CIDEEFF

TAX LITIGATION IN PORTUGAL

LEGAL AND EMPIRICAL ASSESSMENTS

1 RESULTS ON TAX LITIGATION IN THE STA

PUBLISHED RULINGS FROM 2018/2019

Prof. Dr. ANA PAULA DOURADO (Coordination)

Prof. NUNO GAROUPA (Researcher)

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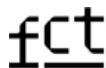
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ÍNDICE

LIST OF ACRONYMS AND ABBREVIATIONS

AT   Tax Authority

CAAD   Center for Administrative Arbitration

IMI   Municipal Property Tax

IMT   Municipal Tax on Onerous Transfers of Real Estate

IRC   Corporate Income Tax

IRS   Personal Income Tax

IS   Stamp Tax

IUC   Single Circulation Tax

VAT   Value Added Tax

LDA   Limited Liability Companies

PDF   Portable Document Format

PGR   Attorney General

S.A.   Public Limited Company

STA   Supreme Administrative Court

TAF   Administrative and Fiscal Court

TCA   Central Administrative Court

TTRIB   Lisbon Tax Court

I. INTRODUCTION: PRESENTATION, CONSTRUCTIONS AND RECOMMENDATIONS

Ana Paula Dourado
Nuno Garoupa

1. OBJECT AND PURPOSE

The reports now published include the empirical results of an interdisciplinary research project – legal and empirical – for which the subject is tax litigation in portugal. This is independent and pioneering scientific research in portugal and the first combining this subject and methodology[1].

One of the purposes of this research is to measure the tax judicial activity in portugal and analyse the results obtained through the indicators selected and listed in the spreadsheet prepared for data collection. They are expressed in column graphs that point out the issues that deserve legal and public policy reflection.

Identifying the problems and constraints of tax litigation in portugal assists in the elaboration of an accurate diagnosis of the issues. From the development of this research, it will be possible to trace the boundaries of an interface between the results obtained and an econometric study that will function as support for proposals to improve the performance of tax justice in portugal. The first results are presented in four specific reports: (i)results on tax litigation at the sta: published decisions from 2018 and 2019; (ii)results on tax litigation at the STA: published

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1   To achieve this, the authors draw on the work of: AAVV, Gouveia, Mariana França, Nuno Garoupa, Pedro Magalhães (coords.), Justiça Económica em Portugal, Factos e Números, II/III, Fundação Francisco Manuel dos Santos and Associação Comercial de Lisboa- Câmara de Comércio e Indústria Portuguesa, December 2012, https://www.ffms.pt/FileDownload/89bc01e7-015e-42b8-9ef2-e987e8bd27c4/justica-economica-em-portugal-factos-e-numeros; also referenced are Gomes, Conceição (coordination), Paula Fernando (coordination and data collection and processing), Justiça e Eficiência, O Caso dos Tribunais Administrativos e Fiscais, Observatório Permanente da Justiça do Centro de Estudos Sociais da Universidade de Coimbra, February, 2017. This study deals with administrative and tax courts of first instance, combines a statistical (but not inferential) methodology with interviews, and analysed the period between 1 January 2010 and 31 December 2015. In addition, "the main results of the study carried out by the Permanent Justice Observatory of the Centre for Social Studies of the University of Coimbra, at the request of the Directorate General for the Administration of Justice (DGAJ) had the central objective of characterizing the type of litigation that has most mobilized the administrative and tax courts of first instance, as well as their functional performance in responding to this mobilization. The DGAJ defined a set of specific objectives to which the work should give attention, such as the analysis of the functioning of the secretariats of the courts of first instance with a view to formulating proposals to streamline their functioning; the densification of possible areas of expertise; the identification, if justified, of measures to simplify the tax process; the evaluation of cases of opposition to the acquisition of nationality; and the identification of the possible implementation of advisory offices.

decisions from 2018 and 2019 (value of litigation above eur 100,000; (iii)results on tax litigation at the CAAD: published decisions from 2016 to 2021 (value of litigation above eur 100,000); and (iv)results on tax litigation at the STA: published decisions from 2018 and 2019 (value of litigation above eur 100,000).

Improving the functioning of the administrative and fiscal justice system is announced as one of the major priorities in the area of justice of the xxiii government. Therefore, this study aims to contribute to the development of public policies that will assist in achieving this goal.

2. THE SAMPLES

The study begins with the analysis of the judgments published by the supreme administrative court (STA) in tax matters on its website (in open access) for which the years 2018 and 2019 were selected for sample purposes. The collection of the sample and the work on it was initiated in 2020. As explained below in the methodology, as a whole, the data from 1306 judgments (645 judgments from the year 2018 and 661 from 2019) rendered in trials by the STA were surveyed and analysed. Additionally, the total amount of case time from the first instance to the STA was obtained. The identification of the case number in the first instance was possible in two situations, i.E. Through the full text or the case number contained in the judgments of the sta.

This identification occurred in 68% (893) of the analysed STA judgments. No identification was possible in 32% of the cases (413). The goal was to extend the analysis to decisions of the central administrative court south and north and to those of the court of first instance as well as to enlarge the samples.

A sample of arbitration awards issued and published by the center for administrative and fiscal arbitration (CAAD) in the years 2016 to 2021 on its website was also chosen and analyzed for cases above eur 100,000 for the years 2016 to 2021, inclusive. The decisions from the period of TROIKA's intervention in portugal, in the context of the sovereign debt crisis, were omitted[2]. In this period, many of the litigations were related to the context of the bailout and consequent approval of tax laws and tax increases. Their inclusion in the sample would have distorted the analysis of the performance of the CAAD (and the courts in general).

Given the high number of CAAD decisions for the chosen period, the authors selected cases with the "request value" field equal to or higher than eur 500,000 for the IRC (corporate income tax) and equal to or higher than eur 100,000 for the following taxes: IRS (personal income tax); IMT (municipal property transfer tax); stamp duty; IMI (municipal property tax); and the VAT (value added tax). A total of 1041 processes were analysed.

This sample is independent from the arbitrators (members and chairmen) since they were not the basis of it. The representativeness of the sample chosen for the CAAD is very relevant

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2   Agreement of Understanding signed in May 2011 between the Portuguese State and the International Monetary Fund, the European Commission and the European Central Bank aimed at balancing public accounts and increasing competitiveness in Portugal as a necessary condition for the EUR 78 billion cash loan that these three entities granted to the Portuguese state.

from the perspective of the value of the cases: 82.18% For 2016; 83.10% For 2017; 85.80% For 2018; 82.39% For 2019; 84.03% For 2020, and 78.84% For 2021. Above the eur 100,000 case value, the data indicate a consistent result between the number of victories and the amount collected by the state. Thus, there are fewer AT victories than the number of taxpayer victories, and the amount in question collected by the AT is also lower than that won by the taxpayer[3].

3. DURATION AND MEANING OF THE DECISION: MEANING AND (NON)COMPARISON OF DATA AND RESULTS

The results obtained for the caad (2016-2021) are not comparable to the results obtained for the STA (2018-2019): the populations (i.E. The decisions) and the samples (i.E. The criteria for compiling the database) are distinct.

However, from the taxpayer's point of view, the total duration of the process in the CAAD *versus the* duration in the courts – from the first instance to the decision by the STA – provides a representation of the slowness of the tax courts and the celerity of the CAAD. This is an appropriate occasion for reflection by the public authorities on the role of the tax courts in the near future. The continuation of a valid performance by the tax courts depends on serious reforms eliminating constraints evidenced in this study: procedural laws that are more efficient, scope of their competencies focused on more complex legal issues (material or substantive), elimination of bagatelles, continued training, and better allocation of state resources upstream of the courts[4].

Thus, as for the duration, as can be read in the chapter ahead (nuno garoupa), there is some volatility in the total duration between 51 days and 5679 days. The average is 1770 days, and the median is 1496 days (this average and median were calculated with 30% less information compared to the total STA sample from the first instance to the STA decision in the years 2018 and 2019 due to a lack of available information in open access).

In turn, when considering the length of proceedings in the STA, there is some volatility in the length between 9 days and 2476 days; the mean is 367 days, and the median is 266 days. This indicates that the distribution is not normal but with an unequivocal bias (since the median is lower than the mean). It also suggests that the delays – the extensive procedural times – occur primarily in the first instance and not in the STA.

As for the CAAD, a certain volatility was also ascertained in the duration of cases between 0.4 And 98.2 Months. The mean is 6.9 Months; and the median is 5.87 Months. This again indicates that the distribution is slightly skewed rather than a normal distribution. As a rule, in this study's sample, there is no appeal from their decisions.

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3   As mentioned below, there are 258 cases with partially upheld decisions that are not yet disaggregated with a total of EUR 311,390,010.22.

4   Previous studies have revealed the need for more and better human resources: Gomes, Conceição (coordination), Paula Fernando (coordination and data collection and processing), Justiça e Eficiência, O Caso dos Tribunais Administrativos e Fiscais...cit.

Another piece of data regarding the sample selected for the STA (all cases published in open access for 2018 and 2019) reveals that the probability of the taxpayer having a positive outcome is 35%, the probability of the at being successful is 46%, and other results are 19%. In rulings above eur 100,000 (2018 and 2019), the probability of the taxpayer prevailing is 41%, the probability of the AT winning is 51%, and partial dismissal occurs in 6% of cases.

In both cases and taking into account the extensive total duration of litigation (from the first to the last instance), there is an inefficient allocation of resources by both the taxpayer and the state. This would justify using an alternative means of dispute resolution, especially for low value cases, for determining simpler taxes and appeals regarding the application of fines. In the CAAD, for decisions over eur 100,000 and for the years of 2016-2021, the probability of the taxpayer succeeding was 50% ; the probability of the at winning is 21%; and other results were 29%.

The 524 upheld decisions amounted to a total of eur 529,047,679.66 While the unfounded amount to eur 245,811,334.44. There were 258 cases with partially upheld decisions that were not yet disaggregated with a total of eur 311,390,010.22.

The relatively low probability of the AT winning in the CAAD in the selected sample does not inherently mean that there is a tendency of biased decisions that are favourable to the taxpayer nor does it mean that the problem lies in a bad defense by the representatives of the treasury. Considering the individual incentives of taxpayers at all decision nodes, the observed percentages are consistent with the Priest-Klein Model[5]. It suggests that percentages approximate to 50% should be observed for each party in the initial phase of the dispute and when both parties are in a procedural equality. Now, the CAAD clearly does not resolve random disputes but only a selected portion biased by the incentives that the parties face (e.G. An asymmetric set of sunk costs) and by the distinct procedural positions (e.G. The appellant is always the taxpayer, and the respondent is always the AT). Thus, it might be expected that the taxpayer will have a much more significant share than the AT.

In the formal language of the priest-klein model, with the probability of the taxpayer winning being $p,$ the amount to be recovered being J, and the costs of litigating in the CAAD being c, the taxpayer will litigate if and only if $pJ > c$. This means, therefore, that $p > c/J$. The higher that the ratio c/J (net cost of litigating in the CAAD) is, the higher the minimum probability required by the taxpayer to litigate in CAAD will be. Consequently, the theoretical expectation is that the probability of taxpayers opting for litigation (rather than simply withdrawing) is reasonably high which is an observation consistent with the results in this study. However, this low probability for the TA means an inefficient allocation of resources by the state, and it is necessary to understand whether the problem lies upstream or downstream.

Decision makers should assess whether disputes should have been decided at the level of claims or hierarchical appeals in favour of the taxpayer or even avoided; whether the tax authorities and the legislature are aware of the CAAD's and the courts' jurisprudence and change

5   Priest and Klein, 1984, The Selection of Disputes for Litigation, Rand Journal of Economics, https://www.rand.org/content/dam/rand/pubs/reports/2006/R3032.pdf

behaviours and ambiguous legislation that give rise to disputes; the type of cases that are decided in arbitration (new legislation, cases not yet decided by STA case law, complexity of the analysed regimes); and whether there is randomness in the distribution of cases by presiding arbitrators and by vowel arbitrators.

4. STA RESULTS: IDENTIFICATION OF CONSTRAINTS AND RECOMMENDATIONS

From the STA data collection and analysis, the authors accentuate the following dimensions that deserve attention from public decision makers.

4.1 Types of actions

In the sample, appeals for the imposition of fines rank fourth among the types of legal actions after challenges, complaints against the decisions of the tax enforcement body, and opposition to enforcement. This is a very high result even though these appeals for the imposition of fines are the second slowest type of action to be tried, which is contrary to tax executions that the type of action decided in the least amount of time. Granting tax courts jurisdiction over fines, including those in trifling cases, is a choice of legislative policy and an organization of judicial powers that needs to be rethought.

4.2 Procedural, substantive, and procedural issues

When comparing litigation on issues of judicial (contentious issues), substantive, (matter or law) and tax authority procedures, contentious issues occupy an exaggeratedly high percentage, i.E. 51% Of the object of litigation compared to substantive issues (41%) and tax procedures (7%). Among the contentious issues, matters of court fees, nullity of sentences, and lack of grounds for appeal predominate.

In efficient tax litigation, the courts should be primarily occupied with interpreting substantive issues. As noted, these occupy 41% in this study's sample. The complexity of substantive tax laws – as is the case of the corporate income tax and the vat codes – requires the development of continuous clarification by jurisprudence, especially by the higher courts, and dialogue with other similar bodies such as courts of other OECD Member States or the Court of Justice of the European Union.

For example, issues of abuse or aggressive tax planning are currently decided in the european union in close dialogue between the respective tax authorities and also between the courts[6] which constitutes a case of horizontal and vertical legal pluralism[7]. That is, good jurisprudence and a coherent tax system require a dedication to significant questions. One is in the context of

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6   Robert Danon, Daniel Gutmann, Margriet Lukkien, Guglielmo Maisto, Adolfo Martín Jiménez, Benjamin Malek, 'The Prohibition of Abuse of Rights After the ECJ Danish Cases , (2021), 49, Intertax, Issue 6, pp. 482-516, https://kluwerlawonline.com/journalarticle/Intertax/49.6/TAXI2021050.

7   Ana Paula Dourado, "Justiça Tributária Internacional", in Revista Direito Tributário Atual, n.41. ano 37. pp. 457-487. São Paulo: IBDT, 1st semester 2019.

Dworkin's correct answer[8] that is based on the development of principles and subprinciples until rules are formulated. Another is in hart's positivist sense of a complete system of primary and secondary rules and no gaps[9]. Such dedication is incompatible with dispersion in the analysis of procedure and procedural issues (and of less or no complex taxes).

The excessive relevance of procedural issues reveals inefficiencies in procedural laws and an inability to resolve disputes at an earlier stage, i.E. Between the tax authority and the taxpayer. In turn, tax procedure issues comprise 7%, also a relatively high percentage, which also expresses inefficiencies for tax authorities to avoid and is indicative of a need for additional efficient procedures and procedural laws" or "procedures and procedural laws that are more efficient.

Issues of interpretation of tax treaties are an indicator of the relevance of cross-border investment, however, they are not revealed by the data. This will mean that, according to the sample data, portugal had little investment from multinationals (either foreign or portuguese capital) – disputes above eur 10 million are within the jurisdiction of the courts and cannot be subject to tax arbitration – an existing systemavoided litigation in the courts.

4.3 Unconstitutionality and statute of limitations issues

The sample data signals an excessive relevance of unconstitutionality issues of the rule and also a statute of limitations issue as an object of litigation.

The discussion of the unconstitutionality of rules on tax matters in a consolidated state of law for which its constitution has been in force for more than forty years indicates a tax legislature that is not very attentive to taxpayers' rights (violation of the reservation of the law, the prohibition of retroactivity, or the protection of confidence, poorly defined boundaries between types of taxes or between the powers of the central administration, autonomous regions, and municipalities); and/or a system of constitutional review that is limited to the control of rules and does not allow the courts to reject cases with the merely dilatory purpose of convictions[10].

In turn, although the statute of limitations may be qualified as a substantive issue, its excessive relevance as an object of litigation in the STA (ahead of tax deductions and tax benefits) shows likely incompetence in the performance of the tax authority. Additionally, there is ambiguous legislation on the counting of deadlines thus there is also inefficiency on the part of the legislature. In the same context, the issues of forfeiture have an exaggerated relevance and reflect the same type of inefficiencies as the disputes invoking the prescription of the debt. Litigation disputing the formalities in liquidation and error on the assumptions of fact and law convey defaults in the AT machine.

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8   Ronald Dworkin, *Taking Rights Seriously*, Cambridge, Massachusetts, 1978 (1977); Law's Empire, London, 1986; See also Jeremy Waldron, *Law and Disagreement*, Oxford, 1999.

9   H.L.A. Hart, *The Concept of Law*, Oxford, 1961; see also: Jules L. Coleman, Brian Leiter, "Determinacy, Objectivity, and Authority, *Law and interpretation, Essays in Legal Philosophy, Oxford*, New York, 1997 (1995); Thomas Endicott, Vagueness in Law, New York, 2003 (2000); Joseph Raz The Authority of Law, Oxford University Press, 2009 (1979).

10 Jorge Reis Novais, *Sistema Português de Fiscalização da Constitucionalidade: uma Avaliação Crítica*, Lisbon, 2021.

4.4 Object of the litigation

The data show an overly high relevance of taxes (it ranks fifth after corporate income tax, the VAT, and personal income tax). This denotes its excessive importance in the portuguese tax system and, at the same time, the occupation of the courts with taxes for which the design is simple and could be solved by alternative instances or alternative dispute resolution mechanisms.

4.5 Corporate income tax and the VAT

The graphs illustrate that actions involving corporate income tax (55% in up to 1 year, 25% from 1 to 2 years, 11% from 2 to 4 years, 3% from 4 to 6 years) followed by the vat (60% in up to 1 year, 27% from 1 to 2 years, 7% from 2 to 4 years, 2% from 4 to 6 years) are those that take the longest to be judged which is predictable given the greater complexity of these taxes.

4.6 Interest

Interest was not discussed in 65% of the appeals. When it was the subject of the claim, 62% was compensatory interest, and 33% was compensatory interest. If the probability of the tax-payer winning the litigation was 35% of the cases, the percentage for which compensatory interest is claimed is low, however, the total amount of it paid by the state needs to be ascertained given the high total time it takes for the claims to be decided.

4.7 Average duration and reporters

There is a set of rapporteurs in the STA that are clearly below and a set clearly above the average duration of cases; the figures were determined after being controlled for typology and procedural characteristics. This discrepancy would suggest an internal evaluation of individual performances to explain this asymmetry. For example, it is recommended to consider and ponder a case distribution method that is not based on the pace of individual judges when handing down a judgment. There are six panels of judges who have judged 56% of the cases followed by other panels with less relevant numbers of appeals.

4.8 Most frequent reoccurrences

The most frequent claimants are legal entities or an equivalent (54%) followed by individuals. For the purposes of public policy and the amendment of less clear substantive laws, it was important to understand which sectors of economic activity were litigating before the STA. However, in 62% of the appeals, the economic activity was not identified (they do not appear in the text of the judgment). Of the sectors identified, the gaming sector comes first with 10%, followed by the banking sector with 7%, wind farms with 5%, and the financial sector with 4%.

4.9 Decision times

STA decision times, on average, are similar and are independent of the beneficiary of the decision. The data also reveal that the time constraints are upstream of the STA, especially in the first instance.

4.10. Public prosecutor's office

In 46% of the appeals, the public prosecutor's office issued an opinion favourable to the AT and 34% for the taxpayer, it did not issue an opinion in 12%, and it was the author of the appeal in 2%. These percentages are approximate to the percentages of STA decisions that are favourable to the AT and favourable to the taxpayer. However, the opinion of the public prosecutor does not have a relevant impact on the time of the proceeding in the STA. One of its functions should be, precisely, to facilitate the interpretation and decision of the case by the court. Its role would be similar to that played by the Advocate General of the Court of Justice of the European Union, at least making the sentences and judgments shorter and faster. The relationship between the public prosecutor's office and the judges should be reconsidered. It should be ascertained whether the opinion of the former has a relevant impact on the decisions of the first instance and the ATT both in the direction and in the timing of decisions.

4.11. Large contributors

Being on the tax authority's list of "large taxpayers" has little impact on the amount of time taken by the tax administration to decide a case which may indicate that priorities are not decided according to the type of taxpayer/value of the case. The confrontation between type of taxpayer/value of the case/complexity of the matter could lead to different conclusions. If the category of large taxpayers created by the legislature intends to give special attention to this group of taxpayers (close follow-up), this attention does not seem to be reflected in the judicial procedural times.

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II. METHODOLOGY

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The research subject of the project "Tax litigation in Portugal: Analysis of the jurisprudence of the Supreme Administrative Court (STA) in the years 2018 and 2019" were its 1306 judgments (645 judgments from 2018 and 661 from 2019) handed down in trials. The jurisprudence database available at http://www.dgsi.pt/jsta.nsf/Pesquisa+Livre?OpenForm was consulted. To conduct the research, a computer program was developed that retrieved the information available in the STA's jurisprudence database and stored it in an Excel file. First instance distribution data available at www.taf.mj.pt was extracted.

In the initial search, it was not possible to obtain all of the details of each judgment such as the subject matter, the type of action in the first instance, and the section of judgment which made it impossible to identify the matter in question, i.e. whether administrative or tax, since both are under the competence of the STA. To obtain a detailed description, it was necessary to access each of the judgments using the link made available in the previous research to build a file with all of the information that makes up the database of the STA's jurisprudence.

Based on the cases decided by the Plenary, the Plenary of the Tax Litigation Section, and the Tax Litigation Section (2nd Section), 1,306 judgments were selected – 645 for 2018 and 661 for 2019. The remaining judgments tried by the Administrative Litigation Section (1st Section) and the Plenary of the Administrative Litigation Section were disregarded.

The necessary information was defined in addition to that automatically retrieved for the legal and economic analysis of the respective decisions. The primary objective was to standardize the filling out of the information, and values/markers were defined for each field whenever possible.

The database that was used presented the following characteristics: (i) absence of uniformity; for example, the information "date of entry" does not appear in part of the judgments; (ii) absence of standardization in the filling out; for example, the field "process" is sometimes filled in with the number of the judgment, with the number of the first instance proceeding at other times, or even with the number of the first instance followed by the number of the judgment;

and (iii) lack of structuring; for example, from the complete reading of the decisions, it was possible to identify other random information without a specific field such as the typicity of the first instance lawsuit that originated the appeal and the tax object of the decision.

The data collection instrument was composed of the following parameters: *Year; Origin of the Appealed Decision; STA Section; Date of Entry in STA; Date of Decision in STA; Type of Appeal; Type of Action; Type of Action (Specificity); Type of Tax; Other Revenue; Type of Interest; Tribunal a quo - TAF; No. of Case at Origin; Date of Entry at First Instance; Date of Decision at First Instance; TCA; Case No. at TCA; Date of Entry at TCA; Date of Decision at TCA; Rapporteur; Panel of Judges; Applicant; Respondent; There were Counter-Appellations from the Respondent Entity; Type of Taxpayer; Sector of Economic Activity; Amount in Dispute; Position of the Public Prosecutor; Issue Area of the Appeal (General); Issue Area of the Appeal (Specific); Issue Area of the Decision (General); Issue Area of the Decision (Specific); Other Specificities; Descriptors STA; Legal Rules at Issue; Decision of the Appeal; There was Dismissal; There was Prescription; The Right to Assess Tax Lapsed; Other Cases of Lack of Sufficient Jurisdiction; Voting; Administrative Appeal; Convoluted; Damages; Existing Case Law at the STA; Preliminary Injunction; Request for Preliminary Injunction; Year Entered at the First Instance; STA Link*[11].

The graphs, both simple and cross-referenced, presented in this report were created from a generator devised for the purposes of this research.

In order to preserve identity in the graphs that refer to the judges, the names were replaced by codes. The code attributed to each judge is dynamic and independent of the alphabetical order, the number of cases, or the taxes analysed. The code is generated based on the order in which the judges appear in the selected cases.

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11   For purposes of organization and systematization of information, the database in Gomes, Conceição (coordination), Paula Fernando (coordination and data collection and processing), Justiça e Eficiência, O Caso dos Tribunais Administrativos e Fiscais...cit, p. 44: " concerning tax proceedings presents the following categories: (a) case number; (b) date of entry; (c) year of entry; (d) organic unit; (e) species; (f) matter; (g) status; (h) value; (i) court; (j) author; (l) defendant; (m) tax; (n) object of the action; (o) place of entry; (p) date of entry (when at the AT or IGFSS); q) request for extension of time to contest; r) date of contestation; s) date of examination of witnesses; t) date of order for admission of expert opinion; u) date of notification of experts; v) date of receipt of expert report; (x) date of the judgment rendered in the TAF; (z) sense of the judgment; (aa) existence of an appeal; (bb) date of lodging an appeal; (cc) appellant; (dd) date of filing of pleadings; (ee) date of filing of counter pleadings; (ff) court of appeal; (gg) date of raising the case to the court of appeal; (hh) date of judgment of the court of appeal; (ii) sense of the judgment of the court of appeal; (jj) date of the last act; (ll) last act; (mm) remarks."

III. STA PARAMETERS

Bruno Moutinho
Claudia Marchetti da Silva

1. YEAR OF DECISION

1306 judgments were analysed, i.e. 49% from 2018, and 51% from 2019.

STA. Gráfico por Ano
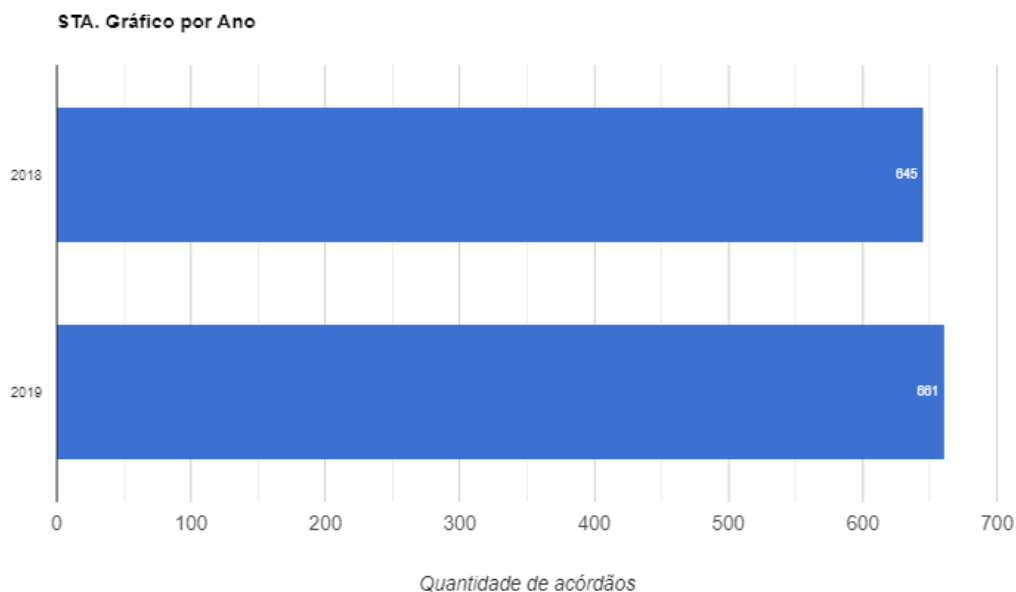
2. SECÇÃO DO STA

Of the 1306 judgments analysed, 88% were judged in the 2nd Section (Tax Litigation Section), 10% in Plenary[12], and less than 1% in Plenary[13].

STA. Gráfico por Secção STA

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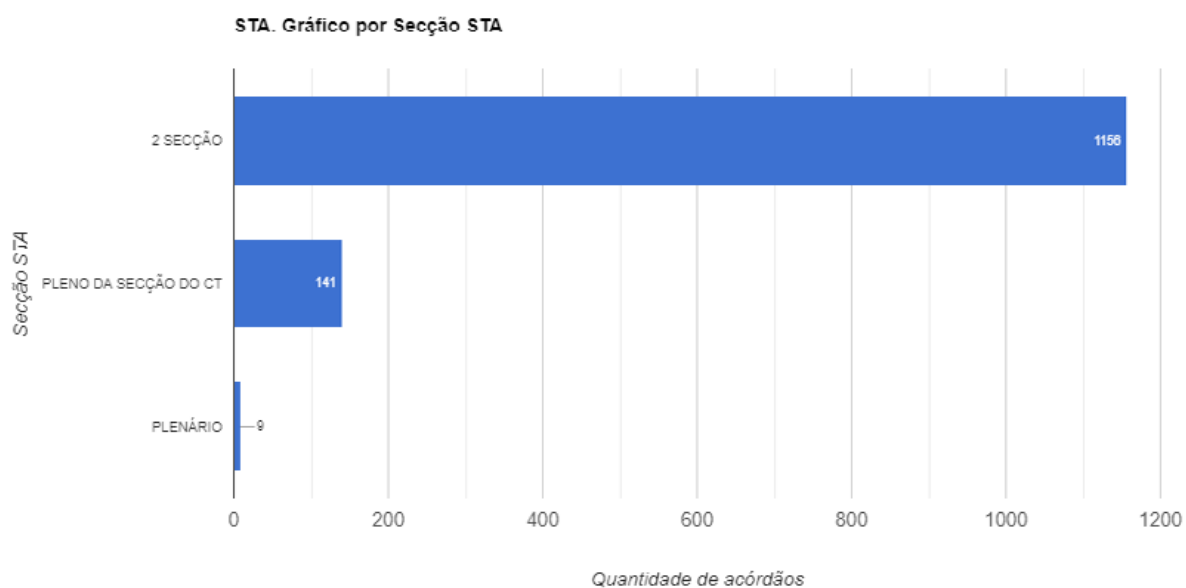
12 The Full Bench of each Section is responsible for hearing appeals against decisions rendered by the Section of first instance and appeals for the uniformization of jurisprudence. It is also responsible for deciding, under the terms established in the procedural law, on the direction in which a matter of new law that raises serious difficulties and that may arise in other disputes should be resolved by a court of first instance in the administrative and tax jurisdiction. Available at https://www.stadministrativo.pt/tribunal/apresentacao/

13 The Plenary of the Supreme Administrative Court is composed of the president of the court, the vice-presidents, and the five most senior judges of each Section. It is responsible for hearing appeals for the uniformization of jurisprudence when there is a contradiction between judgments of both Sections of the Supreme Administrative Court. Available at https://www.stadministrativo.pt/tribunal/apresentacao/

3. ORIGIN OF THE CONTESTED DECISION

Of the 1306 judgments analysed, 67% of the appeals originated from the TAF, 11% from the TCA SUL, 9% from the STA, 5% from the TCA Norte, and 4% from the CAAD.

STA. Gráfico por Origem da Decisão Recorrida

Quantidade de acórdãos
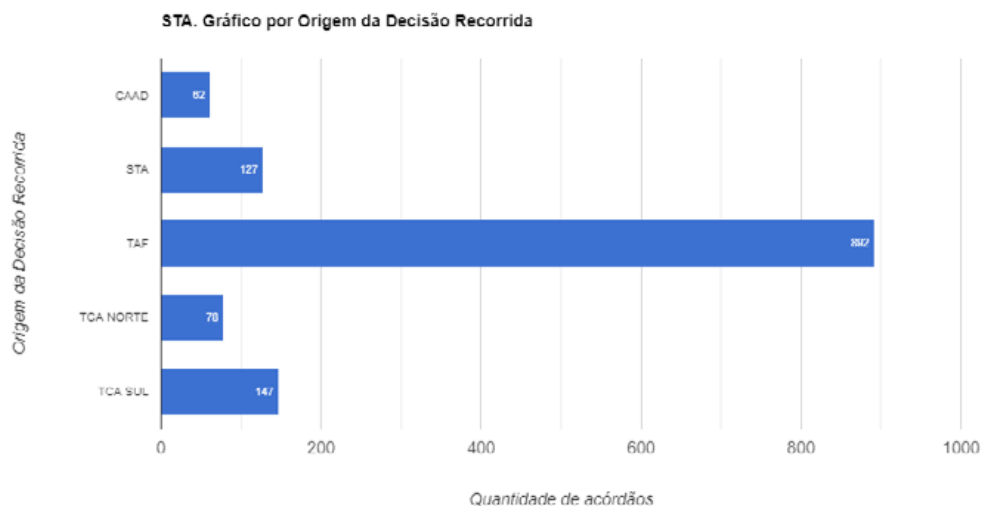
4. TYPE OF APPEAL

The most used appeals are the judicial appeal (70%), appeal for uniformity of jurisprudence (9%), appeal for review (9%), and reform of sentence as to costs (4%) followed by other less relevant ones.

STA. Gráfico por Tipo de Recurso

Quantidade de acórdãos

Back to Index
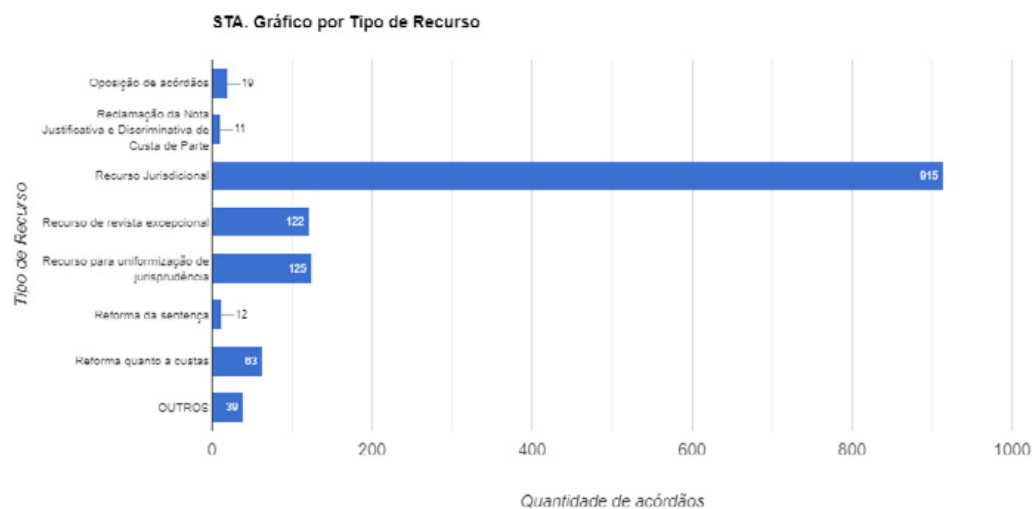
5. TYPE OF ACTION

The appeals originated from the following types of action (first instance): judicial review (49%), complaint against the acts of the tax enforcement body (15%), tax opposition (13%), and appeal against the application of a fine (8%) followed by other less relevant ones.
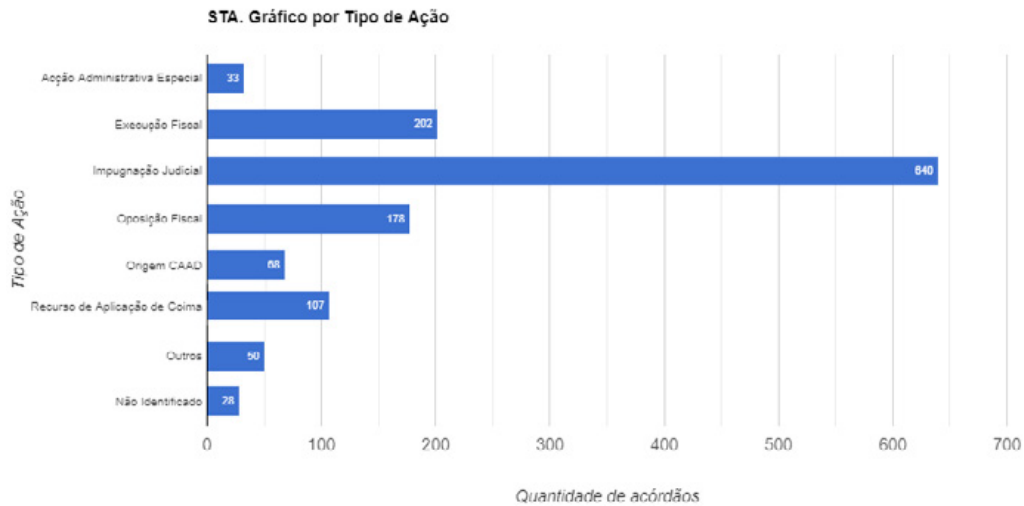
6. TYPE OF TAX

The most litigated taxes were the IRC (20%), VAT (16%), IRS (14%), and taxes (8%) followed by other less relevant ones.

Back to Index
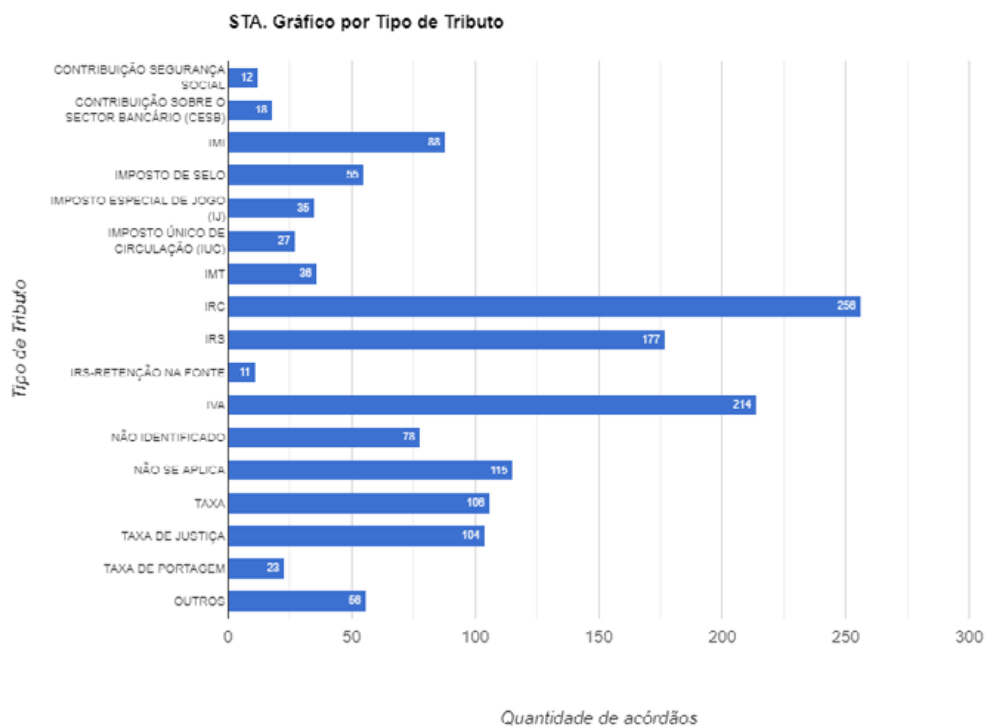
7. TYPES OF INTEREST

It was not possible to identify whether interest was discussed in 65% of the appeals. When interest is the subject of the demand, 62% constitute compensatory interest and 33% compensatory interest.

STA. Gráfico por Tipo de Juros
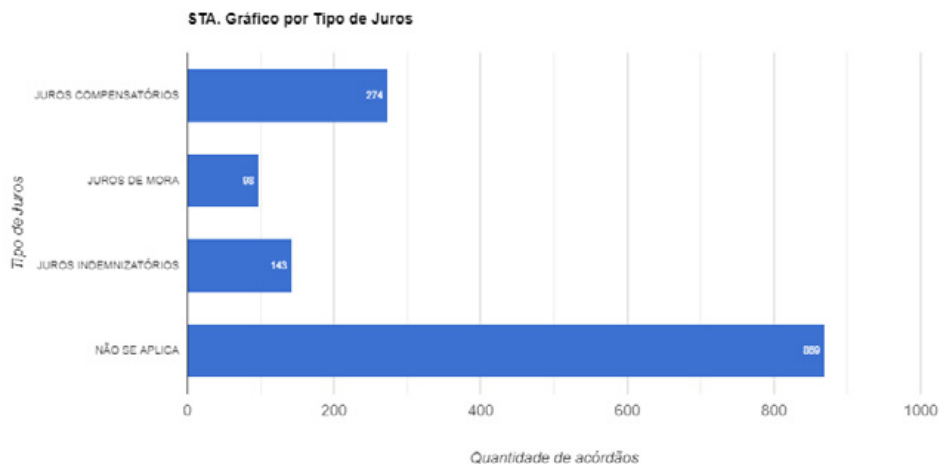
8. TRIBUNAL A QUO - TAF

Appeals originated in 19% in the Lisbon TAF, 15% in the Oporto TAF, 10% in the Sintra TAF, and 6% in the Braga TAF followed by other less relevant ones

STA. Gráfico por Tribunal a quo - TAF
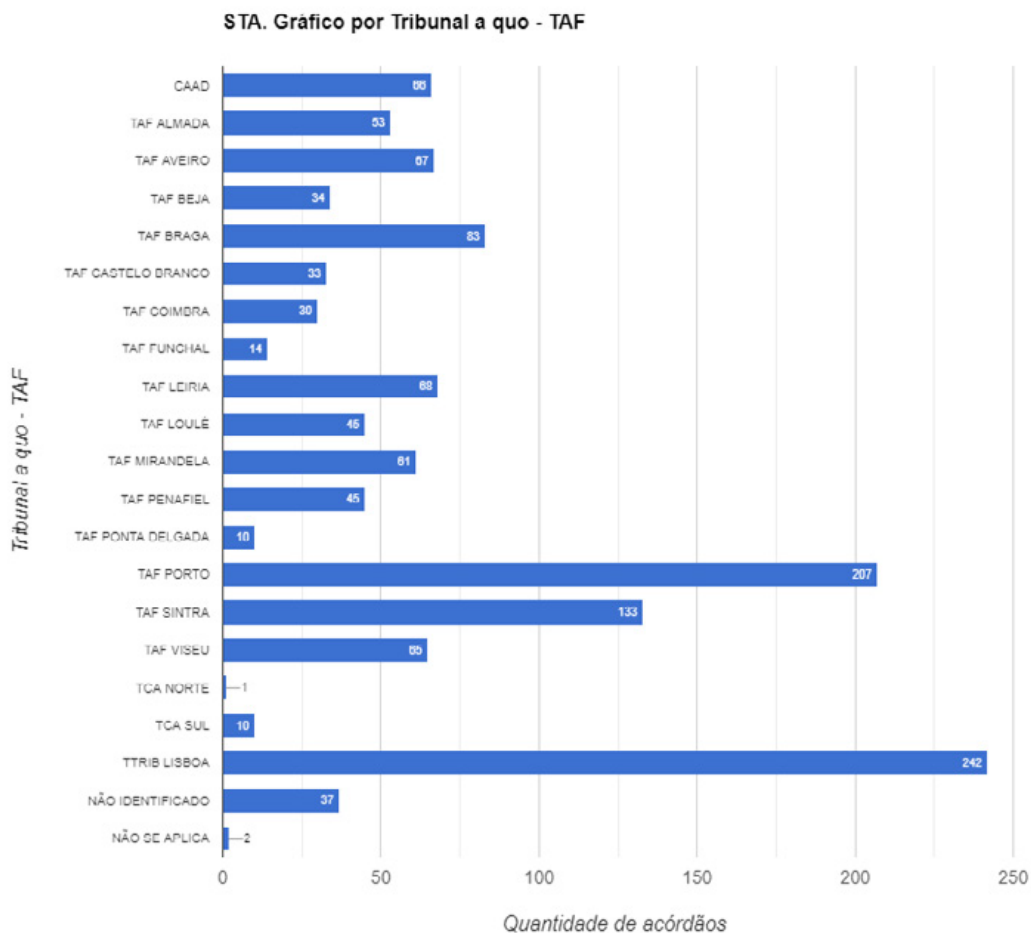
9. TCA

82% of the resources did not go through the ATT or could not be identified. 10% of the appeals went through the South ATT, and 5% went through the North ATT.

STA. Gráfico por TCA

Quantidade de acórdãos
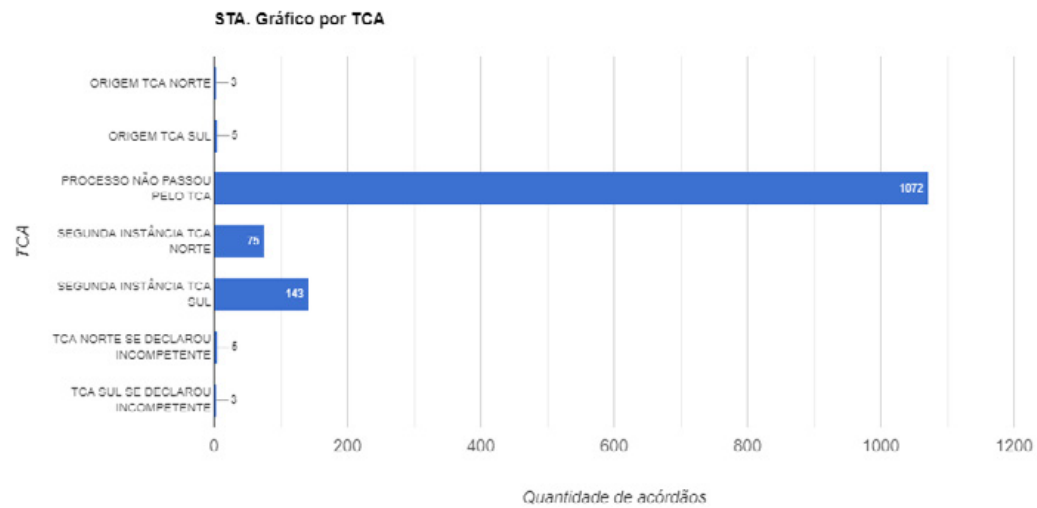
10. REPORTER

The reporter identified with the abbreviation R09 judged 13% of the appeals, R02 judged 12%, R03 judged 11%, and R06 judged 10% followed by other reporters with a less relevant number of appeals.

STA. Gráfico por Relator

Quantidade de acórdãos

Back to Index
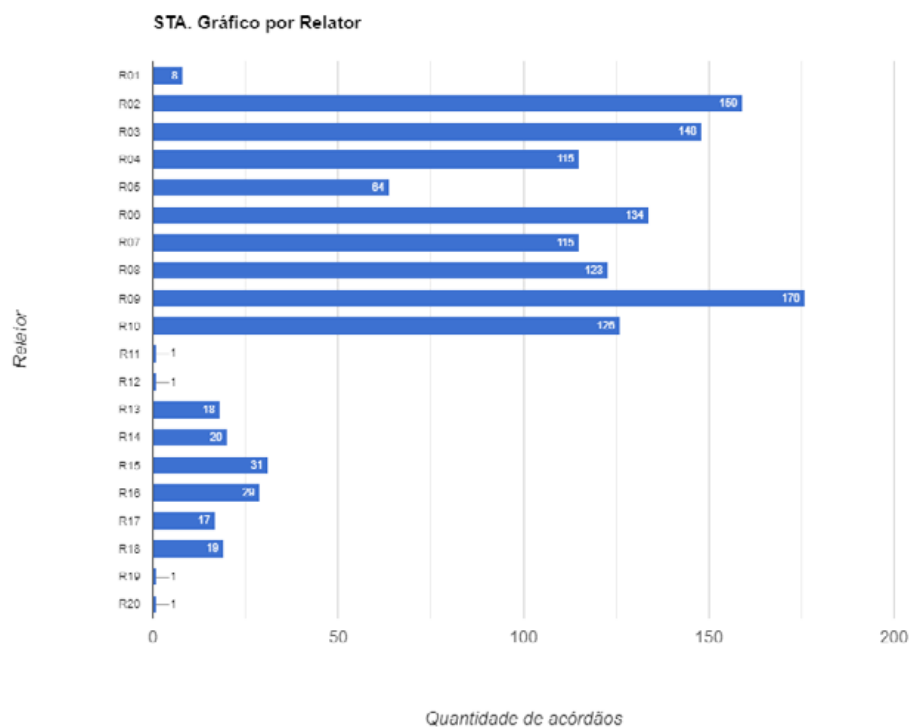
11. RELATOR (GENDER)

In 70% of the judgments, the rapporteurs are male and are female in 30%.

Por Relator (Gênero)

Relator (Gênero)

FEMININO — 384

MASCULINO — 922

Quantidade de acórdãos
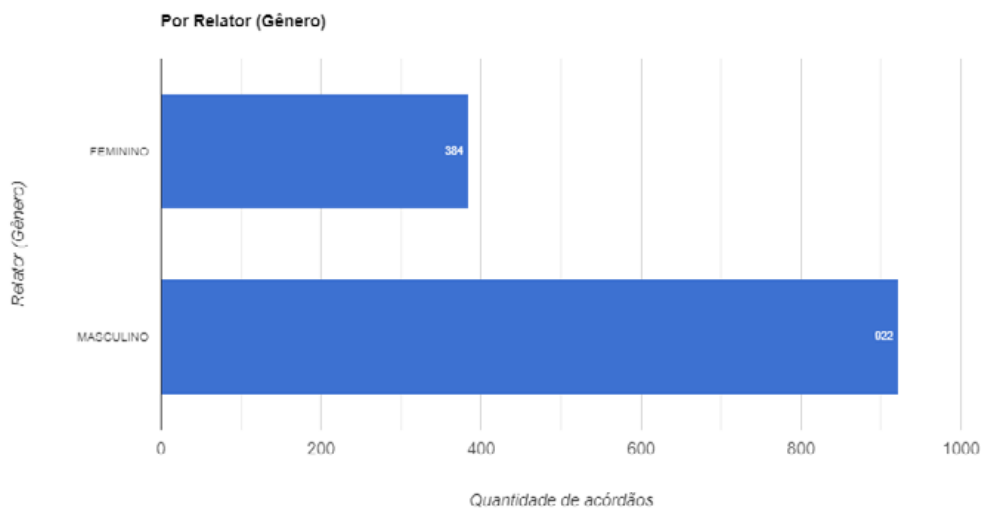
12. RECURRENT

The taxpayers appear as appellants in 56% of the appeals and the treasury in 40%.

STA. Gráfico por Recorrente

Recorrente

AMBOS — 0
CONTRIBUINTE — 734
FAZENDA PÚBLICA — 524
MINISTÉRIO DA JUSTIÇA — 1
MINISTÉRIO PÚBLICO — 31
MINISTÉRIO PÚBLICO/ FAZENDA PÚBLICA — 1
OUTROS — 7

Quantidade de acórdãos
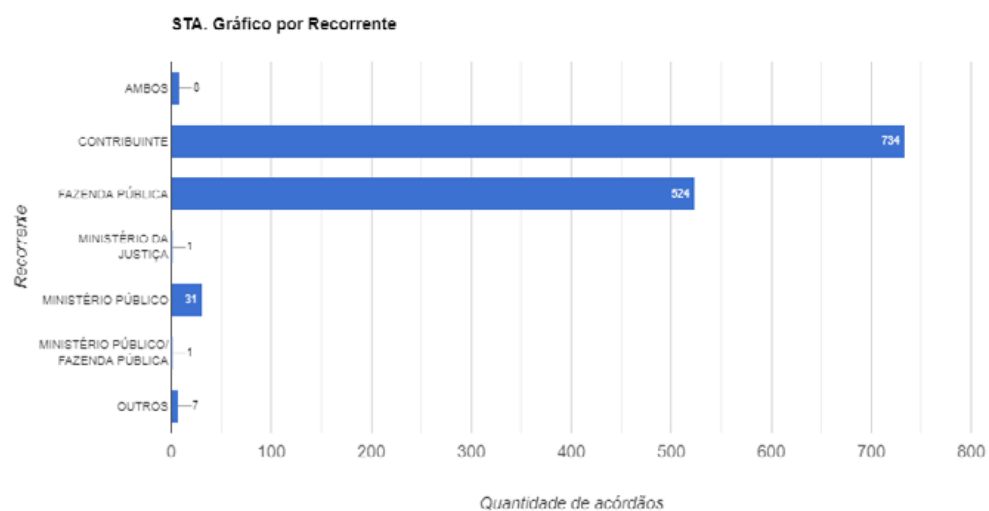
13. RESPONDENT

The taxpayers are the defendants in 41% of the appeals and the public treasury in 56%.
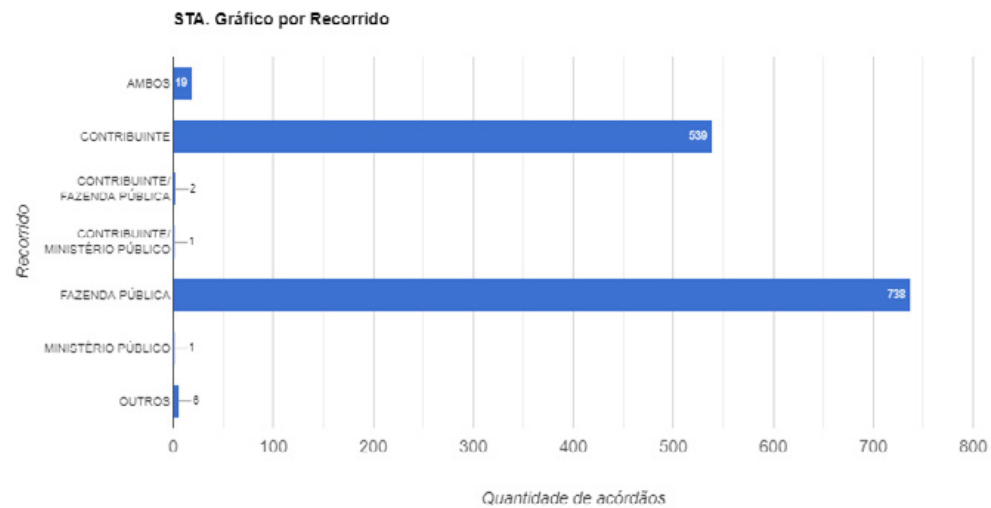
14. CONTRA-ALLOCATIONS OF THE RECORDING ENTITY

The taxpayers countered in 19% of the cases. The public treasury counter-claimed in only 12%.
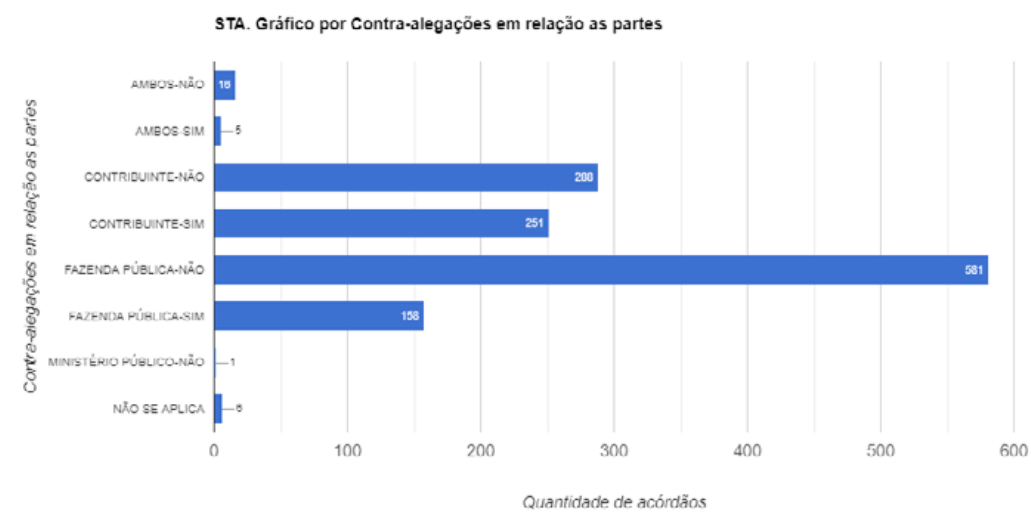
15. TYPE OF CONTRIBUTOR

In 32% of the appeals, the contributors are legal entities or equivalent S.A., they are individuals or equivalent in 26%, and they are legal entities or equivalent LDA in 22% followed by other less relevant types of contributors.

STA. Gráfico por Tipo de Contribuinte
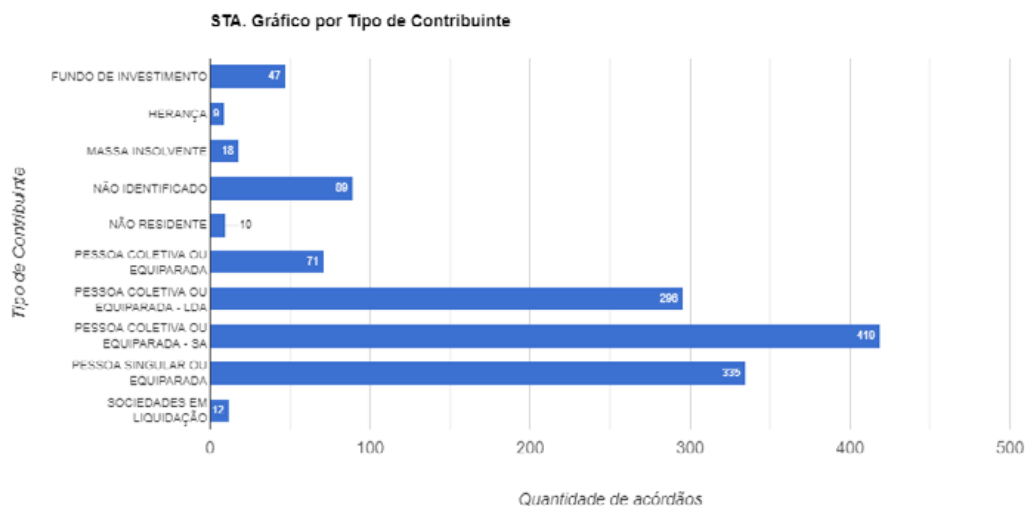
16. ECONOMIC ACTIVITY SECTOR

In 62% of the appeals, the economic activity was not identified (they do not appear in the text of the accord). Of the identified sectors, gaming appears in first place with 10% followed by banking with 7%, wind farm 5%, and financial sector with 4%.

STA. Gráfico por Setor de atividade econômica

Back to Index
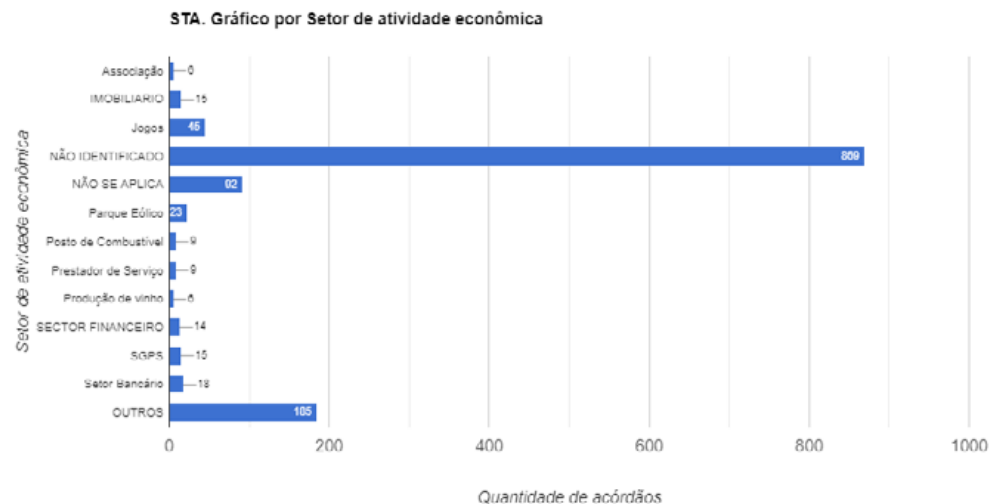
17. POSITION OF THE MP

In 46% of the appeals, the public prosecutor's office issued an opinion favourable to the public treasury, favourable to the taxpayer in 34%, it did not issue an opinion in 12%, and it was the author of the appeal in 2%.

STA. Gráfico por Posição do Ministério Público em Relação as Partes
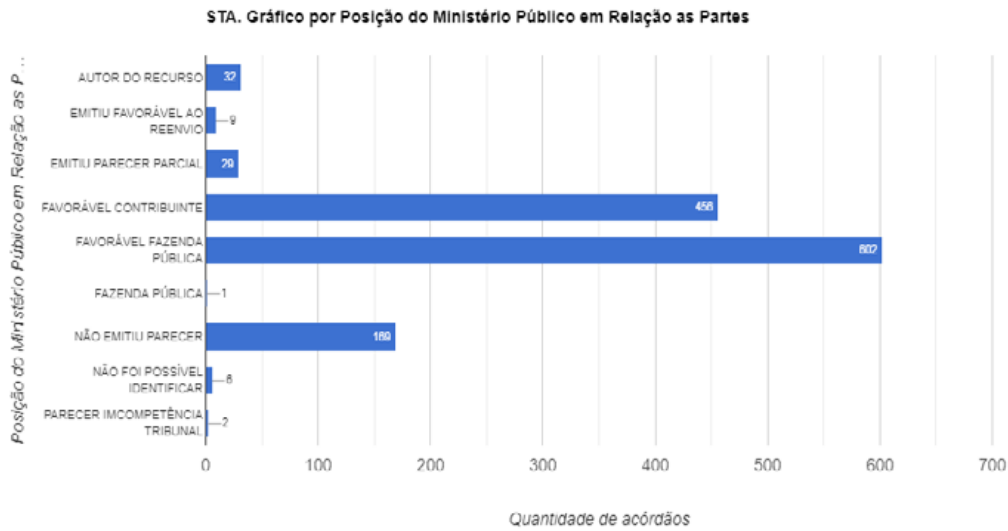
18. RESOURCE THEMATIC AREA

Of the appeals analysed, the thematic area discussed is litigation (process) in 52%, 41% is matter (law or substantive issues), and 7% refers to procedure (formalities practiced by the AT).

STA. Gráfico por Áre Temática do Recurso (Genérica)

Back to Index
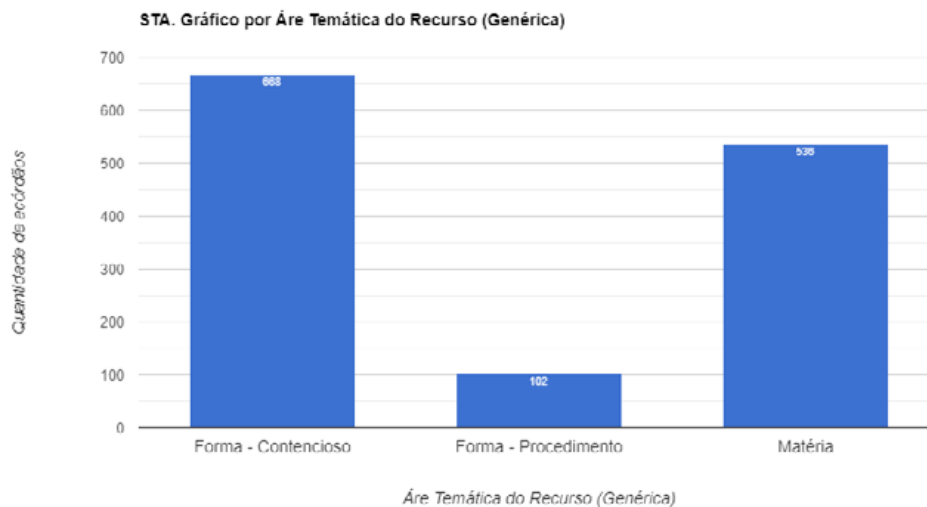
19. AREA OF APPEAL (SPECIFIC)-LITIGATION

When the subject area of the appeal is litigation, the issues most commonly raised are court fees (19%), nullity of sentence (18%), and absence of the presuppositions of the appeal (13%) followed by other less relevant issues.

Área Temática do Recurso (Genérica): Forma - Contencioso
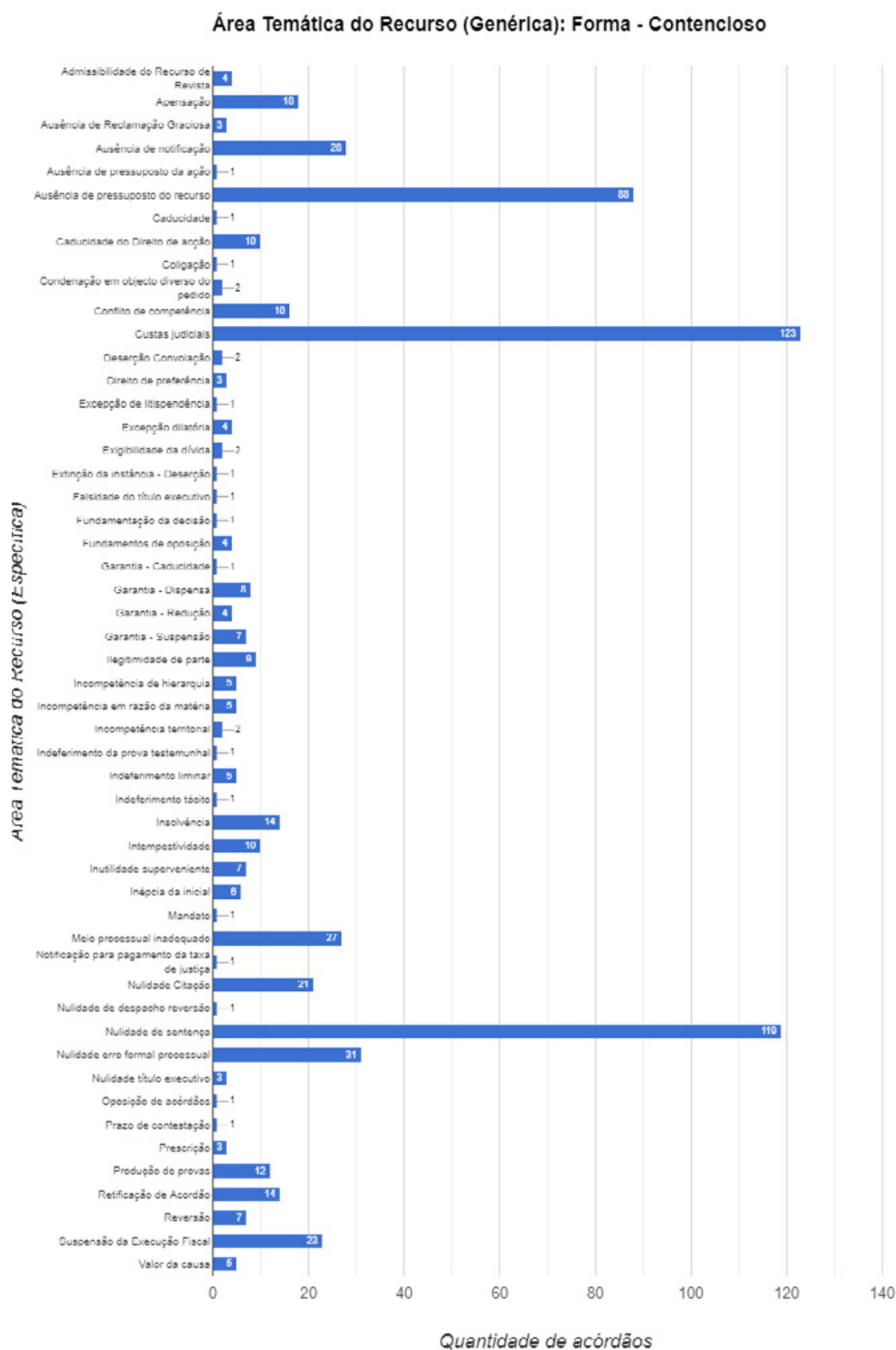
20. AREA OF APPEAL (SPECIFIC)-PROCEDURAL FORM

When the subject area of the appeal is procedure, the most common issues raised are assessment – formalities (26%), errors on factual and legal assumptions (24%), and assessment – lack of grounds (17%) followed by other less relevant issues.

Área Temática do Recurso (Genérica): Forma - Procedimento
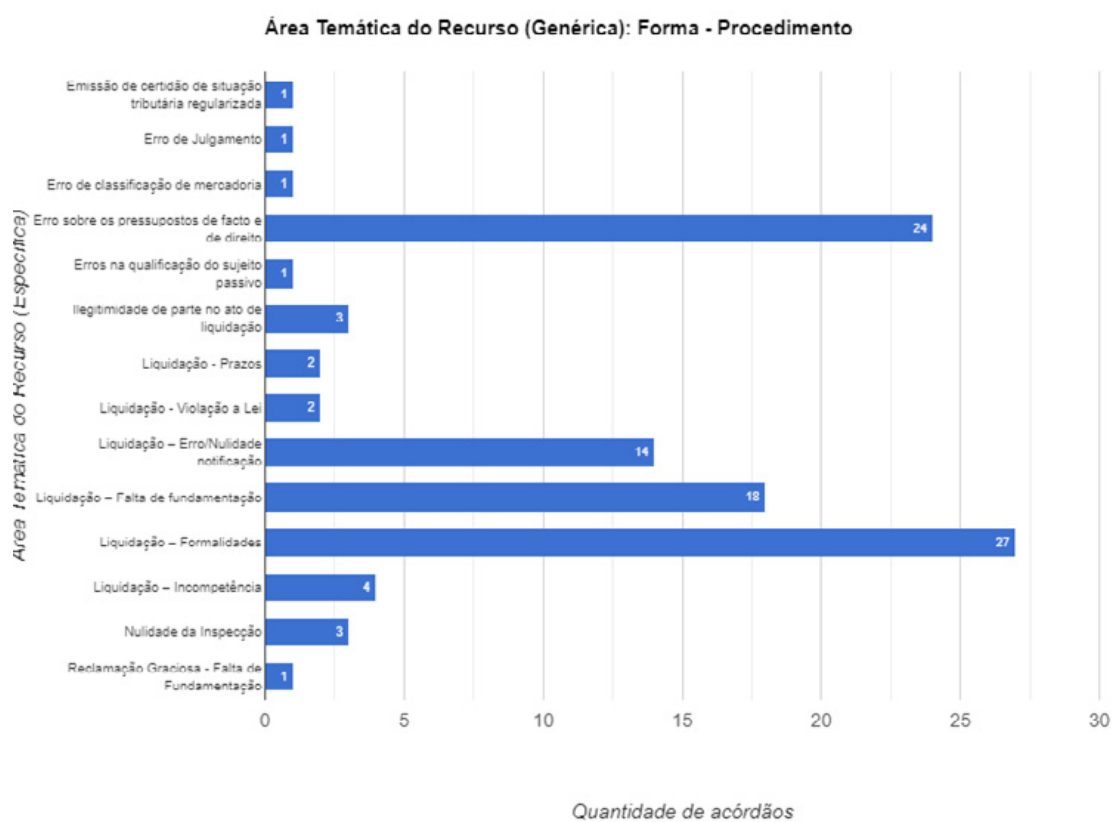
21. AREA OF APPEAL (SPECIFIC) - SUBJECT

When the subject area of the appeal is matter, the most raised issues are calculation basis (17%), unconstitutionality of the rule (15%), and prescription (10%) followed by other less relevant issues.

Área Temática do Recurso (Genérica): Matéria
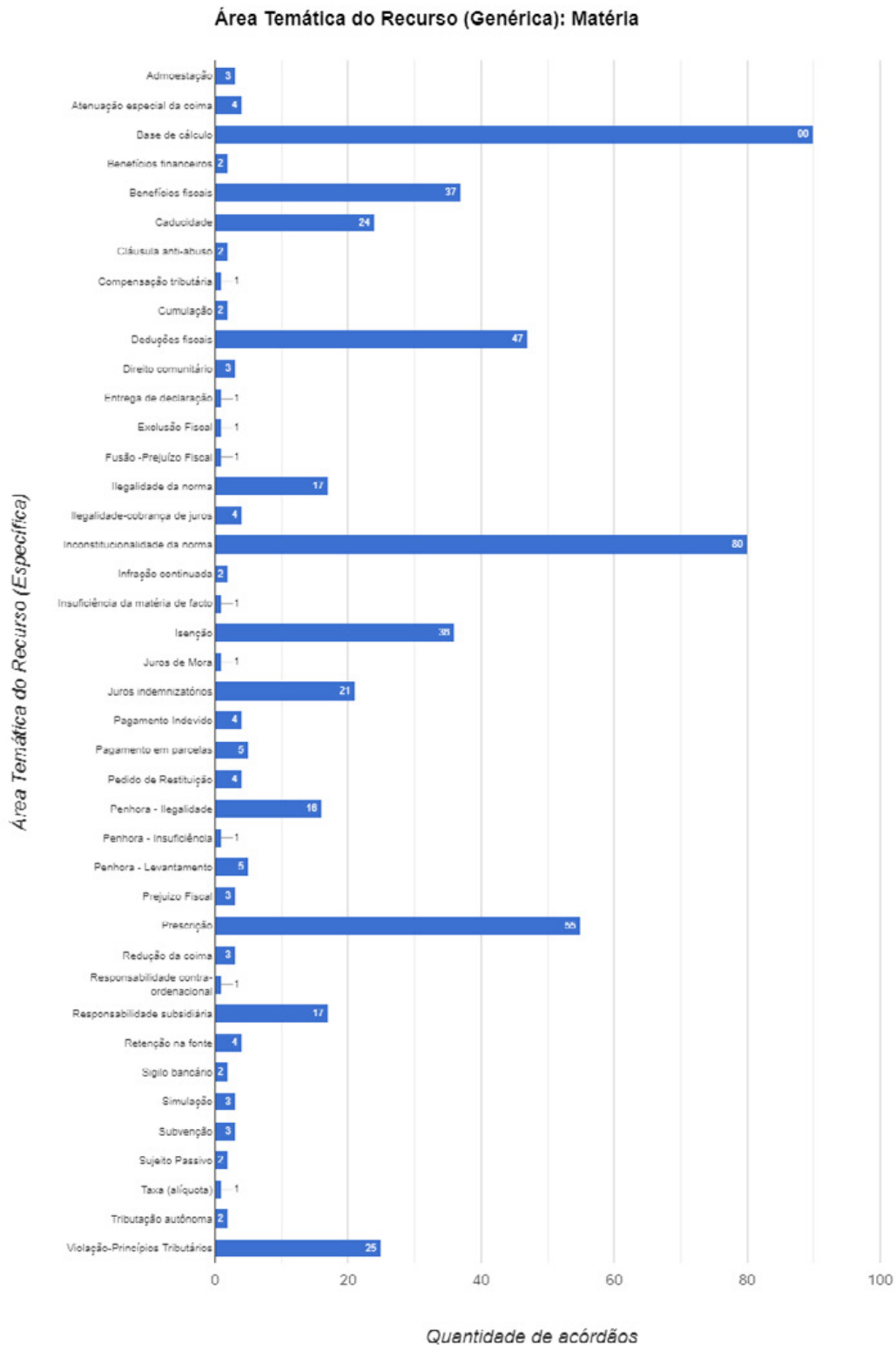
22. DESCRIPTORS

The descriptor aggregates keywords that facilitate the search for jurisprudence. In 19% of the decisions, there are no descriptors.

STA. Gráfico por Descritores STA
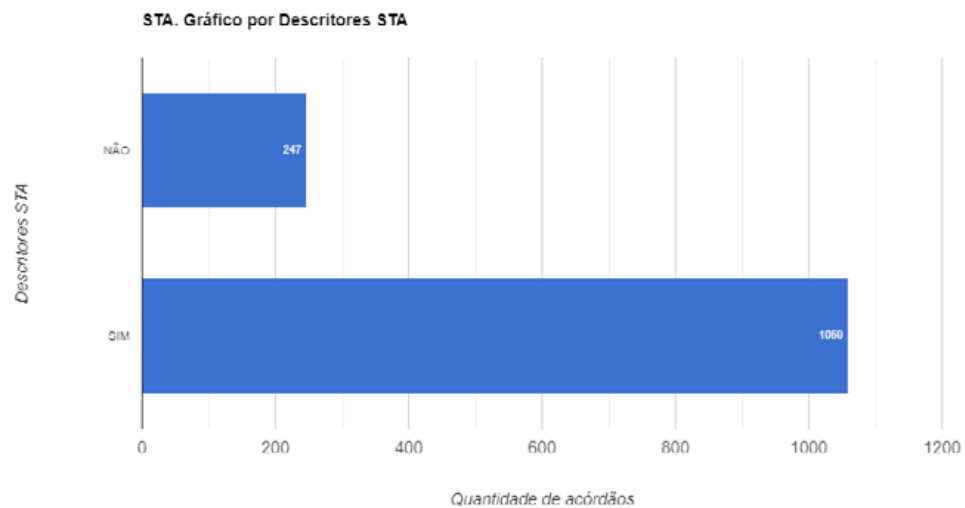
23. APPEAL DECISION

In 51% of the appeals, the decision was favourable to the public treasury, 41% favourable to the taxpayer, and the decision was partial in 3%.

STA. Gráfico por Decisão do Recurso em Relação as Partes

Back to Index
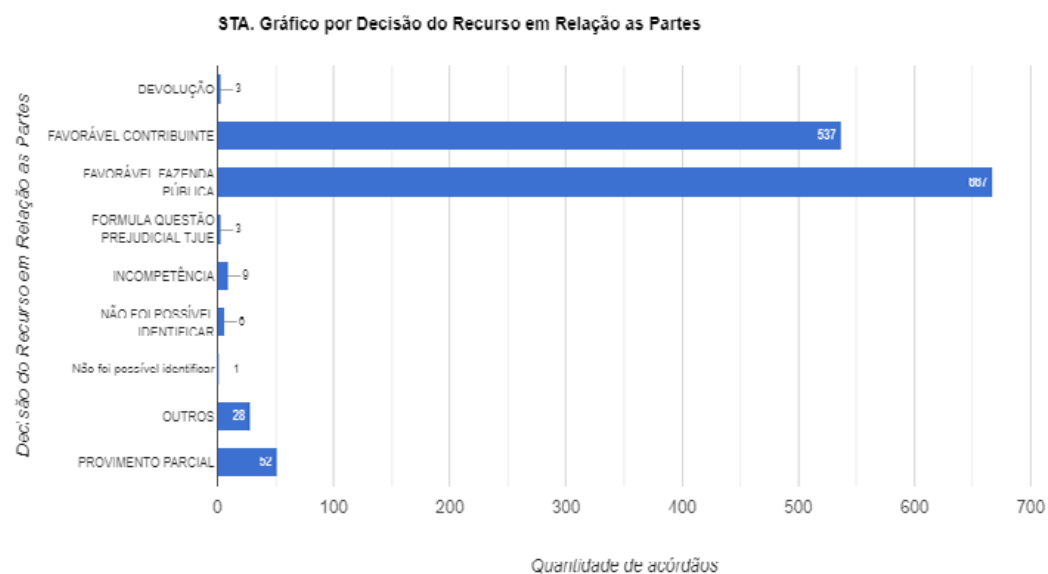
24. DISCHARGE OF THE RECORDS

In 13% of the appeals, the case was dropped.

STA. Gráfico por Baixa dos Autos
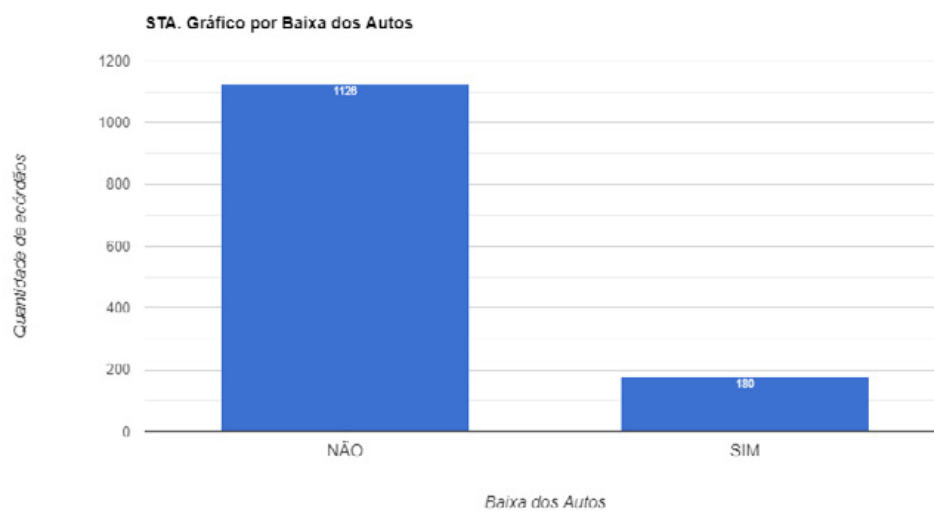
25. HOUVE PRESCRIPTION

In only 2% of the appeals was the statute of limitations recognized.

STA. Gráfico por Prescrição
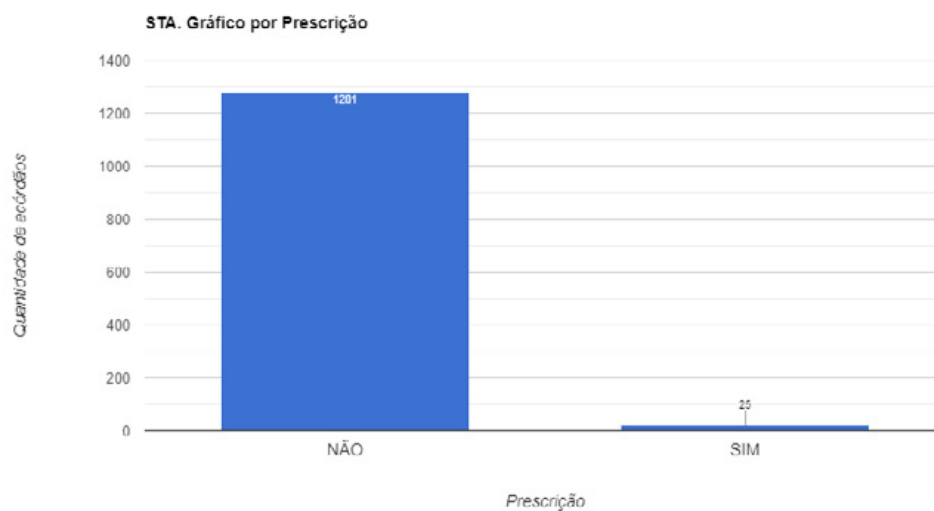
26. LAPSE OF THE RIGHT TO LIQUIDATION OF THE TAX

In less than 1% of the appeals, the forfeiture of the right to assess the tax was recognized.

STA. Gráfico por Caducidade do direito de liquidação do imposto
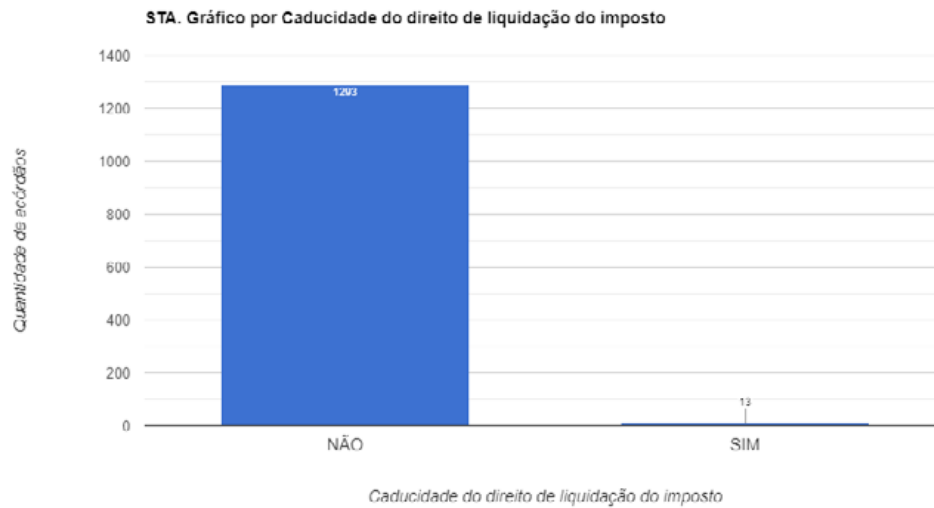
27. OTHER CASES OF SUPERVENIENT USELESSNESS OF THE DISPUTE

In 98% of the appeals, there was no supervening uselessness of the dispute.

STA. Gráfico por Outros casos de inutilidade superveniente da lide
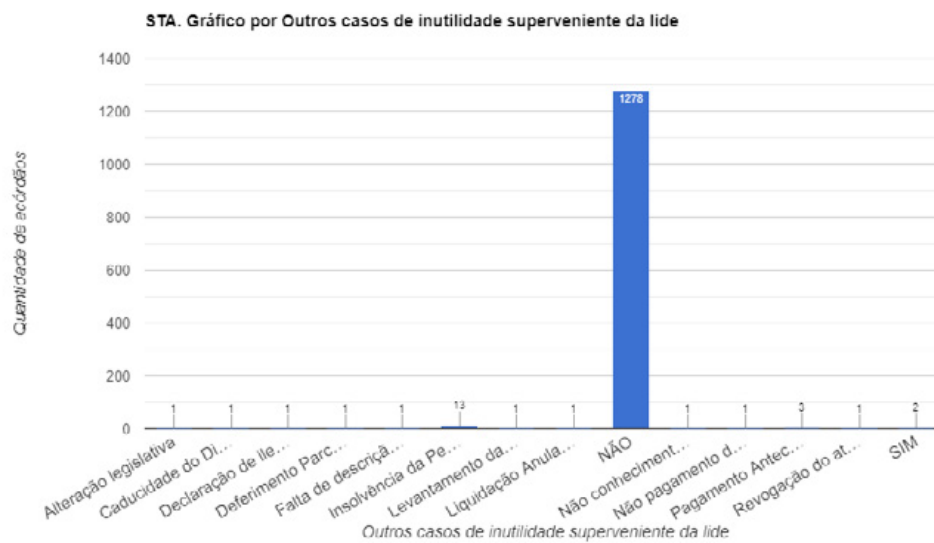
28. VOTE

The appeal judgments were unanimous in 94% of the cases.

STA. Gráfico por Votação

Quantidade de acórdãos
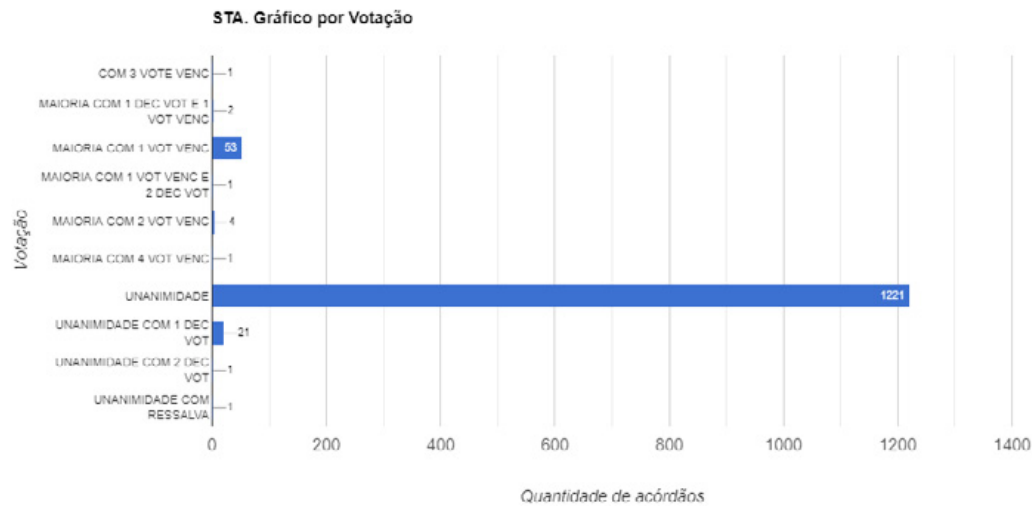
29. ADMINISTRATIVE APPEAL

In 73% of the appeals, there was no prior administrative appeal, or it was not possible to identify (the information is not in the text of the decision).

Gráfico por Recurso administrativo

Quantidade de acórdãos
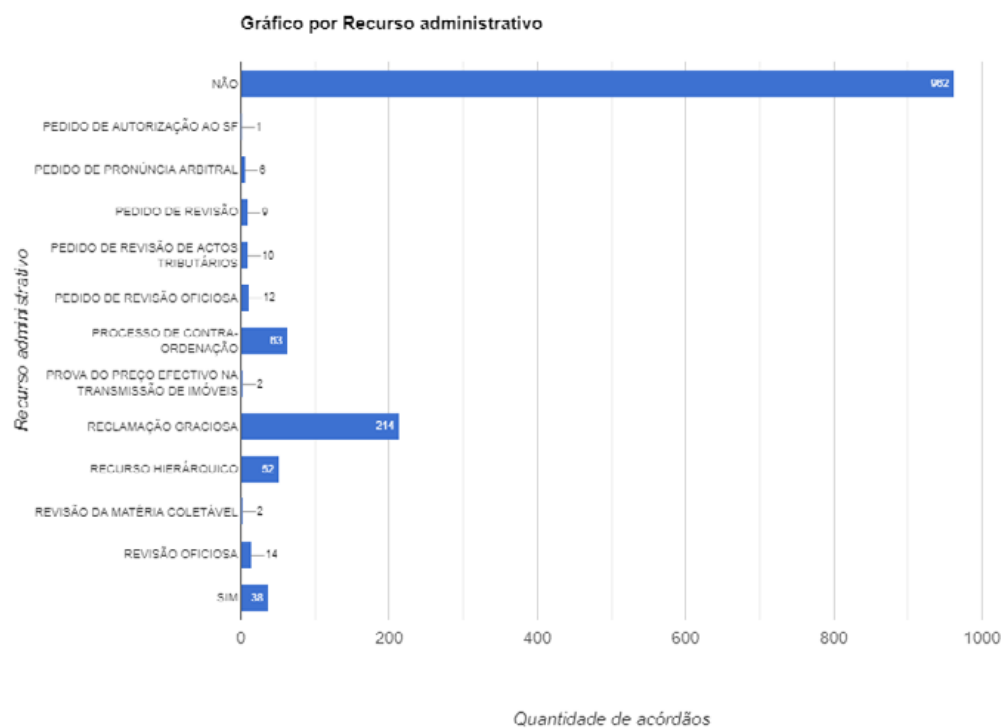
30. CONVOCATION

In 99% of the appeals, there was no convolution.

STA. Gráfico por Houve Convolação
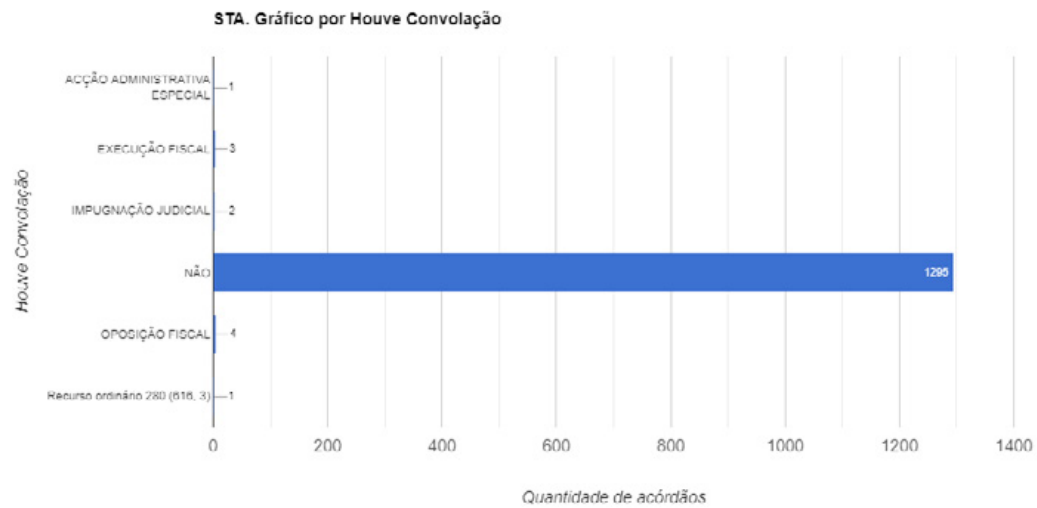
31. INDEMNIFICATION

In 98% of the appeals, there was no compensation, or it was not possible to identify whether there was compensation (the information is not in the text of the decision).

STA. Gráfico por Houve Indemnização
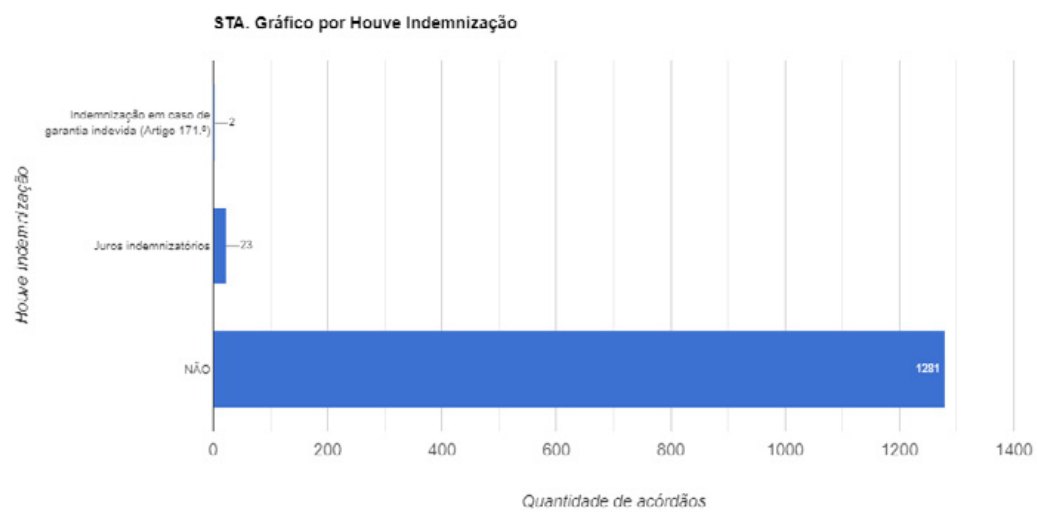
32. CONSTANT JURISPRUDENCE

In 53% of the appeals, no constant jurisprudence was mentioned.

STA. Gráfico por Jurisprudência constante no STA
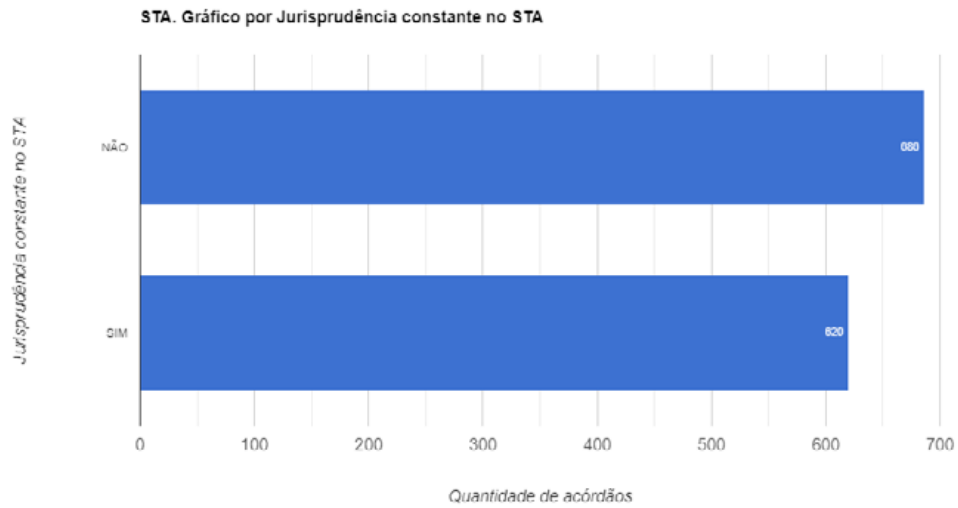
33. PRELIMINARY REFERENCE

There was a preliminary reference in less than 1% of the appeals.

STA. Gráfico por Reenvio Prejudicial

Back to Index
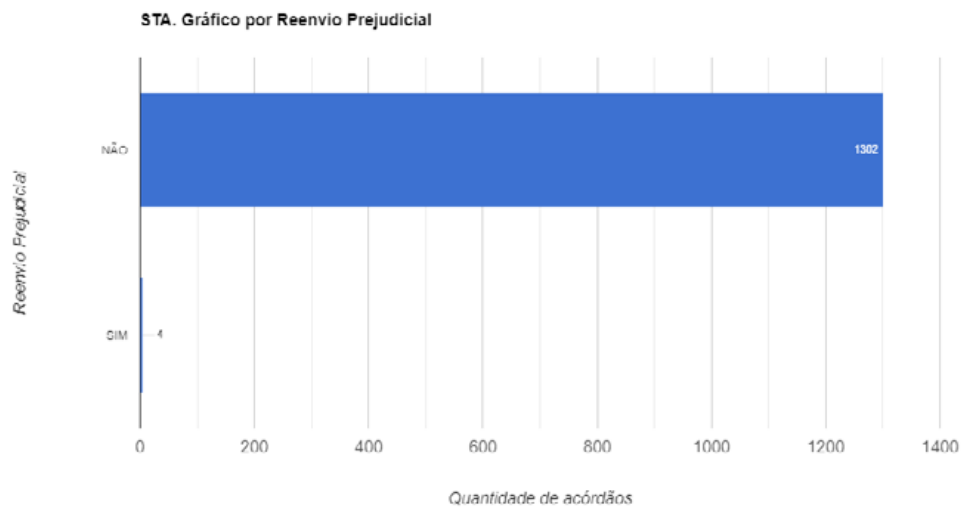
34. REQUEST FOR A PRELIMINARY RULING

A preliminary reference was requested in less than 1% of the appeals.

STA. Gráfico por Solicitação do Reenvio Prejudicial

35. DATE OF ENTRY AT FIRST INSTANCE

STA. Gráfico por Ano de Entrada na Primeira Instância
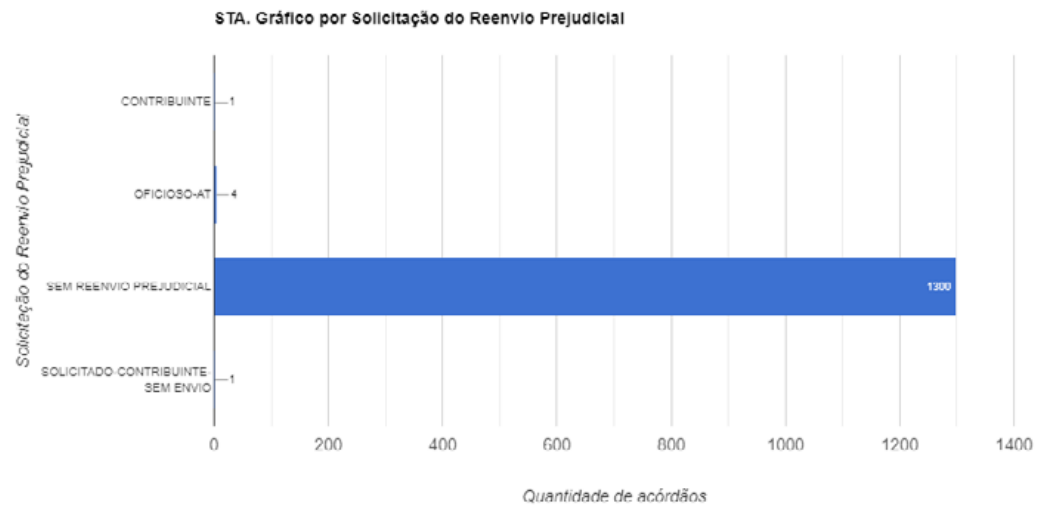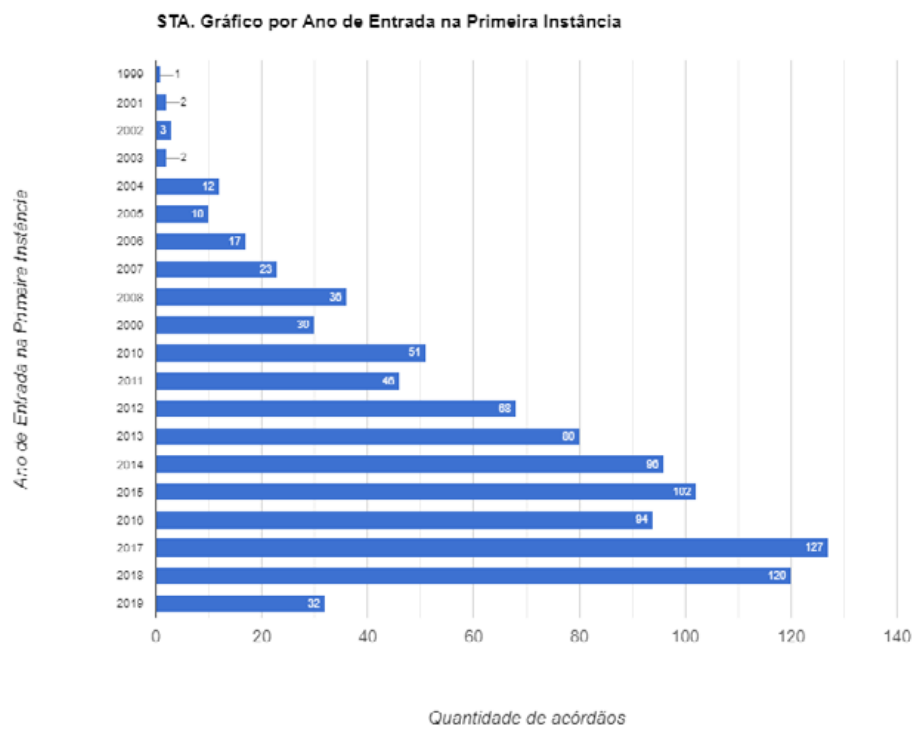
36. LARGEST LITIGANTS (LIST TAKEN FROM ORDER NO. 977/2019-LARGE TAXPAYERS)[14]

In 31% of the appeals, the taxpayers were not identified. Of those identified, 7% fit into the list of major taxpayers

STA. Gráfico por Maior Litigante STA (Lista de Maiores Contribuintes AT)
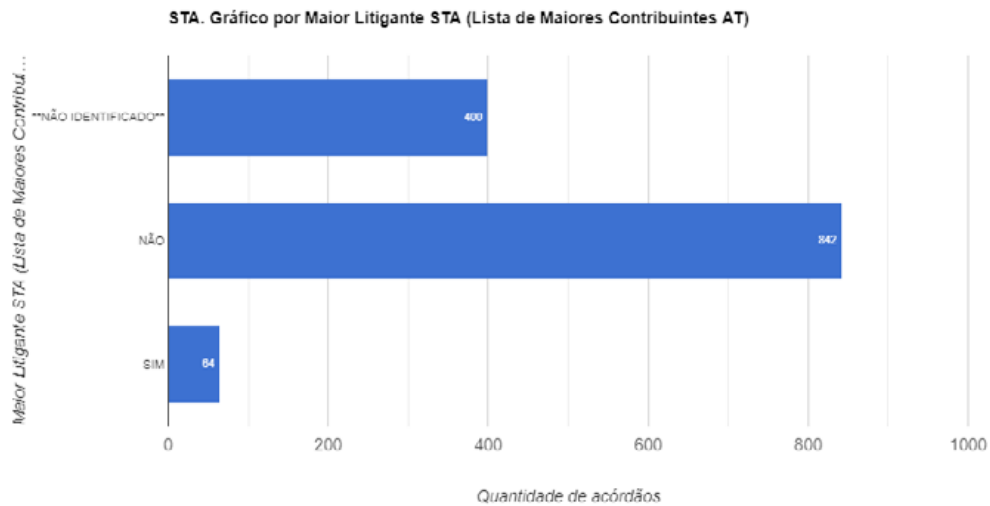
14   The list of major taxpayers was obtained from order n. 977/2019, however, the recent publication of a new list is highlighted in order 7048/2022.

IV. DURATION OF THE PROCESS

Bruno Moutinho
Claudia Marchetti da Silva

1. TOTAL PROCESS DURATION[15] BY TYPE OF ACTION.

1.1 Judicial Challenge

Tipo de Ação: Impugnação Judicial

Duração do Processo Total (anos)

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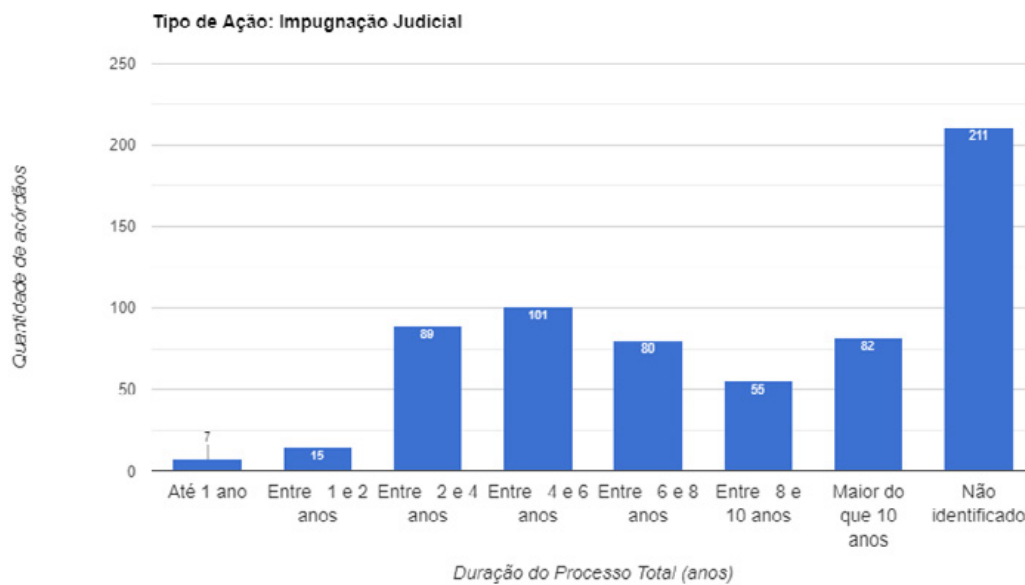
15   When the first instance case number was not identified on the appeal (approximately 30% of the sample), it was not possible to calculate the total case time.

1.2 Complaints of the Tax Enforcement Body's Decisions

Tipo de Ação: Execução Fiscal

1.3 Tax Opposition

Tipo de Ação: Oposição Fiscal
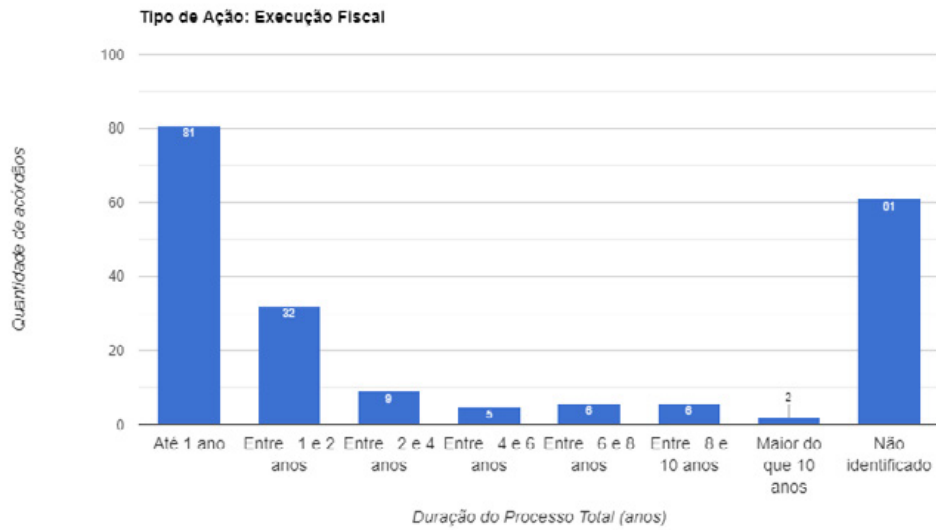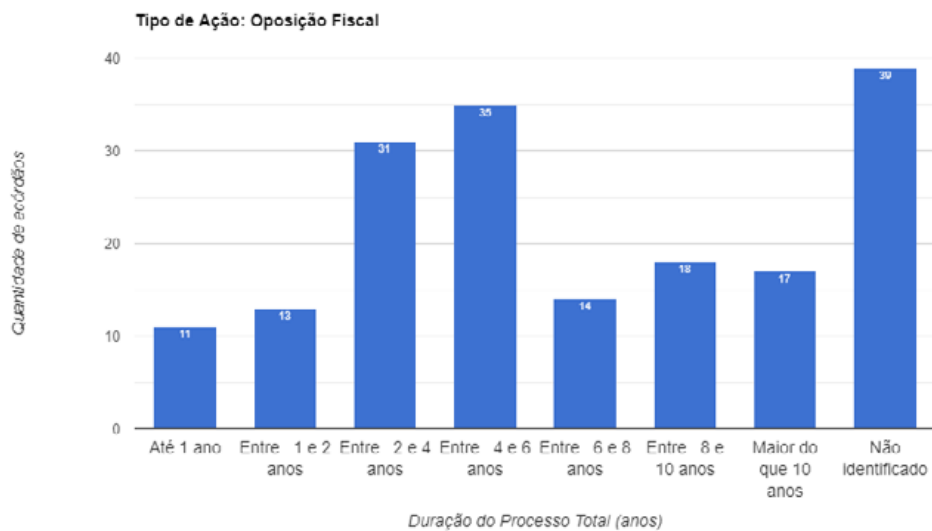
1.4 Appeal against Fine Application

Tipo de Ação: Recurso de Aplicação de Coima

1.5 CAAD Origin

Tipo de Ação: Origem CAAD

1.6 Special Administrative Action

Tipo de Ação: Acção Administrativa Especial
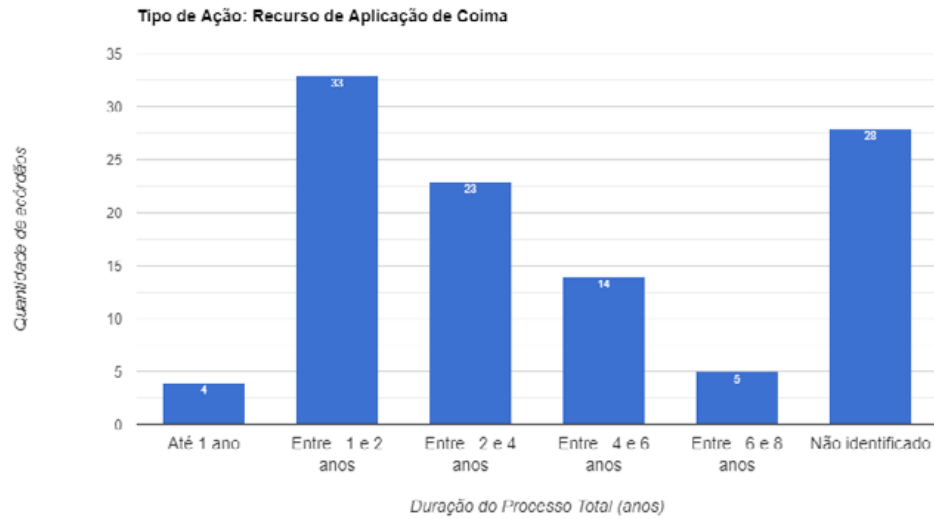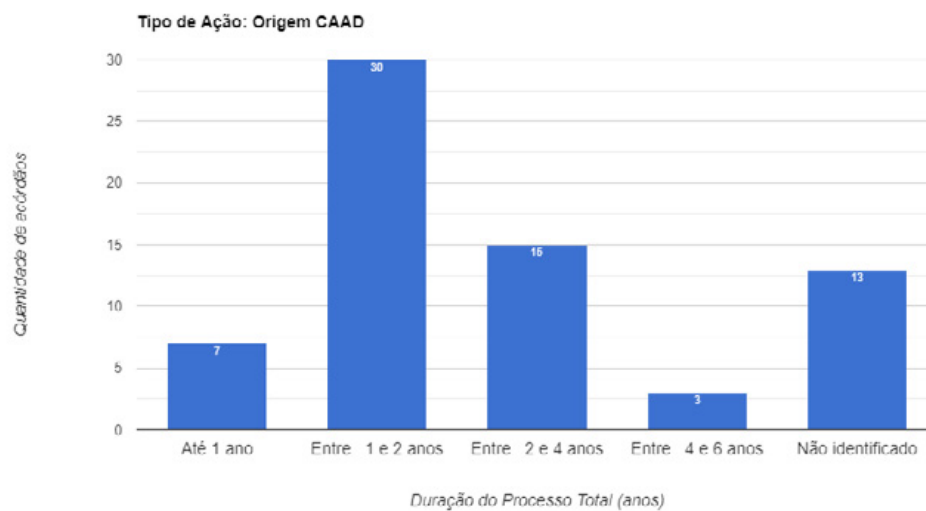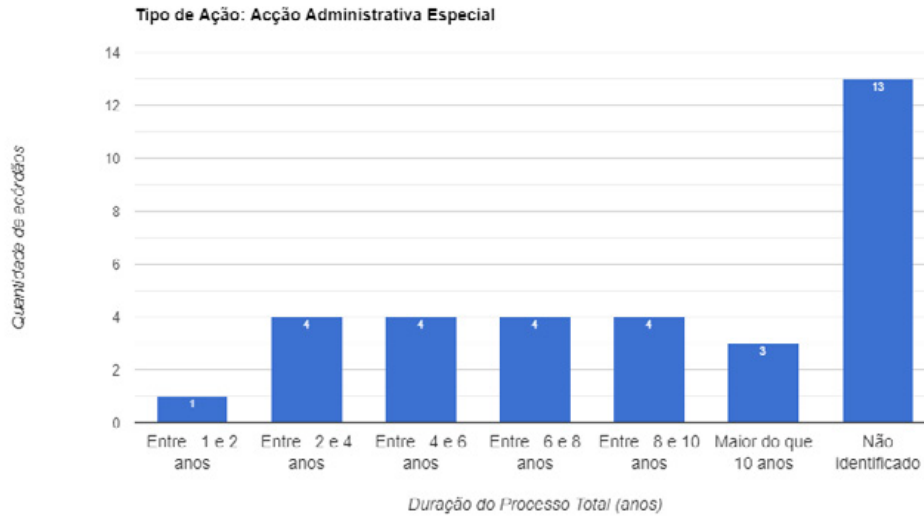
2. TOTAL PROCESS DURATION BY TAX TYPE

2.1 IRC

Tipo de Tributo: IRC

2.2 VAT

Tipo de Tributo: IVA

Quantidade de acórdãos (y-axis) vs *Duração do Processo Total (anos)* (x-axis)

Até 1 ano	Entre 1 e 2 anos	Entre 2 e 4 anos	Entre 4 e 6 anos	Entre 6 e 8 anos	Entre 8 e 10 anos	Maior do que 10 anos	Não identificado
21	22	33	25	20	12	24	55

2.3 IRS

Tipo de Tributo: IRS

Quantidade de acórdãos (y-axis) vs *Duração do Processo Total (anos)* (x-axis)

Até 1 ano	Entre 1 e 2 anos	Entre 2 e 4 anos	Entre 4 e 6 anos	Entre 6 e 8 anos	Entre 8 e 10 anos	Maior do que 10 anos	Não identificado
13	17	20	25	14	16	14	52

Back to Index

2.4 Stamp Duty

Tipo de Tributo: IMPOSTO DE SELO

2.5 IMI

Tipo de Tributo: IMI

2.6 IUC

Tipo de Tributo: IMPOSTO ÚNICO DE CIRCULAÇÃO (IUC)

2.7 IMT

Tipo de Tributo: IMT

2.8 Fees

Tipo de Tributo: TAXA

2.9 Social Security Contributions

Tipo de Tributo: CONTRIBUIÇÃO SEGURANÇA SOCIAL

3. TOTAL PROCESS DURATION PER TAF (main)

3.1 TTRIB Lisbon
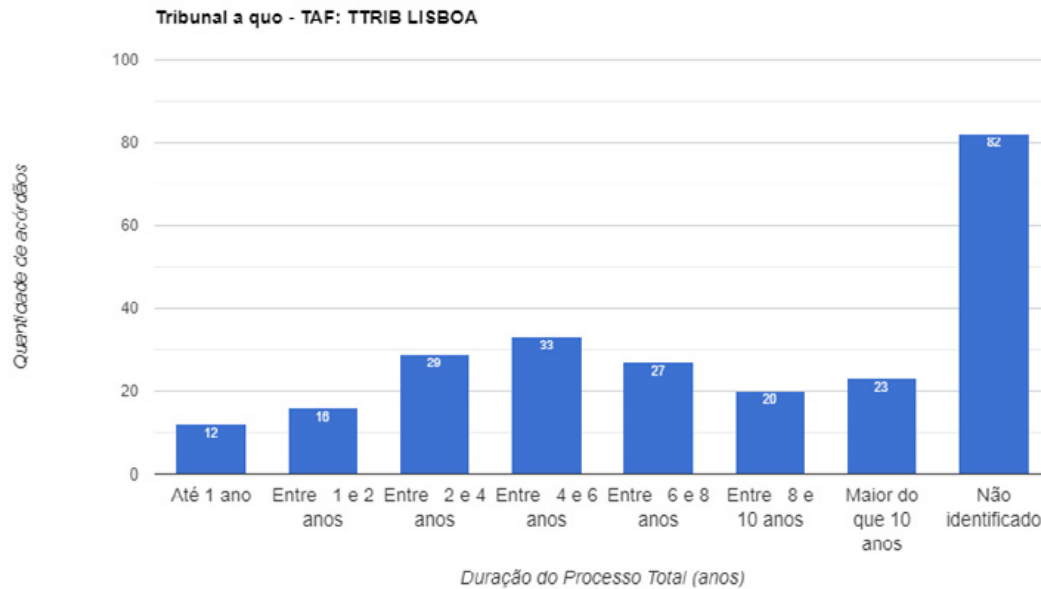
3.2 TAF Porto

3.3 TAF Sintra

Tribunal a quo - TAF: TAF SINTRA
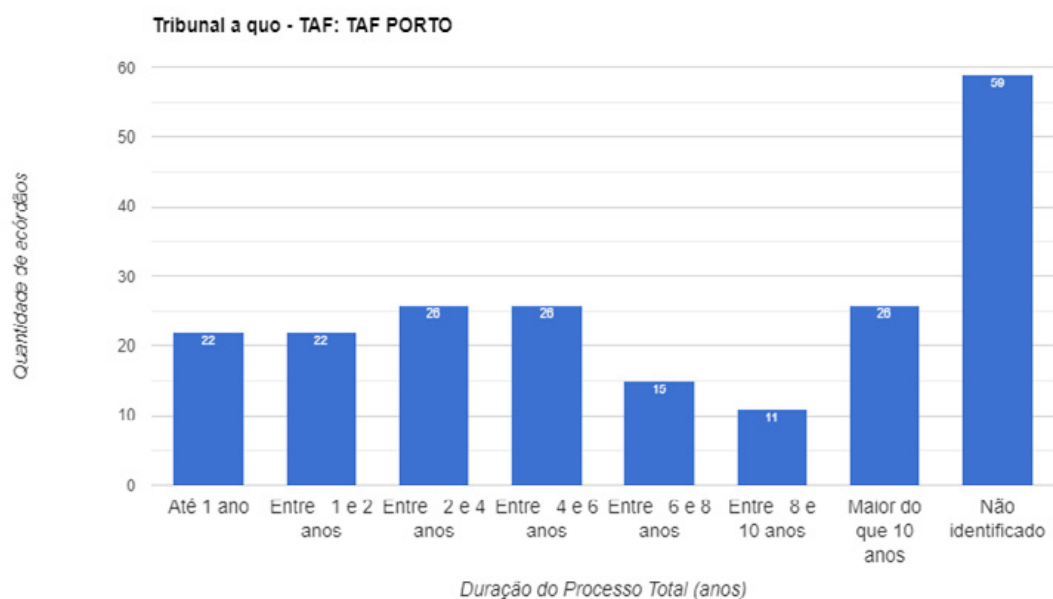
3.4 TAF Braga
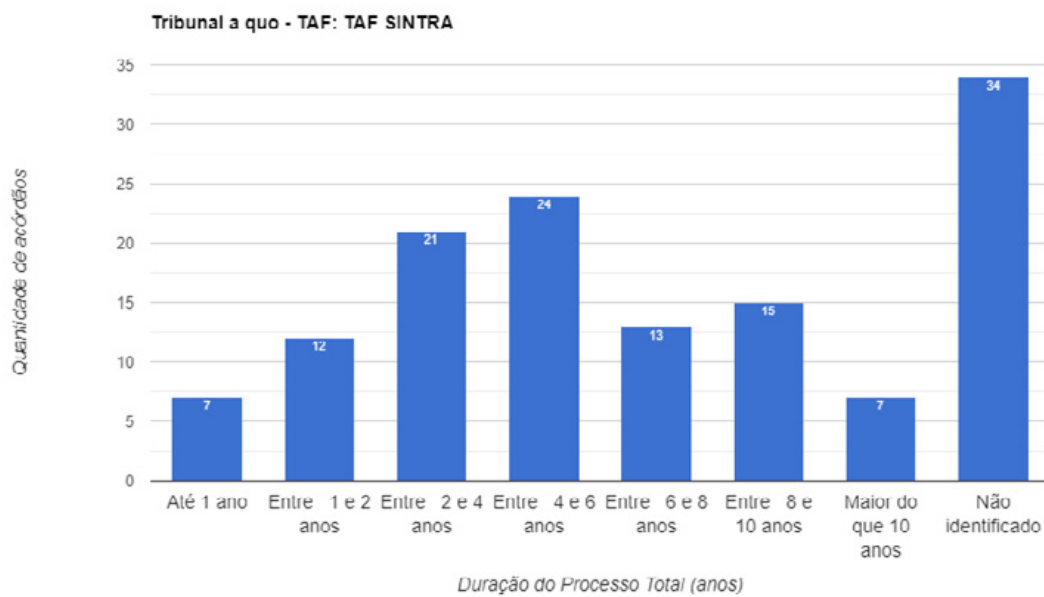
Tribunal a quo - TAF: TAF BRAGA
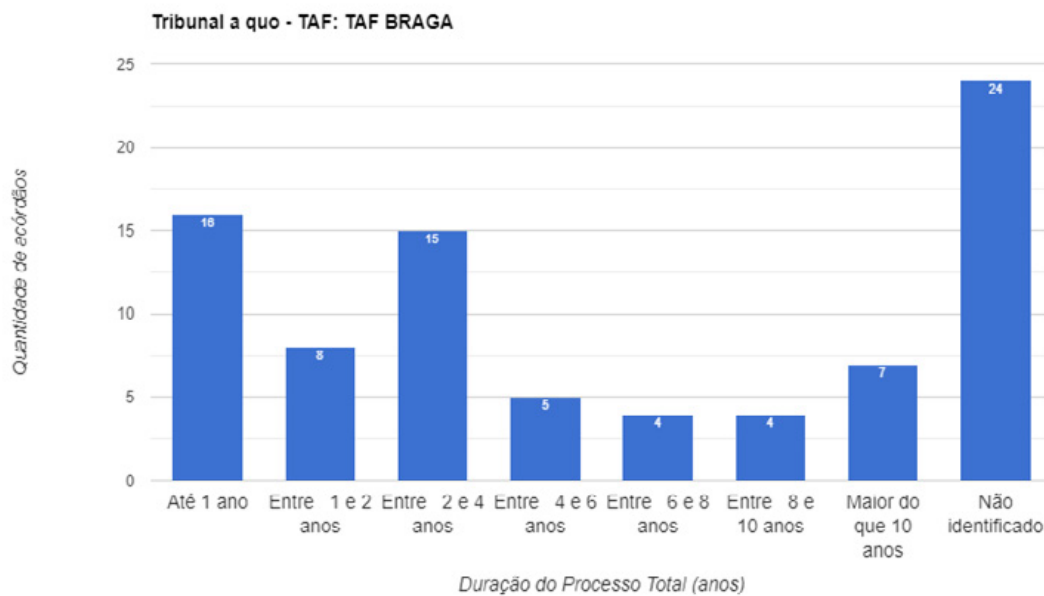
4. LENGTH OF PROCEEDINGS IN STA BY TYPE OF ACTION

4.1 Judicial Impugnation

Tipo de Ação: Impugnação Judicial

4.2 Complaints of the Tax Enforcement Body's Decisions

Tipo de Ação: Execução Fiscal

4.3 Tax Opposition

Tipo de Ação: Oposição Fiscal
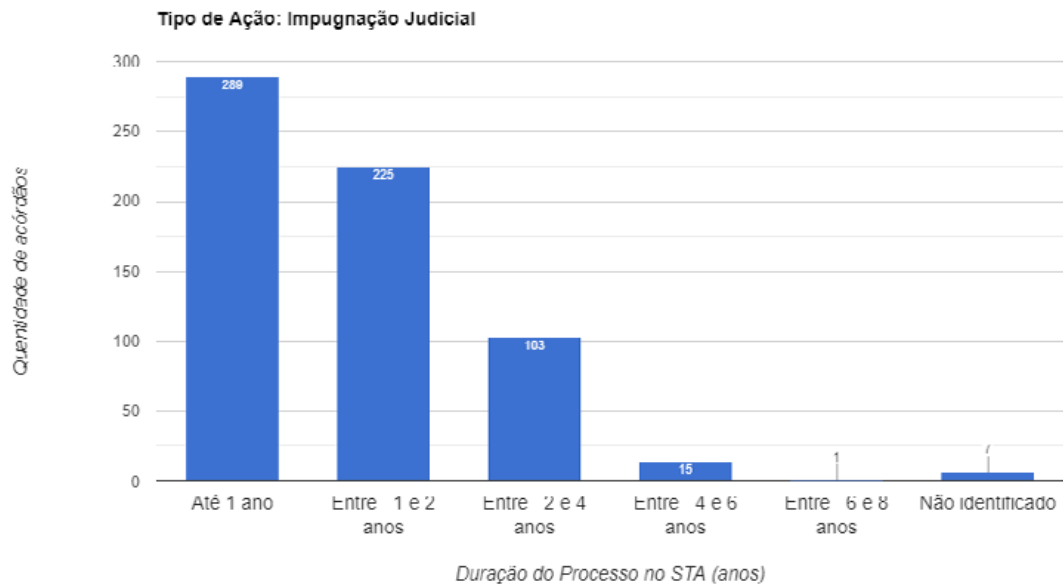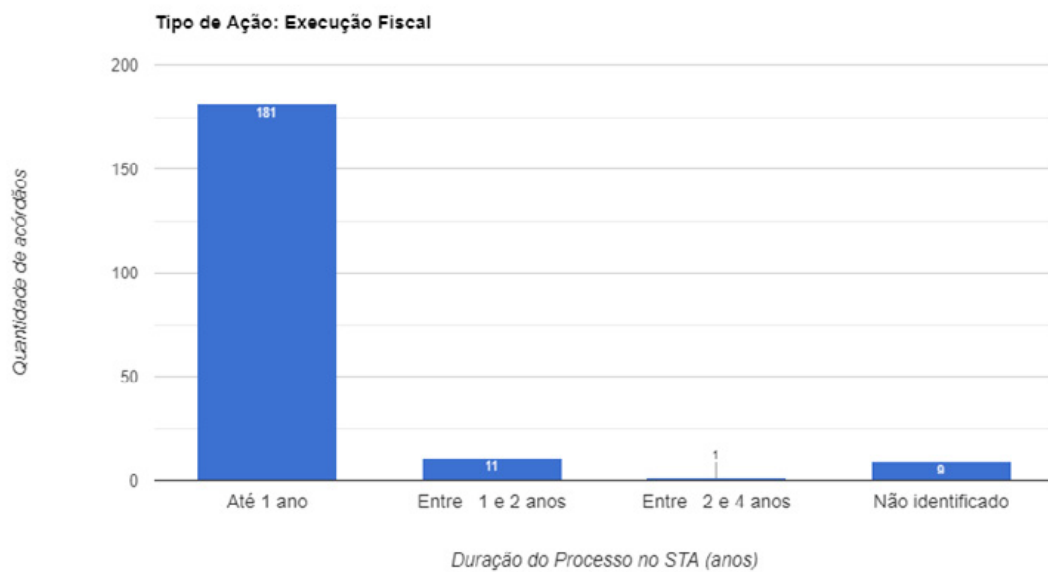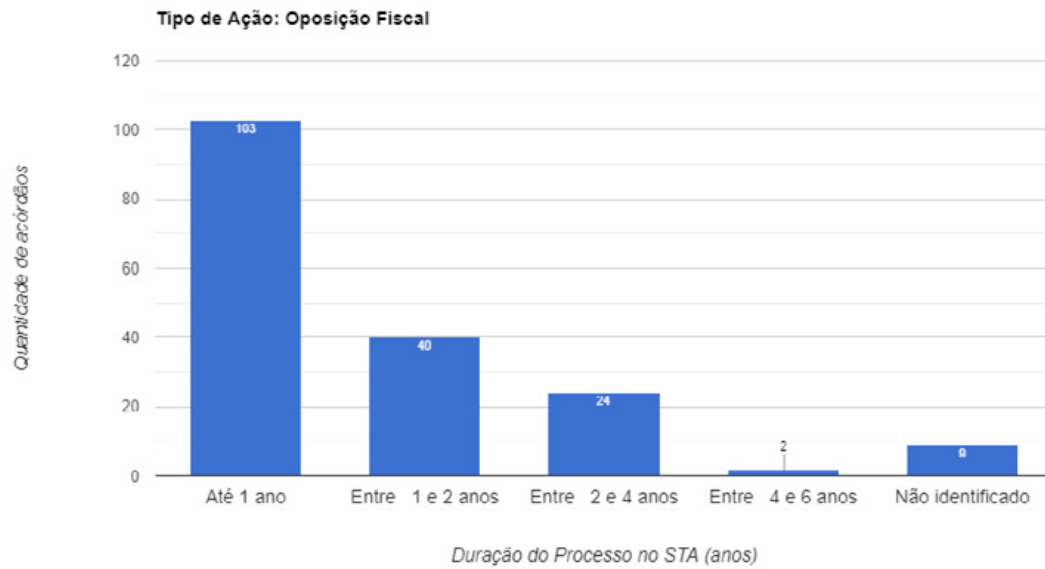
4.4 Appeal from Fine Application

Tipo de Ação: Recurso de Aplicação de Coima
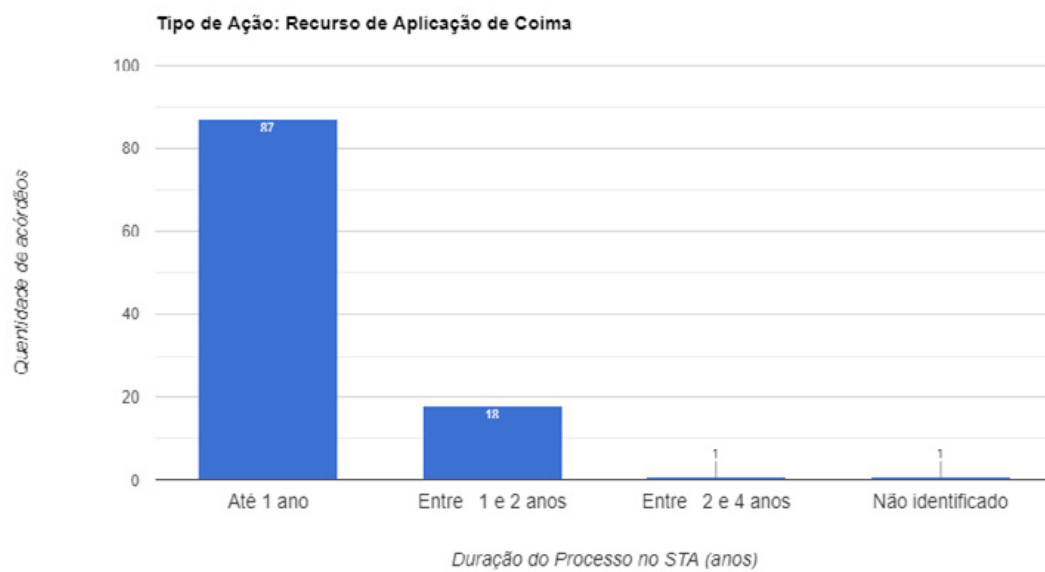
4.5 CAAD Origin
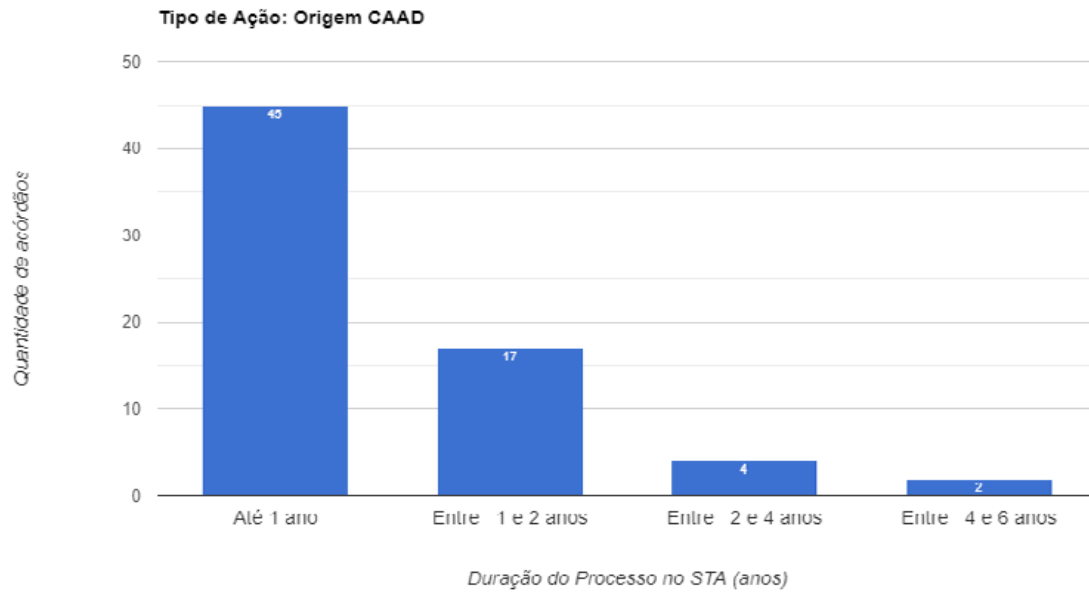
4.6 Special Administrative Action
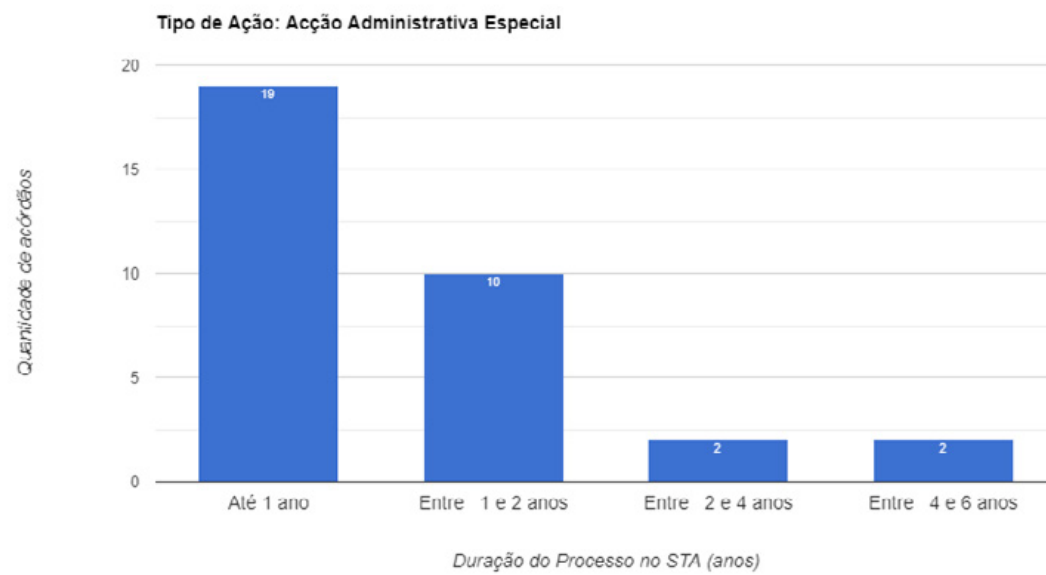
5. LENGTH OF PROCEEDINGS AT THE STA BY TYPE OF APPEAL

5.1 Jurisdictional Appeal

Tipo de Recurso: Recurso Jurisdicional
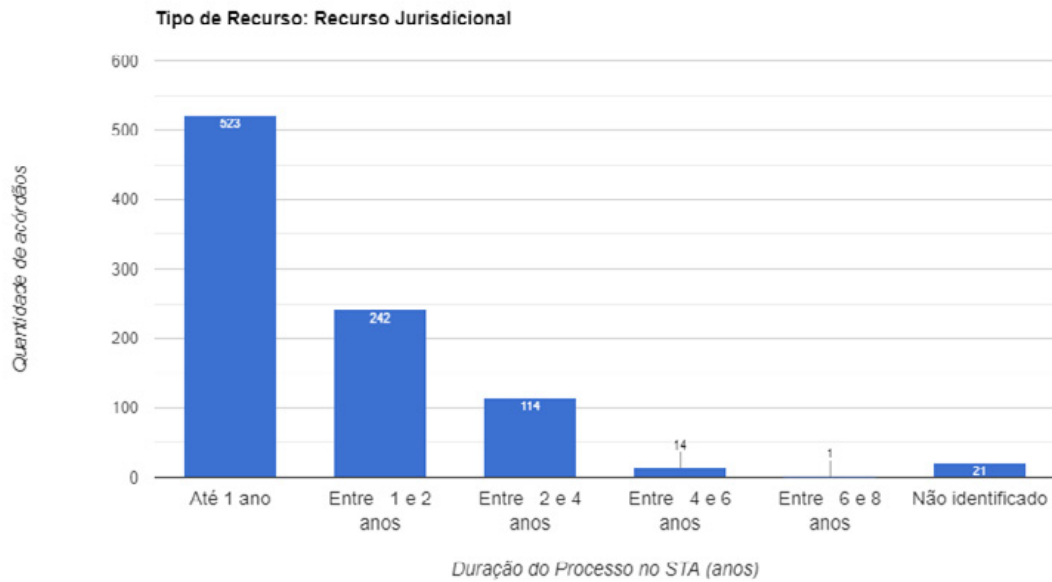
5.2 Appeal for Uniformization of Jurisprudence

Tipo de Recurso: Recurso para uniformização de jurisprudência

5.3 Exceptional Review Appeal

Tipo de Recurso: Recurso de revista excepcional

5.4 Cost Reform

Tipo de Recurso: Reforma quanto a custas
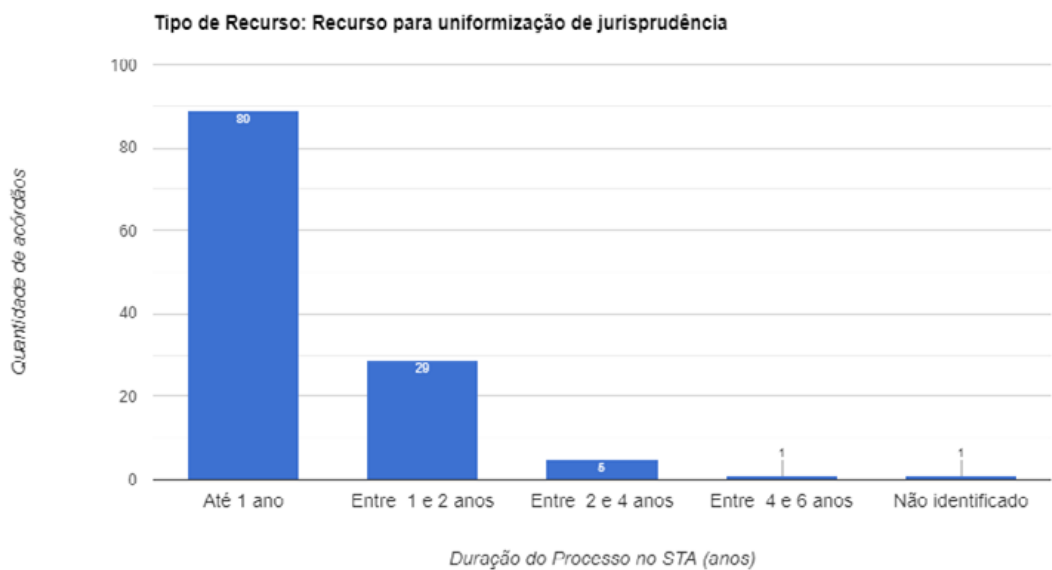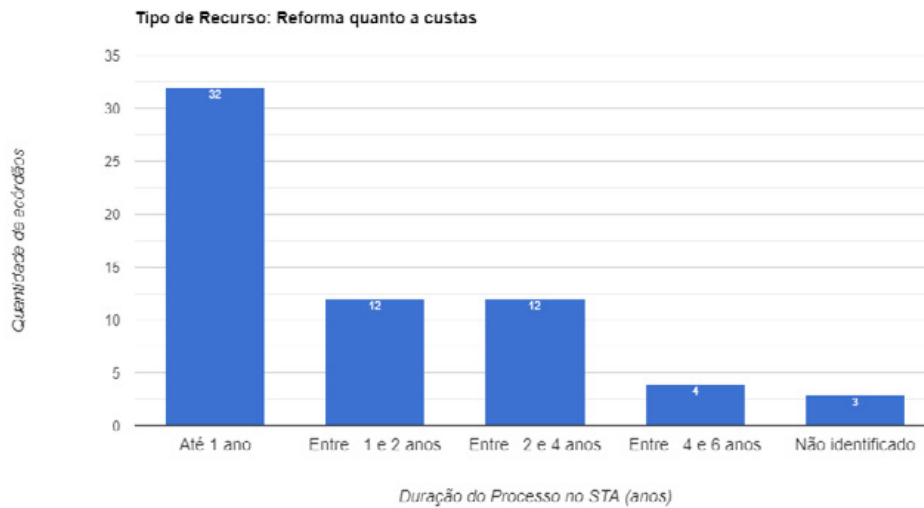
5.5 Opposition of Judgments

Tipo de Recurso: Oposição de acórdãos
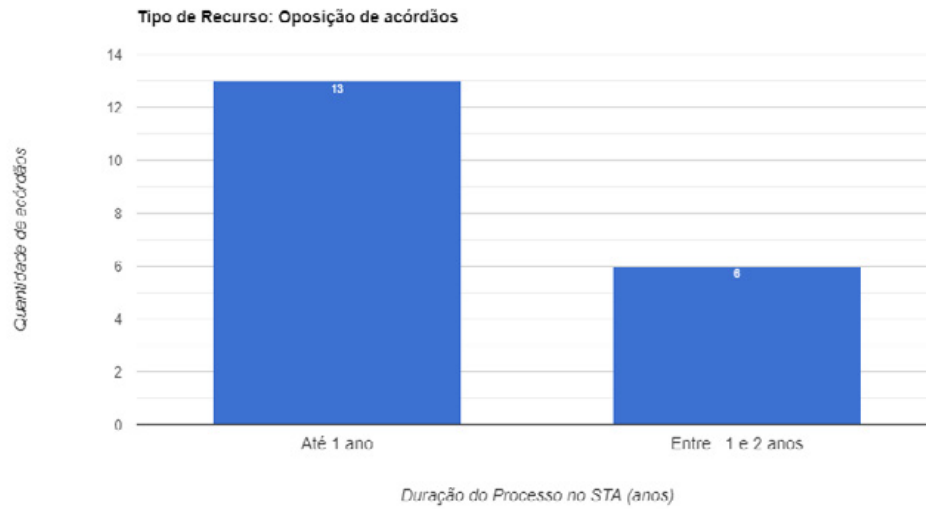
6. DURATION OF PROCEEDINGS AT THE STATION BY TYPE OF TAX

6.1 IRC

Tipo de Tributo: IRC

6.2 VAT

Tipo de Tributo: IVA

Bar chart — vertical axis: *Quantidade de acórdãos* (0 to 140); horizontal axis: *Duração do Processo no STA (anos)*.
- Até 1 ano: 127
- Entre 1 e 2 anos: 57
- Entre 2 e 4 anos: 15
- Entre 4 e 6 anos: 5
- Não identificado: 8

6.3 IRS

Tipo de Tributo: IRS

Bar chart — vertical axis: *Quantidade de acórdãos* (0 to 120); horizontal axis: *Duração do Processo no STA (anos)*.
- Até 1 ano: 114
- Entre 1 e 2 anos: 34
- Entre 2 e 4 anos: 20
- Entre 4 e 6 anos: 2
- Não identificado: 1

6.4 Stamp Duty

Tipo de Tributo: IMPOSTO DE SELO

6.5 IMI

Tipo de Tributo: IMI

6.6 IUC

Tipo de Tributo: IMPOSTO ÚNICO DE CIRCULAÇÃO (IUC)

Quantidade de acórdãos

	Até 1 ano	Entre 1 e 2 anos
	23	4

Duração do Processo no STA (anos)

6.7 IMT

Tipo de Tributo: IMT

Quantidade de acórdãos

	Até 1 ano	Entre 1 e 2 anos	Entre 2 e 4 anos
	21	0	5

Duração do Processo no STA (anos)

Back to Index

6.8 Fees

Tipo de Tributo (ajustado): TAXA

6.9 Social Security Contributions

Tipo de Tributo: CONTRIBUIÇÃO SEGURANÇA SOCIAL

7. DURATION OF PROCEEDINGS IN THE STA BY GENDER OF THE RAPPORTEUR

7.1 Female

Of the appeals in which the rapporteur is female, 66% are judged in up to 1 year, 18% from 1 to 2 years, and 4% from 2 to 4 years.
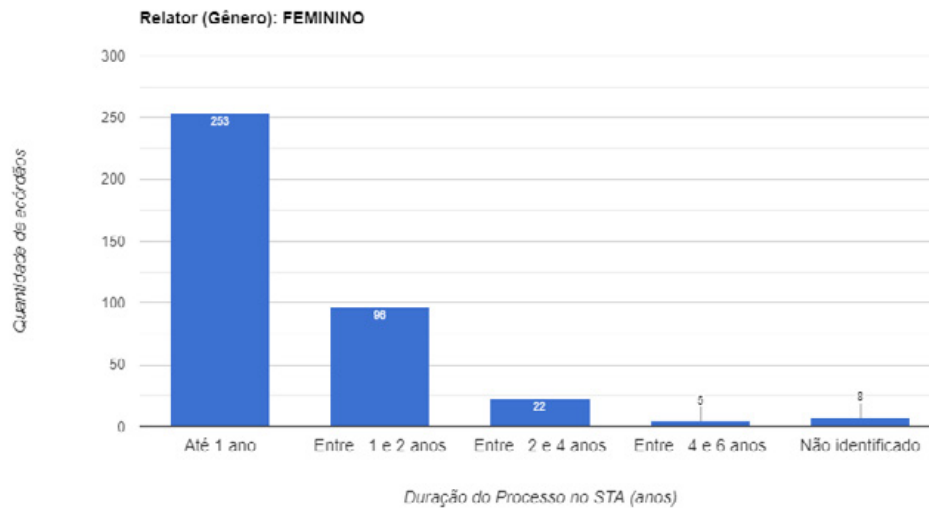
7.2 Male

Of the appeals in which the rapporteur is male, 56% are judged within one year, 26% from 1 to 2 years, 13% from 2 to 4 years.

Back to Index
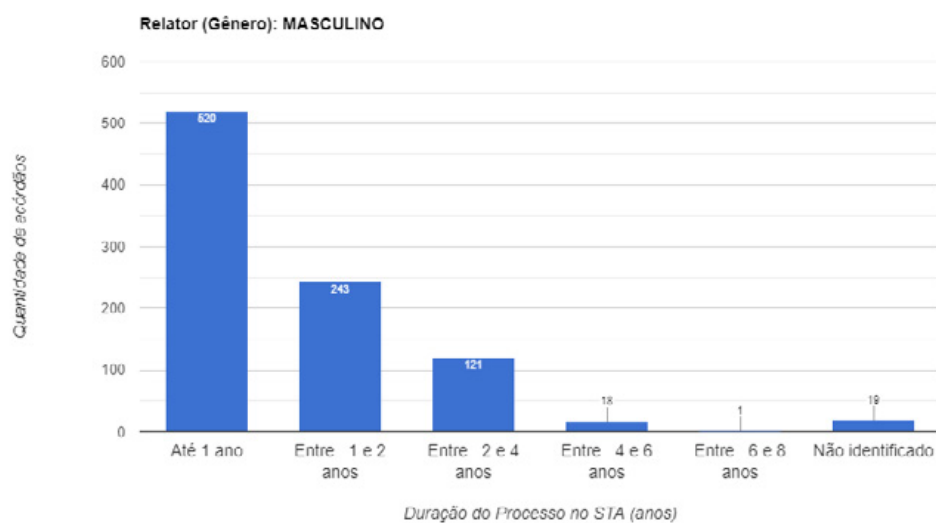
8. LENGTH OF PROCEEDINGS AT THE STA BY SUBJECT AREA OF THE APPEAL (GENERIC)

8.1 Litigation (procedural issues)

Área Temática do Recurso (Genérica): Forma - Contencioso
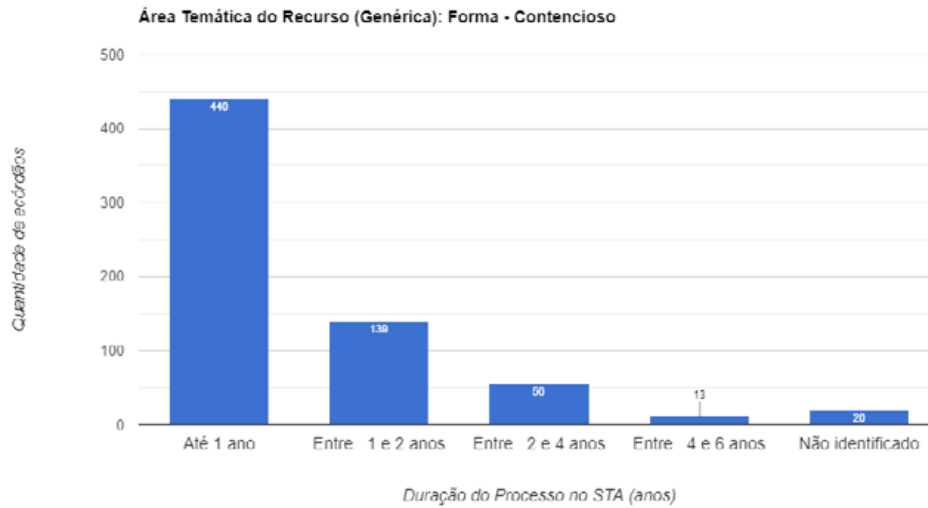
8.2 Procedure (formalities of the tax authority)

Área Temática do Recurso (Genérica): Forma - Procedimento
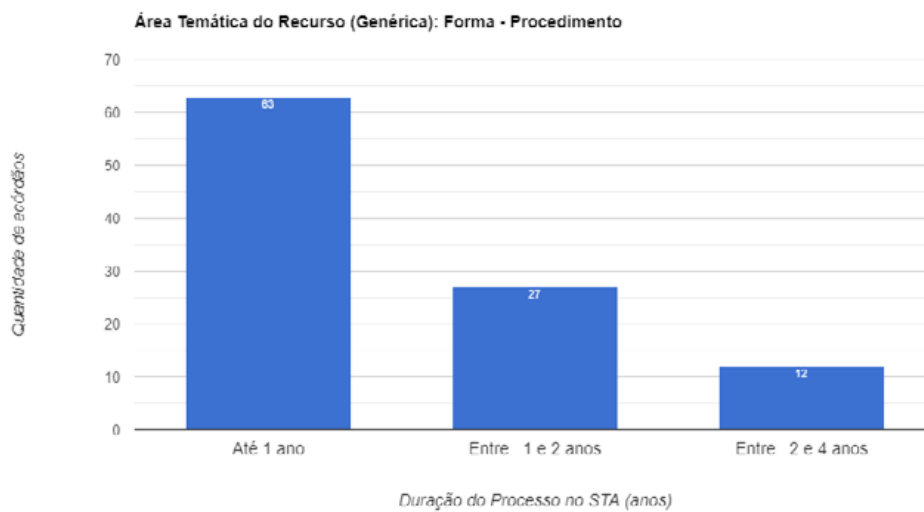
8.3 Subject matter (questions of law)

Área Temática do Recurso (Genérica): Matéria
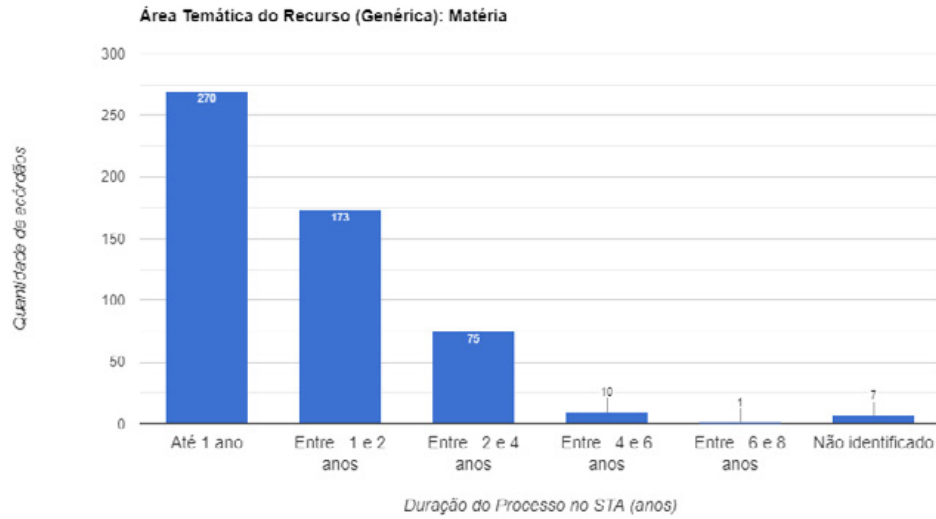
V. ISSUES - TOTAL PROCESS TIME AND STA

Bruno Moutinho
Claudia Marchetti da Silva

1. WHAT TYPES OF LAWSUITS TAKE THE LONGEST TO BE JUDGED AT THE STA?

Judicial impugnations take longer to be judged. In contrast, claims against the decisions of the tax enforcement agency are the fastest.

STA. Gráfico por Duração do Processo no STA (anos)/Tipo de Ação
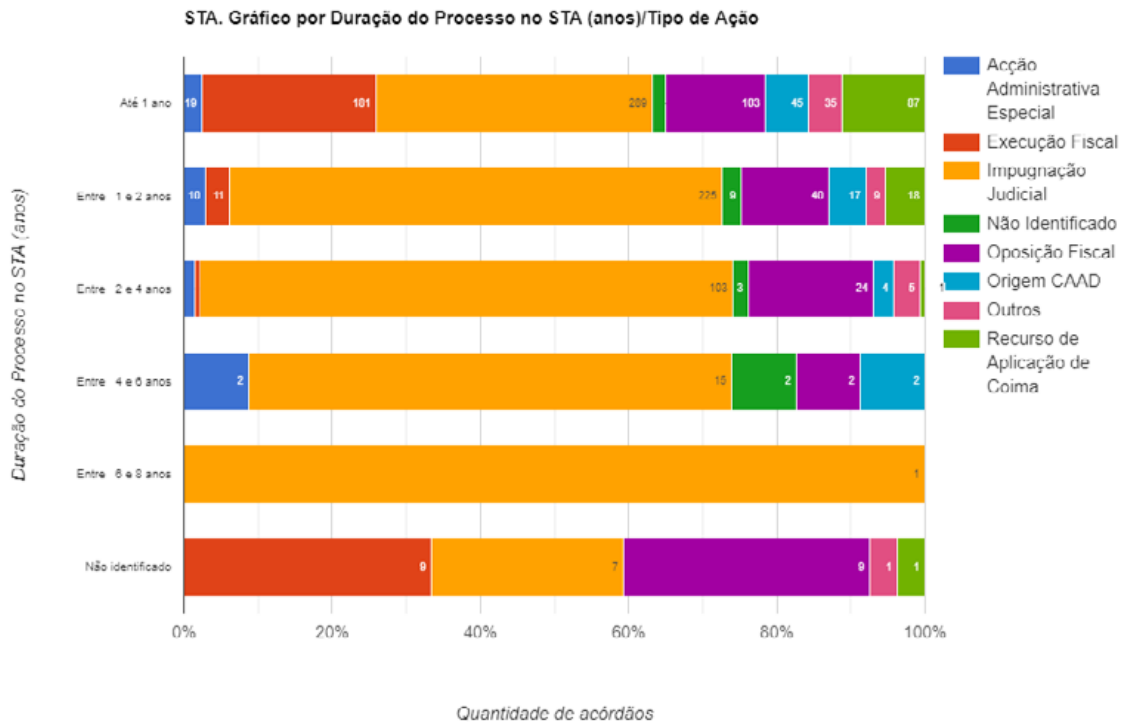
2. WHICH APPEALS TAKE THE LONGEST TO BE JUDGED AT THE STA?

Remedies for costs take longer to be judged followed by judicial appeals. On the other hand, review appeals are judged more quickly.

STA. Gráfico por Duração do Processo no STA (anos)/Tipo de Recurso
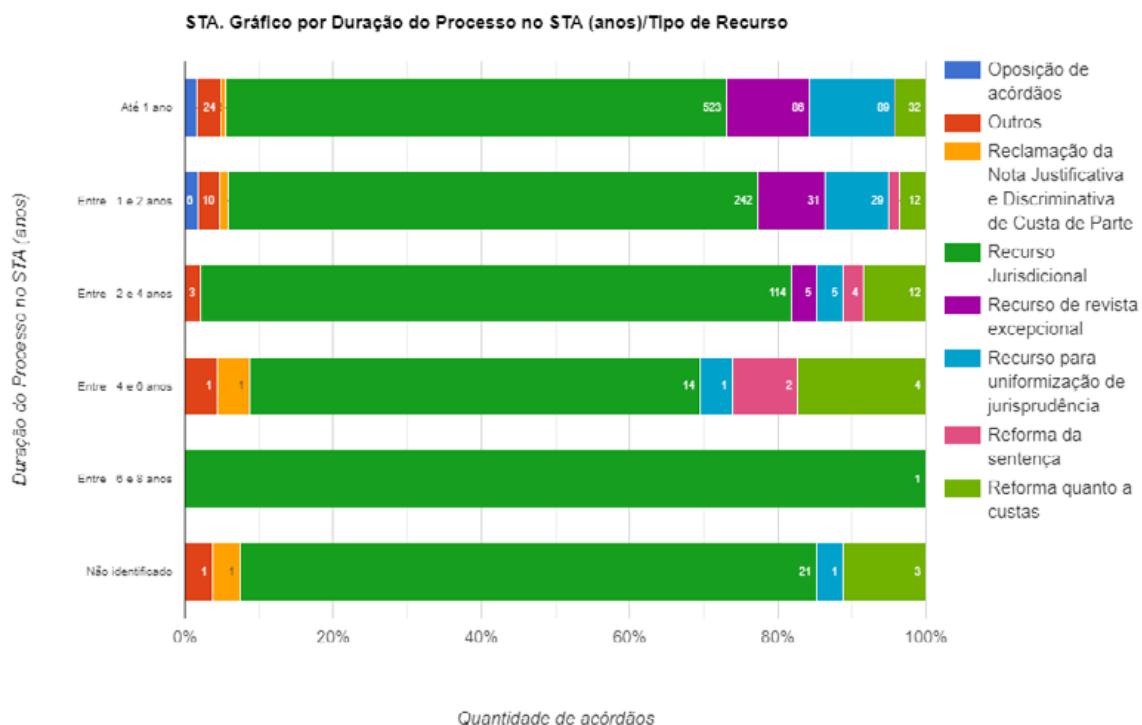
3. WHICH TAXES TAKE THE LONGEST TO BE JUDGED IN THE STA?

The chart shows that actions involving CIT (55% in up to 1 year, 25% from 1 to 2 years, 11% from 2 to 4 years, 3% from 4 to 6 years) followed by the VAT (60% in up to 1 year, 27% from 1 to 2 years, 7% from 2 to 4 years, 2% from 4 to 6 years) take the longest to be judged.

Gráfico por Tipo de Tributo/Duração do Processo no STA (anos)
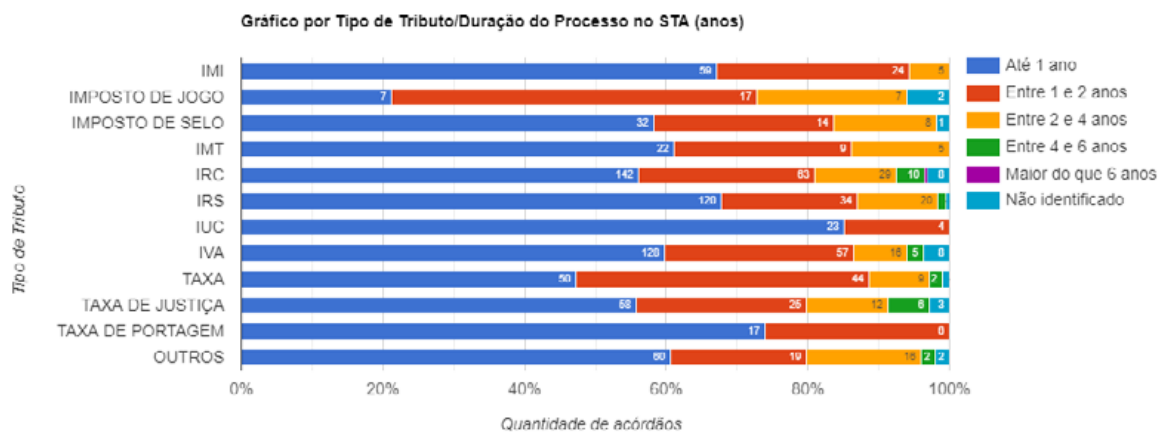
4. WHAT IS THE DIFFERENCE IN PROCESS TIME BETWEEN THE GENERIC SUBJECT AREAS OF THE APPEAL (SUBJECT MATTER, LITIGATION AND PROCEDURE) IN THE STA?

Litigation: 66% (440) of the appeals concerning litigation are judged within 1 year; 21% (139) between 1 and 2 years; 8% (56) between 2 and 4 years; 2% (13) between 4 and 6 years.

Procedure: 62% (63) of the appeals concerning procedure are judged within 1 year; 26% (27) between 1 and 2 years; 12% (12) between 2 and 4 years.

Matter: 50% (270) of the appeals concerning matter are judged within 1 year; 32% (173) between 1 and 2 years; 14% (76) between 2 and 4 years; 2% (10) between 4 and 6 years, and 0.2% (1) lasting more than 6 years.

STA. Gráfico por Áre Temática do Recurso (Genérica)/Duração do Processo no STA (anos)

Back to Index
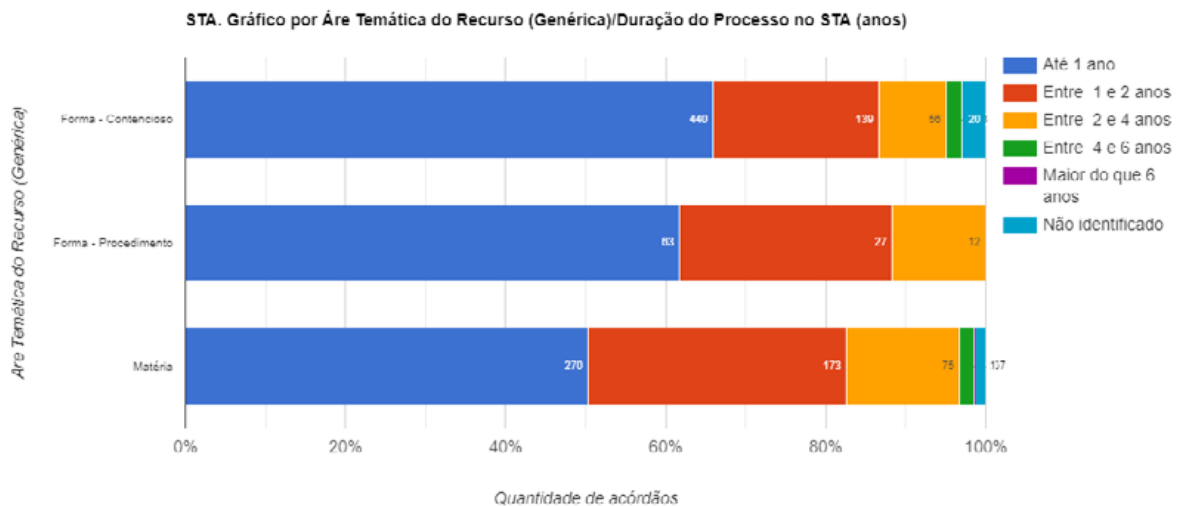
5. IS THERE A RELATIONSHIP BETWEEN THE TIME OF THE PROCESS AND THE DECISION OF THE APPEAL IN THE STA (FAVOURABLE TO THE TAXPAYER OR PUBLIC TREASURY)?

The times, on average, are similar and do not depend on who benefits from the decision.

Taxpayer Favourable: Up to 1 year: 57% (307); between 1 and 2 years: 27% (147); between 2 and 4 years: 12% (66); between 4 and 6 years: 2%;(7) greater than 6 years: 0

Unidentified: 2% (10)

In favour of the public treasury: Up to 1 year: 61% (404); between 1 and 2 years: 25% (169); between 2 and 4 years: 10% (66); between 4 and 6 years: 2% (14); more than 6 years: 0

Unidentified: 2% (14)

The decisions of the "other" type are: Devolution (3 cases); CJEU Preliminary Question Formula (3 cases); STA lack of jurisdiction (9 cases); Could not be identified (7); Decision in conflict of jurisdiction (6)

Others when one of the parties is the MP, so it is not possible to identify whether favourable to the AT or to the taxpayer (22)

Gráfico por Decisão do Recurso em Relação as Partes/Duração do Processo no STA (anos)
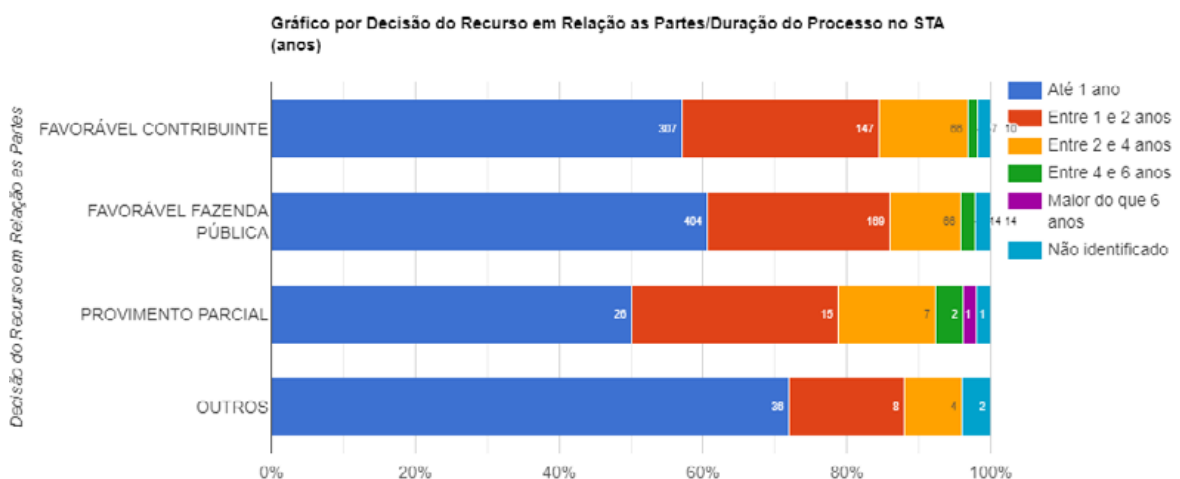
6. DOES THE EXISTENCE OR NOT OF COUNTERCLAIMS IMPACT THE PROCESS TIME?

The graphs suggest that the existence of counterclaims, either by the taxpayer or the treasury, discretely decreases the time of the process.

Gráfico por Houve contra-alegações da entidade recorrida/Duração do Processo no STA (anos)
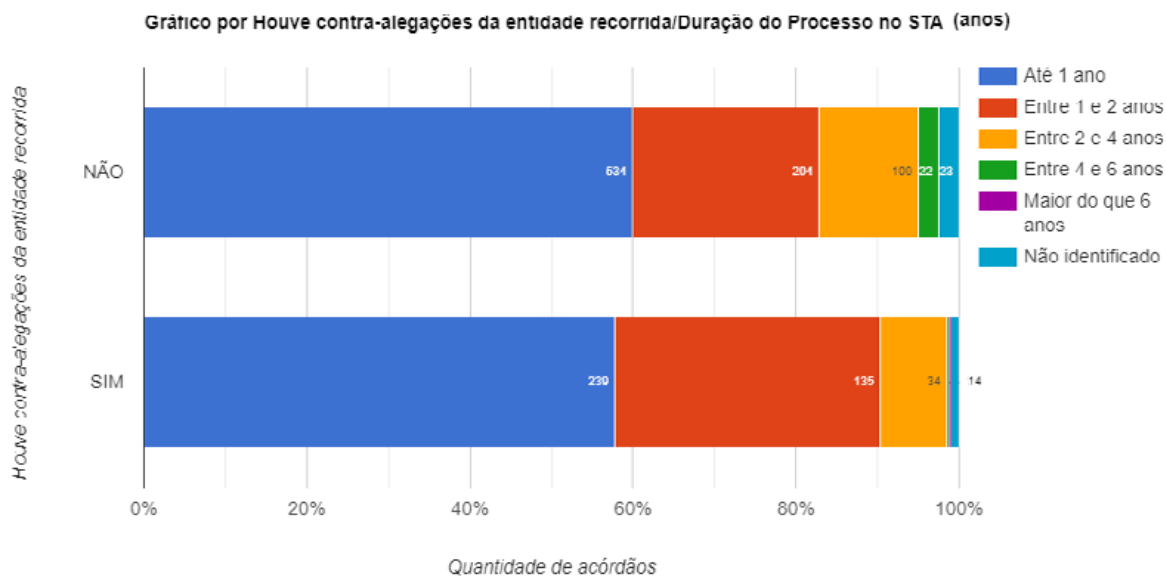
7. DOES THE OPINION OF THE PUBLIC PROSECUTOR'S OFFICE, FAVOURABLE TO THE TREASURY OR THE TAXPAYER, IMPACT THE TIME OF THE PROCESS?

The times, on average, are similar and do not depend on the position of the MP's opinion.

STA. Gráfico por Posição do Ministério Público em Relação as Partes/Duração do Processo no STA (anos)

Back to Index
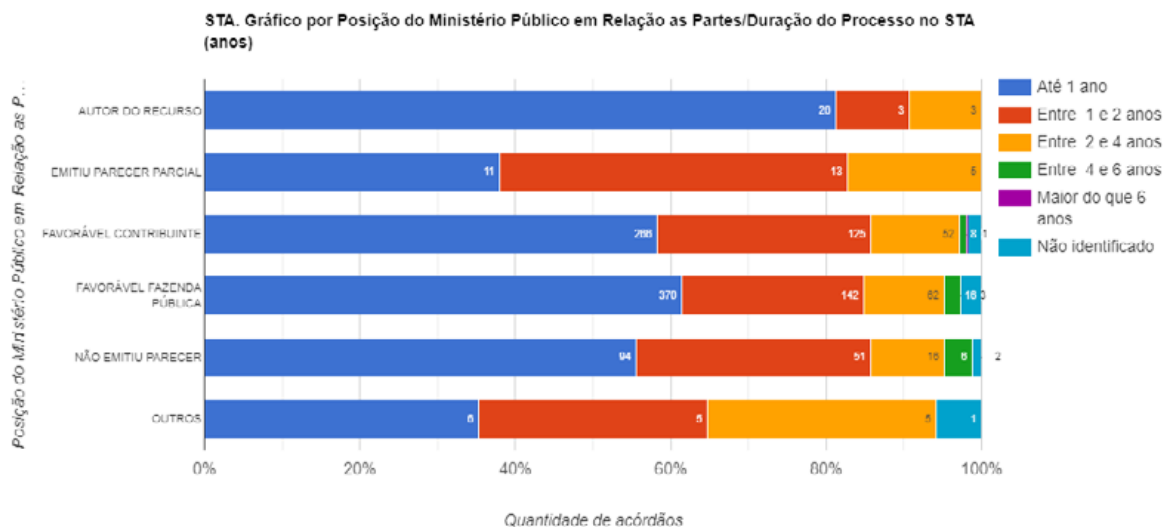
8. DOES THE EXISTENCE OR NOT OF CONSOLIDATED JURISPRUDENCE IMPACT THE TIME OF THE PROCESS?

The graphs show that there is an impact on the decrease of process time when there is consolidated jurisprudence.

Gráfico por Jurisprudência consolidada no STA/Duração do Processo no STA (anos)
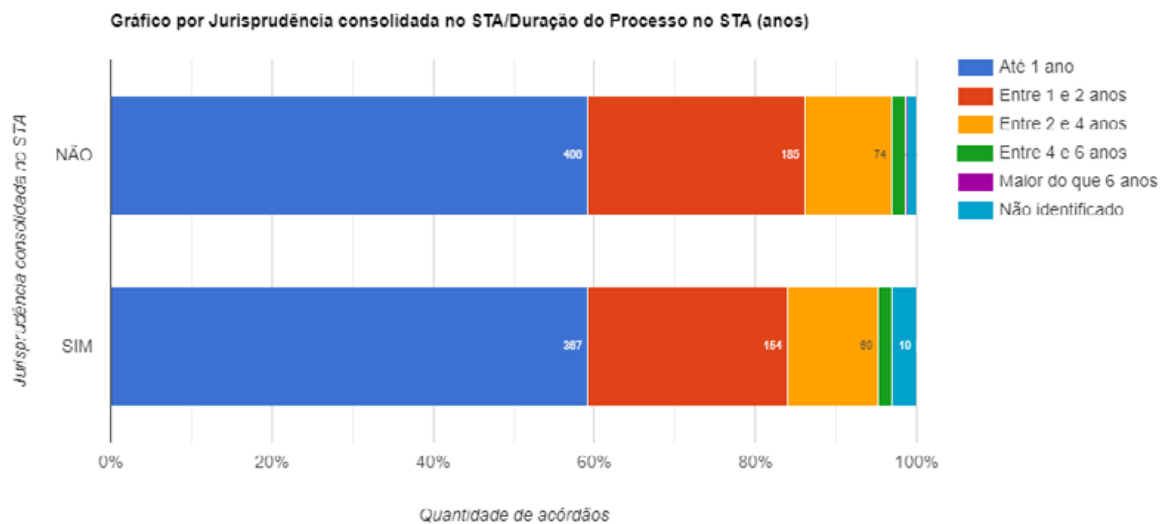
9. IS THERE A PREDOMINANCE OF FAVOURABLE OR UNFAVOURABLE DECISIONS ACCORDING TO THE GENDER OF THE REPORTER?

There are no differences. On average, 55% of the decisions are favourable to the treasury while 45% are favourable to the taxpayer.

STA. Gráfico por Decisão do Recurso em Relação as Partes/Relator (Gênero)

Back to Index
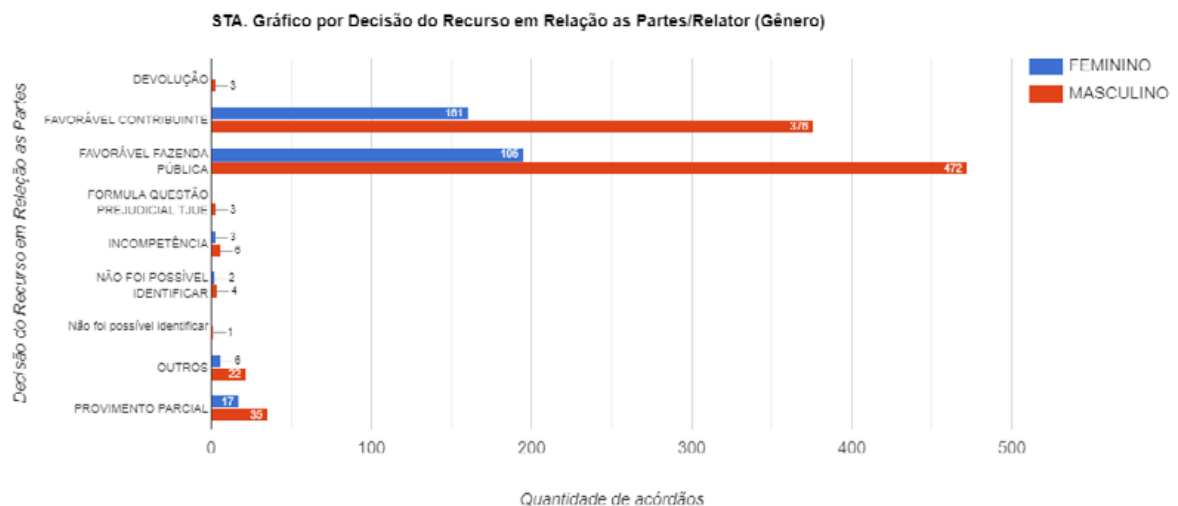
10. WHAT ARE THE MOST USED RESOURCES WHEN THE GENERIC SUBJECT AREA OF THE APPEAL IS THE SUBJECT MATTER?

Jurisdictional appeals are the most widely used followed by appeals for the uniformization of jurisprudence, appeals for review, and opposition to judgments.

Área Temática do Recurso (Genérica): Matéria
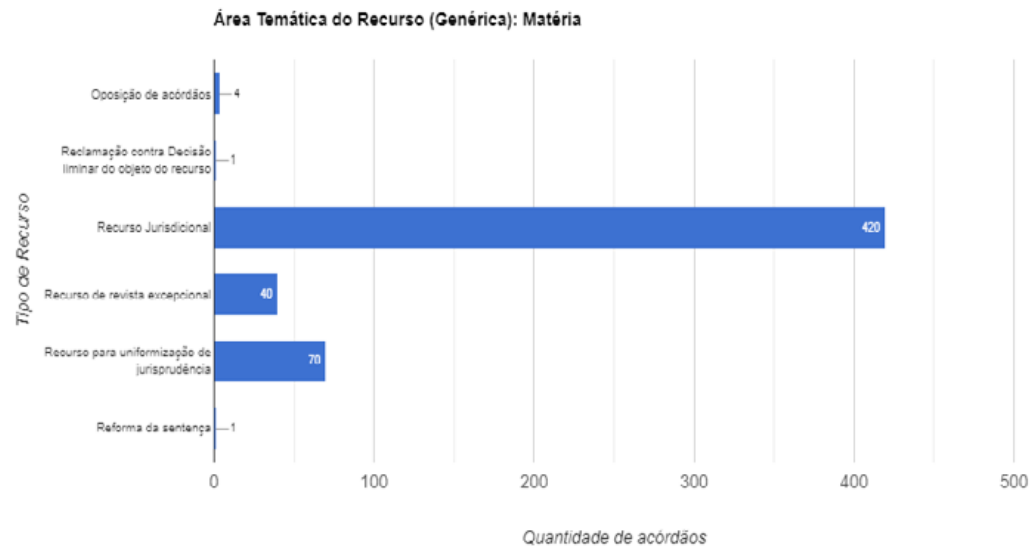
11. WHAT ARE THE MOST USED RESOURCES WHEN THE GENERIC SUBJECT AREA OF THE RESOURCE IS THE PROCEDURAL FORM?

The jurisdictional appeal is the most used followed by the appeal for review, the appeal for opposition to judgments, and the appeal for uniformity of jurisprudence.

Área Temática do Recurso (Genérica): Forma - Procedimento

Back to Index
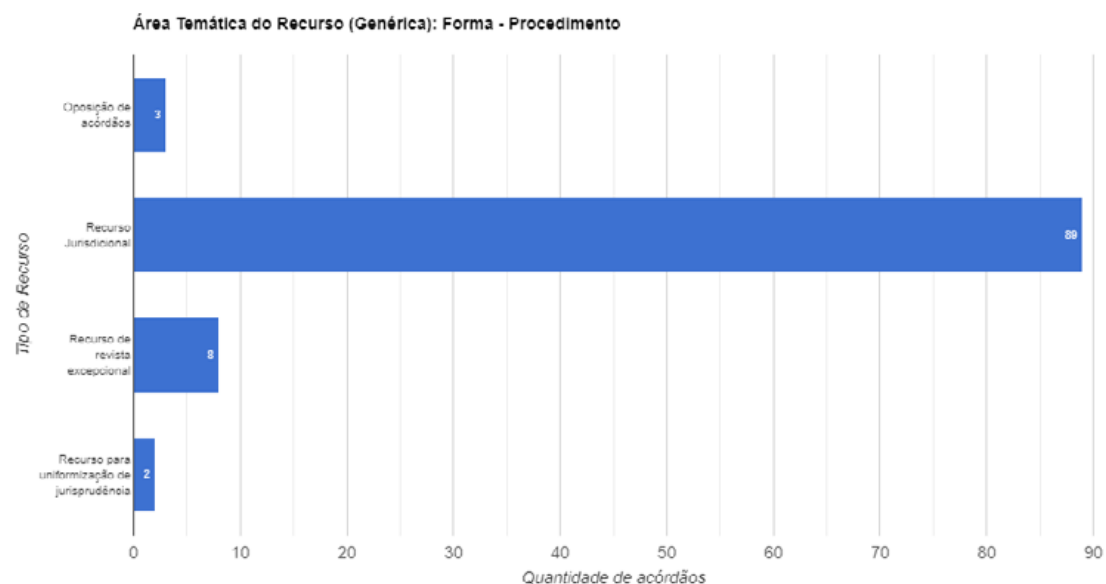
12. WHAT ARE THE MOST USED RESOURCES WHEN THE GENERIC SUBJECT AREA OF THE APPEAL IS LITIGATION?

The jurisdictional appeal is the most used followed by the appeal for review, appeal for costs reform, and appeal for uniformity of jurisprudence.

Área Temática do Recurso (Genérica): Forma - Contencioso
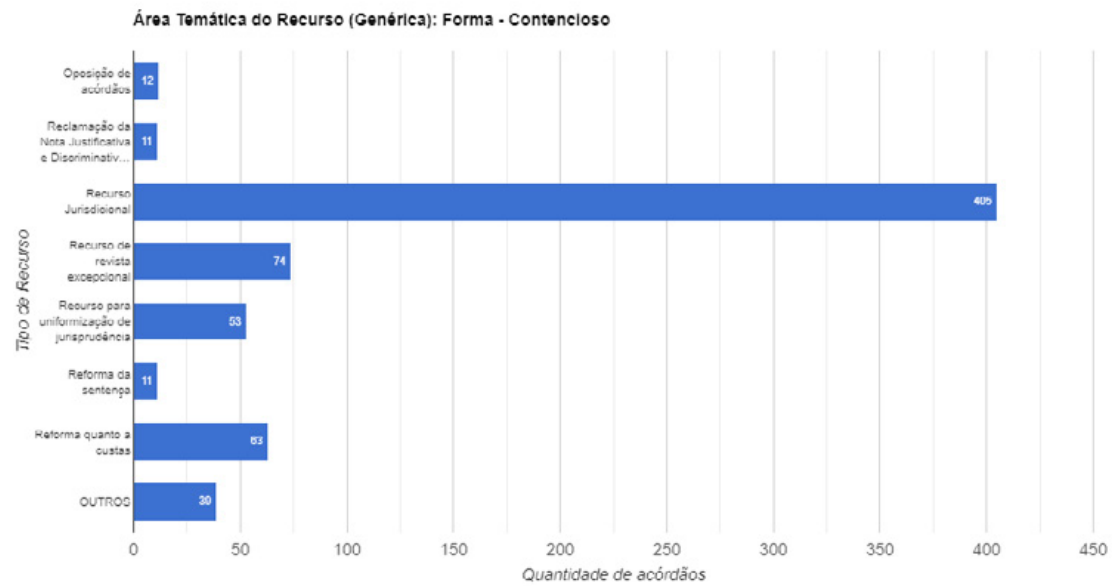
13. WHEN THE GENERAL THEMATIC AREA OF THE APPEAL IS SUBJECT MATTER (LAW), WHAT ARE THE SPECIFIC THEMATIC AREAS OF THE APPEAL MOST COMMONLY RAISED IN THE APPEALS[16]?

The most commonly raised issues in the appeals that discuss law are, in this order, calculation basis, unconstitutionality of the rule, prescription, tax deductions, tax benefits, and exemption followed by other less relevant ones.

Área Temática do Recurso (Genérica): Matéria

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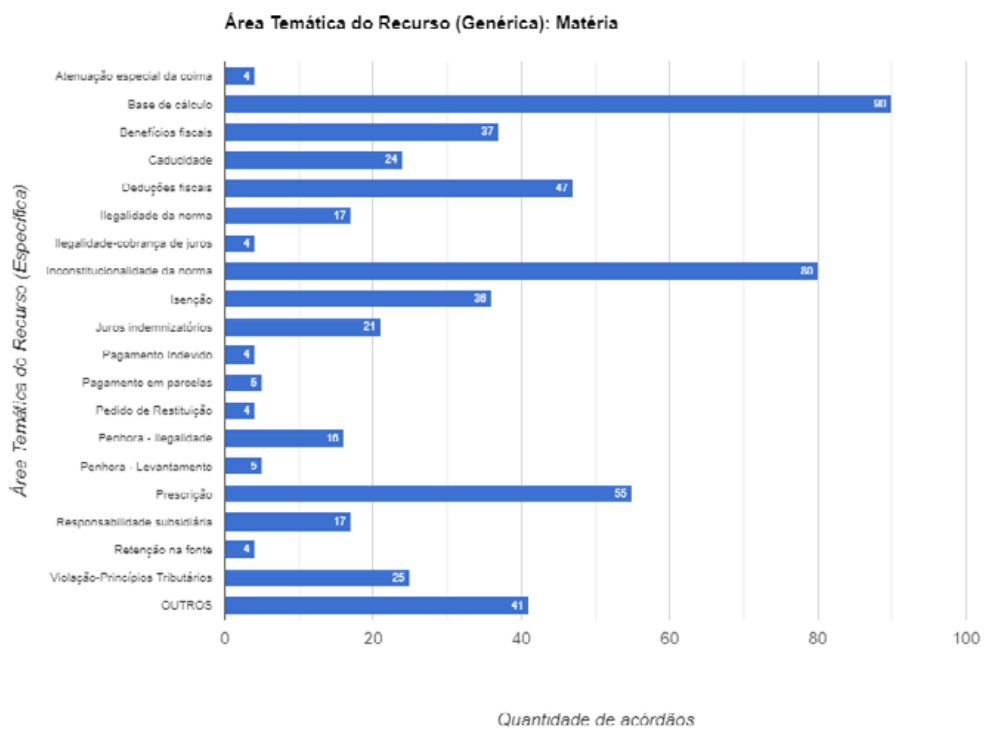
16 This question refers to the subject areas raised most in the resources in general while the following questions look at each *type of resource*.

14. WHEN THE GENERAL SUBJECT AREA OF THE APPEAL IS SUBJECT MATTER (LAW), WHAT ARE THE SPECIFIC SUBJECT AREAS OF THE APPEAL MOST COMMONLY RAISED IN THE JUDICIAL APPEAL?

The issues most commonly raised in judicial appeals that discuss law are, in this order, unconstitutionality of the rule, calculation basis, prescription, exemption, tax deductions, and tax benefits followed by other less relevant ones.

Área Temática do Recurso (Genérica): Matéria; Tipo de Recurso: Recurso Jurisdicional
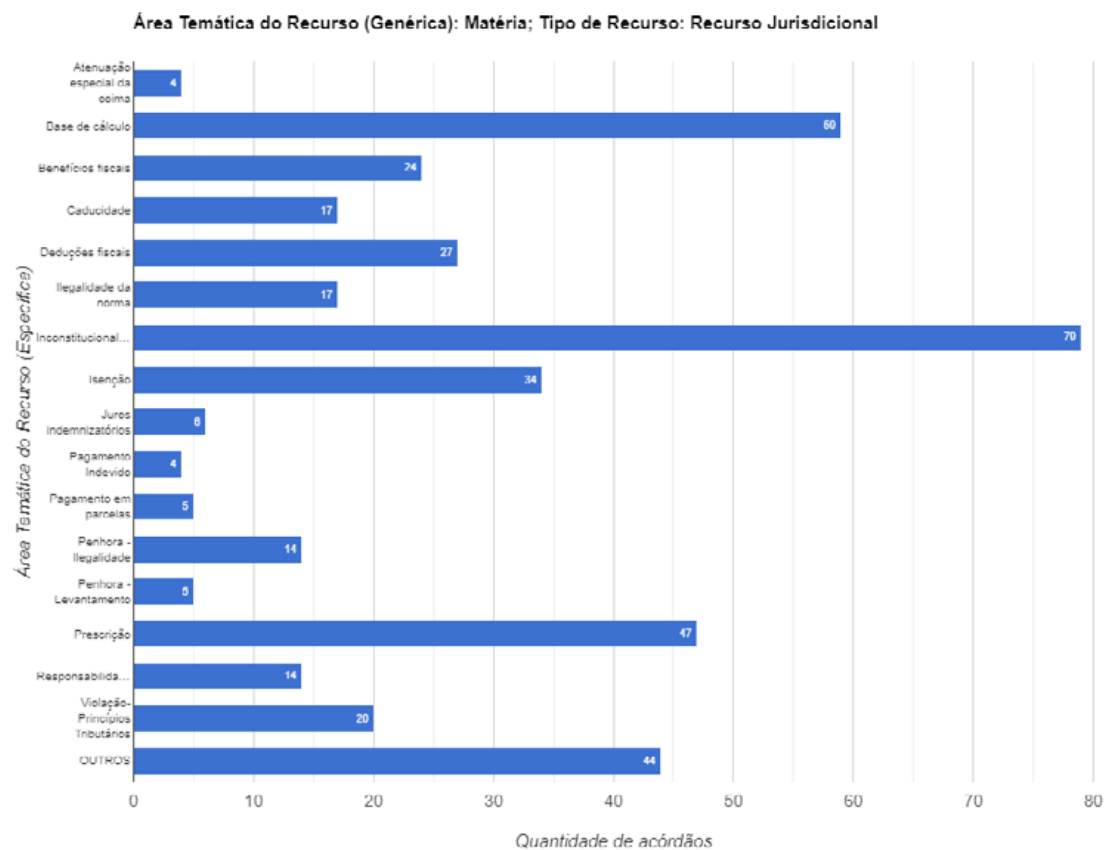
15. WHEN THE GENERAL SUBJECT AREA OF THE APPEAL IS SUBJECT MATTER (LAW), WHAT ARE THE SPECIFIC SUBJECT AREAS OF THE APPEAL MOST COMMONLY RAISED IN THE APPEAL?

The issues most commonly raised in magazine appeals that discuss law are, in this order, tax deductions, calculation basis, tax benefits, forfeiture, and subsidiary responsibility followed by other less relevant ones.

Área Temática do Recurso (Genérica): Matéria; Tipo de Recurso: Recurso de revista excepcional
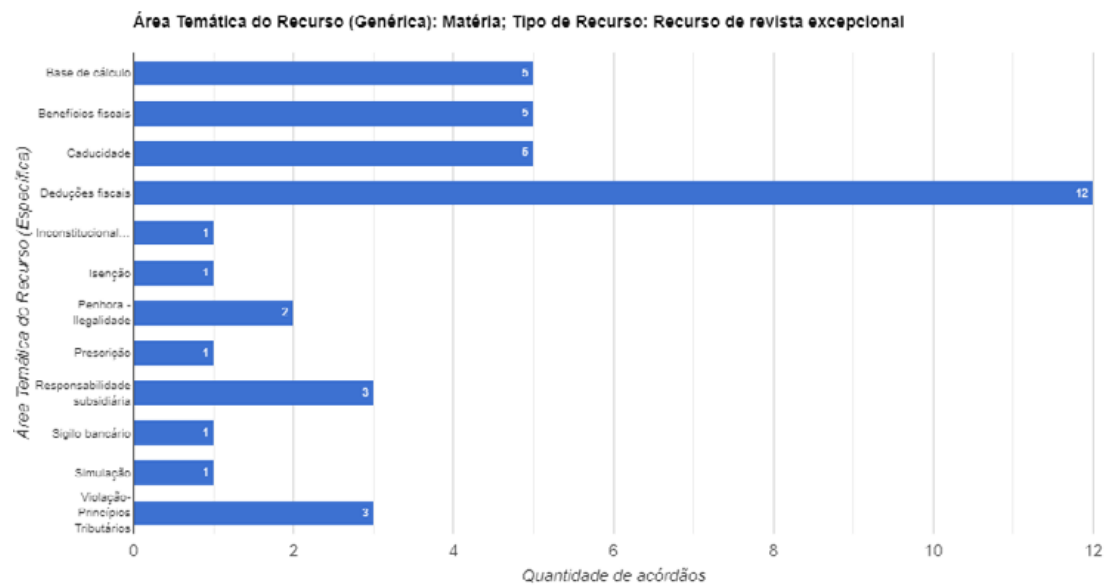
16. WHEN THE GENERAL SUBJECT AREA OF THE APPEAL IS SUBJECT MATTER (LAW), WHAT ARE THE SPECIFIC SUBJECT AREAS OF THE APPEAL MOST COMMONLY RAISED IN THE APPEAL FOR UNIFORMITY OF JURISPRUDENCE?

The issues most commonly raised in magazine appeals that discuss law are, in this order, calculation basis, compensatory interest, tax deductions, and tax benefits followed by other less relevant issues.

Área Temática do Recurso (Genérica): Matéria; Tipo de Recurso: Recurso para uniformização de jurisprudência
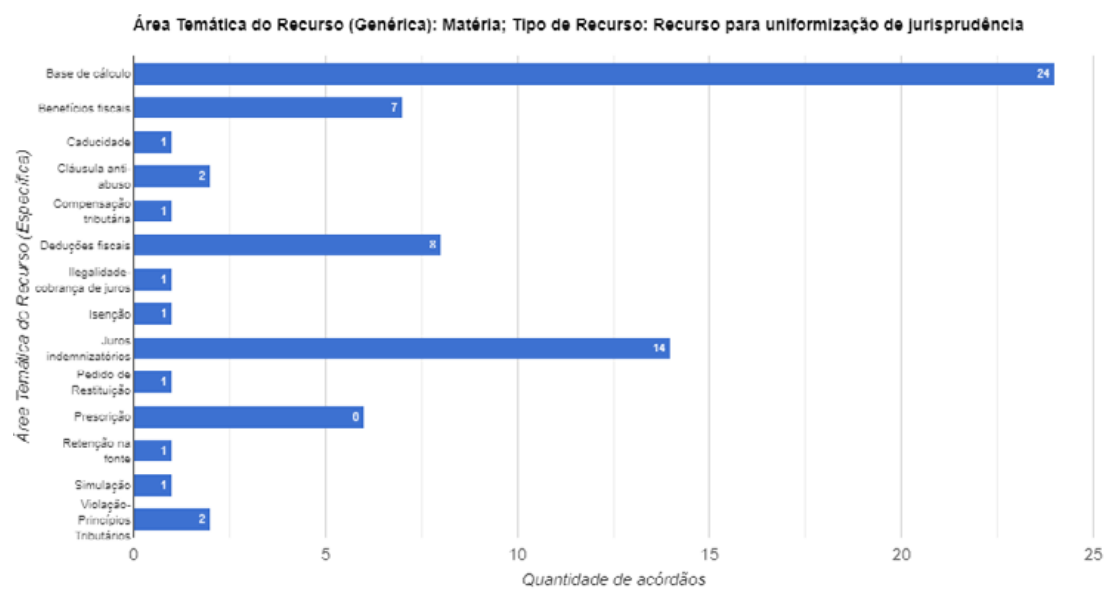
17. WHEN THE GENERIC THEMATIC AREA OF THE RESOURCE IS PROCEDURE FORM, WHICH SPECIFIC THEMATIC AREAS OF THE RESOURCE ARE RAISED THE MOST?

The issues most commonly raised in appeals that discuss *procedure* are, in this order, liquidation-formalities, errors of fact and law, lack of reasoning, and nullity of notification followed by other less relevant issues .

Área Temática do Recurso (Genérica): Forma - Procedimento
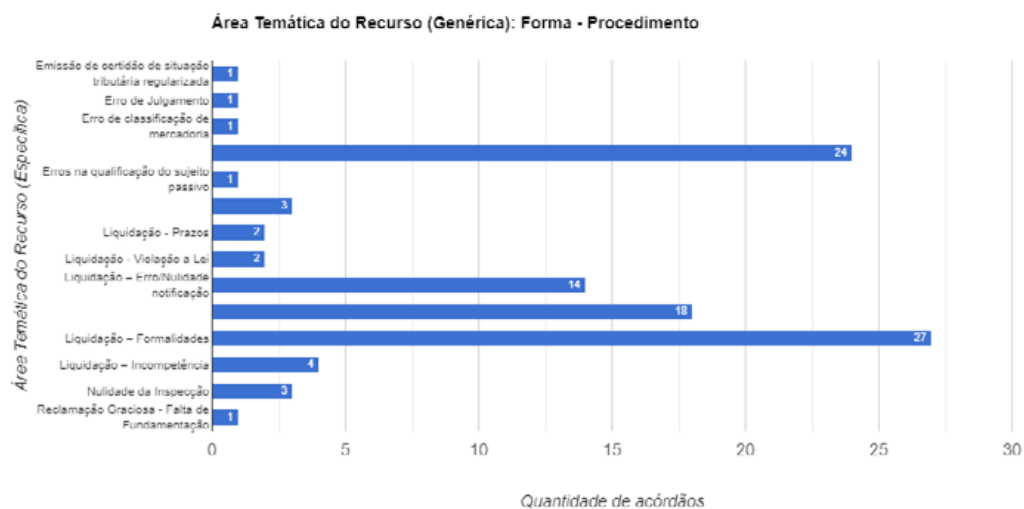
18. WHEN THE GENERAL SUBJECT AREA OF THE APPEAL IS LITIGATION, WHAT ARE THE SPECIFIC SUBJECT AREAS OF THE APPEAL MOST COMMONLY RAISED?

The issues most commonly raised in appeals that discuss litigation are, in this order, court fees, nullity of sentence, and absence of a prerequisite for appeal followed by other less relevant issues.

Área Temática do Recurso (Genérica): Forma - Contencioso
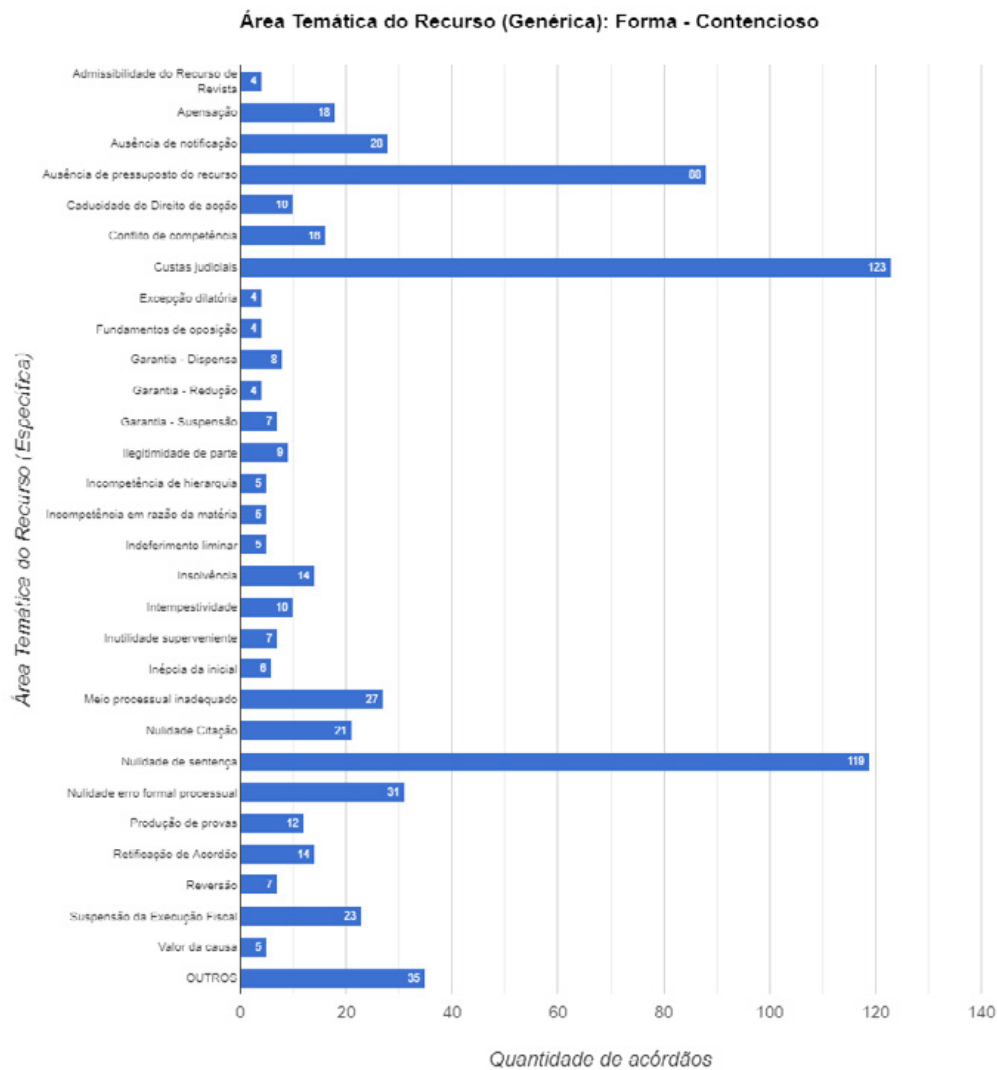
19. WHICH TYPES OF LAWSUITS TAKE LONGER TO BE JUDGED FROM THE FIRST INSTANCE TO THE STA?

Judicial impugnations take longer to be judged. In contrast, tax executions are the fastest.

STA. Gráfico por Duração do Processo Total (anos)/Tipo de Ação
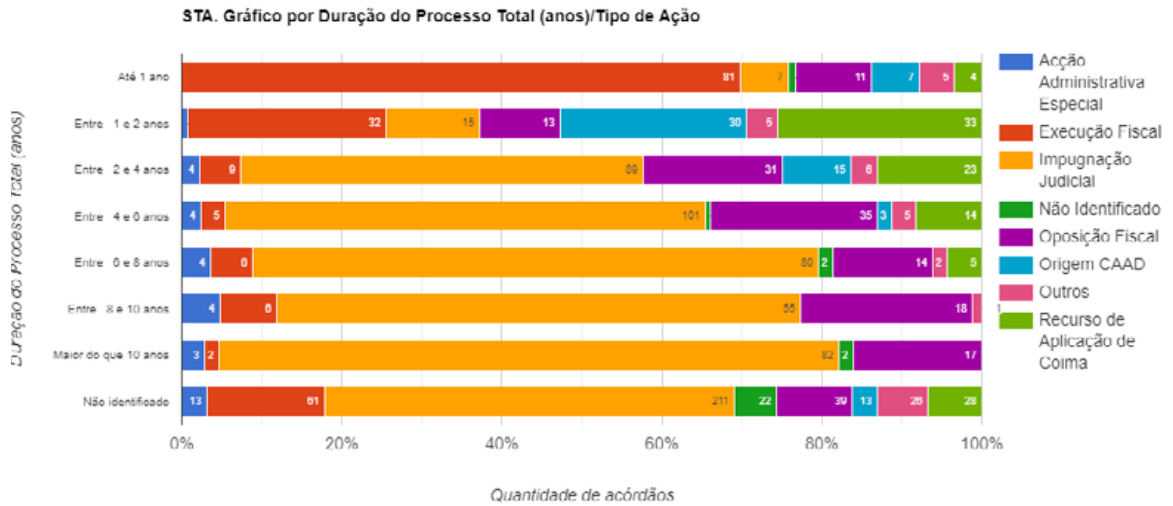
20. DOES INTEGRATING THE TAX AUTHORITY'S LIST OF "LARGE TAXPAYERS" IMPACT THE TIME OF THE STA PROCESS?

It has little impact.

In the STA, when the appellant or respondent is on the AT's list of large taxpayers, appeals are judged: (i) 20% in less than 1 year (ii) 40% from 1 to 2 years (iii) 28% from 2 to 3 years. When the appellant or respondent is not on the list mentioned previously, the percentages are, respectively, 38%, 42%, and 12%.

There is, therefore, a small time difference for the benefit of taxpayers that are not on the large taxpayer list .

STA. Gráfico por Maior Litigante STA (Lista de Maiores Contribuintes AT)/Duração do Processo no STA (anos)
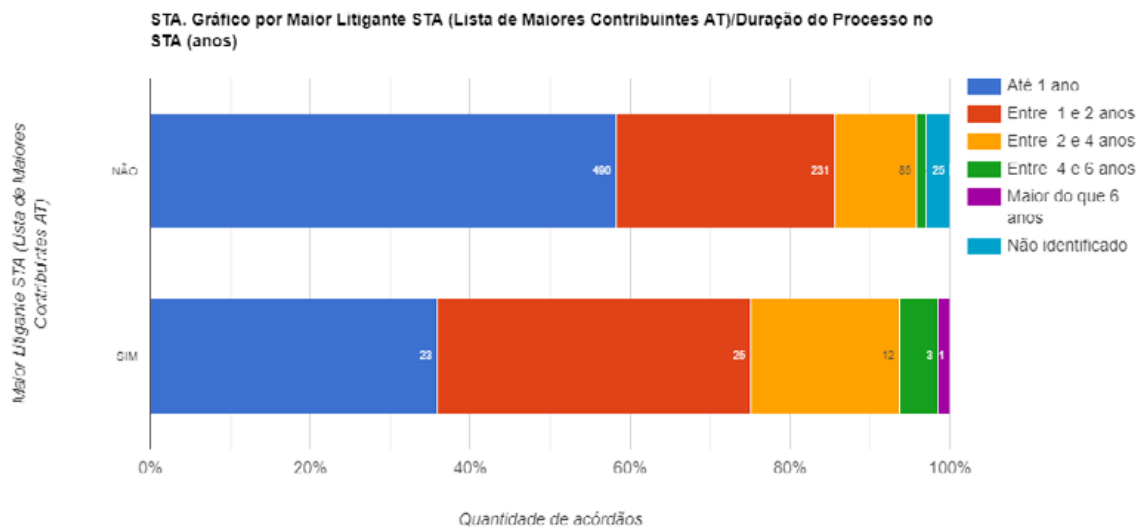
21. DOES INTEGRATING THE TAX AUTHORITY'S LIST OF "LARGE TAXPAYERS" IMPACT THE TOTAL TIME OF THE PROCESS?

It has little impact.

When the appellant or defendant is on the AT's list of large taxpayers, the cases are judged: (i) 12% up to 1 year, (ii) 17% from 2 to 3 years, (iii) 31% from 4 to 6 years, (iv) 21% from 7 to 9 years, and (v) 17% over 10 years. When the appellant or defendant is not on the mentioned list, the percentages are, respectively, 22%, 19%, 27%, 16%, and 13%.
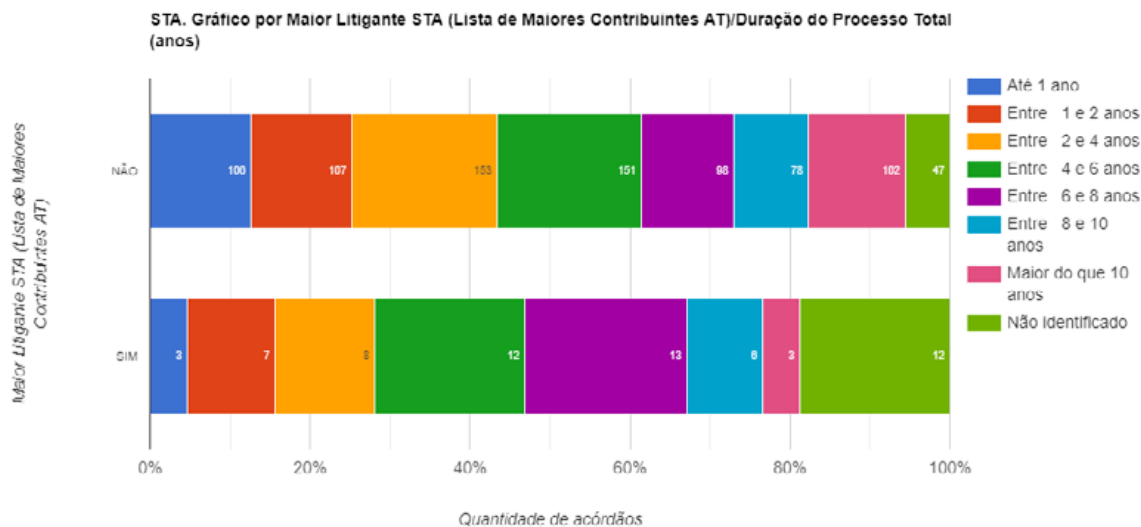
22. DOES BEING INCLUDED IN THE TAX AUTHORITY'S LIST OF "LARGE TAXPAYERS" HAVE ANY IMPACT ON THE DECISION OF THE APPEAL TO THE ADMINISTRATIVE SUPREME COURT?

In the STA, when the appellant is the taxpayer (duly identified) and is on the list of large tax-payers of the AT: (i) 33% are favourable to the taxpayer and (ii) 54% are favourable to the public treasury. The remainder are partially granted or are not known/admitted. When the appellant is the taxpayer (duly identified) and is not on the list, the percentages are, respectively, 40% and 52%. The remainder are partially granted or are not known/admitted.

Gráfico por Maior Litigante STA (Lista de Maiores Contribuintes AT)/Decisão do Recurso em Relação as Partes
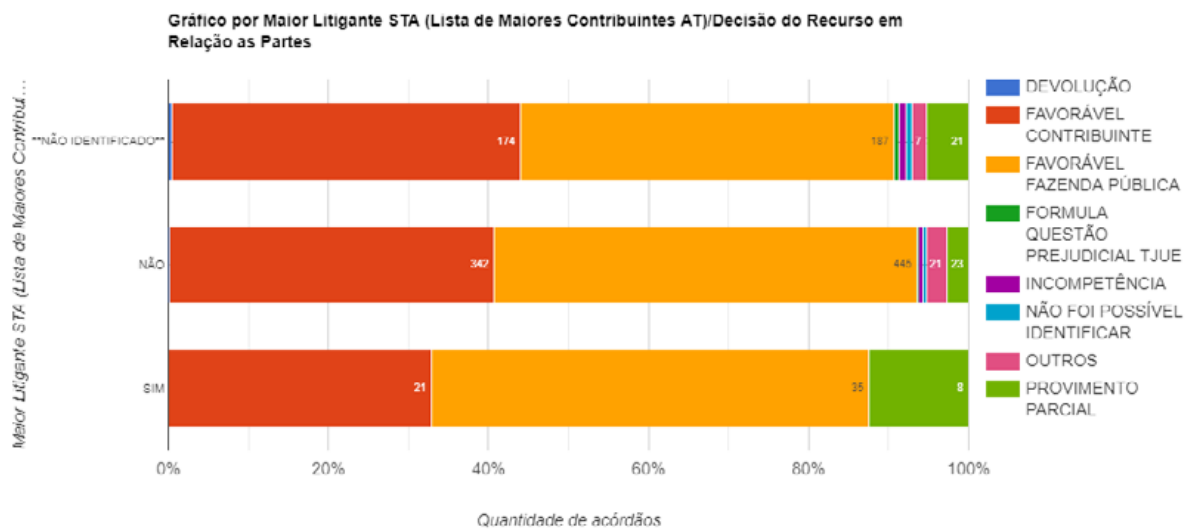
VI. REPORT SUPPORTING THE STUDY OF PERFORMANCE DETERMINANTS OF STA

Nuno Garoupa

1. SUMMARY OF INFERENTIAL STATISTICS

1.1 Duration in the STA

There is some volatility in the length of cases in the STA ranging from 9 days to 2476 days. The mean is 367 days, and the median is 266 days. This indicates that the distribution is not normal but with an unequivocal skew.
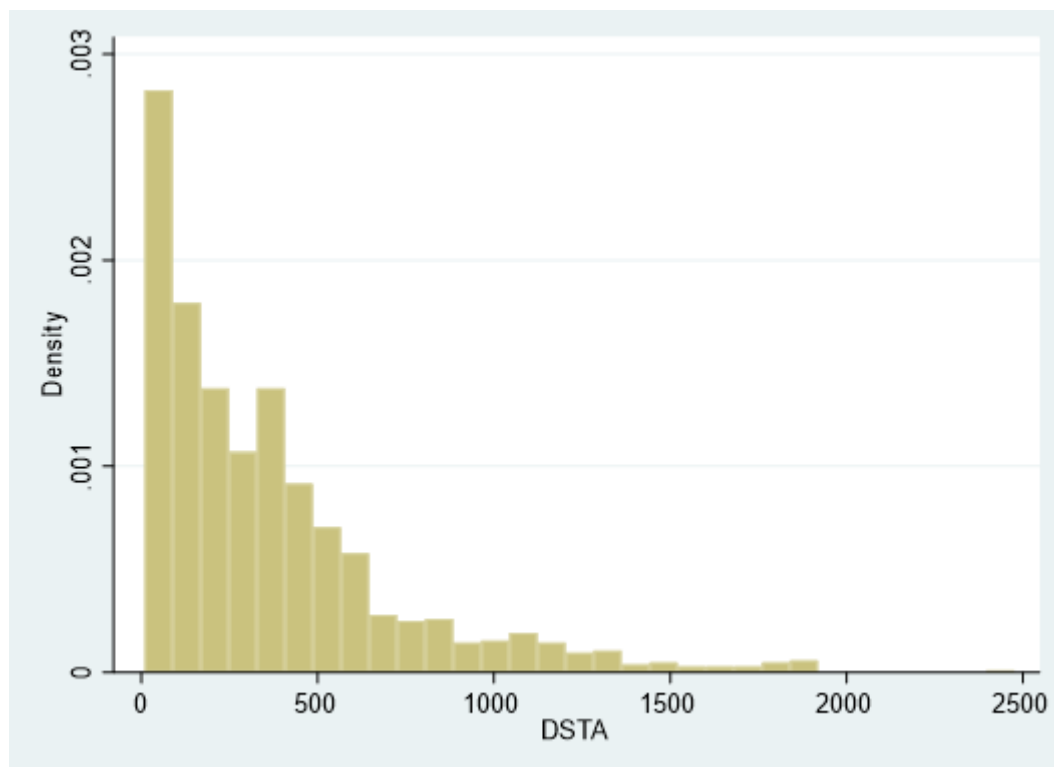
From a public policy standpoint, it is of interest to identify whether the duration of cases depends on the characteristics of the appealed tax (typology), procedural characteristics (nature of the appeal), or individual attributes of the panelists (individual productivity).

For example, it can be seen that the individual average of the reporter varies greatly:

RELATOR (n. obser)	Duration (in days)	RELATOR (n. obser)	Duration (in days)	RELATOR (n. obser)	Duration (in days)
Average (1303)	367				
J1 (115)	288	J6 (64)	321	J11 (29)	529
J2 (123)	256	J7 (176)	277	J12 (20)	511
J3 (159)	307	J8 (134)	286	J13 (19)	518
J4 (148)	369	J9 (126)	645	J14 (18)	441
J5 (115)	345	J10 (31)	595	J15 (17)	555
				OTHER (12)	913

However, these differences may be due to a distribution of typologies and procedural nature and not necessarily individual characteristics of the panelists.

(a) The authors omitted approximately 2% of decisions due to a lack of information about the duration (there are 1303 observations).

(b) Variables that increase duration in the STA in 2018 compared to 2019: Appealed decision from the CAAD or the STA (as opposed to other courts); judicial challenge compared to other actions; individual taxpayer, limited liability company, or investment funds as opposed to other corporate structures; taxpayer is a *big litigant* (generically, large Portuguese company).

(c) Variables that shorten the duration in the STA: Tax execution and fine application appeal compared to other actions; IRS & VAT & IMI & IUC & other taxes and fees (but not IRC & IMT & IS & tolls); subject matter of the appeal: form – litigation and procedure (as opposed to matter); and there is constant jurisprudence.

(d) Variables that are not statistically significant (with 10% significance): Appeal for uniformity, judicial appeal, and exceptional review appeal as opposed to other appeals; unanimity; typology of appellant.

The authors can now see that the distribution among panelists, controlling for all variables, is less pronounced:

RELATOR (n. obser)	Marginal duration (in days)	RELATOR (n. obser)	Marginal duration (in days)	RELATOR (n. obser)	Marginal duration (in days)
J1 (115)	225***	J6 (64)	225***	J11 (29)	484*
J2 (123)	231***	J7 (176)	237***	J12 (20)	460**
J3 (159)	265***	J8 (134)	288***	J13 (19)	412**
J4 (148)	320***	J9 (126)	587	J14 (18)	411**
J5 (115)	320***	J10 (31)	549	J15 (17)	493*

*** at 1%, ** at 5%, * at 10%

However, there is a set of reporters clearly below and one clearly above average after controlling for typology and procedural characteristics.

The <u>total duration can also be examined</u>:

There is some volatility in the total duration between 51 days and 5679 days. The mean is 1770 days, and the median is 1496 days. This indicates that the distribution is not normal but with a less pronounced skew than the duration in the STA.
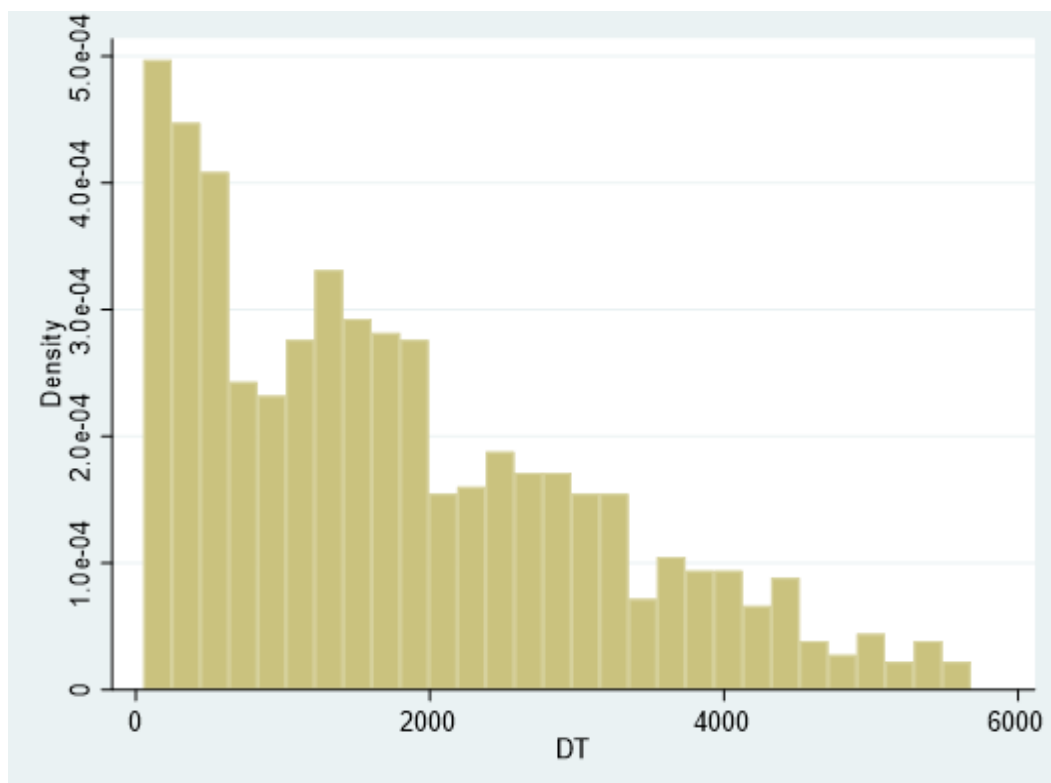
(a) The authors omitted approximately 30% of the observations due to a lack of information.

(b) Variables that increase the duration include exceptional review appeal as opposed to the others; and judicial challenge compared to other actions.

(c) Variables that decrease the duration are the origin in the CAAD (*everything else has no statistical effect*); decision by the 2nd section of the Supreme Administrative Court (as opposed to plenary); tax execution and fine application appeal compared to other actions; IRS & IMI & IS & IUC & tolls & other taxes and fees (but not IRC & IMT); subject of the appeal: form- litigation (*as opposed to matter*); and taxpayer is a big litigant (generically, a *large* Portuguese company).

(d) Variables that are not statistically significant (with 10% significance) include unanimity; typology of the appellant; individual taxpayer, limited liability company, or investment fund as opposed to other corporate structures; and there is constant case law.

1.2 STA Results

- Probability of the taxpayer winning: 35

- Probability of the AT winning: 46

- Other results: 19%.

For reasons of systematic analysis, "other outcomes" are excluded. However, the statistical results are robust to the inclusion of the partial/"other outcomes" (the probability of the contributor and the probability of the TA winning, however, are not strictly binary variables in this context but rather categorical).

Probability that the taxpayer will win:

(a) Increase: form – litigation (as opposed to procedure and matter).

(b) Decreases: All origins compared to the Administrative and Fiscal Courts (TAFS) and the Supreme Administrative Court (*TCA Sul, TCA Norte, and CAAD*); IUC and Justice Fee; appeal by taxpayer; and individual taxpayer (as opposed to other types of taxpayers).

(c) No statistical effect (with 10% significance): year; reporter; tax typology (*except IUC and Tx de Justiça*), tax execution and fine enforcement appeal compared to other actions; uniformity appeal, jurisdictional appeal, and exceptional review appeal (as opposed to other appeals); constant jurisprudence; and unanimity.

1.3 Unanimous STA

Probability of the decision being unanimous: 93%.

(a) Increase: form – litigation (as opposed to procedure and matter).

(b) Decreases: Origin in the STA compared to other origins (*TCA Sul, TCA Norte, TAFs and CAAD*); jurisdictional appeal as opposed to uniformity appeal, exceptional review appeal, and other appeals; tax enforcement compared to fine application appeal and other actions; other fees and taxes compared to other typology; and some rapporteurs (J1, J2, J3, J4, J5, J8).

(c) No statistical effect (with 10% significance): year; tax typology (*except other fees and taxes*); constant jurisprudence; appeal by taxpayer; and nature of taxpayer.

Note: The gender variable was avoided because there are only four female counselor judges being considered (versus eleven male judges). However, when considered as a group, female gender decreases the duration and the unanimity in the STA.

2. TABLES A -Duration, STA

```
. regress dsta j1 j2 j3 j4 j5 j6 j7 j8 j9 j10 j11 j12 j13 j14 j15  y18 tcanorte tcasul
>   caad sta section2 rjur runifor rexcep aimpugn aexec acoima irs irc iva imi imt is i
> uc ij port othertax appealtp tpindiv tpsa tplda tpotherbusiness tpinvestf formc form
> p unanimous precedent biglit
```

Source	SS	df	MS
Model	53741992.3	48	1119624.84
Residual	113103194	1,254	90193.9344
Total	166845186	1,302	128145.304

Number of obs	=	1,303
F(48, 1254)	=	12.41
Prob > F	=	0.0000
R-squared	=	0.3221
Adj R-squared	=	0.2962
Root MSE	=	300.32

dsta	Coefficient	Std. err.	t	P>|t|	[95% conf. interval]	
j1	-597.1302	94.51808	-6.32	0.000	-782.5612	-411.6992
j2	-590.5352	94.27152	-6.26	0.000	-775.4825	-405.5879
j3	-557.0668	93.50817	-5.96	0.000	-740.5165	-373.6171
j4	-501.9584	93.87703	-5.35	0.000	-686.1318	-317.7851
j5	-501.9029	94.5469	-5.31	0.000	-687.3905	-316.4154
j6	-596.8547	97.76806	-6.10	0.000	-788.6617	-405.0477
j7	-585.004	93.22611	-6.28	0.000	-767.9004	-402.1077
j8	-533.9892	94.11405	-5.67	0.000	-718.6275	-349.3508
j9	-234.7954	93.75519	-2.50	0.012	-418.7298	-50.86111
j10	-273.2678	106.662	-2.56	0.011	-482.5235	-64.01207
j11	-337.5282	107.5122	-3.14	0.002	-548.4518	-126.6045
j12	-361.7121	114.1076	-3.17	0.002	-585.5749	-137.8492
j13	-409.3113	114.9807	-3.56	0.000	-634.8871	-183.7355
j14	-410.53	116.1761	-3.53	0.000	-638.4511	-182.609
j15	-328.5072	117.5273	-2.80	0.005	-559.0791	-97.93536
y18	32.99719	18.8774	1.75	0.081	-4.037574	70.03196
tcanorte	-17.74293	37.9085	-0.47	0.640	-92.114	56.62814
tcasul	-1.707397	37.34983	-0.05	0.964	-74.98244	71.56765
caad	111.7131	67.95443	1.64	0.100	-21.60378	245.03
sta	243.8879	52.064	4.68	0.000	141.7457	346.0301
section2	32.95177	63.40858	0.52	0.603	-91.44684	157.3504
rjur	65.74027	49.69677	1.32	0.186	-31.75772	163.2383
runifor	-46.56842	74.17483	-0.63	0.530	-192.0889	98.95203
rexcep	13.36303	59.27717	0.23	0.822	-102.9303	129.6564
aimpugn	75.36218	24.35326	3.09	0.002	27.58455	123.1398
aexec	-250.5572	29.08278	-8.62	0.000	-307.6134	-193.5009
acoima	-161.054	40.03282	-4.02	0.000	-239.5927	-82.5153
irs	-83.44114	40.31511	-2.07	0.039	-162.5337	-4.348632
irc	8.494079	39.18205	0.22	0.828	-68.37551	85.36367
iva	-64.47108	37.3067	-1.73	0.084	-137.6615	8.719355
imi	-128.6831	48.50226	-2.65	0.008	-223.8377	-33.52862
imt	-52.45389	59.97508	-0.87	0.382	-170.1165	65.20868
is	-49.74172	51.33099	-0.97	0.333	-150.4458	50.96237
iuc	-210.9921	64.31315	-3.28	0.001	-337.1653	-84.81886
ij	-54.79536	71.24367	-0.77	0.442	-194.5653	84.97457
port	24.00553	77.12587	0.31	0.756	-127.3044	175.3155
othertax	-68.79974	42.04828	-1.64	0.102	-151.2925	13.693
appealtp	29.04586	18.10907	1.60	0.109	-6.481564	64.57327
tpindiv	68.47623	36.39594	1.88	0.060	-2.927424	139.8799
tpsa	21.54413	35.64415	0.60	0.546	-48.38462	91.47288
tplda	68.946	36.93	1.87	0.062	-3.505394	141.3974
tpotherbusiness	47.23301	59.20638	0.80	0.425	-68.92147	163.3875
tpinvestf	206.2428	62.14326	3.32	0.001	84.32655	328.159
formc	-56.05356	21.54682	-2.60	0.009	-98.32536	-13.78176
formp	-75.94373	34.16405	-2.22	0.026	-142.9687	-8.918732
unanimous	-19.92824	34.98963	-0.57	0.569	-88.57291	48.71642
precedent	-34.18572	19.16485	-1.78	0.075	-71.78443	3.412983
biglit	67.13202	32.42627	2.07	0.039	3.516302	130.7477
_cons	821.8052	119.6691	6.87	0.000	587.0315	1056.579

.

```
. vif

    Variable |       VIF       1/VIF
-------------+----------------------
          j7 |     14.67    0.068173
          j3 |     13.53    0.073892
          j4 |     12.82    0.078012
          j8 |     11.81    0.084702
          j9 |     11.01    0.090798
          j2 |     10.82    0.092461
          j5 |     10.39    0.096231
          j1 |     10.39    0.096289
        rjur |      7.48    0.133638
     runifor |      6.79    0.147171
          j6 |      6.45    0.155052
     othertax |     5.83    0.171581
     section2 |     5.81    0.172009
      rexcep |      4.31    0.232133
        tpsa |      4.11    0.243063
     tpindiv |      4.10    0.243941
         j10 |      3.82    0.261971
         irc |      3.74    0.267248
         j11 |      3.63    0.275194
         sta |      3.44    0.290292
       tplda |      3.42    0.292610
        caad |      3.02    0.330767
         irs |      2.86    0.349601
         j12 |      2.84    0.351751
         iva |      2.75    0.363699
         j13 |      2.74    0.364379
         j14 |      2.66    0.376454
         j15 |      2.57    0.389183
      tcasul |      2.23    0.448661
     aimpugn |      2.14    0.467023
         imi |      2.14    0.467239
          ij |      2.02    0.494304
      acoima |      1.75    0.573026
       formc |      1.67    0.598161
       aexec |      1.59    0.627295
          is |      1.54    0.649808
      biglit |      1.54    0.650033
     tcanorte |     1.54    0.650133
        port |      1.49    0.671095
    tpinvestf |     1.46    0.685719
 tpotherbus~s |     1.40    0.715730
         imt |      1.40    0.716310
    precedent |     1.32    0.755843
         y18 |      1.29    0.777143
       formp |      1.22    0.821940
         iuc |      1.21    0.824722
     appealtp |     1.17    0.857397
    unanimous |     1.08    0.927207
-------------+----------------------
    Mean VIF |      4.35

.
```

```
. imtest
```

Cameron & Trivedi's decomposition of IM-test

Source	chi2	df	p
Heteroskedasticity	911.11	799	0.0035
Skewness	97.66	48	0.0000
Kurtosis	9.85	1	0.0017
Total	1018.61	848	0.0000

```
. regress dsta j1 j2 j3 j4 j5 j6 j7 j8 j9 j10 j11 j12 j13 j14 j15  y18 tcanorte tcasul
>  caad sta section2 rjur runifor rexcep aimpugn aexec acoima irs irc iva imi imt is i
> uc ij port othertax appealtp tpindiv tpsa tplda tpotherbusiness tpinvestf formc form
> p unanimous precedent biglit, robust

Linear regression                               Number of obs   =      1,303
                                                F(48, 1254)     =      12.13
                                                Prob > F        =     0.0000
                                                R-squared       =     0.3221
                                                Root MSE        =     300.32
```

dsta	Coefficient	Robust std. err.	t	P>|t|	[95% conf. interval]	
j1	-597.1302	161.6531	-3.69	0.000	-914.2705	-279.9898
j2	-590.5352	159.2472	-3.71	0.000	-902.9555	-278.1149
j3	-557.0668	160.267	-3.48	0.001	-871.4879	-242.6458
j4	-501.9584	162.209	-3.09	0.002	-820.1893	-183.7276
j5	-501.9029	160.3607	-3.13	0.002	-816.5078	-187.2981
j6	-596.8547	160.5143	-3.72	0.000	-911.7609	-281.9485
j7	-585.004	159.3694	-3.67	0.000	-897.6641	-272.344
j8	-533.9892	159.8552	-3.34	0.001	-847.6024	-220.376
j9	-234.7954	162.8755	-1.44	0.150	-554.334	84.74318
j10	-273.2678	173.9879	-1.57	0.117	-614.6073	68.07169
j11	-337.5282	171.9977	-1.96	0.050	-674.9631	-.0931567
j12	-361.7121	177.8643	-2.03	0.042	-710.6564	-12.76771
j13	-409.3113	178.6102	-2.29	0.022	-759.7191	-58.90347
j14	-410.53	175.6767	-2.34	0.020	-755.1826	-65.87744
j15	-328.5072	186.854	-1.76	0.079	-695.0883	38.07377
y18	32.99719	18.03568	1.83	0.068	-2.386254	68.38063
tcanorte	-17.74293	32.88991	-0.54	0.590	-82.26826	46.78239
tcasul	-1.707397	32.86581	-0.05	0.959	-66.18544	62.77064
caad	111.7131	63.0302	1.77	0.077	-11.94313	235.3694
sta	243.8879	50.94989	4.79	0.000	143.9315	343.8443
section2	32.95177	82.56668	0.40	0.690	-129.0323	194.9358
rjur	65.74027	44.96665	1.46	0.144	-22.4779	153.9584
runifor	-46.56842	82.61455	-0.56	0.573	-208.6464	115.5096
rexcep	13.36303	52.44758	0.25	0.799	-89.53165	116.2577
aimpugn	75.36218	25.2427	2.99	0.003	25.8396	124.8848
aexec	-250.5572	25.51286	-9.82	0.000	-300.6098	-200.5046
acoima	-161.054	32.15748	-5.01	0.000	-224.1424	-97.9656
irs	-83.44114	37.28195	-2.24	0.025	-156.583	-10.29927
irc	8.494079	34.74975	0.24	0.807	-59.67997	76.66813
iva	-64.47108	32.85576	-1.96	0.050	-128.9294	-.0127601
imi	-128.6831	43.28198	-2.97	0.003	-213.5962	-43.77006
imt	-52.45389	50.76045	-1.03	0.302	-152.0387	47.13087
is	-49.74172	43.82968	-1.13	0.257	-135.7293	36.24586
iuc	-210.9921	45.85665	-4.60	0.000	-300.9563	-121.0279
ij	-54.79536	75.64965	-0.72	0.469	-203.2092	93.61848
port	24.00553	49.7015	0.48	0.629	-73.50174	121.5128
othertax	-68.79974	36.11855	-1.90	0.057	-139.6592	2.059704
appealtp	29.04586	17.62255	1.65	0.100	-5.527078	63.61879
tpindiv	68.47623	35.89318	1.91	0.057	-1.941081	138.8935
tpsa	21.54413	35.39895	0.61	0.543	-47.90357	90.99183
tplda	68.946	36.21828	1.90	0.057	-2.109111	140.0011
tpotherbusiness	47.23301	46.74461	1.01	0.312	-44.47324	138.9393
tpinvestf	206.2428	80.84984	2.55	0.011	47.62691	364.8586
formc	-56.05356	21.54281	-2.60	0.009	-98.31748	-13.78964
formp	-75.94373	30.88498	-2.46	0.014	-136.5357	-15.35179
unanimous	-19.92824	34.8961	-0.57	0.568	-88.38943	48.53294
precedent	-34.18572	19.1975	-1.78	0.075	-71.84849	3.477044
biglit	67.13202	37.06704	1.81	0.070	-5.588223	139.8523
_cons	821.8052	188.3928	4.36	0.000	452.2054	1191.405

.

```
. mfx, predict(xb) nose tracelvl(2)

calculating dydx (linear method)

equation i= 1 : df/d(xb) = 1
```

variable	dy/dx
j1	-597.13
j2	-590.54
j3	-557.07
j4	-501.96
j5	-501.9
j6	-596.85
j7	-585
j8	-533.99
j9	-234.8
j10	-273.27
j11	-337.53
j12	-361.71
j13	-409.31
j14	-410.53
j15	-328.51
y18	32.997
tcanorte	-17.743
tcasul	-1.7074
caad	111.71
sta	243.89
section2	32.952
rjur	65.74
runifor	-46.568
rexcep	13.363
aimpugn	75.362
aexec	-250.56
acoima	-161.05
irs	-83.441
irc	8.4941
iva	-64.471
imi	-128.68
imt	-52.454
is	-49.742
iuc	-210.99
ij	-54.795
port	24.006
othertax	-68.8
appealtp	29.046
tpindiv	68.476
tpsa	21.544
tplda	68.946
tpothe~s	47.233
tpinve~f	206.24
formc	-56.054
formp	-75.944
unanim~s	-19.928
preced~t	-34.186
biglit	67.132

```
Marginal effects after regress
      y  = Linear prediction (predict, xb)
         =  366.62932
```

variable	dy/dx	X
j1*	-597.1302	.088258
j2*	-590.5352	.092863
j3*	-557.0668	.122026
j4*	-501.9584	.113584
j5*	-501.9029	.088258
j6*	-596.8547	.049117
j7*	-585.004	.135073
j8*	-533.9892	.10284
j9*	-234.7954	.095932
j10*	-273.2678	.023791
j11*	-337.5282	.022256
j12*	-361.7121	.015349
j13*	-409.3113	.014582
j14*	-410.53	.013814
j15*	-328.5072	.013047
y18*	32.99719	.492709
tcanorte*	-17.74293	.080583
tcasul*	-1.707397	.126631
caad*	111.7131	.047583
sta*	243.8879	.097467
section2*	32.95177	.887183
rjur*	65.74027	.700691
runifor*	-46.56842	.094398
rexcep*	13.36303	.09363
aimpugn*	75.36218	.490407
aexec*	-250.5572	.154259
acoima*	-161.054	.082118
irs*	-83.44114	.14198
irc*	8.494079	.214889
iva*	-64.47108	.163469
imi*	-128.6831	.067536
imt*	-52.45389	.027629
is*	-49.74172	.04221
iuc*	-210.9921	.020721
ij*	-54.79536	.028396
port*	24.00553	.017652
othertax*	-68.79974	.352264
appealtp*	29.04586	.561781
tpindiv*	68.47623	.310821
tpsa*	21.54413	.339217
tplda*	68.946	.223331
tpotherbusiness*	47.23301	.028396
tpinvestf*	206.2428	.026861
formc*	-56.05356	.527245
formp*	-75.94373	.078281
unanimous*	-19.92824	.934766
precedent*	-34.18572	.47429
biglit*	67.13202	.114351

```
(*) dy/dx is for discrete change of dummy variable from 0 to 1

.
```

3. TABLES B - Winning Party

```
. logistic tpwins j1 j2 j3 j4 j5 j6 j7 j8 j9 j10 j11 j12 j13 j14 j15  y18 tcanorte tca
> sul caad sta section2 rjur runifor rexcep aimpugn aexec acoima irs irc iva imi imt i
> s iuc ij port othertax appealtp tpindiv tpsa tplda tpotherbusiness tpinvestf formc f
> ormp unanimous precedent biglit if tpwins+atwins==1
```

```
Logistic regression                              Number of obs =   1,058
                                                 LR chi2(48)   =  172.90
                                                 Prob > chi2   =  0.0000
Log likelihood = -636.79136                      Pseudo R2     =  0.1195
```

tpwins	Odds ratio	Std. err.	z	P>|z|	[95% conf. interval]	
j1	1.64971	1.555485	0.53	0.595	.2599101	10.47109
j2	2.280995	2.145713	0.88	0.381	.3609161	14.41592
j3	1.812359	1.70273	0.63	0.527	.2874296	11.42765
j4	1.903829	1.781424	0.69	0.491	.304196	11.91523
j5	1.942189	1.812601	0.71	0.477	.3118062	12.09758
j6	1.222837	1.183863	0.21	0.835	.1833566	8.155313
j7	2.774564	2.591465	1.09	0.275	.4448007	17.30708
j8	2.248654	2.127345	0.86	0.392	.3520801	14.36164
j9	1.999316	1.880605	0.74	0.461	.3163887	12.63403
j10	1.481549	1.505467	0.39	0.699	.202196	10.85574
j11	1.994534	2.062662	0.67	0.504	.2627634	15.13972
j12	1.111019	1.203599	0.10	0.923	.1329197	9.286526
j13	1.895344	2.006246	0.60	0.546	.2380566	15.09023
j14	3.483189	3.758719	1.16	0.247	.4201874	28.87427
j15	1.534782	1.647018	0.40	0.690	.1873262	12.57462
y18	.9473697	.1450827	-0.35	0.724	.7017206	1.279012
tcanorte	.519761	.1689869	-2.01	0.044	.2748257	.982992
tcasul	.4587564	.1459815	-2.45	0.014	.2458783	.8559414
caad	.2415583	.1357735	-2.53	0.011	.0802758	.7268749
sta	.5089161	.2469066	-1.39	0.164	.1966418	1.317093
section2	.8268214	.6802876	-0.23	0.817	.1648408	4.147235
rjur	.8994108	.4215264	-0.23	0.821	.3589434	2.25367
runifor	1.087782	.933552	0.10	0.922	.2023144	5.848666
rexcep	2.056617	1.105895	1.34	0.180	.7168708	5.900188
aimpugn	.8604036	.1723233	-0.75	0.453	.5810612	1.274038
aexec	.9049598	.2088876	-0.43	0.665	.5756393	1.422683
acoima	1.374233	.4509156	0.97	0.333	.7223748	2.614316
irs	.9221082	.2833049	-0.26	0.792	.5049659	1.683843
irc	1.572994	.4741018	1.50	0.133	.8713133	2.83975
iva	.9981191	.2855937	-0.01	0.995	.5696741	1.748792
imi	1.043727	.3955814	0.11	0.910	.496563	2.193813
imt	1.222933	.570326	0.43	0.666	.490272	3.050481
is	.9820595	.378869	-0.05	0.963	.4610548	2.091814
iuc	.3892831	.2073762	-1.77	0.077	.1370312	1.105889
ij	.1520441	.1267844	-2.26	0.024	.0296607	.7793953
port	1.790488	1.149486	0.91	0.364	.508749	6.30143
othertax	1.135812	.366936	0.39	0.693	.6029991	2.13942
appealtp	.2845169	.041727	-8.57	0.000	.213438	.3792664
tpindiv	.5884771	.1769103	-1.76	0.078	.3264661	1.06077
tpsa	.7835747	.234661	-0.81	0.415	.4356792	1.409269
tplda	.6616185	.2040409	-1.34	0.180	.3614931	1.21092
tpotherbusiness	.9979518	.46005	-0.00	0.996	.4043064	2.46325
tpinvestf	.8680029	.4393975	-0.28	0.780	.3218317	2.341065
formc	.9280492	.1586163	-0.44	0.662	.6638791	1.297338
formp	1.798553	.4789041	2.20	0.027	1.067265	3.030919
unanimous	.9393941	.2637701	-0.22	0.824	.5418025	1.628751
precedent	1.225831	.1880279	1.33	0.184	.9075412	1.65575
biglit	.7143035	.1899167	-1.27	0.206	.4241974	1.202811
_cons	1.697919	2.322039	0.39	0.699	.1163673	24.77437

Note: **_cons** estimates baseline odds.

```
. . logistic tpwins j1 j2 j3 j4 j5 j6 j7 j8 j9 j10 j11 j12 j13 j14 j15  y18 tcanorte t
> casul caad sta section2 rjur runifor rexcep aimpugn aexec acoima irs irc iva imi imt
>  is iuc ij port othertax appealtp tpindiv tpsa tplda tpotherbusiness tpinvestf formc
>  formp unanimous precedent biglit
```

Logistic regression   Number of obs = 1,306
                                             LR chi2(48)   = 168.30
                                             Prob > chi2   = 0.0000
Log likelihood = -760.73108   Pseudo R2   = 0.0996

tpwins	Odds ratio	Std. err.	z	P>|z|	[95% conf. interval]	
j1	1.429486	1.208671	0.42	0.673	.2725621	7.497124
j2	1.712874	1.441747	0.64	0.523	.3290474	8.916458
j3	1.354852	1.136201	0.36	0.717	.2618544	7.010091
j4	1.869093	1.569127	0.75	0.456	.3606087	9.687806
j5	1.681303	1.418516	0.62	0.538	.3217264	8.786283
j6	.9424919	.8225928	-0.07	0.946	.1703577	5.21427
j7	1.863571	1.556304	0.75	0.456	.3626528	9.576369
j8	1.519625	1.281178	0.50	0.620	.2911379	7.931844
j9	1.587106	1.334026	0.55	0.583	.3055887	8.242799
j10	1.167159	1.075849	0.17	0.867	.1916549	7.107874
j11	1.372212	1.263678	0.34	0.731	.2257071	8.342521
j12	.8669483	.8458565	-0.15	0.884	.1280856	5.867946
j13	1.526502	1.470648	0.44	0.661	.2310155	10.08681
j14	2.492014	2.418614	0.94	0.347	.3718949	16.69863
j15	1.53211	1.504105	0.43	0.664	.2236904	10.49379
y18	.9253564	.1294873	-0.55	0.579	.7033936	1.217362
tcanorte	.5226599	.1560927	-2.17	0.030	.2910766	.9384929
tcasul	.4251784	.1226348	-2.97	0.003	.2415783	.7483151
caad	.1700408	.0893824	-3.37	0.001	.06069	.4764193
sta	.4982317	.212448	-1.63	0.102	.2160109	1.149177
section2	2.561561	1.611554	1.50	0.135	.7464288	8.790649
rjur	2.170957	.8985593	1.87	0.061	.9645814	4.886114
runifor	10.41901	7.356408	3.32	0.001	2.611139	41.57408
rexcep	4.471998	2.170236	3.09	0.002	1.7275	11.57671
aimpugn	.8602523	.1571398	-0.82	0.410	.6013666	1.230587
aexec	1.046246	.2248211	0.21	0.833	.6866328	1.594201
acoima	.9594476	.2750665	-0.14	0.885	.5470009	1.682885
irs	1.066376	.3084325	0.22	0.824	.6049416	1.87978
irc	1.435999	.4014754	1.29	0.196	.8301868	2.48389
iva	1.026749	.274218	0.10	0.921	.608318	1.732998
imi	1.063273	.367387	0.18	0.859	.5401744	2.092936
imt	1.113379	.4855268	0.25	0.805	.4736395	2.617209
is	1.249979	.455976	0.61	0.541	.6114988	2.555112
iuc	.4311018	.2154889	-1.68	0.092	.1618458	1.148307
ij	.1457225	.1193747	-2.35	0.019	.0292569	.7258123
port	1.170851	.6312779	0.29	0.770	.4069738	3.368502
othertax	1.070859	.3230222	0.23	0.820	.5928836	1.934173
appealtp	.3949986	.0523861	-7.00	0.000	.3045834	.5122534
tpindiv	.6780923	.1791313	-1.47	0.141	.4040428	1.138021
tpsa	.7942933	.2068262	-0.88	0.376	.4768001	1.3232
tplda	.7751035	.2089867	-0.94	0.345	.4569357	1.314814
tpotherbusiness	1.341742	.5670594	0.70	0.487	.5860388	3.071932
tpinvestf	1.012375	.4588198	0.03	0.978	.416454	2.461022
formc	.8465787	.1324233	-1.06	0.287	.6230471	1.150307
formp	1.813807	.4378938	2.47	0.014	1.130035	2.911322
unanimous	1.006175	.2564409	0.02	0.981	.6105631	1.658124
precedent	1.238879	.1741296	1.52	0.128	.9405652	1.631807
biglit	.8870077	.2181634	-0.49	0.626	.5477352	1.436429
_cons	.1594724	.168021	-1.74	0.081	.0202234	1.257524

Note: **_cons** estimates baseline odds.

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```
. logistic tpwins j1 j2 j3 j4 j5 j6 j7 j8 j9 j10 j11 j12 j13 j14 j15  y18 tcanorte tca
> sul caad sta section2 rjur runifor rexcep aimpugn aexec acoima irs irc iva imi imt i
> s iuc ij port othertax appealtp tpindiv tpsa tplda tpotherbusiness tpinvestf formc f
> ormp unanimous precedent biglit if other==0
note: j15 omitted because of collinearity.
```

Logistic regression

```
Number of obs =  1,294
LR chi2(47)   =  165.17
Prob > chi2   =  0.0000
```

Log likelihood = -755.88925

```
Pseudo R2     =  0.0985
```

tpwins	Odds ratio	Std. err.	z	P>|z|	[95% conf. interval]	
j1	.9358954	.5390688	-0.12	0.908	.3026506	2.894097
j2	1.124028	.6475462	0.20	0.839	.3634163	3.476558
j3	.8886007	.4991702	-0.21	0.833	.2954917	2.672194
j4	1.21646	.6868386	0.35	0.729	.4022462	3.678781
j5	1.105363	.6358777	0.17	0.862	.3579627	3.413282
j6	.6218999	.3845231	-0.77	0.442	.1851055	2.0894
j7	1.220824	.6833407	0.36	0.721	.4075715	3.656809
j8	.9897053	.5663113	-0.02	0.986	.3224384	3.037841
j9	1.037728	.5956827	0.06	0.949	.3368776	3.196651
j10	.762178	.508913	-0.41	0.684	.2059214	2.821053
j11	.8990178	.5988081	-0.16	0.873	.2436739	3.316863
j12	.5642214	.4156197	-0.78	0.437	.1331782	2.390375
j13	1.004692	.7284286	0.01	0.995	.2425992	4.160799
j14	1.633227	1.204589	0.67	0.506	.3848056	6.931887
j15	1	(omitted)				
y18	.9211709	.1290815	-0.59	0.558	.6999441	1.212319
tcanorte	.5095264	.1534867	-2.24	0.025	.2823292	.9195549
tcasul	.4030739	.1181949	-3.10	0.002	.2268734	.7161199
caad	.1704687	.0897575	-3.36	0.001	.0607377	.4784436
sta	.4719166	.2032188	-1.74	0.081	.2029164	1.097523
section2	1.993937	1.274042	1.08	0.280	.5699405	6.975789
rjur	2.167807	.9073817	1.85	0.065	.9544035	4.923899
runifor	8.421022	5.966132	3.01	0.003	2.100414	33.76173
rexcep	4.65492	2.270679	3.15	0.002	1.789347	12.1096
aimpugn	.889429	.1632445	-0.64	0.523	.6207018	1.274499
aexec	1.066554	.229419	0.30	0.765	.6996594	1.625844
acoima	.9872969	.2836852	-0.04	0.965	.5621698	1.733916
irs	1.067935	.3089341	0.23	0.820	.60577	1.882703
irc	1.437719	.4021757	1.30	0.194	.8309328	2.487609
iva	1.037283	.2771512	0.14	0.891	.6144193	1.751174
imi	1.081	.3737887	0.23	0.822	.5489046	2.128897
imt	1.109998	.4841655	0.24	0.811	.4721068	2.609783
is	1.244555	.45401	0.60	0.549	.6088335	2.544075
iuc	.4329215	.2163818	-1.68	0.094	.1625413	1.153067
ij	.1477954	.1211087	-2.33	0.020	.029659	.7364871
port	1.173846	.6326461	0.30	0.766	.4081832	3.375728
othertax	1.081747	.326469	0.26	0.795	.5987352	1.954414
appealtp	.3987042	.0529542	-6.92	0.000	.307325	.5172539
tpindiv	.6668893	.176601	-1.53	0.126	.3968665	1.120632
tpsa	.7705353	.2017074	-1.00	0.319	.4612844	1.287112
tplda	.7614127	.2060434	-1.01	0.314	.4480013	1.29408
tpotherbusiness	1.31515	.5565044	0.65	0.517	.5738392	3.014119
tpinvestf	.9993346	.4533287	-0.00	0.999	.4107522	2.431319
formc	.8534944	.1336675	-1.01	0.312	.6279026	1.160136
formp	1.80523	.4357064	2.45	0.014	1.124834	2.897188
unanimous	.9978154	.2549686	-0.01	0.993	.6047076	1.646474
precedent	1.216965	.1716544	1.39	0.164	.9230287	1.604505
biglit	.8863909	.2180855	-0.49	0.624	.5472649	1.435664
_cons	.3146145	.3131211	-1.16	0.245	.0447319	2.212788

Note: _cons estimates baseline odds.

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. logistic atwins j1 j2 j3 j4 j5 j6 j7 j8 j9 j10 j11 j12 j13 j14 j15  y18 tcanorte tca
> sul caad sta section2 rjur runifor rexcep aimpugn aexec acoima irs irc iva imi imt i
> s iuc ij port othertax appealtp tpindiv tpsa tplda tpotherbusiness tpinvestf formc f
> ormp unanimous precedent biglit

Logistic regression                              Number of obs =  1,306
                                                 LR chi2(48)   = 246.73
                                                 Prob > chi2   = 0.0000
Log likelihood = -777.90014                      Pseudo R2     = 0.1369
```

atwins	Odds ratio	Std. err.	z	P>|z|	[95% conf. interval]	
j1	.7527508	.5693674	-0.38	0.707	.1709296	3.315012
j2	.4416892	.3331413	-1.08	0.279	.1007172	1.937002
j3	.4950077	.3713477	-0.94	0.349	.1137765	2.15363
j4	.7074606	.5322577	-0.46	0.646	.1619203	3.091031
j5	.6518057	.4934342	-0.57	0.572	.147821	2.874089
j6	.6689278	.5187749	-0.52	0.604	.1463003	3.058534
j7	.3499158	.2617207	-1.40	0.160	.0807801	1.515732
j8	.3960839	.2995381	-1.22	0.221	.0899636	1.743843
j9	.5089605	.3828247	-0.90	0.369	.1165295	2.222962
j10	.7700284	.6415327	-0.31	0.754	.1504342	3.94155
j11	.5025816	.4256383	-0.81	0.417	.0955698	2.642971
j12	.9403231	.8316622	-0.07	0.945	.1661261	5.322508
j13	.603369	.5327312	-0.57	0.567	.1069137	3.40512
j14	.3387124	.3043834	-1.20	0.228	.0581969	1.971343
j15	.8254316	.7454462	-0.21	0.832	.1405925	4.846186
y18	.9555888	.1317501	-0.33	0.742	.7293116	1.252071
tcanorte	1.313436	.3571968	1.00	0.316	.7707607	2.238197
tcasul	1.348123	.3653769	1.10	0.270	.7925588	2.293124
caad	1.254162	.619766	0.46	0.647	.4761211	3.303617
sta	1.115458	.4450783	0.27	0.784	.5102882	2.43832
section2	2.075271	1.243859	1.22	0.223	.641045	6.718324
rjur	2.835419	1.056939	2.80	0.005	1.365592	5.887265
runifor	8.676996	5.734449	3.27	0.001	2.375898	31.68919
rexcep	1.792968	.777545	1.35	0.178	.766368	4.194766
aimpugn	1.135057	.2009569	0.72	0.474	.8022622	1.605903
aexec	1.323686	.2766873	1.34	0.180	.8787395	1.99393
acoima	.7248664	.2202908	-1.06	0.290	.399552	1.315051
irs	1.181936	.3421732	0.58	0.564	.6701458	2.084581
irc	.6569433	.1844592	-1.50	0.135	.3788995	1.139021
iva	.9711678	.2591436	-0.11	0.913	.5756548	1.638425
imi	.8720886	.3046634	-0.39	0.695	.4397381	1.729526
imt	.837874	.3571302	-0.42	0.678	.3633857	1.931922
is	1.326729	.4843928	0.77	0.439	.6486431	2.713679
iuc	2.972829	1.341603	2.41	0.016	1.227531	7.199581
ij	8.116078	6.637708	2.56	0.010	1.633781	40.31796
port	.5049603	.3027709	-1.14	0.254	.155913	1.635431
othertax	.8857723	.2666515	-0.40	0.687	.4909957	1.597962
appealtp	3.31185	.438781	9.04	0.000	2.554445	4.293829
tpindiv	1.811569	.493936	2.18	0.029	1.06162	3.091295
tpsa	1.313709	.3528804	1.02	0.310	.7759876	2.224046
tplda	1.684923	.4656153	1.89	0.059	.9802962	2.89603
tpotherbusiness	1.528112	.6650241	0.97	0.330	.6512056	3.585852
tpinvestf	1.630708	.7612467	1.05	0.295	.6531584	4.071307
formc	1.049538	.1619076	0.31	0.754	.7756878	1.420068
formp	.6561952	.1642418	-1.68	0.092	.4017744	1.071726
unanimous	1.266484	.3208471	0.93	0.351	.7708305	2.080848
precedent	.9344188	.1297281	-0.49	0.625	.7118144	1.226638
biglit	1.632535	.393038	2.04	0.042	1.018434	2.616929
_cons	.0743311	.0737887	-2.62	0.009	.0106214	.5201878

Note: **_cons** estimates baseline odds.

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```
. logistic atwins j1 j2 j3 j4 j5 j6 j7 j8 j9 j10 j11 j12 j13 j14 j15  y18 tcanorte tca
> sul caad sta section2 rjur runifor rexcep aimpugn aexec acoima irs irc iva imi imt i
> s iuc ij port othertax appealtp tpindiv tpsa tplda tpotherbusiness tpinvestf formc f
> ormp unanimous precedent biglit if other==0
note: j15 omitted because of collinearity.
```

Logistic regression

Number of obs = 1,294
LR chi2(47) = 245.04
Prob > chi2 = 0.0000

Log likelihood = -770.69617

Pseudo R2   = 0.1372

atwins	Odds ratio	Std. err.	z	P>|z|	[95% conf. interval]	
j1	.9088556	.517671	-0.17	0.867	.2976205	2.775409
j2	.5362515	.3067546	-1.09	0.276	.1747638	1.645453
j3	.6014368	.334478	-0.91	0.361	.2022134	1.788834
j4	.8612596	.4826303	-0.27	0.790	.2871707	2.583022
j5	.7973478	.4551124	-0.40	0.692	.2604933	2.440613
j6	.8180629	.4912754	-0.33	0.738	.2521218	2.654379
j7	.4249505	.2364151	-1.54	0.124	.1428185	1.264422
j8	.4773404	.2700564	-1.31	0.191	.1574922	1.446763
j9	.6190816	.3514262	-0.84	0.398	.2034966	1.883383
j10	.9420741	.6140571	-0.09	0.927	.262579	3.379949
j11	.6042939	.4053494	-0.75	0.453	.1622847	2.250188
j12	1.13299	.8082947	0.18	0.861	.279875	4.58657
j13	.7315622	.5248936	-0.44	0.663	.1792738	2.985284
j14	.4023973	.2969521	-1.23	0.217	.0947337	1.70925
j15	1	(omitted)				
y18	.9535606	.1317926	-0.34	0.731	.727282	1.250241
tcanorte	1.370477	.3762285	1.15	0.251	.8001968	2.347182
tcasul	1.454845	.3989646	1.37	0.172	.8499439	2.490251
caad	1.297009	.6422029	0.53	0.599	.491448	3.42301
sta	1.102505	.4445573	0.24	0.809	.5002134	2.429999
section2	1.579501	.955745	0.76	0.450	.4824626	5.171018
rjur	3.033905	1.146775	2.94	0.003	1.446303	6.36421
runifor	6.758563	4.443144	2.91	0.004	1.863229	24.51559
rexcep	1.805201	.7865651	1.36	0.175	.7684904	4.240455
aimpugn	1.103459	.1966073	0.55	0.581	.7782061	1.564653
aexec	1.304103	.2730513	1.27	0.205	.8651442	1.965782
acoima	.7191427	.219137	-1.08	0.279	.3957648	1.306751
irs	1.181901	.3427939	0.58	0.564	.6694252	2.086701
irc	.6578983	.1851312	-1.49	0.137	.3789941	1.14205
iva	.9575352	.2561161	-0.16	0.871	.5668657	1.617444
imi	.875003	.3064941	-0.38	0.703	.4404053	1.738467
imt	.8326569	.3554444	-0.43	0.668	.3606661	1.922325
is	1.324289	.484473	0.77	0.443	.6465206	2.712584
iuc	3.001074	1.357017	2.43	0.015	1.237037	7.280659
ij	8.231497	6.736179	2.58	0.010	1.655407	40.93103
port	.5039854	.3025458	-1.14	0.254	.1553946	1.634557
othertax	.8868992	.2676328	-0.40	0.691	.4909233	1.602267
appealtp	3.324524	.442287	9.03	0.000	2.56146	4.314906
tpindiv	1.77844	.4868888	2.10	0.035	1.039928	3.041411
tpsa	1.293987	.3498822	0.95	0.341	.7616809	2.198301
tplda	1.673648	.465088	1.85	0.064	.9707888	2.885383
tpotherbusiness	1.515316	.661144	0.95	0.341	.6443435	3.5636
tpinvestf	1.604609	.7511451	1.01	0.312	.6410724	4.016348
formc	1.038667	.1607328	0.25	0.806	.7669267	1.406692
formp	.652068	.1633279	-1.71	0.088	.3991045	1.065367
unanimous	1.257296	.3198378	0.90	0.368	.7636678	2.070003
precedent	.918218	.1282143	-0.61	0.541	.6983759	1.207264
biglit	1.634837	.3938808	2.04	0.041	1.019518	2.621527
_cons	.0790597	.0763023	-2.63	0.009	.0119245	.5241668

Note: _cons estimates baseline odds.

.

4. TABLES C - Unanimity

```
. logistic unanimous j1 j2 j3 j4 j5 j7 j8 j9 j10 j11 j12 j13 y18 tcanorte tcasul caad
> sta section2 rjur runifor rexcep aimpugn aexec acoima irs irc iva imi imt is otherta
> x appealtp tpindiv tpsa tplda tpotherbusiness tpinvestf formc formp precedent biglit
```

```
Logistic regression                                    Number of obs =   1,306
                                                       LR chi2(41)   =   91.85
                                                       Prob > chi2   =  0.0000
Log likelihood = -268.47084                            Pseudo R2     =  0.1461
```

unanimous	Odds ratio	Std. err.	z	P>|z|	[95% conf. interval]	
j1	.059112	.0620462	-2.69	0.007	.0075548	.4625191
j2	.1101458	.1193977	-2.04	0.042	.0131603	.921867
j3	.1319199	.1399304	-1.91	0.056	.0164977	1.054869
j4	.0698495	.0731968	-2.54	0.011	.0089572	.5446972
j5	.0656035	.0698483	-2.56	0.011	.0081405	.5286936
j7	.356975	.3989663	-0.92	0.357	.0399309	3.191294
j8	.1514855	.1676661	-1.71	0.088	.0173081	1.325842
j9	.5438754	.6753589	-0.49	0.624	.0476999	6.201282
j10	.1282753	.1629324	-1.62	0.106	.0106406	1.546394
j11	.1565828	.1988673	-1.46	0.144	.0129921	1.887162
j12	.2268791	.3314575	-1.02	0.310	.012949	3.975131
j13	.1965201	.2878645	-1.11	0.267	.0111316	3.469404
y18	1.214836	.3171836	0.75	0.456	.7282425	2.026559
tcanorte	2.028345	1.412839	1.02	0.310	.5178924	7.944091
tcasul	.8755588	.4925043	-0.24	0.813	.2907248	2.636869
caad	.6182063	.5618774	-0.53	0.597	.1041095	3.670932
sta	.2821046	.2101438	-1.70	0.089	.0655146	1.214738
section2	1.749545	1.7023	0.57	0.565	.2598421	11.77988
rjur	.2153254	.1779374	-1.86	0.063	.0426277	1.087674
runifor	.2227792	.2285393	-1.46	0.143	.0298308	1.663737
rexcep	.3212361	.3133404	-1.16	0.244	.0474837	2.173222
aimpugn	.7467303	.2968879	-0.73	0.463	.3425625	1.62775
aexec	.3968265	.1698292	-2.16	0.031	.1715194	.9180959
acoima	.6252065	.3649928	-0.80	0.421	.1991113	1.963139
irs	.5019476	.2633277	-1.31	0.189	.179518	1.403488
irc	.8725416	.43093	-0.28	0.782	.3314328	2.297083
iva	.9523967	.4904199	-0.09	0.925	.3471416	2.612938
imi	2.465963	2.090512	1.06	0.287	.4681479	12.98943
imt	.7718634	.577861	-0.35	0.729	.1779436	3.348101
is	.6121646	.3828995	-0.78	0.433	.1796614	2.085843
othertax	.3703473	.1871761	-1.97	0.049	.1375327	.9972691
appealtp	1.339555	.3404917	1.15	0.250	.8139538	2.204557
tpindiv	1.08062	.5916719	0.14	0.887	.3695002	3.160323
tpsa	.7313488	.391856	-0.58	0.559	.255889	2.090246
tplda	.7368866	.4127917	-0.55	0.586	.2457942	2.209173
tpotherbusiness	.5215267	.3919969	-0.87	0.386	.1195323	2.275454
tpinvestf	.315662	.2377902	-1.53	0.126	.0721118	1.381777
formc	2.730729	.913286	3.00	0.003	1.417739	5.2597
formp	.9901319	.4340935	-0.02	0.982	.4192851	2.338173
precedent	1.308271	.3565555	0.99	0.324	.7668522	2.231946
biglit	1.157942	.4723166	0.36	0.719	.5205801	2.575645
_cons	405.5684	683.5326	3.56	0.000	14.90991	11031.97

Note: **_cons** estimates baseline odds.

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RESUMED RESUMES

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