

# Indirect Tax Alert

News from EY Americas Tax

## Ecuadorian Customs Authority issues new regulations on applying for authorized economic operator status

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The Ecuadorian Customs Authority issued new regulations on 16 August 2019 regarding the application procedure to become an authorized economic operator (AEO).

### Authorized economic operator

An AEO is the person involved in the international movement of goods that complies with all security measures for the logistics chain, which includes manufacturers, importers, exporters, carriers, consolidators, deconsolidators, international freight agents, ports, airports, customs warehouses, temporary warehouses, courier and terminal operators.

The Customs Authority does not charge a fee for the AEO application process. Becoming an AEO is voluntary. If a taxpayer's AEO request is denied, it will not affect how the taxpayer interacts with the Customs Authority or its ability to operate international freight.

### Requirements

The AEO process consists of two phases. Under the first phase, the taxpayer must prove that it has a satisfactory customs record with respect to its commercial transactions and operations. The second phase requires the taxpayer to prove that it is financially solvent by: (1) having an external audit report; (2) filing up-to-date financial statements with the tax authorities; and (3) showing that it has enough resources to cover its obligations.

To prove the taxpayer has a satisfactory customs record, the taxpayer must have:

- ▶ No pending customs fraud or criminal charges
- ▶ Paid and received payments from legal commercial transactions, not illegal transactions
- ▶ Ecuadorian tax residence
- ▶ Three years of expertise in customs operations (e.g., expertise as an importer)
- ▶ No suspension penalties
- ▶ No outstanding debts with the Customs Authority
- ▶ Complied with its tax return obligations
- ▶ “Adequate behavior” (i.e., a good risk profile) before the Customs Authority

## Benefits

Once a taxpayer becomes an AEO, it will receive:

- ▶ Local and international recognition as an economic operator with security measures to minimize risks
- ▶ Non-intrusive coordinated controls (i.e., not as many customs controls on the AEO)
- ▶ Reduced inspections for all parts of the logistics chain and reviews of import documentation
- ▶ Priority attention from customs personnel
- ▶ Training from customs personnel
- ▶ The right to use a distinctive AEO mark for marketing purposes

## Procedure

Taxpayers must file the application online. The tax authorities will notify the taxpayer within 10 days as to whether it meets the requirements. If the applicant meets the requirements, it will have 15 days to present its supporting evidence to the Customs Authority. If the documentation proves the taxpayer has a satisfactory record and is financially solvent,

the Customs Authority will then provide a compliance report within 60 days, followed by the document that designates the applicant as an AEO. Once granted, AEO status is valid for three years. At the end of that period, the taxpayer may renew its AEO status.

## Causes of suspension (up to 60 days)

A taxpayer’s AEO status may be suspended if it:

- ▶ Does not permit customs inspections
- ▶ Wrongly uses the AEO certification
- ▶ Does not maintain its satisfactory record or financial solvency
- ▶ Does not comply with the observations or corrections from the Customs Authority
- ▶ Does not communicate changes that could affect its compliance with the AEO requirements to the Customs Authority
- ▶ Is suspended as a regular economic operator

## Causes of revocation

A taxpayer may have its AEO status revoked if it:

- ▶ Has two previous suspensions
- ▶ Is bankrupt
- ▶ Has criminal charges brought against it, including customs fraud
- ▶ Lied on the application to become an AEO
- ▶ Has its regular economic operator status revoked

If any of the last three conditions are present, the taxpayer cannot request a new process and cannot be considered as an AEO.

## Mutual recognition agreements

The Ecuadorian Customs Authority will enter into mutual recognition agreements with other countries to allow AEOs to have the same benefits in other jurisdictions.

For additional information with respect to this Alert, please contact the following:

**Addvalue Asesores Cia. Ltda., Quito**

- ▶ Javier Salazar                      javier.salazar@ec.ey.com
- ▶ Alex Suárez                        alex.suarez@ec.ey.com
- ▶ Alexis Carrera                    alexis.carrera@ec.ey.com

**Addvalue Asesores Cia. Ltda., Guayaquil**

- ▶ Carlos Cazar                      carlos.cazar@ec.ey.com

**Ernst & Young, LLP (United States), Latin American Business Center, New York**

- ▶ Pablo Wejcman                    pablo.wejcman@ey.com
- ▶ Ana Mingramm                    ana.mingramm@ey.com
- ▶ Enrique Perez Grovas            enrique.perezgrovas@ey.com

**Ernst & Young LLP (United Kingdom), Latin American Business Center, London**

- ▶ Jose Padilla                      jpadilla@uk.ey.com

**Ernst & Young Tax Co., Latin American Business Center, Japan & Asia Pacific**

- ▶ Raul Moreno, *Tokyo*            raul.moreno@jp.ey.com
- ▶ Luis Coronado, *Singapore*      luis.coronado@sg.ey.com

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