



Informational Bulletin No. 21

DIAN modifies its doctrine on withholding applicable to payments for final severance bonuses and indemnification for dismissals without just cause

Dear Clients,

In Opinion 30573 dated 9 November 2015, the DIAN has changed its prior stance by revoking relevant doctrine¹ and making the following clarifications:

- **Withholding on indemnifications for dismissal without just cause:** The withholding rate on indemnification payments arising from an employment relation or a legal and regulatory relation is 20% and is applicable to those employees earning more than 204 UVT (2015: COP \$5,768,916; 2016: COP \$6,069,612), according to Article 401-3 of the Tax Code.

For those employees earning wages equal to or less than 204 UVT, no withholding is applicable, notwithstanding the fact that such revenues will be considered taxable for income and supplemental tax purposes.

- **Withholding on payment of bonuses for final severance of the employee:** The DIAN has considered in connection with employee severance bonuses that the same relate to a taxable employment earning that may not be subtract relieved from the withholding provided under Article 384 of the Tax Code. Due to the above, the amount established under subsection a) of the special procedure provided under Article 9 of Decree 400 of 1987 will also be subject to the withholding rates stipulated in the aforementioned article of the Tax Code.

In regard to settlement or conciliation amounts, the applicable withholding will depend on the legal nature of such payment.

¹ DIAN has revoked Opinions 54164 dated 10 September 2014, 62586 dated 12 November 2014, 66594 dated 16 September 2014, 16387 dated 3 June 2015 and 53417 dated 4 September 2014.



We hope the above information proves to be useful. We remain at your disposal to provide any additional information you may require on this matter.

Sincerely yours,

SANCLEMENTE FERNÁNDEZ ABOGADOS
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