

# Kluwer Mediation Blog

## Tax Mediation: Breaking New Grounds – The Pioneering Case of Porto Alegre \*

Andrea Maia (Mediar360 – Dispute Resolution) · Monday, January 8th, 2024

As I mentioned before in some posts here at Kluwer, according to the Brazilian National Council of Justice, there are close to 90 million lawsuits currently in course in the country. Moreover, on average, it takes around 10 years for a lawsuit to reach closure if all appeals have been exhausted.

Interestingly enough, one of the biggest litigators in Brazil is the State.

According to a study published by [Instituto de Ensino e Pesquisa Insper](#), by the end of 2020, Brazil has already exceeded the mark of R\$ 5.5 trillion in tax debts undergoing judicial and administrative disputes at Federal, State, and Municipal levels.

Therefore, Tax Mediation has become a hot topic in Brazil nowadays. The Brazilian tax scenario is marked by challenges and delays and mediation emerges as an innovative alternative for conflict resolution. Porto Alegre, a city known for its avant-garde spirit, takes the lead in a pioneering project that seeks to improve the way tax matters are addressed.

The Pilot Project I will address here is a collaboration between the Brazilian Association of Finance Secretaries of Capitals ([ABRASF](#)) and the Brazilian Association of Financial Law ([ABDF](#)) with the objective to develop institutional spaces to introduce and operationalize mediation in tax matters in Brazil. Porto Alegre, the project's headquarters, already stood out in 2016 by implementing the Conciliation Center, as well as creating and regulating the Mediation and Conciliation Chamber. Municipal Attorneys of Porto Alegre, [Aline Cândano Peixoto](#) and [Patrícia Dornelles Schneider](#), lead this innovative movement.

This Project is being conducted based on 2022's [Law 13.028](#), followed by Decree [21.527](#), which regulates mediation in tax matters in the city.

“Given the millions of ongoing disputes in the Judiciary and Tax Administration, it seems that only the preventive and collective approach to tax controversies will be able to soothe relations between tax authorities and taxpayers, avoiding the avalanche of lawsuits that increasingly bury the Brazilian Judiciary”, stated [Ricardo Almeida](#), a Municipal Attorney of Rio de Janeiro and Legal Advisor of ABRASF (a very active player in the Tax Mediation scenario in Brazil).

Regarding the Porto Alegre's Pilot Project, Ricardo Almeida also states that:

“is innovative and takes a step forward not only for Brazil, but also for other countries as well, as

more than resolving, we have to prevent it. This approach with the taxpayer in the legislative and normative sphere is fundamental. We need dialogue between the parties to build solutions together.”

One of the emblematic cases of this initiative involves a public service concessionaire and the incidence of IPTU (Brazil’s Urban Property Tax) and TCL (Fee charged for Garbage Collection in the Municipality of Porto Alegre). The company, in the appeal phase to the Administrative Tribunal of Tax Resources (TART), sought mediation at the Mediation and Conciliation Chamber of the Attorney General’s Office of Porto Alegre (CMC/PGM/POA), and the conflict revolved around the incidence or not of IPTU in the area subject to tax incentives, with firm and opposing positions.

This case report highlights not only the effectiveness of mediation in tax matters, but also the innovative stance of Porto Alegre in opening paths for faster and more efficient solutions. The contribution of the Municipal Attorneys and the city of Porto Alegre in this scenario is undeniable. They lead a paradigm shift on how we deal with tax disputes, highlighting the transformative potential of mediation in this context.

This pioneering case also reveals that, besides being a more agile alternative, tax mediation can also be a powerful tool to reduce litigation and strengthen dialogue between taxpayers and the Public Administration.

The mediation reached an agreement and the pioneering tax mediation in this case highlighted the potential use of this instrument as a means of reducing the legal uncertainty caused by diverse jurisdictional interpretations, thereby increasing predictability regarding the costs associated with taxation.

Furthermore, as Aline Cándano Peixoto and Patrícia Dornelles Schneider wrote in a [article detailing the case](#)

“the case demonstrated that the relationship between the Tax Authority and the taxpayer can and should increasingly be one of collaboration and mutuality. It emphasized that the Public Administration is open to dialogue in the pursuit of consensus and the public interest”.

As often said in mediation, the negotiated agreement should always be the best possible for the parties involved, benefiting both parties, in this case, the Municipal Tax Office and the taxpayer.

This case demonstrates that the path to consensus is always possible when the parties make use of the appropriate public policy institution such as in this tax mediation case in Porto Alegre. It brings to those involved the protagonism and the pursuit of the best result for the resolution of their conflicts, ultimately resulting in mutual gains. This, in turn, reflects on society as a whole since tax collection aims to address social demands and public policies.”

In my opinion, this is just the beginning of a journey that promises to redefine the relationship between the tax authorities and taxpayers in Brazil. We are witnessing a silent revolution, led by visionaries committed to building a fairer and more efficient tax system. The city of Porto Alegre, with its bold initiatives, is paving the way for a new era in tax dispute resolution.

\*Porto Alegre is the capital of Rio Grande do Sul, one of the most progressive state in Southern Brazil.

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