

Colombia: 2012 Tax Reform for Economic Growth and Tax Competitiveness

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Introduction

Colombia has recently approved a comprehensive tax reform (Law 1607 of 26 December 2012) that will substantially change the international tax rules for individuals and for companies carrying out business in Colombia. This Law 1607 has entered into force as of 1 January 2013, and it consists of 198 articles that will amend or introduce new provisions to the Colombian Tax Code.¹

At domestic level, this tax reform aims to increase the competitiveness of the companies, to tackle the informal (non-taxpaying) economic activities, and to reduce tax rates to encourage tax compliance. In respect of

income tax, in addition to the already existing wealth tax², this tax reform introduces an additional Income Tax (*CREE*) for companies and set up two alternative minimum tax systems for individuals i.e. self-employed and employees (*IMAS/IMAN*). Furthermore, the tax reform amends the current VAT rates³, and introduces a new chapter in the Tax Code dealing with Mergers and Acquisitions.⁴ Another important feature of Law 1607 is that it will repeal the use of Stability Contracts. The only Stability contracts that will be still valid are the Contracts that have been already negotiated and the Contracts that are in the process of being approved before the Law entered into force (i.e. 1 January 2013).⁵

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¹ In Colombia all types of taxes are gathered in a single Tax Code (*Estatuto Tributario*) enacted by the Decree 624 of 1989.

² This wealth tax have been introduced since 2007, and by this means legal and natural persons subject to income tax and having as of 1 January 2007 assets with a value greater or equal to COP 3bn are subject to an additional tax being wealth tax. The percentage until 2010 has been 1.2%. As of 2011, the percentage is 2,4% for assets between COP 3bn-5bn and 4,8% for assets exceeding 5 bn. This wealth tax has been remain unchanged with Law 1607.

³ The main objective to amend VAT rates was to reduce the rates from 7 to 3 rates being 0%, 5% and 16%. For the sake of completeness, this overview of the tax reform focuses on the direct income tax issues that are important for individuals and companies carrying out business in Colombia. This overview does not deal with indirect income tax (i.e. VAT).

⁴ Article 98 to 101 of Title IV Book I added to the Tax Code.

⁵ The Law of Stability (Law 963) provides Legal Stability Contracts to foreign investors with investments exceeding \$ 2.01 million approximately (7500 Minimum Monthly Legal Wages).

From an international perspective, this tax reform aims to update the Colombia tax rules according to the Double Tax Conventions (“DTCs”) concluded by Colombia up till now⁶ which are mainly based on the DTC Model of the Organization for Economic Cooperation and Development (“OECD”).⁷ This tax reform has amended the Transfer Pricing Rules. It has also introduced income tax on Foreign Capital Investment Portfolio Income, Thin Capitalization rules and provisions to tackle the use of Tax Havens amongst others.

This overview will address the main provisions of Colombia that will have an influence for companies and individuals carrying out business in Colombia: Residence, Permanent Establishment, Income Tax Rate and Tax Base, Capital Gains Tax, General and Specific (i.e. Transfer Pricing and Thin Ca-

pitalization) anti-abuse rules, and Exchange of information. This reform substantially amends the Transfer Pricing rules. However, in order to keep this reform comprehensive only some of the main changes dealing with Transfer Pricing will be addressed.

Finally, it is submitted that one important feature in Colombia is that after approval by the Legislative; Law 1607 will need to be approved by the Constitutional Court⁸. The Constitutional Court will carry out the review against compatibility with the Constitution (i.e. constitutional review) of this Law.⁹ Due to the constitutional review, it is submitted that after the entry into force of the Law (i.e. 1 January 2013), the investors will also be depending on the review of constitutionality that may take 1-2 years.¹⁰ The following table provide the main changes introduced by Law 1607 in a nutshell.

By means of these contracts, foreign direct investment in specific sectors can obtain contractual protection on its investments from 3 years up to a maximum of 20 years. Investors should pay 1% premium based on the amount of investment (reduced to 0.5 per cent in unproductive periods).

⁶ Colombia (at the time of writing January 2013) has the following DTCs in force and approved by the Constitutional Court: Spain, Chile, Switzerland, and Canada.

⁷ The DTCs concluded by Colombia, the DTC Model and not the UN Model has been used by Colombian tax treaty negotiators. See I. J. Mosquera International Tax Treaty Policy in Colombia. Bulletin International Bureau of Fiscal Documentation. Forthcoming Spring 2013.

⁸ The Constitutional Court was created in the Constitution of 1991. The exercise of the constitutional review is not an exclusive power of the Constitutional Court. The Council of State may also perform the task of constitutional review with regard to administrative Decrees which review have not been assigned to the Constitutional Court.

⁹ The constitutional review will address not only the contents of the Law (substantial) but also the procedure of the Legislative when adopting such Law (formal). The constitutional review will address not only the contents of the Law (substantial) but also the procedure of the Legislative when adopting such Law (formal).

¹⁰ For instance, the tax reform approved at the end of 2010 by the Legislative and that entered into force as of 1 January 2011 was approved by the Constitutional Court on February 2012, that is, 14 months later after entering into force. Judgment C-076 of 15th February 2012.

LAW 1607 IN A NUTSHELL

Residence

- Individuals (citizens or not) resident if staying in Colombia for more than 183 days within a 365 days period.
- Individuals (citizens) may be also regarded as residents if close ties in Colombia or they have not proven their residence in another country.
- Companies resident if domicile, incorporation or place of effective management in Colombia. Place of effective management to a great extent in accordance to the OECD Standards.
- Definition of permanent establishment to a great extent in accordance to the OECD Standards.

Income Tax

- Individual tax rate for non-resident individuals has been reduced from 35% to 33%. In addition, two alternative minimum tax systems for employees and self-employed have been created (*IMAN and IMAS*).
- The tax rate for companies including income attributed to a permanent establishment or branch of the corporation has been reduced from 33% to 25%. However, due to the creation of the income tax for equity purposes (*CREE*); the effective tax rate will be 34% for 2013, 2014 and 2015 and 33% for the years 2015 onwards.
- Income obtained by foreign companies that cannot be attributed to a permanent establishment or branch in Colombia will be subject to 33% tax rate.
- The tax rate for special regime entities (20% reduced rate) and companies being users of free trade zones (15% tax rate) have been left unchanged.

Capital Gain Tax

- A single tax rate of 10% for capital gains obtained from the sale of assets held by the taxpayer for a period longer than 2 years has been introduced. Prior to Law 1607, the tax rate was 35% for companies and progressive income tax rates for individuals.

Foreign Capital Investment Portfolio Income (*Inversiones de Capital del Exterior de Portafolio*)

- By means of art. 125 of the Law 1607, the profit obtained in Foreign Capital Investment Portfolio will be subject to Colombian income tax. In general terms, the income tax rate will be 14%. However, if the investor is resident in a tax haven, the tax rate will be 25%. The tax due will be withheld monthly by the administrator (or similar entity) of these type of investments.

Anti-abuse rules

a) General anti-abuse rules

- Introduction of two general rules: abuse in general and *fraus legis*. Presumption of abuse if specific criteria are being met including the use of a tax haven. The burden of proof is for the taxpayer. Tax administration may re-characterize the transaction.

b) Specific anti-abuse rules

- Introduction of thin capitalisation rules including a debt-equity ratio of 3:1.
- Transfer pricing rules for related parties and document required have been amended. To encourage use of Advanced Pricing Agreements (APAs), the validity of the APA will be extended.

Exchange of information

- New rules for exchange of information that give more competences to the Colombian tax administration. Tax administration may request information from the taxpayer and this information should be provided free of charge and within one month from the date the request was made. Furthermore, tax administration may exchange information with other countries that have concluded a DTC with a exchange of information provision with Colombia.

Tax Havens

- New competences for the government to determine the tax havens based on criteria such as lack of effective exchange of information, low or not tax jurisdiction, etc. No reference has been made to the list of tax havens by the OECD.

Other changes

- Repeal of stability contracts as of 1 January 2013. Only contracts already concluded or negotiated (in the process of approval) will be still valid.
- VAT rates reduced from 7 to 3 rates being 0%, 5% and 16%.
- A new chapter in the Tax Code dealing with Mergers and Acquisitions.

Colombia main tax changes for individuals and companies

Colombia is nowadays regarded as an upcoming emerging market for international investors. In the recent (2012) World Bank ranking on Doing Business, Colombia has been ranked as the third friendliest country to investment in Latin America after Chile and Peru and before countries like Mexico and Panama. Colombia is ranked number 42 in the World Bank ranking (in 2011 ranking 47) and in terms of the strength of investor protection Colombia is currently ranked as number 5, the highest ranking for Latin American countries.

Colombia is currently in the process of seeking membership of the OECD¹¹ and at the same time to reinforce its position as upcoming market for investment. For this purpose, in Law 1607, Colombia has introduced changes that will contribute to modernize the tax rules that dealt with cross-border situations and to update these rules in accordance to international (mainly OECD) Standards. The following paragraphs will deal with the main changes introduced by means of the Law 1607.

Residence

In general terms, in the Tax Code, residents are taxed on their worldwide income whereas non-residents are taxed on the income sourced in Colombia. However, the criteria to determine residence for individuals and companies have been substantially changed in Law 1607. As a consequence, the residence has to a great extent been updated in accordance to OECD standards.

Individuals

Prior to the Law 1607, Colombian individuals were resident for tax purposes if they have been in Colombia for a period that exceeds 6 months in the respective tax year. Moreover, Colombian nationals were resident if there was a closed connection (i.e. family ties) or place of business in Colombia (art. 10 Tax Code). Foreign nationals (i.e. non-Colombian citizens) were treated as residents for tax purposes if they had been residents of Colombia for a period (consecutive or not) of at least 5 years (art. 9(2) Tax Code).

Art. 2 of Law 1607 states that individuals are resident for tax purposes in Colombia if they have been in Colombia for a period longer than 183 days in a 365 days period. The 5 years period for foreign nationals to be taxed on their income obtained in Colombia has been repealed, and thus, foreign nationals are subject to the same 183 days requirement stated above.

Furthermore, Law 1607 extended the criteria to determine the situations on which these nationals can be treated as resident for tax purposes in Colombia. Accordingly, Colombian nationals are residents if one of the following conditions are being met: (i) wife or children are residents for tax purposes in Colombia; (ii) 50% of their income (including assets/wealth) are sourced in Colombia; (iii) individuals are residents in a tax haven; or (iv) upon request by the Colombian Tax Administration, no proof of their residence in other country was provided by the taxpayer to the Tax Administration. Members of the diplomatic service are also treated for tax purposes as Colombian residents.

¹¹ Law 1479 of 2011 dated 28 September 2011 approved by the Constitutional Court by means of Judgment C 417/12 of 6 June 2012,

These changes aim mainly to tackle the tax evasion and to update the criterion of residence in accordance to OECD standards. Tax evasion took place for instance by non-Colombian citizens that will be leaving the country before the 5 years requirement was met and by Colombian nationals leaving abroad for work but with close ties to Colombia.

Companies

Prior to Law 1607, Colombia applied the criteria of domicile or incorporation to determine residence of companies in Colombia for tax purposes (art. 12-1 and art. 21 Tax Code).

Art. 84 of the Law 1607 added the criterion of place of effective management to the criteria to determine residence for Colombian tax purposes. The place of effective management is further defined in para. 1 of Art 84. These criteria follow to a great extent the criteria in the OECD Commentary to art. 4(3) OECD Model. Such criteria are the place (i) where the key management and commercial decisions are being made, (ii) where the meetings of its board of directors or equivalent body are usually held, and (iii) where the senior day-to-day management of the company is being carried on.

Furthermore, Art. 84 (para. 2) introduced additional criteria to clarify the residence of companies in Colombia. This paragraph states that a corporation is not a resident in Colombian tax purposes only on the basis that the management board meets in Colombia or on the basis that among their shareholders (or similar) are individuals or companies resident for tax purposes in Colombia.

In addition, art. 88 of Law 1607 amended art. 21 of the Tax Code that provides the definition of foreign companies. Accordingly, in Colombia foreign companies are companies or any other entities that are not regarded as resident for Colombian tax purposes.

What this all means is that in order to determine the residence of companies, the domicile, incorporation or place of effective management will be taken into account. By means of introducing the place of effective management, Colombia has updated the criteria of residence according to the DTCs concluded up till now that follow the OECD Model including art. 4(3). Colombia has also introduced more additional criteria not available in the OECD to clarify the residence of companies. The main aim of the government is that in cases of dual residence, Colombia can also claim the residence of the corporation for tax purposes based on the criteria of place of effective management.

Permanent establishment

Prior to Law 1607, Colombia did not have a concept of permanent establishment. The Colombian Tax Code only made only reference to branches (*sucursales*) of foreign companies without providing a specific definition.¹²

Art. 86 and 87 of Law 1607 have introduced a definition of permanent establishment (art. 20-1 Tax Code) and special rules for taxation of permanent establishments and branches (art. 20-2 Tax Code) respectively. The main content of these articles is described herein below.

¹² See for instance art. 246 regulating the 0% rate for dividends received by branches of foreign companies.

Art 86 of the Law introduced a definition of permanent establishment that is to a great extent in accordance to the OECD Model and in accordance to the DTCs concluded up till now by Colombia. Moreover, this definition will not include activities of a preparatory and auxiliary character which is in accordance to the OECD Commentary.

In general terms, the DTCs are based on the OECD Model with two exceptions being construction activities which are deemed to become a permanent establishment if carried out for more than 6 months (the OECD Model states 12 months) and the introduction of art. 14 UN Model regulating independent personal services (in the OECD Model it is included in the definition of permanent establishment). It is submitted that the Legislative in the text of Law 1607 did not make any reference to the specific choice of 6 months for building site or construction activities and to the exclusion of independent personal services from the definition of permanent establishment. One may argue that the reason may be to have more bargain power to negotiate on a bilateral basis the 6 months period or the use of art. 14 UN Model for independent personal services.

Art 87 of the Law states that branches and permanent establishment in Colombia will be treated as taxpayers for Colombian tax purposes. The same article also states that in order to determine the profit attributed to a permanent establishment the criteria of art. 7(2) OECD Model will be taken into ac-

count i.e. functions performed, assets used, risk assumed and people involved in obtaining such profit. Furthermore, art. 87 states that permanent establishment and branches should keep separate accounts in which the income, costs, and expenses that can be attributed to the permanent establishment should be detailed.

Income Tax

Individuals

Prior to Law 1607, individuals without residence in Colombia were taxed a flat tax rate of 35% except for professors (no residents) performing academic activities for a period no longer than 4 months which were subject to a tax rate of 7% (art. 247 Tax Code).

Article 9 of the Law 1607 reduced the tax rate for income obtained by non-residents individuals to a flat tax rate of 33% (thus 2% less than the previous 35% rate). Professors (non-residents) remain with the differentiated tax rate of 7%.

In general terms, the Tax Code states that individuals which are resident for tax purposes in Colombia a progressive tax rate was established with rates between 0, 19, 28 and 33% (art. 241 Tax Code).

Law 1607 did not change the rates. However, art. 10 and 11 of the Law 1607 introduced two alternative minimum tax systems for individuals i.e. employees and self-employed (*IMAN/IMAS*) respectively.

¹³ This IMAN is different from the minimum presumptive income tax system that is currently available in the Colombian Tax Code (art. 188 Tax Code). This system calculates the tax base for income tax purposes which shall not be less than 3% on the taxpayer net worth held in the year immediately preceding the taxable year. This presumptive income does not apply to special entities.

The first system is a national alternative minimum tax¹³ (*impuesto mínimo alternativa nacional IMAN*) for individual employees (foreigners or not) with residence in Colombia (Title V Book I Tax Code). This IMAN is progressive and it is in accordance to the ability to pay of the taxpayer. This alternative minimum tax is applicable to employees earning more than COP 240 million (4.700 UVT) per year.

The second system: a simplified alternative minimum tax (*IMAS*) is applicable to individuals performing independent personal services (i.e. self-employed) as well as for employees earning less than the above mentioned amount i.e COP 240 million.

The aim is to tackle informality and to reduce the inequality in the income tax treatment for individuals in Colombia. The explanatory memorandum to Law 1607 states that the availability of income tax incentives have resulted in tax base erosion for the benefit only of individuals earning higher income. By introducing a minimum tax, this tax reform reduces this base erosion to a certain extent.

Companies, permanent establishment and branches

The income tax rate for companies which are resident for tax purposes in Colombia or permanent establishment or branches of such companies has been substantially reduced in the Law 1607. Prior to Law 1607, the tax rate was 33% (art. 240 Tax Code). For special en-

tities¹⁴ a reduced tax rate of 20% is available (art. 356 Tax Code).

Art. 94 of the Law 1607 introduced a 25% tax rate for resident and non-resident companies. The main reason for the reduction of the income tax rate is to increase the competitiveness of the companies as well as to create more employment and incentives to reduce the informal economy.

The reduced tax rate of 20% for special entities has remained unchanged. Furthermore, the differentiated tax rate of 15% for companies being users of the Free Trade Zones (art. 240-1 Tax Code) has been left unchanged.

Despite this change in the tax rate, it is submitted that the effective tax rate will not be 25% but 34% for the years 2013, 2014 and 2015 and of 33% for the years 2015 onwards. Accordingly, resident companies and foreign companies with branches or permanent establishment in Colombia will be also subject to a new tax on income tax for equity purposes (*impuesto sobre la renta para la equidad CREE*). The proceedings of this new tax will be used to generate and to promote employment and for social investment. The tax rate will be 8% but for the years 2013, 2014 and for the year 2015 onwards will be 9%.

Special entities or companies being users of Free Trade Zones are not subject to this new tax on income tax for equity purposes (art. 20 Law para. 2 and 3).

In addition, prior to Law 1607, a differentiated reduced tax rate of 7% was applicable for individuals and companies in respect of

¹⁴ Art. 19 of the Tax Code has established a special tax regime for foundations and other non-profit entities provided that the activities of these entities are directed towards specific activities considered of general interest (i.e. health, education, technology, environmental protection, etc). income tax purposes which shall not be less than 3% on the taxpayer net worth held in the year immediately preceding the taxable year. This presumptive income does not apply to special entities.

exploration, production, exploitation of hydrocarbon by foreign investors (article 246-1 Tax Code). This article has been repealed with Law 1607 (art. 198 Law 1607), and this type of income is subject to the standard income tax rates for individuals and companies described above.

Finally, it is important to mention that the tax base for dividend, royalty and interest income have not been amended by Law 1607. In respect of the tax rate: the reduced tax rate of 25% will be applicable to royalty and interest income (para. to article 94 Law 1607). The tax rate of 0% for dividend income has remained unchanged¹⁵. The following paragraph deals with the changes to capital gain tax.

Capital Gains Tax

Prior to Law 1607, the following treatment was established for capital gains obtained from the sale of assets held by the taxpayer for a period longer than 2 years. The tax rate for capital gains obtained by companies (foreign or domestic) and for non-resident individuals was 35% (art. 313 and 316 Tax Code).

For individuals resident in Colombia, the tax rate was determined in accordance to the percentages of income tax rate (art. 241 Tax Code). Furthermore, other assets (held less than 2 years) were subject to the ordinary income tax rates (art. 300 Tax Code).

Law 1607 has reduced the capital gains tax rate to a single flat rate of 10% for all companies and individuals whether or not resident for tax purposes in Colombia (art. 104 to 108 Law 1607). This change aims to encourage taxpayers to declare their assets and to pay taxes on these assets

Furthermore, the higher rates for capital gain tax have resulted in tax evasion that has been tackled by means of exchange of information and double tax conventions. However, the law-maker considered relevant to introduce in Law 1607 a tax amnesty to collect tax revenue of assets held abroad and not yet declared by the taxpayer (art. 163 Law 1607). The main result of this amnesty is that the declared assets which can be included in the 2012 or 2013 tax return will be subject to the tax rate of 10% without any tax penalty.

Anti-Abuse Rules

General anti-abuse rules

Prior to Law 1607, Colombia did not have specific rules for abuse, and therefore, the private law doctrine of simulation was applicable for tax law purposes. By means of this doctrine, the intention of the parties will be followed if the intention deviates from the arrangement which the parties purport to make.¹⁶

¹⁵ Dividends paid to foreign (individual or companies) without residence are exempted of tax in Colombia i.e. a dividend withholding tax of 0% is applicable (art. 245 Tax Code). Despite the discussion in the Legislative during the approval of Law 1607 to whether or not to tax these dividends, the final text of the Law does leave this unchanged, and therefore, dividends will remain exempted in Colombia. Likewise, dividends paid to branches of foreign companies are exempted of tax in Colombia (art. 246). This exemption has also remained unchanged with Law 1607.

¹⁶ See I.J. Mosquera Valderrama. *Leasing and Legal Culture - Towards consistent behaviour in tax treatment in civil law and common law jurisdictions*, dissertation, 2007 at. 129

Law 1607 introduced two general abuse rules for tax purposes (art. 122 Law added art. 869 Tax Code). The first rule is abuse in general and the second rule is *fraus legis* (*fraude a la ley*). There will be a presumption of abuse or *fraus legis* in case that the operation takes place in accordance to two or more of the following criteria: (i) operation is between related parties; (ii) operation makes use of tax havens; (iii) operation includes a special entities regime or an exempt tax entity; (iv) the price agreed differs in more than 25% of the arm's length price; (v) the conditions agreed by the parties would have not been agreed by third parties in similar circumstances. In all cases of abuse, the burden of proof is for the taxpayer. (art. 123 Law adding art. 869-1 to the Tax Code)

Law 1607 states that in case of abuse of *fraus legis*, the tax administration may re-characterize the transaction as if the abusive behaviour had not taken place (art. 124 of the Law 1607 adding art. 869-2 to the Tax Code). Law 1607 also states that the power of the tax administration to re-characterize the transaction should be exercised to guarantee the application of the constitutional principle of substance over form in cases that are of great economic and legal relevance for Colombia (para. to art. 124). No further specification in the Law was made to define or clarify this last paragraph.

Specific anti-abuse rules

Law 1607 introduces thin capitalization rules and changes substantially the rules of transfer pricing in order to tackle tax evasion as well as to encourage the compliance with transfer pricing rules. Not all changes in these two issues are dealt with in this tax overview. Only the main points of attention

of these two issues will be herein below presented.

Thin capitalization

Law 1607 introduces thin capitalization rules and therefore interest can only be deducted in accordance to a specific debt-equity ratio (i.e. 3:1). The thin capitalization rules are not applicable for interest paid by taxpayers to entities that are subject to the supervision of the Financial Superintendency (art. 109 Law 1607 adding art. 118-1 to the Tax Code)

Transfer Pricing

The transfer pricing rules were introduced by means of Law 788 of 2002 and are mainly based on the OECD Transfer Pricing guidelines including the use of the arm's length principle. In addition, it has been made possible to conclude advance pricing agreements (APAs) with the tax authorities. At the time of writing (January 2013), no APA has been signed.

Art. 111 to 116 of the Law 1607 introduced new rules to transfer pricing mainly in respect of the related parties and the documentation required. Furthermore, and in order to encourage the use of APAs, the rules for APA will change and it will be extended for the year for which is requested, the year before, and the following 3 years (art. 120 amending art. 260-10 of the Tax Code).

Exchange of Information

Law 1607 gives more competences to the Colombian government regarding exchange of information. In general terms, the taxpayer is required to provide the information re-

requested by the Colombian tax administration or by the tax administration of a country that has concluded a DTC with Colombia containing an exchange of information provision. The information should be provided free of charge and within one month from the moment that the request was made. In practice this one month period will be considered short and it remains to be seen how this rule can be effectively applied in practice.

Tax Havens

Law 1607 introduces new rules provisions with the aims to tackle the use of tax havens (art. 117 amending art. 260-7 Tax Code). The tax haven status will be determined by the Colombian government based on one of the following criteria: (i) low or not tax jurisdiction, (ii) lack of effective exchange of information, (iii) lack of transparency, and

(iv) lack of real activity or economic substance. In addition, the government may use as a reference international standards criteria to determine the tax havens. Nonetheless, no further definition was made of international standards nor reference to the OECD was made. The reason may be the position of the Constitutional Court in respect to the list of tax havens as defined by the OECD.¹⁷

Finally, in several provisions throughout the Tax Code the use of a tax haven will result in a severe tax treatment for the taxpayer. For instance, the individual or corporation with residence in tax haven can be presumed resident for tax purposes in Colombia (see residence criterion explained above). Likewise, the use of tax haven can result on the income being taxed in accordance to a higher tax rate, for instance in the rules of capital gains explained above.

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¹⁷ This is mainly due to the position of the Constitutional Court upon the constitutional review of Law 788 of 2002. This Law 788 introduced the transfer pricing regulations in Colombia and stated that in order to define the low tax or tax haven jurisdiction reference was to be made to the areas considered as such by the oecd. The Constitutional Court held (at that time) the incompatibility of this provision with the Constitution given that Colombia was not a member of the oecd and therefore its provisions did not have any effect in Colombia. See I.J. Mosquera Valderrama. What the Colombian Tax Reform Means. *International Tax Review*. September 2003.