



International tax

Ecuador Highlights 2015

Investment basics:

Currency – US Dollar (USD)

Foreign exchange control – No

Accounting principles/financial statements – Companies must follow International Financial Reporting Standards.

Principal business entities – These are the corporation (*Sociedad Anónima - S.A.*), limited liability company (*Compañía de Responsabilidad Limitada - Cía. Ltda.*) and branch of a foreign company.

Corporate taxation:

Residence – Residence for tax purposes is based on the place of incorporation.

Basis – Resident entities are taxed on worldwide income. Nonresidents are subject to tax only on Ecuador-source income.

Taxable income – Taxable income comprises gross income derived from the activities of a business less allowable deductions.

Foreign income that has been subject to tax in another jurisdiction is not taxed (unless the income is derived from a tax haven or low-tax jurisdiction).

Taxation of dividends – Dividends received by a resident or nonresident corporation from another resident corporation out of profits that have been subject to corporate income tax are exempt. Dividends paid to recipients in tax havens or low-tax jurisdictions are subject to withholding at source.

Capital gains – Capital gains are treated as ordinary income and taxed at the normal corporate rate.

Losses – Losses may be carried forward for five years, but may only be offset against 25% of the profits earned in each tax year.

Rate – The standard rate is 22%. The rate increases to 25% on the proportion of taxable income corresponding to the shareholding of partners or shareholders resident in tax havens or low-tax jurisdictions.

If the shareholding exceeds 50%, the applicable tariff for the entire entity is 25%, with a reduced rate of 12% or 15% applying

where corporate profits are reinvested for the purchase of machinery or equipment and/or the acquisition of new technology.

Companies engaged in the exploration or exploitation of hydrocarbon also are subject to the standard corporate tax rate.

Surtax – No

Alternative minimum tax – No

Foreign tax credit – No

Participation exemption – see under “Taxation of dividends.”

Holding company regime – No

Incentives – New investments are entitled to a five-year exemption from income tax (as well as advance tax payments) provided the requirements relating to the sector of the investment are met and the investment is not made in the cantons of Quito and Guayaquil.

New investments undertaken in 10 “basic industries” are tax-exempt for 10 years.

Enterprises set up in special development zones are granted a further 5% reduction to the income tax rate.

Withholding tax:

Dividends – Dividends paid to a nonresident generally are not subject to withholding tax, but dividends paid to a recipient in a tax haven or low-tax jurisdiction are subject to a 13% withholding tax as from 2015 and 10% thereafter. Dividends paid to an individual in Ecuador are part of the individual's taxable income, subject to progressive withholding rates, ranging from 1% to 13%.

Interest – Interest paid on a loan obtained from a nonresident financial institution (banks) is not subject to withholding tax, unless the interest rate exceeds the interest rate set by the central bank. Any excess interest is subject to a 22% withholding tax, unless the rate is reduced under a tax treaty. The rate increases to 25% where interest is paid to a recipient in a tax haven or low-tax jurisdiction.

Royalties – Royalties paid to a nonresident are subject to a 22% withholding tax, unless the rate is reduced under a tax treaty. The

rate increases to 25% where royalties are paid to a recipient in a tax haven or low-tax jurisdiction.

Technical service fees – Technical service fees paid to a nonresident are subject to a 22% withholding tax, unless the rate is reduced under a tax treaty. The rate increases to 25% where fees are paid to a recipient in a tax haven or low-tax jurisdiction.

Branch remittance tax – No

Other taxes on corporations:

Capital duty – No

Payroll tax – Employers are required to pay 0.5% of payroll to a national training fund and 0.5% to an education credit program.

Real property tax – Urban property tax is levied annually by municipalities on the owner of property at progressive rates ranging from 0.025% to 1%.

Social security – The employer pays social security tax at a rate of 11.15% on the total salary of the employee.

Stamp duty – No

Transfer tax – Transfer tax is levied by the municipal governments on the transfer of immovable property, the creation of trusts and certain gifts.

Other – Credit transactions are subject to a 1% tax, calculated on the loan principal. The tax is withheld by the financial institution.

All remittances abroad are subject to a 5% special tax (ISD), which is charged by the bank carrying out the money transfer and then declared to the tax authorities. The tax is deductible for the company or individual transferring the money abroad. Payments made from overseas, whether for goods or services, are subject to the ISD.

Tax paid on the import of raw materials, capital assets and supplies for production may be used as a tax credit to offset income tax payments in the current financial year provided certain requirements are met.

A 70% extraordinary receipts tax is levied on companies that have concluded contracts

with the Ecuadorian state for the exploration and exploitation of natural resources.

Anti-avoidance rules:

Transfer pricing – The transfer pricing regime is based on the OECD guidelines. Transactions between related parties must be carried out on arm's length terms.

Documentation rules apply. Taxpayers are required to file a schedule of transactions with related parties where the amount of the transaction exceeds USD 3 million in the fiscal year. If related party transactions exceed USD 6 million in a fiscal year, the taxpayer must file a transfer pricing report.

Thin capitalization – Interest payments on foreign loans granted by a related party are deductible only if the foreign debt does not exceed 300% of the entity's paid-in capital.

Controlled foreign companies – No

Other – Ecuador has a general anti-avoidance rule.

Disclosure requirements – No

Compliance for corporations:

Tax year – Calendar year

Consolidated returns – Consolidated returns are not permitted; each company must file a separate return.

Filing requirements – Companies are required to make two advance payments of corporate income tax (June and September). The amount is calculated using a specific formula and based on specified factors. The final return must be submitted between 1 February and 10-28 April of the year following the tax year.

Penalties – Interest and penalties apply for late filing, failure to file or filing an incorrect return.

Rulings – The tax authorities can respond to a taxpayer's questions but the response is binding only on the taxpayer.

Personal taxation:

Basis – Resident individuals are taxed on their worldwide income; nonresidents are taxed only on Ecuador-source income.

Residence – An individual is deemed to be resident if he/she is in Ecuador for more than six months in a year. As from 1 January 2015, two additional criteria are used to determine residence: whether the taxpayer's center of interests or economic interests are in Ecuador and whether the individual's close relatives are in Ecuador. Also applicable as from 1 January 2015, a change in tax residence will not become effective for five years if the individual moves from Ecuador to a tax haven or low-tax jurisdiction unless the individual can demonstrate that he/she was physically present in the new jurisdiction for at least 183 days during the tax year.

Filing status – Joint filing is not permitted; each individual must file a separate return.

Taxable income – Taxable income includes income from employment, income earned from a profession or business, capital gains and investment income such as dividends.

Foreign income that has been subject to tax in another jurisdiction is not taxed in Ecuador. For resident individuals, dividends (see under "Withholding," above) are deemed to be part of worldwide income (the income tax paid by the distributing company may be credited against the individual's income tax liability).

Capital gains – Capital gains are treated as ordinary income and taxed at the normal rate.

Deductions and allowances – Deductions are permitted up to a maximum amount of USD 14,040 for personal expenses (housing, education, food, health, clothing, etc.) and social security paid by the individual.

Rates – Rates are progressive from 0% to 35%.

Other taxes on individuals:

Capital duty – No

Stamp duty – No

Capital acquisitions tax – No

Real property tax – Urban property tax is levied annually by municipalities on the owner of property at progressive rates ranging from 0.025% to 1%.

Inheritance/estate tax – Inheritance tax is levied at progressive rates up to 35% on donations, inheritances and legacies.

Net wealth/net worth tax – No

Social security – Resident employees are required to make monthly contributions to the social security system at a rate of 9.45% of the monthly salary.

Compliance for individuals:

Tax year – Calendar year

Filing and payment – Tax returns must be submitted between 1 February and 10-28 March of the year following the tax year.

Individuals whose sole source of income is from employment are not required to file a return. Self-employed individuals are subject to the same rules as companies.

Penalties – Interest and penalties apply for late filing, failure to file or filing an incorrect return.

Value added tax:

Taxable transactions – VAT is levied on the supply of goods, the provision of services and services received from overseas.

Rates – The standard VAT rate is 12%; certain transactions are exempt or zero rated.

Registration – No

Filing and payment – Returns must be filed on a monthly basis.

Source of tax law: Tax Code, Production Code

Tax treaties: Ecuador has 16 tax treaties.

Tax authorities: Internal Revenue Service

International organizations: Andean Community of Nations CAN, Latin American Association of Integration ALADI, WTO, UNASUR, OMC, CELAC

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