

WHY SNELL REAL ESTATE?

It's Simple...

Safety

Snell Real Estate is the safest way to buy property in Cabo. Period.

Insurance

Snell Real Estate only represents properties that can be covered by a U.S. Title Insurance Policy.

Money

It is our job to protect you and your investment.

Properties

Snell Real Estate exclusively represents the finest developments and master planned communities in all of Baja – including Cabo Del Sol, Palmilla, Playa de la Paz, Punta Ballena, Oasis Palmilla, Espiritu and Villas Del Mar.

Legal

Snell understands the laws and regulations related to owning property in Mexico. We oversee every closing to ensure everything is done right.

Escrow

Snell Real Estate pioneered the use of U.S. Third Party Escrow in Los Cabos. Your money remains safe until the property title is transferred to you.



SNELL
REAL ESTATE

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SNELL

"The Most Trusted Name in Real Estate"

Los Cabos, B.C.S. Mexico

CAPITAL GAINS IN MEXICO

Separating Fact from Fiction In Mexican Real Estate



Understanding Mexican tax law is an integral part of the purchasing process.

What you do today dictates your tax liabilities tomorrow.

CAPITAL GAINS IN MEXICO

Separating Fact from Fiction In Mexican Real Estate

The information provided here will help you understand the tax system in Mexico and the important issues related to it. Regardless, Snell Real Estate recommends that you meet with a tax professional prior to completing your purchase to confirm whether any of the laws have changed since this document was published.

CAPITAL GAINS TAX

Capital gains tax law in Mexico states that tax is owed on the profit you receive when you sell your home or property. By law, you have two options when it comes to capital gains and you can use whichever is the better of the two options for you:

1. You pay 28 percent* of the net profit. (There are a variety of deductions included in this option.)
2. You pay 25 percent* of the gross sales amount with no deductions.

Although a 28 percent capital gains tax may seem high, Mexico does have several laws and procedures that will assist you in maximizing your cost basis, thereby reducing your net profit and lowering your capital gains. The key is understanding these laws before you buy, not when you decide to sell.

**Percentages reflect the 2007 Tax Code.*

WHY SHOULD YOU TAKE ON THE SELLER'S CAPITAL GAINS LIABILITY?

The first step in calculating your capital gains is to subtract the value you have recorded in your trust, or fideicomiso (fee-day-coe-me-so), from the sale price of your property. In the past, some real estate companies have recorded values lower than the actual purchase price in an effort to “save” taxes for their client; they thought they could save money on the two percent acquisition tax. This is a major error. Never record a lower value than what you actually paid for the property. Doing so simply establishes a lower cost basis for the property, which increases your capital gains tax liability.

An oversimplified example is: You wisely purchase a home site (lot) for \$1 million, but unwisely record a value of \$500,000. In the eyes of Mexican tax law, your cost basis is now \$500,000. If you sell the lot for \$1.2 million, you see a profit of \$200,000. However, according to your recorded cost basis, Mexico sees a profit of \$700,000 and your capital

gains tax for Mexico will be 28 percent of \$700,000 (\$196,000) – a difference of \$140,000 in profit.

**RULE NUMBER 1:
ALWAYS RECORD THE FULL VALUE
OF YOUR PURCHASE.**

Snell Real Estate's approach to ownership in Mexico, specifically the trust process, has been established to protect you and provide you with the legal means to safeguard your investment. Recording your authentic purchase price with proper documentation is the only way to maximize your potential profits. The bottom line is to always secure your property trust for the true value of your purchase as quickly as possible. Never allow anyone to convince you to record a lower value than what you have actually paid for your property, or you will assume the Seller's capital gains tax liability. Recording a lower value today can cost you, should you decide to sell in the coming years. If a Seller can convince a Purchaser to record a lower value, the tax liability is simply passed along, and eventually someone will have to pay. Don't let anyone tell you, “That's how we do it here.” Mexico is like everywhere else – the capital gains tax is the responsibility of the Seller.

Simply, a property is not yours until you have the title in your name. Also, if you don't record the accurate value of your purchase, you're most likely taking on someone else's capital gains liability.

Fact: Recording a property's true value benefits you and establishes your cost basis in the eyes of Mexico.

Fact: The amount you pay for a property has no impact on your yearly property taxes.

Fact: Capital gains taxes you pay in Mexico can be applied to your U.S. taxes.

The following is an overview of the capital gains tax regulations currently in place for individuals. Note that the information is intended for individuals, not corporations. Over time these regulations may change, therefore it is important to make sure that the process outlined here is still in effect by contacting a certified accountant or Mexican Notario.

HOW DO I KNOW IF MY VALUE IS RECORDED CORRECTLY?

Snell Real Estate's closing officer oversees the creation and completion of your trust. We review the documents with you to make certain everything is in order, and we are present when you sign your trust. You can verify the value yourself by examining your trust and noting the amount written in text, which is indicated in U.S. dollars or Mexican pesos and includes the exchange rate of that day. (We will provide a certified translation of your Spanish trust.) Simply divide the current exchange rate into the peso amount and make sure the result reflects the actual dollar amount you have paid. If you would like to review an old trust, simply determine the peso rate for the day and year the trust was executed. We can assist you in finding the exchange rate, as can the bank and the Internet.

HELPFUL HINT:

When you sign your new trust, ask the Notary to jot down the exchange rate on the document itself. This will be useful in the future.

WHAT IS INFLATIONARY CREDIT?

As soon as you pay your two percent acquisition tax to receive your trust, you are eligible to receive an inflationary credit from the Mexican government for each year you own the property. This credit is added to your cost basis when you decide to sell your property. The credit is based on consumer index adjustments (inflation) and can be quite significant. In the past when inflation was higher, we have seen credits in excess of 15 percent per year applied to a cost basis when you acquired your property some years ago. On a million-dollar property, this can be as much as \$150,000 USD per year added to your cost basis, significantly reducing your capital gains tax should you decide to sell in the coming years.

Fact: You are not eligible to receive the inflationary credit unless you have paid your two percent acquisition tax.

WHAT ABOUT THE PRIMARY RESIDENCE CAPITAL GAINS EXCLUSION?

Mexico, as well as the U.S., provides its residents a capital gains tax incentive for their primary home. The tax incentive in Mexico states that if you sell your "primary residence," you pay no capital gains. This law is in place for "residents" (Mexican nationals or foreigners) of Mexico only, and there are several items required to establish residency status. In order to claim your home as your primary residence in Mexico, you must be able to prove that it really was your primary residence for a period of five years. At closing, you will be required to provide the Notary with a residence visa or working permit (FM2), as well as a bank account, water, phone and electric bills, paid tax receipts and your Trust – all in your name, all with the address of the home, and all in place for more than five years. In some circumstances, a tax ID number may be necessary. Please keep in mind that this is just a guideline of the requirements. It is necessary to communicate with the Notary prior to closing your transaction in order to know if you are eligible for exemption.

**Based on the 2007 Tax Code.*

Fact: You cannot have two primary residences at the same time. Therefore, if you claim the home in Mexico as your primary residence, you give up your primary residency status in the U.S.

Fact: The capital gains tax exclusion is intended for residents of Mexico, not for persons owning second homes or vacation homes.

Just as there are no shortcuts or legal ways around taxes in the U.S. or Canada, there are no shortcuts around taxes in Mexico. Your home is a sizable investment and following proper legal steps will ensure a safe and enjoyable experience in Mexico. If someone says, "This is Mexico, and that's the way we do it here," then beware. Seek another agent or Broker. If you plan on building a home or doing a major remodel to an existing home, please read our brochure, "Manifesting Your Construction," to make certain all your expenses are added to your cost basis.

If you are considering a real estate purchase in Baja, make certain everything is done right. Allow Snell Real Estate to put our knowledge and experience to work for you. We are an independent brokerage, assuring our only interest is representing you in a safe, solid and secure real estate transaction.