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INCOME FROM THE ACTIVITY OF PROSTITUTION IS NOT ILLEGAL IT MUST BE SUBJECTED TO TAXATION AND THEREFORE MERITFUL OF TAX PROTECTION

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Abstract: *In the current legal scenario, income from prostitution must be worthy of attention and protection by the fiscal system, as tax legislation, by taxing everything that is lawful, cannot treat such income in the same way as the income coming from criminal activity (theft, robberies, drugs, etc..).*

Those who claim that the income from prostitution cannot be taxed because it is not cited in the tax law does not do it justice as it is not an autonomous system in respect to the other branches of law, therefore it is not the only source of regulation of tax companies. Moreover, the legislator, who for revenue needs, for extra fiscal purposes, for the evolution of the tax system, or even through a procedure traced by the case law, subjects a situation to taxation, believes that it must be worthy of protection by the tax system.

Without dwelling on the interweaving between the history of tax and the history of humanity, it is important to highlight how the evolution of the tax system reflects the profound changes in socio-economic structures as well as institutional political ones, also affected by interest, sensitivity, hopes and economic and financial conditioning.

From the reading of the Consolidated Law on Income Taxes, a unitary definition of income is not obtained, however, the forecast of different income categories is shown, whose common denominator is represented by the origin, or from a productive source, thus referring to other branches of law the specificity and regulation of the same. From this it emerges that the activity of prostitution, which in itself lacks profiles of unlawfulness (unlike the activity of aiding or exploiting it), must be recognized as a nature of income, since the civil law recognizes partial protection for the activity of prostitution, including sexual performance for payment in the category of natural obligation, which, if it does not allow right to action, gives the person who carried out the activity of prostitution the right to legitimately consider the sums received in payment of the service.

The activity of prostitution has been repeatedly examined by the tax jurisprudence of merit and legitimacy, with diametrically opposed rulings. But it is with sentence n. 22413 of 2016 that the Supreme Court puts an end to the differences in the case law, framing the income from prostitution in the category of different incomes regardless of the fact that the activity is carried out occasionally or habitually, noting the condition of habitability, only for the purpose of 'subjecting the proceeds of the activity of prostitution also for VAT purposes.

It would be appropriate for the legislator to intervene on the matter, given that the prostitution market produces a turnover estimated at around 4 billion a year.

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