V. Taxation of Domestic Corporations

A. What Is a Domestic Corporation?

For tax purposes, domestic corporations are entities:[502]

(i) That, over the course of the relevant tax year, have their effective management headquarters (defined as the place at which material business and management decisions are made) in Colombia;[503]

(ii) Whose principal place of domicile is in Colombia; or

(iii) That are constituted in Colombia, in accordance with Colombian law.

As discussed in VI. and VII., below, branches of foreign companies and permanent establishments (PEs) are treated for taxation purposes as Colombian entities and are taxed on their worldwide source income and assets attributable to the branch or PE in Colombia.[504]

B. Corporate Income Tax

1. In General

Under Colombian tax law, there are two types of taxable entities of which foreign investors should be aware: resident entities and branches of foreign companies registered to conduct business in Colombia. The taxation of these entities is different in that the former are taxed on a worldwide basis[505] and the latter are only taxed on their Colombian-source income and their foreign-source income that is attributable to the operation of the branch.[506] The income tax rates for legal entities are as follows:

(i) The basic income tax rate is 35% for fiscal year 2023 onwards.[507]However, Law 2277 of 2022 introduced a new 15% minimum tax for all legal entities that are income taxpayers and for entities that operate in free trade zones. The tax rate is calculated by dividing the adjusted income tax by the adjusted profit.[508]

This minimum tax rate is not applicable to:

- Foreign entities;
- Entities incorporated as special economic and social development zones ("ZESE")[509]; and
- Companies that operate in areas of armed conflict (ZOMAC).

(ii) Capital gains (including profits from the sale of assets held for more than two years) are taxed at a rate of 15%.[510]

Most legal entities — including a *Sociedad Anónima* (SA), a *Sociedad de Responsabilidad Limitada* (SRL) and a branch — are taxed at the entity level.[511] Colombia has no pass-through entity concept, such as applies to partnerships under Subchapter K of the I.R.C. of the United States. However, pass-through treatment for income taxation purposes is available with respect to temporary union, consortium and joint venture-type arrangements, as they have no legal personality and are not designated as taxpayers for purposes of income tax (although they are considered taxpayers for purposes of industry and commerce tax (ICA), valued added tax (VAT) and withholding taxes). The above rules apply provided that the contracting parties did not intend to associate themselves by creating a new (separate) entity under these arrangements. If the parties did so intend, the arrangement would give rise to a *sociedad de facto* or irregular entity that would be liable to the various Colombian taxes discussed in this Portfolio.[512]

Colombia imposes corporate-level income taxation not only on private for-profit entities, such as typical SAs and SRLs,[513] but also on some state-owned entities, which include mixed-economy entities (companies consisting of government and private shareholder interests), public funds, and the National Telecommunications Company (known as "Telecom").[514] Nonprofit organizations are subject to a special tax regime.[515] However, the Colombian Government and its agencies, districts, municipalities, government regulatory agencies and indigenous people associations, among other state organizations, are not considered taxpayers and, as such, are not subject to corporate income tax.[516] Additionally, under Colombian tax law, the following institutions are not considered income tax payers:

(i) Legally organized labor unions;

(ii) Universities organized as nonprofit organizations;

(iii) Political parties;

(iv) Religious congregations organized as nonprofit organizations;

(v) Alumni associations; and

(vi) Hospitals organized as nonprofit organizations.[517]

Nonprofit organizations may be exempt if their operating profits are earmarked to cover health, formal education, cultural, scientific research, ecology or social development programs.

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[502] Col. Tax C., art. 12-1.

[503] According to the reforms introduced by Law 2277 of 2022, the "effective headquarters" of a company is the place where the business and management decisions necessary to carry out the company's activities on a *day-to-day* basis are materially made. Col. Tax C., art 12-1.

[504] Col. Tax C., arts. 12, 20, 20-2 and Law 1943/2018, art. 58.

[505] Col. Tax C., art. 12.

[506] Col. Tax C., arts. 12, 20, 20-2 and Law 2010/2019, art. 66.

[507] Col. Tax. C., art. 240.

[508] Col. Tax. C., art. 240, par 6.

[509] The Special Economic and Social Zones (ZESE as per its acronym in Spanish) are designated areas aimed at fostering economic and social development by attracting national and foreign investment. Established by Law 1955 of 2019, the ZESE seek to improve living conditions and create employment in regions with high unemployment rates. This special regime is implemented in the departments of La Guajira, Norte de Santander, and Arauca, as well as in the capital cities of Armenia and Quibdó.

[510] Col. Tax C., arts. 313, 314.

[511] Col. Tax C., arts. 13, 14.

[512] Col. Tax C., arts. 18, 368, 437.

[513] Col. Tax C., art. 16.

[514] Col. Tax C., art. 17.

[515] Col. Tax C., arts. 19, 22, 23.

[516] Col. Tax C., art. 22.

[517] Col. Tax C., arts. 23-1, 23-2; Decree 1625/2016, art. 1.2.1.4.1.

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2. Foreign Corporations

See VI. and VII., below.

3. Basis of Taxation

As indicated in V.B.1., above, Colombia uses a worldwide basis of taxation (i.e., resident entities are subject to tax on their worldwide income and PEs are subject to tax on their Colombian-source income and their foreign-source income that is attributable to the operation of the PE). Foreign companies (not including PEs) are subject to tax on their Colombian-source income.[518] For a description of what is considered Colombian-source income, see V.B.5.c., below.

4. Tax Accounting

a. In General

Colombia does not have a specific "tax accounting" system. Thus, taxpayers are required to keep their books in accordance with the financial accounting rules that apply to them, making specific adjustments to reflect the difference between the accounting and tax treatment of a particular economic event (for example, the use of different depreciation methods for accounting and tax purposes). In any case, it is not necessary to include tax options in the financial statements following the 'independence and autonomy' of financial accounting from tax rules established in Law 1314 of 2009, which adopted IFRS (for a more complete description of description of financial accounting, see V.D.1., below). The computation of taxable income is based on the accounting results and complemented by numerous special tax rules or adjustments pursuant to more than 916 articles of the Tax Code. Therefore, taxpayers are obliged to maintain a system of tax reconciliation of the differences that arise between the application of the accounting rules and the provisions of the Tax Code.[519]

Some of the most relevant tax deviations are:

(i) Article 21-1 invalidates fair value for tax purposes and restricts valuation to historical cost or face value to minimize accounting options;

(ii) In general, provisions are not allowed as deductions. Pursuant to Article 145 of the Tax Code only amounts corresponding to doubtful debts are deductible upon compliance with certain requirements;

(iii) Accounting methods are accepted for depreciation purposes, subject to maximum annual rates ranging between 2.22% and 33% as determined by the government through a regulatory decree;

(iv) Expenses related to tax-exempt income are non-deductible;

(v) Payments made to residents in non-cooperative jurisdictions or low or zero-tax jurisdictions (as identified in a list provided by the government) are non-deductible; and

(vi) Capital loses derived from the selling of assets between related parties or partnerships and their partners are also non-deductible.

With the enactment of Law 1314 of 2009, Colombia initiated the process of moving from Colombian generally accepted accounting principles (COLGAAP) to International Financial Reporting Standards (IFRS). For purposes of the transition to the new reporting standards, Colombian companies were classified into the following three groups:

(i) Companies whose securities are publicly traded and are legally defined as public interest entities under the law; large companies whose parent or subsidiary reports under IFRS; and companies that derived 50% or more of their revenue from exports or imports: adoption of full IFRS by 2015 (transition during 2014);

(ii) Large and medium-sized companies other than those included in group (i), above: adoption of IFRS for SMEs in 2016; and

(iii) Microenterprises: adoption in 2015 of a new standard developed by the Technical Council for Public Accounting. Microenterprises may also choose the IFRS for SMEs.

An IFRS-based system was introduced under Law 1819 of 2016 also for tax purposes as of 2017. Financial accounting rules are decisive for purposes of the computation of the taxable base, as explicitly provided in Article 21-1 of the Tax Code.[520] However, as previously mentioned, it is not necessary to include tax options in the financial statements following the independence of financial accounting from tax rules.[521]

b. Tax Accounting Periods

The tax or fiscal year is the calendar year.[522] Resident entities that commence business operations after January 1 of a particular year are deemed to have a short initial tax year, which begins on the date on which operations commence.[523] Short tax years may also arise where a legal entity undergoes a liquidation.[524] Likewise, when a foreign investment in Colombia is liquidated, a special purpose income tax return must be filed, even when the liquidation does not generate a tax liability.[525]

c. Tax Accounting Methods

In general, entities required to maintain accounting records must do so using the accrual method, which is also valid for tax purposes.[526] Generally, the cash method of accounting is permit-

[518] Col. Tax C., arts. 12, 20, 20-2.
[519] Col. Tax C., art. 772-1.
[520] Article 21-1 provides as follows: "To determine the income tax, the value of assets, liabilities, equity, income, costs and expenses, taxable persons required to keep accounting shall apply the recognition and measurement systems, in accordance with technical regulatory frameworks in force in Colombia, when the tax law expressly refers to them and in cases in which it does not regulate the matter. In any case, the tax law may expressly provide for a different treatment, in accordance with Article 4 of Law 1314 of 2009." (unofficial translation).
[521] Law 1314 of 2009, art. 4.
[522] Decree 1625/2016, art. 1.6.1.5.7.
[523] Decree 2588/1999.
[524] Col. Tax C., art. 595; Decree 2588/1999.
[525] Col. Tax. C., art. 326.
[526] Col. Tax C., art. 27.

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ted only for individuals who do not carry on business activities.[527]

d. Inflationary Adjustments

See V.D.3.e., below.

e. Consolidated Returns

Colombia currently does not permit controlled groups to file consolidated income tax returns. However, economic and business groups are required to submit certain information electronically to the Tax Administration (DIAN).[528]

f. Payment of Income Tax in Connection with Economic and Social Development Projects

Law 1819 of 2016, as amended by Law 2010 of 2019 and Law 2155 of 2021, established the possibility for entities (and individuals) that are:

(i) Required to keep accounts;

(ii) Considered as taxpayers for income tax purposes; and

(iii) That in the prior fiscal year obtained a gross income equal to or greater than 33,610 UVT, to enter into agreements with national public entities to receive Titles for the Renewal of the Territory (TRT) used to pay their corporate income tax, as consideration for the development and execution of economic and social projects in the Colombian municipalities considered as the "most affected zones by the armed conflict" ("ZOMAC") and the municipalities with development programs with territorial economic impact ("PDET").[529] Through this agreement, the taxpayer commits to develop the project in exchange for consideration that will be paid by means of TRT, once the project is executed and delivered with the approval of the competent entity.

5. Taxable Income

a. Gross Income

Colombia's concept of gross income is very broad and includes all events that increase the net worth of the entity, whether by way of an increase in assets or decrease in liabilities.[530] A resident entity's taxable income comprises all revenue, including income in kind, apart from some specifically excepted items.[531] The Tax Code expressly excludes certain income from the scope of income tax, for example:

(i) Profits derived from the sale of shares listed on the Colombian stock market, if the relevant transaction does not involve more than 3% of the total shares of the company concerned;[532]

(ii) Distributions of dividends to shareholders that are out of profits that have already been subject to corporate income tax. However, these dividends will be subject to a dividend tax;[533]

(iii) Indemnification for losses paid by insurance companies, provided such indemnification is intended to compensate for actual damages (or the establishment of a fund for this purpose);[534]

(iv) Increases in the capital of a company;[535]

(v) Certain contributions to pension funds and savings accounts, made in favor of individuals;[536]

(vi) Certain payments under employment contracts;[537] and

(vii) Profits derived from international aviation and maritime transportation attributable to a Colombian entity.[538]

b. Capital Gains

One of the components of income taxation in Colombia is the *impuesto de ganancias ocasionales* (capital gains tax), which is levied on, among other items, profits from the sale of fixed assets owned for more than two years;[539] inheritances, legacies, and donations;[540] gains arising as a result of the liquidation of a legal entity in excess of the invested capital; and winnings from lotteries, raffles, and gambling.[541] The tax is imposed at a 15% rate, except in the case of income earned from lotteries, raffles and gambling, which are taxed at a rate of 20%.[542]

c. Colombian-Source Income

Colombian-source income is income derived from the exploitation of tangible or intangible goods or services rendered on a continuous or occasional basis within Colombia.[543] Colombian-source income also includes gains from the disposition of any tangible or intangible item (for example, stock), provided the item was located in Colombia at the time of the relevant transaction. Specifically included in Colombian-source income are the following items:

(i) Earnings and profits derived from immovable goods located in Colombia;

(ii) Earnings and profits derived from the disposal of immovable goods located in Colombia;

(iii) Earnings and profits derived from the exploitation of movable goods in Colombia;

(iv) Interest income derived from debt instruments held in Colombia or economically attributable to Colombia (inter-

[527] Col. Tax C., art. 27.
[528] Col. Tax. C., art. 631-1.
[529] Col. Tax C., art. 800-1. Targeted projects include those related to drinking water, basic sanitation, energy, public health, public education, rural public goods, climate change adaptation and risk management, payments for environmental services, information and communication technologies, transportation infrastructure, cultural infrastructure, and sports infrastructure, among others.
[530] Col. Tax C., art. 26.
[531] Col. Tax C., arts. 24, 26–27.
[532] Col. Tax C., art. 36-1.
[533] Col. Tax C., arts. 48–49.
[534] Col. Tax C., art. 45 and Decree 1625/2016, arts. 1.2.1.12.2, 1.2.1.12.3, 1.2.1.12.4.
[535] Col. Tax C., art.319. Decree 1625/2016., art. 1.2.1.12.1.
[536] Col. Tax C., arts. 126-1, 126-4.
[537] Col. Tax C., art. 206.
[538] Col. Tax C., art. 25(d).
[539] Col. Tax C., art. 300.
[540] Col. Tax C., art. 302.
[541] Col. Tax C., art. 301.
[542] Col. Tax C., art. 317.
[543] Col. Tax C., art. 24.

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est income derived from debt instruments pertaining to the importation of goods and bank overdrafts is exempt);

(v) Compensation income, such as salary, commissions, and fees for professional services, artistic and athletic performances, and other activities, including services rendered by a legal entity, provided the services are performed in Colombia;

(vi) Compensation income for personal services paid by the Colombian Government, irrespective of where the services are rendered;

(vii) Benefits or royalties derived from the exploitation of intellectual property (IP) rights or know-how related to IP or literary, artistic or scientific property, or the provision of assistance services within Colombia, or from abroad to a Colombian beneficiary;

(viii) Income from rendering technical services that are performed in Colombia or from abroad for a Colombian beneficiary;

(ix) Dividend or profit distribution income derived from a Colombian resident entity;

(x) Dividend or profit distribution income paid to Colombian residents that is derived from a foreign (offshore) entity that is directly or indirectly engaged in business activities or investment in Colombia;

(xi) Income derived from lifelong support and maintenance contracts, if the recipient of the income is a resident of Colombia or the income is economically attributable to Colombia;

(xii) Earnings and profits derived from the exploitation of farms, mines, natural resource deposits and forestry, and other natural resources located in Colombia;

(xiii) Earnings and profits derived from the manufacturing and transformation of industrial goods or raw materials in Colombia, irrespective of the place of sale or disposition of the product in question;

(xiv) Earnings and profits effectively connected with a Colombian trade or business;

(xv) In the case of a turn-key contract effected in Colombia, the contractor's total contract price or value and other contract values pertaining to the manufacturing of materials or products in Colombia;

(xvi) Reinsurance premiums yielded by Colombian insurance companies to foreign companies; and

(xvii) Income obtained from the sale of goods and services by nonresidents or foreign entities with significant economic presence, on behalf of customers located within the national territory in accordance with the provisions of article 20-3 of the Tax Code.

d. Foreign Source Income

The following items of income are expressly considered to be derived from non-Colombian sources for purposes of calculating taxable income in Colombia[544] (this has consequences mainly for foreign entities, as well as nonresident individuals, which are only taxed on their Colombian-source income):[545]

(i) Income from loan instruments acquired abroad corresponding to one of the following categories: short-term debt instruments obtained for the importation of goods and bank overdrafts; loans obtained to finance or pre-finance exports; loans obtained abroad by financial institutions and banks incorporated under the laws of Colombia; and loans to finance foreign trade obtained through financial institutions and banks incorporated under the laws of Colombia;

(ii) Earnings and profits derived from repair and equipment maintenance technical services rendered abroad (as opposed to "from abroad");

(iii) Revenue from staff training services provided abroad to public sector entities;[546]

(iv) Income arising from the sale of foreign goods deposited in "International logistic distribution centers" located in maritime ports authorized by the DIAN. It should be noted that, as of the time of writing, the Colombian Government had not yet issued regulations on this matter; and

(v) Earnings and profits from international aviation and maritime transportation attributable to a Colombian resident entity.

e. Calculation of Taxable Income

Taxable income is determined as follows:

(i) Ordinary and extraordinary receipts that result in an increase of the net worth of the taxpayer and are not expressly excluded = gross revenues;

(ii) Gross revenues minus returns, discounts and rebates = net revenues;

(iii) Net revenues minus costs attributable to such revenues = gross income; and

(iv) Gross income minus deductible expenses = net or taxable income.[547]

In principle, the tax base for the basic income tax is net income, as calculated above. However, the law allows for the set off, against net income, of tax loss carryforwards[548] and accumulated excess presumptive income over actual income (as discussed below),[549] which decrease the tax base. That said, the tax base may not be smaller than the tax base determined under the presumptive income system.

For fiscal years before 2021, the taxable income of a legal entity (or an individual not qualifying as an employee), may not be less than an amount of presumed taxable income based on the taxpayer's net worth (presumptive income). For presumptive income purposes, a taxpayer's net income may not be less than 0.5% of the taxpayer's net equity as of December 31 of the

[544] Col. Tax C., art. 25. This is akin to the general U.S.-source rules under I.R.C. §862(a), which define non-U.S.-source income.
[545] Col. Tax C., arts. 9, 12, 20, 20-2.
[546] Col. Tax C., art. 25(b).
[547] Col. Tax C., art. 26.
[548] Col. Tax C., art. 147.
[549] Col. Tax C., art. 189.

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previous tax year.[550] However, Law 2010 of 2019, reduced the presumptive income rate to 0% for fiscal year 2021 onwards.[551]

Thus, for taxable year 2020, if a taxpayer has losses or has taxable income amounting to less than its presumptive income, the corporate income tax must be calculated based on the presumptive income. The presumptive income regime is not applicable to:

(i) New companies during the fiscal year of incorporation;

(ii) Individuals and entities under the simple tax regime (*Régimen de Tributación Simple*);[552]

(iii) Companies under liquidation (but only during the first three fiscal years), among others.[553]

The taxable base for purposes of computing the tax based on presumptive income may only be reduced by the value of the following assets:[554]

(i) The net value of shares and stock in Colombian companies;

(ii) Assets affected by acts of God, if evidence is provided as to the existence of such acts and the degree to which such acts resulted in lower net income;

(iii) The net value of the assets associated with companies during an unproductive period;

(iv) The net value of assets used in the mining industry, other than the exploitation of oil and gas;

(v) The value of the assets earmarked for agricultural activities, up to 19,000 UVT; and

(vi) The net value of assets associated with sporting activities carried on in clubs.

Although the value of the above assets is excluded, the taxable income attributable to the excluded assets must be added to the amount of presumptive income for purposes of calculating the corporate income tax liability.[555]

Among others, the following taxpayers were not required to calculate presumptive income tax when assessing their tax liability:[556]

(i) Non-profit organizations subject to the special regime outlined in article 19 of the Tax Code;

(ii) Public utility companies;

(iii) Securities, pension, investment and other types of funds covered by articles 23-1 and 23-2 of the Tax Code;

(iv) Companies involved in the operation of mass transit and public transport systems;

(v) Companies in bankruptcy;

(vi) Companies in liquidation during the first three years of the liquidation process; and

(vii) Financial institutions taken over by the Superintendence of Finance.

Example: The following illustrates how for FY2020 the presumptive income regime operates in the case of a taxpayer required to calculate its income tax liability under the presumptive income regime because of its financial situation.

Detail	Presumptive Regime (COP)	Ordinary Regime (COP)
Revenue		100,000
Cost and Expense		(80,000)
Taxable Income		20,000
Tax Due		6,400
Net Worth of Prior Year	15,000,000	
Minimum Profitably (2020): (0.5% × Prior Year's Net Worth)	75,000	
Taxable Income	75,000	
Tax Due (2020: 32%)	24,000	

In the above *Example*, the company must calculate income tax based on 75,000. Moreover, the taxpayer will have excess presumptive net income of 55,000, which is likely to be offset against the taxable income under the ordinary system determined in the next five years.[557]

Colombian tax law provides that certain Colombian-source income is excluded in calculating taxable income.[558]

6. Deductions

a. In General

Resident entities are allowed to deduct ordinary and necessary business expenses from their gross tax base to arrive at a net tax base amount.[559] Under Colombian law,[560] business expenses are deductible for income tax purposes, provided they meet the following requirements:

(i) The expenses must be necessary for carrying on the business activity.

(ii) The amount of the expenses must be proportionate to each activity.

(iii) The expenses must have a causal relationship to the income generated.

(iv) Only expenses incurred and accrued during the current year are tax deductible, which means that expenses incurred in prior years are not tax deductible.

[550] Col. Tax C., art. 188.
[551] Col. Tax C., art. 188.
[552] Col. Tax C., art. 188.
[553] Col. Tax C., art. 191.
[554] Col. Tax C., art. 189.
[555] Col. Tax C., art. 189.
[556] Col. Tax C., art. 191.
[557] Col. Tax. C., art. 189.
[558] Col. Tax. C., art. 207-2.
[559] Col. Tax C., arts. 26, 104, 105, 107.
[560] Col. Tax C., arts. 104, 105, 107, 771-2, 87-1, 108, 121-122.

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(v) The expenses must be supported by invoices or equivalent documents that comply with legal requirements. In general, these requirements state that the invoice must contain: the name and tax identification number of both the acquirer and the supplier of the goods or services; a number that corresponds to a consecutive invoice numbering system; and the date of issuance and the number of items sold and their value, or a description and the value of the services rendered, among others.[561]

(vi) Only expenses linked to taxable revenue are tax deductible. No deductions are allowed for expenses not effectively connected with taxable revenue.

It should be noted that Colombia is trying to ensure that all invoices issued by taxpayers are issued electronically.[562] The electronic invoicing system is applicable to the sale of goods and services as well as to other operations, such as payroll payments, exports, imports, and payments made to non-VAT responsible persons.

In addition to the general requirements set out above, the law establishes specific conditions for the admissibility of certain types of deductions. For example, labor compensation may only be taken as a cost or expense if the respective withholding taxes were properly deducted, and the employer met its social security obligations.[563]

Costs and expenses incurred outside Colombia for purposes of deriving Colombian-source income may also be deducted from the net income of the taxpayer. Deductions of costs and expenses abroad may not exceed 15% of the taxpayer's net income, before such costs and deductions. The following costs are deductible without the mentioned limitation:[564]

(i) Costs with respect to which a mandatory withholding tax in Colombia applies to the corresponding payments;

(ii) Costs that correspond to payments specifically designated in article 25 of the Tax Code as not constituting domestic-sourced income;

(iii) Payments for the acquisition of tangible assets of any type;

(iv) Expenses incurred under legal requirements, such as the cost of customs certification services;

(v) Costs incurred for the provision of telecommunications services;[565] and

(vi) Interest on loans granted by a multilateral credit institution to a Colombian tax resident, if the institution qualifies as an institution that is exempt from income tax.

Additionally, the DIAN has accepted the full deductibility of expenses incurred in countries with which Colombia has signed tax treaties, under the non-discrimination clause contained in such treaties.[566]

Furthermore, in some cases, the possibility of deducting foreign expenses is conditioned on compliance with the provisions set forth in the Tax Code (which, in the case of technology, brand or patent import contract, includes an obligation to register the agreement with the DIAN),[567] as well as payment of the withholding taxes related to foreign expense payments, if applicable.[568]

Colombian entities are also allowed to deduct the amounts paid to their parent companies or offices abroad, with regard to administration or management and the purchase cost of any kind of intangible good, as long as the payments were duly subjected to income tax withholding[569] Payments to head offices abroad for other purposes are subject to the restrictions (15% ceiling) discussed above.

In addition, Colombian taxpayers may deduct 100% of all paid taxes, rates and contributions if they have been effectively paid, excluding income tax, wealth tax and tax paid under the voluntary disclosure regime introduced by Law 2010 of 2019.

It is important to note that 50% of the financial transaction tax may be deducted from the income tax and that the taxpayer may take as a discount.

Law 2277 of 2022 provides that royalties paid by taxpayers for the exploitation of non-renewable natural resources are non-deductible for income tax purposes and, therefore, cannot be treated as an expense.[570]

Law 1257 of 2008 created an incentive for employers to hire women who are victims of gender-based violence in the form of a 200% deduction for the relevant wages and social benefits paid during the taxable year, for a period of three years.

An employer seeking to obtain the deduction introduced by Article 23 of Law 1257 of 2008 must:

(i) Have a valid employment contract with one or more women who are victims of verified violence, as defined in Decree 2733 of 2012. The existence of the employment relationship must be proven within the taxable period for which the deduction is requested.

(ii) Provide a copy of the certificate verifying the relevant violence, as defined in section b) of Article 3 of Decree 2733 of 2012.

(iii) File evidence of payments of salary and social benefits to female workers who are victims of verified violence during the taxable period for which the deduction is sought.

(iv) Obtain certification from the information operator of the Integrated Contribution Settlement Form (*Planilla Integrada de Liquidación de Aportes*, PILA) detailing contributions and bases relating to female workers referred to in Decree 2733 of 2012.

(v) Submit a copy of the PILA or equivalent document related to payments made under the employment relationship that qualifies for the benefit during the respective tax-

[561] Col. Tax C., art. 617.

[562] Electronic invoices must be issued in accordance with the requirements set forth in Col. Tax C., art. 616-1 and regulations to be issued by the Colombian Government (including Decree 358 of 2020, Decree 1625 of 2016, Resolution 42 of 2020 and Resolution 165 of 2023).

[563] Col. Tax C., arts. 87-1, 108.

[564] Col. Tax C., arts. 121–122.

[565] Decree 1625/2016, art. 1.2.1.17.4.

[566] Col. Tax and Customs Admin. Op. 77842/2011.

[567] Col. Tax C., art. 123. Col. Tax and Customs Admin. Op. 085072/2008.

[568] Col. Tax C., art. 123.

[569] Col. Tax C., art. 124.

[570] Col. Tax C., art. 115. Par 1.

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able year. This document must prove that periodic payments of salary and contributions qualifying for the deduction were made in the corresponding taxable period.

(vi) Demonstrate compliance with Article 108 of the Tax Code and meet other requirements for eligibility for the deductions.[571]

b. Organizational Costs

Certain expenses may not be deducted in full during the period in which they are incurred, but rather must be amortized over later fiscal years. These expenses include:

(i) The cost of intangible assets that fulfill the conditions set out in article 74 of the Tax Code.[572]

(ii) Costs associated with mining acquisitions and exploration, or the development of oil and gas and other nonrenewable natural resources, if they fulfill the conditions laid down in article 143-1 of the Tax Code.

The amortization base is the cost of the intangible, which must be determined as provided under article 74 of the Tax Code.

The method of amortization is determined in accordance with accounting principles and the maximum rate of amortization per fiscal year is 20% of the asset's cost for tax purposes.

An intangible asset acquired under a contract must be amortized on a straight-line basis, in equal installments, over the period stated in the contract. In any case, the annual rate may not exceed 20% of the asset's cost for tax purposes. Expenses that exceed the 20% limitation will be deductible in the following fiscal periods, based on the useful life of the intangible asset concerned. In any case, the corresponding deductible amortization expenses in any year may not exceed 20% of the asset's cost for tax purposes.

Intangible assets acquired separately or as a part of a business are amortizable if they meet the following requirements:

(i) The assets have an established useful life;

(ii) The assets can be reliably identified and measured in accordance with accounting techniques; and

(iii) Their acquisition generated taxable income at market value, or the transfer was made with an independent third party from abroad.

It should be noted that intangible assets acquired separately or as part of a business between related parties within Colombia's national customs territory and free trade zones, or transactions subject to the transfer pricing rules under articles 260-1 and 260-2 of the Tax Code, may not be amortized.

c. Cost of Goods and Services

(1) In General

As is the case with the deduction of other deductible expenses, the deduction of the cost of goods and services for income tax purposes is allowed only as provided by law for that purpose, i.e.:

(i) If the taxpayer is not required to keep accounts, such costs may be deducted in the year in which they were actually paid; or

(ii) If the taxpayer is required to maintain an accounting system, such costs may be deducted in the year in which they accrued.[573]

Costs incurred abroad are subject to the restrictions discussed in a., above.[574]

The Colombian Tax Code includes a provision dealing with the determination of the cost of services. For taxpayers that are required to maintain an accounting system, the cost of services will be the cost accrued in accordance with the relevant accounting method during the year in which they were rendered. For taxpayers that are not subject to such a requirement, the cost of services will be the amount paid for the services during the year.[575]

Expenditures incurred for the rendering of services are deductible under the general rules.[576]

(2) System for Establishing the Cost of Inventories

For taxpayers who are required to keep an accounting system, the cost of inventories must be established using the permanent inventory, the temporary inventory (*juego de inventarios*) or the retail method.[577]

The permanent inventory method requires the maintenance of special records that are part of the accounting system and must contain at least the following information: the type of item; the transaction date; the identification number of the document in which the purchase is recorded; the number of units purchased, sold, consumed or assigned; the number of items remaining; the cost of units purchased, sold, consumed or assigned; and the cost of the items remaining in inventory.[578] The retail method requires the maintenance of records of purchases at both cost and selling price based on which a ratio of cost to retail is calculated and applied to the ending inventory at retail to calculate the approximate cost. The temporary inventory method is the result of taking the total cost of goods or services, plus opening inventory, minus closing inventory. Provisions for estimated inventory depreciation or price fluctuations are not allowable.

To change the inventory valuation method used, the taxpayer must obtain the approval of the DIAN.[579]

(3) Cost of Acquisition of Goods

The cost of acquisition of goods for taxpayers that are required to keep an accounting system is based on the acquisition and processing costs, and, in general, the total cost incurred to put the goods into a usable or sellable condition, according to the relevant accounting method.[580]

[571] Decree 2733 of 2012.
[572] Col. Tax C., arts 143 and 143-1. Decree 2649/1993, art. 67.
[573] Col. Tax. C., arts. 58, 59.
[574] Col. Tax. C., arts. 121, 122.
[575] Col. Tax. C., art. 66.
[576] Col. Tax C., art. 107.
[577] Col Tax. C., art. 62. Decree 1625/2016, art. 1.2.1.17.15.
[578] Decree 1625/2016, art. 1.2.1.17.11.
[579] Decree 1625/2016, art. 1.2.1.17.14.
[580] Col. Tax C., art. 66. num 1.

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The costs so determined will be adjusted pursuant to article 59, article 93, no. 3, and any differences arising from depreciation and amortization not accepted for tax purposes, in accordance with the provisions of the Colombian Tax Code.

On the other hand, the cost of acquisition of goods for taxpayers that are not obliged to keep an accounting system is the cost of acquisition and the total cost and expenses incurred to put the goods into a sellable condition.[581]

The following expenses must be considered in determining the cost of acquisition of movable goods:[582]

(i) The cost of acquisition, taking into account the exchange rate at the time of acquisition in the case of importation;[583]

(ii) Transportation costs necessary to put the good into a sellable or usable condition; and

(iii) Other direct or indirect costs and expenses incurred in acquiring, extracting or manufacturing the goods.

(4) Reduction in Inventory Costs

In the case of goods that can be easily destroyed or lost, the closing units of inventory can be reduced by up to 3% of the sum of the opening inventory plus purchases.[584] If a *force majeure* event is demonstrated to have taken place, larger decreases may be accepted. The value of obsolete inventory is deductible for income tax purposes at its acquisition cost, plus directly attributable expenses and costs of transformation, provided the obsolete inventory is destroyed, recycled or converted into scrap metal.

For the reduction in inventory costs to be allowed, the following information must be supplied by the taxpayer:

(i) Quantity;

(ii) Product description;

(iii) Tax cost per unit;

(iv) Total cost;

(v) Justification of obsolescence or destruction; and

(vi) Any other relevant evidence.

If the inventory in question is insured, the tax loss subject to deduction will be the amount not covered by the insurance. The courts have accepted the inclusion of costs associated with destructible inventory on terms different from those set out in article 64 of the Tax Code, specifically in the case of merchandise such as expired medicine that must be destroyed for sanitary purposes, in accordance with public health and customary business practices.[585]

(5) Fixed Asset Costs

With effect from December 31, 2016, the cost of fixed assets is based on their purchase price, plus any costs incurred to put the assets into a saleable condition.[586] Additionally, the cost of the assets may be adjusted[587] each year in accordance with article 868 of the Tax Code.[588]

Specifically, for taxpayers that are required to maintain an accounting system, the acquisition costs with respect to property, equipment and investment property are the purchase price plus the costs incurred to put the assets into a useable condition (not including the initial estimate for dismantling and removal costs of the item, as well as the rehabilitation of the site on which it is situated, if applicable). Additionally, expenses on improvements, major repairs and inspections are added to the cost of such assets. For taxpayers that are not required to maintain an accounting system, the acquisition costs are the purchase price, or the cost declared in the previous year, plus the following expenses:[589]

(i) In the case of movable assets, expenses of additions and improvements;[590] and

(ii) In the case of real property, expenses of construction and improvements, and other related expenses.[591]

In the case of real property that constitutes a fixed asset, the cost can be established: (i) in accordance with the above or, (ii) at the taxpayer's option, the tax base for purposes of the real estate tax paid in the preceding year.[592]

For tax purposes, taxpayers that are required to maintain an accounting system may depreciate the above-mentioned assets in accordance with article 128 of the Tax Code.

(6) Fiscal Cost of Intangible Assets

Cost of intangible assets acquired separately:[593] When a taxpayer buys an intangible, the cost will correspond to the acquisition price plus any cost that is directly attributable to the preparation or start-up of the asset for its intended use. When this kind of asset is sold, the cost will be the one determined according to the rule mentioned above minus amortization if deducted for tax purposes.

Cost of intangible assets acquired as a part of a business combination:[594] Intangible assets acquired as part of a transaction or any other event in which the acquirer obtains control of one or more businesses, which involve an integrated set of activities, assets and liabilities obtained with the purpose of obtaining a profit, are subject to the following rules:

(i) The purchase of shares, quotas or parts of social interest does not give rise to an intangible asset. Consequently, the acquisition value corresponds to its fiscal cost;

(ii) Mergers and spin-offs subject to income tax, give rise to goodwill corresponding to the difference between the sale price and the net asset value of the identified assets sold. In this case, goodwill is not amortizable. However,

[581] Col. Tax C., art. 66, no. 2

[582] Decree 1625/2016, art. 1.2.1.17.2.

[583] Col. Tax C., arts. 288 and 291.

[584] Col. Tax C., art. 64.

[585] See, for example, Case 19006, issued by the Fourth Section of the State Council on May 10, 2012.

[586] Col. Tax C., art. 61.

[587] Each year the National Government is responsible for updating the adjustment of the tax cost of fixed assets. Decree 1625 of 2016., art. 1.2.1.17.20 and 1.2.1.17.21, modified by Decree 128 of 2024.

[588] Col. Tax C., arts. 70, 280.

[589] Col. Tax C., art. 69

[590] Col. Tax C., art. 66.

[591] Col. Tax C., art. 67.

[592] Col. Tax C., art. 72.

[593] Col. Tax C., art. 74, num 1.

[594] Col. Tax C., art. 74, num 2.

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other kinds of intangible assets, identified and identifiable, may be amortized according to the rule mentioned under (i), above. Other kinds of assets are subject to the general rules;

(iii) Goodwill resulting from the acquisition of a going concern corresponds to the difference between the sale price and the net asset value of the identifiable assets of the concern. In this case, goodwill is not amortizable. However, other kinds of intangible assets, identified and identifiable, may be amortized according to the rule mentioned in (i), above. Other kinds of assets are subject to the general rules; and

(iv) If among the identified/identifiable assets are intangible assets formed by the transferor, in cases under (ii) and (iii), above, the fiscal cost for the acquirer will be the value attributable to such intangibles in the framework of the contract or agreement, based on technical studies.

When intangible assets acquired as part of a business combination are sold, individually or as part of a new business combination, their cost will be determined as mentioned under (iv), above, minus, when applicable, amortization that has been deducted for tax purposes. In any case, goodwill may not be sold individually or separately or amortized.

Intangible assets arising from government grants:[595] These are intangible assets originated by the State's authorization to use any property owned by the State free of charge or at a price lower than the commercial value. The cost of these assets, unless subject to special treatment in accordance with the Tax Code, is the value paid for such assets plus the costs directly attributable to the preparation of the asset for its intended use. When these assets are sold, the cost determined in accordance with the preceding paragraph, is reduced, when applicable, by the amount of amortization that has been deducted for tax purposes.

Intangible assets originated in the improvement of assets under operating lease agreements:[596] The fiscal cost of such intangible assets corresponds to the costs accrued in the taxable period, provided they are not subject to compensation by the lessor.

Cost of self-created intangibles:[597] Self-created intangibles are intangible assets created internally that do not meet any of the definitions mentioned above or those provided by article 74-1 of the Tax Code (investments), associated to industrial, literary, artistic and scientific property, such as trademarks, goodwill, copyrights and invention patents. The cost of a self-created intangible for individuals who must keep accounting and for legal entities is zero. However, the cost of a self-created intangible for individuals who are not obliged to keep accounting is deemed to be 30% of its sale price.[598]

Regarding crypto (or virtual) currencies, Colombia does not have a special tax regime. However, the Colombian tax authority has issued interpretations regarding this asset class.[599] Although the tax authority has used the terms "crypto assets" (genre) and "cryptocurrencies" (specie) interchangeably, the general conclusions arising from various declarations of official concepts regarding cryptocurrencies are the following:

- Cryptocurrencies are intangible assets whose value can be expressed in legal currency;
- Cryptocurrencies are not legal currency in Colombia under existing law;
- Cryptocurrencies can generate income;
- Cryptocurrencies can be used to pay liabilities, not as legal currency, but as an asset.

According to the Colombian Tax Authority, as cryptocurrencies are considered to be assets, and Colombian residents who hold crypto assets must declare them in their annual income statement, even if the assets are held abroad. The fiscal cost of these assets must be determined by applying the tax rules on intangibles assets. Therefore, the taxpayer must determine the condition of the asset as fixed or movable and apply the rules pursuant to Article 74 of the Tax Code referred to above in determining the fiscal cost.

Furthermore, the Colombian Tax Authority pointed out that, in general terms, income from cryptocurrencies may arise from two concepts:

(i) When the cryptocurrency is received as payment generating income that increase a taxpayer's equity and, therefore, is subject to income taxation; and

(ii) When the cryptocurrency is alienated.

According to these official concepts, the taxpayer must recognize only the fluctuations in the value of the cryptocurrency at the time of liquidation or disposal.

(7) Fiscal Costs of Investments

Expenses paid in advance: The fiscal cost corresponds to the disbursements made by the taxpayer. Disbursements must be capitalized in accordance with the accounting method and amortized when the services are received or the costs or expenses are accrued, as the case may be.[600]

Establishment expenses: The fiscal cost corresponds to the expenses incurred during the start of the operations, such as start-up costs and pre-opening costs, among others. Expenses must be capitalized. Taxpayers may deduct accumulated disbursements when the investments start generating income.[601]

Research, development and innovation expenses: Fiscal cost is made up of all expenses associated with the research, development and innovation project, except for those associated with the acquisition of buildings and real property. This concept includes assets produced in the development of software (for use, sale or exploitation rights).[602]

This regime does not apply to those research, development and innovation projects that opt for the provisions set forth under Article 256 of the Tax Code. However, the definitions of research, development and innovation may be the same as those applied for purposes of Article 256.

[595] Col. Tax C., art. 74, num 3.
[596] Col. Tax C., art. 74, num 4.
[597] Col. Tax C., art. 74, num 5.
[598] Col. Tax C., art. 75.
[599] *See* Oficio Nº 020733 DIAN—*Comercialización de criptomonedas*, issued August 8, 2018.
[600] Col. Tax C., art. 74-1, num. 1.
[601] Col. Tax C., art. 74-1, num. 2.
[602] Col. Tax C., art. 74-1, num. 3.

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Evaluation and exploitation of non-renewable natural resources: Fiscal costs that may be capitalized are as follows:[603]

(i) Acquisition of exploration rights;

(ii) Seismic, topographical, geological, geochemical and geophysical studies, if they are linked to finding non-renewable natural resources;

(iii) Exploratory drilling;

(iv) Excavation of ditches, trenches, exploratory tunnels, quarries, and tunnels, among others;

(v) Sampling;

(vi) Activities related to the evaluation of the commercial viability of the exploitation of a natural resource;

(vii) Labor costs and expenses, and depreciation, as the case may be, taking into account limitations under the Col. Tax. C.; and

(viii) Other costs, expenses and necessary acquisitions in the stages of evaluation and exploration of non-renewable natural resources that may be capitalized in accordance with the accounting method, other than those already mentioned.

Capitalization may cease after the technical feasibility and commercial viability of extracting the non-renewable natural resource has been assessed, as contractually established. Real property shall be capitalized and amortized only when there is an obligation to revert it to the nation.

Costs and expenses may not be applicable to disbursements incurred before obtaining the economic exploitation rights.

If the assets are sold, the cost of the sale will be determined in accordance with the above rules, excluding the value of amortization, as long as it has been deducted for tax purposes (if applicable).

Financial instruments:[604]

(i) Variable income securities: the fiscal cost is the acquisition value.

(ii) Fixed-income securities: the fiscal cost is the acquisition value plus straight-line interest not paid at face rate, from the acquisition date or the last payment date until the sale date.

Shares, quotas or social quotas: the fiscal cost corresponds to its acquisition value.[605]

(8) Deductibility of Related-Party Expenses

Generally, costs incurred in transactions between related parties are deductible, although certain restrictions apply in the case of costs or expenses incurred abroad (see a., above).[606] However, costs and expenses are non-deductible if, according to the Tax Code, the related party beneficiary of the payment is considered a non-taxpayer for income tax purposes.[607]

(9) Non-Deductible VAT

Creditable VAT cannot be taken as a deduction for corporate income tax purposes.[608]

Except for taxpayers who develop fossil fuels exploration activities, VAT arising from the acquisition or importation of fixed assets is not creditable. However, it is deductible for income tax purposes.[609]

However, those responsible for VAT may treat as a discount over the income tax payable the VAT that is paid in the acquisition, construction, creation and importation of productive fixed assets (including VAT associated with the services required to put the assets in operating condition).[610]

(10) Costs for Marketing Certain Imported Goods

Costs and advertising expenses[611] related to certain products that are classified as "mass smuggling items" by the Colombian Government[612] are not allowed as a deduction when the expenses exceed 15% of the sales of the respective legally imported products in the relevant tax year. This is subject to certain exceptions:

(i) The 15% rate may be increased to 20% of projected sales if authorized by the Director of the DIAN, on submission of a request during the first three months of the fiscal year.

Costs and expenses of advertising, promotion and publicity that exceed the 15% or 20% ceiling, as the case may be, are non-deductible.[613]

(ii) Expenses of advertising and promotion of products that are not legally imported are not deductible. Furthermore, the value of goods brought into the country without payment of customs duties may not be treated as an expense or deduction for income tax purposes by the offender, or other persons that participated in the infringement were aware of the infringement but still purchased the assets concerned.

(iii) Advertising agencies must disregard expenses associated with advertising, promotion and publicity that are hired from abroad by people who do not have residence or domicile in Colombia.

However, it is possible to fully deduct advertising costs incurred with a view to the initial positioning of foreign products in Colombia without authorization being required, provided such costs are supported by marketing studies and revenue projections demonstrating that goal.

(11) Travel Expenses

A corporate taxpayer may deduct travel expenses (food, lodging and transportation) reimbursed to employees with re-

[603] Col. Tax C., art. 74-1, num. 4.
[604] Col. Tax C., art. 74-1, num. 5.
[605] Col. Tax C., art. 74-1, num. 6.
[606] Col. Tax C., arts. 121–122, 124.
[607] Col. Tax C., art. 85.
[608] Col. Tax C., art. 493.
[609] Col. Tax C., art. 491.
[610] Col. Tax C., art. 258-1.
[611] Col. Tax C., art. 88-1.
[612] Under Decree 1625, art. 1.2.1.18.40, this category includes items such as televisions, stereo equipment, refrigerators, washers, cigarettes and alcoholic beverages.
[613] Decree 1625/2016, art. 1.2.1.18.43.

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spect to business travel in Colombia or abroad, if the expenses are necessary for carrying out the business activity and are not deemed to be compensation in the hands of the employees.[614] Such expenses that are deemed, from a labor law perspective, to be compensation are deductible, provided the deemed compensation is subject to income withholding tax and the obligations relating to the social security system have been fulfilled.[615]

(12) Royalties, Technical Assistance, and Technical Service Fees

There is no limitation on the deductibility of royalties, technical assistance and technical service fees and, in general, fees related to technology import contracts. If the relevant payment is made to a beneficiary located outside Colombia, the following requirements must be met with respect to the transaction giving rise to the royalty/technical assistance/and technical service fee for the payment to be tax deductible:

(i) A written contract must be signed by the parties;

(ii) The contract must be registered with the DIAN;[616] and

(iii) The income tax due on the outbound payment must be properly withheld by the Colombian payer. In the case of royalties, the effective withholding tax rate is 20%.[617] Outbound fees paid in connection with technical assistance or technical services performed by a non-Colombian resident in Colombia or from abroad to a Colombian beneficiary are subject to a flat 20% withholding tax.[618] For purposes of determining the actual withholding tax rate, it is necessary to consider the provisions of Colombia's tax treaties, as such treaties may reduce the withholding rate on certain payments (for example, under the Colombia-Spain tax treaty, the rate of withholding tax on Colombian-source royalties may not exceed 10%). See XVI.B., below.

Royalties paid to a related party located abroad or located in a free trade zone that correspond to the exploitation of an intangible asset created in the Colombian customs territory and are associated with the acquisition of a finished product, are not deductible.[619]

d. Charitable Contributions

Charitable contributions to a non-profit organization in Colombia[620] subject to the special tax regime are not deductible for income tax purposes, but give rise to a credit against the income tax of 25% of the total amount donated in the corresponding taxable year.[621] To apply the foregoing, the following conditions must be fulfilled:[622]

(i) The beneficiary must be legally incorporated and subject to the inspection, control and surveillance of a state entity;

(ii) Before the donation is made, the beneficiary must be recognized as an organization in Colombia classified under the special tax regime;

(iii) The beneficiary (unless it is an entity incorporated during the same taxable year as that in which the donation is made) must have complied with its obligation filed an income and equity return or income tax return, as applicable, for the fiscal year immediately prior to that in which the donation was made;

(iv) The donated income must be handled in accounts or investments with financial institutions.

A charitable contribution must also meet the following rules:[623]

(i) When money is donated, payments must have been by check, credit card or through a financial intermediary;

(ii) When title to securities is donated, the amount of the charitable contribution is estimated at market prices, in accordance with the procedure establish by the *Superintendencia de Valores;* or

(iii) Other assets: the amount of the charitable contribution is the cost of acquisition, adjusted for inflation, less accumulated depreciation as of the date of the donation. In any case, the amount will be the lower of the market value and the cost of acquisition of the asset involved.

e. Casualty Losses

To be deductible, a casualty loss must result from a *force majeure* event.[624] A casualty loss is deductible in the year in which it is incurred (and may be carried forward for up to five years, when it cannot be deducted in the year in which it was incurred) to the extent it is not reimbursed by insurance, bonds or indemnity payments during the tax year in which it was incurred.

Once such a loss has been deducted, any amount subsequently recovered from insurance, bonds or indemnity payments from third parties must be included in taxable income[625] or, if the loss was not deducted, the portion of such compensation corresponding to consequential damages may be treated as untaxed income.[626] Nevertheless, to obtain this treatment for consequential damages, the taxpayer must demonstrate, within the time limit for submitting the income tax return, that it invested the entire indemnity received in the acquisition of goods that are equal or similar to those that were subject to the insurance.

If it is not possible to make the investment within the indicated term, the taxpayer must constitute a fund with the compensation received, with the sole purpose of acquiring the aforementioned goods. If in a year the fund is used for other

[614] Col. Tax C., art. 107.
[615] Col. Tax C., arts. 87-1, 108.
[616] Col. Tax C., arts. 123, 419; Decree 4176/2011; Col. Tax and Customs Admin. Ruling 6276/2017 and Resolution 8742 of 2023.
[617] Col. Tax C., art. 408.
[618] Col. Tax C., arts. 123, 419.
[619] Col. Tax C., art. 120.
[620] Col. Tax C., arts. 22 and 23.
[621] Col. Tax C., art. 257.
[622] Col. Tax C., art. 125-1.
[623] Col. Tax C., art. 125-2.
[624] Col. Tax C., art. 148.
[625] Col. Tax C., art. 196.
[626] Col. Tax C., art. 45.

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purposes, the compensation received will constitute taxable income in that year.[627]

In the case of losses with respect to fixed assets, the deduction granted is equivalent to the value obtained by subtracting depreciation, amortization from the sum of the cost of acquisition and the cost of improvements, less amounts recovered from insurance and the like.

f. Bad Debts

A taxpayer that is required to maintain an accounting system is entitled to deduct a provision for unrecoverable or bad debt.[628] To qualify for the deduction, the debt giving rise to the provision must:[629]

(i) Have been acquired with just cause and for valuable consideration;

(ii) Have been incurred for consideration and for purposes of carrying on the economic activity of the taxpayer;

(iii) Exist at the moment at which the provision was accounted for;

(iv) Have been taken into account in determining the income declared in previous years;

(v) Have given rise to the provision during the taxable period for which the deduction is claimed; and

(vi) Have been due for more than one year. In addition, the taxpayer must be able to justify the designation of the debt as unrecoverable or bad.

If these conditions are fulfilled, taxpayers will be able to claim a deduction for unrecoverable or bad debt, using either a general or an individual provision system, as described in (1) and (2), below.

Taxpayers that are not required to maintain accounting systems may deduct unrecoverable or bad debts, provided they keep documentary evidence of the debts concerned and their write-off.

Debts contracted among economically related parties or by the partners and the company will not be considered as unrecoverable or bad debts.

(1) General Provision System

Under the general provision system,[630] which can be used by taxpayers that keep accounting and whose operations regularly and permanently generate credits in their favor, are entitled to deduct a percentage of past due debts owed to them from their gross income, as follows:

Past Due Period	Deductible Provision (% of Debt)
Between 3 and 6 months	5%
Between 6 and 12 months	10%
More than 12 months	15%

This deduction will only be recognized if the debts and the provision are accounted for and if the taxpayer has not opted for the individual provision.

(2) Individual Provision System

Under the individual provision system, it is possible to deduct up to 33% each year of the nominal value of debts that have been due for more than one year.[631]

(3) Unrecoverable or Worthless Debts

The value of debts that are manifestly unrecoverable (or the non-collectible part thereof) may be deducted,[632] provided that it is possible to demonstrate the existence of the debt obligation, the discharge of the debt obligation is justified, and it is possible to prove that the original debt obligation was connected with income-generating transactions.[633] Unlike the deduction for bad debts, this deduction does not depend on the time elapsed, but rather the possibility of demonstrating that, according to sound business practices, the debts concerned should be considered lost, even though recovery-oriented measures have been taken.[634]

g. Rents

Rental payments with respect to real property may be deducted for income tax purposes, as long as (i) the use of the property concerned is linked to the business purposes and (ii) the payment is proportionate and necessary.[635]

h. Salaries and Benefits

Salary payments made by a company are deductible for income tax purposes, if:

(i) The salaries and any fringe benefits are actually paid to employees within the taxable year;

(ii) The employer complies with all social security and payroll withholding regulations; and

(iii) The employer complies with all its obligations to contribute to the National Training Service (SENA), the Social Security Institute (ISS), and the Colombian Family Welfare Institute (ICBF).[636]

Companies are exempted from the payment of parafiscal contributions to:

(i) The National Training Service (SENA);

[627] Decree 1625/2016, art. 1.2.1.12.3.
[628] Col. Tax C., art. 145.
[629] Decree 1625/2016, art. 1.2.1.18.19.
[630] Decree 1625/2016, art. 1.2.1.18.21.
[631] Decree 1625/2016, art. 1.2.1.18.19.
[632] Decree 1625/2016, art. 1.2.1.18.23.
[633] Col. Tax C., art. 146.
[634] In addition to this, the general requirements set forth in Decree 1625 of 2016, arts. 1.2.1.18.23 and 1.2.1.18.24 must be met.
[635] Col. Tax C., art. 107.
[636] Col. Tax C., art. 108.

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(ii) The Colombia Family Welfare Institute (ICBF); and

(iii) The health tax regime, corresponding to employees who earn, on an individual basis, less than 10 minimum wages per month.[637]

With respect to management or executive compensation, bonuses or fees paid to administrators, directors, general managers, or members of the board of directors, advisory board or any other board are deductible expenses, provided social security and payroll withholding and income tax withholding requirements are met.

For payments to the board of directors to be deductible, the board must comply with the legal requirements for its operation and exercise in accordance with the provisions of civil and commercial law.[638]

i. Research and Development

Investments in research, technological development and innovation, in line with the criteria and conditions set forth by the National Council for Economic and Social Policies, through a CONPES document, are deductible in the taxable period in which they are made.[639] This does not preclude the discount referred to in article 256 of the Tax Code, when the conditions and requirements therein are met.

The National Council for Tax Benefits in Science, Technology and Innovation (the "Council") will determine the maximum amount permitted as a deduction for expenditure on research, technological development and innovation annually, and the maximum amount that companies may individually claim as investments in, and contributions with respect to, these types of projects. If a taxpayer's investments in science, technology and innovation projects exceed the ceilings set by the Council, the taxpayer may request that the Council raise the ceiling based on the benefits of the projects concerned. Projects lasting multiple years are subject to the same ceiling for their duration, unless the Council raises the ceiling.

Additionally, Article 256 of the Tax Code establishes that taxpayers that invest in research, technological development and innovation may discount 30% of the value invested in projects carried out by researchers, research groups, research centers and institutes, technological development centers and other similar institutions, as long as such researchers, etc., are recognized by the Ministry of Science, Technology and Innovation during the taxable year in which the investments are made.[640]

The National Tax Board controls, monitors and assesses the process of qualifying projects as research, technological development or innovation and defines the requirements for ensuring the disclosure of the results. Thus, this National Board is in charge of controlling the investment of resources.

Likewise, the treatment provided for investments in research, technology, development and innovation will also apply to:[641]

(i) Donations to the *Unidad de Gestión de Crecimiento Empresarial* (INNpulsa) made by income taxpayers. Such resources shall be allocated under the conditions set forth in the third paragraph of Article 256 of the Col Tax C., and in accordance with the regulations issued for such purpose by the Colombian Government;

(ii) Donations made to programs created by institutions of higher education, or to the *Instituto Colombiano de Crédito Educativo y de Estudios Técnicos en el Exterior* (ICETEX) under the conditions set forth in paragraph 2 of article 256 of the Col Tax C.;

(iii) Donations made to the *Fondo Nacional de Financiamiento para la Ciencia, la Tecnología y la Innovación, Fondo Francisco José de Caldas*, intended to finance science, technology and innovation programs or projects, in accordance with the criteria and conditions indicated by the Council; and

(iv) Remuneration corresponding to the hiring of individuals with doctorate degrees, under the conditions set forth in paragraph 2 of article 256 of the Col Tax C.

j. Interest

Interest paid or accrued to other persons is deductible to the extent the interest is connected to the production of income, and the interest rate[642] does not exceed the maximum rate authorized by the banking establishment during the respective taxable year or period, as certified by the Superintendence of Finance.[643]

Interest payments made to related parties located abroad, in a free-trade zone or in a non-cooperative, low-or no-tax jurisdiction are not deductible if the comparability criteria referred to in Article 260-4(1)(a) of the Tax Code are not met. Consequently, such operations will be considered as capital contributions and dividends rather than as loans or interest.[644]

Under Colombia's thin capitalization rule, in the case of interest-bearing liabilities between related parties located in Colombia or abroad, in order to deduct interest paid Colombian taxpayers must apply a debt-to-equity ratio of 2:1. Only interest on debts whose total average for the corresponding taxable year does not exceed the result of multiplying by two the taxpayer's net worth, as determined on December 31 of the preceding fiscal year, is deductible. In the event the average amount of a debt exceeds that limit, interest attributable to the excess will not be deductible.[645]

This rule applies to all types of interest-bearing liabilities between related parties located in Colombia or abroad, regardless of when or where they originated (i.e., it applies even to debts incurred prior to 2013—the year in which the rule entered into force), regardless of whether they originated in Colombia or abroad, if they are contracted directly or indirectly and in favor of national or foreign companies. This rule applies only in the context of income tax.

The exceptions to this rule are as follows:

[637] Col. Tax C., art. 114-1. Under Decree 1572 of 2025, the minimum wage for 2025 is COP 1,423,500.

[638] Col. Tax and Customs Admin. Ruling 7747 of 2016.

[639] Col. Tax C., art. 256.

[640] Col. Tax C., art. 256.

[641] Col. Tax C., art. 256.

[642] Col. Tax C., art. 11 para. 2.

[643] Col. Tax C., art. 117.

[644] Col. Tax C., art. 260-4 (1) (a). Decree 1625/2016, art. 1.2.2.1.3.

[645] Col. Tax C., art. 117.

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(i) Infrastructure projects (public services and transportation) carried out by special purpose vehicles;[646]

(ii) Taxpayers under the surveillance of the Financial Superintendence;[647]

(iii) Taxpayer that perform factoring activities, within the terms of Decree 2669 of 2012,[648] if the activities of the factoring company are not lent by more than 50% to related parties under the terms of Article 260-1 of the Tax Code;[649]

(iv) Income tax taxpayers that set up businesses in an unproductive period, in accordance with Articles 1.2.1.19.6 and 1.2.1.19.14 of Decree 1625 of 2016.[650]

An unproductive period for industrial processing, hotel and mining companies, is comprised by the following stages:[651]

(i) Prospecting;

(ii) Construction, installation, assembly; and

(iii) Tests and start-up.

An unproductive period in the industry of real estate construction and sale is comprised by the following stages:[652]

(i) Prospecting; and

(ii) Construction.

In other cases (non-related parties), for interest deduction purposes, the taxpayer must be able to demonstrate to the DIAN, through certification issued by the creditor, that the credit does not correspond to indebtedness operations with related parties by means of guarantee, back-to-back, or any other operation in which substantially such related parties are creditors.

k. Depreciation and Amortization

Companies may depreciate tangible fixed assets (excluding land and securities, as defined in article 135 of the Tax Code) other than amortizable assets.[653] Acquired intangibles subject to demerit, deferred charges, preliminary expenses, organization or facility development, as well as the costs of exploration for, the exploitation of and mining oil and gas, and other natural resources, must be amortized (see V.B.6.b., above).[654]

For a depreciation deduction to be allowed, it must be demonstrated that the asset in question has been used in income-producing activities during the respective tax period. For taxpayers required to maintain an accounting system, depreciation deductions will be based on the difference between the fiscal cost of the asset concerned and the residual value of the asset over the course of its useful life.[655] The depreciation method will be that outlined in the relevant accounting method.[656]

A taxpayer that purchases a used asset can make a reasonable estimate of its probable useful life, taking into account the use made of the asset by the previous owner(s). The sum of such estimated life and the already elapsed period may not be less than the estimated useful life of a comparable new asset.[657]

Accelerated depreciation is allowed when an asset is used for more than 16-hour work shifts. In these circumstances, the taxpayer may accelerate depreciation by 25% for each extra 16-hour shift for which the asset is used or for a proportional fraction thereof.[658]

The depreciation rate is determined in accordance with the relevant accounting method each year but may not exceed the ceiling determined by the Colombian Government. The government regulates the maximum rates of depreciation, which range from 2.22% to 33%. If depreciation deductions exceed the ceilings set by the government in a taxable year or period, the excess may be deducted in the following taxable period.[659]

Under article 143 of the Tax Code, investments in intangible assets that are necessary for the business activity are deductible by way of amortization based on the cost of the principal assets (as provided for article 74 of the Tax Code). The rate of amortization is limited to an annual rate that may not exceed 20% of the fiscal cost of the asset concerned. Amortization expenses in excess of this limit and that are therefore not deductible in the current year may be carried forward during the useful life of the asset concerned and may be deducted each year subject to the 20% limitation.[660]

l. Taxes

As from 2019, taxpayers can deduct for income tax purposes 100% of taxes, rates and contributions (excluding income tax, wealth tax, and tax paid under the voluntary disclosure introduced by Law 2010) if they have been effectively paid during the taxable year and are directly related to the taxpayer's economic activity.

In addition, 50% of the financial transaction tax (FTT) is deductible, regardless of whether it is linked to the economic activity of the taxpayer.

m. Foreign Exchange

Income, costs, deductions, assets and liabilities in foreign currency are measured at the time of their initial recognition at the representative market rate of exchange.

Exchange rate fluctuations in entries on statements of financial positions expressed in foreign currency will not have tax effect until the assets concerned are disposed of or paid for, or until full or partial payment in the case of liabilities. Such events will be recognized at the market exchange rate at the time of their initial recognition. The exchange rate differential between the representative market rate as of the initial date of recognition of the income, cost, deduction, asset or liability and the representative market rate at the time of disposal or payment is deemed to constitute taxable income or a deductible cost or expense, as the case may be.[661]

[646] Col. Tax C., art. 118-1, para. 5.
[647] Col. Tax C., art. 118-1, para. 3.
[648] Col. Tax C., art. 118-1.
[649] Col. Tax C., art. 118-1, para. 3.
[650] Col. Tax C., art. 118-1, para. 4.
[651] Decree 1625/2016, art. 1.2.1.19.6.
[652] Decree 1625/2016, art. 1.2.1.19.6.
[653] Col. Tax C., arts. 127.
[654] Col. Tax C., arts. 143 and 143-1.
[655] Col. Tax. C., art. 128.
[656] Col. Tax. C., art. 134.
[657] Col. Tax C., art. 139.
[658] Col. Tax C., art. 140.
[659] Col. Tax C., art. 137.
[660] Col. Tax C., art. 134.
[661] Col. Tax C., art. 288.

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n. Pension Provisions

Payments made by employers to cover pensions for employees are deductible for income tax purposes. Reserves created to cover future pension payments are also deductible for corporate income tax purposes.[662]

An employer's contributions to a private pension insurance company or a voluntary pension fund are deductible up to 3,800 UVT per employee.

Voluntary contributions made by an employee or an employer to a private pension insurance company or a voluntary or statutory pension fund administered by an entity supervised by the Superintendence of Finance are not taken into account in calculating the taxable base for withholding tax purposes and are treated as exempt income to the extent of 30% of the employment income, including contributions made to an "AFC account", to the extent they do not exceed 3,800 UVT per year.[663]

o. Net Operating Losses

Net operating losses incurred by a company may be carried forward for the following 12 taxable periods. Shareholders may not deduct company losses or set them off against their own net income.[664] Net operating losses of one company may not be set off against taxable income generated by another company, except in the event of a merger or a spin-off as long as the economic activities of the companies involved are the same as before the merger or spin-off. In the event of a merger, the acquiring company may set off against its net income the tax losses incurred by the merged companies in the same proportion as the percentage shares of assets of the merged companies in the equity of the resulting company. Losses may not be set off if they are not real economic losses.[665] The set off of carried forward losses of a merged company must take into account the taxable periods already elapsed and the annual set-off limitation in effect in the period when the losses were incurred and declared. The carryback of net operating losses is not permitted.

In the event of a spin-off, the resulting company may set off against its net income the tax losses incurred by the spun-off company, up to an annual limit equal to the percentage of equity of the company that was split held by the resulting company. The set-off of carried forward losses incurred by the company that was split must take into account the taxable periods already elapsed and the annual limitation in effect in the period when the losses were incurred and declared.[666]

In the event that the company being split is not dissolved, it will be able to set off its tax losses incurred prior to the spin-off, up to a limit equivalent to the percentage of assets that it retains after the spin-off. The compensation for the carried forward losses suffered by the spun-off company must be made taking into account the taxable periods already elapsed and the annual limits in effect in the period in which the tax losses were generated and declared.[667]

p. Capital Losses

Subject to some exceptions, principally in the case of shares and other participations in entities, losses arising on the disposal of assets are deductible,[668] unless the acquirer is a related party of the original owner, or the assets belonged to individual members of the transferor or his or her relatives.

7. Tax Credits

a. Foreign Tax Credit

See XVIII.A., below.

b. VAT Offset

Taxable persons may offset against their income tax liability VAT paid for the acquisition, creation, and import of productive fixed assets, including VAT associated with the services required to put such assets into operating condition.[669]

In the case of self-created real productive fixed assets, taxpayers may offset VAT in the year in which the asset is activated and subject to depreciation or amortization, or in any of the following taxable periods.

Lessees may offset VAT when the productive fixed assets are acquired, created or imported under financial leasing or leasing with an irrevocable purchase option.

In this case, the VAT paid may not be taken simultaneously as a cost or expense in the taxpayer's income tax or offset against invoiced VAT.

8. Tax Incentives

The primary exemptions from income tax from which legal entities may benefit are discussed in V.B.8.a. to g., below.[670]

a. Industrial Users of Free Trade Zones

Industrial users in free trade zones are subject to a special 20% income tax rate on income from the export of goods and services. Any income of such industrial users that does not derive from the export of goods and services is subject to the general 35% income tax rate.

Industrial users of free trade zones that sign an internationalization and annual sales plan agreement may access the special rate of 20%. The agreement must be signed before the Ministry of Industry and Commerce for each of the taxable years concerned.[671] The requirements that must be met to obtain this tax benefit are set out in article 89 of Decree No. 2147 of 2016.

[662] Col. Tax C., arts. 111, 112, 126-1.

[663] *Cuenta de Ahorro para el Fomento de la Construccion*, i.e., special bank accounts created for savings to promote construction activities in Colombia.

[664] Col. Tax C., art. 147.

[665] Decree 1032/1999, art. 1.

[666] Decree 1032/1999, art. 1.

[667] Decree 1032/1999, art. 1.

[668] Col. Tax C., arts. 149, 153.

[669] Col. Tax C., art. 258-1.

[670] Prior to January 1, 2017, Law 1429 of December 29, 2010, provided a number of benefits for small businesses, as defined. These tax benefits were modified by Law 1819 of 2016 and were discontinued for new taxpayers pursuant to Law 1943 of 2018. However, the benefits (which apply for a maximum of five years) remain in force for taxpayers that were under this regimen before the issuance of Law 1943 of 2018, and it was modified by Law 2277 of 2022.

[671] Col. Tax C., art. 240-1.- para 6. Decree 047 of 2024 sets out the requirements that must be met for the subscription of the internationalization and annual sales plan allowing industrial users of free trade zones to access the special rate of 20% provided for in Col. Tax C., art. 240-1.

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Non-subscription or non-compliance with the internationalization and annual sales plan by the free zone industrial user results in the application of the general income tax rate (35%).

Under Law 2277 of 2022, the special 20% income tax rate will apply until 2025 to qualified free trade zone companies demonstrating revenue growth of 60% in 2022 in comparison to the revenue for 2019.[672]

For taxpayers that have entered into a legal stability contract before the issuance of Law 2277 of 2022, the applicable rate will be the one set forth in the corresponding contract.[673] Taxpayers that have entered into a legal stability contract will not be able to deduct payments of parafiscal contributions made to the National Training Service (SENA); and the Colombia Family Welfare Institute (ICBF).[674]

Industrial users: (i) are not required to export their production; and (ii) qualify if they are engaged in certain activities in addition to industrial and manufacturing activities, including logistic, product transport, telecommunications, technology and scientific research, tourism, and health services.[675]

Note: The Superintendence of Industry and Commerce, the Tax Authority, and the General Controller will carry out a joint audit of all tax benefits, exemptions, and deductions, among other matters, with the purpose of determining whether to continue, amend and/or eliminate them. Furthermore, in 2020, the Colombian Government must draft a bill that, among others, will tax the accounting profits and eliminate exempted income and special tax benefits for free trade zones.

b. Interest on Foreign Public Debt

Interest income related to foreign public debt, debentures and securities derived by individuals or entities located outside Colombia is exempt from Colombian national taxes.[676] Interest from foreign public debt received by resident individuals or entities is subject to Colombian income tax.

c. Hotel Services, Ecotourism, Agrotourism, Theme Parks

Income derived from hotel services, ecotourism theme parks and/or agrotourism theme parks provided in new hotels, theme park projects, new ecotourism and agrotourism park projects will be subject to an income tax rate of 15% applicable for a period of 10 years starting from the commencement of the provision of the relevant service by the (i) new hotel, ecotourism and/or agrotourism theme parks projects, (ii) hotels, ecotourism and agrotourism theme parks that have been renovated or expanded provided that the value of the renovation and/or expansion is not less than 50% of the acquisition value of the property that is remodeled or expanded. In addition, the following conditions must be fulfilled:[677]

(i) Services provided by new hotels, ecotourism and/or agrotourism theme parks must be built, renovated and/or expanded in municipalities of up to 200,000 inhabitants, as certified by the National Statistics Department (DANE) on December 31, 2022, and/or municipalities listed in the development programs with a territorial economic impact ("PDET");

(ii) The new hotel, ecotourism and/or agrotourism theme park project must have a construction license issued by the competent authority;

(iii) The renovated and/or expanded hotels, ecotourism and/or agrotourism theme park must obtain prior approval from the Urban Curator's Office or the corresponding Municipal Mayor's Office;

(iv) The hotel must have been authorized by the national tourism registry at the time of rendering the services; and

(v) Construction, renovation and/or expansion must be completed in its entirety within five years from the effective date of this law.

These provisions will not apply to motels and residences.

Additionally, as from January 1, 2019, hotel services provided in the municipalities that form part of the following special customs zones, are excluded from VAT:[678]

(i) The Urabá, Tumaco and Guapi special customs regime zones;

(ii) The Inírida, Puerto Carreño, la Primavera and Cumarimbo special customs regime zones; and

(iii) The Maicao, Uribía and Manaure area special customs regime zones.

d. Publishing Companies

Publishing companies that are established in Colombia for purposes of editing Colombian books and journals of a scientific or cultural nature are subject to income tax at a rate of 15%.[679] Under article 1 of Resolution No. 1508 of 2000, issued by the Ministry of Culture, any books, magazines, brochures and collectible series, whether paper-based or published by electromagnetic means, may be considered scientific or cultural in nature. Exceptions to the above definition include horoscopes, *novelas*, fashion, pornographic, and gambling publications.

e. Renewable Energy Production

The sale of non-conventional renewable energy, carried out exclusively by generating companies, is exempt from income tax for a term of 15 years as from 2017, if the following requirements are met:[680]

(i) Carbon dioxide emission certificates are processed, obtained and sold in accordance with the Colombian Government regulations;

(ii) At least 50% of the resources obtained from the sale of carbon dioxide emission certificates, are invested in social benefit works in the region where the generator operates.

Section 5 of Law 1715 of 2014, provides that biomass, small hydropower, wind, geothermal, solar and ocean sources

[672] Col. Tax C., art. 240-1.- transitory para.
[673] Col. Tax C., art. 240-1.
[674] Col. Tax C., art. 240-1, para. 3.
[675] Law 1004/2005, art. 3.
[676] Col. Tax C., art. 218.
[677] Col. Tax C., art. 240, para. 5; Decree 1625/2016, art. 1.2.1.28.2.1.
[678] Col. Tax C., art. 476 (26).
[679] Col. Tax C., art. 240, para. 74.
[680] Col. Tax C., art. 235-2 no. 3.

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are considered non-conventional renewable energy generation projects.

This benefit may not be applied concurrently with benefits established in Law 1715 of 2014 mentioned under V.B.8.f., below.

f. Renewable Energy Projects

According to Law 1715 of 2014 (amended by Law 2099 of 2021) and Decree 2143 of 2015 (as updated by Decree 829 of 2020 and further amended by Decree 895 of 2022), companies that invest in non-conventional energy (FNCE) projects or in actions or measures of efficient management of energy (GEE) may be eligible for:

(i) A special deduction;

(ii) Accelerated depreciation;

(iii) VAT exclusions; and

(iv) Exemptions from customs duties in connection with the purchase and/or importation of machinery, equipment, materials and supplies exclusively for reinvestment and investment in FNCE and GEE activities.[681]

The investor can apply the tax benefits only if, among other conditions, prior to the investment:[682]

(i) The investor obtains an investment benefit certificate for tax benefits, issued by the Energy Mining Planning Unit (*Unidad de Planeación Minero Energética*, UPME); and

(ii) The UPME certifies the project and the equipment, machines, and services that compose the investment.

(1) Special Deduction

Taxpayers with an accredited FNCE or GEE project can deduct 50% of the cost of the direct investment.[683] This special deduction is available over a maximum period of 15 years, following the fiscal year when the respective investment was carried out.

The value of the annual deduction is limited to 50% of the net income reported by the taxpayer before applying the special deduction.

(2) Accelerated Depreciation

Accelerated depreciation is a special depreciation regime that FNCE and GEE generators/developers can apply to the machines, equipment, and civil works acquired or built for an accredited project.[684] Pursuant to this special regime, investors can depreciate the mentioned assets up to a global annual rate of 33.33%.[685]

The depreciation rate may be modified in any taxable year if the investor notifies the change to the DIAN before filing the corresponding income tax return.

The 50% special deduction, discussed above, may be applied jointly with the accelerated depreciation.

Investors will lose the right to avail of these benefits (both the 50% special deduction and accelerated depreciation) and thus the amounts become subject to recapture in the following cases:[686]

(i) The corresponding project contracts that were entered into are either declared null or terminated by an agreement among the parties or pursuant to a court order;

(ii) The assets of the investment are transferred by the investor before the end of the applicable depreciation or amortization period; or

(iii) The assets of the investment are transferred and then reacquired by the investor.

In any of the situations described above, the recognition of the net income derived from the recapture of benefits must be accounted for during the taxable year in which the respective event occurs.

(3) VAT Exemptions

FNCE and GEE project assets and services that are included in the list approved by the UPME, including certain services rendered in Colombia and abroad, are eligible for VAT exemption.

To obtain this benefit, the project must have been approved by the UPME. However, if the certification is issued after the importation or acquisition of the relevant assets and services, the investor may request for a VAT refund.[687]

(4) Customs Duty Exemption

Imported machinery, equipment, material and other supplies in connection with approved FNCE and GEE projects are eligible for a tariff exemption. This benefit must be requested of the DIAN at least 15 business days before the importation of an item, in accordance with the project documentation endorsed in the certificate issued by the UPME.

Additionally, after the UPME has issued the project certificate, the investor must file the prior (import) license request with the Ministry of Commerce, Industry and Tourism, attaching the certificate. Once this application has been made, the import committee of the Ministry will issue a decision on the request for the tariff exemption.[688]

g. Environmental Stewardship

Legal entities that directly invest in the control, conservation, and improvement of the environment, may offset 25% of investments made in the respective taxable year against their income tax, provided they have prior accreditation by the corresponding environmental authority.[689]

Investments made by mandate of an environmental authority to mitigate the environmental impact produced by an activity subject to an environmental license, are not eligible for this benefit.

[681] Law 1715 of 2014, arts. 11, 12, 13 and 14.
[682] Decree 895 of 2022, art. 1.2.1.18.91.
[683] Decree 895 of 2022, art. 1.2.1.18.71.
[684] Decree 895 of 2022, art. 1.2.1.18.75.
[685] Decree 895 of 2022, art. 1.2.1.18.75.
[686] Decree 895 of 2022, arts. 1.2.1.18.73 and 1.2.1.18.76.
[687] Decree 895 of 2022, art. 1.3.1.12.24.
[688] Decree 895 of 2022, art. 1.3.1.12.25.
[689] Col. Tax C., art. 255.

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9. Tax Rate

As discussed in IV.B., above, income tax for legal entities consists of the following components:

(i) Basic income tax for corporations and other similar entities, including foreign corporations and similar entities that derive income through Colombian branches or PEs, is levied at the rate of 35% for fiscal year 2023 onwards.[690] As previously mentioned, an income tax surcharge for financial entities, extended by Law 2155 of 2021, is levied at the rate of 5% for fiscal years 2023 to 2027;

(ii) Capital gains tax is levied on gains such as those derived from the sale of fixed assets held for at least two years, as well as donations, legacies and bequests. The general rate of capital gains tax is 15%, regardless of whether the taxpayer is an individual or a legal entity, and whether the taxpayer is a resident or a nonresident.[691] For occasional profits from lotteries, raffles, betting and the like, the rate is 20%.[692] Net capital gains are obtained by subtracting capital gains that are expressly exempted and occasional losses (i.e., losses arising from the disposal of fixed assets held for two years or more), as set forth by law, from gross capital gains.[693] Gains derived from the sale of assets held for less than two years are subject to the basic income tax.

10. Alternative Minimum Tax

Law 2277 of 2022 introduced an alternative minimum effective corporate income tax rate of 15%, for tax years beginning on or after January 1, 2023.[694] Subject to certain exceptions, the alternate minimum tax is generally applicable to all Colombian legal entities, irrespective of entity structure and income thresholds, and extends to branches, permanent establishments, and companies operating in duty-free zones.[695] Law 2277/2022 does not change the standard corporate tax rate of 35%, but instead it creates a floor for taxpayers whose effective tax rate falls under 15%. Hence, the alternative minimum tax functions as a sort of top-up tax, but it is not a qualified domestic minimum top-up tax as per the OECD Pillar Two rules. Generally, the alternative minimum tax is calculated by dividing a taxpayer's adjusted income tax by its adjusted, pre-tax accounting profit, calculated based on its adjusted, pre-tax financial profit. To reach a 15% effective rate, adjustments can be made to various accounting elements, such as tax-exempt income, capital gains, and tax losses. Importantly, the 15% alternative minimum tax does not apply to foreign corporations and certain industries, including companies with operations in special economic and social development zones (ZESE) or regions afflicted by armed conflict (ZOMAC).[696]

The alternative minimum tax was introduced into the Colombian legal framework in parallel to the implementation of the OECD's Pillar Two global minimum tax under the Inclusive Framework on BEPS. However, the Colombian rule diverges from the OECD's global minimum tax, which seeks to prevent profit shifting to low-tax jurisdictions. The main differences between the Colombian alternative minimum tax and the OECD global minimum tax are as follows: (i) the OECD global minimum tax targets multinational enterprises (MNEs) and only those with revenues above 750 million euros, whereas the Colombian alternative minimum tax applies to all, and only to, domestic companies subject to Colombian corporate income tax, with certain exceptions; and (ii) the OECD approach is intended to facilitate a proper distribution of income between jurisdictions, whereas the Colombian approach employs a specific formula that targets economic speculations by domestic companies, which do not always reflect the actual economic reality of those companies.

The Colombian alternative minimum tax was initially challenged by a lawsuit, with the plaintiffs arguing that the tax was unconstitutional because it violated the principles of equity, efficiency, and progressivity. However, the Constitutional Court upheld its constitutionality. In Ruling C-488 of 2024,[697] the Court concluded that the alternative minimum tax effectively addresses the issue of tax base erosion, a problem caused by entities accumulating tax benefits to significantly reduce the amount subject to taxation. According to the Court, the tax as designed ensures that taxpayers pay at least 15% of their adjusted financial profits, with an additional "supplementary tax" required if the calculated amount falls below this threshold. The Court also determined that this measure is effective in combating tax avoidance and increasing public revenue, aligning with the government's legitimate goal of strengthening fiscal resources without breaching constitutional principles. The Court, accordingly, declared the rule constitutional. As a result, all Colombian corporate income taxpayers are required to comply with the alternative minimum tax requirements, ensuring a fairer contribution to public finances and reinforcing the country's fiscal stability.

11. Assessment and Filing

a. Calendar Tax Year

Resident corporate income taxpayers are required to file corporate income tax returns on a calendar-year basis. Companies and individuals are required to use the calendar year ending December 31 as their financial year. However, for liquidated companies, the year will end for this purpose on the date in which the competent authority authorizes the liquidation act.[698]

[690] Col. Tax C., art. 240.

[691] Col. Tax C., arts. 313, 314, 316.

[692] Col. Tax C., art. 317.

[693] Col. Tax C., art. 311.

[694] In a case challenging the constitutionality of the Colombian minimum tax, the Constitutional Court, in its ruling of November 21, 2024, upheld the provision. See Court press release: https://www.corteconstitucional.gov.co/comunicados/Comunicado%2051%20-%20Noviembre%2020%20y%2021%20de%202024.pdf.

[695] Col. Tax C., art. 240, para 6.

[696] In accordance with Law 98 of 1993.

[697] For further discussion of Ruling C-488, see the Court's press release (*Communicado 51*) of November 2024, at: https://www.corteconstitucional.gov.co/comunicados/comunicado%2051%20-%20noviembre%2020%20y%2021%20de%202024.pdf (in Spanish).

[698] Col. Tax C., art. 595; Decree 2588/1999.

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b. Returns for Legal Entities

Corporate income tax returns are filed between April and July of the year following the tax year.[699] The due dates are determined each year by the Colombian Government and differ depending on whether the company is classified as a large taxpayer. The exact return due date is based on the taxpayer's tax identification number.[700] For a list of tax returns due dates, see Worksheet No. 27.

Under rules prescribed by the tax authorities, for some legal entities and other taxpayers electronic filing is required, and they may not file paper returns.[701]

According to Ruling 1253 of 2022 issued by the Colombian Tax Authority, taxpayers falling into any of the following categories will be considered to be large taxpayers:

(i) Taxpayers within the group of subjects that contributed 60% of the total gross collection of the entity, at current prices for tax concepts without including the value of any penalties, during the five years prior to the date when the qualification is made.

(ii) Legal entities that, in the taxable year prior to the year in which the classification is made obtained net income (not including any occasional profits treated as capital gains) for an amount equal to or exceeding 5,000,000 UVT.

(iii) Individuals that, in the taxable year prior to the year in which the classification is made declared gross income equal to or exceeding 3,000,000 UVT.

(iv) Individuals or legal entities that belong to the same corporate group as the taxpayer that meets the requirements set out in (i) above, for control purpose.

Ruling 12220 of 2022 issued by the Colombian Tax Authority sets out the individuals and legal entities that are classified as large taxpayers for taxable years 2023 and 2024.[702]

Colombian entities that on January 1 of each year own assets abroad worth over 2,000 UVT must file an annual return reporting their assets held abroad.[703] The return, a special form (Form 160) provided by the DIAN, must include the following:

(i) Taxpayer identification;

(ii) Details of the foreign assets to be reported, specifying the value, jurisdiction, nature and kind, from January 1 of each year, when the value exceeds 3,580 UVT;

(iii) Foreign assets with a value of less than 3,580 UVT, reported on an aggregate basis according to the jurisdiction in which they are located; and

(iv) The signature of the person required to file the return (generally, the legal representative and the statutory auditor).

c. Tax Audits

A tax audit is an examination of a tax return or information report carried out by the DIAN.[704] The DIAN may also start an administrative proceeding in order to request the taxpayer to file a tax return that is pending.

Using the taxpayer's tax identification number, the DIAN's central computer system checks all returns filed to verify their mathematical accuracy and other indices. Based on this information, some taxpayers are selected for more detailed scrutiny. However, the DIAN is authorized to initiate enforcement procedures, even randomly, in the event of any hint of inaccuracy or omission by the taxpayer.

Regarding the amendment of a tax return, the DIAN provides written notification to a taxpayer that is to be audited.[705] The audit agent has considerable discretion as to the items to be examined and what may constitute acceptable documentation for proving the accuracy of the corresponding return, although the taxpayer is afforded procedural opportunities to present arguments and evidence regarding the case.[706] The administrative procedure depends on the nature of the possible infringement, but in general the taxpayer is guaranteed the right to defend itself in the process, including the possibility of starting a lawsuit for the annulment of acts issued by the DIAN before administrative courts.

Tax audits may cover returns of all tax obligations, including income tax, VAT and withholding taxes. The results of tax examinations are provided to taxpayers, and, depending on the findings, returns may be amended by the taxpayers.

For national tax purposes, supporting documents must be retained for five years, counted from January 1 of the next year to the date in which those documents were drafted or prepared.[707] However, documents will likely need to be retained for a longer term (up to 10 years), under non-tax rules, such as article 28 of Law 962 of 2005. These record-retention requirements should be complied with, as they will allow a taxpayer better to assist the tax authorities in the event of an audit.[708]

In the case of an income tax return, the law provides for:

(i) A three-year statute of limitations, beginning on the return filing date established by Decree, if the return is filed on time or the date on which the return is filed if the return is filed late;[709]

(ii) A five-year statute of limitations in the case of a return on which tax losses are calculated or offset; and[710]

(iii) A five-year statute of limitations in the case of taxpayers obliged to apply the transfer pricing regime.[711]

As a rule, the statute of limitations for VAT and withholding tax returns is linked to the statute of limitations for the in-

[699] Col. Tax C., arts. 571–572, 574–576 (describing taxpayer filing and compliance obligations).
[700] Col. Tax C., art. 575.
[701] Col. Tax C., art. 579-2.
[702] Ruling 12220 of 2022. Ruling 1253 of 2022 sets out the criteria for individual and legal entities being classified as large taxpayers.
[703] Col. Tax C., art. 607.
[704] Col. Tax C., art. 684.
[705] Col. Tax C., art. 685.
[706] Col. Tax C., art. 744.
[707] Col. Tax C., art. 632. Law 962/2005, art. 46.
[708] Col. Tax C., art. 774.
[709] Col. Tax C., art. 714.
[710] Col. Tax C., art. 147.
[711] Col. Tax C., arts. 147 and 714.

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come tax return for the period to which the VAT and withholding returns correspond.[712]

During the statute of limitations period, the DIAN may assess the tax liability and request the amendment of a tax return.[713] A return will not be subject to audit or amendment after the statute of limitations with respect to it has expired.

If a taxpayer that is required to file a tax return fails to do so, the DIAN has five years to require the taxpayer to submit the outstanding return and to impose penalties if the taxpayer does not comply.[714]

A company may carry forward net operating losses for the following 12 taxable periods.[715]

When a taxpayer files or amends a tax return after accepting an official tax assessment, the statute of limitations for the tax return is six months from the date on which the tax return is filed or amended.[716]

A taxpayer may amend its tax returns within a three-year period after the filing due date and before it has received a special summons, or a statement of objections issued by the DIAN.[717]

However, where the taxpayer's amendments result in a decrease in tax payable or an increase in the positive balance in favor of the taxpayer, article 589 of the Tax Code establishes a one-year statute of limitations from the date on which the return must be filed.

d. Disputes and Appeals

If the DIAN decides, based on the tax audit, that the return is inaccurate, it may send a written notice (*requerimiento especial*) to the taxpayer assessing the additional value of the taxes and requesting that the taxpayer file an amended return.[718] In this case, the taxpayer may accept all or part of the DIAN's proposals and pay the additional taxes, its corresponding late interest and 25% of the inaccuracy penalty assessed by the DIAN.[719] Alternatively, if the taxpayer considers that the DIAN's position is incorrect, it can provide a response to the written notice, defending its position and presenting the relevant evidence.[720] If the DIAN persists in its position, it must issue an official tax assessment (*liquidación de revisión*), in which it will determine the tax due and impose the penalties noted in the written notice.[721] If the taxpayer decides to correct its return after this official assessment is issued, it must pay 50% of the penalty.[722] The official assessment may also be appealed before the DIAN (*recurso de reconsideración*). The result is issued through a resolution and may be challenged in a lawsuit before the administrative courts.[723]

e. Payment of Tax

Each year, normally in December, the Colombian Government issues a decree establishing the deadlines for the submission of tax returns and the payment of the respective national taxes.[724] Traditionally, the decree has distinguished between the terms granted to entities designated by the DIAN as "large taxpayers" and those granted to other taxpayers.[725]

For income tax purposes, in addition to paying the tax balance of the corresponding fiscal year, if any, every taxpayer required to file an income tax return is required to pay an amount equal to 75% of the income tax determined in that return, as an advance payment for income tax for the following taxable year.

The 75% rate will be applied on the net income tax of the fiscal year or on the average of the last two years, at the option of the taxpayer. From the result obtained, any amounts withheld corresponding to the fiscal year that is being declared will be discounted. The result obtained will be the advance to be paid by the taxpayer.

In the case of taxpayers that are filing their income tax return for the first time, the advanced payment is 25% for the first year, 50% for the second year, and 75% for the following years.[726]

f. Penalties

The DIAN is empowered to assess penalties on taxpayers. The penalties imposed will depend on the offense. The following are the most common:

(i) Inaccuracy penalty: in the case of a dispute over the content of a filed return (for example, where there is an omission of income or tax generated, or inclusion of nonexistent expenses), the DIAN could impose a penalty equal to 100% of the difference between the amount actually due, according to the official assessment, and the amount declared by the taxpayer.[727] This penalty does not apply when the dispute originates from a reasonable difference of opinion between the DIAN and the taxpayer regarding the interpretation of the applicable law.[728] However, in practice, tax inspectors will impose this penalty and leave it to the courts to establish whether there is in fact a difference of opinion that exonerates the taxpayer. This penalty will be 200% of the higher tax to be paid determined by the DIAN when the taxpayer omits assets or reports false expenses.

(ii) Penalty for late submission: the late filing of a tax return will lead to the imposition of a penalty of 5% of the total tax due, for each month or fraction of delay, not to exceed 100% of the tax due. This penalty is imposed in addition to interest for late payment.[729]

[712] Col. Tax C., arts. 705-1 and 714 and Ruling No. 048953 of 2007.
[713] Col. Tax C., arts. 702–709, 714.
[714] Col. Tax C., art. 717.
[715] Col. Tax C., art. 147.
[716] Col. Tax C., art. 764-4.
[717] Col. Tax C., art. 588.
[718] Col. Tax C., arts. 702–708.
[719] Col. Tax C., art. 709. Normally, the penalty at issue is for inaccuracy, and is equivalent to 100% (or 160% or 200% depending on the case) of the additional tax paid to the DIAN (Col. Tax C., art. 647 and 648).
[720] Col. Tax C., art. 707.
[721] Col. Tax C., arts. 709–712.
[722] Col. Tax C., art. 713.
[723] Col. Tax C., art. 720. Specific procedures for filing a tax case with the Tax Courts and the Administrative Supreme Court of Justice are set out in the Administrative Litigation Code and the Civil Procedure Code.
[724] Col. Tax C., art. 811.
[725] For example, see Decree 1778 of 2021, which sets out the schedule for filing and payment of national taxes in 2022.
[726] Col. Tax C., art. 807.
[727] Col. Tax C., art. 648.
[728] Col. Tax C., art. 647.
[729] Col. Tax C., art. 641.

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If no tax is payable, the penalty for each month or fraction is equivalent to 0.5% of the gross income received by the taxpayer in the reporting period, without exceeding the lesser amount resulting from applying 5% to said income or double the credit balance (*saldo a favor*), if any, or the amount equivalent to 2,500 UVT when there is no balance in favor.

If there is no income, the penalty for each month or fraction is 1% of the net worth of the immediately preceding year, without exceeding the lesser amount resulting from applying 10% to said net worth, or double the credit balance, if any, or the equivalent to 2,500 UVT when there is no credit balance.

This penalty and its thresholds will double if the tax return is filed after a formal notice has been sent by the DIAN.

In the case of late submission of a foreign assets tax return, the penalty will be 0.5% of the value of the assets held abroad, for each month or fraction of delay if the return is filed before a formal notice sent by the DIAN. If the taxpayer files the tax return because of a notice sent by DIAN but before a resolution imposing a non-filing penalty, the rate of the penalty will be 1%. The penalty cannot exceed 10% of the assets' value.[730]

(iii) Penalty for failure to file: a taxpayer that is required to file a tax return and that, despite being requested to do so by the DIAN,[731] fails to do so, will be subject to a penalty, the amount of which depends on the nature of the return that has not been filed:[732]

- Income tax return: the penalty for non-filing is 20% of the value of the bank deposits or gross income of the respective taxable year, or 20% of the gross income stated in the last filed income tax return, whichever is higher;[733]
- VAT and Consumption Tax return: the penalty for non-filing is 10% in all instances;[734]
- Withholding return: the penalty for non-filing is the greater of: 10% of the amount of checks issued or other means of payment through the financial system or of costs and expenses as determined by the DIAN for the relevant period and 100% of the amount of withholding stated in the last withholding tax return filed;
- Foreign asset tax return: the penalty for non-filing is the greater of 5% of the gross assets reported in the last filed income tax return and 5% of the gross assets as determined by the DIAN for the period in which the tax return was not filed.
- Net worth return: the penalty for non-filing is 160% of the tax determined by the DIAN.

(iv) Penalty for failure to submit tax-related information: individuals and entities that are required to provide tax information, as well as those requested to furnish specific information or evidence to the DIAN, and that: fail to do so within the time limit allowed; or provide information that falls short of the request, is not what is required, or is not filed on time, are liable to a penalty of: 1% of the amount that was the object of the information request; 0,7% of the amount that was explicitly requested or if the taxpayer provided the wrong information to the DIAN; or 0,5% of the amount with respect to which there was a failure to file on time. Where it is not possible to establish the proper basis for assessing the penalty, or the information does not include liquid amounts, the fine may be 0.5 UVT for each piece of information not provided. The penalty for not submitting tax-related information may not exceed 7,500 UVT.[735]

(v) Amendment penalty: when a tax return is amended to increase the tax due or decrease the credit balance, the taxpayer must pay a penalty equal to 10% of the increase or decrease, as the case may be. In the event the correction is preceded by a summons to correct or a tax inspection order, the penalty will be increased to 20%. Unlike the penalties listed above, this penalty is to be calculated by the taxpayer.

If the taxpayer fails to calculate the penalties or calculates incorrectly, the DIAN will determine the penalty with a 30% increase.[736]

g. Refunds

A taxpayer generally has two years, after the due date to file the return, to request the refund or the offset of a credit balance liquidated in its tax return.[737] However, in the case of VAT, the refund of credit balances can only be requested by the entities expressly referred to in articles 481, 477, 468-1 and 468-3 of the Tax Code (which, fundamentally, refer to exporters, providers of VAT-exempt goods and services, goods and services subject to a VAT rate of 5%, and entities subject to VAT withholding). VAT credit balances for which refunds cannot be requested can be credited in the VAT return for the next tax period.[738]

In the case of authorized entities mentioned above under articles 477, 468-1 and 468-3, the credit balances originating in VAT returns for excess deductible tax due to rate a differential may only be requested as a refund once the income tax return of the corresponding taxable period has been filed, unless the VAT-responsible taxpayer is an authorized economic operator under the terms of Decree 3568 of 2011, in which case the refund may be requested every two months.[739]

[730] Col. Tax C., art. 641. par. 1.
[731] Col. Tax C., art. 715.
[732] Col. Tax C., art. 643.
[733] Col. Tax C., art. 643.
[734] Col. Tax C., art. 643.
[735] Col. Tax C., art. 651.
[736] Col. Tax C., art. 701.
[737] Col. Tax C., arts. 816, 850, 866.
[738] Col. Tax C., art. 815.
[739] Col. Tax C., art. 481.

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In addition, producers of exempt goods referred to in article 477 of the Tax Code and producers and sellers referred to in paragraphs 4 and 5 therein, may request a refund, after the compensation to be made, the positive VAT balance generated during the first three two-month periods of the year, starting from the month of July of the same taxable year, provided they have complied with the obligation to file the income tax return of the previous taxable year, if applicable.

The refund of excessive or undue payments can be requested during the five-year period following their occurrence.[740]

12. Withholding Tax and Dividends

a. Withholdings

In general terms, every payment made by a legal entity is subject to a withholding tax. In the case of a resident recipient of such a payment, the tax withheld is in practice an advance payment of the recipient's income tax liability and is creditable against the recipient's total annual tax due.[741] In the case of a nonresident recipient, the withholding tax is usually a final tax, insofar as the recipient is not required to file a tax return in Colombia. In the event the nonresident is required to do file such a return, amounts withheld will be credited against the tax due.[742]

The withholding agent is responsible for issuing withholding certificates, filing returns and paying over the withheld amounts to the DIAN within the month following the one in which the withholding is made.[743] Withholding tax certificates are issued by the withholding agent to taxpayers that have been subject to withholding tax. For example, a corporation purchasing professional services from a consulting firm in Colombia will withhold tax on its gross payments for such services at the rate of 11%.[744] At year-end, the withholding agent in Colombia will issue a certificate to the consulting firm reflecting the amount of tax withheld and paid to the tax authorities on its behalf.[745] This certificate is the withholding tax certificate. The withholding agent is required to file a monthly withholding tax return. These returns serve as the basis for issuing the withholding tax certificate.

Withholding returns must be filed and the amount withheld paid on the dates set forth by the tax calendar issued by the Colombian Government. If tax is not withheld or is only partially withheld, or it is not paid over to the authorities, the withholding agent is charged a penalty plus interest. Non-payment of tax withheld may constitute a criminal offense. Below is a schedule of the basic withholding tax rates.

Type of Payment	Recipient	
	Resident	**Nonresident** [746]
Dividends[747]	0%,[748] 10%,[749] 15%,[750] 20%,[751] 33%[752], 35%	0%,[753] 20%,[754] 33%[755], 35%
Taxable interest	2.5%,[756] 4%[757]	15%, 20%[758]
Royalties	3.5%, 10%, 11%[759]	20%[760]
Fees for personal services	4%,[761] 6%,[762] 10%,[763] 11%[764]	20%[765]
Fees for technical services	10%, 11%[766]	20%[767]

[740] Decree 1625/2016, arts. 1.6.1.21.22 and 1.6.1.21.27, Col. Civ. C., art. 2536.

[741] Col. Tax C., art. 365.

[742] Col. Tax C., arts. 6, 592.

[743] Col. Tax C., art. 367.

[744] Decree 1625/2016, art. 1.2.4.3.1.

[745] Col. Tax C., art. 379.

[746] Double tax treaties may apply.

[747] Decree 567/2007. Col. Tax C., arts. 242-1, 242, and 245. The rate of withholding tax on dividends depends on whether the dividends are paid out of profits taxed at the corporate level, in accordance with Col. Tax C., arts. 48 and 49. E.g., under arts. 48 and 49, dividends received by a Colombian company will be subject to the tax on dividends at the rate of 10% if they are paid out of profits that were taxed at the corporate level. Other dividends distributed to a Colombian company are taxed first at the general corporate income tax rate (35% for FY 2024) and subsequently at the dividend tax rate of 20%. The applicable withholding corresponds to 100% of the dividend tax liability. These rules do not apply to dividends paid out of profits generated in 2016 or prior years.

[748] When dividends of less than 1,090 UVT are paid out to resident individuals.

[749] Col. Tax C., art. 242-1. Applicable to domestic companies. The applicable withholding corresponds to 100% of the tax on dividends.

[750] Col. Tax C., art. 242. Applicable to Colombian residents (individuals). The applicable withholding corresponds to 15% when the tax on dividends paid is more than 1,090 UVT.

[751] Decree 1625/2016, art. 1.2.4.7.1. Applicable as withholding income tax to resident individuals when: (i) they are required to file income tax returns, (ii) dividends are paid out of profits generated in 2016 or previous years, and (iii) dividends were not taxed at corporate level. If the beneficiary is not obliged to file an income tax return, the withholding rate will be 33%. In any case, if the beneficiary is not required to file an income tax return and the amount of such dividends is equal to or more than 1,400 UVT in a year, the 20% rate will apply.

[752] Decree 1625/2016, art. 1.2.4.7.1. Applicable as withholding income tax to resident individuals regarding dividends paid out of profits generated in 2016 or previous years that were not taxed at the corporate level when beneficiaries (i) are not required to file income tax returns and (ii) the amount of such dividends is less than 1,400 UVT.

[753] Under certain tax treaties, the rate could be 0%.

[754] Col. Tax C., art. 245. Payments to foreign companies for tax effects and nonresident individuals of dividends paid out of profits that were taxed at the corporate level, are subject to 20% withholding tax. If the profits were not taxed at the corporate level, such dividends are subject to the general corporate income tax rate (35% for FY 2023) and the balance thereafter subject to 20%.

[755] Decree 1625/2016, art. 1.2.4.7.2. (transitory paragraph). Applicable to dividends paid to foreign companies for tax matters and nonresident individuals out of profits corresponding to 2016 or previous years that were not taxed at the corporate level. All the above is subject to the provisions of an applicable tax treaty.

[756] Decree 1625/2016, art. 1.2.4.2.85.

[757] Decree 1625/2016, art. 1.2.4.2.83.

[758] Col. Tax C., art. 408. This Article establishes the 15% rate applicable to interest payments on foreign loans with a term of not less than one year or under international leasing contracts. If the term is less than one year, the rate is 20%.

[759] Decree 1625/2016, art. 1.2.4.3.1.

[760] Col. Tax C., art. 408.

[761] Decree 1625/2016, arts. 1.2.4.4.14 and 1.2.4.4.15.

[762] Col. Tax C., art. 392.

[763] Decree 1625/2016, arts. 1.2.4.4.9 and 1.2.4.10.2.

[764] Decree 1625/2016, arts. 1.2.4.4.9 and 1.2.4.10.2.

[765] Col. Tax C., art. 408.

[766] Decree 1625/2016, art. 1.2.4.3.1.

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Fees for technical assistance services	10%, 11%[768]	20%[769]
Payments under turnkey contracts	1%[770]	1%[771]
Purchases	2.5%,[772] 3.5%[773]	0%,[774] 20%[775]
Payments for the transportation of cargo	1%[776]	0%,[777] 5%[778]
Payments for the transportation of passengers	1%,[779] 3.5%[780]	0%, 5%[781]
Fees for general services	4%,[782] 6%[783]	20%
Real property rentals	3.5%[784]	20%
Commissions	10%,[785] 11%	20%
Salaries and wages	Progressive rates	20%[786]
Interest paid on loans with an eight-year term or longer, to finance infrastructure projects in the context of Public-Private Associations (APPs)	2.5%,[787] 4%[788]	5%[789]

See XVI.H., below, for a discussion of withholding on outbound payments a non-cooperative, low-tax or no-tax jurisdiction (known as "tax haven jurisdictions" before the enactment of Law 1819 of 2016).

b. Dividends Tax

As of January 1, 2023, dividends paid to Colombian companies are subject to a withholding rate of 10%, if they are paid out of profits that were subject to income tax at the level of the Colombian distributing company. Otherwise, the distribution will be taxed at the corporate income tax rate applicable to the corresponding fiscal year (FY 2024: 35%).[790]

This 10% withholding rate will not apply to dividends paid between Colombian companies within a commercial group or under a control situation duly registered before the chamber of commerce.

The 10% withholding rate is only applicable to Colombian companies that receive dividends for the first time. The amount withheld will be a credit transferable to the final beneficiary (Colombian resident individual or investors abroad).

Example: A Colombian company receives dividends out of profits that were not taxed at the corporate level in an amount of COP 100. When it on-distributes these dividends to a Colombian legal entity, the Colombian company must withhold: (i) 35% of COP 100 (100 × 35% = COP 35); and (ii) 10% of the balance (COP 65 × 10% = COP 6,5). The final amount of the distribution will be COP 58,5.

Dividends paid to foreign companies or to nonresident individuals by a Colombian company will be subject to tax at a rate of 20% if they are paid out of profits that are subject to tax at the level of the Colombian distributing company. Otherwise, the distribution will be first taxed with the corporate income tax applicable to the corresponding fiscal year and, thereafter, by applying the 20% rate on the balance. The 10% withholding rate mentioned above, if any (i.e., the tax withheld where a dividend is first distributed to another Colombian company before being on-distributed to the nonresident shareholder), will be creditable.

The dividend income tax is withheld by the distributing company.

For Colombian resident individuals, the dividend tax is 15%, if the dividend to be paid is higher than 1900 UVT. The 10% withholding rate mentioned above, if any, (i.e., the tax withheld where a dividend is first distributed to another Colombian company before being on-distributed to the resident individual shareholder), will be creditable.

Law 1943 of 2018 (declared unconstitutional but applicable for fiscal year 2019) establishes that this dividend regime (also included by Law 2010 of 2019, issued as a consequence of the unconstitutionality of Law 1943) will not be applicable to dividends declared by the Colombian company until December 31, 2018. If the dividend corresponding to profits generated in 2018 or in a previous fiscal year was not declared up to that date, it will be necessary to determine which dividends taxation

[767] Col. Tax C., art. 408.
[768] Decree 1625/2016, art. 1.2.4.3.1.
[769] Col. Tax C., art. 408.
[770] Col. Tax C., art. 412.
[771] Col. Tax C., art. 412.
[772] Decree 1625/2016, arts. 1.2.4.9.1 and 1.2.4.9.2.
[773] Decree 1255/2016, art. 1.2.4.9.2 (par 3).
[774] Under Col. Tax C., arts. 25 and 418, income arising from the sale of goods not located in Colombia is not taxed in Colombia and is, therefore, not subject to withholding tax.
[775] Col. Tax C., art. 415. Under art. 415, the general withholding tax rate for payments abroad is 20%.
[776] Decree 1625/2016, arts. 1.2.4.4.6 and 1.2.4.4.8.
[777] If a tax treaty applies, the rate is 0%.
[778] Col. Tax C., art. 414-1. International air and sea transportation (when companies are not Colombian).
[779] Decree 1625/2016, art. 1.2.4.4.6. Applicable to domestic air and sea transportation.
[780] Decree 1625/2016, arts. 1.2.4.10.6 and 1.2.4.9.1. Applicable to domestic and international ground transportation (taxpayers not required to file income tax return).
[781] Col. Tax C., art. 414-1. International air and sea transportation (when companies are not Colombian).
[782] Decree 1625/2016, art. 1.2.4.4.14.
[783] Col. Tax C., art. 392.
[784] Decree 1625/2016, art. 1.2.4.10.6.
[785] Col. Tax C., art. 392.
[786] Col. Tax C., art. 408. Col. Tax and Customs Admin. Op. 35980/1997.
[787] Decree 1625/2016, art. 1.2.4.2.85.
[788] Decree 1625/2016, arts, 1.2.4.2.32, 1.2.4.2.83.
[789] Col. Tax C., art. 408. Interest payments to nonresidents corresponding to loans for a term equal to or higher than eight years, intended for the financing of infrastructure projects under the Public-Private Partnerships scheme within the framework of Law 1508 of 2012, are subject to a withholding rate of 5%.
[790] Col. Tax C., art. 240.

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regime will be applicable (Law 1819 of 2016 or the previous dividends regime).[791]

13. Holding Companies

Pursuant to the new Colombian holding company (CHC) regime in effect from January 1, 2019,[792] a CHC and its shareholders are subject to the general income tax regime regarding taxable activities carried out in Colombia and abroad through permanent establishments.

Additionally, the following rules also apply:

(i) Companies under the CHC are considered as Colombian tax residents for purposes of the double taxation treaties signed by Colombia;

(ii) Only costs and expenses attributable to income obtained from taxable activities carried out in Colombia or abroad through a permanent establishment, are deductible for income tax purposes;

(iii) Companies under the CHC are subject to the controlled foreign corporations' regime. Taxes paid abroad will be creditable.[793] However, income that must be taxed according to the controlled foreign regime will not be subject to the benefits established under the CHC regime.

(iv) Companies under the CHC are subject to the Industry and Commerce Tax (turnover tax) if they perform the taxable event within a Colombian municipality or district. Dividends distributed by foreign legal entities and treated under the CHC regime will not be subject to the Industry and Commerce Tax.

Domestic companies that wish to benefit from the CHC regime must have as one of their main activities the holding of securities, the investment or holding of shares or participations in Colombian and/or foreign companies or entities, and/or the administration of such investments, provided they comply with the following conditions:[794]

(i) Have a direct or indirect participation in at least 10% of the capital of two or more Colombian and/or foreign companies for a minimum period of 12 months; and

(ii) Have human and material resources for the development of their corporate purpose. This requirement will be deemed to be met if a company has at least three employees, its own management in Colombia, and can demonstrate that strategic decision-making of the investments and assets of the CHC is carried out in Colombia.[795]

Colombian companies under the CHC regime are not subject to the withholding rate of 7.5% on dividends distributed by other Colombian companies.

Companies that wish to benefit from the CHC regime must send a request to the DIAN using the applicable forms and providing the information requested under Decree 1625 of 2016.[796]

14. General Anti-Avoidance Rule

A General Anti-Avoidance Rule (GAAR) was introduced into the Colombian legal system by Law 1607 of 2012 (article 869 of the Tax Code). The GAAR allows the DIAN to recharacterize or reconfigure any transaction that constitutes abuse in tax matters and, consequently, to disregard its effects.

Article 869 also establishes that a legal act or business is understood to be contrived and therefore lacks economic and/or commercial purpose when it is evidenced, among other things, that:

(i) The legal act or business is executed in a manner that, in economic and/or commercial terms, is not reasonable;

(ii) The legal act or business results in a substantial tax benefit that is not reflected in the economic or business risks assumed by the taxpayer; or

(iii) The execution of a structurally correct legal act or business is only apparent, since the manner in which the act or business is structured conceals the true intention of the parties. The tax benefit may be manifested, among other ways, in the elimination, reduction or deferral of tax, an increase in a favorable balance or tax losses, or the granting of tax benefits or exemptions.

C. Other Taxes

1. Registration Tax

Registration tax must be paid to the Chamber of Commerce or the Registry of Public Deeds on the drawing up of a legal deed, contracts or other legal document that, under any provision of law, is required to be registered with those entities, where a private legal entity or an individual is a party to, or a beneficiary under, the deed, etc.[797] If a document or act is subject to registration with both the Chamber of Commerce and the Registry of Public Deeds, the registration tax will be triggered only on registration with the latter.

The basis for calculating the registration tax is the amount established in the document, deed or contract. In the case of incorporation or changes affecting a corporation, the tax base is the total value of the contribution, including both capital and additional paid-in capital. In the case of the sale or transfer of immovable goods, the tax base cannot be less than the administrative assessment of the property, the self-appraisal used for the property tax purposes or the amount established at auction, as the case may be.[798]

The applicable rate is determined by the Departmental authorities and ranges from 0.1% to 1%, depending on the type of deed or contract concerned, as follows:[799]

(i) Deeds or contracts that incorporate liquid amounts and are subject to registration with the Registry of Public Documents (such as sales of immovable property): the rates range from 0.5% to 1%.

[791] Decree 1625/2016, arts. 1.2.1.10.4.

[792] Col. Tax C., art. 898.

[793] Col. Tax C., art. 892.

[794] For more information regarding direct and indirect participations, see Decree 1625 of 2016, art. 1.2.1.23.3.1.

[795] Simply holding a formal annual shareholders meeting will not suffice.

[796] Decree 1625/2016., arts. 1.2.1.23.3.3.

[797] Law 223/1995, art. 226.

[798] Law 223/1995, art. 229, as modified by art. 187 of Law 1607/2012.

[799] Law 223/1995, art. 230, as modified by art. 188 of Law 1607/2012.

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(ii) Deeds or contracts that incorporate liquid amounts and are subject to registration with the Chamber of Commerce, other than those involving additional paid-in capital: the rates range from 0.3% to 0.7%.

(iii) Deeds or contracts subject to registration with the Chamber of Commerce that involve additional paid-in capital: the rates range from 0.1% to 0.3%.

(iv) Deeds or contracts that do not incorporate liquid amounts but must be inscribed in the Registry of Public Documents or with the Chamber of Commerce (such as the appointment of representatives or a statutory auditor, and any reforms that do not involve the transfer of rights or an increase in capital): the tax to be paid is a lump sum of between two and four times the legal minimum wage.

2. Industry and Commerce Tax (Turnover Tax)

The Industry and Commerce Tax (ICA) is a municipal tax levied on a company's gross receipts derived from industrial, commercial or services activities.[800] A taxpayer is subject to ICA if it carries on industrial, commercial or service-oriented activities in the municipality or district concerned.

Municipalities or districts may impose ICA within certain rate parameters, as follows:[801]

(i) Industrial activities: at rates ranging from 0.2% to 0.7%; and

(ii) Commercial activities and the rendering of services: at rates ranging from 0.2% to 1%. In the case of Bogota, the rate theoretically can range from 0.2% and 3%,[802] but the enacted rates range from 0.414% to 1.38%.[803]

Generally, the taxable period lasts for a year, except in the case of Bogotá, which has a bimonthly period as allowed by its special legal regime.[804]

The most important exemptions pertaining to ICA are for:

(i) Revenue derived from exempt activities;

(ii) Revenue derived from excluded activities;

(iii) Revenue derived from activities that are not subject to ICA;

(iv) Revenue from export activities;

(v) Discounts and rebates;

(vi) Profits derived from the sale of fixed assets;

(vii) Profits derived from the primary production of agricultural, livestock and poultry, excluding profits from food factories or industries involving a transformation process;

(viii) Profits derived from the exploitation of salt mines, emeralds and precious metals, when the amount of royalties or shares payable to the municipality is equal or greater than what would be payable under the Industry and Trade Tax; and

(ix) Profits derived from the provision of health services in clinics and hospitals.

In principle, ICA taxpayers are only individuals and legal entities. However, the law has extended the application of the tax to consortia and joint ventures.[805]

3. Value Added Tax

a. Taxable Transactions

As a general rule, Colombian VAT is levied on: (i) the sale or transfer of movable assets and real property assets; (ii) the sale or assignment of rights over intangible goods associated with industrial property; (iii) the provision of services within Colombia or from abroad; (iv) the importation of tangible goods; and (v) the circulation, sale or operation of games of chance, with the exception of lotteries and games of chance operated exclusively via the internet.[806] Some assets and services are expressly excluded from VAT.

VAT is levied at a general rate of 19%, although there are special rates ranging from 0% to 5% for certain goods and services.[807]

One hundred percent of the VAT paid for the acquisition, construction or import of real productive fixed assets[808] can be credited in the income tax return, as previously mentioned. The VAT applied as a credit for income tax purposes may not be treated as an expense or as a credit for VAT purposes.[809]

For further research on Colombia's VAT system, see also the VAT Navigator.

b. Exemptions and Exclusions

The VAT law excludes or exempts from VAT a number of goods and services, such as foodstuffs, books and scientific magazines, chemical raw material used for medicines, financial interests, and leasing transactions, among others.[810] Exports of goods and services are also exempt from VAT.[811]

While both exclusions and exemptions mean that the good or service is not charged to VAT, the regimes differ mainly in that exclusion rules out the possibility of crediting input VAT,[812] while in the case of exempt goods and services such credit is allowed and the refund of any resulting credited balance can be requested (an exception to the general rule under which VAT credit balances cannot be refunded but only credited in subsequent periods).[813]

c. Import VAT

In general, the standard VAT rate on imports is 19% and is levied at the time of customs clearance, based on the CIF value plus tariffs and the cost of services (in the case of goods the val-

[800] Law 14/1983, art. 32 and Law 1819 of 2016, arts. 342, 343.
[801] Law 1819 of 2016., art. 342.
[802] Decree-law 1421/1993, art. 154, no. 6.
[803] Decree of the District 352 de 2002, art. 53.
[804] Law 14/1983, art. 33. Decree-law 1421/1993, art. 154(1).
[805] Law 1607/2012, art. 177.
[806] Col. Tax C., art. 420.
[807] Col. Tax C., arts. 468-1, 468-3, 476, 477, 481.
[808] For the definition of "real productive assets," see Decree 1625 of 2016, art. 1.2.1.27.1.
[809] Col. Tax C., art. 258-1. Decree 1625 of 2016, arts. 1.2.1.27.2 and following.
[810] Col. Tax C., arts. 424, 477, 478, 481.
[811] Col. Tax C., art. 481.
[812] Col. Tax C., art. 488.
[813] Col. Tax C., arts. 488, 850.

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ue of which involves the provision of services or is increased by the inclusion of an intangible good).[814] The VAT chargeable on imports depends not only on the nature of the imported goods, but also on the regime used, as follows:

(i) Ordinary imports are generally subject to customs duties, i.e., both VAT and tariffs.

(ii) Temporary imports of goods for their re-exportation in the same condition: imports that last no more than six months, renewable for three additional months, do not give rise, totally or partially, to the payment of customs duties (VAT and tariffs).[815]

(iii) Temporary long-term imports of goods for their re-exportation in the same condition: imports of heavy machinery not produced in Colombia for basic industries such as mining and fossil fuels do not give rise to VAT. If the term during which such goods will remain in Colombia is less than five years, the payment of the applicable tariff may be deferred and paid in equal semi-annual installments during the period in which the goods remain within the national customs area.[816]

(iv) Some customs regimes, such as those related to special import-export regimes (for example, the "Plan Vallejo") and the temporary importation of capital goods to be repaired or otherwise modified qualify for the suspension of customs duties (VAT and tariffs), if the goods concerned are intended to be re-exported.[817]

d. Export VAT

Exports are deemed to be VAT-taxed operations, but the applicable rate is 0%.[818] An exporter is entitled to obtain a refund of VAT previously paid on inputs, which can be credited on its VAT returns and would generally result in a credit balance (provided the exporter only engages in VAT-exempt transactions).[819] Exporters must register with the DIAN.[820]

e. VAT Rates

Colombia applies multiple VAT rates, the standard rate being 19% for most transactions.[821] Certain goods and services, as specifically designated by law, are taxed at the rate of 0% (e.g., live bovines, meat, pork, poultry and eggs)[822] or 5% (e.g., coffee, oats and electric vehicles used for public transportation).[823] Some goods and services, such as certain types of vehicles and mobile communications, are subject to both VAT and the national consumption tax.

f. Registration

All companies and individuals that carry out taxable activities are responsible for VAT.

However, the following are not responsible for VAT: individuals, merchants and artisans who are retailers, small farmers or ranchers, as well as providers of services:

(i) Whose gross receipts in the previous and current fiscal years amount to less than 3,500 UVT;

(ii) Who do not have more than one going concern; and

(iii) Who are not customs users (i.e., exporters or importers), among other conditions set out in the law.[824]

Currently Colombia does not have a VAT registration threshold.

Taxpayers under the Simple Tax Regime are not responsible for VAT, if they develop the activities established under numeral 1 of article 908 of the Col. Tax Code (small shops, mini-markets, micro-markets and hairdressers).

Those responsible for VAT are required to issue pre-numbered invoices[825] and to maintain purchases and sales books.[826] Furthermore, as from FY 2019, they are required to issue electronic invoices in accordance with the DIAN and National Government regulations.[827] The DIAN established a calendar to implement the electronic invoicing in which the dates depend on the activity code of the taxpayer (CIIU) and the qualification of the VAT responsible party, e.g., Simple Regime taxpayers or large taxpayers, among others.[828]

As from January 1, 2020, electronic invoices must be issued to deduct taxes, costs and expenses, in accordance with the following table:[829]

Fiscal Year	Maximum Rate Allowed Without Electronic Invoicing
2021	20%
2022	10%

An automatic refund mechanism will proceed for producers of exempt goods referred to in Article 477 of the Col.Tax.C. on a bimonthly basis under the terms set out in Article 481, provided 100% of the creditable taxes that give rise to the credit balance, and the income that generates the exempt operation, are duly supported by the electronic invoicing system.[830]

[814] Col. Tax C., arts. 459, 468.
[815] Decree 1165/2019, arts. 200 and 201.
[816] Decree 1165/2019, art. 201.
[817] Decree Law 444/1967, Decree 631/1985, and Decree 285/2020; Col. Tax C., art. 428(e)..
[818] Col. Tax C., arts. 479, 481.
[819] Col. Tax C., arts. 489, 850.
[820] Decree 2788/2004, art. 5.
[821] Col. Tax C., art. 468.
[822] Col. Tax C., arts. 479, 481.
[823] Col. Tax C., arts. 468-1, 468-3.
[824] Col. Tax C., art. 437, par. 3.
[825] Col. Tax C., art. 615; Decree 1165/1996; Col. Tax and Customs Admin. Op. 1277/Jan. 10, 1997.
[826] Col. Tax C., art. 632
[827] Ruling 042 of 2020 DIAN.
[828] Ruling 20 of 2019 DIAN and Resolution 30 of 2019 DIAN.
[829] Col. Tax C., art. 616-1 (transitory paragraph). It should be noted that Law 2155 of 2021 modified article 616-1 of the Col Tax C. establishing that costs and expenses are only deductible for tax purposes if they are supported by an electronic invoice or equivalent document. However, this provision will only enter into force when the corresponding regulation is issued. For 2021 and 2022 income tax returns, the provisions of article 616-1 of the Col. Tax Code will continue applying.
[830] Col. Tax C., art. 855, par 5. Lit c.

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4. Financial Transactions Tax

The Financial Transaction Tax (FTT) at the rate of 4 per 1,000 is levied on most financial transactions.[831] The tax was first introduced as a temporary levy to bail out Colombia's financial sector from a near-collapse in 1999 and, by most accounts, has proved successful.

FTT taxpayers are: Colombian financial system users; financial institutions comprising Colombian financial system; and the Colombian Central Bank (*Banco de la República*).[832] FTT is triggered by the conduct of financial transactions that utilize funds deposited in checking or savings fund accounts or in deposit accounts with the Central Bank, the drawing of cashier's checks, and the transfer or assignment of resources deposited in investment portfolios managed by financial institutions, as well as accounting debits made by these entities that result in payments to third parties.[833]

The regulations provide that a financial transaction may include any withdrawal of cash, whether by check, deposit/withdrawal slip or charge card, at a cash station or cash payment location, through a debit note or by any other means of disposal of cash held in a deposit, savings or checking account, in whatever currency, including a debit to the account of funds held as "positive credit card balances," a transaction whereby a financial institution repays an amount held as a term deposit by means of a credit to the account of the respective deposit holder, and the cancellation of a liability or the transfer of ownership of an asset in a registered account.[834]

A taxpayer that qualifies for an FTT exemption must inform the financial institution where the respective account is held and ask for that account to be marked as exempt. Failure to comply with this requirement results in the forfeiture of the exemption.

Exemptions from FTT provided for in the regulations include:[835]

(i) Withdrawals made from savings accounts or on prepaid cards managed by financial institutions and/or cooperatives overseen by the Financial Superintendence, up to the limit established by law (350 UVT per month). Each person may have only one account or prepaid card benefiting from this exemption.[836] Additionally, withdrawals made from special savings accounts for pensioners are exempt, up to the limit established by law (41 UVT per month);[837]

(ii) Transfers between checking accounts, savings accounts and prepaid cards held with the same financial entity in the name of the same holder. This exemption also applies where the transfer is made between collective savings accounts or between such accounts and checking or savings accounts belonging to the same holder, provided the accounts concerned are held with the same financial entity. Likewise, transfers between investment portfolios made by a financial institution on behalf of a single beneficiary are exempt;[838]

(iii) Transactions carried out directly by the Director of the National Treasury or via its executive agents. Under the regulations, this exemption applies to transactions that affect the national budget, even where the respective funds are transferred to an outlying territorial division. The Director of the National Treasury must designate the exclusive accounts into which or from which these funds are paid or transferred. In conjunction with this exemption, Decree 405 of 2001, incorporated into Decree 1625 of 2016, makes it clear that the state-owned fund that operates as the guarantor of local financial institutions (FOGAFIN) is an executive agent of the Director of the National Treasury, whenever it repays debt represented by securities issued for the capitalization of the local public banking system. This rule applies regardless of whether the funds FOGAFIN uses to do so are its own or are an allocation from the national budget;[839]

(iv) Central Bank transactions carried out to improve liquidity.[840] As the ultimate bank and lender for Colombia's public and private financial institutions, the Central Bank may offer special support to improve the liquidity of the financial system by means of discounts and rediscounts, as determined by the Board of Directors;[841]

(v) Interbank loans[842] and sell/buy-back or buy/sell-back transactions[843] in securities carried out by institutions regulated by the Superintendence of Finance.[844] This exemption does not apply when the final payment is made to a third party (for example, a person designated by the Creditor Bank to receive the payment without being party to the transaction);[845]

(vi) Interbank set off transactions, made through deposit accounts opened with the Central Bank;[846]

(vii) The clearing and settlement of transactions carried out on the stock, derivatives or foreign currency markets, as well as transactions on the agricultural or other commodities markets. This exemption includes guarantees given on behalf of participants in those markets and payments for the administration of securities. The exemption

[831] Col. Tax C., art. 872.
[832] Col. Tax C., arts. 871, 873, 875–876, 878.
[833] Col. Tax C., art. 873; Decree 405/2001.
[834] Col. Tax C., art. 871, Inc. 1.
[835] Col. Tax C., art. 879, ¶2.
[836] Col. Tax C., art. 879(1).
[837] Col. Tax C., art. 879, no. 14.
[838] Col. Tax C., art. 879, nos. 2, 14. The detailed list of transfers which may be exempt is in art. 1.4.2.2.21 of Decree 1625/2016.
[839] Col. Tax C., art. 879; Decree 1625/2016, art. 1.4.2.2.4. *See* Cen. Bank Ext. Reg. DCO-Jan. 2, 2001.
[840] Col. Tax C., art. 879; Decree 1625/2016.
[841] Law 31/1992, art. 12.
[842] Interbank loans are loans between financial institutions that are conducted to balance out treasury positions derived from liquidity surplus or deficit. Such transactions must occur between financial institutions that are regulated by the Superintendence of Banks. Decree 405/2001.
[843] A sell/buy-back or buy/sell-back transaction (*reporto* in Spanish) is also carried out as a means of temporary financing to correct treasury positions, where a financial institution sells (or buys) assets (usually securities) to (from) a third party and makes a commitment to buy (or sell) back the assets within a fixed term.
[844] Col. Tax C., art. 879; Decree 405/2001.
[845] Col. Tax C., art. 879, no. 5; Decree 1625/2016., art. 1.4.2.2.5.
[846] Col. Tax C., art. 879. no. 6; Decree 1625/2016., art, 1.4.2.2.6; Decree 1207/1996, art. 1.

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does not apply if the resulting payments are received by an entity that was not a party to the cleared/settled transaction concerned;[847]

(viii) Sell/buy-back and buy/sell-back transactions carried out by FOGAFIN and the guarantor of cooperative entities (FOGACOOP) with their affiliated entities;[848]

(ix) The management of public funds by the treasury divisions of territorial entities. For the exemption to apply, departmental, municipal or district treasuries must identify the checking or savings accounts they use to manage their budget resources to the relevant financial institutions. The regulations also dictate that the management of public funds also involves the transfer of taxes collected from collection entities of the territorial divisions to entities designed for that purpose;[849]

(x) Financial transactions carried out with the resources of the General Social Security Health System, the General Pension System and workers' compensation funds.[850] The financial transactions that are exempt in this context are confined to transactions carried out by the entities in charge of managing these resources, up to the point of payment to the "health promoting entities" (*Entidades Promotoras de Salud* or EPSs) or the relevant pension holder, affiliated individual or beneficiary, as the case may be. Special accounts must be set up for the exemption to apply, and the legal representatives of the entities concerned must prove and certify to the relevant financial institutions that the resources handled through their offices are such resources, and that the checking or savings accounts they identify at the time are exclusively devoted to the handling of such resources. Any resources or funds handled in any other accounts or any portion of the social security funds that is mixed with funds owned by the managing entities are not exempt from FTT;

(xi) Loan disbursements by means of credits to accounts or the drawing of checks.[851] For FTT exemption purposes, a credit to an account is the disbursement of loan funds into a checking account, a savings account or a deposit account made by credit establishments, cooperatives with financial activity or savings and credit cooperatives regulated by the Colombian Superintendence of Finance or the Superintendence of Economic Solidarity, or the disbursement of loan funds from credits obtained from abroad in Colombian currency by nonresident agents, under the terms of the foreign exchange regulations of the Colombian Central Bank. The disbursement of loan funds by check with the printed restriction stating that it is drawn "for credit to the account of the primary payee" also qualifies for these purposes. For the exemption to apply, the loan funds must actually be credited to an account held by the actual borrower. Loan disbursements to a third party are also exempt, but only if the receiving party uses the credit for the purchase of housing, vehicles or fixed assets. Loan disbursements in foreign currencies (where possible, under foreign exchange regulations) are not subject to FTT;[852]

(xii) The purchase and sale of foreign currency by exchange market intermediaries. The exemption applies to transactions between exchange market intermediaries regulated by the Superintendence of Finance or between those intermediaries, the Director of the Treasury and the Central Bank, when made through deposit accounts held with the same bank or through special purpose checking accounts that are fully identified;[853]

(xiii) Cashier's checks for the account of the person requesting them. Where a cashier's check is issued and charged to the savings or checking account of the person requesting the check, FTT does not accrue on the drawing of the check, provided the account is held with the same financial institution as issues the check; and

(xiv) The disposition of resources to carry out factoring operations, when performed by a company whose corporate purpose includes this type of transaction.[854]

5. Motor Vehicles Tax

A tax is imposed on the ownership of automotive vehicles at rates ranging from 1.5% to 3.5%, depending on the value, characteristics and intended use of the vehicle concerned.[855] The tax is paid in the jurisdiction (department or municipality, depending on the case) in which the respective vehicle is registered and the tax base is equal to the market value of the vehicle, as established year-to-year by the Ministry of Transport in the case of used vehicles, and in the bill of sale or import declaration in the case of new vehicles. Agricultural machinery, public works vehicles and vehicles and machinery for industrial use are exempt from this tax since, by their nature, they are not intended for travel on public or private roads open to the public are exempt from this tax.[856]

6. Property Tax

Tax on real property is levied by municipalities or districts on owners or holders of real estate assets located in both urban and rural zones. Tax rates vary according to the size, use and location of the real property concerned.[857] The tax is based on the taxpayer's real property appraisal, which, in any case, cannot be less than the official cadastral property valuation (or the cadastral self-assessment, if applicable).[858] Every municipality is allowed to determine the tax rate within a range from 0.1% to 3.3% of the real property appraisal.[859] The rates for developed

[847] Col. Tax C., art. 879, no. 7; Decree 1625/2016, arts., 1.4.2.2.15 and 1.4.2.2.16; Decree 405/2001, arts. 13 and 15.
[848] Col. Tax C., art. 879, no. 8; Decree 1625/2016, art. 1.4.2.2.8.
[849] Col. Tax C., art. 879, no. 9; Decree 1625/2016, art. 1.4.2.2.3.
[850] Col. Tax C., art. 879, no. 10; Decree 1625/2016, art. 1.4.2.2.11.
[851] Col. Tax C., art. 879, no. 11; Decree 1625/2016, arts. 1.4.2.2.15, 1.4.2.2.17, 1.4.2.2.18, 1.4.2.2.19.
[852] Decree 660/2011, art. 4, ¶2.
[853] Col. Tax C., art. 879, no. 12; Decree 405/2001.
[854] Col. Tax C., art. 879, no. 21.
[855] Law 488/1998, art. 145.
[856] Law 488/1998, art. 141.
[857] Law 14/1983, art. 17. Law 1450/2011, art. 23.
[858] Law 14/1983, art. 13.
[859] Law 1450/2011, art. 23.

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land in urban areas range from 0.1% to 1.6%, while the rates for undeveloped urban land range from 1.6% to 3.3%.[860]

7. Consumption Tax

As previously mentioned, as of 2013, a national consumption tax is levied on the rendering of certain services (for example, mobile communications and services such as those provided at restaurants, bars and similar establishments) and on sales to the final consumer. The tax may be charged simultaneously with VAT rates ranging from 4% to 16%.[861]

In addition, other special taxes are imposed on goods, such as cigarettes, beer, liquor and petroleum products.

D. Financial Accounting

1. In General

Prior to the adoption of IFRS (International Financial Reporting Standards) in Colombia, the World Bank conducted an assessment of the Colombian accounting (and auditing) system and concluded that it was not consistent with IFRS, U.S. GAAP or other international standards.[862] Colombian GAAP prior to the adoption of IFRS was principle-based. By contrast to the detailed accounting rules under U.S. GAPP (a rules-based system) or IFRS, Colombian rules covered only basic provisions without providing sufficient substantive direction.

On the other hand, the multitude of sources of accounting standards and supplementary rules issued by various Colombian regulators at times conflicted with each other resulting in confusion for preparers and users of financial statements. According to the World Bank, the most frequent problem was the pervasive influence of tax authorities on the choice and application of accounting principles.[863]

Prior to IFRS, it was typical for tax laws to include accounting rules. In fact, many taxpayers and even some accountants considered that accounting was purely for tax accounting purposes as if the only user of the financial information were the tax administration.

Law 1314 of 2009 ('Law of Convergence') introduced global accounting, financial reporting, and information assurance standards. Colombian companies were classified into three groups for purposes of transitioning to the new reporting standards. The groups and the fiscal year in which each company had to adopt IFRS were as follows:

- All companies whose securities are publicly traded and are legally defined as public interest entities, large companies whose parent or subsidiary reports under IFRS, and companies deriving 50% or more of their revenues from exports or imports, were required to adopt IFRS in full in 2015 (transition date 2014).
- Large and medium-sized companies, other than those included in Group 1, above, had to adopt the IFRS for SMEs standard in 2016.
- Micro-entities were required to adopt a new standard developed by the Technical Council for Public Accounting in 2015. Microenterprises can choose the IFRS for SMEs.

The extent of adoption of IFRS in Colombia to date is outlined below.[864]

Extent of IFRS Application	Status	Additional Information
IFRS Standards are required for domestic public companies	Adopted	Required for all listed companies and some others including large subsidiaries of IFRS parent companies, export-import companies, and government owned/controlled companies. Banks and other financial institutions use IFRS Standards with several modifications.
IFRS Standards are required or permitted for listings by foreign companies	Adopted	Permitted.
The IFRS for SMEs Standard is required or permitted	Adopted	Required for all except micro sized, unless full IFRS Standards are required or used.

Note that new IFRS rules issued by the International Accounting Standard Board (IASB) are not yet adopted in Colombia. The rules must first be reviewed by the Colombian government.

All accounting information is recorded and expressed in Colombian pesos, i.e., the functional and legal unit of measurement in Colombia. Foreign currency transactions in Colombia must be converted into Colombian pesos.

2. Accounting Period

Business entities in Colombia are required to prepare and disclose their financial statements periodically. An entity's closing dates are defined in advance in accordance with the controlling law and the entity's operating cycle. Business entities are required to prepare and issue general-purpose financial statements at year-end.[865]

Although a business entity is required to issue financial statements at least once a year on December 31, an entity's by-

[860] The cadastral appraisal is readjusted each year by the national government. For the year 2024, the readjustment for urban properties is 4.51%, for rural properties dedicated to agricultural activities it is 2.55% and for other rural properties it is 4.51%. Decree 1082 of 2015, modified by Decree 2311 of 2024.

[861] Col. Tax C., arts. 512-2, 512-3, 512-4.

[862] World Bank. Colombia: Accounting and Auditing (2003), available at: https://openknowledge.worldbank.org/handle/10986/14470 (accessed Sept. 15, 2019).

[863] *Ibid.*

[864] IFRS Foundation, *Who uses IFRS Standards?*, available at: http://www.ifrs.org/use-around-the-world/use-of-ifrs-standards-by-jurisdiction/colombia/ (accessed Sept. 15, 2019).

[865] Decree 2649/1993, art. 9.

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laws may dictate that statements be prepared using a different timetable.[866]

3. Financial Statements

a. Characteristics of Colombian Financial Statements

The IFRS Conceptual Framework sets out the concepts that underlie financial statements; defines the objective of financial reporting; defines the qualities of financial information (so that it is useful, relevant, and a faithful representation); and defines elements of financial statements (assets, liabilities, equity, income, and expenses) and their recognition and measurement. Basic financial statements consist of the following:

1. Statement of Financial Position, also known as a balance sheet, that consists of assets, liabilities, and equity. IFRS influences the ways in which the components of a balance sheet are reported.

2. Statement of Comprehensive Income, which can take the form of one statement, or it can be separated into a profit and loss statement and a statement of other income. The total sum of applicable revenues, costs, expenses, and monetary correction should show the results of the period.

3. Statement of Changes in Equity or statement of retained earnings which documents the company's change in earnings or profit for the financial period.

4. Statement of Cash Flow reports the company's financial transactions in the given period, separating cash flow into Operations, Investing, and Financing.

In addition to these basic reports, a company must give a summary of its accounting policies. The full report is displayed alongside the previous report, to show the changes in profit and loss. A parent company must create separate account reports for each of its subsidiary companies.

Consolidated financial statements present an entity's financial position, results of operations, net equity changes, financial position, and parent company and subsidiary (or subordinate and dominant company) cash flows (as if the parent and subsidiary were deemed to be a single enterprise).

Special-purpose financial statements are prepared to satisfy specific accounting information needs. Such statements have limited circulation and/or use and provide greater detail as to particular items and/or transactions. Some examples of special purpose financial statements are: the initial balance, the intermediate fund financial statements, the costs statement, the inventories statement, extraordinary financial statements, liquidation statements, financial statements presented to governmental regulatory agencies (subject to special classification rules).

When commencing activities, every business entity must prepare a general balance sheet providing clear and complete information on its initial assets. In addition, given that net worth constitutes a warranty held by creditors against the business entity, all business entities must prepare a balance sheet reflecting their net worth position at least once a year. The law also requires the preparation of intermediate period financial statements.[867] These are the basic financial statements prepared during the course of the period to satisfy management needs, government regulatory agency inspections (audits), and entity supervision and control.

Extraordinary financial statements are prepared when, among other situations, a transformation, merger or split up, public securities offer, bankruptcy filing, preventive creditor agreement or commercial establishment sale decision is made.

Extraordinary financial statements are typically prepared in the event of the following:

(i) Merger or spin-off transactions;

(ii) Sales of going concerns;

(iii) Non-acquisitive reorganizations;

(iv) If a company's stock will be listed on the stock market (initial or subsequent public offerings);

(v) Applications for debt forgiveness; and

(vi) Bankruptcy filing and declaration.

Financial statements are prepared in a comparative manner, showing the prior period and the current period.[868] Financial statements are compared by reference to closing dates and accounting period dates.

Certified financial statements are signed by an entity's legal representative and are prepared by a certified public accountant and statutory auditor attesting that the information provided has been taken in good faith from the entity's books.[869] An audited financial statement is a statement accompanied by a professional opinion from the certified public accountant who has examined the statement and is subject to generally accepted auditing rules.

All companies with the following characteristics must appoint an external auditor:

(i) Companies with assets higher than 5,000 minimum monthly salaries (MMS);

(ii) Companies with income higher than 3,000 MMS; and

(iii) International branches and stock companies.[870]

Colombian regulation requires companies to appoint an external auditor (*revisor fiscal*) with broad oversight responsibilities. The auditor performs annual audits and is legally required to perform various activities that do not constitute auditing of financial statements.

b. Recording of Entries

For Colombian purposes, account entries must be made in Spanish, by double entry, and must summarize a month's operations. Any omissions or mistakes are to be corrected following the rules of IAS 8-Accounting Policies, Changes in Accounting Estimates and Errors.

[866] Decree 2649/1993, art. 9.

[867] IAS 34 — Interim Financial Reporting.

[868] IAS 1 - Presentation of Financial Statements.

[869] Law No. 222 of 1995, art. 37.

[870] In accordance with the Code of Commerce and Law No. 43 of 1990.

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Before issuing financial statements, management in Colombia must verify that explicit or implicit representations are satisfactorily complied with as to each of their elements.[871]

c. Valuation and Measurement

Under the IFRS, assets are usually recorded at historical cost, except for some exceptions, such as property, plant and equipment (PP&E), investment property, biological assets, and certain financial instruments that can be reported according to fair or market value.

IFRS 13 - Fair Value Measurement is an accounting standard that defines in a single IFRS a framework for measuring fair value and requires disclosures about fair value measurements. IFRS 13 does not regulate when an asset, a liability or an equity instrument is measured at fair value. Rather, the measurement and disclosure requirements of IFRS 13 apply when another IFRS requires or permits the item to be measured at fair value.

IFRS 13 defines fair value as "the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date."

d. Colombian Financial Statements Principles — Aligned to IFRS

As previously said, the IFRS Conceptual Framework sets out the concepts that underlie financial statements, defines the objective of financial reporting (which is to provide financial information about the reporting entity that is useful to existing and potential investors, lenders and other creditors in making decisions about providing resources to the entity), and defines the qualitative characteristics of useful financial information: relevance, faithful representation, comparability, verifiability, timeliness, and understandability.

For information to be useful it must both be relevant and provide a faithful representation of what it purports to represent. Relevance and faithful representation are the fundamental qualitative characteristics of useful financial information:

(i) Relevance: information is relevant if it can make a difference to the decisions made by users, and financial information may make a difference in decisions if it has predictive value or confirmatory value;

(ii) Faithful representation: information must faithfully represent the substance of what it purports to represent. A faithful representation is, to the maximum extent possible, complete, neutral and free from error.

Additionally, comparability, verifiability, timeliness, and understandability are four qualitative characteristics that enhance the usefulness of information; however, they cannot make non-useful information useful.

e. Compilation of Accounting Standards in 2018

The Ministry of Commerce approved Decree 2483 of December 2018 through which the technical frameworks of the IFRS Financial Information Standards for Group 1, and IFRS for SMEs, Group 2, are compiled and updated.

This compilation decree has as its primary purpose "(...) to provide a single legal instrument that facilitates interested parties a better understanding and application of the financial information standards applied in the country."[872]

[871] Decree 2649/1993, art. 57.

[872] Decree 2483/2018.

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