

2022 Colombian Tax Reform Bill

Executive Summary

August 2022

On August 8th, 2022, the Colombian Government submitted a Tax Reform Bill before the Colombian Congress. Based on the considerations of the Bill, the new Government aims to redistribute wealth by increasing the tax liability of those taxpayers with higher economic capacity.

Below you will find an analysis of the key points of the proposal. The legislative procedure has already begun, however the Bill is pending to be approved. Therefore, this is a preliminary analysis of the proposed legislation.

Individuals

Income Tax

Article	Topic	Analysis
2 (Modifies article 206)	Modification to the exempt income	<ul style="list-style-type: none"> ▪ It is being proposed to reduce the annual pension income being exempted. Nowadays, the exempted pension income is 1.000 Tax Value Units (hereinafter, “UVT” as per its acronym in Spanish) (c. USD\$8,893 per month). It is proposed to reduce such exempted income to 1.790 UVT per year. Thus, individuals obtaining a monthly pension income higher than c. USD\$1,326 would be subject to personal income tax at the rates set forth by article 241 of the Colombian Tax Code (hereinafter, “CTC”). ▪ Foreign pension income or pensions paid by a multilateral organization would be subject to the same taxation as a Colombian pension. ▪ Currently, 25% of the labor income is exempt if it does not

		<p>exceed of 2,880 UVT (c. USD\$25,509). The proposal reduces the limit to 790 UVT (c. USD\$7,020). This exempted income, as well as all the other exempted income and deductions are limited jointly to 40% if it does not exceed of 1,210 UVT (c. USD\$10,531).</p>
<p>5-8 (Modify articles 331, 336, 383 and 388)</p>	<p>Modifications to the determination of the net taxable income and limitation of the alternatives to reduce the taxable base</p>	<ul style="list-style-type: none"> ▪ The taxable income would still be determined by baskets; thus, the exempted income and applicable deductions would still be applied depending on the type of income. However, it is proposed to add the result of the net income of all the baskets (i.e., labor income, capital income, non-labor income, pensions, dividends, and capital gains). The applicable rate (up to 39% depending on the progressive rates set forth by article 241 of the CTC) will then be applied to the aggregate result of the baskets. ▪ Basket of general income: Up to 40% (limited to 1,210 UVT - c. USD\$10,531) may be considered as exempt income or deductions. The percentage limit is maintained, but the UVT limit is reduced from 5,040 (c. USD\$44,699) to 1,210 UVT (c. USD\$10,531). ▪ The withholding tax rates set forth by article 383 of the CTC would be allowed to be applied to labor income not being derived from a labor or legal and regulatory relationship. Thus, it would not be required to confirm if the individual has hired two or more workers. The same treatment would be applied to the depuration of the taxable base for purposes of the application of the withholding.

<p>60 (Adds to article 336-1)</p>	<p>A new regulation is proposed by virtue to which the Colombian Tax Authority – DIAN, may establish indicative ceilings of deductible costs and expenses in the determination of the taxable income within the general basket of individuals.</p>	<ul style="list-style-type: none"> ▪ The regulation proposes that 60% of the gross income perceived by the individual to be considered as an indicative ceiling of deductible costs and expenses for labor income (except for income derived from labor or legal and regulatory relationships). ▪ For any other income (e.g., non-labor and capital gains), the Tax Authority would be authorized to establish indicative ceilings for deductible costs and expenses. ▪ When the taxpayer exceeds such indicative ceilings, it must check a box that would be included in the tax return form. Failure to comply with this reporting obligation would be subject to a penalty of 0.5% of the net income or 0.5% of the gross equity of the previous year if no income was obtained in such period; in both cases, the penalty would be limited to 15,000 UVT (c. USD\$133,409). ▪ The taxpayer would have to document the deductible costs and expenses with electronic invoices and/or electronic payroll vouchers and/or electronic equivalent documents.
<p>67</p>	<p>Income subject to social contributions (<i>Ingreso Base de Cotización</i> in Spanish or “IBC” as per its acronym in Spanish) for independent contractors.</p>	<ul style="list-style-type: none"> ▪ It is important to take into account that article 244 of Law 1955 of 2019, was declared as unconstitutional by means of the Decision C-068 of 2020 issued by the Colombian Constitutional Court under the argument that the aforementioned article was not related with the purpose of the National Development Plan and therefore contravened the constitutional principle of unity of matter. However, the Constitutional Court deferred the effects of the unconstitutionality until June 2022. In practice, it is understood that this implies that article 18 of Law 1122 of 2007

		<p>should no longer be considered as repealed; based on this interpretation, there is an IBC for independent contractors providing services and there is a legal loophole for the IBC that should be applied by independent contractors deriving income other than services income.</p> <ul style="list-style-type: none"> ▪ Considering the above, the proposal aims to clarify how to determine the IBC for self-employed workers, self-employed workers with contracts other than the provision of personal services, and self-employed workers who enter into contracts for the provision of personal services. The proposal aims to reintroduce the formal regulation that was declared unconstitutional. ▪ The IBC would be equivalent to 40% of the monthly income. Additionally, the presumption of costs by the Special Administrative Unit of Pension and Parafiscal Management (in Spanish UGPP) or the origin of costs and deductions duly supported and that comply with the requirements of article 107 of the tax code is included.
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Taxation of dividends

Article	Topic	Analysis
3 (Modifies article 242)	Changes in the taxation of dividends distributed to resident individuals and estates.	<p>Although with substantial modifications, taxation of dividends remains to be applicable in two tranches, as follows:</p> <ul style="list-style-type: none"> ▪ First tranche: Dividends paid out of profits that were not subject to taxation at the corporate level would be subject to tax at the tax rate applicable to corporations (35%).

		<ul style="list-style-type: none"> ▪ Second tranche: All dividends would be subject to taxation at the shareholder level at the applicable personal income tax rate. Dividends paid out of profits that were not subject to taxation at the corporate level would also be subject to taxation at the shareholder level at the applicable personal income tax rate over the net amount after deducting the first tranche of dividend taxation.
<p>4 (Modifies article 245)</p>	<p>New tax rate applicable to dividends distributed to non-resident (individuals and corporations).</p>	<p>Although with substantial modifications, taxation of dividends remains to be applicable in two tranches, as follows:</p> <ul style="list-style-type: none"> ▪ First tranche: Dividends paid out of profits that were not subject to taxation at the corporate level would be subject to tax at the tax rate applicable to corporations (35%). ▪ Second tranche: All dividends would be subject to taxation at the shareholder level at a 20% rate. Dividends paid out of profits that were not subject to taxation at the corporate level would also be subject to taxation at the shareholder level at 20% rate over the net amount after deducting the first tranche of dividend taxation.

Corporate Income Tax

Corporate tax rate

Article	Topic	Analysis
9 (Modifies article 240)	Corporate income tax rate	<ul style="list-style-type: none"> ▪ The proposal maintains the corporate income tax rate of 35%. ▪ The 3% surcharge applicable to financial entities would be permanent (before it was a temporary measure). The surcharge would apply to financial entities deriving taxable income equal to or higher than 120,000 UVT (c. USD\$1,067,278). ▪ The proposal intends to eliminate the reduced corporate income tax rates, except for the one applicable to State owned industrial and commercial companies, mixed economy companies of the departmental, municipal and district order with a State participation of more than 90% that exploit monopolies of games of chance, liquor and alcohol. As a result, for example, hotels and publishing companies that were subject to a reduced 9% rate would now be taxed at the general rate of 35%.
10 (Modifies article 240-1)	Income tax rate applicable to Free Trade Zone users.	<ul style="list-style-type: none"> ▪ It is proposed to maintain the 20% tax rate applicable to Free Trade Zone users and the 15% rate applicable to Free Trade Zone users incorporated in the municipality of Cucuta between January 2017 and December 2019 provided that, in both cases, the Free Trade Zone users have an approved internalization plan as of January 1st of the taxable year, and that the Free Trade Zone users meet a minimum export threshold determined by the national government. It will be necessary to verify the compatibility of this special tariff linked to exports with the rules of the General Agreement on Tariffs and Trade (GATT), with the Free Trade Agreements and with the

		<p>Foreign Investment Protection Treaties.</p> <ul style="list-style-type: none"> ▪ Free Trade Zone users will have a period of one year to comply with the internalization plan requirement. ▪ It is proposed to repeal paragraph 2 of Article 240-1 of the CTC. Thus, the modification of the income tax rate would apply to Free Trade Zone users with a legal stability agreement in force. ▪ It is proposed to exclude from the reduced rate the single enterprise Free Trade Zone users. In this case, the general tax rate of 35% would be applicable.
<p>11 (New article 259-1)</p>	<p>Limitation on benefits and incentives</p>	<ul style="list-style-type: none"> ▪ Non-taxable income, exempt income and tax discounts would be limited to 3% over the taxpayer's ordinary net income. ▪ It is proposed the formula below included to determine whether this limit is exceeded or not. Should the result of the formula be greater than zero, such value must be added to the tax payable calculated by the taxpayer. <p style="text-align: center;">Additional tax payable: (Special deductions + exempt income + INCR) * (Income tax rate + tax discounts) – 3% of ordinary net income.</p> <ul style="list-style-type: none"> ▪ The following are subject to the limit: <ul style="list-style-type: none"> (i) the incentive for rural capitalization; (ii) the special deduction for contribution to employee education; (iii) deduction for donations made to the General Gustavo Matamoros D'Costa Corporation; (iv) Research and developments special deduction, (v) Discounts for investments made in control, conversation and improvement of the environment; (vi) Discount for donations to non-profit entities; (vii) Tax scholarships, (viii) Maintenance and conservation

		of immovable and movable property considered as cultural interest assets; (ix) Incentives for the capitalization process; (x) Special deduction for employing female workers who are proven victims of violence; (xi) Investment in infrastructure projects for stages of public shows of the performing arts.
12 (Modifies article 115)	Industry Commerce Tax (“ICA” as per its acronym in Spanish) is no longer be treated as a discount. Oil&Gas rights (<i>Regalías mineras y petroleras</i>) are no longer tax deductible.	<ul style="list-style-type: none"> ▪ Oil&Gas rights paid to the Colombian Government would no longer be deductible expense for purposes of calculating the corporate income tax of Oil&Gas companies. ▪ ICA tax (a municipal tax) would no longer be treated as a discount and now will be treated as a deductible expense for purposes of calculating the corporate income tax.

Capital gains

Article	Topic	Analysis
13 (Modifies article 303-1)	Income derived from life insurances indemnifications.	Income derived from life insurances indemnifications would be treated as non-taxable capital gains up to 3,250 UVT (c. USD\$28,899.907). The non-taxable amount is currently limited to c. USD\$111,163.
14 (Modifies article 306)	Withholding tax rate applicable to prizes from lotteries, raffles, bets	The withholding tax rate for capital gains derived from prizes from lotteries, raffles, bets would be of 20% over the gross amount.
15 (Modifies article 307)	Exempted capital gains income from inheritances or donations	<ul style="list-style-type: none"> ▪ Exempted capital gain derived from inheritance of urban housing property increases to 13,000 UVT (c. USD\$115,599.627). ▪ Exempted capital gain derived from inheritance other than urban housing decreases to 6,500 UVT (c. USD\$57,799.814). ▪ Exempted capital gain derived from marital portion or inheritance, or

		<p>legacy received by the spouse decreases to 3,250 UVT (c. USD\$28,899.907).</p> <ul style="list-style-type: none"> Exempted capital gain derived from inheritances, legacies and donations received by persons other than the beneficiaries and the surviving spouse decreases to 1,625 UVT (c. USD\$14,449.953).
16 (Modifies article 311-1)	Exempted capital gains on the sale of the taxpayers' home.	The exempted portion of the profit derived on the sale the taxpayers' home is reduced to 3,000 UVT (c. USD\$26,676.837). It would not be required to transfer the funds to the special savings bank account ("AFC" as per its acronym in Spanish) to be covered by the exemption.
17 (Modifies article 313)	Capital gains tax rate applicable to corporations	The capital gains tax rate is increased from 10% to 30%.
18 (Modifies article 314)	Capital gains tax rate applicable to resident individuals	The capital gains tax rate applicable to resident individuals would be the ordinary income progressive tax rate as set forth by article 241 of the CTC.
19 (Modifies article 316)	Capital gains tax rate applicable to non-resident individuals	The capital gains tax rate applicable to non-resident individuals would be increased from 10% to 30%.

Wealth Tax

Article	Topic	Analysis
20 – 21 (adds to articles 292-3 y 294-3)	Taxpayer and taxable event	<p>The wealth tax would be permanently established, with the following elements:</p> <ul style="list-style-type: none"> Taxpayers: The same taxpayers previously established in Article 292-2 (individuals considered taxpayers, non-resident individuals with assets in Colombia, estate and non-resident corporations with

		<p>assets located in Colombia other than shares).</p> <ul style="list-style-type: none"> ▪ Taxable event: The wealth tax would be triggered for those taxpayers who have a net equity, as of January 1st of each year, with a value equal to or greater than 72,000 UVT (c. USD\$640,244.091). ▪ For individuals, the first 12,000 UVT (c. USD\$106,707.348) of the equity value of the house or apartment is excluded (previously, the exemption applied for 13,500 UVT (c. USD\$120,045.767)).
<p>22 (Adds to article 295-3)</p>	<p>Taxable basis</p>	<p>Taxable basis: The value of the net equity of the taxpayer as of January 1st of each year. The taxable net equity would be equivalent to the gross equity as of January 1st minus the debts owed by the taxpayer as of that date, in accordance with the provisions of the tax regulations in force.</p> <p>The following special rules are established to determine the taxable base of the wealth tax:</p> <ul style="list-style-type: none"> ▪ The value of shares or quotas of corporate interest of national companies or entities that are not listed on the Colombian Stock Exchange (“BVC” as per its acronym in Spanish), or one recognized according to the Tax Authority, would be the intrinsic value. ▪ In case of shares or quotas of interest of companies or entities listed on the BVC or on a recognized stock exchange as determined by the Tax Authority, the value would correspond to the listed market value as of the last day of closing of the market on the business day immediately preceding the date on which the tax is triggered.

		<ul style="list-style-type: none"> In the case of shares in private interest foundations, trusts, insurance with a material savings component, investment funds or any other fiduciary business, in Colombia or abroad, the equity value will correspond to the underlying net equity. The final beneficiary would be the one who has the legal obligation to include these assets in his or her wealth tax return.
23 (Adds to article 296-3)	Rates	Marginal rates of 0,5% for net equities ranging between c. USD\$631,874 and c. USD\$1,076,572million and 1% for net equity equal or higher than of c. USD\$1,076,572.
24 (Adds to article 297-3)	Date in which the wealth tax would be triggered	The wealth tax would be triggered on January 1 st of each year.
25 (Adds to article 298-2)	Inaccuracies would be subject to tax penalties	Artificial adjustments of the taxable base that result in a reduction of the wealth tax due would be subject to tax penalties.

SIMPLE Regime

Article	Topic	Analysis																				
27 (Modifies article 908)	It is proposed to reduce some rates of the SIMPLE regime and to create a new economic activity with differential rates.	<p>For the commercial activities and those set forth by section 2 of article 908 of the CTC, the higher bracket of the applicable rate would apply as follows:</p> <table border="1"> <thead> <tr> <th>Range >=</th> <th>Range <=</th> <th>Before</th> <th>Now</th> </tr> </thead> <tbody> <tr> <td>30.000</td> <td>100.000</td> <td>5,40%</td> <td>5,00%</td> </tr> </tbody> </table> <p>For professional services activities and set forth by section 2 of article 908 of the CTC, the higher bracket of the applicable rate would apply as follows:</p> <table border="1"> <thead> <tr> <th>Range >=</th> <th>Range <=</th> <th>Before</th> <th>Now</th> </tr> </thead> <tbody> <tr> <td>15.000</td> <td>30.000</td> <td>12%</td> <td>7,80%</td> </tr> <tr> <td>30.000</td> <td>100.000</td> <td>14,50%</td> <td>8,30%</td> </tr> </tbody> </table>	Range >=	Range <=	Before	Now	30.000	100.000	5,40%	5,00%	Range >=	Range <=	Before	Now	15.000	30.000	12%	7,80%	30.000	100.000	14,50%	8,30%
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		<p>For food and beverage vending activities and transportation activities, mentioned by section 4 of article 908 of the CTC, higher bracket of the applicable rate would apply as follows:</p> <table border="1" data-bbox="774 392 1407 504"> <thead> <tr> <th>Range >=</th> <th>Range <=</th> <th>Before</th> <th>Now</th> </tr> </thead> <tbody> <tr> <td>15.000</td> <td>30.000</td> <td>5,50%</td> <td>4,40%</td> </tr> <tr> <td>30.000</td> <td>100.000</td> <td>7,00%</td> <td>5,00%</td> </tr> </tbody> </table> <p>“Education and activities of human health care and social assistance” would be a new economic activity that may be covered by the SIMPLE regime. Its applicable brackets of the tax rates would apply as follows:</p> <table border="1" data-bbox="842 694 1337 896"> <thead> <tr> <th>Range >=</th> <th>Range <=</th> <th>Rate</th> </tr> </thead> <tbody> <tr> <td>-</td> <td>6.000</td> <td>4,10%</td> </tr> <tr> <td>6.000</td> <td>15.000</td> <td>5,50%</td> </tr> <tr> <td>15.000</td> <td>300.000</td> <td>6,00%</td> </tr> <tr> <td>30.000</td> <td>100.000</td> <td>6,50%</td> </tr> </tbody> </table> <p>The modification of the tax rates would also imply a modification of the liquidation of the advance payment of the tax under the SIMPLE regime.</p>	Range >=	Range <=	Before	Now	15.000	30.000	5,50%	4,40%	30.000	100.000	7,00%	5,00%	Range >=	Range <=	Rate	-	6.000	4,10%	6.000	15.000	5,50%	15.000	300.000	6,00%	30.000	100.000	6,50%
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<p>28 (Modifies article 910)</p>	<p>Electronic payment of the advance payment of the SIMPLE Tax</p>	<p>The bimonthly advance payment of the SIMPLE regime would be mandatory to be made by means of the online services of the DIAN. This would also apply for the annual tax return to be filed under the SIMPLE regime.</p> <p>Failure to comply with this obligation would imply that the advance payments and the annual tax return would be considered as “not submitted” as set forth by article 580 of the CTC.</p>																											

Environmental Taxes

National carbon tax

Article	Topic	Analysis
29 and 30 (Modify articles 221 and 222 of Law 1819 of 2016)	Rates	<ul style="list-style-type: none"> ▪ The tax would apply over the equivalent carbon content and not on the carbon content. ▪ The national carbon tax rate would be modified considering the greenhouse gas emission factor for each fuel, expressed in weight unit (kilogram of CO₂eq) per energy unit (terajoules), according to the volume of weight of the fuel. The tax rate would be increased to c. USD\$4,797 per ton of carbon equivalent. ▪ In the case of coal, the tax rate would be applied gradually (percentages over full rate): for FY2023 and FY2024 the tax rate would be 0%, for FY2025 to FY 2027 the tax rate would increase annually by 25% and for FY2028 onwards a full tax rate would apply. ▪ The fuels under the scope of this tax would not be subject to taxation in those cases when the producer of the fossil fuel exports them. ▪ The exemption established in favor of several municipalities would no longer be applicable.

Environmental Taxes

National tax on single-use plastic products

Article	Topic	Analysis
31-34	It is proposed a new national tax applicable over single-use plastic products used for packaging, wrapping, or packing goods.	<p>It is proposed to create a new tax on single-use plastic products used for wrapping, pack or packaging goods, which would not be deductible from income tax.</p> <p>The new tax would apply according to the following rules:</p> <ul style="list-style-type: none"> ▪ Taxpayers: The producer of importer of the single-use plastic.

		<ul style="list-style-type: none"> ▪ Taxable event: The sale, withdrawal for own consumption, or importation for own consumption of single-use plastic products used to wrap, pack or packaging goods. ▪ Taxable income: The taxable income is determined by the weight in grams of the plastic product. ▪ Tax rate: The tax rate would be determined by 0,00005 UVT per each one (1) gram of the container, packaging, or packing. ▪ Exclusions: The tax would not apply over goods used for packaging, wrapping, or packing drugs and medicines or hazardous waste as well as whenever the taxpayer presents Circular Economy Certification. <p>The National Government would be authorized to regulate the filing dates.</p> <p>The filing of the tax return without payment of the tax due would result in the ineffectiveness of the tax return.</p>
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Environmental Taxes

Tax on oil exports

Article	Topic	Analysis
35-42	New tax applicable over the exportation of crude oil, coal and gold.	<p>The proposal would create a new tax applicable over the exportations of crude oil, coal and gold identified with tariff headings 27.01, 27.02, 27.03, 27.04, 27.09 y 71.08.10.</p> <ul style="list-style-type: none"> ▪ Taxpayers: Individuals and companies that exports crude oil, coal, and gold under the above tariff headings. ▪ Taxable event: It is triggered by the export of goods identified by tariff headings 27.01, 27.02, 27.03, 27.04, 27.09 y 71.08.10. ▪ Taxable income: Percentage of the total <i>Free on Board</i> (FOB) dollar value of the exportations of crude oil, coal, and gold. The percentage would be determined, for each type of food, according to a formula.

		<ul style="list-style-type: none"> ▪ Rate: 10% only in case the “observed price” is higher than the “threshold price”. ▪ Period: This tax must be declared and paid to the Tax Authority monthly during the first five working days of each month. ▪ Penalties applicable for the failure to submit the tax return: Article 643 of the CTC would be amended to include the penalty failure to submit the tax return that would be equivalent to 20% of the value of the tax that should have been paid.
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Healthy taxes

Article	Topic	Analysis
43-48	New national consumption tax applicable over sugar-sweetened ultra-processed beverages.	<ul style="list-style-type: none"> ▪ Rate: the applicable rate would depend on the sugar content per 100 ml, as follows: (expressed in pesos per 100 ml) <ul style="list-style-type: none"> • Less than 4g= COP\$0 • Between 4g and less than 8g=COP\$18 (c. USD\$0,00430) • From 8g and up to=COP\$35 (c. USD\$0,00837) ▪ This tax would constitute for the purchaser a higher cost of the goods sold that may be deductible for corporate income tax purposes. ▪ The tax would not be deductible for VAT purposes. ▪ The tax would be necessary to be discriminated in the invoice. ▪ The procedure and rules for applying penalties related to the national consumption tax would also be applicable.
49-54	New national excise tax on ultra-processed food products with high added sugars.	<p>A national excise tax on ultra-processed food products and products with high added sugar content would be created.</p> <ul style="list-style-type: none"> ▪ Taxable event: The production and consequent first sale (at the moment the producer delivers them to the factory or plant for distribution, sale or

		<p>exchange in the country, or for advertising, promotion, donation, commission or self-consumption), or the importation (at the moment they are introduced into the country, except in the case of products in transit to another country) of industrially processed food products of certain tariff items.</p> <ul style="list-style-type: none">▪ Taxpayers: the producer, the importer, or the economic partner of one or the other.▪ Taxable income: The sales price. In the case of imported products, the sales price would correspond to the declared value of the imported merchandise, in Colombian pesos CIF.▪ Rate: the rate of the tax would be 10%.▪ The procedure and rules for applying penalties related to the national consumption tax would also be applicable.
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Anti-evasion Measures

Adjustment to residency criteria for legal entities

Article	Topic	Analysis
55 (Modifies article 12-1)	Modification of the definition of “place of effective management” for the determination of the tax residence of legal entities.	<p>It is proposed to adjust the domestic definition of place of effective management of legal entities. Under the proposed text, it will be understood that a company has a place of effective management in Colombia when the commercial and management decisions related to the day-to-day activities of the company are taken in Colombia.</p> <p>The amendment proposes to limit the determination of the place of effective management as residence criterion for legal entities incorporated abroad to those events in which, based on the facts and circumstances, it can be determined that the key day-to-day decisions of the company are taken in Colombia.</p>

Taxable income for Permanent Establishments and foreign companies with Significant Economic Presence

Article	Topic	Analysis
56 (Modifies article 20-2)	The definition of Permanent Establishment (“PE”) provided by article 20-2 of the CTC would be modified.	<p>It is proposed to amend Article 20-2 of the CTC which establishes the definition of PE under Colombian domestic legislation. Under the proposal, it would be added a new criterion assimilated to PE: Significant Economic Presence (“SEP”).</p> <p>The proposed rule does not consider Article 66 of Law 2010 of 2019 which established that a PE of a foreign company is subject to taxation on its worldwide source income attributable to it.</p> <p>Therefore, a non-resident with SEP in Colombia would only be subject to taxation on its Colombian source income attributable to such PES. In practice, it may be discussed the effectiveness of this new rule considering that attributable income should be determined based on the attributable functions, assets, and risks.</p>

Significant Economic Presence (SEP)

Article	Topic	Analysis
57 (Adds to article 20-3)	It is proposed to tax foreign companies that have a SEP in Colombia	<p>A non-resident person will have a SEP in Colombia when it maintains a deliberate and systematic interaction with users or clients in Colombia under the following criteria:</p> <ul style="list-style-type: none"> • Obtaining gross income equal to or greater than 31,300 UVT (c. USD\$278,328.334). • Use a Colombian website or domain name (.co); or • Maintains interaction or marketing display with 300,000 or more Colombian users during the FY, including the ability to display prices in COP or allow payment in COP. <p>It is proposed to include an anti-fragmentation rule when the above activities are carried out on by related entities. However, the scope of this rule is not clear.</p> <p>The SEP would not apply to residents in jurisdictions with which Colombia has a Tax Treaty in force.</p>
58 (Modifies article 24)	Modification to article 24 of the tax code	<p>It's proposed to amend the first paragraph of Article 24 of the CTC to state that income derived from the SEP in Colombia is considered as income from Colombian source. It is not clear which income should be considered as "derived from the SEP". Additionally, it is not clear whether "income derived from SEP" are only those listed in the criteria that determine the existence of SEP in Colombia or it is limited to the income that is considered as Colombian source income under Article 24 of the CTC.</p> <p>Sections 1 to 16 of article 24 of the CTC are not proposed to be modified.</p>

Income In-Kind

Article	Topic	Analysis
59 (Adds to article 29-1)	A special anti-abuse rule is proposed to include as income in	Although the wording of the proposed rule is unclear, the interpretation is conjunction with the explanatory memorandum of the Tax Bill

	<p>kind such income that a taxpayer receives indirectly, for concepts other than salary and other monetary payments.</p>	<p>seems to establish a special anti-abuse rule with the purpose of including additional income for those taxpayers who benefit from goods or services paid for by third parties without such income being recognized as their own income by the person benefiting or their spouse or related natural persons.</p> <p>The regulation also intends that, in the case of goods and services that are free of charge or whose value cannot be determined, the possibility of taking them as a deductible cost or expense for income tax purposes is totally limited.</p>
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Payments to non-residents with SEP

Article	Topic	Analysis
61 (Modifies article 408)	Modification to article 408 of the tax code	Payments made to non-residents with SEP in Colombia would be subject to withholding tax at a rate of 20% as long as it is not a payment subject to a specific withholding rate provided by article 408 of the CTC.

Content of the annual declaration of assets abroad

Article	Topic	Analysis
62 (Modifies article 607)	It is proposed to broaden the scope of taxpayers that must file a foreign assets declaration form.	It is proposed that taxpayers of the substitute income tax regimes that have assets abroad whose equity value exceeds 3,580 UVT (c. USD\$31,834.359) are obliged to file a foreign assets declaration form.

Official determination of taxes by means of invoicing

Article	Topic	Analysis
63 (Modifies article 616-5)	It is proposed to broaden the scope of taxes that the Tax Authority may officially determine by means of invoicing.	It is proposed that the Tax Authority may officially determine VAT and national consumption taxes by means of invoicing.

New Control Mechanism For “GMF” Exempt Accounts

Article	Topic	Analysis
64 (Adds to article 881-1)	It is proposed to create a control mechanism for the application of the exemption from the Financial Transactions Tax (“GMF” as per its acronym in Spanish) set forth by article 879(1) of the CTC	<p>It is proposed that GMF withholding agents must implement a control mechanism that allows the proper verification of the GMF exemption on withdrawals that do not exceed 350 UVT per month using the bank products under section 1 of article 879 of the CTC without the need to mark a single account.</p> <p>The text of the Tax Bill does not clarify how the operation, or the particular requirements of this new control mechanism should be; however, it is understood that the purpose is to create a centralized database in which it could be verified the application of the exemption without the obligation for the client to mark the account as exempted.</p>

Derogations

Article	Topic	Analysis
69	Repeals	<ul style="list-style-type: none"> ▪ Sections 2 and 4 of article 36: the sale of shares registered in the Colombian Stock Exchange (subject to conditions) would no longer be exempt income. ▪ Article 36-1: The distribution of shares as profits or its capitalization to the equity revaluation account would no longer be exempt income. ▪ Article 57: The tax exemption for the <i>Nevado del Ruiz</i> area would be eliminated.

- **Article 57-1:** *Agro Ingreso Seguro* subsidies and benefits under Law 101 of 1993 would no longer be exempt income.
- **Article 66-1:** The presumption of labor costs in coffee cultivation would be eliminated.
- **Article 126:** The deduction of contributions to mutual funds would be eliminated.
- **Transitional Paragraph Article 143-1:** The 5-year straight-line amortization of investments in exploration, development and construction of mines and oil and gas fields would be eliminated.
- **Sections 3.4 and 5 Article 207-2:** The following would be eliminated as exempt income for hotel services of new hotels and remodeled hotels and ecotourism services.
- **Section 1 Article 235-2:** Exempt income of orange economy companies would be eliminated.
- **Section. 2 Art. 235-2:** The tax incentive for the development of the rural areas would be eliminated.
- **Literals a, b, c, and d Numeral 4 Article 235-2:** The tax incentive for the development of the Colombian countryside would be eliminated.
- **Section 5 Article 235-2:** Exempt income for new forest plantations would be eliminated.
- **Section 6 and 8 Article 235-2:** Elimination of the exempted income for the provision of river transportation services with shallow draft vessels and the tax incentive for literary creations of the orange economy.
- **Articles 235-3 and 235-4:** The mega-investment regime would be eliminated.
- **Article 257-2:** Elimination of the tax deduction for donations for the purchase of COVID-19 vaccines.
- **Article 306-1:** Prizes for horse or dog betting and contests would no longer be exempted.
- **Articles 317:** Elimination of the 20% rate on occasional winnings from lotteries, raffles, bets, and similar activities.
- **Article 28 of Law 98 of 1993:** The exemption of income from royalty income

		<p>received by authors and translators would be eliminated.</p> <ul style="list-style-type: none"> ▪ Article 29 of Law 98 of 1993: The creation of favorable credits for the opening of new bookstores would be eliminated. ▪ Article 4 of Law 345 of 1996: Elimination of income tax effects of the Security Bonds. ▪ Subsection 5 article 46 of Law 397 of 1997: Elimination of exempt income obtained by film industrialists that is capitalized or reinvested in the firm industry. ▪ Article 5 of Law 487 of 1998: The income tax effects of the Peace Solidarity Bonds would be eliminated. ▪ Article 97 of Law 633 of 2000: The deduction for new investments in air transportation in remote areas of the country would be eliminated. ▪ Article 16 of Law 814 of 2003: Tax benefits for donations or investments in film production would be eliminated. ▪ Subsection 2 of article 9 of Law 1556 of 2012: The discount on rent for audiovisual works produced in Colombia would be eliminated. ▪ Article 195 of Law 1607 of 2012: The deduction for investment or donation in film project would be eliminated. ▪ Article 365 of Law 1819 of 2016: Incentives for hydrocarbon and mining investments would be eliminated. ▪ Article 180 of Law 1955 of 2019: The deduction for investment or donation in creative economy projects would be eliminated. ▪ Article 268 of Law 1955 of 2019: Special regime for “ZESE” eliminated. ▪ Article 15 of Decree Law 772 of 2020: The treatment as “INGRO” of discounts or waivers of principal, fines, penalties or interest of debtors under the regime of Law 1116 of 2006 would be eliminated. ▪ Article 30 of Law 2133 of 2021: Elimination of the special income tax rate for international maritime transportation services.
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		<ul style="list-style-type: none"> ▪ Article 37, 38 and 39 of Law 2155 of 2021: The VAT-free day regime would be eliminated. ▪ Law 2238 of 2022 and Law 2240 of 2022: The inclusion of the Special District of Buenaventura and the District of Barrancabermeja in the “ZESE” regime would be eliminated.
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Other Dispositions

Article	Topic	Analysis
66 (Modifies article 428)	Imports of good subjects to postal traffic, express shipments that are not subject to VAT.	<ul style="list-style-type: none"> ▪ One of the conditions for the importation of goods subject to postal traffic, express shipments or fast delivery shipments that are not subject to VAT is modified. Such goods must have origin and not only come from countries with which it has signed a Free Trade Agreement.
68	Studies with a gender approach	<ul style="list-style-type: none"> ▪ The Tax Authority would establish the information that must be disclosed for statistical analysis with a gender perspective that will allow proposing decreasing in structural inequalities.

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