

INSIDE INFORMATION

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Given the raft of changes to tax and financial laws in Colombia, clients will benefit from the advice from knowledgeable local law firms, argues Apiros legal director Juan Pablo García Henao.



There is considerable legal uncertainty in Colombia. As a result, despite the trend for the globalisation of legal services, local law firms with a detailed knowledge of domestic legislation are still highly valued. As a result, local law firms in Colombia will continue to play a vital role in helping investors to navigate the market, particularly with new tax and financial legislation having come into force in the last year, says Juan Pablo García Henao, legal director at Bogotá-based real estate developer Apiros.

"Colombia is a country of legal insecurity and it is therefore important to mitigate that by using law firms that have a clear understanding of the country's laws and regulations, and are specialised in certain themes, with the experience and knowledge that can complement the work of the in-house team," says García Henao, who leads an in-house team of five lawyers. "We use different law firms for certain types of litigation, and we have clear criteria for selecting them," he adds.

García Henao says that Apiros always aims to use law firms the company has already worked with, or firms that have been recommended. "Or we look for law firms that have sufficient experience to help us, and, most importantly, firms which have close relationships with institutions and government agencies, so that they have the contacts to be able to reach and engage with officials," he explains. "It is also important that the law firm has a good relationship with judges."

Generally speaking, Apiros uses external law firms for environmental law matters, which, he says, are of great importance in Colombia. In addition, the company frequently engages external lawyers when it comes to dealing with matters related to the country's tax and labour laws, as well as compliance issues.

"The majority of law firms we use are local," García Henao says.

"In the ten years I have been legal director and choosing law firms, I have used local firms much more than international law firms, as they are present here and have a clear understanding of, and experience of, the country's legal framework." García Henao says that new tax laws introduced at the start of this year have led to an increase in the legal department's workload, and consequently it has been relying more on external law firms. Further changes to tax and social security laws are expected too, during the current administration or the next, he says, and which will lead to Apiros having a greater need for external legal advice.

Colombia's new financing law, which came into effect in January, sets out a progressive reduction in corporate income tax, from 33 per cent this year to 30 per cent in 2022, as well as repealing a 4 per cent tax on corporate revenues, moves that are designed to aid the growth of companies. However, banks are still subject to that 4 per cent tax, which will drop to 3 per cent next year, before being phased out in 2022 – the plan has been criticised by the banking sector, which views it as an unfair burden that will cut into the sector's profits.

Meanwhile, tax exemption plans for the agricultural, technology and creative sectors have also been introduced in a bid to foment the number of start-ups in the country.

García Henao has identified compliance as one of the most significant legal challenges clients face. "There has been a legal vacuum regarding compliance, and we rely on the use of external law firms to address those challenges," he says. He also laments how Colombia's regulatory framework is proving to be an obstacle to new investment. "Colombia is an attractive investment destination, but there is a high level of regulation, and that can act as a discouragement to doing business in the country," García Henao says.

As a result, he believes local law firms will play a vital role in helping investors navigate the local

laws, as well as the new legislation and reforms that are anticipated. Despite the new incentives for investment, the real estate sector is currently stagnating as a result of a lack of investment in the construction sector, and only the social housing sector has seen a growth in investment, García Henao says. "While certain political and economic actions could spur more investment in real estate and construction, investors are still very cautious," he explains.

"The panorama at this time does not promise any improvement in the sector," García Henao says. This is despite the optimism surrounding the election of President Iván Duque, who took office in August 2018. García Henao says: "Duque inherited a country that is still in recovery, in debt, and still in a period of slow adjustment