

Business & Investment Guide

Taxes & Permits



Taxation in Mexico

Mexico is a Federation made up of 32 States, and each State, in turn, is made up of municipalities.

The Mexican constitution establishes the jurisdiction for each level of government and, thus, different taxes apply. Federal taxes are the primary level of taxation in Mexico, while States and municipal (local) taxes are more limited.

Needless to say, States and Municipalities, to a great extent, receive budget allocations from federal taxes that are collected within their borders.

The Tax Administration Service (SAT, acronym in Spanish) is the relevant government body or agency in charge of collecting federal taxes as well as surveilling compliance.

At a local level, States and Municipalities have their own treasuries that enforce their local Tax Law. However, the Federal government and a State government may enter into tax coordination agreements, whereby the State is entitled to audit and collect federal taxes.

Main Taxes

Federal taxes

- 1. Income Tax (ISR, acronym in Spanish):** The corporate tax is 30%. Individuals are subject to rates ranging from 1.92% to 35%.
- 2. Value Added Tax (IVA, acronym in Spanish):** The standard rate is 16%, and 0% rate is applicable in certain activities.
- 3. Tariffs or Import duties:** Mexico's average WTO bound tariff is 35%, and duties rates vary from 0% to 100%. Mexico has an extensive network of Free Trade Agreements (FTAs) with 50 countries.
- 4. Special Tax on Production and Services (IEPS, acronym in Spanish):** The tax may be expressed as a percentage, ranging from 3% to 160%, specific, or a compound tax.
- 5. Social Security:** An employer is subject to social security taxes that can represent between 25% and 30% of the employee's salary.

Federal taxes

- 1. Property Acquisition Tax (ISAI, acronym in Spanish):** The States have in place a Property Acquisition Tax. The buyer of a house, land, building, apartment, or any type of real-estate property is responsible for paying said tax. The applicable tax may vary from State to State, but the average is a 2% rate. However, the Property Acquisition Tax may reach 6.5% on the sale price in some states.
- 2. Payroll Tax (ISN, acronym in Spanish):** States have in place the Payroll Tax on wages and other expenditures that derives from an employment relationship. The tax rate may vary from State to State, but such tax normally amounts to 2% and 3% on the wage paid.

Main Taxes

Residents and non-residents in Mexico for tax purposes

Foreigners are individuals or entities that are normally subject to the tax law legislation of another country for reasons such as nationality, address, place of residence, or business, among other criteria. Mexican Tax Law, however, establishes a set of rules whereby a foreign individual or entity is considered as a resident –for tax purposes– in Mexico (hereon referred to as “tax resident”).

Residents in Mexico

The individuals, whether Mexicans or foreigners, that have their home in Mexico are tax residents. Furthermore, an individual without a home can still be a tax resident when, for instance, his or her “place of professional activities” is located in Mexico or more than 50% of his or her annual income comes from Mexico.

As for legal entities, a company incorporated in Mexico is a tax resident. Foreign entities are tax residents when their main place of business or corporate address is in Mexico.

Non-residents in Mexico

Individuals or legal entities that are non-residents may, under certain circumstances, be subject to Mexican taxes. For instance, a foreign individual or entity is subject to Mexican taxes when he or she has a “permanent establishment” in Mexico or obtains income from any source of wealth located in Mexico. A permanent establishment, in general terms, is any business place where activities are partially or totally developed or where independent personal services are offered. The law lists examples of permanent establishments in Mexico, including the following: Branches, Agencies, Offices, Factories, Installations, Mines, and any place where exploration, extraction or exploitation of natural resources activities are carried out.

We highlight that the previous list is non-exhaustive. A foreign resident may, nevertheless, establish a permanent establishment when it has a representative or non-independent agent in Mexico.

Main Taxes

Income Tax

Depending on the “tax-residency” status, the income tax may apply to all the income or the income attributable to the permanent establishment or source of wealth as follows:

- 1. Residents in Mexico’s income is subject to the income tax in its entirety, regardless of its origin or source.*
- 2. If a non-resident has a permanent establishment in Mexico, the income attributable to the permanent establishment is subject to the income tax.*
- 3. If a non-resident has a source of wealth in Mexico, the income attributable to the source of wealth is subject to the income tax. In Section 6.3.3, we will discuss this aspect in greater detail.*

Tax Incentive Programs

IMMEX

The Maquiladora Regime (or IMMEX) is **designed to promote exports and encourage foreign investment.**

Maquiladoras are Mexican registered entities that process, transform, assemble or repair imported materials, parts and components into finished goods that are subsequently exported. Maquiladora companies typically are owned by a foreign corporation (often a US company since many maquiladoras are located near the US border) with whom the maquiladora contracts to produce semifinished or finished goods for shipment to the foreign company.

To qualify to operate under maquiladora status, a foreign investor must have a corporate presence in Mexico (which may be up to 100% ownership of a Mexican corporation).

The foreign parent provides most of the machinery and equipment (M&E) required for the maquiladora activities, as well as the raw materials or the parts to be processed and/or assembled; these items are imported by the maquiladora but remain the property of the foreign company.



Tax Incentive Programs

IMMEX

One of the most relevant characteristics of a maquiladora is that goods (materials, as well as machinery and equipment) can be imported on a temporary basis and remain in Mexico for a limited period of time. The foreign principal company must be resident in a tax treaty country.

It is important to consider that in order to apply the Maquiladora Regime it must comply among others, with:

1) The total of its income for its productive activity, must come exclusively from maquila operations.

2) Processes of transformation or repair, are carried out with machinery and equipment owned by the resident abroad with which company with IMMEX (maquila) program have held maquila agreement, provided that they are not owned by the company that performs the maquila operation or another Mexican resident company that is related party.

3) The process of transformation and repair can be complemented with machinery and equipment owned by a third party resident abroad, having a business relationship with the resident company manufacturing abroad, which in turn has a maquila agreement with one that performs the maquila operation in Mexico, provided such goods are supplied derived of the commercial relationship, either owned by the company that performs the maquila or with machinery and equipment leased to an unrelated party. Any machinery or equipment mentioned above may not be owned by another resident company in Mexico that is related party of the company that performs the maquila operation.

Tax Incentive Programs

IMMEX

The before mentioned shall apply provided that the resident abroad with which has held the maquila agreement is the owner of at least a **30% of the machinery and equipment** utilized in the maquila operation.

There are different types of maquiladora: **Industrial, Services, Holding and Shelter**

Maquila operations generally create a PE in Mexico for the foreign principal that provides the raw materials and M&E to the maquila company; PE status would expose the foreign principal to Mexican income tax. However, as explained below, one of the benefits of the maquiladora regime is that **PE status should not apply if the maquiladora complies with certain requirements, in particular, special transfer pricing rules.**

Numerous changes have been made to the maquiladora regime over the years. Under the current regime, effective from January 2015, maquiladoras certified by the Mexican tax authorities (SAT) have been **allowed to import basic raw materials, parts or components and M&E on a temporary basis, for as long as the maquila program is in force, without the payment of value added tax (VAT).**

VAT at 16% is initially payable on temporary imports but **the maquiladora is entitled to a corresponding credit for the full amount of the VAT caused on importation**, which must be reported to the SAT. Maquiladoras that do not have the necessary certification may purchase a bond issued by a financial institution in order to be entitled to the VAT credit. Maquiladoras also have been allowed a **suspension of the duties payable on the import of materials and M&E.**

In addition to the indirect tax benefits available to maquiladoras, there are income tax benefits. These benefits include an **additional tax deduction equal to 47% of certain benefits provided to employees** (e.g. contributions to pension and retirement funds, overtime payments, the exempt portion of profit sharing, Christmas bonuses, vacation premiums, food coupons, savings funds, etc.) and, as noted above, **protection for the foreign principal company from exposure to the creation of a PE in Mexico.**

Tax Incentive Programs

IMMEX

There are **two methods** by which a maquiladora may prevent the creation of a Mexican PE:

- 1. Adopt the safe harbor rules*
- 2. Elect to negotiate and obtain an advance pricing agreement (APA) from the SAT via a private letter ruling.*

Under the safe harbor rules, a maquiladora must report taxable income corresponding to the higher of:

- 6.9% of the value of its assets (taking into account the value of all assets employed in the maquila operations, including foreign-owned assets (both fixed assets and raw materials/inventory)); and*
- 6.5% of its costs and expenses (taking into account operating costs and expenses as computed under Mexican GAAP).*

Since October 2014, Maquiladoras are not allowed to sell or resell products within Mexican territory. **Maquiladoras are permitted to obtain no more than 10% of the company's revenue from sources other than the provision of manufacturing or assembling services to a foreign principal.** Some requisites are applicable.

Tax Incentive Programs

PROSEC

Sectoral Promotion Programs (Prosec) are aimed at **legal entities that produce certain goods, allowing them to import diverse goods for use in the development of specific products at preferential ad-valorem tariffs (General Import Tax)**, regardless of whether the goods to be produced are for export or the domestic market.

The beneficiaries of Prosec are legal entities that manufacture goods referred to in Article 4 of the Prosec Decree, employing the goods mentioned in Article 5 of that Decree.

Legal entities that manufacture goods referred to in Article 4 of the Prosec Decree may import, at the preferential ad-valorem tariff specified in Article 5 of that Decree, diverse goods to be incorporated and used in the productive process of specified goods.

Goods to be imported and goods to be produced are grouped by sector in the following way:

1. *Electrical Industry*
2. *Electronics Industry*
3. *Furniture Industry*
4. *Toys and Sports Articles Industry*
5. *Shoe Industry*
6. *Mining and Metals Industry*
7. *Capital Goods Industry*
8. *Photographic Industry*
9. *Agricultural Machinery Industry*
10. *Miscellaneous Industries*
11. *Chemical Industry*
12. *Rubber and Plastic Goods Industry*
13. *Steel Industry*
14. *Pharmaceutical and Medical Industry*
15. *Transport Industry, except Car Industry*
16. *Paper and Cardboard Industry*
17. *Wood Industry*
18. *Leather and Skins Industry*
19. *Car and Auto Parts Industry*
20. *Textile and Clothing Industry*
21. *Chocolates, Candles and Others Industry*
22. *Coffee Industry*
23. *Food Industry*

Value Added Tax in Mexico

VAT is levied on the supply of goods, the provision of services, the import of goods or services, leasing transactions and export of goods and services. Interest on nonbusiness loans and credit card debt also is subject to VAT.

The standard VAT rate is 16%; VAT on imports is assessed on the customs value of the import, plus the import duty. A zero rate applies to exports and services used abroad if the services are contracted and paid for by a nonresident with a PE in Mexico. The following supplies are exempt: land and residential buildings; books and newspapers; share transfers; used chattels; tickets and other documentation permitting participation in lotteries, raffles, games of chance and competitions; national and foreign currency; gold and silver pieces; and the sale of goods between nonresidents or by a nonresident to a Mexican entity registered under an authorized program to promote the export of goods. Special customs rules are applicable to maquiladoras that enable the sale of goods between nonresidents at an exempt VAT rate when the goods are delivered from one maquiladora to another, following certain customs formalities to virtually export the goods.

Temporary imports for maquiladoras and companies operating under the automotive bonded warehouse, strategic bonded warehouse or bonded warehouse regimes are subject to VAT at 16% at the time the goods are introduced into Mexican territory and may be subject to excise tax (ET) at various rates depending on the type of goods. However, a maquiladora or bonded warehouse is allowed to apply a credit in the month the VAT or ET is due if the entity has been “certified” for VAT and ET purposes by the Mexican tax authorities. Companies that do not obtain the certification will be required to pay VAT and any applicable ET on their temporary imports under the customs regimes for maquiladoras and for companies operating under an automotive bonded warehouse, strategic bonded warehouse or bonded warehouse regimes; with the VAT and ET recoverable only after the goods are exported.

There are guidelines and requirements to obtain certification, as well as the benefits. A three-tier rating system (A, AA and AAA) is used to assess the controls and overall tax and customs compliance of maquiladoras or companies operating under the regimes of automotive bonded warehouse, strategic bonded warehouse or bonded warehouse regimes.

Value Added Tax in Mexico

If maquila companies or companies operating under one of the bonded warehouse regimes do not obtain a certification for VAT and ET purposes, such companies may use as an alternative a bond issued by a financial institution.

Companies may credit VAT payments against income or other tax payments; if the excess cannot be credited in its entirety, the taxpayer may apply for a refund. Under the VAT regime, each party in the supply chain charges VAT to its customer and pays the difference between the tax charged by its suppliers and the tax charged to its customers to the tax authorities. VAT is borne by the ultimate consumer. Since export activities are zero-rated, exporting companies may derive favorable VAT balances that are subject to refund/ offset.

Companies must submit a VAT return on a monthly basis, making the VAT payments for the preceding month, by the 17th day of the month. For imports, VAT is based on the customs value plus tariffs. VAT taxpayers must periodically submit information on their main clients, service providers and suppliers. All entities engaging in VATable transactions in Mexico must register for VAT purposes. Nonresident entities that have a PE in Mexico for income tax purposes, also must register. For preoperative expenses the VAT paid could be creditable in: (i) The month that the taxpayers begin with their operations; (ii) Request a refund based upon an estimation and description of the expenses.

Customs and foreign trade inventory controls must be kept permanently and VAT credit granted for import operations must be monitored in order to submit on a monthly basis the actual goods leaving the country as finished product, thus offsetting the credit balance. Mexico does not allow VAT grouping.

International Trade Policy and Customs

OVERVIEW

As a member of international organizations and Free Trade Agreements, Mexico has, to a certain extent, a predictable trade and customs policy. Mexican laws on customs and trade are normally compatible with international rules. The President and his ministers are not only in charge to apply these laws, but they also have powers to regulate international trade and customs, including emergency actions.

Since the inception of the World Trade Organization and the North American Free Trade Agreement, Mexico's trade and customs legal framework has not been subject to a substantial overhaul; seldom reforms particularly to the customs law have occurred from time to time.

However, Mexico is currently embracing modern free trade agreements, such as the Comprehensive and Progressive Transpacific Partnership (CPTPP) or USMCA, that have and will bring certain legal changes in intellectual property, de minimis, e-commerce, etc.

Needless to say, trade and customs programs or regulations are subject to frequent changes that seek to adapt to new trends, risks, or policy objectives. Mexico has in place, for instance, duty deferral and tariff reduction programs that allow manufacturing or export-oriented industries to be more competitive. However, such programs are subject to strict government controls.

Mexico is one of the countries that has signed the most Free Trade Agreements, having relations with more than 40 countries.

International Trade Policy and Customs

Tariff Policy

Mexico is a party to the World Customs Organization and to the International Convention on the Harmonized Commodity Description and Coding System (HS Convention).

As a result of the sixth amendment to the HS, Mexican congress discussed a new law that replaced its General Import and Export Tariff Act (LIGIE, acronym in Spanish), i.e. Mexico's Harmonized Tariff Schedule. The Ministry of Economy conducted an exhaustive review and proposed to compact or unfold tariff items for statistical purposes into 10 digits that will be called Commercial Identification Number, instead of an 8 digit tariff item (known as fracción arancelaria). The new General Import and Export Tariff Act was published on July 1, 2020.

MFN Tariffs or Duties

Mexico's average WTO bound tariff is 35%, and duties rates vary from 0% to 100%. According to Mexico's most recent Trade Policy Review (2017), the average MFN tariff on agricultural and non-agricultural products was 14.3% and 4.6%, respectively. The General Import and Export Tariff Act establishes the import tariff or "General Import Tax" (Impuesto General de Importación, or IGI) as well as the export tariff "General Export Tax" (Impuesto General de Exportación, or IGE).

International Trade Policy and Customs

Preferential tariffs in Free Trade Agreements

Mexico has an extensive network of Free Trade Agreements (FTAs) with 50 countries and is also a party to regional agreements within the framework of the Latin American Integration Association (ALADI).

The main FTAs and trade agreements to which Mexico is currently a party are as follows:

- United States–Mexico–Canada Agreement (USMCA).
- European Union-Mexico Free Trade Agreement, which is in the process of being modernized.
- Comprehensive and Progressive Transpacific Partnership (CPTPP) in force between Australia, Canada, Japan, Mexico, New Zealand, Singapore and Vietnam; Brunei, Chile, Malaysia, and Peru have not yet ratified the FTA.
- Pacific Alliance with Colombia, Chile, and Peru.
- FTA with Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua.
- FTA with the European Free Trade Association (Iceland, Liechtenstein, Norway, and Switzerland).
- FTA with Israel.
- FTA with Uruguay.
- FTA with Japan.

International Trade Policy and Customs

Duty Deferral, Drawback and Preferential Tariffs in Trade Instruments

Long before NAFTA came into existence, Mexico had into effect duty deferral policies that allowed manufacturing companies, known as maquiladoras, to import goods, such as raw materials, parts, containers, etc., without paying import duties. The maquiladoras had to use said imported goods in the production of exported manufactured goods and, in turn, they could temporally import said goods and defer customs duties.

Eventually, NAFTA introduced drawback provisions to promote the use of regional goods and “to reduce the incentive for third countries to use a NAFTA country as an ‘export platform.’” Article 303 NAFTA, replicated in article 2.5 USMCA, introduced a general prohibition on refunding or exempting customs duties owed on non-originating goods imported into the territory of a party.

In essence, these provisions have as a purpose to avoid double ‘taxation’ on non-originating materials that are used as an input in the production of a finished good subsequently exported to another NAFTA or USMCA party.

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International Trade Policy and Customs

List of Tax Treaties | Date Format : DD/MM/YY

COUNTRY	SIGNATURE DATE	COUNTRY	SIGNATURE DATE	COUNTRY	SIGNATURE DATE
Germany	23/02/93	USA	09/11/89	Luxembourg	07/02/01
Antilles	01/09/09	Philippines	17/11/15	Malta	17/12/12
Saudi Arabia	17/01/16	Finland	12/02/97	Norway	23/03/95
Argentina	26/11/97	France	07/11/91	New Zealand	16/11/06
Aruba	18/07/13	Gibraltar	09/11/12	Netherlands	27/09/93
Australia	09/09/02	Guatemala	13/03/15	Panama	23/02/10
Austria	13/04/04	Greece	13/04/04	Peru	27/04/11
Bahamas	23/02/10	Hong Kong	18/06/12	Poland	30/11/98
Bahrain	10/10/10	Hungary	24/06/11	Portugal	11/11/99
Barbados	07/04/08	India	10/09/07	Qatar	14/05/12
Belgium	24/11/92	Indonesia	06/09/02	United Kingdom	02/06/94
Belize	17/11/11	Isle Of Man	18/03/11	Rep. Czech	04/04/02
Bermuda	15/10/09	Cayman Islands	17/08/10	Rep. Slovak	13/05/06
Brazil	25/09/03	Cook Islands	08/11/10	Romania	20/07/00
Canada	16/03/90	Guernsey Island	10/06/11	Russia	07/06/04
Colombia	13/08/09	Jersey Islands	08/11/10	Samoa	17/11/11
Korea	06/10/94	Iceland	11/03/08	Saint Lucia	05/07/13
Costa Rica	25/04/11	Israel	20/07/99	Singapore	09/11/94
Chile	17/04/98	Italy	08/07/91	South Africa	19/02/09
China	12/09/05	Jamaica	18/05/16	Sweden	21/09/92
Denmark	11/06/97	Japan	09/04/96	Switzerland	03/08/93
Ecuador	30/07/92	Kuwait	27/10/09	Turkey	17/12/13
Arab Emirates	20/11/12	Latvia	20/04/12	Ukraine	23/01/12
Estonia	19/10/12	Liechtenstein	20/04/13	Uruguay	14/08/09
Spain	24/07/92	Lithuania	23/02/12	Venezuela	06/02/97

State and Municipal Taxes

State Taxes

As one of the 32 States in Mexico, Nuevo Leon collect different taxes to businesses.

1) Payroll Tax (ISN, acronym in Spanish):

States have in place the Payroll Tax on wages and other expenditures that derives from an employment relationship. The tax rate may vary from State to State, but such tax normally amounts to 2% and 3% on the wage paid.

The Payroll Tax in the State of Nuevo Leon amounts to 3% of the total payroll of the company. This tax is paid monthly.

Municipal Taxes

1) Real Estate Acquisition Tax:

According to the “Tax Law for the Municipalities of the State of Nuevo León” (Ley de Hacienda para los Municipios del Estado de Nuevo León) this tax is equal to 3% of the value that is greater between the operation value (purchase price of the real estate, for example) and the property’s cadastral value (the value set by the municipality for the property); normally the operation value is greater than the cadastral value. This tax must be paid to the Notary Public simultaneously to the execution of the public deed which formalizes the purchase of the property, for one occasion only.

Example: Supposing the operation value of a real estate purchase is of 5 million pesos, the Real Estate Acquisition Tax to be paid would be of 150 thousand pesos.

Please note that pursuant the Value Added Tax Law, purchase of constructions (except only for those for housing purposes) are taxed with VAT equal to 16%.

State and Municipal Taxes

2) Property Tax:

According to the Tax Law for the Municipalities of the State of Nuevo León, the owner of the real estate must pay a Property Tax every year. The real estate tax is calculated based on the following:

- The base value of the tax is the cadastral value of the property.
- The general tax rate is 2 per thousand of the cadastral value of the property.
- If the property is destined for housing purposes, the property tax will be paid according to the general rate mentioned above.
- If the property is a wasteland, the property tax will be paid adding 2 per thousand to the general rate mentioned above (applicable to the municipalities of Apodaca, General Escobedo, Guadalupe, Monterrey, San Nicolás de los Garza, San Pedro Garza García and Santa Catarina, which are in the Metropolitan Area of Monterrey. Every other municipality in the State of Nuevo León must pay only adding 1 per thousand in this case).
- If the property has constructions destined for commercial, industrial or services purposes, the property tax will be paid adding 1 per thousand to the general rate.

For example, a real property with an industrial warehouse constructed over it, should pay the following real property tax:

Supposing the cadastral value is set at 5 Million Pesos:

- **General rate:** \$10,000.00 pesos (2 per thousand of the 5M), plus;
- **Special rate for industrial use:** \$5,000.00 (additional 1 per thousand of the 5M).
- **Property Tax to be paid:** \$15,000.00 pesos.

The tax must be paid every two months in advance, no later than the 5th day of the months of February, April, June, August, October and December. The tax may be paid by anticipated annuity no later than the 5th of March, without surcharges. If the tax is totally paid (the whole year) no later than the 5th day of February, it will enjoy a reduction of 15% of said annuity and if it is covered no later than the 5th day of March, it will enjoy a reduction of the 10% of it.



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