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New rules for vacation rental landlords

By Garland M. Baker
Exclusive to A.M. Costa Rica

For those renting villas, chalets, apartments, rooms, and the like through nontraditional means like Airbnb, Vrbo, HomeAway, Facebook, Instagram, and other similar media sites, business is about to get much more difficult. Legislation passed by the legislature in September regulating short-term rentals will soon be signed into law by the president of the country.

The country is promoting the new rules as a vehicle to protect tourists against scams, frauds, rip-offs, and discrimination. Really, it's just another new tax law with some icing on top to appease the large-scale hospitality industry.

Right now it is known as bill 20.865. It defines a short-term rental as a temporary stay for money more than 24 hours and less than one year. This excludes the romance motels found throughout Latin America used by locals for steamy getaways and the rental of a place to live long term.

Here is what landlords will need to do to comply with the new law:

- Register with the Instituto Costarricense de Turismo (ICT), the organization of Costa Rica that handles all aspects of tourism. Timetable: One year is given to comply once the law is active.
- Register with the tax department. Timetable: Immediately once the law is active.



- Collect 13 percent value-added tax as required by Law 6935 and remit the amount monthly to the government. Timetable: Immediately once the law is active.
- Use the Costa Rica's electronic invoicing system for all rentals. Timetable: Immediately once the law is active.
- Adhere to Law 7600, the equal opportunity law for the disabled. This will probably mean some remodeling for most to make rentals wheelchair accessible and up to code for physically challenged individuals. Timetable: Two years to comply once the law is active.

This is an important note regarding compliance. Once the legislation is signed by the president, it will not become law for six months after its publication in the judicial newspaper La Gaceta, counting from the first day of the following month after it appears.

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A note to readers: The following are examples. The illustrations are necessary to understand the timetables set forth by the bill. A.M. Costa Rica will report as soon as it is signed and when it is published in the La Gaceta newspaper.

If the bill is signed and published any time this month, the clock does not start to run until Nov. 1, and the law would become active six months later on May 1, 2020.

That means registration with the tax department would not be necessary until next May 1. Registering would not be required with the ICT until May 1, 2021, and bringing places up to spec for Law 7600 would not be necessary until May 1, 2022.

This new law is designed to capture, as the law puts it, “nontraditional” landlords. The mom-and-pop operations, not the ongoing renting of properties as a business.

For example, real estate companies currently renting villas, chalets, apartments, rooms, etc. should already be using electronic invoicing, collecting and paying sales taxes, and the properties they rent should be in compliance with Law 7600 for the disabled.

This fact is pretty clear to a tax professional because Law 9635* which regulates many of the new laws specifically outlines the taxes on temporary lodgings. That said, the bill 20.865 does not do a good job explaining the details so laypersons would know where they stand.

According to the proposed law, registering with the ICT is supposed to be a simple process. The bill calls it a “simplified digital registration.” Once it is operational. the legislation directs the ICT and the tax department to cross-reference their data. It also directs the tax department to reach out to companies like Airbnb, Vrbo, HomeAway, etc. and ask them for their information along with probing

those sites to see who is complying and who is not.

All this begs the question, do all people renting need to register with the ICT or just the “nontraditional” landlords. This is by no means clear. Currently, the ICT does not even have such a registry. According to the new law, the agency will have six months from the date the law is active to make one. What is this in Tico time considering the ICT is probably going to have to buy new computers and program them?

In summary, for individuals renting out their second house or a bedroom using Airbnb-like companies or through Facebook-like social media applications, the Costa Rican government will soon have a new law to regulate these kinds of nontraditional activities.

For those already renting out their properties using an agent or broker, professionals should be using electronic invoicing, charging sales taxes on rentals, and paying taxes to the government already.

The new legislation also referred to registration with Costa Rica’s tourism institute, but it is unclear as to exactly who has to register. Everyone renting or just “nontraditional” landlords. It would seem logical, everyone.

As with the new tax law 9635, originally stating upon publication every company needed to file a tax return and with Law 9416, the unrealistic dates published for the registration of stockholders, this new law does not jibe with reality and reflects the government has a poor understanding of the market.

Editor's note: Garland M. Baker is a 47-year resident and naturalized citizen of Costa Rica. His team solves problems for expats. Reach him at info@crexpertise.net. Baker has undertaken the research leading to his articles with A.M. Costa Rica. Find the collection at crexpertise.info. A free reprint is available at the end of each piece. Copyright 2019. Use without permission prohibited.

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