



Title

Suspension of Rulings No. 641[91] & No. 2390[255] of 2023 related to the “Single-use Plastic Products Tax” (“Plastic Tax”)

Brief Summary

On September 4, 2023, the Colombian Supreme Tax Court (“*Consejo de Estado Sección Cuarta*”), declared the provisional suspension of certain interpretations of the Colombian Tax Authority’s Rulings No. 641[91] & No. 2390[255] of 2023 regarding the taxable person of the “Plastic Tax”.

Detail/Facts

The Supreme Tax Court (“STC”) suspended the interpretation of the Colombian Tax Authority (“CTA”) that stated that the taxpayer or person liable to the tax is the producer or importer of “*single-use plastic products used to wrap, pack, or package goods, who - at the same time – are the responsible persons of the tax, as provided in paragraph 4 of article 51 of Law 2277 of 2022.*”

In this regard, the STC considered that said definition of taxpayer/taxable person contradicts the notion of producer and importer established in article 50 of Law 2277 of 2022, since the said article does not define the producer and importer as the one who produces or imports single-use plastic products, but expressly provides that the producer and importer (respectively) are the who “*1. Manufacture, assemble or remanufacture goods for sale in Colombian territory, which are contained in one-use plastic vessels or packages. 2. Import goods for sale in Colombian territory, which are contained in one-use plastic vessels or packages*”.

Under such considerations, the STC decided to provisionally suspend the official interpretation of the CTA, under the argument that it omitted to refer to or to apply the definition of producer and importer contained in article 50 of Law 2277 of 2022, omission that results in a violation of the law.

It is important to mention that the provisional suspension was appealed by the CTA, therefore the STC shall decide whether to confirm or revoke this provisional suspension.

It should be noted as well that these judicial decisions of “provisional suspension” are adopted as a precautionary measure, while the complete judicial process with the STC is undertaken and a final decision on the validity of the interpretation of the CTA is made.

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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