Colombia's Treasury Department submitted a Finance Bill before the Congress

Brief Summary

On September 1, 2025, the Colombian Treasury Department presented a *Finance Bill* proposing several and material changes to the tax legislation including, among other, changes related to corporate income tax (“CIT”), capital gains tax (“CGT”), Value Added Tax (“VAT”) to finance the 2026 public budget. The Bill is expected to have low chances of being passed by the Congress; thus, active monitoring is recommended

Detail/Facts

A. International taxation

1. **Significant Economic Presence (“SEP”).** The SEP CIT rate would be increased from 3% to 5% on gross SEP related revenue. Consider that SEP CIT applies to non-residents engaging in provision of remote services and/or sale of goods from abroad, to the extent that certain conditions are met.

2. **Permanent establishment (PE).** Proposes introducing wording to article 20-2 of the Tax Code establishing that PEs shall determine their CIT observing the substantial and formal rules applicable to resident taxpayers, considering both Colombian and foreign source income. In principle the wording seeks to increase the tax obligations of PEs; however, there is not full clarity of the Government´s expectation.

3. **Tax on dividends distributed to nonresidents.** Proposes that the WHT applicable on “PTI dividends” distribution (i.e., dividends distributed out of profits that have been subject to CIT in the hands of the distributing entity) would be increased from 20% to 30%.

4. **Introduction of CIT rules applicable to Digital Assets.** Proposes the introduction of a definition of Digital Assets (“DA”), closely tied to Distributed Ledger Technology (“DLT”), establishing that when a DA has an underlying Colombian asset it will be considered that the AD is located in Colombia and originates a Colombian source income. The proposed rules also establish that the AD will be amortizable and establish how the tax basis should be determined in the case of its sale. Furthermore, the Bill proposes the creation of a registry of AD services providers.

5. **Indirect transfer of assets rule (“ITAR”).** The Bill proposes new wording to reinforce the ITAR, establishing that (i) the Colombian entity being indirectly transferred would be jointly and severally liable to the taxes, interest, and penalties of the indirect transferor when the latter does not comply with its obligations; (ii) that the purchaser will be jointly and severally liable when aware that the transaction constitutes tax abuse; additionally (iii) introduces the obligation, in the hands of the Colombian entity, to file the respective tax return in the case of non-compliance by the indirect transferor; and (iv) establishes that the transfer of DA with underlying Colombian assets triggers the ITAR.

6. **Effective seat of administration (“ESA”).** The Bill proposed that taxpayers that through a Colombian ESA undertake any type of business structuration or corporate restructuring, are required to report it to the Colombian Tax Authority (“CTA”) and to disclose it in its Financial Statements; otherwise, the structuring would be treated as a tax abusive operation.

7. **Authorization of the change of foreign shareholders**: The Bill proposes the introduction of a new requirement related to the change of foreign shareholders (change of foreign investment holder): a copy of the respective tax return and evidence of payment of the taxes to the CTA should be sent to the Legal Representative of the Colombian entity within one month after the closing of the transference. Otherwise, the shareholder's book could not be updated. Furthermore, both the Colombian entity and the Legal Representative would be held jointly and severally liable (i) to the respective taxes, penalties and interest; and (ii) the formal duty of filing the corresponding tax return.

8. **Transfer pricing and CIT rules interaction.** The Bill proposes that the following CIT rules are not applicable when the transaction takes place between related parties and the transaction meets the transfer pricing regulations: (i) the minimum presumptive interest in transaction between the entity and its shareholders (article 35 of the Tax Code); (ii) deemed disposition price in the sale of assets and provision of services, and the determination of the respective profit (article 90 of the Tax Code); (iii) Non deductibility of amortization of intangible assets (article 143, paragraph 2 of the Tax Code); (iv) non deductibility of loses in the sale of assets (articles 151 and 152 of the Tax Code); and (v) non application of capital losses.

B. CIT & CGT

1. **CIT surcharge.**

   a) **Financial institutions (and others).** The CIT surcharge rate for financial institutions (banks, insurance companies, stockbrokers, among others), would be increased from 5% to 15%, when the taxable base is equal to or greater than USD 1 million (approx.), this would result in an increase of the combined CIT rate from 40% to 50%. Furthermore, pursuant to the current legislation the surcharge would cease to apply in FY28, this time is not established in the Bill.

   b) **Oil & coal industry.** Certain aspects of the CIT surcharge would be modified, generally a reduction in the average price percentile thresholds used to determine the CIT surcharge. In the case of the coal industry a 15% marginal rate CIT surcharge would be introduced for higher percentiles (currently, the marginal rate is 10%).

2. **CGT.** The holding period that allows profits arising from sales of fixed assets to be subject to CGT would be increased from 2 years to 4 years. Thus, a 35% CIT rate would apply when the fixed asset has been held for less than 4 years.

3. **Cash payments.** The threshold applicable to deduct cash payments would be reduced to 20% (today 40%) of the total cash payment. The additional caps would be reduced (i) to 20.000 Units of Tax Value ("UTV"), this is approx. USD 249 thousand (today 40.000 UVT, this is, approx. USD 496 thousand); and (ii) to 18% of the total costs and deductions (today 35%).

4. **Non deductible expenses.** Proposes a modification to the wording of article 172 of the Tax Code stating that failure to comply with the information / documentation retention obligation and/or (ii) failure to pay the applicable WHT before the filing of the CIT return, will result in the non deductibility of the respective cost/expense.

5. **Income from asset comparison.** The CTA would have the ability to determine a taxable income, represented in the difference between the net equity of the taxable year (as determined by the CTA) and the previous taxable year net equity; provided that unjustified increase is evidenced.

C. Net worth tax

1. **Taxable event.** A reduction of the net worth that triggers the tax would be reduced to 40.000 UVT, this is approx. USD 505 thousand (today 72.000 UVT, this is approx. USD 909 thousand), applicable to qualified individuals and certain non-residents, is proposed.

2. **Rate.** An increase in the applicable tax rates is proposed, ranging from 0.5% to 5% (today the rate ranges from 0.5% to 1.5%), depending on the taxpayer's net equity.

D. Consumption tax

1. **Taxable event.** The Bill proposes that the provision of sports, recreational and cultural services exceeding 10 UVT (approx. USD 119) are included as events subject to the consumption tax. The taxable base would be the admission price and associated charges. The tax would be triggered when paying the price of the ticket / associated charge. The tax should be detailed in the invoice or equivalent document, should be calculated in advance and included in the public price list.

2. **Rate:** Proposes changes to the rates applicable to vehicles and new taxable goods as follows:
   - The rate for sports, recreational and cultural services would be 19%.
   - The thresholds for vehicles (family vehicles, SUVs, Pick-ups) would be updated.
     - Vehicles with FOB values lower than USD 30 thousand would be subject to an 8% rate.
     - Vehicles with FOB equivalent or higher than USD 30 thousand, and yachts and other recreational boats and vessels would be subject to a 19%.

3. **Beer and mixed drinks.** The Bill proposes that (i) the consumption within the national territory is maintained as the taxable event including non-alcoholic beers; (ii) a specific component in volume of alcohol in degrees of alcohol and an ad valorem component (retail price per 330cc unit, excluding VAT and National Consumption Tax, certified by DANE) would be established; (iii) the rates would be, for the specific component COP $330 by alcohol content in 330cc units -and proportionally if higher cc content-. The ad valorem component would be 30% of the retail price certified by DANE. Annual adjustments to the specific component are planned based on the variation of the Consumer Price Index ("CPI") plus 4 points. This measure would have a significant impact on the price for the final consumer.

4. **Liquors, wines, aperitifs, and similar items.** The Bill proposes that (i) the jurisdiction of the tax is maintained in the hands of the Departments; (ii) the tax is applicable to liquors, wines, aperitifs with alcohol concentration above 1%; (iii) the specific component would be of COP 750 per 750cc alcohol content -and proportionally if higher cc content-, annual adjustments would be applied based on the variation of the CPI plus 4 points. This measure would have a significant impact on the price for the final consumer.

5. **Cigarettes, manufactured tobacco, derivatives, substitutes or imitations.**

   a) **Taxable event:** The Bill proposes that (i) "artisanal production of stub" is excluded from the tax; (ii) the definition of "manufactured tobacco" is expanded to include Heated Tobacco Products ("HTP"); (iii) the definition of "derivatives, substitutes, or imitations" is expanded to include aerosols and other nicotine/chemical devices, Electronic Nicotine Delivery Systems ("ENDS"), Similar Systems Without Nicotine ("SSSN"), electronic devices, and vaping devices.

   b) **Responsible parties:** Producers, importers, distributors (jointly and severally liable) will be the tax responsible parties; and the transporters and retailers if they do not provide proof of the origin of the products.

c) **Taxable base:** In the case of cigarettes/manufactured tobacco a specific component per pack of 20 units or gram, and an ad valorem component (10% of the retail price excluding VAT / National Consumption Tax, certified by DANE). For derivatives/imitation products: a specific component per milliliter, and an ad valorem component (30% of the retail price excluding VAT / National Consumption Tax, certified by DANE).

d) **Rates:** For cigarettes, tobacco, cigars, and HTP, COP $11.200 per pack of 20 units (or proportional amount) and COP $891 per gram of cut tobacco/snuff/*chimú*, plus an ad valorem of 10% of the retail price. For derivatives/substitutes/imitator products: COP $2.000 per milliliter and an ad valorem of 30% of the retail price. Annual rate adjustments are planned with CPI plus 4 points.

E. VAT

1. **Taxable event.** The Bill proposes that (i) the sale or transfer of memberships or rights of entry are included as a taxable event for VAT purposes; and (ii) the VAT apply to the operation of online games of chance and gambling, including those provided by foreign operators.

2. **Elimination of VAT exclusions.** The following VAT exclusion (i.e., out of scope services) would be eliminated: (i) acquisition of software licenses for the development of digital content; (ii) cloud computing, hosting and web pages provision; (iii) operation of games of chance and gambling, including those provided online by foreign operators. Thus, said transactions would trigger VAT at a 19% rate.

3. **Rate.** The following goods and services would be subject to the 19% rate (today exempted, excluded or subject to reduced rates):
   - The sale of real estate.
   - The importation of goods by the postal service modality, irrespective of the value (today goods which do not exceed USD 200 are not subject to VAT).
   - Tourism services provided to non-residents that are used within Colombian territory, associated to packages/combos sold by operating agencies or hotels registered in the national tourism registry.
   - Goods subject to consumption tax on spirits, wines and aperitifs.
   - The sale of gasoline and diesel (ACPM), which would be taxed at a 10% rate in 2026. Subsequently, these will be progressively taxed at the general VAT rate.
   - From January 1, 2026, the general VAT rate will apply to all other petroleum-derived fuels.
   - Hybrid and plug-in hybrid vehicles, along with their parts and components such as engines, batteries, chargers, inverters, and control units would be subject to the 19% rate (today subject to a 5% rate). Pure electric vehicles will remain subject to the 5% rate.

F. Environmental & Healthy Taxes

1. **Investment in Non-Conventional Energy Sources (“NCES”).** Energy transition bonds would be created, providing bondholders the right to deduct up to 50% of the investment in NCES. The purchase or import of equipment, components, components, machinery, and services related to NCES would be VAT exempted, this is zero rated (today treated as VAT excluded, this is, out of the VAT scope). The change would allow the use of associated input VAT.

2. **National Carbon Tax.** The applicable rate in the sale within the national territory, self-consumption, or import for sale of fossil fuels, would be increased to USD 11 (approx.) per ton of CO2eq with annual CPI updates plus 2 points up to 3 UTV (USD 37 approx.) per ton of CO2eq. - It is based on the equivalent carbon content (CO2eq). CO2eq is a measure in tons of carbon footprint, the name given to the total greenhouse gas emissions. The national carbon tax would not be levied on taxpayers who certify that they are "carbon neutral".

3. **Special tax on the extraction of hydrocarbons and coal.** A special tax on the extraction of hydrocarbons and coal, of HS Codes 27.01 and 27.09 would be introduced. The applicable rate would be 1%. The taxable persons and responsible persons would be individuals and entities whose net income in the immediately preceding year is equal to or greater than 50.000 UTV (approx. USD 622 thousand).

G. Other relevant proposals

1. **Electronic invoicing.** The Bill proposes that:

   a) All persons (i.e., individuals and entities) are required to issue electronic invoices, except for:
   - Banks, financial corporations, savings and housing corporations, and financing companies.
   - Non-VAT Responsible Persons
   - To expressly include the obligation to issue e-invoices for PEs, joint ventures and collaboration agreements.
   - Physical invoices would be valid only in cases exhaustively established by the CTA (the Bill does not specify the respective cases).

   b) Penalties due to irregularities in the invoices:
   - The 1% penalty is maintained, but is extended to any non-compliance, including not complying with the formal requirements.
   - Voluntary acknowledgment of non-compliance with the obligation to invoice is introduced:
     - 3% of the total non-invoiced value.
     - 2% of the invoiced value without meeting the requirements established in the current regulation.
     - The penalty would not exceed 2.000 UVT (approx. 25 thousand).
     - Voluntary acknowledgment would extinguish any criminal liability for non-collection and non-recovery of the VA) and National Consumption Tax, provided there is no formal statement of charges.
   - Closure of the commercial establishment would be applicable to any type of non-compliance. It could be imposed as a precautionary measure.
   - A "visible seal" would be introduced which would read: "*Establishment under investigation for billing irregularities*". It could be imposed as a precautionary measure.

2. **Automatic exchange of information framework.** Failure by the financial account information owner to provide the required information could result in denial of account opening, account closure, or suspension of the account-related processes. Additionally, omissions, errors, or untimely reporting of information would remain sanctionable with fines capped at the limit of 30.000 UTV (approx. USD $373 thousand)**.**

3. **Special statute of limitations ("SoL").** The special 6- or 12-months SoL term currently in effect for FY26 would be eliminated.

4. **Deadlines for correcting returns.** The deadlines for taxpayers to correct returns, whether the correction decreases or increases the amount payable or balances in favor, would be harmonized with CTA´s timeframes to challenge the tax returns. The deadline for correcting errors in the reporting of credit balances, withholdings, or advance payments of taxes would be subject to the applicable general SoL.

5. **General anti-abuse rule ("GAAR") procedure.** The special procedure that the CTA is required to undertake for the application of the GAAR would be eliminated; thus, it would be simpler for the CTA to challenge taxpayers under the GAAR.

6. **Temporary reduction in penalties and interest.** Significant reductions of tax, customs and foreign exchange penalties and interest with the CTA would be introduced in regards substantial and formal obligations outstanding as of December 31, 2024, subject to complying with specific conditions.

Continue the conversation

The Latin America Markets, Tax Group and KPMG in Colombia have developed planning opportunities and would welcome the opportunity to continue the conversation with you.

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