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business advisers

# Doing Business in Ecuador





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## Introduction

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## Foreword

This guide was prepared with the purpose of providing a fair view of Ecuador's business environment to foreign investors. It features basic information such as geography, population, weather, legal and economy environment, communications, transportation and others.

Our objective is to contribute investors with relevant information to develop businesses initiatives in our country.

The contents should not be used as a basis for action without further professional advice.

As a member firm of PKF International Limited network, our professionals have high expertise in services such as audit, accounting, tax, legal, consulting and advisory, corporate finance and other business services.

We will be willing to assist and support you in any matter of interest.

Edgar Naranjo L.  
**Managing Partner**  
PKF & Co.



# Demographic and Environmental Overview

## Geography and Population

Ecuador has an area of 283,560 km<sup>2</sup> and is comprised of four natural regions: the West Coast, bordered by the Pacific Ocean; the Central Highlands, made up by the Cordillera de Los Andes; the Amazon, covering approximately 50% of the territory and the Galapagos Islands. It has an estimated population of 16.17 million people.

The weather on the West Coast, the Amazon, and the Galapagos Islands is mainly sunny, warm and humid. Cooler weather prevails in the Central Highlands.

## Political System

Ecuador is a representative democratic republic. Its capital city is Quito and is divided into 24 provinces, each one made up of cantons and parishes for administrative and political purposes.

The Constitution lays down the fundamental principles and basic framework for the three branches of state, namely, the Executive, the Legislative and the Judiciary. President and Vice-president are both elected for a four year term with a single option for re-election.

The Executive, headed by the President and Vice-President and a Cabinet composed of Ministries appointed by the President. The Legislative Assembly is presided by an assemblyman appointed by election for two years. The Judiciary System is presided by the Supreme Court of Justice. Provincial governors and councilors (mayors, aldermen and parish boards) are directly elected.

## Economy

The country has potential for the industry in a variety of sectors, including domestic production of raw materials and manufactured textiles, mining, chemical, petrochemical, and oil refinement. Power generation is also a potential sector



that is starting to be developed due to Ecuador's high water potential in various sectors of the country; the development of products based on the melting of glass materials, production and agro-processed foods, and pharmaceutical production, among others. The most relevant project currently under development is the Pacific refinery, located in Manta, which will be one of the largest in the region.

The country's productive structure aims to generate a sustainable and diversified economy oriented towards knowledge and innovation.

Ecuador presents an attractive alternative for Foreign Investment in sectors that count with possibilities in technological applications, generating aggregated value and important resources such as bio-technology, based in the bio-diversity.

Ecuador is one of the few countries on the planet named as "Megadiverse", with 25,000 species of plants, 706 species of fresh water fishes, 1,600 species of birds, 369 mammals, 350 species reptiles and 450 of amphibious.

It is a relatively small country but has one of the highest biological diversities in the world. The main reasons for that are its tropical location on the equator, the Andes mountain range and two major ocean currents along its coast. Furthermore it is home to the remote Pacific Islands of Galapagos, a very special place for evolutionary biology. A rich variety of microclimates, four natural regions, permanent solar luminosity and the impressive fertility of our land; are some of the factors that make Ecuador a suitable place to develop any type of productive and commercial activity.

Both bio-commerce and bio-business are important subjects in the National Strategy of Bio-diversity, an instrument that Ecuador has to pursue economic advantage of its bio-diversity, generating wealth without destructing the natural base.

Spanish is the official language spoken in Ecuador, although Quechua is spoken by most of the indigenous inhabitants of the Highlands and Amazon. The currency used is United States Dollars (USD).

The legal system is the Civil Law, based on the Napoleonic Code, as most of Latin American countries.

Ecuador is one of the world's largest exporters of commodities such as bananas, shrimp, fish, coffee, cocoa, flowers and crude oil. Most important market destinations for commodities are the United States, Colombia, Russia, Vietnam, Venezuela, Netherlands, and Spain.

Major imports of machinery and equipment, fuels, raw materials and consumer goods come from the United States, Colombia, Peru, China, Japan, Mexico, and Venezuela.



## Communications and Transportation

There are two international airports in Ecuador, Guayaquil's José Joaquín de Olmedo and Quito's Mariscal Sucre both connecting Ecuador with main destinations around the world. There are also 17 local airports located in different cities with permanent services to both Guayaquil and Quito.

There is an excellent 6,000 km network of highways. Ecuador has excellent internal and external telecommunications, with easy access to broadband and vocal telecommunication facilities. The telephone direct dialing system gives instantaneous international communication from both fixed and mobile units. Other trading points include important seaports (Guayaquil, Manta, Puerto Bolívar and Esmeraldas).

## Services and Exchange Controls

Government levies customs duties on most merchandise entering Ecuador. Customs clearance must be obtained to import. There are important quarantine controls on certain goods, including certain drugs, animals, plants, food, firearms and vehicles.

Since March 2015, new levies between 5% and 45% apply to the import of 2,800 items including raw boneless meat, bacon, jam, powder milk, yogurt, cheese, butter, sweet corn, beans, peas, fruits, processed sauces and flavoring (mustard, ketchup, mayonnaise), processed juices, cereals, cookies, clothing, electronic devices, parts for vehicle assembly, motorcycles, tires, pottery and others capital assets and raw materials.

There is no exchange controls in Ecuador.

## Finance

The financial sector is under control of the Superintendencia de Bancos del Ecuador and mostly consists of banks, insurance companies, mutual savings, issuers of credit cards and factoring companies. Citibank is the only foreign bank operating in Ecuador and provides mostly corporate services. Other foreign banks have a representation office: Wells Fargo Bank N. A., EFG Bank, Austrobank Overseas (Panama) S.A., Helm Bank (Miami), Banco de Desarrollo Económico y Social de Venezuela "BANDES".



## Grants and Incentives

The Production, Business and Investment Code (COPCI for its initials in Spanish) includes incentives intended to promote the economic development. Main general incentives are the following:

- Exemption from the tax on remittance of currencies for financing operations.
- New investments are exempted from income tax advances for the next five years.
- Reform of the method for calculating income tax advances.

New investments contributing with the replacement of current energy sources, the strategic replacement of imports, the promotion of exports, and the rural development around the country, are exempted from paying income tax for the next five years.

## Regulatory Environment

Ecuadorian legislation offers broad facilities for foreign investment in a wide range of activities. The type of business entities used in Ecuador are corporations and branches of foreign companies offering special systems for investment in certain areas. Ecuador offers flexible, clear, stable norms that ensure a very attractive climate of economic freedom.

Investors can establish joint ventures or holding companies in order to link their interests to already established and successful companies. They can also undertake new activities, taking advantage, for instance, of the privileged treatment granted in the Tax Free system, which exempts investors from payment of the value added tax (VAT), tax on profits, customs duties, special consumption tax (ICE), municipal taxes and export fees.

Another interesting alternative is the "Maquila System", which allows exporting goods with final aggregated value incorporated in Ecuador. This attractive model of production is also exempt from the VAT and export fees, with the understanding that production is exclusively for exports. Special system guarantees conditions for these activities in long term and free repatriation of profits, as with all foreign investment.



## Acquisitions and Mergers

Mergers of commercial companies controlled by the Superintendencia de Compañías are regulated by the Business Law (Ley de Compañías). A merger can occur in two ways:

- a) if two or more companies join to create a new company that succeeds them in their rights and obligations (simple merger); or,
- b) if one or more companies are taken over by another company that continues to exist (merger by takeover).

The procedure for a merger is as follows. In order to merge a company to result in a new company, it is first necessary to agree about the former's dissolution and afterwards to transfer all of its corporate assets in bulk to the new company. If the merger is the result of one or more companies having been taken over by an existing company, the latter must likewise acquire in bulk the assets of the company or companies taken over by means of a capital increase in the applicable amount. In the case of merger by takeover, the company that takes over must approve the basis for the operation and a draft amendment to the by-laws at a special shareholders' meeting especially called for that purpose.

The companies that will be absorbed or those that merge in order to create a third company must also approve the merger in the same manner (that is, by calling a shareholders' meeting). The Superintendencia de Compañías must approve a public deed comprising the merger of commercial companies that, in order to take effect, must subsequently be published as an excerpt and then registered with the Registro Mercantil (Public Registry).

The deed, according to the Law on Companies, must include the final balance sheet of the companies merged or taken over, the modifications to the by-laws resulting from the capital increase of the company that takes over, and the number of shares that will be delivered to each new shareholder.

The following are the effects of a merger of two or more companies, as the case may be:

- a) if a simple merger is involved, that is, if two or more companies are joined for the purposes of creating a new company, a new juridical person is created that succeeds the rights and obligations of the merged companies; and,
- b) in the case of merger by takeover, the company that takes over will pay the liabilities of the company taken over and must assume the responsibilities inherent to a liquidator as regards the creditors of the company that is taken over.



From a taxation standpoint, the Tax Code specifies that purchasers of businesses or of companies will be responsible – as buyers or successors – for all the taxes that the transferor might owe and that are generated from the business of the company being transferred during the year when the transfer takes place and during two years previously. Liability is limited to the value of the assets.

On the other hand, the Tax Code also provides that companies that substitute other companies will also be responsible as their purchasers or successors and must take charge of the assets and liabilities, in whole or in part, through a merger, transformation, takeover or otherwise. Such responsibility includes the taxes owed up to the date of whatever corporate action takes place. Transfers of assets and liabilities occurring in mergers do not incur income tax, and the greater or lesser amount reflected in the value of the shares or share interests of the shareholders of the merged companies is not taxable or deductible. Assets (tangible or intangible) may be transferred at present value or at market value. Regarding this issue, the Superintendence of Companies has resolved that, on the basis of an expert appraisal, the market value of tangible or intangible assets must be determined by the shareholders' meeting that decides the merger.

#### FOREIGN INVOLVEMENT IN MERGERS & ACQUISITIONS TRANSACTIONS

As already mentioned, substantial activity (in proportion to the market) by foreign investors in the area of mergers and acquisitions is taking place in Ecuador. Because of the political situation in Latin America and the financial crises in the United States and Europe, the Chinese investment is very important in Ecuador. Although that activity prevails in banks and the consumer sector, Chinese investments in Ecuador are quite active with respect to energy matters, particularly mines, oil, electric power and the alternative energy sector.

Chinese investments (very significant in the past three years) have changed law firm practices, how fees are negotiated, and how clients are treated. However, though Ecuadorean legislation is not discriminatory with regard to foreign investors, it should be noted that foreign shareholders in local companies must disclose corporate information to the Superintendence of Companies and to the Internal Revenue Service (the tax authority).

## Securities

Two stock exchanges operate in Ecuador: Quito and Guayaquil. In 2014, USD 7.5 million were negotiated (equivalent to 7.6% of GDP) and market value add up to USD 7.4 million. Money market comprises 84% of securities market.

Important participants of the equity market include major local banks and leading industries.



## Alternatives to an Audit

Companies that comply with the following must appoint auditors to annually report on their financial statements for the reporting period comprised between January 1 and December 31:

- Public-private partnerships with assets greater than US\$ 100,000.00;
- Branches or agencies with assets greater than US\$ 100,000.00; and,
- Stock and limited liability companies with assets greater than US\$ 1 million.
- All financial institutions and public companies registered in the stock exchanges (Quito and Guayaquil).



# Consumer Protection and Special Industries

## Legal Protection for Intangibles

### Copyright

Copyright is protected in Ecuador under the Intellectual Property Law, that recognizes copyright owner whether it's registered or not. International agreements include Rome Agreement, Berne Agreement, and Agreement with the World Organization for Intellectual Property.

### Trademarks

Trademarks are protected in Ecuador under the Intellectual Property Law, that concedes the exclusive use of a registered trademark to its registered proprietor for ten years, that can be renovated successively for another ten years. To determine international classification of registered trademarks, the International Classification of Nice 1957 will be used.

### Trade Names

Trademarks are protected in Ecuador under the Intellectual Property Law, that recognizes copyright owner whether it's registered or not.

### Patents

Inventions, in every field of technology, are protected by the concession of patents. To be applicable, these must be new, have inventive level, and be susceptible of industrial application. To determine international classification of registered patents, the International Patents Classification of the Strasbourg Agreement 1971 will be used.

## Sarbanes-Oxley Act

The Sarbanes-Oxley Act came into force in July 2002 and introduced major changes to the regulation of corporate governance and financial practice in the United States. Branches and subsidiaries of listed U.S. corporations domiciled in Ecuador should comply with the Sarbanes-Oxley Act.



## Relevant Legislation

- National Constitution
- Social Security Law
- Public Procurement Law
- Civil Law
- Production, Business and Investment Code
- Criminal Law
- Labour Code
- Tax Legislation
- Business Law



# Forms of Business Organizations

## Corporations

The main business structures used in Ecuador are companies and partnerships, which mostly include stock companies (often referred to as “corporations”), limited liability companies and public-private partnerships (often called “mixed-capital companies”).

Every company should register with the Commercial Registry and will be subordinated to the Superintendence of Companies, or with the Superintendence of Banks, Financial Institutions and Insurance Companies. These institutions control and supervise business operations according to the Ecuadorian Law.

In stock companies, shareholders, who own negotiable shares, are responsible only for the capital they contributed, must have at least two shareholders at all times and hold one shareholders meeting per year.

Limited liability companies are made-up of partners, with liabilities or participation according to their capital contribution. Contrary from stock companies, limited liability companies’ shares are not freely negotiable. At least one yearly shareholders meeting is mandatory.

The Ecuadorian Business Law rules the legal management and administration of companies doing business in the country. Companies are legally constituted by the “Deed of Incorporation”, which also includes the company’s statutes (these can be modified anytime in the future).

## Forming a Company

Specific requirements apply to incorporate a company, depending of its business structure. Minimum capital requirements are the following:

- Stock companies: US\$800.00
- Limited liability companies: US\$400.00
- Public-private partnerships: US\$800.00



## Registration Requirements and Filing Procedures to Public Securities

To be listed in the Securities Market Registry ("Registro del Mercado de Valores") is mandatory prior any participation in the stock market. Any listed company intending to issue securities for public sale must issue a prospectus approved by the Superintendence of Companies. The issue requirements are contained in the Ecuadorian Securities Market Law.

## Non-Resident Shareholders

Shares in Ecuadorian companies do not have to be held by Ecuadorian resident shareholders. However, the names of non-resident shareholders and the amount of shares they own do need to be disclosed.

## Branch of a Foreign Corporation

Ecuadorian legislation offers broad facilities for foreign investment in a wide range of activities. The type of business entities used in Ecuador are corporations and branches of foreign companies offering special systems for investment in certain areas. Ecuador offers flexible, clear, stable norms that ensure a very attractive climate of economic freedom.

Any foreign company intending to conduct economic and business activities in Ecuador, must be established locally as a branch.

To establish a branch of any foreign company in Ecuador, the following should be presented to the Superintendence of Companies, to obtain the respective authorization to operate:

- Head Office's Deed of Incorporation (including its statutes), noting that it can legally establish branches and conduct economic and business activities abroad. This documentation must be certified by the Ecuadorian consul where the Head Office is established;
- Power of attorney appointing an agent as legal representative in Ecuador; the agent must be a legal resident in Ecuador;
- A certification of the Head Office's resolution to establish a branch in Ecuador, stating a capital of at least US\$2,000.00;

Whether the branch intends to offer public services or perform activities related to the exploitation of natural resources, or the establishment of a branch is required by law, the minimum capital referred above may be different.



## Partnerships

Partnerships cannot participate in activities such as banking, finance, insurance and savings operations.

## Joint Ventures

The joint venture agreement defines each participant's proportionate share in venture assets, liabilities and results. There are no special regulations governing the establishment of joint ventures.

## Trusts

Trusts must be incorporated as stock companies, and may manage investment funds and fiduciary businesses, issue securities and represent international investment funds.

## Limited Liability Company

Limited liability companies are governed by rules different to those relating to assignments of share interests. The capital of those companies is divided into share interests that, since they are not securities or movables, cannot be freely assigned or transferred – unlike shares of stock corporations. Share interests are quotas (contributions) into the company's capital. Because share interests are not securities, they lack the characteristics inherent to shares: free circulation and valuation in the market, for instance.



# Accounting

IFRS are mandatory for all companies. Banks, insurance companies, and other financial institutions that are under the control/supervision of the Superintendencia de Bancos del Ecuador must use standards issued by that regulator.

## Tax Accounting and Reporting

- All the branches and foreign companies domiciled in Ecuador have accounting requirements. Also, individuals that perform exporting activities.
- All the documentation that supports the accounting records should be available at least for 7 years.
- Accounting records should be kept according to the double entry system, in Spanish and in US Dollars.
- Financial statements should be presented according to the accounting principles required by the regulator and will serve as basis for the preparation of the tax forms.

## Statutory Audits

Ecuador's business law allows for Statutory Audits, however these are not mandatory unless the Company complies with the minimum requirements for external audit, as mentioned below:

- Public-private partnerships with assets more than USD 100,000.00;
- Branches or agencies with assets more than USD 100,000.00; and,
- Stock and limited liability companies with assets more than USD 1 million.



## Fundamental financial accounting standards

Companies have to report every year their financial statements, which comprise the statements of financial position as at December 31, and the statements of comprehensive income, changes in equity and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory notes.

## Accounting Principles

Accounting records are in accordance with International Financial Reporting Standards issued by the International Accounting Standards Committee (IASB), which have also been used in preparing the financial statements.

On August 21, 2006, Resolution of the Superintendence of Companies No. 06.Q.ICI.004, requires the application of International Financial Reporting Standards from 2009, to companies and entities subjected to control of the Superintendence. On November 20, 2008, with resolution of the Superintendence of Companies No. 08.G.DSC, it was timetable was established for the adoption of IFRS, replacing the Ecuadorian Accounting Standards, which began in 2010 and concluded in 2012.

## Financial Reporting

All companies should issue their financial reports for Management discussion, analysis and decisions on a quarterly or annual basis. For large corporations, these statements may be complex and may include an extensive set of footnotes to the financial statements and management discussion and analysis. The notes typically describe each item on the statements of financial position as at December 31, and the statements of comprehensive income, changes in equity and cash flows for the year then ended in further detail. Notes to financial statements are considered an integral part of the financial statements.



# Taxation

Income tax is levied by the Ecuadorian Government upon the income of corporations and individuals. Local Governments do not levy income tax.

The Ecuadorian Government also levies a value added tax, which is imposed on the purchase of most goods and services by Ecuadorian residents, or on goods and services for use in Ecuador.

All Local Governments levy such taxes as business tax (calculated as the 1.5x1,000 of total assets of the last reported period) and real estate tax. Each Local Government is responsible for its own taxes. Others include: rain water drainage, fire insurance, individual and corporate net worth, state university funds, fire department, transfer of property, etc.

Likewise, the Superintendence of Companies, Securities and Insurance and the Superintendence of Banks, Financial Institutions and Insurance Companies charge annual fees to the companies under their regulations.

The national taxation system is administered by the Ministry of Finance, through the Internal Revenue Service.

## Taxes and Levies

Individuals and national and foreign corporations that derive assessable income are taxpayers, and they are liable to income tax.

Most trusts do not pay income tax. Whilst they are required to file income tax returns which disclose their taxable income, any taxable income they derive is generally taxed in the hands of the trustees or beneficiaries.

Company tax is payable by Ecuadorian resident companies on non-exempt income derived from all sources. Non-resident companies are required to pay tax on income sourced in Ecuador.

Resident companies are those that are incorporated in Ecuador, or carry out businesses in Ecuador and have either central management and control in Ecuador or voting power controlled by Ecuador resident shareholders.



The corporate tax rate is 22%. Capitalised profits have a 15% tax rate. The tax year runs from 1 January to 31 December. Tax is payable from 2–28 April, depending on the tax identification number. Taxpayers are required to pay tax advances over its assets and equity. This tax advance is made in two payments, according to the following chart:

9 <sup>th</sup> RUC digit	Expiry date (1 <sup>st</sup> portion)	Expiry date (2 <sup>nd</sup> portion)
1	July 10 <sup>th</sup>	September 10 <sup>th</sup>
2	July 12 <sup>th</sup>	September 12 <sup>th</sup>
3	July 14 <sup>th</sup>	September 14 <sup>th</sup>
4	July 16 <sup>th</sup>	September 16 <sup>th</sup>
5	July 18 <sup>th</sup>	September 18 <sup>th</sup>
6	July 20 <sup>th</sup>	September 20 <sup>th</sup>
7	July 22 <sup>nd</sup>	September 22 <sup>nd</sup>
8	July 24 <sup>th</sup>	September 24 <sup>th</sup>
9	July 26 <sup>th</sup>	September 26 <sup>th</sup>
0	July 28 <sup>th</sup>	September 28 <sup>th</sup>

These tax advances constitute tax credit for income tax purposes. Exonerations and reductions for the payment of tax advances apply when there is evidence of (1) losses, (2) decrease in current year's operating activities in relation with prior years, or (3) withholdings are greater than income tax liability for current year.

All payments or register of purchases of goods or services are subject to the following rates of withholding tax:

- 1% - electricity, private/public transport of passengers and private freight
- 1% - purchase of all type of goods (except oil products)
- 1% - all construction activities
- 1% - over the 10% of the premium billed
- 1% - over the quotes and option purchasing in leasing



- 1% - those carried out by media services and advertising agency
- 1% - interest and commissions caused in the operations of credit between institutions of the financial system. The financial institution that paid or charge financial returns will act as withholding agent
- 2% - those realized by individuals for services in which workforce is over the intellectual work
- 2% - payments by credit card issuers to their merchants
- 2% - income generated from loans and investments
- 2% - those interests that any public entity recognized on behalf of tax payers
- 2% - Any other payments
- 8% - Fees, commissions and other payments to professionals or other persons who are present in Ecuador for more than six months for services that are predominantly intellectual or for sport or artistic services, always when such service is not related to the professional title of the person who provides the service; royalties paid to resident individuals or Ecuadorian branches of non-residents; payments for letting of immovable property.
- 10% - Fees, commissions and other payments to professionals or other persons who are present in Ecuador for more than six months for services that are predominantly intellectual, always when those services are related to their professional title. Payments and credits not included in withholding rates. Amounts paid to non-resident individuals for services rendered from time to time in Ecuador and that constitute taxable income, and other payments different to earnings or dividends that are sent, paid or credited to the abroad. (Fees for professional activities).
- 22% - Payments to non-resident foreign individuals for subject-to-tax services occasionally performed in Ecuador and other payments other than dividends or profit distributions.

The amounts paid are tax credit for annual corporate income tax purposes.

Interests paid to financial institutions are not subject to withholding tax. Employment income is subject to a specific withholding regime.



## Corporate Tax

Income Tax Form (Formulario 101) should be presented by companies during April, according to the last digit of the taxpayers' identification number (RUC), as follows:

9 <sup>th</sup> RUC digit	Expiration date
1	April 10 <sup>th</sup>
2	April 12 <sup>th</sup>
3	April 14 <sup>th</sup>
4	April 16 <sup>th</sup>
5	April 18 <sup>th</sup>
6	April 20 <sup>th</sup>
7	April 22 <sup>nd</sup>
8	April 24 <sup>th</sup>
9	April 26 <sup>th</sup>
0	April 28 <sup>th</sup>

## Capital Gains Tax

Capital gains are generally taxed as ordinary income. Occasional capital gains on investments (shares and corporate rights) and immovable properties are tax-exempt.



## Branch Profits Tax

The Ecuadorian sourced income of Ecuadorian branches of foreign companies is subject to income tax at the ordinary corporate rate of tax. The taxable income is calculated as if the branch was a separate entity from the foreign company. There is no specific income tax for branches. Income made by branches is taxed according to general income tax rules. A very important exception is the treatment of foreign oil companies involved in state contracts.

## Sales Tax / Value Added Tax

Value Added Tax is levied at 12% and applied to certain transfers of goods and services. Donations to the public sector or non-profit organizations, transfers of shares, sales of companies, produce from agriculture, livestock, forestry, hunting activities, medicine and drugs for human use, basic consumption products (meat, milk, bread, salt, sugar, etc.) books, magazines, newspapers, merchandise imported by public entities, diplomatic sector, religious institutions and passengers arriving Ecuador, are subject to 0% VAT. Individuals, corporations and public entities must pay the VAT, which must be reported monthly to the Internal Revenue Service. VAT is a tax credit in purchases of goods and services.

## Fringe Benefits Tax

No fringe benefits are deductible as expenses in income tax liquidation. The only exception is that the company is allowed to pay and expense its employee income tax and social security contribution if the company has contracted to do so.

## Local Taxes

There are many and diverse taxes which are applied at local or regional levels. These include: urban property, rain water drainage, fire insurance, individual and corporate net worth, state university funds, fire department, transfer of property, etc. Nominally, there are no stamp duties.



## Other Taxes

Other taxes imposed by the Ecuadorian Government include excise duties and oil and gas resources revenue taxes.

Likewise, the Superintendents of Companies, Banks, Financial Institutions and Insurance Companies charge annual fees to the companies they supervise.

### Customs Duty

Customs duty is imposed on various goods imported into Ecuador, including textiles, clothing, footwear and motor vehicles, with the duty generally expressed as a percentage of the free on board (FOB) value of the goods. Many goods are exempt from duty, and concessions may also be available where the import of goods does not have an adverse effect on the market for locally produced goods.

### Tax on the Remittance of Currencies (ISD)

This tax is charged on the remittance of currencies of all monetary transactions and operations carried out abroad with or without the intervention of the institutions of the financial system or over the value of payments made from accounts abroad for any reason. The rate of ISD tax is 5%.

The ISD should be paid by all individuals, foreign banks and private companies, local and foreign. Financial Institutions (IFIs) are constituted as withholding agents when transferring remittance of currencies by its clients.

Withholding agents and officers of perception must collect from their customers, at the time they request the transfer abroad of currencies subject to this tax, in a Form of "Information Statement of Tax on the Remittance of Currencies" through financial institutions or couriers.

### Superannuation guarantee

Ecuador does not have a superannuation scheme with employers. However, every employer must deduct from the employees' monthly salary 9.45%, equivalent to the contributions to the Ecuadorian Institute of Social Security. Additionally, employers must remit 12.15% of each employee's total payroll to SECAP (industrial training) and IECE (public education).



## Determination of Taxable Income

- **Tax Depreciation / Capital Allowances**

Business assets are subject to depreciation. Costs are recovered in accordance of the goods involved based on their useful life and accounting techniques. In general, it is taken over five to 20 years.

- **Stock/Inventory**

Inventories are valued at cost in accordance with general accounting principles and standards established in regulations to the law.

- **Capital Gains and Losses**

Capital gains are generally taxed as ordinary income. Occasional capital gains on investments (shares and corporate rights) and immovable properties are tax-exempt.

Net capital gains and losses generally are included in the determination of assessable income.

- **Dividends**

Dividends, goods or services derived from labor, investment, capital and inheritances are subject to income taxes.

Diplomats, agents, official representatives, consuls, and ambassadors are exempt from paying income tax. The following are also exempt:

- Government pensions and retirements
- Security funds
- Benefits received from the Armed Forces
- Handicapped persons' income
- Participations of workers in the companies' profits



- **Interest Deductions**

Interest paid on local and foreign loans and other debts is deductible to the extent it relates to borrowings made for income producing purposes.

Interest is deductible. The deduction of both interest and the cost of foreign financing are allowed only if the loan has been registered with the Central Bank of Ecuador considering that, to be deductible from income tax, 22% for year 2015 withholding is required.

- **Losses**

Companies which have sustained operating losses in a tax year may carry such losses forward to subsequent tax years and set them off over five years at the rate of 20% per annum, provided that not more than 22% (for year 2015) of the profits obtained in each fiscal year are allotted for such purposes. The carry back of losses is not permitted.

- **Foreign Sourced Income**

Domestic corporations are subject to taxes on their worldwide income with tax credits allowed for income taxes paid abroad.

- **Incentives**

Production, Business and Investment Code includes incentives intended to promote the economic development.

Main general incentives are the following:

- Annual progressive reduction of one percentage point for the next three years in income tax.
- Exemption from paying the tax on the remittances of currencies for operations of foreign financing.
- New investments are exempted from paying income tax advances for the next five years.
- Reform of the method for calculating income tax advances.

New investments contributing with the replacement of current energy sources, the strategic replacement of imports, the promotion of exports, and the rural development around the country, are exempted from paying income tax for



the next five years.

## Foreign Tax Relief

Ecuador is a signatory to Double Taxation Agreements with Germany, Argentina, Brazil, Canada, Chile, Spain, France, Italy, Mexico, Rumania, Belgium and Switzerland, as well as those member countries of the Andean Community (Bolivia, Colombia, Ecuador, Peru and Venezuela).

## Corporate Groups

No provisions exist for filing consolidated returns or relieving losses within a group.

## Transfer Pricing and Related Party Transactions

In addition to paying interest and dividends, the payment of management and service fees, and royalties, are methods of repatriating profits to the non-resident associates, controllers and owners of Ecuadorian entities. Withholding tax of 25% applies.

Taxpayers that performed transactions with local and foreign related parties, within the same fiscal period for an accumulated amount exceeding US\$3 million, shall submit the Transfer Pricing Annex to the Internal Revenue Service. Additionally, those taxpayers that performed transactions with local and foreign related parties, within the same fiscal period of an accumulated amount exceeding US\$6 million, shall submit the Transfer Pricing Full Report.



## Treaty and Non-Treaty Withholding Tax Rates

Decision 578 of the Cartagena Agreement has been adopted by Ecuador. This broadly means that relief from double taxation is provided for natural and juridical persons located in any of the Andean Pact countries (Bolivia, Colombia, Ecuador, Peru and Venezuela). Ecuador has similar tax treaties with Belgium, Brazil, Chile, Mexico, France, Germany, Italy, Spain, Romania, Switzerland, Canada, Korea, China and Uruguay.

The final status of the Sweden tax treaty was uncertain at the time of writing.

## Compliance and Reporting

Tax Compliance Report is the result of analysis of the external auditors on the audited taxpayer compliance and that are considered by tax authorities as payers of tax obligations.

Tax Compliance Report is a document that shows the view of the External Auditor on the audited taxpayer compliance as taxpayers with tax obligations.



# Taxation of Individuals in Ecuador

## Entry into Ecuador, Visas and Permits

### Immigration to Ecuador

Ecuador welcomes migration of individuals for business purposes. However, legal advisory about this subject should be asked. The Constitution prohibits discrimination on the basis of sex, race, nationality or religion beliefs. In general, the Ecuadorian Constitution and The Labor Code strive to protect the employees' rights.

Several major changes to the Labor Code are being discussed by the authorities in order to attract greater foreign investment and to liberalize the rather inflexible labor legislation. These changes will help to increase the workers efficiency through training programs, standardize equal pay for equal work and encourage employees to raise their level of work to increase quality.

### Work and Residence Permits

#### a) Work Permits

According to law, every foreigner willing to work in Ecuador must obtain an authorization from the National Director of Employment and Human Resources.

Immigrant Visas are granted to: retired people who receive pensions from their native countries, real estate investors who bring capital to Ecuador, investors who wish to export agricultural products, livestock or mineral resources, companies with local agents who possess power of attorney to represent the company in Ecuador, contracted technicians, professionals with university degrees recognized by a national university and spouses and children of Ecuadorian citizens.

Most countries' visitors do not require tourist visas.

Non-immigrant and Tourist Visas are granted to temporary foreign technicians, participants in intercultural exchanges, tourist and businessmen. Except for the Diplomats' and political exiles Visas, all other Visas are granted by the consul and must be renewed every year.

Specific legislation also exists which governs the treatment of foreign employees working in Ecuador.



## b) Residence Permits

Any person willing to live in Ecuador for an undetermined period of time must obtain an authorization from the National Government. This authorization must be renewed annually after paying the respective duties.

## Personal Income Tax

Dividends, goods or services derived from labor, investment, capital and inheritances are subject to income taxes.

Diplomats, agents, official representatives, consuls, and ambassadors are exempt from paying income tax. The following are also exempt:

- Government pensions and retirements
- Security funds
- Benefits received from the Armed Force
- Handicapped persons' income
- Participations of workers in the companies' profits



The following chart applies to the calculation of individuals' income tax for 2015:

Base	Excess up to	Tax on base	% Tax on Excess
-	10,800.00	-	0%
10,800.00	13,770.00	0.00	5%
13,770.00	17,210.00	149.00	10%
17,210.00	20,670.00	493.00	12%
20,670.00	41,330.00	908.00	15%
41,330.00	61,980.00	4,007.00	20%
61,980.00	82,660.00	8,137.00	25%
82,660.00	110,190.00	13,307.00	30%
110,190.00	Thereafter	21,566.00	35%

It's mandatory that all employees must be insured under the public social security system. Employers must withhold 9.45% of each employee's net income in favor of the Ecuadorian Institute of Social Security. All employers must contribute 12.15% of each employee's annual salary.

### Totalization agreements on social security

- Working and terms of conditions are generally specified in individual or collective contracts.
- The national minimum wage established by the government is US\$354 per month. Salaries which exceed the minimum wage are negotiated between the employer and employee.
- At the end of each fiscal year, companies must distribute 15% of their profits among all the company employees.
- Employees must contribute 9.45% of their employees' monthly salary to the Ecuadorian Institute of Social Security to be eligible to receive its benefits and assistance.
- Besides salary, employers must pay the following supplements:



Name	Description	To be paid
Thirteenth salary (décimo tercero)	One month's wage	In December (annually) in Coast and Highlands
Fourteenth salary (décimo cuarto)	\$354.00	In April in the Coast and in September in the Highlands (annually)

- Pregnant women must be given a leave of absence two weeks before and ten weeks after delivery. They are also entitled to leave the workplace two hours earlier during a nine month period following the birth.
- Every employee who has worked for at least one year at the same place of business has the right to fifteen uninterrupted calendar days of paid vacation. After years of working in the same place, the employee has the right to one more day of vacation of every additional year worked.
- Workers may choose to organize themselves in unions, either as an independent entity among their co-workers or as member of a collective that represents the industry.
- Employees' right to strike is guaranteed by the Labor Code.
- Employees must contribute with 9.45% of their salary to the IESS (Social Security). After working for more than one year in the same place of business, he or she will receive a reserve fund that will be paid from the thirteenth month that correspond to the twelfth part of his or her salary.
- Employers, who knowingly dismiss a pregnant woman, for no other reason than that she is pregnant, must pay several penalties.
- If an employer wishes to fire an employee, he must pay him an indemnity according to Labor Code.
- In cases when the employer has just cause for dismissal he must request a Labor Inspection and the employee is placed on leave for 30 days while a labor investigator evaluates the employer's claims.



## Directors

For most companies in Ecuador, the principal controlling body is the Board of Shareholders, which has the power to solve issues related to the operation, activities and social conduction of the business. When management of the company is performed by some individuals, these must appoint the Board of Directors as the company's principal controlling body.

Both controlling bodies have a statutory obligation to ensure that the annual financial report gives a true and fair view of the financial position and performance of the company, and whether the company will be able to pay its debt and when they become due and payable. Also, (1) they have the obligation to ensure that the financial report has been prepared in accordance with the International Financial Reporting Standards, effective in Ecuador since 2010, and (2) are responsible for ensuring that the company safeguards its assets and maintains a complete and adequate set of accounting records and statutory registers.

## Ecuador taxation of resident aliens

Income tax is payable by Ecuadorian resident individuals on non-exempt income derived from all sources. Residence is determined by reference to common law or to domicile or where the individual has spent more than 183 days of the relevant income year in Ecuador unless, he or she has a usual place of abode outside Ecuador and does not intend to take up residence in Ecuador.

Income tax is payable on assessable income less allowable deductions. Assessable income includes business income, employment income, certain capital gains, rent and interest. Allowable deductions include interest and certain other outgoings paid in gaining the assessable income and gifts to specified bodies.

Most individual taxpayers have tax instalments deducted from each salary and wage payment made by their employers. Self-employed individuals and those with non-salary and wage income ordinarily pay a provisional tax which is an interim payment during the year in anticipation of the assessment of tax after the end of the income year.



Individual income tax (IIT) Progressive from 5% to 35%.

Real estate tax From 0.025% to 0.3% for rural property and 0.025% to 0.5% for urban property; surtaxes and surcharges apply.

Inheritance/gift tax Up to 35% tax.

## Reporting requirements for resident and non-resident aliens

Resident aliens with permanent residence in Ecuador are subject to taxes as Ecuadorian taxpayers.

Foreign residents belonging to countries in which Ecuador has agreement to avoid double taxation and tax evasion, for sporadic jobs whose duration is less than 183 days will not pay income tax.

## Estate and gift tax

All inheritances, legacies and donations from Ecuadorian source are subject to taxation, both for residents and non-residents, as follows:

Base	Excess up to	Tax on base	% Tax on Excess
-	68,880	-	0%
68,880	137,750	-	5%
137,750	275,500	3,245	10%
275,500	413,270	16,222	15%
413,270	551,030	35,690	20%
551,030	688,780	61,646	25%
688,780	826,530	94,091	30%
826,530	Thereafter	133,022	35%



# Appendix

## Reference Web Sites

### Agency or Resource

Ecuadorian Government  
Ministerios de Agricultura, Ganadería, Acuacultura y Pesca  
Ministerio de Ambiente  
Ministerio de Comercio Exterior  
Ministerio de Cultura y Patrimonio  
Ministerio de Defensa Nacional  
Ministerio de Deporte  
Ministerio de Desarrollo Urbano y Vivienda  
Ministerio de Educación  
Ministerio de Electricidad y Energía Renovable  
Ministerio de Finanzas  
Ministerio de Inclusión Económica y Social  
Ministerio Industrias y Productividad  
Ministerio del Interior  
Ministerio de Justicia, Derechos Humanos y Cultos  
Ministerio de Recursos Naturales no Renovables  
Ministerio de Relaciones Exteriores y Movilidad Humana  
Ministerio de Relaciones Laborales  
Ministerio de Salud Pública  
Ministerio de Telecomunicaciones y de la Sociedad de la Información  
Ministerio de Transporte y Obras Públicas  
Ministerio de Turismo  
Asamblea Nacional  
Corte Nacional de Justicia  
Tribunal Contencioso Electoral del Ecuador  
Superintendencia de Compañías, Valores y Seguros  
Superintendencia de Bancos del Ecuador  
Servicio de Rentas Internas  
Superintendencia de Economía Solidaria y Popular

## WebSite

[www.presidencia.gob.ec](http://www.presidencia.gob.ec)  
[www.agricultura.gob.ec](http://www.agricultura.gob.ec)  
[www.ambiente.gob.ec](http://www.ambiente.gob.ec)  
[www.comercioexterior.gob.ec](http://www.comercioexterior.gob.ec)  
[www.culturaypatrimonio.gob.ec](http://www.culturaypatrimonio.gob.ec)  
[www.defensa.gob.ec](http://www.defensa.gob.ec)  
[www.deporte.gob.ec](http://www.deporte.gob.ec)  
[www.habitatyvivienda.gob.ec](http://www.habitatyvivienda.gob.ec)  
[www.educacion.gob.ec](http://www.educacion.gob.ec)  
[www.energia.gob.ec](http://www.energia.gob.ec)  
[www.finanzas.gob.ec](http://www.finanzas.gob.ec)  
[www.inclusion.gob.ec](http://www.inclusion.gob.ec)  
[www.industrias.gob.ec](http://www.industrias.gob.ec)  
[www.ministeriointerior.gob.ec](http://www.ministeriointerior.gob.ec)  
[www.justicia.gob.ec](http://www.justicia.gob.ec)  
[www.recursosnaturales.gob.ec](http://www.recursosnaturales.gob.ec)  
[www.cancilleria.gob.ec](http://www.cancilleria.gob.ec)  
[www.relacioneslaborales.gob.ec](http://www.relacioneslaborales.gob.ec)  
[www.salud.gob.ec](http://www.salud.gob.ec)  
[www.telecomunicaciones.gob.ec](http://www.telecomunicaciones.gob.ec)  
[www.obraspublicas.gob.ec](http://www.obraspublicas.gob.ec)  
[www.turismo.gob.ec](http://www.turismo.gob.ec)  
[www.asambleanacional.gob.ec](http://www.asambleanacional.gob.ec)  
[www.cortenacional.gob.ec](http://www.cortenacional.gob.ec)  
[www.tce.gob.ec](http://www.tce.gob.ec)  
[www.supercias.gob.ec](http://www.supercias.gob.ec)  
[www.sbs.gob.ec](http://www.sbs.gob.ec)  
[www.sri.gob.ec](http://www.sri.gob.ec)  
[www.seps.gob.ec](http://www.seps.gob.ec)



## Useful Addresses and Contact Information

- |                               |  |
|-------------------------------|--|
| <b>Main Office</b>            | <ul style="list-style-type: none"><li>• PKF &amp; Co. Cía. Ltda.</li><li>• RUC: 0990593280001</li></ul>  |
| <b>Managing Partner</b>       | <ul style="list-style-type: none"><li>• Edgar Naranjo (enaranjo@pkfecuador.com)</li></ul>  |
| <b>Audit Partner</b>          | <ul style="list-style-type: none"><li>• Yesenia Tumbaco (ytumbaco@pkfecuador.com)</li></ul>  |
| <b>Audit Partner</b>          | <ul style="list-style-type: none"><li>• Manuel Garcia (mgarcia@pkfecuador.com)</li></ul>   |
| <b>Administration Partner</b> | <ul style="list-style-type: none"><li>• Cristina Naranjo (cnaranjo@pkfecuador.com)</li></ul>   |
| <b>Main Address</b>           | <ul style="list-style-type: none"><li>• Av. 9 de Octubre No. 1911 y Los Ríos, Edificio Finansur, Piso 12, Of. 2</li><li>• P.O. Box 09-04-763</li><li>• PBX: +593 4 2453883</li><li>• Fax: +593 4 2450886</li><li>• www.pkfecuador.com</li><li>• E-mail: pkf@pkfecuador.com</li><li>• Guayaquil – Ecuador</li></ul> |
| <b>Quito Office</b>           | <ul style="list-style-type: none"><li>• Av. República del El Salvador #836 y Portugal, Edificio Prisma Norte piso 4</li><li>• Telefax: +593 2 2263959 / 960</li><li>• Fax: +593 2 2256814</li><li>• E-mail: pkfuio@pkfecuador.com</li><li>• Quito – Ecuador</li></ul>  |



## Contact Details of PKF Offices

**Latin American Regional Director:**

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Santo Domingo, Dominican Republic

**International website:**

[www.pkf.com](http://www.pkf.com)

**Ecuador website:**

[www.pkfecuador.com](http://www.pkfecuador.com)