

Introduction

Our Location Offer

Mexico is an attractive and convenient destination for making investments. Its public finances are sound and sustainable, as is its banking and financial system. Mexico is a competitive destination for investment due to the certainty, security and backing of its institutions.

The business climate is one of the region's most prosperous, considering the advantages afforded by its skilled population, its strategic location, the existence of specialized clusters in certain sectors, and the development of the services and infrastructure necessary to participate actively in the international market.

In Mexico, unprecedented progress in infrastructure is being created. In the last few years, the modernization of communication routes has been carried out by channeling both public and private resources, with a view to consolidating a first-rate logistical platform.

Mexico is a viable option for investment due to its increasingly competitive regulatory and legal framework. Substantive constitutional reforms have been made in energy, taxes and the pensions system. This favorable and dynamic setting makes it easier for investment to be much more productive.

During the last decade, Mexico has fostered public policies that have consolidated its macroeconomic stability. This economic stability has attracted Foreign Direct Investment of more than 30 thousand companies that currently are doing business in the country, making Mexico a good place for doing profitable business.

Some of the more dynamic sectors in Mexico that have received important Foreign Direct Investment projects are: aerospace, automotive assembly, auto parts, electronics, software development, biotechnology and renewable energy.

Because of its business relationship with the world, Mexico benefits from having an extensive network of Free Trade Agreements, which assure preferential access to the markets of North America, the European Union, the countries of the Free Trade European Association, Israel, and other countries from Latin America as well as Japan. This preferential access together with its young and qualified labor force makes Mexico an attractive destination for investment. Mexico is member of the WTO (World Trade Organization), APEC, ALADI, OECD, among others.

Introduction to investment regime

Since its enactment in 1993, Mexico's Foreign Investment Law (FIL) established as a general rule that all activities not specifically mentioned in the law are completely deregulated in terms of allowing up to 100% of foreign investment in most economic sectors (Article 4).

The FIL was amended in 1995, 1996, 1998, 1999, 2001, 2006 and 2008 in order to liberalize the investment regime and provide the foreign investor with greater certainty and transparency.

However, by constitutional and public policies, Mexico maintains some restrictions and regulations for FDI in various sectors and activities.

These restrictions can be classified in: i) activities reserved to the State, ii) reserved to Mexican nationals, iii) activities under specific regulations, and iv) activities subject to the approval of the National Foreign Investment Commission. (For more detail see Conditions of investment section).

On the other hand, the strategy for accelerate the dynamism of the Mexican economy, through higher productivity growth, investment, and people's capabilities is based on the following aspects:

1. Strengthening the broad determinants of competitiveness, understood as those elements that establish the productive conditions of all sectors of the economy.
2. Promoting the adequate conditions to accelerate growth in each sector of the economy, particularly in those sectors that have a high potential for doing so, that are important job creators, that will reduce regional disparity and whose development has been limited due to lack of investment or to legal and regulatory restrictions.

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Among the broad determinants of competitiveness the following stand out: the Rule of Law and security; macroeconomic stability, the level of competition and the quality of norms and regulatory practices; people's capabilities; appropriate conditions for research and the adoption of new technologies; the quality of infrastructure, and the supply of goods provided by the public sector, in particular the ones related to energy.

The last two elements are also sectors of the economy; therefore, they are also part of the sector-specific strategy of growth given their high potential of development.

Investment priority plan/equivalent policy

* National Development Plan 2007-2012

The National Development Plan 2007-2012, establishes a set of objectives and strategies for a more competitive economy, with higher growth and employment generation.

Public policies will be conducive to reduce the costs of production within national territory, promote investment in infrastructure and reduce investment risk.

Strategies to achieve greater profitability and reduce the risk of investment are based on the following guidelines: strengthen the rule of law and public safety, ensuring legal certainty to persons and property; promote competition; simplify business regulation; promote investment in infrastructure; continue with trade liberalization and reduce the cost and procedures of foreign trade operations.

* Strategic sectors

The strategic sectors for ProMéxico (Investment Promotion Agency) are the following:

1. **AEROSPACE:** 140 companies established in Mexico, manufacturing, giving maintenance & repair and specialized engineering & design in 13 states hiring more than 20,000 high skilled workers and engineers. 2010 First Mexican built airplane.
2. **AUTOMOTIVE ASSEMBLY:** 8 of the top manufacturers from the US, Asia and Europe have plants in Mexico. Today we are the 10th producer of cars in the world.
3. **AUTO PARTS:** 22 states have auto parts manufacturing plants.
4. **ELECTRONICS:** clusters in 14 states ranging from Audio & Video, Home Appliances, Computers, Telecoms and, Photo & Impression.
5. **SOFTWARE DEVELOPMENT:** today we are the largest software producer of Latin America, having an annual growth of more than 10% over the past years.
6. **BIOTECHNOLOGY:** There are currently 71 biotech enterprises in our country that are working in such diverse endeavors such as corn hybrids development, specific cancers treatment r & d and active proteic elements gathering, among several others.
7. **RENEWABLE ENERGY:** we have started a specialized cluster in Baja California for solar panel manufacturing with the presence of companies such as KYOCERA, SANYO and USO.
8. **REAL ESTATE AND RETIREMENT HOMES:** There are currently more than 1 million Americans living in Mexico. Between 500,000 and 1,500,000 homes in our country are owned by Americans. This also brings opportunities for investment in infrastructure, medical, tourism services among others.

* National Infrastructure Program 2007-2012

The National Infrastructure Program 2007-2012 establishes the objectives, strategies, goals and actions designed to increase the coverage, quality and competitiveness of Mexico's infrastructure.

The Program is based on recognition that infrastructure is an essential factor for raising competitiveness, and seeks to consolidate Mexico as one of the world's principal logistical platforms taking advantage from the country's geographic position and network of international treaties.

Mexico's overall goal for 2030 is to be ranked at the top 20 percent of the World Economic Forum's Infrastructure Competitiveness Index.

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In order to achieve this goal, the following actions are established: substantially increase public and private resources allocated for the development of infrastructure; provide efficient follow-up at the highest level for the development of strategic projects and identify and control in timely manner those factors that might jeopardize their execution; improve the planning, preparation, administration and execution of the projects, incorporating best practices and standards; strength the legal framework and actively promote public-private partnerships for the development of infrastructure; eliminate unnecessary regulations and inhibitors to investment, including, among other aspects, the revision and simplification of contracting procedures; and improve coordination among federal, state and municipal authorities as well as with the private sector for the development of infrastructure.

More information

Promotion Agency: <http://www.promexico.gob.mx/>

Ministry of Economy: <http://www.economia.gob.mx>

Ministry of Treasury: <http://www.shcp.gob.mx>

National Statistics: <http://www.inegi.gob.mx>

Federal Commission on Regulatory Improvement: <http://www.cofemer.gob.mx/>

Central Bank: <http://www.banxico.gob.mx/sitioingles/index.html>

Regulation of foreign investment

Process for foreign entities/nationals to invest in our economy

Foreign Investment can participate in Mexico through the following schemes:

1. As a person of foreign nationality doing business in the country.
2. As a foreign company through the establishment of a branch or agency in Mexico.
3. As individual or direct or indirect shareholder in the share capital of Mexican companies already established or to be established in Mexico.

Specifically for the case of numeral two, foreign companies, looking to settle in the country must obtain authorization from the Ministry of Economy and will require demonstrating the following:

- * That they are duly organized in accordance with the laws of their own country;
- * That the corporate charter and other organizational documents are not contrary to Mexican public order established in law;
- * They shall establish themselves in the Republic or maintain an office or branch therein,
- * They shall maintain a representative in the place in Mexico in which they will operate, in charge of their obligations.

Any application which meets the requirements set forth above shall be granted within fifteen business days following the date of the application.

I. National Foreign Investment Commission

The National Foreign Investment Commission is the Federal and supreme authority of foreign investment, which is composed of ten Ministries of State and its faculties are:

- a. To issue political guidelines on foreign investment matters and to design mechanisms to promote foreign investment in Mexico;
- b. To resolve, through the Ministry, on the viability and, as the case may be, on the terms and conditions for the participation of foreign investment in activities or acquisitions with specific regulation, pursuant to Articles 8 and 9 of the FIL;
- c. To be the mandatory consulting entity on foreign investment matters for governmental agencies and entities of the Federal Public Administration;

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d. To establish the criteria for the application of legal and regulatory provisions on foreign investment, through the issuance of general resolutions; and

e. All others entrusted to it pursuant to the Law.

If foreign investors have any doubt about the rules on foreign investment, they can apply to the National Foreign Investment Commission for consultation or confirmation of standards on any topic related to the conditions of participation of foreign investment.

Also, in case that the Ministry of Economy or the National Foreign Investment Commission, deny any of the authorizations required by the foreign investor, he may exercise his right of review in the first instance to a higher administrative authority, or trigger defense mechanisms in order to request judicial assistance to federal and local courts.

II. National Foreign Investment Registry

The following must register in the National Foreign Investment Registry:

1. Mexican companies that hold, even through a trust, in foreign investment, neutral investment or Mexicans who have or acquire another nationality and who reside outside the Mexican territory.
2. Foreign individuals and entities or Mexicans who have or acquire another nationality and who reside outside the Mexican territory, and who usually perform business activities in Mexico.
3. Share or membership interest trusts, real estate and neutral investment trusts by virtue of which entitlements are created in favor of the foreign investment or of Mexicans who have or acquire another nationality and who reside outside the Mexican territory.

Registration shall take place within 40 business days as of the date of incorporation of the company or the foreign investment participation; of formalization or protocolization of the respective documents of the foreign society; or of incorporation of the respective trust or granting of trustee's rights in favor of the foreign investment. Persons obliged to obtain a registration, shall renew it annually; for such procedure it will be enough to submit an economic-financial questionnaire.

An authorization of the Ministry of Foreign Affairs is required for the incorporation of companies. To that effect, the Ministry of Foreign Affairs, shall grant authorization for the incorporation of companies solely when the intended corporate name or denomination has not been reserved by another company.

Likewise, if the requested corporate name or denomination includes words or terms specifically regulated by other laws, the Ministry of foreign Affairs shall condition approvals to the obtainment of other authorization required by such legal provisions.

Once an authorization has been obtained for the incorporation of a company, the applicant shall within ninety days after the Ministry of Foreign Affairs has granted such authorization, appear before a public notary to award the formalization of the incorporation of the company. Should the aforementioned term lapse without the issuance of the relevant public instrument, the authorization shall become void. In this case, the re-issuance of the voided authorization shall be applied for.

Likewise, within the six months following the issuance of the authorization for incorporation of a company, the interested party must provide notice to the Ministry of Foreign Affairs. Such notice shall refer to the insertion within the relevant instrument of the foreigners exclusion clause or, if applicable, the agreement provided for in Article 14 of the FIL (whereby the present or future foreign equity holders obligate themselves, before the Ministry of Foreign Affairs, to be considered as nationals with respect to the shares, equity participations or rights acquired from said companies; the assets, rights, concessions, participations or interests that said companies may hold, and the rights and obligations derived from the contracts to which said companies may be a party). The mentioned agreement or pact must include the waiver of invoking protection from their governments under penalty of otherwise losing the rights and assets they acquired, in favor of the Nation

III. Property and Commerce Public Registry

The PCPR (Property and Commerce Public Registry) is a public institution that guarantees certainty, juridical security and protection to the property, its transmission, obligations and the effects of the inscribed rights, as well as the juridical acts carried out by individuals and legal entities.

A simple or certified copy of the registry of the property to be alienated or a certificate of the obligations of the real estate located in the Mexican republic, can be obtained in the PCPR; the registry offers the service to know who is the proprietor of the real estate to be purchased or for sale, and to know if a society or association (legal entity) is duly recorded in the Public Registry.

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The PCPR is an institution subject to each State of the Mexican Republic responsible of providing security and publicity to certain juridical acts implicating real estate or business corporations.

IV. Public Notary

The Public Notary is a legal professional, who undertakes public tasks within the framework of non-contentious activities initiated by the State, and he/she performs numerous social tasks.

The Public Notary shall intervene in:

- Real estate purchases and sales.
- Incorporation of companies.
- Granting of powers of attorney.
- Purchase and shares of companies.
- Trusts in beaches and borders.
- Wills and inheritances.
- Financial and credit operations.
- Civil and commercial arbitration, etc

Does this apply to all investment or, are there differential treatment?

Answer in the next section.

Conditions of investment

By constitutional and public policies, Mexico maintains some restrictions and regulations for FDI in various sectors and activities.

These restrictions can be classified in:

A. Activities reserved to the State. In this classification are the strategic areas in which only the State can participate, neither the Mexican private investment nor foreign investment can participate in these activities, such activities are:

Petroleum and other hydrocarbons; Basic petrochemicals; Electricity; Generation of nuclear energy; Radioactive minerals; Telegraph; Radiotelegraphy; Postal service; Bank note issuing; Minting of coins; Control, supervision and surveillance of ports, airports and heliports; and Others as expressly provided by applicable legal provisions.

B. Activities reserved to Mexican nationals. The following economic activities are reserved exclusively to Mexicans or to Mexican companies with foreigners exclusion clause:

Domestic land transportation for passengers, tourism and freight, not including messenger or courier services; Gasoline retail sales and distribution of liquefied petroleum gas; Radio broadcasting services and other radio and television services, other than cable television; Development banking institutions, under the terms of the law governing the matter; and Rendering of professional and technical services set forth expressly by applicable legal provisions.

C. Activities under specific regulations. The third classification refers to activities where foreign investment can participate; however, the percentage of such participation is limited in certain activities. The limitations on foreign participation ranging from 10% to 49% in the share capital of companies engaged in certain activities, and this percentage may not be directly or indirectly exceeded. These activities are:

Up to 10% in:

Cooperative companies for production;

Up to 25% in:

a) Domestic air transportation;

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b) Air taxi transportation; and

c) Specialized air transportation;

Up to 49% in:

a) Repealed by an Order published in the Official Gazette of the Federation on January 19, 1999.

b) Repealed by an Order published in the Official Gazette of the Federation on January 19, 1999.

c) Repealed by an Order published in the Official Gazette of the Federation on January 19, 1999.

d) Repealed by an Order published in the Official Gazette of the Federation on January 19, 1999.

e) Insurance companies.

f) Bonding companies.

g) Currency exchange houses;

h) Bonded warehouses;

i) Repealed by an Order published in the Official Gazette of the Federation on July 18, 2006;

j) Repealed by an Order published in the Official Gazette of the Federation on July 18, 2006;

k) Repealed by an Order published in the Official Gazette of the Federation on July 18, 2006;

l) Companies to which article 12 Bis of the Securities Market Law refers;

m) Repealed by an Order published in the Official Gazette of the Federation on June 4, 2001;

n) Repealed by an Order published in the Official Gazette of the Federation on June 4, 2001;

o) Retirement funds management companies;

p) Manufacture and commercialization of explosives, firearms, cartridges, ammunitions and fireworks, not including acquisition and use of explosives for industrial and extraction activities nor the preparation of explosive compounds for use in said activities;

q) Printing and publication of newspapers for circulation solely throughout Mexico;

r) Series "T" shares in companies owning agricultural, ranching, and forestry lands;

s) Fresh water, coastal, and exclusive economic zone fishing not including fisheries;

t) Integral port administration;

u) Port pilot services for inland navigation under the terms of the law governing the matter;

v) Shipping companies engaged in commercial exploitation of ships for inland and coastal navigation, excluding tourism cruises and exploitation of marine dredges and devices for port construction, conservation and operation;

w) Supply of fuel and lubricants for ships, airplanes, and railway equipment; and

x) Telecommunications Concessionaire companies as provided by articles 11 and 12 of the Federal Telecommunications Law.

D. Activities subject to the approval of the National Foreign Investment Commission. A favorable resolution by the Commission is required for foreign investment to participate in a percentage higher than 49% in the following economic activities:

i) Port services in order to allow ships to conduct inland navigation operation, such as towing, mooring and barging; ii) Shipping companies engaged in the exploitation of ships solely for high-seas traffic; iii) Concessionaire or permissionaire companies of air fields for public service; iv) Private education services of pre-school, elementary, middle school, high school, college or any combination; v) Legal services; vi) Credit information companies; vii) Securities rating institutions; viii) Insurance agents; ix) Cellular telephony; x) Construction of pipelines for the transportation of petroleum and products derived therefrom; xi) Drilling of petroleum and gas wells; and, xii) Construction, operation and exploitation of general railways, and public services of railway transportation.

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Also, when foreign investment plans to participate in more than 49% in the capital of companies engaged or will engage in economic activities that are subject to obtaining a favorable resolution of the National Foreign Investment Commission must solicit and demonstrate that the project investment meets the following criteria:

1. Impact upon employment and training of workers;
2. Technological contribution;
3. Compliance with environmental provisions included in the ecological regulations governing the matter; and
4. In general, its contribution to increase the competitiveness of the country's productive system.

On resolving upon the legal feasibility of a request, the Commission may only impose requirements which do not distort international trade.

Commission must resolve upon the requests submitted to its consideration within a period which shall not exceed forty five business days from the date of the respective request. If the Commission fails to resolve within the period indicated, the request shall be considered approved as submitted.

The foreign individuals and entities intending to acquire real estate outside of the restricted zone or to obtain concessions for the exploration and development of mines and waters anywhere within Mexico, shall previously submit before the Ministry of Foreign Affairs, a statement agreeing to the terms of Section I of article 27 of the Political Constitution of the United Mexican States and obtain the corresponding permit from that Ministry.

Investment promotion and facilitation

ProMéxico is the Mexican Government institution in charge of strengthening Mexico's participation in the international economy. With this objective in mind, the institution supports the export activity of companies established in the country and coordinates actions to attract foreign direct investment to national territory.

ProMéxico was established on June 13, 2007, through Presidential Decree, as a sectorial public trust under the Ministry of Economy, and operates through a network of 25 offices throughout Mexico and more than 27 offices abroad.

The mandate given to ProMéxico is to plan, coordinate and execute strategies to attract foreign direct investment, promote Mexican exports of goods and services and encourage the internationalization of Mexican companies in order to contribute to the economic and social development of Mexico.

The basic guide to invest in Mexico provides orientation on various necessary aspects for starting businesses in Mexico, basic information on laws and regulations for foreign investment in the country and the main formalities that have to be carried out to start a business.

ProMéxico publishes information on specific investment opportunities and projects in Mexico, suppliers and trends of the main productive sectors in the Mexican economy; as well as data on Mexico's economic regions and states.

The executives by project service offers support in the development of investment projects through a specialized executive who will guide the company throughout its investment process in Mexico.

The ProMéxico project executive offers specialized advice and information to potential investors for the development of their project, such as:

- * Availability and cost of specialized labor
- * Availability and cost of basic services
- * Linkage with local suppliers
- * Options for placing their investment
- * Information on industrial parks
- * Contact with diverse professional services
- * Linkage with government officials at various levels

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- * **Relations with the promotion entities of state and municipal governments**
- * **Trade agreements between Mexico and other countries**
- * **Statistical and market information**

Other Activities and Services offered by ProMéxico:

- * **Coordinates relations between investors and government agencies, educational establishments, associations and other public and private organizations, to facilitate the success of the investment project.**
- * **Organizes business agendas in our country for investors. Through this service, it arranges meetings between the latter and the Mexican companies in which they are interested or with the representatives of promotion entities of the state of the Republic, as well as with the Government.**
- * **It makes available facilities and services at its head office for investors, with the aim of providing support and basic logistical backing.**
- * **It is the personal agent of investors in Mexico. Provides ongoing assistance to already established companies that seek to expand their operations.**
- * **Organizes stands in international fairs. Those who participate in them are mainly government entities and companies interested in seeking partners for new investments in Mexico.**
- * **Supports in the organization of business agendas abroad for promotion entities of the states, so that the latter present to investors the different opportunities that exist for investment and promotion of their regions.**
- * **Holds events abroad at the request of government entities in order to promote and disseminate the opportunities they offer to foreign investors.**

More information about the process of investing in our economy

Foreign Investment Law (Spanish): <http://www.diputados.gob.mx/LeyesBiblio/pdf/44.pdf>

Legal framework: <http://www.diputados.gob.mx/LeyesBiblio/index.htm>

Legislative branch: <http://www.diputados.gob.mx>

National Association of Public Notaries:

<http://www.notariadomexicano.org.mx/>

Colleges of Notaries:

<http://www.colegiodenotarios.org.mx/>

PCPR: <http://www.consejeria.df.gob.mx/home.php?direccion=NQ>

Information System of the National Foreign Investment Registry:

<http://www.si-rnie.economia.gob.mx/home.htm>

<http://www.economia.gob.mx>

Regulations to the Foreign Investment Law and to the National Foreign Investment Registry (Spanish):

<http://www.diputados.gob.mx/LeyesBiblio/regla.htm>

ProMéxico: <http://www.promexico.gob.mx>

Investment protection

Protection of property rights and conditions for expropriation

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In accordance with article 27 of the Political Constitution of the United Mexican States, the Nation has an original right of property over the lands and waters within the boundaries of the national territory. The same Article provides that the Nation has and will have the right to transfer its property's domain to private individuals in order to create private property rights.

During the agricultural distribution (which ended in 1992 with the amendment to the article 27 of the Constitution), social property was constituted, comprised of the ejidal or common lands that were granted or recognized.

Therefore, three types of property are identified:

- a) The goods that are property of the Nation (defined specifically in Article 3 of the General Law of National Goods);
- b) The goods granted in private property to individuals, through a legally issued title, and
- c) The goods granted in ejidal and common land, which constitute the social property.

Foreign investment can participate in these types of property, subject to limitations as provided for in the law.

* Limitations on private property:

Only those persons recognized as Mexicans by birth or by naturalization as well as Mexican corporations shall have a right to acquire legal domain over lands, waters and their accessories. The State can grant the same right to foreigners as long as they agree with the Ministry of Foreign Affairs to be considered as Mexican nationals with respect to such real state and not to invoke the protection of their governments with respect to such real estate. Within a 100 kilometers strip along Mexico's borders and of 50 kilometers inland from its coasts, foreigners may not acquire property rights (dominio directo) over lands and waters.

The small rural property shall be considered as such when it does not exceed per individual a hundred hectares of irrigation or of first class humidity or their equivalent in any other kind of soil.

* Limitations on social property:

Companies shall not be allowed to own agricultural, stockbreeding or forestry lands which exceed more than twenty five times the limits that have been set down for small individual property. Foreign investment may participate up to 49% in companies owning agricultural, stockbreeding and forestry lands.

* Limitations on national property concessions:

Concessions on goods that are property of the Nation can be granted to private individuals (including foreign nationals) and Mexican corporations in accordance with the limitations and conditions established by the law.

* Mechanisms for protection:

The laws of the States and the Federal Penal Code establish crimes that are sanctionable for those who attempt against property rights.

Expropriations of private property.

Article 27 of the Mexican Constitution provides that expropriations of private property shall only be for a public purpose (which modalities are expressly listed in the law) and through payment of compensation.

Federal and local authorities have the right to expropriate private property in accordance with legal provisions. This procedure is currently characterized by prior notification and respect for the guarantee of audience and legality provided for in the Constitution.

Social property can only be expropriated by the Agrarian Reform Secretariat, also through payment of compensation and for a public purpose.

More information

Political Constitution of the United Mexican States (article 27);

Agrarian Law;

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General Law of National Goods;

Expropriation Law;

Expropriation laws of the States;

Penal codes of the States;

Regulations to the Agrarian Law concerning the zoning of rural property,

Accessible from: <http://www.diputados.gob.mx/LeyesBiblio/>

Agrarian Reform Secretariat: <http://www.sra.gob.mx>

Protection of IPRs

Intellectual Property System

I. Responsible Authorities

In Mexico, there are several institutions that regulate different aspects of Intellectual Property rights, among others we can mention:

The Mexican Institute of Industrial Property (IMPI) is a decentralized body of the Ministry of Economy and is responsible, inter alia, for granting protection through patents, registration of utility models and industrial designs, registration of trademarks and trade notices and publication of trade names: it also authorizes the use of appellations of origin and regulates industrial secrets; prevents and combats acts that infringe intellectual property rights; and applies the corresponding sanctions.

The National Copyright Institute INDAUTOR is a desconcentrated body of the Ministry of Public Education and is the administrative entity mainly responsible for promoting and protecting copyright and related rights, and for keeping the Public Copyright Register.

The Attorney General (PGR), is primarily responsible for investigating and prosecuting federal crimes, who chairs the police and experts in criminal law.

SAGARPA, through the National Seed Inspection and Certification Service (SNICS) is responsible, inter alia, for the registration of new plant varieties.

COFEPRIS is a desconcentrated body of the Ministry of Health and is the administrative entity mainly responsible for the sanitary control of products and services.

II. International Legal Framework :

Mexico is a founding member of the World Trade Organization (WTO) and has fully applied the "Agreement on Trade-related Aspects of Intellectual Property Rights" (TRIPS Agreement), since January 2000.

Mexico has undertaken commitments on intellectual property rights under the eleven free-trade Agreements it has signed, (except with Bolivia). The overall objectives on intellectual property rights in these agreements are similar and expand the provisions contained on TRIPS Agreement.

On May 27 1997, Mexico and the European Communities signed an Agreement on the mutual recognition and protection of designations for spirit drinks. The Agreement includes the obligation to recognize as originating in the Parties the designations used to protect the spirits indicated in two lists, one Mexican and the other European; as well as the commitment to prevent the marketing of spirits covered by the protected designations if they do not originate in the parties.

Mexico is also member of the World Intellectual Property Organization (WIPO) and has signed most of the International Agreements on Intellectual property rights.

III. National Legal Framework :

Mexico's legislation covers all the major aspects mentioned in the TRIPS Agreement. In some of these, including industrial designs, trademarks and copyright, Mexico grants rights that exceed the minimum terms laid down in the Agreement.

* Copyright and related rights

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Original works susceptible of disclosure or reproduction by any medium related, among other spheres of activity, to literature, music, drama, dance, photography, architecture, audiovisual arts, radio and television, computer programs and compilations, including databases. Both moral and economic rights are recognized.

Related rights include moral rights as well as the rights of performers and of broadcasting organizations. No registration is necessary for protection.

Economic rights are protected for the life of the author and one hundred years after his death. Unless otherwise specified, economic rights are transferred for five years and only for over fifteen years in exceptional circumstances. Moral rights have no limitation period.

Some exceptions: It is not considered that there has been infringement if the works are not used to obtain direct financial benefit or are used for educational or research purposes. No authorization is required, inter alia, for the reproduction of articles on current affairs, unless the owner of the rights has expressly prohibited it; partial reproduction for research purposes; reproduction by individuals or teaching or research institutes of a single copy of a work without gainful intent. (Federal Copyright Law)

* Patents

Known as any invention that is new and involves an inventive step and is susceptible of industrial application. Protection granted for twenty years from the date of filing and not renewable. (Mexican Industrial Property Law, Title II, Chapter II, Articles 15 - 26).

Technology areas excluded from the concession of patents: biological processes for the reproduction and propagation of plants and animals; biological and genetic material present in nature; breeds of animals, the human body and its living parts; new plant varieties; computer programs; schemes for presenting information.

Important: a compulsory license may be granted if a patent is not worked within three years after it has been granted, or four years after filling of the application, unless it has been worked, including by means of imports. In addition, Public interest licenses may be granted for use of a patent in cases of emergency or national security

Utility models

Accordingly to the Mexican Industrial Property Law are subject to registration under the figure of Utility models: objects, utensils, appliances or tools which offer a different function with respect to their component parts. Protection granted for ten years from the date of filing are not renewable. (Mexican Industrial Property Law, Title II, Chapter III, Articles 27 - 30).

* Industrial designs

Accordingly to the Mexican Industrial Property Law are subject to registration under the figure of Industrial designs: any new design susceptible of industrial application, including those industrial designs for ornamentation purposes. Protection granted for 15 years from the date of filing, not renewable. (Mexican Industrial Property Law, Title II, Chapter IV, Articles 31 - 37).

* Layout designs of integrated circuits

The layout designs and circuits are protected for ten years from the date of filing, not renewable. Important to notice that layout designs, which have been commercially used for over two years are not subject of registration. (Mexican Industrial Property Law, Title V Bis, Articles 178 Bis - 178 Bis9).

* Undisclosed information

Information, whose industrial or commercial application would confer a comparative advantage, deemed to be confidential and protected as such in documents and other media. Protection conceded, as long as it remains confidential. (Mexican Industrial Property Law, Title III, Articles 82 - 86 Bis1).

* Trademarks

Accordingly to the Mexican Industrial Property Law are subject to registration under the figure of trademarks any visible sign, which distinguishes products or services from others of the same type or category on the market, including appellations and trade names. Protection conceded for ten years from the date of filing and renewable for equal periods of time.

Important: It is excluded of protection by the figure of trademark: any geographical appellations, names that may mislead with regard to their origin, appellations similar to trademarks well known in Mexico. (Mexican Industrial Property Law, Title IV, Chapter I, Articles 87 - 95).

Mexico*** Geographical indications**

Appellations of origin are defined as the name of a region used to designate a product originating therein whose characteristics are due exclusively to the geographical environment. Protection conceded as long as the grounds which led to its protection persist

The State owns the appellation of origin, which may only be used by virtue of the authorization issued by the Mexican Institute of Industrial Property. (Mexican Industrial Property Law, Title V, Chapters I and II, Articles 156 - 178).

*** New plant varieties**

Protection conceded to plant varieties that are new, distinct, stable and uniform. A year of priority rights is given for foreign applications of members of UPOV.

Term of protection: eighteen years for perennials (including forest and fruit trees and vines); fifteen years for others.

Important: the consent of the right holder is not required, inter alia, for research or consumption by the breeder. (Federal Law of Plant Varieties)

IV. Transmission of Intellectual Property Rights

Intellectual Property Rights give the owner the possibility to obtain financial compensation derivative of creative and economic efforts invested, exploited by themselves or a third party. They also give the possibility to transfer those rights to a third party so he can exploit them. In this sense, Mexico recognizes different ways of transmitting those rights:

*** License:**

A license contract is an atypical mercantile contract, by which the owner of an Intellectual Property Right (licensor) allows another person (licensee) to use and exploit goods and services. It is important to mention that the rights that are conferred by a patent or a registration can be transmitted totally or partially according to the terms and formalities that are established by a Common Law. (Mexican Industrial Property Law, Articles 62 to 77 and 136 to 150).

*** Franchise**

The Mexican Legislation establishes that there will be a franchise when a written trademark license of use, transmits technical knowledge or provides technical assistance. The individual whom acquires the concession will be able to produce, not sell, or provide service in an uniform way and with an operative, commercial and administrative methods established by the owner of the trademark, maintaining quality, prestige and image of the products or services that are distinguished by the Law. (Mexican Industrial Property Law, Articles 142 to 142 Bis 3).

*** Compulsory License**

This type of rights transmission is possible when the Authority (Government) grants the license to companies or individuals other than the patent owner, in order to use the patents rights to manufacture, use, sell or import a product protected by a patent without the authorization of the owner, as long as some procedures and special conditions are fulfilled. These specifications are established in the Mexican Industrial Property Law (Articles 69 to 76 and 187 Bis). Mexico has never granted a Compulsory License.

V. Defense Procedures of Intellectual Property Rights

These procedures are contemplated in the Mexican Industrial Property Law and in the Federal Copyright Law, to protect intellectual property rights (trademarks, patents, industrial designs, utility models, copyrights, related rights) as well as the transmission of intellectual property rights (license and franchise).

VI. Administrative Declaration Procedure

Mexico

The main objective of this kind of procedure is to solve the existing differences according to the Mexican Industrial Property Law. This Law establishes that the competent authority is the Mexican Institute of Industrial Property (IMPI). It is important to mention that the resolutions issued by IMPI are administrative (Article 214). These resolutions can be appealed at the Federal Tax and Administrative Tribunal.

These are the different procedures that can be followed:

* Nullity

When a registration issued by the Mexican Institute of Industrial Property is requested to being revoked or cancelled, based on nullity grounds established in the Mexican Industrial Property Law (Mexican Industrial Property Law, Articles 65 78, 138, 151 and, 187 to 199 Bis 8).

* Expiry

This Action is taken when a registration issued by IMPI has concluded because of not being used (distinctive sign) or lack of annually payments (inventions) based on grounds established in the Mexican Industrial Property Law (Mexican Industrial Property Law, Articles 65, 80, 130, 152 and 187 to 199 Bis 8).

* Cancellation

It is requested when the registration of a trademark has caused its transformation into a generic denomination and therefore lost its distinctiveness. (Mexican Industrial Property Law, Articles 65, 138, 153 and 187 to 199 Bis 8).

* Administrative Infringement of Industrial Property Rights

When executing unfair competition acts or is using and/ or exploiting a right granted by the Mexican Institute of Industrial Property without the owner knowledge. (Articles 187 to 199 Bis 8 and 213).

The sanctions established in Article 214.

It is important to mention that the Mexican Industrial Property Law establishes in Article 223 and 223 Bis the offences that could be followed by the offended party and which can be sanctioned by the following sentences:

* From 2 (two) to 6 (six) years of prison; and,

* The fine could go from 100 to 10,000 days of minimum daily wage valid in Mexico City;

* Ex-officio criminal enforcement

* Trade Related Copyright Administrative Infringement

It is the action that punishes those who are using works protected by copyright, marketing copies thereof or related rights that could be registered at the National Institute of Copyright, for direct or indirect profit making purposes and without consent of the author or the right holder. (Federal Copyright Law, Articles 231 to 236).

The Mexican Institute of Industrial Property (IMPI) shall punish the infringements related to commerce. In this sense, the IMPI will be able to adopt provisional measures foreseen in the Industrial Property Law (Federal Copyright Law, Article 234).

* Provisional Measures

Those measures can be applied before or during any administrative infringement procedure relating to the violation of any Intellectual Property Rights protected by the Industrial Property Law or the Federal Copyright Law. Article 199 Bis.

The sanctions established in the Federal Copyright Law, Article 232.

The offences established in the Federal Criminal Law, Article 424 to 429

VII. Amendments to Mexican Federal Laws

Recently, the Mexican Intellectual Property Law has been modified, in order to strengthen the protection of Intellectual Property Rights. In this sense, by Decree of Law there are various Articles and subparagraphs that have been amended

VIII. Mexican Intellectual Property Law

Mexico

- Article 188 authorizes the Mexican Institute of Industrial Property to initiate an administrative procedure by their own initiative or by petition of someone who has legal interest. (June 18th, 2010)
- Article 199 Bis by which the Mexican Institute of Industrial Property will take into account the gravity and nature of the infringement in order to adopt any measure or fix a bail for it. (June 18th, 2010)
- Article 213 related to Administrative Infringements in the field of trademarks to any person that use a combination of distinctive signs; operate items; and images to identify products or services identical or confusingly similar to others protected by the IP law, incurring unfair competition. (June 18th, 2010)
- Article 223 Bis enables the authority to act ex officio to prevent the retail of counterfeit goods to final consumers in public places. (June 28th, 2010)

Likewise, the Federal Criminal Law has also shown modification to enhance to protection of IP rights:

IX. Federal Criminal Law

- Article 429 (June 28th, 2010). Enables the authority to act ex officio to prevent any infringement committed against copyright, with the exception of those acts contained on:
- Articles 424, fraction II: The editor, producer or writer who on purpose produce more numbers of copies of a piece, protected by the Federal Law of Copyright, as authorized by the owner of rights;
- Article 427, who deliberately publish a work by replacing the author's name by another name.

More information

The websites where you can find more detailed information on protecting Intellectual Property rights are the following:

<http://www.impi.gob.mx/>

<http://www.indautor.sep.gob.mx/>

<http://www.pgr.gob.mx>

<http://pirateria.pgr.gob.mx/>

Flow of funds

Mexico's de jure exchange rate regime is free floating. The exchange rate of the peso is determined in the foreign exchange market.

And if managed, under what circumstances or purposes does your government/central bank intervene?

Even though Mexico's exchange rate is not managed, the Central Bank of Mexico (Banco de México) has carried out discretionary interventions in order to address disorderly market conditions.

In early February 2009, it intervened in the market through direct sales to individual participants in the market for an aggregate amount of US\$1.835 billion.

Are there any restrictions on the repatriation of funds related to a foreign investment (e.g. profits, dividends, royalties, loan payments)?

In accordance with the information, the Central Bank has regarding its functions.

There are no restrictions on the repatriation of funds related to a foreign investment.

The Mexico' legal framework contemplates that all transfers relating to a foreign investment to be made freely and without delay.

Such transfers include profits, dividends, interest, capital gains, royalty payments, management fees, technical assistance and other fees, returns in kind and other amounts derived from the investment.

Mexico

Notwithstanding the above, Mexico may prevent a transfer through the equitable and non-discriminatory application of its laws in case of bankruptcy, insolvency, protection of the rights of creditors, issuing, trading or dealing in securities, criminal offenses, or with the aim of ensuring the satisfaction of judgments in adjudicatory proceedings.

I. Legislation:

- a) Bankruptcy Law (Ley de Quiebras), Article 169;
- b) Federal Code of Criminal Procedure (Codigo Federal de Procedimientos Penales), Articles 181, 182-E, 182-G, 182-H;
- c) Federal Tax Code (Codigo Fiscal Federal) Articles 40, 145, 145-A, 151, and
- d) Federal Code of Civil Procedure (Codigo Federal de Procedimientos Civiles) Articles 389, 390 and 402.

II. International Agreements signed by Mexico:

- a) Chile, Article 9-10;
- b) Bolivia, Articles 12-17 and 15-08;
- c) Japan, Article 63;
- d) United States of America and Canada, Article 1109;
- e) European Union, Articles 19, 27, 30, 31;
- f) Iceland, Norway, Liechtenstein and Switzerland, Article 46;
- g) Colombia, Articles 12-17 and 17-07;
- h) Nicaragua, Articles 13-17 and 16-08;
- i) El Salvador, Guatemala y Honduras, Article 11-17, and
- j) Uruguay, Article 13-10.

Mechanisms to review decisions, and settle disputes

If foreign investors have any doubt about the rules on foreign investment they can apply to the National Foreign Investment Commission for consultation or confirmation of standards on any topic related to the conditions of participation of foreign investment.

Also, in case the Ministry of Economy or National Foreign Investment Commission denied any of the authorizations request by the foreign investor, it may exercise its right of review in the first instance to the administrative authority higher than that issued act, or trigger defense mechanisms in order to request judicial assistance to federal and local courts.

What, if any, mechanism do you have for foreign investors to settle disputes?

Foreign investors have access to all local, federal courts and to the Supreme Court if the controversy falls under its jurisdiction. All disputes are subject to the Mexican legal framework as afforded to domestic investors. Foreign investors have access to all courts and to all dispute resolution mechanisms available to Mexican nationals.

Regarding an Investment dispute controversy, the foreign investor, depending on the applicable Bilateral Investment or Trade Agreement, has access to the dispute settlement mechanism established on the Treaty.

ICSID

Although Mexico is not a party to the ICSID Convention nor a member, the majority of its Investor-State arbitrations have been conducted under the ICSID Additional Facility Rules But few cases have been conducted under UNCITRAL rules, such as International Thunderbird Gaming Corporation and GAMI Investments, Inc. cases

Mexico

International investment agreements (IIAs) - which include bilateral investment treaties (BITs), double taxation treaties (DTTs) and other international agreements with investment provisions, such as some free trade agreements (FTAs) - can also provide foreign investors protection against discrimination, unfair treatment, expropriation and transfer restrictions. Coverage under an IIA could therefore be an important factor in an investment location decision, especially where the protection afforded by the law is inadequate.

More information

The website of the Supreme Court of Justice of Mexico:
<http://www.scjn.gob.mx/Paginas/PaginaPrincipal2008.aspx>

The Ministry of Economy can provide documents of the most relevant cases where Mexico has been part: http://www.economia.gob.mx/swb/es/economia/p_solucion_controversias_inversionista

http://www.economia.gob.mx/swb/es/economia/p_promocion_proteccion_APPRIs

International investment agreements

With;

Argentina; Australia; Austria; Barbados; Belarus; Belgium; Bolivia; Brazil; Canada; Chile; China, People's Republic of; Colombia; Costa Rica; Cuba; Czech Republic; Denmark; Ecuador; El Salvador; European Union; Finland; France; Germany; Greece; Guatemala; Honduras; Iceland; India; Indonesia; Ireland; Israel; Italy; Japan; Korea, Republic of; Liechtenstein; Luxembourg; Netherlands; New Zealand; Nicaragua; Norway; Panama; Poland; Portugal; Romania; The Russian Federation; Singapore; Slovakia; Spain; Sweden; Switzerland; Trinidad & Tobago; United Kingdom ; United States; Uruguay;

Please provide a brief description of these IIAs, or your IIAs in general.

* Bilateral Investment Treaties

Recently, Mexico has strived to become an attractive investment destination and in this context the country's IIAs have reached their full potential.

Currently, Mexico has 27 BITs in force. BITs improve the foreign direct investment environment and strengthen Mexico's capacity to attract foreign resources by giving out positive signs and providing legal certainty to the international business community.

1. The BIT establishes a minimum standard of treatment and full protection and security, as well as national treatment and most favored nation treatment as its principles.
2. Expropriation is established under customary law principles.
3. Investment disputes can be settled first by consultations or negotiations, and if not solved, Parties can submit their claim to international arbitration.
4. Claims to arbitration may be submitted under the ICSID Additional Facility Rules or UNCITRAL Arbitration Rules.
5. The agreement is subject to review at the 10 year period for either re-negotiation or a 12-month period of expiration after one of the Parties has expressed its intention of terminating it. In the case of termination of the agreement, its provisions would still be effective for 10-15 years on the investments that were made prior to the date of termination.

* Double Taxation Treaties

Mexico has Double Taxation Treaties in force with the following countries: Australia, Austria, Barbados, Belgium, Brazil, Canada, Chile, China, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Greece, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Russia, Singapore, Slovakia, Spain, Sweden, Switzerland, United Kingdom and United States.

Mexico

There are some common features across the Double Taxation Treaties mentioned above:

- * Clauses of Limitation on Benefits and broad exchange of information.
- * They follow the Model Tax Convention on Income and on Capital of the Organisation for Economic Co-operation and Development (OECD), in matters such as non-discrimination, exchange of information and assistance in collection, among others.
- * The applicable rates for dividends range from 0% to 15%; for interest range from 4.9% to 15% and royalty payments from 10% to 15%.
- * In the case of Mexico, the treaties apply to the federal income tax and the business flat rate tax.
- * Dividend, interest and royalty payments are taxed on both a source and residence basis.

More information

You can find more information regarding the exchange rate regime on the web page of Banco de México.

<http://www.banxico.org.mx/sitioingles/PortalesEspecializados/TiposCambio/TiposCambio.html>

Ministry of Economy of Mexico:

Internet link for Free Trade Agreements including investment provisions:

http://www.economia.gob.mx/swb/es/economia/p_regiones

Internet link for Bilateral Investment Agreements:

http://www.economia.gob.mx/swb/es/economia/p_promocion_proteccion_APPRIs

For more information about the status and the texts of Double Taxation Treaties that Mexico has signed or is currently negotiating, click on "Estatus de los Convenios" or the name of the treaty you are interested to consult (available only in Spanish):

http://www.sat.gob.mx/sitio_internet/informacion_fiscal/legislacion/52_3558.html

For more information about taxation in Mexico, please visit:

http://www.sat.gob.mx/sitio_internet/informacion_fiscal/legislacion/52_17377.html and click on "Ley del Impuesto sobre la Renta" for accessing the income tax law (available only in Spanish).

Movement of persons

Treatment of foreign nations or personnel of foreign firms

The following APEC member economies do not require a visa to travel to Mexico: Australia, Canada, Chile, Hong Kong, Japan, Korea, New Zealand, Singapore and the United States. Also it should be noted that APEC Business Travel Card (ABTC) holders do not require a visa for travelling to Mexico.

At the port of entry foreign nationals should fulfill the Multiple Migratory Form (FMM) which grants a stay in Mexico of up to 180 days, provided that the activities they carry out in national territory are not lucrative, that is, that their main source of remuneration or earnings is not located in Mexico.

Foreign nationals requiring a visa to travel to Mexico need to apply for it at the nearest Mexican consular representation in their country, or the company, institution or person that invites and will have the responsibility for the foreign national, can start the process before the National Immigration Institute (INM).

The Migratory Procedures and Criteria Manual (MCTM) in its section 2.11 indicates the requirements for obtaining the status of Non Immigrant, category of Visitor and Business Person modality, provided that the main source of remuneration or earnings of the foreign national is not located in Mexico and with a stay of up to 180 days.

If the foreign national will stay more than 180 days or will carry out activities in which the source of remuneration or earnings is located in Mexico, he can enter as Non Immigrant, category of Visitor, Business and Investor modality. Once in national territory foreign nationals must change the issued visa for a Non Immigrant Migratory Form (FMNI). The requirements are established in section 2.3 of the Migratory Procedures and Criteria Manual (MCTM).

Mexico

2.11 Non Immigrant status, category of Visitor, Business Person modality

Applicable to the foreign national who enters the country on a temporary basis and for the purpose of:

- * Carrying out trade in goods or services; or
- * Establishing, developing or managing a foreign capital investment; or
- * Providing specialized services previously agreed or contemplated in a contract of transfer of technology, of patents and trademarks, of sale of machinery and equipment, of technical training of personnel or any other production process of a company established in Mexico; or
- * Carrying out activities at a professional level in terms of Free Trade Agreements signed by Mexico; or
- * Attending shareholders' meetings or board of directors meetings of companies legally established in Mexico; or
- * Carrying out management or executive functions, or functions that involve expertise in a company or one of its subsidiaries or branches established in Mexico.

Provided that the main source of remuneration or earnings of the foreign national is not located in Mexico and with a stay of up to 180 days.

2.3 Non Immigrant status, category of Visitor, Business and Investor modality

Applicable to the foreign national who intends to enter the country on a temporary basis or is already inside the country and with the purpose of knowing different investment alternatives, making or supervising a direct investment, representing a foreign company or carrying out commercial transactions.

More information

National Immigration Institute (INM): <http://www.inm.gob.mx/>

Migratory Procedures and Criteria Manual (MCTM) (available only in Spanish):
http://www.inm.gob.mx/marcojuridico/manuales/03_MANUAL_DOF_29-ENE-2010.pdf

Taxation

Taxation of foreign nationals and foreign firms

Taxation of foreign individuals and foreign firms:

I. Company income:

According to the Federal Tax Code a company is deemed to be resident in Mexico if the principal center of administration is located in the country; permanent establishments (PE) of foreign residents located in Mexico are generally taxed under the same rules as resident entities with respect to the income attributed to such PE.

Mexican law establishes two different federal taxes to which the Mexican resident taxpayers are subject to on their worldwide income:

a) Federal Income Tax (ISR for its capitals in Spanish). It is calculated at a rate of 30%. Taxable income is determined based on the gross income for the fiscal year diminished by the legally-authorized expenses and the losses carried forward from prior fiscal years. The regular fiscal year coincides with the natural calendar year, and the income tax must be calculated and paid on yearly basis. However, taxpayers are required to make advance payments of income tax on the 17th day of each month.

The Mexican tax system allows that once a corporation has paid its income tax, after-tax earnings may be distributed to shareholders with no tax charge at the corporate level, which means that no tax withholding is to be made, regardless of the tax residence of the recipient, since it is considered that such income has been already taxed.

Mexico

However, if there is a distribution of earnings that have not been subject to corporate income tax, the corporation will be subject to corporate tax on the grossed-up distributed earnings. Such tax, paid on dividends distributed in excess of previously taxed earnings, can be credited against the corporate income tax of the year or in two fiscal years following the year in which the distribution has been made.

b) Flat tax (IETU for its capitals in Spanish). It is calculated at a rate of 17.5%. IETU is determined on a "cash flow" basis by subtracting the expenses actually paid from the income actually collected, excluding expenses on salaries and wages, employer contributions to the social security system and non-taxable employee benefits. IETU is computed per calendar year; nevertheless, advanced monthly flat tax payments are to be filed.

As a general rule, taxpayers are required to pay the higher between the income tax due for the year and the flat tax of the same year. There are no state taxes on corporate income.

II. Personal income:

1. Subordinated personal services:

Income on subordinated personal services includes wages and salaries, as well as any compensation arising from an employment relationship. Independent services fees for services rendered mainly to a single boss are considered to be assimilated to salaries.

Mexican resident employers are required to withhold and pay the income tax caused on compensation payments, in despite of the tax residence of the employee. The maximum withholding tax rate applicable to income on subordinated personal services is 30%.

In case that the employer is a nonresident, only when the compensation derives from services rendered in Mexico, the individual is required to file monthly tax payments on the gross income received as compensation, according to the following:

a) There is no tax caused on the first \$125,900 Mexican pesos obtained in the corresponding calendar year.

b) A 15% tax rate will be applied to the income exceeding the amount above mentioned and up to \$1,000,000 Mexican Pesos obtained in the corresponding calendar year.

c) A 30% tax rate will be applied to the income exceeding \$1,000,000 Mexican Pesos obtained in the corresponding calendar year.

2. Independent professional services:

According to Mexican tax law, the resident individuals who obtain income on the performance of independent professional services are subject to two different federal taxes on their worldwide income:

a) Income Tax (ISR for its capitals in Spanish). It is calculated on a yearly basis at a rate of 30%. Individuals are required to file advanced monthly tax payments on the 17th day of the month following the one when the income has been obtained. Taxable income is determined based on the gross income for the fiscal year diminished by the legally-authorized expenses.

In the cases that an individual renders professional services to a corporation, the latter one is required to withhold and pay income tax at a 10% rate on the gross amount paid to the individual rendering such services. Such income tax withholdings are creditable against the monthly tax payments.

b) Flat tax (IETU for its capitals in Spanish). It is calculated at a rate of 17.5%. IETU is determined on a "cash flow" basis by subtracting the expenses actually paid from the income actually collected. IETU is computed per calendar year; nevertheless, advanced monthly flat tax payments are to be filed.

As a general rule, individual taxpayers are required to pay the higher between the income tax due for the year and the current year flat tax. There are no state taxes on personal income.

Nonresidents are subject to income tax on professional services fees, solely in the cases that the services are rendered in Mexico. The income tax is caused at a 25% rate, when the person who pays the fees is a Mexican tax resident it is compelled to withhold and pay such tax; in any other case, the nonresident individual taxpayer is required to file the corresponding tax 15 days after the income is obtained.

III. Capital Gains:

Mexico

Mexican tax residents are taxed on their worldwide capital gains, whereas non-residents are only subject to Mexican tax on gains arising from sales of real estate property located in Mexico, as well as from sales of securities when the issuer of such securities is a Mexican resident, or when at least 50% of the accounting value of the securities derive directly or indirectly from real estate property located in Mexico, regardless of the location where the sale takes place.

1. **Securities:** Gains are determined based on the gross earnings from the sale of shares and other type of securities diminished by their cost basis (adjusted for inflation and depreciation per the official pricing indexes during the period between the acquisition date and the date of the sales transaction).

Gains obtained by nonresidents on shares issued by Mexican entities are subject to a withholding tax at the rate of 25% on the gross sales proceeds or, at the election of the nonresident, at the maximum tax rate applicable for individuals (30% for 2010) applied to the net profit obtained. This election is available only if the foreign stockholder is a resident of a country that is not considered a tax haven or a country with a territorial tax system. In this case, the selling resident has to appoint a representative in Mexico and must obtain a statutory tax audit report on the transfer of shares issued by a public accountant. When shares are sold between related parties and the seller is a resident abroad and exercises the option to determine tax on the profit of the sale, the public accountant issuing the report must specify the market value of the shares sold and explain the factors used in determining such price.

In certain specific cases, when the sale of shares or other kind of securities is made through the Mexican Stock Exchange Market by nonresidents, provided that those securities are reachable for the general investing public, the gains obtained by the nonresident are subject to a reduced income tax rate of 5 per cent. When the transfer of the shares results from a reorganization within a group, prior to the transfer, the tax authorities may well authorize a deferral for payment of the tax on the profit until the 15 days following the date when a subsequent sale of such shares out of the group is made (adjusted for inflation from the date it is caused until the date of actual payment).

2. **Real Estate:** The taxable gain will be determined by subtracting the cost basis of the sales of land and buildings (adjusting per inflation during the time the assets have been held) from the gross earnings. Similar rules apply to nonresidents electing to be taxed on the net income at a rate of 30% by appointing a representative. Otherwise, a 25% withholding tax on gross income applies to nonresidents.

Gains from the sale of the taxpayer's principal residence are exempt, provided the taxpayer occupied it as such during the two years before the sale.

Funds for repatriation:

Regarding equity reimbursements, the Income Tax Law establishes that all the reimbursements are to be made based on the balance of the corporation's Contributed Equity Account (CUCA for its capitals in Spanish). This account is increased by the equity contributions made by the shareholders and the stock subscription net premiums, and it is diminished by the equity diminutions. Additionally CUCA account must be adjusted per inflation.

Once the corporation has determined its CUCA account balance, the Taxable Distributed Profit is calculated as follows:

Primarily the reimbursement per share is compared to the CUCA per share.

a) If the reimbursement per share is higher than the CUCA per share, the Taxable Distributed Profit (TDP) is calculated based on the multiplication of the difference by the number of shares to be distributed.

$TDP = \text{Number of shares} * (\text{Reimbursement per share} - \text{CUCA per share})$

b) If the reimbursement per share is lower than the CUCA per share, the Taxable Distributed Profit is calculated based on the total equity account balance diminished by the CUCA account balance.

$TDP = \text{Total equity account balance} - \text{CUCA account balance}$

If the total equity account balance is lower than the CUCA account balance there are no tax implications resulting from the equity reimbursement.

Equity reimbursements are tax exempt provided that the balance of the Previously Taxed Earnings Account (CUFIN for its capitals in Spanish) corresponding to the number of shares to be distributed is bigger than the Taxable Distributed Profit. In such cases where there is no tax caused, the CUFIN account balance has to be reduced in the amount corresponding to the number of shares distributed.

Mexico

In the cases when the Taxable Distributed Profit does not arise from the CUFIN account, the corporation will be subject to income tax at a rate of 30% on the grossed-up distributed earnings

Is the basis for taxation economy or global? If the basis for taxing is global, with whom do you have tax treaties?

Taxation of foreign nationals and foreign firms.

Residents in Mexico are subject to taxation on a global basis. Non residents having a permanent establishment in Mexico are taxed on all the revenues attributable to said permanent establishment. Non residents are taxed in respect of revenues proceeding from sources of wealth located in national territory, when such persons possess no permanent establishment in Mexico or when possessing a permanent establishment, said revenues are not attributable to it.

In order to remove barriers for investment, Mexico has thirty eight Double Taxation Treaties in force, and also two Tax Information Exchange Agreements in force (with U.S. and Canada). Six Double Taxation Treaties are signed and ten are in negotiation. Additionally, Mexico has signed three Tax Information Exchange Agreements and fifteen are in negotiation.

The Mexican tax legislation does not impose a withholding tax on dividend distributions to non residents if these dividends are paid out of net income; otherwise the applicable rate is 30%. In the case of interest, the law provides for a withholding tax rate of 4.9% on interest proceeding from negotiable instruments placed through banks or stock brokerages in countries with which Mexico has entered into a Double Taxation Treaty and 10% in the absence of a treaty; 15% on the interest paid to reinsurers, 21% for interests paid to foreign suppliers for alienation of machinery and equipment forming a part of the fixed assets of the acquirer and 30% in other cases. The rate applicable to royalties obtained from temporary use or advantage of patents, certificates of invention or improvement, trademarks, trade names or advertising is 30% and for technical assistance and other royalties the rate is 25%. However, Mexico's Double Taxation Treaties provide for reduced rates applicable to dividend, interest and royalty payments.

More information

Essential information regarding tax treatment of foreign residents can be found at the Mexican Tax Administration System's webpage www.sat.gob.mx. Detailed information can be obtained directly from different applicable laws, also available at the Tax Administration System website. There are also available some commercial translations of these regulations.

For more information about the status and the texts of Double Taxation Treaties that Mexico has signed or is currently negotiating, click on "Estatus de los Convenios" or the name of the treaty you are interested to consult (available only in Spanish):

http://www.sat.gob.mx/sitio_internet/informacion_fiscal/legislacion/52_3558.html

For more information about taxation in Mexico, please visit: http://www.sat.gob.mx/sitio_internet/informacion_fiscal/legislacion/52_17377.html and click on "Ley del Impuesto sobre la Renta" for accessing the income tax law (available only in Spanish).