

# The Supreme Court Declares Mexico City's Real Estate Acquisition Tax Rate Unconstitutional: What Those Who Acquired Real Estate in 2024 Need to Know

The Plenary of the Supreme Court of Justice of the Nation ("**SCJN**") issued binding precedent P./J. 196/2026 (12a.), digital registry number 2032742<sup>1</sup>, declaring unconstitutional Article 113 of the Mexico City Tax Code in effect in 2024. That article sets out the rate schedule used to calculate the real estate acquisition tax (*impuesto sobre adquisición de inmuebles*, "**ISAI**"). The SCJN concluded that the rate schedule violates the principle of tax proportionality because it does not ensure that the tax increases as the value of the property increases. In light of this ruling, those who acquired real estate in Mexico City and paid the ISAI under that rate schedule should assess now whether to file an amparo action.

## Scope of the Precedent

The case originated in an indirect amparo proceeding filed by an individual against Article 113 of the Mexico City Tax Code. The District Judge granted constitutional protection. The Head of Government of Mexico City filed a motion for review, and the SCJN assumed jurisdiction to resolve it.

Because it is binding precedent issued by the Plenary of the SCJN, the ruling is mandatory for all courts in the country. The ruling expressly refers to the legislation in effect in 2024.

## I. What is the ISAI and how is it calculated?

The ISAI is the local tax paid upon acquiring real estate (a house, apartment, land or commercial premises) in Mexico City. It is generally paid when the transaction is formalized before a notary public.

To calculate it, Article 113 sets out a table of value brackets. Each bracket has a fixed fee and a percentage that applies to the portion of the value exceeding the bracket's lower limit. The tax is obtained by adding the fixed fee to the result of applying that percentage to the excess.

## II. The SCJN's Reasoning

The SCJN analyzed the table as a whole and concluded that its design is not progressive. Its main reasons are as follows:

- **The difference between brackets is not offset:** The jump from one bracket to the next is not offset by the fixed fee or by the percentage applicable to the amount exceeding the lower limit.
- **Inverted results occur:** Properties with similar or close values may give rise to different taxes, and the lower-value property may pay a higher tax.
- **Ability to pay is affected:** Taxpayers with a lower ability to pay may pay more than others with a greater ability to pay. This contradicts the purpose of the tax, which is that the higher the value of the property, the higher the contribution.

1. <https://sjfsemanal.scjn.gob.mx/detalle/tesis/2032742>

- **Progressivity is only apparent:** The lower limits, upper limits and fixed fees do increase from one bracket to the next. However, when the full mechanism is applied (the excess over the lower limit multiplied by the percentage, plus the fixed fee), progressivity is distorted and the tax becomes disproportionate.

### III. Practical Impact and Considerations for Real Estate Acquirers

The ruling opens the possibility of challenging the ISAI calculated under the 2024 rate schedule. Specifically, acquirers and their advisors should:

- **Review their transactions:** Identify real estate acquisitions in Mexico City in which the ISAI was paid under the rate schedule in effect in 2024.
- **File an amparo in a timely manner:** The ruling does not automatically benefit those who do not invoke it. An amparo action must be filed within the legal deadlines. Unless there is a legislative amendment or a general declaration of unconstitutionality, local tax authorities may continue to apply the rate schedule.
- **Assess the possible effects:** Depending on each case, an amparo may result in the rate schedule not being applied and, where appropriate, in a refund of any overpayment.
- **Analyze other fiscal years:** For transactions in years other than 2024, it will be necessary to review whether the applicable rate schedule has the same legislative design flaw.

If you have any questions or would like personalized advice on the potential impact of this ruling on your real estate transactions, please do not hesitate to contact our team of experts.

#### FOR MORE INFORMATION, PLEASE CONTACT

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#### SINCERELY

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