Colombia enacts tax reform legislation

October 26, 2021

In brief

Tax Reform Bill No. 2155, which incorporates various changes to Colombia's national tax system, was published on September 14.

**Takeaway:** The Colombian Government is expected to issue regulations with respect to the tax changes covered in this Insight. Companies investing or carrying out business in Colombia should assess the potential impacts of the tax reform on their operations and capital structures.

In detail

The titled 'Social Investment Law' aims to increase the collection of revenues to fund social programs and public spending, which were affected by the pandemic. Most of the adopted changes apply as of fiscal year 2022 (FY22). Some of the key changes are highlighted below:

**Corporate Income Tax (CIT)**

- The CIT rate will increase from 30% to 35% starting in 2022 for domestic corporations, permanent establishments, and foreign corporations that file tax returns in Colombia.

- A new amnesty regime applies a 17% tax rate on the historic tax value of undisclosed assets or improperly claimed liabilities as of January 1, 2022. The taxable base of undiscovered foreign assets is reduced by 50% if repatriated by December 31, 2022 and invested in Colombia with 'permanence.'

- An additional 3% tax will be levied from FY22 to FY25 on financial institutions with taxable income equal to or greater than 120,000 tax units (Unidad de Valor Tributario - UVT), resulting in a new total tax rate of 38% from 2022 to 2025. The 3% additional tax should be paid through an advance payment based on the prior year’s taxable income.

**Tax holiday for technological and creative industries (Orange economy)**

- The tax holiday exemption for technological and creative industries, which was introduced by the 2019 tax reform and available for companies with gross income below UVT 80,000 from qualifying activities, is extended to include companies operating before June 30, 2022.
Deductions

- As of January 1, 2022, all expenses, such as deductible taxes, must be supported by an electronic invoice or similar document as required by the DIAN (Director General de la Unidad Administrativa Especial Dirección de Impuestos y Aduanas Nacionales).

Penalties

- Penalties and interest rates relating to tax liabilities not satisfied due to the pandemic are reduced provided the payments are made on or before December 31, 2021.

Ultimate beneficial owner (UBO)

- The term UBO is defined to include:
  - Individuals who, acting solely or jointly, directly or indirectly, hold 5% or more of the capital or voting rights of the legal entity, and/or benefit from 5% or more from the assets, income, or profits of the legal entity; and
  - Individuals who, acting solely or jointly, exercise control over the legal entity, by any other means; or
  - Where it is not possible to identify individuals based on the previous two categories, taxpayers identify the person who holds the position of legal representative, unless there is an individual who holds greater authority in relation to the legal entity’s management or direction functions.

Statute of limitations (SOL)

- The SOL for taxpayers subject to a tax audit who report an increase in net income for fiscal years 2022 and 2023 is reduced as follows, provided that relevant filings and payments are made timely:
  - Six-month SOL if the income tax increased by at least 35% compared to the preceding year; and
  - 12-month SOL if the income tax increased by at least 25% compared to the preceding year.
- This provision will not apply to taxpayers entitled to tax benefits due to being located within a specific geographic zone.
- This provision does not affect the SOL for VAT and withholding tax returns.
Let’s talk

For a deeper discussion of how the tax reform legislation might affect your business, please contact:

**International Tax Services, Colombia**

Angela Liliana Sanchez  
+ 571 634 0555 Ext. 10293  
angela.liliana.sanchez@pwc.com

Carlos Miguel Chaparro  
+571 634 0555 Ext. 404  
carlos.chaparro@pwc.com

**International Tax Services, United States**

Luis Vargas  
+1 347 325-4171  
maximo.l.vargas@pwc.com

Maria Bel  
+1 646 637-2461  
maria.j.bel@pwc.com

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