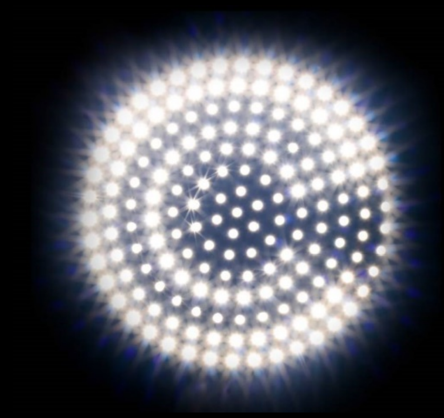
International Tax
Colombia Highlights 2017



Investment basics:

Currency – Colombian Peso (COP)

Foreign exchange control – Foreign exchange that is to be used for foreign direct investment may enter the country without central bank registration. However, the exchange market in Colombia comprises authorized exchange intermediaries, through which most foreign currency transactions by foreign investors must be transferred. Foreign capital investments, imports of goods, exports and currency used to repatriate profits must be directed through the exchange market. "Foreign residents" (a category different from foreign investors) in Colombia also must use the authorized exchange market for investments outside the country.

Accounting principles/financial statements – IFRS. Financial statements must be prepared annually.

Principal business entities – These are the joint stock corporation, limited liability company, partnership, simplified stock corporation and branch of a foreign company.

Corporate taxation:

Residence – A corporation is resident if it is organized under Colombian law, it has its main domicile in Colombia or if its administration headquarters is located in the country.

Basis – Resident companies are taxed on worldwide income. Foreign companies and branches of foreign companies are taxed only on their Colombia-source income.

When foreign companies conduct their corporate activities in Colombia through a fixed place of business (which is not necessarily a tangible fixed place of business place, such as an office), they are deemed to have a permanent establishment (PE) in Colombia. The Colombia-source profits earned by the PE will be subject to the income tax.

Taxable income – Taxable income is defined as gross income less returns, rebates, discounts, all ordinary costs incurred in obtaining net income and all allowable deductions. Corporate taxpayers may deduct costs that are "necessary and proportionate to the activities performed" in computing taxable income.

Taxation of dividends – Dividends and income from profit participations will be considered taxable income, regardless of whether they are paid from profits that have been taxed at the level of the distributing company: (prior to the 2017 tax reform, dividends paid from previously-taxed profits were exempt). See also "Dividends" under "Withholding tax, below."

Capital gains – Capital gains derived from the sale of assets held for two years or more are subject to capital gains tax. The tax rate on most capital gains is 10%.

Losses – Losses may be carried forward for 12 years. The carryback of losses is not permitted.

Rate – The corporate tax rate applicable to resident companies and PEs of nonresident companies is 34%. A lower rate of 20% applies to companies located in free trade zones.

Surtax – A temporary income tax surcharge is established for taxable years 2017 and 2018, at a rate of 6% for 2017 and 4% for 2018 on net income exceeding COP 800 million (approximately USD 266,667).

The income tax surcharge will be subject to an advance payment of 100% of its value, calculated on the taxable base for the income tax in the previous year, and paid in two equal annual installments.

Alternative minimum tax – A presumptive minimum income is calculated annually for income tax purposes, at a rate of 3.5% on the taxpayer's net worth held in the year immediately preceding the taxable year. Certain assets, such as shares held in Colombian companies, may be excluded from this calculation.

Foreign tax credit – A taxpayer may credit tax paid on foreign-source income, provided the foreign tax does not exceed the Colombian tax that would have been due on the same income received from abroad. For the credit to apply, the taxpayer must be a company resident in Colombia, its foreign income must be taxable in Colombia, the income tax paid abroad may not exceed the Colombian tax attributable to the income and the taxpayer must obtain certification of the withholding tax paid abroad.

Participation exemption – No

Holding company regime – No

Incentives – Incentives include a special free trade zone regime with a corporate income tax rate of 20%, and deductions for environmental and scientific investment.

Withholding tax:

Dividends – Dividends received by a foreign company or entity or by a nonresident individual from profits that were not taxed at the corporate level will be taxed at a rate of 35%, plus a special rate of 5%. If the dividends are paid from profits that were taxed at the corporate level, they will be subject only to the 5% rate.

Dividends received by an individual resident from profits that were not taxed at the corporate level will be taxed at a rate of 35%, plus a special rate of 0% to 10%, depending on their amount. If the dividends are paid from profits that were taxed at the corporate level, they will be subject only to the 0% to 10% rate.

Interest – Interest paid to a nonresident is subject to a final withholding tax of 15%. Interest payments made to a foreign entity on loans granted for the development of infrastructure programs that meet certain requirements are subject to a reduced withholding tax rate of 5%.

Royalties – Royalties paid to a nonresident company generally are subject to a final withholding tax of 15%.

Technical service fees – The withholding tax rate on technical service fees is 15%.

Branch remittance tax – Profits remitted abroad by a branch of a foreign company that have not been subject to tax at the corporate level are subject to a 35% withholding tax, plus a special rate of 5%. Only the 5% rate applies to profit remittances that have been taxed at the corporate level.

Other – Management fees paid for services rendered in Colombia or abroad are subject to a 15% withholding tax.

According to the 2017 tax reform, the government may establish a list of low or no-tax jurisdictions. Payments made to such jurisdictions may be deductible for income tax purposes only if they were subject to a withholding tax.

Other taxes on corporations:

Capital duty – No, but see registration tax under "Other," below.

Payroll tax – An employer must contribute 9% of monthly payroll, with 3% allocated to the Institute for Family Welfare, 2% to the National Apprenticeship Service and 4% to the Family Subsidy Fund. Payroll tax is not applicable for employees who earn less than 10 minimum monthly wages.

Real property tax – Real estate is subject to municipal taxation, usually levied at rates within a band based on the value of property, without regard to the number of owners or the taxpayer's personal wealth.

Social security – The employer's contribution for pay-related social insurance is 8.5% of salary for health insurance, 12% for the general pension scheme and a percentage (which varies by job type) for work accident insurance. The employer also must withhold and remit the employee’s share of social security contributions.

Stamp duty – The stamp duty rate currently is 0%. See also registration tax under “Other,” below.

Transfer tax – No

Other – Registration tax applies to documents (e.g. legal acts, bylaws, etc.) registered with the Chamber of Commerce (0.3% to 0.7%) or the Registry of Public Deeds (0.5% to 1%), calculated on items such as subscribed capital, transaction amounts stated in the document to be registered or the appraisal value of immovable property. Relief is available if a document or act is subject to both registration tax and stamp duty (stamp duty will not be levied) or to registration in both the Chamber of Commerce and the Registry of Public Deeds (where the public deeds levy is imposed).

A municipal industry and trade tax, ranging from 0.2% to 1%, is levied on gross receipts derived from carrying out industrial, commercial and service activities within a municipal territory in Colombia.

A 0.4% financial transactions tax is imposed on withdrawals from checking and savings accounts in financial institutions, as well as on accounts held with the central bank.

Anti-avoidance rules:

Transfer pricing – The transfer pricing regime is based on the OECD transfer pricing guidelines, with the arm's length principle applying in setting base prices and profit margins on transactions with foreign related parties. Taxpayers engaged in related party transactions must file an annual return and generally must prepare a transfer pricing analysis.

Advance pricing agreements (APAs) may be negotiated with the local tax authorities.

Thin capitalization – The thin capitalization rules limit the deduction of interest on debt that exceeds a debt-to-equity ratio of 3:1. Interest exceeding this ratio cannot be deducted for income tax purposes.

Controlled foreign companies – A Colombian tax resident that owns a direct or indirect participation of at least 10% in a foreign entity that is considered a CFC will be taxed currently on its proportionate share of the CFC's income (including passive income), costs, expenses and deductions. A foreign entity will be considered a CFC if it qualifies as a subordinated or controlled company according to the commercial regulations and is considered a foreign related party of the Colombian resident.

Disclosure requirements – No

Other – A general anti-avoidance rule applies to combat transactions and structures that lack economic substance or a business purpose.

Compliance for corporations:

Tax year – Calendar year

Consolidated returns – Consolidated returns generally are not allowed (except in the case of the transfer pricing return); each company must submit a separate return.

Filing requirements – A self-assessment system applies, under which a company must complete a tax return and compute its own liability. The return must be filed by a deadline that is set annually (generally April-May) and that varies depending on the type of taxpayer and the last digit of the taxpayer's tax ID number.

Penalties – Late filing penalties amount to 5% per month of delay, up to 100% of the tax or withholding tax due. The penalty increases to 10% per month, with a 200% ceiling, for late filing. Late payment interest also is charged. The penalty for amendments is 10% of the additional tax.

Rulings – APAs may be obtained under the transfer pricing rules.

Personal taxation:

Basis – A resident individual is taxed on worldwide income; a nonresident is taxed only on Colombia-source income.

Residence – An individual is resident for tax purposes if he/she is present in Colombia for more than 183 days (whether or not continuously) in a 365-day period.

Filing status – Joint filing is not permitted; each individual must file his/her own tax return, if so required.

Taxable income – Most income, including capital gains, is subject to taxation. Pension fund contributions, in principle, are not taxed and 25% of all labor income is exempt.

Capital gains – Capital gains (e.g. inheritances, gifts and proceeds from the sale of real estate) are subject to tax at a rate of 10%. However, gains derived from the sale of shares through a stock exchange are exempt, provided the shares sold do not represent more than 10% of the total shares of the Colombian company that issued the shares.

Deductions and allowances – Colombia provides deductions and allowances for health expenditure and the purchase (and related interest) of a residence. Deductible mortgage interest is limited.

Rates – The maximum income tax rate for individuals is 33% for labor income and 35% for non-labor income. The calculation of income tax payable for individuals has changed as from 2017, and must be computed by separating the income received from different sources (employment income, pensions, royalties, other non-employment income and dividends and profit participations), and aggregating the tax payable for each source of income. Special rules apply for stock-based compensation.

Other taxes on individuals:

Capital duty – No, but see discussion of registration tax under "Other" in the corporate tax section.

Stamp duty – The stamp duty rate currently is 0%. See also the discussion of registration tax under "Other" in the corporate tax section.

Capital acquisitions tax – No

Real property tax – Real estate is subject to municipal taxation, which usually is levied at rates within a band based on the value of property, without regard to the number of owners or the taxpayer's personal wealth.

Inheritance/estate tax – Inheritances and gifts are treated as capital gains and are subject to tax.

Net wealth/net worth tax – A wealth tax is payable for tax years 2015-2018. The tax is levied at progressive tax rates ranging between 0.125% and 1.5%, and is expected to be eliminated as from 2019.

Social security – An employee contributes 4% of salary for pension and health contributions. The employer withholds and remits the employee's share of the contributions to the government.

Compliance for individuals:

Tax year – Calendar year

Filing and payment – Tax on wages is withheld by the employer and remitted to the tax authorities. A resident is required to file an income tax return unless his/her income or total net assets do not exceed a limit set annually by the government.

Penalties – The penalty for late filing is 5% per month of delay, up to 100% of the tax or withholding tax due. The penalty increases to 10% per month, with a 200% ceiling, in the case of late filing. Interest for late payments also is charged. The penalty for amendments is 10% of the additional tax.

Value added tax:

Taxable transactions – VAT is levied on the sale of tangible goods; the import of tangible goods; the sale or transfer of rights over intangible assets associated with industrial property; and the provision of services (including the acquisition or the exploitation of intangibles from abroad in Colombia), regardless of whether the services are rendered within the Colombian territory or overseas, as long as the beneficiary of the services is located in Colombia.

Rates – The standard VAT rate is 19%, with a preferential rate of 0% applying to exports and certain domestic supplies. A 5% rate also applies to certain goods and services.

Registration – VAT taxpayers must register with the local tax authorities and obtain a VAT identification number. There is no threshold for registration purposes.

Filing and payment – VAT is computed bimonthly or quarterly, depending on the net profits of the previous taxable year. The subtraction method is used to compute VAT, crediting taxes paid on purchases against tax liabilities arising from sales.

Special rules are provided for small taxpayers.

Source of tax law: The Statutory Tax Code covers income, VAT, asset and stamp taxes. Other taxes are covered by special laws, decrees or local ordinances.

Tax treaties: Colombia has ten tax treaties in force.

Tax authorities: National Tax and Customs Office (DIAN)

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