Legal Update by Allan Garro N.

Government Raises Taxes and Tariffs

The cost of living in Costa Rica for both locals and expats has been rising a great deal lately. The logic applied by a number of countries to justify raising taxes is because an economic recession is on the minds of our lawmakers, whether it makes sense or not. After a huge fiscal plan failed to be approved last year by Congress (thank God) the Presidency found a shortcut to increase income by convincing Congress to change some laws. Here are a few examples of the ways things have become more expensive from a legal point of view.

Luxury Home Tax

In January 2010 the Luxury Homes Tax came into effect, imposing a tax different than the territorial tax to homes with a construction value higher than 100 million colons – US \$200,000.00 - in which case the value of the land was taxed as well. The law forces homeowners subject to this tax to file a new declaration every three years, which means in 2013 it is time to update the value again. The limit was modified to 117 million colons –US \$234,000.00- for construction value, but the Revenue Ministry also modified the parameters used to calculate the value of construction, raising the values another thirty percent.

As a result any person who owns a house with a construction value of US \$300,000.00 and a land value of US \$200,000.00 has to pay 0.25% yearly, which represents US \$1,250.00, to cover this tax. If the construction value is below US\$234,000.00 only normal property tax is imposed on the home. Homeowners with a value beyond US \$2,000,000.00 will have to pay 0.40% yearly. The parameters to evaluate homes can be found on the website from the Direccion General de Tributacion -the Costa Rican equivalent to the U.S. IRS or Canada Revenue Agency. http://dgt.hacienda.go.cr/valoraciones/

New Tax on Corporations

Last year a new Tax on Corporations came into effect. Starting April 2012 all registered corporations were obligated to pay a tax equivalent to 50% of a base salary on active corporations, or 25% if the corporation is inactive. Proportionally for the remaining eight months of the year the tax amount was around US \$268 for active entities and US \$134 for inactive ones. Most corporations created by expats are used as holding companies to protect houses, lots, farms, vehicles and other type of properties. Before this law the cost of maintaining a holding corporation was relatively low, but this new tax increased it substantially.

This year the tax is due in January and the amount to be paid is close to US \$400 or US \$200 depending on the company status, active or inactive. Starting February 1st interest charges apply over the tax. The consequences of non-payment are different; but to name a few: a) The National Registry will not issue certifications showing the legal representation of the company, normally known as "personerias", b) Registered Assets such as properties or cars can't be sold or acquired without paying the tax first and c) After three payment periods without paying the tax the National Registry will proceed to dissolve the company.

To put the cherry on the pie, any person wanting to create a new corporation will no longer pay about US \$80 in Registration costs, but close to \$500 because the National Registry will now charge the full Tax on Corporations plus extra charges to authorize the legal books.

Property Transfers

The transfer taxes and stamps –without fees- over a property represent around 2.6% of the fiscal value or the selling price whichever is higher. This means a property with a value of US \$100.000 will pay about US \$2,600.00 to be transferred into a different person's name or company. In order to save money it became a usual practice to create a holding corporation in which to register properties for sale. When a buyer was found the Seller would transfer the stock of the company into the Buyer's name instead of transferring the property title in order to avoid paying the transfer taxes. This was normal with condominium projects.

The same law mentioned above, number 9069, amended the transfer tax law to impose the tax on "all forms of transferred properties", so now even stock transfers made to transmit the control of a property from a seller to a buyer are subject to this tax. However it is not very clear how this can be regulated because those transactions happen based on private contracts, but it is important to know this change on the law. One way the government is controlling the transfer of properties through companies is by requiring the presentation of legal documents to banks to show the source of deposits of US \$10,000 or more.

New Traffic Law

In 1994 a Traffic Law took effect imposing "severe fines." Over the years such fines became very cheap to pay because they were imposed based on economic values calculated at the time of creation of the law. Because it was obviously necessary to introduce an amendment, and due to the pressure from the media, lawmakers passed a new Traffic Law in March, 2010 imposing fines completely out of proportion, with amounts of over US \$600 in some cases.

Many affected citizens challenged this law in Constitutional Court where the Justices started voiding most of the fines because they were unreasonable in relation to the average income in this country. Our lawmakers then had to start over with more reasonable amounts. Instead of dedicating the time and resources necessary to come up with a better amendment, what they did was lower the amounts of the fines a little by publishing a new law in October 2012. In my personal opinion, changing fines from US \$423 to US \$380 or from US \$282 to US \$188 still does not match with the payment capacity of the regular citizen. Therefore the current fines are still unreasonable and out of proportion.

It is evident that government tends to raise taxes and tariffs as much as possible in order to increase income regardless of the impact this has on the population. Things could have been done using more reasonable parameters, considering the times we are living in.

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