

A Mexican company? Or *FIDEICOMISO*, the Mexican bank trust?

### ***Which Works Best for Buying Mexican property?***

*By Linda Jones Neil*

Article 27 of the Mexican constitution requires that any foreigner buying residential property in the restricted zone (an area 50 kilometers wide along the coastlines and 100 kilometers along the borders) must acquire the rights in the property through a Mexican bank trust, known as a *fideicomiso*.

Pursuant to the Foreign Investment Law of 1994, any company established in Mexico ; is considered as Mexican even if all the shareholders are foreigners. This applies to corporations, limited liability companies and partnerships..

Thus, many think that by establishing the Mexican company, a Mexican bank trust (*fideicomiso*) can be avoided. It can be, but it is important to consider other aspects before making a final decision as to how to title your Mexican property.

The Mexican corporation, limited liability company, or partnership, should be established if the primary objective is business; whether it is to open and run a business, to hold properties for rental, or to achieve another type of money making goal.

The fiscal responsibility for the Mexican company involves filing monthly and annual tax declarations. Also an annual report must be filed with the Secretary of the Economy if any foreigners are shareholders or partners in the company.

The benefits: the administrator of the company may be able to obtain permission from the Immigration Department to work in the business activities of the company

The negatives: the Mexican company will cost \$2,000. to \$3,000. USD to establish and to register in the public records.. Any properties which will be held by the company require a permit from the foreign relations department and must be necessary to the operation of the company.

Once established, the cost to maintain the company can be \$100. USD, or more, per month to pay an accountant for handling the books and filing the declarations. There will also be additional charges for the annual declaration before tax authorities and before the Secretary of the Economy.

If the business activities and projected income will support this type of expense then a Mexican company makes sense.

If however, the goal is to acquire and enjoy a vacation or retirement home, renting it occasionally when the owner is not using it, it may be far simpler to place the property title in trust (*fideicomiso*).

If the property being purchased is for personal use, if it is residential property, then it must be held in the Mexican bank trust (the *fideicomiso*). Not only will it be less expensive in the long run but also it may also be simpler to sell should the owner wish to do so. Bank fees range from 350. to 550.USD per year, far less than the operations and maintenance expenses of a Mexican company. Should you choose to rent your property when you are not using it, this too is permitted and can be simpler than the mandatory monthly declaration required for the Mexican company.

Mexico is an incredible land and rich in many aspects. It does make sense to keep life simple and enjoy the properties acquired, not to become entangled in compliance with tax laws.

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*about the author*

**LINDA NEIL** is the founder of The Settlement Company®, which has many years of experience in real estate transfers and escrows, and specializes in the **Virtual Closing**®. Licensed as a California real estate broker, Ms. Neil has pursued her profession in Mexico for more than thirty years. Her skills in negotiating contracts between parties from three distinct cultures have placed her services in demand as a consultant and for speaking engagements on Mexican law and customs in Mexico, the United States and Canada. She has been widely published on the subject of real property in Mexico. Memberships; FIABCI, AMPI and NAR. Linda is a former member of the National Advisory Council of The Mexican Association of Real Estate Professionals (AMPI) and has served as AMPI Coordinator for the state of Baja California Sur. Additionally she is a co-founder of Global Mexico Real Estate Institute, dedicated to providing professional education for real estate agents.

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Declarations need to be filed monthly if property is held in a Mexican corporation, generally a start up cost of 3,000. USD and 1,000. or more, per year.

The Mexican company, by law, should acquire only the property required for its business purpose. Residential property is not generally included in this definition.

Fees for the Mexican bank trust, the *fideicomiso*, generally run from \$350. to \$500. USD, per year.