

NOW THAT I HAVE BOUGHT PROPERTY IN MEXICO, WHAT DO I HAVE TO DO TO KEEP EVERYTHING CURRENT?

By David William Connell

For a foreigner, buying property in Mexico is a new and different experience. Most foreigners spend time researching the procedure of buying property, setting up a trust or a corporation and becoming familiar with the different permits and costs required to close on a property transaction in Mexico. A lot of effort is put into becoming familiar with the “closing procedure” yet very little time is spent on understanding what ongoing obligations exist after the property has been purchased. Furthermore, there is very little information on what these ongoing obligations are. The article will act as a general checklist for the types of obligations that any foreigner should observe after purchasing property in Mexico.

1. Trustee Fees

If you bought your property through a trust, your trustee (bank) will charge you an annual administration fee to hold your trust. This fee needs to be paid to the bank every year. Some banks use the anniversary of the trust closing date as the date when this fee is due while others prorate the first year fee and start the second year on January 1st. Ask your bank or property manager to verify this date.

When your trust is set up your bank/trustee designates a “trust account number” for the trust. Please understand that this number is **not in your deed** and is a number that the bank generates to keep track of your trust. You need to get a copy of this trust account number because it is the file number the bank uses to keep track of the status of your trust and payments that are due.

Branch offices of the same bank as your trustee do not usually have your “trust account number” on record but if you have the trust account number they locate your trust via a central office and accept the annual payments you owe.

Most banks charge late fees for not paying on time so timely payment is recommended. Furthermore most banks **do not** send you a notification of when these fees are due so it is your responsibility to make sure you know when payment is due and make the corresponding payment

You can either pay these fees yourself or hire a property administration service to pay them for you. Again, in most cases foreigners do not want to spend part of their vacation dealing with bank managers trying to get these fees paid. However, if you do want to do it yourself and save some money, you will need the trust account number in order to make the deposit. **When you pay the bank this fee, make sure you get a copy of the receipt.** Banks are famous for not recording annual trust payments and have been know to try and double and triple charge. Your receipts will confirm your payment.

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2. Property Taxes

Property taxes will need to be paid on your property yearly. These taxes are paid at the municipal offices that correspond to the location of the property. Property tax is called “**impuesto predial**”. Your property has a Property Tax Account number, which is called your “**Cuenta Catastral**”. This is the number you need to provide to the municipal property tax authority in order to get your yearly Property Tax Assessment.

Do not wait for the municipality to send you a bill or reminder, it is your obligation to go and pay this tax. Most municipalities will give you a discount for paying during January, February and March and start with late penalties in April.

You can either pay your property taxes yourself or hire a property management service to do it for you. Most people find that when they come to Mexico the last thing they want to do is spend a morning or day at the municipal offices trying to figure out how to pay these taxes. This is the principal reason why foreigners hire property managers to take care of their property tax payments. If you do have a property manager make these payments for you (or for that matter any payment), have them fax you a copy of the paid property tax bill as soon as it is paid in order to confirm 1) the amount you paid and 2) that it was paid.

The calculation of property tax varies for municipality to municipality and from state to state. Your property tax is calculated base on the “**Valor Catastral**” or Property Tax Value of your property. Most municipalities (but by no means all of them) charge 2% of the land value and 1.2% - 2% of the construction value. In most municipalities these “**Catastro**” values are very low and therefore your taxes are low.

When you pay your property tax and get your receipt we recommend that you:

- a) Make sure what you paid is stated on the receipt (less the property managers fees)
- b) Verify that the information on the receipt is correct including:
 - a. Location of property
 - b. Property Tax Account Number – “**Cuenta Catastral**”. Make sure it is the right account number. If you have a doubt, check your deed for the number.
 - c. Name of owner. Note if you hold the property in a trust (*fideicomiso*) the bank’s name will appear as the owner. This is correct, but make sure it is the right bank.
- c) Check that the calculation of how they arrived at your tax is understandable. I like to take the calculation of land and construction and work it backwards in order to understand the exact percentages charged to me. I have found many many errors in these calculations.
- d) Make sure the receipt has a name, signature (or stamp) and date of payment. Payments should be made to the municipal treasurer or “**Tesoreria Municipal**”.

Many times you will see other charges on your bill for items such as “Pro-educación” (education) or “Pro-caminos” (roads). This is normal but all of these charges should make reference to the

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percentage you are being charged (it is common to charge 15% of the **tax amount** for these items). Again make sure the calculation is correct.

Put your property tax receipt in the same file with your deed. These receipts are important documents in Mexico.

3. Paying Bills

Do not expect your bills to be sent to your house on time. A lot of your bills will not make it there at all, or they will come after the due date. This can be a very frustrating experience for foreign buyers in Mexico. If you are not going to hire someone to pay your bills, **you need to know when the bills are due**. Water, electricity and telephone are usually due on the same day every month (or every other month). Service on electricity and telephone do get cut within days of non payment and getting you reconnected takes more time and money. When a bill is due and you have not yet received it, you need to go to the company's office and make the payment. Make sure you take the last bill you have so that the company can easily identify your account number and tell you how much is owed. Most services providers will not accept checks or credit cards so make sure you take enough cash to pay your bill.

Telephone (Telmex) and electricity (CFE) can now be paid on line which makes things lot easier. However you will need to deal with their web page in Spanish and go through the learning curve of setting this up.

Water is usually local and needs to be paid, in most cases, at the corresponding office or at the bank.

Gas in Mexico is not brought to your house via pipelines but is delivered in trucks. You will need to fill your own tanks or make sure that there is someone in charge of doing this.

Other services providers such as cable, sky TV, etc usually will set up annual payments and/or monthly debt payments on a credit card.

4. Insurance

If you have construction, you should insure it. We recommend using the bigger insurance companies as they seem to respond better to claims. You can contact most insurance companies on line and they will put you in contact with the local agent. There are a few things that I always recommend when you get insurance:

- a) Make sure you go over the amounts for each item (fire, flood, earthquake, etc) and that you are in agreement. **Note:** most of the time these are expressed in pesos but not always. Make sure you know the money type. I have seen unfortunate cases where people thought they had a \$ 500,000 **dollar** policy that turned out to be a \$ 500,000 **peso** policy.

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- b) Make sure that when you pay the agent you get a receipt and an original policy with the **policy number** at the top. Most agents are very good but there are a few that have taken clients money and not paid for the policy. The insurance company will only respond to a policy that is paid and has a valid **policy numbers**. The insurance companies will verify policy numbers on line or via phone.
- c) Do not expect them to send you a notification that your insurance has expired. You need to put this on your calendar and get in touch with the insurance company.
- d) If you have a claim, make it right away and in writing. Over-the-phone claims do not count (even though they legally should). Write it down and send it in. You need to be proactive in following your claims up and always make sure the local agent and the central office are both copied on your claims.

5. Workers and social security

All workers must be under contract. If they are not, you will pay dearly for it. Worker liability will be your biggest problem in Mexico if you do not address it properly. If you think I am joking, you need to get on line and read the October 4, 2004 edition of Newsweek, which on page three published the outcome of a World Bank study that ranked nations on how hard it was to hire and fire employees. Mexico was not only in last place, but on a scale of 1 to 100 (1 being easiest nation in which you can hire and fire employees and 100 being hardest) it received a score of 72 while the second hardest nation to hire and fire in (India) scored a 48. **Do not put this off.** Worker liability in Mexico is as bad as punitive damages in the US and the attorney's that live off this are more plentiful than ambulance chasers.

So how do you limit your worker liability?

- a. Make sure all workers sign an agreement **before they start working for you**. This agreement should cover the necessary points required by law. I recommend that you get these contracts from an attorney who is familiar with labor law.
- b. Make sure they sign a receipt every time you pay them their salary, vacation pay, overtime pay or end-of-year bonus. Some general information pertaining to these payments is:

By law each worker has the right to a certain number of days of paid vacation per year plus a 25% increment of the *daily* wage they are receiving when on vacation.

The number of days of vacation given to each worker is as follows:

1st year: 6 days
2nd year: 8 days

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3rd year: 10 days
 4th year: 12 days
 5th to 9th year: 14 days
 10th to 14th year: 16 days
 15th to 19th year: 18 days
 and so on.

By law all workers have the right to an end of the year bonus equal to 15 days (minimum) salary. This bonus is called an “*aguinaldo*” and should be paid no later than the 20th of December. If a worker only works a fraction of a year he still has the right to receive the “*aguinaldo*” that corresponds to the fraction of the year he worked (example: if a worker works 6 months he has the right to ½ of his corresponding “*aguinaldo*”).

- c. If you have a problem with a worker, before confronting the worker, talk to an attorney. You are probably thinking that I am looking to create as much businesses for myself as I can out of this article, but the truth of the matter is that you will save money if you make sure the steps above mentioned are taken.

Do you have to pay domestic workers Social Security? There is a lot of debate on this and the majority of professionals will tell you **no**, you do not have to pay Social Security for a **domestic worker**. On the contrary I recommend you pay if for several reasons including: 1) It demonstrates good faith, 2) It gives the worker access to medical care, 3) It give the worker access to low interest loans to purchase a home and 4) It is relatively inexpensive if you consider what you pay for domestic help (it adds approximately 33% to the salary you are paying). If your property is owned by a corporation you cannot consider any worker as “domestic” and all workers must be registered.

Registering and removing workers from Social Security is not easy and it time consuming. Make sure you have good advice in this area and try to avoid cutting corners.

The above is a very general and basic overview of worker related issues and will give the reader a general idea of the importance of keeping documentation in order regarding workers. It is not intended to be a complete or all-encompassing guide to worker relations, and an attorney should be consulted to review each worker’s case individually.

6. Zona federal

If you have a property that borders on the Federal Zone (beach, river, lake, lagoon, etc) you will want to consider applying for the **exclusive use and enjoyment of this zone**. On the beach this zone includes 20 meters inland from the “mean” or average high tide line. The federal government can grant you a **concesión** to use and enjoy this property for a determined amount of time (usually 15 years) and will almost always renew the **concesión** if you have complied with its terms.

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If you acquire the concession for the Federal Zone you will need to make the corresponding yearly payment, which is based on the number square meters of Federal Zone you occupy.

Why would you want the Federal Zone Concession? There are two main reasons: 1) to increase the value of your property and 2) to keep someone from setting up a “taco stand” or other unattractive structure on this land.

A concession application can take up to 3 years to be granted unless you hire someone to push it through the entire process.

7. Rental and tax obligations

If you rent the property you have purchased in Mexico, you do have tax obligations in Mexico. Many people believe that if they rent rooms in Mexico but receive the money in the US or Canada that they do not have any tax obligations in Mexico. This is not true. If you rent a property that is located in Mexico, the income generated by this rental is taxable in Mexico.

The Mexican tax authority is getting tougher each year and has recently been reviewing the internet (web pages) to determine what properties are being rented. If you rent your property and do not pay taxes you are running the risk of having the tax authority put a lien on your property or worse.

A lot of our clients tell us “well if the tax authority comes to the house I will just tell them I have not rented my property to anyone”. The bad news is that if you show no rental income or very little, the tax authority will use its “discretionary” powers to determine that you are not properly reporting income. They will use as a market indicator the occupancy of the hotels in your area (sometimes as high as 80%) and multiply this by your rate per night. Yes, we have seen cases where the tax authority has determined huge fines and penalties based on “perceived” rental income using estimated rates of occupancy.

If you rent property, contact a certified public accountant, get registered and start filing and paying taxes. It is not worth having your property encumbered with a tax debt and having to pay an attorney to defend you.

8. Owning through a corporation

If you own property through a corporation you need to make sure that you have a **certified public accountant** making the necessary tax and foreign investment filings. Corporations are businesses and must be treated as such. They require much more attention than holding property through a trust in that even if they do not have any income, they do have filing requirements (unless they are properly put in a “dormant” state). Not making these filings will result in fines and many headaches. Not

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verifying that your accountant is making these filings is just as bad as not making them at all. At the end of the day the tax authority will come to the corporation and not the accountant.

Since corporations have **monthly** filing requirements, I recommend that each filing done by the accountant should be faxed or e-mailed to the administrator for verification. This means being in monthly contact with your accountant **at a minimum**. Corporations also have annual shareholders meeting requirements, which need to be signed by all shareholders or partners.

Corporations are businesses and should be treated as such. Mexico is rated as one of the worst countries in the world for the amount of paper work that needs to be kept and filed. If you have a corporation, you must plan on having an accountant and you need to get a list of all of the filings that have to be done annually. Make sure you know what these are and that you verify that they are being done. Ignoring your accounting and filing requirements is one of the largest sources of problems that we see in our line of work.

Things are different in Mexico, and there are many other things that will come up after buying your property. Many companies as well as the government will not send you bills so you need to make sure you are keeping track of what needs to be paid and when. Try to find a system or someone you can work with and stick with it. Reducing your time in getting these items done will give you more time to enjoy your property. The Mexican culture is different from what you are probably used to. I recommend you enjoy leaning a new (not better or worse) way of doing things. If you have concerns, make sure you use competent and trustworthy people to help you, such as an experienced real estate agent, attorney, accountant, property manager or even another home owner who has been living in the country for a number of years. Doing it right the first time will save you more than half the cost.

David Connell has been living and working in Mexico for over 16 years. He is a licensed Mexican attorney and the managing partner of the firm Connell & Associates with offices in Mexico City, Ixtapa-Zihuatanejo and Puerto Vallarta. Mr. Connell sits on the board of several organizations and corporations including non-profit and charitable organization, real estate and development companies, home owner associations, hotel, time-share and fractional companies. More information on Mr. Connell and the firm and articles on subjects concerning Mexico can be found at their web site www.mexicolaw.com.mx

David W. Connell

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