

ANNUAL TAX OVER CR CORPORATIONS

The Costa Rican government recently published Law 9428: "Tax over legal entities" to be enacted on September 1st, 2017.

Law 9428 states that all corporations, subsidiaries, and limited liability companies that are currently registered before the National Registry, as well as all entities incorporated in the future, will be subject to pay an annual tax. This tax must be paid on or before January 30th of each year.

Purpose: The objective of this law is to increase funding for the Ministerio de Seguridad, Justicia y Paz (Ministry of Security, Justice, and Peace) as well as the Organismo de Investigación Judicial (Judicial Investigation Bureau).

Amount: There will be a fixed fee for inactive corporations and a progressive rate for active corporations depending on their income. As of today, the fees will be as follows:

Type of corporation	Rate* and fee
Inactive before CR Tax Office and/or with economic activity but without reported income	15% of base salary (¢63,930) (~\$115)
With economic activity and gross income under ¢50,880,000*	25% of base salary (¢106,550) (~\$190)
With economic activity and gross income between ¢50,880,000 and ¢118,720,000*	30% of base salary (¢127,860) (~\$230)
With economic activity and gross income over ¢118,720,000*	50% of base salary (¢213,100) (~\$380)


**Estimates based on the base salary of an administrative assistant in the Judicial Sector in 2017. The base salary and the gross income amounts will be adjusted yearly.*

Do I need to pay in 2017?

Yes, but only the prorated amount corresponding to the time left in 2017 from the moment the new law is enacted (September, October, November, and December). Starting in 2018, the fee will correspond to the full twelve months of the year.

How will the payment be made?

The tax will be collected by the Dirección General de Tributación (CR Tax Office) on an annual basis corresponding to the fiscal year from January 1st to December 31st. The procedures and conditions for payment will be established by the CR Tax Office. The tax will not be a deductible expense when determining income tax.



For corporations that are already registered, the tax will be applied beginning on January 1st. These corporations will have to pay within the first 30 days following January 1st of each year. For corporations registering during the fiscal year, the tax will apply at the moment the deed is presented before the National Registry. In this case, the corporation will pay 15% of the base salary proportional to the time that remains between the registration date and the end of the fiscal year. These corporations will have to pay within the first 30 days following the date of registration with the National Registry.

What happens if I do not pay?

Sanctions and penalties established in the Código de Normas y Procedimientos Tributarios (CR Code of Taxation Rules and Procedures) will apply. Additionally, the National Registry will not issue, certify, or register any documents for the corporations. Furthermore, overdue corporations will not be able to contract with the Government or any public institution. If the tax is not paid for three consecutive years/periods, the corporation will be dissolved.

The company's legal representative will be jointly and severally liable for both declaring and paying this tax.

The CR Tax Office will create a database that can be consulted electronically so that the public can verify whether tax payments are up to date or outstanding. In the case of corporations that are already defaulting on payments from 2012 to 2015, the National Registry will collect the amount owed and transfer the money to the CR Tax Office.

Starting September, 1st 2017, the law grants:

- Three months to pay the fees accumulated from 2012 to 2015 without any fine or penalties, if the corporation is not already dissolved due to lack of payment of the tax as per former law 9024.
- Twenty-four months for the legal representatives to resign from their positions and avoid any liability.
- Twelve months to transfer assets without paying the transfer tax, but only if these transfers are made within companies that have been inactive before the CR Tax Office for at least 24 months prior to the enactment of this law.

At GM Attorneys, we will be more than glad to analyze with you the best course of action on your specific scenario.

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SOME FACTS ABOUT CR INCOME & SALES TAX

As per Costa Rican Tax laws, any and all physical persons or legal entities (SA or SRL) that carry a business or conduct an activity that generates a profit within Costa Rica, are subject to a tax on their income.

Currently, Costa Rica abides by a limited territoriality concept in taxation. Thus, Costa Rica only taxes the income that is derived from a Costa Rican source. However, you need to be careful about the Tax Office and the court's interpretation of what constitutes a Costa Rican source. Therefore, seeking proper legal and accounting advice is highly advisable.

Costa Rica's período fiscal (tax year) begins on October 1st and ends on September 30th, for both individuals and most legal entities.

In Costa Rica, the taxable income is based upon net income. Therefore, any legal entity or person generating income shall be duly registered as taxpayer before the Dirección General de Tributación (Costa Rica's Tax Office). Upon registration, the legal entity or person receives a Tax ID number and an authorization to have either hard copy or electronic invoices.

Depending on the type of business performed, the legal entity or person might be subject to not only to the impuesto de la renta (income tax) but also to the impuesto de ventas (sales or vat tax).

Income tax is levied on both employment and self-employment income, with rates ranging from 10% to 30% for legal entities and 10% to 25% for individuals. The exempt amount is adjusted every year. Tax form **D-101** needs to be filed on a yearly basis, on or before December 15th each year. The payment can be done either quarterly or in full on or before the stated date.

The **Vat Tax** stands at 13% and is levied both at the point of importation and at the point of sale (unless the sale is by way of export). Tax form **D-104** need to be filed and paid on a monthly basis.

Vacation property rentals (houses, apartments and condominiums) for periods of less than one month are subject to both income and sales/vat taxes. Therefore, those who perform such activity must register and comply with the payments, in order to avoid fines and penalties.

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