

TAX

NEW TAX OBLIGATION: SOLE REGISTRY OF BENEFICIAL OWNERS (RUB)



The tax reform of 2021 incorporated to the Tax Statute the Sole Registry of Beneficial Owners (RUB). This new registry was regulated by resolutions 000164 of December 27, 2021, and 000037 of March 17, 2022, being a new tax obligation that will be an integral part of the Single Tax Registry (RUT), whose operation, inspection and sanction power corresponds to the DIAN.

Obligated Entities

In accordance with the provisions of the regulations, all companies and entities (profit or non-profit) that are considered as nationals for tax purposes are required to identify, obtain, keep and update the RUB. Additionally, unincorporated or similar structures that have been created or are administered in Colombia and permanent establishments must comply with the registration.

Report

The parties obliged to report information in the RUB must provide full identification of the individuals (national or foreign) who directly or indirectly are beneficial owners of a national entity.

Final Beneficiary

Beneficial owners are “the individual (s) who ultimately owns or controls, directly or indirectly, a client and/or the individual on whose behalf a transaction is carried out. It includes the individual (s) who exercise effective and/or ultimate control, directly or indirectly, over a legal person or other unincorporated structure”.

In those cases in which it is not possible to identify a beneficial owner due to ownership or control, the natural person who holds the position of legal

representative should be reported as the beneficiary, unless there is an individual who holds greater authority in the management or direction of the legal person.

In any case, and in compliance with the provisions of Article 12 of Law 2195 of 2022, all entities subject to reporting are required to apply the PRINCIPLE OF DUE DILIGENCE for the identification of beneficial owners in the RUB. This implies performing all necessary acts for the identification of beneficial owners, and other requested information, including knowledge of the chain of ownership and control of the legal person or unincorporated structure.

Deadlines

Reportable entities incorporated or created prior to September 30, 2022, must provide the information no later than December 31, 2022; and those incorporated or created as of September 30, 2022, no later than 2

Any modification must be updated within the following month.

months after registration in the RUT.

In addition, the information provided must be updated in the event of any modification. For this purpose, the regulations provide that it must be determined whether on the first day of the months of January, April, July and October of each year there were modifications to the information provided. Any modification must be updated within the following month.

Fines

When the person obliged to provide information in the RUB does not provide it, provides it erroneously or incompletely, or does not update the information, he/she will be penalized according to the penalties provided for not updating the RUT information, and for reporting false, incomplete or erroneous data.

In addition, being that there is a legal obligation to apply a due diligence procedure, if the DIAN requires information on the due diligence process carried out, and this information is not provided by the taxpayer, or is provided late or wrongly, penalties may be imposed for failure to send information. These penalties may amount up to the sum of 15,000 UVT

being its equivalent in local currency to \$570,060,000 or approximately USD 145,000 for 2022.

Finally, this new registry also establishes that the abuse of the obligations to provide the information will be understood as tax advantage, which may give rise to the opening of an investigation for abuse in the matter.

We would gladly assist you in this important matter, so should you have any comments or questions, please let us know.

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