



Coffee Cultural
Landscape of
Colombia
(Caldas, Risaralda,
Quindío, Tolima,
north of Valle del
Cauca, southwest of
Antioquia)

CHAPTER

COLOMBIAN
TAX REGIME





COLOMBIAN TAX REGIME

Six things investors should know about the Colombian tax system:

1. The income tax rate for 2020 is 32%.
2. VAT rate is 19%.
3. Accounting conducted under the Colombian principles of financial reporting is the basis and starting point for the determination of tax basis on income tax.
4. The business profits generated as of the taxable year 2017 not decreed before December 31st, 2018 distributed to national entities will be taxed at a 7.5%¹; when distributed to individuals or foreign shareholders a

final 10% will be taxed.

5. Corporate income tax rate for free trade zone industrial users of goods and services is 20%

6. Tax regulations have incorporated several tax benefits (tax exemptions, tax credits, special deductions, among others) which seek to encourage priority sectors for the national economy, and for the improvement of infrastructure and assets of the country's companies.

The following chart provides a general overview of the main attributes of the Colombian tax system:

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Type of Tax	Main Aspects
NATIONAL TAXES	
Income tax	<p>General rate:</p> <p>32% for 2020.</p> <p>Free trade zones users (with the exception of commercial users): 20%</p>

¹Profits distributed inside corporate groups, or between controlled entities or Colombian Holding Companies regime are not subject to this withholding tax.



Type of Tax	Main Aspects						
Dividend taxation	<p>Profits are taxed at the level of the company or permanent establishment. This tax will only apply for distributions of dividends obtained as of 2017 and not decreed as of December 31, 2018.</p> <p>Dividends that are paid to domestic entities will be taxed at a rate of 7.5%. This withholding tax will be credited by the resident individual or foreign entity (beneficial owner) of the dividends.</p> <p>Dividends that are paid to a natural resident person will be taxed at the following rate:</p> <table> <tr> <th>Amount of dividend to be distributed (USD)</th><th>Tax Rate</th></tr> <tr> <td>0 - 2,739</td><td>0%</td></tr> <tr> <td>Over 2,739</td><td>10%</td></tr> </table> <p>Dividends paid to foreign legal entities arising from profits that were not subject to taxes at the level of the company distributing them, would be first subject to a 32% income tax for 2020, and then subject to a 10% income tax, namely an effective rate of 38.80%.</p>	Amount of dividend to be distributed (USD)	Tax Rate	0 - 2,739	0%	Over 2,739	10%
Amount of dividend to be distributed (USD)	Tax Rate						
0 - 2,739	0%						
Over 2,739	10%						
Capital gains	<p>Levies certain specific incomes such as profits obtained as a result of sale of fixed assets, inheritances and lotteries.</p> <p>Rate: 10%</p>						
Debit tax (GMF)	<p>Levies financial transactions at a 0.4% rate.</p>						



Type of Tax	Main Aspects
Value added tax - VAT	<p>VAT generating events are:</p> <p>Sales of movable and immovable tangible goods that have not been expressly excluded.</p> <p>Sale or transfer of rights in intangible assets, solely associated with industrial property.</p> <p>Render of services in Colombia or from abroad when the beneficiary is located within national territory, unless expressly excluded.</p> <p>The import of movable tangible goods that have not been expressly excluded.</p> <p>The circulation, sale or operation of games of chance, with the exception of lotteries and games of chance operated exclusively through internet.</p> <p>General rate: 19% Special rates: 0% - 5%</p>
Consumption tax	<p>Levies new or used, provision of mobile telephone services, internet and mobile navigation, and data service, the sale and importation of vehicles, and the service of selling food and drinks prepared in restaurants, cafeterias, self-services, ice cream parlors, fruit shops, bakeries for consumption on the same spot, to be carried by the buyer or delivered at home, food services under contract, and service of selling food and alcoholic beverages for consumption in bars, taverns and nightclubs.</p> <p>Rates: 2%, 4%, 8% and 16%.</p>



Type of Tax	Main Aspects																					
Green tax / Carbon national tax	<p>Levy the sale, withdrawal, import for own consumption, or importation for the sale of fossil fuels, (including all oil derivatives and all kind of fossil gas) that are used with energy purposes, provided that they are used for combustion.</p> <p>The rate is determined depending on the emission factor of carbon dioxide (CO2) for each given fuel, expressed in unit volume (kilogram of CO2) per unit of energy (Terajouls) according to the volume or weight of the fuel:</p> <table><tr><th>Fossil Fuel</th><th>Unit of measure</th><th>Rate/unit</th></tr><tr><td>Natural gas</td><td>Cubic meter</td><td>\$29</td></tr><tr><td>Oil liquified gas</td><td>Gallon</td><td>\$95</td></tr><tr><td>Gasoline</td><td>Gallon</td><td>\$135</td></tr><tr><td>Kerosene and Jet Fuel</td><td>Gallon</td><td>\$148</td></tr><tr><td>Diesel</td><td>Gallon</td><td>\$152</td></tr><tr><td>Fuel Oil</td><td>Gallon</td><td>\$177</td></tr></table>	Fossil Fuel	Unit of measure	Rate/unit	Natural gas	Cubic meter	\$29	Oil liquified gas	Gallon	\$95	Gasoline	Gallon	\$135	Kerosene and Jet Fuel	Gallon	\$148	Diesel	Gallon	\$152	Fuel Oil	Gallon	\$177
Fossil Fuel	Unit of measure	Rate/unit																				
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Gasoline	Gallon	\$135																				
Kerosene and Jet Fuel	Gallon	\$148																				
Diesel	Gallon	\$152																				
Fuel Oil	Gallon	\$177																				
LOCAL TAXES																						
Industry and commerce tax (ICA)	<p>It is triggered by the development of industrial, service or commercial activities within a municipality or district.</p> <p>Applicable rate to the revenues of the company will depend on the municipality in which it develops its operations, which may vary between:</p> <p>Industrial activities is 0.2% to 0.7%. Commercial and service activities, is 0.2% to 1%.</p>																					



Type of Tax	Main Aspects
Real estate tax	From 0.5% to 1.6% of the value of the property, depending on the municipality in which the property is located.
Registration tax	Between 0.1% and 1%.
TAX MECHANISMS	
Offset of excess of presumptive income over net income	Offsetting is permitted within the following five years.
Offset of tax losses	<p>Tax losses generated as of taxable year 2017 may be offset against the ordinary net income obtained within the next twelve (12) taxable years, without prejudice to the presumptive income for the year.</p> <p>Tax losses generated up to taxable year 2016 may be offset by retaining the current tax regime up to that year.</p>



Type of Tax	Main Aspects
<p>Tax credits</p>	<p>Tax credits are permitted for certain operations. We highlight the followings:</p> <ul style="list-style-type: none"> i) Taxes paid abroad. ii) ICA payment. iii) VAT paid in the acquisition, construction or formation and import of productive real fixed assets. iv) Tax credit for investments made in control conservation and improvement of the environment. v) Tax credit for investments made in research, technological development, or innovation. vi) Tax credit for donations to non-profit entities belonging to the special regime.
<p>Agreements to avoid double taxation (DTA) with: Spain, Chile, Switzerland, Canada, Mexico, South Korea, India, Portugal, Czech Republic, UK and the Andean Community (Bolivia, Ecuador and Peru).</p>	<p>Please refer to chapter 1 of this "Legal Guide to Doing Business in Colombia 2020," on protection of foreign investment.</p>
<p>Transfer pricing</p>	<p>Applies to taxpayers that perform transactions with foreign related parties, including branches and permanent establishments, related parties located in free trade zones, and companies (related or unrelated) established in tax havens or benefiting from harmful preferential regimes.</p>



The Colombian tax system includes national, regional and municipal taxes.

The main national taxes are the income tax, the value added tax (VAT), the consumption tax and the debit tax (GMF) mentioned above. The main municipal and regional taxes are the industry and commerce tax (ICA), the real estate tax and the registration tax.

7.1. Income and capital gains tax

Income tax levies revenues, realized within the taxable year, that have the potential to increase taxpayer's net equity, are not expressly excluded.

Income tax is a national tax and is applied to corporate profits derived from ordinary and extraordinary corporate transactions.

Capital gain is a national tax, supplementary to the income tax, that levies revenues from specific incomes of companies, which are: Income from disposal of fixed assets owned for more than two years, donations, similar acts, inheritances, raffles, games, bets, and profits derived from the liquidation of companies with two or more years of existence.

7.1.1. Tax general information

In order to determine income tax on the value of assets, liabilities, equity, income, costs and expenses, taxpayers are required to maintain accounting records. Taxpayers shall apply recognition and measurement systems, in accordance with the normative technical accounting frameworks in force in Colombia.

The assets, liabilities, equity, income, costs and expenses must take into account the accrual accounting basis.

Tax revenues are made of the receipt of resources (cash or assets) capable of increasing the taxpayer's net equity.

The Colombian peso is defined as the functional currency for tax purposes.

Generally, income, costs, and expenses are realized when deemed accrued, with certain exceptions.

Domestic companies and individuals resident in Colombia are taxed on their revenues, assets and capital gains obtained in the country or abroad.

Companies deemed domestic are (i) incorporated in Colombia; (ii) have its main place of business in Colombia; or (iii) have its effective place of management in Colombia.

Individuals deemed residents fulfill one of the two requirements:

i) Remain in Colombia for more than 183 Continuous or discontinuous days, including the days of entry and exit the country, during any period of 365 consecutive days, being understood that wherever the stay in the country, continuous or not, lapses during more than one taxable year or period, the individual shall be deemed a resident during the year in which he/she reaches the mentioned 183 days;

ii) Nationals that have their vital, financial or business center in



Colombia during the corresponding taxable year or period, unless most of the income arises from another jurisdiction or most of its assets are located outside Colombia.

Foreign companies are income taxpayers as regarding revenues and equity held in Colombia. Foreign companies with branches or permanent establishment in Colombia pay taxes on their foreign or national revenues attributable to them.

The income tax is liquidated on an annual basis for the period between January 1st and December 31st of the relevant year. The tax may be liquidated for a fraction of a year, in particular cases, such as a company liquidation. The tax may also be liquidated for transactional periods as in the case of disposal of shares owned in Colombia by foreign investors.

7.1.2. Domestic-source income

As a general rule, Colombian law provides that the following revenues are domestically sourced:

- *Those arising from the exploitation of tangible and intangible assets within the Colombian territory.*
- *Those arising from services rendered in Colombian territory.*
- *Those arising from the disposal of tangible and intangible assets located in the country when disposed of.*

There are other cases deemed as revenues obtained from a Colombian source:

- *Financial yields arising from foreign indebtedness granted to residents in the country, as well as the financial cost of rental installments originating in international leasing agreements.*
- *Revenues from the provision of technical services, technical assistance, consultancy services, provided by foreign companies in favor of a resident in Colombia, regardless of whether they come from the country or from abroad.*
- *Revenues from the provision of management services provided by related companies in favor of a resident in Colombia, regardless they are provided in the country or from abroad.*

7.1.3. Revenues not deemed of domestic source

The following events do not trigger domestic-sourced revenues, among others:

- *Loans arising from the import of goods provided the term thereof does not exceed 24 months.*
- *Revenues arising from technical services of repair and maintenance rendered abroad for equipment.*
- *Revenues arising from the disposal of titles, bonds or other titles of debt issued by a Colombian issuer which are traded abroad.*
- *Loans obtained abroad by financial institutions, financial cooperatives, financing companies, Colombian Foreign Trade Bank (BANCOLDEX), FINAGRO and FINETER and the banks incorporated pursuant to*



Colombian regulations in force.

- Revenues arising from the training of staff provided abroad to public entities.
- Revenues arising from the disposal of foreign goods owned by foreign companies or individuals not resident in the country, entered from abroad to international logistic distribution centers located at international airports, sea ports, and inland ports authorized by the National Tax and Customs Authorities (DIAN). The latter is located only in the departments of Guainía, Vaupés, Putumayo and Amazonas.- Dividends distributed by a CHC to a natural person or legal entity not resident in Colombia.

7.1.4. Tax rate and taxable base

General income tax rates applicable to national companies and similar entities shall be 32% for 2020. This is also the case for permanent establishments of foreign entities and companies, and for non-resident legal entities required to file the annual income tax return.

For legal entities that are users of free trade zones (with exception of commercial users), the applicable income tax rate is 20%.

Pursuant to the Colombian tax system, the taxable base for the income tax may be determined in one of three ways: the ordinary system, the presumptive income system and the equity comparison system.

7.1.4.1. Ordinary system

This system includes all revenues, whether ordinary or extraordinary, obtained during the taxable year or period. These

are revenues capable of resulting in a net increase in equity upon receipt, and they are not expressly exempt. Returns, rebates and discounts are subtracted from revenues to obtain net revenues. Costs incurred and attributable to such revenues are subtracted from net revenues to obtain gross income. Deductions allowed are subtracted from the gross income to obtain the net income. Besides a few legal exceptions, the net income shall be the taxable income, and the tax rate, set by law, shall be applied thereon.

Find below how ordinary income is assessed:

Ordinary and extraordinary revenues.
(-) Revenues not deemed income or capital gains. (-) returns, rebates and discounts.
Net revenues.
(-) Costs.
Gross income.
(-) Deductions.
Net income

7.1.4.2. Presumptive income system

Under this system, it is assumed that the taxpayer's ordinary net income will never be less than 0.5% of their net equity, held on the last day of the immediately previous taxable year. This percentage shall be eliminated by 2021. Should the net income be lower than presumptive income, the income tax is assessed on the latter.



This presumptive income system is neither applicable to companies with the following corporate purposes or to those that are under the mentioned situations:

- Domiciliary utility services.
- Investment fund, security fund, common fund, pension or severance fund services.
- Passenger massive urban public transportation service.
- Utilities supplementary to electric power generation.
- Official entities operating wastewater treatment and cleaning services.
- Companies under a debtor reorganization plan.
- Companies under liquidation during the first three years.
- Entities subjected to control and supervision by the Financial Superintendence that have been authorized to be liquidated or subject matter of possession taking.
- Land banks of district and municipalities, regarding land to be urbanized with social interest housing.- The event and convention centers in which the chambers of commerce have a major interest and those incorporated as industrial and commercial companies of the State or as partially Government-owned corporation in which the Government participation in the company's capital exceeds 51%, provided that they are duly authorized by the Ministry of Commerce, Industry and Tourism.
- Public corporations whose main object is the procurement, alienation and administration of nonproductive assets belonging to them, or acquired from credit establishments of same nature.

- Assets linked to entities entirely devoted to mining activities (excluding hydrocarbons).
- Health, education, sports and research activities, among others, performed by non-for-profit foundations, corporations and associations.
- Hotel services rendered in new hotels or in hotels that have been remodeled or enlarged.

Find below how presumptive income is assessed:

Net equity as of December 31st of the previous year. Net equity value ² of contributions and shares in domestic companies.
(-) Net equity value of assets affected by events of force majeure or fortuitous event. (-) Net equity value of assets attached to companies undergoing nonproductive stages.
*0,5%
= Initial presumptive income (+) Taxable income arising from exempted assets
Presumptive income

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When the tax due has been determined on presumptive income, taxpayers are entitled to offset, for the next five years, the equivalent of the excess of presumptive income over ordinary net income.

7.1.4.3. Equity comparison system

The assessment of income tax, on grounds of the equity comparison system, assumes that the variation of the equity included in

² The net equity value results from multiplying the equity value of the asset by the percentage resulting from dividing the net equity by the gross equity.



the tax return is not properly supported if compared to the previous year. It will be subject to tax as a special net income, that is to say, in principle, costs of expenses incurred shall not be subtracted.

7.1.5. Revenues not deemed income for tax purposes

The law establishes some special tax treatments that allow the exclusion of certain income for the determination of taxable base. Among these revenues are: insurance indemnities for damages; for damages by destruction or renewal of crops, and pest control; donations to political parties, movements and campaigns.

With this said, revenues not deemed as ordinary income, or capital gains, should be analyzed on a case by case basis, to determine whether such tax treatment is applicable.

7.1.6. Costs, deductible expenses and other deductions

Costs are expenditures directly related to the acquisition, or manufacturing, of goods, and the provision of services. These costs shall be deductible from the

income tax, provided they are necessary, proportionate, and accrued. Or, if they are paid during the relevant taxable year.

Expenses are all expenditures that contribute to the development of taxed activities, such as administration, research, and financing of an economic entity. Expenses must fulfill the same criteria set for costs regarding causality, proportionality and necessity. They are recognized upon accrual.

As from January 1st, 2018, deductibility of expenses and expenditures paid in cash will be limited to the lower amount among the following reference values: (i) a percentage of the payments made in cash in the corresponding tax year; (ii) a determined value expressed in Tax Value Units; and (iii) a percentage of the total costs and expenses incurred by the tax payer in the relevant tax year. These limitations are not applicable to other type of deductions, which may involve payment of obligations through other means (payment in kind, offsetting, etc).

The tax system foresees particular rules applicable to certain costs and expenses, among which we highlight the following:

Year	Limit: it is accepted the lower of ...
2020	a. Fifty-five (55%) of what was paid, which in any case may not exceed 60,000 UVT (approximately USD 547,800), and b. Forty percent (40%) of the costs and total deductions.
From 2021	a. Forty percent (40%) of the amount paid, which in any case may not exceed 40,000 UVT (approximately USD 365,200), and b. Thirty-five percent (35%) of the costs and total deductions.



7.1.7. Salaries and payroll taxes

Salaries paid or accrued to employees are deductible, provided the employer has applied the relevant withholdings and has paid all payroll taxes (ICBF, SENA, family welfare) and social security.

Salaries will be deductible expenses accrued for welfare benefits and payroll taxes in the taxable year or period in which are accrued, provided that payroll taxes and taxes are actually paid prior to the filing of the initial income tax return.

7.1.8. Taxes paid

Of all taxes payable by a taxpayer at the national, regional or municipal levels, only the following are deductible on income tax:

- Real estate tax paid and accrued during the relevant taxable year.
- 50% of the debit tax (GMF) paid during the relevant year.
- 50% of the industry and commerce tax can be credited.

7.1.9. Interests

Interest accrued in favor of third parties will be deductible in a quantity not exceeding the highest rate authorized to be charged by the banking establishment. The rate and authorization share a respective taxable year or period, which will be certified annually by the Financial Superintendence.

In any event, except for the funding of utilities, infrastructure, and housing

projects, income taxpayers may only deduct the accrued interests up to a total average amount with regard to debts contracted, directly or indirectly, through national or foreign economic parties. The interests in question are valid only for the relevant taxable year, and the deduction may not exceed two times the taxpayer's net equity as of December 31st of the immediately preceding taxable year.

For the calculation of debt, the principal value of the debt, and the number of days during the respective taxable period, will be taken into account. The limitation will not apply during the year of constitution of legal persons, since there will be no equity in the year prior to its constitution, nor when they are not productive.

7.1.10. Expenses incurred abroad

Costs and expenses incurred abroad are deductible as long as they comply with the general requirements already mentioned, and if the relevant withholdings have been applied.

The following expenses incurred abroad are deductible without the requirement of withholdings:

- Costs and expenses incurred abroad arising from transactions with residents in jurisdictions with which Colombia has entered DTAs containing nondiscrimination clause.
- Costs and expenses incurred abroad related with foreign-source taxable income for Colombian taxpayers.
- The purchase of movable tangible goods abroad.



Notwithstanding the rules above, costs or deductions referring to expenses incurred abroad to obtain domestic-source income, on which no withholdings were applied (not required), shall not exceed 15% of the taxpayer's net income. The latter is estimated prior to subtracting such costs or deductions.

The deduction of payments for royalties to foreign related parties, or to free trade zones, will not be allowed for the exploitation of an intangible formed in Colombian territory. Neither will the royalty payments be deductible, if they are associated with the acquisition of finished products.

A specific term of 6 months is established, from the signing of technology import contracts, so that these are registered before tax authorities. In case it is a modification to a contract, the registration must be made within 3 months after its modification. Registration is a requirement to be able to deduct payments derived from technology import contracts.

7.1.11. Offset of tax losses

Tax losses assessed by taxpayers can be offset against ordinary net income obtained in the following twelve (12) taxable periods, without affecting the presumptive income for the period. Such tax losses cannot be transferred to the partners or shareholders.

Tax losses generated up to the taxable year 2016 may be offset by keeping the regime in force in that year (unlimited offset term)

Regarding mergers and spin-offs, the acquiring company or the surviving company may offset, with ordinary net

income, the tax losses incurred by the absorbed or spun-off companies. This is up to a limit equal to the percentage of participation in the equity of the surviving or beneficiary company, by the equity of the absorbed or spun-off company. Additionally, that is, if the entities carry out the same economic activity.

7.1.12. Amortization of investments

The Act 1819 of 2016 contemplates a transition regime for the amortization of investments. The balances of assets pending for amortization on entry into force of said law on January 2017, where there is no special rule, will be amortized over the remaining amortization period in accordance with the provisions of paragraph 1 of section 143 of the Colombian Tax Code before its amendment, applying the straight line system, in equal proportions.

7.1.13. Deduction of investments

The expenses paid in advance will be deducted periodically as long as the services are received.

Settlement disbursements will be deducted by the straight-line method from the taxpayer's income generation, in equal proportion, and for the duration of the contract. In no case may the deduction exceed an annual tax rate of 20%.

Consequently, non-deductible expenses exceeding the 20% limit in the taxable year or period will subsequently generate a difference that will be deductible, without exceeding 20% of the fiscal cost per year or taxable period.



7.1.14. Deduction for amortization of intangible assets

This deduction is understood as a reflection of investments required in intangible assets: The disbursements made or accrued for purposes of the business or activity that may be susceptible to impairment, and, which, according to the accounting technique, must be recognized as assets for amortization. This category contains intangible assets acquired separately, from a business combination originating in State subsidies. These assets arise from the improvement of goods subject to operating leases and those formed internally.

The amortization will be carried out in the proportion indicated below, as long as there are no special rules for its amortization:

- *The amortization base will be the cost of the intangible assets determined in accordance with the Colombian Tax Code.*
- *The method for the amortization of the intangible shall be determined in accordance with accounting technique, provided the annual rate does not exceed 20% of the fiscal cost.*
- *In the event that the intangible is acquired by contract and the latter establishes a term, its amortization will be made in a straight line, in equal proportions, for the time of the same. In any case, the annual rate may not exceed 20% of the fiscal cost.*
- *Non-deductible amortization expenses since exceed the 20% limit*

in the taxable year or period, will generate a difference that will be deductible in the periods following the end of the useful life of the intangible asset, without exceeding 20% of the fiscal cost of the asset.

- *Intangibles from business combinations, in general terms, may have limitations for their amortization. Goodwill shall in no case be amortized for tax purposes.*
- *When a legal or assimilated entity (branches) is liquidated, the remaining fiscal cost of the depreciable intangible asset will be deductible.*
- *Real estate investments are not amortizable.*

7.1.15. Depreciation

For income tax purposes, those required to keep accounts may deduct reasonable amounts for the depreciation caused by the attrition of goods used in business or income-producing activities. Namely, provided that those have rendered service in the taxable year or period.

The fiscal cost of property, plant, and equipment, and investment property will be the acquisition price, plus costs directly attributable until the asset is available for use.

For income tax purposes, a taxpayer will depreciate the fiscal cost of depreciable assets, less its residual value over its useful life.

The methods of depreciation of applicable assets will be those established in the accounting technique.



The annual depreciation rate will be the lowest between the one determined for accounting purposes and the one

established by the National Government (maximum annual depreciation rates will vary between 2,22% and 33%).

<i>Concepts of goods to depreciate</i>	<i>Annual fiscal depreciation rate%</i>
<i>Constructions and buildings</i>	2.22%
<i>Aqueduct, plant and networks</i>	2.50%
<i>Communication routes</i>	2.50%
<i>Fleet and air equipment</i>	3.33%
<i>Fleet and ferrous equipment</i>	5.00%
<i>Fleet and fluvial equipment</i>	6.67%
<i>Arming and surveillance equipment</i>	10.00%
<i>Electric equipment</i>	10.00%
<i>Fleet and land transport equipment</i>	10.00%
<i>Machinery, equipment</i>	10.00%
<i>Furniture and fixtures</i>	10.00%
<i>Scientific medical equipment</i>	12.50%
<i>Packaging & tools</i>	20.00%
<i>Computer equipment</i>	20.00%
<i>Data processing networks</i>	20.00%
<i>Communication equipment</i>	20.00%





7.1.16. Exchange difference

The exchange rate difference will only have tax implications when effectively realized. Specific transition rules are included for the value of assets and liabilities in foreign currency as of December 31, 2016, and also for investments in shares in foreign currency.

7.1.17. Special Rates

Besides the 32% general income tax rate, the tax code provides a special rate of 9% for different activities, including the following:

- Services provided in new hotels built in municipalities of up to two hundred thousand inhabitants (200,000), within ten (10) years following the effective date of 2019, for a 20-year term.
- Services provided in new hotels built in municipalities with two hundred thousand inhabitants (200,000) or more, within four (4) years following the effective date of 2019, for a 10-year term.
- Services provided in remodeled and/or expanded hotels in municipalities of up to two hundred thousand

inhabitants (200,000), within ten (10) years following the effective date of 2019, for a 20-year term.

– Services provided in hotels remodeled and/or expanded in municipalities with two hundred thousand inhabitants (200,000) or more, within four (4) years following the effective date of 2019, for a 10-year term.

– New projects of theme parks, new projects of ecotourism and agritourism parks and new nautical docks built in municipalities of up to two hundred thousand inhabitants (200,000), within ten (10) years following the effective date of 2019, for a 20-year term.

– New projects of theme parks, new projects of ecotourism and agritourism parks and new nautical docks built in municipalities with two hundred thousand inhabitants (200,000) or more, within four (4) years following the effective date of 2019, for a 10-year term.

7.1.18. Activities exempted from income tax

Income from the following activities is exempt from income tax:





- Income from the development of value-added technology industries and creative activities.
- Those coming from investments that increase productivity in the agricultural sector.
- Those associated with social interest housing and priority interest housing.
- Those coming from Decision 578 of the CAN.
- The use of new forest plantations, sale of energy from non-conventional sources.

7.1.19. Tax discounts

Certain items may be directly subtracted from the income tax. The scope of the discount should be checked for each item; additionally, the total to be discounted cannot exceed 75% of the taxpayer's tax, as estimated by the presumptive income system.

Some of the main discounts applicable are:

- Discount for taxes paid abroad (tax credits). Residents, domestic companies, and income-tax-paying entities in Colombia, who receive income from a foreign source subjected to income tax in the country of origin, are entitled to deduct from the Colombian income tax, the tax paid abroad, no matter its designation. The deduction is estimated on such income, under certain conditions applying the mathematical rule established in law.

In the case of income from dividends received abroad, the discounted tax amount results from multiplying the tax rate, for the profits taxed at the level of the distributing entity, or its subsidiaries, when the distributing entity in turn receives dividends from

their subsidiaries (indirect credit), for the dividends or profits at the moment of its distribution (direct credit), subsequently applying the mathematical rule established in law, under certain conditions. Taxpayers must give evidence about their direct participation in the company or entity from which they receive dividends. In regard to indirect credit, they must have an indirect participation that is a fixed asset owned as part of their equity for more than two years.

The tax credit can be carried forward without time limit.

Taxpayers shall evidence taxes paid abroad by means of a tax payment certificate or other valid evidence.

In any event, the tax credit shall not exceed the income tax payable by the taxpayer in Colombia over the same income.

- Discount for VAT paid for productive real fixed assets. VAT paid in the acquisition, import, construction or formation of the mentioned assets may be evidenced in income. For formed assets, the discount may be taken from the period in which the depreciation or amortization, as applicable, starts.

- Discount for paid ICA. 50% of the tax on industry and commerce paid in the taxable period may be taken as a discount in income. The credit shall increase to 100% in 2022.

- As part of the income tax special regime, donations made to non-profit entities that have been qualified, and to the non-taxpayers of sections 22 and 23 of the Colombian Tax Code,



will grant a discount for income tax purposes of 25% of the value donated in the year or taxable period. In these cases, these donations may not be used as a deduction.

For tax discount purposes, within the month following the end of the taxable year in which the donation is received, the recipient entity should issue a certification to the donor, signed by the legal representative and public accountant or tax auditor. Certification has to point out: (a) the date of the donation; (b) type of entity; (c) kind of donated goods; (d) value; (e) the way in which the donation was made; and (f) the destination of the donation.

- Discount for investments made in research, technological development or innovation. These should be projects qualified by the National Tax Benefits Council (CNBT) in accordance with the criteria and conditions defined by CONPES. They provided a claim to a 25% credit of the value invested in the taxable year or period. Investments can be made through researchers, groups or research centers, among others. For the discount to proceed, the project qualification must comply with environmental impact criteria. Additionally, the company may deduce 100% of the investment made in research, technological development, or innovation.

- Additionally, companies may credit from their income tax 25% of the value invested in research, technological development and innovation in the taxable period in which they are carried out. This tax credit added to other tax credits

may not exceed 25% of the income tax charged to the taxpayer in the respective taxable year. The excess not credited in the year, may be taken within the four (4) taxable periods following the one in which the investment was made.

- Other applicable discounts include: discount to Colombian air or sea transportation companies; discounts on the grounds of trees growing in reforestation areas and discount for companies in the agriculture industry quoted on stock exchanges.

7.1.20. Controlled foreign companies ("CFC") ("ECE" for its acronyms in Spanish)

Regime applicable to individuals and legal entities resident in Colombia that hold, directly or indirectly, a stake equal to or greater than 10% in the capital of the foreign controlled entity (CFC) or in its profits.

CFCs include investment vehicles, such as corporations, trusts, collective investments funds, among others, which comply the conditions to be considered a related party for transfer pricing purposes and are not residents in Colombia.

For income tax purposes, Colombian taxpayers subject to the CFC regime should immediately recognize the net profits of the CFC derived from passive income obtained by the CFC, in proportion to their participation in the CFC's capital or profits, and without the need to wait to receive a distribution of profits to Colombia.

For purposes of this regime, the following are deemed passive income: (i) dividend



and profit distributions from a company or investment vehicle, to the extent the entity or investment vehicle making the distribution is indirectly controlled by Colombian tax residents, (ii) Interest, (iii) income derived from the exploration of intangibles, (iv) income originated from the sale of assets that generates passive income, (v) income from the sale or lease of immovable property, (vi) income derived from the sale or purchase of tangible goods acquired from (or sold to) a related party, when their manufacturing and consumption occurs in a jurisdiction different to where the CFC is located or it is a tax resident, (vii) income from the performance of technical services, technical assistance, administrative, engineer, architecture, qualified scientist, industrial and commercial services in a jurisdiction different to where the CFC is located or a tax resident.

The Colombian tax resident that must recognize the taxable income under the application of the CFC regime may request a tax credit for taxes paid abroad in relation to the passive income. Dividends and benefits that are distributed by a CFC, which have been already taxed in Colombia, should be considered as non-taxable income at the moment of being received in the country.

7.1.21. Mega-Investments Regime

The mega-investment regime grants tax benefits for taxpayers who meet certain investment and employment requirements. It is worth noting that the tax benefits will be effective for a 20-year term starting on the date on which it is notified that the Ministry of Commerce has recognized the nature of a mega-investment, through administrative action.

The following are the requirements to be part of this regime:

- *The investment value must be 30,000,000 UVT (approximately USD 273,900,000)*
- *The creation of at least 400 new jobs (250 for technology entities).*
- *The purpose of the investments must be productive or potentially productive properties, plant and equipment. The regime will not be applicable to projects related to the exploitation of nonrenewable resources.*
- *The investments must be made before January 1, 2024 within a maximum period of 5 taxable years.*
- *The project must be recognized as a mega-investment by the Ministry of Commerce.*

Among the benefits of this regime are the following:

- *Special 27% income tax rate*
- *Fixed assets may be depreciated within a minimum period of 2 years*



- Dividends paid or credited to an account with foreign companies, non-resident natural persons, and resident natural persons, will not be taxed
- If the dividend is taxed on behalf of the partner, the rate will be 27%

Also, through the execution of legal stability agreements, the State ensures for such taxpayers the application of these benefits during a 20-year term. Mega-investment holders must meet the following conditions to execute legal stability agreements:

- Only tax benefits related to the mega-investment regime enjoy stability.
- The parties to the agreement are the holders of the mega-investments and DIAN.
- The holders must pay a premium equal to 0.75% of the value of the investments made each year during the 5-year investment period.
- The agreement may be terminated early due to (i) the nonperformance of the total investments within the 5-year term, (ii) breach of the timely payment of the premium, (iii) a criminal sentencing on corruption practices, (iv) breach of formal or substantive obligations.

7.1.22. Colombian Holding Companies

The regime of Colombian Holding Companies (CHC) is applicable to national companies having in their corporate purpose as one of the main activities the performance and management of investments in Colombian companies or abroad. In order to adopt this regime it is necessary: (i) to have direct investments representing at least 10% of capital of two companies; (ii) have human and material resources sufficient to perform the corporate purpose³; and (iii) report to DIAN its intention of adopting the regime.

Among the benefits of this regime, there are the following:

- Dividends received by CHC from entities abroad are exempted from income tax.
- Dividends and premium (not considered as a cost) distributed by the CHC are considered income from foreign source for the shareholder, provided that it comes from revenues attributable to activities carried out by nonresident entities.
- Dividends received by investors in foreign entities and covered by the CHC regime are not subject to the industry and commerce tax.

7.1.23. Transfer pricing

The following income taxpayers are

³ If the only purpose of the company is the holding activity, the company must have at least three employees, must make strategic decisions in the country and have an owned address in Colombia.



required to comply with the transfer pricing regime: (i) those who carry out transactions with foreign related parties; (ii) who are domiciled in the national customs territory (Territorio Aduanero Nacional - TAN in Spanish) and carry out transactions with related parties located in free trade zones; or (iii) who carry out transactions with people, partnerships, entities or companies located, domiciled or residing in non-cooperating jurisdictions with low or no taxation, or benefiting from harmful preferential tax regimes.

In addition, there are permanent establishments required to comply with the transfer pricing regime. They include non-resident individuals, legal entities, or foreign entities, as well as branches and agencies of foreign partnerships, subject to income tax in Colombia. Necessarily, they must carry out transactions with (i) related parties abroad; (ii) related parties in free trade zones; or (iii) people, partnerships, entities or companies located, resident or domiciled in tax havens or benefiting from harmful preferential regimes.

As a consequence, taxpayers obliged to comply with the transfer pricing regime must determine their income, costs, deductions, assets, and liabilities; especially, considering the conditions that would have been agreed in comparable transactions with, or between, independent parties, i.e., their transactions should comply with the arm's length principle.

For income tax purposes, and particularly for the application of transfer pricing rules, the law considers that a party is related to another under the following scenarios: (i) subsidiaries; (ii) branches; (iii) agencies;

(iv) permanent establishments; and (v) other situations, including cases when the transactions are carried out between related parties through third parties, whenever more than 50% of the gross revenues arise individually, or jointly, from their partners or shareholders. A different case is when consortiums, temporary unions, participation agreements, and other association models, do not give origin to the establishment of legal entities. There are more scenarios not included in this list.

Colombian transfer pricing regulations, in force since taxable year 2004, follow the guidelines of the Organization for Cooperation and Economic Development (Organización para la Cooperación y el Desarrollo Económico - OCDE in Spanish); nevertheless, such guidelines are an ancillary source of interpretation and do not have a binding effect.

7.1.23.1. Transfer pricing regime obligations

7.1.23.1.1. Transfer pricing return, local file and master file

Income taxpayers, including individuals, legal entities and permanent establishments, that on the last day of the taxable year register either: (i) gross equity (assets) equal to or higher than 100,000 tax value units (Unidades de Valor Tributario - UVT in Spanish) (approximately USD 913,000 for taxable year 2020) or (ii) gross revenues equal to or higher than 61,000 UVT (approximately USD 556,930 for taxable year 2020) are required to present a transfer pricing return.



On the other hand, a transfer pricing report must be prepared and filed, and such document must contain a master file including relevant information of the multinational group, and a local file, containing information related to the specific transactions carried out by the Colombian entity. The transfer pricing report must be prepared by companies that perform transactions that exceed 45,000 UVT (approx. USD 410,850 for taxable year 2020), per transaction type.

In the event taxpayers register transactions with individuals, partnerships, entities or companies located, resident or domiciled in tax havens or benefiting from harmful preferential regimes, the transfer pricing report should solely be prepared for those transactions that surpass 10,000 UVT (approx. USD 91,300 for taxable year 2020).

The transfer pricing documentation (local file and master file) shall be kept (i) during five years, which will be counted starting on January 1st of the following taxable year or (ii) for as long as the tax return's statute of limitation is open; whichever covers the longest span of time.

7.1.23.1.2. Country by country report

As of taxable year 2016, taxpayers of the income tax who fulfill any of the following conditions, shall present a country by country report, containing information related to the global multinational group's allocation of income and taxes. The conditions are:

- *Controlling entities of*

multinational groups that fulfill the following:

- i. Are considered residents in Colombia*
- ii. Own subsidiaries, branches or permanent establishments, residing or located abroad, accordingly.*
- iii. Are not subsidiaries of other companies domiciled abroad.*
- iv. Are required to prepare, present and disclose consolidated financial statements.*
- v. Registered consolidated revenues, for accounting purposes, equal to or greater than 81,000,000 UVT (approx. USD 739,530,000 for taxable year 2020).*

- *Entities residing in the national customs territory or residing abroad that possess permanent establishments in Colombia, and that have been designated by the controlling entity of the multinational group, domiciled abroad, as the responsible entity to file the country by country report.*

- *One or more entities or permanent establishments domiciled in the national customs territory belonging to the same multinational group, whose ultimate parent company is located abroad, and that fulfills the following conditions:*

- i. When assessed as a whole, the Colombian entities contribute 20% or more of the consolidated revenues of the multinational group;*
- ii. The ultimate parent company has not filed the country by country report in its jurisdiction;*
- iii. The consolidated revenue of the multinational group is equal to*



*or greater than 81,000,000 UVT
(approx. USD 739,530,000 for
taxable year 2020).*

Entities that belong to multinational groups and are tax residents in Colombia must notify Tax Authorities about the identity and tax jurisdiction of the reporting entity of the group, in the means, formats, terms and conditions established by the National Government.

7.1.23.2. Methods and comparability criteria

Colombian legislation establishes that taxpayers shall use any of the following methods to determine the price or profit margin in transactions carried out with related parties:

- *Comparable uncontrolled price*
- *Resale price*
- *Cost plus*
- *Transactional net margin method*
- *Profit split*

In order to determine which of the previous methods is the most appropriate for the analysis, taxpayers shall consider the following criteria: (i) facts and circumstances related to the controlled transactions, which shall be identified through a detailed functional analysis; (ii) availability of accurate information, especially related to transactions performed between third parties; (iii) degree of comparability between controlled and uncontrolled transactions; and (iv) accuracy of potential comparability adjustments to be performed in order to eliminate differences between controlled and uncontrolled transactions.

Notwithstanding, Colombian legislation has established particular applications of transfer pricing methods for specific transactions, such as the purchase of used fixed assets, the purchase or sale of shares not quoted in stock markets, and any transactions involving commodities.

a) Colombian law establishes that the application of the comparable uncontrolled price method, used to assess purchases of used assets, must be carried out by using the invoice issued by the third party when the asset was first purchased. The calculation should consider the depreciation up until the date of the transaction, and it shall take into account the accounting principles generally accepted in Colombia. In cases where the invoice is not available, and under the assumption that it is an asset being disposed in a different state than the one that was originally purchased, a technical valuation performed by an independent expert might be presented.

b) In transactions involving the purchase or sale of shares that are not quoted on stock exchange markets, or those involving other assets that impose restrictions in terms of their comparability, the Colombian legislation establishes that common valuation methods shall be used. Priority here are those that calculate market values based on the present value of future incomes. It is forbidden to use equity values as appropriate valuation methods.

c) Starting on 2017, the most appropriate method to analyze



transactions involving commodities is the comparable uncontrolled price method. Some criteria were defined for its application. Transactions carried out between independent parties or prices quoted in national or international sources shall be used taking into account essential elements such as the date or quoting period agreed between the parties. The date used to agree the price must be supported with documents such as agreements, offers, acceptances, or any other related proofs. Their terms must be consistent with the actual behavior of independent parties under similar circumstances. These documents shall be registered in the electronic services provided by Tax Authorities. In the event the taxpayer does not provide such proof, or if the date used is not consistent with the market behavior, Tax Authorities might consider the date set in the bill of lading as the most appropriate pricing date.

To determine the level of comparability between controlled and uncontrolled transactions that allows the application of the transfer pricing methods, the following attributes must be taken into consideration:

- *Characteristics of the transactions*
- *Economic activities or functions*
- *Contractual terms*
- *Market and economic circumstances*
- *Business strategies*

Nevertheless, Colombian legislation has established further requisites regarding transfer pricing analysis for specific transaction types.

- a) *For financing transactions the*

law has established that the following comparability elements shall be taken into account: principal amount, term, credit rating of the debtor, collaterals, solvency and interest rate. In addition, the law establishes that, regardless of the interest rate set, interest payments shall not be deducted if the comparability elements are not met. If the terms and conditions of the financing transactions are not similar to market behaviors, the transactions might not be considered as loans but rather as capital contributions and, thus, interest payments shall be treated as dividends.

It is important to mention that the Colombian legislation establishes that taxpayers shall give priority to internal comparables whenever they exist.

With regard to costs or expenses for intragroup services, Colombian taxpayers must demonstrate that the services were in fact received, and an analysis of the benefits perceived shall be performed, considering main aspects such as: (i) cost of service, (ii) amount that a third party would be willing to pay, (iii) costs registered by the service provider and (iv) identification of the agreements, forms or methods used to support the invoices.

7.1.23.3. Penalties

Regarding penalties the transfer pricing regime establishes sanctions related to the formal transfer pricing obligations of filing transfer pricing return, local file and master file.

In regard to transfer pricing documentation (local file and master file), penalties are applied on the grounds of: (i) late



submission; (ii) lack of consistency (mistakes, content not related to that requested or which does not allow to verify the application of the transfer pricing regime); (iii) not filing; (iv) omission of information; and (v) amendments.

As to the transfer pricing return, penalties are applied on the grounds of: (i) late submission; (ii) lack of consistency; (iii) omission of information; and (iv) not filing.

Finally, breaches associated with the country-by-country report and its notification will be punishable in accordance with the provisions of article 651 of the Colombian Tax Code. These breaches relate to the non-submission of information within the established deadlines, or the presentation of information whose content has errors, or does not correspond to what was requested.

7.1.23.4. Scope of the Transfer Pricing Model

The transfer pricing regime is also applied to other activities carried out by income taxpayers in Colombia. Some of these cases are: (i) the contribution of intangible assets, which shall be included in the transfer pricing return, regardless of the contribution amount; (ii) the attribution of income and capital gains associated with permanent establishment, on the grounds of functions, assets, risks and personnel; (iii) evidence to contradict tax abuse, where the price or consideration agreed upon must lay in the market range, according to the transfer pricing methodology; (iv) business restructurings and (v) in-kind contributions to partnerships and foreign entities.

7.1.24. Capital gains tax

As supplementary to the income tax, the

capital gains tax levies some revenues obtained from certain transactions expressly defined by law.

Capital gains are a different group from the ordinary income, and, consequently, deductions are applied independently, which means that no costs and deductions can be deducted from other concepts. Nor, can such an income can be offset against tax losses, unless they are capital losses arising during the same taxable year.

The most relevant transactions subject to the capital gains system include:

- *Gains (difference between the price of disposal and the tax cost of the asset) arising from the disposal of taxpayer's fixed assets owned during two or more years.*
- *Gains arising from the liquidation of a company, of whatever nature, on grounds of the excess over invested capital. A condition here is that the gain realized is not income, nor reserve or commercial profits, capable of being distributed as untaxed dividends, provided that the company has two or more years of existence at the time of liquidation.*
- *Gains arising from inheritance, legacies or donations, as well as the ones received as participation in the marital community property.*
- *Gains from lotteries, prizes, raffles and similar.*
- *Gains from any other gratuitous agreement.*

General rate on capital gains is 10%, regardless of the origin of the capital gain or type of asset, except those obtained in lotteries, prizes, raffles and similar that are taxed at 20%.



7.1.25. Withholding tax

Colombian tax law defines withholdings as an early tax collection mechanism. This means that withholdings are only applicable as long as the activity is subject to the tax.

Withholding agents are, among others, the legal entities that on the grounds of their functions take part in acts or transactions where, by express legal mandate, they must apply tax withholdings.

The following are the main obligations of withholding agents are: applying the relevant withholdings; depositing the amounts withheld at the places and within the terms set by the Government; submitting the monthly withholding

tax returns and issuing the relevant withholding certificates.

Income tax withholdings range from 1% to 20% for transactions between domestic companies or between Colombian residents.

In regards to main income tax withholdings applicable for payments abroad, that is, of Colombian-sourced income directed to entities not domiciled in Colombia, we include the following most significant transactions:

Transaction	Income Tax Withholding Rate
Payment for technical services, technical assistance or consultancy services (rendered in Colombia or abroad).	20%
Payments for services rendered by a domiciled entity or person, or by a resident in one of the jurisdictions considered as non-cooperative jurisdictions, such as low or non-tax and preferential tax regimes.	33%
Administration fees (overhead expenses) for general services (rendered in Colombia or abroad).	33%
Other services rendered in Colombia	15%
Royalties ⁴ on the acquisition and exploitation of intangible assets.	15%
Software licensing	20% (**)
Interests.	15% 5% (*)
International transport.	5%

(*) Financing of infrastructure projects that meet certain requirements.

(**) Effective rate

⁴ Payments made for royalties will not be deductible when they are related to the acquisition of finished products.



It is important to highlight that, if conducted between States covered by a Double Taxation Agreement – DTA, the withholding rate applicable to a certain transaction depends on its nature. Thus, its analysis should be made on a case by case basis. Also, there may exist additional formal requirements to be met to gain entitlement to deduct the payment abroad (e.g. registering certain contracts with the Tax Authority (DIAN) or complying with foreign exchange rules; as well as there may be limitations to deductibility if payments were not subject to withholding tax.

7.1.26. Self-withholding for purposes of income tax

As of January 1, 2017, taxpayers have the status of self-withholding agents for purposes of income tax provided they meet the following conditions:

- 1. To be a national company, foreign company or permanent establishments, and;*
 - 2. To be exempt from the payment of social security contributions and payroll taxes with respect to their workers who earn a wage less than 10 MMLW.*
- This self-withholding must be settled on each payment or credit entry to income tax taxpayers, and the rate may range from 0.4% to 1.6% according to each type of economic activity.*

Those responsible for self-withholding must file and pay self-withholdings performed each month, within the deadlines set for the effect by the national government.

The self-withholding will be applied regardless of the tax withholding indicated in the immediately preceding section.

7.2. Value added tax - VAT

7.2.1. Overall

The value added tax (VAT) is an indirect tax levied on:

- Sales of movable and immovable tangible goods that have not been expressly excluded.*
- Sale or transfer of rights in intangible assets, solely associated with industrial property.*
- Render of services in Colombia or abroad, unless expressly excluded.*
- The import of movable tangible goods that have not been expressly excluded*
- The circulation, sale or operation of games of chance, with the exception of lotteries and games of chance operated exclusively through internet.*

It is important to note that the services provided from abroad are taxed with VAT, when the recipient and/or beneficiary is in the national territory. There are specific rules to determine when the beneficiary is in the national territory.

The disposal at any title of fixed assets is not taxed with VAT, except for, motor vehicles and other fixed assets that are usually sold on behalf of third parties.

Other transactions are qualified as exempt (rate 0%) or excluded (not taxed with VAT but the VAT paid for inputs will be a higher cost of the corresponding input).



7.2.2. Parties responsible for paying the VAT

Entities or individuals carrying out sales, rendering services or importing goods are responsible for paying the VAT, as follows:

- Sellers of goods either distributors or manufacturers.
- Services providers not excluded from this tax.
- Importers of moving tangible assets not expressly excluded from the tax.
- Service providers from abroad defined by resolution by the Tax Administration.

There are two VAT models: (i) responsible VAT regime, applied to all taxpayers not included in the not responsible regime, and (ii) the non-responsible regime, applicable only to individuals who are traders, farmers, artisans and providers of services complying with the conditions of revenues, equity and operation as set forth in the regulation.

7.2.3. Taxable base

The taxable base corresponds to the total value of the transaction, including goods and services required for the provision thereof. Additionally, there are particular taxable bases for certain sale or service transactions.

7.2.4. Tax rate

The general VAT rate is 19%, but there are reduced rates of 5% and 0% for certain goods and services.

7.2.5. VAT recovery

VAT taxpayers may take as creditable against VAT generated, VAT paid on the purchase of goods, services and imports other than fixed assets (input VAT) that allow for recognition of costs and/or expenses in the estimation of income tax.

VAT paid may be treated as creditable:

- In the case of those responsible for reporting every two months, deductibles and creditable taxes may only be booked in the fiscal period corresponding to the date of their accrual. Alternatively, they may be booked in the immediately following two-month period, and be requested in the return of the period in which has been booked.
- In the case of those responsible who must file VAT returns every four months, deductibles and creditable taxes may only be booked in the fiscal period corresponding to the date of their accrual. Alternatively, they may be booked in the immediately following four-month period, and be requested in the return of the period in which has been booked.

In the case of taxpayers carrying out exempt transactions (0% rate), the reimbursement of credit balances included in the VAT return may be requested every two months.

VAT at the general rate for the acquisition or importation of capital goods may be taken as a deduction on the income tax in the period of acquisition or importation,



provided that such benefit is not used concurrently in accord with section 258-2 of the Colombian Tax Code. It also applies to the assets acquired under the financial leasing modality with exercise of the purchase option at the end of the contract.

Before the tax authority in Colombia, the party responsible for collecting and paying this tax performs any taxable event, even if it is the final consumer who ends upon economically supporting the VAT.

7.2.6. Goods and services excluded from VAT

The following transactions are not levied with this tax, nonetheless, they do not give the right to credit VAT from purchases.

(a) Excluded goods

- Most of live animals of species used for human consumption, vegetables, seeds, fruits and other farmed products, fresh or frozen.
- Products such as cereals, flour, cacao, handmade products, salt, natural gas, vitamins.
- Certain machinery for use in the primary sector, some medical articles, among others.
- Personal computers of less than 50 UVT (USD 457 approx.) and smart mobile devices (cell phones, tablets) not exceeding 22 UVT (USD 201 approx.).
- National and imported equipment and elements that are intended for the construction, installation, assembly, and operation of control and monitoring

systems, necessary for compliance with the current environmental regulations. The condition for the regulations and standards must be accredited to the Ministry of Environment and Sustainable Development.

- Foodstuffs for human and animal consumption imported from the countries adjacent to the departments of Vichada, Guajira, Guainía and Vaupés, provided that they are exclusively used for local consumption in those departments.

- Food for human consumption donated to the legally constituted food banks, in accordance with the regulations issued by the national government.

- Objects of artistic, cultural, and historical interest purchased by the museums that make up the National Museum Network. These and the public entities that own or manage these goods will be exempt from VAT collection.

- Sale of properties

- Food for human and animal consumption, clothing, toiletries and medicines for human or veterinary use, building materials; Bicycles and parts thereof; Motorcycles and their parts; And motorbikes and parts thereof that are introduced and marketed to the departments of Amazonas, Guainía, Guaviare, Vaupés and Vichada, provided that they are exclusively destined for consumption within the same department and motorcycles and motorbikes are registered in the department. The national government will regulate the matter to ensure that the exclusion of VAT applies to sales to the final consumer.

- Aviation fuel supplied for the national



air transportation of passengers and cargo to and from the departments of Guainía, Amazonas, Vaupés, San Andrés Islas and Providencia, Arauca and Vichada.

- Products purchased or introduced to the department of Amazonas under the Colombo-Peruvian agreement and the agreement with the Federative Republic of Brazil.

(b) Services excluded from VAT payment

- Public or private transportation, domestic and international freight.
- Land, sea or river public transport of passengers in the national territory.
- Agriculture activities associated with the preparation of lands for farming or stock breeding, or those associated with the production and commercialization or derivative products therefrom.
- National air passenger transportations to domestic destinations where there is no organized land transportation.
- Transport of gas and hydrocarbons.
- Interests and financial yields on credit transactions and financial leasing.
- Medical, dental, hospital, clinic and laboratory services for human health.
- Electric power, water and sewerage, street cleaning, garbage collection and domiciliary gas services.
- Home internet access and connection for social level three.
- Hotel and tourism services provided in municipalities part of special customs regime zones.
- Education services provided by preschool, primary, high school, higher, special or non-formal institutions, recognized as such by the

Government, and education services provided by individuals to such institutions.

- Virtual education services for the development of digital content, in accordance with the regulations issued by the TIC Ministry, provided in Colombia or abroad.

- Provision of web pages, servers (hosting) and cloud computing.

- Acquisition of software licenses for the commercial development of digital content, in accordance with the regulations issued by the TIC Ministry.

- Repair and maintenance services for ships and naval vessels, both maritime and fluvial, with a Colombian flag.

(c) Imports excluded from VAT payment

Imports excluded from this tax are specifically defined by law. Among imports excluded from VAT are the import of machinery for the treatment of garbage and environmental control and monitoring, imports into the special customs regime zones, guns and ammunition for national defense, and the goods provided in section a) aforementioned.

7.2.7. Exempt transactions

There are transactions with a 0% VAT and consequently they grant the right to credit VAT in the acquisition of taxed goods and services directly associated with such exempt transactions. The most significant are:

- Export of goods and services, under the conditions set by laws and regulations, including goods sold to international commercialization



companies.

- Touristic services provided to residents abroad used in Colombia, sold by travel agencies and hotels registered with the National Tourism Register.
- Raw materials, spare parts, consumables and finished products sold from the domestic customs territory to industrial free trade zone users of goods or services, or among them, provided they are necessary for the development of the corporate purpose of said users.
- Services or connection and access to the Internet from fixed networks of home subscribers of social levels one and two.
- The sale of beef, pork, sheep and goat meat; certain poultry, shrimp, eggs, milk, fish, fresh, cooled, by the producers of such goods.

Also, services provided in Colombia to be used or consumed exclusively abroad by companies or individuals without businesses or activities in the country are VAT exempt. Certain substantive and formal requirements must be met in order to have right to the exemption.

7.2.8. Estimation of the payable tax

The payable tax is estimated as the difference between the tax generated by taxed transactions and the legally authorized deductible taxes, as follows:

7.3. National consumption tax

A national consumption tax is levied on the following activities:

VAT estimation

Taxed transaction revenues by tax rate
Tax generated (limited at the same rate of the generated VAT)
(-) Minus: creditable taxes
Due tax

- The provision of mobile phone services; Internet and mobile browsing, and data services;
- The sales of certain movable tangible goods, either locally manufactured or imported (vehicles);
- The sale of food and beverages at restaurants, coffee shops, self-services, ice cream saloons, fruit stores, pastry shops and bakeries for consumption at the premises, take away or delivered; food services under contract, and the service of food and alcohol beverages for consumption in bars, taverns and discos.

The tax is accrued upon nationalization of the asset imported by the final consumer, the actual delivery of the asset, and the provision of the service. Other conditions include the issuance of the relevant bill, cash register ticket, invoice or equivalent document by the party responsible to the final consumer.

Parties liable to consumption tax include: providers of mobile phone services, providers of food and beverage services, importers as final user, and vendors of goods subject to the consumption tax.



Also included are professional mediators for the sale of second-hand vehicles.

The national consumption tax does not give rise to creditable taxes for VAT purposes.

Rates range from 2%, 4%, 8% and 16%, depending on the relevant activity.

7.4. Debit tax

The debit tax (GMF by its acronym in Spanish) is an indirect tax on the carrying out of financial transactions, through which the funds deposited in a checkings or savings account are disposed of. This tax is valid as well for funds deposited into a Central Bank deposit account, and also for the issue of cashier's checks. Being an immediate tax, it is accrued upon disposal of the resources under financial transaction.

Tax rate is 0.4% of the total value of the financial transactions by means of which resources are disposed of. Up to 50% of the GMF is deductible from the taxpayer's income tax, estimated on the amounts paid as GMF, regardless of the relation of cause and effect with the taxpayer's income producing activity.

This tax is collected via withholdings by the Central Bank and the entities under the control of the Colombian Financial Superintendence or the Superintendence of Solidarity Economy, where the relevant current or savings accounts and collective portfolios are deposited, or where the accounting entries involving the transfer or disposal of resources are booked.

The law sets forth a series of transactions exempt from this tax, reason why they should be analyzed on a case by case basis.

7.5. Industry and commerce tax and billboard tax

7.5.1. Industry and commerce tax

The industry and commerce tax is a municipal tax on gross revenues obtained from the performance of industrial, commercial, and service activities carried out, directly or indirectly, by individuals, legal entities or unincorporated companies in the relevant municipal jurisdiction.

The taxable base is the gross amount received by the taxpayer, minus authorized deductions, exemptions and non-taxed operation to which there is the right.

In this regard it is appropriate to review the changes introduced by law 1819 of 2016. Thus, in article 342 a modification to the taxable base of the tax was established. In Paragraph 3° of the mentioned article, the following is indicated:

"the rules provided for in article 28 of the Tax Code will be applied as pertinent for purposes of determining the income from the industry and commerce tax".

In this sense, article 28 of the TC establishes that, as a general rule, realized tax income consists of the income accrued in the year or taxable period.



The tax rate is defined by each of the municipalities within the following ranges set by law:

- For industrial activities, from 0.2% to 0.7%.
- For commercial and service activities, from 0.2% to 1%.

This tax is 100% deductible provided it is duly paid, and has a relation of cause with the taxpayer's income generating activity.

7.5.2. Tax on billboard advertising

This is a municipal tax on the placement of advertising boards on public spaces. This tax is assessed on and collected from all individuals, legal entities, or unincorporated companies that carry out industrial, commercial and/or service activities at the relevant municipal jurisdictions. Usually, these use public space to advertise their business, or trade name through advertising boards.

Taxable base is the amount payable as industry and commerce tax, and the rate is 15%.

7.6. Real estate tax

The real estate tax is a levy on the property, possession or exploitation of lands or real estate located in urban, suburban or rural areas, with or without constructions.

All owners, holders or beneficial owners of real estate at the relevant municipal jurisdiction must pay this tax.

The taxable base for this tax is determined by: (i) the outstanding cadastral appraisal, which may be generally updated by the

relevant municipality as a consequence of the review of new conditions, or through the urban and rural real estate valuation index (IVIUR in Spanish), or (ii) the self-appraisal made by the taxpayer.

Applicable rates depend on the condition of the property, which in turn, depends on facts such as floor space, location and destination. The rate ranges from 0.5% to 1.6%, considering the economical destination of each property.

This tax is 100% deductible as long as it has a relation of cause and effect with the taxpayer's income producing activity.

7.7. Registration tax

7.7.1. General considerations

The registration tax is levied on all documentary acts, legal businesses, or contracts that are registered with the chamber of commerce, or with the public instrument registration offices.

7.7.2. Taxable base

The taxable base is the value included in the document containing the act or contract. When the levied act refers to the incorporation of companies, bylaw amendments, or acts involving an increase of corporate capital or subscribed capital, the taxable base is the total value of the relevant contribution. The latter includes the corporate capital and the subscribed capital, as well as the premium on the placement of shares or social quotas.

As regards documents without a specified amount, the taxable base is determined case by case depending on its nature.



For the purposes of estimating and then paying the registration tax, the mergers, the spin-offs, and the transformation of companies are deemed acts without a specified amount, provided they do not involve capital increases or assignment of quotas or part-interest. The consolidation of branches of foreign companies are also deemed such acts.

Wherever the act is issued, contract or legal business refers to real estate, the amount shall not be less than the value of the cadastral appraisal, the self-appraisal, the auction or awarding price, as the case may be.

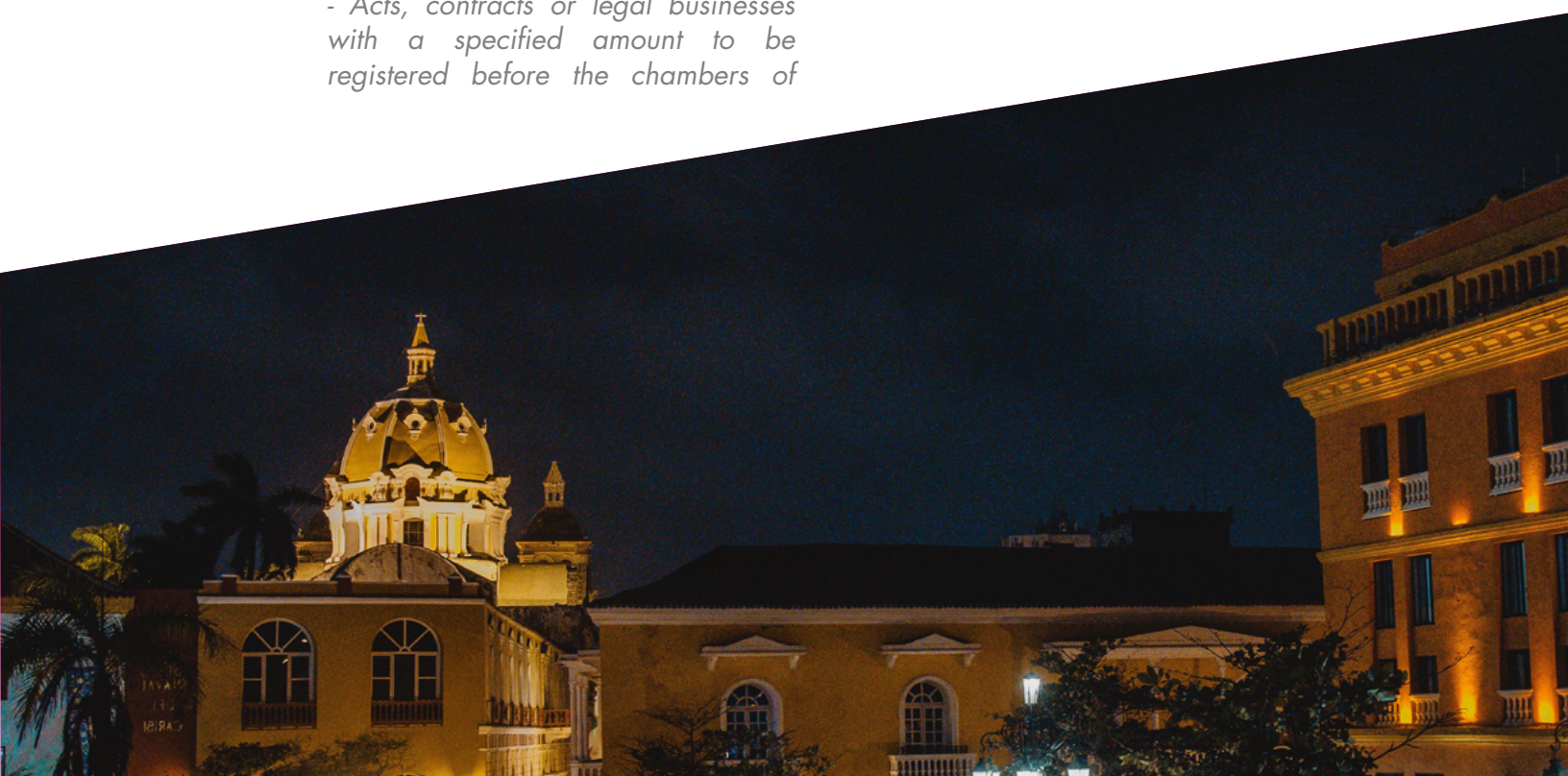
7.7.3. Tax rates

- Acts or contracts with a specified amount to be registered with the public instrument registration offices, between 0.5% and 1%.
- Acts or contracts with a specified amount to be registered with the chambers of commerce, between 0.3% and 0.7%.
- Acts, contracts or legal businesses with a specified amount to be registered before the chambers of

commerce involving the incorporation with and/or the increase of premium on the placement of shares or social quotas of companies, between 0.1% and 0.3%.

- Acts or contracts without a specified amount to be registered with the public instrument registration offices or chambers of commerce, between two and four legal daily minimum wages (between USD 22 and USD 44 approximately).

Whenever the act, contract or legal business is subject to both registration at the public instrument registration office and the Chamber of Commerce, the tax is to be rated and paid only at the public instrument registration office.





Regulatory framework

Norm	Subject
Colombian Tax Code (Decree 624 of 1989)	<p>Defines tax elements (tax authorities, person liable to pay the tax, taxable event, taxable base, tax rate, tax exemptions).</p> <p>Income tax: Rules authorized deductions, tax residence, the transfer pricing model, capital gains, among others.</p> <p>Value added tax: Defines those who are liable to pay the VAT, the rate applicable to certain goods and services, exemptions and exclusions, requirements to request deductions, common regime, simplified regime, import and export of goods regime, estimation of proportionality, among others.</p> <p>Debit tax: Defines the taxable events, applicable exemptions and withholding agents.</p> <p>It also sets the main formal (procedural) aspects associated with compliance with tax obligations:</p> <ul style="list-style-type: none">- Tax withholdings.- Tax procedure.- Penalties upon failure to comply with tax obligations.
Law 223 of 1995	<p>Contains the most significant regulations associated with tax rationalization, among others:</p> <ul style="list-style-type: none">(i) Goods that do not trigger VAT;(ii) Goods exempt from VAT;(iii) Imports exempt from VAT.



Norm	Subject
Law 14 of 1983	<p>Defines detailed rules regarding the core elements of the most significant territorial taxes such as:</p> <ul style="list-style-type: none"> - Real estate tax. - Industry and commerce tax (ICA) - Consumption tax on alcoholic beverages. - Tax on cigarettes.
Law 84 of 1915	<p>Sets the regulation on the powers vested in municipal councils and departmental assemblies, as regards the management or territorial taxes.</p>
Law 633 of 2000	<p>Modifies national taxes (income tax, VAT, GMF).</p>
Law 788 of 2002	<p>Modifies the procedural tax regime (tax regimes, penalty imposing procedures, goods exempt from VAT, tax rates, among others).</p>
Law 1430 of 2010	<p>Modifies the taxable event and exemptions from GMF.</p> <p>Modifies aspects associated with persons liable to pay territorial taxes.</p>
Law 1607 of 2012	<p>Introduces several changes to the Colombian Tax Code. Amends the registration tax; enacts the consumption tax and modifies the tax on gasoline and fuel oil, among others.</p>
Decree 3026 of 2013	<p>Introduces permanent establishment regulations in Colombia.</p>
Decree 3027 of 2013	<p>Introduces thin capitalization rules in Colombia.</p>