



News
American Industries®

September 2020



American Industries®

Site Selection - Shelter Administrative Services - Industrial Real Estate

Partner for Success®

TAX OBLIGATIONS

OF FOREIGN RESIDENTS OPERATING UNDER A SHELTER SCHEME.

As of January 1, 2020, Income Tax Law establishes that non-residents engaging in maquiladora operations through a company with a maquila program under the shelter scheme do not constitute a permanent establishment in Mexico.

This, provided that the foreign resident meets the following requirements through the company operating under the shelter scheme:

1. Request they be issued a Taxpayer Identification Number
2. File provisional and annual tax returns
3. File a tax return for informational purposes only for their maquila operations
4. File a notice with the Tax Administration Service when they are no longer carrying out maquila activities

It is important to mention that **American Industries®** will ensure compliance with the above mentioned tax obligations for non-resident clients.





INCOME TAX

The non-resident must choose one of the following to calculate their taxable profit in Mexico:

1. SAFE HARBOR (consider the amount that is greater between):

- a) 6.5% of the total amount of the maquila operations' costs and expenses; and
- b) 6.9% of the value of the assets used in the operation

2. Advance Pricing Agreement (APA)

Once the tax profit is calculated based on the chosen option, the rate of 30% will be applied to determine the income tax due in Mexico.

If the foreign client chooses the SAFE HARBOR option, *American Industries®* will be responsible for making the calculations to determine the tax profit. If they decide on the APA option, *American Industries®* will lend support and coordinate the process between the foreign client and the firm selected to prepare and file the APA paperwork.

TRANSITORY SCHEME FOR NON-RESIDENTS

THAT HAVE BEEN OPERATING UNDER A SHELTER SCHEME PRIOR TO 2020

Income Tax Law in force up to December 31, 2019 established a term of 4 years during which foreigners did not represent a permanent establishment in Mexico and did not set forth the obligation for them to pay income tax nor comply with tax obligations.

Consequently, the transitory disposition for 2020 establishes that non-residents who have been operating under a shelter scheme before January 1, 2020 ~and are still within the four-year term~ may continue operating without having to pay income tax nor comply with any tax obligation until the four-year term has ended.

At this time, non-residents must comply with the tax obligations that entered into effect on January 1, 2020.



FOREIGN COMPANIES OPERATING UNDER A SHELTER SCHEME THAT ALREADY HAVE A TAXPAYER IDENTIFICATION NUMBER

It is estimated that there are already over 150 foreign companies which have obtained their Taxpayer Identification Number in Mexico through the companies operating under shelter schemes and which are complying with their tax obligations in a timely manner.

Furthermore, the national shelter company committee, through the National Council of the Maquiladora and Export Manufacturing Industry (INDEX), continues lobbying Mexican tax authorities to put mechanisms into place that further facilitate compliance with tax obligations for foreigners operating under a shelter scheme and prevent overregulation.



INCORPORATING THE IMPACT OF COVID-19 IN CALCULATING INCOME TAX

It is important to consider that, due to the current situation with COVID-19, several foreigners operating under a shelter scheme have been forced to temporarily close their operations, reduce production, incur extraordinary costs to comply with new COVID-19 regulations to reopen and resume operations, among others.

All of these situations should be documented and incorporated into the calculation of income tax with the goal of reducing the income tax for 2020 as a result of the aforementioned extraordinary situations.

Mexico COVID-19 STATS

Due to the ongoing COVID-19 pandemic, governments and public health departments are preparing to issue additional safety recommendations to mitigate the spread of both coronavirus and the virus that causes the flu as we enter the fall and winter months.

The daily report published by Mexico's Secretariat of Health as of September 23 is as follows:



**CONFIRMED
CASES**

710,049

**NEGATIVE
CASES**

828,280

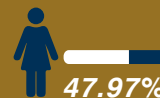
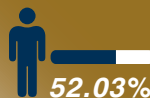
**SUSPICIOUS
CASES**

82,549

**DECEASED
CASES**

74,949

MEN / WOMEN





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