DOING BUSINESS IN MEXICO
2016

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INTRODUCTION

This publication has been prepared by the International Bureau of Fiscal Documentation (IBFD) on behalf of BDO Member Firms and their clients and prospective clients. Its aim is to provide a useful guide to the tax rates and main reliefs and exemptions for the major taxes in the countries where BDO Member Firms offer tax services, in a short and tabular form.

We have endeavoured to include the most important tax features, 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 Member 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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TABLE OF CONTENTS

MEXICO

This chapter is based on information available up to 1 January 2016.

Introduction

Companies are subject to corporate income tax. Employers and employees must make social security contributions. VAT and excise taxes apply.

Due to the nature of Mexico as a federal republic, taxes are levied by the federal government and the state governments. In some cases, municipalities participate in the collection of state government taxes but they are not constitutionally entitled to impose taxes directly (for taxes imposed at the state and municipal level, *see* Mexico –Baja California, Coahuila, Chihuahua, Federal District, Guanajuato, Jalisco, Mexico, Nuevo Leon, Puebla and Veracruz – Corporate Taxation).

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

The currency is the Mexican peso (MXN).

On 29 October 2015, the congress approved the economic package for fiscal year 2016 (the tax reform for 2016). The amendments contained therein do not increase tax or create new taxes.

1. Corporate Income Tax

1.1. *Type of tax system*

Companies resident in Mexico are subject to tax on their worldwide income.

Under the Mexican imputation system, dividends paid between resident companies out of corporate profits that have been subject to the general 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 payer of the dividend. 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, as from 1 January 2014, dividends distributed by resident companies to resident individuals and non-residents in general, are subject to an additional 10% withholding “tax on dividends”. According to the tax reform for 2016, individuals who receive dividends paid out of profits derived during fiscal years 2014, 2015 and 2016 are entitled to a tax credit, conditioned to the reinvestment of such dividends (*see* Individual Taxation section 1.5.1.).

As from 2016, companies dedicated exclusively to the generation of energy from renewable sources are entitled to create a net profit account for investments in renewable energy (renewable energy CUFIN).

1.2. *Taxable persons*

Corporate income tax is levied on all legal entities resident in or having a permanent establishment in Mexico. 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.

Non-profit legal entities are generally exempt from corporate income tax.

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.

1.2.1. Residence

A company is a tax resident in Mexico if its place of effective management is established in Mexico.

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.

1.3. *Taxable income*

1.3.1. General

Resident companies are liable to corporate income tax on their worldwide income and capital gains. Income is to be consistently allocated, as a general rule, to each financial period on an accrual basis. Related expenses are deductible in the year in which they are incurred, provided that there is an invoice that complies with tax requisites. 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.

Income is broadly defined to include all income received in cash, in kind, in services, in credit, or in any other form, obtained 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 also subject to tax on income originating from permanent establishments abroad; however, 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, by reason of loans, capital contributions, or contributions for future capital increases. The amounts will be considered taxable income if the taxpayer does not report them within 15 days from the date of receipt.

1.3.2. Exempt income

In general, all income must be accrued by corporate taxpayers to calculate their income tax liability, unless such income is expressly regarded as non-accruable income (e.g. capital contributions done by shareholders or partners, revaluation of assets and capital, dividends received from other Mexican tax resident entities, etc.).

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 legal entity resulting from the merger or division is also a tax resident of Mexico.

1.3.3. Deductions

1.3.3.1. Deductible expenses

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 tax laws. As of 2014, only electronic invoices are valid for deduction. 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.

As of 2014, employers will only be allowed to 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 complimentary contributions to reserves for pension and retirement funds of the employees. This deductibility rate could be increased to 53% if the employer does not reduce the fringe benefits paid as 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. 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).

Charitable contributions are deductible, but the 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 deduction is limited to 4%.

Under Mexican Labour Law, all employees are entitled to receive their pro rata portion of 10% of their employer's tax year (January-December) pre-tax profit, as calculated in accordance with the Income Tax Law. Pre-tax profit is calculated through the same mechanism used for calculating the taxable basis for income tax, but without taking into account 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.

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.

1.3.3.2. Non-deductible expenses

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

Payments made to related parties that are residents of countries with preferential tax regimes (*see* section 7.4.) will be deductible only if evidence exists that they were made on an arm's length basis. The foregoing because the law includes a rebuttable presumption that such payments are made to a related party and that they are not agreed at arm's length.

As from 2014, interest, royalty or technical assistance payments made to non-residents will not be deductible when either the payer or the payee holds an effective control on the counterpart, and any of the following conditions are met:

- the beneficiary is a non-resident pass-through entity whose members are not subject to tax on the payments received;
- the payment is considered non-existent for tax purposes in the country or territory where the non-resident entity is located; or
- the non-resident entity does not consider the payment as accruable income.

However, when the last two conditions are met, payments may be deductible provided the payment received from the resident is accrued by the related party in the same tax year or in the following tax year.

In addition, as from 2014, any payment made by a resident will not be deductible when a related party of such resident also deducts said payment, unless the payment received from the resident is accrued by the related party in the same tax year or in the following tax year.

As a rule, interest is deductible, provided that the principal is invested in income-generating activities. Some limitations on the amount of deductible interest apply when the taxpayer also grants loans to third parties. Furthermore, 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 to the extent that it exceeds the arm's length amount, interest conditioned on profit, etc.). In such cases the interest is not deductible and the dividend would be subject to corporate income tax on the grossed-up amount, thereby being subject to the "equalization tax" unless there is a sufficient CUFIN balance. In addition, such a dividend will be subject to the withholding tax on dividends where applicable (*see* section 1.1.). As a rule, interest payments between related parties are not deductible to the extent that they exceed market rates.

Companies – except financial institutions – must follow thin capitalization rules if they borrow from non-resident related parties (*see* section 7.3.).

In general, expenses incurred as a result of cost-sharing arrangements between residents and non-resident entities are non-deductible for income tax purposes. However, as per a ruling issued by the Mexican Supreme Court in 2014, such 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 non-resident entities with whom the cost-sharing arrangement is entered reside in a country that has concluded a broad exchange of information agreement with Mexico;
- the service for which the expense is made is effectively rendered; and
- where the expenditure was incurred between related parties, the price agreed must be within a range of prices which independent parties in comparable transactions would have agreed (arm's length); the documents that support the general information of the arrangement and prove compliance with all the requirements mentioned above are kept by the resident.

Although this ruling was not mandatory to the tax authority, SAT's Regulations based on the Supreme Court's ruling, whereby it provides the requirements to allow deduction in Mexico of pro-rata expenses paid to foreign entities, were issued by the tax authority. However, such requirements exceed in length and detail those established in the ruling, thereby putting special attention to characteristics that must be met by agreements between related parties pertaining to pro-rata expenses as well as to the existence of evidence demonstrating 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.

VAT 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.

1.3.4. Depreciation and amortization

Depreciation occasioned by the normal wear and tear of assets used in business activities must be computed up to a specified maximum annual depreciation rate. Depreciation is calculated using the straight-line method.

Examples of depreciation rates are:

Asset	***Rate (%)***
Constructions	5
Office furniture and equipment	10
Computer hardware	30
Aircraft	10
Automobiles, vans, trucks	25
Environmental machinery and equipment	100

As from 2016, for deduction purposes, the original cost for automobiles is increased from MXN 135,000 to MXN 175,000.

Normal depreciation deductions may be made from the date on which the assets are put into use, or from the start of the following year. No depreciation deductions are allowed in relation to land, holiday homes and, in general, to any goods acquired in order to be disposed of in the ordinary course of business, such as inventory.

Taxpayers are allowed to amortize intangible assets, such as deferred charges, preoperating 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

The tax reform for 2016 allowed an immediate deduction available for 2016 and 2017 for investments in new fixed assets made by companies in any sector with income up to MXN 100 million and for investments made by companies in the energy, infrastructure and transportation sectors regardless of their income. Investments made in the last quarter of 2015 are also eligible for immediate deduction in 2015.

1.3.5. Reserves and provisions

Reserves and provisions for anticipated but unrealized losses are not deductible. Amounts used to create or increase reserves are generally not deductible, unless they consist of bonuses due to workers for the current tax year. Reserves for indemnities, seniority or similar payments to employees are not deductible.

Reserves created for employees' pension plans in excess of that mandated by law have a deductibility limit of 47% as from 2014. The deductibility limit may be increased to 53% if employer does not reduce fringe benefits in the relevant tax year in comparison with the previous tax year.

Insurance companies may deduct expenses 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 normally included in gross income and are subject to corporate income tax. 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.).

Subject to certain conditions, non-resident financial entities in which the federal government has a capital interest may elect to be taxed on their capital gains at a rate of 35% on net income or at a rate of 25% on gross income.

1.5. *Losses*

1.5.1. Ordinary losses

Net losses are the amount by which allowed deductions exceed gross income. 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.

In 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 two resulting companies. 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 sum of the income derived during 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.

1.5.2. Capital losses

Capital losses resulting from the disposal of shares and other securities may be set off against gains realized in the same tax year and from the disposal of shares and other securities. Excess losses may be carried forward for 10 years to be set off only against gains from the disposal of shares or other securities. In this case, the losses are adjusted for inflation. Other limitations and requirements to set off the capital losses may apply depending on the type of securities involved (e.g. whether the securities are traded on or off the stock exchange).

The 10-year capital loss carry-forward period is applicable to capital losses incurred as of 1 January 2008. Capital losses incurred prior to 2008 may be carried forward for 5 years.

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

The corporate income tax is assessed at a flat rate of 30%.

No surtaxes or surcharges apply on corporate income taxes.

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 process of calculation (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 obtained by the company during the tax year. The regular corporate income tax rate applies to such gains. Conversely, where a capital loss arises from a sale of shares, the loss is not added to the other losses generated by the company; such losses may only be set off against capital gains generated from disposals of shares.

As from 2014, capital gains derived by Mexican tax resident individuals and 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 who reside in a country which has a tax treaty in force with Mexico and timely state this situation under oath to the intermediary will not be subject to the 10% withholding tax.

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 amount of capital due (i.e. the amount of capital on which the interest is paid) and must be withheld annually. The withholding tax rate for 2015 is 0.60%. Financial institutions are obliged to file an information return no later than 15 February of the following year, which must include the name, federal taxpayer registry number and domicile of the recipient of the interest, the amount of interest (both nominal and real interest), the interest rate and number of days of the investment. They must also provide the recipient of the interest with certification of the interest paid and must retain information relating to the certifications and withholdings.

Financial institutions are not obliged to withhold tax if the interest is paid to qualified entities including, inter alia, the federation, states and municipalities, political parties, qualifying donees, etc., 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. With effect from 2010, the concept has been amended to include 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 is available from 2016 to taxpayers whose income does not exceed MXN 100 million and to companies in the energy, infrastructure and transportation sectors regardless of their income (*see* section 1.3.4.).

1.7.2. R&D

With effect from 2010, the tax credit for R&D expenses was repealed and replaced by a direct cash grant to qualifying projects upon decision from the National Science and Technology Council, which decides on the amount to be provided as incentive. However, taxpayers who benefited from the tax credit prior to 2010 are allowed to continue applying the credit in accordance with the 2009 provisions.

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

Taxpayers are entitled to a tax credit equal to the investments made in film production in Mexico. The tax credit applies to investments aimed specifically at the creation of a film 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.

Companies are also entitled to a tax credit equal to the amount of the investments made in national theatre productions. This credit applies to investments made within Mexican territory for the staging of dramatic plays. This tax credit is subject to compliance with a number of requirements and must not exceed 10% of the corporate income tax assessed in the year immediately preceding its application. It is expressly excluded from accrued income.

1.7.4. Tax deduction regarding creation of employment

As from 2014, the additional tax deduction, available to companies that created new employment positions and filled them with individuals who were registered for the first time with the Mexican Social Security Institute, was repealed.

1.7.5. Tax deduction regarding handicapped and elder employees

Employers that hire handicapped employees are either entitled to make an additional tax deduction amounting to 100% of the income tax withheld from wages paid to such employees. Employers that hire employees who are 65 years or older are allowed making an additional tax deduction amounting to 25% of the salaries effectively paid.

1.7.6. 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 under certain requirements and restrictions.

1.7.7. Other incentives

Taxpayers with a tax domicile, agency, branch or any other establishment located in zones devastated by torrential rains and indicated in the decree of 19 September 2014 may apply for an immediate deduction of 100% on investments made in new fixed assets from 15 September 2014 to 30 June 2015. The investments may be deducted in the tax year in which they were made, provided the assets are used exclusively and permanently in such zones.

1.7.8. 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 foreseen in the Income Tax Law;
- 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 higher. The profit is calculated without the application of transfer pricing rules.

With effect from 2014, the Income Tax Law provides the scope of "*maquila* operations" which used to be broader under the IMMEX Decree. The effect of this amendment is 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" is that 100% of the income derived from the *maquila's* productive activities must derive from export operations or related activities, and not a minimum of 10% as foreseen 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;
- interests; 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 to conduct activities related to *maquila* operations are the following: (i) the sum of 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 jointly 10% of the total income obtained by the IMMEX company; (ii) income arising from such activities and from *maquila* operations must be duly segregated in the IMMEX company's accounting records thereby identifying the parties with which these activities and services are carried out; (iii) to prove through a transfer pricing study that the consideration pertaining to income arising from each of the activities related to *maquila* operations was agreed at arm's length; (iv) the relevant informative return must be properly filed including information about each concept of income arising from the activities related to *maquila* operations.

In addition, 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 such income under the general rules as any tax resident and (ii) the tax incentive allowing to deduct, for income tax purposes, 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. The 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 originally enacted in these terms to avoid the so called conversions into "*maquila* operations" (for example, to exclude companies in Mexico whose operations were not regarded as "*maquila* operations" transferring their machinery and equipment to their non-resident principal so as 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 Income Tax Law 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 comply 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 and this must be duly evidenced by an export declaration.

The amendments in force as of 2011 that limited the circumstances in which service companies will be eligible for the concessions available to IMMEX companies remain under the "*maquila* operations" concept foreseen under the Income Tax Law. 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).

It is considered that 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 directly the IMMEX company); and (ii) are taxed as regular corporate taxpayers. The foregoing provided that the following requirements are met:

(i) the non-residents are not related parties to the IMMEX shelter company; and

(ii) the IMMEX shelter company timely provides information to the tax authority on the *maquila* operations, including those carried on by related parties.

According to the Income Tax Law, operations such as a shelter by IMMEX companies are only allowed for a non-renewable 4-year period.

1.7.9. REITs

Real estate investment trusts (REITs) duly registered before the tax authority are entitled to certain tax incentives, but additional requirements to qualify for such incentives apply as from 2014. The incentives for companies whose main purpose is the construction of real estate for leasing and subsequent sale have been repealed as from 2014.

1.8. *Administration*

1.8.1. Taxable period

The tax year generally coincides with the calendar year.

The tax year of a newly formed legal entity 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 entities will end at the time of the merger or split-off, and the tax year of the newly formed company, if any, will start on the date of its formation and end on 31 December of the same year.

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. Legal entities must file their tax returns by 31 March following the end of the taxable year, except where they consolidate their tax result (*see* section 2.1.), in which case the tax return must be filed by 30 April following the end of the taxable year.

As from 2015, taxpayers are required to keep electronic accounting records and upload them electronically on a monthly basis to the SAT's website. On 2 July 2015, taxpayers were granted the option to maintain accounting records, including documentary evidence supporting transactions carried out, in any language. In such a case, the tax authorities may request a Spanish translation from an authorized expert.

In addition, as of 2015, taxpayers must report on a quarterly basis 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 tax refunds filed by taxpayers. When analysing the tax refund, tax authorities are prevented from determining tax credits or other tax liabilities that are not tax-refund related.

With effect from 2016, when assessing certain companies' tax obligations, tax authorities must notify the legal representative of the company and the members of the board and shareholders.

The tax reform for 2016 introduced section 76.A into the Income Tax Law, which provides that certain taxpayers must file informative annual returns regarding their operations with related parties in line with the requirements developed under the Action Plan on Base Erosion and Profit Shifting (BEPS) (*see* section 7.2.).

1.8.3. Payment of tax

Legal entities must make advance payments on the 17th day of the month following the month in which transactions are carried out. The base for advance payments is calculated by applying a profit factor (*coeficiente de utilidad*) to the gross income of the month. The possibility to deduct 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 under certain requirements and restrictions. Such base is multiplied by the corporate tax rate (i.e. 30%) and the result will be the advance payment of the month. 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 basis (gross income less deductions, mandatory profit-sharing payments made during the tax year and ordinary loss carry-forward).

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 of the transaction, the amount involved or the amount 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. In such a case, the outcome must also be disclosed. Whether the taxpayer is subject to an outstanding federal tax audit must also be disclosed.

Ruling decisions made by the tax authority 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 they see fit under the principle of self-assessment. In practice, however, the tax authority will have knowledge of 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 expressed in the ruling.

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.

Prior to 2014, a consolidation regime was provided that 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 entity, 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 does 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 entities; credit institutions, insurance companies, trust institutions, auxiliary credit institutions, stock exchange entities, foreign exchange houses and capital investment companies; non-residents, even if they have a permanent establishment in Mexico; companies in liquidation; civil companies and associations and cooperatives; and legal entities taxed under the simplified tax regime.

However, as from 2014, such consolidation regime was repealed. Taxpayers subject to the tax consolidation regime foreseen under the Income Tax Law in force until 31 December 2013 must perform the deconsolidation of their companies no later than 31 December 2013. The controlling entity must file its 2013 tax return and subsequently file an amended return that reflects the tax effects of the deconsolidation upon the corresponding deferred income tax.

The tax effect of the deconsolidation must consider special concepts of consolidation and net operating losses not yet set off and tax losses derived from the transfer of shares. The controlling entity must also pay the income tax that corresponds to dividend distributions made as from 1999 and which did not derive from the previously taxed earnings accounts. For said purposes, the taxpayers may opt to have the affiliated entities, rather than the controlling entity, pay the tax corresponding to the dividends that each of them distributed.

Finally, 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 will be paid through five annual instalment payments, and each of them must be updated for inflation. The amount of the first payment was 25% of the tax due and had to be made in May 2014, the second payment will be for an additional 25% of the tax due and must be made in April 2015, the third payment will be 20% of the tax due to be made in April 2016, the fourth payment will be for 15% of the tax due to be 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 such 5-year period expires.

As from 2014 a new optional taxation regime for corporate groups was introduced in the Income Tax Law. This new optional regime substantially shares the same requirements set forth for 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 other companies (i.e. 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 set off 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 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 payor of the dividend and equal to the general corporate tax rate multiplied by the grossed-up amount of the dividend (i.e. the amount of the profit distribution multiplied by 1.4286).

3. Other Taxes on Income

3.1. *Equalization tax on dividends*

When dividends are distributed by resident companies and there is an insufficient balance in the CUFIN account, the "equalization tax" on dividends must be paid, which is calculated by applying the general rate of corporate income tax to the profit before tax that would have been required to make the dividend distribution out of after-tax profit. The profit before tax is obtained by applying a gross-up formula (i.e. the amount of the dividend multiplied by the factor 1.4286).

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 disparity between accounting profits and taxable profits. This may occur as a result of temporary differences between accounting profit and taxable profits, e.g. where deductions are available for tax purposes in relation to expenses that are either not recognized for accounting purposes or recognized in subsequent years.

The company paying the dividend is allowed to credit the income tax on dividends against its income tax payable by 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 amount of the dividend distributed.

Theoretically, the shareholder is the only taxpayer under the Mexican imputation system, with the income tax paid at the level of the company being considered a temporary tax 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 taxable on the profit before tax from which the dividend was distributed. The individual credits the income tax paid at the level of the company against his liability on the dividend and is subject to the 10% tax on dividends foreseen in the Income Tax Law; and
- a dividend distributed to a non-resident individual or company: the dividends paid to non-residents are only subject to the 10% tax on dividends foreseen in the Income Tax Law.

For example, if during 2013 a Mexican resident company distributes a dividend to a resident or non-resident company or individual in an amount of MXN 100 that is not available as a balance on 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

Through these calculations, tax is effectively imposed as though the Mexican 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), thereby leaving the MXN 100 of net corporate profits which are now being distributed.

This applies if dividend distributions are made in situations where the distributing company has generated an accounting (book) profit that has not been subject to corporate income tax and, as a result, has an insufficient balance in its CUFIN account. A situation of this kind is originated from temporary differences between accounting profits and taxable profits typically arising from deductions for tax purposes, but not for accounting purposes. For example:

End of 2012	*Tax*	*Accounting*
Income	1,100	1,100
Deduction (-)	100	-
Profit (=)	1,000	1,100
Income tax calculated (× 30%)	300	300
Net profit (=)	700 - CUFIN	800
Income tax paid	300	

In this example, if the Mexican resident company pays a dividend of MXN 800, MXN 700 are not subject to "equalization tax" because they are covered by the CUFIN account (the CUFIN balance is zeroed) and MXN 100 are taxed as described above.

The Mexican company is allowed to 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 2013	*Tax*	*Accounting*
Income	1,100	1,100
Deduction (-)[1]	-	100
Profit (=)	1,100	1,000
Income tax calculated (× 30%)	330	330
Net profit (=)	770 - CUFIN	670
Income tax paid	287.14 (330 - 42.86)	

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

Once the Mexican company credits the equalization tax on dividends, it must reduce the balance of the CUFIN account by the amount of the dividend distributed. In the above example, the MXN 100 dividend distributed out of accounting profits reduces the newly generated MXN 770 CUFIN balance, thereby reaching a CUFIN balance of MXN 670 (note that the fact that the accounting net profit by the end of 2013 is MXN 670 is a mere coincidence). Otherwise, the Mexican resident company would have effectively increased its CUFIN balance by MXN 100 without paying the corresponding income tax thereby achieving a benefit that is not intended by the Mexican imputation system.

As may be appreciated, there is interplay between crediting the income tax on dividends and the subsequent reduction of the CUFIN balance. When the Mexican resident company distributed a MXN 100 dividend, it paid in advance MXN 42.86 of income tax as if it had MXN 100 CUFIN balance to make such distribution. Therefore, the Mexican 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. Consistently, the Mexican resident company is obligated to reduce the newly generated CUFIN balance in MXN 100 (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, as from 2014 a 10% final withholding tax is levied on dividends or profits distributed by resident entities or permanent establishments in Mexico in the following scenarios:

- the recipient of the distribution is a resident individual or a non-resident, including both individuals and legal entities; 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 distributing entity 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 will get a tax credit for the Mexican corporate tax paid by the distributing entity. However, the additional 10% withholding tax on dividends is a final tax that may not be credited.

Regarding non-residents, the 10% tax rate on dividends could be reduced or eliminated by virtue of the tax treaties signed by Mexico, as applicable.

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 as from 2014. Entities 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 are generated, they will be presumed to be generated as 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 new 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 1,500
Production phase	MXN 6,000

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

In addition, companies engaged in deep-water exploration and production of hydrocarbons activities may carry forward their net operating losses for a 15-year period.

3.4.2. Special rules for non-resident companies

Foreign tax 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 30 days or more in any 12-month period.

In addition, 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.

4. Taxes on Payroll

4.1. *Payroll tax*

The states and the federal district levy a payroll tax on wages paid for dependent personal services. The tax is generally imposed at a 2% flat rate, applied to the gross amount of salaries paid by employers to employees. Certain states may apply rates between 1% and 3%, and may grant exemptions to promote employment in underdeveloped regions.

4.2. *Social security contributions*

Both employers and employees must pay 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.

Contributions are calculated on the basis of the “employee’s earnings”, i.e. the daily salary as increased by any additional payment in cash or in kind, although certain deductions apply. The employee’s salary may not be less than the general minimum salary for the geographic area. The maximum base for calculating the contributions is 25 times the general minimum salary.

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).

The employers' and employees' contribution rates for 2016 are:

Compulsory social insurances	Contributions		
	Employer	Employee	Total
Occupational risks:	Maximum = 15.000%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 one daily minimum salary for Mexico City		
	+		
	If the employee's earnings are greater than three times the daily general minimum salary for Mexico City:	If the employee's earnings are greater than three times the daily general minimum salary for Mexico City:	
	1.10% of the difference between the employee's earnings and three times the daily general minimum salary for Mexico City	0.40% of the difference between the employee's earnings and three times the daily general minimum salary for Mexico City	1.50%
	+	+	
	(b) benefits in kind - pensioner: 1.050%	(b) benefits in kind - pensioner: 0.375%	1.425%
	+	+	
	(b) economic benefit: 0.700%	(b) economic benefit: 0.250%	0.950%
Disability and life:	1.750%	0.625%	2.375%
Retirement (the insurance is paid every 2 months):	2.000%	-	2.000%
Mandatory retirement and old age:	3.150%	1.125%	4.275%
Child care and social benefits:	1.000%	-	1.000%

(*See* Individual Taxation section 3.)

4.3. *Other taxes*

4.3.1. Housing fund contribution

Under the Employee Housing Fund Law (INFONAVIT Law) employers are required to make contributions to the National Housing Fund, which is administered by the federal government agency called Institute for the Promotion of Employee Housing (*Instituto del Fondo Nacional de la Vivienda para los Trabajadores*, INFONAVIT). Such contributions are computed at 5% of the consolidated daily wage (except for certain items set out in the INFONAVIT Law) of each employee, with payment due on a bimonthly basis.

Under the original structure of the INFONAVIT, the agency built low-income worker housing, which it then sold to employees who requested and qualified for credit granted by the agency itself.

If an employee obtains a loan from the INFONAVIT for the purchase of a residence provided by the INFONAVIT, the employer must withhold the required loan payments 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 which ranges from 0.05% to 1.2%.

The tax (*impuesto predial*) is usually levied on the cadastral value of each piece of property without regard to the number of owners or to the taxpayer's personal wealth.

5.3. *Other taxes*

5.3.1. Tax on acquisition of real estate

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 purchase transaction, who in turns pays it to the local tax authority. In most municipalities the tax ranges from 1% to 5% of the higher of: (i) the real estate tax commercial appraisal; (ii) the total purchase price; or (iii) the cadastral value of the real estate.

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 worldwide income. This includes capital gains from the sale of stock of foreign corporations.

Taxpayers holding shares or similar interests in companies, trusts or other similar legal entities subject to a preferential tax regime (i.e. income which 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 or not it has been distributed, in proportion to their average daily direct or indirect ownership in such entities, unless the relevant preferential tax regime jurisdiction has a tax information exchange agreement in force with Mexico. In addition, taxpayers who generate income of any kind from a listed jurisdiction (*see* section 7.4.) or from pass-through entities or vehicles, are obligated to 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 granted to recover losses incurred by a foreign subsidiary.

6.1.3. Foreign capital

Foreign capital or assets held abroad are not subject to the taxes on capital discussed in section 5.

The tax reform for 2016 included an incentive for capital repatriation previously not reported in Mexico, including capital located in low tax jurisdictions. The incentive does not reduce tax, but formal tax filings would be considered to be complied with and no penalties nor surcharges would be paid.

6.1.4. Double taxation relief

Mexico relieves international double taxation by granting a foreign tax credit (FTC) both unilaterally under its domestic law and bilaterally under tax treaties with other countries.

The FTC may only be claimed for foreign taxes imposed on foreign-source income. In addition, the foreign tax for which a credit is claimed must meet the definition of an income tax as defined under Mexican tax rules. As from 2014, taxpayers are required to individually identify foreign taxes per country base and maintain a registry that clearly identifies the tax year to which a particular dividend corresponds.

A direct FTC is granted with respect to foreign withholding tax 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 up to 10 years, but if a taxpayer fails to claim an FTC during an eligible year, it loses the right to credit such tax. Moreover, FTCs in excess of the FTC limitation cannot be credited, and cannot be carried forward or backward.

The amount of the direct FTC is limited to the amount of Mexican corporate income tax that would have been imposed on the same income or the subsidiary's profits (out of which the dividend is paid) calculated under the rules of the country of residence of such foreign subsidiary. As an additional requirement foreseen as from 2014, the direct FTC limit must be assessed per each foreign jurisdiction where the tax is withheld.

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

In addition, 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 Mexican company; (ii) the first-tier company owns at least 10% of the second-tier company; (iii) the Mexican 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.

As from 2014 the amount of first and second-tier indirect FTC that the taxpayers may credit is computed through a consolidated methodology. The limit on 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 FTC exceeding their 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.

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 establishment. Non-residents without a permanent establishment in Mexico are taxed on Mexican-source income.

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 Mexican real property is deemed to be Mexican-source income. Rental income is subject to a 25% withholding tax on gross payments (except for containers, airplanes and boats registered with the federal government for which the rate is 5%) if the lessee 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 for any taxable year to compute income tax on a net basis as if the rental income were attributable to a permanent establishment. A number of formal requirements must be met by the United States tax resident for this option to be available. 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 25% withholding tax on the gross amount. The tax must be withheld by the purchaser if it is a Mexican tax resident or a non-resident with a permanent establishment in Mexico. If the purchaser is also a non-resident, the tax must be directly paid by the non-resident transferor within 15 days of the receipt of the income. Non-residents may elect to pay tax of 35% on net gains 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 the calculation and payment of the tax by the notary public.

Capital gains realized by non-residents from the transfer of shares in Mexican resident companies and shares or securities representing Mexican real property, where more than 50% of the value of the shares derives, directly or indirectly, from Mexican real property, are subject to a 25% withholding tax on the gross amount received. The tax must be withheld by the purchaser if the purchaser is a resident or has a permanent establishment in Mexico. If not, the non-resident transferor is obliged to pay the tax within 15 days from the date of payment. Non-residents having an authorized representative in Mexico may elect to pay tax of 35% on the net gain calculated under specified rules, provided the taxpayer is not taxed under a preferential tax regime (*see* section 7.4.) in his country of residence, is not a resident of a country where income tax is based on the territoriality principle and the taxpayer files a statutory tax report regarding the transfer of shares.

As from 2014, capital gains of Mexican source derived 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 will not be subject to the 10% withholding tax when they reside in a country which has a tax treaty in force with Mexico, and timely state this situation under oath to the intermediary.

Dividends are considered to be from a Mexican source if they are paid by a resident company. If dividends are paid from profits which have not been subject to tax, the “equalization tax” (*see* section 3.1.) will be imposed on the company paying the dividends. In addition, net dividends distributed to a non-resident are subject to the 10% withholding tax on dividends foreseen applicable as from 2014 (*see* section 6.3.1.). However, the 10% withholding tax rate may be reduced by virtue of tax treaties, where applicable.

Interest is considered to be sourced in Mexico if it is derived from an investment in Mexico or if the interest is paid by a Mexican resident or a Mexican-based permanent establishment to which the indebtedness is attributable. Interest paid to non-residents and not attributable to a permanent establishment 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 of Mexico or a Mexican-based permanent establishment to which the goods or rights are attributable. Royalties paid to non-residents and not attributable to a permanent establishment in Mexico are subject to a final withholding tax (*see* section 6.3.3.).

For corporate income tax purposes, the term “royalties” means payments of any kind for the temporary use of 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 concept of royalties.

In general, service fees are not taxed in Mexico if the services are performed abroad. There is a presumption that the service is wholly rendered in Mexico if it is performed partly in Mexico. However, if the taxpayer provides evidence that part of the service has been rendered outside of Mexico, income tax will be allocated proportionately. Service fees for technical assistance are taxed in Mexico if they are used in Mexico or paid by a resident of Mexico or a permanent establishment in Mexico of a non-resident.

Commission and agency fees paid by a resident of Mexico, or permanent establishment in Mexico of a non-resident, to residents of countries with a preferential tax regime (*see* section 7.4.) are taxed in Mexico. For this purpose, commission and agency fees mean payments 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 an entity 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 payments rather than the generally applicable rates. The 40% withholding tax rate will not apply if the entity is resident of a country which has a broad exchange of information agreement in force with Mexico. However, the 40% withholding tax rate will only apply when the entity subject to a preferential tax regime is an entity through which Mexican residents receive income as members or due to the foreign entity's tax transparency.

Directors' fees paid by enterprises resident in Mexico are taxed in Mexico.

Management services may be taxable either as normal services or as technical assistance depending on the type of service.

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.

6.2.3. Administration

Non-residents with a permanent establishment in Mexico must determine their tax liability on a self-assessment basis.

Non-resident companies without a permanent establishment in Mexico, but deriving income from Mexico, are subject to final withholding taxes.

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.

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

6.3.1. Dividends

Dividends distributed by resident companies to non-residents from profits generated as of 2014 are subject to a 10% withholding tax (*see* sections 1.1. and 3.1.).

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 interest as follows:

- 10%: this rate applies to interest paid in one of the following eligible situations or to one of the following qualifying recipients (who must be registered in the Registry of Foreign Banks, Financial Institutions, Pension and Retirement Funds and Foreign Investment Funds within the Ministry of Finance):

  - a non-resident bank (including an investment bank), a financial institution owned by a foreign state or certain limited financial institutions. During 2013, 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 institution 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
  - interest relating to eligible financial derivatives, provided certain conditions are met;
- 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; and
  - interest paid to non-resident financial entities in which the federal government has a capital interest;
- 15%: interest paid to reinsurance companies;
- 21%:
  - interest which is not subject to the 4.9% or 10% rates mentioned above, paid by Mexican financial institutions;
  - interest paid to non-resident suppliers financing the acquisition of machinery and equipment which is included in the acquirer's fixed assets; and
  - interest paid to non-residents on loans that finance the acquisition of machinery and equipment included as fixed assets, and in general interest paid on loans secured for inventory or for marketing, provided that any such circumstance is set forth in the agreement and that the company is registered in the Registry of Foreign Banks, Financial Institutions, Pension and Retirement Funds and Foreign Investment Funds, which registration must be renewed annually;
- 35%: all other interest (there are some exemptions, mainly in respect of loans granted to the government);
- 40%: interest paid to a non-resident which is considered to be the beneficiary of a preferential tax regime (*see* section 7.4.).

6.3.3. Royalties

Royalties paid to non-residents are subject to withholding tax on the gross payment at various rates, as follows:

- 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;
- 25%: any other category of royalties; and
- 40%: royalties paid to a related party considered to be the beneficiary of a preferential tax regime (*see* section 7.4.).

Technical assistance fees paid to non-residents are subject to withholding tax on the gross payment at a 25% rate. Technical assistance is described under Mexican law as a type of independent personal service with two particular qualifications: (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.

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

Generally, royalties are subject to a reduced 10% withholding tax rate under tax treaties (*see* section 6.3.5.); technical assistance fees usually qualify as business profits.

6.3.4. Other

Service fees paid to non-residents are subject to a final withholding tax at the rate of 25%.

Commission and agency fees are subject to a final withholding tax of 40% if the recipient is considered a beneficiary of a preferential tax regime (*see* section 7.4.).

6.3.5. Withholding tax rates chart

The following chart contains the withholding tax rates that are applicable to dividend, interest and royalty payments made by Mexican companies to non-residents under the tax treaties in force as at the date of review. Where, in a particular case, a treaty rate is higher than the domestic rate, the latter is applicable.

A reduced treaty rate may be applied at source if the appropriate residence certificate has been presented to the withholding agent making the payment; however, if the taxpayer does not comply with the formal requirements set forth in Mexican domestic law, the benefits of a tax treaty will be granted as a tax refund.

The following chart includes the treaties currently in force to which Mexico is a signatory:

	Dividends		Interest[1]	Royalties
	Individuals, companies	Qualifying companies[2]		
	(%)	(%)	(%)	(%)
Domestic Rates				
Companies:	10	10	10/15/21/35/40	5/25/35/40
Individuals:	10	n/a	4.9/10/21/35/40	5/25/35/40
Treaty Rates				
Treaty With:				
Australia	15	0	10/15[3]	10
Austria	10	5	10	10
Bahrain	-[4]	-[4]	4.9/10[5]	10
Barbados	10	5	10	10
Belgium	15	5[6]	10/15[7]	10
Brazil	15	10[8,9]	0/15[10]	10/15[11]
Canada	15	5	10	0/10[12]
Chile	10	5[8]	5/10/15[13]	10/15[14]
China (People's Rep.)	5	5	10	10
Colombia	-[15]	-[15]	5/10[5]	10

	Dividends		Interest[1]	Royalties
	Individuals, companies	Qualifying companies[2]		
	(%)	(%)	(%)	(%)
Czech Republic	10	10	10	10
Denmark	15	0[6]	5/15[5]	10
Ecuador	5	5	0/10/15[5]	10
Estonia	-[16]	-[16]	4.9/10[17]	10
Finland	-[16]	-[16]	10/15[18]	10
France	0/5/15[19]	0/5[19]	5/10/15[20]	0/10/15[21]
Germany	15	5	5/10[22]	10
Greece	10	10	10[15]	10
Hong Kong	-[16]	-[16]	4.9/10[5]	10
Hungary	15	5	10	10
Iceland	15	5	10	10
India	10	10	10	10
Indonesia	10	10	10	10
Ireland	10	5	5/10[5]	10
Israel	10	5/10	10	10
Italy	15	15	10/15[23]	0/15[12]
Japan	15	-/5[24]	10/15[5]	10
Korea (Rep.)	15	0	5/15[5]	10
Kuwait	-[16]	-[16]	4.9/10[5]	10
Latvia	10	5[6]	5/10[5]	10
Lithuania	15	0[6]	10	10
Luxembourg	15	8	10	10
Malta	-[16]	-[16]	5/10[25]	10[25]
Netherlands	15	0/5[26]	5/10[27]	10
New Zealand	15	0/5[28]	10	10
Norway	15[29]	-	10/15[5]	10
Panama	7.5	5[6]	5/10[5]	10
Peru[30]	15	10	15	15
Poland	15	5[6]	10/15[31]	10
Portugal	10	10	10	10
Qatar	-[16]	-[16]	5/10[5]	10
Romania	10	10	15	15
Russia	10	10	10	10
Singapore	-[16]	-[16]	5/15[5]	10
Slovak Republic	-[16]	-[16]	10	10
South Africa	10	5	10	10
Spain	15	5[6]	5/10/15[32]	0/10[33,12]
Sweden	15	-/5[34]	10/15[5]	10
Switzerland	15	-[35]	5/10[27,36]	10
Turkey	15	5	10/15[37]	10
Ukraine	15	5[6]	10	10

	Dividends		Interest[1]	Royalties
	Individuals, companies	Qualifying companies[2]		
	(%)	(%)	(%)	(%)
United Arab Emirates	-	-	4.9/10[5]	10
United Kingdom	-/15[38]	-/15[38]	5/10/15[27]	10
United States	10	-/5[39]	4.9/10/15[40]	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. 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.
4. Possibility of residence taxation. The treaty does not limit the withholding tax rate in the source state.
5. The lower rate applies to interest paid to banks.
6. The rate generally applies with respect to participations of at least 25% of capital.
7. The 10% rate applies to interest from loans that are not represented by bearer securities and are granted by banking enterprises.
8. The rate applies with respect to participations of at least 20% of voting power.
9. A most favoured nation clause may be applicable with respect to dividends.
10. A most favoured nation clause may be applicable with respect to interest.
11. The Protocol establishes a most-favoured-nation clause as regards dividends, interest and royalties. In respect of royalties, the rate under the treaty is 15%; however, by virtue of the most-favoured nation clause (Protocol, para. 5), the rate is reduced to 10% for any royalties other than those derived from the use or the right to use trademarks (under the treaty between Brazil and South-Africa, the rate is 10%).
12. The lower rate applies to copyright royalties (excluding films, etc.).
13. The rate under the treaty is 15%. However, by virtue of a most favoured nation clause (Protocol, para. 3), applied by virtue of the treaty between Chile and Spain, the rate is reduced to 5% for interest on loans granted by banks and to 10% for interest on loans granted by insurance companies, from bonds or securities regularly and substantially traded on a recognized securities market, and for interest arising from sales on credit.
14. The rate under the treaty is 15%. However, by virtue of a most favoured nation clause (Protocol, para. 4), the rate is reduced to 10% (under the treaty between Chile and Spain, the rate is 10%).
15. 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.
16. Only residence taxation.
17. The lower rate applies to interest paid to banks, pension funds and schemes.
18. 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.
19. 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.
20. The general rate under the treaty is 15%. However, by virtue of a most favoured nation clause (Protocol, para. 6), the general rate is reduced to 5% for interest paid to banks and insurance companies and for interest from quoted bonds (the rate on such interest is 5% under the Mexico-United Kingdom treaty), and to 10% in other cases (the rate is 10% under the Mexico-Ireland treaty).
21. The zero rate applies to copyright royalties, excluding films, etc. The general rate under the treaty is 15%. However, by virtue of a most favoured nation clause (Protocol, para. 6), the rate is reduced to 10% (the rate is 10% under the Mexico-United States treaty).
22. The 5% rate applies to interest from loans granted by banks.
23. The general rate under the treaty is 15%. However, by virtue of a most favoured nation clause (Protocol, para. 6), the rate is reduced to 10% (the rate is 10% under the Mexico-Portugal treaty).

24. 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.
25. A provision in the protocol disallows the application of arts. 11 and 12 in certain cases.
26. 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.
27. The 5% rate applies to interest derived by banks and financial institutions, and on bonds or securities regularly and substantially traded on a recognized securities market.
28. The rate under the treaty is 15%. However, with effect from 1 May 2010, by virtue of a most-favoured nation clause (Protocol, para. 9) applied by reason of the treaty between New Zealand and Australia, the rate is reduced to: (i) 5%, with respect to participations of at least 10% of the voting power; and (ii) 0%, with respect to specific participations, i.e. shares listed on the stock exchange, of at least 80% of the voting power for at least 12 months before the date the dividend is declared.
29. The general rate under the treaty is 15%. However, by virtue of a most-favoured nation clause (Protocol, para. 6), the rate is reduced to 10% (the rate is 10% under the Mexico-Portugal treaty).
30. A most-favoured-nation clause is included in the Protocol as regards dividends, interest and royalties in case Peru agrees a lower withholding tax rate for such items with a third country. However, the withholding tax rate applicable to interest and royalty payments may not be less than 10%.
31. The 10% 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.
32. The rates under the treaty are 10% (interest paid to banks) and 15% (other cases). However, by virtue of a most favoured nation clause (Protocol, para. 4), the rates are reduced to 5% and 10%. The 5% rate applies for interest paid to banks and insurance companies and for interests derived from bonds and securities that are regularly and substantially traded on a recognized stock exchange; The 10% rate applies for interest paid on loans of any kind granted by a bank or any other financial institution, including investment banks and savings banks and insurance companies and for interests paid by the purchaser of machinery and equipment to a beneficial owner who is the seller of the machinery and equipment in connection with a sale on credit.
33. A most favoured nation clause may be applicable with respect to royalties.
34. 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.
35. 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.
36. A most favoured nation clause may be applicable with respect to interest.
37. The lower rate applies if interest is paid to a bank.
38. Dividends will be tax exempt in the source state under certain conditions. 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.
39. 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.
40. 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*

Mexican domestic tax law does not include a general anti-avoidance rule. Nevertheless, the tax authorities are 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. Such actions are increasingly being accepted by Mexican courts.

7.2. *Transfer pricing*

As a rule, the price of a transaction between related parties must be agreed upon under the arm's length principle. 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 taxable base or the relevant loss of a taxpayer 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 profit-margin method (TPM).

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 TPM 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, RP and CP methods must be preferably applied by the taxpayer.

The tax authorities may resolve requests by taxpayers regarding the methods to be used to determine arm's length transfer prices. This agreement may be multilateral if prices are agreed with the competent tax authorities of a tax treaty country. An advance pricing agreement (APA) may apply for up to 3 tax years following the year in which it was issued, the tax year in which it was issued, and up to 1 tax year prior to that in which it was issued (5 years in total). A longer period may be granted through a mutual agreement procedure under the terms of a tax treaty. APAs may be conditional on certain requirements, which ensure that the transactions referred to in the APA are agreed on an arm's length basis. 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 transfer pricing-related requests to obtain an APA. Moreover, General Tax Guidelines specify the relevant information and supporting documentation that must be submitted by the taxpayer with regard to APAs.

The tax reform for 2016 included the obligation to file informative returns for transfer pricing purposes, in line with requirements developed under the OECD's Action Plan on Base Erosion and Profit Shifting (BEPS). Specifically, Mexican entities are required to file a master file and a local file. Legal entities earning at least MXP 12,000 million annually are also required to file a country-by-country report. Such informative returns are required for fiscal year 2016 and must be filed before 31 December 2017.

7.3. *Thin capitalization*

Interest payments made by a Mexican resident company on loans from non-resident related entities are not deductible for income tax purposes if the debt/equity ratio of the company paying the interest exceeds a 3:1 threshold. All interest-generating debts are considered for determining whether the 3:1 debt/equity ratio has been exceeded.

The thin capitalization regime does not apply to financial institutions (e.g. banking, insurance, and financial leasing companies) with respect to loans contracted in their regular financial activities. Taxpayers that obtain an APA recognizing that the activity they are engaged in requires of itself greater leverage may consider an increased debt/equity ratio subject to compliance with certain administrative conditions.

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.

7.4. *Controlled foreign company*

Resident companies and individuals are subject to Mexican corporate income tax on the profits (whether distributed or not) of their controlled foreign subsidiaries subject to a preferential tax regime.

Taxpayers may receive income through a transparent foreign vehicle or through a foreign entity or vehicle that is taxed in its country of residence.

In the first case, all income obtained through a transparent foreign vehicle would qualify for the anticipated accrual under the controlled foreign company (CFC) rules with no exceptions under law. However, SAT Regulations provide for the absence of control exception (i.e. where the taxpayer does not have effective control so as to decide the moment of income, profit or dividend distribution whether directly or indirectly).

In the second case, only income received through a foreign entity or vehicle that is subject to a preferential tax regime will qualify for the CFC rules. Income is subject to a preferential tax regime if the tax paid abroad is less than 75% of the income tax that would have been incurred and paid in Mexico had the income been generated therein. The CFC rules therefore apply when profits generated through foreign entities or vehicles are subject to an effective income tax rate of less than 75% of the Mexican income tax rate (i.e. 22.5%) in their country of tax residence.

In the case described in the previous paragraph, there are some exceptions to the CFC regime:

- Active trade or business exception, except where passive income represents more than 20% of the entity's or vehicle's total income. Passive income includes, for example, 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 entity 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.

- Royalties exception. Royalties received by the entity or vehicle in respect of the use of patents and industrial secrets provided that:
  - intangibles have been created or developed in the country of residence of the entity or vehicle, except where the intangibles were acquired at arm's length;
  - the royalties paid are not deductible by a Mexican resident;
  - royalty payments are made at arm's length; and
  - accounting records of the entity or vehicle are kept and information returns are filed when needed.

The exception does not apply to other types of royalties, e.g. for the use of trademarks, software, etc.

- Absence of control exception. The CFC rules do not apply to income which is generated through entities where the average daily ownership does not allow the taxpayer to exercise effective control on the investments made by the entity, its administration or its dividend payment policy. For the purposes of the CFC rules, "control" means direct or indirect control which would permit the taxpayer to decide the timing of the distributions of dividends or profits. Unless proof of lack of control is provided, it is presumed that the taxpayer has influence on the administration and control of the investment.

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

CFC rules also grant taxpayers a foreign tax credit on income tax withheld in Mexico from Mexican source payments made to the foreign entity or vehicle that they own. 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 entity or vehicle that they own in a preferential tax regime.

There are no rules providing for relief from double taxation on actual distributions of dividends by the CFC to its shareholders.

CFC rules grant the tax authorities 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, etc.).

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

Informative returns concerning listed jurisdictions

Corporate taxpayers must file an informative return in February of each year disclosing (i) all the investments made or kept in a jurisdiction that qualifies as a preferential tax regime during the preceding calendar year; and (ii) any sort of income arising in a listed jurisdiction, even if such jurisdiction does not qualify as a preferential tax regime. The listed jurisdictions are as follows:

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

Until 2004, only listed jurisdictions were regarded as preferential tax regimes. Currently, the list of jurisdictions only survives for purposes of the above-described information return. Note that the SAT Regulations have effectively excluded Albania, Aruba, Bahamas, Bahrain, Barbados, Belize, Bermuda, Cayman Islands, Cook Islands, Costa Rica, Gibraltar, Guernsey, Hong Kong, the Isle of Man, Jersey, Kuwait, Liechtenstein, Malta, the Netherlands Antilles, Panama, Qatar, Samoa, Tunisia and Uruguay from the listed jurisdictions, mainly because these jurisdictions have in force with Mexico either a tax treaty with a broad exchange of information clause or a broad exchange of information agreement (*see* section 7.5.1.).

Per SAT Regulations, corporate taxpayers are also released from the obligation of filing the above-described information return pertaining to (i) income indirectly arising from any listed jurisdiction and generated directly through a foreign entity or vehicle that is incorporated in a non listed jurisdiction; or (ii) operations executed through transparent foreign vehicles that are incorporated in any jurisdiction with which Mexico has a broad exchange of information agreement in force (*see* section 7.5.1.). The foregoing only applies as long as the corporate taxpayer does not have effective control so as to decide the moment of income, profit or dividend distribution whether directly or indirectly.

7.5. *Other anti-avoidance rules*

7.5.1. Broad exchange of information agreements

Various domestic law provisions grant benefits to taxpayers subject to the existence of 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:

(1) 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;

(2) 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 said article 26, Mexico still regards 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 provided by article 26; or

(3) where the relevant country is part of the Multilateral Convention for the Assistance in Collection of Taxes signed in Strasburg on 25 January 1988, as amended by the Protocol signed in Paris on 27 May 2010, and such country effectively exchanges information with Mexico.

The list of countries considered as qualifying under items (2) and (3) above is provided by SAT Regulations. Regarding item (2), generally all countries having entered into a tax treaty with Mexico qualify as of the date on which the relevant tax treaty became applicable except for Luxembourg that is deemed to qualify as from 1 January 2012. Greece, Ireland and Indonesia are not deemed to qualify at all. Belgium and Israel were deemed to qualify but only until 31 December 2010. Some countries that already qualify under item (2) are also deemed to qualify under item (3). In addition, Albania, Argentina, Georgia, Ghana, Malta, Moldova and Slovenia are regarded as having qualified under item (3).

Banks and other entities 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

As from 2014, in the case of transactions between related parties, the tax authorities may request the non-residents to prove the existence of a 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 by Mexico with such country;
- the transfer of shares is performed in accordance to corporate restructuring rules foreseen in a tax treaty
- dividends are paid to a non-resident who is the beneficial owner of such dividends and is exempt from tax in its residence jurisdiction per application of an exemption method foreseen in a tax treaty.

8. Value Added Tax

8.1. *General*

VAT is levied on taxable supplies of goods and services as well as on imports of taxable goods and services into Mexico. Exports and a few other supplies are zero rated. Some specified transactions are exempt either with or without a reduced credit for previously paid VAT. VAT is also levied when the temporary use of a good is granted.

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

8.2. *Taxable persons*

Taxable persons for VAT purposes are any individual or legal entity carrying out chargeable transactions in Mexico. In order to be subject to the tax, it is not necessary to conduct a business activity but persons carrying out chargeable transactions must be registered with the tax authorities as "VAT taxpayers" in order to be able to deduct or recover any amount of input VAT.

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

8.3. *Taxable events*

VAT 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.

8.4. *Taxable amount*

With respect to the supply of goods, VAT is calculated on the price, inclusive of any amount added to it such as taxes (other than VAT itself), fees, interest and penalties. 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, VAT is calculated on the entire value of the consideration under the contract inclusive of any amount added to it (e.g. taxes other than VAT, fees, maintenance expenses, construction, reimbursements, interest and penalties).

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

For loans and financing, VAT 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, etc.).

With respect to temporary and definitive imports, VAT is normally calculated on the customs value of such goods as increased by any import-related taxes (other than VAT) and duties. For imports of services, intangible property and temporary use of, or the right to use, intangible property, VAT 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 VAT due as an input VAT and, in the same monthly return, may apply a credit for it towards its output VAT, making the VAT a virtual booking entry.

As a rule, discounts, rebates and bonuses granted by the taxpayer are excluded from the taxable base.

8.5. *Rates*

The rates of VAT in Mexico are:

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

Prior to 2014 a reduced VAT rate of 11% applied to the supply of goods and services (other than the sale of immovable property, which has always been taxed at the standard rate) by residents of the “frontier zone”, provided the supply of the related goods or services takes place in the frontier zone between residents of that zone. However, as from 2014, such reduced rate for frontier zones was repealed, and the general VAT rate of 16% is applicable.

8.6. *Exemptions*

Certain transactions are exempt from VAT (e.g. alienation of land, alienation of constructions 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 VAT on previously paid purchases and imports because it will have no output VAT to apply towards the input VAT.

Temporary imports performed by IMMEX companies were exempt from VAT until 2013, but as from 2014, such exemption is repealed. IMMEX companies may receive a certification from the tax authority to avoid temporary import VAT payment. In the absence of such certification, IMMEX companies may guarantee the amount of VAT on the temporary import and avoid the payment, or the VAT may be paid and recovered later through the crediting mechanism when the merchandise is returned abroad or it may be credited with output VAT. No VAT on the definitive import is triggered when VAT on the prior temporary import was paid.

Certain transactions are subject to VAT at a zero rate (e.g. alienation of animals (other than domestic animals such as dogs and cats) and vegetables, patented medicines, alienation of some food products, services of milk pasteurization, reinsurance services, etc.). In such cases, the taxpayer is entitled to recover the related input VAT previously paid on purchases and imports because it will have a zero output VAT to apply towards the input VAT.

The zero-rated transactions do not reduce the taxpayer's credit factor; only exempt transactions reduce the credit factor and, consequently, the possibility of crediting the entire VAT on 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 VAT 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 shall evidence purchases exceeding MXN 1,200 from any single vendor. The purchases must be exported from Mexico through a special customs verification mechanism.

Also, non-resident entities would typically be impeded from recovering VAT charged by their suppliers of goods and services (input) through the credit mechanism. However, the tax authority has granted tax rulings to particular non-resident entities where it has recognized that such entities are entitled to credit input and output VAT and recover any favourable balance. Such entities are deemed by the tax authority as taxpayers for VAT purposes regardless of the fact that they have no permanent establishment in the country for income tax purposes.

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

For tax on acquisition of real property, *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 (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.

IEPS is levied on the organization or operation of games involving gambling and lotteries. The rate is 30%.

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
- on 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%.

As from 2014, a tariff of MXN 1 is levied upon the manufacturer or importer of flavoured drinks, concentrates, powders, syrups, essences, flavours or extracts that may be diluted to produce flavoured drinks, where said products contain any added sugars (monosaccharides, disaccharides and polysaccharides only when used as caloric sweeteners).

With effect from 2016, exportations of flavoured drinks, concentrates, powders, syrups, essences, flavours or extracts that may be diluted to produce flavoured drinks, where said products contain any added sugars made by the producer of manufacturer, are VAT exempt.

In addition, as from 2014, the excise tax is levied on high calorie food at a rate of 8%. Any food with an energy content of 275 or more kilocalories per 100 grams is considered a high calorie food, except in the case of certain basic food as foreseen under administrative tax rules issued by the tax authorities.

Automobiles are subject to a special excise tax (ISAN). Persons liable to ISAN are: (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. Tax on cash deposits

The tax on cash deposits that was levied until 2013 at 3% on monthly cash deposits exceeding MXN 15,000 to bank accounts is repealed as from 2014. However, since the purpose of the tax on cash deposits was to control and monitor cash movements in Mexico, banks will continue to be obliged to report any cash deposits which exceed MXN 15,000.

9.6.2. Taxes imposed at the state and municipal level

For other taxes imposed at the state and municipal level, *see* Mexico – Corporate Taxation – Baja California, Coahuila, Chihuahua, Federal District, Guanajuato, Jalisco, Mexico, Nuevo Leon, Puebla and Veracruz section 4.

MEXICO

This chapter is based on information available up to 1 January 2016.

Introduction

Employed individuals must make social security contributions.

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 (for taxes imposed at the State and Municipal level, *see* Mexico – Corporate Taxation – Baja California, Coahuila, Chihuahua, Federal District, Guanajuato, Jalisco, Mexico, Nuevo Leon, Puebla and Veracruz).

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

The currency is the Mexican peso (MXN).

On 29 October 2015, the Congress approved the economic package for fiscal year 2016 (the tax reform for 2016). The amendments contained therein do not increase tax or create new taxes.

1. Individual Income Tax

1.1. *Taxable persons*

Residents are liable to income tax in respect of their worldwide income. Non-resident individuals are liable to income tax only on their Mexican-source income.

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. Failure to file such a notice results in the individual being considered as continuing to reside in Mexico. In addition, Mexican national individuals who expatriate from Mexico continue to be residents in Mexico when they establish their residence in a country where income may be 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 7.6.). The attribution of residence applies for the year in which the relevant expatriation notice is filed and for the following 3 years.

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 that are included in such ownership regime, i.e. married persons must still file their tax returns separately concerning income arising from assets other than those included in the joint asset ownership regime.

Where this regime applies, one spouse must be appointed as legal representative and file the return, including all revenue and deductions related to the jointly owned assets (e.g. lease and capital gains arising from assets incorporated in the joint asset ownership regime). The legal representative is responsible for keeping accounting records and paying the income tax on a monthly and annual basis, as the case may be. The other spouse must only file an annual tax return concerning the proportion of income and deductions corresponding to his or her interest under the joint asset ownership regime; the proportion of income tax paid monthly by the legal representative may be credited against his or her tax liability.

Alternatively, the individual with the higher income may opt to be deemed to accrue the total income arising from assets or investments incorporated in the joint asset ownership regime, thereby being entitled to apply the full deductions that correspond to such assets or investments. In that case, the other spouse does not need to register with the taxpayers' registry, provided he or she does not need to file an income tax return on other types of income.

For taxation purposes, partnerships are treated as separate taxable persons from their members.

1.2. *Taxable income*

1.2.1. General

Individuals are subject to tax on all items of income, unless expressly exempt. Income is broadly defined to include receipts in cash, benefits in kind and inflationary gains.

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 as of 2014);
- income from the acquisition of goods (e.g. donations received);
- dividends and profit distributions;
- interest income;
- income from prizes; and
- other income.

For purposes of computing taxable income, the taxable base is reduced by applicable deductions and allowances. The individual tax rate is progressive and ranges from 1.92% to a maximum rate of 35% (*see* section 1.9.). However, an additional 10% (*see* section 1.5.1.) withholding tax is levied on individuals receiving dividends. Such tax must be withheld by the distributing company and may not be credited against the income tax due; it is considered a final tax.

Loans, donations and prizes exceeding MXN 600,000, individually or in total, must be reported to the tax administration in the annual tax return. The amounts will be considered taxable income if the taxpayer does not report them.

1.2.2. Exempt income

The most important types of exempt income are:

- compensation for damages, limited to the market value of the relevant property;
- income derived by individuals from agriculture, livestock, forestry or fishery, limited to 40 times the annual minimum salary (MXN 1,023,000 approx.). This exemption only will be applicable if 90% of their annual income derives from such activities;
- 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 minimum salary;
- 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 (investment units or “UDI” is an indicator the value of which is adjusted by inflation; currently, 700,000 million investment units amounts to approximately MXN 3.7 million);
- 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
- with effect from 1 January 2016, income up to MXN 8 million derived from agriculture, farming, forestry, or fishing activities, provided certain conditions are met.

As from 2016, individuals who are not engaged in business activities and who are registered before tax authorities are entitled to certain tax-exempt prizes (i.e. monetary or in-kind rewards) through a tax lottery, provided such taxpayers make electronic purchases only and have their corresponding digital invoices. This measure intends to facilitate inspections, since electronic payments and digital invoices allow tax authorities to assess taxpayers’ income.

1.3. *Employment income*

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 elects to pay tax under the rules governing employment income.

1.3.1. Salary

Income from dependent personal services includes all items of income received by an individual in respect of his dependent personal services, especially salary and bonuses. Certain items of income (e.g. welfare benefits) are exempt or partially exempt. Reimbursements for duly substantiated expenses are not taxable.

Employment income is subject to monthly withholding tax. The computation of the amount of 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 (*see* section 1.7.3.).

Monthly income tax table for the year 2016:

Monthly taxable income (MXN)			*Tax due on lower limit (MXN)*	*Marginal rate on excess (%)*
Up to		496.07	0.00	1.92
496.08	-	4,210.41	9.52	6.40
4,210.42	-	7,399.42	247.24	10.88
7,399.43	-	8,601.50	594.21	16.00
8,601.51	-	10,298.35	786.54	17.92
10,298.36	-	20,770.29	1,090.61	21.36
20,770.30	-	32,736.83	3,327.42	23.52
32,736.84	-	62,500.00	6,141.95	30.00
62,500.01	-	83,333.33	15,070.90	32.00
83,333.34	-	250,000.00	21,737.57	34.00
Over		250,000.01	78,404.23	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 such individual: (i) changes his employment; (ii) communicates to his employer of his decision to file his own annual return; or (iii) receives income from other categories or salaries from abroad.

1.3.2. Benefits in kind

In general, 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 are exempt or non-taxable. For example, restaurant tickets and food provided by the employer 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. As from 2014 employers are only allowed to deduct 47% of salaries and fringe benefits that are exempt income for the employees (i.e. retirement funds, vacation premiums, termination payments, etc.) as well as complimentary contributions to reserves for pension and retirement funds of the employees. This deductibility rate could be increased to 53% if the employer does not reduce the fringe benefits paid as compared with those paid in the prior fiscal year.

In 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 will be obligated to accrue this income upon taking the option.

1.3.3. Pension income

For tax purposes, pension receipts are generally treated as employment income. However, pensions received from the social security system are exempt up to a daily amount of MXN 1,051,500.

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 management body are treated as employment income and are subject to withholding tax.

1.4. *Business and professional income*

Business and professional income derived by individuals is subject to tax under two different tax regimes: (i) the business and professional activities regime; and (ii) the incorporation regime.

The concept of business income encompasses any income derived from commercial and industrial activities. Agriculture, breeding of livestock, and fishing and forestry activities will be subject to tax under the general business activities regime if the income derived from such activities represents less than 90% of the annual income of the taxpayer (*see* section 1.2.2.) Income derived from transport of goods and passengers is also treated as business income and is subject to this regime, unless such 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.

1.4.1. Business and professional activities regime

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

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

1.4.2. The incorporation regime

In previous years, the Income Tax Law established two regimes that were repealed as from 2014. Such regimes were (i) the intermediate tax regime and (ii) the small taxpayer's regime. Those regimes were replaced by the "incorporation regime".

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

Individuals taxed under the incorporation regime are required to make bimonthly definitive payments which result from the application of the relevant tax table (*see* below).

Monthly taxable income (MXN)			*Tax due on lower limit (MXN)*	*Marginal rate on excess (%)*
Up to		992.14	0.00	1.92
992.15	-	8,420.82	19.04	6.40
8,420.83	-	14,798.84	494.48	10.88
14,798.85	-	17,203.00	1,188.42	16.00
17,203.01	-	20,596.70	1,573.08	17.92
20,596.71	-	41,540.58	2,181.22	21.36
41,540.59	-	65,473.66	6,654.84	23.52
65,473.67	-	125,000.00	12,283.90	30.00
125,000.01	-	166,666.67	30,141.80	32.00
166,666.68	-	500,000.00	43,475.14	34.00
Over		500,000.01	156,808.46	35.00

The resulting tax could be reduced by applying a percentage discount according to the following table. Such reduction depends on the number of years (maximum 10) in 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 year 2016 is considered the second year of this regime, even if the taxpayer has been subject to it since 2014.

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

1.5. *Investment income*

1.5.1. Dividends

Investment income is normally included in the individual recipient's taxable base.

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

As of 2014, 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. Dividends and profits distributed by foreign companies to resident individuals will also be subject to the additional 10% income tax. However, such additional tax will not be applicable if the profits out of which the dividends are paid or the profits that are distributed correspond to tax years that ended before 2014 and the resident individual keeps and makes available to the tax authorities, documentary evidence on such distributions.

Any tax withheld abroad may not be credited against the 10% additional income tax on dividends; however, it may be credited against the individual income tax liability calculated in the annual tax return. The 10% additional income tax on dividends will be considered a final tax.

According to the tax reform for 2016, individuals who receive dividends from profits derived during fiscal years 2014, 2015 and 2016 are entitled to a tax credit. The tax credit is determined by applying the following percentages to distributed dividends: 1% in 2017; 2% in 2018; and 5% from 2019 onwards. This tax credit is conditional upon the reinvestment of the dividends.

1.5.2. Interest

Interest derived by resident individuals is fully taxable and must be reported in the recipient's annual tax return.

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 dividends, interest and royalties, *see* section 1.9.2.

1.5.4. Income from immovable property

Rental income is taxed on the basis of the net amount, i.e. the gross rent received less related expenses. Deductible expenses include the local property tax paid during the tax year, maintenance expenses (including salaries or services fees), insurance premiums covering the immovable property and interest on loans to finance the acquisition of the property or the construction or improvements. However, individuals may elect to deduct 35% of the rent as "constructive expenses", along with the corresponding local property tax paid, instead of deducting substantiated expenses.

1.6. *Capital gains*

There is no classification of capital gains as either short-term capital gains or long-term capital gains. However, special rules apply to different kinds of assets.

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 through a 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 such acquirer.

1.6.1. Immovable property

Individuals realizing capital gains from the alienation of real estate property must make advanced payments for each alienation, applying a special tax rate. Should the transaction need to be formalized before the notary public according to civil law provisions, the notary public is responsible for the calculation and payment of the relevant tax and must also provide the taxpayer with the information pertaining to such calculation. In addition, individuals must accrue such income in their annual return and may deduct the advance payments.

Individuals transferring property through a 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

As of 2014, 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 withholding tax rate of 10%. Any other capital gains will be included in the individual's taxable income and subject to tax at the progressive tax rates (*see* section 1.9.1.).

Brokerage firms must deliver a tax certificate to their clients stating the amounts of profits and losses obtained during the fiscal 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 on the amount of 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 in 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.

Transitional provisions indicate that the cost of acquisition will be the average cost of the assets during the last 22 days of 2013. If the average cost of the last 22 days is not habitual as compared with the average cost of the last 6 months, then the latter should be used.

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 has a participation of 10% or more in the capital stock of a public company alienates 10% or more of his participation within a period of

24 months; (iii) the alienation of shares outside the stock market; (iv) in the case of mergers or spin-offs, when the taxpayer (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 individuals depending on the kind of income received, individuals are also allowed to make general personal deductions. As of 2014, this general personal deduction will be limited to the lower amount between 15% of the personal income (taxed and exempt) and five times the annual minimum wage (approx. MXN 106,000). According to the tax reform for fiscal year 2016, the 15% annual personal deduction limit does not apply to all contributions made by individuals to certain types of savings instruments.

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 or her dependants;
- fees paid for medical insurance, provided that the beneficiary is the taxpayer or his or her dependants;
- funeral expenses for dependants up to the annual minimum wage for the year concerned;
- charitable donations, provided that they comply with the requirements established by the Ministry of Finance and to the extent they do not exceed 7% of the taxpayer's taxable income derived in the previous fiscal 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 with respect to mortgage loans contracted with entities of the financial system to purchase the taxpayer's own dwelling, provided that the amount of the mortgage loan does not exceed 750,000 investment units (*see* section 1.2.2.).

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.

1.7.2. Allowances

There are no personal allowances.

1.7.3. Credits

A progressive tax reduction and the "employment subsidy" (*see* section 1.3.1.) apply in the computation of the income tax on salaries.

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	-	1,978.70	406.83
1,978.71	-	2,653.38	359.84
2,653.39	-	3,472.84	343.60
3,472.85	-	3,537.87	310.29
3,537.88	-	4,446.15	298.44
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		7,382.34	0.00

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 the individual opts to file it.

A tax credit for reinvested profits obtained from 1 January 2014 to 31 December 2016 was introduced by the economic package for fiscal 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.

1.8. *Losses*

Regarding business and professional services income, net losses are the amounts by which allowed deductions exceed gross income. In general, net losses include operating losses as well as capital losses, unless the latter are expressly disallowed. 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 in future tax years.

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

1.9. *Rates*

1.9.1. Income and capital gains

For 2016, the individual income tax liability is levied in accordance with the following progressive rate table (the employment subsidy (ES) is not included in the table, *see* section 1.7.3. The ES is applied at the end of the computation after applying the progressive rate table):

Taxable income (MXN)			*Tax due on lower limit (MXN)*	*Marginal rate on the excess (%)*
Up to		5,952.84	0.00	1.92
5,952.85	-	50,524.92	114.29	6.40
50,524.93	-	88,793.04	2,966.91	10.88
88,793.05	-	103,218.00	7,130.48	16.00
103,218.01	-	123,580.20	9,438.47	17.92
123,580.21	-	249,243.48	13,087.37	21.36

Taxable income (MXN)			*Tax due on lower limit (MXN)*	*Marginal rate on the excess (%)*
249,243.49	-	392,841.96	39,929.05	23.52
392,841.97	-	750,000.00	73,703.41	30.00
750,000.01	-	1,000,000.00	180,850.82	32.00
1,000,000.01	-	3,000,000.00	260,850.81	34.00
Over		3,000,000.01	940,850.81	35.00

Neither surtaxes nor surcharges apply.

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. However, the withholding tax of 10% on dividends is considered a final tax.

Individuals undertaking business activities, self-employed professionals receiving payments from legal entities and individuals deriving income from the leasing of real property to companies are subject to 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 basis of the capital due at the rate provided by Congress for the relevant year (i.e. 0.50% for 2016). For individuals whose taxable income is only interest, the withholding tax is a final tax, provided the interest relates to the relevant taxable period and does not exceed MXN 100,000. If not, the withholding tax operates as an advance payment of the income tax that will ultimately be due on the interest. Tax must be withheld monthly and should be paid 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 not forming part of the financial system, withholding tax is imposed on the nominal amount of the 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 corresponds to the relevant taxable period and does not exceed MXN 100,000.

For rates for non-resident individuals, *see* section 6.3.

1.10. *Administration*

1.10.1. Taxable period

Taxpayers compute their income and tax liability using the calendar year.

1.10.2. Tax returns and assessment

Mexico uses the self-assessment system whereby all taxpayers are required to complete 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.

As from 2015, individuals who obtained a taxable income greater than MXN 4 million in 2013 are required to keep electronic accounting records and upload them electronically on a monthly basis to the SAT's website.

In addition, as of 2015, taxpayers must report on a quarterly basis 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 introduces a new procedure for tax authorities regarding tax refunds filed by taxpayers. When analysing the merits of the tax refund, tax authorities are prevented from determining tax credits or other tax liabilities that are not tax-refund related.

1.10.3. Payment of tax

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

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 income and deductible expenses relating to the portion of the relevant calendar year, less any advance payments made for the preceding months of the year and amounts withheld by companies in respect of the relevant month.

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

1.10.4. Rulings

Both residents and non-residents 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 merely hypothetical transactions. Rulings can 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 of the transaction, the amount involved or the amount that may be involved in the transaction, and all the facts and circumstances related to such 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. In such a case, the outcome must also be disclosed. Whether the taxpayer is subject to an outstanding federal tax examination must also be disclosed.

Ruling decisions made by the tax authority 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 they see fit under the principle of self-assessment. In practice, however, the tax authority will have knowledge of 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 expressed in the ruling.

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 pay 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).

3.1. *Employed*

Both employers and employees are obliged to make monthly contributions to the social security system (IMSS).

Contributions are calculated on the basis of each employee's earnings (i.e. the daily salary as increased by any additional payment in cash or in kind, although certain deductions apply). For this purpose, the employee's salary may not be less than the general minimum salary (GMS) in the federal district, or more than 25 times the GMS for all contributions.

Certain items are exempt subject to limitations, e.g. payment for overtime, labour bonuses and food coupons.

For employee contributions, the rates for 2016 are (*see also* Corporate Taxation section 4.2.):

Item	*Rate (%)*
Disability and life	0.625
Illness and maternity:	
- for in-kind benefits	If employee's salary for social security contribution payment purposes ("employees salary") is greater than three times the daily general minimum salary for Mexico City: 0.400 of the difference between the employee's salary and three times the daily general minimum salary for Mexico City
- for economic benefits	0.250
- for benefits in kind received by pensioners	0.375
- mandatory retirement and old age	1.125

3.2. *Self-employed*

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

4. Taxes on Capital

4.1. *Net wealth tax*

There is no wealth tax.

4.2. *Real estate tax*

Real estate is subject to municipal taxation at rates ranging from 0.05% to 2%. The tax (*impuesto predial*) is levied on the cadastral value of each piece of property without regard to the number of owners or to the taxpayer's personal wealth. Property tax paid is deductible from lease income for individual 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 1% 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 also be subject to real estate tax.

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 granted by ascendants or the spouse (Mexican resident individuals are also exempt where the gift is granted by descendants, *see* section 1.2.2.).

Alien resident individuals receiving bequests consisting of real property located in Mexico or shares issued by a Mexican entity are subject to income tax (Mexican 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

Taxpayers are liable to individual income tax on their worldwide income and capital gains, regardless of the source of the income.

Taxpayers holding shares or similar interests in companies, trusts or other similar legal entities subject to a preferential tax regime (i.e. income which 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 income, regardless of whether or not it has been distributed, in proportion to their direct or indirect ownership of such entities. For 2016, preferential tax regime provisions may not apply to income not exceeding MXN 160,000 generated by individuals directly or indirectly through foreign entities or vehicles.

In any case, 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 such income (or his share of income) even if it does not qualify as income from a preferential tax regime.

Per SAT Regulations (*see* Corporate Taxation section 7.4.) in force for 2015, taxpayers are released from the obligation to report income generated from listed jurisdictions that have in force with Mexico either a tax treaty with a broad exchange of information clause or a broad exchange of information agreement. The list of such jurisdictions is as follows: Albania, Aruba, Bahamas, Bahrain, Barbados, Belize, Bermuda, Cayman Islands, Cook Islands, Costa Rica, Gibraltar, Guernsey, Hong Kong, Isle of Man, Jersey, Liechtenstein, Kuwait, Malta, the Netherlands Antilles, Panama, Qatar, Samoa, Tunisia and Uruguay (*see* Corporate Taxation section 7.4.).

Also, taxpayers are released from the above-described obligation pertaining to (i) income indirectly arising from any listed jurisdiction and generated directly through a foreign entity or vehicle that is incorporated in a non-listed jurisdiction; or (ii) operations executed through transparent foreign vehicles that are incorporated in any jurisdiction with which Mexico has a broad exchange of information agreement in force (*see* Corporate Taxation section 7.6.). The foregoing applies as long as the taxpayers do not have effective control so as to decide the moment of income, profit or dividend distribution whether directly or indirectly.

6.1.2. Foreign capital

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

The tax reform for 2016 includes an incentive for capital repatriation previously not reported in Mexico, including capital located in low tax jurisdictions. The incentive does not reduce tax, but formal tax filings will be considered to be complied with and no penalties nor surcharges will have to be paid.

6.1.3. Double taxation relief

As a unilateral measure for the avoidance of double taxation, 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 worldwide income.

The credit 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 credit limit considering only their foreign-source income rather than their worldwide income; as a result, the amount of credit may be extremely low (considering also the progressiveness of the income tax rate).

The following table depicts the effect of calculating the limitation in 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.

Under the network of comprehensive tax treaties the method generally used by Mexico for the avoidance of double taxation 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

Salary and any other Mexican-source type of remuneration for employment services paid either by a resident or by a non-resident with a service-related permanent establishment in Mexico to a non-resident individual are subject to a final withholding tax. The withholding tax rates are as follows:

Taxable income (MXN)			Tax due on lower limit (MXN)	Marginal rate on the excess (%)
Up to		125,900.00	0	0
125,900.01	-	1,000,000.00	0	15
Over		1,000,000.00	131,115	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 no 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 over 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 15 days of the receipt of the income.

6.2.2. Outward expatriates

In accordance with the worldwide system of taxation, 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 residence (*see* section 1.1.). Non-resident individuals must prove their residence abroad 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. Mexican national residents who expatriate to a country with which Mexico has not entered into a broad exchange of information agreement (*see* Corporate Taxation section 7.6.) will not lose their status as tax residents immediately; they will instead remain Mexican tax residents during the year in which the expatriation notice is filed and for the next 3 years.

6.3. Non-resident individuals

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 taxed on Mexican-source income.

6.3.1.1. Employment income

See section 6.2.1.

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 withholding tax in Mexico at a rate of 25%, unless a tax treaty provides otherwise.

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 over more than 183 days, the non-resident is subject to tax at the 25% rate, but he must assess his own liability and must pay the tax due within 15 days following the receipt of the 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 on 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 is imposed at the level of the company. 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 2016). For more information on the Mexican imputation system, *see* Corporate Taxation sections 1.1., 2.2., 6.2.1. and 6.3.1.

As has been described above (*see* section 1.2.1.), as from 2014, a 10% withholding tax will be levied on dividends distributed by resident companies to resident individuals and non-residents (individuals or companies). The 10% tax on dividends must be withheld by the distributing company.

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

Interest derived by non-residents from Mexican sources is subject to a final withholding tax at various rates, as follows:

- 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 a notification regarding the transaction has been presented before the National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*) and the information requirements established by the Tax Administration Service 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 presented before 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% or 10% 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 included in the acquirer's fixed assets; and
  - interest paid to non-residents on loans that finance the acquisition of machinery and equipment included in their fixed assets, and interest paid on loans secured for inventory or for marketing, provided that any such circumstance is set forth in the agreement and that the company is recorded in the Registry of Foreign Banks, Financial Institutions, Pension and Retirement Funds and Foreign Investment Funds, which recordation is to be renewed annually;
- 35%:
  - all other interest (there are some exemptions, mainly in respect of loans granted to the government); and
- 40%:
  - interest paid to a related party considered to be the beneficiary of a preferential tax regime (*see* Corporate Taxation section 7.4.).

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;
- 25%: any other category of royalties; and
- 40%: royalties paid by a related party to entities considered beneficiaries of a preferential tax regime.

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

6.3.1.4. Capital gains

Capital gains realized by non-residents from the transfer of immovable property are subject to a 25% withholding tax on the gross amount. If the purchaser is a Mexican tax resident or has a permanent establishment in Mexico to which the relevant purchase is attributable, then the tax must be withheld by the purchaser from the amount paid to the non-resident transferor. If the purchaser is also a non-resident, the tax must be directly paid by the non-resident transferor 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.).

6.3.1.5. Other

Rental income derived by non-residents from the leasing of Mexican-situs immovable property is deemed to be Mexican-source income. Rent is subject to a 25% final withholding tax on gross payments. If the lessee is also a non-resident, the tax must be paid directly by the lessee within 15 days of the receipt of the Mexican-source income.

6.3.2. Taxes on capital

Non-residents are liable to real estate tax collected by 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 that is subject to a final withholding tax are not required to file income tax returns.

KEY FEATURES

Last reviewed: **1 February 2016**

A. General information	
Sources of tax law	Income Tax Law (*Ley del Impuesto sobre la Renta*); Value Added Tax Law (*Impuesto al Valor Agregado*); Federal Tax Code (*Código Fiscal de la Federación*); Miscellaneous Tax Resolution for 2015 and its annexes (*Resolución Miscelánea Fiscal para 2015 y sus anexos*)
Main types of business entities	stock corporation (*sociedad anónima*); limited liability company (*sociedad de responsabilidad limitada*); partnership (*asociación en participación*); simple 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/
B. Direct taxation: Companies	
1. Resident companies	
Residence	A company is resident in Mexico if its place of effective management is located in Mexico.
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
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
Capital gains on sale of immovable property	25% on gross income; or 35% on net income
Withholding tax rates	
Branch profits	no
Dividends	10%

Interest	10% (if paid to financial institutions or on publicly traded securities); 15% (if paid to reinsurance companies); 21% (if paid to non-resident suppliers of machinery and equipment or paid by financial institutions but not subject to 10% or 4.9% rates); 40% (if paid to entities subject to preferential tax regime); 35% (other interest)
Royalties	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	processing export companies (*maquiladoras*, IMMEX companies); real estate investment trusts; R&D; film industry
Anti-avoidance	
Transfer pricing legislation	yes
Thin capitalization legislation	yes
Controlled foreign company legislation	yes
General anti-avoidance rule (GAAR)	no
Other anti-avoidance legislation	no
C. Direct taxation: Individuals	
1. Resident individuals	
Residence	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. Mexican nationals are presumed to be Mexican tax residents, unless there is evidence to the contrary.
Taxable income	worldwide

Income tax rates	progressive; top rate 35% (over MXP 3 million)
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
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 35% (over MXP 3 million)
Dividends	10%
Interest	4.9%, 10%, 21% or 35% depending on the nature of interest; 40% (if paid to residents subject to preferential tax regime)
Royalties	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; transfer of use, or the right to use property; importation of goods or services into Mexico by any person
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 1.2%
Capital duty	no
Transfer tax	tax on the acquisition of real estate
Stamp duty	yes, certain states apply a local stamp duty
Excise duties	yes, various rates
Other main taxes	motor vehicle tax

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