Ecuador

2016-17

Ecuador

MEMBER FIRM

City	Name	Contact Information
Guayaquil	Edgar Naranjo	+593 4 236 7833 enaranjo@pkfecuador.com pkf@pkfecuador.com

BASIC FACTS

Full name:	Republic of Ecuador
Capital:	Quito
Major languages:	Spanish, indigenous languages
Population:	16.4 million (2015 PRB)
Major religion:	Catholic - Christianity
Monetary unit:	US Dollar (USD)
Internet domain:	.ec
Int. dialling code:	+593

KEY TAX POINTs

- Corporate 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.
- The corporate tax rate for year 2016 is 22%. Capitalized profits have a 12% tax rate.

Value Added Tax (VAT) is applied at a standard rate of 14% to all transactions including imports. There is a 0% rate on food items, agricultural inputs, medical goods, books and government purchases, and some professional services.

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

- Dividends paid to non-residents are subject to 22% withholding tax (for year 2016) with a tax credit for company tax paid (ordinarily at 22%) being allowed against this withholding tax. Royalties, service and rental fees attract the same 22% withholding tax (for year 2016). Interest payments are exempt from such a withholding tax.
- Income tax is payable by Ecuadorian resident individuals on non-exempt income derived from all sources. Non-resident individuals are required only to pay tax on Ecuadorian-source income.

a. Taxes payable

CORPORATE TAX

Corporate 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 on business in Ecuador and have either central management and control in Ecuador or voting power controlled by shareholders who are Ecuadorian residents.

The corporate tax rate for year 2016 is 22%. Capitalized profits have a 12% tax rate. The tax year runs from 1 January to 31 December. Tax is payable from 2–28 April, depending on the 9th digit of tax identification number. Individuals and other companies not required to carry accounting records are subject to pay the tax advance that will be equal to the 50% of the previous year's income tax, less withholdings for that period. Individuals and societies required to carry accounting records are required to pay the tax advance that will be equal to the sum of the following items:

- 0.2% of total equity.
- 0.2% of total deductible costs and expenses.
- 0.4% of total assets.
- 0.4% of total taxable income.

The tax advance is paid in two parts, according to the following chart:

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

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 the current year operating activities in relation with prior years, or (3) withholdings are greater than income tax liability for current year. All payments, or registration of purchase of merchandise and service are subject to withholding tax at the following rates:

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% for year 2016 - 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 become credits available for income tax purposes at the end of the period. Interests paid to financial institutions are not subject to withholding tax. Employment income is subject to a specific withholding regime.

CAPITAL GAINs TAX

Capital gains are taxed as ordinary income.

BRANCH PROFITs TAX

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.

VALUE ADDED TAX (VAT)

There is a 14% value added tax applied up to May 2017 to all transactions including imports; therefore it will be again 12%. There is a 0% rate on food items, agricultural inputs, medical goods, books and government purchases, and some professional services. This tax is payable one month following the transaction from the 6th to the 28th depending on the taxpayers' tax identification number.

FOREIGN MONEY TRANSFER TAX (ISD)

This tax is charged on the foreign currency value 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%.

Who should pay?

The ISD must be paid by all individuals, undivided successions, and private companies, local and foreign, according to the provisions in the current legal system.

Financial Institutions (IFIs), as well as the Central Bank, constitute tax retention agents when they transfer foreign currencies abroad by third parties.

Courier companies that send foreign currencies abroad by order of their customers, are agents of perception.

People leaving the country carrying more than three basic unified salaries (USD 1,098).

Individuals and companies that hire, promote or manage a public show, with the participation of non-residents in Ecuador, are retention agents.

State entities and agencies, public companies, international organizations, foreign officials duly accredited in the country, diplomatic missions, consular offices, as well as foreign officials of these entities, are not subject to ISD payment on transfers, shipments or transfers made abroad. In order not to be subject to withholding, transfers made abroad by the individuals mentioned in previous paragraph must fill the form of "Declaration of transaction exempt / not subject to the Foreign Money Transfer Tax", which will be filled only through the internet.

What is paid for?

ISD taxes the value of all transactions and monetary transactions carried out abroad, with or without the intervention of financial system institutions.

ISD are also caused by payments made from abroad for the purpose of amortization of capital, interest and commissions generated in external credits taxed, as well as those related to the payment of imports of goods, services and intangibles, even when payments are not made by transfers, but with abroad financial resources of the taxable person or third parties.

In case of imports of goods totally or partially canceled from abroad, the ISD will be paid and declared on the part paid from abroad, the same day of the nationalization of goods; Importers must pay the tax through form 109.

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 including: 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 Superintendence of Companies, Banks, Financial Institutions and Insurance Companies charge annual fees to the companies they supervise.

B. determination of taxable income

DEPRECIATION

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

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

DIVIDEND INCOME

Dividends received by resident companies from other resident companies are tax free. Dividends received from non-resident companies are tax free.

INTEREST DEDUCTIONS

Interest is deductible. The deduction of both interest and the cost of foreign financing are allowed only **if** the loan has been registered within the Central Bank of Ecuador (BCE) and the interest rate is lower than established by BCE; if not, to be deductible, a withholding of 22% is required (for year 2016) over the excess.

LOSSES

Companies that have sustained operating losses in a tax year may carry forward such losses to subsequent tax years and set them off over five years at the rate of 20% per annum, provided that no more than 25% of the profits obtained in each year are allotted for such purposes. The carry back of losses is not permitted.

FOREIGN SOURCE INCOME

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

INCENTIVES

Specific write-offs are provided for the mining and primary oil production industries. Expenditure on research and development also qualifies for special treatment. New investments in basic industries (cooper and aluminum treatment, steel foundry, oil refining, petrochemical industry, cellulose industry, construction and repair of naval vessels) are exempt from income tax for five years and an additional deduction of 100% applies for the depreciation expense. New investments agreements will include tax stabilization incentives.

Other incentives for public-private partnerships include the following:

1) 10 years exemption of the income tax payment; this exemption also applies for dividends and income paid to partners or beneficiaries of the partnership,
2) Payments (capital and interests) for external financing to foreign financial institutions or specialized non-financial institutions approved by regulatory bodies in Ecuador are exempt from the tax over abroad payments; these financing operations should be destined to housing, microcredit or productive investments and registered in the Central Bank of Ecuador,
3) Money transfers are exempt from the tax over abroad payments,
4) Import of goods and acquisition of services made by public-private partnerships in the execution of a public project, as well as capital, interests and commissions paid to the financiers of a public project, dividends and income paid to beneficiaries, and the acquisition of shares, rights or participations of the society created for the execution of a public project, are all exempt from the tax over abroad payments.

c. Foreign Tax Relief

A general income tax exemption was introduced since December 30, 2007 related to income derived abroad that has been subject to income tax in another state and, accordingly, the ordinary tax credit method has been terminated.

d. Corporate Groups

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

e. Related Party Transactions

Prior to administrative service fees being deductible when paid to foreign affiliates, the appropriate government authority must grant approval. Such payments are exempt from withholding tax. Other payments to foreign affiliates will only be deductible where income tax at 22% has been withheld.

f. Withholding Tax

Dividends paid to non-residents are subject to a 22% (for year 2016) withholding tax with a tax credit for company tax paid (ordinarily at 22%) being allowed against this withholding tax. Royalties, service and rental fees attract the same 22% (for year 2016) withholding tax. However, interest payments are exempt from such a withholding tax (see 'Interest Deductions' in Section B above).

G. Exchange Control

Limited control is exercised. Direct foreign loans generally must be registered.

H. Personal Tax

Income tax is payable by Ecuadorian resident individuals on non-exempt income derived from all sources. Non-resident individuals are required only to pay tax on Ecuadorian-source income. Residence is determined by reference to common law or to domicile or where the individual has spent more than one-half 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 installments 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. Personal tax rates for the year 2016 are the following:

Taxable income (USD)	Fixed tax on lower limit (USD)	Marginal Rate on excess %
Up to 11,170	0	0%
11,170 to 14,240	0	5%
14,240 to 17,800	153	10%
17,800 to 21,370	509	12%
21,370 to 42,740	938	15%
42,740 to 64,090	4,143	20%
64,090 to 85,470	8,413	25%
85,470 to 113,940	13,758	30%
Over 113,940	22,299	35%

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.

i. 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, South Korea, China and Uruguay.