

Colombia signs tax treaty with UAE

EY Global Tax Alert Library

The EY Americas Tax Center brings together the experience and perspectives of over 10,000 tax professionals across the region to help clients address administrative, legislative and regulatory opportunities and challenges in the 33 countries that comprise the Americas region of the global EY organization.

Copy into your web browser:

<http://www.ey.com/US/en/Services/Tax/Americas-Tax-Center---borderless-client-service>

The Government of Colombia and the United Arab Emirates (UAE) signed a Treaty to Avoid Double Taxation (DTT) on 12 November 2017. The DTT includes new regulations that are intended to reduce the tax burden on transactions that take place between these jurisdictions. Specifically, the DTT's preamble expressly provides that the purpose of the DTT is to avoid double taxation without creating opportunities for no taxation or reduced taxation through treaty shopping.

The DTT follows many of the recommendations included in the Organisation for Economic Co-operation and Development's Base Erosion and Profit Shifting (BEPS) Action Plan, and contains some new provisions not previously included in treaties signed by Colombia.

The DTT denies benefits to legal entities that are resident in both States. Additionally, the DTT does not include activities related to the exploration and exploitation of natural resources in the permanent establishment (PE) definition. The list of activities that do not trigger the existence of a PE is subject to the condition that those activities have "an auxiliary or preparatory nature." Moreover, the PE definition includes the anti-fragmentation rule recommended by BEPS Action 7.

The DTT also includes a limitation of benefits clause under which the residents of the UAE qualified to ask for the benefits established by Articles 8, 10, 11 12 and 13 of the DTT are determined. In addition, the DTT includes a principal purpose test clause.

Under the DTT, the following withholding tax rates will apply to passive income:

Income	WHT rate	Beneficial owner
Dividends (paid out of profits taxed in Colombia)	0%	Pension and unemployment funds
	5%	<ul style="list-style-type: none"> ▶ A contracting State, a political subdivision or local authority ▶ A company that holds at least 25% of the equity for at least 365 days
	15%	Any other cases
Interest	0%	State-owned entity, Central Bank, pension fund, etc.
	10%	Any other cases
Royalties	10%	Resident of the other contracting State

Before the Treaty can enter into force, Colombia's Congress must first approve a law to adopt the Treaty. After Congress approves the law, Congress will send the Treaty to the Constitutional Court for a constitutional review. Once the Treaty is approved, the countries will exchange diplomatic notes, reporting that they have completed their internal approval process.

For additional information with respect to this Alert, please contact the following:

Ernst & Young S.A.S., Bogotá

- ▶ Jaime Vargas jaime.vargas.c@co.ey.com
- ▶ Luis Orlando Sánchez luis.sanchez.n@co.ey.com

Ernst & Young LLP, Latin American Business Center, New York

- ▶ Juan Torres Richoux juan.torresrichoux@ey.com
- ▶ Ana Mingramm ana.mingramm@ey.com
- ▶ Enrique Perez Grovas enrique.perezgrovas@ey.com
- ▶ Pablo Wejcman pablo.wejcman@ey.com

Ernst & Young LLP (United Kingdom), Latin American Business Center, London

- ▶ Jose Padilla jpadilla@uk.ey.com

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

Americas Tax Center

© 2018 EYGM Limited.
All Rights Reserved.

EYG no. 00601-181Gbl

1508-1600216 NY
ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

ey.com