



# zfera

Measures taken in Guatemala  
during COVID-19 times.

# Guatemala

## Labor

- They are obliged to strictly comply with the Health and Occupational Security Rules and the Labor Code and any other applicable rules and legal dispositions in these matters.
  - Due to occupational health matters, the Government encourages to suspend work contracts, under the form and time that every specific and individual situation requires.
  - Another option for workers close to having the right to enjoy their vacations is to promote the use of their vacation periods during this time. If the worker is not entitled yet to enjoy vacations, then the employer and employee must reach an agreement in this regard.
  - The exemption cases are that services or businesses that has to remain open. In these cases of exemption, both employer and employee must apply all the hygiene, health and social security measures indicated by the Labor Code and the Health and the Occupational Security Rules.
  - For the services and business not qualified as excepted and that will suspend their activities, is suggested for the employers too, within their possibilities, continue with their activities by doing home office during the time the presidential limitations remain effective.
  - For those workers that cannot render their services by doing home-office, one option is to grant the suspension period as part of their vacations.
  - Workplaces that are exempted from the suspension since March 17, 2020, it's suggested that employer and employee, execute an agreement that will function the suspension of work agreement. The salary could be pay in whole or in part, focusing before all the economic situation of the parties, without damaging the interests of the employer and without negatively impacting or reducing the minimum and inalienable rights regulated by the labor laws and regulations.
  - The Board of Directors of IGSS agreed, for one time, to accept the differed payment of the employer's fee of the private sector for March, April and May 2020. This without incurring in interests or late payment fees or administrative charges in case such payment is not made.
  - The differed payment of the employer's fee includes the Recreational Tax ("IRTRA") and the fee for the Productivity and Training Technical Institute ("INTECAP").
  - The worker's fee shall be generally reduced following the applicable regulation. It shall be transferred and delivered to IGSS, within the fixed dates indicated by the legal dispositions
  - The employers who opt for the benefit of the differed fees shall notify IGSS of their choice.
- In case there's a lack of payment in the differed payments on the agreed dates, IGSS can issue a charge note and charge late payment fees and administrative fees to the employers.

## Taxes

- The Tax Administration -SAT-, ordered the suspension of payment of taxes, and all the inspection activities and processes carried out by the institution until April 15, 2020.
- However, the work of Customs is excepted, which is not included in this agreement, and remains working, so the regular deadlines in this matter must be met. The deadlines to file appeals continue and to meet and pay customs taxes. The taxes paid with importation, such as petroleum derivatives, and others, do not have their terms suspended.

# Guatemala

## Lease contracts

- In extraordinary cases, the fulfilment of the obligations can be very burdensome or directly impossible for the contractors given the current situation. Therefore, three figures are recognized by the laws of Guatemala to deal with this type of situation, which are an Act of God, Theory of the unforeseen events, and force majeure.
- The termination of Lease Agreements does NOT have a specific legal norm for the fortuitous event or force majeure; this means that the contracts cannot be terminated. Furthermore, there is the jurisprudence of some courts that indicates that an accidental case and termination cannot be requested because in these cases, there is no cause under the provisions of the Civil Code.
- Depending on each particular case, it must be determined whether the Lease Agreement can be subject to review (theory of the unforeseen).
- Is important to take into consideration that the text of the Lease Agreement does include an Act of God or Force Majeure or of the Theory of the Unforeseen clause, and the local laws can only be enforced when the agreements do not include these clauses; therefore, a study of each agreement should be made to determine which is the more advisable way to proceed.
- It is recommended that, if there is a wait or a reduction granted, it is documented to avoid tax consequences or that the income cannot be returned to its previous situation. We will always prefer deferment to reduction.

## The law to protect Guatemalan people from the effects caused by the coronavirus pandemic

- The Office of Attention and Assistance to the Consumer -DIACO for its initials in Spanish- will be in charge of preventing hoarding. The purpose is to seek availability and stability of prices in medicines, services, dietary goods, cleaning products and prevention of contagion, among others.
- The Ministry of Economy of the Republic of Guatemala -MINECO for its initials in Spanish- (5 days after the Law becomes effective) will set the list of prices to March 15th, 2020, of 34 products that integrate the Basic Food Basket (CBA).
- Solidarity Tax (ISO) payment deferral.
- Suspension of administrative deadlines:
  - The calculation of regulatory deadlines will be suspended in administrative procedures in a three-month term.
  - Constitutional deadlines, Public Information law deadlines, process with the object to guarantee alimony, minimum guarantees and those to safeguard citizen rights before COVID-19 disease, are not included.
- Credit Payments Deferral
  - Banking institutions, upon request, will grant the deferral or delay to the debtor credits (that are not more than a month past due).
  - Those credits include Credit Card fees, trust guarantee credits, pledge or mortgage guarantee for housing, for two-month payments.

# Guatemala

- Also included credits in favor of small or medium businesses and any State institution creditor, for three-month payments.
- It also included for people who have a Payment Arrangement with banking institutions and have not incurred any delay in the payment of said agreement.
- Tuition Payments Compliance:
  - It won't generate penalties, imperfect credits or administrative charges for the payment delay in education centres or colleges. Credit rating or student re-enrollment won't be affected. Only applies to those who are updated on payments. The term is 60 days since the Law became effective.
- Attention to migrants:
  - The Department of Health can't deny medical attention to migrants in transit on the territory and must give the needed instructions to hospitals and health centers of the country for strict compliance.
  - The Department of Health must coordinate with the Exterior Relations Department and with the Guatemalan Migratory Institute, the medical attention in the Reception Center of Returning Migrants, located in the Air Force.
  - Must comply with doctors, staff, equipment, supplies and needed equipment to attend returning migrants.
  - Must establish needed measures to attend returning migrants and reduce the risk of spread.
  - Must give clear information regarding the development of the Calamity situation, including current and needed measures, in the language of the returning migrants.
- Extension of the States' Outflow General Budget by Q. 3,667,500.000.00 thru external public indebtedness (with regional and international institutions)
- Emergency Fund Creation.

## Curfew

- It is limiting the free movement of Guatemalans, allowing only motorists from pharmacies, fast food restaurants, gas services, hygiene and cleaning products and the authorities to circulate, adequately identified.
- Establishments related to the supply operation may operate, including restaurants, supermarkets, first-supply stores, gas stations, pharmacies, hospitals and those necessary for essential services.
- The concentrations of people are limited, and all kinds of public shows and any meetings or events are prohibited or suspended.
- The Government can establish maximum or minimum prices for necessities and avoid their hoarding.
- Appropriate measures for safeguarding international borders have been issued and will continue, even discretionarily limiting the repatriation of inhabitants of the Republic of Guatemala.

# Guatemala

- People who violate the regulations, ordinances or provisions that are issued on the occasion and occasion of the State of Calamity, may be detained even when they establish their identity. Still, they must be immediately placed at the disposal of the judge to impose the legal sanction.

## Other control and support measures

- The National Electrification Institute –INDE- guarantees, the social rate contribution to the users of 1-60 kWh/monthly in Q. 0.40/kWh, and to users between 61-125 kWh/monthly in Q. 0.70/kWh. Service will be subsidize directly for the poor population.
- The executive and its agency, can't give increment in salaries and additional labor benefits.
- The Municipalities are entitled to cover operation expenses (registered until February 29th, 2020) without increasing payroll with collective quantities of Property Tax (IUSI), Added Value Tax (IVA) or any resource transferred by the Finance Department or the Promotion Municipal Institute.
- During the State of Public Calamity, the Municipalities can make direct shopping until Q. 300.000.00 for matters regarding the emergency of COVID-19.