



COLOMBIA – 2009 BUSINESS ENVIRONMENT

Currency: Peso (COP)

Foreign exchange control: Foreign exchange that is to be used for foreign direct investment may enter the country without central bank registration. However, the exchange market in Colombia comprises authorised exchange intermediaries through which most foreign currency transactions by foreign investors must be transferred.

Foreign capital investments, the import of goods and exports and currency used to repatriate profits must be directed through the exchange market. Foreign residents (a category distinct from foreign investors) in Colombia also must use the authorised exchange market for investments outside the country.

Accounting principles/financial statements: Colombian GAAP. Financial statements must be prepared annually.

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

Colombia has attempted to simplify procedures for setting up a local business. According to a World Bank report, the number of days required to set up a firm dropped during 2004 from 60 to 43 days. The forms of business organisation most often used by foreign investors in Colombia are the share corporation (sociedad anónima—SA), the limited-liability company (limitada) and the branch.

Most investors use the SA form. Law 222 of 1995 reformed the Code of Commerce, which establishes the legal framework on this matter. This law also allowed the creation of limitadas with only one partner, beginning in July 1996.

TAX ID NUMBER

RUT: (Unique Taxpayer Registry Number)

The structure is as follows:

Physical person: 8, 9, 10 digits (variable)

Legal entity: 10 digits (fixed)

Example:

RUT: 805 0175 52 9

800 to 899 (the first 3 figures) from 800 to 899 are long established companies and from 900 to

900 to 999 are new companies or recently established companies.

0175 (fourth to seventh figure), chosen by the system at random.

52 (the last 2 figures) figure that represents the turn of paying taxes.

9 (the last digit) verification figure or digit

The RUT is the only taxpayer registry in all the country and it lasts only with the tax payer.

Corporate taxation:

Residence – A corporation is resident if it is organised under Colombian law or has its main domicile in Colombia.

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

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

Taxation of dividends – Dividends are taxed at the 33% corporate rate if the profits from which the dividends are paid were not subject to tax at the corporate level. Otherwise, the dividends are exempt.

Capital gains – Capital gains derived from the sale of assets held for 2 years or more are subject to capital gains tax. Otherwise, gains are treated as ordinary



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income.

Losses – Losses may be carried forward without limitation. No carryback is allowed.

Rate –33% Surtax – No

Alternative minimum tax – A presumptive minimum income is calculated annually at a rate of 3% on the taxpayer's net worth held in the year immediately preceding the taxable year. Certain assets may be excluded from this calculation, such as shares in Colombian companies.

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

Participation exemption – The participation exemption regime does not apply to foreign dividends, making foreign dividends distributed or credited to a resident company includible in the taxable income of the recipient (see under "Taxation of dividends" for the treatment of domestic dividends).

Holding company regime – No

Incentives – Incentives include a special free trade zone regime with a 15% corporate income tax rate; a 40% tax deduction for investments in fixed assets; legal stability agreements; environmental investment deductions; and scientific investment deductions.

Withholding tax:

Dividends –Dividends paid to foreign companies or entities not domiciled in Colombia may be remitted abroad free of tax if the profits from which the dividends are paid have been taxed at the corporate level. Otherwise, tax is imposed at the 33% corporate tax rate.

Interest – Interest payments to nonresidents are subject to a final withholding tax at a rate of 33%, with the tax base being the nominal value. However,

interest derived from the following is exempt: short-term import credits and overdrafts; credits to finance or pre- finance exports; credits obtained by financial corporations and authorised banks; credit for trade transactions obtained through financial corporations or authorised banks; and credits obtained by foreign, mixed or local companies whose activities are considered beneficial to national economic development under guidelines set by the National Council on Economic and Social Policy.

Royalties – Royalty payments to nonresident companies are subject to a final withholding tax at the 33% rate. Royalties derived from the exploitation of software are also subject to the 33% tax, but only on 80% of their amount.

Branch remittance tax – No

Other taxes on corporations:

Capital duty – No (but see discussion on registration tax under "Other", below).

Payroll tax – Employers must contribute 4% of their monthly payroll to a family subsidy and 3% to the Institute of Family Welfare, together with an additional 2% contribution to the National Apprenticeship Service. The contribution is deductible and may be reduced for companies that have their own training program.

Real property tax – Real estate is subject to municipal taxation, usually levied at rates within a band of 1 to 16 per thousand based on the value of property without regard to the number of owners or the taxpayer's personal wealth.

Social security – The employer's contribution for pay-related social insurance is 8.5% of salary for health insurance, 11.625% for the general pension scheme and a percentage (which varies by job type) for work accident insurance. The employer also must withhold and remit the employee's share of social security contributions.

Stamp duty – Stamp duty is levied at a rate of 0.5% on any public or private document involving the formation, modification or cancellation of obligations exceeding UVT 6,000 (the UVT, or *Unidad de Valor Tributario*). The rate will be reduced to 0% in 2010.

Transfer tax – See under "Stamp duty". **Other** –



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

A municipal Industry and Trade Tax ranging from 0.2% to 1% is levied on gross receipts derived from the performance of industrial, commercial and service activities within a municipal territory; taxpayers with assets valued above COP 3 billion are assessed a 1.2% assets tax.

A 0.4% financial transactions tax is imposed on withdrawals from checking and savings accounts, including accounts with the Central Bank.

Anti-avoidance rules:

Transfer pricing – Colombia's transfer pricing regime is based on the OECD transfer pricing guidelines, with the arm's length principle applying in setting base prices and profit margins on transactions with foreign related parties. Advance pricing agreements may be negotiated with the local tax authorities.

Taxpayers engaged in related party transactions must file an annual return and, as a general rule, prepare a study (no filing requirement).

Thin capitalisation – No

Controlled foreign companies – No

Other – No

Disclosure requirements – No

Administration and compliance:

Tax year – Calendar year

Consolidated returns – Consolidated returns generally are not allowed, except for transfer pricing returns for cases in which more than 1 entity in a group of companies must file a transfer pricing return.

Filing requirements – A self-assessment system under

which all companies must complete a tax return and compute their own liability. Returns must be filed within deadlines, which are specified annually (generally April-May) and vary depending on the type of taxpayer and with the last digit of the taxpayer's tax ID number.

Penalties – Penalties for late filing amount to 5% per month of delay up to 100% of the tax or withholding tax due. The penalty imposed increases to 10% per month with a 200% ceiling for late filing and a summons by the tax authorities. Interest for late payment also is charged. The penalty for amendments amounts to 10% of the additional tax per month.

Rulings – Rulings are available on direct taxes and APAs may be negotiated under the transfer pricing rules.

Value added tax:

Taxable transactions – VAT is imposed on imports, the sale of goods and the performance of services in Colombia.

Rates – The basic rate is 16%. The preferential rate of 0% applies to exports and certain domestic supplies. Rates above the basic rate apply, e.g. to recreational and sport boats and vehicles and mobile phone services. Other rates below the basic rate apply to certain essential mass consumption goods and services.

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

Filing and payment – VAT is computed in bimonthly periods using the subtraction method, crediting taxes paid on purchases against tax liabilities arising from sales. Special rules are provided for small taxpayers.

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

Tax treaties: Colombia has double taxation agreements with Bolivia, Ecuador and Peru in accordance with Andean Community (CAN) provisions. Colombia recently signed double taxation treaties with Spain, Chile and Switzerland.



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Tax authorities: National Tax and Customs Office (DIAN)

International Organisations: CAN (Andean Community), Latin America Integration Association and WTO.

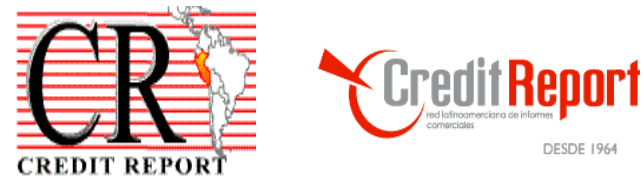
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