

CONFIA: BUILDING A COOPERATIVE COMPLIANCE IN THE BRAZILIAN TAX ENVIRONMENT

CONFIA, what means Trust in Portuguese, is a project that is implementing a Cooperative Compliance Program in Receita Federal (RFB), the Secretariat responsible for tax revenue in the Brazilian Federal environment.

The project was formally approved at the beginning of 2021. After almost two years of organizing and planning strategies together with taxpayers, RFB will launch operational tests on September/22 and a pilot phase is expected for 2023.

1. Cooperative Compliance Initiatives

Cooperative Compliance is a set of initiatives developed by several Tax Administrations which aims to evolve the relationship between tax administration (TA) and large taxpayers. Despite countries having developed and implemented cooperative compliance programs with different characteristics, all of them have in common the objective to implement a more cooperative and transparent relationship between TA and large taxpayers committed to tax compliance.

It is expected that the transformation in the relationship is beneficial for both parts. More dialogue and cooperation could result in more tax certainty and fewer disputes and tax provisions for companies. The gains for tax administration include, for example, improvement in taxpayers' satisfaction and better usage of public resources.

2. Beginning of the project

A cooperative compliance program in Brazil tries to transform the usual situation in several countries: the adversarial relationship between tax administration and taxpayers. Furthermore, the Brazilian tax environment is also associated with a high level of complexity of the tax law, which leads to an extremely high level of tax litigation and results in high levels of uncertainty and administrative costs for both parts.

The Cooperative Compliance, or Confia Project, was created as one of the strategies adopted by the Brazilian Tax Administration to deal with this problem.

Some factors were essential to the beginning of the project. For example, the Tax Administration leadership mindset, the Tax Administration Diagnostic Assessment Tool (TADAT) assessment, the fact that some Tax Administration employees studied Cooperative Compliance and the support of three important Brazilian business associations: the banks' association; the publicly listed companies association; and the Applied Tax Studies Group. Receita Federal established formal partnerships with these three associations, investing in building trust with their representatives and, through them, accessing and also building trust with the taxpayers eligible for the Program.

The Confia team in Receita Federal also had external help from the Organisation for Economic Co-operation and Development (OECD), through the team that was working with the Brazilian TA on transfer pricing. Initial guidance was on how to start, essential features and eventual challenges. They brought the study on the Swedish experience to Confia team's attention and, based on it, confirmed the vision that it was essential to design a Brazilian Cooperative Compliance Program with the big taxpayers from the start.

3. Changing the mindset: from *building to taxpayers* to *building with taxpayers*

As discussed above, one of the pillars established for the Confia was the building together with the taxpayers. This idea was defined after the studies of international experiences and the demands of large companies for more dialogue be exposed in a survey made among Receita Federal employees and large companies' managers and directors. Because of these negative presumptions, a lot of time needed to be invested in building trust with the taxpayers in the first year of the project.

As a result, of almost a year of dialogue and improvement of the relationship between the parts, a Forum was implemented, where took part Receita Federal, the three taxpayers associations and more than forty of the Brazilian largest companies.

In addition to building an environment for dialogue and cooperation, it was defined that the Forum Dialogue would be the place where Confia would be built. To this end, three working groups were defined. Each of the three groups would be responsible for developing a proposal for a structuring element of the project and count the same number of members from the Tax Administration and from companies participating in each one:

1. Code of Good Tax Practices – set of principles and values that should guide this new relationship between the Receita Federal and taxpayers participating in CONFIA;
2. Tax Control Framework – tax governance guidelines for companies participating in Confia. The adaptation by companies demonstrates their commitment, including their top management, to tax compliance and the adoption of lawful and responsible tax practices;
3. Confia Model – creates the program's operating rules and definition of the commitments to be followed by each of the parties.

4. Next steps

Yet in 2022, between next September and December, will take place operational tests to validate the initial proposes designed in Confia Model workgroup. Nine companies volunteered to test proposals for improvement in the RFB's work processes and to discuss tax doubts and fiscal risks identified by RFB. The objectives will be to assess whether there will be a more cooperative relationship, faster and more agile resolution of inconsistencies found by the Tax Administration and the ability to offer greater legal certainty on tax doubts or points that may raise interpretative conflict between RFB and taxpayers.

Also in 2022, an additional working group is planned to study the actual scenario, especially for the legal tax framework, and develop proposals to deal with situations when there is a disagreement between tax administration and taxpayers. In the course of Confia Model and Code of Good Practices working groups were identified by both parties that are essential to creating conditions and mechanisms to solve disputes and

find solutions for cases that are different points of view on tax legislation, guaranteeing cooperation and transparency when it is most necessary.

Finally, the pilot phase of the Program is planned for 2023, in which it is expected to test, more broadly, the entire model that has been built for Confia in the working groups.