

Tax Newsletter No. 23

Latest Tax Developments – May 2021

- DIAN has lifted the suspension of terms for those acts which may be subject to electronic service
- A Customs Representative may be the legal representative of another company
- Advanced Import Declarations must be filed before arrival of goods
- Exploitation and/or sale of crypto assets in Colombia is subject to tax withholding
 - The OECD has disclosed the approval of interpretation and implementation criteria of the MLI
- Tax Benefit of a ZOMAC company is not transferable to its partners or shareholders

Please find below some of the latest developments in tax matters during the month of May 2021:

1. DIAN has lifted the suspension of terms for those acts which may be subject to electronic service.

In light of the improved security conditions for DIAN in Cali, it has been decided to lift the suspension for acts which may be served by electronic mail, yet such suspension remains for those matters that must be served personally or by mail (Resolution No. 00045 of 25 May 2021).

2. Customs Representative may be legal representative of other companies.

The DIAN has concluded that a Customs Representative or a Customs Broker Representative is not barred from concurrently being the Legal Representative of another company, such as a business company with no customs operations (Opinion No. 100208221-0613 of 28 April 2021).

3. Advanced Import Declarations must be filed before arrival of goods.

The DIAN confirmed that the 15-day term for filing of “non-compulsory” advanced import declarations has been removed and such declarations must nonetheless be filed before arrival of the goods in the country. This provision became effective on 8 May 2021 (Opinion No. 100208221-0612 of 28 April 2021).

4. Exploitation and/or sale of crypto assets in Colombia is subject to tax withholding.

The DIAN has clarified that the exploitation and conveyance of immaterial properties inside the country, such as *crypto assets*, due to being revenue of a national source, will be subject to tax withholding (Opinion No. 100208221-0232 of 19 February 2021).

5. The OECD has disclosed the approval of interpretation and implementation criteria of the MLI.

The OECD has advised that the conference of the parties to the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (MLI) has approved an opinion establishing the guiding principles to interpret and implement this instrument (OECD - *MLI: Interpretation and Implementation Questions*).

6. Tax Benefit of a ZOMAC company is not transferable to its partners or shareholders.

The DIAN has stated that the fact of paying taxes over dividends of a company that carries out its activity in an area affected by the armed conflict (ZOMAC) and meets the criteria to be granted the tax incentive does not mean that such benefits are extended to its partners or shareholders (Opinion No. 100208221-0220 dated 19 February 2021).

At SFA we remain at your entire disposal to provide any assistance you may require in connection with any of the above procedures and address any comment or inquiry you may have.

DOCUMENT RECOMMENDATION

We hope the above information will prove to be useful. The situations described above are of a general nature, reason why a thorough analysis is required for each particular case. The Firm is especially interested in becoming your ally in these testing times and thus we offer our support in reviewing situations, implementing strategies or drafting documents and contract amendments and even representation before workers, if required.

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