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Business & Investment

Guide

2016

Colombia



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Introduction

Colombia has evidenced an unparalleled financial growth that has positioned the country as one of the most promising and dynamic emerging markets in the world, and one of the most attractive destinations for investors. This positive stride is the result of deep economic, political and social reforms undertaken by the Colombian government during the last 13 years.

As recognized by the OECD in the Colombia Economic Survey published on January 2015, Colombia's economy has done remarkably well over the last decade as a result of the improved security situation and a solid and stable monetary, fiscal and financial framework that helped reduce macroeconomic volatility and promote a more inclusive growth, which has been mainly driven by the oil and mining sector, foreign direct investment in the commodity sector and broad-based investment.

Further, the World Bank in its 2015 "Doing Business Report" ranked Colombia as one of the most business-friendly countries in Latin America, mainly because of a strong commitment of the Government to promote investment and stability for investors. Examples of this commitment are the incentives granted for generation of new

employment, income tax exemptions for various sectors, and a competitive legal framework for the protection of investments.

In 2013, the Foreign Direct Investment Association (FDIA) recognized Colombia as the world's second best investment destination of the future during the World Forum for Foreign Direct Investment held in Shanghai, China. According to Transactional Track Record (TTR), in 2014, Colombia was the third most active Latin American country in the Mergers & Acquisitions (M&A) market with an increase of activity in number of deals of 15,5% (only behind Mexico and Argentina, whose activity in number of deals increased by 28.6% and 21.9%, respectively); and the second top foreign direct investment (FDI) destination in Latin America, surpassed only by Brazil.

According to the information issued by Colombian Central Bank, 39% of total FDI inflows during the 2015 went to the Oil, Gas and Mining Industries, which have been the largest FDI destination over the past ten years. Other top destination industries are Manufacturing (20%), Commerce and Hotels (16%) and Business and Financial Services (15%).

Colombia has been one of the most stable countries

in Latin America's recent history, both economically and politically, with a GDP growth rate significantly higher than the world's average in the last decade, a controlled one-digit inflation rate since 1999 and reaching a 7.3% unemployment rate in November of 2015. Colombia has a proven track record of compliance with its international commitments, and sustained economic growth, despite of the world's economic turn down.

The main risk rating agencies have given Colombia higher confidence indexes (Fitch BBB, Moody's Baa2, and Standard & Poor's BBB) based on the improvement in handling public debt, the consistency and predictability of Colombian macroeconomics policies and the economy's ability to deal with economic changes. In addition, the country is currently ranked as the top Latin American country in investment protection, according to the World Bank.

Furthermore, Colombia is a country that encourages the entrepreneurship and the economic freedom. After analyzing the policy development of 186 countries, the Index of Economic Freedom published by The Wall Street Journal and the Heritage Foundation in 2015, recognized Colombia as being one of

the markets in the region in which economic freedom is allowing it to generate both positive and visible results in terms of prosperity. Colombia is currently ranked in the 28th position, advancing 11 positions in this ranking over the past two years.

In October of 2013 the OECD's general secretary formally announced the initiation of the procedure for Colombia to join the OECD. For this purpose, Colombia agreed to follow the road map suggested by the OECD and comply the policies and good practices of the organization. Colombia has made continuous efforts to achieve the required political, technical, and administrative changes to be part of the international Organization, and has created several teams that participate in various OECD committees, which include expert technicians from different Ministries and Agencies. Colombia has also amended several laws to align local regulations with OECD standards.

Further, Colombia has expressed its adherence to the OECD following initiatives, among others: (i) Anti-bribery Convention; (ii) Declaration on International Investment and Multinational Enterprises; (iii) Convention on Mutual Administrative Assistance in Tax Matters; (iv) Declaration on Propriety, Integrity and Transparency in the Conduct of International Business and Finance; and (v) Green

Growth Declaration. Colombia also actively participated during the discussions during the Base Erosion and Profit Shifting project ("BEPS").

As of January, 2016, the country has nine Double Taxation Treaties in force with Canada, Chile, Czech Republic, India, Mexico, Portugal, Spain, South Korea and Switzerland. Thirteen Free Trade Agreements have been executed with Canada, Chile, Cuba, the European Union, Guatemala, Honduras, Liechtenstein, Mexico, Nicaragua, Salvador, the United States of America and Venezuela. 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, 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 WTO, and the Community of Andean Nations ("CAN") integrated by Colombia, Bolivia, Ecuador and Peru.

Per IMD World Competitiveness Yearbook 2014, Colombia has the second best skilled labor available in the region, graduating annually more than 330.000 people from higher education, and is a leader in the region of engineering and business graduates. This allows companies to have

professionals of the highest quality for the development of the various activities entrusted to them.

In general terms, following the trend, the forecast of economic growth for 2016 is expected to be close to 3% (according to the -predictions of the Ministry of Finance), despite factors such as the drop in oil barrel prices and depreciation of the local currency.

Colombia is also facing a historical moment due to the peace talks with FARC guerilla group, that are expected to put an end in 2016, to decades of internal conflict. The peace process has changed the perception of Colombia, making it a much more attractive country for doing business.

The Colombian government has identified the importance of investing in the infrastructure sector to increase its competitiveness. For this reason, Colombia started a strong initiative to begin with the construction of the fourth generation (4G) infrastructure projects, which is the construction of more than 8.000 kilometers of roads in the Colombian territory, together with investments in social infrastructure.

This Business & Investment Guide in Colombia is designed to help foreign investors by summarizing key information regarding the main corporate, tax, labor and exchange control matters within the country, thus providing relevant data on how to invest and do business in Colombia.

General facts about Colombia

- ▶ In terms of population, Colombia is twice as populous as Australia and its geographic area is larger than all of Central America combined.
- ▶ Colombia is among the 17 most biodiverse country in the planet, and has the highest amount of species by area in the world.
- ▶ 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 is located on a strategic point for maritime and transport activities. 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.

- ▶ Colombia is one of the oldest and stable democracies in Latin America.

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

- ▶ Bogota, capital city, is the fifth best city for doing business in Latin America.

- ▶ In 2013 Medellin, second largest city in the country, was recognized as the most innovative city in the world by The Wall Street Journal and Citigroup.

- ▶ Colombia ranks sixth in the countries with more freshwater volumes and seventh with more water sources.

- ▶ Latest edition of the Happy planet index (2012), which measures human well-being and environmental impact, ranks Colombia in the third position worldwide.

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



Population

47 million
Urban: 75%
Rural: 25%



Extension

1,141,748 km²



Currency

Colombian peso (COP\$)
US\$1 = COP\$ 3.149



Principal language

Spanish



Religion

Freedom of belief
Catholic 90%



Weather

Variety of climates
according to the
altitude



International time

GMT - 5 (Greenwich Mean
Time minus 5 hours.)
There are no seasons and
the time zone is the same
for the whole country.



Natural resources

Emerald, Gold, Nickel,
Coal, Oil and Gas, others
minerals



1. Setting up a business presence in Colombia

Plaza Santa Teresa - Cartagena, Colombia



"... Colombia has become a successful country in many aspects, and we want to continue implementing adequate policies and best practices. That is why we so strongly want to become members of the OECD. Its motto: "Better policies for better lives", is a very powerful statement, and this government is very committed to this purpose (...) In the "Decade of Latin America", it is time to look at the future with a visionary spirit. In the Colombia of today, we have an unprecedented opportunity to think big and to look ahead. Sharing our success stories and learning as well as implementing OECD's best practices by joining the "Club of Good Practices", as we have named it, is an objective that we set out to reach from day one of my Administration. We are on the right track, we are putting in place the right set of policies, we are combining political governance with economic governance, but our success also depends on what is happening in the region and in the world. We are convinced that the OECD can play a very important role in helping to consolidate Colombia's transformation" - Words of President Juan Manuel Santos, when referring to Colombia's road to be a member of the OECD.

Legal vehicles

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

Currently, the most common legal vehicles are: Simplified Share Companies (Sociedad por Acciones Simplificada), and branch offices of foreign companies (Sucursal).

Traditional legal vehicles such as Corporations (Sociedad Anónima) and Limited Liability Companies (Sociedad de Responsabilidad Limitada) are still used, but have been replaced in general by Simplified Share Companies.

The legislation provides for three additional types of legal entities: Partnerships (Sociedad Colectiva), Limited Partnerships (Sociedades en Comandita Simple or Sociedades en Comandita por Acciones); and Sole Proprietorships (Empresa Unipersonal). However, these last three corporate forms are not frequently used due to liability exposure issues for equity-interest holders; specific management rules; and in certain cases, due to the limitation on the ability to execute certain types of agreements with the company's equity interest holders, which restricts certain schemes of operations.

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 (Sociedad 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 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.

The main characteristics of S.A.S. are:

- ▶ 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 abuse 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 to be based. If the contributions include assets that, according to the applicable law, require public deed for its 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 or foreign).

- ▶ 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 bylaws 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.
- ▶ 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 or preemptive rights 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.
- ▶ 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).
- ▶ 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 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.
- ▶ Continuity - Special causes for dissolution: the accumulation of losses that reduce equity below 50% of the subscribed capital will place the company in a dissolution cause. This cause for dissolution can be solved within a period of eighteen months counted from the time in which the cause for dissolution became evident to the shareholders.
- ▶ Corporate purpose - The corporate purpose of a S.A.S. may be unlimited to any licit 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).
- ▶ Others - The shares of a S.A.S. can not 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.

Branch offices of foreign companies (Sucursal)

Branches are ongoing concerns opened in Colombia by a foreign company for the development of its corporate businesses or part of it. The branch and its home office are deemed to be one and the same legal entity, and therefore, the branch 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 in Colombia. Nevertheless, for foreign exchange and customs purposes branches 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 tax issues).

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 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.

- ▶ Liability - The home office is jointly and severally liable for all of the branch'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.
- ▶ 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 or foreign).
- ▶ Control - Appointing a local statutory auditor (revisor fiscal) is mandatory upon registration of the branch office.
- ▶ 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.
- ▶ Continuity - Special causes for dissolution: the accumulation of losses that reduce equity below 50% of the assigned capital will place the branch office in a dissolution cause. This cause for dissolution can be

solved, within the term granted by the Office of the Superintendent of Companies.

- ▶ 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.

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 preemptive rights 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.

- ▶ 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.
- ▶ 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.
- ▶ Continuity - Special causes for dissolution: The accumulation of losses that reduce equity below 50% of the subscribed capital; the reduction of the number of shareholders to less than five; and capital concentration, which occurs when a single shareholder holds more than 94,9% of the subscribed shares are all causes for

dissolution. Any of the aforementioned causes of dissolution can be solved within a period of eighteen months counted from the time in which the cause for dissolution became evident to the shareholders.

- ▶ 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.

Limited liability companies (Sociedad de Responsabilidad Limitada or Ltda.)

- ▶ 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 to be based.
- ▶ 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.
- ▶ 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 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.

- ▶ 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 quota-holders.

These agreements must be deposited before the company's administration and will have binding power 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.

- ▶ 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 twenty-five.

- ▶ 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.
- ▶ Continuity - Special causes for dissolution: the accumulation of losses that reduce equity below 50% of the capital; and when the number of quota-holders is reduced to less than two or exceeds twenty-five. Any of the aforementioned causes of dissolution can be solved, within a period of eighteen months counted from the time in which the cause for dissolution became evident to the quota-holders.
- ▶ 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.

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 registry before the RUT requires that the legal entity, branch office or permanent establishment opens a checking or savings account in a Colombian financial institution. Only with a certificate of title-holding of the checking or savings account issued by a commercial Colombian bank, can the newly incorporated entity, branch office or permanent establishment request the registration before the RUT and the issuance of its NIT.

Benefits granted under the First Employment Law

- ▶ Companies duly registered before the Chamber of Commerce that qualify as small companies, may access the benefits provided in such law. Under this law, small companies

are understood to be those with no more than 50 employees and total assets below 5.000 legal monthly salary (approx. USD 1.100.000).

- ▶ The qualification as a small company must be validated for each year in which the benefits will be applied.
- ▶ The benefits provided in the law and that are currently in force are: (i) the reduction on the applicable corporate income tax rate and other tax incentives (Refer to the chapter on tax issues); and (ii) the reduction on the rates for certain social security contributions. (Refer to the chapter on Individuals).

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 by-laws perform or hold any administrative position are all considered administrators.

General provision 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.

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: (i) the authorization from the Office of the Superintendent of Industry and Commerce when the transaction qualifies as business integration, to clear market concentration and antitrust issues; and (ii) 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 Superintendent 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. In certain cases, additional authorizations or procedures must be undertaken before labor and social security authorities.

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 income tax, CREE and VAT purposes in Colombia. Mergers and spin-offs allow the transfer/use of existing tax losses within certain limitations and provide for a minimum two-year

holding period of the shares as of the tax year following the merger or spin-off effective date. Share transfers performed within such holding period trigger additional tax costs. The holding period will not be applicable in case of subsequent transfers as a result of death, forced transfers, liquidation of the company, and other reorganizational mergers or spin offs (qualified as such for tax purposes).

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

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 (union temporal) for the participation in public biddings; 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 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 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 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”.
- ▶ 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.

- ▶ 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.

Other regulatory considerations

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 Superintendent 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. Moreover, the Superintendence of Industry and Commerce ("SIC") is the entity in charge of authorizing the integration of companies, under certain conditions. 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 they participate vertically or horizontally) execute operations intended to merge, consolidate, acquire control or integrate through any type legal form.

Data privacy

- ▶ In line with the global trend for the protection of data privacy, in 2012 Colombia enacted a special regime for the adequate protection of personal data. With this framework companies are now required to comply with new 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 (Superintendence of Industry and Commerce), restrictions for the cross-border 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.

2. International investment and exchange control regime



Plaza Bolívar - Bogotá, Colombia

"The impressive progress of the Colombian economy has helped poor people to become part of the growing middle class and has also created more market opportunities that benefit our two countries." Words of President of the United States, Barack Obama, in his interview to El Tiempo Newspaper in January 23 of 2016, regarding the peace process and the role of Colombia as an important leader in the region.

As a general rule, all legal entities and individuals undertaking operations in Colombia are subject to the provisions of the Colombian exchange control regime, which covers mainly reporting obligations to the Colombian Central Bank (“Banco de la República”).

All Colombian citizens living in Colombian territory, foreigners who have lived in Colombia for six months within a twelve month period, as well as any State entity, private companies and branch office of foreign entities registered in Colombia are considered “residents” for Colombian foreign exchange control purposes and are subject, in general, to the provisions of what is known as the “ordinary exchange regime”..

Compliance with the exchange control regime is jointly supervised by the Superintendence of Companies, the Superintendence of Finance, and the Colombian Tax Authority (“DIAN”).

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 residents must be paid for in Colombian currency and within Colombia (some exceptions apply). Also, as a general rule, payments may be made in foreign currency under agreements between residents and non-residents. However, some of these transactions must be reported to the Central Bank and handled 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).

In general, the transactions that must be reported to the Central Bank and handled or channeled through the foreign exchange market are referred to as “operations of mandatory channeling through the foreign exchange market”. These transactions are:

- ▶ Imports and exports of goods;
- ▶ Foreign indebtedness 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 in foreign currency; and
- ▶ Derivative transactions.

A six-month mandatory deposit is established for the following foreign exchange operations, among others: (i) exports financing; (ii) portfolio investments, and (iii) foreign indebtedness. Currently, the percentage that has to be deposited is 0%.

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

Foreign investment regime

These regulations relate to non-Colombian residents (whether legal entities or individuals) who wish to bring resources from abroad to invest in Colombia. Foreign investment in Colombia 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 investment 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 comprises: (i) all forms of participation and contribution to the capital of a Colombian company or Colombian branch office; (ii) the acquisition of any rights or interests in trusts, pursuant to agreements entered into with trust companies under surveillance of the Financial Superintendence, that does not constitute

portfolio investment; (iii) the direct acquisition of real estate or through a trust, and the investment in real estate securitizations or investment in construction projects; (iv) contributions in kind to a company's capital, consisting of intangible assets such as technology transfer contracts, 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; (v) the capitalization of sums with exchange remittance rights (e.g. dividends, liabilities for imports of goods, foreign loans etc.); (vi) contribution as supplementary investments to the assigned capital; (vii) the acquisition of interests in private equity funds, pursuant to financial sector regulations. Transactions that imply foreign indebtedness do not constitute direct foreign investment.

- ▶ Portfolio investment includes (i) the acquisition of securities registered with the National Registry of Securities and Issuers (RNVE for the Spanish initials); (ii) the foreign capital investment achieved in the development of agreements or integration agreements of stock exchanges; and (iii) 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 - Form No. 4. When the foreign investment is made through other means, registration must be requested to the Central Bank complying with certain requirements and within the term established in the regulations.

Once the investment is registered, the investor of record is entitled to: (i) reinvest profits or retain them as retained earnings; (ii) remit abroad 100% of the proven net profits generated by the Colombian investment; (iii) capitalize amounts or operations with exchange remittance rights; (iv) remit abroad the 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, etc. On December 2015, the Central Bank modified and simplified the registration procedures and created a form for the registry of foreign investment derived of restructuring operations as well a form for the cancelation of the registry of the foreign investment.

Foreign indebtedness

Colombian residents may contract loans in foreign currency 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.

Colombian residents can only contract loans in foreign currency from non-resident individuals for finance certain operations (e.g. financial leasing, exportations).

Special foreign exchange regimes

Financial sector

Foreign investment in the financial sector requires previous authorization from 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.

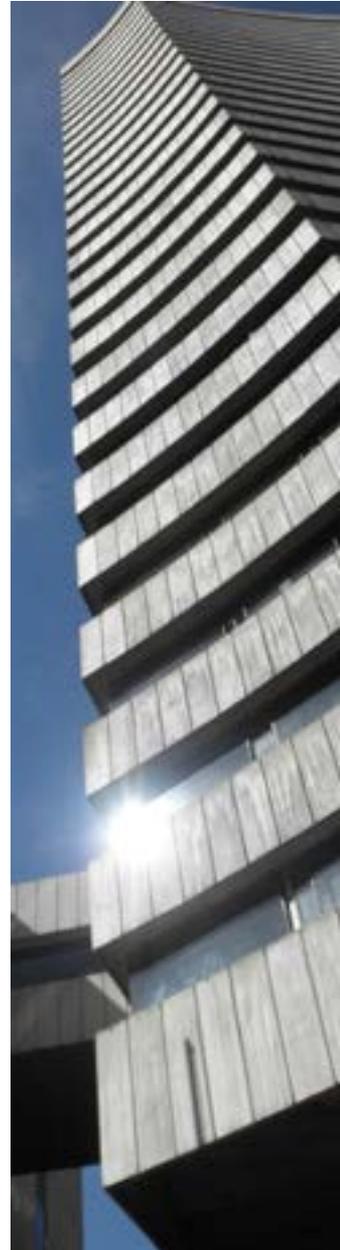
Hydrocarbons and mining sector

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).

- ▶ 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.
- ▶ In order to pay for local purchases and services received locally, the home offices need to bring into Colombia in the form of supplementary investment to the assigned capital, 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.
- ▶ Foreign indebtedness transactions (including international leasing) and the transfer of profits (paid for with currency obtained locally) are not allowed for this type of branches.

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 into the Colombian foreign exchange market.



3. Tax system



Museum of National Police - Bogotá, Colombia

"Colombia is one of the bright spots of the economy in Latin America and the world, considering also the benefits of the termination of the armed conflict in the country. We expect growth this year will be 3 percent. From our perspective, what will differentiate countries in the context of a slow growth economy are the things that Colombia is doing precisely at this time. Colombia is well known for having a very solid macroeconomic management. Colombia is more diversified than many of the economies in the region". - Words of the World Bank President Jim Yong Kim, in the "Colombia in the Global Context" discussion held in January 2016, led by President Juan Manuel Santos, the Colombian Finance Minister, and representatives of the Trade Union, business and financial sector.

Corporate income tax

Corporate taxpayers

National companies are taxed on their worldwide income, equity and capital gains. National companies are legal entities that (i) have their principal domicile in Colombia; or (ii) are organized under Colombian law; or (iii) have their effective place of management in Colombia.

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 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. The subsidiaries of the companies that have made such issuance are also not considered to have their effective place of management in Colombia, provided that they are consolidated in the financial statements of their parent; however, such subsidiaries can elect to be treated as national companies, unless 80% or more of their income is of foreign source.

Foreign companies, Colombian branch offices of foreign entities, and permanent establishments (PE's) are taxed on their Colombian-source income and capital gains only. 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.

Permanent establishment

The domestic PE definition preserves the OECD model definition contained in article 5 of the model convention; with some exceptions (Paragraphs 3 and 7 of article 5 of the OECD model are not included in the definition). 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: (i) dependent agents who act on behalf of the foreign entities on a permanent basis and have the ability to conclude legally binding agreements; and (ii) 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, branches of foreign companies, 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: (i) activities carried out through an independent agent under its ordinary business activities and market conditions, and (ii) the undertaking of preparatory or auxiliary activities.

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.

Tax rate

The corporate income tax rate is 25%. A special reduced corporate income tax rate of 15% 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. Commercial Users in a free-trade zone are subject to the general corporate income tax rate.

Reduced and gradual income tax rates are available for companies that qualify as small companies (small companies are understood to be those with no more

than 50 employees and total assets below 5.000 legal monthly salary (approx. USD 1.100.000)). The starting rate is 0% for the first two years, and then it increases by 25% of the applicable rate every year, until the full rate becomes applicable in the sixth year. The beneficiaries of this income tax rate reduction will not be subject to the determination of the income tax under the presumptive income system and will not be subject to tax withholdings during the term of application of the benefits. Pursuant to the interpretation of the DIAN, branch offices of foreign companies are not eligible for these benefits.

Foreign individuals or entities receiving Colombian-source income not attributable to a branch office or PE, and which is not fully taxed via withholding tax, are subject to a corporate income tax rate of 40% for 2016 (the rate will increase as follows: 42% for 2017 and 43% for 2018). The rate will be reduced to 33% from 2019 onwards.

A 10% rate is applied over the gain obtain in the disposal of fixed assets owned for more than two years as well as from revenues from inheritances, estates, donations and similar acts (capital gains).

Reduced and gradual income tax rates

Percentage of applicable income tax rate	Actual applicable income tax rate	Income tax withholding exemption since the beginning of the activities	Valid for
0%	0%	5 years	Two (2) first taxable years
25%	6.25%		Third taxable year
50%	12.5%		Fourth taxable year
75%	18.75%		Fifth taxable year
100%	25%		As of the sixth year
50%	12.5%	If, upon termination of the escalation/progressivity, in the previous year the Company obtained gross revenues of less than 1000 Tax Value Units (UVT[1] as per the Spanish acronym)	

Taxable income

The base for the calculation of the annual corporate income tax is the higher amount between "ordinary taxable income" and the "presumptive income".

Ordinary taxable income is calculated by subtracting deductible costs and expenses from net revenues (gross taxable revenues minus rebates and discounts). If this results in a tax loss, such loss may be carried forward with no time limitation. Additionally, tax laws provide no limitations on the amount of tax losses available to be offset against ordinary taxable income each year.

Additional 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, but only up to a limit equivalent to ratio by which the merged entity's equity participates in the surviving entity's equity. Similar rules apply to spin-offs of companies. Tax losses generated do not affect the entity's presumptive income for the respective tax year.

The special treatment of tax losses in mergers and spin-offs applies only if the economic activity of the companies involved (those which generated the losses) is the same before and after the merger or spin-off; otherwise, the losses may not be offset by the absorbing entity in the merger, or by the resulting entity in the spin-off.

Presumptive income is calculated as 3% of the taxpayer's prior year tax equity (tax assets minus tax liabilities). Some assets may be excluded from the taxable basis but the income associated to such assets is added to the basis.

The excess of presumptive income over ordinary income (adjusted for inflation) may be carried forward as a deduction for 5 years.

Tax credits may only be used to reduce income tax to a minimum level equal to 75% of the amount of the income tax calculated on presumptive income, among other restrictions.

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

The taxable year is the calendar year. Annually, the 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 year, the tax authority makes 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 in order to report the assets owned abroad Colombia by taxpayers subject to worldwide taxation.

Special deductions

► **Special deduction for environmental investments.** Taxpayers that make voluntary investments for the control and improvement of the environment are entitled to deduct the value of the

investments made during the relevant tax year from their income. Mandatory investments are excluded from this deduction. The total value of the deduction may not exceed 20% of the taxpayer's net income, calculated before subtracting the investment value. The law provides for several additional requirements to apply for this deduction.

- **Special deduction for investments in scientific, technological development or innovation.** Investments in projects qualified by Colciencias (the Colombian Institute for Development of Science and Technology, a government entity) as "scientific, technological or of a technological innovation nature" are deductible to the extent of 175% of the investment value in the relevant tax year. Investments or donations to programs created by the Ministry of Education which provide full or partial scholarships to low income students are deductible under the same conditions aforementioned. The law establishes various additional requirements for this deduction to apply.

The total value of the deduction may not exceed 40% of the taxpayer's net income, calculated before subtracting the investment value.

Exempt income

Income generated from the following activities is income tax exempt: (i) sale of electricity generated from wind resources, biomass or agricultural waste; (ii) the provision of transport services with river boats; (iii) hotel services provided by new and refurbished hotels until December 31, 2017; (iv) ecotourism services; (v) utilization of new forest plantations; (vi) new software and medical patents; (vii) publishing; (viii) most of the income obtained in Andean Community countries (Bolivia, Ecuador and Peru); (ix) the payment of principal, interests, bank charges and other financial returns, capital gains or differences between the present and future value related to financial activities carried out in Colombia by governmental financial and development cooperation institutions from countries with which Colombia has entered into cooperation agreements for the mentioned matters.

The assets used in the activities mentioned in numerals (i), (ii), (iii) and (v) are not built in the base used in the determination of presumptive income.

Payment of capital and interests, commissions, and other fees associated with external public credit transactions, and similar credits, is exempt from all national taxes, levies and contributions, provided that the recipient has no domicile in Colombia or is not considered a Colombian resident.

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 generation of taxable income; 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.

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 (i) they are incurred to generate taxable income in Colombia; (ii) the applicable withholding taxes are collected from the payments; (iii) the expenditure amounts comply with applicable transfer pricing rules in the case of related party transactions; and (iv) the related payment has been made in compliance with exchange control regulations.

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.

As a general rule, payments made abroad to individuals or entities domiciled in tax havens will not be deductible for income tax purposes, unless the highest withholding tax is applied when the payment constitutes Colombian source income (40%). According to the current interpretation of the DIAN, when the payment to a tax haven is considered foreign source income, no withholding tax should be required to guarantee the deduction; however, the taxpayer should demonstrate and support the functions, assets, risks and costs incurred by the provider of the goods or services -located, domiciled or resident in jurisdictions considered to be tax havens- for the commercial activity. Transfer pricing documentation is required for the transactions with tax havens, irrespective if the payee in the tax haven 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 2016 is the following:

1. Antigua and Barbuda	20. Republic of Angola
2. Commonwealth of the Dominica	21. Republic of Cape Verde
3. Commonwealth of the Bahamas	22. Republic of Liberia
4. Cook Islands	23. Republic of the Marshall Islands
5. Cooperative Republic of Guyana	24. Republic of Nauru
6. Grenada	25. Republic of Seychelles
7. Hashemite Kingdom of Jordan	26. Republic of Trinidad and Tobago
8. Hong Kong	27. Republic Vanuatu
9. Independent State of Western Samoa	28. Republic of Yemen
10. Kingdom of Bahrain	29. Saint Helena, Ascension and Tristan da Cunha
11. Kuwait	30. Saint Vincent and the Grenadines
12. Labuan	31. Solomon Islands
13. Lebanese Republic	32. St. Kitts & Nevis
14. Macao	33. St. Lucia
15. Maldives	34. State of Brunei Darussalam
16. Mauritius	35. Sultanate of Oman
17. Pitcairn, Henderson, Ducie and Oeno Islands	36. Svalbard
18. Qatar	37. Territorial Collectivity of Saint Pierre and Miquelon
19. Queshm	

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.

Depreciation

Depreciation may be calculated using the straight-line, reduced balance, double-declining balance, units of production or other recognized method duly approved by the tax

authorities (the straight-line and reduced balance methods do not require authorization by the tax authorities). Certain low-value assets may be fully depreciated in the year of acquisition. Also, the use of assets during extra shifts above the regular 8-hours shift per day allows the taxpayer to increase the depreciation rate by 25% for each additional 8-hour shift.

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. This 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).

The useful lives of assets for income-tax depreciation purposes are: 20 years for buildings (including pipelines); 10 years for machinery and equipment; and 5 years for vehicles and computers.

Amortization

Any investment that needs to be treated as an amortizable asset for accounting purposes may be amortized for tax purposes over a minimum period of five years, unless a shorter period can be justified.

Thin capitalization rules

Interest paid on loans (with third parties or related parties, foreign or local) that in average exceeds a 3:1 debt-to-equity ratio is not deductible. For this purpose, the equity taken into account 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. The ratio is 4:1 for certain companies engaged in the construction of housing for low income families

Thin capitalization rules do not apply for special purpose vehicles engaged in infrastructure projects for the provision of public services, and for entities subject to the surveillance and inspection of the Superintendencia of Finance (mainly banks), or to factoring companies.

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 a 33% withholding tax on the gross payment amount.

A flat 10% withholding tax applies on payments for technical services, technical assistance and consulting services provided by a foreign entity without domicile in Colombia, regardless of where the services are rendered.

Payments for the exploitation of computer programs are also subject to a 33% withholding tax, applied on 80% of the payment amount, for an effective 26.4% withholding tax rate.

Payments for the exploitation of films (movies) are also subject to a 33% withholding tax applied on a special taxable base, namely on 60% of the payment amount, resulting in an effective withholding tax rate of 19.8%.

Any interest paid to foreign lenders pursuant to loan agreements for a term equal or greater than 1 year is subject to a 14% withholding tax. If the term of the agreement is less than 1 year, the applicable rate is 33%. This treatment is also generally applicable to rents derived from leasing agreements. 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.

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:

- ▶ Short term loans for the import of merchandise, bank overdrafts or credit lines;
- ▶ Loans for the finance or pre-finance of exports of merchandise;
- ▶ Loans obtained by most Colombian financial entities and Bancolombia; and
- ▶ Loans for foreign trade through most Colombian financial entities and Bancolombia.
- ▶ Certain loans obtained by Colombian companies developing activities considered of the interest of the economic and social development of the country, under the definitions of the Decree 2105, 1996, which are grandfathered with an income tax exemption.

Dividends

Dividends paid by Colombian companies to any corporate shareholders (Colombian or foreign companies) are not subject to tax if the relevant profits were subject to income tax at the corporate level (temporary and permanent differences can affect this calculation). Otherwise, the dividends are subject to a 20% withholding tax if the recipient is a Colombian company (33% if the Colombian recipient does not file income tax return) or a 40% withholding tax if it is a foreign company.

The remittance of profits by branch offices to their foreign home offices are deemed as dividends for domestic tax purposes, therefore, if such profits were taxed at the branch level, no withholding shall be applied.

Tax credit for VAT paid in the acquisition of capital assets

Starting 2015, entities may treat as a tax credit, creditable in their income tax, two percentage points of the VAT paid at the general rate (16%) in the acquisition and importation of capital goods. Capital goods are: (i) tangible goods entitled to depreciation; (ii) goods that are not transferred or disposed of during the normal course of business; (iii) goods used for the production of goods and services; and (iv) goods that are not incorporated in the

final produced or transformed good.

Entities may also treat as tax credit the VAT paid for the acquisition of heavy machinery for basic industries, as long as certain conditions are fulfilled.

In both cases, a recapture mechanism for the tax credit applies when the good is transferred before its useful life is expired or when no purchase option has been exercised for goods obtained under a financial leasing agreement.

Tax credit for employment creation

A tax credit is granted for companies which hire personnel in any of these categories: (i) individuals up to 28 years old; (ii) individuals with disabilities; (iii) reinserted or displaced individuals; (iv) women over 40 years old without a job within 12 months prior to the hiring; (v) employees who earn less than 1.5 legal monthly salary. The tax credit is equal to the payroll tax that the employer pays for each of these individuals during 2 to 3 years as of the year they are hired and provided other requirements are met.

Foreign tax relief

For national companies and resident individuals, a credit for foreign taxes paid on foreign-source income (direct tax credit) is granted. 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 corporate 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 corporate income tax and CREE tax (and CREE tax surtax) payable in Colombia on such dividends. Foreign tax credit (direct and indirect) should be allocated to be applied against the corporate income tax and the CREE tax (including CREE tax surtax), based on the proportion that each tax bears to the total tax liability.

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 and owned for a minimum of two years.

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

CREE tax

Corporate income tax-filers are subject to an additional tax over corporate income named corporate income tax for equality ("CREE").

Free-trade zone users qualified on 31 December 2012, free-trade zone users in special free-trade zones with a request filed on 31 December 2012, and new free-trade zone users in an existing permanent free-trade zone at 31 December 2012 are not subject to CREE.

Similar to the corporate income tax, the taxable income for CREE is net revenues less costs and certain deductions. Certain exemptions, special deductions and tax credits applicable to corporate income tax are not available for CREE, but generally the taxes are substantially similar.

CREE tax rate is 9%, which applies over the greater between the taxable income (discussed above) or the minimum taxable base, which is an amount equal to 3% of the tax equity of the preceding year (similar to the presumptive income for corporate income tax).

CREE taxpayers are exonerated from the National

Learning Service (SENA), the Colombian Family Welfare Institute (ICBF) and the health contribution (up to 13.5% of the payroll tax base as of 2016) assessed on monthly salary and days of rest, only for employees earning up to 10 legal monthly salary.

CREE surtax

CREE taxpayers are subject to a CREE surtax on the taxable base that equals to or is greater than COP800.000.000 (approx. USD250.000). This surtax will be applicable for tax years 2016, 2017 and 2018 at 6%, 8% and 9% rates, respectively.

The qualified users of off-shore permanent free-trade zones are not levied with the CREE surtax.

Wealth tax

All individuals and legal entities are responsible for this tax if their tax equity was equal to or higher than COP1.000.000.000 (approx. USD312.500), as of January 1, 2015. Non-residents, domestic or foreign individuals and foreign entities, regardless whether they are corporate income taxpayers, are subject to this tax for their equity held in Colombia directly or through branch offices and PEs, with the exceptions provided in international treaties and the domestic law.

The taxable base is the net tax equity as of January 1 of every year. However, for years 2016 and 2017, the taxable base should be increased or reduced up to the 2015 taxable base multiplied by a percentage equal to 25% of the inflation of the prior year (the inflation for 2015 was 6,77%).

For PE's and branch offices of foreign entities, the taxable base should be determined by an attribution study, based on the assets, functions, risk and personnel attributable to the PE or branch office.

The taxable base can be reduced with the net value of the following assets: (i) shares in domestic companies, even if owned through a trust or collective investment fund; (ii) real estate used in and beneficial to mass transit public companies; (iii) immovable fixed assets acquired or used to the control and improvement of the environment by public entities providing water and sanitation utilities, among others.

The rates of wealth tax for corporations are as follows:

Taxable base	2016	2017
>0 < COP2.000.000.000	0,15%	0,05%
>=COP2.000.000.000 <COP3.000.000.000	0,25%	0,10%
>=COP3.000.000.000 <COP5.000.000.000	0,50%	0,20%
>=COP5.000.000.000 and forward	1,00%	0,40%

This tax is applicable up to 2017 in the case of companies, and up to 2018 for individuals.

Normalization tax

Taxpayers who voluntarily declare assets that they had failed to declare or reject liabilities that they declared and were not real, may normalize their income tax situation from 2015 to 2017. However, taxpayers cannot normalize assets obtained from illegal activities, such as money laundering or terrorism.

The taxable base will be the tax basis of the omitted assets or the self-valuation provided by the taxpayer.

The normalization tax rate increases incrementally (11.5% for 2016 and 13% for 2017). This tax is payable only in the year of the normalization.

Tax on financial transactions

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

A gradual reduction of the rate will start to apply in 2019, until elimination of the tax in 2022:

Year	Rate
2019	0,30%
2020	0,20%
2021	0,10%
2022 and onwards	will be eliminated

50% of the TFT paid is deductible for corporate income and CREE tax calculation purposes.

Sales tax - VAT

Colombian VAT is levied on the following transactions:

- ▶ Sale of tangible personal property (sales of fixed assets are not taxed with VAT);
- ▶ Imports of tangible personal property;
- ▶ Rendering of services in Colombia;
- ▶ The operation of games of chance or the supply of tickets for games of chance (excluding lotteries).

In some cases specified in the tax laws, the import of services, that is, services rendered abroad and used in Colombia, is subject to VAT, if the recipient of the service is located in Colombia. The services subject to this provision include:

- ▶ Licenses and authorizations for the use of intangible assets;
- ▶ Consulting and advisory services (including technical assistance services) and audit services;
- ▶ Rental of tangible personal property;
- ▶ Insurance and reinsurance services;
- ▶ Satellite connection or access services, irrespective of where the satellite is located;
- ▶ Satellite television services received in Colombia.

The general VAT rate is 16%. 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 also zero-rated provided the service is rendered within Colombia to a non-resident 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.

“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, medicines, gasoline, 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). 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), the withholding rate is 100% of the tax.

Consumption tax

A national consumption tax is levied on the following activities: (i) the provision of mobile phone services; (ii) the sales of certain movable tangible goods; (iii) 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.

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

Rates range from 4% to 16% (being 8% the general rate); depending on the relevant activity.

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

Industry and commerce tax / turnover tax

The industry and commerce tax (“ICA”) is a municipal tax that is applied on gross revenues earned from 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 1,38%. ICA is often paid via withholding tax collections.

The ICA actually paid is 100% deductible for corporate income tax and CREE tax purposes, in the year in which this tax is paid but only 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%.

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 and CREE tax purposes but only to the extent it is related to the income-producing activity of the taxpayer.

Local stamp taxes

In certain state jurisdictions (“departamentos”) there are local stamp taxes which tax several situations, starting from transactions exclusively entered into with the local (state or municipal) public entities to services rendered in or in relation to a given municipality.

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

Usual rates go from 0,3% to 1,5% of the value of a transaction, however the rates and tax basis may vary depending on the state or municipality. 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.

Local stamp taxes are generally deductible for corporate income tax and CREE tax purposes, provided they constitute part of the cost of the operation or are indispensable for carrying on with the company’s business. Recent case law provides that stamp taxes are also deductible when they

represent an expense, other than a cost, which complies with general deduction requirements.

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.

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.

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 two years counted from the applicable tax return filing deadlines. 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 which show tax losses or in which prior year tax losses are used as setoffs (or loss carry-forwards) are open to review by the tax authorities for five years from the applicable tax return filing deadlines.
- ▶ Corporate income tax returns that show an overpayment (or “balance in favor” of the taxpayer) are open to review for two years counted from the date on which the taxpayer applies for a refund or setoff of the overpayment.

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 Colombian 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 deposit 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 liability reported on the original tax return and the liability 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: The penalty for inaccurate reporting or computation of the income tax liability due to the omissions of revenue, income items or assets, or to the inclusion of inexistent or inaccurate costs, expenses, exemptions, tax credits, withholding taxes, and in general the use of misleading or false information in a tax return are subject to a penalty ranging between 40% and 160% of the additional tax liability (or reduced balance in favor) that is assessed by

Tax	Filing
Corporate income tax	Yearly basis - April of the year following the taxable year
CREE tax	Yearly basis - April of the year following the taxable year
Withholding tax	Monthly basis
CREE self-withholding	Monthly basis
Wealth tax	Annual basis for 2015, 2016 and 2017 for companies
Normalization tax	2015, 2016 and 2017
VAT	Every 2 months, every 4 months; or annual basis
Consumption tax	Bimonthly basis; or annual basis
ICA (local tax)*	Bimonthly basis
ICA withholding (local tax)*	Monthly basis
Real estate tax	Yearly basis - January through July of 2016
Transfer pricing return	Yearly
Transfer pricing study	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

* ICA due dates given for Bogotá. Other jurisdictions have a yearly deadline with monthly or bimonthly filing periods for anticipated payments and withholding taxes, where applicable.

the tax authorities. As of 2018 the inaccurate reporting penalty for omitted assets and non-existing liabilities will be 200%. 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.

Reporting obligations at a glance

Other relevant tax matters

Transfer pricing

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

Transfer pricing rules are applicable to all the taxpayers that carry out transactions with related parties abroad and related parties located in a free-trade zone. The Colombian transfer pricing regulations provide two kinds of duties, the filing of a transfer pricing informative return and the preparation of transfer pricing support documentation. Only those income taxpayers who have carried out transactions with foreign related parties and whose gross assets are equal to or greater than 100.000 Tax Value Units ("UVT"), that is, COP2.975.300.000 (approx. US\$ 929.700) or whose gross revenues during that year are equal to or greater than 61.000 UVT, that is, COP1.814.933.000 (approx. USD576.100) would be liable to comply with the formal transfer pricing obligations. In situations where there is a corporate group, an annual consolidated transfer pricing informative return must also be submitted.

Additionally, for cross border related party transactions exceeding 32.000 UVT, that is, COP952.096.000 (approx. USD297.530), there is an obligation to prepare and submit transfer pricing documentation (transfer pricing report) substantiating the prices agreed upon in transactions with related parties and showing how the methods and criteria used to determine such prices were selected.

Taxpayers should also prepare transfer pricing support documentation and file annual transfer pricing informative returns in relation to their transactions with tax havens, irrespective if the party in the tax haven is related or not. In addition, if the party in tax haven is in fact related, the transfer pricing support documentation should include information about the functions, assets, risks and costs incurred by such tax haven party.

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 documentation 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, the residual profit split method and the transactional net margin method.

It is possible for the taxpayer to execute and advanced pricing agreement ("APA") with the DIAN, for a limited time of four taxable years. The taxpayer is obligated to file an annual report with the operation contained in the agreement.

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 DTT in effect with Canada, Chile, Czech Republic, India, Mexico, Portugal, Spain, South Korea and Switzerland 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 France; however, the approval procedure has not been initiated (it could take a couple of years in being completed).

Currently, Colombia is negotiating DTTs with Belgium, Brazil, China, Germany, Japan, The Netherlands and Panama. 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, and Venezuela.

Bilateral investments protection and promotion agreements ("BIT")

Colombia has in effect BIT's with China, India, Peru, Spain and Switzerland (free trade agreements with Canada, Chile, Guatemala, Honduras, Mexico, El Salvador, the European Union and United States of America include an investment protection chapter as well). Currently, the BIT's with Azerbaijan, France, Japan, Kuwait, Qatar, Russia, Singapore, South Korea, Turkey, United Kingdom are either negotiated pending approval or under negotiation.

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.

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 85 participating countries. Additionally, Colombia has signed TIEAs with Barbados, Curacao and the United Arab Emirates, which are not yet in force (waiting for the internal approval process by the Congress and the Constitutional Court). Finally, according to the information available, Colombia is currently negotiating TIEAs with Bermuda, Cayman Islands, Costa Rica, Guernsey, Kuwait and Qatar.

4. Customs

Gold Museum - Bogotá, Colombia



"Colombia is a country that offers everything from a fast-lane life in a glamorous city, to a rich existence in a colonial setting...from beachside living to life high in the Andes. And it's all affordable, enjoyable and easy to settle into." Lee Harrison, International Living magazine.

There are three kind of foreign trade regimes: (i) imports; (ii) exports and (iii) transit.

Imports

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 (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).

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 under two main modalities: ordinary or temporary.

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 nationalized or re-exported within a specific time period in the same original condition (except for the normal depreciation originated in their use). Under temporary imports, the goods may be used in the country while remaining subject to customs' control. There are two main modalities of temporary imports: 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 up to six additional 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. It is possible to submit before the DIAN a request for an extension of this five year term, justified in the needs of the importer and the activities that will be developed with such equipment within Colombia.

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.

Exports

Exports are foreign trade operations through which goods exit the NCT and are sent 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.

Transit

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

Special customs qualifications

▶ Permanent Customs Users ("UAP")

UAP is a qualification granted by the DIAN to companies complying with the following requirements: (i) carrying out foreign trade operations in the previous 12 months with a FOB value higher than USD 5.000.000 or reported such value as a yearly average during the past three years; and (ii) filed at least 100 import or export declarations in the past twelve months.

The companies recognized as UAP are entitled to the following benefits: (i) automatic release of the imported goods; (ii) granting of a global guarantee that covers all the foreign trade operations; (iii) possibility of importing raw materials and inputs as temporary import for industrial processing regime; and (iv) making a consolidate payment of the import duties within the first five days of the following month in which the importations took place.

▶ Highly Exporting Users ("ALTEX")

ALTEX is a qualification granted by the DIAN to companies complying with the following requirements: (i) exports for a value higher than FOB USD 2.000.000 in the previous twelve months; and (ii) the value of exports must represent at least 30% of the amount of its total sales in the same period. If such requirements are not met, the company must certify exports for a value higher than FOB USD 21.000.000.

The companies recognized as ALTEX are entitled to the following benefits: (i) no physical inspection of goods; (ii) granting of

a global guarantee that covers all the foreign trade operations carried out by the ALTEX; (iii) possibility of importing raw materials and inputs as temporary import for industrial processing regime; and (iv) no VAT for ordinary imports of industrial machinery that is not produced in the country and is used to transform raw materials.

Import duties

The harmonized tariff schedule ("HTS") code is applied, which determines what is the applicable customs duty tariff (0%, 5%, 10%, 15% and in some cases 35%), for every subheading (ten 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 assessed over the CIF value of the imported goods, plus the applicable customs duty.

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: (i) the permanent or "multiuser" free-trade zones, which are specific and qualified geographical areas where various companies establish for the development of activities; (ii) the special permanent or "single-enterprise" free-trade zone in which a company is authorized to develop its industrial or services activities in a given area of the national territory; and (iii) the temporary free-trade zone, defined as a given area of the national territory for national and international trade fairs, exhibitions, conferences and seminars.

On 2014, the Government issued the conditions and requirements that must be met in order to request the declaration of an off-shore permanent free-trade zone, allowing the existence of

a free-trade zone on sea waters. This type of free-trade zone aims to stimulate the hydrocarbons sector, by offering custom and tax incentives, promoting economic development and job creation in this sector of the economy.

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

Benefits

A special reduced corporate income tax rate of 15% 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. Commercial Users in a free-trade zone are subject to the general corporate income tax rate.

Free-trade zone users qualified before December 31, 2012, free-trade zone users in special free-trade zones with a request filed before December 31, 2012, and new free-trade zone users in a permanent free-trade zone pre-existing as of December 31, 2012 are not subject to CREE.

The qualified users of off-shore permanent free-trade zones are not levied with the CREE surtax.

The sale of raw materials, spare parts and/or finished goods from the NCT to an industrial user of goods and/or services are exempt from VAT, provided that they are required for the development of the user's economic activity. This VAT exemption also applies on sales between industrial users.

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

Currently, the FTA's with Costa Rica, Israel, Japan, Korea, Panama and Turkey are either negotiated pending approval or under negotiation.

Free trade agreements

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

Plan Vallejo

In Colombia, there is a kind of inward processing relief called “Plan Vallejo”. This is a special import-export regime that allows temporary imports for inputs and raw materials 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.

To apply for a Plan Vallejo program, the importer has to request previous authorization before the Customs Authorities.

Plan Vallejo is divided in the following kind of programs:

▶ **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 of the agriculture sector**

This modality allows importation of capital goods and spare parts with no customs duty and deferring the payment of the VAT for products of the agricultural sector.

▶ **Services**

The export services companies can request an authorization to import into Colombia capital goods and spare parts with no customs duty and deferring the payment of the VAT. 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.

Authorized economic operator ("OEA")

Individuals or legal entities established in Colombia may request before the DIAN a special qualification as OEA. The applicant may choose, either individually or simultaneously, between the OEA security and facilitation category and the OEA sanitary security and facilitation category. OEA'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 OEA is contemplated for exporters of any economic sector. Exporters 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;
- ▶ Fewer financial guarantee requirements;
- ▶ Access to training provided by the Customs Authorities;

- ▶ Consolidation of import duties payments;
- ▶ On-site customs clearance for exports.

International trade companies ("ITC")

ITC's are companies registered before the Customs Authority, whose main purpose is the export 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: (i) exemption from VAT on their purchases of goods, as long as these are effectively exported; and (ii) the intermediary production services that these companies receive are equally exempt from VAT, as long as the final product is effectively exported.

Transfer of legal functions on foreign trade issues

Since December 17, 2015 the Ministry of Commerce, Industry and Tourism is the authority in charge of establishing the policies related to free trade zones, Plan vallejo, ITCs, Special Economic Zones and other instruments that promote foreign trade. Those functions were re-assigned from the DIAN.

5. Individuals



Colón Theater - Bogotá, Colombia

"It's great to be here in Bogota" Words of Mark Zuckerberg, Founder, President and CEO of Facebook, when hosting the company's town hall meeting in Bogota, in January 2015. Bogota was selected by Zuckerberg to host the first overseas town hall meeting and to announce his global internet-access initiative to Latin America, over cities such as Beijing, London or Dubai as recognition to Colombia's efforts to make the country the Silicon Valley of South America.

Immigration

Colombia controls and regulates the entry, residency and departure of foreigners. The first-time application for visas can be submitted abroad to any Colombian Consulate or to the Ministry of Foreign Affairs in Bogota.

All foreigners that intend to perform a regulated activity are required to have a temporary permit/license, validate their university degree, obtain a professional permanent permit or a certificate of the competent professional council in Colombia. If such is the case, the foreigner must bring his/her diploma and grades certificate duly apostilled or legalized to obtain the temporary permit/license.

Depending on the activities that the foreigner is going to carry out in Colombia different types of visas may apply. The most commonly used are: (i) business visa (N-1 and N-4); (ii) temporary work visa (TP-4); (iii) temporary technical visa (TP-13); (iv) temporary visa for spouse or permanent companion of Colombian national (TP-10); (v) temporary student visa (TP-3) and (vi) resident visa (RE).

If the foreigner has a valid business visa s/he may apply for a work visa in Colombia, subject to some limitations. The Ministry of Foreign Affairs may issue for the first time a temporary visa in Colombia if it considers that it is convenient for a reason of national interest or out of reciprocity with another country.

Nationals of those countries that have visa exemption 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, via a Resolution, which countries do not require a visitor visa to enter into the Colombian territory. The following are the countries whose nationals do not require a visa to enter into Colombia as visitors:

Nationals of the following countries do not require a visa to enter into the country as visitors

Germany	Cyprus	Grenada	Luxembourg	Romania
Andorra	Korea (Republic of)	Greece	Malaysia	Russia
Antigua y Barbuda	Costa Rica	Guatemala	Malta	Saint Kitts and Nevis
Argentina	Croatia	Guyana	Mexico	Samoa
Australia	Denmark	Honduras	Micronesia	San Marino
Austria	Dominica	Hungary	Monaco	St. Lucia
Azerbaijan	Ecuador	Indonesia	Norway	Holy See
Bahamas	El Salvador	Ireland	New Zealand	St. Vincent and the
Barbados	United Arab Emirates	Iceland	Netherlands	Grenadines
Belgium	Slovakia	Marshall Islands	Palau	Singapore
Belize	Slovenia	Solomon Islands	Panama	South Africa
Bolivia	Spain	Israel	Papua New Guinea	Sweden
Brazil	United States of America	Italy	Paraguay	Switzerland
Brunei Darussalam	Estonia	Jamaica	Peru	Suriname
Bulgaria	Fiji	Japan	Poland	Taiwan
Bhutan	Philippines	Kazakhstan	Portugal	Trinidad & Tobago
Canada	Finland	Latvia	UK and Northern	Turkey
Czech (Republic)	France	Liechtenstein	Ireland	Uruguay
Chile	Georgia	Lithuania	Dominican Republic	Venezuela

*Under Article 3 of Resolution 0572 of 2015, although Mainland China, India, Thailand and Vietnam are restricted jurisdictions, their citizens may be authorized to enter Colombia without a Colombian visa if they hold an entry permit. A foreigner from one of the above countries can obtain an entry permit if they satisfy one of the following conditions:

- ▶ They hold a residence permit in a member state of the Schengen area or in the United States of America.
- ▶ They hold Schengen visa of Type C or D, or a visa to The United States in any category other than Class C-1 transit.

Taxation

Income tax

Resident Colombian nationals or foreigners are subject to tax on their worldwide income and equity as of their first year of tax residence in Colombia. Colombian nationals without tax residence and foreigners without tax residence in Colombia, are obligated to report only their Colombian source income and equity.

Tax credit for foreign taxes is available for residents and under specific limitations.

The income tax rate that applies to Colombians and foreign non-resident is 33%. The tax rates that apply for national and foreign residents are determined according to brackets of taxable income which go from 19% up to 33%.

Tax rate is applied on net taxable income. For employees, either nationals or foreigners, the taxable income will be 75% of total labor compensation payments, since 25% of such income is tax exempted. However, the maximum monthly reduction which applies to all compensation income is COP7.141.000 for 2016 (approx. USD2.200)

Some deductions are allowed for employees reporting labor income such as (i) interest paid on the acquisition of a house where the employee lives in; (ii) payments for health made for themselves, their spouse and their children or dependents; (iii) an additional deduction for dependents is limited to the lesser amount between the 10% of the total gross income arisen for the labor relationship and COP11.424.000 for 2016 (approx. USD3.500); and (iv) voluntary contributions into pension funds and housing savings accounts ("AFC"). In the last two cases, the tax benefit is limited to 30% of the employee's taxable income and COP113.061.000 for 2016 (approx. USD35.300).

Wealth tax

The taxable base for individuals is the net tax equity as of January 1 of every year. However, for years 2016, 2017 and 2018, the taxable base should be increased or reduced up to the 2015 taxable base multiplied by a percentage equal to 25% of the inflation of the prior year (the inflation for 2015 was 6,77%).

The taxable base can be reduced with: (i) the value of the dwelling house until COP362,987,000 for 2016 (approx. USD113,300) and (ii) net equity value of shares in domestic companies, even if owned through a trust or collective investment fund.

The rates of wealth tax for individuals are as follows:

Taxable base	Rate
>0 < COP2.000.000.000	0,13%
>=COP2.000.000.000 <COP3.000.000.000	0,35%
>=COP3.000.000.000 <COP5.000.000.000	0,75%
>=COP5.000.000.000 and forward	1,50%

Normalization tax

Similar to corporations, individuals can also normalize the omitted assets and non-existent liabilities, which legally should have been declared. The taxable base will be the tax basis of the omitted assets or the self-valuation provided by the taxpayer.

The normalized assets or non-existent liabilities will increase the basis for wealth tax on 2016 and 2017.

Declaration over fixed assets owned abroad

Individuals, who are classified as tax residents in Colombia and have assets abroad at January first of each year, are subject to annual declaration

over fixed assets owned abroad.

If the total value of the assets abroad is higher than COP\$ 106,515,740 for 2016 (approx. USD33,300) the declaration must include the country, identification, equity value and kind of each asset. If not, only be necessary inform the equity value of the assets for each country.

Tax	Filing
Individual income tax return	Yearly basis - From August to October
Declaration of fixed assets abroad	Yearly basis - From August to October
Wealth tax	Annual basis for 2016, 2017 and 2018
Normalization tax	2015, 2016, 2017 and 2018
Tax information on magnetic media	Yearly- From April to May of the year following the taxable year if the individual meets one of the established conditions

Labor relations

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 labor 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

A labor 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: (i) that the services are rendered personally by

the employee; (ii) under a continued dependence or subordination of the employer; and (iii) in return of a salary (remuneration) as compensation for the service.

Depending on the labor 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 time of less than one month.

Salary

The employer must pay a salary to his 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 2016, the legal monthly salary is COP689.455 (approx. USD215), and no employer can pay to an employee a salary below this value.

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.

Salaries should be paid in Colombian currency (in the case of Colombian residents for exchange control purposes) 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: (i) the salary to be agreed for regular work; (ii) 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, non-legal 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 13 legal monthly salaries, composed by 70% as salary and 30% as benefit factor. However, the benefit factor has to be the benefit factor of the employer.

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 (except for employees who receive an integral salary).
- ▶ Vacation pay: The employee is entitled to enjoy fifteen working days per worked year or in proportion by worked fraction for resting and recreation purposes.
- ▶ 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). 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. If the total employment time has been less than one year, the entire time of service is used to make the calculation.

- ▶ 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.
- ▶ 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 the following dates: April 30, August 31 and December 20.
- ▶ Transportation aid. It must be paid in a monthly basis to employees who earn up to twice the legal monthly salary. Its value is set by the Government every year. For 2016 the value is COP77.700 (approx. USD24).

Working hours

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.

As stated in labor law, the ordinary working day (daylight) is from 6:00 a.m. to 10:00 p.m. while the working night is from 10:00 p.m. to 6:00 which has to 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.

Parental leave

Maternity leave for every employed pregnant or adoptive mother in Colombia is granted for fourteen weeks. According to labor law, mothers are entitled to enjoy two weeks before the childbirth and twelve 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 thirteen weeks after childbirth. Adoptive mothers are entitled to this maternity leave. The husband of the pregnant mother is entitled to have eight working days of paternity leave.

Termination of employment agreements

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

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

When terminating a fixed term agreement without just 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.

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: (i) for occasional, incidental or transitional measures for a period up to one month; (ii) replacement of employees on vacation, leave, sick leave or maternity leave; and (iii) to support increases in production for seasons for a period up to of six (6) months, extendable up to six (6) 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.

Characteristics	Indemnification
Employees who earn up to 10 legal monthly salaries.	Thirty (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, s/he will be entitled to twenty additional days of salary in addition to the basic thirty days of the first year and pro rata for fractions of a year.
Employees who earn more than 10 legal monthly salaries.	Twenty 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, s/he will be entitled to fifteen additional days of salary in addition to the basic twenty days of the first year and pro rata for fractions of a year.

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 obligated 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% -8.7%	0.348% -8.7%	N/A
SENA, ICBF, Family Compensation Fund (payroll taxes)	Salary (5)	9%	9%	N/A

Notes:

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, provided that 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 CREE tax, 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. This exemption of contributions entered into force as from January 1, 2014. It is worth clarifying that 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. Non-salary 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 CREE tax, 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. This exemption of contributions entered into force as from May 1, 2013. There is still the obligation for the companies of paying the remaining 4% of the payroll taxes designated to the Family Compensation Funds.

6. Accounting



Plaza Botero - Medellín, Colombia

"Investors find in Colombia a satisfactory correlation between what they are looking for and hope to find to open a world-class shared service center, and what Colombia provides in terms of locations, incentives, guarantees, and costs for that kind of operation. However, there is a special, defining factor for entrepreneurs, and that is the Colombian human capital, which is what closes the deal" said Mario Tucci, chairman of MVD Consulting/Tholons for Latin America, when referring to Colombia's strong position in the Region as an investment destination for Shared Service Centers.

Accounting standards

Law 1314 of 2009 proposed the convergence of Colombian accounting principles to those of International Financial Standards ("IFRS"). After that, the Decrees 2784 of December 2012 and 3024 of December 2013, established clearly the criteria and dates for the implementation, classifying the companies in three groups, according to certain characteristics. The Superintendencies have been the entities in charge of the supervision of the implementation process, in its different stages.

For the application of IFRS standards, it is required their inclusion in a Decree, through the Technical Regulatory Framework, which will include the approved versions of the standards in Spanish that will apply every year. This inclusion implies a delay between the issuance of the standard by the IASB and its application in Colombia.

Additionally, some exceptions have been approved by the Government to the application of IFRS in separate financial statements, like the impairment for the account receivables for entities under control of the Superintendence of Finance and the Superintendency of Solidarity. Exceptions for the recognition of investments in subsidiaries and the rates

used for the recognition of pension liabilities under NIC 19 have been also established.

These situations will generate differences between the application of IFRS standards in Colombia (Technical Regulatory Framework) and the IFRS standards used for reporting by subsidiaries of foreign companies.

Group 1

The Group 1 for the implementation is composed by companies which will apply the technical regulatory framework approved in Colombia by Decree every year, which currently includes the standards issued by the IASB as of December 31, 2012. These companies will prepare the first set of financial statements under IFRS as of December 31, 2015, including the figures of the transition period (2014) and the opening balance (January 1, 2014).

These companies also have the obligation to report the separated and consolidated financial statements as of December 31, 2015 to the Superintendence of Companies under XBRL language, in April and May of 2016, respectively.

These companies part of this group are comprised by:

1. Issuers of securities;
2. Public interest entities;
3. Entities which meet the following parameters:
 - a) Staff exceeding 200 employees, or
 - b) Assets exceeding 30.000 legal monthly salaries, and
 - c) That they meet total any of the following requirements:
 - ▶ Be a subordinate or branch office of a foreign company which applies full IFRS;
 - ▶ Be a subordinate or home office of a company that must apply full IFRS;
 - ▶ Be a home office, associate or joint business of one or more foreign entities which apply full IFRS;
 - ▶ Carry out importations or exportations representing more than 50% of purchases or sales, respectively.

Group 2

This group of companies will apply IFRS for SME's issued by IASB (and include in the Technical Framework approved by Decree in Colombia); however, with voluntary application of full IFRS applicable for Group 1. The Group is comprised by large size companies which do not meet the requirements of Group 1 and medium and small size companies and microenterprises, which revenues are equal or higher than 6.000 legal monthly salaries.

The companies in this group should produce their first set of financial statements under the new standards as of December 31, 2016, so the year 2016 is considering the application period. These companies had to prepare the opening balance as of January 1, 2015. During 2015 the financial statements are prepared under COLGAAP (Colombian Accounting Principles), but in addition the companies are required to have information under IFRS standards for comparative purposes.

Group 3

A simplified accounting will be applied in this group of companies, as established in Decree 2706 of 2012, and 3019 of 2013, which is a compilation of headings established in the IFRS for SME'S issued by the IASB and the ISAR regulations by UNCTAD. The company in this group has the same regulation than companies in Group 1.

Tax book

In addition to the new accounting standards, the companies have the obligation of maintaining a tax book to keep the differences between tax bases (which requires the application of COLGAAP) and the new regulatory frameworks under IFRS.



7. Anticipated legislative changes

San Felipe Castle - Cartagena, Colombia



"Solid economic management has transformed Colombia into Latin America's best country for doing business, according to the World Bank, and foreign direct investment has grown by over four percent in the last three years. As well as the mainstays of mining, oil and agriculture, construction is booming, and ambitious public-private partnerships in roads and railways should see investment of up to \$25 billion by 2018. Tourism - once unthinkable - is flourishing, with arrivals up 12 percent in 2014"- said the New York Times in May 2015 when talking about the birth of a new Colombia.

As of the date of completion of this publication (January 31, 2015), the following legislative changes are expected:

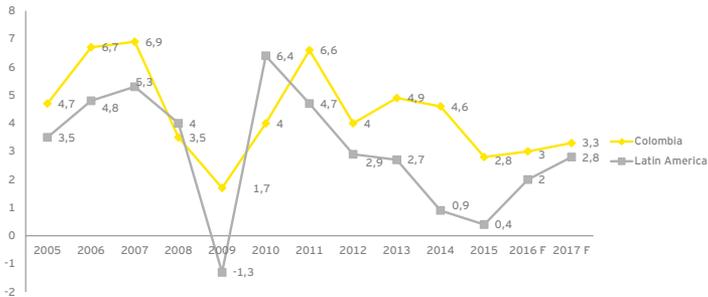
- ▶ An amendment to the existing corporate law regime, which is being studied by the Colombian Congress (Bill 070 of 2015).
- ▶ An amendment to the existing Customs Code which is expected to be issued by Decree during 2016.
- ▶ A comprehensive tax reform. The Government has publicly announced that a tax bill will be submitted to the Colombian Congress in the second semester of the 2016. If approved in 2016, it will have effects as of 2017.
- ▶ A cross border anti-bribery bill was passed by the Colombian Congress (Bill 159 of 2014).



Sky View - Barranquilla, Colombia

Economic Data

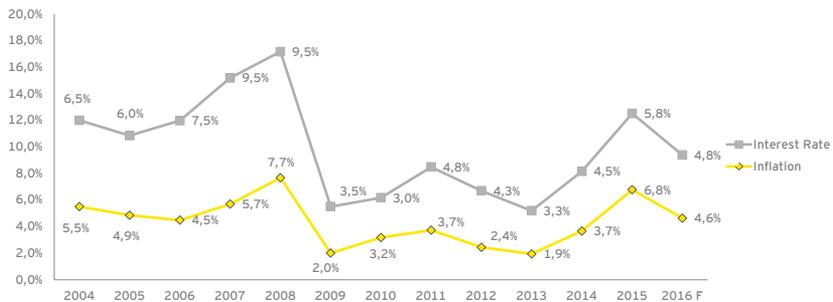
Colombia Unemployment: Source Banrep - World Bank



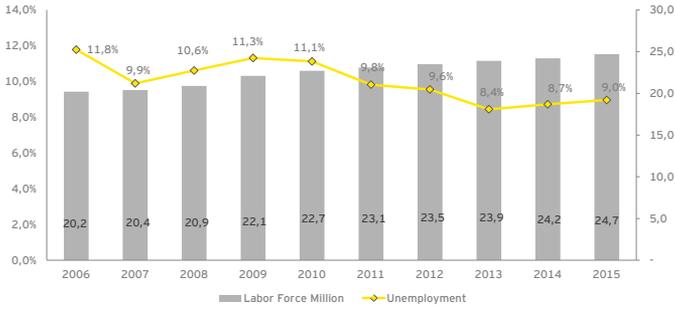
Colombia Exchange Rate USD=COP Source: Banrep - BMI



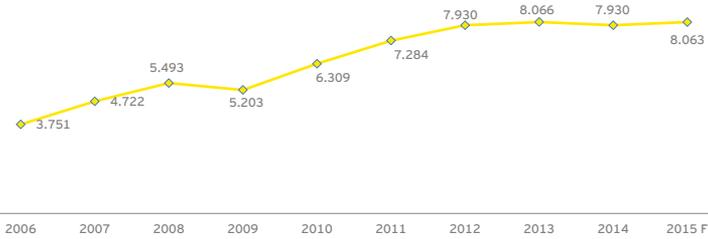
Colombia Inflation and Interest Rate Source: Banrep



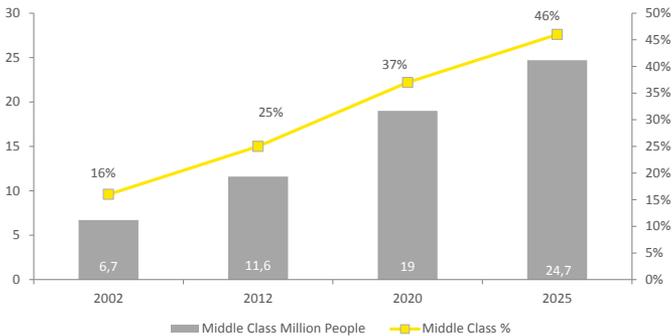
Colombia Unemployment: Source Banrep - World Bank



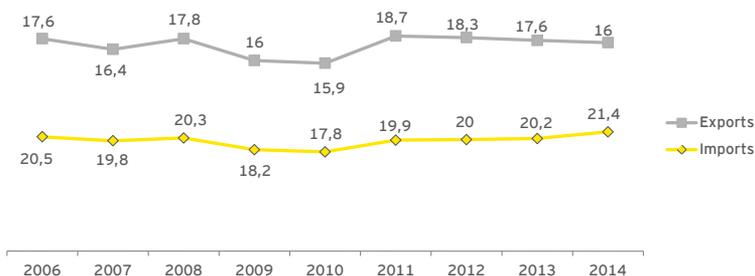
Colombia GDP Per capita USD Source: Banrep



Expansion of Colombia Middle Class Source: Procolombia



Imports and Exports of Goods and Services %GDP Source: World Bank



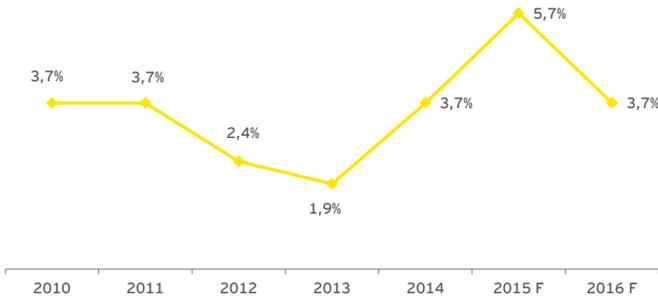
Colombia's progress in Doing Business rank topics 2015 Source: World Bank

Regulation topics	DB 2015 Rank	DB 2014 Rank	Change in Rank
Starting a business	84	79	-5
Dealing with construction permits	61	62	1
Getting electricity	92	88	-4
Registering property	42	54	12
Getting credit	2	55	53
Protecting minority investors	10	9	-1
Paying taxes	146	139	-7
Trading across borders	93	95	2
Enforcing contracts	168	167	-1
Resolving insolvency	30	29	-1

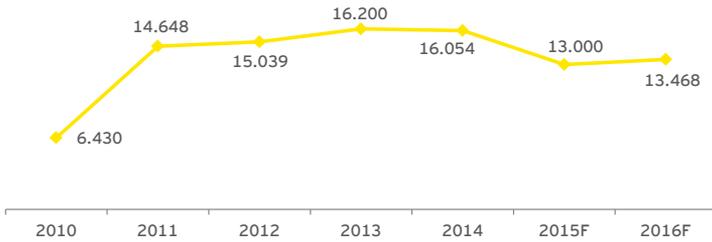
Ease of doing business index Source: World Bank



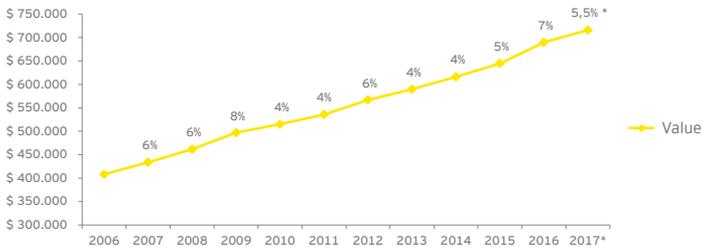
Consumer Price Index (CPI) Source: Dane



Foreign Direct Investment (FDI)



Minimun Wage (Growth Rate)



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