

**SOCIAL FUNCTION, SOLIDARITY, AND TAX INCENTIVES AS AXIOPLASTIC VECTORS
OF SUSTAINABLE NATIONAL DEVELOPMENT** <https://doi.org/10.63330/aurumpub.008-011>**Gustavo Davanço Nardi¹****ABSTRACT**

This paper investigates the constitutional legitimacy and legal feasibility of using tax and credit incentives as mechanisms to promote the fulfillment of the social and solidarity functions of the company. Based on articles 3, I, and 170 of the 1988 Brazilian Constitution, it is argued that entrepreneurial activity must transcend the mere pursuit of profit, embracing broader economic and social purposes aimed at promoting sustainable national development. The research adopts a theoretical-dogmatic approach, supported by a logical-dialectical method and bibliographic-documentary analysis. The study defines the social function as a binding legal principle with minimum normative content, while the solidarity function is seen as an ethical and voluntary posture aligned with the common good. From this perspective, it is proposed that the company assumes an axioplasmic nature — capable of being molded by the plurality of constitutional values in continuous transformation. The work concludes that it is constitutionally legitimate for the State to condition fiscal or financial incentives on the socially responsible conduct of private agents, aligning economic policy with the principles of justice, solidarity, and the axiological framework of the Constitution.

Keywords: Sustainable development; Social function of the company; Solidarity; Tax incentives; Axioplasty.

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INTRODUCTION

The 1988 Federal Constitution established a new legal and economic paradigm in Brazil by enshrining, as the foundations of the economic order, the valorization of human labor, free enterprise with a social function, and the commitment to a free, just, and solidary society.

In this context, the role of the company transcends the exclusive logic of profit to assume responsibilities toward the community, requiring that its operations pursue both economic and social purposes cumulatively.

The concepts of social function and solidarity function of the company emerge, the former being treated as a legal principle endowed with binding minimum content, while the latter expresses an ethical and voluntary behavior oriented toward the common good.

Within this framework, the notion is defended that the social function of the company assumes an axioplasic nature, that is, it is moldable according to the (social, cultural, and constitutional) values in constant transformation.

Thus, the solidarity function, grounded in Article 3, I, of the Constitution, represents a voluntary and proactive commitment to the common good, going beyond strict legality to encompass practices of sustainability, intergenerational justice, responsibility toward stakeholders, and active promotion of local and national development.

The question that arises, therefore, is: Is it legitimate and feasible for the State to link the granting of tax and credit incentives to the fulfillment of these constitutional functions by companies?

This inquiry leads to the hypothesis that economic policy can (and should) employ social criteria as instruments of inducement, guiding business activity toward a fairer and more sustainable national development.

The general objective of this study is to investigate the legal feasibility and constitutional legitimacy of using tax and credit incentives as instruments to induce socially and solidarily responsible business practices. The specific objectives are:

- (i) to analyze the constitutional foundations of the social and solidarity functions of the company;
- (ii) to identify possible inducement mechanisms in light of fiscal and credit policy; and
- (iii) to examine the challenges and risks involved in implementing such criteria in an equitable and effective manner.

METHODOLOGY

This research adopts a qualitative, theoretical-dogmatic, and analytical-propositional approach, structured with the purpose of examining the constitutional, legal, and philosophical foundations that



legitimize the use of tax and credit incentives as instruments to induce compliance with the social and solidarity functions of the company, within the context of pursuing sustainable national development. It is, therefore, an exploratory and explanatory study that aims not only to systematize existing theoretical and normative elements but also to construct a hermeneutical proposal aimed at realizing constitutional values in the field of economic policy.

The primary technique employed is bibliographic and documentary research, involving the collection and critical analysis of primary sources — the 1988 Federal Constitution, the National Tax Code, the Civil Code, the Corporations Law, and related tax legislation — and secondary sources, particularly doctrinal works by key authors in shaping the constitutional economic order, such as Eros Roberto Grau, André Ramos Tavares, Emerson Ademir Borges de Oliveira, Aurora Tomazini de Carvalho, Décio Zylbersztajn, and Rachel Sztajn. Public policy reports, academic theses, and decisions of the Federal Supreme Court were also examined, with emphasis on case law concerning extrafiscality, the social function of property, and conditional tax incentives.

From a methodological standpoint, the reasoning developed is deductive and systematic, starting from the analysis of the Economic Constitution as the central normative framework, with emphasis on the principles of human dignity, social justice, solidarity, the valorization of human labor, and the social function of property and enterprise. To these foundations is added a critical analysis of the notion of the solidarity function of the company, understood as a voluntary expansion of corporate responsibility beyond strict legality, incorporating ethical and social commitments toward stakeholders, future generations, and society at large.

In this process, the study also draws on the conceptual framework of axioplasty, as proposed by Emerson Ademir Borges de Oliveira, understood as the law's capacity to shape social structures and behaviors in light of constitutional values. Adopting this framework allows tax incentives to be understood not merely as fiscal collection mechanisms but as axioplastic instruments of normative induction, capable of guiding business practices toward conduct standards committed to distributive justice, environmental sustainability, and social inclusion.

The methodology adopted does not aim merely to describe legal institutions but to develop an interpretative proposal that maximizes the effectiveness of constitutional economic principles, contributing to the theoretical and practical advancement of public policies aimed at fiscal justice and fair national development. Thus, this investigation falls within the field of Constitutional Economic Law and inductive Tax Law, with a vocation for interdisciplinary dialogue with Law and Economics and contemporary theories of distributive justice and sustainability.



RESULTS AND DISCUSSION

SOCIAL FUNCTION OF THE COMPANY: AXIOPLASTIC NATURE AND NORMATIVE CONTENT

The social function can be understood, within Business Law, as the lung that oxygenates economic activity with legitimacy and collective meaning, while in Constitutional Law it represents the blood that irrigates the entire normative system with the values of human dignity, social justice, and solidarity.

The solidarity function, in turn, can be compared to a legal vaccine: although not mandatory, its voluntary adoption strengthens the social immunity of the system, preventing inequalities, exclusions, and environmental imbalances.

It is crucial to distinguish between the social function and the solidarity function, as they are distinct institutes and should not be confused. As highlighted by Professors Mariana R. Santiago and Pedro A. Machado (2015, p. 170), the social function results from legal obligations, whereas the solidarity function stems from voluntary behavior that goes beyond legal requirements.

In this new scenario, the company emerges as an entity structured for the production and circulation of goods, marked by the separation between capital and labor and by the pursuit of efficiency and profit in increasingly competitive markets.

As Rocha and Santiago (2017, p. 129) point out:

“The law is the source of the social function of the company. It imposes duties that, once fulfilled, generate direct or indirect benefits to society, such as environmental protection, consumer protection, etc.”

Thus, the law is one of the main parameters of social function, in its strict definition. The norm is a primary source, but the social function almost always carries axiological aspects for its definition. It is not a static object but a living principle.

From the French Revolution of 1789 and, especially, with the advent of the Industrial Revolution, the transition from a feudal property-based economic model to a new logic of economic organization was consolidated.

The social function of the company is a constitutional principle enshrined in Article 170 of the 1988 Constitution, which reinforces its strength in business theory. Based on the principle of maximum effectiveness, interpreters of the law must apply it in a way that achieves its core and essential objectives.

The Federal Constitution also provides for other institutes that pursue the social function, such as in urban policy (Article 182, §2), which requires private property to fulfill its social function. This is an imperative of public policy and a constitutional obligation of the property owner.



Therefore, the social function constitutes an **axioplasic principle**², moldable by social dynamics and marked by a vitality that prevents it from being reduced to mere normative rigidity.

Legal Nature of Axioplasty

Axioplasty, in the constitutional context, can be understood as a hermeneutical category of axiological nature, whose function is to shape the normative content of open constitutional principles according to the prevailing values of a given historical moment. Its legal nature is anchored in Eros Roberto Grau's view of the Constitution as a normative order in motion, endowed with historicity and openness to social concretization.

According to Grau (2021), constitutional economic principles — such as the social function of property, solidarity, and free enterprise — cannot be interpreted in isolation or in a static manner, but in connection with constitutional values and the concrete historical context. He states:

“The Economic Constitution does not establish a rigid economic model, but rather a value framework within which political and legislative choices develop.” (GRAU, 2021, p. 134)

Based on this, axioplasty acquires the legal nature of a constitutional technique of teleological concretization, operating as an instrument for densifying open principles and guiding normative application in light of a transforming socioeconomic reality. It does not create new rights but enables the realization of existing ones based on living values, interpreting constitutional principles as normative clauses with progressive and contextual content.

Furthermore, in dialogue with Grau, axioplasty rejects the idea of a merely programmatic Constitution: it assumes that constitutional values have real normative force, provided they are interpreted in a manner sensitive to historical time and public purpose.

Thus, axioplasty is not a legal principle but a method of constitutionally oriented realization, with an instrumental and concretizing legal nature. Its application is crucial, for example, in the Minas Sustenta Project, as it allows verifying whether tax exemptions are effectively aligned with the social function of the company and solidarity, rather than serving merely privatist logic.

In legal terms, axioplasty acts as a bridge between constitutional and social values and the normativity of inductive public policies, such as extrafiscal taxation.

The constitutional axioplasty proposal, as a hermeneutical technique of value-based concretization, aligns directly with Uadi L. Bulos's conception of principles as legal norms endowed with normative force, albeit with varying degrees of generality and applicability.

² Axioplasic = from the Greek axios (value) + plastos (malleable, molded). A principle shaped by living social values.



According to Bulos (2023, p. 384), current dogmatics breaks with the old dichotomy between norms and principles, recognizing that principles are legal norms with an open structure and axiological content, requiring greater interpretative effort for their concretization.

Axioplasty arises precisely from this challenge: to offer a criterion for normative densification based on constitutional values in transformation, shaping the content of principles according to their social historicity.

From this perspective, axioplasty operates as a method of approximation between the norm-principle and its practical realization. It functions in domains where the constitutional text presents vague standards such as solidarity, social function, dignity, or development — requiring a value-based and contextualized process to achieve concrete normative effectiveness.

In coherence with authors such as Guastini and Dworkin, cited by Bulos, axioplasty helps translate claims of justice into concrete normative commands, giving ethical and functional density to indeterminate constitutional clauses without leaving them to judicial subjectivity or legislative omission.

Therefore, axioplasty not only dialogues with the notion of norm-principle: it is the operative instrument for its transformative realization. Where constitutional values are in dispute or undergoing social evolution, axioplasty acts as an interpretative bridge between the ought-to-be of the Constitution and the being of institutional reality.

Thus, the company, due to the axioplastic character of the social function, has as its scope not only the pursuit of profit but also the achievement of other goals such as sustainability, social well-being, employee development, and the realization of human dignity.

For the company to embody this axioplastic character, it must fulfill its legal obligations, particularly those of a principled nature, such as the social function of the company and the principles set forth in Article 170 of the 1988 Constitution, which regulate the economic order.

Compliance with tax obligations is a prerequisite for social justice, as taxation — although often high and complex in our country — is essential to ensure that, in the future, companies that fulfill their social function can benefit from public policies through tax measures, which is the focus of this article.

Therefore, the axioplastic character is influenced by a series of factors mentioned above (economic, social, cultural phenomena, laws) that will define what constitutes the social function at a given moment, as it is a living principle.

As Eduardo Tomasevicius Filho (2003, pp. 33–50) teaches:

“The social function of the company constitutes the power-duty of the entrepreneur and the company’s managers to harmonize the company’s activities according to society’s interests, through compliance with certain positive and negative duties.”



These duties should not be confused with mere philanthropy; rather, they constitute structural requirements for legitimizing economic activity within the framework of the Democratic Rule of Law.

Moreover, the social function of the company requires active contribution to the economic, social, and cultural development of the communities in which it operates — whether locally, regionally, or nationally.

This commitment implies considering the impacts of strategic decisions on the environment and society, adopting sustainable business practices, and ensuring full respect for consumer rights. By acting responsibly, the company consolidates its social legitimacy and strengthens its position as a catalyst for inclusive and balanced development.

As Mariana Ribeiro Santiago (2008, p. 113) explains:

“The social function of the company limits the will and interest of capital holders, replacing the arbitrary power of the business owner with the balance that must exist among the forces that cooperate for the development of business purposes. Thus, as in the case of the social function of the contract, it involves subordinating private interest to social interest.”

This includes respecting labor rights, ensuring human dignity in the workplace, and aligning practices with the constitutional principles of social justice, solidarity, and human dignity.

The social function is also present in Administrative Law, particularly when the Public Administration initiates procurement processes under the Public Procurement Law. In this context, companies seeking to contract with the government must meet certain legal requirements, such as being up to date with tax and labor obligations and presenting other certificates, partially demonstrating compliance with workers’ rights and tax obligations, thereby respecting society as a whole.

Thus, the Public Administration has incorporated this as a means of verifying compliance with certain requirements that some might consider merely legal. However, this raises the question: what is a legal norm?

The answer depends on the interpretative school adopted. For a positivist, if the norm is valid within the legal system, there is no value judgment, only compliance.

As Professor Alysson Mascaro states:

“In the modern world, the first and immediate criterion of legal technique, which stands out, is the use of the state legal norm. It is a normative technique. The jurist, instead of engaging in situational craftsmanship to resolve conflicts, becomes a formal technician who manipulates already established, institutionalized mechanical structures.”³

³ MASCARO, Allyson Leandro. *Filosofia do direito* 7.ed. São Paulo: Atlas, 2021, p.180



However, in Miguel Reale's view, law is more than a legal norm and its validity; it must be analyzed in a tridimensional manner, encompassing fact, value, and norm in the creation of law.

Thus, should compliance with the social function be limited to what the law prescribes? Or is the law an instrument for inducing state-driven behavior?

As we have seen, there is a fact — the need to recognize entrepreneurs or companies that fulfill their social function — followed by a value, which is axiological in nature, derived from the criterion we have developed and termed AXIOPLASTY, where multiple values are linked to that fact and will directly influence the LEGAL NORM.

It is worth emphasizing that the social function, in its normative content, is not rigid or crystallized; on the contrary, it is a principle endowed with axiological plasticity, whose material density is shaped by social, economic, and constitutional transformations of the present time. Hence the proposal to understand it as a truly axioplasic principle, sensitive to the value mutations of society and the complexity of the corporate role in contemporary times.

Additionally, the Fiscal Responsibility Law (LRF) requires that an assessment of the budgetary impact be carried out for the current fiscal year and the two subsequent years, in addition to fulfilling other obligations such as compensation measures and related requirements.

Therefore, the creation of the proposed tax exemption must follow several steps to achieve its social and, above all, legal purpose. In this case, even if there is strong social pressure, compliance with constitutional provisions and the LRF is essential; otherwise, the measure will lack validity.

SOLIDARITY FUNCTION: AN ACTIVE CONSTITUTIONAL ETHIC

The solidarity function of the company finds direct support in the 1988 Federal Constitution, notably in Article 3, item I, which establishes as one of the fundamental objectives of the Republic “to build a free, just, and solidary society.” This directive also unfolds in Article 225, which addresses environmental protection and the rights of future generations, reinforcing the intergenerational commitment to sustainability.

Solidarity, in this context, is not limited to a merely subjective or moral value; it constitutes an ethical category with legal projection, implying concrete duties of cooperation, assistance, care, and reciprocal responsibility among members of society.

For Eros Grau, constitutional solidarity is not a moral ornament: it imposes concrete obligations on the State, companies, and individuals to promote the common good, cooperate with others, and mitigate the exclusionary effects of the free market (2005, p. 120).

Thus, the solidarity function is not a legal obligation but a voluntary act of the company that adopts this posture and conduct, which is why it is described as an ethical business behavior.



The solidarity function of the company requires that its duties go beyond market commitments, encompassing voluntary initiatives that benefit the community and respect others. Therefore, the company must reconcile its private interests with social interests in the pursuit of social justice (PAYÃO; SANTIAGO, 2016).

Considered a new legal and political paradigm, solidarity becomes an interpretative and normative vector guiding the actions of the State and private entities toward promoting the common good, assuming a social and intergenerational dimension. It is articulated with third-generation fundamental rights, the so-called collective or diffuse rights, committed to social justice, material equality, and human dignity.

For Eros Grau, solidarity is a constitutional normative value that imposes mutual responsibilities among social actors, especially between those who hold economic power and those in vulnerable situations (2005, p. ...).

Thus, companies are called upon to develop practices that consider the interests of stakeholders, responsibility for the socio-environmental impacts of their activities, and effective contributions to the economic, environmental, and cultural development of the communities in which they operate.

Through solidarity-based business action, companies would qualify for tax and credit incentives, such as facilitated access to credit lines, encouraging desirable behaviors, correcting negative externalities, and promoting distributive justice.

By stimulating solidarity-oriented business behaviors through tax and credit incentives, the State reinforces the objectives of an economic order oriented toward human dignity and sustainable development.

TAX AND CREDIT INCENTIVES AS INDUCTIVE MECHANISMS

In the constitutional model of the Social State under the rule of law, the State cannot limit itself to a spectator role; it bears the duty to foster business behaviors that contribute to the concrete realization of fundamental rights.

In this context, tax and credit incentives assume a strategic function as instruments of state inducement, capable of guiding corporate behavior toward constitutional objectives such as social justice, sustainability, and human dignity.

The law thus becomes one of the vectors for inducing the solidarity function of the company, including through the granting of tax and financial benefits. Induction is legitimate when directed toward promoting practices that go beyond the minimum normative threshold.

Examples include combating slave labor, promoting diversity, and strengthening tax citizenship. It also encompasses the possibility of state rewards for companies that adopt social compliance policies,



develop ethical supply chains, or implement expanded standards of responsibility toward consumers and communities.

In this regard, extrafiscality—understood as the use of tax instruments for an inductive rather than a revenue-raising purpose—becomes a tool for correcting market asymmetries and promoting the common good. It allows the State to positively differentiate economic agents that internalize constitutional values in their operational logic.

A classic example of extrafiscality is the use of the IPI (Tax on Industrialized Products) with reduced rates for vehicles powered by ethanol or electricity, clearly aiming to encourage environmentally sustainable practices. Here, the tax ceases to be merely a revenue mechanism and becomes an instrument of public policy, designed to induce desirable economic behaviors.

Use As Inductive Tools

The Democratic State under the rule of law was built on certain precepts and principles, serving as a way to democratize access to fundamental rights and

The construction of the Democratic State under the rule of law, as announced in Article 1, involves costs and strategies that go beyond the mere declaration of rights. There is no Social State without a Fiscal State; they are like two sides of the same coin.
(MENDES; BRANCO, 2021, p. 751)

The use of tax and credit incentives as instruments to induce socially and solidarily committed business behaviors represents the convergence point between the constitutional foundations of the economic order and the practical requirements of a transformative public policy.

The law can serve as a source of the solidarity function of the company, acting as an inducer of behaviors, including through the granting of tax and credit benefits, as demonstrated by strategic use.

As Paulo de Barros Carvalho notes, tax legislation often contains clear provisions aimed at favoring situations considered socially, politically, or economically valuable, to which the legislator grants more favorable treatment (CARVALHO, 2018, p. 115).

Minister Gilmar Mendes emphasizes:

“There is always a financial decision behind every state action that requires resources, which, in turn, is preceded by a revenue-raising activity that makes the spending decision possible. For this reason, public finances and the norms that regulate them, beyond their instrumental function, are essential to the realization of rights.” (MENDES; BRANCO, 2021, p. 751)

This reinforces the premise that the State can and should use economic instruments to encourage behaviors that will concretize fundamental rights and social well-being.



Since the solidarity function is a voluntary act — a “legal vaccine” — the State’s role is to increase the likelihood of private actors adhering to proposed programs or projects, thereby elevating corporate activity to new social and solidarity levels.

It is imperative that the State create relevant public policies to generate more actions in areas where deficiencies exist, promoting economic and financial progress for the population through extrafiscal measures.

As Professor Paulo Caliendo explains:

“Article 174 of the Constitution establishes a clear constitutional framework for inductive norms, including extrafiscality, requiring: a formal authorizing law; general indicative effectiveness; and administrative-normative activity linked to these parameters. [...] There is no general constitutional clause authorizing the creation of taxes with an extrafiscal purpose; such action must be provided for by law and have a relevant justification..”⁴

Thus, as Caliendo points out, the absence of a general constitutional clause for extrafiscal taxation means the State must create mechanisms to use this powerful and necessary tool to achieve programmatic norms and enhance the effectiveness of rights.

Tax incentives, in this scenario, are not arbitrary benefits but tools for recognizing and encouraging companies that choose to act with expanded social responsibility, investing in productive inclusion, sustainability, the valorization of human labor, and the strengthening of community ties.

Consequently, axioplasty must be applied when creating and implementing such laws, as it determines which values will guide the granting of tax exemptions in the case under discussion.

As André Ramos Tavares asserts, legislation cannot favor specific groups with exclusively private interests (RAMOS, 2008, p. 140).

By conditioning the granting of incentives on compliance with social and solidarity practices, the State transforms tax and credit policy into legitimate instruments for achieving the fundamental objectives of the Republic (applying axioplasty), as provided in Article 3 of the Constitution, as well as the principles of the economic order listed in Article 170.

The focus shifts from being exclusively revenue-oriented to having an extrafiscal function, promoting distributive justice, reducing inequalities, and ensuring socio-environmental protection, while also fostering institutional reputation and social legitimacy as factors that, although not formally recognized as incentive criteria, influence risk perception and trust in financial markets.

We have excellent examples of general public policies and financial mechanisms already aligned with this ideal, among them: the need for public support for worker cooperatives formed from bankruptcy

⁴ Caliendo, P. (2000). Tributação e ordem econômica: os tributos podem ser utilizados como instrumentos de indução econômica? [Taxation and economic order: can taxes be used as instruments of economic induction?] *Revista Direitos Fundamentais & Democracia*, 20, 215–216.



proceedings — a model that requires specific credit lines and tax incentives for economic viability; and crowdfunding.

Such examples demonstrate that companies fulfilling their social and solidarity functions tend to reduce legal, reputational, and operational risks, which may justify their differentiated treatment through credit and tax benefits. This occurs not only in economic terms but also as institutional recognition for adherence to constitutional values.

Thus, the use of incentives as a public policy aimed at business induction does not constitute an unjustified tax privilege but a legitimate strategy of constitutionally oriented inducement, based on the principles of social function, efficiency, social justice, and solidarity, which serve as references for the application of axioplasty.

It is legitimate and consistent, under Brazilian law, for the State to condition the granting of tax and credit incentives on companies' compliance with social and solidarity obligations.

The Federal Constitution, by establishing that free enterprise must respect its social function (Art. 170, caput and III) and by electing as a fundamental objective of the Republic the construction of a free, just, and solidary society (Art. 3, I), assigns to companies a role that goes beyond profit generation, positioning them as active agents of national development.

This legitimacy also derives from the transformative capacity of business activity, which has capital, structure, and technical personnel capable of generating concrete impacts on the social and environmental spheres.

The use of targeted incentives, in this context, represents a way to channel this potential toward public objectives, promoting synergy between private interest and the collective good.

Moreover, establishing social requirements as criteria for incentives makes it possible to distinguish companies truly committed to the common good from those that adopt greenwashing or social washing strategies — that is, those that merely simulate social responsibility as a marketing tool.

Finally, it must be recognized that reconciling economic interests with social purposes is one of the central challenges of contemporary public policy. The strategic use of tax and credit incentives, anchored in clear and verifiable normative criteria, helps balance this equation, transforming the social and solidarity functions of the company from a theoretical ideal into an institutional reality encouraged and safeguarded by the Democratic State under the rule of law.

SUSTAINABLE NATIONAL DEVELOPMENT

National development is a fundamental objective of the Federative Republic of Brazil. It can be summarized as priority goals for the country. Thus, the 1988 Federal Constitution wisely introduced



national development in a broad sense, as Brazil was experiencing a period of severe recession and an urgent need for progress.

The year 1988 marked one of the most critical economic contexts in Brazil's republican history. The country faced **galloping hyperinflation**, which reached an annual average of **1,037.56%**, eroding wages, making consumption unfeasible, and disrupting the productive sector.

The succession of failed economic plans — such as the Cruzado Plan (1986), the Bresser Plan (1987), and shortly after, the Summer Plan (1989) — highlighted the institutional fragility in attempts to contain the inflationary spiral. Simultaneously, the partial moratorium on external debt declared in 1987 worsened Brazil's international financial isolation, generating market distrust and restricting access to foreign credit.

Thus, it became necessary to establish certain objectives as the foundation for developing the new republic that was emerging, in order to bring greater social and legal stability.

The Federal Constitution contains numerous programmatic norms that induce the State to take action in favor of certain objectives, principles, or goals. Among them is national development, which today must be understood as sustainable, with a focus on inclusive and balanced growth.

It is important to note that the legal system does not provide objective and detailed criteria for granting tax and credit incentives based exclusively on sustainable national development. However, the 1988 Constitution offers a sufficiently robust normative framework to guide such public policy choices.

Professor Bulos clarifies the spirit of Article 3 of the Federal Constitution, demonstrating its importance:

“Guaranteeing national development (Art. 3, II) — material resources are essential for improving human living conditions, as they provide stability, education, health, culture, etc. In the 1988 Charter, social development remains an unattainable dream for millions of Brazilians. The term is recent in Sociology and Economics, meaning the transition from an agrarian society to an industrial society, with an increase in Gross Domestic Product and per capita income. Normally, social development is measured by infant mortality rates, hospital care, public sanitation, installation of job-generating industries, literacy levels, and consumption of electricity, cement, and oil, among others.”
(BULOS, 2023, p. 397).⁵

Thus, national development can be understood as the application of material resources to improve living conditions, marking the transition from an agrarian society to an industrial one, where the State must encourage growth and industrialization, which may lead to an increase in GDP.

However, as Professor Bulos's definition shows, there are no objective criteria, but rather a set of effects that qualify what we call national development.

⁵ Bulos (2023, p. 397)



Therefore, it is necessary to create criteria that can be structured based on indicators such as the generation of formal jobs, the inclusion of vulnerable populations in the labor market, operations in regions with low Human Development Index (HDI), the adoption of compliance and sustainability practices, and the company's tax and labor compliance.

State Inducers To Strengthen Sustainable National Development

The need to create state-driven inducements is a way to strengthen or support the adherence of new projects that can promote the Administration's priority goals, such as solidarity.

For this type of policy to occur, it is first necessary to ensure tax collection, which primarily takes place through derivative means, as provided by Law 4.320/64.

Minister Gilmar Mendes states that the predominance of taxation as the standard for financing public spending presupposes free enterprise and the principle of subsidiarity as fundamental guidelines for State intervention in the economic sphere⁶.

Public policies aimed at the private sector have the power to enhance the value of human labor. Thus, a State based on this concept presupposes limited action by the Public Power in the economic domain, since the financing of its financial activity does not depend on business or patrimonial revenues. (MENDES, 2021, p. 751)

Therefore, the State has no interest in creating state-owned companies to produce services that fall under free enterprise, although the Constitution still reserves certain services exclusively for state entities, as provided in Article 21, item IX.

In Brazil, there is a revenue-sharing system, meaning differentiated taxation due to federalism, which grants each public entity that makes up the Federative Republic of Brazil the competence to collect certain taxes.

In this context, this work addresses one of the main taxes affecting business activity: the ICMS (Tax on the Circulation of Goods and Services), which, according to the Constitution, falls under the exclusive competence of the States.

The granting of ICMS-related tax incentives by the States is subject to prior agreement within the scope of CONFAZ, under Article 155, §2, XII, "g" of the Federal Constitution and Complementary Law No. 24/1975. There are legally viable mechanisms for federative entities to promote business behaviors aligned with fair and sustainable national development. For example, it is possible to establish credit-granting programs.

⁶ MENDES, 2021, pg751



The State can create criteria structured around indicators such as the generation of formal jobs, the inclusion of vulnerable populations in the labor market, operations in regions with low HDI, the adoption of compliance and sustainability practices, and the company's tax and labor compliance.

Furthermore, the incentive or credit law will be based on the axioplasic principle, adopting economic and social criteria and implementing a scoring model based on social and environmental impact indicators.

The State ensures equality, predictability, and public oversight while inducing business behaviors aligned with the Federal Constitution and the ideal of fair and sustainable national development, as illustrated in the example below:

Example of public policy: “minas sustenta” (fictional model)

Objective: Grant a tax credit of up to 5% of the ICMS due to companies that meet criteria contributing to fair and sustainable national development.

Scoring Matrix (cumulative up to 100 points):

Criterion	Points
Creation of more than 50 formal jobs in the last 12 months	20 pts
At least 10% of workforce from vulnerable groups	15 pts
Operations in municipalities with HDI < 0.65	15 pts
ESG or ISO 14001 certification	15 pts
Compliance program with audited report	10 pts
Updated negative labor and tax certificates	10 pts
Investment in sustainable R&D $\geq$ 2% of gross revenue	15 pts

Minimum score required to access the benefit: 60 points.

This law would objectively and directly reward companies that contribute to national development, supporting sustainability and social justice, making it a public policy or tax incentive that achieves its core purpose.

CONCLUSION

The 1988 Federal Constitution outlined an economic order committed not only to free enterprise and the valorization of human labor but, above all, to the realization of a free, just, and solidary society. In this context, the company is no longer understood as a mere wealth-producing agent but as an active constitutional subject, bearing social duties that transcend the logic of profit.

The distinction between the social function and the solidarity function of the company allowed us to identify distinct yet complementary normative dimensions: the social function as a binding legal imperative, and the solidarity function as an ethical and voluntary behavior that should be recognized, encouraged, and rewarded by the State. Based on constitutional and doctrinal grounds, it was argued that



the social function possesses an axioplasmic nature, moldable by constitutional and social values in constant transformation, requiring interpretative sensitivity for its progressive realization.

In this light, economic policy — particularly tax and credit policy — emerges as a legitimate instrument for inducing business behaviors aligned with the fundamental objectives of the Republic, especially those linked to national development, while also enabling the inclusion of sustainability, albeit not as a mandatory requirement.

This approach represents a way to direct extrafiscality through the principle of axioplasty, reducing subjectivity and increasing principled determinism in inductive measures. Consequently, it stimulates **socially desirable behaviors** and, in turn, corrects inequalities and promotes distributive justice.

Tax incentive laws must include objective and verifiable criteria, such as job creation, inclusion of vulnerable groups, sustainability, fiscal compliance, and structured compliance programs, organized in a scoring model, as illustrated by the “Minas Sustenta” program. This demonstrates that it is possible to design public policies for tax and credit incentives based on concrete constitutional values.

Induction, in this context, does not constitute privilege or unjustified tax waiver but rather an institutional reward for companies that actively contribute to the common good.

Thus, it is concluded that the strategic use of tax and credit incentives — combined with axioplasty — as a tool to encourage the social and solidarity functions of the company is not only legally possible but constitutionally required. Ultimately, this means transforming the principles enshrined in the constitutional text into concrete normative practices, strengthening the alliance between the State, the market, and society in building truly fair and sustainable development.



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