

Indirect Tax Alert

News from EY Americas Tax

Colombia issues regulations on income tax credit for VAT paid on Real Productive Fixed Assets

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On 3 August 2020, the Colombian Government issued Decree 1089, which includes regulations on the credit against income tax liability for the Value-Added Tax (VAT) paid on the acquisition, importation, formation or construction of AFRP. In Colombia, the VAT paid on fixed assets is generally treated as part of the cost of such assets (potentially subject to depreciation or amortization), not creditable for VAT purposes. Therefore, this benefit allows taxpayers to recover this VAT paid via a reduction in the income tax due.

Definition of AFRP(s)

The Decree defines AFRPs as assets that are:

- ▶ Considered as fixed assets under the domestic law (i.e., assets that are not transferred within the regular course of the business)
- ▶ Characterized as tangible assets under domestic law
- ▶ Acquired, built, formed or imported to be part of the taxpayer's assets
- ▶ Used directly and permanently within the income-producing activity for the provision of goods and/or services
- ▶ Subject to depreciation or amortization for tax purposes

Timeframe to claim the tax credit

A taxpayer liable for the VAT on AFRP may take such VAT as a credit for income tax purposes in the tax year in which the VAT is actually paid. An excess of such tax credit may be carried forward to the following tax years without limitation.

In the case of AFRPs formed or built, the VAT paid may be used as a credit in the year in which the assets are ready to be used and begin their depreciation or amortization.

Additional rules to claim the credit

The VAT paid for services necessary for the start-up of the AFRP (i.e., services required to put the asset in condition to be used) may also be claimed as a tax credit for income tax purposes.

For AFRPs acquired, built, formed or imported through leasing agreements, the lessee may apply the tax credit, provided that the agreement includes an irrevocable

purchase option. In such case, the tax credit will be equal to the value of the VAT paid by the lessor at the time of the initial acquisition of the asset. To claim the tax credit, the lessor must issue a certification to the lessee regarding the VAT paid on the initial acquisition of the asset.

The VAT paid on the importation of AFRP(s) will only be applicable to the imports carried out under ordinary import modality. In such case, the tax credit also will include the VAT paid for the services necessary for the start-up of the AFRP(s).

Supporting documentation

Taxpayers who claim the tax credit must keep payment receipts, certificates, purchase invoices, import returns and any other necessary documentation to demonstrate compliance with the requirements for the application of the tax credit.

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