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Doing Business in Colombia

Your investment guide.

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It is with great pleasure that we present the **2020 edition of Doing Business in Colombia.**

Although we currently enjoy general institutional and economic stability, regulatory changes are recurrent in our country, especially in tax and customs-related matters. That is why year after year we publish an updated edition to provide you with key information and core guidelines that should be considered when developing business in this territory.

Colombia is one of the most dynamic and vibrant economies in Latin America. We ended 2019 with a moderate economic recovery and began this decade supported by our great internal demand and growing private investment. We have positive figures, such as the decrease in the poverty rate and an increase in life expectancy. However, we face important challenges, such as the implementation of reforms that guarantee inclusive, fair and sustainable growth, increased migration, the global slowdown and the complex situation in other countries in the region.

On the following pages you will find a brief overview of the current conditions and the main economic indicators, as well as a synthesis of essential regulatory aspects for companies and investors. We will also discuss the current tax regulations considering the Constitutional Court ruling and the issuance of the Economic Growth Act, in addition to the basic aspects of the new customs regulations contained in Decree 1165 of 2019.

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Finally, we want to invite all investors exploring Colombia or interested in topics related to mergers and acquisitions in Colombia to check our specialized publication “Mergers & Acquisitions in Colombia”. Scan the code to access the publication.

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Economic environment

Economic growth

The trade war between the United States and China, the United Kingdom's decision to leave the European Union (Brexit) and the social protests in different countries of Latin America have led to a situation in which almost every region of the world has problems that affect the global economic growth.

In a period of such global uncertainty, Colombia is one of the best-performing economies in Latin America.

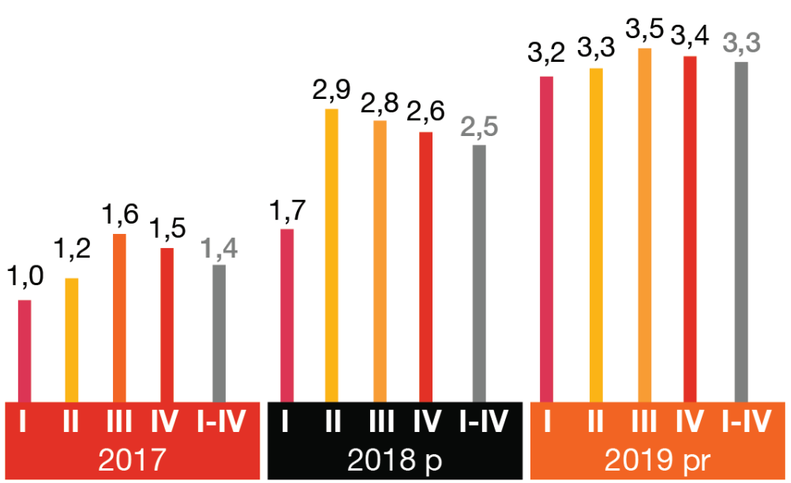
Its macroeconomic policies have been vital to place growth on a strong footing.

In 2019, the real GDP in Colombia grew 3,3%, surpassing the growth rate registered in 2018 (2,5%). As a matter of fact, since 2018 the quarterly growth rate has been greater than its corresponding quarterly growth rate recorded for the previous year **(see Graph 1).**

Graph 1.

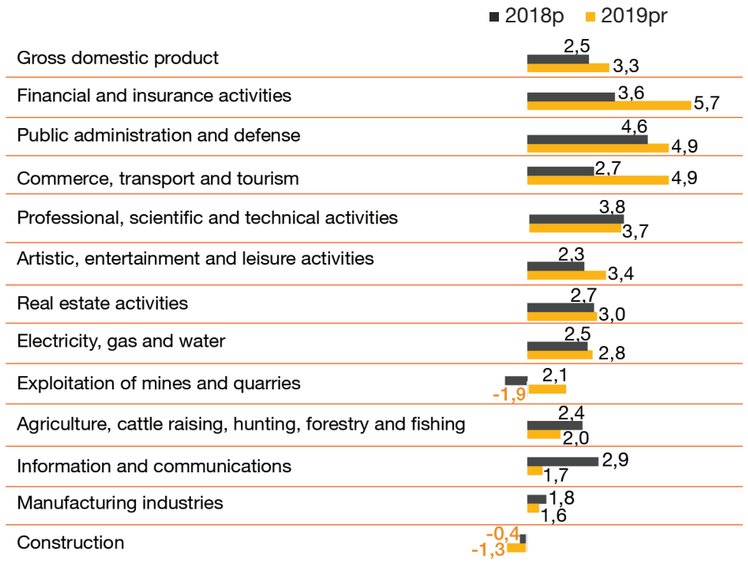
Real GDP growth rate (%)

Annual variation per quarter and variation year to date for the 12 months of the year



Source: DANE, National Accounts
Volume series, linked to base reference year 2015
pr: preliminary
p: provisional
Updated February 14, 2020

On the other hand, most of the economic activities in Colombia showed greater growth rates in 2019 compared to 2018 (see graph 2). The three sectors of the Colombian economy that presented a better performance were: financial and insurance activities (5,7%), public administration and defense (4,9%) and commerce, transport and tourism (4,9%).



Graph 2.

Growth rates per economic sectors (%)

Year-over-year growth (2019 vs. 2018)

Source: DANE, National Accounts
Volume series, linked to base reference year 2015
pr: preliminary
p: provisional
Updated February 14, 2020

Likewise, in 2019, Colombia obtained higher growth rates compared to other countries like Chile, Brazil, Argentina, Ecuador and Peru (see Table 1).[1]

From the perspective of GDP spending, consumption is a driver of the Colombian economy. During 2019, the consumption of Colombian households grew 4,6%, exceeding 3% observed in 2018.

Country	2017	2018	2019*
Argentina	2,7	-2,5	-3,1
Bolivia	4,2	4,2	3,9
Brazil	1,1	1,1	0,9
Chile	1,3	4,0	2,5
Colombia	**1,4**	**2,5**	**3,4***
Ecuador	2,4	1,4	-0,5
Paraguay	5,0	3,7	1,0
Peru	2,5	4,0	2,6
Uruguay	2,6	1,6	0,4
Venezuela	-15,7	-18,0	-35,0
Latin America	1,2	1,1	0,1
Global	**3,8**	**3,9**	**2,6**

Table 1.

Expected growth rates for South American countries in 2019

Real GDP growth rate (%)

Source: IMF, World Economic Outlook Database, January 2020
*The economic growth rate for Colombia was published on February 14, 2020 by DANE, setting it at 3.3%

1. FMI, 2019. World Economic Outlook Database, January 2020, https://www.imf.org/external/pubs/ft/weo/2019/02/weodata/index.aspx

Inflation

Over the last few years, inflation in Colombia has shown a stable behavior. The central bank – the Bank of the Republic – is in charge of the country's monetary policy and of exercising a control over the inflation rate. This is done through the intervention rate, which is the fixation of an interest rate that impacts the rates of financial institutions, which in turn affects the amount of money circulating throughout the economy.

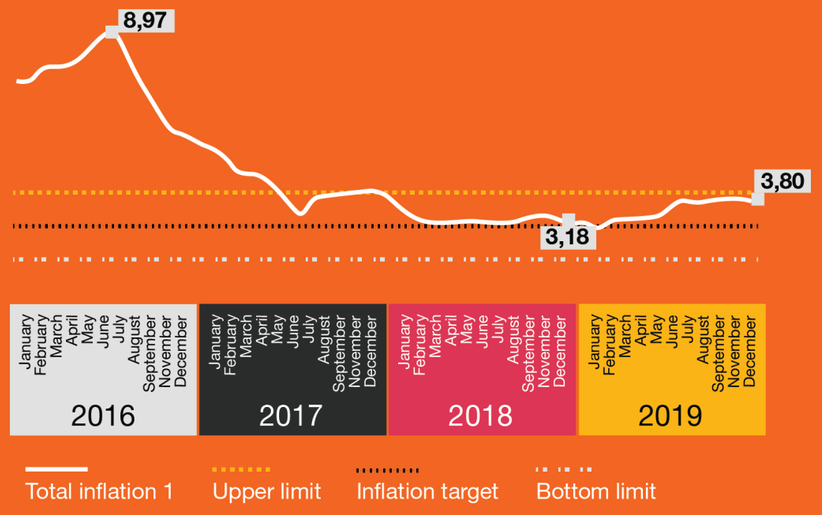
The main purpose of this institution is to strive towards an inflation rate of 3% (fluctuating between an upper limit of 4% and a lower limit of 2%).

Since 2018, Colombia's inflation has fluctuated around a figure close to 3%, both towards its upper and bottom limits (see Graph 3). However, for December 2019, inflation registered a value of 3,8%, which is an increase compared to the 3,18% rate recorded in December 2018. This was mainly due to the growth and inflation for food products, which climbed from 1,87% in December 2018 to 5,8% in December 2019, respectively.

Graph 3.

Behavior of inflation in Colombia. 2016 through 2019

Inflation rate (%)



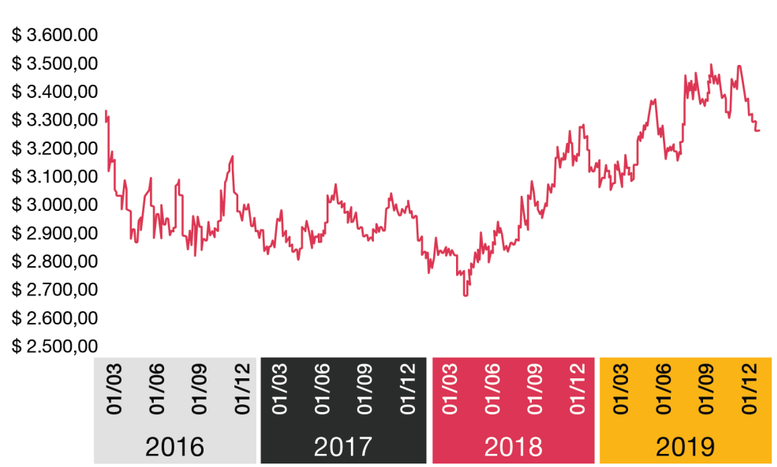
Source: Central Bank of Colombia
* Total consumer inflation refers to the national weighted variation of the CPI or 12 months, as produced by DANE.

Exchange rate

The average exchange rate for 2019 was $3.281,09 Colombian pesos (COP) per US dollar, presenting a variation of 10,98% compared to the average of 2018, which was $2.956,43 COP to the US dollar. In Colombia, the exchange rate is defined as the so-called Colombian Peso Market Exchange Rate (TRM, for its acronym in Spanish).

Since 2014, when the TRM was close to $2.000 COP to the US dollar, the Colombian peso has depreciated significantly. This was largely due, to a sudden drop of the international oil prices in that year.

Starting in 2018, the trade war between the United States and China has made this depreciation worse (see graph 4), and this has also affected the currencies of emerging markets, especially in Latin America, in countries such as Argentina, Brazil, Chile or Mexico.



Graph 4.

Real exchange rate behavior

Colombian peso – US dollar

Source: Central Bank of Colombia

During the first semester of 2019, the exchange rate behavior showed no significant variations. However, for the second half of the year the exchange rate showed an increased depreciation (of the Colombian peso). Among the reasons that explain the precipitous increase was found the declaration of unconstitutionality by the Constitutional Court of Colombia of the most recent tax reform in the country (the so-called Ley de Financiamiento), as well as the presence of social protests since November 2019. In December 2019, the TRM reached a historical point of $3.522,48 COP per the US dollar.

Foreign direct investment

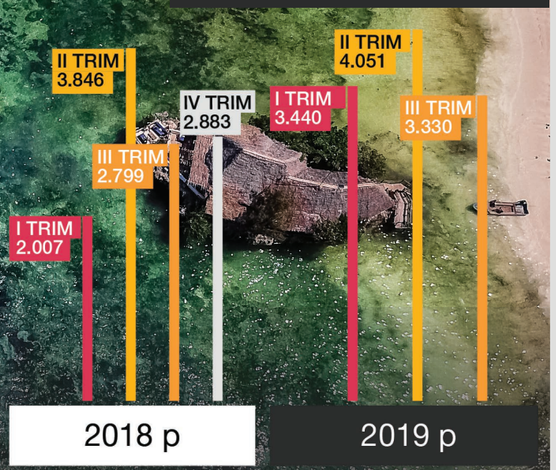
The inflow of the foreign direct investment (FDI) into Colombia grew by 25,1% in the period between January and September of 2019, compared to the same period in 2018, going from 8,6 billion USD to 10,8 billion USD. In each of the quarters of 2019 has shown a greater FDI in comparison to the corresponding quarter of 2018 **(see graph 5).**

The share by economic sectors in the total FDI inflows into Colombia for the period between January and September 2019 was as follows. Mining and oil (36,2%); financial and business services (23,1%); manufacturing industries (13,3%); commerce, restaurants and hotels (7,2%); transport, storage and communications (6,4%); construction (5,4%); community services (4,1%); agriculture, hunting, forestry and fishing (2,5%); electricity, gas and water (1,8%).

Graph 5.

Flows of foreign direct investment into Colombia

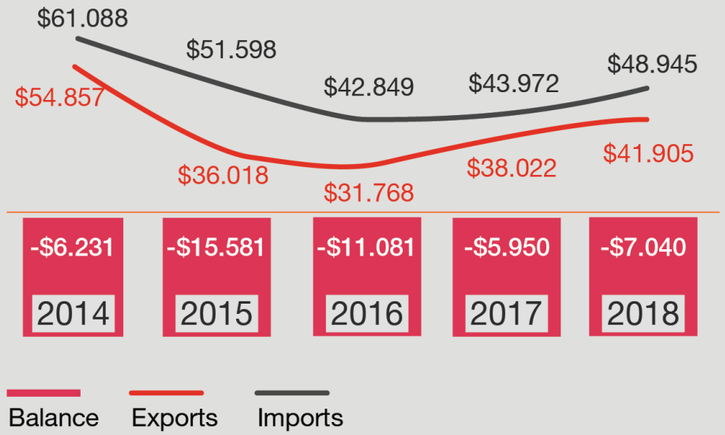
Millions of USD per quarter



Source: Central Bank of Colombia, Office of the Sub manager of Monetary Policy and Economic Information
p: provisional

The foreign market

Colombia faces a scenario where its exports have dropped below the level of its imports, thus showing a deficit in the trade balance **(see graph 6).**



Graph 6.

Exports and imports in Colombia

FOB millions of US dollars

Source: DIAN – DANE

The total value of exports in Colombian for 2019 was US$39,5 billion FOB (free on board). This represented a variation of -5,7% compared to 2018, where the total value reached US$41,9 billion FOB.

Of the total value of exports for the year 2019, the fuels and products from the extractive industries represented 55,8%; manufactured products 21%; and farming products, food and beverages 18,6%.

On the other hand, the main destination for Colombian exports in 2019 was the United States, which represented 28,6% of total exports from the country. The other destinations where most of our exports were shipped to were: China (11%), Panama (7,1%), Ecuador (4,9%), Brazil (3,7%), Mexico (3,6%) and the Netherlands (3,1%).

Concerning imports, in the period between January and November 2019, they grew by 3,4% compared to the same period from the previous year, climbing from US$47 billion CIF to US$48,6 billion CIF.

76,3% of the total imports for the year corresponded to manufactured products; 13,3% to farming products, food and beverages; and 10,3% to fuel and products from the extractive industry.

The United States was the country of origin from which Colombia imported most of the merchandise from January through October 2019. This represented 25,3% of the total value of Colombian imports, followed by China (20,6%), Mexico (7,4%), Brazil (5,9%), Germany (4,2%), France (2,8%) and Japan (2,3%).

The labor market

The unemployment rate in Colombia remained in single digits during most of 2018, with an average rate of 9,6%. In 2019, this rate climbed onto the double digits for most of the year, presenting an average rate of 10,5% for the entire year.

In the 13 main cities of Colombia, the average of unemployment rate in 2019 was 11,2%, which is an increase against the rate of 2018 (10,8%). The cities of the country with the lowest unemployment rates in that year were Cartagena (6,9%), Barranquilla (7,8%) and Pereira (8,8%).

The main objectives of the country in the labor field include decreasing informal employment and promoting the development of the labor sector and formal employments. In Colombia there is a high percentage of people that work outside the framework of the labor law, with no formal employment contracts.

Outlook for 2020

For 2020, uncertainty looms over the horizon in matters related to the economy, politics and society in almost all regions of the world.

In our latest edition of the Global Annual CEO Survey (the PwC´s CEO Survey), we found that this uncertainty has driven CEOs all around the world to see their confidence in economic growth for 2020 diminished[2].

In Colombia, the country is facing different challenges. The unemployment rate would remain at double-digit; the trade deficit could continue to increase due to the low international trade dynamic; and the coming of a new tax reform, the so-called Law of Economic Growth (Act 2010 of 2019), generates uncertainty.

In terms of unemployment, under CONPES document 3956 (CONPES document on a “policy for corporate and business formalization”), the country would seek reducing unemployment rates and the informal sector of the labor market. Likewise, the Law of Economic Growth would boost investments by generating tax incentives for the development of the corporate and business sector.

2. PwC, 2020. Annual Global CEO Survey. Colombia, 10th Edition, https://www.pwc.com/co/es/publicaciones/ceo-survey-colombia.html

02

International Investments and Foreign Exchange Regime

All foreign investments in Colombia must be registered before the Colombian Central Bank, as must all Colombian investments abroad.

Only the compensation account holder has the faculty to make foreign exchange operations using the account.

Imports and exports are operations that must be channeled through the Colombian foreign exchange market, as must all foreign investments, external debt operations, guarantees in foreign currency, and derivatives.

International Investments

International investments include (1) investments of foreign capital in Colombia (both direct and portfolio investments) and (2) investments of Colombian capital abroad.

1. Foreign investment in Colombia

1.1 Types of foreign investment in Colombia

1.1.1 Foreign direct investment

An investment type made on any of the following assets, on the condition that such assets have been acquired by a non-resident in any capacity, by virtue of a lawful act, contract or legal operation:

- Equity participation in a company resident in Colombia, in shares, social quotas, capital contributions, or bonds obligatorily convertible into shares, so long as these are not registered in the National Registry of Securities and Issuers (RNVE) or in any Foreign Securities Quotation System.
- The participations mentioned in the previous point, made in a company resident in Colombia, registered in the National Registry of Securities and Issuers (RNVE), provided that the investors declare that they have been acquired with an intent of permanence. The rights or interests in fiduciary businesses entered into with fiduciary companies, which are subject to the inspection and supervision of the Colombian Superintendency of Finance, the purpose of which does not constitute an investment portfolio.
- Real estate located in Colombia, acquired under any capacity, either directly or through the execution of fiduciary businesses, or as result of real estate securitization of construction projects, so long as such projects are not registered in the National Registry of Securities and Issuers (RNVE).
- Participations or economic rights derived from acts or contracts, such as those of collaboration, concession, administration services, licensing, joint ventures or those involving technological transfers, so long as they do not represent a participation in a company, and if the revenue generated by the investment depends on the company's profit.
- Participations in the assigned capital and supplementary investments to the assigned capital of a foreign company's branch established in Colombia.
- Participations in private capital funds.
- Intangible assets acquired with the purpose of being used to obtain an economic benefit in Colombia.

1.1.2 Portfolio investment

An investment made on securities registered in the National Registry of Securities and Issuers (RNVE) or listed in Foreign Securities Quotation Systems; interests in collective investment funds and in negotiable securities certificate programs.

1.2 Registration of foreign investment in Colombia

All foreign investments in Colombia must be registered using one of the following mechanisms: directly in the Colombian Central Bank, through a foreign exchange market intermediary IMC (Spanish acronym for "intermediario del mercado cambiario") or through a compensation account, as a necessary requirement for the foreign investor to obtain the foreign exchange rights conferred by the law.

This registration can be processed directly by the foreign investor, their attorneys or any person who represents their interests:

Recording of direct investment in currencies: these investments will be automatically registered by complying with the minimum information requirements for international investments (exchange declaration), filed at the time of channeling currencies through the Colombian exchange market (through an intermediary bank or compensation account).

Other direct investment registries: investments made by virtue of a lawful act, contract or legal operation (different from currencies) must be registered, at any and all times, by submitting Form No. 11, "Declaration of International Investment Registration".

When dealing with sales of the investments to a Colombian resident, total or partial liquidation of the investment, equity decrease, repurchase of shares, social rights or real estate sale, the holder of the investment must cancel the corresponding international investment registration within the six months following the date of the operation, so long as there is prior record of the investment in the Central Bank.

For capital reorganization instances resulting in an increase or decrease in the number of shares, without modifying the equity value, the reorganization must be notified to the Central Bank.

Likewise, changes in the investment holders for other non-resident investors, or for a change in the recipient company or in its destination must be reported to the Central Bank through a substitution process, which must be carried out within the six months following the date of the operation.

1.3 Foreign exchange rights

Once the investment is registered, its holder has the following foreign exchange rights:

- Periodically sending abroad net profits generated by their investments.
- Reinvesting profits or retaining the surplus of non-distributed profits with the right to remission.
- Capitalizing sums with rights to be remitted, resulting from obligations derived from the investment.
- Sending abroad, in a convertible legal currency, the funds resulting from investment sales within the country, from the liquidation of the company or its portfolio, or from its equity decrease.

2. Colombian capital investment overseas

These correspond to investments made by Colombian residents, destined to a company's equity, a branch or any other type of foreign company, acquired by a resident in virtue of a lawful act, contract or legal operation.

How to register this investment will depend on whether it was made through currencies or as a result of a lawful act, contract or legal operation.

2.1 Investments, either financial, or in assets abroad

This type of investment includes:

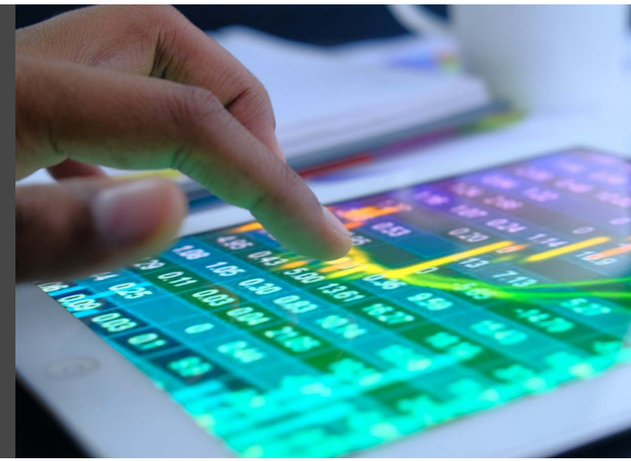
- Purchase of securities issued, or assets located abroad.
- Purchase of external private obligations, external public debts, and bonds or securities of external public debt.
- The transfers originated in the placement of securities to residents in the country, issued by foreign companies and governments, or guaranteed by these, authorized by the Colombian Superintendency of Finance.

These investments can be processed through the Colombian foreign exchange market or through the free market, with currencies that do not correspond to operations that must be mandatorily channeled through the foreign exchange market. Currently, there is no registry obligation for financial investments made with resources coming from the unregulated market.

Foreign Exchange Regime

The Colombian foreign exchange market is constituted by all the currencies that must be channeled through foreign exchange intermediaries (IMC) or through a compensation account.

Additionally, foreign currencies exempt from the aforementioned obligation, but voluntarily channeled through the exchange market, are also subject to foreign exchange regulations.



1. Operations belonging to the foreign exchange market

The following operations must be channeled through the foreign exchange market:

- Imports and exports of goods.
- External indebtedness operations entered into by Colombian residents, as well as the associated financial costs.
- Foreign capital investments in Colombia and their associated financial returns.
- Colombian capital investments abroad and their associated financial returns.
- Financial investments in securities issued abroad or investments in assets located abroad, as well as their associated yields, except when such investments are made with foreign currencies related to operations that must not be channeled through the Colombian exchange market.
- Guarantees in foreign currencies.
- Derivatives operations.

All other exchange operations that have not been listed above belong to the free market and, consequently, they can be performed without the need for an IMC or a compensation account (i.e. payments in foreign currency for services).

2. Foreign exchange market intermediaries

Foreign exchange market intermediaries - IMC - are banks, financial corporations, financing companies, the National Development Financer – FDN (for its acronym in Spanish), the Colombian Foreign Trade Bank – BANCOLDEX (for its acronym in Spanish), financial cooperatives, stock exchange brokerage companies, exchange intermediation and special financial services companies – SICSFE (for its acronym in Spanish), and Companies Specializing in Electronic Deposits and Payments – SEDPE (for its acronym in Spanish).

3. Compensation accounts

Bank accounts in foreign currencies opened in foreign financial institutions, which must be registered before the Central Bank as compensation accounts.

The debits and credits in the compensation accounts can derive from: payment of obligations resulting from exchange operations that either must or must not be channeled through the foreign exchange market, as well as from internal operations. In any case, such accounts can only be used to carry out operations connected to the account holder.

The opening, management and closing of compensation accounts are operations subject to monthly compliance reports to the Central Bank and quarterly reports to the National Offices of Taxes and Customs – DIAN (acronym in Spanish for “Dirección de Impuestos y Aduanas Nacionales”).

4. Exchange declaration

The exchange declaration is a formality required to report the fulfillment of an exchange operation. It involves the purchase or sale of foreign currencies through authorized foreign exchange intermediaries (IMCs). The declaration of minimum data is a form predesigned by each IMC, containing basic information about the operation. When operations are channeled through a compensation account, the use of an exchange declaration is not mandatory.

Although not considered exchange declarations, it is important to consider that there are other forms provided by the Colombian Central Bank used to report exchange operations, listed as follows:

Form **No. 13:**

To register and update international investment for companies in the Oil & Gas and mining sector.

Form **No. 10:**

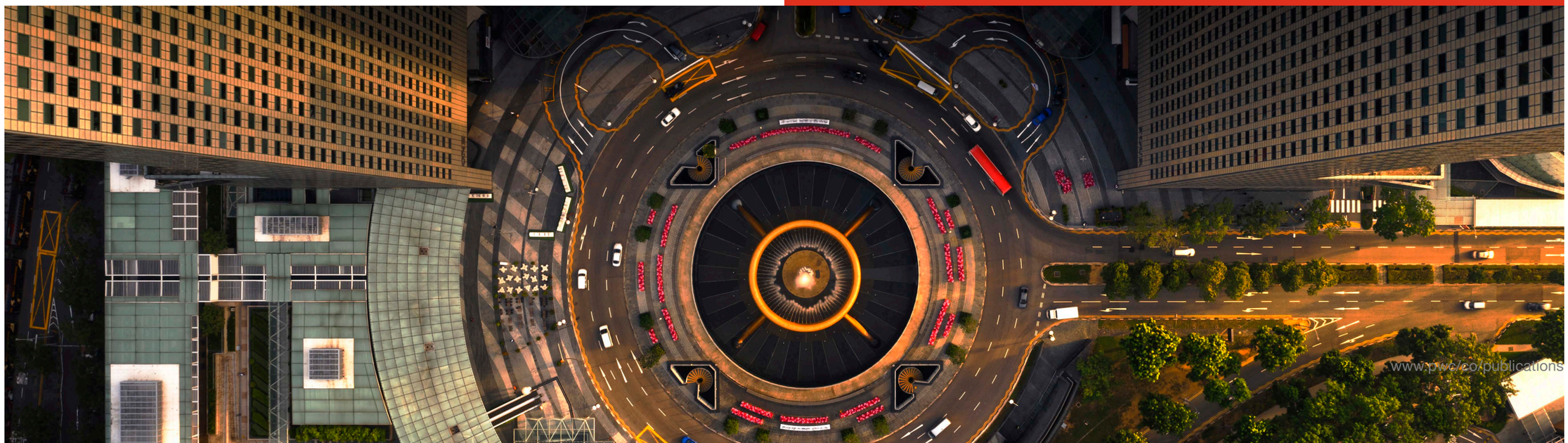
To register movements and the cancellation of compensation accounts.

Form **No. 6:**

To inform external indebtedness granted to residents.

Form **No. 7:**

To inform inform indebtedness granted to non-residents.



5. Regulation of Foreign Exchange market operations

Outflows to pay the value of imports or refunds for exports made by residents must be channeled through the exchange market, through an IMC or compensation accounts.

1. Imports of goods

The filing of an exchange declaration for imports of goods will depend on the customs supporting documents and the payment to be made by the importer. In this regard, it is important to warn that in the matter of imports, compensation or the tying off of reciprocal obligations is not admissible and, as a general rule, it is required that the Colombian importer wires abroad the foreign currency corresponding to the import of merchandise, otherwise incurring penalties of 100% of the value of the transaction.

2. Exports of goods

The filing of an exchange declaration for exports of goods will depend on the customs supporting documents and the channeling must be processed by the exporter. The payment of exports can also be received in Colombian legal currency, through the IMCs or using an international credit card.

In exports-related matters it is also not possible to compensate or tie off reciprocal obligations and, as a general rule, the foreign currency corresponding to the foreign payment must be remitted to the Colombian exporter by its foreign client, under penalty of incurring sanctions for 100% of the value of the wire transfer.

3. Loans in foreign currency

Inflows and outflows of currencies for the concept of indebtedness operations granted to residents in foreign currencies must be channeled through the Colombian foreign exchange market.

Residents and IMCs can obtain loans in foreign currencies from other intermediaries or from non-residents duly registered before the Central Bank. These loans must be stipulated in the Colombian legal currency, but their disbursement and repayment can be made either in the legal currency or in another foreign currency. The latter can be processed through bank accounts using the legal currency of exclusive use for such operations.

Every single external loan (assets or liabilities), granted or obtained by residents, must be reported to the Central Bank before or at the time of disbursement by filing the corresponding form through an IMC.

6. Special foreign exchange regimes

The special Colombian foreign exchange regime only applies for branch offices of foreign companies belonging to the Oil & Gas and mining sector, performing activities of exploration, exploitation, and rendering of services to this specific sector. The activities are exclusively related to the exploration and exploitation of oil, natural gas, coal, ferronickel and uranium.

The special foreign exchange regime allows:

- Wire transferring of currencies for the equivalent to the foreign capital in case of liquidation of the branch office or for the equivalent in currencies of the resources in legal currency on occasion to the internal sales of oil, natural gas or inherent services to the Oil & Gas sector. In addition, these branch offices can receive currencies that they require to meet expenses in legal currency.
- Receiving their revenue from abroad, directly from headquarters.
- Signing and paying contracts in foreign currency, so long as such currencies come from their operations.
- Accounting as supplementary investment to the assigned capital, in addition to the availability in foreign currencies, equity available as goods and services.

Branch offices must register supplementary investment to assigned capital by submitting Form No. 13 “Record of supplementary investment to the assigned capital and updating of equity accounts - branches in the special regime”.

Branch offices that do not wish to belong to the special regime must inform so the Central Bank in order to be exempt for ten years counting from the date of the resignation. Consequently, all exchange operations will be regulated by the ordinary exchange regime.

International investment agreements

As a result of the Colombian strategy to improve commercial relations, the country is currently negotiating and signing Agreements for the Promotion and Reciprocal Protection of Investments - APPRIs - and Free Trade Agreements - FTAs - that include chapters related to foreign investment.

APPRIs are international agreements that regulate international investments. Both the APPRIs and foreign investments chapter within FTAs have the main purpose of establishing ground rules for national investments that work for both parties, based on justice and transparency principles and on international standards. Additionally, they contain treatment and protection obligations that must be granted to the investments and their integral problem-solving mechanisms, including the possibility of arbitrating differences between foreign investors and governments, in relation to violations of the treaties.

Currently, Colombia has subscribed FTAs with the Andean Community – CAN, EFTA (Switzerland, Liechtenstein, Norway and Iceland), Canada, Chile, United States of America, Mexico, the Northern Triangle (Guatemala, El Salvador, and Honduras), the European Union, the Pacific Alliance, South Korea, Costa Rica, the Caribbean Community (CARICOM), Cuba, MERCOSUR: ACE-59 and ACE-72, Nicaragua and Venezuela.

The country has signed FTAs that include chapters on foreign investment with Israel and Panama, and are still negotiating others with Japan, Australia, New Zealand and Singapore. Additionally, Colombia has signed APPRIs with Canada, Brazil, Chile, United States of America, India, Mexico, the Northern Triangle, the Pacific Alliance, Costa Rica, China, Spain, Switzerland, Japan, Peru, and the United Kingdom.

The country subscribed APPRIs with France, South Korea, Singapore and Turkey, which are still in the corresponding legislative due diligence process.

Finally, the country has Investment Cooperation Agreements with Qatar, Kuwait and the United Arab Emirates.

03

Foreign Trade and Customs

In 2019 a new Customs Code was enacted, integrating all the standing customs regulations. This new code is expected to provide more legal certainty and stability to importers and exporters.

Colombia has been structuring an open integration policy. Therefore, it enjoys access to free markets in Latin America.

To promote trade, investment and the creation of jobs in the country, there are special free-trade zone regulations.

General Aspects

1. Foreign trade and customs rules

Colombian legislation has focused on facilitating customs transactions involving imports, exports, and the transit of merchandise by controlling the various types of foreign trade transactions and operations.

Our legislation is aligned with the guidelines of the WTO Treaty, approved as part of Act 170 of 1994, which seeks to promote and support several benefits to companies that are a part of the exporting sector in Colombia.

Since 2005, Colombia has implemented and continued to use the Single Foreign Trade Dealing Office – VUCE (the Spanish acronym for "Ventanilla Única de Comercio Exterior") . This is an electronic online system developed by the Ministry of Commerce, Industry and Tourism of Colombia. Through that system, the government consolidates all procedures and proceedings that relate to foreign trade transactions.

To this end, the VUCE has three separate sections: imports, exports and Single Foreign Trade Form – FUCE, for its acronym in Spanish), which allow online transactions such as online payments, which are designed to accelerate procedures and processes. Please go to www.vuce.gov.co to obtain more information about the VUCE system.

2. Customs qualifications

a. Authorized Exporter

Any person who is qualified as an authorized exporter may certify the origin of their merchandise or goods by way of a statement in the sales invoice, or in a declaration of origin under any foreign trade agreements that require this condition to be met (e.g. the free trade agreement with the European Union and the EFTA countries). This is allowed provided that the declaration of origin of the exporter continues to be valid and in force at the time the certificate of origin is issued.

A certificate of origin is acquired at the request of an interested party and after the customs authority (DIAN) evaluates compliance with the requirements it has set, after having performed the corresponding risk assessment.

b. Authorized Economic Operator – OEA (for its acronym in Spanish)

A natural or legal person based in Colombia that, as a part of an international supply chain, carries out activities that are regulated by customs regulations, or is a person subject to surveillance and control by the Office of the Superintendency of Ports and Transportation, the General Maritime Directorate or Civil Aeronautics. By meeting the minimum requisite conditions set by Decree 3568 of 2011, this operator guarantees safe and reliable foreign trade transactions; hence, it is authorized as such by DIAN.

3. Special import and export programs

To promote foreign trade transactions, Colombia has established special import and export programs in its customs law. Through such programs, a person may import property or equipment with tax and duties benefits. The person may have access to the benefits only if the services or finished good export agreements are fulfilled.

a. "Plan Vallejo" for raw materials and commodities

Under this plan, a person may pass specific products marked for total or partial export through national customs territory within a certain period after the products have been transformed, finished or repaired. This includes materials required for these operations.

The benefits of Plan Vallejo are granted through a direct operation to importers of goods, commodities or supplies who produce and export finished products; or through an indirect operation to the importer or producer of intermediary goods sold to the exporter or to whoever provides the services associated to the production of goods for the exporter.

4. Imports

According to the current customs laws, an import is the entry of merchandise from foreign territory into "national customs territory"[3].

The introduction of merchandise from a free-trade zone into national customs territory also qualifies as an import, if processed with the purpose of remaining for a definite or indefinite period of time in said territory to achieve a specific purpose.

According to the Merchandise Designation and Codification Harmonized System approved by the WTO, imported merchandise is classified using a 6-digit subheading (the international code). Two (2) additional digits are added for the exclusive use of the Andean Community (CAN) countries, and two (2) final digits that are set for use in Colombia.

The resulting 10-digit subheading is presented in the Colombian customs tariff classification, as established in Decree 2153 of 2016, and it reflects the general tariff of the applicable customs duty. The value-added tax, which is also a part of import taxes, is regulated in the Colombian Tax Code at a general rate of 19% for most cases.

3. Decree 2685 of 1999 – Article 1. "National customs territory: limit within which customs laws are applied; it covers the entire national territory, including the subsoil, the territorial sea, the adjacent area, the continental platform, the exclusive economic zone, the airspace, the geostationary orbit segment, the electromagnetic spectrum, and the space where the Colombian State acts in conformity with international law or with Colombian law if international law is not applicable.

a. Ordinary import

This is the most used import method. With this method, the importer in Colombia receives the goods as freely disposable property after the customs authority has issued its approval electronically or manually.

The obligations include filing a goods declaration (on the forms established by the customs authority through the electronic system), meeting labeling requirements (indicating reference numbers and filling out prior licenses depending on the quality of the imported goods), paying the total applicable import taxes (including duties and value-added taxes, and antidumping and compensatory duties, if applicable) and securing clearance (an OK) on each import declaration.

The evaluation of imported goods is processed in accordance with the method set in the Valuation Agreement established by the WTO, which is based on article 7 of the General Accord on Customs and Trade of 1994 (GATT), which is regulated by the CAN and internal legislations. This is a part of the documents that prove the legal introduction of merchandise into national customs territory.

b. Temporary imports – Temporary imports for re-export to the same country

Temporary imports are those with exempted or deferred customs duties (mainly duties and VAT) for a specific period, for certain products. At the end of the specified period, the relevant product must be exported in the same conditions in which they entered the national customs territory. Sale or disposal of the goods is restricted while they are within the Customs National Territory. These imports are classified into several types, including the following:

1. Short-term imports:

Applicable to merchandise imported to fulfill a specific function. The maximum import term is 6 months, which can be extended for 3 extra months.

Customs rights and taxes on import for this type of temporary import are suspended permanently, unless the importer decides to change the model to a long-term import, or for customs to clear the merchandise for it to remain permanently in national customs territory.

2. Long-term import:

Long-term imports apply to imports of capital assets and their accessories – spare parts and other parts – if they are performed in one single shipment.

The term for this type of import is 1 to 5 years. It is possible that the goods will remain longer in the national customs territory if they have been imported under a lease contract.

Customs duties shall be deferred in biyearly payments that, in all cases, must be paid during the first five (5) years throughout which the products remain within the national customs territory.

3. International leasing:

the concept of international leasing can be applied to the long-term financing of temporary imports of capital goods, which can remain in the national customs territory for over 5 years. Under this concept, a foreign company (foreign supplier, foreign financial institution or leasing) grants the right to use the capital goods imported into Colombia to a Colombian resident in exchange for periodic payments by the latter.

Payments must be processed through mechanisms authorized in the exchange regulations and considering the procedure established for passive external debt operations, since the operation is considered a financed import.

In this case, payment of customs duties is deferred on semi- annual fees to be paid during the total stay of the merchandise in the national customs territory. The maximum period for deferral of import duties and taxes is 5 years, without considering the fact that their actual stay in the country may be longer than said period.

Both in short and long-term imports, DIAN may authorize a longer stay for merchandise within the National Customs Territory, provided that the reasons for this are duly justified.

4. Temporary import to perfect assets:

temporary imports permitted under customs legislation, including the types presented below:

- Temporary import for the perfecting of capital assets and goods: under this type of import, capital assets may be temporarily imported, to be re-exported after a period no longer than 6 months – which may be extended for another 6 months -, in order to be repaired or renewed. During this period, the payment of customs duties will be suspended, and the open disposal of the goods will be restricted.

- Temporary import in the development of special import and export programs.

5. Exports

Exports of goods are foreign trade transactions that relate to the outflow of goods or property from the national customs territory to other places around the world, or to a free trade zone inside Colombia, mostly of raw materials, supplies, or finished goods devoted to the development of the activities performed by qualified free trade zone users.

The procedure for making an export from Colombia starts with the filing and acceptance of a Request for a Shipment Permit – SAE (for its acronym in Spanish) following procedures established by customs regulations (mainly online procedures).

In Colombia, exports are not subject to any customs duties or export charges. There is no general drawback program implemented in Colombia for the exportation of property or goods that have been previously imported.

If an importer needs to export products or parts that need to be repaired or replaced outside Colombia, they may use the temporary export rules in order to reimport the products or parts without paying any customs duties or VAT. DIAN may request the importer to file an importer declaration for the products or parts that are being exported [and reimported later on] to prove that they have legally entered the national customs territory.

Customs valuation

For Customs Valuations, Colombia applies the regulations of the WTO, specifically the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (GATT). Additionally, Colombia applies the regulation of the Andean Community, Andean Decision 571 of 2003, and Resolution 1684 of 2014.

The customs value of imported merchandise is equal to the transaction value, i.e., the price actually paid or payable for the merchandise when they are sold as specific items of property for export to the importing country. In the event that the transaction value may not be applied to the customs valuation of the merchandise, other customs valuation methods, pursuant the international regulations, have to be used, such as using the transaction value of identical goods, and the transaction value of similar goods, among others.

Pursuant to the specifics of every international trade operation, adjustments to the customs value of goods might have to be made, for example in cases of royalty payments from the buyer, fees paid as a condition for sales or any value that accrues to the seller.

Customs duties are settled and paid based on the customs value of imported goods, and the VAT is offset based on the customs tariff classification of the goods.

Customs obligations

Registration is mandatory for those who import products or those subject to compliance with technical regulations. This is the case of reconditioned products, which the Superintendency of Industry and Commerce oversees and controls.

Registration must be processed online, at the SIC's website www.sic.gov.co; and it may take around one hour.

The registration is processed using Company information such as commercial registration number, company name, address, telephone number, etc. The information provided must match the information of the commercial registration of the company to continue with the registration procedure.

A password is required to make changes and updates, which must be processed yearly. The password is known because it is associated to the commercial registration number that appears on the certificate of good standing and legal representation. This ensures that only the person authorized by the company may alter the information in this registry.

This requires compliance with technical regulations for imperfect, used, repaired or refurbished products, in regard to which the government has previously authorized the import, assembly, distribution use or sale.

Free-trade zones

To promote commerce and trade, investment and the generation of jobs in the country, there is a free-trade zone regulation system in Colombia that applies to specific geographical areas within the national territory but considered as outside the national customs territory for customs purposes. The boundaries of said free-trade zones are set by the Ministry of Industry and Commerce. No customs duties apply within these areas; and, in most cases, the income tax applies at reduced rates. In order to operate within a free trade zone, an authorization from the operator user from such is required, and once authorized it is not possible to leave the free-trade zone or to relocate to a different one without going through the corresponding prior authorization procedures.

1.
Labor requirements

- Employees of the users must have a formal and direct open-ended labor contract.
- Relation to the production or service provision process.
- Making payroll and Social Security contribution payments.

2.
Partial processing of raw materials, supplies and intermediate goods

The law has not defined a partial processing percentage for a manufacturing process to be completed outside a free-trade zone; this is agreed-upon with the operating user.

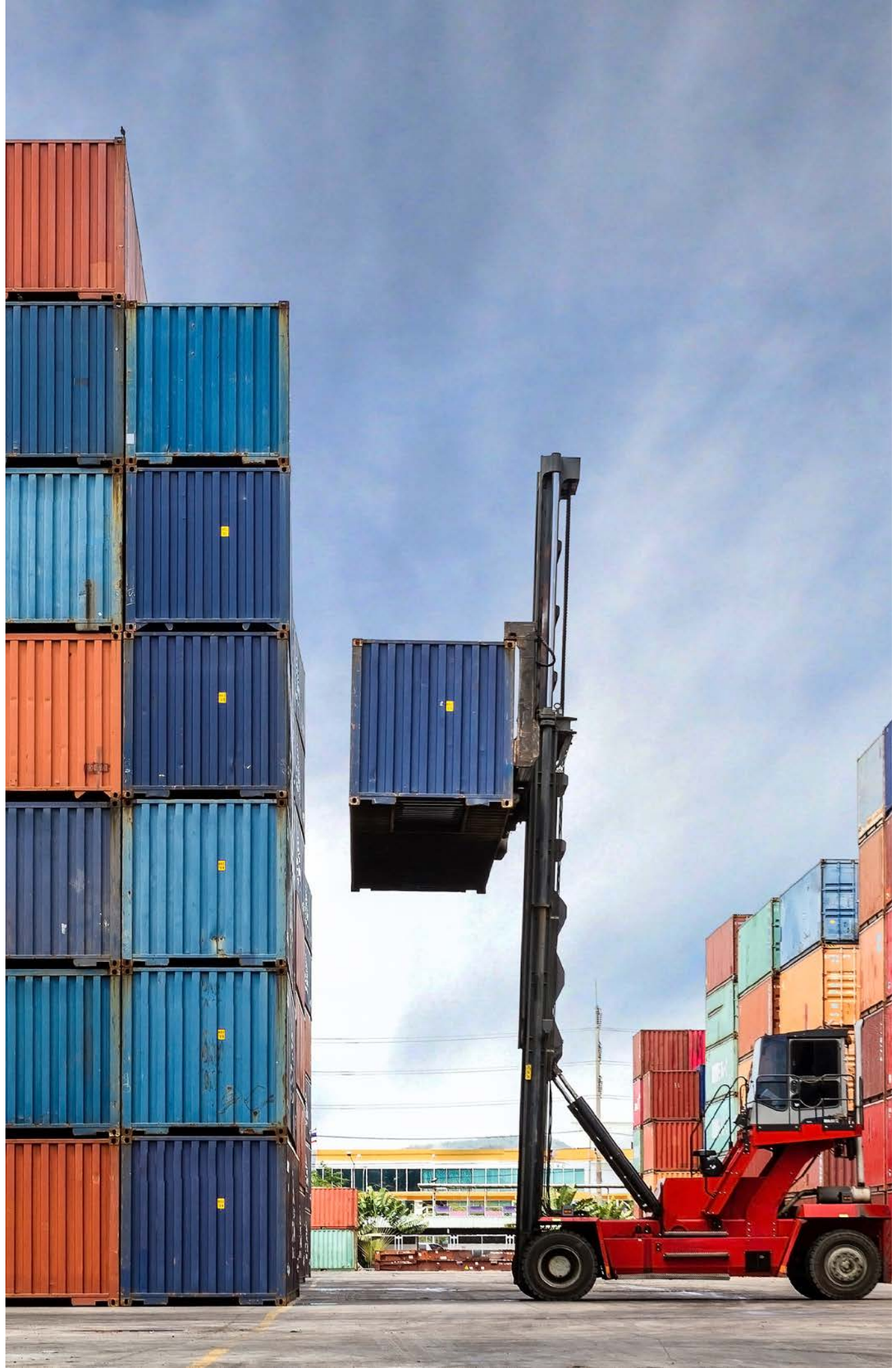
The maximum term of duration for property to be held outside a free-trade zone is 3 months plus a 3-month extension.

3.
Lands and buildings

They may be owned or leased depending on the operations and the negotiations with the operating user.

4.
Investment in real productive fixed assets

Only new assets are considered as part of the investment commitment, and they turn into part of the income-producing activity. Additionally, they are depreciated for accounting purposes.



5.
Main types of free-trade zones

Permanent free-trade zone – ZFP (for its acronym in Spanish) are zones for several users, including industrial and commercial users. Additionally, there is a special type of ZFP, called off-shore permanent free-trade zone, devoted exclusively to activities related to technical evaluation, exploration and production of off-shore hydrocarbons and other related activities.

Special permanent free-trade zones – ZFPE (for its acronym in Spanish) or one-single-company free-trade zones, which must meet various investment commitments and job creation commitments within a 3-year term.

There are several types of ZFPE, depending on the activity they are used for:

- Special permanent free-trade zone for goods.
- Special permanent free-trade zone for services.
- Special permanent free-trade zone for agro-industrial activities.
- Special permanent free-trade zone specially devoted to the dairy sector.
- Special permanent free-trade zone for health services.
- Special permanent free-trade zone for port services, amongst others.

There is an operating user who manages every free-trade zone, whatever the type.

6.
Incentives

Free-trade zones offer the following incentives to their users for periods up to 30 years, with possible 30-year extensions:

a. Income tax: single 20% flat tax rate for all users of free-trade zones, and 32% for commercial users.

b. Import taxes exemption (VAT and customs duties) This applies to the introduction of goods coming from abroad, so long as they remain in the free-trade zone.

c. Possibility of customs clearing goods manufactured in free-trade zones.

Using the tariffs subheading of the finished product and paying taxes over the added value of finished products; or clearing the raw materials through customs before they are incorporated into the production process, with their specific tax rate, in order not to be considered as a national exported component and for its value not to be added to the taxable base of the finished product.

d. Possibility of storing foreign goods for an indeterminate period Industrial users have the possibility of storing in their facilities goods coming from abroad that are necessary to produce the final goods that they manufacture.

e. Possibility of importing secondhand goods without a prior license
Goods in special market conditions (used, imperfect, repaired, rebuilt, refurbished, restored, of low quality-substandard-remanufactured, re-powered, discontinued, recovered, second-hand, second-use, second, third, out of season or other similar condition) entering a free trade zone do not require a license.

If the goods are intended for import into the rest of the national customs territory, they must obtain the corresponding license.

The permanence of the goods may be indefinite if the user maintains his qualification.

7.
Types of free-trade zone Users

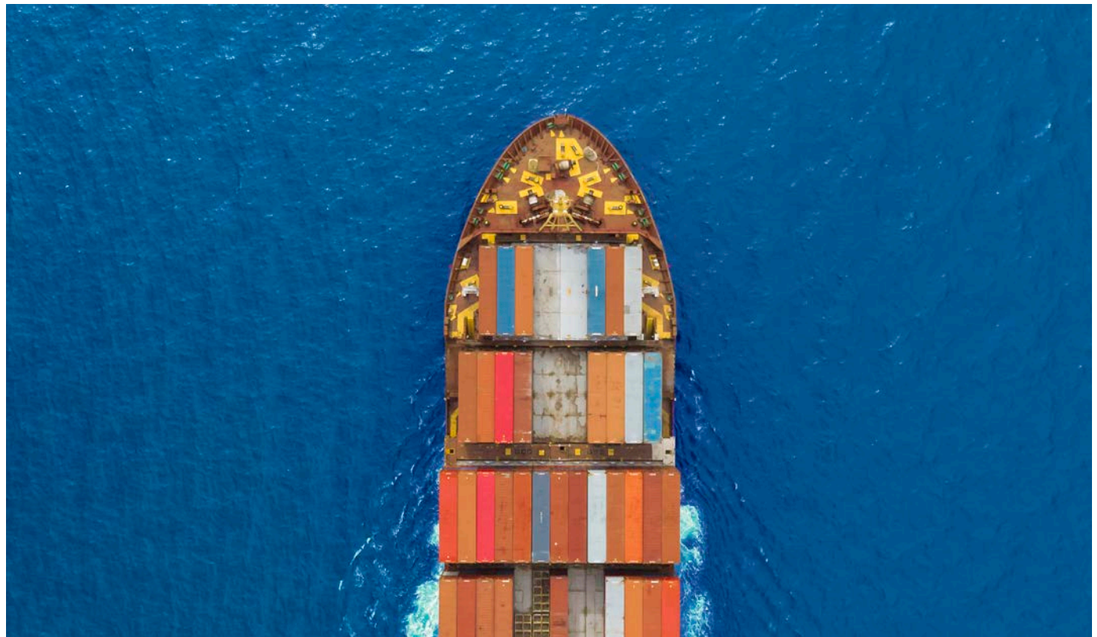
Operating User

The operating user is a company that is dedicated to managing and controlling customs duties matters.

Industrial users of goods

Users that manufacture, produce, transform or assemble goods or products within the free-trade zone.

For products to be exported from a free-trade zone to the rest of Colombia, the importer will have to file an import declaration and apply for any required license or registries, during the import process.



Industrial users and providers of services

Users that provide services within the free-trade zone area or from the free-trade zone area to perform activities concerning logistics, transportation, distribution, telecommunications, scientific and technological research, medical assistance, dental health services and general health services, tourism, technical support, naval and air equipment, consulting or similar services, among others.

Commercial users

Users that store, sell and preserve products within the corresponding free-trade zone. They can occupy up to 15% of the total free- trade zone area. They cannot be located within any one-single-company free-trade zone and they do not qualify for the special income tax tariff of 20%.

Support companies

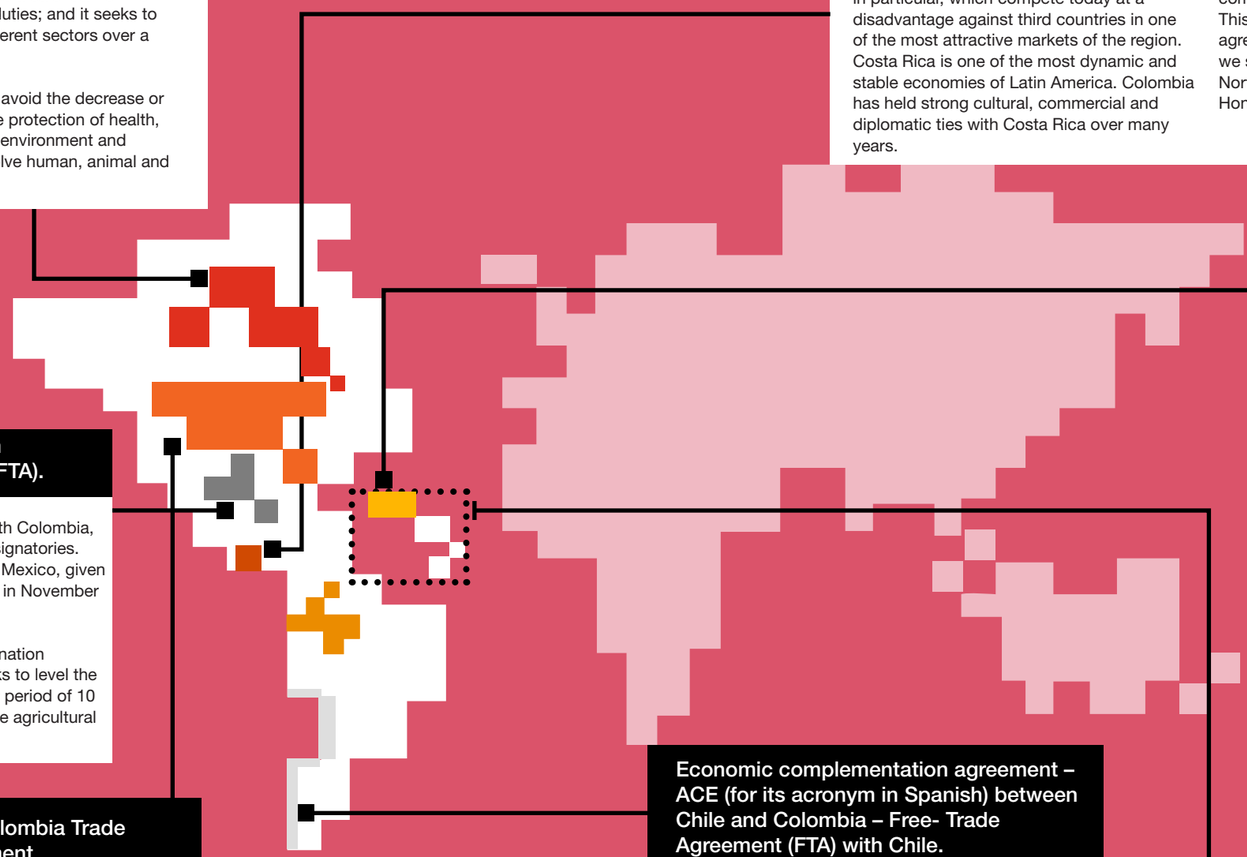
Companies authorized by the operating user to carry out the following activities: surveillance, maintenance, babysitting, cafeterias, financial institutions, restaurants, basic medical attention, employee transportation and other services that are required to support the operations of the free-trade zone. These companies do not enjoy the special free-trade zone tax benefits and they are subject to strict controls for the entry and exit of goods in the free-trade zone areas.

Customs preferential treatments

Trade agreements:

Colombia has been structuring a policy of open integration, and so today it enjoys free-trade markets in Latin America within the framework of the Latin American Integration Association – ALADI (for its acronym in Spanish), as well as within the framework of the Andean Community of Nations (CAN for its acronym in Spanish). Additionally, the country has signed several trade agreements, already subscribed and enforceable with other states such as Canada and the United States, as well as with commercial blocks such as the European Union and MERCOSUR.

Below we present a list of the various agreements or treaties that Colombia has signed:



Canada-Colombia Free Trade Agreement.

The FTA between Colombia and Canada entered into force on August 15, 2011. The treaty includes a calendar for the asymmetrical elimination of customs duties; and it seeks to level out the customs duties of the different sectors over a period of 10 years.

The treaty establishes mechanisms to avoid the decrease or weakening of internal measures for the protection of health, intellectual property, employment, the environment and consumers where such measures involve human, animal and vegetal life.

Free-trade agreement with Costa Rica.

This treaty grants preferential access for Colombian manufactured products in particular, which compete today at a disadvantage against third countries in one of the most attractive markets of the region. Costa Rica is one of the most dynamic and stable economies of Latin America. Colombia has held strong cultural, commercial and diplomatic ties with Costa Rica over many years.

The FTA with Costa Rica is a fundamental and natural step in our consolidation of commercial ties with Central America. This is so because it will supplement the agreements included in the treaty that we subscribed with the countries of the Northern Triangle (El Salvador, Guatemala, Honduras and Panama).

Economic complementation agreement between de Republic of Colombia and the Republic of Cuba.

This agreement entered into force on July 10, 2001 and it has two amendment protocols.

It includes topics concerning market access; non-customs restrictions; rules of origin; agreement on safeguards; unfair practices; services trade; transportation; technical standards; investment; commercial cooperation; and industrial property among others.

Cuba grants preferential treatment for more than 4,600 Colombian customs lines. This includes customs preferential treatment for agricultural and farming sectors, including beef, seeds, cacao, coffee preparations, fruits, and fish, among others. On the other hand, it includes preferential treatment in the industrial sector for textiles and confection products, the automobile industry, soaps and cosmetics, letter, electrical appliances, shoes, metallurgical products, construction materials, among others.

Free-trade agreement between Mexico and Colombia (the G2 FTA).

This treaty entered into force in 1995 with Colombia, Mexico and Venezuela being the initial signatories. Currently it includes only Colombia and Mexico, given that Venezuela withdrew from the treaty in November 2006.

The treaty includes an asymmetric elimination calendar for customs duties; and it seeks to level the customs duties of both countries over a period of 10 years, providing special treatment for the agricultural and automobile industries.

United States - Colombia Trade Promotion Agreement.

The FTA between Colombia and the United States entered into force on May 15, 2012. The treaty includes a calendar for the asymmetrical elimination of customs duties; and it seeks to level out the customs duties of the different sectors over a period of 10 years.

The treaty establishes mechanisms to avoid the decrease or weakening of internal measures for the protection of health, intellectual property, employment, the environment and consumers where such measures involve human, animal and vegetal life.

Economic complementation agreement – ACE (for its acronym in Spanish) between Chile and Colombia – Free- Trade Agreement (FTA) with Chile.

An economic zone is created between Colombia and Chile in the form of an ACE, in order to move forward in the progressive elimination of customs duties and non-tariff barriers. 95% of duties on bilateral trade are eliminated, which corresponds to 96% of the Colombian tariffs. The remaining percentage was fully released with zero tariffs in 2012.

The ACE with Chile was strengthened and both countries decided to start negotiating a free trade agreement. As a result, on November 27, 2006, the final text of the FTA was signed and entered into force on May 8, 2009.

Partial agreement between the Republic of Colombia and Caribbean Community (CARICOM).

This agreement entered into force on January 1, 1995. The agreement and the amendment protocol provide general clauses that relate to the following: Customs duties scheduling and elimination; treatment of imports; rules of origin; technical standards; general exceptions; commercial promotion; commerce financing; service trade; transportation; safeguards stipulation; unfair trade practices; economic cooperation; technical cooperation; and other matters that are very important for our country.

Free Trade Agreement between the Republic of Colombia and the Republics of El Salvador, Guatemala and Honduras (Northern Triangle).

With the purpose of strengthening the regional economy as an instrument for social and economic development in Latin American countries, Colombia, Guatemala, El Salvador and Honduras initiated in June 2006 a process for negotiating an FTA. The trade treaty was signed on August 9, 2007 and it came into force on the following dates: November 12, 2009 with Guatemala, February 1, 2010 with El Salvador and March 27, 2010 with Honduras.

This FTA includes matters such as: National treatment and market access; investment services; trade of international services; electronic commerce; cooperation; conflict resolution; public bidding; commercial facilitation; sanitary measures; technical standards; the rules of origin; and trade defense measures.

Free Trade Agreement between the Republic of Colombia and the Republic of Korea.

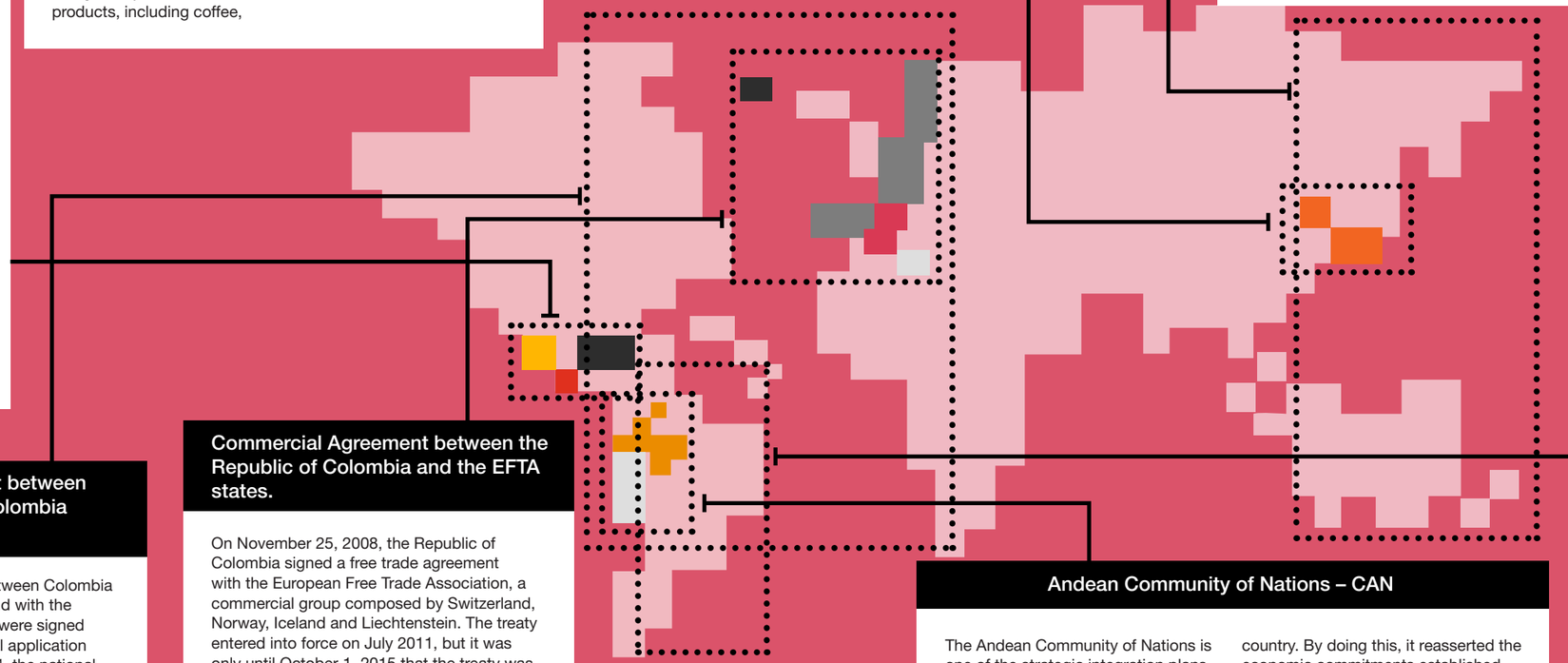
This commercial agreement represents the first of its kind signed between Colombia and an Asian Country. It was signed in February 2013 and entered into force in July 15, 2016.

In this Agreement customs were negotiated seeking preferential treatment for a huge array of Colombian products, including coffee, bananas, flowers, vegetables, sugar, beef, pork, dairy products, and others. Moreover, around 80% of textile products may enter the Asian Country free of customs and tariffs, and on the other hand, it allows the investment flow from Korea into Colombia, especially in the automotive, telecommunications and information sectors.

Additional Protocol to the Framework Agreement of the Pacific Allian

The Pacific Alliance was born in 2011 as a regional integration initiative for the Latin American Countries in the Pacific Ocean. Started by Colombia, Peru, Mexico and Chile, its objectives are the promotion of free trade, free movement between countries, cultural and academic promotion, and cooperation in trade and diplomatic relations with the Asian countries in the pacific coast.

With the framework agreement of the Pacific Alliance, an additional protocol was signed in 2014 for the establishment of a free trade area between the member countries seeking the customs tariff reduction, market access, trade ease, and customs cooperation; furthermore, this additional protocol contains matters related to investment, financial services, telecommunications, maritime services, amongst others.



Economic supplementation agreement 72 (ACE72) between the Republic of Colombia and MERCOSUR member states.

On July 21, 2014, an economic supplementation agreement was signed between Argentina, Brazil, Paraguay and Uruguay (the countries that make up MERCOSUR) and Colombia.

This agreement had a provisional implementation, varying from every country member of MERCOSUR. With the entry into force of the agreement between Colombia and Paraguay in January 29, 2019, the ACE 72 finally entered into force amongst every party, and fully replaced the former agreement, ACE 59 of 2004. The matters regarding market access of originating goods were not subject to modification and the provisions initially negotiated in the ACE 59 were maintained; nevertheless, in ACE 72, matters related to industrial, textile, and automotive products, amongst others, were maintained.

The agreement includes matters related to conflict resolution, sanitary standards and industrial safety, technical regulations and safeguards.

Commercial Agreement between the European Union, Colombia and Peru.

The Free Trade Agreement between Colombia and Peru, on the one hand, and with the European Union on the other, were signed in 2012, and began provisional application in 2013. On November 5, 2014, the national government issued decree 2247, by way of which the agreement signed by the parties entered into force.

This agreement covers several aspects that relate to foreign trade and it includes commitments that go beyond the framework of multilateral trade relations. An essential element of this agreement is a commitment between the parties to respect human rights and the development of sustainable economies based on the protection and promotion of employment and environmental rights.

Commercial Agreement between the Republic of Colombia and the EFTA states.

On November 25, 2008, the Republic of Colombia signed a free trade agreement with the European Free Trade Association, a commercial group composed by Switzerland, Norway, Iceland and Liechtenstein. The treaty entered into force on July 2011, but it was only until October 1, 2015 that the treaty was ratified by the Icelandic Parliament.

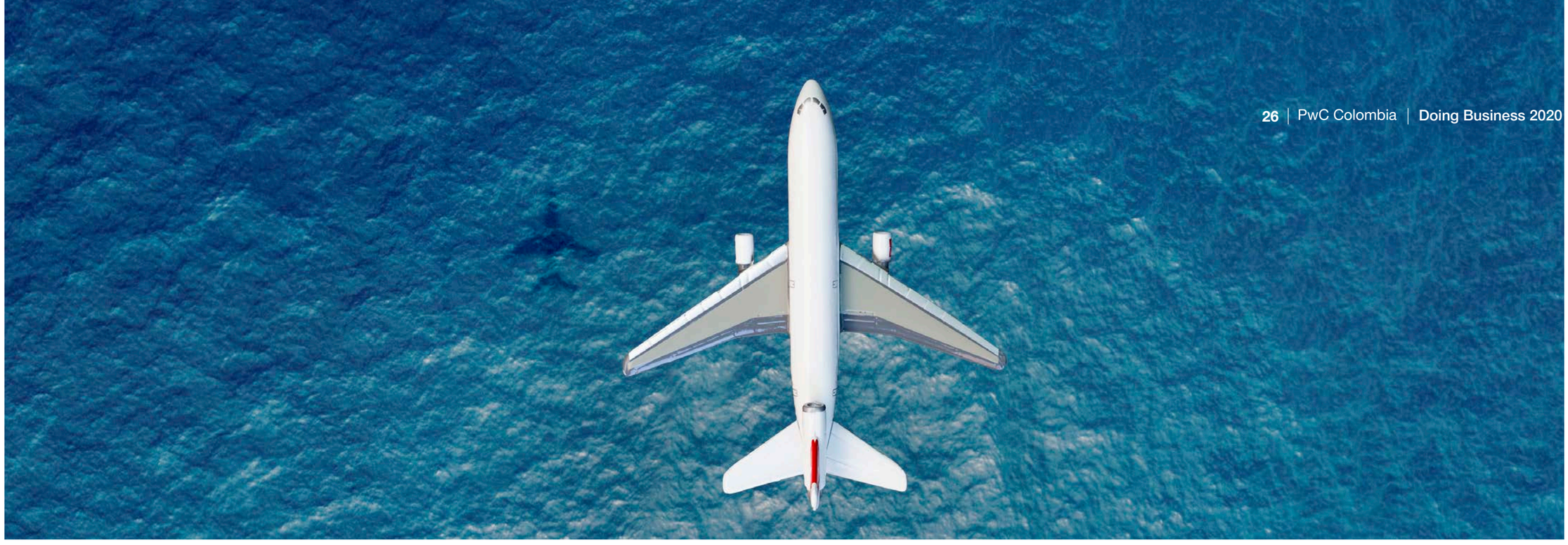
In this agreement a customs tariff relief was negotiated, affecting agricultural, industrial, marine, and processed agricultural products. Likewise, matters related to market enhancements, investment expansion and diversification, and strengthening of the integration with European countries were negotiated.

Andean Community of Nations – CAN

The Andean Community of Nations is one of the strategic integration plans for Colombia. It operates under the sponsorship of ALADI. Under this agreement, Colombia is exempt from any customs duties and restrictions, and becomes a free-trade zone with Bolivia, Ecuador, Peru and Venezuela up until 2011.

Also, in September 2006, the Council of Foreign Affairs Ministries of the CAN gave Chile the condition of associated country. By doing this, it reasserted the economic commitments established with that country and expanded the integration framework in the region.

The main purpose of CAN is to improve integration through a common market regulated by supra-national monetary, tax, foreign-exchange, environmental and public utility agreements (with supra-national agreements referring to agreements that are to prevail over national, domestic legislation).



Future Agreements

Up to this moment, Colombia has signed trade agreements with several countries that still have not entered into force. These countries are: Israel, Panama and a commercial continuity agreement with the United Kingdom for after its withdrawal from the European Union. Moreover, the Colombian Government is currently engaging in commercial negotiations with Japan and Turkey, with the intention to sign future commercial agreements with this country.

Investment and commitments

Real productive fixed assets	New investment	Employment
From 0 to 500 minimum salaries	No new investment required	**Start of operations:** 3 direct and formal jobs **The following year:** 2 additional jobs **The third year:** 2 additional jobs **Total:** 7 jobs
501 to 5,000 minimum salaries	1,000 minimum salaries within 3 years following qualification	**Start of operations:** 20 direct and formal jobs
5,001 to 30,000 minimum salaries	5,000 minimum salaries within 3 years following qualification	**Start of operations:** 30 direct and formal jobs
30,000 minimum salaries or more	11,500 minimum salaries within 3 years following qualification	**Start of operations:** 50 direct and formal jobs

Minimum legal monthly salary in 2020 COP 877.803 (Approximately USD 260.02)

04

Labor Law

Labor Law in Colombia is regulated by the Constitution of 1991, the international treaties and conventions signed by Colombia, and by the Colombian Labor Code.
Labor law is divided in two areas: Individual Labor Law, which regulates the relationships between employers and their employees, and Collective Labor Law.

Every employer must pay the following social legal benefits to its employees who earn a regular salary: severance payments, interest on severance payments, service bonus, transportation allowance, and work equipment and apparel.

General aspects

A labor contract in Colombia is the agreement between the employer and the employee, under which the employee personally provides specific services to the employer, permanently subordinated and dependent on the latter, in exchange for a consideration called salary.

Types of labor contracts

Labor contracts may be classified in different ways. Based on their term or duration they are classified as follows:

Fixed term contracts:

Their term cannot exceed 3 years. However, the parties may extend the contract indefinitely.

Contracts for specific projects or works.

Transitory contract:

The term cannot exceed 1 month. Made for the carrying out of activities other than those normally carried out by the employer.

Open-ended labor contract:

No term is established; and its duration does not depend on any specific project or work or the type of nature of the work. It does not relate either to a transitory, specific work, or task.

Likewise, the following agreements reached between the employer and the employee must be put down in writing:

Trial period:
Initial stage of the labor contract, the objective of which is to allow the employer to understand the employee's capabilities, and the latter can also experience the working conditions. The period cannot be longer than two (2) months. For fixed term contracts set for a period under one (1)year, the trial period cannot exceed 1/5 of the initial term agreed in the contract.

Integrated salary:
This is a type of salary made of one lump sum payment which compensates for regular work and also compensates for social legal benefits, subsidies, overtime, and generally any compensation items included in the stipulation of this special salary in advanced; except for vacation days and rest compensation. An integrated salary must always be agreed to in writing.

Integrated salaries may only be agreed to be paid to those employees who earn a salary amount exceeding ten (10) minimum monthly wages, which includes a social legal benefits factor that cannot be less than 30% of the salary amount.

For 2020, the minimum integral salary is equal to COP 11,411,439 (USD 3,482[4]).

In this type of salary, payroll fees and Social Security contributions are paid on a base of 70% of the total integrated salary amount.

Exclusions:
The employer and the employee may agree in writing which benefits, or payments will not be included as salary for purposes of removing them from the salary base that is used to compute social legal benefits and Social Security contributions. Nevertheless, this is limited to the extent that all those payments that are made as direct compensation for the personal service of the employee will always be considered as salary, and no contractual stipulation that seeks to remove them from the salary base will be valid.

Working hours

Regular working hours go up to a maximum of 8 hours a day and 48 hours per week, which may be distributed from Monday through Friday or from Monday through Saturday. The law also allows the parties to agree on flexible working schedules for the employees.

Day working hours cover the period of time that goes from 6 AM through 9 PM, and night working hours cover the period of time that goes from 9 PM to 6 AM.

4. USD = COP 3,277

Flexible working hours

Employers may agree with employees on successive work shifts during all days of the week, provided that every shift does not exceed 6 daily hours and 36 weekly hours, without paying any nightshift fees or holiday compensations.

They may also agree that on flexible daily working hours, in a way that completes the 48 hours for a week, distributed over no more than 6 days, where the number of daily hours worked may go from 4 to 10, without paying any overtime, provided that the working hours do not exceed 48 hours per week and that the employee works during the day working hours.

Likewise, when the economic activity is carried out in shifts without a continuing activity being required, the law allows that the total working hours may be extended to cover more than 8 hours per day and more than 48 hours per week, provided that the total number of hours for a period of 3 weeks does not exceed (on average) 8 hours a day and 48 hours a week. In this case, no overtime payments are accrued either.

Payments resulting from the labor relationship

1. Salary

A salary is the direct compensation that employees receive in consideration for the personal provision of their services to the employer.

a. Types of salary

- **Regular salary/ordinary salary:** This is a compensation that is paid for regular work. As every year draws to a close, the government establishes the minimum monthly salary. For 2020, the minimum monthly salary was defined as COP 877,803 (USD 268).
- **Integrated salary:** This is a type of salary made of one lump sum payment, which compensates social legal benefits, surcharges and other benefits such as overtime, legal and extralegal bonuses, severance pay and their corresponding interests, subsidies and equipment; and in general any and all compensation items included in the stipulation of the salary agreement, except for vacation days and rest compensation. Integrated salaries must always be agreed to in writing, and under no circumstances shall they be under thirteen (13) minimum monthly salaries, which for 2020 are equal to COP 11,411,439 (USD 3,482[5]).

5. USD = COP 3,277

2. Labor benefits

Every employer must pay the following labor benefits to employees who earn a regular salary:

Social Legal Benefits

Item	Period payment	Description
Severance pay	Annual	One monthly salary for each year of service or prorated to a fraction of a year. It must be deposited into a severance pay fund no later than February 14 of the following year, or it must be paid directly to the employee upon termination of the contract.
Interest on severance pay	Annual	12% on the annual amount of severance pay or prorated to a fraction of the year.
Service bonus	Every half-year	15 days of salary for every half-year worked or prorated to fractions. Payable in June and December.
Transportation allowance	Monthly	COP 102,854 in 2020 (USD 31). Payable to every employee who earns 2 minimum wages or less.
Work equipment and apparel	Every 4 months	Payable to every employee who earns 2 minimum wages or less COP 1,755,606 (USD 536)

3. Mandatory off days

a. Paid day off on Sundays and holidays

Employers must give their employees the benefit of a paid day off on Sundays and on any civil or religious holidays. The remuneration is included as part of the monthly salary payable to the employee for the concept of salary.

If the employee works occasionally on Sundays, up to two (2) Sundays a month, they must be paid, prorated to the hours worked on Sundays, an additional compensation equal to 75% of the ordinary salary or, alternatively, they must be offered one (1) day off for the employee to enjoy on any working day of the following week.

If the employee works regularly on Sundays (3 or more Sundays during a month), he/she must be paid, prorated to the hours worked on Sundays, an additional compensation equal to 75% of the ordinary salary for those Sundays and, additionally, they must be offered one (1) day off for the employee to enjoy on any working day of the following week.

b. Annual paid vacation leave

Employees are entitled to enjoy 15 working days of paid vacation leave for every year of labor. At a minimum, every employee must enjoy six (6) actual working days of paid vacation leave for each year of service. Additional days may be accumulated for up to two (2) years for regular employees, and for up to four (4) years for technical, specialized, trusted or management employees, or for foreign employees that provide their services in a location other than where their families reside.

4. Legal indemnifications

Legal indemnifications are payments derived from noncompliance by the employer of his legal or contractual obligations. The most common legal indemnifications are the following:

a. Legal indemnification for dismissal without a fair cause

Fixed term contracts:

legal indemnification for dismissal is equal to the amount of the salaries that the employee will not receive from the date of dismissal through the date on which the contract had been set to expire initially.

Specific job contracts:

the legal indemnification for dismissal is equal to the time that was left to terminate the job or task; and in this case the legal indemnification may not be less than fifteen (15) worth days of pay.

In the case of indefinite term contracts, the legal indemnification is calculated as follows:

For employees who earn a salary that is less than 10 minimum monthly wages:

- If the employee has worked continuously for less than 1 year, he/she will be paid 30 days' worth of salary.
- If the employee has worked continuously for more than 1 year, he/she will be paid 30 days' worth of salary for the first year and 20 days' worth of salary for each one of the following years and prorated to fractions or year.

For employees who earn a salary that is equal to or more than 10 minimum monthly wages:

- If the employee has worked continuously for less than 1 year, he/she will be paid 20 days' worth of salary.
- If the employee has worked continuously for more than 1 year, he/she will be paid 20 days' worth of salary for the first year and 15 days' worth of salary for each one of the following years and prorated to fractions or year.

b. Indemnity for failure to pay salaries and labor benefits

If at termination of the labor contract the employer fails to pay his/her employee the unpaid, earned salaries, in addition to any earned labor benefits in due manner and time, the employee will be entitled to receive an indemnity for the delay corresponding to one (1) day of salary for every one (1) day of non-compliance during the first 24 months.

5. Contributions to the Social Security System

Colombia has entered into bilateral Social Security treaties with Chile, Argentina, Ecuador, Peru, Uruguay and Spain. Under these treaties, the parties seek to guarantee that nationals from the contracting states validate the time contributed to the pension system in any of the signatory countries (depending on each treaty) to recognize entitlement to retirement, disability or surviving spouse pensions under the terms and conditions, and based on the characteristics set by the legislation of the employees' home country in force at the time pension payments are applied for.

1.

Contributions to the healthcare Social Security.

Period of payment:
Monthly

The maximum contribution base is

25 minimum monthly wages.

12.5% This is equal to 12.5% of the monthly salary pay of the employee.

↓

8.5% the employer pays 8.5%

↓

4% The employee pays 4%

2.

Contributions to the Labor Risk Social Security.

Period of payment:
Monthly

The maximum contribution base is

25 minimum monthly wages.

Payable to every employee depending on the level of risk of the company set as follows:

Type I risk	Type II risk	Type III risk
0.522 %	1.044 %	2.436 %

Type IV risk	Type V risk
4.350 %	6.690 %

100% The employer pays 100% of the contribution.

3.

Contributions to the General Pension System.

Period of payment:
Monthly

The maximum contribution base is

25 minimum monthly wages.
which is COP 21,945,075 for 2020 (USD 6,697)

16% 16% of the monthly salary pay of the employee.

↓

12% the employer pays 12%

↓

4% the employee pays 4%

Any employee earning more than 4 minimum wages must pay an additional 1% for the Solidarity fund.

+4 SMMLV

Foreigners who continue to contribute to their home country pension system must not contribute any money to the Colombian pension system.

6. Payroll fees

Payroll fees or legal contributions are payments that every employer with contracts with more than one employee must make to the Colombian Family Welfare Institute – ICBF (for its acronym in Spanish), the national apprenticeship system – SENA (for its acronym in Spanish) and Family Compensation Funds.

In accordance with the regulations, 3% of the monthly payroll is paid as ICBF contributions; 2% of the monthly payroll is paid as SENA contributions and 4% of the monthly payroll is paid as family subsidy contributions.

a. Exemption of contributions to healthcare (12,5%) and contributions to SENA and ICBF Employers whose employees individually receive less than 10 minimum monthly salaries are exempt from making contributions to SENA, ICBF, and health contributions (at the 8.5% rate corresponding to the employers).

7. Types of leaves of absence

Maternity leave:

Every pregnant employee is entitled to a leave of absence of eighteen (18) weeks, which can start two (2) weeks ahead of the foreseen birthdate. This leave of absence is paid by the Social Security Healthcare System. No employee may be dismissed as a result of pregnancy or lactation, unless there is a fair cause duly certified in advance by a work inspector. Any potential employer is forbidden from requiring a candidate to take a pregnancy test.

Paternity leave:

The spouse or permanent companion will be entitled to eight (8) working days of paid paternity leave, regardless of whether the two (2) parents or just the father are making contributions to the Social Security system.

Bereavement leave:

In case of death of the spouse, permanent companion, or a relative within the second degree of consanguinity, first degree of affinity or first degree of adoption-based kinship, the employee will be entitled to a paid leave for bereavement of five (5) working days, regardless of the type of labor contract the employee has.

Workplace regulations

Employers are required to issue the following workplace regulations:

1. Workplace regulations

Any commercial company with more than five (5) permanent employees, any industrial company with more than ten (10) permanent employees, or any agricultural, farming or forestry company with more than twenty (20) permanent employees must adopt workplace regulations.

2. Hygiene and industrial safety regulations

Any company with more than ten (10) permanent employees must adopt special hygiene and industrial safety regulations.

Workplace harassment

Act 1010 of January 23, 2006 defines, prevents, corrects and penalizes all different forms of aggression, mistreatment and generally any attack on human dignity during the course of work relations.

This law requires employers to modify their internal workplace regulations and to create a working relations committee. This committee must establish mechanisms to prevent any workplace harassment conducts and to establish and follow an internal and confidential reconciliation procedure that is effective to overcome any labor harassment conducts occurring in the workplace.

Foreign employees or workers

Foreign employees or workers have the same rights and obligations as Colombian workers. However, when a foreigner signs a labor contract in Colombia, both parties must meet certain additional obligations as compared to those applicable to national employees. These special obligations derive from foreign employee immigration law and the controls that apply during their stay in the country.

Collective Labor Law

Collective labor law regulates relationships between employers and unions, collective hiring and the defense of common interests for both the employers and their workers/employees in point of managing collective labor conflicts. The purpose of collective labor law is to develop union law and the right to collective hiring in negotiation, as well as to establish the mechanisms that make the right to unionize and the right to protest effective.

Right to Unionize

Colombian employees and workers have the right to unionize as a way to exercise collective labor guarantees. This is a constitutional right that seeks to protect the creation and development of unions, seeking to guarantee the exercise by workers of the right to defend their interests, both labor and union related.

05

Immigration Law – Visas

Colombian immigration law provides over twenty (20) different types of visas, which are divided into categories for visitors, migrants, and residents. Permits may be requested by foreigners to carry out any commercial, business or tourism activities in the country.

When a foreigner enters into a labor contract in Colombia, both the employer and the employee must meet certain obligations so that the foreigners can legally remain in the country.

Colombia controls and regulates the entry and stay of foreigners in the country through its migratory regime. This chapter presents the regulations issued by the Ministry of Foreign Affairs regarding foreign nationals who do not require a visa to enter the country as visitors.

In addition, we will explain the three types of visas that exist in Colombia, which can be requested by foreigners depending on the activities that they will carry out in the country, such as rendering services to a Company with a labor contract, providing services or carrying out business, commercial, corporate or investment activities in Colombia.

Countries that do not require tourist Visa

Nationals of the following countries do not require a type “V” Colombian visa to enter the country as tourist:

A.

Albania
Andorra
Antigua and Barbuda
Former Yugoslav
Republic of Macedonia
Argentina
Australia
Austria
Azerbaijan

B.

Bahamas
Barbados
Belgium
Belize
Bolivia
Bosnia and Herzegovina
Brazil
Brunei-Darussalam
Bulgaria
Bhutan

C.

Canada
Czech (Republic)
Chile
Cyprus
Costa Rica
Croatia

D.

Denmark
Dominica
Dominican Republic

E.

Ecuador
El Salvador
Estonia

F.

Fiji
Finland
France

G.

Georgia
Grenada
Greece
Guatemala
Guyana
Germany

H.

Honduras
Hungary
Holy See

I.

Indonesia
Ireland
Iceland
Israel
Italy

J. K. L.

Jamaica
Japan
Kazakhstan
Korea (Republic of)
Latvia
Liechtenstein
Lithuania
Luxembourg

M. N.

Malta
Marshall Islands
Mexico
Micronesia
Moldova
Monaco
Montenegro
Norway
New Zealand

P. Q.

Philippines
Palau
Panama
Papua New Guinea
Paraguay
Peru
Poland
Portugal
Qatar

R.

Romania
Russian Federation

S.

Saint Kitts and Nevis
Samoa
Saint Marino
Saint Lucia
Saint Vincent and the
Grenadines
Serbia
Singapore
Solomon Islands
Slovakia
Slovenia
Spain
Sweden
Switzerland
Suriname

T. U. V.

Turkey
The Netherlands
United Kingdom of
Great Britain and
Northern Ireland
Trinidad and Tobago
United Arab Emirates
United States of America
Uruguay
Venezuela

Those bearing a passport from Hong Kong – SARG China; the Sovereign Military Order of Malta and Taiwan-China, and the nationals of the Republic of Nicaragua who prove to be naturals from the Northern Caribbean Autonomous Coastal Region and the Southern Caribbean Autonomous Coastal Region are also exempt from visa requirements to enter the country as tourists.

When foreigners enter the country, the immigration authorities stamp a seal in their passports granting a temporary permit - PIP and PTP respectively (for its acronym in Spanish) as tourists indicating the number of days authorized to stay in the country. The PIP is granted for a period of ninety (90) days, which may be extended for an additional ninety (90) days if required within the same calendar year.

Classification of visas

1. Visitor Visa
Type “V” Visas

“V”

a. Leisure or Tourism Visitors Visa

Applicants: This visa is issued to a foreigner who plans to carry out leisure or entertainment activities. This visa applies for foreigners with restricted nationalities, meaning those who may not enter the country without holding a Colombian visa.

Term: This visa is granted for a maximum term of two (2) years with multiple entries and authorizes the foreigner to stay in the country for up to 180 continuous or discontinuous days during the 365 days that the visa remains valid.

b. Business Visitor Visa

Applicants: This visa is issued to a foreigner who plans to enter Colombia to carry out business management activities, marketing studies, direct investment plans or paperwork, or incorporation of a commercial company.

Term: This visa is granted for a maximum term of two (2) years with the foreigner being allowed to stay in the country for up to 180 continuous or discontinuous days during the 365 days that the visa remains valid.

c. Visitor’s visa as vessel or coastal platform crew member

Applicants: This visa is issued to a foreigner who comes to work in Colombian territorial waters as a crew member of a vessel or coastal offshore platform.

Term: This visa is granted for a maximum term of two (2) years with multiple entries and authorizes the foreigner to stay in the country for up to two (2) continuous or discontinuous years during the term of validity of the visa. (This visa includes a work permit).

d. Visitor’s visa to participate in any event as speaker, exposer, contestant, jury, or logistic personnel

Applicants: This visa is issued to foreigners that plan to enter the country to participate in academic, scientific, artistic, cultural, or sports events.

Term: This visa is granted for a maximum term of two (2) years with multiple entries and authorizes the foreigner to stay in the country for up to 180 continuous or discontinuous days during the 365 days of validity of the visa. (This visa includes a work permit).

e. Visitor’s visa as an intern in a Colombian company

Applicants: This visa is issued to foreigners who plan to enter Colombia to participate in a corporate internship in a company established in Colombia.

Term: This visa is granted for a maximum term of two (2) years with multiple entries and authorizes the foreigner to stay in the country for up to two (2) continuous or discontinuous years during the term of validity of the visa. (This visa includes a work permit).

f. Visitor’s visa to participate in an audiovisual production or to produce digital content work

Applicants: This visa is issued to foreigners who plan to enter the country to make an audiovisual production or produce any kind of digital content work.

Term: This visa is granted for a maximum term of two (2) years with multiple entries and authorizes the foreigner to stay in the country for up to two (2) continuous or discontinuous years during the term of validity of the visa.

g. Visitor's visa to carry out journalistic reporting or to stay temporarily as a foreign news press correspondent

Applicants: This visa is issued to foreigners who plan to enter the country to carry out journalistic reporting or to stay in the country temporarily as an international news press correspondent.

Term: This visa is granted for a maximum term of two (2) years with multiple entries and authorizes the foreigner to stay in the country for up to two (2) continuous or discontinuous years during the term of validity of the visa.

h. Visitor's visa as a provider of temporary services to a natural or legal person in Colombia

Applicants: This visa is issued to foreigners who plan to enter Colombia to provide temporary services to a Colombian company or to a natural person under a labor contract.

Term: This visa is granted for a maximum term of two (2) years with multiple entries and authorizes the foreigner to stay in the country for up to two (2) continuous or discontinuous years during the term of validity of the visa. (This visa includes a work permit).

i. Visitor's visa to hold a position in a company based in Colombia under an intracompany transfer

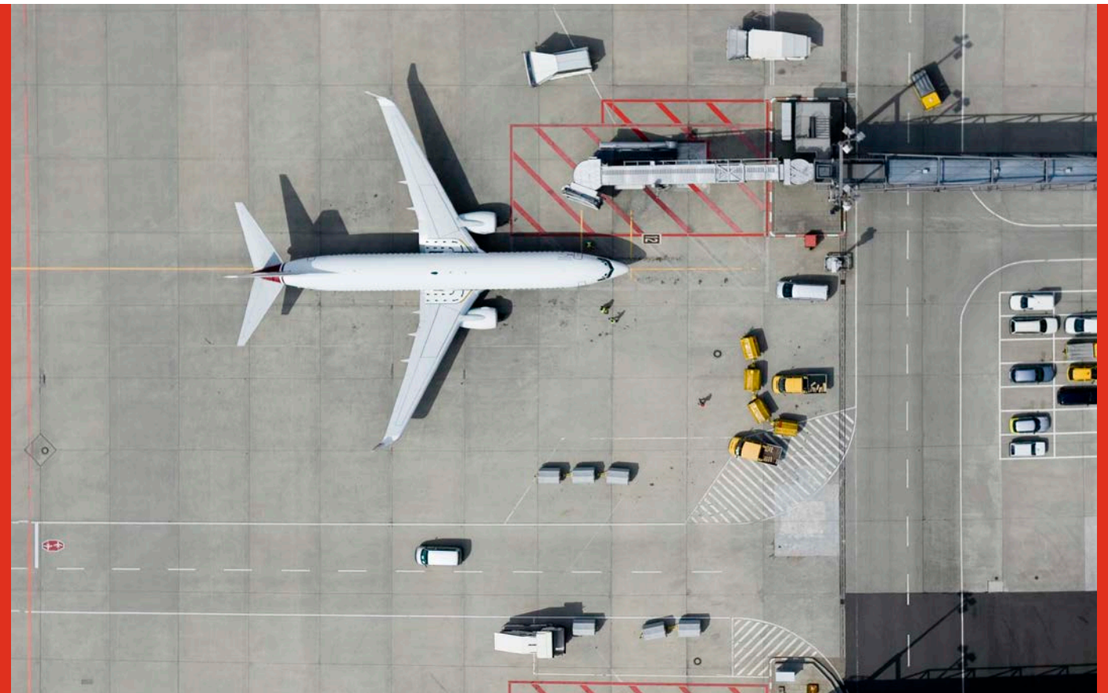
Applicants: This visa is issued to foreigners who plan to enter Colombia to hold a position in a company based in Colombia under an intra-company transfer program established in any international instrument in force with Colombia (example, an FTA).

Term: This visa is granted for a maximum term of two (2) years with multiple entries and authorizes the foreigner to stay in the country for up to two (2) continuous or discontinuous years during the term of validity of the visa. (This visa includes a work permit).

j. Visitor's visa to visit the national territory under vacation-work programs

Applicants: This visa is issued to foreigners who plan to enter Colombia to visit the national territory under a vacation-work program established in any treaty between a foreign state and Colombia.

Term: This visa is granted for a maximum term of one (1) year with multiple entries and authorizes the foreigner to stay in the country for up to one (1) continuous or discontinuous year during the term of validity of the visa. (This visa includes a work permit).



Visitor Visa
Type "V" Visas

"V"

2. Migrant Visa Type "M" Visas

a. Migrant visa as spouse or permanent companion of a Colombian national

Applicants: This visa is issued to foreigners who plan to enter the national territory as the spouse or permanent companion of a Colombian national.

Term: This visa is granted for a maximum term of three (3) years and authorizes the holder to stay during the term of validity of the visa. (This visa includes a work permit).

b. Migrant visa as a refugee in Colombia

Applicants: This visa is issued to a foreigner who has been qualified as a refugee by the national government, at the request of the Advisory Council for the Termination of the Condition of Refugee, in accordance with current international instruments on these matters. (This visa includes a work permit).

Term: This visa is granted for a maximum term of three (3) years and authorizes the holder to stay during the term of validity of the visa.

c. Migrant visa as businessperson

Applicants: This visa is issued to foreigners who plan to enter the country as the partner or owner of a company. Their share in it must be worth at least 100 minimum monthly salaries, which is equivalent to COP 87.780.300 (USD 26.787[6]).

Term: This visa is granted for a maximum term of three (3) years with multiple entries and authorizes the holder to stay during the term of validity of the visa. (This visa includes a work permit issued solely to work in the company that the businessperson acquired.)

d. Migrant visa as a member of a religious order undergoing formation, as missionary or religious leader

Applicants: This visa is issued to foreigners who plan to enter the country in their condition as members of a religious order duly recognized by the Colombian state.

Term: This visa is granted for a maximum term of three (3) years with multiple entries and authorizes the holder to stay during the term of validity of the visa.

e. Migrant visa as real estate investor

Applicants: This visa is issued to foreigners who plan to enter the country in their condition as owners of a piece of a real estate property. They must make an investment worth at least 350 minimum salaries, the approximate Colombian peso value of which is COP 307.231.050 (USD 93.754[7]).

Term: This visa is granted for a maximum term of three (3) years with multiple entries and authorizes the holder to stay during the term of validity of the visa.

f. Migrant visa as the father or the child of a Colombian national by way of adoption

Applicants: This visa is issued to foreigners who plan to enter the national territory as the father or the child of a Colombian national by way of adoption.

Term: This visa is granted for a maximum term of three (3) years and authorizes the holder to stay during the term of validity of the visa. (This visa includes a work permit).

g. Migrant visa for long-term worker

Applicants: This visa is issued to a foreigner who plans to enter the country under a labor contract or a services contract.

Term: This visa is granted for a maximum term of three (3) years with multiple entries and authorizes the holder to stay during the term of validity of the visa. (The duration of this visa depends on the term of duration of the labor contract and includes a work permit issued exclusively for the activity declared in the application).

h. Migrant visa as a freelance professional

Applicants: This visa is issued to foreigners who plan to enter the country as a freelance professional or worker with qualifications or experience to practice a profession.

Term: This visa is granted for a maximum term of three (3) years with multiple entries and authorizes the holder to stay during the term of validity of the visa. (This visa includes a work permit issued exclusively for the activity declared in the application.)

i. Migrant visa as student

Applicants: This visa is issued to foreigners who plan to pursue an academic program, provided that this program is taught by a certified education institution.

Term: This visa is granted for a maximum term of three (3) years with multiple entries and authorizes the holder to stay during the term of validity of the visa. (The duration of this visa depends upon the term of duration of the academic program).

j. Migrant visa as retiree or as capital investment income beneficiary

Applicants: This visa is issued to foreigners who plan to enter Colombia as a retiree receiving a monthly payment worth no less than three (3) minimum monthly salaries, the approximate Colombian peso value of which is COP 2.633.409 (USD 804) Also issued to foreigners who prove that they are receiving income from a private or public institution for an amount worth no less than ten (10) minimum monthly salaries, the approximate Colombian peso value of which is COP 8.778.030 (USD 2.679).

Term: This visa is granted for a maximum term of three (3) years and authorizes the holder to stay during the term of validity of the visa.

k. Migrant visa as national of the MERCOSUR member states

Applicants: This visa is issued to citizens of any of the MERCOSUR member and associate countries. Currently, this visa may be issued to citizens of Argentina, Brazil, Bolivia, Peru, Chile, Ecuador, Uruguay and Paraguay.

Term: This visa is granted for a maximum term of three (3) years and authorizes the holder to stay during the term of validity of the visa.

6. 1 USD = COP 3.277
7. 1 USD = COP 3.277

3. Resident visa
Type "R" Visas

Applicants:
This visa is issued to foreigners who plan to enter the country and remain in it; it may be applied for in the following cases:

- When the foreigner is the father or the mother of a Colombian national.
- When the foreigner, having been a former Colombian national either by way of adoption or by birth, gave up his/her Colombian nationality.
- When the foreigner has been the former holder of a migrant visa as a refugee, long-term duration worker or employee, businessperson, freelance worker, member of a religious order, student, real estate investor, retiree or capital investor income beneficiary for at least five (5) continuous or discontinuous years.
- When the foreigner has been the holder of a migrant visa as spouse or permanent companion of a Colombian national, or the holder of a migrant visa as the father or the child of a Colombian national.
- By way of adoption, or as the holder of a migrant visa from a MERCOSUR member state for at least 2 continuous and uninterrupted years.
- When a foreigner, of legal age, has held an R-type visa for at least five (5) continuous and uninterrupted years.

- A foreign investor who has registered a foreign investment with the Bank of the Republic for an amount exceeding 650 minimum monthly salaries, the approximate Colombian peso value of which is COP 570.571.950 (USD 174.114[8])
- **Term:** This visa is granted for a term of five (5) years and authorizes the holder to stay during the term of validity of the visa. (This visa includes a work permit for any lawful activity).
- In case the foreigner leaves the country and stays outside for a term of two (2) continuous years or longer, they will lose their right to this visa.

8. 1 USD = COP 3.277

"R"

Entry and permanence permit types

These permits are granted to foreigners who enter Colombia with no intention of settling here in the country and who, because of their nationality, do not require a tourist visa.

The Special Colombian Migration Administrative Unit - UMC (for its acronym in Spanish) is the agency in charge of issuing entry and permanence permits - PIP - and temporary permanence permits -PTP- for foreigners who do not require a tourist visa to enter the country.

I. PIPs are granted to foreigners that will enter the country to carry out any of the following activities:

a. Tourism Permit (PT)

This permit allows tourist activities, medical treatments, attendance at cultural, scientific, sports or conventional events and for business.

b. Integration and Development Permit (PID)

This permit is granted to foreigners who enter the country to carry out personal procedures, to support important efforts for the National Government, to attend academic or educational courses and events among others.

c. Permit to develop other activities (POA)

This permit is granted to foreigners that will provide specialized technical assistance, that will perform artistic presentations among others.

The term of duration of the PIP vary depending on the activity that the foreigners are going to perform. Mainly the duration is of ninety (90) days, except for those that specify a term, and except for render technical specialized assistance, which cannot exceed thirty (30) calendar days per year. Rights reserved.

ii. PTP are permits granted by the Special Colombian Migration Administrative Unit -UMC- to any foreigner who does not require a visa, and who has already used a PIP, and are aiming to extend their stay in the country or change the authorized activity.

PIPs and PTPs are regulated by Resolution 3167 of 2019 issued by the Special Colombian Migration Administrative Unit - UMC.

Foreign Citizens' ID card

This ID card is issued to foreigners who have obtained a visa for a period over three (3) months.

- They must register the visa before UMC within fifteen (15) days following their entry to Colombia, or from the date in which the visa has been issued in case it has been issued in Colombia.
- Once the visa has been registered, the UMC will issue a foreign citizen ID card to the foreigner. The foreign citizen ID card will be issued for the same term of the visa.
- This will be the ID document of the foreigner while they remain in Colombia; it enables them to enter into contracts, open bank accounts and other different transactions. The foreigners must keep it with them during their permanence in the country.

06

Tax Law

We should first note the following before explaining current tax law in Colombia.

Under Decision C-481 of 2019, the Constitutional Court of Colombia declared that most of the Articles of Law 1943 of 2018 were unconstitutional. This was so because Congress disregarded the principles of publicity and consecutive connection in the legislative procedures that led to the approval of said law.

However, the Court decided that its decision was to become effective only as from January 1, 2020; and it held that in case no new law had been enacted to replace Act 1943 of 2018 within the proposed the term, then all the rules in the law that Act 1943 of 2018 had repealed would resuscitate and all of the rules of the law added to the tax system would be treated as inadmissible and ineffective.

On December 27, 2019, Act 2010 of 2019 – the so-called Law of Economic Growth – was promulgated. This law replicated many of the rules in Act 1943 of 2018. Likewise, during 2019 the National Development Plan was issued, as contained in Act 1955 and Legislative Decree 2106 of 2019, both of which include tax rules.

Note*
TU: UVT is the Colombian tax unit, for the year 2020, 1 UVT is 35.607 pesos.

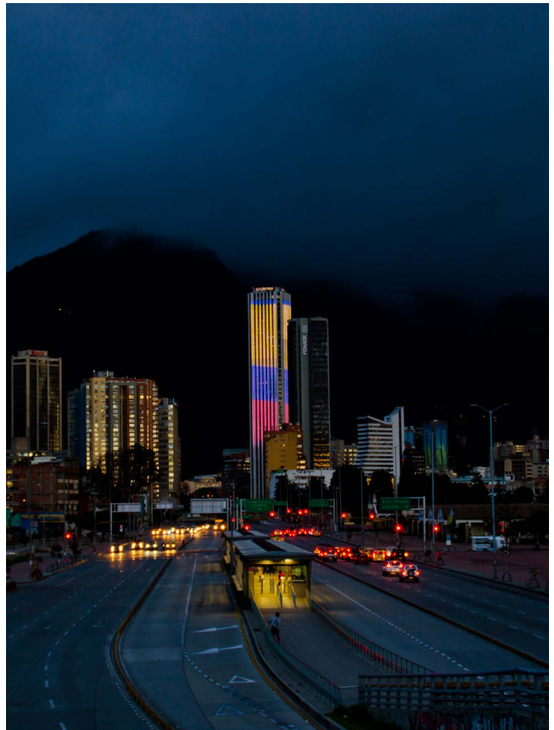
Now on when this text will be said TU, will refer to a UVT.

Income tax and capital gains tax

1. General aspects

The income tax is a charge on revenues that ultimately creates increases in the gross equity of individuals and corporations. Colombia's tax system is based on a real or source-based system, which is used to determine the source of income. This is so because resident individuals are taxed based on their worldwide income, whereas nonresidents are taxed on their Colombian source income and capital gains only.

In line to the above, the principle of domicile applies for national companies. In other words, they must report both their Colombian and foreign source income. On the other hand, foreign companies are subject to tax only on their Colombian source income and capital gains. Finally, permanent establishments and branch offices must pay income tax on any Colombian and foreign source income that are attributable to them.



Now, concerning the tax year, for income tax purposes, it is the same calendar year, running from January 1 through December 31.

Nevertheless, there are certain exceptions, mostly when a taxpayer has not existed during the entire calendar year, this is the case of companies created or liquidated in the year. In these events, the income tax is reported and paid for the corresponding fraction of the full year.

2. General tax rate and special tax rates

For corporations

Income tax rate, for resident and non residents subject to tax filing requirements, was reduced to 32 for 2020, 31% for 2021 and 30% for 2022 and going forward

Likewise, the law established an income tax surcharge for financial institutions. These taxpayers must pay income taxes at a rate of 36% for tax year 2020, 34% in tax year 2021 and 33% in tax year 2022.

It is worth indicating that the surcharge was not applicable for tax year 2019 because the Constitutional Court declared the unconstitutionality of the surcharge by way of Decision C-510 of 2019.

In respect to the special income tax rates that were included in Act 2010 of 2019, we have the following:

Rate	Type of activity/income
27%	Mega-investments: income taxpayers that generate at least 400 new direct jobs; or income taxpayers that generate at least 250 new direct jobs in mega investments made in sectors with a high technological component, or in sectors of emerging and exponential technologies, and in sectors of e-commerce. Additionally, these taxpayers must make new investments within the national territory for an amount equal or greater than 30,000,000 TU (1,028,100,000,000 COP). To be eligible for this benefit, the taxpayer must meet the requirements established in Article 235-2 of the tax code.
20%	Free-trade zone goods and services industrial users.

Tarifa	Naturaleza
15%	Free-trade zone users of the newer free-trade zones created in Cúcuta between January 2017 and December 2019, who (i) have more than 80 hectares and (ii) have over 40 free-trade zone users, whether national or foreign companies.
9%	**(i)** Hotel services provided in municipalities with 200,000 inhabitants or less: (a) for new hotels built within 10 years following the effective date of Act 1943 of 2018, the tax rate will apply for a period of 20 years; and (b) for remodeled or expanded hotels, the terms will be the same, but the special rate will apply prorated to the value that represents the cost of the remodeling or expansion within the total tax basis of the property. **(ii)** Starting in 2019, hotel services provided in municipalities with 200,000 habitants or more: (a) for new hotels, this rate will apply if the hotel is built within the following 4 years, and for a term of 10 years; and (b) for remodeled or expanded hotels, the terms will be the same, but in this case the cost of the remodeling or expansion cannot be less than 50% of the property acquisition cost. **(iii)** New theme parks, ecotourism parks, agricultural tourism parks and nautical wharves built in municipalities with 200,000 inhabitants or less within 10 years after the law goes into effect, for a term of 10 years. **(iv)** New theme parks, ecotourism parks, agricultural tourism parks and nautical wharves built in municipalities with 200,000 inhabitants or more within 4 years after the law goes into effect, for a term of 10 years. **(v)** Services provided in parks that are remodeled or expanded within the following four years after the date on which the law goes into force, for a term of 10 years. **(vi)** State-owned industrial and commercial enterprises and departmental, municipal and district mixed economy companies where the state owns 90% or more of the equity interests and which exert monopolies in liquor and alcoholic beverage industries. **(vii)** Publishing enterprises established in Colombia as legal entities, with an exclusive line of business is the publishing of scientific or cultural books, magazines, booklets, or collectible serialized issues. **(viii)** Income generated by the stabilization reserve established by pension and severance fund management companies.

For Individuals

The income tax for people (to be paid by Colombian resident individuals, the estates of Colombian resident decedents, and special-purpose legacies or bequests) will be determined in accordance with the following tax table starting from tax year 2020:

TU ranges		Marginal Rate	Tax
From	To		
0	1090	**0%**	0
>1090	1700	**19%**	(Taxable Base in TU minus **1,090 TU)** ***19 %**
>1700	4100	**28%**	(Taxable Base in TU minus **1,700 TU)** ***28 % plus 116 TU**
>4100	8670	**33%**	(Taxable Base in TU minus **4,100 TU)** ***33 % plus 788 TU**
>8670	18970	**35%**	(Taxable Base in TU minus **8,670 TU)** ***35 % plus 2,296 TU**
>18970	31000	**37%**	(Taxable Base in TU minus **18,970 TU)** ***37 % plus 5,901 TU**
>31000	and above	**39%**	(Taxable Base in TU minus **31,000 TU)** ***39 % plus 10,352 TU**

3. Determination of the taxable basis

Colombian law establishes two ways of determining the taxable basis for the income tax. The regular system and the alternate system – the so-called presumptive income system.

Every year, the taxpayer must compare the amounts of taxable income that derive from applying these two systems, to determine the highest amount that derives between the two. Based on the highest amount, the taxpayer will compute the income tax liability for the tax year.

Regular system

Under this system, the taxpayer includes all revenue obtained in the year to the extent they are capable of generating a net increase in equity at the time of realization. These revenues are then netted as shown in the table below:

Gross revenue *less:*

⊖

discounts, returns and rebates

Net revenue *less:*

⊖

nontaxable revenue

Taxable net revenue *less:*

⊖

deductible costs

Gross income *less:*

⊖

deductible expenses (or "deductions")

Taxable income *less:*

⊖

exempt income

Net taxable income

$

times tax rate

Basic income tax *less:*

⊖

tax credits

Impuesto neto de renta

Presumptive income tax system

The so-called presumptive income tax system, is the minimum estimated profitability of an income taxpayer, under which the law expects this taxpayer to pay income taxes. It is worth clarifying that presumptive income does not correspond to natural income generated from the activity of the taxpayer. It operates by law (as a rebuttable presumption) and under parameters established by the law.

The following amounts (among others) may be deducted from the liquid equity:

- Net asset value of any shares and equity interests held in Colombian companies.
- Net asset value of any property affected by force majeure or unforeseen, uncontrollable events (or “Acts of God”).
- Net asset value of any property associated with enterprises undergoing the initial unproductive stage.
- Net book value of any property directly associated with companies which exclusive line of business is mining other than the production of liquid and gaseous hydrocarbons.
- The first 19,000 TU’ worth of the taxpayer's property used in agricultural and farming activities.
- The first 8000 TU’ worth of the taxpayer's personal home.
- Net asset value of any property exclusively used in sports activities of social and sports clubs.

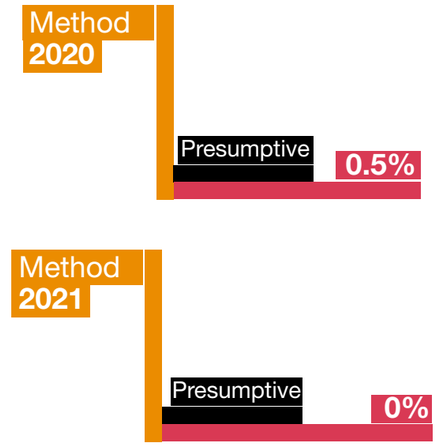
If the resulting presumptive income is greater than the regular taxable income, that excess corresponds to a "presumptive income excess" (or PIE). PIE amounts can be carried forward for offsetting against the net taxable income reported by the taxpayer in any of the following 5 tax years.

Certain taxpayers are exempted from applying the presumptive income alternate computation method because of their actual lines of business. This is the case of residential public utility companies. Likewise, companies undergoing liquidation are not subject to this PI alternate computation method during the first 3 years.

Taxpayers that are registered under the so-called SIMPLE tax system will not be subject to the presumptive income computation.

In the case of individuals, the pension and dividend baskets of income will not be subject to the alternate presumptive income computation.

Under Act 2010 of 2019 the gradual phase-out rates for the presumptive income computation were modified. For year 2020, the rate was set at 0.5%; and the 0% rate was kept, for application starting in 2021.



4. Nontaxable income

Tax law establishes certain special treatments that allow taxpayers to exclude certain items of income or revenue from the computation of taxable income.

- Voluntary social security contributions to the private pension system continue to be considered as non-taxable income in the percentage that doesn´t exceed 25% of annual income or up to a maximum of 2500 TU, whichever is less.

- Dividends and shares in profits distributed by Colombian companies (if they are paid out of earnings already taxed at the corporate level) and the value of casualty insurance compensation to the extent they correspond to the direct loss suffered by the taxpayer.

5. Deductible costs, deductible expenses and other deductions

Costs are deductible for income tax purposes if they comply with the general requierements as follows:

- Cause and effect relationship with the income producing activity.
- Necessity: It refers to the imperative requirement to incur in the expenses.
- Reasonabilbity: The expenses must be proportionate within the taxpayer overall activity.
- Necessity and the reasonability of the expense must meet commercial standards, based on expenses incurred in similar business activities.
- Finally, the deduction must be claimed for the taxable year in which it is incurred.

a. Salaries and payroll taxes

Salaries accruing as due or paid to employees are deductible provided that the employer is up to date in the payment of all payroll taxes (ICBF, SENA and family compensation funds) and social security contributions, also as long as they have collected the required withholding taxes. Payroll taxes and social security contributions are also deductible for income tax purposes.

The following employers are exonerated from paying any payroll taxes for employees who earn 10 minimum monthly legal wages or less: **(i)** corporate income taxpayers, **(ii)** individuals who have 2 or more employees and **(iii)**consortiums, temporary unions and trusts where the members are exonerated from paying payroll taxes.

b. Taxes, fees and contributions paid

100% of taxes, fees and contributions effectively paid (or accrued as due for taxpayers required to keep accounting books) are deductible for income tax purposes provided they are “causally connected” with the taxpayer's income-producing activity. This includes affiliation dues paid to professional associations.

50% of the financial transactions tax (or GMF, from its acronym in Spanish) may be deducted for income tax purposes without this tax needing to be causally connected with the taxpayer's income-producing activity.

Taxpayers will be entitled to claim 50% of the industry and commerce tax and related billboards tax that they pay as an income tax credit. In 2022 the tax credit will increase to 100%.

- Additionally, Act 2010 of 2019 reestablished several articles of the Colombian Tax Code (CTC) that referred to the inflationary component of financial income were becoming applicable again. As such, this inflationary component is once again treated as nontaxable income.

Please note that neither the wealth tax nor the normalization tax may be deducted for income tax purposes.

c. Interest

As a general rule, the taxpayer may deduct any interest paid on debts or liabilities.

Nevertheless, we have undercapitalization regulations in Colombia. Under these rules, deductions for interest expenses that derive from loans from national and foreign related parties are limited. The limitation will apply where the total average debt amount exceeds the result of multiplying by two (2) the taxpayer’s liquid equity of the last tax year.

The law has established exceptions under which this limitation does not apply. This is the case of business ventures undergoing the initial unproductive stages and the financing of utilities infrastructure projects, among others.

d. Expenses incurred abroad

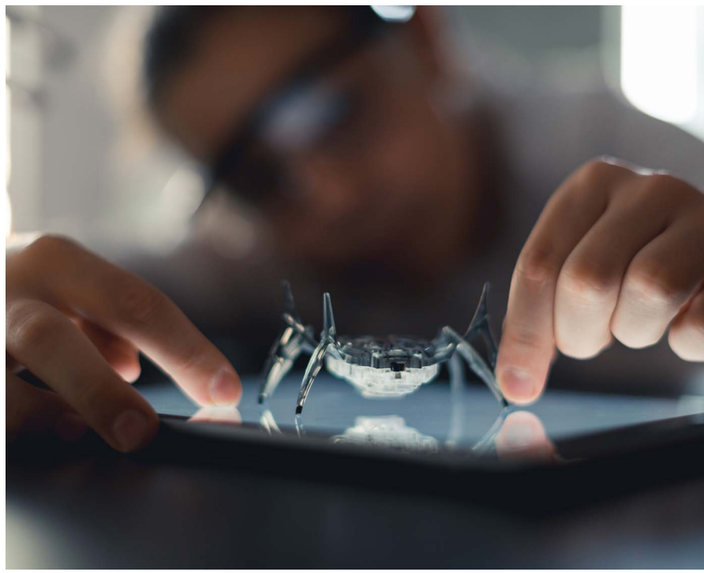
Taxpayers may deduct any expenses incurred abroad that are causally connected with their Colombian incomes, provided that they have collected the applicable withholding taxes if the payment comes from Colombian source.

For expenses incurred abroad to obtain Colombian source income that are not subject to withholding taxes in Colombia, the corresponding deduction cannot exceed 15% of the taxpayer's taxable income computed before deducting such costs or expenses. The above is so except for certain cases expressly established in the tax law.

e. Investments in scientific and technological development

Income taxpayers that make investments in projects that qualify as research, technological development and innovation projects (as defined by law) may deduct those investments in the tax year in which they were made. It is worth noting that taxpayers may claim this deduction and claim at the same time the tax credit that is available for making this type of investments.

A deduction is also admissible for donations made through high education institutions or through the Colombian Institute of Educational Loans and Technical Studies Abroad (ICETEX, from its acronym in Spanish) that are earmarked to finance scholarships or condonable loan programs approved by the Ministry of National Education. In this case , taxpayers may claim the deduction and also claim at the same time the tax credit that is available for making the investment mentioning above. (Article 256 of the Tax Code).



f. Offsetting of tax losses

Taxpayers may carry forward net losses to offset them against any regular taxable income obtained in future tax years, without detriment to the computation of the current year's alternate, presumptive taxable income. These net losses cannot be allocated to the company's shareholders or members.

Under the initial regulations, taxpayers could carry forward net losses over the sebsequent 5 tax years, with no limit on the carryforward amount. Then, Act 788 of 2002 set a term of 8 years, where each annual carryforward could not exceed 25% of the total net tax loss. After that, Article 5 of Act 1111 of 2016 – which modified Article 147 of the Tax Code – did not set any limits neither concerning the timing or the amount of the allowable carryforwards. Finally, under Act 1819 of 2016, losses incurred in tax year 2017 and thereafter may be carried forward against income of the following 12 tax years only. For losses that were incurred before 2017, there are transition rules made to determine the carryforward amount under a formula set by the law.

In regard to merger and spin off processes, the absorbing company or the company derived from the spinoff may offset the net tax losses of the merged or spun-off companies against regular, future net income, but only up to a limit equal to the percentage that the equities of the merged or spun-off companies represented in the equity of the absorbing company or the company derived from the spinoff process.

g. Amortization of investments

The amortization is the allocation of the cost of intangible property over the useful life of the property or during any other period determined under valid criteria.

The following are deductible items:

- **Prepaid expenses:** These are deducted periodically as the taxpayer receives the corresponding services.
- **Incorporation and startup disbursements:** These are deducted using the straight-line method at an annual rate of 20% of the tax basis, [deducted in equal shares during the life of the contract from when the taxpayers starts generating income.
- **Research, development and innovation:** As a general rule, this starts at the point where the research and development and innovation project comes to an end, regardless of success or failure. The cost will be amortized in equal shares over the time the taxpayer expects to obtain income; but, in any event, the deductible amount cannot exceed 20% of the corresponding tax basis per year.

In the case of intangible property, taxpayers may deduct 20% of the tax basis of investments made in intangible property for the purpose of the business or activity, under certain rules established by the law.

h. Depreciation

Taxpayers may deduct reasonable amounts of depreciation accruing for the normal wear and tear or the obsolescence of fixed assets used in any income-producing business activities, as per the table below:

The useful life of assets is determined in accordance with the IFRS (international financial reporting standards), but it is possible to use other methods.

Annual depreciation rates will range between 2.2% and 33%. Other depreciation rates may be used, the above notwithstanding.

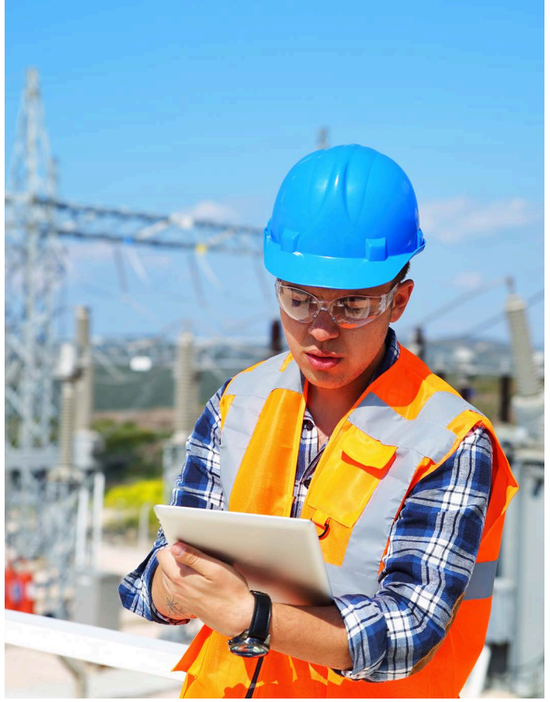
The application of any excess depreciation rates may generate timing differences.

	Assets			
	Constructions and buildings	Aqueduct, plant and networks	Thoroughfares	Air fleet and equipment
Annual tax depreciation	2.22 %	2.5 %	2.5 %	3.33 %

	Assets			
	Railroad fleet and equipment	Armory and vigilance equipment	Electrical equipment	Land transport fleet and equipment
Annual tax depreciation	5 %	10 %	10 %	10 %

	Assets			
	Machinery and equipment	Furniture and office elements	Scientific medical equipment	Containers, packaging and tools
Annual tax depreciation	10 %	10 %	12.5 %	20 %

	Assets		
	Computer equipment	Data processing networks	Communication equipment
Annual tax depreciation	20 %	20 %	20 %



i. Exchange gains and losses

Any foreign-currency denominated revenues, costs, deductible expenses, assets and liabilities must be measured on the date of their initial recognition in Colombian pesos at the representative market exchange rate (TMR, from its acronym in Spanish).

Any variations in the COP value of any foreign-currency denominated assets and liabilities will not have any tax effects until the assets are sold or when there is a credit to the asset account or until the liabilities are settled or paid partially. Where the asset is sold or where a credit is entered in the asset account, or where the liability is settled or paid partially, as the case may be, the variation is recognized at the TMR of the initial recognition.

The taxable exchange gain or the deductible exchange loss on any of the above events corresponds to the difference between the TMR of the initial recognition and the TMR of the date of the credit to the account or payment (realized exchange gain or loss).

j. Limitations and prohibitions concerning deductions

As a rule, the following limitations apply to income tax deductions:

- The maximum deductible amount for the concepts of customer service, providers and employees, such as presents, tokens of courtesy, parties, celebrations and social gatherings, is 1% of the net, effectively realized tax revenues.
- Any payments for salaries and labor benefits that result from labor litigation are deductible at the time of the payment, provided that the taxpayers prove that they have met the entire requirements set for the deduction of salary payments.

k. First job deduction

Income taxpayers that are also income tax return filers may deduct as much as 120% of the total salary payments made to employees under 28 years of age hired by them, when it can be proven that this is their first job.

Now, this deduction will be allowable in the tax year in which the employee is hired by the taxpayer and cannot exceed 115 TU, monthly, per employee. Finally, the Ministry of Work must issue a certificate attesting to the fact that the job of the person under 28 years of age is indeed their first job, as a requirement for the deduction to be admissible.

i. Losses and accounts receivable from utility companies

Intervened companies may contribute the right to offset tax losses against their ordinary liquid income outside of the established limitations. It is also possible to assign accounts receivable, with the right to claim the deductions established under Articles 145 and 146 of the Tax Code.

m. Deduction of costs and expenses for independent professionals

Independent professionals may deduct their costs and expenses in connection with their work income earned as professional fees and compensation for personal services. However, under the rule of law, the taxpayer must choose this treatment or must instead choose the 25% exempt income benefit established under Article 206 (10) where the taxpayer meets the requirements set in paragraph 5 of that article.

n. Other deductions

Under Act 2010 of 2019, the following items may still be deducted as employee education allowances:

a.

Payments made to fund full or partial scholarship programs, and condonable educational loans, established by corporate entities for the benefit of their employees or the employees' families.

b.

Investment payments made for schooling programs or attention and stimulation and comprehensive development schooling programs or preschool programs for boys and girls under 7 years of age, established by companies for their employees' children exclusively.

c.

Contributions made by companies to elementary, junior and high school institutions recognized by the Ministry of Education; and contributions made to technical, technological, and higher education institutions that meet the requirements established by the Ministry of Education. These qualify for the benefit if they benefit local communities and areas of influence where the legal entity carries out its productive or commercial operations.

For any payments in excess of 100 TU to be deductible for income tax purposes or to be creditable for tax purposes, or acceptable as valid tax debts, the payments must be made through the financial system.

The following are nondeductible:

- Any expenses originating from conducts normally qualified as criminal.
- Royalties paid to foreign related parties or to any parties operating in free-trade zones as compensation for the exploitation of intangible property created in the national territory.
- Any royalties realized during the tax year where the same are associated with the acquisition of finished products.

6. Tax credits

Under tax law, certain amounts may be credited directly against the income tax liability computed by the taxpayer. These include, among others, the following:

- Foreign tax credits for taxes paid abroad by resident taxpayers earning foreign source income.
- Investments made in the control, preservation and improvement of the environment (25%, with a prior certificate from the environmental authority).
- 25% of the amount donated to non-for-profit entities that belong in the special tax system.
- Investments in technological research and development and innovation.
- VAT collection agents may claim the sales tax (or VAT) paid on the import, formation, construction or acquisition of real productive fixed assets as an income tax credit in the tax year in which they pay the VAT or in any subsequent tax years.
- In no case may the tax credits exceed the total amount of the income tax liability. In no case may the net income tax, as determined after all tax credits, be less than 75% of the tax determined using the alternate presumptive income tax computation method before any tax credit.
- Investments made in research projects, technological development and innovation projects, or for the retention of highly qualified human resources, for investments made by micro, small and medium-size enterprises.

7. Exempt income

New items of exempt income. Conditions

a. Orange economy

Any income derived from the activities of technological value-added industries and specifically listed creative activities will be income tax exempt for a term of 7 years. Requirements: (i) The main domicile must be within the national territory, and the line of business must be one of exclusive dedication to these industries. (ii) These activities must be carried out by companies that are established and start economic operations before December 31, 2021; (iii) the activities must correspond to the activities included in the list set by the law; (iv) they must create a minimum number of three (3) jobs, which must relate to the industries referred to above; (v) the project must be submitted to the Ministry of Culture; and (vi) a minimum amount must be invested (4400 TU) within a term not to exceed 3 years.

b. Development of Colombian rural areas

Any income derived from investments made that increase productivity in the farming sector will be income tax exempt for 10 years. Requirements: (i) the line of business must be exclusive; (ii) the company must be established and start economic operations before December 31, 2022; (iii) the project must create a minimum number of jobs (10) and it must meet a minimum investment amount (25,000 TU); (iv) the project must be submitted to the Ministry of Agriculture. Other requirements: this exempt income will benefit entrepreneurial, investment or business schemes.

c. New jobs

The following are additional requirements established by law for the relevant taxpayers to claim exempt income for activities that increase their productivity in the farming sector. (i) Proving that they have hired a certain minimum number of permanent employees that carry out functions that relate to activities that increase productivity in the farming sector through a regular labor contract. (ii) The number of employees required to enjoy the benefit must be directly related to the gross revenue obtained in the tax year; a minimum investment in property plant and equipment over a term of 6 years is required also. (iii) The taxpayer must be registered in the unified tax register system with a RUT form showing that he is a regular income taxpayer. (iv) The taxpayer must prove that the minimum requisite employees are neither managers of the company nor members, partners, shareholders, associates, cooperative partners, joint holders or joint venture partners of the same. (v) The benefit will not apply where the new employees have worked during the year in which they are hired or during the prior year for any company that is a related company for the taxpayer, or who are employees who came from merger or spinoff processes carried out by the taxpayer. (vi) To prove that the jobs meet the minimum requisite time to qualify as permanent jobs as of June 30 of each year, the taxpayer must file the statement referred to in the mentioned article and prove that the employees are still his employees at December 31 of the same year.

d. Income of Justices, Judges, Prosecutors and their Court Assistants (Procuradores Judiciales)

The Law of Economic Growth resuscitated this benefit. Thus, under the law, 50% of the so-called representation expenses of the Court Justices, their Prosecutors and their Court Assistants qualify as exempt income; in the case of regular Judges of the Republic, 25% of their salary payments qualify as exempt income also. The limitation set in Article 336 of the Tax Code does not apply to this exempt income.

e. Other exempt income

The items of income described below qualify as exempt income under the law, provided that the taxpayer meets the requisite conditions to claim the exempt income:

- Any gains from sales of property earmarked for public interest projects or social interest projects (social interest housing projects).
- The provision of fluvial transportion services with shallow draft vessels for 15 years.
- The tax incentives set for orange economy literary creations, under Article 28 of Act 98 of 1993.
- Income derived from new forestry plantations, including *guadua*, rubber and *marañón*.
- Resources from the General Social Security System.
- Income generated by the stabilization reserve established by pension and severance pay fund management companies under Article 101 of Act 100 of 1993.

8. The capital gains tax

As a supplementary tax for the income tax, the capital gains tax is applied to certain items of income that are obtained in certain transactions defined by the law expressly. Capital gains may not be reduced by the regular deductible costs and expenses of the taxpayer; and capital losses may not be used either to offset the regular taxable income of the taxpayer.

The current, general capital gains tax rate is

10%

The special tax rate for capital gains originating in lotteries, raffles, betting and similar games is of

20%

Withholding taxes

Under Colombian tax law, withholding taxes are used as a mechanism to collect taxes in advance. By rule of the law or government regulation, this mechanism authorizes a private or public person to collect certain taxes or to self-collect certain taxes depending upon certain special characteristics. Under the Colombian Tax Code, among other persons, the following are withholding tax collection agents: Any persons who or which are parties to transactions in which by express rule of law must collect withholding taxes.

The main obligations of withholding tax collection agents are as follows: to collect the applicable withholding tax amounts; to deposit the amounts so collected from financial institutions or banks on or before the deadline set by the government; to file monthly withholding tax returns; and to issue withholding tax collection certificates.

Because there are many different withholding tax rates on local payments and on payments paid abroad, the specific withholding tax rates depend upon the specific nature of the items being paid.

Act 2010 of 2019 modified the withholding tax rates that apply to labor payments and payments received for retirement, disability, old age and surviving-spouse/kin pensions (exceeding 1000 TU) and labor risk related payments made to individuals. These modified rates apply under the rule of Article 206 of the Tax Code and are as follows:

TU ranges		Marginal Rate	WithholdingTax
From	To		
>0	95	**0,0%**	0
>95	150	**19,0%**	(Taxable labor revenue stated in TU minus 95 TU)***19 %**
>150	360	**28,0%**	(Taxable labor revenue stated in TU minus 150 TU)***28 % plus 10 TU**
>360	640	**33,0%**	(Taxable labor revenue stated in TUminus 360 TU)***33 % plus 69 TU**
>640	945	**35,0%**	(Taxable labor revenue stated in TU minus 640 TU)***35 % plus 162 TU**
>945	2300	**37,0%**	(Taxable labor revenue stated in TU minus 945 TU)***37 % plus 268 TU**
>2300	and above	**39.0%**	(Taxable labor revenue stated in TU minus 2300 TU)***39 % plus 770 TU**

Rules for mega investments

The purpose of these rules is to foster investment and the generation of jobs by giving tax incentives to taxpayers that make investments and meet the requirements established by the law.

Benefits

1.

The income tax rate is of 27%.

2.

Depreciation of fixed assets over minimal terms of 2 years.

3.

Exoneration from presumptive income rules.

4.

If the investment is made through national companies or permanent establishments, the following rules will apply in respect of the tax on dividend distributions:

- If the dividends are paid from earnings that were taxed at the level of the company making the distributions, the dividend distributions will not be subject to tax.
- If the dividends are paid from earnings that were not taxed at the level of the company making the distributions, a flat 27% rate will apply.

5.

Mega-investments will not be subject to the wealth tax.

6.

Taxpayers making mega-investments may qualify for legal stability contracts under the following conditions:

This stability applies for the tax benefits and conditions that relate to the benefit. The qualification procedure is carried out before the Ministry of Commerce, Industry and Tourism according to regulations issued by the national government. The legal stability contract is signed with DIAN. The taxpayer must pay a premium equal to 0.75% of the value of the investment made every year, which cannot be less than 30,000,000 TU.

Requirements

(i) Create a minimum number of 400 jobs. In the case of investments in the sectors of high technology components and emerging and exponential technologies, the requirement is to create 250 jobs at a minimum. (ii) The minimum investment amount of the investments made is 30,000,000 TU. (iii) The investments must be made in property, plant and equipment. And (iv) the investment must be made within a term not to exceed 5 years, counted from the date on which the mega investment project is approved. (i) These rules will apply to investments made before January 1, 2024, over a term of 20 years. (ii) The Ministry of Commerce, Industry and Tourism is the agency in charge of qualifying any given project as "mega-investment". (iii) These rules will not apply for any investments made in nonrenewable natural resources evaluation and exploration projects. (iv) Taxpayers will be allowed to sign legal stability contracts so that these benefits are guaranteed. (v) Lastly, the law provided that there can be made a investments in free-trade zone areas that are covered by the same rules.

International Taxation

1. Rules on Colombian Holding Companies

Taxpayers that qualify for this tax system

Any national companies which main line of business is the holding of securities or negotiable instruments, investments in or holding of shares of stock and equity interests in Colombian or foreign companies, and/or the management of said investments.

Requirements to qualify for the benefit

1. Direct or indirect equity holdings, of at least 10% of the corporate capital of one Colombian or foreign companies for a minimum of 12 months.

2. Having at least 3 employees, and a fixed address in Colombia. Proving that strategic decisions about the investments and CHC assets are made in Colombia. To this end, the mere formal requirement of holding the annual shareholders meeting in the country will not be enough.

3. Submitting a communication to DIAN, on the forms established by regulation. The special CHC rules will apply starting in the tax year in which the taxpayer submits this communication to DIAN. The benefits will be lost in any tax year in which the taxpayer fails to meet any of the requirements and these are rejected by DIAN. It will be understood that decentralized state companies that hold equity interests in other companies will be covered by the CHC rules.

Benefits of the CHC rules

- Any dividends or profits share distributions made by nonresident entities to a CHC will be income tax exempt, and will be reported as such (exempt income).
- Any dividend distributions from the CHC to a nonresident shareholder, individual or corporate, will be treated as foreign source income.
- Any income or gains derived from the sale or transfer of any CHC holdings in foreign companies would be income tax exempt.

2. Indirect transfers

Indirect transfers are made through the transfer of an ownership share held in an asset, either where this share is transferred totally or partially, with the transfer taking place between related or unrelated parties.

Where a subsequent indirect transfer is made, the tax basis of the underlying asset will be the prorated value paid for the shares or equity interests of the foreign entity that holds the underlying assets located in Colombia.

Likewise, the law establishes that the rules established by Article 319-8 of the Tax Code will apply in the case of mergers and spinoffs between foreign companies where the above scenario occurs.

In regard to this, if the value of the assets held in Colombia does not exceed 20% of the value of the total group assets, according to the consolidated financial statements of the parent company of the entities involved in the transaction, then the transaction will not be taxable in Colombia.

Otherwise, the transaction will be treated as a transfer that is taxable in Colombia, and the rules on indirect sales will therefore apply.

3. Foreign assets return

Only those taxpayers that hold assets abroad, where the patrimonial value of the assets exceeds 2000 TU will be required to file a foreign asset return. Additionally, the penalties set for the late filing of these returns are reduced as follows:

Time of filing/Item	Act 1943 of 2018	Act 2010 of 2019	
		Year 2020 and thereafter	Year 2019 and prior years*
Taxpayer files return before receiving a request to file the return	1.5% of total asset value	0.5% of total asset value	0.1% of total asset value
Taxpayer files return after receiving a request to file the return and before the respective resolution that imposes a penalty for failure to file return is issued	3% of total asset value	1% of total asset value	0.2% of total asset value
In any event, the amount to the penalty may not exceed	25% of the asset value of the foreign assets	10% of the asset value of the foreign assets	2% of the asset value of the foreign assets

* This applies provided the taxpayer files the 2019 and prior-years foreign asset returns and pays the related late filing penalties on or before April 30, 2020.

4. Payments to tax havens ("non-cooperating jurisdictions", "jurisdictions of low or zero taxation") and to entities that belong in preferential tax systems

a. Criteria used to identify the above

	Non-cooperating jurisdictions and low or zero imposition jurisdictions. They are determined by the government based on the following criteria:	Entities that belong in preferential tax systems
A.	Nonexistence of tax rates, or existence of low-income tax rates in respect of those that would apply in Colombia on similar transactions.	Nonexistence of tax rates, or existence of low-income tax rates in respect of those that would apply in Colombia on similar transactions.
B.	Lack of an effective exchange of information; or existence of legal rules or administrative practices that limit this exchange.	Lack of an effective exchange of information; or existence of legal rules or administrative practices that limit this exchange.
C.	Lack of transparency at the level of the law or the regulations or in the way the Administration works.	Lack of transparency at the level of the law or the regulations or in the way the Administration works.
D.	The requirement of an actual substantial presence does not apply, nor that of the exercise of a real activity with economic substance.	The requirement of an actual substantial presence does not apply, nor that of the exercise of a real activity with economic substance.
E.	Besides the above criteria, the national government will use as reference internationally accepted criteria for the determination of non-cooperating jurisdictions or low taxation or zero taxation jurisdictions.	These are tax regimes open only to persons or entities that qualify as nonresidents in respect of the jurisdiction in which the preferential tax regime functions (ring-fencing practice).

b. Effects of this classification

Any payments or credits to account made to any of the above taxpayers/entities] will be subject to withholding tax collection at the general corporate income tax rate.

Any payments or credits to account to non-cooperating jurisdictions or low tax or zero tax jurisdictions or payments or credits to account made to entities belonging in any preferential tax regimes qualified as such by the national government will not be deductible, unless withholding income taxes have been actually collected from them (when applicable).

On the other hand, in addition to general deductibility requirements, the payments or credits to account made to these jurisdictions must meet the following conditions:

- The transactions must be subject to transfer pricing rules and the taxpayer must meet the obligation of filing a transfer pricing study and a transfer pricing information return regardless of whether its gross assets as at yearend or its gross revenue of the respective year are below the requisite threshold amounts.

- The taxpayer must document and show in detail the functions carried out, the assets used, the risks assumed and the total costs and expenses incurred by the mentioned person or company to carry out the activities that generated the mentioned payments; otherwise these payments will be treated as non-deductible for income tax purposes. The “mentioned person or company" is the person or company located in or that is a resident of the noncooperating jurisdiction or the low tax or zero tax jurisdiction or the entity belonging in a preferential tax system.

c. Effective beneficiary

Subsidiaries of foreign companies, as well as any permanent establishment of foreign companies, trusts and collective investment portfolios are required to provide detailed information about the effective beneficiaries of their payments or credits to account. The tax reform includes the definition effective beneficiary as follows:

- To exert effective, direct or indirect control over a national company, an agent, a trust, a collective portfolio investment, or a permanent establishment of a foreign company.

- To be the direct or indirect beneficial owner of the transactions and activities carried out by the national company, the agent, the trust, the collective portfolio investment or the foreign company with a permanent establishment in Colombia.

- Effective beneficiary means the individual that ultimately holds, controls or benefits from, directly or indirectly, a legal entity or an unincorporated vehicle or structure who also meets the following conditions:

  - A individual that holds directly or indirectly 5% or more of the equity interests or the voting interests of the legal entity or unincorporated vehicle or structure.

  - A individual who, individually, or jointly with his/her kin through the fourth degree of consanguinity or affinity, exerts direct or indirect control over the legal entity or unincorporated vehicle or structure. The following procedure applies to determining whether this control exists:

    - The individual that ultimately holds, directly or indirectly, substantial control or the controlling equity interests in the property.

    - If there is no certainty about who such individual would be – the effective, ultimate or real beneficiary –, then the individual who holds control over the legal entity or unincorporated vehicle or structure by any other means. If it is still not possible to identify the effective beneficiary, then the individual holding the highest executive management position in the legal entity or unincorporated vehicle or structure will be the effective beneficiary.

    - A individual who benefits from 5% or more of the earnings, profits or assets of the legal entity or unincorporated vehicle or structure.

Additionally, the law created the Unified Register of Effective Beneficiaries – ultimate or real –, RUB (from its acronym in Spanish), which DIAN will operate and manage. This register will be implemented through resolution.

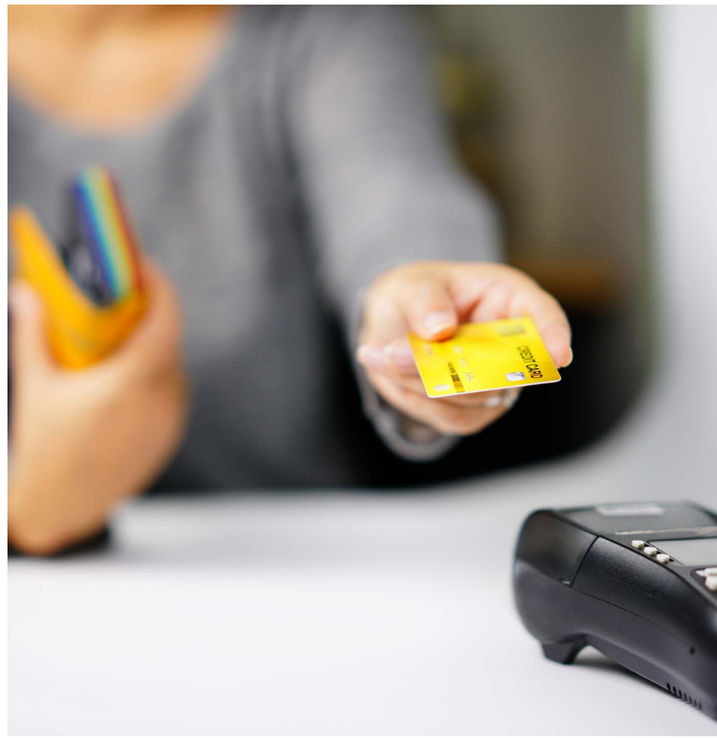
5. Presumptions for controlled foreign companies (CFC)

In case the active income or the substantial economic operations of controlled foreign companies represent more than 80% of their revenue or income, their entire revenues, deductible costs and expenses will originate active income. Contrariwise, where the passive income of the CFC represents 80% or more of its total income, then the entire revenue, deductible costs and expenses of the CFC will originate *passive income.*

6. Transfer pricing regulations

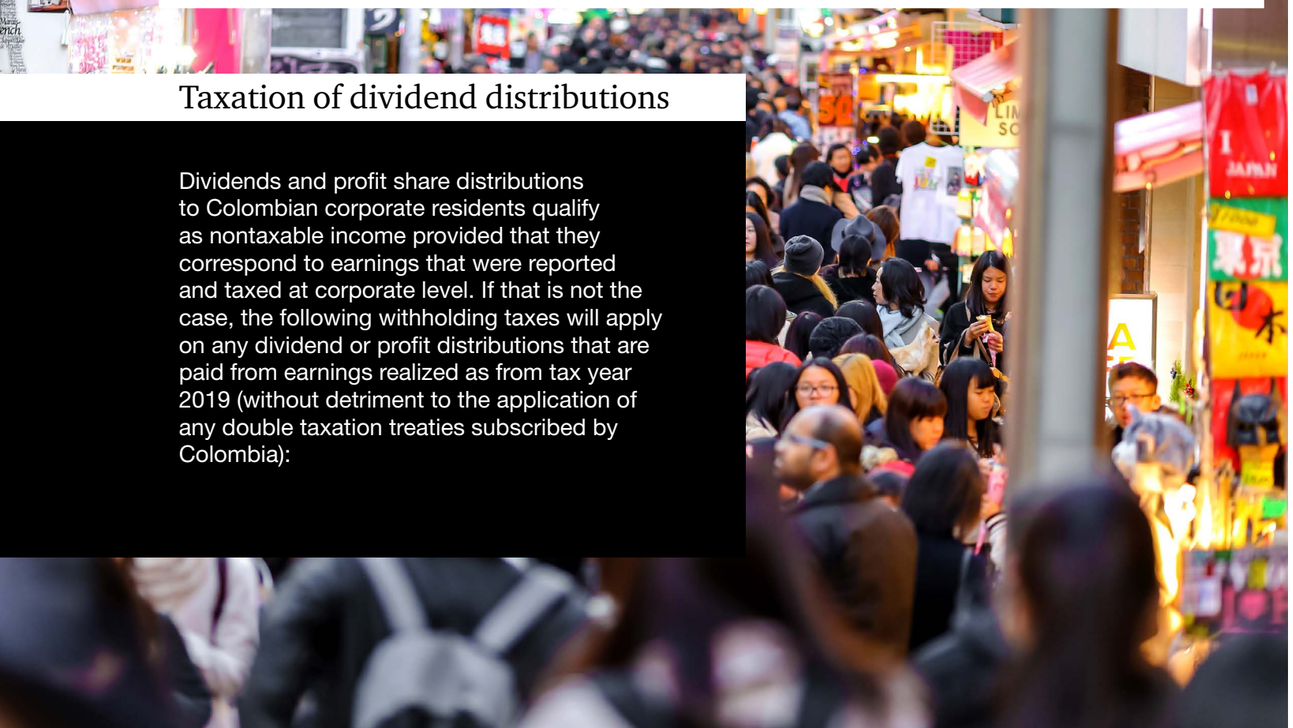
Colombian transfer pricing regulations were drafted based upon the guidelines set by the Organization of Economic Cooperation and Development (OECD), and they came into force as part of the Colombian tax system in 2004.

Under these regulations, all income tax payers who enter into transactions with foreign related parties must determine their revenues and deductible costs and expenses based upon the prices and profit margins that would have been used in comparable transactions with or between unrelated parties.



7. • Withholding taxes for payments made abroad

Type of payment	Type of payment
Interest, commissions, royalties, rentals, compensation for personal services, industrial property or know-how. 20 % Act 2010 of 2019	Loans for the financing of PPA projects. 5 %Act 2010 of 2019
Technical services, technical assistance, and consulting services. 20 % Act 2010 of 2019	Financial leases of aircraft, helicopters and other airplanes. 1 %Act 2010 of 2019
Computer software royalties. 20 % Act 2010 of 2019	Film royalties. 15 % Act 2010 of 2019
Management services. 33 % Act 2010 of 2019	Cession of reinsurance premiums. 1 % Act 2010 of 2019
Loans for a term of 1 year or more; financial lease payments (transition). 15 % Act 2010 of 2019	International transport. 5 % Act 2010 of 2019



Taxation of dividend distributions

Dividends and profit share distributions to Colombian corporate residents qualify as nontaxable income provided that they correspond to earnings that were reported and taxed at corporate level. If that is not the case, the following withholding taxes will apply on any dividend or profit distributions that are paid from earnings realized as from tax year 2019 (without detriment to the application of any double taxation treaties subscribed by Colombia):

1. Individuals

a. Dividends paid from profits already taxed in the hands of the company

TU Ranges	Taxes
From > 0 to 300 Marginal Rate 0%	0
From 300 and above Marginal Rate 10%	(TU dividends minus 300)*10%

b. Dividends paid from profits that were not taxed in the hands of the company

These are taxable at the general income tax rate depending upon the tax year in which they are paid or credited to account. In this case, the 10% rate will apply after the tax has been deducted (32% for 2020, 31% for 2021, and 30% for 2022 and thereafter).

2. Corporate entities /Legal entities

Tax year	Dividends paid from profits already taxed in the hands of the company that distributes them	Dividends paid from profits not taxed in the hands of the company that distributes them
2020	10%	32% (on the net)
2021		31% (on the net)
2022		30% (on the net)

The following rules will apply in the case of Colombian companies:

- The withholding tax will only be collected from the first dividend distribution paid to the Colombian company.
- The credit will be allocated down through the individual who is the final beneficiary.
- Any dividend distributions that were declared and were due and payable as of December 31, 2018 will be treated under the rules that were in force before this law came into effect.

Double Taxation

Colombia has been negotiating double taxation treaties to avoid double taxation and prevent tax evasion in point of income taxes and patrimony taxes, particularly with respect to cross-border transactions.

At the level of the Andean Community of Nations, Colombia adopted Decision 578 which contains the new Andean Community regulations designed to avoid double taxation and prevent tax evasion between the member countries of the CAN (Colombia, Peru and Ecuador). In regulating the taxing power of the member states, this decision favors the criterion of source-based taxation above residence-based taxation.

The double taxation treaties signed by Colombia to date seek to avoid international double taxation and prevent tax evasion; and in addition to that, they seek to eliminate barriers to the flow of capitals, goods, technologies and persons between the signatory countries.

Additionally, these treaties help countries to better implement transfer pricing regulations; they recognize the principles of nondiscrimination of nationals and nonresidents which carry out activities in any other counterparty countries; they implement procedures of reciprocal cooperation between taxing authorities for the resolution of conflicts, the making of consultations, the exchange of information, and assistance in tax collection efforts.

The following double taxation treaties are in force as of this date. DTT with Spain, Chile, Portugal, Korea, India, Mexico, Czech Republic, Canada, Switzerland, Italy and the United Kingdom. Double taxation treaties were also signed with France and Japan, and the related, internal approving legislation is expected to be promulgated soon.

Sales Tax or VAT

1. General aspects

This is a national tax which taxes the following mainly:

- The sale of tangible personal property or real property that have not been exempted expressly.
- The sale or assignment of industrial property rights.
- The provision of services in the national territory or from abroad, except for services that have been exempted expressly.
- Imports of personal property that have not been exempted expressly.
- Gambling and other similar games, except for lotteries and gambling and similar games that are operated on the Internet exclusively.

Save for a few, quite particular exceptions, the sales tax has been structured as a value-added tax. This means that VAT collection agents may credit the amount of the VAT paid on the goods and services that they buy to generate the revenue of VAT taxable transactions against the VAT payable on their sales to determine the net VAT payable to the government.

The VAT collection agent required to collect and pay the tax to the government is any person that realizes any of the taxable events. This is so despite that it is the end-user who assumes the economic burden of the tax.

Generally, the taxable base is the total value of any sales and service transaction. The taxable base of the VAT comprises the property or services acquired for the account of or in the name of the purchaser of the goods or services provided. Additionally, there are special taxable bases for certain types of goods and services.

The general VAT rate that applies to the majority of transactions is 19% today; and there is a special rate of 5%.

The VAT liability is determined as the excess of VAT charged on taxable transactions over and above total admissible VAT setoffs.

Under Act 2010 of 2019, the list of items of property and services that are VAT exempt, zero-rated and taxed at the rate of 5% was modified as follows:

Property	Departments	Treatment
Human and animal food, clothing, cleaning elements and medication for human or veterinary use, construction materials.	That are introduced and sold in the departments of Guaviare, Guainía, Vaupés and Vichada, provided that they are sold exclusively for consumption within the department.	Exempt
Human and animal consumption food, clothing, cleaning elements and medication for human or veterinary use, construction materials.	That are introduced and sold in the Department of Amazonas.	Zero rated
Bicycles and their parts, motorcycles and their parts, and motorbike-cars and their parts.	That are introduced and sold in the departments of Amazonas, Guaviare, Guainía, Vaupés and Vichada, provided that they are sold exclusively for consumption within the department, and provided that the motorcycles and motorbike-cars are registered in the Department. The property indicated above will also be VAT zero rated if they are imported into national customs territory and are subsequently destined for these departments exclusively.	Zero rated
Bicycles, electrical bicycles, electrical motorcycles, skateboards, electrical skateboards, scooters and electrical scooters, of up to 50 TU.	N/A	Exempt
Electrical motorcycles (including mopeds) which value exceeds 50 TU.	N/A	Taxed at 5%

2. VAT exempt goods and services

Several articles that are basic household consumable goods (or a part of the so-called canasta familiar in Spanish – or "family basket") are VAT exempt, as well as many agricultural and farming products. We highlight the following goods which are also VAT exempt:

- National and imported equipment and elements earmarked for the construction, set up, mounting, and operation of environmental monitoring and control systems.
- Personal desktop computers or personal laptops where their value does not exceed 50 TU.
- Smartphones and tablets where their value does not exceed 22 TU.
- Regular permanent imports made by ultra-frequent exporters (ALTEX from its acronym in Spanish) of industrial machinery that is not manufactured in the country, earmarked for the transformation of raw materials.
- All sales of real property.
- Sales of certain articles, such as human and animal consumption foodstuffs, clothing, cleaning elements and medication for human or veterinary use, etc. that are introduced and sold in the departments of Guaviare, Guainía, Vaupés and Vichada.
- Commissions earned by stock exchange brokers for the management of mutual funds.
- Bicycles, electrical bicycles, electrical motorcycles, skateboards, electrical skateboards, scooters and electrical scooters, of up to 50 TU, as VAT exempt property.
- Sales of property invoiced by merchants whose exclusive line of business is the sale of scientific or cultural books, magazines, booklets or collectible series, where these are sold at commercial establishments legally qualified and open to the public consumer (booksellers).

With respect to VAT exempt services, we highlight the following:

- Reinsurance brokerage services.
- Public or private cargo transport, national and international.
- Public land, maritime or river transport of passengers in national territory.
- National air transport of passengers to national destinations that have no organized land transport systems.
- Transport of gas and hydrocarbons.
- Interest and financial income on loan transactions and financial leases.
- Medical, dental, hospital, clinic and laboratory human health services and beauty treatments.
- Public utility services including electric power, water, sewage, street cleaning, garbage collection and residential gas supply.
- Inbound or outbound tourism air transport to and from the Department of Guajira and the municipalities of Nuquí (Department of Chocó), Mompox (Department of Bolivar), Tolú Department of Sucre, Miraflores (Department of Guaviare) and Puerto Carreño (Department of Vichada).

- The initial monthly 325 minutes of local telephone services provided to social strata 1, 2 and 3 users.
- Food services contracted with public resources for the Military, the National Police, child development centers, nursing homes, public hospitals and community service diners.
- Hotel and tourism services that are provided in any of the municipalities comprised in the following special customs duties regime areas: integran las siguientes zonas del régimen aduanero especial:

Urabá
Tumaco and Guapi
Inírida
Puerto Carreño
La Primavera and
Cumaribo Maicao
Uribía and Manaure

3. Goods and services that were VAT exempt and are now VAT taxable

Under the changes enacted by the so-called Financing Act and The Economic Growth Act the following, former VAT exempt goods and services are now VAT taxable:

- Franchise contracts.
- Remote maintenance services for software and hardware.
- Commissions earned by investment management companies, life insurance sales and capitalization securities management companies.
- Remote maintenance services for hardware and software.

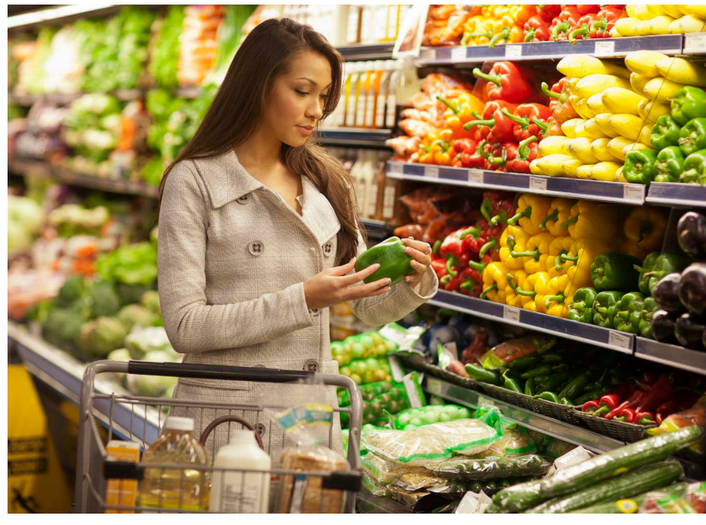
4. VAT zero-rated goods and services

Under the new Act 2010 2019, the following, formerly VAT taxable goods and services now qualify as VAT zero-rated goods and services (this rule replicates a rule under Act 1943 and includes other additional goods and services):

- Whole public passenger transport motor vehicles; the chassis and the motor, and the car body, acquired separately to assemble new whole public transport passenger motor vehicles.
- Whole public or private cargo transport service motor vehicles; the chassis and the motor, and the car body, acquired separately to assemble new whole cargo transport motor vehicles weighing more than 10.5 gross vehicle weight.

  – Those who qualify for this beneficial tax treatment must do the following: (i) maintain the mentioned property as fixed assets; (ii) if the seller of these vehicles – a tax collection agent – is a [merchant] [distributor] [marketing agent], the procedure for the refund or offset of the tax established in the law may apply; and (iii) this benefit extends to those taxpayers that acquire this property under financial lease contracts having a non-revocable purchase option. In case of non-compliance, payment of the corresponding tax will be due.

- Products of the following customs tariffs positions: 29.36 (pro-vitamins and vitamins, among others); 29.41 (antibiotics); 30.01 (glands and other organs for opotherapeutic uses, among others); 30.02 (human blood, animal blood, among others); 30.03 (medications – except for products of the positions 30.02, 30.05 or 30.06 – made up of products that are mixed for therapeutic or prophylactic uses, without being broken down into doses nor conditioned for retail sales); 30.04 (medications - except for products of the positions 30.02, 30.05 or 30.06 - made up of products that are mixed for therapeutic or prophylactic uses, without being broken down into doses nor conditioned for retail sales); and 30.06
- Human and animal consumption products, clothing, cleaning elements and medication for human or veterinary use, construction materials, in the Department of Amazonas, provided certain requirements are met.



5. Special VAT zero rated treatment

The tax reform created a special 3-day window in the year where the following pieces of personal property that are sold with the national territory will qualify for the VAT zero-rated treatment:

a.	Clothing accessories:	The per-unit sales price must be 10 TU or less, VAT excluded.
b.	Household electrical appliances:	The per-unit sales price was be 40 TU or less, VAT excluded.
c.	Sports elements:	The per-unit sales price must be 10 TU or less, VAT excluded.
d.	Toys and games:	The per-unit sales price must be 5 TU or less, VAT excluded.
e.	Clothing:	The per-unit sales price must be 10 TU or less, VAT excluded.
f.	School elements:	The per-unit sales price must be 3 TU or less, VAT excluded.

On the other hand, the rule of the law indicates that this property must be sold at physical stores, and that it applies to retail sales, within the periods set by DIAN by resolution. This measure could start as from July 1, 2020 and would be in force through June 30, 2021. At that time, the government will determine whether this measure is to be continued.

6. Creditable VAT

The VAT invoiced to the VAT collection agent on the acquisition or import of tangible personal property and services is a creditable VAT. For these purposes, VAT collection agents must keep in mind that the only actually creditable VAT is the VAT that they pay on acquisitions of personal property and services (imports of personal property included) where the underlying value is computable as a deductible cost or expense for income tax purposes and provided that they are earmarked for VAT taxable transactions.

Additionally, the law allows the tax collection agent to credit the value of raw materials and services under which the collection agent has already paid the VAT, according to the integration certificate, as follows. This credit applies to determine the taxable base on which VAT is computed on imports of finished products that are produced abroad or produced in a free-trade zone with national components, or products which are exported definitely, or are introduced definitely, or are made with imported raw materials.

The VAT collection agent may book the creditable VAT in any of the following VAT periods:

For those who file bimonthly VAT returns, in the term in which the VAT accrues or in any of the 3 following VAT periods.

For those who file quarterly VAT returns, in the term in which the VAT accrues or in the following VAT period.

No credit may be claimed for any VAT paid on any of the following transactions:

- Uncollectible credits and debts.
- Acquisitions from unregistered suppliers.
- Acquisitions from insolvent or fictitious suppliers.
- Acquisitions of fixed assets

7. New rules for VAT collection and non-VAT collection agents

Non-VAT collection agents

The so-called simplified VAT regime was eliminated. Instead of it, a new regimen is established which is merely one in which the following belong as non-VAT collection agents or persons that are not responsible for the tax: individuals who are businessmen and merchants,

craftsmen and artisans, small farmers and individuals who provide services, provided that they meet the following conditions:

1. That their total gross revenues for the prior or current year earned in their trade are less than 3500 TU.

2. That they do not have more than one commercial establishment, office, base, store or business point where they carry out their activity.

3. That no activities under franchises, concession contracts, royalty, authorization or any other system entailing the exploitation of intangible property are carried out in their commercial establishment, office, base, store or business point.

4. That they are not customs duties users.

5. That they have not entered into any contract for the sale of taxable goods or the provision of taxable services where the individual contract value is equal to or greater than 3500 TU, either in the current year or in the prior year.

6. That the total amount of their bank deposits or financial investments in the prior or current year of monies earned in taxable activities does not exceed 3500 TU.

Additionally, for individuals who provide personal services under contracts with the State, the thresholds on revenues, the signing of contracts, and bank deposits, above which they would qualify as VAT collection agents, were established by the law at 4000 TU (the general ceiling for these purposes is 3500 TU).

VAT collection agents

The so-called VAT, system was eliminated, and the system of VAT collection agents was established. VAT collection agents are those that do not meet the requirements to qualify for the above system of non-VAT collection agents.

With respect to the obligation of issuing invoices of those who provide services from abroad and who are not Colombian tax residents, the law established that they are not required to issue invoices for electronic or digital services.

8. VAT withholding tax

The national government may establish by regulation VAT withholding taxes, for as much as 50% of the tax value. Where there are no regulations establishing a special VAT withholding tax rate, then the rate will be 15% of the tax value.

The VAT withholding tax rate will be 100% in the case of digital services and services contracts that local VAT collection agents enter into with nonresidents.

9. Digital services

Those who provide digital and electronic services from abroad may file bimonthly VAT returns or may choose to pay through withholding tax collection under the following rules:

Which services are included?

a. Audiovisual services (music, videos, movies and any type of games, and the broadcasting of any type of events, inter alia).

b. Services provided through digital platforms.

c. Online advertising services.

d. Remote education or training services.

e. Assignment of intangible property use or exploitation rights.

f. Any other electronic or digital services for users located in Colombia.

Who would collect the withholding tax?

Credit and debit card issuing entities; prepaid card sellers; those who collect cash from third parties; and any others as designated by DIAN.

Who can elect the withholding tax system?

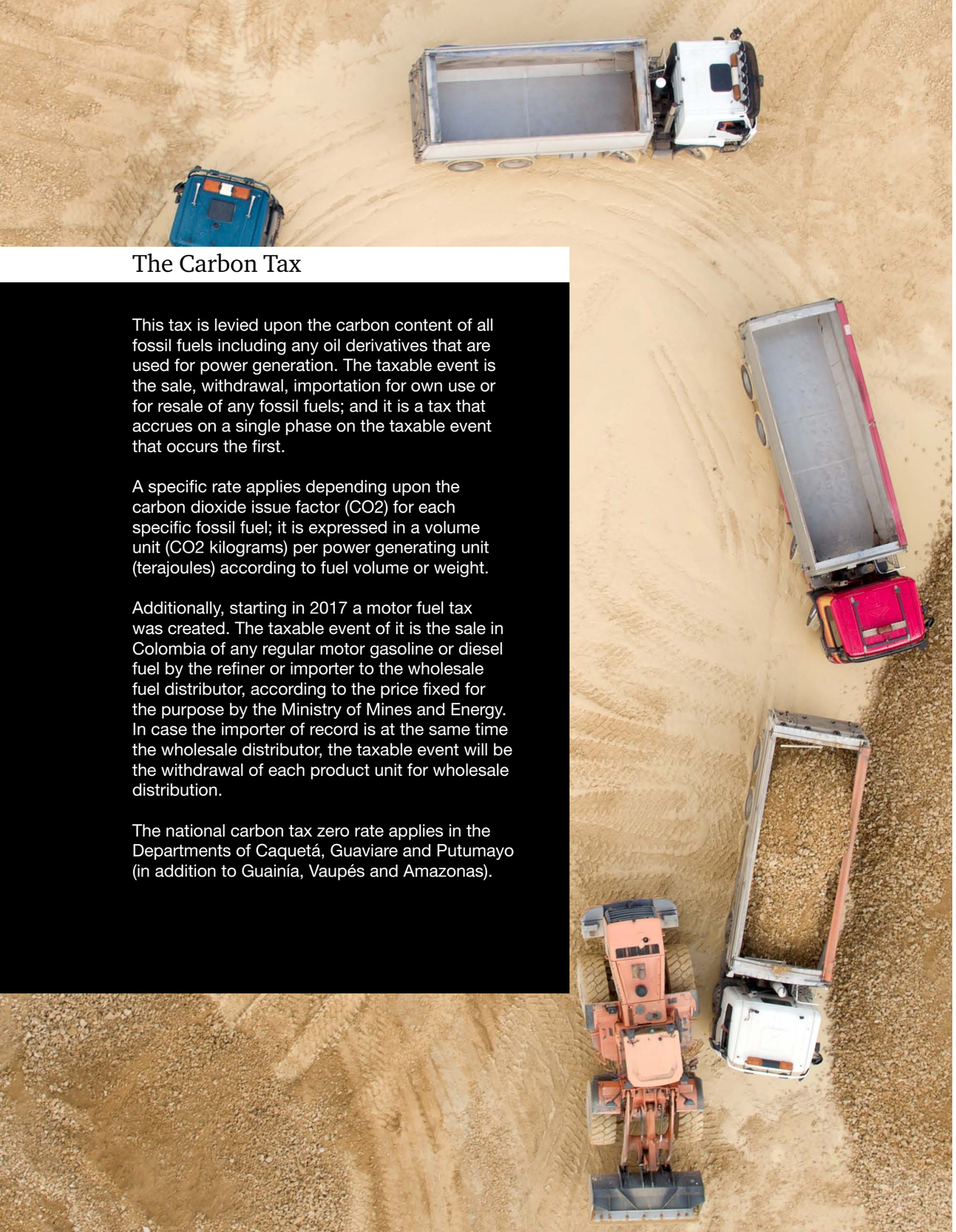
Those who carry out one or more of the above activities exclusively.
Those who fail to meet the VAT bimonthly return system, or those who choose this alternate tax payment system voluntarily.

Who must file VAT returns?

Those who do not elect the withholding tax payment system voluntarily.
Those who do not appear in the list of service providers from whom VAT must be collected.

Which would be the taxable base?

The amount invoiced or charged to or demanded from users located in Colombia.



The Carbon Tax

This tax is levied upon the carbon content of all fossil fuels including any oil derivatives that are used for power generation. The taxable event is the sale, withdrawal, importation for own use or for resale of any fossil fuels; and it is a tax that accrues on a single phase on the taxable event that occurs the first.

A specific rate applies depending upon the carbon dioxide issue factor (CO2) for each specific fossil fuel; it is expressed in a volume unit (CO2 kilograms) per power generating unit (terajoules) according to fuel volume or weight.

Additionally, starting in 2017 a motor fuel tax was created. The taxable event of it is the sale in Colombia of any regular motor gasoline or diesel fuel by the refiner or importer to the wholesale fuel distributor, according to the price fixed for the purpose by the Ministry of Mines and Energy. In case the importer of record is at the same time the wholesale distributor, the taxable event will be the withdrawal of each product unit for wholesale distribution.

The national carbon tax zero rate applies in the Departments of Caquetá, Guaviare and Putumayo (in addition to Guainía, Vaupés and Amazonas).

The National Excise Tax

The taxable event of the national excise tax is the provision or sale to the end-user or the import by the end-user of the following services and goods, which are taxed at the following rates:

- Mobile telephone services, Internet, mobile web surfing and data services: 4%
- The sale of certain items of luxurious personal property such as automobiles, motorcycles, yachts and hot air balloons: 8-16%
- The sale of prepared foods and beverages at restaurants, cafeterias, self-service stores, ice cream and fruit parlors, cake stores, bakeries, bars and catering services: 8%

Any taxpayers that carry out beverages and foods sales operations under franchise contracts are not subject to the national excise tax but to VAT instead. These taxpayers may elect this treatment through June 30, 2019.

The following are new rules that apply to those who are non-excise restaurant-and-bar tax collection agents, which replace former simplified tax system rules:

- Once a restaurant or bar has been registered as an excise tax collection agent, it may request to be removed from the register only after proving that the conditions of non-tax collection agents were met for the prior 3 tax years – and specifically in each one of those 3 years.
- In case non-excise tax collection agents do business with excise tax collection agents, they must register their condition as such in their unified tax registration form (or RUT) and deliver a copy of the form to the party acquiring their services.

The national excise tax has been incorporated into the new overall simplified tax system – the optional, all-inclusive SIMPLE tax system with annual returns and bimonthly estimated tax payments –, for those excise taxpayers who elect to belong in the SIMPLE system.

The Financial Transactions Tax – GMF (from its acronym in Spanish)

The financial transactions tax is a single event tax. Among others, the taxable event is the making of financial transactions by which the taxpayer disposes of resources held in savings or checking accounts as well as in special deposit accounts with the Bank of the Republic, and the drawing of cashier's checks. Because it is a single event tax, the tax accrues at the time the resources are disposed of through the financial transaction. The tax rate is four per thousand (4 x 1000 or 0.4%) of the total value of the financial transaction by which the taxpayer disposes of its resources. 50% of the GMF paid is deductible for income tax purposes regardless of whether or not the tax is causally connected with the income-producing activity of the taxpayer.

This tax is collected and paid by withholding tax collection carried out by the Bank of the Republic and the rest of financial institutions at which the respective checking, savings, deposit or collective-portfolio accounts are held; or where accounting movements are made entailing the transfer or disposal of resources. Under the law, there is a number of transactions that are exempt from this tax such as factoring transactions, the purchase or discounting of receivables and movements and withdrawals of severance pay deposits and the related interest made through credits to account, cash payments or payments with cashier checks, among others.

The wealth tax

This is a tax levied upon owners of assets worth 5,000,000,000 COP or more at January 1 of 2020, four years 2020 and 2021.

The former wealth tax was reenacted by Act 1943 of 2019 and Act 2010 of 2019 replicated the tax in point of its essential elements (taxpayer, the taxable event, taxable base and tax rate).

However, it establishes that those who are taxpayers under systems made to replace the regular income tax system (the so-called SIMPLE tax system) are also taxpayers of the wealth tax. Likewise, the law maintained the rule that allows taxpayers to subtract 50% of the so-called "normalized" property from the taxable base of the wealth tax. This applies to those who elected to pay the supplementary "normalization" tax in 2019 and those who elect to pay this tax in 2020, provided that they have repatriated their property into Colombia and invested it here with a view to keep it here permanently.

Lastly, the law established that 75% of the revenue collected from the wealth tax will be destined to finance investments in the farming sector.

The SIMPLE taxation system

1. General aspects

This is an optional tax system, where the tax accrues annually and is paid in bi-monthly [estimated tax payments]. It replaces the income tax and consolidates the following taxes: the industry and commerce tax and the related billboards tax; and the excise tax in the case of restaurants and food service providers.

The taxable event is the making of revenues that are capable of generating increases in net assets or equity.

The taxable base is made up of the total gross revenues, whether regular or special, earned by the taxpayer in the respective taxable period.

We should note the following in respect of these tax elements: that the municipalities retain their authority to define the taxable events, taxable bases and rates of the consolidated industry and commerce tax – or ICA from its acronym in Spanish.

In respect of the consolidated ICA, the municipalities retain their authority to define the essential elements of this tax. In each municipality, the main municipal regulatory body or City Council (a kind of local legislature) must issue ordinances on or before December 31, 2020 to establish consolidated ICA rates.

2. SIMPLE taxpayers

Under the so-called Financing Act, for a person to qualify as a unified, SIMPLE taxpayer, the person needs to meet, among others, the following requirements:

Being a individual that carries out a business enterprise; if the person is a legal entity, their shareholders must be individuals that are Colombian residents.

Having earned gross revenues of less than 80,000 TU in the prior tax year. If it is a new company, its qualification for the tax system will be conditioned upon meeting this requirement.

On the other hand, the following are classified as persons that cannot be SIMPLE taxpayers: any foreign legal entities or their permanent establishments; any companies whose shareholders, members or managers have a labor relationship with the contractor – as it is the case of personal services –; financial institutions; any natural or legal entities dedicated to asset management activities, asset sales intermediation, asset rentals and leases, etc.

Additionally, the following formal obligations must be met for a person to be eligible for this system:

a. Again, the law establishes transition rules and so allows taxpayers to register through July 31, 2020. Starting in 2021, registration must be made before January 31.

b. Those who are already registered in the SIMPLE tax system need not to renew their unified tax register (RUT) form in 2020.

c. Those who elect to register in the SIMPLE system, must elect to issue electronic invoices within 2 months following the registration.

d. Those who have met the requirements set by law to qualify for the SIMPLE system, and who were registered within the time limit set by Act 1943 would not be required to make the registration again in 2020. This is so provided that the taxpayer elects to continue paying taxes under the SIMPLE system.

3. Tax rates

Now, the law established progressive tax rates depending upon the amount of gross revenues earned by the taxpayer. These rates depend on the activity carried out by the taxpayer as well:

- Small stores, micro and mini markets and hair salons: between 2% and 11.6%. (These are non-VAT collection agents.)
- Commercial activities, technical and mechanical services where the physical, material factor prevails over the intellectual factor; and electricians, construction services and mechanical shops, among others: between 1.8% and 5.4%.
- Professional services, consulting and scientific services, where the intellectual factor prevails over the physical, material factor, including intellectual professions services: between 5.9% and 14.5%.
- Foods and beverages sales activities and transport activities: between 4.9% and 7% (in the first case, taxpayers must add 8% for excise taxes).

On the other hand, SIMPLE tax taxpayers must make unified tax estimate payments every two months, by filing the special SIMPLE tax payment receipts. (Taxpayers must include their revenue information broken down by municipality or district in these documents.)

4. Anti-Avoidance Rules

The law defined certain requirements for a person to be qualified for this special system. However, the legislature considered it was important to establish certain rules to prevent any abuses in these particular tax matters.

In this way, certain measures have been established to mitigate the risk of avoidance by taxpayers. Among others, these include checking the levels of consolidated revenues where the individual is a shareholder in several companies or is a manager in several companies.

5. Withholding tax

SIMPLE taxpayers will not be subject to withholding tax collection and will not be required either to collect or self-collect withholding taxes, except for withholding taxes on labor payments.

Additionally, the law established that in the case of payments made by SIMPLE taxpayers for the acquisition of goods and services, the party receiving the payment (a regular income taxpayer and withholding tax collection agent) must collect self-withholding taxes. This is without detriment to the collection of VAT withholding taxes where a withholding tax collection agent acquires any items of VAT taxable personal property or services from SIMPLE taxpayers.

6. Other matters

- SIMPLE taxpayers of groups 2, 3 and 4 are VAT collection agents or excise tax collection agents.
- The rules on procedure, tax penalties, and statute of limitations relating to tax returns provided for in the Tax Code will apply in this special SIMPLE tax system.
- SIMPLE taxpayers who have foods and beverages sales businesses may pay their excise tax liability as part of the SIMPLE tax liability.
- If any SIMPLE taxpayer fails to make the estimated tax payments required to cover the total annual tax liability, incurring in tardiness for more than 1 month, it will be excluded from the system, and will be precluded from electing the system for the taxable year following the year in which it failed to meet its payment obligations.

The Industry and Commerce Tax (ICA from its acronym in Spanish) and Billboards Tax

This is a municipal tax levied upon the revenues obtained by natural or legal persons or unincorporated associations through the carrying out of industrial, commercial and service activities, directly or indirectly, in the respective territories of the municipalities.

The taxable base of this tax is made up of the total regular and special revenues realized by the taxpayer in the respective tax year, including any financial income, commissions, and generally any type of revenue that has not been expressly exempted by the law.

Neither revenues derived from exempt or nontaxable activities, nor sales returns, discounts and rebates, nor export revenues nor revenues from sales of fixed assets are included in the taxable base.

As noted above, the unified SIMPLE tax system was created by the recent tax reform (Act 2010 of 2019). Several taxes, including the industry and commerce tax, are consolidated into this SIMPLE tax. In this regard, it is worth mentioning that the new law reserved the authority of defining the essential tax elements (i.e. taxable events, taxable bases, rates and taxpayers) to the municipalities.

City Councils set the industry and commerce tax rates within the following limits:

Activity

Industrial activities

Rate

From 2 x 1000 to
7 x 1000

Activity

Commercial and service activities

Rate

From 2 x 1000 to
10 x 1000

The supplementary Billboards Tax is also a municipal tax and works as a surcharge on the industry and commerce tax. The taxable event is the placement of billboards and other advertising boards in public space. This means that the tax is collected from any natural or legal persons or unincorporated associations that carry out industrial, commercial and service activities in a municipality and that use public space to advertise their businesses through billboards or other advertising boards. The taxable base of the tax is the amount payable as industry and commerce tax. The tax rate is 15%.

The Unified Property Tax

The unified property tax is a charge on the ownership of real properties located in urban, suburban or rural areas, with or without constructions on them. In consequence, property tax taxpayers are the persons who own or possess real property. The tax is justified by the fact that real property is a sign of concentration of income and wealth, and to that extent real properties are taxed.

The taxable base of the tax is made up of the cadastral valuation of the property, as adjusted for inflation (by the consumer price index – CPI). In certain areas such as in Bogotá, the taxable base is made up of the self-appraisal made by the taxpayer.

The applicable tax rate depends upon the qualification of the property. In other words, if the property is rural or urban or suburban property; and the rate ranges between 5 and 16 x 1000 (i.e. 0.5% and 1.6%), considering the economic uses of each property.

Taxpayers may deduct 100% of this tax in their income tax return provided that it is causally connected with the taxpayer's income-producing activity.

The Registration Tax

The registration tax is levied upon all documentary legal acts, contracts or transactions that must be registered with chambers of commerce and land registration offices. In case the act, contract or transaction must be registered with the above two agencies, then the tax will be paid exclusively to the land registration office.

The taxpayers are the private contract parties and beneficiaries of the act subject to registration.

The taxable base of this tax is the transaction value set down in writing in the document that contains the legal act, contract or transaction. In respect of documents with no value, the taxable base is determined in accordance with the nature of the act:

The rate is as follows:

- Legal acts, contracts or transactions with a transaction or contract value and subject to registration with land registration offices, between 0.5% and 1%.
- Legal acts, contracts or transactions with a transaction or contract value and subject to registration with chambers of commerce, where the underlying act does not entail the incorporation of a company or the increase of share placement premiums, between 0.3% and 0.7%.
- Legal acts, contracts or transactions with no transaction or contract value and subject to registration with chambers of commerce, where the underlying act entails the incorporation of a company or the increase of share placement premiums, between 0.1% and 0.3%.
- Legal acts, contracts or transactions with no transaction or contract value and subject to registration with land registration offices or chambers of commerce, between 2 and 4 current minimum daily wages.

Tax procedure and formal obligations

1. Electronic invoicing

As from March 1, 2020, taxpayers must obtain an electronic invoice from their vendors for their deductible costs and expenses and tax credits to be admissible, according to the table below:

Year	Max percentage that may be claimed as deductible with no electronic invoices
2020	30%
2021	20%
2022	10%

The law gave authority to DIAN to regulate sales invoice and equivalent documents (currently, this authority belongs only to the National Government – Ministry of Finance). To this end, the law established that DIAN would announce the timing requirements and the taxpayers that must implement electronic invoicing during 2020. In line with Article 1.6.1.4.1.16 of Unified Tax Regulation 1625 of 2016, the law establishes that equivalent documents issued by POS cash registers will not entitle the buying taxpayer to claim VAT setoffs and deductible costs and expenses; but, if the buying taxpayer needs so, it may require the commercial establishment to issue the corresponding invoice.

From January 1 through March 31, 2020, taxpayers required to issue electronic invoices that fail to meet that obligation will not be subject to any penalties, including the disallowance of costs and expenses, if they meet the following conditions:

That they issue their invoices by traditional methods – other than electronic methods.

That they prove that they did not issue electronic invoices because of (i) technological impediments or (ii) justified commercial reasons.

2. Other matters

New joint and severally liable third parties

The following are defined as persons who are joint and severally liable with the taxpayer for payment of the tax:

- Any persons or entities which have been parties to transactions that were purely tax driven and sought to evade or avoid taxes, for the taxes, late interest and penalties that the tax administration did not collect.
- Any persons in charge of the custody, management or any persons who in any manner manage fund assets or business vehicles used by their owners to evade or avoid taxes and were aware of transactions that entailed abuse in tax matters or tax avoidance.

Contentious administrative conciliation

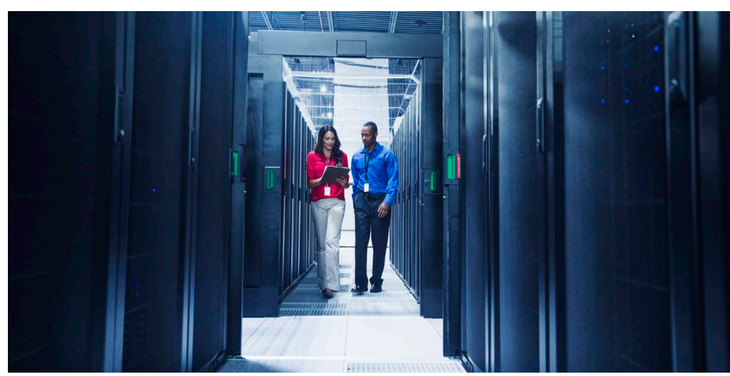
DIAN now has the authority under the new law to enter settlement and conciliation arrangements concerning tax, customs duties and foreign-exchange proceedings where these are pending before contentious administrative courts:

- For single-instance proceedings or proceedings undergoing the first instance: the parties may settle for non-payment of 80% of the total value of penalties, late interest and indexations, provided that the taxpayer pays 100% of the disputed tax amount and 20% of the penalties, late interest and indexations.
- For proceedings undergoing the second instance (at appeal level): the parties may settle for non-payment of 70% of the total value of penalties, late interest and indexations, provided that the taxpayer pays 100% of the disputed tax amount and 30% of the penalties, late interest and indexations.

For UGPP (Social Security and payroll tax related) proceedings, the parties may settle on penalties and late interest derived from administrative proceedings.

The deadline for filing the request referred to in this rule of law was set at June 30, 2020, and the settlement agreement must be signed no later than July 31, 2020.

Those who enter into settlement agreements with the authority may also enter into payment agreements where the payment terms cannot exceed 12 months counted from the date of signing of the agreement. These special payment agreements must be signed no later than June 30, 2020. As from the signing of the payment agreement, the interest accruing over the term set for payment of the tax obligations negotiated through the settlement will accrue on a daily basis at the bank current daily interest rate that applies for regular and consumption loans – plus 2 percentage points.



Termination by mutual consent of tax, customs duties and foreign-exchange administrative proceedings

DIAN now has the authority to terminate this type of proceedings under the following conditions:

- If a proposed addition to tax or actual tax deficiency assessment was notified: the parties may settle for non-payment of 80% of the total value of penalties, late interest and indexations, provided that the taxpayer pays 100% of the disputed tax amount and 20% of the penalties, late interest and indexations.

- If a bill of charges or resolution imposing a penalty was notified: the parties may settle for non-payment of 50% of the total value of penalties, late interest and indexations, provided that the taxpayer pays 50% of the penalties, late interest and indexations.

- If a resolution imposing a penalty for not filing return was notified: the parties may settle for non-payment of 70% of the total value of penalties, late interest and indexations, provided that the taxpayer pays 100% of the disputed tax amount and 30% of the penalties, late interest and indexations.

- If a resolution imposing a penalty for inadmissible tax refund or offset was notified: the parties may settle for payment of 50% of the total value of penalties, late interest and indexations, provided that the taxpayer pays 50% of the penalties, late interest and indexations and pays also 100% of the tax liability and the reduced penalties and late interest.

The deadline for signing the requisite settlement payment agreement will be June 30, 2020.

Mutual agreement procedure – MAPP

This is a procedure regulated by double taxation treaties entered into by Colombia. Taxpayers may request that the authority resorts to this procedure, by filing a formal request with DIAN, under the following conditions:

- To be admitted to this procedure, the taxpayer must abandon or dismiss any motions and appeals filed with the Administration, and the abandonment or dismissal must be accepted by DIAN.

- DIAN will establish the details of the procedure by resolution.

- The competent authority will subscribe any agreements that are in order in furtherance of the MAP established in the corresponding double taxation treaties:

  – These agreements will be equivalent to a final, non-appealable court decision. Therefore, they will be valid as supporting document to initiate forceful collection proceedings.

  – The agreement is final, non-appealable.

  – They can be implemented in any time, regardless of the statute of limitations that relates to the relevant tax return.

Electronic notifications

Provided that the taxpayer, withholding tax collection agent or tax return filer has reported its electronic address in the unified tax registration form (or RUT from its acronym in Spanish), the tax administration may notify any administrative acts at that address. Based on this, it is understood that the taxpayer has stated expressly that it is willing to accept electronic notifications.
This means of notification is also extended to any actions carried out by the tax authority. These includes information requests, tax inspection orders, and special requests, among others. The regulations will provide for a special box on the RUT form for the taxpayer to report the email address of its attorneys. In this way, the authority may send copies of its acts to the latter.

For legal purposes, electronic notifications stand as made on the date on which the administrative act is sent to the email address. However, the taxpayer retains the right to report to the tax authority that it has been impossible for it to access the contents of the message, within 3 days following receipt of the same.

In respect of any resolutions that decide upon motions or appeals, the 10 days that the taxpayer has to appear will run from the day following the date on which the call notice is put in the mail.

These electronic notification rules apply to administrative acts issued by the UGPP.

Special tax audit benefits

The law established – for tax years 2020 and 2021 – special tax audit benefits for taxable years 2019 and 2020. These benefits apply for taxpayers that increase their net income tax liability by 30% at least in respect of the prior year. In these cases, the taxpayer's income tax return will become nonassessable and closed to review by the authority 6 months after the filing of the return.

If the increase of the net income tax liability is of 20% at least, then the taxpayer's income tax return will become nonassessable and closed to review by the authority if none of the following is notified to the taxpayer within 12 months following the date of filing of the return: a call to file an amended return, a proposed addition to tax, a special call (emplazamiento especial) or a provisional deficiency assessment. This rule applies provided that the taxpayer files its return on or before the statutory deadline and pays the tax liability on or before the statutory payment deadlines set by the national government.

Closes to review

6 months after filing

Requirement

The net income tax must increase at least by 30% with respect to the former income tax return.

Also, it must be done before any request to file a return or any proposed addition to tax or any provisional deficiency assessment is notified to the taxpayer.

Closes to review

12 months after filing

Requirement

The net income tax must increase at least by 20% with respect to the former income tax return.

Also, it must be done before any request to file a return or any proposed addition to tax or any provisional deficiency assessment is notified to the taxpayer.

This does not apply to taxpayers that enjoy any tax benefits because of their location in any given geographical area.

Where the tax return for which tax audit benefits are claimed shows a net loss, DIAN will retain its ability to audit the return to determine whether or not the reported net loss may be carried forward for offset in future years.

The following will apply to those taxpayers that did not file an income tax return for taxable years prior to the year in respect of which they purport to claim these tax audit benefits. If they meet their obligation and file the returns for taxable years 2020 and 2021 on or before the filing deadline set by the government, the regular statute of limitations set herein will apply to them. To this end, they must increase their income tax liability for the mentioned years in the percentages set above.

Wherever it is proven that the withholding tax collections reported in the tax return are nonexistent, the tax audit benefit will not apply.

Likewise, the Law of Economic Growth establishes expressly that the provisions of Article 105 of Act 1943 of 2018 will generate the effects provided therein for those taxpayers that elected the special audit benefits for tax year 2019.

07

Corporate aspects

The preferred investment vehicle for foreign and local investors is the simplified stock company, widely known for its Spanish acronym S.A.S. This is mostly because they are very easy to incorporate, and they are very functional.

Branch offices of foreign companies are also very common in Colombia as investment vehicles, especially for foreign investors in the mining and hydrocarbons industries, because of the related foreign exchanges benefits that companies in that sector enjoy.

Investment vehicles

In Colombia, investment vehicles are supported by constitutional principles. Among these, we can mention the right to equal treatment, the protection of free enterprise and the protection of private initiatives. Below we include a summary of the most relevant legal aspects that relate to the investment vehicles that are most common in Colombia, including notes about their procedure of incorporation.

1. Types of Investment vehicles

Simplified Stock Company (S.A.S.): one single shareholder or more shareholders (natural or legal persons, Colombian or foreign) may incorporate this type of company. The shareholders will be liable only up to the amount of their capital contributions. It is worth noting that an S.A.S. may be incorporated by way of a private document, and the bylaws of the company may also be amended through a private document. The company name must always be followed by the acronym S.A.S. or by the words “Simplified Stock Company”, in Spanish, “Sociedad por Acciones Simplificada”.

Stock Company or Corporation (S.A.): this type of company must have a minimum of 5 shareholders (natural or legal persons, Colombian or foreign), who will be liable only up to the amount of their capital contributions. Those companies are incorporated by means of a public deed executed before a public notary; and bylaw amendments must be made in the same way*. The company name must always be followed by the acronym S. A. or by the words “Stock Company”, in Spanish “Sociedad Anónima”. Corporations must appoint a statutory auditor.

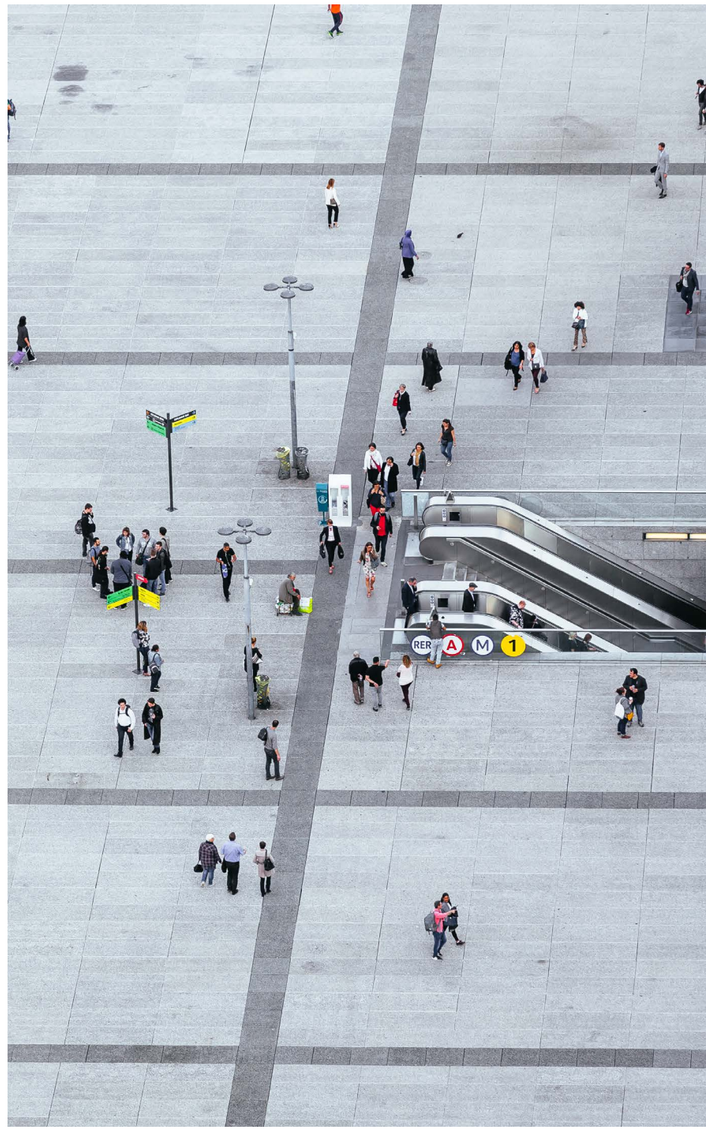
Limited Liability Company (LLC.): this type of company must be incorporated by way of a public deed executed before a public notary*. These companies must have a minimum of 2 members and a maximum of 25 (either natural or legal persons, Colombian or foreign persons). Members of LLCs are liable up to the amount of their capital contributions, except for labor and tax obligations, in which case they are called to answer jointly with the company. Any bylaw amendments or any transfer of company shares or equity interests must also be made by way of a public deed. The company name is always followed by the abbreviation “LLC.”, in Spanish “Limitada” or “Ltda”.

Branch Office of a Foreign Company: under Colombian commercial legislation, the Branch Office of a Foreign Company is considered a commercial establishment, which is necessary for the foreign company to carry out permanent business operations in Colombia. In this way, from a purely legal point of view, the branch office of a foreign company and its parent company are considered to be the same legal person. In this way, the parent company is fully liable for the entire obligations of the branch office. A branch office must be registered in Colombia by way of a public deed; and its bylaws and corporate organs are the same bylaws and corporate organs of the parent company. The branch office of a foreign company must appoint a statutory auditor.

On the other hand, Colombian legislation has also provided for other types of companies; however, these are used in fewer proportion, as is the case of limited partnerships (Sociedades en Comandita) and pure partnerships (Sociedades Colectivas).

Finally, among the above mentioned investment vehicles, it is worth noting that since the enforcement of Act 1258 of 2008, the law that created the Simplified Stock Company (Sociedades por Acciones Simplificadas “S.A.S.”), , this type of entity has become the investment vehicle of choice for foreign investors and also for local investors, mostly because of the flexibility in their process of incorporation and their functionality.

On the other hand, branch offices of foreign companies are also very common in Colombia as investment vehicles, especially for foreign investors in the mining and hydrocarbons industries because of the related foreign exchange benefits that companies in that sector enjoy.



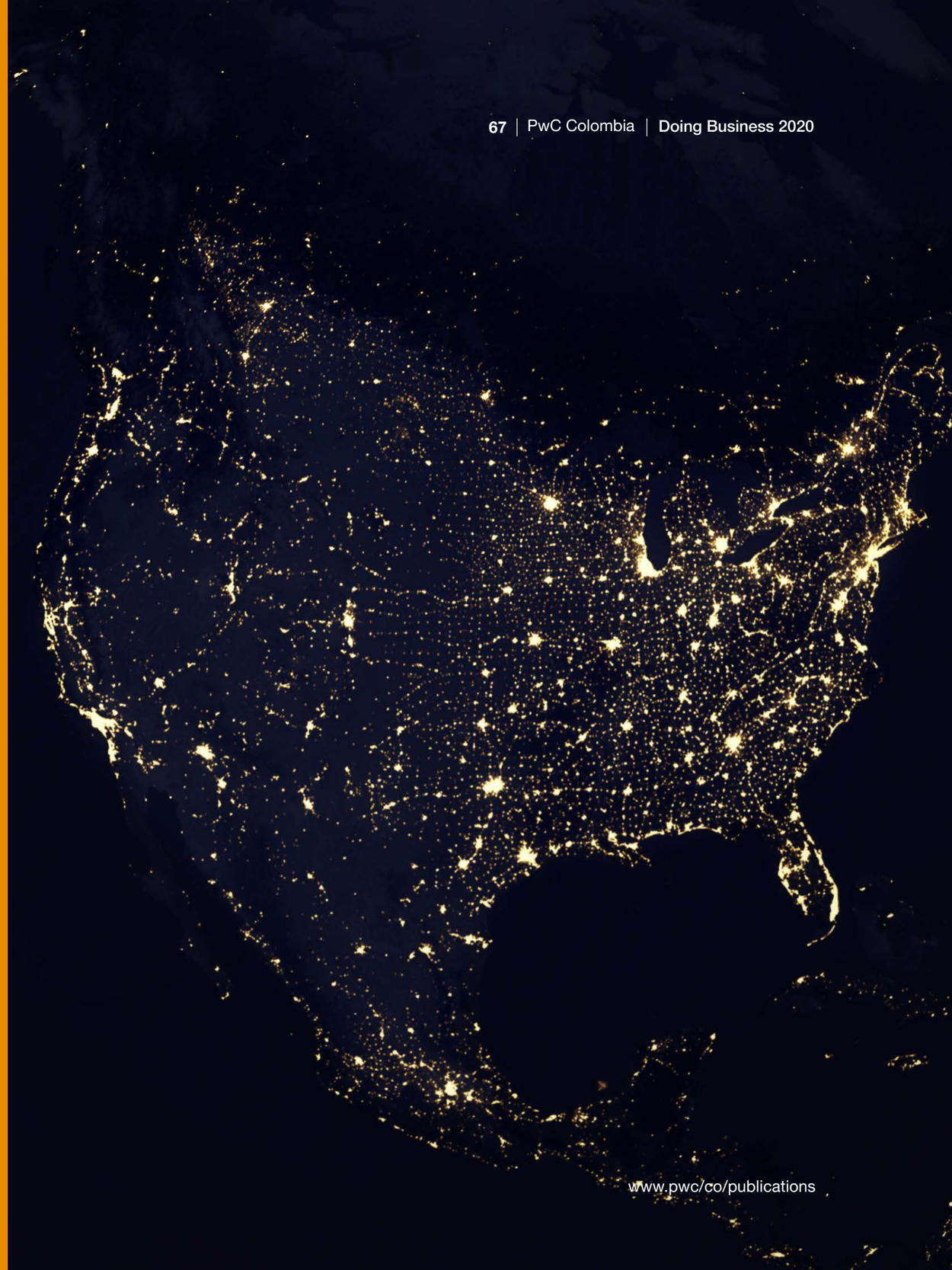
*A Corporation (S.A.) or a limited liability company may also be incorporated by way of a private document if the constituents meet the requirements established in Act 1014 of 2006.

2.
Comparative chart between Branch office of foreign company and Simplified stock company- SAS (for its acronym in Spanish)

	Members, Legal nature and Liability	Name, Term of validity and Business purpose	Capital	Profits
Branch office of foreign company	The branch office of a foreign company is a commercial establishment owned by the parent company. For this reason, it lacks any legal personhood other than that of the parent company. In consequence, the liabilities of the branch office in Colombia flow through directly to the parent company.	As a rule, it must use the same name of the parent company, adding the expression Colombian Branch (“Sucursal Colombia”). The term of duration of the branch office must be defined, confined to specific commercial activities.	In principle, the branch office of a foreign company has an assigned capital, which they receive from their parent company. As is the case for commercial companies, said capital assigned to the branch office works as a general collateral for the protection of the creditors. The assigned capital must be paid in full upon registration of the branch office in Colombia. Additionally, the branch office of a foreign company has a “floating capital”, called the “-Supplementary Investment to the Assigned Capital (ISCA as per is Spanish acronym)”. This supplementary capital can increase or decrease without any need for amending the bylaws or securing any prior approvals.	Branches follow the same handling procedure that commercial companies. In other words, profits must be approved by the parent company.
Simplified stock company – SAS (for its acronym in Spanish)	It is a separate legal person, different from its shareholders. One or several natural or legal persons may establish a corporation. The shareholders will not be liable for any labor or tax obligations or for any other company obligations, except when the company is set up to break the law or when it damages third parties.	The company name must be followed by the expression Simplified Stock Company (S.A.S.) As opposed to other commercial companies, the term of duration of an S.A.S. may be indefinite, and their purpose or line of business may be just to carry out any lawful civil or commercial transactions, without having to specify them.	The capital is divided into registered shares and is divided into three types: authorized capital, subscribed capital and paid in capital. The term for payment of all subscribed shares cannot exceed 2 years. The parties can establish percentages or minimum or maximum amounts of the corporate capital that one or more shareholders may control, directly or indirectly. The constituents may stipulate in the bylaws that the shares issued by the company may not be negotiated, or that a certain class of shares may not be negotiated, provided that this restriction does not exceed 10 years counting from the date of issuance. This term may be extended for additional terms of 10 years maximum, by the unanimous vote of the shareholders. Share negotiations may be subject to prior authorization by the shareholders meeting of the company.	Unless a different majority is established in the bylaws of the company, this decision of the distribution of profits is adopted by the favorable vote of a group of shareholders representing at least one half plus one share of total shares present at the meeting of the shareholders. An S.A.S. is not required to distribute a minimum of shares.

Special grounds for dissolution for accumulation of losses

Branch office of foreign company	Branch Offices of Foreign Companies are dissolved according to the same grounds established for the parent company, considering that the branch depends entirely on the existence of the latter or on the expiry of its term. Additionally, the Branch Offices of Foreign Companies would be under legal cause for dissolution due to losses when the net equity of the branch is reduced by fifty percent (50%) or more of the assigned capital. On the other hand, the Superintendency of Companies has stated in various concepts that, at the time the occurrence of the cause is verified based on the financial statements for the financial year end, the branch would have a term of eighteen months to consider the mechanisms to correct it; for which the representative must inform the headquarters of such circumstance so that it structures the positive actions directed to reestablish equity. These actions must be recorded in the minutes of the meeting in which the parent company makes such decisions and must be recorded in the commercial register within the eighteen months following the occurrence of the grounds for dissolution. In this way, the Superintendency has stated that it should not necessarily be understood that the proportion between equity and capital must be fully resolved within a period of 18 months.
Simplified stock company – SAS (for its acronym in Spanish)	Among the grounds for dissolution of an S.A.S. we can highlight dissolution for accumulation of losses. This is triggered when there are losses that accumulate and reduce the net equity of the company below 50% of the subscribed capital. The shareholders may avoid the dissolution of the company by adopting the necessary modifications through the minutes of the Shareholders' Meeting, the minutes containing the resolution must be recorded in the commercial register within eighteen months following the occurrence of the grounds. Additionally, the Superintendency of Companies has stated that it should not necessarily be understood that the proportion between equity and capital must be fully resolved within the aforementioned eighteen-month period.



3.
Necessary documentation and procedure for the incorporation of an S.A.S. and Branch Offices of Foreign Companies

Bearing in mind that the investment vehicles that foreigners use the most in Colombia are the S.A.S. and Branch Offices of Foreign Companies, we will only review the documents required and the incorporation procedure of these two vehicles.

3.1 Documents required to incorporate an S.A.S.

- Certificate of good standing and representation of each of the shareholders (in case they are legal persons).
- Copy of the ID of each of the shareholders (in case they are natural persons).
- Articles of incorporation and articles of Association of the new company.
- As applicable, powers of attorney granted by each of the shareholders.
- Decree 667, 2018 has set out that when the S.A.S. to be incorporated has an individual as its sole shareholder, the company shall file, along with the incorporation documents, a form declaring the control situation being set up. The sole shareholder of the S.A.S. shall sign the abovementioned document.

3.2 Documents for the incorporation of Branches of Foreign Companies.

- Certificate of good standing and representation of the parent company.
- Complete bylaws of the parent company and its articles of incorporation.
- Resolution deciding the registration of the branch office of a foreign company, issued by the competent corporate organ of the parent company. This resolution must indicate the items set out in article 472 of the Colombian Code of Commerce.
- Powers of attorney, as applicable, granted by the parent company.

Requirements for legalization of documents issued or executed abroad:

- Every document issued or executed abroad must be certified by apostille or must be legalized through diplomatic channels in the country of origin.
- Every document drafted in any language other than Spanish must be translated by a translator certified by the Ministry of Foreign Affairs in Colombia.

3.3 Steps to incorporate an S.A.S or a Branch Office of a Foreign Company in Colombia

Step 1
(1 Business Days)

Signing the document of incorporation including the bylaws of the new company and appointing the legal representatives and statutory auditor (as applicable).

Notarization of signatures on documents of incorporation or acknowledgment of content before a notary, in case all the shareholders are not the ones who directly file the documentation before the commercial register.

In the case of a Branch Office of a Foreign Company, a public deed must be generated for all the documents indicated herein as necessary for the constitution of this type of entity. This may take about 4 days.

Step 2
(1 Business Days)

Preliminary procedure for issuance of tax ID number and unified tax registration certificate - RUT - before the national tax authority. Among other requirements, the following is necessary:

Indicating the address of the new company or of the Branch Office of a Foreign Company

Indicating the economic activities or lines of business. (Maximum 4).

Step 3
(4 Business Days)

Registering the new Branch Office of a Foreign Company before the Chamber of Commerce.

Expenses:
The registration tax will be calculated at a rate ranging between 0.7 % and 1 % of the subscribed capital of the S.A.S. or of the assigned capital of the Branch Office of a Foreign Company, depending on the city of the domicile. For example, in Bogotá the authority charges 0.7 %; in Barranquilla, they charge 1%.

Registration rights and commercial registration rights (calculated based on a table of values set by the Chambers of Commerce).

Both the registration rights and commercial registration rights, as well as the registration tax, will be paid to the Chamber of Commerce upon submission of the documents, either in cash, with a cashier's check, or with a debit or credit card.

Step 4
(1 Business Days)

Final registration in the unified tax register - RUT - and issuance of final tax ID number - NIT - by the national tax authority. Among other requirements, the following is necessary: indicating the address of domicile of the new company or Branch Office of a Foreign Company.

Step 5
(1 Business Days)

Updating the commercial registration to include the NIT.

Step 6
(1 Business Days)

For the Branch Office of a Foreign Company, once the branch is incorporated, the parent company must transfer the capital assigned to it, for which purpose it must fill out exchange form No. 4.

Functioning of company, bylaw amendments and right to withdraw from a company

1. Functioning

In general, Commercial Companies do not require an authorization from any public authority to be able to function or operate. As an exception, commercial companies working on financing, stock exchange or insurance activities require a prior authorization to operate from administrative authorities such as the Superintendencia Financiera (Superintendency of Finance). This requirement also applies to any company which's work relates to the management, use and investment of resources or funds collected from the public.

2. Bylaws amendments

As rule of thumb, amendments to the bylaws do not require an authorization from any public authority, save for those cases where the amendment implies a corporate reorganization, as is the case of mergers and spinoffs. In these cases, special procedures of advertisement and convening or call to the shareholders or members and creditors of the companies involved in the transaction are subject to verification. Capital reductions with cash reimbursement of contributions requires prior authorization from the Superintendency of Companies.

The decision to reform the company's bylaws must be approved at a meeting of the shareholders or the board of partners, through the preparation of minutes that will record the amendments made to the bylaws. The minutes must include all legal and statutory requirements and depending on the case, they must be elevated as a public deed or simply recorded in a private document.

3. Right to withdraw from company

The right to withdraw is defined as the possibility that a shareholder or partner, absent or dissenting, has to withdraw from the company, with the ensuing reimbursement of the contributed capital. This right arises when the shareholders' meeting adopts a determination entailing changes that generate a greater responsibility for the shareholder or a detriment of their patrimonial rights, which would reduce the shareholder's interest to continue being associated with the company. Among the events established in the law that would allow a shareholder to exert their right to withdraw from a Company are Company transformations, mergers or spinoffs.

Additionally, the right to withdrawal includes a protection that the law provides for shareholders, and therefore, it cannot be modified, suppressed or limited by means of private agreements in contracts, shareholders' agreements and/or bylaws. The consequence of these stipulations is that they do not produce a legal effect.

Parent companies and subsidiaries

Corporate groups

A company is a subsidiary or a controlled entity when its decision-making power is subject to the will or the decision of another legal person or natural person referred to as the parent company or controller. This control may be economic, political or commercial.

Mainly, control may be exerted by a majority shareholding position in respect to the capital of the subsidiary, or by way of making a contract or a special transaction creating the ability to exert dominant influence on the management organs of the controlled company.

If the subsidiary suffers the control directly, it is called a first-tier subsidiary. If it suffers the control through other subsidiaries of the parent company, it is called a lower tier subsidiary. In this regard, it is worth noting the following:

I.

The law recognizes that a company may be subordinated to another company without any existing share in the capital.

II.

Likewise, it is recognized that natural persons or unincorporated associations may exert control.

III.

A majority shareholding of the capital may take place with speculation or strategic purposes, not necessarily to establish a control structure.

IV.

To determine whether there is a natural corporate group made up of several legal persons, in addition to the above subordination ties, there must be a unified purpose and a unified direction in the commercial pursuits of the various entities.

V.

For the above purposes, the law considers that there is a unified purpose and unified direction when all entities are pursuing a common objective or goal determined by the parent company or by a controlling entity exercising its power of control over the entire set or body. This is without detriment to the ability of each one of the companies to pursue their own specific lines of business.

VI.

In accordance with Section 30, Act 222 of 1995, if the control or corporate group situation is not declared before the Chamber of Commerce within the 30 days following the date on which it has taken place, the Superintendency of Companies would declare the situation and order its registration in the Mercantile Register by itself or at the request of any interested parties. Additionally, section 86 of the same law set forth that the Superintendency of Companies may impose successive penalties or not, up to an amount of 200 minimum legal salaries, which for 2020 is an amount of 175.560.600 COP or 53.200 USD.

Financial Statements

The purpose of the financial statements is to provide information to those who do not have any access to the records of a company, so that they may learn about the controlled resources, the obligations that require a company to transfer resources, the changes that such resources have undergone and the results obtained in a fiscal year or reporting period.

In this regard, the law requires commercial companies to settle their accounts and prepare general-purpose financial statements at least once a year, stated at December 31. This is without detriment to the ability of the constituent shareholders or members to agree upon an additional account settling and reporting date for the company.

General purpose financial statements are those prepared at the closing of a determined reporting period to be disclosed to indeterminate users. This is done to satisfy the common interests of the public at large of evaluating the capacity of an economic entity to generate positive cash flows in the future; and these are the financial statements that are used as a basis to distribute earnings. The financial statements include the statement of financial position or balance sheet, the statement of income, the statement of changes in equity, the statement of changes in the financial position and the statement of cash flows.

Profits or Earnings

Profits or earnings are distributed based on financial statements prepared in accordance with the generally accepted accounting principles. They are distributed proportionally based on the paid- up portion of the par value of shares or equity interests held by each shareholder, unless otherwise stated in the contract.

If there are any stipulations that deprive any shareholder or member of their right to receive a share of the profits or earnings made by the company, such stipulations will be held as never written.

Inspection, surveillance and control

All commercial companies are subject to a degree of surveillance by a Superintendency in Colombia. This circumstance will be determined based on the specific activity that figures as the line of business of the corresponding company.

The various degrees of surveillance are as follows:

I. **Inspection:** The Superintendency may occasionally request, verify and analyze any information it requires on the legal, economic, accounting, and administrative situation of the corresponding company.

II. **Vigilance (or surveillance):** The Superintendency may permanently verify that the incorporation and operations of the company are in conformity with the law and the company's bylaws.

III. The degree of inspection and vigilance are generally determined by the value of the company's assets.

IV. **Control:** The Superintendency may remedy a critical situation, whether legal, economic, administrative or related to accounting.

As a rule of thumb, commercial companies are subject to inspection, surveillance and control by the Superintendency of Companies. As an exception, these surveillance duties may be assigned to other agencies such as the Colombian Superintendency of Finance, the Superintendency of Healthcare, the Superintendency of Utilities, the Superintendency of Ports and Transportation, and the Superintendency of Surveillance and Private Security, among others.

Capital Reductions

Under article 145 of the Code of Commerce, a company or a branch office may carry out an amendment of the bylaws for the reduction of the corporate capital with a reimbursement in cash of contributions. This must be done with prior approval from the Superintendency of Companies, which will issue the authorization at the request of the company and whenever any of the following circumstances occurs:

I.

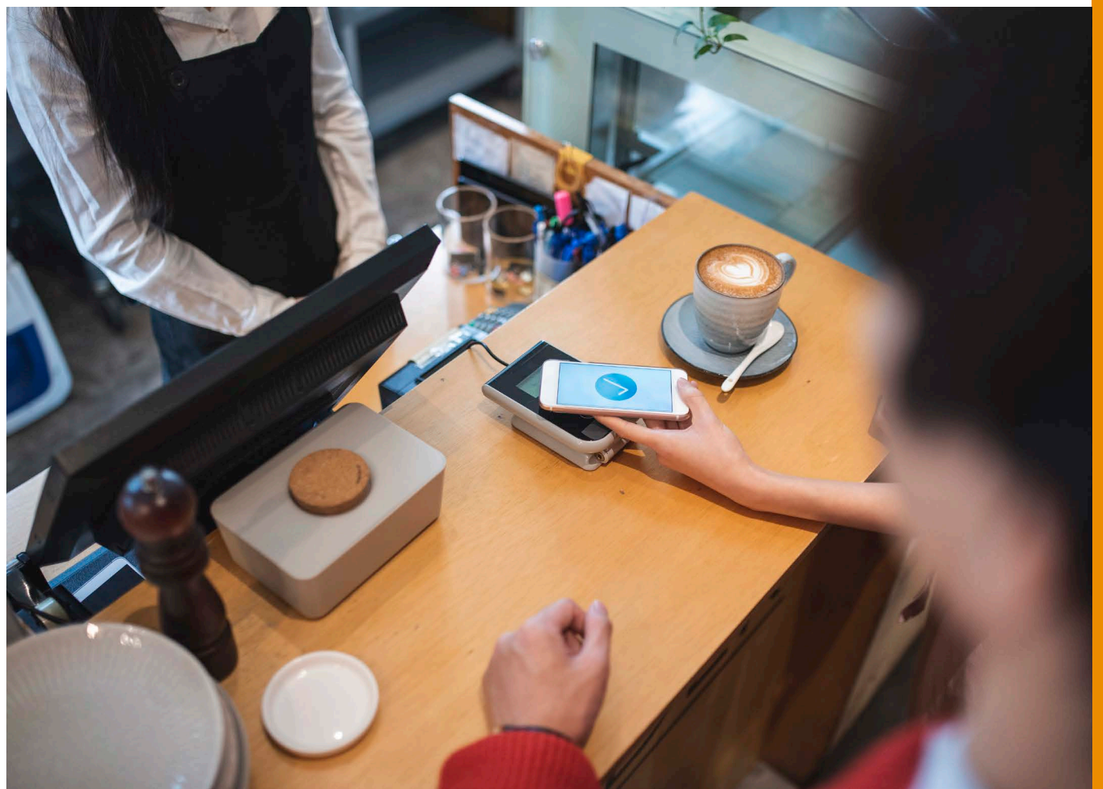
The company has no external liabilities.

II.

After the reduction is made, the corporate assets represent at least twice as much as the external liabilities.

III.

The corporate creditors expressly accept in writing the reduction of capital, regardless of the amount in, or number of corporate assets.



The Basic Circular Letter from the Superintendency of Companies established general rules for the authorization of capital reductions with reimbursement of cash contributions. This applies to companies, branch offices of foreign companies and sold proprietorships that are not subject to surveillance or control by that body, nor to surveillance or control by any other Superintendency, unless they are in any of the following situations:

a. Where, notwithstanding compliance with any of the conditions set in article 145 of the Code of Commerce, the financial situation of the corresponding entity shows one or more overdue obligations, where noncompliance extends for over 90 days, and where they represent in total 10 % or more of the external liabilities.

b. In the case of companies with liabilities that derive from the issuance of bonds.

c. In the case of companies, branches of foreign companies or sole proprietorships that have pension liabilities.

d. Where the total value of the contributions to be reimbursed represents 50% or more of the total asset value.

e. In the case of legal persons involved in a control situation, either as controlling entities or as subsidiaries and in respect to one or more different legal persons that are subject to the control or surveillance of the Superintendency of Companies or of any other Superintendency.

f. In the case of companies, branches of foreign companies or sole proprietorships that are carrying out an agreement with creditors or a restructuring or reorganization agreement.

In this way, should a company fall in any of the situations that triggers the obligation to request authorization, then it must follow the corresponding procedure before the Superintendency of Companies.

It is worth noting that the same procedure applies in cases where the plan of the company is to reimburse share placement premium amounts.

Liquidation

When a company or branch office of a foreign company liquidates based on the decision of the shareholders or members of the parent company (as the case may be), then the company or the branch office must follow the rules of articles 218 et seq. of the Colombian Code of Commerce and any other related, applicable laws and regulations. In a general, voluntary liquidation includes the following stages:

a. Dissolution

The first stage of voluntary liquidation starts at the time in which the shareholders meeting or the competent body of the parent company (as the case may be) adopt the decision of dissolving the company or the branch office and appointing liquidators. Once dissolution is approved by the top corporate body, the legal capacity of the company narrows down to acts which seek to attain immediate liquidation.

After the shareholders meeting has declared the dissolution of the company, the company needs to add the expression “in liquidation” to the company name or to the name of the branch office.

b. Liquidation

i. Notices and inventory.
In this stage, the liquidator carries out actions that seek to liquidate the assets of the company, pay off the liabilities and thereafter distribute any remainder among the shareholders or members, or remitting it back to the parent company. To this end, the liquidator must do the following: (i) give notice to the DIAN; (ii) making the liquidation a public process, by publishing a notice in a widely circulated daily newspaper in the domicile of the company or branch office; (iii) requesting permission from the Ministry of Labor where required by law; (iv) preparing an asset-liability inventory statement within the month following the dissolution.

At this point, it is worth noting that Stock Companies and branch offices of foreign companies that are subject to surveillance and control by the Superintendency of Companies, must submit the asset/liability inventory statement for approval by that agency. If after having prepared this statement they determine that the value of the assets is not enough to pay off the external liabilities; or if at the time of dissolution or termination of business affairs in the country they have retirement pensions payable, or pension bonds or certificates payable.

ii. Realization of assets and payment of liabilities.
By realizing the assets, the need of changing the total corporate assets or the total asset for the branch office into cash is served, so the company still has enough funds to pay for any obligations and debts with third parties.

c. Final liquidation statement, remainder, and extinguishment of the legal personality

The final stage of the liquidation procedure requires the liquidator to prepare the final liquidation statement. This statement will indicate the way in which any remaining assets will be distributed among the shareholders or remitted back to the parent company, in case one exists, and how the legal personhood or existence of the company or branch office will be extinguished. All this, after preparing provisions for the payment of obligations that the company may have.

08

Legal Compliance

Under the law, commercial companies and other legal entities are required to meet 6 periodical obligations:

1. Renewing the mercantile registration.
2. Holding annual meetings.
3. Submitting financial statements to the Chamber of Commerce of the main domicile.
4. Reporting of financial statements.
5. Registering the control situation or business group.
6. Appointing a statutory auditor.

In Colombia, despite the specific obligations applicable to each sector, there are certain special obligations that must be met before certain surveillance and control agencies.

- Reviewing ML/TF risks
- Transparency and business ethics programs and international corruption prevention mechanisms.
- Protection of personal data.

Compliance with periodical obligations

According to the law, companies must meet the following periodical obligations:

	Renewing Mercantile Registration	Annual meetings	Filing of the financial statements before the Chamber of Commerce of the principal domicile
Obligation	Before March 31 of every year, every registered business must renew its mercantile registration and that of its commercial establishments.	The Shareholders' Meeting, the Board of Partners (depending on the company type) and, if applicable, the Board of Directors, must hold at least one ordinary meeting per year.	Companies must file a copy of their general purpose financial statements (with their accompanying notes and the opinion of the statutory auditor) before the Chamber of Commerce of the corporate domicile.
Who must do this	Every commercial company and branch offices of foreign companies.	Every commercial company.	Every commercial company, except where the company is required to file the financial statements before the office of the Superintendency of companies.
Amount	The amount payable for the renewal of the mercantile registration is calculated based on the assets reported in the financial statements as of December 31 of the preceding year.	Not applicable.	Cost: 21,600 COP or approximately USD 6.5 per financial statement filled.
Time limit for compliance	Within the first 3 months of the year, on March 31 at the latest.	On the dates set in the bylaws or if these are silent, within the 3 months following the closing of every reporting period. In any case, the meeting must be held on the first working day of April at the latest.	Within 1 month following the date of approval.
Penalty	Fines of up to 17 minimum monthly legal salaries (COP $14,922,651 / approx. USD $ 4,522) imposed by the Superintendency of Industry and Trade and 200 minimum monthly legal salaries (COP $175,560,6400 / approx. USD $53,200) imposed by the Superintendency of companies.	Penalties or fines of up to 200 minimum monthly salaries (COP $175,560,600 / approx. USD $53,200) imposed by the Superintendency of companies.	Penalties or fines of up to 200 minimum monthly salaries (COP $175,560,600 / approx. USD $53,200) imposed by the Superintendency of companies.

Compliance with periodical obligations

According to the law, companies must meet the following periodical obligations:

	Reporting of financial statements	Registration of the control situation and business group	Appointment of a statutory auditor
Obligation	Any company subject to surveillance and control by the Superintendency of Companies must report its financial statements for the closing of the fiscal year, cut-off at December 31 2019, certified and with the statutory auditor's opinion. This obligation applies every year, without the need of specific requests from the entity.	Companies whose decision-making power is subject to the will of a controlling third party must register this situation of subordination before the Chamber of Commerce. Additionally, if there is unity of purpose and direction between different subordinate entities, the status of business group must be declared.	For certain companies, appointing a statutory auditor is mandatory, either at the time of company inception or when they reach the legal threshold for compliance.
Who must do this	Every commercial company and branch offices of foreign companies that are subject to surveillance and control from the Superintendency of Companies.	All commercial companies that meet the following requirements: **1.** When over fifty percent (50 %) of the capital belongs to the controller, directly or indirectly. **2.** When the controller and the subordinates jointly or separately have the right to cast the votes constituting the minimum decision-making majority at the shareholders meeting or board of directors meeting, or when they have the number of votes necessary to elect the majority of the board of directors, if applicable. **3.** When the controller, directly or through the subordinates, by reason of an act or business with the controlled company or its partners, exercises dominant influence in the decisions of the management bodies of the company.	Branch offices of foreign companies must always do it. **Corporations must always do it.** Companies in which whether there is compliance with the regulations or with the company bylaws or not, the management is not in the hands of all shareholders. In such cases, any number of shareholders that are not a part of the management and represent no less than 20% of the total capital may request the appointing of a statutory auditor. Commercial companies with assets worth 5,000 minimum monthly salaries (the 2019 rate is COP$4,389,015,000 / approx. USD $1,330,004) or more at December 31 of the previous year. Commercial companies with revenues worth 3,000 minimum monthly salaries (the 2019 rate is COP $2,633.409.000 / approx. USD 798,002) or more at December 31 of the previous years.
Amount	The agency does not charge for the reporting of financial information.	For the registration of the control situation and business group before the Chamber of Commerce, the corresponding registration fees and registration tax for acts without the amount for each company will be charged (162,000 COP / approx. 50 USD).	To register the appointing before the Chamber of Commerce, the entity charges a predefined registration fee and the registration tax set by law. In case the statutory auditor is a company, it shall assign individuals to perform as auditors, which leads to an additional payment for COP 162,000 / approx. USD 50.
Time limit for compliance	On or before the deadline set and published by the agency, which depends on the last two digits of the NIT of each company.	Within the 30 days following the occurrence of the event that originated the control situation.	Once the company becomes obligated as indicated above.
Penalty	Penalties or fines of up to 200 minimum monthly salaries (COP $175,560,600 / approx. USD $53,200) imposed by the Superintendency of companies.	Penalties or fines of up to 200 minimum monthly salaries (COP $175,560,600 / approx. USD $53,200) imposed by the Superintendency of companies.	**1.** Penalties or fines of up to 200 minimum monthly salaries (COP $175,560,600 / approx. USD $53,200) imposed by the Superintendency of companies. **2.** One (1) UVT (tax value unit) (COP $35,607 / approx. USD $10,79) for each day of delay in updating the unified tax registry (RUT), counting from the month following the date on which the obligation arose for the company.

Special obligations before surveillance and control agencies

	ML/TF Risk Prevention	Transparency, business ethics programs and international corruption prevention mechanisms	Personal data protection
Obligation	The company must adopt a system for control and management of the risk of money laundering (ML) and terrorism financing (TF). To this end, and for a better performance of the anti-money laundering and terrorism financing control system, the company must appoint a local compliance officer that can carry out the duties stipulated in the current laws and regulations.	As a new obligation, companies must implement international corruption prevention programs that meet the criteria established by the Superintendency of Companies. This relates to corruption acts which any of these companies could eventually commit. Appointing of a compliance officer.	Only companies and non-profits responsible for information handling with total assets exceeding 100,000 tax value units – UVT (COP $3,560,700,000 / approx. USD 1,079,000) must register their databases within two months following the date of their creation.
Description	If the surveilled entity recorded gross revenue or total assets for an amount exceeding 160,000 minimum monthly salaries (COP 142,048,480,000 / approx. USD43,044,993), they have a maximum term of 12 calendar months to implement this control system. The term runs from December 31 of the year in which they exceed the noted revenue threshold. Some economic sectors might have a different and lower limit in order to determine this obligation.	**1.** Carrying out international business transactions through third parties: through an intermediary or middleman, a contractor, a subsidiary or a branch office located in a country other than Colombia. **2.** International transactions in specified economic sectors where any of the three conditions defined by the Superintendency of Companies is met (gross revenue, total assets, or number of employees), depending on the economy sector: Pharmaceutical Infrastructure and construction Manufacturing Power and mining Information technologies and telecommunications	If the company carries out any activities that make it responsible for the treatment of personal data, it must implement the following mechanisms: • Privacy notice. • Procedure to obtain authorization from the data owner before beginning to handle any data • Tools that guarantee adequate safety conditions to avoid modification, loss, querying, fraudulent use or access to the information • Technological measures to protect personal and sensitive data. • Internal policy and procedure manual to comply with data protection laws. • Preparing policies for the treatment of data and providing them to the national database registry managed by the Superintendency of Industry and Commerce.
Observations	Depending on its economic activity, a company may be subject to special surveillance and control by other agencies, and these agencies may require the company to implement an ML/TF risk prevention system based on different criteria.		
Penalty	Penalties or fines of up to 200 minimum monthly salaries imposed by the Superintendency of companies (COP 175,560,600 / approx. USD 53,200)	Sanctions or penalties for up to 200 mínimum monthly salaries, imposed by the Superintendency of Companies (COP 175,560,600 / approx. USD 53,200).	**1.** Fines for natural or legal persons of up to 2,000 minimum monthly salaries (COP $ 1,755,606,000 / approx. USD $532,001) imposed by the Superintendency of companies. **2.** Suspension of the activities concerning data treatment for up to 6 months. **3.** Suspension of the operations concerning the treatment of personal data. **4.** Immediate and final closure of operations involving the treatment of personal data.

09

Conflict Resolution

- The Colombian legal system establishes different conflict resolution mechanisms for disagreements between private citizens and the state, operating in accordance with the Constitution and the law.

- Conciliation and arbitration have been broadly developed in Colombian legislation. Because of this, everyday more and more people resort to these mechanisms to settle and resolve their conflicts in a quick and reliable manner. International arbitration rules in Colombia have been created in accordance with the CNUDMI Model Law on International Commercial Arbitration. As a result, arbitration originates more under contracts than under procedural law.

- On the other hand, it is worth mentioning that Colombia ratified and adopted the 1958 New York Convention on the Recognition and Execution of Foreign Arbitral Awards, and the 1975 Inter-American Convention on International Commercial Arbitration as internal legislation.

Context

Under Colombian law, there are various jurisdictions through which conflicts between private parties, and conflicts between private parties and the state may be settled. As a general rule, conflicts between private parties are settled before regular courts of law; whereas conflicts between private parties and the State must be settled before contentious administrative courts of law.

The state also allows private citizens to exert the power to administer justice transitorily as peace judges, reconciliation agents or arbiters, so that they can hand down decisions based on equality or on by law, in accordance with the guidelines and restrictions that the law establishes for each specific case.

Regular Courts of Law

Regular courts of law are in charge of settling conflicts between private parties in civil, commercial, labor, agricultural, criminal and family matters. Regular courts include all-inclusive competency courts, municipal courts, circuit courts, Higher Tribunals and, finally, the Supreme Court of Justice, the highest tribunal in Colombian Law.

Procedural rules are framed under Act 1564 of 2012, the General Rules of Procedure. These rules are provided for civil, commercial, agricultural and family matters. Also, under Legislative-Decree 2158 of 1948, the Labor and Social Security Procedural Code, as well as Act 906 of 2004, the Code of Criminal Procedure.

Contentious Administrative Courts of Law

Contentious administrative courts are in charge of settling conflicts between private parties and the state, or conflicts between state entities. This system of courts includes administrative circuit courts, administrative tribunals and the so- called State Council, the highest administrative court of law in the country.

Procedural rules for these courts of law are framed under Act 1437 of 2011, the Code of Administrative Procedure.

Constitutional Courts of Law

Constitutional courts of law are in charge of interpreting the constitution and ensuring its supremacy in the Colombian legal system. Its top-body is the Constitutional Court, which includes 9 magistrates specialized in constitutional matters.

Through the mechanism of guardianship, multiple controversies can be made known to the Constitutional Court in situations where violations of fundamental rights are verified.

In principle, all Colombian judges are constitutional judges, as they have a duty to ensure compliance with the constitution in all situations.

Special Courts of Law

In Colombia there are three special courts of law through which certain exceptional conflicts are resolved, these are: The Indigenous Court, the Peace Court and the Special Court for Peace (JEP, from its acronym in Spanish).

The Indigenous Court is in charge of resolving disputes among indigenous people through their internal cultural law. The Peace Court is in charge of resolving certain minor conflicts between subjects that voluntarily submit to this court, and finally, the Special Court for Peace, established temporarily, is responsible for handling conflicts related to the Colombian peace process.

Alternative Conflict Resolution Mechanisms

Because of the high levels of legal congestion in Colombia, settling a case before the regular and the contentious administrative courts of law may take several years. As a result, Article 116 of the Constitution offers the possibility for private parties to be temporarily invested with the power to administer justice, acting as conciliation agents and arbiters.

Conciliation and arbitration in Colombia are broadly developed in the present. As such, more and more people resort to these mechanisms in an attempt to settle their controversies in a quick and reliable manner.

Conciliation

Conciliation is a mechanism for the resolution of conflicts, through which two or more people directly work on solving their differences with the help of a qualified, neutral third party known as the conciliation agent (“conciliador” in Spanish). Matters that can be resolved through conciliation are those open to process and/or abandonment, in addition to those already established by law.

The effectiveness of conciliation lies in the fact that when the parties reach a total or partial agreement, said agreement turns into res judicata, and the record written to set it down on paper is valid as a supporting document to initiate collection proceedings.

This alternate conflict resolution method is being used more and more in Colombia. Today, there are 364 active conciliation centers, which have received over 165.209 conciliation applications or requests during 2018, according to the figures from the Conciliation, Arbitration and Amicable Structuring Information System (SICAAC, from its acronym in Spanish).

Arbitration

Arbitration is an alternate conflict resolution mechanism, by which the parties delegate the resolution of a certain controversy to arbiters. Such controversy must relate to matters that the parties may dispose of freely or to any other matters authorized by the law. Arbitration can be national or international.

National arbitration

National arbitration will be ad-hoc if the arbiters carry out arbitration directly, or institutional, if managed by a center of arbitration. When an agreement between the parties concerning the nature of the arbitration is not achieved, it will be institutional.

Where the controversy concerns contracts entered into with a public entity or with a private entity that carries administrative duties, the proceedings will be ruled by that set forth in Act 1563 of 2012 for institutional arbitration.

International arbitration

Arbitration is understood to be international when: **(i)** the parties are located in different States, **(ii)** the place where the obligations related to the controversy are fulfilled, or where the controversy itself takes place, are places out of the State where the parties are located, and **(iii)** when the controversy submitted to arbitration affects international trade interests.

It is worth noting that Colombia ratified and adopted the 1958 New York Convention on the Recognition and Execution of Foreign Arbitral Awards as internal legislation, and also the 1975 Inter- American Convention on International Commercial Arbitration.

Investment arbitration

Since August 14, 1997, Colombia is a member of the International Center for the Settlement of Investment Related Conflicts – CIADI (for its acronym in Spanish) –, which was created to provide solutions to problems arising between governments and foreign investors.

10

Government Procurement

State contracting has a set of rules that regulate all the procedures carried out by State entities to conclude contracts necessary for the fulfillment of institutional functions, goals and objectives.

In Colombia, public contracting has a higher ordinance since it is a means to achieve the purposes of the State through contracts with individuals acting in their capacity as collaborators of the administration.

Scope

As a general rule, State entities are governed by the General Government Procurement Statute for the Public Administration, with a few exceptions, which have their own special regulations in this area. However, regardless of the contracting regime, a contract in which one of the parties is a public entity is considered a state contract, with certain exceptions such as the case of financial institutions or domiciliary public utility companies. Colombia has a General Government Procurement Statute for the Public Administration and complementary laws and regulations, which set the guidelines for public contracts. In case any specific necessary rule is not established in the Statute, the general rules of the law contained in the Colombian Civil Code and the Colombian Code of Commerce will apply.

Government procurement has higher-level characteristics, which derive from the purposes of the state and what it pursues. Such purposes comprise an obligation for both the corresponding state agencies and the private parties that enter into contracts with the state, to the extent that such parties and agencies are always acting in their condition as collaborators of the public administration.

State Contracts

In Colombia, the General Statute for Public Administration Contracts (Law 80 of 1993) has defined state contracts as legal transactions derived from the exercise of autonomy of will, where both the State and individuals are obliged to meet collective needs.

Therefore, a State contract is the legal tool through which the activity of the administration is externalized, allowing the effective execution of the activities the State is in charge of, giving priority to the satisfaction of the general interest.

By legal mandate and seeking contractual security, State contracts are of a solemn nature given the fact that their completion is subject to the observance of certain special formalities that must be in writing, except in urgent situations established by law.

Who can contract with the State

All natural and legal persons, whether national or foreign, considered to be legally capable under the current legislation, may enter into contracts with State entities and agencies; in other words, any person who is not in grounds for inability or incompatibility.

Consortiums and temporary unions may also enter into contracts with the state. The Colombian Government Procurement Statute recognizes these figures, which are normally and internationally known as Joint Ventures.

Unified Registry of Proponents – RUP (for its acronym in Spanish)

It is a registry created by law and delegated to the Chambers of Commerce throughout the country, designed for the registration of natural or legal persons, national or foreign, who seek to enter into contracts with state agencies for the execution of civil works, the provision of goods or services, save any specific exceptions expressly set by
the law.

The purpose of the RUP is to verify the requirements that qualify bidders who intend to contract with the State, in relation to their experience, legal capacity, organizational capacity and financial capacity. This is done by registering the qualification and classification that each interested party makes of the contracts they have executed before the corresponding chamber of commerce.

Registration in the RUP allows, among other things:

1.
Providing publicity for all qualification requirements that make a proponent a qualified participant in an eventual bidding process.

2.
The possibility to participate in bidding processes before State entities.

3.
Obtaining the RUP certificate, which serves as full evidence of the information it contains, provided that the registration is valid and current.

Methods to select a contractor

Generally, a contractor must be selected through a public bidding process. However, the law has established cases where the administration signs contracts through more abbreviated procedures that are equally transparent, equitable and objective, such as the merits contest, abbreviated selection, direct contracting and minimal amounts.

These faculties are fully regulated by the law, which has established the reasons why carrying out the selection of a contractor through a procedure other than public bidding is justified, either because of the characteristics of the subject matter, the conditions for the type of contract to be entered into, the contract value or the legal nature of the contracting entity.

1.
Public Bidding

It is a procedure through which the administration makes a public invitation to parties that are potentially interested in entering into a contract with the administration. It invites them so that they can submit their proposals; and then it chooses the most favorable for the purposes sought through a contracting procedure, in observance of the terms and conditions established by the public entity that opened the bid.

2.
Abbreviated Selection

This method of contracting has been provided for cases in which, due to the characteristics of the subject matter, the contracting circumstances, the amount or the destination of the goods, services or works, a simplified selection process may be carried out.

Abbreviated selection is used based on the nature of the subject matter (for goods or services with uniform technical characteristics or those commonly used by the entity), their value (corresponding to the smallest amount, which is determined according to the annual budget of the contracting entity), the sector of the administration that requires the object to be contracted (national security, for example), whether the object of the contract refers to an activity developed by industrial and commercial companies of the State or mixed economy companies, the nature of the entity or the fact that a bidding process among others has been declared unsuccessful. **(Article 2, paragraph 2, Law 1150 of 2007).**

3.
Merits contest

This method involves selection processes that focus on criteria such as expertise and the proponents' intellectual and organization capabilities, among others, based on their economic criteria and applying a proprietary method to select prequalified contests and open contests. The integration of work teams, experience and, in some cases, the development of methodologies, will be the most relevant assessment factors, leaving the economic criteria just as a factor that enables participation in the process. This aims to favor the entity with the greatest talent, experience and capability, beyond the price they quote, or the payment offered **(Law 1150 of 2007, Article 2, Point 3).**

4.
Direct Contracting

Direct contracting is an exceptional selection procedure. Under this procedure, public entities, in the cases specifically and expressly established in the law, may enter into contracts without the need to carry out any contest-based selection procedures. Here, a contract is prepared through a simplified, abbreviated, and quick procedure that follows objective and public interest criteria so that the offer that is most convenient for the interests of the administration is selected.

5.
Minimum amount

The minimum amount was established as a mechanism to contract goods or services that do not exceed ten percent (10%) of the lowest amount established for each entity (see Point 2, Article 2, Law 1150 of 2007), without considering the object of the contract. It involves a more expedited contracting method, in which the proposal with the lowest price is selected, provided that it complies with the rules established in point 5, **Article 2, Law 1150 of 2007, subrogated by Article 94, Law 1474 of 2011.**

6.
Agreements or Price Framework Agreements

This mechanism is a tool for the State to aggregate demand, coordinate and optimize the value of purchases of goods, works or services of State Entities to:

- **(i)** Produce economies of scale
- **(ii)** Increase the bargaining power of the State; and
- **(iii)** Share costs and knowledge among different agencies or departments of the State.

State entities must publish in the SECOP, all information related to the selection processes they carry out, in order to comply with the principles of publicity, efficiency, effectiveness and transparency.

The SECOP is the electronic tool of easy access, which allows the processes to be open to the public, so that interested parties are informed about the selection processes that are carried out by the different entities, making observations or even presenting themselves as bidders as well.

Therefore, the SECOP guarantees the publication of the contracting of goods and services by the Administration, thus favoring entrepreneurs or potential bidders (national and foreign) as well as State entities.

It is worth mentioning that as of January 1st, 2020, all public entities are required to publish their selection processes in accordance with Appendix 1 of the External Circular issued by Colombia Compra Eficiente in 2019, a document that compiles the regulations of the Public Procurement System.

Public – Private Partnerships (PPP)

Another contracting method that has become relevant to develop large projects are Public Private Partnerships (PPPs), which are a mechanism to engage private capital for the construction of infrastructure and its associated services. The PPPs are materialized in a concession contract between a State entity and a natural or legal person of private law, to provide public goods and services in different infrastructure sectors. The minimum amount of the project to be developed under the scheme of a public-private partnership is six thousand (6,000) SMMLV.

1. Public – Private Partnerships (PPP)

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2. Types of infrastructure

1.

Transportation or productive infrastructure (road, river, rail, port and airport)

2.

Infrastructure for the provision of public and social services (housing, aqueduct, sewage and basic sanitation, electricity, telecommunications, education, prisons, health, recreation and sport, and urban renewal).

3.

Energy infrastructure (mining, gas and oil).

3. PPPs by origin

PPPs can originate from **(i)** public initiatives or **(ii)** private initiatives. The difference between the two lies in the originator, and therefore gives rise to a different procedure for each type:

Public Initiative PPPs:

Under this model, the State Entity invites individuals to participate in a public bidding process to carry out its execution.

There are two stages in this model:

- The first one, in which the structuring is carried out by the Entity with the collaboration of that must interact with it.
- The second, in which the selection process is performed.

Private Initiative PPPs:

Under this model, the individual, also known as the Originator, structures the project following the terms indicated in the terms and conditions up until the pre-feasibility studies and presents it to the Entity, which must decide if project is rejected or if it is approved. Then the Feasibility Stage proceeds.

4. Standard Documents in PPPs

Decree 342 of 2019 regulated the mandatory application of Standard Documents for the specifications of the terms and conditions of the bidding processes for public works concerning transportation infrastructure.

This Decree has been applicable starting April 1st, 2019, for transportation infrastructure projects.

Public Utilities and Services

The state may provide public utilities directly or indirectly; for organized communities or for private citizens; but in every case, the state will retain surveillance, control and regulation over said services, and will ensure that service provision to all inhabitants is efficient.

The Colombian state has chosen to develop the figure of the “public utility concession” as the most useful means to ensure the efficient provision of public utilities, in the form of a contract or license through which the state provides a person (known as the concessionaire) the right to provide, operate, exploit, organize and manage, totally or partially, a certain public utility or service, defining the term for the provision of their services, the geographical territory in which they will be provided, the regulations on service rates and fees and the operating conditions, and regulations on the utilization of state or private property for the provision of such public utilities.

Law 1508 of 2012 enables the state to provide, operate and maintain public services infrastructure. The use of this contract model by the State has become more common, given the benefits that they can obtain in terms of technology and innovation, distribution of risks, infrastructure development, maintenance, among other factors.

1. Domiciliary Public Services

Law 142 of 1994 established the rules that apply to residential public utilities, which include water, sewage, cleaning and garbage collection, electric power, distribution of combustible gas, basic telephone services and local mobile services in rural areas.

Any person who purports to provide residential public utilities must incorporate a joint-stock company, the purpose of which is the provision of residential public services and said company must subject to a special regime contained in the law.

National and foreign investors can contribute and invest in these companies. The Superintendency of Public Utilities will regulate those investors, and the name of their company must include the words “empresa de servicios públicos” (Public Utilities Company) or the acronym “E.S.P.”, right after the S.A. or S.A.S. acronym.

In order to operate, public utility companies must obtain, as applicable, the required permits, authorizations and licenses for operation based on the type of activities that they carry out.

2. Direct Provision of Services

This happens when the State signs a contract with a private company to directly operate the entirety or a part of the project. This model is used for projects involving water supply, TV services, mobile communication, local communication, and power generation and distribution.

3. Acquisition of Public Utility Companies

Private investors may acquire a portion or the entire outstanding shares of public utility companies, acquiring a shares package or important assets owned by the company.

Privatizations (sale of state-owned shares)

Law 226 of 1995, establishes the procedure by which private individuals will be given access to **(i)** shares owned by the State, **(ii)** bonds compulsorily convertible into shares owned by the State; and **(iii)** in general to any participation of the State in the capital of any company. In this process includes several distinct stages:

1. The decision to sell the participation on the shares, which takes the form of a disposal program adopted by decree, containing the essential elements such as the stages, structure and technical studies for the valuation of the shares, among others;
2. An exclusive offer at a fixed price must then be presented to the social sectors that have preference according to Section 60 of the Political Constitution.
3. Once the offer to the social sectors is completed, the rules of the disposal program will be followed for the rest of the private interested parties.
4. Afterwards, the contract will be awarded, concluded and perfected.
5. Subsequently, necessary measures must be taken to change the owners of the shares.
6. Finally, it is necessary to analyze the need to change the bylaws, review the termination of the entity’s obligations due to the fact that it is public, or change the liability regime if applicable.
7. In these stages, there is an inherent public interest to protect on behalf of all the authorities that are a part of the Colombian State, such as the review by the Ombudsman’s Office of the disposal program.

Thus, we find a constitutional and legal framework where private participation within State institutions is consistently developed by the legislator, under an economic model that makes the entry of private capital, both national and foreign, feasible under the supervision and control of State entities.

Legal Regulations for oil and gas exploration and exploitation

According to Section 76 of Act 80 of 1993, exploration and exploitation contracts for the production and marketing of non-renewable natural resources such as oil and gas, are subject to a special applicable legislation.

Under Decree Act 4137 of 2011 it was established that National Agency for Hydrocarbons (ANH, for its acronym in Spanish) is the integral administrator of the Nation’s hydrocarbon reserves, in charge of the promotion and optimal, sustainable use of these resources. With the modification of its legal nature, the current contracting regime for the exploration and production of hydrocarbons in Colombia was implemented.

Under this scheme, private entities authorized for the exploration and production of gas and oil and Ecopetrol S.A. entered into competition under the same conditions, without the need for an association contract as previously required. However, in some cases, the previous association regime is still in force as the contracts were agreed with a duration of up to 30 years.

This type of contract has the following characteristics:

a. It is a state contract governed by special rules, and it is not subject to the contracting rules in Act 80 of 1993.

b. The contract must be negotiated with, and approved by the ANH.

c. The contractor undertakes 100% of the work programs, assets, costs and risks.

d. The contractor has full autonomy and operating responsibility.

e. The contractor is entitled to the whole production after deduction of the applicable royalties, which must be paid to the ANH based on the volume and quality of the produced hydrocarbons.

f. In addition to the above, the Contractor must process and obtain the corresponding environmental licenses before the National Authority of Environmental Licenses – ANLA (for its acronym in Spanish).

The ANH has the dual function of administering the nation's resources, following up on contracts and administering the royalties received under them. In addition, it functions as a regulatory body.

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The Representative Market Exchange Rate (TRM, from its acronym in Spanish) used in this document is COP 3,277 and it was calculated based on the average of the daily historical series of Banco de la República (Colombia's national bank) for 2020.

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