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Global Tax Alert

News from EY Americas Tax

Colombian Executive Power submits proposal to reenact the 2018 tax reform that was recently declared unconstitutional

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On 22 October 2019, the Colombian Executive Power submitted to Congress a proposal to reenact the 2018 tax reform (Law 1943 of 2018), which was declared unconstitutional by the Colombian Constitutional Court on 16 October 2019, due to procedural flaws. For more information on the 2018 tax reform, see EY Global Tax Alert, [Colombia enacts tax reform for 2019](#), dated 3 January 2019.

While the proposal would primarily maintain the 2018 tax reform provisions, the proposal would eliminate provisions that were only effective during 2019 (e.g., the tax amnesty provisions).

The proposal would allow the tax authorities and taxpayers to settle the issues being audited with some reductions in penalties and interest. Further, the new proposal would not include or modify the provisions that were not reviewed by the Constitutional Court as they have already been modified or repealed by other regulations.

The provisions from the 2018 tax reform that would be maintained by the proposal include:

- ▶ The gradual reduction of the corporate income rate (but with a surcharge for financial institutions)
- ▶ The increase in the income tax rate for individuals

- ▶ The gradual elimination of the presumptive income
 - ▶ The ability to claim certain taxes (e.g., value-added tax (VAT) on real productive fixed assets and turnover tax) as a credit against income tax
 - ▶ The increase in the tax on dividends (and withholding tax on dividends for distributions between Colombian companies)
 - ▶ The general increase in most of the withholding tax rates for payments abroad
 - ▶ The indirect transfer rules
 - ▶ The Colombian holding company regime
 - ▶ The mega investment regime
 - ▶ Rules on private equity funds and portfolio investments
 - ▶ The thin capitalization rules
 - ▶ The exempted income for some entrepreneurial and technological activities (so-called orange economy)
 - ▶ The rules that mandate credit and debit card issuers to collect VAT for foreign service providers
 - ▶ The real estate excise tax
 - ▶ The equity tax
 - ▶ The simplified tax regime
- The Executive Power has requested that Congress apply the fast track legislative process to expedite the discussion and approve the proposal before year end. During the legislative process, the proposal could be subject to changes by Congress; therefore, taxpayers should closely follow the progress of the proposal and any changes as, once enacted, the proposal will apply from 1 January 2020.

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