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THE DUTY OF TAX CONTRIBUTION IN THE DIGITAL ERA AND ARTIFICIAL INTELLIGENCE IN ANGOLAN LAW

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Contextualization: Rapid technological development, marked by the digital age and artificial intelligence, poses multifaceted challenges to the Angolan tax system, which has proven insufficient to address new economic realities.

Objectives: Outline a set of actions across legislative, administrative, and international cooperation spheres to adapt Angolan taxation to this scenario, ensuring the duty to contribute with effectiveness, equity, and respect for constitutional principles of ability to pay and benefits received..

Method: A reflective and analytical study conducted from the perspectives of the legislator, the tax authority, and the legal academy, taking into account the complexity of the technological phenomenon and the absence of simple or universal solutions.

Results: Proposal of pathways for the modernization and adaptation of Angola's fiscal system, securing fair and effective tax collection without hindering technological innovation or the productive adoption of AI in the country.

Keywords: Duty to contribute; Artificial Intelligence (AI); Angolan tax law; digital taxation; Tax nexus.

EL DEBER DE CONTRIBUCIÓN TRIBUTARIA EN LA ERA DIGITAL Y LA INTELIGENCIA ARTIFICIAL EN EL DERECHO ANGOLEÑO

Contextualización: El acelerado desarrollo tecnológico, marcado por la era digital y la inteligencia artificial, plantea desafíos multifacéticos al sistema tributario angoleño, el cual resulta insuficiente para responder a las nuevas realidades económicas.

Objectivos: Trazar un conjunto de acciones en los ámbitos legislativo, administrativo y de cooperación internacional para adaptar la tributación angoleña a este escenario, garantizando el deber de contribuir con eficacia, equidad y respeto a los preceptos constitucionales de capacidad contributiva y beneficios obtenidos.

Método: Se trata de un análisis reflexivo y propositivo realizado desde las perspectivas del legislador, la autoridad tributaria y la academia jurídica, considerando la complejidad del fenómeno tecnológico y la inexistencia de soluciones fáciles o universales.

Resultados: Proposición de vías para la modernización y adaptación del sistema fiscal de Angola, asegurando una recaudación justa y eficaz sin comprometer la innovación tecnológica ni la adopción productiva de la IA en el país.

Palabras clave: Deber de contribuir; Inteligencia Artifical; Derecho tributario angoleño; Nexo tributario

O DEVER DE CONTRIBUIÇÃO TRIBUTÁRIA NA ERA DIGITAL E A INTELIGÊNCIA ARTIFICIAL NO DIREITO ANGOLANO

Contextualização do tema: O desenvolvimento tecnológico acelerado, marcado pela era digital e pela inteligência artificial, impõe desafios multifacetados ao sistema tributário angolano, que se mostra insuficiente para responder às novas realidades econômicas.

Objetivos: Delinear um conjunto de ações nas esferas legislativa, administrativa e de cooperação internacional para adaptar a tributação angolana a esse cenário, garantindo o dever de contribuir com eficácia, equidade e respeito aos preceitos constitucionais de capacidade contributiva e benefícios auferidos.

Método: Trata-se de uma análise reflexiva e propositiva conduzida sob as perspectivas do legislador, da autoridade tributária e da academia jurídica, considerando a complexidade do fenômeno tecnológico e a inexistência de soluções fáceis ou universais.

Resultados: Proposição de caminhos para a modernização e adaptação do sistema fiscal de Angola, assegurando a arrecadação justa e eficaz sem comprometer a inovação tecnológica ou a adoção produtiva da IA no país.

Palavras-chave: Dever de contribuir; Inteligência Artificial; Nexo fiscal; Direito Tributário Angolano.

INTRODUCTION

The modern era is characterized by rapid digital transformation, which has largely been driven by the emergence and dissemination of Artificial Intelligence (AI). This worldwide phenomenon not only restructures the social, economic, and cultural dynamics but also presents unprecedented challenges to national legal regimes. In this scenario of rapid evolution, Angola finds itself urged to update its regulatory systems, specifically with respect to a fundamental element of the democratic and social rule of law: the fundamental obligation to finance public expenditures.

Enacted in Article 88 of the Constitution of the Republic of Angola (CRA) the obligation that everyone must contribute to public and social spending in the form of taxation and fees must be discharged "in accordance with their ability to pay and the benefits received."[1] This founding principle based on classical notions of contributory capacity and consideration for received benefits faces increased difficulty in modern settings because of new modes of wealth generation and circulation typical of the digital age and algorithmic economy. The intangibility of digital commodities and services, the progressive deterritorialization of economic activities, automation of the production processes and the arrival of novel business models all based on data (big data) and artificial intelligence call into question the suitability of traditional criteria for assessing ability to pay and territorial connection for taxation purposes.

Here again, Artificial Intelligence emerges as another disrupting factor. Its potential to develop autonomous economic value, boost global operations, and operate with ever-increasing autonomy raises essential questions concerning the attribution of gains, the origin of the source of production, and finally the tax liability itself. In the face of this context, how can Angolan law, and especially the taxation regime, respond in an effective manner to such reorganizations, ensuring taxation fairness and the stability of public finances in the midst of promoting the innovation and technological development essential to the progress of the nation?

This paper attempts to analyze the efficacy of the duty to contribute constitutionally outlined in Angola, in the face of the challenges arising out of the challenges posed by the digital age, in particular with respect to Artificial Intelligence. To this end, the first section will undertake a dogmatic analysis of Article 88 of the CRA, examining the scope and limit of the criterion in relation to ability to pay and accruing benefits in the modern context.

Subsequently, a conceptual bias of AI is explored, focusing on its most relevant legal and economic implications for Angolan Law, with emphasis on tax issues, addressing

[1] It is fundamental to note that classic tax doctrine already focused on the justification of tax based on the ability to pay and the benefit principle.

the underlying theories of emerging tax challenges.[2]

Lastly, drawing on this analysis, it is attempted to define potential routes and regulatory remedies which will allow the Angolan judicial system to deal with the question of taxation in the digital and artificial intelligence era so that it complies with the essential duty to contribute fairly and in an effective manner.

The aim is, therefore, to contribute to the academic and legal debate in Angola on a topic vital for the future of the tax system and for implementation of the constitutional principles in a world of continuous exponential technological change, where the challenges experienced in this area by the new generations are much greater than those presented until recently.

1. THE IMPORTANCE OF THE DUTY TO CONTRIBUTE AS A FUNDAMENTAL DUTY: A GENERAL EXAMINATION OF ARTICLE 88 OF CRA

Financing the activity of the State and the coverage of collective needs constitute sine qua non conditions of the existence and effective operation of a Democratic Rule of Law State, such as the 2010 Constitution of the Republic of Angola (CRA) has outlined. In this context, the participation of citizens and other organizations under the competence of the State in the financial funding of the political community becomes of considerable relevance. The implicit duty to contribute to public and social costs explicitly expressed in the constitution exceeds the realm of “mere” financial obligation and constitutes the genuine civic duty and essential mechanism of the fulfillment of the basic aims of the Angolan State, especially the ones listed in the CRA's Article 21[3], such as the assurance of national independence (paragraph a), to safeguard fundamental rights, freedoms, and guarantees (paragraph b), gradually laying out the appropriate conditions for the realization of the economic, social, and cultural rights of the people (paragraph c), to promote eradication of poverty (paragraph e), among others provided in the Constitution and the legislative order.

This present section is devoted to the dogmatic analysis of this obligation, examining its legal foundation, juridical nature, and, above all, the substantive criteria that delimit its exercise, as stipulated in Article 88 of the Fundamental Law, which establishes: "Everyone has the duty to contribute to public and societal expenditures, according to

[2] Constitution of the Republic of Angola, approved on February 5, 2010.

[3] *Constitution of the Republic of Angola, Article 21*. For the full text of the Constitution, see: ANGOLA. Constitution of the Republic of Angola. Luanda: National Assembly, 2010. https://www.parlamento.ao/Documentos/constituicao-republica-de-angola.

their ability to pay and the benefits derived, through duties and fees, based on a just tax system and under the terms of the law." This constitutional provision confers a particular dignity upon the duty to contribute, placing it under Title II of the Constitution ('Fundamental Rights and Duties'), specifically in Chapter III, dedicated to "Economic, Social, and Cultural Rights and Duties".

The characterization of this duty as a constitutional obligation, although not placed in in the specially allotted section on 'Fundamental Duties' (Chapter IV), has significant legal implications. Firstly, its objective universality ('Everyone') includes the citizens and with legitimate legislative extension, involves other natural and legal persons with close economic relation to Angolan territory. Secondly, it confers upon it a special rigidity and constitutional protection, limiting the ordinary legislator's margin of discretion, who must respect the essential core of this duty and the principles that inform it (such as the fair distribution of income and legality -- Article 101 CRA). Thirdly, it binds not only private individuals but also the State, which has a correlative duty to levy and collect taxes fairly and efficiently, in compliance with constitutional principles and to fulfill its fundamental activities.

The ultimate foundation of this duty lies in the principle of social solidarity (implicit in the idea of contributing to 'public and societal expenditures') and in the need to provide the financial means for the State to fulfill its priority responsibilities, such as the guarantee of fundamental rights, the promotion of well-being, security, social justice, and the economic and social development of the country (Article 21 CRA). It is, therefore, a consideration required by life in an organized society and by the benefits (direct or indirect) that the State provides its members.

The key element of Article 88 of the CRA is crucial, as it defines the substantive criteria that must guide the allocation of the tax charges): the duty to contribute must be exercised 'according to their ability to pay and the benefits they receive'. The conjunction 'and' suggests, from the outset, a potentially cumulative application or, at least, the coexistence of these two criteria as guiding principles for the tax legislator. It is thus important to analyze each of them in detail.

The principle of ability to pay is, by consensus, considered the cornerstone of tax justice in modern tax systems. It captures the fundamental idea that every subject must contribute to public expenditures in proportion to their economic possibilities, that is, according to their capacity to bear the tax burden without depriving them of the existential minimum and in proportion to their wealth or disposable income. This principle is reflected in other constitutional precepts, notably the principle of equality (Article 23 CRA), in its substantive or fiscal equality aspect. Constitutional and tax doctrine have extensively debated contributory capacity as an essential element of tax justice[4]. Assessing ability to pay is a complex task that traditionally relies on certain indices or index facts, considered manifestations of wealth or economic capability to contribute. The main indices recognized by doctrine and tax practices are addressed below.

The first is income, which is currently seen as the leading indicator of contributory capacity by the taxpayer within the given period. Income taxation of individuals---by means of the personal income tax (IRT) - and legal persons - by means of the corporate tax---is the cornerstone of contemporary taxing systems and makes it feasible to introduce progressive schedules that even more directly indicate the principle of taxing in accordance with ability to pay.

The second one is *assets* (or *wealth*) which is the sum of the assets and rights with economic value owned by the subject at a given moment. The taxing of assets (e.g., Urban Property Tax - IPU) aims at taxing static or cumulative ability to pay. Its implementation is challenged with problems which refer to the valuation of assets and the potential double taxation (if the assets were acquired with already taxed income).

Thirdly, aspects related to *consumption* (or *expenditure*) are highlighted. They manifest ability to pay at the time wealth is consumed or disbursed. Consumption taxation, such as exemplified by Value Added Tax (VAT) and Excise Duties, is characterized by wide coverage and ease of collectability; it has nonetheless received criticism because it is regressive in incidence (disproportionately falls on the poor) given the latter's higher consumption-to-income ratio. The Angolan Constitution undertakes the principle of 'ability to pay', which places an obligation on the lawmakers in taxation to choose the objects of taxation (i.e., which taxes to levy) in such a manner that the latter reflect the capacity of their payers to pay taxation and to construct the levy structures (bases of calculation upon which the rate is imposed, the rates themselves, exemptions and deductions) in such a way that the principle is respected. A violation of the principle of ability to pay would arise, for example, by means of any confiscatory regimes of taxation, taxation of unearned or nonexistent income, or imposition of absolute presumptions about income or wealth which do not allow evidence to the contrary. In the Angolan case, the effecting of the ability to pay principle faces unique challenges, in particular the significant presence of the informal sector in the economy[5] such that makes it difficult the identification and effective taxation of many economic agents' incomes.

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[4] For all, MARTINS, Sérgio André. **Principle of Contributory Capacity**, São Paulo: RT, 2003

[5] BANCO MUNDIAL. "8 em cada 10 trabalhadores estão envolvidos em sectores informais e de baixa produtividade" ("8 out of 10 workers are involved in informal and low-productivity sectors) In: *Angola: Panorama Geral*. [S.l.]: World Bank. Retrieved from: https://www.bancomundial.org/pt/country/angola/overview.

The second criterion mentioned in Article 88 of the CRA is that of "benefits received". This criterion refers to a logic distinct from ability to pay, approaching the benefit principle or the consideration principle. The underlying idea is that the tax may be imposed as consideration for a specific public service rendered to the taxpayer, in lieu of some economic advantage benefit resulting from State activity, or for the use of an asset in the public domain. The taxation-benefit interface has been the subject of analysis in public finance theory, seeking to justify tax imposition in terms of the consideration for public services[6].

This criterion finds its most typical and appropriate application in *fees* and, to some extent, in *special contributions* (or improvement contributions). Fees as a means of contribution explicitly provided for in Article 88, presuppose, by common legal definition, a specific and divisible State consideration directed to the taxable person (e.g., fees for the issuance of licenses, certificates, or the use of specific infrastructure).

The measure of the fee should essentially express some sort of proportionality or equivalence, with the cost of the service provided or the benefit received, although an exact mathematical correspondence is not required. In the case of *taxes*, the other means provided for in Article 88, the application of the benefit criterion is much more difficult and residual. Taxes are intended, by nature, to finance general and indivisible public expenditures (defense, security, justice, public health, and education), whose benefits are diffuse and difficult to measure or to be attributed individually to citizens. Attempting to base the generality of the tax system on the benefit principle would be to revert to pre-modern conceptions of the State and taxation, in contrast to the principle of solidarity and contributory capacity.

However, the explicit reference to 'benefits derived' deserves close attention. This expression can be seen in the following interpretations: a) a reiteration of the constitutional legitimacy of fees and special contributions, which are based on this criterion. b) a possible moderating or complementary element in the configuration of *some* taxes, although ability to pay must remain the basic and dominant criterion for general taxation. For example, the appropriation of certain tax revenues for specific purposes from which particular groups benefit more directly (without constituting a fee) could find some remote justification here; c) a directive for the legislator to consider the indirect benefits generated by State activity when designing the tax system as a whole, ensuring that the overall tax burden is not dissociated from the quality and quantity of public services and goods offered.

[6] MUSGRAVE, Richard A.; MUSGRAVE, Peggy B. **Public Finance in Theory and Practice**. 5th ed. New York: McGraw-Hill, 1989, p. 229-232.

An interconnection exists between the criteria and their relation to other constitutional fiscal principles. The interaction between "ability to pay" and "benefits derived" in Article 88 of the CRA suggests that the Angolan tax system must strike a balance, that is, it must be "fair", as the article itself requires. Ability to pay must be the major criterion for the distribution of the *tax* burden, ensuring justice and progressivity (the latter, although not explicit for all taxes in Article 88, arises from the requirement of adequacy to ability to pay and the principle of substantive equality).

The criterion of the benefit supports the imposition and charging of specified *fees* and *special contributions*, which are all associated with certain State advantages. The basic obligation and its material criterion cannot be grasped in isolation. Rather it must be supplemented by other constitutional fundamentals which delimit the regime of taxation.

Initially, the *principle of tax legality* in the CRA's Article 101 is emphasized. It establishes that the determination and detailing of the basic elements of taxation (incidence, rate, tax incentives, and taxpayer safeguards) be solely the prerogatives of the National Assembly. This principle provides legal certainty and protects people against arbitrary fiscal measures.

Subsequently, the *principle of equality* (Article 23 CRA) which underpins the requirement to fiscally treat economically equal situations equally and unequal situations differently (horizontal and vertical equality); ability to pay is the primary criterion for this differentiation.

Finally, *the principle of the prohibition of social retrogression and the realization of a social state (*Articles 21, 28, 80 et seq. CRA) is underlined. In this case, it is relevant to note that tax system is an essential element for financing the State's social policies. Taxation must be designed in such a way as not to compromise social rights and to contribute to minimizing inequalities and fostering well-being.

In sum, the Angolan constitutional order creates an essential fundamental duty to contribute (Article 88 CRA), substantially based in the principle of ability to pay and, in a complementary or specific manner (for fees and special contributions), on the principle of benefits derived, aiming for a just taxation system. This normative framework, which is inspired by the principles of legality, equality, and the social purposes of the State, offers the basis for an equitable fiscal system.

However, the actual implementation of such principles that is already challenging in Angola's traditional socio-economic setting is now made more complex by the digital evolution of the economy and the emergence of Artificial Intelligence. Dematerialization of wealth, the relocation of sources of income, automation, and new forms of business models based on data and algorithms are making it harder to gauge established measures of economic potential and the very concept of territorial nexus for taxation purposes in addition to the difficulty of determining benefits generated and accruing in the digital space. The rest of this paper's second section is going to be focused on such pressing difficulties.

2. ARTIFICIAL INTELLIGENCE WITHIN THE ANGOLAN FRAMEWOK: CHARACTERISTICS, LEGAL IMPLICATIONS, OBSTACLES TO THE DUTY TO CONTRIBUTE, AND PARADIGMATIC CONSIDERATIONS

The fundamental duty to contribute, anchored in the CRA, is founded on the pillars of ability to pay and benefits derived, construed in light of the principles of legality, equality, and solidarity, aiming for a fair system. In this scenario of perceived normative clarity, a disruptive factor of unprecedented scale emerges: AI. Since AI is not defined as a singular technology, but rather as a multidisciplinary field of computer science that aims to create systems capable of performing tasks that would normally require human intelligence - for example, learning, reasoning, problem-solving, perceiving, language comprehension, and decision-making - it is currently redefining the characteristics of economic activity and challenging the traditional foundations of legal and tax systems.

Though potentially behind in terms of technological adoption compared with other economies, Angola is not immune to this global transition. The growing digitalization, expanding internet penetration, and movement to modernize key economic areas - the oil industry, the mines, finance, and agriculture - provide the conducive setting for the gradual implementation of AI-enabled solutions. The section that follows will initially attempt to give a conceptualized definition of artificial intelligence and the technologies it rests upon. It then moves forward to consider the higher potential implications for the Angolan legal system before closing with an in-depth analysis of the specific dilemma that artificial intelligence poses in terms of the effective implementation of the constitutional duty to contribute.

The conceptual delimitation, as well as the economic relevance of AI, are fundamental aspects for the subsequent legal analysis, especially for providing a functional understanding of AI. Overall, the field of AI spans all the way from "narrow" or "weak" AI, which is designed for specific applications (like face recognition, automated translation, and predictive data interpretation), to the hypothetical idea of "general" or "strong" AI (*Artificial General Intelligence -- AGI*), which would possess cognitive abilities similar to human ones in all areas of intellect -- the latter at this time keeps solely within the realm of speculative theory.

Current applications of Artificial Intelligence that already impact the economy are largely based on certain subfields, as listed below.

The first subfield is *machine learning (ML).* Through it, it is possible to observe algorithms that enable systems to learn based on data patterns in order to draw inferences with minimal human intervention. This encompasses supervised, unsupervised, and reinforcement learning techniques.

In this context, *natural language processing (NLP)* is also highlighted. It is directly linked to the computers' capacity to read, process, and generate human language (e.g., chatbots, sentiment analysis).

From a *computer vision perspective,* one can observe the capacity of computers to "see" and interpret visual data (e.g., image identification, autonomous vehicles).

Finally, the subfield *expert systems* is noted, which are formed by programs that run on the computer that imitate the human expert's decisions in the specific domain.

These technologies have potential further enhanced due to other developments, such as *big data* (large sets of data driving machine learning algorithms); *cloud computing* which provides the necessary processing power and storage and the increasing processing capacity of semiconductor chips. The economic relevance of artificial intelligence cannot be denied. It goes beyond the mere automation of tedious work, serving also as an innovator stimulus, the development of new products and services, optimization of productive and logistical processes, personalization of offerings, and strategic decision-making based on large-scale data analysis. AI is reshaping value chains, creating new markets (e.g., data economy, AI-as-a-platform services), and changing the nature of labor and capital. It is exactly this ability to generate, transform, and capture economic value in decisively new ways that challenges the tax system. Literature on the digital economy and AI highlights its disruptive potential and the need to rethink traditional tax models.[7]

It is important to recognize that the challenges posed by AI to Angolan Law are not confined to the tax sphere. Although the focus of this work is the duty to contribute, pressing issues emerge in other legal areas, whose consideration contextualizes the magnitude of the phenomenon. Among these areas, civil law, labor law, personal data protection, criminal law, consumer law, and intellectual property issues stand out.

With regard to *civil liability* the following questions are raised: who is responsible for damage caused by autonomous technologies (e.g., robots and autonomous vehicles, AI's medical diagnoses)? : the producer, the programmer, the owner, the user, or perhaps the AI itself (when raising questions of legal personality)?

[7] KAUFMANN, Daniel; NIEDERER, Matthias Niederer. *Taxation of the Digital Economy*: A Roadmap for Policymakers. Cham: Springer International Publishing, 2020.

In the sphere of *labor law,* some other points arise, for example*:* what effect do AI-based automations have on employment? How to regulate new platform-mediated forms of work? How can professional requalification and social protection for displaced workers be ensured?

Concerning *personal data protection*, artificial intelligence intrinsically depends on data. How can the collection, treatment, and use of data by Artificial Intelligence systems be in accordance with the Personal Data Protection Law (Law No. 22/11, of June 17th)[8] and prevent algorithmic discrimination or privacy infringement?

In *criminal law*, doubts revolve around the use of AI to commit crimes (e.g., deepfakes, cyberattacks). Can an artificially intelligent (AI) agent be considered a perpetrator of a crime? How to utilize AI in criminal investigation and justice management in an ethically and legally appropriate manner?

Finally, while *consumer law* is concerned with how to protect consumers against unfair or deceptive commercial practices powered by AI (e.g., discriminatory dynamic pricing, manipulative targeted advertising), the sphere of *intellectual property* asks: who owns the copyright on work independently produced by artificial intelligence? How must the algorithms and databases that give life to the AI be protected?

This non-exhaustive list encompasses the wide reach of artificial intelligence. The fiscal issue comes into full view in particular because it directly impacts the government's capacity to fund its activities, including regulating and managing risks in the other areas already specified. In short, the necessity of calibrating the legal regime with such emergent realities is a global challenge with affects several areas of the law[9].

Artificial intelligence, as a disruptive element in relation to the duty to contribute, brings specific challenges. The emergence and spreading of the AI pose profound challenges to the criteria of ability to pay and the benefits derived (Article 88, CRA), along with the traditional methods used within the implementation of the Angolan tax system. We will address the major areas of tension below.

3.1 Erosion of the Tax Base and Challenges to the Assessment of Ability to pay

This concerns the debate involving *intangibility and valuation*. Essential resources

[8] ANGOLA. Law No. 22/11, of June 17th – **Law on the Protection of Personal Data.** Diário da República, I Series, No. 115, June 17, 2011. Retrieved from: https://www.dataprivacyauthority.gov.pt/sites/cppd/files/documentos/lei_n.o_2211_de_17_de_junho_lei_da_protecao_de_dados_pessoais.pdf.

[9] ABBOTT, Ryan. **The Reasonable Robot**: Artificial Intelligence and the Law, Cambridge, Cambridge University Press, 2020

within the artificial intelligence economy—such as algorithms, software, big data, and predictive models—are fundamentally intangible in nature. Their valuation is complex and changeable, which hinders its inclusion in a property tax base or even the determination of income derived from its exploitation. In this context, how can one assess the ability to pay associated with a self-improving algorithm or a dataset whose value is contingent upon its future and uncertain use?

The focus here is, above all, *automation and recomposition,* or rather the relationship between capital income vs. labor income. AI powers the automation of cognitive tasks, and not merely manual activities, which tend to shift value creation from the element of labor (traditionally easier to withhold tax at source through Employment Income Tax - IRT) to the element of capital (ownership of technology/AI). Should this capital be held by non-resident entities or in low-tax jurisdictions, the tax base for Industrial Tax and Employment Income Tax (IRT) in Angola may suffer significant deterioration. This phenomenon fuels theoretical debates regarding the necessity and feasibility of taxing automation (referred to as a robot tax) as a means of rebalancing the tax burden or financing labor transition. Ability to pay manifests itself differently, concentrating on the technology holders.

Many digital economy business models supported by artificial intelligence give "free" services to customers. This generates revenues accruing either through advertising with the targeting of customers or through the trading and interpretation of user data. In this context, where does the taxable ability to pay reside? In the service provider (often non-resident)? In the users who "pay" with their data? Based on user value creation theories, it is argued that personal data and user participation are essential inputs, justifying that the market jurisdiction captures a portion of the value created. From another perspective, tax legislation struggles to capture the intrinsic economic value of personal and non-personal data used to train and operate AI systems. This justifies why the taxation of the digital economy is one of the major fiscal challenges today.[10] Hence, the emphasis on creating *New Business Models* and protecting personal data.

In some scenarios, highly autonomous AI systems make scientific discoveries or manage investment portfolios raise questions concerning the income attribution. The question is about the legitimate owner of the economic value produced: the creator of the AI, the owner, the user, or, from a more extreme perspective, the AI itself, which would entail the re-evaluation of legal personality. The current answer, which allocates such value to the owner or the user, may fail to properly represent the source of value.

[10] SHAVIRO, Daniel. **Decoding the U.S. Corporate Tax**, Cambridge, MA, Harvard University Press, 2009, pp. 253-258.

3.2 Challenges to Territorial Nexus and Withholding Tax

Some difficulties intertwine territorial nexus and withholding tax, especially regarding the digital era and the use of AI. Among them, *dematerialization and extreme mobility* stand out. This means, for example, that *a* company can develop artificial intelligence in one country, have algorithms trained on global user data stored in a cloud in another continent, and provide automated services to customers located in Angola with little or no physical presence within Angola's borders. This creates the question of the location of the generation of income according to Article 5 of the Industrial Tax Code[11]. The traditional definition of the term "permanent establishment," which is based on the notion of significant physical presence in space, becomes ineffective in capturing the related economic activities in digital and AI-based businesses. This shortcoming hinders the imposition of the Industrial Tax and the withholding of service payments.

From another point of view, there is the *insufficiency of physical nexus and alternative theories*. Here, the inadequacy surrounding physical nexus has led to the development of new theories of tax nexus. The user/market value creation theory and the *Significant Economic Presence* (SEP) theory hold that extensive and constant economic interaction with the market jurisdiction - in the forms of revenues, users, data, and digital contracts - can be valid grounds for the delegation of tax rights to the latter even without physical presence. It is argued that such businesses benefit from regulated markets, infrastructure (including digital elements), legal protection, and, significantly, derive economic value from users and locally sourced data.

AI allows for the further optimization and fragmentation of global value chains (GVCs). Functions such as AI research and development (R&D), data management, and provision of digital services can be easily allocated to different jurisdictions, often based on tax criteria. This amplifies the challenges related to transfer pricing, particularly in applying the arm's length principle to unique and hard-to-value intangibles (HTVI) (addressed by DEMPE guidelines - Development, Enhancement, Maintenance, Protection, Exploitation), making tax auditing and enforcement extremely complex for the General Tax authority (AGT).

Finally, *automated digital services and VAT* are underlined. The provision of fully automated services by AI like software as a service – SaaS, and data analysis platforms to Angolan consumers and businesses by non-Angolan entities creates difficulties in relation to the implementation of Value Added Tax (VAT). Whilst the VAT Code[12] includes provisions for the localization of digital service providers (Article 6), identifying the personality of the service provider without local establishment and appropriate

[11] ANGOLA, Industrial Tax Code.

[12] ANGOLA. Value Add Tax Code (VAT).

compliance with the formalities for settlement and payment of the tax creates major operational difficulties.

3.3 Issues related to criterion of the benefits derived

The application of the "benefits derived" rule (Article 88 CRA), which is limited in the taxation context, becomes even more dubious in the case of entities operating digitally with little physical presence in Angola.

Nevertheless, through a reexamination of the benefit principle relevant to the digital era, it is contended that such entities, despite having only minimal physical infrastructure, obtain considerable advantages (when existing and regulated) from legal systems which protect their operations (including aspects of intellectual property), from access to the Angolan consumer market (characterized by its demography and data), from social stability, and from human resources (even if indirectly). Measuring and quantifying this "digital benefit" to substantiate taxation presents conceptual difficulties; however, its theoretical existence reinforces the legitimacy of the market jurisdiction to demand a contribution, supplementing the criterion (still primary, but challenged) of ability to pay.

3.3 Increased potential for evasion and avoidance of taxes

The same artificial intelligence technology employed to enhance business operations can also be applied to create intricate strategies for aggressive tax planning, specifically tax avoidance, by taking advantage of disparities and inconsistencies among various tax jurisdictions. Additionally, the intricate nature of these structures and transactions can obscure income, thereby impeding the tax authority's capacity to address tax evasion. In addition, the tax authority itself requires technological advancements, including artificial intelligence, to proficiently conduct audits and identify suspicious patterns in the contemporary digital landscape. Moreover, artificial intelligence serves as significant resource for tax authorities in their efforts to fight fraud and avoidance[13].

3.3 The urgency of a responde from Angolan Law

Considering this complex array of challenges, it becomes apparent that the existing regulatory and operational structure of the Angolan tax system is insufficient to adequately respond to the economic conditions shaped by the digital era and artificial intelligence. Failing to take action is not a feasible alternative, as it may result in a gradual decline of vital tax revenues essential for state financing, an exacerbation of fiscal inequity (with the burden disproportionately impacting traditional sectors of the economy and

[13] JANJUHA, Adnan; LIOU, William; ROCK, Brian; WILLIAMS, Bernard. **Artificial intelligence and tax administrations**: building blocks for revenue mobilization in developing economies. Washington, D.C.: International Monetary Fund, 2022.

labor income), and, paradoxically, a possible deterrent to the legitimate and effective integration of AI in Angola if legal and fiscal ambiguities continue to prevail. Consequently, it is crucial for the legislature, the tax authority, and the Angolan legal academic community to engage in deep reflection and pursue appropriate solutions.

Despite the existence of international dialogues and initiatives, such as the OECD/G20 framework (the BEPS project -- Base Erosion and Profit Shifting)[14], with particular reference to pillars one and two of the digital economy and the implementation of the global minimum tax), Angola must undertake an articulated response appropriate to the peculiarities of its economy, the capacity of its government, and the objectives of the constitutional project. The concluding section of this paper will set out such potential approaches to responding and adapting.

3. FACING THE CHALLENGES: TOWARDS AN ADAPTATION OF THE DUTY TO CONTRIBUTE IN THE DIGITAL AND AI ERA IN ANGOLA: THE NORMATIVE CROSSROADS AND THE NEED FOR ACTION

The preceding sections have clearly illustrated the significant challenges that the digital era, enhanced by Artificial Intelligence (AI), presents to the essential duty to contribute, as articulated in Article 88 of the Constitution of the Republic of Angola (CRA). The potential deterioration of the tax base, the insufficiency of conventional connection factors (nexus), the difficulties in evaluating the ability to pay generated by intangible assets and autonomous algorithms, as well as the new pathways for tax evasion and avoidance, represent a substantial risk to the sustainability of public finances and fiscal equity. Neglecting to recognize this reality would undermine the ability of the Angolan State to fulfill its fundamental functions and achieve the developmental and social well-being objectives enshrined in the Fundamental Law.

In this respect, this section aims to move beyond the simple diagnosis of problems and go into the realm of prospective remedies. Given the complexity of the phenomenon and the absence of easy or universal responses, an attempt is made to outline a set of courses of action -- legislative, administrative, and of international cooperation -- that Angola may consider in order to adapt its tax system to this new reality. The ultimate objective is to ensure that the duty to contribute continues to be undertaken effectively and equitably, respecting the constitutional dictates of ability to pay and benefits derived, in a constantly evolving technological environment, without, however, penalizing innovation and the productive adoption of AI in the country.

[14] For a more detailed analysis of BEPS Project and Pillars One and Two, check OCDE. **Base Erosion and Profit Shifting Project** – Explanatory Statement (2015 Final Reports). Paris: OECD Publishing, 2015. Retrived from: https://www.oecd.org/tax/beps/beps-actions-final-reports.htm. Acesso em: 28 set. 2025

Before delineating particular strategies, it is crucial to emphasize an initial consideration: the adaptation of the tax system in response to the digital economy and artificial intelligence cannot be reached through a singular, isolated action. A holistic and multifaceted approach is required, which combines, in a coordinated and coherent manner, the following aspects: i*nternal legislative reforms*, that is, adjustments or introduction of norms in the Angolan legal-fiscal framework to contemplate the new economic realities; *strengthening of administrative capacity*, which means equipping the General Tax Authority (AGT) with human, technological, and procedural resources to effectively implement legislation and oversee operations within the digital economy. As a final aspect, *active international cooperation*: participation and alignment (critical and adapted to the national reality) with global and regional initiatives aimed at adjusting rules and fighting base erosion and profit shifting (BEPS).

Thus, the absence of any of these pillars will compromise the effectiveness of the entire set. Subsequently, this section aims to identify pathways for an efficient legislative reform at the internal level, within the scope of Angolan tax legislation emphasizing several areas that require re-examination and potential adaptation in the country.

3.1 Review of factores of territorial connection (nexus)

The traditional definition of permanent establishment (SE), which relies on significant physical presence as outlined in Article 5 of the Industrial Tax Code, is demonstrably inadequate for capturing the economic activities of digital and AI-driven companies that operate remotely within Angola. Consequently, it is essential to consider adopting a concept of *digital nexus* or *significant economic presence*. This could be predicated on some criteria including: the volume of revenue generated from interactions with users/clients situated in Angola, a considerable number of active users in Angola, the intensity of data collection or usage pertaining to Angolan users, and the operation of a digital platform specifically aimed at the Angolan market (considering factors such as language, currency, or marketing strategies). For instance, the implementation of a Special Economic Presence (SEP) is bolstered by theories that acknowledge value creation in the target market, highlighting the insufficiency of a physical nexus in the digital economy across the African continent. The theory of *Significant Economic Presence*, which has been embraced by countries like Nigeria in 2019, may represent a significant advancement in formulating appropriate criteria.

It is necessary to calibrate such criteria with intensive analysis in order to define thresholds that are appropriate in the Angolan setting and ensure that entry barriers are not excessively increased but allow taxation in cases where value is truly created or exploitation of the market happens. There is the potential to draw lessons from discussions under pillar one of the OECD/G20; the solution adopted must nonetheless be compatible with the administrative capacity of the AGT and Angola's Double Taxation Treaty network.

3.2 Adaptation of Current Taxation Systems

Beyond the revision of the nexus, it is crucial to clarify the rules for determining the taxable income and the attribution of profits to a potential 'Digital PE' (Digital Permanent Establishment) or to the significant economic presence. Transfer pricing rules must be strengthened and adapted to deal with transactions involving hard-to-value intangibles (HTVIs), such as data and algorithms, and highly automated functions, potentially incorporating approaches based on the DEMPE functions. Cautious consideration could be given to introduction or extension of withholding tax regimes on payments for certain digital services provided by non-residents.

Another relevant aspect is the fact that the rules on the determination of the place of electronically supplied services to the final customers (B2C) in Angola provided in Article 6, paragraph 10 of the CIVA are broadly aligned with international standards. The challenge lies in practical application. There is an urgent need to implement simplified forms of registration and payment by non-resident service suppliers that may include the efficient e-portals, the collection mechanisms or the joint and several liability regimes for digital intermediaries and strengthening the supervision auditing/enforcement of these operations.

Given this scenario, in the long term, automation may require a reflection on the balance of the tax burden between labor and capital. For now, it is important to ensure that new forms of capital income associated with AI (e.g., the licensing of algorithms, profits from highly automated companies) are effectively taxed, either via the Corporate Income Tax (Industrial Tax), or through the taxation of capital gains or investment income in the hands of resident beneficial owners.

3.3 Careful analysis of new structures of taxation

In this respect, *Digital Services Taxes (ISD/DSTs)* are highlighted. Various countries adopted or proposed imposing dedicated taxes on the gross revenues produced by some digital services. For example, on the sales of digital advertising space, intermediation, and sale of data - offered by major global corporations. The DST imposition in Angola can in the short term yield revenue at the same time filling an observed fiscal gap. The choice, however, is fraught with significant risks: potential incompatibility with international instruments (including the OECD/G20 Pillars, which contemplate their elimination), potential retaliation in trade measures by other countries, difficulties in the delimitation and the implementation of the tax, and the characteristics of the gross revenue tax which may not reflect the ability to pay (profitability) and may be shifted to the customers or the small local companies with the potential of infringing the principle of the ability to pay.

The analysis of alternatives and the eventual adoption of some of them should be preceded by a thorough impact study, preferably coordinated at regional level and considered as a potentially transitional measure, depending on the evolution of multilateral solutions. Other figures, such as equalization levies or specific withholding taxes, are alternatives that could also be explored.

3.4 Judicious Tax Incentives

Strategic focus is one of the main pillars of this action. In parallel with ensuring fair taxation, the State can utilize the tax system to encourage, in a judicious and transparent manner, the development and adoption of AI in strategic sectors for Angola, in addition to building qualified human capital. These incentives, however, must be strictly linked to the creation of real economic value and employment in the country, and subjected to periodic evaluation of their effectiveness and cost-benefit, thus avoiding the creation of regimes that facilitate base erosion.

3.5 Imperative View on Strengthening the Capacity of the General Tax Administration (AGT)

Any legislative reform will be a dead letter without an AGT capable of implementing and enforcing it. This strengthening requires inevitable investments for the success of the action. Among these technical and human capacity building, the adoption of technology, and the exploration of information exchange are mentioned.

Concerning technical and human capacity building, this is an action that requires continuous investment in training the AGT staff in areas such as international taxation, transfer pricing (focusing on intangibles and the digital economy), IT systems auditing, data analytics, cybersecurity and, eventually, the use of AI tools for tax administration (e.g., risk detection, predictive analysis of evasion behavior). The aspect of *technology adoption* involves the modernization of technological systems to allow for the processing of large volumes of data, the implementation of mandatory electronic collection, information, cross-referencing, and automated risk analysis. The use of technology is essential for effectively supervising economic actors that operate primarily in digital space. Finally, the *exploration of information exchange* demands full and effective information exchange mechanisms under bilateral and multilateral agreements (such as the *Common Reporting Standard* (CRS) and *Country-by-Country Reporting* (CbCR), if and when Angola fully implements them), which are essential for obtaining data on income and assets of Angolan taxpayers abroad and on the operations of multinational enterprises.

3.6 The Indispensable Path of International Cooperation

Given the transnational nature of the digital economy and AI, Angola cannot face these challenges in isolation. Active participation in international forums is crucial. The implications for national fiscal sovereignty must be carefully weighed against the need for global coordination, considering the OECD/G20 Inclusive Framework (pillars one and two), which Angola should closely monitor and critically evaluate its accession to the consensus solution of the two pillars.

The first pillar potentially provides Angola with a new share of taxing rights over the profits of large multinational enterprises, even without physical presence, based on their market participation (revenue). The second pillar establishes a global minimum tax (currently fixed at 15%), which may ensure that Angolan companies or multinational corporations operating in Angola pay a minimum tax level, thus reducing incentives for profit shifting to low-tax jurisdictions

Among other actions, taking strategic decisions stands out, which require a careful cost-benefit analysis, considering administrative complexity and impact on investment attractiveness, but offers the prospect of greater fiscal justice and additional revenue, inserting Angola into the global consensus.

Given its global relevance, the aspect of *the principle of legal certainty* is added. This is because accession to multilateral solutions implies a certain limitation of fiscal sovereignty, which must be weighed against the benefits of coordination and prevention of double non-taxation. At the same time, the introduction of these new complex rules poses challenges to the principle of legal certainty, requiring clarity and predictability in their implementation. The legislator and the administration must ensure that measures are adequate, necessary and proportional to the objectives of fiscal justice and revenue sustainability.

In this context, *regional cooperation (SADC, African Union*) is highlighted. It takes place between African countries and is able to strengthen negotiating capacity vis-à-vis major powers and multinational enterprises, allowing for the adoption of common approaches (e.g., on digital nexus, treatment of digital services) and avoiding a race to the bottom in fiscal matters. Sharing experiences (such as Nigeria's with the rule of *Significant Economic Presence* (SEP) is essential.

Finally, the updating of double taxation treaties *(DTTs*) is required. That is a revision of existing DTTs to incorporate modern clauses that reflect internationally agreed rules (e.g., the principal purpose test (PPT), rules on Digital PE, if applicable) and negotiation of new agreements that adequately protect the Angolan tax base.

FINAL CONSIDERATIONS

In conclusion, the duty to contribute has evolved for the 21st Century through the endeavor of aligning the fundamental duty to contribute, as articulated in Article 88 of the CRA, with the advancements of the digital era and Artificial Intelligence. This adaptation is unquestionably among the most urgent and intricate challenges encountered in modern Angolan law. It will necessitate not only a command of technical and legal expertise but also a strategic perspective, political resolve, and a willingness to reassess conventional tax concepts and theories.

The proposals outlined here – the revision of the nexus considering theories such as the SEP and market value creation, the adaptation of existing taxes, the weighing of new tax instruments, the strengthening of the AGT, and active international cooperation (balancing sovereignty and coordination) – are neither an exhaustive roadmap nor a panacea, but rather a set of possible paths that merit in-depth debate and careful consideration.

The balance to be achieved is delicate: ensuring the fair contribution of all economic players, including global digital giants, to Angolan public expenditures, based on their actual ability to pay generated in or connected to Angola, without thereby creating an environment hostile to technological innovation, which is vital to the country's development. The constitutional ability-to-pay principle must continue to be the guiding compass, even if its assessment in the digital world requires new instruments and metrics informed by discussions on the value of data and intangibles. The criterion of benefits derived, reinterpreted for the digital context, although secondary for general taxation via income tax, may find renewed relevance when considering the benefits that digital platforms derive from access to the Angolan market and data, potentially justifying levies or other forms of contribution.

Ultimately, Angola's response to these challenges will define not only the health of its public finances in the coming decades, but also its capacity to shape an inclusive and equitable digital future, where technological progress and social justice walk side-by-side, under the aegis of the Constitution. The debate is launched, and the action is urgent.

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