



PROCOLOMBIA
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**Gobierno de
Colombia**

LEGAL GUIDE TO DO BUSINESS IN

COLOMBIA 

2023



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CHAPTER 7

*COLOMBIAN
TAX REGIME*

COLOMBIA 

COLOMBIAN TAX REGIME

Basic information on the Colombian tax system for foreign investors.

- Colombian Congress is the only organism allowed to create taxes. Taxes in Colombia could be levied at a national level, as for example income and complementary taxes, VAT, GMF, and others. There are several territorial taxes, levied by municipalities and departments with elements, such as the rates that could vary between territories. The most relevant territorial taxes are the industry and commerce tax (ICT), property tax, documentary stamp taxes, and other taxes imposed over the consumption of alcoholic beverages and cigarettes.
- VAT is levied on imports, sale of goods in Colombia, sale or transfer of intangible property rights and services rendered in Colombia or from abroad. By general rule, VAT paid by the importer, buyer, or the beneficiary of services in taxable operations “input VAT”, may be credited against the VAT accrued in taxable operations “output VAT”.
- The IFRS adopted in Colombia are the general rules to determine the taxable base for the Corporate Income Tax (hereinafter CIT) and income tax of individuals that are considered merchants and are obliged to keep accounting records. In any case, tax rules prevail over accounting rules and establish certain exceptions to accounting recognition.
- Dividends paid to foreign non-resident shareholders by Colombian corporations should be subject to a 20% (second bracket) and 35% (first bracket) CIT, if the profits distributed have not been subject to CIT at the level of the dividend distributing company. Dividend distribution among

tax resident corporations is not taxed, nevertheless domestic companies are subject to a withholding tax (WHT) at a 10% tax rate¹ attributable to the individual shareholder or non-resident.

- From 2023 onwards a “mixed taxation” applies for industrial users of the free zones, distinguishing two scenarios, a reduce CIT rate of 20% and the general CIT (35%). The 20% rate is applicable to income obtained from the export of goods and services, and the general CIT rate (35%) is applicable to the remaining income.
- Colombia may be used as an investment platform to other countries, as it has a participation exemption

regime applicable only to CHC, such companies are not subject to CIT over the capital gains, dividends paid by foreign corporations, and payment of dividends to non-resident taxpayers.

- Colombian Transfer Pricing regime is applicable to operations made with related foreign entities, free trade zones users, residents of non-cooperative jurisdictions, and preferential tax regimes even if they are non-related entities. By general rule, the transfer pricing regime in Colombia follows the OECD Transfer Pricing Guidelines.

For the purposes of this document, a table of defined terms is presented in the following table.

DEFINED TERMS	
Corporate Income Tax	CIT
Financial Transaction Tax	GMF
Colombian Tax Administration	DIAN
Value Added Tax	VAT
Foreign Controlled Entities	FCE
Colombian Holding Corporation	CHC
Industry and Commerce Tax	ICT
International Financial Reporting Standards	IFRS
Organization for Economic Cooperation and Development	OECD
Withholding Tax	WHT
Consumption National Tax	CNT

¹ Profits distributed within business groups, which have a registered control situation or CHC are not subject to WHT on dividends.

The main attributes of the Colombian system are presented in the following table:

CONCEPT	GENERAL TAX INFORMATION												
NATIONAL TAXES													
<p>CIT and supplementary capital gain's tax t</p>	<p>Subject</p> <p>Resident individuals are taxed on their worldwide income, non-residents are taxed exclusively on their local source income.</p> <p>Collection</p> <p>The collection of the tax for non-residents is made through WHT, in cases where WHT is not applicable, the non-resident is obliged to file an income tax return.</p> <p>Special CIT Rates*</p> <table border="1" data-bbox="824 1166 1268 1417"> <thead> <tr> <th>Economic Activity</th> <th>%</th> </tr> </thead> <tbody> <tr> <td>Extractive</td> <td>40%-50%-55%</td> </tr> <tr> <td>Hydro-electrics</td> <td>38%</td> </tr> <tr> <td>Tourism</td> <td>15%</td> </tr> <tr> <td>Exporters (FTZ)</td> <td>20%</td> </tr> <tr> <td>Financial services</td> <td>40%</td> </tr> </tbody> </table> <p>* Provided that the company complies with the legal conditions.</p> <p>* For the periods from 2023 to 2027, financial entities, insurance companies and stock market commission agents that obtain a taxable income of more than COP. 5,000 million will be subject to a 5% surtax on the income tax rate.</p>	Economic Activity	%	Extractive	40%-50%-55%	Hydro-electrics	38%	Tourism	15%	Exporters (FTZ)	20%	Financial services	40%
Economic Activity	%												
Extractive	40%-50%-55%												
Hydro-electrics	38%												
Tourism	15%												
Exporters (FTZ)	20%												
Financial services	40%												

	<p>Dividends Dividends are subject to two tax brackets according to the taxation of the distributing company; (i) First bracket: 35%; (ii) Second bracket: varies according to the beneficiary shareholder.</p> <table border="1" data-bbox="831 451 1312 619"> <thead> <tr> <th>Beneficiary</th> <th>Tax</th> <th>WHT</th> </tr> </thead> <tbody> <tr> <td>Individuals</td> <td>0%-39%*</td> <td>0%-15%</td> </tr> <tr> <td>Corporations</td> <td>0%</td> <td>10%²</td> </tr> <tr> <td>PE and non-residents</td> <td>20%</td> <td>20%</td> </tr> </tbody> </table> <p>* Entitled to a credit of up to 19%.</p> <p>Capital gains It is applicable to gifts, inheritances and the sale of fixed assets owned for more than two years.</p> <p>Mechanisms to avoid international double taxation Colombia has a direct and indirect tax credit for companies as a unilateral mechanism to eliminate double taxation on foreign source income obtained by residents.</p> <p>Double Tax Treaties in force Spain, Chile, Switzerland, Canada, Mexico, South Korea, India, Portugal, United Kingdom, Czech Republic, France, Japan, Italy, and the Andean Community of Nations (Bolivia, Ecuador, and Peru).</p> <p>Signed agreements in the process of internal approval United Arab Emirates (UAE), Brazil, Luxembourg, Netherlands and Uruguay.</p>	Beneficiary	Tax	WHT	Individuals	0%-39%*	0%-15%	Corporations	0%	10% ²	PE and non-residents	20%	20%
Beneficiary	Tax	WHT											
Individuals	0%-39%*	0%-15%											
Corporations	0%	10% ²											
PE and non-residents	20%	20%											
<p>Wealth tax</p>	<ul style="list-style-type: none"> • Wealth tax is levied on individuals and non-residents for the possession of liquid assets equal to or greater than 72,000 UVT (approx. USD 717,327) as of January 1 of each year. • From 2023 to 2026, the marginal tax rate range between 0.5% and 1.5%. From 2027, the maximum rate is reduced to 1%. • Non-resident taxpayers are not subject to wealth tax over the direct investments in shares, nevertheless, are subject to wealth tax over immovable property possessed in Colombia. 												
<p>GMF</p>	<p>It taxes financial transactions at a rate of 0.4%.</p> <p>Collection is made through the financial entities that manage deposit accounts in Colombia.</p>												

² The withholding is only assumed in the first distribution of dividends and is transferable to the individual or non-resident that receives the dividends. This withholding will not be applicable to CHC nor to distributions between entities that have a situation of control or registered group.

<p>VAT</p>	<p>VAT is levied on the following events (normally at 19%), except for those expressly excluded:</p> <ul style="list-style-type: none"> • The sale of movable and immovable tangible property. • The sale or assignment of rights over intangible assets, only associated with industrial property (trademarks, patents, and industrial designs). • The rendering of services in the national territory, or from abroad. • The importation of tangible goods that have not been expressly excluded. • The circulation, sale, or operation chance games, except for lotteries and chance games operated exclusively by internet. <p>Input VAT is paid by the taxpayer in the acquisition of goods and/or services. Input VAT may be credited against the output VAT.</p> <p>VAT paid in the acquisition of fixed assets should not be credited against the output VAT but may be accounted as cost for CIT purposes.</p>
<p>Consumption tax</p>	<p>The consumption tax is levied on the provision of mobile telephony, internet and mobile navigation services, data services, the sale and importation of vehicles, the sale of food and beverages prepared in restaurants, cafeterias, self-service stores, ice cream parlors, fruit stores, pastry shops and bakeries for on-site consumption.</p>
<p>National carbon tax</p>	<p>Taxes the sale, inventory removal, importation for own consumption or importation for sale of fossil fuels (including all petroleum derivatives and all types of fossil gas).</p> <p>The rate is determined depending on the carbon dioxide (CO₂) emission factor for each given fuel, expressed in volume unit (kilogram of CO₂eq) per energy unit (Tera-joules) according to the volume or weight of the fuel given in ton, gallons or cubic meters for rates varying between COP \$36 and COP \$238.</p>
<p style="text-align: center;">LOCAL TAXES</p>	
<p>Industry and commerce tax - ICT</p>	<p>This tax is levied on the development of industrial, service, and commercial activities carried out in the respective municipal or district jurisdictions.</p> <p>The rates vary in the different municipalities or districts between a range of 0.2% and 1.4%.</p> <p>The taxable base is the gross income obtained from the commercial, service, or industrial activity performed in the municipality by the taxpayer.</p>

Property tax	This municipal tax is levied annually on the ownership, usufruct, or possession of real estate in Colombia. The rate is between 0.5% and 1.6% of the value of the property, depending on the municipality in which the property is located.
Registration tax	This tax is generated by the registration of acts and contracts in the Public Instruments Registration Office and the Chambers of commerce. The tax rate and taxable base vary depending on the kind of act.

The following table provides a summary of tax rates and, where applicable, WHT rates for foreign payments:

TAX	RATES	WHT ON PAYMENTS ABROAD
Corporate Income Tax (Companies)	35% ³	1%-5%-10%-15%-20%-33%-35% ⁴
Corporate Income Tax (Individuals)	0%-19%-28%-33%-35%-37%-39%	
Capital Gains	15%	10%
VAT	0%-5%-19%	19% ⁵
TFM (GMF in Spanish)	0,4 %	0,4 % ⁶
ICT	0,2% a 1,4%	
Consumption tax	4%, 8%, 16%	
Property tax	0,5% a 1,6%	
Registration tax	0,1% a 1%	
Stamp tax	0% a 3%	

³ Since 2023, surtaxes of 3%, 5%, 10% and 15% were included for the financial and extractive sectors.

⁴ The rates may be reduced for transactions with residents of countries with which Colombia has signed double taxation treaties, provided they are in force.

⁵ The provision of services from abroad between companies (B2B) is subject to the collection mechanism known as “reverse charge mechanism” whereby the “withholding” is assumed by the resident-payer in Colombia without affecting the gross value of the payment.

⁶ TFM is debited by the bank from the account of the payer resident in Colombia, this withholding should not affect the flow received by the non-resident.

The main elements that you should consider as a foreign investor will be further elaborated below.

7.1. Corporate Income Tax

This tax is calculated on the net income obtained by taxpayers in the taxable period from January 1 to December 31 of each year, except in extraordinary cases in which a shorter period is accepted by law.

Unless the tax regulations set a different recognition, the determination of the taxable income tax base for companies and individuals obliged to keep accounting records must take into account the value of assets, liabilities, equity, income, costs and expenses, in accordance with the IFRS in force in Colombia.

7.1.1. Tax residence in Colombia

A legal entity shall be deemed to be a resident when it meets any of the following requirements in Colombia:

- i. Incorporation.
- ii. Principal domicile; or
- iii. Effective place of administration in Colombia.

The effective place of administration of a corporation is the place where the business and management decisions necessary to conduct the day-to-day activities of the corporation are materially made.

A resident for tax purposes is a natural person who meets any of the following conditions:

- Remain in the country continuously or discontinuously for more than 183 days, including days of entry and

exit of the country, during any period of 365 consecutive days.

- The nationals that during the taxable year have their center of vital, economic, or business interests in the country, unless most of their income has its source in the jurisdiction where they have their domicile, or the majority of their assets are located therein or:
 - Having been required by the Tax Administration to do so, they do not prove their status as residents abroad for tax purposes; or,
 - They have tax residence in a jurisdiction qualified by the National Government as a tax haven.

7.1.2. Sourced income in Colombia

Colombian legislation establishes the following as income considered as national source income:

- Those derived from the exploitation of tangible and intangible assets within the country.
- Those derived from the rendering of services within the Colombian territory.
- Those obtained from the alienation of tangible and intangible assets that are in the country at the time of their alienation.

Likewise, there are other events that qualify as Colombian source income:

- Interest from credits owned or economically linked to the

- country.
- Income obtained by the provision of technical services, technical assistance services, consulting services, administration or management services furnished by foreign companies in favor of tax residents in Colombia, regardless of whether they are rendered in the country or from abroad.
- Income from the sale of goods and/or rendering of services made by non-resident individuals or entities not domiciled in the country with significant economic presence in Colombia, in favor of clients and/or users located in the national territory (in force from 2024).

7.1.3. Minimum tax rate

The income tax of corporations may not be lower than 15% of the “Depurated Tax Rate”. To verify it, taxes paid by the company or the business group in Colombia must be considered and divided over the accounting profit of the individual or the consolidated financial statements of the business group. The permanent differences that increase the tax and the temporary differences will be the decisive elements to determine the decrease of the “Depurated Tax Rate” below 15%. When a company or a group of companies are below the minimum tax indicated, they must add the necessary tax to reach the minimum taxation.

7.1.4. Corporate reorganizations and acquisitions M&A

Capital contributions in cash or in kind to Colombian companies, as well as mergers and spin-offs conducted

between Colombian companies or where the beneficiary or acquirer is a Colombian company are subject to the tax neutrality regime when proven that the legal requirements are met. Mergers and spin-offs between foreign entities whose value of assets located in Colombia is, as general rule, less than 20% are also subject to the tax neutrality regime.

Transactions carried out under the tax neutrality regime are not considered a transaction for tax purposes and consequently are not subject to income tax.

Since 2019, indirect sales are taxed. It is understood as indirect sale the transfer of shares or rights of foreign entities that own assets in Colombia, the assets owned in Colombia are considered indirectly sold when the value of the assets owned in Colombia represents at least 20% of the book value or commercial value of the total registered assets by the foreign company transferred. The sale of shares in a stock exchange recognized by a governmental authority is not considered as an indirect sale if they are not controlled by more than 20% by the same beneficial owner.

7.1.5. Revenue not subject to income tax

The Colombian Regime establishes special tax treatments for the determination of the tax base, allowing the exclusion of certain revenue. Such income includes, among others: indemnities for damage insurance; indemnities for destruction or renewal of crops, and pest control; donations to political parties, movements, and campaigns; profit on the sale of shares listed on the Colombian Stock Exchange, owned by the same beneficial owner, when such sale does not exceed 3% of the outstanding shares of the respective company, during the same taxable year.

Notwithstanding the above, the application of income not constituting income or occasional gain must be verified in each case to determine its applicability and compliance with the tax requirements.

7.1.6. Limitation on deductible costs and expenses (companies)

Costs and expenses are expenditures that contribute to the taxpayer's taxable activities. Despite their accounting recognition, some costs and expenses are not accepted or have limitations for their recognition for CIT purposes:

- Royalty payments made in cash for the exploitation of non-renewable natural resources are not deductible. For royalties paid in kind, the full cost of production is not deductible.
- Interest is limited to the usury rate certified annually by the Financial Superintendence.
- Thin capitalization: only interest generated by debts that do not exceed twice the taxpayer's net worth determined as of 31 December of the immediately preceding taxable year is deductible.
- Costs and expenses abroad related to obtaining taxable income of Colombian source limited to 15% of the taxpayer's net income, computed before deducting such costs or deductions.
- The deduction of royalty payments to foreign economic partners and free trade zones for the exploitation of an

intangible formed in Colombian territory is prohibited.

- Expenses arising from technology import contracts are deductible if they are registered at the DIAN. Amortization expenses not deductible for exceeding the 20% limit in the taxable year or period will generate a difference that will be deductible in subsequent periods at the end of the useful life of the intangible asset, not exceeding 20% of the taxable year cost of the asset.
- Intangible assets arising from business combinations, in general terms, may be subject to amortization limitations. Goodwill should not be amortizable for tax purposes.

7.1.7. Depreciation

For income tax purposes, taxpayers required to keep accounting records may deduct reasonable amounts for depreciation caused by wear and tear on property used in business or income-producing activities, provided they have rendered services in the taxable year or period.

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

The annual depreciation rate shall be the lower of the rate determined for accounting purposes and the rate established by the National Government. In the absence of such regulation, the following annual rates shall apply as the basis for calculating depreciation:

Items and assets to be depreciated	Maximum annual depreciation rate
Constructions and buildings	2,22%
Aqueduct, plant, and networks	2,50%
Communication routes	2,50%
Fleet and airborne equipment	3,33%
Rail fleet and equipment	5,00%
Inland waterway fleet and equipment	6,67%
Weapons and surveillance equipment	10,00%
Electrical equipment	10,00%
Land transport fleet and equipment	10,00%
Machinery and equipment	10,00%
Furniture and furnishings	10,00%
Medical and scientific equipment	12,50%
Containers, packaging, and tools	20,00%
Computer equipment	20,00%
Data processing networks	20,00%
Communication equipment	20,00%

7.1.8. Tax loss carryforward allowance

Tax losses liquidated by a taxpayer may be offset against ordinary net income obtained in the following twelve (12) taxable periods. Tax losses cannot be transferred to partners or shareholders. In the case of mergers and spin-offs, the absorbing company or the surviving

company may carryforward the losses of the merged or spin-off companies against the ordinary net income it obtains, up to a limit equivalent to the percentage of participation of the assets of the merged or spin-off companies in the assets of the surviving company, provided that

the entities carry out the same economic activity. Tax losses incurred by the acquiring or divided company prior to the reorganization would also be limited according to the percentage share of the assets and liabilities.

7.1.9. Tax Credits

Legislation has established that certain items can be credited from CIT. For each item, the amount of the credit must be analyzed and such credit should not exceed the value of the CIT.

Some of the main credits are the following:

- Tax credit on taxes paid abroad (foreign tax credit). Individuals' resident in the country and national companies and entities that are taxpayers of income tax and complementary taxes and that receive income from foreign sources subject to income tax in the country of origin, are entitled to credit the tax paid abroad, whatever its denomination, liquidated on the same income.
 - In the case of income from dividends received from abroad, the tax credit should be the result of multiplying the tax rate to which such profits were levied as income of the company distributing the dividends, by the amount of the dividends being distributed. The taxpayer must prove its participation in the company or entity from which it receives the dividends to be allowed to take the indirect tax credit.
 - The tax credit that cannot be used in a taxable year may be used within the following four taxable years.
 - VAT paid on the acquisition, importation, construction, or formation of real productive fixed assets may be credited against CIT.
 - Donations made to non-profit entities that have been qualified under the special income tax regime and to the non-taxpaying entities referred to in Articles 22 and 23 of the Tax Code give rise to a credit on CIT equivalent to 25% of the value donated in the taxable year or period. In no case shall donations give rise to deductions.
 - Investments in projects qualified by the National Council for Tax Benefits in Science and Technology in Innovation as research, technological development, or innovation are entitled to a tax credit of thirty per cent (30%) of the value invested.
 - A credit of 25% is granted for the investments made in the control, conservation, and improvement of the environment.
- Finally, Colombian law establishes a limit of 3% per year of the taxpayer's ordinary net income for the eligibility of certain non-taxable income, special deductions, exempt income, and tax credits.

7.1.10. Controlled Foreign Corporations (CFC)

Fiscal transparency regime is applicable to taxpayers in Colombia that have, directly or indirectly, a participation greater than 10% in the capital of the CFC or in the results of the same.

Taxpayers subject to the CFC regime shall, for income tax purposes, recognize the profit derived from the passive income obtained by the CFC as taxable income of the period, in proportion to their participation in the capital of the CFC or in the results of the CFC, without having to wait for any type of distribution to Colombia.

For the purposes of this regime, passive income is considered to be: (i) dividends or distribution of profits of a company or investment vehicle, provided that such company or investment vehicle making the distribution is indirectly controlled by tax residents in Colombia; (ii) interest and financial yields; (iii) income from the exploitation of intangibles; (iv) income from the disposal of assets that generate passive income; (v) income from the disposal or lease of real estate; (vi) income from the purchase or sale of tangible property that is acquired or disposed of to a related person, and its production and consumption takes place in a jurisdiction other than the jurisdiction of residence or location of the CFC; and (vii) income from the provision of technical, technical assistance, administrative, engineering, architectural, scientific, qualified, industrial and commercial services in a jurisdiction other than the jurisdiction of residence or location of the CFC.

The Colombian resident subject to the CFC regime may claim tax credit for taxes paid abroad in relation to such income. Dividends or profits distributed from an

CFC, which have been taxed in the past in Colombia under the CFC regime, will be considered as income not constituting income or capital gains when received in the country.

7.1.11. Colombian Holding Companies (CHC)

The CHC regime is applicable to tax resident corporations that have as main activity the administration of investments in Colombian or foreign companies. To qualify for this regime, it is necessary to: (i) have direct investments representing at least 10% of the capital of two companies; (ii) have sufficient human and material resources to carry out the corporate purpose; and (iii) communicate to the DIAN the intention to qualify for the regime.

The benefits of this regime include the following:

- Dividends received by CHCs from foreign entities are exempt from income tax.
- Dividends and premiums (other than cost) distributed by the CHC are considered foreign source income for the shareholder, if they derive from income attributable to activities conducted by non-resident entities.
- Dividends received from investments in foreign entities and covered by the CHC regime will not be subject to ICT. However, other activities where the generating event takes place within the territory of a Colombian municipality will be subject to such tax.
- CHCs are Colombian residents for the purposes of the Double Taxation Agreements signed by

Colombia.

- Income derived from the disposal of foreign shares will be exempt from income tax in Colombia.
- The profit obtained by residents in Colombia derived from the alienation of shares of a CHC will be exempt in the proportion equivalent to the activities carried out abroad. In this same proportion, it will be considered foreign source income for non-resident shareholders of the CHC.

7.1.12. Transfer pricing

Taxpayers liable to income tax and complementary taxes are subject to the transfer pricing regime:

- i. Carry out operations or transactions with related parties abroad.
- ii. Enter transactions with related parties located in a free trade zone; or
- iii. Transact with persons resident in non-cooperative jurisdictions with low or no taxation or preferential tax regimes.
- iv. Permanent establishments of non-residents and branches are obliged to determine under the transfer pricing regime the income tax that they could have obtained by carrying out transactions with the subjects described above or with other parts of the same company to which they belong.

Consequently, taxpayers must determine their income, costs, deductions, assets, and liabilities considering the conditions that would have been used in comparable transactions with or

between independent parties, i.e., their transactions must respond to market value criteria and comply with the arm's length principle.

Companies are considered related for income and supplementary tax purposes, and for the purposes of the application of the transfer pricing regime if they are:

- i. Subordinates.
- ii. Branches.
- iii. Agencies.
- iv. Permanent establishments; and
- v. Other cases of economic linkage.

Among these are cases in which the operation is carried out between related parties through unrelated third parties, when more than 50% of the gross income comes individually or jointly from their partners or shareholders or when there are consortiums, temporary unions, joint ventures and other forms of association that do not give rise to legal entities, among others.

The Colombian transfer pricing regulations that came into force as of tax year 2004 broadly follow the OECD Transfer Pricing Guidelines.

7.1.12.1. Methods of analysis and comparability criteria

Colombian law states that taxpayers may use any of the following methods to determine the price or profit margin in transactions between related parties:

- Comparable uncontrolled price.
- Resale price.
- Added cost.
- Transactional operating profit margins.
- Profit sharing.

The choice of method will depend on which method is most appropriate according to functions, available information, and degree of comparability. Notwithstanding the above, legislation has established a particular application of transfer pricing methods for the purchase of used fixed assets, unlisted share transactions and commodity transactions.

Used fixed assets: Comparable uncontrolled price method (CUP) is applicable through the presentation of the invoice for the acquisition of the new asset and the calculation of its depreciation up to the date of the transaction must be applied in accordance with the IFRS applicable in Colombia.

Purchase and sale of unlisted shares: Colombian regulation establishes that commonly accepted financial valuation methods must be used. Under no circumstances is the use of equity or intrinsic value as a valuation method permitted.

Commodities: The comparable uncontrolled price method (CUP) is established by reference to comparable transactions between independent parties or references to national or international quoted prices, taking into account essential elements such as the date or period of quotation agreed between the parties.

7.1.12.2. Penalty regime

In terms of penalties, the transfer pricing regime establishes penalties with respect to the formal obligations of supporting documentation (local report and master report) and information return.

In relation to supporting documentation, penalties are generated for: (i) late submission; (ii) inconsistencies in the information submitted (errors, content

that does not correspond to what was requested or that does not allow verifying the application of the regime); (iii) failure to submit; (iv) omission of information; and (v) correction.

Regarding the information return, penalties are generated for: (i) untimely filing; (ii) inconsistencies with respect to transactions subject to the transfer pricing regime; (iii) omission of information; and (iv) failure to file.

Finally, non-compliance 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 Statute in relation to the failure to submit information within the established deadlines or the submission of information whose content is incorrect or does not correspond to what was requested.

7.2. Self-withholding for income tax purposes

Taxpayers who meet the following conditions have the status of self-withholding taxpayers for income tax and complementary taxes:

- That they are national companies or permanent establishments, and
- That they are exempt from the payment of social security contributions and parafiscal contributions, with respect to their workers who earn a salary of less than 10 SMMLV.

This self-withholding must be settled on each payment or payment on account made to the taxpayer liable for income tax, and the rate may vary between 0.4% and 1.6% according to the type of economic activity.

Those responsible for self-withholding must declare and pay the self-withholdings made each month, within the deadlines established by the national government for this purpose.

The self-withholding shall be applied independently of the withholding at source indicated in the immediately preceding numeral.

7.3. Wealth tax

Wealth tax is generated by the possession of a net worth whose value is equal to or greater than 72,000 UVT (approx. USD 678.592) on the first of January of each year.

For the purposes of this tax, the net worth is equivalent to the total assets of the taxpayer on the same date minus the liabilities owed by the taxpayer on that same date.

Taxpayers subject to this tax are listed below:

- **Individuals and illiquid successions, taxpayers of income tax and complementary taxes or income tax substitute regimes.**
- **Individuals, national or foreign, who are not resident in the country, with respect to their assets held directly in the country, except for the exceptions provided for in international treaties and domestic law.**
- **Individuals, national or foreign, who are not resident in the country, with respect to their assets held indirectly through permanent establishments in the country, with the**

exceptions provided for in international treaties and in domestic law.

- **The illiquid successions of deceased persons without residence in the country at the time of their death with respect to their assets held in the country.**
- **Foreign companies or entities that are not income tax filers in the country, and that own assets located in Colombia other than shares, accounts receivable and/or portfolio investments.**
- **The taxable base of the wealth tax is the value of the net equity of the taxpayer owned on the first of January of each year minus the debts payable by the same in force on that same date.**

From 2023 to 2026, the marginal rate of this tax will be between 0.5% and 1.5%. From 2027, the maximum rate will be 1%.

To determine the value of the liquid assets, the following rules apply:

- **Listed shares or equity quotas: discounted tax cost. If the intrinsic value is lower, this value is considered.**
- **Shares or quotas of interest of companies or entities that are not listed on the stock exchange: average market quotation value.**
- **Shares in “ventures” or “innovative start-up companies”: fiscal cost, provided that the companies (i) have not been incorporated for more than 4 years and have main I+D+i activities,**

(ii) have received less than COP\$4,400MM during the previous 4 years in exchange for at least 5% of participation, (iii) have no taxable net income in the previous year, (iv) the fiscal cost of the shares of one or several non-founding shareholders is at least three times their intrinsic value based on the net equity of the previous year.

7.4. VAT

VAT is a national indirect tax levied in:

- The sale of movable and immovable tangible property, except for those expressly excluded.
- The sale or transfer of rights over intangible assets, only associated with industrial property.
- The provision of services in the national territory, or from abroad, except for those expressly excluded.
- The importation of tangible goods that have not been expressly excluded.
- The circulation, sale or operation of games of chance, except for lotteries and games of chance operated exclusively through the internet.

It is important to note that VAT is levied on services furnished from abroad 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.

VAT is not levied on the sale of fixed assets, except for motor vehicles and other fixed assets that are habitually sold in the name and on behalf of third parties.

Other operations are classified as exempt (0% rate) or excluded (there is not VAT, but VAT paid on inputs must be treated as a higher value of the cost or expense).

7.4.1. Liability of paying VAT

The persons liable for the payment of the tax are the persons who carry out sales, provision of services or importation operations, as follows:

- In sales, traders, whether distributors or manufacturers.
- Anyone who provides a service that is not excluded from the payment of this tax.
- Importers of movable tangible goods that have not been expressly excluded.
- Service providers from abroad, as defined by resolution of the Tax Administration.

There are two VAT regimes: (i) the liable persons regime, which applies to all persons who cannot fall under the non-liable persons regime, and (ii) the non-liable persons regime, which applies only to individuals: traders, farmers, artisans and service providers, if they meet the conditions of income, assets and form of operation established in the regulations.

7.4.2. Taxable base

The taxable base of the tax is made up of the total value of the operation, including the goods and services required for its provision. In addition, there are special taxable bases for certain sales or service operations.

7.4.3. Rate

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

7.4.4. Input and output VAT

VAT taxpayers may credit the “input VAT” paid on the acquisition of goods, services, or imports other than fixed assets that give rise to the recognition in income tax of costs and/or expenses against the “output VAT”.

The input VAT may be credited:

- **In the case of taxpayers who must declare bimonthly, deductions and deductible taxes may only be accounted for in the tax period corresponding to the date of their causation, or in one of the three immediately following bimonthly periods, and requested in the return for the period in which they have been accounted for.**
- **In the case of taxpayers who are required to declare on a four-monthly basis, deductions and deductible taxes may only be accounted for in the tax period corresponding to the date on which they were incurred, or in the immediately following four-monthly period, and may only be requested in the tax return for the period in which they were accounted for.**

VAT balances arising from an excess of “input VAT”, which has not been imputed in the VAT during the taxable year or period in which they were generated, may be requested in compensation or refund once the income tax return of the taxable period has been filled.

In the case of taxpayers who carry out exempt operations (0% rate), the credit balances determined in their VAT return may be requested as a refund every two months.

VAT paid on the acquisition or importation of capital goods may be taken as an income tax deduction in the period of acquisition or importation, provided that such benefit is not used at the same time as tax credit (article 258-1 of the E.T.). It also applies to goods acquired under the financial leasing modality with exercise of the purchase option at the end of the contract.

The person liable to the tax authority in Colombia for the collection and payment of the tax is the person who carries out any of the generating events, even if the person who economically supports this tax is the final consumer.

7.4.5. VAT exclusions

The following transactions are not subject to VAT, but also do not give entitlement to “input VAT” on purchases.

(i) Excluded goods

Most live animals of species used for human consumption, vegetables, seeds, fruits, and other agricultural products, fresh or frozen.	Goods such as cereals, flour, cocoa, handicraft products, salt, natural gas, vitamins.
Certain machinery for the primary sector, some medical items, among others.	Personal computers of less than 50 UVT (approx. USD 498) and smart mobile devices (mobile phones, tablets) whose value does not exceed 22 UVT (approx. USD 219).
National or imported equipment and elements intended for the construction, installation, assembly and operation of control and monitoring systems, necessary for compliance with the provisions, regulations, and environmental standards in force, for which such condition must be accredited before the Ministry of Environment and Sustainable Development	Foodstuffs for human and animal consumption imported from countries bordering the departments of Vichada, Guajira, Guainía, and Vaupés, if they are intended exclusively for local consumption in those departments.
Foodstuffs for human consumption donated to legally constituted food banks, in accordance with the regulations issued by the national government.	The sale of immovable property.
Objects of artistic, cultural, and historical interest purchased by museums that are part of the National Network of Museums and public entities that own or administer these goods shall be exempt from VAT.	Foodstuffs for human and animal consumption, clothing, toiletries and medicines for human or veterinary use, construction materials; bicycles and their parts; motorbikes and their parts; that are introduced and marketed in the departments of Amazonas, Guainía, Guaviare, Vaupés and Vichada, provided that they are intended exclusively for consumption within the same department and that the motorbikes are registered in the department. The national government will regulate the matter to ensure that the VAT exclusion applies to sales to the final consumer.
Aviation fuel supplied for domestic air passenger and cargo transport services to and from the Departments of Guainía, Amazonas, Vaupés, San Andrés Islas and Providencia, Arauca, and Vichada	Products purchased or introduced into the Department of Amazonas within the framework of the Colombian-Peruvian agreement and the agreement with the Federative Republic of Brazil.

(ii) Excluded services

Public or private, national, and international transport of cargo.	Public passenger transport in the national territory, by land, sea, or river.
Agricultural activities related to the adaptation of land for agricultural exploitation or related to the production and commercialization of its by-products.	National air transport of passengers to national destinations, where there is no organized land transport.
The transport of gas and hydrocarbons.	Interest and financial returns on credit operations and financial leasing or leasing.

Medical, dental, hospital, clinical and laboratory services for human health. Public services of energy, aqueduct and sewerage, public cleaning, rubbish collection and domestic gas.	Residential internet connection and access services for stratum three.
Hotel and tourism services provided in the municipalities that are part of certain special customs regime zones.	Education services provided by pre-school, primary, middle, and intermediate, higher, special or non-formal education establishments, recognized as such by the Government, and education services provided by individuals to such establishments.
Virtual education services for the development of digital content, in accordance with the regulations issued by the ICT Ministry, provided in Colombia or abroad.	Provision of websites, servers (hosting) and cloud computing.
Acquisition of software licenses for the commercial development of digital content, in accordance with the regulations issued by the ICT Ministry.	Repair and maintenance services for vessels and naval artefacts, both maritime and fluvial, under the Colombian flag.

(iii) Excluded imports.

Imports excluded from the tax are listed by law. Among the imports that are not subject to VAT are the import of machinery for waste treatment and environmental control and monitoring, imports to special customs regime zones, arms, and ammunition for national defense, and those mentioned in paragraph a) above.

7.5.5. Exempt operations

There are operations that have a VAT rate of 0% and are allowed to credit input VAT on the acquisition of taxed goods or services that are directly associated with such exempt operations. The following are highlighted:

- The export of goods and services, with the conditions established in the law and the regulations, including goods sold to international marketing companies.
- Tourist services provided to residents abroad that are used in Colombia, sold by agencies or hotels registered in the National Tourism Registry.

- Raw materials, parts, inputs and finished goods that are sold from the national customs territory to industrial users of goods or services in the free zone or between them, if they are necessary for the development of the corporate purpose of such users.
- Internet connection and access services from fixed networks for residential subscribers of strata one and two.
- The sale of bovine, porcine, ovine, caprine meat, certain poultry, eggs, milk, fish, fresh or refrigerated, conducted by the producers of these goods.

Likewise, services rendered in Colombia to be used or consumed exclusively abroad by companies or persons with no business or activities in the country are considered exempt from VAT. Certain substantive and formal requirements must be met to qualify for the exemption.

7.5.6. Tax calculation

The tax is determined by the difference between the output VAT accrued on taxable transactions and the input VAT authorized, as follows:

**Income from taxable transactions
by tariff**

Output VAT

(-) Minus input VAT

Tax determined to be payable.

7.6. National Consumption Tax

The national consumption tax is levied on the provision of services or sale to the final consumer or the importation by the final consumer of the following services and goods:

- The provision of mobile telephony, internet and mobile navigation services, and data services.
- Sales of certain movable tangible goods, whether domestically produced or imported (automobiles).
- The supply of food and beverages prepared in restaurants, cafeterias, self-service restaurants, ice cream parlors, greengrocers, pastry shops and bakeries for consumption on the premises, to be taken away by the purchaser or delivered at home, food services under contract, and the supply of food and alcoholic beverages for consumption in bars, taverns, and discotheques.

The persons subject to NCT are the mobile telephone service provider, the provider of food and beverage services, the importer as the end user, the seller of goods subject to excise duty and, in the sale of used vehicles, the professional intermediary.

The national consumption tax does not generate tax deductible from the VAT.

The rates range between 4%, 8% and 16%, depending on the activity concerned or the good sold.

7.7. Industry and Commerce Tax and the complementary tax on notices and boards

7.7.1. Industry and Commerce Tax

This is a local tax levied over the gross income obtained from industrial, commercial, and service activities carried out, directly or indirectly, by individuals or corporations in the respective municipal jurisdictions.

For ICT purposes, there are rules to determine when an activity is carried out in a municipality.

The taxable base of the ICT is made up of all ordinary and extraordinary income received in the respective taxable year, including income obtained from financial returns, commissions and in general all income not expressly excluded in this article. Income corresponding to exempt, excluded or non-subject activities, as well as refunds, rebates and credits, exports and the sale of fixed assets are not part of the taxable base.

The rate of this tax is defined by each of the municipalities within the following ranges, delimited by law:

- For industrial activities, from 0.2% to 0.7%.
- For commercial and service activities, from 0.2% to 1.4%.

The ICT is 100% deductible from Income Tax, if it is linked to the taxpayer's income-producing activity.

7.7.2. Billboard advertising tax

This is a municipal tax, complementary to the ICT, which levies the placement of billboards, notices, and boards in the public space. The tax is collected from all individuals or corporations that conduct industrial, commercial, and service activities in the corresponding municipal jurisdictions.

The taxable base of this tax is the ICT, and the rate is 15%.

7.8. Property tax

This tax levies the ownership, possession and usufruct of real estate located in urban, suburban, or rural areas, with or without constructions in it.

Owners, possessors and usufructuaries of real estate are subject to this tax in the municipal jurisdiction where the property is located.

The taxable base of the property tax will be the cadastral value or the self-assessment valuation.

The applicable rate depends on the condition of the property, which in turn depends on factors such as its built-up area, location, and use. The rate ranges between 0.5% and 1.6%, on a differential basis, considering the economic use of each property.

This tax is 100% deductible, if it has a causal relationship with the taxpayer's income-producing activity.

7.9. Registration tax

This tax is levied on all acts, contracts or documentary legal transactions that are registered in the chambers of commerce or the public instrument registration offices.

Generally, the taxable base corresponds to the value incorporated in the document containing the act, contract, or legal business. However, this can vary depending of the type of act, for example, in the case of acts that imply an increase in the share capital or subscribed capital, the taxable base is constituted by the total value of the respective contribution; in the case of acts that do not imply any determined amount, the taxable base is established in accordance with the nature of the document; and when the act refers to immovable property, some particular rules must be followed.

Regarding the tax rate, this also depends on the type of act and the place of registration (Public instruments registration Office or Chamber of Commerce). The tax rates range from 0,1% to 1%.

When an act, contract or legal business must be registered both at the public instrument's registry office and at the chamber of commerce, the tax must be settled and paid only at the public instrument's registry office.

7.10. Stamp tax

Stamp tax is levied on the subscription of documents subject to registry where real estate is sold, the value of which exceeds 20,000 UVT (approximately USD \$199.257,61 by 2023).

The tax is calculated based on rates of 0%, 1.5% and 3%, and its taxable base is comprised by the value of the property,

from 20,000 UVT (approximately USD \$199,257 for 2023) onwards.

7.11. Unified tax under the simple taxation regime - SIMPLE

To boost formality and simplify compliance with tax obligations, Law 2010 of 2019 created the Unified Tax under the Simple Taxation Regime - SIMPLE ("Unified Tax"). The Unified Tax is an optional system of integral determination that substitutes

income tax and complementary taxes, consumption tax, ICT and complementary taxes, for taxpayers that voluntarily opt for this regime. Companies and individuals who decide to apply for the Unified Tax must apply before 28 February each year by updating their status in the National Tax Registry (RUT).

In order to be a taxpayer of the Unified Tax, the following conditions must be met:

<p>Being an individual carrying out a business activity or corporations whose shareholders are individuals who are tax residents in Colombia.</p>	<p>To have obtained in the previous taxable year gross ordinary or extraordinary income of less than 100,000 UVTs (approx. USD 996.288) or 12,000 UVTs (approx. USD 119.554) for professional services activities.</p>
<p>If one of the individual shareholders has one or more companies or participates in one or more companies, registered for tax purposes, the maximum income limits will be revised on a consolidated basis and in proportion to their participation.</p>	<p>If one of the individual shareholders has a shareholding of more than 10% in a company registered in the Unified Tax, the maximum income limits will be revised on a consolidated basis and in proportion to his shareholding.</p>
<p>If a shareholder is a director of other companies, the income ceilings will be reviewed on a consolidated basis with the companies managed by the shareholder.</p>	<p>The company must be up to date with its national, departmental, and municipal tax obligations and obligations to contribute to the comprehensive social security system. They must also be registered in the RUT and have electronic signature and electronic invoicing mechanisms.</p>
<p>Foreign corporations or their permanent establishments, companies engaged in factoring, asset management, financial consultancy, and certain energy activities, among others, will not be eligible for this system.</p>	



The rate of the Unified Tax would depend on the annual gross income and the business activity. Rates may vary between 2.0% and 14.5% on the gross income received during the corresponding taxable year. The tax rate will depend on the activity conducted and the level of income explained as follows:

a. Small shops, mini-markets, micro-markets, and hairdressers:

Gross annual income		Consolidated SIMPLE rate
Equal or higher (UVT)	Lower (UVT)	
0	6.000	1,2%
6.000	15.000	2,8%
15.000	30.000	4,4%
30.000	100.000	5,6%

b. Wholesale and retail trade activities; technical and mechanical services in which the material factor predominates over the intellectual factor, electricians, bricklayers, construction services, vehicle, and appliance repair shops; industrial activities, including ago-, mini- and micro-industry; telecommunications activities and other activities not included in the following numerals:

Gross annual income		Consolidated SIMPLE rate
Equal or higher (UVT)	Lower (UVT)	
0	6.000	1,6%
6.000	15.000	2,0%
15.000	30.000	3,5%
30.000	100.000	4,5%

c. Professional, consultancy and scientific services in which the intellectual factor predominates over the material factor, including services of liberal professions:

Gross annual income		Consolidated SIMPLE rate
Equal or higher (UVT)	Equal or higher (UVT)	
0	6.000	7,3%
6.000	12.000	8,3%

d. Food and beverage service activities and transport activities:

Gross annual income		Consolidated SIMPLE rate
Equal or higher (UVT)	Equal or higher (UVT)	
0	6.000	3,1%
6.000	15.000	3,4%
15.000	30.000	4,0%
30.000	100.000	4,5%

e. Education and human health care and social welfare activities:

Gross annual income		Consolidated SIMPLE rate
Equal or higher (UVT)	Equal or higher (UVT)	
0	6.000	3,7%
6.000	15.000	5,0%
15.000	30.000	5,4%
30.000	100.000	5,9%

In addition, taxpayers of the Unified Tax may be liable for VAT or national consumption tax. Unified Tax taxpayers are not subject to WHT and are not WHT agents and self-WHT, except for WHT for labor payments and must pay a bimonthly advance payment of the Unified Tax.

7.12. GMF

The GMF is levied on financial transactions such as the deposit of resources in bank accounts, including deposit accounts in the Colombian Central Bank and the issue of cashier's checks. As it is an instantaneous tax, it is levied now when the resources subject to the financial transaction are disposed.

The rate is 0.4% of the total value of the financial transaction through which the resources are disposed of. The GMF is

deductible from the taxpayer's income tax at a rate of 50%, on the amounts paid for this tax, regardless of whether they have a causal relationship with the taxpayer's income-producing activity.

The collection of this tax is made through WHT by the Colombian Central Bank and the entities supervised by the Financial Superintendence of Colombia or of the Solidarity Economy, in which the respective current, savings, deposit or collective portfolio accounts are held, or where the accounting movements that imply the transfer or disposal of resources are carried out.

The law establishes a series of operations or transactions that are exempt from this tax, so the analysis must be carried on a case-by-case bases.

7.13. Regulatory Framework

RULE	SUBJECT
<p>National Tax Statute (Extraordinary Decree 624 of 1989)</p>	<p>Establishes the elements of the tax (taxpayer, taxable event, taxable base, rate, tax exemptions).</p> <p>CIT and Complementary Taxes: regulates admissible deductions; tax residency; the transfer pricing regime; the capital gains regime, among others.</p> <p>Value-added tax VAT: establishes the persons liable for VAT, the rate applicable to certain goods and services, exemptions and exclusions, the requirements for presenting deductions, the common regime, the simplified regime, the regime for importing and exporting goods, the calculation of proportionality, among others.</p> <p>Financial Transaction Tax GMF: determines the generating events, the applicable exemptions, and the WHT agents.</p> <p>It also contains the main formal (procedural) aspects associated with compliance with tax obligations:</p> <ul style="list-style-type: none"> • WHT. • Tax procedure. • Penalties for non-compliance with tax obligations.

RULE	SUBJECT
Law 223 of 1995	<p>Contains the main rules related to tax rationalization, noting among others:</p> <ul style="list-style-type: none"> • Goods that are not subject to VAT. • Goods that are excluded from VAT. • Imports exempt from VAT.
Law 14 of 1983	<p>Establishes detailed rules on the essential elements of the main territorial and departmental taxes, such as:</p> <ul style="list-style-type: none"> • Property Tax. • Industry and Commerce Tax (ICA). • Excise tax on liquor. • Cigarette tax.
Law 84 of 1915	<p>Regulates the powers granted to Municipal Councils and Departmental Assemblies in the management of territorial taxes.</p>
Law 633 of 2000	<p>Modifies national taxes (income tax, VAT, GMF).</p>
Law 788 of 2002	<p>Establishes modifications to the tax procedure regime (tax regimes, sanctioning procedures, VAT exempt goods, tariffs, among others).</p>
Law 1430 of 2010	<p>Modifies the generating event and GMF exemptions. Modifies aspects related to taxpayers in territorial taxes.</p>
Law 1607 of 2012	<p>Introduces several changes to the entire National Tax Statute. It modifies the registration tax; creates the consumption tax and modifies the gasoline and ACPM tax regime, among others.</p>
Decree 3026 of 2013	<p>Introduces regulations on permanent establishments in Colombia.</p>

RULE	SUBJECT
Decree 3027 of 2013	Introduces thin capitalization rules in Colombia.
Decree 3028 of 2013	Introduces the regulations regarding tax residency for individuals and foreign entities considered nationals because they have their effective seat of administration in Colombia.
Decree 3030 of 2013	Introduces amendments to the transfer pricing regulations.
Law 1739 of 2014	Introduces some modifications to the GMF; creates the wealth tax; introduces some modifications to the income tax.
Law 1753 of 2015	Which enacts the National Development Plan 2014-2018 "Todos por un Nuevo País" (All for a New Country).
Decree 1050 of 2015	Correcting errors in articles 21,31,41,57,70 of Law 1739 of 2014.
Decree 1123 of 2015	By which articles 35, 55, 56, 56, 57 and 58 of Law 1739 of 2014 are regulated, for application before the U.A.E. National Tax and Customs Directorate (DIAN).
Decree 2452 of 2015	Regulating articles 53 and 54 of Law 1739 of 2014.
Decree 1625 of 2016	<p>Single regulatory decree on taxation (has been amended and supplemented by about 27 decrees to date).</p> <p>Some relevant amending decrees are:</p> <ul style="list-style-type: none"> • D. 2201 of 2016: New special income self-withholding. • D. 1998 of 2017: It regulates tax reconciliation, the purpose of which is to control any differences that may arise between the new accounting frameworks and the provisions of the Tax Statute. • D. 2150 of 2017: Special tax regime and tax benefit for donations.

RULE	SUBJECT
Law 1819 of 2016	Whereby a structural tax reform is adopted, mechanisms to combat tax evasion and avoidance are strengthened, and other provisions are enacted.
Law 2010 of 2019	Whereby rules are adopted for the promotion of economic growth, employment, investment, the strengthening of public finances and the progressiveness, equity, and efficiency of the tax system, in accordance with the objectives that drove Law 1943 of 2018 on the matter, and other provisions are enacted.
Law 2277 of 2022	Whereby a tax reform is adopted for equality and social justices, and other provisions are enacted.
FREE TRADE ZONES	
Law 1004 of 2005	Contains the essential elements, requirements, and procedures for accessing the free trade zone regime.
Decree 2147 of 2016, Decree 1165 of 2019 and Decree 278 of 2021	<p>The Ministry of Commerce, Industry and Tourism issued Decree No. 2147 of 23 December 2016, through which the free zones regime is modified and other provisions on customs matters are issued. This new regulation repeals Decrees 1767 of 2013, 753 of 2014, 2682 of 2014, 1300 of 2015, 2129 of 2015, 1275 of 2016 and 1689 of 2016, as well as several articles of Decree 2685 of 1999.</p> <p>It sets out the special procedures for users within free trade zones.</p> <p>It establishes the necessary requirements for the declaration of the existence of free zones, among other provisions.</p>
Decree 780 of 2008	Regulating Article 97 of Law 489 of 1998.

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