



DOING BUSINESS IN GUATEMALA

1. Fact Sheet

Geography

Location	Central America
Area	108,890 Km ²
Land boundaries	Belize, El Salvador, Honduras, and México
Coastline	Pacific Ocean and Atlantic Ocean
Climate	15° C - 25° C
Terrain	Mostly mountains with narrow coastal plains and rolling limestone plateau
Time zone	GMT minus 6 hours (US Central Time).

People

Population	About 13,276,517
Ethnic groups	Maya-Quiché 45%; Mized 45%; Black 10%
Religion	50–60% of the population is Catholic, 40% Protestant, and 1% follow the indigenous Mayan faith
Language	Spanish

Government

Country name	Republic of Guatemala
Government type	Presidential Republic
Capital	Guatemala City
Administrative divisions	Guatemala is divided into 22 departments and subdivided into about 332 municipalities
Political situation	Guatemala is a presidential representative democratic republic, whereby the President of Guatemala is both



head of state and head of a multi-party system. Executive power is exercised by the government. Legislative power is vested in both the government and the Congress of the Republic. The Judiciary is independent of the executive and the legislature.

Economy

GDP – per capita	\$3,020
GDP – real growth rate	4.0%
Labor force	4.9 millions
Unemployment	3.13%
Currency (code)	Quetzal

2. Business Entities

There are five types of business corporations according to the Code of Commerce: S.A., Limited Liability Company, General Partnership, Joint Liability Company and Joint Stock Company. In general, companies choose to operate as limited liability companies or S.A.s.

- S.A.s (Stock companies)

The main features of this corporate vehicle are as follows:

- a. A Stock company is one that has its capital divided and represented by shares.
- b. The responsibility of each shareholder is limited to the total amount of shares subscribed to by them.
- c. The company must be identified by a name. The law is broad and allows for free choice of the name, which must be followed by the initials reflecting the type of company (S.A.).



- d. Each shareholder is free to transmit the capacity of shareholder by share transference.
- e. All decisions are made by the majority.
 - Limited Liability Company

The main features of this corporate vehicle are as follows:

- a.** The company must be identified by a name. The law is broad and allows for free choice of the name (the principal activity must appear in the name), which must be followed by the initials reflecting the type of company: “Ltda.” or “Cía. Ltda”. If no such indication of type of company is included, the members will be subject to a strict regime of responsibility
- b.** The company must have a minimum of two members.
- c.** Under Guatemalan law, the maximum number of members permitted for such companies is 20.
- d.** In general terms, members of Limited Liability Companies are not liable for company obligations.

Guatemala’s Requirements to Operate in the Country

Every foreign company which wants to establish a branch or agencies in Guatemala will have:

1. To prove that the company was constituted following the rules of the foreign country.
2. To present a copy of the bylaw and its modifications.
3. To present the company resolutions.



4. To hire a chief executive agent in Guatemala, who will have ample faculties to execute all legal and business acts. If the chief executive agent does not have those faculties, he will be considered as if he has them.
5. To constitute a capital to guaranty its activities by at least the equivalent in quetzals of fifty thousand dollars of the United States of America (US\$ 50,000,00)
6. To declare that before retiring from the country, it will fulfill all legal requirements.
7. To present one copy of the last balance sheet.

3. Investment

Guatemala is ruled by a Central Banking System. As is detailed in article 133 of the Constitution of Guatemala, the Supervision Board of the Bank (Junta de Supervisión del Banco, or “SIB”) is the organization in charge of the supervision of the banks, the credit organizations, financial companies, insurance companies and organizations. Besides supervising the financial system; the law grants another function to the SIB: the promotion of the solid and reliable institutions of the country. In particular, the SIB verifies that each financial institution publishes exact financial information that fulfills the international laws and provides to users a trustworthy information system.

Tariffs

Current tariffs of import in Guatemala range from a low 5% to an overflow of 20%, although there are some exceptions. Guatemala has signed free trade agreements with countries such as Mexico, The Dominican Republic and Chile, and they intend to continue signing these kinds of treaties.



Foreign investment incentives/restrictions

Foreign investment in Guatemala is generally welcome. The country imposes relatively few restrictions on foreign investment.

The country is well known because of its modern infrastructure that includes developed services of telecommunication, highly-qualified employees, technology and resources that allow businesses to respond to the global demands of products and services.

There are no restrictions on the repatriation of capitals (but of course they must pay taxes). The three factors that make this country a highly attractive place to invest are: its strategic location, its market opening and its competitive costs.

Guatemala has Free Trade Zones with lots of benefits. Maquilas benefit from the same incentives as companies located in Free Trade Zones without the location restrictions. Guatemala has 10 private Free Trade Zones and one government Free Trade Zone.

Companies that decide to be located in Free Trade Zones have benefits like security, building facilities, installed infrastructure, expedited customs clearance, and tax and other fiscal incentives. The Labor Law applies everywhere in Guatemala.

The Promotion of the Exporting Activity and Maquila Industry Law (Decree no. 28-89) has the aim of promoting, stimulating and developing the production of merchandise for exportation, as well as to regulate the exporting activity of Maquilas.

The Free Trade Zones and the Promotion and Development Law grant the following fiscal incentives to foreign investors:

- Treated as National.
- 100% exonerated of the tariff applicable to the import of machinery and equipment, raw material and other consumables.
- 100% exonerated of income tax for 10 years.
- 100% exonerated of the VAT.
- 100% exonerated of the Unique Tax on Buildings - IUSI- for administrative entities.



4. Employment Regulation

In Guatemala, the employer and the employee freely agree upon salary issues. Nevertheless, it shall not be lower than the minimum wage that is established annually by the government for the Agroindustry.

The Labor Code of Guatemala provides for the organization of employee associations and labor unions. However, they are not so common. They are more common in the public sector.

The Labor Code of Guatemala requires that at least 90% of the total employees must be Guatemalan and that the Guatemalan employees must earn at least 85% of the total salaries paid by the employer.

The law prohibits employment while someone is a tourist or in one of several types of residencies favored by foreigners.

In Guatemala, any foreign person that intends to work in an employment relationship must have a migratory status that allows working. No one can work in Guatemala without first obtaining a work permit.

Social Security

Guatemala's social security system is financed through a two-tiered system:

1. Employer contributions.
2. Employee contributions.

Every month, the employee must pay 4.83% of his salary, and the employer must pay 12.77%.



5. Taxation

- **Corporate and individual taxation**

Income Tax affects any income obtained by any individual or legal entity, local or foreign, domiciled or not in the country, coming from any source within the territory of the Republic of Guatemala. The fiscal year for the payment of Income Tax starts on January 1 and ends on December 31.

Taxpayers are able to choose between paying a 5% over gross profit as a definite payment, or a 31% over their net income.

This system applies automatically, except for taxpayers who opt for the system of the 31% which applies to individuals or legal entities that are involved in business activities, as well those who are not involved in business activities. The resulting tax from applying 5% to gross income can be paid to the tax authorities by means of the definite retention system or directly to the tax authorities.

Not all the taxpayers can choose this 5% system. Those employees who are working as dependent employees must pay according to the 31% system, which allows certain deductions reported as expenses.

It is important to say that the Income Tax percentage of 31% is for individuals and legal entities who are involved in business activities and for individuals who don't engage in any commercial activities; for individuals who engage exclusively in dependent work relationships, the rate varies from 15% up to 31%, depending on their income.

Taxpayers can deduct as expenses their interests and royalties. When the taxpayers send payments to non-resident individuals or corporate entities, income tax must be withheld.



VAT

The Value-Added Tax (VAT) is one the lowest in Central America at a rate of 12%. The IVA declaration must be presented monthly. As VAT taxes, this tax is levied on any value that is added to a product, and it is neutral with respect to the number of withholders involved in the process. Each one of them is entitled to deduct the amount previously paid.

Real Estate Tax

This tax is applicable to the value of the real estate from a rate of 0.03% to 0.09%.