



Guatemala

Investment Guide





Guatemala

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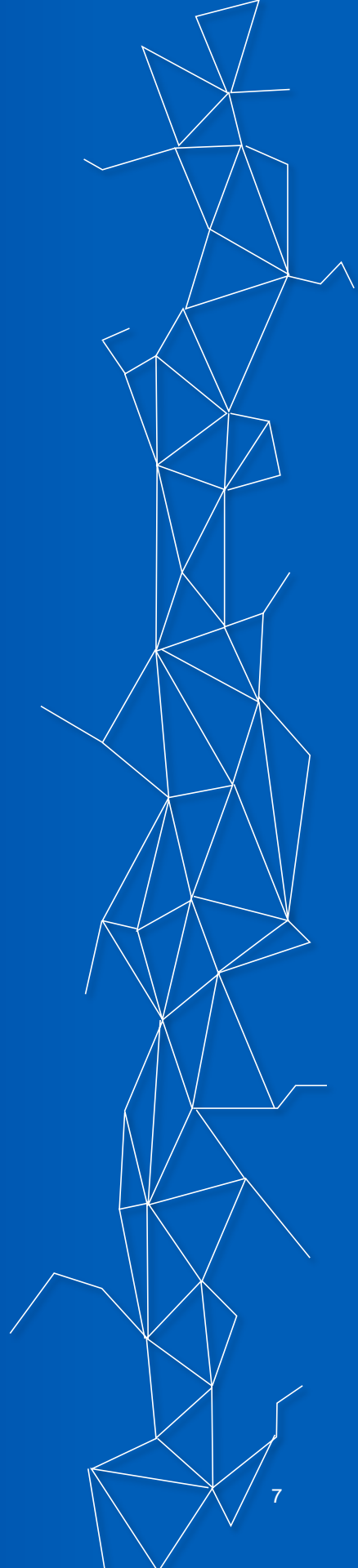
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General Information



General Information

Geography and climate

Guatemala, officially the Republic of Guatemala, is a country located in Central America bordering Mexico, El Salvador, Honduras and Belize. Its capital (Guatemala City) is located in the geographic center of the country.

Due to its geographical location, adjoining the Atlantic and Pacific Oceans, Guatemala presents a strategic point within international trade, and has modern port infrastructure in which the ports of Santo Tomás de Castilla stand out on the Atlantic Ocean and Puerto Quetzal on the Pacific Ocean. Both have facilities and equipment to handle general cargo ships, bulk, solids and liquids, containers, tourism, etc.

As for its climate, due to its tropical location, it has only two seasons: the rainy season, which is called Winter -May to October- and the dry season, which is known as Summer -November to April-.

The Republic of Guatemala is a sovereign and independent state of Central America and is part of the Organization of the United Nations and the Organization of American States. Guatemala is governed politically and legally by the Constitution of the Republic of Guatemala, which is the supreme law of the state.

Population and language

The estimated population is 17 million, the most populous country in Central America. Life expectancy is approximately 74 years. The official language is Spanish.

Government system

The government system is Republican, Democratic and representative. The State Agencies are:

- **Legislative:** Congress of the Republic
- **Executive:** President and Vice-President of the Republic, State Ministers and their units.
- **Judicial:** Supreme Court of Justice, Court of Appeals, First Instance Courts, Magistrates' courts or Juvenile courts and other courts established by law.

Infrastructure

It has seven (7) airports, of which two (2) are international and the remaining five (5) operate locally. The international airports are: La Aurora, located in the capital city and Mundo Maya, located in the Department of Petén.

General Information

Currency and economic indicators

The official currency is the Quetzal (GTQ or Q).

Since 2009, the economy has grown at a rate of about 3%, driven by the main branches of economic activity, such as banking, industry, private services, agriculture, commerce and housing rental.

The inflation rate was 3.41% in 2019.

The exchange rate in Guatemala is based on a "band system" that consists of setting limits for the maximum and minimum exchange rate and consequently the Central Bank buys/sells foreign currency in order to keep the exchange rate within the established interval. The exchange rate against the United States dollar as to December 31, 2018 and 2019 was Q7.7369 and Q7.6988 for US\$1.00, respectively.

Guatemala aims to promote the free establishment of business in the country. Tariff barriers have been declining in recent years.

The Gross Domestic Product (GDP) per capita for 2018 and 2019 was US\$4,549 and US\$4,619, respectively.

Free Trade Agreements

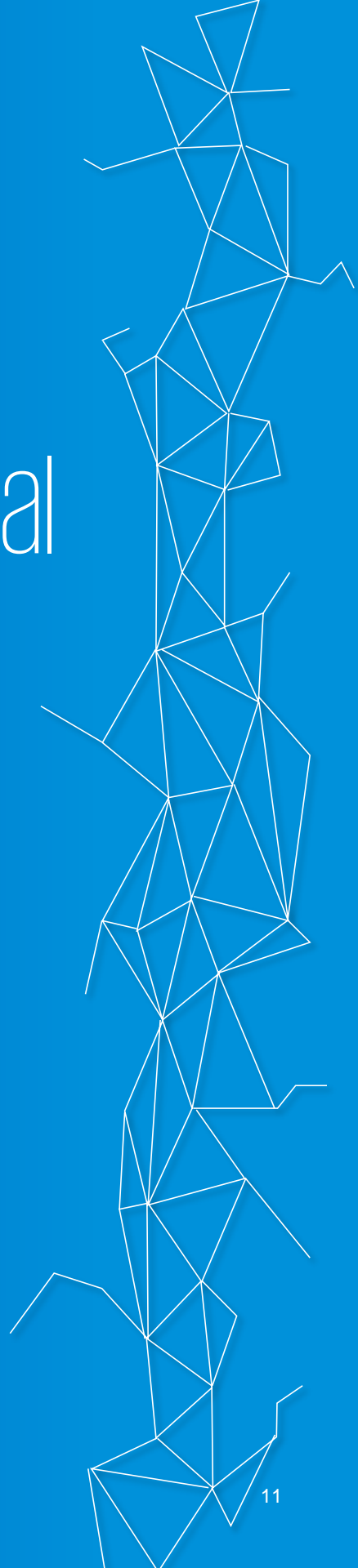
Guatemala's main Free Trade agreements include:

- Central American Economic Integration.
- Free Trade within Central America, the Dominican Republic and the United States of America.
- Free Trade between the United Mexican States and the Republics of El Salvador, Guatemala and Honduras.
- Free Trade with the Republic of China (Taiwan).
- Free Trade between Colombia and El Salvador, Guatemala and Honduras.
- Free Trade between Central America and Chile.
- Free Trade between Central America and the European Union.





Overview of the Legal System



Overview of the Legal System

Trade organizations forms available for business in Guatemala

The forms of Trade Organization, according to the Guatemalan Trade Code, are:

1. Collective Society
2. Limited partnership
3. Joint Stock Company
4. Limited Liability Company
5. Corporation

It also regulates:

- The incorporation of Branches of foreign entities.
- The Entrepreneurship Corporation (Sociedad de Empeñamiento) was recently incorporated to the mercantile legislation, requires a simplified registration and is integrated with one or more natural persons who are only obliged to pay their contributions represented in shares (forming a legal entity different from its shareholders). These types of companies have a limit annual gross income of five million Quetzals (Q5,000,000), otherwise it is necessary to transform into one of the previous entities mentioned.

Overview of the Legal System

About corporations and branches we can comment on them:

Requirement	Corporation	Branch
Paid Capital	Minimum Q 200 approx. (US\$25)	As assigned by Headquarters
Number of partners	2 at least and may be foreigners	Does not apply
Time of establishment (approximately)	20 working days, 2 months (definitive registration)	1 to 2 months with all the required documentation
Registration and operation requirements	<p>Information required by deed of incorporation:</p> <ul style="list-style-type: none"> – Business name – Objectives and deadline – Administrative authorities – Fiscal period – Legal representative – Causes of dissolution – Ordinary Assembly – must meet at least 1 time a year, within 4 months from the end of the fiscal year. 	<ul style="list-style-type: none"> – Evidence that the headquarters is legally established in their country of origin. – Submit a certified copy of the deed of incorporation, the final balance sheet and the profit and loss statement of the headquarters. – Parent Company resolution for branch creation. – Appointment of Proxy (Guatemalan lawyer). – Bond not less than US\$50,000. – Establish assigned capital.
Legal reserve	5% on profits	5% on profits

In the case of private stock companies, they must keep a Register of shareholders and they must present the titles for the corresponding amendments or a certificate of deposit.

Overview of the Legal System

Visas and work permits

Temporary residence requirements for migrant workers

Foreign persons wishing to obtain temporary residence as migrant workers in Guatemala must submit the following:

- Offer Letter for work - original, which shall specify the work conditions, such as time limit, form of remuneration, place of activities to be performed and other established by the Ministry of Labor and Social Security.
- A Guatemalan guarantor, submitting an updated guarantee and notarial act containing the affidavit of the formation of the Guatemalan guarantor.
- Temporary residence for migrant workers shall be granted for up to five years, depending on the period of the employer's offer of employment or at the discretion of the Guatemalan Migration Institute.
- In addition to the general requirements for temporary residence, the blood relatives as determined by law, spouse or cohabitant according to Article 27 of the Migration Code (Decree Number 44-2016 of the Congress of the Republic), must document the relationship with the migrant worker and the activity they will be performing.

Temporary residence requirements for intellectuals, researchers and scientists:

Persons wishing to obtain temporary residence for intellectuals, researchers and scientists in Guatemala, as provided in Article 75 (e) of the Migration Code (Decree Number 44-2016 of the Congress of the Republic), in addition to the general requirements for temporary residence, shall submit the following:

- Documentation certifying professional qualification to practice as an intellectual, researcher or scientist.
- A Guatemalan guarantor, submitting an updated guarantee and notarial act containing the affidavit of the formation of the Guatemalan guarantor.

Overview of the Legal System

Costs

Temporary residence	Costs (USD)
Application fee	US\$25.00
1 year	US\$200.00
2 years	US\$300.00
3 to 5 years	US\$500.00

Work Permit

Foreigners who enter the country legally require prior authorization from the Ministry of Labor and Social Welfare to work in a dependency relationship, providing services to a private sector employer.

Any application for a labor permit from a foreigner must be submitted by the interested employer, in writing, directly to the General Directorate for Labor, establishing a place to receive notifications. In any event, the Ministry of Labor and Social Welfare shall be able to determine the assertions in the application and the veracity of the accompanying documents. If documents come from abroad, they must satisfy the legal requirements from the judicial body law (Decree Number 2-89 of the Congress of the Republic and its reforms).

Overview of the Legal System

Requirements to apply for a work permit for foreigners

Employers applying for permission to hire foreigners

- Written request addressed to the General Director of Labor, indicating a place to receive notifications (address, telephone number and Tax ID number), signed by the legal representative of the entity.
- Authenticated photocopy of the employer's legal representation as well as their respective registration.
- Authenticated photocopy of the Personal Identification Document (DPI in Spanish) or foreign passport of the hire.
- Authenticated photocopy of the migration situation (temporary or permanent residence visa, or certificate of commencement of proceedings before the General Directorate of Migration). If the passport contains this requirement, it is obviated.
- Notarial act or document with a legalized signature, stating that the applicant employer is responsible for the actions of the foreigner to be hired, for the duration of the labor relationship.
- Accounting certificate issued by an authorized accountant, showing the total number of employees of the entity, as well as how many are nationals and how many

are foreigners, and their respective percentages; as well as the total wages paid, the total paid to nationals and the total paid to foreigners, with their respective percentages, this must be done according to the authorized wage book, indicating the registration number and date of authorization, from the most recent week, fortnight or month prior to the date of submission of the application, according to the periodicity of salary payment established by the company.

- Authenticated photocopy of the appointment of the foreigner to be hired and, if applicable, the basis of the respective registration, indicating in detail the position profile and the functions of the role, if a professional, accredit their registration to the University of San Carlos of Guatemala.
- Affidavit or document with a legalized signature, stating that the foreigner to be hired speaks, understands, reads and writes Spanish, when he comes from a country that speaks a language other than Spanish.
- Express declaration by the applicant that commits itself to the training of Guatemalan personnel, through payment for each application for a work permit of the fee established by the General Directorate for Training and Vocational Training, and that they must submit a photocopy of the proof of payment of that sum (Q3,000.00).

Overview of the Legal System

Characteristics of the labor system

Employment contracts

The individual employment contract may be:

- **For an indefinite period:** does not indicate a date of finalization: Generally, every contract is entered into for an indefinite period.
- **Fixed term:** indicates the final date or when it is expected to occur in any event or circumstance (e.g. completion of work).
- **For given work:** the price of the worker's services is adjusted globally or in the way of which price for the services are considered from the beginning of the work and until its conclusion; it considers the result of the work done.
- **Part-time work:** this type of employment is feasible and the worker will enjoy the protections, rights and obligations established by international laws and conventions.

Employment benefits

The main benefits granted by Guatemalan labor legislation are:

Description	Quantification
Incentive bonus	Minimum Q250 monthly
Regulatory Act on the provision of bonuses (Christmas Bonus)	Equivalent to a salary
Annual Bonus Act for private and public sector workers (Bono 14)	Equivalent to a salary
Holidays	15 working days per year
Economic Advantages	30% of salary, unless otherwise agreed
Pre-and post-natal period and	30 days for pre natal and + 54 days for post natal care
Breastfeeding period	10 months

Overview of the Legal System

Minimum wage

Those are fixed periodically (in general every year) and for the year 2020 are the follows:

- Agricultural economic activities, the ordinary daily hour tariff is Q11.27, corresponding to Q90.16 per day
- Non-agricultural economic activities, the ordinary daily hour tariff is Q11.61, corresponding to Q92.88 per day,
- Export and assembly factory activities, the ordinary daily hour tariff is Q10.61, corresponding to Q84.88 per day.

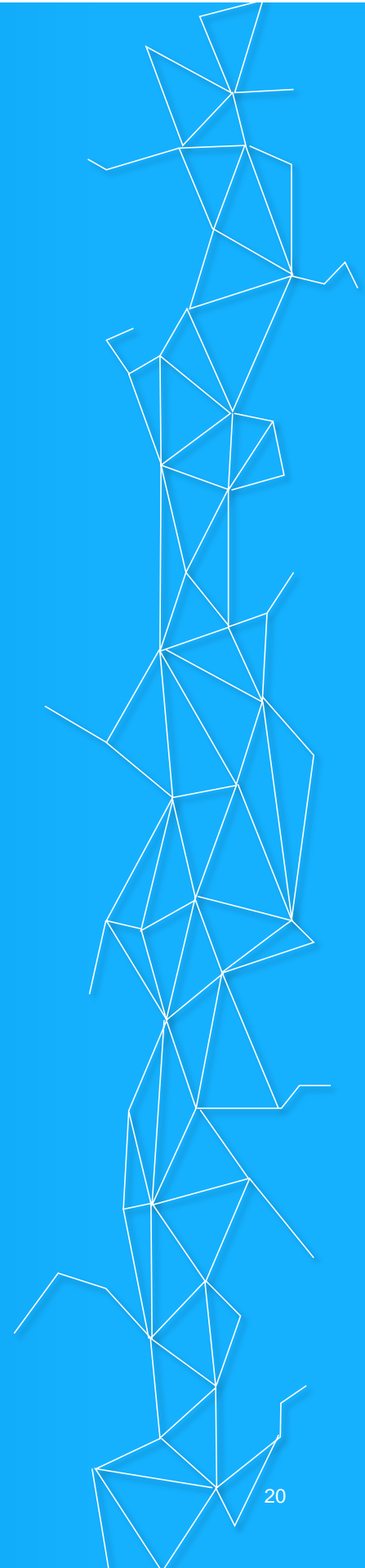
Social Security Regimen

The employer's quote is 12.67% and the employee's quote is 4.83%. No cap or maximum is applicable.





Overview of the Tax System



Overview of the Tax System

Income tax

General Aspects

The Income Tax is regulated in Book I, Tax Update Law, Decree Number 10-2012 of the Congress of the Republic and its reforms.

Based on the principle of territoriality and only taxes income obtained within Guatemala by individuals, legal entities and other entities specified in the law, whether nationals or foreigners, residents or not in the country.

Income is categorized in: 1) lucrative activities, 2) work activities, 3) capital income and capital gains, and 4) non-residents.

Income from lucrative activities includes two regimes: (1) general or net profit; and (2) optional or gross income.

It is possible to select the one that best suits the activities of the taxpayer (break-even point is 28%) and can be modified in December to be applied in the next fiscal period starting in January of the following year (only fiscal period allowed).

In the general or net profit regimen, the taxable income is determined by deducting from the gross income, the exempt income and the deductible costs and expenses in accordance with the law.

The optional or gross income is determined by deducting the exempt income from the gross income.

Rates

In the net profit regimen the tax rate is twenty five percent (25%) and in the gross income regimen it is seven percent (7%) maximum, considering the following scale:

Monthly taxable income range	Fixed amount	Tax rate of
Q0.01 to Q30,000.00	Q0	5% on taxable income
Q30,000.01 onwards	Q1,500	7% over Q30,000 surplus

Tax return

For both regimens the fiscal period of the taxpayer is from January 1 to December 31 (calendar year) and the annual tax return is filed within the first 3 months of the following year.

In the profit regimen the return is filed to settle the tax of the fiscal year; whereas in the gross income regime it is only an informative return because the tax is settled monthly.

Overview of the Tax System

Partial payments

Quarterly advances or partial payments should be made under the net profit regimen, using any of the following options: (1) making partial accounting closures at the maturity of each quarter or (2) on the basis of an estimated taxable income of 8% of the gross income obtained in the respective quarter, excluding exempted income. Three (3) quarterly payments are made and the last quarter tax is paid in the annual return. Quarterly payments are filed within the following month of the end of the calendar quarter.

In the gross income regime, the tax is paid on a monthly basis and it is withheld by customers (the corresponding adjustments are made by the taxpayer at the end of each month). It is possible to request permission to make your own monthly settlement. Monthly payments are filed within ten (10) working days of the following month.

Dividends

Taxable Event

Dividends, profits, benefits and any other income derived from the participation or holding of shares in legal persons, entities or assets resident in Guatemala constitute capital income and the tax is generated when they are paid.

Return

Whoever pays the dividends, profits or benefits is responsible for withholding and paying the tax to the tax authority within ten (10) business days of the following month of the date of payment.

Rates

The distribution of dividends, benefits or profits is subject to a rate of five percent (5%), which applies to both individual or legal persons, whether resident or not in the country.

Overview of the Tax System

Withholdings on Remittances Abroad

Taxable Event

Any income obtained by non-residents is a taxable event, which is paid definitively.

If the non-resident person constituted a permanent establishment, shall not apply a withholding tax on the incomes obtained in the country, having to pay the tax according to the regimes established for Guatemalan taxpayers.

Return

The tax must be withheld by the Guatemalan withholding agent and paid within ten (10) working days of the following month on which the payment was made to the non-resident. In this case, a withholding certificate is issued to the non-resident.

If the tax was not withheld, it is possible for the non-resident to file a return directly with the Guatemalan tax authority.

Rates

The applicable rates on income paid to non-residents are as follows:

- Three percent (3%) for international news supply, use of cinematographic films, among others.
- Five percent (5%) for:
 - Cargo and passenger transport activities.
 - Insurance, bonds and reinsurance premiums, among others.
 - Telephones, data transmission, international communications, among others.
- Ten percent (10%) for the payment of interest.
- Fifteen percent (15%) for:
 - Salaries, allowances, commissions, bonuses, among other remunerations.
 - Payments to athletes and artists.
 - Royalties.
 - Fees.
 - Scientific, economic, technical or financial advice.
- Twenty five percent (25%) for income not specified above.

Overview of the Tax System

Income Tax on employment remunerations

Taxable Event

It applies to the payment of income, regardless of its denomination, derived from personal work rendered in a work relationship by individual persons residents in Guatemala.

The taxable base results from deducting the total remuneration obtained the:

- exempt income;
- single quota of forty eight thousand Quetzals (Q48,000) without verification;
- Social Security contributions paid by the employee;
- VAT paid up to twelve thousand Quetzals (Q12,000);
- donations (up to five percent (5%) of the total income); and,
- personal life insurance.

Return

The entire tax must be withheld monthly by the employer during the fiscal year (January-December); only if the entire tax has not been withheld, the employee must file a return at the end of the fiscal year. Sanctions could result for the employer in these cases.

Rate

On the resulting taxable income, the first three hundred thousand Quetzals (Q300,000) pay five percent (5%) and the surplus of the previous amount, seven percent (7%).

Tax treatment of international staff

Guatemala does not provide a specific procedure for income tax and social security for international assignees (inbound and outbound).

The Tax Update Law establishes that someone is a resident person in the country for tax purposes, when any of the following situations occur:

- Stay for more than one hundred eighty three (183) days in the territory of Guatemala in a calendar year, even if it is not continuous;
- Their center of economic interest is located in Guatemala, unless it proves its residence in another country; and,
- Guatemalans living abroad who are employed by a local private entity, if they remain abroad for less than one hundred eighty three (183) days of the calendar year.

An assignee who is considered a resident must pay their taxes according to the conditions of the preceding paragraph. However, due to the diversity of conditions that can be agreed upon in an international assignment, each particular case must be analyzed individually.

Regarding social security contributions, the current regulation does not provide for a particular procedure for international assignments; therefore, each particular case should be analyzed and, if applicable, you should consider the quotas for the contributions mentioned for Guatemalan employees.

Overview of the Tax System

Income tax for natural persons

If a natural or individual person provides his or her services independently, he or she must observe the tax aspects considered in relation to corporate income tax.

Capital taxes (income, gains and losses)

Taxable event

The obtaining of: (i) capital income and (ii) capital gains and losses in Guatemala, in money or in kind, and that arising from assets, property or rights, directly or indirectly, is the taxable event of this type of income.

Capital income is classified as: (i) real estate (Leasing, subleasing, creation or transfer of rights to use or enjoy real estate) and (ii) movable goods or capital (interest, leasing, subleasing movable property, royalties, copyright, etc.).

Capital gains and/or losses are those arising from any transfer, conveyance, purchase/ sale, exchange or any other form of negotiation of ownership and rights, which ordinary course is not to trade with them.

Capital losses can only be offset by future capital gains up to a maximum of two (2) years.

Return

The tax is paid within the first ten (10) working days of the following month in which the capital income or capital gain was generated.

Rates

- For real estate rental, ten percent (10%) over seventy percent (70%) of the income value.
- For interest, ten percent (10%); there are some exceptions, especially with banks.
- For dividends, five percent (5%).
- For capital gains, ten percent (10%).
- For lottery income, raffles, draws, bingos, ten percent (10%).

Overview of the Tax System

Value Added Tax (VAT)

General Aspects

This tax is contained in Decree Number 27-92 of the Congress of the Republic and its reforms. It considers any individual or legal person who regularly or periodically carries out taxed actions in the national territory as taxpayers.

Most of the goods purchases or services received by a taxpayer give the right to recognize tax credit which can be offset by the tax debit charged on invoices issued for the sale of goods and providing services. If the tax credit is higher, it can be transferred to the next month for compensation; if the tax debit is higher, the tax must be paid within the next month.

This tax makes it compulsory to use previously authorized documents to support transactions, the main ones being: (a) invoices, (b) small-contributor invoices, (c) debit and credit notes. Electronic documents (online electronic invoice or FEL in Spanish) were recently introduced and only certain taxpayers are obliged to use them, but also it is allowed for anyone that wants to use it.

Taxable Event

The sale of goods, providing services, imports, among other facts duly expressed in the law are taxed. Goods exported are exempt of tax and services exports may also be exempt, provided that the conditions for said case are met.

Return

The tax must be declared in the form provided for, during the following month in which it is settled.

Special situations are foreseen for the payment of VAT related to the negotiation of real state and motor vehicles, among others.

Rate

This is twelve percent (12%) and by legal requirement must be included in the sale price of the goods or services provided.

Overview of the Tax System

Tax credits

Every taxpayer has the right to recognize VAT tax credit directly related to purchases of goods and services received, provided that they are related to the economic activity.

This tax credit, as indicated above, can be offset with the tax debit charged on the sale of goods and services.

For the case of exporters and the taxpayers who make sales to entities exempt from VAT in Guatemala, they can adopt any of the different reimbursement systems of VAT credit set out in the law. However, in order to be able to use any of them, they must comply with certain specific guidelines as appropriate in each case.

The accumulated tax credit can be used at any time in the future; however, for reimbursement purposes, it will only be possible to request before the statute of limitation period [four (4) years].

In Guatemala there is also a system of VAT withholding where part of the VAT included in the invoice of the sellers must be withheld. This withholding is made by the buyer, who has previously been appointed by the tax authority as a withholding agent. This VAT withholding may be credited by the seller in the month in which it was withheld and if it cannot be used, there is the right to request a refund, complying with certain specific requirements.

Overview of the Tax System

Property transfer and property tax

The transfer of real estate is subject to the payment of twelve percent (12%) VAT when it is found that it is the first sale or swap made on the property. The second or subsequent sale or swap pays three percent (3%) in stamps tax.

In any case, if results a capital gain, it must be taxable.

In addition, the real estate tax (Decree Number 15-98 of the Congress of the Republic and its reforms) must be paid quarterly on the real estate property ownership, depending on the registered value of the property pays between 0 per thousand and 9 per thousand.

Other taxes

Guatemala's tax legislation contains other laws that could be applicable to any taxpayer in the country or depending on their type of business, could specifically affect their activity; the main ones are:

Solidarity Tax (Decree Number 73-2008 of the Congress of the Republic and its reforms)

Taxpayers in the net profit regime of the Income Tax should contribute this tax, which is applied on a larger basis after comparing the "net assets" or "gross income" (there are special conditions to be observed for determining the taxable amount) obtained in the preceding immediate fiscal period. This tax is contributed quarterly, its rate is one percent (1%) on any of the above mentioned bases and can be offset among them with the Income Tax (provided certain specific conditions are met).

Bancarization of tax material (Article 20 Decree Number 20-2006 of the Congress of the Republic and its reforms)

In order to deduct in the Income Tax costs and expenses incurred as well as the recognition of tax credits on amounts on purchases of goods or services from Q30,000, the payments to the vendors must be made using any form (not using cash) that banks facilitate, which helps to individualize the person who sold the goods or provided the services. This is important in inter-company transactions that want to be compensated. Alternate procedures could be observed; however, the conditions and costs that might be involved should be assessed.

Overview of the Tax System

Other specific taxes in force in the country are:

- i. On the distribution of soft drinks, isotonic or sports drinks, juices and nectars, yogurts, prepared concentrates or in powder for beverage manufacturing and bottled natural water (Decree Number 9-2002)
- ii. On the Distribution of Alcoholic Beverages, Distilled Spirits, Beer and other Fermented Beverages (Decree Number 21-2004)
- iii. The Distribution of Crude Oil and Derived Fuels (Decree Number 38-92)
- iv. Tobacco and its products (Decree Number 61-77)

All the above-mentioned norms are from the Congress of the Republic and have had reforms that must be observed when consulted).

Other tax compliance regulations

Transfer Price

The regulation has been in force since January 1, 2013.

The valuation rules between related parties apply to any transaction between a person resident in Guatemala and a person residing abroad that has an effect on the determination of the basis of assessment for the period during which the transaction is carried out and for the following periods.

The regulation is consistent with the Organization for Economic Cooperation and Development (OECD) Guidelines and its application considers the following methods:

- Comparable uncontrolled price method
- Cost plus method
- Resale price method
- Transactional profit split method
- Transactional net margin method

In addition, the regulation provides for the application of the valuation for imports or exports of goods method.

Study

Taxpayers must have, at the time of filing the income tax return, the information and analysis sufficient to demonstrate and justify the correct determination of the prices, the amounts of the considerations or profit margins in its operations with related parties. This information should be contained in the single report called the Transfer Pricing Study.

The report must be made available at the time of submission of the annual return and is submitted only at the request of the Tax Administration, for a period of twenty (20) days from receipt of the request.

Overview of the Tax System

Return

Those who state in their return that are engaged in operations with related parties abroad shall attach an annex summarizing information with the related parties, transactions, amounts, methods used and information from comparable companies.

Master File

The information and documentation general principles state that information that the taxpayer has used to determine the valuation of transactions between related parties should be included and shall consist of: (i) that relating to the taxpayer and (ii) that relating to the corporate group to which the taxpayer belongs.

The Guatemalan regulation does not precisely establish the obligation to prepare and submit a Master File Report.

Country-by-country

Regulation does not require the preparation of a report like this.

Tax Audit

The Tax Authority has the power to verify whether transactions between related parties have been valued according to the principle of free competition and to make appropriate adjustments where the agreed valuation results in lower taxation in the country or deferred taxation.

The performance of the Tax Administration has not been of high intensity and has merely required the submission of transfer pricing studies and the timely submission of the annex of related parties.

It is known that specific auditing processes have been carried out for certain taxpayers operating in specific industries and as a result of these audits they have begun disputing processes over transfer price adjustments which are in dispute at the administrative stage.

Information exchange and double taxation treaties

Up to date, Guatemala has not signed double taxation treaties.

There are signed tax information exchange treaties with the kingdoms of Sweden, Denmark, Norway, as well as the governments of the Faroe Islands, Greenland, Finland and Iceland.

There is also an agreement (Number 652) of Mutual Assistance and Technical Cooperation among Tax and Customs Administrations of Central America.

Overview of the Tax System

Available tax incentives and special business areas

Guatemala has laws that seek to attract foreign investment, the main ones are:

Law to promote the activities of export and assembly factories (Decree Number 29-89 of the Guatemalan Congress and its reforms)

Its aim is to promote, encourage and develop the production of goods in the textile industry and the services activities of call centers and data processing in the national customs territory. By fulfilling certain requirements set out in the law, it is possible to qualify for exemption from direct taxes [Income Tax for up to ten (10) years] and indirect taxes [VAT and tax stamps during the time of business activities].

Duty Free Zone Law (Decree Number 65-89 of the Guatemalan Congress and its reforms)

Its aim is to encourage and regulate the establishment of duty free zones within the country, the aim of which is to focus on foreign trade. Those industries that qualify can obtain direct tax exemption [Income Tax for up to ten (10) years] and indirectly taxes [VAT and tax stamps during the time of the business activity]. The regulation restricts its use to certain industrial and commercial activities, so it is necessary to ensure that the activity carried out in Guatemala can qualify under this regulation.

ZOLIC Law –Industry and Trade Duty Free Zone Law “Santo Tomás de Castilla” (Decree Number 22-73 of the Guatemalan Congress and its reforms)

Its objective is to promote industrial and commercial development where industrial, commercial or service production activities can be carried out. The agreement allowing the establishment of zones for Special Public Economic Development (ZDEEP in Spanish) was recently issued, granting, in addition to import and export benefits, tax incentives in direct taxes [Income Tax for up to ten (10) years] and indirect taxes [VAT and tax stamps during the time of the commercial activity], which have been limited to certain activities within the regulations of duty free zones and export and assembly factory activity.

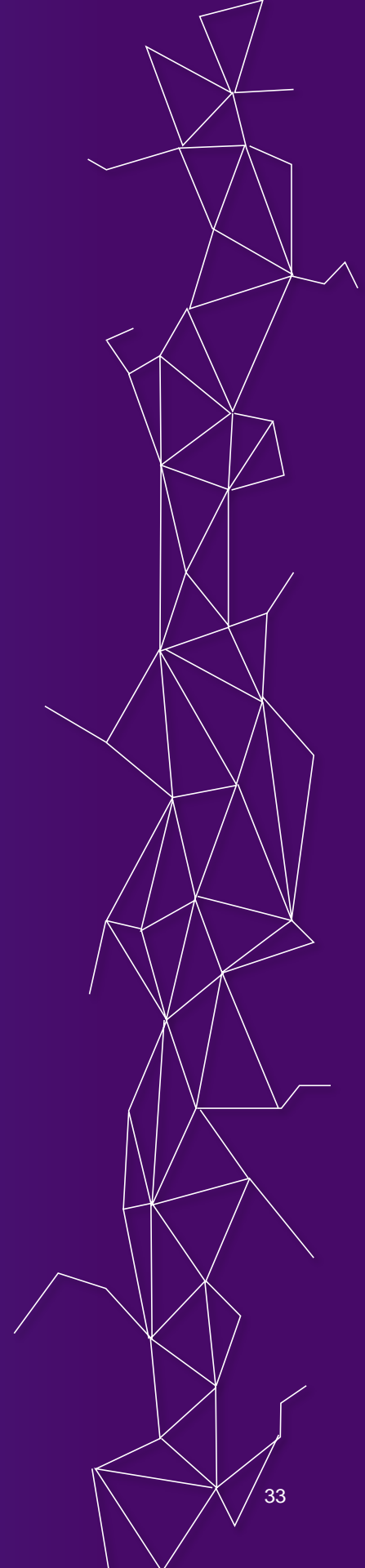
Foreign Investment Law (Decree number 9-98 of the Guatemalan Congress and its reforms)

Its purpose is to ensure, guarantee and protect capital formation, savings and investment and to create the right conditions to promote the investment of foreign capital, giving the same conditions, rights and limitations applying to Guatemalan investors. It also guarantees the return abroad of capital that was previously invested in the country.





Accounting Regulations



Accounting Regulations

Applicable legislation

The College of Public Accountants and Auditors of Guatemala resolved to adopt the conceptual framework of International Financial Reporting Standards (IFRS) in 2009.

The current tax and commercial legislation has not been updated to expressly state that IFRS should be observed; they only point out:

- In the Tax Update Law (that rule the Income Tax), that taxpayers must comply with the obligations contained in the Code of Commerce.
- In the Commercial Code, traders are obliged to keep organized accounts, according to the double entry system and using Generally Accepted Accounting Principles.
- For financial institutions, the Monetary Board requires them to apply the Manual of accounting instructions for entities subject to the supervision and inspection from the Guatemalan Banks Supervisory Authority.

It is also allowed to keep accounts based on the regulation established in the Income Tax.

Therefore, any company that is about to start commercial operations in the country should be advised to establish what is most convenient for its business.

Other important aspects to consider are:

- Sheets should be authorized for printing of journal entry, general ledger, financial statements and inventories books.
- The information must be submitted in Spanish.
- The figures must be expressed in local currency (Quetzals).
- A Guatemalan accountant must be registered with the tax authority, which will be responsible for the preparation of records and the issuance of financial statements.

Variations between the accounting results and the taxable income

Any variation between the accounting results and the taxable income should be duly recorded, explained and documented. Tax Authority may require further explanation and detail between the differences that result at the end of each fiscal period. The tax rules in force state that where the taxable income does not reconcile with the accounting results on which the auditor gives their opinion, a reconciliation must be accompanied.

Accounting Regulations

Requirement for Audited Financial Statements

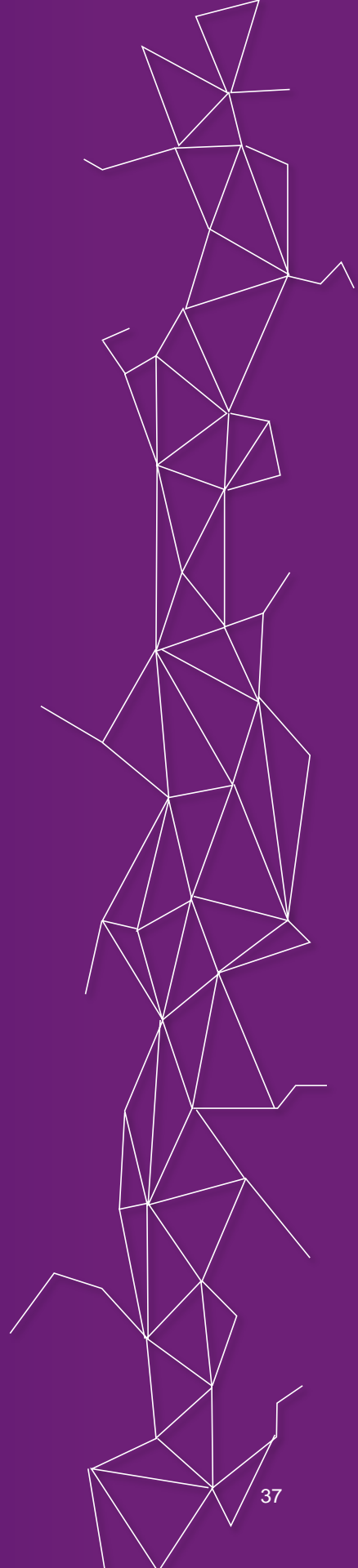
For tax purposes, the Income Tax regulation requires taxpayers in the net profit regimen and which are qualified by the Tax Authority as “special taxpayer” and/or “VAT withholder agents”, to attach the duly audited financial statements to their annual Income Tax return.

In addition, in Guatemala and in accordance with the banking regulations, a prerequisite for granting credits over five (5) million quetzals is that the borrower must present financial statements prepared according to IFRS and duly audited based on NIAS basis.





Financial System



Financial System

General Aspects

The Guatemalan regulated financial system is formed by entities legally incorporated, authorized by the Monetary Board and supervised by the Superintendence of Banks which is a Central Bank organ acting under the general direction of the Monetary Board and executes the surveillance and inspection of the Central Bank, banks, finance companies, loan institutions, insurance-guarantee companies, insurance companies, general deposit warehouses, exchange entities, financial groups and entities controlling financial groups and other entities determined by law.

Currently are operating in the country sixteen (16) banking institutions and ten (10) financial groups, and their financial information is regulated by the Accounting Manual issued for the Entities subject to the Surveillance and Inspections of the Superintendence of Banks.

Structure and supervision of the banking and securities system

The Monetary Board is the highest authority over the Guatemalan banking system, and the Banks Supervisory Authority was established in order to ensure that it is responsible for verifying the proper compliance of the rules and laws of financial institutions. In addition, there is the Special Verification Inspectorate (IVE in Spanish), which is responsible for the implementation of issues related to money laundering and other assets law, as well as for the prevention and suppressing of terrorism funding law.

Conditions for currency handling

Decree Number 94-2000 of the Congress of the Republic allows the free movement and negotiation of foreign exchange in the Guatemalan financial market. Financial institutions are allowed to purchase and sell foreign currency and any individual or legal person can maintain and negotiate any currency within Guatemalan territory. However, the Monetary Board is responsible for determining the monetary policy in terms of the exchange rate; in addition, in the area of money laundering, the IVE regulates the limits on which financial institutions can operate.

Incentives available to banks

Currently, banks and financial institutions do not have incentives to create new financial institutions, products or increase credit in the Guatemalan market.

However, these institutions make significant investments in different financial instruments issued by the state of Guatemala (e.g. Treasury bonds) and income earned is usually exempt from tax in the country.





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