



DOING BUSINESS
GUATEMALA



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About BLP



■ About BLP



In 2003, a group of Central American lawyers wanted to revolutionize the legal market and founded a firm focused on the development of client businesses through the assistance of practical legal advice. On this basis, BLP recruits the best talent in the region and thanks to the preferences of its clients has grown to become one of the most recognized firms in the region with offices in Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and a representative office in Madrid.

BLP has been recognized on numerous occasions as one of the outstanding law firms in Central America. Such stature has been validated by distinguished publications such as Latin Lawyer 250, Chambers & Partners and International Financial Law Review, Strategy & Business, as well as the referral of the firm to foreign investors by the United States Commercial Service.

BLP is a member of and actively participates in the most recognized international professional networks in the legal field, which demonstrates that the firm provides a global service to its clients, ensuring compliance with the highest standards of legal services recognized anywhere in the world. Our goal is to help you do business in the region easily and safely. This document is the starting point for a series of guides designed for that purpose.



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About Guatemala



■ About Guatemala



Official name:

Republic of Guatemala

Capital:

Guatemala City

Principal cities:

Guatemala City, Quetzaltenango and Puerto Barrios

Form of Government:

Presidential Republic



Area: 108,889 Km²



Official language: Spanish



Population: 17,974,000 (2021)

GDP per capita: USD \$4,317(2020)



Official currency: Quetzal (GTQ)

Average annual exchange rate:

\$1 = 7.70 GTQ



Fiscal year: Calendar year



Sustained macroeconomic and financial stability



A great diversity of natural resources in an interesting variety of climates



Quality technical manpower



Provinces



Strategic position and connectivity with global markets

Competitive advantages of investing in Guatemala:

Exports: \$11.567 billion (2020)

Main export markets:

The US, Central America (Costa Rica, El Salvador, Honduras, Nicaragua), European Union, Mexico, and Panama.

Main export products:

- **Clothing**
- **Cardamom**
- **Bananas and sugar**
- **Petroleum**

Trade Agreements in Force

- **Multilateral Agreements:**
Member of the World Trade Organization (WTO)

Customs Unions:

- **Member of the Central American Common Market (CACM)**

Free Trade Agreements:

- **Central America - United Kingdom**
- **Central America - European Union**
Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama
- **Central America - Mexico**
Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua
- **Northern Triangle-Colombia**
El Salvador, Guatemala and Honduras
- **Taiwán**
- **CAFTA-DR (Central America-United States-Dominican Republic)**
- **Central America - Panama**
Costa Rica, Guatemala, El Salvador, Honduras and Nicaragua
- **Central America - Chile**
Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua
- **Central America - Dominican Republic**
Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua

Preferential trade agreements:

- **Ecuador** (AAP.A25TM N ° 42)
- **Belize and Venezuela** (ACE N ° 23)

Bilateral investment agreements:

- | | |
|-------------------------|------------------------------|
| ● Argentina | ● Italy |
| ● Austria | ● Netherlands |
| ● Belgium | ● Korea |
| ● Luxembourg | ● Russian Federation |
| ● Czech Republic | ● Spain |
| ● Cuba | ● Sweden |
| ● Finland | ● Switzerland |
| ● France | ● Trinidad and Tobago |
| ● Germany | |
| ● Israel | |

■ How to set up a business in Guatemala?

The following are the main steps to start operations in Guatemala.

01 *Getting Started*

Choose the type of company or form of incorporation to structure the business. For more information, see [Getting Started](#).

02 *Tax System*

Register your business as a local taxpayer. For more relevant information about Guatemala's tax system, see [Tax System](#).

03 *Real Estate*

Choose the facilities to operate your business. See [Real Estate](#).

04 *Special Permits and Authorizations*

Obtain the appropriate permits for your activity and apply for any benefits that may exist for such activity in the Free Trade Zone system. See [Special Permits and Authorizations](#).

05 *Labor*

Register the company as an employer in the Costa Rican Social Security Fund and obtain the mandatory Occupational Risk Insurance Policy for employees. See [Labor](#).

06 *Intellectual Property*

Register any intellectual property required for the operation. See [Intellectual Property](#).

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Getting Started



1. Getting Started

To do business in Guatemala one can use several legal forms, either personally, by incorporating a local company or through a branch office of a foreign enterprise. Following is some information relevant information to choosing the option that is best for your business:

- **Local Company**

The two most common legal entities authorized to do business in Guatemala are the "Sociedad Anónima" (S.A.) and the "Sociedad de Responsabilidad Limitada" (S.R.L. or Ltda.). The investor can also be part of a trust or open a subsidiary or a branch office.

- **The Guatemala Corporation (Sociedad Anónima, S.A):**

The S.A. requires a minimum of two shareholders liable only for their contributions, its paid-in capital is not important and can start from \$200 and up. Its incorporation time can take up to 3 weeks with the mandates already in Guatemala. Foreigners can be administrators or legal representatives and do not need work permits to do so. The transfer of shares is quite simple. Its characteristics are similar to those of a corporation in the U.S. The term of the S.A. begins from the date of registration in the Commercial Registry and can be constituted for a definite or indefinite term, the

definite term being extended by agreement of the shareholders. The tax rate for the distribution of profits and payment of dividends, regardless of the accounting method used, is five percent (5%).

- **The Limited Liability Company (S.R.L. or Ltda.) in Guatemala:**

The S.R.L (or Ltda.) has similar characteristics to those of a limited liability company in the United States, commonly called the LLC. In the SRL the capital is not represented by shares but by participation quotas and its partners are only responsible for their quotas; it requires a minimum of two partners and a maximum of 20 partners. It does not require minimum capital. The capital will be the one designated by the partners and must be fully paid. The incorporation time is approximately 3 to 4 weeks. The formalities for the transfer of participation quotas require more time. The term of this company can be definite or indefinite. The tax rate for the distribution of profits, regardless of the denomination or accounting method used, is five percent (5%).

- **Company obligations:**

All commercial activities require an environmental impact study approved by the Ministry of Environment and Natural Resources and must have a valid environmental license.

- **Branches, subsidiaries, and representations:**

Foreign companies are authorized to operate in Guatemala through any of these structures. Requirements include the incorporation document of the company of origin, a guarantee of \$50,000 before the Commercial Registry through a bond, mortgage, or cash deposit. The guarantee can also be granted with a letter of credit from a bank located in the country of origin through various banking processes. Fulfilling these prerequisites maintains a foreign company's legal standing within the country.

- **Trusts**

Such entities function similar to the "trust" in the United States where a trustee is granted an estate to form an independent enterprise to fulfill the objective determined in the trust contract. Trustees can only be banking entities.

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Tax System



2. Tax System

Territoriality

The tax system in Guatemala is based on the principle of territoriality, according to which only income generated by activities or operations carried out in Guatemala is taxed. Therefore, any income generated by foreign sources outside the territory will not be subject to local taxes.

Who must pay taxes in Guatemala?

Only income generated in Guatemala will be subject to Guatemalan taxation, regardless of citizenship or nationality, residence, or domicile of the taxpayer. In Guatemala, the income, documents, assets, and activities of individuals and companies are subject to taxation.

Main taxes

doing business

Income Tax (ISR)

The ISR. is levied on all income obtained by individuals, entities or assets, domestic or foreign, resident or non-resident, within the country, according to their origin: (a) Income from gainful activities (25% of the taxable income understood as gross income minus exempt income and deductible costs and expenses - There is also a simplified regime where the tax rate ranges between 5% and 7%); (b) Income from work (with a taxable rate between 5% and 7%); Passive income from a capital investment and capital gains (with a tax rate of 10%, except for the distribution of dividends or profits to which the tax rate of 5% is applied).

Income earned by non-resident taxpayers with a permanent establishment is taxed according to the above-mentioned categories, while the income of non-resident taxpayers without a permanent establishment is subject to different tax rates ranging from 3% to 25% depending on the source or type of income.

Value Added Tax (VAT):

VAT is levied on

- ✓ ***The sale or exchange of goods and rights;***
- ✓ ***The rendering of services in the national territory***
- ✓ ***Imports***
- ✓ ***The lease of movable and immovable property***

- ✓ **The first sale or exchange of immovable property**
- ✓ **The donation between living persons of movable and immovable property**

The VAT rate is 12%, which must be declared and delivered to the tax collector every month. Taxpayers registered in the exporters' regime may obtain a refund of the VAT paid in the national territory.

- **Solidarity Tax (ISO):**

The ISO is a tax that applies to individuals, legal entities, and entities with a business organization form. The taxable base is one-fourth of the value of net assets or one-fourth of gross income, whichever is greater. However, if the net assets are more than four times the gross income, the taxable amount is one-fourth of the gross income. The tax rate is 1%. ISO and ISR can offset each other. Individuals, legal entities, and other entities or estates that pay ISR according to the optional simplified regime on income from lucrative activities are exempt from paying ISO.

- **Single Real Estate Tax (IUSI):**

The IUSI is levied on real estate which is made up of land and its improvements, as well as permanent crops. The taxable base is constituted by the value of the different properties belonging to the same taxpayer. The applicable rates are established according to a scale in the registered value of the properties that ranges from Q.2.00 (\$.0.25) for each thousand and when the value exceeds Q.70,000.01 (\$9,000), Q.9.00 (\$.1.15) is paid for each thousand. The tax is annual but is paid quarterly.



Real Estate



3. Real Estate

When establishing a business in Guatemala, it must be kept in mind that there must be a specific physical place to carry out its operations, for which several alternatives may be considered: (i) lease of a real estate with facilities; (ii) acquisition of a real estate with facilities; (iii) acquisition and construction of the facilities. Always verify that the property, the area where it is located, and the permitted land use accord with the needs of the business. Here are some important considerations:

- **Lease, Purchase, or Construction of operating facilities:**

Nationals and foreigners may purchase real estate with few exceptions determined by law. The constitution protects the right of ownership. For any of the three methods aforementioned, it is necessary to have legal advice to enter into a contract that stipulates the details agreed by the parties. For any transfer of real estate ownership and leases of more than three years, it is indispensable that it be registered before the General Property Registry.

There is also the possibility for individuals or legal entities to lease real estate and personal property with an option to purchase for a certain period, which contributes to the development of small and medium-sized companies, facilitating access to financing. Five types of leasing contracts are contemplated.

All real estate used for business or commercial activities must have an environmental impact study approved by the Ministry of the Environment and Natural Resources and a valid environmental license. In addition, if the property has a wastewater treatment plant, it must comply with water quality parameters and technical specifications regarding infrastructure.

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Special Permits and Authorizations



4. Special Permits and Authorizations

Businesses operating in Guatemala are required to have a series of operating permits. It is important to analyze the business well before launching it to ensure that no special permits or particular authorizations are required for the operation. In addition, some businesses may choose to apply for incentives and benefits regimes from the State. The main permits to consider are municipal permits or patents, labor permits such as employer registration with the Costa Rican Social Security House, and permits for tax exemptions or special regimes.

- **Special Tax Incentive Regimes**

The Free Zones, Maquila Regime, and Free Zone of Industry and Commerce of Santo Tomas de Castilla (ZOLIC) regimes, are special systems established to stimulate the economy and exports, and therefore contain tax benefits such as (i) Exemption from taxes and customs duties for the importation of machinery, among other goods; (ii) Exemption from IRS for a specific term and the (iii) Exemption from VAT.

Tax type	Free Trade Zones (Administrator)	Free Trade Zones (Users)	Maquila Regime	Santo Tomás de Castilla Industry and Commerce Free Trade Zone (ZOLIC)
Income Tax (ISR)	<i>Exempt from Income Tax for 15 years</i>	<i>Exempt from Income Tax for 10 years</i>	<i>Exempt from Income Tax for 10 years</i>	<i>Exempt from Income Tax for 10 years</i>
Tariff on imports of raw materials	<i>Exempt from import duties on raw materials.</i>	<i>Exempt from import duties on raw materials</i>	<i>Tariff exemption for import of raw materials, materials, packaging, containers necessary for export, re-export, and re-export of goods.</i>	<i>Exempt in the acquisition of raw materials</i>
Value Added Tax (VAT)	<i>Not exempt</i>	<i>Exempt in the transfer of goods within and between Free Trade Zones.</i>	<i>Exempt in the acquisition of raw materials</i>	<i>Exempt in the acquisition of raw materials</i>
Stamp tax and stamped paper tax (stamp tax)	<i>Exempt</i>	<i>Exempt</i>	<i>Not exempt</i>	<i>Exempt</i>
Solidarity Tax (ISO)	<i>Not exempt from ISO</i>	<i>Not exempt</i>	<i>Not exempt from ISO</i>	<i>Not exempt</i>
Single Tax on Real Estate (IUSI)	<i>Exempt from IUSI for 5 years</i>	<i>Not exempt</i>	<i>Not exempt from IUSI</i>	<i>Not exempt</i>

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Labor



5. Labor

The Guatemalan labor system is organized according to the principles of social justice and the regulations in force establish the minimum rights of employees, which are subject to be surpassed by individual hiring, by jurisprudence, custom, and by any other action that generates a benefit to the worker and the employer must comply with.

- **Labor contracting system:**

Fixed-term contracts are established by default and, exceptionally, fixed-term or fixed-term labor relationships may be established. The law requires a trial period of two months in which the employer may terminate the employment relationship without incurring any liability. After two months the employer may dismiss the employee without just cause and indemnify the individual with a severance payment. In addition, the termination may occur by resignation or by mutual consent without liability for the employer.

- **Working hours:**

There are 3 workday shifts: daytime, nighttime and mixed that in no case may they exceed 12 hours of work per day. In addition, there is an ordinary and an extraordinary period determined by law for each of the working days, the main difference being the amount the worker must be paid for each day. In Guatemala, part-time contracts are allowed, establishing shorter working days than those indicated and reducing proportionally the minimum wage established.

- **Wages:**

Annually the State establishes the minimum wage that will govern in the country together with the benefits of the law that must be granted to each employee together with any benefits that an employer wants to grant voluntarily. Once a benefit is granted to the employee, it becomes a permanent benefit and therefore a permanent obligation for the employer. Any non-monetized benefit received by the employee is considered an economic advantage.

Economic Activity	Daily Pay	Monthly Salary	Incentive Bonus	Total Salary
Agricultural	Q.94.44	Q.2,872.55	Q.250.00	Q.3,122.55
Non-Agricultural	Q.97.29	Q.2,959.24	Q.250.00	Q.3,209.24
Export/Maquila	Q.88.91	Q.2,704.35	Q.250.00	Q.2,954.35

- **Rest days, holidays, and vacations:**

The law establishes mandatory daily, weekly and annual rest days (vacations). In addition to statutory holidays.

- **Occupational Health and Safety:**

Every company in each work center must have an occupational health and safety plan composed of a bipartite committee consisting of the employer and employees. Such a committee will establish the necessary measures to minimize risks. The consequences of not having this committee are fines and even the closing of the work center.

- **Social Security:**

Employers with three (3) or more workers must register with the Guatemalan Social Security Institute. The employer's contribution amounts to 12.67% of an employee's salary with an employee's contribution of 4.83% of his/her salary, which will be retained by the employer.

- **The right to unionize:**

The right to union organization is guaranteed by the political constitution and is activated by the non-removability of the first 20 workers hired (primary requirement). Subsequently, the members of the union executive committee cannot be removed by the employer.

18] *Intellectual Property*



6. Intellectual Property

Guatemala has ratified the following international treaties on intellectual property rights: the Paris Convention for the Protection of Industrial Property; the Patent Cooperation Treaty; the Agreement on Trade-Related Aspects of Intellectual Property Rights; the Berne Convention for the Protection of Literary and Artistic Works; WIPO Copyright Treaty (WCT); the Inter-American General Convention on Trademarks and Trade Protection (Washington Convention); the Trademark Law Treaty (TLT); Multilateral Free Trade Agreements, such as the Free Trade Agreement between the United States, the Dominican Republic and Central America (DR-CAFTA); Free Trade Agreements between Mexico and Central America; the Association Agreement between the European

Union and Central America (ADA), the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organs, among others. All these agreements contain chapters related to intellectual property and demonstrate that Guatemala protects intellectual property. However, Guatemala has not yet signed the Protocol to the Madrid Agreement relating to the registration of trademarks.



Guatemala protects patents of invention, utility models, industrial designs, trademarks, commercial names, advertising expressions or signs ("slogans"), appellations of origin and geographical indications, trade secrets, undisclosed information, literary works, copyrights, and in general any intellectual property asset that a company has. Many of these assets require a local registration for their protection, necessitating an analysis of them from the moment the local business or operation is started.

Regarding plant varieties, the country does not have the possibility of implementing adequate patent protection for plant varieties.



*According to our Sustainability efforts
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*For more information about the content of this document,
contact us at info@blplegal.com
+502 2225 7000*

