

Under Article 20 of Decree 4048 of 2008, this Office is responsible for answering questions regarding taxes, customs, and foreign exchange policy on matters under the authority of the National Tax and Customs Department (DIAN).

Official letter 013282 of 2016 previously provided answers to your query regarding Article 481(c) of the Tax Act, with respect to the requirements that must be met to prove exemption from VAT as provided therein. This official letter referred to the conditions expressly and specifically set forth in the aforementioned law, in Decree 2223 of 2013, and in Decree 437 of 2013.

However, with regard to the question of which services are deemed to be related to film and television production for the purposes of the exemption provided for in the aforementioned Article 481(c), the Ministry of Culture was asked to issue a statement, given its authority over the matter. Such inquiry was finally answered by the Ministry of Culture through official letter no. 440-020-2017, signed by the Director of the Film Department.

It is important to recall that the first official letter from this Office stated that under Article 1 of Decree 2223 of 2013, in accordance with Article 481(c) of the Tax Law, the following are deemed to be exempt from the value added tax, with a right to refund: services directly related to film and television production and software development, which are protected by copyright, are broadcast from outside Colombia after export by the recipient thereof in the international market, and can be accessed from Colombia, by any technological means, by users other than the party acquiring the service abroad. The official letter also specified that services directly related to software development were specifically defined therein, which is not the case for services related to film and television production.

Therefore, in order to provide a more complete analysis of the subject, information was requested of the Ministry of Culture, given that this institution is familiar with and is capable of definitively providing the exact technical information that is required.

In its response, the Ministry of Culture states that Resolution 032 of 2016 in Article 3 of the Resource Allocation Manual, approved by the Colombia Film Promotion Committee (CPFC), established the terms or concepts defining film services and film logistics services. Its response includes the following:

*“FILM SERVICES: Specialized activities directly related to the pre-production, production, and post-production of film works, including artistic and technical services provided by Colombian individuals or legal entities residing in or with registered offices in the country.*

*FILM LOGISTICS SERVICES: Expenses for hotels, food, and transportation that are necessary for the project approved by the CPFC.”*

Such terms or definitions are now even more relevant. When Article 189 of Law 1819 of 2016 amended Article 481 of the Tax Law, it incorporated into the paragraph of such Article the definition of services export in the case of services that are related to the production of film works, television programs, audiovisual products of any kind, and to software development, which are protected by copyright. It makes specific reference to related services in general, provided that they meet the conditions established in the aforementioned Article 481(c).

Upon conducting this consolidated, complementary analysis of previously existing regulations and those established by Law 1819 of 2016, it is inferred that services that are related to the activity of the production of film, television, and audiovisual products of any kind, which are protected by copyright, including both film services and film logistic services, mentioned above, as currently specifically defined by the CPFC, may be treated as appropriate under current regulations. This means that if they comply with the requirements set forth in the regulations and preserve the documents that duly certify the existence of the operation, they may opt for the tax benefit included in Article 481 of the Tax Law.

It should be recalled that the national government will regulate the matter if appropriate.

Sincerely,

PEDRO PABLO CONTRERAS CAMARGO

Deputy Director of Regulatory Management and Legal Scholarship