

Title

Colombia – Decree 442 of 2023 – Electronic Invoicing

Background

On March 29, 2023, the Government issued Decree 442 which modifies, substitutes and adds several articles to the Unified Tax Decree, with the purposes of updating the electronic invoicing regulations. As follows we summarize the most relevant matters of the Decree.

Summary

1. E-commerce platforms

The Decree reiterates that the e-commerce platforms shall make available a service that allows the users the issuance and delivery of the e-invoice to the final consumers, establishing that the DIAN shall regulate the perspective conditions and requirements. It should be highlighted that the Decree emphasizes that the obligation to issue the invoice is in the hands of the vendor of the respective good/service and not in the hands of the platforms.

2. General modifications to the e-invoicing system

- a. The “invoicing system” notion is extended, in addition to the sales invoice and the equivalent documents it now includes all electronic documents that are established by the National Taxes and Customs Direction (“DIAN” for its acronym in Spanish), which may serve for DIAN’s controlling activities and as supporting documentation of the national taxes returns.

This evidences the DIAN’s objective of further regulating the electronic invoicing system as a broad concept that includes the sales invoices, the equivalent documents, the electronic payroll documents, the supporting documents and any other documents that in the future the tax authority considers relevant for auditing and control purposes.

- b. The e-invoice shall include the minimum information already established in article 617 of the Tax Code as well as the additional information that the DIA establishes via “official resolution”. The foregoing in order to emphasize that previously issued resolution such as Resolution 042 and subsequent resolutions shall be considered when verifying the requirements of the e-invoice, this is, when issuing e-invoices and when receiving e-invoices.
- c. The DIAN will include in its Portal a link where the e-invoicing applicable technical annexes and its modifications, the validation rules, the conditions, the technical and technological mechanisms are published.
- d. The obligation of the electronic or physical delivery of the invoice and/or equivalent document to the purchaser of goods and/or services is reiterated, emphasizing that no requirements other than the ones already established in the regulations can be demanded from the purchaser.

3. Modifications to the e-equivalent document

The Decree sets forth a new definition of “electronic equivalent document” stating that the said document shall comply with the requirements and conditions established by the DIAN, and which is issued by taxpayers that are required to issue invoices or by taxpayers not required to do so but that voluntarily decide so. The e-equivalent document shall be transmitted to the DIAN for its validation and shall be delivered to the purchaser of the good/service through electronic means. The Decree emphasizes that the DIAN is authorized to establish other e-equivalent documents as necessary.

4. Modifications to the e-supporting document in transactions with taxpayers not required to issue invoices

The Decree clarifies that it is possible to differentiate the moment in which the operation occurs from the moment in which the e-supporting document is generated since these two events do not necessarily happen at the same time (prior to this clarification it was interpreted that it was required to issue the e-supporting document at the same time that the operation was carried out).

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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