

IMPORTANT TAX CLARIFICATIONS FOR THE BUYERS AND SELLERS OF REAL ESTATE

by Linda Jones Neil

Confusion reigned this past summer when a series of regulations were issued by SAT, Mexico's tax administration entity. Some people thought it was going to be necessary for the foreign buyer to obtain a Taxpayer Identification Number (RFC) and to obtain resident status in order to own property in Mexico.

Not so!

What really happened is that SAT (Mexico's IRS) has insisted that the Mexican Notary Public who is issuing the deed of transfer to a property or rights in a property, if *a fideicomiso*, must issue an invoice showing the full amount declared in the transaction and his or her fees for doing the work on same. This is an official receipt and establishes the cost basis for a later sale of the property.

Most Mexican nationals acquiring or selling property already have their Taxpayer Identification Number (RFC) as well as a CURP number. This is not unlike a Social Security number in the US or Canada. Literally it is a Unique Number in the Population Registry. Foreign persons do not have this number, however, unless they become residents of Mexico.

NO SPECIAL IMMIGRATION STATUS REQUIRED TO ACQUIRE PROPERTY.

As of this time, the foreigner who buys property or rights in property located in Mexico does NOT have to obtain a specific immigration status. Any foreign tourist who arrives, falls in love with a home or lot, may acquire it without changing status. If the property is in the restricted zone, approximately 30 miles from a sea coast or 60 miles from a border, it must be done in compliance with Article 27 of the Mexican Constitution and be acquired in *fideicomiso*, the Mexican bank trust. However, and this is the important clarification, to Regulation 1.2.7.1.25., the invoice issued by the notary public in the deed for this acquisition, will contain a GENERIC taxpayer ID number and a GENERIC CURP number. No special immigration status is required!

THE GENERIC TAX ID NUMBER (RFC)

The generic tax identification number is XEXX010101000. The generic CURP number is XEXX010101HNEXXA4 for a Man and XEXX010101MNEXXA8 if a woman. It may make sense for the foreigner who loves Mexico and wants a home, wants to build, to make note of these important numbers. Any invoices issued for building materials, services rendered and incidentals in the construction of a building should contain these same numbers and be saved with property documents to show increase in basis when the property is sold.

THE SWITCH TO ELECTRONIC INVOICES.

Another important point to remember is that invoices may still be printed out but also must be sent electronically by the vendor or service provider in an XML file to taxpayer's email address. For those who only acquire a property and may not have other reporting obligations, keeping careful track of these electronic files is a must. There are no exemptions on capital gain tax for second homes or rental properties and the tax is either 25% of the entire sales price, or 35% of the difference between the amount declared in the deed, and in the Notary Public's invoice, and the amount of a new sale, less allowable deductions, whichever is less. Maintaining correct records is an absolute must!

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