



Ecuador

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Guide To Doing Business Questionnaire: Member Firms Outside the USA

1. Investment Incentives

Explain any export incentives or guarantees. Be sure to answer the following questions:

2. Are there tax incentives for exports?

General incentives are:

- 10 percent reduction on Corporate Tax if companies reinvest its earnings in a year basis.
- Capital Outflow Tax (5%) exoneration for loan payment on banks and earnings distributions made to stockholders if new capital and new businesses are developed.

Prioritized specific incentives:

- Corporate tax exemption (22% tax bracket on earnings) for five years after the company starts generating earnings on its cash flow

Special Economic Development Zones – ZEDES:

- If an industry is established in a priority industry and new investment preferential, rate applies income corporate tax exoneration (0%) for 5 years;
- 0% VAT (Value Added Taxes) charged on imported goods;
- Foreign capital goods shall enjoy the suspension of duty payment and tariffs as long as they remain in ZEDE territory;
- Administrators and operators will have tax credit of VAT paid on their local procurement of services, supplies and raw materials for their production processes.
- Capital Outflow Tax exoneration (5%) for goods imported and payments made on foreign loans and stockholder earnings distribution.

3. If so, are they limited to certain types of products?

Regarding general incentives, it is not limited to certain types of products; but in relation to prioritized specific incentives, the Organic Code of Production, Trade and Investment has defined as priority sectors the following:

- Tourism,
- Fresh and processed food,
- Renewable energy,
- Pharmaceuticals, chemicals, biotechnology, environmental services,
- Metalworking,
- Technology, plastics and synthetic rubber,

- Apparel and Footwear,
- Vehicles, Motor Vehicles, Bodies and Parts, Transportation and Logistics, Construction, and
- Sustainable Agroforestry Chain and their processed products.

4. Is export financing available from government or private sources?

It is available for both.

5. If so, what forms of financing or guarantees are available?

Loans, Factoring, conditional and unconditional credit lines for a period of time, securitization, among others.

6. Is there any governmental insurance for exports?

No.

7. Must a national be a participant in the enterprise in order for the investor to benefit from these incentives?

No, but in order to apply any incentive a local company must be created.

8. Explain any grants, subsidies or funds your country offers foreign investors. Be sure to answer the following questions:

Ecuadorian legislation offers a wide variety of facilities for foreign investment in a wide range of activities. Ecuador offers flexible, clear, stable norms that ensure a very attractive climate of economic freedom. Modern regulatory structure opened stock market trading to banks and other firms, and encouragement to the development of mutual funds.

Investors can establish joint ventures, trusts or holding companies in order to link their interests to already established companies. They may also assume new activities, taking advantage, for instance, of the special governmental deals legally granted to the Free Zone system (Special Zones of Economic Development – ZEDE).

Production, Business and Investment Code includes incentives intended to encourage economic development. Main incentives are as follow:

- New investments/companies are exempt from paying income tax advances for the first five years.
- Free Zone systems which exempts investors from payment of:
 - Tax on profits,
 - Value added tax (VAT),
 - Customs duties,
 - Special consumption tax (ICE),
 - Municipal taxes and export fees
 - Exemption from paying the tax for the outflow of currency for operations of foreign financing (ISD).
 - Exemption on dividend inflow
- Replacement of imports, the promotion of exports, and rural development around the country, are exempt from paying income tax for the first five years.
- Ecuador has a “Maquila System”, which allows export from Ecuador of goods with final aggregated value incorporated in this country. This model is exempt from VAT and export fees.

9. Are grants and subsidies restricted by the type of activity?

Yes, in many cases they are restricted to Free Zone (ZEDE) systems which exempts investors from payment of tax on profits, value added tax (VAT), customs duties, special consumption tax (ICE), municipal taxes and export fees.

They are also restricted to basic industries (non process added companies; Ex.: agriculture ventures)

Selected Strategic Sectors:

- Petroleum
- Mining
- Electricity
- Telecommunications
- Media
- Fishing

10. What is the process for obtaining approval for these grants or subsidies?

Incentives are automatic, given the company reaches, at all time, the requirements established in the corresponding regulation.

11. How long does it take to receive approval?

As mentioned before, incentives are automatic, given the company reaches, at all time, the requirements established in the corresponding regulation.

12. Can the investor receive loans from the government or governmental agencies?

Yes, they may, but it will depend the purpose of the investment, sector and other legal requirements.

13. Must a national be a participant in the enterprise in order for the investor to receive these grants or subsidies?

No, foreign investment with up to 100 percent foreign equity is currently allowed without prior authorization or screening in most sectors of the Ecuadorian economy currently open to domestic private investment.

Explain any national tax incentives for foreign investors. Be sure to answer the following questions:

14. Are the incentives restricted by the type of activity?

Depending on the activity chosen by the Investor, there will be some tax benefits:

- a. If the new company performs its economic activity in one of the strategic sectors (like tourism, metalworking, petrochemical, pharmaceutical) outside of the Quito and Guayaquil jurisdictions, it will be exempted from income tax payment during five years¹.
- b. For other type of activities like smelting and refining of copper or aluminum, steel foundry for the production of flat steel, oil refining, petrochemical industry, cellulose industry and construction and repair of naval vessels, the exception of income tax will be for 10 years.
- c. Another benefit is exemption from income tax advance payment in the case of new companies incorporated after the Organic Code of Production, Commerce and Investments² came into effect (effective since December 29, 2010). In order to have this benefit it is not necessary to make investments in specific economic sectors.

¹ Article 24 of the Organic Code of Production, Commerce and Investments, and the Second Amendatory Provision of the Organic Code of Production, Commerce and Investments that included article 9.1 in the Internal Tax Regime Law.

² Article 412 of the Internal Tax Regime Law.

15. Are the incentives restricted by the duration of the activity?

There is no an established duration of the activity, in order to obtain the benefit.

16. What is the process of application?

Incorporate a new company in one of the suggested activities.

Explain any regional tax incentives open to foreign investors. Be sure to answer the following questions:

17. Are there tax incentives for the investor that exists only in certain regions of the country?

For the exception of five years of income tax for new companies that performs their economic activity in one of the strategic sectors, the investment must to be carried out outside of the urban jurisdictions of Quito or Guayaquil.

18. Does the investor need to receive approval to be eligible for these incentives?

No, if the investor complies the requirements of the exception, they do not need any approval for the tax authority to apply it.

19. Are the incentives restricted by the type of activity?

Yes, for the exemption of five years of income tax, the activities could be:

- a. Production of fresh, frozen and industrialized food.
- b. Forestry and agroforestry chain and their processed products;
- c. Metalworking;
- d. Petrochemical;
- e. Pharmaceutical;
- f. Tourism;
- g. Bioenergy including renewable energy or energy from biomass;
- h. Logistics services trade;
- i. Biotechnology and applied software; and,
- j. Strategic sectors of import and export and others determined by the President of the Republic.

For the exemption of 10 years of income tax, the activities could be:

- a. Smelting and refining of copper and / or aluminum;
- b. Production steel casting para flat steel;
- c. Oil refining;
- d. Petrochemical industry;
- e. Cellulose industry;
- f. Construction and repair of naval vessels.

20. Are the incentives restricted by the duration of the activity?

The incentives are no restricted by the duration of the activity.

21. What does the process of application involve?

If the investor complies the requirements of the exception, they do not need any approval for the tax authority to apply it.

Financial Facilities

A. Banking/Financial Facilities

22. What kind of financial institutions exist?

Since the issuance of the Monetary and Financial Code, in September 2014, the Ecuadorian Financial System is formed by the following sectors, each one with its own kinds of institutions:

- 1) Public Sector
 - a) Banks
 - b) Financial Corporations
- 2) Private Sector
 - a) Banks
 - i) Specialised
 - ii) Diversified
 - b) Financial services corporations

- i) Warehouses
 - ii) Exchange offices
 - iii) Mortgages corporations
 - c) Auxiliary services corporations
 - i) Software providers
 - ii) Debt collection corporation
 - iii) Cash Machine providers
 - iv) other
- 3) Popular Sector
 - i) Credit cooperative
 - ii) Other kinds of cooperatives
 - iii) Auxiliary services corporations

23. Must the investor maintain a bank account in the country?

The investor does not have to maintain a bank account; however, if the investor forms a corporation, the corporation must maintain a local bank account.

24. What are the requirements for opening a bank account?

The requirements for opening a bank account are:

- 1) Tax Id
- 2) Legal representative appointment
- 3) Copy of the company's incorporation deed
- 4) Completed banks forms
- 5) Executed account contract
- 6) Initial deposit

The requirements may vary depending on the bank and each bank's Anti-Money Laundering Manual.

25. What are the restrictions, if any, on the investor's use of the account?

There are no restrictions, as long as the investor is in compliance with Anti-Money Laundering norms. Only financial institutions are authorised to collect money in a massive basis.

26. What is the type of financial system in the country?

Ecuador's financial system is highly regulated. All entities require licenses to operate and are closely monitored by regulators. Also, stock market entities and insurance entities are not part of the financial system.

27. How is the banking system structured?

The banking system is going through changes as a consequence of the issuance of the Monetary and Financial Code, in September 2014. According to this norm all banks shall request a new license within the following 18 months. Such license will state whether they are specialised banks—rendering services to only one market segment, or diversified banks—rendering services to various market segments.

28. Is there a stock market?

Yes, there is a stock market.

29. Can the investor receive bank loans?

The investor can receive bank loans.

C. Money Transfer

30. Is there free determination of exchange rates?

Yes.

31. Are there restrictions on the transfer of money into or out of the country?

No; however, there is a 5% Remittance Tax on every transfer or payment abroad.

32. Are there restrictions on the remittance of profits abroad?

No; however, the local corporation shall be in compliance with local regulations in order for the government to guarantee free transferability of profits abroad.

33. Are there reporting requirements?

Yes, tax forms (income tax) must be filled before distributing profits every year. Also specific forms must be filed at the time of transferring the profits (for purposes of the 5% Remittance Tax—which is generally not applicable for profit distribution).

34. Can hard currency be taken out of the country?

Yes. Please be aware Ecuador's official currency is the Dollar of the United States of America.

35. Import/Export Regulations

A. Customs Regulations

36. Is the country a member of GATT?

Yes.

37. Is the country a member of the EEC?

No.

38. Is the country a party to a regional free trade agreement?

No.

39. Does the Customs Department value the goods?

The Customs Authority will usually refer to the commercial invoices and may determine if such value is in accordance with the commercial value of the goods.

40. How are goods cleared through customs?

The requirements will vary depending on the nature of the goods. An electronic platform is used by the Customs Authority called ECUAPASS and statements, accompanying documents, and supporting documents will be required by this system in order to proceed with the clearance of the goods. A Customs Agent may be appointed to prepare the customs clearance paperwork.

The FOB price of the goods, the freight, the insurance premium, and any adjustments determined by the WTO agreement on customs valuation will determine the applicable taxes. Also, import quotas, and additional permits or licenses may be required depending on the goods (e.g. sanitary permits for medicines and products for human consumption).

After submitting all the pertinent requirements and paying the applicable taxes the goods will be released.

41. Are there applicable tariffs?

Yes. These will vary if there is an applicable trade agreement, however, the following tariffs will be applied:

- Ad-Valorem (a variable percentage on the customs value of imported goods depending on the type of goods);
- FODINFA (Development Fund to Infancy, a percentage of the CIF value);
- Tax on Special Consumptions (a variable percentage depending on the goods);
- Safeguards for BOP (Balance of Payment)
- Also, temporary restrictions may be applicable as well as VAT.

B. Exports

42. Are there restrictions on exports?

There are no restriction on exports, there are only administrative requirements for each type of product being exported.

43. Are export licenses required?

Some agricultural products and the export of handcrafts and other cultural products manufactured by artisans require a registration before the relevant Ministry, but there is no general requirement of an export license.

44. Are there applicable export duties?

There are no applicable export duties.

C. Foreign Trade Regulations

45. Are there foreign trade regulations on the import or export of goods involved in the business?

On March 6, 2015 the Ecuadorian Government, as a direct consequence of the crash in oil prices, imposed a general tariff barrier to 2800 product families, this barrier will be in place for 15 months, until June 2016. Even though it was meant to last until June 2016, the Government decided to extend them for an additional year.

The Government, in order to comply with its international obligations stemming from its participation as a WTO member, imposed this barriers to all foreign products and limited its application to a relatively short time frame.

D. Imports

46. Are import licenses required?

Ecuadorian Customs Regulations require an “import license” that is not applicable for importers, but for imports. Ultimately, it is not a license in a traditional sense, but an administrative resolution produced by Ecuadorian Customs authorizing a specific import process.

There is an Importer Registration required by the Ecuadorian Customs. To register an importer needs a taxpayer ID number, electronic signature, and an e-certificate produced by Custom. The registration must be done in the ECUAPASS webpage.

47. Are there applicable import duties?

Yes. There are four main duties: (i) AD-VALOREM, charged by Customs. This tax is determined depending on the product being imported and is calculated based on its CIF price. (ii) FODINFA, charged by the Family National Institute. (iii) Tax to the Special Consumption, charged by the IRS. It is applicable only to luxury products. (iv) VAT of 12% (14% until June, 2017), charged by the IRS. Depending on the good, there will also apply a safeguard duty.

48. Are there applicable import quotas?

Yes. There are a number of import quotas ranging from vehicles to consumer products and clothes. The quota depends on the product family.

49. Are there applicable import barriers?

Yes. The government is applying non-tariff import barriers through technical regulations enacted by the Ecuadorian Bureau of Normalization. The technical regulations require a specific certificates of conformity under relevant ISO/IEC; if the certificates are not filed, the government requires the importing company to substitute 30% of its imports with local production.

E. Manufacturing Requirements

50. Must the product contain ingredients or components, which are found or produced only in the country?

No.

51. Will the importation of certain component parts be permitted only if they are to be ultimately incorporated in a final product?

No.

Structures For Doing Business

A. Governmental Participation

52. Will the government seek to participate in the ownership or operation of the entity (e.g. depending on the type of activity involved)?

No, the government will not usually seek to participate in the ownership or operation of the entity. However, it is important to mention that the Ecuadorian Constitution establishes that the State reserves the right to administer, regulate, control and manage the strategic sectors.

Energy, telecommunications, nonrenewable natural resources, transport and hydrocarbon refining, biodiversity and genetic heritage, radio spectrum, and water (and others established by law) are considered as strategic sectors.

53. If so, to what extent?

The Ecuadorian Constitution dictates that the State shall incorporate public (i.e. State owned) corporations, inter alia, for the management of the strategic sectors. Additionally, the State –through these public corporations- shall always have majority shareholding in mixed-economy corporations, for participation in the management of the strategic sectors and the provision of public services (the exact participation is determined by law).

In contracts between public entities and private entities or foreign public entities, the Organic Law of the Public Procurement System stipulates that public entities will appoint a Contract Administrator and a Control Department, which will be in charge of supervising contractor's obligations. According to this law and its regulations, the Contract Administrator and Control Department are legally responsible for the supervision of contractor's duly performance during the execution of the contract.

54. What is the investor's potential liability to partners, investors or others?

According to the Ecuadorian Companies Act, it is prohibited the incorporation of companies with ongoing concerns that violate commercial law and any other commercial regulation, or disrupt public order. Any contract or agreement executed against this rule will not commit the company but its representatives, partners or investors that participated in the execution of such agreement. They will be held personally responsible against third parties.

A partner or a shareholder will be usually responsible up to the amount of shares or equity interests held in a company. However, depending of the subject matter involved, the law may establish joint responsibility (e.g. in tax or labor law)

55. Are there restrictions on capitalization?

Depending on the type of company, a minimum capital is required. The Companies Act prohibits the contribution of encumbered assets by mortgage into a process of incorporation of a company. Furthermore,

the same law prohibits the capital increase through the contribution of encumbered assets by mortgage; unless, the mortgage purpose is to pay existing debts.

In case of in-kind contribution, according to the Companies Act, the meeting of shareholders will have to approve it and its corresponding appraisal.

56. What are the investor's tax consequences? (See also Sections XII and XIII)

According to the Taxpayer Identification Number Law, the investor who performs permanent economic activities in Ecuador must acquire a Taxpayer Identification number (Registro Único de Contribuyentes -RUC- in Spanish), which is a number that identifies individuals or legal entities for tax purposes.

The RUC will include the taxpayer's information such as tax domicile, phone, e mail, description of the economic activities, the type of taxpayer and its obligations. The investor will have monthly and annual obligations (declaration and payment of income tax withholdings; Value added tax (VAT) payments and VAT withholdings payment, Income tax return and payment).

XII. Tax On Corporations

A. Allowances

57. What are the major allowances (e.g. capital cost depreciation)?

Depreciation of fixed assets is carried out according to the nature of the goods, the duration of its useful life and the accounting technique. For this expense to be deductible, it shall not exceed the following percentages:

- Property (other than land), ships, aircraft, and similar: 5% annually.
- Facilities, machinery, equipment and furniture: 10% annually.
- Vehicles, transportation equipment: 20% annually.
- Hardware and software: 33% annually.

58. What are the major deductible items?

In general, the expenses that are incurred in order to obtain, maintain and improve the incomes of Ecuadorian source, are considered as deductible, such as:

- Salaries and social benefits;
- Services;
- Supplies and materials;
- Repairs and maintenance;
- Management costs;

- Promotion and advertising, up to a maximum of 4% of total taxable.

It is important to notice that every expenditure must be supported by an invoice or sales receipt.

59. What are the major expenses that are excluded from deductibility?

Loans from related parties may not be greater than 300% in relation to equity. The Ecuadorian Tax Administration relies on the substance over the form principle and all thin capitalization rules apply.

Royalties, technical, administrative and consulting services paid by companies domiciled in Ecuador to its related parties may not exceed 20% of taxable base plus those expenses.

The deductibility of the indirect costs assigned from a foreign group member is limited to 5%.

Costs and expenses incurred for the promotion and advertising of goods and services will be deductible limited to a maximum 4% of total taxable income of the taxpayer.

B. Calculation of Taxes

60. How is the taxable base determined?

There is a general tax rate for corporations of 22% that applies on a taxable base calculated through a process called "tax reconciliation" (For companies which have tax heaven shareholders the tax rate is 25%). This process consist in determining the profit of the company (revenues minus costs) and apply reconciling items to arrive at the tax base.

C. Capital Gains

61. What are the federal or national tax rates on capital gains?

National capital gain tax rates are:

Up to 10%, unless the taxpayer can accommodate an exemption to reduce the rate.

In case capital gains are distributed to companies outside Ecuador, the rate will be up to 22%, unless the taxpayer can accommodate an exemption to reduce the rate.

62. What are the regional or state taxes on capital gains?

Capital gains interest rate refers to a nationwide tax; therefore, it is not subdued to regional or municipal mandates.

63. What are the municipal or local taxes on capital gains?

Capital gains interest rate refers to a nationwide tax; therefore, it is not subdued to regional or municipal mandates.

D. Filing and Payment Requirements

64. When must the corporation file its tax return, if any?

Tax return filing for Corporations is due between April 1st and the 28th following the end of the tax year. The exact day depends on the ninth digit of the number of the Taxpayers Identification Number (RUC).

65. When must the corporation pay its taxes?

Corporations must pay their income tax on the date they filed their tax return that will be between April 1st and the 28th.

66. Are taxes paid in installments or annually?

Income tax must be paid annually. Nonetheless, corporations are obligated to calculate and pay an advance income tax in two installments: Fifty percent is payable between 10 July and 28 July, and the remaining 50 percent is due between 10 September and 28 September.

This prepayment is determined by the income tax payment made in the prior fiscal period, and would be equal to 50 percent of the income tax payable less withholdings made for income tax purposes.

Regarding corporations' tax monthly obligations are:

- Declaration and payment of income tax withholdings.
- Value added tax (VAT) payments and VAT withholdings payment.
- Declaration and payment of Tax on Special Consumptions ("ICE"), if applicable.

E. Miscellaneous Taxes Due

67. Is there a tax on capital?

Yes, companies are deemed to the Gross Assets Tax, which applies to both national and foreign entities. The tax is calculated by multiplying total assets less current and contingent liabilities by 0.0015

In addition, companies are levied with an annual contribution on behalf of the Superintendency of Companies. Which is calculated by 1 per 1000 over total assets.

68. Is there a business license tax?

Yes, in order to engage in commercial, industrial or financial activity, a company must obtain a patent registration in each municipality. Patent Tax levies on the stock capital of the company. The tax rate varies between US\$ 10 and US\$ 25,000.

69. Is there an apprenticeship tax?

No.

70. Is there a training tax?

No.

71. Are there other taxes?

Yes, all Ecuadorian taxpayers are subject to a 5% tax on currency transferred abroad, regardless of whether the transaction is made with or without the intervention of a financial institution. All payments made abroad by Ecuadorian tax-resident companies pay a currency remittance tax regardless of where the financial resources are located.

Currency remittance tax payments should be considered as tax credit and/or deductible expenses for income tax purposes. Dividend payments are exempt from the currency exportation tax, provided the receiver is not located in a tax haven or minor tax jurisdiction.

Additionally, Ecuadorian tax payers are deemed to the Special Consumption Tax which is levied at a progressive rate on cigarettes, alcohol and certain automobiles.

36. What are the filing and payment requirements?

Gross assets tax must be filled and paid until 30 days after the deadline for the declaration of income tax.

Patent must be obtained within thirty days following the end of the month in which such activities are initiated and paid in June of each year.

Contribution on behalf the corporate authority must be filled and paid by September 30th of each year.

Currency remittance: Tax form 109 must be filled and paid within the next month of the transaction abroad.

F. Registration Duties

37. Are there registration duties due upon the incorporation of a company?

Yes, the incorporation of a company requires a public deed. Additionally, a company must be registered before the Commercial Registry and obtain a tax payer identification number before the Ecuadorian Internal Revenue Service. Also, a company must be registered before the Municipality, paying an initial

patent, which is usually about \$10. If the invested capital in Ecuadorian company comes from abroad, the value must be registered before the Central Bank.

38. Are there registration duties due upon an increase in capital?

Yes, an increase of capital must be registered before de Commercial Registry, reported before the Superintendency of Companies and to the Internal Revenue Service. If the new invested capital in Ecuadorian company comes from abroad, the value must be registered before the Central Bank.

39. Are there registration duties due upon the transfer of the company's shares?

Yes, the transfer of company's shares must be reported in the shareholder's annex, as well as communicated to the Superintendence of Companies.

40. Are there registration duties due upon a transfer of corporate assets?

No.

41. Are there any other registration duties due?

No.

G. Sales Tax or other Turnover Tax

42. What is the system of sales tax (e.g. V.A.T., cumulative)?

Ecuador has Value-added tax (VAT), this applied on transfers of ownership and on imports of movable property of a tangible nature at all phases of commercialization, as well as copyrights, industrial property and related rights. It is also applied on rendering of services, even on importation of services (services rendered by foreigners with no tax residence in Ecuador to Ecuadorian residents).

43. Is input tax creditable against output tax?

VAT paid on local purchases and imports constitutes a tax credit to be offset with VAT originating from local purchases of goods and services subject to this tax. If the goods produced or the services rendered by a company are subject to a 0% VAT rate, the tax originating from purchases constitutes a cost.

If a company exports goods, it is entitled to a refund of VAT paid in relation to the production of goods that are exported.

44. What are the tax rates?

VAT rates are 0% or 12%. However, from June 1st, 2016, the VAT rate 12% became 14%, following the earthquake Ecuador suffered on April 16th, 2016, and may last until May 31st, 2107 or changed back to 12% before that, if the government decides so.

45. What are the filing and payment requirements?

VAT return and payment is monthly.

H. Social Security and Welfare System Contributions

46. Are social security contributions due?

Companies or employers must affiliate all their employees to social security. This affiliation is shared between the employer (companies) and the employee.

Employees (companies) are obligated to contribute 11.15% of each employee's total salary to the Ecuadorian Social Security Institute (IESS, in Spanish).

Breach of these provisions may result in severe fines, and a lack of affiliation is currently considered a criminal offense.

47. Are retirement or pension contributions due?

In case of severance (desahucio), companies must pay their employees a bonus of 25% of their final monthly remuneration for every year of service provided to the same company.

Furthermore, employees who have provided their services for 25 years or more, whether or not continuously, will be entitled to retirement payments from their employers (companies). To this end, companies must pay the values mentioned above to employees upon their retirement.

48. Are unemployment insurance contributions due?

Insured employees, within their insurance coverage, are entitled to access the general unemployment insurance which consists of the full withdrawal of the funds accumulated in the employee's individual account, provided that upon the date the application is registered at least 24 non-simultaneous monthly contributions have been accredited and a period of unemployment of at least 60 days is evidenced.

This unemployment insurance is included within the monthly contributions made by both employers (companies) and employees.

49. What are the filing and payment requirements for any such contribution?

Regarding the obligatory social security contributions, the company must pay it on a monthly basis to the competent authority.

Regarding the employer-paid retirement pension (jubilación patronal), the company must pay this upon the employee's retirement, but provide it as calculated on an annual basis.

Regarding severance (desahucio), the company must pay this upon termination of the employment relationship, but provide it as calculated on an annual basis.

Regarding the severance fund, this is paid directly by the State.

I. Special Tax Schemes

50. Are there particular tax consequences of doing business in the country?

Doing business in Ecuador generates income tax liability as a main consequence. But also there are other related tax issues related such as sales tax or value added tax (VAT), currency remittances tax, municipal "patent" tax and municipal tax levied on total assets.

J. Tax on Profits

51. What are the federal or national income tax rates on profits?

Anticipated Dividends or loan to shareholders	22% or 25% if the beneficiary is located in tax havens
Dividends distributed as shares	0%
Dividends distributed to local companies	0%
Dividends distributed to foreign companies	0%
Dividends distributed to companies located in tax havens	10% depends if the taxpayer can accommodate an exemption to reduce the rate.
Labor participation profit tax	15% on company profit

52. What are the regional or state tax rates on profits?

Tax rates on profits refer to a nationwide tax; therefore, it is not subdued to regional or municipal mandates.

53. What are the municipal or local tax rates on profits?

Tax rates on profits refer to a nationwide tax; therefore, it is not subdued to regional or municipal mandates.

K. Tax Treaties

54. Are there any applicable tax treaties?

Ecuador has agreements to avoid double taxation for income tax with the Andean Community countries (Colombia, Peru, and Bolivia), and other countries such as Brazil, Canada, Chile, Germany, Spain, France, Romania, Italy, Switzerland, Belgium, Mexico, Uruguay, China and South Korea.

55. Are there any rules against treaty-shopping?

If the taxpayer uses an intermediary established in a country with tax treaty, in order to perform a triangulation and benefit from the exemption from withholding tax, therefore the tax authority could ask for the avoided tax, without prejudice to criminal liability.

L. Territoriality Rules

56. Where is the corporation subject to tax?

Income taxpayers are foreign or domestic companies, whether or not domiciled in the country, which obtain revenue from an Ecuadorian source.

A company is understood to have tax residence in Ecuador when it has been incorporated or created in Ecuadorian territory, pursuant to national legislation.

57. Is the corporation subject to tax on its worldwide income?

For companies domiciled or resident in Ecuador, the global revenue regime is not applicable. Therefore, they only pay tax on revenue obtained or generated in Ecuador.

M. Treatment of Tax Losses

58. How are corporate tax losses treated?

For tax purposes losses can only be offset against the 25% of the next 5 years profits of the same taxpayer.

N. Wealth Tax

59. Is there an applicable wealth tax?

Yes, every year all companies must pay an advance of income tax, which is calculated as follows:

- The 0.2% of the total equity;
- The 0.2% of the deductible costs and expenses of the income tax;
- The 0.4% of the assets;
- The 0.4% of the taxable incomes.

O. Withholding Taxes

60. What are the rates of withholding tax on dividends?

There is no withholding tax in the following cases:

- If the shareholder (another company) is located in Ecuador or if it not resides in a tax haven or lower tax jurisdiction.
- If the shareholder (individuals) is not domiciled in Ecuador.

If the shareholder (company) resides in a tax heaven, the withholding tax shall be 13% of the distributed dividend.

If the shareholder (individuals) resides in Ecuador, the withholding tax applies as follow:

2016 – Dollars			
Basic Fraction	Excess	Basic fraction tax	Excess fraction tax
-	11.170	0	0%
11.170	14.240	0	5%
14.240	17.800	153	10%
17.800	21.370	509	12%
21.370	42.740	938	15%
42.740	64.090	4.143	20%
64.090	85.470	8.413	25%
85.470	113.940	13.758	30%
113.940	...	22.229	35%

61. What are the rates of withholding tax on royalties?

The withholding rates are 0% to 22% depending if there is a double taxation treaty.

62. What are the rates of withholding tax on interest?

The withholding rates on interest paid abroad are 0% to 22% depending if the loan fulfills the followings requirements:

- The loan must be registered Central Bank of Ecuador;
- If the interest does not exceed the maximum rates set by the Central Bank of Ecuador;
- The term must be at least one year;
- The loan must be granted by a financial institution that does not reside in a tax haven or lower tax jurisdiction.

63. What are the rates of withholding tax on profits realized by a foreign corporation?

The withholding rates are 0% to 22% depending if there is a double taxation treaty.

XIII. Tax On Individuals

A. Allowances

64. What are the major allowances?

In general, major allowances include:

- Housing expenses: would include rental of property used for housing, interest on mortgage loans, and property taxes of the principal residence;
- Tuition expenses: would include any tuition expense made by the tax payer or he's dependents – if they are older than 18 years old must be economically dependent;
- Health expenses: would include any expense related to the health of the tax payer and its dependents;
- Food expenses: would include the purchase of food for human consumption – whether it is in supermarkets or restaurants;
- Clothing expenses: incurred in any type of clothing.

Additionally, it needs to be considered that maximum amounts have been established for each type of expense, as a percentage of the non-taxable allowance for individuals.

B. Calculation of Taxes

65. How is the taxable base determined?

Individuals must liquidate their income tax by declaring revenue minus expenses, and on that base applies the rate that go from 0% to 35%.

C. Capital Gains Tax

66. Are capital gains taxable?

Yes, they are taxable. They will be calculated as part of the individuals' income tax as shown in the table below:

Dividends distributed to individuals	Graduated rates of 0-35%, depending on the amount distributed (chart attached).
--------------------------------------	---

2016 – Dollars			
Basic Fraction	Excess	Basic fraction tax	Excess fraction tax
-	11.170	0	0%
11.170	14.240	0	5%
14.240	17.800	153	10%
17.800	21.370	509	12%
21.370	42.740	938	15%
42.740	64.090	4.143	20%
64.090	85.470	8.413	25%
85.470	113.940	13.758	30%
113.940	...	22.229	35%

D. Filing and Payment Requirements

67. When must the individual file a tax return, if any?

Tax return filing for individuals is due between the 10th and 28th of March following the end of the tax year. The exact date depends on the ninth digit of the individual taxpayer's identification number or individual's identification document.

68. When must the individual pay his/her taxes?

Taxes are paid on the date individuals have filed their tax return.

E. Inheritance and Gift Tax

69. Does the individuals' presence in the country subject him/her to inheritance or gift tax?

All Ecuadorian residents are subject to income tax to inheritance or gift tax.

70. What kinds of assets are subject to tax?

All kinds of assets, including those located abroad are subject to inheritance and gift tax.

71. What are the tax rates?

2016 – Dollars			
Basic Fraction	Excess	Basic fraction tax	Excess fraction tax
-	71.220	0	0%
71.220	142.430	0	5%
142.430	284.870	3.561	10%
284.870	427.320	17.805	15%
427.320	569.770	39.172	20%
569.770	712.200	67.662	25%
712.200	854.630	103.270	30%
854.630	-	145.999	35%

72. Are allowances available?

Yes, the children born in the marriage and that born outside wedlock as well as, individuals with disabilities must apply the halved rates established in the above table.

73. What are the payment and filing requirements?

Inheritance Tax:

Tax return for individuals must be submitted within six months counted from the date of death.

Gift Tax:

Tax return must be submitted prior to the registration of the gift contract. The registration applies on real estate and some movable property as cars, boats, planes, etc.

F. Miscellaneous Taxes Due

74. What are the miscellaneous taxes to which the individual may be subject?

Yes, all Ecuadorian taxpayers are subject to a 5% tax on currency transferred abroad, regardless of whether the transaction is made with or without the intervention of a financial institution. All payments made abroad by Ecuadorian tax-resident companies pay a currency remittance tax regardless of where the financial resources are located.

Currency remittance tax payments should be considered as tax credit and/or deductible expenses for income tax purposes. Dividend payments are exempt from the currency exportation tax, provided the receiver is not located in a tax haven or minor tax jurisdiction. The first USD 1,000 is exempt of CET every 15 days of transferring currency abroad.

Additionally, Ecuadorian tax payers are deemed to the Special Consumption Tax which is levied at a progressive rate on cigarettes, alcohol and certain automobiles.

Moreover, in order to engage in commercial, industrial or financial activity, an individual must obtain a patent registration in each municipality. Patent Tax levies on the stock capital of the company. The tax rate varies between US\$ 10 and US\$ 25,000.

75. What are the filing and payment requirements?

- Currency remittance: Tax form 109 must be filled and paid within the next month of the transaction abroad
- Patent must be obtained within thirty days following the end of the month in which such activities are initiated and paid in June of each year.

G. Real Estate/Habitation Tax

76. Is the individual subject to real estate or habitation tax?

Yes, the individual is subject to the following real estate / habitation tax:

For construction activities, urbanization or similar activities	1%
Rent tax	8%
Nationwide tax for selling real estate occasionally (max 2 per year) as individual	0%
Municipal tax for selling real estate	0.001% on capital gains + 128 dollars
Property Tax	0.025% - 0.05%

H. Sales Tax

77. Does the individual pay sales tax?

Yes, individuals pay VAT on all their purchases of goods or acquisitions of services.

I. Social Security and Welfare System Contributions

78. Are contributions to social security due?

As indicated in question 211, "XII Tax on Corporation", social security affiliation is shared between the company and the employee.

In this regard, the employee is obligated to contribute 9.45% of his monthly salary to social security, which is deducted (retained) by the company upon payment.

79. Are contributions to the welfare system due?

As indicated in question 211, "XII Tax on Corporation", social security affiliation is obligatory for an employee in an employment relationship.

80. If so, what are the payment and filing requirements?

The employer (company) is responsible for deducting the corresponding social security contribution from the employee's monthly salary and is equally obligated to deliver the sum on a monthly basis to the competent authority (IESS).

J. Stock Option, Profit Sharing and Savings Plans

81. Is there taxation of stock option plans?

Stock options are not common in Ecuador. Despite this, if a stock option plan is enforced, that would be considered as a taxable income.

82. Is there taxation of profit sharing plans?

Yes, profit sharing plans are deductible for corporation's income tax. Regarding, individual profits received are considered as a taxable income.

83. Is there taxation of savings plans?

No, there is no taxation for saving plans. Although, interests received from local savings account deposits are tax exempt.

K. Taxation of Benefits in Kind

84. What is the rate of taxation on benefits in kind (e.g. automobile, housing and utilities, education, etc.)?

Benefits in kind are taxable. They will be calculated as part of the individuals' income tax as shown in the detailed table shown in the answer to question 231.

L. Taxes on Dividends

85. Are dividends taxable regardless of their form?

Dividends received by individuals resident in Ecuador and distributed by companies resident in Ecuador form part of the global revenue as taxable income. The individual may use the tax paid by the company as a tax credit in the personal income tax return, meaning that tax is paid exclusively for the difference between the individual rate (up to 35%) and the rate set for companies (22%).

If the dividends received by individuals resident in Ecuador have been distributed by foreign companies, they will be considered as exempt income in Ecuador, provided that said dividends were subject to tax abroad.

M. Tax on Income

86. What are the federal or national tax rates on income for residents?

Individuals considered residents are subject to income tax on all earnings worldwide.

87. What are the federal or national tax rates on income for non-residents?

Non-residents are subject to income tax on their Ecuadorian-source income regardless of their country of residence.

88. What are the regional or state tax rates on income for residents?

N/A

89. What are the regional or state tax rates on income for non-residents?

N/A

90. What are the municipal or local tax rates on income for residents?

Individuals who carry out economic activity are required to obtain a “patent” and therefore to pay the municipal “patent” tax.

91. What are the municipal or local tax rates on income for non-residents?

Non-residents who carry out economic activity are required to obtain a “patent” and therefore to pay the municipal “patent” tax.

N. Tax Treaties

92. Are there any applicable tax treaties?

Ecuador has agreements to avoid double taxation for income tax with the Andean Community countries (Colombia, Peru, and Bolivia), and other countries such as Brazil, Canada, Chile, Germany, Spain, France, Romania, Italy, Switzerland, Belgium, Mexico, Uruguay, China and South Korea.

93. Are there any rules against treaty-shopping?

If the taxpayer uses an intermediary established in a country with tax treaty, in order to perform a triangulation and benefit from the exemption from withholding tax, therefore the tax authority could ask for the avoided tax, without prejudice to criminal liability.

O. Territoriality Rules

94. Where is the individual subject to tax?

Income taxpayers are national or foreign individuals, whether or not domiciled in the country, who obtain taxable income from an Ecuadorian source.

Pursuant to Ecuadorian regulations, individuals are considered resident in Ecuador when: (i) Their stay exceeds 183 days within a fiscal year or within two consecutive fiscal years; (ii) The main core of their activities or interests are in Ecuador; (iii) Their closest family links are maintained in Ecuador.

95. Is the individual subject to tax on his/her worldwide income?

In Ecuador, only income from an Ecuadorian source is subject to tax. Regarding income from abroad, individuals domiciled or resident in Ecuador must: (i) Consider it to be exempt income, provided that it has been subject to tax abroad; (ii) Consider it as taxable income if it has not been subject to tax abroad or it originates from a tax haven.

P. Wealth Tax

96. Is the individual subject to tax based upon his/her wealth?

No, the individuals in Ecuador are not subject to tax based on their wealth.

97. If so, what are the rates?

N/A

98. Are there any allowances available?

N/A

99. What are the payment and filing requirements?

N/A

Q. Withholding Tax

100. Is salary subject to a withholding tax at the source?

Payments made by employers, individuals or companies to taxpayers working under an employment relationship, derived from said relationship, are subject to withholding at source which may be up to 30%, depending on the value of the annual salary.

101. What is the treatment of residents as compared to non-residents?

Individuals resident in Ecuador must comply with all the corresponding formal and substantive obligations such as file a return for and pay the corresponding income tax, submit the relevant annexes pursuant to the requirements of the tax administration, among others. Another important point is that expenses incurred in the generation of income may be counted as deductible expenses so, in theory, tax is only paid on the profit (income).

Individuals not resident in Ecuador who are subject to withholding at source on payments made from Ecuador cannot deduct any expense relating to the income value, nor do they have to perform all the formal obligations mentioned above.

XIV. Tax On Other Legal Bodies

A. Allowances

102. What are the major allowances (e.g. capital cost depreciation)?

Depreciation of fixed assets is carried out according to the nature of the goods, the duration of its useful life and the accounting technique. For this expense to be deductible, it shall not exceed the following percentages:

- Property (other than land), ships, aircraft, and similar: 5% annually.
- Facilities, machinery, equipment and furniture: 10% annually.
- Vehicles, transportation equipment: 20% annually.
- Hardware and software: 33% annually.

103. What are the major deductible items?

In general, the expenses that are incurred in order to obtain, maintain and improve the incomes of Ecuadorian source, are considered as deductible, such as:

- Salaries and social benefits;
- Services;
- Supplies and materials;
- Repairs and maintenance;
- Management costs;
- Promotion and advertising, up to a maximum of 4% of total taxable.
- Taxes, fees, contributions

104. What are the major expenses that are excluded from deductibility?

Loans from related parties may not be greater than 300% in relation to equity. The Ecuadorian Tax Administration relies on the substance over the form principle and all thin capitalization rules apply.

Royalties, technical, administrative and consulting services paid by companies domiciled in Ecuador to its related parties may not exceed 20% of taxable base plus those expenses.

B. Calculation of Taxes

105. How is the taxable base determined?

For tax purposes, other legal bodies with or without legal personality have the same tax treatment as corporations, so this kind of entities must determine the taxable base with the same “tax reconciliation” process.

C. Capital Gains

106. What are the federal or national tax rates on capital gains?

Ecuadorian law does not recognize other legal bodies besides corporations (which include all kind of mercantile and non-mercantile legal bodies, such as trusts, holdings, NGO, foundation, etc.) and individuals.

107. What are the regional or state taxes on capital gains?

Idem.

108. What are the municipal or local taxes on capital gains?

Idem.

D. Filing and Payment Requirements

109. When must the entity file a tax return, if any?

All the legal entities recognized by the Ecuadorian law like corporations for tax purpose must comply with the following obligations:

a. Monthly obligations:

1. Income tax withholdings at source declaration and payment.
2. Value added tax (VAT) payments and VAT withholdings payment.
3. Declaration and payment of Tax on Special Consumptions (“ICE”).
4. Simplified Transactions Annex (“ATS”).
5. Annex relating to income tax withholding at source for other considerations (“REOC”).

6. Annex relating to withholdings at source on account of dependency relation (“RDEP”).
7. Annex relating to international currency remittances (“ISD”).

b. Annual obligations:

1. Income tax return and payment.
2. Annex relating to transfer pricing.
3. Annex on operations with related parties abroad (“OPRE”); integral transfer pricing report.

Other non-tax obligations to be taken into account are: (i) Payment of contribution to Superintendency of Companies, equal to up to one per one thousand of the company’s total assets; and (ii) 15% of the company’s profits to be distributed among its employees.

110. When must the entity pay its taxes?

Depending on the tax, as we mentioned in last question.

111. Are taxes paid in installments or annually?

Depending on the tax, as we mentioned question 274.

E. Miscellaneous Taxes

112. Are other taxes due?

See section XII (E)

113. What are the filing and payment requirements?

See section XII (E)

F. Registration Duties

114. Are there registration duties or fees due upon the setting up of the legal body?

Besides notarial fees for registration, there are no registration duties.

115. Are there registration duties or fees due upon a change in the capital of the legal body?

Besides notarial fees for registration, there are no registration duties.

116. Are there registration duties due upon the transfer of capital?

See section XII (C) and section XIII (C).

117. Are there registration duties due upon a transfer of assets?

No.

118. Are there any other registration duties due?

No.

G. Sales Tax or other Turnover Tax

119. Is the legal body subject to sales tax or any other turnover tax (e.g. VAT., cumulative)?

Ecuador has Value-added tax (VAT), this applied on transfers of ownership and on imports of movable property of a tangible nature at all phases of commercialization, as well as copyrights, industrial property and related rights. It is also applied on rendering of services, even on importation of services (services rendered by foreigners with no tax residence in Ecuador to Ecuadorian residents).

120. Is input tax creditable against output tax?

Like corporations, other legal bodies have the right of consider the VAT paid on local purchases and imports constitutes a tax credit to be offset with VAT originating from local purchases of goods and services subject to this tax. If the goods produced or the services rendered by a company are subject to a 0% VAT rate, the tax originating from purchases constitutes a cost.

If the entity exports goods, it is entitled to a refund of VAT paid in relation to the production of goods that are exported.

121. What are the tax rates?

VAT rates are 0% or 12%. For period between June, 1st 2016 to June, 2017 the rate will be 14%.

122. What are the filing and payment requirements?

VAT return and payment is monthly.

123. Social Security and Welfare System Contributions

124. Are social security contributions due?

See section XII (I) and section XIII (I).

125. Are retirement or pension contributions due?

See section XII (I) and section XIII (I).

126. Are unemployment insurance contributions due?

N/A

127. What are the filing and payment requirements for any such contribution?

N/A

I. Special Tax Themes

128. Are there particular tax consequences of doing business in the country under the form of the particular legal body?

No, because for tax purpose all kind of mercantile and non-mercantile legal bodies, such as trusts, holdings, NGO, foundation, are considered as corporations.

J. Tax on Profits

129. What are the federal or national income tax rates on profits?

Income tax rates are the same for all corporations (which include all kind of mercantile and non-mercantile legal bodies, such as trusts, holdings, NGO, foundation, etc.)

130. What are the regional or state tax rates on profits?

Idem

131. What are the municipal or local tax rates on profits?

Idem

K. Tax Treaties

132. Are there any applicable tax treaties?

Ecuador has agreements to avoid double taxation for income tax with the Andean Community countries (Colombia, Peru, and Bolivia), and other countries such as Brazil, Canada, Chile, Germany, Spain, France, Romania, Italy, Switzerland, Belgium, Mexico, Uruguay, China and South Korea.

133. Are there any rules against treaty-shopping?

If the taxpayer uses an intermediary established in a country with tax treaty, in order to perform a triangulation and benefit from the exemption from withholding tax, therefore the tax authority could ask for the avoided tax, without prejudice to criminal liability.

L. Territoriality Rules

134. Where is the legal body subject to tax?

N/A

135. Is the legal body subject to tax on its worldwide income?

N/A

M. Treatment of Tax Losses

136. How are tax losses treated?

Tax payers may compensate losses with taxable profit obtained in the next five fiscal years (these must not exceed 25% of that profit).

N. Wealth Tax

137. Is there an applicable wealth tax?

See section XIII (N).

O. Withholding Taxes

138. What are the rates of withholding tax on the legal body's activities?

See section XIII (N).

XV. General Tax Considerations

A. Taxes Generally

139. Is there a generally accepted way of structuring the company or other entity so as to insure the desired tax consequences?

N/A

140. Is there an advance tax ruling that can be used to validate or invalidate the chosen form of doing business?

N/A

141. Is there a general anti-tax avoidance system?

No, there is no anti – tax avoidance system, but the IRS has the authority to pursue tax evasion. In some cases, evasion could be considered as a criminal offense.

142. Can the chosen form of business be treated as a deferent form for tax purposes?

Yes, the chosen form of business can be misinterpreted in a tax audit, but the IRS has the constitutional obligation to justify their actions and resolutions.