

# Doing Business in Ecuador

December 2020



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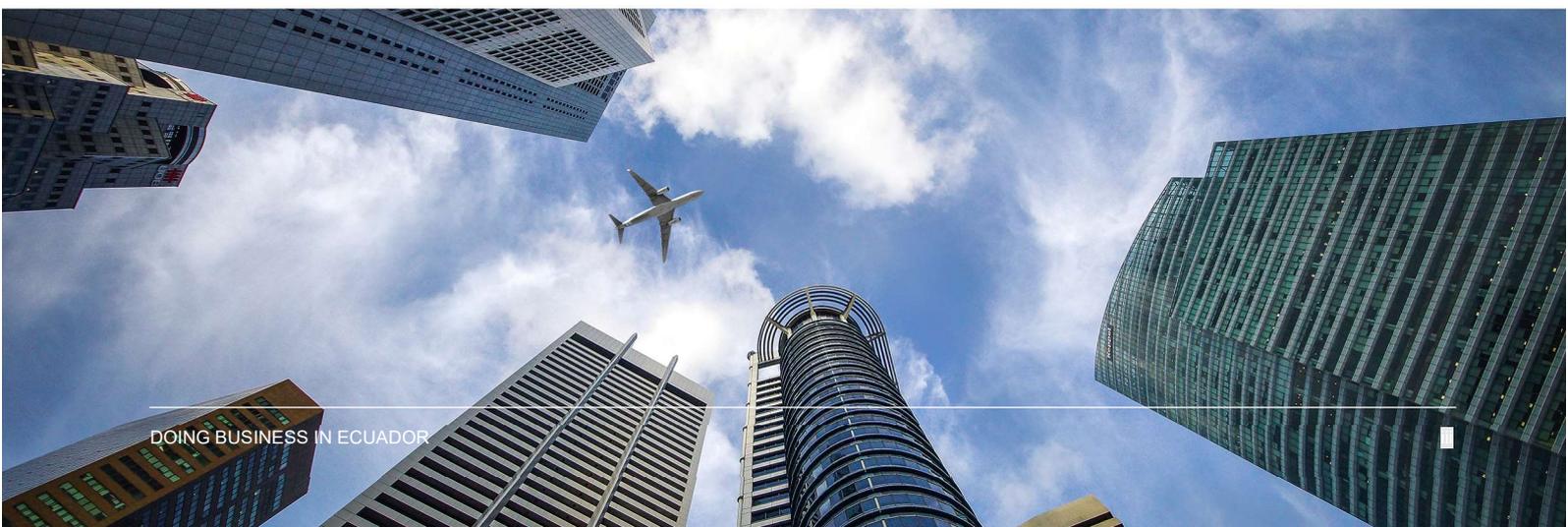
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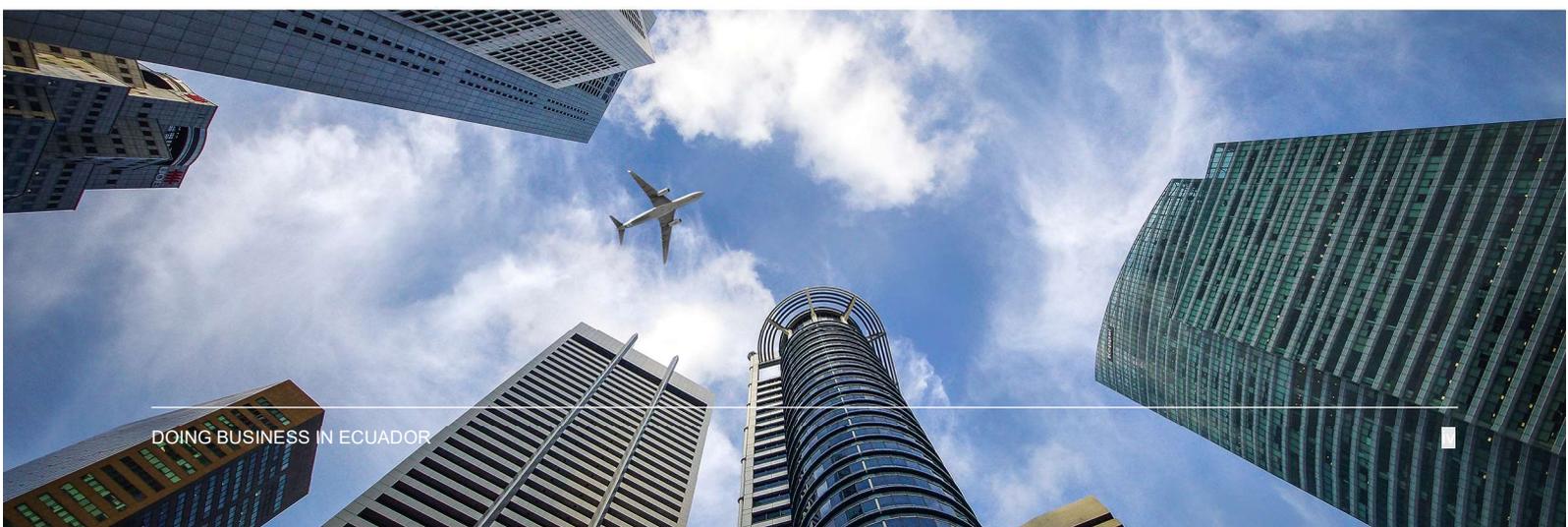
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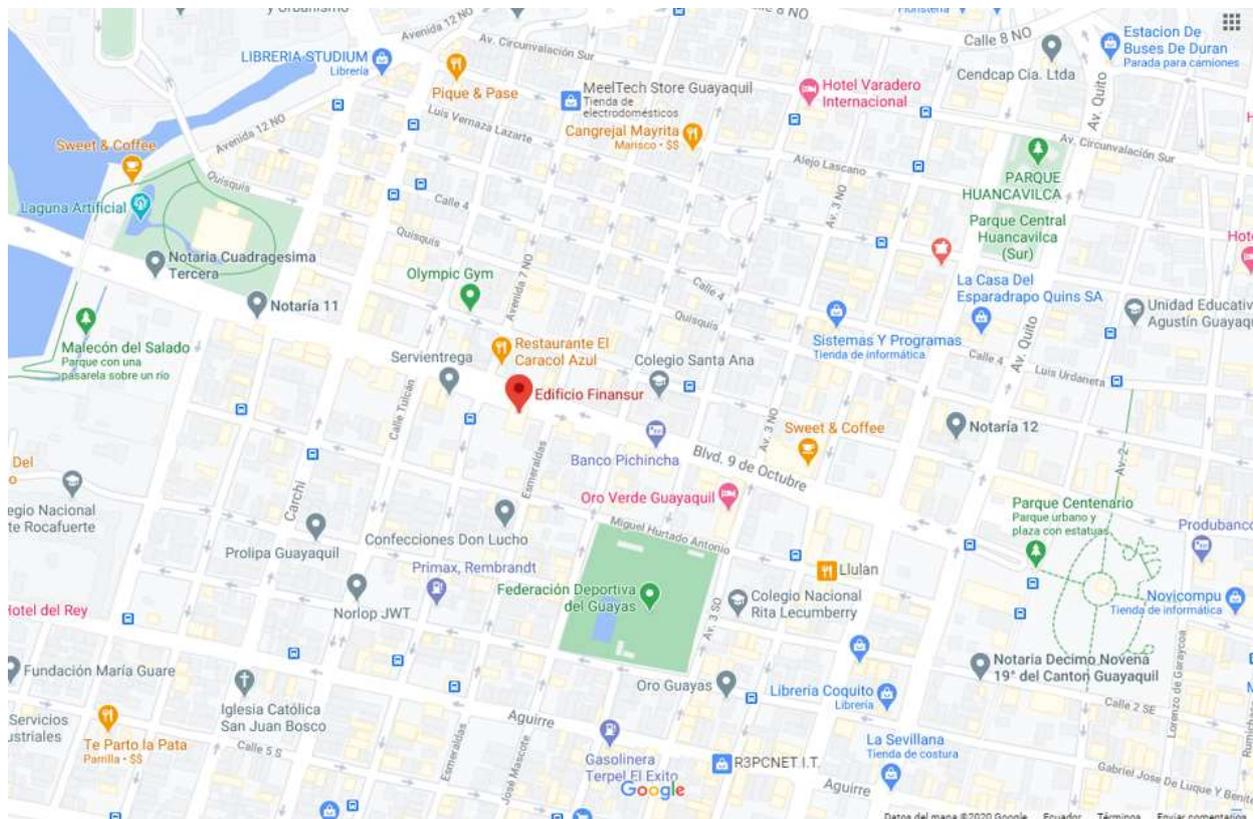
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# Foreword

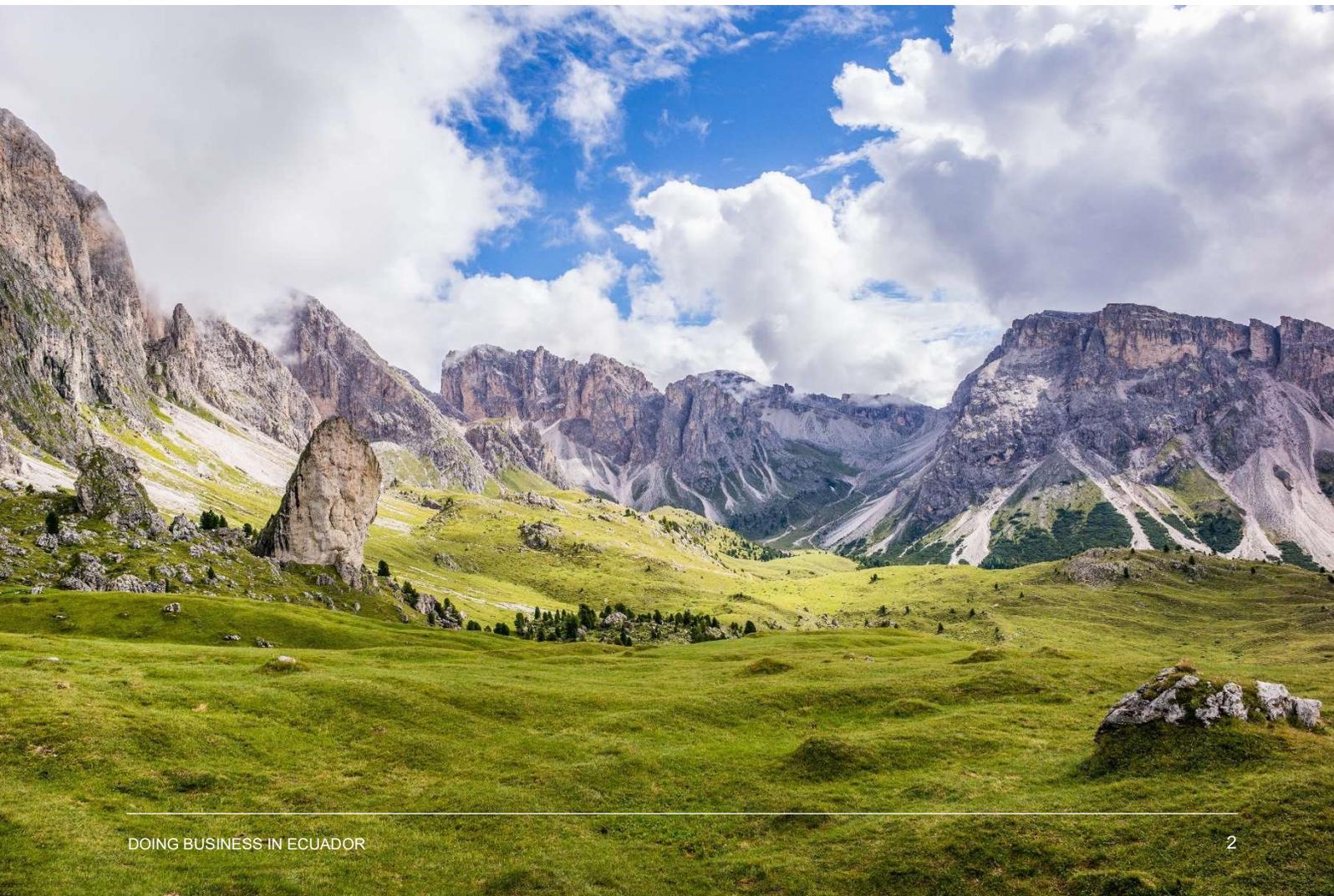
The PKF 'Doing Business in Ecuador' publication provides an overview of the most important aspects of doing business in Ecuador and we trust it will be both informative and useful.

This guide was prepared with the purpose of providing a fair view of Ecuador's business environment, benefits, and opportunities to foreign investors. It features basic information such as geography, population, weather, legal and economy environment, communications, transport, and others. Our objective is to contribute investors with relevant information to develop businesses initiatives in our country.

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# Demographic and Environmental Overview

## A profile of Ecuador

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Ecuador is a country in northwestern South America, bordered by Colombia on the north, Peru on the east and south, and the Pacific Ocean on the west.

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 in the Pacific, about 1000 kilometers west of the mainland. It has an estimated population of 17.08 million people.

Quito, located in the Central Highlands with an altitude of 2800 meters above the sea level and listed by UNESCO as a World Heritage Site, is the capital city. Guayaquil, located in the West Coast, is the largest and most populated city. Both cities are at approximately 400 kilometers driving distance, however daily flights departing each hour connect both cities in approximate 45 minutes.

Ecuador is divided into 24 provinces, each one made up of cantons and parishes for administrative and political purposes. Provincial governors and councilors (mayors, aldermen and parish boards) are directly elected.

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. Because of its location at the equator, Ecuador experiences little variation in daylight hours during a year. Both sunrise and sunset occur each day at the two six o'clock hours.

Ecuador is a representative democratic republic. The Constitution lays down the fundamental principles and basic framework for the five branches of state, namely, the Executive, the Legislative, the Judiciary, the Electoral, and Transparency and Social Control.

The Executive power is headed by the President and Vice-President, which are both elected for a four-year term with a single option for re-election, and a Cabinet composed of Ministries appointed by the President. The Legislative power is presided by a member elected for a two-year term. The Judiciary power is presided by the Supreme Court of Justice, composed of 21 judges elected for a term of nine years. The Electoral system functions by authorities which enter only every four years or when elections or referendums occur; its main functions are to organize, control elections, and punish the infringement of electoral rules. The Transparency and Social Control consists of the Council of Citizen Participation and Social Control, an ombudsman, the Comptroller General of the State, and the superintendents. Branch members hold office for five (5) years.

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

Spanish is the official language, although Quechua is widely spoken by the indigenous inhabitants of the Highlands and the Amazon. The US Dollar is the official currency in Ecuador.

## Economic summary

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Ecuador has a developing economy that is highly dependent on commodities, namely petroleum and agricultural products. The country is classified as an upper-middle-income country.

Ecuador is substantially dependent on its petroleum resources, which account for about a third of the country's export earnings. Remittances from overseas Ecuadorian are also important.

Ecuador is a major exporter of bananas, fish and shrimp, flowers, and cocoa. Ecuador also produces coffee, rice, potatoes, cassava (manioc, tapioca), plantains and sugarcane; cattle, sheep, pigs, beef, pork, and dairy products; and balsa wood. The country's vast resources include large amounts of timber across the country, like eucalyptus and mangroves. Pines and cedars are planted in the Highlands, and walnuts, rosemary, and balsa wood in the Guayas River Basin.

Most important market destinations for commodities are the United States, Peru, China, Chile, Russia, the Netherlands, and Panama.

Major imports of machinery and equipment, fuels, raw materials, and consumer goods come from the United States, Colombia, China, Panama, Brazil, and Germany.

The industry is concentrated mainly in Guayaquil, the largest industrial and business center of the country, and in Quito, where in recent years the industry has grown considerably. Industrial production is directed primarily to the domestic market. Despite this, there is limited export of products produced or processed industrially. These include canned foods, liquor, jewelry, furniture, and more. A minor industrial activity is also concentrated in Cuenca. Incomes from tourism has been increasing during the last few years.

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 the country's high-water potential; the development of products based on the melting of glass materials, production and agro-processed foods, and pharmaceutical production, among others.

Ecuador offers an attractive alternative for foreign investment in sectors with possibilities in technological application, aggregated value, and biotechnology, given it is considered one of the few megadiverse countries on the planet.

Its tropical location on the equator, the Andes mountain range, two major ocean currents along its coast, the remote Pacific Islands of Galapagos, a rich variety of microclimates, four natural regions, permanent solar luminosity, and the impressive fertility of its land, are some of the factors that make Ecuador a suitable place to develop any type of productive and commercial activity.

## Services and exchange controls

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Ecuador uses the U.S. dollar as the country's official currency. The dollar replaced the Sucre in the year 2000. There are no foreign exchange or capital remittance controls. Ecuador charges a 5 percent capital exit tax on capital remitted out of the country, although there are exemptions for certain industries and transactions (such as payments of dividends, and capital and interests related to productive investments).

## Ecuador today

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Thanks to the boom in oil prices between 2004 and 2014, Ecuador experienced a period of growth and poverty reduction. Nevertheless, the 2014 decline in oil prices revealed the country's lack of macroeconomic cushions and limited private investment.

In the absence of fiscal savings, Ecuador has attempted to adapt its economy to a challenging global context with support from international organizations. In this context, the country is promoting a reform program to ensure fiscal sustainability, strengthen the foundations of dollarization, encourage private investment, and guarantee social protection for the most vulnerable groups.

The discussion and implementation of these reforms have faced some challenges, however, including the Covid-19 pandemic and the precipitous decline in oil prices. These last two shocks will trigger a significant economic downturn and an increase in poverty, despite government efforts to reprioritize public spending and mobilize external financing to respond to the health emergency and protect the most vulnerable groups.

In this context, it is crucial to maintain coordinated efforts to save lives, contain the economic and social costs of the Covid-19 crisis and establish the foundations for a rapid, effective recovery.

Fiscal consolidation and private sector development are pivotal for achieving macroeconomic stability. It is necessary to maintain and create new job opportunities to reduce poverty and make families more resilient to external and natural disaster shocks. Additionally, safeguarding social protection mechanisms is indispensable for the most vulnerable sectors.

(source: World Bank <https://www.worldbank.org/en/country/ecuador/overview#1>).

On the heels of the sharpest GDP contraction in at least two decades in Q2 owing to the Covid-19 shock, available data suggests that conditions improved somewhat in Q3, but remained downbeat overall. Although the decline in economic activity eased from April's collapse through July, it sharpened slightly again in August. Moreover, following weather-related disruptions to the country's two main pipelines that sent oil production crashing in Q2, output rose by around 50%, on average, in July–August. However, the recovery in oil prices was cut short and plateaued for the entire third quarter, while crude production was still down year-on-year in that two-month period. Additionally, credit growth slowed for the sixth month running in August, hitting a near four-year low, which, coupled with sustained and significant import compression in July–August, hints at internal demand still struggling to gain traction.

After the worst economic downturn in recent history this year due to the Covid-19 blow, activity is set to rebound in 2021 as domestic and external demand gradually revive. That said, numerous risks linger, including still-high unemployment weighing on household spending, limited fiscal space to boost the recovery, and policy uncertainty ahead of next year's elections. Experts project GDP to expand 3.7% in 2021, which is up 0.6 percentage points from last month's forecast. In 2022, the panel sees GDP growth moderating to 2.4%.

(source: Focus Economics <https://www.focus-economics.com/countries/ecuador>).

# Consumer Protection and Special Industries

## Intellectual and industrial property rights

The National Service for Intellectual Rights (SENADI) is the governmental body in charge of protecting, promoting, and conducting the proper use of intellectual property from a three different areas approach as defined by the Intellectual Property Law: industrial property, copyright and related rights, and plant variety right and traditional knowledge.

Industrial property refers to the protection of any individual or entity over his inventions, industrial designs, integrated circuits, trademarks, distinctive signs, trade slogans and other elements related to the market, industry, and commerce. Technological inventions are protected by patents, given they are new, contain inventive level, and are susceptible of industrial application. The International Patents Classification of the Strasbourg Agreement 1971 will be used to determine international classification of registered patents. International agreements include Rome Agreement, Berne Agreement, and Agreement with the World Organization for Intellectual Property.

Copyright and related rights refer to the protection of the rights of creators over their literary or artistic works, including books, research texts, software, brochures, speeches, conferences, musical compositions, choreographies, plays, audiovisual works, sculptures, drawings, engravings, lithographs, comics, comics, plans, models, maps, photographs, and video games. Trademarks concede the exclusive use of a registered trademark to its registered proprietor for ten years, that can be renovated successively for another ten years. The International Classification of Nice 1957 will be used to determine international classification of registered trademarks.

Plant variety right and traditional knowledge is a form of intellectual property that is conferred on the person who has created, discovered and / or developed a plant variety. Biodiversity and ancestral knowledge are also included within this area.

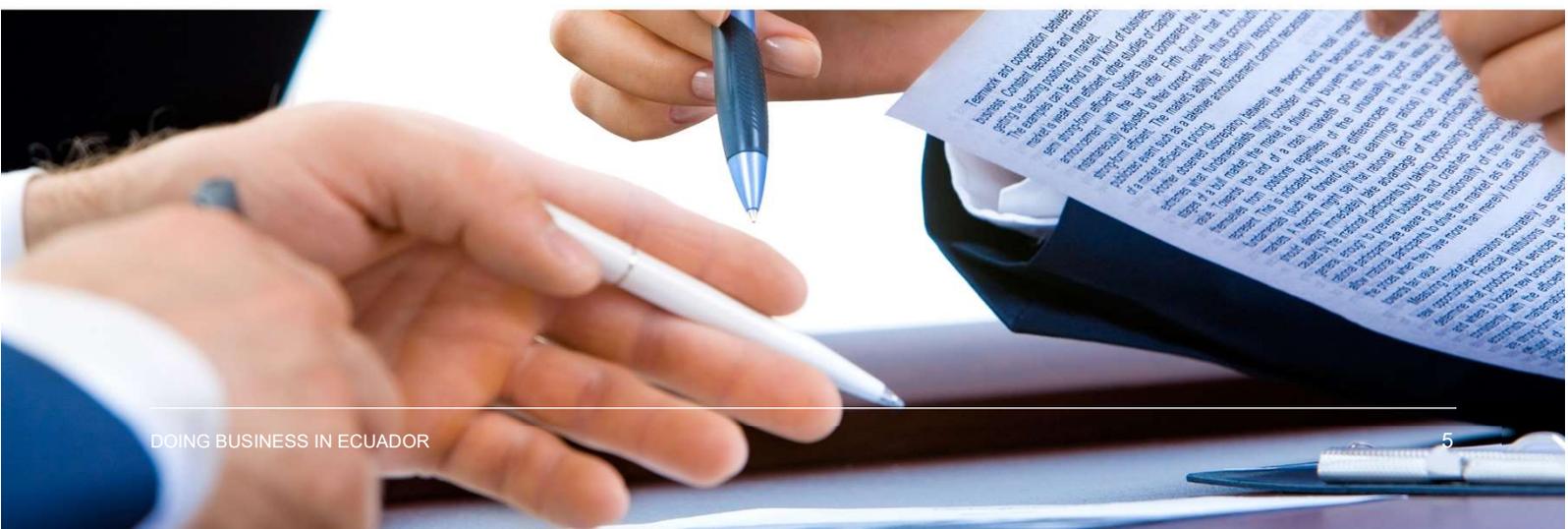
## Consumer and user protection

The Consumer Protection Law establishes the rights of any individual or entity who acquires, uses, or consumes a particular good or service, as well as the obligations of any supplier to guarantee the rights of the consumer.

There are fundamental rights for the consumer, which can be grouped as follows:

- The right to receive products and services of quality, guaranteeing health, life, safety in consumption and meeting fundamental needs.
- The right to truthful, adequate, clear, and complete information about the good or service offered.
- The right to protection against misleading and abusive advertising.
- The right to an effective assistance for the protection of rights and compensation for damages.

The Law also establishes obligations on suppliers to guarantee consumer rights; for example, any supplier is responsible for delivering truthful, clear, and complete information of the goods or services offered to the consumer, and there is also an obligation for any company or commercial establishment to keep a book of claims or complaints available to the consumer.



# Legal Framework for Business

## Accounting regulations in Ecuador

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The financial reporting framework in Ecuador is established under Commercial Code Law No. 28 of 1960, as amended, and the Companies Law No. 312 of 1999, as amended. These laws establish the legal framework for accounting and auditing in the jurisdiction and require all companies to maintain accounting records.

The Companies Law delegates the responsibility for setting accounting and auditing standards to the Superintendencia of Companies, Securities, and Insurance (SCVS).

IFRS and IFRS for SMEs are mandatory for listed companies and other companies subject to the oversight of the SCVS.

Companies under SCVS oversight may use IFRS for SMEs if they meet the following conditions: (i) total annual sales revenue less than USD 5,000,000; (ii) total assets less than USD 4,000,000; and (iii) total number of employees less than 200.

Banks and other financial institutions that are under the control/supervision of the Superintendencia of Banks (SB) are required to prepare their financial statements in accordance with the accounting norms issued by the SB, with IFRS used as a supplement.

The documentation supporting accounting records should be available at least for seven (7) years. Labor and legal-related documentation has no defined required availability. Accounting records should be maintained in the Spanish language and in US Dollars. Financial statements will serve as basis for tax filing.

## Accounts controls in Ecuador: Statutory audits

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The board of shareholders or stockholders is the governing body for companies in Ecuador, which exercises the control in ordinary and extraordinary meetings. However, they are legally entitled to review the company's records and files at any time.

The appointment of statutory auditors ("*comisarios*") is discretionary. They must be independent from the company, have the unrestricted right to review all the operations of the company without any intervention of the company's management, must examine the year-end financial statements and report on them to the board of shareholders or stockholders.

## Content of financial data to be published: Annual accounts

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Companies under SCVS oversight are required to file electronically on an annual basis, the following basic information:

- Complete set of financial statements, which includes the statements of financial position, comprehensive income, changes in equity and cash flows, and explicatory notes.
- Management report.

- Listed detail of shareholders/stockholders and management, including beneficial owners. Listed stock companies must identify stockholders with shareholding equal or greater than 10%.
- Statutory auditor report (when applicable).
- Audit report (when applicable).
- Updated tax identification certificate.

This information must be filed during each year's first quarter.

## Legal audit limits

The audit of financial statements is mandatory for companies according to the amount of total assets reported in the previous year, as follows:

Type of company	Threshold (total assets) in U.S. Dollars
Public-private partnerships	>100,000
Subsidiaries and branches of foreign corporations	>100,000
Stock and limited liability companies	>500,000

Companies defined as “public-interest entities” which total assets exceed USD 500,000, regardless of its legal form, are also required to file audited financial statements. Such public-interest entities include issuers of securities, securities brokers and traders, fund managers, insurance and reinsurance companies, prepaid medical services providers, risk-rating agencies, auditors, construction and real estate companies, and car dealers.

Local parent or controlling companies are required to file audited consolidated financial statements, regardless of its legal form and amount of total assets.

# Forms of Business Organizations

## Setting up a company in Ecuador

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The Companies Law rules management of companies doing business in the country.

Specific requirements apply to incorporate a company, depending on its business structure. The different types of companies existing in Ecuador are the following:

- Partnership (“*Compañía en nombre colectivo*”)
- Limited Partnership (“*Compañía en comandita simple y en comandita por acciones*”)
- Limited Liability Company (“*Compañía de responsabilidad limitada*”)
- Stock Company/Corporation (“*Sociedad anónima*”)
- Public-private Partnership (“*Compañía de economía mixta*”)
- Simplified Joint Stock Company (“*Sociedad por acciones simplificadas*”)

Minimum capital requirements are the following:

- Limited Liability Company: US\$400.00
- Stock Company: US\$800.00
- Public-private Partnership: US\$800.00
- Simplified Joint Stock Company: no minimum capital requirements

Limited liability companies and stock companies are the most widely used business structures. Simplified Joint Stock Companies (SAS) are available since February 2020, to ease and promote entrepreneurship.

### 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 equity. Because share interests are not securities, they lack the characteristics inherent to shares, such as free circulation and valuation in the market, for instance.

Limited liability companies are made-up of partners, with liabilities or participation according to their equity contribution.

An annual general shareholder meeting is mandatory for limited liability companies, which must be held within three months of the company's official year-end.

### Stock Company

The incorporation of stock companies is relatively simple, with the participation of two or more shareholders (no maximum number and they can subsist with one shareholder after the incorporation). The organization process is expected to last approximate 90 days. The legal existence of the stock company is effective upon inscription in the Mercantile Register. Incorporation costs (notary, registration, and publication fees) are not significant.

Capital must be fully subscribed; 25% of subscribed capital must be paid in.

Shares can be subscribed for investments in cash or in kind. Shares must be registered and may be common or preferred. Corporations may acquire their own stock.

Corporate capital may be increased or decreased, but such changes require the approval of the SCVS and must be registered in the Mercantile Register.

An annual general stockholder meeting is mandatory for stock companies, which must be held within three months of the company's official year-end.

### Simplified Joint Stock Company

Some advantages of the SAS companies include the following:

- Can be constituted by one private document (Deed of Incorporation not required).
- Free and expedited online registration process with the SCVS (registering within the Business Registry is not required).
- No restrictions on the number of shareholders.
- No minimum capital requirements.
- Permits engaging in any legal commercial or civil activity.
- Indefinite life term.
- Offer limited liability for shareholders thus protecting their personal assets.

On the other hand, SAS companies are neither allowed to register within the securities market nor to engage in activities related to financial, securities or insurance operations.

### Registration Requirements and Filing Procedures to Public Securities

Participation in the securities market requires be listed within the SCVS' Securities Commission.

Public offerings must obtain prior approval from the SCVS. Requirements are contained in the Securities Law.

## Non-Resident Shareholders

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

## Opening a branch

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.

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

The following documentation (in Spanish and legalized by a notary public in Ecuador) should be presented to the SCVS, to establish a branch of any foreign company in Ecuador:

- Head Office's Deed of Incorporation (including its statutes), legalized by the nearest Ecuadorian consulate, noting that it can legally establish branches and conduct economic and business activities abroad.
- Power of attorney appointing a legal representative in Ecuador (which must be an Ecuadorian legal resident), legalized by the nearest Ecuadorian consulate.
- Head Office's resolution to establish a branch in Ecuador with a minimum assigned capital of US\$2,000.00, legalized by the nearest Ecuadorian consulate. Whether the branch intends to offer public services or perform activities related to the exploitation of natural resources, or a branch is required by law, the minimum assigned capital referred above may be different.

## Purchasing shares in an existing company

Companies oversight by the SCVS are required to notify via online the transfer of shares (limited liability companies) or stocks (stock companies, partnerships, and public-private partnerships). The SCVS must be notified no later than eight (8) days after the transfer was registered into the corporate records.

Transferring shares to a new shareholder requires a letter of transfer signed by both the seller and the buyer. Transferring stocks requires a public deed of transfer of stocks.



## Purchasing real estate property in Ecuador

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There are no restrictions on foreign real estate investment in Ecuador. Anyone can freely buy property in Ecuador upon their arrival using only their passport as identification. Property ownership can qualify the buyer for residency. There are, however, certain restrictions in some areas of national interest.

To understand the value of property/land in Ecuador, you must find a trusted and honest professional who can help you understand valuation and the process of purchase. There is not a database you can search into.

For urban areas, the value is based on price per square meter depending on their characteristics, location, quality, luxury. For rural areas, value is based on location, proximity to paved road, infrastructure, and utilities. The price of land is per hectare.

It is strongly recommended to engage directly with the current legal owner of the property, before entering any commercial transaction, and to obtain information regarding mortgages and outstanding property taxes. This information can be obtained from the municipal or Property Registry records.

It is common that once you have agreed on a price with the seller, you sign the “promise to buy”. This binding, notarized document is signed by both buyer and seller, and will state the closing date of the purchase and the purchase price, as well as any penalties for default or other interim conditions of the sale. This is usually accompanied by a 10% down payment to the seller, which is typically non-refundable unless otherwise stipulated in the contract.

The seller is responsible for the capital gains tax and “*alcabala*” tax (which is equal to the 1% of the highest between the municipal valuation of the property and its purchasing value).

There is a registration tax levied for recording the transfer of any real property. The amount charged is 1% of the municipal value shown in the deed and is payable by the buyer. Value-Added Tax is not applied on the transfer of real estate property in Ecuador.

Real estate property rights must be granted by a deed of sale.

# Taxation

## Ecuador tax system

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Income tax is levied by the Ecuadorian government upon the income of corporations and individuals. The national taxation system is administered by the Ministry of Finance, through the Internal Revenue Service (IRS). Tax year runs from 1 January to 31 December.

VAT standard rate of 12% is applicable on the purchase of goods and services. All remittances abroad are subject to a 5% special tax.

Other taxes on corporations include the payroll tax (0.5% of payroll to a national training fund and 0.5% to an education credit program), social security contribution (11.15% on an employee's monthly salary), tax on credit transactions (0.5% of the loan principal), while other taxes on individuals include real estate tax (which ranges from 0.025% to 0.3% for rural property and 0.025% to 0.5% for urban property), inheritance tax (progressive rates up to 35%) and social security contribution (9.45% on an employee's monthly salary).

Local governments do not levy income tax. However, municipalities do levy such taxes as 1.5x1000 of previous year's total assets.

SCVS and the SB impose an annual contribution to the companies under their regulation. Likewise, other private and government institutions impose mandatory contributions.

## Corporate Tax

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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 standard corporate tax rate is 25%. SMEs and regular exporters that meet certain requirements, are taxed with a rate of 22%.

Microenterprises (individuals and companies with annual income of up to USD 300,000 and no more than nine employees) are subject to a special regime and taxed with 2% on the income obtained by the economic activity subject to the special regime.

An increased corporate tax rate of 28% applies when (1) the resident company fails to fully disclose the required information about their ownership composition or (2) one of the shareholders is established in a tax haven, low-tax jurisdiction, or preferred tax regime and the true beneficial owner is an Ecuadorian tax resident.

If this is the case, the higher tax rate of 28% will be fully applied to the resident company's income tax base if the shareholders reside in tax havens or low-tax jurisdictions, and together or individually own at least 50% of the company's capital. When that ownership is less than 50%, the corporate tax rate of 28% will be applied proportionally to the income tax base for that ownership.

Reinvested profits of inbound tourism companies, regular exporters (as defined) and companies engaged in the

production of goods with a 50% or more national component, are subject to a reduced 10% tax rate.

Corporate tax should be filed in April, depending on the ninth digit of the tax identification number (RUC), as follows:

Ninth digit	Filing dateline
1	April 10th
2	April 12th
3	April 14th
4	April 16th
5	April 18th
6	April 20th
7	April 22nd
8	April 24th
9	April 26th
0	April 28th

Corporate tax can be prepaid voluntarily for an amount equivalent to the 50% of the previous period's income tax less withholdings from that same period. This prepaid tax constitutes a tax credit for income tax purposes.

Microenterprises subject to the special regime are required to file corporate tax in March (individuals) or April (companies).

Purchases of goods and services are subject to the following withholding tax rates:

- 1% - electricity
- 1% - private transport of passengers and public and private freight
- 1% - purchase of all type of goods (except oil products)
- 1% - interests and commissions derived from credit operations between institutions of the financial system
- 1.75% - construction activities
- 1.75% - transfer of real estate property
- 1.75% - insurance and reinsurance premiums and cessions
- 1.75% - leasing quotes, including purchasing option
- 1.75% - media and advertising services
- 2% - low-skilled labor
- 2% - payments by credit card issuers to their merchants
- 2% - income from loans and investments
- 2% - interests paid by public entities to taxpayers

- 2% - Any other payments
- 8% - Fees, commissions, and other payments to professionals for services that are predominantly intellectual not related with their professional title; sport or artistic services; royalties, property rights, copyrights, patents; leasing of real estate property
- 10% - Fees, commissions, and other payments to professionals for services that are predominantly intellectual related to their professional title; image or name rights; capital gains on the sale of shares of listed companies
- 25% - Payments to non-residents; dividends distributed to individuals or companies which final beneficiary is not an Ecuadorian resident; interests on foreign loans

Tax losses carry-forward term is five (5) years, without exceeding 25% of given annual profits.

Capital gains on the direct or indirect transfer of shares of an Ecuadorian entity, are taxed according to the following rates (in U.S. Dollars):

Excess of	Up to	Tax rate
0	20,000.00	0%
20,001.00	40,000.00	2%
40,001.00	80,000.00	4%
80,001.00	160,000.00	6%
160,001.00	320,000.00	8%
320,001.00	Onwards	10%

Where the seller is a non-resident, the Ecuadorian target must act as a “substitute agent” responsible for collecting and paying the tax.

## Personal Income Tax

Individual income tax is payable by resident individuals on their worldwide income. Non-residents are taxed only on Ecuador-source income. 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.

Individual income tax is payable on taxable income less allowable deductions, for individuals with annual earnings up to USD 100,000.00. Taxable income includes income from employment, income from a profession or business, capital gains, investment income, such as dividends, and inheritances. Allowable deductions are permitted up to a maximum amount equivalent to 1.3 times the basic tax-free allowance for individuals for personal expenses (housing, education, food, health, clothing, art, and culture).

Diplomats, agents, official representatives, consuls, and ambassadors are exempt from paying personal income tax.

The following chart (in U.S. Dollars) applies to determine individual income tax (for 2021):

Base	Excess up to	Tax on base	% Tax on Excess
0.00	11,212.00	0.00	0%
11,212.01	14,285.00	0.00	5%
14,285.01	17,854.00	154.00	10%

17,854.01	21,442.00	511.00	12%
21,442.01	42,874.00	941.00	15%
42,874.01	64,297.00	4,156.00	20%
64,297.01	85,729.00	8,440.00	25%
85,729.01	114,288.00	13,798.00	30%
114,288.01	Onwards	22,366.00	35%

Capital gains on the direct or indirect transfer of shares of an Ecuadorian entity, are taxed according to the following rates (in U.S. Dollars):

Excess of	Up to	Tax rate
0	20,000.00	0%
20,001.00	40,000.00	2%
40,001.00	80,000.00	4%
80,001.00	160,000.00	6%
160,001.00	320,000.00	8%
320,001.00	Onwards	10%

Where the seller is a non-resident, the Ecuadorian target must act as a “substitute agent” responsible for collecting and paying the tax.

## Non-Resident Income Tax

Non-residents are subject to tax on their Ecuador-source income regardless of their domicile or place of residence. Non-residents are subject to 25% income tax on income received from local sources, which is withheld at source. Payments made to non-residents occasionally working in Ecuador, when not charged to an Ecuadorian company or branch of a foreign entity, do not give rise to income tax. Foreigners with resident visas are subject to income tax on any earnings and are not entitled to exclusion of income for periods of temporary absence from Ecuador.

## Wealth Tax

There is no wealth tax in Ecuador. However, individuals whose total assets exceed 20 times the basic income tax-free allowance must file information on their net worth in May of each year, stating the beginning balances on 1 January of the relevant year. Married couples or common law unions must file a combined net worth return if their joint assets exceed 40 times the basic income tax-free allowance.

## Inheritance and Gift Tax

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

Base	Excess up to	Tax on base	% Tax on Excess
0.00	71,434.00	-	0%
71,434.01	142,868.00	-	5%
142,868.01	285,737.00	3,572.00	10%
285,737.01	428,635.00	17,859.00	15%
428,635.01	571,523.00	39,293.00	20%
571,523.01	714,391.00	67,871.00	25%
714,391.01	857,240.00	103,588.00	30%
857,240.01	Onwards	146,443.00	35%

## Value Added Tax (VAT)

Value Added Tax (VAT) is applied at a standard rate of 12% on the purchase of goods and services (including imports). Food (in natural state), agricultural machinery and equipment, drugs, medicines and other pharmaceutical products, water, electric, sewage, and other public services, and exported goods and services, are subject to the 0% VAT rate.

The following transactions are exempt from VAT:

- In-kind contributions to capital of companies
- Inheritance and assets obtained from the liquidation of companies
- Transfer of business, combinations, mergers, takeovers, and spin-offs
- Donations to public entities and non-profit organizations
- Transfers of shares and securities

VAT base for local purchases represents the selling price of the good or service, including other taxes, fees and other related expenses, less discounts and/or refunds. VAT base for imports represents the customs value (cost, insurance, and freight) plus taxes, tariffs, fees, duties, and surcharges included in the import filing.

VAT must be filed and paid monthly depending on the ninth digit of the tax identification number (RUC), except Microenterprises subject to the special regime, which are required to file VAT on a bi-annual basis (in July and January), as follows:

Nineth digit	Filing dateline (General regime)	First semester filing dateline (Microenterprises special regime)	Second semester filing dateline (Microenterprises special regime)
1	10 <sup>th</sup> day of the following month	July 10	January 10
2	12 <sup>th</sup> of the following month	July 12	January 12
3	14 <sup>th</sup> of the following month	July 14	January 14
4	16 <sup>th</sup> of the following month	July 16	January 16
5	18 <sup>th</sup> of the following month	July 18	January 18
6	20 <sup>th</sup> of the following month	July 20	January 20
7	22 <sup>nd</sup> of the following month	July 22	January 22
8	24 <sup>th</sup> of the following month	July 24	January 24
9	26 <sup>th</sup> of the following month	July 26	January 26
0	28 <sup>th</sup> of the following month	July 28	January 28

Microenterprises may also elect to file VAT monthly.

## Capital Transfer Tax and Stamp Duty

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There are no capital transfer tax and stamp duty in Ecuador.

## Tax on the Remittances Abroad (ISD)

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This tax is levied on all remittances abroad at a standard rate of 5%. Banks act as withholding agents. Payments made from overseas, also are subject to the ISD.

Payments on the import of capital assets, raw materials and supplies for production may be used as a tax credit, given some requirements are met.

ISD on payments of capital and interests on loans provided by foreign financial institutions or non-financial entities qualified by the SB, and on dividends derived from new productive investments, are exempt from the ISD (subject to certain requirements).

Payments on the import of capital assets and raw materials to be used in the development of new productive investments which maintain investment contracts with the Ecuadorian government, and on dividends distributed, are exempt from the ISD (subject to certain requirements).

## Tax on the Consumption of Special Goods (ICE)

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This tax is levied on certain domestic and imported goods, including plastic bags, cigarettes, alcoholic drinks, alcohol, craft and industrial beer, non-alcoholic and carbonated drinks with sugar content (except energizers), tobacco and tobacco consumables, videogames, firearms and ammunition, incandescent bulbs, subscribed paid television, telecom plans, perfumes and fragrances, vehicles of up to 3.5 tons of cargo (except vans, trucks, and rescue vehicles), airplanes, helicopters, yachts and boats, and social clubs memberships.

## Import duties

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Most goods imported into Ecuador are subject to customs duty, at rates ranging from 0% to 25%.

## Redeemable Tax on Non-Returnable Plastic Bottles

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This tax is levied on the bottling of beverages in non-returnable plastic bottles utilized for containing alcoholic and non-alcoholic drinks, beverages, soft drinks, and water. In the case of imported beverages, this tax is levied upon their customs clearance for home use.

For each plastic bottle, the rate is up to USD 0.30 per kg of plastic bottles. This amount is fully reimbursed to whoever collects, delivers, and returns the bottles.

Taxpayers subject to this tax are bottlers and importers of drinks contained in plastic bottles, exempt for milk products and medicines.

This tax is not considered as a deductible expense for corporate income tax purposes.

## Incentives

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Specific incentives are provided for the mining and primary oil production industries. Expenditure on research and development also qualifies for special treatment.

General incentives include the following:

- New investments in priority sectors located outside Guayaquil or Quito are exempt from income tax for 5 years.
- New investments in basic industries (copper and aluminum treatment, steel foundry, oil refining, petrochemical industry, cellulose industry, construction, and repair of naval vessels) are exempt from income tax for ten (10) years. In case the new investment takes place in border areas, the exemption is increased by two (2) additional years.
- Productive investments that subscribe to investment contracts with the Ecuadorian government are exempt from ISD payment with regards to the import of goods and raw materials and for dividends paid to beneficial owner Ecuadorian resident or not.

Incentives for public-private partnerships include the following:

- 10-year exemption from income tax payment; this exemption also applies to dividends and income paid to partners or partnership beneficial owners.
- Payments (capital and interests) on external financing to foreign financial institutions or specialized non-financial institutions approved by the SB are exempt from tax on remittance abroad; these financing operations should be related to housing, microcredit or productive investments and registered with the Central Bank of Ecuador.
- Money transfers are exempt from the tax on remittance abroad.
- Import of goods and acquisition of services in the execution of a public project, as well as capital, interest and commissions paid to the lenders of a public project, dividends and income paid to beneficiaries, and the acquisition of shares, rights or participations of the entity created for the execution of a public project, are all exempt from the tax on remittance abroad.

Other incentives include the following:

- Income tax exemption for organizations from the popular financial sector with assets greater than USD 5 million which entered merger transactions.
- Three-year income tax exemption for new micro enterprises, given that they promote employment and add value to their productive processes.
- Thresholds increase to carry accounting records for individuals and undivided estates (now at USD 300,000).

## Transfer Pricing and Related Party Transactions

Interests, dividends, management and technical fees, consulting services, and royalties, are subject to a 25% withholding tax rate. They are deductible given that do not exceed 20% of tax base plus the cost of those expenses.

Indirect costs assigned from foreign related parties are deductible given that do not exceed 5% of tax base plus those indirect costs.

Losses on the sale of fixed assets or shares and costs derived from leasing operations are non-deductible.

Transactions between related parties must be carried out in accordance with the arm's length principle. Taxpayers are required to submit the Transfer Pricing Annex where the amount of transactions with related parties exceed USD 3 million in the tax year. If related party transactions exceed USD 15 million in a tax year, the taxpayer also must file a transfer pricing report.

## Treaty and Non-Treaty Withholding Tax Rates

	Dividends (%)	Interest (%)	Royalties (%)
<b>RESIDENT:</b>			
Individuals	25	2	8
Companies	0	2	8
<b>NON-RESIDENT:</b>			
<b>Non-Treaty countries:</b>			
Individuals	10	25/35 <sup>9</sup>	25/35 <sup>9</sup>
Companies	10	25/35 <sup>9</sup>	25/35 <sup>9</sup>
<b>Treaty countries:</b>			
Andean Community (Bolivia, Colombia, Peru and Venezuela)	10	25	25
Belarus	10/5 <sup>1</sup>	10	10
Belgium	15	10	10
Brazil	15	15	15/25 <sup>2</sup>
Canada	15/5 <sup>1</sup>	15	10/15 <sup>3</sup>
Chile	15/5 <sup>1</sup>	15	10/15 <sup>3</sup>
China	5	10	10
France	15	10/15 <sup>4</sup>	15
Germany	15	10/15 <sup>4</sup>	15
Italy	15	10	5
Japan	5/10 <sup>5</sup>	10	10
Korea	10/5 <sup>6</sup>	12	5/12 <sup>3</sup>
Mexico	5	10/15 <sup>7</sup>	10
Qatar	10/5 <sup>6</sup>	10	10
Romania	15	10	10
Russia	10/5 <sup>1</sup>	10	10/15 <sup>3</sup>
Singapore	5	10	10
Spain	15	5/10 <sup>4</sup>	5/10 <sup>8</sup>
Switzerland	15	10	10
Uruguay	15/10 <sup>1</sup>	15	10/15 <sup>3</sup>

<sup>1</sup>The lower rate is applicable when the beneficial owner of the dividends is a company (other than a partnership) that holds at least a 25% participation in the company that distributes the dividends.

<sup>2</sup>The higher rate is applicable to payments for the use of or right to use trademarks.

<sup>3</sup>The lower rate is applicable to payments for the use of or right to use industrial, commercial, or scientific equipment.

<sup>4</sup>The lower rate is applicable to interests derived from loans granted for the sale of industrial, commercial, or scientific equipment.

<sup>5</sup>The lower rate is applicable if the beneficial owner of the dividends is a resident of the other contracting state.

<sup>6</sup>The lower rate is applicable when the beneficial owner of the dividends is a company (other than a partnership) that holds at least a 10% participation in the company that distributes the dividends.

<sup>7</sup>The lower rate is applicable to interest payments made to banks.

<sup>8</sup>The lower rate is applicable to payments made for copyrights.

<sup>9</sup>The higher rate is applicable if the beneficiary is a resident of a tax haven or lower-tax jurisdiction.

The benefits contained in double-tax treaties are applied automatically, given that the amount of transactions per foreign provider or supplier does not exceed 50 basic tax-free allowance for individuals (USD 565,750 in 2020) in the tax year, and some other requirements are met.

# Labor Law

## An outline of employment law

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The Ecuadorian Constitution and the Labor Code establish the fundamental principles of labor law. The Constitution prohibits discrimination based on sex, race, nationality, or religion beliefs. The Ecuadorian labor legislation is very protective of workers' rights.

### Hours and pay regulations

An employee may work up to a maximum of 8 hours per day, five days per week, thus totaling a maximum of 40 hours per week.

Overtime may not exceed 4 hours per day or 12 hours per week.

Overtime occurring before midnight is considered "supplementary hours". The employer will pay the corresponding remuneration for each of the supplementary hours with a fifty percent (50%) surcharge.

Overtime occurring from midnight to 6:00 a.m. is considered "extraordinary hours" and is paid with a surcharge of 100%.

For part-time workers (when the duration of the working day is less than eight hours), the units of work executed during the surplus hours of the mandatory eight will be considered for the surcharge of the remuneration; in such case, the remuneration corresponding to each unit will be increased with 50 or 100% surcharge depending on the case.

There shall be no supplementary pay for overtime in the case of employees who represent or act on behalf of the employer through management, supervision, or administration (activities based on confidence).

The night shift is between 7:00 p.m. and 6:00 a.m. the next day, can have the same duration and gives the right to equal pay as the day, with an increase of twenty-five percent (25%).

Employees are entitled to 2 hours of breastfeeding leave, during the 12 months after giving birth. In other words, a working day will last 6 hours until the child is one year old.

Saturdays and Sundays will be mandatory rest days. If due to certain circumstances, an employee is required to work on the rest day, another equal time of the week will be designated for the rest, by agreement between employer and workers. Rest day will comprise a minimum of 48 consecutive hours.

Work during Saturdays and Sundays must be paid with a 100% surcharge if these are obligatory rest days. In the case of part-time workers, said payment will be made based on the average of the remuneration earned from Monday to Friday; and, in no case, will it be less than the minimum wage the employee is entitled to.

Work carried out on holidays will be paid with a 100% surcharge. For the calculation of these hours, the remuneration received by the worker corresponding to the hour of his work is taken as a basis.

Saturday & Sunday which are weekly rest days will be paid with the amount equivalent to full remuneration, that is, two days, according to the nature of the work or industry. In the case of piecework workers, said payment will be made taking as a base the average of the remuneration accrued from Monday to Friday; and, in no case, it will be less than the minimum remuneration.

### Annual leave

Every employee will have the right to enjoy an annual period uninterrupted 15 calendar days of annual leave, including non-working days.

Those who have provided services for more than five years to the same employer shall have the right to additionally enjoy one day of vacation for each of the excess years. Additional vacation days for seniority will not exceed 15 unless the parties agree to extend the benefit.

Vacation pay is the twenty-four part of what the employee receives during a full year of work, considering what is paid to the worker for ordinary, supplementary, and extraordinary hours of work and any other ancillary remuneration. If the employee is separated from work without having taken a vacation, he will receive for this concept the part proportional to the time of service. The employee will receive in advance the remuneration corresponding to the vacation period.

### Minimum wage

As of January 1, 2021, the Labor Ministry of Ecuador fixed the unified monthly minimum wage for workers at USD 400.

### Other benefits

Until 15<sup>th</sup> March (in the coastal region) and 15<sup>th</sup> August (in the Highlands), employees are entitled to a bonus equivalent to one minimum wage. This remuneration can be paid monthly at the request of the employee.

Until 24<sup>th</sup> December, employees are entitled to a bonus equivalent to a twelfth of all wages earned in the year. This remuneration can be paid monthly at the request of the employee.

After one year of employment, employees are entitled to a “reserve fund” equivalent to an additional monthly salary each year of work. This can also be paid monthly.

Employees are entitled to the 15% share in companies' profits, payable until April: 10% among all workers equally and 5% according to family responsibilities (spouses and children).

## Recruitment

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No special or relevant recruitment official policies are effective in Ecuador.

## Standard regulations for employment contracts

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Depending on the employer's needs there are different types of employment contracts in Ecuador, among them are:

- Indefinite term contract (the most common, without a fixed or definite term, and contemplates a 90-day trial period)
- Eventual contract (used to meet extraordinary circumstances such as replacement for maternity, illness, vacation; cannot exceed 180 continuous or discontinuous days within a period of 365 days; and remuneration includes a surcharge of 35%)
- Occasional contract (used to solve extraordinary circumstances not related to the regular activity of the employer; cannot exceed 30 days; and remuneration includes a surcharge of 35%)
- Seasonal contracts (used to meet cyclical or periodic needs)
- Certain/specific work contract (used for a specific job or project; the remuneration is for the total)
- Task contract (used when the worker executes a certain amount of work in a day)
- Contract by piece (used for work to be performed by pieces or in general, by units of work)

The maximum working day will be eight hours a day, not exceeding forty hours a week, unless otherwise provided by law.

## Visas and work and residence permits

Ecuador welcomes migration of individuals for business purposes. However, legal advisory about this subject should be asked, given that specific legislation governs foreign employees working in Ecuador.

Foreign citizens can stay up to 90 days; citizens from South American countries can stay up to 180 days.

Visitors coming to Ecuador from most countries do not require tourist visas, except those coming from the following:

- |               |            |            |               |
|---------------|------------|------------|---------------|
| • Afghanistan | • Ethiopia | • Kenia    | • North Korea |
| • Angola      | • Gambia   | • Libya    | • Senegal     |
| • Bangladesh  | • Ghana    | • Nepal    | • Syria       |
| • Cameroon    | • Guinea   | • Nigeria  | • Somalia     |
| • Cuba        | • India    | • Pakistan | • Sri Lanka   |
| • Eritrea     | • Iraq     | • RD Congo | • Venezuela   |

These nationals must obtain tourist visas for 90 days from an Ecuadorian consulate before they arrive in the country.

Work permits for temporary residents are issued by the Ecuadorian government to foreign nationals intending to establish in the country. These permits are valid for 2 years.

## Social Security

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### Social security system

The Ecuadorian Constitution provides that the social security system is public and general. Regulations regarding the Ecuadorian social security system are contained in the Social Security Law.

### Coverage

- All persons who receive income for work.
- Voluntary coverage for persons without mandatory coverage, including Ecuadorian citizens living abroad.
- Special system for agricultural workers and small-scale fishermen.

### Contributions

Contributions paid monthly to the Social Security by employers and employees, which are the main income source for the mandatory insurance program, are 11.15% for employers and 9.45% for employees.

### Benefits

Contributions provide affiliates access to health care (medical treatment, hospital services, medicines, and temporary payments in lieu of salary), pensions (age, disability), unemployment compensation, and loans (short-term unsecured and long-term mortgage).

## Prevention of occupational hazards

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Employers are required to identify and assess on a regular basis, the risks to which their employees are exposed, and to ensure their workers' working conditions do not represent danger to the health or life.

Workers are required to abide by the prevention, safety and hygiene measures determined in the regulations provided by the employer. Its omission constitutes cause for the termination of employment.

The Department of Occupational Safety and Hygiene and Labor Inspectors will require business owners, workshops and/or factories and other methods of work, to comply with the regulations.

# E-business Legal Framework

## Civil and commercial regulations

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The Electronic Commerce, Electronic Signatures, and Data Messages Law is effective since 2002. It regulates data messages, electronic signatures, certification services, electronic contracting and telematics and the provision of electronic services, through information networks, including electronic commerce and the protection of users of these systems.

The revised Commercial Code is effective since May 2019. It governs the obligations of merchants and non-merchants in trading operations, commercial activities, and contracts. The Code defines and regulates electronic commerce, the provision of electronic services, and trading instruments.

## The Information Society Services and E-Commerce Act

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Not applicable to Ecuador.

## Protection of personal data

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For the preparation, transfer or use of databases, obtained directly or indirectly from the use or transmission of data messages, the express consent of the owner of these will be required, who may select the information to be shared with third parties.

The collection and use of personal data will respond to the rights of privacy, intimacy and confidentiality guaranteed by the Ecuadorian Constitution and the Law, which may be used or transferred only with the authorization of the owner or order of the competent authority. Consent will not be required to collect personal data from sources accessible to the public, when they are collected for the exercise of the functions of the public administration, within the scope of its competence, and when they refer to people linked by a business relationship, labor, administrative or contractual and are necessary for the maintenance of relationships or for the fulfillment of the contract. The consent to which this article refers may be revoked at the discretion of the owner of the data; the revocation will not have retroactive effect in any case.

## Intellectual and industrial property rights and domain names

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The data messages will be subject to the laws, regulations and international agreements related to intellectual property.

The principles of confidentiality and reservation are established for data messages, whatever their form, medium or intention. Any violation of these principles, mainly those related to electronic intrusion, illegal transfer of data messages or violation of professional secrecy, will be sanctioned in accordance with the provisions of the Law and other regulations that govern the matter.

When the Law requires or obliges that the information be in writing, this requirement will be fulfilled with a data message, provided that the information it contains is accessible for subsequent consultation.

# Appendix

## Main reference web sites

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Official Guide for Procedures	<a href="http://www.gob.ec">www.gob.ec</a>
State Department	<a href="http://www.ministeriodegobierno.gob.ec">www.ministeriodegobierno.gob.ec</a>
Ministry of Agriculture and Livestock	<a href="http://www.agricultura.gob.ec">www.agricultura.gob.ec</a>
Ministry of the Environment and Water	<a href="http://www.ambiente.gob.ec">www.ambiente.gob.ec</a>
Ministry of Production, Trade, Investments and Fishery	<a href="http://www.produccion.gob.ec">www.produccion.gob.ec</a>
Ministry of Cultural Heritage	<a href="http://www.culturaypatrimonio.gob.ec">www.culturaypatrimonio.gob.ec</a>
National Service for Intellectual Rights	<a href="http://www.derechosintelectuales.gob.ec">www.derechosintelectuales.gob.ec</a>
Ministry of Defense	<a href="http://www.defensa.gob.ec">www.defensa.gob.ec</a>
Secretary for Sport	<a href="http://www.deporte.gob.ec">www.deporte.gob.ec</a>
Ministry of Urban Development and Housing	<a href="http://www.habitatyvivienda.gob.ec">www.habitatyvivienda.gob.ec</a>
Ministry of Education	<a href="http://www.educacion.gob.ec">www.educacion.gob.ec</a>
Ministry of Energy and Non-Renewable Resources	<a href="http://www.recursoyenergia.gob.ec">www.recursoyenergia.gob.ec</a>
Ministry of Economy and Finance	<a href="http://www.finanzas.gob.ec">www.finanzas.gob.ec</a>
Ministry of Economic and Social Inclusion	<a href="http://www.inclusion.gob.ec">www.inclusion.gob.ec</a>
Secretary of Human Rights	<a href="http://www.justicia.gob.ec">www.justicia.gob.ec</a>
Ministry of Foreign Affairs	<a href="http://www.cancilleria.gob.ec">www.cancilleria.gob.ec</a>
Ministry of Public Health	<a href="http://www.salud.gob.ec">www.salud.gob.ec</a>
Ministry of Telecommunications	<a href="http://www.telecomunicaciones.gob.ec">www.telecomunicaciones.gob.ec</a>
Labor Ministry	<a href="http://www.trabajo.gob.ec">www.trabajo.gob.ec</a>
Ministry of Transportation and Public Works	<a href="http://www.obraspublicas.gob.ec">www.obraspublicas.gob.ec</a>
Ministry of Tourism	<a href="http://www.turismo.gob.ec">www.turismo.gob.ec</a>
National Assembly	<a href="http://www.asambleanacional.gob.ec">www.asambleanacional.gob.ec</a>
Supreme Court of Justice	<a href="http://www.cortenacional.gob.ec">www.cortenacional.gob.ec</a>
Electoral Court	<a href="http://www.tce.gob.ec">www.tce.gob.ec</a>
Superintendence of Companies, Insurance and Securities	<a href="http://www.supercias.gob.ec">www.supercias.gob.ec</a>
Superintendence of Banks	<a href="http://www.superbancos.gob.ec">www.superbancos.gob.ec</a>
Internal Revenue Service	<a href="http://www.sri.gob.ec">www.sri.gob.ec</a>
Superintendence of Solidarity and Popular-Based Economies	<a href="http://www.seps.gob.ec">www.seps.gob.ec</a>
Central Bank of Ecuador	<a href="http://www.bce.fin.ec">www.bce.fin.ec</a>

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