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TAX PLANNING: THE IMPACT ON MICRO AND SMALL MEDICAL COMPANIES EQUIVALENT TO HOSPITALS

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Bruno Astori Dal-Bó[1], Filipe Sobrinho Cezario[2] and Elaine Zambon Carioca Damascene[3]

ABSTRACT

The present work intends to review the tax legislation verifying the possibilities applicable to medical companies to optimize tax planning. The focus is on the alternative of hospital equivalence, which is one of the legal provisions to reduce the presumptions of profit and directly influences the calculation basis of taxes directly applicable to it, specifically IRPJ and CSLL. However, legal criteria must be observed in order to carry out this reduction, which must comply with criteria and be aligned with public interests in the health sector. It is necessary to compare this tax opportunity to other taxation regimes or even with the context applicable to the company.

Keywords: Taxes. Health. Medical Clinics. Hospital Equivalence. Tax Avoidance.

[1] Bachelor of Accounting Sciences
Cricaré Valley University Center (UNIVC)
E-mail: contatobrunodalbo@gmail.com
[2] Bachelor of Accounting at
Cricaré Valley University Center (UNIVC)
E-mail: filipesobrinho81@gmail.com
[3] Graduated in Social Communication – Journalism (FAESA - Vitória/ES) and Psychology (UNIVC), Master in Religious Sciences (UVV), MBA in Business Management (UNESC - Colatina/ES) and Postgraduate student in Organizational Psychology and Sports Psychology (LÍBANO - São Paulo/SP)
Professor at Centro Universitário Vale do Cricaré (UNIVC)
E-mail: elaine.carioca@ivc.br

INTRODUCTION

Taxes can burden and discourage the start or growth of any company, but this situation can be minimized through good planning, aiming at tax avoidance. Regardless of the segment, even in the health sector, taxes and federal contributions can be decisive for the success or bankruptcy of an entity that has such a noble interest as health.

Tax planning represents the procedures that aim to eliminate or reduce the incidence of taxes, so it is the preventive business activity, which has as a factor the analysis of taxes and which aims to identify and project the taxable acts and facts and their effects by comparing the probable results, for the various procedures for which it may incur, in order to make it possible to choose between the variables, the least onerous alternative for the company, remembering, of course, the lawfulness (PROENÇA, 2014).

Within the legal panorama, there are several opportunities for micro and small medical companies, which often do not allow them to be applied in overlap, and the person responsible for planning should choose those advantages that will make the most sense for the analyzed scenario, which is the scope of this work.

With the advent of Law 9,249/1995, there was the possibility of equating these medical companies to hospitals is one of the tax opportunities to stimulate entrepreneurship focused on health, as there are legal provisions to optimize the tax cost by reducing the presumption of profit in certain circumstances, but there are criteria for equivalence.

In view of these criteria, the question arises as to whether equivalence will always be the best choice to apply to medical companies, and there are also other hypotheses of tax regime options, such as the Simples Nacional, which presents itself as a differentiated treatment for micro and small companies, in view of the fact that the Simples Nacional was instituted by Complementary Law No. 123 of 2006, better known as the "Statute of Micro and Small Enterprises", in which these differences in treatment are exposed.

The general objective of this work is to analyze the possibilities of tax planning for micro and small medical companies, focusing on hospital equivalence, evaluating its impacts on the tax burden and economic viability, in addition to comparing this alternative with other applicable tax regimes, such as Simples Nacional and Lucro Presumido.

As specific objectives, the following will be addressed: legal criteria for the equivalence of medical companies to hospitals and their practical implications; evaluate the efficiency of reducing the presumption of profit in relation to traditional tax regimes; simulate comparative scenarios between different tax regimes in different contexts of billing and expenses; Propose guidelines that optimize the tax and administrative planning of micro and small medical companies, considering legal and operational aspects.

To achieve the proposed objectives, this work will adopt an exploratory and descriptive approach, using a combination of documentary analysis and comparative study. The research will be based on the review of tax legislation, as well as the analysis of academic and technical literature on tax planning in the health sector.

In addition, secondary data from published case studies, reports, and tax statistics will be used in order to compare the tax regimes available to micro and small medical businesses. The results will be critically analyzed to identify best practices and propose reasoned recommendations.

In this context, the approach that this work intends to carry out is fundamental to guide not only entrepreneurs and professionals in the health sector, but also, critically, legislators and those who influence the creation of public policies.

DEVELOPMENT

TAXES AND TAX REGIMES

In order to be assertive in the application of tax planning, it is necessary to clearly define what is and what encompasses the class of taxes, as each tax is applied and required according to the competence of the respective public entity. According to article 3 of the National Tax Code (CTN), established by Law 5,172 of 1966, a tax is any compulsory pecuniary payment, in currency or whose value can be expressed therein, which does not constitute a sanction for an unlawful act, instituted by law and collected through a fully linked administrative activity.

Being a compulsory payment, the emergence of the tax as an obligation does not depend on one's own will or that of a third party and is required from the moment of the triggering event of the obligation. According to the National Tax Code (CTN) and the Federal Constitution (CF), among the classes of taxes there are: taxes, fees, improvement contributions, social contributions and compulsory loans. Since the rates cannot legally follow the same calculation basis as the taxes, and that the improvement contributions and the compulsory loans do not have a taxable event correlated with the theme of the present work, the study will be restricted to the other taxes.

In the same provisions of the aforementioned legislation, the provision of health services is a taxable event that correlates with the payment of the Tax on Services of Any Nature (ISSQN), the social contribution to the Social Integration Program, the Contribution to the Financing of Social Security (Cofins), the Income Tax (IR), the Social Contribution on Net Income (CSLL), as well as social security contributions to the National Institute of

Social Security (INSS). The ISSQN is a municipal competence and the others are a tax competence.

In the panorama of taxes that arise with the taxable event of the provision of medical services, it is still necessary to evaluate them within the framework of tax regimes, including: Simples Nacional, Lucro Presumido, Lucro Real and Lucro Arbitrado, each regime being governed by specific law.

The Real Profit is a regime governed by Law No. 9,430, of December 27, 1996, and is required for companies that exceed the turnover of 78 million reais/year, requiring a more specific analysis of the context of the companies that are thinking of opting for it, since, within a context of non-cumulativeness of taxes and the calculation of the actual profit, The expenses, costs and exclusions based on the actual profit will make all the difference.

Often, the real profit escapes the scenario of micro and small medical companies that are generally leaner and fear expenses, so this regime will not be analyzed in this work, as not even the Arbitrated Profit will be addressed, as it is a special regime defined in court, leaving the analysis of the other regimes: Simples Nacional and Lucro Presumido.

National Simple (SN)

Simples Nacional was instituted by the National Statute of Micro and Small Businesses through Complementary Law No. 123 of 2006. This regime seeks to simplify compliance with the main tax obligation: the payment of taxes. In it, all taxes are calculated based on the gross revenue of the last twelve months and correlated with the activities carried out, based on predetermined tables and annexes.

In the aforementioned law, a micro-company is considered to be one that earns, in a calendar year, up to R$ 360,000.00 (three hundred and sixty thousand reais) and a small company is considered to be one that results in a calendar year's revenue of up to R$ 4,800,000.00 (four million and eight hundred thousand reais).

In relation to the activity of providing medical services, according to paragraphs § 5-I to § 5-M of the aforementioned law, there is the possibility of classification in two tables defined in Annex III and V, depending on the ratio of the payroll in proportion to gross revenue, and if this proportion is greater than or equal to 28% (twenty-eight percent), the company uses the tables in Annex III to calculate its obligation. This proportion is called the "R Factor".

In Annex III, the nominal rates vary between 6% (six percent) and 33% (thirty-three percent) as shown in [Table 1] below, and the effective rate is determined through the operation:

$(receita\ bruta \times alíquota\ nominal) \div receita\ bruta.$

Table 1: Simples Nacional rates according to Annex III

Gross Revenue in 12 Months (in R$)		Aliquot	Amount to Deduct (in R$)
1st Track	Up to 180,000.00	6,00%	–
2nd Track	From 180,000.01 to 360,000.00	11,20%	9.360,00
3rd Track	From 360,000.01 to 720,000.00	13,50%	17.640,00
4th Track	From 720,000.01 to 1,800,000.00	16,00%	35.640,00
5th Track	From 1,800,000.01 to 3,600,000.00	21,00%	125.640,00
6th Track	From 3,600,000.01 to 4,800,000.00	33,00%	648.000,00

Source: Complementary No. 123 of December 2006

On the other hand, in Annex V, the nominal rates start at 15.5% and vary up to 30.50%, denoting a higher tax burden right at the beginning of the activities of micro and small medical companies, as shown in [Table 2] below:

Table 2: Simples Nacional rates according to Annex V

Gross Revenue in 12 Months (in R$)		Aliquot	Amount to Deduct (in R$)
1st Track	Up to 180,000.00	15,50%	-
2nd Track	From 180,000.01 to 360,000.00	18,00%	4.500,00
3rd Track	From 360,000.01 to 720,000.00	19,50%	9.900,00
4th Track	From 720,000.01 to 1,800,000.00	20,50%	17.100,00
5th Track	From 1,800,000.01 to 3,600,000.00	23,00%	62.100,00
6th Track	From 3,600,000.01 to 4,800,000.00	30,50%	540.000,00

Source: Complementary Law No. 123 of December 2006

The Simples Nacional regime presents itself as a differentiated treatment for micro and small companies and should, in theory, enable competitiveness with larger companies.

Presumed Profit (LP)

The Presumed Profit is an ordinary regime governed by the specific legislation of each tax, according to the competences of the public entities, that is, according to the legal provisions of the Municipalities, the States or the Union, as provided for in the CTN.

As a general rule, within the competence of the municipalities, Complementary Law No. 116 of July 31, 2003 regulated, through its Article 8, item II and Article 8-A, that ISSQN

rates are at least 2% and at most 5%, however the ISSQN can also be determined in fixed installments.

The payment of ISSQN in fixed amounts stems from a reasoned interpretation by the STJ through EAREsp 31,084, which appeased the understanding of Article 9, §§ 1 and 3, of Decree Law No. 406 of December 31, 1968, in the sense that companies in which the core activity is carried out by certain regulated professionals, among them the medical class, the ISSQN may be defined through a fixed contribution from each member who has direct responsibility for the service provided. Generally, the fixed amount is determined in quantities of fiscal units of the municipalities, which also underlies the collection of fees. The fixed collection of ISSQN can be maintained even if the company opts for Simples Nacional.

According to Law No. 9,718, of November 27, 1998, the social contributions of PIS and Cofins in the Presumed Profit follow a cumulative behavior, that is, they do not allow the withdrawal of credits to deduct from the debt generated, therefore, as in the case of ISSQN, the calculation basis is the value of the service provided. It is determined through the rates of 0.65% and 3%, of PIS and Cofins, respectively. The medical activity may be correlated to replace the main tax obligation of these taxes for the service taker, and the impact reflects only on cash flow, as the amount withheld is deducted from the payment receivable.

The social security contributions (CPP) within the ordinary regime, which are regulated by Decree No. 3,048, of May 6, 1999, may mean a greater disbursement, since they include, in addition to the responsibility of withholding the INSS in the payroll, the employer's contribution at the rate of 20% in the value of the payroll, the contribution for the prevention of the risks of Occupational Accidents (RAT), which also vary according to the Accident Prevention Factor (FAP), as well as with contributions to third parties ("System S").

IRPJ and CSLL, as a general rule, are collected at the rates of 15% and 9%, respectively, and are applied to a presumption of profit, which as a general rule is established at 32% for the provision of services in general, according to Law No. 9,249 of December 26, 1995. However, for this calculation basis, there is an exception for medical service providers, and it is possible to establish a presumption of profit of 8% for IRPJ and 12% for CSLL. This exception was dubbed "Hospital Equivalence".

Regardless of the presumption adopted, in the case of IRPJ, the amount of presumed profit that exceeds the range of twenty thousand reais per month is taxed at an additional 10% (ten percent), characterizing it as an additional IRPJ.

Hospital Equivalence

According to the previous topic, the presumption of service provision as a general rule is 32%, however, item "a", Item III, paragraph 1 of article 15 of Law No. 9,249 of December 26, 1995, makes an exception for some medical services, as transcribed below:

> Article 15. The tax calculation basis, in each month, will be determined by applying the percentage of 8% (eight percent) on the gross revenue earned monthly, observing the provisions of article 12 of Decree-Law No. 1,598, of December 26, 1977, less returns, canceled sales and unconditional discounts granted, without prejudice to the provisions of arts. 30, 32, 34 and 35 of Law No. 8,981, of January 20, 1995.
> Paragraph 1 - In the following activities, the percentage referred to in this article shall be:
> ...
> III - thirty-two percent, for the activities of:
> a) provision of services in general, except for hospital services and diagnostic and therapy aid, clinical pathology, imaging, pathological anatomy and cytopathology, nuclear medicine and clinical analysis and pathologies, provided that the provider of these services is organized in the form of a business company and meets the standards of the National Health Surveillance Agency – Anvisa;

The activities included in this exception calculate the IRPJ and CSLL according to article 15 and item III of article 20 of the aforementioned law, which determines the application of 8% of presumption of profit for IRPJ and 12% for CSLL. However, the text that allows this exception has raised discussions about which companies could actually be included in this reduction of the presumption of profit.

The application of the profit presumption reduction occurs when the company is characterized by, cumulatively, (a) opting for the Presumed Profit tax regime, (b) having an activity correlated in the text of the exception, (c) being organized in the form of a business company and (d) complying with Anvisa standards, being:

a) The option for the Presumed Profit is necessary, because for the provision of medical services, only in this regime is it possible to calculate based on presumption of profit;
b) Restricted to activities correlated in the law, however, the phrase "hospital services and diagnostic and therapy aid" raised discussions about what could be encompassed;
c) It must be constituted as a business company, even considering itself in primacy in form, when protected by a writ of mandamus to be considered in law and in fact. However, this corporate framework excludes, in certain cases, the possibility of opting for the fixed payment of the ISSQN;
d) Anvisa's requirements were met, especially the Resolution of the Collegiate Board (RDC) No. 50, of 2002.

The Consultation Solutions, which aim to resolve doubts of taxpayers and interested parties, have been consolidating an understanding that hospital services are those linked to the activities developed by hospitals, which aim at health promotion and that develop the activities provided for in attributions 1 to 4 of RDC Anvisa No. 50, of 2002, and may even be considered when using third-party environments, according to the understanding of the Attorney General's Office of the National Treasury in SEI Opinion No. 7689/2021/ME of 2021, excluding only simple consultations, which must be segregated and applied to the presumption of 32%, according to paragraph 2 of article 15 of Law 9,249 of December 26, 1995.

Attributions 1 to 4 of Anvisa RDC No. 50 include:

1- Provision of elective health promotion and care in an outpatient and day hospital regime - health care including promotion, prevention, community health surveillance and care for outpatients in a scheduled and continuous manner;
2- Provision of immediate health care - care for outpatients in situations of suffering, without risk of life (urgency) or with risk of life (emergency);
3- Provision of health care in an inpatient regime - care for patients who need direct assistance scheduled for a period of more than 24 hours (inpatients);
4- Provision of support care for diagnosis and therapy - care for internal and external patients in direct support actions for the recognition and recovery of the health status (direct contact);

In general terms, for the RDC mentioned, all the above activities are subject to evaluation by Anvisa with regard to the planning, preparation and approval of physical projects of Health Care Establishments and will determine the release of the state or municipal health surveillance permit.

TAX PLANNING

After surveying all the opportunities and legal provisions to carry out the application of the calculation of taxes, it is still necessary to conjecture about the reality of each company, wherever it is established, as it must be considered whether the company is already in operation or if it will still be constituted, if there are one or more partners for the enterprise, if there is a prospect of a greater investment aiming at return in the same proportion and many other considerations that make planning exclusive and tailored to each company.

However, in order to infer about the advantages of each regime, the present work will create a model to simulate and compare some of the possible situations in the face of taxes and tax regimes, for which the following scenarios will be considered:

1. ISSQN: According to Law No. 116 of 2003, the tax on services of any nature can vary between 2% and 5%;
2. Billing: The revenue data will be extracted from the table in Annex III and V of the Simples Nacional, considering the revenues of the last twelve months (RBT12) according to each range of the table in these annexes;
3. Payroll: The payroll will be divided into two projections, one aimed at the "R Factor" being reached in Annex III and another projection aimed at optimizing the payroll in the Presumed Profit that will also be adopted in the projection in Annex V of the Simples Nacional;
4. Social Security Contributions: Social security contributions are collected separately under the Presumed Profit regime. The rates of 20% for the employer's contribution, 5.8% in relation to the contribution of third parties and 2% in the contribution for the prevention of the Risk of Occupational Accidents (RAT) will be considered - together they total 27.8%;

ISSQN

As determined by Complementary Law No. 116, the rates of the tax on services may vary from 2% to 5%, depending on the competence of each municipality, that is, it will depend on the legislation of this public entity.

According to Complementary Law No. 123 of 2006, the ISSQN within the Simples Nacional does not comply with the standard established by each municipality, and sometimes the effective rate to be collected in this regime may be higher than what is collected in the ordinary regime, but never higher than 5%, and in this case it is necessary to reallocate the difference to the other taxes within the Simples collection. In the 6th range of Simples Nacional, it is already necessary to pay directly with the municipality due to the exclusion limit at the level of R$ 3,600,000.01.

Billing

The revenues to be simulated are contemplated by the limits of each range of Annex III and V of the Simples Nacional, therefore, they will be determined according to [Table 3] below:

Table 3: Revenues to be considered in the model to be simulated

ATTACHMENT	RBT12	FAT. MONTHLY
III and V	R$ 180.000,00	R$ 15.000,00
III e V	R$ 360.000,00	R$ 30.000,00
III e V	R$ 720.000,00	R$ 60.000,00
III e V	R$ 1.800.000,00	R$ 150.000,00
III e V	R$ 3.600.000,00	R$ 300.000,00
III e V	R$ 4.800.000,00	R$ 400.000,00

Source: Prepared by the authors.

Monthly billing is simply due to the ratio of RBT12 to the number of full months in a year: twelve months.

Payroll

The payroll to be considered for the calculation of the Simples Nacional and that allows the classification in Annex III must reach at least the percentage of 28% of the "R Factor", as presented in [Table 4].

Salaries weigh significantly for Presumed Profit companies, so within this tax regime, payroll optimization is of paramount importance. The smaller the payroll, the better it will be in terms of taxes to be collected. Thus, within the model to be created, a series called "Lean Sheet" will be segregated, which will correspond permanently to a payroll of one minimum wage, regardless of the revenues earned.

Table 4: Payroll required to reach the "R Factor" by Annex III

RBT12	ANNUAL SHEET	MONTHLY PAYROLL	R FACTOR
R$ 180.000,00	R$ 50.400,00	R$ 4.200,00	28%
R$ 360.000,00	R$ 100.800,00	R$ 8.400,00	28%
R$ 720.000,00	R$ 201.600,00	R$ 16.800,00	28%
R$ 1.800.000,00	R$ 504.000,00	R$ 42.000,00	28%
R$ 3.600.000,00	R$ 1.008.000,00	R$ 84.000,00	28%
R$ 4.800.000,00	R$ 1.344.000,00	R$ 112.000,00	28%

Source: Prepared by the authors.

However, the projection of return on revenue in relation to payroll investment has a disadvantage in Annex III, if we compare it with the amount of minimum wages necessary to reach the "R Factor", as there is no optimization of the productive gain, since it is always necessary to be at least within the level of 28% in the "R Factor". The amounts considered as payroll in Simples include the FGTS and even the CPP collected in the Simples Nacional collection slip.

Therefore, in order to optimize the payroll, something that is not interesting if the company intends to rely on Annex III, it was determined that for each minimum wage paid in the Presumed Profit, fifteen thousand in monthly revenue should be generated, however, adding the 8% (eight percent) as FGTS, as shown in [Table 5].

Table 5: Leaf Projection

FAT. MONTHLY	MONTHLY PAYROLL (Simples Nacional)	Quant. Salt. Minimum (Simples Nacional)	Minimum Salary Quantity (L. Presumido)	Sheet L. Presumed
R$ 15.000,00	R$ 4.200,00	2,97	1	R$ 1.524,96
R$ 30.000,00	R$ 8.400,00	5,95	2	R$ 3.049,92
R$ 60.000,00	R$ 16.800,00	11,90	4	R$ 6.099,84
R$ 150.000,00	R$ 42.000,00	29,75	10	R$ 15.249,60
R$ 300.000,00	R$ 84.000,00	59,49	20	R$ 30.499,20
R$400.000,00	R$ 112.000,00	79,32	27	R$ 40.665,60

Source: Prepared by the authors.

Social security contributions

Social security contributions are collected in both regimes, both in Simples Nacional and in Lucro Presumido, however, in Simples Nacional the payment occurs together with the other taxes, in a single tab.

In the Presumed Profit, there is a specific payment slip for social security contributions that include the employer's contribution that is fixed at 20%, the contribution to third parties ("S System") that is fixed at 5.8% and the contribution against Occupational Accident Risks (RAT) that can vary from 1% to 3% and is influenced by the FAP, But for the model to be established, the percentage of 2% will be considered.

SIMULATION

In Annexes III and IV of the Simples Nacional, the payments of taxes are made through a single guide, but they are distributed from the effective rate and make up the Simples Collection Document (DAS). For the last lanes of these annexes, the collection takes place in a separate guide, through the municipality itself.

Table 6: Distribution of taxes according to billing in Simples Nacional (in reais)

ANNEX	FAT. MONTHLY	Aliquot Effective	IRPJ	CSLL	COFINS	PIS	CPP	ISS	THAT
III	15000,00	6,00%	36,00	31,50	115,38	25,02	390,60	301,50	900,00
III	30000,00	8,60%	103,20	90,30	362,49	78,69	1119,72	825,60	2580,00
III	60000,00	11,05%	265,20	232,05	904,33	196,25	2877,42	2154,75	6630,00
III	150000,00	14,02%	841,20	736,05	2868,49	622,49	9127,02	6834,75	21030,00
III	300000,00	17,51%	2257,57	1975,18	7235,15	1568,91	24493,18	15000,00	52530,00
III	400000,00	19,50%	27300,00	11700,00	12503,40	2706,60	23790,00	-	78000,00
V	15000,00	15,50%	581,25	348,75	327,83	70,91	670,76	325,50	2325,00
V	30000,00	16,75%	1155,75	753,75	708,53	153,26	1399,46	854,25	5025,00
V	60000,00	18,13%	2610,00	1631,25	1622,55	351,26	2593,69	2066,25	10875,00
V	150000,00	19,55%	6158,25	4398,75	4615,76	999,98	6994,01	6158,25	29325,00
V	300000,00	21,28%	14679,75	7978,13	8999,33	1946,66	15222,26	14998,88	63825,00
V	400000,00	19,25%	26950,00	11935,00	12658,80	2741,20	22715,00	-	77000,00

Source: Prepared by the authors.

In the case of the simulation for companies operating under the Presumed Profit regime, the distribution of taxes occurred as shown in [Table 7], which correlates all taxes, with the exception of ISSQN, which varies according to the municipality.

Table 7: Taxes on Presumed Profit (in reais)

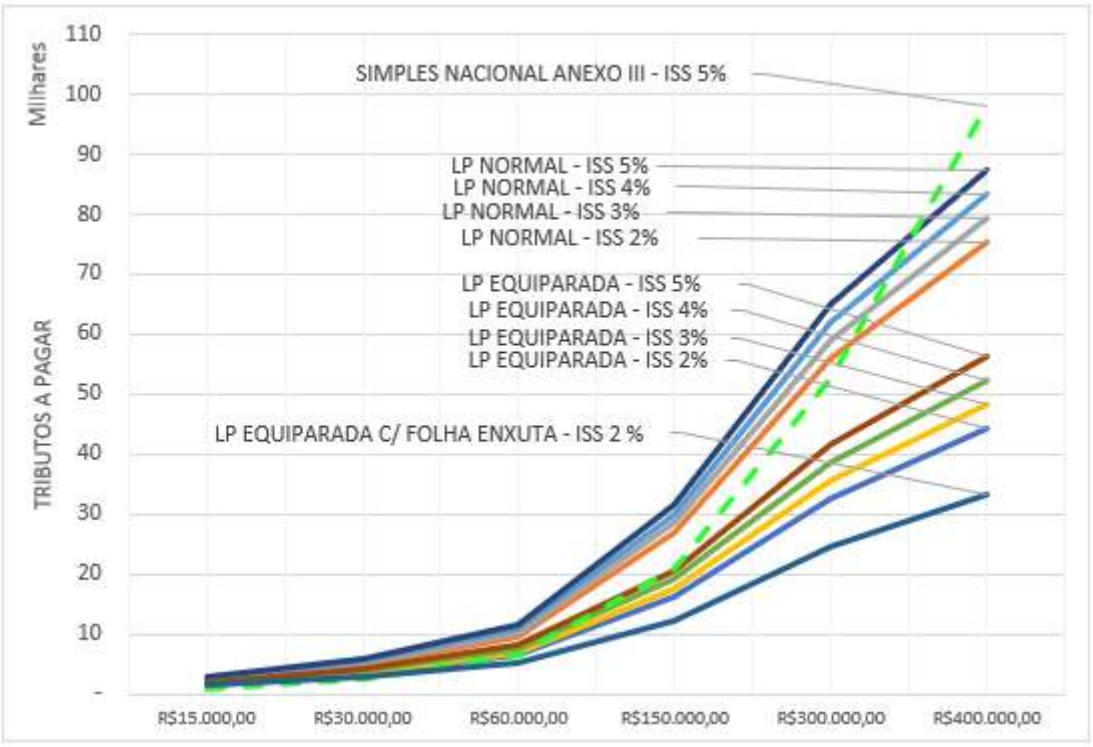
FAT. MONTHLY	PIS	COFINS	IRPJ 32%	CSLL 32%	IRPJ 8%	CSLL 12%	CPP
15000,00	97,50	450,00	720,00	432,00	180,00	162,00	423,94
30000,00	195,00	900,00	1440,00	864,00	360,00	324,00	847,88
60000,00	390,00	1800,00	2880,00	1728,00	720,00	648,00	1695,76
150000,00	975,00	4500,00	10000,00	4320,00	1800,00	1620,00	4239,39
300000,00	1950,00	9000,00	22000,00	8640,00	4000,00	3240,00	8478,78
400000,00	2600,00	12000,00	30000,00	11520,00	6000,00	4320,00	11305,04

Source: Prepared by the authors.

RESULTS AND DISCUSSIONS

The combination of the scenarios previously determined resulted in the model presented by [Graph 1], which includes the totality of taxes to be collected, in view of the respective revenues and projections of the models in the Simples Nacional and Lucro Presumido regimes.

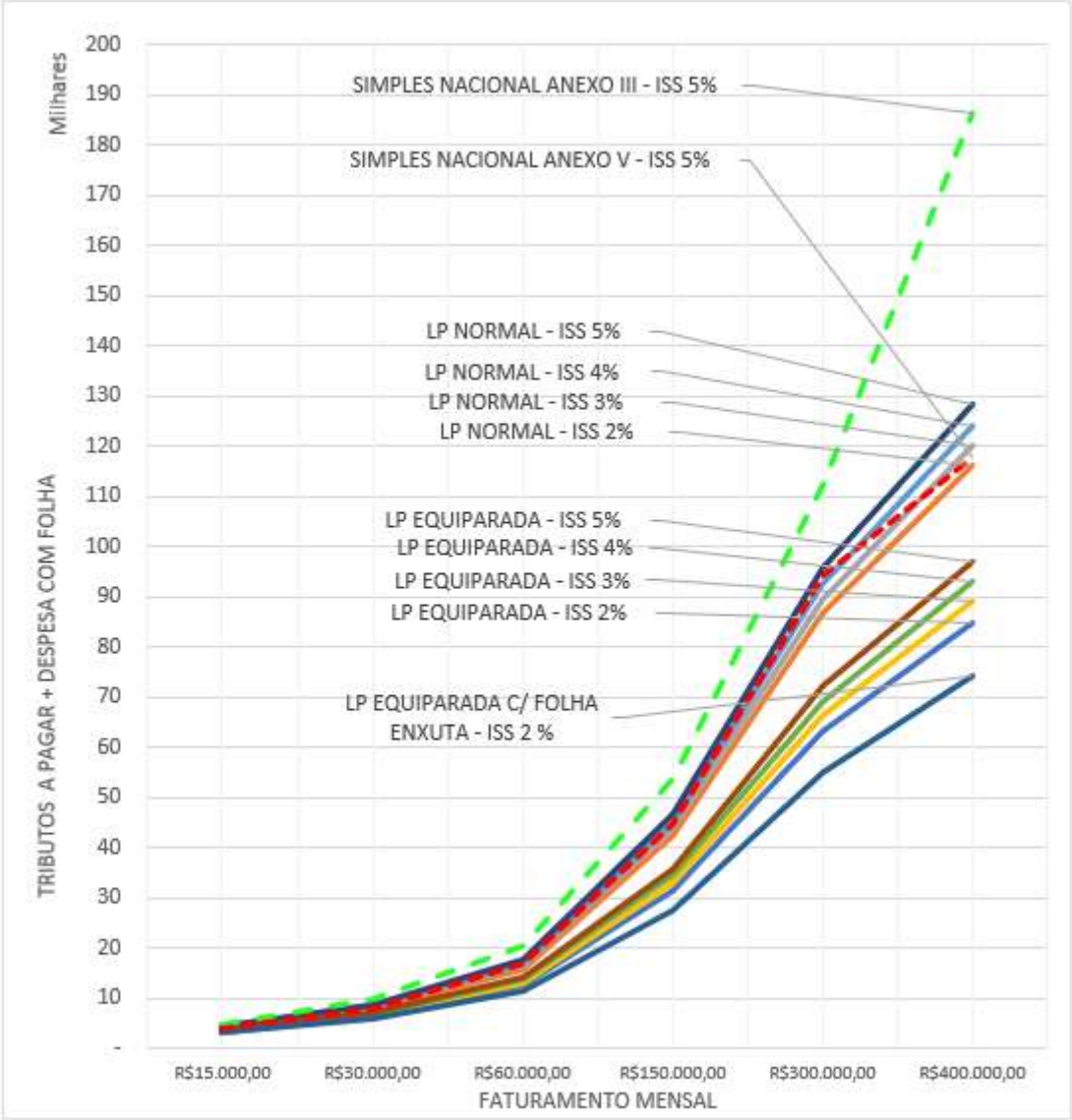
Graph 1 - Simulation of Tax Regimes in the face of Hospital Equivalence (Taxes to Be Collected x Monthly Revenue)



Source: Prepared by the authors.

In [Graph 2], there is a relationship in which tax expenses and payroll expenses are added in order to determine the lowest cost in a more comprehensive way.

Graph 2: Expenses with taxes and payroll in relation to the Tax Regimes



Source: Prepared by the authors.

It is noted in the behavior of the graph, in general, that the increase in the tax burden results in higher coefficients from the moment the revenue reaches the level of sixty thousand reais per month.

For companies that have the possibility of making the payroll leaner, in the case, for example, of a single payment as pro-labore, it can mean an opportunity even before they earn thirty thousand reais in monthly revenue.

However, even with the payroll being a determining factor for the tax burden of the Presumed Profit, in the established circumstances, in higher billing ranges, the Simples Nacional regime resulted in a higher tax burden.

The ISSQN, which is determined by each municipality, revealed jumps in fixed blocks, as expected. Medical companies that have lower tax rates can accumulate an advantage over the Simples Nacional.

In the "Normal" Presumed Profit regime, the effective rates of IRPJ and CSLL are, respectively, 4.80% and 2.88%, while in the hospital equivalence, the rates are 1.20% for IRPJ and 1.08% for CSLL. As much as the reduction of the tax burden on profit results in more than 70%, the other taxes have a greater weight in the effective composition of the tax burden. Disregarding the ISS, which varies according to the municipality, and also disregarding the social security contributions that vary according to the payroll, the distribution of tax weights in the Presumed Profit simulation can be defined according to [Table 8].

Table 8: Distribution of taxes in companies opting for the Presumed Profit

TRIBUTE	NORMAL	EQUATED
PIS	5,74%	10,96%
COFINS	26,48%	50,59%
IRPJ	42,37%	20,24%
CSLL	25,42%	18,21%
TOTAL	100,00%	100,00%

Source: Prepared by the authors.

Nevertheless, the tax burden, on average, in the simulation presented, also excluding ISS and social security contributions, resulted in the correlated percentages in [Table 9].

Table 9: Tax Burden on Presumed Profit

Presumed Profit	Tax Burden
Normal	11,33%
Equated	5,93%

Source: Prepared by the authors.

Within the same simulation, making the correlation in relation to personnel expenses and adding disbursements with taxes, the panorama of the management of medical companies takes on a new perspective, considering that the "R Factor" levels required in Annex III of the Simples Nacional do not aim at administrative optimization with the payroll.

FINAL CONSIDERATIONS

The possibility of taxing companies that have activities equivalent to hospitals with a reduction in profit presumptions can effectively result in a reduction in the tax burden in certain circumstances.

The possibilities of taxing these same companies under the Simples Nacional regime should not be ruled out, given that activities that cannot be equated can reestablish a new panorama in tax planning.

Undoubtedly, the administrative management of the payroll can completely determine the tax destinations of the companies analyzed, since the Presumed Profit regime requires greater efficiency regarding this expense, and the inevitable increase in the payroll may give rise to the consideration of the Actual Profit in other personnel hiring dynamics.

On the other hand, tax planning that aims only at reducing taxes without observing administrative management, in the sense of controlling available resources, will not be fully implemented.

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