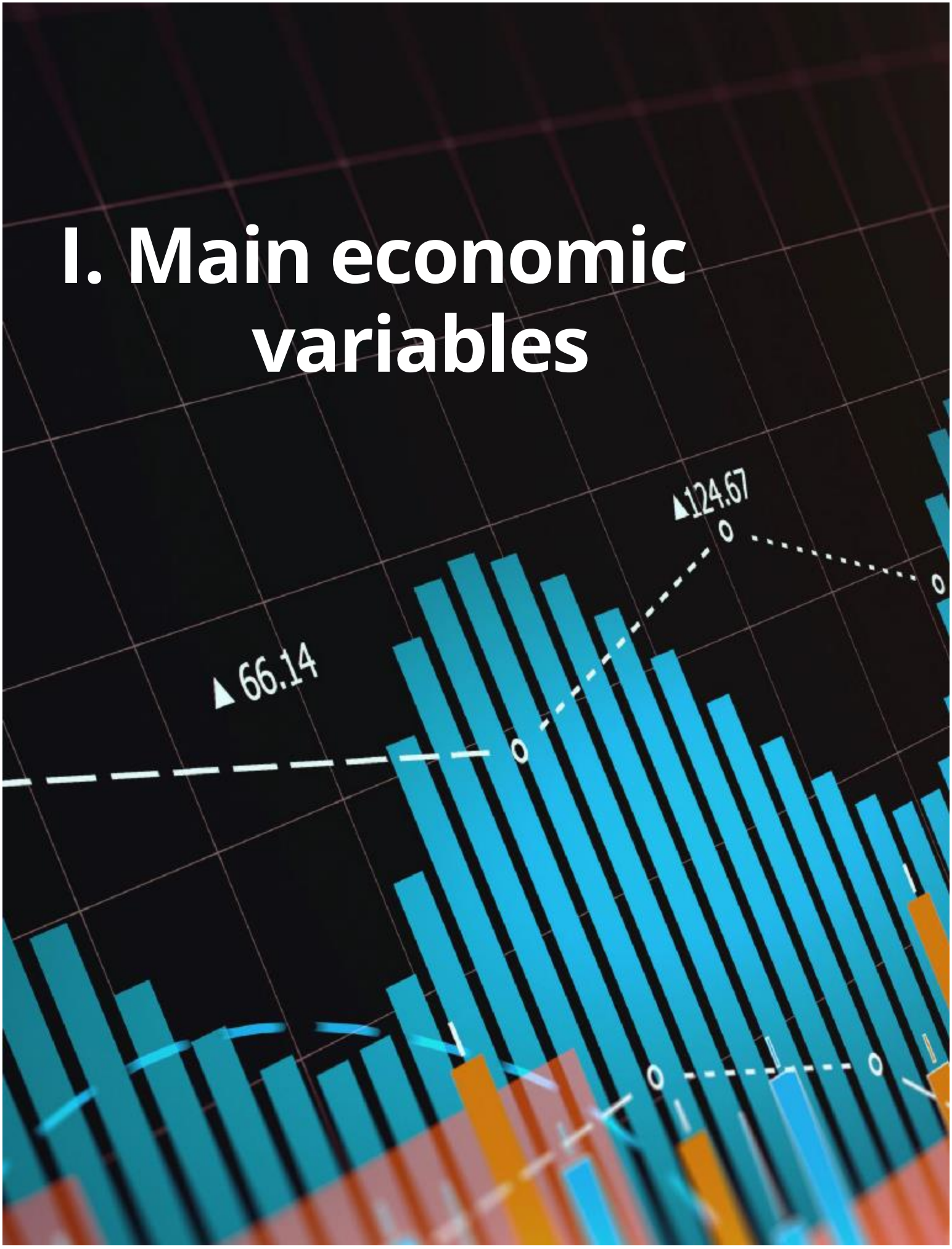
Deloitte.

Doing Business
Guatemala
2020

CREANDO UN IMPACTO SIGNIFICATIVO
Desde 1845

I. Main economic variables



I. Main economic variables

GDP 2020: 81.32 bn.

Position in the world:	**69** / 189

Source: IMF, June 2020

GDP growth rate
(Annual percentage change, original figures)

	2018	2019	2020e	2021e
	3.1	**3.6**	**-3.0**	**4.1**

Macroeconomic context (figures as of the 2019 year-end close)

GDP per capita	Reference rate	Inflation	Unemployment rate	Exchange rate	Population	FDI
4.6	**9.0**	**3.41**	**2.5**	**7.7**	**17.6**	**1.00**
Million dollars	Percent	Annual percentage change	Percent	USD/GTQ	Million people	Billion dollars

Macroeconomic context (figures as of the 2019 year-end close)

Fiscal balance, percentage of GDP	Primary balance, percentage of GDP	Public debt, percentage of GDP	Current account, percentage of GDP	Balance of trade, percentage of GDP	Reserves, percentage of GDP	Reserves, percentage of debt
-2.3	**ND**	**35.0**	**1.76**	**-11.38**	**19**	**NA**
Balance, %	Balance, %	PSFR, %	Balance, %	Balance, %	Balance, %	Million dollars

Competitiveness		
Position in the world:	**98** / 141	(*WEF*, 2019)

Ease of Doing Business		
Position in the world:	**96** / 190	(*Doing Business*, 2020)

Corruption Perceptions Index		
Position in the world:	**146** / 180	(TI, 2019)

International Trade (main sectors)

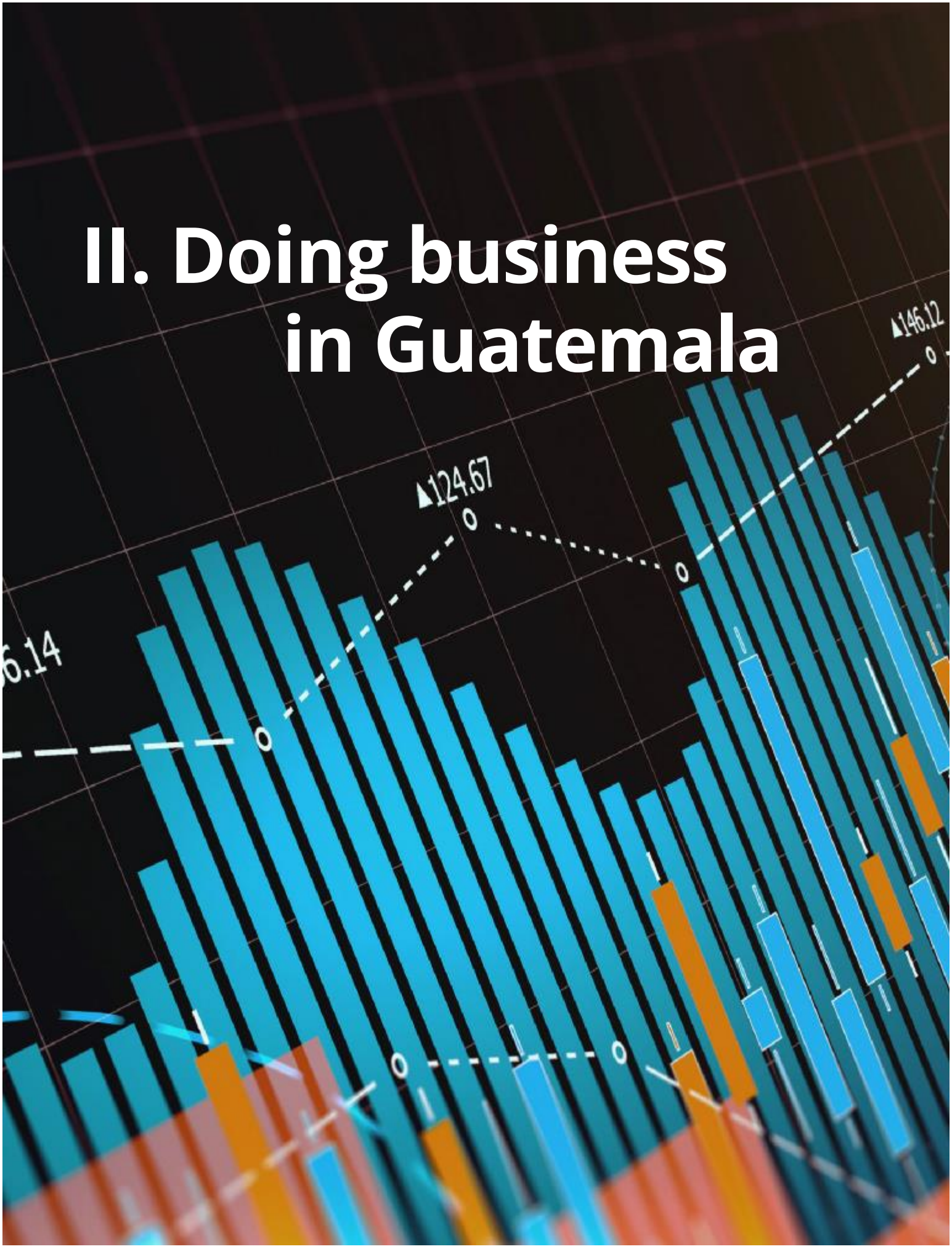
Exports		
Sector	**Amount** (bn. of US$)	**Share**
Vegetables products	3.18	32.0%
Textiles	1.77	18.0%
Food and tobacco	1.61	16.0%
Chemical products	0.63	6.3%
Mineral products	0.56	5.6%
Imports		
Mineral products	2.91	22.0%
Electronics	1.62	12.0%
Chemical products	1.51	11.0%
Textiles	1.16	8.6%
Food and tobacco	0.98	7.3%

International Trade (main trade partners)

Exports		
Country	**Amount** (bn. of US$)	**Share**
United States	4.19	**42.0%**
El Salvador	1.03	**10.0%**
Honduras	0.73	**7.3%**
Mexico	0.51	**5.1%**
Nicaragua	0.47	**4.7%**
Imports		
United States	5.44	**40.0%**
China	1.95	**14.0%**
Mexico	1.63	**12.0%**
El Salvador	0.79	**5.9%**
Germany	0.32	**2.4%**

Source: World Bank, International Monetary Fund (IMF), World Economic Forum (WEF), Transparency International (TI), World Intellectual Property Organization (WIPO), D.Econosignal, Intelligence Unit The Economist and Atlas of Economic Complexity (MIT).

II. Doing business in Guatemala



II. Doing business in Guatemala

a) General profile

Guatemala, is the largest country of the Central American region, with a Gross Domestic Product (GDP) of approximately 75.8 billion dollars in 2019,[1] which represents 4,600 dollars per capita.

Guatemala has a land area of 108,889 km^2 and is bordered by Mexico, Belize, El Salvador and Honduras. In addition, it has access to the Atlantic and Pacific Oceans, both with commercial ports, giving the country a comparative advantage.

The country has 8 trade treaties and 4 partial scope agreements in effect, with countries such as the United States, Mexico, Colombia, Chile, regions of Central America, and the European Union, which allow it to have access to a potential market of approximately 1 billion consumers[2].

Guatemala has a population of approximately 17.6 million people, of which over 50% live in urban areas of the country. Furthermore, 53% of the population is between the ages of 10 and 39.

Its geographic location, abundant natural resources, and a young and multiethnic population account for Guatemala's enormous potential for generating economic growth and well-being.

Spanish is the official language of Guatemala. Therefore, all official documents and most commercial contracts are written in this language. However, English is required in many industries and is of great importance for companies. Universities and schools promote the learning of the English language as an additional skill for Guatemalan citizens.

The official currency is the Guatemalan quetzal. Historically, the quetzal has maintained a stable exchange rate with respect to the U.S. dollar. In the last 10 years, the exchange rate of the quetzal with respect to the U.S. dollar has remained within a range from GTQ 7.2 to GTQ 8.3. The exchange rate as of the 2019 year-end close was GTQ 7.7.

1. Per the Central Bank of Guatemala, at market prices.
2. Ministry of Economy of Guatemala

b) Political system

Constitution

In Guatemala, the supreme law of the land is the Political Constitution of the Republic, also known as the Magna Carta. It determines the rights of the citizens of the Republic, establishing basic individual and social rights, and legally and politically organizing the State. The Guatemalan State is defined as a free, independent and sovereign State, organized to guarantee its citizens the enjoyment of their rights and freedoms, by establishing a republican, democratic and representative government.

The citizens of the Republic of Guatemala delegate sovereignty to the three branches of government: Legislative, Executive and Judicial. Subordination between the branches is prohibited. It is thus that the public authority that comes from the people, is only subject to the limitations established in the Constitution itself and the law.

The Constitution also establishes the general principal that treaties or conventions on human rights, accepted and ratified by Guatemala, take precedence over domestic law.

Main Branches of Government

The Executive Branch is composed of the President of the Republic, together with the ministers, vice ministers, and other officials. The president is the Head of State, and exercises the functions of the Executive Branch by mandate of the people. The president is also the Commander-in-Chief of the armed forces, represents national unity, and should safeguard the country's interests. The president is elected for a non-extendable term of four years.

The Legislative Branch is represented by the Congress of the Republic, which has legislative authority, and is made up of deputies directly elected by the people for a period of four years, who may be re-elected indefinitely.

Lastly, the Judicial Branch comprises the Supreme Court of Justice and the other courts established by law, which have the authority to judge and promote the enforcement of the judgments.

Rule of law

The principle of legality, the sovereignty that emanates from the people, the recognition of human rights and the separation of the three branches of government imply that Guatemala exists under and is inextricably linked to the Rule of Law.

Thus, constitutional amendments, unlike amendments of ordinary laws, require the observance of a stricter, special procedure. In addition, there are some articles that are set in stone (cannot be amended), which due to what they regulate, imply the protection of the common good and preservation of the State and its form of government.

c) Economic structure

GDP is the sum of all the goods and services produced by a country and the most important way of estimating the productive capacity of an economy. The three main economic sectors comprising the GDP of Guatemala are:

- **Primary sector:** agriculture, livestock, forestry, hunting and fishing activities.
- **Secondary sector:** industrial transformation activities, mining, construction and manufacturing.
- **Tertiary sector:** services and wholesale and retail consumer goods.

In Guatemala the tertiary sector is the largest component of GDP, followed by the industrial and agricultural sectors. With respect to the workforce, it is estimated that 49% is employed in the services sector, 31% in agriculture and 20% in manufacturing and construction.

Table 1
GDP by sector (year of reference 2013)
Millions of quetzales and percentage share of GDP

GDP 2019	Amount	% GDP
Total	**513,262**	
Primary	**49,719**	**10%**
Secondary	**113,737**	**22%**
Manufacturing	75,567	14%
Construction	22,755	3%
Electricity, water and sanitation services	14,165	4%
Mining	4,250	1%
Tertiary	**315,225**	**61%**
Wholesale and retail trade	92,405	18%
Real estate services	45,996	9%
Information and communications	24,192	5%
Public administration and defense	20,348	4%
Financial services	19,693	4%
Teaching	19,481	4%
Lodging and food services	15,594	3%
Transportation	13,678	3%
Other activities	63,838	12%
Taxes less subsidies on products	**32,382**	**6%**

Source: Central Bank of Guatemala

Manufacturing industry

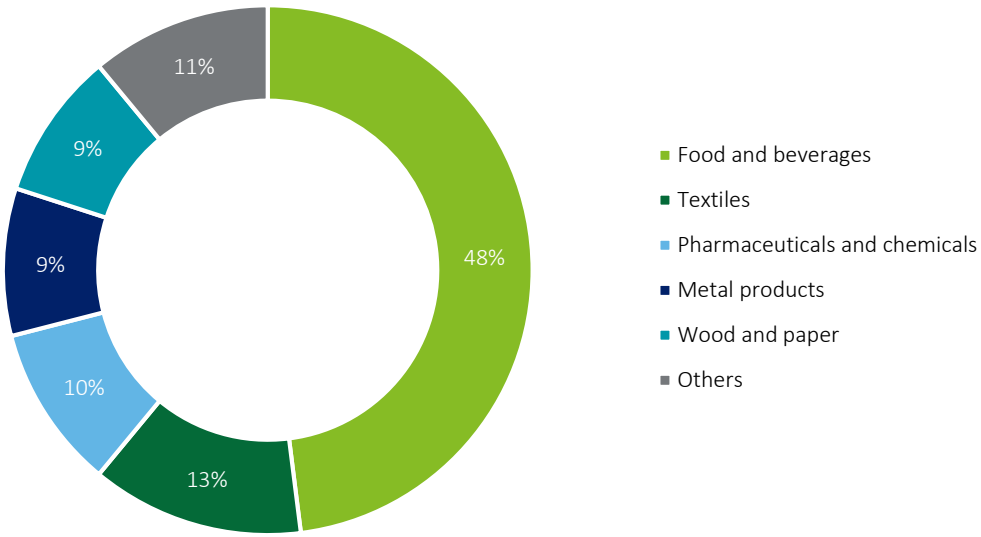
The manufacturing industry is an important component of GDP for Guatemala. Manufacturing accounted for approximately 14% of total GDP during 2019.

The industries that most contribute to the manufacturing sector are:

- Food and beverages: it is the most relevant, contributing approximately 48% of the total revenues of the manufacturing sector.
- The activities that follow them in importance are the manufacturing of textiles, pharmaceuticals and chemicals, and metal products, which account for 13%, 10% and 9% of the manufacturing sector, respectively.

One of the competitive advantages of Guatemala is its proximity to the world's largest economy: the United States. In addition, Guatemala, by having access to both oceans of the region, is uniquely positioned, in its commercial relationship with the United States.

Graph 1
Manufacturing industries
(% of total revenues)
Information as of 2019)



Source: Central Bank of Guatemala

Entry of foreign currency into the country

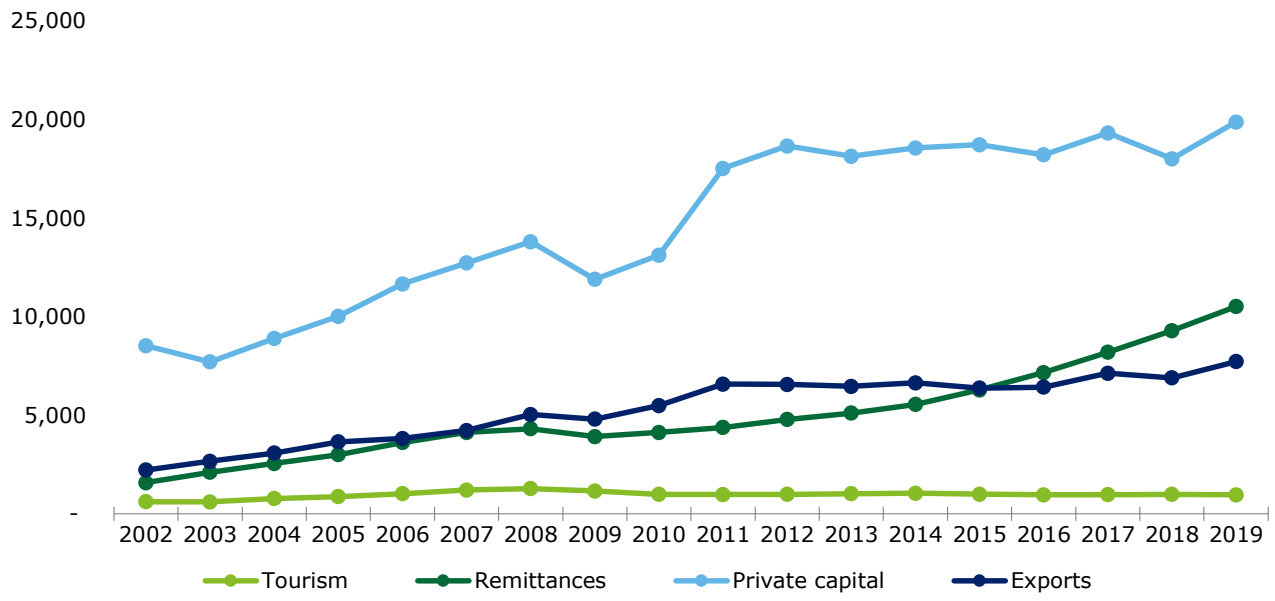
The main source of foreign currency that enters into the country is from private capital, through foreign investment, sales of assets or securities, short and long-term loans, and deposits, among others. These operations increased during the year 2019 to approximately USD 19.865 billion, according to data of the Central Bank of Guatemala.

With respect to Foreign Direct Investment (FDI), the Central Bank of Guatemala recorded USD 998.2 million during the year 2019, of which 24% comes from the United States. In terms of foreign currency, during the year 2019, a total of USD 42.160 billion entered the country.

The second most important source of foreign currency for Guatemala is family remittances. Remittances amounted to an estimated
USD 10.508 billion during the year 2019, which represents approximately 14% of the total GDP of Guatemala.

Remittances are followed by exports, which generated USD 7.719 billion in 2019. Some of Guatemala's main export products are bananas, coffee, and apparel, among others.

Graph 2
Entry of U.S. dollars into Guatemala, according to origin
(Millions of U.S. dollars)



Source: Central Bank of Guatemala

Investment and international trade

Most of the income from Foreign Direct Investment (FDI) comes from:

- USA - 24%
- Colombia - 18%
- Mexico - 14%
- Russia - 7%

The manufacturing sector is the recipient of most FDI (28.5%), followed by trade and vehicle repairs (20.3%), supply of electricity, water and sanitation (19%), and lastly, financial activities and insurance (15%). For the period from 2016-2019, 25% of FDI has been concentrated in the manufacturing sector.

Table 2
Main countries of origin of FDI
Millions of USD, accumulated 2016-2019

Total	United States	Colombia	Mexico	Spain
	922	772	740	185
% of the total	21%	18%	17%	4%

Source: Central Bank of Guatemala

Table 3
Main sectors of investment
Millions of USD, accumulated 2016 – 2019

Manufacturing	Trade and Vehicle Repairs	Financial Activities and Insurance	Energy*
1,007	994	985	496
25%	23%	23%	12%

*Supply of electricity, water and sanitation
Source: Central Bank of Guatemala

Monetary and fiscal policy

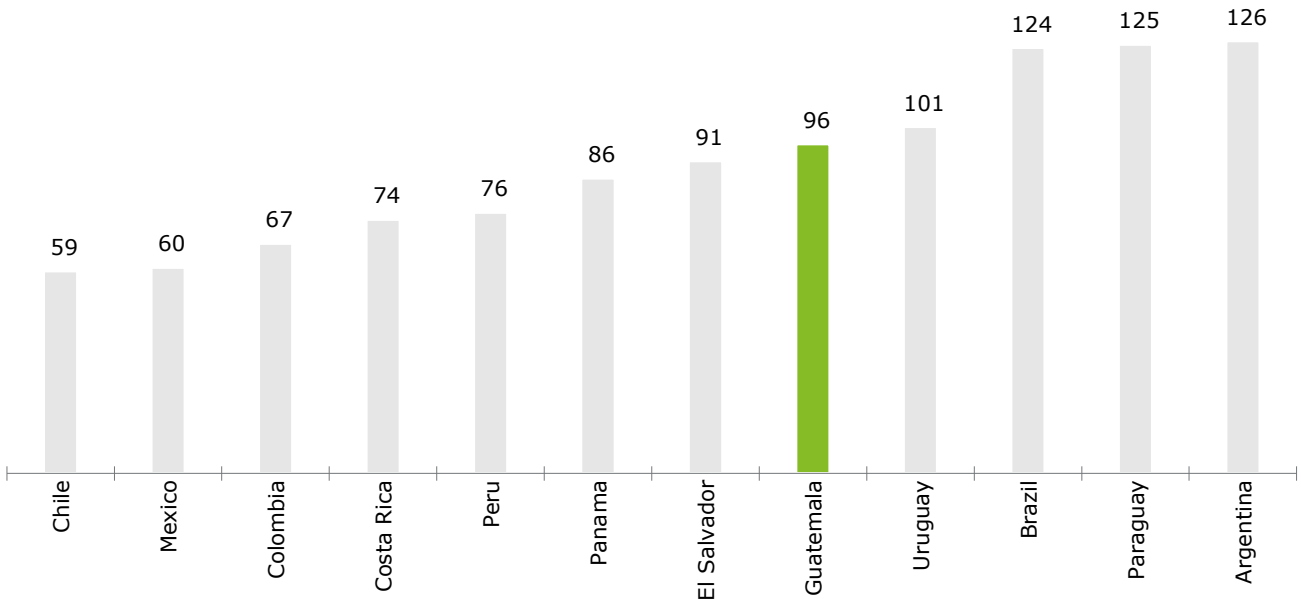
According to article 3 of its organic law, the fundamental objective of the Central Bank of Guatemala is "to contribute to creating and maintaining the most favorable conditions for the orderly development of the national economy, for which it shall foster the monetary, exchange, and credit conditions that promote overall price stability." Some of the functions of the Central Bank of Guatemala are issuing local currency, maintaining adequate liquidity levels and managing international monetary reserves.

Furthermore, it is noteworthy that the foreign **exchange system in the country is flexible**, which means that the exchange rate varies according to supply and demand in the market, consistent with a system of inflation targets designated by the central bank.

Ease of Doing Business

The *Doing Business* report that is prepared by the World Bank measures the ease with which business can be done in Guatemala, through the analysis of different variables. Currently, Guatemala is ranked 96 out of 190 countries evaluated in the 2020 edition, with a score of 62.6 points (graph 3).

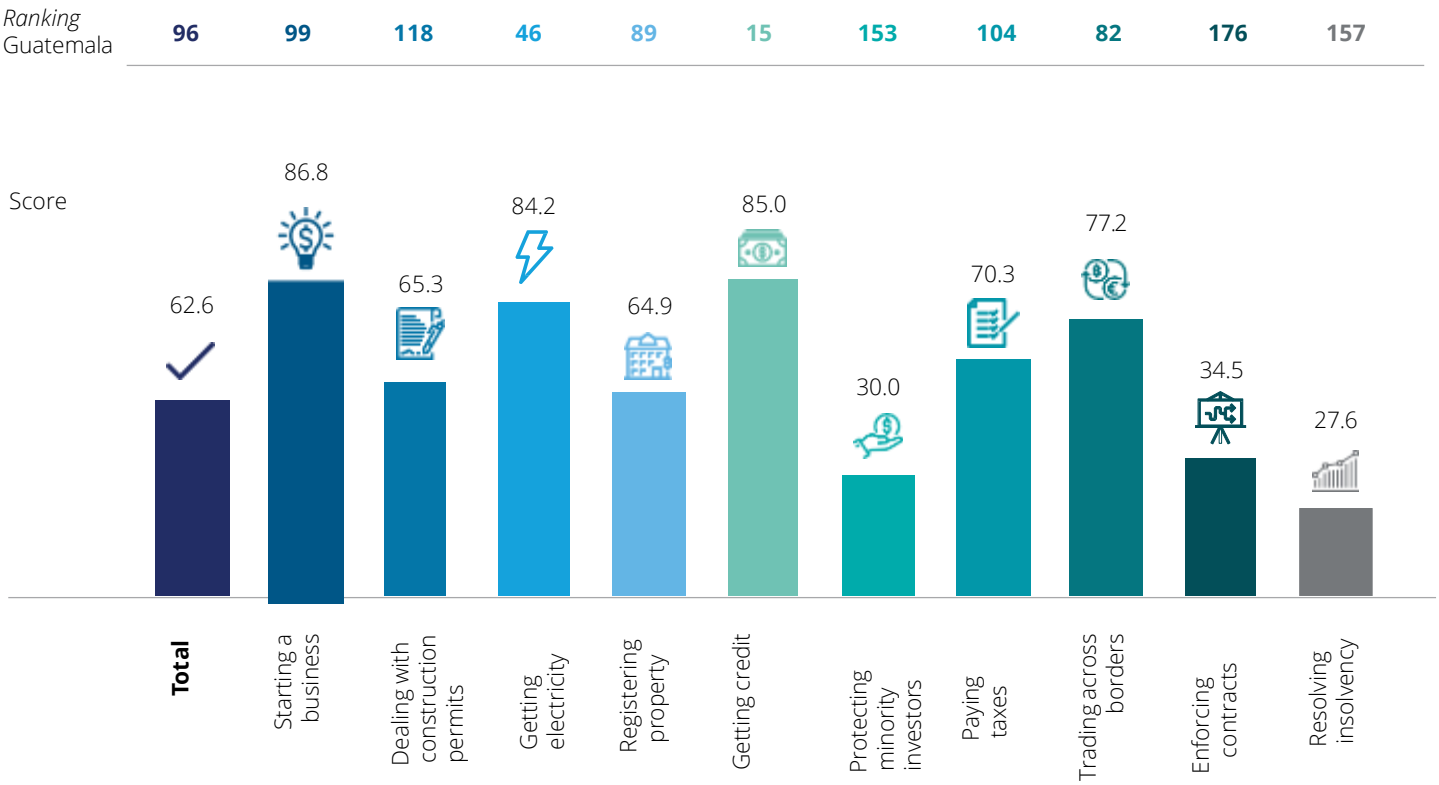
Graph 3
Guatemala is ranked 96 out of 190, placing 8th in Latin America
(Rankings of various economies in the World Bank's *Doing Business* report)



*The ranking classifies how each of these countries is positioned with respect to 190 economies (rankings closer to 1 are best and vice versa).
Source: Doing Business, World Bank, 2020.

As can be seen in the following graph, the indicator in which the country is best ranked is *starting a business*, followed by *getting credit*. Conversely, the worst ranked indicators are *resolving insolvency* and the *protection of minority investors*.

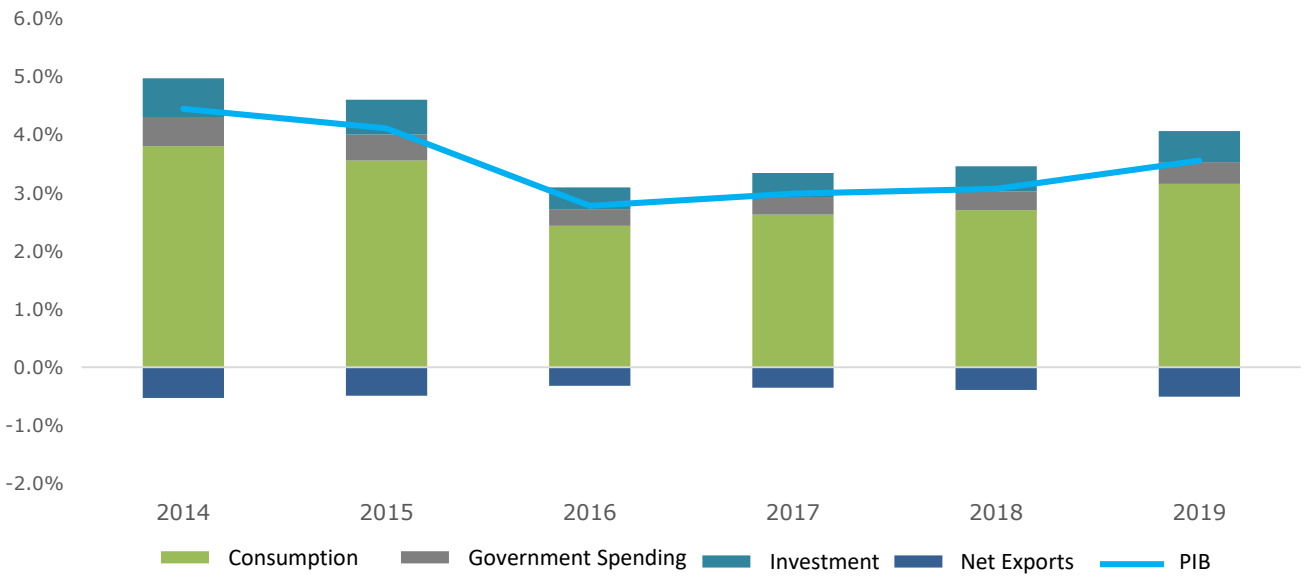
Graph 4
***Doing Business* in Guatemala**
(Ranking of Guatemala in the world – overall ranking and variables – and score in points)



*The ranking classifies how each of these countries is positioned with respect to 190 economies (rankings closer to 1 are best and vice versa).
Source: Doing Business, World Bank, 2020.

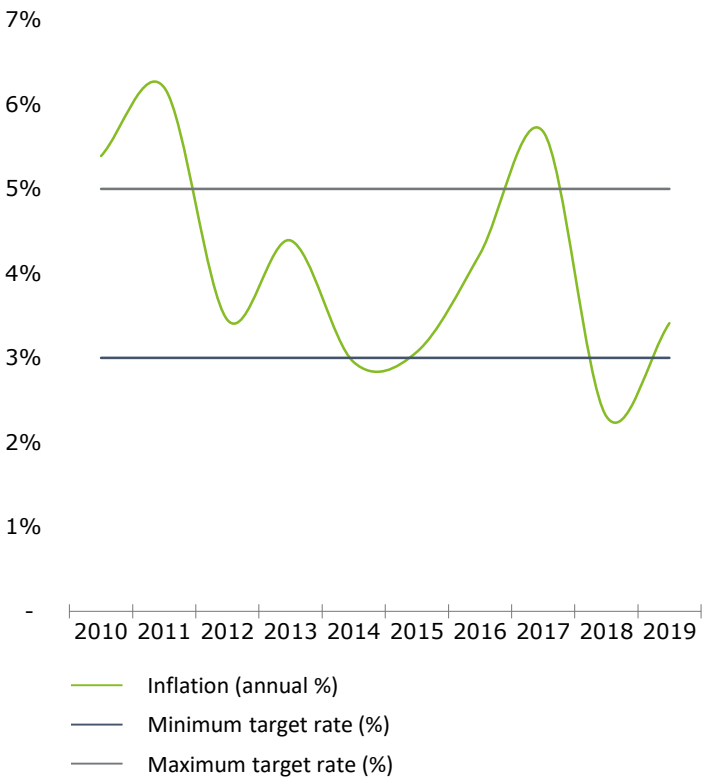
As of the 2019 year-end close, consumption and government spending accounted for 89% and 10% of the GDP, respectively. On the other hand, gross investment of fixed capital contributed 15% to GDP, whereas net exports (exports minus imports) accounted for -14%. Since 2014, GDP growth has been stable, ranging between 3% and 4%. In 2019, the annual growth rate of the economy was 3.6%. For 2020, a drop in GDP of -1.8% is expected, due to the COVID-19 pandemic that is affecting the entire world.

Graph 5
GDP growth and contribution of components of aggregate demand
(Percentage of GDP)



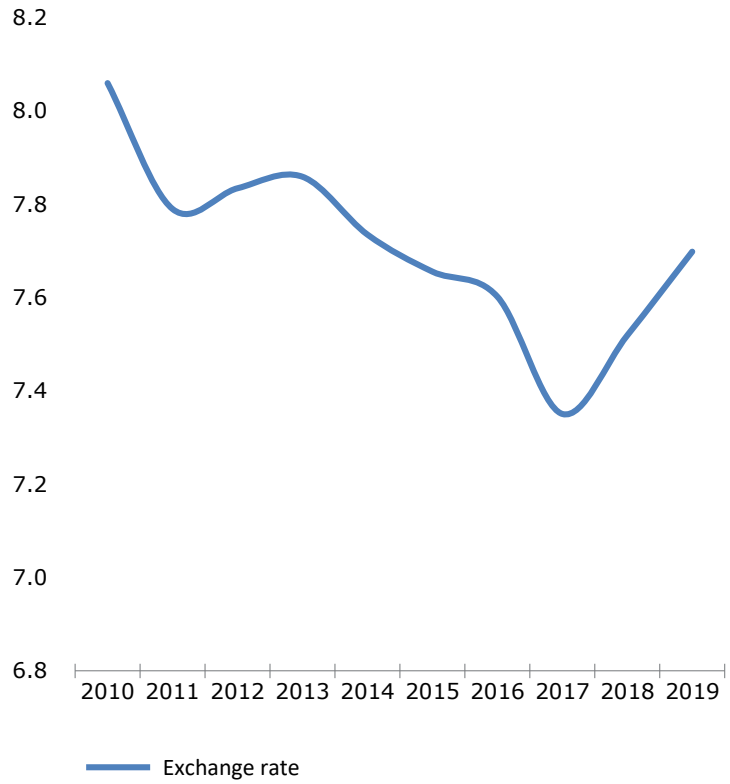
Source: Central Bank of Guatemala

Graph 6
Annual inflation remains close to the target range
Inflation and reference rate



As of the 2019 year-end close, inflation was 3.4%, an increase of 1.1% with respect to the previous year. However, the figure is within the target range set by the Central Bank of Guatemala. According to the National Statistics Institute, the items with the greatest percentage increase in 2019 are: peppers (15.25%), tomato (12.57%), propane gas (7.44%) and green beans (6.39%).

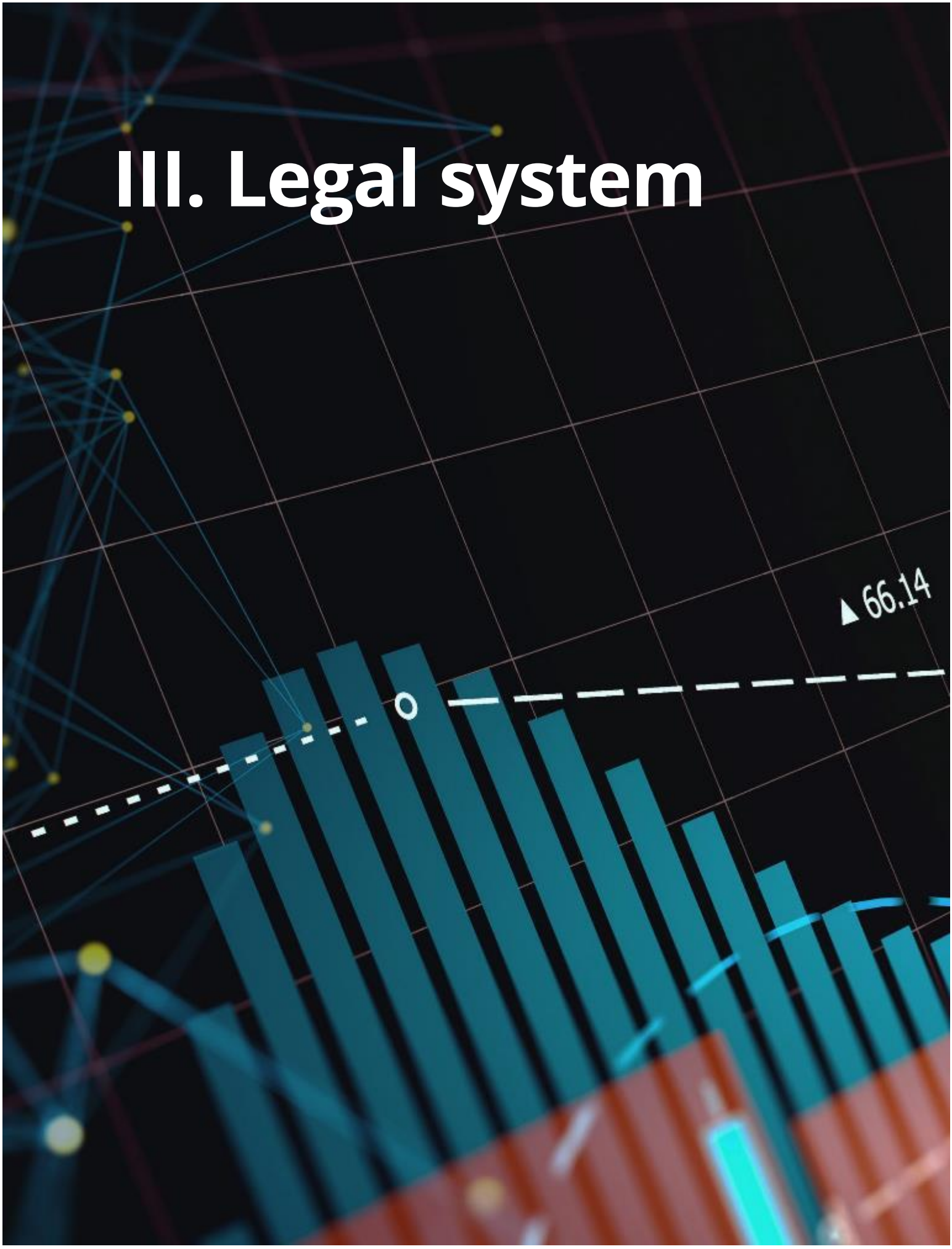
Graph 7
Currency of Guatemala has remained stable over the last 10 years
(USD/GTQ)



Guatemala's currency has remained relatively stable during the last 10 years. Since 2010, the annual exchange rate of the quetzal with respect to the U.S. dollar has remained within a range from GTQ 7.2 to GTQ 8.3, demonstrating the stability of the currency.

Source: National Statistics Institute

III. Legal system



III. Legal system

a) Legal entities

Legal entities of the private sector are entities formed by a group of individuals united for a specific purpose, that have their own assets, whose legal status is recognized by the State, regardless of the members that comprise it.

In this respect, the legal entities recognized by our legal system in Guatemala are the following:

- Foundations.
- Non-Profit Civil Associations.
- Non-Governmental Organizations, -NGOs- (ONGs per its Spanish acronym)
- Partnerships.
- Cooperatives.
- Foreign companies or associations.
- Commercial Companies.

The characteristics of legal entities include exercising rights and contracting obligations that are necessary for meeting their purposes. They shall be legally represented as designated according to the law, their articles of incorporation or organization, or their statutes that have been duly approved by the corresponding authority.

Main types of commercial companies

This is a group consisting of both individuals and legal entities, with legal status and its own assets, whose main characteristic is performing commercial activities for profit.

Article 10 of the Commercial Code defines them as "companies organized as commercial companies, and exclusively as follows: 1. General Partnership; 2. Limited Partnership; 3. Limited Liability Company; 4. Corporation; 5. Partnership limited by shares; and 6. Entrepreneurship."

Commercial companies are divided into three types: personalist, capitalist, and mixed, with each of these companies having their own and general characteristics, as described as follows:

	General Partnership	Limited partnership
Characteristics and liability	The liability of its partners is subsidiary, unlimited and joint and several; that is to say that the partners are liable for all of the obligations contracted by the company before third parties with their own assets, in the event that the company's assets are not sufficient. With respect to new partners and heirs, no new partners may be admitted without the unanimous consent of all the other partners. In the case of heirs, it can be agreed that upon the death of any of the partners, the company may continue with their heirs. However, this agreement does not obligate the heirs to join the company, but does obligate the other partners to admit them.	The liability of its partners is subsidiary, unlimited and joint and several; that is to say that the partners are liable for all of the obligations contracted by the company before third parties with their own assets, in the event that the company's assets are not sufficient. Regarding to new partners and heirs, no new partners may be admitted without the unanimous consent of all the other partners. In the case of heirs, it can be agreed that upon the death of any of the partners, the company may continue with their heirs. However, this agreement does not obligate the heirs to join the company, but does obligate the other partners to admit them.
Company name	The company name is formed with the name and last name of one of the partners or with the last names of two or more partners, with the mandatory addition of the phrase *y Compañía Sociedad Colectiva*, which can be abbreviated *Cía. S.C.*	The company name is formed with the name or last name of one or more general partners, with the mandatory addition of the phrase *y Compañía, Sociedad en Comandita,* which can be abbreviated *CIA, S en C*.
Shareholders / Partners	Minimum: 2 shareholders Maximum: unlimited	Minimum: 2 shareholders Maximum: unlimited Always considering General and Limited Partners
Capital	It is managed through fixed functional capital, agreed upon by the partners. The capital must consist of a minimum of Q.200.00, fully paid. In-kind contributions can be made. Mercantile Registry Fees: 1. If the capital does NOT exceed Q.499,999.99, no fee is charged. 2. From Q.500,000.00 on there is a Q.8.5 fee per thousand on the capital (such payment shall not exceed Q.40,000.00).	Authorized capital is not applicable. The capital must consist of a minimum of Q.200.00, fully paid. Mercantile Registry Fees: 1. If the capital does NOT exceed Q.499,999.99, no fee is charged. 2. From Q.500,000.00 on there is a Q.8.5 fee per thousand on the capital (such payment shall not exceed Q.40,000.00).
Company management bodies	• General Partner's Meeting • Management: The partners, one or more individuals. • Oversight: These can be delegated partners, if so designated by the articles of partnership.	• General Meeting • Management: General partner or others. • Oversight: Consists of one or many accountants, auditors, or commissioners appointed exclusively by the limited partners.

	Corporation	Partnership Limited by Shares	Entrepreneurship
Characteristics and liability	Its capital is divided and represented by share certificates. With respect to the liability acquired by the corporation, the shareholders are only liable for up to the total amount of the capital subscribed by each shareholder.	This entity consists of one or many "general partners," whose liability with respect to the company's obligations is subsidiary, unlimited and joint and several, and one or many "general partners," whose liability is limited to the amount of shares that have been subscribed, in the same way as shareholders of a corporation (S.A.).	Its shareholder(s) is(are) obligated to pay the contributions represented by shares, by creating a legal entity that differs from its shareholders. In addition, when its annual income is greater than five million, the entity must be transformed into one of the other types of companies regulated by the Commercial Code.
Company name	The company name may be freely created by the shareholders, with the mandatory addition of the phrase *Sociedad Anónima,* which can be abbreviated *S.A.*	The company name is formed with the name and last name of one or more general partners, with the mandatory addition of the phrase *y Compañía Sociedad en Comandita por Acciones*, which can be abbreviated *Y Cia, S.C.A.*	The company name may be freely created by the shareholders, with the mandatory addition of the phrase *Sociedad de Emprendimiento,* which can be abbreviated *S.E.*
Shareholders / Partners	Minimum: 2 shareholders Maximum: unlimited	Minimum: 2 that are established as follows: 1 or many general partners, whose liability is subsidiary, unlimited and joint and several, and 1 or many limited partners, whose liability is limited to the amount of the shares that have been subscribed.	Minimum: 1 shareholder Maximum: unlimited
Authorized capital, subscribed capital and paid-in capital	Authorized: It is the maximum amount that the company may issue in shares. Subscribed: It is required that each shareholder pay at least 25% of the nominal value of each subscribed share. Paid-in capital: Minimum of Q.200.00 ~~Commercial~~ Mercantile Registry Fees: Mercantile Registry Fees: 1. If the capital does NOT exceed Q.499,999.99, no fee is charged. 2. From Q.500,000.00 on there is a Q.8.5 fee per thousand on the capital (such payment shall not exceed Q.40,000.00).	Authorized: It is the maximum amount that the company may issue in shares. Subscribed: When subscribing the shares, a minimum payment of 25% is required. Paid-in capital: Minimum of Q.200.00 Mercantile Registry Fees: Mercantile Registry Fees: 1. If the capital does NOT exceed Q.499,999.99, no fee is charged. 2. From Q.500,000.00 on there is a Q.8.5 fee per thousand on the capital (such payment shall not exceed Q.40,000.00).	Authorized: It is the maximum amount that may be issued in shares. The entity must publish a notification in the electronic system established by the Mercantile Registry. Subscribed: All the subscribed shares must be paid within the term of two years, counting from the date on which the entity is registered in the Mercantile Registry. Paid-in capital: Minimum of Q.200.00 *When all of the share capital has been subscribed and paid, the company must publish a notification in the electronic system established by the Mercantile Registry. Mercantile Registry Fees: Mercantile Registry Fees: 1. If the capital does NOT exceed Q.499,999.99, no fee is charged. 2. From Q.500,000.00 on there is a Q.8.5 fee per thousand on the capital (such payment shall not exceed Q.40,000.00).
Company management bodies	• General Shareholders' Meeting • Management: Sole Administrator or Board of Directors (3 or more members) • Oversight: Performed by the shareholders, accountants, auditors, or commissioners, as established in the articles of incorporation.	• General Shareholders' Meeting • Management: Sole Administrator or Board of Directors (3 or more members) • Oversight: Oversight body, consisting of one or many accountants, auditors, or commissioners appointed exclusively by the limited partners. It is mandatory to designate an oversight body.	• General Shareholders' Meeting • Management: Administrator, with such position held by one shareholder. • Oversight: Performed by the shareholders, accountants, auditors, or commissioners, as established in the incorporation document.

	Limited Liability Company
Characteristics and liability	It is an intermediate type of commercial company (personalist and capitalist), requiring fully paid capital. It consists of various partners, whose liability is limited to the payment of their contributions, and the company's liability is limited to its company assets, or if applicable, the total amount of the contributions agreed in the articles of incorporation.
Company name	The company name is formed with the full name of one of the partners or with the last names of two or more partners. In both cases, it is mandatory to add the word *Limitada* or the phrase *y Compañía Limitada*, which can be abbreviated *Ltda.* or *Cía. Ltda.*, respectively.
Shareholders / Partners	Minimum: 2 shareholders Maximum: 20 shareholders
Capital	It is managed through fixed functional capital, agreed upon by the partners, of a minimum amount of Q.200.00, fully paid. In-kind contributions can be made. Mercantile Registry Fees: 1. If the capital does NOT exceed Q.499,999.99, no fee is charged. 2. From Q.500,000.00 on there is a Q.8.5 fee per thousand on the capital (such payment shall not exceed Q.40,000.00).
Company management bodies	• General Partners' Meeting • Management: It is mandatory to determine the form and name or names of the administrators in the articles of organization. • Oversight: Oversight Board. The law designates a right to each partner to request from the administrators any report on the performance of the company's business.

Financial sector

Financial intermediation is regulated mainly by the Law of Banks and Financial Groups, the Organic Law of the Central Bank (Banco de Guatemala), the Monetary Law, the Financial Oversight Law, the Private Financial Companies Law, the Microfinance Entities and Non-profit Microfinance Entities Law, the General Law of Cooperative Associations and the Securities and Commodities Market Law. Such an activity is organized under the structure of a central bank, with its main financial authorities being the following:

Monetary Board (JM per its Spanish abbreviation)
It is in charge of determining the country's monetary, exchange and credit policy, and managing the Central Bank of Guatemala.

Banco de Guatemala / Central Bank (BANGUAT per its Spanish acronym)
This is the financial agent of the State that promotes the creation and maintenance of the monetary, exchange and credit conditions that are most favorable for the organized development of the country's economy.

Superintendency of Banks (SIB per its Spanish abbreviation)
Entity in charge of the oversight, supervision and inspection of institutions or entities of the country's financial sector, in order to maintain a solid economy and liquid obligations.

Intendancy for Special Verification (IVE per its Spanish abbreviation)
This intendancy is in charge of supervising the information related to financial, commercial or business transactions in order to prevent money laundering.

In Guatemala, only banking institutions and cooperatives may obtain deposits from the public. In the case of banking institutions, deposits from the public are insured as part of the security network of the financial system, through an insurance named Savings Protection Fund (FOPA per its Spanish acronym), for up to an amount of Q20,000.00 or its equivalent in foreign currency. In the case of cooperatives, a non-distributable reserve fund must be established among their members.

Currently, there are no restrictions on foreign investments in Guatemalan banks. However, investments must be approved by the Monetary Board, after obtaining an opinion from the Superintendency of Banks. In addition, the law permits the establishment of branches and representative offices of foreign banks, insurance companies, reinsurance companies, insurance or reinsurance intermediaries, bonding companies, Securities and Commodities Exchange brokers, and other financial entities.

Furthermore, it is possible to invest in Guatemala through non-regulated entities that grant financing for the sustainable development of the country, without the intervention of local financial entities and regulators, using vehicles such as foreign investment funds (cross-border marketing) and consortiums of investment cooperatives, among other forms of financing operations in Guatemala.

Infrastructure

Public infrastructure projects may be financed through public-private partnerships (APP per its Spanish acronym). The awarding of the projects, privatization and public works must adhere to the principles established by the Guatemalan legislation; that is to say it must be carried out through procedures that ensure the efficient, economic, effective, transparent, and honest management of resources, and more specifically, through public bids.

There are of course exceptions to public bidding, such as a direct award or restricted invitations. However, even these procedures must aim to comply with the conditions mentioned above.

The main law that governs the awarding of public contracts is the Government Contracting Law. Public investments are governed by the General Budget Law. APPs are governed by the Law for Economic Infrastructure Development Alliances, among other laws.

Investment Vehicles

In Guatemala, there are several mechanisms and forms of implementing investments, such as:

- Joint-ventures, consortiums or partnerships
- Monetary and non-monetary contributions
- Investment trusts
- Management trusts
- Cash flow injections
- Shares and capital contributions and any other form of equity interest, in any proportion, in companies established or organized in accordance with the national legislation
- Credit rights or any other benefits with economic value
- Intellectual and industrial property rights
- Concessions or similar rights granted by law or based on a contract, to perform economic or commercial activities.

Foreign Investment

Our country grants the same treatment to foreign investors as that given to local investors in the performance of their economic activities, and therefore foreign investors have a level playing field with respect to local investors. This treatment must be applied equally to all foreign investment, regardless of the country of origin.

The only exceptions to the above are the limitations established in the Political Constitution of the Republic of Guatemala, and in the laws that specifically regulate certain economic activities, as well as the treatment that may be given to certain foreign investments as a result of obligations acquired by the Guatemalan State in treaties or agreements establishing customs and economic unions, common markets or free trade agreements. Such exceptions include the following:

- Foreigners require authorization from the Executive Branch to acquire ownership of property located near oceans, lakes, rivers or natural springs, as well as those close to the country's borders.

Agreements and Treaties

Guatemala currently has 19 Bilateral Investment Treaties for the Promotion and Protection of Foreign Investment, 4 Partial Scope Agreements, 1 Trade Cooperation Agreement, and 7 Free Trade Agreements.

Both trade agreements and trade treaties grant foreign investors guarantees, such as fair and equal treatment, non-discrimination (for example, under national treatment and most-favored-nation clauses), compensation for expropriation (direct and indirect) and access to arbitration.

1. Free Trade Agreement between Central America and the Dominican Republic and the United States of America
The Central American countries, the Dominican Republic and the United States agreed to negotiate a free trade agreement that includes goods, services and investment, resulting in the elimination of tariffs in a single stage for the entire tariff schedule, except for justified exceptions. In addition, the agreement regulates aspects related to intellectual property, labor standards and environmental standards.
Date of publication and number of Decree approved by Congress
May 18, 2000
Decree 26-2000

2. FTA between Central America and Mexico
The agreement increases the export opportunities for Guatemalan products, while improving the competitiveness of the national production sector and reducing the trade deficit with Guatemala, by leveraging the geographic position of this country.
Date of publication and number of Decree approved by Congress
June 13, 2013
Decree 04-2013

3. FTA between the countries of the Northern Triangle of Central America and Colombia
These countries agreed to promote the expansion and diversification of the trade of goods and services among the parties, and to facilitate trade for the benefit of the productive sectors of Guatemala and Colombia, by reciprocally removing barriers to the trade of goods and services within the free trade zone.
Date of publication and number of Decree approved by Congress
November 12, 2009
Decree 32-2009

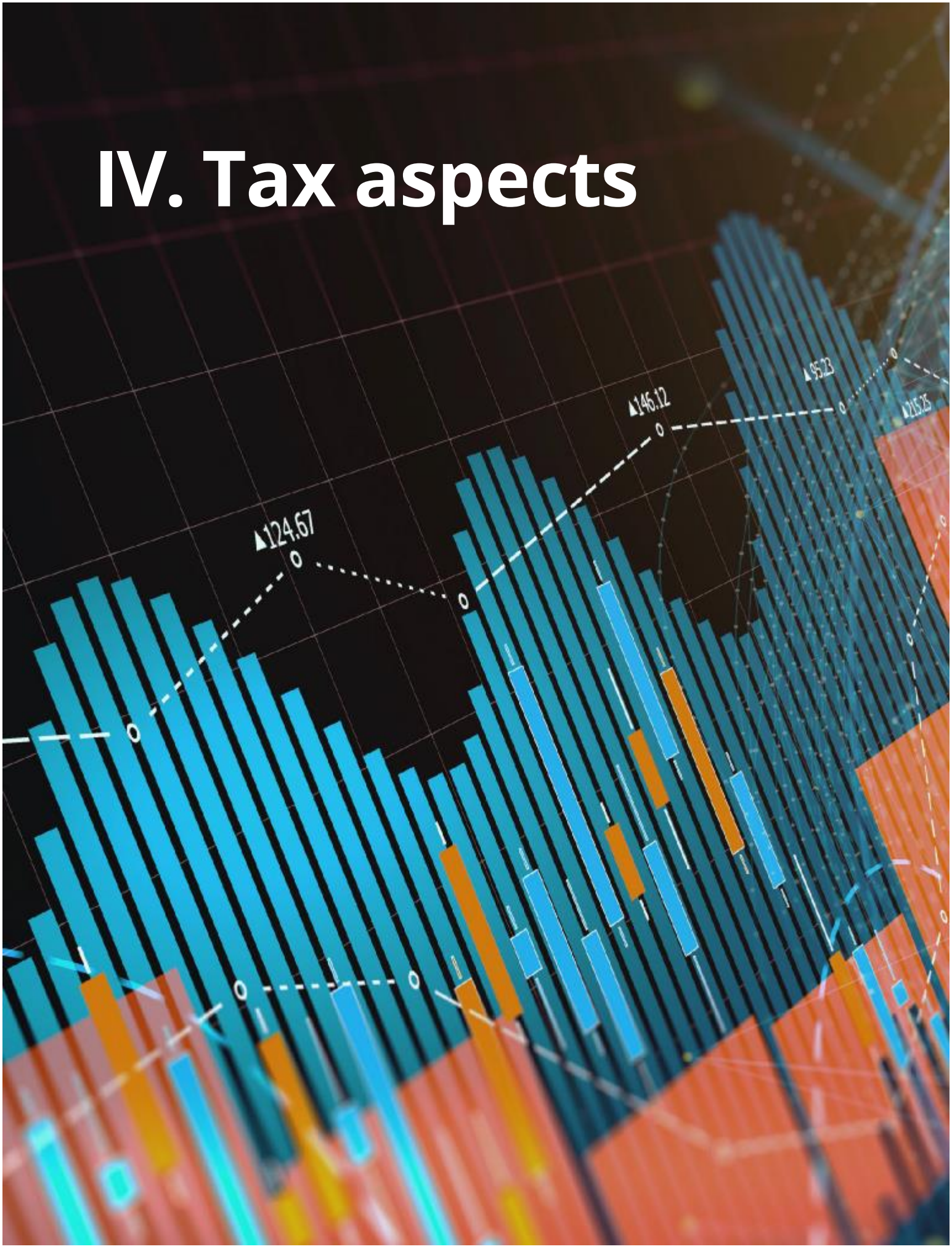
4. FTA between Central America and Chile
This agreement strengthens the commercial relationship between the countries, and improves the attraction of investment, with the purpose of diversifying exportable goods and increasing business opportunities between the countries of Central America and Chile.
Date of publication and number of Decree approved by Congress
November 16, 2009
Decree 37-2009

Agreements and Treaties

5. FTA between Central America and Panama
It has the objective of harmonizing tariffs, establishing common standards in the region, applying rules of origin, and dealing with matters related to investment between the countries of Central America and Panama.
Date of publication and number of Decree approved by Congress
April 15, 2009
Decree 11-2009

6. FTA with Taiwan
The objective of the agreement is to allow Guatemalan products to have access to the Asian market, free from tariffs and other trade barriers. In addition, it establishes a general cooperation framework for the development of our exportable goods and the leveraging of market opportunities.
Date of publication and number of Decree approved by Congress
July 3, 2016
Decree 5-2006

IV. Tax aspects



IV. Tax aspects

1. General information

The Guatemalan tax system is based on the territoriality principle. With few exceptions, mainly related to withholdings tax on source, almost all of the taxes apply to the activities carried out within the Guatemalan territory, as defined in the Political Constitution of the Republic of Guatemala.

The Political Constitution of the Republic of Guatemala grants the power of taxation to the Congress of the Republic. This provides legal certainty that no other government body can impose tax burdens on the private sector.

The main laws regulating tax matters include the Tax Code, and Income Tax, Law which includes the Transfer Pricing Regulations, Value Added Tax Law (VAT), Solidarity Tax Law (ISO), Property Tax (Law IUSI), Stamp Tax Law (ITF), the Specific Tax on the First Registration of Land Motor Vehicles, tax incentive laws for the drawback industry and free trade zones, the National Customs Law, and the law regulating employer and employee Social Security contributions.

Guatemala has not signed any international double or multiple taxation agreements.

In the case of certain industries, there are specific consumption taxes, such as the Tax on the Distribution of Cement, the Tax on the Distribution of Tobacco, the Tax on the Distribution of Alcoholic Beverages, the Specific Tax on the Distribution of Soft Drinks, Other Beverages and Bottled Water, and well as the Tax on the Distribution of Fuels.

2. Tax residency

Companies established in accordance with Guatemalan laws, those that have their tax domicile or parent company in Guatemala, and the branches of foreign entities in Guatemala are considered to be residents of the country.

Foreign companies that perform all or part of their activities within the country or that have a fixed place of business place in the country are considered to be companies operating as permanent establishments in Guatemala.

3. Tax base and rates

Companies can opt to pay the Income Tax under one of the following regimes: (1) Over Profits from Lucrative Activities, in which the tax base is calculated based on the accounting profit and the tax rate of 25% is applied, with three quarterly pre payments and one definitive annual settlement of the tax being required each fiscal year (same as the calendar year) by March 31 of the following year; or (2) Simplified Optional Regime over Income from Lucrative Activities, in which the tax base is the gross revenues, without deducting any costs or expenses, and a rate of 5% or 7% is applied, with monthly tax payments and an annual informational return, also due on March 31, being required.

Guatemalan source income obtained by non-resident entities without a permanent establishment in the country is subject to withholdings tax on the total amount paid.

The tax applicable to individuals who work as employees is determined through the application of a progressive rate, based on annual income. The maximum applicable tax rate is 7%.

3.1 Taxed income

The income and benefits of any nature, taxed or exempt, earned or collected in the settlement period (annual or monthly, as applicable), from the sale of goods or providing of services is considered to be gross income.

Under the Regime Over Profits from Lucrative Activities, the taxable income is determined based on the accounting profit obtained from the income statement prepared in accordance with Generally Accepted Accounting Principles in Guatemala (equivalent to International Financial Reporting Standards –IFRS-), adjusted for non-deductible expenses, exempt income, income that paid tax in another regime, foreign source income, and some deductions or tax benefits.

During the first three quarters of the calendar year, pre payments must be made through a tax return filed in the calendar month immediately following the end of each quarter.

The tax is settled annually by filing a tax return, which must be filed and paid no later than March 31 of the following calendar year

Companies that select this tax regime must keep complete accounting and report their stock of inventory to the Tax Administration in the months of January and July of each year.

Companies that pay Income Tax under this regime must pay the quarterly Solidarity Tax –ISO–. The applicable rate is 1% of the gross income or net assets of the previous year, whichever is greater.

In the Regime over Income from Lucrative Activities, the tax base is the gross revenues generated by the lucrative activities performed by the company, applying a rate of 5% for amounts up to Q.30,000 and a rate of 7% on amounts exceeding Q.30,000.

The tax is paid through monthly withholdings made by those who make payments to companies or individuals that pay tax under this regime. In the event that the purchaser does not make the applicable withholding, the company / taxpayer must directly pay the tax to the Tax Administration on a monthly basis.

Both the companies and the withholding agents must file a tax return before the tax administration each month, within the first 10 business days of the month following that in which the income was generated.

Each year, companies must file an informative tax return, which summarizes the annual income earned and the withholdings made. This tax return is due by March 31 of the following calendar year.

3.2 Deductions

The deductibility of costs and expenses is subject to them being necessary or indispensable for preserving the productive source of taxable income, they must be recorded in the accounting, the taxpayer must have complied with their obligations as a withholding agent when applicable, they must have the supporting documentation established by law, and they must comply with the formal requirements established in the specific laws and regulations. It is also required that transactions related to deductible costs and expenses and tax credits be paid through the banking system.

In addition, the law establishes maximum deductions for expenses, including the following: services provided from abroad cannot exceed 5% of the gross revenues; amounts paid for royalties cannot exceed 5% of the gross revenues; and per diems and travel expenses are limited to 3% of gross revenues. In the case of provisions, the severance compensation allowance cannot exceed 8.33% of the total annual remunerations, and the allowance for bad debts cannot exceed 3% of the balance of accounts receivable from customers originating from normal business activities as of the closing of the tax period. For depreciation expenses, these cannot exceed the maximum annual depreciation percentages established by law, using the straight-line basis. In the case of interest paid to foreign entities, the deduction is limited to interest paid to banking/financial entities duly registered with and overseen by the regulator of the banking system in their country of origin.

3.3 Inflation

In Guatemala, the effects of inflation on tax matters is not regulated, since the inflation rate has remained a one-digit figure.

4. Capital gains

Capital Gains and Income from Capital (passive income) are taxed at a specific rate, as follows: capital gains at 10%, leasing of real property at 10% of 70% of the value of the rent, interest at 10%, dividends at 5%, and income obtained from lotteries, raffles, drawings and bingos at 10%. The Income from Capital from leasing and interest ceases to be classified as such and goes on to pay tax under the regimes for lucrative activities when the taxpayer's normal business activity is leasing or providing loans.

5. Distribution of dividends and returns on capital

As indicated in the previous section, the distribution of dividends, profits and earnings, whether locally or abroad, is taxed at 5%. This tax must be withheld from the beneficiary and paid to the tax office within the first 10 business days of the calendar month following that in which the payment was made to the beneficiary.

6. Payments made to foreign parties

The Guatemalan source income obtained by non-residents without a permanent establishment in the country is subject to a withholding tax with a rate that varies depending on the itemization of the income. Guatemalan companies must withhold the tax and pay it to the tax office on behalf of the non-resident within the first 10 business days of the calendar month following that in which the payment was made to the non-resident.

Companies, as withholding agents, are responsible for any incorrect withholdings made and/or lack of payment of withholdings, and may be subject to the payment of interest and additional fines as a result of this non-compliance. Following is a description of the withholdings applicable to the most common types of payments observed:

6.1 Dividends

The distribution of dividends, profits and earnings to foreign shareholders or the non-resident parent company is taxed at 5%. This tax must be withheld from the beneficiary and paid to the tax office within the first 10 business days of the calendar month following that in which the payment was made to the non-resident.

6.2 Interest

The payment of interest to entities located outside of the Guatemalan territory is taxed at a rate of 10%. This tax must be withhold from the beneficiary and paid to the tax office within the first 10 business days of the calendar month following that in which the payment was made to the non-resident.

Exempt from this tax is the interest paid to banking and/or financial institutions duly registered with and overseen by the regulator of the banking sector in their country of origin.

6.4 International agreements

Guatemala has not signed any agreements for avoiding international double or multiple taxation.

6.3 Royalties

The payments made to non-residents for the use or concession of the use of copyrights, brands, commercial names, rights or licenses for IT programs and their updates, industrial, commercial or scientific know how, and image rights are classified as royalties and taxed at a rate of 15%. This tax must be withhold from the beneficiary and paid to the tax office within the first 10 business days of the calendar month following that in which the payment was made to the non-resident.

The payments made to non-residents for scientific, economical, technical or financial consulting, fees, and cargo transportation activities, among others, are subject to a withholding tax of 15%.

Indirect taxes

1. VAT

The VAT is applicable to the sale of goods, providing of services, leasing, imports, insurance and on the first sale of real property.

The rate for the VAT is 12%. Exports of goods and services, certain institutions, and certain goods and services are exempt from this tax.
The tax is settled on a monthly basis, with the company offsetting the VAT debits with the VAT credits, and any resulting balance in favor of the company may be transferred to subsequent months until its exhaustion. Only exporters may apply for VAT credit refunds, under the different regimes available for this purpose.

2. 2. Stamp Tax

This is a documentary tax that taxes the acts and contracts that have legal effects in Guatemala and that are not related to transactions taxed by the Value Added Tax.

The applicable rate is 3% of the value stated in the taxed documents and contracts.

Taxes on individuals

1. Residency

An individual is considered to be a resident of the country when they remain in the country for more than 183 days during the calendar year, or when their center of economic interest is located in Guatemala.

2. Tax base and rates

The income obtained in Guatemala by individuals is subject to the Income Tax, as follows: income obtained in Guatemala by non-resident individuals is subject to the payment of Income Tax through withholdings; individuals that perform commercial activities pay the tax in the same manner as companies do; and any income earned from employment in Guatemala pays Income Tax through withholdings made by the employer.

2.1 Taxed income

For individuals, it is considered as income is any retribution deriving from personal work provided as an employee.

2.2 Deductions

Individuals have the right to the following deductions: Q.48,000 for personnel expenses without need for any verification; duly documented donations in favor of universities, cultural entities, and the State; as well as social security contributions and premiums for life and medical insurance.

At the end of the annual period, taxpayers may opt for an additional deduction of up to Q.12,000, supported with the certification of the presentation of the VAT credit for documented personal expenses.

2.3 Rates

The Income Tax rates applicable to individuals are 5% on the first Q.300,000.00 of annual taxable income and 7% on the excess over such an amount.

First Steps - (*Soft Landing* in Guatemala)

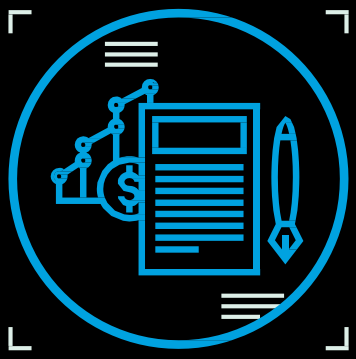
There is a more in-depth brochure detailing these activities that has been prepared by Deloitte Guatemala. However, for those companies seeking to invest in Guatemala, the most relevant steps to be considered are the following:

Legal

- Legal, corporate and tax analysis of the characteristics of the investment, in order to prepare a strategy.
- Request for information related to the establishment of the company or the branch, as applicable.
- Preparation of proxies or agreements, which will be issued abroad, in order to establish the company or branch in Guatemala.
- Opening of a bank account in Guatemala with the amount of the initial paid capital. Likewise, posting of a bond, in the case of a branch.
- Verification of the name, company name or commercial name at the Commercial Registry
- Preparation of the articles of incorporation/organization in the case of a company, or in the case of a branch, the file for requesting the establishment of the branch.

Tax

- Selection of the most advisable regime for paying Income Tax, since Guatemala offers two regimes: a traditional regime taxing net profits, and an optional regime taxing total income, without deducting costs and expenses.
- Determination of the impact of the Solidarity Tax, which is levied on total assets or income, and may be credited to the Income Tax or vice versa.
- Planning of the impact of the Value Added Tax in the investment and pre-operating stages, as well as the recovery of the accumulated tax credits. For projects consisting of the export of goods and services, it is necessary to identify the most appropriate VAT credit refund regime.
- Proper pricing of transactions with related parties that are non-residents of Guatemala, in order to comply with local transfer pricing rules.
- The lack of international double taxation agreements requires the identification and planning of the impact of the Guatemalan withholdings.



Accounting, payroll and tax compliance

- Prepare monthly accounting records, in quetzales and in Spanish.
- Prepare and file corporate tax returns (Income Tax, VAT, tax withholdings).
- Prepare the books of purchases and sales (VAT books) each month.
- Pay monthly to the Social Security office, both the employer and employee contributions.
- Make the monthly entries in the book of wages.

Expatriate employees

- Guatemala has not signed any international double taxation agreements, and thus the analysis would be performed based on the current Guatemalan legislation.

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