

IWP GENEVA 2013

Mexico Update

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Mexican Residents: Who are They?

1. **Legal entities:** The main business administration or effective management located in Mexican territory.
2. **Individuals:** Dwelling house (“casa habitación”) established in Mexico. No timing rule (ex. 180 / 183 days rule)

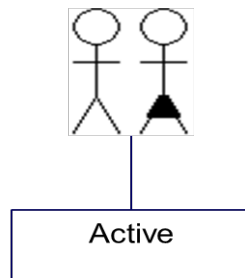
If more than one dwelling house, if center of vital interest in Mexico:

- More than 50% of the revenues are located in Mexico, or
- The principal center of their professional activities in Mexican territory.

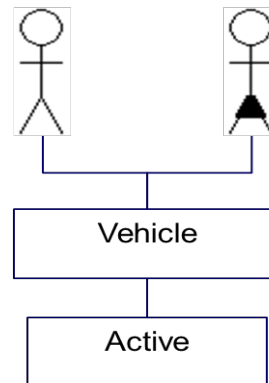
Taxation for Mexican Residents

1. **Income Tax:** Worldwide criterion, regardless where the source of wealth is located. Income of all type: cash, credit, services, or any other nature (ex. Inflationary gains).
2. **Foreign sourced income:** Directly and indirectly obtained

Direct



Indirect



Brief CFC History

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1.Until 1996

Taxed until actual distribution (income, dividends, capital redemption, liquidation).

2.1997-2004

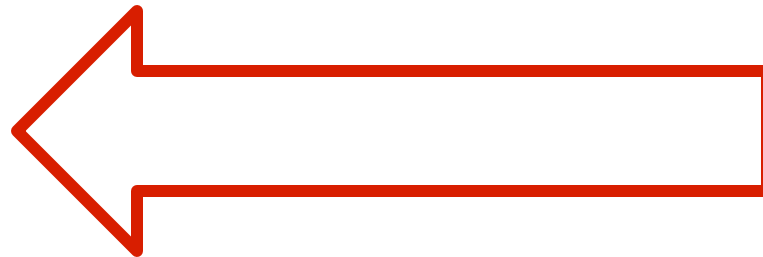
“Black list” (territorial systems).

3.2005 – Present (2008 adjustments)

The 75% test and tax transparency.



Trends on Exchange of Information



Trends on Exchange of Information Instruments

- Tax Information Exchange Agreements (“TIEAs”) agreements under which territories agree to cooperate in tax matters through exchange of information.
- Double Tax Agreements (“DTAs”)
 - Provisions for exchange of information are also contained in DTAs (Article 26).
- Mutual Assistance Convention in Tax Matters (Strasbourg Convention)

US – Mexico FATCA Agreement

- 3 agreements regulate exchange of tax information between US and Mexico: (1) Tax convention (2) Exchange of information agreement, (3) Multilateral Convention.
- FATCA legal nature: treaty that implements the before mentioned 3 agreements.
- Mexico (and the USA) must obtain and exchange information regarding reportable accounts.
- Broad definitions of core concepts, such as: financial institutions, financial accounts.
- Non compliance by Mexican financial institutions may give rise to fines and even criminal consequences.

Banking Secret: Dissapears?

- Prior to FATCA agreement, the exchange of tax information was done by specific requirements.
- Since FATCA, the financial institution provides the information to the tax authorities, and the latter to their counterparts.
- Strictly speaking, FATCA simplifies and facilitates the exchange of information given it is conducted automatically.

Pending Mutual Agreement

- Mutual agreement with procedural matters for FATCA observance.

Tax Amnesty

- Expired on May 31, 2013
- Tax credits prior to 2007: 80% of the (updated) tax, 100% on surcharges and fines (statue of limitations / credits subject to legal proceedings)
- Tax credits 2008 to 2012: 100 % on surcharges

Repatriation / Key aspects

- Not a taxable event
- Deposits in financial institutions: taxable income / activities presumption (unless otherwise proved)
- Possible repatriation facility / Each decree has had its own features

Anonymous Payment

- For individuals and regarding income from foreign sources
- No preferential (or amnesty) provision
- May not cure the “origin”
- No repatriation requirement
- Stamp features

Practical Issues

- Family needs / Civil, comercial, regulatory, tax
- Family offices / linkage with the corporate business
- Second generation issues
- Legal and tax awareness
- Anti money laundering law

Thanks!