



Estrella del Mar

FREQUENTLY ASKED QUESTIONS WHEN BUYING REAL ESTATE AT ESTRELLA DEL MAR IN MAZATLAN, MEXICO

❖ CAN FOREIGNERS OWN PROPERTY IN MEXICO?

Yes, Americans, Canadian, and other foreigners may obtain direct ownership of property in the interior of Mexico. Article 27 of the Mexican Constitution of 1917 prohibits foreigners from owning property when the outright residential real estate is located within thirty miles (50km.) of any coastline or sixty miles (100 km.) of either border. This area is known as the “restricted” zone. However, the fideicomiso was established and approved for the purchase of real estate located in the restricted zone. For the first time since 1917, a non-Mexican could invest in a recreation or retirement home and feel safe that his or her investment was secure.

A permit to establish a Mexican bank trust (fideicomiso) can now be obtained for a term of fifty (50) years and can be renewed. In acquiring a property with an existing trust, the seller may assign the rights in the existing trust and the new buyer will enjoy the term established in the original trust permit. In other words, a trust established in 1995 will expire in 2045. Prior to 1993, the term of the trust was thirty (30) years. Thus a trust established in 1990 would expire in 2030, unless the trust was extended or the original trust permit was extinguished and a new trust permit was obtained for fifty (50) years.

❖ WHAT IS A TRUST (“FIDEICOMISO”) AND HOW DOES IT FUNCTION?

Under the bank trust, legal title is placed in the name of a Mexican bank, in trust, under a permit from the Secretary of Foreign Relations. The Mexican bank holds the title to the vacation or retirement home for the buyer/beneficiary of the trust, the non-Mexican who purchased the trust rights in the property. The bank administrates the property in accordance with the instructions of the buyer/beneficiary. The buyer/beneficiary enjoys the same rights of ownership as does a Mexican national. He may build on the property, tear down existing buildings, modify them, rent, lease or sell at any time conforming only to internal bank regulations for this type of trust and to the general laws of Mexico established for all persons. Additionally, the beneficiary may finance the purchase and instruct the trustee bank to enter into the security agreement with the lender. The trustee bank may not, without express written consent from the beneficiary, sell, transfer or encumber the property.

❖ WHAT IS THE PROCESS TO OBTAIN A TRUST?

To purchase through a Trust (“fideicomiso”) a foreigner must first register at the Secretary of Foreign Relations in Mexico City for a permit to establish the trust. A Trust Application for a bank of your preference must be filled out accurately. Upon receipt of the permit, the bank (Trustee) sends instruction to the Notary, who prepares the deed to the beneficial rights and then it is register in the Public Register of the Municipality. Ultimately, the Trust you sign with the Notary will be in Spanish.

❖ HOW LONG DOES IT TAKE TO OBTAIN THE PERMIT?

Once Application is submitted to the Secretary of Foreign Relations in Mexico City, it must be approved within five (5) working days, then returned to the bank. In order for an Application to be approved for the official government documents and all names transcribed on this Application must be an exact match to existing, government-issued identification documents.





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➤ WHAT ARE MY RIGHTS AS A BUYER AND BENEFICIARY ON A TRUST?

As a beneficiary of a Trust, you hold the same rights as a property owner in the U.S. or Canada, including the right to use, rent, improve, lease, mortgage, sell and will the property. The beneficiary may name the parties he or she selects as co-beneficiaries and may name substitute beneficiaries upon death of the primary beneficiaries, thus avoiding probate in Mexico. Care must be taken however, in establishing the wording and terminology used in the succession of rights in conformance with applicable Mexican law.

➤ HOW DO I ENSURE OWNERSHIP OF THE PROPERTY THAT I AM GOING TO PURCHASE?

In the Trust document the purchaser must name the Beneficiary or foreign owner of the property. The purchaser can be an individual, multiple partners, a foreign corporation, an estate trust, a living will, or another entity. The Trustee of the trust (the Mexican bank) will take direction from whomever you name as the Beneficiary.

Note: You can name a U.S. corporation as the Beneficiary of the trust. This is perfectly legal.

➤ WHO'S INVOLVED IN A BANK TRUST?

Normally, there are three (3) persons involved in any real estate transaction in the restricted zone: the seller company (Trustor), the buyer (Beneficiary), and the bank (Trustee).

➤ HOW LONG DOES IT TAKE TO ESTABLISH A TRUST?

On Average, you can obtain your trust within thirty (30) to forty five (45) working days when using a Bank Trust. The process usually takes two (2) weeks for Mexican National buyers.

➤ WHAT ARE THE BANK TRUST FEES?

The cost for the permit issued by the Secretary of Foreign Relations, including registration in the National Foreign Investment Registry is currently about \$ 1,500.00 U.S. and bank trust administration fees generally range from \$200.00 U.S. to \$750.00 U.S. annually. There are other expenses involved in the acquisition of a property, however, and as such, it is wise to request a written estimate prior to beginning the transfer process to avoid any future surprises. (Please note fees are subject to change by the Bank due to changes in currency exchange, etc.).

➤ IS THE TRUST RENEWABLE AND WHAT IS THE PROCESS TO RENEW THE TRUST?

Yes. According to the Foreign Investment Law passed in 1993, trusts can be renewed for an indefinite number of successive fifty (50) year trust periods. The process is exactly the same as the establishment of the initial trust and same costs are involved.

➤ WHO IS INVOLVED IN REAL ESTATE TRANSACTIONS IN MEXICO?

Normally there are five (5) persons involved in a real estate transaction. These are the real estate company or a developer/seller company, the seller, the buyer, the bank and a Public Notary. Please note that the buyer or seller may have their own real estate agent or real estate broker representing them.





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➤ WHAT ROLE DOES THE PUBLIC NOTARY PLAY IN THE SALE OR PURCHASE OF REAL ESTATE IN MEXICO?

A Mexican Notary Public who is a quasi-public official appointed by the governor of the state in which the Notary Public is practicing his profession. The notary must be an attorney and is responsible for the legal form of the deed, as well as the tax declarations which are required when a foreigner is involved as buyer or seller.

An appraisal made by an appraiser appointed by the local municipal government is also a requirement of transfer in many parts of the country.

➤ WHAT ARE THESE OFFICIAL DOCUMENTS?

The official documents which are required by law in order to transfer the ownership of property in Mexico include a no-lien certificate based on a complete title search from the Public Property Registry, a statement from the municipality regarding property assessments, water and electricity bills, and other pertinent taxes that might be due, also a certified appraisal of the property for tax purposes.

➤ WHAT IF I DECIDE TO SELL MY PROPERTY, CAN ANYONE BUY IT?

Yes. If the buyer is also a foreigner, you can instruct the bank to transfer your rights to the new Beneficiary or you can extinct (terminate) the trust. If the buyer decides to open their own new trust with a bank, they also have that option. If the new buyer is a Mexican National, you can instruct the bank to transfer title to the buyer.

➤ IF THE BUYER IS A FOREIGNER, IS HIS INTEREST LIMITED TO THE BALANCE OF MY FIFTY (50) YEAR TRUST PERIOD?

Yes and No. If a buyer takes over an existing trust they can renew or extend the trust for an additional (fifty) 50 years after the remaining years expire. For a buyer getting a new trust they will automatically have a fifty (50) year trust.

➤ WHEN BUYING OR SELLING A PROPERTY IN MEXICO, WHO PAYS THE CLOSING COSTS?

It is common practice that the buyer pays the transfer of acquisition tax and all other closing costs, including the Notary's fees and expenses, while the seller pays his capital gains tax and the broker's commission.

➤ HOW MUCH ARE THE CLOSING COSTS AND WHEN ARE THE CLOSING COSTS PAID?

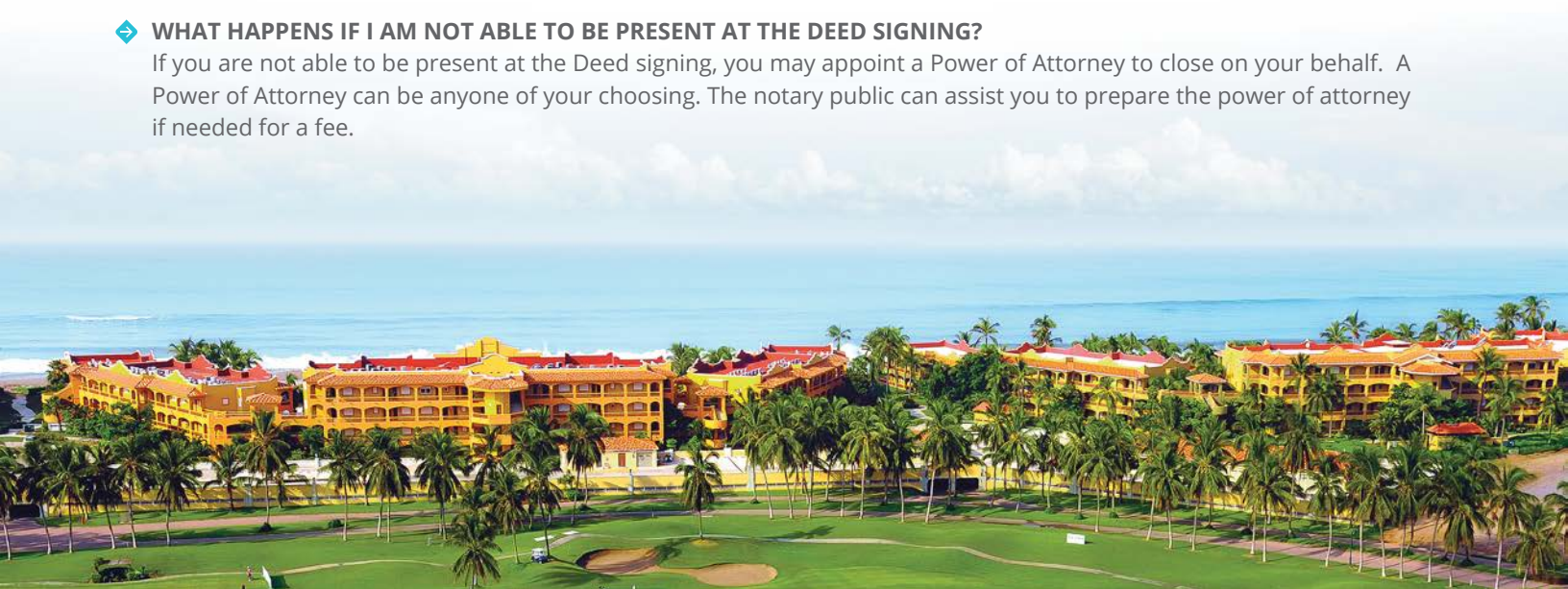
The closing costs excluding the transfer or acquisition taxes are approximately 5% of the selling price. Closing Costs may be paid at the time the Deed is signed.

➤ HOW MUCH IS THE TRANSFER OR ACQUISITION TAX?

The real estate transfer tax (acquisition tax) is 2.20% of the tax appraisal value, which is generally less than the sales value or the purchase price, based on the one that results the higher value.

➤ WHAT HAPPENS IF I AM NOT ABLE TO BE PRESENT AT THE DEED SIGNING?

If you are not able to be present at the Deed signing, you may appoint a Power of Attorney to close on your behalf. A Power of Attorney can be anyone of your choosing. The notary public can assist you to prepare the power of attorney if needed for a fee.





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➤ HOW DO I PAY FOR A REAL ESTATE PURCHASE?

An escrow service held by a third party on behalf of the buyer and seller manages the money portion of the transaction.

➤ IS TITLE INSURANCE AVAILABLE AND NECESSARY?

Title insurance is not a common practice in Mexico when buying a property for a National citizen. It is due to the fact that a real estate transaction paperwork is handle by a Notary Public, who is responsible for the legal transfer in order to ensure you have free and clear title. A Notary Public in Mexico is much different than a Notary Public in the United States. In Mexico, a Notary is a specialized attorney who acts on behalf of the state and federal government in relation to any transaction; they are comparable to a United States Clerk of Courts. However, Title insurance is available for properties in Mexico purchased by United States, Canadian, and foreign nations via title insurance companies such as Stewart Title for a fee. The team at Estrella del Mar will be happy to make the introduction upon request.

➤ IS THERE A DIFFERENCE BETWEEN AN AGENT AND A REALTOR?

Yes, a realtor is a professional real estate agent who holds membership in the National Association of Realtors through membership in the Mexican Association of Professional Real Estate Agents (AMPI). A realtor is held to a higher standard of ethics and strict codes of conduct and continuing education. Ask for an AMPI agent.

➤ DOES ESTRELLA DEL MAR PROVIDE FINANCING AVAILABLE?

While Estrella del Mar may provide short term financing at attractive interest rates for one (1) to three (3) year terms with substantial down payment on a case by case basis, there are also several financing programs available through financial institutions in Mexico including Hipotecaria Nacional for United States and Canadian Citizens in U.S. Dollars. Requirements include proof of income in the United States or Canada and a minimum credit (FICO) score of 680 to 700. Length of the loan can be 15, 20, 25, or 30 years for home acquisition and 15 years for land / home site acquisition. Loan can be fixed interest rate, adjustable rate mortgage-fixed for the first three years and adjustable thereafter, or fixed for the first five years and adjustable thereafter. Interest rates are subject to FICO score and amount of down payment. Loan approval is at the discretion of the lender, not Estrella del Mar. In the case of Hipotecaria Nacional, loan origination fees do apply.

➤ ARE ALL FUNDS IN US DOLLARS?

Yes, prices are in U.S. Dollars.

➤ IS A RESERVATION DEPOSIT REQUIRED TO RESERVE MY CONDOMINIUM, HOMESITE, ETC.?

No, only for to be released new offerings within Estrella del Mar if you like a specific unit or home site and want to reserve it for you.

➤ HOW MUCH IS THE DOWNPAYMENT?

Normally the down payment in Mexico is thirty percent (30%) of the total sales price.

➤ HOW MUCH ARE THE ANNUAL PROPERTY TAXES (PREDIAL)?

Annual property tax is based on the appraised value of your property. The average property call (called Predial) is approximately 0.1% of the appraised value of your property.





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➤ HOW MUCH IS THE CAPITAL GAINS TAX?

If this tax is generated at the time of sale, you would pay thirty five percent (35%) percent of net value of the difference between the assessed value at the time you purchase the property and when you sell it. You may be able to avoid capital gains tax all together depending on the type of property, the structure of ownership, and if you have documentation (utility and phone bills in your name), as well as FMM visa and if you have owned the property for at least six months to two years. We advise you to consult a tax attorney for more information.

➤ ARE PETS ALLOWED IN MY HOME OR CONDOMINIUM?

Yes, pets are allowed. It is subject to regulations of Condominium Regimen (HOA) and Resort Rules. However, no pets are allowed in the hotel, restaurants and bars, swimming pool areas, etc. unless they are service dogs.

➤ CAN I RENT OUT MY PROPERTY?

Yes, you can rent out your unit directly or have property services or a third party handle your condominium rentals if you so desire. Please note that rental income in Mexico is subject to taxes.

➤ IS A GOLF MEMBERSHIP INCLUDED WHEN I PURCHASE REAL ESTATE?

The Club recently released its new membership program on the 30th of November 2017. It features 5 and 10 year right to use Resident and Non Resident Golf and Resort Memberships by invitation only. A trail right to use annual resident resort membership is also available by invitation only.

When purchasing real estate directly from the developer after the 1 of January 2017, promotional incentives may include the Club Membership Entrance Fee for a 10 year Right to Use Golf Club Membership (for home sites fronting the golf course and beach front home sites) or a 10 Year Resort Club Membership (for interior home sites on parcels 5 and 6, 10, 16, 17, and 18 as well as the condominiums).

➤ DOES ESTRELLA DEL MAR OFFER PROPERTY MANAGEMENT SERVICES?

Yes, we have a Property Services Department on site to assist owners and / or we can introduce you to third party service providers if you so desire.

➤ WHAT SERVICES CAN PROPERTY SERVICE PROVIDE?

Housekeeping services, grocery services delivery, special packages like care free living, daily, weekly and monthly maid service, landscaping, bill paying and account management, key care service, as well as payment of property taxes.

Please note that this is a list of basic questions and fees and is not to be deemed all inclusive. Information and fees are accurate at time of publishing and are subject to change without notice. Prior to the purchase of any real estate products worldwide, we do recommend you consult with independent legal, accounting and tax advisors.

