

DOING BUSINESS

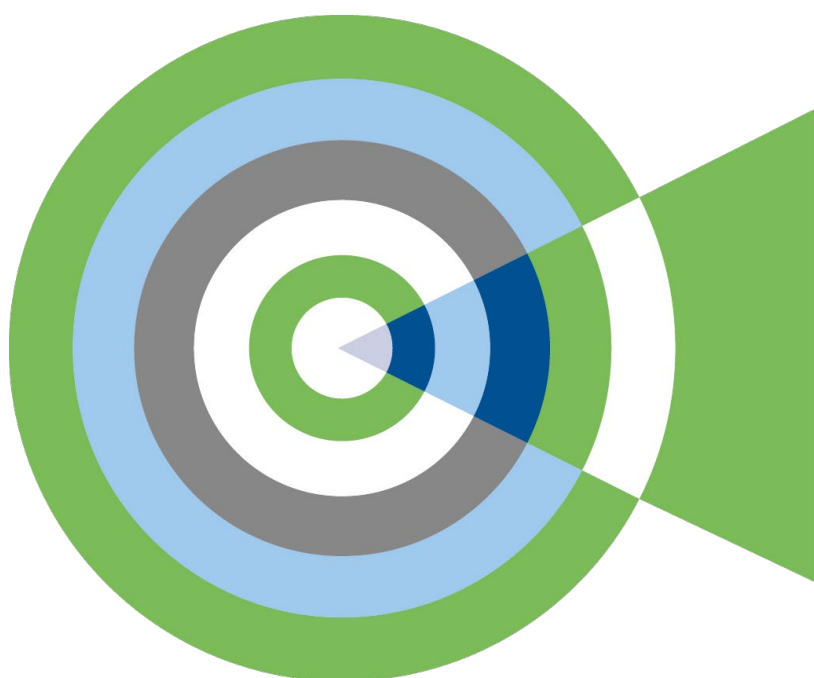
IN GUATEMALA



The network
for doing
business

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1 – INTRODUCTION

UHY is an international organization that provides accounting, business management, and consulting services through financial business centers in around 100 countries around the world.

Business partners work together across the network to carry out cross-border operations for clients, as well as to offer expertise and expertise within their national borders. Global specialists in various industry and market sectors are also available for consultation.

This detailed report provides key issues and information for investors considering business operations in Guatemala has been provided by UHY's representative office:

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We invite you to contact [Omar Perez \(operez@uhy-perez.com\)](mailto:operez@uhy-perez.com) for any questions you may have.

The information on the following pages has been updated to be effective as of the date indicated, but they are inevitably general and subject to change and should be used as a guideline only. For specific matters, investors are strongly advised to obtain more information and seek professional advice before making any decisions. This post is updated in March 2024.

We look forward to helping you do business in Guatemala.

UHY Perez, S.A. (the "Firm") is a member of Urbach Hacker Young International Limited, a UK company, and is part of the UHY international network of legally independent accounting and consulting firms. UHY is the trade name of the international UHY network.

The services described herein are provided by the Firm and not by UHY or any other UHY member firm. Neither UHY nor any UHY member has any responsibility for the services provided by other members.

2 – BUSINESS ENVIRONMENT

DEMOGRAPHY

According to information provided by the Invest in Guatemala Agency, Guatemala is a country with a young population; 80% are under the age of thirty-five. Guatemala has the largest population in Central America at 17.8 million people and has an estimated 7 million people in its workforce.

The country also shows a significant growth rate of the working-age population. Since 2010, Guatemala has shown a growth of around 30% in the working-age population, higher than the rest of the Central American countries and well above the region's indicator.

These figures don't just reflect a vibrant, young economy for industries that require scalable workforces (such as outsourcing services). The capital, Guatemala, is in the geographical heart of the country and is home to an average of 4.5 million inhabitants.

TABLE 1

Demographic Statistics

POPULATION	17,843,132
	MILLION INHABITANTS (JULY 2023 EST.)
Growth Rate	1.62%
Male population	8,777,379
Female population	9,065,753
Rural population	47.3%
Urban population	52.7%

The data in the following table (from CIA's *World Factbook*) gives a segmentation of the Guatemalan population by age groups:

TABLE 2

2024 population estimate by age groups.

AGE	PROPORTION
0–14 years	30.97%
15–24 years	19.60%
25–54 years	38.21%
55–64	5.42%
65 years and older	5.79%

The median age in 2023 is estimated as follows:

- Both sexes – 24.4 years
- Male – 23.8 years
- Female – 25 years old

Other population indicators include the following:

- Birth rate: 21 births per 1,000 population (2024 est.)
- Mortality rate: 5.4 deaths per 1,000 population (2024 est.)
- Net migration rate -1.9 migrant(s) / 1,000 population (2024 est.)
- Urbanization rate: annual rate of change of 2.59% (2020-25 est.)

CULTURA/ETNIA

- Nationality – Guatemalan.
- Ethnic groups: mestizos (mixture of Amerindians and Spaniards) 56%, Mayans 41.7%, Xincas (indigenous, non-Maya) 1.8%, Afro-descendants 0.2%, Garifuna (mixed).
- West and Central Africa, Island Caribbean, and Arawak) 0.1%, foreign 0.2% (2018 est.).
- Religions: Roman Catholic, Protestant, indigenous Mayan beliefs.
- Languages – Spanish (official) 69.9%, Mayan languages 29.7% (Q'eqchi' 8.3%, K'iche 7.8%, Mam 4.4%, Kaqchikel 3%, Q'anjob'al 1.2%, Poqomchi' 1%, other 4%), other 0.4% (includes Xinca and Garifuna) (2018 est.).

GEOGRAPHY

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

- Border countries: Belize 266 km, El Salvador 199 km, Honduras 244 km and Mexico 958 km
 - Area – total 108,889 sq km – Land 107,159 sq km – Water 1,730 square km
- Climate – tropical; warm, humid in the lowlands and cooler in the highlands
- Terrain: Mostly mountains with narrow coastal plains and undulating limestone plateau (Petén)
- Administrative Divisions – Guatemala is divided into 22 departments and subdivided into 340 municipalities.
- Natural resources: petroleum, nickel, precious woods, fish, chewing gum and hydropower.

TRANSPORT & PORTS

- Airports – 16 (paved runways).
- Oil pipelines – oil 480 km (2013).
- Railways – 800 km, narrow gauge: 800 km via 0.914 m (2014).
- Roads: 17,440 km.
- Waterways – 990 km (260 km navigable year-round, with an additional 730 km navigable during the rainy season (2012)).
- Ports and docks – Atlantic Ocean: Puerto Barrios, Santo Tomás de Castilla; Pacific Ocean: Champerico, Puerto Quetzal, Puerto San José.

Ground transportation: The most common way to get around is by bus or car. "Chicken buses" are old American school buses that have been recycled and are often colorfully painted, popular in cities and for short-distance trips. Some operators (such as Litegua between Guatemala City and Puerto Barrios, Fuente del Norte between Guatemala City and Flores, or Monja Blanca to Cobán) operate modern, air-conditioned buses for longer distances. Information on schedules for other lines is limited and usually needs to be obtained locally. However, as a rule, there are frequent services along the main routes as well as to smaller settlements. There are no passenger trains. Private transfers are common. Within cities and many towns, nimble "tuk-tuks," which are well-suited to crowded streets and narrow alleys, provide a taxi service.

- By air: Guatemalan airlines offer nonstop services to various departments.
- Boats: Ferries are available in certain regions, such as Sayaxché, Champerico, or around Livingston.

ECONOMY

Guatemala is the most populous country in Central America, with a GDP per capita of about half the average for Latin America and the Caribbean.

The agricultural sector accounts for 13.3 per cent of GDP and 31 per cent of the labour force; Major agricultural exports include sugar, coffee, bananas, and vegetables. Guatemala is the main recipient of remittances in Central America due to the large community of Guatemalan expatriates in the United States. These inflows are a primary source of external income, equivalent to more than half of the country's exports or one-tenth of its GDP.

The 1996 Peace Accords ended 36 years of civil war and removed a major obstacle to foreign investment. Since then, Guatemala has carried out important macroeconomic reforms and stabilization. In July 2006, the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR) entered into force, encouraging increased investment and export diversification, with the largest increases in exports of ethanol and non-traditional agricultural products. While CAFTA-DR has helped improve the investment climate, security concerns, a lack of skilled workers, and poor infrastructure continue to hamper foreign direct investment.

Income distribution remains highly unequal, with the richest 20% of the population accounting for more than 51% of Guatemala's total consumption. More than half of the population is below the national poverty line and 23% of the population lives in extreme poverty. Poverty among indigenous groups, which represent more than 40 per cent of the population, averages 79 per cent, and 40 per cent of the indigenous population lives in extreme poverty. Nearly half of Guatemalan children under the age of five are chronically malnourished, one of the highest rates of malnutrition in the world.

Guatemala faces mounting fiscal pressures exacerbated by multiple corruption scandals in 2015 that led to the resignation of the president, vice president and numerous high-level economic officials.

- Official Currency – Quetzal.
- Currencies: Quetzal (GTQ), U.S. Dollar (USD), other allowed.
- Fiscal year – calendar year.
- Exchange rates – quetzals per U.S. dollar: 7.87 (2020), 7.81 (2021), 7.81 (2022), 7.82 (2023), 7.81 (2024).
- GDP (purchasing power parity): USD 141.5 billion (2020 est.).
- GDP (official exchange rate): USD 76,678 million (2019 est.).
- GDP - real growth rate: 4% (2022 est.).
- PIB per cápita (PPA): USD 9,200 (2022 est.).
- Composition of GDP by sector: agriculture 13.3%, industry 23.4%, services 63.2% (2017 est.).

*For more information, please visit:

- www.banguat.gob.gt (Exchange Rates)
- www.cia.gov
- www.investinguatemala.org
- W.Bungalow.Co.G.D

GOVERNMENT

Country Name:

- Conventional Long Format: Republic of Guatemala.
- Conventional abbreviated form: Guatemala.
- Local Long Format: *Republic of Guatemala*.
- Local short name: Guatemala.

Type of government: Constitutional democratic republic

Capital: Guatemala.

Geographical coordinates: 15 30 N, 90 15 W.

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

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

Independence and National Day: September 15, 1821 (Spain).

Constitution: May 31, 1985, in force as of January 14, 1986, and suspended on May 25, 1993, by former President Serrano Elías; reinstated on 5 June 1993 following the dismissal of the President; and subsequently amended in November 1993.

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

BUSINESS PROTOCOL IN GUATEMALA

INITIAL CONTACT

Local contacts are essential in Guatemala. Potential buyers don't react well to a direct "cold" touch. Plan to attend a trade show or join a trade mission to meet stakeholders. You can also arrange for a chamber of commerce, trade association, government agency, or bank to introduce you to Guatemalan businesses.

Your first written correspondence should be in Spanish, indicating that, if possible, you would prefer to correspond in English at a later date. Request an appointment about two weeks in advance. Expect to meet in an office rather than a restaurant or bar. Schedule only two meetings per day, one between 10:00 and 11:30 a.m. and the second starting at 3 p.m.

IMPORTANCE OF RELATIONSHIPS

Expect to invest a considerable amount of time in developing rapport and a nice, relaxed relationship before talking business. Establishing an atmosphere of trust is a precondition for a successful business relationship.

Good topics for small talk are soccer, Guatemalan history, literature, and places to visit, as well as information about your hometown and region. You'll likely need two or three visits to the country before you can expect to do serious business. Like other Latin Americans, Guatemalans value deep and lasting relationships.

HIERARCHY, STATUS, AND RESPECT

In Guatemala, status depends more on social class, education, and family background than on personal achievements. Business visitors can enhance their status by showing a keen interest in intellectual pursuits, dressing elegantly, and staying in the best hotels.

APPROACH PROTOCOL

Shake hands with everyone in the room, both men and women, as they gather or leave. The handshake should not be too firm.

Use surnames preceded only by *sir*, *madam*, or *miss* (sir, madam, or miss). It is very common to use titles, such as *bachelor's*, *doctor's*, *professor's*, *architect's*, *engineer's*, etc. The use of the title without a surname (*Mr. Engineer*) is also appropriate.

Smile and maintain eye contact when introduced to someone. "How are you?" (*How are you?*) is the most common greeting.

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

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

COMMUNICATION STYLE

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

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

BUSINESS ENTERTAINMENT

Bold negotiators include plenty of time to socialize during protracted discussions. If you want to entertain a high-level executive, ask your secretary to recommend a restaurant. It is important to welcome your counterpart only in elegant and prestigious establishments. Similarly, business visitors should only stay in the best hotels while in Guatemala.

Women drink wine, spirits, and spirits, while beer is considered a man's drink. Guatemalans typically eat a light breakfast between 7 and 9 a.m. and a substantial lunch from noon to 2 p.m. Dinner usually starts after 7 p.m., but dinners usually don't start until after 9 p.m.

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

3 – FOREIGN INVESTMENT

LEGAL FRAMEWORK FOR FOREIGN INVESTMENT

Overview

Guatemala is a country interested in promoting economic and social development. This is reflected in the *Foreign Investment* Law and the Law on the Promotion and Development of Export and Maquila Activity, as well as in certain exemptions from certain taxes such as income tax and value-added tax.

The laws also promote and guarantee that foreigners are treated impartially by Guatemalans, enjoying the same rights and obligations.

Local Business Structures

The structure of foreign investment will depend on several factors, such as legal considerations, the location of the company, and taxes. Guatemalan law recognizes the following local business structures:

1. Collective company (*Sociedad Colectiva*)
2. Limited liability company (*Sociedad de Responsabilidad Limitada*)
3. Commandite company (*Sociedad en Comandita Simple*)
4. Commandite company by shares (*Sociedad en Comandita por acciones*)
5. Sociedad Anónima (*Corporation or stock Company*)

The most important provisions applicable to local business structures are as follows:

- The company is established through the granting and granting of a public deed, authorized by a Guatemalan notary.
- At least two natural and/or legal persons must execute the company's bylaws. To avoid dissolution, the partnership must continue with at least two shareholders for its entire life.
- Shares must be issued in the name of the shareholder (registered shares).
- After its incorporation, the company must be provisionally registered in the Mercantile Registry of the Republic of Guatemala.
- Next, the company registers as a taxpayer with the office of the Superintendence of Tax Administration, obtains its Tax Identification Number (NIT) and authorization to issue invoices and other accounting documents.
- With these requirements, the company will be able to start operations, pending any opposition from an interested party. Most oppositions are based on similarities to the name and/or trade name of another company.
- The approximate time to complete the establishment of a local business is 10 business days after receiving the appropriate legal information and documents.

Branches

A company incorporated abroad may decide to set up a branch office because of some of the unique tax benefits related to this business structure. Legally established foreign companies that wish to establish and operate in any way in the country, or have one or more branches or agencies, are subject to the provisions of the Commercial Code and other laws of the Republic.

Among the most important applicable provisions are:

- Proof that the foreign company is duly incorporated under the laws of its home country.
- The submission of a certified copy of the deed of incorporation and the articles of association of the foreign company, if any, as well as any amendments thereto.
- Appointment of a de facto attorney-in-fact in Guatemala with broad powers to carry out and execute the day-to-day business of the branch and to represent it legally, with all the special powers indicated by the Law of the Judicial Branch.
- Deposit of the initial operating capital allocated exclusively to operations in Guatemala and of a bond in favor of third parties for an amount not less than the equivalent in quetzals of USD 50,000, an amount that will be set by the Mercantile Registry and that must remain in force during the entire time that the company operates in the country, and an express declaration that the company will be responsible not only for all its assets located in the territory of Guatemala but also abroad, for the acts and business carried out by the company in the country.
- Submission to the courts and laws of Guatemala for all acts and transactions that may be executed in Guatemala, or that may have effects in Guatemala; and the submission of an affidavit that neither the company nor its representatives or workers may invoke foreign rights.
- Affidavit granted by the company's legal representative containing the company's commitment to comply with all legal obligations before leaving the country.
- Delivery of a certified copy of the latest balance sheet and profit and loss statement of the foreign company.
- Once all the required documents have been submitted and reviewed, the Commercial Registry will approve the provisional registration of the branch.
- Next, the branch must register as a taxpayer with the Tax Administration Office, obtaining its Tax Identification Number and authorization to issue invoices and other accounting documents.
- With these requirements, the branch will be able to start its operations, pending opposition from any interested party. The approximate time to complete the establishment of a branch is 30 days after receiving the appropriate legal information and documents.

TEMPORARY BUSINESSES

Foreign companies may also apply to the Mercantile Registry for authorization to conduct temporary business in Guatemala. In these cases, foreign companies are required to prove that they are duly incorporated in their country of origin and must appoint a legal representative in Guatemala.

OPERATIONS THAT DO NOT REQUIRE REGISTRATION IN GUATEMALA

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

- Participate in legal actions or proceedings before a Guatemalan court or public office.
- Open or maintain bank accounts in an authorized bank in Guatemala.
- Sell or buy from independent commercial agents legally established in Guatemala.
- Purchase orders through agents legally established in Guatemala, provided that such purchases are subject to confirmation or acceptance abroad.
- Grant or open loans to companies established in Guatemala.
- Issue, endorse or contest credit instruments in Guatemala.
- Acquire movable or immovable property, except land close to international borders and waterfront property, provided that such property is not part of a local enterprise, or that the foreign enterprise does not deal with such property on a regular basis.

Foreign Investment Law

This law allows Guatemala's main economic sectors to be open to investment, as well as foreign local ownership. However, some restrictions apply to sectors considered to be of strategic interest, such as the military.

Guatemala's Foreign Investment Law (Decree 9-98 of the Guatemalan Congress) was created to promote foreign investment and includes certain provisions that are beneficial to foreign investors, one of the provisions being that they recognize and guarantee private property rights equally for Guatemalan nationals and foreign investors. It is important that the law expressly prohibits all discriminatory actions towards foreign investors and states that no restrictions may be imposed on foreigners for owning any number of shares in Guatemalan business entities.

The financial activities of foreign investors are subject to the general protections afforded to any type of investment made in Guatemala. The Foreign Investment Law (Decree 9-98 of the Guatemalan Congress), Chapter 10 (Investment Chapter) of the DR-CAFTA FTA, incorporated by Chapter Twelve, referring to the Financial Services Chapter, and the Constitution of Guatemala, clearly establish that foreign investors will receive treatment no less favorable than that of domestic investors.

Guatemala's Foreign Investment Law has been in force and binding since March 1998. Its main objective is to encourage domestic and foreign investment in Guatemala, and it was issued to fulfill a fundamental obligation of the government, established in the Political Constitution of the Republic of Guatemala, to protect and promote capital formation, savings, and investment.

Prior to the enactment of this law, the applicable legislation was contained in different laws and regulations and therefore it was considered opportune and necessary to organize and systematize them into a single legal instrument, thus creating the Foreign Investment Law. Although the Guatemalan legal framework already recognized full equality of treatment between domestic and foreign investors, there were some laws that included specific limitations on foreign investment, such as fishing licenses, companies providing commercial transport services, commercial use of radio and television channels in the

Radio Law, and oil extraction activities. All these limitations were expressly removed with this new law. The provision of insurance services was limited to Guatemalan nationals until the enactment of the new decree, Insurance Law No. 25-2010.

One of the most valuable aspects of the law is that it accords foreign investors the same treatment as domestic investors in the development of economic activities. This means that any foreign investor operates under the same legal conditions as nationals and this is a great incentive for foreign investment in Guatemala, as that is not the situation in all countries. The original text of the law stated that it should apply equally to all foreign investments, regardless of the country from which they came. However, a 2007 amendment stated that full equality would only apply to foreign investors from any World Trade Organization (WTO) member country or nation or to investors from countries that have signed agreements with Guatemala. The foregoing, thus limiting the scope of this right. This applies regardless of whether Guatemala maintains diplomatic relations with a country or has any business dealings with a country or nation.

Foreign investors may participate in the development of any lawful economic activity in Guatemala and contribute to the capital of any corporation in accordance with the Foreign Investment Law.

However, there are some limitations in specific laws, such as:

1) The Guatemalan Constitution provides that the Government has dominion over a strip of land three kilometers along the ocean from the upper tide line. The Government also has control over the land of two hundred meters around the shores of lakes, one hundred meters on each side of navigable rivers, and fifty meters around fountains and springs where populations get their water supplies.

- However, there are two exceptions to this: (a) if the land is in urban areas and (b) it was purchased before March 1, 1956. If any of the lands included in the exclusions referred to are to be sold to foreigners, they must obtain express authorization from the Executive to acquire it.

2) Forestry Law: Only a Guatemalan can receive a land concession from the government.

3) Immigration Law – a foreigner requires an immigration permit to stay in Guatemala for more than 90 days, among other licenses that regulate specific activities. See the next section "Other Laws Promoting Foreign Investment".

The Foreign Investment Law provides that no public official or employee may apply for any additional requirement, condition, or qualification that is not expressly included in a law validly binding on any foreign investor.

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

- Private property.
- Expropriation, when reasons of collective or social benefit/interest can be accredited.
- Free trade.
- Free access to foreign currency.
- Prohibition of confiscatory taxation and double taxation.

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

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

4 – SETTING UP A BUSINESS

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

Below is a detailed summary of the bureaucratic and legal hurdles faced by entrepreneurs who want to incorporate and register a new business in Guatemala. It examines the procedures, time, and cost involved in launching a commercial or industrial business with between 10 and 50 employees and a start-up capital of 10 times the gross national income per capita of the economy.

No.	Procedure	Time to Complete	Associated Costs
1	<p>Check the proposed company name online and get a letter from a Guatemalan notary public to open a bank account.</p> <p><i>Agency: Public Notary.</i></p> <p>First, entrepreneurs or the notary public must perform a company name availability search on the Guatemalan Commercial Registry website. After that, they can proceed with the above-mentioned letter. Next, the minimum paid-up capital requirement of GTQ 200 must be safeguarded by the Board of Directors and if the subscribed and paid-in capital exceeds the amount of GTQ 2,000, it must be deposited in a local bank before the articles of incorporation are signed. To this end, a notary public must issue a letter confirming that the drafting and registration of the company's deed of incorporation was requested. This letter allows for the opening of a temporary bank account while registration is completed. The letter should state the exact address of the new company, which should be supported by a utility bill</p>	1 day	GTQ 0.5 for each name.
	<p>Deposit the subscribed capital in a bank and obtain a receipt</p> <p><i>Agency:</i> Bank</p> <p>The legal representative must open a bank account and deposit the subscribed capital when it exceeds the amount of GTQ 2,000. The bank will require a</p>	1 day	No Charge

	utility bill with the address of the new company. The deposit slip is presented to the Notary.		
	<p>A notary public prepares the deed of incorporation, completes the forms required by the Commercial Registry and the tax authority, and pays the registration fee online Agency: Public Notary</p> <p>In 2019, the Guatemalan government launched <i>ePortal</i>: a new online platform that allows new companies to be registered in the Commercial Register, and the Superintendence of Tax Administration (tax authority), through a single online form (https://eportal.registromercantil.gob.gt/). This online platform significantly reduces the time of the entrepreneur to obtain the definitive registration, the tax and social security identification numbers and the authorization to print invoices and if the Notary Public has an Advanced Electronic Signature, they can be sent like this.</p> <p>The notary issues a certified copy of the deed and prepares the appointment of the legal representative (sole administrator or board members), who must be registered with the tax authorities. The notary then fills out the online forms required by the Mercantile Registry and the Superintendence of Tax Administration with the help of the new company's accountant.</p> <p>The Commercial Registry requires the following forms:</p> <ol style="list-style-type: none"> Certified copy of the articles of incorporation. Appointment of legal representative. Utility bill with the exact address of the new company. Electronic payment receipt. <p>Finally, the notary pays in Banrural (local bank) the amount required by the Registry: 250 GTQ Stamp Duty, 300 GTQ Notary Stamp Duty for certified copy, 112 GTQ Stamp Duty for</p>	Less than a day. (online processing)	See Comment

	appointment; GTQ Publication 200; Edict GTQ 30; GTQ 100 social books.		
	<p>Obtain the registration of the new company before the Mercantile Registry, Tax Identification Number, Edict, and registration of the appointment of the legal representative and the Authorization to print invoices.</p> <p>Agency: Registry Court</p> <p>Registration in the Commercial Register with the tax and social security authorities can be done within 2 or 3 days via the ePortal online portal. To physically submit the documents, the provincial registry in Guatemala takes between 10 days. In addition, once a company is registered, by law, it has 1 year to send a notice to the Commercial Registry indicating the number of shares issued in respect of the paid-up capital.</p>	3 days	No charge.
	<p>Publication of the edict on <i>the Platform of the Commercial Registry</i> and opposition to the provisional registration of the company by affected third parties</p> <p>Agency: <i>Platform of the Commercial Registry.</i></p>		GTQ 200
	<p>Obtain the definitive registration, and the authorization for corporate and accounting books.</p> <p>Agency: Commercial Register and Superintendence of Tax Administration.</p> <p>Authorization for corporate and accounting books can be obtained at once at the time the registration is completed.</p>		GTQ 250 tax stamps.

5 – LABOUR

Work & Employment – Common Problems

Labor Framework

It is essential for foreign investors to understand the labor regulations in force in Guatemala before starting their operations. Our legislation guarantees the rights of workers, establishing guarantees and minimum inalienable rights. In addition, under this regulation, workers have the right to unionize to seek improvements in their working conditions within a company.

Among the most important aspects are the following:

1. **Wages:** They can be established per unit of time, for the work to be done, by commission or participation in the profits of the company. Each year, the Ministry of Labour sets a minimum wage for non-agricultural and agricultural activities, which is mandatory for all employers.
2. **Employment Contracts:** It is mandatory to formalize an Individual Employment Contract in writing and register them in the Registry of Individual Employment Contracts – RECIT. In general, employment contracts are for an indefinite period, unless clearly specified otherwise.
3. **Vacation:** Workers are entitled to at least 15 working days of vacation for each year worked, which must be paid as if the employee had worked.
4. **Working hours:** Three types of working hours are established: daytime, night and mixed. The day shift may not exceed 8 hours per day or 44 hours per week. The night shift may not exceed 6 hours per day or 36 hours per week. Mixed working hours may not exceed 7 hours per day or 42 hours per week. Recently, in Guatemala, part-time work was approved, it is regulated in Governmental Agreement 89-2019, Its objective is to ensure compliance with the law and promote fair and equitable working conditions for part-time employees in the country.
5. **Aguinaldo, *bono 14* and bono incentive:** the labor legislation establishes three important bonuses for workers: the Incentive Bonus, the Christmas bonus and the 14 bonus. The Incentive bonus is a monthly payment that employers must grant to their workers, with the established minimum of Q250.00, although this amount can be increased by mutual agreement between both parties. On the other hand, the Christmas bonus is a bonus that is paid in the month of December and is equivalent to a full ordinary salary. Finally, the fourteenth bonus is an additional benefit that is granted in the month of July and has the same amount as the Christmas bonus. These bonuses are mandatory under Guatemalan labor law and represent an important part of workers' labor rights in the country.

6. Termination of employment contract: An employee has the right to request the termination of his or her contract at any time. If it is the employer who wishes to terminate the contract, it must duly justify the cause. In such a case, the worker is entitled to compensation for wrongful termination, which includes a salary for each year worked, as well as up to 12 additional wages and court fees for the period between dismissal and actual payment.
7. Social Security: The employer is also required to contribute to the Guatemalan Social Security, the Institute of Technical Security (IGSS), the Institute of Technical Training and Productivity (INTECAP) and the Institute of Recreation for Workers (IRTRA). These contributions by the employer add up to 12.67% of the salary paid to each worker.

Individual Claims

Common problems include:

- Litigation over the termination of employment contracts, whether justified or unjustified, of workers' employment contracts and subsequent claims for severance pay. This compensation is calculated as an average of the wages received during the last six months of the contract for each year of service, with no limit on the number of years worked or the monthly salary.
- Disputes relating to the true legal nature of contracts and/or agreements entered with associates (employment relationship vs. independent contractor).
- Adjustments in the calculation of compensation, considering additional compensation and other rights (performance bonuses, share-share agreements, non-salary benefits, etc.).
- Overtime claim (there are specific limits, both from a daily and weekly point of view).
- Claims related to maternity protection, particularly in cases of dismissal or harassment of female employees during pregnancy or breastfeeding after childbirth.

Class Actions

These include:

- Petitions from workers organized through unions or coalitions demanding collective bargaining to improve wages, economic benefits, and working conditions. These unions or coalitions are formed independently in each specific business or enterprise (or group of related enterprises) and are generally not unions for a trade or branch of activity.
- Reinstatement petitions in cases where employees are dismissed while a union is in the process of being formed or while a collective dispute has been filed in court.

Actions and complaints before labour authorities

There are official visits and verifications by the labour inspection authorities (of the General Labour Inspectorate) regarding compliance and compliance with all labour laws and regulations.

Recently, the Labour Inspector acquired additional powers to have immediate access to workplaces where the following labour events have occurred: mass dismissals (ten or more employees), employer substitutions, factory closures, employment of underage workers and other situations that the General Labour Inspectorate considers to be an emergency.

Labor & Employment Matters / Legal Proceedings

Although certain external formalities may differ, the substance of the legal proceedings is very similar to that of most other countries in the region (Latin America). Therefore, the employer's right to answer claims, present counterclaims, present evidence and have judgments reviewed by a higher court is duly guaranteed. However, Guatemalan labor laws (both substantive and procedural) are public policy and highly protective of the worker, so most of the burden falls on the employer. Therefore, employers should be aware of and comply with applicable laws and seek competent advice if necessary.

In Guatemala, proceedings are carried out in specialized Labour Courts established and recognized by the Constitution. These procedures should be simple, dispensing as much as possible with formality, but these objectives are rarely met.

A Labour Court of First Instance deals with individual claims in a predominantly oral procedure consisting of three hearings (the first to answer the claim, to formulate a response where appropriate and to collect evidence; the second and third hearings are to collect the evidence missing from the first). The sentence handed down by the Labour Judge may be appealed to a Court of Appeal sitting in charge of three judges.

Organized workers lodge a collective appeal (trade union or *ad hoc coalition*) with a Labour Judge of First Instance, who must preliminarily integrate the functioning of a Conciliation Tribunal composed of three members (the judge, a representative of the trade union sector and a representative of the employer sector). If conciliation fails, the workers can declare and execute a legal strike, where legality and justice must be resolved by the judge with the right to appeal to the Court of Appeal. In addition, the dispute may be submitted (as an alternative to a strike) to a decision by an Arbitration Tribunal (composed in the same way as the Conciliation Tribunal) and its decision may also be appealed to the Court of Appeal.

Elements to keep in mind regarding labor and employment laws include:

- Guatemala has a Labor Code and specialized laws and regulations created to regulate most labor matters. Many of the country's most relevant (and many non-essential) labor rights and benefits have been elevated to the level of constitutional law, as they are included in the 1985 Constitution. Guatemala has also ratified and implements a significant number of International Labour Organization (ILO) International Labour Conventions, including all the treaties of the 1998 ILO Declaration on Fundamental Principles and Rights at Work.
- Most labor laws and regulations refer to public order and are highly paternalistic, so workers cannot waive their minimum labor legal rights. The interpretation and scope of labor laws, regulations, or agreements is interpreted in favor of workers in case of doubt (*in dubio pro operario*).

- Employee compensation in Guatemala needs to be properly understood. It includes 12 monthly salaries, plus a *Christmas bonus* and a 14th salary to be paid in July (*bonus 14*). An employee is entitled to receive compensation equivalent to one month's salary per year of work (for an unlimited number of years and without a maximum salary cap) in the event of wrongful termination. The estimate of this compensation must consider proportional parts of the Christmas bonus, the 14th salary and, eventually, other non-salary benefits received by the employee.

Legal system and foreign companies

The Roman tradition is the basis of the Guatemalan legal system: a civil law structure of mainly codified legal provisions, and a system of justice applied on codified law and not on previous cases (jurisprudence). This system applies equally to individuals and businesses; No difference is made between them, only with certain procedural issues which may differ slightly.

Employers in the country can be companies or individuals, and both are treated equally. Both categories of employers are subject to labor laws that are specifically designed to protect workers.

Foreign companies (those established under the laws of countries other than Guatemala) are treated the same as local companies. The Commercial Code specifies certain activities that do not require the domicile of the foreign company in Guatemala. However, for employee recruitment, a foreign company must either establish a branch office in Guatemala or seek alternative arrangements with a service provider capable of providing payroll services.

Recently, there has been discussion in Congress about possible additional labor obligations of foreign companies (a bond to secure legal responsibilities to employees) to obtain specific tax benefits (under activities and legal regimes related to return and export).

Trials

Most cases are resolved out of court, specifically by an agency of the Ministry of Labour and Social Welfare, which is called the General Labour Inspectorate, which has a specific Conciliation Section where employers and employees are summoned to appear to try to resolve disputes. A significant number of cases are also settled before the Labour Courts, which have broad powers and powers to seek amicable settlements between the parties.

Labor & Employment Litigation

Claims must be submitted to a competent Labour Court of First Instance in the territory where the dispute arose. If the lawsuit meets all the formal requirements, the judge sets a first hearing and notifies the employer at least three business days in advance. At the first hearing, the employer must respond to the complaint and has the right to countersue the employee. At such a first hearing, all evidence must be presented by both parties, if this is not possible due to the nature of the evidence or some impossibility related to the court, second or third hearings will be scheduled. Once all the evidence has been received, the judge issues a sentence, which can be appealed to a Court of Appeal. The second instance before the Court of Appeals is nothing more than a review of the judgment of the first

instance, exclusively on the disagreements of the appellant, but when no new evidence is presented or received, except in extraordinary circumstances.

The decision of the Court of Appeals is final and binding on both parties. There is only the possibility of review of the proceedings by a Constitutional Court if it is clearly demonstrated that the Labour Courts somehow violated the constitutional rights of defence and due process of either party.

Labor and Employment Laws and Regulations

The main laws and regulations are as follows:

- Political Constitution of the Republic of Guatemala.
- Labor Code (Decree 1441 and subsequent amendments) and regulations.
- CAFTA-DR Free Trade Agreement with the United States (Chapter 16 - Labor).
- Foreign Investment Law (Decree 9-98 of Congress).
- Decree 76-78 of the Congress of the Republic (Christmas bonus *for* the private sector)
- Decree 42-92 of the Congress of the Republic, (Strenna or salary 14 for the private and public sector)
- Congressional Decree 78-89 and reforms (Private Sector Incentive Bonus).
- Income Tax Law (Decree 26-92 of Congress and subsequent reforms).
- Establishing the Guatemalan Social Security Institute (IGSS) (Decree 295) and regulations.
- Executive agreements that annually determine minimum wages for each of the different activities (non-agricultural, agricultural, devolution and export-related).
- Executive Agreement No. 346, which determines which activities are not subject to limitations on working hours (overtime).

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

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

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

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

The same laws apply throughout the territory, except for minimum wages which may differ depending on economic activity and the applicability of certain social security programmes that do not have national coverage.

Alternative solutions for resolving labour disputes.

Private arbitration is not accepted or recognized in the resolution of labor matters and disputes. All administration of justice in labour matters must be carried out by the Labour Courts, which are part of the Judicial Branch (Supreme Court of Justice).

The Court of Arbitration for the resolution of collective disputes arising from collective bargaining is not really an arbitration body that functions as an alternative to the public Labour Courts since it is also composed of and presided over by the Labour Judge and two other members (one from the salaried sector and the other from the employers' sector). The functions of this Court of Arbitration are set out in the Labour Code in the chapter on the procedural aspects of collective disputes of a socio-economic nature, and the judgment is subject to a comprehensive review (substantive and formal) by the Court of Appeal.

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

Conciliation is only mandatory in collective disputes related to collective bargaining. Otherwise, it should not be considered a necessary stage of the judicial proceedings by either party. Any recommendation or position taken by the Conciliation Tribunal is not binding or binding on the parties and must be accepted voluntarily.

6 – TAXATION

It is often difficult to gather accurate and up-to-date information about taxes in Guatemala, as there are no reporting services like those available in the United States and other countries.

In Guatemala, the tax system is based on various taxes that are levied on consumption, profits, and financial transactions. These taxes include the Value Added Tax (VAT), the Income Tax (ISR), the Solidarity Tax, among others. These taxes are fundamental to the functioning of the state and the provision of public services. In addition, since 2012, specific transfer pricing rules have been implemented to ensure fair taxation on related party transactions. This tax landscape reflects the complexity and importance of taxation in the Guatemalan economic context.

IMPUESTO AL VALOR AGREGADO (VAT FOR ITS ABBREVIATION IN ENGLISH)

The Value Added Tax (VAT) is an indirect tax levied on consumption in Guatemala, and its regulation is found in Decree 27-92 of the Congress of the Republic. This tax affects the transactions of goods and services and is borne by the final consumers. The tax rate is 12% of the taxable base, and its amount must always be incorporated into the final sale price of the goods, or the value of the services rendered.

Specific Exemptions

1. Educational institutions, both public and private, are exempt from Value Added Tax (VAT) regarding registration fees, tuition fees and examination fees, if they offer courses authorized by the competent authority.
2. Universities duly authorized to operate in Guatemala also enjoy VAT exemption on the services mentioned above.
3. The Autonomous Sports Confederation of Guatemala and the Guatemalan Olympic Committee are exempt from paying VAT on their sports-related activities.
4. The Guatemalan Social Security Institute (IGSS) is exempt from paying VAT on its medical operations and services.
5. Diplomatic and consular missions accredited to the Government of Guatemala, as well as their diplomatic and consular agents and employees, are exempt from VAT on their official activities, if there is reciprocity on the part of the countries to which such missions belong.
6. International organizations that have specific tax exemption agreements signed between the Government of Guatemala and these organizations are also exempt from paying VAT on their operations.

INCOME TAX

According to the Income Tax Law (Decree-26-92 of the Congress of the Republic of Guatemala), a tax is established that is levied on all profits obtained by natural or legal

persons, national or foreign, domiciled or not in the country. This tax applies to any entity, patrimony, or asset that the law indicates, if such gains come from the investment of capital or labor in Guatemala, either individually or in combination. According to this law, income tax can be paid under two regimes:

1. **Simplified Optional Regime:** This regime has a tax rate that is in line with the income reported monthly:

Monthly Taxable Income (Taxable Base Amount)		Fixed Taxation	Tax rate
Q0.01	Q30,000.00	Q0.00	5%
Q30,000.01	And up	Q1,500.00	7% on the excess of Q30,000.00

2. In the case of the Lucrative Profits Regime, a 25% tax is applied on net profits, calculated as gross income minus deductions authorized by law. This scheme offers two payment methods, which must be made quarterly and in advance:
 - a. Under the actual profit: The tax is calculated and paid based on the actual profits obtained in the corresponding period.
 - b. 8% Profit Estimate: An advance tax payment is established based on an estimate of 8% of net profits.

In addition, the Tax Update Law provides for specific rules regarding rates, deductions, exemptions, and other requirements that vary according to the type of income:

- a. **Income from Gainful Activities:** In accordance with the regimes described above.
- b. **Income Tax on Wages:** This tax will only be paid by individuals who work as an employee, and whose income is greater than Q60,000.00 per year, the amount to be paid as salary tax will be calculated based on the taxable income according to a scale of rates.

Monthly Taxable Income (Taxable Base Amount)		Fixed Taxation	Tax rate
Q0.01	Q300,000.00	Q0.00	5%
Q30,000.01	And up	Q.15,000.00	7% on the excess of Q30,000.00

- c. **Non-resident income:** For payments to non-domiciled entities or individuals, categories are established, so the rates vary from 5% to 25%.
- d. **Capital Income:** The Law also classifies capital income into income from real estate and movable property, and capital gains and losses. This classification includes a description of the activities that are considered income from capital and the applicable tax rate.

Supporting Documentation – Accounting

In accordance with the current legislation of the Commercial Code, Guatemala has adopted International Accounting Standards (IAS) and International Financial Reporting Standards (IFRS). The necessary supporting documentation includes:

1. Complete financial statements, including the Income Statement, Statement of Financial Position, and Cash Flow.
2. General General Ledger, where all the accounting transactions of the company are recorded.
3. Shareholders' Book, which contains information about shareholders and their holdings in the company.
4. Tax auxiliaries, such as the Purchase Book and the Sales Book, which record all relevant business transactions for tax purposes.

For certain businesses classified as special taxpayers, additional documentation, such as Audited Financial Statements, will be required. These may be requested by the tax authority to verify the accuracy and veracity of the financial information submitted.

SOLIDARITY TAX

The Solidarity Tax is regulated by Decree 73-2008 of the Congress of the Republic of Guatemala. This tax is levied on individuals or legal entities, trusts, participation contracts, irregular companies, foreign branches, among others, that have their own assets and carry out commercial or agricultural activities in the country. This tax must be paid by those who earn a gross margin greater than 4% of their gross income. Importantly, the Solidarity Tax can be credited to the Income Tax as advance payments, providing some tax relief to taxpayers.

STAMP DUTY AND STAMPED PAPER

According to the Law on Tax Stamps and Special Stamped Paper for Protocols, this tax applies to specific documents mentioned in the law. The persons responsible for paying this tax are those who grant or execute documents containing acts or contracts subject to this tax. The tax rate is 3%, calculated on the value of the taxed act or contract. This value is determined according to the amount indicated in the document, which cannot be less than that registered in public registries, cadasters, or official lists.

REAL ESTATE TAXES

Guatemalan law provides for a single annual tax called the Single Property Tax (IUSI), which is levied on the value of real estate located within the national territory. This tax affects rural and urban properties, covering land, structures, buildings, complementary facilities, and their associated improvements.

The law provides a detailed list of rates and scales that apply to determine the amount of the annual real estate tax.

PROPERTY TRANSFER TAX

In Guatemala, the first transfers of real estate are subject to Value Added Tax (VAT), which is equivalent to 12% of the total amount of the sale. On the other hand, second and successive transfers of real estate are taxed by the Stamp Duty, which is equivalent to 3% of the amount of the sale.

TRANSFER PRICING RULES

Until 5 March 2012, Guatemala had no transfer pricing legislation. However, the Tax Update Law, through Decree 10-2012 of the Congress of the Republic of Guatemala, has introduced special transfer pricing rules that apply to all transactions between related parties.

This law establishes that the special transfer pricing rules will be applied in all transactions between residents in Guatemala and residents abroad that have some impact on the determination of taxable income for the period in which the transaction is carried out and in subsequent periods.

According to the Tax Update Law, to determine the value of transactions in accordance with the arm's length principle, one of the following methods must be applied:

1. Uncontrolled comparable pricing method.
2. Cost-plus-benefit method.
3. Resale price method.
4. Profit-sharing method.
5. Transactional Net Margin Method.
6. Import and Export Valuation Method.

On the other hand, the Tax Update Law grants the Tax Administration sufficient powers to:

1. Verify whether transactions between related parties have been valued in accordance with the arm's length principle in tax matters and adjust when the valuation agreed upon by these parties has resulted in lower taxes in Guatemala.
2. Reclassify a transaction according to its real nature if its economic reality differs from its legal form, or the agreements in the transaction differ substantially from those made between unrelated parties, and the structure of the transaction prevents the Tax Administration from determining the appropriate transfer price.
3. Determine the valuation of a related party transaction prior to its completion. Taxpayers must request and comply with the procedure established by law for the Tax Authority to determine the value of the transaction.

Finally, it is indicated that the treatment to be applied to services provided between related parties must follow the same criteria as the transfer of goods or merchandise and therefore does not have an established minimum amount.

7 – ACCOUNTING & REPORTING

FISCAL YEAR

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

ACCOUNTING STANDARDS

As of January 1, 2008, Guatemala adopted International Accounting Standards (IAS) and International Financial Reporting Standards (IFRS). To view these standards, please refer [to the IASB](#) website.

ACCOUNTING REGULATORY BODIES

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

ACCOUNTING REPORTS

All companies must submit an annual report in Spanish and publish their balance sheet and profit and loss accounts in the Official Gazette. For more information, please see:

[Fundesa Business Guide](#)

A document on accounting in Guatemala can be found at the following link –

[Comisión Hispano-Americana](#) .

PUBLICATION REQUIREMENTS

Company balance sheets must be published every year. It is advisable to have a clear accounting system that is fully translated into Spanish. It should be noted that it is difficult to obtain information on Guatemalan companies, as there are very few published balance sheets.

PROFESSIONAL ACCOUNTING BODIES

For more information, see the following websites:

[Institute of Public Accountants and Auditors of Guatemala](#)

[Association of Public Accountants and Auditors of Guatemala](#)

[List of Audit Firms](#)

CERTIFICATION & AUDITING

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

8 – UHY REPRESENTATION IN GUATEMALA



UHY PÉREZ & CO GUATEMALA



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Position:	Partner
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SOCIAL MEDIA CONNECTIONS

- Facebook: <https://www.facebook.com/uhyperez/>
- LinkedIn: <https://www.linkedin.com/company/uhy-p%C3%A9rez-&-co>

Year established: 2003
PCAOB registered?: Yes
Number of partners: 5
Total staff: 156

ABOUT US

We are a team that shares a culture based on values, always working with excellence to solve the financial, tax and corporate needs of our clients.

BRIEF DESCRIPTION OF FIRM

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

We are a firm specialized in financial consulting in the Central America region and since we started serving our clients in 2003, we have distinguished ourselves by providing a customized service tailored for each of our clients.

SERVICE AREAS

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

SPECIALIST SERVICE AREAS

Taxes, Audit and Transfer Pricing

PRINCIPAL OPERATING SECTORS

Real Estate and Construction
Financial
Chemical & Pharmaceutical
Not-for-profit Organisations
Retail Distribution
Industrial Manufacturing
Family-Owned Companies



The network
for doing
business



Public Services
Private Equity
Energy

LANGUAGES

Spanish and English

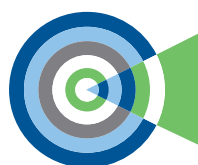
OTHER COUNTRIES IN UHY CURRENTLY WORKING WITH, OR HAVE WORKED WITH IN THE PAST

El Salvador
Honduras
Nicaragua
Costa Rica
Panama
United States
Mexico
Canada
France
Hong Kong

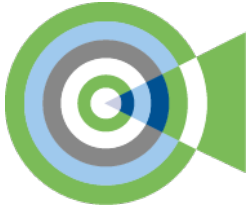
BRIEF HISTORY OF FIRM

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

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



The network
for doing
business



LET HELP YOU ACHIEVE MORE BUSINESS SUCCESS

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