



COLOMBIA

COLOMBIA
**LEGAL
GUIDE**

FOOD DONATION
LAW AND POLICY

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About The Global Food Donation Policy Atlas

The Global Food Donation Policy Atlas is a first-of-its-kind initiative to promote better laws on food donation to help address food loss and food insecurity. This project maps the laws affecting food donation in countries across the globe in order to help practitioners understand national laws relating to food donation, compare laws across countries and regions, analyze legal questions and barriers to donation, and share best practices and recommendations for overcoming these barriers. The project is a collaboration between FLPC and GFN. To learn about and compare the food donation laws and policies for the countries FLPC has researched to date, visit atlas.foodbanking.org.

About the Harvard Law School Food Law and Policy Clinic

FLPC serves partner organizations and communities by providing guidance on cutting-edge food system legal and policy issues, while engaging law students in the practice of food law and policy. FLPC focuses on increasing access to healthy foods; supporting sustainable food production and food systems; and reducing waste of healthy, wholesome food. For more information, visit www.chlpi.org/FLPC.



About The Global FoodBanking Network

GFN is an international non-profit organization that nourishes the world's hungry through uniting and advancing food banks in more than 40 countries. GFN focuses on combating hunger and preventing food waste by providing expertise, directing resources, sharing knowledge and developing connections that increase efficiency, ensure food safety, and help food banks reach more people facing hunger. For more information visit www.foodbanking.org.



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INTRODUCTION

Purpose of this Legal Guide

Food loss and waste is one of the greatest food system challenges that we face today. An estimated one-third of food produced globally is ultimately lost or wasted along the supply chain;¹ this amounts to approximately 1.3 billion tons of food each year that ends up in the landfill.² Food loss or waste occurs at every stage of the food system: during the initial harvest due to low market prices, because of high labor costs and demand for perfect-looking produce; by grocery stores and restaurants over-estimating customer demands; and by consumers who engage in inefficient shopping and cooking practices and lack a clear understanding about date labels.³

These behaviors have significant environmental, economic, and social consequences: food that is ultimately lost or wasted has a huge carbon footprint of 3.3 gigatons,⁴ using roughly 28% of agricultural land⁵ and accounting for eight percent, or 70 billion tons, of total global greenhouse gas emissions.⁶ Collectively, this damage costs approximately \$940 billion per year.⁷ Meanwhile, more than 820 million people are undernourished and one in nine are food insecure.⁸ The international community has sought to address this paradox and mobilize the reduction of food waste, especially within the framework of the *2030 Agenda for Sustainable Development* and Sustainable Development Goal 12.3.⁹

In many countries, food donation has emerged as a popular and logical solution to redirect safe, surplus food destined for landfills into the hands of those who need it most. Most food donations are facilitated through food banks or other charitable, nongovernmental organizations that recover surplus, wholesome food and redirect it to local beneficiary agencies (such as soup kitchens, shelters, and community pantries) to feed low-income, food-insecure persons. As food insecurity, food loss, and food waste continue to rise, new, innovative models of food recovery have emerged around the world.

However, uncertainty surrounds the laws and regulations most relevant to food donation. To help address the most pressing questions, the Harvard Law School Food Law and Policy Clinic (FLPC) and The Global FoodBanking Network (GFN) have partnered to create The Global Food Donation Policy Atlas.¹⁰ This innovative partnership maps the laws and policies affecting donations in 15 countries over the course of two years. The project aims to identify and explain national laws relating to food donation, analyze the most common legal barriers to promoting greater food donation, and share best practices and recommendations for overcoming these barriers.

THE PROJECT AIMS TO IDENTIFY AND EXPLAIN NATIONAL LAWS RELATING TO FOOD DONATION, ANALYZE THE MOST COMMON LEGAL BARRIERS TO PROMOTING GREATER FOOD DONATION, AND SHARE BEST PRACTICES AND RECOMMENDATIONS FOR OVERCOMING THESE BARRIERS.

This Legal Guide focuses on Colombia, where more than one-third of food that is produced, or 9.76 million tons,¹¹ is lost or wasted each year,¹² and an estimated 54.2% of the population was food insecure prior to the novel coronavirus (COVID-19) pandemic.¹³ FLPC and GFN, in collaboration with partners in Colombia,¹⁴ developed this resource to help food donors, food banks, and other intermediaries (hereinafter collectively referred to as “food recovery organizations”) understand the relevant legal frameworks that impact food waste and donation efforts. This Guide also serves as a resource for those in other countries who are looking to inform their own food donation laws and policies.

After providing initial commentary on food loss and recovery in Colombia, this Guide provides an overview of the legal frameworks most relevant to food donation at the national and local levels. The subsequent sections

look more closely at the laws generally applicable to food donation: food safety laws and regulations, food date labeling laws, “Good Samaritan” or liability protection laws, tax incentives for food donation and/or tax policy disincentives, and waste diversion laws that penalize food waste or require recovery. The extent to which Colombia has developed and subsequently implemented these legal frameworks compared to other countries may vary.

State of Food Insecurity, Food Loss, Waste, and Recovery in Colombia

Policies to promote food donation gain new importance when a country is battling issues of both food waste and food insecurity among greater socioeconomic challenges. This is the case in Colombia, which despite having one of the highest economic growth rates in Latin America, is experiencing economic instability and rising food insecurity. Periodic spikes in inflation and pressure on food prices, for example, have undermined the food security of Colombians, with 22% of the population facing moderate to severe food insecurity prior to the COVID-19 pandemic.¹⁵ Rising rates of unemployment have led to social unrest and economic uncertainty within the vulnerable middle class.¹⁶ Those at risk of unemployment have expressed concern about slipping below the poverty line, where 17.5% of the population were living in 2019.¹⁷

Such conditions have only worsened following the outbreak of COVID-19 in 2020. While the full impact of the pandemic remains unknown, Colombia has reported an emergence of poverty and extreme hunger, especially among the most rural and isolated communities.¹⁸ In this respect, Colombia is not unique: the United Nations World Food Programme (WFP) estimated that the socioeconomic impacts of the COVID-19 pandemic in Latin America and the Caribbean would push 14 million people into a state of severe food insecurity by the end of 2020.¹⁹

WHILE THE FULL IMPACT OF THE PANDEMIC REMAIN UNKNOWN, COLOMBIA HAS REPORTED AN EMERGENCE OF POVERTY AND EXTREME HUNGER, ESPECIALLY AMONG THE MOST RURAL AND ISOLATED COMMUNITIES.

Before the pandemic, Colombia had demonstrated awareness of the population’s hunger and food insecurity and pursued initiatives to improve these conditions. For example, in 2007, several executive agencies collaborated to develop the National Plan for Food Security and Nutrition (*Plan Nacional de Seguridad Alimentaria y Nutricional* or PSAN) to inform actions from 2012-19.²⁰ In 2009, Colombia adopted Law 1355 to address obesity as an issue of public health.²¹ That same year, Colombia created the Intersectoral Commission of Food and Nutritional Security (*Comisión Intersectorial de Seguridad Alimentaria y Nutricional* or CISAN) to develop a holistic strategy for combatting malnutrition and food insecurity.²²

These efforts also aimed to reduce the double burden of malnutrition, or the coexistence of overweight and obesity with nutritional deficiencies that lead to wasting or stunting.²³ Children and adolescents are most directly affected, but this risk to population health has broader societal implications. The measurable economic costs of malnutrition, for example, account for approximately 11% of Colombia’s gross domestic product (GDP).²⁴

Colombia by the Numbers

Population 49,085,000	Prevalence of severe food insecurity N/A	World Bank Classification Upper Middle Income
Median Age 31.2	Global Food Security Index 69.4	Human Development Index 0.761
GDP \$323.8 billion	GINI Index 50.4	FLW Estimates 9.76 million tonnes
Poverty rate (national poverty lines) 27%	Food Sustainability Index 71.2	

Source: The Global FoodBanking Network, October 2020.

While the government has exhibited a commitment to improve healthy food access among consumers, it has also taken steps to improve food system sustainability. A 2016 study published by the National Planning Department of the Colombian government (*Departamento Nacional de Planeación*) revealed that more than 6 million tons of food are lost at the production, processing, and distribution stages, about 40% of which are fruits and vegetables.²⁵ An additional 3.54 million tons of food are wasted at the retail or consumer levels.²⁶ Similar to other Latin American countries, most of this upstream food loss and waste occurs due to a lack of certification, quality control standards, appropriate infrastructure, and personnel training; inefficient or inadequate management, transportation, distribution, and storage systems; and inappropriate packaging material and practices.²⁷

IN AUGUST 2019, COLOMBIA ADOPTED LAW 1990, WHICH ESTABLISHED THE POLICY AGAINST FOOD LOSS AND WASTE (POLÍTICA CONTRA LA PÉRDIDA Y EL DESPERDICIO DE ALIMENTOS). THE LAW PROMOTES FOOD DONATION AS AN IMPORTANT SOLUTION TO FOOD AND NUTRITION SECURITY. IT ALSO INTRODUCED MEASURES TO REDUCE FOOD LOSS AND WASTE AT EVERY LEVEL OF THE SUPPLY CHAIN.

Recognizing that such high rates of food loss and waste are troubling given the prevalence of food insecurity and poverty among the Colombian population, the federal government supplemented efforts to mitigate hunger and poverty with new initiatives that promote greater food recovery and donation.²⁸ In August 2019, Colombia adopted Law 1990, which established the Policy Against Food Loss and Waste (*Política Contra la Pérdida y el Desperdicio de Alimentos*).²⁹ The Law promotes food donation as an important solution to food and nutrition security. It also introduced measures to reduce food loss and waste at every level of the supply chain.³⁰ Specific provisions of Law 1990 as they relate to food donation are discussed later in this Guide.

Under Law 1990, CISAN was delegated the task of issuing regulations setting forth the design and implementation of the Policy by the end of 2020.³¹ As previously mentioned, CISAN is the primary vehicle for combatting food insecurity and malnutrition in Colombia. It is comprised of several authoritative bodies, including representatives from the Ministry of Health and Social Protection (*Ministerio de Salud y Protección Social* or MSPS), the Ministry of Agriculture and Rural Development (*Ministerio de Agricultura y Desarrollo Rural* or MADR), and the Ministry of Environment and Sustainable Development (*Ministerio de Ambiente y Desarrollo Sostenible*), among others.³²

As of the date of this writing, CISAN had not yet issued enabling regulations. The directive under Law 1990 marks the first time CISAN was tasked with a regulatory mandate, and the scope of the CISAN's legal authority to develop, implement, and enforce regulations remains uncertain.

In addition to developing national food donation legislation, the Colombian government has promoted multistakeholder partnerships focused on the prevention and mitigation of food loss and waste at the local, national, and regional levels. In October 2019, Colombia hosted the first Latin American summit on food loss and waste, with support from the Food and Agricultural Organization of the United Nations and the Inter-American Development Bank, among others.³³ The summit highlighted Colombia's efforts to cut food loss and waste in half by 2030, consistent with Sustainable Development Goal 12.3.³⁴ It also provided a platform from which to discuss the regional challenges in reducing food loss and waste and to highlight some emerging legislative and policy developments in Latin America.

The Summit featured food recovery organizations that have long supported government initiatives to reduce both food waste and food insecurity. The Network of Colombian Food Banks (*Asociación de Bancos de Alimentos de Colombia* or ABACO), for example, has rescued an estimated 25,089 tons of food for 650,054 beneficiaries throughout the country.³⁵ ABACO works with more than 3,000 donors and organizations, building alliances between the public and agricultural, industrial, retail, and restaurant sectors to improve food and national security in Colombia.³⁶ For example ABACO's Sustainable Waste Management (*Gestión de Merma Sostenible*) program and Return Logistics (*Logística de devoluciones*) program support the collection of surplus food among food industry actors.³⁷

As Colombia seeks to reduce food loss and waste and mitigate food insecurity, relevant actors must recognize and understand the laws that apply to food donation. The remaining sections of this Legal Guide provide an overview of Colombia's food donation legal framework and address the issues most likely to arise for food donors, food recovery organizations, policymakers, and other interested stakeholders.

OVERVIEW OF COLOMBIA'S RELEVANT LEGAL FRAMEWORK

The Colombian Constitution establishes a civil law country in which the Constitution serves as the primary source of law and the legal system is based primarily on written laws rather than common law jurisprudence.³⁸ Colombia is organized as a unitary, decentralized republic, with political power divided between a judicial branch, an executive branch (president and vice president), and a bicameral legislative branch (congress) that comprise the central government.³⁹ With its legislative authority, the central government introduces bills for congressional approval, which are eventually signed into law by the president.⁴⁰ The executive branch also includes 16 ministries and administrative agencies, each dedicated to the implementation and oversight of a different policy area. Colombia's departments (or states) and the districts and local municipalities located therein, do not have legislative or judicial authority. However, elected officials such as deputies and councilors have the authority to issue binding rules in their respective jurisdictions consistent with national law and policy.⁴¹

Within this political structure, the central government has the authority to establish laws and policies relevant to food loss, food waste, and food donation, in accordance with the Constitution. The Colombian Constitution formally recognizes the human right to adequate food and the protection of health. Therefore, it sets the foundation for a comprehensive legal framework that promotes food donation.⁴² These rights are reflected in national food safety laws, the recently adopted Law 1990, and other laws relevant to food rescue and recovery.

Law 9 of 1979

The president of Colombia executed the national food law for the protection of human health in 1979 (*Ley 9 de 1979*), which contains regulations related to human health, food safety, aquaculture, and the environment.⁴³ Law 9 was adopted in accordance with Article 78 of the Colombian Constitution, which provides for Congress

to “regulate the control of the quality of goods and services offered and provided to the community.”⁴⁴ Title V of Law 9 establishes specific rules for the safe transportation, manufacture, sale, labeling, and packaging of food, conferring regulatory authority to MSPS.⁴⁵

TITLE V OF LAW 9 ESTABLISHES SPECIFIC RULES FOR THE SAFE TRANSPORTATION, MANUFACTURE, SALE, LABELING, AND PACKAGING OF FOOD, CONFERRING REGULATORY AUTHORITY TO THE MINISTRY OF HEALTHY AND SOCIAL PROTECTION.

Pursuant to this authority, MSPS adopted Resolution 2674 in 2013, elaborating on the sanitary requirements applicable to persons and entities engaged in the storage, distribution, transportation, marketing, and handling of food.⁴⁶ The regulations provide specific guidance on the avoidance of adulteration and contamination, and processes for ensuring that all food sold is safe for human consumption.⁴⁷ For example, the decree sets forth principles of “Good Manufacturing Practices” that apply to facilities, equipment, and food handling personnel.⁴⁸ The regulations do not specifically mention food donation, food banks, or the free delivery of food. However, as food banks engage in activities subject to the Resolution, ABACO and its member banks comply with the enumerated quality control and safety measures.⁴⁹

Responsibility for ensuring compliance with these and other food safety regulations is delegated to the National Institute for Food Safety, Drugs, and Cosmetics (*El Instituto Nacional de Medicamentos y Alimentos* or INVIMA) under MSPS.⁵⁰ INVIMA is empowered to ensure compliance with food safety measures set forth in Resolution 2674/2013 and oversee risk assessment.⁵¹ The Colombia Sanitary Regulatory Agency (*Instituto Colombiano Agropecuario* or ICA), which falls under MADR, oversees food safety and inspection with respect to food imports and exports.⁵² State and regional authorities such as local health departments are delegated authority to control the application of national food safety laws within their local jurisdictions.⁵³

Law 1990 of 2019

In August 2019, Colombia enacted Law 1990 to create the Policy Against Food Loss and Waste, promote more sustainable food systems, and improve the food and nutrition security of the Colombian population.⁵⁴ Chapter 1 sets forth the general disposition of the Law—to reduce food loss and waste by training and mobilizing producers, processors, distributors, and consumers to properly manage food in the supply chain—and the broad scope of the Law’s application, which includes all natural or legal persons, indirectly or directly related to the food sector, with activity in Colombia.⁵⁵ Law 1990 also endorses a food loss and waste hierarchy, with the top goal of reducing food loss and waste, followed by the recovery and redistribution of safe, surplus food for human consumption.⁵⁶ Subsequent priorities include the use of surplus for organic waste or renewable energy, followed by the recovery of surplus for animal feed.⁵⁷ The Law does not state whether there are penalties for failure to adhere to this hierarchy or offer clear incentives for compliance.

LAW 1990 ALSO ENDORSES A FOOD LOSS AND WASTE HIERARCHY, WITH THE TOP GOAL OF REDUCING FOOD LOSS AND WASTE, FOLLOWED BY THE RECOVERY AND REDISTRIBUTION OF SAFE, SURPLUS FOOD FOR HUMAN CONSUMPTION.

While the government had not finalized the specific design and implementation of the Policy Against Food Loss and Waste at the time of this writing, Chapter II of the Law provides further detail on the Policy’s main objectives. Article 6 explains that a critical function of the policy is to formulate proposals and comments concerning the creation of a fund to support the free donation of food, goods, and services as well as innovative projects aimed at limiting waste.⁵⁸ It also calls for CISAN to develop information and awareness campaigns on the use of food recovery and donation resources. CISAN was granted six months from the Law’s enactment to design and implement the policy to achieve these and other objectives.⁵⁹ As of the writing of this Legal Guide, this process was still ongoing.

The remaining sections of the Law discuss strategies for reducing food loss and waste, including additional parameters relevant to food donation. For example, they provide additional guidance on the donation of food that has lost commercial value, the available tax benefits for food donors, and the distribution of food donations to eligible beneficiaries.⁶⁰ The law prioritizes minors, pregnant and lactating women, the elderly, populations with disabilities, and those in poverty as beneficiaries of donated food.⁶¹ It also calls for the prioritization of regions that are experiencing crises due to high rates of malnutrition and food shortages.⁶²

As discussed below, Law 1990 implies a limitation on the liability of food donors by placing responsibility for the receipt, storage, and quality of food on the “receiving institutions” (i.e., the food recovery organizations that ultimately distribute donated food to those in need). However, the Law falls short of establishing “Good Samaritan” liability protections for food donors and food recovery organizations akin to those offered in Argentina⁶³ and the United States.⁶⁴

Other National Laws

Laws 9/1979 and 1990/2019 provide the most concrete regulations relevant to food recovery and donation efforts. However, additional laws apply to food commerce and the safety and authenticity of food products. For example, date labeling regulations for packaged foods are set forth in Resolutions 2652/2004 and 5109/2005,⁶⁵ in accordance with Colombia’s trade obligations. Resolution 333/2011 provides information concerning nutrition labels⁶⁶ and follows the *Codex Alimentarius* for additional guidance. Finally, as discussed below, the Colombian Tax Law (*Estatuto Tributario Nacional*) also has implications for food recovery because the law provides tax deductions for donations.⁶⁷

Department and Municipal Law

Colombia’s food law legal framework is mostly established at the national level, as Colombia’s 32 departments (or states), the Bogotá federal district, and subdivided municipalities have limited legal authority. Departments, for example, control their own finances and administration, but they must otherwise adopt and enforce national administrative norms or regulations.⁶⁸ Still, the departments and district of Bogotá have the authority to contribute to local food loss and waste reduction efforts through local initiatives. In December 2019, for example, the Mayor’s Office in Bogotá issued Agreement No. 753/2019, committing to establish guidance to prevent food loss and waste in the Capital District consistent with the national Policy Against Food Loss and Waste.⁶⁹ Other departments may adopt similar measures once the Policy is finalized and implemented.

LEGAL ISSUES RELEVANT TO FOOD DONATION

Food Safety for Donations

In many countries, a key barrier to the donation of surplus food is the lack of knowledge or readily available guidance regarding safety procedures for food donation. Potential donors are often uncertain as to which food safety regulations apply to donated food, as opposed to purchased food, as well as the steps necessary to safely donate food in compliance with applicable regulations. As a result, safe, surplus food that could have been redirected to populations in need is instead destined for landfills.

Food safety laws in Colombia are mostly contained in Law 9/1979, with Title V establishing rules for the transportation, manufacture, sale, labeling, and packaging of all food.⁷⁰ Article 304 of Law 9 establishes a general food safety standard, explaining that altered, adulterated, and contaminated foods as well as foods with

other “abnormal characteristics that may affect the health of the consumer” are not considered “suitable for human consumption.”⁷¹ As noted above, MSPS further elaborated on this standard in Resolution 2674/2013, which enumerates sanitary rules and requirements that apply storing, distributing, transporting, marketing, selling, and handling food.⁷² Neither Law 9 nor Resolution 2674 feature distinct provisions on donated food or explicitly reference food donation. However, their broad scope of application implies that food donation operations are subject to both authorities.⁷³

Law 1990 further supports this interpretation, as it requires all donated food to be “suitable for human consumption,”⁷⁴ consistent with the food safety standard set forth in Law 9 and Resolution 2674. This standard is reiterated throughout Law 1990. Article 11 permits the donation of food that has been seized or abandoned during the customs process as long as the food is suitable for consumption and meets applicable phytosanitary controls. Article 18 requires that the entity receiving food donations ensures that food is suitable for human consumption.⁷⁵

Law 1990 does not, however, specify which of Law 9 or Resolution 2674’s provisions apply to donated food, nor whether food may still be donated if not all requirements are met. This lack of specification may create some uncertainty for donors or food recovery organizations, particularly if the requirement does not clearly implicate food safety. For example, Resolution 2674 states that operations should avoid the deterioration of or damage to a container or packaging.⁷⁶ It does not, however, indicate whether food in a damaged container is no longer considered safe for human consumption and thus may not be donated. Without further guidance from the government,⁷⁷ food donors and food recovery organizations are likely to presume that all provisions apply to donated food.

Date Labeling

Date labels affixed to food products are a major driver of food waste and obstacle to food donation. As explained in the previous section, most food donors and food recovery organizations are appropriately cautious about donating food that meets safety standards, but it is not always clear which standards relate to food safety. And, while fresh products like fruits and vegetables will appear visibly spoiled when they are no longer safe to consume, it can be more difficult to gauge when this is the case for packaged foods. Many donors interpret date labels affixed to such food products as indicators of safety and will therefore throw away food once the “expiration date” has passed; intermediaries may refuse to accept donated food after this date, deeming the food product unfit for human consumption.

Despite this interpretation, for the vast majority of foods, date labels indicate freshness or quality rather than food safety. Manufacturers use a variety of quality-based methods to determine the time frame for label dates, all of which are intended to reflect when the food will be at its “peak quality.”⁷⁸ Nevertheless, global trends indicate that consumers generally confuse date labels as indicators of safety rather than quality. In the United Kingdom, for example, researchers found that consumers discarded about 22% of food that they could have eaten due to confusion over date labeling.⁷⁹ Similarly, 84% of Americans report that they throw away food after the expiration date passes due to safety concerns, even if there is a minimal risk of foodborne illness at that time.⁸⁰

There remains some uncertainty surrounding the appropriate meaning and application of date labels in Colombia. Date labels are standardized as part of Colombia’s participation in the Andean Community (*Comunidad Andina* or CAN) trade bloc comprised of Bolivia, Colombia, Ecuador, and Peru.⁸¹ Under Decision 562, CAN member countries agreed to develop, adopt, and apply Technical Regulations for packaging and labeling products to promote greater uniformity and support the free flow of trade.⁸²

Consistent with this Decision, MSPS adopted Resolution 2652 in 2004 and Resolution 5109 in 2005, which set forth labeling requirements for packaged food and raw materials that are intended for human consumption.⁸³ Among these requirements are date labels that must be affixed to all packaged foods with the exception of

fresh fruits and vegetables, bakery and pastry products, vinegar, salt, and sugar, among others.⁸⁴ Specifically, the Resolutions introduce two date labels from which manufacturers may choose: a “minimum duration date” (“*fecha de duración mínima*”)⁸⁵ and a “deadline for use” (“*fecha límite de utilización*”).⁸⁶

The option to choose between these two date labels resembles the dual date labeling scheme that has been adopted by the European Union and endorsed by the Consumer Goods Forum as an effective model to reduce food waste.⁸⁷ In practice, however, Colombia has not implemented a dual date labeling model. Rather, Colombia’s scheme fails to clearly differentiate between foods that should receive a safety-based versus a quality-based label. The labeling requirements do not clearly align with the 2018 update to the *Codex Alimentarius* General Standard for the Labeling of Prepackaged Foods, which designated the language of “best before” to convey quality and “expiration date” to convey safety.⁸⁸

Instead, Colombia describes the “minimum duration date” as the last date on which food is fully marketable, though food may still be “satisfactory” after the date. Similarly, the “deadline for use” label is the last date on which the product will have the “quality attributes normally expected by consumers” and the last date on which the product has commercial value. The “deadline for use” is not defined as the last date on which the labeled food is *safe* to eat or the date after which risk of harm may become more likely.⁸⁹

For purposes of donation, Colombia’s date labeling legal framework does not convey whether food is safe to donate after the “minimum duration date” or the “deadline for use.” As noted above, the regulation states that food remains marketable after the “minimum duration date,” but it is no longer considered commercially viable after the “deadline for use.” Many retailers are contractually required to return food products to their manufacturers once items cannot be sold, including when items are approaching their “deadline for use.” For example, an agreement between a retailer and a manufacturer may require the retailer to return a certain food product to the manufacturer a week before its affixed date label if the product is not selling. Such agreements prevent retailers from offering food for donation after a certain point.

Law 1990 recognizes that food loses its marketability as the affixed date label approaches and therefore grants food donors the option to donate such food.⁹⁰ Specifically, the Law states that food may be donated to nonprofit organizations whose purpose is to distribute food free of charge to those in need, “preferably five days before” the “deadline for use” date.⁹¹ Once the “minimum duration date” or the “deadline for use” passes, however, Law 1990 broadly prohibits the donation of processed or prepared foods.⁹² Law 1990 does not seem to distinguish between the “minimum duration date” or the “deadline for use,” nor does it acknowledge that neither label clearly refers to a product’s safety.

Law 1990 does carve out a limited exception to the prohibition against past-date donations: foods with an incorrect “deadline for use” or with a passed “deadline for use” may still be donated if the manufacturer responsible for the product label provides a letter attesting to the product’s safety and confirming that it will not harm the health of beneficiaries.⁹³ If food donors cannot confirm that unmarketable food is still safe for human consumption, Law 1990 permits donors to instead deliver food free of charge for other purposes such as animal feed.⁹⁴

Liability Protections for Food Donation

A significant barrier to food donation is the fear among donors that they will be found liable if someone becomes sick after consuming donated food. This fear is particularly heightened when the applicable law provides for “strict liability” (i.e., a donor or food recovery organization that did not act maliciously or intend to inflict harm may still be held legally and financially responsible for any resulting damage). Other countries, including Argentina and the United States, have established protections for both food donors and food recovery organizations to limit the likelihood that these actors will be held responsible for harm.⁹⁵

Colombia does not offer robust liability protections, but it does limit the potential liability imposed on food donors. Specifically, Article 18 of Law 1990 provides a “limitation of liability,” which establishes an extra-contractual

duty over donated food based on its chain of custody.⁹⁶ Article 18 explains that the receiving institutions are responsible for the receipt, storage, and quality of the donated food that is to be delivered to beneficiaries.⁹⁷ This approach reflects the general standard of care set forth in Colombia's Civil Code, which states that "one is responsible (liable) for the things that we have under our care (custody)."⁹⁸ This standard implies "strict liability," as the intent of the custodian and whether they acted in good faith is irrelevant.

The extent to which this provision actually protects food donors from liability, however, is uncertain. It does not explicitly preclude the possibility that food donors may be held liable for resulting harm to a beneficiary. The provision speaks to the responsibility of the food recovery organization after the point of donation but does not address actions prior to donation that may give rise to liability such as the contamination or adulteration of food during the manufacture, package, or transport stage. An earlier version of the law provided clarity on this issue, confirming that donors are not responsible for the quality or suitability of the product once it is donated *unless* there was a chemical failure in the manufacturing process.⁹⁹ The final law, however, does not reference food donors or address the scope of liability protection afforded to these actors.

The law also does not afford liability protection for food recovery organizations; instead, the responsibility is placed on these organizations for donated food in their possession, paving the way for these organizations to be found liable in the event that a beneficiary is harmed. Unlike laws in Argentina and the United States, which limit the liability of food recovery organizations that act in good faith and adhere to applicable food safety laws and other conditions,¹⁰⁰ Law 1990 is silent on the issue of intent. Thus, food recovery organizations may be found strictly liable for harm, regardless of whether they acted negligently or are without fault.

Taxes

Reducing food loss and waste results in sizable economic benefits to society, as it minimizes the costs of producing and discarding food that is never consumed. Food donation also helps mitigate the costs of hunger and stimulates the economy: food banks and intermediaries provide jobs or sponsor community development, while recipients of donated food are able to spend limited financial resources on other basic goods and services. But food donation can also be expensive, as food donors must allocate time and money to glean, package, store, and transport surplus food that otherwise would be discarded at no cost. As a result, it is often easier and less expensive for farmers, businesses, and private individuals to throw away food instead of donate it. Some countries are addressing this issue by offering tax incentives and removing financial barriers to food donation.

Incentives

Tax incentives can significantly support food donation and help reduce food loss and waste. For example, corporate donors may be more likely to donate surplus food if they receive a charitable deduction to offset the cost of transportation and logistics. Colombia currently offers such tax benefits for food donation. These tax incentives could help offset the costs of donation and reduce the burden of the income tax, which for corporations is among the highest levied in Latin America.¹⁰¹

As a general rule, under Article 11 of the Tax Law, any donated goods, including food, are subject to income tax.¹⁰² However, as part of its 2016 tax reform, Colombia amended Article 257 to provide a tax credit equivalent to 25% of the value of donations in the taxable year or period for donors that make a donation to nonprofit entities registered under a special income tax regime.¹⁰³ This regime includes nonprofit entities engaged in certain public good activities, including the promotion of health, environmental protection, human rights, social development, and poverty reduction.¹⁰⁴ Receiving this benefit depends on whether the receiving institution has qualified for and is registered with the special tax regime.¹⁰⁵

Prior to the reform, Colombia had approved a tax deduction of 125% of the value of food donations made during the year or taxable period to qualifying institutions.¹⁰⁶ Such institutions included foundations and organizations dedicated to defending, protecting, and promoting human rights and thus applied to food donations made to the

national food banking network.¹⁰⁷ A 2018 ruling by the Directorate of National Taxes and Customs (*Dirección de Impuestos y Aduanas Nacionales* or DIAN) suggested that this benefit was no longer available for food donations and that these qualifying institutions may only offer the 25% tax credit established in the 2016 reform of the Tax Code.¹⁰⁸

Law 1990 reiterates that food donations made to nonprofit entities are eligible for the benefits set forth in the Tax Law but does not state the specific benefits that donors receive.¹⁰⁹ It also states that an objective of the Policy Against Food Loss and Waste is to create a tax scheme that incentivizes agricultural and industry actors and consumers to not destroy food.¹¹⁰ The Law further calls for the development of a tax framework that is managed by corresponding entities to “stimulate agricultural, industrial companies, marketers, and [the] consumer sector to not destroy food.”¹¹¹ The details of this framework (i.e., whether it will feature new and enhanced incentives or simply greater promotion of existing benefits) had not been elaborated at the time of this writing.

Barriers

While certain tax schemes may encourage food donations, they may also stand as potential deterrents. In many countries, the value-added tax (*Ley del Impuesto al Valor Agregado* or VAT) presents a financial barrier to donating food. The VAT is a tax that is levied on a good (or service) at each stage of the supply chain, from production to the point of sale, whenever value is added. In some countries, food donors may be responsible for reimbursing a VAT credit on donated food. In Argentina, for example, the VAT scheme features an output VAT or VAT debit (*débito fiscal*), which is the tax that a VAT-registered business will incur when acquiring a good, and an input VAT or VAT credit (*crédito fiscal*), which is the amount a business will add to the sale price and which is paid by the consumer upon purchase.¹¹² Taxpayers are required to repay the VAT credit on donated food but not on discarded food, so businesses are less inclined to donate rather than discard safe, surplus food.¹¹³

Colombia’s VAT scheme resembles Argentina’s, consisting of VAT debits and credits; however, the Colombian VAT does not impose as clear an obstacle to food donation since many food items are exempt from the tax. Colombia’s standard VAT rate is 19%, which is higher than the average VAT rate among Latin American and Caribbean countries.¹¹⁴ The government has reduced this rate or exempted many foods: grains, flours and other cereals are subject to a 5% VAT rate,¹¹⁵ while eggs, fresh fruits and vegetables, and other items that comprise the “family basket” are entirely exempt.¹¹⁶

Food donations made to food banks that are legally recognized as nonprofit entities are also exempt from the VAT.¹¹⁷ To qualify for this exemption, the following conditions must apply: the government must formally and legally recognize the intermediary as a food bank; the food bank must have sufficient logistics to receive, store, and distribute the donated food; the donor must submit an invoice that specifies the recipient and content of the donation; and a legal representative for the food bank must certify the validity of the donor’s invoice.¹¹⁸ If the Ministry of Health and Social Protection determines that the donated food is not suitable for human consumption, the donor will not be allowed to claim the exemption.¹¹⁹ In effect, these exemptions largely ensure that the VAT does not stand as a barrier to donation.¹²⁰

Donation Requirements or Food Waste Penalties

Some countries have created food donation requirements or impose monetary penalties for food that is sent to landfills (often known as organic waste bans or waste taxes) to influence business behavior and promote sustainable food systems. Colombia’s Law 1990 obligates food donors to consider donating surplus food to reduce food loss and waste, yet it does not require donation, ban food waste, or impose any penalty on discarding food. Article 17 explains that DIAN may impose sanctions for failure to comply with the measures against food loss and waste contained in the Law.¹²¹ However, the Law itself merely promotes food recovery and donation.

Government Grants and Incentives

Grants and incentive programs funded at the national or local levels offer another important resource for food donation initiatives. This is particularly true in countries where donors consider tax incentives to be insufficient to offset the costs of donation or where a lack of infrastructure limits food recovery efforts. For example, government grants can help food donors and food recovery organizations acquire equipment and resources for recovering, storing, processing, and transporting food for donation. Government funding can also support new innovations and emerging technologies that will make food donation more efficient and sustainable. Law 1990 suggests that the Policy Against Food Loss and Waste will include a funding component to support food donation and recovery.¹²² As of the writing of this Legal Guide, such funding had not yet been made available.

Miscellaneous

In addition to the relevant laws addressed in the above sections, other federal, municipal, or provincial laws and policies may impact food donation efforts in Colombia. For example, in 2019, MSPS issued Decree 218 to regulate international donations of food and other products for human use.¹²³ The Decree recognizes the oversight authority of INVIMA to ensure that all food products received through international donations are in good condition, are nonperishable, and have not yet expired.¹²⁴ These regulations may apply to food donation operations that are handling and distributing food received through international donations.

CONCLUSION

This Legal Guide is intended to identify Colombia's current laws, policies, and programs that relate to food waste or food donation. While the government is primarily responsible for guaranteeing food security and sustainable food systems, food recovery organizations acting in a private capacity can provide an additional social safety net. The Colombian government recently implemented legislative and policy changes to promote greater food donation and reduce food loss and waste. Among the most recent developments in this area is the adoption of Law 1990 in 2019, which created the Policy Against Food Loss and Waste and formalized other measures to promote food recovery and donation. This law provides a framework in which the government can further strengthen laws related to food safety, date labeling, liability protection, and tax incentives within the context of food donation.

This Legal Guide provides a starting point from which policymakers, private-sector actors, and civil society may better understand the current laws and policies relevant to food donation. It also offers a foundation for a dialogue about food loss and waste prevention and the value of food recovery to Colombia's food security, economic stability, and environmental sustainability. A separate document produced under the Global Food Donation Policy Atlas sets forth policy recommendations specific to Colombia to contribute to this discussion. In the meantime, food donors and food recovery organizations should take into account the laws, policies, and legal issues discussed in this Legal Guide when donating food or facilitating the distribution of donated food to those in need. To better understand the regulation of food donation in Colombia, donors, intermediaries, and policymakers should investigate the laws identified in this Legal Guide and seek additional legal counsel, if necessary.

ENDNOTES

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- ² *Id.*
- ³ HARV. L. SCH. FOOD L. & POL'Y CLINIC, KEEPING FOOD OUT OF THE LANDFILL: POLICY IDEAS FOR STATES AND LOCALITIES 1 (2016), https://www.chlpi.org/wp-content/uploads/2013/12/Food-Waste-Toolkit_Oct-2016_smaller.pdf.
- ⁴ FOOD & AGRIC. ORG. OF THE U.N., FOOD WASTAGE FOOTPRINT: IMPACTS ON NATURAL RESOURCES: SUMMARY REPORT 6 (2011), <http://www.fao.org/3/i3347e/i3347e.pdf>.
- ⁵ *Id.*
- ⁶ FOOD & AGRIC. ORG. OF THE U.N., FOOD WASTAGE FOOTPRINT & CLIMATE CHANGE 1 (2015), <http://www.fao.org/3/a-bb144e.pdf>.
- ⁷ *Id.*
- ⁸ FOOD & AGRIC. ORG. OF THE U.N., ET AL., *The State of Food Security and Nutrition in the World 2019: Safeguarding Against Economic Slowdowns and Downturns* 6 (2019), <http://www.fao.org/3/ca5162en/ca5162en.pdf>. This number has likely increased due to the novel coronavirus (COVID-19) pandemic. Projections indicate that the crisis may add between 83 and 132 million people to the total number of undernourished in the world in 2020. FOOD & AGRIC. ORG. OF THE U.N., ET AL., *The State of Food Security and Nutrition in the World 2020: Transforming Food Systems for Affordable Healthy Diets* 3 (2020), <http://www.fao.org/3/ca9692en/CA9692EN.pdf>.
- ⁹ G.A. Res. 70/1 at 22 (Sept. 25, 2015). “By 2030, to halve per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses.”
- ¹⁰ The Global Food Donation Policy Atlas project would not be possible without the support of the Walmart Foundation. The Walmart Foundation is not responsible for the content of this document or the views contained herein. The content of this document should not be interpreted as legal advice; those seeking legal advice should speak to an attorney licensed to practice in the applicable jurisdiction and area of law.
- ¹¹ DEPARTAMENTO NACIONAL DE PLANEACIÓN, PÉRDIDA Y DESPERDICIO DE ALIMENTOS EN COLOMBIA: ESTUDIO DE LA DIRECCIÓN DE SEGUIMIENTO Y EVALUACIÓN DE POLÍTICAS PÚBLICAS (2016), https://mrv.dnp.gov.co/Documentos%20de%20Interes/Perdida_y_Desperdicio_de_Alimentos_en_colombia.pdf.
- ¹² *Id.*
- ¹³ INSTITUTO COLOMBIANO DE BIENESTAR FAMILIAR, *Encuesta Nacional de la Situación Nutricional ENSIN 2015*, 22 (2015), https://www.icbf.gov.co/sites/default/files/ensin_2015_final.pdf.
- ¹⁴ FLPC would like to express its gratitude to Asociación de Bancos de Alimentos de Colombia (ABACO) for its contribution to this Legal Guide, as well as many other NGOs, businesses, and government agencies that shared input with the FLPC team.
- ¹⁵ INSTITUTO COLOMBIANO DE BIENESTAR FAMILIAR, *supra* note 13.
- ¹⁶ Mauricio Cárdenas, *How Can Colombia Stop Social Unrest? Listen to Colombians*, AMERICAS QUARTERLY (Dec. 9, 2019) <https://www.americasquarterly.org/article/how-can-colombia-stop-social-unrest-listen-to-colombians>.
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- ²⁰ CONSEJO NACIONAL DE POLÍTICA ECONÓMICA SOCIAL: REPÚBLICA DE COLOMBIA DEPARTAMENTO NACIONAL DE PLANEACIÓN, POLÍTICA NACIONAL DE SEGURIDAD ALIMENTARIA Y NUTRICIONAL (PSAN) (Mar. 31, 2008), <https://www.minsalud.gov.co/Documentos%20y%20Publicaciones/POL%C3%8DTICA%20NACIONAL%20DE%20SEGURIDAD%20ALIMENTARIA%20Y%20NUTRICIONAL.pdf>.
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- ²² L. 2055/2009, junio 4, 2009, DIARIO OFICIAL [D.O.] (Colom.).
- ²³ Olga L. Sarmiento, et al., *The dual burden of malnutrition in Colombia*, 100, AM. J. OF CLINICAL NUTR. 6 (2014), <https://academic.oup.com/ajcn/article/100/6/1628S/4576689>.
- ²⁴ *Colombia tendrá política pública contra la pérdida y el desperdicio de alimentos* SEMANA SOSTENIBLE (2019), <https://sostenibilidad.semana.com/impacto/articulo/colombia-tendra-politica-publica-contra-la-perdida-y-el-desperdicio-de-alimentos/44693>.
- ²⁵ DEPARTAMENTO NACIONAL DE PLANEACIÓN, *supra* note 11, at 22.
- ²⁶ *Id.*
- ²⁷ FOOD & AGRIC. ORG. OF THE U.N., FOOD LOSSES AND WASTE IN LATIN AMERICA AND THE CARIBBEAN 5, 27 (2015), <http://www.fao.org/3/a-i4655e.pdf>.
- ²⁸ *FAO in Colombia: Programs in Colombia*, FOOD AND AGRIC. ORG. OF THE U.N. (2019), <http://www.fao.org/colombia/programas-y-proyectos/programa/en>.
- ²⁹ L. 1990/2019, art. 4, agosto 2, 2019, DIARIO OFICIAL [D.O.] (Colom.) [hereinafter “Law 1990”].
- ³⁰ *Id.* art. 1.
- ³¹ *Id.* art. 5.
- ³² CISAN also includes members from the Ministry of Education (*Ministerio de Educación Nacional*), the Ministry of Commerce, Industry and Tourism (*Ministerio de Comercio, Industria y Turismo*), the Ministry of Housing, City and Territory (*Ministerio de Vivienda, Ciudad y Territorio*), the Colombian Institute for Rural Development (*Instituto Colombiano de Desarrollo Rural*), the Colombian Institute for Family Welfare (*Instituto Colombiano de Bienestar Familiar*), the Department for Social Prosperity (*Departamento de la Prosperidad Social*), the Ministry of Science, Technology and Innovation (*Ministerio de Ciencia, Tecnología e Innovación*), the National Planning Department (*Departamento Nacional de Planeación*) and the Colombian Association of Faculties of Nutrition and Dietetics (*La Asociación Colombiana de Facultades de Nutrición y Dietética*).
- ³³ *1ra. Cumbre Latinoamericana de Pérdidas y Desperdicios de Alimentos*, FOOD & AGRIC. ORG. OF THE U.N.: FAO REG’L OFFICE FOR LATIN AM. AND THE CARIBBEAN (Oct. 10, 2019), <http://www.fao.org/americas/eventos/ver/en/c/1208556>.
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⁴⁰ Ramírez & Otero, *supra* note 38.
⁴¹ C.P. art 115.
⁴² *Id.* arts. 43-44, 46, 64-65.
⁴³ L. 09/79, art. 1, enero 24, 1979, DIARIO OFICIAL [D.O.] (Colom.) [hereinafter “Law 9”].
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⁴⁷ *Id.*
⁴⁸ *Id.* art. 5.
⁴⁹ ABACO confirms that its 19-member food banks adhere to the provisions set forth in this Resolution.
⁵⁰ L. 1122/2007, enero 9, 2007, DIARIO OFICIAL [D.O.] (Colom.).
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⁵³ L. 1122/2007, enero 9, 2007, DIARIO OFICIAL [D.O.] (Colom.).
⁵⁴ Law 1990.
⁵⁵ *Id.*
⁵⁶ *Id.* art.3.
⁵⁷ *Id.*
⁵⁸ *Id.* art. 6.
⁵⁹ *Id.* art. 5.
⁶⁰ *Id.* art. 8.
⁶¹ *Id.* art. 9.
⁶² *Id.*
⁶³ See Law 25989, Art. 9, Dec. 16, 2004, [30564] B.O. 1 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/100000-104999/102664/texact.htm> [<https://perma.cc/ED5J-EE4H>].
⁶⁴ “The Federal Bill Emerson Good Samaritan Food Donation Act” 42 U.S. Code § 1791 (1996) (U.S.).
⁶⁵ L. 2652/2004, agosto 20, 2004, DIARIO OFICIAL [D.O.] (Colom.); L. 5109/2005, diciembre 29, 2005, DIARIO OFICIAL [D.O.] (Colom.).
⁶⁶ Huerta *supra* note 45.
⁶⁷ See ESTATUTO TRIBUTARIO NACIONAL (Colom.) [hereinafter “Tax Law”].
⁶⁸ LIBRARY OF CONGRESS: FEDERAL RESEARCH DIVISION, COUNTRY PROFILE: COLOMBIA (Feb. 2007), <http://loc.gov/rr/frd/cs/profiles/Colombia.pdf>.
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⁷⁰ Law 9, art. 243.
⁷¹ *Id.*
⁷² Resolution 2674/2013, art. 1.
⁷³ ABACO has confirmed this interpretation and holds food banks in the network subject to these sanitary requirements.
⁷⁴ Law 1990, art. 6.
⁷⁵ *Id.* art. 18.
⁷⁶ Resolution 2674/2013, art. 27(c); *see also* Law 9, arts., 243, 267.
⁷⁷ Following the outbreak of COVID-19, INVIMA released recommendations for inspecting, monitoring, and controlling food donations. MSPS also released provisional guidance on the donation of food and beverages during the pandemic. These documents do not have a binding effect and the promoted practices apply only during the pandemic.
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⁷⁹ U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-19-407, DATE LABELS ON PACKAGED FOODS: USDA AND FDA COULD TAKE ADDITIONAL STEPS TO REDUCE CONSUMER CONFUSION (2019), <https://www.gao.gov/assets/710/701238.pdf>.
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⁸¹ Formerly referred to as the Andean Pact, the trade bloc includes Bolivia, Colombia, Ecuador, and Peru.
⁸² ORGANIZACIÓN DE LOS ESTADOS AMERICANOS: SISTEM DE INFORMACIÓN SOBRE COMERCIO, DECISION 562: DIRECTRICES PARA LA ELABORACIÓN Y ADOPCIÓN DE REGLAMENTOS TÉCNICOS EN LOS PAISES MIEMBROS DE LA COMUNIDAD ANDINA Y A NIVEL COMUNITARIO (jun. 25, 2003), <http://www.sice.oas.org/trade/junac/Decisiones/Dec562s.asp> (providing guidelines for the development, adoption, and application of Technical Regulations in the Andean Community Member Countries and at the community level).
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⁸⁴ R. 2652/2004, agosto 20, 2004, 45.652, art. 5.7.2(g), DIARIO OFICIAL [D.O.] (Colom.).
⁸⁵ *Id.* art. 5.7 (Expressing the “minimum duration date” as “consume preferably before” (“*Consumir preferentemente antes de/[del final de]...*”).
⁸⁶ *Id.* (Expressing the “deadline for use” as either the “expiration date” (“*fecha de vencimiento*” or “*fecha de caducidad*”) or “recommended deadline for consumption” (“*fecha límite de consume recomendada*”).
⁸⁷ See COMMISSION FINAL MARKET REPORT ON DATE MARKING AND OTHER INFORMATION PROVIDED ON FOOD LABELS AND FOOD WASTE PREVENTION (Jan. 2018), <https://op.europa.eu/en/publication-detail/-/publication/e7be006f-0d55-11e8-966a-01aa75ed71a1/language-en>. The European Union requires “best before” to indicate quality, while it requires “use by” for foods that may increase in food safety risk after the date; *see also* RELEASE: *Companies Commit to Simplify Food Date Labels Worldwide by 2020, Reducing Food Waste*, WORLD RESOURCES INTERNATIONAL (Sept. 20, 2017), <https://www.wri.org/news/2017/09/release-companies-commit-simplify-food-date-labels-worldwide-2020-reducing-food-waste>.
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⁹¹ *Id.* arts. 10, 11.2.

92 *Id.* art. 8, para. 2.
93 *Id.*
94 *Id.* art. 11.2.
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105 *Preguntas Frecuentes*, DIRECCIÓN DE IMPUESTOS Y ADUANAS NACIONALES – DIAN (Sept. 8, 2020, 5:40 PM), https://www.dian.gov.co/impuestos/sociedades/ESAL/Preguntas_Frecuentes/Paginas/default.aspx (covering the frequently asked questions surrounding qualifications for particular tax regimes in Colombia).
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107 *Id.*
108 See DIRECCIÓN DE IMPUESTOS Y ADUANAS NACIONALES – DIAN, ENTIDADES SIN ÁNIMO DE LUCRO-ESAL - DONACIONES: CONCEPTO UNIFICADO No. 000481 (Apr. 27, 2018), <https://cijuf.org.co/sites/cijuf.org.co/files/normatividad/2018/Concepto%20Unificado%20DIAN%20000481%20de%202018%20-%20Regimen%20Tributario%20Especial.pdf>. Whether the 125% tax deduction is no longer available for food donations made to ABACO remains subject to potential review. _
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118 Decreto 1625/2016, octubre 11, 2016, sec. 1.3.1.12.13, GESTOR NORMATIVO, <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=83233> (amend. 21 aug. 2020).
119 *Id.*
120 An earlier version of Law 1990 proposed a broader VAT exemption that applied not only to “legally-recognized food banks” but to nonprofit organizations with the primary purpose of distributing food to those in need and protecting, defending, and promoting human rights. El Congreso de la República de Colombia, PL 127-17 “Proyecto de Ley No. ___ de 2017” 24 (ju. 25, 2019), <http://leyes.senado.gov.co/proyectos/images/documentos/Textos%20Radicados/proyectos%20de%20ley/2017%20-%202018/PL%20127-17%20Donacion%20de%20Alimentos.pdf>.
121 Law 1990, art. 17.
122 *Id.*
123 MINISTERIO DE SALUD Y PROTECCIÓN SOCIAL, DECRETO 218/2019 (febrero 15, 2019) https://www.minsalud.gov.co/Normatividad_Nuevo/Decreto%20218%20de%202019.pdf.
124 *Id.*

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