



**DOING**  
BUSINESS



TEATRO NACIONAL

DOING BUSINESS  
**COSTA RICA**



# CONTENTS



FOREWORD

3

5

COSTA RICA

GETTING STARTED

8

12

TAX SYSTEM

PERMITS AND SPECIAL REGIMES

19

21

REAL ESTATE

LABOR MATTERS

23

27

INTELLECTUAL PROPERTY



*BLP was founded in 2003 in Costa Rica by a group of lawyers who shared a vision that legal advisors should become true business partners of their clients by combining superior legal advice with a practical approach to business. Hence, our name Business Law Partners.*

*Over the years, the Firm has expanded its practice within the Central American isthmus. In addition to Costa Rica, BLP is registered to practice law in El Salvador, Guatemala, Honduras, and Nicaragua.*

*Recently, BLP inaugurated its first representation office in Madrid, Spain, in order to strengthen our relations with European law firms and clients and to provide legal advice on different aspects of the various Central American jurisdictions.*

*The Firm has earned its clients' trust and loyalty by applying expertise and experience to legal advice rooted in sound business judgment. In doing so, BLP adheres to the highest international standards of quality, reliability, and efficiency. The Firm and our attorneys have attained regional leadership roles in both the legal domain and business circles.*

*In order to maintain the highest level of quality and client satisfaction, BLP invests significant resources to enhance the service we provide. Our core values are the fundamental pillars of a commitment to excellence:*

- 1. Quality*
- 2. Service*
- 3. Ethics*
- 4. Teamwork and cost-consciousness*
- 5. Leadership and development*
- 6. Talent*
- 7. Pro-bono work*

*BLP is consistently honored as one of the most outstanding law firms in Central America by distinguished publications such as Latin Lawyer 250, Chambers & Partners, and the International Financial Law Review. The regional business magazine Estrategia & Negocios rates the Firm as one of the best in Central America. Worth noting, the United States Commercial Service refers to BLP those foreign investors in need of legal help in Central America. The Firm is active in local chambers and supports a number of non-profit entities and other private associations.*

*With membership in four highly respected international professional networks, BLP is able to provide a global service to clients, ensuring adherence to our renowned standards anywhere in the world:*

- Meritas Law Firms Worldwide, an alliance of nearly 200 independent business law firms founded in 1990.*
- The Interlex Group is an association of leading law firms around the world that cooperate to provide a complete range of international legal and business services to clients.*
- Interlaw, a network of independent full-service corporate law firms that are preeminent in ethics, client service, and professionalism.*
- World Services Group (WSG), a globally recognized resource for professionals and their clients to receive the highest quality, best value, and timeliest service from lawyers, investment bankers, and accountants. WSG provides its members the ability to create new business opportunities and relationships to better serve their clients.*

*This document is part of a series of guides to doing business in Central America*



### SAFE AND STABLE:

- First country in the world to abolish its army constitutionally (1949)
- Only Latin American country on the list of the World's 22 oldest democracies
- Pro-foreign investment policy
- Ranked #1 in Latin America in Political Stability, according to the World Bank Study for Global Governance
- Ranked as the second most prosperous country in Latin America, according to the Global Prosperity Index 2017

### A DEVELOPED NATION:

- Ranked #1 in the New Economics Foundation's Happy Planet Index 2017.
- Ranked #1 country in Central America in the Human Development Index 2017.
- Ranked #2 country in Latin America in the Global Innovation Index 2018.
- Ranked #1 exporter of Added Value Services in Latin America 2017



**5** MILLION INHABITANTS

**+200** MULTINATIONALS OPERATING

**95%** OF MULTINATIONAL EMPLOYEES ARE LOCALS

### EDUCATED:

- Free education with compulsory attendance
- Young, multilingual, talented, and educated workforce
- 97.8% literacy rate, the highest in Latin America
- Ranked #1 in Quality of the Educational System in Latin America, and #27 in the World, according to the World Economic Forum (2016-2017)
- Ranked #24 in the World in the availability of scientists and engineers, according to the World Economic Forum (2016-2017)

### ENVIRONMENTALLY FRIENDLY:

- Ranked #1 in the Americas on the Environmental Performance Index 2018 and 30th worldwide.



*Costa Rica (occasionally hereafter CR) is a Central American country bordered by Nicaragua to the North, Panama to the South, the Pacific Ocean to the West and the Caribbean Sea to the East. It is home to approximately 5 million people. The Costa Rican Government has adopted a policy decidedly in favor of foreign investment.*

*In 1949, Costa Rica was the first nation in the world to pass a constitutional amendment abolishing its army. Since then, the country has been able to avoid the internal conflicts that have plagued most of Central America. Consequently, Costa Rica remains a safe place for foreign investors to come and live.*

*Besides being a beacon of peace, the country ranks first in the Happy Planet Index according to the New Economics Foundation and is one of the “greenest” countries on earth. It is the only Latin American nation included among the world’s 22 oldest democracies and has consistently been among the top Latin American countries as rated by the Human Development Index, ranking 66th in the world in in 2017. On the 2018*

*Environmental Performance Index, Costa Rica is at number 30 in the world out of a list of 170 and is first in the Americas. In 2017, the Social Progress Index, a composite analysis of the progress in meeting basic human needs, foundations of well-being, and opportunity, listed Costa Rica at 28 out of 180 countries/territories studied.*

*As a democratic republic with a strong constitution, Costa Rica has been and remains one of the most stable countries in Latin America in both political and economic terms. In 2016, the World Bank Study for Global Governance Indicators ranked Costa Rica as first in political stability among the nations of Latin America.*

*Presently, an estimated 200 multinational companies are conducting business within the borders of Costa Rica, in large part because of immediate access to an exceptionally talented, bilingual young workforce. On average, 95% of the employees in multinational companies are local.*

The main steps to starting operations:

**1**

Choose the type of company or form of incorporation to structure the business, and obtain its legal books. For more information please refer to **Getting Started**.

**2**

Register the company at the Tax Administration. For more information please refer to **Tax**.

**3**

Choose the facilities to operate. The facilities can be leased, purchased or built, depending on the alternative desired. Certain permits and requirements must be fulfilled. For more information please refer to **Real Estate**.

**4**

Obtain the special permits and licenses applicable to the type of industry to be developed in Costa Rica. For more information please refer to **Permits**.

**5**

Register the company as an employer at the Social Security Fund and obtain the mandatory Occupational Risk Insurance Policy for employees. For more information please refer to **Labor Matters**.

**6**

Register any intellectual property required for the operation. For more information please refer to **Intellectual Property**.

**7**

Start operations in **Costa Rica**.

# 1. GETTING STARTED



The two most common business formations under Costa Rican Law are the Sociedad Anónima (SA) and the Sociedad de Responsabilidad Limitada (SRL or Ltda.).

These are their main characteristics:

## A. "Sociedad Anónima" (S.A.):

Its most relevant traits are as follows:

a) Limited Liability: The SA affords limited liability to its shareholders. Shareholders are only liable up to the amount of their capital contribution.

b) Capital Stock: The Capital Stock must be a fixed amount which can be expressed in Costa Rican currency, colones, or in another currency such as US dollars. The capital stock is divided into common shares which are represented by share certificates. Costa Rican laws do not allow bearer shares. The shares are nominative and must be registered in the name of each shareholder. Shares are deemed securities. They may be of different classes and certain classes may have preferences or limitations with respect to others.

c) Number of Shareholders: At least two shareholders must incorporate the SA, but once the company is incorporated the number can be reduced to one

shareholder. There is no limit to the number of shareholders a SA can have

d) Free Transferability of Shares: Absent any agreement to the contrary, shares can be freely transferred from the shareholders to any third party. No approval is required either from the company or from the other shareholders. Shares are assigned simply by endorsing the corresponding share certificates. The assignment must be registered in the Shareholder's Registry Book of the company.

e) Board of Directors: The SA is managed by a Board of Directors elected by the Shareholders. The Board of Directors is comprised of at least 3 members, a President, Secretary, and Treasurer.

By Law, the President is the legal representative and bears responsibility for the company with full powers of attorney.

Other board members can be appointed at the discretion of Shareholders.

f) Comptroller: The Comptroller audits the Board of Directors in their duties and informs the Shareholders on the general administration of

the company. The Comptroller cannot hold any other office on the Board of Directors or be a relative of any member of the Board.

g) Resident Agent: If none of the Board Members has permanent residency in Costa Rica, the company must appoint a Resident Agent for the purpose of receiving administrative and court communications. The Resident Agent must be a local practicing lawyer with registered business offices within the country. BLP qualifies as a Resident Agent, providing the required services to a host of clients.

h) Term: In Costa Rica, business entities are not perpetual. The law requires a definite term for companies which must be specified by a number of years. The term can be extended or reduced at any time. Typically, companies are registered with a term of 100 years.



## **B. Sociedad de Responsabilidad Limitada: The SRL is similar to a Limited Liability Company.**

a) Limited Liability: Stockholders are only liable up to the amount of their capital contribution.

b) Capital Stock: Ownership interest is represented by quotas (cuotas), similar to membership interests. The statutory right of first refusal in acquiring quotas exists for the benefit of remaining quota holders. All quota interests give equal rights (no preferences or limitations may be established).

c) Transfer of capital stock: Quotas cannot be transferred by endorsement. Any transfer of quotas must be previously and unanimously approved by the remaining stockholders (100% of those remaining unless the articles of association provide for a lesser majority, but not less than 75%). Quota holders have a right of first refusal to acquire available quotas. In case the transfer is not approved, either the company or the stockholders must purchase the offered quotas upon the same

terms and conditions, within a fifteen-day term. After such a term has lapsed without the quotas being purchased, the selling stockholder is free to transfer the shares. The transfer must be done through a formal cession via assignment agreement.

d) Number of Quota Holders: At least two quota holders must incorporate the SRL or Ltda. Once the company is incorporated, only one quota holder is required. There is no limit to the number of quota holders a limited liability entity may have.

e) Managers: The SRL or Ltda. provides a simpler management structure, since, instead of a Board of Directors, it is managed by at least one Manager, who bears the company's legal representation and powers of attorney. Managers are appointed by the quota holders. Quota holders can appoint additional managers.

f) Comptroller: Since there is no Board of Directors, the SRL or Ltda. does not require the appointment of a Comptroller.

g) Resident Agent: If the company's management does not have permanent residency in Costa Rica, the company must appoint a Resident Agent for the purpose of receiving administrative and court communications. The Resident Agent must be a local practicing lawyer with registered business offices within the country. BLP offers these services.

h) Term: In Costa Rica, business entities are not perpetual. The law requires a definite term for companies which must be specified in a number of years. The term can be extended or reduced at any time. Typically, companies are registered with a term of 100 years.

i) Tax Status: Although Costa Rican tax laws do not distinguish between the SA and the SRL, in some jurisdictions such as the United States an SRL may be treated as a pass-through entity and taxed as a partnership. Opting for such treatment may benefit the foreign investor who has the alternative of consolidating the entity's results with its parent company or stockholders.



ASPECT	S.A.	S.R.L.
<i>Equivalent in the United States of America</i>	<i>Similar to a U.S. C Corp</i>	<i>Similar to a U.S. Limited Liability Company</i>
<b>Costa Rican tax treatment</b>	<i>The SA pays income tax directly; non-domiciled shareholders are subject to 15% withholding tax on dividends sent abroad; domiciled shareholders must report dividends as part of their income on annual income tax return subject to the standard applicable tax rate</i>	<i>The S.R.L pays income tax directly; non-domiciled shareholders are subject to 15% withholding tax on dividends sent abroad; domiciled shareholders must report dividends as part of their income on annual income tax return subject to the standard applicable tax rate</i>
<b>U.S. Tax Treatment</b>	<i>No special treatment</i>	<i>Eligible to be treated as "flow-through" or disregarded tax entity under IRS regulation 301.7701</i>
<b>Capital - Currency</b>	<i>Capital may be in any currency</i>	<i>Capital must be in Costa Rican colones and must be stated in a multiple of 100</i>
<b>Capital – Ownership interest</b>	<i>Ownership interest is represented by shares, which are deemed securities and are freely transferable (except for shareholder agreement requiring Board of Directors' authorization); shares are transferable by endorsing share certificates; shares may be of different classes and certain classes may have preferences or limitations with respect to others.</i>	<i>Ownership interest is represented by quotas similar to membership interests; quotas are not securities, and by statute, they are not freely transferable. A statutory right of first refusal in acquiring quotas exists for the benefit of remaining quota holders. The transfer of quotas requires the approval of 100% of the quota holders (unless articles of association provide for a lesser majority, but never less than 75%). The transfer must be done through a formal assignment agreement. All quota interests have equal rights; no preferences or limitations may be established.</i>
<b>Capital -Increases</b>	<i>No statutory preference for acquiring new shares in capital increases</i>	<i>Statutory preference for existing quota holders to subscribe new capital in proportion to their respective membership interest in the event of a capital increase; if a quota holder is not present at meeting authorizing capital increase, he must be notified and given the opportunity to exercise this right.</i>
<b>Management</b>	<i>Board of Directors comprised of at least a President, a Secretary, and a Treasurer; as many managers as determined by articles of incorporation, generally to be appointed by the Board of Directors</i>	<i>No Board of Directors; the company is managed by one or more managers with the authority granted to them by the quota holders</i>
<b>Oversight</b>	<i>A comptroller (fiscal) must be appointed (may be one or more persons)</i>	<i>No oversight required</i>
<b>Issuance of Debt</b>	<i>May issue debt</i>	<i>May not issue debt</i>
<b>Term</b>	<i>Definite Term</i>	<i>Definite Term</i>
<b>Stockholder Liability</b>	<i>Limited liability for its shareholders. Shareholders are only liable up to the amount of their capital contribution</i>	<i>Limited liability for its quota holders, who are only liable up to the amount of their capital contribution.</i>

*\* Please consult U.S. tax advisors. BLP is not qualified to provide U.S tax advice. This information is provided as a general reference but is not intended to be relied upon for tax planning.*



## **D. Trusts:**

*Trusts agreements are commonly used by Costa Rican commercial entities and individuals to manage their commercial and personal interests. The trust structure is regulated in the Costa Rican Commerce Code and has a minimum of three parties to it: the benefactor, the beneficiary and the trustee. In accordance with the specific terms and conditions of the trust, the benefactor transfers to the trustee property of certain assets or rights, for the benefit of designated beneficiaries.*

## **E. Subsidiaries/Branches/Representative Offices:**

*Foreign companies may conduct business in Costa Rica through branches of their parent company provided that the following requirements are duly met:*

- *Appointment of a legal representative(s) with full power of attorney to act on behalf of the branch.*

- *Statement of the branch's corporate purpose.*

- *Statement of the parent company's:*

- o *Corporate purpose*
- o *Share capital*
- o *Full names of all current officers and managers*
- o *Legal term*

*A formal statement whereby it is fully represented and acknowledged that the proxy (that will act on behalf of the Branch) and the Branch itself shall be subject to Costa Rican laws and jurisdiction with regard to those acts performed or that shall be executed within the country and that, consequently, the parent company submits a waiver of the laws of its domestic jurisdiction therewith.*

*The power of attorney must be notarized and legalized by the corresponding Costa Rican General Consul in the jurisdiction of the parent company where the power of attorney is granted.*

## 2. TAX SYSTEM



### A. Source-based income system: Territoriality

The Costa Rican tax system is based on the Territoriality Principle, whereby only income derived within Costa Rican territory and from Costa Rican sources is subject to income tax. Moreover, according to the Income Tax Law (ITL), any income deriving “from services rendered, goods located or capital utilized in the national territory and obtained during the tax period...” is taxed in the terms therein elaborated. Based upon the said principle, any income obtained from foreign sources should not be considered as part of the gross income.

Thus, for Income Tax purposes, income obtained from foreign sources should not be included in gross income. In this sense, the “territoriality” is the main element in order to determine whether or not income is taxable by the Costa Rican tax regime. Following this principle, the tax is applicable to all income earned in Costa Rica or from Costa Rican sources, regardless of citizenship, domicile or residence of the taxpayer.

A general Income Tax rate applies to companies at 30%, if they receive an annual gross income of ₡106.000.000 colones (approximately US\$181,000). Nevertheless, such rate is inferior if the annual gross income is also inferior as shown on the below chart:

ANNUAL INCOME	TAX RATE
Up to ₡5.000.000 (approx. US\$8.500)	5%
In excess of ₡5.000.000 and up to ₡7.500.000 (approx. US\$12.800)	10%
In excess of ₡7.500.000 and up to ₡10.000.000 (approx. US\$17.070)	15%
In excess of ₡10.000.000	20%

\*US\$ amounts are based on an exchange rate as of July 5th, 2019, of ₡585.83 per dollar.

Even though the annual gross income amount determines the applicable Income Tax rate, such rate applies to the net income amount, obtained after deducting all the applicable costs and expenses as explained below.

The statutory tax year runs from January 1st and until December 31st.

a. Income Tax Return Filing: Taxpayers must file corporate Income Tax returns and pay the applicable taxes due within two months and fifteen days after the end of the tax year. Note well that Income Tax liabilities are due and payable at the same time that the tax return is filed.

In addition, estimated tax payments must be paid on a quarterly basis. These estimates are based on 75% of either the average tax paid in the prior three years or the tax liability of the previous year, whichever is greater.

b. Taxable Profit-Deductible Expenses: As stated, the Costa Rica tax system is based on the territoriality principle, whereby only income derived from local source should be subject to taxation. Corporate income tax is assessed on net income,

which is defined as gross income less deductible expenses and costs.

Therefore, companies may deduct from gross income all costs and expenses necessary to produce taxable income. Expenses incurred to obtain exempt income are not deductible. Nevertheless, the Tax Administration is empowered to deny an expense deduction if any of the following criteria apply:

- Not considered necessary to produce taxable income.
- Excessive or unreasonable.
- Pertain to a different tax year.
- Not supported by appropriate documentation.
- Not registered in the accounting records.
- Proper income tax not withheld at the source (if applicable).

Certain expenses incurred abroad are allowed as deductions, such as commissions, fees, and compensation for personal services paid to directors, advisors, and other representatives acting abroad, as permitted under Article 8 (j) of the Income Tax Law.

Expenses for technical or financial advice paid to non-domiciled individuals and/or companies are also allowed as deductions, provided that the corresponding tax has been withheld if the services are performed within the Costa Rican national territory.

In summary, the Costa Rican company may deduct from its gross income all expenses necessary to generate income, such as payment of salaries, professional services, office rent, and supplies.

### B. Capital and Income:

a. Dividends: Dividends paid between resident entities are not subject to taxation, as long as the shareholder is a taxpayer and carries out an economic activity.

b. Nevertheless, in the case of individuals, domiciled or not, a 15% withholding tax applies.

c. Capital Gains: Capital gains are taxable in Costa Rica with a 15% withholding tax. Nevertheless, regarding goods and rights that were obtained before July 1st, 2019, on its first sale, the taxpayer can opt to apply a withholding tax of 2.25% over the total sale price. Non-domiciled individuals or legal entities that own real estate in Costa Rica would be subject to a 2.5% withholding tax upon the sale of the asset.

d. Personal Income Tax: Costa Rican legislation provides different types of remuneration schemes depending upon whether the individual is subject to a labor relationship.

e. Global income is recognized, which means that Costa Rican sourced income subject to a withholding tax became part of the gross income of the taxpayer, and the withholding tax is considered a payment on account of the Income Tax.

f. Thin capitalization rules are introduced and are applicable to financing from shareholders or related parties. In such cases, interest are deductible up to 20% of the earnings before interest, taxes, depreciation and amortization (EBIDTA). The difference may be deducted in the following years until the expense amount is exhausted. Thin capitalization rules does not apply to loans granted by local banks or non-domiciled financial entities considered as "first order" institutions by the Costa Rican Central Bank.

g. A new capital gains tax of 15% apply to capital contributions made by shareholders, as well as returns of capital when the company has retained earnings from previous years and have not registered such contribution on the accounting records al legal books. Also, interest

h. Non-domiciled individuals or legal entities that own real estate in Costa Rica are subject to a 2.5% withholding tax upon the sale of the asset.

i. Companies are allowed to carry losses forward for 3 consecutive years. Agricultural companies are allowed to carry losses forward for up to 5 years.

j. Donations are deductible in amounts up to 10% of the taxpayer's net income.

k. Fees paid abroad to related parties in jurisdictions where Costa Rica sourced income is not considered taxable and therefore, non-deductible.

l. Profits distributed by employees' associations are subject to a 5%, 7% or 8%, withholding tax depending on the amount obtained.

### C. Self Employed Resident Individuals:

Under the professional services scheme, individuals that conduct lucrative activities must register before the Tax Administration through Form D.140, issue authorized invoices, and file an annual Income Tax return. According to the ITL, income tax rates for the 2018 tax year are:

AMOUNT	RATE
Up to ₡3.628.000 (approx. US\$6,192)* annually.	Exempt
From ₡3.628.001 up to ₡5.418.000 (approx. US\$9,248)	10%
From ₡5.418.001 up to ₡9.038.000 (approx. US\$15,427)	15%
From ₡9.038.001 and up to ₡18.113.000 (approx. US\$30,918)	20%
In excess of ₡18,113,001	25%

\*US\$ amounts are based on an exchange rate as of July 5th, 2019, of ₡585.83 per dollar.

## 2. TAX SYSTEM



Self-employed individuals are required to file an annual Income Tax return within two months and 15 days of the tax year end, i.e. December 15. The taxable base should be gross income less deductible expenses. Once the Income Tax is calculated, individuals conducting lucrative activities (professional services), have the right to deduct from the tax amount due:

a. For each under-age child or under 25 years and performing university studies: 18.360 annually (approx.US\$31).

b. Or the spouse: 27,480 annually (approx.US\$47).

Moreover, these individuals may perform a unique deduction of expenses of 25% from gross income, without rebutting proof.

Any professional services paid by the company are deductible from its gross income.

### **D. Employed Resident Individuals/Payroll:**

Individuals, who work under a dependent relationship (on the payroll), are subject to a salary tax. In this regard, the employer will withhold monthly the corresponding salary tax, based on the following rates for the tax year 2018:

AMOUNT	RATE
Up to ₡817.000 (approx. US\$1,395)* monthly	Exempt
From ₡817.001 up to ₡1,199,000 (approx. US\$2,050)	10%
From ₡1,199.001 up to ₡2,103,000 (approx. US\$3,590)	15%
From ₡2,103.001 up to ₡4,205,000 (approx. US\$7,178)	20%
In excess of ₡4,205,001.00	25%

\*US\$ amounts are based on an exchange rate as of July 5th, 2019, of ₡585.83 per dollar.

As stated, employed resident individuals are subject to a monthly Income Tax withholding, which substitutes the need for a year-end tax return filing. Employed individuals are not allowed to deduct any costs or expenses.

The payment of these salaries is deductible by the company; however, it is necessary to perform the corresponding withholding of salary tax and social security charges

Costa Rica has a comprehensive social security system which is mandatory for all legally established employers and employees. The Costa Rica Social Security Fund (Caja Costarricense del

del Seguro Social, or colloquially the Caja) manages the social security system together with the Ministry of Health. The system covers disability, illness, old age, death, maternity, pension, etc. Employer and employee, regardless of residence, are subject to mandatory contributions as a percentage of all monthly salaries, with 10.34% of the salary as the monthly contribution payable by the employee, and 26.33% the employer's monthly contribution.

### **E. Payments to Non-Residents:**

Non-domiciled individuals in Costa Rica that obtain Costa Rica sourced income derived from rendering professional services of any type are subject to a 25% withholding tax rate. The entity that pays the income must withhold the corresponding tax and convey it to the Tax Administration. Once these individuals live continuously in Costa Rica for more than six months, they will be considered domiciled and therefore subject to the salary tax (if a labor relationship exists) or to ordinary income tax for those individuals that are considered and registered as independent professionals before the Tax Administration.

### F. Withholding tax on remittances:

A withholding tax on remittances is levied upon all Costa Rican sourced income that is paid, credited, or in any other way made available to individuals and entities domiciled abroad. Therefore, according to ITL Article 59, a foreign remittance of any Costa Rican sourced income is subject to a local withholding tax that ranges from 0% to 50% depending on the nature and concept of the payment. Examples of withholding taxes and the applicable rates are shown in the following chart:

INCOME	RATE
Transportation and communications	8.5%
Wages, salaries, pensions under labor relationships	10%
Fees, commissions, professional services, or any other payment under a non-labor relationship	25%
Insurances premiums, reinsurance, and related payments	5.50%
Motion pictures, TV programs, soundtracks, and related payments	20%
Soap Operas and similar payments	50%
Dividends	15%
Dividends on shares registered and bought through a local stock market	5%
Interests and other financial expenses	15%
Financial/technical advisory, royalties, trademarks, franchises, formulas, and similar payments	25%
Payments made to a non-domiciliated, in occasion of public shows that takes place occasionally in Costa Rica	15%

The taxpayer is the company or individual domiciled abroad that receives the payments. Therefore, the amount withheld is not deductible for the withholding agent.

### G. Tax residence and fiscal domicile:

In accordance with Income Tax Law Regulations, a resident for tax purposes is any legal entity incorporated in Costa Rica and carrying out business activities, including any branch or another permanent establishment of a non-domiciled legal entity.

### H. Branch / Permanent establishment:

A non-locally incorporated entity could have a fiscal presence in Costa Rica when carrying out business activities within the country. In accordance with ITL Article 2, section 1, a permanent establishment (PE) is defined as:

"A permanent establishment is any fixed place or business place in which the essential activity of a non-domiciliated takes place entirely or partially" Some examples that are considered as permanent establishments:

- i. Administrative centers.
- ii. Branches.
- iii. Agencies.
- iv. Offices.
- v. Factories.
- vi. Workshops.
- vii. Mines, quarries and any other natural resource extraction site.

Branches and permanent establishments are taxed like any other regular taxpayer, at a 30% rate.

In case the branch or another permanent establishment distributes dividends abroad, such dividends would be subject to a 15% withholding tax.

### I. VAT Tax:

Under the VAT system, the totality of the sales of goods and services are considered taxable, with certain exceptions, such as the basic food basket and private education.

VAT tax should be reported before the 15th of every month to the tax authorities via form D-104. The report should include the amounts respective to the previous month.

The general VAT rate is 13%; however, reduced rates are included as followings:

- **4%**
  - Airfare purchase. The 4% should be applied to the 10% of the total ticket's total price.
  - Private health services
- **2%**
  - Medicines, raw material, inputs, machinery, equipment and reagents that are necessary for its production.
  - Private education
  - Private insurance premium
- **1%**
  - Basic food basket



### **J. Municipal Tax:**

Any company conducting a lucrative activity must request a municipal license permit in order to operate at the municipal level. Consequently, a municipal tax is assessed and collected individually by each local government and ranges between 0.1% y 0.35% upon the gross income of the company (municipal or patent tax), although some municipalities calculate this tax by combining it with yet another rate based upon the net income of the company.

Costa Rica is divided into 81 municipalities with each having its own Municipal License Tax, although such tax is similar among all of them. The License is required by each Municipality in which the entity will conduct a lucrative activity. Thus, it is important to establish each location in which taxable events occur in order to allocate among municipalities the income generated by the entity, bearing in mind that most Municipal Laws do not regulate the process by which such allocation is conducted if two or more municipalities are involved. . For this reason, the Constitutional Court has ruled that such allocation will be determined

by the place in which the invoicing process is conducted, even if the person billed resides in different municipality.

### **K. Transfer Tax on Property other than Real Estate**

The transfer tax occurs when real property is transferred, including indirect transfers, such as the sale of shares. The appraisal value base for computing the tax is the higher of, the level declared or stated in public records or the value stated by the parties in the closing deed.

The tax rate is 1.5% of the taxable base. The Public Registry will not record a transfer deed unless the transfer taxes and documentary stamps have been paid. This amount can be changed by the Tax Office when the price is changed for fiscal reasons. In the case of vehicles, a 2.5% transfer tax is imposed.

### **L. Real Estate Tax:**

The transfer of land, buildings and other permanent structures is managed, assessed, and determined by the municipality where the asset is located. The tax rate is 0.25%.

### **M. Transfer Pricing Regulations:**

Transfer pricing rules are based on the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. Taxpayers subject to transfer pricing rules must maintain documentation to support the pricing of related party transactions.

Taxpayers engaged in domestic or cross-border transactions with related parties, or those defined as Large Taxpayers, Large Territorial Company, or a Company subject to the Free Trade Zone Regimen must file an annual transfer pricing information return.

Advance pricing agreements (APA) are available, under which the Tax Authorities must agree to the price of related party transactions in advance. An APA is valid for a three-year period.

The regulations set out a general framework for the required supporting documentation, which must be prepared in Spanish; however, such documentation will only be necessary if there is a formal request form the tax authorities.

## 2. TAX SYSTEM



Companies doing business in Costa Rica should review and safeguard all of their existing intercompany transactions and other transactions that may fall under the new regulations to determine whether they are within the scope of the rules and comply with the arm's length principle. Any intercompany transactions that may be anticipated in the future for which transfer pricing support will be required must be assessed.

All companies should document the required transfer pricing in order to support their related party transactions.

### N. Legal Entities Tax:

The legal entities tax is paid on an annual basis and applies to all entities registered before the Corporate Section of the Public Registry. The applicable tax rate depends on the gross income of each entity and the legal entity tax ranges from \$100 to \$400 and must be paid during the month of January, as follows:

CATEGORIES	RATE	BASE SALARY ₡ 446.200 (approx. US \$ 762)*
<i>Companies not registered with the Tax Authorities as income taxpayers.</i>	15%	<i>A 15% of one base salary should be paid: ₡66.930 (approx. US\$114)</i>
<i>Income tax payers whose previous income tax return indicates a gross income lower than one hundred and twenty base salaries ( ₡3.544.000), (approx.US\$ 91,398).</i>	25%	<i>A 25% of one base salary should be paid: ₡111.550 (approx. US \$ 190)</i>
<i>Income tax payers whose previous income tax return indicates a gross income in the range of one hundred and twenty base salaries(₡3.544.000), (approx. US\$91,398) to less than two hundred and eighty base salaries ( ₡124.936.000), (approx. US\$213,263).</i>	30%	<i>A 30% of one base salary should be paid: ₡133.869 (approx. US \$ 228,50)</i>
<i>Income tax payers whose previous income tax return indicates a gross income of two hundred and eighty base salaries (₡124.936.000), (approx. US\$213,263).</i>	50%	<i>A 50% of one base salary should be paid: ₡ 223.100 (approx. US \$380,82)</i>

\*US\$ amounts are based on an exchange rate as of July 5th, 2019, of ₡585.83 per dollar



#### **A. Lease of the facilities for the operation:**

If a Company plans to lease a facility to install its operation, special public order regulations apply. The two basic laws that govern lease agreements are the Civil Code and the General Urban and Suburban Lease Law of Costa Rica (Ley General de Arrendamientos Urbanos y Suburbanos), that regulates most residential or commercial leases in Costa Rica, and whose rules are mostly pro-tenant.

This law establishes the minimum requirements that lease contracts shall have:

- a. Name of the lessor and lessee
- b. Property number
- c. Detail description of the real estate leased (services, accessories, the status of the asset, etc.)
- d. Description of the movable assets included in the lease
- e. Purpose of the lease
- f. Rent amount
- g. The term of the lease, not less than three years
- h. Notifications
- i. Date
- j. Other clauses included by the parties

*In many cases, the rules cannot be waived, and even if the parties negotiate different terms in the contract, the agreement or such clauses may be void.*

*Furthermore, the law does not require a written agreement; however, is advisable to have one reflecting the terms and conditions of the lease.*

#### **B. Purchase of the facilities to operate:**

*Before making any real estate investment, it is recommended to conduct a full due diligence on the property, including the title, liens, easements, mortgages, annotations or limitations, the allowed use and restrictions that may apply, availability of public utilities and the conditions of the improvements. An appraisal of the premises must be conducted. While the study is done, it is customary to secure an option to purchase the property with Seller, and escrow services can be used to keep good custody of any deposits required.*

*Once the decision is taken to purchase, an asset-holding legal structure which will secure proprietary rights while protecting the company from any operational risks and liabilities should be formed. Usual structures include special purpose vehicles and trusts.*

*The actual closing of the transaction is done through the conveyance of ownership rights and transfer of the property in an official document (the purchase deed) before a Costa Rican notary. The deed will contain an identification of the dealing parties, a legal description of the property, and the purchase price, as well as the usual warranties and representations. In order to become fully effective, the deed must then be filed for registration before the Costa Rican Public Registry. Closing costs are regularly split between Buyer and Seller, with each paying half. Including registry dues, stamps, local and national taxes, and legal fees, the average total closing cost is 3.5% of the price on average.*

*Typically, commercial space in corporate centers or office buildings is organized as condominium property, pursuant to the Regulatory Law of Condominium Property; however, special rules may apply to this type of ownership system, such as Condominium bylaws, or other types of covenants which must be well reviewed before buying at such compounds. Verification is also necessary that there are no outstanding fees such as Common Area Maintenance Fee (CAM) or obligations towards the Condo Association that*



might cause a lien to be put on the title, even after the sale goes through. Generally, the CAM is subject to annual adjustment increases along with the rent. Of important note is that Condominiums may be submitted to the Free Trade Zone Regime, forming a Free Trade Zone Park within the property, and therefore, the use and occupation of the facilities will be subject to the laws governing Free Trade Zone Regimes.

#### C. Construction of the facilities to operate the business:

In Costa Rica, the municipalities are responsible for granting construction permits and collecting the tax imposed on the value of constructions within their jurisdiction. However, certain steps must be followed prior requesting the construction permit.

If the business to be established requires the construction of its facilities, the following process shall be followed:

STEPS	DESCRIPTION
1. Preliminary Steps	a. Appoint an individual responsible for the design of the project.
	b. Obtain a copy of the survey of the project's property.
	c. Verify the land use.
	d. Assure the existence of drinking water supply systems and proper disposition of wastewater. If nonexistent, obtain a water concession (if available).
	e. Prove that the Project shall comply with alignment regulations.
	f. Verify maximum construction heights in areas near airports.
	g. Determine whether the property is located within protected areas.
	h. Prepare and submit the Project's environmental impact evaluation.
	i. Verify the availability of basic services (electricity, telephone, Internet, telecommunications, waste/garbage collection, sewer or other waste disposal system, and drinking water).
	j. Verify whether the project's property is located within an archeological or historical site.
	k. Prepare plans that comply with applicable regulations (Construction Works, Regulatory Plan, and Regulations for Controlling Housing and Urban Development).
2. Approval of Constructions Plans and Permits	a. The appointed architect or engineer shall file the plans with the Professional Association of Engineers and Architects for approval (CFIA).
	b. Ministry of Public Health shall verify if the construction plans meet health and sanitary regulations.
	c. Firefighters must approve the plans.
	d. Water Authority (AyA) requirements must be met.
	e. Obtain National Housing and Urban Planning Institute approval if the facility will be built in a condominium.
	f. The aforementioned requirements could be processed through a digital platform called APC (Construction Projects Administrator), which has been adopted by most Municipalities, and that allows for the completion of the processing of construction plan approval before the CFIA for enabled collegiate members and authorized public institutions.
	g. Upon completion of the corresponding approvals, one set of plans must be filed before the Municipality where the project will be developed in order to obtain the construction permit.**

<sup>1</sup> Interested party, an engineer or architect.

<sup>2</sup> According to Costa Rican law, all activities, works or new projects that impact the environment require an environmental impact evaluation. The National Technical Secretariat for the Environment has developed the criteria for the classification of the activities according to their potential environmental impact and is the authorized authority to approve the evaluation.

\*If the facility is going to be built in the Costa Rican Shoreline Area or a maritime zone, special regulations shall apply.

\*\*Other authorizations may be required depending on the core of the business.

### **A. Request a permit to operate from the Ministry of Health:**

In accordance with the General Health Law, companies must request authorization, or an Operation Certificate, from the Ministry of Public Health prior to the initiation of operations. This is a requisite prior to obtaining the municipal business license. The activities that are subject to said process, as well as the requirements for obtaining the permit and the duration of such a permit, are defined in Executive Decree N° 30465 which classifies activities in three categories in accordance their level of environmental and health risk: A (high risk), B (moderate risk) and C (low risk).<sup>3</sup>

### **B. Request a Municipal License (permit to operate a business):**

Law # 7247 and article 79 of the Municipal Code, establishes that any entity or individual developing lawful for-profit activities in Costa Rica should obtain a Municipal Permit (Patente Comercial) and pay a tax. The application is filed once before the corresponding Municipality. No additional periodic filing for

this permit is required aside from payment of tax on a yearly basis. By virtue of the municipal autonomy, the forms and requisites to obtain a license may vary among municipalities, pursuant to their legislation and administrative dispositions.

### **C. Request a Municipal License (permit to operate a business):**

As of September 1st, 2019, all legal entities and other legal structures such as third party resource administrators, must provide all the information needed to identify the final beneficiaries of said entities annually to the Central Bank of Costa Rica. This information must be provided by a legal representative or a power holder by completing the information in the platform using digital signature.

### **D. SUGEF**

Our local financial regulatory authority (SUGEF), based on a new law designed to fight money laundering and terrorism financing, is requiring every board member, every person with power of attorney, and every shareholder owning 10% or more of total shares on any legal entity operating in the country, to present

its criminal record for its country of birth, country of residence, and any other country for which such person has permanent residence or nationality.

### **D. Apply for special regimes:**

#### **What is the Free Trade Zone Regime?**

The Free Trade Zone Regime is a set of incentives and benefits granted by the Government for a limited period of time to companies that develop certain types of new investment activities in the country. The regime allows these companies to benefit from special tax incentives that are lower than the taxes that regular companies pay, such as income tax, VAT, withholding tax, import duties, local government taxes, among others.

#### **Can all companies apply for this special regime?**

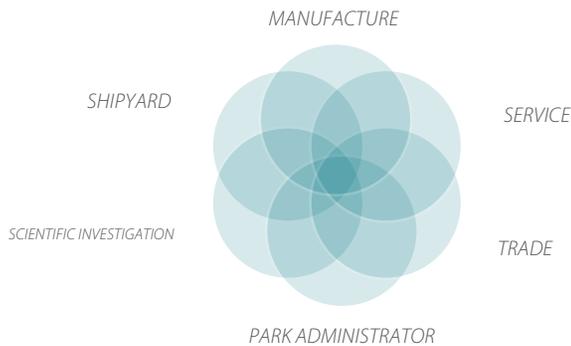
To qualify under the Free Trade Zone (FTZ) regime, a company must meet several requirements established in the Free Trade Zone Law and its Regulations, such as investment, employment, and authorized activities.

<sup>3</sup> CINDÉ: Doing Business in Costa Rica

## 4. PERMITS AND SPECIAL REGIMES



The FTZ Law establishes categories under which companies are allowed to request the benefits of the Regime:



In order to determine whether a category is applicable to a company's operations, a preliminary case study is necessary. For example, there are many requirements to classify as a manufacturing company.

### Does the company need to complete an application?

In order to be recognized as a Free Trade Zone entity, an application must be filed before the

Office for the Promotion of Foreign Trade (Procomer), which shall include the main information of the project to be developed. Once the application has been approved, the Government will issue an Executive Agreement granting the FTZ regime and summarizing the main commitments acquired by the Free Trade Zone beneficiary.

### Which are some of the benefits granted by the Free Trade Zone Regime?

Within the Free Trade Zone regime, the company would enjoy among other benefits, an Income Tax exemption as follows

listed below. In addition, large manufacturing companies can obtain designation as mega-projects and obtain relief from the following:

- VAT
- Remittance Repatriation Tax
- Real Estate and Real Estate Transfer Tax
- Municipal Operating License Tax
- Import Duties

LOCATION INSIDE GREAT METROPOLITAN AREA	LOCATION OUTSIDE GREAT METROPOLITAN AREA
0% income tax during 8 years for large manufacturing projects (mega-projects) and the rest of the categories.	0% income tax during 12 years for large manufacturing projects (mega-projects) and the rest of the categories.
6% tax during 8 years for manufacturing projects not qualified as mega-projects	0% income tax during 6 years, 5% during the following 6 years, and 15% during the following 6 years for manufacturing companies not qualified as mega-projects.



### **A. Registration of the Company as an employer:**

*In order to become an employer under Costa Rican law, it is necessary to register the Company as an employer at the Caja, the Costa Rica Social Security Fund (CCSS).*

*According to Costa Rican law, the employer must contribute to the social security fund on behalf of its employees with a fixed percentage of the employees' salary. The employee must also contribute a fixed percentage of his or her salary. Therefore, the company should register every employee before the CCSS.*

*While CCSS registration as an employer is a single event, each time a new employee is hired the updated payroll should be reported to the CCSS. Payments of social security contributions for each employee and withholdings made by the employer should be deposited on a monthly basis to CCSS. The company's incorporation as an employer and the registration of its employees must be done within the first eight days after hiring its employees.*

*a. In addition to registration before the CCSS, every employer should file a registration before the National Institute of Insurance (INS) in order to obtain insurance for all employees in order to protect them against labor-related risks. INS is a governmental institution and currently, the only entity offering such insurance.*

*b. For these purposes, the employer has to underwrite a policy from INS, starting at the beginning of operations and has to be in force during operations. To underwrite an occupational risk policy, the applicant has to apply at either the Central Office or a branch of the INS, a commercial Insurance Agency, or an authorized Insurance Agent. At the moment the policy is underwritten, the company will be automatically registered as an employer at the INS, and the employer has to remit to the INS on a monthly basis a status form indicating the names of the workers, days and hours worked, and the salaries paid. De-registration of employees should also be filed before INS as necessary.*

*c. Furthermore, in accordance with Costa Rican tax laws, employees are required to pay taxes*

*on any income earned as a result of an employment contract. The employer is required to apply the appropriate withholdings on a monthly basis and report the taxes to the Tax Authorities. In order to calculate the withholding tax, a progressive tax rate schedule, up to 15%, is applicable.*

*d. The following items are among some of the earnings subject to this tax: extra salary payments, rewards, bonuses, gratuities, commissions, overtime pay, royalties, additional payments for increased responsibilities, zoning allotments, subsidies, vacation pay (where vacation time is not actually taken), and any part of the Christmas bonus that exceeds the legal minimum. Furthermore, the employee must pay tax on any other income received from the employer. Salary in kind, expenses, confidential expenses, company car for personal use, fuel allotments, housing, professional association membership fees for the employee or his family members, payment of private club dues or fees, or payment of credit card annual fees would all be examples of items that would fall into this category.*



### **B. Generalities of Costa Rican labor system:**

*The Costa Rican Labor Code (Código de Trabajo) is the legal reference for most labor regulations. According to the Code, "... an employer-employee relationship exists when there is an exchange of services for money and the employer exerts direction and control over the employee's duties..."*

*There are 3 basic work shifts in Costa Rica:*

- a. The Day Shift takes place between 5:00 am and 7:00 pm and cannot exceed 8 hours per day and 48 hours per week.*
- b. The Night Shift takes place between 7:00 pm and 5:00 am and cannot exceed 6 hours per day and 36 hours per week.*
- c. The Mixed Shift takes place during both the day shift hours and the night shift hours. It cannot exceed 7 hours per day and 42 hours per week. If the mixed shift is more than 3.5 hours during the night shift hours, it is legally considered a Night Shift.*

*When the nature of the work is not considered to be unhealthy or dangerous, the law allows the possibility to compress the 6-day work week into 5 days. Under these terms, the employee would work*

*more hours per day but fewer days within a one-week period. However, it is not possible to compress the night shift into a 5-day work week.*

*The law also states that overtime hours are those hours worked beyond the basic work shifts or any shift established by an employment agreement. The law requires all overtime to be paid at the rate of time and a half (50% additional or 1.5 times the hourly rate). It is also important to note that the basic shift hours plus the overtime hours cannot exceed 12 hours a day.*

*Effective work time will be considered the time in which the employees are under the supervision of and subordinate to the orders of the employer. Two 10- to 15-minute break periods per workday are customary. If the working day is continuous and the lunch break does not exceed 30 minutes, it will be considered part of the work period and as such a paid break.*

*Employees holding "positions of trust" such as General Managers, or offsite salespeople are excluded from the shift limitations; however, they cannot work more than 12 hours a day and must have a paid break of 1.5 hours.*

*Employees have the right to enjoy at least one scheduled day of rest per week, or after six days of continuous work.*

*In addition, labor laws mandate written employment agreements; however, the lack of a written contract does not significantly affect any of the parties nor does it diminish their rights and obligations. Employment agreements are private agreements reached between the employer and the employee and are important evidence in labor lawsuits.*

### **C. Holidays:**

*There are eleven official holidays. The Company can also designate holidays at its discretion. If a worker works on a holiday or on his day off, the employer will have to pay him double time. The holidays with mandatory payment are January 1, April 11, Thursday and Friday of Holy Week, May 1, July 25, August 2, August 15, September 15, October 12 and December 25.*



### **D. Wages/Payment:**

Minimum wages are adjusted by the National Salary Council once a year, based on the inflation index. The Government may decide to adjust them twice if needed. Payment is by time period or unit/piece work. Salaries are calculated on a monthly and not annual basis.

### **E. Vacations:**

The worker is entitled to a minimum of two weeks of paid vacation for every 50 weeks of continuous employment with the Company. If an employee is terminated before accumulating 50 weeks of employment, he/she is entitled to one vacation day per each month worked. If a worker has accrued vacation time and he or she resigns or is terminated, the Company must pay such employee the monetary equivalent of the accrued vacation time. The employer can substitute the legally mandated minimum vacation time with an alternative system that results in greater benefits for the employees. The employer may establish when the employees can take their vacation time, but this must be done within the fifteen weeks following the day in which fifty weeks of continuous employment is reached.

### **F. Trial Period:**

In every employment agreement with an indefinite time period, there will be a three-month trial period. The employer may decide during those three months to terminate the employment relationship and will not incur in any responsibility other than the payment of vacation time (one day per month worked) and the proportional thirteenth-month bonus.

### **G. Sick Leave:**

The Company must pay sick leave to its employees during the first 3 days of leave at the rate of 50% of their normal salaries. From the 4th day on, the Social Security Board pays for sick leave at the rate of 60% of the normal salary. In the case of employee disability due to a workplace accident, the National Insurance Institute covers 60% of the injured worker's salary from the first day that the employee is absent from work.

### **H. Maternity Leave:**

The Company must pay for maternity leave at the rate of 50% of the normal salary for 4 months, while Social Security covers the remaining 50%.

### **I. Termination:**

If an employee's dismissal is due to one of the justified causes listed in the Labor Code, then the employer will only be liable for the payment of proportional vacation time and the thirteenth-month bonus. In this case, the dismissal and its cause must be properly documented in the event that the employee should file a complaint. All disciplinary actions (written warnings, suspensions, termination) must be taken within 30 days of the misconduct. If an employee is dismissed without cause, the Company must pay him, or her severance pay, vacation pay, and the thirteenth-month bonus and give pre-termination notice.

### **J. Severance pay:**

Employers are required to pay severance when the employment is terminated for reasons not attributable to the employee. The exact amount will vary depending upon the employee's seniority; however, the payment is approximately 20 days of pay per year worked up to a maximum of 8 years.



### **K. Mandatory Thirteenth-Month bonus:**

*Costa Rican law provides that all employees shall receive, during the first days of December, the equivalent of one month's salary as a thirteenth-month bonus. This benefit is calculated on the basis of the average salary earned by the employee during the twelve months prior to December 1st. The employer should make provision for this payment by reserving 8.33% of the employee's monthly salary.*

*paying the employee a sum of money equivalent to the salary that would have been earned during the notice period.*

*In addition, employees who decide to resign must also give advance notice for the same time periods as set forth above. During the period of the notice, the employee is entitled to one paid day off per week in order to look for a new job.*

### **L. Pre-Termination Notice:**

*Before an employer can dismiss an employee without cause, the employer must notify the individual. Failure to do so will trigger additional obligations. The duration of the notice required depends on the length of time that the employee has worked for that particular employer. One week of notice must be given if the employee has worked for more than three months but less than six months. Two weeks of notice must be given if the employee has worked for more than six months but less than one year. One month of notice must be given if the employee has worked for the employer for more than one year. The employer has the option of giving the notice or*

### **A. Intellectual Property:**

*The protection of Intellectual Property Rights (IPR) in Costa Rica is a priority, as reflected by their constitutional protection and the country's adherence to the main international treaties that protect IPR. There are also several laws that specifically protect the different kinds of IPR.*

*Costa Rica is a member of the Berne Convention for the Protection of Literary and Artistic Works, the Paris Convention for the Protection of Industrial Property, the Brussels Convention Relating to the Distribution of Programmed-Carrying Signals Transmitted by Satellite, the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms, the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations; the Trademark Law Treaty, the WIPO Copyright Treaty, the WIPO Performances and Phonograms Treaty, the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedures, the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, the Patent Cooperation Treaty, the Agreement On Trade-Related Aspects Of*

*Intellectual Property Rights, and the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled.*

*Additionally, the main laws (and their decrees) that regulate IPR in Costa Rica are the Trademark and Other Distinctive Signs Law; Patents, Industrial Models and Drawings and Utility Models Law; Copyright Law and Related Rights Law; Undisclosed Information Law; and the Law on Procedures for Enforcement of Intellectual Property Rights.*

### **B. Trademarks:**

*A trademark is any sign or combination of signs that are sufficiently distinctive in order to allow consumers to identify and distinguish goods and services of one company from another.*

*Trademarks are registered for a period of ten years and may be renewed for indefinite ten-year periods. The renewal application may be filed one year before the expiration date or within six months after the expiration date. If the trademark is not renewed within the legal term, the trademark registration will be*

*archived by the Trademark Office with the owner losing rights over the trademark, unless the owner immediately files a new application which is subject of a new substantive examination.*

*The trademark registration process in Costa Rica takes approximately from 4 to 6 months, provided that the Trademark Office does not issue an office action based on a substantive legal refusal, or a third party does not file an opposition on the grounds of prior filing of registration or the prior use of a similar trademark.*

*The registration of a trademark confers upon its owner or its titleholder, the right to use the trademark exclusively and to act against third parties that, without due prior consent, execute one of the following acts:*

- 1. When a third party uses an identical or similar trademark for goods or services whose use can cause confusion or pose the risk of associating it with the owner or titleholder of the trademark.*
- 2. When a third party commercially uses an identical or similar trademark for goods or services and such use can cause the owner or*



*the titleholder of the trademark economic or unfair commercial damages due to a decrease in the distinctiveness or commercial value of the trademark, or the unfair use of the prestige of the trademark that the owner created using such trademark.*

### **C. Trade Name:**

*A trade name is the sign or combination of signs under which a business trades for commercial purposes. The trade name can be different from the business name.*

*The exclusive right over a trade name is acquired from the moment the trade name is used in commerce. However, a trade name should be registered before the Trademark Office in order to prove its ownership in case of infringement.*

*A trade name is registered for an indefinite period; however, the protection terminates if and when the commercial establishment that uses the trade name is discontinued.*

*The process to register a trade name in Costa Rica takes approximately four to six months, provided*

*that the Trademark Office does not issue an office action based on a substantive legal refusal, or a third party does not file an opposition on the grounds of prior filing of registration, or the prior use of a similar trade name.*

*The registration of a trade name confers upon its owner or titleholder the same rights as those conferred by a trademark.*

### **D. Slogans:**

*Slogans are memorable mottos or phrases used in commerce to promote a trademark or a trade name.*

*The registration of a slogan is for an indefinite period; however, its validity depends on the registration of the trademark or trade name that it promotes. In order to register a slogan, the trademark or trade name that it will promote must be previously filed or registered. The registration process takes approximately from 4 to 6 months, provided that the Trademark Office does not issue an office action based on a substantive legal refusal, or a third party does not file an opposition on the grounds of prior filing of registration of a similar distinctive sign.*

*The registration of a slogan confers upon its owner or titleholders the same rights as those conferred by a trademark.*

### **E. Copyrights:**

*Copyrights protect original works of authorship that are fixed in any tangible medium of expression and may be literary, dramatic, musical, and artistic works, such as books, pamphlets, letters, and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramatic-musical works; choreographic works and entertainment; musical compositions with or without words; cinematographic works including works expressed by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works including works expressed by a process analogous to photography; works of applied art; and illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.*

*Translations, adaptations, arrangements of music and other alterations of a literary or*

*artistic work shall be protected as original works without prejudice to the copyright in the original work.*

*A copyright is composed of moral rights that are considered inalienable in that they cannot be sold not even if the copyright is transferred, including for example the right to claim authorship of the work, the right to object to any distortion, mutilation or modification of the work, and economic rights that are transferred when the work is assigned to third parties granting them the right to receive economic retribution from the commercialization of the work.*

*Costa Rican Law states that a work is protected by copyright from the moment it has been created and exists and does not require registration or other formalities in order to be protected. Nonetheless, a work should be registered in order to establish a public record of the copyright as prima facie evidence of its validity.*

*Copyright protection is granted throughout the author's life and 70 years post-mortem. Moreover, the author/titleholder of the copyright can prevent third parties from using his copyrighted material in any of the*

*countries that are part of the Bern Convention based on the registration of the copyright in one country.*

*Copyright registration in Costa Rica takes approximately three months.*

### **F. Patents:**

*An invention is an intellectual creation that may be applied in industry and fulfills the patentability requirements stated in the law. An invention can be a product, machinery, a tool, or a manufacturing procedure.*

*Under Costa Rican patent law, an invention that is new, inventive, and useful or industrially applicable may be patented:*

- a. An invention is new when it does not previously exist in the state of the art. The state of the art includes everything that has been disclosed or made accessible to the public in any country in the world and by any media, before the date of filing, or before the date of priority, if applicable.*
- b. An invention is inventive if for a person with ordinary skill in the corresponding subject, the invention is not obvious, or it does not derive*

*evidently from the corresponding state of the art.*  
*c. An invention is industrially applicable when it has a specific, substantial and credible use.*

*The Costa Rican Patent Law protects the patent applicant before the granting of a patent. Such applicant may claim indemnity for damages against any third party that exploits the invention that has been claimed in the patent application within the period between the date of publication of the legal notice and the patent granting date. The aforementioned indemnity is subject to the granting of the patent and will solely proceed in relation to the claims that were included in the granting of the patent.*

*In the case of infringement of a patent application, the applicant may obtain the indemnity solely if the patent is granted.*

*The patent owner has the following benefits:*  
*a. The right to exclude others from the exploitation of the patented invention.*  
*b. The right to grant a patent license to third parties authorizing the exploitation of the patent, and to receive the payment of royalties.*

*A patent is protected for 20 years from the filing date of the patent application; such protection is non-renewable.*

*The patent registration in Costa Rica takes approximately seven years.*

### **G. Utility Models:**

*The Costa Rican Patent Law states that all new dispositions or forms obtained or introduced in tools, working instruments, or utensils that permit a better function or a function that is special for its use may be protected as utility models.*

*The Costa Rican Patent Law protects the utility model applicant before the granting of a utility model. Such applicant may claim indemnity for damages against any third party that exploits the invention that has been claimed in a utility model application, within the period between the date of publication of the legal notice and the utility model granting date. The aforementioned indemnity is subject to the granting of the utility model. The benefits a utility model owner has are the following:*

*a. The right to exclude others from the exploitation of the utility model.*

*b. The right to grant a utility model license to third parties authorizing the exploitation of the utility model, and to receive the payment of royalties.*

*A utility model is protected for 10 years from the application date of the utility model; such protection is non-renewable. The utility model registration in Costa Rica takes approximately three years.*

### **H. Industrial Designs:**

*An industrial design is the aesthetic aspect of an article, such as any meeting of lines or colors, or any plastic form which gives a special appearance to an industrial product which may help with its fabrication. The duration of the protection of an industrial design is 10 years from the registration date, with no possibility of renewal since the design will enter the public domain afterward.*

### **I. Non-Disclosed Information:**

*The purpose of this category is to protect the information related to commercial and industrial secrets from being disclosed to third parties. This information refers principally to the nature, characteristics, or purpose of a*

*product or the manufacturing process of a commercial establishment. This information must be in written documents, electronic or magnetic media, optical discs, microfilms, movies or any similar elements.*

### **J. IPR Enforcement:**

*Various mechanisms exist in order to enforce intellectual property rights. These mechanisms can be carried out one at a time or concurrently. The mechanism to be used will depend directly on the target and on the result the Client wishes to obtain, and could involve one or more of the following procedures:*

*a. Issue a cease and desist letter, granting the infringer a term in order to cease the infringement.*

*b. File civil or criminal actions, and have the Court determine the infringement and damages.*

*c. File a civil action for unfair competition.*

*d. Request strict precautionary measures; once these measures are granted the Intellectual Property right owner must file a legal action against the supposed infringer or negotiate with the infringer and sign a settlement.*

*e. Request the customs authorities to suspend the release of counterfeit or pirated goods into free circulation.*

*According to our conservation efforts,  
WE DO NOT PRINT THIS DOCUMENT.*

