

## International Tax Guatemala Highlights 2018



### Investment basics:

**Currency** – Guatemalan Quetzal (GTQ)

**Foreign exchange control** – No

**Accounting principles/financial statements** – IFRS or tax basis (corporate income tax law-based accounting criteria). Financial statements must be filed annually.

**Principal business entities** – These are the stock corporation, limited liability company and branch of a foreign entity.

### Corporate taxation:

**Residence** – A corporation is resident in Guatemala if it is incorporated under Guatemala law, has its fiscal domicile or corporate headquarters in Guatemala or is a branch of a foreign company in Guatemala.

**Basis** – Guatemala operates a territorial system under which income tax is levied only on Guatemala-source income. A resident company can opt to be taxed under one of two regimes: (1) the simplified optional tax regime, under which tax is levied on gross revenue (gross receipts tax); or (2) the general tax regime under which tax is levied on net taxable income (traditional corporate income tax).

Passive income (dividends, interest, rents, etc.) is taxed separately.

**Taxable income** – A company that elects to be taxed under the net income regime is required to calculate taxable income by adjusting book net income for foreign-source income, exempt income, passive income and nondeductible expenses. Under the optional regime, taxable income is calculated as gross revenue less foreign-source income, passive income and exempt income.

**Taxation of dividends** – As noted above under “Taxable income,” dividends are taxed separately at a rate of 5%.

**Capital gains** – Capital gains are taxed at a rate of 10%.

**Losses** – Net operating losses may not be carried forward or back. Capital losses may be carried forward two years to offset against capital gains, but may not be carried back.

**Rate** – Under the optional tax regime, tax is levied on monthly gross revenue at a rate of 5% or 7%, whereas under the general income tax regime, tax is levied on net profits from trade or business activities at a rate of 25% (a solidarity tax also applies to companies that opt for the general tax regime (see “Alternative minimum tax”).

**Surtax** – No

**Alternative minimum tax** – A solidarity tax is applicable to companies that opt for the net income regime. The rate is 1% on total assets or gross revenue, whichever is greater.

**Foreign tax credit** – No

**Participation exemption** – No

**Holding company regime** – No

**Incentives** – Tax incentives are provided mainly for companies operating in free zones, export companies, companies entitled to a duty drawback and those engaged in activities relating to renewable sources of energy. Incentives include an exemption from corporate income tax, the solidarity tax, VAT and import taxes.

### Withholding tax:

**Dividends** – Dividends paid to a nonresident are subject to a 5% withholding tax on the gross amount.

**Interest** – Interest paid to a nonresident is subject to a 10% withholding tax on the gross amount. Exemptions are provided for the banking and finance sectors.

**Royalties** – Royalties paid to a nonresident are subject to a 15% withholding tax on the gross amount.

**Technical service fees** – Technical service fees paid to a nonresident are subject to a 15% withholding tax on the gross amount.

**Branch remittance tax** – Remittances by a branch to its foreign head office are subject to the same treatment as dividends, i.e. they are subject to a 5% withholding tax.

**Other** – A 25% withholding tax is levied on other types of Guatemala-source income not specifically covered by the income tax law.

#### Other taxes on corporations:

**Capital duty** – No

**Payroll tax** – See under “Social security.”

**Real property tax** – Real estate tax is imposed annually at progressive rates up to 0.9%.

**Social security** – Both the employer and the employee pay social security taxes. The rate is 12.67% for the employer and 4.83% for the employee.

**Stamp duty** – Stamp tax is levied on various documents at a rate of 3%, as well as on certain transfers of real estate.

**Transfer tax** – See under “Stamp Duty” and “Value Added Tax.”

**Other** – Mining companies are subject to a license tax, surface tax and royalties.

#### Anti-avoidance rules:

**Transfer pricing** – Transfer pricing rules apply to any transaction between a Guatemalan resident taxpayer and a nonresident related party where the transaction affects the calculation of the taxable income of the fiscal year and subsequent fiscal years. The transfer pricing rules are aligned with the OECD guidelines, and there is a sixth transfer pricing method for commodities.

**Thin capitalization** – Guatemala does not have specific thin capitalization rules, but the deductibility of interest expense is limited to the amount resulting from multiplying the interest rate set by the Guatemala monetary board by an amount equal to three times the average net assets of the company.

**Controlled foreign companies** – No

**Disclosure requirements** – No

#### Compliance for corporations:

**Tax year** – The tax year is the calendar year.

**Consolidated returns** – There are no provisions for group taxation; each entity must file a separate return.

**Filing requirements** – The annual income tax return is due three months after the close of the previous tax period (i.e. 31 March of the following year). Taxpayers that elect to be taxed under the optional tax regime pay tax monthly either via withholding or by paying tax directly to the tax authorities.

**Penalties** – Penalties are imposed for late filing, failure to file, underreporting or tax avoidance/evasion.

**Rulings** – A taxpayer may request a ruling on the tax consequences of a transaction in which it has a direct interest. The tax authorities must issue a binding ruling no later than 60 business days after submission of the request.

#### Personal taxation:

**Basis** – Resident individuals are subject to income tax on Guatemala-source income. Nonresident individuals are taxed via withholding on their Guatemala-source income.

**Residence** – An individual is considered a resident of Guatemala if he/she remains in the country for more than 183 days during the calendar year or if his/her center of economic interests is in Guatemala.

**Filing status** – Joint filing is not permitted. Each individual must file a return, except for those under an employment contract where the employer has withheld tax on behalf of the individual.

**Taxable income** – Individuals involved in trade or business are taxed the same as corporations. Income from employment is taxed via withholding by the employer.

**Capital gains** – Capital gains are taxed at a rate of 10%.

**Deductions and allowances** – In addition to a personal allowance of GTQ 48,000, individuals earning income from employment may deduct very few items categorized as personal deductions in the law.

**Rates** – Individuals engaged in a trade or business are taxed the same as corporations. Personal income from employment is taxed at progressive rates ranging from 5% to 7%. Nonresident individuals are taxed via withholding at a flat rate of 15% on Guatemala-source employment or professional services income.

#### Other taxes on individuals:

**Capital duty** – No

**Stamp duty** – No

**Capital acquisitions tax** – No

**Real property tax** – Real estate tax is imposed annually at progressive rates up to 0.9%.

**Inheritance/estate tax** – Inheritance tax is levied at progressive rates, depending on the degree of relationship between the deceased and the beneficiary.

**Net wealth/net worth tax** – No

**Social security** – An employee contributes to social security at a rate of 4.83% of his/her total monthly remuneration.

#### Compliance for individuals:

**Tax year** – Calendar year

**Filing and payment** – The tax return must be filed by the third month after the close of the previous tax year. Individuals who derive only employment income in an amount of GTQ 48,000 or less are not required to file a return.

**Penalties** – Individuals are liable for a penalty of up to 100% of any unpaid tax liability.

#### Value added tax:

**Taxable transactions** – VAT applies to most sales of goods, the provision of services, leases, imports and the first transfer of real estate.

**Rates** – The standard VAT rate is 12%. Certain supplies of goods and services are exempt and exports are zero-rated.

**Registration** – Registration for VAT purposes generally is required upon incorporation.

**Filing and payment** – The VAT return must be filed monthly.

**Source of tax law:** Congress is the only body empowered by the constitution to impose taxes. Tax rules are contained in the Income Tax Law; Value Added Tax Law; Solidarity Tax Law, Stamp Tax Law, etc.

**Tax treaties:** Guatemala has not concluded any tax treaties

**Tax authorities:** Superintendence of Tax Administration (SAT)

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