

Title

Colombian Tax Authority issues a General Tax Opinion regarding Colombian Single-Use Plastic Products Tax

Brief Summary

On January 20, 2023, the Colombian Tax Authority (hereinafter, “DIAN” as per its acronym in Spanish) issued the general Tax Opinion No. 100208192-91 (hereinafter, the “**Official Tax Opinion**”) regarding the newly enacted Colombian Single-use Plastic Products Tax (hereinafter, “**Colombian Plastic Tax**”) by the 2022 Colombian Tax Reform (Law 2277 of 2022).

Detail/Facts

Below you will find the main topics covered by the general Official Tax Opinion:

- **Taxpayer:** The taxpayer of the Colombian Plastic Tax is the producer, or the importer of the single-use plastic product used to wrap, pack or package goods.
- **Taxable event:** The DIAN clarified that the taxable event is either the sale, the withdraw for self-consumption or the import of single use plastic products used to wrap, pack or package goods **and not** the sale of goods already wrapped, packed or packaged in single-use plastic products.
- **Characteristics and periodicity:** The DIAN considered that the Colombian Plastic Tax is an indirect tax (as it does not consider the taxpayer's ability to pay). Additionally, considered that the Colombian Plastic Tax is single-phase instantaneous tax.
- **Invoicing:** Under the consideration that the acquirer of the single-use plastic product or the acquirer of the good wrapped, packed or packaged in single-use plastic product is not the taxpayer of the Colombian Plastic Tax, the DIAN concluded that it is not mandatory to include the Colombian Plastic Tax in the details of the invoice.
- **Sales to Free Trade Zone users:** Law 2277 of 2022 did not provide any special tax treatment or exemption on the sale of single-use plastic products to Free Trade Zone users nor to the exportation of such products.
- **Circular Economy:** The DIAN considered that the exclusion applicable to taxpayers with Circular Economy Certification may not be applied until the Ministry of Environment and Sustainable Development issues the appropriate regulation. Law 2277 of 2022 sets forth that such regulation must be issued within 6 months as from the date the law was enacted.
- **Penalties:** Even though the Law 2277 of 2022 only referred to the penalty applicable on the failure to file the related tax return, the DIAN concluded that all the other penalties set forth by the Colombian Tax Code may apply to the Colombian Plastic Tax depending on the specific case considering that such penalties are generally applicable on all taxes.

Continue the conversation

The Latin America Markets, Tax Group and KPMG in Colombia have developed planning opportunities and would welcome the opportunity to continue the conversation with you.

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