



Thinking Beyond Borders: Management of Extended Business Travelers – Mexico

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Key message

1 Key message

A person's liability for Mexican tax is determined by residence status. An individual can be a resident or a non-resident for Mexican tax purposes.

Permanent Establishment can also be triggered by business travellers' activities, for which companies should make an analysis to define the type of services they can perform in Mexico.

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Income tax

2 Income Tax

2.1 Residence rules

According to the Mexican Fiscal Code, an individual should be considered resident for Mexican tax purposes if the individual establishes a place of abode (home) in Mexico. When the individual also has a home in another country, the individual will be a tax resident in Mexico if the individual's center of vital interests is in Mexico. It is considered that the individual's center of vital interests is in Mexico in either of the following cases, among others:

- When more than 50 percent of the individual's total income received during the calendar year is derived from Mexican sources, or
- When the individual's main center of professional activities is located in Mexico.

In the absence of proof of contrary, Mexican nationals are presumed to be tax residents of Mexico.

On the other hand, an individual will not stop to be considered resident in Mexico in case he/she does not prove tax residence in the other country or if he/she does, the change of residency is in a country where income is subject to a preferential tax regime in which case would maintain residency status in Mexico during the taxable year in which the individual files a change of residency notice and for the following 5 years. However, this would not be applicable when the country where the new tax residence is proven, has a Broad Exchange of Information Agreement with Mexico and, in addition, an International Treaty that allows mutual administrative assistance in notifying and collecting taxes.

Finally, an individual that stops to be considered a tax resident in Mexico should file a change of residency notice, which lack of filing would maintain residency status in Mexico for the individual.

Extended business travellers are likely to be considered non-resident of Mexico for tax purposes unless they:

- Establish a home in Mexico and do not maintain a home in another location
- Establish a home in Mexico and maintain a home in another location but have their center of vital interest, as described above, in Mexico

2.2 Definition of source

Employment income is generally treated as Mexican-sourced compensation where the individual performs the services while physically located in Mexico.

2.3 Liability for income tax

A person's liability for Mexican income tax would be determined based on whether individual is resident or non-resident for Mexican tax purposes.

Extended business travellers are likely to be considered non-residents for tax purposes, therefore taxed on employment income relating to their Mexican workdays (Mexican source income).

In case an extended business travellers qualify as a tax residents in Mexico, they will be taxed on worldwide income.

2.4 Tax trigger points for employment income

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Mexico since a person's liability to Mexican tax is determined by residence status. When the individual is a non-resident for Mexican tax purposes, he/she could be fully exempt from Mexican taxation if all of the premises below are accomplished:

- The salary is paid by a non-resident who does not have a permanent establishment (PE) in Mexico, or in the case that a PE does exist, when the service is not related to said PE.
- The individual is present in Mexico for less than 183 calendar days, whether consecutive or not, in a 12-month period.
- The employer paying the salary does not have an establishment within Mexican territory to which the service is related. The exemption will not be applicable if the employer has an establishment in Mexico, even if such establishment does not constitute a PE for Mexican tax purposes.
- The non-resident individual does not receive complementary payments from foreign companies in consideration of services rendered for which salary income was taxed as non-resident in Mexico.

Additionally, to the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable Double Tax Treaty, there will be no tax liability. The Treaty exemption will not apply if the Mexican company is the individual's economic employer, that is, when Mexican company bears the cost of the individual's compensation.

2.5 Types of taxable income

For extended business travellers qualifying as non-residents for tax purposes, the types of income that are generally taxed are employment income and Mexican-sourced income.

2.6 Tax rates

For 2024, residents taxable income is taxed at graduated rates ranging from 1.92 percent to 35 percent. The maximum marginal tax rate is reached on income earned over 4,511,707.38 Mexican pesos (MXN) annually (375,975.62 MXN, monthly).

Non-resident income tax should be determined by applying the following rates to salary income received and derived from Mexican-sourced income:

Annual income from MXN	Annual income to MXN	Tax rate percent
0	125,900	Exempt
125,901	1,000,000	15
1,000,001	and above	30

When the income in question is received in a 12-month period and such period does not coincide with the calendar year, individuals should accumulate the income received every month within the 12-month floating period to determine the tax rate to be used to calculate the corresponding income tax.

2.7 Double Tax Treaties

In addition to Mexico Tax Law that provides relief from double taxation, Mexico has signed Double Tax Treaties with several countries to prevent double taxation and allow cooperation between Mexico and overseas tax authorities in enforcing their respective Tax Laws.

2.8 Permanent establishment implications

A PE could be triggered because of extended business travel, depending on the type of services or activities performed, and the level of authority the employee has to bind the foreign company in Mexico.

03

Social Security

3 Social Security

3.1 Liability for social security

Foreigners who work for Mexican employers are subject to Mexican social security contributions when an employment relationship is deemed to exist in Mexico. Such relationship is deemed to exist in Mexico when the employee's activities are supervised, controlled, or governed by a Mexican employer.

These are based on several components where the capped salary is 25 times the UMA index (2024 UMA is MXP108.57 per day).

The afore mentioned contributions are calculated based on the following percentages and subject to the capped salary:

Type of insurance	Paid by employer	Paid by employee	Total
Social security (IMSS)*	12.115% to 26.615%	2.727%	14.842% to 29.342%
Retirement fund (SAR)	2.00%	0.00%	2.00%
Housing fund (INFONAVIT)	5.00%	0.00%	5.00%
Total	19.115% to 33.615%	2.727%	21.842% to 36.342%

* The above rates represent the effective rates for individuals with a capped salary in 2024. The employer contribution will depend on each employer's risk classification.

Mexico has entered into formal duly signed social security Totalization Agreements only with two countries: Spain and Canada.

There are no provisions for foreign employees working in Mexico under a contract with a foreign employer and with no Mexican employer. In such cases, although the employee could be deemed to be subject to Mexican social security contributions, it may be argued that there would be no basis to calculate such contributions (no salary borne in Mexico) and no vehicle to remit them (no Mexican employer). Thus, Mexican social security contributions would not be applicable under this approach.

04

Compliance obligations

4 Compliance obligations

4.1 Employee compliance obligations

Annual tax returns are due by April 30 following the tax year-end, which is December 31. Extensions are not permitted. Non-residents are not obligated to file a Mexican annual tax return since the payments made are considered as final or definitive.

4.2 Employer reporting and withholding requirements

Mexican income taxes are paid on earned income.

Individuals are required to remit tax payments on compensation as follows:

- When compensation is paid by Mexico or from abroad, but the cost of the individual's compensation is charged back to a Mexican company under a secondment agreement and, as such, reflected on the Mexican payroll, the tax obligation will be satisfied via tax withholdings. Under this scenario, the Mexican employer will determine the individual's monthly tax liability and remit the corresponding taxes to the Mexican tax authorities.
- When compensation is paid from abroad, the cost of the individual's compensation is not charged back to a Mexican company and the compensation is not reflected on the Mexican payroll, the individual will be required to file personal monthly tax returns through the Internet by wiring the tax amount due from his/her personal Mexican bank account.

Monthly personal tax returns and withholdings are due by the 17th day of the month following that in which the compensation was paid. Non-resident taxes should be paid within 15 days following the receipt of the income, unless a Mexican company is obligated to withhold the tax or one of the following alternative options is used, in which case the due date will be the 17th day of the following month in which the compensation was received.

Income taxes associated with salary income received by non-resident individuals can also be paid via one of the following payment alternatives:

- Through withholdings by the person or company resident in the foreign country that makes the salary payments. Such person or company should be registered as a withholding agent before the Mexican tax authorities.
- Through remittance of the income tax by the company resident in Mexico in which facilities the subordinated personal services are rendered.
- Through remittance of the income tax by the representative of the non-resident individual.

For the above options and when the Mexican company or foreign company with a permanent establishment in Mexico is obligated to withhold the non-resident tax, the due date is the 17th day of the following month in which the compensation was received.

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Immigration

5 Immigration

5.1 Business travelers immigration overview

This is a general overview that provides basic immigration information regarding business visits and work authorization for Mexico. The information is of a general nature and should not be relied upon as legal advice.

The Authority for Immigration procedures in Mexico is the National Immigration Institute (INM, Instituto Nacional de Migración).

There are three types of visas according with the individual's activities:

1. Business visitor
2. Temporary resident working permit visa
3. Temporary resident non lucrative visa

For business travelers, the immigration status will be likely the business visitor. This migratory status is for those foreigners with intend to carry out activities on behalf a non-Mexican company for transactions, represent shares, vote on shareholders meetings, investment, take or participate in courses, or any legal activity in which they do not receive payments from a Mexican company.

From an immigration perspective in Mexico, business visitors must generally limit their activities to the following:

- Attending meetings and negotiations, preparing contract offers, signing contracts and supervising the implementation of contracts for an employer outside Mexico.
- Attending internal business meetings or discussions.
- Attending or holding internal seminars or trainings.
- Establishing, auditing, or steering a company in Mexico for an employer outside Mexico.
- Participating in expositions to present and sell company products, buying goods for sale outside the country.
- Testing or receiving training for use of equipment and facilities purchased by the employer with a commercial company outside Mexico.
- Touring a company facility.
- Attending a trade show or seminar convention.

5.2 Business travellers' immigration requirements

In order to obtain the business visitor status, individuals require:

- Valid passport with more of 6 months of validity
- Round flight ticket
- Hotel reservation
- A letter from the foreign company supporting the visit to Mexico

The individual will receive the business visitor status at the port of entry; and the immigration authority will grant the Multiple Migratory Form (FMM-E, Forma Migratoria Multiple Electronica), including the days authorized to stay in Mexico as a business visitor. Maximum stay is 180 days, but this depends on the

criteria of the immigration agent at the port of entry who will require a brief explanation of the activities individual will perform, where he/she should confirm that is an employee of a foreign company.

In most of the cases the immigration authority will only ask the length of the visit and the place where individual will be staying. The business visitor individual will not be allowed to receive any type of salary, remuneration or payment from a Mexican company.

In addition, nationalities that need visa to enter Mexico are mentioned in the following link:

[Países y regiones que requieren visa para viajar a México | Instituto Nacional de Migración \(inm.gob.mx\)](https://www.inm.gob.mx)

For Colombian citizens, a registration before the travel and landing will be mandatory.

5.3 Visa exemption

As mentioned above, business visitors that have a restricted nationality will require a visa to enter to Mexico. There is an exemption to enter without such visa when individual:

- Holds any type of valid and multiple entry US, Canada, Japan, United Kingdom or Schengen visas (any nationality)
- Has a permanent residence visa of the US, Canada, Japan, United Kingdom, Schengen, Pacific Alliance (Colombia, Peru, Chile)

This is not applicable on temporary residence visa holders of the US, Canada, Japan, United Kingdom, Schengen, Pacific Alliance (Colombia, Peru, Chile). Holders of this type of temporary visa must apply for a Mexican visa on any of its categories.

5.4 Extension for business travellers

Business visitor FMM-E cannot be extended. In case individual requires more time of stay, it should be analyzed in advanced whether a temporary resident working permit visa or temporary resident non-lucrative visa will be required.

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