

DOING BUSINESS

IN GUATEMALA



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1 – INTRODUCTION

UHY is an international organisation providing accountancy, business management and consultancy services through financial business centres in around 90 countries throughout the world.

Business partners work together through the network to conduct transnational operations for clients as well as offering specialist knowledge and experience within their own national borders. Global specialists in various industry and market sectors are also available for consultation.

This detailed report providing key issues and information for investors considering business operations in Guatemala has been provided by the office of UHY representatives:

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Information in the following pages has been updated so that they are effective at the date shown, but inevitably they are both general and subject to change and should be used for guidance only. For specific matters, investors are strongly advised to obtain further information and take professional advice before making any decisions. This publication is current at April 2015.

We look forward to helping you do business in Guatemala.

2 – BUSINESS ENVIRONMENT

DEMOGRAPHY

According to information provided by Invest in Guatemala Agency, Guatemala is a country with young population; 70% of it is less than thirty-five years old. The capital city, Guatemala, is located in the geographical heart of the country and is home to an average of 4.5 million inhabitants.

TABLE 1
Population statistics

POPULATION	15,082,831 MILLION INHABITANTS (2013)
Growth Rate	2.44%
Male population	7,163,013
Female population	7,473,474
Rural population	49.99%
Urban population	50.01%

The data in the table below (from the 'CIA World Fact Book) gives a segmentation of the Guatemalan population by age group:

TABLE 2
2012 population estimate by age group

AGE	PROPORTION
0–14 years	36.8%
15–24 years	22.2%
25–54 years	31.8%
55–64	5.1%
65 years and over	4%

The median age in 2013 was estimated to be as follows:

- Both sexes – 20.7 years
- Male – 20 years
- Female – 21.3 years

Other population indicators are as follows:

- Birth rate – 25.46 births / 1,000 population (2014 est.)
- Death rate – 4.82 deaths / 1,000 population (2014 est.)
- Net migration rate – -2 migrant(s)/1,000 population (2014 est.)
- Rate of urbanisation – 3.4% annual rate of change (2014 est.)

CULTURE/ETHNICITY

- Nationality – Guatemalan

- Ethnic groups – ‘Mestizo’ (mixed Amerindian-Spanish, in local Spanish called ‘Ladino’) and European 59.4%, K’iche 9.1%, Kaqchikel 8.4%, Mam 7.9%, Q’eqchi 6.3%, other Mayan 8.6%, indigenous non-Mayan 0.2%, other 0.1% (2001 census)
- Religions – Roman Catholic, Protestant, indigenous Mayan beliefs
- Languages – Spanish 60%, Amerindian languages 40% (23 officially recognised Amerindian languages, including Quiche, Cakchiquel, Kekchi, Mam, Garifuna and Xinca)

GEOGRAPHY

Guatemala is in Central America, bordering the North Pacific Ocean, between El Salvador and Mexico, and bordering the Gulf of Honduras (Caribbean Sea) between Honduras and Belize

- Border countries – Belize 266km, El Salvador 203km, Honduras 256km & Mexico 962km
- Area – total 108,890 square km
 - Land 107,159 square km
 - Water 1,730 square km
- Climate – tropical; hot, humid in lowlands and cooler in highlands
- Terrain – mostly mountains with narrow coastal plains and rolling limestone plateau (Petén)
- Administrative Divisions – Guatemala is divided into 22 departments (‘departamentos’) and sub-divided into 332 municipalities (‘municipios’).
- Natural Resources: Petroleum, nickel, rare woods, fish, chicle and hydropower.

TRANSPORTATION AND PORTS

- Airports – 15 (paved runways)
- Pipelines – oil 480km (2010)
- Railways – 332km, narrow gauge: 0.914-m gauge (2008)
- Roadways – 14,095km
- Waterways – 990km (260km navigable year round, with an additional 730km navigable during high-water season (2012))
- Ports and harbours – Atlantic Ocean: Puerto Barrios, Santo Tomás de Castilla; Pacific Ocean: Champerico, Puerto Quetzal, Puerto San José
- Ground Transportation – the most common way of getting around is by bus or car. ‘Chicken buses’, recycled and often colourfully painted former US school buses, are popular within cities and for short-distance trips. Some operators (such as Litegua between Guatemala City and Puerto Barrios, Fuente del Norte between Guatemala City and Flores or Monja Blanca to Cobán) run modern air-conditioned buses for longer distances. Information on schedules for other lines is limited and usually has to be obtained locally; however, as a rule, there are frequent services along major routes as well as to smaller settlements. There are no passenger trains. Private shuttles are common. Within cities and many towns, nimble tuk-tuks, which are well-adapted to crowded streets and narrow lanes, provide a taxi service.
- By Air – Guatemala’s airlines offer non-stop services to the various departments
- Boats – ferries are available in certain regions, such as Sayaxché, Champerico or around Livingston.

ECONOMY

Guatemala is the most populous country in Central America with a GDP per capita roughly one-half that of the average for Latin America and the Caribbean.

The agricultural sector accounts for 13.5%, Industry a 23.8% and services a 62.7% of GDP; key agricultural exports include coffee, sugar, bananas, and vegetables.

The 1996 peace accords, which ended 36 years of civil war, removed a major obstacle to foreign investment, and since then Guatemala has pursued important reforms and macroeconomic stabilization.

The Dominican Republic-Central American Free Trade Agreement (CAFTA-DR) came into force in July 2006 spurring increased investment and diversification of exports, with the largest increases in ethanol and non-traditional agricultural exports. While CAFTA-DR has helped improve the investment climate, concerns over security, the lack of skilled workers and poor infrastructure continue to hamper foreign direct investment.

The distribution of income within Guatemala remains highly unequal, with the richest 20% of the population accounting for more than 51% of Guatemala's overall consumption. More than half of the population is below the national poverty line. Poverty among indigenous groups, which make up 38% of the population, averages 73% and extreme poverty rises to 28%. Nearly one-half of Guatemala's children under age five are chronically malnourished, one of the highest malnutrition rates in the world. Given Guatemala's large expatriate community in the United States, it is the top remittance recipient in Central America, with inflows serving as a primary source of foreign income equivalent to nearly two-fifths of exports or one-tenth of GDP.

Economic growth fell in 2008 as export demand from US and other Central American markets dropped and foreign investment slowed amid the global recession, but the economy recovered gradually in 2010-11 and will likely return to more normal growth rates in 2012.

- Official Currency – quetzal
- Currencies – Quetzal (GTQ), US dollar (USD), others allowed
- Fiscal Year – calendar year
- Exchange rates – quetzals per US dollar: 7.64 (2015), 7.60 (2014) 7.87 (2013), 7.94 (2012)
- GDP (purchasing power parity): USD 81.51 billion (2013 est.)
- GDP (official exchange rate): USD 53.9 billion (2013 est.)
- GDP - real growth rate 3.3% (2013 est.)
- GDP - per capita (PPP): USD 5,300 (2013 est.)
- GDP - composition by sector: agriculture 13.5%, industry 23.8%, services 62.7% (2013 est.)

*For more information visit:

- www.banguat.gob.gt (exchange rates)
- www.cia.gov
- www.investinguatemala.org
- www.banguat.gob.gt

GOVERNMENT

Country name:

- Conventional long form: Republic of Guatemala
- Conventional short form: Guatemala
- Local long form: República de Guatemala
- Local short name: Guatemala

Government type: Constitutional democratic republic

Capital: Guatemala

Geographic coordinates: 12 38 N, 90 31 W

Time difference: UTC-6 (1 hour behind Washington, DC during Standard Time)

Administrative Divisions: 22 departments (departamentos/singular=departamento); Alta Verapaz, Baja Verapaz, Chimaltenango, Chiquimula, El Progreso, Escuintla, Guatemala, Huehuetenango, Izabal, Jalapa, Jutiapa, Petén, Quetzaltenango, Quiché, Retalhuleu, Sacatepéquez, San Marcos, Santa Rosa, Sololá, Suchitepequez, Totonicapán, Zacapa.

Independence and National holiday: 15 September 1821 (from Spain)

Constitution: 31 May 1985, effective 14 January 1986, note - suspended 25 May 1993 by former President SERRANO; reinstated 5 June 1993 following ouster of president; amended November 1993.

Legal System: Civil law system; judicial review of legislative acts; has not accepted compulsory ICJ jurisdiction.

BUSINESS PROTOCOL IN GUATEMALA

INITIAL CONTACT

In Guatemala, local contacts are essential. Potential buyers do not react well to the direct 'cold' approach. Plan to attend a trade show or join a trade mission to meet interested parties. You can also arrange for a chamber of commerce, trade association, government agency or bank to introduce you to Guatemalan companies.

Your first written correspondence should be in Spanish, stating that if possible you would prefer to correspond in English from then on. Request an appointment about two weeks in advance. Expect to meet in an office rather than in a restaurant or bar. Schedule only two meetings per day, one between 10–11:30am and the second starting at 3pm.

IMPORTANCE OF RELATIONSHIPS

Expect to invest a considerable amount of time developing a good rapport and a pleasant, relaxed relationship before discussing business. Establishing an atmosphere of trust is a precondition to a successful business relationship.

Good topics for small talk are football (soccer), Guatemalan history, literature and places to visit, as well as information about your home town and region. You will probably need two or three visits to the country before you can expect to do serious business. Like other Latin Americans, Guatemalans value deep, long-lasting relationships.

HIERARCHY, STATUS AND RESPECT

In Guatemala, one's status depends more on social class, education and family background than on personal achievement. Business visitors can enhance their status by displaying a lively interest in intellectual pursuits, dressing elegantly and staying in top hotels.

PROPER PROTOCOL

Shake hands with everyone in the room, both men and women, when meeting or departing. The handshake should not be too firm.

Use last names only preceded by Señor, Señora or Señorita (Mr, Mrs or Miss). The use of titles is very common, such as Licenciado (anyone with a college degree), Doctor, Professor, Arquitecto, Ingeniero, etc. The use of the title without the last name (Señor Ingeniero) is also appropriate.

Smile and maintain eye contact when you are introduced to someone. 'Como está?' (how are you?) is the most common greeting.

Business cards in English are accepted. However, all correspondence and documents from your company should be translated into Spanish.

Putting your hands in your pockets while talking to someone is considered impolite. Another gesture to avoid is the American OK sign.

COMMUNICATION STYLE

As warm and friendly people, Guatemalans tend to be talkative, non-verbally expressive and open about showing emotion in public. Don't be offended if you are sometimes interrupted in mid-sentence, because conversational overlap is not rude in Guatemala. However, avoid direct confrontation during negotiations.

Never expect to get down to business quickly. Guatemalans need some time to get to know you.

BUSINESS ENTERTAINMENT

Wise negotiators include plenty of time for socialising during drawn-out discussions. If you wish to entertain a high-level executive, ask his/her secretary to recommend a restaurant. It is important to host your counterpart only at elegant, prestigious establishments. Similarly, business visitors should only stay in top hotels while in Guatemala.

Women drink wine, spirits and liqueurs, while beer is considered a man's drink. Guatemalans normally eat a light breakfast between 7–9am and a substantial lunch from noon until 2pm. Dinner usually starts after 7pm but dinner parties don't normally get underway until after 9pm.

Avoid using the side of your fork to cut anything and do not pick up food of any kind with your hands. Although they are a very expressive people, Guatemalans do not like a lot of conversation during meals. Wait until coffee is served before talking business, unless your counterpart introduces the topic.

3 – FOREIGN INVESTMENT

LEGAL FRAMEWORK FOR FOREIGN INVESTMENT

OVERVIEW

Guatemala is a country interested in promoting economic and social development. This is reflected in the Foreign Investment Law ('Ley de Inversión Extranjera') and the Promotion and Development for Export and Maquila activities Law ('Ley de Fomento y Desarrollo de la Actividad Exportadora y de Maquila'), as well as by certain exonerations on some taxes such as income tax and value added tax.

The laws also promote and guarantee foreigners will receive impartial treatment in relation to Guatemalans, enjoying the same rights and obligations.

LOCAL BUSINESS STRUCTURES

The structure for foreign investment will depend on a number of factors including legal considerations, the location of the business and taxation. Guatemalan law recognises the following local business structures:

- Collective company ('Sociedad Colectiva')
- Limited liability company ('Sociedad de Responsabilidad Limitada')
- Commandite company ('Sociedad en Comandita Simple')
- Commandite company by shares ('Sociedad en Comandita por Acciones')
- Corporation or stock Company ('Sociedad Anónima')

The most important provisions applicable to local business structures are:

- The company is established by granting and executing a public deed, authorised by a Guatemalan Notary
- At least two natural and/or artificial persons must execute the bylaws of the company. In order to avoid dissolution, the company must continue with at least two shareholders throughout its life
- Shares must be issued to the stockholder's name (nominative shares)
- After its establishment, the company must be provisionally registered in the Mercantile Registry of the Republic of Guatemala
- Following this, the company is registered as a contributor before the Tax Administration Office, obtains its Tax Identification Number (NIT) and an authorisation to issue invoices and other accounting documents
- With these requirements, the company may begin its operations, pending any opposition by an interested party. Most opposition is based on similarities with another company's name and/or trade name
- The approximate time to complete the establishment of a local company is 30 days after receiving the corresponding legal information and documents. However a provisional registration is obtained within five business days of incorporation, as long as all the corresponding legal documents are obtained.

BRANCH OFFICES

A foreign incorporated enterprise may decide to establish a branch office because of some of the unique tax benefits related to this business structure. Legally established foreign companies which would like to set up and operate in any manner in the country, or to have one or more branches or agencies, are subject to the provisions of the Code of Commerce and other laws in the Republic.

Among the most important applicable provisions are:

- Proof that the foreign company is duly incorporated under the laws of its country of origin
- The filing of a certified copy of the Articles of Incorporation and Bylaws of the foreign company if any, as well as of any possible amendments to the same
- Appointment of an Attorney in Fact in Guatemala with ample powers to perform and execute everyday business of the branch and to legally represent it, with the entire special powers that the Law of the Judicial Body states
- Deposit of the initial operating capital exclusively assigned to operations in Guatemala and of a bond in favour of third parties for an amount no less than the equivalent in quetzals of USD 50,000, an amount which the Mercantile Registry will set and which must remain in force during all the time the corporation operates in the country, and an express statement that the corporation shall be liable not only with all of its assets located in the territory of Guatemala but abroad as well, for acts and businesses that are engaged in by the corporation in the country
- Submission to the courts and laws of Guatemala for all acts and businesses which may be executed in Guatemala or which may have effects in Guatemala; and rendition of an affidavit that neither the corporation nor its representatives or workers may invoke foreign rights
- An affidavit granted by the legal representative of the company containing the commitment of the company to fulfil all legal obligations before leaving the country
- Delivery of a certified copy of the foreign company's last balance sheet and loss and profit statement
- Upon submission and review of all required documents, the Mercantile Registry will approve the provisional registration of the branch
- Following this, the branch must be registered as a contributor before the Tax Administration Office, obtaining its Tax Identification Number and an authorisation to issue invoices and other accounting documents
- With these requirements, the branch may begin its operations, pending any opposition by an interested party. The approximate time to complete the establishment of a branch office is 30 days, after receiving the corresponding legal information and documents.

TEMPORARY BUSINESS

Foreign companies may also request authorization from the Mercantile Registry to carry out temporary business in Guatemala. In these cases, foreign companies are required to provide evidence of being duly organized in its country of origin and must appoint a legal representative in Guatemala.

OPERATIONS REQUIRING NO REGISTRATION IN GUATEMALA

Foreign companies do not require to be registered in Guatemala to carry out any of the following activities:

- Take part in legal action or proceeding before a Guatemalan court or public office.

- Open or maintain bank accounts in an authorized bank in Guatemala.
- Sell or purchase from independent commercial agents legally established in Guatemala.
- Purchase orders through agents legally established in Guatemala provided such purchases are subject to confirmation or acceptance abroad.
- Grant or open loan to companies established in Guatemala.
- Issue, endorse or contest credit instruments in Guatemala.
- Acquire movable goods or real estate, with the exception of land near international borders and waterfront properties, provided that such goods are not part of a local company or the foreign company does not negotiate with such goods regularly.

FOREIGN INVESTMENT LAW

The main economic sectors of Guatemala are open to both local and foreign investment and ownership; however, some restrictions apply to sectors considered to be of strategic interest, such as the military.

The Foreign Investment Law of Guatemala (Decree 9-98 of the Congress of Guatemala), promotes foreign investment and includes provisions which recognise and guarantee private property rights equally for Guatemalan nationals and foreign investors. The law expressly forbids all and any discriminatory actions towards foreign investors and establishes that no restrictions can be placed on foreigners for owning any amount of stock in Guatemalan business entities.

The financial activities of foreign investors are subject to the general protections granted to any kind of investments carried out in Guatemala. The Foreign Investment Law (Decree 9-98 of the Congress of Guatemala), Chapter 10 (investment chapter) of DR-CAFTA FTA as incorporated by its Chapter Twelve referring to Financial Services Chapter and the Guatemalan Constitution, clearly make provision for foreign investors to receive treatment which is not less favourable than national investors.

The Foreign Investment Law of Guatemala has been valid and binding since March 1998. Its main objective is to encourage domestic and foreign investment in Guatemala and it was issued to comply with a fundamental obligation of the government, established in the constitution ('Constitución Nacional de la República de Guatemala'), to protect and promote capital formation, savings and investment.

Before the enactment of this law, applicable legislation was contained in different laws and regulations and therefore it was considered appropriate and necessary to organise and systematise them into a single legal instrument, thus creating the Foreign Investment Law. Although the Guatemalan legal framework already recognised full equality of treatment between domestic and foreign investors, there were some laws which included specific limitations on foreign investments such as: fishing licences, companies providing commercial transportation services, commercial use of radio and television channels in the Radio Communications Law and oil drilling activities. All of these limitations were expressly removed with this new law. Providing insurance services was limited to Guatemalan nationals until the enactment of the new Insurance Law Decree Number 25-2010.

One of the most valuable aspects of the law is that it recognises the foreign investor as having the same treatment as that granted to domestic investors in the development of economic activities. This means that any foreign investor operates under equal legal conditions as domestic investors and this is a great incentive for foreign investors in Guatemala, given that this is not the situation in every country. Guatemalan law expressly prohibits any act of discrimination against a foreign investor or its investment in Guatemala. The original text of the law stated that it should apply equally to all foreign investment, regardless of the country where it is from. However in 2007, there was an amendment and it was established that full equality would only be extended to foreign investors from any country or nation which is a member of the World Trade Organization (WTO) or to investors from any country with whom the Republic of Guatemala has signed an agreement for its inclusion in that institution, thus limiting the extent of this right. The aforementioned is regardless of whether Guatemala does or does not maintain diplomatic relations with a country or has any formal business with a country or nation.

According to the Foreign Investment Law, foreign investors may participate in the development of any lawful economic activity in Guatemala, as well as make any contribution to the capital of a corporation organised under Guatemalan law.

Nevertheless, there are some limitations regulated in specific laws, such as:

- 1) The Guatemalan Constitution – this establishes that the government has domain over a strip of land three kilometres along the ocean, starting from the top line of tides, as well as over land two hundred metres around lake shores, a hundred metres each side of navigable rivers and fifty metres around fountains and springs where populations obtain its water supplies.
 - There are two exceptions to the aforesaid: a) if the land is located in urban areas and b) if the land was acquired prior to 1 March 1956. If any land included in the referred to exclusions is to be sold to foreigners, they are required to obtain an express authorisation from the Executive Branch of the Government to acquire it.
- 2) Forest Law – only a Guatemalan national can be awarded with a government land concession
- 3) Immigration Law – a foreigner requires an immigration permit to stay in Guatemala for more than 90 days, among other permits regulating the development of specific activities. Please refer to the next section called “Other Laws that promote foreign investment”.

Foreign Investment Law establishes that no public officer or employee may request any additional requirement, condition or qualification applicable to any foreign investors which are not expressly included in a validly binding law.

In addition to establishing full equality for foreign investors, the Foreign Investment Law expressly recognises the following rights for all foreign investors:

- Private property ownership
- Expropriation, where reasons of collective or social benefit/interest can be proven
- Free trade
- Free access to foreign exchange
- The prohibition of confiscatory taxation and double taxation.

Regarding administrative matters which apply to this law, the Foreign Investment Law establishes the 'Investment Office' as a department of the Ministry of Economy for foreign investors (through the Government Decision No. 532-92).

The final provisions of the Foreign Investment Law expressly stipulate that any restriction, requirement or condition applicable only to foreign investors for the development of a business or foreign investment in Guatemala contained in a law which has not been expressly modified or amended by this law, are automatically unenforceable.

4 – SETTING UP A BUSINESS

In the following section, you will find step-by-step procedures for company registration/filing.

Company classifications:

- 1) Individual businessperson
- 2) Mercantile company
- 3) Joint venture / partnership
- 4) Limited partnership
- 5) Limited liability company
- 6) Corporation
- 7) Joint stock company
- 8) Economic Activities.

INDIVIDUAL BUSINESSPERSON

As an individual businessperson, the Mercantile Registry Procedures are laid out below.

MERCANTILE REGISTRY PROCEDURES

STEP PROCEDURE

- | STEP | PROCEDURE |
|------|---|
| 1 | At a Mercantile Registry window, obtain an application for registration/filing of a businessperson and mercantile company (FORM RM-1-SCC-C-V). The cost of this form is GTQ 2 |
| 2 | At the same window, ask for a payment order to pay at the bank mentioned in the order. The cost of the deposit is GTQ 50 |
| 3 | Organise a file in a legal size folder and include the following documents: <ul style="list-style-type: none"> • Filled-out application for registration/filing of an individual businessperson • Payment Order duly paid at the bank • Original residence identification document (DPI) |
| 4 | Deliver the file at the document reception window of the Mercantile Registry |
| 5 | The Registration Operations Department classifies and enters the file in the electronic book of businesspersons |
| 6 | The same department writes the corresponding notes in the residence identification document, setting forth the registration/filing as an individual businessperson and entering the registration number, page, book, file number and date of registration/filing |
| 7 | The Residence Identification document is sent to the Office of the General Mercantile Registrar for his signature and seal |
| 8 | The Residence Identification document, with due explanation setting forth that it is an individual businessperson, is given back at the document delivery window. |

PROCEDURES FOR THE TAX ADMINISTRATION SUPERINTENDENCE (SAT)

To register as an individual businessperson, the procedures require the interested party's presence at the building of the Tax Administration Superintendence (SAT), at one of the windows of the Unified Tax Registration Department (RTU) to obtain the Form for Taxpayers' filing and the updating of information at the Unified Tax Registration Department (SAT-No. 0014) The cost is GTQ 1.

The requirements for completion of Form SAT-No. 0014 are as follows:

- The form must be filled out in print letters or using a typewriter
- The form cannot be submitted with erasures, corrections or similar features
- In cases of filing, use box No. 2; in cases of information up-dating use box No. 3, putting an 'X' where appropriate.

The information required under 'Identification Data for Individual Persons' must be completed in box Nos. 05–16 and under 'General data' in box Nos. 27–43, if appropriate. Otherwise, a line can be drawn through to void unused spaces on the Form SAT No. 0014.

The individual businessperson identified as a minor taxpayer must take a decision on the system of income tax payments. The systems established by the law and presently in effect are:

- Fixed 5% fee system – quarterly payments of 5% on technical services and leases with or without an office
- Fixed 5% fee system – quarterly payments of 5% on business activities
- Annual tax return system – quarterly payments on technical or professional services and leases, with or without an office
- Annual tax return system – quarterly payments on business activities
- Normal taxpayer on technical or professional services and leases, with or without an office
- Normal taxpayer on business activities.

Filing requirements for taxpayers classified under the above-mentioned systems are:

- Registration/filing of the Form SAT-14
- Original or legalised photocopy and simple photocopy of the Residence Identification document or passport, if the individual is a foreigner
- Certificate setting forth that the individual is a resident of the country, issued by the General Immigration Bureau, if the individual is a foreigner
- Evidence of the individual's registration/filing as an active professional (liberal professionals) remains in the files of the Tax Agency or Office.

The following documents must be attached to Form SAT-0014:

- Application for Authorisation of Accounting Books, Form SAT-0052
- Application for authorisation to print and use documents and forms, Form SAT-0042.

PROCEDURES TO BE FOLLOWED WITH THE SOCIAL SECURITY INSTITUTE (IGSS)

To be registered as an employer, the employer or his/her representative must go to the Registration Section of the Division of Employers and Employees Registration/Filing - 2nd Floor of the Central Headquarters in Guatemala City or at the Cashiers' Windows of corresponding Department Delegations (Delegations).

The Form DRTP-001 will be delivered to be duly filled-out.

Steps to be followed for general registration/filing with IGSS for an individual as employer and/or joint venture contract, are the submission of the following:

- Photocopy of Residence Identification document (complete) if the individual is a Guatemalan citizen and photocopy of passport (complete) if the individual is a foreigner
- Photocopy of Taxpayer's Identification Number (NIT) certificate.

Where there is more than one individual as employer and/or joint venture contract, the following need to be submitted:

- Photocopy of Residence Identification document (complete) of the transactor or agent
- In the case of a foreigner, photocopy of passport
- Photocopy of commercial patent (in the case of an entity)
- Photocopy of complete Residence Identification document of joint owners
- In case of foreigners, photocopy of passport
- Photocopy of NIT certificate.

INDIVIDUAL BUSINESS

COMPANIES LOCATED IN THE DEPARTMENT OF GUATEMALA

Once the company has three employees, the employer is required to file his/her company with the Social Security System and deduct the corresponding labour fees from employees hired after filing.

Only land transportation companies are required to register/file the company with the Social Security System, when they have one or two employees.

COMPANIES LOCATED IN ANY OTHER DEPARTMENT OF THE REPUBLIC OF GUATEMALA

Once the company has five employees, the employer is required to file his/her company with the Social Security System, and discount the corresponding labour fees from employees hired after filing. From 15 March 2003, this will change and apply when a company has three employees.

MERCANTILE CORPORATIONS OR LEGAL ENTITIES

All mercantile corporations are required to submit, for filing purposes, a photocopy of the company's Commercial Patent.

COMPANIES LOCATED IN THE DEPARTMENT OF GUATEMALA

When hiring the services of three employees, the employer is required to file his/her company with the Social Security System, discounting the corresponding labour fees from employers hired after filing.

Only land transportation companies are required to register/file the company with the Social Security System, when they have one or two employees.

COMPANIES LOCATED IN OTHER DEPARTMENTS OF THE REPUBLIC OF GUATEMALA

When employing the services of five employees the employer is required to file his/her company with the Social Security System, discounting the corresponding labour fees for his employees hired after filing. From 15 March 2003, this will change and apply when a company has three employees.

Employer-related documents are as follows:

- Photocopy of the corporation's Commercial Patent
- Photocopy of Charter of Incorporation – if amendments have been made to the corporate charter's articles covering the firm or trade name and its capital, when the capital is increased with non-monetary capital instruments, constituting a company, a photocopy of the respective public instrument should be attached
- Photocopy of Notary Record setting forth the appointment of the legal representative, with notes referring to the filing with the Mercantile Registry
- Photocopy of (complete) Residence Identification document of the legal representative. If he/she is a foreigner, he/she must attach a photocopy of the passport (complete)
- Photocopy of NIT certificate

For certain types of company, the following documents are required:

- Agriculture (farms or ranches) – photocopy of Public Instrument of ownership and the Certificate Property Filing with the General Real Estate Registry
- Lease holdings – photocopy of lease contract
- Construction – photocopy of closed construction contract and Municipal Licence, when applicable. In the case of a public job, submit a photocopy of the contract entered into with the state, its entities or municipalities
- Land transportation – legalised photocopy of transit cards (identification cards) of the vehicles owned by the employer applying for registration/filing
- Schools – photocopy of resolution issued by the Ministry of Education authorising operations and setting forth the ownership thereof and photocopy of Commercial Patent (this process applies to private schools only)
- Delivery of personnel services – photocopy of the respective contract
- Offices of professional individuals (accountants, attorneys at law, medical professionals, psychologists, dental clinicians and others) – photocopy of document identifying them with a certain name/title.

For foundations, associations, federations, cooperatives, guilds, coordinators, consortiums, etc, the following documents are required:

- Photocopy of Public Instrument or equivalent document awarding legal standing
- Photocopy of bylaws
- Photocopy of the appointment of the legal representative, with explanations regarding filing or acknowledgement thereof
- Photocopy of complete Residence Identification document of the legal representative or passport if a foreigner
- Photocopy of NIT certificate

For non-government organisations (NGOs), the following documents are required:

- Photocopy of official document whereby the government of Guatemala acknowledges the entity and authorises its operations
- Photocopy of the appointment of the legal representative
- Photocopy of the legal representative's complete Residence Identification document or passport if he/she is a foreigner
- Photocopy of NIT certificate.

For religious entities, the following documents are required:

- Photocopy of document whereby the government of Guatemala has granted acknowledgement thereof
- Photocopy of legal representative's appointment
- Photocopy of complete Residence Identification document of the legal representative, or passport if he/she is a foreigner
- Photocopy of NIT certificate.

For horizontal property systems (condominiums), the following documents are required:

- Photocopy of Public Instrument of Constitution of the Horizontal Property System
- Photocopy of the bylaws of the building organised as a condominium
- Photocopy of the appointment of the condominium's administrator
- Photocopy of complete Residence Identification document of the administrator, or passport if he/she is a foreigner
- Photocopy evidence of NIT

For additional information, please refer to: www.igssgt.org

PROCEDURES TO BE FOLLOWED AT IRTRA (EMPLOYEES' RECREATION INSTITUTE)

IRTRA is the leading institution in Latin America dedicated to the promotion of recreation and amusement, with six family amusement parks located in different parts of the republic:

- Amatitlán Amusement Park, located 28 kilometres along the highway which surrounds Lake Amatitlán
- Agua Caliente Amusement Park, located 29 kilometres along the Atlantic Highway
- Petapa Urban Amusement Park, located in the capital city, on Avenida Petapa and 43rd street in zone 12
- Xocomil Water Amusements Park, located in Retalhuleu, 180.5 kilometres along the south coast highway towards Quetzaltenango
- IRTRA Hostels Vacation Park, located in Retalhuleu, 180.5 kilometres along the south coast highway towards Quezaltenango
- Xetulul Amusement Park, located in Retalhuleu, 180.5 kilometres along the south coast highway towards Quetzaltenango.

IRTRA was established by Congress Decree No. 1528 to provide recreation to employees of private companies and their families. It is organised, operated and funded completely by Guatemalan private initiative companies.

Its schedule for public services runs Monday to Friday from 8am to 5pm.

When a company is registered with the IGSS, it must pay a contribution to IRTRA, according to its economic activity; the payable fee is 1% on the total amount of ordinary and extraordinary monthly salaries, which enables the company to obtain affiliation cards for employees. This allows each affiliated employee and five members of his/her family (parents, spouse and children) to have access to all of the recreation/amusement parks for their enjoyment.

All employees of private companies affiliated to IRTRA may use IRTRA's parks.

Paying IGSS fees, companies are entitled to become affiliated to IRTRA (see details on the web pages at www.irtra.org.gt)

The human resources department or company designated employee must carry out all of the procedures required to obtain affiliation identification cards, as applicable.

Employees, who have already obtained their affiliation identification card, may request a renewal of the effective period; if the card is lost, its replacement may also be obtained (after verification of the effective term of the card). Guests of IRTRA affiliates may enjoy the parks by making any necessary payments.

For additional information visit: www.irtra.org.gt

INDIVIDUAL COMPANY – REGISTRY PROCEDURES

STEP PROCEDURE

- | | |
|---|--|
| 1 | At the window of the Mercantile Registry, obtain a form to apply for registration/filing as individual businessperson and mercantile company (FORM RM-1-SCC-C-V). The cost is GTQ 2 |
| 2 | At the same window, ask for a payment order to be paid at the bank mentioned therein. Deposit GTQ 75.00 to file as a businessperson (if this has not been filed before). The filing fee for companies is GTQ 100 |
| 3 | Organise a file in a legal size folder and include the following documents: <ul style="list-style-type: none"> • Payment Orders paid at the bank • Application for company filing, completely filled-out • Accounting certificate signed and sealed by a duly authorised accountant • Original Residence Identification document |
| 4 | Deliver the file at the document reception window of the Mercantile Registry |
| 5 | The Registration Operations Department classifies and enters the file in the electronic book of businesspersons (if it has not been previously filed) and mercantile companies |
| 6 | The same department writes the corresponding notes in the Residence Identification document, setting forth the filing as an individual businessperson and enters the registration number, page, book, file number and date of filing |
| 7 | The Residence Identification document is sent to the Office of the General Mercantile Registrar for his signature and seal |
| 8 | The Residence Identification document, with due explanation setting forth that it is an individual businessperson, and the Commercial Patent of the company filed is handed over at the document delivery window. Both documents must be carefully examined prior to adhering GTQ 50.00 in fiscal revenue stamps. |

Please note:

- The paid-in capital must not be less than GTQ 2,000
- If the applicant of a Company Commercial Patent is an individual businessperson, he/she will obtain permission to operate, but a Company Commercial Patent is not issued.

PROCEDURES TO BE FOLLOWED WITH THE TAX ADMINISTRATION SUPERINTENDENCE (SAT) – INDIVIDUAL COMPANY

For the filing of an individual company, the procedures require the presence of the interested party at the Tax Administration Superintendence (SAT), at one of the windows of the Unified Tax Registration Department (RTU) to request a form for filing and for the updating of the taxpayer in the Unified Tax Registry (SAT- No. 0014). The cost is GTQ 1.

The requirements for completing the Form SAT-No. 0014 are as follows:

- The form must be filled out using a typewriter or in printed letters
- The form cannot be presented with erasures, corrections or similar features
- In cases of filing use box No. 2; in cases of information updating use box No. 3, putting an 'X' where appropriate.

The information required under 'Identification Data for Individual Persons' must be completed in box Nos. 05–16 and under 'General data' in box Nos. 27–43, if appropriate. Otherwise, a line can be drawn through to void unused spaces on the Form SAT No. 0014.

The individual company (mercantile company) must take a decision on the system of income tax payments. The systems established by the law and presently in effect are:

- Fixed 5% fee system – quarterly payments of 5% on technical services and leases with or without an office
- Fixed 5% fee system – quarterly payments of 5% on business activities
- Annual tax return system – quarterly payments on technical or professional services and leases, with or without an office
- Annual tax return system – quarterly payments on business activities
- Normal taxpayer on technical or professional services and leases, with or without an office
- Normal taxpayer on business activities.

Filing requirements for taxpayers classified under the above-mentioned systems are:

- Filing of the Form SAT-14
- Original or legalised photocopy and simple photocopy of the Residence Identification document or passport, if the individual is a foreigner
- Certificate setting forth that the individual is a resident of the country, issued by the General Immigration Bureau, if the individual is a foreigner
- Evidence of the individual's registration as an active professional (liberal professionals) remains in the files of the Tax Agency or Office.

FILING OF THE BUSINESS – GENERAL DATA

On the back of the Form SAT-No. 0014 (costing GTQ 1), the following written information needs to be supplied for items No. 88–104 (filing of Businesses – General Data):

- 1) Business name
- 2) Address
- 3) Department
- 4) Municipality
- 5) Telephone number
- 6) Fax number
- 7) P.O. Box
- 8) Date of initiation of operations

- 9) Date of change (business domicile)
- 10) Other (information to be up-dated)

If the information is not available, draw a line to VOID spaces which were not used.

The Form SAT-No. 0014 should be read carefully, bearing in mind the type of organisation and following the instructions on both the front and back, in order to complete the form adequately and avoid future errors that could affect the company.

The following documents must be attached to Form SAT-0014:

- Application for Authorisation of Accounting Books, Form SAT-0052
- Application for authorisation to print and use documents and forms, Form SAT-0042.

PROCEDURES TO BE FOLLOWED WITH IGSS AND IRTRA

These are as previously described in the earlier sections.

MERCANTILE CORPORATIONS

These are corporations organised in a mercantile fashion, and are classified as follows:

- Joint venture
- Limited partnership
- Limited liability company
- Corporation
- Joint stock company

LEGAL REPRESENTATIVE

A legal representative is the individual who may and should legally represent a mercantile corporation. He/she is also known as the 'trade auxiliary'.

He/she is the individual – whether or not a businessperson – who is in charge of the administration, management and/or legal representation of a company, establishment or mercantile corporation.

The legal representative must be appointed by means of a Record of Appointment. The appointment is requested through a Notary Record by the members of the Board of Directors to the legal counsel (attorney at law).

The following individuals are considered trade auxiliaries:

- Administrators
- Deputy administrators
- Legal representatives
- Chairperson of the Administrative Council
- Vice-Chairman of the Administrative Council
- Managers
- Liquidators
- Commercial agents
- Commission agents
- Sworn brokers and auctioneers

Source: Commercial Code, Articles 162, 164, 166, 168, 181, 243, 263, 280 and 303.

The details of the legal representative must be filed with the Mercantile Registry within a term of one calendar month from the date of the record of appointment, to avoid incurring penalties.

REQUIREMENTS TO REGISTER A TRADE AUXILIARY (LEGAL REPRESENTATIVE)

STEP PROCEDURE

- | | |
|---|--|
| 1 | At the bank agency located in the facilities of the Mercantile Registry, the interested party must obtain an Application of Trade Auxiliaries. The cost is GTQ 2 |
| 2 | At the information desk, obtain a Payment Order which must be filled out and paid at the bank agency. The amount to be paid is GTQ 75. If the calendar month following the date of the Record of Appointment has lapsed, a penalty of GTQ 25 must be paid because a violation has occurred |
| 3 | When filling out the form, write down the term for the position of Manager – may be indefinite; and for the sole administrator or member of the Administrative Council – three years |
| 4 | Having paid the Payment Order, the interested party must organise a file in a legal size folder and include the following documents: <ul style="list-style-type: none"> • Registration form • Notary record of appointment, with one photocopy The payment order is stamped by the bank's cashier. <ul style="list-style-type: none"> • Obtain GTQ 50 in fiscal revenue stamps and adhere them to the Record of Appointment |
| 5 | All of the above must be delivered to the customer service window. The Department of Registration Operations classifies the files submitted and files the legal representative of a corporation, or the Commercial Agent in cases where it is a mercantile company. |
| 6 | The Mercantile Registry will set forth in the Record of Appointment the fact that the applicant has been filed as the legal representative or commercial agent |
| 7 | All files must be sent to the office of the Mercantile Registrar for his signature and seal on the appointment |
| 8 | When the file has been examined, signed and sealed, it is returned to the document delivery window located on the first floor of the offices of the Mercantile Registry, which returns the original record of appointment with the corresponding notes |
| 9 | The interested party, prior to leaving the document delivery window, verifies that the information contained in the document is correct, and adheres a fiscal revenue stamp of GTQ 0.50 on the left hand side of the notes. |

In the specific case of Mercantile Corporations, since February 2003, the interested party must pay at the bank agency located at the Mercantile Registry (first floor) GTQ 6 per 1000, instead of the formerly required fee of GTQ 4/1000.

STEPS FOR COMPANY FILING

STEP PROCEDURE

-
- 1 At the window, obtain an application for the filing of a mercantile corporation.
The cost is GTQ 2

 - 2 Fill out the form, attach the original official transcript of the corporate charter and one legalised photocopy

 - 3 At the Documents Reception window, obtain a payment order and pay at the bank indicated thereon, the base sum of GTQ 275 plus GTQ 6 for each thousandth of authorised paid-in capital of the corporation. In addition, GTQ 15 must be paid as edict/formal decree fees. Edict/formal decree fees are paid at the cash registers of the Mercantile Registry

 - 4 Having made all payments, prepare a file in a legal size folder and include the following documents:
 - Payment orders paid at the bank
 - Application for company filing, completely filled out
 - Original and legalised photocopy of the official transcript of the corporations charter of incorporation
 These documents are delivered at the Reception window, which in turn issues a ticket with the file number. The original official transcript, with a 'Received' stamp, will be returned to the interested party

 - 5 The file will be sent to the Legal Advice department for classification of the documents submitted. If all documents are correct according to the law, the department will request the provisional filing and will issue the Edict or Formal Decree for publication in the Official Gazette. Edicts/formal decrees are paid for at the cash registers of the Mercantile Registry. The cost is GTQ 15

 - 6 Following examination by the Legal Advice Department, the file is sent to the Registration Operations department, where the company will be provisionally filed, assigned a registration number, page and registration book, and issued with the corresponding edict/formal decree

 - 7 The Edict is then returned to the Document Delivery window to be delivered to the interested party who must take it to the official Gazette for publication

 - 8 Eight days after publication of the Edict in the Official Gazette, the interested party must submit to the Mercantile Registry a Petition requesting definite filing of the Corporation.
The following documents must be attached to the petition:
 - Original page of the Official Gazette showing publication of provisional filing
 - Original official transcript of the Corporate Charter
 - Photocopy of the appointment of the legal representative, previously filed with the Mercantile Registry.

 - 9 The documents mentioned in the preceding step are then sent to the Registration Operations Department for the following actions:
 - For definite filing of the corporation to be obtained
 - For due notations in the original official transcript to be written
 - For the Corporate Patent to be drawn up
 At the conclusion of this procedure, the documents are taken to the Mercantile Registrar for his signature

-
- 10 At the conclusion of Step 9, the complete file is returned to the Document Delivery window, where the following must be delivered:
- Original official transcript with due notations
 - Corporate Patent, with GTQ 200 in fiscal revenue stamps adhered
- The above documents serve to give evidence of the fact that the corporation has been filed and enjoys legal standing
-
- 11 At the time of definite filing of the corporation, procedures must be undertaken to register/file the company as owner of the corporation. For the purpose, the steps mentioned for filing of a mercantile company must be followed
-
- 12 Within a maximum term of one year following definite filing of the corporation, the Notification regarding the Issue of stock/shares must also be filed (only for stock companies), taking into account the respective steps to notify the issue of stock.
-

Commercial Patents should be requested in the following order:

- Commercial Patent for a corporation (term of issue – approximately ten working days)
- Commercial Patent for a company (term of issue – approximately two working days)

PROCEDURES TO BE FOLLOWED WITH SAT

For the purpose of filing with the Tax Administration Superintendence, legal entities, notwithstanding their classification, must meet the following requirements:

- Obtain and complete the filing form SAT-0014. The cost is GTQ 1
- Submit original or legalised photocopy and simple photocopy of Residence Identification document or passport of the legal representative
- Submit original or legalised photocopy and simple photocopy of the official transcript of the Corporate Charter
- Submit original or legalised photocopy and simple photocopy of the Appointment of the legal representative

The following documents must be attached to Form SAT-0014:

- Application for Authorisation of Accounting Books, Form SAT-0052
- Application for authorisation to print and use documents and forms, Form SAT-0042.

Legal entities are corporations, limited liability companies, limited partnerships and joint stock companies.

Procedures to be followed with IGSS and IRTRA are described in sections above.

BRANCH OF A FOREIGN CORPORATION

AUTHORISATION OF POWER OF ATTORNEY BY FOREIGN NOTARY PUBLIC

Foreign entities must establish an agent in the country to be able to undertake operations. Guatemalan laws require that the agent designated is qualified to legally represent the corporation in court and out of court. Therefore, the agent should be an attorney at law. The power of attorney must be authorised under the laws of the country of origin and, subsequently, legalised by the nearest Guatemalan Consulate. In accordance with the procedures for legalisation of a foreign document, the power of attorney must be submitted to the Ministry of Foreign Affairs in Guatemala. Thereafter, it must be formalised by a Guatemalan notary and filed with Guatemalan authorities. It should be noted that the Guatemalan notary must give proper instructions to the interested party regarding the powers to be included in the power of attorney, to ensure that the attorney will not encounter restrictions when exercising the power of attorney.

OBTAINING CORPORATE DOCUMENTS

The interested party/parties must obtain, under the laws of their country, the necessary documents to file the branch of the foreign company in the country.

Where a foreign company will be in operation for an indefinite term in Guatemala, the following documents need to be obtained:

- Organisation under the laws of its country, bylaws and modifications, if any
- Resolution taken by the competent corporate body for filing in Guatemala
- Statement by the legal representative of the corporation or competent body, regarding the following issues:
 - That the corporation will respond not only with its assets in Guatemala, but also with assets held abroad, for all actions and contracts entered into.
 - That the corporation will submit to the jurisdiction of the courts and laws of the Republic of Guatemala
 - That neither the corporation nor its representatives or employees will invoke foreign rights
 - That it will meet all applicable legal requirements prior to leaving the country
- Certified copy of the last balance sheet and profit and loss statement.

In cases where a foreign company will undertake operations for a maximum term of two years in Guatemala, the following needs to be obtained:

- Organisation under the laws of its country, bylaws and modifications, if any.

LEGAL CERTIFICATIONS

1) Legalisation of a foreign notary's signature by a foreign public officer – the Guatemalan Consulate only legalises the signature of a public officer of a foreign government whose signature is filed therewith. Therefore, the signature of the foreign officer authorising the power of attorney, as well as the signature of the notary if he/she issues any corporate documents, must be previously legalised by a foreign public officer whose signature is in the files of the Guatemalan Consulate. Should there be any doubt as to who is the competent foreign public officer authorised to legalise the signature of the foreign notary, it is recommended that the interested party consult with the respective Guatemalan Consulate.

The requirements involve:

- A foreign government officer needs to be approached who is qualified according to the laws of his/her country, with the power of attorney authorised by a foreign notary and/or corporate documents should any be issued by a notary
- A foreign public officer legalises the signature of the foreign notary. That officer must have his signature filed with the Guatemalan Consulate that will legalise the documents.

2) Legalisation by the Guatemalan Consulate – to be valid in Guatemala, documents issued abroad must be legalised up to the level of the Guatemalan Consulate. The Guatemalan Consulate in a foreign country will only legalise the signature of the public officer who has filed his signature with the Consulate. When documents are issued by public institutions abroad, it is likely that the Consulate will have the signature of that officer in its files, and may directly legalise the signature. If, in conformity with the laws of the country, the document was not issued by any institution but rather by a notary (as in the case of a power of attorney or other corporate documents which under the laws of the country may be issued by a notary), his/her signature will have to be authenticated prior to taking the document to the Guatemalan Consulate, by an officer of the government whose signature is in the files of the Consulate. For further information, please refer to the web link listing the Embassies and Consulates of Guatemala.

Additional costs are the equivalent of USD 10 (GTQ 80) for each document that needs to be legalised. The requirements are:

- An approach needs to be made to the nearest Guatemalan Consulate with the documents duly legalised by an officer of the foreign government, whose signature is in the files of the Consulate, or issued by an officer of a public institution whose signature has been filed with the Consulate
 - Some Consulates accept documents delivered by mail, when the interested party is unable to deliver such documents in person
- The Consul legalises the signature.
- The process takes approximately two to five days.

3) Legal translation of documents – this is required when the documents in question are totally or partially written in a language other than Spanish. The legal translation is performed by a translator duly filed with the Ministry of Education; it is not a simple translation. For further information, see attached listing of authorised legal translators.

The requirements are:

- An approach needs to be made to a legal (sworn) translator duly authorised in Guatemala and the documents to be translated delivered
- If an authorised translator in the respective language is not available, the documents must be translated under oath by two individuals who are fluent (speak and write) in both languages, with a notary's legalisation of their signatures.

4. Legalisation by the Guatemalan Ministry of Foreign Affairs – this step is required to complete the series of legalisations of documents issued abroad/in a foreign country.

The fixed cost is GTQ 10 or USD 1.33 (at 13 October 2008, 1 USD = 7.5 GTQ).

The Ministry of Foreign Affairs does not charge any fees for this proceeding, but the interested party must adhere a fiscal revenue stamp of GTQ 10 for each legalisation.

The requirements are, at the window where the documents are received:

- Delivery of the documents previously legalised to the Guatemalan Consulate in the country of origin
- The Ministry of Foreign Affairs legalises the signature of the Guatemalan Consulate abroad; it does not certify the authenticity of the documents.

5. Official Notary Record of the documents – the official record of a document implies that the notary makes it an integral part of his official record; the notary's official record is a public notary file where the notary certifies acts and contracts. In order to officially record a document, the series of legalisations must have been obtained for the Guatemalan Ministry of Foreign Affairs, and be translated when the documents are not written in Spanish. The power of attorney must be officially recorded separately from any other corporate documents. The interested party is free to choose the notary of his/her preference. The Professional Association of Attorneys at Law and Notaries can provide a list of practicing professionals.

There is no fixed cost associated with this. However, additional costs will involve:

- Notary fees – these are variable. The parties may agree on the fees, should there be no agreement governing Notary tariffs
- Variable costs for corporate documents – these are as follows:
 - GTQ 0.50 (USD 0.06) fiscal revenue stamp for each page of the document which is being officially recorded, adhered to the document itself
 - GTQ 0.50 (USD 0.06) fiscal revenue stamp for each page of the document being officially recorded, adhered to the official transcript of the official record
- Variable costs for a power of attorney
 - GTQ 0.50 (USD 0.06) fiscal revenue stamps for each page of the power of attorney being officially recorded, adhered to the document itself
 - GTQ 0.50 (USD 0.06) fiscal revenue stamp for each page of the document being officially recorded, adhered to the official transcript of the official record
 - GTQ 10 (USD 1.25) fiscal revenue stamp tax if it is a general power of attorney, or GTQ 2 (USD 0.25) if it is a special power of attorney, adhered to the transcript of the official record
- Variable costs for official transcripts for the General Archive of Official Records:
 - GTQ 0.50 (USD 0.06) for each page of the transcript
 - GTQ 10 (USD 1.25) notary stamp for each transcript.

The requirements entail:

- Delivery to the Guatemalan notary of the documents with all due legalisations and the translation, if applicable, for official recording
- The documents to be officially recorded by the Notary are:

In the case of a foreign corporation which will be operating for an indefinite term in Guatemala, the following documents need to be obtained:

- Organisation under the laws of its country, bylaws and modifications, if any
- Resolution taken by the competent corporate body for purpose of registration/filing in Guatemala

- Statement by the legal representative of the corporation or competent corporate body regarding the following issues:
 - That the corporation will respond not only with its assets in Guatemala, but also with the assets that it holds abroad, for all actions and contracts executed
 - That the corporation will submit to the jurisdiction of the courts and laws of the Republic of Guatemala
 - That the corporation, its representatives or employees shall not invoke alienate rights
 - That it will meet all legal requirements prior to leaving the country
- Certified copy of the last balance sheet and profit and loss statement.

In cases where a foreign corporation will operate in Guatemala for a maximum term of two years, the following need to be obtained:

- Organisation under the laws of its country, bylaws and modifications, if any
- Notary authorisation of transcripts of official records, to be submitted to the public registries in Guatemala. He / she also issues transcripts for the General Archive of Official Records.
- The process takes two to three days.

FILING OF POWERS OF ATTORNEY WITH THE GENERAL ARCHIVE OF OFFICIAL RECORDS

The power of attorney granted by a foreign corporation must be filed with the General Archive of Official Records of the Supreme Court of Justice, as well as with the General Mercantile Registry of the Republic. This section describes filing with the General Archive of Official Records.

The fixed cost is GTQ 117.60 or around 15.68 USD (at the exchange rate of 13 October 2008 of 1 USD = 7.5 GTQ).

Additional costs can be seen at point 5) in the previous section, 'Official Notary Recording of documents'.

The requirements entail:

- A visit to the reception window and delivery of the following documents:
 - Transcript of the notary's official record instrument of the power of attorney
 - The General Archive of Official Notary Records files the power of attorney and writes explanations covering the transcript of the official notary's record file

OPENING A BANK ACCOUNT

A bank account must be opened in Guatemala, because the Mercantile Registry requires that the foreign corporation operates with a minimum capital of GTQ 5,000 (USD 625):

- Obtain letter to open bank account (foreign company)
- To open the account, a notary letter must be obtained. The interested party is free to choose the notary of his/her preference. The Professional Association of Attorneys at Law and Notaries can provide a list of practicing attorneys at law and notaries.

The requirements entail the following actions:

- State before a Guatemalan notary the intention to incorporate a branch of a foreign company
- The notary writes a letter to open a bank account in the name of the branch at the bank chosen by the interested party.

- This takes an estimated 30 minutes.

OPENING A BANK ACCOUNT (FOREIGN COMPANY)

The Mercantile Registry requires that the foreign company operate with a minimum capital of GTQ 5,000 (USD 625) and therefore the account must be opened at least with that amount of money. The interested party is free to choose the bank of his/her preference to open the bank account. The Guatemalan Superintendence of Banks can provide a list of system banks.

For further information on Guatemala's banking system, go to:

[www.sib.gob.gt/información de las Entidades Supervisadas/sistema bancario.htm](http://www.sib.gob.gt/información%20de%20las%20Entidades%20Supervisadas/sistema%20bancario.htm)

The requirements entail the following actions:

- Approach the preferred bank
- Show the letter written by the notary to open an account in the name of the corporation, to enable its organisation/incorporation
- Make a deposit of at least GTQ 5,000 (USD 625)
- Keep the deposit voucher which gives evidence of the payment made, to be delivered to the notary.

OBTAINING SPECIFIC FORM AND SIGNATURE LEGALISATION

1) Specific form – the interested party may obtain the 'Specific transaction form, expeditious window for company registration and filing', online at:

<http://mineco.gob.gt/ventanillaagil/index.html>.

It may also be obtained at the Information Department of the Mercantile Registry.

This form is needed for the following filings:

- With the Mercantile Registry – filings of mercantile corporation (includes publication of edict in 'Diario de Centroamérica' / official gazette), trade auxiliary, individual businessperson and company. It is also needed to obtain authorisation for accounting books and corporate records
- With SAT (Fiscal Administration) – filing of taxpayer with the Unified Fiscal Registry, authorisation of cash registers, authorisation for printing and utilisation of documents and books, authorisation of accounting books
- With IGSS – filing of employer with the social security system.

The interested party is not obligated to perform all transactions/procedures simultaneously. Those parties who do not wish to undertake all procedures simultaneously, will have to do them later as explained in the traditional procedures, obtaining the corresponding forms for various registrations/filings.

The requirements entail the following actions:

- Download the specific form online at:
 - <http://mineco.gob.gt/ventanillaagil/index.html>
- At the offices of the Mercantile Registry, verbally ask for the form at the Information Department.

2) Legalisation of signature on specific instrument – the interested party is free to choose the notary of his/her preference. The Professional Association of Attorneys at law and Notaries can provide a list of practicing attorneys at law.

The fixed cost is GTQ 15 or USD 2 (at the exchange rate of 13 October 2008, 1 USD=7.5 GTQ).

Additional costs are incurred. Notary fees are variable. The parties may freely agree on fees, otherwise, the Notaries' tariffs will apply.

The requirements entail the following actions:

- Complete the form using a typewriter
- Identify yourself with Residence Identification document or passport, if you are a foreigner
- Sign the form in presence of the notary.
 - The form may be signed by the entity's legal representative or by an attorney in which case the latter must identify him/herself with the original or legalised copy of the official transcript of the public instrument which contains the power of attorney duly filed, and with his/her Residence Identification document or passport if he/she is a foreigner.
- The approximate time required is 20 minutes.

SIMULTANEOUS FILING

1)) Payment Order for filings (foreign) – the Mercantile Registry estimates the amount to be paid, depending on the number of simultaneous procedures that the interested party requests. The Payment Order is specific and is issued by the Mercantile Registry, even when the interested party requests simultaneous procedures with different entities (IGSS, SAT, 'Diario de Centroamérica'). Payment receipts are issued by the different entities in charge of the procedures.

The Mercantile Registry has departmental offices in the main regions of the country. Conditions and requirements are the same in all offices. This form contains all contact data of the central headquarters located in the Department of Guatemala. For further information on other departmental offices, click on 'Cobertura' at the website:

www.registromercantil.gob.gt

The requirements entail the following actions:

- Show the original or copy of the transcript of the Official Notary's Record file of the corporate charter
- Tell the operator if you intend to perform other transactions simultaneously for calculation of the respective fees in the same Payment Order
 - The operator estimates the Registry fees and cost of other procedures requested simultaneously.

2) Payment of simultaneous filings (foreigners) – the payment is made at the Banrural, at any one of its agencies in the country. For the convenience of users, an agency of this bank is located at the Mercantile Registry. The interested party makes one single payment to cover all different and simultaneous procedures requested, but obtains the corresponding receipts from each individual entity.

The fixed cost is GTQ 1790.62.

Additional costs are incurred and depending on the number of simultaneous procedures requested, the cost will be variable:

- Mercantile Registry Fees
 - Filing of a corporation – GTQ 6.0 (USD 0.75) for every thousand or fraction of the value set forth in the document.
 - Certification of provisional filing (should it be needed to transact a transfer at the Real Estate Registry) – GTQ 15.00 (USD 1.88) basic, plus GTQ 1 (USD 0.13) for each additional sheet
 - Filing of trade auxiliary – GTQ 75 (USD 9.38)
 - Company filing – GTQ 100 (USD 12.50)
 - Authorisation of accounting books – GTQ 0.15 (USD 0.02) per page
 - Authorisation of corporate books – GTQ 0.15 (USD 0.02) per page
- SAT Fees for authorisation of accounting books – GTQ 0.50 (USD 0.06) for each authorised page

The requirements entail the following actions:

- Submit Payment Order covering simultaneous procedures
- Pay amount in cash or cashier's check issued by any bank of the system.

3) Simultaneous filings (foreign) – with the Mercantile Registry, the following filings may be requested simultaneously:

- Mercantile Registry – filing of a mercantile company (includes publication of edict in the 'Diario de Centroamerica'), trade auxiliary/attorney, individual businessperson, and company. Also, authorisation of accounting books and corporate records
- SAT – taxpayer's filing with the Unified tax Registry, authorisation of cash registers, authorisation to print and use documents and forms, authorisation of accounting books
- IGSS – employer's filing with the social security system.

The interested party does not have to perform all procedures simultaneously. Those which the interested party wishes to perform simultaneously will have to be undertaken in accordance with the explanations given for traditional procedures. Information on contacts at the Mercantile Registry is given, because simultaneous filings have to be requested with this entity, even though internally the dependencies in charge of the various procedures are different.

For further information on contact information of other institutions (SAT, IGSS, 'Diario de Centroamérica'), refer to 'Local companies: traditional procedures'. Contact data of other departmental offices of the Mercantile Registry may be found at 'Cobertura' on the website www.registromercantil.gob.gt

The requirements entail the following actions:

- At the document reception and delivery window, deliver a legal size folder with the following documents:
 - 'Single form for transactions/procedures at expeditious window for company registration and filing', typewritten and with a legalised signature

- Payment vouchers from – Mercantile Registry, Diario de Centroamérica and SAT revenues covering payment of fees for authorisation of accounting books
- Original and simple copy of transcript of notary’s official record of the organisation charter of a foreign corporation
- Original and simple copy of the transcript of official notary record of corporate documents
- Original and simple copy of the transcript of official notary record of power of attorney, filed with the General Archive of Official Notary Records.
- The Registry grants provisional filing and demands that the edict be published once in the official gazette ‘Diario de Centroamérica’. The corporation may begin operations as soon as the provisional filing is obtained and the legal representative has been filed:
 - The Diario de Centroamérica establishes the date for publication
 - SAT issues a filing certificate and assigns a tax identification number
 - IGSS issues the employer’s filing number through a resolution
- The approximate time required is one hour.

PUBLICATION

Publication of an edict takes place in the official gazette – ‘Diario de Centroamérica’.

Beginning on the date on which the edict is published in the ‘Diario de Centroamérica’, any interested party has a period of eight working days to express objections regarding the filing of the corporation. This is known as the opposition period. Further information on contacts can be found at the headquarters of ‘Diario de Centroamerica’ and its agency at the Mercantile Registry

Additional costs are incurred, because the ‘Diario de Centroamérica’ charges a fixed fee of GTQ 525.62 for each publication. Refer to the steps set out previously:

- ‘Payment of simultaneous filings’ (if the user should chose the simultaneous filing procedures/ ‘expeditious window’)
- ‘Payment of corporate filing, edict and publication’ (if the user follows traditional procedures for filing and incorporation of foreign entities)

The requirements entail the following actions:

- When publication is paid for, the Mercantile Registry electronically delivers the edict to ‘Diario de Centroamérica’
- The publication takes place on the date assigned by ‘Diario de Centroamérica’
- The interested party must pay attention to the date of publication and wait the lapse of the eight-day term for objections
- The estimated time required is eight working days.

OBTAINING AND SUBMITTING THE BOND

1) Obtaining a bond – to operate in the country, the foreign corporation must obtain a bond for an amount of at least USD 50,000 which is established by the mercantile Registry.

The requirements entail the following actions:

- Obtain a bond at any bonding company legally organised in the country, for the amount established by the Mercantile Registry, which shall not be less than USD 50,000. Bonding companies in the system decide, according to their internal policies, whether or not they will act as guarantors of the foreign corporation
- If the bonding company decides to constitute itself as guarantor, it shall issue the corresponding policy to the interested party, after receiving payment of the bond
- The approximate time required (depending on the bonding company) is three to five days.

2) Delivery of bond policy – the Mercantile Registry establishes the bond, the interested party obtains the bond from an insurance company in the country, and subsequently, the interested party must submit the respective policy to the Mercantile Registry giving evidence of the fact that the bond has already been constituted.

The Mercantile Registry has departmental offices in the main regions of the country. Conditions and requirements are the same at all of the offices. The file must include information regarding contacts at the main offices in the Department of Guatemala. For further information on other departmental offices, click 'Cobertura' on the website www.registromercantil.gob.gt

The requirements entail the following action:

- According to the amount established by the Mercantile Registry, the foreign corporation must submit, within a term of three days, the bond policy duly paid to be attached to the file.

DEFINITE FILING AND OBTAINING PATENTS (FOREIGN COMPANIES)

The definite filing and patents may be requested provided no objection was raised during this term. The Mercantile Registry has departmental offices in the main regions of the country. Conditions and requirements are the same at all of the offices. This file must include information regarding contacts at the main offices in the Department of Guatemala. For further information on other departmental offices, click 'Cobertura' in the website www.registromercantil.gob.gt

The requirements entail delivering the following documents at the document reception and delivery window:

- Receipt of payment
- Petition requesting definite filing of the corporation
- Full page of the publication of the provisional filing edict in 'Diario de Centroamérica'
- Original transcript of the Official Notary Record of the corporation's charter of incorporation, provisionally filed with the Mercantile Registry
- Photocopy of power of attorney filed
 - The Registry writes due notations on the transcript and certifies the effective date of definite filing of the corporation
- When the Registry delivers the patents, the interested party must adhere on the corporation patent, fiscal revenue stamps at a total value of GTQ 200 (approx. USD 25), and on the company patent, fiscal revenue stamps at a total value of GTQ 50 (approx. USD 6.25)
- The estimated time required is one day.

5 – LABOUR

LABOUR & EMPLOYMENT – COMMON ISSUES

INDIVIDUAL CLAIMS

The most common issues are as follows:

- Disputes regarding the justified/unjustified termination of the working contracts of employees and the resulting claims for severance entitlements (severance is equivalent to one month's average of salaries earned during the last six months of the contract, per each year of continuous work, with no limit of years of work, nor monthly salary cap)
- Disputes concerning the true legal nature of the contracts and/or agreements entered into with associates (employment relationship vs. independent contractor)
- Adjustments in calculation of severance entitlements, based on additional compensations and other entitlements (performance bonuses, share participation agreements, non-salary benefits, etc)
- Overtime claims (specific limits exist, both from a daily and weekly perspective)
- Maternity protection claims (in the event of termination or harassment of female employees while pregnant or during the breastfeeding period following child birth).

COLLECTIVE CLAIMS

These include:

- Petitions from organised workers through unions or coalitions demanding collective bargaining to improve salaries, economic benefits and working conditions. These unions or coalitions are formed independently in each specific business or company (or group of related companies), and are not generally unions for a trade or branch of activity
- Reinstatement petitions in cases where employees are fired while a union is in the formation process or while a collective dispute has been filed before the courts.

ACTIONS AND CLAIMS BY LABOUR AUTHORITIES

There are official visits and verifications from labour inspection authorities (a General Labour Inspection), regarding the compliance and fulfilment of all labour laws and regulations.

Recently, additional powers were granted to the Labour Inspector in order for them to have immediate access to workplaces in which the following labour-related events have taken place: mass firings (ten or more employees), employer substitutions, plant closures, employment of underage employees and other situations the General Labour Inspection deems as emergencies.

LABOUR & EMPLOYMENT ISSUES/LEGAL PROCEEDINGS

Even though certain external formalities may differ, the substance of the legal proceedings are very similar to those in most other countries in the region (Latin America), thus the right of the employer to answer claims and file counterclaims, to submit evidence and to obtain the revision of judgements by a superior court is duly guaranteed. However Guatemalan labour laws (both substantive and procedural) are of a public order nature and highly protective of the employee and as such place, most burdens lie on the employer. Therefore employers must know and comply with the applicable laws and seek competent counsel if necessary.

In Guatemala, proceedings are handled by specialised Labour Courts, established and recognised by the political constitution. Such proceedings are meant to be simple and fast, disregarding formality as much possible, but in practice, these aims are not necessarily achieved.

The legal proceedings for individual claims are substantiated before a First Instance Labour Judge in a predominantly oral procedure composed of three hearings (the first one for answering the complaint and to formulate counter-claims in cases where it may be proper, and to receive evidence; the second and the third hearings are to receive evidence which was not possible to be received in the first hearing). The judgement issued by the Labour Judge can be appealed before a Court of Appeals overseen by three magistrates.

For collective claims, the petition is filed by organised workers (a union or 'ad hoc' coalition) before a First Instance Labour Judge, who preliminarily has to integrate the workings of a Conciliation Tribunal composed of three members (the judge, a union sector representative and an employer sector representative). If conciliation fails, the workers can declare and execute a legal strike, where legality and justice has to be resolved by the judge with a right of appeal before the Court of Appeals; or the dispute can be submitted (as an alternative to a strike) to resolution by a Court of Arbitration (integrated in the same way as the Conciliation Tribunal) and its judgement can also be appealed before the Court of Appeal.

Things to be aware of with respect to labour and employment laws include:

- Guatemala has a Labour Code and specialised laws and regulations which are intended to regulate most labour issues. Many of the country's most important labour rights and benefits (and many non-core ones) have been raised to the level of constitutional law, as they are included in the political constitution of 1985. Guatemala has also ratified and applies an important number of International Labour Conventions of the International Labour Organisation (ILO), including all of the treaties included in the 1998 ILO Declaration on Fundamental Principles and Rights at Work
- Most of the labour laws and regulations concern public order and are highly paternalistic, thus workers cannot relinquish their minimum labour legal rights. The interpretation and scope of any labour laws, regulations or agreements is construed in favour of the workers when in doubt ('in dubio pro operario')
- Employee remuneration in Guatemala has to be properly understood. It comprises 12 monthly salaries, plus a Christmas Bonus ('Aguinaldo') and a 14th Salary payable in July ('Bono 14'). In the event of unjustified termination, an employee has the right to receive a severance entitlement equivalent to a month of salary per each year of work (for an unlimited number of years and with no maximum salary cap), which has to be calculated taking into account the proportional parts of the Christmas Bonus and the 14th Salary, and possibly other non-salary benefits received by the employee.

LEGAL SYSTEM AND FOREIGN COMPANIES

The legal system of Guatemala is based on a Roman tradition – a civil law system, with most legal provisions codified and justice being applied on the basis of codified law and not based on prior cases (jurisprudence). Such a system applies equally to individuals and companies; no difference is made one to another, only as to certain procedural issues which might differ slightly.

Employers in the country can be companies or individuals and both are treated in the same way. Both types of employers are subject to labour laws which are specifically designed to protect workers.

Foreign companies (defined as those established under the laws of countries other than Guatemala) are treated the same way as local companies. The Commerce Code specifies certain activities which do not require the foreign company to be domiciled in Guatemala; however, for hiring employees, a foreign company should have to establish a branch in the country and/or seek alternate arrangements with a service provider capable of providing payroll services.

Recently, there has been discussion before Congress of possible legal provisions which would require companies which obtain specific fiscal benefits (under drawback and export-related activities and legal regimes), to comply with additional labour obligations (such as posting a bond to secure payment of labour obligations towards employees).

TRIALS

All trials are decided by judges. Juries not allowed in the legal system.

Trials are conducted exclusively by a judge in the first instance and on appeal by a higher court composed of three magistrates.

In collective proceedings originating from collective bargaining negotiations and disputes, cases will be submitted to a Labour Court of Conciliation (one judge, one union representative and one employer representative), and in certain circumstances, to a Court of Arbitration (working in the same way).

Most cases are settled out of court, specifically by an agency of the Ministry of Labour and Social Welfare, which is called the General Inspection of Labour, which has a specific Conciliation Section where employers and employees are summoned to appear in order to try to settle disputes. An important number of cases are also settled before the Labour Courts, which have ample faculties and powers to seek amicable settlements between the parties.

LABOUR AND EMPLOYMENT LAWSUITS

Suits have to be filed before a First Instance Labour Court competent in the territory where the labour dispute has arisen. If the lawsuit meets all formal requirements, the judge sets a first hearing and serves notice to the employer at least three working days ahead. In the first hearing, the employer has to respond to the claim and also has the right to counter-claim the employee. In such a first hearing, all the evidence has to be presented by both parties, but if it is not possible due to the nature of the evidence or some impossibility related to the court, second and/or third hearings will be set. After all evidence has been received, the judge issues a judgement, which can be appealed before a Court of Appeals. The second instance before the Court of Appeals is just a revision of the first instance judgement, exclusively over any unconformities of the appealing party, but where no new evidence is to be brought or received, except in extraordinary circumstances.

The decision of the Court of Appeals is final and mandatory for both parties. There is only chance to revise procedures by a Constitutional Court if it is clearly demonstrated the Labour Courts violated in any way the constitutional rights of defence and due process of any of the parties.

LABOUR AND EMPLOYMENT LAWS AND REGULATIONS

The main laws and regulations are as follows:

- Political Constitution of the Republic of Guatemala
- Labour Code (Decree 1441 and subsequent reforms) and regulations
- CAFTA-DR Free Trade Agreement with the United States (Chapter 16 - Labour)
- Foreign Investment Law (Decree 9-98 of Congress)
- Decree 76-78 of Congress (Christmas bonus or 'Aguinaldo' benefit for the private sector)
- Decree 42-92 of Congress (Annual bonus or 14th salary for private and public sector)
- Decree 78-89 of Congress and reforms ('Incentive Bonus' for the private sector)
- Income Tax Law (Decree 26-92 of Congress and subsequent reforms)
- Social Security Institute (IGSS) founding law (Decree 295) and regulations
- Executive accords which determine on a yearly basis the minimum wages for each of the different activities (non-agricultural, agricultural, drawback and export-related activities)
- Executive accord No. 346 which determines which activities are not subject to working hours limitations (overtime).

As a member of the International Labour Organisation (ILO), Guatemala has ratified and applies a number of International Labour Conventions, many of which have very significant effects on labour relations and disputes. As of September 2011, Guatemala has in force 69 International Labour Conventions, of which the most important (called the Major Conventions) are the following:

- No. 29 Forced Labour Convention (1930)
- No. 87 Freedom of Association and Protection of the Right to Organise Convention ((1948)
- No. 98 Right to Organise and Collective Bargaining Convention (1949)
- No. 100 Equal Remuneration Convention (1951)
- No. 105 Abolition of Forced Labour Convention (1957)
- No. 111 Discrimination (Employment and Occupation) Convention (1958)
- No. 138 Minimum Age Convention (1973)
- No. 182 Worst Forms of Child Labour Convention (1999)

The exact list of ratified Conventions can be found at the following link:

www.ilo.org/ilolex/cgi-lex/ratifce.pl?Guatemala

The same laws apply in all of the territory, with the exception of minimum wages which might differ depending on the economic activity and the applicability of certain Social Security programs which do not have national coverage.

ALTERNATIVE LABOUR DISPUTE RESOLUTION SOLUTIONS

In the resolution of labour issues and disputes, private arbitration is not accepted nor recognised. All the administration of justice in labour matters has to be performed by the Labour Courts which form part of the Judicial Branch of government (Supreme Court).

The Court of Arbitration previously mentioned and provided for in the resolution of collective disputes deriving from collective bargaining, is not really an arbitration body which functions as an alternative to the public Labour Courts, since it is also composed of and presided over by the Labour Judge and by two other members (one from the employee sector and the other from the employer sector). The functions of such a Court of Arbitration are set out in the Labour Code in the chapter dealing with the procedural aspects of collective disputes of a socio-economic nature, and the judgement is subject to a full revision (material and formal) by the Court of Appeals.

Conciliation is completely voluntary and can be used as an alternative solution. The conciliation can be done privately or through the General Labour Inspection and even the Ministry of Labour.

Only in collective conflicts pertaining to collective bargaining is the conciliation activity mandatory. Otherwise, it should not be held as a necessary phase of the judicial proceedings by either party. Any recommendation or position taken by the Court of Conciliation is not obligatory or binding for the parties, and must be voluntarily accepted.

6 – TAXATION

Accurate and current information regarding taxation in Guatemala is often difficult to obtain as there are no reporting services such as those available in the United States and other countries.

It is also difficult to determine how the tax laws will be applied in practice in complex situations. The laws and regulations are limited and ordinarily cover only the most common situations. The system of legal precedent resulting from court decisions is not widely used in Guatemala and each issue is resolved by reference to the respective codes. Though there has been no great interest in tax planning, it is possible to have informal consultations with the tax authorities and to obtain authoritative rulings in many cases. Points which involve large discrepancies between the government and management criteria are commonly brought to judgment by the Constitutional Court whose binding sentences have normally resulted in the laws in dispute being abrogated.

National income is drawn principally from agriculture, poultry and cattle raising, which occupy two-thirds of the economically active population. Taxes collected by the central government, are levied on income, property, bequests and gifts, imports, exports and sales. Local taxes at country-wide level are also levied by the municipalities.

TAX AUTHORITIES

The tax authority in Guatemala is the central government through the Superintendence of Tax Administration ('Superintendencia de Administracion Tributaria' / SAT), which collects and administers almost all taxes and leaves the municipal governments to collect contributions of a municipal nature ('arbitrios').

All taxes collected are placed in a common national pool ('fondo común') from which they are drawn for allocation to the various national projects and municipalities.

The principal taxes payable in Guatemala are:

- Income taxes
- Transactions taxes (value added, interest income, stamp, inheritance and gift taxes)
- Solidarity tax law.

VALUE ADDED TAX (IVA, FOR ITS ABBREVIATION BY INITIALS IN SPANISH)

VAT is an indirect tax on consumption. It applies to transfer of goods for a price and to rendering services. Final users or consumers bear the tax. The Value Added Tax in Guatemala is a tax levied at twelve percent (12%) of the tax base. The amount of the tax must always be included in the sales price of good or value of the services.

INCOME TAX

According to the Income Tax Law (Ley del Impuesto Sobre la Renta), Decree-26-92 of the Congress of the Republic of Guatemala, there is an Income Tax on all earnings obtained by a natural or artificial person, either national or foreigner, domiciled or not in the country, as well as any entity, patrimony or asset specified by the law, deriving from capital or work investment in the country, or a combination of both. According to the Income Tax Law, Income Tax may be paid in one of two ways:

- 1) 5% over gross income (flat tax), or
- 2) 31% over net income (gross income, less the authorized deductions of law). If you choose the 31% regime, no more than 97% of gross income may be used in deductions.

TERRITORIALITY PRINCIPLE

The tax is generated each time taxed income is produced in Guatemala, or that is considered by law as deriving from a Guatemalan source, and is identified as such by law. Income deriving from Guatemalan source is all income generated by capital, goods, services and rights of any kind invested or used in the country or which derive from any type of activities carried out in Guatemala, including foreign exchange earnings, notwithstanding the nationality, domicile or residence of the persons participating in the operations and the place where the agreements are executed.

Exemptions:

According to the Income Tax Law among the exempt situations are the following:

- Income obtained by universities;
- Income obtained by non-profit associations or foundations legally established and registered as exempt entities before SAT.
- Interests and commissions from loans obtained abroad by States bodies;
- Compensations or benefits obtained due to death or incapacity from accidents or disease;
- Benefits obtained from the social security.

INCOME TAX ON SALARIES:

Any individual person obtaining income for rendering personal services deriving from an employment must pay taxes in accordance to law. Said taxes will be set in accordance to the taxed income, which is obtained from subtracting the deductions authorized by law from the net income.

This tax will only be paid by individual persons working under employment, and whose income is larger than Q36,000.00, annually. The amount to be paid as salary tax will be calculated based on the taxed income in accordance to a progressive rate scale included in the Income Tax Law.

INCOME TAX FOR PERSONS NOT DOMICILED IN GUATEMALA:

For individual or artificial persons not domiciled in Guatemala, the tax will be determined by applying the percentages of law to the income from a Guatemalan source, received or accredited, and the tax so determined will be considered as a definite payment.

INCOME TAX, CONTAINED IN THE TAX UPDATED LAW

The Income Tax Law will be repealed as of January 1, 2013. The new income tax, contained in the Tax Update Law (Ley de Actualización Tributaria), Decree 10-2012 of the Congress of the Republic of Guatemala will take effect on that date.

The Tax Update Law establishes that Income Tax may be paid in one of the two ways:

1. Optional Simplified Regime over Income of Profit Activities, with the following rates:
 - a. For the Period January 1, 2013 to December 31, 2013: 6% on taxable income.
 - b. As of January 1, 2014, according to the following progressive rate scale:

Monthly Taxable Income (taxable base amount)		Fixed	Tax Rate
Q.0.01	Q.30,000.00	Q.0.00	5%
Q.30,000.01	And up	Q.1,500.00	7% on the excess of Q.30,000.00

2. Regime over Earnings of Profit Activities, with the following rates:
 - a. For the period January 1, 2013 to December 31, 2013: 31% on taxable income
 - b. For the period January 1, 2014 to December 31, 2014: 28% on taxable income
 - c. Starting on January 1, 2015: 25% on taxable income.

In addition, the Tax Update Law foresees specific rules regarding rates, deductions, exemptions and other requirements that vary depending on the type of income”

1. Income of Profit Activities: According to the regimens described above.
2. Income Tax on Salaries: This tax will only be paid by individual persons working under employment, and whose income is larger that Q60,000.00 annually, The amount to be paid as salary tax will be calculated based on the taxed income in accordance to a progressive rate scale included in the Tax Update Law.
3. Income of non-residents: The Tax Update Law establishes new categories of non-residents and rates that vary from 5% to 25%.
4. Capital Income: The Tax Update Law classifies the capital income in returns on real property and movable property, and capital gains and losses. This classification includes a description of the activities that are considered capital income and the applicable tax rate.

TRANSFER PRICING RULES

As of March 5, 2012, there was no legislation in Guatemala relating to transfer pricing. However, Tax Update Law, Decree 10-2012 of the Congress of the Republic of Guatemala, has incorporated into the Guatemalan legislation special transfer pricing rules that must apply in all transactions between related parties. The special transfer pricing rules will take effect on January 1, 2013.

In this regard, the Tax Update Law, states that the special transfer pricing rules for the valuation of the transactions between related parties are applicable in any transaction carried out between a resident in Guatemala and a resident abroad and which has some effect in the determination of the tax base for the period in which the transaction is carried out and in the subsequent periods.

According to the Tax Update Law, to determine the value of the transactions according to the Arm's Length Principle, one of the following methods must be applied:

1. Comparable uncontrolled price method.
2. Cost plus method.
3. Resale price method.
4. Partition of profits method.
5. Transactional net margin method.

Furthermore, the Tax Update Law, grants to the Tax Authority enough powers to:

1. Verify if the transaction carried out between related parties have been valued according to the Arm's Length Principle in tax matters and make adjustments as appropriate when the valuation agreed by the related parties has resulted in lower taxes in Guatemala;
2. Reclassify a transaction according to its real nature, if the economic reality of the transaction differs from its legal form, or the agreements relating to the transaction differ substantially from agreements that are taken between non related parties, and the structure of the transaction prevents the Tax Authority to determine the appropriate transfer price.
3. Determine, prior to the completion of a transaction between related parties, the valuation of such transaction. In order for the Tax Authority to determine the valuation of the transaction, the taxpayers must request and comply with the procedure established by law.

Finally, it is stated that the treatment to be applied to services provided between related parties should be follow the same criteria for the transfer of goods or merchandises.

SOLIDARITY TAX

On December 22, 2008 the Solidarity Tax Law, Decree No. 73-2008, was publishes in the Official Gazette of Guatemala. This law came into effect on January 1, 2009 and created the Solidarity Tax (ISO, for its abbreviation by initials in Spanish). The ISO charges with 1% the gross income or the net assets of those taxpayers that are in the Income Tax's general regime, and taxpayers hat are in the Regime over Earnings of Profit Activities as of January 1, 2013, and those that carry out mercantile or agricultural activities within Guatemala and obtain a gross margin superior that 4% of the gross income.

TAX ON FISCAL REVENUE STAMP AND SPECIAL SEALED PAPER USED BY NOTARIES:

According to the Fiscal Revenue Stamp and Special Sealed Paper used by Notaries Law (Ley de Timbres Fiscales y de Papel Sellado especial para Protocolos), this tax is levied on documents described in the law. The persons who must bear the tax are those who grant or execute documents containing acts or contracts levied by the tax are those who grant or execute documents containing acts or contracts levied by the tax. The tax amount is three percent (3%). The tax is determined by applying the rate to the value of the levied act or contract. The value is the amount stated in the document, which many not be lower than that stated in public registries, cadastres or official lists.

Documents which evidence the payment or account credit of dividends paid by Guatemalan companies are subject to this tax.

TAXES ON REAL STATE

Guatemalan law has a sole annual tax (Impuesto Único sobre Inmuebles – IUSI) on the value of real estate located in the territory of the Republic. This tax is levied on real estate, rustic or rural and urban, which includes the land, structure, constructions and/or facilities attached to the real estate and its improvements.

To determine the annual tax on real estate, the law states a list of applicable rates and scales.

TAX ON REAL ESTATE TRANSFERS:

First Real Estate transfers are levied by the Value Added Tax, equivalent to 12% of the amount of the sale.

Second and subsequent Real Estate transfers are levied by the Tax on Fiscal Revenue Stamp Tax, equivalent to 3% of the amount of the sale.

OTHER TAX-RELATED ISSUES:

FREE-TRADE ZONES: Free-Trade Zones in Guatemala are governed in accordance to Decree 65-89, Free-Trade Zones Law (Ley de Zonas Francas). Currently in Guatemala, there are more than 10 Free-Trade Zones operating. The benefits obtained from operating in them are tax exemption, excellent location, besides obtaining basic utilities such as electricity, water, telephone, Internet service, security and in some places, land and water transportation.

Free-Trade Zone users may be natural or artificial persons, who must be previously authorized to operate as such by the Ministry of Economy.

Users may be:

-Industrial: Those whose line of business is manufacturing or assembling goods to be exported outside the national customs territory, re-exporting or technological investment and development.

-Service: Those whose line of business is rendering services linked to international commerce.

-Commercial: Those whose line of business is trading in merchandise to be exported outside the national customs territory, as well as re-exporting products when no activities take place that change the products' characteristics or alter their origin.

Companies that manage Free-Trade Zones, as well as their users have various fiscal incentives, including some tax exemptions.

7 – ACCOUNTING & REPORTING

TAX YEAR

The fiscal year runs from 1 January to 31 December in each year.

ACCOUNTING STANDARDS

From 1 January 2008, Guatemala adopted the International Accounting Standards (IAS) and International Financial Reporting Standards (IFRS). To view these standards, see the [IASB](#) website.

ACCOUNTING REGULATION BODIES

See the [Congress of the Republic of Guatemala](#) website.

ACCOUNTING REPORTS

All companies have to provide an annual report in Spanish and publish their balance sheet and profit and loss statements in the Official Gazette. For more information consult:

- [Fundesa's Business Guidebook](#)
- A document on accounting in Guatemala at the following link – [Hispanic-American Commission](#) (Spanish only).

PUBLICATION REQUIREMENTS

Companies' balance sheets have to be published each year. It is advisable to have an accounting system which is clear and wholly translated into Spanish. It has to be noted that it is difficult to get information on Guatemalan companies as there are very few published balance sheets.

PROFESSIONAL ACCOUNTANCY BODIES

For more information, see the following websites:

- [Institute of Public Accountants and Auditors of Guatemala](#) (Spanish only)
- [Guatemalan Association of Public Accountants and Auditors](#) (Spanish only)
- [List of audit firms](#) (Spanish only)

CERTIFICATION AND AUDITING

Audited financial statements must be filed annually by an external auditor in the country.

8 – UHY REPRESENTATION IN GUATEMALA



CONTACT DETAILS

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Position:	Partner
Email:	operez@uhy-perez.com

SOCIAL MEDIA CONNECTIONS

- Facebook: <https://www.facebook.com/pages/UHY-P%C3%A9rez-Co/275349549265716>

Year established:	2003
PCAOB registered?:	Yes
Number of partners:	4
Total staff:	32

ABOUT US

Making our clients feel confident and comfortable with our expertise and team work is one of our greatest motivations as a firm.

BRIEF DESCRIPTION OF FIRM

UHY Pérez & Co. is an audit and accounting firm operating in our country since 2003, providing external audit services, management consulting, tax and legal services.

We are a member firm of UHY, a cohesive international network of independent member firms providing audit, accounting, tax, business advisory and consulting services worldwide.

SERVICE AREAS

Audit & Assurance, Business Advisory & Accounting, Corporate Finance, Corporate Governance & Risk Management, Corporate recovery & Insolvency, Corporate Tax, Forensic accounting & litigation support, Fund Services, Legal, Internationalisation, Management Consulting & Solutions, Private Client Services.

PRINCIPAL OPERATING SECTORS

Construction
Electronics
Food & beverages manufacturing
Packaging & Containers
Real Estate and Rental and Leasing
Retail

LANGUAGES

Spanish and English

CURRENT PRINCIPAL CLIENTS

SigmaQ
Elektra



The network
for doing
business



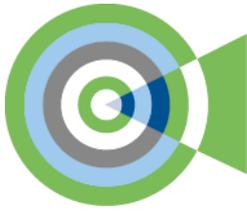
Banco Azteca
PolyFibras
Unicomer
Extrudoplast Group
Livesmart
ECA

BRIEF HISTORY OF FIRM

After 30 years of professional experience, where we prepared ourselves to offer accounting, taxes and consulting services with high professional and quality services standards, we began our professional services office, NEW WORLD CONSULTANTS in 2003, immediately after leaving my last dependent charge, Tributary Administration Superintendent, the highest charge at the administrative area in the Tributary Administration Superintendence.

Since the beginning we started having exchanges with prestigious international networks in our services field, and by August 2008 we sealed our relation with the UHY International. As a result of our agreement, we started our new firm, UHY Pérez & Co. in substitution to our previous name. All this, gave us more depth and breadth to make our clients to compete in an international level, in successful and efficiently ways.





LET US HELP YOU ACHIEVE FURTHER BUSINESS SUCCESS

To find out how UHY can assist your business, contact any of our member firms. You can visit us online at www.uhy.com to find contact details for all of our offices, or email us at info@uhy.com for further information.

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