



# SETTING UP BUSINESS IN MEXICO

## General Aspect

In Mexico there are different ways to legally establish an office to do business in the country, some of them do not require the formation of a corporation or partnership to operate; however, this is a mandatory requirement in some cases. Any commercial corporation matters are regulated by federal laws, and in the case of the civil partnerships these are regulated by the civil code of each state of the country. The following presentation is a general summary of almost all the possible legal entities to do business in Mexico, with the requirements and formalities that must be fulfilled.

## Legal Forms of Business Entities

Legal Form	Feature	Remarks
<b>Representative Office</b> (Oficina de Representación)	It has no legal identity, no income, and is not a permanent establishment in the Country. Activities in general: exhibition of assets belonging to the foreign resident, buying assets for the foreign resident, advertising, promotion of articles belonging to the foreign companies.	<ul style="list-style-type: none"> <li>Shareholders' resolution allowing the company to establish a Representative Office in Mexico.</li> <li>Permit from the Mexican Ministry of Economy, which can be obtained with the following documents:               <ol style="list-style-type: none"> <li>Apostille of the certificate of incorporation/articles of incorporation and bylaws of the foreign company.</li> <li>Notarized power of attorney of the foreign company's attorney in fact (with apostille, when necessary).</li> <li>Free-form written request.</li> <li>Proof of payment of duties, fees, and levies.</li> </ol> </li> </ul>
<b>Branch Office</b> (Sucursal)	It has legal identity, income, and is available to celebrate commercial agreements. Branch offices should present tax return as Mexican Taxation Laws.	<ul style="list-style-type: none"> <li>Shareholders' resolution allowing the company to establish a Branch Office in Mexico.</li> <li>It needs to be filed in the Public Registry of Commerce.</li> <li>Permit from the Mexican Ministry of Economy, which can be obtained with the following documents:               <ol style="list-style-type: none"> <li>Apostille of the certificate of incorporation/articles of incorporation and bylaws of the foreign company.</li> <li>Notarized power of attorney of the foreign company's attorney in fact (with apostille, when necessary).</li> <li>Free-form written request.</li> <li>Proof of payment of duties, fees, and levies.</li> </ol> </li> </ul>
<b>Civil Partnership</b> (Asociación Civil)	It has legal identity; its purpose is not primarily financial. No limit of partners, no minimum capital required; some foundations and sports clubs adopt this entity.	Bylaws need to be written down but not notarized (public deed), they must be filed in the public registry, to be enforceable to third parties.

<b>Civil Society</b> (Sociedad Civil)	Predominantly economic, but its activities do not constitute commercial speculation. This legal entity has different kind of partners, which can be industrial partners and founder partners. The administrator partners (socios administradores) are liable without limitation, even with their private assets. The liability of the other partners is limited to their respective contribution to the partnership capital.	Suitable for companies providing professional services. Bylaws need to be written down but not notarized (public deed), unless the one of the partners transfers any goods to the society, where such operation must be recorded in a public deed (normally real state).
<b>Corporation</b> (Sociedad Anónima)	Natural persons, Civil Society, and corporations can be shareholders. Minimum 2 shareholders. The highest authority of the corporation is the Shareholders Meeting. An Administrator or a Board of Directors is in charge of managing the corporation. It is possible to increase or decrease its Capital Stock; abbreviation S.A.	Suitable for all kinds of business. Articles of incorporation and bylaws need to be notarized (public deed). The personal liability of the shareholders is limited to their respective share of the capital. It needs to be filed in Public Registry of Commerce and in the National Registry of Foreign Investments.
<b>Limited Liability Company</b> (Sociedad de Responsabilidad Limitada)	Natural persons, Civil Society, and corporations can be shareholders. Minimum 2 partners and maximum 50 partners; no minimum or maximum of Capital is required. A Manager or a board of Managers is in charge of the administration. Possibility to increase or decrease its Capital Stock; abbreviation. S de R.L.	Articles of incorporation and bylaws need to be notarized (public deed). The personal liability of the members, is limited to their respective membership interest of the capital. It needs to be filed in Public Registry of Commerce and in the National Registry of Foreign Investments.
<b>OTHER FORM OF LEGAL ENTITIES</b>		
<b>a) Sociedad en Nombre Colectivo</b> <b>b) Sociedad en Comandita</b> <b>c) Sociedades Cooperativas</b>	This kind of corporations are regulated by the General Law of Commercial Companies. New kind of corporation, allows only one share holder, maximum annual income must no more than \$5´000,000.00 Mexican Pesos	Articles of incorporation and bylaws need to be notarized (public deed). They need to be filed in Public Registry of Commerce. Articles of incorporation and bylaws do not need to be notarized, everything can be done online.
<b>Foreign Corporations</b>	To operate in Mexico they need to fulfill some requirements.	<ul style="list-style-type: none"> <li>• It needs to be filed in the Public Registry of Commerce.</li> <li>• Permit from the Mexican Ministry of Economy, which can be obtained with the following documents: <ol style="list-style-type: none"> <li>1. Apostille of the certificate of incorporation/articles of incorporation and bylaws of the foreign company.</li> <li>2. Notarized power of attorney of the foreign company's attorney in fact (with apostille, when necessary).</li> <li>3. Free-form written request.</li> <li>4. Proof of payment of duties, fees, and levies.</li> </ol> </li> </ul>

## Organizational Questions

Topic	Feature	Remarks
<b>Public Registry of Commerce</b>	Commercial companies of all legal forms must be entered in Public Registry of Commerce	If a company is legally required to be registered, but takes up business operations before being entered in the Public Registry of Commerce, the partners or shareholders are personally liable for any losses up to the date of registration.
<b>Chamber Register Notification</b>	Registration with the Mexican Business Information System (SIEM) is necessary to obtain some permits and licenses.	Chamber membership is automatic and mandatory. Sometimes a municipal operation license is necessary.
<b>Bank Account</b>	To open an individual bank account, it is necessary to have a valid passport, temporary resident visa with lucrative activities and a proof of address. Companies need to have their articles of incorporation and bylaws, registered at the taxes ministry, at the National Registry of Foreign Investments, and at the Public Registry of Commerce.	
<b>Acquisition of Real Estates</b> Restricted Zone: A tract of one hundred kilometers along the frontier and fifty kilometers on the beaches	<p>Mexican entities with foreign investment can own real estate located outside of the restricted zone without any restrictions, and in the restricted zone when the use of the property is not residential.</p> <p>Foreign companies can own real estate outside of the restricted zone but cannot own any property located in it.</p> <p>In Restricted Zone: Mexican Entities with foreign investment must set up a trust to obtain the right to use their property for residence purposes. Foreign entities must set up a trust to obtain the right to use their property for any purpose. They cannot obtain ownership of their real state directly, without setting up a trust.</p>	<p>Must inform about the acquisition of the property to the Ministry of Foreign Affairs within the next 60 labor days.</p> <p>Must inform about the acquisition of the property to the Ministry of Foreign Affairs within the next 60 labor days.</p> <p>Must obtain a permit from the Ministry of Foreign Affairs to set up a trust with a Bank.</p> <p>Must obtain a permit from the Ministry of Foreign Affairs to set up a trust with a Bank, and fulfill the aforementioned requirements.</p>
<b>Transfer of Capital</b>	Capital can be moved in and out of Mexico without any restrictions.	
<b>Visa and Residence permit</b>	There are two kind of Visas and a few migratory status for business purposes; to be a member of the Board of Directors or Managers of a company and/or to be an employee of the company it is necessary to obtain a Temporary Resident Visa with a working permit or a permit for a period 180 days to do lucrative activities. For any administrators or managers who act on behalf of the company it is necessary to obtain a Temporary Resident Visa or a permit to do lucrative activities; any acts performed by these parties won't be considered valid, unless they a visa or permit.	Companies who hire foreigners need to obtain a permit with INM (National Immigration Institute) in order to hire foreigners. They must submit all necessary paperwork; when the permit is obtained, foreign employees can enter the country and finish any paperwork left at the INM.

<b>Regulated activities by the Foreign Investment Law</b>	Some business activities in Mexico are restricted for foreign entities or Mexican entities with foreign investment.	Some of these activities are: Public National Transportation, Gas Stations, Radio Stations, and some other services.
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## Employment

Topic	Feature	Remarks
<b>Work permit</b>	All Foreign Employees need a Temporary Resident Visa with a working permit.	Normally the expiration time of any Visa is one year; renewable for as many times as needed.
<b>Labour law</b>	I In Mexico there are detailed employment regulations. A minimum of 6 days of paid holidays a year are guaranteed. The maximum working hours allowed by the Federal Labor Law are 8 hours per day, six days per week. There are new regulations related to homework, including how should be the journal for employee and other issues for employer. As of today, the government propose to eliminate the outsourcing figure for companies.	
<b>Social system</b>	The social security system consists of health insurance, pension insurance, and the possibility to obtain a cheaper credit to acquire a house. The social security contributions and credit for a house are discounted partly from the employee's salary.	The Mexican Government has two institutions to accomplish the purposes of the social security system.  IMSS and INFONAVIT.

## Taxation

In Mexico the most relevant taxes are imposed by federal government. Nevertheless, Income Tax Law (ITL) recently, allowed states to levy an additional 5% percent income tax on gains on sale of real property, however, such IT is creditable against the federal tax so there is not an additional tax burden. Transfer Pricing regulations are strong and many BEPS recommendations have been introduced.

Tax	Feature	Remarks
<b>Corporate Income Tax</b> (Legal Entities)	The standard corporate income tax rate is 30% on all taxable earnings of the corporation, whether retained or distributed profits. However, profit distributions are only taxed once at the corporate level. Individuals shall not accrue income from profits distributions.	In order to achieve the one level tax on corporate profits "Net After Tax Profit Account" (CUFIN) shall be determined. Profits distributions out of CUFIN shall pay 42.86% at corporate level only. As from 2014 dividends paid to Foreigners and Mexican Individuals will be subject to a 10% withholding tax
<b>Personal Income Tax</b>	It rises progressively to a maximum personal income tax rate of 35%, which is applicable to earnings above of EUR 140,000 or more (round numbers).	Personal deductions apply, However total amount per year is limited to the lesser of; 5 annual legal minimum wages or 15% of total income. This limitation shall not apply to donations and interests paid on mortgage.

<b>Personal Income Tax in case of partnerships</b>	By general rule partnerships are within scope of legal entities so they are separate legal entities. However, ITL provides for some “transparent regulations” and yields and advance payments received by members of civil law partnerships are considered as a deduction on a corporate level and shall pay tax on individual level according with the progressive rate.	
<b>Other Main Tax Topics</b>	<p><b>Permanent Establishment.</b> It is levied as a local corporation but it is useful for allocation cost contracts.</p> <p><b>Mandatory Employees’ Profit Sharing.</b> 10% of the annual pre-tax profits.</p> <p><b>Thin Capitalization Rule.</b> Amount of debt shall no exceed three times the equity capital.</p>	<b>Tax Incentives:</b> Real Estate Developers may deduct land cost investment in the acquisition year
<b>Value Added Tax (VAT)</b>	<p>Apply on a) Transfer of goods, b) Rendering of independent services c) Temporary use or enjoyment of goods d) Importation of goods or services.</p> <p>16% General rate</p> <p>8% Near Border (20 km)</p> <p>0% Some transactions (basic products) and Export of goods and some services</p>	<p>Refunds are available when 0% transactions are mainly made. 2019 Tax reform repeals compensation against federal taxes. Some new option may be enacted to avoid financial harm.</p> <p>Runs on a cash flow basis and “effectively collected” rules must be considered.</p>
<b>State and Municipal Taxes</b>	<p>Rely mainly on payroll (imposed by states) and property. Average rate 2% percent.</p> <p>Real property acquisition tax (for the benefit of municipalities) is imposed on entities and individuals acquiring real property. Rates vary among the different legislations with 2% as a predominant rate.</p>	
<b>Non-resident Taxation</b>	<p>Non-resident individuals and companies receiving income sourced in Mexico are subject to Mexican taxation. Double taxation of this income is avoided by double tax agreements between Mexico and other countries. Mexico has the biggest network of Tax Treaties among all the countries in Latin America.</p> <p>In case of a non-resident company tax treatment depends on its kind of income. Payments to related parties are deductible but 2020 tax reform included new compliance rules. Transfer Pricing dispositions are in forcé following OECD Guidelines.</p> <p>Currently, a general withholding rate of 25% is provided by law to be applied over total revenue; however, there are some options to tax 25% rate over net basis (income less specific deductions): tourism time sharing contracts, sale of real estate and sale of shares. Exercising the option is subject to complying with some requirements.</p> <p>Special regulations applied for “tax haven transactions” when no-residents earns income from Mexico with low or any tax in its residency country (22% or less). 40% withholding tax may apply.</p>	



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