

GMS Flash Alert



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Colombia – New Tax Law Provisions Affecting Individuals

On December 27, 2019, Colombia enacted a new tax reform (Law 2010)¹ to replace parts of the 2018 tax reform that were declared unconstitutional but had remained in force for the taxable period 2019. Effective in 2020, new Law 2010 preserves the provisions and modifications introduced for individuals in the 2018 law² but also introduces some new provisions.

WHY THIS MATTERS

After the 2018 tax reform law was declared unconstitutional, there was uncertainty as to what might change and what would stay the same, making it difficult for employers and taxpayers to predict costs associated with assignments in Colombia. Law 2010 provides clarity and may provide for a reduction in tax in certain circumstances.

Income Tax – Basket System

Below we highlight the modifications introduced in Law 2010 for individuals:

1. Taxable Base Calculation – General Basket

In general, the basket structure as enacted in the 2018 law remains the same. The new Law 2010 allows labor income received from fees or compensation for personal services derived from an independent professional activity to be reduced by associated costs and expenses. However, at the same time the law provides that people who receive fees from providing services and who hire less than two people for periods of less than 90 days, must choose between deducting the costs and expenses, or exempting labor income in the amount of 25%. This aspect could become the subject of constitutionality objections.

2. Inflationary Component

The unconstitutional 2018 law had eliminated the benefit that allowed individuals to treat as tax-exempt a percentage (known as the inflationary component) of certain income received from financial returns.

The new 2019 law restores the provision, which constitutes an important benefit for taxpayers who receive such income.

The new law also restores a portion of the financial expense not accepted as a deduction for individuals, in the percentage corresponding to the inflationary component.

3. Exempt Income – AFC and Voluntary Pension Funds

Under the 2018 law, the only exempt income for individuals was that contemplated by section 206 of the tax code and income recognized by international agreements, which left out the exempt income of sections of the tax code regulating contributions to voluntary pension funds and accounts to support housing purchases (AFCs).

This situation was clarified through the Law of the National Development Plan, such that the contributions to AFC accounts and voluntary pension funds were still considered as exempt income for individuals. The new 2019 law makes clear reference to the code sections on voluntary contributions to pension funds and AFC accounts and treats them as exempt income.

4. Exempt Income for Magistrates of the Courts, Prosecutors, Judicial Attorneys and Judges of the Republic.

The new 2019 law brings back the provision exempting income for magistrates of the courts, prosecutors, and judges of the Republic, which had been repealed by of the 2018 law, and extends the exemption to judicial procurators.

5. Special Premium and Cost of living premium for Diplomatic, Consular, and Administrative Public Officers of the Ministry of Foreign Affairs

The new 2019 law extends this exemption to public officers abroad that, although they provide their services outside Colombia, are deemed tax residents in the country.

6. Occasional Gains Derived from Life Insurance Indemnifications.

The 2018 law taxed life insurance indemnities, previously exempted in full, at the rate applicable to occasional earnings, for the amount that exceeded 12,500 UVT.³

However, the 2018 law did not address treatment of the first 12,500 UVT, hence the tax authorities clarified that the first 12,500 UVT would be considered to not constitute income or occasional gain.⁴ The 2019 law categorized the first 12,500 UVT as occasional exempt gain.

7. Income Tax Withholding – Progressive Tax Rates Modification

The withholding tax progressive rates chart was adjusted, modifying the value from which the withholding at the source begins. While the 2018 law's withholding began from 87 UVT, under the new 2019 law, it starts at 95 UVT.

From	To	Marginal Rate	Procedure
-	95	0%	-
95	150	19%	(Taxed labor income in UVT less 95 UVT) *19%
150	360	28%	(Taxed labor income in UVT less 150 UVT) *28% + 10 UVT
360	640	33%	(Taxed labor income in UVT less 360 UVT) *33% + 69 UVT
640	945	35%	(Taxed labor income in UVT less 640 UVT) *35% + 162 UVT
945	2.300	37%	(Taxed labor income in UVT less 945 UVT) *37% + 268 UVT
2.300	Onwards	39%	(Taxed labor income in UVT less 2300 UVT) *39% + 770 UVT

8. GMF Transfer and Retirement of Severance Payments and Their Interests

A new exemption is introduced related to tax on financial movements for the total or partial transfers and withdrawals of the severance payments and the interest on severance payments that are made by means of payments to savings accounts, in cash and / or by management check.

FOOTNOTES:

- 1 For the new law Ley de Crecimiento Económico in Spanish, [click here](#).
- 2 For prior coverage of Law 1943 of December 28, 2018, known as "Financing Law," see [GMS Flash Alert 2019-037](#) (February 28, 2019).
- 3 UVT (Tax Value Unit for its acronym in Spanish) equals to COP 35,607, for FY20.
4. Concept 0014729 of June 2019.

Contact us

For additional information or assistance, please contact your local GMS or People Services professional or one of the following professionals with the KPMG International member firm in Colombia:



Maria Consuelo Torres
Partner

Tel. + 51 16188000

mctorres@kpmg.com



Carlos Neira
Director

Tel. + 57 16188000

ceneira@kpmg.com

The information contained in this newsletter was submitted by the KPMG International member firm in Colombia.

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