

THE MEXICAN REVENUE CODE
ARTICLE 190

Source of wealth –

Alienation of shares of negotiable instruments of foreign companies or entities

In cases of alienation of shares or of negotiable instruments representing title to assets, the source of wealth shall be deemed located in National Territory when the issuer resides in Mexico or when more than 50 percent of the value for accounting purposes of such shares or negotiable instruments proceed from real estate properties located in Mexico.

The tax shall be 25 percent of the total amount of the transaction, with no deductions.

Said withholding must be made by the acquiring party if he resides in the country or resides abroad having a permanent establishment or a fixed base in Mexico. In all other cases, the taxpayer shall pay the tax through a return filed at an authorized office within 15 days of obtaining the revenue.

Tax payers having representative in Mexico in accordance with the requisites established in the new Article 208 of this law and being residents of a country not deemed hereunder as a low-tax jurisdiction or a country in which a system of territorial taxation prevails (TAX HAVENS) may elect to apply to the earnings obtained, determined as provided in Chapter IV of Title IV hereof without deduction of the losses referred to in the final paragraph of Article 148 hereof. In such cases, the representative shall compute the resulting tax and pay it through a return filed at the authorized office corresponding to his domicile, in the term of 15 days following obtainment of the revenue. [*See MA '99 Transitory Article Fifth-XV, containing a list of countries considered tax havens for purposes of the Income Tax Law.*]

Taxpayers exercising the option referred to in the preceding paragraphs shall file with the tax authorities a report prepared in accordance with the provisions of the regulations hereof by a certified public accountant, setting forth that the tax was computed in accordance with the applicable tax provisions and bearing attached as an exhibit a counterpart of the instrument of appointment of their legal representative.

A public accountant falling to comply with the provisions of this Article shall warrant the sanctions determined in the Federal Tax Code.

Exemptions

The tax on the revenues referred to in this Article shall not be paid when the operation is executed through an authorized stock market or similarly active market determined by the Ministry of Finance and Public Credit through general rules issued by it for the purpose, provided that said instruments be of the nature placed among the investing public pursuant to said general rules. In cases of merger of corporations, the exemption provided in this Section shall not be applicable to the shares alienated and obtained in the exchange of shares of the merged corporation, if the shares of the latter were not of the nature deemed placed among the general investing public in terms of this Article.

Revenues for the acquirer

In cases of acquisition of shares or negotiable instruments representing title to assets of the nature referred to in the first paragraph of this Article by foreign residents, the tax authorities may conduct an appraisal of the applicable operation, and if it exceeds by more than 10 percent the compensation agreed upon for the alienation, the total balance shall be deemed revenue for the acquirer, and in such case the latter's acquisition cost of said assets shall be increased by the total amount of said balance. The tax shall be 40 percent on the total balance, with no

deduction, and shall be paid, with all updates and surcharges, through a return filed by the taxpayer at an authorized office in the term of 15 days following the date of the notice given by the tax authorities. The provisions of this paragraph shall be applicable, regardless of the place of residence of the alienator.

Gratuitous acquisitions

In gratuitous acquisitions, the tax shall be 25 percent on the total appraisal value of the shares or corporate participations, with no deduction. Said appraisal is to be performed by a person authorized therefore by the Ministry of Finance and Public Credit. Revenues received as donations of the nature referred to in subsection a) of Section XXIV of Article 190 hereof are exempted from payment of said tax.

In cases of securities of the nature placed among the general investing public pursuant to general rules issued for the purpose by the Ministry of Finance and Public Credit, but not alienated through a stock market, the tax authorities shall refer to the stock market quotation for the last transaction on the date of alienation, instead of to said appraisal value.

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