

Achieving Transparency through Technology Brazil's SPED system in light of BEPS

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The purpose of this article is to understand Brazil's public digital bookkeeping system (SPED) in light of the objectives the G-20 and the OECD seek to achieve under BEPS.

In a post-financial crisis world the G-20 group concluded that enhancing transparency for tax administrations was key for tackling base erosion and profit shifting (BEPS). G-20 commissioned the OECD to analyze the problem in 2009. In 2013, the OECD announced the action plans on BEPS intended to modernize the global tax system at a moment of transition between industrial and digital economies and counterpoint tax avoidance strategies that take advantage of gaps of the legislation.

Brazil's SPED was introduced in 2007 to address the roots for BEPS through fraud and evasion. SPED unifies the activities of reception, validation, storage and authentication of electronic documents that integrate tax, accounting, financial and labor & social security corporate data. The electronic flow is based on a 2001 legislation on authenticity, integrity and legal validity of documents in electronic form, supporting apps and the use of digital certificates in secure electronic transactions.

SPED is the cornerstone of the electronic framework intended to improve data quality, reduce costs and promote mutually transparent relationship between tax authorities and taxpayers. All levels of tax jurisdiction in Brazil (federal, state and city) are direct or indirect users of SPED and have the ability to obtain real time assessment of data and cross-reference information. SPED has imposed substantial changes on corporate compliance, investments in technology, training and demanded integrated actions from different areas of the business: finance, HR, I&T, bookkeeping, supplies, production, inventory, sales, purchases, payables & receivables. If inconsistencies and operational errors are subject to visibility and monitoring by tax authorities, SPED allows companies to improve compliance, reduce costs and errors.

SPED is an ongoing process of evolution with the design of more electronic environments. Each pillar is grounded on detailed data collection – e.g., (i) e-Invoice: different type of electronic invoices, (ii) EFD: different types of digital fiscal bookkeeping according to the nature of taxes, (iii) ECD: digital accounting bookkeeping (journal register and supporting records, general ledger and sub-ledgers, daily trial balances and balance-sheets into a single file, (iv) ECF: the tax accounting bookkeeping system that replaced the corporate income tax return, (v) e-Financial (a more detailed FATCA) and (vi) e-Social that contains labor & social security data, including litigation procedures. Aside from SPED, other electronic systems of information exist: SISBACEN for domestic and cross-border financial data, SISCOMEX for customs, and SISCOSERV for inflows and outflow of intellectual capital and property.

The conversion of BEPS plans into the Brazilian tax system, the adoption and translation of IFRS into local GAAP, the harmonization of accounting and tax rules and the solid support of tax courts on the economic substance and business purpose doctrines are also drivers to tackle BEPS in Brazil.

Bottom line based on the Brazilian experience: a successful BEPS policy based on the OECD action plans seems not enough. Today's reality is way too complex and massive investments in technology and the development of digital platforms appear to be mandatory to ensure transparency. An example is the Car Wash operation, the largest money laundering investigation in the world's history. The use of SPED combined with the actions of the Lab of Technology of the Brazilian Federal Revenue against Money Laundering (LAB-LD) and task forces have led to almost 1.000 tax inspections since 2014 and assessments in the ballpark of USD3,3billion so far.¹

¹ http://www.consystem.com.br/newsletter/abr2016_o-uso-do-sped-na-operacao-lava-jato.html;
<http://blogdosped.blogspot.com.br/2017/01/receita-federal-cobra-mais-de-r-10-bi.html>