



New Immigration Law in Mexico

Introduction

On September 28, 2012 a new Regulation of the Immigration Law of Mexico (the Regulation) was published in the Mexican Official Gazette and became effective on November 9, 2012.

The regulations regarding the General Law of Population on migratory control, verification and regulation were annulled, including the Manual on Criteria and Migratory Procedures of the National Institute of Migration through which the present visa designations of Non-Immigrant, Immigrant and Immigrated were defined. Anyone with a current visa (FM-2 or FM-3) can continue to use their current visa until the expiration date, at which point they will have to renew under one of the categories outlined below.

New Immigration Law Details

The following are the most important new details of this new act:

The Immigration status of “Non-Immigrant” (previously known as FM-3), “Immigrant” (previously known as FM-2) and Immigrated (*Inmigrado*) shall cease to exist and shall be replaced by visas that pertain to the ‘conditions of stay’. The new designations will be Visitor (*Visitante*), Temporary Resident (*Residente Temporal*) and Permanent Resident (*Residente Permanente*).

The new regulations establish the criteria, requirements and procedures for the following types of visas:

I. Visitor.

a) Visitor Visa without Permission to Engage in Lucrative Activities.

This visa may be granted for up to ten years. The applicant may be granted this visa if he can demonstrate one or more of the following circumstances:

- He has sufficient economic solvency.
- He is a frequent traveler to Mexico.
- He is a researcher, scientist, humanist, artist, athlete, prestigious journalist (national or international) or are another type of prominent person.
- He or she is a spouse, concubine or equivalent, child, parent or sibling of a Mexican or a temporary or permanent resident, but are not intending to reside in the country.
- He or she is a spouse, concubine or equivalent, child, parent or sibling of a diplomatic or consular official accredited in Mexico who are ordinary passport holders.



- Being a supervisor of a foreign company with a subsidiary in the country or executive staff of subsidiaries or sales offices of Mexican companies abroad.

This visa will be issued for those foreigners interested in being in the country for no more than 180 days.

b) Visitor visa with permission to engage in Lucrative Activities.

This visa will be issued for those foreigners interested in doing business in Mexico for no more than 180 days. The individuals or legally-established corporations in the country who want to give a job to a foreigner may submit an application for a specific person to perform a specific job. They must provide the following information:

- Proof of an employer registration record issued by the National Immigration Institute.
- The name and nationality of the foreigner.
- The position he or she will perform for the company.
- The amount of compensation for this position.
- The duration of the job.
- The address of the workplace.
- Proof of ability to pay for his/her travel.

Immigration authorities may conduct verification visits to the workplace to check the veracity of the job, the existence of the petitioner or any other information presented in the application. Upon approval, the visa issued will allow the person performing the job to engage in activities for pay and will be for the duration of the position as stated in the application.

c) Regional Visitor visa.

The Regional Visitor visa authorizes a foreigner to come into the border regions with the right to come into the country and leave as many times he/she wishes, without each of his/her stay in Mexico exceeds three days and without the authorization to receive a remuneration for the activities carried out in Mexico.

d) Border Worker Visitor visa.

This visa authorizes the foreigner who is a national of the countries with which Mexico share its borders, to remain in the country for a period of one year in the places where the Ministry of Interior establishes. The Border Worker Visitor will be allowed to work with a remuneration in Mexico with multiple entries.

e) Humanitarian Reasons Visitor visa.

This condition of stay will be authorized to those foreigners who are in the following cases:

- Being offended, a victim or witness of a crime committed in Mexico.
- Being a immigrant girl, boy or teenager traveling alone.
- Being a political asylum applicant, in recognition of a refugee status or complementary protection of the Mexican State until pending immigration status is resolved.



- Foreigners that are not located in the above cases, when there is a humanitarian cause or interest or public interest which requires his admission or regularization in the country.

f) Visitor Visa For Adoption.

This condition of stay authorizes a foreigner associated with an adoption process in Mexico, to remain in the country until an enforceable decision is taken and in its case, the new certificate of the adopted boy, girl or teenager is registered in the civil registry, as well as his/her passport is issued and all the necessary arrangements to ensure the departure of the boy, girl or teenager of the country. The issuance of this authorization shall only proceed regarding the citizens of the countries with which Mexico has signed an adoption agreement.

II. Temporary Resident Visa.

The temporary resident visa is issued to a foreigner who declares his/her intention to remain in Mexico for a period exceeding one hundred and eighty days and up to four years. The applicant must demonstrate one of the following:

- Sufficient economic resources to pay for accommodations and meals during their stay in Mexico.
- Participation in a scientific research project or sample collection in Mexico or the territorial waters of Mexico, after having obtained the appropriate authorizations from the appropriate national authorities.
- Family relationship to a Mexican, temporary or permanent resident.
- An invitation from an organization or a public or private institution in Mexico to participate in any activity for which they will gain no income. The invitation should be on letterhead and indicate the activity that the applicant will be performing, the duration and the address of the workplace and the person or company accepting responsibility to pay for their travel and living expenses. Otherwise, the applicant must demonstrate sufficient economic solvency to cover his/her living expenses during his/her stay in the country.
- Ownership of real estate in Mexico with a value equivalent to the amount stipulated in the “General Administrative Provisions” which will be issued by the Ministry of Interior and the Ministry of Foreign Affairs and have not yet been published in the Mexican Official Gazette.
- Ownership of investments in Mexico that consist of:
 - Capital stock in Mexican companies in accordance with laws and other legal provisions, with a value that exceeds the amount provided for in the “General Administrative Provisions” (to be issued jointly by the Ministry of Interior and the Ministry of Foreign Affairs and published in the Mexican Official Gazette)
 - Movable or fixed assets used for commercial or business in accordance with laws and other legal provisions, whose value exceeds the amount provided for in the “General Administrative Provisions” (to be issued by the Ministry of Interior and the Ministry of Foreign Affairs and published in the Mexican Official Gazette)
 - Development of economic and business activities in the country in accordance with laws and other legal provisions that generate formal jobs in terms of the “General Administrative Provisions” (to be issued jointly by the Ministry of Interior and the Ministry of Foreign Affairs and published in the Mexican Official Gazette).

The temporary resident visa will be valid for one hundred and eighty calendar days with a single entry. The applicant must apply for the resident card within the first thirty calendar days after their entry into Mexico. After 4 years with the temporary resident visa, the applicant can apply for the permanent resident visa.



a) Temporary Student Resident Visa.

This visa is issued to a foreigner who intends to enter into Mexico for courses, studies, research projects or training in educational institutions belonging to the Mexican national education system until the obtention of the corresponding certificate, proof or diploma, with multiple entries into the country.

It is important to mention that the foreigner will be able to perform lucrative activities when his or her studies are of higher education and research studies.

If the student wants to work while staying in Mexico, he or she shall pay a fee. If the student does not work, there will be no charge for this visa.

III. Permanent Resident Visa.

This visa will be issued to a foreigner who intends to enter the country in order to reside indefinitely. The applicant must demonstrate one of the following situations:

- To have the recognition of refugee status, political asylum or stateless determination under international treaties and conventions of which Mexico is a party.
- Family relationship to a Mexican or permanent resident of Mexico.
- Being retired with sufficient monthly income to support himself/herself during his/her stay in the country.
- That complies with the categories and the minimum score required by a point system, under the general administrative provisions issued by the Ministry of Interior and will be published in the Mexican Official Gazette. At this date, these categories and point system have not been defined and published by the Ministry of Interior.
- Having a regular immigration status for 4 consecutive years, in the case of temporary residents.
- Having kinship straight up or down to the second degree with a Mexican by birth
- Having a regular immigration status for 2 consecutive years as temporary resident, provided that the condition of stay has been granted by being a spouse, concubine or equivalent figure with Mexican or permanent resident and that such relationship remains.

Other Visa-Related Considerations.

It is important to note that that no change of condition of stay from tourist or visitor to temporary resident or permanent resident will be authorized. Due to this, foreign officers that come to Mexico to provide services to a Mexican company, shall have the respective working visa before entering Mexico.

The card that certifies the status of temporary resident stay may be valid for one, two, three or four years, starting from when the foreigner was given that particular status.

The holder of the temporary resident card may, within thirty calendar days prior to its expiration date, request the visa's renewal for up to a total of four years.



The card certifying the status of temporary or permanent resident will give the holder the right to make multiple entries and exits from the country.

A foreigner who is outside the country when their visa status expires, may enter the country with it up to fifty-five calendar days from its expiration. Within fifty-five calendar days, no penalty will be applied and the application for renewal must be submitted within five working days after admission into Mexico. Entry into Mexico will not be allowed for foreigners holding a document that is more than fifty-five calendar days past its date of expiration.

Temporary and permanent residents must notify the National Immigration Institute, within ninety calendar days following the occurrence, of any changes in marital status, nationality, residence or workplace.

We would be glad to help you with any analysis or study of the needs of your company.

If you require additional information please contact our experts:

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Sincerely,

Von Wobeser & Sierra

Mexico City, January, 2013.