

# Country Guide

## El Salvador

Prepared by



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## Guide To Doing Business Questionnaire: Romero Pineda & Asociados, El Salvador, 2014

### I. The Country At A Glance

- A. What languages are spoken?

Spanish is the official and predominant language of El Salvador. Many Salvadorans are also conversational or fluent in English.

- B. What is the exchange rate for the U.S. dollar, the Euro?

United States Dollar is the legal currency and is accepted in all financial transactions. The former unit of currency, the Colon, still exists in theory, but its circulation is non-existent. The exchange rate between the Colon and U.S. Dollar is fixed by law at 8.75 Colones per U.S. dollar. All financial records are maintained using the U.S. Dollar as per ordered by the Law, which includes banking records.

- C. Describe your country's geography, proximity to other countries and climate.

El Salvador has a total area of 21,040 square kilometers, equivalent to 8,123.55 square miles, smaller than the state of Massachusetts. It is located in Central America, bordering the Pacific Ocean, Guatemala and Honduras. The land area totals 20,720 sq. km, equivalent to 8,000 square miles, and the water area 320 sq. km, equivalent to 123.55 square miles. The terrain is mostly mountainous, with a narrow coastal belt and central plateau. Its climate is tropical, with a rainy season that lasts from May to October, and a dry season, which lasts from November to April. The climate is tropical on the coast, and a bit temperate in the uplands. El Salvador's population ascends to 6,340,454, as of 2014. Also there is an additional Salvadoran population approximately of 3,000,000 that is located in several states of the United States mainly in Los Angeles, Houston and Washington.

D. Are there cultural influences or prohibitions on the way business is conducted?

No.

E. Are there religious influences or prohibitions on the way business is conducted?

No.

F. Explain your country's infrastructure. Be sure to explain which cities have airports, railroad systems, ports, and public transportation.

There are two ports:

1) The Acajutla Seaport was created with the purposes of facilitating the country's development and satisfying the needs of El Salvador's foreign commerce and with the goal of encouraging the sustainable economic growth of the different sectors of the country.

The Acajutla Seaport is located in the Department of Sonsonate in the western zone of the country, wharves and piers are available for arriving ships. Acajutla is a port of direct berthing with 8 piers.

2) La Union Seaport, or Cutuco Construction was finalized in 2008; nevertheless, it has not been decided who the operator shall be, and the Port is not in operation yet. Cutuco is located in the Department of La Union in the eastern zone of the country. A heavy investment by Japanese companies resulted in modernizing of the port with the idea of creating a "dry canal" between La Union Port in El Salvador and Puerto Cortez in Honduras. Both countries look into transporting goods by road from the Pacific to the Atlantic Ocean and vice versa, in less than 24 hours, thus considerably shortening inter-oceanic transportation time and costs. Japan International Cooperation Bank (JIBC) provided a loan to finance civil works, services and consulting services for the development of port facilities, including a terminal, peripheral equipment and access roads at La Union Port. La Union Province, borders the Fonseca Gulf at the eastern end of El Salvador, where La Union Port is located, offers excellent operation conditions. This Port will become a mega port with enough capacity to compete globally. Its 117 hectares, equivalent to 289.11 acres, have one terminal for containers, two for receiving and distributing grains, and one for passenger traffic. It is 185 kilometers, equivalent to 114.95 miles by highway from San Salvador, and 252 km, equivalent to 156.59 miles. by rail from San Salvador. It is expected that by the year 2007, El Salvador will have completed the construction of this deep-sea port.

El Salvador's International Airport is called "Comalapa", located in the south central part of the country in the La Paz Province. It is connected to the capital San Salvador through a 4 way and 42 kilometers, equivalent to 26 miles, long highway that allows an average commute time of 25 minutes. Comalapa Airport has a main landing strip (3,200 m long) and a secondary runway (800 m long). Several regional and international airlines service Comalapa, including US carriers: Continental, Delta, United and American Airlines.

The public transportation system is mainly by buses operated by private individuals under a Government concession, providing transportation service from San Salvador (the capital) to the neighboring cities and to all the other Provinces of the country. A modernization system of buses through the capital city is underway, and expected to be concluded within the next year. Taxis are also available.

Due to the short extension of territory, most of main the roads are in excellent condition and there is a network of paved roads comprising 53.1 % of all roads. El Salvador possesses a modern system of roads with a total length of 10,029 km, equivalent to 6,231.90 miles of which 1,986 km., equivalent to 1,234.07 miles, are paved and 327 km., equivalent to 203.19 miles, are expressways. The railway system totals 562 km., equivalent to 349.22 miles with a 0.914-m gauge; but the length of the operational route has been reduced to 283 km due to the lack of maintenance.

G. Explain the communication system.

As a result of a privatization process in 1996 the telephone company, which was previously owned by the government, was taken over by two companies. The first was a French Telecommunication Company, called France Telecom, who later was sold to Telmex and the second, a Spanish Telecommunication Company called Telefónica.

By the year 2014 there were 13 operators of fixed phone services, four of mobile phones, and eleven of international long distance. According to the latest estimate by the governmental regulator, 985,047 fixed lines are working and 4,120,165 mobile lines were granted. 3,273 km., equivalent to 2,033.80 miles of fiber optic lines had been installed in El Salvador by December 2012.

The domestic telephone system extends throughout the country via a microwave radio relay system. The international system functions through a satellite earth station 1 Intelsat (Atlantic Ocean) connected to the Central American microwave system.

By the year 1998 there were 61 AM stations, plus 24 repeaters, and 30 FM stations without short-wave stations. In 1997 the estimated number of radios was of 2.75 million. There are 13 local television broadcast stations. It was estimated that in the year 2010 the number of televisions in the country reached 1.5 Million.

There were seven Internet service providers by the year 2014, but this number has grown significantly since the number of Internet users was estimated to be 500,000 by the year 2014.

The DR-CAFTA (Dominican Republic – Central American Free Trade Agreement with the US) has included provisions to guarantee anti-trust regulations in the local telecommunications market; in addition the regulatory entity Competition Superintendence has taken a very active role in verifying conditions in the market. Recently the Competition Superintendence denied a request for a merge between 2 of the four largest telephone operators.

- H. Describe the public services – i.e. water, electricity, gas. Are they publicly or privately owned?

Water is provided mainly by a governmental entity called ANDA (Administración Nacional de Acueductos y Alcantarillados), but private agents can provide water service with the authorization of ANDA.

Electricity went through a privatization process whereby the distribution and thermal generation of energy was taken over the private sector; nevertheless, as recently as December 2014 the Italian operator of thermal energy sold its stakes to Government owned CEL. The generation and transmission of energy are still governmental operations. Peak demand of electricity approaches approximately 900 Mws. Distribution of generation is approximately 30% hydro, 25% geo and 45% thermal, on dry season with a Hydro participation increasing to close to 40% during rainy season. Growth of demand and lack of investment in the generation market have created a situation which requires more power for a growing economy. Consequently, several projects, such as a new generation dam, which has been stopped and a plant to be built near the La Union Port are being considered; nevertheless, projects for new generation have not become a reality.

The electric Market is regulated by an entity called SIGET (Superintendencia General de Electricidad y Telecomunicaciones).

Private companies sell gas containers, mainly for domestic cooking and restaurant purposes. There is not a pipe system to provide gas to consumers. Recently a growth in investments for production of ethanol alcohol based on sugar cane has taken place.

The Government has implemented a radical regulations change in the electrical market that will change the current price system of the market for a cost based system and PPAs.

Telecommunications as mentioned before has been privatized since 1999, and is regulated by the same entity as electricity, SIGET.

## **II. General Considerations**

- A. Investment policies

1. Does the country generally welcome investment? Are there governmental or private agencies devoted to the promotion of investment?

El Salvador is conscious of the need of foreign investment to develop its economy and for that reason many incentives to foreign investment have been created. El Salvador has an Investment Act, with the goals of promoting investment in general, and foreign investment in particular, contributing to the economic and social development of the country, increasing productivity, increasing employment, expanding exports of goods and services, and the diversifying production. This act creates the National Investment Office (ONI) within the Ministry of Economy, as the entity responsible for facilitating, centralizing and coordinating the governmental procedures required of national and foreign investors for the execution of their economic, commercial, tax and migratory responsibilities. ONI produces governmental statistics about such investments, which are made publicly available.

The Free Zone Act that allows foreign investors to establish their manufacturing plants in El Salvador for exportation purposes, free of income or VAT tax. In light of the pressure from the WTO El Salvador has implemented the Services Law, which allows for operations which are destined for exports under a series of tax benefits.

PROESA, is a Governmental entity in charge of promoting foreign investment, and help foreign investors to implement their projects in the country headed by the Vice President,

DR-CAFTA which creates a commerce free zone among Central American countries, the United States, and the Dominican Republic has introduced a higher level of integration between these economies, and sets forth a regulatory framework that facilitates international commerce at all levels.

The Chamber of Commerce and Industry of El Salvador and the American Chamber of Commerce are private agencies that promote business and investment in El Salvador.

## 2. What is the rate of inflation?

According to the Central Bank of Reserve the rate of inflation for the years 2012 and 2013 was of 0 and 1%.

## 3. Explain any sector exceptions, incentives or restrictions on foreign investment?

In general, El Salvador has created many incentives, and few restrictions for foreign investment. One such incentive is the low requirements of capital for incorporating a local company. A Corporation must initiate business with capital of no less than US\$2,000.00, and only US\$ shall be paid in advance at the moment of incorporation. Small investments and are reserved to Salvadorans, and Central American entities or individuals.

The Investment Act guarantees free movement of capital, in and out of the country to every foreign investor once their investment is duly registered in the National Investment Office.

Since there are no prohibitions to the movement of capital and US Dollars are local currency, no exchange restriction applies to unregistered foreign investment, only information and record keeping for money laundry purposes.

The local Money Laundry Act only establishes the requirements to inform local authorities of certain transactions, to provide proper identification of the individuals conducting the transactions, and to keep a record of those transactions for a period of five years.

In addition, the Free Zone Act and the Services Act, allows foreign investors to operate from El Salvador in order to export their products, and provides as an incentive the total exemption from income, municipal (local), Value Added (VAT), and import taxes for activities and inputs related to the production and export operation, logistic operations and call centers.

In addition Salvadoran Constitution forbids foreign individuals or corporations from owning rural land in El Salvador if Salvadorans can not own such land in the foreign country territory. This restriction does not apply to city or urban land.

El Salvador Law requires reciprocity when it refers to authorization of foreign airlines.

Broadcast companies in El Salvador, shall be owned by at least 51% by Salvadoran Companies or individuals.

At least 90% of production resources used for commercials to be aired or printed in El Salvador has to come from a Salvadoran Company.

Salvadoran Law requires that any construction project in which a foreign Company or individual participates includes a 20% investment by a Salvadoran Company, and at least 30% of the Technical staff and 90% of administrative staff working on the construction project has to be Salvadoran.

Public Transport of Passenger concessions are to be granted only to Salvadorans. Companies dedicated to transport of goods, shall be owned at least in 51% by Salvadorans.

4. Describe de facto restrictions on investment, if any, such as bureaucratic discretion.

The Salvadoran Government has embarked on a process of modernizing bureaucratic procedures. Most of the procedures have been expedited as they consist of official registrations and authorizations. Also as a result of implementation of DR-CAFTA, customs proceedings have been modernized and simplified.

5. What are the sizes of the different markets?

The best place to access economic data on local markets in the web site of the Salvadoran Central Bank at ([www.bcr.gov.sv](http://www.bcr.gov.sv)) next, data by sectors from BCR source:

	2013	2014	Growth 2013	Growth 2014
<b>General Index (Million Dollars)</b>	209.27	210.04	1.5	0.4
<b>1.1 Agriculture, hunting, and fishing</b>	125.84	126.94	0.1	0.9
<b>1.2 Mining exploitation</b>	157.07	147.05	2	-6.4
<b>1.3 Manufacturing Industry.</b>	232.86	233.68	-0.1	0.4
<b>1.4 Electricity, Gas and Water</b>	232.12	242.48	-4.5	4.5
<b>1.5 Construction</b>	159.11	146.93	0.9	-7.7
<b>1.6 Commerce, Restaurante, and Hotels</b>	207.51	207.6	1.1	0
<b>1.7 Transport, communications and warehousing</b>	325.15	315.89	3.4	-2.8
<b>1.8 Banking, insurance and other financial institutions</b>	528.87	555.61	4.3	5.1
<b>1.9 Real Estate, adn services to Companies</b>	178.58	193.21	1	8.2
<b>1.10 Community, social and personal services.</b>	181.03	184.74	11.9	2
<b>1.11 Government services</b>	141.68	142.64	1.6	0.7

6. What types of businesses are conducted in the country?

Before the peace accords were signed, El Salvador had a primarily agricultural economy. Since 1990, the national economy has become more diversified and industrialized, particularly in the areas of industry, manufacturing, commerce, financial services and construction. Consequently, El Salvador is open to almost any kind of business that takes place in a diversified economy.

By virtue of privatization processes of most government monopolies have opened investment opportunities in electricity, telecommunications, port management, import and export, logistic operations, and retirement fund management, among others.

B. Diplomatic Relations

1. Explain any established diplomatic relations your country may have.

Salvador is a small country with a reduced number of Diplomatic Representations from foreign countries and with few embassies overseas, which maintain normal Diplomatic Relationships with El Salvador based in International Law instruments. El Salvador also is a member of the Organization of the American States (OEA), United Nations and several of its specialized agencies, the OAS), the Central American Common Market, The Central American Integration System, (CACM), the Central



America Parliament (PARLACEN), the Central America Security Commission (CASC), which seeks to promote regional arms control. El Salvador also is a member of the World Trade Organization and is pursuing regional free trade agreements. El Salvador has joined its six Central American neighbors in signing the Alliance for Sustainable Development, known as the Conjunta Centroamerica-USA or CONCAUSA to promote sustainable economic development in the region.

2. Give addresses, and contact information for the embassies or consulates in your country.

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3. Are there prohibitions or restrictions on certain business dealings with the country?

In general no, there are no prohibitions; in fact commercial policy is designed to open markets and to reduce restrictions.

There are certain prohibitions described above in section II, GENERAL CONSIDERATIONS, letter A, INVESTMENT POLICIES, question 3.

Even though it is not a restriction in itself, the Money Laundering Act imposes obligations of information to Government Officials, and identification of transactions that exceed US\$57,142.86.

4. Explain any travel restrictions to or within the country?

There are no specific travel restrictions to travel to El Salvador, except for normal visa requirements for some countries. There are no travel restrictions within the country. The Investment Act grants migratory status to registered foreign investors if investment exceeds certain amounts detailed in the law.

#### C. Government

1. Explain your country's election system and schedule. Is there an anticipated change in the present government?

Voting is universal for every citizen 18 years old or older. The 84 seats to the unicameral Legislative Assembly and all municipal seats (local government) are elected by direct popular vote every 3 years. The next General election is scheduled for March 2015. The executive branch is also elected by popular direct vote.

The current President, Salvador Sanchez took office on June 1st, 2014 as a result of elections that took place on March 15<sup>th</sup>, 2014. The president serves a 5-year term and cannot be reelected. The next presidential elections are scheduled for March, 2019. The President selects cabinet members.

2. Is the present government stable? Briefly explain your country's political history in the last decade.

The 2000's, in El Salvador have been the postwar years, and democratic stabilization term. During the 80's an internal conflict between government forces and the leftist guerrillas lasted twelve years causing loss of life and enormous damage to the country's infrastructure.

From the Peace Accords of 1992 to 2009 all presidents came from the rightist party ARENA, which introduced important reforms to the Political Constitution focusing on the stabilization of democracy and respect for human rights. These amendments created institutions such as the National Civil Police, the Human Rights Ombudsmen, the Judicial Career, the National Council for the Judiciary, the Supreme Electoral Court, and the Consumer Protection Bureau. Since the early 1990s, the rightist party ARENA has been elected four times in a row to the executive branch of government.

During the 2009 election Mauricio Funes ran for the leftist party FMLN, and won the presidency in a closed election. The change of presidential seat was a pacific event even though the rightist party

has won the presidential seat four consecutive periods before and exercised the Presidency for 20 years, through four different Presidents. Funes has showed signs of moderation in his Government, separating himself from Chavez initiatives in Venezuela, and nearing his international policy to the US. This year Salvador Sanchez, also a FMLN leftist party member and ex-guerrilla, won the presidency. His first months in the presidential seat have demonstrated continuity with the previous president's policies.

Centrists and leftist parties have consistently obtained a significant number of seats that has allowed them to control any decision that requires majority vote, and occasionally to join other parties to stop initiatives coming from the right wing.

Since the peace accords were signed, El Salvador has had scheduled elections and the political system has carefully protected the democratic process.

3. Explain your country's judicial system. Be sure to answer the following questions:

The Judicial System in El Salvador is one of the three fundamental branches of the government. Three levels of courts exist within it, with the Supreme Court at the top of the hierarchy. The Supreme Court of Justice is comprised of 15 Justices, appointed by the Legislative Assembly for 9 years terms, replacing a third of the Justices every three years. Justice is granted to the public by first instance courts, revised by appeal courts and if the case merits, by the Supreme Court of Justice. The appointment of judges to inferior courts is made by the Supreme Court out of a three-candidate proposal made by an independent institution called Judicial National Council.

The Constitutional Court residing in one of the chambers of the Supreme Court has recently taken a protagonist stand, addressing its decisions directly against Legislative and Executive branches of Government, and despite one crisis, the system has held, and the Constitutional Court has gained preeminence.

**-□Is the judicial system generally perceived to be impartial?**

The Judicial System has made numerous efforts to eliminate the image of corruption, bureaucracy, and slowness. Even though important steps have been taken to eliminate corruption, the U.S. Department of State has indicated consistently that the Salvadoran judiciary still suffers from most of the vices of the past.

**-□Must disputes be resolved in the country?**

No, an Act of Alternative Disputes Resolutions allows disputes to be resolved under another country's court jurisdictions. Generally, this happens when both of the parties have agreed on resolving any dispute in another country's jurisdiction.

DR-CAFTA has included important provisions tending to grant the right to foreign investors to decide disputes out of the country either through foreign courts or arbitration. Nevertheless, Salvadoran courts do not accept other state's court decision against nationals when such decisions have been issued in default, or when foreign law applied contradicts Salvadoran public order laws.

All foreign decisions to be enforced in El Salvador shall be previously reviewed by the Supreme Court, to verify enforceability.

**-□Is there a political method of resolving disputes?**

No, legal disputes are solved either by the Salvadoran courts or by alternative methods of resolution, even when the government itself is a party to the conflict.

**-□Are alternative methods of dispute resolution permitted?**

Alternative methods are not only permitted, but encouraged. The general framework for alternative methods of dispute resolutions is found in the Conciliation, Mediation and Arbitration Act, which was enacted in July 2000, setting forth the rules of law for private institutions to resolve disputes by mediation, conciliation, and arbitration procedures. Also DR-CAFTA provisions have created a system of international arbitration for commercial disputes.

**-□How long does it take to resolve disputes?**

Generally the judicial system does not resolve disputes quickly. For this reason, the use of alternative dispute resolution is encouraged. Depending on the kind of legal disputes, simple ones can be solved in a term of 2 to 3 years, and complex ones in an average of 8 to 10 years.

In 2010 a new Civil and Commercial Procedures Code was enacted which included oral audiences and speedier proceedings.

**-□Can foreign judicial decisions be enforced in the country?**

Judicial decisions from foreign countries can be enforced in El Salvador. However such decisions have to be approved by the Supreme Court by a procedure called Auto Pareatis. In such procedure, the Supreme Court can prohibit the enforcement of decisions that contradict local regulations considered public order laws; and deny enforceability of decisions against nationals issued in default by foreign courts or arbitral tribunals.

**-□Are there separate tribunals depending upon the subject matter of the case?**

Yes, tribunals are specific to the subject matter of the case and are divided as follows: civil, commercial, criminal, labor and family, which are tribunals of first jurisdictional level;. Recently a Enviromental Court has been introduced.

constitutional and administrative matters are resolved by the Supreme Court level Tribunals.

**-□Are there different legal systems within the country or its political subdivisions?**

No, the legal system is the same for all political subdivisions.

**-□Can the investor choose to be subject to the country's jurisdiction or not?**

In civil and commercial matters, investors can opt in or out of Salvadoran jurisdiction. All investors are subject to mandatory jurisdiction in criminal, labor, constitutional and administrative matters

4. Explain your country's legislative system.

Our Legislative Branch, also known as "Legislative Assembly," is comprised of 84 legislators, elected every three years and representing the political spectrum. The executive branch has the power to enact regulations that develop the concepts contained in the Legislative Assembly bills.



#### D. Environmental Considerations

##### 1. What is the public/government attitude toward environmental regulation?

The Salvadoran Government is committed to environmental protection. The mainframe of environmental regulation is the Environmental Act whose purpose is to develop the Constitutional provisions on the protection, conservation and recovery of the environment; the sustainable use of natural resources that will permit present and future generations to improve quality of life; the regulation of the public and private use and protection of the environment as a basic obligation of the State; and, allow the application of international treaties ratified by El Salvador. This act created the cabinet level Ministry of Environment and Renewable Resources. Mrs. Lina Phol currently heads the Ministry and the web page of the institution can be located at ([www.marn.gob.sv](http://www.marn.gob.sv)).

Recently an Environmental 1<sup>st</sup> level court has been created and functions from the capital city San Salvador, with jurisdiction over the entire territory of El Salvador.

##### 2. Explain any environmental regulations.

The Environmental Act sets forth the general framework that allows development and implementation of environmental, constitutional and legal principles. By law environmental permits are required for every project in El Salvador, which might have an environmental impact. The permit requires an environmental study that is submitted to public consultation before the permit is granted. Violation to environmental regulations is sanctioned by criminal laws as a felony with prison terms from 1 to 10 years.

#### E. Intellectual Property

- Describe the law for the protection of intellectual property, including trademarks, copyrights, patents and know-how.
- Does the country subscribe to international treaties? Describe.
- Are there substantive prior approvals by national investment boards?
- What are the notarization requirements?
- Are there regulatory guidelines for licenses?
- Are there specific exceptions or requirements relation to a particular product(s)?
- When are royalties from licenses deemed to be excessive?
- Do local antitrust or competition laws apply to licenses?
- What typical agreements do foreign corporations enter into with their wholly owned subsidiaries?

Note: The following is a copy of an article by Marcela Mancía Dada and José Roberto Romero, and published at Romero Pineda & Asociados Webpage at [www.romeropineda.com](http://www.romeropineda.com).

DR-CAFTA (Dominican Republic-Central America Free Trade Agreement with the U.S.) provides provisions relating to intellectual property law and requests implementation from its signatories: Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras and Nicaragua. El Salvador led the group by being the first to submit amendments for USTR's (United States Trade Representative) approval. El Salvador submitted fourteen new and amended laws in total, including provisions relating to its trademark law. The new and amended laws apply to signatory and non-signatory nations as of January 20, 2006. On the other hand, CAFTA applies only among signatory among countries.

The intellectual property provisions as outlined in CAFTA relate to both substantive and procedural issues and in sum broaden the scope of protection for trademark owners in El Salvador.

### Substantive Issues

The following include changes under the new law:

- The sound marks, smell marks and certification marks are now protectable in El Salvador
- 'Likelihood of olfactory confusion' has been introduced as a new rule to be applied when examining applications or search results
- The existing rule of 'likelihood of ideological confusion' will now be applied when examining sound marks
- The registration for sound and smell marks is for 10 years, at which time the mark may be renewed for another 10-year term
- Registration of certification marks is for an indefinite period of time when mark is owned by a public entity, subject only to the existence of such entity
- Certification marks are subject to a "bullet proof" protection in that they cannot be seized, embargoed, subject to preliminary injunction or judicial execution
- Should a certification mark not be renewed, or is abandoned or a public entity owning it ceases to exist, the same mark cannot be registered or used by another for 10 years
- The recordal of license agreements is no longer mandatory. The license agreements are enforceable before a third party, including infringers and authorities, as long as an agreement is duly legalized and translated into Spanish
- Coexistence agreements will be approved as signed by the parties without the Registrar's challenge relating to the issue of a likelihood of confusion
- Notice of publications, in both the Official Gazette and major newspapers, are now required to outline the list of goods and services applied

### Procedural issues

#### Trademark cancellation for non-use

Cancellation for non-use was abolished in 2002 and has now been reintroduced to allow full or partial cancellation of a mark not used in a 5-year period. Partial cancellation will affect only those goods or services that are not being used. The mark will therefore remain registered only for those goods or services which were not cancelled. Cancellation can be filed 5 years after the registration date. The prevailing party's right to the mark counts as early as the cancellation filing date or no later than 3 months following the court's decision.

According to the new law, a trademark is in use when (i) the goods or services are found in commerce or (ii) the goods are exported from El Salvador or (iii) the services are provided abroad

but originated in El Salvador. Additionally, “advertising of the mark through any means” will be considered use, “even if the goods or services covered are not actually traded” in El Salvador. This particular provision is useful to foreign trademark owners who can rely on advertising in magazines, newspapers, via satellite, cable TV and the Internet to help prove use of the trademark. To prove the use, trademark owners should couple advertising evidence with commercial invoices, accounting documents or auditor’s certifications that show the amounts and regularity of the goods or services used in commerce. Defenses to non-use include circumstances beyond the power of a trademark owner, such as import restrictions or any other official requirements imposed on products or services protected by the mark. The amended law does not require filing of a proof of use on a regular basis.

## **Enforcement**

Preliminary injunctions are now being granted against goods in transit and seizures at the borders. Permanent injunctions can include the destruction of goods seized at the border, as well as destruction of materials used in manufacturing and creating the infringing goods. To discourage infringement, the infringers are not being compensated for any losses in the procedure. Besides destruction, the infringing goods could also be donated to charity, subject to the removal of all labels displaying the infringing mark.

Rules relating to the damages have been substantially modified. According to new CAFTA influenced provisions, the plaintiff could base his claim on one or more of the following: a) Damages caused to the trademark owner as result of the infringement. b) Benefits that the trademark owner would have obtained, if the infringement had not occurred. In this case, the court shall consider the value of the goods or services infringed based on the retail price or through other means that prove value of the goods or services. c) The price or royalty that the infringer would have paid if he had a license, considering the commercial value of the infringed right and other licenses granted. Additionally, the infringer must pay the profits he gained from infringing, if those have not been considered in the foregoing options.

The statute of limitations is 5 years from the date of the last infringement.

## **Intellectual Property Court System**

While Special Intellectual Property Courts were created, the competent courts will be those with jurisdiction in commercial matters, as well as the criminal courts if the infringer has committed a felony.

### **Domain Names**

The paragraphs on the domain names have been added for the first time, specifically authorizing SVNET, the registration entity, to adopt dispute resolution procedures based on the WIPO Uniform Policy for Solving Domain Names Disputes for the ccTLD “.sv”.

Overall, the new provisions relating to the trademark law have raised the standards of intellectual property protection in El Salvador

### **- Does the country subscribe to international treaties? Describe.**

Yes, and upon scientific, technical, cultural changes, and the extension and globalization of commerce, El Salvador has promoted Intellectual Property rights with a new dimension by ratifying

very important International Conventions. El Salvador is a party to the Paris Convention (Industrial Property) and the Berne Convention (Copyrights). Complementarily, El Salvador ratified the World Trade Organization (WTO), together with the related Agreements, including the TRADE RELATED INTELLECTUAL PROPERTY RIGHTS, (TRIPS).

- **Are there substantive prior approvals by national investment boards?**

No

- **What are the notarization requirements?**

Foreign documents must be legalized or apostilled. Powers of attorneys granted abroad have to be legalized before a notary public before being legalized or apostilled.

- **Are there regulatory guidelines for licenses?**

There are no regulatory guidelines for licenses. The Trademark Law establishes the minimum requirements a License Agreement must include.

- **Are there specific exceptions or requirements in relation to a particular product(s)?**

No.

- **When are royalties from licenses deemed to be excessive?**

There are no specific regulations on amounts of royalties for licenses. Nevertheless, a recent tax reform set requirements for all transactions to be conducted at market prices in order to avoid price transference, and this tax regulation applies also to royalties.

- **Do local antitrust or competition laws apply to licenses?**

Yes, antitrust regulations apply to licenses even though El Salvador has a Competition Act in effect since January 2006. Antitrust regulations and powers are concentrated on a Free Competition Government institution (Superintendence of Competition) and are also found in various laws. The Constitution sets the general rule by forbidding monopolies, except those in favor of the State or Municipalities when social interest makes it indispensable. Private monopoly practices are prohibited.

The Code of Commerce governs the actions of merchants and mandates them to conduct business according to the laws, without prejudicing the public or the national economy. Additionally a previous provision of the Commerce Code validating agreements restricting competition with respect to a particular place, region or activity up to 10 years, has been recently revoked.

- **What typical agreements do foreign corporations enter into with their wholly owned subsidiaries?**

Due to the fact that Salvadoran tax legislation has declared dividends paid by a Salvadoran Corporation taxable at a rate of 5%, foreign mother companies tend to allow the local subsidiary to effect all operations in the country, and the only relationship they keep with the subsidiaries is the one derived from payment of dividends.

### III. Investment Incentives

- A. Explain any export incentives or guarantees. Be sure to answer the following questions:

- Are there tax incentives for exports?
- If so, are they limited to certain types of products?
- Is export financing available from government or private sources?
- If so, what forms of financing or guarantees are available?
- Is there any governmental insurance for exports?
- Must a national be a participant in the enterprise in order for the investor to benefit from these incentives?

The Export Reactivation Act which granted a 6% reimbursement of FOB value of exports outside Central America was abrogated in 2010 and from then with the approval of the International Services Law, the structure of export incentives has changed to one based on exemption of taxes for local production destined to export, which grants exemption from income, VAT, import and municipal taxes is granted for companies that operate in a Free Zone or Services Park. These incentives apply to all activities in Free Zones, except for products such as sugar, goods packed in bags or sacks made with natural or synthetic fibers and alcohol. A new schedule tending to abolish free zones, but not service law operations has been implemented under WTO guidelines.

Foreign investors may have access to financing available in local banks. Salvadoran banks offer the lowest interest rates in Central America. Additionally, foreign financial institutions can grant loans in El Salvador, which are taxed with a diminished rate of 10% on interest received exempt, with only the prerequisite of registering before the Salvadoran Central Bank.

There is no governmental insurance for exports, but insurance can be obtained from local private insurance agencies.

Salvadoran laws do not require a national to be a participant in a local company in order for the investor to obtain the benefits of these tax incentives.

- B. Explain any grants, subsidies or funds your country offers foreign investors. Be sure to answer the following questions:
- Are grants and subsidies restricted by the type of activity?
  - What is the process for obtaining approval for these grants or subsidies?
  - How long does it take to receive approval?
  - Can the investor receive loans from the government or governmental agencies?
  - Must a national be a participant in the enterprise in order for the investor to receive these grants or subsidies?

There are no incentives in the form of grants, subsidies or funds offered to foreign investors.

- C. Explain any national tax incentives for foreign investors. Be sure to answer the following questions:
- Are the incentives restricted by the type of activity?
  - Are the incentives restricted by the duration of the activity?
  - What is the process of application?

The only tax incentives for foreign investors are those of the Free Zone Laws and the Service Law, which basically provide exemption to Income Tax, Value Added Tax, import duties on equipment and supplies used on production.

There is also a specific tax incentive of 0% Income Tax for a 10 years term for Companies establishing tourism investment projects in El Salvador, incentives include exemption from custom duties on equipment imported for the project, exemption of real estate transfer tax and a 50% reduction on municipal taxes for a 5 years term.

**Are the incentives restricted by the duration of the activity?**

Given that the incentives referred above are for economic or industrial activities, these will be in effect during the time the activity is being developed, except for the tourism exemption. However, temporary suspension of activities will not mean elimination of benefits. The incentives are not restricted by the duration of the activity, since these tax incentives are related to the activity, and they remain in effect even when the activity is not being performed. However, a recent reform for the Free Zones Laws tax exemptions under guidelines of WTO, sets limits in time for these tax benefits to 15 and 20 years depending on location within urban area or not respectively.

**-□What is the process of application?**

The process of application is simple, usually the filing of an application with supporting documentation. In recent years amendments have been made in order to improve the process, especially with regards to customs clearance proceedings deriving from DR-CAFTA provisions.

D. Explain any regional tax incentives open to foreign investors. Be sure to answer the following questions:

- Are there tax incentives for the investor that exists only in certain regions of the country?
- Does the investor need to receive approval to be eligible for these incentives?
- Are the incentives restricted by the type of activity?
- Are the incentives restricted by the duration of the activity?
- What does the process of application involve?

**-□Are there tax incentives for the investor that exists only in certain regions of the country?**

No, but in certain municipalities the local tax rate is lower than in the others, being an indirect incentive for foreigners to initiate operations in municipalities where the local taxes rates are lower.

**-□Does the investor needs approval to be eligible for these incentives?**

No.

**-□Are the incentives restricted by the type of activity?**

No.

**-□Are the incentives restricted by the duration of the activity?**

No.

**-□What does the process of application involves?**

There is not a process of application, since the investor only has to compare the tax rates in the different municipalities.

#### **IV. Financial Facilities**

##### **A. Banking/Financial Facilities**

- What kind of financial institutions exist?
- Must the investor maintain a bank account in the country?
- What are the requirements for opening a bank account?
- What are the restrictions, if any, on the investor's use of the account?
- What is the type of financial system in the country?
- How is the banking system structured?
- Is there a stock market?
- Can the investor receive bank loans?

#### **What kind of financial institutions exist?**

In El Salvador there exist the following financial institutions:

- a) Banks
- b) Money Exchange Offices
- c) Stock Market

#### **- Must the investor maintain a bank account in the country?**

Investors are not required to maintain a bank account in the country, except for the initial deposit for corporate capital or a local branch office authorization process.

#### **- What are the requirements for opening a bank account in the country?**

In order to open a bank account, only the following documents are required:

AS A COMPANY:

- a) Tributary Identification Number (NIT) of the legal representative and of the company.
- b) Identification number of the legal representative, which can be a passport.
- c) Public Deed of Incorporation
- d) Documentation that certifies that a person can exercise the legal representation of a company and thereby act on its behalf.

AS AN INDIVIDUAL:

- a) Tributary Identification Number (NIT)
- b) Identification number (DUI) or passport.

#### **- What are the restrictions, if any, on the investors use of the account?**

No restrictions apply to the use of bank accounts by investors, rules on use of the account are the same as for nationals except for the documents required to open an account, which tend to be more complex due to the fact that documents coming from abroad have to be obtained.

#### **- How is the banking system structured?**

The Salvadoran bank system is operated by 14 on-shore banks. According to regulations, only authorized institutions can collect funds from the public in the country. Of the 14 operating banks, 11 of them are owned by foreign banks or belonged to regional financial institutions.

The control and supervision of banks is conducted by a governmental entity called Financial System Superintendence (SSF) (Superintendencia del Sistema Financiero).

**- What is the type of financial system in the country?**

The financial system is conducted by privately owned financial agents such as banks and lending institutions, which are supervised by the SSF. There are also two banks owned by the State, which lend to strategic sectors that need special credit conditions.

**- Is there a stock market?**

El Salvador has an incipient stock market, which is overseen by the "Superintendencia de Valores". According to local regulation, public offering of securities can only be done by registered entities.

**- Can the investor receive bank loans?**

Yes, investors can receive loans from national or international banks. The Monetary Integration Act established the US dollar as legal tender in El Salvador. Accounting records at banks and financial institutions are kept in US dollar, which facilitates transactions, and allow local banks to have direct access to international financial resources. A foreign Bank only needs to file an application and get registered with the Central Bank to be able to grant a loan in El Salvador. Foreign registered banks enjoy exemption and reduction from local taxes.

## **V. Exchange Controls**

### **A. Business Transactions with Nationals, Residents or Non-Residents**

- How are nationals, residents and non-residents defined?
- Are there restrictions on conducting business with nationals, residents or non-residents?
- Are there reporting requirements?
- Can the investor receive loans from nationals, residents or non-residents?

### **How are nationals, residents and non-residents defined?**

Nationals are:

- 1) Anyone born in Salvadoran territory
- 2) The children of Salvadoran father or mother, born abroad.
- 3) Those people born in other countries which used to be part of the Federal Republic of Central America, who living in El Salvador, declare before the appropriate authorities their intention of becoming Salvadoran, without the need to renounce to their original citizenship.

Residents are: Those persons who enter to the territory to perform any scientific, cultural or sport activity, or other activity in a legal and temporary manner and having obtained this migratory status by registering in the General Immigration Office or by the Salvadoran Consulates abroad.

Non-residents or Tourists are:



Those persons who enter the Country with recreational, health, familiar or transit objectives, or any other objective, different from performing any kind of work, with the exception of those who enter in a business way such as a Travel Agent or a Foreign Company's Representative. The tourist status allows a foreigner to stay in El Salvador for a minimum term of 48 hours to a maximum of 90 days, being able to request an extension for an additional period no longer than 90 days. The foreigner can enter as a tourist, either obtaining a tourist visa or with the purchase of a tourist card. Overseas, tourist cards can be acquired directly at a Salvadoran Consulate or through a Transport Company (airline or Shipping Company) or Tourist Agency. The tourist who enters the Country with a tourist card will not be able in any way to change his migratory condition or to perform any remunerated activity in El Salvador. The tourist card absolves the necessity to obtain visa, but it only can be used for one round trip. It costs US\$10.00. In certain special cases, foreigners who enter as tourists can change their migratory condition if their passports were stamped with a visa issued by a Salvadoran Consulate.

**Are there restrictions on conducting business with nationals, residents or non residents?**

There are no restrictions in conducting business with nationals or residents or non-residents. The same laws apply to all of them within the Salvadoran jurisdiction, except for small business which is an activity reserved for Salvadoran nationals by Constitutional mandate.

**Are there reporting requirements?**

- The only reporting requirements have to do with the Money Laundering Act.

**- Can the investor receive loans from nationals, residents or non-residents?**

Any investor, regardless of nationality can receive loans from nationals, residents and non-residents.

B. Investment Controls

- Are there restrictions on direct investment in the country?
- Are there restrictions on indirect investments in the country?
- Must the investor make declarations regarding the nature of his/her investment?

Our Investment Law mandates that investments entering the country must be registered in the National Investment Office; nevertheless if this requirement is not complied with by the investor no sanctions are applied. This is because of the deregulation that has taken place within the last decade. Therefore, no restrictions to investment, direct or indirect, and no specific declarations should be made regarding investments, except for the obligation of informing appropriate entities of major transactions as required by the Money Laundry Law and the small business restriction, which by Constitution requires that only Salvadorans or Central Americans owned small businesses operations.

C. Money Transfer

- Is there free determination of exchange rates?
- Are there restrictions on the transfer of money into or out of the country?
- Are there restrictions on the remittance of profits abroad?
- Are there reporting requirements?
- Can hard currency be taken out of the country?

**Is there free determination of exchange rate?**

In El Salvador all transactions can be conducted directly with U.S. Dollars as this currency is legal tender in El Salvador. The rate of exchange is fixed by law at 8.75 Colones (former currency) per US Dollar. Even though in theory local currency circulates with US Dollars, in practice US Dollars have eliminated local currency almost completely. Banks have to register their accounting records in US Dollars. Since payments with the US Dollars are valid and legal, exchange costs are eliminated.

**- Are there restrictions on the transfer of money into or out of the country?**

**- Are there restrictions on the remittance of profits abroad?**

There are no restrictions to transfer money in or out of the country, or profits. The fact that local banks maintain their accounts in US Dollars, and that most of them have direct relationships with one another makes money transfers as easy as a wire transfer.

**- Are there reporting requirements?**

Only the requirements established by the Money Laundry Law regarding the receiving of payments that appear to be inadequate given to the conditions of the transaction.

**- Can hard currency be taken out of the country?**

Hard currency can be taken out of the country freely; nevertheless, authorities have the right to investigate any excessive amount of hard currency leaving the country.

**VI. Import/Export Regulations**

**A. Customs Regulations**

- Is the country a member of GATT?
- Is the country a member of the EEC?
- Is the country a party to a regional free trade agreement?
- Does the Customs Department value the goods?
- How are goods cleared through customs?
- Are there applicable tariffs?

**- Is the country a member of GATT?**

Yes, since 1991.

**- Is the country a member of ECC?**

No.

**- Is the country a party to a regional free trade agreement?**

Open trade policies have led El Salvador to sign Free Trade Agreements with Mexico, Chile, Dominican Republic and Panama and the approval of a Central American Free Trade Agreement with the United States and Dominican Republic.

**- Does Custom Department value the goods?**

No, value is asserted by imported in custom filling form, and Custom Department does value the goods that enter to the country only if it suspects of incorrect valuation.

**- How are goods cleared through Customs?**

The customs clearing process is simple. The importer has to file a declaration of goods, in which he declares the value of what is imported, attaching the corresponding invoices of the purchased goods, and determining the amount of custom duties to be paid. An agent of customs checks the merchandise on a random selection basis, and if everything is correct, authorizes the payment of import dues, allowing the importer to withdraw the merchandise from customs. The average clearing period for goods and primary products is approximately 2 days.

**- Are there applicable tariffs?**

Since June 1999, the import tariffs in El Salvador have been reduced as a strategy to reduce production costs. As a result, rates from 0% to 15% are applied to imported goods not subjected to free trade agreements. For instance, imports of capital goods and raw materials do not pay import dues. Intermediate goods imported from outside Central America pay 10% rate, but if they are introduced to a free zone, the tariff rate is 0%; Central American intermediate goods have a tariff rate of 5%, and final goods from outside Central America have a 15% tariff.

However DR-CAFTA and other commercial treaties have reduced most of the custom tariffs to 0%, and the remaining tariffs will be reduced to 0% within a timeframe of no more than 15 years, and in some cases less.

B. Exports

- Are there restrictions on exports?
- Are export licenses required?
- Are there applicable export duties?

**- Are there restrictions on exports?**

There are no restrictions on exports.

**- Are export licenses required?**

No licenses are required for exports. However a registration process must be followed, which consists of filing an application.

**- Are there applicable export duties?**

No, there are not.

C. Foreign Trade Regulations

- Are there foreign trade regulations on the import or export of goods involved in the business?

No, the only foreign trade regulations on import or export of goods that must be observed are those that have to do with the origin of the goods in International Trade Agreements in order to apply the Free Trade Agreements.

D. Imports

- Are import licenses required?
- Are there applicable import duties?
- Are there applicable import quotas?
- Are there applicable import barriers?

**- Are import licenses required?**

No, import licenses are not required, just a mere registration.

**- Are there applicable import duties?**

Yes, the tariff system has a zero floor and a 15% ceiling. Out of this distribution, imports of capital goods and raw materials have been assigned an import tariff of zero, intermediate goods from outside Central America pay a 10% tariff, but if introduced to a free zone, the tariff is zero; Central American intermediate goods have a tariff of 5%, and final goods from outside Central America have a 15% tariff. Nonetheless, as explained before, most of these tariffs have been eliminated for DR-CAFTA, and other commercial partners due to Free Commerce treaties signed by El Salvador.

**- Are there applicable import quotas?**

No.

**- Are there applicable import barriers?**

No.

E. Manufacturing Requirements

- Must the product contain ingredients or components, which are found or produced only in the country?
- Will the importation of certain component parts be permitted only if they are to be ultimately incorporated in a final product?

**- Must the product contain ingredients or components, which are found or produced only in the country?**

No they do not, but if they have not been produced in El Salvador, they might not benefit from free trade agreements El Salvador has with other countries due to rules of origin.

**- Will the importation of certain component parts be permitted only if they are to be ultimately incorporated in a final product?**

No.

F. Product Labeling

- Are there applicable labeling or packaging requirements (e.g. multi-lingual notices, safety warnings, listing of ingredients, etc.)?

Yes, the Consumer Protection Law requires a label in Spanish language indicating the expiration date of foodstuff products. Regarding pharmaceuticals products, a notice in Spanish has to be labeled in the product, which includes the registration number and the warning “keep out of the reach of children”, and use instructions of the product, also in Spanish. However other than foodstuffs, pharmaceutical, and in general products for human consumption, there are no other labeling requirements.

There specific labeling requirements and health warnings for tobacco products.

## **VII. Structures For Doing Business**

### **A. Governmental Participation**

- Will the government seek to participate in the ownership or operation of the entity (e.g. depending on the type of activity involved)?
- If so, to what extent?
- What is the investor's potential liability to partners, investors or others?
- Are there restrictions on capitalization?
- What are the investor's tax consequences? (See also Sections XII and XIII)

Will the government seek to participate in the ownership or operation of the entity (e.g. depending on the type of activity involved)?

Not obligatorily; nevertheless, there is a Government agency which promotes participation of Governmnet in private Companies.

#### **- If so, to what extent?**

Depending on the specific circumstances of an investment, the Government will analyze the possibility of a joint investment, and its participation shall be negotiated.

#### **- What is the investor's potential liability to partners, investors or others?**

In stock companies the investor acting as a shareholder has a responsibility equivalent to the value of the shares he/she subscribed. There is also the possibility to incorporate whereby the responsibility of the Corporation extends to the partners, similar to partnerships.

#### **- Are there restrictions on capitalization?**

No.

#### **- What are the investor's tax consequences? (See also Sections XII and XIII)**

In General capitalization to a Company or Corporation will not be seen as income to the Company, and not tax shall be applied neither to the investor or the Company being capitalized, with the exception of capital contributions consisting in real estate, in which case there is tax applicable to the transfer of title to the Company of 3% on the value fo the real state in excess USD 28,571.

### **B. Joint Ventures**

- Are joint ventures permitted?

- If so, what is the registration or incorporation procedure?
- How long do these procedures take?
- What costs and fees are involved?
- Must a national of the country or a related state, (e.g. the EEC) be a participant, manager or director?
- What is the investor's potential liability?
- Are there restrictions on capitalization?
- What are the investor's tax consequences?

**- Are joint ventures permitted?**

Yes, they are.

**- If so, what is the registration or incorporation procedure?**

There is no specific legal structure for a joint venture. Basically the terms of the agreement between the participating parties will be incorporated into a contract that does, which has to be registered with the Tax Authority.

**- How long do these procedures take?**

This procedure takes the time it takes to sign the contract before a public notary, which could be one day or more, depending on the complexity of the agreement.

**- What costs and fees are involved?**

The costs and fees are the attorneys and notaries fees, which can vary according to the importance of the subject matter or the complexity of the contract.

**- Must a national of the country or a related state, (e.g. the EEC) be a participant, manager or director?**

No.

**- What is the investor's potential liability?**

Whatever liabilities are established in the joint venture contract.

**- Are there restrictions on capitalization?**

No.

**- What are the investor's tax consequences?**

Tax consequences will depend on the type of assets that will be capitalized. Some of them could be considered income, and be subjected to income tax. Also a Joint venture created for the specific purpose of an investment in El Salvador shall be considered a domiciled entity and will tax a so. Consequently, this entity after it is taxed in El Salvador shall transfer earning to foreing members, which shall be taxed again as non-domiciled entities receiving income from the Joint Venture.

C. Limited Liability Companies

- Are limited liability companies permitted?
- If so, how are they registered or incorporated?

- How long do these procedures take?
- What costs and fees are involved?
- Must a national of the country or a related state be a participant, manager or director?
- Are there restrictions on capitalization?
- What are the investor's tax consequences?

**Are limited liability companies permitted?**

Yes, they are. In LLCs, partners are liable for the company's responsibilities up to the amount of their individual capital contributions, which are divided in capital participation and are not represented by shares of stock. The commercial name of a LLC may be either formed by the names of one or more of its partners or any different name that may be given as desired. The given name must be immediately followed by the word "Limited" (Limitada or Ltda). The failure to include this word within the Companies denomination or name, will make the partners severally and unlimitedly liable for the company's responsibilities and obligations. It takes a minimum of two and no more than twenty-five partners to form a LLC. Each partner shall only have one "quota" or capital participation. In the event one partner acquires a new quota or makes additional contributions, the value (and not the quantity) of its quota shall increase.

**- If so, how are they registered or incorporated?**

The act of incorporation takes place before a notary public, and the document prepared by the notary is taken to the Registry of Commerce for its registration. The registrar's office will attach a document to the incorporation text certifying its registration.

**- How long do these procedures take?**

The process can take from 4 to 5 days.

**- What costs and fees are involved?**

Main costs and fees are:

- a) Legal counsel's fees which are agreed by mutual consent between the client and the attorney.
- b) Registration fees (the amount to be paid will depend on the capital of the LLC). The minimum capital to establish an LLC is US\$2,000.00 but it can be incorporated with USD 100.00, having registration fees of US\$57.14.

**- Must a national of the country or a related State be a participant, manager or director?**

No.

**- Are there restrictions on capitalization?**

No.

**- What are the investor's tax consequences?**

Tax consequences depend on the type of assets that will be capitalized. Some of could be considered income, and be subjected to income tax.

D. Liability Companies, Unlimited

- What are the forms of liability companies?
- How are these companies registered or incorporated?
- How long do these procedures take?

- What costs and fees are involved?
- Must a national of the country be a participant, manager or director?

E. Partnerships, General or Limited

- Are partnerships recognized or permitted?
- Must a national of the country or related state be a partner?
- If so, to what extent?
- What costs and fees are involved?
- What is the investor's potential liability?
- What are the investor's tax consequences?

**- What are the forms of liability companies?**

In ULCs, partners are liable for the company's debts up to the amount of their own assets. The commercial name of a ULC may be either formed by the names of one or more of its partners or any different name that may be given as desired. The given name must be immediately followed by the word "Company" ("Compañía" or "y hermanos") or other similar that indicate the nature of the responsibility of the partners. The inclusion of the name in the name of this kind of partnerships, makes any individual severally and unlimitedly liable for the company's responsibilities and obligations. It takes a minimum of two and no more than twenty-five partners to form a ULC. Each partner shall only have one "quota" or capital participation. In the event one partner acquires a new quota or makes additional contributions, the value (and not the quantity) of its quota shall increase.

**- How are these companies registered or incorporated?**

The act of incorporation takes place before a notary public, and the document prepared by the notary is taken to the Registry of Commerce for its registration. The registrar's office will attach a document to the incorporation text certifying its registration.

**- How long do these procedures take?**

The process can take from 4 to 5 days.

**- What costs and fees are involved?**

Main costs and fees are:

- a) Legal counsel's fees which are agreed by mutual consent between the client and the attorney.
- b) Registration fees (the amount to be paid will depend on the capital of the ULC) The minimum capital to establish a ULC US\$2,000.

**- Must a national of the country be a participant, manager or director?**

No.

**5. Partnerships, General or Limited**

**- Are partnerships recognized or permitted?**



Yes, in our legal system are called "Sociedad de Personas en Nombre Colectivo". This is a form of a company that has to be incorporated before a notary public.

**- Must a national of the country or related State be a partner?**

No.

**- If so, to what extent?**

N/A

**- What costs and fees are involved?**

Main costs and fees are:

- a) Legal counsel's fees which are agreed by mutual consent between the client and the attorney.
- b) Registration fees (the amount to be paid will depend on the capital of the Corporation)

**- What is the investor's potential liability?**

The partners are severally and jointly liable for the company's responsibilities and obligations.

**- What are the investor's tax consequences?**

In El Salvador, any amounts of money paid by a collective entity, partnership or Corporation to its partners or shareholders is taxed with a 5% Income Tax..

F. Partnerships, Undisclosed

- Do undisclosed partnerships exist?
- If so, how are they formed?
- What costs and fees are involved?
- Must a national of the country or a related state be a participant, manager or director?
- What is the investor's potential liability?
- What are the investor's tax consequences?

**- What are the forms of liability companies?**

In ULCs, partners are liable for the company's responsibilities up to the amount of their own assets. The commercial name of a ULC may be either formed by the names of one or more of its partners or any different name that may be given as desired. The given name must be immediately followed by the word "Company" ("Compañía" or "y hermanos") or other similar that indicate the nature of the responsibility of the partners. The inclusion of the name makes the partners severally and unlimitedly liable for the company's responsibilities and obligations. It takes a minimum of two and no more than twenty-five partners to form a ULC. Each partner shall only have one "quota" or capital participation. In the event one partner acquires a new quota or makes additional contributions, the value (and not the quantity) of its quota shall increase.

**- How are these companies registered or incorporated?**

The act of incorporation takes place before a notary public, and the document prepared by the notary is taken to the Registry of Commerce for its registration. The registrar's office will attach a document to the incorporation text certifying its registration.

**- How long do these procedures take?**

The process can take from 4 to 5 days.

**- What costs and fees are involved?**

Main costs and fees are:

- a) Legal counsel's fees which are agreed by mutual consent between the client and the attorney.
- b) Registration fees (the amount to be paid will depend on the capital of the ULC) The minimum capital to establish a ULC US\$11,428.57, having registration fees of US\$57.14.

**- Must a national of the country be a participant, manager or director?**

No.

**5. Partnerships, General or Limited**

**- Are partnerships recognized or permitted?**

Yes, in our legal system are called "Sociedad de Personas en Nombre Colectivo". This is a form of a company that has to be incorporated before a notary public.

**- Must a national of the country or related State be a partner?**

No.

**- If so, to what extent?**

N/A

**- What costs and fees are involved?**

Main costs and fees are:

- a) Legal counsel's fees which are agreed by mutual consent between the client and the attorney.
- b) Registration fees (the amount to be paid will depend on the capital of the Corporation)

**- What is the investor's potential liability?**

The partners are severally and jointly liable for the company's responsibilities and obligations.

**- What are the investor's tax consequences?**

In El Salvador, any amounts of money paid by a collective entity, partnership or Corporation to its partners or shareholders is exempt of income tax.

G. Sole Proprietorships

- Can the investor be a sole proprietor?
- How is the sole proprietorship registered or established?
- How long does this process take?
- What costs and fees are involved?
- What is the investor's potential liability?
- Are there restrictions on capitalization?
- What are the investor's tax consequences?

**- Can the investor be a sole proprietor?**

No, if the investor wants to establish a Salvadorian subsidiary, a minimum of two proprietors (shareholders or partners) is required.

**- How is the sole proprietorship registered or established?**

No legal entity can be created as sole proprietorship.

**- How long does this process take?**

N/A

**- What costs and fees are involved?**

N/A

**- What is the investor's potential liability?**

N/A

**- Are there restrictions on capitalization?**

N/A

**- What are the investor's tax consequences?**

N/A

H. Subsidiaries/Branches/Representative Offices

- Can the investor establish a branch, subsidiary or representative office?
- If so, how long does registration or incorporation take?
- What costs and fees are involved?
- What is the investor's potential liability?
- Must a national of the country be a participant, manager or director?
- Are there restrictions on capitalization?
- What are the investor's tax consequences?
- Are these tax consequences different than those of a local company?

**- Can the investor establish a branch, subsidiary or representative office?**

The investor can establish a branch office or a subsidiary to operate. Those are the two main ways to conduct businesses in El Salvador.

**- If so, how long does registration or incorporation take?**

Typically, it takes about four to five days from the date the Public Deed of Incorporation is filed at the Registry of Commerce. The procedure to incorporate a branch office can take about a month since two different registrations are required: the first one at the Ministry of Economy for foreign investments, and the second one at the Registry Commerce.

**- What costs and fees are involved?**

Main costs and fees are:

- a) Legal counsel's fees which are agreed by mutual consent between the client and the attorney.
- b) Registration fees that will depend on the capital of the subsidiary or branch office that is being incorporated.

**- What is the investor's potential liability?**

The subsidiary or branch office established by the investor will have the same potential liabilities as any Salvadoran company does: labor, civil, criminal, taxation and others.

If the investor establishes a Stock Company or a Limited Liability Subsidiary, he will not carry any personal liability since in those cases there is no commingling of assets. Stock Companies and Limited Liability Companies are the most common ways to establish subsidiaries in El Salvador.

If a branch office is incorporated, the parent company will be responsible for all acts and contracts executed by its branch in El Salvador. By law, the parent company is required to expressly submit to Salvadorian courts and laws with regards to actions performed in El Salvador.

**- Must a national of the country be a participant, manager or director?**

There are no restrictions for foreigners to own, manage or direct a company. However, it is advisable to have a Salvadoran as one of the directors with legal representation so that the company can be promptly represented in any matter. Also, a Power of Attorney could be granted to someone who lives in El Salvador if the legal representatives reside abroad. If a Branch Office is going to be incorporated, the Commerce Code requires that its legal representative reside permanently in El Salvador. He does not need to be a Salvadoran.

**- Are there restrictions on capitalization?**

No, there are not.

**- What are the investor's tax consequences?**

The investor will have the same tax consequences as Salvadorans. The main taxes according to our legislation are: income tax, value added tax, and municipal taxes. There are others which only apply to specific products, or industries.

**- Are these tax consequences different than those of a local company?**

No (See previous answer).

I. Trusts and other Fiduciary Entities

- Are trusts or other fiduciary entities recognized?
- If so, how are each defined?
- What are the legal consequences of a transfer of assets to a trust or fiduciary?
- Can the investor be the grantor, trustee or beneficiary?

**- Are trusts or other fiduciary entities recognized?**

Yes, trusts are recognized by Salvadorian legislation; they are regulated by the Commercial Code.

**- If so, how are each defined?**

According to the Salvadorian Commercial Code, there are three main parties when a Trust is created: the trustor, the trustee and the fiduciary (according to our Commerce Code only banks and credit companies can be fiduciaries). By creating a Trust, the trustor creates in favor of the trustee the usufruct, use or habitation on specified assets, or the trustor establishes a determined pension, trusting its fulfillment to the fiduciary (a Bank) to whom the assets are transferred having the authority to dispose of them only according to the instructions given by the trustor. The trustor can create a trust in favor of himself. It means that trustor and trustee can be the same person. A fiduciary (a bank) can never be the trustee.

**- What are the legal consequences of a transfer of assets to a trust or fiduciary?**

The assets will be property of the fiduciary (a bank). It means that the trustier will not be able dispose of those assets; however, the trustier has to make use of the assets transferred as described in the trust contract document. Generally trusts can not be revoked.

**- Can the investor be the grantor, trustee or beneficiary?**

The investor can be trustee (grantor) and/or trustee.

The investor cannot be a fiduciary.

**VIII. Requirements For The Establishment Of A Business**

**A. VIII. REQUIREMENTS FOR THE ESTABLISHMENT OF A BUSINESS**

**Alien Business Law**

**- Is the business subject to any alien business law?**

No.

**- Are there registrations or reporting requirements?**

The Company must be registered at the Registry of Commerce before starting operations. The Company must file its financial statements yearly with the Registry of Commerce. Also, the capital must be registered at the Ministry of Economy as a foreign investment in order to ensure repatriation of money and/or re-exportation of assets among other rights.

**Antitrust Laws**

**- Do the entity's operations comply with anti-trust laws?**

El Salvador has an antitrust law that requires compliance with anti-trust regulations.

**- Are there filing requirements?**

(See Government Approvals)

**3. Environmental Regulations**

**- Is the business of the investor subject to environmental regulation? If so, are there added costs involved (e.g. audit requirements)?**

It depends on the kind of business the foreign investor establishes. An environmental permit is required for certain activities. If that is the case, there will be added costs since an expert must be hired by the Company to perform an environmental survey/assessment which must be filed at the Ministry of Environment to obtain a permit.

**4. Government Approvals**

**- Are government approvals required for the anticipated business?**

Generally, the registration of the business is enough to be able to begin operating. However, prior government approval is required to render certain types of services or perform some activities such as civil aviation, electricity, telecommunications, public transportation, free zones, alcoholic beverages and tobacco industries, restaurants, food, fuel, and others.

**- If so, how long does this process take?**

According to the activities that will be performed, approval must be requested from different governmental offices, such as: Air Transport Office, Ministry of Health, Ministry of Economy. The procedure to obtain the approvals varies from one office to another. It should not be less than one month nor longer than three.

**- What fees are involved?**

Main costs and fees are:

- a) Legal counsel's fees are agreed by mutual consent between the client and the attorney;
- b) Registration fees (if any);

- c) Sometimes, an expert must be hired. For instance a responsible regent to register a food product or pharmaceuticals.
- d) Some activities (such as international air transportation) require the granting of a bond in favor of the governmental authority before getting the approval to operate.

## **5. Insurance**

### **- Must the enterprise carry insurance?**

Generally, there is no legal obligation to carry insurance. However, Salvadoran laws establish such an obligation for specific industries such as civil public air transportation. Also, if the activity of the enterprise is considered as of high risk for the employees, insurance is required.

### **-If so, what kind of risks must be insured?**

For the cases mentioned above, the main risks to be insured are:

- a) Personal injury, and
- b) Direct damages.

### **- Is there a State monopoly on insurance?**

No, insurance companies are privately owned

## **6. Licenses/Permits**

### **- Are licenses or permits required for the anticipated activity?**

Yes, before starting a business, it must be registered at the Salvadoran Registry of Commerce, as a Salvadorian Subsidiary or as a Branch Office. Once registered, a tax identification number and a contributor registration must be obtained for the new business before the tax authority. Commerce permits must be paid before starting operations. There are other permits, which do not need to be obtained before starting operation. They can be completed simultaneously. For instance: registration at the Salvadoran Social Security, registration at the Ministry of Labor and others. Also, special permits can be required depending on the type of business (see government approvals).

### **- If so, how does the investor apply for and receive the necessary license or permit?**

If a Salvadoran Subsidiary is going to be established, registration of the business must be requested to the Registry of Commerce by filing the respective Public Deed of Incorporation.

If a Branch Office is going to be incorporated, a previous registration at the Ministry of Economy is needed before filing with the Registry of Commerce.

In both cases, tax permits must be obtained at the Treasury Department. Commerce permits must be paid at any bank and requested to the Registry of Commerce.

### **- How long does it take to receive the license or permit?**

To obtain the licenses or permits before starting operations takes from 2 to 3 weeks, unless a Branch Office is going to be established. In this case the procedure is longer (about a month).

## **IX. Operation Of The Business**

### **A. Advertising**

#### **- Are there restrictions on advertising?**

Yes, there are some restrictions. For instance, according to the Family Code it is prohibited to use minors for advertising products that might pose health hazards, such as tobacco products and/or alcoholic beverages.

## **B. Attorneys**

### **- Is it necessary to have local counsel?**

It is not a legal obligation. However, it is highly recommended.

### **- How can local counsel be found?**

- a) Internet (for those Firms which have a web page);
- b) Recommended by an Embassy, a Commerce Chamber, and others;
- c) Yellow pages.

### **- How much are attorneys fees?**

They are determined by mutual agreement and can vary from one case to another, and from one attorney to another.

## **C. Bookkeeping Requirements**

### **- Must the investor keep local books of accounts?**

Yes. Normal accounting books are required by law in order to register operations and produce financial statements of the Company (subsidiary or branch office).

### **- In what form must the investor keep accounts (e.g. GAP, in what language, etc.)?**

The investor must keep accounts in Spanish. It will be necessary to hire an Auditor Firm. Accounting operates under Generally Accepted Accounting Principles.

## **Business Ethics/Codes**

### **Are there certain business ethics or codes, which the investor must follow (e.g. GAAP for accountants, etc.)?**

There are some special laws and ethic codes, which relate to certain types of businesses or professions. For example: laws regulating accountancy, the code of advertising ethics, the code of medical ethics, among others.

## **D. Consumer Protection Laws**

### **- Are there consumer protection laws, which apply to the investor's operations?**

Yes, El Salvador has a specific law, intended to protect the interests of the consumers of goods and services. The Consumers' Protection Law (Ley de Protección al Consumidor) is applicable to industry merchants, providers of services, enterprises of State participation and decentralized and State organisms (when they develop activities of production, distribution and commercialization of goods or render public or private services to consumers). It is important to notice that the consumer protection law is not applicable to the commerce of products with some deficiencies, used or rebuilt products. The consumer must be informed of this in a clear, precise and sufficient way.

The above mentioned law has its own implementing regulations. If investors are going to render services and/or sell products, they must observe the consumer protection laws. Specifically the law grants consumers the right to be reimbursed if the product sold or service rendered is defective or does not conform to the terms of the offer.

## **E. Construction**

### **- What are the costs of construction?**

It depends on the type of construction, the area where the construction is going to be located, etc. The highest costs of construction relate to workers, employees, professional fees and materials. However, labor is not very expensive in El Salvador.

**- Are permits required for construction?**

Yes. Depending on the type of the construction, permits from different governmental offices are required. Among those offices are Ministry of Environment, City Halls, and others. If construction is to take place in cities, an authorization from the planning office of the municipality is required.

**How is authorization to construct obtained?**

The authorization for the construction of a project in the area of Greater San Salvador is obtained from the Planning Office for the Metropolitan Area of San Salvador (Oficina de Planificación del Área Metropolitana de San Salvador (OPAMSS). The "Greater San Salvador Area", has become one of the largest urban areas of the country, and includes the capital city and all its neighboring cities.

Construction in the interior areas of the country is governed by the local authorities or municipalities who provide those permits.

**- How long does it take to receive authorization?**

The authorization procedure is in general swift, and varies depending on the kind and complexity of the construction project, and the place where the permit is obtained.

**- What fees are involved?**

The fees involved for the obtaining the permit depend on the type of project and are regulated by a list that can be viewed at the OPAMSS's Web Administrator: [aye@salnet.net](mailto:aye@salnet.net), by **E-mail: [opamss1@salnet.net](mailto:opamss1@salnet.net)** or by Phone **(503) 2235-2100, Fax: (503) 2235-4347**.

**F. Contracts**

**- Can the investor freely enter into local contracts?**

A foreign investor can freely enter into local contracts.

**- Can the law of another country govern the contracts?**

Yes, but when submitting a contract to foreign laws, it is recommended to review the national laws, in order to be sure that the clauses of the contract that has submitted to foreign laws do not contradict public order laws, since if that is the case national law will prevail over foreign law.

**G. Price Controls**

**- Are there applicable price controls?**

No, price controls have been eliminated and are applied only by the Consumer Protection Authority as an emergency resource. Public services, such as telephone, electricity, and water utilities are the only services to which a price control is applied by the regulator entity.

**H. Product Registration**

**- Must the entity register its product?**

Registration with the Superior Council of Public Health is mandatory only for products such as food, beverages, human consumption products in general, and pharmaceuticals.

**- If so, how is registration obtained?**

It is necessary to file an application with the product specifications and samples of the products that are going to be registered.



**- How long does the process take?**

This registration procedure usually is long, but the initiation of this procedure, grants the right to commercialize the products that are intended to be registered, as long as they are not pharmaceuticals.

**- Are there fees involved?**

The fees involved depend on the value of the products and the cost of lab tests.

**I. Reductions or Return on Capital**

**- Can capital be repatriated while the Corporation is still ongoing?**

Yes, the repatriation of the capital while a Corporation is operating is permitted. In addition, the fact that the US Dollar is the currency in El Salvador makes repatriation an easier and a swifter process.

**J. Sale of Goods**

**- Are there restrictions on the manner, time or place of sale of goods?**

There is no restriction on the manner, time or place for the selling of goods.

**K. Trade Associations**

**- Are there trade associations the investor can or must join?**

Investors are not obligated to join a Trade Association, but if they wish to join they can freely do so. Many trade associations exist in El Salvador, such as the American Chamber of Commerce (AMCHAM), the local Chamber of Commerce, PROESA (Promoting El Salvador), CENTREX, just to mention a few.

**- If so, are there fees involved?**

Fees involved to join the associations vary depending to the services that the associations grant to their members.

**- Are there mandatory trade practices?**

No mandatory trade practices are imposed.

**X. Cessation Or Termination Of Business**

**A. Termination**

- What are the tax consequences of terminating the business?
- What costs are involved in termination?
- How long does it take to terminate the business?
- How is the investor's particular form of business treated in termination?
- Can the business be terminated without government approval or intervention?
- What are the obligations toward creditors, employees and others upon termination?
- What are the tax consequences of termination?

**- What are the tax consequences of terminating the business?**

There are no tax consequences for the termination of a business in itself; but Tax Authority will oversee any termination of a legal entity, not the business activity itself.

**- What costs are involved in termination?**

The costs involved in termination of a business depend on the complexity of the operation, and negotiations with the attorneys and accountants involved in the process.

**- How long does it take to terminate the business?**

The time that it takes for the termination of a business depends on the type of operations the business performs. When a business is executed through a Salvadoran Company, the time it takes for the closing of the business are approximately four to six months, and it can be over a year in certain cases. On the other hand, if a business is executed by a foreign company through a branch office, the closing of the business takes approximately one year or more.

**- How is the investor's particular form of business treated in termination?**

**- The form of termination will vary according to the legal form the business has taken, but differences are more of procedure and documentation issues than substantial.**

**- Can the business be terminated without government approval or intervention?**

In both of the above cases, governmental approval is necessary for the closing of a business.

**- What are the obligations toward creditors, employees and others upon termination?**

Upon the termination of a business, companies are obligated to pay their debts to creditors and to employees. In case a creditor claim subsists while the company is in its termination transition, creditors can intervene the company or branch office assets to pay their credits. If employees haven't been paid when the company is closing, they have the right to claim the company compensation for the damage caused.

**- What are the tax consequences of termination?**

There are no tax consequences.

B. Insolvency/Bankruptcy

- What is the extent of the investor's liability in the event of insolvency or bankruptcy?
- What choices, if any, are available to the investor with regard to the restructuring of the business?

**- What is the extent of the investor's liability in the event of insolvency or bankruptcy?**

The investor's liability in case of insolvency or bankruptcy depends in the type of entity through which the business is conducted. In a limited liability company and in stock companies, the shareholders are responsible only up to the amount of capital invested in the entity, and if the business is conducted through a branch office, the company's liability will be extended to the main office.

**- What choices, if any, are available to the investor with regard to the restructuring of the business?**

As long as agreements with creditors are reached to avoid seizing assets a restructuring is possible within the limits of negotiation with creditors.

**XI. Labor Legislation, Relation, And Supply**

A. Employer/Employee Relations

- What laws govern employer/employee relations?
- Are there obligations to train employees?

**- What laws govern employer/employee relations?**

Salvadoran labor laws.

**- Are there obligations to train employees?**

Employers are not obligated to train the employees they hire. They do have the option of giving them a special training in a governmental entity called INSAFORP (Salvadoran Institute for Professional Training).

B. Employment Regulations

- Must the investor hire nationals of the country?
- Is there a minimum wage?
- Is there a maximum number of hours an employee can work each week?
- Is there a minimum number of vacation and sick days to be given?

**- Must the investor hire nationals of the country?**

Yes, as Salvadoran labor laws require that 90% of employees must be Salvadoran.

**- Is there a minimum wage?**

Yes, the minimum wage is USD 8.08 per day in the commercial and services sector; USD 7.90 per day in the industrial sector (except for “maquila” workers which earn USD 6.76 per day). In the agricultural sector it is between US\$ 4.13 and \$3.50 per day.

**- Is there a maximum number of hours an employee can work each week?**

By law the workweek is 44 hours per week. Night shift workweeks are 7 hours a day. Although there is no legal obligation to limit the hours worked to these weekly limits, overtime must be compensated with 100% overcharge. Night shift overtime is compensated an overcharge of 125%.

**- Is there a minimum number of vacation and sick days to be given?**

Employers must grant employees annual vacations of 15 days a year. These vacations can be fractionated in two or three periods within a working year. If is fractionated in two periods, these vacations must last at least 10 days, and if it is fractionated in three periods, vacations must last at a minimum 7 days.

C. Hiring and Firing Requirements

- Must the investor employ a minimum number of people?
- Must the investor employ a minimum number of nationals?
- Must nationals hold certain positions in the company?
- Are there rules to follow in hiring/dismissing personnel (e.g. notice)?
- Does the investor have a continuing obligation towards dismissed employees?

**- Must the investor employ a minimum number of people?**

No.

**- Must the investor employ a minimum number of nationals?**

As was mentioned before, at least 90% of employees must be Salvadoran.

**- Must nationals hold certain positions in the company?**

No, nationals do not have to hold a specific position in the company.

**- Are there rules to follow in hiring/dismissing personnel (e.g. notice)?**

To hire an employee, a contract must be signed between the parties, and the document shall be registered with the Ministry of Labor. Employers must notify employees of dismissal. If dismissal is not as a result of a just cause per labor law, the employer has to pay compensation for the damages caused by such dismissal. The compensation amount has been set by law to a month of wages per year worked, plus proportional vacations and end year bonus payments. However the month wages to be paid per year worked can not exceed four minimum monthly salaries, unless the company has paid more than that amount to at least 2 employees in the past.

**- Does the investor have a continuing obligation towards dismissed employees?**

After the employer dismisses the employee, there are no continuing obligations for any of the parties, unless employer breaches its obligation towards the employee with regards to severance compensation.

D. Labor Availability

- Is adequate skilled or unskilled labor available for the anticipated business?

Up to year 2012, the population reached is of 6,350,454 and the labor force reached 2,792,632 people, 26% work in the agricultural sector, 21% in the industrial, and 54% in the services sector. Although not very specialized, skilled labor is readily available. The level of skill of local labor and its quality are characterized by a resourcefulness, low cost and productivity, and have been one of the main reasons for foreign companies to establish in the country.

E. Labor Permits

- Are labor permits required?
- If so, how are they obtained?
- How long does the process take?
- What fees are involved?

**- Are labor permits required?**

Foreign workers must have residence permit to work in El Salvador.

**- If so, how are they obtained?**

Permits are obtained in the Immigration Office of the Ministry of Interior; a form with accompanying documentation has to be filed.

**- How long does the process take?**

The process takes from 3 to 5 months approximately, but the presentation of the forms allows the foreign employee to work while the paperwork is in process.

**- What fees are involved?**

The fees involved are approximately US\$ 35, plus attorneys fees of aprox USD 600.00.

F. Safety Standards

- Are there safety codes that must be followed?

Minimum safety standards must be implemented in the working areas. Employers are responsible for job accidents caused by the non-compliance of those minimum standards or occurred during working activities. In January 2010 a Law dealing with risks at the workplace was enacted which requires an specific study of risks at every work position and the appointment of a safety committee formed by employees and employer representatives, as well a fines for violations to safety standars.

G. Unions

- Are unions recognized?
- What are the unions in the investor's business?
- What are these unions' political affiliations, if any?
- Is there an obligation on the part of the employer to organize unions?
- Are there mandatory collective bargaining agreements for the business involved?

**- Are unions recognized?**

Yes, the are recognized by law.

**- What are the unions in the investor's business?**

- Most unions are active in industrial and services sectors.

**- What are these unions' political affiliations, if any?**

Most union affiliations are to left wing political parties. There are no political union affiliations. No, in theory; however, left wing tendencies are publicly recognized.

**- Is there an obligation on the part of the employer to organize unions?**

An employer has no obligation to organize unions, but may not by actions or omissions to prevent the workers from forming them. The workers have to comply with several legal requirements to form a union, including approval from the government.

**- Are there mandatory collective bargaining agreements for the business involved?**

If a Union is formed and authorized by the Ministry of Labor, a collective agreement reached by the parties will become obligatory for the employer. The collective agreement also has to fill many legal requirements in order to be enforceable. However, there are no mandatory collective bargaining agreements per se.

## **XII. Tax On Corporations**

### **A. Allowances**

- What are the major allowances (e.g. capital cost depreciation)?
- What are the major deductible items?
- What are the major expenses that are excluded from deductibility?

#### **-What are the major allowances (e.g. capital cost depreciation)?**

Capital cost depreciation and capital losses are major allowances.

#### **-What are the major deductible items?**

Major deductible items are production costs and expenses; however, other include mandatory legal reserve amounts, irrecoverable debts, donations to public interest entities, housing, schools, hospitals and improvements to employees housing.

#### **-What are the major expenses that are excluded from deductibility?**

As a general rule all expenses necessary for production are deductible. However amortization payments of goodwill are not deductible.

### **B. Calculation of Taxes**

- How is the taxable base determined?

Net income, which is derived by subtracting deductions from gross income.

### **C. Capital Gains**

- What are the federal or national tax rates on capital gains?
- What are the regional or state taxes on capital gains?
- What are the municipal or local taxes on capital gains?

#### **- What are the federal or national tax rates on capital gains?**

The tax rate for capital gains is 10%.

#### **- What are the regional or State taxes on capital gains?**

There are no regional taxes on capital gains.

#### **- What are the municipal or local taxes on capital gains?**

There are no municipal taxes on capital gains.

### **D. Filing and Payment Requirements**

- When must the corporation file its tax return, if any?
- When must the corporation pay its taxes?
- Are taxes paid in installments or annually?

**- When must the Corporation file its tax return, if any?**

The tax return for income taxes must be filed within the first four months of each year. However Companies must pay monthly and advance payment of 1.75% of their monthly gross income. The deadline for filing is April 30<sup>th</sup> of every year.

**- When must the corporation pay its taxes?**

Income Taxes:

Payment must be made within the first four months of the year.

Value Added Tax (VAT):

Must be paid every month of the year.

**- Are taxes paid in installments or annually?**

Corporations must pay 1.5% of their gross income, every month as an advance payment for income tax of the year, which is credited at the end of the year to its yearly income tax. Even though income tax must be paid at once within the yearly term set by law, income tax payments can be deferred in installment payments plus interest, with previous authorization from the local tax authority.

E. Miscellaneous Taxes Due

- Is there a tax on capital?
- Is there a business license tax?
- Is there an apprenticeship tax?
- Is there a training tax?
- Are there other taxes?
- What are the filing and payment requirements?

**- Is there a tax on capital?**

No.

**- Is there a business license tax?**

Yes, the Registry of Commerce of El Salvador must grant a business registry.

**- Is there an apprenticeship tax?**

No.

**- Is there a training tax?**

Yes, of 1% on the value of the salaries paid by the Company.

**- Are there other taxes?**

Yes, such as:

- a) Transfer of Real State tax;
- b) Custom tax;
- c) Cigarette tax;
- d) Tax for the production and commercialization of alcohol and alcoholic beverages; and,
- e) Tax on simple or sweet carbonated beverages.

F. Registration Duties

- Are there registration duties due upon the incorporation of a company?
- Are there registration duties due upon an increase in capital?
- Are there registration duties due upon the transfer of the company's shares?
- Are there registration duties due upon a transfer of corporate assets?
- Are there any other registration duties due?

**- Are there registration duties due upon the incorporation of a company?**

Yes, the public deed of incorporation must be filed before the Registry of Commerce in order to be duly incorporated, and registration before tax authority to obtain a tax id number must be completed.

**- Are there registration duties due upon an increase in capital?**

Yes, once a Corporation increases its capital, a public deed of capital increase must be filed before the Registry of Commerce, unless the Corporation is subjected to a Variable Capital regime, in which cases increases in capital are not registered.

**- Are there registration duties due upon the transfer of the company's shares?**

No registration at the Registry of Commerce is required, but the share transference must be recorded in the corporation's Shareholders book.

**- Are there registration duties due upon a transfer of corporate assets?**

In general no; however certain special assets require registration with Government entities for legal validity of the transference, such as real estate and intellectual property.

**- Are there any other registration duties due?**

No.

G. Sales Tax or other Turnover Tax

- What is the system of sales tax (e.g. V.A.T., cumulative)?
- Is input tax creditable against output tax?
- What are the tax rates?
- What are the filing and payment requirements?

**- What is the system of sales tax (e.g. V.A.T., cumulative)?**

A Value Added Tax applies to the transfer, import, export, and consumption of movable goods or assets and the rendering, import, export and consumption of services. The subjects of this tax are natural and legal persons, successions, trusts, group of individuals, related individuals, and cooperative associations when performing such activities. Tax must be collected by the entity effecting a sale and paid to the Government.

**Is input tax creditable against output tax?**

Yes.

**- What are the tax rates?**

This tax is currently 13%.



**- What are the filing and payment requirements?**

A form must be presented with the local tax authority within ten days after the end of every month of the year; the payment is due at the moment the form is filled monthly.

H. Social Security and Welfare System Contributions

- Are social security contributions due?
- Are retirement or pension contributions due?
- Are unemployment insurance contributions due?
- What are the filing and payment requirements for any such contribution?

**- Are social security contributions due?**

Yes, once the Company is incorporated or once the opening of the Branch Office is authorized, it will be necessary to obtain registration with the Salvadoran Social Security Institute. The social security fee is composed of a contribution made by the government, the employer and the employee.

**- Are retirement or pension contributions due?**

Yes.

**- Are unemployment insurance contributions due?**

No.

**- What are the filing and payment requirements for any such contribution?**

**Employers must retain and pay monthly the following percentages based on wages earned by workers**

Social Security(Health): The employer must pay: 7.50 %

The employee must pay: 3.00 %

The government must pay: 1.00 %

(This contribution can not exceed of USD 20.57 per employee.)

Retirement: The employer must pay: 6.75 %

The employee must pay: 6.25 %

All this percentages are based on the amount of the salary of the employee.

I. Special Tax Schemes

- Are there particular tax consequences of doing business in the country?

No.

J. Tax on Profits

- What are the federal or national income tax rates on profits?
- What are the regional or state tax rates on profits?
- What are the municipal or local tax rates on profits?

**- What are the federal or national income tax rates on profits?**

The national income tax rate for Corporations is 30%, except for Companies with gross income of less than USD 125,000 per year, which pay a rate of 25%.

**- What are the regional or state tax rates on profits?**

There are no regional tax rates on profit.

**- What are the municipal or local tax rates on profits?**

There are no municipal tax rates on profit.

K. Tax Treaties

- Are there any applicable tax treaties?
- Are there any rules against treaty-shopping?

**- Are there any applicable tax treaties?**

Only one tax treaty with Spain.

**- Are there any rules against treaty-shopping?**

No.

L. Territoriality Rules

- Where is the corporation subject to tax?
- Is the corporation subject to tax on its worldwide income?

**- Where is the corporation subject to tax?**

El Salvador.

**- Is the corporation subject to tax on its worldwide income?**

No, only on income obtained in El Salvador.

M. Treatment of Tax Losses

- How are corporate tax losses treated?

**- How are corporate tax losses treated?**

Corporations which are not receiving any income or are in a situation in which their income only fulfills their labor, pension and social security obligations do not have to pay income taxes; however, losses of one term can not be transferred as credits to a subsequent tax term; only if they derive from capital losses and against capital gains only.

A recent Tax Bill established a income tax, even on the case of losses based on gross income. Nevertheless, this contribution acts as an advance payment which can be credited against next years advance payment of 1.75% on gross income payable monthly.

N. Wealth Tax

- Is there an applicable wealth tax?

No.

O. Withholding Taxes

- What are the rates of withholding tax on dividends?
- What are the rates of withholding tax on royalties?
- What are the rates of withholding tax on interest?
- What are the rates of withholding tax on profits realized by a foreign corporation?

**- What are the rates of withholding tax on dividends?**

Dividends are taxed with a 5% rate, which has to be withheld by the company paying the dividends.

**- What are the rates of withholding tax on royalties?**

Royalties are considered as income earned by a foreign Company in El Salvador, and consequently are withheld at the rate of 20% in general, and 25% if paid to a Company located at a tax heaven or country with null or low taxation.

**- What are the rates of withholding tax on interest?**

The withholding rate on interest for a non-domiciled entity is 20%, unless the entity is registered as a financial institution with local Central Bank, in which case is 10%.

**- What are the rates of withholding tax on profits realized by a foreign Corporation?**

The withholding rate on income earned in El Salvador by a non-domiciled entity is 20% in general, and 25% if paid to a Company located at a tax heaven or country with null or low taxation.

### XIII. Tax On Individuals

A. Allowances

- What are the major allowances?

**- What are the major allowances?**

Major allowances are education and health expenses. The maximum deduction is US\$ 571.43 for each allowance.

#### 2. Calculation of taxes.

**- How is the taxable base determined?**

The taxable base is determined after subtracting allowances from income obtained in the country. The only allowances permitted for individuals are the ones described in number 1 above.

B. Calculation of Taxes

- How is the taxable base determined?

The taxable base is determined after subtracting allowances from income obtained in the country. The only allowances permitted for individuals are the ones described in number 1 above.

C. Capital Gains Tax

- Are capital gains taxable?

Capital gains are taxable only if the individual does not habitually performs transactions on real estate or moveable goods, and the rate is 10%.

D. Filing and Payment Requirements

- When must the individual file a tax return, if any?
- When must the individual pay his/her taxes?

- **When must the individual fill a tax return if any?**

Individuals must file a tax return annually. Income Tax returns must be filed during the first four months of the year.

- **When must the individual pay his taxes?**

Payment is due at the moment of filling the return, but an option to pay within a period of six months is available, with previous authorization from the tax authority, and by paying interest on the amount due. Also for employees, advance tax payments are collected from their paychecks, which amounts are credited when filling the yearly tax return.

E. Inheritance and Gift Tax

- Does the individuals' presence in the country subject him/her to inheritance or gift tax?
- What kinds of assets are subject to tax?
- What are the tax rates?
- Are allowances available?
- What are the payment and filing requirements?

There is no inheritance or gift tax.

F. Miscellaneous Taxes Due

- What are the miscellaneous taxes to which the individual may be subject?
- What are the filing and payment requirements?

There are municipality or local government taxes on property and public services, such as trash collection. Those taxes are collected via the electricity bill. There are 264 municipalities in El Salvador and taxes, even though low, vary from municipality to municipality.

G. Real Estate/Habitation Tax

- Is the individual subject to real estate or habitation tax?

Not from central government but from local governments or municipalities yes. Tax is collected as indicated above in San Salvador and in other municipalities a return must be filed.

H. Sales Tax

- Does the individual pay sales tax?

Individuals do not pay specific sales tax, but VAT is equivalent to a sales tax and is collected at the point of sale by the vendor.

I. Social Security and Welfare System Contributions

- Are contributions to social security due?
- Are contributions to the welfare system due?
- If so, what are the payment and filing requirements?

**- Are contributions to social security due?**

Contributions to Social Security include healthcare system and retirement pension fund components. The healthcare system requires a contribution from the investor or employer of 3% of the value of the employee's salary, and 1% more for companies with more than 10 employees which applies to the training program of the government or INSAFORP. Pension fund contributions from the employer vary from 6.25% to 7.00%.

**- Are contributions to the welfare system due?**

- There are no contributions to the welfare system.

**- If so, what are the payment and filing requirements?**

Payment of the pension funds contribution is made to a private AFP or Pension Funds entity. Individual's contribution rate to these entities is of 7.5% and from 6.75% to 7% for healthcare and pension funds respectively. Healthcare contribution taxable limit is of US\$ 20.54, and pension funds up to a salary of US\$ 4,501.94.

J. Stock Option, Profit Sharing and Savings Plans

- Is there taxation of stock option plans?
- Is there taxation of profit sharing plans?
- Is there taxation of savings plans?

There is no specific tax on stock options, profit sharing or savings plans specifically; nevertheless, this can be considered as a form of income and taxed accordingly as Income Tax.

K. Taxation of Benefits in Kind

- What is the rate of taxation on benefits in kind (e.g. automobile, housing and utilities, education, etc.)?

Benefits in kind when received as payment for work are considered income; however when those benefits are granted for the performance of work are considered exempt.

L. Taxes on Dividends

- Are dividends taxable regardless of their form?

Yes, taxable rate is 5% and it is withheld by the company paying the dividends.

M. Tax on Income

- What are the federal or national tax rates on income for residents?
- What are the federal or national tax rates on income for non-residents?
- What are the regional or state tax rates on income for residents?
- What are the regional or state tax rates on income for non-residents?
- What are the municipal or local tax rates on income for residents?
- What are the municipal or local tax rates on income for non-residents?

Income tax is only applicable on a national basis and its rates for individuals, for residents and non-residents are the same as per the following chart.

:	NET INCOME OR TAXABLE INCOME		% APPLICABLE	ON EXCESS OF:	PLUS A FIXED AMOUNT OF:
	FROM	TO			
I SEGMENT	\$ 0.01	\$ 4,064.00			
II SEGMENT	\$ 4,064.01	\$ 9,142.86	10%	\$ 4,064.00	\$ 212.12
III SEGMENT	\$ 9,142.87	\$ 22,857.14	20%	\$ 9,142.86	\$ 720.00
IV SEGMENT	\$ 22,857.15	EN ADELANTE	30%	\$ 22,857.14	\$ 3,462.86

N. Tax Treaties

- Are there any applicable tax treaties?
- Are there any rules against treaty-shopping?

The only applicable tax treaty is with Spain, and there are no rules against treaty-shopping.

O. Territoriality Rules

- Where is the individual subject to tax?
- Is the individual subject to tax on his/her worldwide income?

**- Where is the individual subject to tax?**

Income earned in Salvadoran territory, and income resulting from activities performed overseas, but utilized in El Salvador is taxable.

**- Is the individual subject to tax on his worldwide income?**

Income is taxable only when obtained within the Salvadoran territory. Individuals are not subject to tax on worldwide income. However if a non-domiciled entity or individual performs work overseas for a Salvadoran entity or individual, and work performed is used in El Salvador, the individual performing the work will be taxable in El Salvador, by means of a 20% withholding rate on payments made from El Salvador, and 25% if payment is made to an entity domiciled in a tax heaven, null or low taxation country.

P. Wealth Tax

- Is the individual subject to tax based upon his/her wealth?
- If so, what are the rates?
- Are there any allowances available?
- What are the payment and filing requirements?

There is no weath tax in El Salvador.

Q. Withholding Tax

- Is salary subject to a withholding tax at the source?
- What is the treatment of residents as compared to non-residents?

**- Is salary subject to withholding tax at the source?**

Salary is subject to income, pension funds and social security tax withholding.

**- What is the treatment of residents as compares to non-residents?**

Treatment is equal for residents and non-residents.

**XIV. Tax On Other Legal Bodies**

A. Allowances

- What are the major allowances (e.g. capital cost depreciation)?
- What are the major deductible items?
- What are the major expenses that are excluded from deductibility?

**- What are the major allowances?**

**- What are the major deductible items?**

**- What are the major expenses that are excluded from deductibility?**



The only other kind of legal bodies are branch offices, (offices in El Salvador which are considered part of the parent company overseas). Its tax considerations are exactly the same as those of a local corporation.

B. Calculation of Taxes

- How is the taxable base determined?

Taxable base is revenues minus costs and expenses used for production of goods or services, exactly as a local corporation, see Answer to question XII, Letter B.

C. Capital Gains

- What are the federal or national tax rates on capital gains?
- What are the regional or state taxes on capital gains?
- What are the municipal or local taxes on capital gains?

**- What are the federal or national tax rates on capital gains?**

Tax on capital gains is 10%.

**What are the regional or State taxes on capital gain?**

There is no regional tax on capital gains. Capital gains are considered a source of income and will be taxed as a part of income tax. The rate is 10% per the preceding question and as described in question XII, Letter C.

**- What are the municipal or local taxes on capital gain?**

There is no local or municipal tax on capital gain.

D. Filing and Payment Requirements

- When must the entity file a tax return, if any?
- When must the entity pay its taxes?
- Are taxes paid in installments or annually?

**- What are the federal or national tax rates on capital gains?**

Tax on capital gains is 10%.

**What are the regional or State taxes on capital gain?**

There is no regional tax on capital gains. Capital gains are considered a source of income and will be taxed as a part of income tax. The rate is 10% per the preceding question and as described in question XII, number 13.

**- What are the municipal or local taxes on capital gain?**

There is no local or municipal tax on capital gain.

E. Miscellaneous Taxes

- Are other taxes due?

- What are the filing and payment requirements?

Yes, during tax year 2013, a tax on deposits and withdrawal amounts from bank accounts on a rate of 0.25% of the amount deposited or withdrawn was established. Tax is to be withheld by Banking institutions performing the operations.

F. Registration Duties

- Are there registration duties or fees due upon the setting up of the legal body?
- Are there registration duties or fees due upon a change in the capital of the legal body?
- Are there registration duties due upon the transfer of capital?
- Are there registration duties due upon a transfer of assets?
- Are there any other registration duties due?

**- Are there registration duties or fees due upon the setting up of the legal body?**

Yes, registration dues for a branch office depend on the amount of the Capital stock, and it is paid at US\$0.57 per US\$114.28 of capital and fraction thereof, up to a limit of US\$11,428.67.

**- Are there registration duties or fees due upon a change in the capital of the legal body?**

Yes, registration dues for a branch office depend on the amount of the Capital increase, and it is paid at US\$0.57 per US\$114.28 of capital and fraction thereof, up to a limit of US\$11,428.67.

**- Are there registration duties due upon the transfer of capital?**

No.

**- Are there registration fees upon the transfer of assets?**

No; however certain assets, such as real estate, or vehicles, boats and planes, pay transfer fees, because of the nature of the asset at specific governmental offices which register this assets.

**- Are there any other registration duties due?**

No.

G. Sales Tax or other Turnover Tax

- Is the legal body subject to sales tax or any other turnover tax (e.g. VAT., cumulative)?
- Is input tax creditable against output tax?
- What are the tax rates?
- What are the filing and payment requirements?

Yes, see answer to question XII, letter G, same as in a Corporation.

H. Social Security and Welfare System Contributions

- Are social security contributions due?
- Are retirement or pension contributions due?

- Are unemployment insurance contributions due?
- What are the filing and payment requirements for any such contribution?

Please answers to question XIII, letter H.

I. Special Tax Themes

- Are there particular tax consequences of doing business in the country under the form of the particular legal body?

No

J. Tax on Profits

- What are the federal or national income tax rates on profits?
- What are the regional or state tax rates on profits?
- What are the municipal or local tax rates on profits?

Yes, see answer to question XII, letter J, same as in a Corporation.

K. Tax Treaties

- Are there any applicable tax treaties?
- Are there any rules against treaty-shopping?

Yes, see answer to question XII, letter K, same as in a Corporation.

L. Territoriality Rules

- Where is the legal body subject to tax?
- Is the legal body subject to tax on its worldwide income?

Yes, see answer to question XII, letter L, same as in a Corporation.

M. Treatment of Tax Losses

- How are tax losses treated?

Yes, see answer to question XII, letter M , same as in a Corporation.

- N. Wealth Tax
- Is there an applicable wealth tax?

Yes, see answer to question XII, letter N, same as in a Corporation.

- O. Withholding Taxes
- What are the rates of withholding tax on the legal body's activities?

Yes, see answer to question XII, letter O, same as in a Corporation.

## **XV. General Tax Considerations**

- A. Taxes Generally
- Is there a generally accepted way of structuring the company or other entity so as to insure the desired tax consequences?
  - Is there an advance tax ruling that can be used to validate or invalidate the chosen form of doing business?
  - Is there a general anti-tax avoidance system?
  - Can the chosen form of business be treated as a deferent form for tax purposes?

### **- Is there a generally accepted way of structuring the company or other entity so as to insure the desired tax consequences?**

No, Salvadoran tax law offers many options for the structure of a company; the desired structure would depend on the characteristics of the transaction, and has to be analyzed on a case by case basis. However the most common is a Stock Company with a Variable Capital.

### **- Is there an advance tax ruling that can be used to validate or invalidate the chosen form of doing business?**

No.

### **- Is there a general anti tax avoidance system?**

The Ministry of Treasury audits and revises returns and refers defaulting taxpayers to the AttorneyGeneral for prosecution and collection.

### **- Can the chosen form of business be treated as a different form for tax purposes?**

No.

## **XVI. Immigration Requirements**

- A. Immigration Controls
- Are there immigration quotas?
  - Are vaccinations required?

- Are medical certificates required?
- Are entry permits required?
- If so, must you apply for an entry permit before entering the country?
- Are exit permits required?
- Are re-entry permits required?

**- Are there immigration quotas?**

No,

**- Are vaccinations required?**

No, only medical health tests.

**- Are medical certificates required?**

Not for a tourist entrance, but general medical examinations are required for resident permits.

**- Are entry permits required?**

Only the normal visa requirements. Visa requirements vary by country.

**- If so must you apply for an entry permit before entering the country?**

Foreigners can enter as a tourist, either obtaining a tourist visa or with the purchase of a tourist card.

**- Are exit permits required?**

No.

**- Are re-entry permits required?**

No.

B. Immigration Requirements/Formalities

- Is a residence permit required?
- If so, does the investor have to apply for one before entering the country?
- What information must be supplied to the immigration authorities?
- How long does it take to receive authorization?

**- Is a residence permit required?**

Only if the investor is going to live and/or work in the country.

**- If so, does the investor have to apply for one before entering the country?**

No, application can be done once in the country on a tourist visa.

**- What information must be supplied to the immigration authorities?**

Information on the foreigner's behavior given by the Police Department of the country of residence of the applicant, general medical examination, a description of the job that is going to be performed in El Salvador, profession, number of workers, nationality and foreign employees that will work in the office.

**- How long does it take to receive authorization?**

This procedure takes from 3 to 6 months, but the receipt that proves that paperwork has been filed with the authorities allows foreigners to work while the permit is approved.

### C. Visas

- Is a visa required for travel or stay in the country?
- If so, for how long is the visa valid?
- How does the investor apply for a visa?
- What documents are required?
- How long does it take to receive a visa?
- What fees are involved?

#### - **Is a visa required for travel or stay in the country?**

Yes, a visa to travel or stay in the county is required.

There are three types of visas for which the foreigner can apply:

- Multiple Visa
- Tourist Visa
- Tourist card

#### - **If so, for how long is the visa valid?**

The above mentioned visas are valid for a maximum of 90 days, with the possibility of an extension for an additional period no longer than 90 days.

#### - **How does the investor apply for a visa?**

For the Multiple Visa, he has to have a tourist visa at the airport and then visit the governmental offices where these visas are issued.

For Tourist Visas, he may just go to the nearest Salvadoran Consulate in his country.

Overseas, tourist cards can be acquired directly at a Salvadoran Consulate or through a Transport Company (airline or Shipping Company) or Tourist Agency.

#### - **What documents are required?**

For the Multiple Visa, the required documents are a letter in which explains why the foreigner is in El Salvador, a photograph and copy of all of the used pages of his passport.

Tourist Visas require a passport, photograph and copy of a credit card.

Tourist Cards can be bought at the airport, and only require a passport.

#### - **How long does it take to receive a visa?**

A Multiple Visa, takes approximately 2 weeks, Consular Tourist Visa, generally is granted within one day and the Tourist Card, at the moment of purchase.

#### - **What fees are involved?**

For Multiple Visa US\$22.86 and Tourist Card cost US\$10.00.

## **XVII. Expatriate Employees**

- A. Cost of Living and Immigration
- How does the cost of living compare to that in the investor's home country?
  - What is the rate of inflation?

### **1. Cost of living and Immigration.**

- **How does the cost of living compare to that of the investor's home country?**

- **What is the rate of inflation?**

Cost of living in El Salvador tends to be moderate as in all of Central America. Housing and utilities are at an average level for the Latin American region. The rate of inflation for 2013 was 1.8% showing a decrease over the previous years and still remaining well below to the average for Central America.

- B. Drivers' Licenses
- Must the investor obtain a driver's license for that country?
  - How does the investor obtain a driver's license?
  - What fees are involved?
  - Is an examination, either practical or written, required?

Foreigners automatically obtains a permit to drive for 90 days with their country's valid driver license. Fees involved reach US\$ 50.00 dollars, and all tests, written and practical, have to be taken again for a new Salvadoran license.

- C. Education
- What types of schools are available for the investor's family?
  - What fees are involved?
  - What is required for enrollment?
  - Can the investor or company receive a tax benefit?

There are public and private schools. The public schools system is not very attractive to foreigners. The private school system offers a wide range of options of schools including bilingual schools combining Spanish with English, German and French. The school fees vary according to the school, but the most exclusive can cost an average of US\$ 425.00 dollars a month. Enrollment requirements vary, but in general they consist of an examination and proof of level of education in the foreign country. Tax benefits for education expenses are exclusive for the parent's income tax.

- D. Housing
- What type of housing is available for the investor?
  - Can the investor own property?
  - Must the investor have housing before entering the country?
  - Can the investor subsidize housing and receive a tax benefit?

San Salvador the capital city, offers all kind of rental housing for the investor, from apartments to full houses at all levels and prices. Local real estate agents can surely find a location that satisfies the needs of the investor at the right price. Foreigners can own property on the same terms as nationals, and no housing is necessary before entering the country. Housing payments, in general, are not deductible from taxes for the investor or the employee. Nevertheless, if the investor provides housing to his or her employees as part of the remuneration, it can be deducted from investor's income tax.

E. Importing Personal Possessions

- How can the investor import personal belongings?
- Are import duties payable?
- Are there requirements for clearing the belongings through customs?

Import of personal belongings has to be made through customs either by sea or land. Import duties are due at a rate that does not exceed 15%. Requirements for clearing customs are the filing of an imports form, the check up by customs officials at the arrival customs facility, and payment of import dues. However import of home furnishings for the employee are exempt.

F. Medical Care

- What level of medical care is available?
- Is there national health care?

The level of medical care of the private sector is acceptable, with some specialized procedures that can be performed in the country. There is a national health care system; nevertheless, the excess demand and shortage of resources, results in most individuals with incomes at the level of high middle class or more, preferring the private system of health.

G. Moving Costs

- What costs are involved in moving?
- Can the investor receive any tax allowances?

The only costs involved in moving from El Salvador overseas are the costs of transportation. Transportation costs will vary according to the means used, sea, air or land transport. There are no tax allowances for the investor for moving.

H. Tax Liability

- What is the expatriate's tax liability? (See also Section XIII)
- What are the allowances?
- Are there any applicable tax treaties?



An expatriate is subject to tax liability for the normal income and VAT taxes flowing from his or her own income and purchases. Only Spain possesses applicable tax treaty.

I. Work Contracts

- Does the investor need a work contract to work in the country?
- If so, does the contract have to be for a certain duration, for the performance of a specific job or for a specific position?
- Does the contract have to be with a national or resident of the country or related state?

If the investor is the owner of the company or corporation, he or she does not need a work contract. The employees, on the other hand, do need a work contract according to Salvadoran labor laws. The contract can be permanent or for the duration and performance of a specific job, as it is deemed convenient to the company. The contract does not have to be with a national or resident of the country, it is enough if the contract is with the company that is doing business in El Salvador.

J. Work Permits

- Does the investor need a work permit to work in the country?
- How and where does the investor apply for the permit?
- What documents are required?
- What fees are involved?
- How long does it take to receive the permit?
- For how long is the permit valid?

The investor needs a work permit only if he is going to work in the country for a third party or Company, since, he can conduct his business from abroad (from a parent company overseas), and no work permit is needed. On the other hand, if the investor will perform managerial tasks in the country for the entity operating in it, a work permit will be required. Application for work permits in El Salvador are made to the immigration office of the Salvadoran Ministry of Government (Ministerio de Gobernación). Documents required are: birth certificate dully legalized, good behavior certificate from Police Department of the country of residence of the applicant, good health examination by a Salvadoran physician, AIDs test performed in El Salvador, passport and two copies of it, a sworn declaration as to the characteristics of the job, salary and number of workers and documents proving the existence of the investors entity. A residence and work permit can be granted upon request if the investment made in El Salvador exceeds US\$ 576,000. In that case temporary residence will be granted with the following requirements: registration of the foreign investment, passport, medical check up, and the application. Fees for this procedure are about US\$ 250 dollars, and duration of the permit is as long as the residence of the applicant.