



# REPORT

Tax Reform  
Colombia 2018

SEPTEMBER  
**2018**



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# 1. Executive summary

Since 1990, at least **14 tax reforms have been introduced in Colombia**, i.e., **an average of one reform every 22 months**. The idea of carrying out tax reforms has become a common practice for Colombian governments; **every government since 1986 has carried out at least one in its term**, with a maximum of 4 reforms per term in the case of the former Presidents of the Republic Álvaro Uribe (2002-2010) and Juan Manuel Santos (2010-2018).

**The new government (2018-2022) also announced its intention to carry out a tax reform.** During the presidential elections that took place on May 27<sup>st</sup> -first round- and June 17<sup>th</sup> -second round-, the winner and **current President of the Republic Iván Duque (Centro Democrático) promised to introduce a tax reform to the National Congress if elected.**

Duque argued that **this would be necessary to stimulate companies and encourage competitiveness, as well as to address the country's fiscal deficit**, currently at 3.1% of GDP. The president's goal is to raise about 25 trillion pesos (approximately US\$ 8 billion) for public spending in 2019.

A month after taking office, **Duque and his team are still working on their tax reform bill.** The bill is expected to be introduced to Congress before the start of the legislative recess on Dec. 16<sup>th</sup>. **Meanwhile, the independent Cambio Radical party has introduced its own tax reform bill.**

In a scenario where **Duque does not have a guaranteed legislative majority, he will have to negotiate with other parties to get their support**, which will probably lead to modifications to the original idea of the governing party. Also, since Cambio Radical does not have enough legislators on its own, **the Partido Liberal and Partido Social de la Unidad Nacional parties, the two independent parties closest to the government, will gain importance.**

# 2. TAX REFORMS IN COLOMBIA SINCE 1990

## LAW 6/1992

President César Gaviria (Partido Liberal; 1990-1994) introduces a tax reform which:

- Forces Industrial and Commercial State Companies (EICE in Spanish) to pay income tax
- Increases the general VAT rate from 12% to 14% in five years.
- Eliminates the equity tax.

## LAW 488/1998

President Andrés Pastrana (Partido Conservador; 1998-2002) introduces a tax reform which:

- Decreases the general VAT rate to 15% from 1999 onwards.
- Creates the Tax on Financial Movements (GMF in Spanish), which taxes 2 pesos (US\$ 0.00065) for every 1000 pesos spent (US\$ 0.32).

## LAW 49/1990

Presidente Virgilio Barcos Vargas (Partido Liberal; 1986-1990) introduces a tax reform which:

- Reduces the number of taxpayers forced to pay income tax.
- Increases the general VAT rate from 10% to 12%.
- Introduces tariff cuts

## LAW 223/1995

President Ernesto Samper (Partido Liberal; 1994-1998) introduces a tax reform which:

- Introduces a 20% marginal rate on the income tax for natural persons and a 35% marginal rate on the income tax for legal persons.
- Increases the general VAT rate to 16%.

## LAW 633/2000

President Andrés Pastrana (Partido Conservador; 1998-2002) introduces a tax reform which:

- Increases the general VAT rate to 16%.%
- Increases the GMF from 2 pesos (US\$ 0.00065) to 3 pesos (US\$ 0.00097) for every 1000 pesos spent (US\$ 0.32).

## 2. TAX REFORMS IN COLOMBIA SINCE 1990

### **LAW 863/2003**

President Álvaro Uribe (Primero Colombia; 2002-2010) introduces a tax reform which:

- Increases the GMF from 3 pesos (US\$ 0.00097) to 4 (US\$ 0.0013) for every 1000 pesos spent (US\$ 0,32) for 2004-2007.
- Creates the equity tax for 2004-2006: 0.3% rate for assets higher than \$3 billion (U\$ 1 million).
- Introduces a 10% surcharge on the income tax (2004-2006).
- Creates a 30% investment deduction.

### **LAW 1370/2009**

President Álvaro Uribe (Primero Colombia; 2002-2010) introduces a tax reform which:

- Reduces the income deduction on productive fixed asset investments from 40% to 30%.
- Raises the equity tax from 1,2% to 2,4% for assets higher than \$3 billion (US\$ 1 million) and introduces a 4,8% rate for assets higher than \$5 billion (US\$ 1.6 millions)

### **LAW 788/2002**

President Álvaro Uribe (Primero Colombia; 2002-2010) introduces a tax reform which:

- 10% surcharge in 2003 and 5% surcharge in 2004 on the income tax.
- New exempted incomes
- Gradual phasing out of preferential treatments on income tax.

### **LAW 1111/2006**

President Álvaro Uribe (Primero Colombia; 2002-2010) introduces a tax reform which:

- Eliminates the surcharge on the income tax from 2007 onwards.
- Reduces the income tax on legal persons to 34% in 2007 and to 33% in 2008.
- Raises the investment deduction from 30% to 40%.
- Eliminates the remittance tax.
- Raises the equity tax from 0.3% to 1.2% for assets higher than \$3 billion (U\$ 1 million)

### **LAW 1430/2010**

President Juan Manuel Santos (Partido Social de la Unidad Nacional; 2010-2018) introduces a tax reform which:

- Eliminates investment deductions.
- Phases the GMF out gradually: from 4 pesos (US\$ 0.0013) to 2 pesos (US\$ 0.00065) for every 1000 pesos spent in 2014 (US\$ 0,32), 1 peso (US\$ 0.00032) in 2016 and final phasing out in 2018.

## 2. TAX REFORMS IN COLOMBIA SINCE 1990

### LAW 1739/2014

President Juan Manuel Santos (Partido Social de la Unidad Nacional; 2010-2018) introduces a tax reform which:

- Kept the GMF with a 4 pesos levy (US\$ 0.0013) for every 1000 pesos spent until 2018 (US\$ 0.32), in order to initiate a phasing out process as of 2019.
- Crea la sobretasa al CREE. Este tributo tendrá aplicación desde el año 2015 hasta el 2018.

### LAW 1819/2016

President Juan Manuel Santos (Partido Social de la Unidad Nacional; 2010-2018) introduces a tax reform which:

- Aumenta el IVA de 16% a 19%.
- Elimina el CREE y la sobretasa del CREE para personas jurídicas.
- Reduce el impuesto a la renta para personas de manera gradual de 40 % a 33 % en 2019.

### LAW 1607/2012

President Juan Manuel Santos (Partido Social de la Unidad Nacional; 2010-2018) introduces a tax reform which:

- Creates the Income Tax for Equality (CREE).
- Servicios gravados con la tarifa del cinco por ciento (5%).
- Establece una clasificación de personas naturales en empleados y trabajadores por cuenta propia.
- Create two systems of determination of the taxable base of the Minimum Alternative -IMAN- and Minimum Alternative Simple IMAS.

### TAX REFORMS IN NUMBERS

- The **VAT** rate has undergone a total of 6 modifications, increasing from 10% in 1990 to 19% in 2016.
- The **income tax** has varied in its reach and percentages; likewise, many surcharges were created and phased out
- The **tax collection** went from 9% in 1990 to 19,8% in 2016 as a percentage of GDP.
- The **Tax on Financial Movements (GMF)** was created, and has gradually been increased from 2 pesos to 4 pesos for every 1000 pesos spent.

# 3. Duque's initiative



## ¿What does Duque propose?

Although the President has stated that he is still working on the details of the bill, he has already announced the following points:

- **Simplification of the tax system** for enterprises and natural persons.
- **Digitalization** of tax platforms, **automatization** of return processes, and implementation of electronic invoices.
- **Reduction of the tax rate for the private sector** from 33% currently to 27% or 28%.
- **Five-year-long income exemption** to encourage the creation of companies and enterprises
- **Measures against tax evasion.** Duque has not specified if this measures will affect all industries or only Information and communications technology (ICT) industries.
- **Six days without VAT a year to lower prices,** in order to allow businesses to liquidate their stock and increase their sales.
- **Those who earn 50 million pesos** (U\$ 16.115 approx.) per month will see an increase in their income tax from 2,5 million pesos (U\$ 800 approx.) **to 4 million pesos** (U\$ 1210 approx.). An input of 3 trillion pesos (U\$ 1 billion approx.) is thus estimated.

## Differences in Duque's cabinet

Within the framework of a governmental act, the **Minister of Finance, Alberto Carrasquilla expressed his intention** to lower income taxes to businesses and raise them to natural persons; he also stated that he will introduce to Congress a bill to **levy VAT on all products in the family basket and offer tax returns to the most vulnerable households** in order to curb regressivity.

**These measures resonated negatively** with public opinion, since **they directly contradicted the President of the Republic's statements.** During the presidential campaign, Duque affirmed that the tax reform bill would not increase taxes on natural persons; even the then presidential hopeful said that it was feasible to reduce the general VAT rate (currently 19%).

Faced with the criticisms raised by these announcements, **Duque sought to distance himself,** affirming that "**the President has the final word on the economic reactivation initiative** before it is introduced to Congress. Duque also called for an equitable reform, where "the poorest benefit the most, not the richest".

Duque's declarations suggest **divergences in the governing party regarding the tax reform bill.** This could help explain **why the bill has not yet been introduced to Congress.** It is also expected that **other political parties will take this situation into account in order to make their own interests heard when voting on the bill.**

# 4. Cambio Radical's initiative



On August 15<sup>th</sup> the Cambio Radical party (30 Representatives and 16 Senators out of a total of 171 and 108 respectively) introduced a [bill](#) to Congress that proposes a tax reform. It is projected that in the coming weeks the bill will begin its parliamentary process at the Third Committee of the House of Representatives so that it can begin its parliamentary process.

## ¿What does the bill propose?

- A reduction in the income tax rate for businesses, which would be reduced from the current 33% to 30%
- The financial transactions tax (GMF in Spanish, which stipulates a levy of approximately US\$ 0.0014 per US\$ 0.35 spent on all transactions) will be treated as an anticipated corporate income tax collection.
- The Industry and Commerce Tax (ICA) will also be treated as a tax break on the payment of corporate income tax. The ICA tax rate is up to the municipalities to decide and varies according to the activity:
  - In the case of industry, it establishes a monthly tax of between 0.2% and 0.7% on the average monthly income on the commercialization of the production.
  - In the case of commercial and service activities, establishes a monthly tax of between 0.2% and 0.10% on the average monthly gross income obtained in the previous year.
  - The complementary tax of notices and boards includes the placement of fences, notices, boards and emblems in the public thoroughfare, public or private places that are visible from the public space, as well as the placement of notices in any class of vehicles. The tax is declared alongside the ICA tax and its rate is set at 15% of the value of the ICA tax.
- The elimination of all discounts on income is also proposed, with the exception of those for taxes paid abroad and resources donated to non-profit entities.
- Investment funds, unit trusts and mutual funds will be exempt from taxation. However, the profits or remunerations that the firms administering these funds obtain for their management will still be levied.

## 5. What role will Cambio Radical and the other political parties play in Congress?

Within the framework of the Statute of the Opposition, **the political parties present in Congress defined their position towards the Government: ally to the government, independent or opposition.** The Statute of the Opposition establishes the rules of debate in the legislative sessions according to the position of each party, in order to regulate the discussion and favor parliamentary dialogue. The establishment of party positions can be modified only once during the current presidential term, which in the current case will last until 2022.

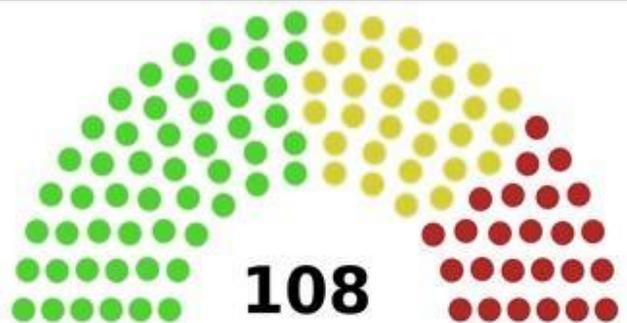
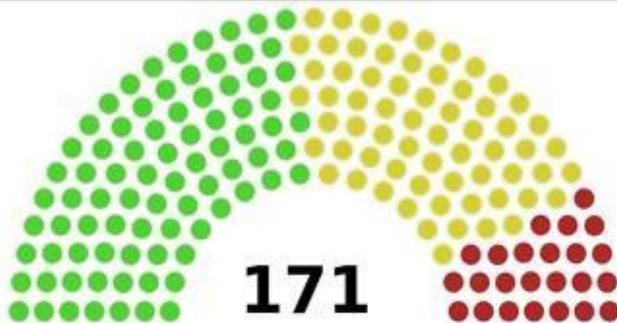
**The ruling Centro Democrático party will be accompanied by Partido Conservador and the former ruling Partido Social de la Unidad Nacional. Movimiento Independiente de Renovación Absoluta, Colombia Justa Libres and Opción Ciudadana will also be part of the ruling coalition. In total, the ruling party and its allies will have 82 representatives and 53 senators, out of a total of 171 and 108 respectively.**

**Partido Liberal and Cambio Radical will be independent parties. Together, they will have 65 representatives and 30 senators. The opposition includes Alianza Verde, Polo Democrático Alternativo, Lista de la Decencia, F.A.R.C., Coalición Alternativa Santandereana, MAIS, the Indigenous Authorities of Colombia and the Black Community Councils of Playa Renaciente and La Mamuncia. In total, the opposition has a total of 25 seats in the Senate and 24 seats in the House of Representatives.**

# 6. Current composition of Congress

## House of Representatives

## Senate



**Oficialismo:** 82 representantes

**Independientes:** 65 representantes

**Oposición:** 24 representantes

**Oficialismo:** 53 senadores

**Independientes:** 30 senadores

**Oposición:** 25 senadores

**Centro Democrático:** 32 representantes  
**Partido Conservador:** 21 representantes  
**Partido Social de la Unidad Nacional:** 25 representantes  
**MIRA:** 1 representante  
**Colombia Justa Libres:** 1 representante  
**Opción Ciudadana:** 2 representantes

**Cambio Radical:** 30 representantes  
**Partido Liberal:** 35 representantes

**Alianza Verde:** 9 representantes  
**Polo Democrático Alternativo:** 2 representantes  
**Lista de la Decencia:** 3 representantes  
**F.A.R.C.:** 5 representantes  
**Consejo Comunitario La Manuncia:** 1 representante  
**Consejo Comunitario Negras Playa Renaciente:** 1 representante  
**Coalición Alternativa Santanderana:** 1 representante  
**MAIS:** 2 representantes

**Centro Democrático:** 19 senadores  
**Partido Conservador:** 14 senadores  
**Partido Social de la Unidad Nacional:** 14 senadores  
**MIRA:** 3 senadores  
**Colombia Justa Libres:** 3 senadores

**Cambio Radical:** 16 senadores  
**Partido Liberal:** 14 senadores

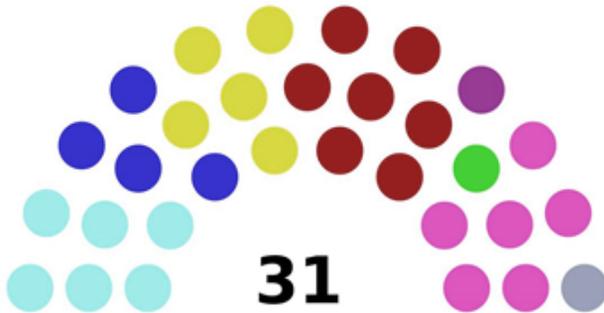
**Alianza Verde:** 9 senadores  
**Polo Democrático Alternativo:** 5 senadores  
**Lista de la Decencia:** 4 senadores  
**F.A.R.C.:** 5 senadores  
**Autoridades Indígenas de Colombia:** 1 senador  
**MAIS:** 1 senador

Click [here](#) to see the full list of Senators.

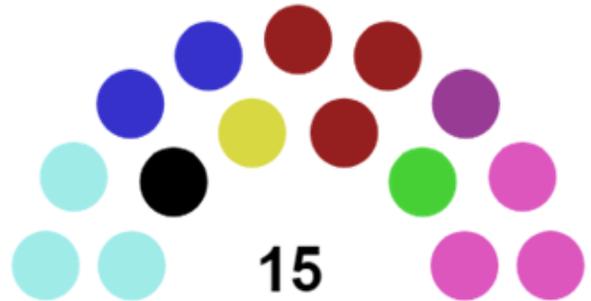
Click [here](#) to see the full list of Representatives.

# 7. Current composition of the Third Committee

## Cámara de Representantes



## Senado



<u>Oficialismo:</u>	<u>Independientes</u>	<u>Oposición:</u>	<u>Oficialismo:</u>	<u>Independientes</u>	<u>Oposición:</u>
16	: 12	3	8 senadores	: 4 senadores	3 senadores
representantes	representantes	representantes			
es		es			
● Centro	● Cambio	● Alianza	● Centro	● Cambio	● Alianza
Democrático:	Radical: 5 Rep.	Verde: 1 Rep.	Democrático:	Radical: 1 Sen.	Verde: 1 Sen.
6 Rep.	● Partido	● Lista de la	● Partido	● Partido	● Lista de la
	Liberal: 7 Rep.	Decencia: 1	Conservador:	Liberal: 3 Sen.	Decencia: 1
● Partido		Rep.	2 Sen.		Sen.
Conservador:		● F.A.R.C.: 1	● Partido		● Colombia
4 Rep.		Rep.	Social de la		Justa y Libres:
● Partido			Unidad		1 Sen.
Social de la			Nacional: 3		
Unidad			Sen.		
Nacional: 6					
Rep.					

Click [here](#) to see the full list of Senators that compose the Third Committee.

Click [here](#) to see the full list of Representatives that compose the Third Committee.

## 8. How will debate develop in Congress?

Taking into account this scenario, **the ruling party needs two more senators to reach parliamentary majority in the Senate** (where the **quorum is 55** and **its coalition is composed of 53 legislators**). In the case of the House of Representatives, the ruling party comprises **82 deputies**, which is insufficient to reach **quorum (86 legislators)**. However, **the ruling party does have a legislative majority in both chambers' Third Committees**, which are in charge of discussing tax reform bills. **In each of them, the ruling party has 8 Senators and 16 Representatives**, out of a total of **15 and 31 respectively**.

**These numbers allow the government to discuss the tax reform expeditiously in both Committees.** However, since the ruling party does not have a majority in Congress, **it will have to negotiate with other parties in order to produce a consensual tax reform.** This will quicken the parliamentary process in Congress sessions. In this context, due to **the relevance Cambio Radical has (30 Representatives and 14 Senators)**, it is expected that **the tax reform bill they introduced will be taken into account in the negotiations** for the drafting of the ruling party's tax reform.

On the other hand, **the ruling coalition depends on the internal cohesion of Partido Social de la Unidad Nacional** (25 representatives and 14 senators). When **the party decided to ally with the ruling coalition with 25 votes out 41**, the 16 dissident legislators announced their intentions to negotiate with other parties **in order to discuss PSDN's possible partition.** This scenario would seriously affect the ruling party, since it would force it to **resort even more to the support of other parliamentary forces.**

## 9. Final considerations

- Differences within Duque's administration indicate that the government is still working on the bill. The initiative is expected to be introduced by December 16th, when the legislative period finishes.
- Although Duque will have no major problems in attaining a majority in the Third Committees of both chambers, the dynamics change in the legislative floors. **The ruling party will then have to negotiate with the other parties in order to arrive at a consensual tax reform in order to speed up the parliamentary process in the plenary sessions.**
- **The governing majority depends on the internal cohesion of the Partido Social de la Unidad Nacional, which is not guaranteed at the moment. In the event of a break-up within this party, the two independent parties - Partido Liberal and Cambio Radical - will play a key role in the modifications.**
- **The Cambio Radical initiative will be key in the negotiations, insofar as Duque requires the support of other parties to advance his government plan.**
- **The Cambio Radical initiative can be imitated by other parties, so that their interests are taken into account in the discussions.**

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