

Wealth Preservation & Tax Efficient Planning for Mexican Residents

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Introduction – Our Service Approach

- Understanding your values
- Provide wealth planning strategies tailored to your goals
- Provide tax efficient strategies
- Provide strategies for legacy planning

Dominion Fiduciary Services

- Our Mission - To help clients grow and sustain wealth across multiple generations working with clients trusted professional advisors to relieve clients of the day-to-day burdens of managing their financial affairs.
- Dominion Fiduciary Services is one of the largest independently owned, multi-jurisdictional trust companies established in 2001.
- We design, establish, and administer global employee trusts, trusts, international pension plans, & international wealth planning structures for high net worth individuals, ultra high net worth individuals, families, & corporations.
- 3,000+ clients with over \$10bn assets under management.
- Over 100 staff across our offices in Geneva, Jersey, Malta, London, and Miami.

Dominion Solution

Foreign Discretionary Trusts Administered in the US (1)

- A foreign discretionary trust will provide a deferral of Mexican income tax if structured correctly. Our US trust will be regarded as a foreign trust for US federal tax purposes but a taxable entity under US law for Mexican income tax purposes (Article 176(8) Mexican Income Tax Law).
- Our proposed structure comprises two trusts; one holding the capital (“**Capital Trust**”) and one that receives income and gains from investments (“**Income Trust**”).
- Each trust owns shares of an underlying investment holding company. Location will depend on clients’ fact pattern and profile of investments.

Dominion Solution

Foreign Discretionary Trusts Administered in the US (2)

- Capital Trust will subscribe for preference shares, redeemable at par (expressed in Mexico Pesos) adjusted by inflation.
- Income Trust will subscribe for equity shares carrying value in underlying company over and above returns due to preference shares.
- Distribution of sums and assets from Capital Trust to settlor is tax exempt.
- Income and Gains from the Income Trust will be subject to Mexican tax to the extent they are distributed to a Mexican resident discretionary beneficiary.

Dominion Solution

Malta Retirement Plan for Mexican Residents (1)

- Establish a retirement plan under the laws of Malta that is available to Mexican residents.
- Contributions of cash or in-specie transfer of assets can be made. (Care as in specie contribution is a taxable event if assets standing at a gain).
- No annual limit for contributions.

Dominion Solution

Malta Retirement Plan for Mexican Residents (2)

- Income and gains in pension plan are not taxable in Mexico because the retirement plan is (1) not a pass through entity per Article 176(8) and (2) retirement plan Member not able to control timing of distributions.
- Capital gains arising on disposal of Mexican shares not subject to Mexican tax (see protocol supplementing Article 10 to Mexico/Malta tax treaty).
- Mexican income tax imposed upon actual distribution from the Plan (after age 50). Pro rata return of tax basis and untaxed income.
- Malta pension plan is also treated as a tax exempt pension plan for U.S. citizens and permanent residents (“green-card” holders) residing in Mexico. (Separate analysis is provided by Dominion on request).

Reasons to consider Pension Plan instead of Split Trust

- Different to mainstream planning so possibly less likely to be subject to future change in law.
- Will usually be combined with management of assets outside US but note pension plan is within CRS. However, CRS reporting should be considered as non contentious because (1) treaty recognised pension fund and (2) not offshore discretionary trust.
- Can hold Mexican situs assets and be outside CFC regime.
- Can receive Mexican source income free of Mexican withholding tax.
- Split Trust not suitable for Mexican Patriarch with US Children as Split Trust a non grantor Trust. Pension plan regarded as a foreign grantor Trust for US purposes so avoids UNI problem associated with non grantor trusts.
- Pension plan can just be established for Mexican National to hold assets for US Children and tie into US domestic planning for US Children.

Mexican Domestic Tax Reporting Obligations

Split Trust – Capital Trust

- No annual reporting obligations. The Split Trust must be regarded as a taxable entity where the corporate Trustee is resident.
- Capital distributions can be made to the settlor without any Mexican tax or reporting obligations.

Split Trust – Income Trust

- There are no annual domestic reporting obligations in respect of the Income Trust, its assets or accumulated income.
- There are domestic Mexican Filing obligations under Article 178 of the Income Tax Law in relation to Mexican resident beneficiaries who receive an income distribution from the trust.
- Filing to take place no later than 28th February of the year following that on which income is distributed to Mexican resident beneficiary.

Maltese Pension Plan

- There are **NO** annual reporting obligations in respect of accumulated earnings because the pension plan is not a pass through entity (i.e. the pension plan is a taxable entity in accordance with Maltese tax law); and
- Additional reporting when retirement benefits distributed to the extent the distribution represents rateable portion of the pension funds.

CRS Reporting Obligations – Mexico

CRS/FATCA Reporting

Split Trust Reporting – US

- US is not a CRS jurisdiction. Therefore, there are no Mexican reporting obligations under CRS. In addition, there are no other Mexican reporting agreements under Intergovernmental Agreements between Mexico and the US.
- Care is required regardless the location of the corporate entity holding trust assets.
- For US Trusts care is needed if it is in receipt of US source income.

Malta Pension Plan

- Malta is a CRS jurisdiction. Therefore there are annual filing obligations on the Maltese retirement plan administrator in respect of members of the retirement plan who are resident in Mexico.
- There are no FATCA reporting obligations in respect of the pension plan in relation to US Citizens as US treaty favoured pension plans are exempt.
- Distributions paid to Mexican resident members in the form of retirement benefits are reportable as are lump sum death benefits to Mexican resident beneficiaries of a decedent.

Why Dominion

Dominion is highly regarded for offering technical expertise across a spectrum of international centers

- Uniquely positioned in Switzerland, Malta, and the United States to provide comprehensive wealth planning strategies for Mexican residents with US investments or residency.
- Working independently on a multi-jurisdictional scale enables Dominion the freedom and expertise to offer our clients innovative, tailored product solutions formed outside of conventional boundaries; an approach designed to successfully lead clients to, and exceed their financial goals.

Our locations

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Accordingly Dominion and its group companies accept no responsibility for loss arising from any action taken by anyone using this pack.

The information in this pack will have been supplemented by matters arising from any oral presentation by us, and should be considered in the light of this additional information.

If you require any further information or explanations, or specific advice, please contact us and we will be happy to discuss matters further.

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