

## Forum: Practical Perspectives

## Courts of accounts divergent methodologies and its impacts on personnel expenditure rules

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This article describes how Brazilian Courts of Accounts at the subnational level diverge with the National Secretariat of Treasury of the Ministry of Economy, on how to measure the personnel expenditure cap, a rule according to the Fiscal Responsibility Law of 2001. Since the Courts of Accounts can decide how to measure the personnel expenditure rule in their jurisdictions, the article describes how those decisions, presented in the Fiscal Management Report from 2016 to 2018, diverge with the federal standards described in the Manual of Fiscal Reports (MDF) and compiled in the System of Public Sector Fiscal and Accounting Information (Siconfi). It concludes that some Courts of Accounts would exceed the personnel expenditure cap if they adopted the federal standards described by the central government, which indicates the existence of fiscal accountability practices with a contagious effect upon subnational entities under its jurisdiction, increasing the risks of fiscal imbalances in the federation.

**Keywords:** fiscal rules; courts of accounts; fiscal responsibility law.

**Divergências metodológicas dos Tribunais de Contas e seus efeitos sobre as regras de despesa com pessoal**

O presente artigo expõe as divergências entre as metodologias adotadas pelos Tribunais de Contas e as apresentadas no *Manual de Demonstrativos Fiscais* (MDF), elaborado pela Secretaria do Tesouro Nacional (STN), para o cálculo das despesas com pessoal, segundo a Lei Complementar nº 101, de 4 de maio de 2000, ou Lei de Responsabilidade Fiscal (LRF). Avalia-se, portanto, como as divergências metodológicas influenciam no cumprimento dos limites das despesas com pessoal dos próprios Tribunais de Contas, a partir dos *Relatórios de Gestão Fiscal* (RGFs) referentes aos terceiros quadrimestres dos anos de 2016 a 2018, comparando com o disposto no MDF e com as informações inseridas no Sistema de Informações Contábeis e Fiscais do Setor Público Brasileiro (Siconfi). Demonstrar-se-á que alguns Tribunais de Contas ultrapassariam os limites de despesa com pessoal se fosse adotada a metodologia do MDF, o que indica a necessidade de convergência de regras para evitar que a contabilidade criativa de alguns órgãos de controle externo contribua para o desequilíbrio fiscal do ente federativo.

**Palavras-chave:** regras fiscais; tribunais de contas; lei complementar nº 101/2000.

**Divergencias metodológicas de las Cortes de Cuentas y sus efectos en el gasto con funcionarios públicos**


El presente artículo expone las divergencias metodológicas entre las Cortes de Cuentas de los entes subnacionales brasileños y la Secretaría del Tesoro Nacional, del Ministerio de Economía, acerca de los gastos presupuestarios con funcionarios públicos, según la Ley de Responsabilidad Fiscal. Presenta cómo las divergencias metodológicas permiten que las Cortes de Cuentas cumplan sus límites de gastos con sus funcionarios, a partir de demostrativos fiscales de 2016 a 2018, comparándolos con la metodología del Manual para Demonstrativos Fiscales publicado por el Ministerio de Economía. Se propone demostrar que las Cortes de Cuentas excederían los límites de gastos con empleados si fueran aplicados los patrones del gobierno central, lo que indica la necesidad de convergencia para evitar que la contabilidad creativa de algunas Cortes contribuya al desequilibrio fiscal subnacional.

**Palabras clave:** reglas fiscales; cortes de cuentas; ley de responsabilidad fiscal.

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## 1. INTRODUCTION

Expenses with personnel and payroll taxes are the second highest expenditure for the federal government and they only come second to social security benefits. With regard to federative entities, Giambiagi (2016) indicates that after 1994 Brazilian states could no longer use inflation to compensate for any increase in costs. Accordingly, in relation to the states, two items come across as the main cause of the fiscal imbalance for that period: (i) increase in expenditures with civil servants associated with substantial salary raises; and (ii) the load of inactive civil servants composing the payroll of the states. The current scenario of the fiscal status of federate entities is close to the one Giambiagi described after 1994 in spite of the efforts towards a fiscal consolidation between 1998-2007, specially the creation of the Fiscal Responsibility Law (*Lei de Responsabilidade Fiscal* - LRF). Therefore, twelve states exceeded their expenditure cap consisting of 60% of the Net Current Revenue in 2018 (National Treasury Office - STN, 2019), which reduces any fiscal margin to cover other expenditures that would be in the interest of society.

Personnel expenses at federate entities increased despite of the supervision by the Courts of Audit, whose role set under the LRF consists in examining calculations for the expense cap by all Branches and organs of such entities (section 59, paragraph 2, of the LRF). The current escalation in the fiscal situation of state and local entities demonstrates that containing expenses with personnel according to the LRF was not possible. Part of this inefficiency of fiscal rules comes from a lack of harmony as to how such expenses are assessed (Fainboim, Fernandez, & Fouad, 2015).

The issue addressed here is how divergences in the calculation of expenses with personnel - when compared to the provisions set by the federal government's accounting hub i.e. the National Treasury Office - elevate the cap for expenses with the personnel of those very external control organs. Consequently, the interpretation given by the Courts of Audit creates an additional margin for expenses with personnel without exceeding the limits set under the LRF.

This paper pairs up with the analysis by Nunes, Marcelino, and Silva (2019) about the interpretation by Courts of Audit of the Fiscal Responsibility Law. The evaluation of the National Treasury Office (2019) about the differences in methodology when assessing expenses with the personnel of state and local entities is also registered here. The contribution of this paper is its specific focus on the expenses with the personnel of the Courts of Audit based on the balance sheets required under the LRF.

By resorting to doctrine on fiscal rules, one reaches the conclusion that the purpose of such rules is to limit a deficitarian trend when numerical restrictions are imposed to political choices and reduce incentives to excessive expenditure, especially in periods of economic growth (Lledo, Dudine, Eyraud, & Peralta-Alva, 2018). In federative relations, fiscal rules aim at containing two other factors that reinforce the deficitarian trend (Ter-Minassian, 2009): i) the moral risk connected to recurring financial aid programs offered by the central government; and ii) dependency on the transfer of funds from the central government because the entities end up not internalizing the political cost of the tax collection to make the public expenditure, which causes an excessive expenditure.

Kotia and Lledó (2016) emphasize that some qualitative traits of the fiscal rules may increase the political cost if they are breached, such as special quorum to change rules imposing fiscal limits and the visibility in media about compliance with such rules. Notwithstanding the above, the factors this paper emphasizes are: i) the existence of budgetary and accounting procedures common to all federation; and ii) the quality of the monitoring mechanisms.

Fainboim et al. (2015) state that the standardization of public accounting information is critical for the rendering of accounts and transparency mainly in federate states, because they enable the central government's capability of comparing and monitoring, and the consolidation of fiscal information by the general government. Nevertheless, this paper also points out that in practice many countries tackle with different criteria between central government and state and local governments. Any lack of coordination and harmonization between the central and state and local governments makes any macroeconomic stability and compliance with the fiscal law difficult.

Monitoring mechanisms depend on the existence of an independent organ responsible for evaluating whether the fiscal rules are being complied with, which could set automatic triggers if the numbers set as limits are exceeded or could impose penalties to what caused the breach of the rule (Kotia & Lledó, 2016). In this context, ever since publication of the LRF the Courts of Audit play a central role in an independent way to evaluate compliance with the fiscal rules created by such law. Section 59 of the LRF provides that any inspection whether the rules under such law have been complied with is a responsibility of the Legislative Branch with the assistance of the Courts of Audit, of the internal control of system of each Branch and the Public Prosecution Office (*ministério público*). Given the nature of the work they do, the Courts of Audit are the entities that in fact have control over the fiscal responsibility rules (Lima, 2017). As to the personnel expenses, section 59, paragraph 2, of the LRF provides that it is incumbent on the Courts of Audit to verify the calculations of the limits to the expense with the personnel of other organs and branches. If 95% of the limit to personnel expense is reached, any raise in remuneration or creation of new job positions become barred (section 22 of the LRF). Once the maximum limit is reached, positions and job functions are revoked subject to penalty of fine imposable on the responsible actor (Law No. 10,028 of 2000).

## 2. RESEARCH METHODOLOGY

In order to evaluate the consequences of the lack of harmonization between the calculation methodology for the expenses with personnel by the Courts of Account the *Reports on Fiscal Management* published by the external control organs from 2016 through 2018 were analyzed. Such analysis is based on reports referring to the third four-month period of each year because they consolidate the expenditures incurred throughout a tax year and cover the remaining payable balance. It should be said that the period analyzed covered by this research, i.e. 2016 through 2018, was chosen because it came right after an amendment to the LRF through the promulgation of the Supplementary Law No. 156/2016, according to which the federal, state and local governments further to the Federal District (the country's capital) are required to make available information and data through the National Treasury Office (Siconfi) that enable public consultations.

Siconfi follows the framework under the balance sheet handbook (*manual de demonstrativos fiscais* - MDF) to report expenses with personnel. The purpose of MDF that is prepared by the National Treasury Office is to give guidelines to the entities of the federations when filling out the balance sheets. In the case of the Report on Fiscal Management that contains a framework of the expenses with personnel, the MDF restrains expenditures that can be ruled out from the situations provided for under section 19, paragraph 1, of the LRF.

In the research, divergences were verified between the information in the Reports on Fiscal Management and the information available on the Siconfi. For example, the Reports show fields that

had not been made available in the system and they also show divergent amounts in the personnel expense frameworks collected in the Reports on Fiscal Management and on the Siconfi.

There were other instances of divergence between fields and amounts on the Siconfi and in the Reports on Fiscal Management; in such cases, however, the Court of Account added a footnote to the report indicating some expenditure that had not been included in the gross expense with personnel (i.e. expense with personnel is already deducted from the tax withholding (*imposto de renda retido na fonte* - IRRF). Consequently, the amounts concerning expense with personnel in the report and in the system are the same but not in pace with the criteria under the MDF handbook.

Therefore, the research analyzed items from the framework on expense with personnel in the Reports on Fiscal Management from all of the Courts of Account and compared them to the provisions under the MDF handbook that is published every year to give instructions how to prepare the balance sheets. In some instances, divergences with the MDF handbook provisions show on the footnotes to the balance sheets on the expenses with personnel, although there has also been the need to request information based on the Law for Access to Information (*lei de acesso à informação*).

After assessing the amounts resulting from the divergences, the analysis focused on verifying whether the caps set to expenses with personnel had been complied with by comparing the amounts the Court of Account calculates and what would be the adjusted limit to the methodology MDF handbook. Despite the divergences in the expense amounts, the total of the limits (alert, prudential and maximum) available on the Siconfi converged with the information in the RGFs.

### 3. PRESENTATION AND ANALYSIS OF THE RESULTS

In the period between 2016 and 2018, a convergence of the amounts obtained through the Siconfi and the RGFs was verified, and the following divergences were considered: i) fields in the RGF that are not in the system; ii) different amounts; and iii) Court would not input information into the system. It is a probable result of the amendment to the LRF implemented by the Supplementary Law No. 156/2016.

**TABLE 1**      **COMPARISON SICONFI VS RGFS**

	Divergences	Proportion
2016	14	42.42%
2017	13	39.39%
2018	9	27.27%

**Source:** Elaborated by the author hereof based on the RGFs and Siconfi.

Notwithstanding the above, the research shows that the growing convergence between the amounts the Courts of Account input into the Siconfi and in the RGF does not necessarily mean they are in compliance with the methodology under the MDF handbook. The MDF handbook describes the expenditure items that can be deducted; however, footnotes added to the RGFs indicate other situations of deduction not set out in the handbook the National Treasury Office (STN) prepared and which are normally based on decisions rendered by the very Court of Account. Therefore, even if the RGFs follow the fill-out template displayed in the Siconfi and in the MDF handbook, their premises may yet diverge from the one in the handbook. Box 1 summarizes the divergences identified between the RGFs and the MDF.

**BOX 1** DIVERGENCES BETWEEN THE RGFS AND THE MDF

Divergence	Comments
Tax withholding deduction	Most common divergence, IRRF tax deduction opposes the principle of gross budget. Some Courts of Account remove the IRRF tax from the expenses because such item is also excluded from the entity's current net revenue calculation.
Exclusion of the vacation pay set forth in the constitution and the retention bonus from the expenses with personnel	The vacation pay set forth in the constitution is the one-third salary rate required under the Federal Constitution of 1988. This measure cannot be confused with the rate that is paid to an employee who forgoes some vacation days, and such measure will be addressed in the item called "pecuniary vacation pay". The retention bonus is paid to civil servants who choose to continue to work despite of the fact they are already entitled to voluntary retirement. Both expenditures are in the list with examples of items included in the gross expense with personnel.
Intrabudgetary revenues	The Maranhao State Court of Account ( <i>Tribunal de Contas Estadual do Maranhão - TCE-MA</i> ) has civil servants redeployed to other organs that reimburse their salary expenses. The court classifies the reimburse as an intrabudgetary revenue and includes in as expenses not computed. Such deduction is not set forth in section 19, paragraph 1, of the LRF or the MDF handbook.
Payable and unprocessed remaining balance	In 2017, the Acre State Court of Account ( <i>Tribunal de Contas Estadual do Acre - TCE-AC</i> ) did not compute the payable and unprocessed remaining balance ( <i>restos a pagar não processados - RPNP</i> ) when calculating the expense with personnel at the end of the tax year. This measure breaches section 35, item II, of Law No. 4.320/64. The TCE-AC indicates there was no record of RPNP in 2016 and 2018.
Pensions	This expense is in the list of examples of the MDF handbook among the items considered as gross expense with personnel. Some courts of account assign this item to the Executive Branch, even in cases where the deceased civil servant was a personnel of an external control organ.
Separated Social Security System for Civil Servants ( <i>Regime Próprio de Previdência Social - RPPS</i> ) financial deficit allocation.	In the third four-month period of 2018, the Espírito Santo State Court of Account ( <i>Tribunal de Contas Estadual do Espírito Santo - TCE-ES</i> ) excluded the transfer to cover a financial deficit for the RPPS from the expenses with personnel. Nevertheless, according to the MDF handbook, such allocation can be deducted for the calculation of the net expense with personnel.
Exclusion of all inactive and retired civil servants	Some Courts of Account book their expense with inactive and retired civil servants to assess the gross amount and they subsequently exclude in full this result from the "inactive and retired with connected revenues" field. In the footnotes, some organs indicate that this expense should be accounted for by the Executive Branch only. Case law rendered by the Paraíba State Court of Account ( <i>Tribunal de Contas Estadual da Paraíba - TCE-PB</i> ), for example, excuses all organs from computing such expenditures.
Special leave of absence ( <i>licença-prêmio</i> ) and pecuniary vacation pay	Precedent No. 125 and 126 rendered by the Superior Court of Justice ( <i>Superior Tribunal de Justiça - STJ</i> ) rule that such disbursements have an indemnity nature and as such they should not be included in the calculation of the expense with personnel. The MDF handbook, however, determines that the compensation for unused vacation and for unused special leave of absence payable to working civil servants are disbursements with remuneration nature and as such they should be included in the expense with active personnel – would only be considered a compensation in case of termination.

**Source:** Elaborated by the author hereof based on the RGFS of the Courts of Account.

About the exclusion of all inactive and retired civil servants from the expense with personnel, the LRF allows the deduction if they are paid for with connected revenues, including employers' contributions and contributions from civil servants to the social security system specific for civil servants. Nonetheless, according to the MDF handbook, exclusion of all inactive and retired civil servants by some of the state courts of account (TCEs) (TCE from Alagoas [-AL], Rondonia [-RO], Rio Grande do Norte [-RN], Mato Grosso do Sul [-MS], Pernambuco [-PE], Ceará [-CE] and Piauí

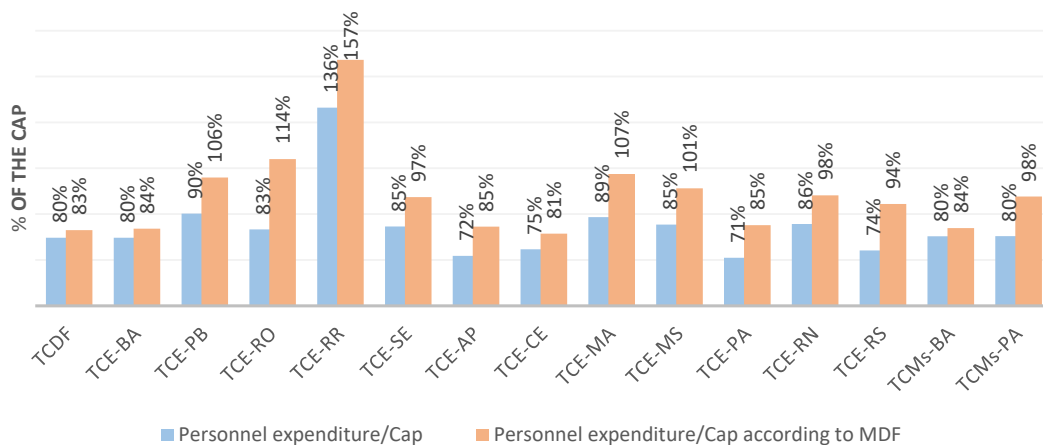


[-PI], Maranhao [-MA] and Paraíba [-PB]) would only be possible if the social security system in question were operating in superavit, meaning the amount of the revenues connected to social security would have to be sufficient to cover for all of the benefits of this separated social security system for civil servants (RPPS). According to a study by the Instituto Fiscal Independente (IFI) (2019), in 2017 RPPS was in deficit in almost every state where State Courts of Account allow exclusion of inactive civil servants – the exception was Rondonia. The financial deficit in RPPS demands allocations from the treasury of an entity, and such allocations are computed as expense with personnel. In addition, some TCEs hold the Executive Branch responsible for the expense with the inactive and retired, a practice that not only limits the fiscal space of the local executive branch, but also disregard the inactive civil servant who worked for the external control organ during his productive period.

Such divergences identified were quantified in the Attachment. It is worth noting that divergences concerning exclusion in full of the expenses with inactive have not been calculated here because this task would require information on social security duties paid by both civil servants and employers and RPPS-related information from each entity in relation to the original employment bond with the beneficiaries. It has not been found, it should be emphasized, any divergence between the MDF handbook and the RGFs from the following courts: Federal Court of Account (TCU), the Local Courts of Account for Sao Paulo (TCM-SP) and Rio de Janeiro (-RJ), and the State Courts of Account (TCEs) for Goiás (-GO), Sao Paulo (-SP), Amazonas (-AM), Mato Grosso (-MT), Piauí (-PI), Rio de Janeiro (-RJ) and Minas Gerais (-MG) – this last one shows a box with the MDF handbook methodology, which is also informed in the Siconfi, and another box that follows its own case law.

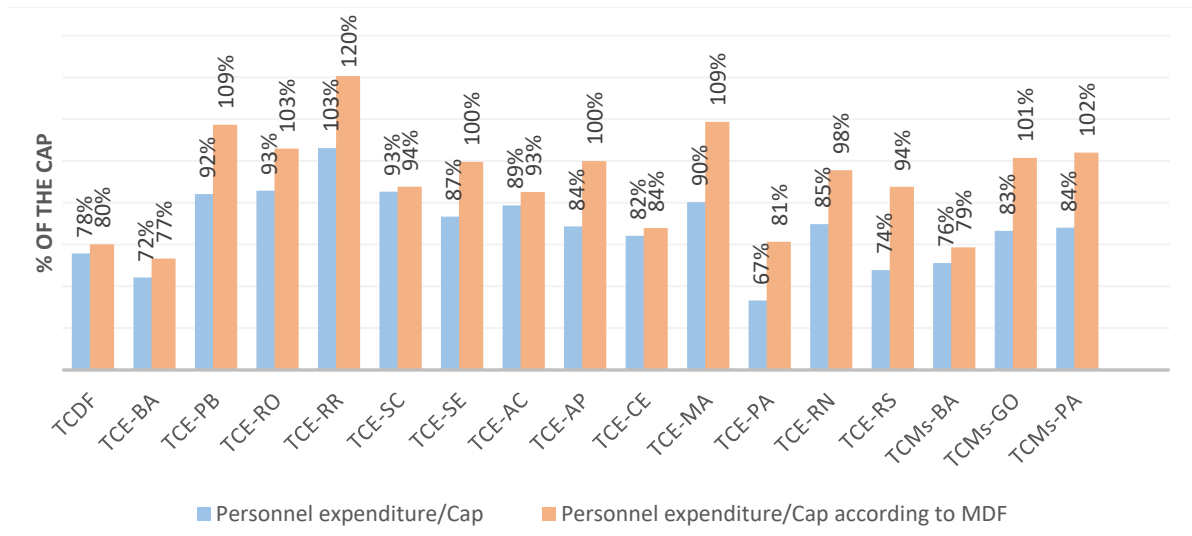
Discrepancies allow another evaluation of as to how the limits to expense with personnel should be complied with, considering a percentage of the Current Net Revenue (*Receita Corrente Líquida - RCL*) assigned to each Court of Account, as presented on the Attachment. The percentage of the RCL assigned to each court is not equal; for example, the Rio Grande do Norte State Court of Account (TCE-RN) received 0.62% of the state RCL share in 2018 while the Amazonas State Court of Account (-AM) received 1.43% of the RCL. Such percentage of RCL to each court corresponds to the cap set to the total expense with personnel allowed under section 20 of the LRF. Therefore, Figures 1, 2 and 3 show the impact of the methodologic divergences considering that the cap corresponds to the total of the respective RCL share:

**FIGURE 1 LIMITS OF THE EXPENSE WITH PERSONNEL IN 2016**



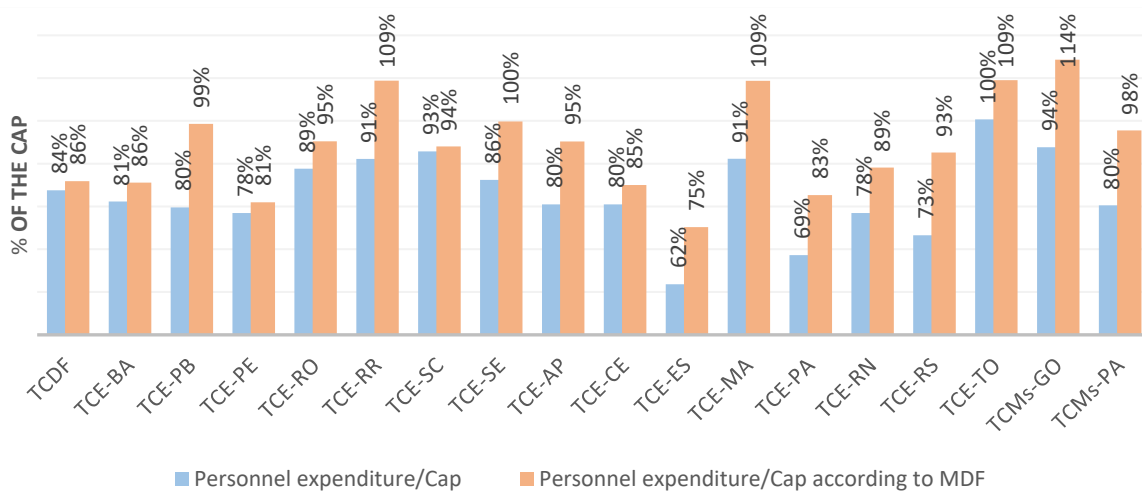
Source: Elaborated by the authors hereof based on the RGFs and Siconfi.

**FIGURE 2** LIMITS OF THE EXPENSE WITH PERSONNEL IN 2017



Source: Elaborated by the authors hereof based on the RGFs and Siconfi.

**FIGURE 3** LIMITS OF THE EXPENSE WITH PERSONNEL IN 2018



Source: Elaborated by the authors hereof based on the RGFs and Siconfi.

In the period from 2016 through 2018, there is an increase in the methodologic divergences between the RGFs from the Courts of Account and the MDF handbook. In 2016, there were 18 divergences, in 2018 they were 20, as demonstrated on the Attachment – the boxes of Figures 1, 2 and 3 do not capture the effect of all discrepancies, because the information from the Bahia and Mato Grosso do Sul State Courts of Account (TCM-BA and -MS) has not been obtained. Comparing this information with Table 1, one determines that a convergence between the information from the

Siconfi and that from the RGFs did not imply any compliance with the methodology to assess the expense with personnel as set out in the MDF handbook.

Some divergences result from decisions published as of 2017 when reporting expenses on the Siconfi was already mandatory according to the MDF handbook template: (i) the Espírito Santo State Court of Account (TCE-ES) began to exclude the allocation made for the financial deficit concerning the RPPS; (ii) the TCE for Pernambuco (-PE) excluded the retention bonus and the one-third rate vacation pay required under the constitution; and (iii) Resolution No. 02/2019 by the TCE for Tocantins (-TO) excluded the IRRF tax, a measure that does not suffice for an organ to reduce its expense with personnel and remain below the maximum limit of 100% of its RCL share. The practice with greater impact on the reduction of the percentage of expense with personnel is the exclusion of the tax withholding. In some cases, the inclusion of the IRRF elevates the expense with personnel over the expense corresponding to the RCL to such an extent that it would set off the triggers for correction that are provided for in the LRF.

The results of the research can be explained by the institutional limitations to the performance of the Courts of Account in the control of the rules concerning expenses. Melo, Pereira, and Souza (2014) associate the existence of a “fiscal creativity” to the institutional fragilities of the Courts of Account by exposing them to the pressure from local executive and legislative branches. One of such fragilities would be the absence of council members at full bench sessions who are selected by exams. Nunes et al. (2019) demonstrate that the lack of symmetry in the compliance with the LRF arise from an interpretation Courts of Account have over some of the stone concepts, especially as to how the RCL and expense with personnel should be assessed. For the authors, those different interpretations would be related to a criterion for political indication for the council-member position, in which case many of those appointed are former representatives who have no interest in imposing penalties against leaders in the Legislative Branch or inducing budget cuts in the expenses with personnel in such branches. This susceptibility to interests of other branches unveils how fragile is the independence of external control organs.

Figures 1 through 3 demonstrate that some Courts of Account would have to set off the triggers for adjustment under the LRF to reduce their expenses with personnel if they were to follow the MDF handbook. Consequently, there would be restriction to salary raises and to other civil servants taking office after an exam. Entities that would exceed the 100% limit of the RCL share would be forced to terminate positions. However, there are certain incentives within a Court of Accounts aiming at keeping the divergent interpretations, because they expand the very margin of an expense with personnel.

An analysis of the footnotes to the RGF reports also shows how any measure by the Courts of Account can be legally mitigated by other branches. In Rondônia, appellate decision APL-TC nº 0499/16 rendered by the Court of Account overruled a previous decision that had been handed down by the same court, which allowed the deduction of IRRF tax when calculating the total expense with personnel. Nonetheless, the State Prosecution Office (*Ministério Público Estadual*) responded such appellate decision of 2016 with an appeal for writ of mandamus, which an Appellate Court granted and exclusion of the IRRF that would affect other branches within that state was avoided.

In Goiás, the Amendment to the State Constitution No. 55 of September 21, 2017 added paragraph 8 to section 113 providing for the exclusion from the global limit for the expense with personnel payments of pension and IRRF amounts. Despite of such provision in the state constitution, the Goiás State Court of Account published Resolution No. 09/2016 determining publication of the RGF report



based on the MDF handbook. Through the Law for Access to Information (LAI) the Court displayed the following comparison:

**TABLE 2 PENSION AND IRRF AMOUNTS EXCLUDED BY GOIAS BRANCHES AND ORGANS**

Branch/Organ	2017	2018
Legislative Assembly	45,462,566.35	50,953,539.70
State Prosecution Office	62,864,337.83	96,013,651.86
Executive Branch	1,603,295,171.77	1,799,105,281.47
State Court of Account	0	0
State and Local Courts of Account	24,629,733.96	29,191,295.42
Appellate Court	138,290,406.98	233,112,527.15
GRAND TOTAL	1,874,542,216.89	2,208,376,295.60

**Source:** The Goias State Court of Account based on RGF reports for the third four-month period of 2017 and 2018 by Goias organs and branches.

In 2019 the Federal Superior Court (STF) granted a petition for preliminary measure within an action for declaration of constitutionality No. 6.129/GO aiming at the suspension of the effects of amendments to the Goias State Constitution that had allowed the exclusion of retired civil servants and the IRRF tax. The opinion of the STF is that this state law gives carte blanche to public administration to raise expenses with personnel despite of the lack of any solid economic backup to immediately support any increase in expenses and yet remain below the limits set up by the LRF. There had been a “cover-up” to conceal a situation of fiscal mismanagement.

#### 4. CLOSING ARGUMENTS

The purpose of this paper is to identify and quantify the divergences in the calculation of expenses incurred by Courts of Account by evaluating their impact on the limit set to the expense with personnel by such organ. The analysis consisted in comparing information from the Fiscal Management Reports against the provisions under the Balance Sheet Handbook. Detailed results are given in the Attachment; however, in a summary, in 2018 five State Courts of Account exceeded their maximum limit to expense with personnel and four of them reached the prudential limit - situations that would set off triggers for contention of expenditures.

The expense with personnel rule is the main rule for any overhead expense and is applicable to all Brazilian federation. Kotia e Lledó (2016) list the attributes for effectiveness of fiscal rules to contain any deficitarian trend in administrations, of which the following stand out: i) independence of the organ that evaluates compliance with the fiscal rules; and ii) existence of budgetary and accounting procedures that are common in all of the federation. The standardization of public accounting information is critical for the rendering of accounts and transparency mainly in federate states, because they enable

the central government's capability of comparing and monitoring, and the consolidation of fiscal information by the general government (Fainboim et al., 2015).

Lack of uniformization as to how to assess expenses with personnel not only impairs any comparability between balance sheets – especially the Fiscal Management Report –, but it also allows some Courts of Account to increase their own limit to expenses with personnel based on the methodology they apply by avoiding to resort to the adjustment measures set under the LRF. Nunes et al. (2019) and Melo et al. (2014) identified other divergences in the interpretations of such external control organs, which allow the record of the remaining payable balance over the cash flow available at the end of any tenure (in breach of section 42 of the LRF), or which were permissive with administrations failing to comply with their fiscal targets. The aforementioned authors state as the main justification the political interest of council members in courts who do not wish to harm local legislative or executive branches. This analysis adds to previous researches the incentive given to those very Courts of Account so they can keep the specific interpretations about expenses with personnel, because by doing so they keep below the limits set under the LRF and they consequently steer clear of measures to reduce any expenditure.

The practical implication of the results of the research is the need to standardize the interpretation over the LRF about expenses with personnel. A possible measure is to organize a Fiscal Management Council (*Conselho de Gestão Fiscal* - CGF) that is set under section 67 of the LRF, which would be responsible for standardizing the rendering of accounts – Bill No. 3.744/2000 proposes regulation for such Council. In the absence of a CGF, section 50, paragraph 2, of the Fiscal Responsibility Law assigns to the National Treasury office the task of editing the general rules for the consolidation of public accounts, although not all administrations feel obliged to follow the regulation adopted (Afonso & Ribeiro, 2016). Supplementarily, Bill No. 149/2019 known as “Plan to Promote Fiscal Balance” amends section 18 of the LRF to make it clear that inactive and retired civil servants should be included in the expenses with personnel while it also amends section 59 to make explicit that the Courts of Account are obliged to follow the technical rules set by the CGF.

For future researches, the suggestion is to evaluate how the different interpretations of the Courts of Account reflect on the assessment of the total expense with personnel of such entity. The Bulletin on the Finance of Local and State Governments (*Boletim de Finanças dos Entes Subnacionais* - STN, 2019) compared the expenses with personnel according to the methodology under the Program for Fiscal Restructure and Adjustment (*Programa de Reestruturação e Ajuste Fiscal* - PAF) – which is the one under the Balance Sheet Handbook - against the expense reported on the Fiscal Management Report consolidated by the state executive branches.

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## ANNEX

TABLE A TABLE ON THE DIVERGENCES FOUND

Court of Account	Divergences	Year	Impact (R\$)	Reported expense with personnel/limit	Adjusted expense with personnel/limit
TCE-DF	Exclusion of pecuniary vacation pay and retention bonus	2016	8,659,815.13	79.66%	83.01%
		2017	5,916,380.19	77.86%	80.06%
		2018	6,093,858.21	83.76%	85.92%
TCE-BA	Exclusion of pecuniary vacation pay and retention bonus	2016	10,283,514.55	79.67%	83.65%
		2017	12,221,503.27	72.12%	76.65%
		2018	12,717,136.77	81.15%	85.57%
TCE-PB <sup>1</sup>	IRRF compensations for unused vacation (2018)	2016	15,351,000.00	90.19%	105.97%
		2017	16,664,000.00	92.08%	108.67%
		2018	19,749,000.00	79.77%	99.32%
TCE-RO	IRRF (2016) Compensation amounts 1/3 rate vacation pay	2016	19,772,301.09	83.28%	113.98%
		2017	6,800,074.82	92.89%	102.95%
		2018	4,608,549.73	88.83%	95.21%
TCE-RR	IRRF Pecuniary pay (2018)	2016	6,118,564.36	136.44%	157.27%
		2017	7,223,810.25	103.07%	120.32%
		2018	8,584,238.90	91.11%	109.41%
TCE-SC	Retention bonus (2017 and 2018)	2017	2,219,174.31	92.66%	93.83%
		2018	2,373,051.41	92.85%	94.01%
TCE-AC	Payable and unprocessed remaining balance (2017)	2017	1,436,606.40	89.36%	92.57%
TCE-AP	IRRF	2016	7,210,996.24	71.75%	84.51%
		2017	7,926,876.85	84.34%	99.98%
		2018	8,285,507.40	80.49%	95.20%
TCE-CE <sup>2</sup>	Pensions	2016	5,325,588.23	74.64%	81.43%
		2017	3,517,186.64	82.09%	83.95%
		2018	9,233,291.96	80.48%	85.02%
TCE-ES	RPPS financial deficit allocations (2018)	2018	23,578,773.98	61.80%	75.17%
TCE-MA	IRRF Intrabudgetary revenues (2016 and 2017)	2016	20,506,889.01	88.64%	107.48%
		2017	21,141,301.72	90.13%	109.34%
		2018	21,362,322.79	91.14%	109.37%

Continue

Court of Account	Divergences	Year	Impact (R\$)	Reported expense with personnel/limit	Adjusted expense with personnel/limit
TCE-PA	IRRF	2016	23,964,823.60	70.90%	85.13%
		2017	23,849,236.41	66.59%	80.68%
		2018	24,832,062.56	68.61%	82.66%
TCE-RN <sup>3</sup>	IRRF	2016	6,349,575.47	85.65%	98.19%
		2017	6,861,303.90	84.86%	97.79%
		2018	8,047,006.14	78.46%	89.09%
TCE-RS	IRRF Pensions Retention Bonus	2016	82,924,148.85	74.13%	94.40%
		2017	82,252,107.72	73.89%	93.78%
		2018	86,120,190.79	73.27%	92.59%
TCE-TO <sup>3</sup>	IRRF (2018)	2018	14,847,091.26	100.33%	109.50%
TCE-MS <sup>4</sup>	IRRF (2016)	2016	19,582,220.33	85.40%	101.22%
TCE-SE	IRRF	2016	10,096,801.81	86.67%	99.78%
		2017	10,468,491.36	86.22%	99.86%
		2018	NA	85.48%	-
TCE-PE	One-third rate vacation pay and retention bonus	2018	9,042,336.86	78.44%	80.95%
TCMs-BA <sup>5</sup>	Vacation rate, retention bonus, compensation for unused vacation and special leave of absence	2016	6,448,504.63	80.34%	83.90%
		2017	7,088,745.50	75.56%	79.32%
		2018	-	74.50%	-
TCMs-GO <sup>6</sup>	IRRF Retired	2016	NA	-	-
		2017	24,629,733.96	83.26%	100.74%
		2018	29,191,095.42	93.85%	114.31%
TCMs-PA	IRRF	2016	20,125,473.00	80.39%	97.67%
		2017	21,039,405.40	84.02%	101.98%
		2018	21,399,244.43	80.24%	97.75%

<sup>1</sup> No information about the 3<sup>rd</sup> four-month period of each taxable period was found but only on the 12-month period closed in the 2<sup>nd</sup> four-month period. The technical team of the Court reports the amounts according to the STN and case law rendered by the organ and demonstrating the impact of the inactive and retired civil servants. Process TC No. 04876/17, TC No. 06094/18 and TC No. 06002/19.

<sup>2</sup> The Court deduced the pension and retention bonus amounts but did not make available any information on the latter.

<sup>3</sup> The Courts made available information on the total revenue of the entity in relation to the IRRF and because of this information adjustment of the RCL to calculate the impact of such exclusion from the revenue when calculating expense with personnel was possible.

<sup>4</sup> The Court did not reply the consultation made through the Law for Access to Information about the exclusion of the IRRF from the expense with personnel in 2017 and 2018.

<sup>5</sup> RGF of the 3<sup>rd</sup> four-month period of 2018 was not available on the Court's website.

<sup>6</sup> RGF for the 3<sup>rd</sup> four-month period in 2016 was published in a structure that is different from the one on the MDF handbook referring to such taxable period.

**Source:** Elaborated by the authors hereof based on the RGFs of the Courts of Account.