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Analysis of the exemption of taxes on the importation of vehicles for people with disabilities in Ecuador since the entry into force of the COPCI to date.

Graduate thesis prior to obtaining a Bilingual Bachelor's Degree in International Studies with mention in Foreign Trade.

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Dedication

This thesis I dedicate with all my love and affection to my parents and brother, for being my fundamental pillar and to show me the way to the overcome being my biggest support to reach my purposes. To my boyfriend to be with me unconditionally at all times. To my loved ones and to my classmates for the support during this valuable student stage, and in a special way to God for being my guide and my strength during this path of formation.

Karla Zeas

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Chapter 1

Background and legal basis.

Introduction.

In the first part of this first chapter, the background about people with disabilities will be laid out, as well as content concerning inclusive mobility in Ecuador, in order to have a solid base of knowledge prior to the development of the later chapters. In addition, relevant data provided by the National Council for the Equality of Disabilities will be presented.

Secondly, the legal basis on the tax exemption on foreign trade in the importation of vehicles for people with disabilities will be presented. This mainly contains the legal analysis of the Constitution of the Republic of Ecuador, the Organic Code of Production, Trade and Investment as well as its regulation, and the Organic Disabilities Law and its regulation.

1.1 People with disabilities in Ecuador.

Before developing this research, it is considered necessary to know and analyze the situation of people with disabilities in Ecuador, who represent a significant percentage of the Ecuadorian population. It is also essential to know the background of people with disabilities, their participation in different areas of society and their current situation in the country.

The application of rights and benefits for people with disabilities which seek their well-being is increasingly taken into account, and disabled rights are recognized worldwide, which is why it is necessary to implement policies and laws that protect the human and fundamental rights of this vulnerable group of the population in Ecuador.

The concept, "person with disability" continues to evolve and as do their rights. In fact, at present, the rights exist to guarantee that these people exercise them freely without any discrimination.

a) Background.

A few years ago, discrimination against people with disabilities was common in Ecuador, since these people were prevented from performing common activities because they were classified as people without the capacity to perform any activity by themselves. This situation changed when, in 1992, the Disability Law was issued, providing people with disabilities rights that they could not enjoy before. This law gave impetus to the priority attention of these people and to guaranteeing their rights. On top of that it was the fundamental pillar for the creation of the National Council for the Equality of Disabilities (CONADIS), which is an autonomous body of a public nature and "exercises powers to national level, dictates policies, coordinates actions, and executes and promotes research in the area of disabilities, as well as working jointly with public and private organizations directly linked to disabilities" (Cruz, 2009).

In 2007, an important milestone was marked for people with disabilities in Ecuador, as a series of positive changes to guarantee the rights of these people which began to be promoted by the vice-presidency of the Republic led by Licentiate Lenin Moreno. The effort and dedication of the country's ex-vice president and his work group of the "Manuela Espejo"

Solidarity Mission managed by the Technical Secretariat of Disability (Setedis), promoted the care and protection of people with disabilities. Solidarity Mission focused on providing economic and psychological aid, provided contributions as technical aids according to the degree of disability, and even delivered homes and appliances that were of great help to these people. All this allowed assistance to reach distant places in Ecuador where people with disabilities had no help or contribution from the government or any foundation. A specialized regulatory framework was also created, accompanied by public policies and specific competencies in the areas of health, education, accessibility, training, employment, and others.

In 2012, the Organic Law of Disabilities (LOD) entered into force, replacing the Disability Law created in 1992. The main objective of the LOD is to guarantee the diffusion of rights of people with disabilities as well as the right to exercise these rights. In addition, it offers a definition as follows:

“A person with a disability is any person who, as a consequence of one or more physical, mental, intellectual or sensory deficiencies, regardless of the cause, is permanently restricted in its biological, psychological and associative capacity to exercise one or more essential activities of daily life” (Organic Law of Disabilities, 2012).

The special rights of people with disabilities are contemplated in the LOD which seeks to guarantee their enjoyment. In addition, this law, includes some benefits that will be analyzed later in this research.

b) Inclusion and participation.

Nowadays, people with disabilities continue to seek integration into Ecuadorian society, through a gradual process in conjunction with public and private actions.

These people represent significant percentage of the Ecuadorian population and they are also considered a vulnerable group. This is why their opinions must be heard when making public policies, in order to satisfy their needs. Participation of people with disabilities in several areas is crucial, since each time these people seek to be an active part of the community, thus make discrimination and rejection fade into the background.

In this sense, the emblematic program of Lenin Moreno, the "Manuela Espejo" Solidarity Mission, continued to grow stronger. It is currently known as the "Las Manuelas" Mission, formed by a group of people who are in charge of taking care of priority groups of people, visiting the most remote places of the country. "With this program, more than 70,000 homes of people with disabilities have been visited" (Moreno, 2018). This Mission continues to fulfill its objective of providing resources and meeting the needs of people with disabilities with its door-to-door service. In addition, it is intended to provide a tracing of their situation to be able to provide comprehensive attention, including the access to such rights as health, education, housing, work and others.

According to the United Nations (UN), the accessibility and inclusion of people with disabilities are fundamental rights recognized by the Convention on the Rights of Persons with Disabilities. "The Convention requests States to take the appropriate measures to give them full access to daily activities and eliminate all obstacles to their integration" (ANDES, 2017), for this reason the State must create different programs, policies and laws which allow the integration in society of people with disabilities.

Information obtained from the official website of the CONADIS is presented below giving a clear idea about the participation and inclusion of people with disabilities in the country. It should be noted that the presented information is of people with disabilities who have registered with CONADIS; however, there are other people with different types of disabilities who do not have a record in the database of that entity.

People with disabilities registered in the CONADIS until July 2018 add up to a total of 444,901. Figure 1 shows that people with disabilities add up to 2,58% of the total Ecuadorian population, which is 16,756,309 according to the National Institute of Statistics and Censuses (INEC).

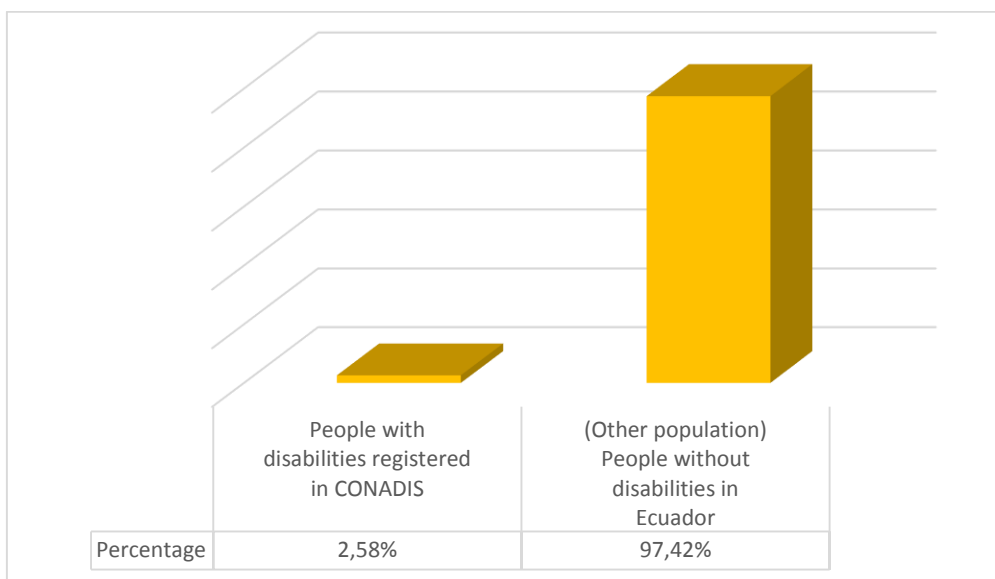


Figure 1: Percentage of person with disabilities registered in CONADIS in relation to the total Ecuadorian Population.

Author: Karla Zeas.

Source: (National Council for Equality of Disabilities, 2018)

The percentage of people with disabilities presented in figure 1 consists of both men and women. For purposes of a better analysis, a graph was made in which the corresponding percentage for each gender can be observed (Figure 2). The number of people with disabilities of the male gender is 249,986 accounting for 56.22% of the total, and 194,898 are female accounting for 43.78% of the total, while 0% is occupied by the LGBTI¹ population.

¹ Abbreviation for Lesbian, Gays, Bisexual, Transgender and Intersex.

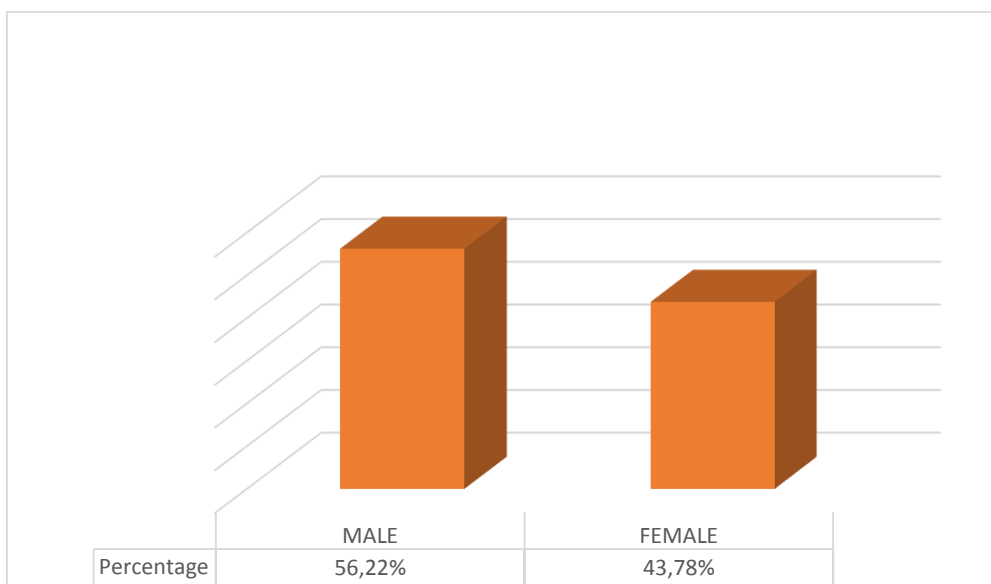


Figure 2: Total people with disabilities in Ecuador, classified in gender.

Author: Karla Zeas.

Source: (National Council for Equality of Disabilities, 2018).

Finally, "regarding access to work for people with disabilities, it is considered an achievement that these people have found and have been linked to a permanent job" (Merizalde, 2017). In addition, Nancy Maldonado, president of the "El Triángulo" Foundation mentions: "We developed a labor inclusion project which has allowed 63 young people with different types of intellectual disability to work in five Quito companies." It is evident that the labor inclusion² of these people continues to grow with the support of government and of society in general. According to the CONADIS database, Figure 3 shows the percentage of people with disabilities who are currently working, adding up to a total of 65,804 people until the month of July of the year 2018.

²Article 47 of the Organic Law of Disability states that: "public or private companies have the obligation to hire a minimum of 4% of people with disabilities for every 25 employers"

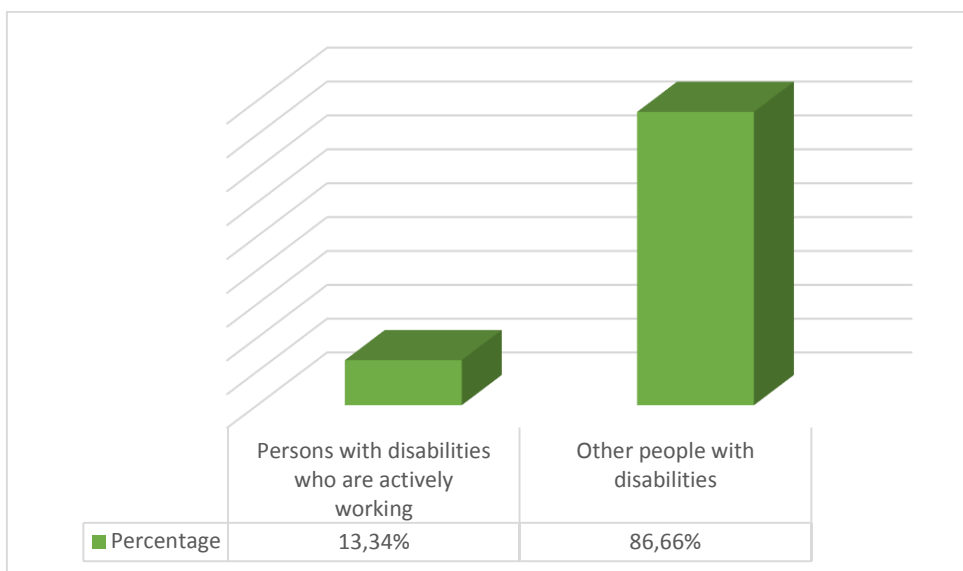


Figure 3: Persons with disabilities working in Ecuador.

Author: Karla Zeas.

Source: (National Council for Equality of Disabilities, 2018).

c) Current situation of people with disabilities.

The characteristics of people with disabilities vary according to the type of disability they present. There are some types of disabilities recognized in Ecuador, according to the National Directorate of Disabilities (DND), among which we have:

- Physical disability.
- Hearing disability.
- Intellectual disability.
- Visual disability.
- Psychosocial disability.
- Language disability.

Each of these types can be manifested in different ways and in different degrees but everything depends on the analysis and evaluation to which the person with disability was subject. According to the CONADIS, the disability that prevails in the country is physical with 207,457 registered people, followed by intellectual disability with 99,944 registered people, and hearing disability in third place with 62,921 registered people. Figure 4 shows the distribution of the types of disability in the country until the month of July 2018.

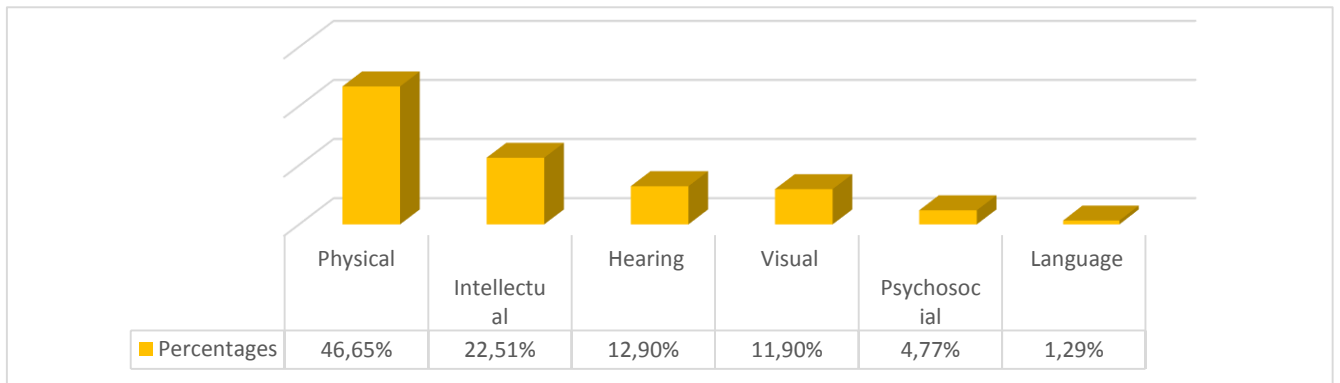


Figure 4: Types of disability in Ecuador.

Author: Karla Zeas.

Source: (National Council for Equality of Disabilities, 2018).

From a geographical point of view, on the other hand, the number of people with disabilities is concentrated in the province of Guayas with 108,719 registered disabled people, followed by the province of Pichincha with 69,142 people, the province of Manabí with 45,983 people and then the province of Azuay with 29,083 people. Figure 5 aims to provide a better understanding on the distribution of people with disabilities in the Ecuadorian territory.

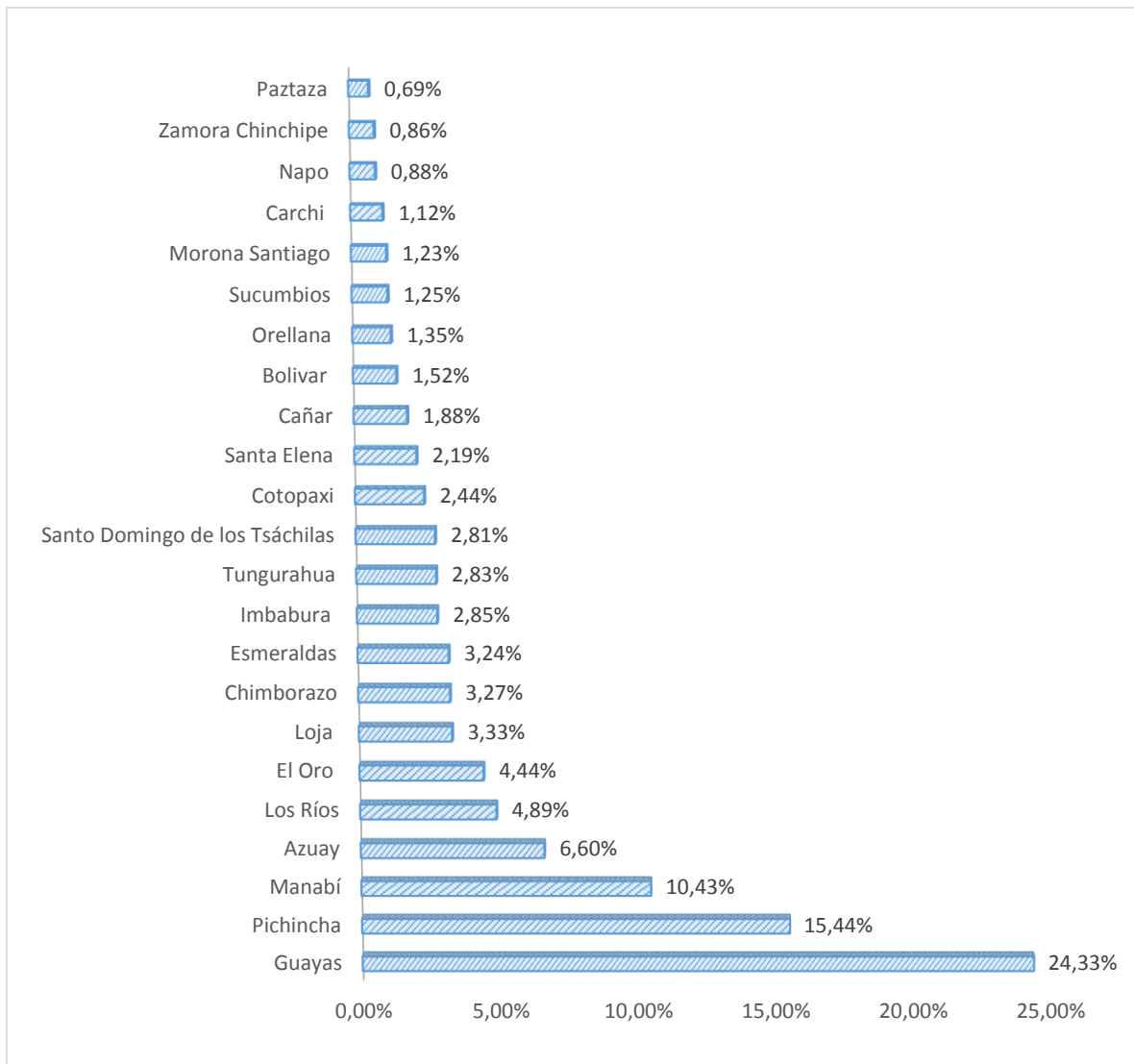


Figure 5: Geographical referencing of people with disabilities in Ecuador

Author: Karla Zeas.

Source: (National Council for Equality of Disabilities, 2018).

1.2 Inclusive Transportation.

It is necessary to develop the topic of inclusive mobility, knowing the background of inclusion in Ecuador and taking the Organic Law of Land Transportation, Traffic and Road Safety into account.

a) Background.

Inclusion seeks to ensure that all citizens, without any exception, make use of their rights and use their skills to the fullest as long as these people are incorporated into community life. In addition, people who are being excluded must have access to different areas, including transportation.

To develop this point, it is essential to know a definition of inclusion.

“Inclusion is an approach that responds positively to the diversity of people and individual differences, understanding that diversity is not a problem but an opportunity for the enrichment of society, through active participation in family life, in education, at work and in general in all social, cultural and community processes” (UNESCO, 2015).

Being recognized by one's abilities and potentials, different from others, is the main pillar of inclusion. Inclusion focuses on guaranteeing that all people are "part of" but not "separated from" so this means that it is necessary to build systems to provide access and participation for all people, without exclusion of anyone.

In Ecuador social inclusion is manifested in the objective number 1 of the National Plan of Development "Toda una Vida" 2017-2021³ which aims to "Guarantee a decent life with equal opportunities for all people", so the State is the main responsible for providing all people the with the same conditions and opportunities for their development. Across the world, Ecuador has been considered as a reference with regards to the care and inclusion of people with disabilities. For example the model of "Manuela Espejo" Mission has been replicated in several Latin America countries such as Uruguay, Colombia, Paraguay and Peru.

People with disabilities are in a vulnerable state because they are often excluded from society, for this reason it is necessary to encourage their inclusion. Inclusion is considered an integral process which seeks that all people are part of the common society and participate in habitual

³ It is an instrument to which public policies, programs and projects, the programming and execution of the State budget will be subject.

activities. The enjoyment of the benefits and rights of people with disabilities is the goal of inclusion.

However, the United Nations (UN) indicated that there is still much to be done for people with disabilities. It also states that "for the 2030 Agenda to succeed we must eliminate the stereotypes and discrimination that perpetuate their exclusion and create an accessible, favorable and inclusive environment for all".

b) Accessibility to transportation.

From the fundamental idea of inclusion emerges the essential theme which is inclusive transport or accessibility to different means of transportation. In Ecuador, this topic has taken on strength in recent years being that policies have been created to eliminate all kinds of barriers that impede people with disabilities from accessing public or private transportation that fits their needs.

A mobility study conducted by the University of Cuenca in 2017 states that "In the province of Azuay seven out of ten people with disabilities are mobilized by bus and two out of ten are mobilized by private car." For this reason, it is considered that the means of transportation must be integrally inclusive since accessibility in transportation is a right that all people must enjoy.

Facilitating the independent displacement of people with disabilities and avoiding that they encounter obstacles when moving from one place to another are the main objectives of inclusive transportation. For this reason, means of transportation must be adapted with different modifications that are essential for full mobility, taking into account that products and services, including private vehicles, must be constructed or modified so that they can be used by people with different types of disabilities. To carry out this process and put it into practice, it is crucial to know the needs and demands that people with disabilities actually have, and in this way seek to homogenize all the activities of society.

In effect, accessibility to transportation is "any person's ease of being able to move or transport, from one place to another, depending on being able to carry out some activity

(work, services, home) linked to some means of transportation, to a certain group of people and at different times of the day "(Landázuri, 2015).

"Quito houses 29,000 people with disabilities and 90% of them use public transportation" (El Telégrafo, 2017). People with disabilities who use means of transportations in Ecuador represent a significant number and for this reason several conversation tables have been realized in which people with disabilities have been able to interrelate with public and private entities. Also participants receive information concerning their rights, thus promoting the active participation of the parties. Knowing the needs of these people to prioritize the strengthening of inclusive mobility is crucial for decision making and for the creation of public policies and laws for the benefit of these people.

It can be said that inclusive transportation still requires attention at the moment of formulating policies and laws that benefit people with disabilities. It is a process that involves several social changes which aims to make people with disabilities feel like part of society fulfilling usual activities. But as the ex-president of CONADIS, Xavier Torres mentions "(...) transportation is the most complicated problem that people with disabilities face, but affirmed that there are commitments to improve, but that they must be meaningful "(La Hora, 2017).

c) The Organic Law of Land Transportation, Traffic and Road Safety.

Regarding what is referred to as inclusive transportation and to reinforce the guarantee of the rights of persons with disabilities, the Organic Law of Land Transport, Traffic and Road Safety entered into force on August 7, 2008 with its publication in the Registry Officer No. 398.

The article 2 and 3 *ejusdem* mentions principles on which it is based this law but for the purposes of the assignment, the most important ones will be taken into account at the author's discretion. One of the principles that must be mentioned is: "the inclusion of people with disabilities, the right to mobility and attention to the group of vulnerable people". The right to mobility is a crucial point that must be taken into account for this research assignment, because people with disabilities, being part of a vulnerable group, must exercise this right without any obstacle. It is a right and therefore the enjoyment of it must be guaranteed. In addition, article 185 *ibidem* establishes objectives for education for traffic and road safety

and verbatim 1 indicates that it seeks "to promote respect for human rights eliminating all forms of discrimination and generating an inclusive treatment of children, girls, adolescents, women, adults over 65 years of age and with disabilities, and other road users ".

On June 25, 2012 the Regulation of the Organic Law of Land Transport, Traffic and Road Safety came into force. Article 299 states that: "Passengers with reduced mobility or disability have the right to be transported in vehicles suitable for their specific needs". In this way the use public or private means of transportation that match their needs for disabled people is promoted. In addition, article 132 mentions a non-professional type "F" license issued by the National Transit Agency (ANT)⁴, which is intended for "special motor vehicles adapted according to disability". With this license people with disabilities can drive personal vehicles, conventional or executive taxis and mixed or light trucks of up to 3,500 kilograms.

"To qualify for the type "F" license, the ANT procedure manual states that the person must have a minimum of 30% disability and the card that confirms this. Also, the vehicle must be adapted to the needs of the driver to be comfortable and secure "(El Tiempo, 2017).

One must be taken into account that to obtain the type "F" license there are some limitations as mentioned by the ex-director of the ANT of Azuay who specifies that "(...) those suffering from Parkinson, narcolepsy or epilepsy will not be able to obtain a driver's license" (Ordoñez, 2017). In addition, if people have a visual disability of more than 40% they will not be able to obtain a Type "F" license.

In the year 2017, 260 people with disabilities who obtained the type "F" license⁵. Figure 6 shows the number of licenses issued by the ANT, in each month of the year 2017.

⁴ ANT is the entity in charge of the regulation and control of the exercise of land transportation, traffic and road safety competencies.

⁵ The procedure to obtain the type "F" license can be given for renewal, for changes or for obtaining it for the first time.

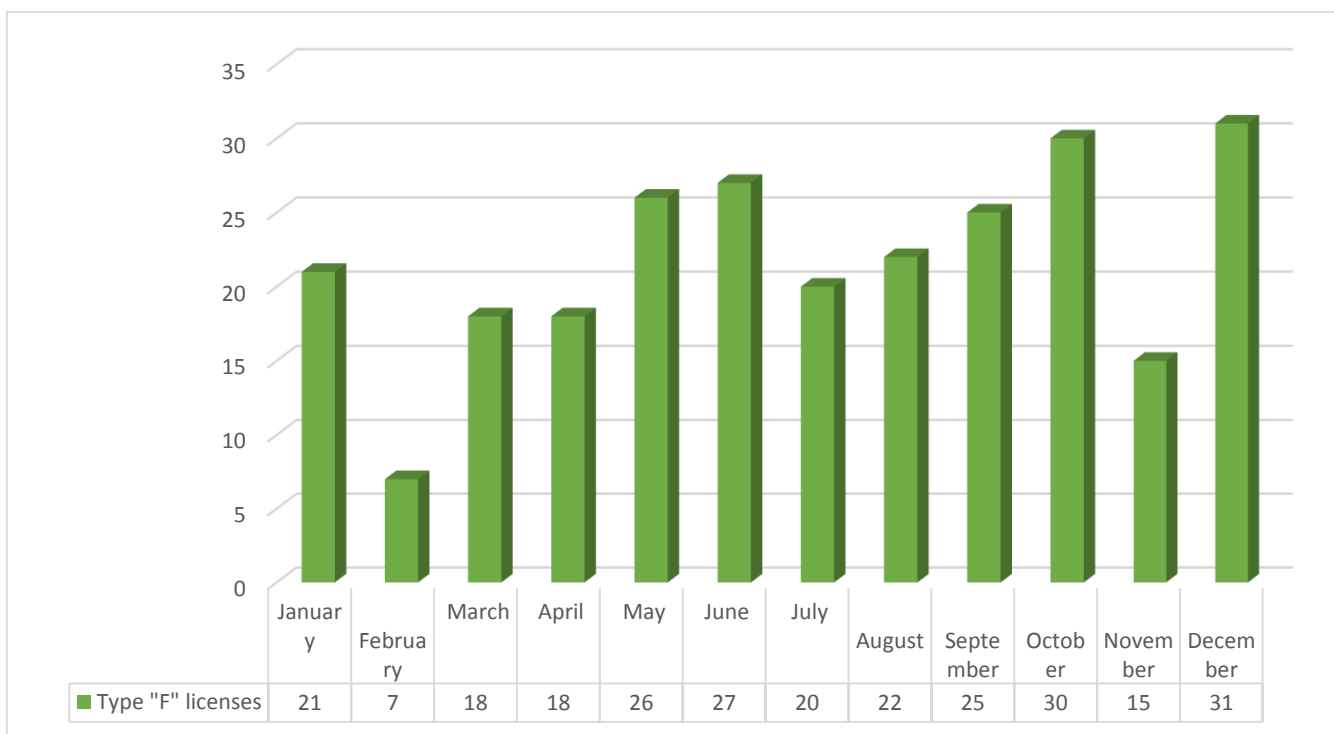


Figure 6: Number of Type "F" licenses granted by the ANT of the province of Azuay in the year 2017.

Author: Karla Zeas

Source: (National Traffic Agency, 2018).

So far in 2018, the collected data on type "F" license, shows a total of 173 until June 2018 (Figure 6).

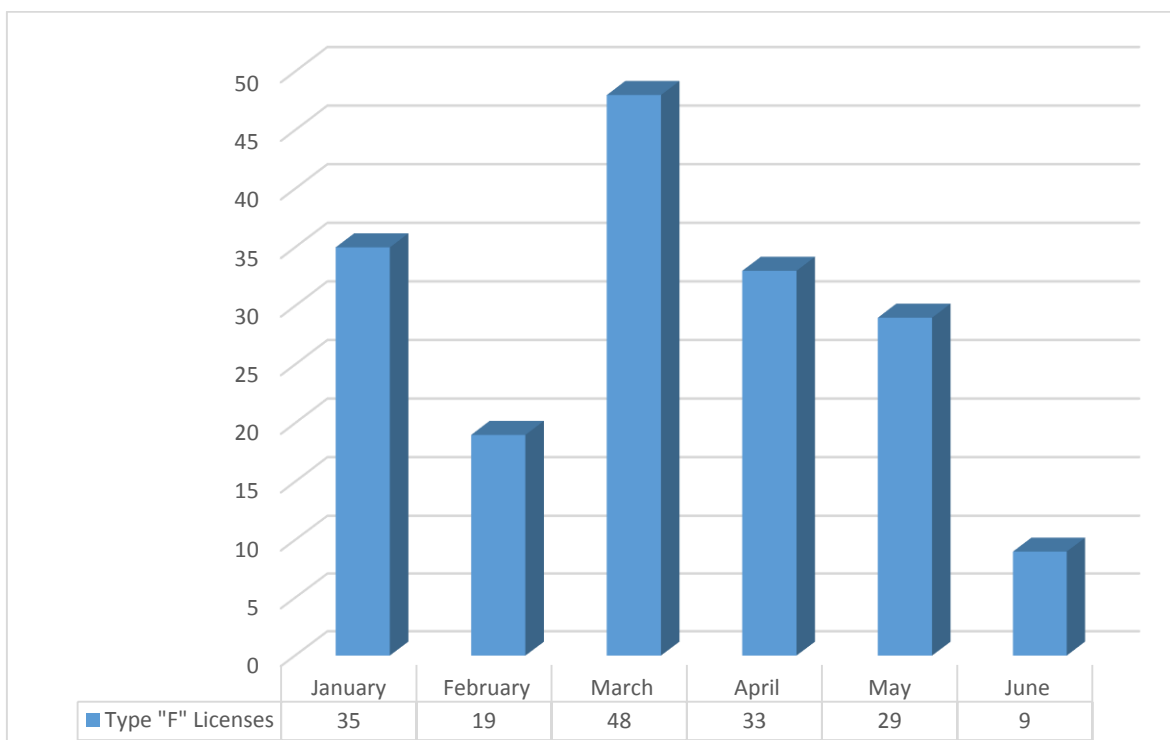


Figure 7: Type "F" licenses issued by the ANT of the province of Azuay until June 2018.

Author: Karla Zeas

Source: (National Traffic Agency, 2018).

It can be noted, that the mentioned law promotes the rights of persons with disabilities and the type "F" license is a clear example that Ecuador continues to make progress in ensuring and providing benefits to vulnerable people, including people with disabilities. What is referred to when talking about inclusive transportation, it is a set of public and private entities that are articulated to develop public policies and laws to provide support to these people. By offering people a license according to the specific characteristics of their disability, a door of opportunities is opening for these people to develop their own activities in an integral way.

1.3 Analysis of the legislation on the exemption of taxes on foreign trade for the importation of vehicles for people with disabilities.

People who have some kind of disability have been taken into account with greater importance in recent as, due to lack of support from the State, they have suffered different types of discrimination throughout history.

The Constitution of the Republic of Ecuador of 2008 shows more recognition for the rights of people with disabilities being that policies and laws have been implemented which benefit these people. In addition, the topic of inclusion in Ecuadorian society has been treated more thoroughly rejecting any type of discrimination or exclusion and everything that is written on paper must be put into practice in order to have concrete and clear results about its application.

For the development of the research, it is necessary and indispensable to know and analyze the normative bodies in which the benefits of people with disabilities are reflected. These bodied have protected the rights of these people, working jointly with the government through plans, programs and laws. The process of implementation and diffusion of the normative bodies has been a fundamental motivation for these people to make use of their rights and benefits including the exemption of taxes on foreign trade in the importation of vehicles for people with disabilities. This last point is the one that will focus on this chapter through the analysis of articles of laws and codes that are closely related to this exemption.

In the first instance, it is fundamental to take into account the hierarchical order of the application of the norms in Ecuador that according to article 425 of the Constitution of the Republic of 2008, is as given in Figure 8:

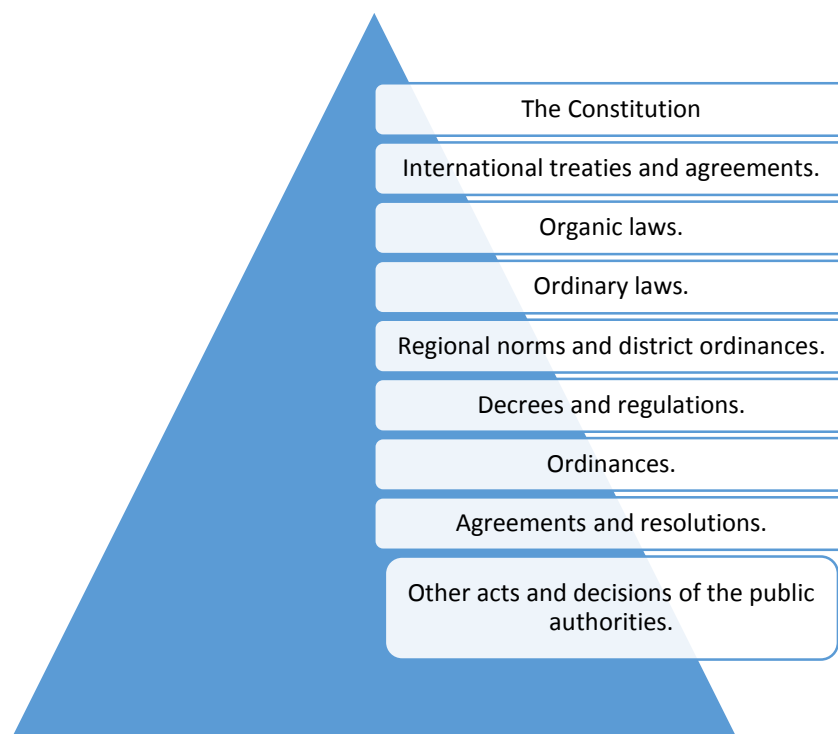


Figure 8: Hierarchical order of the application of norms in Ecuador.

Author: Karla Zeas.

Source: (Constitution of the Republic of Ecuador, 2008).

This hierarchical order for the application of norms must be taken into account during the entire research in case any doubt in the application of the same is generated.

So that, the rules and laws that will be analyzed, and which govern this exemption from taxes on the importation of vehicles for people with disabilities, are embodied in the following normative bodies:

- In the Constitution of the Republic published in the Official Register No 449 of October 20, 2008.
- In the Title II, Book V of the Organic Code of Production, Trade and Investment (COPCI), published in the Official Registry Supplement No. 351, of December 29, 2010, called the Customs Facilitation for Trade.
- In the Regulation on the Title of the Customs Facilitation for Trade, of Book V of the COPCI, published in Official Register No. 452, of May 19, 2011.

- In the Organic Law on Disability, chapter II, on the rights of persons with disabilities, section eight of the preferential rates, tariff exemptions and the tax regime, entered into force since its publication in the Official Register No 796 of September 25, 2012.
- In the Organic Law on Disability Regulation, chapter IV of the preferential rates, tariff exemptions and the tax regime, published in the Official Register No 109 of October 27, 2017.
- In the Organic Law for the Balance of Public Finances, which came into force with the Official Register No 744 of April 29, 2016.
- In the Organic Law for the Balance of Public Finances Regulation, which came into force with the Official Register No 771 of June 8, 2016.

a) Definitions.

The definitions presented below will help to better understand the subsequent analysis of the legislation.

- **Exemption.**

According to the Tax Code, chapter V of the Exemptions, article 31 indicates that "Tax exemption or exemption is the exclusion or legal dispensation of the tax obligation, established for reasons of public, economic or social order".

In addition, article 32 mentions that "(...) tax exemptions may be established, specifying the requirements for recognition or concession to the beneficiaries, the taxes they include, whether it is total or partial, permanent or temporary". It is fundamental to emphasize that the exemption can only be applied to the taxes that are legally in force.

"Exemption is the situation of privilege or immunity enjoyed by a person or entity not to be included in a burden or obligation, or to be governed by special laws" (Friedman, 2009).

- **Taxes on Foreign Trade.**

According to article 108 of the COPCI, the taxes on foreign trade are: "Tariffs, the taxes established in organic and ordinary laws whose generating events are related to the entry or exit of merchandise, and the rates for customs services ".

- **Definition of import.**

In accordance with the provisions of article 147 of the Organic Code of Production, Trade and Investment, import is: "the action of entering goods from abroad or from a Special Economic Development Zone complying with customs formalities and obligations".

b) Constitution of the Republic of Ecuador.

The Constitution of the Republic of Ecuador entered into force on October 20, 2008. The Magna Chart is considered a reference at the time of guaranteeing the rights of people with disabilities. For the analysis of this research, it is necessary to know in which articles of the Constitution the principles and guarantees that people with disabilities can enjoy are typified.

As a first point, the Rights are recognized in Article 11 of the Constitution which mentions that the exercise of rights will be governed by some principles such as:

“All people are equal and will enjoy the same rights, duties and opportunities. No one may be discriminated against for reasons of ethnicity, place of birth, age, sex, gender identity, cultural identity, marital status, language, religion, ideology, political affiliation, judicial past, socio-economic status, migratory status, sexual orientation, health status, HIV, disability, physical difference; nor for any other distinction, personal or collective, temporary or permanent, that has as its object or result to undermine or annul the recognition, enjoyment or exercise of the rights. The law shall punish all forms of discrimination” (Constitution of the Republic of Ecuador, 2008).

Therefore, the State must guarantee that no one is discriminated against for any reason and it must promote equality through affirmative action measures. So, "the highest duty of the State is to respect and enforce the rights guaranteed in the Constitution." This is related to the

previous principle. As the State acts in the exercise of a public authority, it will be the entity in charge of repairing any type of violation of the rights of the people.

On the other hand, article 16 *ejusdem* establishes that all people, individually or collectively, have the right to: "access and use of all forms of visual, auditory, sensory and other communication that allow the inclusion of people with disabilities". Clearly, this article reveals that people with disabilities should enjoy the use of various forms of communication. This is important because through effective communication these people can create connections to announce their needs known and receive information concerning their rights.

In addition, article 35 of *Magna Carta* states that "the elderly, children and adolescents, pregnant women, persons with disabilities, persons deprived of their liberty and those suffering from catastrophic or highly complex diseases will receive priority and specialized attention in the public and private sphere (...) ". This means that the Ecuadorian State recognizes the need to give special attention to the members of groups of prioritized attention.

Concerning Human Mobility, article 42 of the Constitution mentions that arbitrary displacement is prohibited.

“People who have been displaced will have the right to receive protection and emergent humanitarian assistance from the authorities, which will ensure access to food, shelter, housing and medical and health services. Children, adolescents, pregnant women, mothers with minor children, elderly people and people with disabilities will receive preferential and specialized humanitarian assistance”
(Constitution of the Republic of Ecuador, 2008).

It is necessary to highlight that in the Sixth Section of Persons with Disabilities, article 47 recognizes that: "The State will guarantee policies for the prevention of disabilities and jointly with society and the family, will seek to equalize opportunities for people with disability and its social integration ". This article mentions that the rights of persons with disabilities are:

1. Specialized care within public and private entities that provide health services for their specific needs, which will include the provision of free of charge medications, in particular for those who require lifelong treatment.

2. Integral rehabilitation and permanent assistance which will include the corresponding technical aids.
3. Discounts on public services and private transportation services and shows.
4. Exemptions in the tax regime.
5. Work under conditions of equal opportunities which promote their capabilities and potential, through policies that allow their incorporation into public and private entities.
6. Adequate housing with access facilities and conditions necessary to address their disability and to seek the greatest degree of autonomy in their daily lives. Persons with disabilities who cannot be cared for by their relatives during the day or who do not have permanent residence, will have reception centers for their shelter.
7. An education that develops its potential and abilities for their integration and participation in equal conditions. Educational establishments will comply with accessibility standards for people with disabilities and will implement a scholarship system that responds to the economic conditions of this group.
8. Specialized education for people with intellectual disabilities and the promotion of their abilities through the creation of specific educational centers and teaching programs.
9. Free psychological care for people with disabilities and their families especially in case of intellectual disability.
10. Adequate access to all goods and services. The architectural barriers will be eliminated.
11. Access to mechanisms, means and alternative forms of communication, including sign language for deaf people, oralism and the Braille system (Constitution of the Republic of Ecuador, 2008).

The rights of persons with disabilities are clearly showed and they cover several aspects in which these people can obtain benefits and develop totally.

In this regard, it is essential to have measures for the implementation and application of the rights already mentioned. For this reason, article 48 refers to the State adopting measures in favor of persons with disabilities, for example:

1. Social inclusion, through coordinated state and private plans and programs that encourage their political, social, cultural, educational and economic participation.
2. Obtaining credits and rebates or tax exemptions that allow them to start and maintain productive activities and obtain scholarships for study at all levels of education.
3. The development of programs and policies aimed at promoting leisure and relaxation.
4. Political participation which will ensure its representation, in accordance with the law.
5. The establishment of specialized programs for the comprehensive care of people with severe and profound disabilities in order to achieve the maximum development of their personality, the promotion of their autonomy and the reduction of dependence.
6. The incentive and support for productive projects in favor of the relatives of people with severe disabilities.
7. The guarantee for persons with disabilities to fully exercise their rights. The law will sanction the abandonment of these people, and the acts that incur in any form of abuse, inhuman or degrading treatment and discrimination based on disability (Constitution of the Republic of Ecuador, 2008).

The measures are essential and must be implemented to guarantee the rights of people with disabilities and their families, as well as to promote their social inclusion and offer them benefits to develop productive activities.

The Constitution, being the guarantor of rights, also provides that the families of persons with disabilities enjoy some rights. As such, the article 49 recognizes that: "persons and families that care for persons with disabilities that require permanent attention will be covered by Social Security and they will receive periodic training to improve the quality of care". The person with disabilities is placed in the centre to ensure their integrity and attention.

On the Magna Chart on the Rights of Participation, article 61 determines that Ecuadorians have the right to:

“Perform jobs and public functions based on merit and skills, and in a transparent, inclusive, equitable, pluralistic and democratic selection and appointment system that guarantees participation with criteria of equity and gender parity, equal opportunities for people with disability and intergenerational participation” (Constitution of the Republic of Ecuador, 2008).

The equality of opportunities when exercising public functions must be fulfilled without diminishing a person with a disability.

In addition, article 156 on the National Councils of Equality mentions that:

“National councils for equality are bodies responsible for ensuring the full validity and exercise of rights (...). The councils will exercise powers in the formulation, integration, observance, monitoring and evaluation of public policies related to the issues (...) of disabilities and human mobility in accordance with the law. This will be coordinated with the governing and executing entities and with specialized agencies in the protection of rights at all levels of government” (Constitution of the Republic of Ecuador, 2008).

The articles of the Constitution analyzed previously, are of great importance since they can be shown that the rights of persons with disabilities are embodied in the *Magna Carta*. Therefore the State has the obligation to ensure and guarantee the fulfillment of these rights through effective application. These people are part of priority attention groups for this reason emphasis should be put on covering their needs. Likewise, the State and citizens

should be aware that people with disabilities should be treated on equal terms without any discrimination.

The protection of the Constitution is complete for people with disabilities and to strengthen what is embodied in the Constitution, several normative bodies, which will be discussed below, exist. These cover specific issues in order to safeguard the rights of these people.

c) Organic Law of Disabilities (LOD).

The law in which the rights of people with disabilities in various areas are embodied cannot be set aside. This law came into force through its publication in the Official Register No 796 of September 25, 2012. It contains 117 articles, 9 general dispositions, 19 transitory dispositions, 17 amendments and derogatory dispositions and a final disposition.

Several articles of interest for the present assignment will be mentioned and analyzed with their due explanation.

Firstly, it is necessary to highlight the article 1 *ibidem* which states that "the present Law aims to ensure the prevention, timely detection, habilitation and rehabilitation of disability and ensure the full validity, dissemination and exercise of the rights of people with disabilities (...)".

Accordingly, the article 2 details that:

“This law protects Ecuadorian or foreign persons with disabilities who are in the Ecuadorian territory. As well as to Ecuadorians abroad, their relatives within the fourth degree of consanguinity and second of affinity, your spouse, partner in de facto union and / or legal representative and public, semi-public and private non-profit legal persons who dedicated to the care, protection and care of the People with disabilities. The application of this law covers the public and private sectors” (Organic Law of Disabilities, 2012).

In addition, in Section Eight of the preferential tariffs, tariff exemptions and tax regime, article 80 indicates that:

“The importation and purchase of orthopedic and non-orthopedic vehicles including those of national production destined to the particular or collective use or benefit of persons with disabilities. The natural and legal persons that have legally under their protection or care to the person with disability, will enjoy exemptions from the payment of taxes to foreign trade, Value Added Tax and special consumption taxes with the exception of customs and storage fees. Only up to an amount equivalent to one hundred and twenty (120) unified basic remuneration of the private worker in general FOB price⁶ in personal transport and up to an amount equivalent to two hundred and six (206) basic salaries of the private worker in general FOB price in collective transportation” (Organic Law of Disabilities, 2012).

The cases in which the importation and purchase of orthopedic and non-orthopedic vehicles can be carried out are:

- “1. Orthopedic and / or adapted vehicles when these are going to be driven by persons with disabilities severely affected with reduced mobility who cannot use other types of vehicles, or when they are destined for the transfer of these people who cannot drive on their own and require the support of third parties.
2. Non-orthopedic vehicles: automatic or mechanical, when these can be driven by persons with disabilities.
3. Non-orthopedic vehicles: automatic or mechanical, when they are destined for exclusive use of persons with disabilities who cannot drive on their own and require the support of third parties.
4. Orthopedic and / or adapted vehicles, of collective transport, up to a value equivalent to two hundred and six (206) unified basic remuneration in case these are imported by non-profit legal entities dedicated to the care of persons with

⁶ Free On Board, this is a negotiation clause that is used in international trade for buying and selling operations of goods made by ship.

disabilities, and that they will be destined for the transportation of the said persons” (Organic Law of Disabilities, 2012).

Similarly, the purchase of a vehicle, produced or imported, must have the authorization of the customs authority, provided that the corresponding requirements have been met within a maximum period of thirty days. The vehicle to be imported must be new or up to 3 years of manufacture, also the applicant may import for a single time every four years.

It is essential to emphasize that for this research assignment, article 80 of the Organic Law for the Balance of Public Finances, which replaces article 80 of the Organic Law of Disabilities, will be taken into account. The Organic Law for the Balance of Public Finances entered into effect on April 29, 2016 with the Official Register N ° 744.

Thus, article 80 concerning the importation and purchase of orthopedic vehicles, adapted and non-orthopedic, provides the following:

“The importation or purchase of vehicles, including those of national production, which are destined to the particular or collective use or benefit of persons with disabilities, and the natural or legal persons on whom a disabled person is legally depending or under whose care said person falls will enjoy exemptions from the payment of taxes on foreign trade, Value Added Tax and Special Consumption Tax, as applicable with the exception of customs and storage fees” (Organic Law for the Balance of Public Finance, 2016).

In the following cases it will be possible to import and purchase orthopedic, adapted and non-orthopedic vehicles:

“1. Orthopedic, non-orthopedic and / or adapted vehicles, for personal use, whose FOB price does not surpass an amount equivalent to sixty (60) unified basic salaries of employees in general, when they are going to be driven by people with reduced mobility who cannot use another class of vehicles, or when they are destined for the transfer of these people who cannot drive by their own means and require the support of third parties.

2. Orthopedic and / or adapted vehicles, of collective transport, whose FOB price does not surpass an amount equivalent to one hundred and twenty (120) unified

basic salaries of employees in general, when these are imported by non-profit legal entities dedicated to the care of people with disabilities and when the vehicles will be destined to the transportation of said people” (Organic Law for the Balance of Public Finance, 2016).

The importation of orthopedic and / or adapted vehicles will have to be authorized by the customs authority as long as all the necessary requirements have been met within a maximum of thirty days. It should be noted that the vehicle to be imported must be new or up to 3 years of manufacture. It should be noted that the vehicle to be imported must be new or must have been manufactured no more than three years before. It should be taken into account that unlike article 80 of the LOD, this law establishes that disabled persons and beneficiary legal entities can only import once every 5 years. When it is noted that the conditions to benefit from this exemption are not met, the Internal Revenue Service (SRI) will reclaim the tax for the totality of the exempted values plus the respective interests.

With regards the control and supervision of tax benefits, the competent national authority in tax matters will coordinate with the national health authority to exercise it. Therefore, when the FOB value exceeds the amounts established in the previous paragraphs, this benefit will not apply.

Thus, to apply this regime the conditions that orthopaedic, non-orthopaedic and / or adapted imported vehicles for personal use may not exceed US \$ 23,160 (60 unified basic salaries multiplied by 386 dollars, which is the unified basic salary in Ecuador) will be taken into account; and for the importation of orthopaedic and / or adapted vehicles, of collective transport, they cannot exceed US \$ 46,320 (120 unified basic salaries multiplied by 386 dollars, which is the unified basic salary in Ecuador), this right can only be applied once each five years.

Continuing the analysis of Section Eight of the LOD about the preferential tariffs, tariff exemptions and tax regime, article 73 on the annual vehicle property tax and environmental tax on vehicle pollution mentions that:

“In the case of vehicles destined for the use and transfer of persons with disabilities, a special reduction of eight thousand dollars (US \$ 8,000) will be

considered to establish the taxable base. In case there is a surplus after the reduction, a special reduction of fifty percent (50%) will be granted. Additionally, they will be exempt from the payment of the environmental tax on vehicular pollution. This measure will be applied to one (1) single vehicle per natural or legal person and the regulations of this law will determine the procedure to be applied in these cases” (Organic Law of Disabilities, 2012).

Thereby, the Organic Law of Disabilities has its respective Regulation which complements it. This Regulation to Book V came into force on October 27, 2017 after its publication in the Official Register No. 109.

It is important to know the definition of “disabled person” established in said Regulation. In article 1 he mentions that:

(...) a person with a disability will be understood as one who, as a consequence of one or more physical, mental, intellectual or sensorial deficiencies, regardless of the cause that caused it, is permanently restricted in its biological, psychological and associative capacity to exercise one or more essential activities of daily life, in a proportion equivalent to thirty percent (30%) of disability duly qualified by the national health authority. (Regulation to the Organic Law of Disabilities, 2017)

In addition, article 21 *ejusdem* clearly indicates the tax benefits that a person with a disability can enjoy, and also mentions that: "The tax regime for persons with disabilities and their corresponding substitutes will be applied in accordance with the provisions of the Organic Law of Disabilities, this Regulation and the tax regulations that may apply".

Said tax benefits will be applied according to article 21 of the Regulation to the LOD and these will be directed to those persons who have a degree of disability of at least 30%. This article also establishes that the tax benefits of exemption will be offered in the Income Tax and the refund of the Value Added Tax and these will be applied proportionally according to the degree of disability that the person possesses or replaces, as shown in table 1:

Table 1: Percentage of tax benefit according to the degree of Disability.

Grade of Discapacity.	Percentage of tax benefic.
From 30% to 49%	60%
From 50% to 74%	70%
From 75% to 84%	80%
From 85% to 100%	100%

Author: Karla Zeas.

Source: (Regulation to the Organic Law of Disabilities, 2017).

There are some exceptions for the application of the table 1. In this sense, article 22 of the LOD Regulation determines that: "as an exception to the application of the table public and commercial transport (land, national, maritime, fluvial and rail), for this case the discount will be 50% of the regular rate".

On the other hand, article 28 *ibidem* about the import of goods and mentions that:

“The customs authority may authorize the importation of one or more goods for the exclusive use of persons with disabilities and for the legal entities responsible for their care (...). They may also import those goods that due to their technical specifications which make it possible to overcome the disability partially or totally, in accordance with the regulations issued by the national health authority. Persons who fail with the provisions of the Organic Law of Disabilities, they will be subject to the sanction equivalent to the total amount of the tax exemption which they benefited without prejudice to the payment of the corresponding taxes and the rest responsibilities that could be determined (...). When the FOB value or the local acquisition value exceeds the amounts established in the previous paragraphs, this benefit will not apply” (Regulation to the Organic Law of Disabilities, 2017).

Also, article 30 determines that:

“Exempted from the prohibition of alienation of imported or locally acquired vehicles are cases in which the person with a disability is found to be a debtor and does not pay off that debt within a period of 6 months. After this time, the creditor may exercise the legal actions contemplated in the law for the payment of that debt” (Regulation to the Organic Law of Disabilities, 2017).

d) Organic Code of Production, Trade and Investment (COPCI).

This Code came into force on December 29, 2010 through its publication in the Official Register No. 351, replacing the Organic Law of Customs and its Regulation. The COPCI contains the following books:

Book I: Productive Development, Mechanisms and Competency Bodies.

Book II: On the Development of Productive Investment and its Instruments.

Book III: Business Development of Micro, Small and Medium Enterprises, and Democratization of Production.

Book IV: Foreign Trade, its Control Bodies and Instruments.

Book V: Systemic Competitiveness and Customs Facilitation.

Book VI: Sustainability of Production and its relationship with the Ecosystem.

Each of these six books has its respective Regulation. For purposes of this degree work, Book V of Systemic Competitiveness and Customs Facilitation and its Regulation on the Title of Customs Facilitation for Trade will be taken into account with grater relevance.

To begin the analysis of this point, it is crucial to know the concept of Import to Consumption which is a necessary regime for the entry of imported vehicles. Therefore, article 147 of Book V of COPCI determines that Importation for consumption is:

“The customs regime by which goods imported from abroad or from a Special Economic Development Zone can circulate freely in the customs territory in order to permanently remain there after the payment of import duties and taxes,

surcharges and sanctions, (...) and compliance with customs formalities and obligations” (Organic Code of Production, Trade and Investment, 2010).

Through this regime, foreign goods get into the country definitively and are nationalized so that these are free and available for use or definitive consumption, after having paid the tax obligation.

On the other hand, the exemption of taxes on foreign trade in the importation of vehicles for persons with disabilities is stated in article 125 of COPCI which states that these people are exempt from payment of all taxes on foreign trade except for taxes for customs services.

In addition, this exemption may be applied to imports for consumption of:

“i. Medical devices, technical aids, special tools, raw materials for orthotics and prostheses used by people with disabilities for their use or the use of legal entities responsible for their protection. Vehicles for these same purposes, within the limits provided in the Law of Disabilities” (Organic Code of Production, Trade and Investment, 2010).

These exemptions will be granted by the server in charge of the district address⁷.

Thus, imported vehicles that have the purpose of mobilizing people with disabilities will enjoy exemption from taxes on foreign trade which are the Value Added Tax and the Special Consumption Tax.

“1.-Tariff Charged to the Merchandise (AD-VALOREM): Tax administered by the Customs authority and the percentage varies according to the type of merchandise and is applied on the sum of the Cost, Insurance and Freight (Taxable Base of the Import).

⁷ Article 218 of the COPCI establishes the functions of the District Offices and it indicates that one of the functions will be "to grant the tax exemptions that correspond to the provisions of the regulations to this Code".

2.-Development Fund for Children (FODINFA): Tax administered by the Institute for Children and Families (INFA), 0.5% is applied on the taxable base of the Import.

3.-Special Consumption Tax (ICE): Administered by the SRI, the variable percentage according to the goods and services that are imported.

4.-Value Added Tax (VAT) Text box: 12% on: Tax base + ADVALOREM + FODINFA + ICE” (SiatiGroup, 2018).

To finalize the analysis of the COPCI, it is essential to know that in the Book V of COPCI Regulation, chapter II details general considerations about exemptions and in article 6 mentions that:

“In foreign trade those imports which the legal quality established in the COPCI is configured will be understood as exempt from taxes. This will be verified by the functionary designated for the review, either physical or electronic, except in the case that an administrative act dictated by the District Director or his delegate is required(...)” (Regulation to Book V of the Organic Code of Production, Trade and Investment, 2013).

Conclusion.

To conclude the chapter, the background on people with disabilities in Ecuador shows that throughout history these people have been affected by discrimination and social exclusion. For this reason the State has taken actions to avoid any type of rejection and promote the guarantee of the rights of these people through programs and laws previously mentioned.

On the other hand, accessibility to transportation is a right which seeks that people with disabilities have access to transportation that is inclusive and adapted to cover their different needs. It should take into account that one of the benefits disabled people can enjoy is the exemption of taxes on foreign trade in the importation of vehicles for people with disabilities. That is why all the points of the different normative bodies that govern this tax exemption that allow to have a broader knowledge for the subsequent analysis of the application of this exemption, have been analyzed.

Chapter 2

Process to import a vehicle for people with disabilities using the exemption of taxes on foreign trade.

Introduction.

The second chapter will be address and analyzed the steps and requirements necessary to carry out the process of importing a vehicle for people with disabilities making use of the exemption on taxes on foreign trade. The development of this chapter will revolve around a comparative analysis between the previous process and the new simplified process of the requesting the importation of vehicles for people with disabilities. Hence, the most important points of the two processes will be analyzed taking into account information from entities which are articulated to complement the steps of this procedure. In addition, relevant points of the Resolutions and instructive issued by the National Customs Service of Ecuador which must be met for the application of this tax exemption, will be developed.

Likewise, an analysis will be presented about the wrong use of the vehicles that are imported under this exemption. Crucial data has been collected from the vehicles imported into Ecuador for people with disabilities will also be analyzed in this chapter.

2.1 National Customs Service of Ecuador (SENAE).

To begin the development of this chapter it is essential to know about the National Customs Service of Ecuador. The COPCI in article 212 mentions that the SENAE is: "a legal entity of public law of indefinite duration with technical, administrative, financial, and budgetary autonomy. This entity is domiciled in the city of Guayaquil and has competence throughout the national territory." That is, it is a public entity in charge of carrying out efficient control of foreign trade activities, it also promotes fair trade, seeks that merchants comply with customs formalities and it provides facilitation in exports and imports.

Likewise, it is necessary to know that according to the COPCI, this entity has technical-administrative competencies that are exercised by the functionaries under the direction of the administration of which the General Director⁸ is in charge. Article 213 *ejusdem* mentions that the Director General is: "the highest authority, as well as is legal, judicial and extrajudicial representative for which reason he or she will exercise the administrative, operational and monitoring controls".

Therefore, according to article 216 *ibidem*, one of the functions of the General Director is:

“To issue, by means of resolution, the regulations, manuals, instructions, circular offices necessary for the application of operational, administrative, procedural, customs assessment and for the creation, suppression and regulation of the rates for customs services, as well as the necessary regulations for the proper functioning of the customs administration and those operational aspects not contemplated in this Code and its regulations” (Organic Code of Production, Trade and Investment, 2010).

For this research project, it is crucial to know that this person is in charge of issuing resolutions that contain indications, provisions and necessary requirements for different

⁸ The General Director of SENAE is the Lawyer Maria Alejandra Muñoz appointed, by Executive Decree No. 512 on May 23, 2018, by the Constitutional President of the Republic on the Lenin Moreno.

procedures. In this way the District Director⁹ will be responsible for the execution and compliance of the administrative resolutions in their respective district. To analyze the present chapter, some resolutions and instructions issued by the Customs Administration will be taken into account. In addition, important information has been obtained concerning some processes carried out by other entities to complement the procedure of importation of a vehicle for persons with disabilities. All this information will be selected for the development and analysis of the steps to follow.

2.2 Comparative analysis between the previous process and the new simplified process to import a vehicle for people with disabilities.

The importation of vehicles for people with disabilities is carried out through a series of procedures where different entities are articulated to complement each other and fulfill the objective of promoting the good living of Ecuadorian society.

For a better understanding it is necessary to divide this point of the chapter in two instances. The first would be all the content related to the process and requirements which were in force until April 26, 2018. To contrast this, in the second part the current process will be developed with the "Simplification and automation of the tax exemption request process for the importation of vehicles for people with disabilities" which came into force on April 27, 2018. Below, the two procedures will be presented.

2.2.1 Process for the import of vehicles with tax exemption benefiting people with disabilities.

This process was in force until April 26, 2018. It contained several steps in which documents and requirements must be physically delivered to the sanitary entity and customs entities. Commonly to carry out the procedure, either a customs agent¹⁰ or authorized car dealership

⁹ The District Director of Cuenca is Engineer Gonzalo Gonzalez Palomeque who has been in office since October 1, 2017.

¹⁰ Customs Agent, according to the COPCI: "is the natural or legal person whose license, granted by the Director or the General Director of the National Customs Service of Ecuador, empowers him to manage on a regular basis and for others, the dispatch of the goods, for which purpose the customs declaration must be signed in the cases established by the regulations, being obliged to invoice for their services according to the table of

was required. Within this framework, we will proceed to know the steps to follow in the process of importing vehicles under the tax exemption for people with disabilities.

1.-Obtaining the carnet for people with disabilities.

This is the first step that a person with a disability must carry out, as obtaining the carnet offers benefits in several areas. In this way, the Ministry of Public Health of Ecuador (MSP)¹¹ has the service of qualification or requalification of disability which is available to all persons, but the emission of the carnet will be provided as long as disability of the applicant is at least 30%. All persons with a disability percentage are registered in the Ministry of Public Health System, "when people have not been issued the carnet, it does not mean that they do not have a disability but that they are of a mild type" (El Comercio, 2015). Thus, the carnet is a tool that serves to recognize these people as subjects of rights, so they can enjoy specific benefits in health areas, public procedures, and tax exemptions among others, depending on the percentage of disability that the person possesses.

In this sense, the person who considers that has some type of disability should schedule an appointment by telephone dialing the number 171, where they will be assigned a first level health institution authorized by the Ministry of Public Health to make the necessary assessments. The process of qualification or requalification of the person with disability is based on a bio-psychosocial assessment that is carried out by specialized teams, "made up of a doctor, a psychologist and a social worker who qualify to people with disabilities "(Redacción Medica, 2017).

The bio-psychosocial assessment, used by the "Las Manuelas" Solidarity Mission and by the Ministry of Public Health, is based on the Cuban experience and serves to identify and evaluate people with disabilities. The specialists for the identification of levels of disabilities make use of "unified technical criteria established in the document of assessment of

minimum fees that will be fixed by the Director or the General Director of the National Customs Service of Ecuador. . Said license shall have a term of 5 years, which may be renewed for the same term "

¹¹ An entity in charge of exercising the governance, regulation, planning, control and management of the Ecuadorian Public Health through governance and health surveillance and control and promotion of health and equality in order to guarantee the right to Health (Ministry of Health). Public Health, (2018).

Disability Situations of the Spanish qualification system which was accepted by our country" (Council of Judicature, CONADIS, 2015). The assessment takes into account several factors such as physical, psychosocial or mental, sensory or intellectual deficiency, that is to say a medical-biological analysis obtained from biological and medical structures. In addition to this, labor and social factors such as family, economic, educational and cultural situations are also taken into consideration. This integral assessment established parameters to evaluate each disability, but the fundamental criterion for the assessment is:

“Severity of limitations to carry out activities of daily life that refer to self-care activities (clothing, food, avoid risks, cleanliness and personal hygiene); communication, intrinsic physical activity (getting up, reclining), and functional (carrying, pushing, lifting), sensory function, sexual, manual activities, social and leisure activities” (Council of Judicature, CONADIS, 2015).

“The “*baremo*” is a Spanish instrument used to qualify disabilities but nowadays the MSP through the National Directorate of Disabilities¹² are working together with CONADIS to develop an instrument made in the country and according to reality of our country” (Cueva, 2018).

1.1 Requirements.

In order to carry out the qualification process for people with disabilities, it is necessary to fulfill certain requirements. The information presented below was obtained from the Ministry of Public Health and shows different requirements for different types of procedures.

¹² The MSP is made up of five National Directorates one of them is the National Directorate of Disabilities which offers a service focused on the qualification or requalification of people with disabilities. This direction is led by Dr. Maria José Jimbo

Procedure # 1: Qualification of people with visible or evident disabilities.

Requirements:

- Citizenship or identity card¹³.

Procedure # 2: Qualification for people with not visible or not evident disabilities.


Requirements¹⁴:

- Citizenship or identity card.
- Medical report: qualifier / specialist / trader (Figures 9 & 10).
- Additional exams if necessary¹⁵.

¹³ It is preferable that it up to date. The identity card also applies to foreigners who legally reside in Ecuador.

¹⁴ Note: These documents must be valid for 6 months or 1 year from their emission, in addition they must have stamps and signatures of responsibility.

¹⁵ The medical report and complementary examinations must be issued by institutions authorized by the Health Authority, such as the Ministry of Public Health - MSP, the Ecuadorian Institute of Social Security - IESS, or institutions that are part of the Public Health Integral Network as the Social Security Institute of the National Police - ISSPOL, Social Security Institute of the Armed Forces - ISSFA, Charity Board, Clinics and Private Hospitals. It should be noted that private doctors' offices and doctors do not have the authorization to issue the Medical Report.

 MINISTERIO DE SALUD PÚBLICA	National Directorate of Disabilities.	
	Qualifier / Specialist / treating medical report.	
	Valid: January 2018	

Despite the treatment performed and as a consequence of this health condition, the patient has the following permanent and irreversible sequelae:

PERMANENT AND IRREVERSIBLE SEQUELS	CIE-10	CLINICAL PICTURE
pathology	four digits	
pathology	four digits	
pathology	four digits	
pathology	four digits	

It's everything I can certify for the ends.

Names and surnames
Specialty
Stamp and Code

Figure 10: Qualifier / Specialist / Treating Medical Report (second part).

Source: (Ministry of Public Health, 2018).

Procedure # 3: Requalification of people with disabilities.


After the initial requalification, this procedure can be carried out twice a year.

Requirements:

- Citizenship or identity card.
- Medical report¹⁶: qualifier / specialist / trader.

¹⁶ Figure 9 and 10.

- Additional exams if necessary.
- Request for requalification form (form 108), which will be filled out by the person with disability (Figure 11) or by the legal representative (Figure 12). In addition to the "Medical specialist / treating certificate" (form 107) with its respective signature of responsibility (Figure 13).

 MINISTERIO DE SALUD PÚBLICA	National Directorate of Disabilities Form for the requalification of the person with disability. Valid: January 2018	
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Place and date:

QUALIFIED HEALTH ESTABLISHMENT TEAM

I (names and surnames) with identity card
 registered with the% (disability) (type) qualified and
 accredited in the Health Center based on Article 10 of the Organic Law on
 Disabilities, I request the requalification of my disability.

My application for requalification is based on the following reasons (describe reasons that clearly
 justify the request for requalification)

1.-.....
 2.-.....

To support my attached application the following documentation:


1.-.....
 2.-.....

Attentively

Sign.....
 Names and surnames.....
 Telephone contacts.....
 Current address of the person with disability

Figure 11: Request for requalification-Form 108

Source: (Ministry of Public Health, 2018).

 <p>MINISTERIO DE SALUD PÚBLICA</p>	<p>National Directorate of Disabilities Form for the requalification of the person with disability. Valid: January 2018</p>	
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Place and date:

QUALIFIED HEALTH ESTABLISHMENT TEAM

I (names and surnames) with identity card, as the legal representative of (names and surnames) with identity card registered with the % disability (type) qualified and accredited at the Health Center based on Article 10 of the Organic Law on Disability, I request the requalification of your disability.

The request for requalification of my legal representative is based on the following reasons
(describe reasons that clearly justify the requalification request)

1-.....

2-.....

To support my attached application the following documentation:

1-.....

2-.....

Attentively

Firm.....


Names and surnames.....

Telephone contacts.....

Current address of the person with disability

Figure 12: Disability requalification request form for Legal Representative - Form 108.

Source: (Ministry of Public Health, 2018).



Ministerio
de Salud Pública

National Directorate of Disabilities

Place and date:

Medical Certificate Specialist / Treating. Form # 107

versión revisada: LAMC/2506/8

I certify that I have carried out the medical evaluation of:(names and surnames) with ID.....who presents a diagnosis of:

- Code ICD10
- Code ICD10
- Code ICD10

Treatment was started on (date) of type It presents sequels that could be functionally improved, if subjected to:

Despite the treatment performed and as a consequence of this health condition, the patient has the following permanent and irreversible sequelae:

.....
.....
.....

It is all that I can qualify for the following purposes:

Firm:
Names and surnames:
Specialty:
MSP code and seal:

Figure 13: Specialist / treating Medical certificate - Form 107

Source: (Ministry of Public Health, 2018).

Procedure # 4: Qualification of people with disabilities at home.

Requirements:

- Citizenship or identity card.
- Receive an appointment for the home visit for the evaluation.
- Medical report¹⁷: qualifier / specialist / trader. It must have stamps and signatures of responsibility.
- This procedure is applied when the disability is not visible or not evident.

¹⁷ Figure 9 and 10. It should be noted that private doctors' offices and doctors do not have the authorization to issue the Medical Report

Procedure # 5: Emission of the disability carnet for loss, theft or robbery.

Requirements:

- Citizenship or identity card.
- Obtain the document for proof of missing documents issued by the website of the Judicial Council¹⁸.
- Then the applicant must approach the first level health institution with the aforementioned requirements.

It is important to highlight that to apply for these procedures, one must first call the telephone number 171 to request a medical appointment for the bio-psychosocial evaluation of the person with disability. Then the requirements mentioned for the type of procedure chosen must be presented. Afterwards, the applicant can obtain the disability carnet at the health institution where he or she was evaluated.

Finally, it is crucial to keep in mind that the carnets issued until May 24, 2014 by the CONADIS and others issued by the Ministry of Public Health would be valid until December 31, 2019 "because an Ecuadorian instrument for qualification of disabilities is being developed and once this is ready, all the people will have to actualize the data of their carnet and the percentage of disability can be visualized in the identity card "(Cueva, 2018). Persons who have the carnet with an expiration date issued by the Ministry of Public Health, must go to the first level health institutions to exchange it for a new carnet which will not have an expiration date.

To be a beneficiary of the tax exemptions, it is necessary to obtain a certificate that certifies the degree of disability which is issued by the Ministry of Public Health as a Health Authority which must have an expiration date that cannot surpass one year.

¹⁸ Website: <http://appsj.funcionjudicial.gob.ec/documentosExtraviados/publico/formulario.jsf>



Figure 14: Disability carnet format of the Ministry of Public Health.

Source: (Ministry of Public Health, 2018).

2.-Verification of the applicant's data of the disability carnet.

This step was inevitable to apply for the exemption of taxes on the importation of vehicles for people with disabilities. The MSP was in charge of requalifying the disability of the applicants of the exemption through physical or psychiatric medical examinations. Additionally the social environment was taken into account carrying out a study of the housing conditions through social visits. On top of that subjects entered into a process of reviewing their bank accounts for the period of three months before import and three months after importing the vehicle, they also required to present payment roles.

This was done in order to verify the veracity of the applicant's information and essentially it served to make the MSP aware that the person with disabilities had the economic possibilities to pay the imported vehicle.

3.-Obtaining type "F" license.

The type "F" license was a mandatory requirement for natural persons who wished to apply this tax exemption. This license is destined for all persons with disabilities who drive personal vehicles, executive taxis and mixed or medium vans up to 3,500 kilograms in weight. "License type F: For special vehicles adapted according to the special capacity of the driver" (National Traffic Agency, 2018).

The requirements necessary to obtain the type "F" license are the ones mentioned below.

1. If the person have a license of any kind, he/she must present the original of it.
2. Original identification document¹⁹.
3. Original certificate of validity.
4. Certificate or original carnet of blood type issued by the Ecuadorian Red Cross.
5. Non-professional driver's certificate²⁰.

¹⁹ It will serve to validate the coming of age and the approval of basic education.

²⁰ Issued by the Driving Schools approved by the ANT. It should be noted that if previously the person had the license and has a disability, the previous license will be exchanged for an F license, obtaining the certificate is no longer necessary.

6. Certificate or original disability carnet.
7. Original proof of payment.
8. Print shift obtained from the website of the National Transit Agency (ANT).

Once the applicant has the necessary requirements, the following procedure must be continued.

1. Generate a payment order in ANT website²¹ and pay (US 42.00) at the authorized payment points²².
2. Get a turn on the ANT website (www.ant.gob.ec).
3. Approach the nearest ANT offices to perform psychosensometric exams (expiration date of 60 days), data update and theoretical evaluation.
4. Delivery of the license to the applicant.

4.-Send documentation to the National Directorate of Disabilities (DND).

The collected documentation was sent to the city of Quito where the headquarters of the National Directorate of Disabilities is located. The documents that were sent were: the disability carne of the applicant, previously performed medical examinations, medical certificates, documents of : the Ministry of Health where accurate information is provided of the studies carried out on housing conditions and the socio-economic report of the social worker.

In addition, to verify the economic situation the applicant had to attach the following documents: if he had a dependency relationship, he had to present a copy of the Social Security contributions payment forms and the income certificate of the institution where he works. If it did not have a dependency relationship, it was necessary to include a copy of the Unique Taxpayer Registry (RUC), a copy of the municipal tax payment if applicable, a copy of the last declaration of the Value Added Tax (VAT), a copy of the last declaration of the

²¹Website of ANT to generate a payment order

http://sistemaunico.ant.gob.ec:6032/SVT/paginas/portal/svf_solicitar_servicio.jsp?ps_param_tip_serv=LIC

²² Banco del Pacífico (windows, non-bank correspondent or virtual banking), Servipagos, Pago ágil y Facilito.

income tax, a copy of the invoices of purchases and / or sales of goods and / or services. If he/she depended economically on third parties, must be attached a Sworn Declaration of the person on whom the person with a disability depends stating that there is such a dependency relationship and that he/she has sufficient resources for the acquisition of the vehicle.

Once all the documentation arrived, a DND court composed of specialized doctors analyzed all the information to see whether to proceed with the emission of the 420 Certificate.

5.-Emission of the "Certificate 420 for the import of goods and / or technical assistance and vehicles".

Through the Ecuadorian Single Window (VUE)²³, specialist doctors of the National Directorate of Disabilities, issue the specific Electronic Certificate 420 for the importation of goods and / or technical assistance and vehicles, for the benefit of the person with disabilities. This certificate contains the percentage's disability of the applicant, and it would serve as a supporting document in the Import Customs Declaration.

"The waiting time for the authorization of Certificate 420 was around five to six months" (Piña, 2018).

The most relevant steps for the 420 certificate which are in the SENAE-ISEV-3-2-066 system instructions issued by SENAE, will be indicated below.

In the first place, it was necessary to enter the Ecuapass Portal²⁴ through the SENAE website (<https://www.aduana.gob.ec/>), then locate the Ecuadorian Single Window (VUE) option and access it. Once inside the VUE, one has to go to "Elaboration of request", click on "Support documents".

²³ A tool used and implemented by several institutions in the country in order to reduce time in the realization of different transactions, especially the authorization of certificates for the export and import of goods.

²⁴ A Computer System of SENAE, which has been operating since October 22, 2012 replacing the Interactive Foreign Trade System (SICE). It seeks to reduce the excessive use of paper and the simplification of procedures.

Figure 15: Elaboration of request.

Author: Karla Zeas.

Source: (National Customs Service of Ecuador, 2016).

Then the option "List of Support Documents" was shown, you must be selected the MSP-MINISTRY OF PUBLIC HEALTH option, and then the certificate form 420 appeared. As shown in Figure 17, it is necessary to click on request.

Figure 16: Options of: List of Support Documents - MSP- Certificate 420-Request.

Author: Karla Zeas.

Source: (National Customs Service of Ecuador, 2016).

Then, the sections of the form were filled out with the required information. The sections should contain the following information:

a) Basic data section.

In this section, it was recommended click on "Consult" and immediately the system provided a request number. In addition the city was put and the date was automatically registered.

b) Data section of the applicant.

Here, the health establishment authorized by the DND should be included. It was made known if the applicant is a natural or legal person, the Unique Taxpayers Registry (RUC)²⁵, name or company name, province, canton / city and the address, as well as the name, phone number, cell phone number, fax and email of the applicant are filled out.

c) Data of the importer section (person with disability).

The required information was the name of the importer, whether it was a natural or legal person, identification number or RUC, the province, canton / city, address, telephone number, cell phone number and email.

d) Qualification data section.

The name of the Qualifying Institution must be filled in, as well as the name and number of the identification card of the qualification doctor, the psychologist and the social worker. It also included the type of disability, its percentage (1-100%), and the diagnosis or illness.

²⁵ The Unique Taxpayer Registry is a tool that registers taxpayers so they can carry out economic activities in the country.

Name of Qualifying Unit.		▼
Name and ID number of the qualification doctor.		▼
Name and ID number of the Psychologist.		▼
Name and ID of social worker.		▼
CIE-10 diagnosis		▼
Type of disability		▼
Disability percentage	0	%

Figure 17: Qualification data.

Author: Karla Zeas.

Source: (National Customs Service of Ecuador, 2016).

e) Vehicle data section.

This sections includes information about the type of good to be imported, which could be a vehicle or a good and / or technical assistance. The type of vehicle could be mechanical orthopedic, not mechanical orthopedic, automatic orthopedic or automatic non-orthopedic. In addition the identification number and name of driver 1 and driver 2 were entered.

Type of vehicle		▼
Driver ID 1		🔍
Name of the driver 1		
Driver ID 2		🔍
Name of driver 2		

Figure 18: Vehicle data.

Author: Karla Zeas.

Source: (National Customs Service of Ecuador, 2016).

f) Attached document section.

Additional documents, such as type “F” license and certificate 107, must be attached, others can be added.

g) Final Process.

After having correctly completed the information in each of the sections, it was necessary to "save temporarily". Subsequently, the complete Certificate 420 with all the required information was shown and to download the file, the one that is marked in figure 20 should be selected and the "Traer" option should be clicked.

The screenshot shows a web application interface. At the top, there is a form with the following fields: "ID of the applicant" (RUC: 10991786403001), "Work Category" ([200] Documento de Soporte), "Institution" ([MSP-DND] MINISTERIO DE SALUD PUBLICA), "Document" ([121-001-REQ] Certificado 420 para la Importación de Bienes), "Application date" (Mes: 02/02/2016 to 02/03/2016), and "Application number" (Nombre de Solicitante). A "Consultar" button is located to the right of the form. Below the form, a table displays the results. The table has columns: "No", "Categoría de Trabajo", "Ins tit uci", "Código de Documento", "Documento", "Fecha de Solicitud", "Número de Solicitud", and "Nomb re de Solicit". The first row is highlighted with a red border and contains the following data: "1", "Document of", "121-001-REQ", "Certificate 420", "01/03/2016", "010098920160000016P", and "VUEC". At the bottom right of the table, there are two buttons: "BRING" and "Cerrar".

No	Categoría de Trabajo	Ins tit uci	Código de Documento	Documento	Fecha de Solicitud	Número de Solicitud	Nomb re de Solicit
1	Document of	121-001-REQ	Certificate 420	01/03/2016	010098920160000016P	VUEC	

Figure 19: Final Process.

Author: Karla Zeas.

Source: (National Customs Service of Ecuador, 2016).

Completing this step, the Ministry of Public Health sent a notification to the applicant through an e-mail, where the emission of Certificate 420 was issued or was denied.

6.-Request for the exoneration of taxes to foreign trade.

The applicant, whether natural or legal person, had to make a request addressed to the corresponding District Director²⁶ and another addressed to the commercial port²⁷ of entry of the vehicle. It was verified that the information of the Certificate 420 is in accordance with the physical characteristics of the vehicle being imported.

²⁶ The SENAE has ten District Directors at the national level corresponding to the ten districts distributed in the cities of Cuenca, Esmeraldas, Quito, Manta, Tulcan, Latacunga, Guayaquil (Sea Port and Air Cargo Area), Loja-Macará, Puerto Bolívar, Huaquillas

²⁷ According to the Ministry of Transport and Public Works, the commercial ports of the Ecuadorian State are: Puerto de Esmeraldas, Puerto de Manta, Puerto de Guayaquil and Puerto Bolívar.

Resolution No. SENAE-DGN-2014-0111-RE issued on February 11, 2014 establishes the "General requirements for the importation of merchandise with tax exemption to be use of persons with disabilities". The article 2 *ejusdem* (reformed by Resolution No SENAE-DGN-2016-0290-RE) determines that "in the request for exemption, the person with disability or the legal entity responsible for their care must indicate the authorization number²⁸ corresponding to the form called "Certificate 420 for the importation of goods" which is generated in the Ecuadorian Single Window and it is conferred by authorized professionals".

Sir
DIRECTOR DISTRICT
NATIONAL CUSTOMS SERVICE OF ECUADOR
At his office.-

From my consideration:

I, with identification number (ID, Ruc, or passport), domiciled in the city of, (by my own rights / for the rights I represent from , with identification number (ID, Ruc, or passport)); and, with the authorization number of the form called "Certificate 420 for the importation of goods", which was granted / granted to me by the National Directorate of Disabilities (DND), I request before you very respectfully serve to issue a resolution in my favor, granting me the exoneration of taxes to foreign trade for the importation of a vehicle, according to the provisions of Article 80 of the Organic Law on Disabilities and in accordance with Article 6 of the Regulations the Organic Law on Disabilities.

I declare that I am aware of the sanction applicable for improper use of imported goods, in accordance with the provisions of Article 81 of the Organic Law on Disabilities.

Sincerely,

User's signature (The person with a disability or the person in charge of their protection or care must sign it, if applicable)

Figure 20: Request Model for exemption from taxes on foreign trade in vehicles for the use of a person with a disability.

Source: (National Customs Service of Ecuador, 2017).

²⁸ Number made up of 21 digits issued by the National Directorate of Disabilities.

Sir
DIRECTOR DISTRICT
NATIONAL CUSTOMS SERVICE OF ECUADOR
At his office.-

From my consideration:

I, with identification number (ID, Ruc, or passport), domiciled in the city of, for the rights that I represent, With identification number (ID, Ruc, or passport); and, with the authorization number of the form called "Certificate 420 for the import of goods", which was granted to me represented by the National Directorate of Disabilities (DND), I request before you very respectfully serve to issue a resolution in favor of my client, granting exoneration of taxes to foreign trade in the importation of a vehicle, according to what is established in article 80 of the Organic Law on Disabilities.

For the attached effect:

- Appointment of the legal representative.

I declare that I am aware of the sanction applicable for improper use of imported goods, in accordance with the provisions of Article 81 of the Organic Law on Disabilities.

Sincerely,

User's signature (The Legal Representative must sign).

Figure 21: Request Model for exemption from taxes on foreign trade in vehicles for the benefit of a legal person responsible for the protection and care of persons with disabilities.

Source: (National Customs Service of Ecuador, 2017).

Once the applicant had the request for exoneration of taxes to foreign trade addressed to the corresponding District Director, the printed authorization of the Certificate 420, and the copy of the disability carnet and the identity card, all was delivered in the district office of SENAE where the process was going to take place for the District Director issues the administrative act and thus continue with the process.

7.-Emission of the administrative act by SENAE.

In accordance with Resolution No SENAE-DGN-2014-0111-RE, the article 2 (reformed by Resolution No. SENAE-DGN-2016-0290-RE) mentions that the competent authority to issue the administrative act corresponding to the exemption of taxes on foreign trade in concordance with current regulations will be the District Director or his delegate. In addition, article 218 of COPCI determines that one of the functions of the District Directorates is "to grant the tax exemptions that correspond (...)".

Resolution *ibidem* provides that "the administrative act constitute a document of support for the dispatch process". When the beneficiary of the exemption presents the Customs Declaration in the arrival district of the merchandise, he / she must attach the corresponding support and accompanying documents.

Thus, in the SENAE District Office where the applicant delivered all the necessary documentation to apply for the exemption, the authorization or provision for the import of the vehicle with the exoneration of taxes to foreign trade, is issued "(...) in a lapse maximum of five working days. This authorization had an expiration date of one year from the date of its emission" (Piña, 2018).

8.-Transmission of the Customs Declaration.

After the emission of the administrative act corresponding to the exemption of taxes on foreign trade, the SENAE functionaries from the districts of Quito and Guayaquil²⁹, customs agent³⁰ or an authorized car dealer, whichever has been chosen by the applicant, must carry

²⁹ Note: If they did it in all the districts, people would not have had to pay a customs agent to make the customs declaration.

³⁰ According to Article 227 of the COPCI, a customs agent is "the natural or legal person whose license, granted by the Director or the General Director of SENAE, empowers him to manage in a habitual manner and for another, the dispatch of the merchandise, having for that purpose to sign the customs declaration in the cases established by the Regulation "

out the transmission of the Customs Declaration³¹ with all the required information of the imported vehicle. Indeed, article 66 of Book V of the COPCI Regulation states that the customs declaration "may be submitted physically or electronically in a period not exceeding fifteen calendar days prior to the arrival of the mean of transport and up to thirty calendar days following the date of their arrival ". Engineer Carlos Brussil, functionary of the SENAE of the District of Cuenca, determines that if in the 30 days after the arrival of the vehicle the customs declaration has not been presented, a customs destination may be assigned to the vehicle.

In this regard, the information that must be included in the Customs Declaration will be basically about the identification of the declarant, information on the means of transportation and characteristics of the vehicle. It is required to fill out the sections of specific information requested by SENAE's Ecuapass Portal, as well as general information where it is essential to select the code of importation regime for consumption³², fill out importer information, declarer information, and detailed vehicle information such a brand, chassis number, engine number, crankshaft, fuel, colour, type of transmission. Also information and value of the invoice, the terms of the negotiation, and the place of origin of the vehicle.

The documents that must be presented together with the Customs Declaration are:

- a) Accompanying documents which according to article 72 of Book V of the COPCI Regulation, "are those that must be processed and approved before the shipment of the import merchandise".
- b) Support documents, which according to article 73 of the Regulation *ibidem*, "will form the basis of the information of the Customs Declaration to any regime". These documents can be physical or electronic and the originals must be filed by the

³¹ Customs declaration is a form that contains a set of general data about the importation of merchandise, it can be presented in a physical or electronic way according to what is established by the General Director of SENAE. According to article 64 of COPCI Regulation, the Customs Declaration "is unique and personal, consequently, it will be transmitted or presented by the importer, exporter or passenger, by itself, or through a Customs Agent".

³² Also known as Regime 10 is by which the vehicle must be imported. Article 147 of the COPCI mentions that "this is the customs regime by which the imported goods (...) can freely circulate the Ecuadorian territory, in order to remain permanently in it"

declarant or Customs Agent. The supporting documents are: transportation document³³, commercial invoice³⁴, certificate of origin³⁵ and other documents that are considered necessary³⁶ as long as they are not accompanying documents.

The tariff classification corresponding to the vehicle must be placed in the customs declaration applying the general rules of the Harmonized System of the World Customs Organization. According to what was analyzed, the tariff subheading used is 9805000000, and complementary and supplementary codes are applied depending on the imported vehicle and the percentage of disability that the person possesses.

Table 2: Release codes for the exemption of taxes.

Grade of Discapacity.	Percentage of tax benefic	Liberation code
From 30% to 49%	60%	0741
From 50% to 74%	70%	0742
From 75% to 84%	80%	0743
From 85% to 100%	100%	0746

Author: Karla Zeas.

Source: (Regulation to the Organic Law of Disabilities, 2018).

It should be noted that according to article 67 of Book V of the COPCI Regulation, "the data of the customs declaration will go through a validation process that will generate its acceptance or rejection, if accepted, the mode of dispatch based on the analysis will be designated based on the risk profiles ". These risk profiles are based on indicators which are

³³ According to article 2 of Book V of the COPCI Regulation, "it is an instrument that proves ownership of the goods and it may be endorsed".

³⁴ In accordance with article 73 of Book V of the COPCI Regulation, "it is the support that accredits the value of the commercial transaction for the import or export of the goods", which must be an original document.

³⁵ In accordance with Article 73 of Book V of the COPCI Regulation, "it is the document that allows the release of taxes to foreign trade in the cases that correspond".

³⁶ According to Article 73 of Book V of the COPCI Regulation, these are necessary documents that serve "for the control of the operation and verification of compliance with the corresponding regulations."

a set of quantitative measures that are found in the SENAE database, this serves to establish levels of control of all customs declarations and transport documents.

"For the importation of vehicles under this exemption for people with disabilities, one can use the normal customs declaration, but it is preferable the Simplified Customs Declaration (DAI)" (Brussil, 2018) which is used to import with agility and simplification.

If after the Customs Declaration has been accepted, errors are found on it, one can make the required corrections without the imposition of any sanction or prosecution of infractions. If after all this, the customs administration does not have any observation of the customs declaration and verifies that the applicant has no outstanding debt with the active subject (State), it makes a gauging report in the Ecuapass Portal and proceeds to close the gauging.

9.-Authorized exit of the vehicle.

To conclude the procedure, the Customs Authority authorizes the dispatch of the vehicle making it free for use in the territory in which it enters. The dispatch according to article 139 of the COPCI "is the administrative procedure to which merchandise entering or leaving the country must submit, this process begins with the DAS and culminates with the lifting"; provided that the nationalization of the vehicle³⁷ has been previously carried out. It should be emphasized that the goods that enter under the regime of importation for consumption will be nationalized when the tax obligation has been paid. "Nationalization must be done at any point where the vehicle enters the country, it can be at airports, ports or land borders" (Brussil, 2018).

³⁷ "Foreign merchandise whose importation into the country has been subject to compliance with all customs formalities corresponding to importation for consumption" (Regulation to the Organic Code of Production, Trade and Investment, 2013).

For the dispatch of the imported vehicle, it is possible to use the gauging modalities which are: automatic³⁸, electronic, documentary³⁹ and physical⁴⁰. This is designated by the SENAЕ through the customs declaration.

Finally, the applicant must go to the Authorized Temporary Deposit where the vehicle will enter, here he must verify that the characteristics of the vehicle are in accordance with the customs declaration, to subsequently do the authorized removal, also known as the lifting of the goods. Lifting of the goods in accordance with article 2 of Book V of the COPCI Regulation, "is the act by which the Customs Authority authorizes the declarant or interested party to dispose of the goods (...), once the goods leave the primary and previous area in compliance with customs requirements and formalities".

If after the lifting of the goods an anomaly was found in the customs declaration, a substitute declaration must be made, which according to article 66 *ejusdem*, "is a correction tool of incomplete or incorrect information which is used by the declarant or his customs agent, to make adjustments to the customs declaration of goods whose release has been made".

It is important to emphasize that in order to circulate in a secondary zone the vehicles imported under this exemption have to have an identification for the use and transfer of persons with disabilities, this is established in article 33 of the LOD Regulation which states that the National Council for Equality of Disabilities will provide a device for identification of the vehicles for use and transfer of said persons.

³⁸ According to article 80 of the Book V of the COPCI Regulation, "this is the mode of dispatch that is carried out through electronic validation through the computer system with the application of risk profiles". It is recognized that it is very similar to electronic gauging.

³⁹ According to article 82 of Book V of the COPCI Regulation, "this is the verification of the Customs Declaration and its accompanying and supporting documents, contrasted with the information recorded in the SENAЕ computer system".

⁴⁰ According to article 83 of the Book V of the COPCI Regulation, "this is the physical recognition of the merchandise, to verify its nature, origin, condition, quantity, weight, measure, value in customs and / or tariff classification, in relation to the data contained in the Customs Declaration and its accompanying documents and support, contrasted with the information recorded in the computerized system of SENAЕ ". It should be noted that "this capacity can be achieved through intrusive inspection or physical verification of the goods, or through non-intrusive inspection technology systems" such as X-rays.

General dispositions.

Resolution No. SENAE-DGN-2014-0111-RE issued on February 11, 2014 by the National Customs Service of Ecuador, establishes the "General requirements for the importation of merchandise with tax exemption for the use of persons with disabilities". To complement this process, it is necessary to mention and analyze some articles of this Resolution which should be taken into account for the application of this process.

a) Import and purchase of orthopedic and non-orthopedic vehicles.

Article 4 refers to the import and purchase of orthopedic and non-orthopedic vehicles⁴¹(article reformed by Resolution No. SENAE-DGB-2014-0454-RE), which recognizes that "the importation of vehicles destined for private or collective use or benefit of persons with disabilities, must comply with the requirements established in article 80 of the Disabilities Law"⁴². In addition, it indicates that the imported vehicle "may be new or manufactured up to three years earlier, not counting the year of importation".

This article also expresses that "the legal persons responsible for the care and protection of persons with disabilities, may only import orthopedic and / or adapted vehicles for collective transport"⁴³.

b) Assessment of the vehicle.

Regarding the assessment of the vehicle, article 5 of Resolution *ibidem* establishes that the importation of either a new or used vehicle must have the commercial invoice issued by the concessionaire. Including in this, the value of the good⁴⁴, which will be checked at the moment of concurrent control, where reasonable doubt processes can be generated by the administration.

⁴¹ According to Eng. Carlos Brussil, "an orthopedic vehicle is one that has a set of adaptations required for the use of people with disabilities, for example the implementation of pedals or adaptations in the gearbox. On the other hand a non-orthopedic vehicle is one that does not have any adaptation are essentially intended for use by people with visual disabilities".

⁴² This article was replaced by article 80 of the Organic Law for the Balance of Public Finances.

⁴³ It will be understood that vehicles destined for collective transport are those that are designed to transport at least 10 people, including the driver.

⁴⁴ It will be considered as the tax base for the calculation of taxes.

It is emphasized that, for the used vehicles, only invoices could be accepted that at the moment of presenting the import customs declaration have been emitted for at least one year. Otherwise this assessment will be rejected and the value will be established by the customs administration.

For the assessment of the vehicle, the net value was taken into account, but not the additional costs⁴⁵ that were not directly related to the imported vehicle.

This article indicates that in a subsequent control, no acts should be given restricting the right of the Customs Administration to verify the veracity or accuracy of any information, document or declaration presented during the nationalization process.

c) Percentage of exoneration.

According to the *ejusdem* Resolution, article 7 indicates that the percentage of exemption from taxes on foreign trade will be assigned according to the degree of disability of the applicant or the person to whom he substitutes. This percentage will be determined in relation to article 21 of the Regulations to the Organic Law of Disabilities⁴⁶.

d) Use of imported vehicles exempt from the payment of taxes to foreign trade.

Article 8 of the analyzed Resolution, determines that to apply for an exemption it is crucial to know two important concepts:

1.-Particular use:

It covers the needs of personal and private transportation of the person with disabilities. The owner of the vehicle must be the person with a disability and may be driven by the person with a beneficiary disability or by the members of their family nucleus, made up of the parents, the children, dependents and the spouse or partner in a de facto union. One may also be driven by a stranger to your family nucleus, provided that the person with disabilities is in the vehicle.

⁴⁵ Such as: Matriculation costs, transport costs, costs for taxes of the country of export, etc.

⁴⁶ Review table 1.

2.-Collective use:

It covers the needs of the collective transportation of people with disabilities, in which case it can only be conducted by a functionary or employee of the non-profit legal entity which legally has under its protection, care or protection for people with disabilities. That institution that will be the owner of the exempt vehicle.

e) Later or Subsequent Control.

Article 9 *ibidem* states that the objective of carrying out the post-import control is to verify the proper use of the goods. If the misuse is proven, the customs authority will impose a sanction in accordance with article 11 and 12 of the aforementioned Resolution.

f) Transfer of ownership and lifting of liens.

Vehicles imported under this benefit, according to article 10 of the same Resolution, cannot be transferred to third parties except when the absolutely impossible of use of the vehicle as an accident, has been proven and this has been insured through a policy.

This article also establishes that if the death of the beneficiary of the exemption occurred before the payment of the aliquots by the interested parties,

"The customs authority will request the transit authority to lift the prohibition to dispose of the vehicle so that the testamentary heirs or assignees can dispose of said property, likewise, once the four years have elapsed since the date on which said asset was nationalized, the lifting of the lien may be requested ".

The authorization of transfer of ownership or lifting of lien had to be carried out in the customs districts where the goods were imported.

The specific manual for the transfer of ownership of goods under exemptions, SENAE-MEE-2-2-028-V1 issued by the SENAE, determines that in order to lift the tax due to the death of the beneficiary, the aliquots proportional to the exempt taxes must be collected for the respective 4 years from the applicant. Once the restriction was removed, it was possible to dispose of said property and the authorization of SENAE was necessary for the transfer of ownership to a private person, as it was a succession due to death.

g) Prohibition.

Article 11 *ejusdem* refers to the fact that vehicles imported under this exemption cannot be:

"Object of alienation or legal act that means the transfer of ownership, possession, use to third parties other than the addressee, unless the period of four 4 years counted from the date on which said assets have been nationalized, or the exception provided for insured vehicles that have suffered an accident that means its total loss ".

h) Sanction.

Clearly, article 12 states that if the provisions of the Organic Law of Disabilities and its Regulations are not met, the person with disabilities or legal representative of the legal entity will be sanctioned by the District Director or delegate. The sanction will be the payment of the total amount of the exemption of taxes, in addition the payment of the taxes that corresponds to him and, if applicable, the other costs that could be determine to have wronged the customs administration.

2.2.2 New simplified and automated process for requesting tax exemption on the importation of vehicles to be used by of people with disabilities.

On April 27, 2018, the National Council on Disabilities, in coordination with SENAE and the Ministry of Public Health launched the simplified importation process for goods and vehicles for people with disabilities and for legal entities that serve them. The articulation of the competences of these three entities is the fundamental axis for the results of this new process to be successful.

The National Customs Service of Ecuador mentions that it is constantly innovating and improving processes with the main objective to provide the best quality of user service. This new digitized process has been implemented for people with disabilities to electronically access to this exemption through a computer with internet and an electronic signature. It also seeks to reduce times associated with the fulfillment of customs procedures. "With the simplification of import procedures, resources are optimized and costs are reduced, since the registration will no longer be face-to-face but 100% online through the website of the customs entity" (Flores, 2018).

This new simplified importation process for goods and vehicles for people with disabilities came into force on April 27, 2018. SENAE informed it through Bulletin N ° 85 - 2018 where it is detailed that in the Ecuapass Information System new options will help to make this process faster. "The authorization of the application is currently under SENAE's responsibility since an analysis was carried out and it was concluded that the professionals of the Ministry of Public Health were not carrying out competences within their area" (Cueva, 2018).

It is essential to analyze this process which is currently in effect, since persons with disabilities who wish to apply for this exemption from taxes, must follow the procedure detailed below.

1.-Obtaining the Carnet for people with disabilities.

Here the same procedure as mentioned above must be followed. In the present process it is also fundamental that applicant has the disability carnet. The database that has the Ministry of Health is validated in line with the Ecuapass Computer System and only people who have a percentage equal to or greater than 30% will be able to access to the request for tax exemption. It should be noted that the people who possess the carnet issued by the CONADIS will be able to carry out this procedure because it will be valid until December 31, 2019.

An indispensable document, according to Resolution No SENAE-SENAE-2018-0082-RE, so that people with disabilities can carry out this procedure of tax exemption in the importation of vehicles, is the certificate of updated disability issued by the Ministry of Public Health which must be in accordance with the information on the disability carnet.

2.-Obtaining the TOKEN electronic signature certificate.

In order to provide technical and legal protection for documents and electronic commercial transactions, SENAE has decided that the main requirement for this new process is the electronic signature certificate which is a digital document indicating the link between the identity of the user with his public or private key. For this reason, it is essential to obtain the electronic signature⁴⁷, it has the same validity and legal effects as a handwritten signature. At the time that the owner signs electronically, this will presume his volition and he must submit to compliance with the obligations contained.

Article 19 of the Law on Electronic Commerce, Electronic Signatures and Data Messages, establishes that in the following cases the electronic signature may be terminated: the owner's volition, death or incapacity of the owner, and dissolution or liquidation of the person legal

⁴⁷ According to article 13 of the Electronic Commerce Law, Electronic Signatures and Data Messages published on April 17, 2002 through the Official Register N° 557, it determines that the electronic signature "is the data in electronic form consigned in a data message, attached or logically associated to it, and that may be used to identify the owner of the signature in relation to the data message, and indicate that the owner of the signature approves and recognizes the information contained in the data message".

or signature holder. It should be noted that although there is the extinction of the electronic signature, the owner will have responsibility for obligations previously contracted.

On the other hand, the certificate of the electronic signature is issued by information certification entities which according to article 29 *ibidem*, "are single-person companies or legal persons that issue electronic signature certificates and can provide other services related to electronic signature (...) ". These entities must be legally constituted and indicate that they have technical, logistical and financial solvency to provide a first-class service to their users. The article 32 *ejusdem*, determines that "information certification entities will guarantee the protection of personal data obtained in function of their activities (...)." It should be noted that the duration of the electronic signature certificate will be established between the owner of the electronic signature and the entity of certification and if an agreement is not reached the electronic signature will be valid for two years from its emission.

To obtain the certificate of the electronic signature in Ecuador, it is recommendable to go to the information certification entities qualified by the Telecommunications Regulation and Control Agency (ARCOTEL). The Central Bank of Ecuador was in charge of all the competences about the electronic signature but nowadays functions of approval, payment and emission are carried out by the Civil Registry. There are other entities that operate in Ecuador with the same competencies as Security Data which is a private company, however for the development of the titling work, information obtained from the Civil Registry will be presented, as, being a public entity, it is considered the most representative and most frequently chosen by users in the country.

In this way, to obtain the digital certificate of the electronic signature in the Token⁴⁸, you have to do the following procedure:

2.1- Obtaining the Token device.

This is done in person in any of the Civil Registry agencies at the national level, requesting at the windows a turn for the "electronic signature module". Afterwards the value of the fee

⁴⁸ This certification is securely stored in a USB device called Token or CD, it also contains passwords that allow to identify the digital identity of the holder.

must be canceled according to the procedure to be carried out (Table 2). Finally the invoice and the token device with the electronic signature are received.

Table 3: Rates and validity time.

Product or Service	Validity	Rate USD with IVA
Token Electronic signature	2 years	US 54.88
Filed Electronic signature	2 years	US 30.24
Renewal	2 years	US 20.16
Token Device Only.		US 24.64

Author: Karla Zeas.

Source: (Civil Registry, 2018)

2.2 Obtaining the certificate of the electronic signature.

A request must be made to obtain the certificate of the electronic signature on the webpage of the Central Bank of Ecuador (www.eci.bce.ec), where it will be processed. Once the page is open, one must enter the option "Electronic signature" and then "Request Certificate". The form must be completed by a natural or legal person and the necessary requirements that are presented in the table 3 must be attached digitally.

Table 4: Requirements to obtain an electronic signature certificate.

Author: Karla Zeas.

Natural person.	Juridical Person or Entity
Scan of ID or passport.	The number of RUC of the company and a scan of the identification or passport.
Scan of updated voting certificate (except third age, Ecuadorians living abroad, members of the Armed Forces and National Police, and people with disabilities).	Scan of updated voting certificate. (Except third age, Ecuadorians living abroad, members of the Armed Forces and National Police, and people with disabilities).

Source: (Civil Registry, 2018)

Scan of the last bill of payment of electricity, water or telephone, where evidences domiciliary address.	Scan of labour certificate signed by the legal representative.
	Scan of the authorization signed by the legal representative.

Subsequently, thorough an email addressed to the applicant, the Civil Registry sends confirmation of approval of the request which will be made in a maximum time of 72 hours. To complete the process, the applicant must approach any of the agencies of the Civil Registry at the national level and require a turn to validate the status of the request after which the processing fee must be paid. Finally the invoice and the token with the certificate of the electronic signature are received. The renewal of these certificates has a cost of US 20.16, which requires the delivery of updated and current documents.

3.-Quotation or invoice of the vehicle to be imported.

To apply for this new process it is necessary to have the quotation on which the FOB value of the vehicle that the applicant has chosen must be stated. This value must not exceed the amounts foreseen by the law. In addition, in the quotation must include the specific characteristics of the vehicle, additional costs, means of payment, delivery times, transportation and prices thereof, negotiation terms, guarantees, among others.

In the case of importing used vehicles it is necessary to have the purchase - sale contract, in which the good that the seller gives to the buyer must be reflected. In addition, it must also include FOB value of the vehicle, the persons or parts of the business, among others.

4.-Request for exemption of taxes for people with disabilities and legal entities that serve people with disabilities.

This request must be made through the SENAE website (www.aduana.gob.ec), with the aim of avoid the applicants go to the SENAE offices. It should be noted that in order to prepare the application it is not necessary for the applicant to be registered as operators in the Ecuapass Computer System, but only needs to access the main screen of the system. Once it has been opened, it is necessary to enter the Ecuapass route (<https://ecuapass.aduana.gob.ec>)⁴⁹, where it is possible to identify the new option called "Request for Tax Exemption for people with disabilities" within the section of the Ecuadorian Single Window (VUE), as shown in the figure 23.

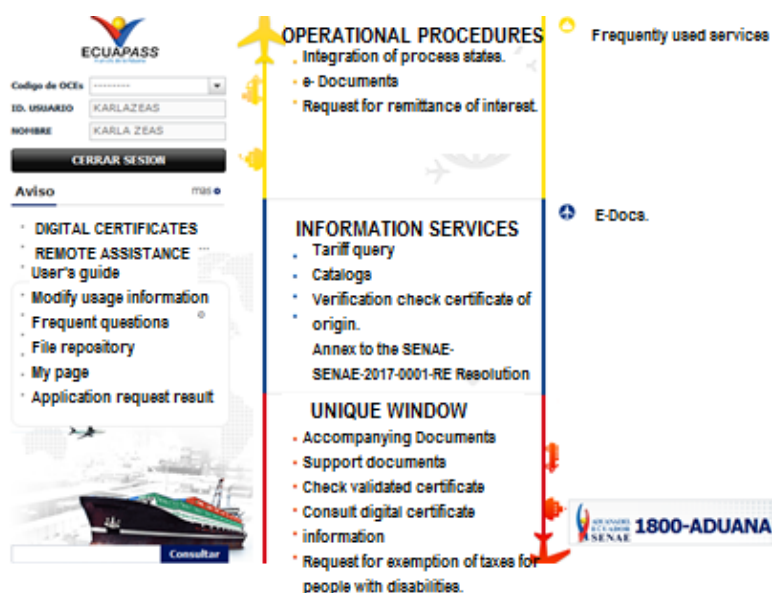


Figure 22: Option "Request for Exemption of Taxes for people with disabilities".

Author:: Karla Zeas.

Source: (National Customs Service of Ecuador, 2018).

Afterwards, the sections of the form must filled out with the required information. The sections should contain the following information:

⁴⁹ For ease of entry for the user, it is necessary to download SENAE BROWSER, this option is available on the main page of SENAE.

a) Request data section.

This part of the form is essential, because here the applicant must be chosen if he is a person with a disability or a legal entity that serves persons with disabilities. Additionally, the district of the request must be included. This must be chosen according to the applicant's place of tax domicile. Finally, it includes a request date, as shown in figure 24.

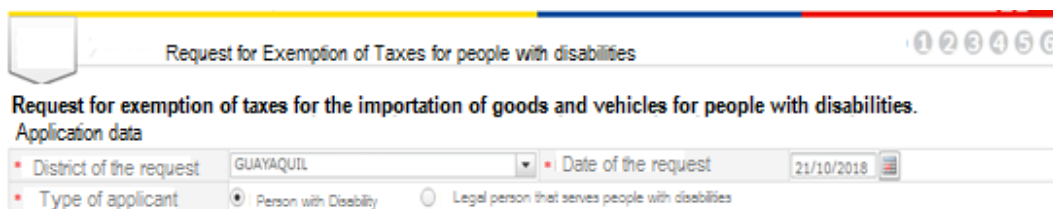


Figure 23: Application data.

Author: Karla Zeas.

Source: (National Customs Service of Ecuador, 2018).

b) Data section of the person with disability.

To fill this section, first it is necessary to put the ID number of the person with disability and click on the option "consult". The ID number is validated with the Civil Registry information and with the database of the Ministry of Public Health⁵⁰. In addition, names and surnames, type of disability, province, city, address, telephone numbers and email must be included (figure 25).

⁵⁰ This serves to verify the percentage of disability that is greater than or equal to 30%, if this conditions is not meet the system does not allow you to continue with the procedure. This validation does not apply to legal persons, since in accordance with the Organic Law of Disabilities and its respective regulations, 100% of the benefit will be applied.

Data of the person with disability	
ID Number	<input type="text"/>
Name and surnames	<input type="text"/>
Type of disability	<input type="text"/>
Percentage of disability	<input type="text" value="0"/>
Province	GUAYAS
City	<input type="text"/>
Address	<input type="text"/>
Telephone	<input type="text"/>
Cellphone	<input type="text"/>
E-mail	<input type="text"/>

Figure 24: Data of the person with disability.

Author: Karla Zeas.

Source: (National Customs Service of Ecuador, 2018).

c) Data section of the legal representative.

This part must be completed if relevant, and as the previous sections it should include data such as ID number, names and surnames, the type of disability, the province, city, address, telephone numbers and e-mail.

d) Detail section of the property to be imported and the driver's information.

For this point, it is important to select if the vehicle to be imported is "orthopedic or non-orthopedic". After this is done, some spaces are immediately displayed to fill with information concerning the type "F" license and the driver's information⁵¹, such as identification number, name and surnames, and if applicable the identification number, name and surname of driver 1 and 2 (Figure 26).

⁵¹ According to Resolution No. SENAE-SENAE-2018-0169-RE that reforms the Resolution No. SENAE-SENAE-2018-0082-RE, article 3 mentions that "The proper use of the vehicle that will be used to care for people with disability, having to indicate the names and surnames, as well as the identification number of up to one (1) driver (in case of importation of vehicles) ".

The screenshot shows a web form with the following sections:

- Detail of the good to be imported.**
 - * Type of good: [dropdown menu]
 - * Description: [dropdown menu]
- License**
 - Does the person with a disability have a Type F license? YES ☐ NO ☐
- Driver's information**
 - * Driver ID 1: [text input]
 - * First and last names driver: [text input]

Figure 25: Driver's information

Author: Karla Zeas.

Source: (National Customs Service of Ecuador, 2018).

e) Attachment section.

In this part of the form, the following documents must be attached taking into account that the type of good to be imported is an orthopedic or non-orthopedic vehicle for a person with a disability.

In accordance with article 3 of Resolution No SENAE-SENAE-2018-0082-RE, the documents that must be attached to the request are:

1.-For a person with a disability.

- "Original commercial invoice or document that proves the commercial transaction or transfer of ownership of the equipment, devices or vehicle" where the FOB value must be stated. It must also contain the date, quotation number, provider's name, customer data, vehicle characteristics (orthopedic or non-orthopedic, class, model year, brand, model), country of origin, authorized signature, stamp and in case of be relevant, improvements or additional accessories must be detailed to the original equipment of the vehicle. In the case of a used vehicle it is important to detail its mileage.
- Accreditation of the legal representative of the person with disability. When the person with a disability is an under-age, it will be necessary to verify the serving legal representative to verify the name of the father or mother. This verification will be done through the database of the National Directorate of Public Data Registration (DINARDAP). In addition, when the person with a disability has a conservator or guardian, they must present a notarized copy of its appointment issued by a judge.

- Sworn Declaration (Figures 27 & 28) which must state that the person with disability has the budget to cover the value of the vehicle that is established in article 80 of the Organic Law for the Balance of Public Finances, which mentions that for a vehicle of personal use a value of up to 60 unified basic salaries and for collective transport up to 120 unified basic salaries. In the same way it must indicate that the vehicle will be driven by the rightful owner, in case that this person cannot drive the vehicle, the declaration must include the complete names and identification card of up to one driver in relation to the determined in Resolution No. SENAE-SENAE-2018-0169-RE. It must also indicate the proper use of the vehicle. Finally, the disability carnet issued by the Ministry of Public Health must be presented with this declaration.

SWORN STATEMENT MODEL FOR IMPORTATION OF VEHICLES FOR PEOPLE WITH DISABILITIES WITHOUT LEGAL REPRESENTATIVE

I, (name of person with disability), nationality -----, marital status ----- years old, holder of the identity card number: -----, domiciled in -----, by my own rights, I appear, expose and declare under the rigor of the oath that the recorded data are real and true, that I have not hidden or manipulated no information, data or document; also under the same oath, expressly declare that: FIRST: I comply with the budget established in Art. 80 numeral 1 of the Organic Law on Disabilities; SECOND: The vehicle to be imported will be driven by the rights holder or, in the event that I cannot drive, they will do so until three designated drivers, in accordance with the provisions set forth in Art. 31 of the Regulation to the aforementioned Law. The designated drivers will be: Driver One: (Names and Surnames), with identity card number: -----; Driver Two: (Names and Surnames), with identity card number: -----; Driver Three: (Names and Surnames), with identity card number: -----, THIRD: I will make good use of the vehicle for person with disability. FOURTH: Attached to this sworn statement the copy of the citizenship card and the disability card issued by the Ministry of Health Public that justify my participation in the import process. FIFTH: I am not frontman of any natural or legal person who intends to import a vehicle, using my condition as a person with a disability. I declare that I know that this practice is framed within the criminal offense of customs fraud contained in article 299 of the Organic Code Comprehensive Criminal (COIP) that sanctions with a prison sentence of 3 to 5 years of prison; SIXTH: The funds with which I am going to acquire the vehicle are of legal origin, and consequently, they do not come from illicit activities typified in the Organic Code Comprehensive Criminal (COIP). It is all that I can declare under the rigor of the OATH and in honor to the truth.

MR or MRS.....

ID Number.....

Figure 26: Sworn Statement Model (Person with disability).

Author: Karla Zeas.

Source: (National Customs Service of Ecuador, 2018).

**MODEL OF JURY DECLARATION FOR IMPORTATION OF VEHICLES FOR PEOPLE
WITH DISABILITIES WITH LEGAL REPRESENTATIVE**

I, (name of representative) of nationality -----, marital status -----, ---- years old, holder of the identity card number: -----, domiciled in -----, for the rights that I represent as ---
----- (parents or guardian) of (name of person with disability), nationality -----, marital status
-----, --- years old, holder of the identity card number: -----, domiciled in -----, I
appear, expose and declare under the rigor of the oath that the data consigned are real and true, that I
have not hidden or manipulated any information, data or document as well as under the same oath, I
expressly declare that: FIRST. - The budget established in Art. 80 numeral 1. of the Organic Law of
Disabilities is met. SECOND. - The vehicle to be imported will be driven by three designated drivers,
in accordance with the provisions set forth in Art. 31 of the Regulations to that Law, without prejudice
to the fact that the vehicle is driven by the person with a disability; The designated drivers will be:
Driver One: (Names and Surnames), with identity card number: -----; Driver Two: (Names and
Surnames), with Citizenship number: -----; Driver Three: (Names and Surnames), with ID of
citizenship number: -----, THIRD. - The vehicle will be used correctly for the person with disability.
FOURTH. - Attached to this affidavit, a copy of a certificate of citizenship and the disability card
issued by the Ministry of Public Health that justify the participation of my represented -----
--- in the import process, additionally I attach the documents that certify my legal representation.
FIFTH. - I am not a front man of any natural or legal person that intends to import a vehicle, using
the condition of my represented as a person with a disability. I declare that I know that this practice
is framed within the criminal category of customs fraud contained in article 299 of the Organic Code
Comprehensive Criminal (COIP) that sanctions with a prison sentence of 3 to 5 years in prison.
SIXTH. - The funds with which will acquire the vehicle are of legal origin, and consequently do not
come from activities illicit offenses typified in the Comprehensive Criminal Organic Code (COIP).
It's all I can declare under the rigor of the OATH and in honor of the truth.

MR or MRS.....

ID Number.....

Figure 27: Sworn Statement Model (Legal Representative).

Author: Karla Zeas.

Source: (National Customs Service of Ecuador, 2018).

2.-For legal entity who attends to people with disabilities.

- "Original commercial invoice or document that proves the commercial transaction or transfer of ownership of the equipment, devices or vehicle" where the FOB value must be stated. It must also contain the date, quotation number, provider's name, customer data, vehicle characteristics (orthopedic or non-orthopedic, class, model year, brand, model), country of origin, authorized signature, stamp and in case of be relevant, improvements or additional accessories must be detailed to the original equipment of the vehicle. In the case of a used vehicle it is important to detail its mileage.
- Notarized copy of the last approved statutes, to verify that the legal entity has the competence of the attention of people with disabilities.

- Possession of RUC, this will be checked on the website of the Internal Revenue Service (SRI).
- Notarized copy of the appointment of the legal representative.
- Certificate of compliance with the obligations regarding taxes, which will be checked on the website of the Internal Revenue Service (<https://declaraciones.sri.gob.ec/sri-en-linea/#/inicio/SOC>).
- Notarized copy of the Certificate of Legal Existence of the Social Organizations. It is issued by the ministry that delivered the ministerial agreement according to its competence. If issued by the MIES, the page to enter is <http://www.inclusion.gob.ec/organizaciones-sociales/> .
- Sworn Declaration which must indicate the proper use of the vehicle that will be used to care for people with disabilities, and include full names and the number of the number of 2 driver maximum.

Finally, once all the required information has been completed, the system allows to see the final request, which must be downloaded and saved as a PDF file on the computer to be later electronically signed, then the signed document must be uploaded to the platform to be sent to the corresponding District Address.

f) Sign electronically.

Finally, once all the required information has been completed, the system allows to see the final request which must be downloaded and saved as a PDF file on the computer to be later electronically signed⁵².

It is essential to complete this step since SENAE can reject the request for not being signed electronically. The request can be signed in any program that allows the signing of PDF documents, for example the Adobe Acrobat Reader program.

To begin the process to sign electronically, the application, which was previously saved on the computer as a PDF file, must be opened with Adobe Acrobat Reader. Once inside Adobe,

⁵² In the case of persons with disabilities, the application must be signed electronically by the same person with a disability or by their legal representative as a proxy. In the case of legal entities, the request must be signed electronically by the legal representative.

the "Tools" menu, located on the right of the screen (Figure 29) must be selected, followed by "More".

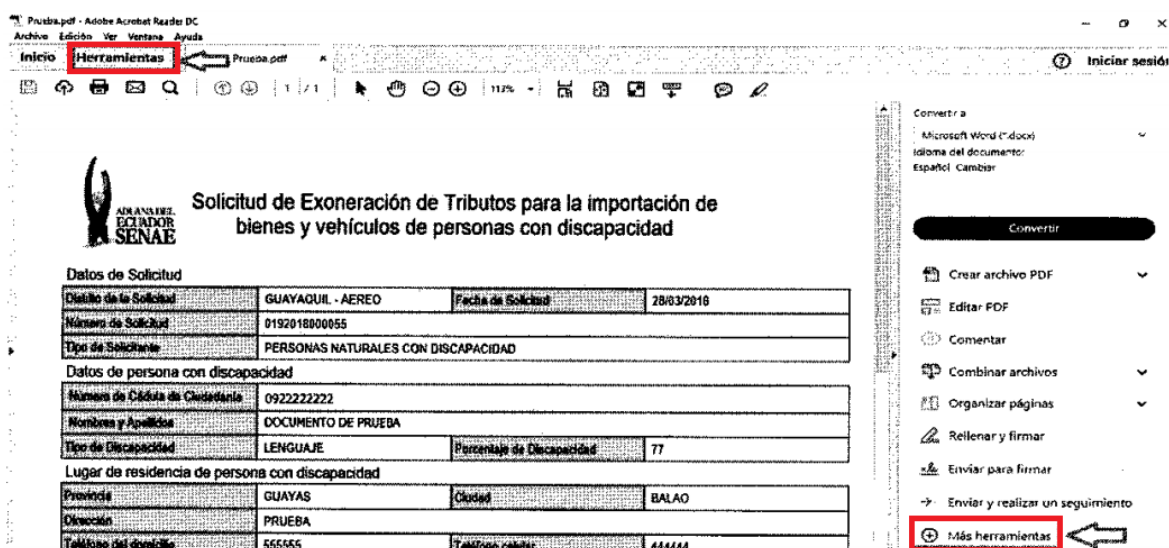


Figure 28: Option "Tools" (Herramientas) and "More..." (Más herramientas).

Author: Karla Zeas.

Source: (National Customs Service of Ecuador, 2018).

Afterwards, the option "Certificates" followed by the option "Sign digitally" must be selected. To conclude this process, the electronically signed document must be uploaded to the platform to be sent to the corresponding District Office.

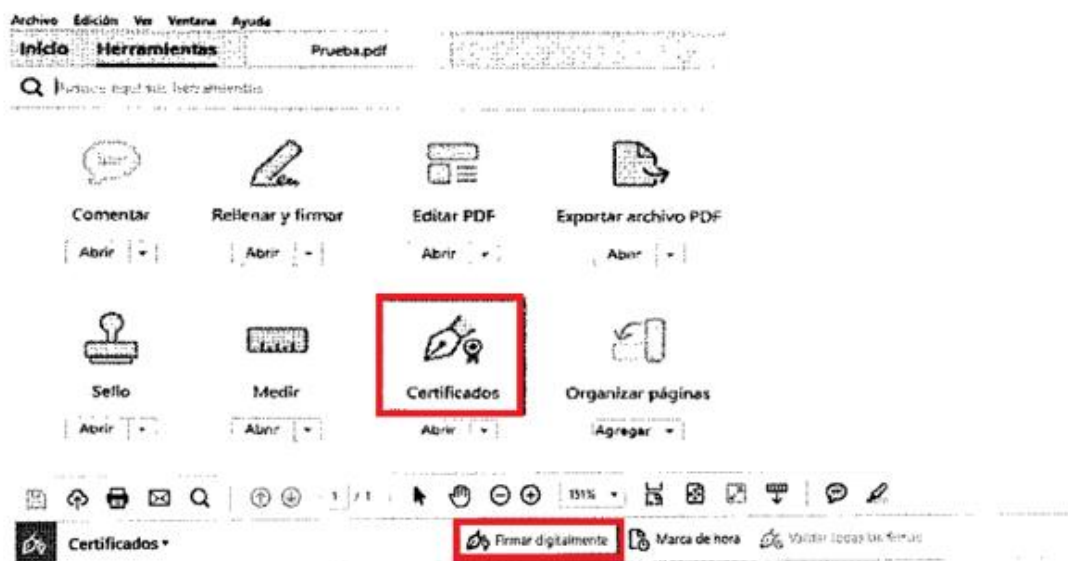


Figure 29: Option "Certificates" (Certificados) and "Sign Digitally" (Firmar Digitalmente)

Author: Karla Zeas.

Source: (National Customs Service of Ecuador, 2018).

5.-Emission of the administrative act by SENAE.

Once the complete request is sent to SENAE, the computer system automatically generates an application number which will be used for the competent District Director or his delegate to verify compliance of the requirements and verify the information of the Sworn Declaration with the request's information.

The District Office will delay a maximum time of five days to issue the administrative act. The approval or rejection of the request will be notified by email to the applicant. Subsequently if the application is approved, the administrative act⁵³ of tax exemption is issued so that the applicant can make use of it. In addition, a unique code of 13 digits is issued, which is formed by the district code where it is issued the request (first three digits), the year (following four digits) and a sequential number (final six digits).

⁵³ In accordance with Resolution No SENAE-SENAE-2018-0082-RE, "the administrative act and the attached documents (...), will be supporting documents for the clearance process, (...). This act will be communicated to the competent authorities and district addresses, and must indicate the percentage of disability granted by the competent national health authority. "

On the other hand, if the application is rejected, in accordance with Resolution No SENAE-SENAE-2018-0082-RE, "the applicant may verify the reason for rejection in the Customs Information System (...), notwithstanding that the request may be presented again, complying with the requirements established in the legal standard to access the benefit".

The Resolution No SENAE-SENAE-2018-0082-RE also determines that the expiration time of the administrative act is 6 months starting at the date of emission, and if the person with disability or the legal entity's exemption has expired, the applicants may submit the exemption request again fulfilling the established requirements.

6.-Transmission of the Customs Declaration.

7.-Authorized exit of the vehicle.

Step 6 and 7 is done in the same way as in the previous process.

General dispositions.

The previous process was based on Resolution No. SENAE-DGN-2014-0111-RE which was repealed by Resolution No. SENAE-SENAE-2018-0082-RE issued by the National Customs Service of Ecuador on April 26, 2018. This Resolution contains "General requirements for the importation of merchandise with tax exemption for the use of persons with disabilities" of the new simplified process of request for tax exemption. Below are some important points of the same.

a) Subsequent control.

Regarding the subsequent control, the Resolution states that this process will be carried out to verify the use of imported vehicles for which the Customs Administration may request information from public entities.

In case that the misuse of the imported vehicle is verified, the Customs of Ecuador will inform the National Council on Disabilities, and the improper use must be sanctioned according to what is determined by the Organic Law of Disabilities⁵⁴.

⁵⁴ Article 81 establishes that "in case of non-compliance, the person or legal representative of the juridical person who commits this act shall be punished with the payment of the total amount of the tax exemption from which he was benefited (...)", outside of the criminal responsibilities that could be determined.

b) Prohibition.

Article 6 of this Resolution states that:

“Vehicles imported under this exemption may not be subject to alienation or any legal act that means the transfer of ownership, possession, or use to third parties other than the recipient, unless the period of four years counted from the date on which said assets have been nationalized or acquired has elapsed, or the exception provided for insured vehicles that have suffered a loss that signifies their total loss”.

Except when the person with a disability is a debtor and does not pay debt within a period of 6 months since after which time the creditor may take legal action.

c) Importation of orthopedic, adapted and non-orthopedic vehicles.

Article 8 *ejusdem* refers to the importation and purchase of orthopedic and non-orthopedic vehicles, and provides that "the importation of vehicles destined for the particular or collective use or benefit of persons with disabilities, shall be subject to the requirements established in article 80 of the Law of Disabilities⁵⁵".

The vehicle to be imported must be new or with a maximum manufacturing age of three years, not counting the year of import. It should be noted that if the vehicle exceeds the FOB value established in article 80 of the Disabilities, the exemption cannot be applied and the vehicle is assigned a customs destination.

Legal persons responsible for the care of persons with disabilities, may only import orthopedic and / or adapted vehicles of collective transportation⁵⁶.

⁵⁵ Article reformed by article 80 of the Organic Law for the Balance of Public Finances.

⁵⁶ For purposes of the application of this provision, it shall be understood that "vehicles intended for collective transportation are those that are designed to transport at least ten (10) persons, including the driver."

d) New import.

Article 9 *ibidem* states that to access the application of the tax exemption on the importation of vehicles for people with disabilities again, natural or legal persons must wait a period of 5 years from the time the occurred of the goods occurred.

e) Assessment of the vehicle.

Article 10 of this Resolution states that both for new or used vehicles, the value⁵⁷ of the commercial invoice will be regarded as the tax base for the calculation of taxes except when the customs administration states that the value of the vehicle is not the real value. The tax base, according to article 110 of the Book V of the COPCI Regulation, "is the customs value of the imported goods". This value includes the transport and insurance costs. It should be emphasized that when the tax base cannot be determined, secondary methods of valuation, as described in the customs value rules for merchandise, will be applied. For this the Andean Decision 571 of the Andean Community of Nations issued on May 28, 2014, establishes the methods to determine the value in customs in Article 3 and classifies them as follows:

1. First Method: Transaction value of the imported goods.
2. Second Method: Value of Transaction of Identical Goods.
3. Third Method: Transaction Value of Similar Goods.
4. Fourth Method: Deductive Value Method.
5. Fifth Method: Rebuilt Value Method.
6. Sixth Method: "Last resort" method.

⁵⁷ To determine the value of the vehicle (net value), additional costs are not taken into account such as transportation costs, costs for registration, costs for internal taxes of the country of export, etc. There is the possibility that in the concurrent control the customs administration generates reasonable doubts about the declared value and proceeds to carry out controls to define the value of the merchandise.

If the values in the commercial invoice are expressed in foreign currency, the exchange rate on the date on which the Customs Declaration is presented will be used to convert the values into the currency of legal use.

In addition, if the vehicle has additional or replaced parts or pieces that increase its value compared with the characteristics of a commercialized vehicle, the monetary value of these parts or pieces shall be explained in the commercial invoice and shall be part of the valuation of the vehicle as long as it does not exceed the amounts that are legally allowed.

In the case of used vehicles, one must take into account that, if the date of emission of the commercial invoice is one year from the time of acceptance of the customs declaration, the value of the vehicle will be established by the customs Administration.

f) Use of exempt imported vehicles.

Article 11 of the Resolution establishes the following definitions:

“1.-Particular use:

This is the use that covers the needs of personal and private transportation of the person with disabilities. The owner of the vehicle must be the person with a disability, and may be driven by the disabled beneficiary or by the core members of their family, being the parents, the children, dependents and the spouse or partner in a de facto union. A person who is not part of the family can drive it, provided that the person with disabilities is in the vehicle.

2.-Collective use:

This is the use that covers the needs of the collective transport of people with disabilities, which can only be conducted by an official or employee of the non-profit legal entity, which legally has disabled people under its protection or care. This institution will be the owner of the exempt vehicle”.

g) Transfer of ownership and lifting of the lien.

According to article 12 *ibidem*, vehicles imported under this benefit cannot be transferred to third parties except when it has been proven that the use of the vehicle is absolutely impossible due to an accident, and the vehicle has been insured through a policy. This is done in accordance with article 32 of LOD Regulations⁵⁸, and in accordance with article 112 of the COPCI⁵⁹.

Similarly, if the death of the beneficiary of the exemption occurs within 4 years from the date of nationalization of the vehicle and if the payment of the aliquots corresponding to the remaining time of the exemption has not been made, starting from the date of death of the beneficiaries, "the customs authority will request the transit authority to lift the prohibition to dispose of the vehicle so that the testamentary heirs or assignees can dispose of said property. Likewise, once the four years have elapsed since the date on which said asset was nationalized, the lifting of the lien⁶⁰ may be requested". The authorization of transfer of ownership or lifting of lien, must be done in the customs districts where the goods were imported.

h) Transitory Provisions.

First Disposition

Applicants for this exemption may carry out the process of import the vehicle with the 420 Certificate issued by the Ministry of Public Health, as long as it is valid at the time of submitting the request for the exemption of taxes. For it to take effect, the physical request under the form "Application for exemption of taxes on foreign trade in goods or vehicles for

⁵⁸Article 332 of LOD Regulation, determines that in case of total loss of the insured and exempted vehicle, and when the insurer requests the transfer of domain of the vehicle, the exempt taxes that are lacking until the 5 years since the nationalization are fulfilled.

⁵⁹ Article 112 of the COPCI establishes that "the applicable regulations for compliance with the customs tax obligation are those in force on the date of acceptance of the customs declaration. However, the applicable taxes are those in force on the date of presentation of the customs declaration for consumption of the goods in the import ".

⁶⁰ According to the specific Manual for the transfer of ownership of goods under exemptions, SENAE-MEE-2-2-028-V1, it is determined that in order to lift the tax due to the death of the beneficiary, the aliquots must be collected to the applicant by proportional part of the exempt taxes. for the respective four years. Once the restriction has been removed, it may be disposed of and the authorization of SENAE for the transfer of ownership to a private person will be necessary, as it is a succession due to death.

the use of a person with a disability or legal entity responsible for their care" available on the SENAE website, and the corresponding requirements attached.

It should be noted that the First Transitory Provision was reformed by Resolution No. SENAE-SENAE-2018-0169-RE, which mentions that:

"For the procedures and applications submitted under the modified rules that are being processed before the National Customs Service of Ecuador prior to the issuance of this resolution, a maximum period of 30 calendar days will be granted from the effective date of the same, so that the new provisions are complied with, after which, if these conditions are not met, the pending requests will be rejected".

2.3 Comparison diagram.

Below, Figure 31 presents a diagram which summarizes all of the above points about the steps to carry out the importation of vehicles for people with disabilities exempt from the payment of taxes to foreign trade, thus providing a way to visualize and understand the comparison between the previous process and the new simplified one.

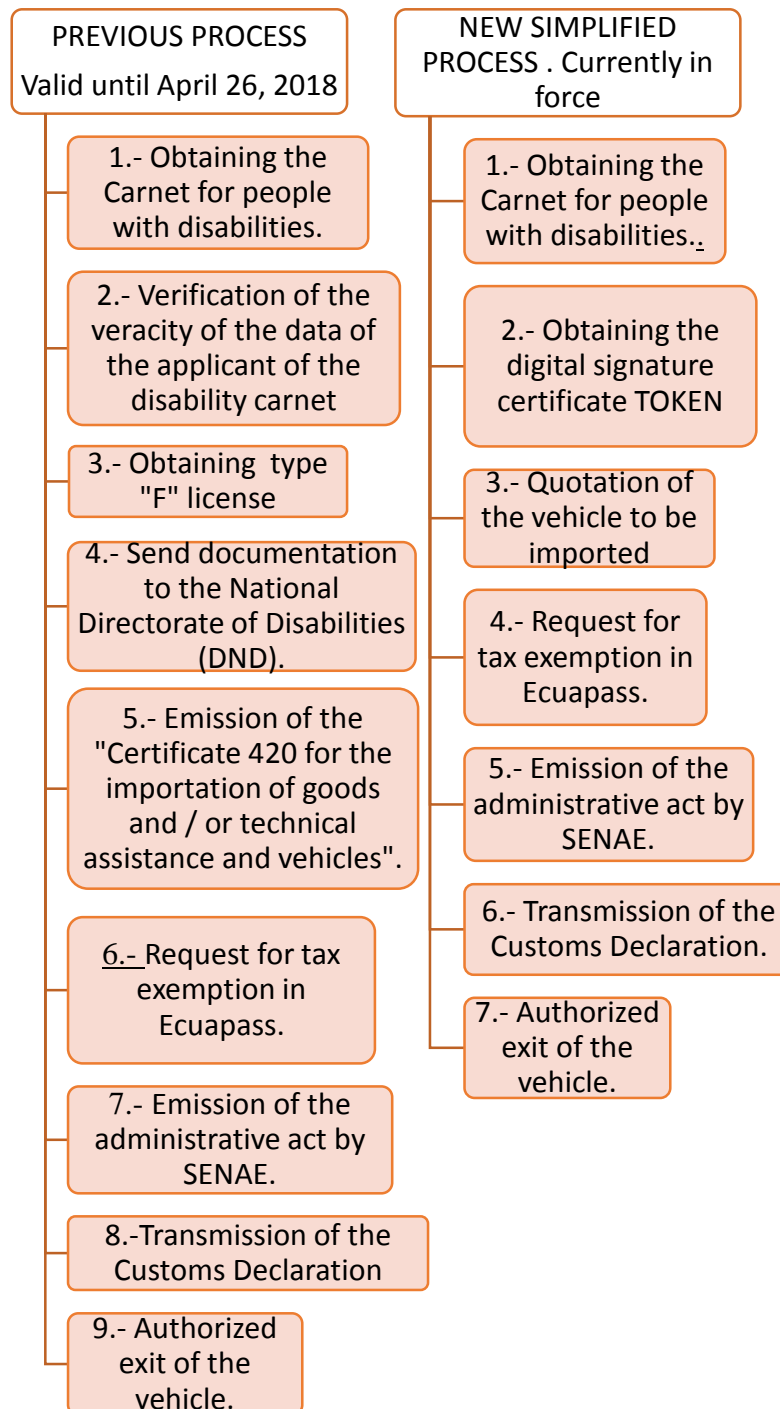


Figure 30: Comparison diagram

Author: Karla Zeas.

2.4 Misuse of imported vehicles under the exemption of foreign trade taxes for people with disabilities.

People with disabilities or legal persons who attend them, often do not know the sanctions that may be imposed for improper use of the vehicle imported under that exemption. However, ignorance does not exempt responsibility, which is why it is considered fundamental to analyze this point.

The importation process was exposed in previous points, but after this a subsequent control can be carried out where it is verified that people with disabilities or legal persons in charge, use the vehicle in the correct way fulfilling the purposes for which it was destined. In this control, verifications of the customs or research declarations are carried out, provided they are carried out within 5 years from the date on which the taxes to foreign trade were paid. It should be noted that this control process cannot last more than one year starting at the date of notification. In addition, the SENAE "may examine and require accounting information, banking operations, documents, files, magnetic media, computer data and any other information related to these goods" (Regulation to the Organic Law of Disabilities, 2017), in order to verify information.

Some current articles that regulate crimes against the Customs Administration are indicated in the Organic Code Comprehensive Criminal (COIP) published on February 10, 2014 in the Official Register No. 180.

In the first instance, knowing if a person with a disability make good use of the imported vehicle is subjective because it does is not feasible to perform specific controls on each person who performs this importation process using the exemption of taxes. However, through the subsequent random control that can be carried out by agents of the Customs Surveillance Unit (UVA)⁶¹, the National Traffic Agency or the National Police of Ecuador can verify the compliance of the legal dispositions. In the case that these are breached, the

⁶¹ This is an administrative unit of SENAE, and it is responsible for the execution of operations related to the prevention of customs offenses, which also has the support of the State Attorney General's Office.

vehicle will be apprehended⁶² and will be considered as evidence of the customs violation. Article 28 of the LOD Regulation establishes that for the liberation of the vehicle, the total amount of the tax exemption from which the owner has benefited must be paid, and if this exceeds the maximum value to import the vehicle, the benefit of the exemption will not be applied.

When the vehicle for private use is not driven by the disabled person or by other persons who are members of their core family⁶³ or when it is driven by a third party different from your family nucleus while the person with disability is not in the vehicle, the vehicle will be presumed to be misused. In addition, vehicles imported for collective use can only be handled by a functionary of the legal entity that owns the vehicle.

Resolution No SENAE-SENAE-2018-0082-RE determines that:

“Vehicles imported under this exemption may not be subject to alienation or any legal act that means the transfer of ownership, possession or use to third parties other than the recipient, unless the period of four 4 years starting from the date on which said assets have been nationalized or acquired, has elapsed, or in the case the exception provided for insured vehicles that have suffered a loss that signifies their total loss is fulfilled”.

However, article 226.2 of the Book V of COPCI Regulation states that upon detection of improper use of imported goods, the configuration of a customs offense will be presumed. The article 302 of the COIP indicates that the persons who sell, transfer or misuse goods whose value is higher than 150 unified basic salaries, which have been imported with total or partial exemption of taxes, and which do not have the authorization of the customs authority, will be sanctioned with a deprivation of liberty of 3 or 5 years and a fine of 10 times the value of the taxes he wanted to evade.

⁶² According to Article 111 of the Regulation to Book V of the COPCI, "it is the forced taking in the subsequent control of the goods (...) that may constitute elements of evidence of the customs violation (...)"

⁶³ Family nucleus integrated by children, dependents, parents and the spouse or partner in a de facto union.

It also determines that:

“The person who gratuitously or onerously acquires, enjoys the transfer or improperly uses goods whose value is more than 150 unified basic salaries (...), without the owner having previously obtained the due authorization from the customs authority, will be punished with imprisonment of 1 to 3 years”.

Likewise, if the persons who are allegedly committing the infringement prevent customs control actions from being carried out, this will be considered a violation that according to article 191 of the COPCI will be sanctioned with a fine of 10 unified basic salaries.

2.5 Vehicles imported for people with disabilities.

Vehicles importation for people with disabilities had increased and it is expected that in the next few years they will continue to rise because of the benefits that exist when importing them. Therefore, it is essential to know specific data provided by SENA E about these imports of vehicles made by people with disabilities in the 2008-2015 period.

The total number of people with disabilities who imported vehicles during the aforementioned period is 3,654 which are distributed by provinces as mentioned in figure 31.

Province	Persons with disabilities who imported vehicles (years 2008-2015)
AZUAY	591
BOLIVAR	9
CAÑAR	75
CARCHI	14
CHIMBORAZO	103
COTOPAXI	55
EL ORO	60
ESMERALDAS	33
GALAPAGOS	0
GUAYAS	398
IMBABURA	76
LOJA	153
LOS RIOS	15

MANABÍ	56
MORONA SANTIAGO	12
NAPO	4
ORELLANA	7
PASTAZA	32
PICHINCHA	1.726
SANTA ELENA	8
SANTO DOMINGO	32
SUCUMBIOS	4
TUNGURAHUA	120
ZAMORA CHINCHIPE	7

Figure 31: Persons with disabilities who imported vehicles by province from 2008 to 2015.

Source: (National Customs Service of Ecuador, 2015).

As can be seen in figure 31, the province of Pichincha occupies the first place in terms of vehicle importation for use for the disabled numbering at 1,726 people who imported,

followed by the province of Azuay with 591 people who made the importation, while the third place goes to the province of Guayas with 398 people.

Another aspect which is necessary to know, is the type of disability that people have who imported vehicles during this period, have (figure 32).

Type of disability	Number of people with disabilities	Percentage
Physical	2.268	63%
Visual	466	13%
Intellectual	455	13%
Auditory	278	8%
Psychosocial	84	2%
Psychological	25	1%
Language	14	0%

Figure 32: People who imported vehicles according to the type of disability.

Source: (National Customs Service of Ecuador, 2015)

Physical disability, with 2,268 people, is the main cause for which people with disabilities choose to import a vehicle to meet their transportation needs, followed by visual and intellectual disability respectively as can be seen in figure 32.

In addition, the age of people with disabilities must be taken into account, in order to have knowledge on the range of people who import vehicles using the exemption from taxes (figure 33):

Age groups	Number of people with disabilities
From 0 to 3 years	18
From 4 to 6 years	46
From 7 to 12 years old	157
From 13 to 18 years old	138
From 19 to 29 years old	315
From 30 to 65 years old	1.979
Over 65 years	937

Figure 33: Persons with disabilities who imported vehicles, by age ranges.

Source: (National Customs Service of Ecuador, 2015).

As can be seen in figure 33, people aged 30 to 65 are the ones that most import vehicles under the regime of tax exemption. Second place is occupied by the age range of over 65 years, with a total of 937 people.

According to information provided by Economist Mario Cazar Godoy, Director of Planning and Control of Institutional Management of the General Directorate of SENAE, the imported vehicles for use by persons with disabilities in the year 2017 were 490, while in 2018, 185 vehicles had been imported until April (Figure 34).

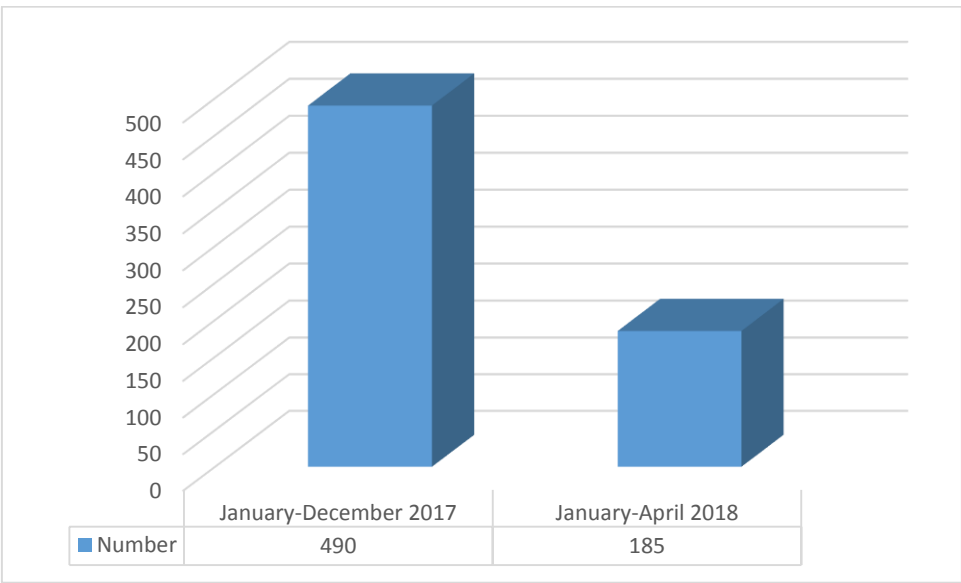


Figure 34: Imported vehicles with exemption from taxes for people with disabilities in Ecuador.

Author: Karla Zeas.

Source: (National Customs Service of Ecuador, 2015)

Conclusion.

After having analyzed the previous procedure and the new one for the application of the exemption for the importation of vehicles for people with disabilities step by step, it can be said that the implementations fostered by SENA E are of great benefit for these people, since it seeks to secure the information of the applicants as well as to reduce the processing times so that disabled people can make use of the imported vehicle in a short waiting time, so that they can satisfy their transportation needs by making different activities.

It is crucial to take into account that for the new process entities such as the Ministry of Public Health, Internal Revenue Service, Civil Registry, Judicial Council, National Transit Agency and, of course, the National Customs Service of Ecuador, have been interlinked, each one of them performing different functions and coordinating jointly through the transfer of information, making it possible for the new process to be directed for the full benefit of the applicants.

Figure 31 shows that at present the steps to be followed for the application of the tax exemption have been reduced, with the purpose of reducing time specifically in the approval of the exemption request for the importation of a vehicle for the person with disability. On the other hand, it is complicated to carry out specific and continuous controls and follow-ups to the beneficiaries of this exemption to prevent misuse by the people with disabilities or legal persons that are in charge. For this reason, the good use of the imported vehicle is verified through subsequent random control.

The information that has been presented will serve to understand the testimonies of people who have been benefited by this exemption which will be presented in the next chapter.

Chapter 3

Qualitative and critical analysis of the application of this exemption.

Introduction.

To determine the effectiveness of the new digitized process to import vehicles for people with disabilities implemented by the National Customs Service of Ecuador, a qualitative and critical analysis of the testimonies of people who have applied to this exemption through the current process will be carried out, as well as testimonies of beneficiaries who have used the tax exemption.

To obtain information, structured surveys have been carried out to the beneficiaries, this information will be presented in statistical graphs so that the analysis of the results is more concise and effective. Likewise, it is necessary to know the opinions of some experts on the subject through in-depth interviews.

The results of the surveys and interviews will serve to see the effectiveness of the new simplified process. In addition, it will be possible to generate conclusions of great importance for the present titling research, and in this way to know positive and negative aspects of this exemption.

3.1 Interviews with officials from different entities.

After analyzing the process that must be carried out for the importation of vehicles under the exemption that benefits people with disabilities, it is necessary to know the opinions of people who know about the topic of the research topic, with a special focus on the effectiveness of the new simplified process. To this purpose, four people were interviewed, of whom two are officials from the Ministry of Public Health and two are SENAE officials.

- Dr. Paola Pacheco, current official of the Legal Department of SENAE in the District of Cuenca. (E1)
- Eng. Carlos Brussil Tapia, current official of the Area of Customs Regimes of SENAE of the District of Cuenca. (E2)
- Licentiate Johana Cueva, current official of the National Directorate of Disabilities of the Ministry of Public Health (Cuenca). (E3)

3.1.1 Interview format.

1. Do you think it is necessary to increase or reduce the minimum percentage (30%) to apply for this exemption?
2. Do you consider that the valuation method of the vehicle to be imported is the correct one?
3. Do you believe that, with the new simplified process, the processing time for the importation of the vehicle for people with disabilities under this exemption is reduced? Why?
4. Do you believe that people with disabilities or legal entities make improper use of imported vehicles under the exemption of taxes?
5. Do you consider it a good option to implement the use of the electronic signature to apply for this exemption? Why?

Thank you for your cooperation.

3.1.2 Results obtained from the interviews.

Question	Answers
1. Do you think it is necessary to increase or reduce the minimum percentage (30%) to apply for this exemption?	<p>E1: I think it's the right one, 30% of disability is fine.</p> <p>E2: I think that even the percentage could be reduced so that more people have access to the benefit of importing a vehicle. More benefits society has, it is a development for the whole population.</p> <p>E3: I think it would be good for the exemption to be applied from 38% of disability, since many times people who have 30% to 37% do not have a serious disability.</p>
2.- Do you consider that the valuation method of the vehicle to be imported is the correct one?	<p>E1: No, I would give other guidelines to be able to see the vehicles that are going to serve the disabled, for example, orthopedic vehicles are directly used by people with disabilities.</p> <p>E2: Dependent, for example, the resolution that we handle internally, he mentions that the value of the vehicle is take into account when it came to market, and this contradicts Decision 571 and Resolution 1684 that talk about the customs value of imported goods. For these cases the commercial invoice should be taken into account and the value of the vehicle at the time went out in the market should not be considered.</p> <p>E3: That depends on Customs</p>
3.- Do you believe that, with the new simplified process, the processing time for the importation of the vehicle for people with disabilities under this exemption is reduced? Why?	<p>E1: Yes, totally, because previously the applicant was delayed long time, because certain procedures were repeated. Now only presenting the requested documentation, the whole process is done in less than 8 days, it is much more efficient.</p> <p>E2: I consider, the SENAE has invested in the Ecuapass Computer System and according to our statistics the dispatch times have decreased significantly, and we hope that they will continue to decrease being faster and faster.</p> <p>E3: As an official of the MSP, I consider it appropriate that the competence of the application for exemption of taxes in these cases has passed to SENAE, because the doctors when filling the certificate 420 had no idea about the technical specifications of the vehicle to be imported, also for the issuance of said certificate the applicant had to wait at least 6 months.</p>
4.- Do you believe that people with disabilities or legal entities make improper use of imported vehicles under the exemption of taxes?	<p>E1: Unfortunately, the vehicle is used by persons close to the person with a disability and does not meet the specific purpose of facilitating the transportation of the person with a disability. I consider that they make fraudulent use because there are several obvious cases.</p> <p>E2: There are, but they are very few, in Cuenca there are very few. By ignorance of the law, but not by bad faith.</p>

	E3: Some people actually do the process of importing the vehicle because they need it, but many times it is not they who use the vehicle but family members, so I think that there is abuse. There are even times, that the person with disability sells the importation quota to another person
5.- Do you consider it a good option to implement the use of the electronic signature to apply for this exemption? Why.	<p>E1 If it seems right, since it avoids any manipulation and is much better.</p> <p>E2: My personal criterion is that they should not need it, because people with disabilities do not import vehicles all the time, and probably they only do so once in their entire life. It should be like the houseware, which performs the procedure without the electronic signature, it would be a less procedure.</p> <p>E3: For this specific procedure, no, I think it would be enough to do it with a handwritten signature, so the applicant saves money and time.</p>

3.2 Testimonials of people with disabilities or legal entities.

This point of this research is of great importance, as after obtaining the results of the surveys applied, it is possible to analyze if the new simplified digitized process is effective or not. In addition, one can obtain information about the age ranges of the beneficiaries, the problems that have arisen during the process, and other information of great relevance.

To obtain the testimony of people with disabilities, a descriptive investigation was carried out through a structured questionnaire of specific questions to obtain the necessary information for further analysis of qualitative data. It should be noted that the research is of a conclusive nature since the process is formal and structured, and it is also transversal, since it implies obtaining information from a sample of the population only once.

The size of the population that was selected was represented by persons with disabilities, persons in charge of beneficiaries and legal persons who carried out the procedure for importing vehicles under the exemption of taxes on foreign trade in the Cuenca District. According to information provided for this District Office of Cuenca, in the period from May 1, 2018 to August 31, 2018, 220 vehicle import procedures for people with disabilities have been approved.

Knowing what the size of the population is, the sample size must be determined by applying the corresponding formula to set the exact number of surveys that should be applied.

Formula:

$$n = \frac{z^2 * N * p * q}{(N - 1) * e^2 + (z^2 * p * q)}$$

Where:

q = Failure Probability (5%)

p = Occurrence Probability (95%)

N = Size of the population (220)

e = Error margin (5%)

n = Sample size

z = Percentage of trust (1.96)

$$n = \frac{1.96^2 * 220 * 0.95 * 0.05}{(220 - 1) * 0.05^2 + (1.96^2 * 0.95 * 0.05)}$$

$$n = 54.99$$

It is essential to mention that the surveys were carried out randomly to the beneficiaries of the city of Cuenca. In addition, they were conducted by telephone to facilitate the respondents' response.

3.2.1 Survey applied - New Process.

This survey is aimed to people with disabilities who have made the importation of a vehicle using the total or partial exemption of taxes to foreign trade. The information obtained will be exclusively for academic use.

1. Choose the answer as appropriate.

1. Natural person _____ 2. Person in charge of the beneficiary ____
3. Legal person _____ (continue to question # 6)

2. Age: _____

3. Gender:

1. Female _____
2. Male _____
3. Another definition _____

4. Type of Disability:

1. Intellectual _____
2. Physical _____
3. Auditory _____
4. Visual _____
5. Psychosocial _____
6. Language _____

5. Disability Percentage: _____%

6. Did you have any inconvenience when carrying out the import process?

1. YES ☐ 2. NO ☐

7. If the answer was **YES**, from the list of inconveniences shown below, indicate the ones you had when carrying out the importation process.

1. Administrative-Legal (SENAE) _____
2. Delay in importation _____
3. Lack of information _____
4. Non-accurate assessment of the vehicle _____
5. Wrong documentation _____

8. Mark with an X. What part of the new process do you think caused a setback?

1	Obtaining of the Card for people with disabilities.	
2	Obtaining the digital signature certificate TOKEN	
3	Invoice of the vehicle to be imported.	
4	Application for exemption of taxes in the Ecuapass System.	
5	Issuance of authorization for importation by Customs.	
6	Transmission of the customs declaration	
7	Authorized vehicle exit	

9. In general, how long did take you to collect all the paperwork to submit to Customs for the importation of the vehicle?

.....

10. How long did it take to import the vehicle and what was the country of origin of the vehicle?

.....

11. Mark with an X, to qualify the performance of the Ministry of Health and the National Customs Service of Ecuador, during this new import process.

	Entity	Good	Regular	Bad
1	Ministry of Public Health			
2	National Customs Service of Ecuador			

12. Concerning the new digitized process to import vehicles for people with disabilities implemented by SENAE, mark an X where you think is appropriate:

1. Easy _____

2. Complicated _____

3. Fast _____

4. Late _____

5. Safe _____

13. For the process of importing the vehicle, who made the new simplified application through the Ecuapass Portal?

1. Myself _____

2. Customs agent _____

3. Concessionaire _____

14. Mark with an X to qualify from 1 to 10 the new digitized and simplified process for importing vehicles for people with disabilities. (Being 1 bad and 10 good).

1	2	3	4	5	6	7	8	9	10

Thank you for your cooperation.

3.2.2 Results obtained from the surveys.

The results of the surveys applied to 55 people who have made the process to import a vehicle for people with disabilities, will be presented below.

1. Type of applicant.

Table 5: Type of applicant.

Type of applicant.	Frequency	Percentage
Natural Person	50	90.9
Person in charge of the beneficiary	5	9.09
Legal Person	0	0
TOTAL	55	100

Author: Karla Zeas.

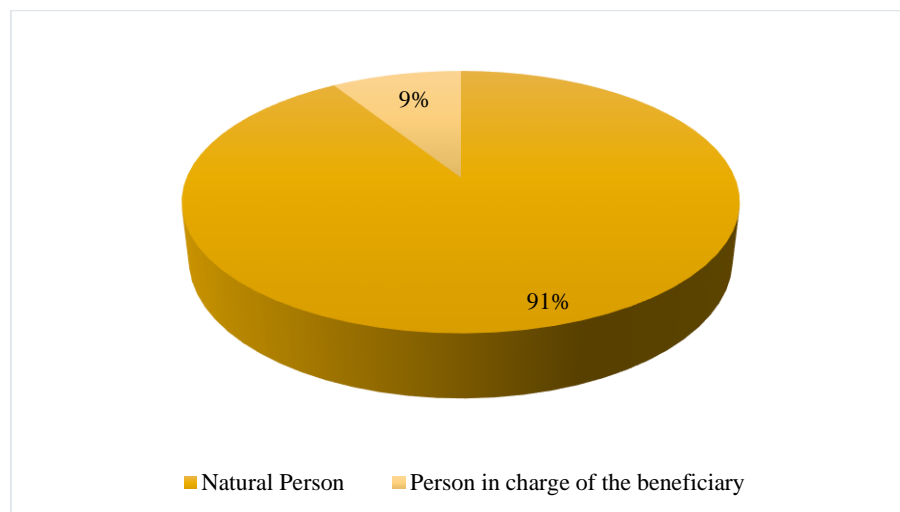


Figure 35: Type of applicant

Author: Karla Zeas.

As can be seen in the figure 36, most of the people who complete the process to import a vehicle for people with disabilities using the tax exemption are natural persons who are represented by 91%.

2. Age

Table 6: Age

Age ranged	Frequency	Percentage
From 30 to 45	16	29.09
From 46 to 60	27	49.09
From 61 to 75	12	21.82
TOTAL	55	100

Author: Karla Zeas.

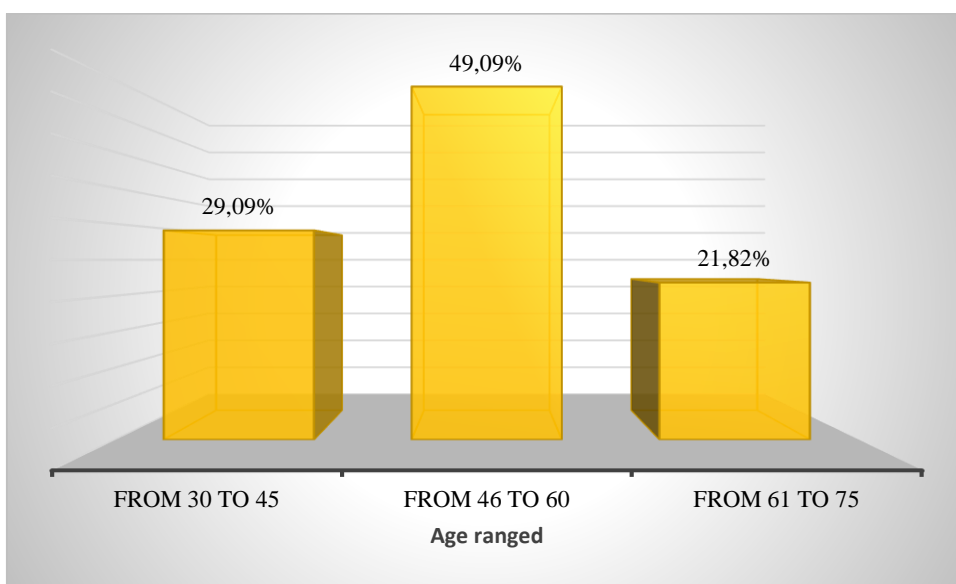


Figure 36: Age

Author: Karla Zeas.

Ages are presented by ranges for a better analysis, so in this way we can observe that people from 46 to 50 years of age represents the 49.09%, they are the most interested in using the tax exemption for the importation of the vehicle.

3.-Gender.

Table 7: Gender

Gender	Frequency	Percentage
Female	19	35.5
Male	36	65.45
TOTAL	55	100

Author: Karla Zeas.

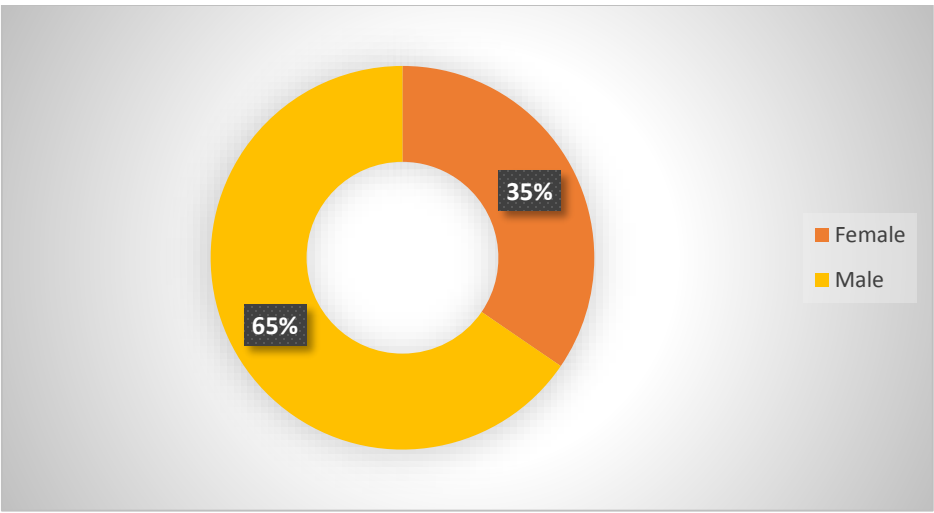


Figure 37: Gender

Author: Karla Zeas.

People who most complete the process for importing the vehicle are male gender represented by 65.45%, while 35% is occupied by female gender.

4. Type of Disability.

Table 8: Type of disability

Type of disability	Frequency	Percentage
Intellectual	15	27.27
Physical	32	58.18
Auditory	2	3.64
Visual	6	10.91
Psychosocial	0	0
Language	0	0
TOTAL	55	100

Author: Karla Zeas.

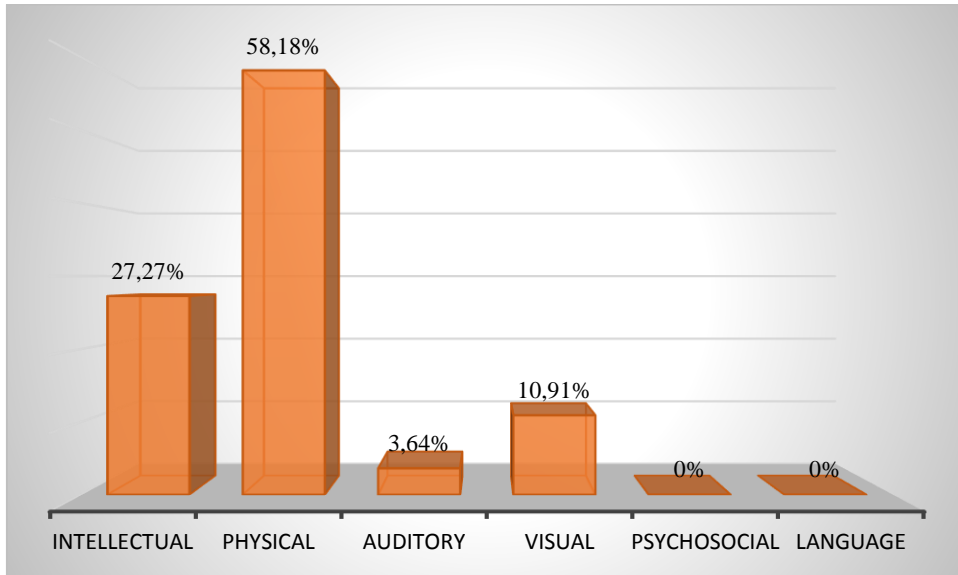


Figure 38: Type of disability

Author: Karla Zeas.

The 58.18% of people with physical disabilities are the ones that most import vehicles for their use. Secondly, people with intellectual disabilities are represented by 27.27%.

5. Percentage of disability.

Table 9: Percentage of disability

Disability Rank	Frequency	Percentage
From 30% to 49%	40	72.73
From 50% to 74%	15	27.27
From 75% to 84%	0	0
From 85% to 100%	0	0
TOTAL	55	100

Author: Karla Zeas.

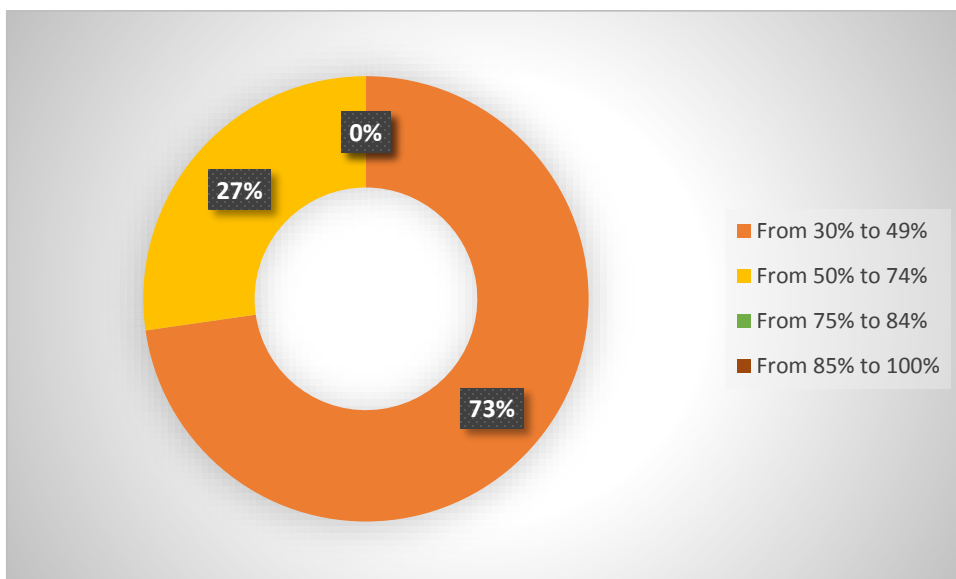


Figure 39: Percentage of disability.

Author: Karla Zeas.

The 72.73% of people surveyed have respond that they have a percentage of disability from 30% to 49%, so they would have a tax exemption of 60% on the importation of the vehicle.

6. Did you have any inconvenience when carrying out the import process?

Table 10: Disadvantages of the import process.

	Frequency	Percentage
YES	28	50.91
NO	27	49.09

Author: Karla Zeas.

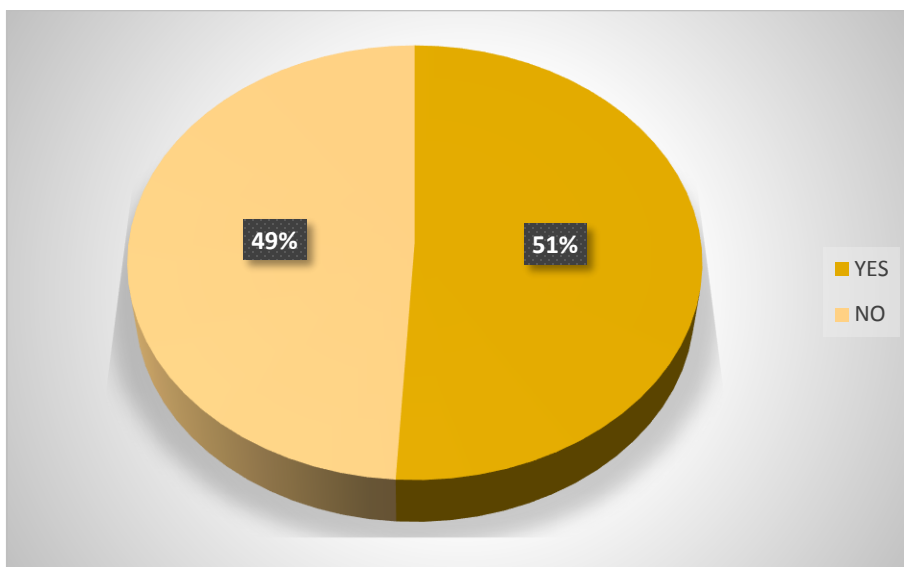


Figure 40: Disadvantages of the import process.

Author: Karla Zeas.

Figure 41 shows the results of the people surveyed are divided in this question, because 50.9% answered “YES” had problems, while 49.9% answered NO.

7. If the answer was YES, indicate the ones that you had when carrying out the import process.

Table 11: Selection of drawbacks of the import process.

	Frequency	Percentage
Administrative-legal (SENAE)	0	0
Delay in the import.	13	10.7
Lack of information	9	46.4
Not accurate valuation of the vehicle.	3	32.1
Wrong documentation	0	10.7
TOTAL	28	100

Author: Karla Zeas.

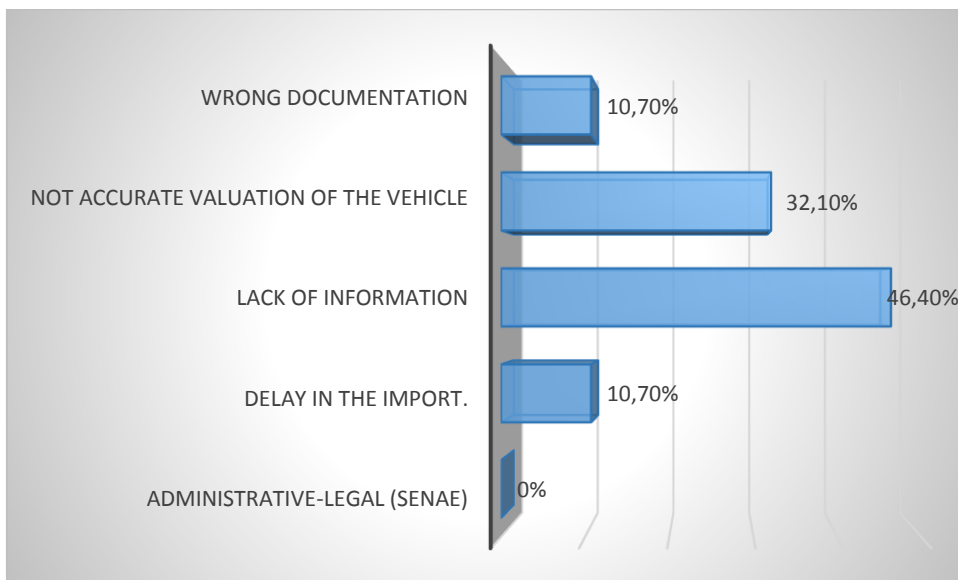


Figure 41: Selection of drawbacks of the import process.

Author: Karla Zeas.

In figure 42, the 46.4% of the 28 persons who had some kind of inconvenience mention that the lack of information is the main cause of disagreement.

8. What part of the new process do you think caused a setback?

Table 12: Setbacks of the new process.

	Frequency	Percentage
1. Obtaining the card for people with disabilities	11	20
2. Obtaining the digital signature certificate TOKEN	13	23.64
3. Quotation or invoice of the vehicle to be imported.	12	21.82
4- Request for exemption of taxes in the Ecuapass System.	13	23.64
5. Issuance of authorization for importation by Customs	3	5.45
6. Transmission of the customs declaration..	0	0
7. Authorized exit of the vehicle	0	0
8.No answer	3	5.45
TOTAL	55	100

Author: Karla Zeas.

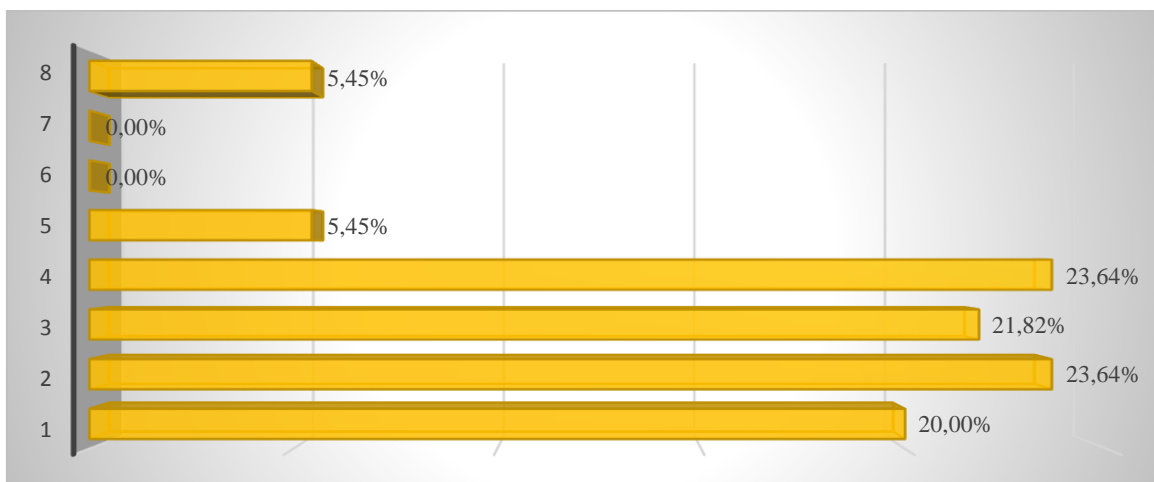


Figure 42: Setbacks of the new process.

Author: Karla Zeas.

Respondents consider that the two main setbacks during the whole process are: obtaining the TOKEN digital signature certificate and the application for tax exemption in the Ecuapass system.

9. In general, how long did it take you to complete all the paperwork to submit to Customs for the importation of the vehicle?

Table 13: Delay time of the documentation process.

Rank of time (day)	Frequency	Percentage
From 10 to 19	23	41.82
From 20 to 29	18	32.73
From 30 to 49	13	23.64
From 50 to 60	1	1.82
TOTAL	55	100

Author: Karla Zeas.

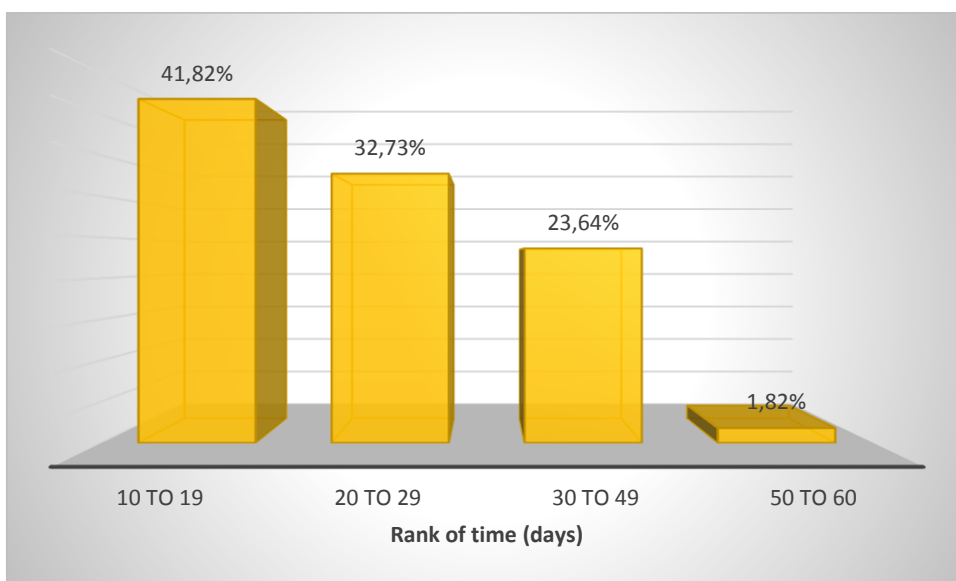


Figure 43: Delay Time of the documentation process.

Author: Karla Zeas.

The 36.36% of the surveyed people reported that the time it took to import the vehicle was between 36 to 50 days. It is important to note that only 5.45% responded that the waiting time for importing the vehicle was 66 to 90 days.

10. How long did it take to import the vehicle and what was the country of origin of the vehicle?

Table 14: Time of importation

Rank of time (day)	Frequency	Percentage
From 20 to 35	16	29.09
From 36 to 50	20	36.36
From 51 to 65	16	29.09
From 66 to 90	3	5.45
TOTAL	55	100

Author: Karla Zeas.

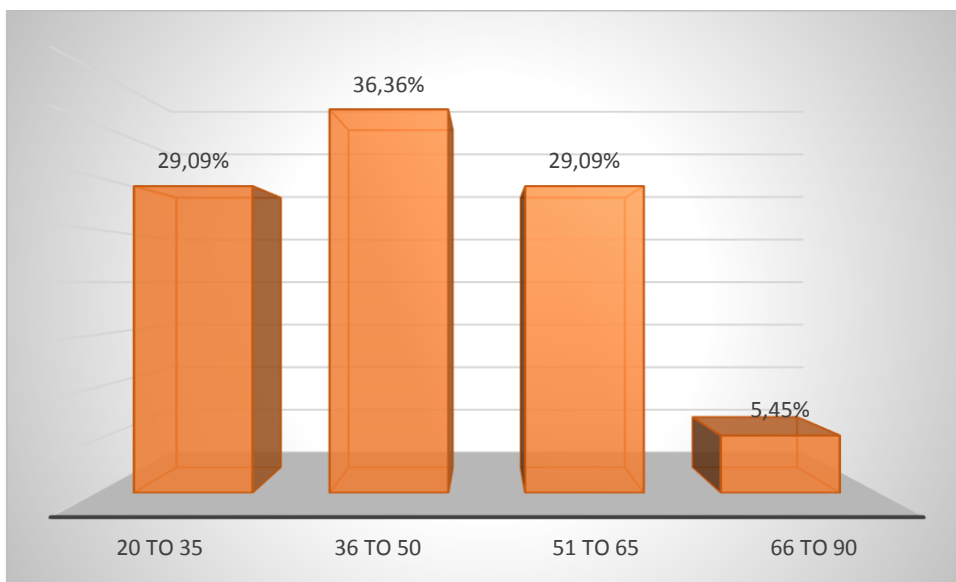


Figure 44: Time of importation

Author: Karla Zeas.

10.1 Country of origin of the vehicle.

Table 15: Country of origin of the vehicle.

Country of origin	Frequency	Percentage
Japan	19	34.55
China	16	29.09
United States	11	20.00
Korea	6	10.91
Germany	1	1.82
Colombia	1	1.82
Mexico	1	1.82
TOTAL	55	100

Author: Karla Zeas.

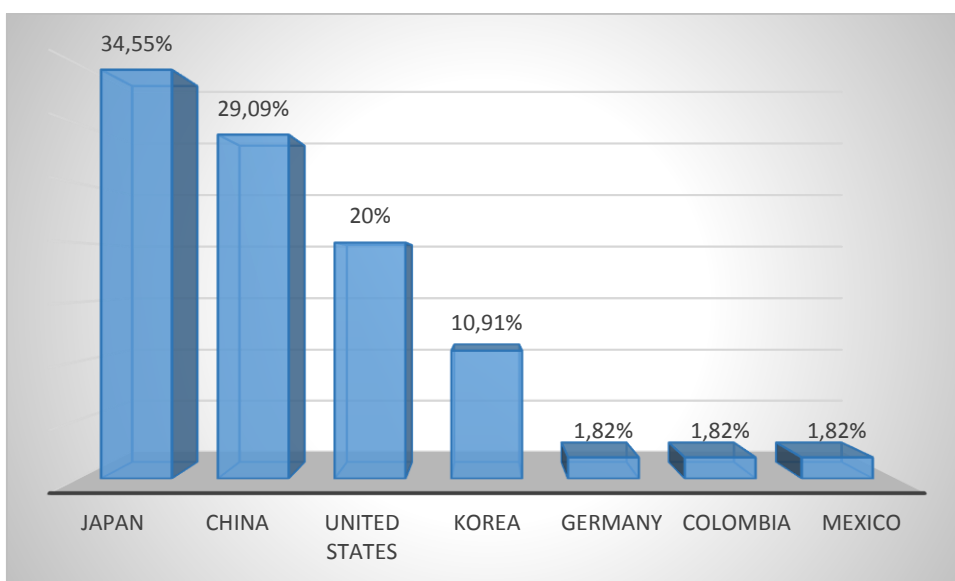


Figure 45: Country of origin of the vehicle.

Author: Karla Zeas.

Japan, with 34.55%, is the country most chosen by the applicants to import a vehicle using the tax exemption. China is the second country that the Applicants have chosen to import their vehicle.

11. Qualification of the functioning of the Ministry of Health and the National Customs Service of Ecuador, during this new importation process.

Table 16: Qualification of the functioning of the Ministry of Public Health and the National Customs Service of Ecuador.

Entity	“Good”	“Regular”	“Bad”	TOTAL
Ministry of Public Health	32	23	0	55
National Customs Service of Ecuador	29	8	18	55

Author: Karla Zeas.

Table 17: Qualification of the functioning of the Ministry of Health and the National Customs Service of Ecuador en percentage.

Entity	“Good”	“Regular”	“Bad”	TOTAL
Ministry of Public Health	58.2	41.8	0	100
National Customs Service of Ecuador	52.7	14.5	32.7	100

Author: Karla Zeas.

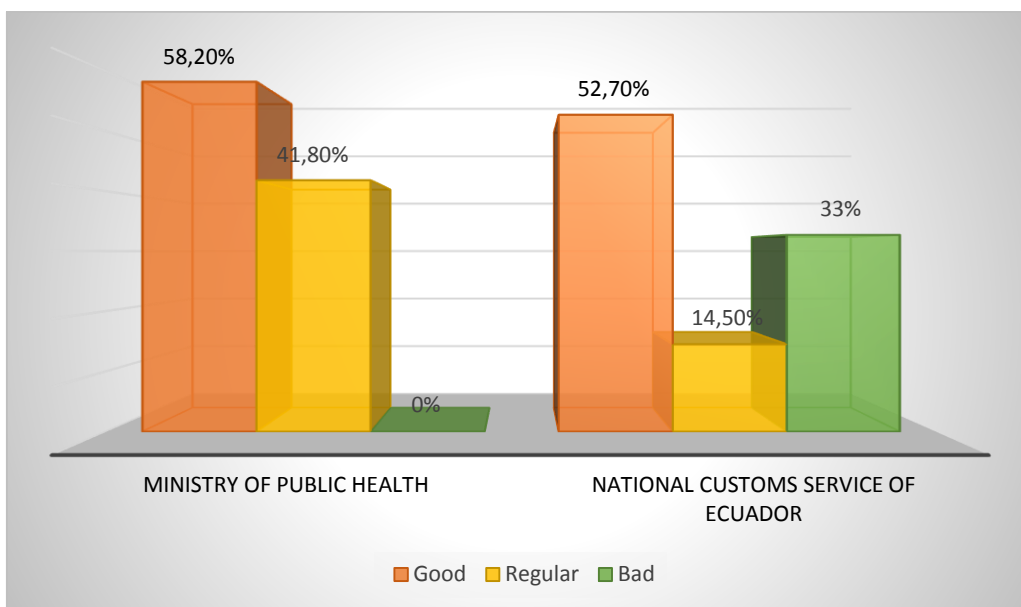


Figure 46: Qualification of the operation of the Ministry of Health and the National Customs Service of Ecuador in percentage.

Author: Karla Zeas

The 58.2% of the surveyed rated the performance of the Ministry of Public Health as "Good" and 41.8% as "Regular". On the other hand, the performance of the National Customs Service of Ecuador was qualified as "Good" by 52.7% of the respondents, and the interesting thing is that only 14.5% qualifies as "Regular" while "Bad" qualifies the 32.7%.

12. Concerning the new digitized process to import vehicles for people with disabilities implemented by SENAE, mark where appropriate.

Table 18: Points of view of the new digitized process.

	Frequency	Percentage
Easy	10	18.18
Complicated	12	21.82
Fast	13	23.64
Late	3	5.45
Safe	17	30.91
TOTAL	55	100

Author: Karla Zeas

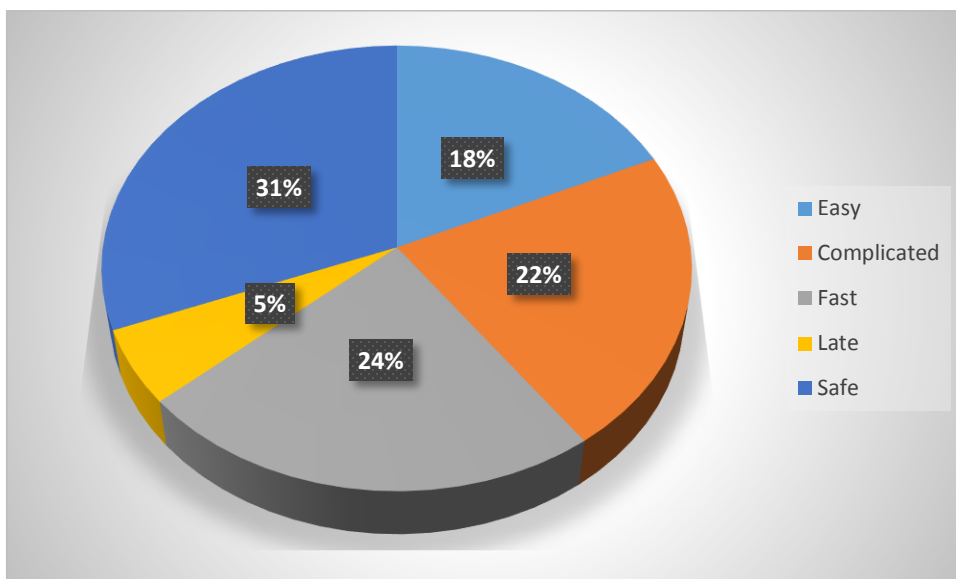


Figure 47: Points of view of the new digitized process.

Author: Karla Zeas.

13. For the process of importing the vehicle, who made the new simplified application through the Ecuapass Portal?

Table 19: Person / entity that made the simplified application of the Ecuapass Portal.

	Frequency	Percentage
Your self	52	94.55
Customs Agent	3	5.45
Concessionaire	0	0
TOTAL	55	100

Author: Karla Zeas

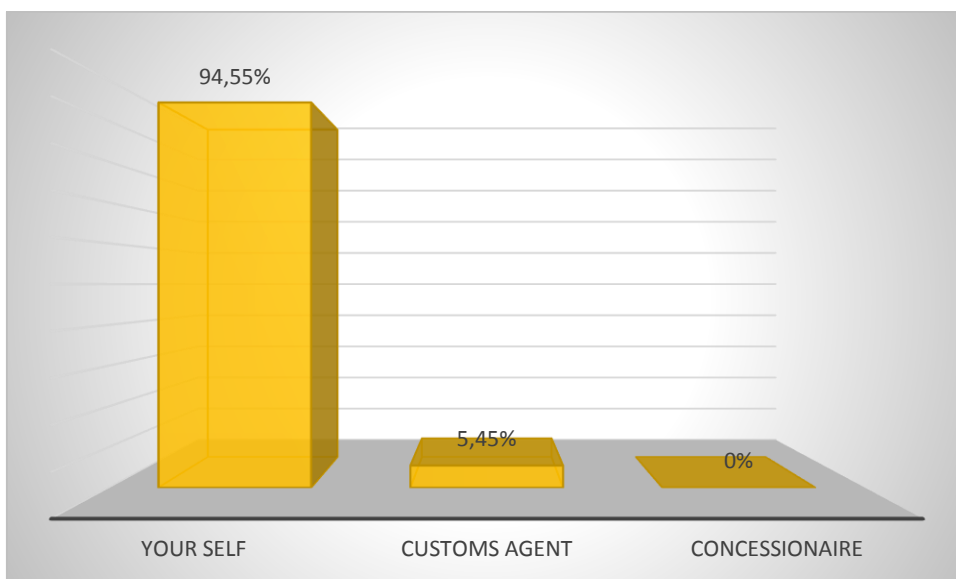


Figure 48: Person / entity that made the simplified application of the Ecuapass Portal.

Author: Karla Zeas.

The new application for the import of the vehicle is made by the same beneficiaries, they are represented with 94.55%, and this new process is available for them to perform themselves. The 5.45% of the respondents hired the services of a customs agent.

14. Qualification from 1 to 10 the new digitized and simplified process to import vehicles for people with disabilities. (Being 1 Bad and 10 Good).

Table 20: Qualification of the new simplified process.

Rating Range	Frequency	Percentage
1	0	0
2	0	0
3	0	0
4	0	0
5	1	1.82
6	4	7.27
7	7	12.73
8	13	23.64

9	23	41.82
10	7	12.73
TOTAL	55	100

Author: Karla Zeas.

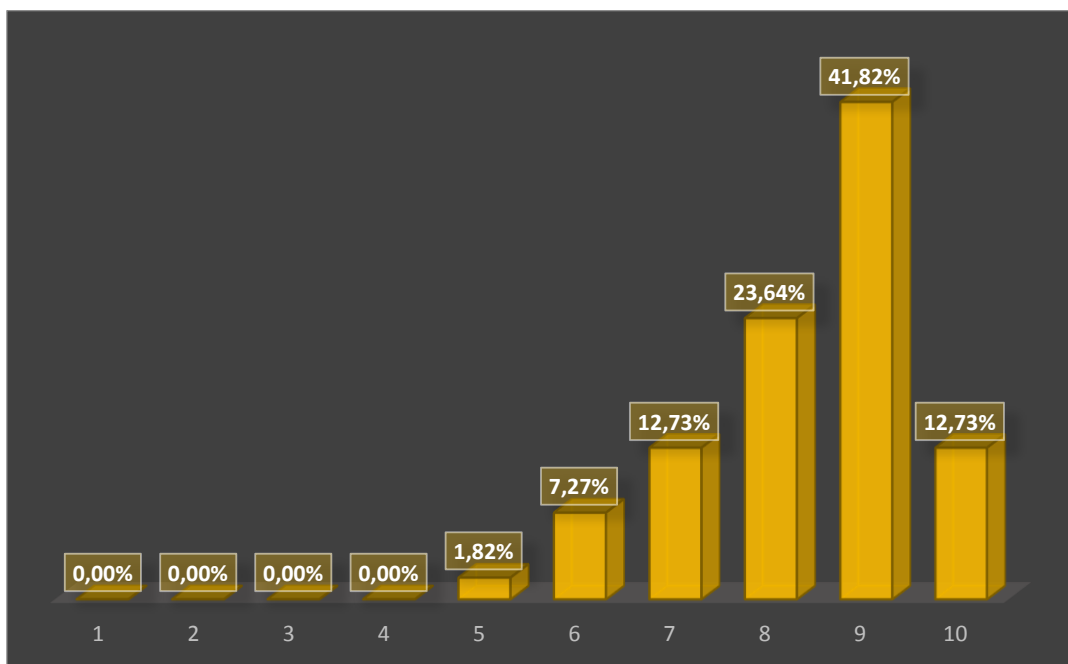


Figure 49: Qualification of the new simplified process.

Author: Karla Zeas.

The majority of respondents, placed “9” of qualification to the new process simplified and digitized to import vehicles for people with disabilities, followed by 23.64% of people who consider that they must have a grade of "8".

Conclusions

In order to strengthen the previous chapters, the field analysis was carried out through interviews with experts and surveys of the beneficiaries of this exemption. Through this, relevant aspects concerning the aforementioned have been obtained.

The results of the interviews varied a bit and we can see that there are some points of view. For example, some persons consider necessary to reduce the minimum percentage of disability to apply for this exemption, while others do not. About the procedure time, all the interviewees consider that the times have been reduced at the moment of carrying out the procedure, as well as consider that the improper use of the imported vehicle can be for ignorance of the regulations or maybe the abuse of the applicant. Finally, the use of the electronic signature for this procedure is considered not necessary, since with the handwritten signature, the procedure can be carried out without any problem.

Through the surveys applied, it was possible to show that natural persons are the ones who most seek to be benefited by this exemption. Also it is important to know that 49.09% of the beneficiaries are within the age range of 46 to 60 years. Who most used this exemption was the applicants with physical and intellectual disabilities, with 58.18% and 27.27% respectively. In addition, 72.73% of respondents have 30% to 49% of disability, which we can understand that all of them have had a 60% exemption in taxes on foreign trade.

The main problems that surveyed consider should be addressed are the lack of information and not accurate assessment of the vehicle. Many people consider that obtaining the digital signature certificate TOKEN is a setback in the process because it is something new for them.

Regarding the times, according to the results, we can conclude that the reduction of time is effective. Within the range of 10 to 19 days the 41.82% of the surveyed carried out the documentation process to send the Director District for later approval. Also, the majority of the respondents consider that the new digitized and simplified process is "safe" and "fast".

It should be noted that this digitized process can be done by applicants anywhere with a computer that has Internet access. This means that the figure of the customs agent will not be

necessary, the 94.55% of respondents have submitted the new application on their own without the need to pay tariffs to a customs agent to carry out the process.

In general, the new process has been very well received, since it seeks to save time and money, which is why 41.82% of respondents consider appropriate to place a 9/10 rating of this new process.

Chapter 4

Conclusions and recommendations.

After analyzing the normative framework that governs the exemption of taxes to foreign trade, in addition to the analysis of the procedure that should be followed currently to make use of the exemption, and through the field work done which has led to some conclusions and recommendations that will be presented below to fulfill the purpose of the research that is to analyze the operation of the new digitized process to import vehicles for people with disabilities.

4.1 Conclusions.

Presented the complete research, it concludes the following:

- The Ecuadorian government has emphasized the rights of persons with disabilities, implementing policies and laws that benefit them. It is expected that, in the future, the benefits and rights of persons with disabilities will continue to be strengthened in various areas of society.
- The regulatory bodies that govern this exemption have been changing, taking into account the reality of the applicants. These adjustments have been made with the main purpose of clarifying in the best way the legal provisions, so that applicants have no doubt at the moment to use of said exemption.
- The applicants of tax exemption must take into account the maximum values of the vehicle to be imported. In addition, we must be aware that the FOB value of the vehicle is correct. This is used for exemption from taxes that is embodied in the Law Organic for the Balance of Public Finance. It should be noted that what is mentioned in the Regulation of the LOD about the valuation of the vehicle is not taken into

account because there it mentions that on the taxable base of the vehicle, that exemption applies.

- SENAE seeks to reduce the time in their processes by using quality computer systems, that is why in the second chapter we could observe the comparative analysis of the previous process and the new process, and it is evident that the steps to apply to this exemption have been reduced and the procedure is becoming more expeditious.
- Many applicants have benefited from the new digitized process of the application for the importation of vehicles for people with disabilities, which is why in the field analysis 41.82% of surveyed people rated it with 9/10. This means that people with disabilities consider that the new process has been successful in its implementation. However, some note that the delay in the processing of the new application takes between 10 to 19 days while other testimonies commented that in the previous process it took longer with a period of about 5 to 8 months in the approval of Certificate 420, which was necessary to present at the Customs for the import of the vehicle.
- It is important to bear in mind that applicants are benefited from this simplified new application especially because they can do it by themselves. This is so because people do not have to pay a customs agent or concessionaire to carry out the process.
- Despite the fact, that the huge majority of surveyed people are in favor of the new process, many of them also describe the performance of SENAE as "bad". Analyzing and taking into account their opinions, they have considered that this entity has not disseminated the information at its best. They consider it appropriate to hold more informative talks, so at the time when people make the new application they do not have any problems or doubts.

- The SENAE, with this new process has cross-information with the database of the Ministry of Public Health. It is considered that this is effective because at the moment that the applicant does not have the minimum of 30% disability, he or she will not be able to continue with the process. In addition, it is necessary to mention that the Customs does not verify the data of the type of disability, it only verifies that the applicant has the minimum of 30% of disability to apply for the exemption of taxes.
- The processes are becoming shorter, thanks to advances of technology. It is why this new process seeks to optimize time and money of the applicants. In addition, with the implementation of the electronic signature this process is safer and more reliable.
- It has been identified that one of the main problems is the lack of information by the entities involved. The applicants are often unaware of the legal basis on which the exemption of taxes on the importation of vehicles for people with disabilities is based. For this reason there have been some cases in which the imported vehicle has been seized due to improper use, either due to ignorance of the legal grounds or due to malicious misuse.
- Orthopedic vehicles' importation for people with disabilities has great advantages because it is cheaper to import a vehicle with exemption of taxes and with the necessary adjustments, because in Ecuador there is still no know-how technology to adapt vehicles for applicants.

4.2 Recommendations.

At the end of the research, the following is recommended:

- Make some adjustments in the current regulations so that it is in accordance with international regulations, especially in the subject of vehicle valuation. Also, a recommendation should be to implement an effective valuation system in each District, so that applicants do not have any doubts or mistake when choosing the perfect vehicle to import.
- Institutions should strengthen the systems of control in charge so that there is no improper use of the imported vehicle for people with disabilities.
- Disseminate information through brochures in the SENAE offices and the Ministry of Public Health, as well as create a specific web page to provide information for people with disabilities so that they have knowledge about the benefits and especially know the consequences of violating current regulations.
- Implement an advisory window to apply for this exemption with the objective that the process be faster and not cause any setbacks for the applicants.
- Segment the supplementary and complementary codes of the tariff heading according to the type of disability that the applicant possesses, in order to focus the use of the vehicle for a specific disability.

- Reconsider the use of the electronic signature to make the application, since the applicants would avoid doing one step less and the handwritten signature could be used without any problem.
- Provide greater incentives to the national industry in the automotive field to develop suitable vehicles in the country and designed for people with disabilities, so that more people could be benefited.

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