

# THE quatro. LEGAL GUIDE



IMMIGRATION, REAL ESTATE  
& CORPORATE MATTERS,  
INVESTORS AND EXPATS SHOULD KNOW.

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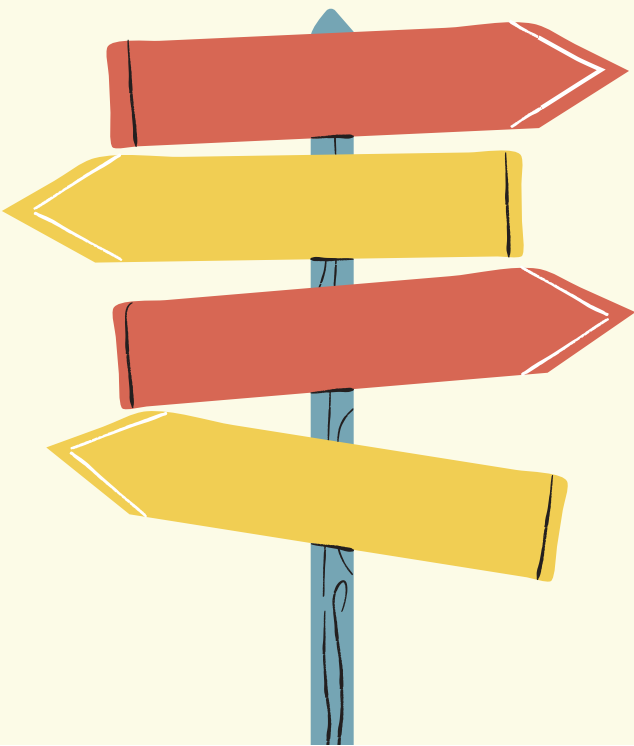
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# CHAPTER I

# IMMIGRATION



# IMMIGRATION



1. What are the requirements to enter Costa Rica?

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3. What happens if a tourist overstays his/her visa?

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19. How long can you drive on your foreign driver's license in Costa Rica?

20. Can a foreign citizen obtain a Costa Rican driver's license? What is the process and what is required?

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01.

## WHAT ARE THE REQUIREMENTS TO ENTER COSTA RICA?



Foreign citizens may enter the country as tourists without a visa depending on their country of origin. The United States, Canada and most European countries have this privilege. In principle, citizens from the United States and Canada are permitted a 90-day stay as tourists. Other requirements to enter Costa Rica are to demonstrate sufficient funds in the amount of at least US\$100.00, legal tender of the United States of America, per month and a round trip or onward air ticket.

Finally, a yellow fever vaccine is required if traveling from South America and/or sub-Saharan Africa.

02.

## IF A FOREIGNER ENTERS AS A TOURIST AND DECIDES TO STAY LONGER, CAN AN EXTENSION BE OBTAINED?



If a foreign citizen is allowed entry into Costa Rica for 90 days as a tourist, a visa extension is not permitted. Visa extensions are permitted only for tourist visas granted for a period of less than 90 days. If an extension is requested and accepted, it will be for the period necessary to complete the 90-day term.

03.

## WHAT HAPPENS IF A TOURIST OVERSTAYS ITS VISA?

Any unlawful stay in Costa Rican territory will subject the foreign citizen to an immigration fine equivalent to US\$100.00, legal tender of the United States of America, for each month of unlawful stay in the country. Failure to pay the fine will cause the tourist to be barred from entering the country for a period equivalent to three times the length of the unlawful stay.



## 04.

## WHAT DOCUMENTS ARE REQUIRED TO OBTAIN ANY TYPE OF IMMIGRATION STATUS?



For all immigration categories, the “Dirección General de Migración y Extranjería”, or the General Directorate of Immigration, requires a standard set of documents from the country of origin, including birth certificate, marriage certificate and criminal records. These documents must be apostilled and must have been issued within six months of the filing date. For countries that do not issue apostilles, documents must be legalized by the competent government authority and authenticated by the nearest Costa Rican Consulate.

For United States citizens, the only acceptable criminal record is issued by the Federal Bureau of Investigations out of Washington D.C., which must be duly apostilled by the respective Secretary of State.

Police records issued by country or local authorities will be rejected by the Directorate of Immigration.

For Canadian citizens, the only acceptable police records are issued by the Royal Canadian Mounted Police. Canada is not a signatory to the Hague Convention and, as such, the apostille is not available in Canadian territory. Legalization and authentication of documents must be done through Global Affairs Canada and the Costa Rican Consulate in Canada.

All documents from abroad must be translated into Spanish in Costa Rica by an official translator authorized by the Costa Rican Ministry of Foreign Affairs.



## 05.

## WHAT ARE THE MOST COMMON RESIDENCY CATEGORIES IN COSTA RICA?

Normally, when foreign nationals come to Costa Rica to invest, set up a business, take a vacation or retire, they inquire about the different visas or residency options available to them. Residency applications are processed by the General Directorate of Immigration. According to Immigration Act N° 8764, there are two major residency categories: temporary and permanent. Most residency options for foreign nationals are regulated under the “temporary residency” category. These residencies must be renewed periodically and prohibit the applicant from working or performing any remunerated physical or intellectual activity.



The three most common temporary residencies that our clients apply for are the following: *Pensioner*, *Rentista (fixed income)* and *Investor*.

The general requirements for any of the residency applications described above are:

1. Completed immigration form.
2. Application letter and special power of attorney.
3. Directorate of Immigration information consent letter.
4. Deposit of US\$200.00, legal tender of the United States of America, at Banco de Costa Rica (BCR) for immigration fees. The deposit must include the applicant's full name.
5. Deposit of US\$50.00, legal tender of the United States of America, at Banco de Costa Rica (BCR) for immigration fees. The deposit must include the applicant's full name.
6. Deposit of 1,000 colones at BCR Bank for immigration fees. The deposit must include the applicant's full name.
7. Criminal record, duly apostilled, from the country of residence. The issue date of the apostille must be within six months. For American citizens, criminal records must be issued by the Federal Bureau of Investigations (FBI) in Washington D.C.; for Canadian citizens, they must be issued by the Royal Canadian Mounted Police (RCMP); and for citizens of the United Kingdom, they must be issued by ACRO Criminal Records Office.
8. Fingerprints to be taken at Costa Rica's "Ministerio de Seguridad Pública", or Ministry of Public Security. An appointment can be made through their online platform and there are different locations. There is a form that needs to be submitted at the appointment. See Question 13 for more information.
9. Consular Registration with the Consulate of the applicant's country. For United States citizens, use link: [step.state.gov](https://step.state.gov) For Canadian citizens, use link: [travel.gc.ca](https://travel.gc.ca)
10. Birth certificate, duly apostilled. The issue date of the apostille must be within six months.
11. Four pictures passport size.





## 06.

## WHAT DO YOU NEED TO KNOW ABOUT PENSIONER TEMPORARY RESIDENCY (PENSIONADO)?



The **Pensioner temporary residency** or “**Pensionado**” is a type of residency available to any person who is already retired and is receiving income derived from a pension. The applicant must prove a permanent (life) fixed monthly income from either a pension or other form of retirement income of at least US\$1,000.00, legal tender of the United States of America. The status extends to the spouse provided that one spouse receives a pension or other retirement income. The applicant must agree to live in Costa Rica for at least one day per year and entitles the applicant to file for permanent residency after three consecutive years of holding temporary residency as a pensionado. A pensioner temporary resident is not allowed to work or perform remunerated activities in Costa Rica until the residency becomes permanent.

To file for this category, all requirements specified in Question 5 must be met in addition to the following:

**Original or certified copy of the pension confirmation letter issued by the corresponding entity in an amount of at least US\$1,000.00, legal tender of the United States of America. The document must be duly apostilled if coming from abroad or legalized according to the terms and conditions applicable to countries that are not signatories to the Hague Convention.**



## 07.

## WHAT DO YOU NEED TO KNOW ABOUT THE RENTISTA TEMPORARY RESIDENCY?

The **Rentista temporary residency** is a type of residency applicable to any person who has a fixed, guaranteed income of at least US\$2,500.00, legal tender of the United States of America, from any source of investment, savings or other source for a term of at least two years.

The applicant must prove the income by any form of letter or document from a bank or financial institution stating to have at least US\$60,000.00, legal tender of the United States of America, in a long-term investment account or certificate from which the applicant is entitled to withdraw or receive at least US\$2,500.00, legal tender of the United States of America, per month for a two-year period. It applies to married couples as well applicants with dependents. The applicant must agree to live in Costa Rica for at least one day per year. The applicant may file for permanent residency after three consecutive years. A Rentista temporary resident is not allowed to work or perform remunerated activities in Costa Rica until his or her residency becomes permanent. It is important to clarify that a letter or document confirming income from salary or wages or any form of employment with a foreign entity is not eligible proof for "Rentista" status.

To file for this category, all requirements specified in Question 5 must be met along with the following:

**Original or certified copy of the confirmation letter issued by a Costa Rican or foreign bank or financial institution attesting that the applicant has made an investment and/or has available funds in the sum of US\$60,000.00, legal tender of the United States of America, and will receive or is able to withdraw a monthly allowance of US\$2,500.00, legal tender of the United States of America, over a two-year period. The documents must be duly apostilled if issued abroad or legalized according to the terms and conditions applicable to countries that are not signatories to the Hague Convention.**

08.

## WHAT DO YOU NEED TO KNOW ABOUT THE INVESTOR TEMPORARY RESIDENCY (INVERSIONISTA)?



The **Investor temporary residency or "Inversionista"** is a type of residency applicable to any person that has made a direct investment of at least US\$150,000.00, legal tender of the United States of America, into a Costa Rican industry, business, real estate, project, etc. The applicant must prove the amount invested has a current and verifiable value of at least US\$150,000.00. It applies to married couples as well or applicants with dependents.

The applicant must agree to live in Costa Rica for at least one day per year.



The applicant is entitled to file for permanent residency after three consecutive years. An Inversionista is not allowed to work or perform remunerated activities in Costa Rica until his or her residency becomes permanent.

Costa Rica's Immigration Act contains four types of investments that qualify an individual or family to apply for temporary residency as an investor: a) investment in lucrative projects or projects of national interest; b) investment in real estate and personal property registered in Costa Rica; c) investment in shares or securities; and d) investment in reforestation plantations.

Below is a brief explanation on each investment indicated above:

**Investment in lucrative projects/projects of national interest.** The applicant must submit to the General Directorate of Immigration a description of all investments, lucrative projects or projects of national interest developed or to be developed in Costa Rica, including a certified copy of the project's feasibility study prepared by a certified public accountant (CPA).

**Investment in real estate and personal property registered in Costa Rica.** The applicant must submit to the General Directorate of Immigration a description and proof of all investments in real estate and personal property registered in Costa Rica. In the case of real estate, the assets cannot be mortgaged or carry loans of any kind. These will be reviewed on a case-by-case basis.

**Investment in shares or securities.** The applicant must submit to the General Directorate of Immigration proof of an investment in shares or securities duly certified by a public notary.

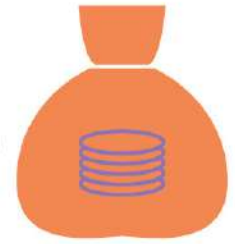
**Investment in reforestation plantations.** The applicant must submit to the General Directorate of Immigration a certification issued by a certified public accountant indicating an initial investment of at least US\$100,000.00, legal tender of the United States of America, in reforestation projects and demonstrate the total value of the investment according to the Forest Management Plan (Article 70 of Forest Law No. 7575).

To file for this category, all requirements in Question 5 must be met in addition to the investment-specific requirements described above.



## 09.

## BENEFITS FOR INVESTORS, PENSIONERS AND RENTISTAS: WHAT INCENTIVES WERE CREATED IN 2021 BY ACT 9996 TO ATTRACT INVESTORS, PENSIONERS AND RENTISTAS?



In July 2021, the Costa Rican Government enacted Law 9996 to attract Investors, Pensioners and Rentistas creating benefits for a five-year period counted from the date of enactment. The purpose of the law is to contribute to the country's post-COVID-19 economic recovery. The law declared to be of public interest the creation of benefits for all foreign citizens obtaining the lawful immigration status of Investor, Pensioner or Rentista. It also established the General Directorate of Immigration as the overseer of the law's enforcement.

The benefits created are the following: a) One-time exoneration of import fees on household goods, including new and used items in a reasonable amount and proportion to cover personal and family needs. The law expressly references furniture, appliances, decor, kitchen and bathroom accessories and linens; b) Exoneration of import fees on up to two air, land and/or sea vehicles. In case of the destruction, loss or theft of a vehicle, the beneficiary will be entitled to import another vehicle; c) All sums of money declared to obtain the benefits will be exonerated from paying income tax; d) Exoneration of twenty percent of transfer fees on all real estate acquired during the law's effective period if the person is the recorded owner of the asset; e) Exoneration of import fees on all materials and instruments directly related to the beneficiary's profession or economic activity. Moreover, beneficiaries will not automatically be considered taxpayers.

The law states that if the beneficiary surrenders his/her immigration status or the status is canceled by the General Directorate of Immigration on legal grounds, all exonerated taxes will become due.

Finally, the law reduced the minimum investment amount for the Investors category to US\$150,000.00, legal tender of the United States of America, in any form of real estate, registered assets, stock, securities, economic projects or projects of national interest.

The benefits obtained by a beneficiary will be valid for ten years.

## 10.

## WHAT IMMIGRATION STATUSES ALLOW FOREIGN CITIZENS TO WORK IN COSTA RICA?



Foreign nationals with tourist visas cannot legally work or perform remunerated activities in Costa Rica. The same is true for foreign citizens with temporary residency status as an investor, pensioner or Rentista. Work authorizations or permits are granted under Legal Stay status, or “Estancias” in Spanish, and Executive Residency status (Residencia para Ejecutivos).

**Legal Stay** is an immigration status in which foreign workers or volunteers may stay in the country and work for a “sponsor company”, either foreign or national. Legal stays or “estancias” is a non-residency category that covers business agents, travelers, commercial delegates, medical treatment beneficiaries and persons of scientific, professional, religious, economic, political, cultural and/or sporting relevance. Foreign citizens under the Legal Stay category may not receive a salary as a normal “unrestricted” employee would. Foreign companies may apply for a Legal Stay status; however, their foreign workers must continue to receive their benefits and salary in their home country. Sponsor companies are required to cover all living and lodging expenses for the entire duration of their workers’ stay in the country.

**Digital Nomad** is an immigration status created in June 2021 to attract remote workers and remote services providers and to establish an incentive for longer stays in Costa Rica. This immigration category is a non-resident, legal stay sub-category known as “Remote Worker or Services Providers.” The law defines it as any person who is employed or who renders independent services using any form of technology to third parties located abroad and for which a salary or compensation is received. The immigration benefit is granted for a one-year period and can be extended for an additional year. The beneficiary must stay in the country at least 180 days per year.

The General Directorate of Immigration oversees the law’s enforcement and processes all applications digitally, along with the legal requirements. The General Directorate of Immigration has 15 days to process these applications.



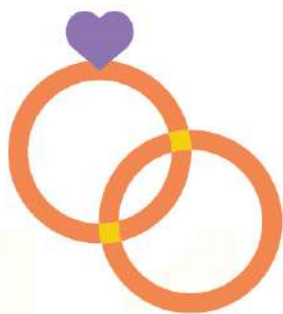
The applicant must demonstrate a stable monthly income of at least US\$3,000.00, legal tender of the United States of America, over the course of at least the last year. If the application includes the applicant's family, the income requirement increases to US\$4,000.00, legal tender of the United States of America. A medical insurance policy is required for the duration of the applicant's stay in Costa Rica.

The law defines the immediate family as the spouse, any children under 25 years of age, children with disabilities regardless of age and elderly family members under their care.

The benefits created by the law are the following: a) Exoneration of income taxes; b) Exoneration of import fees on any personal computer equipment or technology required to meet legal obligations; c) Authorization to drive with a foreign license for the duration of the stay; and d) Ability to open a bank account under specific simplified regulations.

**Executive Residency** is an immigration status in which foreign workers in executive or director positions may reside in the country and work for a company under the premise that they hold directorships with representative powers and are placed on the Costa Rican company's payroll. The company and the applicant are required to comply with all Costa Rican labor and social security requirements and must report a salary that is 25% higher than Costa Ricans in similar positions.

# 11.



## WHAT IS RESIDENCY THROUGH MARRIAGE OR RELATIONSHIP WITH A COSTA RICAN (POR VÍNCULO CON COSTARRICENSE)?

Temporary residencies through marriage or relationship with a Costa Rican are residency categories applicable to any person who is married or who has a relationship with a Costa Rican citizen, whether mother, father, daughter, son, sibling and/or spouse, or when the applicant has lived in the country under temporary residency for over ten years. The application does not include extended family members such as grandparents, uncles, aunts and cousins.



If an application is filed for residency through marriage, the marriage must be duly registered with the Costa Rican Civil Registry and a certification must be obtained as part of the requirements. For marriages under two years, the General Directorate of Immigration will require an interview with the spouses as part of the application process to demonstrate the legitimacy of the marriage. The applicant must agree to live in Costa Rica for at least one day per year and the applicant is entitled to apply for permanent residency after three consecutive years. A married temporary resident may work or perform remunerated activities in Costa Rica.

If an application is filed for residency due to the existence of a child, the General Directorate of Immigration may require an interview as part of the application process to corroborate the parents' commitment to support and take care of their offspring. This type of residency is issued as permanent and allows the applicant to work or perform remunerated activities in Costa Rica.

## 12.

### WHAT IS THE APOSTILLE REQUIRED FOR IMMIGRATION DOCUMENTS TO BE VALID IN COSTA RICA?



The apostille is an international seal that validates documents for use abroad. It can be obtained in all countries that are signatories of the Hague Convention. Documents from countries that are not signatories of this international instrument must comply with specific legalization requirements in their home countries and in coordination with the nearest Costa Rican Consulate.

## 13.

## HOW AND WHERE ARE YOUR FINGERPRINTS TAKEN TO COMPLY WITH THE FILING REQUIREMENT?



Fingerprints are taken by Costa Rica's "Ministerio de Seguridad Pública" or Ministry of Public Security.

### **a.** What are the requirements for having your fingerprints taken by the Ministry of Public Security?

- a) Original passport
- b) Be at least 12 years of age
- c) Submit the completed Fingerprints Form provided by the Ministry of Public Security in Spanish.

### **b.** How do you schedule an appointment with the Ministry of Public Security?

You can make an appointment online subject to availability.

### **c.** When can fingerprints be taken by the Ministry of Public Security?

You can take the fingerprints at any time. It can be taken prior, during or before getting the approval resolution.

### **d.** At which offices of the Ministry of Public Security can fingerprints be taken?

Fingerprints can be taken in: San José, Cartago, Heredia, Liberia, Puntarenas (Chacarita), Limón, San Carlos, Ciudad Neily (Corredores), Upala, Perez Zeledón, Sarapiquí (Río Frío) and Guápiles.

## 14.

## WHAT HAPPENS IF A REQUIRED DOCUMENT(S) CANNOT BE OBTAINED OR DOES NOT EXIST DUE TO MATERIAL OR POLITICAL REASONS?

The General Directorate of Immigration has a list of countries from which it is impossible to obtain certain documents. In these cases, birth certificate requirements can usually be waived with an affidavit stating the reason(s) why one cannot be obtained.

For criminal records, the applicant must submit criminal records from their country of residence if they fled their country of birth due to political reasons.



14.



# 15.

## MY RESIDENCY APPLICATION HAS BEEN APPROVED: WHAT ARE THE NEXT STEPS AFTER RECEIVING THE APPROVAL RESOLUTION?



Once residency has been approved by the General Directorate of Immigration and the applicant has been notified, the applicant has 90 days to take the following steps:

### Register with the Social Security Administration (CCSS).

According to the Immigration Act, foreign citizens who obtain residency in Costa Rica must register with the Caja Costarricense del Seguro Social “CCSS” or “Caja” (Social Security Administration) as voluntary payers. Applicants must go to the nearest CCSS office to be interviewed by an officer and file the necessary forms. The applicant’s dependents (underage children and spouse) can be included in the CCSS insurance coverage at no additional cost.

#### a. What are the requirements for registering with CCSS?



- a) A copy of each family member’s passport
- b) A copy of each family member’s residency resolution issued by the General Directorate of Immigration
- c) Certification of income issued by a CPA
- d) If applicable, certification of the company owning the investment
- e) In the case of a real estate investment, certification of the property’s title
- f) A copy of an existing utility bill (electric or water)
- g) Interview conducted by the CCSS officer.

Since pensioner and investor residents are not permitted to work or perform remunerated activities in Costa Rica, CCSS presumes they do not generate income in the country. Based on the information provided, CCSS will set the base income for the insurance and the amount will be charged as a percentage of the income the foreign national declared in his/her residency application. Each application will be analyzed on a case-by-case basis.

## Register at the local EBAIS.

Once the applicant has registered with CCSS, all dependents must register at the nearest EBAIS. EBAIS are basic medical centers that provide the first line of medical care.

### a. What are the requirements for registering at the ebais?



- a) A copy of each family member's residency resolution issued by the General Directorate of Immigration
- b) A copy of each family member's passport
- c) A copy of the children's birth certificates
- d) A copy of an existing utility bill (electric or water)
- e) Sworn statement ratifying the validity of the marriage license
- f) Voluntary insurance forms provided by CCSS duly completed, including the sworn statement.

### b. Do you need to schedule an appointment with EBAIS and CCSS?



EBAIS and CCSS offices are located around the country and each has its own policies. As such, it will depend on the policies of your local office.

### c. Receive your residency card (DIMEX).



Once you have registered with CCSS and EBAIS, you will receive your residency card. You will need to take the following steps:

- a) Schedule an appointment at BCR. You will need to register online and appointments are subject to availability
- b) On your appointment date, pay the fees indicated in your approval resolution at BCR
- c) BCR will issue your residency card.





# 16.

## IF YOUR RESIDENCY EXPIRES, WHAT DO YOU NEED TO RENEW IT?



The renewal process must be completed three months prior to expiration. A fine of US\$3.00, legal tender of the United States of America, will be charged for every month the renewal is delayed. If the residency has been expired for over three months at the time of renewal, in addition to the requirements mentioned below, a letter justifying the delay must be submitted. A lawyer must authenticate this letter.

The steps to renew residency are the following:

- a.** Schedule an appointment at the General Directorate of Immigration by calling either 1311 or 900-0034639
- b.** At the appointment, submit the following documents: expired residency card, certification of enrollment in CCSS, proof of payment of the renewal fees (these fees are subject to change so confirm the amount prior to your appointment), and a valid passport.



# 16.

17.

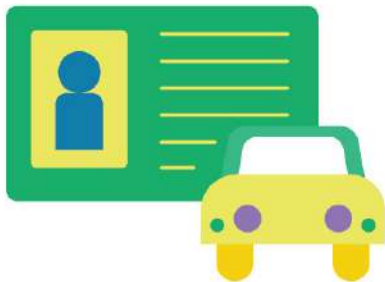
## DO FOREIGN-BORN MINORS WITH TEMPORARY OR PERMANENT RESIDENCY STATUS REQUIRE A PERMIT TO EXIT COSTA RICA?



Yes. A travel permit must be obtained at the central offices of the General Directorate of Immigration located in La Uruca, San José. This permit can be permanent or temporary.

The requirements are the following:

- a) A copy of both the minor's and his/her parents' residency cards
- b) A certified copy of the minor's birth certificate
- c) Two recent passport-sized photographs of the minor
- d) The completed form provided by the General Directorate of Immigration.



18.

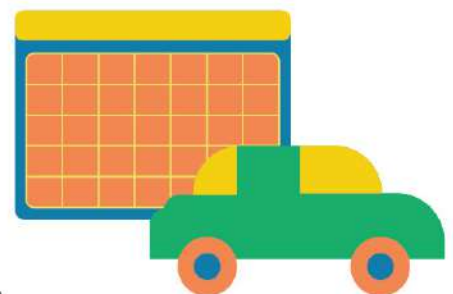
## CAN YOU DRIVE IN COSTA RICA ON YOUR FOREIGN DRIVER'S LICENSE?

Foreign driver's licenses are valid in Costa Rica for the duration of the tourist entry stamp. When driving, foreign nationals must carry their passport or a copy of their passport ID page and the entry stamp page showing proof of legal status in the country.

19.

## HOW LONG CAN YOU DRIVE ON YOUR FOREIGN DRIVER'S LICENSE IN COSTA RICA?

You can drive on your foreign driver's license for the same period as your legal stay in Costa Rica, usually for 90 days as a tourist.





## 20.

## IS IT POSSIBLE TO OBTAIN A COSTA RICAN DRIVER'S LICENSE AND WHAT IS THE PROCESS AND REQUIREMENTS?



A foreign driver's license can be validated for use in Costa Rica, but the foreign citizen must have a legal immigration status, such as resident, refugee, diplomat or have a work permit, complete the validation process before the Accreditation Department of COSEVI - "Departamento de Acreditacion del Conductor de la Direccion General de Educacion Vial" - and request an appointment at [servicios.educacionvial.go.cr](http://servicios.educacionvial.go.cr) . Foreigners under a tourist visa are not eligible. The appointments are granted on Tuesdays and Wednesdays from 7:00 am to 11:00 at all local offices Alajuela, San Ramón, Liberia, Rio Claro, Puntarenas and Limon. The e-mail address for consultation is [acreditacion@mopt.go.cr](mailto:acreditacion@mopt.go.cr) . The following requirements apply:

- a) The foreign license must be valid (not expired)
- b) If the foreign license is in a language other than Spanish, it must be translated by an official translator
- c) The applicant must have stayed in Costa Rica for 3-months and 1 consecutive days
- d) A medical certificate confirming the faculties necessary to drive
- d) Payment of the validation fee, currently around US\$10.00, legal tender of the United States of America.



20.

# RESIDENCY APPLICATION PROCESS

## RESIDENCY APPLICATION PROCESS

**1**

### PRELIMINARY INTERVIEW

Which residency to apply for? What are the requirements? How long does it take? We will be happy to spend time and point you in the right direction!

### PRICING AND SERVICES APPROVAL

No one likes surprises! Our team will quote you what you need to budget for expenses fees and taxes.

**2****3**

### APPOINTMENT BEFORE IMMIGRATION DIRECTORATE

We will set an appointment online to get the process started!

### DEALING WITH PAPERWORK

1. Power of Attorney
2. Information constant
3. Specific documents for your application you must abroad.

**4****5**

### FINGERPRINTS

Our team will set an appointment before the Ministry of Security and prepare forms to have your fingerprints taken! We will accompany you every step of the way!

### FILING RESIDENCY

We will get paperwork filed and follow up until completion! Process will take 8-12 months.

**6****7**

### RESIDENCY APPROVAL

We did it!

### ENROLLMENT WITH SOCIAL SECURITY

All new residents must be registered with CCSS (Caja) and closest EBAIS to be part of the healthcare system. We will set the appointment, prepare the paperwork and one of our team members will be there with you if you need to!

**8****9**

### RESIDENCY CARDS-DIMEX

Our team will set an appointment with "Banco de Costa Rica BCR" and help you prepare documents to get your residency cards!



## CHAPTER 2



# REAL ESTATE



1. Can foreign nationals legally own property in Costa Rica?

2. What are three things investors should know when investing in real estate in Costa Rica?

3. Are real estate brokers and companies required to register with SUGEf?

4. What role does the Public Registry of Costa Rica (PRCR) play in real estate dealings?

5. What legal documents are involved in buying real estate in Costa Rica?

6. What should I look for when buying or selling property in Costa Rica? Understanding the importance of Real Estate Due Diligence

7. Should you use the services of an escrow agent for real estate transactions?

8. What are the requirements to open an escrow account with a duly registered escrow agent in Costa Rica?

9. Should I be concerned about the government of Costa Rica expropriating my property as a foreign investor?

10. What are the most common problems experienced by investors when purchasing real estate?

11. What are the real estate closing costs?

12. How do leases work? I am not ready to buy and want to lease first.

13. What else do I need to know about rentals and rent payments?



**CLICK TO NAVIGATE**





01.

## CAN FOREIGN NATIONALS LEGALLY OWN PROPERTY IN COSTA RICA?



Yes, all foreign nationals have the right to invest and purchase real estate in Costa Rica. The only exception is when applying for a maritime land zone (coastal zone) concession, which requires a certain percentage to be owned by Costa Ricans. The maritime land zone concession will be addressed in full below.

02.

## WHAT ARE THREE THINGS INVESTORS SHOULD KNOW WHEN INVESTING IN REAL ESTATE IN COSTA RICA?



**Retain a reliable and reputable firm or attorney.** Whether you already have a property lined up to purchase or are just starting to look, you will need a public notary to assist you with closing the transaction. Choosing wisely the professional or firm that will represent you is key to a profitable and safe investment. Under Costa Rican law, all purchases of titled land must be recorded in the Public Registry of Costa Rica (PRCR) to be enforceable against third parties. Therefore, you will need a public notary to do due diligence to confirm the property's legal status, as well as to draft and register the final deed of sale. This is one of the most important decisions you can make to ensure a smooth transaction as good firms and attorneys have the expertise and connections to make it easier and safer.



**Invest in a thorough due diligence on the property.** The worst thing you can do is to rush through the real estate purchase process. One of the most important steps is to conduct thorough due diligence on the property you want to buy. Due diligence on a property consists of a title search in the Public Registry of Costa Rica (PRCR) and other public entities to ensure the title, its origins, transfers, liens, encumbrances, annotations and taxes do not contain any flaws or defects that may cause your title to be annulled or challenged. More sophisticated due diligence for development or construction projects encompasses certifications of soil use, water availability and source, maritime land zone studies, property site inspections to confirm boundaries, resolve disputes and remove squatters, analysis of technical reports, etc.



Generally, due diligence also includes an evaluation of the owner. If it is a corporation, it will include an analysis of the bylaws, representatives, contingencies pending or against the entity and corporate tax records. This is an investment you should not omit to ensure you make an informed decision.

**Hire a professional real estate broker who is registered with SUGEF.** An important decision when buying property in Costa Rica is whether or not to hire a real estate agent or broker. In Costa Rica, brokers are independent and work for a commission calculated over the purchase price at closing. There are no regulations in Costa Rica governing real estate brokers and no license is required. This means that anyone can act as, or call him or herself, a broker. For that reason, find a reputable professional who is registered with SUGEF and who has sufficient expertise, connections and actual property listings that justify him or her acting as an agent.



03.

## ARE REAL ESTATE BROKERS AND COMPANIES REQUIRED TO REGISTER WITH SUGEF?

“SUGEF” is the Costa Rican Superintendent of Financial Institutions. It is the government entity that regulates and supervises financial institutions and non-financial activities and professions. In November of 2019, SUGEF approved “Agreement 13-19” which was later published in the Official Bulletin La Gaceta No. 220 on November 19, 2019. This regulation categorized on three levels the persons and companies that perform the activities provided for in Articles 15 and 15 bis of Law 7786. The categories are assigned based on risk exposure and establish future obligations based on the level as a means of combating money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction. Upon enactment, registration became mandatory for the real estate sector, applying to all natural and legal persons habitually and professionally engaged in the purchase and sale of real estate, including, but not limited to, brokers, intermediaries, promoters and developers of real estate projects.

If you are thinking about working with a real estate agent or company, ask to see their SUGEF registration resolution. Registration is mandatory as of January 2020.



## 04.

## WHAT ROLE DOES THE PUBLIC REGISTRY OF COSTA RICA (PRCR) PLAY IN REAL ESTATE DEALINGS?



The PRCR is the government institution that supervises and regulates all deeds, documents, records, surveys and general information pertaining to real estate and legal entities. The PRCR includes, among others, the Real Estate Section and the Cadaster Section.

The Real Estate Section of the PRCR holds a record of any deed or title that creates, modifies or extinguishes an ownership right, easement, encumbrance, mortgage or any other right regarding real estate. These rights must be duly recorded on each property's title in the Real Estate Section of the PRCR to give notice to third parties and be enforceable. Consequently, any right or title that is not recorded in the Real Estate Section of the PRCR is binding only on the executing parties and will not affect third parties.

The Cadaster Section of the PRCR records all surveys of properties, maritime land zone and easements, among others. Its main function is to record, define and organize land zoning, areas, measurements, boundaries and all cartographic representations of terrains within Costa Rica's borders. All surveys for titled properties and some untitled properties must be approved and recorded in the Cadaster Section of the PRCR in accordance with the formalities and requirements established by Costa Rican Law. Recording a survey in the Cadaster Section of the PRCR does not create any ownership rights.



## 05.

## WHAT LEGAL DOCUMENTS ARE INVOLVED IN BUYING REAL ESTATE IN COSTA RICA?



If you are buying or selling property in Costa Rica, you will likely see the following documents in the course of your real estate transaction (you might not use them all—it will depend on your lawyer's expertise and the type of transaction):

— **Letter of Intent or Offer.** The LOI, offer or term sheet is a simple document outlining an agreement proposal between two or more parties prior to finalizing the transaction or agreement. It is usually not binding, unless agreed otherwise, and it serves to clarify the key points of a transaction.

— **Option to Purchase and Sale Agreement.** The OPSA, PSA or SPA is a contract whereby the Optionor/Seller and the Optionee/Buyer agree to sell or buy one or more assets if specific terms and conditions are met within a specified period. A complete and well drafted OPSA sets the foundation for a secure and smooth transaction.

— **Escrow Agreement.** A contract defining the terms and conditions under which one party deposits an asset of any kind (normally cash) with an independent third party, known as an “Escrow Agent”, who, in turn, and subject to specific terms and conditions, delivers it to the other party. An escrow agreement involves an additional cost, but is worth it and is normally a condition of the OPSA, PSA or SPA.

— **Due Diligence Summary or Report.** Due Diligence is a process whereby the buyer—through a legal firm or attorney—and for a specific period prior to making the final decision to close on a property, systematically researches and verifies the legitimacy and accuracy of the title, as well as the contingencies that could cloud it. The due diligence report is a written document containing the information uncovered, as well as a summary of the key points needed to make an informed decision. This is a smart investment, not an expense.

— **Purchase and Sale Deed.** This is a legal document prepared and authorized by a public notary whereby the seller agrees to sell irrevocably to the buyer one or more assets under specific terms and conditions. For the purchase of real estate in Costa Rica, the purchase and sale deed must be incorporated in the public notary's protocol and registered with the Public Registry of Costa Rica for it to be binding and enforceable against third parties. The purchase and sale deed is the main document to close a deal and it should reflect all final terms agreed on during all initial stages of the transaction.



## 06.

## WHAT SHOULD I LOOK FOR WHEN BUYING OR SELLING PROPERTY IN COSTA RICA? UNDERSTANDING THE IMPORTANCE OF REAL ESTATE DUE DILIGENCE



Investing in real estate in Costa Rica is more than choosing a property and negotiating the terms and conditions to close on the title. Many investors ignore one of the most important steps when buying real estate: doing due diligence on the land, house, concession or project being purchased. Under civil law, the concept of “due diligence” stands for “reasonable care”, which means gathering as much information as possible about a property to make a smart, safe and fully informed decision.

Real Estate Due Diligence is a process whereby the buyer—through a legal firm or attorney—and for a specific period prior to making the final decision to close on a property, systematically researches and verifies the legitimacy and accuracy of the title as well as the contingencies that could cloud it. Normally, the information uncovered is presented in a written report or brief containing a summary of all the key points needed to make an informed decision.

Below is a list of some of the key points that a real estate due diligence report may contain and/or analyze:

- A.** Analysis of the property's title as certified by the Public Registry of Costa Rica (PRCR);
- B.** Review of the property's area and its increase or decrease in value over time;
- C.** Review of the title transfer chain as recorded in the PRCR;
- D.** Property site inspection to determine current status, such as boundaries and occupancy;
- E.** Research of property tax status as recorded by the local municipality or Tax Agencies in the case of solidarity luxury tax;



- F.** Research with SINAC (National System of Conservation Areas) to determine whether the property is located in a national park and/or a protected area;
- G.** Certification of soil use by the local municipality to determine the property's legally permitted uses;
- H.** Existence of public services and utilities, such as water, electricity, internet and telephone lines;
- I.** Assessment of title restrictions, such as easements, reserves, liens, encumbrances and environmental issues;
- J.** Availability of construction permits;
- K.** Review of homeowners' association by-laws, meetings, budgets and owner/property good standing;
- L.** Research of pending legal and administrative proceedings against the property;
- M.** Certification of good standing of the companies involved in the transaction;
- N.** Review of the corporate tax status of the companies involved in the transaction;
- O.** Review of co-ownership, joint tenancy, usufruct, possession and other third-party rights;
- P.** Certification of good standing with the Social Security Administration of the companies or parties involved in the transaction and
- Q.** Payment of all property taxes, luxury taxes and capital gains taxes.

Be sure to ask your attorney about the real estate due diligence service and request a summary or report of the findings. Invest in this information!



06.

## 07.

## SHOULD YOU USE THE SERVICES OF AN ESCROW AGENT FOR REAL ESTATE TRANSACTIONS?



One of the most common parties involved in a real estate or commercial property transaction is the escrow agent. The escrow agent is an independent third party (regulated by SUGEf if operating in Costa Rica) with whom one party deposits an asset of any kind (normally cash) that is subject to specific terms and conditions before being delivered to the other party. It is a very well-known document in real estate transactions in many countries. Retaining the services of an escrow agent implies execution of an escrow agreement. The escrow agreement is a unilateral, bilateral or multilateral contractual arrangement that defines the terms and conditions under which a specific transaction is executed. Escrow agreements are useful for investors to move money to Costa Rica and to secure its availability prior to purchasing the property or during negotiations. The escrow account could also serve as a private bank account to keep funds available prior to opening a personal or corporate bank account at a bank in Costa Rica.

The escrow agreement is a key element to making transactions secure as it serves to guarantee that each of the contracting parties will receive exactly what is agreed upon. A well drafted unilateral, bilateral or multilateral escrow agreement should include:

- A.** The terms and definitions relevant to the transaction;
- B.** Clear instructions on the escrow of funds, such as acceptable use and release conditions;
- C.** The Escrow Agent's fees, as well as the duties and obligations that must be met;
- D.** The law applicable to the transaction; and
- E.** Jurisdiction in the event of a claim or legal action.

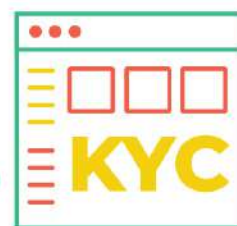




All transactions are different and so it is wise to invest in an escrow company or agent to prepare an escrow agreement tailored to your needs. Another key element to ensure a safe transaction is to confirm that the escrow company or agent is an individual or entity duly registered with SUGEF (Costa Rican Superintendent of Financial Institutions) and subject supervision. If it is a foreign entity, it is important to verify that it is a reliable company duly incorporated to perform this activity.

## 08.

### WHAT ARE THE REQUIREMENTS TO OPEN AN ESCROW ACCOUNT WITH A DULY REGISTERED ESCROW AGENT IN COSTA RICA?



In Costa Rica, escrow services are regulated activities that fall under the supervision of SUGEF. Escrow agents must abide by the regulations created and revised from time to time by Costa Rican regulators. The standard requirements to open an escrow account are the following:

- A.** Know Your Client forms from the person or entity funding the account;
- B.** A copy of the depositor's valid driver's license and passport;
- C.** A copy of the depositor's tax returns for the last two or three years showing proof of income;
- D.** Bank statements for the last three to six months for the origin account of the funds (checking, savings, investment account, brokerage account, IRA, etc.);
- E.** Letter of reference from a banking institution showing account information, financial products and balances;
- F.** Execution of the escrow agreement provided by the escrow agent of choice;
- G.** If the funds are from specific activities such as loans, sale of property, sale of a company or inheritance, notarized and apostilled copies of the documents attesting to the origin of the funds; and
- H.** If the funds are from a legal entity, articles of incorporation and certificate of good standing.

Escrow services are very serious activities in Costa Rica and serve a primary purpose in any real estate investment or commercial transaction. Therefore, choose an escrow company with a track record and be wary of any company that is too flexible on the escrow requirements or that does not require the basic documents indicated above.

09.

## SHOULD I BE CONCERNED ABOUT THE GOVERNMENT OF COSTA RICA EXPROPRIATING MY PROPERTY AS A FOREIGN INVESTOR?



Many clients and investors interested in investing in Costa Rica ask about the threat of expropriation by the Costa Rican government. Most have heard about or know someone involved in an expropriation case. Their concern is whether their investment could be jeopardized by an expropriation procedure, making Costa Rica an unsafe place to invest.

Costa Rica has a stable climate for investment. That said, it is important for investors to take into consideration that Costa Rica, like many other nations in the world, has the right to take private property from individuals when complying with legal due process. The Constitution of Costa Rica stipulates that no private property can be expropriated from a Costa Rican citizen or foreign national without prior payment and proof of declared public interest; therefore, any private property is subject to this treatment. Due diligence is essential to determine the existence of specific public interests over certain areas or land and may provide information for investors to avoid purchasing in these areas. Many lands involved in expropriations in the past have been areas necessary to create national parks, indigenous reserves, agricultural projects or public infrastructure. Good due diligence could have revealed the risk of expropriation. Make sure to include this research in your due diligence prior to making an investment.

09.

[BACK TO INDEX](#)



## 10.

## WHAT ARE THE MOST COMMON PROBLEMS EXPERIENCED BY INVESTORS WHEN PURCHASING REAL ESTATE?



The biggest problems investors encounter are the following: a) Unqualified or unscrupulous attorneys that do not provide proper counsel or that defraud them; b) Squatters after leaving a property unattended for a long period of time; c) Purchasing property with defects or flaws in its title chain, located in public and restricted areas or that has overlapping problems that could have been avoided with proper due diligence; d) Not working with an experienced and professional real estate broker who is duly registered with SUGEF; and e) Being careless or overly confident in the Costa Rican ways.



## 11.

## WHAT ARE THE REAL ESTATE CLOSING COSTS?

Closing costs in Costa Rica are based on the transactional structure and value, as well as certain technical rules established by the State. The most common structure is purchase of the property's title. There are two major expenses when buying titled property: notary fees and registration costs. Regarding notary fees, all direct purchases of a property's title require the services of a public notary. Public notary fees are set by a legal schedule issued periodically by public executive decree by the Costa Rican government and applies to all legal practitioners, meaning all attorneys and notaries must abide by the same rules when charging for their legal services. The legal schedule contains the fees or minimum fees a public notary may charge for a specific service. Regarding registration expenses, they are comprised of transfer taxes and stamps calculated on a percentage basis of the transactional value. Investors should budget around 3.7% for notary fees and registration expenses.

Please see the example below of a purchase valued at US\$100,000.00, legal tender of the United States of America:



Tax stamps .....	\$1.00
Archive stamps .....	\$0.40
Attorney Bar stamps .....	\$27.00
National Registry stamps .....	\$507.11
Municipal stamps .....	\$203.00
Agraria stamps .....	\$152.13

<b>TOTAL</b>	<b>\$890.15</b>
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Transfer Tax	\$1,521.33
<b>TOTAL TAXES AND STAMPS</b>	<b>\$2,411.48</b>

LEGAL FEES (13% VAT NOT INCLUDED)	\$1,305.82
<b>TOTAL</b>	<b>\$3,717.30</b>



12.

HOW DO LEASES WORK? I AM NOT READY TO BUY AND WANT TO LEASE FIRST.

Most of the time, when investors have problems with leases, they originate from either a poorly drafted lease agreement, the non-existence of one or—and this is very common—not reading or understanding the terms and conditions contained in the lease agreement. The first thing to do when leasing a property is to execute a clear and simple written lease agreement and understand the terms and conditions that will govern the lease relationship.

The basic lease clauses that a lease agreement must contain are the following:

- A.** Full identification of the parties that will be lessor and lessee. It is important to confirm that the lessor has the legal right to rent the
- B.** Identification of the property with its registration number as recorded in the Public Registry of Costa Rica, area, location, general description and survey, among other relevant information;
- C.** Use that will be given to the property, whether residential, commercial or agricultural, including all the activities or uses that will be restricted or prohibited;  
Rent amount due, either in local or foreign currency, and the exact dates or days on which it needs to be paid to the lessor. The lessor has the obligation to issue a receipt for the rent. Also, it is important for the parties to include any other amount that needs to be paid, such as public utilities, maintenance fees, condominium fees, etc.;
- D.**
- E.** Term of the agreement, which may not be shorter than three years, unless it is a short-term rental which is governed by specific rules;
- F.** The amount of the deposit to cover any damages to the property, unpaid utilities, and in some cases, unpaid rent at the end of the lease;
- G.** The possibility of assigning the lease to a third party or subletting the property;
- H.** The lessor's inspection rights and related terms;
- I.** Conditions in which the property is received by the lessee; and
- J.** Addresses for notices or communications.

There are many other provisions that a lease agreement could include based on the complexity of the lease relationship. It is always important to seek legal advice to avoid any unfortunate situations.





## 13.

## WHAT ELSE DO I NEED TO KNOW ABOUT RENTALS AND RENT PAYMENTS?



Lease agreements are regulated in Chapter VII of the “Ley General de Arrendamientos Urbanos y Sub-Urbanos N 7527” or Articles 56 to 69 of the “Lease Act”.

**a.**

Rental price, place and date of payment. The most basic rule is that the rental price can be freely negotiated by the parties and paid in cash or any type of security. It must be paid on a monthly basis, unless the parties agree otherwise. Many problems arise regarding the payment date. Tenants have the right to pay rent within seven natural days after the payment date agreed to by the parties. The payment obligation starts on the date the tenant is placed in possession of the house or apartment and finishes on the date it is returned to the landlord. Rent is to be paid at the place agreed to by the parties, whether a physical address or bank account. If the parties did not come to an agreement, it is to be paid at the address of the leased asset.

**b.**

How to proceed when payment is constantly late. If payments are delayed beyond the seven natural days granted by law, the landlord's acceptance thereof is considered tolerance and is not to be construed as a change to the payment date, unless both parties agree otherwise in writing. If payments are late, the regulation does require the landlord to serve notice to the tenant informing him/her that no late payments will be accepted and that legal action will be taken if rent is not paid within the legal term. This communication is a requirement to be able to successfully file for eviction due to late payment. Many lawyers fail to inform their clients about this important fact and end up losing a simple eviction case due to noncompliance with this formality.

**c.**

Advanced payment. Another important rule that is sometimes overlooked is that the Lease Act clearly states that in housing rental agreements, the landlord may not request more than one month's rent in advance. Often, landlords sign contracts, hand over possession of the house or apartment, and later cannot enforce an agreement made on this issue, even with a contract in place.

**d.**

Rent payments in foreign currency. It is common for rent to be negotiated in a foreign currency. However, it is important to know that rent may be paid at any time in colons, under the condition that it is paid using the sales exchange rate established by the Central Bank of Costa Rica on the payment date. Payment in colons is not to be construed a breach of contract, even if many landlords dislike this practice.

**e.**

Public utilities as part of the rent payment obligation. Payment of public utilities is considered a unique and indivisible part of the rent payment obligation. Noncompliance with this obligation is cause for eviction. However, the tenant and landlord must agree on who is to pay the utilities. If no agreement is made by the parties, the tenant is required to pay all utilities except the basic water rate, which is to be paid by the landlord. If the landlord fails to pay the utilities, the tenant has the right to pay them and deduct the corresponding amount from the rent for the following month. Non-payment of utilities by the tenant is cause for eviction since payment is considered part of the rent payment obligations.

**f.**

Liens on the tenant's assets in case of noncompliance of rent payments. If a tenant fails to pay rent, the landlord has the right to establish a lien and to retain all legally attachable assets in the house or apartment belonging to the tenant, the tenant's spouse, the tenant's children or the tenant's parents. It is presumed that the assets in the house are owned by the tenant unless documentary evidence is submitted to demonstrate otherwise. The landlord also has the right to require that any assets taken off the property be returned. This must be done in court and will require legal counsel.





# CHAPTER 2

## SECTION 2:

### THE MARITIME

### LAND ZONE

### (COASTAL ZONE).



# THE MARITIME LAND ZONE (COASTAL ZONE)

1. What is the maritime land zone?
2. Who administers the maritime land zone?
3. Can these properties be used and exploited by private parties?
4. Can maritime land zone rights by concession be inherited?
5. For how long are maritime land zone concessions granted?
6. What happens if the Municipality decides not to renew a concession?
7. Do concessions expire?
8. How might a concession be canceled?
9. What happens if the concession expires or is canceled?
10. Can foreign nationals be awarded concessions for property located in the maritime land zone?
11. Is it possible to be a concessionaire of more than one concession?
12. How easy is it to apply for a concession?
13. Can concessions be transferred to third parties?
14. Can you change the terms of the concession agreement?
15. Does the concessionaire have free reign to build on the concession?
16. How much are property taxes on a concession?
17. Can concession property be subject to profitable economic activities?
18. Can a private third party hold a concession property as an investment and not develop it?
19. Is it safe to invest in concession property?

**CLICK TO NAVIGATE**





# 01.

## WHAT IS THE MARITIME LAND ZONE?

According to Law 6043, the maritime land zone is defined as the 200-meter strip of land along the shoreline. It is subject to a special legal regime. With a few exceptions, property in this zone cannot be privately owned or transferred in fee simple and remains property of the State.



Of this 200-meter strip, the first 50 meters measured from high tide (a technical reference), called the public zone, is destined for public use, and all appropriation and construction activities and developments are banned. The purpose of this area is for walking and free transit. The remaining 150 meters, called the restricted zone, are subject to concession.



# 02.

## WHO ADMINISTERS THE MARITIME LAND ZONE?

The Municipality where the property is located and the Costa Rican Tourism Board (ICT) are responsible for administrating these areas.

# 03.

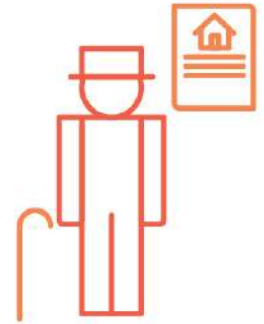
## CAN THESE PROPERTIES BE USED AND EXPLOITED BY PRIVATE PARTIES?

Land located in the maritime land zone is owned by the State (administered by the corresponding Municipality) and so the only legal mechanism by which a person or entity can use and exploit these areas is by obtaining a concession agreement.



In areas declared to have tourism value by the ICT (which are most of the coastal area), Municipalities can only grant concessions if there is an approved zoning plan.

## 04. CAN MARITIME LAND ZONE RIGHTS BY CONCESSION BE INHERITED?



Yes. For the heirs to become concessionaires, they will have to comply with the maritime land zone act, the concession agreement and any other legal or technical aspects that apply or have been assigned to the concession.

## 05. FOR HOW LONG ARE MARITIME LAND ZONE CONCESSIONS GRANTED?



For no less than five years and no more than 20. However, the term can be renewed for consecutive periods as long as: 1) the concession abides by the applicable regulations and contractual clauses; and 2) the request is filed prior to the expiration date.

## 06. WHAT HAPPENS IF THE MUNICIPALITY DECIDES NOT TO RENEW A CONCESSION?



The rule is simple: if the concession is not renewed due to nonperformance of the concessionaires' contractual and legal obligations, then the Municipality has the right to refuse to compensate the former concessionaire for any improvement or construction made on the property.

If the decision is made because the Municipality requires the concession for a justified public interest, then the Municipality must compensate the concessionaire for all improvements made to the property and all legal constructions that are built. An appraiser will determine the value of these improvements.



## 07.

### DO CONCESSIONS EXPIRE?

Yes. Concessions can expire due to: a) the term of the concession agreement ending and the concessionaire not processing the renewal on time; b) the concessionaire abandoning the property; c) the concessionaire dying and having no heirs; and d) the concession being canceled.



## 08.

### HOW MIGHT A CONCESSION BE CANCELED?

Concessions might be canceled if: a) the concessionaire fails to pay the taxes on time; b) the concessionaire does not comply with the concession agreement; c) the concessionaire is unable to comply with the maritime land zone law; d) the concessionaire decides to build or conduct activities in the public zone; and e) any other specific grounds established by law.

## 09.

### WHAT HAPPENS IF THE CONCESSION EXPIRES OR IS CANCELED?

The same principle as Question 6 applies.



10.

## CAN FOREIGN NATIONALS BE AWARDED CONCESSIONS FOR PROPERTY LOCATED IN THE MARITIME LAND ZONE?



Yes, but only under certain conditions. Unlike fee simple properties, titles on maritime land zone land are not owned, but rather held by concession. Also, foreign nationals do not have the same rights as citizens when it comes to the maritime land zone.

Law 6043 establishes that foreign citizens cannot be majority concessionaires by themselves or as part of a company that “owns” these lands. However, there are methods employed to comply with the restrictions on foreign “ownership.”

The recommended legal structure used to comply with the foreign restriction is to create a trust where a domestic entity owned by a Costa Rican is named as trustee. In this case, the trustee holds 100% of the stock in trust for the benefit of the foreign owner(s) during the term of the concession. The trustee's powers are limited to custody of the stock and general administration of the permit according to the foreign owner's written instructions.



11.

## IS IT POSSIBLE TO BE A CONCESSIONAIRE OF MORE THAN ONE CONCESSION?

There is a legal void on this matter. The law establishes a restriction of one concession per person, but does not make mention of corporations. It is very common for a corporation to hold one or more concessions.



# 12.

## HOW EASY IS IT TO APPLY FOR A CONCESSION?



In terms of the law, it is a fast and straightforward procedure. In practice, however, it takes between three and five years due to municipal bureaucracy. The wait is generally worthwhile since maritime land zone properties are a good investment given their prime location.

The concession request culminates in a concession agreement executed between the interested party and the mayor of the corresponding Municipality. This agreement states the terms under which the concession is granted.

The concession beneficiary must always comply with the agreement, which states the specifics of the concession such as: the area given by concession, the type of activity that can be carried out based on the zoning plan, the specifics of the construction (density, height, floor number, etc.), the time frame in which the owners to develop the activity to comply with the concession, etc.



# 13.

## CAN CONCESSIONS BE TRANSFERRED TO THIRD PARTIES?

Even though, from a legal perspective, the asset belongs to the State and one cannot sell or transfer an asset to which the seller has no ownership rights, transactions of maritime land zone properties are common and quite sought after, as concession properties are as beautiful and useful as titled property.

The most common method is to execute a private sale agreement of the seller's concession rights. However, every change must be formally notified to the Municipality, which must approve of the change. (The Municipality will only verify that the new owner complies with the conditions set forth to hold a concession). Failure to comply with this requirement could result in cancellation of the concession.

Any new concessionaire must comply with the conditions established in Law 6043 and with the terms of the concession agreement.

14.

## CAN YOU CHANGE THE TERMS OF THE CONCESSION AGREEMENT?



This will depend on the specific case. Several factors are taken into consideration to determine feasibility. In general, if the concession has not been developed and the new activity complies with the zoning plan and the land use certificate (Uso de Suelo), it could be possible to change the terms of the concession .

15.

## DOES THE CONCESSIONAIRE HAVE FREE REIGN TO BUILD ON THE CONCESSION?



No. As with any other type of property in Costa Rica, the Municipality has final consent and approval based on the applicable zoning plan and the land use certificate (Uso de Suelo).

16.

## HOW MUCH ARE PROPERTY TAXES ON A CONCESSION?



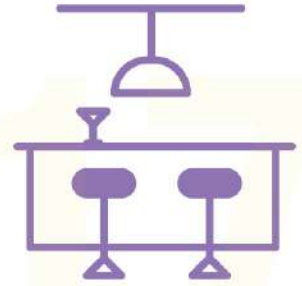
The Municipalities charge an annual tax that must be paid in January ("Canon" in Spanish) and that is a percentage of the appraised value of the property as determined by the Tax Authority. The appraisal is part of the concession request and is established in the concession agreement.

The tax is calculated on the appraised value and is a legal percentage based on the property's land use certificate (Uso de Suelo): a) Agricultural use: up to 2%; b) Residential use: up to 3%; c) Hotel, tourism or recreational activities: up to 4%; and d) Commercial, industrial or mining up to 5% .



17.

## CAN CONCESSION PROPERTY BE SUBJECT TO PROFITABLE ECONOMIC ACTIVITIES?



Yes. The activity will be determined based on the concession's characteristics.

18.

## CAN A PRIVATE THIRD PARTY HOLD A CONCESSION PROPERTY AS AN INVESTMENT AND NOT DEVELOP IT?



From a legal perspective, no. In general terms, all concession agreements establish the term in which the concessionaire must develop and carry out the agreed activity. Failure to comply with these terms could be interpreted by the Municipality as a breach of the concession agreement resulting in the concession's cancellation.

There are plenty of non-developed concessions, however, partly because some Municipalities do not have the resources to verify that the concession agreement is being upheld. Another common reason is that the concessionaire cannot develop the activity due to external factors, such as the lack of water, roads, boundary issues, etc. In these cases, the Municipality is not permitted to cancel the concession.

19.

## IS IT SAFE TO INVEST IN CONCESSION PROPERTY?



Generally, yes. However, it is extremely important to understand under what terms the concession was or will be granted to ensure that the new concessionaire is in compliance or to determine the feasibility of changing the terms based on the potential buyer's interest.

If the concession and its concessionaire are in good standing, it is safe to invest in a concession.

These are sought-after properties, as they tend to be very lucrative due to their prime location and unblocked ocean views.

## CHAPTER 2

# SECTION 3:

## THE MARITIME LAND ZONE AND THE GULF OF PAPAGAYO SPECIAL REGIME.



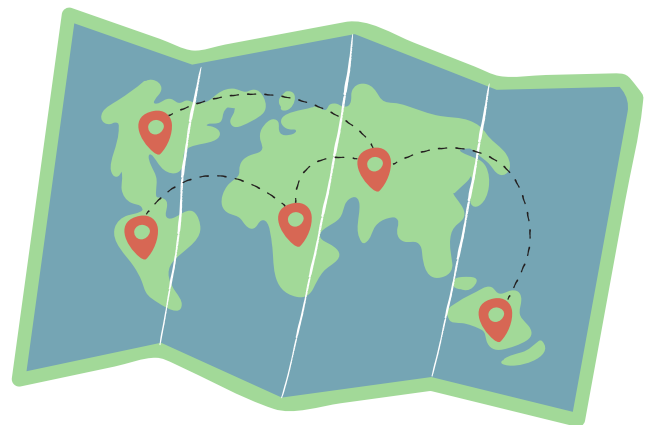


# THE MARITIME LAND ZONE AND THE GULF OF PAPAGAYO SPECIAL REGIME



1. Do properties in the Gulf of Papagayo have a special legal regime?
2. What is the PTGP?
3. How does the PTGP work?
4. For how long are the concessions granted in the PTGP?
5. Can concessions in the PTGP be cancelled?
6. Can concessions in the PTGP be transferred?
7. Can foreign nationals own concessions in the PTGP?
8. Is it safe to own a concession in the PTGP?

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01.

## DO PROPERTIES IN THE GULF PAPAGAYO HAVE A SPECIAL LEGAL REGIME?



Yes. Most properties in the Gulf of Papagayo have a nature other than fee simple properties. Due to their location, these properties are governed by a regime called the Gulf of Papagayo Tourism Pole (PTGP for its acronym in Spanish).

**PTGP?**

02.

## WHAT IS THE PTGP?

The PTGP is the result of a study conducted in the 1970s by the Central American Bank for Economic Integration. This study analyzed the tourism potential of Central America in order to adopt a Regional Development Program to attract international holiday tourism.

As a result of the study, the Gulf of Papagayo in Costa Rica was identified as having unique characteristics giving it high tourism potential. It was determined that the Gulf was the prime area for resort tourism due to its location (close to Liberia and the international airport), weather, biodiversity and scenic beauty.

Given the above, in 1979, the Government of Costa Rica enacted Law 6370 declaring the PTGP a public interest project. In 1982 a special legal framework was created to regulate the development and execution of the Gulf of Papagayo's tourism project.

To execute the PTGP, the Government expropriated all the land comprising the project, thereby incorporating the PTGP, and ownership passed from private to State.



## 03. HOW DOES THE PTGP WORK?



The main idea is to lease, via concessions, large-scale development projects. These projects are always supervised by the Government through the Costa Rican Tourism Board (ICT for its acronym in Spanish).

The ICT directs and manages the PTGP and makes sure that all concessions are in full compliance with the applicable legal framework.

The ICT has developed a Master Plan of the Gulf, which clearly identifies the project's authorized land uses. The ICT uses this Master Plan as the sole guide for approving all developments. The Master Plan establishes the technical aspects with which any development in the zone must comply.



## 04. FOR HOW LONG ARE THE CONCESSIONS GRANTED IN THE PTGP?

For a maximum of 50 years. However, the term can be renewed with the approval of the ICT and only when the needs of the project justify an extension.

## 05. CAN CONCESSIONS IN THE PTGP BE CANCELLED?



Concessions can be cancelled by the ICT when: a) the concessionaire fails to comply with the purposes of the project and the technical standards approved by the ICT; b) nonperformance of the legal and regulatory provisions; c) nonperformance of the concession agreement executed between the ICT and the concessionaire; d) nonperformance of the provisions and orders issued by the ICT; and e) a concession is mortgaged and/or transferred, in full or in part, without the approval of the ICT.

In the cases above, all facilities or buildings located on the concession will be owned by the ICT and the concessionaire will lose his/her right to compensation for any improvements or constructions made on the concession.

06.

## CAN CONCESSIONS IN THE PTGP BE TRANSFERRED?



Yes, with the approval of the ICT, concessions may be partially or totally transferred, mortgaged, subdivided, leased, etc.

The ICT will collect a tax each time a concession is transferred. This tax is calculated as US\$3.22 per square meter of the total area of the concession being transferred. This amount is adjusted every five years, and the next adjustment is scheduled for 2022.



07.

## CAN FOREIGN NATIONALS OWN CONCESSIONS IN THE PTGP?

Absolutely. Unlike properties in the maritime land zone where there are specific restrictions on foreign ownership, concessions in the PTGP can be granted to foreign nationals or Costa Rican citizens or to Costa Rican companies regardless of the shareholder's nationality.

Any potential concessionaire must submit a criminal record and the required documents to the ICT to demonstrate their financial capacity to develop, or to continue to develop, a project in the PTGP.

This requirement also applies when purchasing an already developed concession.

08.

## IS IT SAFE TO OWN A CONCESSION IN THE PTGP?



Yes, it is safe to own or acquire a concession in the PTGP as it has a solid legal framework behind it and the government endorses this special regime. As reference, the Four Seasons Hotel operates on a PTGP concession.

However, because of the special regime that applies to this area and the specifics regulated in the legal framework, Quatro Legal advises you to always have legal support when acquiring and managing a property in the PTGP.



# CHAPTER 3

## CORPORATIONS AND TAXES





# CORPORATIONS AND TAXES



1. I'm planning to do business or invest in Costa Rica. Should I incorporate?

2. Do I need an attorney or notary public to incorporate an entity to do businesses or invest in Costa Rica?

3. What type of corporation should I incorporate? "Sociedad de Responsabilidad Limitada" or "SRL."

4. What type of corporation should I incorporate? "Sociedad Anónima" or "SA."

5. Should I do business or invest through a Costa Rican corporation or in own name?

6. If I don't live in Costa Rica or have to travel often, how can I maintain control and operation of the corporation?

7. Is my corporate address in Costa Rica important?

8. Do I really need a resident agent?

9. Is it difficult to open a corporate bank account in Costa Rica?

10. How important is due diligence to the success of my business in Costa Rica?

11. Does the Transparency and Final Beneficiaries Registry of the Central Bank of Costa Rica apply to corporations and legal entities?

12. What are the most common taxes applicable to corporations?

13. What is income tax and how is it regulated in Costa Rica?

14. What is value added tax and how is it regulated in Costa Rica?

15. What is the capital gains tax and how is it regulated in Costa Rica?

16. What is the solidarity or luxury tax?

17. What estate planning should I do if I have investments or own assets in Costa Rica?

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01.

## I'M PLANNING TO DO BUSINESS OR INVEST IN COSTA RICA. SHOULD I INCORPORATE?



If you're planning to do business or invest in Costa Rica, it may be a wise decision to incorporate. The two most common corporations in Costa Rica are "Sociedad Anónima" abbreviated as "SA," al "Sociedad de Responsabilidad Limitada" or "SRL". Both corporations offer stockholders protection from personal liability as they are independent legal entities that are separate from their owners. Choosing which is more suitable far you, the most important aspects to consider are the nature of the business, transaction or investment you will be undertaking, as well as the complexity of the relationships that will exist among stockholders. Both the SA and SRL are governed by bylaws drafted in accordance with the stockholders' interests and that provide flexibility to ensure that busines operations are conducted according to their needs. The corporate bylaws are a tool most entrepreneurs or investors don't take full advantage of due to a lack of professional guidance and advice.

02.



## DO I NEED AN ATTORNEY OR NOTARY PUBLIC TO INCORPORATE AN ENTITY TO DO BUSINESSES OR INVEST IN COSTA RICA?

A notary public is required to incorporate since incorporation is achieved through a public deed that must be registered in the Mercantile Section of the Costa Rican Public Register (PRCR) via the digital platform "crearempresa." Public notaries are required to advise you on all legal matters pertaining to the creation and operation of the corporation and to register the deed as part of their service. Even though most notary publics can register a corporation far you, it is important to retain the services of an experienced notary in corporate law and corporate governance so that you receive recommendations about how to tailor your corporate bylaws and regulations to your specific business, transaction or investment.

Always ask your advisor far a crash course on how your SA or SRL works. Business planning starts by creating the corporation that best suits your needs.



## 03.

## WHAT TYPE OF CORPORATION SHOULD I INCORPORATE? "SOCIEDAD DE RESPONSABILIDAD LIMITADA" OR "SRL."

**S.R.L**

The SRL is one of the two most common types of corporations used in Costa Rica to conduct business, make investments, buy real estate or secure assets. The SRL was created to operate sm enterprises in which the stockholders are linked by kinship or another relationship. This characteristic sets the tone far the rules that apply to SRLs. The SRL structure is much simpler than the SA. does not have a board of directors, but is managed and operated by one or more managers who may or may not be stockholders. The SRL's capital stock is divided into "quotas," which are registered the corporation's Quota Holders Register. These quotas cannot be transferred by endorsement of the quota certificate like the shares of an SA. One of the most important characteristics of the SRL that it restricts the transfer of quotas to third parties through the right of first refusal of the remaining quota holders. If a quota holder wishes to transfer his/her quotas to a third party, he/she mL first offer them on the same terms and conditions to the remaining quota holders, who have the right to purchase them in the same proportion to the stock they already own. If none of the quo holders accepts the offer to purchase, then sale to a third party is authorized. These rules are intended to protect the kinship or relationship between the stockholders and, in several types businesses and transactions, must be carefully studied or supplemented with a stockholder's agreement so as not to impede the corporation's operation or decision-making process.



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S.A

## WHAT TYPE OF CORPORATION SHOULD I INCORPORATE? "SOCIEDAD ANÓNIMA" OR "SA."

The SA is one of the two most common types of corporations used in Costa Rica to conduct business, make investments, buy real estate or secure assets. The SA is a more complex structure than the SRL and is used to operate larger scale businesses, transactions or investments. The SA is controlled and operated by a board of directors which must include at least a president, secretary a treasurer. These positions have specific functions and powers within the operation of the SA. Additionally, a comptroller must be appointed, which is a mandatory position that cannot be occupied by member of the board of directors. The SA capital stock is divided into shares, which are registered in the corporation's Shareholders Register. Shares can be transferred by simple endorsement of the share certificate and share transfer restrictions are only applicable when established in the corporate bylaws or by shareholder's agreement. Law 8683 establishes different tax percentages over fixed amounts, which are updated periodically by Executive Decree. In 2021, all homes with a value under C133,000,000.00 colons were exempt.

05.



vs.



## SHOULD I DO BUSINESS OR INVEST THROUGH A COSTA RICAN CORPORATION OR IN OWN NAME?

Some of the reasons to do business through a corporation in Costa Rica are:

**Separate patrimony.** Costa Rican Law considers corporations to be separate entities from their representatives, owners or stockholders and, as such, have separate patrimony. If a claim is filed against the corporation, the personal assets of the representatives or stockholders may not be pursued and vice versa, except for very specific situations, such as criminal cases or family disputes.

**Operate your company remotely.** From a practical standpoint, for foreign owners who do not reside in the country or who may reside in Costa Rica but travel constantly, corporate operation and decision-making can be done by proxy. Therefore, it is not necessary for stockholders to travel to Costa Rica to make corporate decisions, execute agreements, purchase property or close other transactions.

**Estate planning.** A company is a great vehicle for estate planning and to secure your assets and belongings under one entity. It also facilitates probate and reduces procedures and costs.

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## 06.

## IF I DON'T LIVE IN COSTA RICA OR HAVE TO TRAVEL OFTEN, HOW CAN I MAINTAIN CONTROL AND OPERATION OF THE CORPORATION?

When foreign nationals who do not reside in Costa Rica or who need to travel often do business or invest in the country, a major concern is whether or not to appoint a local representative to ensure the corporate operation moves forward smoothly and without delay. From a practical standpoint, if you do business or invest through a Costa Rican corporation, corporate operation and decision making should not be a problem, as it can be done by proxy. Therefore, to make corporate decisions, execute agreements, purchase property or close on transactions, it is not necessary for the stockholders or corporate representatives to be physically present in Costa Rica.

Under corporate law, a proxy is a person designated and authorized by a stockholder to represent him or her and to act on his or her behalf at a stockholder meeting. A duly granted proxy authorizes voting and participation of a third party in formal corporate meetings. Proxies can be revoked at any time or can be granted for a limited period of time. Under Costa Rican commercial legislation proxies are simply special powers of attorney granted for participation in specific meetings. They need to be made in writing and must include the respective legal stamps. Additionally, they must be executed by the stockholder and authenticated by a notary public or endorsed by two witnesses.



06.



07.

## IS MY CORPORATE ADDRESS IN COSTA RICA IMPORTANT?



Yes. It needs to be accurate and current. Often, foreign nationals are not fully informed of the importance and purpose of the address designated in the bylaws as the corporate domicile when they purchase or create a corporation for investment or real estate purposes. Often, they are not even aware of this address, which can create unwanted contingencies. The Costa Rican Commercial Code establishes as a legal requirement that all corporations registered in the Public Registry of Costa Rica must have a corporate domicile. The corporate domicile must be accurate and current and located within Costa Rican territory. Moreover, it must be sufficient for the delivery of notices.

For all corporations, but especially for those that operate businesses or own property, this requirement serves the practical purpose of ensuring receipt of any notice or communication issued by a legal or administrative entity, such as court or arbitration resolutions, tax or municipal claims or requirements, etc. According to the Judicial Notifications Act, if a notice, claim or resolution is served at the corporate domicile, it will be considered duly served and the process will move forward even if the stockholders or representatives are unaware of it. Always make sure that the address designated as the corporate domicile is accurate, current and that



08.

## DO I REALLY NEED A RESIDENT AGENT?

An important requirement for some corporations for registration purposes is the appointment of a resident agent. This applies only to corporations whose legal representatives do not reside in Costa Rica. A corporate resident agent must be an attorney, have an office in Costa Rica and have sufficient powers to receive and respond to legal and administrative notices. In most cases, when court administrative resolutions or orders cannot be delivered to the corporate domicile because the representatives do not reside in Costa Rica, it will be delivered to the resident agent recorded in the Public Registry of Costa Rica. It is a legal obligation of the resident agent to take the necessary measures to communicate receipt of the notice to the corporation, its legal representative stockholders. In conclusion, if none of the representatives resides in Costa Rica, you need to appoint a resident agent you can trust.

## 09.

## IS IT DIFFICULT TO OPEN A CORPORATE BANK ACCOUNT IN COSTA RICA?



One of the most common needs to operate a business, invest in real estate or reside in Costa Rica is to open a bank account at one of the public or private banking institutions in the country. Over past few years, due to new regulations to prevent money laundering, banks have complicated this simple procedure, especially for foreign nationals and their corporations. The requirements to open a corporate bank account vary from bank to bank, but some of the most common are:

- A.** Certification of the corporation's good standing issued by the Public Registry of Costa Rica or a public notary;
- B.** Certification of stockholders prepared and issued by a public notary;
- C.** Certification of corporate bylaws issued by a public notary;
- D.** Copy of a public utility receipt or bill to confirm the corporation's and representative's physical address;
- E.** Bank application and Know Your Client forms duly executed by the corporation's representatives;
- F.** Certification of annual cash flow or income projections prepared by a public accountant; and
- G.** Copy of the applicant's passport or identity documents.



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# 10.

## HOW IMPORTANT IS DUE DILIGENCE TO THE SUCCESS OF MY BUSINESS IN COSTA RICA?



The success of a business or investment can never be guaranteed, but potential failure can almost always be foreseen. Corporate due diligence prior to investing or buying a business is important. diligence is an analysis of a business, company, group of companies or person that is conducted prior to deciding to close on a transaction. The purpose of corporate due diligence is to gather assess as much information about a company or business, its assets, contingencies, competitors, finances, etc., as possible to make an informed decision on the benefits and risks of the transactic you are going to invest in or buy a company or business you should conduct corporate due diligence that includes at least the following:

- A.** A review of the corporation's governing documents, articles of incorporation and bylaws, including amendments, restatements and registration in the Public Registry of Costa Rica
- B.** A review of the minutes of the board of directors' meetings and of any existing committees;
- C.** A review of stockholder meeting minutes, stockholder agreements, stock purchase and repurchase agreements, stock restriction agreements, warrants or stock option agreements and i purchase securities;
- D.** A review of the company's stock ownership ledger, stock transfer registry and issuances of pledges, encumbrances and liens against the stockholders or stock;
- E.** A review of the company's subsidiaries, divisions and affiliates and their stockholders;
- F.** A review of the officers' and directors' profiles, resumes and related information, as well as the powers granted to them;
- G.** A review of the corporation's capitalizations, cross-checked against stock ownership, stock certificates and/or provisional certificates represent ng stock, classes of capital stock authorized an of shares issued and outstanding;
- H.** A review of the powers of attorney granted by the company, in addition to their delegation or substitution;

**I.** A review of audited and unaudited financial statements, business budgets, projections and balance sheets;

**J.** A review of the value of fixed assets vs. appraisals;

**K.** A review of short-term debt loan agreements, lines of credit, letters of credit, sale/leaseback and guarantees executed by the company;

**L.** A review of long-term debt loan agreements, bonds, debentures, notes, mortgages, security agreements and guarantees executed by the company;

**M.** A review of accounts payable and terms of payment;

**N.** A review of tax returns not covered by the statute of limitations;

**O.** A review of claims asserted or threatened by any tax authority against the company or any other entity for which the company could be liable, whether directly or indirectly;

**P.** A review of the distributions of dividends for past periods;

**Q.** A review of owned or leased assets and related liens, structures, lease provisions, use and location;

**R.** A review of any deeds, leases, mortgages, mortgage bonds, sales contracts, surveys, sublease agreements, appraisals of the leased property, default notices and estoppel letters executed by the company;

**S.** A review of property tax bills for the last 3 years;

**T.** A review of trademarks, trade names and fictitious business names owned or used by the company; and

**U.** A review of customers, distributor and vendor agreements, employment contracts for management and other staff, deferred compensation, severance agreements and all general employment or collective bargaining agreements with employees.





## 11.

## DOES THE TRANSPARENCY AND FINAL BENEFICIARIES REGISTRY OF THE CENTRAL BANK OF COSTA RICA APPLY TO CORPORATIONS AND LEGAL ENTITIES?



The Transparency and Final Beneficiaries Registry of the Central Bank of Costa Rica is a new requirement intended to identify the shareholders and final beneficiaries of all legal entities and legal structures active in Costa Rica. It is based on Law 9416, known as the "Law to Improve the Fight against Tax Fraud," and related Regulations 414040-H. It is required that all legal entities and legal structures domiciled in the country disclose all shareholders or final beneficiaries who own a percentage greater than or equal to 15% of the total shares benefits.

This is a requirement for all legal entities and other legal structures, trusts, third-party resource managers and non-profit organizations. It is important to note that the person providing the information must have a valid digital signature certificate (firma digital). In the case of legal entities and legal structures whose shareholders and/or beneficiaries are persons or companies located abroad making it impossible to determine their identities, an affidavit must be submitted explaining the situation along with all supporting documentation.

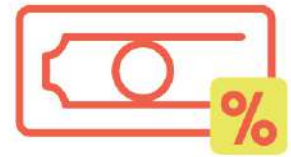
The process is completed through the electronic platform [centraldirecto.fi.cr](http://centraldirecto.fi.cr). Additionally, an email address must be provided to receive communications. The legal representative is required to have digital signature or "firma digital" or authorization must be given to a third party through a special power of attorney issued by a public notary.

The deadlines for submission of this declaration are as follows:

- a) Ordinary declaration:** Once a year, between April 1st to April 30th. Legal entities or structures that are registered after this must submit the information within 20 business days of completion of their incorporation in the National Registry; and
- b) Extraordinary declaration:** A declaration must be submitted within 15 business days from the date on which an annotation is made in the respective registry. This is required in all cases where one shareholder or beneficiary 15% or more of the total shares or benefits of the legal entity legal structure.

## 12.

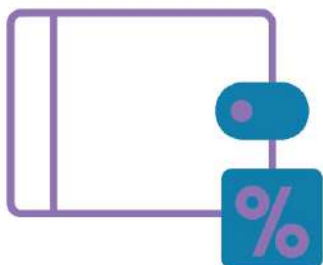
## WHAT ARE THE MOST COMMON TAXES APPLICABLE TO CORPORATIONS?



One of the most common taxes is the corporate tax. The corporate tax is applicable to all commercial corporations, subsidiaries or their representatives, and limited liability individual companies already registered in the Public Registry of Costa Rica (PRCR) or to be registered in the future. The corporate tax must be paid yearly between January 1st and January 31st. For new corporations, the corporate tax is prorated based on the amount of time remaining until the conclusion of the fiscal year. The payable amount varies based on the company's income and its purpose is to finance projects for the Ministry of Public Security.

Failure to pay the corporate tax is a violation of tax regulations. Some of the sanctions applicable for non-payment are the following: a) payment of interest on overdue amounts; b) the PRCR will not issue corporate certifications; c) the PRCR will not register new documents; d) the debtor will not be able to contract with the State of Costa Rica or other autonomous or semi-autonomous public entities; and e) if payment is not made for three consecutive fiscal periods, the PRCR could order the company's dissolution, cancel its registration entry and establish preferential liens on its registered assets. The representatives of the company will be individually liable for these debts.

Other taxes applicable to corporations with economic activities or investors looking to sell assets include income tax, value added tax, dividend tax and capital gains tax.



## 13.

## WHAT IS INCOME TAX AND HOW IS IT REGULATED IN COSTA RICA?

In Costa Rica, income tax is applicable to all individuals, legal entities and collective entities domiciled in Costa Rica who conduct profitable activities from a Costa Rican source. Income tax is applicable to any form of income, both cash or assets, professional or occasional, resulting from lucrative activities or any source of income generated in Costa Rican territory for services, assets or capital utilized in the country during a fiscal period, as well as any capital gains or income.



The tax base is determined by subtracting from gross income all useful, necessary and pertinent costs and expenses to produce profits or benefits, duly supported by invoices and recorded in the books.

This tax must be paid within two months and fifteen calendar days following fiscal year end. The fiscal period in Costa Rica runs from January 1st to December 31st.

The Tax Administration updates the tax percentages based on income on a yearly basis.

### For legal entities:

GROSS INCOME	PERCENTAGE
Up to 5,157,000.00 colons	5%
From 5,157,000.01 colons to 7,737,000.00 colons	10%
From 7,737,000.01 colons to 10,315,000.00 colons	15%
In excess of 10,315,000.00 colons	20%
When gross income is more than 109,337,000.00 colons	30%

### For physical persons:

GROSS INCOME	PERCENTAGE
Up to 3,742,000.00 colons	5%
From 3,742,000.01 colons to 5,589,000.00 colons	10%
From 5,589,000.01 colons to 9,322,000.00 colons	15%
From 9,322,000.01 colons to 18,683,000.00 colons	20%
In excess of 18,683,000.00 colons	30%

14.

## WHAT IS VALUE ADDED TAX AND HOW IS IT REGULATED IN COSTA RICA?



Costa Rica has a value added tax (VAT) system. Value added tax is the tax applicable to the consumption of goods, services and assets. This means that when a person makes a purchase, he or she must pay an additional 13% (standard rate) or 4%, 2% or 1% (reduced rates).

Taxpayers declare the value added tax collected on the sale of goods, services and assets via Form D-104, which must be submitted in the first 15 days calendar days of the month following collection. The tax can be paid through an online banking platform or at other authorized locations. The taxpayer is required to submit Form D-104 even if there were no sales or purchases during the previous month.

The value added tax amount is calculated by adding all fiscal debits (collected VAT) and subtracting all fiscal credits (paid VAT) on Form D-104. Prior to paying the tax, taxpayers may choose to apply a fiscal credit in their favor. The resulting amount is the value added tax to be paid to the Tax Administration.

15.

## WHAT IS THE CAPITAL GAINS TAX AND HOW IS IT REGULATED IN COSTA RICA?

The capital gains tax was created by Law 9365 "Law for the Strengthening of Public Finances", which levies a capital gains tax on movable and immovable property.

A capital gain arises where there is a positive difference between the value of an asset at the time of purchase and the value of the asset at the time of sale. When this value is positive, it is subject to 15% tax. To calculate the amount of the capital gain, the purchase value of the asset, the value of any investments and improvements made to it and its sales value are taken into consideration. The 15% tax rate is applied to any difference.



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The law provides for two exceptions to the 15% capital gains tax related to real estate:

**A) "Home exception":**

If the property being sold is the seller's primary residence, the seller may apply for this exception and be exempt from paying capital gains tax. For these purposes, Law 9365 and its regulations define "primary residence" as the property where the seller resides. The "home exception" does not apply to commercial real estate and is questionable for homes or residences that are leased to third parties.

If the property is owned by a "non-domiciled" person, whether a physical person or legal entity, such as a foreign corporation, trust or any legal entity not duly and legally domiciled in Costa Rica, the buyer must retain 2.5% of the sales price to cover any capital gains tax and must file and pay property taxes to the Tax Administration. Public notaries are required to confirm this prior to registering a property transfer deed in the National Registry.

Law 9365 considers a domiciled person to be any foreign person that spends more than 183 days a year in Costa Rica. These do not need to be consecutive.

Costa Rican corporations duly registered in the National Registry and that are represented or owned by foreign nationals are considered domiciled in Costa Rica.

**B) "One-time exemption":**

Another option is for sellers who owned property prior to the entry into force of the law on July 1, 2019, to elect to use a one-time exemption. In this case the seller pays 2.25% on the sales price. He or she must file the property tax return and make the corresponding payment to the Tax Administration.



## 16. WHAT IS THE SOLIDARITY OR LUXURY TAX?

The "Solidarity Tax for the Strengthening of Housing Programs" or simply "solidarity tax" or the "tax on luxury homes" was enacted by Law 8683. It is an annual tax applicable to residential properties that are used habitually, occasionally or recreationally. The tax's purpose is to finance dignified housing for the population living in extreme poverty.

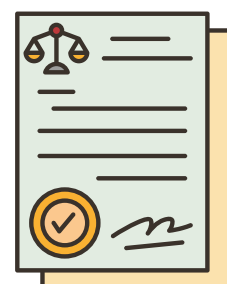
Owners of residential properties, including concessionaires, permit holders and occupants of the shoreline and of any other real estate granted by the State or its institutions, are considered taxpayers.

To calculate the solidarity tax owed, taxpayers must know the value of the main construction and any accessories (ranches, pools, sports fields, walls, interior streets, etc.). Taxpayers must add the value of the construction and of the land.

Law 8683 establishes different tax percentages over fixed amounts, which are updated periodically by Executive Decree. In 2021, all homes with a value under ₡133,000,000.00 colons were exempt.

**AMOUNT****PERCENTAGE**

From ₡133,000,000.01 colons to ₡335,000,000.00 colons. ....	0.25%
From ₡335,000,000.01 colons to ₡672,000,000.00 colons. ....	0.30%
From ₡672,000,000.01 colons to ₡1,008,000,000.00 colons. ....	0.35%
From ₡1,008,000,000.01 colons to ₡1,345,000,000.00 colons. ....	0.40%
From ₡1,345,000,000.01 colons to ₡1,679,000,000.00 colons. ....	0.45%
From ₡1,679,000,000.01 colons to ₡2,017,000,000.00 colons. ....	0.50%
In excess of ₡2,017,000,000.00 colons. ....	0.55%



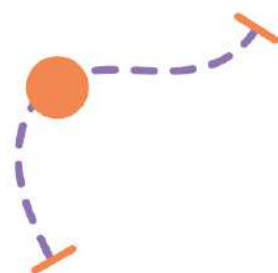
Taxpayers must register with the Tax Administration by filing Form D-179 “**Formulario Único de Inscripción, Declaración y Pago Impuesto Solidario para el Fortalecimiento de Programas de Vivienda, Ley 8683**” via the Virtual Tax Administration website (ATV). Form D-179 must be filed every three years to update the property value no later than January 15th. The tax is due annually and can be paid via your bank’s online payment platform or directly through authorized collection agencies.

Law 8683 establishes that taxpayers who fail to comply with their solidarity tax obligations will be subject to fines and payment of interest.



## 17.

## WHAT ESTATE PLANNING SHOULD I DO IF I HAVE INVESTMENTS OR OWN ASSETS IN COSTA RICA?



Many of the cases in which the assets of foreign investors have been lost, entangled or frozen when they have passed are due to a lack of estate planning. The rule is simple: if you own assets in Costa Rica, you need to prepare a structure that guarantees that your estate is protected and will be distributed according to your wishes when you pass.

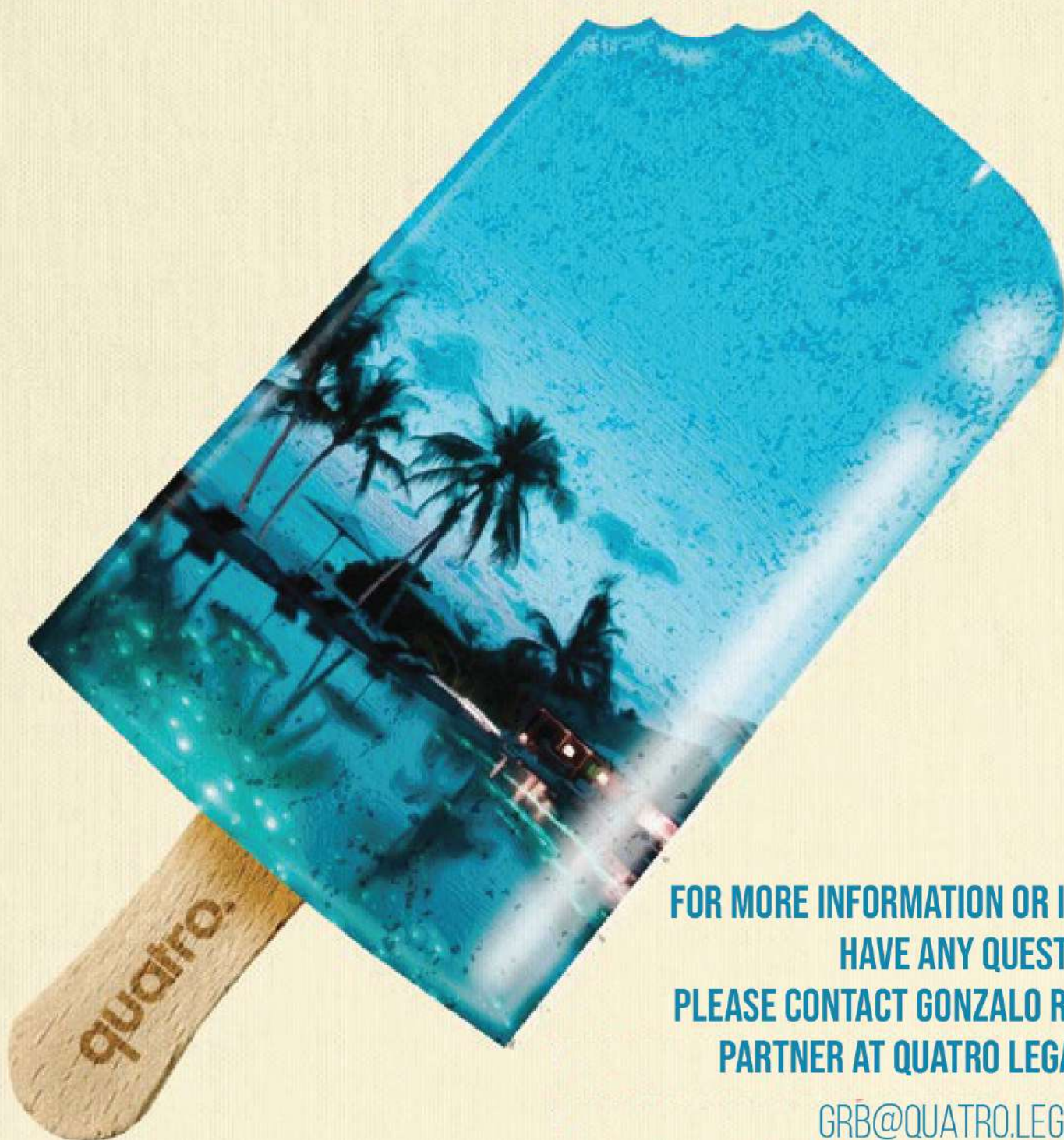
Estate planning is one of the most important decisions a foreign investor can make. Many people come to do business in the country or to purchase assets, corporations and businesses, and assume that their estate plan in their home country will cover their assets in Costa Rica. This is not the case, however. Having an estate plan abroad does not make it enforceable in Costa Rica and, when it is enforceable, it would need to comply with other formalities, requirements and proceedings that could take years in local courts. It is best to have a separate parallel structure to manage or distribute any patrimony owned in Costa Rica. If you are planning to invest, ask your attorney to prepare an estate plan alongside your business structure.

Costa Rican law covers different estate planning options, such as wills, corporate holdings with boards or appointing an officer to enforce corporate asset distribution, trust structures, etc. Regardless of the legal structure you choose, what matters is that you are prepared so that decisions can be made over your patrimony when you are gone.





# THE quatro. LEGAL GUIDE



FOR MORE INFORMATION OR IF YOU  
HAVE ANY QUESTIONS,  
PLEASE CONTACT GONZALO ROJAS,  
PARTNER AT QUATRO LEGAL, AT

GRB@QUATRO.LEGAL OR  
(506) 8345-8156.