

NARRATIVE REPORT ON GUATEMALA



PART 1: NARRATIVE REPORT

Since the mid-2000s, Guatemala has made some efforts to comply with international transparency standards, and to remove itself from international blacklists. However, results have been disappointing.

In the year 2012 France put Guatemala on its blacklist of non-co-operative countries in the field of international transparency and information exchange.¹ This was mainly due to the Guatemalan tax administration's lack of access to bank information in the country, and the fact that tax information exchange agreements signed in recent years between Guatemala and other countries have largely not been functioning. That situation continues unchanged by the lack of political will and pressure from some economic elites.

Pressure for reform built when a major corruption scandal hit the country in April 2015, involving the current and a former CEO of the tax administration and the private secretary of the vice-president. The scandal was revealed by the International commission to combat impunity in Guatemala (Cicig by the Spanish acronym) and by the public prosecutor. The public outcry over the scandal lead to the resignation of the vice-president and, in September 2015, of the president, Otto Pérez Molina.²

To date Guatemala had signed 39 information sharing agreements, far more than the minimum required to avoid the OECD's "grey list" of tax havens - yet France has kept its restrictions, arguing that access to banking information remains poor. The latest information exchange agreement was signed with Mexico, but is mainly focused on measures aimed at fighting smuggling.

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 abolishes bearer share corporations – until now completely anonymous. As of June 30 2013 bearer shares must be registered (anonymous bearer bonds remain possible). However, many companies didn't make the conversion and the commercial registry (*Registro Mercantil*) hasn't got the ability to enforce the changes.

The Income Tax Law approved in February 2012 contains the first ever measures designed to combat transfer pricing abuses. However, businesses have mounted a legal and lobbying campaign against the law and succeeded in delaying implementation until 2015. In any event practical implementation is an issue.

Experts have commented that the tax administration does not

Rank: 39

Chart 1 - How Secretive?

76
Secretive Score

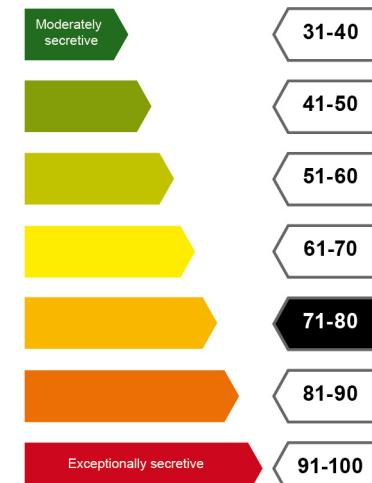
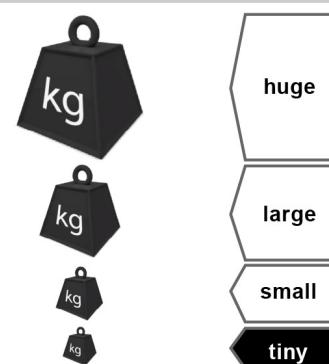


Chart 2 - How Big?



Guatemala accounts for less than 0.1 per cent of the global market for offshore financial services, making it a tiny player compared with other secrecy jurisdictions.

The ranking is based on a combination of its secrecy score and scale weighting.

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[→ Full data](#)
[→ Guatemala on TJN Blog](#)
[→ Full Methodology](#)

have the capacity to begin the administration of transfer pricing legislation.

At the end of 2013 the Guatemalan Parliament approved a package of transparency reforms. These reforms are aimed at combatting public sector corruption, and strengthen tax enforcement and public procurement processes. Nevertheless, enforcement has been weak and no prosecutions have been brought under the new legislation.

Source: Abelardo Medina Bermejo, ICEFI, Guatemala

Read more

- [Full data for Guatemala](#)
 - [Guatemala on TJN Blog](#)
 - [Full Methodology](#)
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¹ http://ec.europa.eu/taxation_customs/taxation/gen_info/good_governance_matters/lists_of_countries/index_en.htm; 27.10.2015.

² http://www.bbc.com/mundo/noticias/2015/05/150507_guatemala_corrupcion_escandalo_vicepresidenta_baldetti_jp; 27.10.2015.

PART 2: GUATEMALA'S SECRECY SCORE

TRANSPARENCY OF BENEFICIAL OWNERSHIP – Guatemala

- 1** *Banking Secrecy: Does the jurisdiction have banking secrecy? Guatemala partly curtails 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 free, or 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 free, or for 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 publish country-by-country financial reports? Guatemala does not require public country-by-country financial reporting by companies*

EFFICIENCY OF TAX AND FINANCIAL REGULATION – Guatemala

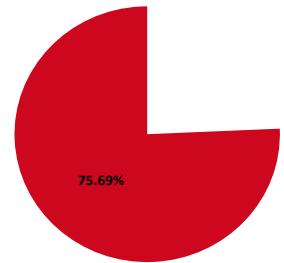
- 7** *Fit for Information Exchange: Are resident paying agents required to report to the domestic tax administration information on payments to non-residents? Guatemala does not require resident paying agents to tell the domestic tax authorities about payments to non-residents*
- 8** *Efficiency of Tax Administration: Does the tax administration use taxpayer identifiers for analysing information efficiently, and is there a large taxpayer unit? Guatemala partly uses 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

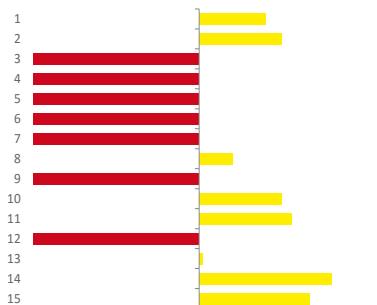
- 11** *Anti-Money Laundering: Does the jurisdiction comply with the FATF recommendations? Guatemala partly complies with international anti-money laundering standards*
- 12** *Automatic Information Exchange: Does the jurisdiction participate fully in multilateral Automatic Information Exchange via the Common Reporting Standard? Guatemala does not participate in Automatic Information Exchange*
- 13** *Bilateral Treaties: Does the jurisdiction have at least 53 bilateral treaties providing for information exchange upon request, or is it part of the European Council/OECD convention? As of 31 May, 2015, Guatemala had less than 53 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 ratified less than five of the most 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*

Secrecy Score

Guatemala - Secrecy Score



Guatemala KFSI-Assessment



Notes and Sources

The ranking is based on a combination of its secrecy score and scale weighting (click [here](#) to see our full methodology).

The secrecy score of 76 per cent for Guatemala has been computed by assessing its performance on 15 Key Financial Secrecy Indicators (KFSI), listed on the left. Each KFSI is explained in more detail, [here](#).

Green indicates full compliance on the relevant indicator, meaning least secrecy; red indicates non-compliance (most secrecy); and yellow indicates partial compliance.

This paper draws on data sources including regulatory reports, legislation, regulation and news available as of 31.12.2014 (with the exception of KFSI 13 for which the cut-off date is 31.05.2015).

Full data on Guatemala is available here: <http://www.financialsecrecyindex.com/database/menu.xml>

All background data for all countries can be found on the Financial Secrecy Index website: <http://www.financialsecrecyindex.com>