

Taxes for Residents and Non-Residents in Mexico

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An overview of taxes in Mexico

Mexico, as most countries in the world, has different types of taxes and makes some distinctions between residents and non-residents.

It is important to note that there is a legal distinction to the concept of “residency” as it applies to an immigration condition and a fiscal condition.

Non-Residents

From an immigration viewpoint, a non-resident is simply a tourist. An individual that from time to time visits Mexico with no other significant business or income related ties to it.

From a fiscal viewpoint, a non-resident is someone that does not earn income directly from Mexico or Mexican sources or such person has been physically present in a different country for 183 days (consecutive or not).

Residents

From an immigration viewpoint, a resident is someone who has sought and obtained either a temporary or permanent residency.

From a fiscal viewpoint, a resident is someone that earns the majority of his or her income directly from Mexico or Mexican sources (50.1%).

It is also important to note that the Mexican tax authority uses a term denominated “Center of Vital Interests” to classify residents from non-residents.

The “Center of Vital Interests” is when your primary professional activities are located in Mexico.

Applicable Taxes

Both Non-Residents and Residents are subject to the following taxes:

- Property Taxes (such are tied to the property, not who owns it).

- Sales Tax (Mexico has a 16% sales tax or added value tax on most products and all services)

- Capital Gains Tax (if applicable upon the sale of a property which deems a profit in Mexican Pesos).

- Income Tax

Income Tax

The main difference between non-residents and residents is capital gains tax and income tax.

When it comes to income tax, a non-resident is usually only taxed on rental income. If you own property in Mexico but cannot be considered a resident, you will be subject to a 20% tax over gross income.

Also, as of July 1st, 2020 digital sites such as Airbnb, VRBO, HomeAway, etcetera are to withhold such tax to transfer it to the Mexican tax authority on your behalf.

Income Tax

A resident is taxed differently. In the category of “income tax” mexicans and residents find:

- Salaries and fees,
- Leasing of real estate,
- Provision of services,
- Disposal of shares or securities,
- Royalties,
- Interests,
- Prizes,
- Profits or dividents, and
- Sale of Real Estate
- Income earned abroad

Income Tax

As a fiscal resident of Mexico, the tax ranges up to 35% with the right to claim deductions and write-offs.

Corporations are taxed at a flat 30% (except when selling real estate as corporations can “merge” such tax with their other taxes).

Taxes Related to Real Estate

Capital Gains Tax

Capital Gains Tax is treated somewhat differently in Mexico. We have 2 types of capital gains tax:

1. Capital Gains Tax on the profit (which is mandatory to calculate for individuals and it taxes the profit)
1. Capital Gains Tax on the loss (which is mandatory to calculate if the seller is reporting a fiscal loss on the capital gains tax and then it becomes compulsory for the buyer to pay).

Capital Gains Tax on the Loss or “Reverse” Tax

When selling property, both parties must review the “Fiscal Value” of the Property.

This is a value set by the city. If such value is higher than the sales price when converted to pesos, then this “reverse capital gains tax” is calculated.

The reasoning behind it is that the Seller is selling at such a loss that the buyer is “profiting” from it. The tax rate is 20% of the difference between fiscal value and sales price in pesos for Mexicans and fiscal residents and 25% of such difference for non-residents.

It is rare that this tax is caused since fiscal values are usually significantly lower than sales price but is important to review it.

Capital Gains Tax on the Loss or “Reverse” Tax

EXAMPLES:

Fiscal Value	Sales Price	Recorded Price	Reverse Cap Gains
\$2,000,000.00 MXN	\$300,000.00 USD	\$6,600,000.00 MXN	No

Fiscal Value	Sales Price	Recorded Price	Reverse Cap Gains
\$6,000,000.00 MXN	\$300,000.00 USD	\$6,600,000.00 MXN	No

Capital Gains Tax on the Loss or “Reverse” Tax

EXAMPLES:

Fiscal Value	Sales Price	Recorded Price	Reverse Cap Gains
\$8,000,000.00 MXN	\$300,000.00 USD	\$6,600,000.00 MXN	Yes

Resident 20%	Non-Resident 25%
\$280,000.00 MXN	\$350,000.00 MXN

Capital Gains Tax

Capital Gains Tax is calculated from the recorded sales price in pesos when one bought versus the recorded sales price in pesos when one sells.

It is important to note this: it is calculated in pesos. So even though the real estate market uses US Dollars the values on the legal titles will always be reflected in pesos at the official exchange rate published by the Bank of Mexico for the closing date.

The formula also takes into consideration inflation, the National Index for Consumer Prices, and factors published by the Mexican government for depreciation of construction and appreciation of land.

Capital Gains Tax

Typically, non-residents are taxed at 35% of such profit.

Residents and Mexicans are taxed at roughly 30%

This is a high percentage. However, keep in mind our fiscal code and Capital Gains Law do consider legal deductions to update the value of the property based on improvements.

Capital Gains Tax

EXAMPLE:

Non-Resident 35%
All figures in MXN

Date of Purchase	Recorded Value of Purchase	Updated Value of Purchase	Recorded Sales Price	Profit
20/12/1990	\$1,000,000.00	\$1,560,000.00	\$6,600,000.00	\$5,040,000.00

Estimated Tax Payment before deductions

\$1,680,000.00

Capital Gains Tax

Mexicans and Legal and Fiscal Residents of Mexico have the right to claim a partial or total capital gains exemption on the sale of residential property once every 3 years.

There are some requirements to attain but overall the process is simple.

It is important to note that the exemption amount is determined by government issued bonds called “UDIS” and they are matched against the Recorded Sales Price, not the Taxable Profit.

“UDIS” are stable at roughly \$4,000,000.00 MXN. As such, if a recorded sales price is this amount or lower, the exemption is total. If the recorded sales price is higher, the taxable profit is calculated over the difference in recorded sales price versus \$4,000,000.00 MXN rendering the exemption partial as the taxes are paid on that difference.

Property Transmission Tax

Buyers (Mexican, Foreigners and Residents alike) are subject to a property transmission tax upon purchase of a property.

This is a local tax. Therefore, the rate varies from municipality to municipality.

In Puerto Vallarta, that tax is an average of 2.15% calculated over fiscal value.

In Bahia de Banderas, that tax is an average of 2% calculated over whichever figure is the highest between fiscal value and sales price.

This tax is commonly included in what is known as “Closing Costs”. A rough idea of overall closing costs is 5% of the cost of the property.

Added Value Tax

When it pertains to commercial property, Mexicans and Foreigners alike are subject to a 16% tax calculated over the fiscal value of constructions.

This tax is exclusively calculated and paid if the real estate is deemed commercial by the City.

This tax is paid by the Purchaser.

Final Considerations

Latin America as a whole, and Mexico as one of the countries that leads it, has increasingly become more proactive in regulating income, taxes, and collection procedures as it aspires to the American or European Standard.

Nonetheless, due to the significant amount of international treaties Mexico is a party to, there are very few countries that allow for a double-taxation.

As such, Americans and Canadians, particularly, are protected by such as the US, Canada, and Mexico prevent double-taxation.

The information as relied today is current. However, it pertains to theory and does not guarantee any tax calculation. Fiscal law in Mexico is constantly evolving so the law referenced herein may change without notice.

SOURCES:

Constitución Política de los Estados Unidos Mexicanos

Código Fiscal de la Federación y su Reglamento

Ley del Impuesto Sobre la Renta y su Reglamento

Ley del Impuesto al Valor Agregado y su Reglamento

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Legal Assessment for Real Estate