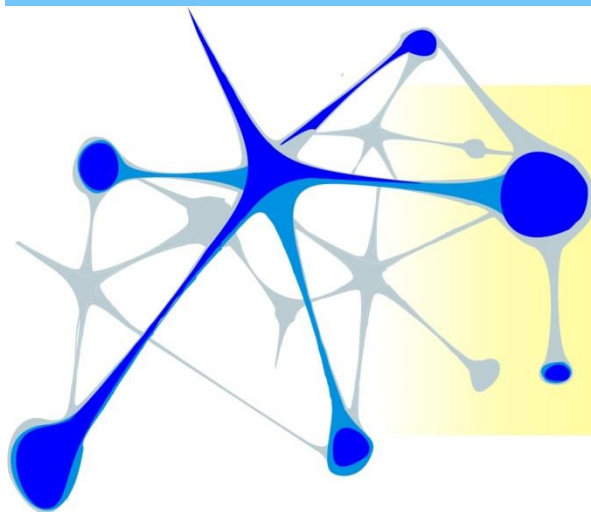# ONLINE LEGISLATION AND THE TYPOLOGY OF NORMATIVE ACTS:
on the (desirable) communication among government/society/government

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OBSERVATORY FOR THE
QUALITY OF LAW

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The field research was conducted at the Divisão de Sistematização e Difusão de Normas (DISIS) at the Ministério da Fazenda (Department of the Treasury).

The methodological scope of this work is the Secretaria da Receita Federal do Brasil (SRF) – Secretariat of the Federal Revenue of Brazil, focusing on the management of legislative elaboration by the Executive Power.

The SRF has the competence to interpret, apply and elaborate proposals to enhance the federal tax and customs legislation and to interact with citizens through various channels of services.

This competence has to go hand in hand with other normative acts, such as the Lei de Acesso à Informação (LAI) – Law on Access to Information – Lei 12527/2011.

In order to assure legal certainty, there must be: understanding of the law in force; certainty on the chain of repeal; identification of normative content by the type of act; possibility of reconstruction of the source chain (hierarchy).

Hipothesis: Considering that there must be an actual knowledge of the law in the real world; considering that Administration must implement: 1) simplification actions; 2) interaction channels with society; 3) consolidation and repeal acts (specially for implicit modifications); 4) creation of norms about the production of normative acts through norms of a higher hiearchy; we infer that applying the steps of planning, simplifying, consolidating and articulating with other law sources on each matter we would guarantee easy access to information and effortless perception of the binding force of normative acts (hierarchy) for addressees and stability in the normative production process.

Although the RFB has its mission, vision and values aligned with the principles of good management of legislative elaboration, its simbolism as a lion (ready to bite and atack the taxpayer) is intimidating and uninviting to the citizen. It shouts coercion and submission. When we compare the image of the federal administration in Canada, where the slogan reads "Serving Canadians" and where there is an ombudsman at the citizens' service, and also a Tax Payer Bill of Rights, we conclude that we ought to analyse how far (behind) we are in terms of the interaction and communication between government and society.

One would think that the access to information is simple with the development of the technology of information. Nevertheless, without an optimal circulation of legal information and interaction of the normative subsystems there is no access to secure information. Information management in complex normative systems (as in the Departament of the Treasury) is crucial for a real interaction between government and citizens. This plays a major role in the effectiveness of rights.

DATA ON THE COMPARISON OF FOUR DEPARTMENTS OF STATE:

Inconsistent legal information system for internal and external addresses (some only for internal addresses or only present information on the official website by themes)

No interaction with LexML (only a link to it appears at the website of Dep of Treasury)

Only one presents the normative acts separate from the administrative acts (Dep Environment)

Only one presents a definition on the hierarchy of acts (Dep Environment)

None has a information decodification file.

CONCLUSIONS:

. The Law on Access to Information stablished a new communicative paradigm, specially when it comes to juridical information which influence the behaviour of the citizens and are broadcasted by acts that are originate from the exercise of the administrative activity of the treasury.

. The Law on Access to Information enhances the access to justice, in the sense that a major component of the access to justice is the access to information, so that the addressees have to apply the minimum effort in order to have knowledge of the law in force, through an easy-to-manage channel of communication, with the use of an easy-to-understand language.

. The legislative elaboration is strategic.

. In order to bring more interaction between government and society, and consequently to improve the conditions of controlling; to reinforce the institucional image and to enhance transparency and publicity, there should be: a sanitation of the normative system in force, a simplification of the typology of normative acts and a broad access to the normative system in force (Law on Access of Information + technology of information).

. Norms on the production of normative acts ought to be presented in hierarchically higher types of normative acts, so that a longer term is guaranteed, in order for a organizational cultural of good legislation be created and implemented.

. In order to enhance communication, publicity, transparency, uniformization of terms and consequently the access to legible, trustworthy and actual legal information and further the access to justice, a single normative act ought to be edited, with jurisdiction on all normative competent organs (here at RFB specifically).

. The annual publishing of all legislation in force is a good international practice to be followed.

. The integration of the data systems of SIJUT (System of legal and taxational infos) and Lex ML (Legal and legislative information net – www.lexml.gov.br) would exponentially ease the reconstruction of the law source channel on the field of tax and customs legislation and administration.

* THANK YOU VERY MUCH FOR YOUR ATTENTION!