



Independent legal & accounting firms

Doing Business in Ecuador

Edition No. 1 / March 2021



Doing business in Ecuador

MSI's guide on Doing Business in Ecuador provides current information about the financial, regulatory and legal considerations that could affect business dealings within Ecuador. For further assistance, please contact our MSI member firms in Ecuador.



Country overview

Population

Ecuador has a population of 17.416.318 million inhabitants (January 2021).

Government

Ecuador is a democratic presidential republic in Northwester South America. It has an executive branch of government headed by the president, who is elected for a four-year term.

The country is divided into provinces that are subdivided into cantons, which are in turn subdivided into urban and rural parishes. Each province is administered by a governor appointed by the President of the Republic and by a freely elected provincial prefect and provincial council.

Languages

Ecuador is a multilingual country where Spanish is the predominant language (93.0%). It has the ninth largest Spanish-speaking population in the world. A variety of indigenous languages are also spoken, most importantly Quechua.

Currency

The official currency of Ecuador is the U.S. dollar.

Economic summary

GDP: USD \$ 107,436 billion
Income per capita: USD \$6.184
Inflation: -1.01% (2020)

Main sectors of the economy

Primary activities: (27.6% of GDP)
Prominent amongst these are agriculture and oil production.

Ecuador is a major banana producer. It is also the largest producer and exporter

of flowers and cocoa. Other important agricultural products are coffee, rice, potatoes, and sugar cane, while fishery and livestock production – particularly cattle, pigs, and sheep – are also notable.

Extractive activities are dominated by oil exploration and development, one of the country's main sources of income. Other mineral mining includes gold, silver, copper, zinc, and uranium, but this production is not very significant.

Secondary activities: (36.1% of GDP).
Industrial production is a key component of the country's economy, mainly concentrated in Guayaquil and Quito, where the manufacturing sector has developed enormously in recent years.

The main industrial goods in Ecuador are processed foods such as meat and seafood products; alcoholic beverages and soft drinks; furniture and metal products; textiles and jewellery; rubber, plastic, paper, and cardboard products; and pharmaceuticals. Most of these goods are for domestic consumption;

Regarding employment, the activities that generate the most jobs are food and beverages; textiles; rubber, plastic, and metal products; and chemicals.

Although their total participation is still minimal, the electronics and information technology industries have grown considerably in recent years.

Tertiary activities: (57.5% of GDP).

As in most countries, the tertiary or service sector is the largest portion of the economy. The main activities are retail sales, tourism, financial services, entertainment, communications,

transportation, health and education, security, and foodservice.

The transportation sector, comprising aviation, motorways, pipelines, ports, railways, and canals, has undergone considerable growth in the last few years. The country has recently seen the construction of several major highways that facilitate passenger transportation as well as the shipment of goods. The most important of these highways runs between Rumichaca and Loja and is part of the Pan-American Highway

Another sector to highlight is tourism, which serves a significant number of international tourists (more than 1.5 million per year) thanks to Ecuador's enormous natural and cultural wealth. The country is considered one of the most biodiverse countries in the world because of its myriad species of birds, butterflies, reptiles, amphibians, and mammals.

EU country/ Non-EU and its impact on businesses and investors

The Organic Law for the Promotion of Production recently approved in Ecuador introduces interesting attractions for New Investments and, in particular, creates tax incentives with the exemption of income taxes and the currency outflow tax. This regulation will undoubtedly make it easier to do business in Ecuador. *(See table on incentives for new investments on next page.*

Setting up a business

According to Ecuadorian law, a foreign individual or corporation may operate by establishing a company or the headquarters of a parent company.

There is no major restriction for a foreign entrepreneur to do business in Ecuador.

Legal types of business entities

1. General partnership (GP)
2. Limited partnership (LP) and joint-stock company (JSC)
3. Stock company
4. Limited liability company (LLC)
5. Public-private partnership (PPP)
6. Simplified joint stock partnership (SAS)

LLCs, stock companies, SAS are the most common kinds of companies in Ecuador. Both are incorporated through public instruments with a minimum capital of USD 400 and USD 800, and do not have minimum, respectively .

It is worth noting that foreign companies (parent companies) are responsible for the obligations and liabilities of their Ecuadorian branches.

Furthermore, both foreign companies and private persons may be partners or shareholders in an Ecuadorian company.

The regulatory agency for companies (Superintendence of Companies) annually requests information on the foreign shareholders (companies and private persons) of domestic companies.

Last year, in view of the company modernization act, the simplified joint stock partnership (SAS) has become common considering that such company is one that is adjusted to thousands of entrepreneurs, it does not require a minimum capital investment and can be executed through a private document.

Financial year of taxes and financial accounts

The financial year is similar to the calendar year (January – December).

All companies are regulated by the Superintendency of Companies, Securities and Insurance, which requires that their financial information be uploaded to the agency's website within the first three months of the fiscal year.

Currently, the Portals of the Internal Revenue Service and the Company Superintendence have developed platforms that enable the migration and connection to accounting data, including those issues related to auditing processes.

Accounting and auditing

Every company established in Ecuador must have accounting processes handled by an accountant who fulfils whatever obligations arise jointly with the company's legal representative.

According to the Companies Law in force in Ecuador, companies are required to submit their annual financial statements for external audit if they are:

- a) National public-private partnerships and private limited companies with public or private corporate shareholders with social or public purposes whose assets exceed one hundred thousand U.S. dollars (USD 100,000.00).
- b) Branches of foreign companies or enterprises established as legal entities in Ecuador or the partnerships formed thereby or with national companies, provided their assets exceed one hundred thousand U.S. dollars (USD 100,000.00).
- c) National private limited companies, joint-stock companies, and limited liability companies whose assets exceed five hundred thousand U.S. dollars (USD 500,000.00).
- d) Companies subject to the control and oversight of the Superintendence of Companies, Securities and Insurance that are required to submit consolidated balance sheets.
- e) Public interest companies, as defined in the relevant regulations.

Economic and fiscal incentives

The Government of Ecuador, under the new Organic Law for Promotion of Production, Attraction of Investment, Generation of Employment, and Fiscal Stability and Balance proposed by the executive branch, offers a series of incentive plans. (See section *EU/Non-EU Country and the Impact on Businesses and*

Investors.) *The application of this law has encouraged new company investments, mainly in the export domain and is, furthermore, applicable to investments carried out before the law while a great advantage is the tax abatement and tariff headings related to commercial transactions.*

Taxation

The tax system in any given country is always a very important criterion when deciding to establish a company. In Ecuador, the general criterion is that the tax system should not be an obstacle to development for companies wishing to enter the Ecuadorian economy.

The Ecuadorian fiscal system comprises taxes, duties, and levies.

VAT

The general VAT rate is 12%. On certain goods and services, the rate is 0%.

Income tax

Income tax is generated by the income obtained annually by national and foreign individuals or companies.

For tax purposes, related parties shall be deemed to be individuals or companies, whether based in Ecuador or not, where one of the parties is directly or indirectly involved in the management, administration, oversight, or capital of the other; or where a third party, whether or not an individual or a company based in Ecuador, is directly or indirectly involved in the management, administration, oversight, or capital of said parties.

Registration procedures

To start business activities in Ecuador, both private persons and companies must be duly registered with the Internal Revenue Service (SRI), which issues a document with a registration number called the Sole Taxpayer Registration (RUC), which serves to establish direct communication with the tax authorities entailing tax returns, claims, and other operations, which are largely performed electronically, the platforms enabled to perform such tasks also allow the updating of the information and online tax declaration .

Wage tax

Income tax on wage income is only caused if the worker earns an annual salary of at least USD 11,212. There is a table with rates used to calculate what percentage the taxpayer must pay if the worker earns more than this amount.

Withholding taxes

Income from occasional services provided by non-resident individuals is taxed at WHT rates in accordance with regulations in force. Payments made abroad to non-resident individuals and companies are subject to 25% WHT. Other payments made abroad, other than dividends or profits to neutral jurisdictions, are subject to WHT rates in accordance with regulations in force.

For local payments, the WHT percentages established by the Internal Revenue Service of Ecuador do not exceed 10%. The current rates are 0%, 1%, 2%, 8%, and 10%.

With respect to payments of interest and dividends to shareholders:

- Interest payments to resident companies are subject to a 0% to 2% WHT, in accordance with regulations in force.
- Dividends paid to non-resident entities are generally not subject to WHT, with certain exceptions.
- However, dividends paid to non-resident entities based in tax havens are subject to a 0% to 35% WHT, in accordance with the amended articles of the Internal Tax Regime Law and its Regulations (August 13, 2018).

HR/ Labour Law**Employment law**

The Labour Code provides for different types and modes of employment. The most common is the indefinite-term contract with a 90-day trial period.

In Ecuador, currently, the most applied hiring modes include the reduction of the working hours and emergent contracts, whose aim is to distribute the working hours to a maximum of six days per week. In the same way, the most

common contracts are the contracts for a specific job and by the nature of business, which encourage entrepreneurship and flexibility due to the current provisions.

Social security

To ensure health, disability, and retirement benefits for workers, social security membership is compulsory. The Ecuadorian Social Security Institute (IESS) contribution for each worker is 20.6% of his or her wages. The employer deducts 9.45% of the worker's wages each month to pay this amount (the personal contribution) to the IESS; and the remaining 11.15% is paid in directly by the employer (the employer's contribution). The IESS is the public agency responsible for social security in Ecuador, regardless of whether workers have private insurance or not.

The Ecuadorian Social Security Institute promotes, on its part, the option of voluntary affiliation for nationals and foreigners that are not under dependency or those who do not carry out an economic activity thus allowing the Access to the benefits and services that include pensions, relief, health insurance, loans, and several health service coverages.

Employers are obliged to pay and register profit shares. This calculation is performed based on factors such as the number of days worked in a year, the number of dependents, as well as

Workers can receive their retirement benefits in two ways: through employer-provided retirement benefits for 25 years of service or when reaching the age of 65 for retirement benefits from the Ecuadorian Social Security Institute.

Payroll

When a company starts operations, it must register with the tax authority. In the event that the employee earns the income tax base (USD 11,212.00 as of 2021), the employer must withhold the income tax caused from his or her wages.

Visa and work permits

Foreign nationals wishing to work in Ecuador must apply for a work visa. The requirement is to have an employment contract or a company-issued letter of sponsorship stating that the worker will have sufficient financial resources for his or her livelihood.

In addition, depending on the nationality of the foreigner and existing agreements with different countries, other types of visas may be obtained.

Contact us

The information provided in this guide cannot be exhaustive and we recommend anyone considering doing business in Ecuador should seek professional advice from our member firms before making any business or investment decision.

Contact our member firms in Ecuador to discuss your requirements:

Legal member

Expertiseadvisor Abogados
www.expertise.com.ec

Juan José Salgado Sánchez
jjsalgado@expertise.com.ec
+593 (2) 3826 777

TORRE BOREAL
Av. Doce de Octubre N24-739
y Av. Colón, Torre Boreal
Ofic. 605, Quito

Accounting member: Guayaquil

Ugarte, Quiñonez & Asociados
www.uqa.com.ec

Jorge Luis Ugarte Quiñonez
jugarte@uqa.com.ec
+593 42690 474

Nueva Kennedy
8va este 207 entre calle B y D
Guayaquil

Accounting member: Quito

Progress Services Progserv Cía. Ltda
www.progressservices.com.ec

Miguel Ángel Sánchez Chávez
miguel.sanchez@myprogress.group
+593 23826 866

TORRE BOREAL
Av. Doce de Octubre N24-739
y Av. Colón, Torre Boreal
Ofic. 603, Quito

MSI Global Alliance
10 Queen Street Place
London EC4R 1AG
United Kingdom

www.msiglobal.org

Disclaimer: MSI Global Alliance (MSI) is an international association of independent legal and accounting firms. MSI does not accept any responsibility for the commission of any act, or omission to act by, or the liabilities of, any of its members. The information in this guide for general guidance only. It is essential to take professional advice on specific issues and their impact on any individual or entity.

Source: Information from Central Bank of Ecuador