

Tax filing deadline for inactive companies changed again

By Garland M. Baker
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The deadline for inactive companies was March 15. The date has been moved to an undetermined future time. Tax returns will be due two and a half months after officials in La Dirección General de Tributación (the tax department known as the DGT) finally decide what they are going to do.

Expats are at their wits end. So are Ticos regarding all the indecisiveness. In six months the rules of the game have changed three times. At first, the form to file was the D-135. At the beginning of November that changed to the D-101, the same form active companies use. The understanding now is the new form they are working on will be named the *D-101 Simplificado* (that means simplified in English).

Really! Simple! None of all the news pertaining to the new tax regulations is straightforward. It's all a bunch of gobbledygook. What is really going on?

Licenciada Xochilt Quezada, licentiate in public accounting, said in an interview "... people do not understand what they need to put on the required form. Most accounting professionals don't either because what is recommended by the tax department is in direct non-compliance with generally accepted accounting principles and international financial reporting standards."

In a nutshell, Costa Rica wants to the part of the OECD. That acronym stands for the Organization for Economic Cooperation and Development. There are 37 members, with Columbia being the last to join. The invitation to Costa Rica to be number 38 in on the table, but to get into the circle the country must adhere to some pretty strict rules. OECD's



members and partners represent 80% of world trade and investment.

For admission to the OECD, Costa Rica need to get its tax house in order. The country seems to be trying to cut corners to do so, but tax professionals are calling foul.

Believe it or not, only a few years ago the tax department had absolutely no clue as to how many inactive companies there really were. Only the Registro Nacional had the information but not the fiscal authorities. They still do not know what they have in them.

The Registro de Transparencia y Beneficiarios Finales, known as the RTBF filing requirement, was the beginning of Costa Rica trying to get organized. Last year all companies needed to register their beneficial owners of all legal entities at the Banco Central on an RTBF form.

The DGT wants to link the information from the inactive tax returns, to the Registro Nacional. They will then cross-reference that information with the

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Banco Central to find who has what and how much it is worth.

The “how much it is worth” part is the problem. The tax people say they want the price of acquisition of assets on the tax return with no adjustments. Usually, to calculate the basis of an asset one takes the original investment, adds improvements, and subtracts allowable depreciation, casualty and theft losses. Generally accepted accounting principles and international financial reporting standards both recommend currency adjustments as well among with other guidelines.

Many expats do not have a clue what they paid for their property because they came to Costa Rica years ago and have not kept good paperwork. Usually, the notary registering the deed of sale in the past used a fictitious amount to avoid taxes. Here is an example:

Bob and Alice came to Costa Rican in their 50s, around 20 years ago. They found a wonderful place on the beach, paid \$100,000 for it, and put the property in a company called Paradise S.A. To save them money, Carlos, the notary for the transaction, put \$10,000 on the transfer deed, so Bob and Alice would have to pay less transfer taxes at the closing and less property taxes each year. What is registered at the Registro Nacional is \$10,000 still today.

The question is: What should they put on their tax form for Paradise S.A.? The legal paperwork states \$10,000, but they have wire transfers for \$100,000.

Why is this important? Capital gains!

Bob and Alice are in their 70s now and went back to the United States for better medical care. The property in Paradise S.A. is no longer their primary residence thus subject to Costa Rica’s new capital gains rules.

If they sell the place here for \$100,000 – what they paid for it – will they need to pay tax on the \$90,000 because their attorney lied on the initial deed?

Will they be legally liable because they signed incorrect paperwork?

All good questions. There are no definitive answers yet. Legal and accounting professionals are just guessing. Their opinions on the matter are all over the place.

There are an estimated 200,000 inactive registered companies that need to file the new required tax return. The fine for not filing the *D-101 Simplificado* – or whatever it is called in the end – is one-half of one Costa Rican basic salary or 225,100 colons (around \$375 at today exchange rate). The statutes of limitations to question tax returns is four years, and 10 years for legal discrepancies.

What should expats do now?

Start getting their paperwork together, so they can work with an accounting professional to file the tax return correctly.

Keep reading to stay on top of the current events. This author is researching these Costa Rica’s tax matters that affect expats and Ticos alike. He will continue to do so until there is some clarity regarding the matters at hand.

Editor’s note: Garland M. Baker solves problems for expats in Costa Rica. He is a 49-year resident and naturalized citizen. 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.net. A free reprint is available at the end of each piece. Copyright 2021. Use without permission prohibited.

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