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#### Introduction

## Year 2023 begins with several global challenges which includes the threat of a slowdown, or even a recession,

in the worldwide economy, increase in interest rates aimed to reduce inflation, dollar volatility, and geopolitical issues particularly the Russia-Ukraine conflict.



With a sustained positive GDP growth of 3.8% in average from 2000 to 2019, which was reduced due to the COVID-19 pandemic in 2020, Colombia recovered its growth path in 2021. During this year, Colombia had a GDP growth of 10.6%; percentage higher than most of the countries in the world. It is expected for Colombia to close 2022 with a GDP growth of 8%, and the International Monetary Fund anticipates a GDP growth of 2.2% for Colombia in 2023, compared to 1.7% for Latin America. In addition, according to the International Monetary Fund, the fiscal deficit in Colombia as a proportion of the GDP would end 2022 at 3.1%.

Furthermore, Colombia has had a controlled one-digit inflation rate from 1999 to 2021. In 2022, inflation reached 13.12% following the worldwide trend. In the same way other countries have done, several measures have been adopted to control the inflation rate growth, such as the increase in interest rates by the Colombian Central Bank and the deindexation from the inflation rate of certain goods, services and fines, among others. Although there are no official inflation goals published today, the Government has announced informally a goal between 7% to 8% for 2023.

On the other hand, Colombia has been positioned as one of the most attractive destinations for investors. In 2022 direct foreign investment in Colombia grew 57.8% as reported by the Colombian Central Bank. The Global Competitiveness Report (World Economic Forum), evidenced an improvement in business perception of the country's competitiveness, advancing in 45 of the 51 variables measured. Among these,

it is worth mentioning advance in the quality of institutions, infrastructure, skills of the workforce, business dynamism and capacities for innovation.

Colombia is the third Latin American country, behind Uruguay and Costa Rica, with the greatest progress in the energy transition, according to the Energy Transition Index (World Economic Forum). Colombia is working towards to comply with its commitment to reach carbon neutrality by 2050.

Colombia ranks in the 25th position (and ranking first for Latin American countries) among the best countries for entrepreneurs in 2022, according to the Global Entrepreneurship Monitor (GEM) which each year presents its comparative assessment of national entrepreneurial conditions (World Economic Forum). In 2019, the first Colombian start-up made it to the list of the 10 Latin American unicorns.







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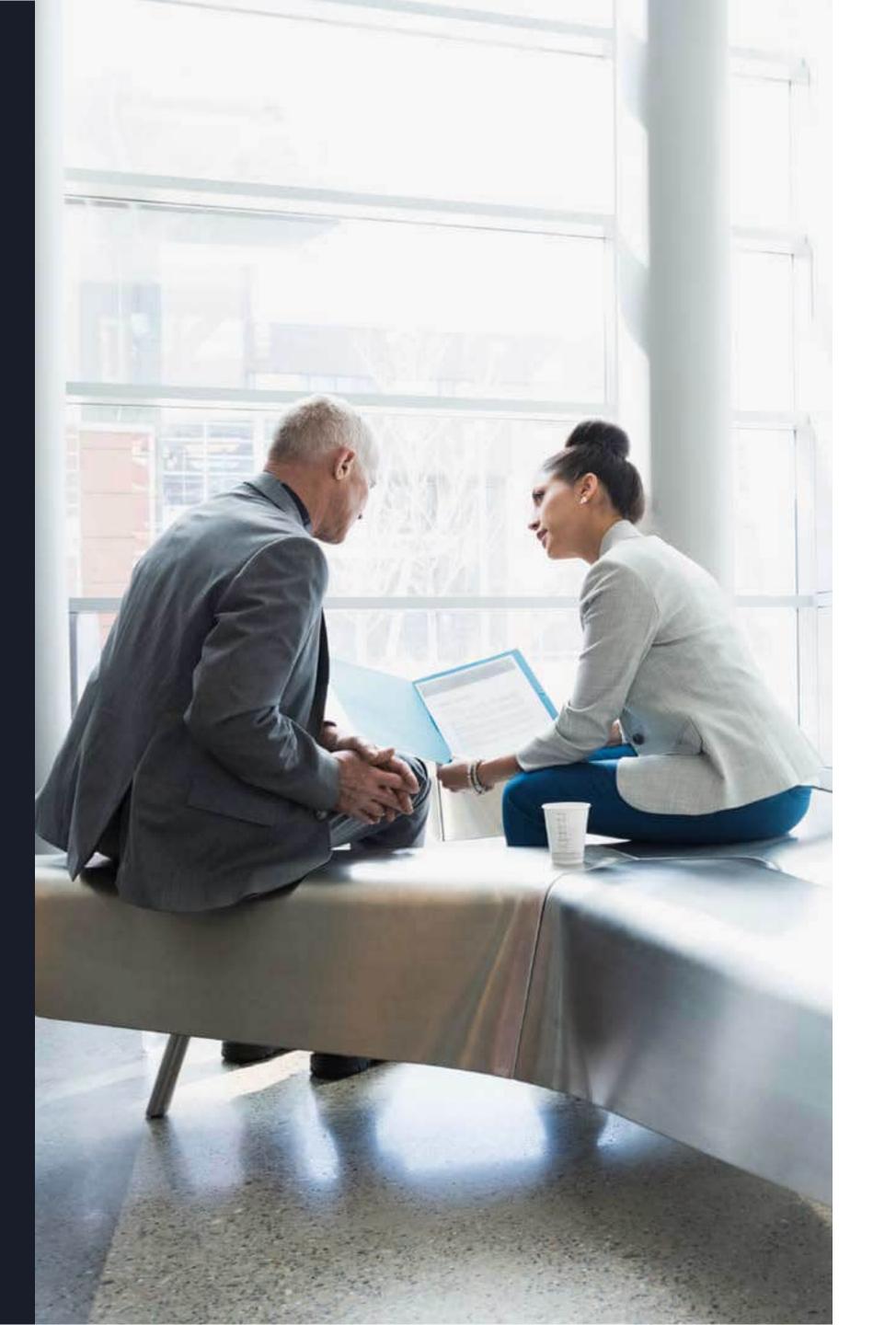
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This positive stride is the result, among others, of the Peace Agreement with FARC-EP reached in 2016, which ended five decades of armed conflict with the oldest guerilla in the continent; major reforms promoted by the Colombian Government during the last years to align its legislation, policies and practices to OECD standards, organization to which Colombia is a member since 2020 being the third Member country from Latin America and the Caribbean to join, following Mexico and Chile; and continued discipline in the application of the "fiscal rule" which determines a fiscal deficit ceiling.

The country has developed a robust net of double taxation treaties, bilateral investments protection and promotion agreements and free trade agreements. Colombia is a member of the Pacific Alliance formed by Colombia, Chile, Mexico and Peru, one of the most relevant efforts towards regional integration of recent decades and the eight largest economy in

the world, which is reinforced by the Latin American Integrated Market (MILA), which is the integration of the member countries' stock exchanges. Additionally, Colombia is member of the World Trade Organization and the Community of Andean Nations integrated by Colombia, Bolivia, Ecuador and Peru.

In the year 2022, Colombia had both Presidential and Congressional elections. Mr. Gustavo Petro and Ms. Francia Márquez were elected as President and Vice-president, respectively, members of the Pacto Histórico, a political coalition of left and center-left wing political parties and movements. This new Government took office on August 7, 2022 for a 4-year term.







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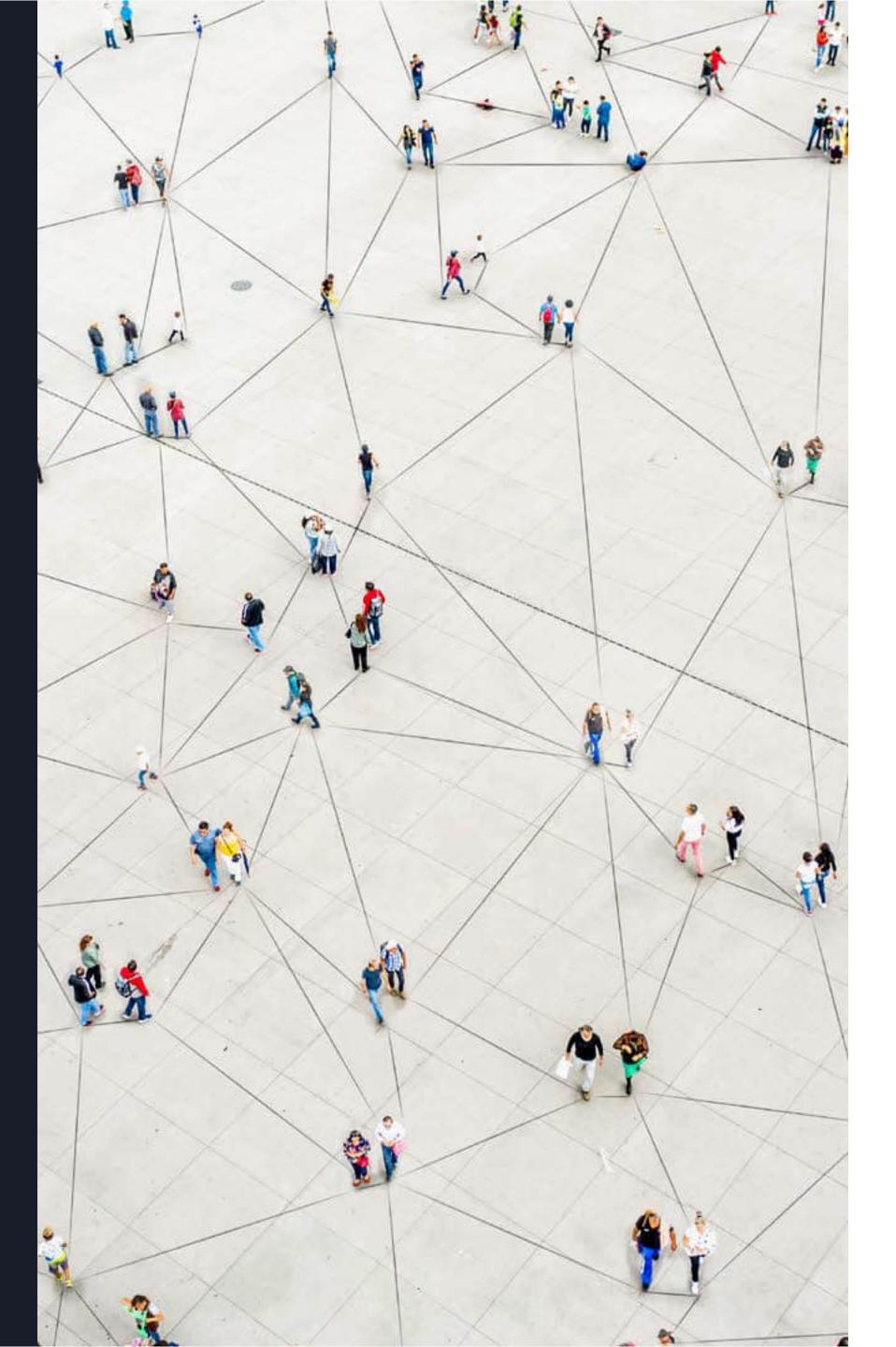
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2023 will be also marked by ambitious legislative reforms promoted by the Government including the labor regime, the pension regime, the health system, and the justice system. Also, the National Development Plan called "Colombia, world power of life" should be approved, and will define the guidelines of public policy for this 4-year period around five pillars: land use planning around water and environmental justice; human security and social justice; human right to food; internationalization, productive transformation for life and climate action; and regional convergence.

The agenda will also include the evolution and definitions of relevant issues such as the peace conversations with different groups named "Total Peace", the reestablishment of commercial and diplomatic relations with Venezuela, the new tariff policy and the roadmap for the energy transition.

This Business & Investment Guide in Colombia 2023 is a tool for foreign and national investors, by summarizing key information regarding the main corporate, tax, customs, labor and exchange control matters within the country, and providing general information on how to invest and do business in the country.

Through this Business and Investment Guide we, as EY, commit ourselves to support Colombia's growth by helping companies to start, grow and succeed. This way, we deliver on our purpose of "building a better working world".

This guide contains information updated as of January 15, 2023.







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Colombia is the only country in South America with access to both the Atlantic and the Pacific Oceans, with a competitive location with easy access to markets around the world.

Colombia's geographic

area is larger than

all Central America

Medellin was chosen

Forum as the first

Revolution.

by the World Economic

Spanish-speaking city to

open a regional center

for the Fourth Industrial

combined.

^

Colombia does not have seasons; as it is near the equator, it has sunlight throughout the year.

Colombia is one of

democracies in

Latin America.

the oldest and stable

Colombia is the second most biodiverse country in the planet and has the highest amount of species by area in the world.

Colombia has a dynamic and young population spread throughout multiple development centers: nine major urban centers with over 500,000 inhabitants.

Bogota has a privileged geographical position in the center of the continent, offering a wide range of international connections. It has a terminal cargo with one of the best cargo transport capacity in Latin America.



### Colombia is located on a strategic point for maritime and transport activitiés.

It is close geographically to the Panama Canal, a crossroad for the main lines of global trade communication, which is a strategic connection point between North America, South America and Asia.



freshwater volumes and seventh with more water sources.













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### **Population**

49 million

75% urban 25% rural



### Religion

Freedom of worship; 90% Roman Catholic



# Surface area 1,141,748 km²



### Climate

Diversity of climates



### Currency

Colombian Peso (COP\$)

USD\$1= COP\$ 4,810.20

https://www.banrep.gov.co/es/estadisticas/trm



### Time zone

GMT - 5/5 hours behind Greenwich Mean Time). There is no daylight savings time, and the time zone is the same toughtout entire country



### Main languages Spanish



### **Natural resources**

Emeralds, gold, nickel, coal, hydrocarbons, other minerals, coffee, flowers, bananas







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Legal vehicles

Bogota, Colombia view of cityscape.

### Colombian commercial law provides for different types of legal vehicles by means of which investors can establish a permanent business presence in Colombia.

Currently, the most common legal vehicles are: Simplified Share Companies (Sociedades por Acciones Simplificada), and branch offices of foreign companies (Sucursales). Traditional legal entities such as Corporations (Sociedades Anónimas) and Limited Liability Companies (Sociedades de Responsabilidad Limitada) are still used but have been replaced in general by Simplified Share Companies.

he legislation provides additional types of legal entities: Partnerships (Sociedades Colectivas) and Limited Partnerships (Sociedades en Comandita Simple or Sociedades en Comandita por Acciones). However, these corporate forms are not frequently used due to liability exposure issues for equity-interest holders and specific management rules. Limited Partnerships are frequently used only as standard family business vehicles but have recently been replaced by Simplified Share Companies that provide more flexibility.

## Simplified Share Companies (Sociedades por Acciones Simplificada or "S.A.S.").

The S.A.S. are the legal vehicle of choice for both local and foreign investors, regardless of the industry or the size of the business to be undertaken, due to its simplified scheme, which allows greater ease in the administration and management of companies, with emphasis on the will of the shareholders expressed through the bylaws, its primary source of regulation.

This type of entity allows for flexibility in several aspects such as the negotiation of shares and the payment of capital, and is therefore, a convenient vehicle for the pursuit of incorporated joint ventures.









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#### Liability

The shareholders' liability is limited to the amount of their capital contributions. The shareholders are not liable for labor, tax or any other type of obligations of the S.A.S. However, they shall be held liable before third parties whenever the company is used to defraud legal regulations or affect the rights of third parties (piercing of the entity's corporate veil).



#### Incorporation

The incorporation is usually executed by means of a notarized private document registered in the Mercantile Registry of the Chamber of Commerce of the city where the company is going to be domiciled. If the contributions include assets that, according to the applicable law, require public deed for their transfer such as real estate, the incorporation must be formalized by means of a notary public deed.



#### Centralized management

S.A.S. are not required by law to have a board of directors as a statutory corporate body. The management and representation powers are assigned to the legal representative (which can be an individual or a legal entity, local o foreign) and main corporate powers are exercised by the Shareholders General Assembly.



#### Control

Appointing a local statutory auditor (revisor fiscal) is mandatory only if certain levels of assets and/or revenues are reached, threshold that should be assessed annually.



#### Transfer of shares

The company by laws may require the previous authorization of the shareholders meeting for the transfer of shares, and may establish the prohibition of negotiation of the shares for a maximum period of 10 years, among other restrictions or conditions on the negotiability of the shares subject to the free will of the shareholders.



#### Capital concentration and minimum number of shareholders

There are no restrictions on capital concentration, as one single shareholder can hold 100% of the shares. A S.A.S. requires just one shareholder for its establishment and operation (individuals or legal entities, local or foreign).



#### Corporate purpose

The corporate purpose of a S.A.S. may be unlimited, granting the company capacity to perform any type of lawful commercial activity (other investment vehicles require a specific, limited corporate purpose).



#### Term of duration

The term of duration may be perpetual (other investment vehicles require specific, limited term of duration).











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#### Types of shares

Shareholders may agree in the bylaws to create different types of shares. The terms and conditions of each type of share must be written on the back of each share title, which may vary according to the rights to vote, to receive profits, other preferences or any other considerations that the shareholders may decide upon without trespassing general corporate laws. This flexibility makes S.A.S. a very interest vehicle as it can be used for numerous purposes, including estate planning, family business and large corporations.



#### Legal reserve

Per the interpretation of the Office of the Superintendence of Companies, in the case of S.A.S., the legal reserve is not mandatory, provided such reserve is not contemplated in the company's bylaws. All other legal vehicles must reserve 10% of every year's distributable profits until a reserve equal to 50% of the company's share capital is accumulated.



#### Shareholder agreements

Shareholders may execute binding shareholder agreements among them to regulate any issue.

The most common agreements deal with the manner in which certain decisions must be voted by the shareholders, provisions regarding the sale of shares, rights of first refusal in the acquisition of shares, limitation to the sale of shares, and capitalization agreements. It is also very common to find clauses such as calls and puts, tag along, drag along, and buy-out agreements. These agreements must be deposited before the company's administration and will have binding power before the company and its shareholders to the extent that if not observed by the participating parties, the company's administrator can disregard all decisions taken while in breach of the agreement.



#### Continuity - Special causes for dissolution

The non-compliance with the going concern assumption shall constitute a special cause for dissolution of the company. The company administration is responsible for assessing whether there is any doubt on the company's ability to continue as a going concern, and in that case, the company enters into cause for dissolution. Under such circumstances, administrators shall refrain to undertake any type of transaction that is not part of the ordinary course of business and shall immediately summon the shareholders assembly to inform the shareholders of such situation. The shareholders shall receive proper documentation and evidence in order to make an informed decision concerning the continuity or liquidation of the company. If the administrators fail to comply with these duties, they shall be jointly and severally liable for any damages caused to the shareholders or third parties.



#### **Others**

The shares of a S.A.S. (and in general, any security) cannot be listed on the stock exchange.

The S.A.S. generates savings in transactional costs, since its incorporation and amendments to the company bylaws are formalized by means of a private document (not by a public deed granted before a notary public, except if there is real estate involved). Thus, no notary fees and VAT on the notary rights accrue for the amendments to the company bylaws, and only accrues registration tax.







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Drafting of the by-laws, private document or public deed (if applicable) and the acceptance letters of the managers in accordance with business laws and the shareholders interests.

Registration of the company before the Mercantile Registry of the Chamber of Commerce and appointment of the managers.

>

Processing of the National Tax Registry (RUT) application to obtain the Tax Identification Number (NIT) of the Colombian company (this includes VAT and corporate income tax registration) >

Processing of the Tax Identification Registry (RIT) for local taxes before the main office Municipal Tax Administration.

>

Registration of the corporate books and control situation (if applicable) before the Mercantile Registry.

Channeling, through the foreign exchange market, of the foreign currency that will make up the company's capital, and to obtain the proper foreign investment registration before the Central Bank.









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## Branch offices of foreign companies (Sucursal)

# Branch offices are ongoing concerns or commercial establishments opened in Colombia by a foreign company for the development of its corporate businesses or part of it.

The branch office and its home office are deemed to be one and the same legal entity, and therefore, the branch office cannot have a different or greater legal capacity than its home office; and it is not legally possible to execute contracts between the home office and its branch office in Colombia. Nevertheless, for foreign exchange and customs purposes branch offices and their home offices are treated as separate entities, being allowed to make and receive payments for imports and exports of goods.

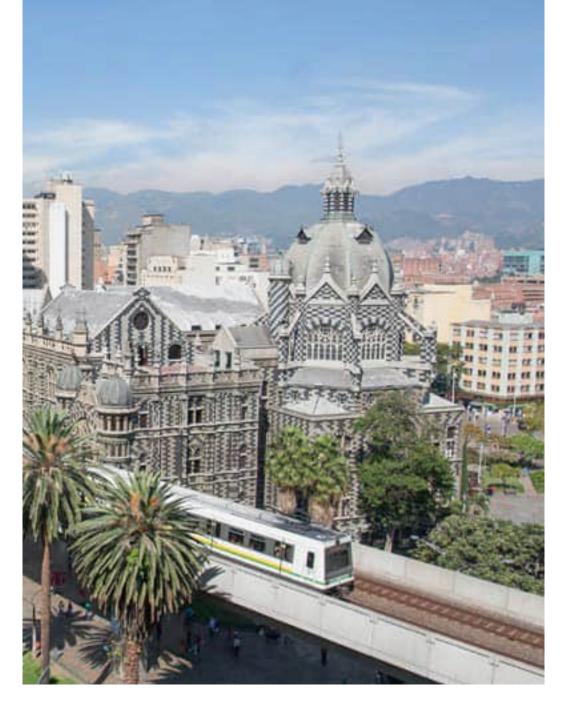
Colombian commercial laws provide that if a foreign company undertakes a permanent activity in Colombia, such foreign company must register a branch office in Colombia with the purpose of carrying out those activities in the country.

The notion of permanent activity is provided for in Colombian commercial regulations and is different from the concept of permanent establishment for tax purposes. (For Permanent Establishment considerations please refer to the chapter on *Paying corporate taxes*).

The permanent activity concept has no legal definition, only a general (non-exhaustive) list of activities that may qualify as permanent activities.

However, local authorities have recognized that said list is insufficient to determine if any given activity is permanent and therefore, the determination on whether an activity is permanent for Colombian purposes should consider the particular facts and circumstances surrounding the development of the activities performed in Colombia; such as their nature and scope, regularity or duration, the infrastructure deployed in Colombia for the developing of the activities, in order to be able to establish the permanent or transitory character thereof.

Final determination on whether an activity constitutes a permanent activity or not in Colombia is an issue that is mainly subject to



The Medellín tramway is a means of rail transportation, urban electric passenger and operates in the city of Medellín.

the Office of the Superintendent of Companies' interpretation of the nature of the business undertaken in Colombia. If the Office of the Superintendent of Companies' considers that a foreign company is developing a permanent activity in Colombia, it may order the immediate suspension of all activities in Colombian territory until a branch office is registered and may impose fines. In addition, the individuals or representatives responsible for conducting the activities in Colombia may be held jointly and severally liable with the foreign entity for the activities performed within Colombian territory.







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#### Liability

The home office is jointly and severally liable for all of the branch office's obligations in Colombia, including but not limited to labor and tax related obligations.



#### Registration

Resolution from the main office must be formalized by means of a Colombian notary public deed.



#### Control

Appointing a local statutory auditor (revisor fiscal) is mandatory upon registration of the branch office.



#### Centralized management

The management and representation powers are assigned to the legal representative/general agent (which can be an individual or a legal entity, local o foreign).



#### Continuity

Special causes for liquidation - The noncompliance with the going concern assumption shall constitute a special cause for liquidation of the branch office. The administrators of the branch office are responsible for assessing whether there is any doubt on the branch office's ability to continue as a going concern. Under such circumstances, administrators shall refrain to undertake any type of transaction that is not part of the ordinary course of business and shall immediately request a meeting of the maximum corporate body of the home office to inform of such situation. If the administrators fail to comply these duties, they shall be jointly and severally liable for any damages caused to the home office or third parties.



#### Legal reserve

Branch offices must reserve 10% of every year's profits until a reserve equal to 50% of the branch's assigned capital is accumulated.



#### Corporate purpose

The corporate purpose is limited to the activities of the home office and should be specific and limited.



#### Term of duration

The term of duration is limited to the duration of the home office and should be specific and limited.



#### Others

Branch offices may not be converted into any other type of local legal entity; and they cannot be a direct party to a merger or spin-off transaction. To convert a branch office into a Colombian legal entity, a cross-border corporate merger or similar process is required, and this is generally allowed in Colombia and subject to taxation.

Per the interpretation of the Office of the Superintendence of Companies, a foreign company can only have one branch office in Colombia.

The home office is jointly and severally liable for all of the branch office's obligations in Colombia, including but not limited to labor and tax related obligations.









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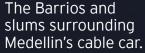
Granting a notary public deed containing the decision of the home office to register the branch office in Colombia, as well as a copy of the bylaws and certificate of good standing and certificate of incumbency of the home office and a power of attorney to proceed with the registration.

Registration of the branch office before the Chamber of Commerce's Mercantile Registry and appointment of the legal representative/ general agent.

Processing of the National Tax Registry (RUT) application to obtain the Tax Identification Number (NIT) and the processing of the Tax Identification Registry (RIT) for local taxes before the main office Municipal Tax Administration.

Channeling, through the foreign exchange market, of the foreign currency that will make up the branch's assigned capital, and to obtain the proper foreign investment registration before the Central Bank.

> The Barrios and slums surrounding









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Colombian woman in Cartagena de Indias with the traditional dress.

## Corporation (Sociedad Anónima or "S.A.")



#### Liability

The shareholders' liability is limited to the amount of their capital contributions.



#### Incorporation

The incorporation is by means of a notary public deed and registered before the Mercantile Registry of the corresponding Chamber of Commerce of the city where the company is incorporated.



#### Centralized management

Shareholders' meetings, board of directors (mandatory) and legal representative are all required.



#### Control

Appointing a local statutory auditor (revisor fiscal) is mandatory.



#### Transfer of shares

The transfer of shares is generally unrestricted. However, in closely held corporations the bylaws may provide for right of first refusal provisions in favor of the shareholders and/or the corporation.



#### Shareholder agreements

Shareholders may execute binding shareholder agreements among them to regulate the manner in which certain decisions must be voted by the shareholders.

These agreements must be deposited before the company's administration and will have binding power before the company and its shareholders to the extent that if not observed by the participating parties, the company's administrator can disregard all decisions taken while in breach of the agreement.









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# Capital concentration and minimum shareholders requirements

A minimum of five shareholders is required upon incorporation and during the existence of the corporation. No shareholder may own more than 94,9% of the subscribed shares; otherwise, the corporation will enter into a cause for dissolution due to capital concentration.



## Continuity - Special causes for dissolution

The noncompliance with the going concern assumption is a special cause for dissolution of the company, in the same terms as provided for S.A.S.; the reduction of the number of shareholders to less than five; and capital concentration, which occurs when a single shareholder holds 94,5% or more of the subscribed shares.



#### Legal reserve

Corporations must reserve 10% of every year's distributable profits until a reserve equal to 50% of the company's share capital is accumulated.



#### **Corporate purpose**

Requires a specific, limited corporate purpose.



#### Term of duration

The term of duration must be limited, although the same may be extended by decision of the shareholders.

A minimum of five shareholders is required upon incorporation and during the existence of the corporation. No shareholder may own more than 94,9% of the subscribed shares; otherwise, the corporation will enter into a cause for dissolution due to capital concentration.







### Limited liability companies (Sociedades de Responsabilidad Limitada or "Ltda.")



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#### Liability

The quota-holders' liability is limited to the amount of their capital contributions in all cases, except for labor and tax obligations (and except for tax related penalties) in respect of which they are jointly and severally liable with the company. Any quota-holder may assume a higher level of liability with respect to any obligation by means of the provisions of the bylaws, and also in case of failure to pay capital contributions at the time of the company's incorporation or of any capital increase, or in case the corporate name chosen for the company is not in accordance with the laws and therefore does not include the extension Ltda.



#### Incorporation

The incorporation is by means of a notary public deed registered before the Mercantile Registry of the Chamber of Commerce of the city where the company is going to be based.



#### Control

Appointing a local statutory auditor (revisor fiscal) is mandatory only if certain levels of assets and/or revenues are reached, threshold that should be assessed annually.



#### **Quota-holder Agreements**

Quota-holders may execute binding quota-holders' agreements among them to regulate the manner in which certain decisions must be voted by the quotaholders.

These agreements must be deposited before the company's administration and will have binding powers before the company and its quota-holders to the extent that if not observed by the participating parties, the company's administrator can disregard all decisions taken while in breach of the agreement.



#### Centralized management

Quota-holders' general assembly and legal representative (if the management duties corresponding to all the quota-holders are delegated). The board of directors is not required by law.



#### Legal reserve

Ltda.'s must reserve 10% of every year's distributable profits until a reserve equal to 50% of the company's capital is accumulated.



#### Transfer of quotas

The transfer of quotas qualifies as an amendment to the company bylaws; thus, it is subject to the prior approval of the quota-holders, the granting of a notary public deed and further registration with the Mercantile Registry of the Chamber of Commerce. A preemptive right in favor of the quota-holders for the subscription and transfer of quotas is established by law, unless otherwise established in the bylaws.



#### Capital concentration and minimum quota-holder requirements

There are no restrictions on capital concentration as long as there are at least two quota-holders at all times and a maximum of 25.



#### Continuity - Special causes for dissolution

The noncompliance with the going concern assumption is a special cause for dissolution of the company, in the same terms as provided for S.A.S.



#### Corporate purpose

Requires a specific, limited corporate purpose.



#### Term of duration

The term of duration must be limited, although the same may be extended by decision of the quota-holders.











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## Incorporation process

The incorporation of a subsidiary and the registration of a branch office require a local registered address for legal notifications and the appointment of a legal representative.

There is no limitation for the legal representative to be a non-resident, however, it is highly advisable to have a resident legal representative for day-to-day matters. The legal representatives must be registered before the RUT and the RIT and shall obtain an electronic signature mechanism for tax purposes. Such registration does not trigger per-se tax liabilities for the legal representatives in Colombia.

The incorporation of a subsidiary and the registration of a branch office are corporate procedures that can take between 10 to 15 business days, once all corporate information is ready for processing. In general, the incorporation process requires the following information, duly legalized (notarized and/or apostilled):

Certificate of good standing and certificate of incumbency of the foreign companies that will act as shareholders or home office.



Certified copy of the bylaws of the foreign company that will act as home office (in the case of registration of a branch).



Power of attorney granted to undertake all actions for the incorporation of a subsidiary or the registration of a branch office and to obtain all tax registrations.



### **Representation offices**

Foreign financial institutions and foreign insurance companies can promote their products and services in Colombia through a representative office. The purpose of the representative office is exclusively to promote products and services of the foreign financial entity, and therefore are not allowed to commercialize or establish commercial relations with costumers in the country. The registration of a representative office requires prior authorization from the Office of the Superintendence of Finance and compliance with certain regulations.

## National Tax Registry ("RUT")

All legal entities incorporated in Colombia, branch offices and permanent establishments registered in Colombia, as well as their legal representatives (Colombian or foreign residents), must register before the RUT to obtain a Tax Identification Number ("NIT").

The RUT is the single tax registration for national direct and indirect taxes.

Taxpayers have the obligation to update the information of the RUT, in case of change of corporate name, business address, legal representative, tax liabilities, among others. Such update must be made within the 30 days following the corresponding change.

Additional tax registrations may be required for local tax purposes, before local tax authorities.





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### Benefits granted under the Entrepreneurship Law

Reduced registration tax rates for microenterprises, triggered in the registration of acts and contracts before public registries. Reduced tariffs for sanitary and health registration of products for small and medium enterprises that are not part of large corporate groups.

Creation of sandboxes to facilitate the development of innovative and sustainable business models in all economic sectors, based on the flexibility of the regulatory framework and the simplification of procedures.

Promote participation of small and medium companies in public bids and contracts, by establishing differential requirements and additional scores based on the size of the companies, tiebreaking criteria, tenders addressed to this type of companies, among other measures.

### **Funding**

In general, Colombian legal vehicles can be funded via equity or debt. Please refer to the chapter on *Making Investments*.

## Duties and liabilities of company administrators

For Colombian commercial purposes the legal representative, the liquidator, the factor, the members of boards or councils of directors, and those who according to the bylaws perform or hold any administrative position are all considered administrators.

General provisions set forth that administrators must act in good faith, loyalty and with the diligence of a good businessman. Their performances should fulfill the interest of the company and its shareholders. The main duties of administrators, applicable to both resident and non-residents, are the following:



Carry out efforts leading to the adequate achievement of the corporate purpose.



Watch for the strict compliance of the legal and bylaw provisions.



See that the adequate performance of the duties entrusted to the statutory auditors is permitted.



Keep and protect the commercial and industrial reserve of the company.



Refrain from using privileged information in an undue manner.



Treat equally all shareholders and respect the exercise of the right of inspection by all of them.



Refrain from participating either personally or through a third party for his own interest or that of third parties, in activities that imply competence with the company or in acts in respect to which there is a conflict of interest, except by express authorization from the board of partners or the general stockholders' meeting.



Administrators respond jointly and severally for any damages caused by fraud or negligence to the company, shareholders or third parties, except when they had no knowledge of the acts or omissions, voted against these and have

supporting evidence to prove it.

The responsibility of the administrator is presumed whenever s/he acts in breach of its duties, exceeding them, or upon a violation of the law or the company's bylaws. Responsibility shall also be presumed when administrators have proposed or implemented a dividend distribution that is not justifiable by audited financial statements. The clauses of the corporate bylaws that intend to release administrators from their liability will be considered as non-enforceable. Recent judicial precedents have adopted the "Business Judgement Rule" when reviewing administrator liability cases.







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#### Other corporate matters



## Mergers and spin-offs

Companies may merge with others or be divided (split or spin off) by decision of the shareholders or quota-holders of the companies involved. Mergers are formalized with the granting of a notary public deed or the registration of the private document with the Chamber of Commerce in the case of S.A.S.; while spin-offs are formalized upon the registration of the notary public deed or private document with the Mercantile Registry of the Chamber of Commerce. Under certain conditions, merger and spin-off processes are subject to the prior authorization from governmental authorities:

the authorization from the Office of the Superintendence of Industry and Commerce when the transaction qualifies as business integration, to clear market concentration and antitrust issues; and the prior authorization from the corresponding surveillance authority, depending on the type of activity carried out by the involved companies and the special conditions of the operation. If there is no specific competency assigned to a specific surveillance authority, the Office of the Superintendence of Companies (surveillance authority for corporate and accounting issues) will be the competent agency. This entity verifies compliance with the law in order to protect the rights of the shareholders, quota-holders and of the creditors, in the case of companies' subject to surveillance by that entity.

Colombian laws do not restrict the implementation of cross-border mergers and spin-offs. For tax purposes, mergers and spin-offs do not qualify as a sale of assets if certain requirements are met which include that there is no change in control. If these requirements are met, the merger or spin-off procedure will be considered as a non-taxable event for corporate income tax and VAT purposes in Colombia. Mergers and spin-offs allow the transfer/use of existing tax shields (i.e., NOLs and excesses of presumptive income against net taxable income) within certain limitations.



### Redomiciliation (redomestication)

Colombian law does not provide for the possibility for Colombian companies to change their corporate domicile/ corporate seat to other jurisdictions, nor for foreign entities to redomiciliate into Colombia. Nevertheless, the change of corporate domicile of a Colombian entity may be achieved via other type of corporate reorganization procedures, such as cross-border mergers.



## Control situation and/or business group

Companies or individuals, either Colombian or foreign, that directly or indirectly control the decisionmaking power of Colombian companies shall register the control or business group situation before the Mercantile Registry of the Chamber of Commerce, within the 30 days following the creation (or change) of a situation of control and/ or business group. This is a corporate law obligation that is separate from the tax obligation to report the Ultimate Beneficial Owner (UBO). However, the basis to determine the existence of a UBO are similar to those provided under corporate law to determine the existence of a control situation, thus it is advisable to align the UBO analysis and the control situation analysis.



#### **Dividend distribution**

Profits may only be distributed based upon and to the extent they are shown on year-end financial statements duly approved by the shareholders or quota-holders general assembly (and audited, if applicable); and only as long as the losses do not reduce equity below capital levels. Notwithstanding the above, distributable profits may be accumulated for a later dividend distribution if approved by certain majority of the shareholders or quota-holders, given that a minimum 50% (70% in certain cases) dividend or profit distribution is mandatory unless otherwise approved by the shareholders or quota-holders general assembly with certain majorities set forth by law. The above rules are not applicable in the case of S.A.S.



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## Minimum annual corporate maintenance

Colombian subsidiaries shall comply with the following minimum annual obligations:

1

Hold the annual board of directors and shareholders / quota-holders general assembly Meeting to approve year-end financial statements and management report. In general, the meeting must be held within the first quarter of the financial year (calendar year). If the meeting is not held in such term, the shareholders meeting / quota-holders meeting will gather by their own right, the first business day of the month of April, at 10 a.m., in the offices of the main domicile where the administration of the company takes place. Annual meetings may be held via remote mechanisms (virtual meetings or by written votes).

2

Preparation of annual management report to be presented to the board of directors and/or Shareholders / Quotaholders General Assembly, with the content required under the law.

3

Preparation of special report to be presented to the board of directors and/or Shareholders / Quota-holders General Assembly, with the content required under the law, if part of a business group.

4

Annual renewal of the commercial registration before the Chamber of Commerce, before March 31st of every year.

If you are interested in more detailed information regarding corporate compliance, please scan the following QR code





Depending on the level of surveillance, the companies and branches shall file their annual financial statements before the Chamber of Commerce or the Office of the Superintendence of Companies. In the first case, the delivery shall be performed within the following month to the date of the approval of the financial statements. In the second case, the filing must be made following the deadlines established every year for that purpose.









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## Other contractual structures for the development of activities in Colombia

Colombian laws provide for several contractual structures for the development of activities in Colombia, such as the consortium and the temporary joint venture (unión temporal) for the participation in public bids; and in the case of private contracting, the association in participation agreements (cuentas en participación) or a non-regulated joint venture agreement. In any case, it should be analyzed if a permanent activity is deemed to be developed in Colombia by means of any of these types of contracts.



#### Consortium

The consortium is a contract by means of which two or more entities join together as one single party, in order to present a proposal for the award, execution and performance of a contract with a State owned entity, being held jointly liable for each and every one of the obligations arising from the proposal and contract. Consequently, the proceedings, acts and omissions that occur during the presentation of the proposal or the development of the contract will affect all of the members of the consortium.



## Temporary joint venture

This contractual figure originates when two or more entities join together as one single party, in order to present a proposal for the award, execution and performance of a contract with a State owned entity, being held jointly liable for the full compliance of the proposal and the development of the contract. However, the penalties and sanctions for the breach of obligations arising from the proposal and the contract will be imposed according to the participation of each of the members, as agreed in the joint venture agreement.



## Public-private partnerships

These are "mechanisms to attract private capital, that materializes in a contract that binds a State owned entity and an individual or legal entity for the supply of public goods and related services, which implies risk retention and risk allocation among the parties and payment methods according to the availability and the level of service of the infrastructure and/or service".



## Non-regulated joint venture agreement

A private contracting structure by means of which the parties decide upon the joint exploitation of a business, in order to distribute among the partners, the income, costs and expenses derived from the exploitation of the joint business, in the proportion agreed upon by the parties.



## Association in participation agreement

A private contracting structure usually implemented is the execution of an association in participation agreement by means of which entities or individuals qualified as merchants decide upon the joint exploitation of commercial operations, to be executed by one party in its own name and behalf (managing participant), with the obligation to render reports and distribute with the other participants (inactive or hidden participants) the profits or losses generated in the joint business, in the proportion agreed upon by the parties. The liability of the inactive or hidden participants is limited to their contributions unless they authorize the disclosure of their participation in the agreement, case in which they will be joint and severally liable with the managing partner before third parties.



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#### Consumer protection

According to the Colombian consumer protection regime, all producers are liable for the quality, suitability and safety of the products and services they offer to consumers. The breach of this obligation generates the following consequences: (i) several and joint liability of the producer and supplier for the warranty before the consumers; (ii) individual administrative liability before the authorities in charge of the supervision and control (Office of the Superintendence of Industry and Commerce); and (iii) liability for the damages caused by the defective product.

Producers, importers, distributors and retailers are responsible for the quality, suitability and safety characteristics and conditions of goods and services that they offer to consumers.



#### **Antitrust**

Colombia has antitrust regulations to promote the free competition and avoid the creation of cartels and monopolies. The Office of the Superintendence of Industry and Commerce issued a compilation of best practices and recommendations for companies to be included as part of their compliance programs.

Moreover, the Office of the Superintendence of Industry and Commerce is the entity in charge of authorizing the integration of companies, under certain conditions and different procedures (notification, fast track or full authorization). According to Colombian antitrust laws, a business integration occurs whenever companies involved in the same economic activity and participating in the same relevant market (even if the participate vertically or horizontally) execute operations intended to merge, consolidate, acquire control or integrate through any type of legal form.



#### Data privacy

Companies are required to comply with obligations related to the collection, use, treatment, processing and transfer of personal data.

Colombian data privacy regulations establish special obligations for the personal data treatment such as notices and consent requirements, special provisions for the processing of information of minors and other sensible data, registration of databases before the data privacy authority (Office of the Superintendence of Industry and Commerce), restrictions for the crossborder transfer of data, limitations to the processing and use of personal data, implementation of internal policies for the treatment of personal data and security of the information, among others.

All companies must implement a personal data protection program which consists mainly of: (i) treatment of information policy, (ii) privacy notice, (iii) notice of monitored areas, (iv) authorizations for the treatment of personal data, and the (v) manual of policies and internal procedures. Additionally, personal data clauses should be included in contracts with providers, clients and employees; and have transfer/transmission contracts, if the personal data will be delivered to third parties (in Colombia or abroad). Binding Corporate Rules approved by the Office of the Superintendence of Industry and Commerce may be adopted to perform cross border transfers of personal data to a data controller located abroad, that belongs to the same business group.

Compliance of the personal data protection program must be monitored regularly, and the employees must be constantly trained on this matter to prove the compliance of the "accountability principle". Also, appropriate security measures have to be implemented to avoid the fraudulent use of the data or its leak.









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#### Intellectual property and copyright

Colombia has comprehensive regulations for the protection of intellectual property and copyright aligned with international standards. Colombian is a party to numerous international and regional treaties such as the WIPO Convention, the Vienna and Nice Agreement, the Madrid Protocol, and the Decisions 351 and 486 of the Andean Nations Community.

Intellectual property and copyright protection is granted via the correspond registration (not just for its use). Unregistered trademarks have no direct legal protection. The registration of intellectual property and copyright grants the holder exclusive rights for the use and exploitation in the

country, and the power to limit any use or exploitation by third parties or the registration of signs that may result similar or identical or grant a license for its use by third parties.

The Office of the

Superintendence of Industry and Commerce is the authority in charge of the registration and protection of intellectual property rights, and also has the power to act as a specialized court on the matter. Copyright protection is in charge of the National Copyright Authority. In any case, the owner of the intellectual property or the copyrights can pursue legal actions to enforce its rights and seek compensation.



#### Anti-money laundering, terrorism financing and financing of weapons of mass destruction

Money laundering, terrorist financing and financing of weapons of mass destruction are criminal activities that generate negative consequences for the country's economy and for companies of all sectors, as they can be translated into operational, legal and reputational risks, among others.

Therefore, to control and mitigate such risks, certain companies are compelled to implement internal policies, comply with minimal standards and due diligence process, report suspicious transactions and send information to Colombian authorities on a regular basis, as well as to appoint a compliance officer.



#### Corporate governance

Colombian laws do not provide specific obligations regarding the implementation of corporate governance rules. However, the Office of the Superintendence of Finance (Código País); and the Office of the Superintendence of Companies, the Colombian Stock Agency, the Chambers of Commerce and other Business Associations (Guía de buenas prácticas de gobierno corporativo para empresas competitivas, productivas y perdurables) have published corporate governance guidelines and recommendations based on what are considered best practices with regards to rules that define the relationship between shareholders, directors, management, authorities and stakeholders.

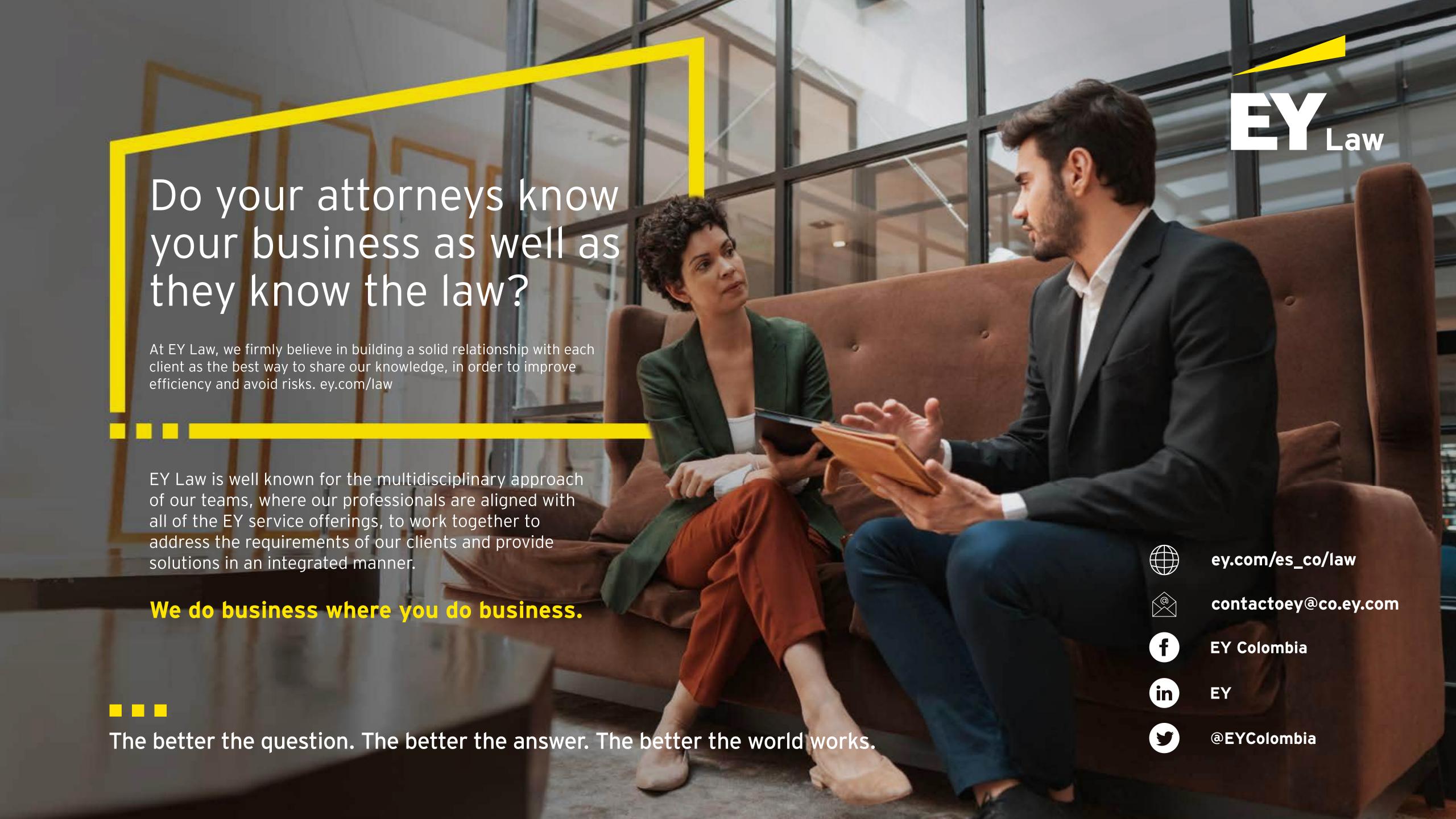
The guidelines apply the core principles of good corporate governance; transparency, accountability, responsibility and fair treatment, following ESG standards. The guidelines identify major corporate governance areas and recommend concrete measures on key governance aspects.



#### **Anti-bribery**

To prevent and mitigate the risk of international or foreign bribery and corruption, certain companies subject to surveillance by the Office of the Superintendence of Companies shall implement a transparency and business ethics program, as well as annually report the status of implementation to the Office of the Superintendence of Companies.







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Foreign investment in Colombia (whether made by legal entities or individuals) is permitted in all the economy sectors, except for specific activities such as defense and national security and the processing, management, and disposition of hazardous and radioactive waste not produced in the country. As an exception, foreign investment regulations require a previous authorization for investments in the financial sector.

Colombian foreign investment regulations define two basic forms of foreign investment, the "direct" and the "portfolio" investment, both of which must be channeled through the foreign exchange market.



## Direct foreign investment includes:

- All forms of participation and contribution to the capital of a Colombian company or Colombian branch office, including investments in public companies registered with the National Registry of Securities and Issuers (RNVE for its initials in Spanish) that are considered as permanent investments by the investor;
- The the acquisition of any rights or interests in trusts, pursuant to agreements entered into with trust companies under surveillance of the Office of the Superintendence of Finance, that does not constitute portfolio investment;
- The direct acquisition of real estate or through a trust, and the investment in real estate securitizations or investment in construction projects;

- Contributions contributions or economic rights derived from contracts or agreements such as collaboration agreements, concession agreements or management and license service agreements under certain conditions, provided that such in-kind contribution does not correspond to an equity interest in another company and that any potential revenue generated from the investment depends upon the profits of the company receiving the investment;
- Contribution as supplementary investments to the assigned capital;
- The acquisition of interests in private equity funds, pursuant to financial sector regulations. Transactions that imply foreign loans do not constitute direct foreign investment;
- Intangible assets acquired to obtain an economic benefit in the country.



## Portfolio investment includes:

The temporary acquisition of securities registered with the RNVE;

The foreign capital investment achieved in the development of agreements or integration agreements of stock exchanges; and

Participations in collective portfolio and securities registered under foreign exchange systems.

Both direct and portfolio foreign investments must be registered with the Central Bank by the foreign investor, its agent or the administrator of the fund, to secure repatriation rights over said investment. When the foreign investment is made in cash, registration with the Central Bank is automatic, upon submission to the commercial bank (or to the Central Bank if a compensation account is used), of the respective exchange declaration form for international investments. When the foreign investment is made through other means, registration must be requested to the Central Bank at any time, through the New Foreign Exchange Information System.

## Once the investment is registered, the investor of record is entitled to:

- Reinvest profits or retain them as retained earnings;
- Remit abroad 100% of the proven net profits generated by the Colombian investment;
- Capitalize amounts or operations with exchange remittance rights;
- Proceeds received from the sale of the investment held in the country, upon the liquidation of the company or of a portfolio, or upon the reduction of capital.

It is mandatory to inform the Central Bank of any modifications in the investment previously registered with the bank, such as any change of shareholders, change in the country of domicile of the foreign investor, change in the Colombian company receiving the foreign investment, among others.









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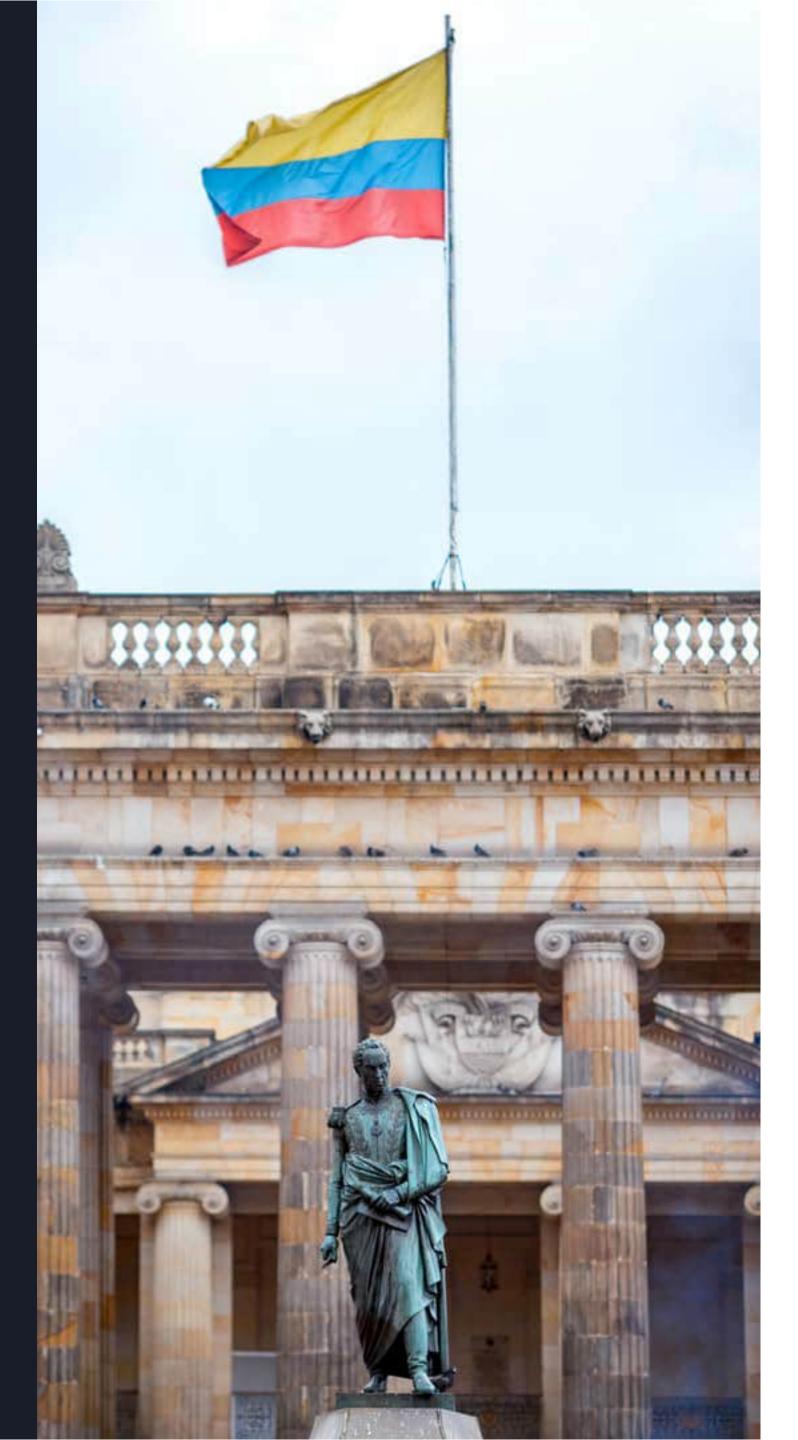
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Simon Bolivar sculpted in 1846 by Italian sculptor Pietro Tenerani. The statue stands in Plaza Bolivar, or Bolivar Square, Bogotá's main public square in the capital's historic district.

## Reporting obligations at a glance

| Operation   | Form to be presented   | Term  |
|---|--|---|
| Direct transfer of funds for the investment   | Foreign exchange declaration for international investments   | Automatic registry                                |
| Substitution of foreign investment  | Foreign exchange declaration for international investments registry / declaration of cancellation of foreign investments | ► 6 months as from the date of the operation      |
| Cancel of foreign investment  | Foreign exchange declaration for cancellation of foreign investments registry  | ► 6 months as from the date of the operation      |
| Changes in the par value of the shares  | Special request before the<br>Central Bank   | Any time  |
| Registry of in-kind<br>contributions or<br>capitalization of any<br>legal operation | Foreign exchange declaration for foreign investments registry  | Any time  |
| Special regime<br>(hydrocarbons and<br>mining sector)                               | Form of equity conciliation  | <b>Anytime</b> before the 30th of June every year |







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#### Funding of Colombian subsidiaries and branch offices via equity contributions

As general rule, Colombian commercial laws do not provide for minimum capital requirements, except for certain regulated activities such as banks. It is advisable to review the minimum equity and working capital level required for business purposes, to determine the funds required locally. In general, equity contributions can be made in cash or kind (some exceptions apply for equity contributions to branch offices).

In subsidiaries, equity contributions can be made by way of capital and share premium. This type of contribution structure is commonly used in Colombia by all type of companies, including companies with foreign investors, except at the time of incorporation.

The share premium reflects the higher value of the company shares over the par value. The contribution as share premium does not result in the issuance of additional shares (only the portion contributed as capital). For all legal and tax purposes, share premium contributions are subject to the same rules as capital:

- ► The contributions made by way of share premium are part of the tax basis of the investment of the shareholder and the contribution is not a taxable event provided certain requirements are met;
- The investment must be registered before the Central Bank as foreign investment; and
- Theshare premium is subject to the same rules as capital for the purposes of repatriation, from a legal and tax standpoint.

Equity contributions trigger legal costs of implementation upon registration before the Mercantile Registry, as follows:



Registration tax over the capital portion



Over the portion contributed as share premium. Reduced rates may apply for micro-enterprises (please refer to the chapter on Setting up a business).

For branch offices funding can be made by way of capital assigned by the home office or supplementary investment to the assigned capital (ISCA per its initials in Spanish). The ISCA allows to fund branch office's operations by the home office in a simple manner, without any type of legal cost. For practical purposes, the ISCA is managed as a current account between the home office and its branch office, and the home office is entitled to make a reimbursement of capital by way of return of the ISCA. For certain type of branch offices, the contributions to the ISCA can be made only in cash.

> The increase in the assigned capital of the branch office involves an amendment to the acts of incorporation, while the increase in the ISCA does not.











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### Special regimes

#### Financial sector

Foreign investment in the financial sector requires previous authorization from the Office of the Superintendence of Finance whenever the investment transaction involves the acquisition of

### 10%

or more of the ownership or where any investor who has more than

### 10%

of ownership wants to increase it by an additional

### **5**%

or more.

## Hydrocarbons and mining sector

Branch offices of foreign companies registered in Colombia that carry out oil, natural gas, coal, ferronickel or uranium exploration and exploitation activities or which are exclusively devoted to providing technical services related to the hydrocarbons industry and are qualified as such by the Ministry of Mines, qualify under the "special exchange control regime" and therefore:



Are entitled to keep abroad any foreign currency received from the exportation of oil or any of the aforementioned minerals or from the provision of services related to the hydrocarbons industry, without having to bring back the currency and channel it through the Colombian foreign exchange market (except for those funds that must be reintegrated to the foreign exchange market to pay for expenses in local currency).



In order to pay for local purchases and services received locally, the home offices need to bring into Colombia in the form of ISCA, the necessary foreign currency to pay in local currency. Some exceptions apply that allow for the local purchase of foreign currency and its transfer abroad (e.g. when the Colombian pesos used for the purchase of foreign currency derived from activities developed locally).



May not purchase any foreign currency from the regular exchange market in Colombia, and further they may not pay for expenditures abroad such as imports of equipment and raw materials, leasing, etc.; these items must be paid for directly by their home offices abroad.



Foreign loan transactions (including international leasing) and the transfer of profits (paid for with currency obtained locally) are not allowed for this type of branches.



These branch offices are allowed to open foreign free market accounts through which they may receive and carry out payments in foreign currency.

### Companies that are not covered by this exception, or branch offices of foreign companies that carry out the aforementioned activities and

voluntarily waive their qualification to operate under the special foreign exchange regime for a 10-year term, must always bring (channel) the foreign currency obtained from their sales in foreign currency back through the Colombian foreign exchange market.



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These agreements provide a state dispute settlement mechanism for the investor, involving a consultation and negotiation stages as well as an arbitration stage, which opens the possibility to bring the defaulting state to an international court governed by the ICSID (International Centre for Settlement of Investment Disputes) rules of procedures for arbitration proceedings.

| Short title  | Parties  | Status                | Date of signature |
|--|--|-----------------------|-------------------|
| Pacific Alliance<br>- Singapore FTA<br>(2022)                              | Chile; Colombia;<br>Peru; Singapore;           | Signed (not in force) | 26/01/2022        |
| Colombia - Ecuador<br>- Peru - United<br>Kingdom Trade<br>Agreement (2019) | Colombia; Ecuador;<br>Peru; United<br>Kingdom; | Signed (not in force) | 15/05/2019        |
| Pacific Alliance<br>Additional Protocol<br>(2014)                          | Chile; Colombia;<br>Mexico; Peru;              | In force              | 10/02/2014        |
| Colombia - Israel FTA<br>(2013)  | Colombia; Israel;                              | In force              | 30/09/2013        |
| Colombia - Panama<br>FTA (2013)  | Colombia; Panama;                              | Signed (not in force) | 20/09/2013        |
| Colombia - Costa<br>Rica FTA (2013)  | Colombia; Costa<br>Rica;                       | In force              | 22/05/2013        |
| Colombia - Korea,<br>Republic of FTA<br>(2013)                             | Colombia; Korea,<br>Republic of;               | In force              | 21/02/2013        |

| Short title   | Parties   | Status   | Date of signature |
|---|---|----------|-------------------|
| Colombia - Ecuador<br>- EU - Peru Trade<br>Agreement (2012)       | Colombia; Ecuador;<br>EU (European<br>Union); Peru;     | In force | 26/06/2012        |
| Colombia-EFTA FTA   | Colombia; EFTA<br>(European Free<br>Trade Association); | In force | 25/11/2008        |
| Canada - Colombia<br>FTA (2008)                                   | Canada; Colombia;                                       | In force | 21/11/2008        |
| Colombia, El<br>Salvador, Guatemala<br>and Honduras FTA<br>(2007) | Colombia;<br>El Salvador;<br>Guatemala;<br>Honduras;    | In force | 09/08/2007        |
| Chile-Colombia FTA<br>(2006)                                      | Chile; Colombia;  | In force | 27/11/2006        |
| Colombia - United<br>States TPA (2006)                            | Colombia; United<br>States of America;                  | In force | 22/11/2006        |







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| Short title  | Parties  | Status                | Date of<br>signature |
|--|--|-----------------------|----------------------|
| MERCOSUR-<br>Colombia-Ecuador-<br>Venezuela<br>complementation<br>agreement (2004) | Colombia; Ecuador;<br>MERCOSUR;,<br>Bolivarian Republic<br>of Venezuela; | In force              | 18/10/2004           |
| ANDEAN-EC<br>Cooperation<br>Agreement (2003)                                       | ANCOM (Andean<br>Community); EU<br>(European Union);                     | Signed (not in force) | 15/12/2003           |
| ANDEAN-Canada<br>Cooperation<br>Agreement (1999)                                   | ANCOM (Andean<br>Community);<br>Canada;                                  | In force              | 31/05/1999           |
| ANDEAN-US Trade<br>and Investment<br>Council (1998)                                | ANCOM (Andean<br>Community); United<br>States of America;                | Signed (not in force) | 30/10/1998           |
| ANDEAN-<br>MERCOSUR<br>Framework<br>Agreement (1998)                               | ANCOM (Andean<br>Community);<br>MERCOSUR                                 | In force              | 16/04/1998           |
| Colombia-Mexico-<br>Venezuela FTA<br>(1994)  | Colombia; Mexico;,<br>Bolivarian Republic<br>of Venezuela;               | In force              | 13/06/1994           |
| Chile-Colombia<br>Economic Agreement<br>(1993)                                     | Chile; Colombia;   | In force              | 06/12/1993           |

| Short title                                      | Parties   | Status                | Date of signature |
|--|---|-----------------------|-------------------|
| LAIA Treaty (1980)                               | LAIA (Latin<br>American<br>Integration<br>Association); | In force              | 12/08/1980        |
| Cartagena<br>Agreement (1969)                    | ANCOM (Andean<br>Community);                            | In force              | 26/05/1969        |
| Colombia - Spain BIT<br>(2021)                   | Bilateral Investment<br>Treaties                        | Singed (not in force) | 16/09/2021        |
| Colombia - United<br>Arab Emirates BIT<br>(2017) | Bilateral Investment<br>Treaties                        | Signed (not in force) | 12/11/2017        |
| Brazil - Colombia BIT<br>(2015)                  | Bilateral Investment<br>Treaties                        | Signed (not in force) | 09/10/2015        |
| Colombia - Turkey<br>BIT (2014)                  | Bilateral Investment<br>Treaties                        | Signed (not in force) | 28/07/2014        |
| Colombia - France<br>BIT (2014)                  | Bilateral Investment<br>Treaties                        | In force              | 10/07/2014        |
| Colombia - Singapore<br>BIT (2013)               | Bilateral Investment<br>Treaties                        | Signed (not in force) | 12/07/2013        |





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| Short title  | Parties                          | Status                   | Date of signature |
|--|----------------------------------|--------------------------|-------------------|
| Colombia - Japan BIT<br>(2011)   | Bilateral Investment<br>Treaties | In force                 | 12/09/2011        |
| Colombia - Republic<br>of Korea BIT (2010)                               | Bilateral Investment<br>Treaties | Signed (not in force)    | 06/07/2010        |
| Colombia - United<br>Kingdom BIT (2010)                                  | Bilateral Investment<br>Treaties | In force                 | 17/03/2010        |
| Colombia - India BIT<br>(2009)   | Bilateral Investment<br>Treaties | In force                 | 10/11/2009        |
| BLEU (Belgium-<br>Luxembourg<br>Economic Union) -<br>Colombia BIT (2009) | Bilateral Investment<br>Treaties | Signed (Not in<br>force) | 04/02/2009        |
| China - Colombia BIT<br>(2008)   | Bilateral Investment<br>Treaties | In force                 | 22/11/2008        |
| Colombia - Peru BIT<br>(2007)  | Bilateral Investment<br>Treaties | In force                 | 11/12/2007        |
| Colombia -<br>Switzerland BIT<br>(2006)                                  | Bilateral Investment<br>Treaties | In force                 | 17/05/2006        |

| Short title                             | Parties                          | Status                | Date of signature |
|---|----------------------------------|-----------------------|-------------------|
| Colombia - Spain BIT<br>(2005)          | Bilateral Investment<br>Treaties | In force              | 31/03/2005        |
| Chile - Colombia BIT<br>(2000)          | Bilateral Investment<br>Treaties | Signed (not in force) | 25/01/2000        |
| Colombia - Spain BIT<br>(1995)          | Bilateral Investment<br>Treaties | Terminated            | 09/06/1995        |
| Colombia - Cuba BIT<br>(1994)           | Bilateral Investment<br>Treaties | Signed (not in force) | 16/07/1994        |
| Colombia - Peru BIT<br>(1994)           | Bilateral Investment<br>Treaties | Terminated            | 26/04/1994        |
| Colombia - United<br>Kingdom BIT (1994) | Bilateral Investment<br>Treaties | Terminated            | 09/03/1994        |

<sup>\*</sup> Table obtained at the website of the United Nations - Conference on Trade and Development at • https://investmentpolicy.unctad.org/international-investment-agreements/countries/45/colombia







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## Territoriality and labor law

Labor laws apply to all the inhabitants of Colombian territory, regardless of their nationality,

who have been hired to perform an employment agreement in Colombia.

Therefore, any employment agreement entered abroad and performed outside Colombian territory is not covered by the Colombian labor legislation. On the contrary, if an agreement is executed in Colombia or abroad but it is performed within Colombian territory, it shall be ruled by the Colombian labor law, and the parties thereof must be subject to national standard regulations.

## **Employment** agreements

## An employment agreement exists whenever an individual agrees to

render a certain personal service to another individual or legal entity, in exchange for a remuneration.

The existence of a labor relationship does not require a special formalization, it is presumed when the following conditions are met:

That the services are rendered personally by the employee;

Under a continued dependence or subordination of the employer; and

In return
of a salary
(remuneration) as
compensation for
the service.

Depending on the employment agreement executed between the employer and the employee, different obligations and duties should be observed. Employment agreements in Colombia may be for an indefinite term or open ended, for a fixed term, for duration of the work or hired services, or to perform occasional, accidental or transitory work over a period of less than one month.

The increasing use of technology has required changes in employment agreements, such as regulation in the use of personal electronic devices, adequate use of working tools and their use in disciplinary processes, which should be included in employment agreements as well as in the internal working regulations to prevent or facilitate conflict resolution.





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### Salary

The employer must pay a salary to the employees, which is any payment received by them in money or in-kind as a direct retribution for the service, regardless of the form or denomination that may be adopted (such as premiums, salary differentials, customary premiums, value of supplementary or overtime work, value of work during mandatory rest days, percentages on sales and commissions).



For 2023, the legal monthly salary is

### COP **1.160.000** (approx. USD240),

and no employer can pay to an employee a salary below this amount.

It is possible to exclude from the base for calculation of other labor benefits and claims, certain payments that are made by the employer, such as non-mandatory bonuses, vacations bonuses, Christmas bonuses, etc., which have been agreed by the parties in conventions or contractually for that they do not constitute a salary in cash or kind as long as it does not remunerate the personal service rendered. This listing is non exhaustive, so other type of benefits or assistance payments can be considered as non-salary payments.

Generally, salaries should be paid in Colombian currency (in the case of Colombian residents for exchange control purposes - please refer to the chapter on Making cross border payments) on a monthly, weekly, or daily basis, or by piecework. The parties can agree to pay the salary in cash and in kind, but the percentage of salary in kind may not exceed 50% of the total amount. If the employee earns the legal monthly salary, the portion received in kind may not exceed 30% of total salary.

Integral salary (all-inclusive compensation)

Employers and employees may agree, in writing, the payment of an integral salary, provided the employee is earning an ordinary salary above 10 legal monthly salaries plus a payroll benefits factor that cannot be of less than 30% of the total salary.

### This amount will comprise:

- ► The salary to be agreed for regular work;
- Payment in advance of the value of the benefits, surcharges and other benefits that correspond to work performed at night, overtime on Sundays and holidays, legal bonuses, nonlegal bonuses, severance, interest on severance, subsidies, supplies in species and, in general, those included in such stipulation, except for vacation, which must be paid both when enjoyed in time or whenever paid in cash.

The integral salary cannot be less than the



legal monthly salaries

composed by



as salary



as benefit factor

However, the benefit factor has to be the benefit factor of the employer.











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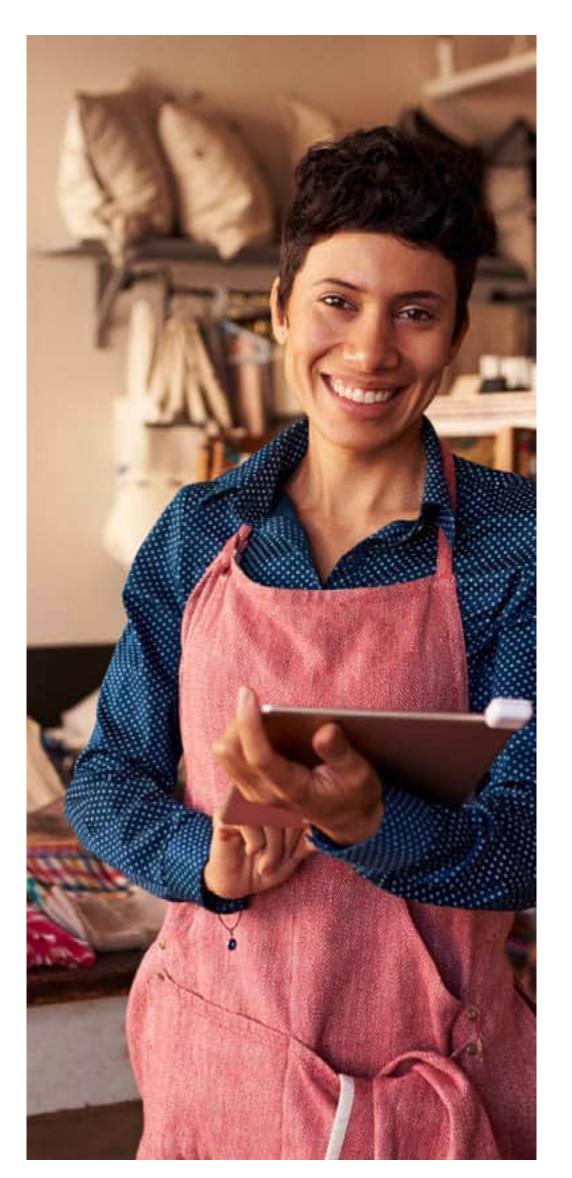
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### Ordinary salary, fringe benefits and vacations

Colombian nationals or foreigners residing in Colombia who are hired through an employment agreement to be performed in Colombia who earn an ordinary salary (as opposed to an integral salary), are entitled to receive, in addition to their basic monthly salary pay, and overtime compensation for work on holidays as well as night work, the following fringe benefits and rest days:



### Legal services bonus

Every employer must pay a bonus equal to one month of salary per year of service (in two installments, one half in June and the second half before December 20) to all employees who have worked all the respective semester or pro rata to the time worked.



### Vacation pay

The employee is entitled to enjoy 15 working days per worked year or in proportion by worked fraction for resting and recreation purposes.



### Interest on severance pay

It is equivalent to

**12**% annual

of the severance and it must be paid directly to the employee once a year in January.



### Severance pay (cesantías)

Employees are entitled to a severance pay consisting of one month of salary for every year of service provided (and pro rata for fractions thereof), which must be calculated until December 31. If the salary is variable (e.g., if it includes commissions or incentive bonuses) or has changed in the last three months, the base to calculate the severance pay is the monthly average salary of the last year. Severance payment must be directed to the severance fund chosen by the employee, before February 15.



### Footwear and work clothes

Employers shall deliver every four months, free of charge, one pair of shoes and one dress for working to employees who earn up to twice the legal monthly salary. It is supplied on April 30, August 31 and December 20.



### Transportation aid

Employers must pay, in a monthly basis, transportation aid to employees who earn up to twice the legal monthly salary. While the employee is "working at home", this transport aid is changed to a connectivity aid.

COP 140.606 (approx. USD30).

For 2022, the transport aid is







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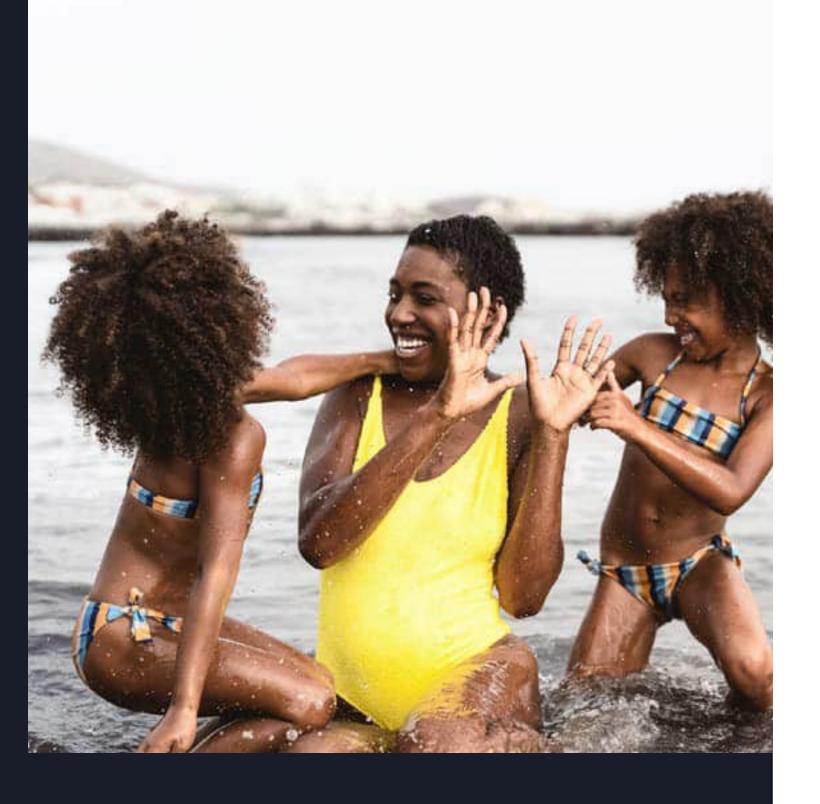


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### Family day

Employers must promote and facilitate one day each semester to its employees,

tto share with their family in a space provided by the employer or in a space provided by the Family Compensation Fund. The family day must be guaranteed as part of a workday without affecting mandatory rests. This obligation will no longer be applicable after July 15 of 2026.

### **Working hours**

Currently, the maximum duration of the legal ordinary workday is equal to eight hours per day. The maximum duration per week is equivalent to forty-eight hours.

From July 15 of 2023 the maximum duration per week will be equivalent to forty-seven hours, from July 15 of 2024 to forty-six hours, from July 15 of 2025 to forty-four hours and from July 15 of 2026 onwards to forty-two hours. Authorization from the Ministry of Labor for working overtime is required, when employees work for more than the maximum working hours.

As stated in labor law, nowadays, the ordinary working day (daylight) is from 6:00 a.m. to 9:00 p.m. while the working night is from 9:00 p.m. to 6:00 which must be compensated with a surcharge of 35% of the ordinary hours value. Also, overtime during the day shall be paid with a surcharge equivalent to 25% of the ordinary hour value. Overtime pay for night work is equivalent to 75% of the ordinary hour value.

Those employees that have functions of direction, trust or management as well as those employees who are engaged in discontinuous or intermittent or in activities of simple vigilance (provided they reside on the working place) are excluded from the rules regarding maximum workday.

### Right to disconnect

As a general rule, employees have the right to disengage from work during non-work hours. The employer has the obligation to guarantee the right to disconnection from work and any clause or agreement that goes against or violates that right will be ineffective. Likewise, the Law obliges employers to have a disconnection policy. Failure to observe the right to disconnect from work may constitute workplace harassment.

The labor disconnection law is not applicable for employees who hold management and trust positions, those who due to the nature of the activity or function they perform must have permanent availability, employees who exceptionally have to deal with situations of force majeure or fortuitous event, in which it is required to fulfill extra duties of collaboration, when these are necessary for the continuity of the service if there is no other alternative.





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### Flexible work

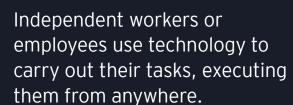


### Supplementary

Employees alternate between working at the office and other fixed place (at least two days a week) - Telework. This is regulated by law and imposes a series of obligations to the employer, such as informing the Labor Risks Administrator (ARL per its initials in Spanish) about its implementation, and providing all the working tools, including connectivity, software and energy costs (related to work).



### Autonomous





### Mobile

Employees use mobile devices to carry out their activities without a specific place to perform them.

Employers who intend to implement Telework must adopt and implement a mandatory Policy for Telework.



### Work from home

The modality of working from home is an alternative for occasional, exceptional, or special situations. Employers are able to allow their employees to work from home for a period of up to three months, extendable for another equal period or until the circumstances that caused the special situation disappear.



### Remote work

Under this modality, the employment relationship is carried out remotely through the use of technology, in a permanent basis. The employer must provide all the technological tools, equipment, connections, programs and assume costs of energy and internet/phone, as well as the maintenance required. The agreement of remote work will require electronic or digital signature of the parties. The remote employee may provide their services from anywhere, always in agreement with the employer.

### Parental leave

Maternity leave for every employed pregnant or adoptive mother in Colombia is granted for eighteen weeks. According to labor law, mothers are entitled to enjoy two weeks before the childbirth and sixteen weeks after said childbirth. Pursuant to the mother's choice, one of the two weeks before the childbirth can be enjoyed postpartum, which means that the maternity leave will last seventeen weeks after childbirth. Adoptive mothers are entitled to this

The father is entitled to two weeks of paternity leave. In addition, parents may freely distribute among themselves the last six weeks of the mother's leave, if they meet the conditions and requirements set by law.

maternity leave.

### **Termination of** employment agreements

When ending an indefinite term employment agreement without fair cause, the employer must indemnify the employee in the following terms:

### Characteristics

### Indemnification

Employees who earn up to 10 legal monthly salaries.

## 30 days

of salary when the employee has been hired for a period not exceeding one year.

If the employee has been continuously hired for more than one year, he/she will be entitled to twenty additional days of salary in addition to the basic 30 days of the first year and pro rata for fractions of a year.

Employees who earn more than 10 legal monthly salaries.

## 20 days

of salary when the employee has been hired for a period not exceeding one year.

If the employee has been continuously hired for more than one year, he/she will be entitled to 15 additional days of salary in addition to the basic 20 days of the first year and pro rata for fractions of a year.

The indemnity may vary depending on the seniority of the employee with the company. The above rule only applies for employees who as of December 27, 2002, had worked less than 10 years with the company. Otherwise, the indemnity will be 45 days for the first year and 45 for each additional year or fraction thereof of work.

When terminating a fixed term agreement without fair cause the employer has to pay an indemnity equal to the amount of salaries still payable through the end of the term of the original employment agreement, or the amount of salaries corresponding to the time remaining for the agreed-upon task to be completed.

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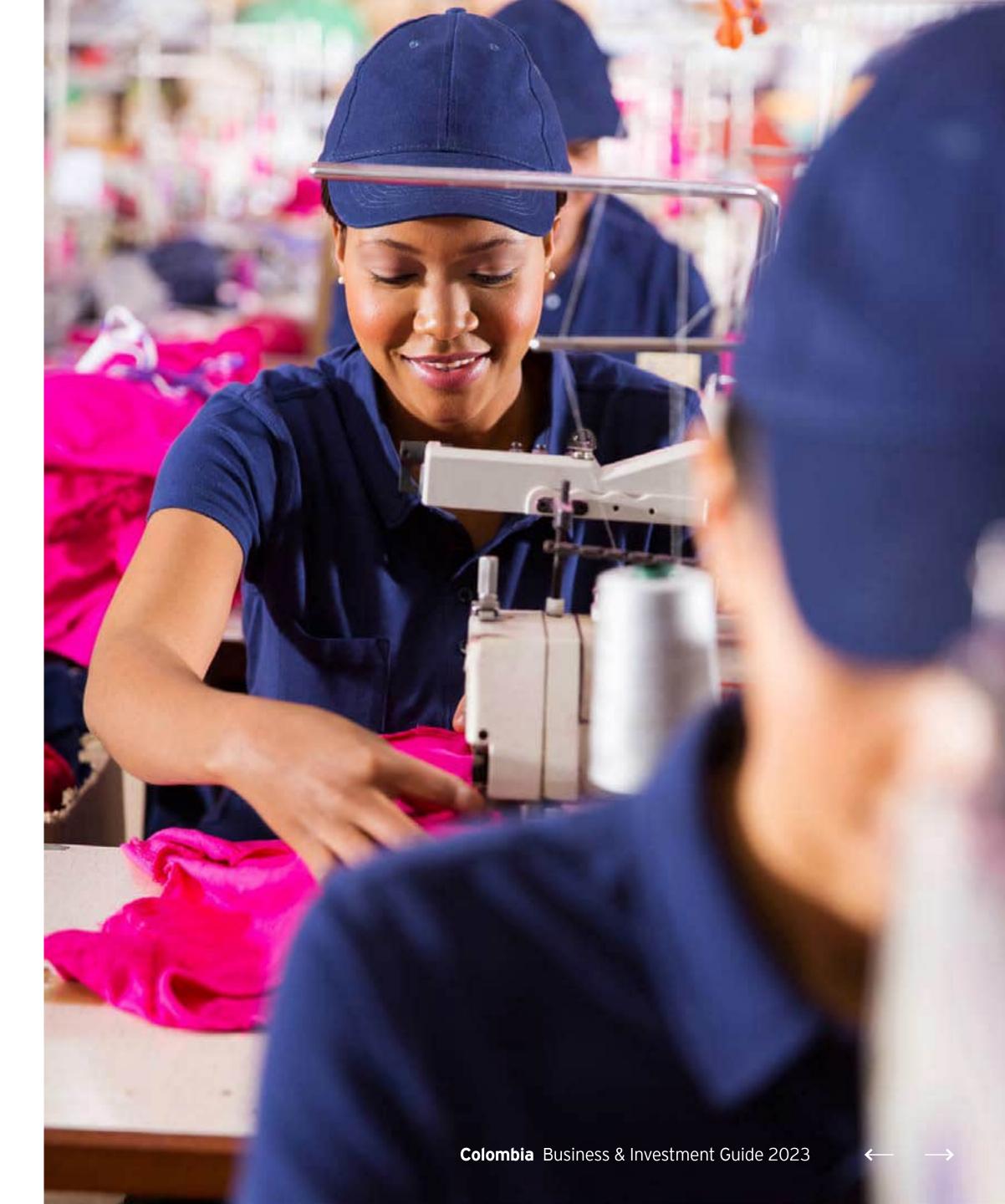
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### Collective dismissal

Employer must obtain previous authorization from the Ministry of Labor to carry out a collective dismissal, otherwise, the termination of employment agreements would not have any effect.

Collective dismissal qualification depends in the company's total employees and the percentage of labor agreements to be terminated without fair cause within a period of six months, as follows:

| Percentage of labor agreements to be terminated without fair cause | Total number of employees                    |
|--|--|
| 30%  | More than 10 employees and less than 50.     |
| 20%  | More than 50 employees and less than 100.    |
| <b>15</b> %  | More than 100 employees and less than 200.   |
| 9%   | More than 200 employees and less than 500.   |
| 7%   | More than 500 employees and less than 1.000. |
| <b>5</b> %   | More than 1.000 employees.                   |









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### Workplace harassment

Any persistent and demonstrable conduct before an employee by another employee or employer, seeking to infuse fear, intimidation, terror, distress, cause labor demotivation or lead to the employee's resignation is deemed as workplace harassment.

Law considers workplace harassment the following conducts:

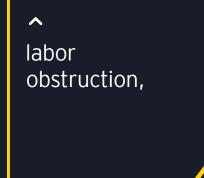


**^** labor persecution,

labor discrimination,

2

•



labor inequity and labor deprotection.

Employees arguing being subject to workplace harassment conducts will have labor stability for six months.



## Temporary services agencies ("TSA")

TSA's are entities who hire services with third-party beneficiaries to temporarily assist in the development of their activities through the work of individuals, hired directly by the TSA, which will act as the employer.

The user companies (beneficiary) can hire employees through the TSA only in three events:

- For occasional, incidental or transitional measures for a period up to one month;
- Replacement of employees on vacation, leave, sick leave or maternity leave; and
- To support increases in production for seasons for a period up to of six months, extendable up to six months.

If the six months of the allowed extension are completed and the original cause of the specific service under contract subsists; this will not extend the contract and entering into a new one with the same or with different TSA for the provision of that service.





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### **Social security**

The social security system includes the pensions system, the health system, the labor risks system and the payroll taxes contributions. Every employer is under the obligation to enroll its employees to the social security system and to make the corresponding monthly contributions on time.

As long as foreign employees are covered by the pension system in their home country or in another country, they would not be obliged to be enrolled and to pay monthly contributions to the pension system.

The obligation to contribute to the social security and payroll taxes are summarized in the following chart and notes:

|  | Basis             | Rate            | Employer        | Employee |
|--|-------------------|-----------------|-----------------|----------|
| Pension  | Salary (1) (2)    | 16%             | 12%             | 4%       |
| Health   | Salary (1) (2)    | 12.5%           | 8.5%            | 4%       |
| Solidarity fund                                      | Salary(1)(2)(3)   | 1%-2%           | N/A             | 1%-2%    |
| Professional Risk                                    | Salary(1) (2) (4) | 0.348%<br>-8.7% | 0.348%<br>-8.7% | N/A      |
| SENA, ICBF, Family Compensation Fund (payroll taxes) | Salary (5)        | 9%              | 9%              | N/A      |

### **NOTES**

(1) Contributions to the social security system (pensions, solidarity fund, health and professional risks) shall be calculated over the ordinary salary earned by the employee. Nevertheless, if the monthly salary is more than twenty-five times the legal monthly salary, contributions to the social security regime will be calculated over the maximum basis of 25 legal monthly salaries. Non-salary payments agreed upon between the employer and the employee are not included in the bases to calculate social security calculations, if they do not exceed 40% of the employees' remuneration. If these non-salary payments exceed the 40%, the difference will be subject to social security contributions.

Companies that are subject to the income tax and related taxes, consortiums, temporary unions, free trade zone users that have not signed legal stability agreements and trusts,

are exempted to pay the 8,5% of the employer's health contribution, but only over the payroll of those employees who earn less than 10 legal monthly salaries. There is still the obligation for the companies of paying the remaining 4% of employee's health contribution.

- (2) In case of employees earning integral salary, 70% of salary will be the basis. However, if 70% of the integral salary is more than twenty-five times the legal monthly salary, contributions to the social security regime will be calculated over the maximum basis of 25 legal monthly salaries.
- (3) The contribution to the Solidarity Fund only applies for employees who earn more than four legal monthly salaries. This payment is equivalent to 1% of the monthly salary, but in the case of employees earning more than 16 legal monthly salaries the rate will be increased as follows:

between 16 and 17 legal monthly salaries will pay an extra 0,2%; between 17 and 18 legal monthly salaries an extra 0,4%; between 18 and 19 legal monthly salaries an extra 0,6%; between 19 to 20 legal monthly salaries an extra 0,8% and between 20 and 25 legal monthly salaries an extra 1%. Contributions to the solidarity fund also have the ceiling of 25 legal monthly salaries.

- (4) Actual rate depends on a legally established scale based upon the degree of risk represented by the economic activity the company undertakes. The social security office makes the classification at the moment of enrollment. Contributions to the professional risks also have the ceiling of 25 legal monthly salaries.
- (5) Contributions to SENA, ICBF, Family Compensation Fund (payroll taxes) shall be calculated over the ordinary salary earned by

the employee, including any paid rest, such as vacations. In case of employees earning integral salary, 70% of salary will be the basis. Nonsalary payments agreed upon between the employer and the employee are excluded of payroll taxes. Payroll taxes do not have any ceiling.

Companies that are subject to the income tax and related taxes, consortiums, temporary unions, free trade zone users that have not signed legal stability agreements and trusts are exempted to pay the 5% of the payroll taxes that is designated to the Colombian Family Welfare Institute (ICBF-3%); and to the National Learning Service (SENA-2%), but only over the payroll of those employees who earn less than 10 legal monthly salaries. There is still the obligation for the companies of paying the remaining 4% of the payroll taxes designated to the Family Compensation Funds.











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## Other minimum obligations at a glance

| Internal work regulations   | Applies to commercial companies with more than five permanent employees, industrial companies with more than 10 employees and agricultural with more than 20 employees  |
|---|---|
| Safety and hygiene rules  | Applies for employers with more than 10 employees   |
| Safety and health at work system - SGSST  | Applies to all companies with at least one employee.  |
| Coexistence committee and safety and health committee (COPASST)                       | Applies to all companies. However, the COPASST is not mandatory in companies with less than 10 employees, but in any case, a responsible for health and security matters is required.   |
| Nursing family friendly rooms   | Applies to companies with a capital equal or higher to  1,500 legal monthly salary,  or with a lower amount of capital but more than  50 employees  * Companies with less than 1,000 employees must comply with this obligation by 2023.  |
| Labor disconnection policy  | Applies to all companies with at least one employee.  |
| Hiring Apprentices and reporting headcount to the National Education Service ("SENA") | Applies for employers with more than twenty employees (one apprentice for every twenty employees and an additional one for every fraction of ten or more that does not exceed twenty).  |
| Foreign citizens registry   | Applies for employers with foreign employees. Employers must inform the contract initiation/ termination before Migración Colombia and the Ministry of Labor, through the SIRE and RUTEC platforms, respectively, within 15 days and 30 calendar days following the initiation/termination. |













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## Immigration obligations



### Visa

Foreigners require a visa to enter to Colombia and to carry out of specific activities within the Colombian territory. The required type of visa will depend on the activity to be carried out and the period of the assignment.



### Visa registration and foreign identification card

Foreigners with a visa granted for more than 90 days must obtain a foreign identification card, which fulfills exclusively the foreigner's identification purposes in the Colombian territory. Its use must be in accordance with the visa granted since the validity of this document will be equal as the visa. The holders of visas "V" for business and tourism are exempted from this

requirement.



### **Profession**

Foreigners that intend to perform a regulated activity in Colombia are required to have a temporary permit/license for the short term or obtain a professional permanent permit or a certificate of the competent professional council in Colombia for the long term. If that is the case, the foreigner must present his/her diploma and grades certificate duly apostilled or legalized (depending on the country of issuance of the documents) to obtain the temporary permit/



### Reports before the migratory authority (Migración Colombia)

Individuals or legal entities who link, contract, employ or admit a foreigner through any modality, especially a labor or civil relationship that generates a benefit, must report to Migración Colombia through the information and reporting system of foreigners ("SIRE" platform per its initials in Spanish) the start and end of the activity, within 15 calendar days following the occurrence of the event, accompanied by the authorization to execute the regulated activity, if applicable.



### Unique Registry of Foreign Workers in Colombia ("RUTEC" per its initials in Spanish)

Legal entities hiring foreign personnel must file the RUTEC before the Ministry of Labor, within the following 30 calendar days from the initiation/ finalization of the contract.



license.

# Foreigners require a visa to enter Colombia and to carry out of specific activities within Colombian territory.

The required type of visa will depend on the activity to be carried out and the period of the assignment.



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### Visas

The Colombian immigration authorities control and regulate the entry, the permanence period, and the departure of

**foreigners.** The application for visas can be submitted abroad to any Colombian Consulate or to the Colombian Ministry of Foreign Affairs located in Bogota.

Depending on the activities that the foreigner is going to carry out in Colombia, different types of visas may apply:

1

### Visitor (V) Visa

- Foreigners who wish to visit the country one or more times or to remain temporarily without settling in.
- Its validity is for up to two years.
- Depending on the type of visa, the maximum period stay will be up to 180 days for every 365 days from the moment the visa is issued.

2

### Migrant (M) Visa

- Proreigners who wish to enter and/or remain in the country with the intention of permanently settling in and who do not meet the conditions to apply for a resident visa.
- Its validity is for up to three years. However, this visa loses validity if the foreigner remains outside Colombia for a period equal or greater than 180 continuous days.
- Some exceptions may apply: the Migrant student visa loses validity if the foreigner remains outside Colombia for a period equal or greater than 90 continuous days.

3

### Resident (R)Visa

- Foreigners who wish to settle permanently in the country and meet some additional conditions than the migrant visa.
- Its validity is for five (5) years. This visa loses validity if the foreigner remains continuously outside Colombia for a period equal or greater than two years.

Tourist walking around the walled city in Cartagena de Indias









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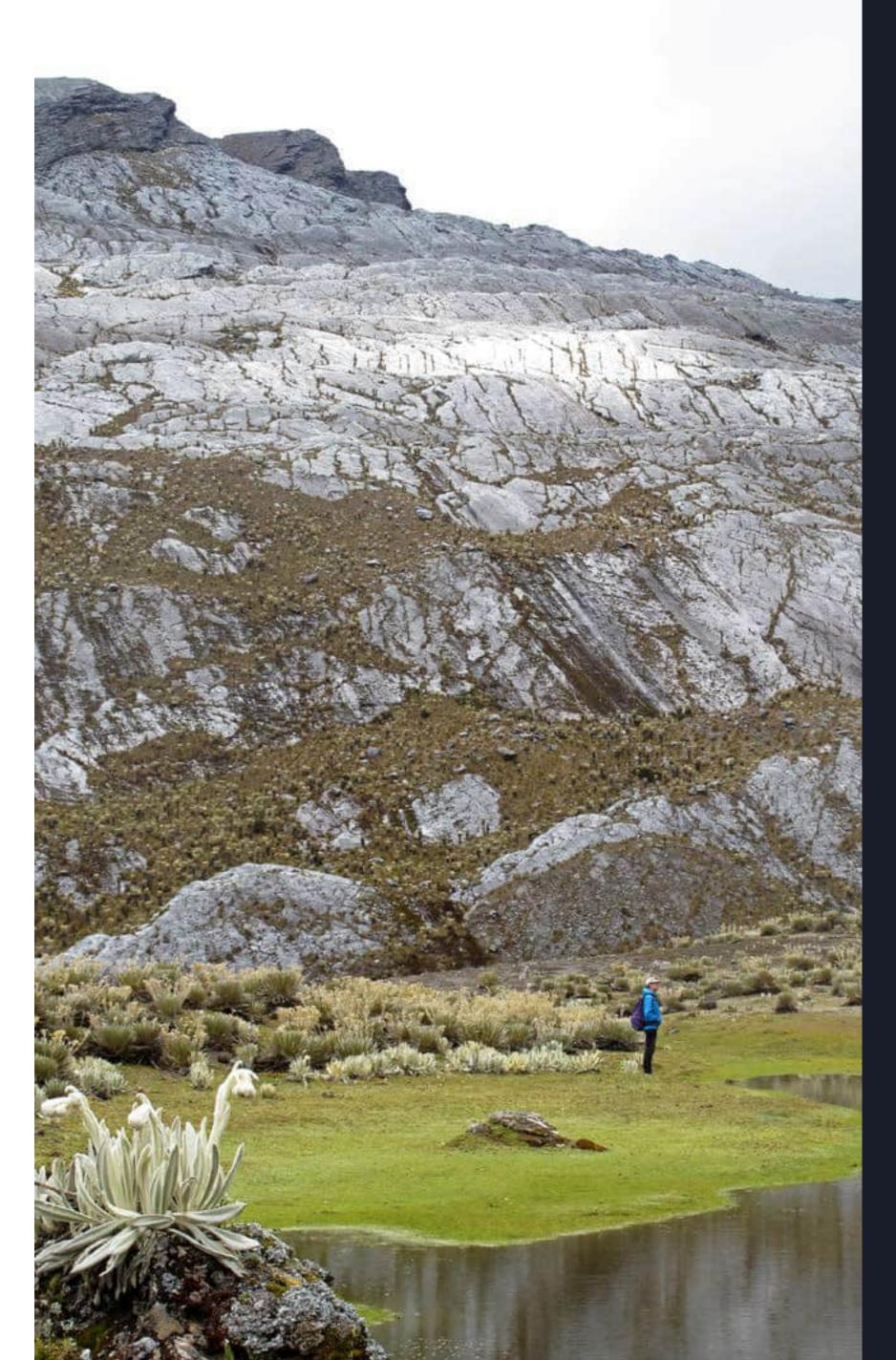
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## Entry and permanence permits

The entry and stay permits for foreigners are:

PT: Tourism permit

PID: Integration and development permit

POA: Permission to develop other activities

180

Foreigners holding permits may not exceed 180 days continuous or discontinuous of permanence within the calendar year.

Nationals of countries that have visa waiver agreements with Colombia do not require a visa to enter the country as visitors. These foreigners will enter and stay in Colombia with a special permit that will depend on the activities that they will undertake during their stay in Colombia.

The Ministry of Foreign Affairs is also entitled to determine which countries do not require an entry visa to enter to the Colombian territory.

Hiker in colombian paramo highland of Cocuy National Park, surrounded by the beautiful Frailejones plants, Espeletia, Colombia, South America









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Chile

Croatia

Costa Rica

The following are the countries whose nationals do not require a visa to enter to Colombia as visitors:

Cyprus

Czech (Republic)

Albania Andorra Antigua and Barbuda Argentina Australia Austria Azerbaijan Bahamas Barbados Belgium Belize Bhutan Bolivia Bosnia-Herzegovina Brazil Brunei Darussalam Bulgaria Canada

Denmark Dominica Dominican Republic Ecuador El Salvador Estonia Fiji Finland France Georgia Germany Greece Grenada Guatemala Guyana Holy See Honduras Hungary Iceland

New Zealand Indonesia North Macedonia Ireland Norway Israel Italy Oman Palau Jamaica Japan Panama Kazakhstan Korea (Republic of) Paraguay Latvia Peru Liechtenstein Philippines Lithuania Poland Luxembourg Portugal Malta Qatar Marshall Islands Romania Mexico Russia Micronesia Moldova

Monaco

Morroco

Montenegro

Netherlands

Papua New Guinea Saint Kitts and Nevis Samoa San Marino Serbia

Singapore

Slovakia

Slovenia Solomon Islands Spain St. Lucia St. Vincent and the

Grenadines Suriname Sweden Switzerland Trinidad & Tobago

Turkey Ukraine

UK and Northern Ireland United Arab Emirates United States of America

Uruguay Venezuela











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The other nationalities not shown in this list must present a visa to enter the country, regardless of the activity to be carried out.

The following exceptions apply:

- Holders of a passport from Hong Kong, Taiwan and the Sovereign Military Order of Malta are exempted of an entry visa.
- Myanmar, Mainland China,
  India, Thailand and Vietnam are
  restricted jurisdictions, their
  citizens may be authorized
  to enter Colombia without a
  Colombian visa if they fulfill one of
  the following conditions: (i) to be
  a holder of a residence permit in
  a member state of the Schengen
  area or in the United States of
  America; (ii) to be a holder of a
  Schengen or US visa with a validity
  greater than 180 days at the
  moment of arriving to Colombia.
- Holders of a permanent residence permit from Bolivia, Chile, Ecuador, Mexico and Peru are exempted of an entry visa.



Usaquen flea market on a sunny morning, merchants sell antiques, crafts, jewelry and other products, very crowded by tourists, in the traditional neighborhood Usaquen in north of Bogotá Colombia

Special permit of permanence for Venezuelan nationals ("PEP")

The PEP was granted only to Venezuelan nationals in Colombian territory, which allows them to temporarily remain under a regular immigration status and access the institutional offer in matters of health, education, and work. Its validity ends if the Venezuelan citizen obtains a visa.

The PEP does not replace the passport and it will not be valid as a travel document to leave and enter the country.

PEP will soon lose its validity given that, from March 1st, 2021 no new PEPs were issued and those Special Permits of Permanence, regardless of their issuance phase and that are in force, will be automatically extended until February 28, 2023. When the Temporary Protection Statute for Venezuelan Migrants is implemented, the transition from the PEP to the Temporary Protection Permit - PPT must be conducted.









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## Temporary Protection Statute for Venezuelan Migrants ("TPSV")

## The TPSV is a legal mechanism of temporary protection whose validity will be ten years, which is composed of:

- Unique Registry of Venezuelan Migrants ("RUMV"): Its purpose is to collect and update information for the implementation and design of public policies. It is considered the first step to be fulfilled within the Statute and, to be included in it, it is required to: submit a valid or expired document that allows the foreigner to be identified (passport, Venezuelan identity card, birth certificate or PEP); to present an express declaration of the intention to remain temporarily in Colombia; and to authorize the collection of bibliographic, demographic and biometric data.
- Temporary Protection Permit ("PPT"): It is a mechanism of immigration regularization and identification document, which will authorize regular permanence in the Colombian territory for Venezuelan migrants; and will allow carrying out any legal activity in the country, including those carried out by virtue of an employment relationship or contract.
- The requirements to apply for the PPT are to be included in the Unique Registry of Venezuelan Migrants; not having been recognized as a refugee or having obtained asylum in another country; and to have no criminal record, convictions, expulsion or deportation measures, among other facts that show inappropriate behavior within national territory.

### Regarding the PPT, it should be noted that:

- Its validity will be equal to that of the TPSV, that is, in principle 10 years.
- It allows Venezuelan migrants to prove their permanence in Colombia for the purposes of accumulating the time required for the application of the Resident Visa.
- Holders of the PEP in force on the date of publication of the document, may prove their stay in Colombia for the purposes of accumulating the time required to apply for a Resident Visa.

- Full compliance with the requirements is not a guarantee of its granting.
- Those people who have administrative processes in progress due to permanence or irregular entry, will not be granted the permit, until the administrative act that resolves their migratory situation is issued.
- The issuance of any type of visa by the Ministry of Foreign Affairs will result in the loss and automatic cancellation of the permit.

- The Venezuelan citizen who is the holder of the permit may not have simultaneously any other type of permit issued by Migration Colombia or a visa granted by the Ministry of Foreign Affairs.
- The permit may be canceled when the holder of the document is absent from Colombian territory for a period greater than one hundred and eighty (180) continuous calendar days.
- The PPT is considered a valid identification document for Venezuelan migrants.









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### **Imports**

s a general rule, there are no restrictions on the import of goods into Colombia, except for the introduction of specific goods that require import licenses (e.g. used, remanufactured or refurbished goods) or import registration (e.g. human, vegetal or animal health products or subject to technical regulation), both of which have to be issued prior to the importation process; or those that are not allowed to be imported for security and public health reasons (e.g. nuclear waste). (For payment of imports of goods please refer to the chapter on Making cross border payments).

Imports are understood as the entry of goods into the National Customs Territory ("NCT") from abroad or from a free-trade zone. Imports may be done, among others, under the following main modalities:



### Ordinary imports

Refers to the introduction of goods of foreign origin into the NCT to remain there indefinitely, on free circulation, paying of the respective import duties (customs duties and VAT). The majority of imports into Colombia are ordinary.



### Temporary imports

Under this modality there is total or partial suspension of the payment of import duties on the import of certain goods that must be cleared or re-exported within a specific time in the same original condition (except for the normal depreciation originated in their use). Under temporary imports, goods may be used in the country while remaining subject to customs' control. Temporary imports may be short-term and long-term.

Short-term temporary imports are allowed for capital goods (as defined by customs regulations) and other special cases considered in the customs law. The maximum term allowed under this modality is six months, extendable for up to three additional months. If a longer stay of the goods in the country is required due to their intended use, the importer may request an authorization to the Customs Authority ("DIAN") to extend this period for three additional months, and up to six months. Consequently, the maximum term may be up to one year. Under this modality, import duties are not payable.

Long-term temporary imports are allowed for capital goods (as defined by customs regulations) and their accessories or spare parts, as long as they arrive within the same shipment. The maximum term permitted for this modality is five years. Import duties are calculated on the date the import declaration is filed. However, the same are paid in semiannual installments up to the fifth year, from the date in which the import declaration was filed and while the good remains in the country. Semiannual installments must be converted to Colombian pesos at the current exchange rate for customs purposes, at the time of payment.

It is possible to submit before the DIAN a request for an extension of the five-year term, justified in the needs of the importer and the activities that will be developed with such equipment within Colombia. Nonetheless, customs duties must be paid within the five-year period.

When capital goods and their accessories or spare parts are subject to a lease agreement (with or without a purchase option), the goods could be imported under a long-term temporary import. The maximum term permitted for this modality of import is equal to the period of the lease agreement; however, the import duties are paid in semiannual installments up to the fifth year, counted as of the date in which the import declaration was filed.



As a general rule, there are no restrictions on the import of goods into Colombia, except for the introduction of specific goods that require import licenses.



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### Import duties

The harmonized tariff schedule ("HTS") code is applied in Colombia, which determines what is the applicable customs duty tariff

0%

10%

In some cases

**5**%

**15**%

**35**%

for every subheading (10 digits). Several custom duties are temporarily reduced to 0% for raw materials and capital goods not produced in Colombia.

These customs duty tariffs may vary provided the existence of a free trade agreement signed by Colombia if the imported good fulfil the origin requirements.

VAT on imports is generally assessed over the CIF value of the imported goods, plus the applicable customs duty.

### **Customs valuation**

# The customs value of imported goods is the transaction value, that is, the price actually paid or payable for the goods when sold

for export to the country of importation, adjusted in accordance with the provisions of article 8 of WTO Value Agreement.

When it is not possible to apply the "transaction value" method (method No. 1), the other valuation methods must be applied in consecutive order until the first one that allows establishing the customs value is found.

Secondary valuation methods are:

### Method n.º 2:

Transaction value of identical goods

### Method n.º 3:

Transaction value of similar goods

### Method n.º 4:

Deductive value

### Method n.º 5:

Reconstructed value

### Method n.º 6:

Last resource

## Tax benefits on imports

Tax laws provide that, among others, the following imports do not trigger VAT:

- Temporary import of heavy machinery for basic industries, as long as said machinery is not produced in the country.
- Import of machinery of equipment, as long as said machinery or equipment is not produced in the country, intended to recycle and process garbage or waste.
- Ordinary import of industrial machinery that is not produced in the country, destined for the transformation of raw materials. This benefit can only be used by exporters authorized as AEO.











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### **Exports**

Exports are understood as the exit of goods from the NCT to the rest of the world or from the NCT to a free-trade zone. In Colombia, exports are not subject to any customs duty and are VAT exempted (zero rated). (For payment of exports of goods please refer to the chapter on *Making cross border payments*).

### **Transit**

Transit allows the transportation of domestic or foreign goods, subject to customs' control, within the NCT.

Customs User with Simplified Procedure (Usuario Aduanero con Trámite Simplificado)

# Customs User with Simplified Procedure is a unilateral nomination granted by the DIAN to those importers and/or exporters considered "eligible"

to those importers and/or exporters considered "eligible" according to the risk management criteria of said entity. Companies can apply if they comply with the following requirements:

They must not have any enforceable debts in favor of the entity, nor be subject to refunds and/or improper compensations, nor firm sanctions in tax or foreign exchange matters or serious or very serious sanctions in customs matters.

Their legal representatives must not have been convicted for the commission of punishable conduct or have been subject to disciplinary sanctions.

Companies are entitled to the following benefits, among others:



Obtain the automatic release of imported goods; and



make a consolidate payment of the import duties within the first five days of the following month in which the importations took place.







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### Free-trade zones

## The free trade zone regime intends to promote the creation of new jobs,

new investment in productive fixed real assets and scale economies.

A free-trade zone is a geographical area defined within the national territory, for the development of industrial activities of goods, services or commercial enterprises, subject to a special tax, customs and foreign trade regime.

There are three kinds of free-trade zones:

1

The permanent or "multiuser" free-trade zones, which are specific and qualified geographical areas where various companies are established for the development of activities;

2

The special permanent or "single-enterprise" free-trade zone, in which one company is authorized to develop its industrial or services activities in a given area of the national territory; and

3

The temporary freetrade zone, defined as a given area of the national territory for national and international trade fairs, exhibitions, conferences and seminars. It is important to highlight the existence of the off-shore free-trade zones (a special kind of permanent freetrade zones), located in any part of the off-shore national territory, dedicated exclusively to off-shore hydrocarbon technical evaluation, exploration and production activities, as well as logistics, compression, transformation, gas liquefaction activities and other activities directly related to the hydrocarbon sector offshore.

Goods entering these zones are considered to be kept outside of the NCT for customs purposes, therefore, no import duties (custom duty and VAT) on goods introduced from abroad to a free-trade zone are triggered until they enter to the NCT.

Benefits applicable include the following:

- Special reduced corporate income tax rates for certain users. (Please refer to the chapter on Paying corporate taxes).
- The sale of raw materials, spare parts and/or finished goods from the NCT to an industrial user of goods and/or services is VAT exempted, provided that they are required for the development of the user's economic activity. This VAT exemption also applies on sales between industrial users.





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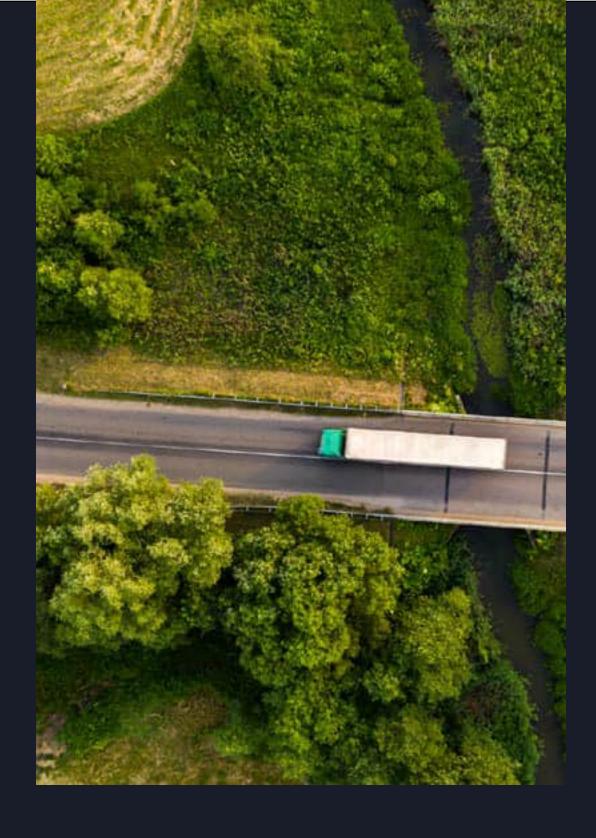


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### Free trade agreements ("FTA")

Colombia has various FTA's in force allowing the importation of goods, in most cases with a 0% customs duty rate, depending on the applicable subheading under which the good is classified. The most significant FTA's are the following

| FTA US-Colombia   | FTA European Union - Colombia   |  |
|---|---|--|
| FTA Canada-Colombia   | FTA Mexico-Colombia   |  |
| FTA Chile-Colombia  | FTA United Kingdom  |  |
| Andean Community Agreement with Peru, Bolivia,<br>Ecuador and Colombia  | FTA Israel -Colombia  |  |
| FTA South Korea-Colombia  | FTA Costa Rica - Colombia   |  |
| European Free Trade Association-EFTA- States<br>(Switzerland, Norway, Iceland and Liechtenstein)  | Economic Complementation Agreement<br>Mercosur (Argentina, Brazil, Paraguay,<br>Uruguay and Colombia) |  |
| Economic Complementation Agreement Colombia -<br>Mercosur (Argentina, Brazil, Paraguay and Uruguay)   | Partial Preferential Agreement<br>with Venezuela  |  |
| FTA Guatemala, Honduras and Salvador-Colombia   | Partial Preferential Agreement with<br>Venezuela  |  |
| Agreement on Trade, Economic and Technical Cooperation<br>between Colombia and CARICOM (Trinidad and Tobago,<br>Jamaica, Barbados, Guyana, Antigua and Barbuda, Belize, | Framework agreement of Pacific<br>Alliance (Colombia, Chile, México and<br>Peru)                      |  |
| Dominica, Granada, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines).   | Economic Complementation Agreement<br>Cuba-Colombia   |  |





The FTA with Panama is pending of approval, and the FTA'S with Japan and Turkey are under negotiation.











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### Plan Vallejo

# Plan Vallejo is a special import-export regime that allows temporary imports for raw materials, supplies,

intermediate goods, capital goods and/or spare parts that will be used in the production of goods or services for export. The arrangements provide full or partial exemption from import duties at the time of importation.





### Raw materials

It grants suspension of import duties applicable to inputs and raw materials, to be totally or partially exported after having undergone transformation in Colombia.\* ••



### Capital goods

Under a modality that allows importation of capital goods and spare parts with no customs duty and deferring the payment of the VAT; or under the modality that allows importation of capital goods and spare parts deferring VAT payment.



### Services

Companies can request an authorization to temporary import into Colombia certain goods with no payment of customs duty and VAT deferral. Usually this type of Plan Vallejo is applicable to the export of services provided by companies whose main activity consists on transmission, distribution, and commercialization of electric energy services; telecommunications and software; passenger air transportation; engineering, amongst others.



### Replacement or junior

It grants the exporter of goods the right to replace, through a new import, with the suspension of import duties, the raw materials or inputs that have been used in the production of such goods, when all import duties were originally paid upon the initial import.

On October, 2020, the Ministry of Commerce, Industry and Tourism issued regulations that establishes transitory provisions for accessing and complying with Plan Vallejo programs in a "express mode", with the aim of making the requirements more flexible, streamlining exports and reactivating the economy. This program is intended to last until March 31, 2023.









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## Authorized Economic Operator ("AEO")

Individuals or legal entities established in Colombia may request before the DIAN an authorization as AEO. The applicant may choose, either individually or simultaneously, between the AEO security and facilitation category and the AEO sanitary security and facilitation category. AEO's are recognized as part of the international supply chain that fulfills the minimum conditions set forth by the Government, and consequently, guarantees safe and reliable foreign trade operations.

Currently, the authorization as an AEO is contemplated for exporters, importers, customs brokers and port facilities and port operator. Foreign operators that obtain qualification as an AEO may have, among others, the following benefits: >

Recognition as a safe and reliable trader by the Customs Authorities;

Fewer audits, physical inspections and documentation requirements;

>

Open communications with the Customs Authorities;

Use of special simplified procedures during audit or inspection;

>

Non-constitution of a global guarantee for the development of its operations; >

Access to training provided by the Customs Authorities;

Access to mutual recognition agreements with other countries.

>

Consolidation of import duties payments;

>

On-site customs clearance for exports.

## International Trading Companies ("ITC")

ITC's are companies registered before the Customs Authority whose main purpose is the export of Colombian products. These products are purchased in Colombia or are manufactured by the ITC's shareholders.

The benefits of these companies, among others, are the following:

- Exemption from VAT on their local purchases of goods, as long as these are effectively exported; and
- The intermediary production services that these companies receive are equally exempt from VAT, as long as the final product is effectively exported.







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As a general rule, all legal entities and individuals deemed as Colombian residents for exchange control purposes, undertaking operations with non-residents, are subject to the provisions of the Colombian exchange control regime,

which covers mainly handling certain transactions through the foreign exchange market (this is, through foreign exchange intermediaries such as commercial banks, or using bank accounts registered and reported to the Central Bank, so called compensation accounts) and reporting obligations to the Colombian Central Bank (Banco de la República).

> Il Colombian citizens living in Colombian territory, foreigners who have lived in Colombia for 183 continuous or discontinuous days within a 365 days period, as well as any State owned entity, private companies and branch offices of foreign entities registered in Colombia are considered "residents" for Colombian foreign exchange control purposes and are subject, in general, to the provisions of the foreign exchange regime.

> Compliance with the exchange control regime is jointly supervised by the Office of the Superintendence of Companies, and the Colombian Tax Authority (DIAN per its initials in Spanish). The Office of the Superintendence of Finance has the competency for the financial institutions.

Non-compliance is subject to penalties that can range from up to





Of the amount of the operation for international investments and foreign loans, to

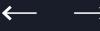


Of the value for any other type of operations or fixed penalties amounts determined over Tax Value Units.

Foreign exchange market and operations of mandatory channeling through the foreign exchange market

As a general rule, all obligations and liabilities derived from agreements, contracts and other operations signed between Colombian residents must be paid in Colombian currency. Some exceptions apply for

- Payments between certain companies or branch offices of the hydrocarbons and mining sector (please refer to the chapter on *Making* investments)
- Payments made through compensation accounts hold by Colombian debtorcreditor residents; and
- Other transactions such as payment of insurance premiums, purchases in duty frees, and international flight tickets or freights.











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### Also, as a general rule, payments between Colombian residents and nonresidents are paid in foreign currency.

Some of these transactions must be reported to the Central Bank and channeled through the foreign exchange market which are referred to as "operations of mandatory channeling through the foreign exchange market".

### These transactions are:

Imports and exports of goods;

Foreign loans and related financial costs;

Foreign capital investments in Colombia and related yields;

^

Colombian capital investments abroad and related yields;

Financial investments in securities issued abroad, investments in assets located abroad and related yields, unless the investment is made with foreign currency from transactions that are not required to be channeled through the exchange market;

Endorsements and warranty bonds

Derivatives.

A six-month mandatory deposit is established for the following foreign exchange operations, among others:

- Exports financing;
- Portfolio investments, and
- Foreign loans. However, the percentage that has to be deposited is currently 0%.

All other operations which are not of mandatory channeling through the foreign exchange market, such as services, which are referred to as "free market operations" are not required to be reported to the Colombian Central Bank but could be voluntarily completed through the foreign exchange market.

### Import of goods

The importer of record is the only resident entitled to pay for the import of goods through the foreign exchange market. Therefore, it is not possible to make payment of imports on behalf of third parties. As an exception to this rule, imports can be paid by an administration and payment trust whose trustor is the importer of record, or by payment service providers (aggregator modality).

Payment should correspond to the total amount of the imported goods as reported in the import declaration. Payments for higher or lower amounts should be justified in a valid market reason such as a discount from prompt payment or volume and documented properly.

### **Export of goods**

The exporter of record is the only resident entitled to receive the payment for the export of the goods through the foreign exchange market. Therefore, it is not possible to receive payment of exports on behalf of third parties. As an exception to this rule, payments for export operations can be received by an administration and payment trust whose trustor is the exporter of record or by payment service providers (aggregator modality).

Payment received should correspond to the total amount of the exported goods as reported in the export declaration. Payments received for higher or lower amounts should be justified in a valid market reason such as a discount from prompt payment or volume and documented properly.







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### Foreign loans

Colombian residents may contract loans in foreign or local currency from foreign exchange intermediaries (IMC per its initials in Spanish) or from non-residents, regardless of their term of payment and the destination of the funds (including the possibility to hire intercompany loans). Certain procedural requirements must be met, such as the previous registration of the loan with the Central Bank.

## International investments

Both international investments from international investors in Colombia and Colombian investors abroad are subject to registration and reporting obligations with the Central Bank (please refer to the chapter on Making investments).

## Endorsement and warranty bonds

These operations can be granted by IMC's, residents and non-residents, to endorse any kind of operations. Endorsements and warranties granted by an IMC must be reported to the Central Bank within the month following to its granting. Endorsements and warranties granted by residents or non-residents are not subject to registration with the Central Bank, unless as a result of its execution a foreign loan operation between the guarantor and the guaranteed generates, in which case the foreign loan must be informed before the Central Bank.



### **Derivatives**

Colombian residents are allowed to execute derivative operations both with local financial institutions or external authorized agents. External authorized agents are foreign entities which have executed derivatives for more than one billion dollars on the immediately preceding year.

Derivative gains or losses have to be channeled through the foreign exchange market and the derivative agreement has to be reported to the Central Bank on the day following its execution.

### Compensation accounts

Bank accounts opened by a Colombian resident in a foreign financial institution may be used for the payment of operations of mandatory channeling through the foreign exchange market or operations entered into by Colombian residents, provided that such accounts are registered with the Central Bank. Free market operations may be paid trough compensation accounts or foreign bank accounts not registered with the Central Bank.

Compensation accounts are subject to the following reporting obligations:

Monthly activity report to the Central Bank (Form n.º 10)

Quarterly exogenous information to the DIAN.







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### **Accounting standards**

Since 2009, Colombia adopted a new framework of accounting, financial information and information assurance rules,

having as reference the International Financial Reporting Standards ("IFRS") as issued by the International Accounting Standards Board ("IASB"). The National Government delegated to the Technical Council of Public Accounting ("CTCP" per its initials in Spanish) the process of technical standardization of standards in Colombia.

> Additionally, the International Accounting Standards ("IAS"), as issued by the International Federation of Accountants ("IFAC"), were defined as the reference framework for assurance rules in Colombia.

> Due to the internal and external situations that affect operations in companies, the IASB constantly updates standards and when this occurs, countries must include these changes in the technical accounting frameworks. In Colombia, the latest updates entered into force on January 1st, 2023, consisting in changes in IAS 1, 16, 37, 39, 41 and IFRS 1, 3, 4, 7 and 9. Other changes in IAS 8, 1 and IFRS 16 will be in force on January 1st, 2024.

### Financial statements

All merchants (either legal entities, branch offices or individuals) are obliged to keep accounting records, in Spanish, under IFRS. Accounting records may be kept abroad, provided that, books may be exhibited in Colombia, per the request of the relevant authorities.

Companies must prepare and adopt accounting policies. The highest control body along with the other divisions of each company must intervene and participate in the definition and construction thereof, in order to ensure that the financial statements contain consistent information related to the business.

At the end of each calendar year, on December 31st, companies and branch offices should cut-off their annual accounts and prepare the following general purposes financial statements. The by-laws may provide for additional and shorter periods to prepare yearend financial statements:

- > Statement of financial position,
- Statement of profit or loss and other comprehensive income,
- Statement of changes in equity,
- Statement of cash flows
- Disclosures

From a corporate standpoint, the yearend financial statements prepared under Colombian accounting principles are those that serve as a basis for the shareholders to decide on the distribution of profits in a shareholders' meeting.







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## Simplified accounting for small companies

Qualified small companies can carry a simplified accounting, prepare and issue abbreviated financial statements and disclosures or apply moderate levels of assurance in the review of financial statements. The Colombian Government shall determine the criteria to qualify for such treatment, based on the level of income and assets, number of employees, legal type or special socioeconomic conditions.

## Fiscal conciliation

All taxpayers are obliged to keep a control mechanism through the report called "Fiscal conciliation"; which seeks to explain the differences originated from the application of the IFRS and the base for the presentation of the tax returns. For these purposes, companies must carry out a detailed reconciliation and prepare a reconciliation report that includes, the calculation of current tax, as well as details of the accounting and tax bases, on a transactional basis.

## Functional currency

NIC 21 allows for each entity to define a functional currency that measures the economic effects of its operation and serves as a basis to prepare its financial statements. This provision defines certain guidelines to determine which should be the applicable functional currency, such as:

The currency at which the sales prices of the goods and services commercialized by the Company are rated;

The factors of the country which in a great extent affect those sale prices;

The currency that influences operating costs to a higher extent; and on a subsidiary basis.

The currency with which the company obtains most of its financing, always considering the economic reality of the operation of each company.

Pursuant to the above, the functional currency of a Colombian company is not necessarily the national official currency; therefore, companies may determine a functional currency other than the Colombian peso (for example, USD), under which they may validly prepare their general-purpose financial statements, at the end of each year. However, these financial statements must be translated to Colombian pesos for filing purposes.



### **Electronic documents**

Colombia has moved forward to the transmission of accounting information electronically. Companies must generate and receive electronic documents (electronic invoices, electronic support of operations entered into with counterparties that are not obliged by law to issue invoices, as well as acknowledgment for the receipt of invoice or of goods and/or services). Local laws contain the framework and requirements for e-invoicing, including the requirements to correctly evidence all costs and expenses within the accounting books and the annual CIT.

On the other hand, companies are required to transmit through a technological provider the XML, the document that acts as supporting information for operations undertaken with third parties that are not obliged by law to issue electronic invoices.

Companies have to send two electronic confirmation messages to the Dirección de Impuestos y Aduanas Nacionales ("DIAN"). One of these messages corresponds to the acceptance of an invoice from a purchase of goods or services. The second one of these messages, corresponds to the receipt of the goods or services by the company. Those confirmations are integrated into the electronic documents issued by the suppliers and they are part of the validations made by DIAN for tax return purposes.





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## Corporate income tax Corporate taxpayers

National companies are taxed on their worldwide income, equity and capital gains. National companies are legal entities that

1

Have their principal domicile in Colombia; or

2

Are organized under Colombian law; or

3

Have their effective place of management in Colombia<sup>1</sup>.

Foreign companies which obtain more than 80% of their income (other than passive income) in the jurisdiction of incorporation are not considered to have their effective place of management in Colombia ("80% foreign income companies"). Foreign companies that have issued stock or bonds listed in the Colombian stock exchange, or in any recognized foreign stock exchange, are not considered to be national companies, even

if they have their effective place of management in Colombia. Subsidiaries of the companies mentioned before are not considered to have their effective place of management in Colombia either, provided that they are consolidated in the financial statements of their parent; however, such subsidiaries can elect to be treated as national companies, unless they are characterized as 80% foreign income companies.



## Foreign companies are generally taxed on their Colombian-source income and capital gains only.

However, Colombian branch offices of foreign entities, and permanent establishments ("PE's") are subject to taxation on their worldwide-source income.

Taxation of branch offices and PE's is based on attribution studies which include an analysis of functions, assets, risks and personnel under the arm's length principle.

1. The effective place of management of a company is the place where the commercial and management decisions, required to carry out the day-to-day activities, are made. To determine the effective place of management it should be considered the place where day-to-day activities of the legal entity are developed.









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### Permanent establishment

Under the local definition, a PE means a fixed place of business located in the country, through which a foreign entity carries on its business wholly or partially.

PE definition covers also agent PEs, for:

- Dependent agents who act on behalf of the foreign entities on a permanent basis and have the ability to conclude legally binding agreements; and
- Independent agents when all or the majority of their activities, are undertaken on behalf of such company, and the same have agreed on or imposed financial or commercial conditions that differ to the ones that have been agreed with a third party (since those are deemed dependent agents).

The PE concept also includes, among others, branch offices, agencies, offices, factories, workshops, and mines, as part of a non-comprehensive list.

Additionally, PE regulations incorporate some exceptions for the creation of a PE whenever there is an actual fixed place of business through which an activity is carried out, these are:

- Activities carried out through an independent agent under its ordinary business activities and market conditions, and
- The undertaking of preparatory or auxiliary activities. Additionally, representation offices in Colombia of foreign reinsurance companies are not considered to generate a PE.

In any case, Colombian tax law does not provide that the actual (or statutory) presence of a PE is a condition for the income of any business to be taxable in Colombia. As a general rule instead, any activity that is carried out within Colombian territory generates Colombian source income and is treated as such under the relevant applicable Colombian income tax provisions.

woman from the amazon weaving a traditional basket.





### Significant economic presence ("SEP")

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Applicable from 2024, nonresidents with SEP in Colombia will be subject to 10% income tax withholding (unless another withholding tax rate applies) on the sale of goods and the provision of certain listed services (generally digital services) to Colombian customers, even if the nonresidents do not have any physical presence in the country. Nevertheless, the nonresident entity or individual may opt to assess its income tax liability at a 3% rate over the gross income. For such purposes, the nonresident should file an income tax return in Colombia.

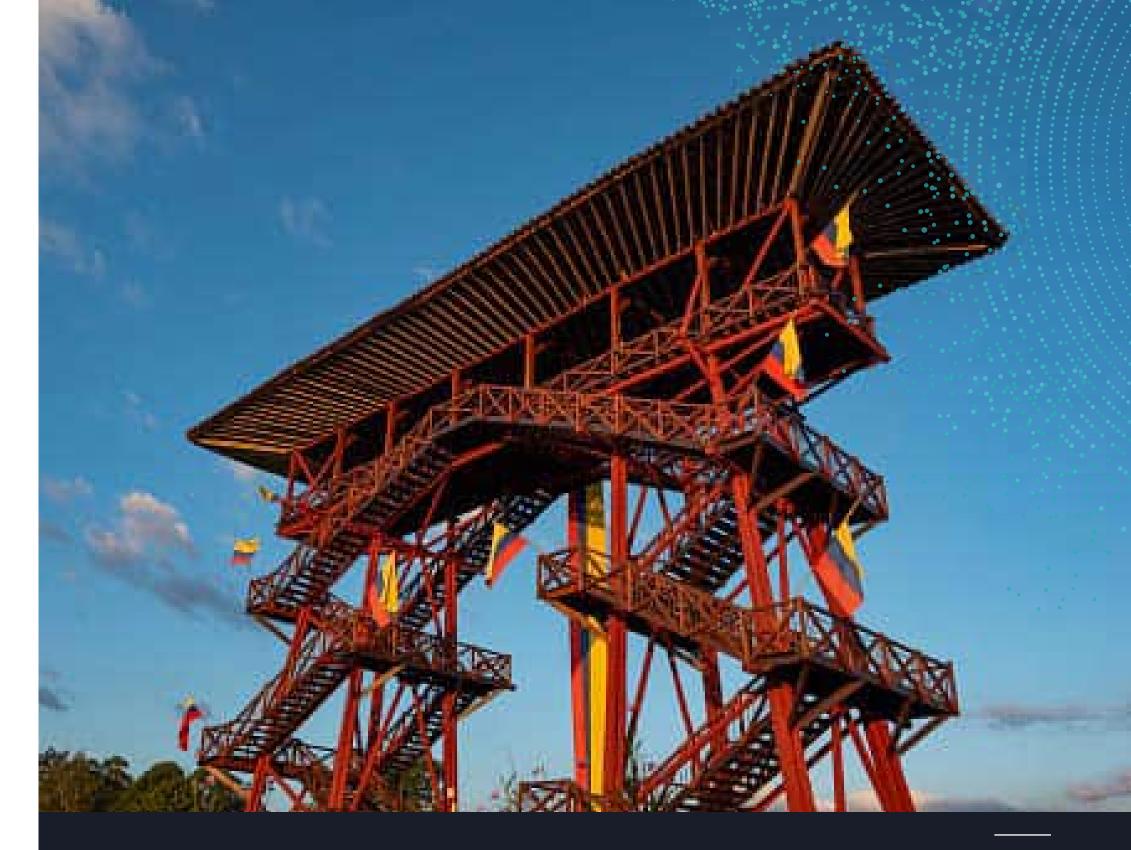
A SEP would be triggered if the following criteria are met:

► The nonresident entity has a deliberate and systematic interaction with the Colombian market. This type of interaction would be presumed to exist when the nonresident has interaction or marketing activities with more than 300,000 users in Colombia during the prior year, or within the relevant tax year, or displays the price of goods in Colombian Pesos or allows the payments in Colombian Pesos.

Its gross income from transactions with customers in Colombia is higher than

31,300 ax Value Units (approx. USD265,000) during the prior year or the current taxable year.

If the activities in Colombia are developed by different related parties, the above criteria will consider the transactions of all related entities.



Double tax treaties generally could prevent to trigger taxation under SEP. Moreover, in the case that Colombia signs an international agreement which forbids this form of taxation, the rules mentioned above would be inapplicable as from the taxable year following the one when the international agreement enters into force (this rule is related with Pillar One of the BEPS 2.0 project of the OECD).









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## Corporate income tax rate

## The general corporate income tax ("CIT") rate is 35% in 2023.

Surtax:

### Financial institutions,

insurance and reinsurance companies, stockbrokers, among others, whose taxable income is higher than 120,000 Tax Value Units (approx. USD 1 million) will be subject to CIT surtax of 5 percentual point (total CIT of 40%) until 2027.

Companies receiving income derived from the development of certain extraction activities of non-renewable resources, and whose taxable income is higher than 50,000 Tax Value Units (approx. USD424,000), including the taxable income of related parties, will be subject to a permanent CIT surtax as follows:

1

**Oil companies:** The permanent surtax will vary between 0 to 15 percentual points (total CIT rate between 35% to 50%).

2

Coal mining companies: The permanent surtax will vary between 0 to 10 percentual points (total CIT rate between 35% to 45%).

The applicable surtax rate would be determined based on a calculation that considers the average mining/oil prices within the 10 years prior to the year in which the surtax is determined and the average price of the product in the year in which the calculation is made.

Income derived from the sale of natural gas will be not subject to the CIT surtax.

Income taxpayers whose main economic activity is power generation from hydric resources and receive taxable income higher than

30,000 Tax Value Units (approx. USD255,000),

Also considering the taxable income from related parties, will be subject to a CIT surtax of

3 percentual point (total CIT of 38%) until 2026.

► IPower stations with an installed capacity lower than

1,000 KW will not be subject to this surtax.

## Free-trade zones:

## A special reduced corporate income tax rate of 20% applies to legal entities qualified as

industrial users of goods and/or services or operator users in a free-trade zone, either permanent, special or off-shore.

From 2024, industrial users of free-trade zone would keep benefiting from the 20% tax rate to income derived from exportation of goods or services. However, a 35% CIT rate will apply to income derived from other type of activities. The taxable income subject either to the 20% or the 35% rate shall be determined based on the ratio between the income received for each type of activity (i.e., exportation of goods and other type of activities) and the total taxable income (excluding capital gains). For industrial users who, for FY 2022, obtained a 60% increase in their gross income, compared with its FY 2019's gross income, the 20% rate over overall their income should apply until FY 2025.







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To apply the 20% rate, industrial users of freetrade zones must sign an internationalization plan with the Ministry of Commerce, Industry and Tourism. Otherwise, the 35% rate will apply over the overall income received by the industrial user.

For purposes of the application of the 20% rate income derived from the provision of health services provided to non-residents as well as airport infrastructure projects will be deemed as income derived from the exportation of goods and services.

The 20% CIT rate would still apply for offshore free-trade zones, industrial users of special free-trade zones for the provision of port services, industrial users of port services of free-trade zones, industrial users of free-trade zones engaged on oil fuels or industrial biofuels refining, industrial services users of free-trade zones engaged in the provision of logistic, transportation, handling, distribution, packaging, re-packaging, labeling, or sorting services and free-trade zones' operators.

Commercial users in a free-trade zone are subject to the general corporate income tax rate.

#### Some reduced rates:

A reduced 15% CIT, during a 10 year period, will apply for hotel services and ecotourism parks and/or agritourism parks services provided in new or refurbished hotels or parks developed in certain municipalities. The application of this reduced rate requires that the relevant project is approved by the Ministry of Commerce, Industry and Tourism (in addition to some other legal requirements).

The construction, refurbishment or expansion of hotels should be developed within 5 years following to the entry into force of 2022 tax reform. In the case of refurbishment or expansion projects, the value of the same cannot be lower than 50% of the acquisition value of the property to be refurnished or expanded.

- Acquired rights should be respected until its term, originally provided by the repealed law, lapses, this could include the application of reduced CIT rates applicable to certain taxpayers that met the requirements to benefit from them before they were repealed.
- A reduced 15%
  CIT rate will apply
  for publishing
  companies
  under certain
  requirements.
- Procession and which have been appointed as "large taxpayers" by the tax authorities. Size of the company determines the reduced income tax rates are available until 2027 for companies whose main domicile and whole activity is carried out in zones affected by armed conflict ("ZOMAC"), defined by the National Government. This special treatment is not available to entities devoted to the oil, gas and mining sector, or companies engaged on carry out a port concession and which have been appointed as "large taxpayers" by the tax authorities. Size of the company determines the reduced income tax rate applicable, as follows:

| Entity Type                | 2022 - 2024 | 2025 - 2027 | 2028 |
|----------------------------|-------------|-------------|------|
| Micro and small companies  | 8,75%       | 17,5%       | 35%  |
| Medium and Large companies | 26,25%      | 26,25%      | 35%  |

\* Applicable rates determined considering current applicable CIT rate

Reduced and gradual corporate income tax rates are available for companies incorporated whose main domicile and whole activity is carried out in Special Economic and Social Zones ("ZESE") and applied for this benefit. This special treatment is not available to entities devoted to the oil, gas, and mining sector as well as existing companies that re-domicile to this special zones. Currently, the term to apply to certain ZESE would expire on December 31st, 2024.

Companies that benefit from the ZESE regime will be subject to special rates as follows:

| Years 1 - 5 as from incorporation         | 0%    |  |
|---|-------|--|
| Years 6 - 10 as from incorporation        | 17,5% |  |
| Year 11 and onwards as from incorporation | 35%   |  |

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### Capital gains tax

A 15% rate is generally applied over capital gains. This, for example, includes the disposal of fixed assets owned for two years or more.

### Minimum CIT rate (adjusted tax rate)

Income taxpayers are subject to a 15% minimum tax rate (Adjusted Tax Rate "ATR"). The ATR would be determined adjusted income tax ("AIT") over the under local rules. If the ATR is lower than 15%, it should be adjusted to achieve the 15% rate.

from the ZESE regime over the period

### Taxable income

Ordinary taxable income is calculated by subtracting deductible costs and expenses from net gross revenues (gross taxable revenues minus rebates and discounts). If this results in a tax loss, such loss may be carried forward in the following 12 fiscal years as from the tax loss arose (pre-2017 losses can be carried forward without limitation). Additionally, tax laws provide no limitations on the amount of tax losses available to be offset against ordinary taxable income each year.

Some restrictions apply to the transfer of losses in mergers or spin-offs (tax free events

for Colombian tax purposes under certain circumstances). The surviving entity can offset losses rolled over from the merged entities only if the economic activity of the companies involved (those which generated the losses) is the same before and after the merger. In addition, the merged entities' losses can be used by the surviving entity, but only up to a limit equivalent to ratio by which each of the merged entities' equity participates in the surviving entity's equity<sup>2</sup>. Similar rules apply to spin-offs of companies. requirements and restrictions

apply to the different tax credits available.

**2.** According to the Unification ruling No 23419 issued by the Council of State in October 2020, merged entities should be understood as "those that participate or intervene in the merger process, which includes both the absorbing and absorbed companies."

based on the ratio between the adjusted income ("Al") calculated

This rule will not apply, among others, to nonresidents, companies benefited in which such companies are subject to a 0% rate, companies benefiting from the ZOMAC regime, companies engaged exclusively in publishing activities, hotel services subject to a 15% tax rate and concession agreements.



As general rule, tax credits may be used to reduce income tax, but no below zero.

Several requirements and restrictions apply to the different tax credits available.





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# Taxable year and tax return filing due dates for corporations and branch offices

The taxable year is the calendar year. Annually, the National Government sets due dates for filing corporate income tax returns and making tax payments. Income tax is paid in three installments for "large taxpayers", and in two installments for all other corporate taxpayers. Each two years, the tax authority issues the list of companies and branch offices of foreign companies that are qualified as "large taxpayers" and removes some companies from the list.

### As of 2015,

There is an additional form to be filed to report the assets wheel abroad Colombia by taxpayers subject to worldwide taxation on its income and equity.

### As from year 2017,

a fiscal reconciliation form must be submitted on an annual basis, in which the main differences between accounting records and tax figures are reported.



In addition, income taxpayers obliged to keep accounting records must submit an annex to the income tax return (in a format set by the Colombian Tax Authorities)

in which it is reported in detail the items included as part of the "other deductions" line of the income tax return. Such annex must be signed by the accountant or statutory auditor of the company.







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### **Exempt income**

Income generated from the following activities, among others, is tax exempt:

| Income   | Exemption period availability          |
|--|--|
| Exempt income obtained in Andean Community countries (i.e., Bolivia, Ecuador, Perú) under the parameters provided by Decision 578 (in this case income is only taxed in the country of the source, and in the country of residence income is exempt).                            | N/A                                    |
| Sale of electricity generated from wind energy, biomass or agricultural waste, solar energy, geothermal energy or from the sea by power generation companies. Requires that carbon certificates are obtained and negotiated.   | Until 2031                             |
| Certain income related with low-income housing projects, including the sale of property devoted to the development of these projects, the first sale of low-income houses, and certain interest on loans for the acquisition on low-income housing (under certain requirements). | N/A                                    |
| Payment of the principal, interests, commissions, and other fees associated with external public credit transactions.  | N/A                                    |
| Dividends distributed by foreign entities to the Colombian Holding Companies ("CHC") regime entities and disposal of shares held by a CHC entity in a foreign entity.  | N/A                                    |
| Funds of pensions funds  | N/A                                    |
| Certain entrepreneurial, creative and technological activities (so-called Orange economy). It is required that the gross income received in each year does not exceed of 80.000 tax units (approximately USD 846.000), with certain exception.                                   | 7 years as from the projects approval  |
| Investments to increase productivity in the agricultural sector.   | 10 years as from the projects approval |
| Income related with low income housing projects.   | N/A                                    |
| Payment of the principal, interests, commissions, and other fees associated with external public credit transactions.  | N/A                                    |
| Dividends distributed by foreign entities to the Colombian Holding Companies ("CHC") regime entities and disposal of shares held by a CHC entity in a foreign entity.  | N/A                                    |

Certain provisions related to exempted income which have been repealed may still be applicable (until the time established originally for the special treatment lapses) for some taxpayers that met the requirements to benefit from the exemption treatment before it was repealed.











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### Costs and expenses

In general terms, costs and expenses may be deducted for corporate income tax purposes as long as they are

- (i) necessary;
- (ii) related to the development or execution of the income generating activity (whether or not taxable income is generated); and
- (iii) proportionate or reasonable.

The fulfillment of requirements (i) and (iii) must be evaluated according to common commercial practices for each industry or activity.

Royalties paid for the exploitation of non-renewable resources will be not deductible for income tax purposes (regardless of how they are recorded from an accounting perspective, the denomination or payment conditions of such royalties). In the case of oil and gas, for taxpayers who pay inkind royalties, the non-deductible value would be equivalent to the production costs of the volumes paid as royalties.

Generally, royalties paid in relation to finished goods that are acquired by the payor are not deductible. In addition, royalties in relation to intangibles formed in Colombia are no deductible if they are paid to foreign related parties, or to persons located in free trade zones.

### **Taxes**

Taxpayers may generally deduct all paid taxes related to their economic activity, except for certain cases such as the debit tax (only 50% is deductible, regardless of whether the tax relates to the income-producing activity), and some taxes such as the equity tax or the single-use plastic tax, which are not deductible.

### Expenditures incurred abroad

Subject to certain exceptions, expenditures incurred abroad are deductible, provided that they meet the three general requirements mentioned above and provided also that

They are incurred to generate taxable income;

The applicable withholding taxes are collected from the payments (if any);

The expenditure amounts comply with applicable transfer pricing rules in the case of related party transactions;

The related payment has been made in compliance with exchange control regulations; and

In the case of importation of technology, the agreements are registered with the Tax Authority.

In addition, supporting documents for the operation should furnished and sent to the Tax Authority by the Colombian payor.



Where tax withholdings are not required, the deductibility of expenditures incurred abroad in connection to Colombian source income is then limited to 15% of net taxable income,

computed before deducting costs and expenses abroad not subject to withholding tax in Colombia; some specific exceptions could apply (e.g., payments for acquisition of tangible assets).

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### Expenditures with tax havens

As a general rule, in addition to the prior requirements, payments made abroad to individuals or entities domiciled in tax havens or tax preferential regimes will not be deductible for income tax purposes, unless the withholding tax is applied, when the payment constitutes Colombian source income, at the general income tax rate (35% for 2022 onwards).

When the payment to a tax haven or preferential regime is considered foreign source income, no withholding tax should be required to claim the deduction. However, transfer pricing

documentation is required for the transactions with tax havens and tax preferential tax regimes, irrespective if the payee either in the tax haven or in the tax preferential regime is an actual related or unrelated party. However, when the payee in the tax haven it is a non-related party, the transfer pricing analysis does not need to include the detail of functions, assets, risks, and costs incurred by such non-related party.

The list of tax havens applicable for 2023 is the following:

On October 28, 2021, the Government regulated the criteria to identify preferential tax regimes, this should be determined on a case-by-case basis as there is not a list of them.



| Antigua and Barbuda |  |
|---------------------|--|
|---------------------|--|

Commonwealth of the Dominica

Commonwealth of the Bahamas

Cook Islands

Cooperative Republic of Guyana

Grenada

Hashemite Kingdom of Jordan

Hong Kong

Independent State of Western Samoa

Kingdom of Bahrain

Kuwait

Labuan

Lebanese Republic

Macao

Maldives

Mauritius

Pitcairn, Henderson, Ducie and Oeno Islands

Qatar

Queshm

Republic of Angola

Republic of Cape Verde

Republic of Liberia

Republic of the Marshall Islands

Republic of Nauru

Republic of Seychelles

Republic of Trinidad and Tobago

Republic Vanuatu

Republic of Yemen

Saint Helena, Ascension and Tristan da Cunha

Saint Vincent and the Grenadines

Solomon Islands

St. Kitts & Nevis

St. Lucia

State of Brunei Darussalam

Sultanate of Oman

Svalbard

Territorial Collectivity of Saint Pierre and Miquelon







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### **Depreciation**

Depreciation for tax purposes should follow the depreciation applied for accounting purposes. However, the annual depreciation rate for tax purposes cannot exceed certain percentages, depending on the type of asset. Colombian Tax Authorities have accepted that certain low-value assets may be fully depreciated in the year of acquisition. Likewise, for machinery and equipment which are used daily in 16-hour shifts, the taxpayer may request an additional 25% on the depreciation rate. If the use exceeds 16 hours, proportional additional depreciation can be requested. Land is generally not depreciable or amortizable.

The balance of the assets pending to be depreciated as of December 31st, 2016 should be depreciated under the old rules applicable before 2017.

Where the taxpayer has claimed the special 40% or 30% capital expenditure deduction for investments made in tangible productive fixed assets, the depreciation of these assets must be calculated using the straight-line method only. These special fixed assets deduction has been eliminated effective January 1st, 2011, but it is still applicable for certain taxpayers, provided specific conditions are met (e.g., they are covered by a legal stability agreement).

### **Provisions**

As a general rule, provisions are not deductible for corporate income tax calculation purposes, except for bad debt provisions and, subject to special rules, provisions for the payment of pensions.



Industrial harvesting in Cauca Valley, Colombia.

### **Amortization**

In general, any ordinary and necessary investments used for the purposes of the business may be amortized, to the extent certain requirements are met. The amortization of the investments should be made during the time that the related income is expected to be earned, however the amortization period may not be less than five years.

Advance payments should be amortizable as the prepaid services are received. Acquired identifiable intangibles can be generally amortized to the extent they have a

useful limited life and are amortized for accounting purposes. Certain limitations on amortization may apply to identifiable intangibles acquired from related parties. Goodwill is not amortizable.

Amortizable costs and expenses for the oil industry can be amortized using the units-of-production method. If investments in exploration are unsuccessful, the costs and expenses may be claimed as deductions in the year in which this is determined or in the following two years. Investments made between

2017 and 2022 with respect to the evaluation and exploration stages are amortizable using a five-year, straight-line method. Since 2023, it is repealed the five years accelerated amortization for investments in exploratory activities carried out between 2017 and 2027 as well as the incentive credit (CERT) for oil, gas, and mining investments.

Assets and investments pending to be amortized as of December 31st, 2016 should be amortized under the old rules.

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### Thin capitalization rules



Interest paid on loans acquired, directly or indirectly (including loans guaranteed), from related parties (foreign or local) that in average exceeds a 2:1 debt-to-equity ratio is not deductible. For this purpose, the equity considered is the taxpayer's net equity for the preceding year, and the debt taken into account is debt that accrues interest in the current year.



Thin capitalization rules do not apply for special purpose vehicles engaged 50 % in transport and public services infrastructure projects, for entities subject to the surveillance and inspection of the Office of the Superintendence of Finance (mainly banks), to factoring companies to the extent no more than the 50% of its factoring activities are carried out with related parties, and to entities on a nonproductive stage.

### Tax deductions, benefits, and incentives

Certain non-taxable income. special deductions, exempt income, and tax credits will be limited to 3% of net taxable income, calculated without applying the special deductions subject to the limitation. The items that are subject to the limitation, among others, include:

- Special deduction related with payments made by the employer for the employee's (or his family) education;
- Tax credit for investments in environmental control, conservation, and improvement;
- Special deduction related with labor payments made to female employees who are victims of domestic violence.

### Withholding taxes on payments abroad

As a general rule, any payment made abroad which qualify as Colombian source income for the recipient are subject to withholding tax on the gross payment amount.



A flat 20% withholding tax applies on payments for commission, fees, royalties, provision of personal services, technical services, technical assistance consulting services, provided by a foreign entity without domicile in Colombia. The technical services, technical assistance or consulting services should be subject to withholding regardless of where the services are rendered.



Payments abroad for management and direction services (usually rendered between related parties) should be subject to withholding tax at a 33% rate, even if they are rendered from abroad.



Any interest paid to foreign lenders pursuant to loan agreements for a term equal or greater than one year, and interest or financial expenses arisen from leasing agreements entered with foreign entities, are subject to a 15% withholding tax. If the term of the agreement is less than one year, the applicable rate is 20%. Some payments for leasing agreements related to ships, helicopters and planes entered into by Colombian companies with foreign companies are subject to a 1% withholding tax.









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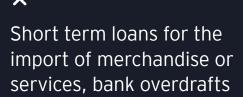
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A 5% withholding rate is applicable to payments related to financial yields or interest to non-residents that originated on loans or amounts of debt value, with a term equal to or beyond eight years that are granted for infrastructure projects under public-private partnerships.

Interest paid on the following operations is deemed to generate foreign source income, thus not subject to withholding tax:



or credit lines;

Loans for the finance or pre-finance of exports of merchandise;

Loans obtained by most Colombian financial entities and Bancoldex, Finagro and Findeter; Loans for foreign trade through most Colombian financial entities and Bancoldex, Finagro and Findeter.

### Most relevant withholding taxes on payments abroad

| Activity   | Rate |  |
|--|------|--|
| Consultancy services, technical services, and technical assistance services. | 20%  |  |
| Management and direction services.   | 33%  |  |

Interest paid to international lenders.

15% (one year or more) or 20% (less than one year).











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### **Dividends**

# Dividends distribution to non-residents (entities or individuals) are subject to dividend tax at a rate of 20%, which is collected via withholding tax.

On a dividend distribution, if the relevant profits were subject to taxation at the corporate level only the 20% dividend tax is applicable.

Otherwise, if the dividend distribution is made out of profits that were not subject to taxation at the corporate level, the dividends will be subject to the income tax rate applicable for the period of the distribution (currently, the applicable rate would be generally 35%). In that case, the 20% dividend tax would apply over the dividend after being reduced by the income tax (effective rate of 48% for FY2023 onwards).

In addition, if the relevant profits were not subject to taxation at the corporate level, the dividends will be subject to an income tax rate applicable for the period of the distribution (currently, the applicable rate would be 35%). In that case, the dividend tax (if applicable) would apply over the dividend after being reduced by the income tax.

A 10% dividend withholding tax applies on distributions between Colombian companies. In addition, if the relevant profits were not subject 10%

A 10% dividend withholding tax applies on distributions between Colombian companies.

to taxation at the corporate level, the dividends will be subject to an income tax rate applicable for the period of the distribution (currently, the applicable rate would be 35%). In that case, the 10% dividend withholding tax would apply over the dividend after being reduced by the 35% income tax. This 10% dividend withholding tax on domestic distributions will be charged only on the first distribution of dividends between Colombian entities and may be credited against the dividend tax due once the ultimate Colombian company makes a distribution to its shareholders (nonresident shareholders -entities or individuals or to Colombian individual residents).

The dividend tax on local distributions does not apply if the Colombian companies are part of a corporate group or have a control situation registered before the mercantile registry of the chamber of commerce, or the distribution is to a Colombian entity qualifying for the

Colombian holding company (CHC) regime.

If the profits subject to tax at the corporate level in a given year are higher than the commercial profits of that year, the excess can be carried back for two years or carried forward for five years to offset the profits of such periods, in order to reduce or eliminate the amount of the distribution subject to the recapture tax. Exceptionally, the excess can be carried forward or carried back for ten years when the analysis is done on concession agreements and private-public partnerships.

The remittance of profits by branch offices to their foreign home offices are deemed as dividends for domestic tax purposes, therefore, the aforementioned taxation on dividends regime should apply (some benefits may be obtained under certain tax treaty provisions).

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### Controlled foreign companies ("CFC")

The CFC regime applies to Colombian tax residents (individuals or entities) that directly or indirectly hold an interest equal to or greater than 10% of the capital or of the profits of a foreign entity that is considered a CFC.

CFCs are corporations, as well as investment vehicles, such as trusts, collective-investment funds, and private interest foundations, which meet the conditions to be considered a related party for transfer-pricing purposes.

For income tax purposes, Colombian taxpayers should recognize the net profits of the CFC derived from passive income, in proportion to their participation in the CFC's capital or profits, in the period in which such profits are generated, without the need to wait to receive a distribution of profits in Colombia.

Under this regime, passive income generally includes the following:



- Dividend and profit distributions from a company or investment vehicle
- Interest
- Income derived from the exploitation of intangibles
- Income derived from the sale of assets that generates passive income
- Income from the sale or lease of immovable property
- Income derived from the sale or purchase of tangible goods acquired from (or sold to) a related party if the manufacturing and consumption of the goods occurs in a jurisdiction different from the one in which the CFC is located or is tax resident
- Income from the performance of certain services in a jurisdiction different from the one in which the CFC is located or is tax resident

A Colombian tax resident that recognizes taxable income under the application of the CFC regime may request a tax credit for taxes paid abroad with respect to the passive income.

Dividends and benefits that are distributed by a CFC and that have been already taxed in Colombia, should be considered non-taxable income for the Colombian taxpayer.











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### Colombian holding company regime ("CHC")

CHC regime applies for Colombian entities which among their main corporate purposes is envisaged to hold securities or shares in national or foreign entities, and/or the managements of said investments. Entities may apply to the CHC regime to the

extent they comply with certain requirements:

Namely having at least 10% of the capital of two or more Colombian and/ or foreign entities for a 12-month period,

Having three or more employees and having human and material resources in Colombia.

Inclusion in the CHC regime must be requested to the Tax Authority.

Dividends distributed by foreign entities to CHCs are not taxed. Dividends distributed by CHCs to Colombian non-residents are not taxed, however dividends distributed to residents are taxed.

Dividends by national entities to CHCs are not subject to 10% withholding tax applied on payment of dividends.

Profit obtained from the sale of shares or quotas in a CHC is generally exempt from income tax on the portion that relates to activities performed abroad Colombia.

In addition, the profit derived from the transfer of shares of a non-resident entity by a CHC will be exempt in Colombia.





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Technical employed checking the airplane.



There is the possibility that taxpayers that had obtained a gross income equal to or greater than 33.610 Tax Value Units (approx. USD285.000) could pay up to 50% of the tax due via an investment in works / infrastructure that benefit one of the so-called ZOMAC or PDET. This possibility requires to follow a process and obtain the required approvals.



VAT paid on the acquisition or construction of productive fixed assets (even if the acquisition is made via a leasing agreement with an irrevocable purchase option) can be taken as a credit against the income tax liability.

The credit can be claimed in the year of the acquisition of the asset, or in the year that the construction is completed (in the case of a construction). Any excess credit could be carried forward without limitation.











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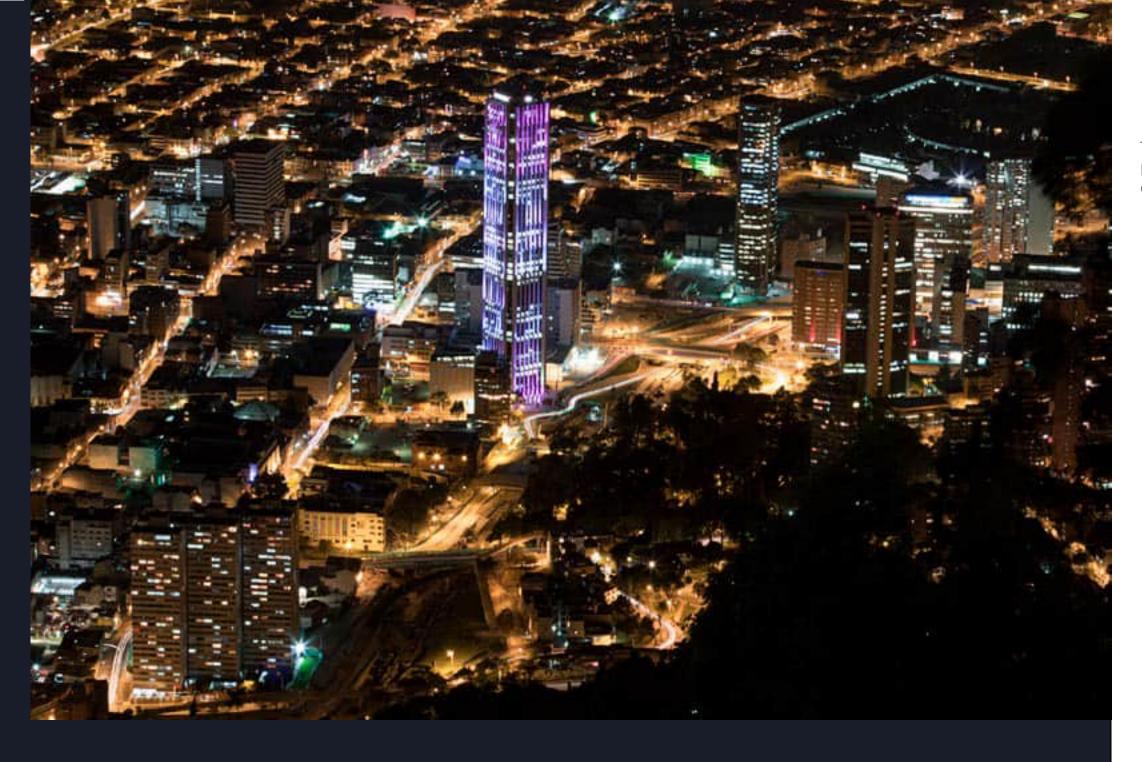
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### Foreign tax relief

For national companies and resident individuals, a credit for foreign taxes paid on foreign-source income is granted, up to the amount of Colombian income tax due on the foreign-source income.

In addition, an indirect tax credit is also granted for foreign taxes paid on income at the level of the foreign company that is distributing dividends to Colombian shareholders. The indirect tax credit equals the amount resulting from the application of the effective income tax rate of the foreign company to the amount of distributed dividends.

In any case, the sum of the direct tax credit and indirect tax credit should not exceed the CIT payable in Colombia on such dividends.

To be entitled to the direct and indirect tax credit, the domestic taxpayer must prove that the corresponding tax was effectively paid in each relevant jurisdiction. In addition, for the indirect tax credit, the investments must be qualified as fixed assets for the taxpayer, therefore, indirect tax credits cannot be claimed on portfolio investments. Moreover, to claim the indirect tax credit a certification of the auditor of the foreign entity, in order to support the effective tax rate, is required.

The tax credit may be claimed in the tax year in which the foreign tax is paid or in any of the following years.

Night view of Bogota.

### **Equity tax**

Some foreign entities (and individuals, please refer to the chapter on Paying personal taxes) are responsible for this tax if their net equity for tax purposes is equal to or higher than 72.000 Tax value Units (approx. USD634.900), as of January 1st, 2023.

Foreign entities who do not file income tax return in Colombia, are subject to equity tax regarding their assets held in Colombia (different to shares, account receivables from Colombian residents, portfolio investment and/or leasing agreements with Colombian lessees), such as immovable property, yachts, boats, sail boats, works of art, aircrafts, mining and oil rights.

The applicable rates range from 0,5% to 1,5%.

1.5%

The 1.5% rate will apply until 2026. As from 2027, the highest tax rate will be 1%. Equity tax return must be filed annually.

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### Debit tax

The debit tax or GMF (per its initials in Spanish) applies on any financial transaction involving the withdrawal of funds deposited in checking or savings bank accounts held with Colombian financial entities. It also applies over checking account overdrafts used to make payments to suppliers, labor payments and payments to other third parties.

The tax rate of the debit tax is 4x1000 (0,4%) and applies on the total amount of the transaction. The withholding agents of the debit tax are the financial entities and the Central Bank.

50% of the debit tax paid is deductible for the determination of the net taxable income subject to CIT.





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### Value added tax - VAT

Colombian VAT is levied on the following transactions:

- Sale of tangible property;
- Sale of intangible assets related to industrial property
- Imports of tangible personal property;
- Rendering of services in Colombia or from abroad in favor of Colombian recipients;
- The operation of games of chance or the supply of tickets for games of chance (excluding lotteries).

Sales of fixed assets (tangibles or intangibles) are not taxed with VAT.

Services rendered and intangible assets transferred from abroad are deemed to be provided or acquired within Colombia, and thus VAT will be triggered, to the extent the final consumer or user have their tax residence, domicile, permanent establishment or activities headquarters in Colombian territory.

19%

The general VAT rate is 19%. This rate applies to all goods and services, unless a specific provision allows a different tax rate.

The term "VAT-exempt property" is used for supplies of goods and services that are technically subject to VAT but are zero-rated (0%). The zero rate (0%) applies to exported goods and services. Exported services are zero-rated provided the service is rendered within Colombia to a nonresident party who utilizes the service exclusively abroad, under a written agreement. In addition, other legal requirements apply such as the prior registration as services exporter before the DIAN, and that certain sworn declarations are included in the wording of the agreement.

There is also VAT exclusion for the importation of goods

subject to postal traffic, urgent shipments, or express delivery when the following requirements are met: (1) the merchandise comes from countries with which Colombia has signed agreements or Free Trade Treaties (TLC per its acronym ins Spanish) in which this benefit was granted (the requirements of the relevant TLC should be observed and not the mere fact that the goods are coming from a given country), and; (2) that the value of the import is less than, or equal to, USD 200.

"VAT-excluded property" means items that are simply not subject to VAT. The group of VAT-excluded products includes basic products such as (certain) foodstuffs, and services such as healthcare, transportation, education, and utilities among others.

There is a VAT withholding, applied by certain VAT withholding agents (Government agencies, large taxpayers,

Colombian residents making payments for services to non-resident entities via a reverse charge mechanism and VAT taxpayers qualifying under the VAT common regime making payments to persons which qualify for the SIMPLE regime).

These agents are responsible for withholding 15% of the tax due on any payment or accounting accrual related to VAT-taxable goods or services. In case of transactions with non-residents (both entities and individuals), VAT is collected via reverse

charge mechanism, and thus national payor is required withhold a 100% of the VAT accrued.

Certain foreign digital services providers may apply to a special VAT treatment, in which the VAT accrued upon provision of such services is withheld by debit or credit card issuers, among others. A request must be submitted to the national tax authority, and an administrative order appointing the foreign services providers subject to this regime should be issued.



Otherwise, non-resident entities which provides digital services taxed with VAT to Colombian recipients will be required to register as VAT responsible (in the national tax register - RUT), collect the tax and file VAT returns on a bi-monthly basis (i.e., every two months).

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## Consumption tax (Excise tax)

A national consumption tax is levied on the following activities:



The provision of mobile phone services;

The sales of certain movable tangible goods;

8%

In general, rates range from 4% to 16% (being 8% the general rate), depending on the relevant activity.

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. However, if the sale of food and beverages at restaurant is carried out under a franchise agreement, it would be possible to charge VAT as opposed to consumption tax (some exceptions could apply).

Generally, goods and services subject to the consumption tax are not subject to VAT (some exceptions may apply).



de rei

The national consumption tax does not give rise to creditable taxes for VAT purposes, but it is deductible for corporate income tax.

Certain specific goods are also levied with a special consumption tax. For instance, sale of manufactured products which psychoactive and nonpsychoactive cannabis are taxed with an independent consumption tax. Taxable basis is the sale price of the product, and tax should be assessed at a 16% rate. Other special consumption / excise taxes (collected at the level of each department) apply to products such as liquors, cigarettes and beer.











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### Tax on single-use plastics

This tax would be levied on the sale, self-consumption and importation of single-use plastics used for packaging, wrapping or packing goods. Producers and importers of single-use plastics would be subject to this tax.

The rate would be 0.00005 tax Value Units (approx. COP1) for each gram of the container, packaging or packing.

Certain single-use plastics such as the ones used to wrap, pack or package medicines or hazardous waste material, are excluded from this tax. In addition, the tax will not be levied on single-use plastics when the taxpayer obtains the Circular Economy Certification -CEC which should be regulated by the Ministry of Environment.

As from November 1st, 2023, this tax will apply over ultra-processed sugary beverages, as well as concentrates, syrups, powders which, after being mixed or dissolved, obtained sugary beverages.

This tax is levied on the sale, withdrawal of inventories, transfer at any title (including gifts) of sugary beverages.

As from FY 2026 the tax rates will be adjusted annually.

### Tax on sugary beverages

Sugary beverages will be not subject to this tax when they are exported. Furthermore, sugary beverages donated by the producer or the importer to Non-Profit Organizations or food banks owned by churches will not subject to this tax either.

The tax should not apply, among others, to baby formulas, medicines with added sugars, liquid or powder products used for nutrition therapy in the case of persons who are not able to digest, absorb and/ or metabolize nutrients from regular food, liquids or powders used for special medical purposes, oral electrolyte solutions designed to prevent de-hydration caused by a disease.

The tax rate, which is a fixed value, depends on the sugar content by each 100 ml as follows:

For FY 2023 and 2024

| Added Sugars per100 ml                   | Tax rate<br>2023 (COP) | Tax rate<br>2024 |
|--|------------------------|------------------|
| (COP)                                    |                        |                  |
| Less than 6 gr. of added sugars          | \$0                    | \$0              |
| Between 6 gr. and 10 gr. of added sugars | \$18                   | \$28             |
| More than 10 gr. of added sugars         | \$35                   | \$55             |

For FY 2025

| Added Sugars per 100 ml                  | Tax rate 2025 (COP) |
|--|---------------------|
| Less than 5 gr. of added sugars          | \$0                 |
| Between 6 gr. and 10 gr. of added sugars | \$38                |
| More than 10 gr. of added sugars         | \$65                |

### Tax on ultra-processed foods

As of November 1st, 2023, some ultraprocessed foods will be subject to tax when they have added sugar, salt, sodium and/or fats.

The tax is levied on the production, sale, withdrawal of inventories or transfer at any title (including gifts) of ultra-processed foods.

Ultra-processed foods which are exported by the producer will be not subject to this tax.

Furthermore, sugary beverages donated by the producer or the importer to Non-Profit Organizations or food banks owned by churches will not subject to this tax either.

The tax rate is set to be increased progressively from 10% (FY 2023), to 15% (FY2024) and to 20% (from FY2025 onwards). Tax will be determined over the sale price. In the case of gifts or withdrawals of inventory the tax will be determined over the market value of the products. Regarding the importation of products subject to this tax, the taxable base will be the same considered to assess customs duties.





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### SIMPLE regime

For small businesses, developed by individuals or entities whose shareholders are only individuals (with gross income below 100.000 Tax Value Units per year - approx. USD 878.000), the SIMPLE regime replaces the income tax, the general excise tax (but an additional tax rate is applicable in this case), industry and commerce tax and, in some cases, VAT.

In the case of the provision of professional, consulting, a scientific

service where the intellectual factor prevails, including the so-called liberal professions, the SIMPLE regime may apply to the extent that the gross income derived from such activities is lower than 12.000 Tax Value Units (approx. USD105.000) within the prior taxable year.

The SIMPLE rate ranges from 1,2% to 8.3% of a small business's gross income, depending on the business's economic activity and the amount of gross income.

1,2% to 8.3%

SIMPLE taxpayers will be able to take as a tax discount the debit tax that has been effectively paid during the respective taxable year, regardless of whether or not it is causally related to the taxpayer's economic activity, as long as it is duly certified by the withholding and does not exceed 0.004% of the taxpayer's net income.

# Real estate tax (property tax)

The real estate tax is a municipal tax. The rates range between 0,3% and 3,3% depending on the municipality rates, the economic destination of the real estate and its location within the municipal territory.

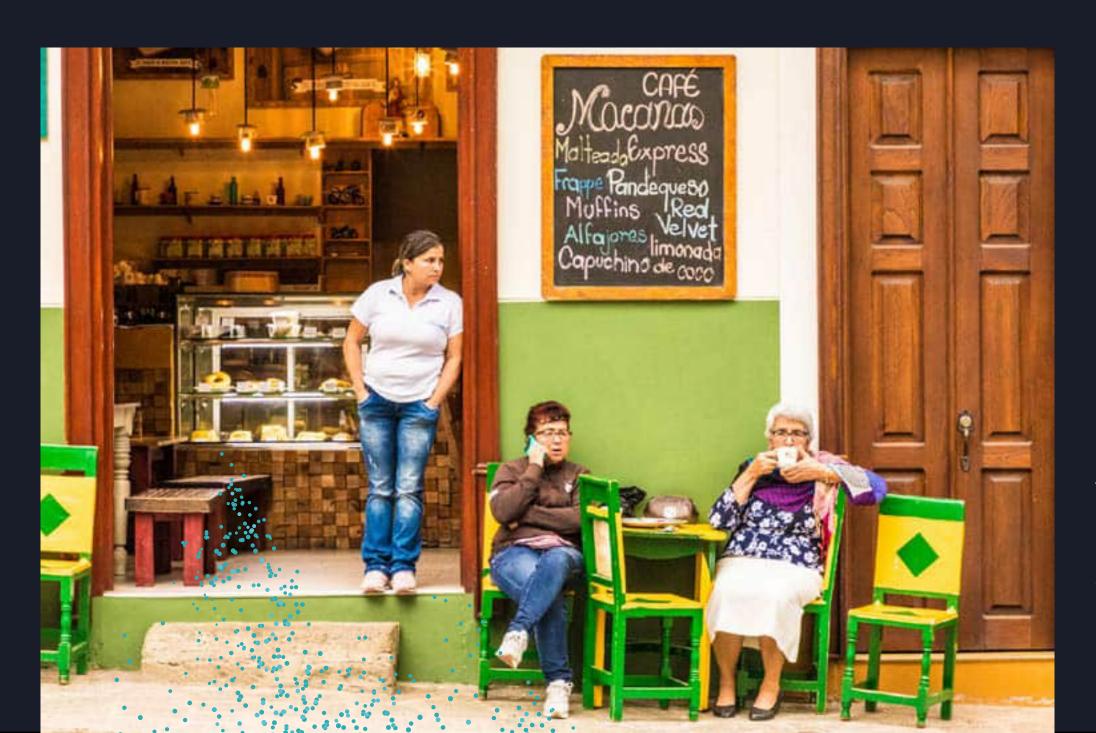
The real estate tax actually paid is 100% deductible for corporate income tax purposes but only to the extent it is related to the income-producing activity of the taxpayer.

# Industry and commerce tax / turnover tax

The industry and commerce tax ("ICA" per its initials in Spanish) is a municipal tax that is applied on gross revenues earned for the carrying out of industrial, commercial or service activities in the territory of any municipality and in a specific real property located therein, regardless of whether the activity is permanent or occasional.

ICA rate varies depending on the municipality as a general rule they range between 0,2% and 1,4%. ICA is often collected via withholding tax collections. The ICA actually paid is granted as a deductible expense to the extent it is related to the income-producing activity of the taxpayer.

If ICA taxpayers use public space to advertise their business or trade name, they are subject to tax on billboard advertisement. The taxable base is the amount payable as ICA, and the rate is 15%.



A view of a colorful cafe in the main square in the picturesque town of Jardin in Colombia.











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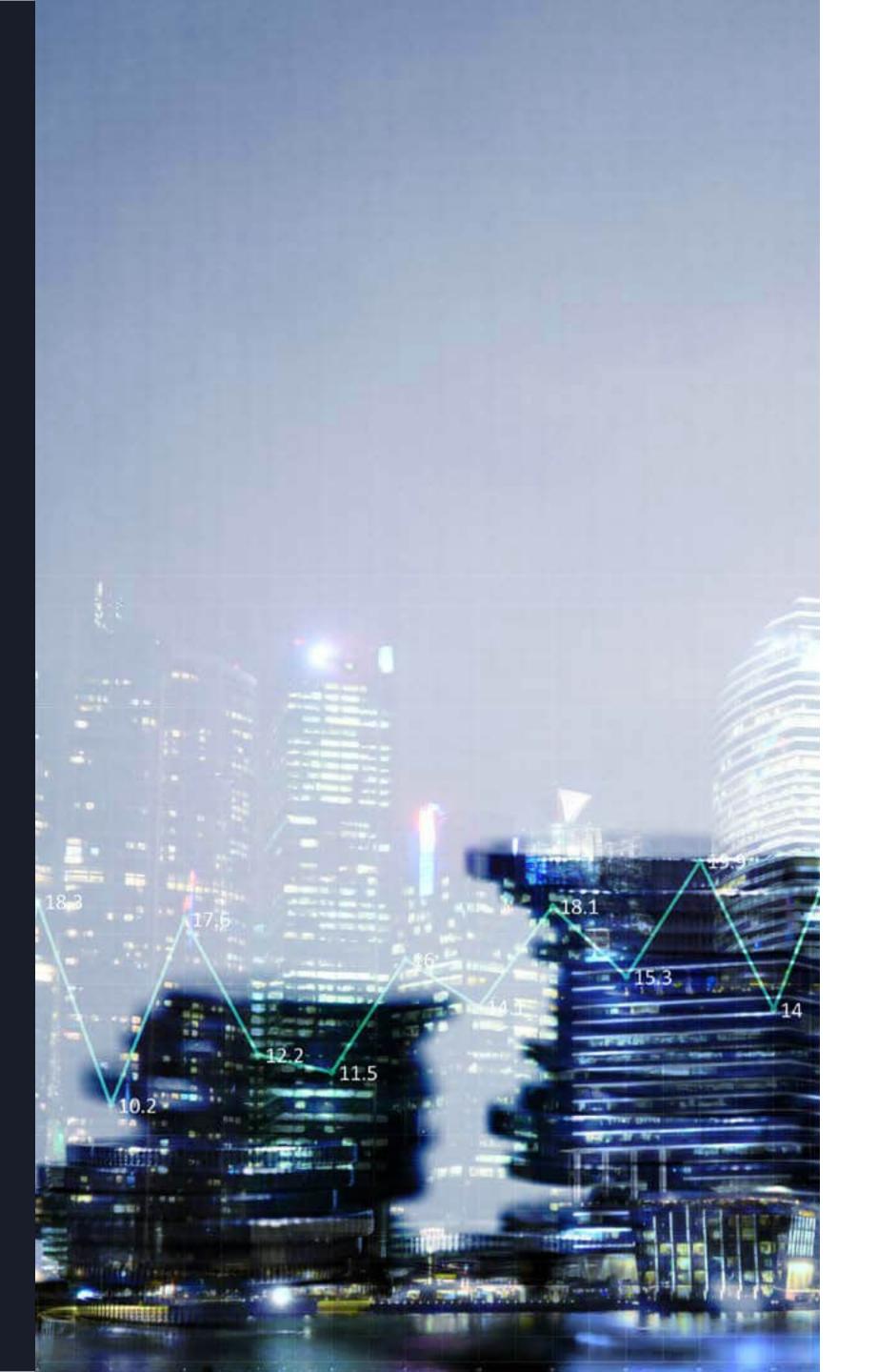
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### Stamp taxes

### In certain jurisdictions there are stamp taxes which tax several situations, starting from transactions entered into with the State-owned entities

(usually state or municipal entities, however in certain cases there is national stamp taxes).

Most of these stamp taxes have been created to provide additional funds for public utilities' infrastructure, education, hospitals, senior citizen retirement homes and activities of a social nature and each jurisdiction may have several stamps taxes at one time.

### 0.3 % to 1.5 %

Usual rates go from 0,3% to 1,5% of the value of a transaction / contract, however the rates and tax basis may vary depending on each jurisdiction and each stamp tax.

Operations/investments made in a given jurisdiction need to consider the possible impact of these kind of taxes, some of which are constructed as contributions or tolls within a given activity.

Stamp taxes are generally a deductible expense for corporate income tax, provided they constitute part of the cost or expense of the income producing activity.

In addition, a 1.5% stamp tax is applicable on public deeds to document the transfer of immovable property with a value more than 20,000 tax units (approx. USD170,000 approx.). For a value in excess of 50,000 tax units (approx. USD425,000), a 3% tax rate will apply. The stamp tax will also apply on public deeds that document the transfer of ships, or mortgages on such immovable property or ships.

### Registration tax

The registration tax is levied on all documentary acts, contracts or legal business to be registered with the Chambers of Commerce or with the public instrument registration offices.

The taxable base is the value included in the document containing the act or contract.

### 0.1 % to 1 %

Tax rates go from 0,1% to 1% depending on the nature of the act or contract contained in the document to be registered.

Tax rates go from 0,1% to 1% depending on the nature of the act or contract contained in the document to be registered. In case of contributions to a Colombian company the applicable rates are 0,7% for contributions to capital and 0,3% for contributions to share premium. These rates may be reduced in certain jurisdictions for micro-companies. Please refer to the chapter on Setting up a business.







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### Tax procedural matters

Statute of limitations for tax returns

General rules provide for tax returns to be open to review by the tax authorities for the term of three years counted from the applicable tax return filing deadlines (or the actual filing date if it is extemporaneous). For VAT and withholding tax returns the statute of limitation is generally the same that the applicable to the corporate income tax return of the corresponding year.

In the case of corporate income tax returns, additional rules apply:

Corporate income tax returns in which tax losses are determined or used /offset, as well as tax returns of taxpayers subject to transfer pricing, are open for five years.

Corporate income tax returns that show an overpayment (or "balance in favor" of the taxpayer) are open to be audited for three years counted from the date on which the taxpayer applies for a refund or offset of the overpayment.

For FY 2023 income tax returns there is an "audit benefit" which reduces the statute of limitation to six months or 12 months,

if the income tax liability is increased in 35% or 25%, respectively, in comparison to the prior year's income tax liability.

Sunset behind the cathedral on Simon Bolivar plaza in the Candelaria neighborhood of Bogota, Colombia.



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# Penalties for non-compliance with formal tax obligations

There are several penalties related to the non-compliance or late compliance with formal tax obligations. Some of the most important are the following:



### Late filing penalty

Applicable in the case of filing of tax returns after the deadlines set by the National Government. It applies on the amount of the tax liability computed on the return at the rate of 5% or 10% for every month of delay or any fraction thereof, up to 100% or 200% of the total amount due, depending on the term in which the return is finally filed.



#### Non-filing penalty

Applicable in case the taxpayer does not comply with the obligation to file a tax return. In the case of the corporate income tax return, it is equivalent to 20% of the bank deposits or gross revenues of the tax year for which the taxpayer failed to file a tax return, or 20% of the gross revenues shown in the last corporate income tax return filed by the taxpayer, whichever is greater.



#### Amended return penalty

The penalty for filing an amended tax return is 10% of the difference between the tax due on the original tax return and the tax due reported on the amended tax return, provided it is a voluntary amendment. If the tax authorities issue a request for the taxpayer to file an amended return or order the initiation of a tax audit, the penalty for filing an amended return increases to 20%.



### Inaccurate reporting penalty

This penalty applies when, once an auditing process has been initiated by the tax authority, in the return is noticed that income, taxes items or assets were omitted, or of inexistent or inaccurate costs, expenses, exemptions, tax credits, withholding taxes were included, and in general the use of misleading or false information in a tax return. Inaccuracy Penalty will be equal to a 100% of the higher tax liability or lower balance in favor determined by the tax authority. Nonetheless, said percentage is increased to 160% if the inaccuracy arises from the implementation for tax abusive conducts and to 200% for omitted assets and non-existing liabilities. The inaccurate reporting penalty is not applied if it is demonstrated that there is a supported criteria difference between the tax authorities and the taxpayer.



Most of penalties may be reduced if payment and filing or amendment of the tax return is made prior to certain stages of the tax administrative procedure that might initiate the tax authority. Likewise, in application of tax system principles, penalties may be diminished, for instance, if taxpayers have not been subject to penalties in prior years.









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### Transfer pricing

Transfer pricing rules started to apply in Colombia from January 1st, 2004 and they basically follow OECD principles.

Transfer pricing rules are applicable to all the taxpayers that carry out transactions with related parties abroad, related parties located in a free-trade zone or any entity located in tax havens or in a preferential tax regime. The Colombian transfer pricing regulations establish formal duties, which most of them follow the OECD BEPS Action 13 requirements for the documentation of transfer pricing transactions. As follows are described the formal transfer pricing obligations that the taxpayers have to comply with:



### Transfer pricing local file (equivalent to the prior years' TP study)

Transfer pricing documentation level that follows the OECD's BEPS Action 13. Is a report in which intercompany transactions subject to documentation are analyzed and results are disclosed, accompanied of an executive summary, an analysis of the functions, assets and risks of the local entity and the counterparties of the transactions, and other supporting documentation (e.g. financial statements, intercompany agreements, benchmark information, among others).



### Transfer pricing groups' masterfile

Transfer pricing documentation level that follows the OECD's BEPS Action 13. Consist of a document that describes the multinational group's business activities, products and/or services, transfer pricing intercompany policies, financing activities, and intangibles; as well as will have to include the group's legal structure (identifying shareholding structure of subsidiaries) and the consolidated financial statements. It is a report usually prepared centrally by the group / parent company.



### Country by country report ("CbCR")

Transfer pricing documentation level that follows the OECD's BEPS Action 13. The CbCR is a disclosure of all the entities making part of a multinational group, in which it has to show, among others: names and jurisdiction of tax residence of each entity, level of assets, income and profits, income tax rates assumed, taxes paid, number of personnel of each local entity, and more. It is a single report prepared by the group, in case it complies with some thresholds, mainly consolidated revenues above 81.000.000 Tax Value Units, (approx. USD687 million).

Furthermore, any constituent entity of as of a multinational group in Colombia is required to prepare a CbCR notification, in which they have to inform which is the group they make part of, and confirm whether the group is subject to prepare the CbCR and where, even if the local entity is not performing operations subject to transfer pricing. If the entity is subject to file a transfer pricing return, the notification must be included in it, if not, the notification must be filed separately.





### Transfer pricing return

Informative return that discloses the intercompany transactions carried out by the local entity with its related parties abroad, or companies located in tax havens o preferential tax regimes (all transactions reported, no materiality level considered), reported by party and type of transaction, which also includes the amount of the transaction and the result of its transfer pricing analysis (if it was required).

Villa de Leyva,
Boyaca,
Colombia: Stand
of handcrafted
baskets at the
traditional local
marketplace in the
Andean mountains
of central
Colombia.







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The abovementioned formal transfer pricing obligations in Colombia are required in the following events:

^

If an entity obtains gross revenues above 61.000 Tax Value Units, (approx. USD517.000), or gross equity above 100.000 Tax Value Units that is, (approx. USD848.000), it will have to comply at least with the submission of the transfer pricing return.

In case the entity has intercompany transactions above 45.000 Tax Value Units (approx. USD381.000) by type of transaction in the year, or it will also have to prepare the local file, and to submit the group's masterfile. In addition, if there are transactions with tax havens/ preferential tax regimes, the revenues and/or equity thresholds are

lowered, in this case

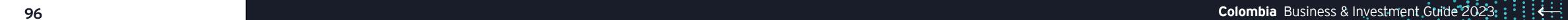
10.000 Tax Value Units

(USD84.000 approx.).

In any case (whether there are any other transfer pricing obligations or not), the local entity which is part of a multinational group, will be subject to submit a CbCR notification.

Colombian tax laws establish the methods that can be used in the transfer pricing analysis. These methods follow the OECD guidelines. However, these guidelines are just reference for Colombian transfer pricing rules. The methods include the comparable uncontrolled price method, the resale price method, the cost-plus method, the profit split method and the transactional net margin method.

It is possible for the taxpayer to execute an advanced pricing agreement ("APA") with the Tax Authority, for a limited time of up to five taxable years (the tax year in which the APA is entered into, the prior year and the following three years). The taxpayer is obligated to file an annual report with the operations covered by the agreement.







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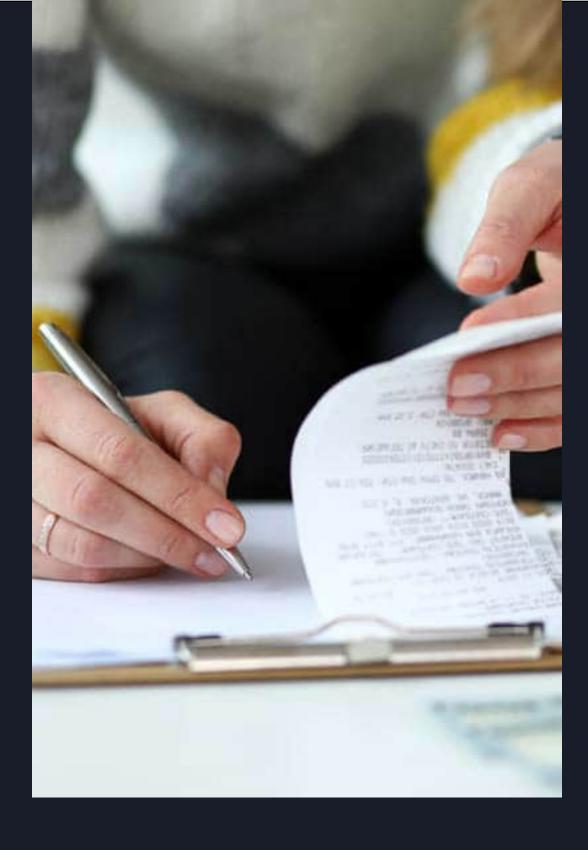
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### Reporting obligations at a glance

| Tax  | Filing  |
|--|---|
| Corporate income tax                                   | Yearly basis - March / April of the year following the taxable year   |
| Fiscal reconciliation report                           | Yearly basis - March / April of the year following the taxable year   |
| Withholding tax/Self-withholding tax                   | Monthly basis   |
| VAT  | Bimonthly or Four-monthly basis   |
| National consumption tax                               | Bimonthly basis   |
| ICA (local tax)*                                       | Bimonthly basis   |
| ICA withholding (local tax)*                           | Bimonthly basis   |
| Real estate tax  | Yearly basis - January through June   |
| Transfer pricing return                                | Yearly  |
| Transfer pricing study (local and master file)         | Yearly  |
| Country by country report or notification.             | Yearly  |
| Attribution study in the case of branch offices and PE | Yearly  |
| Social security & payroll taxes                        | Monthly basis   |
| National tax information on magnetic media             | Yearly  |
| Ultimate beneficiary owner (UBO) report                | <ul> <li>Legal entities or structures without legal status created on or after 1 June 2023, must provide the information within two months following its creation or registration in the tax registry.</li> <li>Legal entities or structures without legal status created before 1 June 2023, should provide information by July 31st, 2023.</li> <li>In either case, if any change occurs, it should be reported quarterly.</li> </ul> |







<sup>\*</sup> ICA due dates given for Bogotá. ICA tax may be annual in Bogota for certain small taxpayers. Other jurisdictions usually have a yearly deadline with monthly or bimonthly filing periods for anticipated payments and withholding taxes, where applicable.







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### Other relevant tax matters

### Double taxation treaties ("DTT")

As a member of the Andean Community of Nations ("CAN"), all the regulations related to double taxation that are included in Decision 578 of 2004 are applicable to Colombia, with respect to the payments and operations taking place in the territories of the member countries of this multilateral organization. Decision 578 applies to the income tax and the so-called "complementary taxes", namely the capital gains tax, and also to the equity tax. It is a treaty based on the principle of the source; hence, as a relief to prevent double taxation it provides an income exemption method instead of a tax credit method on the taxes paid in the other CAN countries.

Colombia has DTTs in effect with Canada, Chile, Czech Republic, France, India, Italy, Japan, Mexico, Portugal, Spain, South Korea, Switzerland, and the United Kingdom, which are mainly based on the OECD model convention and, in respect to some topics, are based on the United Nations model convention.

The Colombian government has also signed a DTT with Brazil, Luxembourg, The Netherlands, United Arab Emirates, and Uruguay; however, the approval procedure has either not been initiated or concluded (it could take a couple of years in being completed).

Colombia signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS ("MLI") which impacts most of the DTT entered by Colombia which are currently in force.

Currently, Colombia is negotiating DTTs with Belgium, United States, China, Germany, Panama, and Hungary. There is no official information regarding the status of these negotiations.

Additionally, Colombia has DTT covering certain international air transportation services with Argentina, Brazil, France, Germany, Italy, the United States, Panama, Turkey, and Venezuela.

Silhouette of an airplane taking off.



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### The following table summarizes the DTT entered into by Colombia:

| Country                                    | Scope  | Currently in force |
|--|--|--------------------|
| Andean Community (Bolivia, Ecuador, Peru)  | General  | Yes                |
| Argentina                                  | Air and sea transportation                     | Yes                |
| D  | General  | No                 |
| Brazil                                     | Air and sea transportation                     | Yes                |
| Canada                                     | General  | Yes                |
| Chile                                      | General  | Yes                |
| France                                     | Air transportation                             | Yes                |
| France                                     | General  | Yes                |
| Germany                                    | Air and sea transportation                     | Yes                |
| India                                      | General  | Yes                |
| Italy                                      | Air and sea transportation                     | Yes                |
| Italy                                      | General  | Yes                |
| Japan                                      | General  | Yes                |
| Luxembourg                                 | General  | No                 |
| Mexico                                     | General  | Yes                |
| Pacific Alliance (Chile, Mexico, and Peru) | Pension funds                                  | No                 |
| Panama                                     | Air transportation                             | Yes                |
| Portugal                                   | General  | Yes                |
| South Korea                                | General  | Yes                |
| Spain                                      | General  | Yes                |
| Switzerland                                | General  | Yes                |
| The Netherlands                            | General  | No                 |
| Turkey                                     | Air transportation                             | Yes                |
| United Arab Emirates                       | General  | No                 |
| United Kingdom                             | General  | Yes                |
| United States                              | Air and sea transportation                     | Yes                |
| Uruguay                                    | General  | No                 |
| Venezuela                                  | Air, land, sea, lake, and river transportation | Yes                |



### Information exchange treaties ("TIEA")

Additionally, to the information exchange clauses included in the DTT's signed by Colombia, Colombia also entered into a TIEA with

the United States and is a part of the **Convention on Mutual Administrative** Assistance in Tax Matters of the OECD which includes information exchange mechanisms between 146 participating jurisdictions.











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### Income tax

Residents (Colombian nationals or foreigners) are subject to tax on their worldwide income and shall report worldwide equity as of their first year of tax residence in Colombia. Nonresidents are subject to tax on their Colombian source income and shall report equity owned in Colombia.

ax credit for foreign income tax paid on foreign source income is available for residents and under specific limitations.

The income tax rate that applies to Colombians and foreign nonresidents is 35%. The tax rates that apply for national and foreign residents are determined according to brackets of taxable income ranging from 0% to 39%.

Tax rate is applied on net taxable income. For employees, either nationals or foreigners, labor taxable income will be reduced in 25% as exempt labor income (specific limitations are applicable). Some deductions are allowed for employees reporting labor income such as

- Paid on the acquisition of a house where the employee lives in;
- Private payments for health made for themselves, their spouse and their children or dependents;
- An deduction for dependents limited to the lesser amount between the 10% of the total gross income arisen for the labor relationship and an annual amount of COP16.286.000 (for year 2023, approx. USD3.390);
- Voluntary contributions into pension funds and housing savings accounts ("AFC");
- linterest paid on ICETEX educational loans acquired by the taxpayer. In any case, exemptions and deductions applicable to employees are capped at 40% of net income (gross income less

contributions to the mandatory social security system) and an annual amount (COP56.832.000 for year 2023, approx. USD11.800).

In addition, new deductions not capped to the 40% of net income threshold are applicable from 2023:

- Deduction for up to four dependents (COP3.054.000, approx. USD635 for each); and
- Deduction for the general income basket of up to 1% of all kinds of payments made by individuals for the acquisition of goods or services supported by electronic invoices, capped to an annual amount of COP10.179.000 (approx. USD2,120).

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### Annual statement of assets owned abroad

Individuals, who are classified as tax residents in Colombia and have assets abroad as of January 1st of each year, must file an annual statement of assets owned abroad.

If the total value of the assets abroad is higher than certain amounts determined annually, the statement must include the country, identification, equity value and kind of each asset. If not, it is only necessary to inform the equity value of the assets for each country.

### **Equity tax**

Individuals who own a net equity higher than COP3.053.664.000 for year 2023 (approx. USD634.900) as of January 1st of each year, are obliged to file an equity tax return. Residents will be subject to equity tax over their worldwide net worth. Nonresident individuals will be taxed only on their Colombian assets.

The equity tax rates range from 0,5% to 1,5%. The 1,5% rate will apply until 2026. As from 2027, the highest tax rate will be 1%.

To determine the taxable base of the equity tax, the exclusion of the first COP508.944.000 for year 2023 (approx. USD106,000) of the taxpayer's home is allowed. If there are shares to report, additional details to determine their equity value should be revised.

at 20%.

Ceramic articles on the potters wheel in a traditional factory in the city of Ráquira located in the department of Cundinamarca in Colombia Capital gains for individuals (tax residents and nonresidents) are taxed at a tax rate of 15% from 2023. Capital gains from lotteries, bets, raffles and similar are taxed

 $\rightarrow$ 



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# Reporting obligations at a glance

| Tax                                     | Filing   |
|---|--|
| Individual income tax return            | Yearly basis - From August to October of the year following the taxable year |
| Annual statement of assets owned abroad | Yearly basis - From August to October of the year following the taxable year |
| Third-party information report          | Yearly basis- From May to June of the year following the taxable year        |
| Equity tax                              | Yearly basis- In the year following the taxable year                         |









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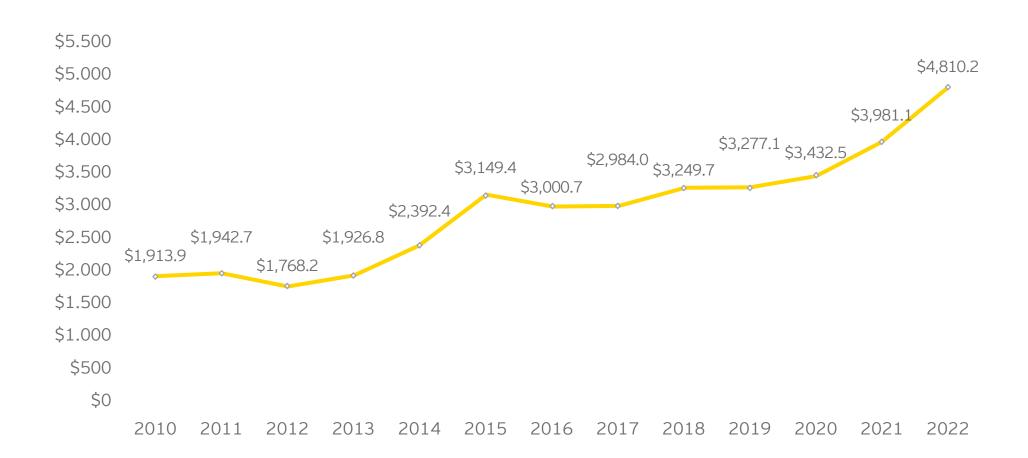
Paying personal taxes



Relevant data

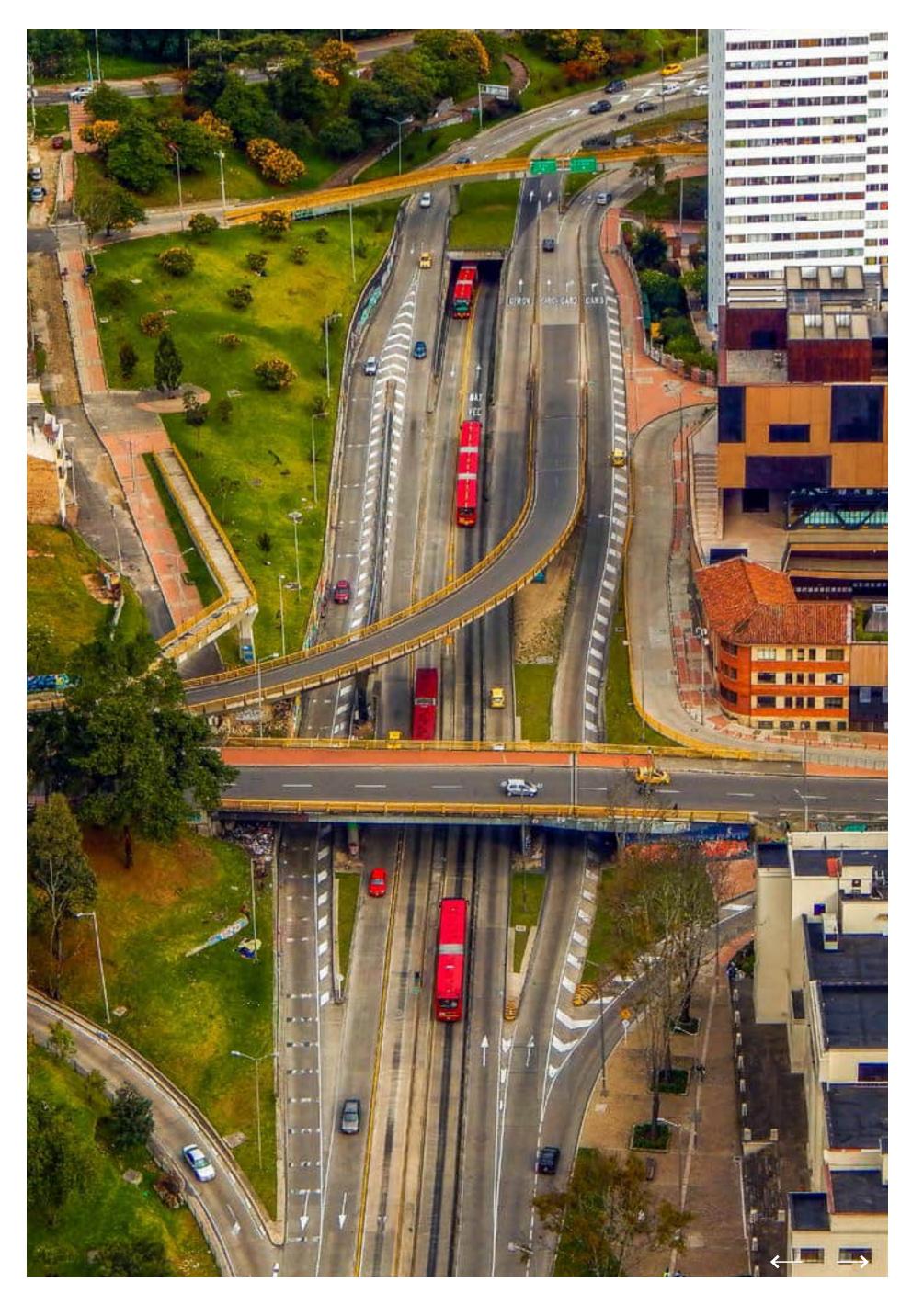
### Colombia's Exchange Rate COP/USD

(updated to December 31, 2022)



Exchange Rate COP/USD

Colombia Exchange Rate COP/USD, Source: BanRep









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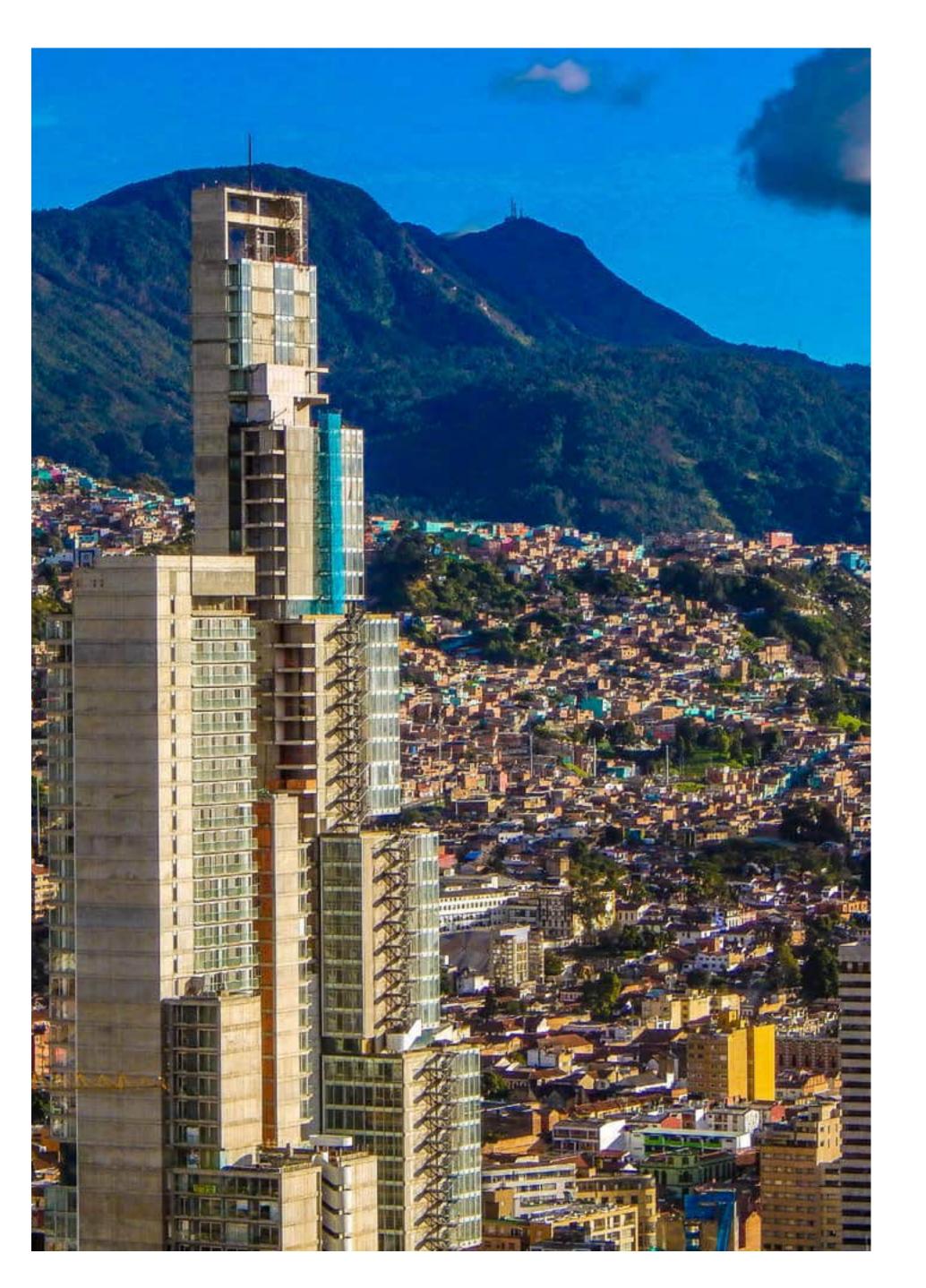
Paying corporate taxes



Paying personal taxes

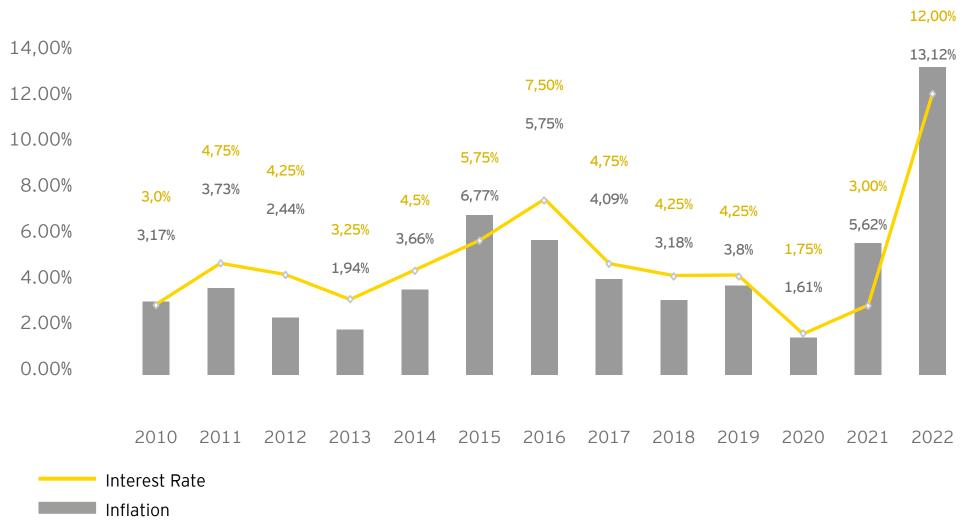


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### Inflation and monetary policy rate

(updated to December 2022)



Inflation and Interest Rate. Source: BanRep







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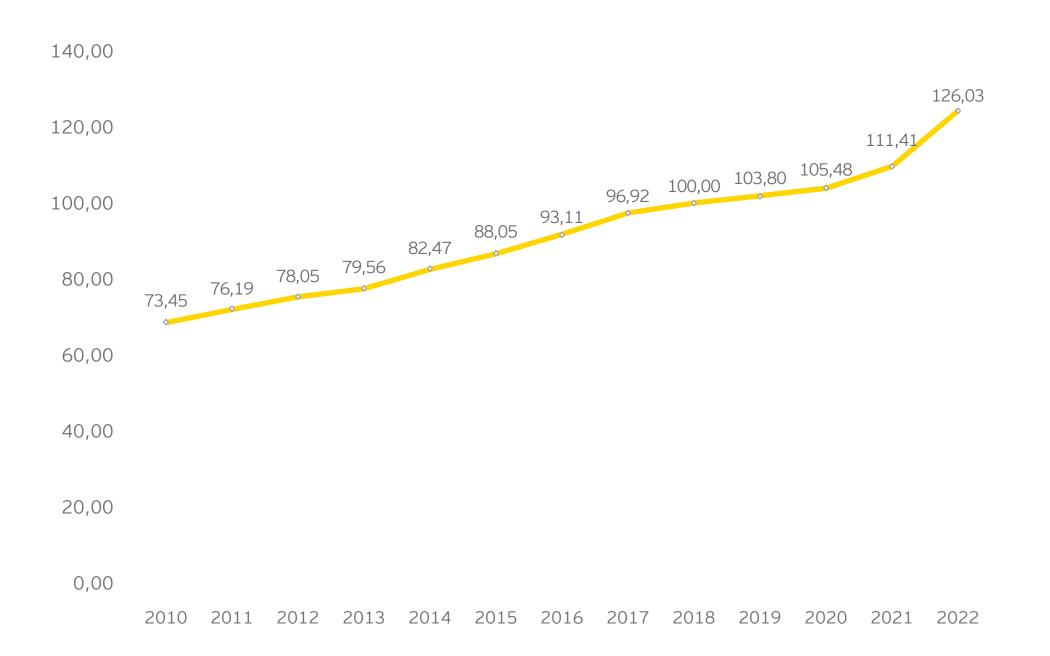
Paying personal taxes



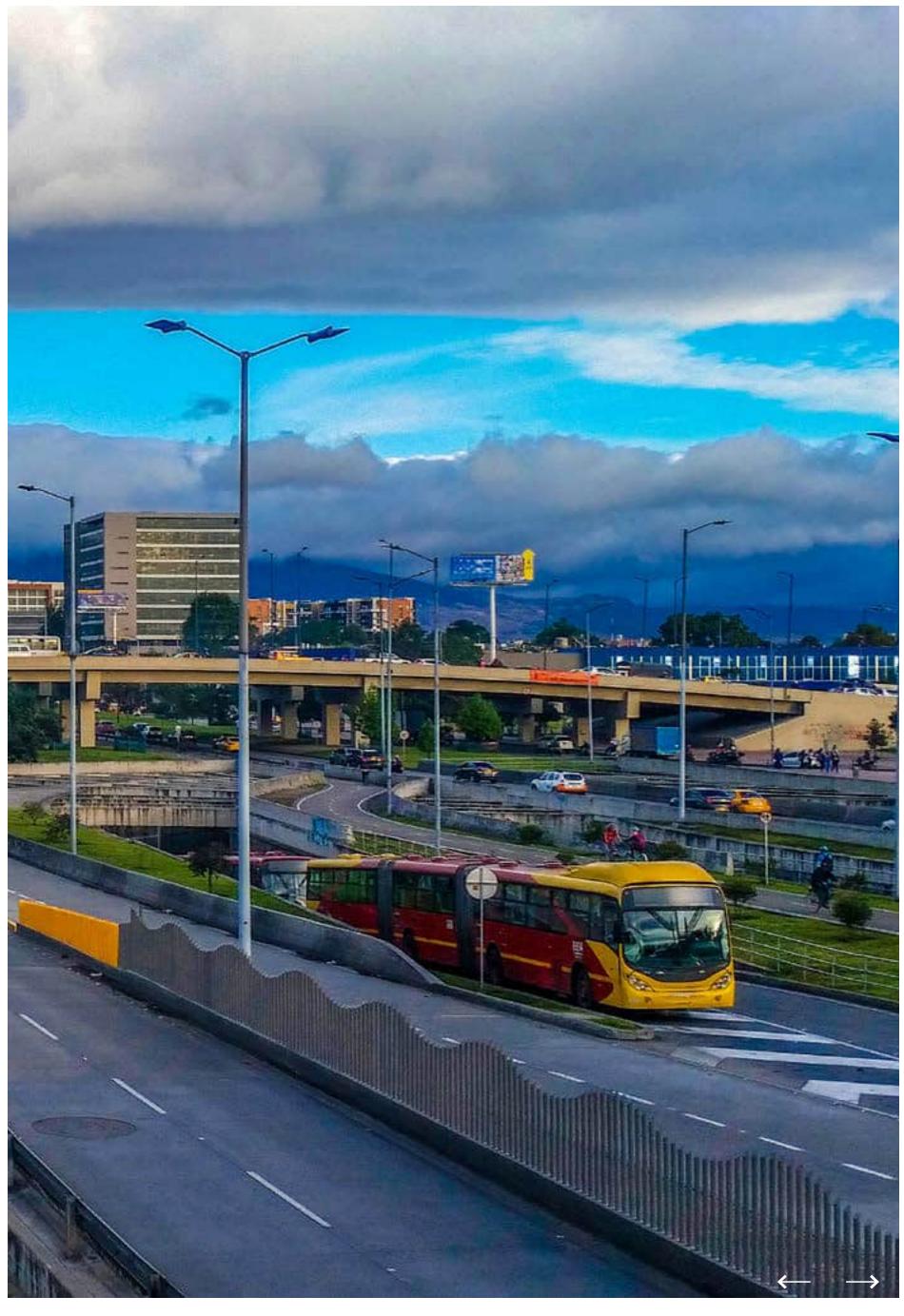
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### **Consumer price index**

(updated to December, 2022)



Consumer Price Index (CPI), Source: DANE









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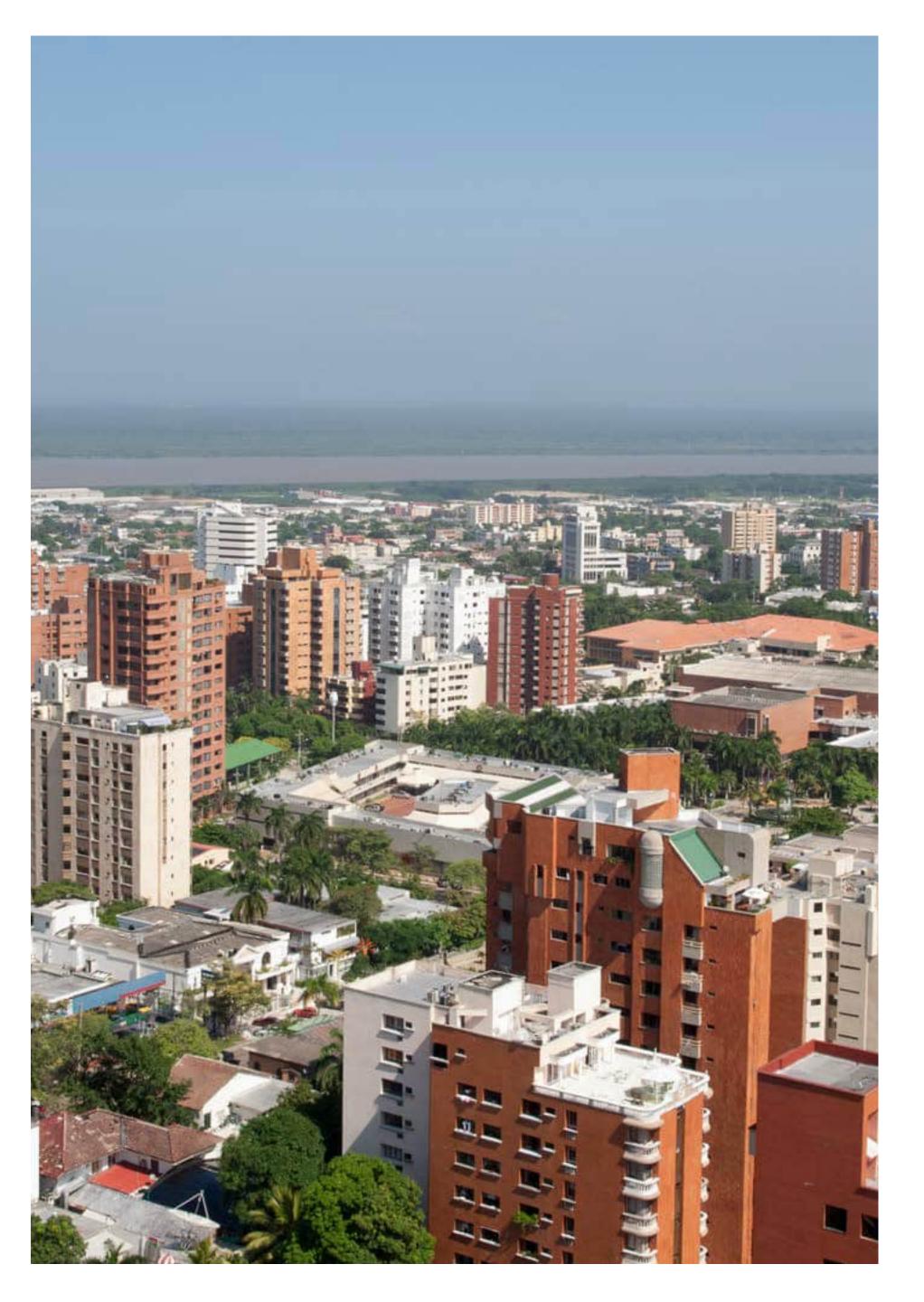
Paying corporate taxes



Paying personal taxes

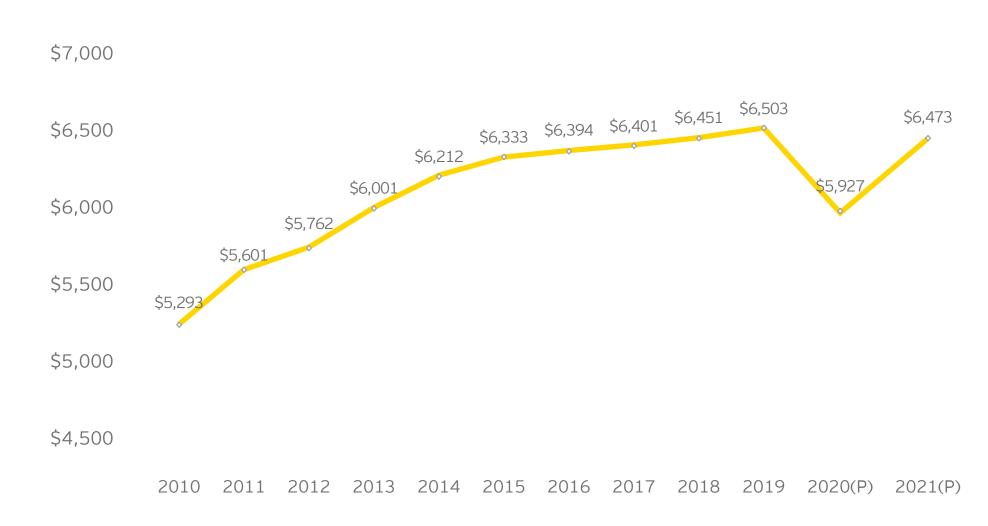


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### GDP per capita

(updated to December, 2022)



Colombian GDP Per Capita (USD) - Constant Prices (2015). Source: BanRep







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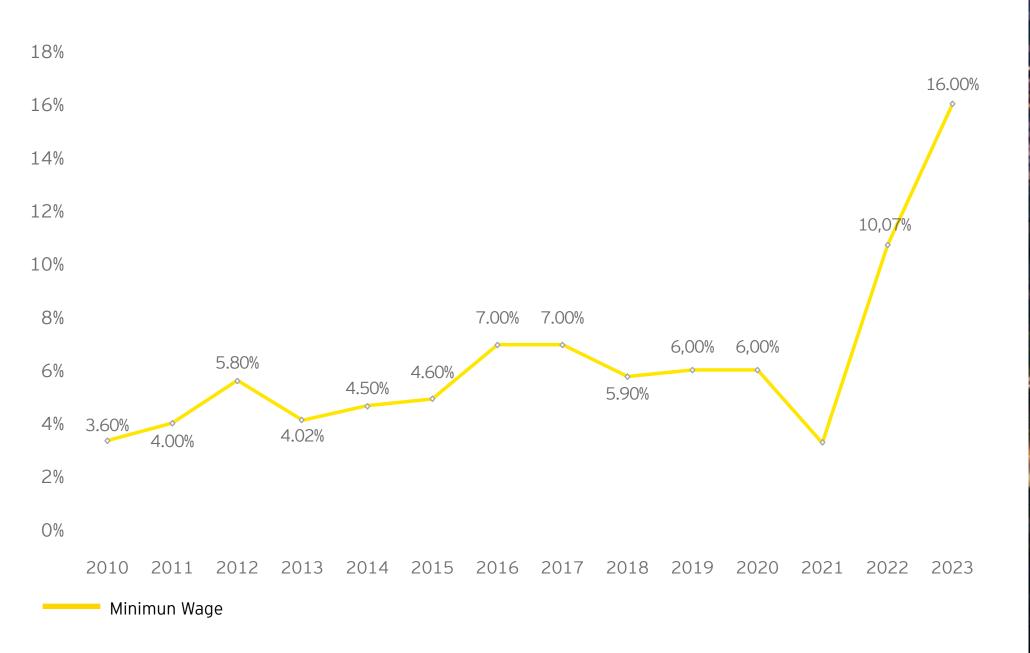
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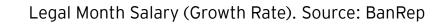


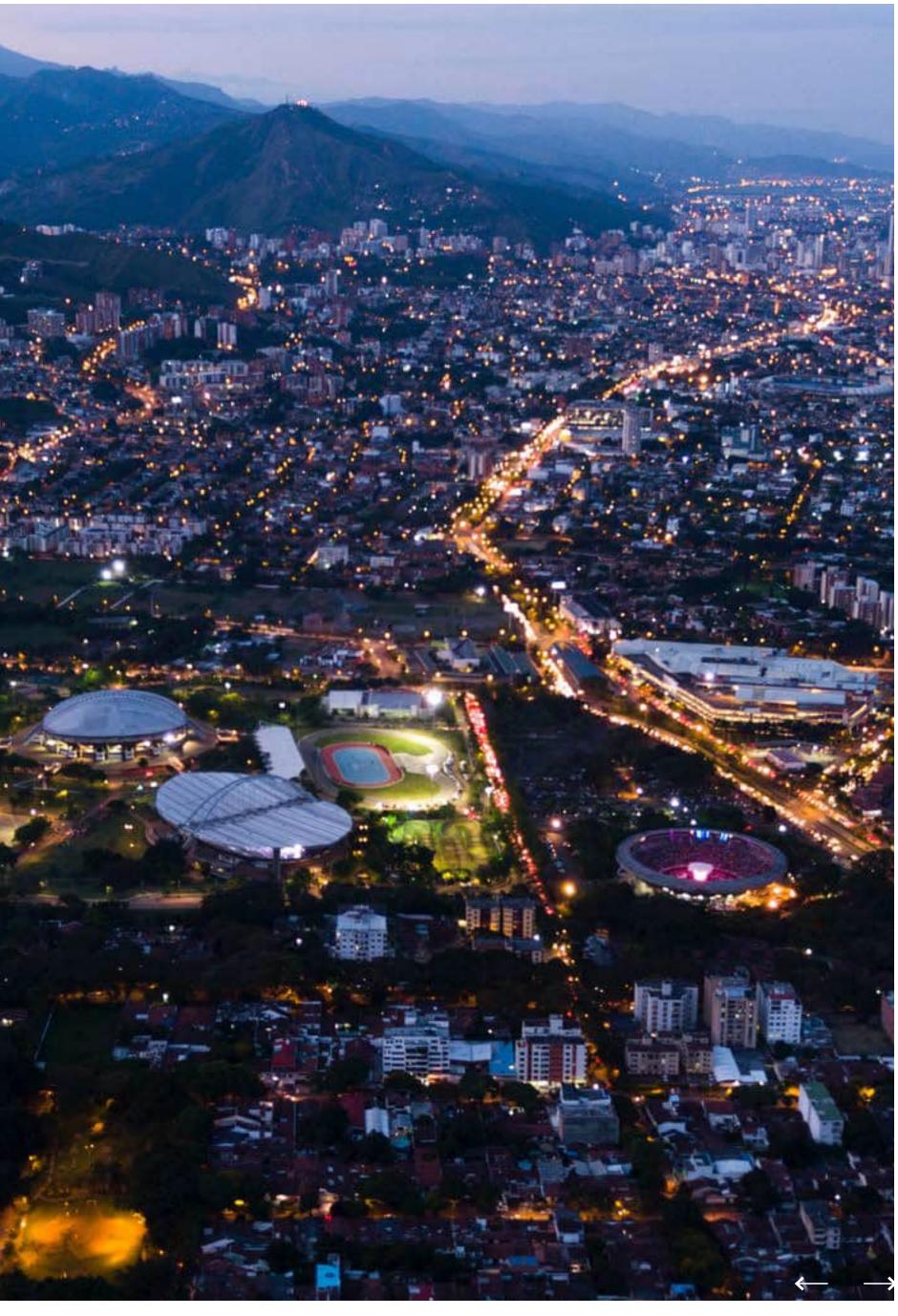
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### Legal monthly salary growth rate

(updated to 2022)













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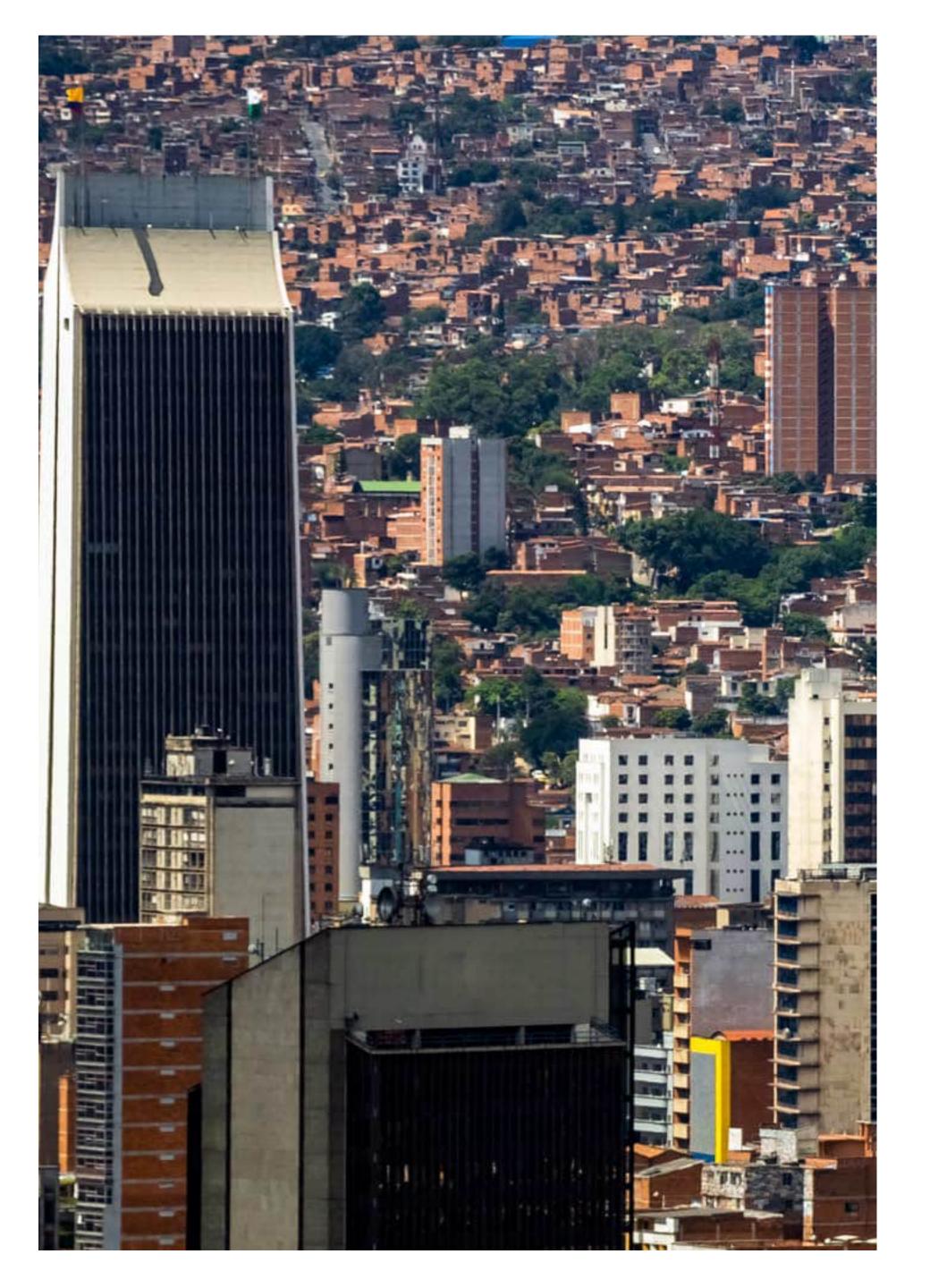
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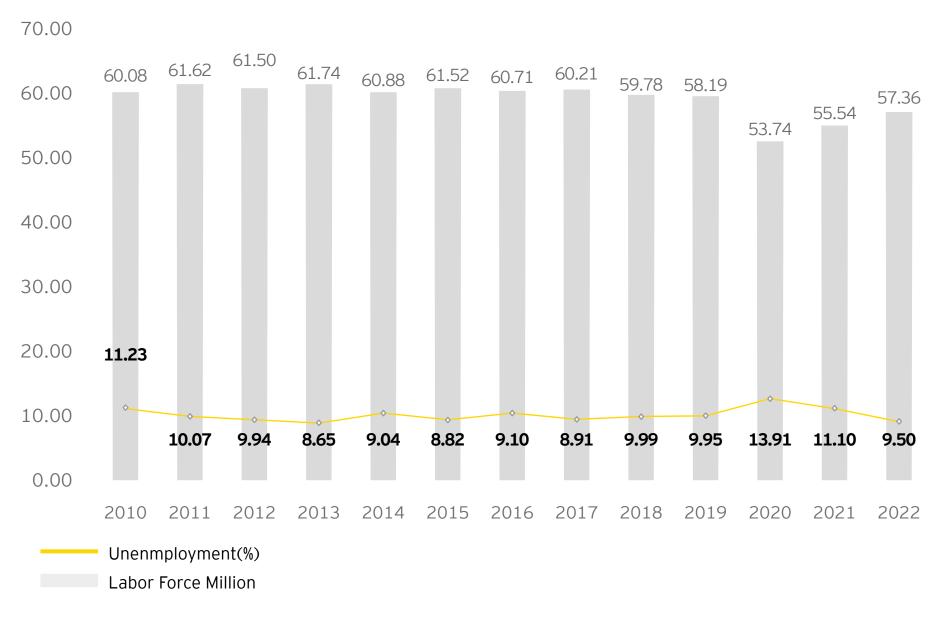


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### Unemployment % and labor force in million

(updated to November, 2021)



Unemployment and Labor Force Rate. Source: BanRep



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