

THE FEES ALLOCATED TO EXTRAJUDICIAL SERVICES IN THE STATE OF MINAS GERAIS: AN ANALYSIS OF FEDERAL LAW NO. 10,169/2000 AND STATE LAW NO. 15,424/2004



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ABSTRACT

The present work proposes to analyze the constitutional and normative aspects of the fees charged for the provision of notarial and registry services in the State of Minas Gerais. The research will have as a parameter the Brazilian normative system, starting from the Constitution of the Republic, of 1988. The central objects of the study will be Federal Law No. 10,169, enacted on 12/29/2000 and State Law No. 15,424, published on 12/30/2004. A legal-descriptive research will be carried out in order to examine the main normative aspects described in the federal and state legislative diplomas, in order to understand, from the constitutional point of view, whether there is correctness and pertinence in the performance of legislators regarding the setting of fees for notarial and registration activities.

Keywords: Emoluments, Federal Law No. 10.169/2000, State Law No. 15.424/2004, Normative and constitutional aspects.

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INTRODUCTION

The Constitution of the Republic, of 1988, establishes, in article 236, that notarial and registration services are exercised in a private capacity, by delegation of the Public Power. Paragraph 1 informs that the law will regulate the activities, discipline the civil and criminal liability of notaries, registration officers and their representatives, and define the inspection of their acts by the Judiciary.³

Paragraph 2 establishes that the federal law shall establish general rules for the setting of fees related to acts performed by notarial and registry services.⁴ Paragraph 3 defines that entry into the notarial and registration activity depends on a public examination of tests and titles, and it is not allowed that any service remains vacant, without the opening of a competition for supply or removal, for more than six months.⁵

Considering that this work will deal with the fees allocated to extrajudicial services in the State of Minas Gerais, what interests us in the Constitution of the Republic, of 1988, is paragraph 2 of article 236.

The general rules for setting the fees for extrajudicial services are contained in Federal Law No. 10,169/2000⁶. The rules of the State of Minas Gerais are contained in State Law No. 15,424/2004⁷.

Thus, while in the scope of concurrent legislation, the competence of the Union was limited to establishing general rules, which was done through the enactment of Federal Law No. 10,169/2000, the State of Minas Gerais had the supplementary competence to meet its peculiarities, which was done through the enactment of State Law No. 15,424/2004. All according to paragraphs 1 and 2 of article 24 of the Constitution of the Republic, of 1988:

Article 24. It is incumbent upon the Union, the States and the Federal District to legislate concurrently on:

(...).

Paragraph 1 - Within the scope of concurrent legislation, the competence of the Union shall be limited to establishing general rules.

2º The competence of the Union to legislate on general rules does not exclude the additional competence of the States.⁸

³ BRAZIL. Available at: https://planalto.gov.br/ccivil_03/constituicao/constituicao.htm. Accessed date: 26 Jun. 2024.

⁴ BRAZIL. Available at: https://planalto.gov.br/ccivil_03/constituicao/constituicao.htm. Accessed date: 26 Jun. 2024.

⁵ BRAZIL. Available at: https://planalto.gov.br/ccivil_03/constituicao/constituicao.htm. Accessed date: 26 Jun. 2024.

⁶ BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/leis/l10169.htm. Accessed date: 26 Jun. 2024.

⁷ MINAS GERAIS. Available at: <https://www.almg.gov.br/legislacao-mineira/texto/LEI/15424/2004/?cons=1>. Accessed date: 26 Jun. 2024.

⁸ BRAZIL. Available at: https://planalto.gov.br/ccivil_03/constituicao/constituicao.htm. Accessed date: 26 Jun. 2024.

Thus, we will start the study through the analysis of Federal Law No. 10,169/2000 and later we will examine State Law No. 15,424/2004.

Before proceeding, it is important to clarify that extrajudicial services cover notaries of notes and protest of titles, notaries and registries of maritime contracts and registries of real estate, titles and documents, civil records of legal entities, civil records of natural persons and distribution, according to article 5 of Federal Law No. 8,935/1994⁹.

FEDERAL LAW NO. 10,169/2000

Federal Law No. 10,169/2000 regulates paragraph 2 of article 236 of the Federal Constitution, establishing general rules for the setting of fees related to acts performed by notarial and registry services:

Article 1. The States and the Federal District shall set the value of the fees related to the acts performed by the respective notarial and registry services, in compliance with the rules of this Law.

Sole Paragraph. The amount set for the fees must correspond to the actual cost and the adequate and sufficient remuneration of the services provided.

The emoluments, which have the legal nature of a fee, constitute the amount paid by users for the practice of notarial and registration services. The following must correspond to the effective cost and the appropriate and acceptable remuneration for the services rendered:

Emolument is the amount paid by the user of the delegated service to the holder, in return for its performance. It is the mechanism that allows sufficient and adequate remuneration for the services of notaries and registrars.

(...).

Much has been discussed about the legal nature of emoluments. However, the Federal Supreme Court, in the judgment of Direct Action of Unconstitutionality 3089/DF, settled the issue. According to the praetorium, the emoluments have a tax legal nature, more precisely a fee.

This fee has a mixed configuration: it remunerates the provision of public service and the inspection carried out by the Judiciary. As it has the legal nature of a tax, the proper legal regime applies to emoluments, with a focus on strict legality, also focusing on the principles of tax law.¹⁰

The emoluments, therefore, have the legal nature of a fee, according to the understanding settled by the Federal Supreme Court in ADI No. 3089/DF. They must

⁹ BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/leis/l8935.htm. Accessed date: 26 Jun. 2024.

¹⁰ KÜMPEL, Vitor Frederico. Notarial and registry law in summary. 1. ed. São Paulo: YK Editora, 2023. p. 59.

correspond to the remuneration for the service provided by the notary or registrar and at the same time reward the inspection carried out by the Judiciary.

The *caput* of article 2 of Federal Law No. 10,169 reveals that for the determination of the value of the fees, the state law will take into account the public nature and the social character of notarial and registration services. Item I establishes that the amounts will be included in tables and will be expressed in the country's currency.¹¹

Item II of the same article 2 informs that the acts common to the various types of notarial and registration services will be remunerated by specific fees, set for each type of act.¹²

The federal legislator was successful in defining that services will be remunerated by specific fees, for each type of act. One of the reasons is because notarial and registration services concern several attributions: notary public, notary public of protest of titles, registration of real estate, civil registration of natural persons, registration of titles and documents and civil registration of legal entities.

In other words, the service provided in a notary public for the protest of securities, for example, is very different from the service provided in a notary public. The same occurs in relation to the service provided in a civil registry of natural persons, which differs greatly from the service provided in a real estate registry. This occurs in relation to all specialties.

Also: in the same specialty there are different services in complexity, which requires that the remuneration also be different. It is explained: in a notary public, for example, the services of notarization of signatures and the drawing up of public deeds of inventory and partition are practiced. Notarization is a much less complex service than the drafting of a public deed of probate and partition, which requires that the table of fees have different values for such services.

Thus, in view of the diversity of notarial and registration attributions, as well as the multiplicity of services that can be provided by the same specialty of notarial and registration services, the legislator was right to define that the acts common to the various types of services will be remunerated by specific fees, set for each type of act.

Item III of article 2 of Law 10,169/2000 establishes the following:

III – the specific acts of each service shall be classified as:

a) acts related to legal situations, without financial content, whose emoluments will meet the socioeconomic peculiarities of each region;

¹¹ BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/leis/l10169.htm. Accessed date: 26 Jun. 2024.

¹² BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/leis/l10169.htm. Accessed date: 26 Jun. 2024.

b) acts related to legal situations, with financial content, whose fees will be fixed through the observance of ranges that establish minimum and maximum values, in which the value contained in the document presented to the notarial and registry services will be included.¹³

The federal legislator was also happy to establish the general rule inscribed in subparagraphs 'a' and 'b' of item III of article 2. It was established that the specific acts of each service will be classified into acts related to legal situations without financial content and acts related to legal situations with financial content.

The legislator's correctness in the wording of the aforementioned article is justified by the provisions of paragraph 1 of article 145 of the Federal Constitution, according to which

Paragraph 1 - Whenever possible, taxes shall be of a personal nature and shall be graduated according to the taxpayer's economic capacity, and the tax administration shall be empowered, especially in order to give effect to these objectives, to identify, respecting individual rights and under the terms of the law, the taxpayer's assets, income and economic activities.¹⁴

In other words, classifying notarial and registration acts as related to legal situations without financial content and related to legal situations with financial content, the legislator applied the statement provided for in the Federal Constitution, according to which the taxpayer's economic capacity will be measured for the collection of taxes.

It is possible to argue that the remuneration of notarial and registration services is made through a fee and that paragraph 1 of article 145 of the Federal Constitution concerns the tax, which is a different tax species from the fee. Although this reasoning is doctrinally acceptable, it is still possible to argue that economic capacity should also be taken into account for the institution of taxes, due to the provisions of paragraph 3 of article 145 of the Federal Constitution, which enshrines the principle of tax justice and also by virtue of the text contained in article 77 of the National Tax Code, according to which:

The fees charged by the Union, the States, the Federal District or the Municipalities, within the scope of their respective attributions, have as a taxable event the regular exercise of police power, or the use, effective or potential, of a specific and divisible public service, provided to the taxpayer or made available to him.¹⁵

¹³ BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/leis/l10169.htm. Accessed date: 26 Jun. 2024.

¹⁴ BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm. Accessed date: 26 Jun. 2024.

¹⁵ BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/leis/l5172compilado.htm. Accessed date: 26 Jun. 2024.

Thus, the effective use of a specific and divisible public service provided to the taxpayer justifies the existence of a table that differentiates acts with and without financial content, considering that notarial and registry services may relate to acts with or without financial content.

The act of civil marriage, for example, characterizes a situation in which there is no financial content directly involved. Public deeds of purchase and sale, on the other hand, concern circumstances that clearly demonstrate financial content.

Thus, from the legal aspect, considering that marriage does not depend on the economic and contributory capacity of the individuals involved, such an act must be classified and charged as an act related to a legal situation without financial content.

The best examples of situations that should be classified as legal acts without financial content are found in the Federal Constitution itself, in item LXXVI of article 5, according to which civil birth registration and death certificates are free of charge for those who are known to be poor, in accordance with the law.¹⁶

In other words, birth and death are so independent of the economic and contributory capacity of the individual, that the constituent itself was in charge of providing for gratuity.

On the other hand, in the case of an act relating to a legal situation with financial content, the federal legislator provided that "the fees shall be fixed by observing ranges that establish minimum and maximum values, in which the value contained in the document presented to the notarial and registry services shall be included", ¹⁷all according to the wording contained in article 2, item III, paragraph 'b', of Federal Law No. 10,169/2000.

Thus, according to the rule set forth above, in acts related to legal situations with financial content, ranges that order minimum and maximum values must be observed, in which the value provided for in the document presented to the notarial and registration services will be framed.

A classic example capable of portraying the situation described above is the public deed of purchase and sale of real estate. As can be seen from the reading of article 108 of the Civil Code, the rule is that the public deed is essential to the validity of legal

¹⁶ BRAZIL. Available at: https://planalto.gov.br/ccivil_03/constituicao/constituicao.htm. Accessed date: 26 Jun. 2024.

¹⁷ BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/leis/l10169.htm. Accessed date: 26 Jun. 2024.

transactions aimed at the transfer of real rights over real estate with a value greater than thirty times the highest minimum wage in force in the country¹⁸.

It so happens that the public deed of purchase and sale may relate to a transaction equivalent to 40 (forty) minimum wages or 4,000 (four thousand) minimum wages. The value of the legal transaction can also be between the two ranges, below them or above.

Thus, in order to define objective parameters for the collection of fees, the legislator provided that the collection of acts related to legal situations with financial content will be made according to ranges that order minimum and maximum amounts.

As an example, it is possible to say that the collection of the fees of a public deed of purchase and sale in the declared amount of R\$50,000.00 (fifty thousand reais) should be different from the collection of the fees of a public deed of purchase and sale in the declared amount of R\$5,000,000.00 (five million reais).

Thus, the rule set forth in article 2, item III, paragraph 'b', of Federal Law No. 10,169/2000, is in accordance with the principles of the taxpayer's economic capacity and tax justice, both provided for in article 145 of the Federal Constitution. The rule is also consistent with the fundamental objectives of the Federative Republic of Brazil set forth in Article 3 of the Constitution:

Art. 3 The fundamental objectives of the Federative Republic of Brazil are:
I - to build a free, fair and solidary society;
II - to guarantee national development;
III - eradicate poverty and marginalization and reduce social and regional inequalities;
IV - to promote the good of all, without prejudice of origin, race, sex, color, age and any other forms of discrimination.¹⁹

Therefore, the provisions of article 2 of Federal Law No. 10,169/2000 are consistent with the construction of a fair and solidary society and do not imply an offense to national development and other fundamental objectives prescribed in the Federal Constitution.

The other provisions of article 2 of Law No. 10,169/2000 concern issues related to rural credit and the registration of guarantees. Article 3, in turn, prohibits some practices, such as the setting of fees as a percentage of the value of the legal transaction and the collection of amounts not expressly provided for in the tables of fees.²⁰

¹⁸ BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/leis/2002/l10406compilada.htm. Accessed date: 26 Jun. 2024.

¹⁹ BRAZIL. Available at: https://planalto.gov.br/ccivil_03/constituicao/constituicao.htm. Accessed date: 26 Jun. 2024.

²⁰ BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/leis/l10169.htm. Accessed date: 26 Jun. 2024.

Article 3 also prohibits the collection of fees as a result of the practice of an act of rectification due to an error attributable to the notarial and registry service itself and prevents the collection of any increases in the form of fees, costs and contributions to the State or Federal District, fund for the cost of free acts and special funds of the Court of Justice. or others that may be created, when there is the intervention of a rural producer.²¹

The issues related to rural credit and the registration of guarantees, as well as the prohibition of accruals when there is the intervention of rural producers, were included in the legislation through Federal Law No. 13,986/2020. Such circumstances are beyond the scope of the law, which should only provide for general rules for the setting of fees related to acts performed by notarial and registry services.

It is argued that it is up to the States of the Federation to regulate specific situations, even because rural production has different situations depending on the region of Brazil. In addition, by prohibiting collections when there is "intervention by rural producers", the federal legislator unconstitutionally interferes with the tax competence of the state legislator, since, under the terms of item III of article 151 of the Federal Constitution, it is forbidden for the Union to institute tax exemptions under the competence of the States, the Federal District or the Municipalities.²²

Thus, considering that the tax (emoluments rate) must be instituted through a state law, the legislator was wrong to include in Federal Law 10,169/2000 provisions that grant exemptions that should be instituted only by the competent state legislator.

On the other hand, the other prohibitions, such as the prohibition of the collection of amounts not expressly provided for in the tables of fees and the impediment of the collection of fees due to errors attributable to the service itself, in addition to being consistent with the principles of legal certainty, also respect the constitutional and tax principles and rules.

Articles 4 to 8 deal, respectively: the obligation to display the tables of fees in a visible place of the service; of the adjustments, which must observe the tax principle of anteriority; the obligation to issue a receipt of the fees received by notaries and registrars, in accordance with the table in force at the time of the practice of the act; the sanctions applicable to notaries and registrars in cases of non-compliance with the provisions of Law

²¹ BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/leis/l10169.htm. Accessed date: 26 Jun. 2024.

²² BRAZIL. Available at: https://planalto.gov.br/ccivil_03/constituicao/constituicao.htm. Accessed date: 26 Jun. 2024.

10,169/2000; that it is up to the States and the Federal District to establish a form of compensation to the civil registrars of natural persons for the gratuitous acts performed by them.

Articles 4 to 8 also comply with the scope of the law, that is, to establish general rules for the setting of fees related to acts performed by notarial and registry services.

Having analyzed Federal Law No. 10,169/2000, we will move on to the study of the main provisions of State Law No. 15,424/2004.

STATE LAW NO. 15,424/2004

In the State of Minas Gerais, State Law No. 15,424, published in 2004, provides for the fixing, counting, collection and payment of fees related to acts performed by notarial and registration services, the payment of the Judicial Inspection Fee and the compensation of acts subject to the gratuity established in federal law.²³

In paragraph 4 of article 1, it is provided that the interim designated to be responsible for the notarial and registration service will have the withdrawal limited to 90.25% (ninety point twenty-five percent) of the allowance of the Ministers of the Federal Supreme Court, and the excess to the salary ceiling must be paid to the Special Fund of the Judiciary.²⁴

This provision is in accordance with article 194 of Provision No. 149/2023, of the National Council of Justice²⁵. The theme, which had the general repercussion recognized by the STF and which received No. 779, has as its paradigm the judgment in RE (extraordinary appeal) No. 808202 and gave rise to the following thesis:

The substitutes or interim appointed for the exercise of a delegated function are not equivalent to the holders of extrajudicial services, since they do not meet the requirements established in arts. 37, item II, and 236, § 3, of the Federal Constitution for the original filling of the function, falling into the category of state agents, which is why the remuneration ceiling of article 37, item XI, of the Charter of the Republic applies to them.²⁶

Therefore, the amount that exceeds 90.25% of the allowance of the Ministers of the STF must be paid to the Special Fund of the Judiciary (FEPJ) of Minas Gerais. The purpose of the FEPJ is set out in article 2 of Law No. 20,802/2013, which created the Fund:

²³ MINAS GERAIS. Available at: <https://www.almg.gov.br/legislacao-mineira/texto/LEI/15424/2004/?cons=1>. Accessed date: 27 Jun. 2024.

²⁴ MINAS GERAIS. Available at: <https://www.almg.gov.br/legislacao-mineira/texto/LEI/15424/2004/?cons=1>. Accessed date: 27 Jun. 2024.

²⁵ CNJ. Available at: <https://atos.cnj.jus.br/atos/detalhar/5243>. Accessed date: 27 Jun. 2024.

²⁶ STF. Available at: <https://portal.stf.jus.br/repercussaogeral/teses.asp>. Accessed date: 27 Jun. 2024.

Article 2 The FEPJ, of indefinite duration, aims to ensure the necessary resources for the development of the specific activities of the Judiciary, to be applied, in particular, in the following actions:

- I – preparation and execution of programs and projects;
- II – construction, expansion and renovation of own buildings and real estate used by the Judiciary;
- III – expansion and modernization of computerized services;
- IV – acquisition of permanent material;
- V – acquisition of real estate;
- VI – qualification and training;
- VII – realization of expenses of an indemnity nature, classified as other current expenses;
- VIII – realization of other capital or current expenses, except those related to earnings, salaries, pensions and allowances of the Judiciary.²⁷

It should be noted that, among the actions to be developed with the resources from the surplus remuneration of the interims, there is none aimed at the notarial and registration activity. It would be important that the fee collected due to the provision of the notarial and registration service be applied to the activity itself.

Article 3 of Law No. 20,802/2013 reveals that the FEPJ's resources do not originate only from the surplus of the interim ceiling. Revenues from the payment of legal costs, agreements, disposals or leases of assets, financial investments, pecuniary penalties, registrations in competitions, among others, are also destined to the FEPJ.²⁸

Item IV of article 3 provides that FEPJ resources are "revenues from the collection of the Judicial Inspection Fee related to the exercise of police power carried out by the Judiciary".²⁹

In other words, any revenue from the Judicial Inspection Fee (TFJ) is also destined to the FEPJ. The TFJ, as provided for in articles 4, 5 and 6 of Law No. 15,424/2004, corresponds to an amount embedded in the fees, paid by the user of the notarial and registration service and transferred by the holder or interim to the FEPJ, periodically.

In several situations, the TFJ corresponds to more than 40% (forty percent) of the total value of the fees paid by the user to notarial and registration services. This

²⁷ MINAS GERAIS. Available at: <https://www.almg.gov.br/legislacao-mineira/texto/LEI/20802/2013/>. Accessed date: 27 Jun. 2024.

²⁸ MINAS GERAIS. Available at: <https://www.almg.gov.br/legislacao-mineira/texto/LEI/20802/2013/>. Accessed date: 27 Jun. 2024.

²⁹ MINAS GERAIS. Available at: <https://www.almg.gov.br/legislacao-mineira/texto/LEI/20802/2013/>. Accessed date: 27 Jun. 2024.

circumstance can be verified by reading Table 1, item 'IV', item 'b', of the annex referred to in paragraph 1 of article 2 of Law No. 15,424, of 2004³⁰.

It is important to emphasize that at least part of the resources allocated to the FEPJ, especially the surplus of the interim ceiling and the Judicial Inspection Fee (TFJ), could and should be used to improve notarial and registration activities.

Training and the acquisition of software, hardware and technologies, for example, especially for loss-making services located in the interior of the state, would be essential to meet the objectives set forth in Federal Law No. 8,935/1994, which aims to ensure publicity, authenticity, security and effectiveness of legal acts.³¹

The present study does not aim to analyze in detail the application of the resources destined to the FEPJ. The state legislator, through the enactment of State Laws numbers 15,424/2004 and 20,802/2013, defined priorities and objectively provided on the subject.

What is defended is only the inclusion of new provisions in the legislation, so that part of the collection from the notarial and registration activity is applied to the development of the activity itself.

Let us then move on to the analysis of article 10 of Law No. 15,424/2004, which provides the following:

Article 10 - The specific acts of each notarial or registry service, for the collection of amounts, under the terms of the tables contained in the Annex to this Law, are classified as:
I - acts related to legal situations without financial content;
II - acts related to legal situations with financial content and fixed values, or fixed through the observance of ranges that establish minimum and maximum values, in which the value contained in the document presented to the notarial and registry services will be included.³²

The above article practically reproduces the provisions of article 2, item III, paragraphs 'a' and 'b', of Federal Law No. 10,169/2000, providing that the specific acts of each service are classified into acts related to legal situations without financial content and acts related to legal situations with financial content.

Article 10 of Law No. 15,424/2004 is quite extensive and provides in detail for the criteria for the correct collection of fees related to legal situations with financial content.

³⁰ MINAS GERAIS. Available at: <https://www.almg.gov.br/legislacao-mineira/texto/LEI/15424/2004/?cons=1>. Accessed date: 27 Jun. 2024.

³¹ BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/leis/l8935.htm. Accessed date: 27 Jun. 2024.

³² MINAS GERAIS. Available at: <https://www.almg.gov.br/legislacao-mineira/texto/LEI/15424/2004/?cons=1>. Accessed date: 27 Jun. 2024.

The eight (8) tables contained in the annexes of Law No. 15,424/2004 also specify the framework of several acts. Table 1 refers to the acts performed by the notary public, while tables 2, 3, 4, 5, 6 and 7 refer, respectively, to the acts performed by the distribution registry, the notary public of protest of titles, the real estate registry, the registry of titles and documents, the civil registry of legal entities and the civil registry of natural persons. Table 8 provides for the acts common to notaries and registrars, thus applying to all specialties.

There are also explanatory notes at the end of each table, which help notarial and registry services in the collection of fees.

The observations about the classification of acts as related to legal situations with or without financial content were made during the analysis of Federal Law No. 10,169/2000.

The reading of item 5 of table 1, which concerns the "notarization of signature", shows that the legislator of Minas Gerais chose not to classify it as an act related to a legal situation with or without financial content. It can be said that the legislator acted in a technically correct manner, since the act of notarization only attests to the authorship of the signature affixed to the document, according to the lesson of Vitor Frederico Kümpel:

The nature of notarization is the attestation, based on notarial public faith, of the legitimacy or veracity of the signature affixed to the document, in order to declare its authorship.

The extra-protocol act now in evidence, carried out through direct notarial intervention in the document delivered by the applicant to the notary, without the drawing up of a record in the notarial books (except in the authentic signature), aims only to recognize as true or authentic the signature affixed, without linking the notarial faith to the content of the document. Its effectiveness is restricted to the verification of the signature, so that the effects are produced strictly in relation to the formal aspects of the legal act performed, without any interference in the content of the legal transaction considered in isolation.³³

Thus, it does not matter if the document concerns a pecuniary transaction or a declaration of address, for example. What is assessed is only the authenticity or similarity of the signature, which is why such an act should not be classified as relating to a legal situation with or without financial content. This is because the content of the act is not subject to analysis by the notary public, but only the signature affixed to the text.

Other articles contained in Law No. 15,424/2004 deal with the collection of fees in specific situations, such as land subdivision and real estate development (10-A), protest of securities (12-A to 12-C), attachment and protest arising from court order (13), credit notes

³³ KÜMPEL, Vitor Frederico. Notarial and registry law in summary. 1. ed. São Paulo: YK Editora, 2023. p. 359.

and notes (14), housing financial system (15) and reductions in fees in housing programs (15-A to 15-C).

The analysis of each of the articles mentioned above is not pertinent in the present work, as they would require a more accurate assessment to give rise to the writing of new studies. This justification will also postpone the examination of articles 16 (prohibitions on notaries and registrars), 18 (real estate development), 19 to 22 (exemptions), 23 to 30 (payment of the TFJ, penalties and tax and judicial inspection) and 31 to 43 (compensation of free acts and supplementation of revenue to loss-making services).

FINAL CONSIDERATIONS

In view of the situation analyzed, it is concluded that Federal Law No. 10,169/2000 and State Law No. 15,424/2004 are constitutionally pertinent. In fact, Federal Law No. 10,169/2000 establishes the general rules for the setting of fees related to acts performed by notarial and registry services, as provided for in paragraph 2 of article 236 of the Federal Constitution.

It is argued, however, that the amendment of Federal Law No. 10,169/2000 through Federal Law No. 13,986/2020, which provided for rural credit, registration of guarantees, and prohibition of accruals when there is the intervention of rural producers, entered the competence of the state legislator and granted exemptions that only the state legislature could grant.

In other words, the federal legislator unconstitutionally interfered in the state tax jurisdiction and contradicted the provisions of item III of article 151 of the Federal Constitution.

State Law No. 15,424/2004, in turn, from a constitutional, tax and systematic point of view, correctly provided for the fixing, counting, collection and payment of fees related to acts performed by notarial and registry services, the payment of the Judicial Inspection Fee and the compensation of acts subject to the gratuity established by federal law.

Also in relation to State Law No. 15,424/2004, combined with State Law No. 20,802/2013, it should be noted that it would be extremely important to introduce new provisions, in order to include, among the allocations of the resources of the FEPJ (Special Fund of the Judiciary), the investment in personnel and technologies for the development of the notarial and registration activity itself.

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