

Wright Ford Young & Co.

Certified Public Accountants and Consultants, Inc.

REAL PROPERTY OWNERSHIP IN MEXICO BY A US PERSON AND US TAX RETURN FILING REQUIREMENTS IF YOUR MEXICAN PROPERTY IS OWNED IN A MEXICAN TRUST ("FIDEICOMISO")

Dear Clients and Friends:

The Mexican Constitution prohibits direct ownership of real estate by foreigners in the "restricted zone." The restricted zone includes all land located near any Mexican border and coastline. However, in order to permit foreign investment in these areas, the Mexican government created the "fideicomiso," a Mexican real estate trust. A "fideicomiso" is a trust agreement created for the benefit of a foreign buyer, executed between a Mexican bank and the seller of property in the restricted zone. The bank acts on behalf of the foreign buyer, taking title to real property. The bank, as trustee, buys the property for the foreigner, then has a fiduciary obligation to follow instructions given by the foreigner who is the trust beneficiary. The trust beneficiary retains and enjoys all the rights of ownership while the bank holds title to the property. The foreigner is entitled to use, enjoy, and even sell the property that is held in trust at its market value to any eligible buyer.

Owning real property in Mexico within the restricted zone requires IRS Forms 3520 and 3520A. (This is also true if you are a beneficiary or creator/owner of any foreign trust including a fideicomiso):

Under US tax law the fideicomiso meets the definition of a "foreign trust." That means you are required to file Form 3520 when you establish the fideicomiso or foreign trust and for each year thereafter. The Form 3520 must be filed by the extended due date of your personal tax return.

In addition to Form 3520, Form 3520A is also required. The trustee is supposed to file Form 3520A for each year of the fideicomiso's existence but in Mexico does not. Therefore, under US tax law you as the owner of the trust must file the form to avoid penalties being assessed against you personally. Form 3520A is due on March 15th of each year for the previous calendar year. You can apply for an extension of time using Form 7004. These forms must be filed for any foreign trust with a US owner.

If you fail to file these forms, the penalty is greater of \$10,000 or 35% of the value of the property transferred to the trust or of any unreported distribution, or 5% of the trust's gross asset value.

The US and Mexico have a tax treaty which allows them to conduct tax investigations and receive information on each other citizens in the other country. The US passport information is record in the Mexican registry of foreign property ownership when a US citizen purchases a property in Mexico. Therefore, should the IRS wish to discover which US citizens have Fideicomisos in Mexico, it would be easy.

If you think you may have a filing requirement for a property you own in Mexico, please do not hesitate to contact our office.

Very Truly Yours,

Wright Ford Young & Co.,
Certified Public Accountants and Consultants, Inc.

To ensure compliance with the requirements imposed by the Treasury Department Regulations (Internal Revenue Service), Wright Ford Young & Co. is required to inform you that any tax advice in this written or electronic communication was not intended or written to be used, and it cannot be used, by a client or any other person or entity for the purpose of avoiding penalties that may be imposed on any taxpayer.