

# Interest Paid to Foreign Creditors under Leasing Agreements Concluded Before 2010 is Not Taxed in Colombia, says National Tax Authority

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The national tax authority (DIAN) has ruled that interest paid to foreign creditors under leasing agreements signed before tax year 2010 is not subject to income tax withholding, even if the loan is transferred as part of a business reorganization.

Accordingly, interest paid to a foreign entity as a result of a leasing agreement signed by 31 December 2010 and which is still in force, is not subject to income tax withholding in Colombia, considering that until tax year 2010 interest paid in the framework of foreign loans obtained by entities established in Colombia whose activities were relevant for the social and economic development of the country did not generate Colombian source income for the foreign creditor.

In addition, the DIAN considered that the same tax treatment applies in the case of a demerger where the foreign creditor is divided as a result of a business reorganization and the leasing agreement is transferred to another foreign entity. Thus, in this case, the interest payments are not subject to income tax withholding in Colombia, considering that the leasing agreement is still in force and the parties have not signed a new agreement.

The DIAN provided these clarifications through Ruling 100208192-924 of 28 August 2023, which was recently made available to the public.

*Note:* Law 1430 of 2010 eliminated the income tax withholding exemption for interest paid on foreign loans obtained by entities established in Colombia whose activities were relevant for the social and economic development of the country. Before Law 1430 of 2010, interest paid on foreign loans obtained by such entities did not generate Colombian source income for the foreign creditor.