



Fall | 19



INTERNATIONAL LAWYERS NETWORK



CONSORCIO LEGAL
ESTABLISHING A BUSINESS ENTITY IN ECUADOR



This guide offers an overview of legal aspects of establishing an entity and conducting business in the requisite jurisdictions. It is meant as an introduction to these marketplaces and does not offer specific legal advice. This information is not intended to create, and receipt of it does not constitute, an attorney-client relationship, or its equivalent in the requisite jurisdiction.

Neither the International Lawyers Network or its employees, nor any of the contributing law firms or their partners or employees accepts any liability for anything contained in this guide or to any reader who relies on its content. Before concrete actions or decisions are taken, the reader should seek specific legal advice. The contributing member firms of the International Lawyers Network can advise in relation to questions regarding this guide in their respective jurisdictions and look forward to assisting. Please do not, however, share any confidential information with a member firm without first contacting that firm.

This guide describes the law in force in the requisite jurisdictions at the dates of preparation. This may be some time ago and the reader should bear in mind that statutes, regulations and rules are subject to change. No duty to update information is assumed by the ILN, its member firms, or the authors of this guide.

The information in this guide may be considered legal advertising.

Each contributing law firm is the owner of the copyright in its contribution. All rights reserved.



ESTABLISHING A BUSINESS ENTITY IN ECUADOR

ABOUT US

We are a Law Firm which applies a new concept in legal services, allowing our clients to have access to all fields of law, both nationally and internationally; at reasonable costs and with optimal results. We count on the best and most trustworthy in-house and external fully dependable experts in each specialization of practice.

We are a socially responsible, flexible, dynamic, client-focused organization oriented toward growth and recognized for excellence in the legal services field by creating measurable value for our clients in the accomplishment of their legal service needs through the unique application of innovative, consistent and dependable services.

We work with clients and prospects openly, honestly and sincerely. When we say we will do something, we will do it; when we say we cannot or will not do something, then we will not do it. We get results for our clients.

We are satisfied with nothing less than the very best in everything we do.

We embrace the use of technology to help us run our practice and improve the quality of services we provide our clients. Keeping up with tomorrow is as important as being great today.

We treat clients, opposing counsel, Court staff and Judges as we would like to be treated ourselves. We do not tolerate abusive or disrespectful treatment.

We take the time to talk with clients and with one another... and to listen. We believe that information is meant to move, and that information moves people.

Our wide range of services goes from the

Administrative public law procedures; corporate and commercial; civil in general, family and hereditary successions law; real estate; trusts and investments; contracts; public works biddings; tax law; alternative dispute resolution; litigation.

We combine experience and youthfulness to carry on and achieve effective results.

CONSORCIO LEGAL advises corporate and individual clients of all fields of businesses and industries. We handle pro-bono cases.

1. **GENERAL INTRODUCTION:** In Ecuador, foreign individuals or corporations in general are permitted by law to invest, except in the so called “strategic sectors of the economy”: electricity, water and sewage, highways, airports, ports and railways infrastructures, oil and others. However, those fields can also be given in concessions or associations by the State for a certain period of time and by payment to the State of a royalty according to the respective contracts negotiated with the State after the corresponding biddings.
2. **BENEFITS AND EXEMPTIONS OF TAXES:**
 - a) Ecuador offers a **TOTAL EXEMPTION of income tax** in ALL NEW INVESTMENTS, whether local or foreign, for 12 years, in the following fields, as long as they are located in other locations than Guayaquil and Quito (in order to foster the development of other areas of the country, and not only in the two main cities):
 - Farming sector: fresh, frozen and industrialized foods production;



- Forestry and agroforestry chain of production and its elaborated products;
- Metal – Mechanics industry;
- Petrochemical, Oil-chemical and Pharmaceutical industries;
- Tourism, Cinematography, audio-visual and international events activities;
- Renewable energies including bioenergy or energy derived from biomass;
- Logistics foreign commerce Services;
- Applied Biotechnology and Software; and,
- Export of Services.

NOTE: there are some other regions besides the main cities, where investments can be made and are in fact done. Two of them are the surroundings of the beautiful Andean City of Cuenca, at a 3 hour, and the Pacific Coastal Region at 1 ½ hour ride; all by excellent highways.

If the investments are made in the main cities of Quito or Guayaquil, **the exemption is for 8 years.**

- b)** It also offers **total exemption** of the Currency Exit from the Country Tax (ISD) of 5%, in all payments made abroad for the new productive investments based on investment contracts; on account of import of raw materials and capital goods necessary for the project; and for dividends distributed by national or foreign corporations domiciled in Ecuador, in favor of beneficiaries resident in Ecuador or abroad; as

long as the investment resources (funds) come from abroad and the investor demonstrates the receipt of funds to the country.

- c)** Likewise, the corporations which **re-invest in Ecuador** at least 50% of its net profits in new productive assets are exempted from payment of ISD in the

distribution of benefits to beneficiaries resident in Ecuador.

- d)** **Total exemption of income tax for new investments in basic industries:** for the sectors that contribute to the change of the energetic matrix, to the strategic substitution of imports, to foster exports, as well as the rural development of any section of the country, and of the urban zones (**for 15 years**); and the deduction of 100% of the annual cost of yearly depreciation. Besides, those investments made in the depressed sections of the country will be also allowed a deduction from income tax of 100% of the cost of salaries paid to new labor force in those regions, also for five years. F

For those projects so called **APP (Public-Private Associations)** for the construction of public works like highways, bridges, transport means, etc. (all public works and services), they can get exemption from income tax, ISD tax, and foreign commerce taxes (in general) according to each case analyzed and resolved by the corresponding Ministry (Official Entity) of Ecuador in negotiation with the investor; for **10 years**. In the APP's model the investment is



done by the investor after a clear bidding process, and the investor gets back his investment in tolls authorized by the State at the bidding process, in such a way that the investor gets back his investment and gets an adequate profit from the project. This is one of the preferred models right now, by which ports and other facilities are being built, remodeled or drilled, and which has some multinationals working in Ecuador, one of them our client.

Also, the projects of **Social Interest Housing** (construction of low middle-class people houses) will have the exemption benefits.

The new investments in micro, small or medium size entrepreneurship in community or associative tourism will have an exemption of income tax for **20 years**.

3. FORMS OF ESTABLISHMENTS OF BUSINESSES. -

- a) Individual business with a RUC (Taxpayers Unified Registry) with no minimum or maximum of capital. Usually for individuals who want to establish a small business.
- b) Limited Liability Company with a minimum of 2 and maximum of 15 partners. Mostly used for small and medium size businesses. Minimum capital **\$400**. There can also be unipersonal limited liability companies.
- c) Stock Company, minimum capital **\$800**; shareholders from 2 up with no limit.

In both Limited Liability and Stock Companies, foreign investments do not require previous approval of any

Governmental entity.

- d) Other forms of association are the General and Limited Partnership Companies, less used as they imply personal responsibility of partners.
- e) There are also Joint Ventures Associations, usually for development of specific projects with the State (two companies, either local or foreign, for the execution of a public work or service contract). They abide by the provisions of the respective contracts.

All corporations are controlled by the Superintendence of Companies, Securities and Insurance; they must file yearly balance sheets, Minutes of approval of them, and lists of shareholders or partners; as well as update designation of Company executives. This is besides the obligation to present balance sheets to the RSI (IRS) together with taxes declarations and payment if appropriate.

4. TAXES RANGE. -

Income Tax 25% over net profits. 3% additional if shareholders or partners in the chain of owners are residents of a fiscal Paradise or of a jurisdiction of less tax range. In order to calculate the net tax there are deductions that have to be done, all the necessary expenditures to run the business.

5. DOLLARIZED ECONOMY. - Ecuador has been a US dollar economy since 2000; so there is no inflation, and acquisition power of the people are much better than when we had our own currency, the Sucre. People are much better off; they can get cars, houses, electrical appliances, with rather small monthly payments according to their respective economies.

6. WAGES. - The so called basic salary is around \$500 a month including social



benefits, plus around 20% of contribution to the Social Security which is shared with the worker 50% - 50%. Basic salaries are readjusted yearly by the Government, private Enterprise and Workers Commission each January.

Besides, workers are entitled to a yearly 15% of the net profits of the businesses, divided by all workers (workers' participation of profits).

- 7. PUBLIC SERVICES.** - They have very much improved the last 15 years. All is done online. Provision of electricity, water and sewage is optimal. Ports, airports, highways and roads are also very good. Banking is very much ahead of many other countries.

- 8. WEATHER** is mild and breezy, not rainy almost eight months of the year (June – November), rainy and very warm, sometimes hot from January to May –in the Coast; the Andean Section where the Capital City is and there are beautiful landscapes, rather cool, sometimes cold and rainy, others warm. The Oriental Section of the Country is rather warm or hot, full of forests, very good roads to ride. The Galápagos Islands are a fantastic place to visit.

Ecuador is one of the preferred places of the world to retire. Most retired US and European citizens have acquired real estate around the City of Cuenca in the Andean Section, and on the Pacific Ocean Beach resorts.