



Doing Business in GUATEMALA



Content

1. About Andersen Tax	3
2. Country Highlights	5
3. Corporate Aspects	6
4. Payroll Charges and Labor Rights	7
5. Guatemalan Taxes Overview	11
6. Corporate Income Taxes	12
7. Indirect Taxes	13
8. Property Taxes	13
9. Funding Alternatives	15
10. Other Cash Repatriation Alternatives	15
11. Import of Goods	16
12. Transfer Pricing	19
13. Low Tax Jurisdicción (LTD) and Privileged Tax Regimen (PTR)	19
14. Holding Company Analysis	19
15. Tax Succession and Tax Penalties	21

1. About Andersen Tax

Andersen Global

Andersen Global® was established in 2013 as an association of legally separate, independent member firms, with a worldwide presence and comprised of professionals that share a common background and the same vision no matter the location where they are.

Our growth is a byproduct of the outstanding client service delivered by our people, the best professionals in the industry and our objective isn't to be the biggest firm, it is to provide best-in-class client services in seamless fashion across the globe.

Our professionals are selected based on quality, like-mindedness, and commitment to client service and each and every one of the professionals that are a part of Andersen Global share our core values.

Andersen Global was established to create an enduring place – ONE FIRM where clients across the globe are afforded the best, most comprehensive tax and legal services provided by skilled staff with the highest standards.

Outstanding client service has and will continue to be our top priority.

About Andersen Tax in Guatemala

Andersen Tax in Guatemala provides high-quality professional services that fulfill the needs of its customers, generating added value in what it does. Our firm offers superior tax and legal advice for corporations and individuals as well as comprehensive business consulting services. Our staff has experience in a variety of industries, which is the key to our quality services.



The firm is made up of specialists in the areas of tax, legal, business, human talent and training consulting. Our commitment is directed to the specific needs of our clients at the national and Central American level, as well as globally through the services provided by the member firms and collaborating firms of Andersen Global.



2. Country Highlights

Overview

The Republic of Guatemala is located in Central America, at its northwestern end. It has the largest city in Central America and the most populated being its capital, Guatemala City. It is the most populated country in Central America, with more than 17 million inhabitants. It borders Mexico to the west and north, Belize to the east, the Gulf of Honduras (Caribbean Sea) and the Republic of Honduras, El Salvador to the southeast, and the Pacific Ocean to the south. It has a relatively stable economic policy that currently positions it as the ninth largest economy in Latin America.

- Capital: Guatemala City
- Official Language: Spanish
- Currency: Guatemala Quetzal (GTQ)
- Form of government: Representative democracy, governed by a president freely elected for a period of four years.
- Political System: The State is constituted in three controls: Executive, Legislative, and Judicial.
- Rate of Inflation: 3.41% (December 2019)
- Population: 17,302,084 inhabitants
- Family Remittances: 13.8% annual
- Foreign Exchange Income for Tourism: 1.7% annual

The largest sector in the Guatemalan economy is agriculture, with Guatemala being the largest exporter of cardamom worldwide, the fifth largest exporter of sugar and the seventh largest producer of coffee. The tourism sector is the second largest generator of foreign exchange for the country. The industry is an important branch of the Guatemalan economy and the service sector that year after year becomes more important, so it turns the typical Guatemalan economy based on agriculture into an economy based on the provision of services.

It is the most populated country in Central America, with more than 17 million inhabitants.



3. Corporate Aspects

Overview

Commercial companies in Guatemala are governed by the Commercial Code; consequently, the following comments on the various forms of organization of a company reflect the most frequent characteristics found in the medium.



Sociedad Anónima (S.A.) or Joint Stock Company

It is the entity whose capital is divided into and represented by shares. The responsibility of each shareholder is limited to the payment of the shares subscribed.

As of February 2018, companies may establish a minimum paid capital of GTQ 200 (USD \$30), which will not require the opening of a bank account. In case the initial paid-up capital is greater than GTQ 2,000 (USD \$275), said amount must be deposited in a bank account in the name of the entity. As of June 2011, bearer shares are no longer allowed.

The differences between the various types of company organization are mainly related to the registration procedures and the financial responsibility of the participants. In general,

the latter is limited to capital contributions, except in the case of members of a collective or limited liability company.

Sociedad de Responsabilidad Limitada (Ltda) or Limited Liability Company

Composed of several partners (up to 20 at most) who are only required to pay their contributions. The assets of the company are only responsible for social obligations and, where appropriate, for the contributions agreed upon in the articles of incorporation. Capital is divided into contributions that cannot be identified with any title or be called shares.

Sociedad de Emprendimiento (S.E.) or Entrepreneurship Company

With the approval of Decree Number 20-2018 of the Congress of the Republic, as of January 28, 2019, Entrepreneurship Company may be established, which is constituted with one or more natural persons who are only obliged to pay their contributions represented in shares, forming a legal entity different from that of its shareholders. The total annual income of an entrepreneurial company may not exceed GTQ 5 million (USD \$670,000).

The denomination will be formed freely, but different from those of any other company and always followed by the words Sociedad de Emprendimiento (Entrepreneurship Society) or its abbreviation S.E. They will be constituted by means of an own procedure, exempting it from the obligation to be constituted by means of public deed, in the same way its modifications consisting of the increase or reduction of capital, extension and change of denomination.

4. Payroll Charges and Labor Rights



Once the company decides to establish an employment relationship, the company must decide what type of contract it will offer the employee.

Types of Relationship

According to the Labor Law of Guatemala, it establishes that the elements of the employment relationship are equivalent to the conditions in which the service is provided or the work is executed. Article 18 of the Labor Code states the economic-legal link, the provision of the services or execution of the work in a personal way, under continued dependence, immediate or delegated management, and the remuneration of any kind or form whatsoever and which the latter receives in exchange for the work performed.

Types of employment contract

Once the company decides to establish an employment relationship, the company must decide what type of contract it will offer the employee.

Individual Work Contract

- Contract for an indefinite period
- Fixed Term Contract: When the date for its termination is specified or when the occurrence of any event or circumstance such as the conclusion of a work is foreseen, this must necessarily terminate the employment relationship.
- Part-time employment contract
- Temporary contract for specific work: When the price of the services of the worker is adjusted globally or in elevation from the beginning of the work until they are completed, taking into account the result of the work, that is, the work performed.

Working terms and conditions

Guatemalan law establishes minimum basic rights and conditions. The Ministerio de Trabajo y Previsión Social (Ministry of Labor and Social Welfare) is responsible for the direction, study and dispatch of all matters relating to work and social security and must monitor the development, improvement and application of all legal provisions relating to these matters, other than within the jurisdiction of the courts, mainly those whose direct purpose is to establish and harmonize relations between employers and workers.

Minimum Wage:

The employee's salary must be established in the employment contract. The minimum wage is set by the government every year.

MINIMUM MONTHLY SALARIES	
Agricultural	GTQ 2,825.10 Equivalent to USD \$366.89
Non Agricultural	GTQ 2,742.37 Equivalent to USD \$356.15
Maquila Activity	GTQ 2,581.77 Equivalent to USD \$335.29

Incentive bonus:

The payment of an annual bonus (Bonus 14) equivalent to a monthly salary is mandatory and must be made in July of each year.

Bonus:

The employer is obliged to pay bonus to his employees in December of each year, consisting of an ordinary monthly salary.

Work schedule:

The Guatemalan work week is calculated based on the actual hours worked. The ordinary work day in Guatemala (considered from 6:00 a.m. to 6:00 p.m.) should not exceed eight hours and should not exceed 44 hours per week, which is equivalent to 48 hours for the payment estimate.

Night work (considered from 6:00 p.m. on one day to 6:00 a.m. on the other day) must not exceed six hours a day and 36 hours a week.

Holidays and paid holidays:

Holidays established by law add up to 10 days a year, while annual holidays add up to 15 business days after a year of uninterrupted service.

Trade unions:

Trade union is any permanent association of workers or employers or persons of independent profession or trade (independent workers), constituted exclusively for the study, improvement and protection of their respective common economic and social interests.

Peasant unions are those constituted by peasant workers or employers of agricultural or livestock companies or persons of independent profession or trade, whose activities and work are carried out in the agricultural or livestock field.

Social security benefits:

The system has been designed to cover the total paid workforce. The employer must deduct employee contributions from the payroll.



The Guatemalan social security system aims to cover all the inhabitants of the country who actively participate in industry, commerce and agriculture and cover work accidents, occupational diseases, maternity, common diseases, disability, orphanhood, widowhood, old age and death plus burial expenses.

Participation in the system is mandatory for employers who have three or more employees.

Participation in the system is mandatory for employers who have three or more employees. At present, the system works with respect to accidents at work and occupational diseases, and in a large part of the country, disability, old age and survival.

Maternity benefits reach the wife or co-worker of covered employees.

The fees for such coverage are paid by the employer, the employees (men and women)

and the government of the Republic at the following percentages of the salary or salary of each employee (without minimum or maximum limits of the salary or salary for the purpose of applying the percentages indicated):

PERCENTAGE CONTRIBUTED BY	
The Employer	12.67%*
Employees	4.83%

*Employer contributions (12.67%) include 1% to fund the activities of the Workers' Recreation Institute (IRTRA) and 1% for the Technical Training Institute (INTECAP)



5. Guatemalan Taxes Overview



Guatemala's tax system is territorial and the Superintendence of Tax Administration is responsible for its administration.

Overview

Guatemala's tax system is territorial and the Superintendence of Tax Administration is responsible for its administration. The municipalities of the country are autonomous and some of them are responsible for collecting property tax.

The General Directorate of Customs, the Superintendence of Tax Administration, controls customs, calculates and collects customs duties and Value Added Tax on imports.

The Taxes paid in Guatemala are:

- Value Added Tax (VAT)
- Incorporate Income Tax
- Solidarity Tax (ISO)
- Social Security contributions
- Capital Gains Tax
- Property Tax
- Tax on interest
- Advertising Tax

6. Corporate Income Taxes



Income Tax Law allows the loss carry forward (only for capital losses).

Corporate Income Tax

The Income Tax Law (ITL) provides that income derived from activities rendered or services used in Guatemala is considered Guatemalan-source income and must be classified and taxed under one of the following categories:

- Income from business activities
- Income from Employment
- Income from Capital

Companies that generate income from business activities may choose to be taxed under one of the following tax regimes:

- Regime on Profits from Business Activities, which applies on a net income basis (authorized expenses are deductible) 25%.
- Optional Simplified Regime on Revenue from Business Activities, which applies on a gross receipts basis (no deductions are allowed). 5%-7%.
- In addition, a 1% Solidarity Tax can apply.

Losses Carry Forward

Income Tax Law allows the loss carry forward (only for capital losses). The loss has to offset against capital gains obtained within the following two tax periods.

Taxpayers subject to the simplified regime are exempt from the Solidarity Tax.

Income Tax withholdings on remittances to non-domiciled:

- 5% on dividends, transportation and insurance & reinsurance
- 3% on news services, videos and films
- 10% on payments or crediting to account for interests
- 15% on royalties, salaries, commissions, fees and payments for scientific, technical and financial advice
- 25% on payments or crediting to account of any other income from Guatemalan source

7. Indirect Taxes

Regime of Value Added Tax (VAT)

VAT is an indirect tax that on the added value generated by companies and whose utility is consumption. The tax credit and debit system for the final payment is used for this tax. Imports pay VAT, while exports are exempt.

The VAT rate is 12%. In Guatemala, this percentage must be included in the sale price.

8. Property Taxes

Solidarity Tax

The Solidarity Tax Law (ISO) as its Spanish acronym establishes that entities that have a gross margin greater than 4% of gross income are affected to this tax. This tax can be determined according to the following options: 1% of total assets, or 1% of total income, whichever is greater.

The first year of the company's activities are exempt from the tax. The ISO can be credited to the ISR during the following three calendar years, both the one that must be paid monthly or quarterly, and the one determined in the final annual settlement as appropriate.



9. Funding Alternatives



Banking System

The banking and financial framework is composed of a variety of institutions, which are closely regulated by the Superintendence of Banks, which supervises banks, financing companies and other similar institutions.

Foreign Investment Policy

Guatemalan Government recognizes the foreign investor's full right, use, enjoyment and dominion of property to his investment, and it is subject to the same obligations as Guatemalan investors.

The Government may not directly or indirectly be entitled expropriate the investment of a foreign investor nor adopt measures equivalent to the expropriation of that investment, except for cause of collective utility—social benefit or social interest duly proven.

Exchange Controls

The first principle applied for exchange transactions in Guatemala is the mandatory declaration, and sale to the Central Bank (or local bank system) of all the foreign currency generated by activities of any type developed in the country. It is allowed to celebrate contracts in foreign currency.

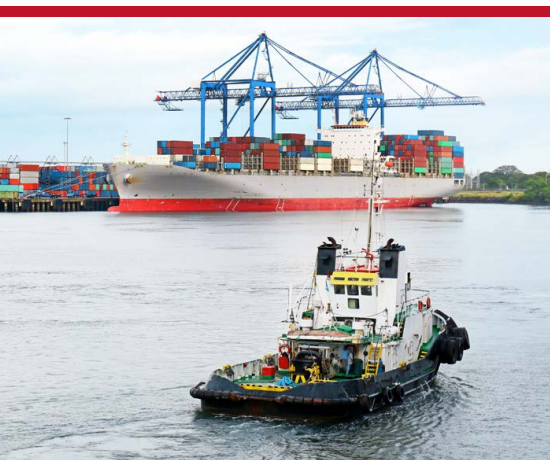
10. Other Cash Repatriation Alternatives



Cash Repatriation

In Guatemala, there is only the option of paying dividends to repatriate cash, which is affected by a 5% Income Tax.

11. Import of Goods



As part of the commercial policy adopted by Guatemala, efforts have been made to protect and attract investment.

Overview

The total amount of imports made was USD \$1.7 billion, higher by USD \$49.4 million (2.9%) than the one registered in January 2019 (USD \$ 1.685 billion). The increase in imports was mainly influenced by the positive variation observed in Capital Goods for Industry with an increase of USD \$37.2 million (16.5%) as well as Non-Durable Consumer Goods with an increase of USD \$19.4 million (6.5%)

Imports mainly came from the United States of America, People's Republic of China, Central America, Mexico and the Eurozone.

Trade regulations customs and standards

As part of the commercial policy adopted by Guatemala, efforts have been made to protect and attract investment. The country has focused on various actions, either with bilateral investment protection agreements. Laws that facilitate doing business, that allow the free negotiation of foreign exchange and that foreign investors are allowed to participate on equal terms as nationals.

The Government of Guatemala has structured different incentives for national and foreign companies, with the objective of developing the creation of more and more companies and strengthening existing ones, improving the country's competitiveness and favoring the creation of more jobs for Guatemalans. These incentives represent important tax exemptions for companies that meet specific requirements of each law. Here is a small detail of each of these laws:

LAW / REGULATIONS	BENEFITS and/or EXEMPTIONS
Decree 65-89 <i>Law Free Zones</i>	• Total exemption of Import Duties and VAT applicable to import of machinery, equipment, furniture, tools and materials destined to the construction of infrastructure, among others. • Exemption of 100% ISR for 10 years on income from activity as an industrial or service user.
Decree 19-2019 <i>Emerging Law for the Conservation of Employment</i> Call centers and costume industry.	• Temporary suspension of Import Duties and VAT. • 100% income tax exemption for 10 years. • Total exemption of ordinary and/or extraordinary export taxes.
Decree 22-73 <i>Free Zone of Industry and Commerce –Zolic-</i>	• 100% Income Tax for 10 years. • VAT, Import Duties and other charges applicable to the importation of merchandise.

Trade Agreements

Guatemala has been a member of the World Trade Organization since July 21, 1995.

The DR-CAFTA (Free Trade Agreement between the U.S., Central American countries and Dominican Republic) was signed and implemented in March 21, 2007. As of 2011, Guatemala has specific Free Trade Agreements with Chile, Colombia, Mexico, Panama, Dominican Republic and Taiwan.

Another frequently used procedure to restructure business is the acquisition.

The coverage of these agreements sheltered 82% of exports and 67.5% of imports. Except for trade with the United States, for the rest of the countries mentioned above, the amount of exports during the first half of 2010 was 1,639.9 million, higher at 16.9% than in the same period of 2009.

As of December 01, 2013, section 77 through 351 of the Free Trade Agreement with the European Union, on external Commerce, is in force in Guatemala; all other sections are still under negotiation.

The Free Trade Agreement with Canada is still under negotiation.

Foreign Trade Zones

The signing of free trade agreements and partial scope agreements are part of the strategy proposed to take better advantage of international markets. These treaties have the characteristic of being with the main trading partners, among which are the United States and Central America.

With Guatemala being an open economy, free trade agreements have been one of the main measures affected by taking advantage of the opportunities that globalization offers. The objective of these treaties is to improve the exchange between the participating countries.



For Guatemala, the United States has always been one of the most important business partners.

For Guatemala, the United States has always been one of the most important business partners. The entry into force of the DR-CAFTA did not change the participation that the United States had on Guatemalan imports and exports. As for the rest of the countries with whom a free trade agreement has been established, it is worth highlighting the importance of Mexico, specifically this country has increased its share of exports in recent years. The rest of the countries with whom Guatemala has signed free trade agreements do not have a large commercial participation.

A preliminary analysis has shown an expansion of trade, diversification to new products and reduction in the costs of doing business between countries that are part of a trade agreement. Among the reasons given by some investors to conduct new business, the greater confidence of them stands out for having clearer rules thanks to these agreements.

12. Transfer Pricing



Overview

The main tax legislation is the Tax Update Law (TUL). The transfer pricing rules are contained within Chapter VI TUL and Decree No.10-2012 (as amended by Decrees Nos. 14-2013 and 19-2013). Guatemala is not an OECD member country, and although the TUL does not specifically mention the OECD Guidelines, the Guatemalan transfer pricing provisions are based on them. In February 2019, Guatemala was admitted as a member of the OECD Development Center.

13. Low Tax Jurisdiction (LTD) and Privileged Tax Regimen (PTR)



Specific provisions for the treatment of low tax jurisdictions or privileged regimes are not regulated in Guatemalan legislation.

14. Holding Company Analysis

The treatment of holding companies is not legislated in Guatemalan tax legislation.



14. Tax Succession and Tax Penalties



Overview

The Tax Administration is obliged to verify the correct fulfillment of the tax laws and acts in accordance with the norms of the Tax Code, those of its Organic Law and the specific laws of each tax and those of their respective regulations, as regards the application, control, collection and control of taxes.

The Tax Code regulates Tax Offenses, which are the following:

1. Late payment of withholdings
2. The omission of payment of taxes
3. Resistance to the tax activity of the Tax Administration
4. Failure to comply with formal obligations
5. The others that are expressly specified in the Tax Code and in the specific Tax Laws



Guatemala City

Office Managing Director
Mario Salazar

5ave. 5-55 zona 14
Edificio Europlaza
World Business Center, Torre II
5° Nivel, Ofi. 503
Guatemala City, Guatemala

Tel: +502 2385 3927

The opinions and analyses expressed herein are subject to change at any time. Any suggestions contained herein are general, and do not take into account an individual's or entity's specific circumstances or applicable governing law, which may vary from jurisdiction to jurisdiction and be subject to change. Consultores En Impuestos Y Negocios, S.A. is the Guatemalan member firm of Andersen Global, a Swiss verein comprised of legally separate, independent member firms located throughout the world providing services under their own name. Andersen Global does not provide any services and has no responsibility for any actions of the member firms, and the member firms have no responsibility for any actions of Andersen Global. No warranty or representation, express or implied, is made by Consultores En Impuestos Y Negocios, S.A., nor does Consultores En Impuestos Y Negocios, S.A. accept any liability with respect to the information and data set forth herein. Distribution hereof does not constitute legal, tax, accounting, investment or other professional advice. Recipients should consult their professional advisors prior to acting on the information set forth herein.

© 2020 Consultores En Impuestos Y Negocios, S.A. All rights reserved.