

AUXADI

COMPLEXITIES IN NEW MARKETS

GUATEMALA





In this series, we discuss some of the complexities to consider when expanding your business across borders, or if you're looking at multinational investment. There are many general issues, and different countries have very different legislation, regulation and tax regimes.

Here, we review some of the complexities to keep in mind when expanding or investing into Guatemala.

Introduction.....	2
Opportunities	3
FDI	3
Doing business & establishing a company.....	4
Banking	5
Labour / Payroll matters.....	5
Tax & Accounting / Regulatory	6
Conclusion	6



Introduction

The homeland of Mayan civilisation, first evidence of human habitation in the Republic of Guatemala dates to 12,000 BC. This long and turbulent history peaked in the 19th and 20th centuries, and Guatemala has enjoyed both economic and democratic growth since a UN-negotiated peace accord in 1996.

Located between the Caribbean Sea and Pacific Ocean, Guatemala holds rainforests, active volcanoes, and ancient monuments. Biodiverse and unique, Guatemala has 14 different ecoregions, boasts 5 distinctly different ecosystems, and the country is signatory to environmental treaties ranging from the Kyoto Protocol to the London Protocol on Marine Dumping. Tikal National Park was the very first mixed UNESCO World Heritage Site.

It's population of c. 17.5 million makes it one of the most populated countries in the region. Spanish is the official language, though the 2003 Law of National Languages officially recognised 23 indigenous languages, including Q'eqchi, Xinca, and Garifuna. The currency, the quetzal, is named after the national bird – the Mayans would use it's long blue-green tail feathers as currency.

Ranking 96/190 for Ease of Doing Business, the government promotes foreign investment but there are regulatory hurdles to be navigated.



Opportunities

Agriculture accounts for 13.5% of GDP and 31% of the labour force, mainly exporting sugar, coffee, bananas and vegetables. The major industries in Guatemala are sugar, furniture, chemicals/petroleum, metals, rubber and tourism, and it is the only oil producing country in Central America. Textiles and clothing are another key export.

Exports generally go to the USA, El Salvador, Honduras, Mexico and Nicaragua, and include energy – some 1.86 billion kWh was exported in 2017.

Renewable energy is growing in Guatemala, and the local sugar industry is now producing biodiesel and energy from sugar-cane pulp. Though the country enjoys a wealth and wide varied biodiverse renewable and natural resources, they have not yet been fully exploited – even though it is projected to generate 60% its domestic electricity from renewable sources by 2027.

Imports currently include refined petroleum, broadcasting/communications equipment, medicines, and cars.

As well as renewable energy, there are also distinct opportunities for fixed-line telecommunications. Though mobile tele-density is one of the most developed in the region, fixed-line investment is required to improve rural connectivity.

Investment Aid Agency [E-regulation in Guatemala \(in Spanish\)](#)

Tenders, Projects, and Public Procurement

- [Tenders Info](#), Tenders in Guatemala
- [Globaltenders](#), Tenders & Projects from Guatemala
- [DgMarket](#), Tenders Worldwide



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FDI

Most Guatemalan FDI is directed at commerce, banks / insurance, manufacturing, telecoms, and electricity, among others, and main investing countries include the U.S., Mexico, Columbia, and Luxembourg.

The country holds free-trade agreements with the USA and EU, and it's strategic location with access to both coasts, natural resources, good business environment and strong logistics and tourism sectors all suggest Guatemala could be an excellent regional hub. This is further bolstered by interest in technological development and the eight free economic zones offering tax incentives to investors.

However, social and political instability along with Guatemala's vulnerability (and propensity) to natural disasters should be kept in mind, along with its weak infrastructure and possibility of crime and corruption.



Doing business & establishing a company

Company registration takes about 15 days in Guatemala, less than half the regional average of 31 days.

In 2013, the government launched *Mi Negocio*, a one-stop online portal that lets businesses simultaneously register with the Mercantile Registry (Registro Mercantil) and the tax authority (SAT). It is intended that the platform will also include the social security institute (IGSS) and the Ministry of Labour in the future. It should also be noted that 'branches of a foreign entity' cannot use the online portal.

The normal structures used are below, the most popular being the Sociedad Anonima or S.A.:

Structure	Partners	Capital	Liability
Sociedad de Responsabilidad Limitada (SARL - Private Limited Company)	Minimum 2, maximum 20 (Managing Director must be a legal resident.)	No minimum required.	Limited to the investment capital.
Sociedad Anonima (S.A. - Public Limited Company)	Minimum 2	Min GTQ 200 – but GTQ5,000 will be required to open a bank account.	Limited to the amount of shares held.
Sociedad Collectiva (General Partnership)	Minimum 2	Min GTQ 5,000	Partners liability is joint and unlimited.
Sociedad en Comandita Simple (Limited Partnership)	Two types of partnership, active (Comanditados) and sleeping (Comanditarios)	Min GTQ 5,000	Unlimited liability for active partners. Sleeping partner's liability limited to the amount contributed, if they take no role in company management.
Sociedad en Comandita por Acciones (Partnership Limited by Shares)	Two types of partnership, active (Comanditados) and sleeping (Comanditarios)	Min GTQ 5,000	Unlimited liability for active partners. Sleeping partner's liability limited to the amount contributed, if they take no role in company management.



Banking

The Guatemalan banking system is conservative and heavily regulated, though the country can boast a solid financial system, good international reserves and the lowest foreign debt in the region.

Moreover, the highly competitive sector provides large banks (satisfying the demands of larger clients), niche banks (servicing specialised markets like investment, microcredit, factoring, etc.) and international banks.

There is also a law for free Negotiation of Foreign Exchange which allows legal use of foreign currency, so the US dollar is regularly used as a basis for contracts and international transactions.

Any individual can open an account in quetzales, dollars or euros. Opening a business bank account usually takes just over a week, though can take up to six weeks depending on the type of structure the account is for.

Labour / Payroll matters

There are 3 specific types of employment contract in Guatemala, an open-ended contract, a temporary contract, or a contract for the length of a specific project – though the majority of workers don't have contracts and work informally.

There are also verbal contracts, valid for domestic services, agricultural work, and temp work under 60 days – but the employer must provide a document with the start date and salary information.

Guatemala's average monthly wage varies according to the type of work – there are different rates for agricultural and non-agricultural work. The minimum wages for 2021 are:

NON-AGRICULTURAL	Q.2,825.10	Q. 250.00	Q.3,075.10 (US\$397.05)
AGRICULTURAL	Q.2,742.37	Q. 250.00	Q.2,992.37 (US\$386.39)
EXPORTER AND MAQUILA	Q.2,581.77	Q. 250.00	Q.2,831.77 (US\$365.66)

*1 GTQ = 0.129119 USD

Social security contributions payable by the employer amount to 12.67% of the gross salary, and only c. 8% of workers are unionised.





Tax & Accounting / Regulatory

With the highest taxes being 25% ISR and 12%VAT, and an estimated admin time of 248 hrs per year, the Guatemalan tax regime rates well against its neighbours. (The regional averages being 46.3% tax, taking 342+ hours per year.) However, at time of writing Guatemala has no Double Taxation Treaties in place.

The standard corporation tax rate is set at 25%, though there are variations, and both resident and non-resident companies are taxed on their Guatemalan income at the same rate. A 5% withholding tax applies to dividends and to remittances to a foreign head office by a Guatemalan branch, and non-residents have withholdings on invoices (which vary depending on the activity).

Capital gains is set at 10%, and capital losses can only be offset against gains for a maximum of two years. A solidarity tax (ISO - Impuesto de Solidaridad) of 1% applies on the higher of either net assets or gross income of a corporation for those companies under the regime of 'lucrative activities on profits'.

Start-up expenses, interest charges (with limits), bad debt (up to 3%), and charitable contributions (up to 5% of net income) are deductible.

Guatemala's fiscal year matches the calendar year.

Guatemala companies must submit their tax documentation under local GAAP, as specified by the Tax Update Law. Companies that need to file financial statements under IFRS due to requirements of the parent company can do so internally, however these are not presented to the Tax Administration (SAT).

25%



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Conclusion

Guatemala is a land alive with legend, history, and culture, and it's actively encouraging foreign investment.

You'll need local guidance, though – there are quite a few pitfalls for the unwary, and language and cultural barriers may be an issue.



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