

payee. In general, if the payee is a foreign bank or other financial institution registered with the *Secretaría de Hacienda y Crédito Público (SHCP)*, Secretariat of Finance and Public Credit, (other than payees domiciled in tax haven jurisdictions), the interest payments will be subject to withholding tax at the rate of 4.9 percent. If the payee is:

- a credit institution other than a bank or financial institution registered with *SHCP*;
- either a foreign supplier of machinery and equipment or a foreign financing entity that finances the purchase of such machinery and equipment or generally provides working capital financing, pursuant to an agreement that sets forth these circumstances and, if the entity is registered with *SHCP*, the interest payments will be subject to withholding at the rate of 10 percent. (The 4.9 percent and 10 percent rates are effective until December 31, 1995, at which time they will increase to 15 percent and 21 percent, respectively.) In all other cases, interest is subject to withholding tax at the rate of 35 percent.

5.5 Tax on the sale of shares

The sale of shares of a Mexican company is subject to Mexican income tax, regardless of where the sale takes place. Foreign residents who sell shares of Mexican companies are subject to a 20 percent tax on the gross proceeds from the sale, or, at the option of the foreign resident if it has a local representative in Mexico, to a 30 percent tax on the net gain derived from the sale. This option is not available to foreign sellers domiciled in a tax haven jurisdiction. The net gain, in the latter case, is determined by subtracting from the gross sale proceeds the seller's tax basis in the shares sold, adjusted for inflation and other factors as determined in the ITL.

5.6 Asset tax

The Mexican Asset Tax Law subjects Mexican business taxpayers (i.e., individuals or companies resident in Mexico engaged in business activities, individuals or companies resident abroad with permanent establishments in Mexico, and other foreign persons which own "Mexican-situs" assets used in another's business activities) to a tax on business assets at a flat rate of 1.8 percent per annum of the value of such assets. Taxpayers subject to the asset tax may credit Mexican income tax payments against their asset tax liability for the current year. If the income tax payments exceed the asset tax liability in a given year, the taxpayer may request a refund of asset taxes paid during the ten prior fiscal years in the amount of the excess.