



# FedEx Regulatory Alerts & Updates

## **Regulatory Alert: Colombia Eliminates VAT De Minimis for Non- FTA Countries and Commercial Shipments**

September 17, 2021

### **BACKGROUND**

On September 14, 2021, Colombian President Iván Duque sanctioned the Ley 2155 of 2021 (Law 2155 of 2021), a tax reform approved by both houses of Congress, which includes, among other things, a modification to the Value Added Tax (VAT) de minimis for shipments coming into the country.

The modification eliminates the USD 200 VAT de minimis except where the shipments “proceed” from a Free Trade Agreement (FTA) partner country (e.g. U.S.), and eliminate VAT de minimis entirely for “commercial” shipments.

The law comes into immediate effect on the date of publication, however, DIAN (Colombia’s Customs authority) has yet to release regulations indicating how they will define “commercial shipments” or how they will determine where shipments “proceed” from, generating uncertainty on how the law will be enforced.

There are no changes to the USD 200 de minimis on Customs duties for shipments to Colombia.

### **WHAT HAS CHANGED?**

Express shipments that do not exceed a declared value of USD 200 originating from any other country that does not have a free trade agreement with Colombia (containing specific provisions on VAT de minimis) will be subject to VAT. Currently, the United States is the only country that has a free trade agreement with Colombia that contains specific provisions on VAT de minimis.

Until further clarity is provided by DIAN, any shipment that exceeds six (6) units of the same class will be considered a “commercial shipment”, as defined under Article 254 of Decree 1165 of 2019.

## **Q&A**

**Q 1** – When will the changes go into effect?

A 1 – The modifications approved by Congress and signed by the President take immediate effect upon publication in the *Diario Oficial* (National Gazzete), September 15, 2021.

**Q 2** – Are the proposed changes temporary?

A 2 – DIAN (Colombia’s Customs Authority) has yet to determine how the modification will be regulated. Therefore, a different interpretation of “commercial shipments” or where shipments “proceed from” might be provided by DIAN as the Express industry continues efforts to obtain further clarity on how the VAT de minimis modification should be implemented.

**Q 3** – Are there any changes to the USD 200 de minimis on customs duties?

A 3 – There are no modifications to the USD 200 de minimis on customs duties, the modification only applies to VAT. Therefore, all shipments coming to Colombia that do not exceed USD 200 continue to be exempt from customs duties.

**Timeline for Implementation:** Upon publication of the law (September 15, 2021)

## **REFERENCES:**

Statement by the President of Colombia, Ivan Duque, on the signing of the *Ley de Inversión Social* (tax reform): Spanish Text Only

<https://idm.presidencia.gov.co/prensa/Paginas/Colombia-es-el-primer-pais-del-hemisferio-en-sacar-adelante-una-reforma-210914.aspx>

Law 2155 of 2021: Spanish Text Only

<https://dapre.presidencia.gov.co/normativa/normativa/LEY%202155%20DEL%2014%20DE%20SEPTIEMBRE%20DE%202021.pdf>

Decree 1165 of 2019: - Spanish Text Only

<http://www.suin-juriscol.gov.co/viewDocument.asp?id=30036618>