

VI. Incentives to Foreign Investment

With the aim of promoting foreign investment in Colombia, the government provides a series of incentives to investors. We present a synthesis of the most important ones, as follows:

A. Duty-Free Zones Regime

1. Concept and Advantages

Duty-free or free-trade zones are delimited areas in Colombian territory where industrial activities involving goods and services or commercial activities are carried out and governed by special norms on taxes, customs and foreign trade.

They offer the following main incentives:

- An income tax rate of 15% exclusively applicable to the productive activity in the duty-free zone. This does not apply to the commercial user.
- The entry into the duty-free zone of materials and equipment from the rest of the world, without having to pay customs duties on them.
- Exemption from VAT on the goods needed to develop the company's corporate purpose which are brought into the zone from the rest of Colombian territory.
- Exports from the duty-free zone to third-party countries benefit from international trade treaties negotiated by Colombia¹.
- The possibility of selling 100% of the goods or services produced in the duty-free zone in Colombian territory with the respective payment of the customs duty or VAT (only on the percentage of inputs coming from third-party countries).

2. Types of Duty-Free Zones

There are three main types of duty-free zones:

¹ However, to remove any doubt about this point, it must be revised on a case by case basis.

- Permanent
- Special or single-company
- Transitory

a. Permanent Duty-Free Zone

It is one where a number of companies (users) carry out their industrial, commercial or services activities within a certain area. It resembles an industrial park.

b. Special or Single-Business Permanent Duty-Free Zone

It is one where, independently of the geographical area where it is located, a single company (industrial user) has the possibility of fostering its activities with the benefits of the duty-free zone. These are projects which have a strong economic and social impact on the country. It is permitted for the following activities, among others:

- Production of goods
- Services
- Health services
- Agro-industrial projects
- Port operators
- Reconversion of existing companies.

c. Transitory Duty-Free Zones

This is the kind which is authorized to hold trade fairs, exhibitions, congresses and seminars of an international nature which are important for the country's economy and international trade.

3. Procedure for the Establishment of a Duty-Free Zone

To win approval for permanent and special duty-free zones, the applicant must go through the following stages:

- Prepare the Master Development Plan (master plan), feasibility studies, and when necessary, request a prior concept about the area from the DIAN.
- Present the Master Plan and feasibility studies to the Technical Secretary of the Intersectorial Commission on Duty-free Zones.

- Obtain a review, analysis and report by the Technical Secretary on the Master Plan and the concept of feasibility.
- Obtain the evaluation of the Intersectorial Commission on Duty-free Zones.
- Obtain its judgement on the feasibility of the duty-free zone and its decision on the Master Plan.
- The interested legal entity must submit an application for the Declaration of the Duty-free Zone to the DIAN.
- The DIAN must verify compliance with the requisites.
- A resolution is issued which declares or denies the establishment of the duty-free zone.

4. Procedure for Qualifying as a User of a Duty-Free Zone

In general terms, the applicant must follow the following procedure:

- a. Establish a new legal entity or branch of the foreign company.
- b. Present a written application to the user which operates the zone, including:
 - The resumes of the following persons: legal representative and deputy, members of the board of directors and partners (except those from incorporated companies or limited partnership companies).
 - A description of the project which is going to be developed.
 - A financial and economic feasibility study of the project.
 - The composition or probable composition of the capital behind the project, indicating whether its origin is Colombian or foreign.
 - When the case applies, a favorable opinion on the environmental impact of the project from the relevant agency.
 - In addition, other requisites must be met, which involve the documentation and certification of the activity, when this is necessary.

5. The users of the permanent duty-free zones are divided into four (4) categories:

- a. User operator: This is the legal entity responsible for running and administering the duty-free zone and examining the qualifications of the users who install themselves in it.
- b. Industrial user of goods: the user of goods manufactures, produces, transforms or assembles goods within the respective duty-free zone.
- c. Industrial user of services: provides services within or from the area authorized as a duty-free zone in order to carry out the following activities, among others: logistics; transport; distribution; telecommunications; scientific and technological research; medical, dental and health care in general; tourism; technical support; shipping and aviation equipment; consultancies or similar.
- d. Commercial user: warehouses, trades, guards and commercializes within the respective duty-free zone. This user may occupy up to 5% of the total area of the duty-free zone.

6. Specific Requisites of Investment and Employment for Access to a Duty-Free Zone.

Table 6.1. Requisites for the Industrial Users of a Permanent Duty-Free Zone

Total Assets	Investment	Direct J
Less than 500 Current Minimum Monthly Legal Wages (SMLMV). (Under US\$ 133,900, approximately)	None	None
501 to 5,000 SMLMV (between US\$ 134,167 and US\$ 1.3 million, approximately)	None	20
5,001 to 30,000 SMLMV (between US\$ 1.3 million and US\$ 8 million, approximately).	5,000 SMLMV (US\$ 1.3 million approximately).	30
Higher than 30,001 SMLMV (more than US\$ 8 million).	11,000 SMLMV (US\$ 2.9 million, approximately).	50

Table 6.2 Requisites for a Permanent Special Duty-Free Zone for Goods

Investment (US\$)	Number of Direct Jobs
Minimum investment of 150,000 SMLMV (US\$ 40.1 million, approximately).	150

Table 6.3 Requisites for Permanent Special Duty-Free Zone for Services

Investment	Number of Direct Jobs
Between 10,000 SMLMV (US\$ 2.6 million, approximately) and 46,000 SMLMV (US\$ 12.3 million, approximately)	500
Between 46,000 SMLMV (US\$ 12.3 million, approximately) and 92,000 (\$ 24.6 million, approximately).	350
Greater than 92,000 SMLMV (\$ 24.6 million, approximately).	150

In the case of permanent special duty-free zones for health, the above requisites must be complied with, but 50% of the employment may be outsourced.

In addition, Colombian or international accreditation must be obtained.

Table 6.4. Requisites for a Permanent Special Duty-Free Zone for Agro industry

Investment (US\$)	Number of jobs
Minimum investment of 75,000 SMLMV (US\$ 20 million, approximately)	Hiring at least 500 workers which can be outsourced

Table 6.5. Requisites for a Permanent Special Duty-Free Zone for Port Operators

Investment (US\$)	Number of jobs
Minimum investment of 150,000 SMLMV (US\$ 40.1 million, approximately)	Twenty (20) direct ones and at least fifty (50) indirect ones.

Table 6.6 Requisites for Converting the Existing Operation

NET ASSETS OF 150,000 SMLMV (US\$ 40.1 million, approximately)
INVESTMENT IN THE FIVE (5) YEARS FOLLOWINGS ITS ESTABLISHMENT OF 692,000 SMLMV (US\$ 185.3 million, approximately)
DOUBLING THE ASSESSED LIQUID INCOME (RENTA LÍQUIDA GRAVABLE) FOR THREE (3) CONSECUTIVE YEARS.

Warning

The procedure for establishing a duty-free zone and assessing the user's qualifications to enter it require the drafting of complex technical and legal documents. Thus, it is recommended that the applicant seek the advice of experts in the field in order to secure a successful application and thus obtain the benefits which this regime grants.

B. Fiscal Incentives

Among the fiscal incentives which Colombian regulations provide to attract foreign investment, the following may be singled out:

- a. Exemptions and deductions related to the income tax.
 - Deductions from the income tax for investments in agricultural companies which do not surpass 1% of assessed liquid incomes (ingresos líquidos gravables).
 - The following deductions apply to the field of Science and Technology
 - 125% of the value of the investment made in research, development and innovation, as long as it does not surpass 20% of the basis of assessment.
 - 100% of the value of a donation, in accordance with the legal requisites, provided that it does not surpass 30% of the basis of assessment.
 - 25% deduction from the levy on financial movements ("GMF")

- The Colombian branches, subsidiaries or agencies of foreign companies may deduce the amounts which have been directly or indirectly paid or accrued abroad under the heading of administrative or management costs and under the heading of royalties for the exploitation or acquisition of any kind of intangibles pertaining to the expenses incurred by the parent companies abroad with respect to administrative costs.
- 100% of the wages paid to workers are deductible, providing that the employer is up to date in its payment of the parafiscal contributions (ICBF, SENA, Family Subsidy and Social Security Institute).
- 100% of the industry and commerce, advertising and property taxes which have effectively been paid during the year or tax year are deductible, providing that they are directly related to the economic activity of the taxpayer.
- 100% of the value of investments in the control and improvement of the environment. The deduction may not exceed 20% of the assessed liquid income.
- 100% of investments in new plantations, irrigation systems, wells and silos.

b. Incomes which are Exempt for Particular Industries

Income is regarded as exempt in the following cases:

- Publishing companies devoted to the publishing of books, magazines, pamphlets or collectible series of a scientific or cultural nature are exempt until the year 2013.
- The payment of the principal and interests, commissions and other items related to foreign public credit and those resembling them are exempt from any kind of Colombian tax, tariff, contribution and levy, always providing that it is paid to persons who do not reside or are domiciled in the country.
- The sale of electrical energy generated on the basis of wind, biomass or agricultural wastes by the generating companies is exempt for a period of fifteen (15) years, always providing that the company sells the energy itself and issues certificates for the Reduction of Greenhouse Effect Gases
- The income generated by the exploitation of new plantations of slow-yielding crops like cacao, rubber, palm oil, citric and other fruits, as determined by the Ministry of Agriculture and Rural Development, is exempt. To take

advantage of the exemption, the owner of the plantations must sow the crops between the year 2003 and the year 2013. The benefit is applicable for a term of ten (10) years, numbered from the start of production.

- The provision of river transport services with vessels and barges of shallow draught is exempt for a period of fifteen (15) years, starting in the year 2003.
- Hotel services provided by new hotels which are built within the fifteen (15) year period beginning in 2003 are exempt for a period of thirty (30) years, counted from the start of the operation of the same, up to the year 2048 at the latest.
- Hotel services provided by hotels which are remodelled or enlarged within the fifteen (15) year period beginning in the year 2003 are exempt for a period of thirty (30) years, for the percentage of the fiscal cost of the remodelled and/or enlarged property represented by the value of the remodelling or enlargement
- Ecotourism services for twenty (20) years, beginning in 2003.
- Investments in new forestry plantations, sawmills and plantations of timber-yielding trees
- New medicinal and software products, produced in Colombia and supported by new patents registered with the competent authority and with a high content of Colombian scientific and technological research, are exempt up to the year 2013.

c. In Relation to the Value Added Tax (IVA)

- Exemption for imported machinery, equipment and raw material used by a university or research center (approved by Colciencias) for scientific research projects.
- For the export of services, complying with the legal parameters.

C. Vallejo Plan

The Vallejo Plan is a non-territorial export-promotion tool which grants exemptions from customs duties in exchange for exports. Some of the categories covered by the Vallejo Plan are: raw materials, the replenishment of raw materials, capital goods for the agricultural sector, capital goods and spare parts for the services sector.

- a. Vallejo Plan for raw materials for the export of goods
 - The complete suspension of customs charges (duties and VAT), with a commitment to export 100% of production.
- b. Vallejo Plan for capital goods and spare parts (exclusively for the agro-industrial sector)
 - Total or partial suspension of customs charges and of VAT payment for the provision of exportable services. One must undertake a commitment to export a minimum of 70% of production (article 173, heading (c) of Decree-Law 44, of 1967).
- c. Vallejo Plan for Services

The Vallejo Plan for Services (PVSS) is a foreign trade tool by means of which companies which export services, including consortiums and temporary alliances, may apply to the Directorate of National Taxes and Customs (“DIAN”) for an authorization to import capital goods and spare parts (the latter only for air transport services), with a total or partial suspension of customs duties and the deferral of VAT payment, in exchange for the export of services.

One must comply with a commitment to export a minimum of 1.5 times the FOB value of the capital goods whose import is authorized.

The export of the following services may benefit from this tool

- Services provided to companies like those in informatics and related fields, research and development services, the development, generation and distribution of electrical energy, and packaging services.
- Communications services
- Distribution services.
- Teaching services
- Social and health services
- Tourism services and those related to travel.
- Construction services and related engineering services.
- Transport services.

D. Applicable Legal Framework

Colombian Constitution. Available at:

www.secretariassenado.gov.co/senado/basedoc/cp/constitucion_politica_1991_pr001.html

Customs Statute (“Estatuto Aduanero”) (Decree 2685, of 1999 and its modifications). Available at:

www.secretariassenado.gov.co/senado/basedoc/decreto/1999/decreto_2685_1999.html

Warning

The foreign investor who wishes to be eligible for and obtain the support of the different tools must draft and submit complex technical and legal documents. Thus, it is recommended that the investor seek the advice of experts in the field, in order to successfully take advantage of those tools. Not all of the tools which are meant to support the foreign investor offer the same cost/benefit ratio for every kind of business.

Texts: Araújo Ibarra & Asociados
Editing: Invest in Bogota
March 2011

Invest in Bogota is the investment promotion agency for Bogota and Cundinamarca, a public-private partnership between the Bogota Chamber of Commerce, the Bogota City Government and the Government of Cundinamarca.

Our mission is to support investors that are exploring opportunities in Bogota and Cundinamarca.

In 2009 we were ranked as the top non- OECD investment promotion agency in the World by the World Bank.

We have a multidisciplinary team with sector-specific expertise, which allows us to provide prospective investors with value added advice and information.

We offer, free of charge, and in absolute confidentiality, services for investors during each stage of their investment process.

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