

# Global Tax Alert

News from EY Americas Tax

## Colombia issues additional COVID-19 tax measures during second state of emergency

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Due to the ongoing COVID-19 pandemic, the Colombian Government declared a new state of emergency on 6 May 2020<sup>1</sup> (the first state of emergency expired on 15 April) and established additional tax measures to ease the burden on taxpayers. For more information on previously adopted tax measures, see EY Global Tax Alerts, [Colombia issues COVID-19 tax measures](#), dated 25 March 2020, and [Colombia issues additional COVID-19 tax measures](#), dated 23 April 2020.

### Income tax measures

#### Postponement of the second income tax installment payment for micro, small and medium-sized companies

For micro, small or medium-sized companies, the due date for the second income tax installment payment is from 9 November 2020 to 7 December 2020 (depending on the last two digits of the taxpayer's identification number).<sup>2</sup> The second installment payment was previously due from 1 June 2020 to 1 July 2020 (depending on the last two digits of the taxpayer's identification number).

The Government did not extend the due date for filing the income tax returns. The income tax returns are still due from 1 June to 1 July 2020 (depending on the last two digits of the taxpayer's identification number).<sup>3</sup>

### Reduced income tax advance payment for FY 2020

As a general rule, the income tax advance payment is determined at a rate of 75% of the previous year's income tax due as of the third tax year of the company's existence. Under the new tax measures, companies engaged in certain economic activities (e.g., oil and gas production, mining activities, clothing and garment manufacturing, air transportation of passengers, tourism activities) may determine the income tax advance payment for FY 2020 at a reduced rate of 25% or 0% over the income tax due for FY 2019, depending on the type of business activity.<sup>4</sup>

### Extended due dates for the submission of magnetic media reports

Under the previous extension, magnetic media reports were due from 15 May 2020 to 29 May 2020 (depending on the last digit of the taxpayer's identification number). With the new tax measures, taxpayers must submit the magnetic media reports for tax year 2019 from 16 June 2020 to 1 July 2020 (depending on the last digit of the taxpayer's identification number).<sup>5</sup>

### Entities in reorganization process

For tax years 2020 and 2021, entities that enter into a reorganization process (similar to a Chapter 11 process) should treat the reductions or discounts obtained during the process in accounts payable, including penalties and interest, as capital gains. These reductions and discounts will be subject to a reduced capital gains rate of 10%, as opposed to the general rate of 32%, which is currently in effect for 2020. In addition, during those years, taxpayers may offset the capital gains derived from the reductions or discounts with ordinary accumulated tax losses (NOLs) or current-year capital losses.<sup>6</sup>

### Other income tax measures

From 1 July 2020 to 30 June 2021, a reduced 4% withholding tax will apply to domestic payments of fees and commissions to taxpayers engaged in certain cultural and entertainment activities (usually, this withholding tax may be up to 11%).

Additionally, from 4 June 2020 to 30 June 2021, the economic stimulus/allowances granted by the Ministry of Culture, the cinematic development fund and local culture authorities will be not subject to withholding tax.<sup>7</sup>

### Indirect tax measures

#### Three-day value-added tax (VAT) exemption

The Government established a three-day VAT exemption for certain items. The special VAT exemption (0% rate) will apply on 19 June, 3 July and 19 July 2020, to the sale of certain products as follows:<sup>8</sup>

Product	Unit price threshold
Clothing	Equal to or less than 20 Tax Units (approx. US\$98)
Clothing accessories (e.g., backpacks, umbrellas, sunglasses)	Equal to or less than 20 Tax Units (approx. US\$198)
Home appliances, computers and communication devices	Equal to or less than 80 Tax Units (approx. US\$790)
Sport equipment, bicycles and electronic bicycles	Equal to or less than 80 Tax Units (approx. US\$790)
Toys and games (including scooters)	Equal to or less than 10 Tax Units (approx. US\$100)
School supplies	Equal to or less than 5 Tax Units (approx. US\$50)
Goods and supplies for the agricultural sector	Equal to or less than 80 Tax Units (approx. US\$790)

The VAT exemption only applies to retail sales made directly to individuals who pay by credit or debit card or any electronic payment mechanism (payments in cash are not covered by the exemption). Each individual is allowed to buy up to three units of the same type of good from the same retailer. Sellers must adjust their systems to comply with the limit on the number of units that the individuals may purchase.

This is similar to the VAT exemption provided in the last tax reform (Law 2010, 2019), which will apply as of 1 January 2021.

### Other VAT measures

The following business activities will be not subject to VAT:<sup>9</sup>

- ▶ The acquisition of certain chemical supplies to produce medicines (e.g., vitamins and antibiotics) (during the sanitary emergency, currently until 31 August 2020)
- ▶ The provision of food and beverages in restaurants, coffee shops, cafeterias, ice-cream parlors and bakeries, developed under a franchise agreement (until 31 December 2020)
- ▶ Hoteling and tourism services (until 31 December 2020)
- ▶ Certain artistic services rendered for the audiovisual production of performing arts shows available to the public (from 1 July 2020 to 30 June 2021)<sup>10</sup>

Retailers of Jet A1 and 100/130 Aviation gasoline (locally produced or imported), that have stock available on 15 April 2020, may request that the manufacturer or importer apply the VAT treatment applicable to returns or cancelled transactions related to gasoline.<sup>11</sup>

A 0% VAT rate will apply to imports of public and private passenger transportation motor vehicles and cargo transportation motor vehicles until 31 December 2021. This treatment also will apply to the importation of a chassis with an engine, as well as car body parts to build a new motor vehicle for public and private passenger transportation and cargo transportation. The importer will have to meet certain requirements to apply the 0% VAT rate.

### Renting of commercial premises

The renting of commercial premises (other than offices and warehouses) will not be subject to VAT from 21 May to 31 July 2020. This measure applies to business premises that have been subject to a total or partial closure for two or more weeks due to lockdown (or quarantine) measures. Additional conditions should be met for the lessor to apply this VAT benefit.<sup>12</sup>

### Consumption tax reduction

The consumption tax applicable to the provision of alcoholic beverages in situ (e.g., bars), cafeterias and restaurants is reduced to 0% (usually 8%) until 31 December 2020.<sup>13</sup>

### Subsidy to the payroll

The Government established a subsidy to help Colombian companies incorporated before 1 January 2020, meet their payroll.<sup>14</sup> Nonprofit organizations, consortiums, some joint ventures and certain individual employers also may be able to request the subsidy. To apply for the subsidy, companies must prove that their revenue has decreased by more than 20% according to the methodologies established by the Government.

The subsidy equals 40% of a monthly minimum wage (as determined by the Government) for each employee that the company has and for which it is paying social security contributions (approx. US\$98 for each employee). The subsidy is granted for up to four months (May, June, July and August). The company must use the subsidy only to pay its payroll.

The subsidy will be not subject to withholding taxes but will be taxable income for the employer.

A similar payroll subsidy (of approx. US\$98 per employee) applies to public notaries' employees during the months of June, July, August and September of 2020.<sup>15</sup> This subsidy will be non-taxable income for the notary.

In addition, for semiannual service bonuses (i.e., 15 days of salary paid to certain employees) paid during June 2020, the Government established a subsidy for employees that earn less than approx. US\$278. The amount of the subsidy will be approx. US\$61 per employee.<sup>16</sup> Companies that qualify for the payroll subsidy also may apply for this subsidy to pay the semiannual service bonuses. For individual employers in the agricultural sector, the qualification requirements are more flexible.<sup>17</sup>

### Local tax measures<sup>18</sup>

Local governments are authorized to allow the payment of local taxes (e.g., industry and commerce tax, real estate tax, etc.) in up to 12 monthly installments, with no interest. The last installment should be paid no later than June 2021. The conditions for the installment payments should be established by each local authority.

The Government established a benefit for taxpayers that pay their outstanding local taxes, contributions or duties due on 20 May 2020 before June 2021 as follows:

Payment date	Payment benefit
On or before 31 October 2020	Payment of 80% of the tax due (20% of the tax due, as well as interest and penalties, would be waived)
From 1 November to 31 December 2020	Payment of 90% of the tax due (10% of the tax due, as well as interest and penalties, would be waived)
From 1 January to 31 May 2021	Payment of 100% of the tax due (interest and penalties would be waived)

The benefit applies also for amounts that are under discussion before the tax authorities or the courts.

### Fast track procedure for income tax and VAT refunds and compensation requests

The deadline to file for the fast-track income tax and VAT refunds and compensation procedure is 19 June 2020<sup>19</sup> (previously, the fast-track procedure only applied during the sanitary emergency,<sup>20</sup> which was set to expire on 30 May 2020, but has been extended to 31 August 2020<sup>21</sup>). A compensation request relates to the set-off of a tax receivable (e.g., income tax) against a tax payable in another tax (e.g., VAT).

In addition, until 31 December 2020, the Colombian tax authorities may automatically issue income tax and VAT refunds to taxpayers that are not categorized as high-risk taxpayers and have at least 25% of their costs or expenses or VAT credits supported on electronic invoices. Usually, the automatic refund requires at least 85% of the costs or expenses or VAT credits to be supported on electronic invoices.

### Other tax measures

#### Late-payment interest

The Government reduced the late-payment interest rate applicable to the payment of taxes and social security contributions through 30 November 2020, as well as for payment agreements entered from 22 May to 30 November 2020. The interest rate will be reduced from approx. 27% to the standard bank lending rate for consumer and ordinary loans (currently 18.12% annually).

For companies engaged in hoteling services, passenger air travel services, theatrical activities and live show business activities, the late-payment interest rate is 50% of the standard bank lending rate for consumer and ordinary loans (i.e., 9.06% annually).<sup>22</sup>

#### Payment agreements

Taxpayers that have outstanding tax obligations from national tax returns due from 1 April to 1 July 2020, may be allowed to request payment agreements under a fast-track procedure through 6 August 2020. Taxpayers must meet certain requirements to request a payment agreement.

#### Settlement requests

Law 2010 of 2019 allowed taxpayers to request a settlement of taxes, customs duties and foreign exchange issues, including a reduction in penalties and interest (depending on the stage of the discussions), until 30 June 2020. The Government has extended the deadline to submit a settlement request to 30 November 2020. The settlement agreement must be signed by the tax authorities and approved by a judge (depending on the stage of the discussions) before 31 December 2020.<sup>23</sup>

#### Virtual audits and visits

While the sanitary emergency is in place, tax and accounting inspections/audits and visits may be carried out virtually.<sup>24</sup>

#### Special electricity contribution

Tourism service providers will be not subject to the special electricity contribution (generally 20% surcharge on the electricity bill) until after 31 December 2020. To apply for this benefit, the taxpayer must be registered with the National Tourism Registry.<sup>25</sup>

### Tax return for performing arts public show contribution

Taxpayers required to file the tax return and pay the contribution on the sale of tickets through 31 December 2020, for public performances of performing arts shows may file the return and pay the contribution on or before 31 March 2021. Additionally, payments for ticket sales to public performances of the performing arts shows up to 31 December 2020, will not be subject to the contribution withholding.<sup>26</sup>

### Tax reimbursement certificates

As an incentive for investments made in the oil and gas and mining sector, the Government may issue tax reimbursement certificates (CERT as per its acronym in

Spanish) for investments made through 31 December 2021. To qualify for the CERT, investors will have to meet certain requirements. The value of the CERT will be deemed as non-taxable income for the beneficiary and may be used to pay national taxes.<sup>27</sup>

### Free trade zones

Commercial and industrial users of free trade zones, as well as the free trade zone operators, may submit a consolidated report for the January - June 2020 period (rather than quarterly reports) on or before 30 July 2020.<sup>28</sup>

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## Endnotes

1. Legislative Decree 637 of 6 May 2020.
2. Legislative Decree 655 of 13 May 2020.
3. Legislative Decree 520 of 6 April 2020.
4. Decree 766 of 29 May 2020.
5. Resolution 000053 of 28 May 2020 (an original postponement was introduced for large taxpayers by Resolution 00046 of 7 May which was overruled by Resolution 000053).
6. Legislative Decree 772 of 3 June 2020.
7. Legislative Decree 818 of 4 June 2020.
8. Legislative Decree 682 of 21 May 2020.
9. Legislative Decree 789 of 4 June 2020.
10. Legislative Decree 818 of 4 June 2020.
11. Legislative Decree 798 of 4 June 2020.
12. Legislative Decree 682 of 21 May 2020.
13. Legislative Decree 682 of 21 May 2020.
14. Legislative Decree 639 of 8 May 2020, Legislative Decree 677 of 19 May 2020 and Legislative Decree 815 of 4 June 2020.
15. Legislative Decree 805 of 4 June 2020.
16. Legislative Decree 770 of 3 June 2020.
17. Legislative Decree 803 of 4 June 2020.
18. Legislative Decree 678 of 20 May 2020.
19. Legislative Decree 807 of 4 June 2020.
20. Legislative Decree 535 of 10 April 2020.
21. Resolution 884 of 26 May 2020.
22. Legislative Decree 688 of 22 May 2020.
23. Legislative Decree 688 of 22 May 2020.
24. Legislative Decree 807 of 4 June 2020.
25. Legislative Decree 799 of 4 June 2020.
26. Legislative Decree 818 of 4 June 2020.
27. Legislative Decree 798 of 4 June 2020.
28. Legislative Decree 686 of 22 May 2020.

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