

# Colombia – Income tax relief and exemptions



The Colombian tax system, like that of many other nations, has been developed to provide relief or exemption from tax where there is considered to be a social or economic benefit to the country. In this article, I have set out the main relief's that are available to a foreign investor.

## Overview of Colombian Taxation tax system

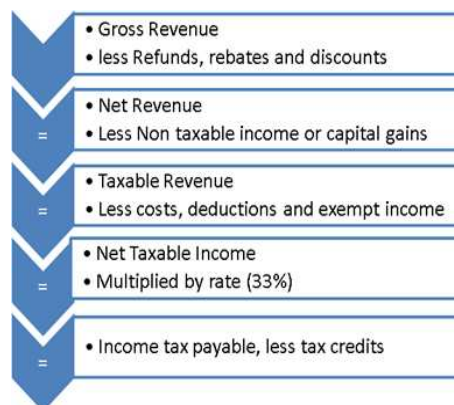
Before commenting on the particular relief's and exemptions, it is important to have a basic understanding of how the tax system in Colombia works. Although comprehensive double tax treaties have been signed with a number of countries, only the treaty with Spain is in force. The Colombian tax year runs on a calendar year basis and the headline rate of income tax is 33%. Both individuals and corporate bodies resident in Colombia are taxed on their national and foreign source income and capital gains. For non- resident corporate tax payers, there is only a tax charge in relation to the income or gains of the Colombian permanent establishment (branch).

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There are two ways to calculate the amount of income subject to income tax.

The ordinary system is a calculation as follows:



The second system of calculation is a presumptive income system, i.e. a theoretical calculation of what tax should be payable given the asset base of the taxpayer. There are particular deductions from this system, for example, the assets representing shares held in Colombian subsidiaries, which can be used to reduce the level of presumptive income.

Each tax year, a taxpayer must calculate the income tax due under both systems and pay the higher figure. Where the presumptive income system has caused a tax charge, a relief operates to enable the taxpayer to set off this excessive presumptive income in any of the five following tax years.

For a corporate, tax returns must be filled in accordance with a scheduled produced annually by the tax authorities. For the full-year 2008, this was between 13-24 April 2009, and varies very little on an annual basis. 50% of the tax payable is due on filing the return and 50% approximately two months later. Certain corporate tax payers can benefit from an instalment system, and there are penalties for non-payment.

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## Tax relief and exemptions

For the foreign investor the primary focus of Colombian efforts to reduce taxation exposure is the creation of enterprise zones of free trade zones (FTZ).

The fiscal benefits of operating in a FTZ can be categorised as a reduced income tax rate of 15%, as well as reductions in VAT to 0% for transactions in the FTZ, imports into the FTZ from abroad and many national raw material and produced items.

The following relief's and exemptions are also available on a national basis.

Research and development (R&D) is recognised by most authorities as an area where providing tax relief can produce economic benefit. The UK has a system which allows a corporate incurring revenue expenditure to obtain a deduction for up to 175% of the qualifying costs. The tax rules in Colombia exempt income from new medical and software products up to 2013, where they are registered under new patents and where there is a high content of national research or technology. There is also a general ability to deduct 125% of the investment in R&D.

First-year allowances are available at a rate of 40% of the value of the fixed assets acquired, where they are to be used in the trade or business by the taxpayer.

In addition to the above, there are some valuable reliefs and exemptions available to all, particularly in the areas of sustainability.

- Eco tourism is growing in popularity and where services are provided in this sector, there is an exemption to tax until 2023.
- General tourism also benefits as where hotel services are provided in a newly built hotel, the income can be exempt for a period of 30 years. It is also possible to qualify if a hotel is renovated or extended on a pro-rata basis.
- Where 'green' energy in the form of wind or bio mass is produced, it may be possible to exempt income for a period of 15 years from the date of first generation, provided certain conditions relating to the sale and certification requirements are met.
- Revenue generated from new plantations of palm oil is exempt.

## Tax advice on structuring your investment

Taking advantage of local tax relief is an important part of when considering any investment. Of equal importance is considering how to structure your investment, particularly when it comes to repatriation of profits, payments abroad for use of Intellectual property (royalties) or transfer pricing policy. There are a number of ways in which an investment can be structured, each investment is unique and requires bespoke advice. Kingston Smith, working with the independent members of KSi, can assist you in both the UK and abroad to take advantage of the available tax reliefs and exemptions.

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