

# Mexico

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## 1. Taxation

### 1.1 Inheritance

Mexico legislation does not recognize an inheritance tax. According to Mexican legislation, succession is the legal mean through which a person substitutes another on his or her rights and obligations due to the latter's absence. For Mexican tax purposes, a process must also be observed that goes in hand with the civil process, i.e., at the beginning of the testamentary succession to distribute the assets or wealth for which a notice must be filed with the Mexican tax authority (SAT).

According to the Civil Code of the Federal District (CCDF), a succession starts at the time of the decedent's death or when the death is presumed in the case of absences or disappearances. A testamentary succession or intestate is formed when an executor is named.

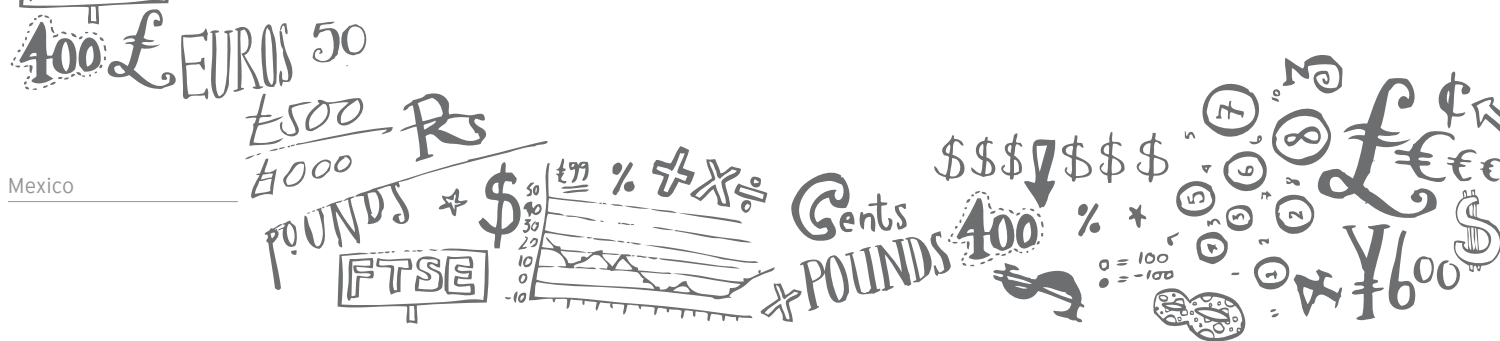


The succession is integrated in the four stages shown in the table below.

Stages	Activities
Succession	<ul style="list-style-type: none"> <li>▸ The testament or testimony at the Notary</li> <li>▸ Only the heirs who are listed on the will have the right to the inheritance.</li> <li>▸ Appointment and removal of executor and inspector, and recognition of hereditary rights.</li> <li>▸ Resolution on the validity of the testament, capacity to inherit and preference of rights.</li> </ul>
Inventory	<ul style="list-style-type: none"> <li>▸ Inventory of the inspector.</li> <li>▸ Inventory and estimate by the executor.</li> <li>▸ Respective incidents (if so). Sentential on inventory and estimate.</li> </ul>
Administration	<ul style="list-style-type: none"> <li>▸ All regarding administration.</li> <li>▸ The accounts, gloss and his calcification.</li> <li>▸ The verification of covered the fiscal tax.</li> </ul>
Participation	<ul style="list-style-type: none"> <li>▸ Project of distribution provisional.</li> <li>▸ Project of distribution.</li> <li>▸ Respective incidents (if so) and adjustments.</li> <li>▸ Resolutions regarding the application of the goods that form the inheritance.</li> </ul>

The executor is the representative of the succession against third parties and she or he will have the following obligations:

- Presenting of the testament.
- Securing of the goods of the inheritance.
- Forming of inventories.
- Administering of the goods and surrendering of the accounts.
- Paying of the mortuary, hereditary and testamentary debts.
- Dividing and awarding of inheritance between the heirs and legatees.
- Judging and defending the validity of the inheritance testament.
- Representing the succession in all judgments promoting themselves in their name or any promotions against them.



The executor or the legal representative of an estate will pay income tax each year for account of the heirs or legatees. In doing so, the representative will consider the joint income, until the settlement of the estate is deemed to have concluded. Such payments will be considered definitive, unless the heirs or legatees elect to include, in their gross income, the income corresponding to them, in which case they may credit their pro-rata share of tax paid.



If the acquisitions are listed in the documents, it is the purchaser's responsibility to calculate the tax and pay for it. The tax is calculated by applying the total value of the building based on tariffs as shown in the table below.

Rank	Lower limit (MXN)	Upper limit (MXN)	Fixed amount (MXN)	Percentage to be applied on the excess above the lower limit
A	0.12	87,159.70	164.31	0.00000
B	87,159.71	139,455.47	164.32	0.03163
C	139,455.48	209,183.01	1,818.43	0.03261
D	209,183.02	418,366.13	4,092.25	0.03261
E	418,366.14	1,045,915.32	10,913.71	0.03696
F	1,045,915.33	2,091,830.65	34,107.94	0.04565
G	2,091,830.66	And above	81,853.96	0.04565

#### 1.4 Endowment tax

There is no endowment tax in Mexico.

#### 1.5 Transfer duty

There is no specific transfer duty in Mexico.

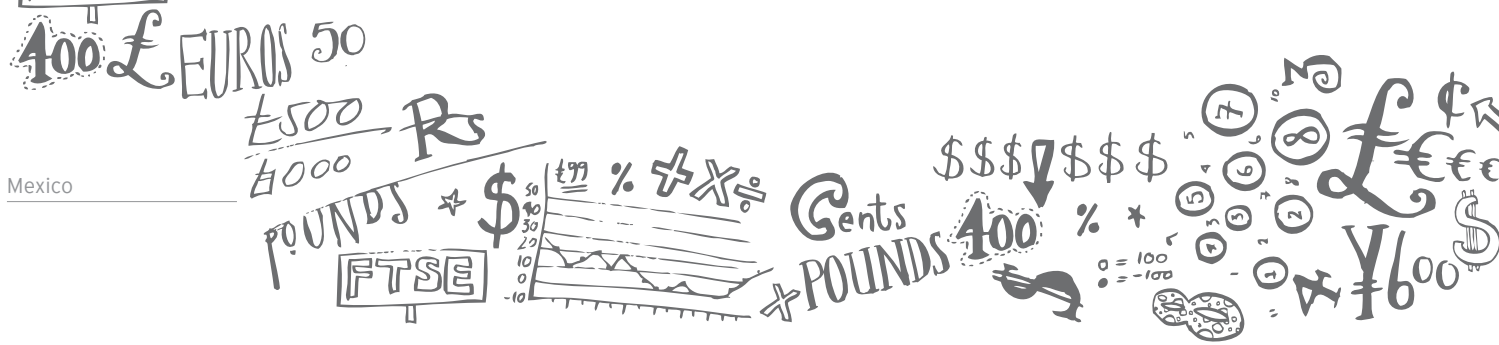
#### 1.6 Net wealth tax

There is no net wealth tax in Mexico.

### 2. Who is liable?

According to the Civil Code, a testamentary or intestamentary succession comes when the deceased has goods in his or her name for which an executor will be named realizing an act for effects to indicate to the designation and acceptance of the position. To facilitate the local procedures (payment of taxes, notifications at the local authorities), the legal representative should have a Federal Taxpayer Identification Number in Mexico and electronic signature in force.

For tax purposes, declarations will continue to be presented regularly as the decedent presented it while he or she was alive. It is the responsibility of the executor to ensure that this is changed and the presentation is correctly represented.





The income tax for fiscal year 2014 shall be calculated in accordance with the following schedule:

Tax rate schedule			
Lower limit (MXN)	Upper limit (MXN)	Fixed amount (MXN)	Percentage to be applied on the excess above the lower limit %
0.01	5,952.84	0.00	1.92
5,952.85	50,524.92	114.24	6.40
50,524.93	88,793.04	2,966.76	10.88
88,793.05	103,218.00	7,130.88	16.00
103,218.01	123,580.20	9,438.60	17.92
123,580.21	249,243.48	13,087.44	21.36
249,243.49	392,841.96	39,929.04	23.52
392,841.97	750,000.00	73,703.40	30.00
750,000.01	1,000,000.00	180,850.82	32.00
1,000,000.01	3,000,000.00	260,850.81	34.00
3,000,000.01	And above	940,850.81	35.00

#### Date for payment of tax

##### Lifetime transfers

Taxpayers should include transfers in their annual tax returns, which is filed on 30 April.

##### Transfers on death

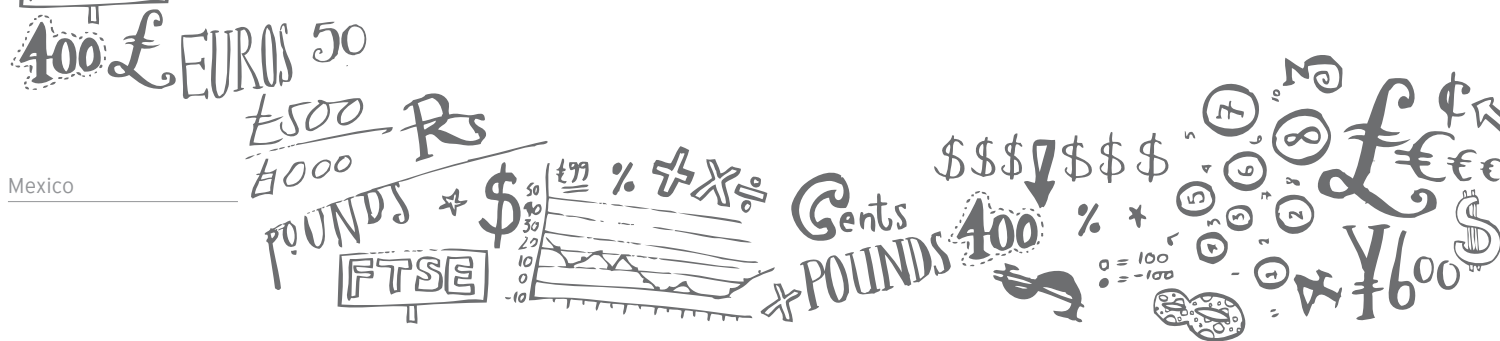
The representative should file a return including income earned by the deceased from 1 January of the year of death up to the moment of his or her death within 90 days after the designation.

When income accrued up to the moment of the person's death was not effectively received in life, it should be declared in the following year's annual tax return on 30 April.

## 4. Exemptions and reliefs

Income received for inheritance or bequests are tax exempt.

The following exemptions may be applied for each income received after the liquidation of the succession.



### Retirement, pensions, retirement insurance

## Sales

The exemption shall apply, provided that the transferor had not transferred the property of another dwelling during the five years preceding the date of the transfer, for which he or she had claimed the exemption and that the transferor so states under oath before the person with notarial functions who certifies the transaction, who has the obligation to verify the transferor's statement. at the tax authority's website.

**Shares sold or listed on a stock exchange**

For 2014 and onwards, a 10% tax will be payable on the net gains derived from the sale of shares through Mexico's stock exchange. This Tax is not creditable against the taxpayer's final tax liability determined in its annual income tax return. This new tax is applicable on (i) shares or securities that represent shares issued by Mexican companies sold through Mexico's stock exchange, (ii) securities traded on the Mexican Derivatives Exchange and (iii) Shares or securities which represent shares of foreign entities trades though Mexico's Stock Exchange or the Mexican Derivatives Exchange.





## 5. Filing procedures

Once the process of succession ends a notice of cancelation of Federal Taxpayer Identification Number or RFC (*Registro Federal de Contribuyentes*) by liquidation of the succession, it must be filed by the executor.

In cases of death of a person required to file an annual tax returns, the following shall apply:

1. Within 90 days following the date when the executor is appointed, he or she shall file a return for income earned by the deceased from 1 January of the year of death up to the moment of his death, in order to pay the relevant tax.
2. Income accrued up to the moment of the person's death that was not effectively received in life, shall be subject to the following rules:
  - a. Salary income and entrepreneurial income, as well as income from providing professional services, described, shall be exempt from payment of the tax for the heirs or legatees, since such income is considered tax exempt.

Taxpayers who in the fiscal year have obtained total income in excess of MXN500,000, including income on which income tax is not required to be paid and on which the definitive tax was paid, must declare all of their income in their annual tax return. Inheritance should be reported in the Mexican annual tax return for informative purposes only.

- b. Additional income (sale of goods, interest income, dividends, as well as income from entrepreneurial activities, excepting income prizes) may be considered income received by the deceased person and declared under the preceding section or when the heirs or legatees elect to include such income in their income tax return and pay the corresponding tax.

## 6. Assessments and valuations

For Mexican purposes, assets are valued at the price that they would be reasonably expected to fetch if sold in the open market.

For contributions to be considered effective, besides the fiscal authority, they can only be authorized by the following:

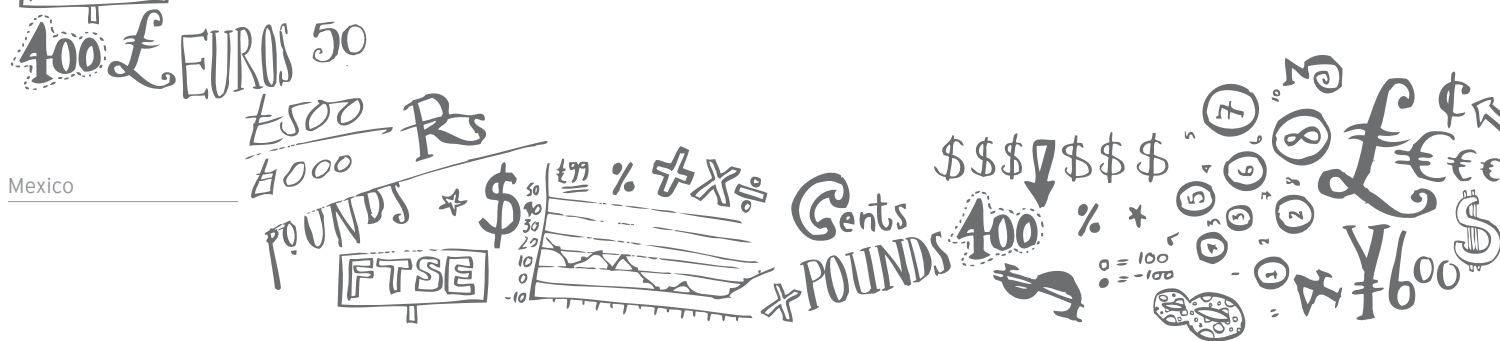
1. Experts properly registered before the fiscal authority.
2. Credit institutions.
3. Civil or mercantile societies whose specific object is the accomplishment of valuations.
4. Main directorate of real estate patrimony.
5. Public broker.

Experts properly registered before the fiscal authority will be independent. The main directorate of real estate patrimony and the public broker are the only ones who can conduct the evaluations under the direction of the civil or mercantile societies.

## 7. Trusts, foundations and private purpose funds

From an estate-planning point of view, trusts are often used to make lifetime gifts to enable the donor to place constraints on the donee. The trust can be constituted by means of the testament, i.e., the goods will be contributed until the death of the testador or can be contributed before his or her death so that he or she begins to regulate all the aspects of protection, guarantee and administration of the affected goods.





## Types of Mexico trust

A revocable trust is one in which the trustee reserves the right to revoke it and therefore to reacquire the goods of the fiduciary.

An irrevocable trust is where one property is transferred to the trust without the possibility of reacquiring them.

## Creation of trusts and transfers of assets in

- ▶ It guarantees that the dispositions of the author of the inheritance will be met.
- ▶ Its goods cannot be an object of affectation by a third party.
- ▶ It can be formalized while still living or until the death of the author of the inheritance via testament.
- ▶ It can be saved to guarantee that the goods are safe until the established term.
- ▶ It avoids conflicts between the heirs, and it is perfectly stipulated to whom the inheritance belongs.
- ▶ It grants legal security to legatees and executors.

### Non-Mexican settlements

When a trust beneficiary is an individual who is a Mexican resident, the portion of the taxable income or tax profit stemming from the entrepreneurial activities conducted through the trust and corresponding to the individual in accordance with the agreement will be considered income from entrepreneurial activities.

Foreign resident trust beneficiaries are considered to have a permanent establishment in Mexico because of the entrepreneurial activities conducted in the country through the trust. These residents must file annual income tax returns for the portion of the taxable income or tax profit derived from said activities corresponding to them for the fiscal year.

## 8. Grants

## 9. Life insurance



## 10. Civil law on succession

### 10.1 Successions

"Succession" is generally restricted to the transmission of goods and property caused by death of the testator and is thus considered a synonymous of inheritance. From an objective perspective, we can identify inheritance as the aggregate of goods that are transmitted to another person due to death and, from a legal perspective, the transmission of rights and obligations from one person to another due to death.

Succession includes all the rights and obligations of the decedent (the deceased) that were not extinguished with his or her death, as per the Federal Civil Code of Mexico.

Therefore, there are three types of succession:

1. Testamentary: Determined by the personal will of the person behind the inheritance, the testator.
2. Legitimate: The civil authority's application of the will that is presumed to be that of the person behind the inheritance.
3. Mixed: It includes both types described above, part testamentary and part legitimate or intestate, due to the person not disposing of all the rights and obligations within his legal sphere.

### 10.2 Testamentary succession

The testament (or will) is an individual legal act, personal, subject to revoking and free through which a person with full legal capacity transmits his goods and rights and declares the fulfillment of obligations for after his or her death. Three basic elements must exist in a testamentary succession:

1. The right of the testator to dispose of his or her goods while alive.
2. The duty of the testator to fulfill the obligations and duties owed to his or her family members.
3. The obligation to fulfill any and all obligations that the testator might have with third parties and that are considered legal.

Interpretation of the testament is a special aspect of legal interpretation in general, which implies that the testament is never to be considered in isolated wording or terms, but as a single act of the author's will.

Any and all persons not precluded by law can become a testator: persons younger than 16 years old; persons without full legal capacity or those who generally or incidentally are not in his or her full judgment capacity.

Any person of any age, individual or collective, can be designated as an heir, unless their legal capacity is lost by any of the causes mentioned in the law: lack of legal personality, having been sentenced for the commission of a crime, presuming alterations or influence on the free will of the testator, among others.

The testator can dispose of his or her goods in full (universal disposal) or in part (particular disposal). People who inherit the total rights and obligations of the testator are designated inheritor. Inheritors or heirs are expected to respond for any credits that the inheritance has due. For example, if the inheritor succeeds the testator by becoming the legal owner of all the properties of the latter but one of them is under a mortgage, the inheritor must pay for such obligation using the rest of the properties until the debt is covered or until the value of the received properties can cover.

Legatees may inherit parts of the testator's rights and obligations. For example, the legatee can inherit a set of paintings or works of art and nothing else.

Testaments can be classified as ordinary and special. Ordinary testaments are granted under normal circumstances and are divided into open or public testament, simplified testament or handwritten.

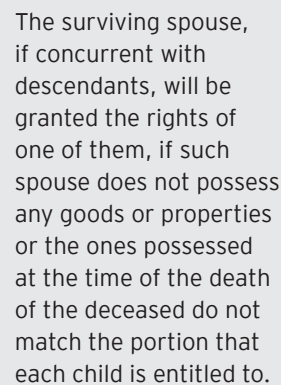


Each case's applicable conditions are subject to the local valid legislation of the state where the testament is executed.

In the event of a person dying without leaving will or if there are assets that were not referred into, the Civil Codes of each state contain the rules in accordance to which such assets shall be distributed. However, there are some general rules to follow:

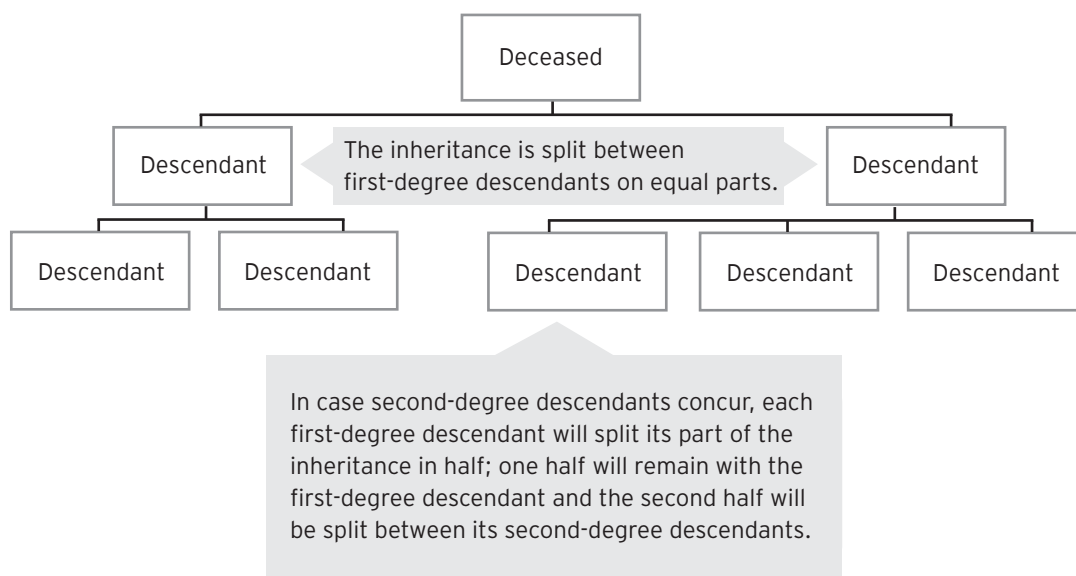
- ▶ Descendants, spouses or domestic partners.
- ▶ Ancestors, in the absence of descendants, spouses or domestic partners.
- ▶ In absence of all the aforementioned, collateral relatives up to fourth degree, with preference placed on brothers or, in the absence of these, relatives in increasing degree.
- ▶ In absence of these, public welfare.

### 1. If only first-degree descendants

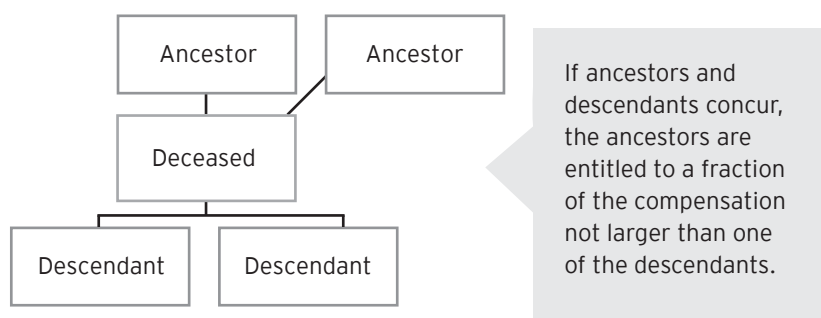




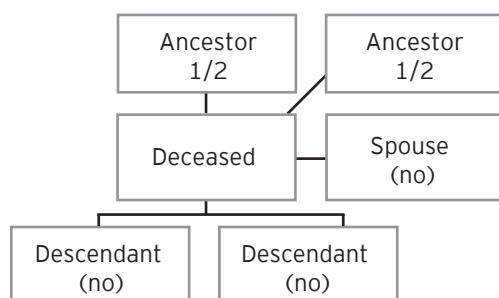
### 3. If first-degree descendants concur with second-degree descendants



### 4. If first-degree descendants concur with ancestors



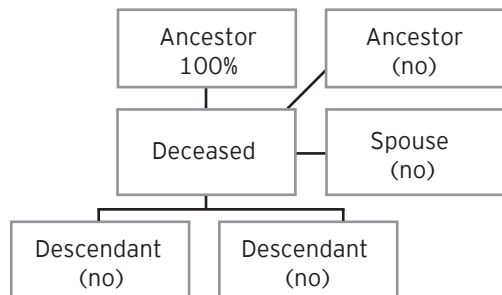
### 5. If only ancestors



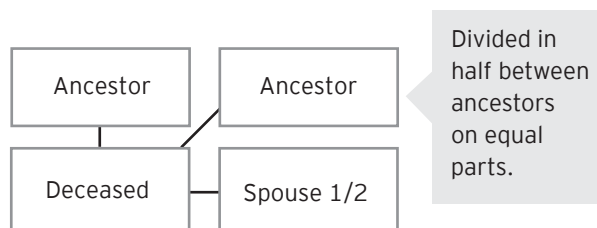


Mexico

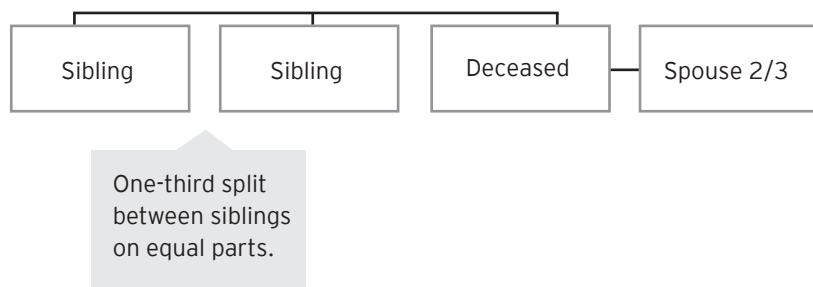
## 6. If only ancestor



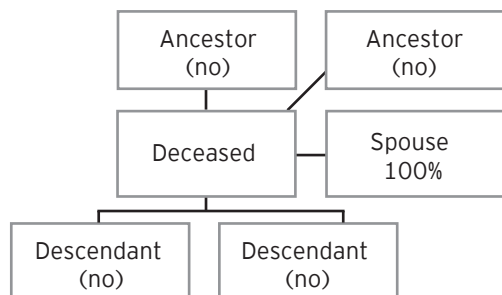
## 7. If ancestors concur with spouse



## 8. If spouse concur with siblings

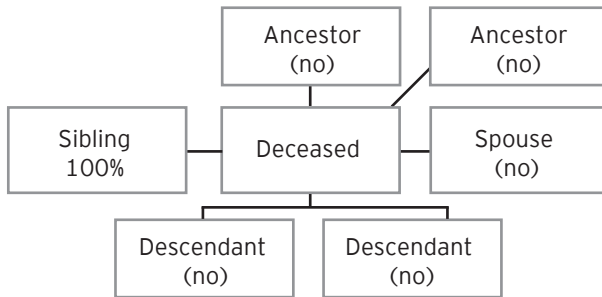


## 9. If only spouse





## 10. If only siblings



## 11. Estate tax treaties

### 11.1 Unilateral rules

Mexico does not have specific rules on tax credits or transfer of properties abroad.

### 11.2 Double-taxation treaties

Mexico has not signed any gifts and inheritance tax treaties.

### Additional reading materials

Inter-American Editors, Juan M. Aspron Pelayo (1996) Sucessions, McGraw-Hill: Mexico

Legal Research Institute UNAM, Maria de Montserrat Perez Contreras (2010) Family Law and Sucessions, Nostra Editors: Mexico

Federal Civil Code of Mexico (2014), Juridiediciones Editors: Mexico

Mexican Income Tax Law

Regulations of the Mexican Income Tax Law

Federal Fiscal Code

Fiscal Code of Federal District