

FOREIGN OWNERSHIP OF REAL ESTATE IN MEXICO
QUESTIONS AND ANSWERS



COSTA PALMAS™
EAST CAPE



Overview

For national security purposes, the Mexican federal constitution prohibits non-Mexican persons from owning real property located within 30 miles of Mexico's coastline, referred to as the "restricted zone". The entire Baja Peninsula and all of the other desirable coastal lands where foreigners would most want to purchase property are situated within the restricted zone. In the early 1970s, Mexico's government wanted to encourage foreign investment and began allowing foreigners to purchase coastal property through a "fideicomiso", or trust agreement. The coastal property is held in trust by a Mexican bank. The bank acts on behalf of the foreign buyer, taking title to the real property. The bank then has a fiduciary obligation to follow instructions given by the foreign buyer. Contrary to a land lease, as the trust beneficiary, the foreign buyer enjoys all of the rights of fee simple ownership, and may sell, gift, lease, add construction, improve existing buildings, mortgage and encumber the property. The fideicomiso technically satisfies the prohibitions in the Mexican federal constitution against foreign ownership of restricted-zone property. Foreigners have been buying, owning and selling Mexican coastal property through fideicomisos for nearly fifty years.

WHAT IS THE TERM OF A FIDEICOMISO AGREEMENT?

The term is for 50 years, and is renewable for at least one more 50-year term. After 100 years, the buyer/beneficiary may request and set up a new fideicomiso. If the fideicomiso expires without renewal, the buyer still has up to 10 more years to apply for a new fideicomiso.

IS THE FIDEICOMISO RECORDED AS A DEED?

The fideicomiso is granted in a public deed before a notary public and is registered in the local municipality's property records.

IS THE FIDEICOMISO FREELY TRANSFERABLE?

Yes, either through the cancellation of the fideicomiso and transfer of the property, or through the assignment of the fideicomiso's beneficial rights. If property is purchased that already has a fideicomiso, the existing trust may be transferred to the new owner and will be good for the remainder of its 50-year period, or the trust may be renewed.

IS THERE A COST TO SET UP OR MAINTAIN A FIDEICOMISO?

Yes. The fees vary by trustee. Costa Palmas is currently working with Banco Monex S.A. as the Buyer Trustee. Their fees are approximately \$1,000 US to set up a fideicomiso, with annual trust fees of \$400-800, and modification or transfer fees of \$400-800.

WHO CAN BE BENEFICIARY? HOW CAN I HOLD OWNERSHIP OF THE FIDEICOMISO?

The fideicomiso beneficiary can be the same as any entity that would hold property in the US, such as an individual, couple, group of individuals, or through a corporation (LLC).



WHAT IS THE TAX TREATMENT AND WHAT ARE THE REPORTING REQUIREMENTS OF A FIDEICOMISO?

Fideicomisos are generally considered foreign trusts for US tax purposes. Certain tax filings may apply.

WHAT HAPPENS IF THE TRUSTEE IS ACQUIRED OR FILES FOR BANKRUPTCY?

A new trustee may be appointed.

WHAT ARE LOCAL PROPERTY TAXES?

Municipal property taxes in Mexico are considerably lower than in the US. Generally, taxes average 0.3% of the property's value.

CAN I GET TITLE INSURANCE?

Title insurance is widely available at your discretion. Costa Palmas is providing Owners with an Armor Secure title commitment and will assist with the purchase of Title Insurance at an estimated cost to Buyer of approximately 0.45% of the property value.

WHAT WILL MY CLOSING COSTS BE?

Many US buyers are surprised by the closing costs associated with luxury real estate in Mexico. There are fees associated with closing a transaction in Mexico that are not part of a real estate transaction in the US, such as acquisition tax, notary fee, registration fee and the fee for the fideicomiso. For luxury properties, total closing costs, including title insurance, range from 3% to 5% of property value.

It is important to keep in mind that while closing costs are higher than their US equivalent, property taxes are much lower.

WHAT TAXES WILL I PAY UPON SALE?

Income generated by the property will be subject to Mexican taxes. Capital gains tax will be calculated by the notary public and withheld at sale to be paid to the government. Taxes and fees owed are calculated on the peso value of the transaction using the currency exchange rate published in the Federal Official Gazette the day before the payment is made. US sellers may be entitled to a US foreign tax credit for taxes paid in Mexico. No Value Added Tax (Sales Tax) is payable on residential property.

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