



1. Taxation

1.1 Inheritance/succession

Mexico legislation does not recognize an inheritance tax. According to Mexican legislation, succession is the legal means 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 tax authority.

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 in the will.

The succession is integrated in the 4 stages shown in the table below.

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

The executor is the representative of the succession against third parties and she/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 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.

1.2 Gift or donation

Under the Mexican Income Tax Law (MITL) donations are tax exempt in the following cases:

1. Between spouses or received by descendants from their lineal ascendants, whatever the amount of the donation.
2. Those received by ascendants from their direct descendants, provided that the assets received are not transferred or donated by the ascendant to another lineal descendant.
3. Other donations, provided that the total value of the donations received in a calendar year is no more than 3 times the annual general minimum wage in effect in the taxpayer's geographic area (MXN67,316 in Mexico City in 2012). Income tax will be paid on the excess amount as set forth in this Title.

MITL states that Mexican resident individuals are to report in their annual tax return, loans, donations as well as prizes which value separately or jointly, exceeds (MXN600,000). Loans and donations not declared nor reported to the tax authorities will be taxable income. Therefore tax residents in Mexico require including the amount of donation as tax-exempt income. If this is not declared and the authorities detect the omission the taxpayer lose the exemption.

1.3 Real estate transfer tax – ISAI (tax on acquisition of buildings)

Individuals and companies must pay tax on acquisition of buildings (this includes any type of real state, either land, or buildings) in Mexico City as well as in other states. Acquisition means all acts by which the property is transmitted, including the donation, the contribution to any sort of associations or corporation occurring because of death.

In the case of acquisitions because of death, a rate of 0% of ISAI will be applied on acquisition of real estate, whenever the value from the real estate property at the date of the award does not exceed the sum equivalent to MXN12,070 3 times the to minimum general wage in force in the Federal District (MXN752,510 for 2012).

The payment of the tax must be made via an official form after 15 days of the adjudication of the decedent's estate to the heir or legatee or in cases where the estate is disposed or sold to a third party, at the time of succession. In the latter case, tax is collected immediately after the estate is formally bequeathed to the third party. In cases where the legatee or heir passes away before formalizing a contract to sell off his or her inheritance, the tax burden due from the legatee/heir as well as the tax due because of the sale of the estate rests on the third party who is purchasing or acquiring the estate.



In the acquisitions that are pointed out in public writing, the notaries that by legal disposition have notarial functions, will calculate the tax under their responsibility and will declare in the offices authorized, within the 15 working days following to acquisition becomes formalized in public writing.

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	Upper Limit	Fixed Amount	Percentage to be applied on the excess above the lower limit
A	MXN0.12	MXN83,702.78	MXN157.79	0.00000
B	83,702.79	133,924.39	157.80	0.03163
C	133,924.40	200,886.40	1,746.31	0.03261
D	200,886.41	401,772.91	3,929.94	0.03261
E	401,772.92	1,004,432.27	10,480.85	0.03696
F	1,004,432.28	2,008,864.54	32,755.15	0.04565
G	2,008,864.55	And above	78,607.47	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 a representative will be due to name (executor), realizing a 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 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.

2.1 Residency

In Mexico, residents are considered to be those who have established their home in the country. If individuals keep a home in another country, they are considered resident in Mexico if their center of vital interest is located in Mexico. An individual's center of vital interest is considered to be located in Mexico if at least one of the following circumstances is true.

1. More than 50% of the individual's income in a calendar year is derived from Mexican sources; or
2. The center of the individual's professional activities is located in Mexico.



Legal entities are considered residents of Mexico when the location of the principal administration of the business is located in Mexico.

In the succession, the legal representative in Mexico is forced to fulfill the fiscal obligations of the deceased according with his tax residence situation.

A trust is in charge of fulfilling the fiscal obligations of its own organization.

3. Rates

Lifetime transfers

These transfers are considered tax-exempt income if the taxpayer declares them in the annual tax return.

Transfers on death

Legal representative shall make estimated payments of the tax and file the relevant annual tax return, considering income and deductions altogether.

Heirs and legatees may elect to include income corresponding to them from the estate in their gross income for the year. Likewise, they may credit the tax paid by the estate's legal representative in the same ratio of the estate's income that corresponds to them.

Once the estate is liquidated, the legal representative, the heirs or legatees that did not make the election referred to in the preceding paragraph may file an amended return for the 5 years preceding the year in which the liquidation took place, when applicable, in order to include in gross income the portion of the estate's income that corresponded to them on those years, and credit the portion of the tax paid each year by the estate's legal representative. Payment carried out in this form will be definitive, unless the heirs or legatees choose to accumulate the respective income that corresponds to them, in which case will be able to credit the proportional part of the paid tax.

The income tax for fiscal years 2010, 2011, 2012, and 2013 shall be calculated in accordance with the following schedule:

Tax rate schedule			
Lower limit	Upper limit	Fixed amount	Percentage to be applied on the excess above the lower limit
in (MXN)	in (MXN)	in (MXN)	%
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	And above	73,703.40	30.00

The income tax for fiscal year 2013 shall be calculated in accordance with the following schedule:



Tax rate schedule			
Lower limit	Upper limit	Fixed amount	Percentage to be applied on the excess above the lower limit
in (MXN)	in (MXN)	in (MXN)	%
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	20.65
249,243.49	392,841.96	39,036.84	22.73
392,841.97	And above	71,676.72	29.00

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

MITL establishes that there is no payment of taxes for retirement, pensions, retirement benefits, as annuities or other forms of retirement from the retirement insurance sub-account; the retirement, early retirement and old-age sub-account set forth in the Social Security Law; or the individual account of the Retirement Savings System set forth in the Law of the Government Workers' Social Security and Services Institute [Ley del Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado], in cases of disablement, disability, early retirement, old age, retirement or death, the provided daily amount does not exceed 9 times the general minimum wage (MXN201,949 in Mexico City in 2012) in effect in the taxpayer's geographic area. Income tax shall be paid on the excess amount. The transfer of these accounts to the heirs should also be considered as exempt income for income tax purposes.



Sales

Sale of home is tax free when the transferor demonstrates that he or she resided at his or her dwelling for 5 years immediately preceding the date of transfer, provided that the amount of the consideration received does not exceed 1.5 million investment units (MXN7,185,000 approximately in 2012) and the transfer is executed before a person with notarial functions. Gains shall be determined on the basis of the excess. The annual tax and estimated payment shall be calculated upon such gain and considering the deductions in proportion to the ratio obtained by dividing the excess by the relevant consideration. The person with notarial functions shall calculate and make payment of the estimated tax, in accordance with the regulations.

The exemption set forth in this subsection shall apply, provided that the transferor had not transferred the property of another dwelling during the 5 years preceding the date of the transfer, for which he or she had claimed the exemption set forth in such subsection and that the transferor so states under oath before the person with notarial functions who certifies the transaction.

Personal property other than shares, ownership interest, securities and investments secured by the taxpayer, in 1 calendar year cannot exceed the difference between total sales and the verified acquisition cost of the assets sold and/or cannot be greater than 3 times the annual general minimum wage (MXN22,439 in Mexico City) in effect in the taxpayer's geographic area.

Shares sold or listed on a stock exchange

Income tax will not be paid on income on sales of shares issued by Mexican legal entities when the sale is conducted through stock exchanges operating under license pursuant to the Stock Exchange Act or in the case of shares issued by foreign companies listed on said stock exchanges.

5. Filing procedures

Once the process of succession, will be due to present the warning of cancelation in the Federal Tax Identification Number or RFC (Registro Federal de Contribuyentes) by liquidation of the succession is concluded, it which will 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 MXN1.5 million, 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. Running public.

Experts properly registered before the fiscal authority will be independent. The main directorate of real estate patrimony and the running public 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 will, i.e., the goods will be contributed until the death of the testator or can be created 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

Revocable 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.

Irrevocable trust

An irrevocable trust is where one property is transferred to the trust of several goods.

Creation of trusts and transfers of assets in

The creation of an interest in possession trust or a discretionary trust, or the transfer of property into such a trust, is, generally speaking, a chargeable lifetime transfer. Following are key benefits of the testamentary trust.

- ▶ 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, it is perfectly stipulated to whom the inheritance belongs.
- ▶ It grants legal security to legatees and executors.

The fiduciary will determine the result or the fiscal loss of these activities in each exercise and will fulfill on behalf of the assembly of the trustees. Cash or assets from the trust delivered by the trustee to the trust beneficiaries will be considered reimbursements of capital contributed until said capital has been recovered. In addition, these deliveries will decrease the balance of each of the individual capital contribution accounts maintained by the trustee for each beneficiary until the balance of each such account has been exhausted.



Non-Mexican settlements

Trusts incorporated under the Mexican legislations are subject to the Mexican legislation regardless of the residence of the settlor or the time of their creation or the situs of the assets held.

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

With regard to estate taxes, there are no specific rules in Mexico.

9. Life insurance

Income tax will not be paid on amounts paid by insurance companies to the insured or beneficiaries for life insurance contracts when the premium was paid directly by the employer on behalf of its employees. This is the case when the benefits of the said policies are only paid in the event of death, disablement, organ loss or disability of the employee, preventing him or her from performing a dependent service, in accordance with the social security laws. In addition, when a policy covers the death of the policyholder, the beneficiaries must be the spouse, the common-law spouse, and his or her lineal ascendants or descendants. The exemption set forth in this paragraph will not apply to amounts paid by insurance companies as dividends derived from the insurance policy or its collectivity.

10. Civil law on succession

10.1 Successions

“Succession” is generally restricted to the transmission of goods and property caused by death of 1 person 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 thus includes all the rights and obligations of the decujus (the deceased) that were not extinguished with his or her death, as per the Federal Civil Code of Mexico.

Therefore, there are 3 types of succession:

- ▶ *Testamentary*: Determined by the personal will of the person behind the inheritance, the testator.
- ▶ *Legitimate*: The civil authority's application of the will that is presumed to be that of the person behind the inheritance.
- ▶ *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:

- ▶ The right of the testator to dispose of his or her goods while alive.
- ▶ The duty of the testator to fulfill the obligations and duties owed to his or her family members.
- ▶ 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, be it individual or collective can be designated as an heir, unless their legal capacity is lost by any of the causes mentioned in the legal text: lack of legal personality, having being 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 only 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 public testament, simplified testament and hand-written.

Special testaments are granted in times and places where it is unusual or extraordinary to do so. They include private testament, military testament that maritime testament that are granted in another country.

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

10.3 Legitimate or intestate succession

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:

The following persons possess the right to inherit:

- ▶ 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.

The specific rules bound by the criteria are noted in the charts below:

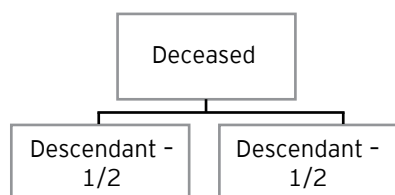


Mexico

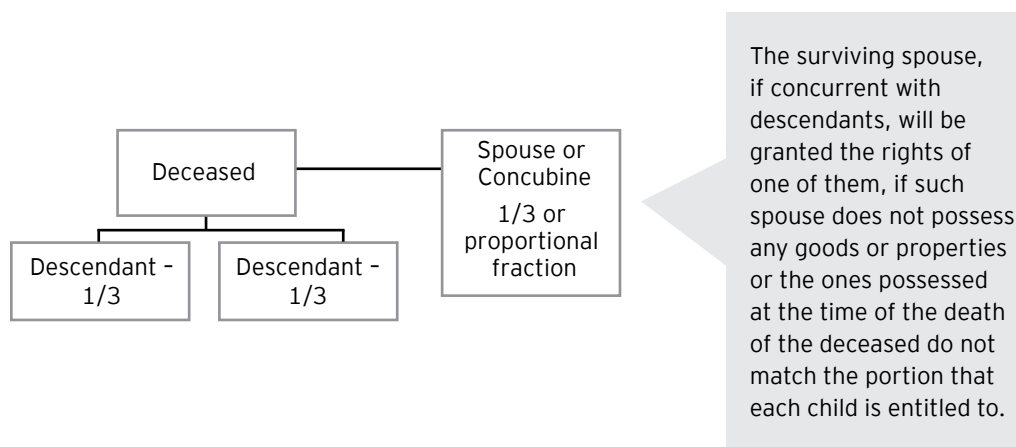
POUNDS

\$100 each ÷ 12%
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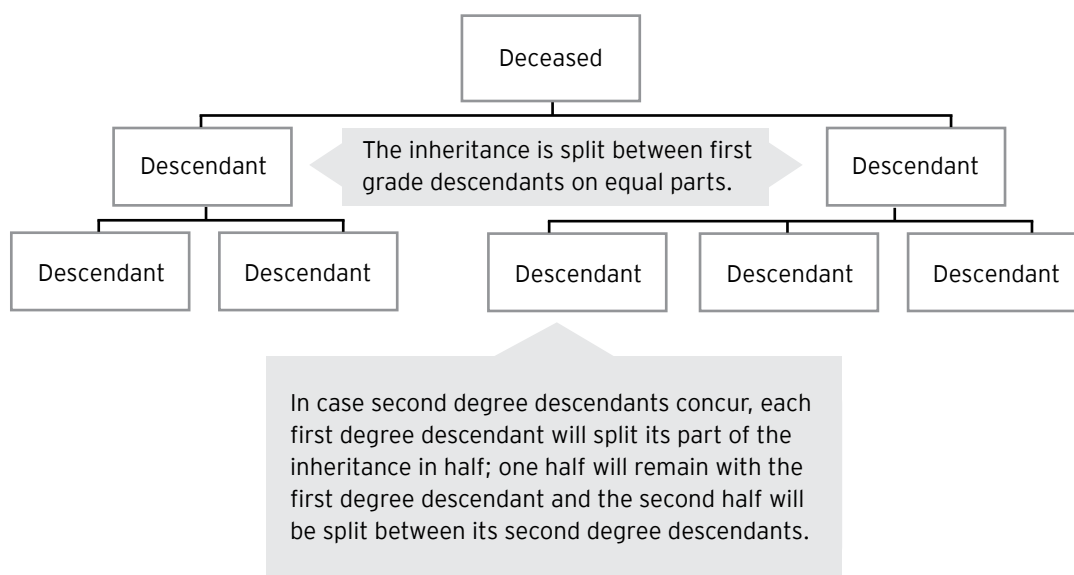
1. If only first-degree descendants



2. If spouse concur with first degree descendants

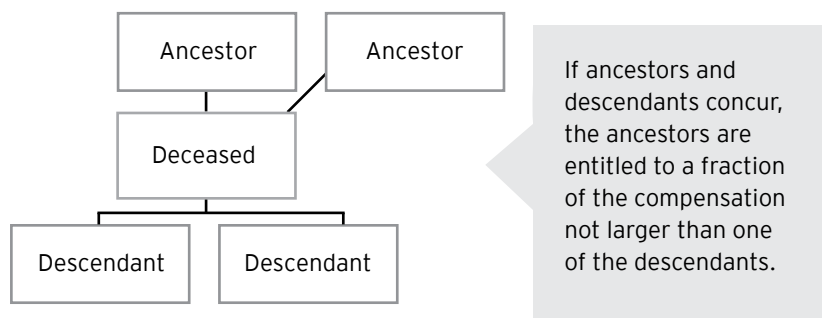


3. If first-degree descendants concur with second-degree descendants

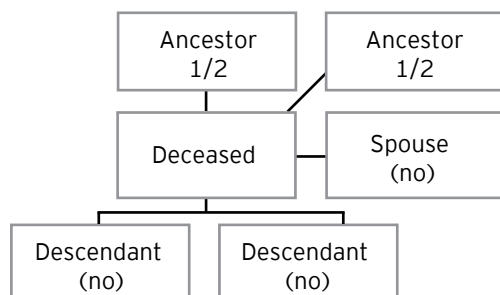




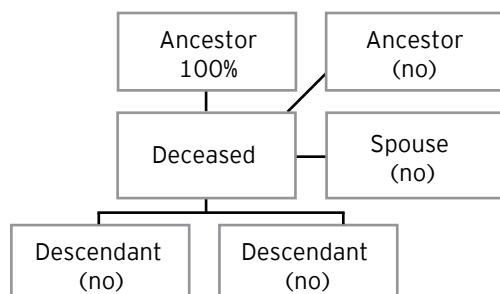
4. If first-degree descendants concur with ancestors



5. If only ancestors

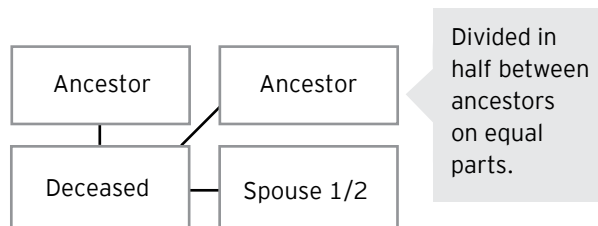


6. If only ancestor

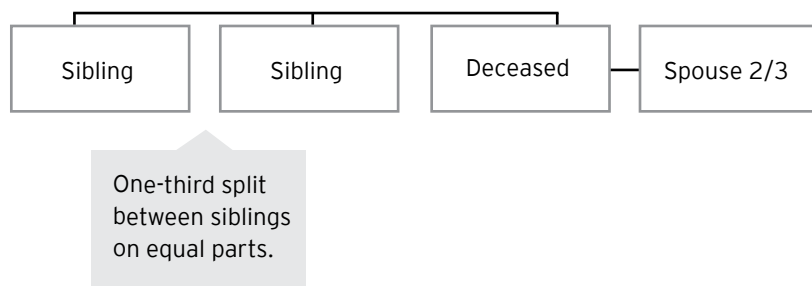




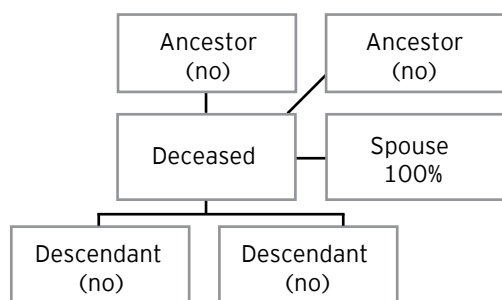
7. If ancestors concur with spouse



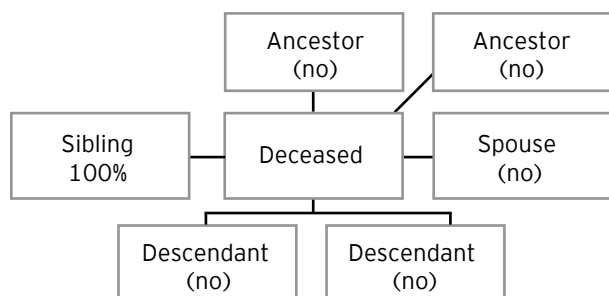
8. If spouse concur with siblings



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.



Contacts

Mexico City

Ernst & Young LLP

Av. Ejército Nacional No. 843-A
Col Granada C.P.
Delegación Miguel Hidalgo
Mexico City

German Vega

german.vega@mx.ey.com
+52 55 5283 8636

Fabiola Diaz

fabiola.diaz@mx.ey.com
+52 55 5283 1478

Ana Argudin

ana.argudin@mx.ey.com
+52 55 1101 8446

Mariana Baes

mariana.baes@mx.ey.com
+52 55 5283 1400 Ext 8137

Monterrey and Queretaro

Ernst & Young LLP

Av. Lázaro Cárdenas 2321 Pte. Piso 4 Edificio
Alestra,
Col. Residencial San Agustín
San Pedro Garza García, Nuevo León

Alejandro Banderas

alejandro.banderas@mx.ey.com
+52 81 8152 1806

Additional reading materials

Interamerican 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 (2012), Juridiediciones Editors: Mexico

Mexican Income Tax Law

Regulations of the Mexican Income Tax Law

Federal Fiscal Code

Fiscal Code of Federal District