

Mexico Patent Official Fees Reduction Rules

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1. Definitions / Requirements

(1). Small entities by express statutory mention

Individual inventors, all universities (public and private), and public scientific and technological research institutes are expressly entitled to claim small entity status, if and only if they are under no obligation to license or assign to third parties which are large entities.

(2). Small entities by company size

The Mexican Economy Secretariat issued the “Agreement of Stratification of Companies”^{FN1} (published in the Mexican Official Daily on 30 June 2009, hereinafter as “the Agreement”), Article 2 of which states the following in accordance with the business activity of the applicant. Only micro and small companies will be qualified as small entities^{FN2} and benefit from the discounts.^{FN3}

Size	Sector	Number of Workers ^{FN4,7,8}	Annual Sales (Million MXN) ^{FN5,7,8}	Maximum Combined Cap ^{FN6}
Micro	All	Up to 10	Up to 4	4.6
Small	Commerce	From 11 to 30	From 4.01 to 100	93
	Industry Service	From 11 to 50		95
Medium	Commerce	From 31 to 100	From 100.01 to 250	235
	Industry	From 51 to 100		
	Service	From 51 to 250	From 100.01 to 250	250

FN1 According to the Mexican counsels, the terms of the Agreement are not clear enough. Therefore, provided in the footnotes below are mostly their comments based on personal experiences so far, their interpretation of the Mexican Law, and the current criteria of the authority they observed. These comments are subject to changes caused by, for example, future developments of case law.

FN2 A small entity obligated to license and/or assign its rights to a large entity is still entitled to claim the benefits derived from the small entity status. Only after the assignment is recorded at the MIIP will the large-entity assignee have to pay the complementary amount of the 50% of the official fees.

FN3 To benefit from the reduction of official fees, it is required to file a declaration under oath signed by the small entity or its legal representative. It is believed that the small entity status of the applicant should be determined each time when one claims the benefit. The declaration attached for one fee payment only has effects for that specific fee payment. A new declaration is required every time when the applicant is to claim the benefit of small entity.

FN4 The Mexican counsels suggest that one count in all the employees directly hired by the applicant. Outsourced employees and contractors should not be included.

FN5 Affiliates are believed irrelevant in the calculation of annual sales here, and the Mexican counsels suggest that one consider only the sales of the applicant as such.

FN6 Maximum Combined Cap = Number of Workers x 0.1 + Annual Sales x 0.9

FN7 For non-Mexican companies, the Mexican counsels suggest that only those with no more than 30 employees and with maximum annual sales of 5 million US dollars shall consider certifying to be small entities. Other non-Mexican companies, to be on the safe side, are recommended not to claim small entity status. Please bear in mind that a weaker Mexican currency will lower the cap denominated in US dollars. It is opined that patent rights obtained with wrong entity status may be challenged in court within the five years following to the publication of the granted patent. However, the plaintiff or person who challenges the patent will bear the burden of proving the case.

FN8 The Mexican counsels recommend that the applicant avoid changing from small entity to non-small entity and then back to small entity during the prosecution of one application. Too many status changes may cause the examiner to question the entitlement and then the applicant to be required to demonstrate with proof of entitlement. Therefore, in close cases where status changes may occur during the prosecution of the application, it is suggested not to claim the benefits. In a regular process, a simple declaration is sufficient and no further documents are required.

※ Note:

It is extremely important that you advise us of the applicant's small entity status prior to filing a new application in Mexico. Once the official fees are paid, no refund will be available. The status of the applicant will remain as large entity in the system. Unless expressly instructed to file with small entity status, any new Mexican application will be filed with large entity status, without the possibility of requesting a refund of the paid fees.

2. Fee Reduction

According to the Fourth General Provision of the Tariff for Procedures and Services of the Mexican Institute of Industrial Property (MIIP, the Mexican Patent Office), when certain services are requested by small entities, they are entitled to pay only 50% of the corresponding MIIP's official fees.

Remarks :

- (1) The information above was collected on [March 4, 2019](#). In the event of any patent law changes in the said country, the new amendments shall prevail.
- (2) We are not responsible for verifying the client's fee reduction qualification status and will follow the client's instructions to process the patent renewals payment. In case of any changes of client's fee reduction qualification status, please inform us for processing in order to comply with the payment regulations of the patent laws of various countries.
- (3) We do not assume any legal liability in case of the case abandoned, payment failed or any other rights losses or damages caused due to the above mentioned client's instructions or incorrect data.