

# DOING BUSINESS IN COLOMBIA



A BIZ LATIN HUB GUIDE



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# Foreword

Colombia's diverse and growing economy is catching the attention of entrepreneurs and executives worldwide. The country's business-friendly environment and swelling middle class make for a dynamic market with a number of opportunities for foreign companies in core and emerging sectors. As household wealth, smartphone and other device usage rises, so too does mobile and other electronic commerce.

Colombia has achieved a number of impressive feats as a middle-income country: Colombia's unique commitment to its creative industries saw the development of the Orange Economy policy, introducing tax reforms and emphasizing the importance of protecting intellectual property. Medellín has made it on world tech radars as a leading innovation hub in Latin America. Its trailblazing medicinal cannabis legal framework allows the country to play a key role in the growing worldwide cannabis industry.

Doing business in Colombia, however, is not without its challenges. As with many other countries in Latin America, Colombia saw some social unrest last year as marginalised social groups demanded more economic opportunities. In addition, the Duque government continues to work to implement elements of the 2016 peace deal with the Revolutionary Armed Forces of Colombia (FARC). Colombia's security situation has improved greatly but challenges remain, and the country continues to take necessary measures to improve its security.

Our Doing Business in Colombia guide is ideal for both new arrivals and seasoned regional and foreign multinational executives in Colombia's diverse market, comprised of key advice from our own experience over 5 years of operations.



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# Economic overview

Colombia's GDP is approximately USD 330.2 billion (World Bank Group) and is ranked as the fourth largest in Latin America. In 2019, the inflation rate was 3.61%, and is expected to be around 3.69% for 2020 (Statista).

Colombia is currently one of the most dynamic economies in Latin America. Thanks to consistently positive annual growth since 2000, the country has justified its presence in the new generation of emerging countries. This favourable situation is the result of an improved security situation combined with the pro-business economic policies in Colombia.

The basis of this policy is formed by:

- Attracting foreign investors
- Maintaining macroeconomic stability
- Reducing unemployment and undeclared work
- Improving the overall business climate.

Investment through the introduction of industrial expertise, commercial know-how, in addition to indirect 'spillover effects' from FDI have supported economic growth. This in turn boosts competition in the country, driving a more talented and specialized workforce.

After a decade improving the security situation and successful peace negotiations, destinations such as Cali, hugely affected by cartel violence in the 90s, are now important business destinations in Colombia. Currently, the major destinations for commercial activity include Bogotá, Medellín, Barranquilla and Cali.

## Foreign direct investment

Colombia attracted USD 188 million in foreign direct investment (FDI) in 2018 (UNCTAD World Investment Report 2019). From the first to third quarter of 2019, approximate FDI values reached (figures from Trading Economics):

- January-March 2019: USD 3,439 million
- April-June 2019: USD 4,050 million
- July-September: USD 3,330 million.

The majority of this FDI flows into the oil and mining sector, and has done so since 1994. From 2011 onwards, however, the following sectors have also claimed increasing shares of investment in Colombia:

- Manufacturing
- Financial services
- Transport and communications
- Commerce
- Water and energy
- Construction
- Community services
- Agriculture.

By countries, Colombia's main investors are (figures from Colombia Reports):

Country	Percentage of FDI (2018)
United States	20.2
Panama	12.8
UK	11.3
Spain	10.3
Switzerland	5.8
Bermuda Islands	4.9
Mexico	3.7
Cayman Islands	3.5
Canada	3.4
Chile	3.3
Virgin Islands	3

## International trade agreements

Colombia has free trade agreements currently in force with the Pacific Alliance, Panama, Canada, El Salvador, Guatemala, Honduras, the United States, and the European Union. The country's network of trade agreements provides preferential access to an overall international consumer market of USD 43 trillion.

Colombia is a founding member of the Pacific Alliance, and is also a member of the Andean Community (CAN), the Caribbean Community (CARICOM), the World Trade Organization and Latin American Integration Association. It is also part of the CIVETS (Colombia, Indonesia, Vietnam, Egypt, Turkey, and South Africa) group: emerging economies with high development potential.

Colombia is increasingly opening its doors to foreign investors and is working on the development and strengthening of its international relations, both bilaterally and multilaterally.

## Political outlook

President Ivan Duque has outlined a strong agenda to develop Colombia's capability in science, technology and innovation, in the four-year National Development Plan. Key features of the plan include:

- reducing poverty levels
- stimulating the 'Orange Economy' through tax exemptions
- promoting international trade and investment
- developing infrastructure.

The four-year plan also acknowledges the need to lift education levels, by aiming to significantly increase the number of students at primary level and above.

On crime and security, President Duque's National Development Plan targets the elimination of drug-trafficking. "This country needs to shake off crime, drug trafficking, illicit crops, micro-trafficking, which leads to youth being lost, because there are some drug dealers who want to invade community spaces," said Duque. This will not be easy but Colombia is supported by the US and International community in these efforts to reduce cocaine production and trafficking.

## Recent law reforms

By countries, Colombia's main investors are (figures from Colombia Reports): On 27 December 2019, President Iván Duque sanctioned the Law of Economic Growth (Ley 2101 de 2019), which adopts provisions for the promotion of economic growth, employment, investment, strengthening of public finances, the progressivity, equity and efficiency of the tax system. It includes a decrease in company income tax, value-added tax (VAT) discounts on the purchase of capital goods, the Colombian Holding Companies regime, wealth tax for individuals and criminal procedures for tax evasion and fraud.

Industries that have benefited greatly from this reform are 'Orange Economy' or creative industries. This includes technology-based activities such as digital media, software development, design, publicity, information services, arts, among others. The main incentive offered in this reform is an income tax exemption for 7 years to companies operating in creative industries.

The government has stated that the purpose for implementing this reform is to incentivize the economic growth, to avoid tax evasion and will have a positive impact on treasury.

### Is my company eligible for tax exemptions under the Orange Economy initiative?

To be eligible for tax exemptions under the Orange Economy, companies must:

- Be incorporated before 31 December 2021
- Have a gross income less than 80,000 UVT (Unidad de Valor Tributario)\*
- Invest at least 4,400 UVT within 3 years
- Employ at least 3 people
- Present an investment project to the appointed Committee of the Ministry of Culture, who will qualify the activity and the company as part of the Orange Economy.

\* The UVT, or Unidad de Valor Tributario, is a unit of measure that standardizes the currency in tax values.

The amount of the UVT for 2020 is COP 35,607. At the current exchange rate, the UVT value is approximately USD10.53.

## Business trends

Five key sectors are the driving forces behind Colombia's economic growth and job creation:

- Infrastructure
- Housing
- Mining and energy
- Agriculture
- Technology.

Most international institutions such as the IMF, OECD and CEPAL, as well as the rating agencies, maintain positive growth prospects for the Colombian economy. Of course, the evolution of the international situation, which is particularly marked by the fall in raw material prices, will have an impact on the dynamics of Colombia's growth.

Given recent changes in cannabis laws in certain countries (Canada and the United States in particular), medicinal cannabis exports could also see a sharp pick-up in the coming months/years.

# Starting a business in Colombia

There are several necessary steps to start a successful business in Colombia. You should:

- Research and devise a clear market entry strategy
- Seek expert legal support to incorporate your company and open a corporate bank account
- Protect your brand with a trademark
- Understand the legal requirements to ensure compliance.

## Market entry strategy

Crucial to your company's success is a thoughtful, well-researched market entry strategy. There are several ways an entrepreneur may choose to enter the Colombian market:

- Form a new company (subsidiary)
- Hire your sales executives and other staff through a Professional Employer Organization
- Incorporate a branch of a foreign company
- Export directly into the market
- Partner with a local firm in a strategic alliance to achieve your business objectives
- Give license to another firm in Colombia to sell your product or service
- Franchise your business model to another company in Colombia
- Work with another company in a joint venture
- Through a greenfield investment.

Colombia's business environment is heavily relationship-based, as are many others in the region. Developing professional and personal contacts therefore takes time. Many executives arrive on short-term visits to meet prospective clients and partners, and then struggle upon their return to their overseas headquarters to move forward with commercial activities. In Colombia, foreign executives should not expect immediate results from this 'fly-in, fly-out' model as they can in other parts of the world.

Furthermore, Latin America's markets are incredibly diverse. Foreign entrepreneurs may see the Spanish-speaking bloc of Latin America as a homogeneous market, but this is a dangerously simplistic view. Rules and regulations will differ between countries in Latin America, as will market preferences and behavior.

Developing a suitable market entry strategy into Colombia will take time and financial commitment. What may work for business in other neighboring countries may not necessarily be a successful template for business in Colombia.

## Developing your market entry strategy

The best model for your market entry into Colombia should include partnering with a local market entry strategist to validate your opportunities and pathway to commercial success in the country.



Regardless of your chosen entry strategy, be sure to:

1. Conduct a general and targeted market review
2. Identify your customer demographic and design your buyer persona
3. Identify distributors, sellers, and partners (if applicable)
4. Research and understand your competitors and your own competitive advantage
5. Consult with any relevant institutions, such as Chambers of Commerce and industry-specific groups
6. Spend time in Colombia meeting with the different individual groups relevant to your business and building professional relationships
7. Enter the market formally and begin sales negotiations.

## Engaging with a local expert

Your own market entry research should be informed by the advice and guidance of experts in Colombia who know the market well. Seek out professional opinions from market entry strategists who can offer advice not necessarily found online. This could include:

- Region-specific consumer behavior
- Changing or evolving market dynamics
- Knowledge of recent reforms to corporate regulations that may affect your business.

Colombian market entry specialists can help you identify the optimal route(s) to market for your products and/or services. They can also facilitate meetings with key partners and institutions in Colombia when the time has come for a formal visit.

## Bridging cultural and linguistic gaps

Added support to break through the language barrier is also vital to ensuring a successful market entry and ongoing operations in Colombia. Spanish is the dominant language in the country, and it is not common to find fully fluent English speakers among those strategic connections a business may need to make.

Likewise, foreign executives must pay attention to Colombia's business etiquette in order to make a lasting impression and create meaningful connections. Among other particularities, business culture in Colombia places significance on:

- Relationship-building
- Appropriate acknowledgment of decision-making roles
- Personal and professional presentation.

This focus can differ greatly from other parts of the world, and those entrepreneurs looking to build connections with their Colombian counterparts must take note. First and foremost: some Spanish proficiency is crucial for long-term success in Colombia. For those non-Spanish speakers, this means partnering with a bilingual firm in the country who can assist with market entry and ongoing operational activities.

Colombian business engagements must be focused on building trust and respect through developing personal relationships first. A person's presentation has a great effect on first impressions; formal business attire and presenting business cards are part of this relationship-building. In a business meeting, due respect must also be shown to those in Senior positions, as they will be the ones making the judgment call on your pitch or proposal for collaboration.



# Establishing commercial operations in Colombia

Forming a company is one way to set up to do business in Colombia. Make sure to get assistance and advice from an experienced legal services provider within the country to ensure you comply with all corporate law, accounting, and other requirements.

## Branch or subsidiary?

Foreign executives may choose to form either a foreign branch, or a subsidiary in Colombia. These options have different requirements and will affect the governance and compliance requirements of your business in the country.

## Foreign branch

A foreign branch is not a separate legal entity, rather an extension of the foreign parent company.

The parent company and the branch are jointly liable for all liabilities. When establishing a branch, the parent company must file translated and apostilled documentation regarding its incorporation and accounting records.

For tax purposes, the transfer of the profits from the branch to the parent company is treated as dividends.

A fiscal auditor is mandatory for all branches in Colombia.

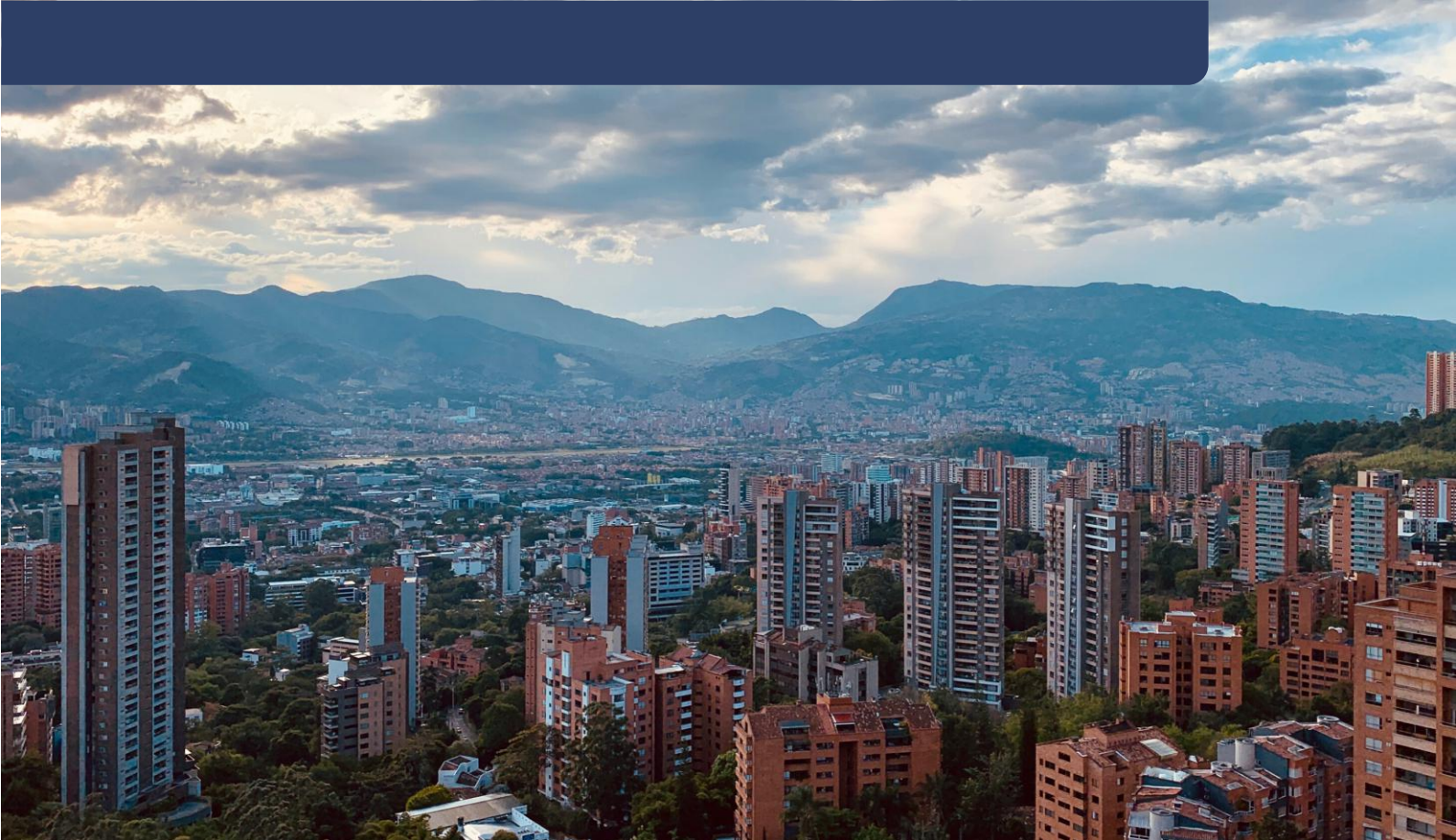
### What is a fiscal auditor and when is mandatory?

A fiscal auditor is a Certified Public Accountant (Article 13, Law 43/90) who examines the financial information and evaluates the internal control systems of the entity. They are an independent third party. The fiscal auditor must undertake a comprehensive review that includes financial, compliance and control audits. Likewise, the fiscal auditor is obliged to deliver an opinion with the result of their examination (Article 207 of the Commercial Code).

A fiscal auditor is mandatory for the following legal entities:

- Corporations (Sociedad Anónima, also known as a joint stock company)
- Branches of foreign companies
- Non-profit organizations
- If the amount of the income or assets of the company is equal or more than COP 2,484,348,000 and COP 4,140,580,000 respectively for 2020. With the current exchange rate of USD 1 = COP 3,410, this is approximately USD 728,496 and USD 1,214,160 respectively for 2020. This amount is set by minimum wages, which means the amounts or caps can change each year.

It's important to note that the fiscal auditor is liable before tax authorities for all the filed taxes of the company as well as its financials.



## Subsidiary

Setting up a subsidiary allows you to establish a separate legal entity from your foreign company in a limited liability setting. You can be one of several owners of a subsidiary, if necessary. Colombia also allows for wholly owned subsidiaries.

One of the benefits of a subsidiary in Colombia is the ability to offset profits and losses in different parts of the business via a transfer pricing study (see the **Transfer pricing regulations** section). With a subsidiary, parent or holding companies can separate their brand identities.

## Legal entities and their requirements

The most common types of companies in Colombia are:

- Simplified stock companies (Sociedad por Acciones Simplificadas, or S.A.S)
- Limited liability companies (Sociedad de Responsabilidad Limitada, or LTDA)
- Corporations (Sociedad Anónima, or S.A.).

For a S.A.S, there is no minimum capital contribution required to incorporate a company. This is set by the shareholders or partners. Additionally, if certain capital requirements are met, investors are eligible to apply for a Migrant type visa. Colombia allows 100% foreign ownership of companies.

For an LTDA, there is a minimum required capital that has to be divided equally among shareholders. They must be incorporated with at least 2 shareholders. For S.A., there is no minimum capital, but investors have to be mindful that 50% of the authorized capital has to be paid. This type of company must be incorporated with at least 5 shareholders.

For each legal entity type, companies must have a legal representative and fiscal address.

### **What is a legal representative?**

A legal representative is a person that acts on behalf of a company in legal aspects before government authorities, private entities and individuals, under their designation in the bylaws of the company.

This person is responsible for signing contracts, opening and managing corporate bank accounts, paying taxes, and other functions. The Legal Representative is responsible for guaranteeing the good practices of the company in every field and with all the shareholders.

### **Is it possible to appoint a foreigner as legal representative?**

Anyone can be appointed as legal representative. However, for practical reasons, the legal representative in Colombia should have the right to reside and work in the country and have a cédula de extranjería (Colombian identification).

It is advised that the appointed legal representative:

- Is enrolled in the Tax Register (RUT). If this person is not enrolled in this register and is appointed in the articles of incorporation, the DIAN will not issue a Tax Identification Number (NIT) until this person physically visits the DIAN's office
- Has requested an electronic signature before the DIAN. In order to comply with tax obligations, it is necessary to declare and pay taxes through the DIAN web page. These tax declarations must be electronically signed.

As the company acts through the legal representative, their presence will be required on a daily basis in order to comply with legislation. For compliance, it is recommended that companies appoint an alternate legal representative.

## **Simplified stock company (S.A.S)**

The S.A.S is the most common type of legal entity in Colombia. It's valued for its flexibility regarding the incorporation process and the freedom afforded to shareholders to establish their own terms and conditions. The articles of incorporation for a S.A.S do not need to be made public. Their characteristics and statutory requirements include:

- Minimum 1 shareholder (either a natural or legal person), with no maximum limitation
- Liability is limited to the company's equity, i.e. shareholders' personal assets are protected from company liability
- The social purpose may be left undefined – the company can therefore participate in almost any business activity
- No requirement for a Board of Directors.

A S.A.S must also have a fiscal address and legal representation to operate in Colombia.

### What is a fiscal address?

A fiscal address is a minimum statutory requirement for all legal entities in Colombia. This is the registered address of the company, and as such, is used for all official communication and correspondence. If necessary, an external provider can register the fiscal address for a company in Colombia.

## Limited liability companies (LTDA)

Under a Colombian LTDA, a partner's liability is limited to the amount of the capital contribution (unless otherwise stipulated by the company bylaws), and partners are not liable for debt payments. The key characteristics and requirements of an LTDA include:

- Minimum of 2 and maximum of 25 partners
- Partner contributions shall be paid in full upon incorporation of the company
- Typically must be incorporated by a public deed. However, the document can be kept private if:
  - it has fewer than 10 employees, or
  - it has assets below 500 times the minimum monthly wage in Colombia (approximately USD 140,000)
- The social purpose must be defined, limiting the company's commercial activities.
- No requirement for a Board of Directors.

## Corporations (S.A.)

A corporation is a suitable legal entity type for companies dealing with a larger number of shareholders. Under a corporation, the shareholders' liability is limited only to the amount of the shareholders' equity, except in cases of fraud. The characteristics and requirements of a corporation include:

- Minimum of 5 shareholders, none of which can have more than 95% of the outstanding capital stocks
- Just like an LTDA, this company is typically incorporated by a public deed. However, the document can be kept private if:
  - it has fewer than 10 employees, or
  - it has assets below 500 times the minimum monthly wage in Colombia (approximately USD 140,000)
- The social purpose must be defined
- The corporation must have a board of directors.



# Steps to form a company in Colombia

## 1. Draft and sign a Power of Attorney

The first step to start your business in Colombia is to draft and sign the Power of Attorney (POA) document for the person incorporating the company on your behalf. This individual does not necessarily need to be the legal representative.

In the event that shareholders and the legal representative are not physically present in Colombia, a POA must be drafted for an external provider to assist you with the company formation process in Colombia. Note that for the last step of the incorporation process, which is the opening of the corporate bank account, the legal representative must be physically present at the bank.

If the shareholders are foreign persons or companies, the Colombian government will request additional documents from abroad. This includes the certificate and articles of incorporation of the company, and copy of the passport of the legal representative or Director acting on its behalf.

### What is a Power of Attorney?

The Power of Attorney is a contract that mandates someone to act on behalf of the grantor for a specific purpose. This document allows the proxy to act for a general or specific purpose, according to the grantor designation. The Power of Attorney is used in this case to set up a company (subsidiary or branch) on behalf of the shareholders that are usually overseas

**Note:** Is not possible to act before some authorities and banks through Powers of Attorney; in some cases, it is necessary to act in person.

The Legal Representative is the authorized person that acts on behalf of a legal entity, appointed by the shareholders in the company bylaws (see below).

## 2. Choose the name of your company

Through the government's public database, called the Registro Único Empresarial (RUES), or Sole Business Registry, you must confirm that the desired name for your company is available. For this reason, make sure to select 3 preferred names.

**Note:** the legal name of your company may be different from your brand or 'business name.'

**Tip:** It's highly recommended to choose a unique company name, in case you later decide to register a trademark for it.

Under Colombian trademark laws, there are certain limitations on the kind of name you can register for a trademark. Company names that are misleading, immoral, non-distinctive or used out of necessity by other companies are not eligible to register a trademark.

### 3. Choose the legal entity type for your company

You must choose the type of social structure that fits the needs and economic activity of your business. Please note that depending on the structure, you may need to provide additional documentation or undertake additional legal and accounting processes.

### 4. Prepare the company bylaws

Next, you must prepare the bylaws for your company. The bylaws are the constitution document of the company, and outline how it will be governed.

In this document you must provide all the information related to the company's functioning: its organizational structure, intended commercial activities, capital, number of shares, shareholders and legal representative(s).

### 5. Register with the Chamber of Commerce

The Chamber of Commerce is responsible for regulating the creation of companies in Colombia. For this registration, you must provide a set of documents outlining your company's activities, the bylaws and Power of Attorney, and shareholder information.

The Chamber of Commerce will review this documentation to confirm that it adheres to the legal requirements and company creation policies in the country. Approval can take approximately 24 hours, after which time your company can start operations.

**Note:** Additional registration may be required, depending on the intended activity of the company. For example, a company working in transportation must register before the Ministry of Transport. Legal entities such as hotels, travel agencies, and other tourism-related companies must be enrolled in the National Register of Tourism (Registro Nacional de Turismo).

**Province-specific regulations:** Companies must be incorporated in the Chamber of Commerce that has jurisdiction in the city where the company is domiciled. If a company needs to change its domicile, it must submit a statutory reform to the Chamber of Commerce, who will send the documentation to the corresponding Chamber of Commerce in the new jurisdiction.

Some activities such as restaurants and bars must have further local authorization and sanitary licenses.

During incorporation, the Chambers of Commerce collect local registration taxes.

## 6. Obtain a company tax identification number (NIT)

The DIAN (Dirección de Impuestos y Aduanas Nacionales or National Taxes and Customs Authority) is the entity responsible for assigning a tax identification number or 'NIT' (Número de Identificación Tributaria) to your company.

This is a unique number with which the Colombian authorities identify your company's tax and accounting activities, in addition to the monthly and annual tax returns that your company must submit.

In some cases, once the Chamber of Commerce has approved your registration, the NIT will be generated automatically. Otherwise, the legal representative of the company must physically visit the DIAN offices to carry out this process.

In the case of the Bogotá and Medellín Chambers of Commerce, once the Chamber of Commerce has approved the incorporations, they will file the pre-RUT before the DIAN. The NIT will be generated after 24 hours. In this case, both entities work together and the person incorporating the company does not need to approach DIAN.

In some other cases, when the appointed legal representative is not enrolled in the Unique Tax Registration (RUT), the legal representative of the company must physically visit the DIAN offices to carry out this process. Usually, this happens when the appointed legal representative is a foreign national and has not been registered.



# Corporate banking options in Colombia

Finally, you must open a corporate bank account to finish the process and start operating your business in Colombia.

Opening a corporate bank account is an essential step in starting a business in Colombia. Without it, daily operations can become complicated and impractical.

Anti-money laundering regulations in Colombia make for a complex banking system, and you will need to make time for banks to check your credentials and confirm your funds were acquired legally. In Colombia, international transactions are 'blocked' over a six-month period, which means that banks are stricter within this period because of anti-money laundering studies.

Additionally, Colombia as part of the OECD must comply with a set of additional obligations relating to tax evasion and fraud. Therefore, banks are obliged to request information about the Ultimate Beneficial Owner (UBO).

Though the requirements for opening bank accounts and monetizing funds are branch-specific, applicants must essentially provide proof of the:

- Source of funds
- Final beneficiary owner.

## Colombia's major banks

There are many different banks in Colombia, and each one offers different benefits and agreements for corporate accounts.

The major banking institutions in the country are:

- Bancolombia
- Banco de Bogotá
- Banco Davivienda
- BBVA Colombia
- Banco de Occidente
- Scotiabank Colpatría
- Itau CorpBanca Colombia
- Banco GNB Sudameris
- Banco Popular.

There are also several branches of foreign banks operating in Colombia. Note that the main trading currency Colombia is the Colombian Peso (COP), but some banks do offer US Dollar compensation accounts.



## Opening a corporate bank account

To open a corporate bank account, you must present the following:

- Certificate from the Chamber of Commerce confirming the registration of your company in Colombia, your tax certificate (NIT)
- The identification number of the legal representative
- The opening balance of the company's account.

Each bank may request additional information.

The Colombian government strives to promote foreign investment and facilitate administrative processes. For this reason, many of these company incorporation processes can be done online. Banks will conduct a background check and evaluate your financial history before accepting your application. Finally, you will need to make a minimum deposit into your account to activate it. The amount varies from bank to bank.

## Nationalizing funds

According to the Colombian National Bank, there are many ways to introduce funds in Colombia. Colombian banks act as intermediaries to nationalize funds before the Central Bank. In this process companies must prove the origin of the money. There are 3 options for funding companies in Colombia:

1. Inter-companies loan agreement
2. Periodic invoicing
3. Capitalizing the new entity.

After choosing the best option for funding the company, it is important to count on bank advice regarding the requirements. When the companies are brand new, the banks are stricter when requesting support documentation. Once this process has been approved by the bank, the monetization of foreign funds can be carried out.



# Corporate compliance requirements

You need to know what specific legal and corporate accounting compliance requirements apply to your business situation, and when any payments and financial statements are due.

## Legal compliance

- Renew Commercial License with the Chamber of Commerce annually, before 30 March each year
- Hold a shareholder meeting annually, before 31 March each year
- Keep company books.

If the company revenue for the previous year exceeded the amount of COP 5,000,000,000, the company will be obliged to appoint a fiscal auditor. Additional to the above, once that threshold is exceeded, the Superintendence of Industry and Commerce (Superintendencia de Industria y Comercio, or SIC), will start requesting the financials of the company on an annual basis.

## Labor obligations

Employers must pay salary, social security contributions, payroll taxes, and severance pay (cesantías) for their employees. They must also pay a Prima, a bonus to employees known as the 'thirteenth salary', every 6 months, at the end of June and December. The Prima bonus amount is one month's salary, divided into the 2 payments. Employees are also entitled to 15 days' vacation (see the **Employment law** section for more information on vacations and leave).

Required social benefits for employees include:

- Health contribution (aporte para salud)
- Pension contribution (aporte para pensión)
- Occupational risk contribution (riesgos laborales, ARL)
- Equalization fund (caja de compensación).

## Accounting compliance

File monthly and annual tax declarations.

Companies must present and pay is the national withholding tax declaration each month.

Every 2 months, companies must pay local withholding tax and VAT if the gross income for the last year is equal or superior to COP 3,152,840,000 (approximately USD 924,521). Otherwise, VAT should be presented every 4 months.

Annual tax declarations that must be presented and paid include income tax, industry and trade tax (ICA). Companies must also process the Chamber of Commerce renewal with the financial statements of the company.

Prepare and file a report known as Reporte de Información Exogéna with the DIAN and again with the Secretary of Finance. The specific month this report is due depends on the company's activities. If the company has conducted business activities outside the department it is based, it must also file this report with those additional municipalities, outlining details specific to its activities in that region.

# Overview of taxation in Colombia

Various taxes apply to company activity, including local tax, and value-added tax (VAT). The DIAN is the national authority in charge of financial regulation and tax collection in Colombia. Its functions include the following:

- Manage taxes and customs in Colombia, including tax collection, tax inspection, tax settlement, tax refunds, and other activities
- Control and monitor the exchange rate regime
- Support international trade operations.

In Colombia, the ruling system for tax collection is electronic invoicing, which the DIAN is implementing in stages. With this project, the Government aims to reduce tax avoidance and formalize the economy by having companies interact directly with an interface owned by the DIAN to report the taxes they pay locally and nationally. To lodge your tax declarations correctly and efficiently, it is best to consult with a local accountant.

## Corporate income tax

When a company has been formed in Colombia or when a foreign company produces profit from activities in Colombia, the company must pay income tax.

According to the most recent Tax Reform Law, the income tax rate for 2019 is set at 33%. From 2020-22, the rate will decrease 1% per year. The income tax rate for companies in Colombia or foreign company branch offices in Colombia, is 32% in 2020.

When calculating the amount of income tax your company must pay, it is highly important to bear in mind the tax deductions that your company may be eligible for. Some of these deductions include (but are not limited to):

- Deductions relative to other types of taxes your company pays
- Deductions of taxes paid in other countries
- Deduction for investments in science and technology research: the value of the deduction will correspond to 25% of the investment
- Deduction for investments in sustainability and for the conservation of the environment: the value of the deduction will correspond to 25% of the investment
- Deduction for donations to non-profit organizations: the value of the deduction will correspond to 25% of the contribution.

## Location tax (ICA)

Individuals and companies that receive profits from the execution of industrial, commercial or service activities in a specific location must pay a local tax. This includes companies involved in the following activities:

- Selling, buying or delivering cargos.
- The provision of a service that is undertaken in Colombia
- Producing, preparing, fixing or manufacturing any material or good

The person that executes these activities must be enrolled in the Taxation Information Register (Registro de Información Tributaria, or RIT), in order to pay the corresponding tax.

## Value-added tax (VAT)

Colombia's value-added tax (Impuesto al Valor Agregado, or IVA) is a consumption tax fixed on a product/service whenever the value is added to the product/service at each stage of the supply chain. The current IVA rate is 19%.

This tax levies the following activities:

- Sale of movable or immovable assets
- Sale or assignment of rights upon intangible assets
- Provision of services in Colombia
- Importation of assets.

The IVA is based on a credit-debit system throughout the entire chain of operations. According to the Public Financing Law, companies that are involved in certain commercial activities are not obliged to pay this tax. Some examples of these include:

- Public transportation services
- Website supply, hosting and cloud computing services
- Services provided in order to improve farming and agriculture production
- Buying and selling of currencies.

## Withholding taxes (WHT)

Colombian law requires corporate entities to collect or withhold taxes from payments made to overseas third parties. This is an advance of the income tax.

Additionally, for payments abroad the general withholding tax (WHT) rate is 20% for payments giving rise to Colombian-sourced income.

A foreign non-resident owing payment to a Colombian company must file a CIT return in Colombia.

Foreign non-residents are taxed on income sourced from Colombia. Payments to foreign non-residents for royalties and taxable interest is 20%. The WHT rate for administrative expenses is 33%.

For consulting and technical assistance and services, the WHT rate is 20%. This rate also applies to payments for software licenses.

Certain rates apply to payments made within Colombia. These rates vary based on the nature of the service provided.



## 4/1000 or 'deposit tax'

The 4/1000 tax is a deposit tax. It outlines that for every COP 1,000 withdrawn from a financial institution, 4 pesos are contributed to this tax. The tax is collected through financial institutions but its final recipient is the National Government. This amount is 50% deductible from the income tax.

## Dividends

If dividends are to be paid out of untaxed income, the WHT rate in 2020 is 38.8%.

## Double Taxation Agreement Overview

Colombia has established double taxation treaties with 14 countries. These are agreements between sovereign contracting states that distribute tax power among them to prevent their residents from being subject to double taxation. They also aim to prevent tax evasion and avoidance.

Recipient	Dividends (WHT %)	Interest (WHT %)	Royalties (WHT %)
Canada	5/15	10	10
Chile	0/7	5/15	10
Czech Republic	5/15	10	10
France*	5/15	10	10
India	5	10	10
Mexico	0	5/10	10
Portugal	10	10	10
South Korea	5/10	10	10
Spain	0/5	10	10
Switzerland	0/15	10	10
United Arab Emirates*	5/15	10	10
United Kingdom (UK)	5/15	10	10
Japan*	5/10/15	10	2/10
Italy*	5/15	5/10	10

\*Not yet in force.

On dividends, varying treaty rates will apply based on the involvement of the shareholder in the Colombian-based company. Interest rates will also vary depending on whether the lender is a financial entity or not.

For royalties, a 10% WHT rate will apply if services are locally taxed.

**Note:** Specific conditions apply to each treaty, including certain circumstances for royalties' payments with France, the UK and Switzerland. The France and United Arab Emirates treaties are not yet in force, but are expected to be in force in 2021.



## Transfer pricing regulations

Transfer pricing is an accounting and taxation practice that allows for pricing transactions internally within businesses and between subsidiaries that operate under common control or ownership. The transfer pricing practice extends to cross-border transactions as well as domestic ones.

A transfer price is used to determine the cost to charge another division, subsidiary, or holding company for services rendered under the 'Arm's Length Principle'. Typically, transfer prices are based on the going market price for that good or service. Transfer pricing can also be applied to intellectual property such as research, patents, and royalties.

In Colombia's Tax Code, transfer pricing is outlined in Articles 260-1 through to 260-11. It is regulated by Regulatory Decree 2120 of 2017.

The Colombian Tax Code follows OECD guidelines, as it is currently in the process of becoming an OECD member. Colombia outlines 6 transfer pricing methods:

- Comparable uncontrolled price
- Resale price
- Cost plus
- Profit split
- Residual profit split
- Transactional net margin.

# Trademark your brand

Registering a trademark is one of the most important ways to protect your brand. Your brand is the image that distinguishes your products and services from any other. You must direct your market on how you wish to be perceived, by using specific words, images, form, and sounds.

Owning trademark rights provides legal protection over the commercialization of your brand and protects a company's credibility. Those with a registered trademark in Colombia have exclusive rights to the registered sign(s) and can take legal action against any third party attempting to appropriate it for commercial use.

In Colombia, the specific benefits of protecting your creative works through a trademark include:

- Exclusive rights to the trademarked design for up to 20 years
- Protection against brand appropriation by third parties
- Maintaining company credibility and uniqueness
- Effective brand development and awareness.

## Relevant for companies of all sizes

Trademarks for brands and designs are not necessarily only worthwhile for larger companies. Almost every small- or medium-sized enterprise (SME) has a commercial brand that should be considered for trademark protection.

SMEs also have valuable assets, including client lists, commercial strategies, original graphic designs and creations. Furthermore some SMEs may have contributed to inventions or to the improvements in service.

## Preparation and guidance before registering a trademark

Beginning commercial activity, including registering your business and its required trademarks requires a comprehensive understanding of local law. To navigate this process and ensure you register your trademark successfully, seek assistance from local experts who can guide you through the process and ensure your brand is properly protected.

During the trademark registration process, you must be prepared to respond to any declarations of oppositions from third parties. These may be people or businesses with similar pending or registered trademarks. Colombia's Superintendence of Industry and Commerce will make the final decision on the validity of any and all objections to your application. Ensure you can demonstrate the key differences in your idea, invention or procedure to other similar competitors if any.

## Register your trademark in Colombia:

In Colombia, you can undertake your trademark registration procedure in person at the offices of the SIC, or digitally through the SIC website.

Ensure you have the required documentation and comprehensive outline of your business and follow due process when registering your trademark.

### 1. Conduct a trademark search

As mentioned above, your application will be opened for scrutiny by other businesses. Research and understand potential similarities with currently registered trademarks. Identify and present the salient differences between your business and others, and you'll have a greater likelihood of success in your application.

The percentage of success is evaluated on the SIC platform, or through a request to the agency itself.

### 2. Identify the characteristics of the design(s)

You must be clear about the design(s) that you want to register a trademark for. The trademark needs to be distinctive, and therefore it is necessary to include the design, name, logo, specific colors and other elements that make a trademark unique and identifiable.

#### **Nice International Classification**

The Nice International Classification is a classification system of products and services, adopted by most countries worldwide, which allows users to specify the activity and therefore the coverage of the trademark.

There are 45 kinds of products and services under this classification. Classes 1-34 are assigned to goods, and services fall under classes 35-45.

When paying for your trademark registration in Colombia, the total fee depends on the amount of class categories you are applying for (as opposed to the class type of the trademark).



### 3. Submit supporting documents

The presentation of all documents and forms can be done physically or by virtual means through the Virtual Office of Industrial Property managed by the Superintendence of Industry and Commerce.

Documents to submit include:

- Identification of the owner of the trademark: this can be demonstrated with a certificate from the Chamber of Commerce
- Power of Attorney (POA): if you have chosen to seek legal guidance through this process, you must show identification and authentication of your legal representative. Authentication can be achieved through a Colombian notary. If the POA is a foreigner, this must be apostilled
- A completed form containing the designs, letters or sounds you wish to trademark, plus the classification(s) of your application according to the Nice International Classification system.

### Tracking your trademark application

The trademark application process must be monitored periodically, either through the applicant's account created on the SIC website, or personally at the office's locations. Take care in understanding the legal deadlines of the trademark application procedure, so you understand your obligations to respond in time and through proper procedure.

### Managing your trademark

Once you have obtained your trademark, you need to regularly manage your exclusive rights to your intellectual property. Once registered, it is important to monitor other trademark applications made by third parties that may include elements similar to your own. This includes phonetic monitoring and reviews of national intellectual property bulletins, with the objective of identifying possible similarities and presenting necessary oppositions to protect your brand.

You may also require legal support for oppositions that require court proceedings for the improper use of your trademark.

### A note on patents

Colombia, as a member of the Pacific Alliance, benefits from the Patent Prosecution Highways (PPH) agreement, which makes patents from member countries eligible for expedited review in the Pacific Alliance.

Patenting an invention or idea gives a company the following protections:

- Exclusive rights to that invention or idea for 20 years
- Higher returns on investments from commercialization of the invention
- Opportunity to license or sell the invention
- Increased negotiating power.

To protect your patent, it is important to determine the product precisely. Specifications for your product classification could be required to include shape, nominative values, unnamed tags for graphics, and more.

# Conducting entity health checks

An entity health check (also known as corporate health check) in Colombia is an audit conducted by independent contractors who are employed to inspect accounting and legal compliance. These audits help a business to understand its overall compliance picture with relevant government authorities.

The independent contractor's objective is to assess the regulatory 'health' of the company and identify any gaps or discrepancies that could disrupt business or give government agencies cause to impose fines or penalties.

The entity health check predominantly focuses on a company's **legal and fiscal health**.

Fiscal-orientated corporate health checks run a fine-tooth comb through finances, social security payments and other taxes. Those with a legal focus explore 3 key areas of legal compliance: registry filings, minutes of meetings and statutory registers. These areas generally give a good idea of a company's ability (or failure) to comply with local corporate regulations.

## Why is it important to get an entity health check in Colombia?

Entity health checks are a valuable risk mitigation tool. Business owners and investors considering company incorporation can protect themselves and their commercial operations by having their legal and accounting records reviewed regularly. Auditors can tell you what, if anything, your business is missing in order to become fully compliant with local law.

If you're operating a branch office in Colombia, and the country's corporate regulations are unfamiliar to you or your team, these checks are vital. You may not necessarily be aware of Colombia's legislative fine print and the general and specific requirements your business must comply with to stay above board.



# Visas and residency

In Colombia, there are 3 different types of visas that allow you to stay in the country. These are:

1. Type V: visa for New Visitors
2. Type M: visa for Migrants
3. Type R: visa for Residents.

## Visa for temporary stays

Tourists can obtain an entry visa of 90 days, which can be extended by 90 days online or at any Migración Colombian office in the country. However, this can only be extended once within the year. This means a person entering the country on a tourist visa can be granted a total stay in Colombia of up to 180 days.

## Visitor visa requirements

The Visitor (V) Colombian Visa can be granted to individuals in the following situations:

- Visitors to Colombia for leisure, tourism or culture interest purposes
- Individuals conducting business negotiations, market studies, plans or procedures of direct investment and constitution of commercial society, negotiation, the conclusion of contracts or commercial representation
- Individuals who participate in an academic exchange program
- Individuals who attend medical consultations, or accompany the person who attends the consultation
- To carry out administrative and/or judicial proceedings before entities or authorities in Colombia
- To participate in an event as a lecturer, exhibitor, artist, athlete, jury, contestant or logistical staff
- For those who volunteer in development cooperation projects or in the promotion and protection of human rights
- For individuals who perform temporary services
- People who hold a position in a Colombian branch of a company
- Individuals who come to Colombia as a foreign government official.

## Visas for permanent residency

For those expecting to stay longer in Colombia, there are 2 main options for permanent residency.

## Migrant visa requirements

There are different conditions and requirements for the Migrant (M) visa, which include but are not limited to:

- Being a spouse or partner of a Colombian resident
- Being a national of one of the States party to the "Agreement on Residence for nationals of Mercosur, Bolivia and Chile"
- Being recognized as a refugee in Colombia according to the current regulations
- Having permanent employment in Colombia
- Having a qualification to practice a profession independently
- Coming to Colombia as a missionary
- Being admitted or enrolled in primary, secondary or a higher education program at an undergraduate educational institution in Colombia
- Registering a foreign direct investment in Colombia
- Receiving a retirement pension or receiving a periodic income from a credible legal source.

## Resident visa requirement

For the Resident (R) Colombian Visa there are 5 categories for eligibility:

- Returning Colombian
- The parent of a Colombian national by birth
- Has held an M visa category
- Investment of at least 650 times the minimum monthly wage in Colombia.

## Obtaining a permanent residency visa through investment

There are 2 common paths to obtain a Colombian visa through investment.

- Incorporate and invest in a local company
- Invest in Colombian real estate.

### 1. Incorporate a local company

Through incorporating a local company, you can obtain an Employment Visa or a Business Owner Visa.

Obtain an Employment Visa by hiring yourself as an employee using the newly incorporated company. The processing time of this application is between 4-6 weeks once all required documentation has been submitted.

For this process, applicants must provide:

- An employment contract from the Colombian employer
- Proof of a minimum monthly balance in the company's bank account of COP 80,000,000.



The duration of the Employment Visa can be up to 3 years, depending on the discretion of the national immigration authority.

Through the newly incorporated company, you could alternatively sponsor your own **Business Owner Visa**.

The processing time of this application is also between 4-6 weeks. The requirements of these methods are a minimum investment value of between 100-650 minimum Colombian salaries.

The duration of this visa can be up to 3 or 5 years, depending on the size of the investment and the discretion of the national immigration authority.

## 2. Invest in Colombian real estate

You can purchase Colombian property, register the investment and sponsor your own investor visa. The application time of this process is between 4-6 weeks once all required documentation has been submitted.

The requirement is an investment value of between 350-650 minimum Colombian salaries.

The duration of this visa can be up to 3 or 5 years, depending on the size of the investment and the discretion of the national immigration authority.

## Required documents for permanent residency visas

To obtain your chosen visa, you will need to begin the application process online with Migración Colombia. As a foreign national, you must provide formally translated and apostilled documents, and a copy of your passport. You must also provide proof of your investment through a certificate from the Central Bank.

Once this process is complete, you'll be directed to visit a local Migración office and obtain your cédula de extranjería

### Can I leave the country on my permanent visa?

Yes. However, if you leave the country on a Resident Visa for more than 2 years consecutively, your visa will expire.

You should also be aware that in order to be eligible for citizenship in Colombia, you must not have left the country on your residency visa for more than one year.



## Citizenship

Obtaining Colombian citizenship is at the discretion of the Government of Colombia. Nevertheless, a person can apply for citizenship after holding a resident visa for a period of time:

Foreign nationals	Wait time for citizenship visa
Latin America and Caribbean	1 year
Spain	2 years
Rest of the world	5 years*

\*If the person is married, has marital union (Unión marital de hecho), or has a Colombian child, this period is reduced to 2 years.

After meeting these requirements, the individual needs to file the application online with the Cancillería, with supporting documentation. The Cancillería will request the Migratory and Tax authorities to provide information about the applicant. The application process involves visiting the applicant's home, and a mandatory test. The government will then make a final decision on the citizenship application.

# Employment law

To employ staff in Colombia, employers must be a formally registered legal entity. Alternatively, they can hire staff in Colombia through a Professional Employer Organization (PEO). For more information on this alternative method of hiring, see the Hire staff through a Professional Employer Organization section.

Employment in Colombia is regulated by the Labor Code (Código Sustantivo del Trabajo). Labor regulations in Colombia comply with the guidelines set out by the International Labor Organization (ILO).

There are specific requirements employers must be aware of and comply with when hiring staff in Colombia. This includes:

- Producing employment contracts
- Working hours
- Minimum wage requirements
- Vacations for employees
- Social security, healthcare, and other contributions
- Employee rights to maternity and paternity leave
- Hiring foreign employees.

**Note:** Colombian employment law doesn't apply if the services are being delivered outside of the country, even if they are rendered by a Colombian national.

## Employment contracts

There are three types of employment contracts in Colombia:

**1. Fixed-term:** This type of contract can last up to 3 years and can be extended indefinitely. If the employer does not wish to renew the contract, they must give one month's notice of this decision, otherwise the contract will be extended automatically. When the length of this contract is less than one year and the contract has been renewed for the third time, the contract cannot be renewed again for less than one year. The trial period for this kind of contract cannot be more than 20% of the total length of the contract.

**2. Indefinite contract:** There is no defined length of the contract. All employment contracts, whether written or verbal, will be of this nature unless otherwise agreed.

**3. Specific project:** This is a formally agreed written contract setting out the specific task or project, and the corresponding length of employment. In the absence of such an agreement, the employment relationship would automatically be one of undefined length.

**Service Contract:** Through a service contract, there is no labor relationship between signing parties. It is purely contractual. The provider receives fees instead of a salary, and will have to pay their own social contributions and provide proof of payment every month. Nevertheless, the provider does not have to meet a work schedule, as the services are provided independently. The contractor is not entitled to severance, Prima, or paid vacations as these benefits are only available in employment contracts.

## Translating employment contracts

Tip: You may need to produce contracts in English so your English-speaking staff can understand them. However, make sure your contract is also formally produced and signed in Spanish to ensure practical enforcement in Colombia.

## Probation period

Employers can set a trial period for employees of a maximum of 2 months, in which time they can choose to terminate the contract without having to provide compensation. Employees also have the right to end this contract within the probation period.

## Working hours

The standard working week in Colombia is 48 hours, which may be distributed over 6 days by prior agreement. The employee and employer can agree for extra hours to be worked, but overtime must be paid to regular workers. The overtime rate in Colombia depends on whether the overtime is performed during the outlined day or night shift:

- Day schedule: 6:00am to 9:00pm
- Night schedule: 9:00pm to 6:00am.

If overtime is performed during the day, overtime rate is an additional 35% on top of the hourly rate. For overtime during the night, the rate is 75% on top of the hourly rate.

Senior managers and key decision-makers in the company do not have to be paid overtime.

## Calculating employee salary

Colombian employment law describes 2 types of salary. These are:

1. Ordinary Salary: Where salary and contributions are paid separately
2. Integral Salary: Benefits are included in the monthly salary of an employee.

The employee and employer must agree on the type of salary to be paid.



## Minimum wage

The minimum wage for every year is decided at the end of the previous year, and is usually adjusted in accordance with the annual inflation rate. The minimum monthly fixed wage for 2020 is COP 877,803 plus transport aid COP 102.854.

## Vacations, leave and other absences

Employees are entitled to several types of leave and absences.

### Vacations

There is a fixed term of 15 days' statutory paid vacation per year for employees with payment. After one year in the company, employees must take at least 6 days' paid vacation.

In addition to this, there are 18 statutory holidays in Colombia. The dates can differ slightly, as these holidays are typically arranged to fall on a Monday:

Month	Statutory holiday
January	New Year's Day
	Epiphany Holiday
March	St Joseph's Day
April	Maundy Thursday
	Good Friday
May	Labour Day
	Ascension Day Holiday
June	Corpus Christi Holiday
	Sacred Heart Day
	Feast of St Peter and St Paul
July	Independence Day
August	Battle of Boyacá Day
	Assumption Day Holiday
October	Columbus Day Holiday
November	All Saints' Day Holiday
	Independence of Cartagena Holiday
December	Immaculate Conception
	Christmas Day

## Maternity and paternity leave

The statutory minimum maternity leave in Colombia is 16 weeks, which may commence 2 weeks before birth. Fathers may take up to 8 paid days for paternity leave if they have contributed more than 100 weeks of payments to the social security system.

## Sick leave

The sick leave of common origin is one that originates from a non-occupational disease, or in a non-occupational accident. This means the incident or illness did not occur within the work environment, such as a flu or a fall during the weekend.

## Bereavement leave

Ley 1280 de 2009 implemented paid bereavement leave, an obligation that an employer must grant leave to an employee in the event of the death of a relative. Employees are entitled to 5 days bereavement leave.

## Social security contributions

The Institute of Social Insurance (Instituto de Seguros Sociales) oversees Colombia's social security payments, which employers must pay into a common fund. The pension system is run by private pension companies.

Employees contribute 25% of the payments, and employers contribute the remaining 75%. To ensure the correct social security and pension payments to employees, many companies choose to outsource their financial services.

## Healthcare

Employers must pay 12.5% of employee's salaries to the correspondent healthcare security fund. These funds in Colombia are mainly private organizations. 8.5% is covered by the employer and 4% by the employee.

## Hiring foreign employees

Companies registered in Colombia may employ foreign workers if they have more than 10 employees. Note that foreigners may only make up 10% of the general staff levels, and 20% of specialist/managerial positions. It is possible to apply for special authorization to the Colombian authorities to exceed this level.

Foreign nationals have the same rights and obligations as Colombian nationals while working in the country.

However, when a foreign national enters into an employment contract in Colombia, both the employer and foreign national must meet additional requirements imposed by the Ministry of Foreign Affairs (Ministerio de Relaciones Exteriores) concerning:

- Entry of the foreign national into Colombia
- Supervision of the foreign national's stay in Colombia
- Departure from Colombia.

If a foreign company hires an employee in Colombia and the contract is carried out in the country, the contract must follow the same rules as those that apply to Colombian-based companies. Essentially, if the work takes place in Colombia, Colombian rules apply, regardless of the employer's origin and where the contract was executed.

## Foreign employee obligations

Foreign workers must enter a formal written contract with an employer and after one month's service in Colombia, foreign employees are obligated to make contributions to the pension scheme.

To be able to work in Colombia, foreigners must obtain a suitable visa, depending on the type of work they undertake. Companies may sponsor this visa.

## Ending an employment relationship

An employment contract can end by resignation of the employee or by the employer's choice to terminate it. A contract is terminated either with or without cause.

If the contract is terminated by resignation or with cause, the employee is not entitled to compensation. If the employer terminates the contract without any justification supported by the law, the employee is entitled to a special compensation.

The compensation is one month of salary for the first year, if the employee has been working for more than a year. For every additional year of work completed, it is necessary to pay 20 days' worth of salary.

The compensation for fixed-term contracts is the equivalent of the salaries that the employee would have received until the expiration of the contract.



# Hire staff through a professional employer organisation

A Professional Employer Organization (PEO) hires staff on behalf of other companies, acting as the employee's Employer of Record. This is an especially useful method of entering the Colombian market if a company doesn't yet want to make the larger investment of formally incorporating a company in the country.

A PEO can hire and support staff to work for your company in Colombia through a co-employment model. They offer a number of services for foreign companies, including:

- Payroll services
- Recruitment and hiring support
- Complying with all employment regulations in Colombia
- Making the appropriate social security and other contributions on behalf of the foreign company.

PEOs are mainly used by small and medium-sized companies, but larger companies may engage a PEO to establish sales operations on the ground in Colombia before establishing formal operations. A PEO solution removes the burden of employment compliance in Colombia from the foreign company, allowing its executives to focus on its business development.

PEOs pool the recruitment needs of multiple partner organizations to experience economies of scale, meaning these organizations are typically on the larger side. This offers an added benefit for staff the PEO takes responsibility for: employees working under a PEO may get additional access to training, health and other insurances, and support from well-established company policies, such as health and safety.

**Tip:** While it's legally possible to engage with a PEO in Colombia, every company's need is unique and must be assessed. The decision to tax companies who have hired staff through a PEO is up to the discretion of Colombia's government agencies, who on a case-by-case basis may choose to tax your employment activities.

## Benefits of partnering with a PEO in Colombia

Key benefits of partnering with PEO in Colombia include, but are not limited to:

**Save costs on employee benefits:** PEOs pool their co-employed staff to experience economies of scale, meaning that the PEO can provide access to health coverage and rates similar to those of large corporations.



**Mitigate risk:** PEOs are professionals and experts in employment-related compliance. They can manage all mandatory, non-revenue generating paperwork for your employees, saving you the trouble doing it yourself and protecting your company from the risk of non-compliance.

**Focus on growing your company:** Since the PEO will save you from the worry of all the administrative and other paperwork, you will have more time to focus on managing your staff and developing your presence in Colombia.

**Avoiding formal incorporation:** A PEO solution will reduce the costs involved in forming and maintaining a local legal entity. This, in turn, makes exiting the market easier if operations don't go to plan.

**Limited Responsibility:** The PEO assumes legal responsibility for your employees.

Though many foreign executives may choose to establish and incorporate a company in Colombia, a PEO offers the option of doing business before making the larger investment to formally incorporate. Professional Employer Organizations will hire and support your staff, and remove the burden of employment compliance. Company decision makers can then assess the viability of a full-scale expansion at a later date.



# Exiting the market (liquidation)

When business doesn't go to plan, you may consider exiting the market through liquidation. When insolvent, companies can undertake business reorganization to restructure their operations and administration. Otherwise, to formally close down operations, a company can begin liquidation proceedings. Liquidation can be voluntary or court-ordered.

Colombia's Superintendence of Industry and Commerce manages the liquidation process. The country's debt priority regulations allow creditors to request proportional distribution of a debtor's assets in accordance with the law's priority payment structure.

## Grounds for dissolution

Grounds for dissolution occurs when a company has made a loss for 2 consecutive years. Though the Chamber of Commerce will continue to renew the company's commercial license, the government may not recognise it as commercially viable.

The company may also experience difficulties contracting with third parties in this state.

To avoid liquidation, business owners must inject further capital into the company. They may choose to sell assets to do so.

After running at a loss for 5 consecutive years, the Superintendence of Industry and Commerce will declare the company insolvent and proceed with liquidation.

## Liquidation proceedings

Liquidation or insolvency proceedings can begin when a company fails to make 2 or more obligatory payments to 2 or more creditors over a period of 90 days; or, when debtors can prove their imminent non-compliance with financial obligations.

Shareholders may also agree in an extraordinary shareholder meeting to cease operations and dissolve the company.

## 1. File dissolution with the Chamber of Commerce

You must first file a dissolution resolution with your local Chamber of Commerce, and register it in the Registro Mercantil. The company must then add 'En Liquidación' (in liquidation) to its name. This is to make third parties aware that the company will not be performing new commercial activities.

## 2. Appoint a liquidator

Depending on the circumstances, the company shareholders can appoint a liquidator, or one can be officially appointed for them by the Court. The liquidator's role is to take a formal inventory of the company's assets and then selling them to pay company debts. Any surplus generated from asset sales may be distributed to the company partners.

The liquidator possesses the authority to:

- Carry out business activities to the extent necessary for the company's liquidation
- Pay creditors, or make alternative arrangements with them
- Sell company property.

## 3. File final liquidation statement

Once company assets have been sold and all debt repaid, the liquidator must file a final liquidation statement for the company with the Chamber of Commerce.

## 4. Cancel tax identification number

Finally, the company must cancel its tax identification number (RUT) before the DIAN. It must also cancel its foreign investment status with the Central Bank (Banco Central de la República).





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