

# TAX AND SUSTAINABLE DEVELOPMENT<sup>1</sup>

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**Contextualization:** The use of the tax leverage, as a form of conveying the behavior of society, is becoming increasingly widespread in legal systems to the point of assuming, compared to the past, a physiological connotation for the protection of individual legally recognized constitutional assets.

**Objectives:** To illustrate how the tax leverage and the adoption of tax policies aimed at compliance between the tax authorities and taxpayers constitute, as also observed by the European Commission, some of the main institutional tools for pursuing the objectives of the so-called EU Green Deal.

**Method:** The study will adopt a forward-looking evaluation with an inductive approach to the conclusions drawn.

**Results:** The study argues that in the current historical context, in which there is growing interest in the extra-fiscal function of taxation, while the scope and nature of tax administration control are expanding, the latter no longer appears to be oriented solely towards the repression of tax evasion phenomena, but also towards the prevention of environmentally harmful behavior that may compromise the same sustainability standards that are now being sought at international level.

**Keywords:** Taxation; Environment; Sustainable Development; European Green Deal.

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<sup>1</sup> This paper, with appropriate adaptations, re-proposes the speech by Professor Fabio Saponaro at the conference "From Human Being to Being Sustainable", held at the Italian Parliament in the Chamber of Deputies on May 21, 2024 and organized by the Observatory on the Use of ADR Systems. It was an event of great scientific relevance that brought together scholars of law, economics, engineering, medicine, computer science, business and institutions to promote a brainstorming session on the future of humanity and the new ethical and social challenges. One of the topics discussed at the conference was the contribution that taxation can make to the sustainable development of the Planet. The presentation highlighted how, at international level and on every institutional work table, the need has emerged for the regulation of a fair and effective tax system, where companies operate with transparency and in full compliance with the rules imposed by different legislations. In the background of the speech, some perplexities emerged regarding the balancing of understandable business profit motives and the need, from the perspective of sustainability, for increasingly targeted controls, always based on criteria of reasonableness and proportionality, by the tax authorities, in order to prevent the achievement of the sustainability standard from being jeopardized.

## TRIBUTAÇÃO E DESENVOLVIMENTO SUSTENTÁVEL

**Contextualização:** O uso da alavancagem tributária, como forma de influenciar o comportamento da sociedade, está se tornando cada vez mais difundido nos ordenamentos jurídicos, ao ponto de assumir, em comparação ao passado, uma conotação fisiológica para a proteção de bens constitucionais individuais legalmente reconhecidos.

**Objetivo:** Ilustrar como a alavancagem tributária e a adoção de políticas fiscais voltadas para o compliance entre as autoridades fiscais e os contribuintes constituem, conforme observado também pela Comissão Europeia, algumas das principais ferramentas institucionais para alcançar os objetivos do chamado Pacto Verde Europeu (EU Green Deal).

**Método:** O estudo adotará uma avaliação prospectiva com uma abordagem indutiva para as conclusões apresentadas.

**Resultados:** O estudo argumenta que, no contexto histórico atual, em que há um crescente interesse pela função extrafiscal da tributação, enquanto o escopo e a natureza do controle da administração tributária se expandem, esta última não parece mais estar orientada apenas para a repressão de fenômenos de evasão fiscal, mas também para a prevenção de comportamentos ambientalmente prejudiciais que possam comprometer os mesmos padrões de sustentabilidade atualmente buscados em nível internacional.

**Palavras-chave:** Tributação; Meio Ambiente; Desenvolvimento Sustentável; Pacto Verde Europeu.

## TRIBUCIÓN Y DESARROLLO SOSTENIBLE

**Contextualización:** El uso de la palanca fiscal, como forma de influir en el comportamiento de la sociedad, se está volviendo cada vez más extendido en los sistemas jurídicos, hasta el punto de asumir, en comparación con el pasado, una connotación fisiológica para la protección de bienes constitucionales individuales reconocidos legalmente.

**Objetivos:** Ilustrar cómo la palanca fiscal y la adopción de políticas tributarias orientadas al cumplimiento entre las autoridades fiscales y los contribuyentes constituyen, como también ha observado la Comisión Europea, algunas de las principales herramientas institucionales para alcanzar los objetivos del llamado Pacto Verde Europeo (EU Green Deal).

**Método:** El estudio adoptará una evaluación prospectiva con un enfoque inductivo hacia las conclusiones presentadas.

**Resultados:** El estudio sostiene que, en el contexto histórico actual, en el que hay un creciente interés por la función extrafiscal de la tributación, mientras se amplían el alcance y la naturaleza del control de la administración tributaria, esta última ya no parece estar orientada únicamente a la represión de fenómenos de evasión fiscal, sino también a la prevención de comportamientos ambientalmente dañinos que puedan comprometer los mismos estándares de sostenibilidad que ahora se buscan a nivel internacional.

**Palabras clave:** Tributación; Medio Ambiente; Desarrollo Sostenible; Pacto Verde Europeo.

## **INTRODUCTION**

The term "sustainability" has entered our lives in a widespread way, modifying habits and behaviors.

The concept is often mistakenly referred to only environmental issues, or to the creation of a world in which the fight against pollution is preeminent. The term "sustainability" imposes a wide-ranging exegesis, as a flywheel to put a stop not only to the ongoing climate crisis, but also to social inequalities and uncontrolled industrial development, which violates the rules of environmental, ethical and financial protection.

This is the framework objective of the 2030 Agenda for Sustainable Development, signed on September 25, 2015 by 193 countries belonging to the United Nations, including Italy, to share the commitment to guarantee a better present and future for our Planet and the people who live on it.

Following on from what emerged within the UN, according to which even fiscal policies, based on cooperation between the various States, are also functional in achieving the objectives of sustainable global development, it can be stated that at international level the regulation of a fair and efficient tax system is necessary, where companies operate with transparency and in full compliance with the rules imposed by various legislations. This is because only by guaranteeing the right level of private contribution to the community is it possible to remove the obstacles to fair social development that ensures equal conditions for everyone without any territorial difference.

## **1. TAXATION AND ENVIRONMENTAL SUSTAINABILITY IN THE OBJECTIVES OF THE EUROPEAN GREEN DEAL**

The use of the tax lever appears not only useful, but also necessary to achieve the environmental and social sustainability goals that the international community has set itself to achieve at a global level in the shortest possible time.

Taxes, in fact, do not represent only a dutiful contribution of the individual citizen for the financing of the services provided to the community, but a concrete instrument to convey the behavior of society towards virtuous models or, on the contrary, to discourage those behaviors that are not functional to the creation of a fair world.

Consider the adoption of fiscal policies that incentivize the reclamation of non-eco-compatible industrial plants by recognizing tax credits proportional to the investments made; or, on the contrary, the introduction of levies on the use of fossil fuels or polluting material in the industrial field or, again, on the consumption of unhealthy products. An example of this latter category can be made by recalling two recently conceived taxes, such

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as the plastic tax and the sugar tax, the introduction of which has been timidly evaluated by the Italian Parliament for some years.

The use of the tax lever, as a form of channeling the behavior of society, is actually a widespread practice in legal systems for centuries which, however, in the current state of affairs, seems to assume a physiological connotation and no longer, as in the past, occasional for the protection of individual legally recognized constitutional assets.

Not surprisingly, the tax lever has been indicated by the EU Commission as one of the tools, if not the main one, for the pursuit of the objectives of the European Green Deal.

In fact, investments in renewable energy sources, energy efficiency and the circular economy should be encouraged, under the driving force of the European Union, but also the adoption of governance techniques that are functional to the planning of financially sustainable investments by companies should be promoted.

And this is evidently the direction taken by the EU Commission since the adoption of the Communication of 18 May 2021 on business taxation, in which the need to make the Union's overall tax framework more robust, efficient and fair has been correlated with the need to channel public resources towards the ecological and digital transition as implementing tools of collective well-being and improvement of modern society.

Just last year, the European Environment Agency publicly reported that tax revenues could support not only the transition to a climate-neutral economy by 2050, but also the achievement of the European Green Deal objectives, including, first and foremost, the reduction of greenhouse gas emissions by 55%, before the deadline now set for 2030.

Having made this first, albeit brief, premise on the importance that the extra-fiscal use of the tax can assume in the current historical context, it is however necessary to examine its implementation also in a possible antithetical key.

If it is true, in fact, that the use of the tax lever as a tool for implementing a sustainable society is certainly shared, on an implementation level, this practice requires calibration, especially at the level of European standardization, in order to prevent the provision of tax breaks or, on the contrary, the introduction of "disincentive" taxes from alternating the competition market to the detriment of jobs and gross domestic product.

Consider how influential the different regulation between States of taxes and tax breaks can be in the investment decisions of a company or in possible industrial growth plans, so much so as to determine significant movements of capital from one country to another with repercussions on both the overall internal production of goods and services, and on the labor market.

## 2. PROTECTING "GREEN" PROFIT IN THE ERA OF SUSTAINABILITY

In this highly programmatic context, while the idea of sustainable development requires aiming for the improvement of the quality of life for present and future generations in all its components (environmental health, healthcare, welfare, collective wealth, education), the pursuit of profit by individuals through economic activities should not be viewed negatively, provided it adheres to common rules.

The pursuit of profit must be considered legitimate and placed at the center of international debate to ensure that every interest worthy of protection, even if related to an individual, can be weighed and integrated into the system with its proper importance. Inevitably, however, the methods of achieving profit must be scrutinized by public authorities to prevent them from being implemented in ways that are detrimental to the sustainable development of society. Therefore, it is necessary to adopt common international rules that can highlight transparent management methods for businesses, ensuring legitimate and socially non-erosive forms of profit-making.

In this regard, from the perspective of monitoring private entities and ensuring the adoption of virtuous, protectable behaviors, the introduction of mandatory sustainability reporting principles for large enterprises at the European level should be strongly supported.

Directive (EU) 2022/2464 of December 14, 2022, on Corporate Sustainability Reporting (CSRD), is an opportunity to standardize reporting in the field of sustainable economic management. The goal of the Directive is to make non-financial information about the enterprise available and public, showing clearly and transparently to all market participants (institutions, citizens, suppliers, employees, collaborators) whether an individual economic operator manages their business sustainably.

Specifically, the Corporate Sustainability Reporting Directive mandates that certain companies communicate information about their economic, social, and environmental decisions through the preparation of a so-called sustainability report. While not mandatory for SMEs, it is essential for large industries and serves as a strategic tool for verifying the enterprise and attracting high-level investors and commercial partners.

In the future, it is possible that such reporting could be used by administrative institutions to legitimize access to incentive measures or to prefer one operator over others in public tenders.

Ultimately, the objective is to create an information system that allows for the evaluation of the conduct of economic operators, ensuring that in private relationships, those deemed most suitable for doing business based on ethical principles and client preferences are selected and preferred. Simultaneously, considering relationships with public entities,

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mandatory sustainability reporting can better highlight which economic operators deserve access to public incentive measures. The logical consequence of these evaluation criteria is that a model can be concretely implemented where the most virtuous operators, who create conditions of collective well-being through their conduct, are always preferred.

It is no coincidence that acronyms related to entrepreneurial management according to global sustainability reporting standards (such as GRI - Global Reporting Initiative) or sustainability evaluation criteria in the financial services sector (such as ESG - Environmental, Social, and Governance) are increasingly widespread in the management practices and communication forms of large enterprises. The more corporate sustainability grows at all levels of management and investment, the more business risk is reduced, thereby increasing the company's reliability rating and its access to credit.

Recent data published by qualified national research institutes indicate that in Southern Italy, where the level of sustainable planning is low, the risk of financial collapse of a business stands at 13.2%, while it drops to 9.6% where compliance with increasingly demanded sustainability parameters rises. Clearly, the choice to conduct a sustainable business, which protects the environment and ensures better working conditions, rewards the operator with greater market demand and higher potential to generate "green" profit. Indeed, we could call it this way: the creation of wealth that the enterprise generates virtuously because it respects the Planet, society, and all institutional entities involved.

### **3. THE ADMINISTRATIVE CONTROL REGIME: THE IMPORTANCE OF COMPLIANCE**

The relationship between taxation and sustainable development requires further brief considerations from the administrative operations perspective.

On one hand, the adoption of a qualified international sustainability reporting method can facilitate the selection of entities deserving public support in terms of incentives and benefits. On the other hand, the importance of ongoing control activities soon should not be overlooked.

In particular, the public administrative authority must implement an adequate control system to prevent the illegal use of resources intended to achieve the strategic goals of sustainable development. Referring to the incentive benefits mentioned earlier, the use of data related to the sustainable operations of an enterprise could also be a criterion for selecting taxpayers to be subject to tax audits. In other words, the lack of sustainable management should reasonably expose the taxpayer to a higher risk of tax audits. This would implement a tax policy aimed not only at controlling declared wealth but also at encouraging sustainable practices.

Furthermore, the disclosure forms currently required for large enterprises, which include reporting obligations for control purposes, should not be focused solely on taxes related to generated income but also on sustainable investments made. Indeed, especially when these investments are funded wholly or partially with public money, stricter controls are necessary to prevent public benefits from being enjoyed by entities operating unethically or unsustainably, or paradoxically consuming goods or services that the system aims to discourage.

This problem appears to be particularly delicate and deserves to be analyzed from both current and prospective viewpoints.

In fact, comprehensive compliance obligations would increase the efficiency of public controls by the designated authorities, not only ensuring the proper fulfillment of taxpayers' tax obligations but also, as relevant here, the correct use of public resources and the achievement of sustainability goals mandated by international regulations.

In essence, the focus is no longer solely on suppressing tax evasion phenomena but also on preventing the compromise of achieving sustainability standards, which would result in dual harm to the community. On one hand, it perpetuates environmentally harmful behaviors, and on the other, it diverts public resources away from enterprises that could utilize them more effectively, yielding greater social development in terms of well-being and job creation.

To this end, improving communication between tax authorities and taxpayers and digitizing services and obligations for private entities, as outlined in the ongoing PNRR (National Recovery and Resilience Plan), are key elements for modernizing administrative operations, making them faster, more functional, and efficient, and building a trust-based relationship with taxpayers. It is not surprising, therefore, that more and more administrations are conducting information and education campaigns on tax legality to increase collaboration from citizens and businesses. This is because creating a sustainable environment, or rather, a sustainable society, requires a change in habits that public institutions must necessarily stimulate.

On the other hand, from an administrative perspective, excessive rigor and technical formalism should be avoided as they risk undermining the objectives of policies aimed at creating a sustainable society, making it unappealing or even "fearful" to request incentive measures such as tax credits for investments and technological innovation.

While the recovery of incentives and the suppression of fraudulent behavior are necessary and just, they must always be guided by principles of reasonableness and proportionality. It's essential to remember that in these areas, the application of tax provisions often depends on specific technical requirements whose verification typically requires

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expertise beyond the knowledge base of tax authorities, which could, it must be said, lead the controlling body to erroneous conclusions during disputes.

## FINAL CONSIDERATIONS

The correlations between taxation and sustainable development are becoming increasingly intricate and complex, to the point of appearing as an inseparable entity. Tax policy is taking on an increasingly transnational dimension, as sustainability issues inherently cross-national borders, aiming to remove any obstacles to equitable social development that ensures equal conditions for all, regardless of geographic location. These are the so-called welfare policies that inevitably require a dense web of regulations from various levels, types, and legal disciplines.

Among these policies, those concerning the application of taxes not only ensure the coverage of public expenditures but also represent a means oriented towards encouraging virtuous societal behaviors and disincentivizing those that do not contribute to creating a better and more sustainable world. In this context, where the interest in the extrafiscal function of taxation is growing, the scope and nature of administrative control are expanding, no longer focused solely on the suppression of tax evasion but also on the prevention of environmentally and socially harmful behaviors.

Ultimately, the traditional relationship between taxpayer and tax authority is reasonably evolving from a predominantly inquisitorial and repressive vision, implemented ex post solely to verify the correct fulfillment of tax debt, to a perspective centered on prevention, increased dialogue with the private sector, and compliance, where fulfilling tax obligations becomes a tool for collectively planning the ethical, social, and sustainable development of the world in which we live.

Doubts remain open as to whether this new approach to taxation can be effectively implemented and whether a fair balance between profit protection and public sustainability needs can be truly guaranteed. However, any answers can only be given in the future.

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