

In obtaining its own foreign investment registration, an investor who surrenders its ADRs and sells common shares may incur expenses and/or suffer delays in the application process. Investors would only be allowed to transfer dividends abroad or transfer funds received as distributions relating to our common shares after their foreign investment registration procedure with the Colombian Central Bank has been completed. In addition, the depositary's foreign investment registration may also be adversely affected by future legislative changes, but its rights to transfer dividends abroad or profits arising from distributions relating to our common shares must be maintained according to Colombian law and foreign investment treaties entered into by Colombia in force at the time of the registration of the investment, except when Colombia's international reserves fall below an amount equivalent to three months' worth of imports.

## **TAXATION**

### **Colombian Tax Considerations**

The following is a general description of the Colombian tax considerations for investments in common shares in Colombia or for the purchase of ADSs, in a foreign securities market. This description is based on applicable law in effect as of the date of this annual report, which may be subject to change.

Prospective purchasers of common shares or ADSs should consult their own tax advisors for a detailed analysis of the tax consequences resulting from the acquisition, ownership and disposition of common shares or ADSs.

#### *General Rules*

Entities and individuals who are residents or are domiciled in Colombia or are considered residents in Colombia for tax purposes are subject to Colombian income tax on their worldwide income. Non-resident entities and non-resident individuals are subject to income tax in Colombia solely on their Colombian-source income which, as a general rule, originates in the sale of assets located in the country at the time of the sale, in the exploitation of tangible and intangible assets in Colombia, and in the rendering of services within the Colombian territory. Double taxation treaties signed by Colombia, if applicable, provide for special rules regarding income tax.

For purposes of Colombian taxation, an individual is a resident if he or she meets any of the following criteria:

- (1) remains in Colombia for more than 183 calendar days within any given 365-consecutive-day term;
- (2) is related to the Colombian Government's foreign service or to individuals who are at the Colombian Government's foreign service and who, by virtue of the Vienna Conventions on diplomatic and consular relations, is exempt from taxes during the time of service; or
- (3) is a Colombian national and:
  - has a spouse or permanent companion, or dependent children, who are Residents, or
  - 50% or more of his or her total income is sourced in Colombia, or
  - 50% or more of his or her assets are managed in Colombia, or
  - 50% or more of his or her assets are deemed to be located in Colombia, or
  - has failed to provide proof of residency in another country (different from Colombia) upon previous official request by the Colombian tax office, or
  - is a resident of a country deemed a tax haven under Colombian law. By Decree 2193 of October 7, 2013 the Government defined the States that are considered tax havens.

For purposes of Colombian taxation, an entity is deemed to be a national, and, therefore, is subject to taxation in Colombia as a resident, if it meets any of the following criteria:

- (1) it has its place of business or its place of effective management in Colombia during the corresponding year or taxable period;
- (2) it has its main domicile in the Colombian territory; or
- (3) it has been incorporated in Colombia, in accordance with Colombian laws.

Pursuant to the Colombian Tax Statute, a foreign company or non-resident individual has a permanent establishment in Colombia when said company or individual performs activities in Colombia through: (1) a fixed place of business (i.e., branches, factories or offices), or (2) an individual who is not an independent agent empowered to execute agreements on behalf of the foreign company. Permanent establishments are considered Colombian taxpayers in connection with the income and taxable gains attributed to said permanent establishment. A foreign company or entity will not be deemed to have a permanent establishment by the sole fact that it acts through a broker or any other independent agent.

#### ***Tax Treatment of a Non-Resident of Colombia who Purchases an ADS in a Foreign Securities Market***

##### ***Dividends***

As a general rule, dividends paid to foreign companies, foreign entities or non-Colombian residents who are investing in Colombian shares directly or through a foreign investment capital fund, or FICF, are treated as Colombian-source income, and thus are subject to Colombian income tax.

To avoid double taxation, dividends are not subject to tax at the shareholder level when they are paid out of corporate profits that have been previously taxed at the corporate level. If the accounting or commercial earnings of a Colombian company exceed the profits subject to income tax at the corporate level, then the excess distributed as dividends is subject to income tax at the shareholder level. If the shareholder is a non-resident, the applicable tax rate is 33%. The regulation and decrees that govern the tax reform (Law 1607 of 2012, which entered into force on January 1, 2013) were enacted by the government in 2013.

If the shareholder is a non-resident entity or a non-resident individual investing through an FICF on portfolio investments, the applicable withholding tax rate is 25% and it is applied on the basis of the total amounts distributed, assuming that the dividends cannot be attributed to a permanent establishment in Colombia belonging to the shareholder. Foreign shareholders subject to such withholding taxes are not required to file an income tax return in Colombia.

Therefore, dividends distributed out of taxed earnings at the corporate level to shareholders who are non-residents will be exempt from income and withholding taxes. This exception does not apply in the case of distributions paid out of non-taxed earnings at the corporate level, which would be subject to the 33% income tax rate.

##### ***Taxation of Capital Gains from the sale of ADSs***

Capital gains obtained from the sale of ADSs by non-resident entities, Colombian individuals who are not residents in Colombia or foreign non-resident individuals, are not subject to income tax in Colombia as such sale does not result in Colombian-source income to the extent that the ADSs are not deemed to be owned in Colombia.

If the holder of the ADSs who is a non-resident entity, a Colombian individual who is not a resident in Colombia or a foreign non-resident individual, decides to surrender the ADSs and withdraw the underlying common shares, it is arguable that such transaction does not constitute a capital gain subject to income tax in Colombia. However, different interpretations may be adopted by the Colombian Tax Authorities on this matter.

## ***Tax Treatment in Colombia of Non-Resident Who Purchases Ecopetrol's Shares in Colombia's Securities Market***

### ***Dividends***

As a general rule, dividends paid to foreign companies or foreign entities, non-Colombian residents, who are investing in Colombian shares directly or through a FICF are treated as Colombian-source income; thus, they are subject to Colombian income tax.

To avoid double taxation, dividends are not subject to tax at the shareholder level when they are paid out of corporate profits that have been previously taxed at the corporate level. If the accounting or commercial earnings of a Colombian company exceed the profits subject to income tax at the corporate level, then the excess distributed as dividends is subject to income tax at the shareholder level. If the shareholder is a non-Colombian resident, the applicable tax rate is 33%. The regulation and decrees that govern the tax reform (Law 1607 of 2012, which entered into force on January 1, 2013) were enacted by the government in 2013.

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Therefore, dividends distributed out of taxed earnings at the corporate level to shareholders who are non-residents, will be exempt from income and withholding taxes. This exception does not apply in the case of distributions paid out of non-taxed earnings at the corporate level, which would be subject to the 33% income tax rate.

### ***Taxation of Capital Gains for the Sale of Shares***

Capital gains obtained in the sale of shares listed on the BVC and owned by the same beneficial owner, are not subject to income tax in Colombia, provided that the shares sold during the taxable year do not represent more than 10% of the outstanding shares of the listed company. Pursuant to Article 18 of Decree 2634 of 2012, sellers of shares are not required to file an income tax return for the transfer of securities that are listed in the National Registry of Securities and Issuers (*Registro Nacional de Valores y Emisores* or *RNVE*) as long as the foreign investment is treated as a portfolio investment under article 3 of Decree 2080 of 2000.

If the above-mentioned requirements are not met, the capital gain obtained in the sale of shares is subject to income tax or capital gains tax, under the following rules:

- The gain or loss arising therefrom will be equivalent to the difference between the sale price and the tax basis of the shares. As a general rule, the tax basis of shares is equal to the price paid for such shares (*i.e.*, cost of acquisition).
- The applicable tax rate and the withholding tax rate have to be determined on a case-by-case basis.

## ***Tax Treatment of Non-Residents Who Purchase Ecopetrol's Shares in the BVC Market and Exchange Them for ADSs***

### ***Dividends***

Payment of dividends made from Colombia to a non-resident are subject to the tax treatment described above. Therefore, payments to holders of ADSs are not subject to income, withholding or remittance taxes. Dividends paid to the Depositary of ADSs arising from Colombian shares are not subject to taxation, unless dividends are paid out of earnings that were not taxed at the corporate level, in which case they will be subject to income tax in Colombia at a 33% rate via withholding tax.

## *Taxation on Capital Gains for the Sale of Shares*

Assuming that the exchange of securities is treated as a sale of Ecopetrol's shares, the seller is subject to the tax treatment described above.

Therefore, capital gains obtained in the sale of shares listed on the BVC and owned by the same beneficial owner, are not subject to income tax in Colombia, provided that the shares sold during the taxable year do not represent more than 10% of the outstanding shares of the listed company. Pursuant to Article 18 of Decree 2634 of 2012, sellers of shares are not required to file an income tax return for the transfer of securities that are listed in the RNVE as long as the foreign investment is treated as a portfolio investment under article 3 of Decree 2080 of 2000.

If the abovementioned requirements are not met, the capital gain obtained in the sale of shares is subject to income tax or capital gains tax, under the following rules:

- The gain or loss arising therefrom will be equivalent to the difference between the sale price and the tax basis of the shares. As a general rule, the tax basis of shares is equal to the price paid for such shares (i.e., cost of acquisition).
- The applicable tax rate and the withholding tax rate have to be determined on a case-by-case basis.

## **U.S. Federal Income Tax Consequences**

This summary describes the principal U.S. federal income tax consequences of the ownership and disposition of common shares or ADSs, but it does not purport to be a comprehensive description of all of the U.S. tax consequences that may be relevant to a decision to hold or dispose of common shares or ADSs. This summary applies only to purchasers of common shares or ADSs who will hold the common shares or ADSs as capital assets for tax purposes and does not apply to special classes of holders such as dealers in securities or currencies, holders whose functional currency is not the U.S. dollar, holders of ten percent or more of our shares (taking into account shares held directly or through depository arrangements), tax-exempt organizations, financial institutions, holders liable for the alternative minimum tax, securities traders who elect to account for their investment in common shares or ADSs on a mark-to-market basis, partnerships or other pass-through entities, insurance companies, U.S. expatriates, persons that purchase or sell common shares or ADSs as part of a wash sale for tax purposes, and persons holding common shares or ADSs in a hedging transaction or as part of a straddle, conversion or other integrated transaction for U.S. federal income tax purposes. The statements regarding U.S. tax law set forth in this summary is based on the Internal Revenue Code of 1986, as amended, which we call the "Code," its legislative history, existing and proposed regulations, published rulings and court decisions all as in force on the date of this annual report, and changes to such law subsequent to the date of this annual report may affect the tax consequences described herein (possibly with retroactive effect). This summary is also based in part on the representations of the Depositary and the assumption that each obligation in the deposit agreement and any related agreement will be performed in accordance with its terms.

Each holder is encouraged to consult such holder's tax advisor concerning the overall tax consequences to it, including the consequences under laws other than U.S. federal income tax laws, of an investment in common shares or ADSs.

In this discussion, references to a "U.S. Holder" are to a beneficial holder of a common share or an ADS that is (1) a citizen or resident of the United States, (2) a corporation, or any other entity taxable as a corporation, organized under the laws of the United States, any state thereof or the District of Columbia, (3) an estate whose income is subject to United States federal income tax regardless of its source, or (4) a trust if a United States court can exercise primary supervision over the trust's administration and one or more United States persons are authorized to control all substantial decisions of the trust.

For United States federal income tax purposes, holders of ADSs will generally be treated as owners of the common shares represented by such ADSs.

This discussion addresses only United States federal income taxation. Holders of common shares or ADSs should consult their own tax advisor regarding the United States federal, state and local and other tax consequences of owning and disposing of common shares and ADSs in their particular circumstances.

#### *Distributions on Common Shares or ADSs*

A distribution to U.S. Holders made by us of cash or property with respect to common shares or ADSs generally will be treated as a dividend for U.S. federal income tax purposes to the extent paid out of our current or accumulated earnings and profits (as determined under U.S. federal income tax principles). Distributions in excess of our current or accumulated earnings and profits, as determined for United States federal income tax purposes, will be treated first as a tax-free return of capital reducing such U.S. Holder's adjusted tax basis in the common shares or ADSs. Any distribution in excess of such adjusted tax basis will be treated as capital gain and will be either long-term or short-term capital gain depending upon whether the U.S. Holder held the common shares or ADSs for more than one year. Distributions of additional common shares or ADSs to U.S. Holders that are part of a pro rata distribution to all of our shareholders generally will not be subject to U.S. federal income tax. We do not maintain calculations of our earnings and profits under U.S. federal income tax principles, and, therefore, U.S. Holders should expect that any distributions generally will be reported as dividends for U.S. federal income tax purposes. As used below, the term "dividend" means a distribution that constitutes a dividend for U.S. federal income tax purposes.

The amount of any distribution will include the amount of any Colombian tax withheld on the amount distributed, and the amount of a distribution paid in Pesos will be measured by reference to the exchange rate for converting Pesos into U.S. dollars in effect on the date the distribution is received by the Depositary (or by a U.S. Holder in the case of a holder of common shares) regardless of whether the payment is in fact converted into U.S. dollars. If the Depositary (or U.S. Holder in the case of a holder of common shares) does not convert such Pesos into U.S. dollars on the date it receives them, generally, any gain or loss resulting from currency exchange fluctuations during the period from the date the dividend payment is included in income to the date the payment is converted into U.S. dollars will be treated as ordinary income or loss and will not be eligible for the special tax rate applicable to qualified dividend income (as discussed below). The gain or loss generally will be income or loss from sources within the United States for foreign tax credit limitation purposes. Dividends paid by us will not be eligible for the dividends received deduction allowed to corporations under the Code.

If you are a noncorporate U.S. Holder, dividends that constitute qualified dividend income will be taxable to you at the preferential rates applicable to long-term capital gains provided that you meet certain holding requirements. Dividends paid on the ADSs will be treated as qualified dividend income if (1) the ADSs are readily tradable on an established securities market in the United States and (2) we were not, in the year prior to the year in which the dividend was paid, and are not, in the year in which the dividend is paid, a passive foreign investment company (PFIC). The ADSs are listed on the New York Stock Exchange, and will qualify as readily tradable on an established securities market in the United States so long as they are so listed. Based on our audited financial statements and relevant market and shareholder data, we believe that we were not treated as a PFIC for U.S. federal income tax purposes with respect to our 2013 taxable year. In addition, based on our audited financial statements and our current expectations regarding the value and nature of our assets, the sources and nature of our income, and relevant market and shareholder data, we do not anticipate becoming a PFIC for the 2014 taxable year. However, this conclusion is a factual determination that is made annually and thus may be subject to change. Based on existing guidance, it is not clear whether dividends received with respect to the common shares will be treated as qualified dividends. In addition, the U.S. Treasury has announced its intention to promulgate rules pursuant to which holders of ADSs or common shares and intermediaries through whom such securities are held will be permitted to rely on certifications from issuers to treat dividends as qualified for tax reporting purposes. Because such procedures have not yet been issued, it is not clear whether we will be able to comply with them. Holders of ADSs and common shares should consult their own tax advisers regarding the availability of the reduced dividend tax rate in the light of the considerations discussed above and their own particular circumstances.

A U.S. Holder will be entitled, subject to a number of complex limitations and conditions, to claim a U.S. foreign tax credit in respect of any Colombian income taxes withheld on dividends received on common shares or ADSs. U.S. Holders who do not elect to claim a credit for any foreign income taxes paid during the taxable year may instead claim a deduction in respect of such Colombian income taxes provided the U.S. Holder elects to deduct (rather than credit) all foreign income taxes for that year. Dividends received with respect to the common shares or ADSs will be treated as foreign source income, subject to various classifications and other limitations. For the purposes of the U.S. foreign tax credit limitations, the dividends paid with respect to our common shares or ADSs will generally constitute either "passive" or "general" income. The rules relating to computing foreign tax credits or deducting foreign income taxes are extremely complex, and U.S. Holders are urged to consult their own independent tax advisers regarding the availability of foreign tax credits with respect to any Colombian income taxes withheld.

#### *Sale, Exchange or Other Taxable Dispositions of Common Shares or ADSs*

A U.S. Holder generally will recognize capital gain or loss upon the sale, exchange or other taxable disposition of common shares or ADSs in an amount equal to the difference between the U.S. dollar value of the amount realized on the sale, exchange or other taxable disposition of the common shares or ADSs and the U.S. Holder's adjusted tax basis, determined in U.S. dollars, in the common shares or ADSs. Any gain or loss will be long-term capital gain or loss if the common shares or ADSs have been held for more than one year. Certain non-corporate U.S. Holders (including individuals) may be eligible for preferential rates of U.S. federal income tax in respect of long-term capital gains. The deductibility of capital losses is subject to limitations under the Code.

If you are a U.S. Holder of common shares or ADSs, the initial tax basis of your common shares or ADSs will be the U.S. dollar value of the Peso-denominated purchase price determined on the date of purchase. If the common shares or ADSs are treated as traded on an "established securities market," a cash basis U.S. Holder, or, if it elects, an accrual basis U.S. Holder, will determine the dollar value of the cost of such common shares or ADSs by translating the amount paid at the spot rate of exchange on the settlement date of the purchase. If you convert U.S. dollars to Pesos and immediately use that currency to purchase common shares or ADSs, such conversion generally will not result in taxable gain or loss to you.

With respect to the sale or exchange of common shares or ADSs, the amount realized generally will be the U.S. dollar value of the payment received determined on (1) the date of receipt of payment in the case of a cash basis U.S. Holder and (2) the date of disposition in the case of an accrual basis U.S. Holder. If the common shares or ADSs are treated as traded on an "established securities market," a cash basis taxpayer, or, if it elects, an accrual basis taxpayer, will determine the U.S. dollar value of the amount realized by translating the amount received at the spot rate of exchange on the settlement date of the sale.

Deposits and withdrawals of common shares in exchange for ADSs, and ADSs for common shares generally will not result in the realization of gain or loss for U.S. federal income tax purposes.

#### *Backup Withholding and Information Reporting*

In general, dividends on common shares or ADSs, and payments of the proceeds of a sale, exchange or other taxable disposition of common shares or ADSs, paid within the United States, by a U.S. payor through certain U.S.-related financial intermediaries to a U.S. Holder are subject to information reporting and may be subject to backup withholding at a current rate of 28% unless the holder (1) establishes that it is a corporation or other exempt recipient or (2) with respect to backup withholding, provides an accurate taxpayer identification number and certifies that it is a U.S. person and that no loss of exemption from backup withholding has occurred.

Backup withholding is not an additional tax. The amount of any backup withholding tax from a payment to a U.S. Holder will be allowed as a credit against the U.S. Holder's U.S. federal income tax liability, provided that the required information is timely furnished to the Internal Revenue Service (the "IRS"). A U.S. Holder generally may obtain a refund of any amounts withheld under the backup withholding rules that exceed its U.S. federal income tax liability by timely filing a refund claim with the IRS.

#### *U.S. Tax Considerations for Non-U.S. Holders*

A holder or beneficial owner of common shares or ADSs that is not a U.S. Holder for U.S. federal income tax purposes (a "non-U.S. Holder") generally will not be subject to U.S. federal income or withholding tax on dividends received on common shares or ADSs, unless the dividends are "effectively connected" with the non-U.S. Holder's conduct of a trade or business within the United States. In such a case a non-U.S. Holder generally will be taxed in the same manner as a U.S. Holder. In the case of "effectively connected" dividends received by a corporate non-U.S. Holder, the corporate non-U.S. Holder may, under certain circumstances, be subject to an additional "branch profits tax" at a 30% rate.