

REPUBLICA DE COLOMBIA



**MINISTRY OF CULTURE**

OFFICE OF THE PRESIDENT  
LEGAL SECRETARIAT

Checked by (initials) \_\_\_\_\_

Approved by (initials) \_\_\_\_\_

**DECREE NUMBER 474 / MARCH 25, 2020**

"Whereby Decree 1080/2015, Exclusive Regulatory Decree of the Culture Sector, is added, regulating Article 177 of Law 1955/2019, the 2018 - 2022 National Development Plan Act, Pact for Colombia, Pact for Equality, and Article 9 of Law 1556/2012, amended by Article 178 of Law 1955/2019".

**THE PRESIDENT OF THE REPUBLIC OF COLOMBIA**

Exercising the constitutional and legal powers, particularly those conferred by Article 189 (11) of the Political Constitution, and in development of Article 177 of Law 1955/2019 and Article 9 of Law 1556/2012, amended by Article 178 of Law 1955/2019.

**WHEREAS:**

It is one of the objectives of the national government to reinforce the great potential of the creative economy in Colombia and to maintain the country as a leading player in the context of the cultural and creative industries in Latin America and as an international benchmark.

Article 177 of Law 1955/2019 states:

*"ARTICLE 177. EXTENSION OF LAW 1556/2012. Extend Law 1556/2012 and the Colombia Film Fund established therein until July 9, 2032. The National Government shall promote the inclusion of the necessary, appropriate and increasing budget allocations for the purposes of the Colombia Film Fund, taking into consideration the positive association between national contributions for the compensation established therein and actual investment in local services, country image and other purposes of the aforementioned law.*

*PARAGRAPH. The compensation from the Colombia Film Fund established in Law 1556/2012 may also be granted to other audiovisual productions made in Colombia in accordance with the Resource Allocation Manual issued by the Colombia Film Promotion Committee. No less than fifty percent (50%) of the Colombia Film Fund shall be allocated to cinematographic works, unless there are insufficient applications, or they are not endorsed by the Colombia Film Promotion Committee."*

In accordance with the aforementioned article, the parameters by which the Colombia Film Promotion Committee can define the audiovisual genres, other than film, that can be covered by the Colombia Film Fund must be regulated, along with the guidelines for the Committee to define the percentage applicable to film and other audiovisual genres.

Article 178 of Law 1955/2019 amended Article 9 of Law 1556/2012 with the following content:

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**Continuation of Decree:** *"Whereby Decree 1080 / 2015, Exclusive Regulatory Decree of the Culture Sector, is added, regulating Article 177 of Law 1955 / 2019, the 2018 - 2022 National Development Plan Act, Pact for Colombia, Pact for Equality, and Article 9 of Law 1556 / 2012, amended by Article 178 of Law 1955 / 2019".*

**"ARTICLE 9. COMPENSATION AND STIMULUS FOR THE PRODUCTION OF AUDIOVISUAL WORKS IN COLOMBIA.** *Production companies of audiovisual works, totally or partially filmed within the Colombian territory that enter into Filmación Colombia Contracts shall have a compensation equivalent to forty percent (40%) of the value of expenses made in the country for cinematographic services contracted with Colombian cinematographic service companies and twenty percent (20%) of the value of hotel, food and transportation expenses, provided that the conditions established in the resource allocation manual are met.*

*Non-national audiovisual works of any genre or format, produced or post-produced in Colombia in whole or in part when previously approved by the Colombia Film Promotion Committee, will be entitled to apply for a Certificate of Audiovisual Investment in Colombia, deductible from income tax up to an amount equivalent to thirty-five percent (35%) of the value of the investment made in Colombia.*

*In order to be eligible for the Certificate of Audiovisual Investment in Colombia, it must be demonstrated that the investment was made in contracting Colombian individuals or legal entities to provide audiovisual services required for the various stages of direction, production or post-production, including hotel, food and transportation services for the respective work.*

**PARAGRAPH 1.** *In the case of national cinematographic production companies, they may or may not contract through Colombian cinematographic service companies.*

**PARAGRAPH 2.** *The owner or producer of cinematographic works must fully ensure the rights and social security benefits enshrined in Colombian law of the personnel hired or employed to work in the country.*

**PARAGRAPH 3.** *The audiovisual works referred to herein may opt for the compensation or the certificate. The two stimulus mechanisms are not compatible in the same work.*

**PARAGRAPH 4.** *The Certificate of Audiovisual Investment in Colombia is a negotiable security that is issued in the name of the foreign producer responsible for the project, who may trade it with individuals or legal entities that file income tax returns in Colombia. The income obtained by the foreign producer from transferring the Certificate does not constitute taxable income for it in Colombia and is not subject to withholding tax in the country.*

**PARAGRAPH 5.** *The national government shall regulate the use of the audiovisual investment certificate.*

**PARAGRAPH 6.** *During the last two months of each year, the Colombia Film Promotion Committee will establish the maximum amount of Audiovisual Investment Certificates that can be granted in the following calendar year, considering the conditions of the audiovisual sector, as well as the minimum amount of investment required in the country, the percentage of investment for the operation of the evaluation system, project follow-up and granting of the Certificates without exceeding five percent (5%), investment requirements, target audiovisual sectors and other relative operational aspects. The management of the relevant evaluation system, monitoring of projects and issuance of the Certificates may be carried out, if necessary, according to the decision of the Ministry of Culture, through an association or cooperation agreement with a non-profit entity related to the purposes hereof.*

*The Resource Allocation Manual to be issued by the Colombia Film Promotion Committee shall determine similar operational mechanisms for the compensation system of the Colombia Film Fund and the Certificates of Audiovisual Investment in Colombia.*

Decree 1080/2015 contains the regulatory provisions for the cultural sector, including the tax provisions for that sector.

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The regulations of Law 1556/2012 are established in Part X, Title III, Chapters I, II, III and IV of Decree 1080/2015, the Exclusive Regulation of the Culture Sector, added by Decree 1091/2018.

The regulations must be amended to reflect the opening of the Colombia Film Fund to other audiovisual genres in addition to film, as well as the content, general requirements, management and other relevant aspects of the Audiovisual Investment Certificate in Colombia created in Article 178 of Law 1955/2019, amending Article 9 of Law 1556/2012.

Articles 177 and 178 of Law 1955/2019, in relation to Law 1556/2012 and the instruments for the promotion of the national territory as an audiovisual scenario, maintain and reinforce the authority of the Colombia Film Promotion Committee to define, through the Resource Allocation Manual, the requirements for access to the Colombia Film Fund or the Audiovisual Investment Certificates provided for in said regulations.

In accordance with Article 178, Paragraph 6 of Law 1955/2019, the management of the relevant evaluation system, monitoring of projects and issuance of the Certificates may be carried out, if necessary, according to the decision of the Ministry of Culture, through an association or cooperation agreement with a non-profit entity related to the purposes of Law 1556/2012.

It is appropriate to define the conditions under which Audiovisual Investment Certificates may be granted, along with the content and form of circulation of these securities.

The formality of publication provided for in Article 8 (8) of the Code of Administrative Procedure and Administrative Litigation and Decree 1081/2015, as amended by Decree 270 of 2017, has been complied with.

For the foregoing reasons,

#### BE IT RESOLVED:

**Article 1. Addition of Article 2.10.3.3.5, Chapter III, Title III, Part X, Book II of Decree 1080/2015.** Add Article 2.10.3.3.5 to Decree 1080/2015, which will read as follows:

**"Article 2.10.3.3.5. Genres covered and percentage of compensations.** In accordance with Article 177 of Law 1955/2019, the Colombia Film Promotion Committee is responsible for establishing the audiovisual genres and their characteristics, as distinct from cinematographic works, that may be covered by the compensation of the Colombia Film Fund.

This decision shall be adopted in the Resource Allocation Manual that the Colombia Film Promotion Committee is responsible for adopting in accordance with Law 1556/2012.

No less than fifty percent (50%) of the Colombia Film Fund allocated each year for the respective compensations shall be allocated to projects of cinematographic works, unless there are insufficient applications, or they are not endorsed by the Colombia Film Promotion Committee.

The relevant percentage shall be determined by the Committee within the first two (2) months of each year, distinguishing the percentage provided for films of other audiovisual genres, and may be modified during the course of the year according to the type of project presented or with a view to requesting compensation from the Colombia Film Fund.

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**Article 2. Addition of Chapter V, Title III, Part X, Book II of Decree 1080/2015** Add a Chapter V to Title III, Part X, Book II of Decree 1080/2015, which will read as follows:

**"CHAPTER V  
Audiovisual Investment Certificates**

**Article 2.10.3.5.1. Certificates of Audiovisual Investment in Colombia.** Non-national audiovisual works of any genre or format, produced or post-produced in Colombia in whole or in part when previously approved by the Colombia Film Promotion Committee, will be entitled to apply for a Certificate of Audiovisual Investment in Colombia, deductible from income tax up to an amount equivalent to thirty-five percent (35%) of the value of the investment made in Colombia.

**Paragraph.** The Colombia Film Promotion Committee shall establish in the Resource Allocation Manual the conditions for determining when an audiovisual work in any of the approved genres is considered non-national. The concept of non-national audiovisual work is treated in the same way as foreign audiovisual works.

In the case of film, the provisions of Law 397/1997, Law 814/2003 and Decree 1080/2015 shall be taken into account.

**Article 2.10.3.5.2. Non-concurrence of incentives and benefits.** Audiovisual projects can opt for compensation from the Colombia Film Fund or for Certificates of Audiovisual Investment in Colombia. The instruments are not concurrent. Nor are any of the above concurrent with the instruments of Law 814/2003. There is no concurrence if the recipient of an incentive or benefit has waived it or has fully refunded it before applying for any of the other instruments.

**Article 2.10.3.5.3. Competences of the Colombia Film Promotion Committee.** In addition to those indicated in Law 1556/2012 and other regulations in force, it is up to the Colombia Film Promotion Committee to determine the following in relation to Certificates of Audiovisual Investment in Colombia:

1. Establish within the last two (2) months of each calendar year, the amount or maximum yearly quota of Certificates of Audiovisual Investment in Colombia that may be granted in the following calendar year. To do so, it shall take into account at least the following aspects:
  - a) Genres of audiovisual works provided for in the Resource Allocation Manual
  - b) Investment perspectives according to the different audiovisual genres that it determines may be carried out in Colombia.
  - c) Types of production and post-production budgets in the different audiovisual genres approved in the Resource Allocation Manual.
  - d) The Committee may establish, if it considers it necessary within the quota set in this section, ceilings for Certificates of Audiovisual Investment in Colombia, differentiated by audiovisual genre.
  
2. Indicate the minimum amount of spending in Colombia for the audiovisual projects that apply, in terms of the acquisition of cinematographic or audiovisual services relating to all stages of pre-production, production and post-production, as well as hotels, food and transportation, as described in Article 2.10.3.3.4 hereof, added by Article 1 of Decree 1091/2018.

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3. Determine the percentage to be paid by the producer of the respective audiovisual project, in order to cover the administrative costs of the evaluation and follow-up system for the Certificates of Audiovisual Investment. This shall not exceed five percent (5%) of the face value of the certificates received by the producer-applicant of the project.

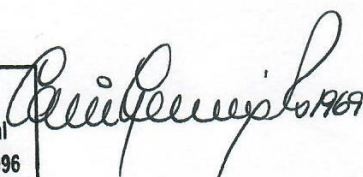
The Colombia Film Promotion Committee shall determine in the Resource Allocation Manual how this percentage is to be allocated, the consequences if the project is not carried out or does not meet the minimum required or proposed expenditure, as well as how it is to be used to cover the administrative costs of the evaluation and follow-up system and to support the country's offering as a scenario for audiovisual works.

**Article 2.10.3.5.4. Conditions to opt for the Certificate of Audiovisual Investment in Colombia** Projects applying for the Certificates of Audiovisual Investment in Colombia must demonstrate compliance with the following conditions:

1. Demonstrate that the investment was made in contracting Colombian individuals or legal entities.
2. Demonstrate the employment of a cinematographic service provider in Colombia or a local co-producer.
3. Demonstrate that the expenditure in Colombia covered by the Certificates of Audiovisual Investment in Colombia is made in contracting Colombian individuals or legal entities to provide audiovisual services required for the various stages of direction, production or post-production, including the hotel, food and transportation services for the respective work.
4. Demonstrate that the owner or producer of cinematographic works fully ensured the rights and social security benefits enshrined in Colombian law of the personnel hired or employed to work in the country, attaching the corresponding supporting documents to the application.
5. Certify under oath that the compensation referred to in Article 9 of Law 1556/2012, as amended by Article 178 of Law 1955/2019, or the incentives provided for in Law 814/2003, were not opted for or received.
6. Demonstrate that the foreign company requesting access to the Certificates of Audiovisual Investment in Colombia is the production company of the audiovisual project.
7. Demonstrate that the foreign producer requesting the Certificates of Audiovisual Investment in Colombia does not file income tax returns in Colombia, by attaching a certification under oath. The necessary cross-checks will be made with the Special Administrative Unit of the National Tax and Customs Administration (DIAN).

**Article 2.10.3.5.5. Requirements and parameters to opt for the Certificates of Audiovisual Investment in Colombia.** Notwithstanding any other requirements and parameters set forth by the Colombia Film Promotion Committee in the Resource Allocation Manual, applications for Audiovisual Investment Certificates in Colombia must comply with the following:

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1. The audiovisual project must be submitted to the Colombia Film Promotion Committee through its Technical Secretariat by a production company that does not file income tax returns in Colombia, which will be the owner of the project and in whose name the respective Certificate of Audiovisual Investment in Colombia will be issued if it complies with the minimum requirements established herein and those set forth in the Resource Allocation Manual.

The production company referred to in the preceding paragraph may grant power of attorney for the application and execution of the project to the Colombian co-production company or the cinematographic service company. However, all aspects relating to the Certificate of Audiovisual Investment in Colombia are understood to refer to the production company that does not file income tax returns in the country.

Project approval is the responsibility of the Colombia Film Promotion Committee.

2. The investment for the acquisition of cinematographic or audiovisual services in Colombia will be made in cash and may be no less than the minimum determined by the Colombia Film Promotion Committee.
3. The investment must be made as established for the compensation of the Colombia Film Fund under Law 1556/2012, in terms of trust management requirements.
4. The project must have a Cinematographic Services Company registered in accordance with Law 1556/2012 or, alternatively at its discretion, a co-producer that is a Colombian legal entity dedicated to the audiovisual activity, or a Colombian cinematography company in the case of cinematography projects.
5. No project that opts for this instrument may take more than four (4) years following the date of approval by the Committee for investment or spending in the country.
6. Certificates of Audiovisual Investment in Colombia cover the investment or expense actually made and certified in the corresponding fiscal year, provided that the minimum investment set for each type of project by the Colombia Film Promotion Committee has been met.
7. The production company that owns the project or its attorney must sign a Contrato Filmación Colombia [Colombia Filming Contract] under the parameters defined in the Resource Allocation Manual.

**Article 2.10.3.5.6. Managing entity.** The Ministry of Culture shall decide on matters relevant to the management of the project evaluation and follow-up system, which it may do through the involvement of a non-profit entity in accordance with Article 178, Paragraph 6 of Law 1955/2019.

The administrative costs relating to the evaluation and follow-up system shall be covered with the amount to be borne by the production company that owns the project, as established in Article 2.10.3.5.3. herein.

**Article 2.10.3.5.7. Issuance of Certificates of Audiovisual Investment in Colombia.** The Ministry of Culture is responsible for issuing the Certificates of Audiovisual Investment in Colombia, based on the follow-up and evaluation report as defined by that entity.

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Certificates of Audiovisual Investment in Colombia will be issued once compliance with all relevant requirements has been verified. The Resource Allocation Manual shall provide for the respective procedures and time frame for this purpose.

Each project can receive one or more Certificates of Audiovisual Investment in Colombia, depending on the execution of the project. The Certificates of Audiovisual Investment in Colombia may be dematerialized for issuance and circulation as defined by the Ministry of Culture, in which case the respective contract will be signed with a Central Securities Depository, whose costs shall be covered by the percentage of investment for the operation of the system for project evaluation, follow-up and granting of the Certificates of Audiovisual Investment in Colombia, established by the Colombia Film Promotion Committee, in accordance with the provisions of Article 178, Paragraph 6 of Law 1955/2019.

The Ministry of Culture shall regulate the internal procedure in the terms of this article, in accordance with the provisions of the Resource Allocation Manual.

**Article 2.10.3.5.8. Content of the Certificates of Audiovisual Investment in Colombia.**

Certificates of Audiovisual Investment in Colombia shall contain at least the following information:

1. Identification of the production company that owns the audiovisual project
2. Title and genre of the audiovisual project
3. Date of the minutes of the Colombia Film Promotion Committee approving the audiovisual project
4. The fiscal year of the investment, which shall be that certified by the Ministry of Culture if the production company that owns the project has complied with the relevant requirements and deadlines set out in the Resource Allocation Manual and the Contrato Filmación Colombia [Colombia Filming Contract]
5. Amount of the investment made in the audiovisual project in Colombia, covered by the Certificate of Audiovisual Investment in Colombia
6. Face value of the Certificate of Audiovisual Investment in Colombia, which shall be thirty-five per cent (35%) of the amount determined in the previous item
7. Name and TIN of the trust company

**Paragraph.** The Ministry of Culture shall inform the Special Administrative Unit of the National Tax and Customs Administration (DIAN), on a quarterly basis, of the Certificates of Audiovisual Investment in Colombia issued, along with the data set forth in this article.

**Article 2.10.3.5.9. Nature of the Certificate of Audiovisual Investment in Colombia.** In accordance with Article 9, Paragraph 4 of Law 1556/2012, amended by Article 178 of Law 1955/2019, the Certificate of Audiovisual Investment in Colombia is a negotiable security in the name of the foreign producer responsible for the project, who, since it does not file income tax returns in Colombia, may trade it with individuals or entities who do file income tax returns.

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The income obtained by the foreign producer from transferring the Certificate does not constitute taxable income for it in Colombia and is not subject to withholding tax in the country.

**Paragraph.** The Certificate of Audiovisual Investment in Colombia may be traded on the stock market or transferred by endorsement by the production company that owns the audiovisual project. The purchaser of the Certificate of Audiovisual Investment in Colombia may apply it in his/her income tax return for the tax period in which the corresponding Certificate is issued or for the payment of withholding tax for the periods of the year in which the Certificate is issued".

**Article 2.10.3.5.10. Terms and Conditions of the Certificates of Audiovisual Investment in Colombia:** Certificates of Audiovisual Investment in Colombia shall have the following terms and conditions:

- (a) Class and denomination. Certificates of Audiovisual Investment in Colombia are securities, denominated in Colombian legal currency.
- b) Transfer. They are freely negotiable on the secondary market. Securities held in a centralized securities depository shall be transferred by means of the corresponding book entry.
- c) Registration. They shall be listed on the Colombian Stock Exchange.
- d) Conformation. They have no interest coupons.
- e) Use. They may only be used to deduct their value from income tax.
- f) Validity: They are valid for up to two (2) years following their actual delivery or as of the account entry in the corresponding securities deposit, when applicable, notwithstanding the provisions of Article 2.10.3.5.5 (5).
- g) Splitting. Certificates of Audiovisual Investment in Colombia can be split and used partially before they expire.

**Article 2.10.3.5.11. Auditing.** The Special Administrative Unit of the National Tax and Customs Authority (DIAN) shall carry out the processes of auditing and sanction in cases where there is access to Certificates of Audiovisual Investment in Colombia without compliance with the laws and regulations on the matter.

**Article 2.10.3.5.12. Terminology.** Audiovisual investment in the country covered by Article 178 of Law 1955/2019 is the expenditure on audiovisual services in accordance with Article 2.10.3.3.4 (a) and (b) of this decree.

**Article 3. Validity and Derogations.** This decree is effective as of the date of its publication in the Official Newspaper.

**BE IT PUBLISHED AND ENFORCED.**

Issued in Bogotá D.C. on MARCH 25, 2020

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(Signature)

THE MINISTER OF FINANCE AND PUBLIC CREDIT

(Signature)

**ALBERTO CARRASQUILLA BARRERA**

THE MINISTER OF COMMERCE, INDUSTRY AND TOURISM

(Signature)

**JOSÉ MANUEL RESTREPO ABONDANO**

THE MINISTER OF CULTURE

(Signature)

**CARMEN INÉS VÁSQUEZ CAMACHO**

.....  
I HEREBY CERTIFY UNDER OATH THAT THIS IS A TRUE AND COMPLETE TRANSLATION OF THE DOCUMENT PRESENTED TO ME IN SPANISH. IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL IN THE CITY OF BUCARAMANGA, COLOMBIA, ON APRIL 1, 2020.

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