DOING BUSINESS IN MEXICO
2022

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INTRODUCTION

This publication has been prepared by the International Bureau of Fiscal Documentation (IBFD) for BDO, its clients and prospective clients. Its aim is to provide the essential background information on the taxation aspects of setting up and running a business in this country. It is of use to anyone who is thinking of establishing a business in this country as a separate entity, as a branch of a foreign company or as a subsidiary of an existing foreign company. It also covers the essential background tax information for individuals considering coming to work or live permanently in this country.

This publication covers the most common forms of business entity and the taxation aspects of running or working for such a business. For individual taxpayers, the important taxes to which individuals are likely to be subject are dealt with in some detail. We have endeavoured to include the most important issues, but it is not feasible to discuss every subject in comprehensive detail within this format. If you would like to know more, please contact the BDO firm(s) with which you normally deal. Your adviser will be able to provide you with information on any further issues and on the impact of any legislation and developments subsequent to the date mentioned at the heading of each chapter.

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BDO's brand promise is to be the leader for exceptional client service and when you choose to work with BDO you quickly discover what makes our service offering stand out. BDO offers a comprehensive collection of high-quality tax services and assets designed to support exceptional performance, and all our tax engagements benefit from the hands-on involvement of experienced professionals, backed by world-class resources. BDO's people bring a particular quality to our working relationships and to how we respond to our clients. We understand that digital acceleration is impacting our clients more than ever: BDO's unique culture of accessibility helps to build close relationships and maintains excellence in service delivery, ensuring that we create value for our clients and our colleagues. Your advisers are both fit for the future and are agile enough to handle the biggest and the smallest names in the industries we serve.

We work hard to understand our clients' businesses and ensure that we match both our service offering and our people to their complex individual needs. We believe that providing our clients with access to experienced professionals who are actively engaged in addressing their tax and business issues is the most reliable way to provide exceptional service, always with a strong focus on trust and transparency.

Regardless of your location, size or international ambitions we can provide effective support as you expand into new areas of the world. In an ever-evolving economic environment, businesses need a global organisation that provides exceptional, bespoke service combined with local knowledge and expertise. BDO is uniquely positioned to serve this demand, providing effective support and a truly global integrated global footprint.

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This chapter is based on information available up to 14 January 2022.

Introduction

Constitutional system

The Mexican Constitution establishes Mexico as a representative, democratic and federal republic, made up of free and sovereign states. The federation consists of 31 states plus Mexico City. The states, for purposes of their territorial division, political and administrative organization, are divided into municipalities. As a result, Mexico has three governmental levels: the federal, the state and the municipal.

The Mexican Constitution provides for a tax system that divides taxing power between the federation and the states. The municipalities are free to administer their own budgetary requirements, but their taxes must be approved by the state legislatures, which review the proposals presented by the respective municipal councils. Municipalities participate in the collection of state taxes but they are not constitutionally entitled to impose taxes directly.

The taxes imposed by the federation and the states are subject to limitations based on the type of activity or property on which those taxes are imposed. There are activities over which the federation has the exclusive power to regulate taxation (e.g. use and exploitation of natural resources, credit institutions and insurance companies, special taxes imposed on electric energy, production and consumption of tobacco products (e.g. cigars, cigarettes), gasoline and other products derived from oil, agave juice and products derived from its fermentation, forestry exploitation and the production and consumption of beer).

The states are permitted to impose taxes on all activities and assets that are not expressly reserved to the federation. Municipalities, subject to the approval of the state legislatures, are permitted to impose taxes on certain items (e.g. immovable property and the provision of public services: potable water; drainage; sewers; treatment and disposal of waste water; lighting; cleaning; collection, transfer, treatment and final disposal of waste; markets and distribution centres; cemeteries; abattoirs; streets, parks and gardens and their facilities; public safety; and other activities as determined by the state legislatures).

Important amendments were made to the Income Tax Law, Federal Tax Code and VAT rules in 2020. Among other things, the tax reform of 2020 introduced the following amendments: the establishment of a general anti-avoidance rule (GAAR); the obligation for tax advisers to report aggressive tax planning schemes; changes to the definition of “permanent establishment”; a new tax regime for foreign transparent entities; new limitation on interest deductibility; and new rules on the collection of VAT with respect to the digital economy. The tax reform for 2022 also introduced important amendments to the Income Tax Law and Federal Tax Code. Among these high-impact measures is the broadening of the definition of back-to-back loans; the power of the tax authorities to determine that a qualified merger or spin-off lacks a business purpose and must be deemed as a transfer of goods for tax purposes; the general power of the tax authorities to determine the simulation of operations during the course of an audit; and a new simplified tax regime, mandatory for small companies.

Also, as of 1 September 2021, important amendments to the Federal Labour Law and various tax laws regarding insourcing and outsourcing entered into force. These amendments have an impact on many business models. Therefore, many companies are obliged to restructure their operations.

On 1 July 2021, Mexico signed a joint statement with other Inclusive Framework members with an agreement on a new framework for international tax reform, including key elements for an agreement on Pillar 1 and Pillar 2. A multilateral instrument for its implementation is expected to be opened for signature in 2022 and effective in 2023.

National Tax Coordination System (NTCS)

The National Tax Coordination System (NTCS) was established in order to avoid multiple or double taxation under the tax system by the federation and the states. The NTCS is regulated by the Tax Coordination Law (TCL), by which the states limit their taxing power in favour of the federation in exchange for the right to share in federal revenues. The participation of each state is determined in accordance with the TCL, taking into consideration the population of the state, its revenue collection capacity, and the terms of its respective agreement.

In addition to the revenue received from the federation, the states and municipalities may impose taxes on activities and property the taxation of which is not expressly reserved to the federation or expressly forbidden to the states and that are not included in the coordination agreements.

As a result of the NTCS, corporate income taxes and individual income taxes may not be imposed by the states or by the municipalities. The taxes on business activities that apply to corporations apply to the same degree to individuals.

Companies are subject to corporate income tax. Employers and employees must make social security contributions. Value added tax (*impuesto al valor agregado*, IVA) and excise taxes apply.

The tax administration authority in Mexico is the *Servicio de Administración Tributaria* (SAT).

The currency is the Mexican peso (MXN).

Through the Constitutional reform (in force from 27 January 2016), references to the general minimum salary contained in tax laws were replaced by the measure and update unit (*unidad de medida y actualización*, UMA). The daily value of the UMA, as from 1 February 2022, is MXN 96.22. This value was updated on 10 January 2022. The general minimum daily wage as of 1 January 2022 is MXN 172.87 and MXN 260.34 for the northern border zone.

There are no ring-fencing regimes in the tax system.

1. Corporate Income Tax

1.1. *Type of tax system*

Companies resident in Mexico are subject to tax on their worldwide income. Companies are subject to corporate income tax on the corporate profits of the tax year.

Under the Mexican imputation system, dividends paid between resident companies from corporate profits that have been subject to corporate income tax are not subject to any additional tax. When corporate profits have not been subject to the corporate income tax, distributed dividends are subject to an "equalization tax", imposed on the company paying the dividends. In order to determine if the dividends have been subject to tax prior their distribution, resident companies must keep an account called "CUFIN", which records their net, undistributed after-tax profits.

Moreover, dividends distributed by resident companies to resident individuals and non-residents in general, are subject to an additional 10% withholding "tax on dividends".

1.2. *Taxable persons*

Corporate income tax is levied on all legal entities resident in or having a permanent establishment in Mexico (*see* section 6.2.). In this respect, the term legal entities includes all types of commercial companies, including corporations (SAs) and limited liability companies (SRLs), partnerships, government agencies primarily engaged in business activities, credit companies, civil companies, entrepreneurial trusts, associations and joint ventures (article 7 of the Income Tax Law (*Ley del Impuesto sobre la Renta*, LISR)).

Non-profit legal entities are generally exempt from corporate income tax. Investment companies referred to in the Investment Companies Act and investment companies specializing in retirement funds are not taxable entities, except under specific circumstances. Income obtained by such investment companies will be taxed in the hands of their members or shareholders.

This survey is restricted to resident SAs and SRLs, as well as to non-resident entities of a similar nature. These entities will be collectively referred to as "companies".

Partnerships are considered as legal entities and are treated as separate taxable persons. Therefore, partnerships are not fiscally transparent.

1.2.1. Residence

A company is a tax resident of Mexico if its place of effective management is in Mexico (article 9 of the Federal Fiscal Code (*Código Fiscal de la Federación*, CFF)).

A company will be regarded as having its place of effective management located in Mexico when the persons taking or executing decisions concerning the company's control, direction, operation or administration and the company's activities are based within Mexican territory. For instance, if the Mexican company's Board of Directors or sole administrator is not based in Mexico, the company would be regarded as a non-resident. Moreover, even if the Board of Directors or sole administrator is based in Mexico, the company would be regarded as a non-Mexican tax resident if the persons executing the decisions are not based in Mexico.

Before the tax reform of 2020, this rule only applied in respect of entities or arrangements having legal personality. As a consequence of the tax reform of 2020, this rule also applies to foreign fiscal transparent vehicles without legal personality. Therefore, with effect from 1 January 2021, in accordance with article 4-A of the LISR, legal foreign vehicles that are transparent for tax purposes will be deemed residents if their place of effective management is located in Mexico.

1.3. *Taxable income*

1.3.1. General

Resident companies are liable to corporate income tax on their worldwide income and capital gains (*see* section 1.4.) (article 1 of the LISR). Income is to be consistently allocated, as a general rule, to each financial period on the accrual basis. Related expenses are deductible in the year in which they are incurred, provided that there is an invoice that complies with tax requirements. Gross income *less* authorized deductions (i.e. deductible expenses, cost of goods sold, depreciation and amortization), mandatory profit sharing payments made during the period and ordinary loss carry-forward results in the taxable basis of the tax year to which the corporate income tax rate must be applied. The tax authorities may exceptionally use an indirect method to determine taxable income based on circumstantial evidence.

Taxable income is not classified in different categories. However, income derived through controlled foreign entities subject to preferential tax regimes (*see* section 7.4.) must be accounted separately for the purposes of determining the final tax liability and for calculating advance payments (articles 176 and 177 of the LISR).

Income is broadly defined to include all income received in cash, in kind, in services, in credit, or in any other form, during the tax year. Inflationary gain (i.e. the benefit accruing to a taxpayer as a result of the reduction in the value of his accounts payable due to inflation) is also included in taxable income. Resident companies are subject to tax on income originating from permanent establishments abroad; the foreign income tax paid in such cases may be credited in Mexico (*see* section 6.1.4.). For corporate income tax, Mexico does not use a schedular system of taxation.

Taxpayers must report to the tax administration cash amounts exceeding MXN 600,000 received, either in Mexican pesos or foreign currency, in the form of loans, capital contributions, or contributions for future capital increases. Those amounts will be considered taxable income if the taxpayer does not report them within 15 days from the date of receipt.

There are several differences between accounting and tax profits. The main differences are related to the depreciation of assets, the currency exchange loss and inflationary effects.

Special rules apply in calculating the income tax base for taxpayers engaged in land cargo and passenger transportation, as well as agricultural, livestock, forestry and fishery activities.

1.3.2. Exempt income

All income, including capital gains (*see* section 1.4.), must be accrued by corporate taxpayers to calculate their income tax liability, unless such income is expressly regarded as non-accruable income, e.g. amounts received for economic or monetary supports received through government budgetary programmes, payments in kind related to licence agreements and shared production in terms of the Hydrocarbon Revenue Law, capital contributions made by shareholders or partners, revaluation of assets and capital, among others (article 16 of the LISR).

Dividends received from other Mexican tax resident companies are not taxable income (*see* section 2.2.).

Capital gains resulting from qualified mergers or divisions are exempt. For this purpose, the merger or division must follow certain statutory requirements. The qualified merger or division treatment is only available to companies that are tax resident in Mexico and is only available if any company resulting from the merger or division is also a tax resident of Mexico. Moreover, the qualified merger or division treatment will not apply if new concepts or entries that were not previously registered in the books of the parties result from the merger or division. In addition, the qualified merger or division treatment will not apply if the SAT determines, within the framework of an audit, that the merger or division lacks business purpose.

1.3.3. Deductions

As a general rule, taxpayers may deduct any expenses that are strictly necessary for the purpose of their activities and are supported by invoices and documentary evidence prepared in accordance with the domestic law (article 27 of the LISR). Only deductions supported by electronic invoices (*comprobante fiscal digital*, CFDI), are deductible.

Deductible items include business expenses, depreciation, interest, cost of goods sold, certain state and local taxes, certain social security contributions, losses that are not compensated for by insurance or otherwise, and worthless bad debts, provided certain requirements are met.

1.3.3.1. Deductible expenses

Employers may only deduct 47% of salaries and fringe benefits that are exempt income for the employees (i.e. retirement funds, vacation premium, termination payments, etc.), as well as supplementary contributions to reserves for pension and retirement funds of the employees. This deductibility rate may be increased to 53% if the employer does not reduce the fringe benefits paid compared with those paid in the prior tax year. Taxpayers who perform *maquiladora* operations (*see* section 1.7.8.) are entitled to an additional deduction of 47% of tax-exempt benefits paid to their employees, which effectively offsets or reduces the negative impact of the 47/53 deductibility limit.

The cost of goods sold is deductible in the year in which the income arising from the sale of goods is accrued.

Interest on loans for the acquisition of investments or for financing trade expenses (e.g. purchases on credit) is deductible, provided the underlying investment and expenses are deductible. Where the underlying investment and expenses are partially deductible, the interest must be apportioned between the deductible and non-deductible portions. For limitations on interest deductibility, *see* section 7.3.

Inflationary losses (i.e. the loss accruing to a taxpayer as a result of the reduction in the value of the accounts receivable due to inflation) are deductible, provided that the taxpayer computes inflationary profit (i.e. the profit accruing to a taxpayer as a result of the decrease in the value of his accounts payable due to inflation).

Dividend payments are not deductible under any circumstance. Management fees and royalties are deductible expenses as long as they comply with the general requirements established for deductible expenses (*see* section 1.3.3.).

Charitable contributions are deductible, but the amount of this deduction is limited to 7% of the taxable profits derived by the taxpayer in the previous tax year. When charitable contributions are made to governmental bodies, the amount of this deduction is limited to 4%.

Under Mexican Labour Law, all employees are entitled to receive a profit-sharing payment equivalent to their pro rata portion of 10% of their employer's tax year (January-December) pre-tax profit, calculated in accordance with the LISR. Pre-tax profit is calculated using the same mechanism for calculating the taxable basis for income tax, but without taking account of net operating losses of prior years and the profit-sharing corresponding to a prior tax year, but paid during the tax year of calculation. In addition, salary and fringe benefits that are partially deductible for income tax purposes are fully deductible for calculating the profit-sharing.

The Labour Law was amended in April 2021 to establish a limit of the amount of the mandatory profit-sharing paid to employees. As a result, the mandatory profit sharing is limited to 3 months of the employee´s salary or the average of profit sharing received by the employee during the previous 3 years, whichever is higher.

With effect from 2016, employers can deduct certain employees’ benefits granted to non-union workers. Previously, there were some restrictions on the deduction, depending on the amount of employees’ benefits paid to union and non-union workers.

From 1 September 2021, labour subcontracting is prohibited, except for subcontracting schemes for the provision of specialized services. Therefore, payments derived from labour subcontracting are not deductible, except for specialized services. In this case, outsourcing services providers working as subcontractors must be registered in a special labour registry in order to render their services and to allow the deduction of these payments. The contractor will no longer be required to withhold IVA on these transactions. The contractor must gather proof from the outsourcing services provider that evidences that the latter fulfilled its tax obligations in respect of the employees used for its benefit.

1.3.3.2. Non-deductible expenses

Non-deductible expenses include, among others, the income tax itself, entertainment expenses, penalties and fines, expenses related to exempt income, expenses allocated pro rata between the Mexican resident company and other companies of the group, amortization of goodwill following a business acquisition and gifts, except those made to qualifying donees (article 28 of the LISR).

1.3.3.2.1. Payments made to preferential tax regimes

Payments made to a related party or through a structured agreement are non-deductible if the recipient of such payments is subject to a preferential tax regime (*see* section 7.4.). Nonetheless, payments made to a related party or through a structured agreement are deductible when they derive from the recipient’s business activity, provided that the recipient has the personnel and assets that are necessary to carry out such activity and he is a resident in a country that has an exchange of information agreement with Mexico. Moreover, such payments are deductible if they are taxed in Mexico as a result of the application of the CFC rules or anti-hybrid rules.

1.3.3.2.2. Interest payments

For limitations on interest deductibility, *see* section 7.3.

1.3.3.2.3. Double deduction

Any payment made by a resident will not be deductible when the same payment is also deducted by a related party of such resident, unless the payment received from the resident is accrued by the related party in the same or the following tax year.

1.3.3.2.4. Cost sharing agreements

In general, expenses incurred as a result of cost-sharing arrangements between residents and non-resident companies are non-deductible for income tax purposes. However, following a ruling issued by the Mexican Supreme Court in 2014, pro-rata expenses may be deductible if certain conditions are met:

- the expense is strictly necessary for carrying out the business activities of the resident;
- the cost-sharing arrangement is concluded with non-resident companies that reside in a country that has concluded a broad exchange of information agreement with Mexico;
- the expense corresponds to a service which is effectively rendered;
- where the expenditure was incurred between related parties, the price agreed must be within a range which independent parties in comparable transactions would have agreed (arm’s length); and
- the resident retains the documents that support the arrangement and prove compliance with all the requirements mentioned above.

Although the tax authorities were not obliged to follow this ruling, the tax authorities issued under the SAT Regulations a rule based on the Supreme Court’s ruling, which provides the requirements of deductibility of pro-rata expenses paid to foreign companies. However, such requirements exceed in length and detail those established in the ruling. These requirements draw special attention to the characteristics that arrangements related to pro-rata expenses entered between related parties must meet and to the existence of evidence to demonstrate that (i) the expected benefits were received, (ii) the distribution of expenses was made in accordance with objective tax and accounting elements, and (iii) there was a valid business reason.

IVA and excise taxes paid by or charged to the taxpayer are deductible if the taxpayer is not entitled to claim a tax credit or refund, provided that the chargeable transaction is itself considered to be a deductible item.

The “employment subsidy” granted to employees is not a deductible expense for the employer.

1.3.4. Depreciation and amortization

Depreciation is calculated by applying a fixed rate of depreciation on the acquisition cost. The acquisition cost may include expenses incurred in connection with the purchase, transportation, installation, assembly and similar activities necessary to make the fixed assets ready for use. Depreciation tax rules do not follow depreciation accounting rules. However, the amount to be depreciated for tax purposes is similar to amount to be depreciated under financial accounting standards. Additionally, depreciation rates for tax purposes are similar to those established for accounting purposes.

Depreciation is calculated using the straight-line method (article 34 of the LISR).

Depreciation expenses may be deductible from the date on which a fixed asset is put into use, or from the beginning of the following year.

Depreciation expenses must be deducted in the year incurred irrespective if such expenses generate a tax loss. Tax losses may be carried forward for a 10-year period (*see* section 1.5.1.).

Depreciation occasioned by the normal wear and tear of assets used in business activities is calculated up to a maximum annual depreciation rate.

Examples of depreciation rates are:

Asset	*Rate (%)*
Construction	5
Office furniture and equipment	10
Computer hardware	30
Aircraft	10
Automobiles, vans, trucks	25
Fixed infrastructure for hydrocarbon transportation, storage and processing on oil drilling platforms and vessels, and hydrocarbon processing and storage vessels	10
Environmental machinery and equipment	100

Depreciation is calculated on the amount deductible for tax purposes. Automobiles are deductible up to MXN 175,000 and hybrid, electric or hydrogen-powered automobiles up to MXN 250,000 (article 36 of the LISR).

No depreciation deductions are allowed in relation to land, holiday homes and, in general, to any assets acquired in order to be disposed of in the ordinary course of business, such as inventory.

Amortization is calculated using the straight-line method. Taxpayers may amortize intangible assets, such as deferred charges, pre-operating expenses, royalties and technical assistance up to a specified maximum annual amortization rate.

Examples of amortization rates are:

Intangible asset	*Rate (%)*
Deferred charges	5
Pre-operating expenses	10
Royalties and technical assistance	15

Immediate deduction was available for 2016 and 2017 for investments made in new fixed assets by companies that carry out activities in any sector earning income up to MXN 100 million.

For 2016 and 2017 an accelerated depreciation for new fixed assets was also available for companies in the infrastructure sector and for equipment for the generation, transportation and supply of energy, regardless of their income level (*see* section 1.7.1.).

Both the immediate deduction and the accelerated depreciation as referred to above are no longer available as of 1 January 2018.

In case of disposal of assets the difference between the acquisition cost less the depreciation expenses is taxable income.

1.3.5. Reserves and provisions

Reserves and provisions are generally no deductible, except if they are related to future or contingent payments to employees.

Reserves for employees' pension plans in excess of amounts mandated by law have a deductibility limit of 47%. The deductibility limit may be increased to 53% if the employer does not reduce fringe benefits in the tax year in comparison with the previous tax year.

Reserves and provisions for anticipated but unrealized losses, bad and doubtful debts, replacement of assets, self-insurance, environmental costs, among others, are also not deductible.

Insurance companies may deduct amounts required for the creation and augmentation of reserves for risks and for obligations for damages.

1.4. *Capital gains*

Capital gains derived from the sale of fixed assets, immovable property and securities are included in gross income and are subject to corporate income tax (article 18-IV of the LISR). Capital gains realized by a resident taxpayer from the liquidation of a non-resident company, or a capital reduction of a non-resident company, are subject to corporate income tax. Capital gains arising from mergers or divisions are subject to special rules (*see* section 1.3.2.). Capital gains or losses must be calculated when the fixed assets, immovable property or securities, are totally or partially transferred (i.e. sale, gifts, contributions or part-sales). Rollover relief is not available. There are no exempt capital gains.

Capital gains realized by non-residents from the transfer of shares or securities representing Mexican real estate are deemed Mexican-source income if more than 50% of the value of the shares or securities corresponds, directly or indirectly, to real estate located in Mexico (*see* section 6.2.1.).

1.5. *Losses*

Net losses are the amount by which allowable deductions exceed gross income (article 57 of the LISR).

1.5.1. Ordinary losses

In general, net losses include operating losses as well as capital losses unless the latter are expressly disallowed (i.e. capital losses resulting from the disposal of shares and other securities; *see* section 1.5.2.). Losses may be carried forward for a 10-year period. No carry-back is allowed. The amount of net losses is subject to inflationary adjustment. There is no limit to the amount of tax losses that can be offset in a tax year; however, any losses that could have been, but were not, used in a particular tax year may not be carried forward.

Losses may not be transferred to another company even within the same group (*see* section 2.1.). In the case of a merger, net losses are not transferable from the merging company to the surviving company, and net losses generated by the latter may only be set off against profits derived from the same type of activities that generated the losses. In split-offs and reorganizations, however, net losses accumulated by the original company may be divided between the resulting companies that carry on the same type of activities. If the original company was mainly engaged in commercial activities, the net loss is allocated in proportion to the inventories and accounts receivable; otherwise, the net loss is allocated in proportion to the division of fixed assets.

Where there is a change in the ownership and control of a company, losses may generally be carried forward. However, if the accumulated losses at the end of the tax year during which the change in ownership or control occurs exceed the total income of the previous 3 tax years, the losses carried forward may only be set off against profits from the same type of activities that generated the losses. In June 2018, the Congress passed new legislation that establishes a presumption of the illegal transfer of losses in the case of change in the ownership and control of the entity. For foreign losses, *see* section 6.1.2. The tax reform for 2022 introduced new cases where it is deemed that a change in the control of a company took place.

Depreciation expenses must be deducted in the year incurred irrespective if such expenses generate a tax loss.

1.5.2. Capital losses

Capital losses resulting from the disposal of shares and other securities are not deductible. Nevertheless, capital losses may be set off against capital gains realized in the same tax year or the following 10 tax years. No carry-back is allowed. Excess losses may be carried forward for 10 years to be set off only against gains from the disposal of shares or other securities. The losses are adjusted for inflation. Other limitations and requirements to set off capital losses may apply depending on the type of securities involved (e.g. whether the securities are traded on or off the stock exchange).

Unlike capital losses from the disposal of shares and securities, capital losses arising from the disposal of other assets (e.g. real estate) can be set off against any income and carried forward for a 10-year period.

1.6. *Rates*

1.6.1. Income and capital gains

Corporate income tax is assessed at a flat rate of 30% (article 9 of the LISR).

Capital gains are taxed as ordinary income and there is no separate tax rate for capital gains. However, capital gains are calculated through a separate method (e.g. sale of shares, sale of real property). The calculated capital gain is deemed to be accrued income and is then added to other income of the company for the tax year. The regular corporate income tax rate applies to capital gains. Where a capital loss arises from a sale of shares, the loss is not added to other losses generated by the company; such losses may only be set off against capital gains generated from disposals of shares.

Non-residents without a permanent establishment are generally subject to a final withholding tax on their gross income (*see* section 6.2.1.).

1.6.2. Withholding taxes on domestic payments

No withholding tax applies on payments made to domestic companies.

However, interest paid by institutions forming part of the financial system (“financial institutions”) is subject to an annual withholding tax which operates as an advance payment of the income tax payable by the recipient of the interest. The amount withheld by the financial institution must be paid to the tax authorities within the first 17 days of the month following the month in which it was withheld.

The withholding tax is imposed on the capital on which interest is paid and must be withheld annually. The withholding tax rate for 2022 is 0.08%. The income tax withheld may be credited against income tax advanced payments (*see* section 1.8.3.).

Financial institutions are not obliged to withhold tax if the interest is paid to qualified companies including, inter alia, the federation, states and municipalities, political parties, qualifying donees, and on interest paid among and between the central bank, institutions forming part of the financial system, and special investment companies specializing in retirement funds.

The legal concept “financial institutions” comprises, among others, credit, insurance and bonding institutions, financial group holding companies, bonded warehouses, retirement fund management companies, financial leasing companies, credit unions, etc. The concept furthermore includes the central bank.

For withholding tax rates on payments to non-residents, *see* section 6.3.

1.7. *Incentives*

1.7.1. Accelerated depreciation

An accelerated depreciation incentive for new fixed assets and first-use-in-Mexico fixed assets was available for 2016 and 2017 to taxpayers whose taxable income does not exceed MXN 100 million.

For 2016 and 2017 accelerated depreciation for new assets was also available to companies in the infrastructure sector and for the equipment for generation, transportation and supply of energy, regardless of their level of income (*see* section 1.3.4.).

Both the immediate deduction and the accelerated depreciation as referred to above are no longer available as of 1 January 2018.

1.7.2. R&D

Taxpayers investing in research and development of technology may credit against their annual income tax due 30% of the incremental expenses incurred and the investments made for such purposes. The tax credit is equal to the R&D expenses incurred and investments made in excess of the average R&D expenses incurred and expenses made in the previous 3 years. The tax credit will not be taxable for income tax purposes.

A committee set up by the government is in charge of analysing and approving R&D credits. Taxpayers must file an information return in February of each year providing the details of R&D expenses. The tax incentive is limited, per taxpayer, up to MXN 50 million.

This incentive may not be combined with other tax incentives (article 202 of the LISR). In this regard, administrative rule 3.21.1.1. determines the regimes and tax benefits that cannot be cumulatively used with this incentive.

Some states also grant benefits on R&D investments, e.g. tax credits on local taxes, cash grants and discounts on ancillary costs.

1.7.3. Tax credit for film and national theatre productions, visual arts, dance and music

Taxpayers are entitled to a tax credit against their annual income tax and the advance income tax payments, equal to the investments made in film production in Mexico. The tax credit applies to investments aimed specifically at the creation of a film, visual arts, dance, the conducting of an orchestra, an instrumental performance, and vocals for concert music and jazz, through a process involving the use of human, physical and financial resources. The credit is limited to 10% of the corporate income tax assessed in the year immediately preceding its application. This tax credit is subject to compliance with a number of requirements.

On 28 January 2016, the general rules for the application of the tax incentives in the film industry were published in the Official Gazette. According to these rules, the investment project in the national film production must take into account that the estimated production end date may not exceed 2 years for documentary or fiction movies and 3 years for animated films, from the tax year] in which the tax incentive is granted. Films of any category must be played at theatres within the following 2 years from the production end date.

Administrative rule 3.21.1.1. determines the regimes and tax benefits that cannot be cumulatively used with the tax incentives granted to the film industry.

Companies are also entitled to a tax credit equal to the investments in national theatre productions, literature works, visual arts, dance, the conducting of an orchestra, an instrumental performance, and vocals for concert music and jazz. This tax credit (i) applies to investments made within Mexican territory for the staging of dramatic plays, visual arts, dance, orchestra conducting, instrumental performance, and vocals for concert music and jazz; (ii) is subject to compliance with a number of requirements; (iii) must not exceed 10% of the corporate income tax assessed in the year immediately preceding its application; and (iv) is expressly excluded from accrued income.

On 29 February 2016, the general rules for the application of tax incentives in the theatre industry were published. According to these rules, the investment project in the theatrical production must consider that the estimated production end date should not exceed 3 years from the tax year in which the tax incentive is granted (article 190 of the LISR).

Administrative rule 3.21.1.1. determines the regimes and tax benefits that cannot be cumulatively used with the tax incentives granted to the theatre industry.

1.7.4. Tax deduction regarding handicapped and elder employees

Employers that hire handicapped employees are entitled to deduct, for income tax purposes, 25% of the salaries effectively paid to such employees. Employers that hire employees who are 65 years or older are allowed to deduct, for tax purposes, 25% of the salaries effectively paid.

1.7.5. Advance payments

The option of deducting the mandatory profit-sharing payments made during the tax year (*see* section 1.3.3.1.), and the tax credit for film production (*see* section 1.7.3.) to calculate the tax base for monthly advance payments (*see* section 1.8.3.) are allowed with certain requirements and restrictions.

1.7.6. IMMEX companies

Mexico has adopted policies favouring the establishment of IMMEX companies (formerly known as *maquiladora* companies), which process or assemble imported materials and parts for resale to the country of origin or other parts of the world. One of the favourable policies is that the non-resident principal is generally shielded from permanent establishment exposure in Mexico, provided that:

- the IMMEX company engages with the non-resident principal in "*maquila* operations", a concept that was previously defined by the IMMEX Decree but that now is contained in the LISR;
- the non-resident's country of residence has entered into a tax treaty with Mexico; and
- the IMMEX company's taxable profit is at least 6.9% of the value of the assets used during the *maquila* operation or 6.5% of the total costs and expenses of the *maquila* operation, whichever is greater. The profit is calculated without the application of transfer pricing rules.

The LISR provides the scope of "*maquila* operations" which used to be broader under the IMMEX Decree. The effect of this amendment was to limit the availability of the favourable regime available to IMMEX companies and their investors.

One of the main changes to the concept of "*maquila* operations" was that 100% of the income derived from the *maquila's* productive activities must be derived from export operations or related activities, and not a minimum of 10% as established under the IMMEX Decree. For these purposes, the following activities are considered as related to *maquila* operations:

- administrative, technical or engineering services, provided by the IMMEX company to its related parties;
- leasing of movable and immovable property (lease agreements with unrelated parties must not exceed a 3-year period);
- sale of waste and shrinkage of material used in its productive activities;
- sale of movable assets (excluding inventory and finished goods) and immovable property;
- interest; and
- other income related to its productive activity, provided these are different from the ones obtained from the sale and distribution of finished goods for its further resale.

The conditions permitting activities related to *maquila* operations are: (i) the total income arising from activities related to *maquila* operations (except sale of movable assets and immovable property which are subject to special rules) may not exceed 10% of the total income of the IMMEX company; (ii) income arising from such activities and from *maquila* operations must be segregated in the IMMEX company's accounting records thereby identifying the parties with which these activities and services are carried out; (iii) a transfer pricing study must prove that the income arising from each of the activities related to *maquila* operations was agreed at arm's length; (iv) the relevant information return must be filed including information about each type of income arising from the activities related to *maquila* operations.

The following restrictions apply to income arising from activities related to *maquila* operations: (i) safe harbour rules are not applicable. This means that IMMEX companies are subject to income tax on their income under the same rules as any tax resident and (ii) the tax incentive which permits a deduction for income tax purposes, of an amount equal to 47% of tax-exempt benefits paid by IMMEX companies to their employees (*see* section 1.3.3.1.), is not applicable.

In order to apply the benefits of "*maquila* operations", at least 30% of the machinery and equipment used in the operation must be owned by the non-resident principal. Other machinery and equipment used in the operation may be (i) owned by a non-resident third party having a commercial manufacturing relationship with the principal, provided that such machinery and equipment has not previously belonged to the IMMEX company or to a Mexican related party; (ii) owned by the IMMEX company directly, provided that it was not owned previously by a Mexican related party of such company; or (iii) leased to a non-related Mexican or foreign party, provided that it was not owned previously by a Mexican related party of the IMMEX company. This provision was enacted to avoid the so-called conversions into "*maquila* operations". For example, to avoid that resident companies, whose operations were not regarded as "*maquila* operations", transferred their machinery and equipment to their non-resident principal to make their operations qualify as "*maquila* operations".

Companies with an IMMEX Programme authorization obtained before 31 December 2009 were excluded from complying with the 30% ownership required through a grandfather clause established in the IMMEX Decree. The LISR replicates the minimum percentage of ownership required, but does not include a grandfather clause. Companies with an IMMEX Programme obtained before 31 December 2009 must have complied with the minimum percentage of ownership required before 1 January 2016.

Raw materials supplied by the non-resident principal must be imported by the IMMEX company under a temporary regime and thereafter exported. Foreign raw materials may also be supplied by a non-resident third party having a commercial manufacturing relationship with the non-resident principal. Mexican raw materials or foreign raw materials that have been imported under a definitive import regime may also be used to the extent that they are exported together with the finished product. Transformed or repaired goods must be transferred for exportation duly evidenced by an export declaration.

The amendments that limited the circumstances in which service companies would be eligible for the concessions available to IMMEX companies remain under the "*maquila* operations" concept under the LISR. Under these rules, service companies are generally not eligible for these benefits unless their services are included within a very limited list (e.g. labelling or classification services, packing services, or product development).

Non-residents do not have a permanent establishment in Mexico as a consequence of their operations with IMMEX companies that (i) operate as a shelter (i.e. where the non-resident provides technology and raw material without operating the IMMEX company directly); and (ii) are taxed as regular corporate taxpayers, provided that the following requirements are met:

- the non-residents are not related parties to the IMMEX shelter company; and
- the IMMEX shelter company provides timely information to the tax authority on the *maquila* operations, including those carried on by related parties.

Until 2019, the LISR provided that operations such as a shelter by IMMEX companies were only allowed for a 4-year period. As from 2020, this limitation is no longer effective.

Moreover, as from 2020, IMMEX companies operating as a shelter must comply with the obligations established by article 183-bis of the LISR. Among others, IMMEX companies operating as a shelter are jointly and severally liable for the determination and payment of the non-resident's tax debt.

Amendments introduced to the Labour Law and various tax laws in April 2021 regarding labour outsourcing do not affect the *maquila* programme nor the corresponding business model.

1.7.7. REITs

Real estate investment trusts (REITs) duly registered with the tax authority are entitled to certain tax incentives (e.g. not obliged to make advance payments).

As from 2020, in order to benefit from this tax incentive, fiduciaries of public REITs are required to provide the SAT with information on the beneficiaries and real estate property contributions made to the REIT.

As from 2020, this incentive is no longer applicable to private REITs.

1.7.8. Strategic fiscal precincts

Strategic fiscal precincts are granted several administrative facilities, including expediting procedures of authorizations by granting automatic extensions, obtaining the certifications required for IVA and IEPS purposes, and the possibility to introduce domestic goods without considering exportation.

1.7.9. Corporate tax incentive

Up to and including December 2021, companies consisting solely of individuals whose income for the immediately preceding tax year did not exceed MXN 5 million were given the option to determine their income tax on a cash basis (articles 196 to 201 of the LISR). This regime was eliminated from 1 January 2022. The new Simplified Trust Regime (*Régimen Simplificado de Confianza*, RESICO) will be applied instead, subject to certain conditions.

The RESICO regime has been set up as a corporate tax incentive, but is mandatory for small companies consisting solely of individuals.

The new regime will benefit legal entities that are tax residents of Mexico and consist solely of individuals, which total income in the immediately preceding tax year did not exceed MXN 35 million. Legal entities commencing activities and estimating that their total income will not exceed the amount indicated above may also apply this regime. The maximum amount of income derived during the preceding year will be determined according to the corresponding invoices issued by the taxpayer.

Under this regime, income tax liability is computed on a cash-flow basis. Specific rules apply regarding accruable income, deductions and investments as well as to taxpayers that have inventory of merchandise. In addition, a proposed scheme of deduction of investments applies. Accordingly, legal entities must apply a maximum percentage (established depending on the type of asset) on the value of the investment, provided that the investment does not exceed MXN 3 million in the fiscal year. If this amount is exceeded, the maximum percentages provided for in Title II of the LISR apply instead. All deductions must comply with the general requirements established by the LISR. Nonetheless, some of them are not applicable because of the cash flow system of this regime, such as the cost of goods sold.

Taxpayers that, as of 1 January 2022, were taxed in accordance with the provisions of Title II of the LISR, or opted to determine their income tax on a cash basis according to articles 196 to 201 of the LISR, which have been repealed, must apply the provisions of the RESICO, provided that they comply with the regime's requirements. Such taxpayers must submit to the SAT, by 31 January 2022, a notice updating their economic activities and obligations. In case the taxpayer fails to file the aforementioned notice, the SAT is entitled to update such activities and obligations. Taxpayers that no longer meet the requirements necessary to continue applying this regime are required to, from the following fiscal year, comply with their obligations under the general income tax regime.

It is expected that the SAT will issue administrative rules to cover different situations not foreseen by the legislation in force.

1.7.10. Investments made in high-performance sports

Taxpayers investing in infrastructure projects of high-performance sports, as well as in programmes designed for the development, training and competition of Mexican high-performance athletes, may credit against their annual income tax the contributions made to those projects. The amount of the tax credit may not exceed 10% of their annual income tax of the previous tax year. The tax credit is not taxable for income tax purposes. The incentive to be distributed is MXN 400 million, limited to MXN 20 million per taxpayer, investment project or programme (article 203 of the LISR).

Administrative rule 3.21.1.1. determines the regimes and tax benefits that cannot be cumulatively used with this tax incentive.

1.7.11. Electric vehicle power feeders

Gasoline providers are entitled to a 30% credit on investments made to include power feeders in their stations, creditable against income tax payable in the year the investment is made. Feeders must be physically fixed to publicly accessible service points. If the tax credit exceeds the taxpayer's income tax payable for the tax year, the taxpayer may apply the credit balance against the income tax for the following 10 tax years (article 204 of the LISR). The tax credit is not taxable for income tax purposes.

1.7.12. Income tax incentive for the northern and southern borderline region

A tax incentive is provided for individuals and entities resident in Mexico, as well as for residents abroad with a permanent establishment in Mexico.

The incentive consists in applying a tax credit equivalent to the third part of the income tax accrued during the tax year or of the advance payments against the accrued income tax on the portion of the income derived from the northern and southern border region. This incentive will be in force until 2024.

In order to apply this incentive, the following requirements must be met, among others:

- the revenue is solely accrued from the northern or southern border region. Revenue is considered to be solely accrued from such region when such revenue represents at least 90% of the total revenue during the respective period;
- taxpayers must file a notice before the SAT to be registered at the Incentive Beneficiaries Registry for the northern border region or at the Incentive Beneficiaries Registry for the southern border region by 31 March of the corresponding tax year. Taxpayers starting activities after 1 January 2021 must file such notice before the SAT within the month following their registration at the Federal Taxpayer Registry

or following the filing of the notice to open a branch or establishment in the northern or southern border region. The notice is valid during the tax year in which it is filed. Thus, to renew the benefits granted under this incentive the taxpayer must file a new notice no later than 31 March of the corresponding fiscal year;

- having maintained the fiscal domicile, branch agency or establishment in the northern or southern border region at least 18 months prior to their registration at the Registry. For taxpayers that do not comply with this permanency requirement, additional requirements are provided that must be met in order to request their registration at the Registry, such as being economically capable, having the assets and facilities to perform the operations and business activities in said region, among others; and
- collaborating with the SAT on an annual basis by participating in its real time verification programme.

This incentive does not apply in respect of revenues deriving from (i) intangible assets, and (ii) activities within digital commerce, except for those determined by the SAT through general rules.

The following persons are not eligible for this incentive:

- credit, insurance and bonding institutions, general deposit warehouses, financial leasing and credit unions;
- those carrying out activities through trusts; and
- those listed as taxpayers that carry out non-existent operations in terms of the CFF or that have any partner or shareholder that is likewise listed, or those who have carried out operations with any listed taxpayer, without evidencing the materiality of the operation in question before the SAT, among others.

Taxpayers who request their removal from the Registry will not be able to reapply for the benefits granted under this tax incentive.

Administrative rule 11.4.15 specifies the tax advantages that may be cumulatively used with this incentive.

1.7.13. Tax incentives aimed at encouraging funding for the bond market

Different tax incentives aimed at encouraging funding for the bond market and increasing the capital market development entered into force on 8 January 2019.

Such tax incentives are the following:

- A tax credit granted to Mexican residents that are obligated to withhold income tax from interest paid to non-resident persons, derived from bonds placed on stock exchanges under the Securities Market Law. The tax incentive consists of a tax credit equivalent to 100% of the income tax incurred. Therefore, the Mexican payer must not withhold the 4.9% income tax normally levied on such interest.

  This tax incentive applies to interest paid by issuers to holders or beneficiaries of bonds who are resident of a country or jurisdiction with which Mexico has signed a treaty to avoid double taxation or a broad information exchange agreement.
- A tax incentive granted to resident individuals and non-residents who are initial shareholders before the initial public offering, during fiscal years 2019 to 2025.

  This incentive consists in applying a 10% income tax rate on the gains derived by such taxpayers from the disposal of shares issued by Mexican resident companies on recognized stock exchanges, in accordance with the Securities Market Law.

In order to apply this incentive, the following requirements must be met:

- The disposal of shares on the stock exchange, deemed placed among the investing public, is performed through an initial public offering of a Mexican company which has not been previously listed on recognized stock exchanges in accordance with the Securities Market Law, or on the recognized markets referred to in article 16-C, section II of the CFF.
- The value of the stockholders' equity of the Mexican company whose shares are disposed of does not exceed MXN 25 billion.
- The disposal is not deemed as performed off exchange and it is not the result of the merger or spin-off of companies. Moreover, shareholders who control or hold more than 10% of the shares representing the capital stock (individually or in a group) do not transfer 10% or more of the stock of the company in a period of 24 months.

This tax incentive may also apply to initial shareholders who are resident individuals in Mexico and who control or hold more than 10% of the shares representing the capital stock (either individually or in a group). For this purpose, at least 20% of the shares of the Mexican company must have been purchased by an investment trust for venture capital (FICAPS) in Mexico, pursuant to article 192 of the LISR, whose certificates are placed among the investing public through a recognized stock exchange in accordance with the Securities Market Law, or on the recognized markets referred to in article 16-C, section II, of the CFF. Moreover, the disposal of shares must relate to a process of disinvestment carried out by the aforementioned trust to proceed with the public listing of the target company.

This incentive may also apply to investment vehicles similar to venture capital investment trusts, provided certain requirements are met.

1.7.14. Tax incentive for foreign entities managing private equity investments

Article 205 of the LISR grants a tax incentive to foreign tax transparent vehicles engaged in the management of private equity investments, which derive income from interest, dividends, rental of immovable property and capital gains from Mexican sources.

Pursuant to the tax incentive granted by article 205 of the LISR, foreign vehicles considered fiscally transparent under the laws of the jurisdiction of their incorporation, that are engaged in the management of private equity investments and that invest in resident companies in Mexico, are considered as transparent for tax purposes in Mexico. The members or partners of the relevant foreign vehicles are subject to tax in Mexico in accordance with the rules applicable to them.

This incentive applies with regard to income derived by such vehicles from interest, dividends, rental of immovable property and capital gains.

Certain requirements are established for foreign entities or vehicles in order to benefit from the tax incentive mentioned above. For instance, the foreign vehicle must be incorporated in a country or jurisdiction with which Mexico has entered into a broad exchange of information agreement as well as their members or partners. In addition, the members or partners must be the beneficial owners of the income derived by the vehicle. If one of the partners or members fails to comply with these requirements, the tax transparency of the foreign vehicle will not be recognized in the proportion of such member or partner's participation.

This incentive is effective as from 1 January 2021.

1.7.15. Tax incentive for the sale of fuels in the southern borderline region

Through a Presidential Decree published on 28 December 2020, a tax incentive is granted to individuals or entities that have a permit to sell fuels in the municipalities of the south border with Guatemala.

The incentive consists of a fixed amount to be determined by the SAT for each litre of gasoline sold. Taxpayers may credit such amount against their income tax liability and any excess may be credited against the value added tax of the same month. If after the above, there is still a remaining amount, taxpayers may request a refund.

This tax incentive applies from 2021 to 2024. Amounts received under this incentive are not considered as accrued income for income tax purposes.

1.8. *Administration*

1.8.1. Taxable period

The tax year generally coincides with the calendar year.

The tax year of a newly formed company runs from the date of incorporation through 31 December of the same year. In case of liquidations, the tax year ends on the date on which the liquidation begins and the entire liquidation period is treated as a separate taxable year. In case of mergers or split-offs, the tax year for any disappearing companies will end at the time of the merger or split-off, and the tax year of any newly formed company will start on the date of its formation and end on 31 December of the same year (article 11 of the CFF).

1.8.2. Tax returns and assessment

Mexico uses the self-assessment system whereby all companies are required to complete a tax return and compute their own liability. Companies must file their tax returns by 31 March following the end of the taxable year, including where they consolidate their tax result (*see* section 2.1.). Taxpayers that, in the previous fiscal year, obtained income equal to or greater than MXN 1,650,490,600 are obliged to have their financial statements audited by a certified public accountant.

Taxpayers are required to keep electronic accounting records and upload them electronically, on a monthly basis, to the SAT’s website. Taxpayers may opt to maintain accounting records, including documentary evidence supporting transactions, in any language. The tax authorities may request a Spanish translation from an authorized expert.

Taxpayers must report quarterly certain significant transactions. The reportable transactions are, among others, financial transactions, transactions with foreign related and non-related parties, capital participations, certain restructurings and reorganizations and other relevant transactions.

The tax reform for 2016 introduced a new procedure for tax authorities regarding taxpayers claiming tax refunds. When analysing the tax refund, tax authorities may not determine tax credits or other tax liabilities that are not tax-refund related.

The tax reform for 2016 introduced article 76-A of the LISR, which provides that certain taxpayers must file annually the Local File, the Master File and the country-by-country report informative returns. The deadline to submit these informative returns is 31 December of the following year to which they correspond (*see* section 7.2.).

1.8.3. Payment of tax

Companies must make advance payments on the 17th day of the month following the month in which transactions are carried out (article 14 of the LISR). The basis for advance payments is calculated by applying a profit factor (*coeficiente de utilidad*) to the gross income of the month. The possibility of deducting the mandatory profit-sharing payments made during the tax year (*see* section 1.3.3.1.), the accelerated depreciation of new fixed assets (*see* section 1.7.1.), and the tax credit for film productions (*see* section 1.7.3.) to calculate the base for advance payments are allowed with certain requirements and restrictions. The base is multiplied by the corporate tax rate (i.e. 30%) and the result will be the advance payment for the month. The income tax withheld may be credited against the advance payment (*see* section 1.6.2.). The advance payments constitute a prepayment of the final tax liability for the relevant year, which is calculated by applying the corporate tax rate to the taxable base (gross income less deductions, mandatory profit-sharing payments made during the tax year and ordinary loss carry-forward).

If the amount of advance payments is greater than the income tax due in the tax year, the excess is deemed to be a positive balance. Companies may opt to credit it against other taxes or request a refund from the tax authorities.

Starting 2019, the right to offset any excess taxes paid against any taxes due is limited. The law limits the offset mechanism to the same type of taxes offset (i.e. income tax against income tax due). Withholding taxes are also excluded from the offset mechanism.

1.8.4. Rulings

Both resident and non-resident companies may request advance rulings on any type of tax, provided that the request is related to a real and concrete tax situation and not to a mere hypothetical transaction. Rulings may be requested regarding transactions that have not yet been carried out. The taxpayer must provide the tax administration with: a detailed description of the business justification for the transaction, the amount involved or that may be involved in the transaction, and the facts and circumstances related to the request, along with any related documentary evidence. Moreover, the taxpayer must disclose whether the facts and circumstances have been subject to a legal controversy or judicial appeal. The outcome must also be disclosed. Whether the taxpayer is subject to an outstanding federal tax audit must also be disclosed.

Ruling decisions are binding on the tax authorities. However, they are not regarded as binding on the taxpayer and therefore may not be challenged before the courts. A taxpayer who receives an unfavourable ruling may choose not to follow it and to apply the law as he sees fit following the principle of self-assessment. In practice, however, the tax authority will know the situation and may conduct a tax audit to make sure that the taxpayer has applied the law in accordance with the tax authority’s view in the ruling (article 34 of the CFF).

2. Transactions between Resident Companies

2.1. *Group treatment*

Corporate groups (i.e. controlling and controlled companies) are permitted to file consolidated tax returns provided that stock ownership requirements are met and a proper election is made (articles 59 and 64 of the LISR). This optional taxation regime for corporate groups replaced the former consolidation tax regime and is effective from 2014.

Prior to 2014, a consolidation regime allowed companies to incorporate their business divisions, and thus limit legal liability, or diversify into different lines of business and still compute part of their taxable income as if all their business activities were conducted by a single company, for a mandatory 5-year period. The controlling company was able to consolidate taxable income of its controlled companies in proportion to the percentage of direct or indirect participation in the corporate capital of the controlled companies, and defer tax payment for a 5-year period.

Controlling companies were resident companies holding, directly or indirectly, more than 50% of the voting shares in other companies (i.e. controlled companies). A company was not allowed to be a controlling company if more than 50% of its voting shares were owned by a company which was resident in a country with which Mexico did not have a broad exchange of information agreement (*see* section 7.5.1.). Controlled companies were resident companies, in which more than 50% of voting shares were owned, directly or indirectly, by the controlling company.

Certain companies were not permitted to be included in a consolidated tax return. This limitation applied to: non-profit companies; credit institutions, insurance companies, trust institutions, auxiliary credit institutions, stock exchange companies, foreign exchange houses and capital investment companies; non-residents, even if they had a permanent establishment in Mexico; companies in liquidation; civil companies and associations and cooperatives; and companies taxed under the simplified tax regime.

However, from 2014, the consolidation regime was repealed. Taxpayers subject to the tax consolidation regime under the LISR in force until 31 December 2013 must have deconsolidated their companies no later than 31 December 2013. The controlling company must have filed its 2013 tax return and subsequently filed an amended return that reflected the tax effects of the deconsolidation upon the corresponding deferred income tax.

The deconsolidation process must have taken into account special concepts of consolidation, net operating losses which had not been used and tax losses derived from the transfer of shares. The controlling company must pay the income tax that corresponds to dividend distributions made from 1999 which did not derive from previously taxed earnings. For these purposes, taxpayers may have the affiliated companies, rather than the controlling company, pay the tax corresponding to the dividends that each of them distributed.

Taxpayers must compare the balance of its previously taxed earnings accounts (“CUFIN” and “CUFINRE” accounts, per their acronyms in Spanish) against the balance of the after-tax profits registries (“RUFINES” per its acronym in Spanish). The resulting income tax is required to be paid in five equal instalment payments, each updated for inflation. The first payment was 25% of the tax due and had to be made in May 2014, the second payment was an additional 25% of the tax due and must have been made in April 2015, the third payment was 20% of the tax due and must have been made in April 2016, the fourth payment will be for 15% of the tax due and must have been made in April 2017, and the last payment will be for 15% of the tax due and must be made in April 2018.

Consolidated groups which are still within the 5-year mandatory period will continue consolidating for the years that remain of such period. For these groups, the deconsolidation process described in the previous paragraph will take place when the 5-year period expires.

From 2014, a new optional taxation regime for corporate groups was introduced in the LISR. This new optional regime substantially includes the same requirements as in the repealed consolidation regime. However, certain additional requirements must be met.

The repealed consolidation regime allowed for a 5-year tax deferral, while the new optional regime reduces the tax deferral to 3 years. This new regime requires controlling companies to hold more than 80% of the voting shares in controlled companies. In addition to the companies that were not permitted to be included in a consolidated tax return under the repealed regime, the new optional regime does not allow the inclusion of IMMEX companies, air transport companies and companies with net operating losses that have not been used prior to inclusion.

2.2. *Intercompany dividends*

Dividends paid between resident companies out of corporate profits that have been subject to the general corporate income tax (i.e. that are paid out of the "CUFIN" account) will not be subject to additional income tax. The dividend increases the recipient's CUFIN account balance.

Otherwise, dividends are subject to an "equalization tax" (*see* section 3.1.) imposed on the payer of the dividend and calculated as the general corporate tax rate multiplied by the grossed-up the dividend (i.e. the profit distribution multiplied by 1.4286).

For example, if the dividend distributed is MXN 100 and the CUFIN account balance is MXN 200, the dividend is not subject to further taxation. However, if the dividend distributed is MXN 100 and the CUFIN account balance is MXN 40, the equalization tax must be calculated on the difference: MXN 60 (100 – 40).

Equalization tax = MXN 60 × 1.4286 × 30% = MXN 25.71

Dividends received by a resident company from a foreign subsidiary must be included in the calculation of the annual income tax. Resident companies are not obliged to consider foreign dividends in the calculation of their income tax advance payments. Income tax paid abroad on the dividends received is creditable against the income tax due in Mexico, provided certain conditions are met (*see* section 6.1.4.).

For withholding taxes, *see* section 1.6.2.

3. Other Taxes on Income

3.1. *Equalization tax on dividends*

When dividends are paid out of profits that have not been subject to the general corporate income tax (i.e. there is an insufficient balance in the CUFIN account), the "equalization tax" on dividends must be paid. It is calculated by applying the general corporate income tax rate to the profit before tax that would have been required to make the dividend distribution out of after-tax profit (article 10 of the LISR). The profit before tax is calculated by applying a gross-up formula (i.e. the amount of the dividend multiplied by the factor 1.4286).

The company paying the dividend may credit the income tax on dividends against its income tax payable at the end of the current tax year and during the following 2 tax years. This ensures that the corporate profits are not taxed twice at the corporate level. Once the Mexican company credits the income tax on dividends, it must reduce the balance of the CUFIN account by the dividend distributed.

Theoretically, the shareholder is the only taxpayer under the Mexican imputation system. The income tax paid by the company is considered an advance payment on account of the final tax imposed on the shareholder.

There are three possible scenarios:

- a dividend distributed to another Mexican tax resident company: the dividend increases the latter's CUFIN account balance;
- a dividend distributed to a Mexican tax resident individual: the individual is taxed on the profit before tax from which the dividend was distributed. The individual credits the income tax paid at the company level against his liability for tax on the dividend and is subject to the 10% withholding tax on dividends established in the LISR.; or
- a dividend distributed to a non-resident individual or company: dividends paid to non-residents are only subject to the 10% withholding tax on dividends established in the LISR.

For example, if during the tax year a resident company distributes a dividend of MXN 100 to a resident or non-resident company or individual and there is no balance in the resident distributing company's CUFIN account, the equalization tax on the dividend would be calculated as follows:

- gross-up profit: 100 × 1.4286 = 142.86 (A)
- equalization tax on dividends: 142.86 × 30% = 42.86 (B)
- dividend distribution: A – B = 100

In this way, the equalization tax is effectively imposed as if the resident company had earned a profit before tax of MXN 142.86 on which it paid corporate income tax (i.e. the MXN 42.86 income tax on dividends). The difference between the profit before tax (MXN 142.86) and the tax paid on such profit (MXN 42.86) is the dividend that will be distributed.

An insufficient balance in the CUFIN account may arise when the distributing company has generated accounting (book) profits that have not been subject to corporate income tax because there is a difference between accounting profits and taxable profits. This may occur as a result of temporary differences between accounting profits and taxable profits (e.g. where deductions are available for tax purposes for expenses that are either not recognized for accounting purposes or recognized in subsequent years). For example, a resident company pays a dividend of MXN 800. The CUFIN account has a balance of MXN 700. Therefore, MXN 700 is not subject to the "equalization tax" because it is covered by the CUFIN account. The CUFIN balance is then zeroed and MXN 100 is taxed as described above:

End of year 1	*Tax*	*Accounting*
Income	1,200	1,200
Deduction (-)	200	-
Profit (=)	1,000	1,200
Income tax calculated (× 30%)	300	300
Net profit (=)	700 – CUFIN	900
Income tax paid	300	

The resident company may credit the equalization tax on dividends (i.e. MXN 42.86) against the income tax generated in the current tax year or during the following 2 tax years. For example:

End of year 2	*Tax*	*Accounting*
Income	1,100	1,100
Deduction (-)[1]	-	200
Profit (=)	1,100	900
Income tax calculated (× 30%)	330	330
Net profit (=)	770 – CUFIN	570
Income tax paid	287.14 (330 – 42.86)	

1. Reconciliation of temporary difference between tax deductions and accounting expenses.

Once the Mexican company credits the equalization tax on dividends, the CUFIN account balance must be reduced by the amount of the dividend distributed. In the above example, the MXN 100 dividend distributed out of accounting profits reduces the CUFIN balance from MXN 770 to MXN 670.

There is interplay between crediting the income tax on dividends and the subsequent reduction of the CUFIN balance. When the Mexican resident company distributed an MXN 100 dividend, it paid in advance MXN 42.86 of income tax as if it had an MXN 100 CUFIN balance to make such distribution. Therefore, the resident company is entitled to credit MXN 42.86 against the income tax of the current year or of the next 2 years because it is a tax that the company has already paid. The resident company must reduce the newly generated CUFIN balance with MXN 100 corresponding to the dividend distributed because the balance has already been used to make the dividend distribution.

3.2. *Income tax on dividends*

In addition to the equalization tax, a 10% final withholding tax is levied on dividends or profits distributed by resident companies or permanent establishments in Mexico in the following scenarios (article 164 of the LISR):

- the recipient of the distribution is a resident individual or a non-resident, including both individuals and companies; and
- a permanent establishment that a non-resident has in Mexico remits profits to its main office or to another permanent establishment located abroad.

The taxpayer will be the beneficiary of the dividend or profit distribution, but the company making the distribution will be responsible for withholding the 10% tax on the net distribution.

Under this procedure, resident individuals will accrue gross dividends (i.e. before corporate tax has been applied to the corporate profit from which the dividend is paid) and may claim a tax credit for the corporate income tax paid by the distributing company. However, the additional 10% withholding tax on dividends is a final tax that is not creditable.

For non-residents, the 10% tax rate on dividends could be reduced or eliminated by virtue of the tax treaties signed by Mexico (*see* section 6.3.5.).

The tax on dividends will only be levied on profits generated prior to 2014 that have not been subject to corporate tax, and on profits earned from 2014. Companies must maintain a CUFIN account that registers profits generated up to December 2013 and a separate account for 2014 and after. If such accounts are not kept or they do not clearly identify profits by the tax year in which they were generated, they will be presumed to be generated from 2014 and thus be subject to the 10% tax upon distribution.

3.3. *State corporate income tax*

No state or local (e.g. municipal) taxes are levied on income.

3.4. *Tax on hydrocarbons exploration and production activities*

Aside from payments made by companies to the federal government pursuant to the terms of each exploration and production contract, companies engaged in the hydrocarbons exploration and production activities are subject to pay the tax on hydrocarbons exploration and production activities (THEPA). The purpose of the THEPA is to repair ecological damages caused to states and municipalities as a result of hydrocarbons exploration and production activities. The THEPA must be paid on a monthly basis as follows:

Phase of activities	*Monthly tariff (per square kilometre)*
Exploratory phase	MXN 2,020.27
Production phase	MXN 8,081.17

3.4.1. Special rules for resident companies

Resident companies engaged in the exploration and production of hydrocarbons activities are granted a series of tax incentives and preferential provisions (e.g. these companies are not subject to thin-capitalization rules). Preferential depreciation rates on investments pertaining to the hydrocarbons exploration and production stages may be applied as follows:

- investments pertaining to the exploration stage: 100% depreciation in the tax year in which the investment is made;
- investments pertaining to the production stage: 25% depreciation each tax year; and
- investments in ancillary assets to the operation: 10% depreciation each tax year.

Companies engaged in deep-water exploration and production of hydrocarbons activities may carry forward their net operating losses for 15-years.

Regardless of their income level, assignees and contractors under the Hydrocarbon Revenue Law must retain the transfer pricing supporting documentation.

3.4.2. Special rules for non-resident companies

Non-residents who render any kind of services in Mexico in connection with hydrocarbon exploration and production activities are deemed to have a permanent establishment in Mexico, but only if such activities last more than 30 days in any 12-month period.

Employment income derived from an employment exercised by non-resident individuals in Mexico and paid by a non-resident is subject to tax in Mexico if such employment is exercised for more than 30 days in any 12-month period.

3.4.3. Incentive plan for hydrocarbons exploration and extraction activities

On 18 April 2016, the incentive plan for hydrocarbons exploration and extraction activities was published in the Official Gazette. The incentives were granted due to the decrease of oil prices worldwide, which affected taxpayers performing exploration and extraction of hydrocarbons caused by the reduced deductions allowed under the current tax regime. The tax incentive consisted of approving greater deductions for costs, expenditures and investments incurred in connection with such activities. This incentive was repealed on 31 January 2020.

4. Taxes on Payroll

4.1. *Payroll tax*

The states and Mexico City levy a payroll tax on wages paid for dependent personal services. The tax is generally imposed at a flat rate of 3%, applied to the gross salaries paid by employers. Certain states may apply rates between 2% and 4% and may grant exemptions to promote employment in underdeveloped regions.

The payroll tax is deductible as an ordinary expense for income tax purposes.

4.2. *Social security contributions*

Employers and employees must make monthly contributions to the social security system (*Instituto Mexicano del Seguro Social*, IMSS). In addition to paying their own contributions, employers must withhold and remit the contributions of their employees (article 5A section XV of the Social Security Law (*Ley del Seguro Social*, LSS).

As an exceptional measure, in view of the COVID-19 pandemic, employers may submit a request before the IMSS for an instalment agreement for the payment of social security contributions. In such a case, employers are required to make a down payment of 20% of the social security contributions due from them and of 100% of the social security contributions due from their employees. Social security contributions are calculated on the basis of the "integrated employee's salary". Any amount paid as a result of the provision of subordinated services is part of the integrated employee's salary (salaries, fringe benefits, etc.). The employee's salary may not be less than the general minimum salary. The maximum base for calculating the contributions is 25 times the value of the UMA. The daily value of the UMA, as from 1 February 2022, is MXN 96.22. This value was updated on 10 January 2022.

Subject to certain limitations, some items are not regarded as increasing the employee's earnings for purposes of calculating the IMSS contributions (e.g. savings funds, overtime that is paid double, punctuality and assistance bonuses, meals, and food coupons (with limitations or caps)).

Social security contributions made by employers are deductible. However, social security contributions due by employees that are actually made by the employers are non-deductible.

Employers' contributions made during 2022 are calculated by applying the rates as shown in Table 1.

For employees' contribution rates, *see* Individual Taxation section 3.

4.3. *Other taxes*

4.3.1. Housing fund contribution

Under the National Employees' Housing Fund Institute Law *(Ley del Instituto del Fondo Nacional de la Vivienda para los Trabajadores*, LINFONAVIT) employers must make contributions to the National Housing Fund, which is administered by the federal government agency called National Employees' Housing Fund Institute (INFONAVIT). These contributions are calculated bi-monthly applying the rate of 5% to the value of the UMA (except for certain items set out in the INFONAVIT Law) for each employee. Contributions made to the INFONAVIT are a deductible expense for income tax purposes.

Table 1

Compulsory social insurances	***Contributions***	
	Employer	***Total (employer + employee)***
Occupational risks	Maximum = 15.00% Minimum = 00.50%	Depending on the accidents and illnesses registered during the previous year
Illness and maternity	(a) in-kind benefits:	20.40%
	20.40% of the value of one UMA plus:	
	If the employee's earnings are greater than three times the value of the UMA:	
	1.10% of the difference between the employee's earnings and three times the value of the UMA	1.50%
	Plus	
	(b) benefits in kind – pensioner: 1.05%	1.425%
	Plus	
	(b) economic benefit: 0.70%	0.950%
Disability and life	1.75%	2.375%
Retirement (the insurance is paid every 2 months):	2.00%	2.000%
Mandatory retirement and old age	3.15%	4.275%
Child care and social benefits	1.00%	1.000%

Under the original scheme, the INFONAVIT built low-income housing for employees. Employees may request and obtain a loan granted by the INFONAVIT to acquire such housing. In such a case, the employer must withhold the loan repayments from the employee's compensation.

5. Taxes on Capital

5.1. *Net worth tax*

Mexico does not levy a net worth tax.

5.2. *Real estate tax*

Real estate is subject to municipal taxation at rates that range from 0.05% to 3%. The tax rates vary based on the location and type of real property (i.e. town or countryside, and with or without buildings). The tax (*impuesto predial*) is usually levied on the cadastral value of each piece of property regardless of the number of owners or to the taxpayer's personal wealth. Real estate tax payments are deductible for income tax purposes.

The tax on acquisition of real estate (*impuesto sobre adquisición de inmuebles*) is collected by the municipalities. Generally, the purchaser of real estate pays the tax to the notary public at the closing of the purchasing transaction, who in turns pays it to the local tax authority. In most municipalities, the tax ranges from 2% to 5% of the greater of either: (i) the real estate tax commercial appraisal; (ii) the total purchase price; or (iii) the cadastral value of the real estate.

Gifts, inheritances and trusts of immovable property may be subject to real estate tax.

For transfer tax on immovable property, *see* section 9.2.1.

6. International Aspects

6.1. *Resident companies*

For the concept of residence, *see* section 1.2.1.

6.1.1. Foreign income and capital gains

Mexico taxes resident companies on their worldwide income (i.e. foreign business profits, foreign capital gains, foreign dividends, interest and royalties and any other foreign income). This includes capital gains from the sale of stock of foreign corporations.

Taxpayers holding shares or similar interests in controlled foreign entities that are subject to a preferential tax regime (i.e. income is subject to taxation at a rate that is less than 75% of the corporate income tax rate in Mexico, *see* section 7.4.) are required to report their share of income, regardless of whether it has been distributed in proportion to their average daily direct or indirect ownership in such companies (articles 176 and 178 of the LISR). Taxpayers who generate income of any kind from a listed jurisdiction (*see* section 7.4.) or from pass-through companies or vehicles, must report such income even if it does not qualify as income from a preferential tax regime.

6.1.2. Foreign losses

No special group relief provisions are available to recover losses incurred by a foreign subsidiary.

Losses incurred by a foreign permanent establishment must be recognized in the year they are incurred, as resident companies must recognize income originating from permanent establishments located abroad (*see* section 1.3.1.).

6.1.3. Foreign capital

Foreign capital or assets held abroad are not subject to taxes on capital (*see* section 5.).

6.1.4. Double taxation relief

International double taxation is relieved by granting a foreign tax credit (FTC) either unilaterally under its domestic law or bilaterally under tax treaties with other countries (article 5 of the LISR). Tax treaty relief may be granted to taxpayers that meet the requirements established in the LISR.

The FTC may only be claimed for foreign taxes imposed on foreign-source income. The foreign tax for which a credit may be claimed must be an income tax as defined under domestic tax rules. Taxpayers must identify the taxes paid abroad per country and maintain a registry that clearly identifies the tax year to which a particular income corresponds.

A direct FTC is granted with respect to foreign withholding taxes paid on foreign-source income, and for income tax paid in foreign countries upon the filing of tax returns in the name of the Mexican resident. FTCs may be carried forward for 10 years. However, if an FTC is not claimed during an eligible tax year, the taxpayer loses the right to credit it. Moreover, taxes paid abroad in excess of the FTC limitation may be neither credited nor carried forward or backward.

The direct FTC is limited to the corporate income tax that would have been imposed in Mexico on the same income.

An indirect or deemed-paid FTC is granted to resident companies receiving dividends from their directly held non-resident companies. To be eligible for an indirect credit, the resident company must have owned at least 10% of the capital of the paying company during the 6 months prior to the date on which the dividends are paid.

A second-tier indirect FTC is available to resident companies receiving dividends from a non-resident directly held subsidiary (first-tier company), which in turn receives dividends from another non-resident subsidiary (second-tier company), provided that the following conditions are met: (i) the dividend and the income tax corresponding to such dividend are accrued by the resident company; (ii) the first-tier company owns at least 10% of the second-tier company; (iii) the resident company indirectly owns at least 5% of the second-tier company through its ownership or participation in the first-tier company; and (iv) Mexico has concluded a broad exchange of information agreement (*see* section 7.5.) with the country where the second-tier company is resident.

The first and second-tier indirect FTC that the taxpayers may credit is calculated under the rules established in the LISR. The limit of the indirect FTC is computed through the following formula.

Indirect FTC limit = [(D + TT1 + TT2) × ITR] – direct FTC

where:
D = Gross dividend received by the taxpayer
TT1 = Proportional income tax paid at first tier
TT2 = Proportional income tax paid at second tier
ITR = Income tax rate in Mexico (i.e. 30%)

Direct and indirect FTCs exceeding the corresponding FTC limitation may be carried forward for up to 10 years.

For a list of tax treaties in force, *see* section 6.3.5.

6.2. *Non-resident companies*

Mexican law does not include the concept of non-resident. In principle, a person is considered to be non-resident if he does not fall within the rules set forth in section 1.2.1.

Non-residents operating through a permanent establishment in Mexico are taxed on all income, which is attributable to the permanent establishment. Non-residents without a permanent establishment in Mexico are taxed on their Mexican-source income. For the definition of permanent establishment of a non-resident company, *see* section 6.2.1.

6.2.1. Taxes on income and capital gains

Non-residents operating through a permanent establishment in Mexico are taxed on all income which is attributable to the permanent establishment. Non-residents without a permanent establishment in Mexico are taxed on Mexican-source income (article 1-II-III of the LISR). There are no significant differences between the domestic definition and the OCDE definition of the term permanent establishment.

Income derived through a permanent establishment is taxed under the rules discussed in section 1.3. Other income derived by non-residents from Mexican sources is normally subject to a final withholding tax at varying rates. For withholding taxes, *see* section 6.3.

Rental income derived by non-residents from the leasing of real property located in Mexico is deemed to be Mexican-source income. Rental income is subject to a tax rate of 25% on gross payments. The tax must be withheld by the lessee if it is a tax resident or a non-resident with a permanent establishment in Mexico. If the lessee is a non-resident, the tax must be paid directly by the lessor within 15 days after receipt of payment from the lessee.

Rental income derived by non-residents from the leasing of movable property is deemed to be Mexican-source income when it is used within Mexican territory for carrying out entrepreneurial activities or, if the movable property is used in different activities, when they are physically delivered in Mexico. In general, rental income is subject to a tax rate of 25% on gross payments. However, containers, trailers or semi-trailers, aircraft and vessels meeting certain criteria are subject to a tax rate of 5%. The tax must be withheld by the lessee if it is a Mexican tax resident or a non-resident with a permanent establishment in Mexico. If the lessee is a non-resident, the tax must be paid directly by the lessor within 15 days after receipt of payment from the lessee.

Under the United States-Mexico tax treaty, a US tax resident receiving Mexican-source rental income may elect to compute the income tax on the net-gain for any tax year, as if the rental income were attributable to a permanent establishment. For these purposes the US tax resident must meet certain formal requirements. This option is not included in other tax treaties concluded by Mexico.

Capital gains realized by non-residents from the transfer of Mexican real property are subject to a tax rate of 25% on the total income received. The tax must be withheld by the purchaser if it is a resident or a non-resident with a permanent establishment in Mexico. If the purchaser is also a non-resident, the tax must be paid directly by the non-resident transferor within 15 days of the receipt of the income. Non-residents may opt to be subject to a tax rate of 35% on the net gain calculated under certain rules, provided that certain requirements are met, including the appointment of an authorized representative in Mexico, the formalization of the transaction before a notary public and having this latter computing and remitting the corresponding tax.

Non-resident financial companies in which the federal government has a capital interest may elect to be taxed on their capital gains at a tax rate of 35% on the net income or at a tax rate of 25% on the gross income, subject to the fulfilment of the conditions mentioned above.

Capital gains realized by non-residents from the transfer of shares or securities representing Mexican real estate, are deemed Mexican-source income when the shares are issued by Mexican resident companies, or when more than 50% of the value of the shares or securities is represented directly or indirectly by real estate located in Mexico. The sale of shares or securities is subject to a tax rate of 25% on the total income received. The tax must be withheld by the purchaser if the purchaser is a resident or has a permanent establishment in Mexico. Otherwise, the non-resident transferor is obliged to remit the tax within 15 days from the date on which the income was received. Non-residents having an authorized representative in Mexico may elect to pay tax at the rate of 35% on the net gain, if any, calculated under specified rules and provided that (i) the taxpayer is not taxed under a preferential tax regime (*see* section 7.4.) in his country of residence, (ii) the taxpayer is not a resident of a country where income tax is based on the territoriality principle, and (iii) a statutory tax report is filed regarding the transfer of shares.

Mexican-source capital gains realized by non-residents from the transfer of publicly traded stock (i.e. through the Mexican stock exchange or through another publicly recognized stock exchange) are subject to a 10% withholding tax. Non-residents are not be subject to the 10% withholding tax when they reside in a country with which Mexico has a tax treaty in force, and timely inform their status to the corresponding financial broker.

Dividends are deemed Mexican source income when they are paid by a Mexican resident company. If the dividends or profits distributed have not been subject to tax, the “equalization tax” (*see* section 3.1.) will be imposed on the company paying the dividends or profits. In addition, payments of this nature made to a non-resident are subject to an additional 10% final withholding tax (*see* section 6.3.1.). However, the 10% withholding tax rate may be reduced by virtue of tax treaties, where applicable (*see* section 6.3.5.). Dividends derived by residents are discussed in section 2.2.

Interest is considered to be sourced in Mexico if it derives from an investment made in Mexico or if the interest is paid by a Mexican resident or a foreign resident with a permanent establishment located in Mexico to which the indebtedness is attributable. Interest paid to non-residents which is not attributable to a permanent establishment located in Mexico is subject to a final withholding tax (*see* section 6.3.2.).

Royalties are considered to be sourced in Mexico if the goods or rights related to the royalties are used in Mexico, or if the royalties are paid by a resident or a non-resident with a permanent establishment located in Mexico to which the goods or rights are attributable. Royalties paid to non-residents which are not attributable to a permanent establishment in Mexico are subject to a 25% withholding tax or 40% withholding tax if it is paid to a related party that is considered to be the beneficiary of a preferential tax regime (*see* section 6.3.3.).

For tax purposes, the term “royalties” means payments made as a consideration for the use of or the right to use any patent, invention or improvement, trademark, copyright of literary, artistic or scientific work, including movie films and tapes for television or radio broadcasting, design or model, plan, secret formula or process, and industrial, commercial or scientific equipment, as well as payments for the transfer of technology or information in respect of industrial, commercial or scientific experience or other similar right or property. For these purposes and notwithstanding the means through which they are supplied, the use of or the right to use any copyright of scientific work includes computer programs or instructions for computers required for their operation or application. Payments for the right to re-transmit visual images, sounds, or both, or payments for the right to permit public access to those images or sounds, when in both cases they are transmitted through satellite, cable, optic fibre or other similar means, are also deemed to be royalties. Technical assistance is excluded from the term "royalties".

In general, service fees paid to non-residents are not taxed in Mexico if the services are performed abroad. However, it is presumed that the services are wholly rendered in Mexico if they are performed partly in Mexico, although, if the taxpayer provides evidence that part of the service was rendered abroad, the tax will be computed on the portion of the services performed in Mexico.

Service fees for technical assistance paid to non-residents are subject to tax in Mexico if the services are used in Mexico or are paid by a resident or by a non-resident with a permanent establishment located in Mexico.

Commission and agency fees paid by a Mexican resident or by a non-resident with a permanent establishment in Mexico, to residents of countries with a preferential tax regime (*see* section 7.4.) are subject to tax in Mexico. For this purposes, commission and agency fees mean payments made for intermediation, brokerage, agency, distribution, consignment or appraisal, and, in general, income derived by handling another's business affairs.

If Mexican-source income is paid to a company which is considered to be subject to a preferential tax regime (*see* section 7.4.) and which is a related party of the payer, a 40% withholding tax rate applies on the gross payment rather than the generally applicable rates. The 40% withholding tax rate will not apply if the company is resident of a country which has a broad exchange of information agreement in force with Mexico. The 40% withholding tax rate will only apply when the company subject to a preferential tax regime is a company through which residents receive income as members or due to the foreign company's tax transparency.

Management services may be subject to tax either as normal services or as technical assistance, depending on the type and nature of the services involved.

6.2.2. Taxes on capital

Non-residents without a permanent establishment in Mexico are subject to tax if they derive income from granting the temporary use of movable and immovable property to any taxpayer (*see* section 6.2.1.).

6.2.3. Administration

Non-residents with a permanent establishment in Mexico must determine their tax liability on a self-assessment basis in the same way as residents (*see* section 1.8.).

Non-resident companies without a permanent establishment in Mexico, but deriving Mexican-source income, are subject to final withholding taxes (*see* section 6.3.).

In certain cases (e.g. sale of real estate, sale of shares) non-residents without a permanent establishment in Mexico may elect to pay tax on a net basis. This election requires the appointment of an authorized representative who must remit the tax due.

6.3. *Withholding taxes on payments to non-resident companies*

Domestic-source income derived by non-residents without a permanent establishment in Mexico is generally subject to a final withholding tax levied on the gross amount received.

For reduced tax rates under tax treaties, *see* section 6.3.5.

6.3.1. Dividends

Dividends distributed by resident companies to non-residents from profits generated from 2014 are subject to a final withholding tax at the rate of 10% on the gross amount (*see* sections 1.1. and 3.1.).

Dividends derived by residents are discussed in section 2.2.

6.3.2. Interest

Interest paid to non-residents is subject to a final withholding tax (*see also* section 1.6.2.). The rate differs depending on the type of recipient as follows (article 166 of the LISR):

- 10%: this rate applies to interest paid in one of the following eligible situations or to one of the following qualifying recipients:
  - a non-resident bank (including an investment bank), a financial institution owned by a foreign state or certain limited financial institutions. Interest paid to registered foreign banks (including investment banks) may be subject to a 4.9% rate instead of the 10% rate, provided that the beneficial owner of such interest is a resident of a country with which Mexico has a tax treaty in force and the conditions for the application of the relevant treaty rates are satisfied;
  - a non-resident company that places or invests capital in Mexico, which it raises by issuing its own securities publicly traded abroad under rules issued by the SAT;
  - interest relating to securities publicly traded through banks and stock brokerage firms in a country with which Mexico does not have a tax treaty, provided that a notification regarding the transaction has been presented to the National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*); or
  - the acquisition of present, future or contingent accounts receivable;
- 4.9%:
  - interest paid in respect of publicly traded securities in Mexico and securities publicly traded abroad through banks and brokerage firms in a country with which Mexico has a tax treaty, provided that the securities are registered with the Special Section of the National Securities Register;
  - interest paid to multiple-purpose financial companies; and
  - interest paid to non-resident financial companies in which the federal government owns a participation in the paid-up capital;
- 15%: interest paid to reinsurance companies;
- 21%:
  - interest which is not subject to the 4.9%, 10% or 15% rates mentioned above, paid by Mexican financial institutions;
  - interest paid to non-resident suppliers financing the acquisition of machinery and equipment which are part of the acquirer’s fixed assets; and

  - interest paid to non-residents on loans to finance the assets mentioned in the previous item, and, in general, interest paid on working capital loans or commercialization loans, provided that this situation is set forth in the agreement;
- 35%: all other interest; and
- 40%: interest paid to a non-resident which is considered to be the beneficiary of a preferential tax regime (*see* section 7.4.). The 40% withholding tax rate is not applicable on interest payments made to foreign banks and interest payments made to non-residents which arise from publicly traded instruments, bonds issued by the federal government or by the National Bank of Mexico.

6.3.3. Royalties

Royalties paid to non-residents are subject to a final withholding tax on the gross payment at various rates, as follows (article 167 of the LISR):

- 5%: royalties for the use of, or for the right to use, railroad wagons;
- 35%: royalties for the use of, or for the right to use, patents, trademarks and for advertising;
- 40%: royalties paid to a related party considered to be the beneficiary of a preferential tax regime (*see* section 7.4.); and
- 25%: any other category of royalties.

Where know-how is transmitted, the payment will generally qualify as a royalty under both domestic law and under a tax treaty context.

Generally, royalties are subject to a reduced 10% withholding tax rate under tax treaties (*see* section 6.3.5.).

6.3.4. Other

In general, all payments made to non-residents are subject to a final withholding tax on the gross amount at the rate of 25%. There are, however, some exceptions to this rate (e.g. payments for the leasing of vessels are subject to a 10% withholding tax rate; income from the sale of property or shares may be taxed on the profits at the tax rate of 35%; payments of interests may be taxed at different withholding tax rates depending on the characteristics of the payer).

Capital gains realized by non-residents from the transfer of Mexican real property are subject to a tax rate of 25% on the total income received. The tax must be withheld by the purchaser if it is a resident or a non-resident with a permanent establishment in Mexico. If the purchaser is also a non-resident, the tax must be paid directly by the non-resident transferor within 15 days of the receipt of the income. Non-residents may opt to be subject to a tax rate of 35% on the net gain calculated under certain rules, provided that certain requirements are met, including the appointment of an authorized representative in Mexico, the formalization of the transaction before a notary public and having this latter computing and remitting the corresponding tax.

Technical assistance fees paid to non-residents are subject to a final withholding tax on the gross income received at the rate of 25%. Technical assistance is defined in domestic law as a type of independent personal service with two particular characteristics: (i) non-patentable knowledge is transmitted, without implying the transmission of know-how; and (ii) the service provider participates in the application of such knowledge. Generally, under tax treaties (*see* section 6.3.5.), technical assistance fees usually qualify as business profits.

Service fees paid to non-residents are subject to a final withholding tax at the rate of 25% on the gross amount (article 156 of the LISR).

Commission and agency fees are subject to a final withholding tax at the rate of 40% on the gross amount if the recipient is considered a beneficiary of a preferential tax regime (article 171 of the LISR) (*see* section 7.4.).

6.3.5. Withholding tax rates chart

This table provides the treaty withholding tax rates for dividend, interest and royalty. The corresponding domestic rates are also specified.

The treaty rate is directly applied if a certificate of residence is presented to the withholding agent. If not, a refund of excess tax withheld is available upon request.

	Dividends		***Interest***[1]	***Royalties***
	Individuals, companies	***Qualifying companies***[2]		
	(%)	***(%)***	***(%)***	***(%)***
Domestic Rates				
Companies:	10	10	4.9/10/15/21/35/40	5/25/35/40
Individuals:	10	n/a	4.9/10/15/21/35/40	5/25/35/40
Treaty Rates				
Treaty With:				
Argentina	15	10[3]	12	10/15[4]
Australia	15	0	10/15[5]	10
Austria	10	5	10	10
Bahrain	-[6]	-[6]	4.9/10[7]	10
Barbados	10	5	10	10
Belgium	10	0[8]	5/10[9]	10
Brazil	15	10[10,11]	0/15[12]	10/15[13]
Canada	15	5	10	0/10[14]
Chile	10	5[10]	4/5/10/15[15]	10/15[16]
China (People's Rep.)	5	5	10	10
Colombia	-[17]	-[17]	5/10[7]	10[18]
Costa Rica	12	5[19]	10	10
Czech Republic	10	10	10	10
Denmark	15	0[3]	5/15[7]	10
Ecuador	5	5	0/10/15[7]	10
Estonia	-[20]	-[20]	4.9/10[21]	10
Finland	-[20]	-[20]	10/15[22]	10
France	0	5/15[23]	5/10/15[24]	0/10/15[25,26]
Germany	15	5	5/10[7]	10
Greece	10	10	10	10
Hong Kong	-[20]	-[20]	4.9/10[7]	10
Hungary	15	5	10	10[27]
Iceland	15	5	10	10
India	10	10	10	10
Indonesia	10	10	10	10

	Dividends		Interest[1]	Royalties
	Individuals, companies	Qualifying companies[2]		
	(%)	(%)	(%)	(%)
Ireland	10	5	5/10[7]	10
Israel	10	5/10	10	10
Italy	15	15	10/15[28]	0/15[14]
Jamaica	10	5[3]	10	10
Japan	15	-/5[29]	10/15[7]	10
Korea (Rep.)	15	0	5/15[7]	10
Kuwait	-[20]	-[20]	4.9/10[7]	10
Latvia	10	5	5/10[7]	10
Lithuania	15	0	10	10
Luxembourg	15	8	10	10
Malta	-[20]	-[20]	5/10[30]	10[30]
Netherlands	15	0/5[31]	5/10[32]	10
New Zealand	15	0/5/15[33]	10	10
Norway	15	-[3]	10/15[7]	10
Panama	7.5	5[3]	5/10[7]	10
Peru	10/15[34]	10[3,35]	10/15[36]	15[35]
Philippines	15	5/10[37]	12.5	15
Poland	15	5[3]	10/15[9]	10
Portugal	10	10	10	10
Qatar	-[20]	-[20]	5/10[7]	10
Romania	10	10	15	15
Russia	10	10	10	10
Saudi Arabia	5	5	5/10[38]	10
Singapore	-[20]	-[20]	5/15[7]	10
Slovak Republic	-[20]	-[20]	10	10
South Africa	10	5	10	10
Spain	10	0[8]	4.9/10[9,39]	0/10[14,39]
Sweden	15	-/5[40]	10/15[7]	10
Switzerland	15	-[41]	5/10[32,42]	10
Turkey	15	5[3]	10/15[7]	10
Ukraine	15	5[3]	10	10
United Arab Emirates	-[20]	-[20]	4.9/10[7]	10[43]
United Kingdom	-/15[44]	-/15[44]	5/10/15[5,32]	10
United States	10	-/5[45]	4.9/10/15[46]	10
Uruguay	5	5	10	10

1. Many treaties provide for an exemption for certain types of interest, e.g. interest paid to the state, local authorities, the central bank, export credit institutions or in relation to sales on credit. Such exemptions are not considered in this column.
2. The rate generally applies with respect to participations of at least 10% of capital or voting power, as the case may be.
3. Applicable with respect to participations of at least 25% of the capital.

4. The lower rate applies to any copyright royalties of literary, dramatic, musical, artistic or scientific work; any patents, designs and models, plans, secret formulas or processes, computer programmes, industrial, commercial or scientific equipment, and for information concerning industrial, commercial or scientific experience, as well as for the rendering of technical assistance services.
5. The 10% rate applies to interest derived by banks or insurance companies, from bonds and securities traded on a securities market, paid by banks (provided that the above is not applicable), or paid by the purchaser to the seller of machinery and equipment in relation to sales on credit.
6. The treaty does not limit the withholding tax rate in the source state.
7. The lower rate applies to interest paid to banks.
8. This rate applies if the recipient company holds directly at least 10% of the capital or if it is a pension fund.
9. The lower rate applies to interest paid to banks or insurance companies, and to interest on bonds or securities regularly and substantially traded on a recognized securities market.
10. The rate applies with respect to participations of at least 20% of voting power.
11. A most favoured nation clause may be applicable with respect to dividends.
12. A most favoured nation clause may be applicable with respect to interest.
13. The rate under the treaty is 15%. However, by virtue of a most favoured nation clause and by way of a Declaratory Act 1/2007 issued by the Brazilian Federal Revenue Service on 1 March 2007, the rate is reduced to 10% for any royalties other than those from trademarks, including technical services and technical assistance. Under the Brazil and Israel treaty, the rate for such royalties is 10%.
14. The lower rate applies to copyright royalties in respect of the production or reproduction of any cultural, dramatic, musical or other artistic work (excluding royalties in respect of motion picture films and works on film or videotape or other means of reproduction for use in connection with television).
15. The interest rate under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced as follows:
    - the rate for certain types of interest is reduced to 4%, from 1 January 2017, under the Chile-China (People's Rep.) and Chile-Japan treaties;
    - the rate for certain types of interest is reduced to 5% under the Australia-Chile and Chile-Spain treaties; and
    - from 1 January 2019, the general rate is reduced to 10% under the Chile-China (People's Rep.) and Chile-Japan treaties;

    Note 1: Due to a restriction in the most favoured nation clause, the rate for certain types of interest cannot be reduced below 5% and 10%.

    Note 2: For information on the types of interest that fall within these reductions, *see* the activation treaties Australia-Chile, Chile-China (People's Rep.), Chile-Japan and Chile-Spain (restrictions may apply to back-to-back loans).
16. The general rate under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 10%. Under the Chile-Spain treaty, the rate is 10%.
17. Taxed only at residence, unless the beneficiary is a Mexican tax resident and the dividend has not been subject to tax in Colombia before its distribution.
18. A most favoured nation clause may be applicable with respect to royalties.
19. The rate applies if the beneficial owner is a company, other than a partnership, which holds directly at least 20% of the capital of the company paying the dividends.
20. Only residence taxation.
21. The lower rate applies to interest paid to banks, pension funds and schemes.
22. The 10% rate applies to interest in the case of banks, on bonds or securities that are regularly and substantially traded on a recognized securities market, and on interest in relation to sales on credit of machinery and equipment.
23. The 5% rate applies if the recipient is a company whose capital is controlled by one or more residents of third states and the controlled capital exceeds 50% of the total capital of the company.
24. The general rate under the treaty is 15%. However, by virtue of amost favoured nation clause, the rate is reduced to:
    (i) 5%, with respect to interest paid to banks and insurance companies and for interest from quoted bonds. Under the Mexico and United Kingdom treaty, the rate for such interest is 5%; and
    (ii) 10%, in other cases. Under the Mexico and Ireland treaty, the rate is 10%.
25. The 0% rate applies to copyright royalties, excluding films, etc.
26. The general rate under the treaty is 15%. However, by virtue of amost favoured nation clause, the rate is reduced to 10%. Under the Mexico and Sweden treaty, the rate is 10%.
27. A most favoured nation clause may be applicable with respect to royalties.
28. The general rate under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 10%. Under the Mexico-Portugal treaty, the general rate is 10%.

29. Only residence taxation applies if the dividends are paid to a company that owns at least 25% of the voting shares issued by the paying company during the 6-month period prior to the distribution accounting period, the shares issued by the recipient company are regularly traded at a Japanese recognized stock exchange and more than 50% of the shares of the recipient company are owned by qualifying persons. The 5% rates applies to dividends paid to a company that owns at least 25% of the voting shares issued by the paying company during the 6-month period prior to the distribution accounting period.
30. A provision in the protocol disallows the application of arts. 11 and 12 in certain cases.
31. The 5% rate applies if the recipient is a corporation owning at least 10% of the shares of the payer. Under the tax treaty protocol with the Netherlands, the 5% rate is reduced to 0% if dividends are paid on a shareholding that qualifies for the participation exemption under the Dutch law.
32. The 5% rate applies to interest derived by banks and financial institutions, and on bonds or securities regularly and substantially traded on a recognized stock exchange.
33. The rate under the treaty is 15%. However, by virtue of a most favoured nation clause, effective from 1 May 2010, the rate is reduced to:
    - 5%, with respect to participations of at least 10% of the voting power; and
    - 0%, with respect to specific participations, i.e. a resident of a Contracting State is the beneficial owner of at least 80% of the voting power of the dividend-paying company for at least 12 months before the date the dividend is declared and
      (i) the recipient company is a publicly traded company, or
      (ii) the recipient company is owned directly or indirectly by one or more such publicly traded companies or by companies which would be entitled to equivalent benefits under a treaty with its resident state; or
      (iii) the competent authority determines that a main purpose of the dividend distribution is not to take advantage of the treaty benefit.

    Under the Australia and New Zealand treaty, the rates for the above payments are 0% and 5% respectively.
34. The general rate under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 10%. Under the Korea (Rep.)-Peru treaty the general rate for dividends is 10%.
35. A most favoured nation clause may be applicable with respect to dividends, interest and royalties. However, due to a restriction in the MFN clause, the rate for interest and royalties may not be reduced below 10%.
36. The general rate under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 10% for interest arising from the sale on credits of any industrial, commercial or scientific equipment and for interest arising from a loan granted by a bank. Under the Peru-Switzerland treaty the rate for such interest is 10%.
37. The 5% rate is applicable with respect to participations of at least 70% of the capital. The 10% rate is applicable with respect to participations of at least 10% of the capital.
38. The lower rate applies to interest paid to financial entities or pension funds.
39. A most favoured nation clause may be applicable with respect to interest and royalties.
40. No source taxation applies with respect to participations of at least 25% of voting power if at least 50% of the voting power of the Swedish company is owned by residents of Sweden. The 5% rate applies with respect to participations of at least 10% of voting power.
41. Dividends paid with respect to participations of at least 10% of capital and to pension funds will be exempt from tax in the source state.
42. A most favoured nation clause may be applicable with respect to interest.
43. A most favoured nation clause may be applicable with respect to royalties.
44. The 15% rate applies if the dividends or distributions are paid out of income derived from immovable property by an investment vehicle under certain conditions.
45. No source taxation applies where the beneficial owner is (1) a company that owns 80% or more of the voting stock of the Mexican company for the 12-month period ending on the date the dividends are declared and owned at least 80% of such stock prior to 1 October 1998 or qualifies under certain provisions of the limitation on benefits article of the treaty or (2) a trust, company, or other organization constituted and operated exclusively to administer or provide benefits under one or more plans established to provide pension, retirement or other employee benefits and its income is generally exempt from tax. The 5% rate applies with respect to participations of at least 10% of voting stock.
46. The 4.9% rate applies to interest derived from loans granted by banks and insurance companies, and bonds or securities that are regularly and substantially traded on a recognized securities market. The 10% rate applies if the preceding sentence does not apply and the interest is paid by banks or in relation to sales on credit.

7. Anti-Avoidance

7.1. *General*

From 2020, the CFF provides a general anti-avoidance rule (GAAR), based on Action 2 of the OECD Base Erosion and Profit Shifting (BEPS) Project.

According to article 5A of the CFF, legal acts lacking business purpose (*razón de negocios*) that aim to generate a tax benefit for the taxpayer will have the tax effects that correspond to the legal acts that would have been concluded in order to obtain the economic benefit reasonably expected by the taxpayer.

The tax authorities may assume that a legal act lacks business purpose when the economic benefit reasonably expected by the taxpayer is lower than the tax benefit obtained by the conclusion of such legal act. Moreover, the CFF specifies that an economic benefit reasonably expected by the taxpayer consists in the generation of income, the reduction of costs, the increase of the value of goods or assets and the improvement of the market position, among others.

For the purposes of quantifying the economic benefit, the tax authorities and taxpayers must take into account the information that was available prior to the analysis of the relevant transaction, including any economic projections, to the extent that such information is reasonable and duly supported. The tax benefit itself is disregarded for the purposes of quantifying the economic benefit.

The CFF defines a tax benefit as any reduction or elimination of tax burdens, including the deferral of taxes. This definition includes any tax benefit achieved through the application of deductions and exemptions, the non-recognition of income, any adjustments made to the taxable base, the offset of taxes, the recharacterization of payments or activities and the application of a different tax regime, among others.

The tax authorities may only apply the GAAR in the framework of a formal tax audit, based on facts and circumstances discovered during such audit. Moreover, the application of the GAAR implies a presumption, which means that the taxpayer may present arguments against the tax authorities' resolution before it becomes definitive.

The tax authorities are entitled to apply the GAAR to the extent that, during the relevant tax audit, a committee composed by officers of the Ministry of Finance and the SAT issues a favourable opinion. The latter must be issued within a 2-month period, computed from the date of submission of the case to the relevant committee, which in any case must occur before the issuance of the last partial notice (*última acta parcial*) or the observations notice (*oficio de observaciones*).

The application of the GAAR by the tax authorities may only result in the assessment of tax liabilities and penalties. Nonetheless, it does not impair any criminal consequences.

Before the introduction of the GAAR to the CFF, the tax authorities were authorized to challenge artificial transactions involving low-tax jurisdictions. In practice, the tax authorities have challenged the validity for tax purposes of transactions where no economic benefit other than a reduction of the tax burden is achieved, irrespective of whether the transactions take place between related parties or not, although the tax authorities are likely to focus on related-party transactions. Such actions are increasingly being accepted by Mexican courts.

7.2. *Transfer pricing*

The price of a transaction between related parties, whether nationals or foreigners, must be agreed upon under the arm's length principle (article 179 of the LISR). The tax authorities may adjust the prices at which the taxpayer acquires or sells goods, as well as the consideration of other transactions, and modify the tax profit or the tax loss for corporate income tax purposes.

Companies are deemed to be related parties where one participates directly or indirectly in the administration, control or capital of the other, or where a person or group of persons participates directly or indirectly in the administration, control or capital of the two companies. Furthermore, members of a joint venture are considered related parties. The head office and its permanent establishments or the permanent establishments of a related party of the head office are considered related parties. There is a presumption that transactions entered between residents and non-residents who benefit from a preferential tax regime (*see* section 7.4.) are between related parties.

The arm's length price can be determined by means of any of the following methods: comparable uncontrolled price method (CUP); resale-price method (RP); cost-plus method (CP); profit-split method; residual profit-split method; or transactional net margin method (TNMM).

However, taxpayers must first use the CUP method. All other methods are available when CUP is not appropriate in accordance with the OECD's transfer pricing guidelines. Furthermore, with respect to the RP, CP and TNMM methods, the best method rule is considered to have been complied with if evidence exists that the consideration is at arm's length. Moreover, taxpayers are required to use the method that provides the most reliable measure of the arm's length standard, giving due consideration to the available information. However, the RP and CP methods must be preferably applied by the taxpayer.

The tax authorities may resolve requests submitted by taxpayers regarding the methods to be used to determine arm's length transfer prices. An advance pricing agreement (APA) may apply for up to 5 tax years: 3 tax years following that in which the APA was issued, the tax year in which it was issued, and up to 1 tax year prior to that in which it was issued. A longer period may be granted through a mutual agreement procedure under the terms of a tax treaty. Upon request by the taxpayer, the tax authorities may respond to applications within 8 months from the date on which they are filed. All the requirements applicable to tax rulings (*see* section 1.8.4.) are extensively applied to APA requests. The tax reform for 2022 amended article 183-bis of the LISR and, thus, eliminated the possibility for maquiladoras to obtain an APA.

The tax reform for 2016 introduced article 76-A of the LISR, which provides that taxpayers that obtained income equal to or greater than MXN 1,650,490,600 (this amount is updated in January every year) in the previous tax year, companies taxed under the consolidation tax regime, companies that carry out transactions with foreign companies and foreign entities with a permanent establishment in Mexico must annually submit a Local File and a Master File regarding their operations with related parties. Companies earning at least MXN 12 billion annually are also required to file a country-by-country report. The first information returns were required for the tax year 2016 and had to be filed by 31 December 2017. Master File and country-by-country report must be filed by 31 December in connection with each preceding year. Local informative returns must be filed by 15 May in connection with the preceding year. The information requested in these returns is in line with the requirements developed under the OECD's BEPS Action Plan.

Administrative Rules 3.9.1.1. to 3.9.1.5, published on 11 July 2018 (as amended), establish the procedure for transfer pricing adjustments.

7.3. *Limitations on interest deductibility*

7.3.1. Thin capitalization

Companies – except financial institutions – must follow thin capitalization rules if they borrow from non-resident parties. Interest payments made by a resident company on loans received from non-resident related companies are not deductible for income tax purposes if the debt-to-equity ratio of the company paying the interest exceeds a 3:1 threshold. The non-deductible interest is not recharacterized. All interest-generating debts are considered for determining whether the 3:1 debt-to-equity ratio has been exceeded (article 28 XXVII of the LISR). Taxpayers that obtain an APA which recognizes that the activity they are engaged in requires a greater leverage may, subject to compliance with certain administrative conditions, consider a greater debt-to-equity ratio.

The thin capitalization regime does not apply to taxpayers of the financial system (e.g. banking, insurance, and financial leasing companies) with respect to loans contracted in their regular financial activities.

The tax reform for 2016 eliminated the application of the thin capitalization rules with respect to debts incurred in relation to investments in infrastructure for the generation of electricity.

7.3.2. Interest barrier rule

From 2020, the LISR provides a new limitation on interest deductibility, whose terms are in accordance with OECD's BEPS Action Plan. Net interest exceeding 30% of the adjusted taxable profit (similar to EBITDA) is not deductible for income tax purposes, irrespective of whether the transactions are carried out between related or unrelated parties. Net interest that is not deductible in a given tax year due to the application of this limitation may be carried forward for up to 10 years.

Net interest results from the difference between the amount of interest accrued from debt in a tax year and income derived from interest in the same tax year. In addition, the adjusted taxable profit results from adding to the taxable profit of the tax year (calculated according to article 9(I) of the LISR) the total amount of interest accrued from debt, the amount deducted as depreciation of assets and pre-operative expenses.

In general, this limitation on interest deductibility does not apply to taxpayers whose interest accrued from debt in a tax year is less than MXN 20 million (*de minimis* rule).

In addition, it does not apply to interest derived from certain loans (e.g. loans financing public works projects, the real state sector, hydrocarbons exploration and extraction, generation of electricity and water supply). Financial institutions are not obliged to apply this limitation with respect to their operations.

Finally, this limitation will not apply if the application of thin capitalization rules results in a higher amount of non-deductible interest.

7.3.3. Other limitations

Limitations on the amount of deductible interest apply when the taxpayer also grants loans to third parties. Interest paid by a resident enterprise to a related enterprise may be treated as a dividend in certain circumstances (e.g. in the case of back-to-back loans, interest not agreed at arm's length, interest based on profit, etc.). In such cases the interest is not deductible and the dividend is subject to corporate income tax on the grossed-up amount, thereby being subject to the "equalization tax" (*see* section 3.1.) unless there is a sufficient CUFIN balance. The dividend will be subject to withholding tax on dividends where applicable (*see* section 1.1.).

Interest payments between related parties are generally not deductible to the extent that they exceed market rates.

7.4. Controlled foreign company

Resident companies and individuals, as well as non-residents with a permanent establishment in Mexico, are subject to income tax on the income subject to a preferential tax regime obtained through controlled foreign companies in which they participate directly or indirectly.

Income received through a controlled foreign company (CFC) that is subject to a preferential tax regime must be taxed under the CFC rules, except where there is absence of control (i.e. where the taxpayer does not have effective control to decide when the income, profit or dividend is distributed).

Income is considered to be subject to a preferential tax regime if the tax paid abroad on such income is lower than 75% of the income tax that would have been incurred and paid in Mexico had the income been generated there. The CFC rules therefore apply when profits generated through controlled foreign companies are subject to an effective income tax rate lower than 75% of the Mexican income tax rate (i.e. 22.5%) in their country of tax residence. However, there are some exceptions to the application of CFC rules to this case:

- Active trade or business exception: applies, except where passive income represents more than 20% of the company's total income. Passive income includes, among others, interest, dividends, royalties, capital gains from the transfer of shares or intangibles, commission and mediation fees. Income from transfer of goods that are not physically located in the country where the company or vehicle is resident and income from the rendering of services outside such country is not deemed as passive for these purposes when goods are not originating from or sent to Mexico, and when the payment of services does not give rise to a deduction in Mexico, respectively.
- Absence of control exception: CFC rules do not apply to income that is generated through foreign companies where the taxpayer does not have the effective control of the foreign company.

As from 2020, the LISR provides a definition of "effective control" that is in line with the recommendations of Action 3 of the OECD BEPS Project. For the purposes of CFC rules, it is considered that the taxpayer exercises effective control on the foreign company in any of the following scenarios (article 176 of the LISR):

- when the average daily participation of the taxpayer in the foreign company allows him to hold more than 50% of the total voting rights in the company;

- in case of reduction of capital or liquidation of the foreign company, the taxpayer is entitled to more than 50% of the assets or profits of the foreign company;
- the taxpayer and the foreign company consolidate their financial statements based on the applicable accounting principles; or
- the taxpayer has the right, directly or indirectly, to decide on the management of the foreign company.

Companies must separately accrue income recognized in advance under CFC rules. A foreign tax credit is granted on the income tax paid abroad on the income recognized in advance. General foreign tax credit rules apply, except that companies must calculate a separate foreign tax credit limitation on the overall income recognized in advance. This avoids increasing the foreign tax credit limitation by averaging low and high tax rates.

CFC rules also grant a foreign tax credit on income tax withheld in Mexico from Mexican-source payments made to the foreign company. Taxpayers claiming this credit must accrue the gross income, including the income tax withheld in Mexico. The foreign tax credit limitation in this case is calculated on an income-by-income basis rather than on an overall basis. This foreign tax credit is granted in proportion to the foreign tax borne by the taxpayer. It is unclear whether taxpayers would also be allowed to take a foreign tax credit on income tax withheld by the foreign company that they own in a preferential tax regime.

The tax authorities have the power to determine the tax effects of operations whose aim is to benefit from a tax treatment that otherwise would not have been obtained (e.g. tax simulation).

Payments made to non-residents will generally be subject to a 40% withholding tax on the gross amount when the recipient benefits from a preferential tax regime. The foregoing does not apply to dividends and to certain types of interest (e.g. interest paid to foreign banks and interest paid to non-residents arising from publicly traded instruments, from bonds issued by the federal government or by the Mexican National Bank).

The SAT Regulations provide that the rule described in the previous paragraph only applies where the non-resident payee is a related party of the payer and provided that the payee is resident in a country that does not have a broad exchange of information agreement with Mexico (*see* section 7.5.).

The taxpayer must in all cases file an informative tax return for the investment they hold in controlled foreign entities.

Until 2020, income obtained through a fiscally transparent foreign company or vehicle was taxed under the CFC rules. As of 2020, the LISR provides a new regime for transparent entities (including foreign legal vehicles) (*see* section 7.5.3.).

Information returns concerning listed jurisdictions

Companies must file an information return in February of each year disclosing (i) the income of the previous year that was subject to a preferential tax regime or that was generated through companies whose income was subject to such regimes; (ii) income generated through foreign companies or vehicles fiscally transparent; and (iii) any income generated from any of the following listed jurisdictions, even if the income generated from such jurisdictions is not subject to a preferential tax regime. The listed jurisdictions are as follows:

1	Albania	33	Guam	64	Pitcairn
2	American Samoa	34	Guernsey, Jersey, Alderney, Great Sark Island, Brechou, Jethou, Lihou (Channel Islands)	65	Puerto Rico
3	Andorra	35	Guyana	66	Qatar
4	Angola	36	Honduras	67	Qeshm
5	Anguilla	37	Hong Kong	68	St. Helena
6	Antigua and Barbuda	38	Isle of Man	69	St. Kitts
7	Aruba	39	Jordan	70	St. Lucia
8	Ascensión	40	Kelling	71	St. Pierre and Miquelon
9	Azores	41	Kiribati	72	St. Vincent and the Grenadines
10	Bahamas	42	Kuwait	73	San Marino
11	Bahrain	43	Labuan	74	Seychelles
12	Barbados	44	Liberia	75	Solomon Islands
13	Belize	45	Liechtenstein	76	Sri Lanka
14	Bermuda	46	Macao	77	Svalbard Archipelago
15	British Virgin Islands	47	Madeira	78	Swaziland
16	Brunei Darussalam	48	Maldives	79	Tokelau
17	Campione d'Italia	49	Malta	80	Tonga
18	Canary Islands	50	Marshall Islands	81	Trieste
19	Canary Islands' Special Zone	51	Mauritius	82	Trinidad and Tobago
20	Cape Verde	52	Monaco	83	Tristan de Cunha
21	Cayman Islands	53	Montserrat	84	Tunisia
22	Christmas Islands	54	Nauru	85	Turks and Caicos
23	Cook Islands	55	Netherlands Antilles	86	Tuvalu
24	Costa Rica	56	Nevis	87	United Arab Emirates
25	Cyprus	57	Niue	88	United States Virgin Islands
26	Djibouti	58	Norfolk Island	89	Uruguay
27	Dominica	59	Oman	90	Vanuatu
28	Falkland Island	60	Ostrava Free Zone	91	Western Samoa
29	French Polynesia	61	Pacific Islands	92	Yemen
30	Gibraltar	62	Palau		
31	Greenland	63	Panama		
32	Grenada				

7.5. *Other anti-avoidance rules*

For the taxation of indirect transfers of assets, *see* section 6.2.1.

7.5.1. Broad exchange of information agreements

Various domestic law provisions grant benefits to taxpayers if there is a broad exchange of information agreement (e.g. group treatment (*see* section 2.1.), double tax relief (*see* section 6.1.4.) and payments to preferential tax regimes (*see* section 7.4.)).

Under SAT Regulations, a country is regarded as having entered into a "broad exchange of information agreement" with Mexico in the following cases:

- where the relevant country has entered into an exchange of information agreement with Mexico that is based on the OECD's Tax Information Exchange Agreement, and such country effectively exchanges information with Mexico;
- where the relevant country has entered into a tax treaty that includes an article substantially similar to article 26 of the OECD Model Tax Convention adopted on 15 July 2005, and such country effectively exchanges information with Mexico. If the tax treaty does not include an exchange of information article that is substantially similar to article 26, Mexico still considers the existence of a "broad exchange of information agreement" if the tax authority of the relevant country has publicly recognized that it has adopted the same approach as provided by article 26; or
- where the relevant country is part of the Multilateral Convention for the Assistance in Collection of Taxes signed in Strasbourg on 25 January 1988, as amended by the Protocol signed in Paris on 27 May 2010, and such country effectively exchanges information with Mexico.

Banks and other companies of the financial system in Mexico have committed to the automatic exchange of information using the common reporting standard (CRS). More than 90 jurisdictions have joined the automatic exchange of information to prevent fiscal evasion.

7.5.2. Juridical double taxation

In the case of transactions between related parties, the tax authorities may request non-residents to prove the existence of juridical double taxation in order to claim tax treaty benefits. This new power will not be exercised by the tax authorities where:

- the non-resident resides in a country with a territorial taxation system;
- the non-resident is not subject to tax in his country of residence under the application of a tax treaty entered into by Mexico with that country;
- the transfer of shares is performed in accordance with the corporate restructuring rules contained in a tax treaty; and
- dividends are paid to a non-resident who is the beneficial owner of such dividends and is exempt from tax in its residence jurisdiction by the application of an exemption method contained in a tax treaty.

7.5.3. Fiscally transparent foreign entities and vehicles

As from 2020, article 4-B of the LISR provides a new regime for fiscally transparent foreign entities and legal vehicles.

Resident companies and individuals, as well as non-residents with a permanent establishment in Mexico, are subject to income tax on income obtained through entities or legal vehicles that are considered fiscally transparent abroad.

Foreign entities and legal vehicles are transparent when:

- they are not residents for income tax purposes in the jurisdiction of their incorporation or in the jurisdiction where the main administration of their business or the seat of their effective management is located; and
- their income is attributed to its members, partners, shareholders or beneficiaries, in terms of the foreign legislation applicable to them.

Income obtained through fiscally transparent foreign entities and legal vehicles is accruable for the resident in Mexico in an amount that is proportional to its participation in the relevant entity or vehicle, in the tax year in which such income accrued for the entity or vehicle. The control of the resident in Mexico over the fiscally transparent foreign entity or legal vehicle is irrelevant in this respect.

Income subject to tax is the taxable profit of the transparent foreign entity or vehicle, determined according to the Mexican laws that would be applicable to such entity or vehicle if it were a Mexican company. The accounting records of the foreign entity or legal vehicle must be kept available for the tax authority.

Taxpayers must, in all cases, file an informative tax return for the investment they hold in any fiscally transparent foreign entity or legal vehicle.

7.5.4. Anti-hybrid entities rules

As from 2020, the LISR provides a new set of anti-hybrid rules (articles 4-A, 4-B and 205 of the LISR).

Article 4-A of the LISR establishes the tax regime applicable to fiscally transparent foreign entities and foreign legal vehicles. Accordingly, with effect from 1 January 2021, foreign entities or vehicles will be subject to income tax in Mexico, under the terms of section V of the LISR ("Mexican source income derived by foreign residents"). Nevertheless, in order to avoid a treaty override, Mexico will recognize the tax transparency of such entities or vehicles if, under the terms of a treaty, such transparency is expressly recognized.

Foreign entities are understood to be companies and other entities with legal personality that are incorporated abroad, as well as Mexican entities that are residents in a foreign jurisdiction. Foreign vehicles are defined as trusts, partnerships, investment funds or any other similar vehicles created under the laws of a foreign jurisdiction and that lack legal personality. Moreover, foreign entities or vehicles are deemed fiscally transparent when they are not resident in the jurisdiction of their incorporation and when their income is attributed to their members, partners, shareholders or beneficiaries.

Article 205 of the LISR provides a tax incentive effective from 1 January 2021, by which the tax transparency of foreign vehicles engaged in the management of private equity investments deriving income from interest, dividends, the rental of immovable property and capital gains from Mexican sources is recognized (*see* section 1.7.14.).

Article 4-B of the LISR, which is effective from 1 January 2020, modifies the tax regime applicable to residents and non-residents with a permanent establishment in Mexico that obtain income through fiscally transparent foreign entities or vehicles (*see* section 7.5.3.).

7.5.5. Obligation to report aggressive tax planning schemes

With effect from 1 January 2021, tax advisers are required to report aggressive tax planning schemes to the SAT.

The obligation to disclose aggressive tax planning schemes was introduced in the CFF as part of the tax reform of 2020, in line with the recommendations issued in the context of Action 12 of the OECD BEPS Project.

According to the CFF, a tax scheme is reportable if it generates, or is likely to generate, a direct or indirect tax benefit for the taxpayer in Mexico and if it presents, among others, the following characteristics:

- it prevents foreign tax authorities from exchanging tax or financial information with the Mexican tax authorities;
- it prevents taxpayers from applying the rules related to transparent entities and vehicles;
- it allows taxpayers to transfer net operating losses to other parties;
- it allows taxpayers to return to them or their shareholder any payment;
- it relates to transactions carried out between related parties that:
  - involve hard-to-value intangibles;
  - implement corporate restructurings in which no consideration is agreed for the transfer of assets, functions and risks; or
  - result in the decrease of the operating profits of the taxpayer by more than 20%.
- it prevents the creation of a permanent establishment in Mexico;
- it prevents the application of the additional 10% withholding tax for dividend payments made to Mexican individuals or foreign residents; and
- it does not allow the identification of the beneficial owner of income or assets, including tax schemes that imply the participation of foreign entities or vehicles whose beneficiaries are not identified at the moment of their incorporation or afterwards.

The CFF defines a general reportable scheme as any plan, project or recommendation that is intended to be massively commercialized. A personalized reportable scheme is defined as any plan, project or recommendation that is designed, commercialized, organized or implemented in order to be applied to the situation of a specific taxpayer.

General reportable schemes must be disclosed within the 30 days following the date on which the tax adviser takes any measure aiming to commercialize such scheme. Personalized reportable schemes must be disclosed within 30 days following the date on which the scheme is made available to the taxpayer for its implementation, or when the first transaction pertaining to the implementation of the scheme takes place, whichever occurs first. Personalized reportable schemes must be disclosed if the tax benefit generated or expected to be generated in Mexico through such schemes exceeds MXN 100 million.

Tax advisers must submit to the SAT an informative return in February of each fiscal year.

In cases where a tax scheme is not reportable in accordance with article 199 of the CFF or when the tax adviser considers that he is legally prevented from disclosing a scheme, such a tax adviser is required to issue a statement providing the reasons that justify the non-disclosure of the tax scheme.

Nonetheless, taxpayers are required to disclose reportable tax schemes when:

- the tax adviser does not provide the identification number of a reportable scheme or does not deliver the statement providing the reasons that justify the non-disclosure of the tax scheme;
- the tax scheme has been designed, organized, implemented and managed by the taxpayer itself;
- the tax scheme has been designed, commercialized, organized, implemented or managed by a person that is not considered a tax adviser;
- the tax adviser is a non-resident; or
- the tax adviser and the taxpayer agreed that the latter would be responsible for reporting the tax scheme to the SAT.

If a reportable scheme is not disclosed or it is partially, inaccurately or extemporaneously disclosed to the SAT, fines may apply and the tax benefit obtained by the taxpayer through the relevant tax scheme will be disregarded.

The obligation to report aggressive tax planning schemes is effective as from 1 January 2021. However, the tax schemes that must be disclosed to the SAT are those that were designed, commercialized, organized or implemented from 2020 onwards.

Tax schemes that were designed, commercialized, organized or implemented before 2020 must be disclosed if they are still producing tax effects from 2020 onwards. In such a case, the obligation to report the tax scheme to the SAT belongs to the taxpayer.

8. Value Added Tax

8.1. *General*

IVA (*impuesto al valor agregado*) is imposed at the federal level. The Value Added Tax Law (*Ley del Impuesto al Valor Agregado*, LIVA) is divided in nine chapters and transitional provisions.

The SAT is in charge of the administration and collection of IVA.

Based on the NTCS, the LIVA expressly forbids states to impose local or municipal taxes on:

- items or activities subject to IVA, except for taxes on the provision of accommodation services, camps, motor home sites, or time-sharing contracts;
- the sale of goods or the provision of services for export;
- property represented by assets or gains or capital of enterprises, except for the possession or use of motor vehicles and other means of transport;
- interest, securities, derivative financial obligations and gains derived therefrom, including gains from alienation;
- the temporary use or enjoyment of personal residences;
- public entertainments (theatre and circus performances) that together exceed a local tax of 8%, calculated on the total income derived from such activities;

- the sale of tickets or other receipts for lotteries, raffles, contests, etc., that are organized by decentralized public organizations of the federal public administration, if the purpose is to generate revenue used for social welfare; and
- electric power (production, transmission, distribution, etc.).

However, the LIVA provides that states may impose the following taxes:

- tax on alienation of construction sites, property tax, property transfer tax, and duties on the provision of public electric power; and
- separate taxes on income derived by individuals from the provision of professional services (other than income from employment), temporary use of immovable property (if such property is located in the taxing state), the alienation of immovable property, carrying out business activities attributable to establishments located in the taxing state. If establishments are also located in other states, the income must be apportioned. The rate of such taxes must be between 2% and 5%. Deductions are permitted with respect to each item of income as set forth in the LISR.

IVA is imposed on specific acts or activities carried out by individuals or companies, irrespective of their tax residence: taxable supplies of goods and services as well as on imports of taxable goods and services into Mexico (article 1 of the LIVA). Exports and a few other supplies are zero rated. Some specified transactions are exempt either with or without a reduced credit for IVA previously paid (*see* section 8.6.). IVA is also levied when the temporary use of a good is granted.

In computing the IVA liability, input IVA may be credited against output IVA, so that in practice only the value added to the taxpayer's supplies is taxed. IVA applies to all stages of production and distribution.

Starting in 2017, the IVA recorded on investments made and expenses incurred in pre-operational periods on or after 1 January 2017 will be credited on the tax return of the first month in which taxable activities are carried out. At the election of the taxpayer, the IVA refund may also be credited in the month after the expenses and investments are made, subject to certain requirements.

Labour subcontracting services

Until 31 August 2021, IVA paid for subcontracted labour will be creditable to the extent that the contractor complied with the obligation to withhold 6% of the value of the consideration effectively paid. The definition of labour subcontracting services that was provided by article 1-A, section IV, of the LIVA was very broad and was subject to different interpretations. In this respect, the SAT issued normative criterion 46/IVA/N on 31 January 2020, stating that the withholding obligation established by article 1-A of the LIVA applied to the extent that the contractor exploits the functions performed by the employees of the subcontractor.

As from 1 September 2021, labour subcontracting is prohibited, except for subcontracting schemes for the provision of specialized services. Consequently, article 1-A, section IV of the LIVA is derogated and, thus, the contractor will no longer be required to withhold IVA on these transactions. IVA paid for subcontracted labour is not creditable, according to article 4 of the LIVA. Nonetheless, regarding the provision of specialized services, to credit the VAT paid, the contractor must confirm that the outsourcing service provider is registered in the special labour registry, obtain a copy of the VAT return filed by the service provider and evidence of the corresponding payment (article 5, section II of the LIVA).

8.2. *Taxable persons*

Taxable persons for IVA purposes are any individual or company carrying out chargeable transactions in Mexico (article 1 of the LIVA), including small businesses, governmental agencies, holding companies, etc. In order to be subject to IVA, it is not necessary to conduct a business activity. However, individuals or companies carrying out chargeable transactions must be registered with the tax authorities to deduct or recover any amount of input IVA.

The Federal Republic, Mexico City, states, municipalities, decentralized bodies thereof, private charitable institutions and associations, and cooperative societies, are subject to IVA on their taxable supplies, irrespective of any exemption provided by law.

The LIVA does not provide for IVA group taxation.

8.3. *Taxable events*

IVA is levied on the following chargeable transactions: supply of goods or services within Mexico; transfer of use, or the right to use property; and importation of goods or services into Mexico by any person (article 1 of the LIVA).

With effect from 1 June 2020, digital services provided by non-residents to recipients located in Mexico are subject to IVA (*see* section 8.7.).

According to the LIVA, the following digital services will be subject to IVA, provided that they are rendered for good and valuable consideration:

- services allowing the download and access to digital content (e.g. images, movies, text, video, audio, music, games, multiplayer environments, online news, traffic information, weather forecasts and statistics);
- intermediation services allowing the interaction between suppliers of goods or services and customers;
- access to online clubs and dating sites; and
- distance learning.

The criteria established by the LIVA in order to determine that the recipient of the digital services is effectively located in Mexico are as follows:

- the domicile registered by the recipient of the services is located in Mexico;
- the financial institution through which the payment is made is located in Mexico;
- the IP address of the electronic device used by the recipient of the services corresponds to the ranges of addresses assigned to Mexico; or
- the country calling code of the telephone number of the recipient of the services corresponds to Mexico.

8.4. *Taxable amount*

With respect to the supply of goods, IVA is calculated on the price, inclusive of any amount added to it such as taxes (other than IVA itself), fees, interest and penalties (article 12 of the LIVA). If there is no price, the tax is calculated on the market value; if there is no market value, then tax is applied on the appraisal value.

With respect to the transfer of the use, or the right to use, tangible property, IVA is calculated on the entire value of the consideration under the contract inclusive of any amount added to it (e.g. taxes other than IVA, fees, maintenance expenses, construction, reimbursements, interest and penalties).

With respect to the supply of services, IVA is calculated on the total value of the consideration under the contract, inclusive of any amount added to it such as taxes (other than IVA itself), fees, travel and any other expenses, reimbursements, interest and penalties.

For loans and financing, IVA is calculated on the interest and any other consideration received by the lender, other than the repayments of the loans. Some interest is exempt (e.g. interest arising from loans granted by a Mexican tax resident financial institution, interest arising from publicly traded instruments, interest paid to insurance companies on financing operations, interest arising from instruments issued by the federal government).

With respect to temporary and final imports, IVA is normally calculated on the customs value of the goods, increased by any import-related taxes (other than IVA) and duties. For imports of services, intangible property and temporary use of, or the right to use, intangible property, IVA is calculated on the relevant consideration, or, if there is no consideration, on the value of the property or use of the property in the Mexican market.

With respect to the importation of services and intangible goods, the taxpayer may self-assess the IVA due as an input IVA and, in the same monthly return, may apply a credit for it towards its output IVA.

In general, discounts, rebates and bonuses granted by the taxpayer are excluded from the taxable base.

8.5. *Rates*

The rates of IVA in Mexico are (articles 1 and 2-A of the LIVA):

Type of rate	*Rate (%)*
Standard rate	16
Preferential rate (exportation of goods and services and certain domestic supplies)	0

The zero-percent rate is imposed on the exportation of goods and services and certain domestic supplies.

From 2021 to 2024, a tax incentive for the northern and southern borderline region effectively reduces the IVA rate to 8% (*see* section 8.8.1.).

8.6. *Exemptions*

Certain transactions are exempt from IVA (e.g. alienation of land, alienation of construction destined for housing purposes, teaching services, public transportation of persons in metropolitan and suburban areas, etc.). In such cases, the taxpayer will not be able to recover the input IVA on previously paid purchases and imports because it will have no output IVA to apply towards the input IVA.

Article 4-A of the LIVA, introduced as part of the tax reform for 2022, defines the term “activities not subject to IVA” as those carried on outside the national territory. Taxpayers that engage in “non-subject activities” cannot benefit from the IVA crediting mechanism.

IMMEX companies may receive a certification from the tax authority to avoid temporary import IVA payment. In the absence of such certification, IMMEX companies may guarantee the amount of IVA on the temporary import and avoid the payment, or the

IVA may be paid and recovered later through the crediting mechanism when the merchandise is returned abroad or it may be credited with output IVA. No IVA is triggered on final importations when the IVA on prior temporary importations was paid.

Certain transactions are subject to IVA at a zero rate (e.g. alienation of animals, other than domestic animals such as dogs and cats) and vegetables, patent medicines, alienation of some food products, services of milk pasteurization, reinsurance services). In such cases, the taxpayer is entitled to recover the related input IVA previously paid on purchases and imports because it will have a no output IVA to apply towards the input IVA.

The zero-rated transactions do not reduce the taxpayer's creditability factor. However, exempt transactions reduce such factor and, consequently, the possibility of crediting the IVA against other transactions.

8.7. *Non-residents*

In general, a refund mechanism is not available for non-residents. However, foreign tourists may claim a refund of IVA on eligible expenses upon leaving the country either by air or ship. Refunds are not available for tourists leaving the country via land borders. Travellers wishing to avail themselves of the refund mechanism must obtain an invoice from the vendor. Such invoices must evidence purchases exceeding MXN 1,200 from any single vendor. The purchases must be exported from Mexico through a special customs verification mechanism.

Non-resident companies, without a permanent establishment in Mexico, would typically be impeded from recovering IVA charged by their suppliers of goods and services (input) through the credit mechanism, because they do not carry on business activities in Mexico. However, the SAT has granted tax rulings to particular non-resident companies, which carry out business activities in Mexico on a regular basis, where it has recognized that such companies are entitled to credit input and output IVA and recover any favourable balance. Such companies are deemed as taxpayers for IVA purposes regardless of the fact that they have no permanent establishment in the country for income tax purposes (e.g. airlines companies).

A reverse charge mechanism applies to the importation of services (administrative, professional or any services rendered abroad) and intangible goods supplied by non-residents.

With effect from 1 June 2020, non-residents providing digital services to final consumers located in Mexico must calculate IVA on a monthly basis by applying the 16% rate to the consideration received for their services (for the list of taxable transactions, *see* section 8.3.). Moreover, non-residents providing digital services to final consumers located in Mexico are required to withhold and remit IVA to the SAT within the first 17 days of the month following the month in which the transaction is carried out.

Non-residents providing digital services to recipients located in Mexico must comply with the obligations established by article 18-D of the LIVA (i.e. to register in the Federal Taxpayers Registry (*Registro Federal de Contribuyentes*, RFC), to collect the corresponding IVA, to keep a record of the recipients of services in Mexico, to issue invoices and to file IVA and informative tax returns). In addition, non-residents must appoint a legal representative for tax purposes in Mexico. These obligations do not apply in cases where the non-resident without a permanent establishment in Mexico provides the services through a digital platform and the latter withholds and remits the tax to the SAT.

Special rules apply to the provision of digital intermediation services (allowing the interaction between suppliers of goods or services and customers) in Mexico by non-residents. In those cases, the non-resident must collect IVA on behalf of the individuals that sell goods, provide services or grant the temporary use or enjoyment of goods.

8.8. *Other*

8.8.1. Valued added tax incentive for the northern and southern borderline region

A tax incentive is granted to individuals or entities that transfer assets, provide independent services or grant the temporary use or enjoyment of assets, in premises or establishments located within the northern or southern borderline region.

The tax incentive consists of a credit equivalent to 50% of the 16% IVA rate that will be directly applied to the value of the activities performed, which effectively results in an 8% IVA rate instead of the standard 16% rate.

In order to apply this tax incentive, taxpayers must comply with the requirements set forth by the SAT through the general rules and, in addition to: (i) carrying out the material delivery of the assets or providing the service in the northern border region; and (ii) filing a tax incentive application notice.

Should the referred notice not be submitted accordingly, taxpayers will not be able to apply for this tax incentive.

This tax incentive cannot be applied, amongst others, in the following situations: (i) transfer of real estate and intangible assets; (ii) supply of digital contents; (iii) in case of listed taxpayers carrying out non-existent operations in terms of the Federal Tax Code, or having any partner or shareholder that is likewise listed, or those who have carried out operations with any listed taxpayer, without presenting the SAT with evidence of the materiality of the referred.

Under a transitory provision, it is specified that the tax incentive applies when the assets or services have been delivered or provided before the end of the term of the Decree and the corresponding considerations are effectively paid within the 10 calendar days following such date.

Both the incentive on the income tax as well as IVA, are not considered cumulative revenue for income tax purposes, and therefore taxpayers are relieved from filing the notice on tax incentives.

The SAT may issue the rules of a general nature it deems necessary for the correct application of the incentive.

9. Miscellaneous Taxes

9.1. *Capital duty*

No capital duties are imposed in Mexico upon the formation of companies or increases of capital. However, trivial Public Registry recording duties may apply.

9.2. *Transfer tax*

9.2.1. Immovable property

Real estate transfer tax is imposed by Mexico City and by the municipalities in the other selected states. The tax is imposed on the taxable value of the immovable property, the definition of which varies among the selected states (cadastral, transaction or appraisal value). The rates in the municipalities in the other selected states vary from 1% to 3%. *See* section 5.2.

9.2.2. Shares, bonds and other securities

No indirect taxes apply to the transfer of shares, bonds and securities.

9.3. Stamp duty

Certain states apply a local stamp duty.

9.4. Customs duty

Customs duties are levied on the customs value of most imported goods. The General Tariff Law provides for rates of up to 20%. Free trade agreements have reduced some of the tariff rates to 0%. Compensatory duties may be imposed on merchandise imported under conditions involving an unfair practice in international trade.

9.5. Excise duty

Excise tax (*impuesto especial sobre productos y servicios,* IEPS) is levied on certain specified goods and services. The tax is levied under a value-added system up to the wholesale level. Sales to the final consumer are normally not taxed. Cigarettes, gasoline and diesel, fossil fuels and pesticides are taxed only at the producer or importer level.

In addition, IEPS is also levied on:

- telecommunication services rendered through one or more public networks, thereby exempting public and rural telephone (regular telephone is levied), interconnection between public networks and internet access: 3% rate; and
- transfers and imports of energy drinks, and on the rendering of commission, mediation, agency, representation, distribution, brokerage and consignation services in lieu of the transfer of energy drinks: 25% rate.

The IEPS rate for alcoholic beverages and beer is 26.5% when the alcoholic content is of 14°GL or lower, 30% for a content higher than 14°GL and up to 20°GL, and 53% for a content higher than 20°GL. The rate for cigarettes and cigars is 160%.

Automobiles are subject to a special excise tax (*impuesto sobre automóviles nuevos*, ISAN). The ISAN is imposed on: (i) producers, assemblers and distributors who transfer new cars produced in Mexico to the consumer (first sale); and (ii) persons who import new model vehicles or vehicles not older than 10 years. For automobiles with a capacity of up to 15 passengers, the rates are progressive and vary, in accordance with the average transfer price, from 2% to 17%. The rate for trucks with a capacity of up to 4,250 kg, trailers and semi-trailers is 5%. ISAN generally does not apply where the car is powered by rechargeable batteries or electricity.

9.6. Other taxes

9.6.1. Taxes imposed at the state and municipal level

9.6.1.1. Tax for the provision of accommodation

Tax on the provision of accommodation is generally imposed at the state level on the total amount of remuneration received for accommodation services. The tax rate ranges between 2% and 4%. Nonetheless, for instance, from 2020, a 5% rate applies in Mexico City if an intermediary or facilitator (e.g. a digital platform) participates in the transaction.

9.6.1.2. Water supply duties

Water supply duties are imposed by Mexico City and by the municipalities of the other selected states. The duties are determined based on the volume of water consumed and the type of tap and consumption (residential, commercial, industrial, etc.).

9.6.1.3. Other taxes

The selected states also levy additional taxes. In some cases, such taxes are imposed at the state level while in others they are imposed at the municipal level (e.g. taxes on public shows and entertainment, including virtual shows (rates up to 20%), taxes on lotteries, raffles, draws and games (rates from 2% to 12%), taxes on transfers of used vehicles (rates from 1% to 2%, or fixed fees depending on the vehicle), as well as taxes on the use or possession of motor vehicles (fixed fees depending on the year or type of vehicle)).

MEXICO

This chapter is based on information available up to 10 January 2022.

Introduction

Individuals are subject to income tax. Employees must make social security contributions. Value added tax (*see* Corporate Taxation section 8.) and excise taxes apply.

Income and other taxes are imposed by the federal and state governments. In some cases municipalities participate in the collection of state taxes, but they are not constitutionally entitled to impose taxes directly.

The tax administration authority in Mexico is the *Servicio de Administracion Tributaria* (SAT).

The currency is the Mexican peso (MXN).

Through the constitutional reform (in force from 27 January 2016), references to the general minimum salary contained in tax laws must be replaced by the measure and update unit (*Unidad de medida y actualización*, UMA). The daily value of the UMA, as from 1 February 2022, is MXN 96.22. This value was updated on 10 January 2022. As from 2022, the general minimum daily salary is MXN 172.87 and MXN 260.34 for the northern border zone.

There are no ring-fencing regimes for individuals.

Important amendments were made to the Income Tax Law, Federal Tax Code and VAT rules in 2021. Among other things, the tax reform for 2021 introduced the following amendments: the establishment of a general anti-avoidance rule (GAAR); the obligation for tax advisers to report aggressive tax planning schemes; changes to the definition of "permanent establishment"; new regime for fiscally transparent foreign entities; new limitation on interest deductibility; new limitation on the deduction of payments to related parties subject to preferential tax regimes; and new rules on the collection of VAT with respect to the digital economy. The tax reform for 2022 also introduced important amendments to the Income Tax Law and Federal Tax Code. Among these high-impact measures is a new simplified regime, available as an option for individuals who carry on business or professional activities or who grant the use or temporary enjoyment of immovable property.

1. Individual Income Tax

Individuals resident in Mexico are subject to income tax on their worldwide income. The tax is imposed at progressive tax rates on an annual basis, although monthly advance payments are required in most of the cases. Withholding taxes may apply in some cases. Depending on the type of income, the tax withheld at source may be considered a final payment or treated as an advance payment of the income tax due. There are no other taxes on income (*see* section 2.).

For rules applicable to expatriates, *see* section 6.2.

Non-resident individuals without a permanent establishment in Mexico are subject to income tax only on their Mexican-source income (article 1 of the Income Tax Law (*Ley del Impuesto sobre la Renta*, LISR)).

1.1. *Taxable persons*

An individual is a resident of Mexico if he has a dwelling in Mexico. If an individual also has a dwelling in another country, he is considered to be resident in Mexico if his centre of vital interests is located in Mexico. For these purposes, the centre of vital interests is considered to be in Mexico in either of the following cases:

- more than 50% of his total income in a calendar year is Mexican-source income; or
- his main centre of professional activities is in Mexico.

Mexican national individuals are presumed to be Mexican tax residents, unless there is evidence to the contrary. Resident individuals who change their residency to another jurisdiction must file a notice of expatriation and evidence of their new tax residence. Failure to file such notice or evidence of the new tax residence results in the individual being considered to continue to reside in Mexico for 5 years after the migration. In addition, Mexican national individuals who expatriate from Mexico continue to be residents in Mexico when they establish their new residence in a country where income may be subject to a preferential tax regime. Residence applies for the year in which the relevant expatriation notice is filed and for the subsequent 5 years. This provision does not apply if there is a broad exchange of information agreement in force between Mexico and the new country of residence (*see* Corporate Taxation section 7.2.).

All individuals must file tax returns separately. There is no joint tax return for married couples, except for married persons under the joint asset ownership regime (*see* section 1.10.2.).

For taxation purposes, partnerships are treated as separate taxable persons. Mexican trusts (*fideicomisos*) are not treated as taxable persons. A resident individual participating in a Mexican trust will be subject to tax on the income obtained through the trust when income derives from business activities carried out through it. Business trusts are subject to tax as if they were a taxable corporation, but ultimate tax effects are recognized at the level of the participating individuals and taxes are assessed at this level.

1.2. *Taxable income*

1.2.1. General

Individuals are subject to income tax on their worldwide income, unless expressly exempt. Income is broadly defined to include receipts in cash, benefits in kind, in services, in credit or of any other kind (article 90 of the LISR).

The income of individuals is divided into nine different categories, namely:

- employment income;
- income from business and professional activities;
- rent from immovable property;
- capital gains from the transfer of property, including sales through stock markets;
- income from the acquisition of goods (e.g. donations received);
- dividends and profit distributions;
- interest income;
- income from prizes; and
- other income.

To compute taxable income, the taxable base is reduced by applicable deductions and allowances. In case of rental income derived from immovable property, the real estate tax paid is deductible (*see* section 4.2.). The individual tax rate is progressive and ranges from 1.92% to a maximum rate of 35% (*see* section 1.9.). Starting 2022, the new tax regime, the Simplified Trust Regime (*Régimen Simplificado de Confianza*, RESICO), is available as an option for individuals who carry on a business or professional activities, or who grant the use of immovable property, provided that their total annual income is not higher than MXN 3.5 million. The tax rate varies from 1% to 2.5%, which is applied to gross income. No deduction applies under this regime.

An additional 10% (*see* section 1.5.1.) withholding tax is levied on individuals receiving dividends from resident companies. Such tax must be withheld by the distributing company and may not be credited against any income tax due. Based on a transitional provision of the LISR of 2014, the 10% additional tax may not be withheld on dividends or profits distributed out of the CUFIN account of the payer, accrued as of 2013.

Individuals receiving dividends from non-resident companies must accrue to their taxable income the grossed-up amount of the dividends received. Subject to certain conditions, the income tax paid abroad may be credited against Mexican income tax.

Loans, donations and prizes received, exceeding MXN 600,000, individually or in total, must be reported to the SAT in the annual tax return. Otherwise, the amounts received will be deemed taxable income.

1.2.2. Exempt income

The most important types of exempt income are (article 93 of the LISR):

- compensation for damages, limited to the market value of the relevant property;
- interest paid by financial institutions on qualifying bank accounts, provided that the daily average balance of the account does not exceed 5 times the annual UMA (MXN 175,505);
- certain proceeds from life insurance policies with Mexican insurance companies;
- proceeds from withdrawals from retirement and old-age accounts established under the Social Security Law, provided that such withdrawals are made to pay marriage expenses, or by way of unemployment aid;
- inheritances and bequests;
- gifts received from ascendants, spouse and descendants (the ascendant receiving the gift from a descendant must not grant the same gift to other descendants);
- capital gains from the transfer of dwellings where the consideration does not exceed 700,000 investment units (*unidad de inversion*, UDIs). The UDI is an indicator, the value of which is adjusted by inflation. Currently, 700,000 UDIs amounts to approximately MXN 4,948,300 as of January 2022;
- certain social security benefits (e.g. pensions received under the national pension fund system up to a certain limit) and certain other benefits received by workers; and
- income derived from economic or monetary support received through governmental budgetary programmes contained in the expenditure federal budget or in the federal entity's budget will not be subject to taxation provided certain requirements are met (article 90 of the LISR).

Pursuant to article 113-E of the LISR, income derived by individuals exclusively engaged in primary sector activities (i.e. agriculture, forestry, livestock farming or fishery) is exempt from income tax up to an amount equivalent to MXN 900,000.

1.3. *Employment income*

1.3.1. Salary

Employment income is subject to tax at progressive rates. Employment income includes salaries derived from dependent personal services; income received by members of production cooperatives and members of civil companies and associations; fees received by members of corporate boards, administrators and general managers; fees received by persons rendering independent personal services mainly to one client, provided that the services are rendered in that client's premises; and professional income and business income derived from legal entities or by individual entrepreneurs, where the individual opts to pay tax under the rules governing employment income.

Certain items of income (e.g. welfare benefits) are exempt or partially exempt. Reimbursements of duly substantiated expenses are not taxable.

Employment income is subject to monthly withholding tax. The computation of the withholding involves two steps: (i) the calculation of the liability resulting from the application of the relevant tax table (*see* below) and (ii) the reduction of this liability by the application of the employment subsidy. The employment subsidy is determined according to the employment income, where the maximum amount of subsidy may be MXN 407 (*see* section 1.7.3.).

Monthly income tax table for the tax year 2022:

Monthly taxable income (MXN)			*Tax due on lower limit (MXN)*	*Marginal rate on excess (%)*
Up to		644.58	0.00	1.92
644.59	-	5,470.92	12.38	6.40
5,470.93	-	9,614.66	321.26	10.88
9,614.67	-	11,176.62	772.10	16.00
11,176.63	-	13,381.47	1,022.01	17.92
13,381.48	-	26,988.50	1,417.12	21.36
26,988.51	-	42,537.58	4,323.58	23.52
42,537.59	-	81,211.25	7,980.73	30.00
81,211.26	-	108,281.67	19,582.83	32.00
108,281.68	-	324,845.01	28,245.36	34.00
Over		324,845.01	101,876.90	35.00

Only certain expenses are deductible when calculating annual taxable income (*see* section 1.7.1.). Neither commuting costs nor moving costs are deductible.

Individuals receiving income exclusively from salaries and interest not exceeding MXN 400,000 (interest income not exceeding MXN 100,000) per year are not obliged to file an annual income tax return unless the individual: (i) changes employer; (ii) communicates to his employer his decision to file his own annual tax return; or (iii) obtains income of other categories or salaries from abroad.

1.3.2. Benefits in kind

In general, according to article 90 of the LISR, benefits in kind are fully taxable and are valued at their cost to the employer or at their market value. However, certain benefits in kind granted by employers are exempt or non-taxable. For example, restaurant tickets and food are considered non-taxable income of the employee, and premiums paid by the employer for life or health insurance are generally regarded as exempt income. Employers are only allowed to deduct 47% of the amounts and fringe benefits paid to their employees that are exempt income for those employees (e.g. retirement funds, vacation premiums, termination payments), as well as supplementary contributions to reserves for pension and retirement funds of the employees. This deductibility rate could be increased to 53% if the fringe benefits paid by the employer in the current tax year are not lower than the total benefits paid in the prior tax year.

In the case of stock option plans, income from exercising the option to purchase company (or other related-party) shares is deemed to be employment income if the market value of the stock exceeds the purchase price. The employee must accrue this income upon exercising the option and therefore such income will be subject to withholding tax.

1.3.3. Pension income

For tax purposes, pension and retirement receipts and benefits of a similar nature, received from the social security system, are exempt up to 15 times the daily UMA (MXN 1,443). Any amount received in excess to will be taxed at progressive tax rates (*see* section 1.9.1.).

Personal contributions made to pension and retirement plans are deductible. This deduction is limited to 5 times the annual UMA (MXN 175,505) and may not exceed 10% of the individual's taxable income of the tax year. In addition, contributions and/or payments made must relate to the individual's retirement plans under the Mexican social security system. Hence, contributions and/or payments made to non-Mexican plans do not qualify for the tax incentive.

Pension contributions or insurance premiums, other than those mentioned above, are not deductible. However, a tax incentive is granted to individuals who elect to defer the payment of their tax due by making contributions to a pension plan and/or payments to insurance premiums, provided certain conditions are met. These contributions and payments made may be deducted from the individual's annual taxable income up to MXN 152,000. Contributions and insurance premiums payments made to non-residents are not eligible for this tax incentive.

Income obtained for items previously reduced from the individual's annual taxable income, will be taxable upon the withdrawal in cash of the benefits. The applicable tax rate will not exceed the tax rate that would have been applied to the individual's annual taxable income in the year in which the contributions and/or payments were made, as if they had not been made by the individual.

Contributions and/or payments made must relate to the individual's retirement plans under the Mexican social security system. Hence, contributions and/or payments made to non-Mexican plans do not qualify for the tax incentive.

1.3.4. Directors' remuneration

Fees and other remuneration earned by resident individuals in their capacity as members of a board of directors or other similar management body are treated as employment income subject to withholding tax.

1.4. *Business and professional income*

Business and professional income derived by individuals is subject to tax either under:

- the business and professional activities regime;
- the regime for business activities performed through digital platforms (article 113-A, 113-B and 113-C of the LISR);
- the incorporation regime (applicable in certain cases, as it was derogated from 2022, see section 1.4.3.); or
- the new Simplified Trust Regime, RESICO (articles 113-E to 113-J of the LISR), which is optional.

The concept of business income encompasses income derived from commercial and industrial activities. Agriculture, breeding of livestock, and fishing and forestry activities are subject to tax under the general business activities regime or, alternatively, under the RESICO. Under the RESICO regime, individuals exclusively engaged in primary sector activities (i.e. individuals deriving 100% of their annual income from agriculture, forestry, livestock farming or fishing activities) are exempt from income tax up to an amount equivalent to MXN 900,000 (*see* section 1.2.2.). Income derived from transport of goods and passengers is also treated as business income and is subject to the general business activities regime, unless the individual is a member of a "coordinated entity" (companies that manage and operate fixed assets or immovable property exclusively related to the transport of goods and passengers). In this case, the coordinated entity must fulfil the tax obligations of its individual members (monthly advance payments and annual tax returns). Income derived from professional activities is defined as income received for the rendering of independent personal services other than income treated as employment income.

Taxable income is calculated deducting the following items from the income derived from business activities or the rendering of professional services:

- returns received or discounts and bonuses made, if the corresponding income was included;
- acquisition of merchandise, raw materials, commodities, finished and semi-finished products used for rendering services or to produce and sell goods;
- expenses;
- investments;
- interest paid, derived from activities falling under the business and professional activities regime, without adjustment, as well as interest paid for credits, as long as the income borrowed was used for activities falling under said regime and provided that the relevant tax receipt is obtained by the taxpayer;
- payments made by the employer to the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social*) that are exclusively payable by such employer; and
- local taxes paid.

Individuals may deduct these items provided that the corresponding amounts are actually paid in cash, through a wire transfer or cheque, or in kind, in the tax year in which such amounts are deducted.

The deduction of investments is subject to the same requirements as for companies (*see* Corporate Taxation section 1.5.). The percentages of deduction must be applied to the original invested amount, even if such amount has not been totally paid in the tax year in which the deduction was authorized.

Investments may be deducted in the tax year in which they are used for the first time or in the following tax year, even if in such tax year the original invested amount has not yet been totally paid.

Starting 2022, a new simplified tax regime, RESICO, is available as an option for individuals who carry on a business or professional activities, or grant the use of immovable property, provided that their total annual income is not higher than MXN 3.5 million. The tax rate varies from 1% to 2.5%, which is applied on gross income. No deduction applies under this regime.

1.4.1. Business and professional activities regime

Under the business and professional activities regime, income is taxable when it is effectively received in cash, checks, in kind, or in services.

Individuals who derive income under the business and professional activities regime are required to make monthly income tax advance payments on the 17th day of the month following that in which the income is received. The income tax is calculated by applying progressive tax rates (*see* section 1.3.1.).

1.4.2. Business activities performed through digital platforms

As from 2020, the LISR establishes a tax regime for resident individuals performing business activities (i.e. the sale of goods or the provision of services) through digital platforms.

Residents and non-residents that, directly or indirectly, provide the use of technological platforms or digital applications allowing the interaction between resident individuals and final customers are required to act as withholding agents (article 113-A of the LISR).

The following (non-progressive) withholding tax rates apply:

- 2.1% for the provision of ride-hailing services and delivery of goods;
- 4% for the provision of accommodation services; and
- 1% for the sale of goods and the provision of service.

Withholding agents are required to withhold income tax and to remit it to the SAT. The amount withheld will be considered as an advance tax payment. Resident individuals selling goods or providing services through digital platforms are thus entitled to credit the income tax withheld against the income tax due in their annual income tax return. Nevertheless, resident individuals may opt to consider the amount withheld as a final tax payment, provided certain requirements are met (article 113-B of the LISR).

In addition, non-residents and residents providing the use of digital platforms to resident individuals performing business activities must comply with the obligations established by article 113-C of the LISR, including the obligation to register in the Federal Taxpayers Registry (*Registro Federal de Contribuyentes*, RFC), to issue withholding tax receipts and to file informative tax returns.

1.4.3. The incorporation regime

In previous years, the LISR established two regimes that are no longer in force. These regimes (the intermediate tax regime and the small taxpayer's regime) were replaced by the "incorporation regime".

The tax reform for 2022 eliminated the incorporation regime (articles 111, 112 and 113 of the LISR). Nonetheless, taxpayers that were taxed under the incorporation regime until 31 August 2021 may opt to continue applying this regime until they complete the maximum period of 10 consecutive fiscal years during which they may be taxed under such regime.

The "incorporation regime" is only applicable to business activities or independent personal services that do not require a professional degree (e.g. electricians, plumbers), provided that the individual's income from business activities in the previous year did not exceed MXN 2 million. Individuals who carry on business activities or provide independent personal services, who also receive a salary may opt for this regime, provided the combined income of the previous year did not exceed MXN 2 million.

Individuals taxed under the incorporation regime must make final bimonthly payments based on the following tax table:

Monthly taxable income (MXN)			Tax due on lower limit (MXN)	Marginal rate on excess (%)
Up to		1,289.16	0.00	1.92
1,289.17	-	10,941.84	24.76	6.40
10,941.85	-	19,229.32	642.52	10.88
19,229.33	-	22,353.24	1,544.20	16.00
22,353.25	-	26,762.94	2,044.02	17.92
26,762.95	-	53,977.00	2,834.24	21.36
53,977.01	-	85,075.16	8,647.16	23.52
85,075.17	-	162,422.50	15,961.46	30.00
162,422.51	-	216,563.34	39,165.66	32.00
216,563.35	-	649,690.02	56,490.72	34.00
Over		649,690.02	203,753.80	35.00

The resulting tax may be reduced by applying a percentage discount according to the following table. The reduction depends on the number of years (maximum 10) during which the taxpayer has been subject to this regime (*see* below).

Reduction of the applicable tax rate			
Year	% of reduction	Year	% of reduction
1	100	6	50
2	90	7	40
3	80	8	30
4	70	9	20
5	60	10	10

The tax year 2016 is considered the second year of this regime, even if the taxpayer has been subject to it since 2014.

Individuals taxed under the incorporation regime who reported income of MXN 2 million or more in the previous tax year will automatically be subject to tax under the business and professional activities regime as of the following tax year (*see* section 1.4.1.).

1.4.4. Simplified Trust Regime (RESICO)

A new tax regime, the Simplified Trust Regime (*Régimen Simplificado de Confianza*, RESICO), introduced by the tax reform 2022 and applicable to individuals, is intended to replace the incorporation regime.

The new regime is aimed at individuals who obtain income from (i) business activities; (ii) professional services; and (iii) rental income from immovable property, provided that their annual income does not exceed MXN 3.5 million. The regime is intended to simplify the administrative burden of taxpayers. Accordingly, taxpayers must compute and pay income tax on a monthly basis, up to the 17th day of the following month. The calculation of the tax must be carried out on income effectively received, as stated in the electronic invoices (*comprobante fiscal digital*, CFDI) issued during the month, without applying deductions or tax losses, according to the following table:

Income effectively received in a month, supported by CFDIs (excluding VAT) (MXN)	***Applicable rate (%)***
Up to 25,000.00	1.00
Up to 50,000.00	1.10
Up to 83,333.33	1.50
Up to 208,333.33	2.00
Up to 3,500,000.00	2.50

The following individuals are not eligible for the benefits of the regime: (i) partners or shareholders of legal entities or related parties; (ii) residents abroad with permanent establishments in Mexico; (iii) individuals with income subject to low-tax jurisdictions; and (iv) individuals deriving certain types of income assimilated to salaries.

The obligations of individuals who pay taxes under this regime include the following:

- obtaining and issuing CFDIs for the transactions they perform;
- making monthly tax advance payments; and
- filing the annual tax return for the fiscal year.

Taxpayers must file the annual tax return corresponding to a fiscal year in April of the following year, without applying deductions or tax losses, and in accordance with the following table:

Annual income effectively received, supported by CFDIs (excluding VAT) (MXN)	***Applicable rate (%)***
Up to 300,000.00	1.00
Up to 600,000.00	1.10
Up to 1,000,000.00	1.50
Up to 2,500,000.00	2.00
Up to 3,500,000.00	2.50

The following are causes to be excluded from the RESICO regime:

- obtaining income in excess of MXN 3.5 million in a given fiscal year;
- omitting three or more advance payments in a calendar year, consecutive or not;
- failure to file the annual tax return; and
- failure to issue CFDIs or if the taxpayer does not make any advance payment during the fiscal year.

If the taxpayer does not comply with his tax obligations, he must leave the RESICO regime and pay taxes under the general regime according to his taxable income (with no possibility to benefit from the RESICO regime again). If the reason for being excluded from the regime was exceeding the income cap allowed during the fiscal year, once the taxpayer meets again the corresponding income requirement (up to MXN 3.5 million), he may continue paying taxes under the terms of this new tax regime.

Individuals who were taxed under a different tax regime prior to the reform for 2022, and who opt to pay taxes under the RESICO regime, must apply pending credits and deductions no later than 1 July 2022, as well as request the refund of any pending favourable tax balances.

Taxpayers who, until 31 August 2021, were taxed under the incorporation regime, as of 1 January 2022, may continue paying VAT and excise tax (*Impuesto Especial sobre Producción y Servicios*, IEPS) in accordance with such regime until 31 December 2021, or until they complete the maximum period of 10 consecutive fiscal years during which they may be taxed under the incorporation regime. Taxpayers who, as of 31 August 2021, were taxed under the incorporation regime may continue applying the corresponding VAT and IEPS tax incentives, as long as the maximum period of 10 consecutive fiscal years to benefit from the incorporation regime is not exceeded, and they comply with the requirements of such regime.

1.5. *Investment income*

1.5.1. Dividends

Investment income is normally included in the individual recipient's taxable base (article 140 of the LISR).

Dividends must be included in taxable income. Individuals receiving dividends from resident companies may credit the income tax paid by the distributing company on the profits from which the dividends were paid against their income tax, provided that they have obtained a certificate issued by the distributing company regarding the dividend distribution.

Dividends distributed by resident companies to resident individuals or non-residents (either individuals or companies) are subject to an additional 10% withholding tax. Based on a transitional provision of the LISR of 2014, the 10% additional tax may not be withheld on dividends or profits distributed out of the CUFIN account of the payer, accrued as of 2013 (*see* section 1.9.2.).

There are no deductible expenses related to dividends.

For foreign-source dividends, *see* section 6.1.1.

1.5.2. Interest

Interest derived by resident individuals is fully taxable and must be reported in the recipient's annual tax return. Interest may be exempt in some cases (*see* section 1.2.2.). For withholding tax on interest, *see* section 1.9.2.

There are no deductible expenses related to interest.

For foreign-source interest, *see* section 6.1.1.

1.5.3. Royalties

Royalties derived by resident individuals are fully taxable and must be reported in the recipient's annual tax return. For withholding tax on royalties, *see* section 1.9.2. Nevertheless, royalties derived from copyright are exempt under certain conditions and provided certain requirements are met up to an amount per year equal to 20 times the value of the UMA. There are no deductible expenses related to royalties.

For foreign-source royalties, *see* section 6.1.1.

1.5.4. Income from immovable property

Rental income is taxed on the basis of the gross rent received less related expenses. Deductible expenses include the local property tax paid during the tax year, maintenance expenses (including salaries or service fees), insurance premiums covering the immovable property and interest on loans to finance the acquisition of the property or the construction or improvements. Alternatively, individuals may elect to deduct 35% of the rent as "deemed expenses", together with the corresponding local property tax paid, instead of deducting substantiated expenses (articles 114 to 118 of the LISR).

The new simplified tax regime, RESICO, may be applied as an option (*see* section 1.4.4.), provided that certain conditions are met.

For the tax treatment of foreign-source income from immovable property, *see* section 6.1.1.

1.6. Capital gains

Capital gains realized by individuals from the transfer of immovable property, securities and personal property are taxable. In certain cases, capital gains realized from the acquisition of property may be taxed under the ordinary income tax rules.

Generally, capital gains are computed as the difference between the cost of acquisition and the consideration received on disposal of the asset. The cost of acquisition must be adjusted by inflation pursuant to special rules and also includes, inter alia, the cost of improvements made to the asset and expenses and taxes inherent to the acquisition.

Taxable capital gains of individuals are calculated as the difference between (i) the greater of the consideration received for the transfer of the asset or the assessed value of the asset, and (ii) the cost of acquisition (adjusted by inflation and including, inter alia, the cost of improvements and expenses and taxes inherent to the acquisition).

Individuals transferring property by bequest, gift or company merger are not subject to income tax because no capital gain is deemed to be realized on these transactions. However, special rules are provided both for the computation of costs in the acquirer's hands and for taxation of income deemed to be received by the acquirer.

Capital gains from the transfer of dwellings where the consideration does not exceed 700,000 UDIs. As of January 2022, 700,000 UDIs amounts to approximately MXN 4,948,300.

No classification of capital gains exists as either short-term capital gains or long-term capital gains. However, special rules apply to different kinds of assets. Rollover relief is not available.

Unrealized capital gains are not taxed upon emigration (*see* section 6.2.2.).

1.6.1. Immovable property

Individuals realizing capital gains from the alienation of immovable property must make advance payments for each alienation, by applying the progressive rates mentioned in section 1.3.1. Should the transaction need to be formalized before a notary public according to civil law, the notary public is responsible for the calculation and payment of the relevant tax and must provide the taxpayer with information about his calculation. Individuals must accrue the income in their annual return and may deduct advance payments (articles 119 to 128 of the LISR).

Individuals transferring property by bequest, gift or company merger are not subject to income tax because no capital gain is deemed to be realized on these transactions. However, special rules are provided for the computation of costs in the acquirer's hands.

An exemption is granted to individuals who sell their own dwelling, subject to certain limitations (*see* section 1.2.2.).

1.6.2. Shares

Capital gains derived by resident individuals from the sale of shares, credit and financial instruments available to the general public and sold through the Mexican Stock Exchange will be subject to a final withholding tax rate of 10% (article 129 of the LISR).

During fiscal years 2019 to 2025, resident individuals who are shareholders before an initial public offering may apply a 10% income tax rate on the gains derived from the disposal of shares, issued by Mexican resident companies, at recognized stock exchanges, if the following requirements are met:

- the disposal of shares on the stock exchange is performed through an initial public offering of a Mexican company not previously listed neither on recognized stock exchanges in accordance with the Securities Market Law nor on the recognized markets referred to in article 16-C, section II of the CFF;
- the value of the stockholders' equity of the Mexican company does not exceed MXN 25 billion; and
- the disposal is neither performed outside the stock market nor the result of a merger or spin-off of companies. Moreover, shareholders who control or hold more than 10% of the shares representing the capital stock (individually or in a group) have not transferred 10% or more of the stock of the company in a period of 24 months.

In addition, resident individuals who are initial shareholders and who control or hold more than 10% of the shares representing the capital stock (either individually or in a group) may apply a 10% rate on profits derived from the disposal of shares, provided that:

- at least 20% of the shares of the Mexican company have been purchased by an investment trust for venture capital (FICAPS) in Mexico (pursuant to article 192 of the LISR) whose certificates are placed among the investing public through a recognized stock exchange in accordance with the Securities Market Law, or on the recognized markets referred to in article 16-C, section II of the CFF; and

- the disposal of shares relates to a process of disinvestment carried out by the trust, who will proceed with the public listing of the target company.

Any other capital gains will be included in the individual's taxable income and subject to tax at progressive tax rates (*see* section 1.9.1.).

Brokerage firms must deliver a tax certificate to their clients stating the profits and losses realized during the tax year. Profits and losses derived from the sale of shares are calculated annually per issuing company by subtracting from the sales price, the cost of acquisition and commissions paid. Once the profits and losses have been identified, the tax is calculated by applying the 10% withholding tax rate on the net capital gains (namely, gains obtained after offsetting the losses from the profits).

Losses may be carried forward for a 10-year period. No carry-back is allowed. There is no limit to the tax losses that may be offset in a tax year; however, any losses that could have been offset in a given year, but were not, may not be carried forward to future tax years.

This regime is also applicable to the transfer of shares on a recognized stock exchange located within a country that has concluded a tax treaty with Mexico.

The following capital gains will not be subject to tax under this regime: (i) the alienation of shares which is not carried out through the stock markets under certain conditions; (ii) when an individual who owns 10% or more of the capital stock of a public company alienates 10% or more of his participation within 24 months; (iii) the alienation of shares outside the stock market; (iv) in the case of mergers or spin-offs, when the shareholder is subject to conditions (ii) and/or (iii) above.

1.7. *Personal deductions, allowances and credits*

1.7.1. Deductions

Besides the particular deductions available for resident individuals depending on the type of income received, resident individuals may make general personal deductions (article 151 of the LISR). General personal deductions may be reduced up to either 15% of the individual's personal income (taxed and exempt) or 5 times the annual UMA (MXN 175,505), whichever is lower. Contributions made by individuals to their pension and retirement plans are deductible up to either 10% of the individual's personal income (taxed and exempt) or 5 times the annual UMA, whichever is lower.

The following are some of the main personal deductions that taxpayers may be entitled to claim:

- expenses incurred for transporting the taxpayer's children to schools in zones where transportation is compulsory;
- medical, dental and hospital expenses of the taxpayer and his dependants;
- fees paid for medical insurance, provided that the beneficiary is the taxpayer or his dependants;
- nutritionist and psychologist fees;
- funeral expenses for dependants, up to 1 time the annual UMA (MXN 35,101.08);
- charitable donations, provided that they comply with the requirements established by the Ministry of Finance, to the extent they do not exceed 7% of the taxpayer's

taxable income of the previous tax year in the case of charitable organizations, or 4% in the case of donations to the Mexican government; and

- the real interest (i.e. nominal interest minus inflation) effectively paid on mortgage loans contracted with financial entities to acquire a dwelling, provided that the amount of the mortgage loan does not exceed 750,000 UDIs (*see* section 1.2.2.).

Contributions to collective plans for personal retirement and certain pension contributions and insurance premiums may be deductible in the computation of the employee's taxable income, provided that they qualify as personal deductions (*see* section 1.3.3.).

For deductions applicable to non-residents, *see* section 6.3.1.

1.7.2. Allowances

There are no personal allowances.

1.7.3. Credits

Progressive tax reduction and the "employment subsidy" (*see* section 1.3.1.) apply in the computation of the income tax on salaries (article 10 of the Transit Provisions of the LISR for 2014).

The employment subsidy (*subsidio para el empleo*) is credited against the monthly withholding tax. The employment subsidy is calculated by applying the following table:

Monthly taxable income (MXN)			Employment subsidy (MXN)
Up to		1,768.96	407.02
1,768.97	-	2,653.38	406.83
2,653.39	-	3,472.84	406.62
3,472.85	-	3,537.87	392.77
3,537.88	-	4,446.15	382.46
4,446.16	-	4,717.18	354.23
4,717.19	-	5,335.42	324.87
5,335.43	-	6,224.67	294.63
6,224.68	-	7,113.90	253.54
7,113.91	-	7,382.33	217.61
Over		7,382.33	0.00

The employment subsidy can also be calculated by applying an optional table, established by a decree published in the Official Gazette on 26 December 2013 through which several tax benefits are granted.

The monthly withholding tax on salaries (*see* section 1.3.1.) is credited against the annual income tax due if the individual must file an annual income tax return or he opts to file it.

A tax credit for reinvested profits earned from 1 January 2014 to 31 December 2016 was introduced by the economic package for tax year 2016. The tax credit is determined by applying the following percentages to distributed dividends: (i) 1% in 2017; (ii) 2% in 2018; and (iii) 5% as of 2019.

For withholding tax credits, *see* section 1.9.2. For double tax relief, *see* section 6.1.3.

A tax incentive is provided for individuals and non-residents with a permanent establishment in Mexico from 2021 to 2024. Under this incentive, a tax credit equivalent to the third part of the income tax accrued during the tax year or of the advance payments may be offset against the accrued income tax on the portion of the income from the northern border region. From 2021, this incentive also applies to the southern border region. For details, *see* Corporate Taxation section 1.7.12.

1.8. *Losses*

For business and professional services income, net losses are the excess of allowed deductions over gross income. In general, net losses include operating losses as well as capital losses, unless the latter are expressly disallowed (*see* Corporate Taxation section 1.5.). Losses may be carried forward for a 10-year period. No carry-back is allowed. There is no limit on the amount of tax losses that can be offset in a tax year; however, any losses that could have been set off in a given year, but were not, may not be carried forward to future tax years.

Special rules may apply to other types of income (e.g. immovable property, capital gains, acquisition of goods, interests, other income).

1.9. *Rates*

1.9.1. Income and capital gains

For 2022, the individual income tax liability is levied in accordance with the following progressive rate table:

Taxable income (MXN)			*Tax due on lower limit (MXN)*	*Marginal rate on the excess (%)*
Up to		7,735.00	0.00	1.92
7,735.01	-	65,651.07	148.51	6.40
65,651.08	-	115,375.90	3,855.14	10.88
115,375.91	-	134,119.41	9,265.20	16.00
134,119.42	-	160,577.65	12,264.16	17.92
160,577.66	-	323,862.00	17,005.47	21.36
323,862.01	-	510,451.00	51,883.01	23.52
510,451.01	-	974,535.03	95,768.74	30.00
974,535.04	-	1,299,380.04	234,993.95	32.00
1,299,380.05	-	3,898,140.12	338,944.34	34.00
Over		3,898,140.12	1,222,522.76	35.00

This table does not include the employment subsidy (ES), which must be applied after applying the progressive rate table; *see* section 1.7.3.

1.9.2. Withholding taxes

Mexican-source income from employment, self-employment, investment income and capital gains derived by resident individuals is subject to withholding tax. The tax withheld is generally treated as an advance payment and is credited against the taxpayer's annual tax liability.

The withholding tax on employment income and self-employment is calculated at progressive tax rates.

A withholding regime applies in case of business activities performed by individuals through digital platforms – *see* section 1.4.2.

Capital gains from assets other than immovable property are subject to a withholding tax at the rate of 20%. The transfer of movable property other than securities or interests in companies is exempt from withholding tax where the value of the transaction is less than an amount periodically adjusted for inflation.

A "schedular" tax of 10% on capital gains derived from the transfer of shares through the stock exchange applies. This is a final tax.

A 10% withholding tax is levied on dividends distributed by resident companies to resident individuals or non-residents (either individuals or companies). The distributing company must withhold the tax. This additional 10% withholding tax is a final tax and may not be credited against the income tax due.

Based on transitional provisions of the LISR of 2014, the 10% additional tax may not be withheld on dividends or profits distributed out of the CUFIN account of the payer accrued as of 2013.

Royalties considered to be professional income are subject to a 10% withholding rate on the gross amount if paid by legal entities. However, if they are received occasionally, they are subject to a 20% withholding rate on the gross amount, which must be paid within 15 days of the receipt of the income. This tax is not final. The withholding tax rate for royalties classified under the "other income" category is 35%.

Individuals undertaking business activities, self-employed professionals receiving income from legal entities and individuals deriving income from leasing real property to companies are subject to a withholding tax at the rate of 10%.

Certain types of interest are subject to withholding tax at source:

Interest paid by financial institutions

Financial institutions must withhold tax calculated on the capital due at the rate provided by Congress for the relevant year (0.08% for 2022). The withholding tax is a final tax for individuals whose taxable income is all interest income, and provided the interest relates to the relevant taxable period and it does not exceed MXN 100,000. Otherwise, the withholding tax operates as an advance payment of the income tax that will ultimately be due on the interest income. The tax must be withheld monthly and must be remitted to the SAT within the first 17 days of the following month.

Interest paid by other than financial institutions

If interest is paid by entities other than financial institutions, withholding tax is due on the nominal interest at a rate of 20%. For individuals whose taxable income includes only interest income, the withholding tax is a final tax, provided that the interest income is earned in the relevant taxable period and does not exceed MXN 100,000.

Other income paid by a legal entity is subject to withholding tax at the rate of 20% on the gross amount. This is not a final tax.

For withholding tax rates on payments made to non-resident individuals, *see* section 6.3.

1.10. *Administration*

1.10.1. Taxable period

The taxable period is the calendar year.

1.10.2. Tax returns and assessment

Mexico uses a self-assessment system whereby all taxpayers are required to file a tax return and compute their own tax liability. Individual annual tax returns are due by 30 April following the close of the relevant tax year. The LISR does not grant extensions to file the individual's annual tax return.

All taxpayers are required to keep electronic accounting records and upload them electronically on a monthly basis to the SAT's website.

All individuals must file tax returns separately. There is no joint tax return for married couples, except for married persons under the joint asset ownership regime. The joint tax return only applies with respect to the assets included under the ownership regime (i.e. married persons must still file their tax returns separately for income arising from assets, other than those included in the joint asset ownership regime).

Where the joint filing regime applies, one spouse must be appointed as common legal representative and files the return, including all revenue and deductions related to the jointly owned assets (e.g. leases and capital gains arising from assets incorporated in the joint asset ownership regime).

The common legal representative is responsible for keeping accounting records and paying the income tax on a monthly and annual basis. The other spouse must only file an annual tax return including the proportion of income and deductions corresponding to his interest under the joint asset ownership regime; the proportion of income tax paid monthly by the common legal representative may be credited against his tax liability.

Alternatively, the individual with the greater income may opt to be deemed to include the total income arising from assets or investments incorporated in the joint asset ownership regime, thereby being entitled to apply all the deductions related to such assets or investments. In that case, the other spouse is not required to register with the taxpayers' registry, provided he is not obliged to file an income tax return for other types of income.

1.10.3. Payment of tax

Individuals are required to file a tax return and compute their own tax liability. Individual annual tax returns are due by 30 April following the close of the relevant tax year.

Individual entrepreneurs and professionals are required to file monthly tax returns and make income tax advance payments on account of their final tax liability.

For individual entrepreneurs and professionals computing their net income, the advance payment is in general calculated by applying the tax rates set out in section 1.9.1. to the difference between their aggregate taxable income and deductible expenses, relating to the portion of the relevant calendar year. Income tax advance payments made for the preceding months of the tax year and any taxes withheld may be credited against the income tax advance payment.

There is an exception to the advance payment rule. Professionals are not obliged to make income tax advance payments if their income was subject to withholding tax in accordance with the rules described in section 1.3.1., meaning that they were taxed as employees.

When income tax advance payments are greater than the final income tax liability, a tax refund may be requested from the tax authorities. The tax paid in excess must be refunded within 40 days from the date of filing the application.

With effect from 2019, the right to offset any excess tax paid against any taxes due is limited to the same type of taxes (e.g. the offset of excess of income tax paid can only be made against income tax due). Withholding taxes are also excluded from the offset mechanism.

1.10.4. Rulings

Both residents and non-residents may request advance rulings provided that the request is related to a real and concrete tax situation and not to a mere hypothetical transaction. Rulings may be requested regarding transactions that have not yet been carried out. The taxpayer must provide the tax administration with a detailed description of the business justification for the transaction, the amount involved or that may be involved in the transaction and the facts and circumstances related to the request, along with any related documentary evidence. Moreover, the taxpayer must disclose whether the facts and circumstances have been subject to a legal controversy or judicial appeal. The outcome must also be disclosed. Whether the taxpayer is subject to an outstanding federal tax audit must also be disclosed.

Ruling decisions are binding on the tax authorities. However, they are not regarded as binding on the taxpayer and therefore may not be challenged before the courts. A taxpayer who receives an unfavourable ruling may choose not to follow it and to apply the law as he sees fit following the principle of self-assessment. In practice, however, the tax authority will know the situation and may conduct a tax audit to make sure that the taxpayer has applied the law in accordance with the tax authority's view in the ruling (article 34 of the CFF).

2. Other Taxes on Income

Mexico levies only income tax (*see* Corporate Taxation section 3.1.).

3. Social Security Contributions

All resident employed individuals must make monthly contributions to the social security system, which consists of a general contribution system and special contribution schemes (e.g. for agricultural workers and self-employed individuals). Social security contributions are not deductible for the employee for income tax purposes.

3.1. *Employed*

Employees must make monthly contributions to the social security system (*Instituto Mexicano del Seguro Social*, IMSS) (article 5A-XV of the Social Security Law (*Ley del Seguro Social*, LSS).

Social security contributions are calculated on the basis of the "integrated employee's salary". Any amount paid as a result of the provision of subordinated services is part of the integrated employee's salary (salaries, fringe benefits, etc.). The employee's salary may not be less than the general minimum salary. The maximum base for calculating the contributions is 25 times the value of the annual UMA (MXN 877,525). The daily value of the UMA, as from 1 February 2022, is MXN 96.22.

Subject to certain limitations, some items are not regarded as increasing the employee's salary for purposes of calculating the IMSS contributions (e.g. savings funds, overtime that is paid double, punctuality and assistance bonuses, meals, and food coupons (with limitations or caps)).

Employees' contributions made during 2022 are calculated by applying the following rates:

Compulsory social insurances	*Employee's contributions*
Illness and maternity	
(a) for in-kind benefits	if the employee's earnings are greater than 3 times the value of the UMA (MXN 289), 0.40% of the difference between the employee's earnings and 3 times the value of the UMA
(b) for economic benefits	0.250%
(c) for benefits in kind received by pensioners	0.375%
Disability and life	0.625%
Mandatory retirement and old age	1.125%

For employers' contributions, *see* Corporate Taxation section 4.2.

3.2. *Self-employed*

A voluntary regime is applicable to self-employed and unemployed individuals, who may make an annual contribution.

3.3. *Other*

There are no other taxes.

4. Taxes on Capital

4.1. *Net wealth tax*

There is no wealth tax.

4.2. *Real estate tax*

See Corporate Taxation section 5.2.

Real estate tax paid is deductible from lease income for individual income tax purposes.

5. Inheritance and Gift Taxes

No inheritance (estate) or gift tax is levied at either the federal or local level. However, certain gifts may be treated as income and therefore be subject to income tax in the hands of individual recipients. Certain bequests may also be subject to income tax in the hands of individual beneficiaries.

Alien resident individuals receiving gifts consisting of real property located in Mexico or shares issued by Mexican entities are subject to income tax, except where the gift is donated by ascendants or the spouse (Mexican resident individuals are also exempt where the gift is donated by descendants, *see* section 1.2.2.).

Alien resident individuals receiving bequests consisting of real property located in Mexico or shares issued by a resident company are subject to income tax. Resident individuals are exempt (*see* section 1.2.2.).

5.1. *Taxable persons*

Not applicable.

5.2. *Taxable base*

Not applicable.

5.3. *Personal allowances*

Not applicable.

5.4. *Rates*

Not applicable.

5.5. *Double taxation relief*

Not applicable.

6. International Aspects

6.1. *Resident individuals*

For the concept of residence, *see* section 1.1.

6.1.1. Foreign income and capital gains

Resident individuals are subject to individual income tax on their worldwide income and capital gains, regardless of the source of the income (article 1 of the LISR). Therefore, all foreign income (e.g. employment income, investment income, dividends, interest, royalties, rental income, business income, professional income, capital gains and pension income) is subject to tax in Mexico as ordinary income. Subject to certain conditions, the income tax paid abroad may be credited against Mexican income tax.

Dividends and profits distributed by non-resident companies to resident individuals are subject to an additional income tax at the rate of 10% on the gross amount. This additional income tax is a final tax and must be remitted to the tax authorities the 17th day of the month following that in which the dividends were received.

Taxpayers holding shares or similar interests in controlled companies or other similar legal entities subject to a preferential tax regime (i.e. income that is subject to taxation at a rate that is less than 75% of the applicable individual income tax rate in Mexico, *see* section 1.9.) are required to report their share of that income, regardless of whether it has been distributed in proportion to their direct or indirect ownership of such entities.

If the taxpayer generates income of any kind from a listed jurisdiction (*see* Corporate Taxation section 7.4.), or from pass-through entities or vehicles, it must report the income (or his share of the income) even if it does not qualify as income from a preferential tax regime.

No special rules apply to individuals who remain residents while they are seconded abroad (*see* section 1.3.).

6.1.2. Foreign capital

Foreign capital is not subject to the taxes on capital described in section 4.

6.1.3. Double taxation relief

As a unilateral measure for the avoidance of double taxation under its domestic law and a bilateral measure under its tax treaties, Mexico applies the ordinary credit method. Under this method, a resident taxpayer with foreign-source income may credit taxes paid abroad against his Mexican tax liability on his worldwide income (article 5 of the LISR).

The foreign tax credit (FTC) is limited to the tax that would have been levied in Mexico on the net income (income less costs and expenses). Individuals must calculate the FTC limit considering only their foreign-source income rather than their worldwide income; as a result, the FTC may be lower than the tax effectively paid abroad (considering also the progressive income tax rates).

The FTC must be calculated on a source-by-source and on a country-by-country basis. The FTC calculated according to the limits mentioned above, which may not be credited in the tax year, may be carried forward for 10 years. Income tax paid abroad in excess to the FTC limitation may not be credited, carried back or forward.

The FTC provided in the tax treaties celebrated by Mexico must be calculated according to the provisions contained in the LISR. The LISR only grants an FTC if the tax paid abroad is deemed to be an income tax and the foreign income is deemed to be taxable for Mexican income tax purposes.

The following provides an example of calculating the limitation with respect to the worldwide income vis-à-vis the foreign-source income:

	Worldwide income	*Foreign-source income*
Mexican-source income	200,000	-
Foreign-source income	100,000	100,000
Taxable income	300,000	100,000
Annual income tax	51,867	8,924
Effective tax rate	17.28%	-
Foreign tax credit limitation	17,280 (100,000 × 17.28%)	8,924

The effective tax rate is calculated according to the individual’s progressive rate.

Unlike corporations that are allowed to claim both a direct and an indirect foreign tax credit (*see* Corporate Taxation section 6.1.4.), individuals are only allowed to claim a direct foreign tax credit.

The method generally used by Mexico for the avoidance of double taxation under its tax treaties is the ordinary credit method, as described above. For a list of tax treaties in force, *see* Corporate Taxation section 6.3.5.

6.2. *Expatriate individuals*

6.2.1. Inward expatriates

There is no special expatriate regime.

6.2.2. Outward expatriates

In accordance with the worldwide system of taxation (article 1 of the LISR), a resident individual moving abroad is subject to tax in Mexico unless he becomes a non-resident.

In principle, a person is considered to be non-resident if he does not fall within the definition of resident (*see* section 1.1.). Non-resident individuals must not prove their residence status abroad unless they have been treated as Mexican tax residents up to the time of their expatriation; should this be the case, they must prove their non-resident status with a certificate from the competent authority of the country of which they are residents.

Resident individuals expatriating from Mexico must file an expatriation notice with the Mexican tax authorities within the 15 days immediately preceding the change of tax residence. Failure to file said notice or evidence of his new tax residence results in the individual being considered to continue to reside in Mexico for 5 fiscal years. In addition, individuals who expatriate from Mexico continue to be resident in Mexico when they establish their residence in a country where income is subject to a preferential tax regime. This provision does not apply if there is a broad exchange of information agreement in force between Mexico and the new country of residence (*see* Corporate Taxation section 7.5.1.).

Unrealized capital gains are not taxed upon emigration.

6.3. *Non-resident individuals*

Non-residence is not defined in domestic law. Therefore, an individual who is not a resident is deemed to be a non-resident. For the concept of residence, *see* section 1.1.

6.3.1. Taxes on income and capital gains

Non-residents operating through a permanent establishment in Mexico are taxed on income which is attributable to that establishment. Non-residents without a permanent establishment in Mexico are subject to tax on their Mexican-source income at final withholding tax rates. In general, the payer must withhold the tax. The general withholding tax rate is 25%, but in certain cases it may vary depending on the type of income received (*see* section 6.3.1.3.).

6.3.1.1. Employment income

Salaries and any other Mexican-source income derived for employment services paid to a non-resident individual, either by a resident or by a non-resident with a service-related permanent establishment in Mexico, are subject to a final withholding tax (article 154 of the LISR). The withholding tax rates are as follows:

Taxable income (MXN)			*Marginal rate on the excess (%)*
Up to		125,900.00	0
125,900.01	-	1,000,000.00	15
Over		1,000,000.00	30

Employment income paid by a non-resident without a service-related permanent establishment in Mexico to a non-resident who stays in Mexico for not more than 183 days (whether the stay is continuous or not) during any 12-month period is exempt from income tax. Where the services were performed for more than 183 days, the non-resident is subject to tax at the above-mentioned rates, but he must assess his own liability and pay the tax within the following 15 days from the receipt of the income.

Pension income is subject to tax at the same tax rates.

No personal deductions are allowed regarding employment income.

There are no special rules regarding the hiring-out of labour or special schemes for frontier workers or sailors.

6.3.1.2. Business and professional income

Professional or independent personal services income derived by non-residents from Mexican sources (i.e. where the services are wholly or partially rendered within Mexican territory) is subject to final withholding tax in Mexico at the rate of 25% on the gross income, unless a tax treaty (*see* Corporate Taxation section 6.3.5.) provides otherwise (article 156 of the LISR).

Professional or independent personal services income paid by a non-resident without a service-related permanent establishment in Mexico to a non-resident who stays in Mexico for no more than 183 days (whether continuous or not) during any 12-month period is exempt from income tax. Where the services were performed for more than 183 days, the non-resident is subject to tax at the rate of 25% on the gross income and he must assess his own liability and must pay the tax due within 15 days following the receipt of the income.

No personal or any other deductions are allowed regarding business and professional income.

6.3.1.3. Investment income

Dividends paid out of corporate profits that have been subject to tax at the general corporate tax rate (i.e. where there is a sufficient balance in the CUFIN account) are exempt from income tax at the level of the distributor. If there is an insufficient balance in the CUFIN account at the time of the dividend distribution (meaning that corporate tax has not been paid on the profits from which the dividend is paid), the equalization tax (*see* Corporate Taxation section 3.1.) is imposed on the company (article 164 of the LISR). The tax is calculated by reference to the grossed-up amount of the dividend (i.e. the amount of the profit distribution multiplied by 1.4286 for 2021). For more information on the Mexican imputation system, *see* Corporate Taxation sections 1.1., 2.2., 6.2.1. and 6.3.1.

As described above (*see* section 1.2.1.) a 10% final withholding tax is levied on dividends distributed by resident companies to resident individuals and non-residents (individuals or companies). The 10% final withholding tax on dividends must be withheld by the distributing company. Based on a transitional provision of the LISR of 2014, the 10% additional tax may not be withheld on dividends or profits distributed out of the CUFIN account of the payer, accrued as of 2013.

The 10% withholding tax on dividends may be reduced by virtue of the tax treaties which Mexico has in force (*see* Corporate Taxation section 6.3.5.).

No personal or any other deductions are allowed regarding dividends.

Interest derived by non-residents from Mexican sources is subject to a final withholding tax at various rates, as follows (article 166 of the LISR):

- 4.9%:
  - interest paid on publicly traded securities in Mexico and securities publicly traded abroad through banks and brokerage firms in a country with which Mexico has a tax treaty, provided a notification regarding the transaction has been made to the National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*) and the information requirements established by the SAT are fulfilled;

- 10%:
  - interest on securities publicly traded through banks and brokerage firms in a country with which Mexico does not have a tax treaty, provided that a notification regarding the transaction has been made to the National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*); or
  - interest relating to eligible financial derivatives, provided certain conditions are met;
- 15%:
  - interest paid to reinsurance institutions;
- 21%:
  - interest which is not subject to the 4.9%, 10% or 15% rates mentioned above and is paid by Mexican credit institutions;
  - interest paid to non-resident suppliers financing the acquisition of machinery and equipment, which is part of the acquirer's fixed assets; and
  - interest paid to non-residents on loans to finance the acquisition of the assets mentioned in the previous sentence, and in general interest paid on working capital loans or commercialization loans, provided that these circumstances are set forth in the agreement;
- 35%:
  - all other interest; and
- 40%:
  - interest paid to a related party considered to be the beneficiary of a preferential tax regime (*see* Corporate Taxation section 7.4.).

A Decree of 8 January 2019 granted a tax credit equivalent to 100% of the income tax withheld by the Mexican payer on interest derived from bonds issued by Mexican resident companies and placed on recognized stock exchanges. This incentive applies to interest paid to holders of bonds who are resident in a country or jurisdiction with which Mexico has a tax treaty or a broad exchange of information agreement in force.

No personal or any other deductions are allowed regarding interest.

Royalties and technical assistance fees paid to non-residents are subject to a final withholding tax on the gross payment at various rates, as follows:

- 5%: royalties for the use of, or the right to use, railroad wagons;
- 25%: technical assistance;
- 35%: royalties for the use of, or the right to use, patents, trademarks and for advertising;
- 40%: royalties paid by a related party to entities considered beneficiaries of a preferential tax regime; and
- 25%: any other category of royalties.

No personal or any other deductions are allowed regarding royalties.

Reduced rates may apply under a tax treaty, *see* Corporate Taxation sections 6.3.3. and 6.3.5.

Rental income derived by non-residents from the leasing of Mexican-situs immovable property is deemed to be Mexican-source income. Rental income is subject to a final withholding tax at the rate of 25% on the total amount received. If the lessee is also a non-resident, the tax must be remitted directly by the lessee to the tax authorities within 15 days of the receipt of the Mexican-source income. Only US residents may elect to pay the 35% rate on their net gain instead of the 25% rate on the gross income.

No personal or any other deductions are allowed regarding rental income.

6.3.1.4. Capital gains

Capital gains realized by non-residents from the transfer of immovable property, which are subject to a final withholding tax at the rate of 25% on the total amount received (article 160 of the LISR). If the purchaser is a Mexican tax resident or a non-resident with a permanent establishment in Mexico to which the relevant purchase is attributable, the tax must be withheld by the purchaser from the total amount paid to the non-resident transferor. If the purchaser is also a non-resident, the tax must be directly remitted by the non-resident transferor to the tax authorities within 15 days of the receipt of Mexican-source income. Non-residents may elect to pay 35% on net gains calculated under rules similar to those discussed in section 1.6., provided that certain requirements are met, such as the appointment of an authorized representative in Mexico and the formalization of the transaction before a notary public.

Capital gains realized by non-residents from the disposal of shares and other securities (including securities representing immovable property) are subject to a 25% final withholding tax on the gross amount received. Non-residents with a representative in Mexico may elect to pay 35% on the net gain calculated under specified rules.

There is a general exemption for capital gains derived by non-resident individuals from the alienation of shares, provided specific conditions are met. These are generally the same conditions as those which apply with respect to resident individuals (*see* section 1.6.2.).

6.3.2. Taxes on capital

Non-residents are liable to pay real estate tax to municipalities (*see* section 4.2.) in respect of Mexican-situs immovable property.

6.3.3. Inheritance and gift taxes

For the liability to inheritance and gift taxes of non-residents, *see* section 5.

6.3.4. Administration

Non-residents with a permanent establishment in Mexico are required to file individual income tax returns (*see* section 1.10.2.). Non-residents without a permanent establishment in Mexico who derive Mexican-source income subject to a final withholding tax, are not required to file income tax returns.

KEY FEATURES

Last reviewed: **18 February 2022**

A. General information	
Sources of tax law	Income Tax Law (*Ley del Impuesto sobre la Renta*) Value Added Tax Law (*Ley del Impuesto al Valor Agregado*) Federal Tax Code (*Código Fiscal de la Federación*) Miscellaneous Tax Resolution for 2022 and its annexes (*Resolución Miscelánea Fiscal para 2022 y sus anexos*)
Main types of business entities	Stock corporation (*sociedad anónima*) Limited liability company (*sociedad de responsabilidad limitada*) Partnership (*asociación en participación*) Limited partnership (*sociedad en comandita simple*) General partnership (*sociedad en nombre colectivo*)
Accounting principles	Financial Reporting Standards (*Normas de Información Financiera*, NIFs)
Currency	Mexican peso (MXN)
Foreign exchange control	No
Official websites	Tax Administration http://www.sat.gob.mx/ Official Gazette http://www.dof.gob.mx/ Ministry of Finance http://www.gob.mx/hacienda
B. Direct taxation: Companies	
1. Resident companies	
Residence	Based on place of effective management
Tax base	Worldwide
Corporate tax rates	30%
Alternative minimum tax	No
Capital gains	Yes, part of business income
Loss carry-forward	Yes, for 10 years
Loss carry-back	No
Unilateral double taxation relief	Yes, foreign tax credit
2. Non-resident companies	
Corporate tax rates	30%
Capital gains on sale of shares in resident companies	25% on gross income; or 35% on net income 10% (transfer of publicly traded stock)
Capital gains on sale of immovable property	25% on gross income; or 35% on net income
Withholding tax rates	
Branch profits	No
Dividends	10% (on profits generated as from 2014)

Interest	10% (if paid to financial institutions or on publicly traded securities. This rate does not apply if the final beneficiaries receive, directly or indirectly, 5% or more of the interest paid and hold 10% or more of the voting shares of the debtor or are companies in which the debtor holds a participation of 20% or more, either directly or indirectly) 4.9% (if derived from publicly traded securities in Mexico and securities publicly traded abroad through firms located in a country with which Mexico has a tax treaty; if paid by multiple-purpose financial companies; or if paid to non-resident financial companies in which the federal government owns a participation. This rate does not apply if the final beneficiaries receive, directly or indirectly, 5% or more of the interest paid and hold 10% or more of the voting shares of the debtor or are companies in which the debtor holds a participation of 20% or more, either directly or indirectly) 15% (if paid to reinsurance companies) 21% (if paid to non-resident suppliers financing the acquisition of machinery and equipment or paid by Mexican financial institutions but not subject to 4.9%, 10% or 15% rates) 40% (if paid to entities subject to preferential tax regime) 35% (other interest)
Royalties	1% (for aircrafts to be exploited commercially for the transport of passengers or goods) 5% (for railroad wagons) 35% (for patents, trademarks and advertising) 40% (if paid to entities subject to preferential tax regime) 25% (other royalties)
Fees (technical)	25% 40% (if paid to entities subject to preferential tax regime; not taxed if services are performed abroad or not used (technical assistance) in Mexico)
Fees (management)	25% 40% (if paid to entities subject to a preferential tax regime)
3. Specific issues	
Participation relief	Inbound dividends: no Outbound dividends: no (imputation system)
Group treatment	Yes

Incentives	Strategic fiscal precincts Electric vehicle power feeders Handicapped or elder employees Processing export companies (*maquiladoras*, IMMEX companies) Real estate investment trusts R&D Film industry Corporate tax incentive (Simplified tax regime) Investments made in high-performance sports Income tax incentive for the northern and southern borderline region Tax incentives aimed at encouraging funding for the bond market Tax incentive for the sale of fuels in the southern borderline region Tax incentives for foreign entities managing private equity investments
Anti-avoidance legislation	
Transfer pricing	Yes
Limitations on interest deductibility	Yes
Controlled foreign company	Yes
General anti-avoidance rule (GAAR)	Yes
Other anti-avoidance legislation	Anti-hybrid entities rules Fiscally transparent foreign entities and vehicles Disclosure of aggressive tax planning schemes
C. Direct taxation: Individuals	
1. Resident individuals	
Residence	An individual is a resident of Mexico if he has a dwelling in Mexico If he also has a dwelling in another country, he is considered to be resident in Mexico if his centre of vital interests is located in Mexico Mexican nationals are presumed to be Mexican tax residents, unless there is evidence of the contrary
Taxable income	Worldwide
Income tax rates	Progressive Top rate 35% (over MXN 3,898,140)
Alternative minimum tax	No
Capital gains	Yes, part of income 10% WHT on sale of shares, credit and financial instruments available to the general public and sold through the Mexican Stock Exchange 20% WHT on sale of assets other than immovable property

Unilateral double taxation relief	Yes
Social security contributions	Yes (illness and maternity, pension fund, disability and life insurance, childcare, retirement fund, housing fund, unemployment and old age)
2. Non-resident individuals	
Income tax rates	25%
Capital gains on sale of shares in resident companies	25% on gross income; or 35% on net income
Capital gains on sale of immovable property	25% on gross income; or 35% on net income
Withholding tax rates	
Employment income	Progressive Top rate 30% (over MXN 1 million)
Dividends	10%
Interest	4.9%, 10%, 15%, 21% or 35% depending on the nature of interest 40% (if paid to residents subject to preferential tax regime)
Royalties	1% (for aircrafts to be exploited commercially for the transport of passengers or goods) 5% (for railroad wagons) 35% (for patents, trademarks and advertising) 40% (if paid to residents subject to preferential tax regime) 25% (other royalties)
Fees (technical)	25% 40% (if paid to residents subject to preferential tax regime)
Fees (directors)	25% 40% (if paid to residents subject to preferential tax regime)
D. Indirect taxation: Value added tax (VAT)/Goods and services tax (GST)	
Taxable events	Supply of goods or services within Mexico Transfer of use, or the right to use property Importation of goods or services into Mexico by any person Digital services provided by non-residents to recipients located in Mexico
VAT/GST (standard)	16%
VAT/GST (reduced)	0%
VAT/GST (increased)	No
Registration/deregistration threshold	No
VAT group	No
E. Other taxes	
Inheritance and gift taxes	No
Net wealth tax (individual)	No
Net wealth tax (corporate)	No

Real estate taxes	Yes, different rates range from 0.05% to 3%
Capital duty	No
Transfer tax	Yes
Stamp duty	Yes, certain states apply a local stamp duty
Excise duties	Yes, various rates
Other main taxes	Taxes imposed at the state & municipal level

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