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## Tax Reform Bill 2022

On August 8th, 2022, the new Finance cabinet of the Colombian Government filed before Congress the tax reform bill which expects to collect revenues of COP\$25.9 trillion (1.72% of the GDP) for the first year, and on average 1.39% of the GDP between 2024 and 2033.

The most relevant aspects that the articles of the tax reform bill bring are:

### 1. Taxation of individuals

#### - New limitations

a. The limit of exempt income is reduced as follows:

i. For retirement, disability, old-age, survivors' pensions, professional risk pensions, substitute compensation for pensions, and the return of pension savings balances, it went from 1,000 TVU (Tax Value Unit – for 2022 Col\$38,004 per unit) per month to 1,790 TVU per year. Anything over that amount will be taxable income.

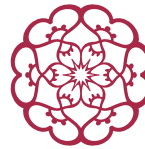
ii. Exempt Income from 25% for labor payments. It was limited to 240 TVU per month, and now it is 790 per year.

b. All the bases of schedular liquid income are unified, including dividends, shares, and non-recurring income. The rate contained in Art. 241 of the TC (Tax Code) will be applied.

c. For general information purposes regarding individuals, the limit on exempt income and chargeable amounts is 1,210 TVU per year (previously 5,040 TVU) is modified.

d. A limit of 60% is established for the deductible costs and expenses from income that is derived from these.

To take the said deduction, the taxpayer must have electronic sales invoices, digital payroll and/or equivalent electronic documents.



#### - Effects of an irregular income

Concept	Change
Life insurance compensation	The windfall limit reduces to 3,250 TVU (previously 12,500).
Residential premises of the property are held by the liable individual.	The exemption limit of the windfall increases to the equivalent of the first 13,000 TVU (previously 7,700)
Real estate is other than the dwelling owned by the liable individual.	The irregular income exemption limit is reduced to the equivalent of the first 6,500 TVU (previously 7,700)
Allocations concerning the marital portion or inheritance or legacy	The irregular income exemption limit is reduced to the equivalent of the first 3,250 TVU (previously 3,490)
Assets and rights received by persons other than the heirs and/or the surviving spouse for inheritance and legacies	The irregular income exemption limit is reduced to the equivalent of the first 1,621 TVU (previously 2,290)
Income generated from the sale of a house or apartment	The irregular income exemption limit is reduced to the first 3,000 TVU (previously 7,500).  <i>The obligation to deposit the money in the AFC accounts and the limit on the value of the property (previously 15,000 TVU) are eliminated.</i>

### - **Conversely**

a.The general rate of windfall would be increased from 10% to 30%, applicable to companies, non-resident entities, and non-resident individuals.

b.In the case of resident individuals, the applicable rate will be those described in Art. 241 of the TC.

c.The withholding rate for windfall related to lotteries, raffles, and similar promotions would change to 20% (previously 10%), or

### - **Equity Tax**

An equity Tax is created with the following considerations:

a.The taxable event is the possession of liquid equity as of January 1st of each year, equal to or greater than 72,000 TVU (Col\$2,736,576,000).

b.The taxpayers would be:

i.Resident individuals who pay Income Tax.

ii. Resident individuals or non-residents who do not have a residence in Colombia, for assets owned indirectly through permanent establishments.

iii. Foreign entities or individuals that are not Income Tax filers and have assets in Colombia other than shares, accounts receivable, portfolio investments, and financial lease contracts.

c.The taxable base will be made up of the assets held on January 1st, less the debts payable on the same date.

For individuals, the first 12,000 TVU of the equity value of their house or apartment is excluded from the base.

For non-resident individuals who have a permanent establishment in Colombia, the tax base will be the assets attributable to the permanent establishment.

d.The rate will be progressive, with a marginal rate ranging between 0.5% and 1%.

### - **Tax on dividends**

a.The rates or caps that were established in the previous reform bill are modified as follows:

i.Resident individuals and illiquid successions of the person in charge who were residents at the time they passed away – the non-taxed dividend cap would be eliminated (previously it was 300 TVU). They will be subject to the table of marginal rates contained in Art. 241 of the TC concerning dividends distributed that were charged to profits that have been taxed to the managing board of the company.

ii.Dividends distributed with a charge to profits that had not been taxed at the corporate level are subject to the Income Tax rate; of 35%.

iii.The rate established for withholding at source on the value of dividends will be 20%.

iv.The rate increases to 20% (previously 10%) for dividends or shares received by worldwide entities and by non-resident individuals.

## 2. **Taxation of corporations**

### - **Income Tax Rate**

a.The 35% rate is maintained for corporations.

b.Financial entities must pay 3 additional points of the general tax rate of 35% (38% in total).

c.Industrial and commercial companies of the state maintain the 9% rate.

d.Special deductions, exempt income, and tax discounts are limited to 3% of the ordinary liquid income.

### - **Capital Gains Rate**

The Capital Gains Tax Rate for resident and non-resident entities increases to 30% (previously 10%).

### - **Free Trade Zones**

however, they must have an approved plan for international expansion and meet the minimum export threshold.

If they do not meet the requirements, a 35% tax rate will be applied.

### 3. Foreign Entities Rate

The 35% Income Tax rate is maintained.

### 4. The Supplementary Tax on Billboard Advertising (ICA) is no longer discountable but deductible.

The possibility of claiming 50% of the ICA as a tax discount is eliminated. Now you will only have the option of taking it as a deduction.

### 5. Tax billing

2155 includes the invoicing for Income Tax and complementary taxes. This time, VAT and national consumption taxes are included

It is important to mention that if the taxpayer disagrees with the invoice issued by the tax administration, he has two months to declare and pay with the declaration prepared by the taxpayer. In this case, the invoice will lose enforceability and, as a result, will not proceed with any appeal.

### 6. New income from National source (Art. 24)

The definition of income from a national source is extended to include income derived from a significant economic presence.

### 7. Significant Economic Presence

a. Art. 20-3 includes the TS that incorporates the definition of a significant economic presence as the non-resident individual who maintains deliberate and systematic interaction with users or clients in Colombia.

b. A significant presence takes place if the non-resident individual:

i. Obtains gross income of 31.300 TVU or more during the taxable year for transactions involving real estate or services in Colombia; or

ii. Uses a Colombian website, Colombian domain (.co); or

iii. Has interactions or marketing display with more than 300,000 Colombian users during the taxable year, including the possibility of displaying prices or allowing payment in (COP) Colombian pesos.

### 8. Consumption taxes (sugar-sweetened beverages and ultra-processed foods)

Two new taxable events are established in the consumption tax, (i) production and consequently the first sale or import of ultra-processed beverages, concentrates, powders, and syrups that, after mixing or dilution, produces sugar-sweetened beverages, energy or flavored drinks, and; (ii) the production and consequently the first sale or import of industrialized processed foods with a high sugar content.

In this regard, the taxable base in the first case is determined by the sugar content in grams per 100 ml of beverage sold or imported, and for concentrates, powders, and syrups, the sugar content in grams per 100 ml of beverage, which on the packaging or container certifies that they can be produced by means of the respective mixture.

The rate provided for is expressed in (COP) Colombian pesos per 100 ml of beverage and the unit value is based on the sugar content in grams.

The taxable base for ultra-processed foods will be the sale price and, in the case of imported products, the declared value of the imported merchandise in (COP) Colombian pesos (CIF- cost, insurance and freight). The fee will be 10%.

### 9. The Carbon Tax

The sale of coal within national territory is taxed, as well as that which is withdrawn for personal consumption, imported for consumption, or for sale.

A single-stage tax is imposed with respect to the taxable event that occurs first.

The rate will be determined by tons. For coal, it was set at COP\$52,215. However, a gradual approach was established for when it came into force, and is as follows:



Years 2023 and 2024: 0%

The year 2025: 25% of the value of the total rate

The year 2026: 50% of the value of the total rate

The year 2027: 75% of the value of the total rate

From the year 2028: full rate.

It is important to mention that the declaration will be bimonthly. Submission without payment will be understood as not having been submitted.

### 10. Oil and Gas export tax and others

A tax on the export of oil and gas, coal, or gold has been created, whose taxable base is a percentage of the total value in dollars (FOB) of the exports made each calendar month, and the rate will be 10%.

### 11. Disposal of VAT- free days

Articles 37, 38, and 39 of Law 2155 are repealed, establishing 3 (three) VAT-free days per year.

### 12. Additional tax measures

a. Payments made to non-resident individuals with a significant economic presence in Colombia who do not fall under the assumptions of Art. 408 TS will be subject to a tax that is withheld at the source for 20%.

b. Regarding the declaration of assets abroad, taxpayers of Income Tax substitution regimes are included as those who are obligated to report.

c. The expression "from" is modified to "originating" from Art. 428 TS, to avoid triangulation and as such, an evading of the tax on shipments by the postal system of less than USD\$200.

d. A new tax called the National Tax on single-use plastics used for packaging, wrapping, or packing goods has been created.

The taxable event is that which is withdrawn for personal consumption and imported for personal consumption. The taxable base is the weight in grams of the single-use plastic container, packaging, or packaging, and the rate would be 0.00005 TVU for each gram of the container, packaging, or packing.

### 13. Tax evasion control

a. The term effective management headquarters is extended, and includes the expression: "a place where the necessary commercial and management decisions are made to carry out the activities of the company or entity on a day-to-day basis" (bold outside the text).

b. Moreover, the drafted text eliminates "senior executives" and only leaves the expression administrators of the entity as follows: "(...) circumstances that are pertinent, especially those related to the places where the administrators of the company or entity exercise their responsibilities and carry out the daily activities of the company or entity".

c. For the taxation of permanent establishments, the term "significant economic presence" is incorporated as a mechanism to tax income from the digital economy.

### 14. Contribution Base Income (Social Security) of self-employed.

The Contribution Base Income (Social Security) for those who are self-employed, with or without personal service benefits, is 40% of the monthly value of the income earned for those who keep accounts, or those which are received for those who do not have this obligation.

It is important to mention that the quoted price must be paid at the end of the month.

### 15. Income in Kind

Income Tax and supplemental taxes must be reported as income in favor of the beneficiary in kind at market value.

For free goods or services whose value cannot be determined, under no circumstances will they be chargeable as a cost or deduction in the payer's Income Tax.



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