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Global Tax Alert

News from Americas Tax Center

Colombia's Tax Authority clarifies that dividends paid from profits generated before FY 2017 are not subject to dividend tax

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Colombia's Tax Authority (DIAN) issued Opinion No. 4580 on 22 February 2019, clarifying that the dividend tax does not apply to dividends paid from profits generated before FY 2017, regardless of the date the dividends are distributed.

The Financing Law (Law 1943 of 2018) made several changes to the dividend tax established by Law 1819 of 2016 (prior tax reform). The changes include: (i) an increase in the dividend tax rate (from 5% to 7.5% in the case of nonresidents); (ii) the establishment of a dividend withholding tax on local distributions; and (iii) the introduction of a transition regime under which the provisions of Law 1943 do not apply to dividends that were declared as payable before 31 December 2018.

Law 1819 of 2016 included a transition regime under which dividend distributions paid from profits generated before FY17 were not subject to dividend tax (Article 246-1 of the Colombian Tax Code). Because of the wording of the transition regime, and the lack of a reference to Article 246-1 of the Colombian Tax Code, however, it was unclear whether the dividend tax would apply to dividends paid out in 2019 and onwards from profits generated before FY 2017.

Opinion No. 4580 clarifies that the transition regime contained in Article 246-1 of the Colombian Tax Code was not repealed by Law 1943 of 2018. Therefore, the dividend tax does not apply to dividends paid from profits generated before FY 2017, regardless of the distribution date.

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