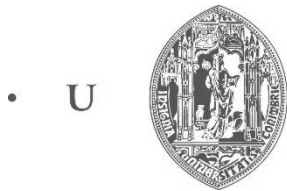# UNIVERSIDADE Ð COIMBRA

Ana Cristina dos Santos Arromba Dinis

CORPORATE TAXATION IN PORTUGAL: A STUDY ON THE PERCEPTION OF THE IMPACT OF AUTONOMOUS TAXATION

Julho de 2019

CORPORATE TAXATION IN PORTUGAL: A STUDY ON THE PERCEPTION OF THE IMPACT OF AUTONOMOUS TAXATION

Ana Cristina dos Santos Arromba Dinis

Tese de Doutoramento em Gestão de Empresas, orientada pelo Professor Doutor António Manuel Ferreira Martins e pela Professora Doutora Cidália Maria da Mota Lopes e apresentada à Faculdade de Economia da Universidade de Coimbra.

Julho de 2019

UNIVERSIDADE Đ
COIMBRA

Agradecimentos

Resumo

O objetivo geral desta tese é analisar o papel da tributação autónoma (ATE) no regime de tributação das sociedades em Portugal. Em particular, a perceção dos Contabilistas Certificados (CA) portugueses será discutida numa perspetiva normativa, crítica e empírica. A ATE, ainda que tenha surgido com o objetivo de combater a fraude a evasão fiscal, é atualmente uma fonte de receita pública relevante, e a sua eliminação não é previsível, pelo menos a médio prazo. Além disso, a extensão da sua base tributária tem transformado gradualmente o imposto sobre o rendimento das pessoas coletivas (daqui em diante, "CIT") numa espécie de imposto duplo, em que, para além de incidir sobre o lucro das sociedades, incide também sobre determinados gastos. Não existem, internacionalmente, experiências de tributação similares, com dimensão comparável. Mais ainda, a ATE originou também muitos conflitos entre a autoridade tributária portuguesa e as sociedades. Muitos desses conflitos emergiram da interpretação legal das cláusulas normativas da ATE, enquanto outros derivaram das frequentes mudanças legislativas, difíceis de aplicar. A tese aborda estes temas à luz da litigância que deles resultou. Por fim, recorrendo a uma amostra de 665 CA portugueses e aplicando uma análise fatorial, este estudo destaca quatro dimensões da ATE: complexidade fiscal da ATE, papel da ATE no planeamento fiscal, papel da ATE no cumprimento fiscal e papel da ATE no cumprimento fiscal das micro, pequenas e médias empresas (daqui em diante, "SMEs"). Os resultados mostram que a maioria dos CA respondentes tem uma boa perceção da complexidade fiscal da ATE, um forte entendimento do papel da ATE no planeamento fiscal, uma compreensão mais fraca do papel da ATE no cumprimento fiscal e um bom entendimento do papel da ATE no cumprimento fiscal das SMEs. Além do impacto do imposto na gestão fiscal das empresas, novas formas de complexidade, oportunidades de planeamento fiscal e custos de cumprimento são percebidos como sendo causados pela ATE. Além disso,

aplicando uma análise de clusters, é possível constatar-se que as características sociodemográficas dos CA (por exemplo, a idade, o género, o exercício da atividade e a experiência profissional) geram grupos de CA com perceções diferentes do papel e das consequências da ATE na gestão fiscal das empresas. Como muitos países enfrentam situações de pressão orçamental, a ATE pode vir, eventualmente, a ser adotada por outras jurisdições. Esta tese oferece evidências sobre as consequências jurídicas e económicas da ATE através da perceção de especialistas que lidam com um tipo específico de imposição societária. Os resultados são relevantes para os decisores de política fiscal, para as autoridades fiscais, para os contabilistas e para o setor empresarial, uma vez que analisam um elemento importante da tributação empresarial.

Palavras-chave: Tributação Autónoma, Imposto sobre o Rendimento das Pessoas Coletivas, Complexidade fiscal, Planeamento fiscal, Cumprimento fiscal, Portugal

Abstract

The main purpose of this thesis is to analyse the role of the autonomous taxation of expenses (hereafter, "ATE") in the Portuguese corporate income tax (hereafter, "CIT"). In particular, the perception of the Portuguese Chartered Accountants (CAs) will be discussed in a normative, critical and empirical perspective. Even though the ATE has arisen with the aim of fighting tax evasion and fraud, it is currently a relevant source of public revenue and its elimination is not foreseeable, at least in the medium term. Moreover, the extension of its tax base is gradually transforming the corporate income tax in a kind of dual tax, by taxing profits and, at the same time, a significant set of expenses. There are no comparable international cases, with a similar set of taxed expenses. The ATE has caused many conflicts between the Portuguese tax authority (TA) and corporate taxpayers. Many of these conflicts emerged from the legal interpretation of ATE's clauses, while others derived from frequent and difficult to apply legislative changes. Based on a set of litigation cases, this thesis will discuss legal complexity in making and interpreting ATE´s regulations. Using a sample of 665 surveyed CAs, and applying factor analysis, this study highlights four dimensions of ATE: ATE complexity, ATE tax planning, ATE tax compliance and ATE SMEs tax compliance. The results show that most Portuguese CAs respondents have a good understanding of ATE complexity, a strong understanding of ATE tax planning, a poorer understanding of ATE tax compliance, and a good understanding of ATE SMEs tax compliance. Besides the corporate income tax impact on tax management, new layers of complexity, planning opportunities, and compliance costs are perceived to be added by ATE. Additionally, by applying cluster analysis, this study finds that sociodemographic characteristics of CAs (e.g., age, gender, professional environment, level of expertise) generate clusters of CAs with different perceptions of the role and consequences of ATE in the management of corporate tax affairs. As many

countries face budgetary pressure, ATE could eventually be adopted by other jurisdictions. This study offers evidence regarding the legal and economic consequences of ATE through the perceptions of experts dealing with a particular type of business taxation. The results are relevant to policymakers, tax authorities, accountants and the corporate business sector since they analyse a specific and important source of business taxation.

Keywords: Autonomous taxation of expenses, Corporate income taxation, Tax complexity, Tax planning, Tax compliance, Portugal

The unreasonable severity of the laws obstructs their execution.

MONTESQUIEU, 1748

Contents

List of tables

Chapter 4

List of figures

Chapter 3

Chapter 4

List of appendices

Acronyms

AGFI - Adjusted Goodness of Fit Index

ATE - Autonomous taxation of corporate expenses

A-S model - Traditional Tax Evasion Theory

AVE - Average Variance Extracted

CAAD - Administrative and Tax Arbitration Centre

CAs - Portuguese Chartered Accountants

CFA - Confirmatory Factor Analysis

CFI - Comparative Fit Index

CIT - Corporate Income Tax

EFA - Exploratory Factor Analysis

EU – European Union

FB – Fringe Benefits

GDP - Gross domestic product

GFI - Goodness of Fit Index

KMO - Kaiser-Myer-Olkin

LPG - Liquefied Petroleum Gas

MIMIC - Latent Variable Model with Multiple Indicators

MSA - Measure of Sample Adequacy

NFI - Normed Fit Index

NOE - Non-Observed Economy

OECD - Organization for Economic Cooperation and Development

OCA - Order of Portuguese Chartered Accountants

PNFI - Parsimony fit index

RMSEA - Root Mean Square Error of Approximation

SAP - Special Advanced Payment

SMEs – Small and Medium Enterprises

SPSS - Statistical Package for the Social Sciences

TA – Tax Authority

TLI - Tucker-Lewis Index

UTAO - Portuguese Technical Unit for Budgetary Support

VAT - Value Added Tax

VNG - Natural Gas Vehicles

Chapter 1: Introduction

1.1. Background

The international discussion of corporate tax policy has essentially focused on the reforms of the taxation systems in the countries belonging to the Organization for Economic Cooperation and Development (OECD), as stated by Devereux & Loretz (2013) and Brys & Heady (2007). Some empirical works (Slemrod, 2018; Razin & Slemrod, 2008; Slemrod, 2004), address the relation between globalization and tax policy and point out that it is necessary, above all, to consider that the elimination of barriers to trade in the world economy during the last decades resulted in the liberalization of capital flows, making corporate taxation a factor of extreme importance in the international tax competition (Quak, 2018; Hristu-Varsakelis *et al.*, 2011).

However, despite the fact that international tax reforms have led to a reduction in tax rates (Kawano & Slemrod, 2016), with the enlargement of the base (Base Broadening and Rate Reduction - BBRR), the evolution of the Portuguese corporate tax has a unique feature. The autonomous taxation of a large set of corporate expenses (hereafter, "ATE") in the Portuguese corporate income tax (CIT) has been a highly controversial issue (Nabais, 2013; Sanches 2007).

This taxation applies to certain charges incurred by companies, which by their nature may present a more ambiguous connection to income generation, or in the maintenance of the productive source.

As argued by Nabais (2013), the Portuguese CIT evolution has been translated into a significant subversion of the constitutional purpose of tax. The CIT has lost some of its typical characteristics, as a corporate profits tax, and the growing introduction of ATE has been moving it towards a tax on companies.

Moreover, Santos & Palma (2013) report that in recent years the Portuguese CIT has been the subject of major changes.

The rationale for the continuous existence of ATE is based on the supposed difficulty of distinguishing between the personal and business origin of

certain expenses, and because certain forms of income are not included in the beneficiaries´ tax base.

However, currently, ATE seems to be used as a revenue-generating machine. In times of economic crisis, the growing increase in ATE leads to a rise in the tax burden, which may increase avoidance and evasion.

In fact, the Portuguese tax legislator does not have a criterion in choosing expenses to tax autonomously[1]. The following expenses may be subject to ATE: charges for vehicles; representation costs; profits distributed to entities benefiting from exemption; paid compensations to administrators or managers; allowances and compensation for use of own car; payments to entities resident in low tax territories.

According to Sanches (2007), the introduction and expansion of ATE imply that the tax system "shows its dual nature", with an increased rate of ATE for certain special situations that are sought to be discouraged, such as the acquisition of fancy and costly vehicles for business purposes. There is a kind of presumption that these expenses do not have a business reason and are, therefore, subject to ATE. Consequently, ATE focuses on certain charges incurred by companies which, by their nature, can be doubtful for producing income or to the maintenance of the production source.

The point is that ATE leads to a higher effective tax rate, contrasting with reductions in the statutory rate.

Governments around the world need to ensure high levels of tax revenue, addressing at the same time the consequences of tax international competition at corporate level (Osterloh & Heinemann, 2013), regarding to the differences in corporate tax rates and tax bases, in different countries (Bartelsman & Beetsma, 2003) and, above all, focusing on the discussion of the future of corporate tax compliance in the current context of the global economy (Devereux & Sørensen, 2006). In this context, the Portuguese ATE is a relevant policy issue.

---

[1] There may be a tax policy linking this matter to expenses whose VAT is not deductible. However, this is not a topic addressed in this thesis.

In addition, the ATE legislative process has presented many problems that are reflected especially in the sphere of the Portuguese chartered accountants (CAs), who face several problems in applying the law, given its frequent changes.

The present study is relevant for the reasons listed below.

Firstly, in the national context, this work intends to represent an additional contribution to the knowledge of tax policy in Portugal, to the extent that it aims to analyse, in a critical perspective, the role of ATE in Portuguese business taxation. Discussing whether this form of corporate taxation is a tool to fight fraud and evasion and increase compliance, is an important subject.

Secondly, in the international context, this work intends to add a contribution to tax literature related to corporate taxation. Graham *et al.* (2014) underline in this respect that more research on the tax behaviour of companies is needed. In this light, the normative and litigation perspectives that are analysed shed some light on a contentious tax topic.

Thirdly, the use of expenses as a significant tax base, in the context of corporate income taxation, is not regularly observed around the world. Therefore, as far as it is known, there is a relative scarcity of global literature on this topic.

Finally, no prior empirical study has analysed how CAs perceive the effects of such a specific feature of corporate taxation in complexity, planning, and compliance.

1.2. Thesis Aims and Structure

The main objective of this study is to analyse in a normative, critical and empirical perspective the role of ATE in the tax corporate regime in Portugal. The specific objectives of this research are based on three lines of enquiry.

Firstly, the study of the normative evolution of ATE in the model of corporate taxation in Portugal, the discussion of the theoretical foundations for its

application and a comparative analysis with other international cases of taxation of corporate expenses.

Secondly, the analysis of the process of drafting and amending the rules on ATE and assessing the relation between the ATE legal process, its complexity and the litigation that it originates.

Finally, the empirical study on ATE perceptions of Portuguese chartered accountants (CAs) to the extent they act as company representatives that participate directly in the tax compliance process. In particular, in the case of ATE, they are responsible for the registration of expenses subject to ATE, as well as for the correct application of ATE tax rules.

Considering the main objectives of this research, this study is divided into five chapters.

The first one is the introduction, including the background and context of ATE, as well as the main objectives of this research.

After the introduction, there are three chapters, focused on three papers (published on indexed journals). The discussion of ATE as a Portuguese special feature of corporate taxation is presented in Paper 1 (chapter 2). Paper 2 (chapter 3) offers, for the legal and accounting professions, valuable lessons in law interpretation and political lobbying to change tax laws while highlighting the difficulties in making ATE tax law. Paper 3 (chapter 4) presents an empirical study of the perceptions of the Portuguese chartered accounts (CAs), regarding key dimensions of ATE.

The fifth and last chapter offers conclusions and future research lines.

Table I.1. presents the contributions from this research, that also included the suggestions of reviewers and peers.

Table I.2 – Scientific output related to the thesis

	Title
	DINIS, A., MARTINS, A., LOPES, C. (2017). A special feature of corporate income taxation in Portugal: the autonomous taxation of expenses. *International Journal of Law and Management*, Vol. 59 Issue:4, pp.489-503.
	DINIS, A. (2016). "A tributação das sociedades em Portugal - Um estudo sobre a perceção do impacto da tributação autónoma". 3rd EADGE - PhD in Management´ Students Meeting, Faculty of Economics, University of Coimbra, May.
Paper 1 **(Chapter 2)**	DINIS, A., MARTINS, A., LOPES, C. (2016). "A tributação autónoma em Portugal: um caso especial de tributação das sociedades?". Book of Abstracts, XXVI Jornadas Luso Espanholas de Gestão Científica - Competitividade das Regiões Transfronteiriças. Castelo Branco, RVJ - Editores, Lda, pp. 121, ISBN 978-989-8289-60-5.
	DINIS, A., LOPES, C. (2015). "O papel das tributações autónomas no regime fiscal das sociedades em Portugal: breves reflexões". Book of Abstracts XV Congresso Internacional de Contabilidade e Auditoria. Ordem dos Técnicos Oficiais de Contas, pp. 58, ISBN 978-989-98660-2-7.
	MARTINS, A., DINIS, A., LOPES, C. (2018). Interpretative complexity and tax law changes: the taxation of corporate expenses in Portugal. *Journal of Applied Accounting Research*, Vol. 19 Issue: 4, pp.537-551.
Paper 2 **(Chapter 3)**	DINIS, A. (2017). "A tributação autónoma das sociedades em Portugal - a perceção dos contabilistas certificados", 4th EADGE - PhD in Management´ Students Meeting, Faculty of Economics, University of Coimbra, April.
	DINIS, A., MARTINS, A., LOPES, C. (2019, Jul). "Corporate autonomous taxation of expenses in Portugal: some empirical evidence on the perceptions of certified accountants". Poster presented on Science and Technology in Portugal Summit, Centro de Congressos de Lisboa (Lisbon Congress Centre), Lisboa.
Paper 3 **(Chapter 4)**	DINIS, A., MARTINS, A., LOPES, C. (2019). The autonomous taxation of corporate expenses in Portugal: empirical evidence of the perceptions of chartered accountants. *Accounting, Economics and Law: A Convivium*. ISSN (Online) 2152-2820, ISSN (Print) 21.
	DINIS, A., MARTINS, A., LOPES, C. (2018, December). "Corporate

autonomous taxation of expenses in Portugal: some empirical evidence on the perceptions of certified accountants". Poster presented on IPCA Day, Centro de Investigação em Contabilidade e Fiscalidade (Research Centre on Accounting and Taxation), Barcelos.

DINIS, A. (2018). "Corporate taxation in Portugal - an exploratory study on the certified accountants´ perceptions of autonomous taxation of expenses", Cycle of Research Seminars, CeBER - Centre for Business and Economics Research, Coimbra University, Nov.

DINIS, A. (2018). "A tributação autónoma das sociedades em Portugal – estudo exploratório sobre a perceção dos contabilistas certificados", 5th EADGE – PhD in Management´ Students Meeting, Faculty of Economics, University of Coimbra, April.

1.3. Research questions

In order to achieve the above-mentioned objectives, some specific research questions were defined.

ATE and its progressive enlargement imply, on the one hand, that CIT has been slowly, but inexorably, losing its sole purpose of taxing profits, and imposing a tax penalty on an increasing set of expenses. On the other hand, the growing number of expenses subjected to taxation leads some authors to ponder if the Portuguese corporate tax regime is losing attractiveness.

By increasing ATE's scope, the effective rate tends to move upwards, countering reductions in the statutory rate.

Moreover, ATE will increasingly influence managers' daily decisions, given the set of expenses targeted by autonomous taxes.

Thus, the purpose of chapter 2 is to discuss the following research questions:

i)   is the Portuguese corporate income tax losing its internal consistency by extending the autonomous taxation of expenses?

ii)   are receipts derived from autonomous taxes so relevant that what began as an exception is gradually becoming a permanent feature of the income tax?

iii)   what are the constitutional issues raised by the existence of ATE?

iv)   is Portugal an international outlier, in applying this type of taxation to corporate expenses?

Additionally, by taxing of an expanding set of corporate expenses, ATE has caused many conflicts between the Portuguese tax authority and taxpayers. Many of these conflicts emerged from the legal interpretation of ATE's clauses, while others derived from frequent, and difficult to apply, legislative changes.

Therefore, the purpose of chapter 3 is to focus on the following research question:

v)   does the recent evolution of the rules on ATE show an efficient process of making and interpreting tax law in Portugal?

The aim of this study is to analyse the process of making and changing ATE's rules, as well as to study how interpretative complexity increases conflicts between tax authorities and taxpayers.

Regarding ATE's legal rules, the process recently observed in Portugal was not managed in the best way, leaving a significant number of difficulties to be solved by courts. The change in ATE's legal framework could have been more carefully managed, avoiding costly and time-consuming disputes, in order to minimize compliance costs.

Chapter 4 aims to explore empirical evidence regarding the legal and economic consequences of ATE, through the perceptions of CAs (that deal with ATE issues on a regular basis).

To evaluate ATE tax perceptions, the following research questions are selected:

vi)   what are the perceived tax dimensions of ATE by Portuguese CAs?

vii)   is ATE too complex to apply?

viii)   what is the main role of ATE in the process of tax compliance?

ix)   is ATE subject to tax planning?

1.4.   Methodological issues and contributions

The methodology used in chapter 2 is legal and normative analysis, complemented with the analysis of the Portuguese case (van Hoecke, 2011). The interpretation of legal texts and the ratio *legis* discussion (hermeneutical side), the evaluation of advantages and disadvantages of ATE (argumentative approach) and the use of aggregated statistical data to gauge an impression of ATE' impact on global tax receipts (empirical side) will be used jointly to analyse the topic.

Thus, chapter 2 presents the discussion of a Portuguese particular feature of corporate taxation and can highlight useful policy points to a broader audience. Many OECD countries face a dire situation in public finances. Therefore, given the pressure to increase tax receipts, ATE can be a case study on how an (albeit distortive) solution is being applied in an EU country to significantly enhance corporate-related tax revenue.

As said, many conflicts between taxpayers and tax authorities emerged from the legal interpretation of ATE's clauses, displaying unnecessary tax complexity.

In this sense, the methodology used in chapter 3 is a mix of the legal research method (Chynoweth, 2008), namely, doctrinal methodology, with an analysis of jurisprudential and arbitration trends in ATE litigation rulings, blended with the case study analysis of ATE in Portugal. Chapter 3 shows that Portuguese experience is a lesson on how to improve tax law-making processes, avoiding time and costs for business, tax authorities and courts. Moreover, arbitration as a way of solving tax disputes has been gaining ground in Portugal. In this respect, chapter 3 also contributes to a better perception of the tax arbitration scenario in a European Union country. It is also important for the

accounting profession, whose members have often to deal with tax topics and the interpretative complexities they originate.

Following that line of enquiry, the work in chapter 4 was developed using an empirical study, using a sample of 665 surveyed Portuguese CAs. To investigate ATE dimensions perceived by Portuguese CAs, first, an Exploratory and a Confirmatory Factor Analysis (Kline, 2011) was applied. Secondly, the determinants related to Portuguese CA perceptions regarding the ATE role in tax compliance were identified. Finally, to test the research hypotheses, a bivariate (Kendall, 1955; Spearman, 1904) and a cluster analysis (Given, 2008) based on sociodemographic characteristics of CAs were applied.

Chapter 4 offers evidence regarding the legal and economic consequences of ATE through the perceptions of experts dealing with a particular type of business tax. For instance, Portuguese CAs have significant knowledge of ATE complexity and of ATE tax planning, poorer knowledge of ATE tax compliance and considerable knowledge of ATE SMEs tax compliance. The results are relevant to policymakers, tax authorities, accountants and the corporate business sector since it introduces a new issue on the future of business tax policy debate.

References

Bartelsman, E. J., & Beetsma, R. (2003). Why pay more? Corporate tax avoidance through transfer pricing in OECD countries. *Journal of Public Economics*, *87*(9-10), 2225–2252.

Brys, B., & Heady, C. (2007). Fundamental reform of corporate income tax in OECD countries, *33*(0), 1–30.

Chynoweth, P. (2008). Legal Research. In *Advanced Research Methods in the Built Environment* (pp. 27-38 (256)). Oxford: Blackwell Publishing Ltd.

Devereux, M. P., & Loretz, S. (2013). What Do We Know About Corporate Tax Competition? *National Tax Journal*, *66*(3), 745–774.

Devereux, M. P., & Sørensen, P. B. (2006). *The Corporate Income Tax: international trends and options for fundamental reform. Economic Papers*. Directorate-General for Economic and Financial Affairs: European Commission, 1-62.

Given, L. M. (2008). *The Sage encyclopedia of qualitative research methods. Volumes 1 & 2*. London: Sage Publications Ltd.

Graham, J. R., Hanlon, M., Shevlin, T., & Shroff, N. (2014). Incentives for Tax Planning and Avoidance: Evidence from the field. *Accounting Review*, *89*(3), 991–1023.

Hristu-Varsakelis, D., Karagianni, S., & Saraidaris, A. (2011). Equilibrium conditions in corporate tax competition and Foreign Direct Investment flows. *Economic Modelling*, *28*(1–2), 13–21.

Kawano, L., & Slemrod, J. (2016). How do corporate tax bases change when corporate tax rates change? With implications for the tax rate elasticity of corporate tax revenues. *International Tax and Public Finance*, *23*(3), 401–433.

Kendall, M.G., (1955). *Rank Correlation Methods*. New York: Hafner Publishing Co.

Kline, R. B. (2011). *Principles and practice of structural equation modeling*. 3rd edition New York: Guilford Press.

Nabais, J. (2013). A determinação da matéria tributável no IRC. *Revista de Finanças Públicas, Tributação e Desenvolvimento*, 1(1), 1–25.

Osterloh, S., & Heinemann, F. (2013). The political economy of corporate tax harmonization - Why do European politicians (dis)like minimum tax rates? *European Journal of Political Economy*, *29*, 18–37.

Quak, E. (2018). *The impact of international tax competition on low and middle-income countries*. K4D Helpdesk Report. Brighton, UK: Institute of Development Studies.

Razin, A., & Slemrod, J. (2008). *Taxation in the Global Economy*. National Bureau of Economic Research Books, University of Chicago Press, number 9780226705880, October.

Sanches, J. L. S. (2007). *Manual de Direito Fiscal*, Coimbra Editora., Coimbra.

Slemrod, J. (2018). Is This Tax Reform, or Just Confusion? *Journal of Economic Perspectives*, *32*(4), 73–96.

Slemrod, J. (2004). Are corporate tax rates, or countries, converging? *Journal of Public Economics*, *88*(6), 1169–1186.

Santos, A. C., & Palma, C. C. (2013). Confiança legítima e da não retroatividade das normas tributárias em tempos de crise: o caso português. *Revista Do Instituto Do Direito Brasileiro*, *2, nº 4*, 3147–3182.

Spearman, C. (1904). The Proof and Measurement of Association between Two Things. *The American Journal of Psychology*, 15(1), 72-101.

van Hoecke; Mark (2011). *Methodologies of legal research*. Oxford and Portland, Hart Publishing.

Chapter 2: A special feature of corporate income taxation in Portugal: the autonomous taxation of expenses

2.1. Introduction

The analysis of the corporate income tax (CIT), especially in OECD countries, has mainly focused on global trends, such as the evolution of statutory and effective tax rates or the fight against international tax evasion (Brys & Heady, 2007; Richardson, 2006; Bartelsmann & Beetsma, 2003).

Research at US public policy centres (Diamond & Zodrow 2013), the Mirrlees report (Mirrlees *et al.*, 2011), and efforts currently underway in the EU (Osterloh & Hienemann, 2013; European Commission, 2011) have highlighted the critical points that corporate tax policy in an international setting must deal with.

Devereux *et al.* (2002) argue that the corporate tax debate focuses primarily on four main concerns: how to maintain tax revenue levels, what are the most effective measures to attract investment, how to decrease distortions induced by corporate taxation and how to reduce complexity under the CIT.

Empirical work, such as Fochmann *et al.* (2012), Hristu-Varsakelis *et al.* (2011) and Slemrod (2004) discuss the relationship between globalization and tax policy, emphasizing that capital flows´ liberalization made corporate taxation a factor of great importance in the competition to attract investment.

Portugal has introduced a CIT, in its modern configuration, in 1989. Several subsequent modifications, induced by global trends and, particularly, by the country´s membership of EU made the CIT very similar to what is observed in most European countries. To name a few, features like the participation exemption regime, incentives to R&D by favouring intangibles, restrictions to interest deduction following thin capitalization rules and the introduction of several anti-abuse clauses, brought a high degree of similarity with the Portuguese main trading partners and potential investors.

However, one special feature of the Portuguese CIT stands out: the existence of autonomous taxation.

That means using some recorded expenses as a tax base, within the CIT Code.

Autonomous taxation of expenses (hereafter, "ATE") has been a contentious issue and has generated controversy among authors. The concept of "autonomous taxation" was created by Decree-Law No. 192/1990, outside the CIT Code[2]. Subsequently, Law 30-G/2000 extended the reach of ATE and placed it into the CIT Code. Currently, in 2019, the following expenses are subjected to ATE: non-documented costs[3], vehicle-related expenses[4]; entertainment expenses[5]; profits distributed to tax-exempt entities[6]; compensation paid to managers[7]; allowances and compensation for use of employee's´ own vehicles[8] and payments to entities located in tax favoured territories[9].

---

[2] Although there was an "extraordinary tax on certain corporate expenses", approved by Decree-Law N. º 119-A / 83 of February 28, 1983, justified with a view to obtaining the necessary revenues, in the most equitable way possible, and as an instrument to fight tax evasion.

[3] Non - document costs are the expenses or costs without any document that support them, such as an invoice. In 1990, when ATE were introduced in Portuguese tax system, non-document costs were called as confidential expenses, which means the expenses that business taxpayer doesn't want to specify or show in their accountability.

[4] Vehicle related expenses include some expenses related with individual vehicles, which are used for commercial purpose, such as: depreciation, rents or leasing, insurance, maintenance and repair, fuel and taxes related to ownership or use. The purpose of Portuguese policy maker was to tax some expenses related to owns vehicles which their use does not finish for business purpose.

[5] Entertainment expenses include all representation expenses, such as: receptions, meals, trips, and parties offered to clients, suppliers or to any other persons.

[6] Portuguese ATE taxes profits distributed to tax exempt entities, which means profits or dividends distributed by business which are in a special or privileged tax regime usually with low taxation. In this case, ATE works as an anti-abuse tax measure.

[7] Expenses incurred with the payment of compensations for final contract are under autonomous taxation when such compensation is not related to the achievement of a productivity target previously defined in the labor contracts. In this case, ATE also include expenses relating to bonus and other variable remuneration paid to managers and

The ATE and its progressive enlargement imply, on the one hand, that the CIT has been slowly but inexorably, losing its sole purpose of taxing profits, and imposing a tax penalty on an increasing set of accounting expenses. On the other hand, the growing number of expenses subjected to taxation leads some authors to ponder if the Portuguese tax regime is losing attractiveness. By increasing ATE´s scope, the effective tax rate tends to move upwards, countering reductions in the statutory rate. Finally, the tax law will increasingly influence managers´ daily decisions, given the set of expenses targeted by autonomous taxes.

In this context, the purpose of this chapter is to address the following research topics: is the Portuguese CIT losing its internal consistency by extending the ATE? Are tax revenues derived from autonomous taxes so relevant that what began as an exception is gradually becoming a permanent feature of the CIT? Given the constitutional principle that corporate taxation should be fundamentally based on income, is the taxation of expenses unconstitutional? Is Portugal an international outlier, in applying this type of taxation?

The chapter is structured into seven sections. Section 2 offers a literature review. Section 3 deals with methodology. Section 4 shows the economic relevance of the CIT, focusing on its contribution to tax revenues. Section 5, the core of the chapter, exhibits legislative developments, focusing on the evolution of tax base and tax rates that characterize ATE, presents data on its contribution to total CIT inflows, discusses ATE´s impact in CIT internal consistency and analyses its conformity with constitutional principles underlining corporate

---

administrators, which are taxed when they represent an amount exceeding 25% of annual salary and have a value exceeding € 27.500. Here, ATE works as an anti-abuse tax measure.

[8] Allowances and travelling costs incurred by the employees, using own vehicles, for commercial purposes, and not charged directly to business customers.

[9] ATE applies to amounts paid or due to individuals or companies' resident outside Portuguese country and subject to a more favorable tax regime. Also, in this case ATE works as an anti-abuse tax measure, which purpose is to fight business tax evasion behavior.

taxation. Section 6 offers an international comparative perspective. Section 7 concludes.

2.2. Literature review

The corporate income tax is levied on a surplus, equal to revenues minus expenses. Thus, the use of expenses as a significant tax base, in the context of corporate income taxation, is not regularly observed around the world. Therefore, as far as it is known, there is a relative scarcity of global literature on this topic.

However, given the link between autonomous taxes, the fight against evasion and the difficulty of distinguishing corporate-related costs from peripheral or personal expenses, some broad guidelines from the tax evasion literature can be drawn. Additionally, targeting expenses has, undoubtedly, some impact on management decisions related to the incurred and taxed costs (e.g., the choice of company cars to be acquired can be affected by autonomous taxes on vehicles), and another line of enquiry can be found here.

Mohdali *et al.* (2014) and Fochmann *et al.* (2012) argue that taxpayers develop clear perceptions of the financial consequences of taxation. Management decisions are undoubtedly influenced by tax burdens imposed on firms. According to the traditional theory of tax evasion proposed by Allingham & Sandmo (1972) the degree of compliance is affected by - albeit not only - the threat of punishment.

The Portuguese ATE does not configure some sort of punishment for misreporting tax due or for any criminal offence. Instead, it is a financial penalty imposed on certain types of costs that tax law intends to discourage by overtaxing them. Thus, over-taxation is found to be a proper mechanism to fight evasion by creating an additional burden on expenses that erode the tax base, are seen as dubiously linked to corporate activity and, being recorded as corporate costs, can nonetheless produce personal benefits to managers, shareholders or both and also to employees.

As stated by Isa *et al.* (2014) taxpayers are also quite sensitive to the auditing procedures of tax authorities. Regarding the ATE, potential development in the tax authorities' behaviour is a lax attitude towards these expenses. The aforementioned over-taxation can produce in tax auditors a feeling that ATE is enough to induce a self-control mechanism in the corporate world.

A softer tax auditing could originate more sophisticated economic calculus among taxpayers, balancing the reduced probability of audits and corresponding adjustments, the use of such expenses as a substitute for other corporate policy choices (e.g., dividends) and the comparative tax burden of alternative avenues to take cash out of the corporate structure (e.g., purely personal expenses being paid by firms).

Basto (1998) argues that it is important to understand if ATE has a significant impact on the level of tax compliance of Portuguese companies and reduces tax authorities monitoring role. On the other hand, one must wonder whether ATE is being used for the sole purpose of increasing tax revenues, placing a secondary role in other purported objectives.

Epps & Cleaveland (2009) suggest that specific penalties can increase tax compliance of companies.

It is well known that Portuguese micro and small firms (SMEs) pay almost no CIT. In this light, ATE could perform as an alternative way of taxation. It would impose on a considerable number of firms a minimum tax burden, increasing fairness. As SMEs rarely report profits, taxing expenses would be a proxy for extracting an adequate share of the revenue. However, in the Portuguese case, the so-called "special advanced payment[10]" also performs that function and overlapping of "minimum tax burdens" can result from different layers of taxes.

---

[10] The special advance payment is linked to turnover, and is reimbursable against assessed CIT. A loss-making firm, having paid the special advance payment, faces a definitive tax outflow, working as minimum tax.

The Portuguese tax system is considered complex, volatile and unstable. Lopes (2012) and Soares (2004) claim that frequent law changes, enacted in very short intervals, hamper interpretation and application, introducing high compliance costs as well as encouraging evasive behaviour. Cadilhe (2005) states that public administration is, in general, not very efficient. From this perspective, autonomous taxes could bring tax revenue without much additional auditing or controlling effort, given its automatic nature and the absence of any link to positive taxable income, which is a variable harder to control in a tax auditing setting.

The theoretical justification for the introduction of ATE in the CIT Code is a very contentious issue, having generated intense discussion among authors. Mesquita (2014) states that it renders the CIT an incoherent tax, by inserting a sort of parallel taxation, disconnected from income. Santos & Martins (2009) venture that the expansion of ATE is a serious concern because it goes against fundamental principles of income taxation. However, as will be seen, due to budgetary constraints, a valid alternative for its immediate replacement is not probably insight.

At the international level, taxing expenses in the context of corporate taxation is not a usual policy tool. Thus, besides having a list on non-deductible costs – as regularly found in other countries adopting CIT – Portugal imposes an additional tax penalty on a broad set of expenses, by taxing them autonomously. Based on this study analysis, only Angola and Cape Verde (countries influenced by the Portuguese legal tradition) have an approximate application of the concept of ATE. Similar tools, namely in France and in the United Kingdom, were used as exceptional measures, not as permanent features of CIT, to discourage, by overtaxing, some expenses.

Portugal can be seen as an outlier country in using this policy. To sum up, given the economic and legal issues raised by ATE, it is a topic that merits discussion. As a source of revenue that is relatively insensitive to the economic

cycle, it may have some appeal to policymakers, and similar solutions could be designed based on ATE.

2.3. Methodology

The methodology used in this chapter is a blend of legal research method and case study analysis. According to van Hoecke (2011), the legal research method takes many forms. Here, the so-called evaluative approach is the chosen perspective it is discussed if an apparently anomalous type of rules (inserting ATE in the legal body of CIT) is justified by technical, political or other underlying reasons. Also, how it relates to comparative ways of approaching the complex issue of taxing corporations.

As van Hoecke (2011) argues, the legal research method is often criticized by not making the empirical sciences´ type of generalizations. There are no "general valid principles" derived from legal research, since many problems are, by nature, related to national legal systems and, therefore, proposed solutions are not testable outside a particular territorial or political boundary.

A certain view of science, where only empirically (falsifiable) based research is considered to be the basis of science, is debatable. In the case of legal research, a hermeneutic approach - meaning that documents, texts, and their interpretation can produce important fruits to the development of the field - is a tested and fruitful approach.

Besides being a hermeneutic discipline, it is an argumentative one. By exposing arguments that confirm or deny particular solutions, legal research (e.g.., in criminal, business or administrative law) can influence better legislative choices by political actors.

Finally, legal research can have an empirical sense. A legal proposition can, in many contexts, be tested with standard statistical methods. In some cases, the thorny question is access to data. This is often observed in tax law studies, where governmental bodies (such as the tax authorities) have a huge amount of

data, but its accession is constrained by law or bureaucratic secrecy (Kleinbard, 2015).

Turning to the issue, the goal is to discuss the research questions identified in the chapter.

Thus, the interpretation of legal texts and the *ratio legis* discussion (hermeneutical side), the evaluation of advantages and disadvantages of autonomous taxes (argumentative approach) and the use of aggregated statistical data to gauge an impression of ATE´s impact in global tax revenue (empirical side) will, jointly, be used to analyse the topic proposed.

On the other hand, the case study method has been used in many research areas (Scholz & Tietje, 2002).

It is an extremely useful tool in responding to questions such as "how" or "why" when knowledge about an issue is reduced. It is considered an appropriate tool to increase knowledge about a certain problem, contributing to its understanding and, ultimately, for making better decisions.

Considering the aim of this study, the discussion of a Portuguese particular feature of corporate taxation can highlight useful policy points to a broader audience. Many OECD countries face a dire situation in public finances. Therefore, given the pressure to increase tax revenues, the ATE can be a case study on how an (albeit distortive) solution is being applied in an EU country to significantly enhance corporate-related tax revenue.

2.4.   Corporate taxation and its importance as a source of tax revenue

Before facing the set of research questions outlined in this chapter, it is important to understand CIT´s relevance in Portugal and other OECD countries. Its contribution to total revenue in the face of trends of rate reduction and the shrinking of tax bases resulting from the economic and financial crisis are important issues to be addressed.

Brys *et al.* (2011) analysed cuts in statutory taxes rates introduced by reforms in several OECD countries and concluded that they did not lead to a drop in tax burdens, evaluated by the tax ratio, which measures tax revenues in relation to the Gross domestic product (GDP).

According to Bilicka *et al.* (2011) rate reduction is linked to tax competitiveness. Reduction of corporate tax rates can imply a mild loss of revenue, constraining governments´ policy options.

The rate reduction is, in many cases, accompanied by broadening the tax base.

Measures such as restricting depreciation schedules or scaling back investment tax credits can compensate for the loss of revenue that follows rate reductions (Kleinbard, 2015).

Table 2.1 presents data from 2007 to 2017 on the evolution of the level of tax revenue, as a percentage of GDP, among the several OECD countries.

Table 2.1 - Evolution of tax ratio in selected OECD countries

(*in the percentage of GDP*)

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Austria	40.50	41.40	41.00	40.80	41.00	41.70	42.50	42.80	43.50	42.23	41.77
Belgium	42.70	43.30	42.40	42.60	43.10	44.20	45.00	45.00	44.80	44.08	44.60
Denmark	46.40	44.90	45.20	45.10	45.10	45.80	46.80	49.60	46.60	46.19	45.98
Finland	41.50	41.20	40.90	40.80	42.00	42.70	43.60	43.80	44.00	44.02	43.34
France	42.40	42.20	41.30	42.00	43.20	44.30	45.20	45.50	45.50	45.46	46.23
Germany	34.90	35.40	36.10	35.00	35.70	36.30	36.40	36.60	36.90	37.43	37.54
Greece	31.20	31.00	30.90	32.20	33.70	35.50	35.60	35.80	36.80	38.84	39.39
Ireland	30.40	28.50	27.40	27.10	27.10	27.50	28.20	28.70	23.60	23.33	22.84
Italy	41.70	41.70	42.10	41.90	41.90	43.90	44.00	43.70	43.30	42.61	42.39
Luxembourg	36.50	37.10	38.90	38.00	37.90	38.80	38.10	38.40	37.00	38.15	38.65
Netherlands	36.00	36.40	35.40	36.10	35.90	36.00	36.50	37.50	37.80	38.40	38.75
Portugal	31.80	31.70	29.90	30.40	32.30	31.80	34.10	34.20	34.50	34.32	34.71
Spain	36.50	32.30	30.00	31.50	31.40	32.40	33.30	33.80	33.80	33.19	33.66
Sweden	45.00	44.00	44.10	43.20	42.50	42.60	42.90	42.80	43.30	44.04	43.96
United Kingdom	33.00	33.00	31.50	32.50	33.40	32.70	32.50	32.10	32.50	32.73	33.26
OECD Average	**33.80**	**33.20**	**32.40**	**32.60**	**33.00**	**33.40**	**33.80**	**34.20**	**34.30**	**34.03**	**34.19**

Source: OECD (2019), *Tax revenue* (indicator). Available at: https://www.oecd-ilibrary.org/taxation/tax-revenue/indicator/english_d98b8cf5-en

It stands out that 2009 was a difficult year, mainly for Portugal, Spain, and Greece. A sharp drop in tax revenues is observed, and growing public deficits combined with high leverage in the banking, corporate and family sectors induced financial assistance programs that, in the case of Spain, were directed to the banking system. Nonetheless, in 2013 the level of tax revenues had recovered

(Ireland, Spain, and the UK being the exception), due to increases in the overall tax pressure in mentioned countries.

Table 2.2 presents data on the evolution of CIT revenues. Due to its pro-cyclical nature, a sharper drop was expected. Not only in 2009 but given that loss carryover rules are a usual feature of CIT, the subsequent years are negatively affected by heavy losses many firms recorded in 2009.

Table 2.2 - Corporate tax revenues in selected OECD countries

(in the percentage of GDP)

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Austria	2.35	2.38	1.64	1.87	2.00	2.01	2.16	2.12	2.26	2.37	2.47
Belgium	3.41	3.27	2.33	2.53	2.82	3.00	3.11	3.22	3.39	3.46	4.14
Denmark	3.14	2.55	1.91	2.27	2.19	2.62	2.76	2.65	2.64	2.69	3.04
Finland	3.73	3.34	1.93	2.44	2.62	2.11	2.36	1.93	2.17	2.22	2.74
France	2.89	2.84	1.43	2.34	2.63	2.59	2.64	2.32	2.11	2.04	2.35
Germany	2.18	1.89	1.32	1.49	1.68	1.72	1.79	1.74	1.74	1.96	2.01
Greece	2.45	2.43	2.51	2.53	2.07	1.09	1.15	1.88	2.15	2.51	n.a.
Ireland	3.24	2.70	2.29	2.36	2.17	2.26	2.37	2.39	2.69	2.69	2.79
Italy	3.14	2.93	2.38	2.29	2.19	2.39	2.57	2.19	2.06	2.15	2.10
Luxembourg	5.38	5.32	5.72	5.85	5.09	5.18	4.75	4.38	4.38	4.64	5.24
Netherlands	3.43	3.31	2.15	2.31	2.19	2.12	2.18	2.58	2.72	3.35	3.28
Portugal	3.46	3.51	2.75	2.73	3.13	2.75	3.26	2.84	3.16	3.06	3.25
Spain	4.72	2.85	2.32	1.94	1.87	2.20	2.15	2.07	2.42	2.25	2.31
Sweden	3.52	2.82	2.83	3.29	3.09	2.57	2.65	2.71	2.99	2.74	2.63
United Kingdom	3.12	3.30	2.55	2.84	2.87	2.66	2.51	2.40	2.45	2.66	2.77
OECD - Average)	**3.65**	**3.33**	**2.69**	**2.74**	**2.86**	**2.87**	**2.86**	**2.81**	**2.65**	**2.78**	**n.a**

Source: OECD (2019), *Tax on corporate profits* (indicator). Available at: https://www.oecd-ilibrary.org/taxation/revenue-statistics_2522770x

The impact of the economic crisis on tax revenues was higher in Spain, where revenues from taxing corporate income declined from 4.8% in 2007 to around 2% in 2013.

In Portugal, a significant decrease is observed in 2009, but recover in CIT revenues follows and, in 2013, it has almost reached pre-crisis levels.

Nabais (2013) states that ATE helps to explain why the tax revenues decrease was not as sharp as in other countries. This is another important reason why the role of ATE in the Portuguese system merits discussion.

2.5. The autonomous taxation in Portuguese tax system: legislative developments, quantitative analysis and legal discussion

2.5.1. Legislative developments: a synthesis

Before entering the economic and legal analysis of ATE it is necessary to present its normative evolution. As will be seen, a progressive extension of the tax base (by including an ever-increasing number of expenses) is detectable.

As mentioned earlier, the ATE was established at an early stage, by Decree-Law No. 192/1990. At that time, it was not formally inserted in the CIT. Only in 2000, by Law 30-G/2000, was Article 69-A added to the CIT, condensing rules related to ATE.

The ATE was initially levied only on confidential or undocumented expenses. In 1990, the tax rate on these expenses was 10%. Nowadays, it is around 50%, showing a strong increase.

A complete reference to all legislative developments observed between 1990 and 2019 would not only be extremely tedious for the reader to follow but would also render this section quite complex to organize by introducing an excessive number of legal details. Thus, in tables 2.3 and 2.4, the present situation (2019) of ATE´s legal focus is presented. The point worth stressing is a very significant increase in ATE´s taxable base and, also, applied tax rates.

Certain expenses incurred by entities subject to CIT are subject to ATE at the rates shown in table 2.3.

Table 2.3 - Targeted expenses and Portuguese tax rates in ATE, 2019

Expenses	Tax rate (%)
Expenses related to particular or individual vehicles, commercial vehicles, and motorcycles (*see also table 2.4*)	10 / 27.5 / 35
Representation expenses	10
Non-documented expenses	50 / 70
Payments made to entities resident in low tax jurisdictions	35 / 55
Allowances and travelling costs, incurred by employees, using own vehicles, not charged to customers	5
Costs with compensation of damages resulting from contract termination of managers or board members	35
Costs with bonus and other variable remunerations paid to managers	35
Profits distributed to entities wholly or partially exempted from CIT	23

Table 2.3 confirms the extension of ATE as well as the diversity of tax rates (from 5% to 70%). Moreover, the tax rates can increase by more 10 percentage points if a Portuguese business suffers tax losses, originating ATE rates of 80% of eligible expenses. From a single type of expenses in 1990, it grew to encompass a significant number of corporate recorded costs in 2019. The continuous increase in ATE revenues, presented in the next section, is a logical consequence of base broadening. Bearing in mind that, in 2019, the statutory CIT is 21%, the large majority of tax rates in table 2.3 are quite onerous, imposing a considerable tax burden to the expense base subjected to autonomous taxes.

Additionally, and from a tax management perspective, ATE has been used as an environmental tax policy tool on vehicle acquisition decisions. In fact, from January 2015, the ATE rates applied to expenses related to passenger vehicles, commercial vehicles and motorcycles are the following (Table 2.4):

Table 2.4 - Tax rates of ATE for vehicles´ related expenses, in 2019

Autonomous taxation	Plug-in Hybrids	LPG or VNG	Others
Acquisition price lower than € 25,000	5%	7.5%	10%
Acquisition price between € 25,000 and € 35,000	10%	15%	27.5%
Acquisition price equal or higher than € 35,000	17.5%	27.5%	35%

In conclusion, management decisions, such as when to incur in non-documented expenses (that could be on the borderline of licit and illicit costs), to pay dividends to some particular entities, to support recreational expenses (again on the frontier between true corporate costs and personal benefits) or to choices based on asset acquisition prices, were clearly affected by an important tax and financial factor: ATE.

2.5.2. Extending the autonomous taxation of expenses and its impact on tax revenues: an indispensable source of revenue?

Table 2.5 exhibits data on the evolution of revenues from the "assessed CIT" (that is, the regular income tax charged on companies´ taxable profits) and also form the ATE.

Table 2.5 - CIT and autonomous taxation revenues – Portugal (2005-2017)

(in EUR million)

Year	2005	2007	2009	2011	2012	2014	2015	2017
Assessed CIT	3.103	4.504	3.846	3.132	3.224	3.673	3.733	4.543
Assessed CIT yearly Variation	-	+19%	-6%	-6%	+3%	+7%	+2%	+6%
Autonomous taxation (ATE)	198	220	371	534	491	551	507	510
ATE / Assessed CIT Revenue	6.4%	4.9%	9.6%	17%	15.2%	15%	13.6%	11.2%

Source: Adapted: AT http://info.portaldasfinancas.gov.pt/pt/dgci/divulgacao/estatisticas/estatisticas_ir/

The resilience of ATE revenues stands out, even in 2009 and afterwards. As expected, the CIT shows a sharp drop after 2007; but ATE grows from representing 6.4% of assessed CIT, in 2005, to 17%, in 2011. In 2017, recover in CIT revenues follows, reaching pre-crisis levels and ATE, representing 11.2% of assessed CIT, reaches the value of EURO 510 million.

Thus, tax policy directed to the corporate sector that starts from the premise that ATE is a "tax anomaly" and should be eliminated has to ponder how to replace such a relevant source of revenue. Changing depreciation schedules or reducing tax benefits are examples of potential avenues, but they will originate fierce resistance from taxpayers.

Additionally, as stated in the *Report of the Commission for the CIT Reform* (2013), SMEs represent more than 99% of the Portuguese business sector. In 2011, 74% of the almost 420.000 existing companies did not pay CIT[11]. ATE is thus a type of tax burden seen as a proxy for countering evasive behaviour that is thought to happen is this business segment. Therefore,

---

[11] In 2017, 63 per cent of the more 475.000 existing companies did not pay Corporate Income Tax (CIT). See Corporate Tax Statistics at http://info.portaldasfinancas.gov.pt/pt/dgci/divulgacao/estatisticas/Pages/default.aspx.

exploring the role of ATE as a measure to fight tax evasion could be an interesting research line. Given that tax evasion is thought to be significantly linked to the underground economy, table 2.6 presents the evolution of the Non-Observed Economy in Portugal.

Table 2.6 - Non-observed economy (NOE) in Portugal as a % of GDP, 2005-2015

Year	2005	2006	2007	2008	2009	2010	2011	2012	2015
GDP (US dollars/capita)	18.469	19.430	20.466	20.386	19.719	20.551	20.321	20.097	29.685
NOE MIMIC model[12]	19.47%	19.23%	19.07%	19.13%	19.90%	19.60%	19.32%	18.96%	19.30%

Source: OECD (2019), Gross domestic product (GDP) (indicator); The Non-Observed Economy in Portugal: the monetary model and the MIMIC model", Soares and Afonso (2019; 2016)

Nowadays, in Portugal, NOE assumes a constant and high level, around 20 per cent of GDP. However, as seen previously, in table 2.5, the Portuguese corporate tax revenues have not decreased in the last years. Thus, the relation between the ATE and the parallel economy could be a research avenue in the tax compliance level of businesses.

The growing importance of ATE in terms of tax revenues makes its replacement a hard choice. It is quite probable that, for the foreseeable future, what began as an exception in 1990, formally outside the CIT code, is now a structural element of corporate taxation in Portugal.

---

[12] The MIMIC model adds the latest advances in general literature regarding the extension of the Non-Observed Economy (also called Shadow Economy), cit. Adam & Ginsburhg, 1985; Asea, 1996; Giles & Tedds, 2002, in "The Non-Observed Economy in Portugal: the monetary model and the MIMIC model", Soares & Afonso (2016; 2019)

2.5.3. Extending the autonomous taxation of expenses and CIT internal consistency

The question addressed in this section relates to the impact of ATE´s extension in the internal consistency of the CIT. Firstly, let us focus on what can be ventured in defence of ATE.

At the doctrinal level, the justification for ATE is, according to Sanches (2007), based on the fact that the tax system can impose higher rates on certain expenses that must be discouraged. An implicit presumption exists that these expenses do not have a clear business purpose and, therefore, should be subjected to penalty taxes.

The Portuguese jurisprudence (more on this later) generally accepts the idea of discouraging (by overtaxing) corporate practices that may involve situations of "unlawfulness" or "lesser tax transparency".

The Supreme Administrative Court ruled that ATE, being a kind of indirect tax, targets certain recorded costs that reveal tax capacity (or ability to pay). Each expense is a unique autonomous taxable event, to which the taxpayer is subjected, even if at the end of the year no taxable income is earned.

A strong body of doctrine is highly critical of autonomous taxes. A sceptical view posits that when the economic climate is favourable companies have profits and therefore pay taxes. When the economic environment is unfavourable, companies bear losses and should not pay taxes. CIT is – as it should be - a cyclical tax. That does not happen with the ATE because companies pay taxes regardless of whether they had profits or losses. Table 2.5 leaves no doubt about this feature of taxing costs.

This line of reasoning also states that the usual solution, found in the vast majority of countries adopting the CIT, is that the proper way of penalizing some expenses is by denying tax deductibility. That is, they represent accounting costs but not tax-deductible charges because they are deemed not entirely related to corporate activity.

Nabais (2013) argues that the CIT is slowly, but gradually, losing some of its typical characteristics, such as being a tax on corporate income or surplus. The increasing of ATE scope implies a tax on the companies´ activities, disconnected form profit-making.

Martins (2013) ventures that ATE implies a deviation from the principles underlying the taxation of income. Expenses, which are subtractive elements of net income, should not be a tax base in the sphere of income taxation.

Cunha (2007) argues that there is no real justification for ATE since it has nothing to do with the income tax system.

Santos (2003) discusses whether ATE can lead to a constitutional problem, because it deviates from the principle of ability to pay, given that Article 104 of the Constitution states that firms must be *fundamentally* taxed on real income.

Silva (2015) and Santos & Palma (2013) sustain that, in times of economic crisis, the increasing number of ATE induces a rise in the corporate tax burden, eventually enhancing tax evasion and fraud.

Doubts about the insertion of ATE legal commands in the CIT Code also abound. Are autonomous expenses formally a component of CIT? Can tax benefits be deducted against "Assessed autonomous taxes"? Or, albeit formally inserted in the CIT Code, are they a *specific legal species*, without an economic and formal link to CIT? Several litigation cases followed from such thorny questions. Judges must grapple with highly complex legal issues because ATE is filled and paid in the same tax return of the CIT; but, formally, ATE is not "assessed income tax".

It would not go so far as to argue that the Portuguese CIT has already lost its internal consistency because of ATE. However, the danger exists that, as a relatively certain source of revenue, the expense base to which they are applied could be extended. At a certain point, the CIT could clearly become a dual tax. That is, part of it will be a tax on profits, and a highly significant portion of CIT related revenue will be drawn from ATE. The dividing line is not clear cut but, at

least, the ATE base should not be increased. In the future, its reduction should be considered, while pondering alternative sources of revenue.

2.5.4. Is autonomous taxation of expenses constitutional?

The Portuguese Constitution, in its articles 103 (the Tax system) and 104 (Taxes), establishes the general rules that Portuguese tax legislators must follow. Two general principles are of significant relevance to this analysis. Firstly, Article 103 states that the tax system has two purposes: generating revenues to support public expenditures and contributing to a fair distribution of income and wealth. Article 104 establishes that income, consumption and wealth are the legal admissible tax bases.

More specifically, article 104, § 2, states the corporate taxation will be *fundamentally* based on its real income. ("real" meaning that the tax base cannot be an arbitrarily presumed income).

Thus, given this set of constitutional rules, and the fact the CIT Code has included the ATE, is it a violation of the "real income" principle, as far as corporations are concerned? This special type of taxes target expenses or costs, not income. In this light, how have Portuguese courts, in particular, the Constitutional Court, decided when confronted with legal questions related to ATE?

Rulings of the Constitutional Court on the ATE are not directly related to the questions of their admissibility, given what is established in article 104, § 2. However, in several rulings[13], related to the consequences of changing tax law in mid-year and its consequent forward-looking or retrospective nature, the Court dealt with the nature of autonomous taxes. Based on these rulings, it can be concluded that this tax solution was not deemed unconstitutional.

---

[13] Se, for example, Ruling 18/2011, Process 202/2010, 12 January 2011; and Ruling 310/2012; Process 150/12, 20 June 2012

In Ruling 18/2001 the Court states that autonomous taxes aim at fighting tax evasion. Additionally, the Court ruled that some taxed expenses are a substitute for (non-taxed) income received by third parties (e.g., a non-documented expense of a company could be linked to the income of other entities who did not properly record revenues) and ATE can contribute to a fairer distribution of the tax burden.

This last purpose means that as many small firms persistently exhibit negative accounting and taxable income, the ATE would work as minimum tax, increasing the system´s level of fairness. Article 103 of the Constitution would be a legal anchor to base the ATE of some types of expenses, particularly the ones at the frontier between corporate and personal domain, or with a blurred nature (e.g.., vehicle expenses).

On the other hand, there is a doctrinal discussion about the ATE being characterized as a tax on consumption. The argument goes as follows: the ability to pay in the ATE of expenses is not revealed by income, but by the realization of expenses, which means corporate consumption of goods or services.

A dissenting opinion from one judge in Ruling 18/2011 follows this line of reasoning. This argument also sustains that the nature of income taxation is linked to a regular economic flow that can be only revealed at the end of the economic period (usually the tax year). Contrarily, ATE originates in every single economic decision to bear these expenses. Income taxation is global or unitary, waiting for the end of the economic period to compute the taxable base derived from total operations. Taxation of expenses is specific and consumption-oriented, given that every expense originates the consequent taxation.

However, some authors highlight the fact that consumption taxes (like the Value Added Tax (VAT) or excise taxes) have an economic consequence: the tax is a part of the final price paid by the consumer. This is not the case with ATE, and it would preclude its classification as taxation of expenses or consumption.

In Ruling 310/2012 the Court stated, again, that at least in some cases the ATE tries to go beyond the veil of certain economic decisions (e.g.,

camouflaging profit distributions with non-documented expenses, or personal expenses supported by firms). In the same Ruling, the Court states that ATE works as if there is a presumption that some expenses have a non-corporate or business cause and should be discouraged by severe taxation.

It can be concluded that the Portuguese Constitutional Court values the increase in fairness and the fight against tax evasion as acceptable reasons for the insertion of ATE within the CIT Code. Also, the wording of article 104 (*fundamentally*, but not "exclusively" based...) gives the Court some leeway in admitting some deviations from real income as the sole tax base, when other equally important tax principles (such as "tax equity") are at stake.

In the case of ATE, it is noted that all business pays the same tax rate independently of its size. It seems that this means that ATE implies a regressive burden to small businesses. However, firms can use available tax mechanisms to reduce the burden of ATE. On the one hand, micro-companies, in Portugal, can apply the simplified tax regime in order to diminish ATE. On the other hand, big companies, with aggressive tax planning, can use some ways in order to reduce the burden of ATE incurred, using, for instance, permanent establishments, in other countries, without ATE. Thus, in the next section, a brief international overview of ATE of expenses will be presented.

2.6. Taxation of expenses: a brief international perspective

As briefly stated at the beginning of this chapter, Portugal is an outlier when it comes to ATE. No other OECD country has a similar source of revenue. In many countries, as already mentioned, the usual penalizing policy is to define a set of non-deductible accounting expenses. However, in some Portuguese speaking countries, ATE has been introduced. Also, France and the UK used an approach similar to the ATE to target some corporate expenses.

2.6.1. Angola and Cape Verde

In Angola, Law No. 19/2014 modified the Industrial Tax (the local CIT). An ATE regime came into force on January 1st, 2017 [14]. Even so, the Angolan ATE´s base is narrower than the Portuguese one.

Until 2019, in the Angolan CIT, improperly documented costs (when the supporting documentation only identifies the purchaser) were charged a 2% autonomous tax rate. Undocumented costs (when there is no valid supporting documentation), had bear a 4% tax [15]. Currently, only costs incurred for private expenses (when there is no valid supporting documentation and that their nature is not materially verifiable) have to bear a rate of 30% - increased to 50% if the taxpayer is exempt or not subject to taxation. Donations breaching rules established by the Patronage Law are taxed at a rate of 15%.

More similar to the Portuguese solution, and in accordance with Law 82/VIII/2015, which enacted the new CIT Code in Cape Verde, several autonomous tax rates were established.

Thus, non-documented expenses bear a 40% tax rate; costs related to passenger vehicles, bikes and motorcycles, representation expenses and allowances and compensation for use of workers' own vehicle are imposed a tax rate of 10%; representation expenses are charged with a 10%; allowances and travelling costs, incurred by the employees, using own vehicles, not charged to clients are taxed by a 10% rate, some fringe benefits (e.g.., in-kind remuneration) are taxed at 10%. Finally, payments made to entities resident in low tax jurisdictions bear a 60% rate.

---

[14] Amended by Law No 4/19 of 18 April.

[15] Under the new law, autonomous tax rates on improperly documented costs and undocumented costs were eliminated.

2.6.2. France and the UK

France and the UK have enacted measures, similar to ATE, targeting managers, directors and administrator's compensation packages. But, differently, from Portugal, they were treated as temporary measures.

In France, through the publication of Decree No. 2010-217, a 50% tax rate was introduced applicable to bonuses higher than 27.500€. The main difference, compared to Portugal, was that the measure was applied retroactively to all payments made during 2009, and the tax was due in April 2010.

In the UK, by the Finance Act 2010, a 50% tax rate was imposed in the form of "bank payroll tax" (BPT), with reference to all forms of compensation and benefits paid to directors (and some workers develop a "regulated activity"), except for the "excluded remuneration".

The bank payroll was a one-off tax. It comprised a rate of 50% applied to bank bonuses exceeding £25,000 and charged to the employing company. It was in force in the period between December 9, 2009, and April 5, 2010.

2.7. Conclusions

The ATE of certain corporate expenses is a very special feature of the Portuguese CIT Code. Its implementation has been growing since 1990 when ATE was introduced. Tax rates have also exhibited an upward trend.

The collected revenue from ATE is quite relevant (reaching, in 2017, 11.2% of regular CIT inflows). As such, its elimination would be difficult, in the face of the complex situation of Portuguese public finance and the need to select alternative sources of revenue.

At the doctrinal level, the justification for ATE is usually based on the fact that a higher rate of taxation can be imposed on certain special situations that must be discouraged. An implicit presumption exists that these expenses do not have a clear business purpose and, therefore, can be subjected to penalty taxes.

CIT is as a cyclical tax, which does not happen with the ATE since companies pay autonomous taxes regardless of whether have profits or losses. Thus, exploring the role of ATE, as a measure to fight tax evasion, could be an interesting research line, in the context of business tax compliance.

It would not go so far as to argue that the Portuguese CIT has lost its internal consistency because of ATE. However, the danger exists that, as a relatively certain source of revenue, the expense base to which they are applied could be extended. At a certain point, the CIT will have an overextended dual tax base.

The Portuguese Constitutional Court stresses the increase in fairness and the fight against tax evasion as acceptable reasons for the insertion of ATE within the CIT Code. Also, the wording of article 104 (fundamentally based...) gives the Court some leeway in admitting some deviations of real income as the sole tax base, when other equally important tax principles (equity) are at stake.

Portugal is an outlier when it comes to ATE. No other OECD country has a similar source of revenue. However, in some Portuguese speaking countries, ATE has recently been introduced.

References

Allingham, M., & Sandmo, A. (1972). Income Tax Evasion: A theoretical analysis. *Journal of Public Economics*, *1*, 323–338.

Bartelsman, E. J., & Beetsma, R. (2003). Why pay more? Corporate tax avoidance through transfer pricing in OECD countries. *Journal of Public Economics*, *87*(9-10), 2225–2252.

Basto, J. X. De. (1998). As perspectivas actuais de revisão da tributação do rendimento e da tributação do património em Portugal. *Boletim de Ciências Económicas*, *41*, 60-96.

Bilicka, K., Devereux, M., & Fuest, C. (2011). *G20 Corporate tax ranking,* Oxford University, Centre for Business Taxation.

Brys, B., & Heady, C. (2007). Fundamental reform of corporate income tax in OECD countries, *33*(0), 1–30.

Brys, B., Matthews, S., & Owens, J. (2011). *Tax Reform Trends in OECD Countries,* OECD Taxation Working Papers, No. 1, OECD Publishing.

Cadilhe, M. (2005). *O Sobrepeso do Estado em Portugal, Uma proposta de reforma conceitual e administrativa*. Lisboa, FUBU Edições.

Comissão para a Reforma do IRC. (2013). *Relatório Final da Comissão de Reforma do IRC*.; Lisboa, Ministério das Finanças.

Cunha, P. de P. e. (2007). A pseudo-reforma fiscal do final do século XX e o regime simplificado do IRS. *Revista de Finanças Públicas e Direito Fiscal*, 1, pp.15–34.

Devereux, M. P., Griffith, R., & Klemm, A. (2002). Corporate Income Tax reforms and international tax competition. *Economic Policy, CEPR, CES, MSH*, (October), 46.

Diamond J. and Zodrow G. (2013). *The case for corporate income tax reform*. Houston: Rice University Baker Institute for Public Policy.

Epps, K. K., & Catherine Cleaveland, M. (2009). Insiders' perspectives of the effects of recent regulation on corporate taxation. *Research in Accounting Regulation*, *21*(1), 34–47.

European Commission (2011). Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB), Brussels, European Commission, (COM 2011- 12/4)

Fochmann, M., Kiesewetter, D., & Sadrieh, A. (2012). Investment behavior and the biased perception of limited loss deduction in income taxation. *Journal of Economic Behavior and Organization*, *81*(1), 230–242.

Hristu-Varsakelis, D., Karagianni, S., & Saraidaris, A. (2011). Equilibrium conditions in corporate tax competition and Foreign Direct Investment flows. *Economic Modelling*, *28*(1-2), 13–21.

Isa, K. M., Yussof, S. H., & Mohdali, R. (2014). The Role of Tax Agents in Sustaining the Malaysian Tax System. *Procedia - Social and Behavioral Sciences*, *164*(August), 366–371.

Kleinbard E. (2015). *We are better than this.* Oxford: Oxford University Press.

Lopes, Cidália (2012). Compliance Costs of Corporate Income Taxation in Portugal. *International Journal of Economics and Management Sciences (onlineJournal),* Vol. 1 (10), 2012. ISSN: 2162-6359.

Martins, A. (2013). Casino Taxation in Portugal: The Supreme Court and Autonomous Taxes. *Gaming Law Review and Economics*, *17*(3), 195–203.

Mesquita, Maria (2014), *A tributação autónoma no CIRC*. Porto, Universidade Católica, Tese de Mestrado

Mirrlees J., Adam S., Besley T., Blundell R., Bond S., Chote R., Gammie M., Johnson P., Myles G., & Poterba J. (2011), *Tax by design: the Mirrlees Review.* Oxford: Oxford University Press for the Institute for Fiscal Studies.

Mohdali, R., Isa, K., & Yusoff, S. H. (2014). The Impact of Threat of Punishment on Tax Compliance and Non-compliance Attitudes in

Malaysia. *Procedia - Social and Behavioral Sciences*, *164*(August), 291–297.

Nabais, J. (2013). A determinação da matéria tributável no IRC. *Revista de Finanças Públicas, Tributação e Desenvolvimento*, 1–25.

Osterloh, S., & Heinemann, F. (2013). The political economy of corporate tax harmonization - Why do European politicians (dis)like minimum tax rates? *European Journal of Political Economy*, *29*, 18–37.

Richardson, G. (2006). Determinants of tax evasion: A cross-country investigation. *Journal of International Accounting, Auditing and Taxation*, *15*(2), 150–169.

Sanches, J. L. S. (2007). *Manual de Direito Fiscal*. Coimbra: Coimbra Editora.

Santos, A. C., & Martins, A. M. F. (2009). Relatório do Grupo para o Estudo da Política Fiscal: Competitividade, Eficiência e Justiça do Sistema Fiscal. Secretaria de Estado dos Assuntos Fiscais, Lisboa, Ministério das Finanças

Santos, A. C., & Palma, C. C. (2013). Confiança legítima e da não retroatividade das normas tributárias em tempos de crise: o caso português. *Revista Do Instituto Do Direito Brasileiro*, *2, nº 4*, 3147–3182.

Santos, J. A. (2003). *Teoria Fiscal*. (I. Universidade Técnica de Lisboa, Ed.). Lisboa.

Scholz, R., & Tietje, O. (2002). *Embedded Case Study Methods*. London: Sage Publications Ltd.

Silva, A. J. A. (2015). As tributações autónomas: notas técnicas e práticas para estudo. *Revista TOC*, *Ano XV*, 39–41.

Slemrod, J. (2004). Are corporate tax rates, or countries, converging? *Journal of Public Economics*, *88*(6), 1169–1186.

Soares, D. D. (2004). *Percepção Social da Fiscalidade em Portugal*. Coimbra: Almedina.

Soares, C.; Afonso, Ó. (2019). The Non-Observed Economy in Portugal: The monetary model and the MIMIC model. *Metroeconomica,* 70:172–208.

Soares, C.; Afonso, Ó. (2016). *The Non-Observed Economy in Portugal: the monetary model and the MIMIC model,* Edições Húmus, 1.ª edição, ISBN: 978-989-755-191-8 OBEGEF – Observatório de Economia e Gestão de Fraude, Faculdade de Economia da Universidade do Porto.

van Hoecke; Mark (2011). *Methodologies of legal research*. Oxford and Portland, Hart Publishing.

Chapter 3: Interpretative complexity and tax law changes: the taxation of corporate expenses in Portugal

3.1. Introduction

It is well known that there are different interpretations of the tax law by agents such as companies, accountants, courts and tax auditors. Those perspectives are divergent because different agents have distinct objectives. For example, the aim of taxpayers is to lower their tax burden, while tax authorities want to collect the largest possible amount in revenue (Hasseldine & Morris, 2013). As stated by Freedman (2010), it is difficult to understand tax law when, besides intrinsic complexity, it is not easy to predict how it will be interpreted by judicial authorities and how far courts will be prepared to look into the (often intricate) nature of underlying business operations.

In the case of autonomous taxation of expenses (ATE), a special feature of corporate income taxation in Portugal an abundant field for legislative and jurisprudential controversy is noted. The following expenses are subject to ATE: non-documented costs[16], expenses related to vehicles[17], representation expenses[18], profits distributed to tax-exempt entities[19], compensation paid to managers[20], allowances and compensation for the use of employees' own vehicles[21] and payments to entities located in tax-favoured territories[22].

---

[16] Non - documented costs are the expenses or costs without any invoice or document to support it.

[17] Include expenses related to corporate vehicles, such as: insurance, maintenance, fuel and depreciation.

[18] Include expenses such as: receptions, meals, trips, and entertainment offered to clients, suppliers or to any other persons.

[19] Include dividends distributed to companies that benefit from a special or privileged tax regime, usually with low taxation.

[20] Compensation paid to managers when not related to the achievement of productivity targets previously defined in employment contracts.

[21] Allowances and compensation for the use of employees' own vehicles, for commercial purposes and not charged directly to business customers.

In the last few years, in Portugal, a high level of uncertainty has emerged from a legal tax debate, and subsequent litigation, centred on the discussion as to whether ATE is formally equivalent to Corporate Income Tax (CIT), and thus whether tax credits can be set off against ATE; or if CIT is the sole basis for the deduction of credits. This important topic has led to many conflicts, discussed in Portuguese Tax Courts[23] and at the Administrative and Tax Arbitration Centre (CAAD)[24]/[25].

Many companies have deductions and credits to be used in the process of computing payable corporate tax. To exemplify, in recent years companies have confronted the Portuguese Tax Authorities (TA) with the following issue: suppose the regularly assessed CIT is 100 euro, and ATE is 20 euro; then, if a firm has a tax credit of 120 euro related to investment incentives, is the total credit deducted only against the regular CIT, leaving ATE as a unique and outside component of the CIT normal base so that the firm has to pay 20 euro? Or can the company deduct the credit of 120 euro not only to the regular CIT (100 euro) but also to the ATE (20 euro)? In the latter case, no ATE would effectively be paid, because the tax credit would also be set off against this special type of taxation. To sum up, is ATE a component of CIT when assessed tax deductions (e.g. tax credits, special advanced payments) are calculated? Or, being a tax on expenses, is it outside the regular CIT calculation and can no deductions be set against ATE?

---

[22] Payments to individuals or companies, resident outside Portugal, subject to a more favorable tax regime.

[23] See, for example, Constitutional Court Rulings 617/2012 and 197/2016 on ATE constitutionality; Supreme Administrative Court Ruling 0505/15 on ATE differentiation in corporate income tax treatment; Constitutional Court Rulings 18/2011, 310/2012 and 617/2012, and Supreme Administrative Court Rulings 0757/11 an 0470/14, all on ATE retroactivity.

[24] CAAD was introduced into the Portuguese law arbitration in tax matters as an alternative to judicial resolution of conflicts (Ministério das Finanças, 2012).

[25] A very important role of CAAD is to prevent tax justice delays becoming a disincentive for investment in Portugal (Villa-Lobos, 2016).

A sequence of arbitration rules decided in taxpayers´ favour, on the grounds that ATE has the same CIT Code article (Article 90), which underlies its settlement. The TA, fearing a significant loss of revenue, lobbied to change the law. The budget law for 2016 modified it and established that no deductions could be made against the amount of ATE. However, this legal change was given an "interpretative nature", meaning that a case from 2013, only brought to court in 2016, should be decided according to the new version of the ATE law. As a result, taxpayers started to argue that the new ATE rule could not have an interpretative nature, because previous court rulings were so heavily in favour of companies that no interpretative doubts could exist. For many corporate tax experts, given the Constitutional prohibition of retroactive tax laws, the "interpretative nature" was, in fact, a subterfuge to *disguise retroactivity.*

Given this background, the research question is: does the evolution of the rules on ATE show an efficient process of formulating tax law in Portugal? It is intended to analyse the process of making and changing ATE´s rules and how interpretative complexity increases conflicts between tax authorities and taxpayers.

This research topic is relevant because, by highlighting the challenges in Portuguese tax law-making, it can be useful as a reference to other countries on how to improve these processes, avoiding time and costs for business, tax authorities, and courts. Moreover, arbitration, a way of solving tax disputes, has been gaining ground in Portugal. In this respect, this chapter also contributes to a better perception of the tax arbitration scenario in an EU Member Country. It is also important for the accounting profession, which often deals with tax topics and the interpretative complexities they engender.

This chapter is organized as follows: section 2 analyses the process of making tax law; section 3 gives special attention to Autonomous Taxation of Expenses (ATE) in Portugal and its legal complexity; section 4 presents the methodology; Section 5 presents the results of this research; section 6 discusses

some policy implications; section 7 extends the analysis to the international scene, and section 8 concludes.

3.2. The process of making and interpreting tax laws: a review

Jones (1996) characterizes the process of designing tax law as the "stages through which tax law passes; the parliamentary draftsman puts the developed idea into a legislative form; parliament debates it, at least in theory, and passes it; taxpayers, aided by their advisers, act on it and fill in tax returns which are audited; finally, if conditions are not agreed, they come before tribunals and courts."

According to Morand (1994, *apud* Caupers *et al.*, 2014), the process of making tax law involves different stages. These can be seen in Figure 3.1.
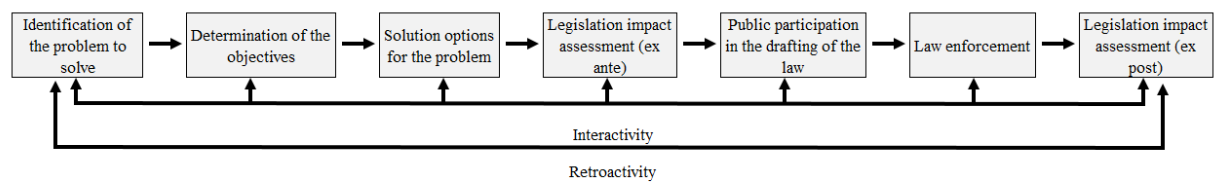
Figure 3.1 - Morand stages of the process of making law

Source: Adapted from Caupers, Almeida, & Guibentif, 2014

At the first stage - "identification of the problem to solve" - it is crucial to perform a complete examination of the situation and identification of the problem; and also have adequate knowledge of the social, political, cultural and economic data.

In the "definition of the objectives" phase (general and secondary), they should be formulated independently of the solution discussed with the legislator.

It is at the stage of "solution options for the problem" that emphasis must be placed on the role of the law (and possible alternatives); "legislation impact

assessment (*ex-ante* and *ex-post*)" is an extremely important tool to support decision-making at the beginning of a legislative procedure (*ex-ante*).

Appraising the effects of the different options (*ex-post*) is also an important step (Caupers *et al.*, 2014); "public participation in the drafting of the law" should also be considered a fundamental issue, since listening to experts and other law users contributes to its acceptance and legitimizes the legislative procedure (Rose-Ackerman & Perroud, 2013; Pereira & Rodrigues, 2012; Elkins *et al.*, 2008).

Over time, there has been an increasing interest in grasping the ability of several players or groups to influence policy outcomes and the actual making of tax policy decisions.

Wales & Wales (2012) state that policymaking is similar to a living process.

In early 2000, a High Group Level was set up in the European Union (EU) for the improvement of legislation in the European Council. Results were published in the Mandelkern Report (European Commission, 2001).

The guidelines of this study can be summarized as policy enforcement options, regulatory impact assessment, public consultation, simplification of procedures, access to legislation, and structures capable of performing legislation effectively.

Table 3.1 indicates some studies concerning the process of making tax law.

Table 3.1 - Studies focused on the good tax policy-making process

Studies	Country	Main Conclusions
OECD (2011)	OECD	There is a link between regulatory performance, legislative reforms, and economic growth. Better regulation at all levels of government improves co-ordination and avoids overlapping responsibilities among regulatory authorities.
Wales & Wales (2012)	UK	A good tax policy-making process does not automatically lead to good tax policy outcomes but can significantly reduce the risk of avoidable failures.
Heaton (2013)	UK	A good law must not just do the job in theory: it must work in practice.
Coglianese (2012)	OECD	To know whether regulation works, governments need reliable indicators that will measure the full range of outcomes, positive and negative, caused by that regulation.
Parker & Kirkpatrick (2012)	OECD	Policymakers should be alert to the dangers of adopting a "one size fits all" approach to regulatory reform and recognize the need to modify and adapt regulatory management processes to meet each country's institutional and regulatory endowment.
Razin & Slemrod (2008); Mirrlees *et al.* (2011); Osterloh & Heinemann (2013)	USA/UK	It is important to discuss the relevance of tax policy in a globalization context.
Office of the Parliamentary Counsel (2013)	UK	Good legislation must be necessary, clear, coherent, effective and accessible.

EU (2016) and OECD (2011) place great importance on their programs of improving law drafting, in order to reduce regulatory costs. In this context, Coglianese (2012), Radaelli & Fritsch (2012) and Parker & Kirkpatrick (2012) concluded that OECD development of a framework for Regulatory Policy Evaluation is quite important in helping countries to evaluate the design and implementation of regulatory policies.

In the taxation area, a major concern arose because taxes should be kept as simple and stable as possible (Shaw *et al.*, 2011). Additionally, the political system and the power structures of each country must be considered. To Saad (2014), taxpayers´ perceptions, depending on levels of tax knowledge[26], can be associated with greater or lesser tax law complexity, which is an oft-cited reason for non-compliant behaviour. Taxpayers generally possess inadequate technical tax knowledge. For example, in the UK, the National Archives published a study that shows that the highest percentage of readers of the legislation are non-legally qualified professionals (Bertlin, 2014). Thus, it is quite important to consider how the process of making tax law effectively induces more tax compliance, as stated by Murphy (2008). Table 3.2 highlights some studies presenting the main factors that explain tax complexity in the process of making and interpreting tax law.

---

[26] In Australia, as stated by the Parliamentary Counsel's Office WA (2011), tax users often "only read legislation because they are looking for an answer to some question and not because they want to understand the legislation. Except in the situations with a simple question, they usually must understand all or a significant part of the legislation in question, or other legislation that has a general effect, to get a full answer".

Table 3.2 - Factors that explain tax complexity in the process of making and interpreting tax law

Studies	Country	Main conclusions
Basto (1994)	Portugal	The abuse of tax benefits, regulations and exception regimes are the main complexity sources and often constitute an incentive to discover new ways of tax avoidance.
Lopes (2010); McKerchar (2007)	Portugal/Australia	The complexity of the tax system depends on the increased uncertainty of tax legislation.
Slemrod (2012)	USA	Different aspects of complexity are important to different participants in the tax system: predictability (for the tax lawyer), enforceability (for tax collection agency), difficulty and manipulability (for the taxpayer).
Office of the Parliamentary Counsel (2013)	UK	The legislation affects all users, and its volume, structure, level of detail and frequent amendments and interaction with international law could produce a higher level of complexity, and render the law hard to understand and difficult to comply with
Rumina *et al.* (2015)	Russia	An important challenge due to frequent changes in tax law is how to overcome legislative instability.

In Portugal, taxpayers strongly believe there is a high degree of tax instability (Borrego *et al.*, 2015). The introduction of a tax stability clause could be a useful measure. Portuguese tax laws are complex and frequently changed, increasing taxpayers' compliance costs. As stressed by Renda *et al.* (2013), since "legal rules have to be monitored and enforced to be effective" when controversies arise enforcement expenses emerge. Table 3.3 summarizes some

studies that address the issue of legislative costs identified in the process of making tax law.

Table 3.3 - Legislative costs in the process of making tax law

Studies	Country	Main conclusions
OECD, 1994	OECD	Small businesses bear higher costs in complying with tax legislation.
Budd *et al.* (2003)	UK	Legal costs are often related to the complex nature of the economic operations that are required to be taxed.
Sullivan (2008 *apud* Emon, 2015)	Canada	The meaning of a legislative text is the meaning intended by the legislator. In the absence of a reason to reject it, the ordinary meaning prevails.
Lopes & Martins (2013)	Portugal	The complexity of the tax system and the uncertainty in tax law may increase compliance costs for taxpayers, as well as some anxiety in the process of paying taxes.
Hasseldine & Morris (2013)	USA	Legal costs are also associated with a problem related to the fact that there are two distinct concepts: the "letter of the law" and the "spirit of the law". This can lead to different interpretations by taxpayers, tax authorities and courts.
Zander (2015)	UK	The legislator´s primary duty is to express his/her intention in an understandable way.

Hoffman (2005 *apud* Hasseldine & Morris, 2013) argues that lawmakers should justify why a tax certain is imposed, by expressing an intention (or the motivation underlining the law) when drafting legislative rules. Courts should then be expected to correctly interpret the wording and the spirit of laws.

In order to understand the complexity of formulating tax law in Portugal, in the special case of ATE, it is necessary to understand the framework underlining the apparent anomaly of ATE in the context of corporate income tax.

3.3. Autonomous Taxation of Expenses: an overview and its increasing complexity

The concept of ATE was created [27] in Portugal by Article 4 of Decree-Law No. 192/90. Subsequently, Law 30-G/2000 extended the reach of ATE and introduced it into the CIT Code, in its Article 88. Until the current wording was finalised, the CIT article establishing ATE underwent constant changes, involving amendments, additions, revocations, renumbering, and reforms.

The evolving complexity of tax law can be understood as a consequence of economic sophistication, and its inevitable new underlying operations and transactions, as argued by Martins (2015).

According to Lopes (2010), the first way to measure the simplicity or complexity of the legislative tax system is through the extension of legislation. Therefore, in order to illustrate ATE complexity, Table 3.4 shows the evolution of the number of words, paragraphs, and subparagraphs in the ATE article of the Portuguese CIT code between 1990 and 2017.

---

[27] A "special tax on certain expenses of companies" was already in effect, approved by Decree-Law No. 119-A/83 in 1983.

Table 3.4 - Evolution of the number of words, paragraphs, and subparagraphs in ATE article of the Portuguese CIT code (1990-2017)

Amendment Year	Number of words	Number of paragraphs	Number of subparagraphs
1990	75	1	-
1995	67	1	-
1997	112	2	-
1999	112	2	-
2000	285	6	-
2001	379	8	-
2001b	364	8	-
2002	367	8	-
2003	426	9	-
2004	416	9	-
2005	502	10	-
2006	623	12	-
2008a	622	12	-
2008b	702	12	2
2009	810	13	2
2010a	716	12	2
2010b	885	13	4
2011	864	14	2
2012	877	14	2
2014	955	16	7
2015a	975	16	7
2015b	1.043	18	7
2016	1170	21	7
2017	1180	21	7

From Table 3.4 it is possible to observe the unstoppable increase in the legislative complexity of the ATE law. In the majority of cases, that could be translated into an increasing ambiguity of ATE law and interpretative complexity. Frequent changes and amendments engender a higher level of ambiguity. This being the case, a high level of tax law complexity in ATE can be identified, which leads to tax litigation and higher costs of compliance.

ATE does not tax income at the end of a tax period (as CIT does), but rather certain types of expenses at the exact moment when they are incurred

(operating more like a consumption tax). As such, arguments similar to those that apply in relation to income taxes are not directly extrapolated to ATE. Nonetheless, the major issue here is to discuss the legislative and court history revolving around the central question of the nature of ATE: are they formally CIT or do they consist of a new *tax species*, to be dealt with outside the regular normative framework of corporate income tax? Because this is a very important topic for the tax authority, accountants, the government and for companies under the ATE regime, this topic will be developed after a methodological description.

3.4. Methodology

The methodology used in this chapter is the legal research method, namely doctrinal methodology, with jurisprudential research, combined with a case study analysis of ATE in Portugal. The economic motivation (tax revenue), the interaction between the tax authorities and the policymakers, the role of courts in applying new rules, and the tax crisis that Portugal faced, produced a set of factors that influenced legislative options and the interpretation of tax law. A multidisciplinary approach is thus required, and this chapter follows such a methodological line.

According to Arthurs (1993 *apud* Chynoweth, 2008), legal theory research is "concerned with the formulation of legal doctrine through the analysis of legal rules". Legal doctrine clarifies ambiguities derived from the complexity of the law, and as Holmes Jr. (2011) states, "the business of the jurist is to make known the content of the law; that is to work upon it, from within".

Beaulac & Bérard (2014) state that the methodology of legal interpretation focuses on how to determine the content of norms which come from legal texts and how it is perceived by taxpayers and other users. It is desirable that courts avoid a random interpretation of the tax law. In Portugal, since its creation, ATE appears to have been a successful tool for fighting tax avoidance and tax evasion. For instance, Nabais (2015) highlighted that ATE functions as an important tool

for fighting tax evasion. The public receipts derived from ATE, (see Section 3.5.2, Table 3.7) are indeed quite relevant in the overall CIT revenue.

The doctrinal analysis presented in this chapter will be complemented by the convoluted recent history of the ATE´s legislation. As such, it is an emblematic case study on how not to amend a perceived tax loophole, teaching valuable lessons to policymakers and the tax authority, while stressing legal, economic, jurisprudential and political factors that have influenced ATE´s rules.

The legal research method used in this chapter has a long tradition in analysing tax policy and tax law (Freedman, 2005). This author argues that tax legislation can only be properly understood by taking into consideration its economic, political, and social objectives. As stated by Thomson (1992), tax law does not have an independent or autonomous existence and is influenced by economic policy and by lobbying efforts by taxpayers and tax authorities, which may contribute to a complex law-making process. Park (1997) also argues for a multidisciplinary approach to taxation, when analysing policy changes and their impact on taxpayers and court rulings.

Bond *et al.* (2000) fruitfully used the legal research method, in a comparative analysis approach, to discuss developments in the European Union regarding tax harmonization. Oestreicher *et al.* (2011) used the legal research method, mixing legal with economic analysis and policy implications, in their critical appreciation of group taxation in the several EU Member States. Proposals for tax reform were derived from this work. In a similar manner, Wheeler (2011) presents an extensive comparison of the domestic law of the Netherlands and the United Kingdom with respect to the attribution of income to a person for tax purposes. This is especially relevant when applying international treaties to avoid double taxation. Income attribution law can be helpfully interpreted with the assistance of economic factors that underpin income generation and its attribution to a taxable person.

A study on tax simplification, explaining its difficulties because of the interaction of legal, economic and social issues, can be found in James (2007).

An often-discussed goal of tax policy and legislation is shown to be dependent on a mixed set of influences, which argue for a careful approach to tax simplification for small businesses. This study places a strong emphasis on the role of arbitration courts in shaping tax law. The role of courts in shaping the application of tax laws, especially in complex interpretative areas such as tax evasion cases, is also stressed in scholarly publications, such as those of Tiley (1987) and Sancilio (2013).

Discussing the issue of "retrospective" tax law in Australia – a concept that is equivalent of the "interpretative" nature, which focuses on this chapter - Loiacono & Mortimer (2017) also apply a legal research strategy. They conclude that retrospective legislation should only be enacted in the most extraordinary circumstances and that governments should acknowledge deficiencies in tax legislation promptly, and modify such legislation quickly, to provide certainty and sustain public confidence in the system.

In the Portuguese case, the legal research method, combining codified rules, economic factors, and case law, was applied, among others, by Palma (2015) and Martins (2015). The former offers a critical analysis of VAT in the public sector entities, combining codified law and case analysis, and suggests options for reforming the complex treatment of these entities in the sphere of VAT. The latter analyses the Portuguese corporate tax reform of 2014, in terms of worldwide tax policy trends, in the context of a severe economic crisis in which a political consensus was reached to increase Portuguese tax competitiveness. It also examines how final legislative choices were affected by a multitude of factors.

3.5. Results

This section presents the results of this study analysis and is organized as follows: sub-section 5.1 explores sources of legal complexity that caused the "first wave" of litigation and arbitration decisions unfavourable to the Portuguese

tax authority. Sub-section 5.2 displays economic data to illustrate how important ATE has become in terms of tax revenue and the subsequent lobbying efforts by the tax administration to change the law and give it an "interpretative" nature. Sub-sections 5.3 and 5.4 present data on arbitration rulings that show decision trends before and after the legislative change. Finally, sub-section 5.5 offers a discussion on the nature of this change: is it interpretative or retroactive? A blend of legal, economic and political issues underlines the presentation of results and their discussion.

3.5.1. Description of the Portuguese ATE: a first look at legal complexity

In the Portuguese corporate income tax code (CITC) there are two articles that must particularly be considered when dealing with ATE: Articles 88 and 90. Article 88 establishes its tax base (as already seen, several types of expenses) and tax rates (which vary from 10% to 70%). Article 90 establishes the procedure for the settlement of CIT and is of particular importance because it states the types of deductions (tax credits) that can be offset against the "assessed CIT". Under Article 90 the following deductions from assessed CIT can be made:
- International double taxation,
- Tax benefits,
- Special advanced payment ("Pagamento Especial por Conta")[28] and
- Withholding tax not susceptible to compensation or reimbursement.

The several steps of CIT computation are shown in Table 3.5.

---

[28] Article 106 of the CIT code establishes that taxpayers are required to make a minimum annual payment of €850, and a maximum of €70.000, independently of whether they have made a profit or loss, unless they are included in the simplified tax regime.

Table 3.5 - Portuguese CIT computation steps

Tax Calculation
Tax base (Taxable income – Losses carried forward)
*Lower rate for the first 15.000.00 euros of the taxable amount for SME (17%, in 2019)
*Tax at the standard rate (21%, in 2019)
+ Central Government surcharge (Derrama Estadual), payable on profits above 1,5 million euro (up to 3%, in 2019)
= Assessed CIT
- **International juridical and economic double taxation**
- **Tax credits (e.g., investment benefits)**
- **Special advanced payment (PEC)**
-Total deductions
= CIT liquidation
- Withholding tax
- **Payment on account**
- **Additional payments on account**
= CIT to pay or recoverable CIT
+ Local Government surcharge (Derrama Municipal)
+ Autonomous taxation of corporate expenses
Total tax payable or Total tax recovered

Given the steps in the CIT computation, and to the first insight into this chapter's core issue, a simple example is presented in Table 3.6, where a hypothetical company "ALFA, Ltd." has the following CIT.

Table 3.6 - An illustration of CIT computation (in Euros)

Tax Base	**20 000**
Tax. Rate: 21%	*0,21
Assessed CIT	4 200
Special Advanced Payment (SAP	10 000
ATE	8 000

Considering Table 3.6, the nature of the problem under study can be summarized as follows. If the SAP can be set off only against the assessed CIT, then ALFA has no CIT to pay (the special advanced payment is higher than the final tax amount due). Nonetheless, it still has to pay ATE, to the tune of 8.000 euro. Conversely, if ATE is seen as incorporating the CIT, then the sum of assessed CIT plus ATE is higher than the special advanced payment (12.200>10.000) and ALFA has nothing to pay.

Or, to put it another way, by linking ATE to CIT, and allowing the offsetting of the SAP to the amount of CIT plus ATE, the tax revenue from ATE disappears and the total payable is zero. ALFA will argue that ATE, because of its insertion in the CITC, is formally a component of the income tax, albeit taxing expenses. ATE, having no separate article on which to ground its settlement, must be included in the amount against which the deductions (credits) can be offset.

The tax authorities would reply that regularly assessed CIT (based on income) has a totally different nature and is distinct from ATE, the latter being levied on expenses. For the TA, the intention of the legislator could never be understood as placing the "regular" – income-based - CIT and ATE at the same level when calculating the basis for credit deductions. A literal versus teleological reading emerges. Between 2013 and 2015 an increasing number of lawsuits were brought under the CAAD to be decided in arbitration courts. Table

3.9A (Section 5.3) lists a summary of cases and decisions, highlighting the general trend, ruling in favour of taxpayers, arguing that tax credits, in particular, the special advanced payment, could be subtracted from ATE.

Another area that was highly contentious relating to taxpayers and firms, as far as ATE is concerned, involved investment tax credits. Portugal implemented a set of investment incentives that granted firms tax credits. This can be illustrated by the following simple example. Suppose a certain company has assessed CIT at 1 million euro and ATE at 100.000 euro. Admitting that the investment-related credits are 1.100.000 euro, should the firm set them off against (CIT+ATE), or just CIT, leaving ATE out of the deduction base, given the fact that ATE is not included in the settled amount of corporate tax? Firms argued for the inclusion of ATE in the amount to which investment tax credits should be set off, while tax authorities put the opposite argument. Once again, in the CAAD, the general sense of arbitration rulings was to admit that the "settled amount of corporate tax", as the only amount explicitly legislated in Article 90 of the CITC, should include ATE. Otherwise, ATE would have no legal basis to be demanded from firms.

The tax authority (TA) opposed that interpretation. To the TA, the legislative intent behind ATE was to fight evasion, and allowing their compensation by investment credits was against the economic tax-driven motives underlining ATE. Different perspectives on the interpretation of tax law regulating ATE are again sustained.

3.5.2. The tax revenue impact of ATE and the (understandable) lobbying of tax authorities on restricting deductions from ATE

It is important to analyse the impact of tax deductions in CIT assessment. The economic relevance of ATE as tax revenue is a major factor in this study.

Table 3.7 displays data on the evolution of revenues from the assessed CIT, ATE revenue, and special advanced payment (SAP).

Table 3.7 – CIT, ATE revenues and SAP – Portugal (2010-2017) (in EUR million)

Year	2010	2012	2014	2016	2017
Assessed CIT	3.320	3.224	3.673	4.291	4.543
Autonomous taxation (ATE)	360	491	551	492	510
Special advanced payment (SAP)	36	121	168	182	161
ATE / Assessed CIT Revenue	10.9%	15.2%	15%	11.5%	11.2%

Source: Adapted from AT http://info.portaldasfinancas.gov.pt/pt/dgci/divulgacao/estatisticas/

From Table 3.7 what stands out is that assessed CIT increased from 2010 to 2017. It can also be observed that ATE revenue grew from representing 10.9% of the assessed CIT in 2010 to 15.2% in 2012, decreasing slightly to 15% in 2014 and declining until 2017, reaching 11.2% of the assessed CIT. However, in 2017 ATE reached EUR 510 million euros, far higher than the EUR 360 million in 2010, as well as the SAP value, which reached EUR 161 million.

ATE revenue is a very important component of corporate taxation in Portugal. Given the above-mentioned trend in arbitration rulings, allowing credits against ATE, they originated a major source of concern related to the reduction of tax revenue accruing to the government and the tax authorities. And that was the reason behind the change in tax law governing ATE. Article 88 (§ 21) of the CITC, introduced by Law No 7-A/2016, of 30th March, establishes that no deductions are allowed from the amount of ATE. Besides, the new Law states that the rule on ATE has an "interpretative nature".

After the description of ATE sources of legal complexity, and also of its relevance as a source of tax revenue, this study turns to the impact of legislative changes enacted in 2016.

3.5.3. Arbitration rulings on the deduction of the special advanced payment and investment tax credits from ATE revenue: the first wave

Tax arbitration courts were created in Portugal by Decree-Law 10/2011. Conditions prevailing in state judicial courts (where lawsuits can linger in the pipeline for a long time), argued for alternative resolution mechanisms.

A brief comparison between Portuguese tax judicial courts and arbitration courts can be seen in Table 3.8.

Table 3.8 - A comparison between judicial and arbitration tax courts in Portugal[29]

Main topics	Tax judicial court	Tax arbitration court
Value of the claim	No limit	Max. 10 million euro
Basis for rulings	Tax law	Tax law
Deadline for decision	Several years- average 3 years on 1st instance	max 6 months
Possibility of appeal	Yes	Yes, in certain cases
Number of judges	1- 1st instance	1 to 3, depending on the value of the claim
Judges/arbitrators expertise	Less, ab initio; grows with practice	Yes, specialization in different areas
The average number of cases per year	Several hundred	Up to ten, except some chairpersons
Independence	Yes, career judges	Yes, under scrutiny from CAAD, taxpayers and tax authorities

Arbitration courts have a more limited scope in terms of claim values and more restricted appeal possibilities.

---

[29] See (Câmara, 2015)

According to Câmara (2015), the advantages of arbitration courts are: the short length of time in which a decision must be delivered; the composition of the court, where legally trained persons (retired judges, tax law professors) join with accountants, economists, and auditors when cases have several angles and justify a multidisciplinary set of experts.

On the other hand, the CAAD usually implies a higher cost for litigants.

The potential for tax arbitration is huge, given the wide difference in the number of cases decided in judicial and arbitration courts.

Nevertheless, especially for companies requiring a speedier resolution of tax disputes (CAAD arbitrators take 6 months to reach a decision, while in state courts it can take years), arbitration is increasingly seen as an appropriate alternative.

Table 3.9A presents data on the first wave of tax arbitration rulings regarding deductions from ATE.

Table 3.9A – CAAD decisions on tax deductions from ATE revenue before the interpretative law on ATE

Court	Process number	Tax authority view	Court decision
CAAD	769-2014-T	No deductions can be made from ATE because it is formally and materially different from regular assessed CIT.	Article 90 of the CITC refers to the forms of liquidation of the CIT, *applying to the calculation of the tax due in all situations established in the Code. Therefore, it also applies to the settlement of the amount of autonomous taxation*, which is determined under Article 90 of the CITC. There is no other legal rule that provides different terms for ATE´s settlement. Thus, tax credits and the special advance payment can be set off against ATE.
CAAD	79-2014-T	No deductions can be made from ATE because it is formally and materially different from regular assessed CIT.	Tax credits and the special advance payment can be set off against ATE.
CAAD	59-2014-T	No deductions can be made from ATE because it is formally and materially different from regular assessed CIT.	Tax credits and the special advance payment can be set off against ATE.
CAAD	113-2015-T	No deductions can be made from ATE because it is formally and materially different from regular assessed CIT.	*There is an irreconcilable conflict between the ratio legis of the special advanced payment and admitting its deduction to ATE. It would not make sense to allow deduction of the special advanced payment from ATE.* Thus, *ATE is not* part of the amount for setting against tax credits or the special advance payment.

As shown in Table 3.9A, the general trend in arbitration decisions was to interpret Article 90 of the CIT code as being the only legal rule that allowed for the settlement and payment of ATE. Even though Article 88 of the CIT defines the expense base and tax rates for ATE computation, no other rule, besides Article 90, according to the large majority of rulings, can be called upon by the tax authorities to demand ATE´s settlement and payment from firms.

Thus, the tax authority was confronted with a difficult scenario, with a significant loss of revenue being at stake, because among other credits, the special advanced payment could be offset against ATE. Therefore, given the proximity of the tax authorities to tax legislators, it is believed that a change in the CITC was highly probable, as a result of the conflicting views of taxpayers and tax authorities regarding the nature of ATE as a mechanism for absorbing credits and reducing total payments. As already shown, ATE was an increasingly relevant source of corporate tax receipts, much needed in Portugal, given the external bail-out and the fragile state of public finances. From the TA point of view, a dangerous trend was developing in arbitration courts in the sense that it could endanger an important component of the total (CIT linked) revenue. The "interpretative" nature of the new rule on ATE intended to close this perceived loophole.

3.5.4. Arbitration rulings on deduction on the deduction of the special advanced payment from ATE: a second wave of rulings after the 2016 "interpretative" law

By stating that no deductions can be made from ATE, the new law purportedly answered the question as to whether the special advanced payment or investment tax credits, can be settled against ATE or not. They cannot. Giving to the new law an "interpretative nature", means that previous cases, still in the litigation period, must be decided according to a new wording of the law. But the apparent simplicity of this solution vanishes once it is examined more closely

and reveals a process of making tax law that is not as clear cut as it might seem. Table 3.9B summarizes recent CAAD rulings after the 2016 law.

Table 3.9B - Recent CAAD decisions on tax deductions to ATE revenue after the interpretative law on ATE

Court	Process number	Tax authority view	Court decision
CAAD	673-2015-T	No deductions allowed. The new law is interpretative. Besides, an expense-based tax has a totally different intent from an income-based one. Thus, CIT and ATE are formally and materially different and ATE cannot be amalgamated with the settled amount of CIT.	The new Article 88 (21) of the CITC, inserted by Law No 7-A / 2016 of 30 March, expressly establishes that the amounts of no deductions are made. On the other hand, Article 135 of Law No 7-A / 2016 of 30 March, by conferring an interpretative nature on that New Article 21, read in conjunction with Article 13 of the Civil Code (which defines the concept of an interpretative law), has a legislative intention to apply the new regime to situations in which tax effects are not definitive. (...) In view of this position, the attribution of an interpretative nature to Article 88 (21) of the CITC is accepted in the light of the teachings of Machado, since the solution envisaged therein passes the tests enunciated by this author. Thus, the new law forbids the special advanced payment being deducted from ATE. It can also be concluded that the new law has an interpretative nature because the

				solution that the new law enshrines was already adopted in some cases, namely in process 113/2015-T.
CAAD	781-2015-T	No deductions allowed. The new law is interpretative. Besides, an expense-based tax has a totally different intent than an income-based one. Thus, CIT and ATE are formally and materially different and ATE cannot be amalgamated with the settled amount of CIT.		Closely follows the arguments from case 673-2015-T and decides that no deductions are made from ATE. The new law has interpretative nature.
CAAD	784-2015-T	No deductions allowed. The new law is interpretative. Besides, an expense-based tax has a totally different intent than an income-based one., Thus CIT and ATE are formally and materially different and ATE cannot be amalgamated with the settled amount of CIT.		Closely follows the arguments from case 673-2015-T and decides that no deductions are made from ATE. The new law has an interpretative nature.
CAAD	122-2016-T	No deductions allowed. The new law is interpretative. Besides, an expense-based tax has a totally different intent than an income-based one, and thus CIT and ATE are formally and materially different and ATE cannot be amalgamated with the settled amount of CIT.		Closely follows the arguments from case 673-2015-T and decides that no deductions are made to ATE. The new law has interpretative nature.

From Table 3.9B[30] it can be concluded that arbitration rulings have reversed course. That is, the interpretative nature of the new law was generally sustained, and as a result, taxpayers generally lost the cases decided under the new rule. However, Case 113-T-2015 was crucial in this line of reasoning. The interpretative nature was highly dependent on the fact that the former law, when no explicit rule disallowed deductions to ATE, could sustain a decision that denied that ATE could be equivalent to assessed CIT as far as deductions were concerned.

3.5.5. Legal problems with the new rule of ATE: is it "interpretative" or "innovative"?

In the light of the teachings of Machado (2016), to have an interpretative nature a certain law must satisfy the following tests:

(i)   the interpretation of the old rule (in this case the wording of Article 90 of the CITC) was contested, and the solution defined by the new law is within the framework of the previous controversy;

(ii)   the judge, or the interpreter, could reach this new solution ("No deductions from ATE") without exceeding the limits in the interpretation and application of the previous law.

To exemplify the relevance of this new rule governing ATE, consider the following tax audit case. In 2016 a company was audited on the CIT return from 2013. It had deducted from ATE not only the special advanced payment but also investment tax credits. The tax audit denied that such amounts could be deducted from ATE. Litigation followed. In this context, should judges (or arbiters, because more probably the case would be brought before CAAD, given the 6

---

[30] See Table 3.9A

months' rule to reach a ruling) apply the interpretative nature of the new law on ATE and judge the 2013 case with the wording of 2016? On the other hand, as firms would inevitably argue, is the new law "innovative" and cannot be applied retroactively, given the principle of retroactivity prohibition of tax laws under Paragraph 3 of Article 103 of the Portuguese Constitution?

The legislator may have designated a law as being of an "interpretative nature", when in fact it is an "innovative" rule that should apply only in future cases and should not be applied to past cases (Machado, 2016). But the interpretative nature of the law had an impact on the decisions of CAAD, after the 2016 law that changed the ATE´s status.

On a legal interpretation basis, before the new rule on ATE, a clear and consistent majority of rulings stated that tax credits could be offset against ATE. Thus, taxpayers would argue that condition ii) in Machado´s theoretical scheme was not fulfilled, and the law was in fact innovative. Condition ii) requires that, in the pre-2016 legal framework, "the judge or the interpreter could reach this new solution without exceeding the limit interpretation and application of the law".

Confronting this requirement with Table 3.9A (see Section 3.5.4), only in Process 113-T-2015 did an arbitration court rule in favour of the tax authority. Was this enough to sustain ii), and consequently deny deductions from ATE? Moreover, what are the policy implications of different legal interpretations of ATE rules? In fact, it can be argued that "interpretative" disguises "innovative", given the clear majority of rulings, before 2016, favouring taxpayers.

3.6. Policy implications of the particular tax issue of ATE in Portugal: making and interpreting tax law considering the role of different stakeholders

A first lesson to draw from the analysis presented in this chapter is that, as is well known in several countries, when tax law has a real or perceived

loophole, taxpayers will use it to lower their effective tax burden. The fact that ATE had a specified tax base (Article 88 of the CIT code) but no explicit rule on which to base its settlement (*liquidação*), allowed companies to argue that the settled amount of CIT (Article 90) should include ATE.

Therefore, tax credits could be set against an assessed tax that would be increased by ATE and a potential[31] loss of tax revenues followed from arbitration rulings.   From the outset, when ATE rules were inserted into the CITC, an inefficient process of tax law-making could be detected (Heaton, 2013; Office of the Parliamentary Counsel, 2013). By explicitly establishing specific rules concerning the tax base and tax rates of ATE, while not distinguishing it from the CIT in terms of settlement procedure, the legislator opened the way to interpretative controversies. Taxpayers found a reason to argue that ATE should be included in the "settled amount of CIT" and deductions allowed, or else the settlement of ATE would have no legal basis and its payment would be illegal.

Additionally, this case highlights another well-known tax policy feature: when confronted with unfavourable court decisions emerging from a tax rule that is open to interpretation, tax authorities, enjoying greater proximity to legislators, can lobby for a change (Slemrod, 2012). However, this creates several consequences, as the present chapter also illustrates. A certain sense of inequity results from these arrangements. In fact, for taxpayers who received court rulings related, for example, to a 2013 tax credit against ATE and saw their cases decided on before the (interpretative) new Law, the tax burden was lower than for others, *ceteris paribus*,   in the very same situation, but with their cases decided after the new law came into force.

Moreover, the draft of the new Law is not a very good example of careful wording. Actually, a more appropriate solution would be to amend Article 90, which, as seen, states the rules of corporate tax settlement and the deductions

---

[31] Arbitration rulings can be overturned on appeal.

admitted. The adopted alternative, by changing Article 88, where the ATE tax base and tax rates are defined, seems to be less consistent, from a legal perspective. This being the case, one could say that the process of making tax law, in the particular case of ATE, unnecessarily increased tax law complexity.

The negative impact of this process of drafting tax law is particularly felt by accounting professionals. In SMEs, usually without a resident tax lawyer, the interpretation of rules concerning ATE´s tax base can be quite complex. Moreover, if a firm has tax credits, the decision to deduct them from ATE can be a source of potential tax audits and litigation. Chartered accountants must navigate these intricacies, in a highly uncertain legal and judicial environment.

Another important point is that, as shown in Table 3.9A, just one tax case (113-T -2015) is seen as evidence that the legislator could have reached the conclusion now enshrined in the new law (no deductions from ATE). This conclusion is clearly open to debate, given a large number of rulings that made the opposite decision. Court decisions, influencing a firm´s tax burden, are thus made in a very uncertain and slippery legal context (Sanches, 2010; Basto, 1994).

The tax authority rushed to close a perceived loophole, and the poor wording and technical drafting procedure generated another legal controversy: the "interpretative" versus the "innovative" nature of the new rule. It is foreseeable that the controversy is not dead. One must not forget the origin of the problem discussed in the chapter: the ever-increasing base for ATE.

The issue in question was the true nature of the new clause, and the Constitutional Court was called in to clarify the meaning of the new clause. It was deemed to be unconstitutional, by the ruling 267/2017, for violating the prohibition of creation of taxes with a retroactive nature.

In that sense, the Constitutional Court sustains that the prohibition of retroactivity is rooted in the protection of legal certainty and trust, that requires taxpayers to know their obligations, especially in their relations with the government. If new legislative choices diminish or weaken the level of certainty

and trust that citizens of a constitutional state must have, then they do not pass the constitutional test.

The Constitutional Court concludes that the new rule is burdensome for taxpayers and claims that its application to tax years prior to the beginning of its effectiveness (2016) is obviously incompatible with the constitutional prohibition of retroactive taxes (see Article 103 of the Portuguese Constitution).

Although this rule closed the controversy, the divergent previous arbitration rulings show the potential for increasing complexity in the application of such a rule.

3.7. Taxation of expenses: an international perspective

In many countries, a common restrictive corporate tax policy is to define a set of non-deductible expenses or to limit some of these expenses to a certain percentage. However, Australia, Bulgaria, Cambodia, Mozambique, and Peru (these countries were selected because they are representative of the 5 continents), adopted an approach similar to ATE, targeting some corporate expenses and applying taxes on payments in kind (fringe benefits tax (FBT))[32].

The *Income Tax Assessment Act* (ITAA)[33] in Australia includes an FBT of 47%, which applies to car use, car parking, entertainment expenses, business or private expenses payments, a loans debt waiver, housing, accommodation and meals, and living away from home allowance. Here an intention to penalize expenses deemed non-essential and which can even reveal a hidden ability to pay is detected.

---

[32] Generally, a FBT is a tax payable by employers for benefits paid to themselves and to employees, in place of salary.

[33] *Income Tax Assessment Act 1997* (includes amendments up to Act No. 94, 2017) and *Fringe Benefits Tax Act 1986* (includes amendments up to Act No. 145, 2015), available in https://www.ato.gov.au/; https://www.legislation.gov.au/.

According to the Bulgarian Corporate Income Tax Act (*Zakon za korporativnoto podokhodno oblagane*[34]), some corporate expenses are subject to a one-off tax, such as representational expenses related to a company's business, social expenses provided to employees in kind (for example: food vouchers, voluntary pension, health and other insurance, life insurance) and expenses in kind related to the private use of company assets (where managerial activity is performed with them). The rate of one-off tax with respect to the above expenses is 10%. Moreover, social expenses provided in kind to employees (fringe benefits) are taxable at a 10% rate on the employer.

In Cambodia, the Law on Financial Management[35] applies a 20% tax rate on the total value of fringe benefits given to all employees. The Mozambican CIT Code[36] provides an autonomous tax rate of 35%, in relation to non-documented expenses and confidential or unlawful expenses. In Peru, the Peruvian Income Tax Law (*Reglamento de la Ley del Impuesto a la Renta*[37]), establishes that companies are subject to an additional tax rate of 5% on every amount or payment in kind. Table 3.10 presents a comparison between Portugal and the selected countries previously described, regarding corporate taxation of expenses.

---

[34] *Prom. SG. 105/22 Dec 2006, amend. and suppl. SG. 97/6 Dec 2016,* available in http://www.nra.bg/en/

[35] Promulgated by *Royal Kram no. NS/ RKM/1216/019*, dated 14 December 2016, available in http://www.tax.gov.kh/en/

[36] *Código do Imposto sobre o Rendimento das Pessoas Colectivas*, approved by Law no. 34/2007, of 31 December, as amended subsequently introduced by Laws 20/2009, of 10 September, 4/2012 of 23 January and 19/2013 of 23 September, available in http://www.at.gov.mz/

[37] *Decreto Supremo no. 122-94-EF*, available in http://www.sunat.gob.pe/legislacion/renta/regla/

Table 3.10 - Corporate taxation of expenses: comparison between Portugal and some selected countries

Countries	Tax Basis	Tax rates (%)
Portugal	Autonomous taxation:	
	. expenses related to vehicles	10 / 27.5 / 35
	. representation expenses	10
	. nondocumented expenses	50 / 70
	. payments made to entities resident in low tax jurisdictions	35 / 55
		5
	. allowances and travelling costs, incurred by employees	35
	. Costs with compensation to managers or board members/ Costs with bonus and other variable remunerations paid to managers	23
	. Profits distributed to entities wholly or partially exempted from CIT	
		10
	Incremental tax on autonomous taxation:	
	. if a corporate taxpayer suffers tax losses in the tax year in which the expenses are incurred (incremental tax on autonomous tax)	
Australia	Fringe Benefits Tax:	
	. car use	
	. car parking	
	. entertainment expenses	47
	. business or private expenses payment	
	. loans debt waiver	
	. housing	
	. accommodation and meals	
	. living away from home allowance	

Bulgaria	One-off Tax:	
	. representative expenses related to a company's business,	
	. social expenses provided to employees in kind (such as food vouchers, voluntary pension, health, and other insurance, life insurance)	10
	. expenses in-kind related to the private use of company assets (where the managerial activity is performed with them)	
	Fringe Benefits Tax:	
	. social expenses provided in kind to employees	
Cambodia	Fringe benefits to all employees	20
Mozambique	Autonomous taxation:	
	. non-documented expenses	35
	. confidential or unlawful expenses	
Peru	Additional corporate tax rate:	5
	. on every amount or payment in kind	

As seen in Table 3.10, even though the selected countries apply rates on corporate expenses (single rates), no one has a similar source of revenue, particularly because of the diversity of ATE tax rates applied in Portugal, which leads to unnecessary complexity and compliance costs. Considering both the complexity and the fact that ATE is highly contentious, it might be argued that some countries can learn from the Portuguese experience regarding their policy

options concerning making tax law. The temptation to use ATE to increase tax revenue leads to a relevant source of complexity in tax legislation, and the interpretative work of courts can be quite difficult. This is especially true when legal changes are made based on outcomes that are unfavourable to the tax authorities. Thus, careful scrutiny of the Portuguese experience can be used as a reminder that ATE can be a significant source of complexity and litigation.

3.8.   Conclusions

There are different perspectives of interpretation of tax law amongst its different users, such as taxpayers, tax authorities, accountants, lawyers, and judges. In Portugal, the problem seems to be especially acute in the case of ATE a feature of corporate income taxation, which taxes corporate expenses and not income.

In this chapter tax law changes and Portuguese jurisprudence were analysed in a particular context of ATE and many conflicts between taxpayers and tax authorities were highlighted.

As a result of these changes and conflicts, taxpayers have incurred an increase in legal costs, particularly litigation costs. Given the unfavourable rulings against the tax authorities on deductions from ATE, Article 88 of the Portuguese CIT Code was changed, in 2016, in order to stop deductions against ATE. But the interpretative nature of the new law immediately occasioned a new controversy. The Constitutional Court was called in to clarify the meaning of the new clause and concluded that the new rule is burdensome for taxpayers and claimed that its application to tax years prior to the beginning of its effectiveness (2016) is obviously incompatible with the constitutional prohibition of retroactive taxes (see Article 103 of the Portuguese Constitution).

It can be said that this case exhibits unnecessary complexity since the process of making tax law could be improved in order to clarify the law (principles) and its application (practice).

In recent years, by expanding the number of expenses subject to ATE, and increasing tax rates, a parallel source of taxation (given that CIT has a quasi-dual nature) is imposed on companies. It is not difficult to anticipate that new tax issues related to ATE will arise in the future.

References

Basto, J. X. (1994). Uma reflexão sobre a Administração Fiscal. *Impactum Coimbra University Press, Faculdade de Economia Da Universidade de Coimbra*.

Beaulac, S., & Bérard, F. (2014). La méthodologie d'interprétation législative. In *Précis d'interprétation législative* (Deuxième, pp. 5–48). Montréal: LexisNexis.

Bertlin, A. (2014). What works best for the reader? A study on drafting and presenting legislation. *THE LOOPHOLE—Journal of the Commonwealth Association of Legislative Counsel*, *2*(May), 25–49.

Bond, S., Chennels, L., Devereux, M. P., Gammie, M., & Troup, E. (2000). *Corporate Tax Harmonisation in Europe: A Guide to the Debate*. London: Institute for Fiscal Studies.

Borrego, A., Loo, E. C., Lopes, C., & Ferreira, C. (2015). Tax professionals' perception of tax system complexity: Some preliminary empirical evidence from Portugal. *eJournal of Tax Research*, *13*(1), 338–360.

Budd, S. A., Jones, J. A., Barnett, Lord, Cranston, R., Davey, E., & Gammie, M. (2003). *Making tax law: Report of a Working Party on the Institutional Processes for the Parliamentary Scrutiny of Tax Proposals and for the Enactment of Tax Legislation* (Vol. 32). London: Institute for Fiscal Studies.

Câmara F. (2015). Tax arbitration courts or tax judicial courts: which to choose and what to consider?. In Villa-Lobos N. and Pereira T. (eds), (2015) *The legal regime of tax arbitration in Portugal.* Lisboa: Almedina; p. 147-182

Caupers, J., Almeida, M. T., & Guibentif, P. (2014). *Feitura das Leis: Portugal e a Europa*. Lisboa: Fundação Francisco Manuel dos Santos.

Chynoweth, P. (2008). Legal Research. In *Advanced Research Methods in the*

Built Environment (p. 27–38 (256)). Oxford: Blackwell Publishing Ltd.

Coglianese, C. (2012). *Measuring Regulatory Performance - evaluating the impact of regulation and regulatory policy*.

Elkins, Z., Ginsburg, T., & Blount, J. (2008). The Citizen as Founder: Public Participation. *Temple Law Review*, *81*, 361–382.

Emon, A. M. (2015). On statutory interpretation and the (Canadian) rule of law: Interpretive presumptions as boundary setting. *Theory and Practice of Legislation*, *3*(1), 45–89.

European Commission. (2001). *Mandelkern Group on Better Regulation: Final Report*.

European Commission. (2016). *Better law-making agreement*. European Parliament, Council of the European Union and European Commission.

Freedman J. (2005). Taxation Research as Legal Research, in Lamb M., Limer A. Freedman J and James S. (eds) Taxation - A*n interdisciplinary approach to research*; Oxford, Oxford University Press, pp. 13-34

Freedman, J. (2010). Improving (not perfecting) tax legislation : rules and principles revisited. *British Tax Review*, (6), 1–16.

Hasseldine, J., & Morris, G. (2013). Corporate social responsibility and tax avoidance: A comment and reflection. *Accounting Forum*, *37*(1), 1–14.

Heaton, R. (2013). Making the law easier for users : the role of statutes (speech). Office of the Parliamentary Counsel.

Holmes Jr., O. W. (2011). *The Common Law*. Paulo J. S. Pereira & Diego M. Beltran, Ed. University of Toronto Law School; Typographical Society.

James S. (2007). Tax simplification is not a simple issue: the reasons for difficulty and a possible strategy, University of Exeter, D*iscussion Papers in Management*, 07/18.

Jones, J. A. (1996). Tax Law : Rules or Principles ? *Fiscal Studies*, *17*(3), 63–89.

Loiacono R. & Mortimer C. (2017). Retrospective tax law: Has Pandora's Box opened never to be shut again? *eJournal of Tax Research,* 15, 1, pp. 105-118

Lopes, C. (2010). Maximizar o cumprimentos dos impostos e minimizar os custos: Uma perspectiva internacional. *Revista de Finanças Públicas E Direito Fiscal*, *1*(Ano 3), 167–219.

Lopes, C., & Martins, A. (2013). The Psychological Costs of Tax Compliance : Some Evidence from Portugal. *Journal of Applied Business and Economics*, *14*(2), 53–61.

Machado, J. B. (2016). *Introdução ao Direito e ao Discurso Legitimador*. Coimbra: Almedina.

Martins, A. (2015). The Portuguese corporate tax reform and international trends: an assessment. *International Journal of Law and Management*, *57*(4).

McKerchar, M. (2007). Tax complexity and its impact on tax compliance and tax administation in Australia. *The IRS Research Bulletin. In 1500P. (Ed.)*, 185–205.

Mirrlees, J., Adam, S., Gammie, M., Besley, T., Blundell, R., Bond, S., Poterba, J. (2011). The Mirrlees Review: Conclusions and Recommendations for Reform. *Fiscal Studies*, *32*(3), 331–359.

Murphy, K. (2008). Enforcing Tax Compliance: To Punish or Persuade? *Economic Analysis and Policy*, *38*(1), 113–135.

Nabais, J. C. (2015). *Introdução ao Direito Fiscal das Empresas*, 2.ª Edição, Coimbra: Almedina.

OECD. (1994). *Taxation and small businesses.* Paris: OCDE, 1-125.

OECD. (2011). OECD Guiding Principles for Regulatory Quality and Performance. *Regulatory Policy and Governance: Suporting Economic Growth and Serving the Public Interest*, 141–146.

Office of the Parliamentary Counsel. (2013). *When Laws Become Too Complex: A review into the causes of complex legislation*. London.

Osterloh, S., & Heinemann, F. (2013). The political economy of corporate tax harmonization — Why do European politicians (dis)like minimum tax rates? *European Journal of Political Economy*, *29*, 18–37.

Oestreicher, A.; Spengel C. & Koch R. (2011) How to Reform Taxation of

Corporate Groups in Europe, World Tax Jornal, 3, 1. Pp. 5-38

Palma C. (2015), *As Entidades Públicas e o Imposto sobre o Valor Acrescentado - Uma Ruptura no Princípio da Neutralidade,* Coimbra, Almedina

Park, A. (1997). 'Tax Law in and after the Wheatcroft Era', in R. Rawlings (ed.), *Law, Society and Economy*. Oxford: Clarendon Press, 131–145.

Parker, D., & Kirkpatrick, C. (2012). *Measuring Regulatory Performance - The economic impact of regulatory policy : a literature review of quantitative evidence*.

Parliamentary Counsel's Office. (2011). *How to read legislation, a beginner's guide*. Western Australia.

Pereira, S., & Rodrigues, S. (2012). Participação no procedimento legislativo. *Boletim Observatório Da Legislação Portuguesa, Faculdade de Direito Da Universidade Nova de Lisboa*, (4), 23–43.

Radaelli, C., & Fritsch, O. (2012). *Measuring Regulatory Performance - evaluating regulatory management tools and programmes*.

Razin, A., & Slemrod, J. (2008). *Taxation in the Global Economy*. The University of Chicago Press.

Renda, A., Schrefler, L., Luchetta, G., & Zavatta, R. (2013). *Assessing the Costs and Benefits of Regulation: Study for the European Commission, Secretariat General*. Brussels.

Rose-Ackerman, S., & Perroud, T. (2013). Policy-making and Public Law in France: Public Participation, Agency Independence, and Impact Assesment. *Columbia Journal of European Law*, *19*, 225–312.

Rumina, U. A., Balandina, A. S., & Bannova, K. A. (2015). Evaluating the Effectiveness of Tax Incentives in Order to Create a Modern Tax Mechanism Innovation Development. *Procedia - Social and Behavioral Sciences*, *166*, 156–160.

Saad, N. (2014). Tax Knowledge, Tax Complexity and Tax Compliance: Taxpayers' View. *Procedia - Social and Behavioral Sciences*, *109*(1), 1069–1075.

Sancilio *P.* (2013)**.** Clarifying (or is it codifying?) the "notably abstruse": step transactions, economic substance, and the tax code, *Columbia Law Review,* 113, 1, 138-180

Sanches, J. L. S. (2010). *Justiça Fiscal*. Lisboa: Fundação Francisco Manuel dos Santos.

Shaw, J., Slemrod, J., & Whiting, J. (2011). Administration and Compliance. In 978-0-19-955374-7 (Ed.), *Tax by design*. Oxford University Press.

Slemrod, J. (2012). Complexity, Compliance Costs, and Tax Evasion. In J. A. Roth & J. T. Scholz (Eds.), *Taxpayer Compliance: Social Science Perspectives* (Vol. 2, pp. 156–181). Philadelphia: University of Pennsylvania Press.

Thompson, A. (1992). 'Foreword: Critical Approaches to Law—Who Needs Legal Theory?', in I. Grigg-Spall and P. Ireland (eds.), *The Critical Lawyers' Handbook*. London: Pluto Press, 2–11.

Tiley, J. (1987); 'Judicial Anti Avoidance Doctrines'. *British Tax Review,* 180–197; 220–244.

Villa-Lobos, N. (2016, February). Justiça fiscal não pode ser fator de desincentivo ao investimento. *Contabilista (Ordem Contabilistas Certificados)*, 191, 6–11.

Wales, C. J., & Wales, C. P. (2012). *Structures, processes and governance in tax policy-making: an initial report*. Oxford University Centre for Business Taxation.

Wheeler (2011), The Attribution of Income in the Netherlands and the United Kingdom, World Tax Journal, 3, 1, pp. 39-175.

Zander, M. (2015). *The Law-Making Process*. London: Bloomsbury Publishing.

Chapter 4: The autonomous taxation of corporate expenses in Portugal: empirical evidence of the perceptions of chartered accountants

4.1. Introduction

The Corporate income tax (CIT) influences company management in several ways (e.g. investment and financing policies, the timing of transactions, tax auditing and litigation procedures). Accountants[38] are key professionals in applying the CIT. As it is well known, corporate income tax is levied on the difference between recognized revenues and costs, adjusted by tax rules. Book-tax divergence is quite common in areas such as depreciation, impairments, fair value or international flows of dividends, calling for accounting and tax expertise (Brealey *et al.*, 2014; Hanlon & Heitzman, 2010).

The Portuguese corporate income tax has a special feature rarely seen in other countries. Autonomous taxes are levied on an extensive set of corporate expenses, irrespective of corporate profitability (Nabais, 2018; Martins *et al.*, 2018; Morais, 2007). Tax revenue from the autonomous taxation of expenses (ATE) comprises about 12% of corporate income tax receipts, which illustrates its relevance for the tax authorities and the corporate sector. ATE began in 1990, applied only to confidential or non-documented expenses. However, it has shown continuous growth in the set of expenses subject to such a special type of taxation, inserted in the CIT Code.

Autonomous tax rules are usually interpreted and applied to corporate expenses by Portuguese chartered accountants (CAs) when computing income tax liabilities and filling in tax returns. The purpose of this chapter is to present an empirical study of the perceptions of Portuguese CAs regarding key dimensions of ATE, as they influence corporate tax management and tax compliance.

Accountants' perceptions of the tax system have been researched by some authors since CAs represent individuals or corporations in the process of tax

---

[38] Also referred to in the international literature as tax professionals, tax advisors, tax practitioners or tax consultants.

compliance (Groen, 2017; Borrego *et al.*, 2016; Long & Basoglu, 2016; Dâmaso & Martins, 2015; Nwobu *et al.*, 2015; Hamid, 2013; Manaf *et al.*, 2013; Pedersen *et al.*, 2013; Yong & Lovich 2013; Coolidge & Ilic, 2009; Fatt & Ling, 2008; Singh & Sharma, 2007; Stephenson, 2006). The "dual" nature of Portuguese CIT (taxing not only profits but also certain expenses) offers a research opportunity to evaluate how CAs perceive the impact of ATE on corporate tax management. As far as it is known no prior study has analysed how CAs perceive the effects of such a specific feature of corporate taxation.

In the last few years, the Portuguese CAs have been confronted with frequent changes in ATE rules, an indicator of complexity. Moreover, the number of legal disputes in Portuguese Courts and in the Tax Arbitration Centre (CAAD) [39/40] suggests a significant level of litigation related to ATE.

Using a sample of 665 surveyed CAs, and applying factor analysis, this chapter concludes that tax complexity, tax compliance, and tax planning are the main dimensions of ATE understood by respondents. A very specific and quite unique feature of the Portuguese corporate tax code is seen as a significant influence on such important areas of business taxation. Besides the corporate income tax impact on tax management, new layers of complexity, planning opportunities, and compliance costs are seen to be added by ATE.

Additionally, by applying cluster analysis, this study finds that sociodemographic characteristics of CAs (e.g. age, gender, professional environment, level of expertise) generate clusters of CAs with different perceptions of the role and consequences of ATE in the management of corporate tax affairs.

As many countries face budgetary pressure, ATE could eventually be adopted by other jurisdictions. This chapter offers evidence regarding the legal

---

[39] Arbitration in tax matters, as an alternative to judicial resolution of conflicts in the tax area, was introduced into Portuguese law in 2011.

[40] The main role of CAAD is to avoid and prevent tax justice delays from becoming a disincentivizing factor for investment in Portugal (Villa-Lobos, 2016).

and economic consequences of ATE through the perceptions of experts dealing with a particular type of business tax. The results are relevant to policymakers, tax authorities and the corporate sector.

The chapter is organized as follows. Section 2 offers a literature review of accountants' perceptions regarding tax matters, and briefly describes Portuguese ATE. Section 3 presents the research design and methodology. The results are presented and analysed in Section 4. Section 5 concludes.

4.2. Background

4.2.1. Accountants´ perceptions of tax issues: a literature review

Tax compliance is influenced by many determinants. The pioneering work of Allingham & Sandmo (1972), known as the Traditional Tax Evasion Theory (A-S theory), identified the tax burden, the level of income, the probability of auditing and tax penalties as determinants of tax compliance. According to this model, taxpayers' base decisions on a purely rational choice, comparing the costs and benefits in order to comply with tax laws. Higher levels of income and tax rates increase the gains of noncompliance. Stronger penalties and frequent audits increase compliance.

The A-S model is commonly used as a starting point in explaining the process of tax compliance. But pure economic rationality is seen as insufficiently explanatory and argues for including other variables in order to justify observed levels of compliance. Thus, models of tax compliance have been developed through introducing sociological and psychological factors, aiming to explain taxpayers´ behaviour based on variables such as age, gender, education, income level, income source, occupation, peer influence, fairness and tax morale (Swistak, 2016; Degl'Innocenti & Rablen, 2017; Hartl *et al.*, 2015; Poppelwell *et al.*, 2012).

Several studies conclude that younger taxpayers have higher levels of noncompliance than older ones and that men evade more than women. Employees evade less than self-employed persons, while people with higher incomes evade more than those with lower incomes (Sá *et al.*, 2014; Blaufus *et al.*, 2013; Alm & Torgler, 2012; Chau & Leung, 2009; Devos, 2008; Alm & Torgler, 2006; Niemirowski *et al.*, 2003; Jackson & Milliron, 2002; Fischer, *et al.*, 1992; Alm *et al.*, 1992; Spicer & Becker, 1980).

Some authors analysed CAs perceptions of tax issues since the role of professionals makes a vital contribution to the process of voluntary tax compliance (Groen, 2017; Borrego *et al.*, 2017; Biondi, 2017; Abreu, 2015; Nwobu *et al.,* 2015; Mustapha & Obid, 2015; Tan & Sawyer (2003) *apud* Faridy *et al.*, 2014; Manaf, *et al.*, 2013; Palil *et al.*, 2013; Berle, 2012; Erard, 1993; Hite & Mcgill, 1992; Ayres, *et al.*, 1989).

These studies focused on the impact of the accountant's role in tax compliance and reached different conclusions. Some studies found that the use of CAs decreases tax noncompliance; higher levels of tax knowledge reduce the propensity to engage in risky avoidance strategies. On the other hand, additional studies concluded that using CAs increases noncompliance. Ayres *et al.* (1989) argue that tax knowledge and professional experience give rise to strategies favouring CAs' customers.

Another line of enquiry highlighted technical determinants, such as tax complexity, as important issues in the tax compliance context (Tran-Nam, 2015). These studies conclude those tax professionals when in complex and ambiguous situations, have a predisposition to plan aggressively for lower tax burden (Borrego *et al.*, 2017).

Avi-Yonah (2011) and Tran-Nam & Evans (2014) emphasized that the perception of tax complexity has several consequences for compliance. Complexity is associated with increased levels of noncompliance, higher compliance costs, and greater use of tax professionals.

In many countries, accountants have gradually replaced taxpayers in compliance tasks. As a result, perceptions and attitudes of these professionals have come to influence compliance levels (Martins, 2019; Tarmidi, 2019; Kang, 2018; Borrego *et. al.* 2017; Devos, 2012; Gutman, 2012).

Authors tend to divide tax complexity into two dimensions. The legislative (e.g. extensiveness of tax law, frequency of changes, interpretative uncertainty); and the administrative (e.g. a number of tax returns, frequency of payments, availability of electronic channels) (Borrego *et al.* 2017; Tran-Nam *et al.*, 2016; Rumina, *et al.*, 2015).

Tax professionals perceive tax systems as having a high level of complexity (Borrego *et al.,* 2017; Lopes, 2012; Mckerchar, 2005). The majority of studies about CA perception of complexity and its impact on tax compliance points out that they can use tax complexity and their knowledge of avoidance schemes, or aggressive tax planning, in order to benefit corporate or individual clients (Stephenson, 2007; Erard, 1993). On the contrary, Borrego *et al*. (2017) conclude that even if the perception of tax complexity by CAs is high, they prefer not to engage in aggressive tax planning due to fear of losing customers.

In Portugal, CAs play an important role in applying the CIT and in the assessment of ATE, a special feature of the Portuguese corporate income tax. CAs are responsible for recording expenses as well as for applying correct ATE rates, which could impact on tax complexity and tax compliance. This study aims to explore empirical evidence as regards the legal and economic consequences of ATE, through the perceptions of CAs. In the next section, the role of ATE in the tax system will be analysed from different perspectives.

4.2.2. Autonomous taxation in Portugal: revenue, litigation and compliance

The concept of "autonomous taxation" was created in Portugal in 1990[41,42]. At that time only "confidential or undocumented expenses" were taxed, at a rate of 10%. Then, in 2000[43] ATE was extended, as well as tax rates being increased.

Nowadays, the tax base of ATE is quite large, including non-documented expenses (taxed at a rate of 50%; or 70%, in the case of entities exclusively or partially exempted from income tax), expenses related to vehicles (10%, 27.5% or 35%, according to the type of energy source); representational expenses (10%); payments made to entities resident in low tax jurisdictions (35% or 55%); allowances and travelling costs incurred by employees (5%); costs with compensation to managers or board members (35%); costs with bonus and other variable remunerations paid to managers (35%); profits distributed to entities exclusively or partially exempt from income tax (23%)[44]. Furthermore, ATE tax rates increase by 10 percentage points if a business incurs tax losses.

In Portugal, the ATE tax burden increased in relation to the sum of corporate income tax, mainly because tax autonomous expenses are the simplest means of collecting business tax revenues. Businesses pay autonomous taxes even if they exhibit tax losses.

---

[41] Based on article 4 of Decree-Law no. 192/90 of June 9.

[42] Although there was an "extraordinary tax on certain corporate expenses", approved by Decree-Law N. ° 119-A / 83 of February 28, 1983, justified with a view to obtaining the necessary revenues, in the most equitable way possible, and as an instrument to fight tax evasion.

[43] By Law 30-G/00, of December 29.

[44] In 2016, an optional regime was also set up to encourage tangible fixed assets revaluation, with a special autonomous taxation of 14%, on the Revaluation Reserve created. This amount was payable by companies which had opted for such a revaluation regime, from 2016 to 2018.

Table 4.1 shows the increase in the tax burden of ATE revenues between 2005 to 2017.

Table 4.1 - CIT and ATE revenues – Portugal (2005-2017) – in EUR millions

Year	2005	2017
Assessed CIT	3.103	4.543
CIT Variation	-	+46.4%
Autonomous taxation (ATE)	198	510
ATE Variation (%)	-	+157.5%
Corporate statutory rate	25%	21%
ATE / Assessed CIT Revenue	6.4%	11.22%

Source: Adapted: AT http://info.portaldasfinancas.gov.pt/pt/dgci/divulgacao/estatisticas/estatisticas_ir/

Table 4.1 shows an increase in the ATE tax burden, from EUR 198 million in 2005 to EUR 510 million in 2017. In the same period, ATE grew from 6.4% to 11.22% of assessed CIT, showing its relevance in terms of tax revenue.

However, ATE has originated many tax conflicts, decided in the Portuguese State Tax Courts and in the Administrative and Tax Arbitration Centre (CAAD)[45]. Table 4.2 shows the number of tax disputes decided in the CAAD in the last few years.

---

[45] CAAD was introduced into Portuguese legal arbitration relating to tax matters as an alternative to judicial resolution of conflicts in the tax area (Ministry of Finance, 2012). CAAD was chosen because data availability for analysis.

Table 4.2 – Tax cases by tax typology in CAAD– 2012-2018[46]

Tax typology	Total cases	Total %
Taxes on corporate income		
CIT (Corporate Income Tax)	**942**	**24.29**
Central Government surcharge (Derrama Estadual)	132	3.40
Local Government surcharge (Derrama Municipal)	152	3.92
Tax benefits	80	2.06
Tax losses deduction	42	1.08
Tax corrections	34	0.89
Corporate autonomous taxation	297	7.65
Personal Income Tax (IRS)	**532**	**13.72**
Value-Added Tax (VAT)	**409**	**10.55**
Property taxes	**1.959**	**50.52**
Other taxes	**36**	**0.92**
Total cases in CAAD	**3.878**	

Source: Adapted from CAAD in https://www.caad.org.pt/tributario

From a total of 3.878 tax cases presented to CAAD since 2012, a total of 297 tax situations are related to ATE (representing 7.65% of the total cases).

Figure 4.1 reveals the percentage of ATE tax conflicts out of the total of corporate income tax conflicts, in Portugal.

---

[46] Access in https://caad.org.pt/tributario/decisoes/ (data extracted on 15 Jun 2019)
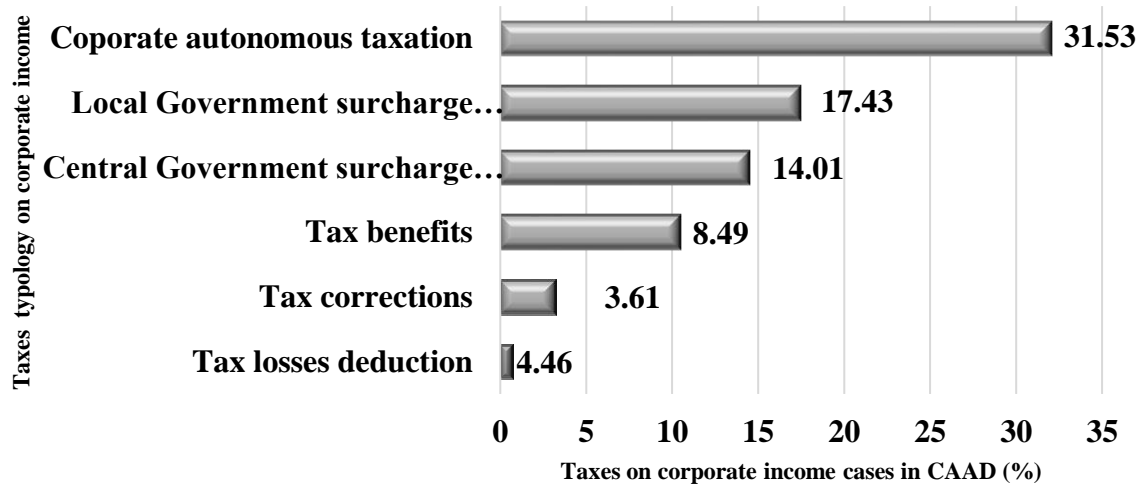
Figure 4.1 – Corporate income tax disputes in CAAD – 2012-2018 (%)

Source: Adapted from CAAD in https://www.caad.org.pt/tributario

Almost 32% of ATE tax disputes out of the total number of tax conflicts could be an indicator of the level of tax compliance costs, as shown in Figure 4.2.
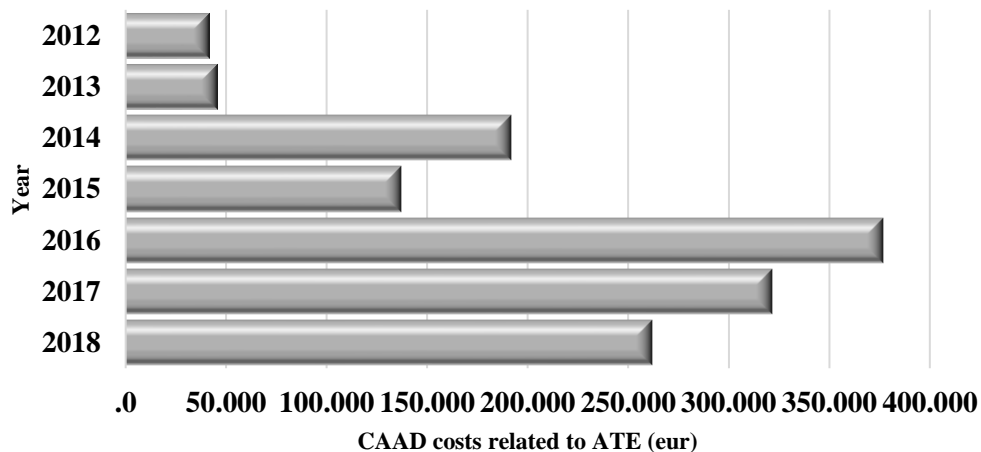
Figure 4.2 – Costs incurred by the Portuguese Tax Authority and Taxpayers related to corporate ATE cases in CAAD – 2012-2018 - in EUR[47]

Source: Adapted from CAAD in https://www.caad.org.pt/tributario

[47] Does not include the initial arbitration fee.

The costs of ATE tax litigation incurred by the tax authority and taxpayers are high. In 2016, from the available data, the arbitration fees were almost 400.000 EUR[48] and in 2018 almost 300.000 EUR[49].

The high tax burden of ATE on the sum of corporate tax revenues and the increase in ATE tax conflicts justifies the study of the role of ATE in the tax system. Furthermore, it seems relevant to identify how CAs perceive the dimensions of ATE and its determinants in the process of tax compliance.

To evaluate ATE tax perceptions, this study proposes to answer the following research questions: According to Portuguese CAs: What are the perceived tax dimensions of ATE? Is ATE too complex to apply? What is the main role of ATE in the process of tax compliance? Is ATE subject to tax planning?

4.3. Research methodology

In this section, the research methodology which includes hypotheses, data collection, and sample characterization is presented.

4.3.1. Research hypotheses

According to the literature review, there are several determinants of CAs perceptions concerning tax issues, such as demographic, professional and technical factors.

Hypothesis 1 – Demographic factors

Age and gender seem to have an impact on tax perceptions and attitudes. Niemirowski *et al.* (2003) highlight the fact that younger taxpayers are more

---

[48] Data analysed in the CAAD procedures available in https://www.caad.org.pt/tributario.

[49] Data analysed in the CAAD procedures available in https://www.caad.org.pt/tributario.

noncompliant than older ones. Older taxpayers have acquired deeper tax knowledge associated with higher levels of compliance. Women are more compliant than men (Devos, 2008). This study sets out to ascertain whether these differences between taxpayers are also found among Portuguese CAs regarding ATE. It is intended to evaluate whether socio-demographic factors, measured by age and gender, impact on Portuguese CA perceptions of ATE.

H1: There is a relation between demographic factors and the perception of Portuguese CAs regarding ATE.

H1.1 (age):

There are differences in the perception of Portuguese CA about complexity, planning opportunities and compliance related to ATE, depending on their age.

H1.2. (gender):

There are differences in the perception of Portuguese CA about complexity, planning opportunities and compliance related to ATE, depending on their gender.

Hypothesis 2 – Professional factors

Work experience of CAs and their level of tax knowledge have also appeared in the literature as factors influencing perceptions regarding taxes. Experienced tax professionals exhibit greater knowledge, which may act as a guide to managers in tax planning strategies (Groen, 2017; Borrego *et al.*, 2017; Manaf *et al.*, 2013). Moreover, to enhance efficient service, tax professionals need to be aware of new developments in tax rules (Palil *et al*., 2013; Berle, 2012). The tax literature also highlights the fact that employees are more compliant than the self-employed (Mustapha & Obid, 2015; Sá *et al.*, 2014). One can say that years of professional experience, levels of tax knowledge and their work environment/accounting practice are reflected in Portuguese CA attitudes.

H2: There is a relation between professional factors and the perception of ATE by Portuguese CAs.

H2.1 (number of years of professional experience)

There are differences in Portuguese CA perceptions of the complexity, tax planning and tax compliance of ATE, depending on the CA´s number of years of professional experience.

H2.2 (level of tax knowledge):

There are differences in Portuguese CA perceptions of the complexity, tax planning and tax compliance of ATE, depending on the accountant's level of tax knowledge.

H2.3 (accountant activity practice):

There are differences in Portuguese CA perceptions of the complexity, tax planning and tax compliance of ATE, depending on the CA's accounting practice.

Hypothesis 3 – Technical factors

Studies emphasise technical features that impact on CAs´ perceptions about the tax system. Perceptions regarding the tax burden are influenced by changes in tax rates or tax bases (Borrego *et al.*, 2017; Blaufus *et al.*, 2013). Tax penalties affect corporate tax compliance levels (Swistak, 2016; Poppelwell *et al.*, 2012). It can be assumed that technical factors, measured by the corporate expenses subject to ATE, impact on Portuguese CA perceptions of ATE.

H3: There is a relation between technical factors and the perception of Portuguese CAs with regard to ATE.

H3.1 (**corporate expenses subject to ATE):**

There are differences in Portuguese CA perceptions regarding the complexity, planning opportunities and compliance levels of ATE, depending on the type of expenses subject to ATE.

4.3.2. Survey design and administration

A questionnaire was developed in order to test the research hypothesis. This research tool was used in similar studies in the USA, Australia, Malaysia, India, New Zealand, and Portugal (see Borrego *et al.*, 2017; Pedersen *et al.*, 2013; Hamid, 2013; Manaf *et al.*, 2013; Singh & Sharma, 2007; Stephenson, 2006; Tomasic & Pentony, 1990).

The questionnaire included questions about the interpretation of ATE rules, preparation of accounting and tax information, legal conflicts, the influence of ATE on business, SME´s tax burden, among others.

In order to improve the questionnaire, a pre-test was undertaken in April 2018, interviews were conducted with ten Portuguese CAs. The final questionnaire was ready by May 2018.

The questionnaire was divided into three parts[50]. The first and second parts included questions on sociodemographic, professional and technical issues, such as age, gender, professional experience, tax knowledge, professional practice, and expenses often subject to corporate ATE in the CAs usual recording activity. In the third part, the questions focused on tax perceptions of ATE and its role in corporate taxation.[51] This part included questions about the interpretation of ATE rules, preparation of accounting and tax information, legal disputes, influence of ATE on businesses, small and medium-sized enterprises (SMEs)' tax burden, among others.

In order to collect the data, 2.145 email addresses (with the access link to the online survey) were sent randomly according to the geographical area[52] to

---

[50] See appendix A

[51] CAs responded according to a 7-point Likert scale, ranging from strongly disagree to strongly agree.

[52] Accountants professionals email addresses available in https://www.gescontact.pt/ and in http://www.pai.pt/

Portuguese CAs[53], in the period from 15th May to 16th July 2018. At the same time, 1.000 paper-based surveys were sent to tax training sessions of the Order of Portuguese Chartered Accountants (OCA).

Of 3.145 questionnaires sent, 665 valid responses were obtained [54]. Table 4.3 shows a response rate of 21.15%[55], which is in line with other studies (Borrego *et al.*, 2017;2018; Dâmaso & Martins, 2016; Tran-Nam *et al.*, 2013; 2016b; Dâmaso & Martins, 2015 ; Evans *et al.*, 2014; Devos, 2012; Evans, 2003).

Table 4.3 – Sample and response rate[56],[57] (frequency and percentage)

Sample Statistic (selected Portuguese CA)	Sample Statistic (%)	Real Sample (Portuguese CA responding)	Response rate (%)
3.145	100.00	665	21.15

[53] In March 2018 there are 69.626 active Portuguese Chartered Accountants. Data on population and sample (representativeness) are shown in appendix B.

[54] Sample size was assessed using power analysis with the software G*Power, Version 3.1.9.2. In a post hoc analysis of a two-sided test with $\rho_0=0.95$, $\rho=0.5$, sample size 665, and $\alpha=0.05$ the exact power is 1.0000000. The results are in line with Lakens (2013), Faul *et al.* (2009) and Cohen (1988). See more in appendix N – Table – N.11 - Statistical power analysis (sample size).

[55] The response rate for online questionnaires was 12.40% (266 valid responses); the response rate for paper-based questionnaires was 39.90% (399 valid responses).

[56] Two warnings were issued to chartered accountants when the online survey was sent or handed out the paper survey: only accountants who were practising their profession could respond (since there are chartered accountants who are not in active service, and these were not this audience-target); moreover, if chartered accountants had already responded to the online survey, they could not repeat it on paper, and vice versa.

[57] In the online survey, chartered accountants were informed about data collection as follows: "This survey is anonymous. The survey responses record does not contain any information about your identity, unless some question asks for an identification and you provide it".

Table 4.4 presents sample characterization.

Table 4.4 – Sample characterization (frequencies and percentages)[58,59]

Socio-demographic characteristics	Frequency	Percentage
Age[60]		
Up to 29 years old	33	4.96%
≥ 30 to 54 years old	456	68.57%
≥ 55 to 64 years old	122	18.35%
≥ 65 years old	54	8.12%
Gender		
Female	349	52.5%
Male	316	47.5%
Professional characteristics	**Frequency**	**Percentage**
Professional experience as an accountant		
Up to 10 years	127	19.1%
> 11 to 20 years	229	34.4%
> 20 years	309	46.5%
Tax knowledge level[61]		
Very low	-	-
Low	4	0.6%
Moderately low	14	2.1%
Neither low nor high	106	15.9%
Medium	271	40.8%
High	233	35%
Very high	37	5.6%

[58] Random test in appendix N (Tables N.1 to N.2).

[59] More in appendices C, E and G

[60] See appendix C.

[61] See appendices D and E.

Activity practice		
Employed	311	46.8%
Self-employed not integrated into a professional body	161	24.2%
Self-employed integrated into a professional body	93	14%
Employed and self-employed integrated into a professional body	19	2.9%
Employed and self-employed not integrated into a professional body	73	11%
Employed and self-employed integrated and not integrated into a professional body	5	0.8%
Self-employed integrated and not integrated into a professional body	3	0.5%

The sample relates to Portuguese CAs of very diversified ages. The maximum age is 86, the minimum age is 22 and the mean age of Portuguese CA survey respondents is 47.14. Table 4.4 also shows that 349 respondents are female (52.5%), while 316 are male (47.5%).

In relation to professionals, the sample presents three levels of professional experience. 19.1% of the respondents have up to 10 years' professional experience, 34.4% have between 11 and 20 years and 46.5% have over 20 years.

Those CAs surveyed consider that their level of tax knowledge is mostly "medium" or "high".

CAs perform their activity in a different type of business work environment. For example, 46.8% work as employees; 24.2% are self-employed.

4.4. Data analysis and results

To study the ATE dimensions perceived by Portuguese CAs, first an Exploratory and a Confirmatory Factor Analysis was applied. Secondly, the determinants associated with Portuguese CA perceptions regarding the ATE role in tax compliance were identified. Finally, to test the research hypotheses, a bivariate, and a cluster analysis, based on the selected sociodemographic characteristics of CAs, were applied. Version 20 of the software Statistical Package for the Social Sciences (SPSS) and Version 25 of the software AMOS were used.

4.4.1. The dimensions of ATE perceived by Portuguese CAs: factor analysis

An Exploratory Factor Analysis (EFA) was applied to identify the dimensions of ATE perceived by Portuguese CAs (following Borrego *et al.* 2017; Sá *et al.*, 2014; Ferrari & Randisi, 2013).

Using the Kaiser-Myer-Olkin (KMO) test, sample adequacy for all variables was analysed. This value is considered adequate (Kaiser & Rice, 1974). The component matrix for the CAs perceptions of ATE shows a KMO = 0.8 and Bartlett's Test of Sphericity with χ^2_{10}=2630.709 and p=<0.001, demonstrating EFA procedure appropriateness. The measure of sample adequacy (MSA) is greater than 0.6 for all variables.

As Costello & Osborne (2005) and Field (2009) suggest the Cattell (1966) *scree* test (see Figure 4.3) was applied, in conjunction with the eigenvalues, to determine the number of factors to retain.
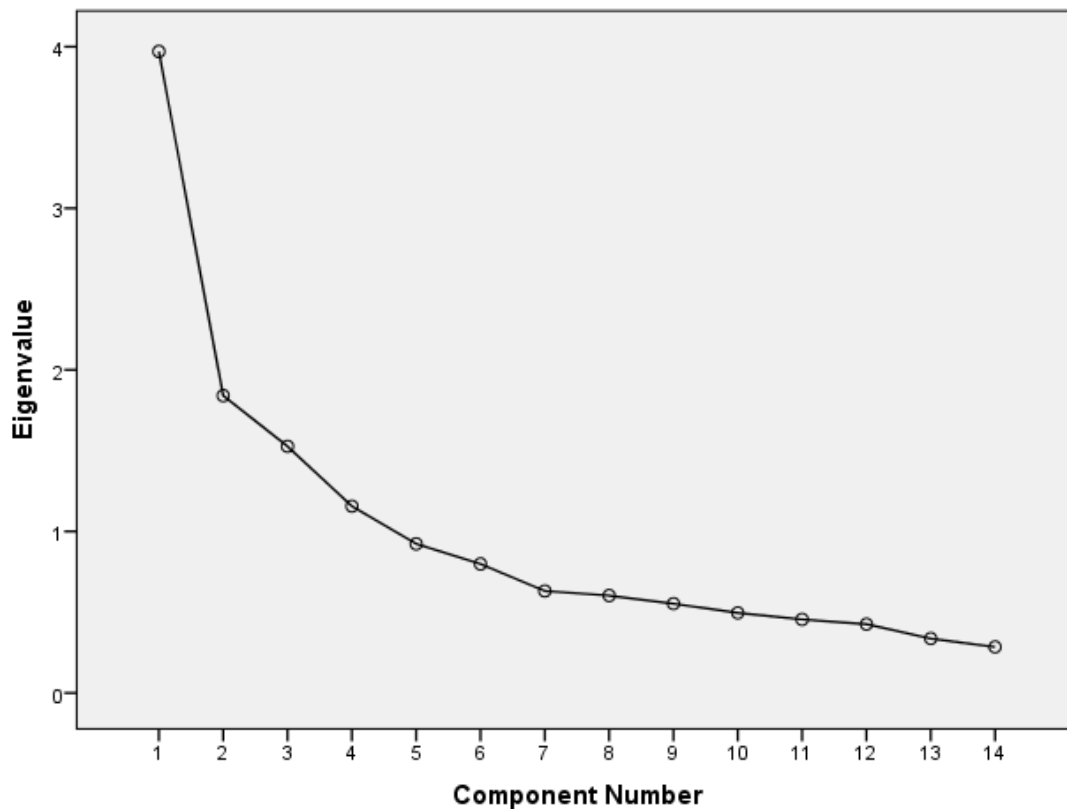
Figure 4.3 – Scree plot

Following the minimum eigenvalue criterion, all factors exhibiting an eigenvalue higher than 1 were retained (Guttman, 1954; Kaiser, 1960; 1961). The four-factor solution (ATE complexity, ATE tax planning, ATE tax compliance and ATE SMEs tax compliance) obtained explained 60.67 % of the total variance, as shown in Table 4.5.

Table 4.5 - Total Variance Explained

Component	Eigenvalues	% of Variance	Cumulative %
1	**3.971**	28.361	28.361
2	**1.84**	13.146	41.507
3	**1.526**	10.903	52.41
4	**1.156**	8.26	**60.669**
5	0.923	6.593	67.262
6	0.798	5.703	72.966
7	0.631	4.508	77.474
8	0.603	4.308	81.781
9	0.553	3.948	85.729
10	0.496	3.54	89.269
11	0.455	3.251	92.521
12	0.426	3.042	95.562
13	0.337	2.405	97.967
14	0.285	2.033	100

Extraction Method: Principal Component Analysis

*KMO=0.8; $p<0.001$; Cronbach's Alpha: 0.8; Variance explained: 60.67%

The Principal Component Analysis with a varimax rotation was used to improve the interpretation of the extracted factors, allowing a better association of the variables to the factors and simplify the structure of the factor loading matrix. Variables with loadings of 0.5 or greater on only one factor were extracted (Hair *et al.*, 2009;2019).

Table 4.6 presents the factorial weights estimated by EFA - Rotated Component Matrix.

Table 4.6 - Rotated Component Matrix

	Component			
	1	2	3	4
Interpretation of ATE rules	**0.766**	0.019	0.111	0.102
Frequent changes in ATE law	**0.813**	0.091	0.032	0.095
Diversity of ATE tax rates	**0.761**	0.133	-0.043	0.071
Preparation of accounting and tax information	**0.782**	0.150	-0.043	0.068
Legal conflicts	**0.704**	0.212	0.013	0.027
ATE influence on vehicle acquisition	0.113	**0.783**	-0.096	0.179
ATE' double penalties' influence on goods and services acquisition	0.207	**0.768**	-0.119	0.196
ATE' effect on results management	0.046	**0.631**	0.384	-0.139
ATE´ impact on reduction of expenses subject to taxation	0.179	**0.728**	0.096	0.082
Higher ATE with tax losses	-0.146	-0.036	**0.705**	-0.107
Broadening the tax base of ATE	0.043	0.010	**0.727**	0.216
Tax auditing reduction	0.138	0.079	**0.559**	0.171
ATE of SMEs	0.160	0.097	0.185	**0.789**
SMEs´ tax burden	0.075	0.169	0.062	**0.847**

Extraction Method: Principal Component Analysis.

Rotation Method: Varimax with Kaiser Normalization.

a. Rotation converged in 5 iterations.

Table 4.6 results indicate that the Portuguese CAs understand the ATE four dimensions:

Dimension 1: ATE complexity

ATE related audits and conflicts have led many companies to Portuguese State courts and the CAAD (Martins *et al.*, 2018). Several major amendments in ATE legal rules are a relevant source of complexity in tax legislation, which may indicate an inefficient law drafting process (Lopes, 2010; McKerchar, 2007; Freedman, 2005).

This dimension includes the following variables: interpretation of ATE rules; frequent changes in ATE law; diversity of ATE tax rates; preparation of accounting and tax information; legal conflicts.

Dimension 2: ATE tax planning

Managers adopt wide-ranging tax policies designed to reduce firms' corporate tax payments (Martins & Taborda, 2017; Guenther *et al.*, 2013). Expenses subject to ATE influence some tax management decisions, such as the type of vehicles to be acquired or bonuses to be paid.

This dimension includes the following variables: ATE influence on vehicle acquisition; the effect of ATE double penalties' influence on goods and services acquisition; ATE's effect on earnings management; the impact of ATE on the reduction of expenses subject to taxation.

Dimension 3: ATE tax compliance

Swistak (2016) suggests that specific penalties can increase tax compliance. As stated by Isa *et al.* (2014), taxpayers are quite sensitive to tax auditing procedures. Faced with a high audit probability, they feel pressured to comply (Hartl *et al.*, 2015). Some authors identified ATE as playing an important role in tax compliance (Santos & Palma, 2013).

This dimension includes the following variables: Higher ATE with tax losses; broadening the tax base of ATE; tax auditing reduction.

Dimension 4: ATE SMEs tax compliance

The majority of Portuguese SMEs show negative accounting and taxable income[62]. In this context, ATE could function as a minimum tax (Dinis *et al.*, 2017). A compliance dimension, specifically related to SMEs, may emerge from ATE rules. This dimension includes the following variables: ATE of SMEs; SMEs tax burden.

---

[62] In 2017, 63 per cent of the more 475.000 existing companies did not pay Corporate Income Tax (CIT). See Corporate Tax Statistics at http://info.portaldasfinancas.gov.pt/pt/dgci/divulgacao/estatisticas/Pages/default.aspx.

The Confirmatory Factor Analysis (CFA) was applied to determine how the measured variables well represent the factor structure of the CAs´ understanding of ATE. The results of CFA revealed that the 14-item, 4-dimension model of the Portuguese CA perceptions of ATE provided a good fit for the data (see Figure 4.4).
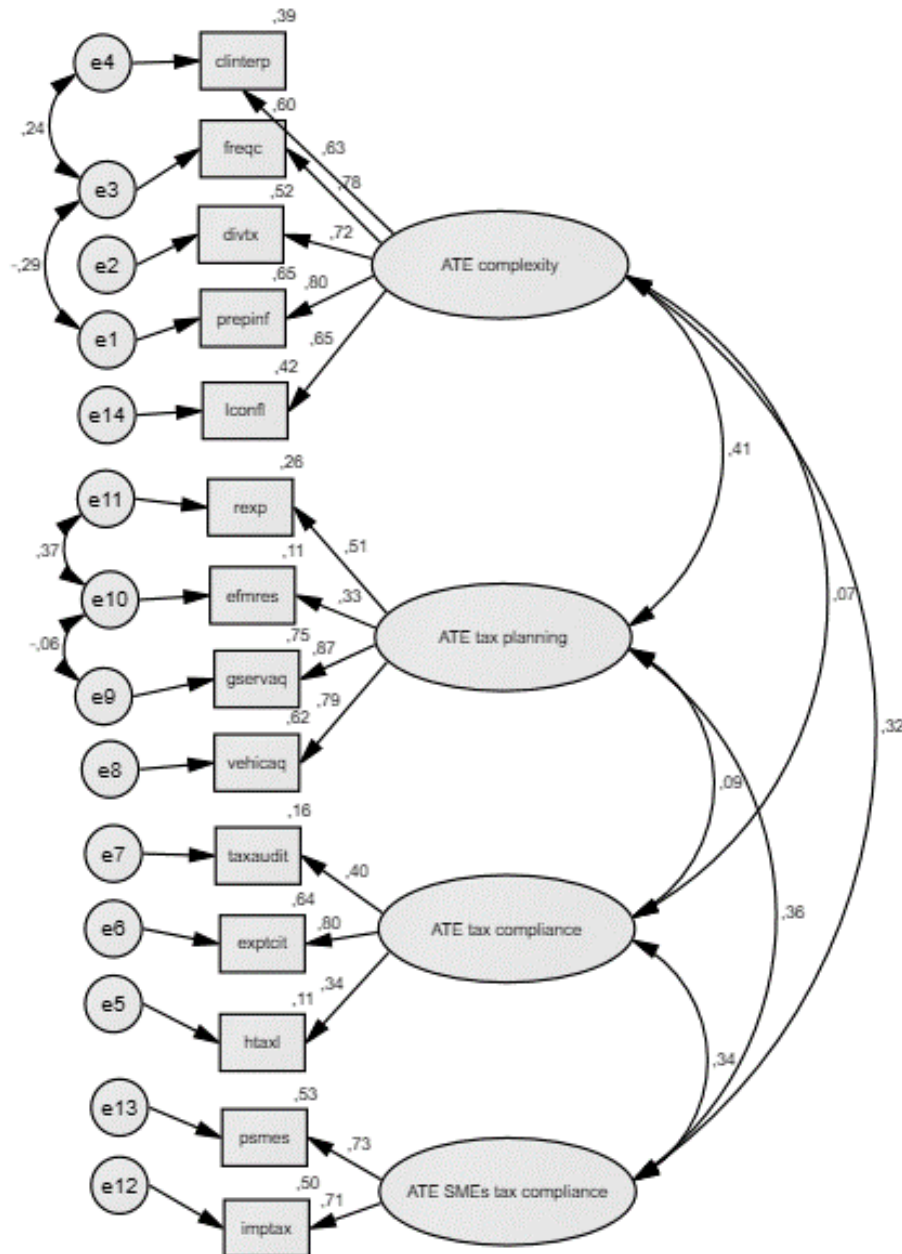
Figure 4.4 – Factor loadings of confirmatory factor analysis for the Portuguese CA perceptions of ATE

CFA displayed standardized factor loadings greater than 0.3 for all items.

Results also showed values of *sk* between -1.570 and 0.59 and values of *ku* between -16.532 and 1.926. All indicators had a univariate normal distribution (the assumption of normality is considered when absolute values of $sk<3$ and $ku<10$ (Kline, 2011))[63].

All items significantly loaded their hypothesized factors and good fit indices, with GFI[64]=0.967 and RMSEA[65]=0.044. Values of GFI close to 0.90 or 0.95 and RMSEA values of 0.03 to 0.08 reflect a good fit (as recommended by Brown, 2006). TLI[66]=0.953, CFI[67]=0.966 and NFI[68]=0.942, suggest good incremental fit indicators. Values of TLI greater than 0.95 and values of NFI and CFI greater than 0.9 suggest a good fit (according to Hair *et al.*, 2009;2019). The values of AGFI[69]=0.949 and PNFI[70]=0.693 also reflects good parsimony fit indicators (Hair *et al.* (2009;2019) recommend values of AGFI greater than 0.9 and values of PNFI greater than 0.5).

In addition, composite reliability[71] proved to be adequate, being 0.840 for "ATE complexity", 0.733 for "ATE tax planning", low for "ATE tax compliance" (0.532) and close to that acceptable for "ATE SMEs tax compliance" (0.68). For convergent validity[72], it was low for "ATE tax compliance" ($AVE_{CP}=0.305$), close to that acceptable for "ATE tax planning" ($AVE_P=0.435$) and adequate for "ATE complexity" ($AVE_C=0.514$) and "ATE SMEs tax compliance" ($AVE_S=0.529$) (Fornell & Larcker, 1981).

---

[63] See also Appendix N (table N.12).

[64] Goodness of Fit Index.

[65] Root Mean Square Error of Approximation.

[66] Tucker-Lewis Index.

[67] Comparative Fit Index.

[68] Normed Fit Index.

[69] Adjusted Goodness of Fit Index.

[70] Parsimony fit index.

[71] Composite reliability assesses the internal consistency of a measure.

[72] Convergent validity indicator assesses average variance extracted (AVE).

Figure 4.4 also presents the discriminant validity[73] of the dimensions assessed by comparing the AVE[74] with the squares of the correlation between dimensions. The correlation between "ATE complexity" and "ATE tax planning" is $\rho_{C,P}$ =0.41. Thus, being AVE_C=0.514 and AVE_P=0.435 higher than $\rho^2_{C,P}$ =0.17, it can be confirmed that the two dimensions have discriminant validity. Similarly, it can be shown the discriminant validity of the dimensions "ATE tax compliance and ATE tax planning", "ATE tax compliance and ATE SMEs tax compliance" and "ATE tax planning and ATE SMEs tax compliance" whose squared correlations (respectively, $\rho^2_{CP,P}$ =0.008, $\rho^2_{CP,S}$ =0.12 and $\rho^2_{P,S}$ =0.13) are considerably lower than the AVE values of each of the dimensions. The correlation between "ATE complexity" and "ATE SMEs tax compliance" is $\rho_{C,S}$ =0.32. Thus, being AVE_C=0.514 and AVE_S=0.529 greater than $\rho^2_{C,S}$ =0.10, it can be confirmed that the two dimensions have discriminant validity. Also, the correlation between "ATE complexity" and "ATE tax compliance" is $\rho_{C,CP}$ =0.07, reason why it can be shown that the two dimensions have discriminant validity since the squared correlations are significantly lower than the AVE values of each of the dimensions (Anderson & Gerbing, 1988).[75]

In order to identify the Portuguese CAs levels of perception of ATE dimensions, we construct four indicators using the mean values of the variables that make up each factor previously found, measuring: low level, medium level and high level of perception (on ATE complexity, on ATE role in tax planning, on ATE role in tax compliance, and on ATE role in SMEs tax compliance). [76]

Table 4.7 presents the levels of Portuguese CA perceptions of ATE dimensions.

---

[73] Discriminant validity evaluates if the dimensions defined by each set of items are distinct, this is, if they are not correlated with other items.

[74] Average variance extracted.

[75] See also Appendix N – Table N.10.

[76] Four new variables were created considering the frequencies of each of the variables that make up each dimension (see appendix L – Tables L.1 to L.4)

Table 4.7 - Portuguese CAs´ levels of perception (frequencies and percentage)[77]

Level of perception	ATE complexity (N)	%	ATE tax planning (N)	%	ATE tax compliance (N)	%	ATE SMEs tax compliance (N)	%
Lower (values up to 1 to 3)	177	26.62	62	9.32	447	67.22	152	22.86
Medium (values ≥ 4 to 5)	154	23.16	133	20.00	112	16.84	171	25.71
High (values ≥ 5)	334	50.23	470	70.68	106	15.94	342	51.43
Cronbach´s Alpha	0.8		0.7		0.5		0.7	
Total (N)						665		

The results shows that most Portuguese CAs have a good understanding of ATE complexity (50.23% of respondents have a high level of awareness on the complexity of ATE), a strong understanding of ATE tax planning (70.68% of respondents present a high level of perception about the role of ATE in tax planning), a poorer understanding of ATE tax compliance (67.22% of respondents understand that ATE does not play an important role in the tax compliance of companies) and a good understanding of ATE SMEs tax compliance (51.4% of respondents understand that ATE does play an important role in the tax compliance of SMEs).

---

[77] Internal consistency was assessed for each level of perception and for all items, using Cronbach's Alpha (a value of ≥0.5 was considered acceptable and a value of ≥0.7 was considered good) – See appendix M (Tables M.1 to M.4).

4.4.2. Testing the research hypotheses

4.4.2.1 Bivariate analysis

To test the research hypotheses a bivariate analysis was applied. The purpose was to study the relationship between sociodemographic, technical and professional variables and CA tax perceptions of ATE in different dimensions: tax complexity, tax planning, and tax compliance.

Due to the characteristics of survey data (non-normal distribution[78]), nonparametric tests were used. Correlations of variables and their constituent items were assessed using Kendall's tau (τ) (Kendall, 1955) and Spearman's (ρ) Rank Correlation (Spearman, 1904).

---

[78] See appendix N – Table N.11 - Test of Normality

4.4.2.1.1. Analysis of the relationship between demographic and professional variables and Portuguese CA perceptions of autonomous taxation complexity, tax planning, and tax compliance

Table 4.8 - Bivariate analysis: Kendall's tau (τ) and Spearman's rho (ρ) correlations (socio-demographic and professional variables)[79]

		ATE complexity		ATE tax planning		ATE tax compliance		ATE SMEs tax compliance	
		τ	ρ	τ	ρ	τ	ρ	τ	ρ
age	**Correlation Coefficient**	0.079**	0.107**	0.098**	0.131**	0.121**	0.163**	0.034	0.047
	Sig. (2-tailed)	0.006	0.006	0.001	0.001	0.000	0.000	0.225	0.222
gend	Correlation Coefficient	0.080*	0.090*	0.061	0.068	0.097**	-.109**	-0.029	-0.033
	Sig. (2-tailed)	0.020	0.020	0.079	0.079	0.005	0.005	0.391	0.391
exper	Correlation Coefficient	0.109**	0.129**	0.113**	0.132**	0.141**	0.165**	0.063	0.075
	Sig. (2-tailed)	0.001	0.001	0.001	0.001	0.000	0.000	0.051	0.052
kger	Correlation Coefficient	0.060	0.072	0.119**	0.141**	-0.004	-0.005	0.086**	0.104**
	Sig. (2-tailed)	0.061	0.065	0.000	0.000	0.897	0.898	0.007	0.007
actexerc	Correlation Coefficient	0.079*	0.096*	0.065*	0.080*	-0.030	-0.036	0.022	0.027
	Sig. (2-tailed)	0.013	0.014	0.043	0.039	0.341	0.349	0.482	0.482

**. Correlation is significant at the 0.01 level (2-tailed).

*. Correlation is significant at the 0.05 level (2-tailed).

age = age**; gend** = gender; **exper** = experience; **kger** = tax knowledge; **actexerc** = activity practice

As shown in Table 4.8, some socio-demographic and professional variables are significantly correlated with CAs´ perceptions about ATE.

Older and male CAs exhibit stronger perceptions on the impact of ATE in tax complexity. The fact that females are relative latecomers to the profession may explain that males, having dealt with a more significant number of technical

---

[79] For additional results, see appendix O (Tables O.1 to O.4)

issues, tax audits, and litigation related to ATE, tend to see it as a source of complexity in complying with corporate tax duties.

Besides, the more experienced CAs exhibit a higher perception of ATE´s complexity. It is understandable that a longer period of accounting and tax professional activity, and the accompanying need of constant updating ATE´s intricate tax specifics, may generate a perception of complexity in the interpretation and application of ATE (Mckerchar, 2005; Lopes, 2012; Borrego *et al.* 2017).

Additionally, CAs working as independent professionals, with a diversified customer base, dealing with a potentially larger set of expenses subjected to ATE, may develop a sense of complexity in the application of related tax rules (Mustapha & Obid, 2015; Niemirowski *et al.*, 2003; Devos, 2008).

The influence of ATE in tax planning is significantly correlated with CAs´ age, professional experience, level of tax knowledge and how they perform their activity (self-employed or as employees).

Experience, tax knowledge and type of activity influence the perception of CAs on the tax planning side of ATE. Issues like vehicle acquisition, performance-related bonuses, and representational expenses originate ATE. As such, when advising corporate clients, CAs have a better perception of how ATE may add another layer of tax planning consideration when entrepreneurs decide to acquire certain capital goods or incur in particular expenses. The points underlined before relatively to age and complexity also apply here (Groen, 2017; Blaufus *et al.*, 2013; Guenther *et al.*, 2013).

Regarding ATE´s impact on tax compliance, the results show a significant difference between CAs´ genders and CAs perception is negatively correlated with age and professional experience. The results are in line with Swistak (2016) and Poppelwell *et al.* (2012).

Older and more experienced CAs tend to see ATE as a "substitute" for the corporate income tax, or even a minimum tax. That is, once some amount of

ATE is shown in corporate tax returns, it may reduce the propensity of tax auditors to check a company´s numbers. The fact that male CAs have a stronger negative view of the relation between ATE and compliance is also in accordance with their long experience, and the growing sense that ATE is becoming more a parallel tax, and not really an avoidance fighting mechanism for a well-defined set of expenses.

Moreover, this result is not totally unexpected from the ATE teleological side. If the reason for implementing ATE is to tax expenses that are of dubious nature, or where the frontier between corporate and personal expenses if fuzzy, then the successive expansion of the set of expenses under this special tax regime may originate in CAs and their clients the perception that ATE is part of the normal tax regime. Accordingly, firms may understate their true income tax base.

The level of tax knowledge is significantly correlated with CAs perception of tax compliance in SME. A special feature of the legal design of ATE may explain this result. As it is well known, the large majority of Portuguese SME do report losses[80]. ATE´s rules establish that when a company reports losses, ATE´s rates increase by ten percentage points. Thus, the level of tax knowledge induces a trade-off between a higher ATE bill and reporting taxable profits, increasing compliance (Freire-serén, & Panadés, 2013; Alm & Torgler, 2012).

Considering the obtained results, one can summarize the set of the research hypotheses of CAs perceptions of ATE dimensions, the expected relationship, the research results, and the hypotheses validation (Table 4.9).

---

[80] In the taxation period of 2017, at the level of CIT distributed by turnover, 53.5% refers to companies whose turnover exceeds €25.000.000. See Corporate Tax Statistics at http://info.portaldasfinancas.gov.pt/pt/dgci/divulgacao/estatisticas/Pages/default.aspx

Table 4.9 - Summary of the Results of the Research Hypotheses: sociodemographic and professional variables

Research Hypotheses	Expected relationship	Results	Hypotheses validation
H 1.1: Age → ATE complexity	+/-	+	Accepted
H 1.2: Gender → ATE complexity	+/-	+	Accepted
H 2.1: Experience → ATE complexity	+/-	+	Accepted
H 2.2: Level of tax knowledge → ATE complexity	+/-	n.s.	Rejected
H 2.3: Activity practice → ATE complexity	+/-	+	Accepted
H 1.1: Age → ATE tax planning	+/-	+	Accepted
H 1.2: Gender → ATE tax planning	+/-	n.s.	Rejected
H 2.1: Experience → ATE tax planning	+/-	+	Accepted
H 2.2: Level of tax knowledge → ATE tax planning	+/-	+	Accepted
H 2.3: Activity practice → ATE tax planning	+/-	+	Accepted
H 1.1: Age → ATE tax compliance	+/-	-	Accepted
H 1.2: Gender → ATE tax compliance	+/-	-	Accepted
H 2.1: Experience → ATE tax compliance	+/-	-	Accepted
H 2.2: Level of tax knowledge → ATE tax compliance	+/-	n.s.	Rejected
H 2.3: Activity practice → ATE tax compliance	+/-	n.s.	Rejected
H 1.1: Age → ATE SMEs tax compliance	+/-	n.s.	Rejected
H 1.2: Gender → ATE SMEs tax compliance	+/-	n.s.	Rejected
H 2.1: Experience → ATE SMEs tax compliance	+/-	n.s.	Rejected
H 2.2: Level of tax knowledge → ATE SMEs tax compliance	+/-	+	Accepted
H 2.3: Activity practice → ATE SMEs tax compliance	+/-	n.s.	Rejected

n.s. = not significant

4.4.2.1.2. Analysis of the relation between technical variables and Portuguese CA perceptions of autonomous taxation complexity, of the autonomous taxation role in tax planning and the autonomous taxation role in tax compliance

Table 4.10 - Bivariate analysis: Kendall's tau (τ) and Spearman's rho (ρ) correlations (technical variables)[81]

		ATE complexity		ATE tax planning		ATE tax compliance		ATE SMEs tax compliance	
		τ	ρ	τ	ρ	τ	ρ	τ	ρ
ndocexp	Correlation Coefficient	0.046	0.057	-0.026	-0.030	**0.127****	**0.156****	-0.029	-0.034
	Sig. (2-tailed)	0.141	0.143	0.416	0.439	0.000	0.000	0.354	0.379
vehicexp	Correlation Coefficient	0.045	0.053	**0.084***	**0.097***	-0.029	-0.035	0.063	0.074
	Sig. (2-tailed)	0.172	0.173	0.012	0.013	0.378	0.374	0.055	0.057
repexp	Correlation Coefficient	0.053	0.063	**0.080***	**0.094***	0.023	0.027	0.042	0.050
	Sig. (2-tailed)	0.100	0.106	0.014	0.016	0.485	0.482	0.184	0.194
ltjexp	Correlation Coefficient	0.053	0.062	-0.004	-0.005	**0.108****	**0.126****	0.005	0.005
	Sig. (2-tailed)	0.111	0.112	0.903	0.905	0.001	0.001	0.891	0.901
allexp	Correlation Coefficient	0.046	0.057	**0.068***	**0.082***	**0.076***	**0.096***	**0.079***	**0.098***
	Sig. (2-tailed)	0.137	0.144	0.032	0.034	0.015	0.013	0.011	0.012
profexp	Correlation Coefficient	**0.100****	**0.116****	-0.004	-0.005	**0.069***	**0.080***	0.006	0.007
	Sig. (2-tailed)	0.003	0.003	0.907	0.907	0.039	0.039	0.864	0.863
compexp	Correlation Coefficient	**0.067***	**0.078***	-0.054	-0.062	0.013	0.015	-0.048	-0.056
	Sig. (2-tailed)	0.043	0.043	0.109	0.110	0.685	0.698	0.145	0.151
excexp	Correlation Coefficient	**0.075***	**0.089***	0.004	0.005	0.033	0.038	0.003	0.004
	Sig. (2-tailed)	0.022	0.022	0.914	0.904	0.318	0.324	0.918	0.912
bonexp	Correlation Coefficient	0.056	0.066	-0.028	-0.032	0.036	0.042	-0.041	-0.048
	Sig. (2-tailed)	0.087	0.088	0.405	0.417	0.272	0.278	0.206	0.217

---

[81] For additional results, see appendix O (Tables O.5 to O.8)

revalexp	Correlation Coefficient	0.062	0.071	**-0.079***	**-0.090***	**0.078***	**0.089***	-0.032	-0.037
	Sig. (2-tailed)	0.066	0.067	0.020	0.020	0.021	0.021	0.344	0.338

**. Correlation is significant at the 0.01 level (2-tailed).

*. Correlation is significant at the 0.05 level (2-tailed).

ndocexp = non - documented expenses; **vehicexp** = expenses related to vehicles; **repexp** = representation expenses; **ltjexp** = payments made to entities resident in low tax jurisdictions; **allexp** = allowances and travelling costs, incurred by employees ; **profexp** = profits distributed to taxable persons who benefit from total or partial exemption ; **compexp** = expenses relating to compensation ; **excexp** = expenses related to the part that exceeds the value of the remunerations ; **bonexp** = expenses with bonus ; **revalexp** = revaluation reserve of tangible fixed assets

According to table 4.10, the CAs´ tax complexity perception of ATE is significantly different depending on the type of expenses subject to taxation.

The Portuguese CAs identify the following tax complexity areas: (a) profits distributed to taxable persons who benefit from total or partial exemption; (b) expenses relating to compensation or any compensation due and not related to the achievement of productivity objectives; and (c) expenses related to the part that exceeds the value of the remunerations.

The three areas mentioned above have been created tax legal conflicts[82], which creates tax complexity as well as higher compliance costs (Borrego *et al.* 2017; 2018; Tran-Nam, 2015; Avi-Yonah, 2011).

Regarding the other expenses, there are no significant differences in the perception of the tax complexity of CAs in relation to ATE. These expenses are related to the normal activity of the companies and do not present tax difficulties in computing the amount of autonomous taxes, since they are expenses which the CAs apply (or applied) more frequently and therefore do not present a remarkable degree of difficulty in their application, nor in the interpretation of tax legislation (McKerchar, 2005; Jackson & Milliron, 2002).

---

[82] See, for example, CAAD Processes : 125/2013-T, 659/2014-T, 545/2016-T, 163/2017-T, 491/2017, 363/2017-T, 106/2015-T and Judgment TCAS 09878/16.

Table 4.10 also highlights the relation between CAs´ autonomous tax perception and business tax planning, especially in the following expenses: (a) expenses related to personal vehicles (b) representation expenses (considering such receipts, meals and travel provided to customers, suppliers or any other persons), and (c) allowances and expenses compensation for the use of the employee's own vehicle in business-related travel.

These results are explained by the fact that these are the expenses that the CAs apply (or have applied) more frequently in companies that they represent (or represented), and which influence corporate tax management, particularly because they are expenses which form part of the normal activity of companies and which they cannot give up (Martins, 2017).

In order to optimize the tax burden, companies tend to acquire vehicles whose related expenses are subject to lower or zero autonomous tax rates, even when this option does not prove to be the most correct from the management perspective. In Portugal, the acquisition of a personal vehicle with a value equal to 35 000 Euros will pay an autonomous tax rate of 35% on the vehicle's related expenses; whereas if the company purchases a personal vehicle for 18 000 Euros, its expenses will be subject to a tax rate of 10%. This example shows how well ATE influences the way the company is managed, leading to businesses options not always the most efficient.

With regard to allowances and expenses compensation, and also with the aim of reducing the tax burden, taxpayers may choose to pay subsistence allowances to employees for the use of their own vehicle, associated with an autonomous tax rate of 5% instead of the acquisition of a vehicle for the company, which can suffer an autonomous rate of 35% applied to associated expenses.

Finally, the CAs´ perception of ATE related to the revaluation reserve of tangible fixed assets, despite being statistically significant, has a negative impact on the perception of ATE and tax planning. It can be said that this result is related to the fact that this type of ATE rate is not compulsory. It applies only to

taxpayers that opted to revalue their tangible fixed assets. This measure was exceptionally introduced in 2016. If a corporate chose to revalue fixed assets, it would simultaneously pay an ATE rate of 14% on the value of revaluation reserve. Therefore, this measure proved to be unattractive for businesses.

The remaining expenses are not significant in explaining the CAs' perceptions of ATE´s impact on tax planning, since CAs respondents are mainly responsible for SMEs and apply (or applied) ATE to these expenses less frequently (or have never applied) [83].

There are also significant differences in the CA´s perception of ATE effect on corporate tax compliance, depending on the expenses: (a) nondocumented expenses, (b) payments made to entities resident in low tax jurisdictions; (c) allowances and travelling costs, incurred by employees, using their own vehicles; (d) profits distributed to taxable persons who benefit from total or partial exemption; (e) revaluation of tangible fixed assets.

It could be stated that these results can be explained by the relation of these expenses to fraud and tax evasion, which Portuguese CA realize that ATE can have a deterrent effect on tax noncompliance. (Nabais, 2018; Martins *et al*.; 2018; Morais, 2007).

In the particular case of ATE on the revaluation of tangible fixed assets, the Portuguese State would collect tax revenue that also induces a potential future tax expense, because it will allow companies to depreciate their assets based on a higher (revaluated) values. This tax advantage may not exist if the adhering companies do not expect a sufficient level of taxable income to accommodate the increase in depreciation. This result is relevant because it contradicts those obtained regarding the impact of this ATE tax expense on tax planning. This is explained by the fact that although the revaluation scheme

---

[83] See appendices F and H.

applies to all companies, it benefits mostly large companies[84]. For these firms, the amount of paid ATE is of lower concern. They have the financial capacity to advance 14% of the value of the asset revaluation while looking at the future tax benefit associated with the higher depreciation expenses, which may allow them to reduce the future tax burden[85].

Actually, the ATE was firstly introduced in Portugal as a strategy to fight fraud and tax evasion. The ATE leads to an "obligated" voluntary tax compliance for corporate taxpayers, for several reasons.

Firstly, because the expenses subject to ATE are expenses easily target of tax audit procedure (following the work of Hartl *et al.*, 2015). Secondly, companies, especially SMEs, may have the purpose of avoiding paying higher wages, preferring to pay subsistence allowances (Carey *et al.*, 2018; Patterson *et al.*, 1997), and the ATE may deter corporate taxpayers from this behaviour. Thirdly the ATE does not encourage nondocumented expenses and payments associated with entities resident in tax havens and taxable persons exempt from taxation.

Considering the obtained results, one can summarize the set of the research hypotheses of CAs perceptions of ATE dimensions, the expected relationship, the research results, and the hypotheses validation (Table 4.11).

---

[84] The analysis of the budgetary impact of asset revaluation made by the Portuguese Technical Unit for Budgetary Support (UTAO) reveals that the number of companies that joined the program was residual: only 183 (0.016% of Portuguese companies). Five companies represented about 2/3 of the total revalued value. See more in: https://www.parlamento.pt/.

[85] The amount of the revaluations and the correspondent special autonomous taxation is concentrated in one company. Based on that company's report and accounts, in 2016, the UTAO´s report also indicates that the total amount of revaluations is 1.185 million euros, corresponding to an autonomous tax amount for the 2016-2018 triennium that "will be 165 million euros", but the scheme will allow this company "to accommodate a tax deduction of 339 million euros in future years". See more in: https://www.parlamento.pt/.

Table 4.11 - Summary of the Results of the Research Hypotheses: technical variables

Research Hypotheses	Expected relationship	Results	Hypotheses validation
H 3.1: Expenses subjected to ATE → ATE complexity	+/-		Accepted*
*profits distributed to entities wholly or partially exempted from CIT		+	
*costs with compensation to managers or board members		+	
*costs with the excess of the remuneration at the end of the contract paid to managers or board members		+	
H 3.1: Expenses subjected to ATE → ATE tax planning	+/-		Accepted*
*expenses related to vehicles		+	
*representation expenses		+	
*allowances and travel costs incurred by employees		+	
*incentive to the revaluation of tangible fixed assets		-	
H 3.1: Expenses subjected to ATE → ATE tax compliance	+/-		Accepted*
* non-documented expenses		+	
* profits distributed to entities wholly or partially exempted from CIT		+	
* payments made to entities resident in low tax jurisdictions		+	
* allowances and travel costs incurred by employees		+	
* incentive to the revaluation of tangible fixed assets			
H 3.1: Expenses subjected to ATE → ATE SMEs tax compliance	+/-		Accepted*
* allowances and travel costs incurred by employees		+	

To sum up, the perception of CAs in relation to ATE induces to an "obligated" voluntary tax compliance as well as leads to aggressive tax planning by businesses.

Moreover, ATE complexity is explained by the interpretation of ATE rules, frequent changes in ATE law, diversity of ATE tax rates, preparation of accounting and tax information and legal conflicts. As a result, tax policymakers might struggle to resolve the ATE law inefficiencies. In addition, increasing taxation (higher ATE with corporate tax losses) or reaching a solution of broadening the tax base of ATE (in order to reduce tax auditing) may not improve business tax compliance.

Although the introduction of ATE seems potential to be a good measure for fighting tax evasion and fraud, it might also have the opposite effect, increasing avoidance and consequent non-compliance. As a result, the role of ATE in SMEs' tax compliance can be perceived as a relevant tax issue.

4.4.2.2 Chartered accountants' profile: cluster analysis

In order to identify Portuguese CA respondents' profiles, a cluster analysis (Given, 2008) was used, based on the demographic, professional and technical variables under study, as well as on the perception dimensions created by EFA.

The cluster analysis developed in this chapter was based on the non-hierarchical clustering method called K-means, which consists of a transfer of an individual to the cluster whose centroid is the shortest distance. The following steps were taken until the final model was obtained: first, application of the K-means method for different values of k (k = 2 and k = 3) to evaluate the number of groups that allow for greater differentiation; second, assessment of the contribution of the variables to the definition of groups (with the main sets of the selected variables with low contribution - i.e. with low F value - being removed[86]).

A three-cluster solution was obtained in Table 4.12

---

[86] As in the case of the professional variable tax knowledge and the technical variables under study (measured by the corporate expenses subjected to ATE)

Table 4.12 – Number of cases (Portuguese CA sample) by clusters

Number of Cases in each Cluster			%
Cluster	1	130	19.55
	2	276	41.50
	3	259	38.95
Valid		665	100.00
Missing		0	-

The application of the K-means method, with three groups established, results in the assignment of individuals to the groups created. The following Table (4.13) shows that all the variables present high values of F, contributing strongly to the definition of the groups.

Table 4.13 - ANOVA one way

	Cluster		Error		F	Sig.
	Mean Square	**Df**	**Mean Square**	**df**		
Age	36.076,06	2	24,44	662	1.475,99	<0.001
Gender	8,26	2	0,23	662	36,60	<0.001
Number of years of professional experience	92,53	2	0,30	662	304,54	<0.001
Accountant activity practice	22,86	2	1,87	662	12,22	<0.001
ATE complexity	7,86	2	2,07	662	3,80	<0.001
ATE tax planning	8,57	2	1,74	662	4,93	<0.001
ATE tax compliance	19,13	2	2,03	662	9,44	<0.001

From the cluster analyses, Portuguese CA perceptions focusing on ATE complexity, ATE tax planning and ATE tax compliance also allow discrimination between clusters.

The distance between final cluster centres can be analysed in Table 4.14, as follows.

Table 4.14 - Distances between Final Cluster Centres

Cluster	1	2	3
1		28.114	15.070
2	28.114		13.057
3	15.070	13.057	
Duncan grouping (α=0.05)			
Age		2; 3; 1	
Gender		2; 3; 1	
Number of years of professional experience		2; 3; 1	
Accountant activity practice		2; 3-1	
ATE complexity		2-3; 3-1	
ATE role in tax planning		2; 3-1	
ATE role in tax compliance		1-3; 2	

The results of Duncan's Multiple Range Test (DMRT)[87] show the differences between the three clusters. Clusters 1 and 3 are equivalent in accountant activity practice and in the knowledge that Portuguese CAs have of ATE in the Portuguese tax system (ATE complexity, ATE tax planning and ATE tax compliance), but they differ in age, gender and number of years of professional experience. Cluster 2 is similar to Cluster 3, regarding the understanding of ATE tax complexity.

Figure 4.5 identifies the three clusters.

---

[87] See appendix N – Tables N.3 to N.9.
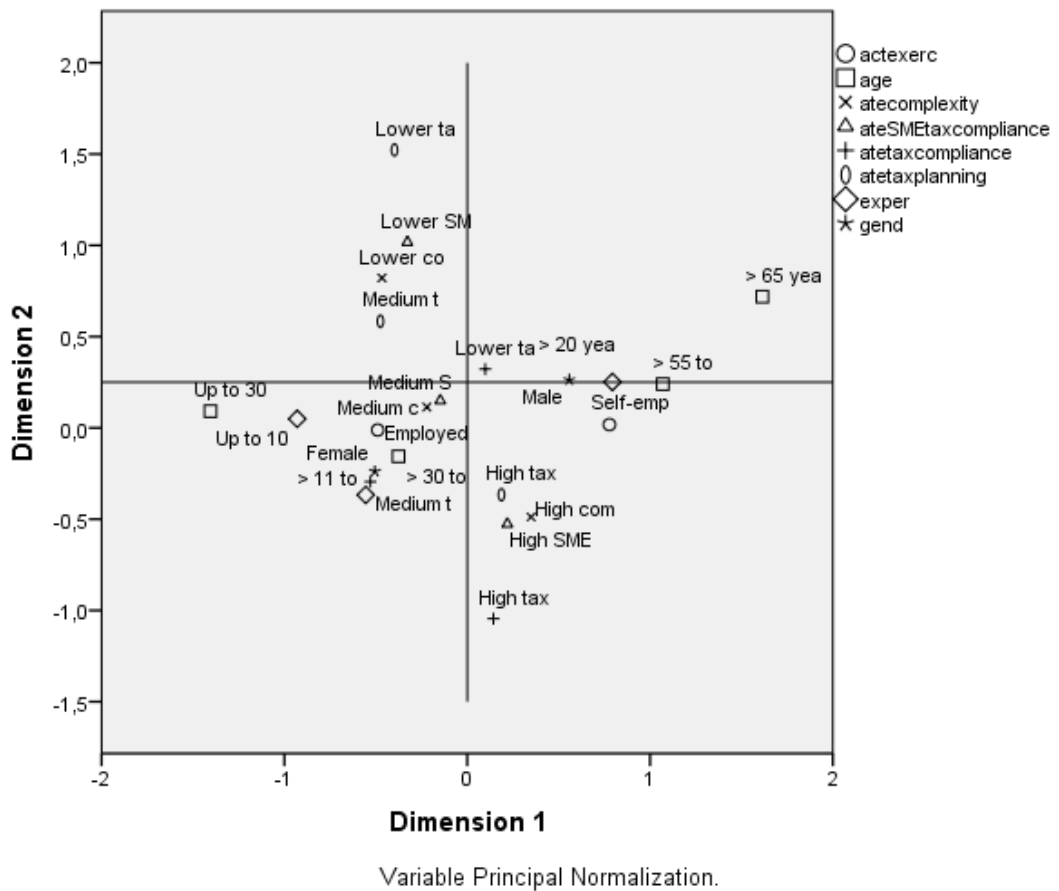
Figure 4.5 – Joint Plot of Categories Points

The clusters can be classified as follows[88]:

Cluster 1. 130 Portuguese CAs (19.55% of the sample), on the average male, with more than 20 years' professional experience, self-employed (not integrated into a professional body), with an average age of 65. These CAs have considerable knowledge of ATE complexity and of ATE tax planning. However, they do not have a deep understanding of ATE tax compliance.

Cluster 2. 276 Portuguese CAs (41.50% of the sample), on the average female, with up to 10 years' professional experience, employed, with an average age of 37. These CAs possess a moderate understanding of ATE tax compliance, but considerable knowledge of ATE tax planning and of ATE complexity.

---

[88] See also appendices I to K.

Cluster 3. 259 Portuguese CAs (38.95% of the sample), on average female, with between 11 and 20 years of professional experience, self-employed (not integrated into a professional body), with a mean age of 50. These CAs have considerable knowledge of ATE complexity and of ATE tax planning, but a poor understanding of ATE tax compliance.

Portuguese CA perceptions as regards ATE are grouped together according to demographic and professional factors[89].

Seen in these terms, Clusters 1 and 3 are distinguished from Cluster 2, since it is in the former that (on average) older (male and female), self-employed and more experienced Portuguese CAs with a greater understanding of ATE complexity and ATE tax planning and lower understanding of ATE tax compliance are concentrated. Alongside that, younger female, employed and less experienced Portuguese CAs are concentrated in Cluster 2, with a greater understanding of ATE tax planning and ATE complexity and a modest perception of ATE tax compliance.

In summary, the cluster analysis appears to support bivariate analysis results.

As can be seen, in all clusters the Portuguese CAs respondents 'understanding of ATE complexity is high. The results can be explained mainly by the fact that Portuguese CAs respondents are aware of the ATE law frequent changes, namely those associated with the diversity of ATE tax rates (results consistent with Nabais (2018) and Martins *et al.* (2018))[90].

Likewise, in the three clusters, Portuguese CAs respondents seem to have a sharp awareness of the effect of ATE in tax planning. Clearly related with the fact that Portuguese CAs respondents understand that ATE´ tax burden leads

---

[89] See appendix N – Tables N.3 to N.9.

[90] See also Appendix I.

companies to tax management decisions (which is in line with Blaufus *et al.* (2013), Guenther *et al.* (2013))[91].

Cluster 2 is distinguished from clusters 1 and 3, regarding the effect of ATE on corporate tax compliance.

It is in this cluster that the Portuguese CAs are the youngest of respondents, employed and fewer years of professional experience. As only for them, ATE can have a deterrent effect on companies' tax evasion, coupled with an increase in the tax burden, with an increase in ATE tax rates, and as a tax penalty measure, for example, when the companies present tax losses that the ATE is higher (following Swistak (2016) and Epps & Cleaveland (2009)) [92].

These results can be very relevant to the extent that, even the Portuguese CAs respondents´ awareness of the role of ATE in tax compliance being moderate, cluster 2 represents 41.5 % of the sample. This may in the future lead to a change in what is now the general understanding of the Portuguese CAs of ATE impact on corporate tax compliance, since currently most of the Portuguese CAs respondents don´t consider that ATE has an important role in tax compliance. This may prove to be an interesting line of research, namely, to repeat this study.

4.5. Conclusions

In Portugal, Chartered Accountants (CAs) play a key role in the process of business tax compliance, including ATE.

This study highlights four dimensions of ATE: ATE complexity, ATE tax planning, ATE tax compliance and ATE SMEs tax compliance.

---

[91] See also Appendix J.

[92] See also Appendix K.

Portuguese CAs have significant knowledge of ATE complexity and of ATE tax planning, poorer knowledge of ATE tax compliance and considerable knowledge of ATE SMEs tax compliance.

Some demographic variables, especially age and gender, display a positive relationship with ATE complexity perception and a negative relation with ATE tax compliance perception.

Among professional variables, the number of years of professional experience, the level of tax knowledge, and activity exercise positively affect ATE tax planning perception.

Amongst technical variables, the type of expenses subject to taxation, which CAs apply or have applied corporate expenses subject to corporate ATE, influences Portuguese CA perceptions of ATE complexity (in the case of profits distributed to entities wholly or partially exempted from CIT), of ATE tax planning (in the case of expenses related to vehicles, representation expenses, allowances and travelling costs incurred by employees and incentives to revaluation of tangible fixed assets), and of ATE tax compliance (in the case of non-documented expenses, profits distributed to entities wholly or partially exempted from CIT, payments made to entities resident in low tax jurisdictions and incentives to revaluation of tangible fixed assets) - including SMEs (in the case of allowances and travelling costs).

The results suggest that ATE is an important issue in tax planning. Although ATE was introduced to fight tax evasion, it now appears to be a way of obtaining tax revenue, with an issue in ATE legal efficiency (tax law complexity). This can engender perverse effects regarding tax compliance, such as abusive tax planning and corporate tax non-compliance. Regarding that, this research might be relevant to Portuguese tax legislators and international policymakers, who might be under pressure to find additional tax revenue similar to ATE.

References

Abreu, R. (2015). Accounting for Citizenship: The Role of Accountant. *Procedia Economics and Finance*, *26*(15), 933–941.

Allingham, M., & Sandmo, A. (1972). Income Tax Evasion: A theoretical analysis. *Journal of Public Economics*, *1*, 323–338.

Alm, J., Jackson, B. R., & McKee, M. (1992). Estimating the determinants of taxpayer compliance with experimental data. *National Tax Journal*, *45*(1), 107–114.

Alm, J., & Torgler, B. (2012). Do Ethics Matter ? Tax Compliance and Morality. *Tulane Economics Working Paper Series*, (July 2012), 1–36.

Alm, J., & Torgler, B. (2006). Culture differences and tax morale in the United States and in Europe. *Journal of Economic Psychology*, *27*(2), 224–246.

Anderson, J., & Gerbing, D. W. (1988). Structural Equation Modeling in Practice: A Review and Recommended Two-Step Approach. *Psychological Bulletin*, *103*(3), 411-423.

Avi-Yonah, R. S. (2011). Taxation as Regulation: Carbon Tax, Health Care Tax, Bank Tax and Other Regulatory Taxes. *Accounting, Economics, and Law: A Convivium*, *1*(1), Article 6.

Ayres, F. L., Jackson, B. R., & Hite, P. A. (1989). The Economic Benefits of Regulation: Evidence from Professional Tax Preparers. *Accounting Review*, *64*(2 April), 300–312.

Berle, A. (2012). Accounting and the Law. *Accounting, Economics, and Law*, 2(1), pp. 1-11.

Biondi, Y. (2017). The firm as an enterprise entity and the tax avoidance conundrum: Perspectives from accounting theory and policy. *Accounting, Economics and Law - A Convivium*, *7*(1).

Blaufus, K., Bob, J., Hundsdoerfer, J., Kiesewetter, D., & Weimann, J. (2013). Decision heuristics and tax perception - An analysis of a tax-cut-cum-

base-broadening policy. *Journal of Economic Psychology*, *35*, 1–16.

Borrego, A. C., Lopes, C. M. M., & Ferreira, C. M. S. (2016). Tax complexity indices and their relation with tax noncompliance: Empirical evidence from the Portuguese tax professionals. *TÉKHNE - Review of Applied Management Studies*, *14*, 20–30.

Borrego, A. C., Lopes, C. M. M., & Ferreira, C. M. (2017). Tax professionals' profiles concerning tax noncompliance and tax complexity: Empirical contributions from Portugal. *EJournal of Tax Research*, *15*(3), 424–456.

Borrego, A. C., Lopes, C. M. M., & Ferreira, C. M. (2018). The perception of Tax Complexity within Local Authorities VAT Framework: evidence from Portugal. *Modernization and Accountability in Public Sector Management*, *IGI Global*, 384–405.

Brealey, R. A., Myers, S. C., & Allen, F. (2014). *Principles of corporate finance*. *McGraw-Hill Education*. 11th edition, New-York: McGraw-Hill Education.

Brown, T. A. (2006). *Confirmatory factor analysis for applied research*. New York (NY): Guilford Press.

Carey, H., Sheldon, H., Andriescu, M., & Foundation, T. W. (2018). *Improving fringe benefit schemes for low earners*. York. ISBN 978-1-911581-45-1

Cattell, R. B. (1966). The scree test for the number of factors. *Multivariate Behavioral Research, 1*, 245-276.

Chau, G., & Leung, P. (2009). A critical review of Fischer tax compliance model : A research synthesis. *Journal of Accounting and Taxation*, *1*(2), 034–040.

Cohen, J. (1988). *Statistical power analysis for the behavioral sciences*. Hillsdale, New Jersey: Lawrence Erlbaum Associates.

Coolidge, J. & Ilic, D. (2009). *Tax Compliance Perceptions and Formalization of Small Businesses in South Africa*, *Policy Research Working Paper*.

Costello, A.B., & Osborne, J.W. (2005). Best practices in exploratory factor analysis: Four recommendations for getting the most from your analysis.

Practical Assessment, Research and Evaluation, 10(7), 1-9.

Dâmaso, M., & Martins, A. (2015). The New Portuguese Simplified Tax Regime for Small Business. *Journal of Accounting and Finance*, *15*(5), 76–84.

Dâmaso, M., & Martins, A. (2016). Tax Simplification for Small Firms: The View of Portuguese Accountants and Tax Auditors. *Journal of Management Policy and Practice*, *17(2)*(2), 15.

Degl'Innocenti, D. G., & Rablen, M. D. (2017). Income Tax Avoidance and Evasion : A Narrow Bracketing Approach. *Public Finance Review*, 45(6), 815-837.

Devos, K. (2008). Tax evasion behaviour and demographic factors : An exploratory study in Australia. *Revenue Law Journal*, *18*(1), 1–45.

Devos, K. (2012). The impact of tax professionals upon the compliance behavior of Australian individual taxpayers. *Revenue Law Journal*, *22*(1), 1–26.

Dinis, A., Martins, A., & Lopes, C. M. (2017). A special feature of corporate income taxation in Portugal: the autonomous taxation of expenses. *International Journal of Law and Management*, *59*(4), 489–503.

Epps, K. K., & Catherine Cleaveland, M. (2009). Insiders' perspectives of the effects of recent regulation on corporate taxation. *Research in Accounting Regulation*, *21*(1), 34–47.

Erard, B. (1993). Taxation with representation: An analysis of the role of tax practitioners in tax compliance. *Journal of Public Economics*, *52*(2), 163–197.

Evans, C. (2003). Studying the Studies: An overview of recent research into taxation operating costs. *EJournal of Tax Research*, *1*(1), 64–92.

Evans, C., Hansford, A., Hasseldine, J., Lignier, P., Smulders, S., & Vaillancourt, F. (2014). Small business and tax compliance costs: A cross-country study of managerial benefits and tax concessions. *EJournal of Tax Research*, *12*(2), 453–482.

Faridy, N., Copp, R., Freudenberg, B., & Sarker, T. (2014). Complexity, compliance costs and non-compliance with vat by Small and Medium

Enterprises (SMEs) in Bangladesh: Is there a relationship? *Australian Tax Forum*, (May 2014), 44–56.

Fatt, C. K. & Ling, L. M. (2008). 'Tax Practitioners' Perception on Tax Audit and Tax Evasion: Survey Evidence in Malaysia', in Universiti Malaya (ed.) *International Business Research Conference*, pp. 1–10

Faul, F., Erdfelder, E., Buchner, A., & Lang, A.-G. (2009). Statistical power analyses using G∗Power 3.1: Tests for correlation and regression analyses. *Behavior Research Methods* 41, 1149–1160.

Ferrari, L., & Randisi, S. (2013). Fiscal psychology past and present: Contemporary experiments validate historical hypotheses. *Journal of Economic Psychology*, *35*, 81–94.

Field, A. (2009). *Discovering Statistics Using SPSS: Introducing Statistical Method* (3rd ed.). Thousand Oaks, CA: Sage Publications.

Fischer, C. M., Wartick, M., & Mark, M. (1992). Detection Probability and Taxpayer Compliance: A Review of the Literature. *Journal of Accounting Literature*, *11*, 1–46.

Freedman J. (2005). Taxation Research as Legal Research, in Lamb M., Limer A. Freedman J and James S. (eds) Taxation - A*n interdisciplinary approach to research*; Oxford, Oxford University Press, pp. 13-34

Freire-serén, M. J., & Panadés, J. (2013). Do Higher Tax Rates Encourage /Discourage Tax Compliance ? *Modern Economy*, (4), 809–817.

Fornell, C., & Larcker, D. (1981). Evaluating Structural Equation Models with Unobservable Variables and Measurement Error. *Journal of Marketing Research, 18*(1), 39-50.

Given, L. M. (2008). *The Sage encyclopedia of qualitative research methods*. Los Angeles, Calif: Sage Publications

Groen, W. P. De. (2017). *Role of advisors and intermediaries in the schemes revealed in the Panama Papers*.

Guenther, D. A., Matsunaga, S. R., & Williams, B. M. (2013). Tax Avoidance, Tax Aggressiveness, Tax Risk and Firm Risk. In *Singapore Management*

University: School of Accountancy Seminar Series.

Gutman, H. L. (2012). The Role of the Tax Advisor in the Changing World of Global Tax Administration: The 2012 Erwin N . Griswold Lecture Before the American College of Tax Counsel. *Tax Lawyer*, *65*(3), 461–476.

Guttman, L. (1954). Some necessary conditions for common factor analysis. *Psychometrika, 19*, 149-161.

Hair, J. F., Black, W. C., Babin, B. J., & Anderson, R. E. (2009;2019). *Multivariate data analysis*: *A Global Perspective.* Upper Saddle River: Prentice Hall.

Hamid, S. A. (2013). Understanding culture in tax compliance: Applying Hofstede's National Cultural Dimensions on tax professionals in New Zealand. In Australasian Tax Teachers Association Conference & The University of Auckland Business School (Eds.), *Tax Alchemy: Turning silver into gold.*

Hanlon, M., & Heitzman, S. (2010). A review of tax research. *Journal of Accounting and Economics*, *50*(2–3), 127–178.

Hartl, B., Hofmann, E., Gangl, K., & Hartner-Tiefenthaler, M. (2015). Does the Sole Description of a Tax Authority Affect Tax Evasion ? - The Impact of Described Coercive and Legitimate Power. *PLOS ONE*, *4*(10), 1–19.

Hite, P., & Mcgill, G. (1992). An Examination of Taxpayer Preference for Aggressive Tax Advice. *National Tax Journal*, *45*(4), 389–403.

Isa, K. M., Yussof, S. H., & Mohdali, R. (2014). The Role of Tax Agents in Sustaining the Malaysian Tax System. *Procedia - Social and Behavioral Sciences*, *164*(August), 366–371.

Jackson, B. R., & Milliron, V. C. (2002). Tax Compliance Research: Findings, Problems and Prospects. In Simon James (Ed.), *Taxation: Critical Perspectives on the World Economy* (pp. 56–100). Taylor & Francis.

Kaiser, H. F. (1960). The application of electronic computers to factor analysis. *Educational and Psychological Measurement, 20*, 141-151.

Kaiser, H. F. (1961). An note on Guttman's lower bound for the number of

common factors. *British Journal of Statistical Psychology, 14*, 1.

Kaiser, H. F., & Rice, J. (1974). Little Jiffy, Mark Iv. *Educational and Psychological Measurement*, *34, Issue*, 111–117.

Kang, M. (2018). Tax Practitioner Compliance. In J. Iwin-Garzyńska (Ed.), *Taxes and Taxation Trends*. IntechOpen.

Kendall, M.G., (1955). *Rank Correlation Methods*. New York: Hafner Publishing Co.

Kline, R. B. (2011). *Principles and practice of structural equation modeling*. 3rd edition New York: Guilford Press.

Lakens, D., (2013). Calculating and reporting effect sizes to facilitate cumulative science: a practical primer for *t*-tests and ANOVAs. *Frontiers in Psychology*. 4: 863.

Long, J. H., & Basoglu, K. A. (2016). The impact of task interruption on tax accountants ' professional judgment. *Accounting, Organizations and Society*, *55*, 96–113.

Lopes, C. (2010). Maximizar o cumprimento dos impostos e minimizar os custos: Uma perspectiva internacional. *Revista de Finanças Públicas E Direito Fiscal*, *1*(Ano 3), 167–219.

Lopes, C. (2012). Compliance costs of corporate income taxation in Portugal. *International Journal of Economics and Management Sciences*, *1*(10), 68–80.

Manaf, N. A. A., Udin, N. M., Ishak, Z., & Rahman, R. A. (2013). Tax Professionals ' Perceptions toward Tax Authority : Ways to Strengthen The Malaysian Tax Administrative System. *Journal of Governance and Development*, *9*, 1–13.

Martins, A. (2017). International Investors and Corporate Taxation : How Many Tax Rates to Look For ? *Journal of Taxation of Investments*, 34(4), 67–78.

Martins, A. (2019). Three Emblematic Measures in Portuguese Business Taxation: A Preliminary Quantitative Appraisal. *Intertax,* 6/7, 652–662

Martins, A., Dinis, A., & Lopes, C. (2018). Interpretative complexity and tax law

changes: the taxation of corporate expenses in Portugal. *Journal of Applied Accounting Research*, *19*(4), 537–551.

Martins, A., & Taborda, D. (2017). *Taxes and Management: an Introduction* (EPub). Coimbra: Almedina.

Mckerchar, M. (2005). The Impact of Income Tax Complexity of Practitioners in Australia. *Australian Tax Forum*, *20*(4), 529–554.

McKerchar, M. (2007). Tax complexity and its impact on tax compliance and tax administation in Australia. *The IRS Research Bulletin. In 1500P. (Ed.)*, 185–205.

Morais, R. D. (2007). *Apontamentos ao IRC*. Coimbra: Almedina.

Mustapha, B., & Obid, S. N. B. S. (2015). Tax Service Quality: The Mediating Effect of Perceived Ease of Use of the Online Tax System. *Procedia - Social and Behavioral Sciences*, *172*, 2–9.

Nabais, J. C. (2018). *Introdução ao Direito Fiscal das Empresas*, 3ª edição, Coimbra: Almedina

Niemirowski, P., Baldwin, S., & Wearing, A. J. (2003). Tax related behaviours, beliefs, attitudes and values and taxpayer compliance in Australia. *Journal of Australian Taxation*, *6*(1), 132–165.

Nwobu, O., Faboyede, S. O., & Onwuelingo, A. T. (2015). The Role of Accounting Services in Small and Medium Scale Businesses in Nigeria. *Journal of Accounting - Business & Management*, *22*(1), 55–63.

Palil, M. R., Akir, M. R. M., & Ahmad, W. F. B. W. (2013). The Perception of Tax Payers on Tax Knowledge and Tax Education with Level of Tax Compliance : A Study the Influences of Religiosity. *ASEAN Journal of Economics, Management and Accounting*, *1*(June), 118–129.

Patterson, M. G., West, M. A., Lawthom, R., & Nickell, S. (1997). *Impact of people management practices on business performance* (pp. vii-viii). London: Institute of Personnel and Development.

Pedersen, H. S., Moerup, C., Andersen, C., Findsen, L., Nielsen, J. R., & Lang, T. C. (2013). A review and Evaluation of Methodologies to calculate tax

compliance costs. *Taxation Papers, European Commission's Directorate-General for Taxation and Customs Union*, (WORKING PAPER N.40), 111.

Poppelwell, E., Kelly, G., & Wang, X. (2012). Intervening to reduce risk: identifying sanction thresholds among SME tax debtors. *EJournal of Tax Research UNSW*, *10*(2), 403–435.

Rumina, U. A., Balandina, A. S., & Bannova, K. A. (2015). Evaluating the Effectiveness of Tax Incentives in Order to Create a Modern Tax Mechanism Innovation Development. *Procedia - Social and Behavioral Sciences*, *166*, 156–160.

Sá, C., Martins, A., & Gomes, C. (2014). Tax morale, Occupation and Income Level: An Analysis of Portuguese Taxpayers. *Journal of Economics, Business and Management*, *2*(2), 112–116.

Santos, A. C., & Palma, C. C. (2013). Confiança legítima e da não retroatividade das normas tributárias em tempos de crise: o caso português. *Revista Do Instituto Do Direito Brasileiro*, *2, nº 4*, 3147–3182.

Singh, J., & Sharma, P. (2007). Tax Professionals Perception of the Income Tax System of India. *The IUP Journal of Public Finance*, 169–231.

Spearman, C. (1904). The Proof and Measurement of Association between Two Things. *The American Journal of Psychology*, 15(1), 72-101.

Spicer, M. W., & Becker, L. A. (1980). Fiscal inequity and tax evasion: an experimental approach. *National Tax Journal*, *33*(2), 171–175.

Stephenson, T. (2006). The Gap Between what Taxpayers Want and what Tax Professionals Think They Want: A Reexamination of Client Expectations and Tax Professional Aggressiveness. U*niversity of Kentucky Doctoral Dissertations. 278.*

Stephenson, T. (2007). Do clients share preparers' Self-assessment of the extent to which advocate for their clients? *Accounting Horizons, 21*(4), 411–422.

Swistak, A. (2016). Tax penalties in SME tax compliance. *Financial Theory and Practice*, *40*(1), 129–147.

Tarmidi, D. (2019). Tax Compliance: Impact of Employee Internal Factors, Moderated by Tax Uncertainty. *International Journal of Academic Research Business and Social Sciences*, 9(5), 294–304.

Tomasic, R., & Pentony, B. (1990). Defining Acceptable Tax Conduct: The Role of Professional Advisers in Tax Compliance. University of Canberra, Dissertation, Australia.

Tran-Nam, B., Lignier, P., & Evans, C. (2016b). The impact of recent tax changes on tax complexity and compliance costs: A tax practitioners' perspective. In *28th Australasian Tax Teachers Association Conference*.

Tran-Nam, B. (2015). An Integrated Approach To the Economic Measurement of the Costs of Tax Complexity. In C. Evans, R. Krever, & P. Mellor (Eds.), *Tax Simplification* (pp. 55–75). Alphen aan den Rijn Netherlands: Kluwer Law International.

Tran-Nam, B., & Evans, C. (2014). Towards the Development of a Tax System Complexity Index. Fiscal Studies, 35(3), 341–370.

Tran-Nam, B., Evans, C., Krever, R., & Lignier, P. (2016). Managing Tax Complexity: The State of Play after Henry. *Economic Papers: A Journal of Applied Economics and Policy*, (September), 1–12.

Tran-Nam, B., Evans, C., & Lignier, P. (2013). *Personal Taxpayer Compliance Costs: Recent Evidence from Australia*. *Australian School of Business Research Paper*.

Villa-Lobos, N. (2016, February). Justiça fiscal não pode ser fator de desincentivo ao investimento. *Contabilista (Ordem Contabilistas Certificados)*, 6–11.

Yong, S. & Lovich, M. (2013). Record keeping and tax compliance perceptions of indigenous and Pacific small business owners. Australasian Tax Teachers Association Conference and The University of Auckland Business School (eds) *Tax Alchemy: Turning silver into gold*.

Chapter 5: Concluding remarks

This study is dedicated to the analysis of the autonomous taxation of corporate expenses (ATE) in Portugal. These final remarks are a synthesis of the main conclusions presented in the three chapters.

As stated, ATE is a very special feature of the Portuguese CIT Code. Its implementation has been growing since 1990 when ATE was introduced. Tax rates have also exhibited an upward trend. The collected revenue from ATE is quite relevant when compared to regular CIT inflows, reaching in 2017 the value of 510 million euros (11.2% of the assessed CIT). As such, its elimination would be difficult, in the face of the complex situation of Portuguese public finance and the need to select alternative sources of revenue.

At the doctrinal level, the justification for ATE is usually based on the fact that a higher rate of taxation can be imposed on certain special business transactions on operations that must be discouraged. An implicit presumption exists that these expenses do not have a clear business purpose and, therefore, can be subjected to penalty taxes. The CIT is as a cyclical type tax, which does not happen with the ATE since companies pay autonomous taxes regardless of having profits or losses.

It would not go so far as to argue that the Portuguese CIT has lost its internal consistency because of ATE. However, the danger exists that, as a relatively certain source of revenue, the expense base to which ATE is applied could be continuously extended. At a certain point, the CIT may have an overextended dual tax base.

The Portuguese Constitutional Court stresses the increase in fairness and the fight against tax avoidance and evasion as acceptable reasons for the insertion of ATE within the CIT Code. Also, the wording of article 104 (*fundamentally* based...) gives the Court some leeway in admitting some deviations of real income as the sole tax base, when other equally important tax principles (equity) are at stake.

Furthermore, given that there are different perspectives of interpretation of tax law amongst its different users, such as taxpayers, tax authorities,

accountants, lawyers and judges, the problem seems to be especially acute in the case of ATE. Almost 32% of ATE tax disputes out of the total number of tax conflicts in CAAD could be an indicator of the level of tax compliance costs.

In this study, tax law changes and Portuguese jurisprudence were analysed in a particular context of ATE and many conflicts between taxpayers and tax authorities were highlighted. As a result of these changes and conflicts, taxpayers have incurred in increasing legal costs, particularly litigation costs. Given the unfavourable tax arbitration rulings to the tax authority, on possible deductions and credits from ATE, Article 88 of the Portuguese CIT Code was changed, in 2016, in order to end deductions against ATE, including investment tax credits. But the interpretative nature of the new law immediately occasioned a new controversy. It may be noted that this is a case study of the unnecessary complexity in drafting tax law since the process could be improved in order to clarify the law (principles) and its application (practice).

In recent years, by expanding the number of expenses subject to ATE, and increasing tax rates, a parallel source of taxation (given that CIT has a quasi-dual nature) is imposed on companies. It is not difficult to anticipate that new tax issues related to ATE will arise in the future.

Portugal is an outlier when it comes to ATE. No other OECD country has a similar source of revenue, particularly because of the diversity of ATE tax rates applied in Portugal, which, as seen previously, leads to unnecessary complexity and compliance costs. Considering both the complexity and the fact that ATE is highly contentious, one can assume that some countries can learn from the Portuguese experience regarding their policy options. The temptation to use ATE to increase tax revenue leads to a relevant source of complexity in tax legislation and the interpretative work of courts can be quite hard. This is especially true when legal changes are made based on outcomes that are unfavourable to the tax authorities. Thus, careful scrutiny of the Portuguese experience can be used as a reminder that ATE can be a significant source of complexity and litigation.

The purpose of this thesis was to evaluate this issue empirically, based on the perceptions of some of the users of the tax system. In Portugal, Chartered Accountants (CAs) play a key role in the process of business tax compliance, including ATE. Therefore, 665 Portuguese CAs were surveyed.

This study highlights four dimensions of ATE: ATE complexity, ATE tax planning, ATE tax compliance and ATE SMEs tax compliance.

The results show that 50.23% of Portuguese CAs respondents have a high level of awareness on the complexity of ATE, 70.68% of Portuguese CAs respondents present a high level of perception about the role of ATE in tax planning, 67.22% of Portuguese CAs respondents understand that ATE does not play an important role in the tax compliance of companies and 51.4% of Portuguese CAs respondents understand that ATE does play an important role in the tax compliance of SMEs.

Also, some demographic variables, especially age and gender, display a positive relation with ATE complexity perception and a negative relation with ATE tax compliance perception.

For instance, older and male CAs exhibit stronger perceptions on the impact of ATE in tax complexity. Besides, the more experienced CAs exhibit a higher perception of ATE´s complexity. Additionally, CAs working as independent professionals, with a diversified customer base, dealing with a potentially larger set of expenses subjected to ATE, may develop a sense of complexity in the application of related tax rules. Regarding ATE´s impact on tax compliance, the results show a significant difference between CAs´ gender and CAs perception is negatively correlated with age and professional experience. Nevertheless, the level of tax knowledge is significantly correlated with CAs perception of ATE role in tax compliance in SME.

Among professional variables, the number of years of professional experience, the level of tax knowledge and activity is exercised positively influence ATE tax planning perception.

Between technical variables, the type of expenses subject to taxation, influences Portuguese CA perceptions (i) of ATE complexity, such as the case of profits distributed to entities wholly or partially exempted from CIT, (ii) of ATE tax planning, like in the case of expenses related to vehicles, representation expenses, allowances and travelling costs incurred by employees and incentives to revaluation of tangible fixed assets, and (iii) of ATE tax compliance namely in the case of nondocumented expenses, profits distributed to entities wholly or partially exempted from CIT, payments made to entities resident in low tax jurisdictions and incentives to revaluation of tangible fixed assets - including SMEs (in the case of allowances and travelling costs).

The empirical results suggest that ATE is an important issue in corporate tax planning. Although ATE was introduced to fight tax evasion, it now appears to be essentially a way of obtaining tax revenue, with an issue in ATE legal efficiency (tax law complexity). This can engender perverse effects regarding tax compliance, such as abusive tax planning and corporate tax noncompliance. Regarding that, this research might be relevant to Portuguese tax legislator and international policymakers, who might be under pressure to find additional tax revenue similar to ATE.

A questionnaire of Portuguese CAs' perceptions might introduce some subjectivity since the conclusions depend on direct answers, so to mitigate this, a pre-test questionnaire was undertaken. Is to be noted that the final questionnaire has been answered without the presence of the researcher, which also helped to minimize that effect of subjectivity. Notwithstanding this study has that limitation, there is no knowledge of prior studies that have analysed how accounting professionals perceive the effects of such a specific feature of corporate taxation in relation to their perception of tax complexity, tax planning, and tax compliance.

This subject deserves further research in the future since this study offers evidence regarding the legal and economic consequences of ATE through the perceptions of experts dealing with a particular type of business tax.

These study outcomes leave then future lines of research.

It would be interesting to study other variables that could play an important role in Portuguese CA perceptions of ATE, such as

(i)   CA´s companies' portfolio;

(ii)   CA´s companies' portfolio's dimension subject to ATE; and

(iii)   CA´s companies' portfolio's economic activity subject to ATE.

Also, this work can be extended to other users of the ATE law, such as lawyers, judges, and tax authority and confronted their position with the CAs´ understanding. In addition, since other countries have taxation similar to ATE, an international comparative study of perceptions may also be interesting.

Further, exploring a possible link in tax policy between this issue and the fact that expenses subject to ATE may include non-deductible VAT, could be an interesting research line.

The final goal of this study is to make the tax system more efficient from the tax compliance point of view and of the fight against tax noncompliance. Thus, is expected this to be the first of a set of future research work.

Legislative References

Australia

Income Tax Assessment Act 1997

Angola

Law No. 19/14 of October 22, 2015

Law No. 4/19 of 18 April, 2019

Bulgaria

Prom. SG. 105/22 Dec 2006

Cambodia

Royal Kram No. NS/ RKM/1216/019, of December 14, 2016

Cape Verde

Law 82/VIII/2015 of January 7, 2015

France

Decree No. 2010-217 of February 10, 2010

Mozambique

Law no. 34/2007, of 31 December, 2007

Peru

Decreto Supremo no. 122-94-EF

Portugal

Decree-Law No. 119-A /83 of February 28, 1983

Decree-Law No. 192/1990 of June 9, 1990

Decree-Law No. 10/2011 of January 20, 2011

Law No. 30-G/2000 of December 29, 2000

Law No 7-A/2016, of March 30, 2016

United Kingdom

Finance Act 2010

APPENDICES

Appendix A – Questionnaire: Autonomous taxation of companies in Portugal: The perception of Chartered Accountants (English translation)

Note: Answer only if you are a Chartered Accountant in activity

PART I - SOCIO-DEMOGRAPHIC AND TECHNICAL CHARACTERIZATION

1 Age: _____   **2** Gender   (M)   (F)

3 Academic degree
* Please select only one of the following options:

3.1 Bachelor ◯   3.4 PhD ◯
3.2 Masters ◯   3.5 Other ◯
3.3 Graduation ◯

4 Knowledge Area (Base formation)
* Please select all that apply:

4.1 Accounting ◯   4.4 Management ◯   4.7 Other ◯
4.2 Economy ◯   4.5 Audit ◯
4.3 Law ◯   4.6 Taxation ◯

5 Region
* Please select only one of the following options:

5.1 North ◯   5.3 Center ◯   5.5 South ◯
5.2 Madeira ◯   5.4 Azores ◯

6 Number of years of professional experience as an accountant
* Please select only one of the following options:

6.1 Up to 10 years ◯   6.2 > 11 to 20 years ◯   6.3 > 20 years ◯

7 On a scale of 1 (very low level) to 7 (very high level), indicate how you assess your tax knowledge level
* Please select all that apply:

	1- Very low level	2	3	4	5	6	7- Very high Level
7.1 Global Taxation	☐	☐	☐	☐	☐		☐
7.2 Income Taxation	☐	☐	☐	☐	☐		☐
7.3 Consumption Taxation	☐	☐	☐	☐	☐		☐
7.4 Property Taxation	☐	☐	☐	☐	☐		☐
7.5 Tax Benefits	☐	☐	☐	☐	☐		☐

PART II – EXERCISE OF THE ACTIVITY OF CHARTERED ACCOUNTANT

8 Exercise of activity as Chartered Accountant
* Please select all that apply:

8.1 Employed ◯
8.2 Self-employed not integrated into a professional society ◯
8.3 Self-employed integrated into a professional society ◯

9 Indicate the number of companies that you are responsible for
* Please select only one of the following options:

9.1 Up to 30 companies ◯   9.3 > 50 companies ◯

9.2 >30 to 50 companies ◯

10 Of companies for which you are responsible, on a scale of 1 (never) to 7 (frequently), indicate the frequency which applies or has already applied autonomous taxation rates
* Please select all that apply:

	1- Never	2	3	4	5	6	7- Frequently
10.1 Micro companies (<10 workers)	☐	☐	☐	☐	☐	☐	☐
10.2 Small business (≥10 workers to 50 workers)	☐	☐	☐	☐	☐	☐	☐
10.3 Midsize Companies (≥ 50 workers to 250 workers)	☐	☐	☐	☐	☐	☐	☐
10.4 Big companies (≥ 250 workers)	☐	☐	☐	☐	☐	☐	☐

11 On a scale of 1 (never) to 7 (frequently), of the list of economic activities that follows, indicate those where you apply or have already applied autonomous tax rates
* Please select all that apply:

	1- Never	2	3	4	5	6	7- Frequently
11.1 Agriculture, livestock, hunting, forestry and fishing	☐	☐	☐	☐	☐	☐	☐
11.2 Manufacturing	☐	☐	☐	☐	☐	☐	☐
11.3 Construction	☐	☐	☐	☐	☐	☐	☐
11.4 Wholesale and retail trade	☐	☐	☐	☐	☐	☐	☐
11.5 Repair of motor vehicles and motorcycles	☐	☐	☐	☐	☐	☐	☐
11.6 Transport and storage	☐	☐	☐	☐	☐	☐	☐
11.7 Accommodation, catering and similar	☐	☐	☐	☐	☐	☐	☐
11.8 Real estate activities	☐	☐	☐	☐	☐	☐	☐
11.9 Consulting activities	☐	☐	☐	☐	☐	☐	☐

PART III – THE PERCEPTION OF CHARTERED ACCOUNTANTS OF AUTONOMOUS TAXATION

12 Indicate, on a scale of 1 (never) to 7 (frequently), the nature of the expenses where you apply or have already applied autonomous tax rates
* Please select all that apply:

	1- Never	2	3	4	5	6	7- Frequently
12.1 Non - documented expenses	☐	☐	☐	☐	☐	☐	☐
12.2 Expenses related to vehicles	☐	☐	☐	☐	☐	☐	☐
12.3 Representation expenses	☐	☐	☐	☐	☐	☐	☐
12.4 Payments made to entities resident in low tax jurisdictions	☐	☐	☐	☐	☐	☐	☐
12.5 Allowances and travelling costs, incurred by employees	☐	☐	☐	☐	☐	☐	☐
12.6 Profits distributed to entities wholly or partially exempted from CIT	☐	☐	☐	☐	☐	☐	☐

12.7 Costs with compensation to managers

12.8 Costs with the excess of the remuneration at the end of the contract paid to managers or board members

12.9 Costs with bonus and other variable remunerations paid to managers

12.10 Incentive to revaluation of tangible fixed assets (year 2016)

13 Indicate, on a scale of 1 (I strongly disagree) to 7 (I strongly agree), what is your degree of agreement with regard to the statements that follow on autonomous taxation in the corporate taxation regime
 * Please select all that apply:

	1- I strongly disagree	2	3	4	5	6	7- I strongly agree

13.1 The degree of difficulty in interpreting the rules of autonomous taxation is high

13.2 The rules of autonomous taxation are frequently changed, which makes the taxation update process very difficult

13.3 The diversity of autonomous taxation rates is excessive

13.4 The process of computing autonomous taxation requires too much work in the preparation of accounting and tax information

13.5 The rules of autonomous taxation frequently lead to legal conflicts between tax authority and taxpayers

14 Indicate, on a scale of 1 (I strongly disagree) to 7 (I strongly agree), what is your degree of agreement with regard to the statements that follow on autonomous taxation in the corporate taxation regime
 * Please select all that apply:

	1- I strongly disagree	2	3	4	5	6	7- I strongly agree

14.1 Autonomous taxation of expenses related to vehicles may influence the acquisition of those vehicles by companies

14.2 Double penalties for non-accepted tax expenses and autonomous taxation may adversely influence the acquisition of goods and services

14.3 The increase of 10% in autonomous taxation rates, when companies have tax losses, can lead companies to a more efficient management of their tax results

14.4 Autonomous taxation increases the effective average corporate tax rate, so companies deliberately reduce expenses subject to autonomous taxation   ☐   ☐ ☐ ☐ ☐ ☐   ☐

15 Indicate, on a scale of 1 (I strongly disagree) to 7 (I strongly agree), what is your degree of agreement with regard to the statements that follow on autonomous taxation in the corporate taxation regime

* Please select all that apply:

	1- I strongly disagree	2	3	4	5	6	7- I strongly agree
15.1 Companies with tax losses must pay more autonomous taxation	☐	☐	☐	☐	☐	☐	☐
15.2 Autonomous taxation is mostly paid by micro and small businesses	☐	☐	☐	☐	☐	☐	☐
15.3 Autonomous taxation has a greater impact on the tax burden of micro and small businesses	☐	☐	☐	☐	☐	☐	☐
15.4 Autonomous taxation should extend to other expenses and the CIT rate should be reduced	☐	☐	☐	☐	☐	☐	☐
15.5 Autonomous taxation reduces tax audit to companies by tax authority	☐	☐	☐	☐	☐	☐	☐

The questionnaire is finished. Your contribution is very important. We appreciate your cooperation.

Appendix B – Portuguese Chartered Accountants by geographical area (2018) Population and Sample (representativeness)

Chartered Accountants distribution by geographical area and by gender					
Geographical area		**%**		**Sample**	
			%		
North of Portugal	**28.777**	41.3%		275	
			41.4%		
Centre of Portugal	**29.704**	42.7%		304	
			45.7%		
South of Portugal	**9.180**	13.2%		69	
			10.4%		
Madeira & Azores	**1.965**	2.8%		17	
			2.6%		
Total	**69.626**	100%		665	
			100%		
Distribution by gender		**Male**	**%**	**Female**	**%**
Portugal		32.888	47.2 %	36.738	52.8%
Sample		316	47.5%	349	52.5%

Source: Adapted from Revista Contabilista Ordem Dos Contabilistas Certificados (2018), Ano XVII, 23–43, in https://pt.calameo.com/read/0003249810153c51782cc

Appendix C – Portuguese Chartered Accountants´ sample characteristics by age (frequencies and percentages)

Age	Frequency	%
22	1	0.2%
23	4	0.6%
25	1	0.2%
26	7	1.1%
27	10	1.5%
28	6	0.9%
29	4	0.6%
Up to 30 years old	**33**	**4.96%**
30	12	1.8%
31	13	2%
32	8	1.2%
33	8	1.2%
34	12	1.8%
35	12	1.8%
36	10	1.5%
37	14	2.1%
38	26	3.9%
39	19	2.9%
40	24	3.6%
41	40	6%
42	29	4.4%
43	18	2.7%
44	20	3%
45	27	4.1%
46	22	3.3%

47	25	3.8%
48	24	3.6%
49	25	3.8%
50	12	1.8%
51	15	2.3%
52	14	2.1%
53	15	2.3%
54	12	1.8%
≥ 30 to 55 years old	**456**	**68.57%**
55	21	3.2%
56	16	2.4%
57	9	1.4%
58	13	2%
59	12	1.8%
60	12	1.8%
61	11	1.7%
62	16	2.4%
63	4	0.6%
64	8	1.2%
≥ 55 to 65 years old	**122**	**18.5%**
65	7	1.1%
66	8	1.2%
67	7	1.1%
68	5	0.8%
69	2	0.3%
70	4	0.6%
71	2	0.3%
72	4	0.6%

73	2	0.3%
74	2	0.3%
75	4	0.6%
76	1	0.2%
78	3	0.5%
82	1	0.2%
84	1	0.2%
86	1	0.2%
≥ 65 years old	**54**	**8.12%**
Total	665	100

Appendix D – Portuguese Chartered Accountants´ knowledge area (sample) (frequencies and percentages)

Knowledge area	Frequency	%
Accounting	229	34.4%
Economy	29	4.4%
Law	1	0.2%
Management	62	9.3%
Audit	4	0.6%
Taxation	11	1.7%
Other	7	1.1%
Accounting, Economy, Management, Other	1	0.2%
Accounting, Economy, Management	3	0.5%
Accounting, Economy, Audit, Taxation	1	0.2%
Accounting, Economy, Audit	1	0.2%
Accounting, Economy, Taxation, Other	2	0.3%
Accounting, Economy, Taxation	6	0.9%
Accounting, Economy, Other	1	0.2%
Accounting, Economy	10	1.5%
Accounting, Law, Management, Audit, Taxation, Other	1	0.2%
Accounting, Law, Management, Auditing, Taxation	2	0.3%
Accounting, Law, Management, Taxation, Other	1	0.2%
Accounting, Law, Management, Taxation	2	0.3%
Accounting, Law, Management	1	0.2%
Accounting, Law, Audit, Taxation	1	0.2%
Accounting, Law, Taxation, Other	1	0.2%
Accounting, Law, Taxation	2	0.3%
Accounting, Law	1	0.2%
Accounting, Management, Audit, Taxation, Other	3	0.5%
Accounting, Management, Audit, Taxation	19	2.9%
Accounting, Management, Auditing	2	0.3%

Accounting, Management, Taxation, Other	2	0.3%
Accounting, Management, Taxation	38	5.7%
Accounting, Management, Other	1	0.2%
Accounting, Management	49	7.4%
Accounting, Audit, Taxation	17	2.6%
Accounting, Audit	47	7.1%
Accounting, Audit	3	0.5%
Accounting, Taxation	72	10.8%
Accounting, Other	5	0.8%
Accounting, Economy, Law, Management, Audit, Taxation, Other	1	0.2%
Accounting, Economy, Law, Management, Audit, Taxation	4	0.6%
Accounting, Economy, Law, Management, Taxation	1	0.2%
Management, Auditing	3	0.5%
Accounting, Economy, Law, Management	1	0.2%
Accounting, Economy, Law, Taxation	1	0.2%
Taxation, Other	1	0.2%
Accounting, Economy, Management, Auditing, Taxation	7	1.1%
Accounting, Economy, Management, Taxation	8	1.2%
Total	**665**	**100**%

Appendix E – Portuguese Chartered Accountants´ tax knowledge level (sample) (level of tax knowledge and percentages)

Tax knowledge	Level	Number of respondents	%
Global Taxation	Very low (1)	-	-
(kger)	Low (2)	4	0.6%
	Moderate low (3)	14	2.1%
Mode: Medium (5)	Neither low nor high (4)	106	15.9%
	Medium (5)	271	40.8%
	High (6)	233	35%
	Very high (7)	37	5.6%
Income Taxation	Very low (1)	1	0.2%
(kit)	Low (2)	4	0.6%
	Moderate low (3)	13	2%
Mode: High (6)	Neither low nor high (4)	94	14.1%
	Medium (5)	242	36.4%
	High (6)	255	38.3%
	Very high (7)	56	8.4%
Consumption Taxation	Very low (1)	1	0.2%
	Low (2)	10	1.5%
Mode: Medium (5)	Moderate low (3)	39	5.9%
	Neither low nor high (4)	130	19.5%
	Medium (5)	258	38.8%
	High (6)	195	29.3%
	Very high (7)	32	4.8%
Property Taxation	Very low (1)	4	0.6%
	Low (2)	28	4.2%

Mode: Neither low nor high (4)	Moderate low (3)	105	15.8%
	Neither low nor high (4)	209	31.4%
	Medium (5)	206	31%
	High (6)	99	14.9%
	Very high (7)	14	2.1%
Tax Benefits	Very low (1)	1	0.2%
	Low (2)	14	2.1%
Mode: Medium (5)	Moderate low (3)	86	12.9%
	Neither low nor high (4)	187	28.1%
	Medium (5)	217	32.6%
	High (6)	141	21.2%
	Very high (7)	19	2.9%

Appendix F – Portuguese Chartered Accountants technical responsibility (sample) – Autonomous taxation application by companies' dimension (frequencies and percentages)

Companies' dimension	Frequency	Number of respondents	%
	Never (1)	108	16.2%
Micro companies	Mostly never (2)	28	4.2%
(<10 workers)	Rarely (3)	24	3.6%
	Neither never nor	30	4.5%
Mode: Frequently	frequently (4)		
(7)	Occasionally (5)	84	12.6%
	Sometimes (6)	94	14.1%
	Frequently (7)	297	44.7%
Small business	Never (1)	146	22%
(≥10 workers to 50	Mostly never (2)	20	3%
workers)	Rarely (3)	24	3.6%
	Neither never nor	34	5.1%
Mode: Frequently	frequently (4)		
(7)	Occasionally (5)	40	6%
	Sometimes (6)	97	14.6%
	Frequently (7)	304	45.7%
Midsize	Never (1)	370	55.6%
Companies	Mostly never (2)	12	1.8%
(≥ 50 workers to	Rarely (3)	9	1.4%
250 workers)	Neither never nor	17	2.6%
	frequently (4)		
Mode: Never (1)	Occasionally (5)	28	4.2%
	Sometimes (6)	43	6.5%
	Frequently (7)	186	28%

Big companies	Never (1)	500	75.2
(≥ 250 workers)	Mostly never (2)	11	1.7
	Rarely (3)	5	0.8
Mode: Never (1)	Neither never nor frequently (4)	7	1.1
	Occasionally (5)	7	1.1
	Sometimes (6)	24	3.6
	Frequently (7)	111	16.7

Appendix G – Portuguese Chartered Accountants technical responsibility (sample) – Autonomous taxation application by companies' economic activity (level of autonomous taxation application and percentages)

Companies' economic activity	Level of autonomous taxation application	Number of respondents	%
Agriculture, livestock, hunting, forestry and fishing (agric)	Never (1)	504	75.8%
	Mostly never (2)	25	3.8%
	Rarely (3)	17	2.6%
	Neither never nor frequently (4)	20	3%
	Occasionally (5)	21	3.2%
Mode: Never (1)	Sometimes (6)	22	3.3%
	Frequently (7)	56	8.4%
Manufacturing (manuf)	Never (1)	327	49.2%
	Mostly never (2)	32	4.8%
	Rarely (3)	16	2.4%
	Neither never nor frequently (4)	44	6.6%
Mode: Never (1)	Occasionally (5)	39	5.9%
	Sometimes (6)	58	8.7%
	Frequently (7)	149	22.4%
Construction (const)	Never (1)	283	42.6%
	Mostly never (2)	26	3.9%
	Rarely (3)	16	2.4%
Mode: Never (1)	Neither never nor frequently (4)	42	6.3%
	Occasionally (5)	59	8.9%
	Sometimes (6)	69	10.4%
	Frequently (7)	170	25.6%

Wholesale and retail trade (whol) Mode: Frequently (7)	Never (1)	151	22.7%
	Mostly never (2)	17	2.6%
	Rarely (3)	17	2.6%
	Neither never nor frequently (4)	49	7.4%
	Occasionally (5)	75	11.3%
	Sometimes (6)	96	14.4%
	Frequently (7)	260	39.1%
Repair of motor vehicles and motorcycles (rep) Mode: Never (1)	Never (1)	378	56.8%
	Mostly never (2)	21	3.2%
	Rarely (3)	19	2.9%
	Neither never nor frequently (4)	43	6.5%
	Occasionally (5)	34	5.1%
	Sometimes (6)	49	7.4%
	Frequently (7)	121	18.2%
Transport and storage (trans) Mode: Never (1)	Never (1)	420	63.2%
	Mostly never (2)	21	3.2%
	Rarely (3)	20	3%
	Neither never nor frequently (4)	33	5%
	Occasionally (5)	37	5.6%
	Sometimes (6)	37	5.6%
	Frequently (7)	97	14.6%
Accommodation, catering and similar (acc) Mode: Never (1)	Never (1)	291	43.8%
	Mostly never (2)	24	3.6%
	Rarely (3)	28	4.2%
	Neither never nor frequently (4)	45	6.8%
	Occasionally (5)	60	9%
	Sometimes (6)	56	8.4%
	Frequently (7)	161	24.2%

Real estate activities (rst)	Never (1)	408	61.4%
	Mostly never (2)	20	3%
	Rarely (3)	16	2.4%
	Neither never nor frequently (4)	26	3.9%
Mode: Never (1)	Occasionally (5)	34	5.1%
	Sometimes (6)	45	6.8%
	Frequently (7)	116	17.4%
Consulting activities (cons)	Never (1)	338	50.8%
	Mostly never (2)	20	3%
	Rarely (3)	15	2.3%
	Neither never nor frequently (4)	31	4.7%
Mode: Never (1)	Occasionally (5)	31	4.7%
	Sometimes (6)	66	9.9%
	Frequently (7)	164	24.7%

Appendix H – Portuguese Chartered Accountants perceptions (sample) – Expenses subject to autonomous taxation (level of autonomous taxation application and percentages)

Expenses	Level of autonomous taxation application	Number of respondents	%
Non - documented expenses (ndocexp) Mode: Never (1)	Never (1)	302	45.4%
	Mostly never (2)	92	13.8%
	Rarely (3)	32	4.8%
	Neither never nor frequently (4)	46	6.9%
	Occasionally (5)	53	8%
	Sometimes (6)	33	5%
	Frequently (7)	107	16.1%
Expenses related to vehicles (vehicexp) Mode: Frequently (7)	Never (1)	21	3.2%
	Mostly never (2)	15	2.3%
	Rarely (3)	10	1.5%
	Neither never nor frequently (4)	21	3.2%
	Occasionally (5)	29	4.4%
	Sometimes (6)	75	11.3%
	Frequently (7)	494	74.3%
Representation expenses (repexp) Mode: Frequently (7)	Never (1)	37	5.6%
	Mostly never (2)	21	3.2%
	Rarely (3)	20	3%
	Neither never nor frequently (4)	32	4.8%
	Occasionally (5)	60	9%
	Sometimes (6)	75	11.3%
	Frequently (7)	420	63.2%

Payments made to entities resident in low tax jurisdictions (ltjexp)	Never (1)	511	76.8
	Mostly never (2)	50	7.5
	Rarely (3)	19	2.9
	Neither never nor frequently (4)	29	4.4
	Occasionally (5)	21	3.2
Mode: Never (1)	Sometimes (6)	18	2.7
	Frequently (7)	17	2.6
Allowances and travelling costs, incurred by employees (allexp)	Never (1)	94	14.1
	Mostly never (2)	37	5.6
	Rarely (3)	32	4.8
	Neither never nor frequently (4)	35	5.3
	Occasionally (5)	65	9.8
Mode: Frequently (7)	Sometimes (6)	101	15.2
	Frequently (7)	301	45.3
Profits distributed to entities wholly or partially exempted from CIT (profexp)	Never (1)	542	81.5%
	Mostly never (2)	39	5.9%
	Rarely (3)	20	3%
	Neither never nor frequently (4)	21	3.2%
	Occasionally (5)	12	1.8%
	Sometimes (6)	18	2.7%
Mode: Never (1)	Frequently (7)	13	2%
Costs with compensation to managers or board members (compexp)	Never (1)	534	80.3%
	Mostly never (2)	41	6.2%
	Rarely (3)	24	3.6%
	Neither never nor frequently (4)	25	3.8%
	Occasionally (5)	14	2.1%
Mode: Never (1)	Sometimes (6)	12	1.8%
	Frequently (7)	15	2.3%

Costs with the excess of the remuneration at the end of the contract paid to managers or board members (excexp)	Never (1)	504	75.8%
	Mostly never (2)	56	8.4%
	Rarely (3)	25	3.8%
	Neither never nor frequently (4)	25	3.8%
	Occasionally (5)	17	2.6%
	Sometimes (6)	20	3%
	Frequently (7)	18	2.7%
Mode: Never (1)			
Costs with bonus and other variable remunerations paid to managers (bonexp)	Never (1)	501	75.3%
	Mostly never (2)	58	8.7%
	Rarely (3)	20	3%
	Neither never nor frequently (4)	25	3.8%
	Occasionally (5)	11	1.7%
Mode: Never (1)	Sometimes (6)	19	2.9%
	Frequently (7)	31	4.7%
The incentive to the revaluation of tangible fixed assets (revalexp)	Never (1)	560	84.2%
	Mostly never (2)	38	5.7%
	Rarely (3)	12	1.8%
	Neither never nor frequently (4)	17	2.6%
	Occasionally (5)	13	2%
Mode: Never (1)	Sometimes (6)	9	1.4%
	Frequently (7)	16	2.4%

Appendix I – Portuguese Chartered Accountants perceptions (sample) – legislative and administrative complexity of autonomous taxation

(level of agreement and percentages)

Autonomous taxation complexity	Level of Agreement	Number of respondents	%
Difficulty in the interpretation of	Strongly disagree (1)	54	8.1%
ATE rules	Disagree (2)	87	13.1%
(clinterp)	Somewhat disagree (3)	112	16.8%
	Neither agree nor disagree (4)	151	22.7%
Mode: Neither agree nor disagree (4)			
	Somewhat agree (5)	116	17.4%
	Agree (6)	75	11.3%
	Strongly agree (7)	70	10.5%
ATE frequent changes	Strongly disagree (1)	34	5.1%
(freqc)	Disagree (2)	78	11.7%
	Somewhat disagree (3)	90	13.5%
Mode: Strongly agree (7)	Neither agree nor disagree (4)	101	15.2%
	Somewhat agree (5)	87	13.1%
	Agree (6)	110	16.5%
	Strongly agree (7)	165	24.8%
Diversity of ATE tax rates	Strongly disagree (1)	21	3.2%
(divtx)	Disagree (2)	49	7.4%
	Somewhat disagree (3)	64	9.6%
Mode: Strongly agree (7)	Neither agree nor disagree (4)	88	13.2%
	Somewhat agree (5)	83	12.5%
	Agree (6)	129	19.4%
	Strongly agree (7)	231	34.7%

Too much work on the preparation of accounting and tax information (prepinf) Mode: Strongly agree (7)	Strongly disagree (1)	22	3.3%
	Disagree (2)	43	6.5%
	Somewhat disagree (3)	58	8.7%
	Neither agree nor disagree (4)	97	14.6%
	Somewhat agree (5)	94	14.1%
	Agree (6)	138	20.8%
	Strongly agree (7)	213	32%
Legal conflicts between tax authority and taxpayers (lconfl) Mode: Strongly agree (7)	Strongly disagree (1)	37	5.6%
	Disagree (2)	61	9.2%
	Somewhat disagree (3)	80	12%
	Neither agree nor disagree (4)	115	17.3%
	Somewhat agree (5)	100	15%
	Agree (6)	131	19.7%
	Strongly agree (7)	141	21.2%

Appendix J – Portuguese Chartered Accountants perceptions (sample) – the role of autonomous taxation on corporate tax planning
(level of agreement and percentages)

Autonomous taxation effects	Level of Agreement	Number of respondents	%
Influence on vehicle acquisition	Strongly disagree (1)	6	0.9%
(vehicaq)	Disagree (2)	14	2.1%
Mode: Strongly agree (7)	Somewhat disagree (3)	22	3.3%
	Neither agree nor disagree (4)	49	7.4%
	Somewhat agree (5)	80	12%
	Agree (6)	114	17.1%
	Strongly agree (7)	380	57.1%
Negative influence on the	Strongly disagree (1)	18	2.7%
acquisition of goods and services	Disagree (2)	24	3.6%
(gservaq)	Somewhat disagree (3)	37	5.6%
	Neither agree nor disagree (4)	64	9.6%
Mode: Strongly agree (7)	Somewhat agree (5)	96	14.4%
	Agree (6)	113	17%
	Strongly agree (7)	313	47.1%
Efficient management of results	Strongly disagree (1)	60	9%
(efmres)	Disagree (2)	40	6%
	Somewhat disagree (3)	55	8.3%
Mode: Strongly agree (7)	Neither agree nor disagree (4)	112	16.8%
	Somewhat agree (5)	93	14%
	Agree (6)	100	15%
	Strongly agree (7)	205	30.8%

Reduction of expenses subject to	Strongly disagree (1)	19	2.9%
ATE	Disagree (2)	33	5%
(rexp)	Somewhat disagree (3)	57	8.6%
	Neither agree nor disagree (4)	96	14.4%
Mode: Strongly agree (7)	Somewhat agree (5)	120	18%
	Agree (6)	110	16.5%
	Strongly agree (7)	230	34.6%

Appendix K – Portuguese Chartered Accountants perceptions (sample) – the role of autonomous taxation on corporate tax compliance

(level of agreement and percentages)

Autonomous taxation effects	Level of Agreement	Number of respondents	%
Higher taxation with tax loss	Strongly disagree (1)	241	36.2%
(htaxl)	Disagree (2)	84	12.6%
	Somewhat disagree (3)	83	12.5%
Mode: Strongly disagree (1)	Neither agree nor disagree (4)	88	13.2%
	Somewhat agree (5)	61	9.2%
	Agree (6)	49	7.4%
	Strongly agree (7)	59	8.9%
ATE is mostly paid by SME´s	Strongly disagree (1)	68	10.2%
(psmes)	Disagree (2)	70	10.5%
	Somewhat disagree (3)	72	10.8%
Mode: Neither agree nor disagree (4)	Neither agree nor disagree (4)	158	23.8%
	Somewhat agree (5)	92	13.8%
	Agree (6)	79	11.9%
	Strongly agree (7)	126	18.9%
ATE greater impact on SME´s tax	Strongly disagree (1)	30	4.5%
burden	Disagree (2)	35	5.3%
(imptax)	Somewhat disagree (3)	45	6.8%
	Neither agree nor disagree (4)	107	16.1%
Mode: Strongly agree (7)	Somewhat agree (5)	105	15.8%
	Agree (6)	121	18.2%
	Strongly agree (7)	222	33.4%

More expenses subject to taxation and CIT rate reduction (exptcit) Mode: Strongly disagree (1)	Strongly disagree (1)	220	33.1%
	Disagree (2)	82	12.3%
	Somewhat disagree (3)	58	8.7%
	Neither agree nor disagree (4)	121	18.2%
	Somewhat agree (5)	71	10.7%
	Agree (6)	37	5.6%
	Strongly agree (7)	76	11.4%
Tax auditing reduction (taxaudit) Mode: Strongly disagree (1)	Strongly disagree (1)	189	28.4%
	Disagree (2)	112	16.8%
	Somewhat disagree (3)	67	10.1%
	Neither agree nor disagree (4)	100	15%
	Somewhat agree (5)	75	11.3%
	Agree (6)	62	9.3%
	Strongly agree (7)	60	9%

Appendix L – Variables transformation

Table L.1. Survey questions which compose CA perceptions of ATE complexity (dimension)

13.1 The degree of difficulty in interpreting the rules of autonomous taxation is high **(clinterp)**
13.2 The rules of autonomous taxation are frequently changed, which makes the taxation rules´ update process very difficult **(freqc)**
13.3 The diversity of autonomous taxation tax rates is excessive **(divtx)**
13.4 The process of computing autonomous taxation requires too much work on the preparation of accounting and tax information **(prepinf)**
13.5 The rules of autonomous taxation frequently lead to legal conflicts between tax authority and taxpayers **(lconfl)**

Table L.2. Survey questions which compose CA perceptions of ATE tax planning (dimension)

14.1 Autonomous taxation of expenses related to vehicles may influence the acquisition of those vehicles by companies **(vehicaq)**
14.2 Double penalties for non-accepted tax expenses and autonomous taxation may adversely influence the acquisition of goods and services **(gservaq)**
14.3 The increase of 10% in autonomous taxation rates, when companies have tax losses, can lead companies to the more efficient management of their tax results **(efmres)**
14.4 Autonomous taxation increases the effective average corporate tax rate, so companies deliberately reduce expenses subject to autonomous taxation **(rexp)**

Table L.3. Survey questions which compose CA perceptions of ATE tax compliance (dimension)

15.1 Companies with tax losses must pay more autonomous taxation (**htaxl**)
15.4 Autonomous taxation should extend to other expenses and the CIT rate should be reduced (**exptcit**)
15.5 Autonomous taxation reduces tax audit to companies by tax authority (**taxaudit**)

Table L.4. Survey questions which compose CA perceptions of ATE SMEs tax compliance (dimension)

15.2 Autonomous taxation is mostly paid by micro and small businesses (**psmes**)
15.3 Autonomous taxation has a greater impact on the tax burden of micro and small businesses (**imptax**)

Table L.5. CA perception levels (frequencies)

Level	ATE complexity (N)	ATE tax planning (N)	ATE tax compliance (N)	ATE SMEs tax compliance (N)
Strongly disagree (1)	18	7	123	26
Disagree (2)	56	12	150	49
Somewhat disagree (3)	103	43	174	77
Neither agree nor disagree (4)	154	133	112	171
Somewhat agree (5)	178	184	78	138
Agree (6)	117	159	19	88
Strongly agree (7)	39	127	9	116
Total (N)	665			

Appendix M – Portuguese Chartered Accountants levels of perceptions

(sampling adequacy and reliability)

Table M.1. CAs perceptions of ATE complexity dimension

Descriptive Statistics	Mean	Std. Deviation	Analysis N
clinterp	4.0421	1.73154	665
freqc	4.6827	1.90515	665
divtx	5.2165	1.79642	665
prepinf	5.2015	1.74892	665
lconfl	4.7098	1.82642	665
Kaiser-Meyer-Olkin Measure of Sampling Adequacy.			0.826
Bartlett's Test of Sphericity	Approx. Chi-Square		1225.720
	df		10.000
	Sig.		0.000
Cronbach's Alpha	Cronbach's Alpha Based on Standardized Items		N of Items
0.8	0.8		5

Table M.2. CAs perceptions of ATE tax planning dimension

Descriptive Statistics	Mean	Std. Deviation	Analysis N
vehicaq	6.0752	1.35784	665
gservaq	5.6872	1.63127	665
efmres	4.8917	1.96513	665
rexp	5.2782	1.69315	665
Kaiser-Meyer-Olkin Measure of Sampling Adequacy.			0.7
Bartlett's Test of Sphericity	Approx. Chi-Square		744.969
	df		6.000
	Sig.		0,000
Cronbach's Alpha	Cronbach's Alpha Based on Standardized Items		N of Items
0.7	0.7		4

Table M.3. CAs perceptions of ATE tax compliance dimension

Descriptive Statistics	Mean	Std. Deviation	Analysis N
htaxl	3.0406	2.04022	665
exptcit	3.2346	2.08242	665
taxaudit	3.2797	2.02915	665
Kaiser-Meyer-Olkin Measure of Sampling Adequacy.			0.6
Bartlett's Test of Sphericity	Approx. Chi-Square		125.201
	df		3
	Sig.		0.000
Cronbach's Alpha	Cronbach's Alpha Based on Standardized Items		N of Items
0.5	0.5		3

Table M.4. CAs perceptions of ATE SMEs tax compliance dimension

Descriptive Statistics	Mean	Std. Deviation	Analysis N
psmes	4.3188	1.91633	665
imptax	5.215	1.76147	665
Kaiser-Meyer-Olkin Measure of Sampling Adequacy.			0.5
Bartlett's Test of Sphericity	Approx. Chi-Square		204.635
	df		1
	Sig.		0.000
Cronbach's Alpha	Cronbach's Alpha Based on Standardized Items		N of Items
0.7	0.7		2

Appendix N – Tests and Correlations

Table – N.1. - Runs Test[93] - Gender

Test Value[a]	**1.4752**
Cases < Test Value	349
Cases >= Test Value	316
Total Cases	665
Number of Runs	334
Z	0.103
Asymp. Sig. (2-tailed)	0.918

a. Mean

Table – N.2. - Runs Test - Geographical area

Test Value[a]	**2.38**
Cases < Test Value	284
Cases >= Test Value	381
Total Cases	665
Number of Runs	305
Z	-1.699
Asymp. Sig. (2-tailed)	0.089

a. Mean

---

[93] The first hypothesis is that a population from a sample is random. The Runs Test allows testing the veracity of this hypothesis. It can be applied to any type of data, particularly in this study, since the sample has no normal distribution.

Hypotheses under test are:

H0: the sample is random;

H1: the sample is not random.

So, when testing for random:

Probabilities > 0.05 mean the sample is random.

Probabilities < 0.05 mean the sample isn´t random.

Post hoc tests - Homogeneous Subsets[94]

Table – N.3. - Duncan´s Multiple Range test - age

Cluster Number of Case	N	Subset for alpha = 0.05		
Duncan				
		1	2	3
2	276	36.5906		
3	259		49.5946	
1	130			64.6538
Sig.		1.000	1.000	1.000

Table – N.4. - Duncan´s Multiple Range test - gender

Cluster Number of Case	N	Subset for alpha = 0.05		
Duncan				
		1	2	3
2	276	1.34		
3	259		1.47	
1	130			1.77
Sig.		1.000	1.000	1.000

Table – N.5. - Duncan´s Multiple Range test – number of years of professional experience

Cluster Number of Case	N	Subset for alpha = 0.05		
Duncan				
		1	2	3
2	276	1.6630		
3	259		2.5985	
1	130			2.9231
Sig.		1.000	1.000	1.000

---

[94] Means for groups in homogeneous subsets are displayed. Uses Harmonic Mean Sample Size = 197,674. The group sizes are unequal. The harmonic mean of the group sizes is used. Type I error levels are not guaranteed.

Table – N.6. - Duncan´s Multiple Range test – accountant activity practice

	Duncan		
Cluster Number of Case	N	Subset for alpha = 0.05	
		1	2
2	276	1.8188	
3	259		2.2355
1	130		2.4846
Sig.		1.000	0.071

Table – N.7. - Duncan´s Multiple Range test – ATE complexity

	Duncan		
Cluster Number of Case	N	Subset for alpha = 0.05	
		1	2
2	276	4.2138	
3	259	4.4826	4.4826
1	130		4.5846
Sig.		0.063	0.481

Table – N.8. - Duncan´s Multiple Range test – ATE role in tax planning

	Duncan		
Cluster Number of Case	N	Subset for alpha = 0.05	
		1	2
2	276	5.0109	
3	259		5.2896
1	130		5.4000
Sig.		1.000	0.405

Table – N.9. - Duncan´s Multiple Range test – ATE role in tax compliance

	Duncan		
Cluster Number of Case	N	Subset for alpha = 0.05	
		1	2
1	130	2.6308	
3	259	2.8147	
2	276		3.2210
Sig.		0.199	1.000

Table – N.10. Correlations: (Group number 1 - Default model)

			Estimate
ate_taxcomplexity	<-->	ate_taxplanning	0.41
ate_taxplanning	<-->	ate_SMEtaxcompliance	0.37
ate_taxcomplexity	<-->	ate_taxcompliance	0.08
ate_taxcompliance	<-->	ate_taxplanning	0.09
ate_taxcomplexity	<-->	ate_SMEtaxcompliance	0.32
ate_taxcompliance	<-->	ate_SMEtaxcompliance	0.34

Table – N.11 - Statistical power analysis (sample size)

	A priori: Compute required sample size		Post hoc: Compute achieved power	
Input:	Tail(s)	Two	Tail(s)	Two
	Correlation ρ H1	0.1	Correlation ρ H1	0.1
	α err prob	0.05	α err prob	0.05
	Power (1-β err prob)	0.95	Total sample size	665
	Correlation ρ H0	0	Correlation ρ H0	0
Output:	Lower critical r	-0.0545188	Lower critical r	-0.760371
	Upper critical r	0. 0545188	Upper critical r	0.760371
	Total sample size	1293	Power (1-β err prob)	0.7335388
	Actual power	0.9500210	-	-
Input:	Tail(s)	Two	Tail(s)	Two
	Correlation ρ H1	0.3	Correlation ρ H1	0.3
	α err prob	0.05	α err prob	0.05
	Power (1-β err prob)	0.95	Total sample size	665
	Correlation ρ H0	0	Correlation ρ H0	0
Output:	Lower critical r	-0.1671877	Lower critical r	-0.760371
	Upper critical r	0. 1671877	Upper critical r	0.760371
	Total sample size	138	Power (1-β err prob)	1.0000000
	Actual power	0.9504014	-	-
Input:	Tail(s)	Two	Tail(s)	Two
	Correlation ρ H1	0.5	Correlation ρ H1	0.1
	α err prob	0.05	α err prob	0.05
	Power (1-β err prob)	0.95	Total sample size	665
	Correlation ρ H0	0	Correlation ρ H0	0
Output:	Lower critical r	-0.2907065	Lower critical r	-0.760371
	Upper critical r	0. 2907065	Upper critical r	0.760371
	Total sample size	46	Power (1-β err prob)	1.0000000
	Actual power	0.9535111	-	-

Table N.51- Test of Normality[95]

	Kolmogorov-Smirnov[a]			Shapiro-Wilk		
	Statistic	df	Sig.	Statistic	df	Sig.
clinterp	0.117	665	0.000	0.945	665	0.000
freqc	0.169	665	0.000	0.902	665	0.000
divtx	0.210	665	0.000	0.860	665	0.000
prepinf	0.204	665	0.000	0.871	665	0.000
lconfl	0.169	665	0.000	0.914	665	0.000
vehicaq	0.324	665	0.000	0.719	665	0.000
gservaq	0.260	665	0.000	0.790	665	0.000
efmres	0.172	665	0.000	0.876	665	0.000
rexp	0.191	665	0.000	0.870	665	0.000
htaxl	0.204	665	0.000	0.853	665	0.000
psmes	0.119	665	0.000	0.922	665	0.000
imptax	0.188	665	0.000	0.867	665	0.000
exptcit	0.189	665	0.000	0.866	665	0.000
taxaudit	0.188	665	0.000	0.882	665	0.000

a. Lilliefors Significance Correction

---

[95] Tests for normality calculate the probability that the sample was drawn from a normal population. The hypotheses used are:

H_0: The sample data are not significantly different than a normal population.

H_a: The sample data are significantly different than a normal population.

So, when testing for normality:

Probabilities > 0.05 mean the data are normal.

Probabilities < 0.05 mean the data are not normal.

Table N.12 - Assessment of normality (CFA)

Variable	min	max	skew	c.r.	kurtosis	c.r.
lconfl	1	7	-0.387	-4.079	-0.933	-4.909
psmes	1	7	-0.149	-1.568	-1.025	-5.398
imptax	1	7	-0.764	-8.044	-0.364	-1.916
rexp	1	7	-0.718	-7.558	-0.427	-2.248
efmres	1	7	-0.576	-6.06	-0.822	-4.326
gservaq	1	7	-1.181	-12.434	0.52	2.736
vehicaq	1	7	-1.57	-16.532	1.926	10.14
taxaudit	1	7	0.412	4.333	-1.134	-5.967
exptcit	1	7	0.446	4.7	-1.087	-5.722
htaxl	1	7	0.59	6.215	-0.953	-5.019
clinterp	1	7	0.026	0.27	-0.848	-4.462
freqc	1	7	-0.296	-3.115	-1.154	-6.072
divtx	1	7	-0.699	-7.359	-0.682	-3.589
prepinf	1	7	-0.71	-7.478	-0.546	-2.874
Multivariate					41.296	25.157

Appendix O – Additional results

Table O.1 – Socio-demographic and professional variables and CAs perception of autonomous taxation complexity

Research hypotheses	Results ATE complexity	Conclusions
Rh geographical area H_0: There are no differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their geographical area; H_a: There are differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their geographical area.	Spearman's correlation: rho = -0.017; p=0.663>0.05	The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their geographical area, is not rejected. It means that there aren´t statically significant differences in the perception of the complexity of autonomous taxation depending on CAs geographical area.
Rh academic degree H_0: There are no differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their academic degree; H_a: There are differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their academic degree.	Spearman's correlation: rho = 0.028; p=0.472>0.05	The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their academic degree, is not rejected. It means that there aren´t statically significant differences in the perception of the complexity of autonomous taxation depending on CAs academic degree.

Rh knowledge area

H_0: There are no differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their knowledge area; H_a: There are differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their knowledge area.

Spearman's correlation:

rho = -0.029; p=0.454>0.05

The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their knowledge area, is not rejected. It means that there aren´t statically significant differences in the perception of the complexity of autonomous taxation depending on CAs knowledge area.

Rh companies' portfolio

H0: There are no differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their companies' portfolio; Ha: There are differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their companies' portfolio.

Spearman's correlation:

rho = 0.042; p=0.277>0.05

The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on companies' portfolio, is not rejected. It means that there aren´t statically significant differences in the perception of the complexity of autonomous taxation depending on CAs´ companies' portfolio.

Rh= research hypothesis

Table O.6 – Socio-demographic and professional variables and CAs perception of autonomous taxation role in tax planning

Research hypotheses	Results ATE tax planning	Conclusions
Rh geographical area **H₀:** There are no differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their geographical area; **Hₐ:** There are differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their geographical area.	Spearman's correlation: rho = 0.003; p=0.948>0.05	The null hypothesis (**H₀**), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their geographical area, is not rejected. It means that there aren´t statically significant differences in the perception of the role of autonomous taxation in tax planning depending on CAs geographical area.
Rh academic degree **H₀:** There are no differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their academic degree; **Hₐ:** There are differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their academic degree.	Spearman's correlation: rho = 0.087; p*=0.025<0.05	The null hypothesis (**H₀**), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their academic degree, is rejected. It means that there are statically significant differences in the perception of the role of autonomous taxation in tax planning depending on CAs academic degree (positive correlation).

Rh knowledge area

H_0: There are no differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their knowledge area; H_a: There are differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their knowledge area.

Spearman's correlation:

rho = 0.032; p=0.416>0.05

The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their knowledge area, is not rejected. It means that there aren´t statically significant differences in the perception of the role of autonomous taxation in tax planning depending on CAs knowledge area.

Rh companies' portfolio

H_0: There are no differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their companies' portfolio; H_a: There are differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their companies' portfolio.

Spearman's correlation:

rho = 0.072; p=0.062>0.05

The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on companies' portfolio, is not rejected. It means that there aren´t statically significant differences in the perception of the role of autonomous taxation in tax planning depending on CAs´s companies' portfolio.

Rh= research hypothesis

Table O. 7 – Socio-demographic and professional variables and CAs perception of autonomous taxation role in tax compliance

Research hypotheses	Results ATE tax compliance	Conclusions
Rh geographical area		The null hypothesis (**H₀**), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on their geographical area, is not rejected. It means that there aren´t statically significant differences in the perception of the role of autonomous taxation in tax compliance depending on CAs geographical area.
H₀: There are no differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on their geographical area; **Hₐ:** There are differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on their geographical area.	Spearman's correlation: rho = 0.008; p=0.838>0.05	
Rh academic degree		The null hypothesis (**H₀**), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on their academic degree, is not rejected. It means that there aren´t statically significant differences in the perception of the role of autonomous taxation in tax compliance depending on CAs academic degree.
H₀: There are no differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on their academic degree; **Hₐ:** There are differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on their academic degree.	Spearman's correlation: rho = -0.003; p=0.943>0.05	

Rh knowledge area

H_0: There are no differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on their knowledge area; H_a: There are differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on their knowledge area.

Spearman's correlation:

rho = 0.056; p=0.152>0.05

The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on their knowledge area, is not rejected. It means that there aren´t statically significant differences in the perception of the role of autonomous taxation in tax compliance depending on CAs ´ knowledge area.

Rh companies' portfolio

H_0: There are no differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on their companies' portfolio; H_a: There are differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on their companies' portfolio.

Spearman's correlation:

rho = -0.002; p=0.962>0.05

The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on companies' portfolio, is not rejected. It means that there aren´t statically significant differences in the perception of the role of autonomous taxation in tax compliance depending on CAs ´s companies' portfolio.

Rh= research hypothesis

Table O.8 – Socio-demographic and professional variables and CAs perception of autonomous taxation role in SMEs tax compliance

Research hypotheses	Results ATE SMEs tax compliance	Conclusions
Rh geographical area **H_0:** There are no differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their geographical area; **H_a:** There are differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their geographical area.	Spearman's correlation: rho = 0.089; p*=0.021<0.05	The null hypothesis (**H_0**), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their geographical area, is rejected. It means that there are statically significant differences in the perception of the role of autonomous taxation in SMEs tax compliance depending on CAs´s geographical area (positive correlation).
Rh academic degree **H_0:** There are no differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their academic degree; **H_a:** There are differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on	Spearman's correlation: rho = -0.079; p*=0.042<0.05	The null hypothesis (**H_0**), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their academic degree, is rejected. It means that there are statically significant differences in the perception of the role of autonomous taxation in SMEs tax compliance depending on

their academic degree.

CAs´s academic degree (negative correlation).

Rh knowledge area

H_0: There are no differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their knowledge area; H_a: There are differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their knowledge area.

Spearman's correlation:

rho = 0.007; p=0.855>0.05

The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their knowledge area, is not rejected. It means that there aren´t statically significant differences in the perception of the role of autonomous taxation in SMEs tax compliance depending on CAs´s knowledge area.

Rh companies' portfolio

H_0: There are no differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their companies' portfolio; H_a: There are differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their companies' portfolio.

Spearman's correlation:

rho = 0.107; p**=0.006<0.05

The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their companies' portfolio, is rejected. It means that there are statically significant differences in the perception of the role of autonomous taxation in SMEs tax compliance considering CAs´s companies' portfolio (positive correlation).

Rh= research hypothesis

Table O.5 –Technical variables and CAs perception of autonomous taxation complexity

Research hypotheses	Results ATE complexity	Conclusions
Rh companies' portfolio' dimension subject to autonomous taxation H_0: There are no differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their companies' portfolio' dimension subject to autonomous taxation; H_a: There are differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their companies' portfolio' dimension subject to autonomous taxation.	Spearman's correlation: rho (**micro**)=0.051; p=0.185>0.05	The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on companies' portfolio' dimension subject to autonomous taxation, is not rejected. It means that there aren´t statically significant differences in the perception of the complexity of autonomous taxation depending on CAs´s companies' portfolio' dimension subject to autonomous taxation (micro companies).
Rh companies' portfolio' economic activity subject to autonomous taxation H_0: There are no differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their companies' portfolio' economic activity subject to	Spearman's correlation: rho(**constt**)=0.126; p**=0.001<0.05 rho (**whol**) = 0.094; p*=0.015<0.05 rho (**rep**) = 0.111; p**=0.004<0.05;	The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their companies' portfolio' economic activity subject to autonomous taxation, is rejected. It means that when the level of autonomous

autonomous taxation; **H_a:** There are differences in Portuguese CAs perception of the complexity of autonomous taxation, depending on their companies' portfolio' economic activity subject to autonomous taxation.	rho (**trans**) = 0.096; p*=0.013<0.05	taxation application in companies' economic activity increases (such as construction, wholesale and retail trade, repair of motor vehicles and motorcycles and transport and storage), also increases the CAs perception of the complexity of autonomous taxation.

Rh= research hypothesis

Table O.6 – Technical variables and CAs perception of the role of autonomous taxation in tax planning

Research hypotheses	Results ATE tax planning	Conclusions
Rh companies' portfolio' dimension subject to autonomous taxation **H₀:** There are no differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their companies' portfolio' dimension subject to autonomous taxation; **Hₐ:** There are differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their companies' portfolio' dimension subject to autonomous taxation.	Spearman's correlation: rho (**micro**) = 0.134; p**=0.001<0.05 rho (**sml**) = 0.145; p**=0.000<0.05	The null hypothesis (**H₀**), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their companies' portfolio' dimension subject to autonomous taxation (in micro-companies and in small business), is rejected. It means that when the level of autonomous taxation application by companies' portfolio' dimension increases (in micro-companies and in small business), also increases the perception of the role of autonomous taxation in tax planning.
Rh companies' portfolio' economic activity subject to autonomous taxation **H₀:** There are no differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on	Spearman's correlation: rho (**constt**) = 0.139; p**=0.000<0.05 rho (**whol**) =	The null hypothesis (**H₀**), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their companies' portfolio' economic activity subject to

their companies' portfolio' economic activity subject to autonomous taxation; **Hₐ:** There are differences in Portuguese CAs perception of the role of autonomous taxation in tax planning, depending on their companies' portfolio' economic activity subject to autonomous taxation.

0.088; $p^*=0.024<0.05$

rho (**rep**) = 0.108; $p^{**}=0.005<0.05$;

rho (**acc**) = 0.088; $p^*=0.023<0.05$

rho (**rst**) = 0.118; $p^{**}=0.002<0.05$

rho (**cons**) = 0.113; $p^{**}=0.003<0.05$

autonomous taxation, is rejected. It means that when the level of autonomous taxation application in companies' economic activity increases (such as construction, wholesale and retail trade, repair of motor vehicles and motorcycles, accommodation, catering and similar, real estate activities and consulting activities), also increases the perception of the role of autonomous taxation in tax planning.

Rh= research hypothesis

Table O.7 – Technical variables and CAs perception of the role of autonomous taxation in tax compliance

Research hypotheses	Results ATE tax compliance	Conclusions
Rh companies' portfolio' dimension subject to autonomous taxation H_0: There are no differences in Portuguese CC perception of the role of autonomous taxation in tax compliance, depending on their companies' portfolio' dimension subject to autonomous taxation; H_a: There are differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on their companies' portfolio' dimension subject to autonomous taxation.	Spearman's correlation: rho(**micro**)=-0.020; p=0.598>0.05	The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on companies' portfolio' dimension subject to autonomous taxation, is not rejected. It means that there aren´t statically significant differences in the perception of the role of autonomous taxation in tax compliance depending on CAs ´s companies' portfolio' dimension subject to autonomous taxation.
Rh companies' portfolio' economic activity subject to autonomous taxation H_0: There are no differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on their companies' portfolio' economic activity subject to autonomous taxation; H_a: There	Spearman's correlation: rho (**constt**) = 0.062; p=0.109>0.05	The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on their companies' portfolio' economic activity subject to autonomous taxation, is not rejected. It means that there aren´t statically significant differences in the perception of

are differences in Portuguese CAs perception of the role of autonomous taxation in tax compliance, depending on their companies' portfolio' economic activity subject to autonomous taxation.	the role of autonomous taxation in tax compliance depending on CAs ´s companies' portfolio' economic activity subject to autonomous taxation.

Rh= research hypothesis

Table O.8 – Technical variables and CAs perception of the role of autonomous taxation in SMEs tax compliance

Research hypotheses	Results ATE SMEs tax compliance	Conclusions
Rh companies' portfolio' dimension subject to autonomous taxation H_0: There are no differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their companies' portfolio' dimension subject to autonomous taxation; H_a: There are differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their companies' portfolio' dimension subject to autonomous taxation.	Spearman's correlation: rho (**micro**) = 0.217; $p^{**}=0.000<0.05$ rho (**sml**) = 0.155; $p^{**}=0.000<0.05$ rho (**med**) = -0.078; $p^{*}=0.044<0.05$ rho (**big**) = -0.116; $p^{**}=0.003<0.05$	The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their companies' portfolio' dimension subject to autonomous taxation, is rejected. It means that there are statically significant differences in the perception of the role of autonomous taxation in SMEs tax compliance considering CAs ´s companies´ portfolio´ dimension (micro and small companies' portfolios - positive correlation; medium and big companies' portfolios - negative correlation).
Rh companies' portfolio' economic activity subject to autonomous taxation H_0: There are no differences in Portuguese CAs perception of the role of autonomous	Spearman's correlation: rho (**constt**) = 0.149; $p^{**}=0.000<0.05$	The null hypothesis (H_0), that there are no differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their companies' portfolio' economic activity subject to

taxation in SMEs tax compliance, depending on their companies' portfolio' economic activity subject to autonomous taxation; **Hₐ:** There are differences in Portuguese CAs perception of the role of autonomous taxation in SMEs tax compliance, depending on their companies' portfolio' economic activity subject to autonomous taxation.

rho (**whol**) = 0.130; $p** = 0.001 < 0.05$

rho (**rep**) = 0.123; $p** = 0.002 < 0.05$;

rho (**acc**) = 0.166; $p** = 0.000 < 0.05$

rho (**rst**) = 0.096; $p* = 0.013 < 0.05$

rho (**cons**) = 0.114; $p** = 0.003 < 0.05$

autonomous taxation, is rejected. It means that when the level of autonomous taxation application in companies' economic activity increases (such as construction, wholesale and retail trade, repair of motor vehicles and motorcycles, accommodation, catering and similar, real estate activities and consulting activities), also increases the perception of the role of autonomous taxation in SMEs tax compliance.

Rh= research hypothesis