



GARCIA & BODAN
Attorneys & Counselors at Law

DOING BUSINESS Honduras





Honduras

Honduras is the second largest country in the Central American region. The country borders the west with Guatemala, the southwest with El Salvador, the southeast with Nicaragua, the south with the Gulf of Fonseca and the Pacific Ocean, and to the north with the Gulf of Honduras, a large bay in the Caribbean Sea. The official language is Spanish, and English is used especially in commercial matters. It has a population of more than 9,594,928 (2022) and a total area of 112,492 km².

Foreign Direct Investment (FDI) has experienced remarkable growth in the last five years. Between 2019 and 2023, an overall increase exceeding 73% has been recorded. On the other hand, inflation has remained under control since 2022, thanks to the restrictive monetary policies implemented by the Central Bank of Honduras. This report indicates that the annual rate at the end of 2023 was the lowest in the last three years, standing at 5.19%. This decline is attributed to lower fuel prices, electricity rates, and the minor increase in food prices. Additionally, these values were influenced by the evolution of the costs of raw materials and oil.

Commercial presence

- All laws in Honduras are constitutionally based, and the Commercial Code is the main corporate and commercial regulation. The law stipulates that to participate in the business sector, an individual must establish themselves as an individual merchant or form a corporation. There are five types of corporations recognized in Honduras:
 - ✓ General Partnership.
 - ✓ Limited Partnership: Similar to general partnership, except that there are two types of shareholders. Comanditario partners are jointly and severable liable. The comanditario partners are only considered as investors.
 - ✓ Limited Share Company.

- ✓ Limited Liability Company: This is the smallest capital entity under Honduran law. It requires a minimum of two people or entities and a maximum of 25 shareholders.
- ✓ Public Limited Company (Corporation): Requires a minimum of two shareholders or entities with an initial capital of approximately of USD 1,100.00. Due to the minimum of shareholders and the initial capital, it is the most commonly used form of corporation in Honduras.
- Of the above, the Limited Liability Company and the Corporation are the most commonly used in the country. Additionally, the foreign investor has the possibility of authorizing a branch of a foreign company to conduct business in the country. The branch has the same rights and obligations as a Honduran company.

Note: A new law entered in effect on June 2014 and includes the figure of "Unipersonal Society" or S.L.U. (Single member Limited Liability Company), by virtue of which any of the above described business vehicles can be incorporated with one partner. This possibility is excluded in the constitution of companies in regular sectors, such as energy and banking.

Economy

- In 2023, the real Gross Domestic Product (GDP) of the Honduran economy registered an approximate growth of 3.5%. However, the previous year, 2022, the inflation rate reached a worrying 9.1%, the highest since 2008. This increase was due to the significant impact of rising prices of staple foods and fuels. At that time, the authorities did not adjust the reference interest rate. However, starting in February 2023, the inflation rate began to decline, following the trend of lower international prices for food and fuel, and responding to liquidity absorption measures implemented by the Central Bank. By February 2024, inflation fell to 4.5%.
- The agricultural sector stands as the fundamental pillar of the economy, providing employment to 44.4% of the active population and contributing 65.6% of the Gross Domestic Product (GDP). Honduras is also emerging as an attractive tourist destination with constant growth, thanks to its natural attractions, such as beaches and reefs along the second-largest coral reef in the world, various ecological reserves, rich indigenous culture, archaeological sites of the Mayan civilization, and charming colonial cities. On the other hand, the manufacturing sector is the second largest contributor to the Honduran GDP, with the manufacturing industry representing 19.5%. Finally, the primary sector, which includes agriculture, employs 36.6% of the active population and accounts for 12.1% of the country's GDP.
- Trade relations with the United States have always been of extreme importance to the Honduran economy. In fact, half of Honduran exports go to the United States and more than a third of imports to Honduras come from that country. Similarly, trade with European and Latin American countries grows each year.

Steps that must be followed in the incorporation of a Honduran corporation

- 01 Choose the Commercial Name of the Company.
- 02 Prepare the articles of incorporation which include, among others, the name (denomination or corporate name), the objective, the names of the shareholders, etc.
- 03 Register the company in the Commercial Registry as a memorandum, as well as in the Chamber of Commerce of its domicile.
- 04 Obtain your tax identification number.
- 05 Obtain an operating permit.
- 06 The corporation can start operating after the tax identification number has been granted and registered in the country's tax system.

Note: Additional registrations may be required depending on the sector to which the investor is going to dedicate themselves.

Tax System

- Income Tax (ISR): ISR taxes any income derived from capital, labor, or a combination of both, within the principle of territorial income. Income is considered any type of performance, utility, gain, rent, interest, product, profit, participation, salary, honorarium, and generally any perception in cash, securities, in-kind, or on credit that modifies the taxpayer's estate.
- The rate for legal entities is 25% and is calculated on the taxable base; the taxable base is the gross income minus the deductions allowed by law. The tax is paid no later than April 30 of each year or in advance in 3 equal quarterly installments, whose due dates are June 30, September 30, and December 31, with the last payment made with the filing of the return on April 30 of each year.
- Minimum tax: According to Decree 278-2013, which contains the Law of Public Finance Order, Control of Exemptions and Anti-evasion Measures, through which Article 22-A was added, it establishes that natural or legal persons domiciled in Honduras will pay 1.5% on gross income equal to or greater than ten million lempiras (L. 10,000,000.00 approximately USD 410,000.00) of the tax period, when the application of the rates contained in Article 22 a) and b) are less than 1.5% of the declared gross income.
- Taxpayers whose gross annual income is less than ten million lempiras (L. 10,000,000.00) must comply with the declaration, payment, and rates established in literals a) and b) of Article 22 of the Income Tax Law.
- From the fiscal period of 2020 and onwards, according to Legislative Decree No. 31-2018 containing reforms to the Income Tax Law, specifically to its Art. 22-A, the calculation of Income Tax and its advance payments must be made according to the following rules:

- ✓ Natural or legal persons who have obtained gross income equal to or less than billion lempiras (L. 1,000,000,000.00 approx. USD 40,000,000.00) in the previous fiscal period will not be subject to the application of Art. 22-A of the Income Tax Law, so the calculation of the ISR and its respective payments on account must be made according to what is established in Art. 22 of the Income Tax Law.
- ✓ Natural or legal persons who have obtained gross income greater than billion lempiras (L. 1,000,000,000.00 approx. USD 40,000,000.00) in the previous fiscal period, must pay 1% of said gross income according to the application of the rates indicated in literals a) or b) of Art. 22 of the Income Tax Law, resulting in less than 1% of the declared gross income. The rate will be reduced to 0.5% for the following sectors:
 - Cement production or distribution.
 - Public services provided by state companies.
 - Medicines and pharmaceutical for human use, at the level of producer or importer.
 - The bakery sector or industry.
 - Production, distribution, or marketing of steel products for construction (this does not include the sale of scrap metal or the activities of the mining industry).
 - Production, commercialization, or export of coffee.
- Anti-evasion: Natural or legal persons who, during the non-prescribed fiscal periods, in two (2) of them have had consecutive or alternate operating losses and in the last period have had gross income equal to or greater than one hundred million lempiras (L. 100,000,000.00 approx. USD 4,219,410.00) annually, will be subject to the payment of a 1% advance on the Income Tax, which will be calculated on the gross income. The 1% advance on the Income Tax constitutes a credit on the Annual Declaration for the Income Tax, active net or solidarity contribution.
- Net Asset Tax: It is an annual tax applicable only to the total net assets of legal entities domiciled in Honduras, created by Decree No. 51-2003 (published in the Official Gazette on April 10, 2003). The taxable base is the difference that results from the value of the assets listed in the General Balance of the taxpayer, less the reserves for accounts receivable, the accumulated depreciations allowed by the Income Tax Law, the revaluations of assets while they are not disposed of, and the corresponding values to expansions of investments registered as projects in progress or fixed assets that are not in operation. Also deducted will be the balance of obligations with Financial Institutions directly related to the financing of fixed assets that are in operation. The rate is 1% on the net asset value that exceeds three million lempiras (L. 3,000,000.00 approx. USD 126,582.00).



- **Solidarity contribution.** According to Decree 278-2013 Chapter V, legal entities, except those included in the Special Export and Tourism Regimes without prejudice to what is established in Article 22 of the Income Tax Law, will pay a solidarity contribution of 5% that will apply on the excess of the net taxable income exceeding one million lempiras (L. 1,000,000.00 approx. USD 42,195.00), from the fiscal period 2014 onwards. The solidarity contribution constitutes a surcharge on the Income Tax, so it will not be deductible from said tax, being subject to the Payments and Account Regime, annual declaration, and other applicable provisions of the Income Tax Law.
- **Capital gains:** Capital gains or losses are defined as the positive or negative result of transactions regarding assets or properties that do not represent the ordinary business of the taxpayer, such as real estate, shares, fixed assets, and similar assets. Profits and losses derived from the same tax year are calculated together, and the result, if positive, is subject to tax at a rate of 10%. However, if the result is a capital loss, it may not be deducted from the gross income derived from the taxpayer's ordinary income. Capital losses derived from the sale of securities of qualified individuals or by legal entities, ordinarily engaged in such activities, may be deducted from the taxpayer's gross income. Capital gains and losses equivalent to the value of the

transfer, less the adjusted acquisition cost, including the value of improvements, less depreciation. Real estate transferred must be registered with the Property Institute, and 10% of the capital gains must be reported to the tax authorities.

- **Branch income.** Branch income is subject to income tax at the respective corporate income rate. Before May 12, 2010, there was no withholding tax on dividends distributed in the country or abroad. Currently, a 10% withholding on dividends is calculated.
- **Sales tax.** The general rate is 15%. An 18% rate is applied on first-class and executive-class airline tickets. The import and sale of alcoholic beverages, cigarettes, and other tobacco products are subject to an 18% sales tax.
- **Municipal tax.** 1) Industry, commerce and service tax, based on annual sales volume. 2) Municipal tax per natural/legal person (individual tax). 3) Tax on extraction and exploitation of resources. 4) Tax on real estate, which is charged on the asset and the increase in assets. 5) Selective Tax on telecommunications services.
- **Non-resident companies** are subject to income tax only on income derived from Honduran sources.



■ Additionally, some companies operating under a special tax regime are exempt from sales tax, income tax, custom duties, and various municipal taxes. The special regimens are:

- ✓ Free Trade Zones.
- ✓ Industrial Parks.
- ✓ Export Processing Zones.
- ✓ Companies that are under the Tourism Incentive Law.
- ✓ Tourism Free Zones.
- ✓ Law that promotes the generation of electric energy with renewable resources.
- ✓ Law for Promotion and Protection of Investments.

National Security Regulation

■ The National Security Regulation was issued by the National Congress, through the so-called Population Security Law, to determine the use of the norms that establish the contributions that would be used for security purposes. The contributions were established as follows:

- ✓ Special contribution on the financial system for transactions of bank accounts and credit card membership renewal.
- ✓ Special contribution with mobile phone companies taxed at a rate of 1% of the monthly gross income.
- ✓ Special contribution of the mining sector taxed at a rate of 2% on the F.A.B value of exports.
- ✓ Special contribution of casinos and slot machine companies taxed with a 1% on their monthly gross income.
- ✓ Special contribution on casinos and slot machine companies taxed at 1% of their monthly gross income.
- ✓ Special contribution on the cooperative sector taxed at a rate of 3.6% of their annual net excess.



Restrictions on Foreign Investments and their Conditions

- Some restrictions that are included on foreign investments are:
- ✓ Elimination of toxic substances, harmful waste not produced in the country.
- ✓ Activities that harm public health and the country's environment.

Industrial Property

- In Honduras, Industrial Property is regulated by the Industrial Property Law, which regulates everything related to inventions, patents, industrial designs, trademarks, and distinctive signs, trade secrets, and its objective are:
- ✓ Establish the basis for a permanent system for improving processes and products within the country's industrial and commercial activities.
- ✓ Promote the inventiveness of industrial application, best techniques, and the dissemination of technological knowledge within productive sectors.
- ✓ Promote and boost the improvement of the quality of goods and services in the industry in according to consumer interests.
- ✓ Encourage creativity for the design and presentation of new and useful products.
- ✓ Protect Industrial Property through the regulation of invention, patents, utility models, industrial designs, trademarks and commercial signs, denominations of origin, and trade secrets.
- ✓ Prevent acts against Industrial Property or those constituting unfair competition related to it, and establish penalties regarding them.



Labor Law

- The Honduran Labor Code is applied to all corporations regardless whether they are located in a free zone or an industrial park. The contract can be verbal or written. The Labor Code authorizes the verbal contract in the following cases:
 - ✓ Domestic service.
 - ✓ Incidental or temporary work not exceeding 60 days.
 - ✓ Specific work valued at no more than 200.00 Lempiras (approximately USD 10.00), and if was provided a delivery period, does not exceed 60 days.
 - ✓ Agricultural or livestock work, unless it involves industrial or commercial companies derived from agriculture or livestock.
- It is important to mention that the written agreement is a guarantee for the employee, and its omission is attributable to the employer. The labor contract and all subsequent legal obligations are assumed from the beginning of the labor relationship, even when the contract has been verbal. Labor contracts can include a probation period for the first 60 days, during which either party can terminate the labor relationship without cause. Once these 60 days have passed, the labor contract is considered indefinite, unless one of the parties has agreed on a specific period for some process allowed by law.
- The Labor Code establishes the following types of work:
 - ✓ Indefinite time work.
 - ✓ Limited time work.
 - ✓ Work for activities or services provided.



Vacations

- Vacations according to Honduran Labor Code are:
- ✓ After 1 year of continuous service, 10 days of leave.
- ✓ After 2 years of continuous service, 12 days of leave.
- ✓ After 3 years of continuous service, 15 days of leave.
- ✓ After 4 or more years of continuous service, 20 days of leave.

Work Shifts

- The following shifts are established in the Honduran Labor Code:
- ✓ Day Shift: from 5:00 a.m. to 7:00 p.m.
- ✓ Night Shift: from 7:00 p.m. to 5:00 a.m.
- ✓ Mixed Shift: This will be part day shift and part night shift. If more than 3 are part of the night shift, the entire shift is considered a night shift.



We, at García & Bodán, are ready to support you in all legal matters of interest to your company or business. We have highly qualified lawyers in investment matters.

For more information related to investment matters or any of the topics included on this document, please contact the following lawyers:



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