

Narrative Report on Guatemala

Guatemala is ranked at 51st position on the 2013 Financial Secrecy Index, out of 82 countries. This ranking is based on a combination of its secrecy score and a scale weighting based on its share of the global market for offshore financial services.

Guatemala has been assessed with 77 secrecy points out of a potential 100, which places it towards the top end of the secrecy scale (see chart 1 below).

Guatemala accounts for much less than 1 per cent of the global market for offshore financial services, making it a tiny player compared with other secrecy jurisdictions (see chart 2 below).

Part 1: Telling the Story

31 October 2013

Since the mid-2000s, Guatemala has made some efforts to comply with international transparency standards, and to remove itself from international blacklists. Results have been rather disappointing, however, and in 2012 and 2013 France has had Guatemala on its blacklist of non-co-operative countries in the field of international transparency and information exchange, mainly because of the tax administration's lack of access to bank information and fact that tax information exchange agreements signed in recent years have largely not been functioning.

By December 2012 Guatemala had signed 38 information sharing agreements, far more than the 12 required to avoid the OECD's "gray list" of tax havens - yet France has kept its restrictions, arguing that access to banking information remains poor.

On a more positive note, Guatemala has approved a 'Domain Extinction Law' (*Ley Extinción de Dominio, Decreto 55-2010*) which in theory could prove very useful in the fight against money laundering, tax evasion and other offences. Among other things this law would mean that Guatemalan bearer shares – until now completely anonymous – must become nominative (held under a name) as of June 30, 2013. (Anonymous bearer bonds remain possible, however.) However, there remain grave doubts about the ability of the commercial registry (*Registro Mercantil*) to enforce the rules, given that the law did not establish sanctions for violations, and the Registro Mercantil does not have the powers to enforce the changes: it is well known that at the time of writing, many companies had still not made the conversion.

Chart 1 - How Secretive?

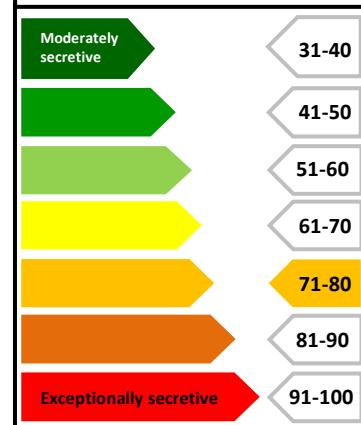
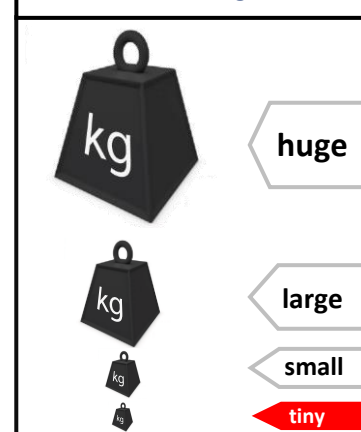


Chart 2 - How Big?



Separately, the recently approved Income Tax Law contains the first ever measures – however weak – designed to combat transfer pricing abuses. Private sector operators have, however, mounted lobbying efforts and legal battles to counteract the relevant sections of the law, and they have been very successful in avoiding its effects so far.

The Legislative Chamber has also been working on a Transparency Law package that is supposed to strengthen the fight against public sector corruption, and strengthen tax enforcement and public purchasing – but the Chamber’s work has been extremely slow, preventing meaningful progress so far.

Despite these disappointments, Guatemala’s government has shown signs of willingness to comply with international transparency standards: the problem appears to lie mostly with a highly traditional and rigid private sector, which has among other things produced an extremely low tax burden (for wealthier citizens in particular) and a relative lack of cooperation on international exchange and transparency standards.

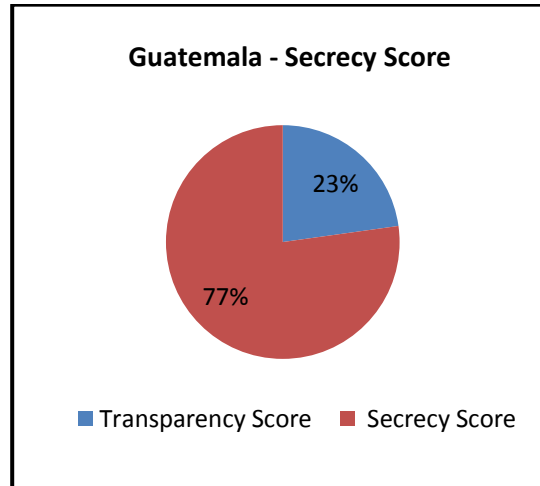
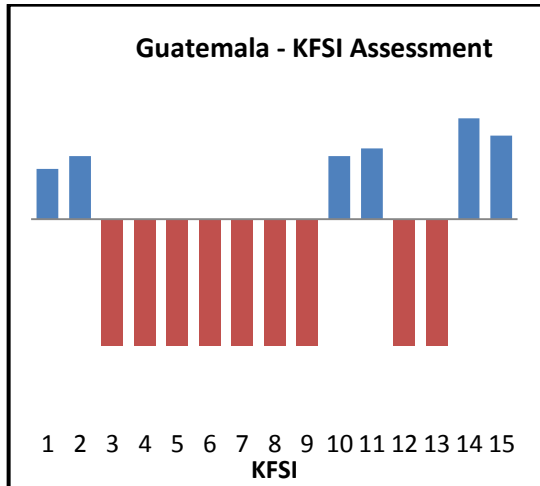
Source: Abelardo Medina, ICEFI, Guatemala

Next steps for Guatemala

Guatemala’s 77 per cent secrecy score shows that it must still make major progress in offering satisfactory financial transparency. If it wishes to play a full part in the modern financial community and to impede and deter illicit financial flows, including flows originating from tax evasion, aggressive tax avoidance practices, corrupt practices and criminal activities, it should take action on the points noted where it falls short of acceptable international standards. See part 2 below for details of Guatemala’s shortcomings on transparency. See this link <http://www.financialsecrecyindex.com/kfsi> for an overview of how each of these shortcomings can be fixed.

Part 2: Secrecy Scores

The secrecy score of 77 per cent for Guatemala has been computed by assessing the jurisdiction’s performance on the 15 Key Financial Secrecy Indicators, listed below.



The numbers on the horizontal axis of the bar chart on the left refer to the Key Financial Secrecy Indicators (KFSI). The presence of a blue bar indicates a positive answer, as does blue text in the KFSI list below. The presence of a red bar indicates a negative answer as does red text in the KFSI list. Where the jurisdiction’s performance partly, but not fully complies with a Key Financial Secrecy Indicator, the text is coloured violet (combination of red and blue).

This paper draws on key data collected on Guatemala. Our data sources include regulatory reports, legislation, regulation and news available at 31.12.2012¹. The full data set is available [here](#)². Our assessment is based on the 15 Key Financial Secrecy Indicators (KFSIs, below), reflecting the legal and financial arrangements of Guatemala. Details of these indicators are noted in the following table and all background data can be found on the [Financial Secrecy Index website](#)³.

The Key Financial Secrecy Indicators and the performance of Guatemala are:

TRANSPARENCY OF BENEFICIAL OWNERSHIP – Guatemala	
1.	Banking Secrecy: Does the jurisdiction have banking secrecy? Guatemala does not adequately curtail banking secrecy
2.	Trust and Foundations Register: Is there a public register of trusts/foundations, or are trusts/foundations prevented? Guatemala partly discloses or prevents trusts and private foundations

3.	Recorded Company Ownership: Does the relevant authority obtain and keep updated details of the beneficial ownership of companies? Guatemala does not maintain company ownership details in official records
KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION – Guatemala	
4.	Public Company Ownership: Does the relevant authority make details of ownership of companies available on public record online for less than US\$10/€10? Guatemala does not require that company ownership details are publicly available online
5.	Public Company Accounts: Does the relevant authority require that company accounts are made available for inspection by anyone for a fee of less than US\$10/€10? Guatemala does not require that company accounts be available on public record
6.	Country-by-Country Reporting: Are all companies required to comply with country-by-country financial reporting? Guatemala does not require country-by-country financial reporting by all companies
EFFICIENCY OF TAX AND FINANCIAL REGULATION – Guatemala	
7.	Fit for Information Exchange: Are resident paying agents required to report to the domestic tax administration information on payments to non-residents? Guatemala does not require resident paying agents to tell the domestic tax authorities about payments to non-residents
8.	Efficiency of Tax Administration: Does the tax administration use taxpayer identifiers for analysing information efficiently, and is there a large taxpayer unit? Guatemala does not use appropriate tools for efficiently analysing tax related information
9.	Avoids Promoting Tax Evasion: Does the jurisdiction grant unilateral tax credits for foreign tax payments? Guatemala does not avoid promoting tax evasion via a tax credit system

10.	Harmful Legal Vehicles: Does the jurisdiction allow cell companies and trusts with flee clauses? Guatemala partly allows harmful legal vehicles
INTERNATIONAL STANDARDS AND COOPERATION – Guatemala	
11.	Anti-Money Laundering: Does the jurisdiction comply with the FATF recommendations? Guatemala partly complies with international anti-money laundering standards
12.	Automatic Information Exchange: Does the jurisdiction participate fully in Automatic Information Exchange such as the European Savings Tax Directive? Guatemala does not participate fully in Automatic Information Exchange
13.	Bilateral Treaties: Does the jurisdiction have at least 46 bilateral treaties providing for information exchange upon request, or is it part of the European Council/OECD convention? As of 31 May, 2012, Guatemala had no tax information sharing agreements complying with basic OECD requirements
14.	International Transparency Commitments: Has the jurisdiction ratified the five most relevant international treaties relating to financial transparency? Guatemala has partly ratified relevant international treaties relating to financial transparency
15.	International Judicial Cooperation: Does the jurisdiction cooperate with other states on money laundering and other criminal issues? Guatemala partly cooperates with other states on money laundering and other criminal issues

¹ With the exception of KFSI 13 for which the cut-off date is 31.05.2013. For more details, look at the endnote number 2 in the corresponding KFSI-paper here:

<http://www.financialsecrecyindex.com/PDF/13-Bilateral-Treaties.pdf>.

² That data is available here: <http://www.financialsecrecyindex.com/database/menu.xml>.

³ <http://www.financialsecrecyindex.com>.