

The SCJN Declares the 2024 Real Estate Acquisition Tax Rate in Mexico City Unconstitutional

The Supreme Court of Justice of the Nation ("SCJN") issued ruling P./J. 196/2026 (12th), with digital registration number 2032742¹, in which it declared unconstitutional Article 113 of the Mexico City Tax Code in effect in 2024, which establishes the rate for calculating the real estate acquisition tax ("ISAI"). The SCJN concluded that this rate violates the principle of tax proportionality, as it does not ensure that the tax increases progressively as the value of the real estate increases. Based on this ruling, those who have purchased real estate in Mexico City and paid the ISAI according to that rate should analyze, in light of the circumstances of their specific case, the legal avenues available to them to assert the unconstitutionality of the provision. It should be noted that this ruling does not constitute, nor should it be treated as, a general declaration of unconstitutionality; therefore, it does not, in and of itself, have general effects.

Scope of the Ruling

The matter arose from an indirect amparo action filed by an individual against Article 113 of the Mexico City Tax Code, regarding the payment of the ISAI. The District Judge granted the amparo; dissatisfied, the Head of the Mexico City Government filed an appeal for review, which was heard by the SCJN.

Since this is a ruling issued by the Plenary Session of the SCJN, the ruling is binding on the country's courts. The ruling expressly refers to the legislation in force in 2024.

I. What Is the ISAI and How Is It Calculated?

The ISAI is the local tax levied on the purchase of real estate (houses, apartments, land, or commercial properties) located in Mexico City. It is generally paid when the transaction is formalized before a notary public.

To calculate it, Article 113 establishes a rate based on value ranges. Each range corresponds to a fixed amount and a factor applied to the amount exceeding the lower limit. The tax is calculated by adding the fixed amount to the product of applying that factor to the excess amount.

II. Reasons Cited by the SCJN

The SCJN analyzed the tax schedule in its entirety and concluded that its design is not progressive, for the following main reasons:

- **The difference between brackets is not offset:** the jump from one bracket to another is not offset by the fixed fee or by the factor applied to the amount exceeding the lower limit.
- **This results in inequitable outcomes:** properties with similar or nearly identical values may be subject to different tax amounts, and even the lower-value property may end up paying more.
- **Taxpaying capacity is affected:** taxpayers with lower taxpaying capacity may pay more than others with higher capacity, which contradicts the purpose of the tax—namely, that a higher property value should correspond to a higher tax.

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

- **Progressivity is only apparent:** the lower limits, upper limits, and fixed rates increase from one bracket to the next; however, when the full calculation is applied (amount exceeding the lower limit multiplied by the factor, plus the fixed rate), progressivity is distorted and the tax becomes disproportionate.

III. Practical Impact and Considerations for Property Buyers

The ruling does not, in and of itself, result in an automatic refund for all taxpayers. It will be up to each purchaser to analyze, on a case-by-case basis, the legal avenues available to challenge the unconstitutionality of the tax rate.

If you have any questions or would like advice on the impact of this ruling on your real estate transactions, please do not hesitate to contact our team. We will analyze each case individually to determine the appropriate course of action.

FOR MORE INFORMATION, PLEASE CONTACT

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Mexico City, October 12, 2026.

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