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## Saved Again by Tax Amnesty

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People who were caught off-guard and missed the special provision to revive companies that the Registro Nacional killed last year may have a second chance to do so. For those using companies in Costa Rica to do business or hold assets here is a review of the details.

Back in 2011 Costa Rica passed a law on tax company structures like sociedades anónimas, limited liability entities and the like. Parts of the law, Law 9024, were found unconstitutional in 2015 and the tax ended in 2016. The country enjoyed the money it generated during the time of the assessment, so, after much controversy, a new law, Law 9428, replaced Law 9024 last year.

The new law contained some beneficial transitory clauses. Some of these temporary rules gave people a chance to expunge the interest and penalties that they had accrued if they did not pay the taxes due under the original law. Or they could even move assets stuck in an inactive company out of it into a personal name or another company and do so transfer-tax free.

The new law also included some nasty decrees. It gave the Registro Nacional [the National Registry] the power to attached assets for unpaid Law 9024 taxes and worse, to cancel the companies if the taxes due were left unpaid at the end of the provided grace period. The bad news, once the time was over, was that there was no other provision to reinstate an entity



even by paying the taxes, back interest and penalties.

The severity of this policy was a big problem for some people. High-valued assets stuck in companies would require liquidation. Payment of high transfer taxes would result in moving the assets somewhere else.

People with concession property using a company to hold it would be in jeopardy of losing the right because it was in a dead entity.

The powers that be figured this out after the law was in place and rushed to push through another bill in the legislature referred to as the Lazarus Law. Lazarus was a figure in the Bible who was raised from the dead by Jesus. The urgency might have come from some of the lawmakers who found themselves trapped along with ordinary folks. Whatever the case, the bill became law and operators of canceled companies had until last Dec. 15 to pay all the

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back taxes owed and had time until last Jan. 15 for the principals to go in front of a notary and request a reprieve.

The problem was that everything happened so fast and the lack of news regarding the subject left many people unaware of what was going on. Most did not know assets in defunct entities had a lien on them in the registry or even that a company they owned was no longer viable to do business. Those affected found out way too late to do anything about the new problem.

The Registro Nacional also found itself in a fix. They were not collecting as much of the past due taxes because people thought they were stuck with no escape. When the time was up this past January, many attorneys did not have a clue on what to do to liquidate companies and move assets.

Considering all the problems arising out of not giving people ample information or time to fix their companies before scheduling them for the chopping block, the legislature now is trying to put forth another amnesty before the end of the year. It will probably be the last opportunity to reinstate old companies killed by Law 9428.

The proposed legislation is pretty much like the one last year. Payment of delinquent 2011 to 2015 taxes would be due before Dec. 15 and a request for a reprieve must be filed by next Jan. 15.

As with the original Lazarus Law, there will be no interest and penalties due if the amount is paid correctly as outlined in the fine print

And now for the caveats:

The country is currently involved in a national strike protesting a new proposed fiscal plan. It is holding up other matters. The bill could be a victim and delayed. If so, it might not be a bad

thing because it would give those interested in taking advantage of the new amnesty a chance to get their money together. For those who did not pay the tax from 2011 to 2015, the omission added up to quite a bit of money.

It appears the Registro Nacional is not currently dissolving companies as mandated and officials there expect the new amnesty. When and if it is approved, the only way to get the interest and penalties exonerated is by paying the tax in person at the Banco de Costa Rica and requesting the benefit.

Once the bill becomes law, there will probably not be much news about it like the first time. Interested parties will need to act fast to pay what is due and to get the proper paperwork filed by a notary. Paying the taxes and filing the paperwork will remove a company from death row. It will not remove any liens on assets. More paperwork needs to be filled to remove these annotations.

It's not often a second chance tax amnesty comes along, especially one that expunges high interest and penalties. The proposed law would also revive defunct companies. bringing them back from the dead so to speak.

All the transitional provisions of Law 9428 have expired, except for one. The ability remains to resign from companies owning tax, interest and penalties or with other problems like lawsuits. This last benefit will end in September 2019.

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