

# CCN MEXICOREPORT

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## **Key Considerations as to Restrictions on the Acquisition of Real Estate by Foreigners in Mexico's Restricted Zone.**

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Mexico has been and continues to be an attractive destination for foreign investors interested in acquiring real estate, whether for industrial, commercial, retirement, vacation, or development purposes. However, foreign ownership of real property in Mexico is subject to constitutional restrictions that are often misunderstood. Understanding the available legal mechanisms can help investors make secure investments and avoid unnecessary risks.

According to Article 27 of the Mexican Constitution, foreigners may not directly acquire real estate located: (i) within 50 kilometers (approximately 31 miles) of the Mexican coastline, or (ii) within 100 kilometers (approximately 62 miles) of international borders. These areas are referred to as the "restricted zone."

To acquire real estate within this restricted zone, foreigners may use a trust structure (fideicomiso) in which a bank or a regulated and authorized financial institution acts as the trustee. This mechanism promotes foreign investment while respecting the constitutional restrictions mentioned above. Under this structure, the Mexican bank holds legal title to the property, while the foreign buyer is the beneficiary of the trust, holding the right to use, lease, improve, sell, or inherit the property, as well as to retain the proceeds from a future sale. The trust grants the beneficiary rights that are functionally equivalent to full ownership, within a recognized legal framework.

Another alternative available to foreigners for acquiring property in the restricted zone is through a Mexican corporation, which may be 100% foreign owned. This method is common in commercial investments, however, foreign owned companies may not acquire residential use properties in the restricted zone. Additionally, the acquiring company's bylaws must include the so-called "Calvo Clause," under which foreign shareholders waive the diplomatic protection of their home country and agree to submit to Mexican jurisdiction for any legal disputes arising in connection with property acquired in Mexico. This clause does not limit the application of reciprocal investment protection mechanisms established in international treaties to which Mexico is a party.

The definition of residential use under the Regulations to the Foreign Investment Law is broad, and several economic activities are deemed distinct from residential use. For instance, timeshares, mixed-use developments that include residential, commercial, or tourism components, and real estate development projects may all be considered non-residential uses depending on the specific context.

In summary, foreigners may acquire ownership of real property in Mexico, but the legal structure is key. Whether through a trust or a corporation, compliance with Mexican law is essential to protecting the investment.

