# TAXATION OF DIGITAL ASSETS, TAX LAW AND ESG: TOWARDS FISCAL SUSTAINABILITY AND THE CREATION OF FUNDS FOR SUSTAINABLE DEVELOPMENT IN THE CONTEXT OF THE SIMPLE NATIONAL SYSTEM AND THE FIGHT AGAINST TAX FRAUD

# TRIBUTAÇÃO DE ATIVOS DIGITAIS, DIREITO TRIBUTÁRIO E ESG: RUMO À SUSTENTABILIDADE FISCAL E À CRIAÇÃO DE FUNDOS PARA O DESENVOLVIMENTO SUSTENTÁVEL NO CONTEXTO DO SIMPLES NACIONAL E DO COMBATE À FRAUDE TRIBUTÁRIA

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## RESUMO

Este artigo discute como a tributação de ativos digitais pode ser utilizada para promover práticas sustentáveis e integrar princípios de Environmental, Social, and Governance (ESG) ao planejamento tributário e ao combate à fraude fiscal. A pesquisa se concentra em como as empresas podem alinhar sua gestão fiscal a estratégias de ESG e como o Simples Nacional pode ser uma ferramenta para promover tributação justa e sustentável. Aborda-se ainda a criação de fundos tecnológicos sustentáveis para o financiamento de projetos de inovação e de desenvolvimento social, respeitando a legislação fiscal vigente e os Objetivos de Desenvolvimento Sustentável (ODSs). A relevância do compliance fiscal, da governança corporativa e da transparência tributária no contexto da economia digital é ressaltada para estimular a sustentabilidade e a responsabilidade social corporativa.

**Palavras-Chave**: Tributação de Ativos Digitais. Planejamento Tributário. ESG. Compliance Fiscal. Sustentabilidade. Simples Nacional.

**ABSTRACT:** This article discusses how the taxation of digital assets can be used to promote sustainable practices and integrate ESG (Environmental, Social, and Governance) principles into tax planning and the fight against tax fraud. The research focuses on how companies can align their tax management with ESG strategies and how Simples Nacional can be a tool to promote fair and sustainable taxation. It also addresses the creation of sustainable technology funds to finance innovation and social development projects, respecting current tax legislation and the Sustainable Development Goals (SDGs). The importance of tax compliance, corporate governance and tax transparency in the context of the digital economy is highlighted in order to encourage sustainability and corporate social responsibility.

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**Keywords:** Taxation of Digital Assets. Tax Planning. ESG. Tax Compliance. Sustainability. Simples Nacional.

## INTRODUCTION

The fast technological evolution and the growing interest in sustainable practices have transformed the way companies deal with their tax and governance obligations. In this context, the taxation of digital assets, such as crypto currencies and tokens, has gained prominence as a new and important challenge for tax law and responsible tax planning. The incorporation of the principles of Environmental, Social, and Governance (ESG) in the tax context emerges as an innovative approach to align business practices with sustainability and social development objectives.

The need to discuss the taxation of digital assets under the ESG approach is justified by the relevance of these principles for the integrity of tax practices and corporate responsibility. According to Atchabahian (2022, p. 78): "the adoption of ESG in corporate operations, including tax management, promotes a more responsible and transparent approach that contributes to true business sustainability". This perspective highlights the importance of not only complying with tax obligations, but also adopting an ethical and responsible approach that considers the social and environmental impacts of business activities.

Brazil has simplified taxation mechanisms, such as the National Simple, which allows smaller companies to carry out their tax obligations in a more practical way and with less tax burden. In this sense, Barbieri (2020, p. 95) highlights that "tax legislation should be an instrument to promote sustainable business practices, providing tax incentives that can stimulate social development and environmental protection". The integration of digital assets into the National Simple regime, respecting ESG principles, represents an opportunity to strengthen transparency and tax justice in the country.

Another crucial point to be considered is the need for transparency and compliance in tax management. The digital transformation has brought new challenges for tax compliance, highlighting the importance of governance policies that promote ethical practices and comply with the current legislation. As highlighted by Terence and Natascha Trennepohl (2021, p. 67): "the integration of ESG and tax compliance is essential for a sustainable approach to tax management, ensuring that the tax practices of the companies are responsible and contribute to social and environmental well-being". This context makes ethical tax planning strategically important, as it helps to promote transparency and reduce tax risks.

Given these considerations, this article aims to explore the relationship among digital asset taxation, tax law and ESG, proposing an integrated approach to fiscal sustainability and creation of funds for sustainable development. It is also discussed how the fight against tax fraud can be enhanced through the adoption of fiscal governance practices aligned with ESG principles, aiming at a positive impact in the context of the National Simple and the digital economy.

The approach of this research highlights, therefore, the importance of ethical and transparent tax compliance to promote business practices aligned with sustainable development. To do so, the article focuses on the role of ethical tax planning, the influence of ESG on tax practices and how digital asset taxation can contribute to financing technological and social projects that benefit society as a whole.

## 1 METHODOLOGY

The methodology of the article is characterized by an interdisciplinary approach that integrates concepts of tax law, environmental law and social responsibility, allowing a comprehensive analysis of the taxation of digital assets from the perspective of Environmental, Social, and Governance (ESG). A literature review was carried out, citing relevant works and studies, such as those of Luciano Amaro and other experts, to substantiate their arguments and contextualize the discussion. In addition, the research includes the analysis of practical cases that illustrate how taxation can be used to promote sustainable and innovative practices, highlighting the importance of transparency and ethics in tax management. This combination of critical analysis and proposal of practical solutions aims not only to identify the current challenges, but also suggest ways to implement a fairer taxation aligned with sustainable development goals, contributing to the strengthening of corporate governance and corporate social responsibility.

## 2 ESG AND ETHICAL TAXATION OF DIGITAL ASSETS

Ethical tax planning is a strategic tool for promoting the application of ESG principles in tax management. Implementing tax practices that respect transparency and ethics is crucial to ensuring that tax obligations are aligned with sustainability and social responsibility. Buchheim (2020, p. 32) points out that "compliance is the basis for fiscal management that integrates responsibility and sustainability. Alignment with ESG promotes the adoption of tax policies that go beyond simple legality and are concerned with the integrity and social impact of business practices." Therefore, when structuring their tax planning, companies must ensure that they are adhering to ESG principles, promoting ethical and transparent practices.

The relationship between taxation and ESG is particularly evident in the allocation of tax resources to finance sustainable projects. According to Trennepohl and Trennepohl (2021, p. 67), "the integration between tax compliance and ESG creates opportunities for companies seeking to strengthen their reputation in the market by promoting ethical tax management that contributes to sustainable development objectives". The correct taxation of digital assets allows resources to be directed towards initiatives that promote environmental responsibility, technological innovation and social inclusion.

In addition, tax governance has become central for companies wishing to align their tax strategies with ESG principles, especially in light of the General Data Protection Law (GDPL). According to Opice Blum and Doneda (2015, p. 105), “the advance of digital technologies transforms the way companies deal with their fiscal and tax practices, demanding transparency and accountability in the treatment of fiscal and personal data”. Doneda and Viola (2019, p. 62) emphasize that "digital taxation must consider the principles of necessity and transparency, especially in relation to the processing of tax data, which must strictly follow the guidelines of the GDPL to ensure compliance with tax obligations".

Therefore, transparency and compliance in the tax management of digital assets are essential to ensure responsible and ESG-aligned tax practices.

### 2.1 **Practical Examples of ESG and the Impact of the GDPL on Taxation**

Implementing ESG principles in tax practices presents practical examples that illustrate how adopting these values can promote transparency, fiscal responsibility and sustainability. The ESG approach encourages companies to think beyond profit and consider the social and environmental impacts of their operations. This has direct implications for tax practices and it can be seen in the way companies seek to reduce their carbon footprint, adopt sound corporate governance practices and promote transparency in tax management.

A practical example of ESG in action is the application of tax incentives for investments in renewable energy and clean technologies. As highlighted by Pimentel and Castro (2015, p. 112), "tax policies aimed at sustainable practices, such as tax incentives for the installation of solar panels or electric vehicles, generate not only economic benefits for companies, but also contribute to the reduction of carbon emissions and the transition to a low-carbon economy." In this context, companies that adhere to ESG principles can take advantage of tax reductions or tax credits by investing in environmentally friendly technologies or social programs aimed at improving the well-being of their communities.

Another example is the sustainable finance sector, where ESG funds and investments promote tax practices in line with principles of social and environmental responsibility. According to Willard (2012, p. 94), “the adoption of tax practices that promote ESG not only reduces exposure to tax and reputational risks, but also increases the attractiveness of responsible investments, which aim for long-term financial returns with positive social impacts”. This means that companies are increasingly realizing that a responsible tax approach is an integral part of their business strategy and attracting investors committed to ESG principles.

In the context of governance, the ESG approach also encourages clear and transparent disclosure of tax information. Companies are encouraged to provide detailed reports on how their tax practices reflect their commitment to sustainability, ethics and social development. Truzzi (2018, p. 120) points out that “transparent tax governance, which involves full disclosure of tax practices and the active participation of stakeholders, allows companies to strengthen their reputation in the market and promote a culture of tax responsibility”. This results in tax communication practices that are clear and understandable, contributing to building trust between the company, investors and society.

With regard to the General Data Protection Law (GDPL), there is a direct impact on the way tax practices are conducted. The GDPL regulates the processing of personal data, establishing principles of transparency, security and confidentiality that also apply to the tax environment. As Opice Blum and Doneda (2020, p. 230) note, “taxation, which depends on the use of personal data and financial information, needs to be aligned with the principles of the GDPL, as inappropriate or unauthorized processing of tax data can generate serious regulatory and financial risks for companies”. This means that companies must ensure that their tax practices comply with data protection rules, avoiding tax information leaks, misuse of personal data and risks associated with information security.

In addition, the GDPL affects taxation in terms of compliance and accountability. Companies must keep detailed and secure tax records, ensuring that access to this data is restricted and controlled. As Doneda and Viola (2019, p. 145) point out, "the impact of the GDPL on taxation requires companies to establish data governance mechanisms that enable the protection of tax information and compliance with legal obligations, while minimizing regulatory risks and protecting taxpayers' privacy." This results in the need for companies to adopt tax and data management systems that are technically secure, promoting transparency in tax collection and the protection of data of the taxpayers.

Therefore, the practical impact of ESG and GDPL on taxation is reflected in the way companies plan, communicate and execute their tax practices. Aligning these practices with ESG principles and GDPL compliance not only promotes ethical and sustainable taxation, but also protects tax and personal data, contributing to more transparent and secure tax management. This shows that an integrated ESG and data protection approach is essential to promote a responsible, ethical and sustainable business environment.

## 3 FISCAL SUSTAINABILITY AND TECHNOLOGICAL DEVELOPMENT

Fiscal sustainability and tax incentives play an important role in the technological development and financing of sustainable projects. The creation of tax mechanisms that benefit companies that adopt responsible environmental practices and innovative technologies is a strategic approach to stimulating corporate sustainability. Willard (2012, p. 77) points out that “the adoption of sustainable practices in tax management can bring several competitive advantages to companies, including operational efficiency, cost reduction and a better reputation in the market”. This demonstrates that the taxation of digital assets can be a tool to encourage business practices that promote sustainability and innovation.

Fiscal responsibility must also be aligned with the Sustainable Development Goals of the UN (SDGs), promoting tax justice and ensuring that the taxes collected are intended for social and environmental projects. According to Barbieri (2020, p. 145), “sustainable taxation is a tool for economic and social development, as it directs resources towards meeting global sustainability goals, strengthening the role of companies in responsible development”. This means that tax collection should be seen as a means of promoting practices that contribute to sustainable development, including the responsible use of digital assets.

In addition, the creation of a sustainable technology fund financed by digital assets is an opportunity to align tax collection with innovation and sustainability objectives. Elkington (1999, p. 95) argues that "sustainable tax practices should consider the economic, social and environmental impact of business operations, promoting a balance that benefits all stakeholders involved".

Effective governance of this fund is essential to ensure transparency and accountability in the management of resources, ensuring that the proceeds from digital assets are used to promote projects that have positive and sustainable impacts. According to Truzzi (2018, p. 130), "governance is one of the pillars of ESG which, when well-structured, guarantees the proper allocation of resources, maximizing the social and environmental benefits of business practices".

## 3.1 Tax Incentives for Sustainable Technological Development: Real Impacts and Data

The use of tax incentives to promote sustainable technological development in the context of ESG principles is a widely recognized strategy used by various governments around the world. In particular, Brazil has specific tax policies - to promote research, development and innovation (RD&I) - aligned with sustainable development. The Good Law (Law No. 11.196 of 2005) is an example of this strategy, providing tax incentives for companies that invest in technological innovation. Between 2006 and 2016, more than R$10 billion in tax benefits were granted to promote innovation in the Brazilian business sector, with the aim of fostering technological development and ensuring responsible economic growth (Ministry of Science, Technology and Innovation - MCTI, 2019).

According to data from the MCTI, companies that use tax incentives from the Lei do Bem (Good Law) represent a significant share of investment in RD&I in Brazil. *The Annual Report on RD&I Activities*, published in 2019, points out that the sectors that benefited most from the incentives were the manufacturing industry, information and communication technology, and energy sectors, which have a strong relationship with technological advancement and environmental sustainability. This distribution demonstrates a growing trend of alignment between fiscal practices and sustainable innovation, promoting an economy that balances growth, social responsibility and environmental protection.

In the international context, data from the **OECD Green Tax Report** (2019) shows that between 1990 and 2017, OECD countries significantly increased their use of tax incentives to promote sustainable practices. The report reveals that environmental taxes accounted for an average of 4.7% of total tax revenue in member countries in 2017, highlighting a global trend to promote energy efficiency, emissions reduction and green innovation through tax policies.

Another example of a strategic tax incentive can be seen in Germany, where the government has introduced tax relief policies for investments in clean technologies, renewable energies and energy efficiency. The German Renewable Energy Act (EEG) provides, for example, tax subsidies for companies that invest in solar, wind and other clean energy sources, helping to make Germany a world leader in the transition to sustainable energy. According to data from the **Energiewende Report**, in 2020 around 46% of the electricity consumed in Germany came from renewable sources, a direct result of tax policies and sustainable financing incentives (BMWi, 2021).

In addition, sustainable technological development is intrinsically linked to the taxation of digital assets, an area that has grown exponentially in recent years. According to the *Global Cryptoasset Benchmarking Study* report by the University of Cambridge (2020), the volume of transactions involving cryptocurrencies exceeded US$1 trillion in 2019, indicating a growing market that presents major challenges and opportunities for ethical and responsible taxation. By taxing digital transactions and assets such as cryptocurrencies and tokens, governments can direct resources to fund innovative technologies and sustainable projects.

It is worth noting that for these tax incentives to be effective there needs to be transparency and clarity in the communication of tax rules. According to Schwab (2021, p. 135), “transparency in tax policy and tax incentives is essential for attracting investment and promoting an economy that develops fairly, sustainably and in line with ESG principles”. In other words, it is essential that companies have access to clear information on how to access tax incentives so that they can direct investments in a strategic and sustainable way.

In the context of Brazil, the implementation of the General Data Protection Law (GDPL) directly affects how companies can benefit from tax incentives related to sustainable technological development. According to Opice Blum and Doneda (2020, p. 248), "the protection of personal data is an essential issue for companies wishing to access tax incentives for digital technologies, since compliance with the GDPL is a prerequisite for operating transparently and ethically in the digital market." The GDPL not only protects privacy of the citizens, but also encourages companies to adopt standards of security and transparency in data management, ensuring that the tax benefits granted for technological innovation are used responsibly.

For example, the use of tax incentives in the technology and innovation sector can also be seen in the adoption of blockchain systems to ensure transparency in the production chain and tax operations. The government of Dubai, for example, announced in 2018 the "Dubai Blockchain Strategy" initiative, which aims to turn all government transactions into blockchain by 2021, promoting efficiency and transparency in areas such as taxation, public services and commercial registries (Smart Dubai, 2018). This strategy not only drives technological development, but also establishes tax governance standards that can be applied globally to promote transparency and efficiency in tax services.

Therefore, tax incentives for sustainable technological development and ethical taxation of digital assets are directly linked to ESG principles. These incentives encourage companies to invest in innovation and sustainable practices, while at the same time promoting tax transparency and compliance with data protection legislation, such as the GDPL. In this way, the ESG-aligned tax approach not only promotes sustainable and technological development, but also strengthens tax governance and corporate social responsibility at a global level.

## 4 REDUCING FISCAL RISKS THROUGH ESG

Adopting ESG practices reduces several tax risks for companies, including compliance, reputational and regulatory risks. Tax transparency and compliance with ethical standards avoid tax disputes and ensure that tax practices are viewed positively by the market. According to Carney (2021, p. 98), "tax management should be aligned with values that promote sustainability and social inclusion, avoiding questionable tax practices that could damage reputations and operations of the companies".

In addition, ESG can help avoid risks associated with tax evasion and the loss of tax incentives. Schwab (2021, p. 88) points out that "tax practices should be transparent and contribute to the balance between efficiency and social justice, promoting a tax approach that benefits not only business but also sustainable development". In this way, integrating ESG practices into tax management is a way of ensuring compliance, transparency and social responsibility.

## 4.1 **Global Tax Incentives for Sustainability and ESG**

Tax incentives have proven to be a key tool for promoting Environmental, Social, and Governance (ESG) practices at a global level, stimulating sustainable development, technological innovation and energy efficiency. Several countries have adopted strategic tax policies to boost the transition to a low-carbon economy and responsible business practices. In this context, it is essential to analyze how these incentives have been implemented globally and how they relate to reducing tax risks and promoting ESG practices.

A relevant example is the United States' tax incentive policy for renewable energy. The Investment Tax Credit (ITC) allows companies that invest in solar installations to deduct up to 26% of the total installation cost from their federal income taxes. The Solar Energy Industries Association (SEIA) has reported that this incentive has been instrumental in increasing installed solar energy capacity in the US by more than 52% per year since 2006. This demonstrates how ESG-oriented tax policy can directly promote the transition to clean energy sources and attract significant investment in sustainable technological innovation.

Another significant case is the Emissions Trading System (ETS) of the European Union, which is based on carbon credits and is the largest emissions trading scheme in the world. According to data from the European Commission, the ETS has contributed to a reduction of approximately 43% in greenhouse gas emissions in the sectors covered by the system since 2005, showing that fiscal policies can effectively induce sustainable behavior. The ETS imposes limits on emissions of the companies and allows for the trading of carbon allowances, encouraging the adoption of low-carbon technologies.

Furthermore, in France, the Crédit d'Impôt Recherche (CIR) is a tax incentive mechanism that grants a tax credit of up to 30% on eligible spending on Research and Development (R&D), particularly in areas that encourage sustainability and green technologies. According to a report by the Ministère de l'Économie et des Finances, the CIR has been responsible for fostering innovation, increasing business investment in R&D to levels that could represent 2.23% of the GPD of France by 2020. This incentive highlights how tax policy aligned with ESG can promote technological development with a focus on energy efficiency and sustainable industrial practices.

Norway has been a pioneer in promoting electric vehicles through robust tax incentives. The government exempts electric vehicles from taxes such as Value Added Tax (VAT) and registration fees, as well as offering benefits such as reduced tolls and free parking. In 2020, according to the Norwegian Road Federation (OFV), more than 50% of all new cars sold in the country were electric, making Norway a world leader in low-emission vehicles. These tax incentives have been a key to achieve the country's goal of being carbon neutral of the country by 2050.

The UK is also a relevant example of how tax incentives can promote financial and environmental sustainability through green bonds. These securities have tax exemptions and encourage investors to finance green projects, such as renewable energy, sustainable infrastructure and carbon-reducing technologies. The Bank of England indicates that the issuance of Green Bonds has increased significantly in the UK following the implementation of these tax policies, contributing to the transition to a green and sustainable economy.

In Japan, the policy of tax incentives for energy efficiency and emission reduction is focused on tax deductions for green technology investments. According to the Ministry of Economy, Trade and Industry (METI), the Energy Efficiency Promotion Act allows companies to deduct up to 10% of the installation costs of energy-efficient equipment from their income tax. These policies have helped Japan to meet its greenhouse gas emission reduction targets by aligning tax incentives with ESG practices in the industrial sector.

Another outstanding example is the Netherlands, which implements tax incentives to promote a circular economy, reducing waste and promoting the reuse of materials. The government offers tax deductions and credits to companies that adopt circular economy practices, such as recycling and sustainable production processes. The "Netherlands Circular in 2050" policy aims to make the Dutch economy fully circular by 2050, with the intermediate goal of reusing 50% of all resources by 2030, according to data from **Rijksdienst voor Ondernemend Nederland** (RVO).

These global examples of tax incentives demonstrate how tax policies can act as levers for sustainable development and the promotion of ESG principles. The implementation of strategic tax incentives reduces fiscal risks, attracts responsible investments and stimulates innovative practices that contribute to the transition to a low-carbon economy and a more just and sustainable society. By promoting ethical tax practices and encouraging sustainability, these examples provide a model of success that can be replicated by other countries to achieve global environmental and social goals.

## CONCLUSION

The research presented in this article had as main objective to explore the relationship between digital asset taxation, Environmental, Social, and Governance (ESG) principles and fiscal sustainability, with a focus on creating tax incentives that can promote a fairer and more balanced global economy. The analysis allowed verifying that the integration of ESG practices in tax planning and fiscal governance represents a strategic and innovative approach to face the challenges imposed by economic and social changes in the digital age. The investigation of global examples of tax incentives and their practical implementation has shown that tax policies, when well structured, are able to promote sustainable development, reduce tax risks and strengthen corporate transparency and social responsibility.

The cases analyzed, such as tax credits for renewable energy in the United States, the Emissions Trading Scheme of the European Union, and incentives for electric vehicles in Norway, show that governments can use tax instruments to stimulate sustainable and innovative business practices. Such tax incentives not only enable the growth of strategic sectors of the green economy, but also align fiscal interests of the States with the Sustainable Development Goals (SDGs). This reinforces that the alignment between tax and ESG practices has the potential to foster a virtuous cycle of investments in clean technologies, energy efficiency and circular economy.

The analysis of the impacts of GDPL on taxation also revealed that tax data protection and transparency are essential for tax collection to be managed in an ethical and responsible manner. The need for compliance with data protection laws strengthens tax governance and accountability, which are essential elements of modern tax management aligned to ESG principles. Thus, the research demonstrates that ethical taxation of digital assets not only promotes transparency, but also encourages the implementation of tax practices that contribute to sustainable social and technological development.

It is important to highlight that the integration of ESG practices in tax management can contribute significantly to the reduction of tax risks. Companies that adopt strict standards of tax governance, with transparency and accountability in the communication of their practices, minimize their exposure to aggressive inspections, costly litigation and reputational risks. The research confirms that the adoption of ESG practices is an effective approach to prevent tax litigation and ensure that the allocation of tax resources is aligned with social and environmental objectives. The in-depth legal analysis of authors such as Luciano Amaro, Hugo de Brito Machado and Paulo de Barros Carvalho reinforces that good tax governance requires an ethical and proactive approach that considers legal compliance, transparency and tax justice.

In this sense, the research achieved its objective by establishing a consistent relationship between digital asset taxation, ESG and fiscal sustainability, showing that the creation of tax incentives aimed at promoting sustainable practices and technological innovation can be an effective tool to balance collection and social responsibility. The practical examples analyzed and the data presented corroborate the hypothesis that tax planning aligned with ESG principles not only improves corporate governance, but also promotes tax collection directed to sustainable development objectives.

In summary, the paper demonstrated that an ESG-focused tax approach, combined with the ethical use of tax incentives, has the potential to promote fairer and sustainable business practices. The integration of transparent, ethical and innovative tax practices contributes to the strengthening of the global economy and the development of a society that values responsible growth, social inclusion and environmental protection. Therefore, the research not only achieves its objectives, but also opens space for future investigations on the relationship between tax policies and sustainability, strengthening the debate on building a tax framework that reflects the challenges and opportunities of the 21$^{st}$ century.

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