A.M. Costa Rica Reprint

Your daily English-language news source
Monday through Friday
Link to original article: http://www.amcostarica.com

Tax complexities will challenge expats

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

One has to wonder if the powers that make the tax laws in Costa Rica think about the logistics of enforcing them. Another interesting question is whether or not the government cares anymore about all the people who came to the country over the past 40 years to retire and invest here.

In an interview with Kevin Chavarria C.P.A., a professional who gives lectures about the new tax laws, the question was put to him: "Does Costa Rica care about all the retirees, and other little investors making this country their home?"

He replied without hesitation. "No, it does not care anymore." He went on to add "The government likes to spend money. To get the money it needs, it needs more taxes, and it is most cost-beneficial to past laws to get them and to find big companies to invest here and tax them and not worry about individuals, families, and retirees."

The government actions of late reflect this must be the case. Complying with the rules and regulations of Law 9416 (the law to better fight tax fraud) is going to be a hardship for many people, but especially older retired expats, most of which have not kept up with the technology required to comply with the law like digital signatures and online filing. Add to the mix the fact that now they will also be required to pay capital gains on their investments in Costa Rica to comply with Law 9635 (legislation to strengthen public finances, called in Spanish the

"plan fiscal") and you end up with some pretty unhappy people.

The legislature and tax department has a "just deal with it or get a big fine attitude," which is not helpful to most taxpayers who as a general rule want to pay their taxes. As with most new laws, the government leaves the interpretation and execution up to lawyers to educate their clients. The problem with that plan is that many legal professionals do not have a clue about what is going on either.

The problem is that Costa Rica is not upfront with the people it enticed to come to the country with its "retire in paradise" promotions of years past. The truth is that old legislation is not working because professionals here have a "get away with it if you can attitude."

The truth is that the country does spend lots of money as Chavarria said in his interview. Most of the money comes from loans making the situation worse.

Here are some interesting facts to understand the situation better:

Law 9416 requires all companies in Costa Rica to register with the government and file a yearly tax return. That law is so the country can collect transfer and capital gains taxes outlined in Law 9635. They work together.

There were approximately 575,000 different types of companies on the books in 2017. Now there are around 337,000. The other 237,000 were defunct and most of them liquidated by Law 9024 (the first yearly tax registration law).

Out of the remaining companies, there are an estimated 74,000 behind with Law 9428 (the second tax registration law) and in jeopardy of termination.

Most of the company entities in good standing are not actively doing business but hold assets (an estimated 75 percent). When those assets move to another person by transferring the company, the country loses out on the transfer taxes mandated by Law 6999 of 1985 and Law 9069 of 2012. Why so? Because some notaries do not do their part by enforcing the laws and cheat the country. Actually, and they will tell you, it is not their responsibility to do so.

So Law 9416 came to life to catch tax cheats moving assets without paying transfer taxes by using company structures to do so. If all legal entities have to register every year with the government at the central bank, the administration will know what sells, and it will get its money for transfer and capital gains taxes.

Expats need to understand and were not told that the new laws were required to modify old ones that were not working and to close loopholes.

Unclear is if the government of Costa Rica appreciates the logistics of what it is attempting to do. Does it understand how many of those estimated 150,000-plus companies that are only holding assets are owned by foreigners who are not in Costa Rica and do not return very often? Or they are owned by older people who do not understand the complexities or are not aware of what they need to do.

Everyone likes good public infrastructure, services, and safety. It takes taxes to pay for these. Costa Rica is notorious for wasting and spending too much money. It is also well known for those trying to circumvent the rules and cheat on permissions, taxes and other things. If the country could find a balance between the cheating and overly complicated legal and tax structure, things would undoubtedly improve.

There was a time the country begged for investment from retired people through retirement and resident programs. Not so now. It is more interested in big business.

If the past is any guide, the country tends to swing between extremes. Maybe it will find a happy place somewhere in the middle as time passes.

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.