7%. In these countries, the greatest source of tax revenues comes from this kind of taxes, which do not take into account the economic capacity of people and generate a greater social inequality gap between people.

Table 2. Tributary system in Latin America

	Argentina	Brazil	Chile	Colombia	Costa Rica	Mexico
Administrative body	Federal Administration of Public Revenue	Secretary of Federal Revenue	Internal Tax Service Nacional Customs Service	Revenue Service National Customs Service	M. Treasury-General Directorate of Taxation	Service Tax Administration
Main source of tax revenue	Indirect taxes	Indirect taxes	Indirect taxes	Indirect taxes	Indirect taxes	Indirect taxes
Direct tax with greater collection	On Social Security (7,1%)	On Social Security (8,3%)	On income (7,5%)	On income (6,6%)	On Social Security (7,8%)	On income (6,8%)
Indirect tax with greater collection	On goods and services (15,2%)	On goods and services (13,2%)	On goods and services (11,2%)	On goods and services (7,8%)	On goods and services (9,3%)	On goods and services (6,2%)
Tributary system	Regressive	Regressive	Regressive	Regressive	Regressive	Regressive
Tax burden versus GDP	32,1%	32%	20,6%	20,8%	23,1%	17,4%

Source: Author's own data collection based on information from the OECD, (2017)

In contrast, the average collection of direct taxes such as Income tax and Social Security contributions in these countries is 6,97%, this generates a dependence on indirect taxes, which leads to a regressive tributary system in the region as seen in the following table comparing the countries of Latin America and the Caribbean and the OECD:

Table 3. Comparison of the tributary system in Latin America and the Caribbean with the OECD

Concept	Latin America and the Caribbean	Organization for Economic Cooperation and Development (OECD)
Tax burden	22,8%	34,1%
Tributary system	Regressive	Progressive
Income tax collection	25,6%	32,7%
Collection of indirect taxes	49%	33%

Source: Authors' own construct.

Similarly, a large difference is evidenced in the collection of income and profit tax, which in Latin America on average is 25,6% of the GDP, much lower compared to the average collection of the OECD tax, which was 32,7% of the GDP.

The tributary system in Colombia

The Colombian tributary system has a structure that permits imposing tax burdens progressively and regressively, which are applied at the national level such as the VAT, the income and supplementary tax, national stamp duty, wealth and the national tax on gasoline and ACPM; at the departmental and municipal level, such as the Industry, Commerce, Notices and Boards Tax (ICA), unified Estate tax, vehicle tax, among others, which have been created over time to cover the objectives of the different administrations.

The Directorate of National Taxes and Customs of Colombia (DIAN) (s. f.) indicates that “the Colombian tributary system is characterized by constant changes that produce instability for taxpayers, complexity regarding its interpretation, and inequity, especially in relation to the treatment of different sectors” (p. 5).

The changes in the economy of Colombia, since the times of the colonization, the independence, the market opening and development of different trade agreements have generated changes in the tributary system to meet the needs of the country.

When undertaking an analysis of the fiscal structure that was in use in the colonial era, we find it focused mainly on direct taxes such as those described by Figueroa (2008):

The tribute of Indians, secular or ecclesiastical anatas (taxes), and the papal bull of crusades and indirect taxes, such as the tithe applied to agriculture, the quinto real (royal fifth) which was levied on mining, the alcavala, which applied to merchandise transactions and sealed paper. Also, the estancos and monopolies of tobacco, aguariente and salt constituted a source of resources during the Colony (p. 2).

Next, we will analyze the evolution of the tributary system since 1918 related to income tax and complementary taxes and the VAT, because they are the most representative in the country. Similarly, in Annex 1 there is a description of the country's taxes.

Income tax and complementary taxes

By means of the law 56 of 1918 the income tax was established and applied by means of identification document⁴, so if the income came only from capital a tariff of 3% was applied, when combined with the industry it was 2%, and if it was only from industry or work it corresponded to 1%. As a counterpart, there was an exemption from income tax of up to 50% of the tax for those who had between 2 and 10 children. Similarly, this tributary benefit was applied over 100% for corporations aimed at sustaining the cult, public welfare, scientific, education, savings, among others for non-profit purposes.

As a consequence of the low tariff of this system that did not allow for the collection of sufficient income, Law 64 of 1927 was implemented, where the liquid and gross income was differentiated and there was a change to a graduated progressive system that corresponded from 1% to 8% on the liquid income of the persons, which later would be extended up to 17%. With this latest reform, the new direct taxes on equity and excess profits were incorporated. Similarly, in 1936, income tax was imposed on inheritances and donations received.

In 1931, by means of Law 81, it was established that public or limited partnerships, whether national or foreign, had to pay the income tax on the profits after having distributed them to their shareholders. The tariff to apply was the same as that applied to natural persons, which allows for analyzing that there was an imbalance in the tax burden because companies always generate higher returns than natural persons.

“Subsequently, and in view of the serious effects produced by the Second World War on international trade, it was necessary to resort to a temporary surcharge on income tax [...]” (Figuroa, 2008, page 9), so that the rate for companies was increasing gradually to 22% in 1944 and 32% in 1953. However, for this last period, the income of natural persons reached 58% of the net taxable income.

In 1960 as a result of various problems in productive sectors that resulted in a fiscal crisis, the tributary system was restructured by means of Law 81 of 1960, since

This law established what concerned taxpayers, the basis for liquidation, special gross income, deductions, exempt income, special personal exemptions, and special taxable income. It also regulated property taxes, excess profits, surcharges for absenteeism and established various tax incentives (Figuroa, 2008, page 13).

4 It is a methodology where the tax is classified according to the source of your income.

Between 1960 and 1984 the new reforms focused on implementing withholding taxes (income) for all incomes and even salaried employees by applying 10%, this in order to improve the collection of taxes and not wait until a fiscal year to receive the income for this concept. In addition, as a strategy to avoid evasion, the concept of presumptive income was included in the income tax statement.

Law 75 of 1986 achieved a series of important changes among which is the reform of the tributary administration, for which two dependencies were put into operation and the DIAN (The National Directorate of Taxes and Customs) was created, this law is considered as

One of the better received reforms by the business sector; it introduced structural innovations in income tax. A combination of a 25% reduction in the tariff (from 40% to 30%), the elimination of double taxation by means of the exemption of dividends and the unification of the system of capital companies and partnerships (Piza, 2009, p. 5).

The economic aperture of Colombia of 1991 generated great opportunities, but also great difficulties for the tributary system, because, when depending on the Congress, one cannot modify by means of different laws so easily. Piza (2009) indicates that “the Constitution of 1991 increased public spending by 80%, which is why governments inevitably had to increase taxes” (page 6), which was carried out by different reforms approximately every 18 months.

Regarding the income tax between 1992 and 2001 tariffs of natural and legal persons were modified in accordance with the conditions of the country and a presumptive income tariff of 1.5% on liquid assets was established as well as a 30% exemption on labor income.

From 2002 until mid-2009, in order to “preserve democratic security”, a property tax was imposed for income tax recipients who met special conditions and as a measure to attract foreign investment and promote the growth of economic sectors, exemptions from income tax were established on activities such as the hotel industry and tourism.

As the number of passive taxpayers increased, there was greater information from the DIAN, therefore, the Muisca model was implemented in 2011, which allowed to cross the information of companies and individuals in order to decrease evasion by either of these parties.

In 2013 the income tax was substantially modified, in principle for the companies an income tax was created for the equity called CREE, which consisted in reducing the base from 33% to 25% and eliminating the parafiscal contributions of health, pension and the Colombian Family Welfare Institute (ICBF) that corresponded to 13,5% based on an employee’s income, but in turn the CREE obliged to apply 8% on the profitability of the company.

The taxable base of natural persons was decreased, increasing the number of tax filers, in the same way, two additional systems were created for the declaration and

with this the payment of the tax became more complicated. In principle, the four ways to declare had to be analyzed, the ordinary system, the complementary system, the Simplified Alternative Tax (IMAS) and the National Alternative Minimum Tax (IMAN) and in this way the value to be paid was calculated.

With the recent tax reform established by Law 1819 of 2016, there is an important change in the way of declaring for natural persons due to the repeal of the legal provisions of the IMAN and IMAS to maintain the ordinary system and the complementary system that were used before 2013; additionally, this type of taxpayers must report their income in accordance with the established ID system.

Likewise, the reform presents great changes for legal persons, since the tax information is closer to the accounting data as a result of the adoption of International Financial Reporting Standards in Colombia; therefore, for determining the income tax is essential that the accounting information is recognized according to the premise of accumulation or accrual and disclosures of financial information are made in accordance with international standards that improves understanding for external users (Católico, Urbina y Gutiérrez, 2019).

On the other hand, CREE, the tax and the surtax for equity was rescinded as well as its advances, but a tariff was established for the income tax of legal persons of 34% for 2017 and 33% for the following taxable periods.

Currently, the policy that has been implemented for the last 10 years on reducing the tax base to declare on the part of Colombians and residents continues, so that more and more people have to report their activities to the DIAN and with this to perform the respective control.

In 2018, through Law 1943 known as the “financing law”, a series of changes were established in the income and complementary tax, where the number of ID system implemented in Law 1819 of 2016 is mainly reduced, due to the fact that it decreases from a system of five cards to one of three cards. Another important change is the addition of marginal rates (35%, 37% and 39%) for individuals, to contribute to the progressivity of the tax. Likewise, the rate for legal entities was reduced from 33% for 2019, to 32%, 31% and 30% for the years 2020, 2021 and 2022, respectively.

After a year of the entry into force of Law 1943 in 2018, the constitutional court declared that Law as unenforceable as of January 1, 2020, because the principle of publicity was unknown during the parliamentary debate (Corte Constitucional, 2019).

In this way, the congress carried out a new tax reform such as the 2010 Law of 2019, called the “Growth Law”, which retains the same structure and changes that the previous Law introduced, but with the following relevant changes:

- a. The legal person income tax established a new surcharge for financial institutions that exceed 120,000 UVT, which corresponds to an increase in the rate of said tax of 4% for the year 2020 and 3% for the years 2021 and 2022.
- b. The presumptive income rate was reduced from 1,5% to 0,5% and 0% for the years 2020 and 2021, respectively.

- c. A special deduction of 120% for wages paid to employees under 28 where it is demonstrated that it is the first job of the worker was established.
- d. Tax incentive for companies that have “orange economy” activities.
- e. For individuals, the reform established a deduction of interest on educational loans from Icetex for higher education, which shall not exceed the value of 100 UVT annually, likewise, it was established that they may subtract from the taxable year of 2020 the costs and expenses related to labor income derived from fees for services received by independent workers.

Finally, in these times of reconciliation with peace as a consequence of the demobilization of the oldest insurgent group in the country, an increase in taxes is foreseen to be able to cope with the expense that will be created by the demobilization and reintegration into civil life of the guerrillas.

Value Added Tax (VAT) IVA

In the Colony taxation was focused on taxing the production and commercialization of primary goods because it was the agricultural economy that predominated at that time primarily, although direct taxes assigned by Spain were also applied.

In 1963, with Law 21, the sales tax was created, which had a monophasic application, which was maintained until 1984, when it was transformed into a pluriphasic tax initially for the commercial sector, which was restructured to the Tax to Value Added (VAT).

The general VAT tariff with which this tax was initiated was of 10%, which gradually increased to 12% (1992), 16% (1995), 15% (1998), 16% (2000) and 19% (2017). During these years, different types of products and services began to be differentiated and a differential tariff was applied for luxury goods, beer and games and gambling.

In 2012, the national consumption tax was created, which is of a single-phase nature and is generated by the sale of certain goods and services to the final consumer at a rate between 4% and 16%. Currently, as a consequence of the economic slowdown caused by the fall of the oil industry, the general rate of VAT tax for 2017 was increased to 19%, and goods with a tariff of 5% began to be taxed, such as the first sale of a new home whose value exceeds 26,800 Tax Value Unit (UVT in Spanish), in other words, \$ 853,821,200 (COL) for the fiscal year 2017. Additionally the electronic motorcycles and towels also were levied with that tariff, hoping to cover the fiscal gap facing the country.

With the structural reform carried out in 2016, VAT withholding under the simplified regime was eliminated. Likewise, the form of payment of this tax changed, making the payment under the general common VAT system every two months for those with incomes greater than 3 billion pesos, while companies that fail this top will do it quarterly.

The “financing law” generated modifications to the VAT tax by changing the name of the “common system” and the “simplified regime”, to be called “responsible for VAT” and “not responsible for VAT”. Likewise, the Simple Tax Regime (RST) was created with the objective of reducing formal burdens and increasing the formality of taxpayers and, in the same way, complying with obligations as taxpayers.

This regime seeks to integrate six taxes in an annual declaration (Simple - income substitute - occasional profit, Industry and Commerce, National Consumption Tax, Firefighter Surcharge and Notices and boards), allowing the taxpayer to have a better cash flow by not be subject to withholding tax at the source, or practice it.

In the last tax reform Growth Act of 2019 regulated by decree 682 of May 2020, it was established that the National Government and the DIAN may set up to three days without VAT, that is, they will be sold taxed at the 0% rate (exempt VAT) in products such as school supplies, clothing, toys, sporting goods, home appliances, clothing and accessories for goods and agricultural inputs. To access these benefits, payments must be made through digital mechanisms and credit cards and debit cards and can only purchase three items of the same reference (Ministry of Finance and Public Credit, 2020).

Finally, the reform established the refund or compensation of VAT to the most vulnerable people in the country, in order to generate greater equity in the tax system, this will be done through the financial system of a fixed amount in pesos, which will be exempt from VAT and Financial Movement Levy (GMF).

Methodology

The development of this article has a qualitative descriptive approach which allows the characteristics to be shown through the observation and measurement of the elements that make up a group, phenomenon or specific sector (Lafuente & Marín, 2008). The query was made on research articles in the databases of Academic Search Complete, Business Source Complete, Jstor and Scielo, which facilitate the collection of information because they are related to multidisciplinary fields.

From the content analysis technique that favors the review of the points of view of various authors on the subject to be investigated (Fernández, 2002), it starts with the review of the concept of tax evasion and its antecedents in Colombia, to then concentrate on determining the reasons for which the act generating the absence or incorrect payment of taxes is committed.

RESEARCH RESULTS

Definition of tax evasion

Natural and legal persons in the development of their corporate purpose are obliged to pay direct and indirect taxes, which correspond to the first source of income of the State. Because this tax burden affects the income and assets of taxpayers, it

generates different problems that affect public finances, such as tax evasion and avoidance.

In principle, avoidance refers to the reduction in the payment of tax obligations through mechanisms that are permitted by law (Arias, 2010) and therefore is perceived in an ethical way, unlike evasion that is considered illegal (Stainer, Stainer, & Segal, 1997).

On the other hand, evasion of the economic and fiscal policy is understood to be the non-payment of taxes in a conscious and predetermined manner (Parra & Patiño, 2010), which generates an effective decrease in collection (Torres, 2012) and therefore, is a problem for the tax system and for a redistribution of wealth that allows for promoting greater equality and better growth (Organization for Economic Cooperation and Development, 2015).

Tax evasion can be undertaken in different ways such as omitting or decreasing real income within the tax statement, increasing deductible expenses through the smuggling of goods and services (Tanzi & Shome, 1993), altering financial statements to indicate the existence of losses in the year, among other mechanisms that illegally contribute to the reduction of the tax.

In this regard Macias, Agudelo, & López (2007) indicates that evasion is a proportion of the taxes that do not enter the fiscal coffers for different reasons such as the size of the informal economy or omitted by the statements, as well as the circumvention and evading forms of conduct which

manifest themselves in concrete actions such as not presenting tax returns, incurring in arithmetic errors, generating a lower balance to be paid, a greater balance in favor and omitting the penalties; successive corrections of declarations; omitting income and, finally, including costs, discounts, deductions or non-existent deductible taxes (page 75).

Background of tax evasion rate in Colombia

Throughout the twentieth century, various tax evasion analyzes have been carried out in Colombia because “evasion has maintained high levels, and although it has decreased over the last three decades, it still remains high enough to continue to be one of the main concerns of the treasury” (Avendaño, 2005, p. 2).

According to Perry and Cárdenas (1986) by means of a theoretical calculation using the income tax charged to natural persons and statistical income between 1974 and 1983 the evasion rate ranged between 84% and 91%. Later this rate would have a decrease for 1978 and 1992 of 45,2% and 54% respectively (Rico, 1993).

The rate of income tax evasion, according to studies conducted by Steiner and Soto (1997) based on the potential taxable bases of natural and legal persons, was 36% in 1998 and 21% for 1995, which apparently indicates that over time and due to the different mechanisms used by the regulator, evasion presents a downward trend.

At the beginning of the 21st century, when it became evident that the tax most evaded by people was the Income Tax, investigations began to focus on determining the reasons for this and the evasion rate mainly for natural persons, therefore Avendaño (2005) determines that for 1990 this rate was 25%.

Additionally, Avendaño (2005), indicates that there are mainly two factors that dominate tax evasion behavior, “which are directly related to the fiscal controls that the tributary administration has as a tool; these are the probability of detection and the penalty imposed on the tax evader” (p. 1); therefore, unless control and punishment for the evaders improves, this tributary problem will continue.

This is reflected because the rate of evasion of this tax for 2001 and 2009 ranged between 36% and 28% (Parra & Patiño, 2010) and 39% and 34% for 2007 and 2012 (Ávila & Cruz, 2015), which indicates that the apparent downward trend for these periods stopped and even reversed. Because evasion fails to disappear it is necessary to know the reasons why taxpayers decide to evade taxes and propose possible solutions to this problem that affects society.

The last paper found about this topic has been carried out by Rodríguez (2018), using the tax gap methodology, with which it was found that the average evasion rate for the period from 2000 to 2016 was 40,1% and for the periods 2015 and 2016 there was an evasion of the income tax of legal persons of 38,2% and 36,3% respectively, which confirms that the trend of evasion has been increasing.

Reasons for evasion

Evasion occurs in both individuals and corporations, and the causes of evasion may be different; from those related to the economic situation to those considered sociological or associated with human behavior, or even make committing errors unknowingly in the calculation of taxes (Jiménez, 2001).

Among the aspects to be taken into account, the Legis Tax and Accounting Law Unit (2004) indicate that

Evasion as a phenomenon lacks unique causes, the doctrine has pointed out among others, the will of the taxpayer not to comply with the constitutional duty to collaborate in financing the expenses and investments of the State within the concepts of justice and equity due to the absence of tax conscience and the growing corruption; confusing evasion with avoidance; low or no control of the administration towards a certain sector of taxpayers and the complex tax regulation (p. 2).

According to Martínez (1997), the following causes of evasion can be mentioned:

Table 4. Causes of tax evasion

Type of causes	Subtitle of causes	Explanation
General or remote	Policies	As a result of the rejection of the policies of the current government when tax revenues are used inappropriately by public officials, generating a bad reputation to government (Aldana, Alonso, & Albarracín, 2019).
	Social and cultural. Also called psychological (Giorgetti, 1967)	Social behavior tends to drive the evaders and “reward” their behavior, since every time the payment of taxes is made less by conviction. Folco (2009) also mentions the lack of citizen culture within social causes. “When evasion is widespread, taxpayers perceive a lower commitment to comply, opening new spaces for evasion and thus generating a vicious circle in which evasion is self-reproducing” (Macías, Agudelo & López, 2007, p. 8).
	Economics	In periods of crisis it is attractive to evade since there is a shortage of resources and it is preferable to obtain profit, without sharing with the public tax administration. Additionally, Macías, Agudelo & López (2007) mention low wage levels, high levels of unemployment, as factors that generate an informal economy and this factor drives evasion.
	Administrative	The weakness, inefficiency and inefficacy of the Tax Administration, together with the “lack of discipline and the moral failures of some of its officials”, are causes that have contributed to generalize tax evasion.
	Juridical	Given the complexity of the system, which does not contribute to the rules to being clear since any tax system must be clear, simple, stable and fair.
Particular or close causes	Declaration techniques	The statements are based on the sincerity of the taxpayer, which encourages non-compliance by means of the declaration of false data in them.
	Deduction and discount techniques	The taxpayer is tempted to increase costs and deductions in order to reduce the tax base and request tax discounts in order to reduce the payable net tax.
	The control technique	Given the disproportion between the functions of the Tributary Administration and its resources, which is known by the respondents, it is encouraged to evade, since the possibility of being punished is very low.
	Fiscal pressure [1]	On the one hand, the tax burden is high, and this generates tax evasion and on the other hand the latter produces an increase in the tax burden to compensate the non-payment of taxes, given the State’s financing needs. This becomes a vicious circle.

Source: Authors’ own construct based on Martínez (1997).

One of the frequent causes for which people undertake evasion is the lack of fiscal effectiveness in accounting for the population's income due to the distortions in the calculations when collecting the actual information of the people's monetary income (Persson and Wissen, 1984), which is affecting the calculation on which citizens should pay and consequently it causes problems for the collection of taxes (Boadway, 1997).

Evasion occurs more frequently in societies where there is high distributive inequality and a high concentration of wealth in a very small percentage of the population, thus generating inconsistent state actions among the population, since through tax reforms they end up overloading taxes on the population that has the least part of the wealth (Sabaini, Jiménez & Podesta, 2010) and in this way, problems of informality are treated.

In determining the tax base of individuals it is important to consider the factor of informality, because this phenomenon does not allow to accurately record the monetary value of transactions (Camargo, 2008). Similarly, the increase in the commercial activities of electronic commerce allows for the interaction between buyers and sellers in a space in which there are no political or economic borders (Borrego, 2008); therefore, the taxpayer does not consider it necessary to formalize economic activities, which prevents control by the public administration, generating the so-called "black market".

Regarding the work of tributary entities that carry out the collection of taxes, Tanzi & Zee (2009) indicate that for some countries it becomes a titanic task, since there is no trained staff (public official), nor the necessary technology to make this process an efficient activity, resulting in tax systems that are not very rational and form part of the assumptions of the availability of the resources of the population.

In general, evasion is attributed to many causes, which means that it is a combination of situations that generates the phenomenon, in each specific economic environment the situation behaves in a particular way and depends on different variables.

CONCLUSIONS

The tributary system must be structured according to the needs of the country, but also to the income capacity of natural and legal persons, so they are not overburdened with taxes ; therefore, tributary rules should be simple, efficient and with low costs for administration, just and must consider mechanisms that allow for adequate control and collection.

The State receives its income mainly from taxes, direct and indirect, to perform its social functions, as well as for the payment of obligations with national and international entities. Throughout history, the efforts of countries to develop a tributary system focused on improving the formulation and collection of taxes can be evidenced.

Direct taxes have a greater relationship with the economic level of the people, either through income or wealth, allowing for a more equitable tax burden to be generated than in the case of indirect taxes.

In developed countries there is evidence of a progressive tax system where the collection of direct taxes on average corresponds to 18.5% and the tax burden to 43% of the GDP, which, compared with Latin American and Caribbean countries, the situation is the opposite since they have regressive systems, giving higher priority to the collection of indirect taxes.

When analyzing the tax burden of Latin American countries, it can be concluded that it could increase more equitably by concentrating tax reforms on collecting direct taxes such as income, wealth, records, industry and commerce, property taxes, among others. This would make it possible to improve the fiscal imbalance by taxing a greater percentage of people who have an economic capacity higher than the rest of the population.

Regarding the tributary system in Colombia it can be seen that throughout its history it has been designed by means of an experimental method, in other words by trial and error, as has happened with income tax which has gone from levying income based on an Identity document to an ordinary way, later the determination of the presumptive income was included, as well as the IMAN and the IMAS for natural persons and the CREE for the legal ones and finally with the last tax reform, the elimination of these last taxes and a return to the ID system for the natural persons and the ordinary system for Business.

The same situation is reflected with the VAT, made evident by its increase of 7% between 1992 and 2017, which for being indirect, has a greater impact on the living standards of the citizens with lower income generating tax inequality and consequently increasing the poverty indexes of the country.

The problems of an adequate and progressive formulation of the Colombian tributary system are reflected through the tax evasion rate of its citizens, where there is a greater increase in periods prior to the 1991 constitution because at that time different calculation and collection procedures were being defined, as well as different inspection and surveillance entities from those that are currently valid.

Tax evasion can be defined as the partial or total reduction of the payment of tax obligations through illegal mechanisms used consciously by people. This situation produces problems for the State, since when it is unable to raise revenue budgeted, an increase of public debt or a reduction in public spending is produced to be able to fulfill its duties, which causes dissatisfaction on the part of citizens.

Through tax reforms tax collection has increased; however, evasion is still present for social or cultural, political, economic or legal, technical and administrative reasons; although there are different factors, the main reasons for which people commit this crime are social inequality and the lack of efficiency of the tax system.

When they do not perceive that their taxes are destined to the welfare of citizens, people decide to evade taxes to try to “balance” social injustice and this in turn creates a culture where those who manage to reduce or not pay the respective

tax are rewarded; therefore, the more that corruption and social inequality is fought there will be less tax evasion by social, economic and political fields.

Likewise, it is necessary to focus the tax burden through a progressive system so that people consider that the payment corresponds to their level of income and with this, produce a reduction in the tax evasion rate. As a whole, it is important that the administrative body gather information on income, formal and informal, in a more efficient way, and with this, be able to calculate the estimated tax of people and also it should strengthen the mechanisms of tax collection by means of stronger incentives and sanctions for those who evade taxes.

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Annex 1. Description of national and departmental and municipal taxes in Colombia national taxes

National taxes	Definition	Type	Example
Value Added Tax (VAT)	Tribute that final consumers must pay on a percentage of the value of goods and services.	Indirect	Tax on vehicles, food, etc.
Income Tax and complementary taxes	Tribute that is levied on individuals, legal entities and liquid successions for income made during a year that is not exempt.	Direct	Tax applied to income such as salaries, sales, fees, inheritances, lottery, etc.
National Stamp Tax	Tribute on public or private documents in order to record their constitution, existence, modification or termination of obligations.	Direct	Tax applied to passports, visas, notarial documents, etc.
Wealth tax	Tribute on the wealth equal to or greater than one billion pesos by legal entities, individual (2018) and liquid successions.	Direct	Tax applied to gross equity less debts owed
National tax on gasoline and ACPM	Tribute that is generated by the importation for the consumption, sale or withdrawal of gasoline or ACPM.	Indirect	Gas and ACPM

Source: Author's own data collection.

Departmental and municipal taxes

Departmental and municipal taxes	Definition	Type	Example
Taxes on the consumption of beer, liquors and cigarettes and tobacco:	Tribute that taxes this class of goods for which the importers, producers and jointly and severally distributors are responsible.	Indirect	Tax on beer, liquors, wines, among others, as well as cigarettes and tobacco.
Registration tax	Tribute that taxes the acts, documents or contracts that must be registered in the office of public instruments and chambers of commerce.	Direct	Acts of appointment, statutory reforms, dissolutions of companies, name changes, etc.
Industry, Commerce, Notices and Boards Tax	Tribute established by the departments and municipalities that taxes the industrial, commercial and service activities carried out by individuals and legal entities.	Direct	<i>Commercial:</i> sale, purchase and distribution of goods and merchandise. <i>Industrial:</i> production, manufacturing, extraction, preparation, preparation, repair, assembly of goods and raw materials. <i>Services:</i> provision of services without employment and that generates a consideration in money or in another class of goods.

(continues)

Departmental and municipal taxes	Definition	Type	Example
Unified estate tax	Tribute that taxes the real estate of the owners, owners or beneficiaries.	Direct	Farms, Land, Houses, Apartments, etc.
Tax on motor vehicles	Annual tribute levied on the motor vehicles of the owners, possessors or beneficiaries.	Direct	Vehicles, bicycles and motorcycles from 125 cubic centimeters, public transport, among others not exempted.
Urban delineation tax	Tribute on the premises where they are works or constructions undertaken with construction or recognition license.	Direct	Constructions on new works, expansion, adaptation, restoration, modification, etc.
Unified tax fund of poor, chance and public shows	Tribute that falls on the service of public shows permanently or occasionally.	Indirect	Public shows, legal bets, raffles, contests and similar.
Cattle slaughter tax	Tribute generated by the sacrifice of bovine, equine and buffalo specimens.	Indirect	Cattle, horses, buffaloes in their different species.

Source: Authors' own construct.