

New Obligations for Dormant Corporations were Imposed by Tax Administration

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The legal status of dormant corporations had never been regulated in Costa Rica.

Dormant corporations are inactive legal entities that are not presently operating accruing revenues, but that are capable of being activated. In the past, the law only regulated active corporations, meaning those that conduct business activities.

In Costa Rica, dormant corporations have been used as a family-estate planning tool and in other cases, as means to limit liabilities exposure (i.e. vehicles).

In light of the lack of regulations, Tax Administration had had ambivalent policies towards dormant companies. At one point, Tax Administration mandated all dormant corporations to be recorded in the Tax Registry. But later they changed their mind, and for the past few years only active companies are obliged to be registered therein.

The tax reform that came into effect last July 1st, amended the regulations on this subject matter. The new bill expanded the definition of “taxpayer” in the Income Tax Act. Presently, all legal entities are deemed taxpayers regardless the fact they may or may not conduct business activities (Income Tax Act, §2). Thus, the tax reform expanded Tax Administration’s jurisdiction over all dormant companies.

The administrative regulations to the amended Income Tax Act foreshadowed that the regulations applicable for the tax duties that the dormant companies would be subject to, would be published in the future (Income Tax Act Administrative Bylaws, §4 paragraph fourth, section b).

On December 20th, 2019, Tax Administration published in the Official Journal its Resolution DGT-R-075-201. Another publication was made on January. Thus, it is unclear the exact date on which these regulations came into effect.

Tax Administration imposed two duties that dormant companies shall comply with.

The first duty is to register in the Tax Registry. The registration refers to the information involving the legal representative and the tax address of the



company. Tax Administration created a special bracket for dormant companies to report on as for their economic activity: “960113 legal entities incorporated in the country that do not perform any economic activity of Costa Rican source”. Hence, dormant companies shall be registered in such bracket in the Tax Administration’s web page called ATV. The regulations mentioned that companies that are already registered as dormant in the Tax Registry will be assigned such bracket therein.

The registration process shall be executed following this schedule:

| Corporate ID number ending in | By* |
|--------------------------------------|-------------------|
| 1 and 2 | January 19, 2020 |
| 3 and 4 | February 19, 2020 |
| 5 and 6 | March 19, 2020 |
| 7 and 8 | April 19, 2020 |
| 9 and 0 | May 19, 2020 |

*These dates may be moved a few dates as the exact date when the new regulations came into effect is still unclear.

The second duty that dormant companies shall comply is filing an annual special tax return containing information about its assets, liabilities and corporate equity. Form D. 135 Estate Filing for Dormant Legal Entites shall be used for that purpose.

This tax return shall be filed within the two months and a half of the completion of each fiscal year (no later than March 15th of each year). The tax return shall be filed even if there were no changes with regards to the previous filing. March 15th, 2021 is the deadline for this first filing of Form D135.