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Costa Rica's New Systems Including e-factura, e-invoicing, e-file and Associated Bank Accounts

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Introduction

In order to truly appreciate the following discussion, one needs to first have some background with respect to the Republic of Costa Rica ("Costa Rica") and its tax regime. This discussion does not include all taxes imposed by Costa Rica. The focus here is the income tax and associated reporting regimes generally applied to the conduct of business activity in Costa Rica.¹

Business Profits Income Tax

Costa Rica imposes a tax on the income earned from business activity. This is not unique and, generally, is referenced as a business income tax. This income tax applies regardless of the form in which the business is actually conducted, corporeal or incorporeal.²

¹ Costa Rica imposes income and social taxes on wages. It taxes interest income and distributions from most incorporeal persons to the extent of undistributed earnings and profits via a final withholding tax regime. It imposes a sales tax as well as import duties and so on.

² Corporeal is "[a] term descriptive of such things as have an objective, material existence; perceptible by the senses of sight and touch; possessing a real body." Black's Law Dictionary, p. 412 (Revised Fourth Edition). Thus, for example, a living human being is corporeal. In the context of a business, a single corporeal person engaged in a business activity is sometimes referenced as conducting that business in the form of a sole proprietorship.

An incorporeal person is a legal fiction or not a living human being. Examples of an incorporeal person include a corporation, an *Aktiengesellschaft* ("AG"), a *Gesellschaft mit beschränkter Haftung* ("GmbH"), a *sociedad anónima* ("SA"), a *sociedad responsabilidad limitada* ("SRL"), a

Costa Rica imposes an annual business income tax on corporeal or sole proprietorships and incorporeal persons such as a *sociedad anónima*³ or *sociedad responsabilidad limitada*.⁴ The rate of this tax is up to 30% of business profits as defined.

Costa Rica taxes net business income as defined in the law which approximates that which is used to calculate income under International Financial Reporting Standards (“IFRS”). Significant differences include detailed prescribed methods of depreciating assets and limitations on the deduction of certain interest expense, among others. For purposes of this income tax, Costa Rica requires the use of the accrual method of accounting where income is recognized as earned and expenses as incurred rather than as cash is received and disbursed.

partnership, a trust and so on. These are incorporeal as they are nothing more than a piece of paper or a few electrons in some registry.

³ There is no English translation for a *sociedad anónima* organized under the law of Costa Rica or elsewhere. It is a legal fiction or an incorporeal person under the theory and systems of law known as civil law largely sourced in the cultural system of Rome, as in the Rome of the empire and now the Vatican. These civil law principles are generally followed in places such as Italy, Spain and Central and South America.

The approximate comparable structure in the common law is a corporation and an AG in the approximate comparable Germanic systems.

The majority of the sovereign states of the United States of America (“USA”) follow a common law system. There are, of course, exceptions. Most but not all of this area of the law is at the sovereign state level with a small portion imbedded in the union or USA, most of which deal with financial institutions. The common law theory and system sources in what is today approximately England.

There are other cultural systems such as the Germanic, the Orthodox culture and those centered in Asia as well as those which pre-date the arrival of Columbus, the Pilgrims, *et al.* here in the Americas. Some of these American cultural systems are still fully functional and functioning today. *E.g.*, the Federated Iroquois is one where an English translation of its constitution is in the libraries of Chapple Blondet SRL (“Chapple Blondet”).

The differences in this area of entity theory are largely found in what is called governance with a lower-case “g” defining the responsibilities and limitations relating to the real or corporeal human beings who, of necessity, actually act within these systems.

Matters of taxation particularly within the USA system have twisted these concepts inside out and upside down.

⁴ The American English translation for a *sociedad responsabilidad limitada* approximates limited liability company. But again, the vast majority of these governance issues within the USA system are at the sovereign state level, not the Union level. Thus, each and every sovereign state varies particularly in this area. In addition to sovereign states within USA, there are territories and protectorates and similar. And, yes, this drives taxation, sometimes on a global scale.

The fiscal year for this purpose is 30 September with returns filed by 15 December. No formal extensions of the filing date are available. There are penalties for late filing.

The payment of Costa Rica's business income tax is done via estimated payments during the fiscal year including a new withholding tax regime where our public and private banks function as a fiduciary agent on behalf of Costa Rica, specifically the Ministerio de Hacienda (treasury function). This withholding tax regime is new. It is currently the source of endless confusion.

Dual Currency Economy

Costa Rica is one of the few countries which operates a dual currency economy.

A dual currency economy is one where a country uses two currencies simultaneously within its internal conveyancing system. In the circumstance of Costa Rica, we use the reserve currency known as US dollar and the colon, our local currency. Thus, for example, it is not uncommon to see even retail stores using the US dollar in paper and electronic tokens only and colon in paper/plastic, base metal and electronic tokens simultaneously.⁵

Public and private banks issue demand deposit (checking) and other accounts denominated in US dollar and colon. Some also issue demand deposit accounts in euro.⁶

In the world of currencies, there is the contract price and the settled price.

The contract price is the currency or conveyancing system designated in the contract of sale and purchase. These include the contract to buy a car, the

⁵ Base metal US dollar coins are not used in Costa Rica. They cannot be exchanged for any other currency nor deposited in either public or private banks. Oddly enough, demand deposit or checking accounts denominated in US dollar including e-money are denominated down to US dollar hundredth or down to US penny.

US dollar in paper and electronic tokens are used, for example, in the Republic of Panama ("Panama") not more than three hours via car from Chapple Blondet offices here in Costa Rica. Panama is one of those countries that is sometimes referenced as "fully dollarized". The truth is a little more nuanced as the official currency of Panama is the Balboa where one Balboa is equal to 100 US cents or US\$1. The Balboa is issued only in base metal token form which creates one of the more brilliant monetary systems I have ever personally experienced.

Panama has large "tax free" zones due to the Panama Canal. More than a few of us from Costa Rica visit Panama from time to time for the express purpose of shopping including "avoiding" a little tax. Woe unto those who accumulate too many of the Balboa coin as we return to Costa Rica... .

⁶ It seems likely demand deposit accounts or checking accounts will be issued in yuan.

contract to buy a building, the invoice issued for Chapple Blondet's services or the receipt from the cash register at the food market known as AutoMercado.

The settled price is the currency or conveyancing system used to actually pay or remit or receive the sum or value stated in the contract or invoice. In order to do so one needs to know how to convert the true value from one conveyancing system/currency to the other. In contemporary times, this is sometimes known as FOREX or "Foreign Exchange" or "FX" rate.

When one engages in this activity from large businesses and down to small retail transactions, well, it presents a challenge in which Costa Rica shines.

So, for example, I have two checking accounts in a public bank where one is denominated in US dollar and the second colon. Both have debit card access and e-pay access as well as a paper check and, of course, the ATM (automated teller machine) or *Caja* machine to obtain physical cash but only in paper/plastic form.

Chapple Blondet's contracts for services and invoices are, for the most part, in US dollar. The majority of Chapple Blondet's expenditures in volume of activity but not value are contracted in colon. Thus, when I present my debit card or e-pay via my US dollar denominated checking account, the majority of disbursements are settled in US dollar but contracted and agreed upon in colon.

In these circumstances, the public bank we use is setting or, more accurately, dictating the FOREX converting our US dollar to pay colon denominated obligations. This is a "global racket". I say this respectfully with respect to Banco Nacional in that Banco Nacional does not, in my experience, treat us unfairly. On the other hand, especially in recent years, there have been some seriously large scale frauds in this very area.⁷

There is a misconception out there in the world that there is a single, objectively fixed and transparent FOREX with respect to the US dollar, the colon, the euro, the ruble, the yuan or any other currency. **There flat out is no such thing.**

⁷ "FX Rate "Rigging" Scandal Boiling Up After UBS [Union Bank of Switzerland] Revelation" by Roger Aitken published in Forbes. <https://www.forbes.com/sites/rogeraitken/2014/10/08/fx-rate-rigging-scandal-boiling-up-after-ubs-revelation/#39e918001130> . There was much more to this story in that time.

I highlight this here as UBS in that time had and still has a large presence in USA. UBS acquired PaineWebber in 2000. PaineWebber was founded in 1880 in Boston, Massachusetts. My family and I as well as more than a few clients and friends were clients of PaineWebber and, subsequently, UBS Financial Services Inc.

The very fact that this merger was permitted both in the context of USA and the Swiss Confederation remains curious.

Here in Costa Rica our central bank Banco Central de Costa Rica (“Banco Central”) does publish daily the FOREX with respect to US dollar versus the colon and a few others. Their web site is fabulous. It can be seen here: <http://indicadoreseconomicos.bccr.fi.cr/indicadoreseconomicos/cuadros/frmvercatcuadro.aspx?CodCuadro=400>.⁸

The amounts are in two columns reflecting the offer of Banco Central to buy and the offer to sell with respect to the colon and US dollar. The key word is “offer”. Banco Central is in no way obligated to accept that which is posted. Indeed, there could easily be and likely are daily trades of US dollar and colon within Banco Central that do not relate to the sums shown on this web site. There is absolutely nothing wrong with this fact. Banco Central is being perfectly forthright, transparent and honest.

While many of us including businesses do, in fact, observe and trade based on Banco Central’s data, there is no way it is uniform. *E.g.*, I know for a fact that that fabulous bartender Antonio in the main lobby bar to the Intercontinental not quite walkable from these offices does not use the FOREX for US dollar and colon especially that which is listed on Banco Central’s web site when I pay him for a little fabulous local rum with a physical paper US dollar and he then has to make change in colon.⁹

For those who have some experience reconciling the cash register at the end of the day, this brings new meaning to *mas o menos* (more or less). Antonio, his colleagues and Costa Ricans in general are masters at this.¹⁰

⁸ Banco Central’s web site is well done. *E.g.*, the daily buy and sell FOREX is fully exportable into excel, making financial reporting and tax compliance more efficient.

⁹ Hotels the world over are notorious for giving truly awful exchange rates including with respect to the reserve currencies. One reason is perfectly proper, the “spread” is necessary to help offset the cost of administering this service.

With the advent of ATM machines and debit and credit cards, much of this is now nearly gone. A few years ago when I was in the Middle East, there were easily accessed ATMs for local currency which worked just fine when I used by debit card issued by a Costa Rican private bank.

I will give a small tip for those who venture to France. Never ever carry a debit or credit card of any color issued by American Express. Even the one I had issued by a Swiss bank would not function in the ATM in front of the main branch of Société Générale on the Champs Élysées nor any gasoline station in France. My Costa Rican MasterCard debit card worked just fine throughout France.

¹⁰ Including a dual currency economy, my personal record in this area of FOREX dealt with 45 countries, 35 currencies and 35 languages all of which, among other matters, had to be translated multiple times for regulatory purposes including the preparation and filing of income tax returns in more than a few countries.

One needs to have some understanding of this to appreciate the more substantive discussion which follows. Among other matters, this relates to a vast misunderstanding here in Costa Rica as to the purpose of these changes including how and to what extent our legislature and the Ministerio de Hacienda ever would intend some Rube Goldberg¹¹ attempt at reconciling the irreconcilable, for lack of a better way to express this.

However, it most certainly is true that some of these new systems here in Costa Rica are explicitly designed to detect those who would cheat on their taxes. But the portion changed for this exclusive purpose has, in my view, a “light touch” but appropriate touch to this goal. It is not burdensome from the point of view of honest taxpayers.

D-101 Declaración Jurada del Impuesto Sobre la Renta (Income Tax Return)

The Form D-101 is the tax return or form used to calculate the income tax and file it with the Ministerio de Hacienda (treasury function), Administración Tributaria.

Today, this form is prepared via the internet using software directly on the web site of Tributación.¹² There is no fee or charge for this software. There is no privately provided software available. We have one and only one computer/internet driven system for this purpose in Costa Rica which is the correct and proper way to administer this.

In general terms, the filing consists of an abbreviated balance sheet, income statement and the appropriate tax calculation. When printed on normal copy

¹¹ See, e.g., <https://www.youtube.com/watch?v=RBOqfLVCDv8> . World's largest Rube Goldberg machine lights up a Christmas tree.

¹² Tributación is the portion of our Ministerio de Hacienda which administers taxation. It is somewhat comparable to the Internal Revenue Service in USA or Inland Revenue in England.

As a point of reference within the USA system, the typical individual income tax return Chapple Blondet assists our clients in preparing can easily be in excess of 3 centimeters or 2 inches thick in a single copy paper format. Here in Chapple Blondet's offices we have administered and prepared an USA corporate income tax return which was in excess of a meter or yard thick in paper in one of the two original copies which was filed with US Treasury not to mention the income tax returns for the various applicable sovereign states.

These statistics reference only the detail which is actually remitted to the taxing authorities. It does not reference the actual totality of the paper and computer based analytics which is not filed with the taxing authorities but must be created, retained and available should the taxing authorities inquire.

paper, it is about one and one half pages long, regardless of the scale and scope of the underlying business.¹³

Payment of any balance due is made via e-pay using most public or private banks.

Estimated Tax Payments During the Fiscal Year in Connection with Income Tax¹⁴

In the past and yet today, Costa Rica requires payments of the estimated income tax for any given fiscal year to be paid in three installments during the same fiscal year. Then the final calculation of the actual income tax is done via the Form D-101 discussed immediately above with any remaining balance due paid on the date of filing not later than 15 December. Should there be an overpayment of taxes, it is either credited to the following fiscal year or refunded.

The cycle is then repeated.

In my experience, this system has worked well. Chapple Blondet made these payments as appropriate since fiscal 2003 as have our clients and colleagues.

Recently, Costa Rica has been making a few changes in our banking systems and administration. These changes include introducing another form of withholding with respect to the tax on business profits again outlined in the discussion above concerning Form D-101.

This system has introduced certain demand deposit accounts or checking accounts in our public and private banks where the bank withholds 2% of most deposits. This withholding is then used to offset the income tax on business profits otherwise due.

¹³ Like any other system which measures tax on any measure of income one will find a lot more "paper" in the private archives which are unequivocally necessary to calculate the actual tax due. I am unaware of any such system on planet earth literally throughout the millennia where the taxing authority does not have the ability, as a matter of simple law, to review this privately maintained data.

¹⁴ Portions of this discussion have been indirectly confirmed with our taxing authorities. Some of our colleagues are working on these new systems. Further, Chapple Blondet's offices have been in Costa Rica since 2003 and, thus, we do have considerable experience with the systems here including testifying before our Ministerio de Hacienda in an official, transcribed and public fashion.

The implementation of this interacting with a far greater emphasis on e-money¹⁵ has caused more than a few problems for many.

Prior to this, businesses were required to issue an invoice on controlled serial numbered forms¹⁶ purchased at certain authorized vendors such as Jiménez y Tanzi. In tandem with these invoices is a controlled number receipting process. Jiménez y Tanzi is a fabulous stationary store devoted to attorneys, accountants, architects and many more.¹⁷ We have been a client since 2003 and to this moment. Yes, we have used this system of invoicing for Chapple Blondet and our clients.

But in this internet age, Costa Rica has introduced an internet version of controlled and reconciled invoicing and receipting, now including service businesses such as attorneys, accountants and certain others as defined in our law.

¹⁵ For this purpose, “e-money” or “e-pay” are a terms we invented to encompass debit and credit card payments/receipts, internet based banking such as SINPE here in Costa Rica and similar. It is a system of monetary tokens which are not in physical form such as paper, plastic or metal and **is dependent upon electricity to function.**

This dependency on electricity for a zone’s conveyancing system to function is a critical flaw especially when e-money is systemically used to excess. This can and has in very recent times literally killed people in, for example, the État de Louisiane (State of Louisiana), Estado Libre Asociado de Puerto Rico and the Republic of India.

This is classic. SINPE is an acronym. In whole words it is “Sistema Nacional de Pagos Electrónicos”. One really big problem today is the excessive use of acronyms, especially by attorneys, accountants and computer professionals.

¹⁶ The numbers are controlled by an inventory administered by the taxing authorities. This general type of system is not unique to Costa Rica. Retail businesses and other high volume businesses use different systems especially where the measure of volume is both in monetary units and number of individual transactions.

¹⁷ Here is Jiménez y Tanzi’s history https://www2.jitan.co.cr/?page_id=2258 . One of their stores is just up the street from our offices. They are all about solutions having never failed us in 15 years.

This new system is known as the “ATV Renta Facturea”.¹⁸ The administration is via the “Administración Tributaria Virtual” or “ATV”. The vendor or service provider logs onto the net then enters the requisite data in an on-screen form that resembles a typical invoice. A copy is automatically sent to our client via e-mail in the case of Chapple Blondet. By this act, it registers the invoice in the official system and is tracked accordingly.

Chapple Blondet’s client pays our invoice into our special bank account via one of several “e-pay” systems. The bank then withholds the requisite 2% remitting that which is withheld to Tributación on behalf of Chapple Blondet and flagged to our account within Tributación and the income tax we are obligated to pay. When Chapple Blondet or our clients file our annual Form D-101 income tax return, we then credit this withholding to the tax due resulting in a final sum due or refund. In the end, this gets to a similar result as making three separate estimated income tax payments.

Finally, the invoices issued and the sums being billed and collected via this ATV Renta Factura withholding tax system are **not** somehow “reconciled” nor could they be to the D-101 Declaración Jurada del Impuesto Sobre la Renta reporting taxable income and the consequent income tax.¹⁹

This ATV Renta Factura system is available without charge via Tributación.

For Chapple Blondet or similar, once understood and the requisite registrations are complete, this is not vaguely burdensome.

¹⁸ “*Factura*” is “invoice” in English. Thus, we assume for the moment, one would use “*factura*” or “*cuenta*” when we word search the Ministerio de Hacienda’s Administración Tributaria Virtual or ATV portion. The on line training for Chapple Blondet in this area is scheduled for later.

This is a classic example of how not to do this. It appears to be modeled on the USA systems, said in a deeply cynical tone of voice. Among other issues, one of the errors made here in Costa Rica is inventing a whole new language wholly unrelated to common **Costa Rican** Spanish sense using an obnoxious level of acronyms.

Again, with delightful exception as in Erick Garro, I am deeply critical of my professions in this very area of “language” and “style” as well.

¹⁹ Obviously, one can, in fact, reconcile these individual invoices into the general ledger and, thus, into the various reports including those prepared for various tax purposes, sometimes for more than one sovereign state. The issue here is whether Tributación can do this with only the data remitted via this withholding system and the income tax reporting system. Tributación cannot do so and does not intend to do so. Thus, I assure all our government would not waste our resources trying to do so.

On the other hand, this certainly is **not** an invitation to disregard fact as it applies to taxation let alone be anything short of simple flat out honest.

Once understood, the registrations are not burdensome.

The key is “once understood”. We did not do a good job of educating our professionals in this area such as tax advisors here in Costa Rica. Then I think some of us attorneys, accountants and tax advisors are open to some criticism for failing to get out there and educate our clients and everyone else. Those of us who practice in these areas do have a general responsibility and, dare I suggest, cultural responsibility. Indeed, this is one purpose of this memo. The fact this memo is late speaks to my disappointment in communication.

To continue along this vein for a moment, the conveyancing systems, including tax systems, are being rapidly changed the world over including here in Costa Rica. Indeed, there have been and continue to be some large and critical failures explicitly including the United States Department of Treasury (“US Treasury”) as we discussed in several recent memos, the most comprehensive to date entitled “Problems within US Treasury Including Filing Tax Returns and More Together with Solutions” issued 10 May 2018.²⁰

No one of us can know it all but all of us in my professions have a responsibility to help administer these systems including via educating our clients, our colleagues and the public at large.

²⁰ This is a discussion of how the US Treasury systems including tax compliance have, in fact, failed. They are not fixed as I write this memo. However, Chapple Blondet together with Wolters Kluwer and MyCoderWeb do now have in full operation systems which do function with respect to USA tax compliance.

There are, thankfully, fully lawful workarounds which is why we will no longer e-file USA tax returns. Subsequent to Chapple Blondet’s memo issued on 10 May 2018, US Treasury issued a modification in their instructions exempting firms such as Chapple Blondet from their e-file system directing us to use the systems which Chapple Blondet had already installed and had and has fully operational.

There remain questions with respect to US Treasury functionality relating to about three prior fiscal years. Chapple Blondet is prepared and is currently implementing the solution with respect to these prior fiscal years.

Chapple Blondet’s web site is in the process of being renovated. Once complete, this memo and other others will be available at www.chappleblondet.com. There are relevant but older memos on our web site now.

In the interim, we are certainly pleased to share these memos with all including with other attorneys, accountants and tax advisors. Never hesitate to send an e-mail to me at kchapple@chappleblondet.com or Felipe at fsalas@chappleblondet.com.

In short, again, I am not pleased with many of my colleagues including groups such as the American Bar Association, in general, and the International Section of which I have been a long standing member. Profound, intentional and beyond merely inappropriate silence screams.

There are solutions.

With respect to this ATV Renta Factura system, there is also a **private** internet based and computer software system for administration in addition to that provided without cost by our government.

The issue with the software and access currently provided without charge by our government is each invoice must be completed on the net. In a circumstance such as Chapple Blondet or similar, arguably, a separate “private” invoice might be avoided with the full integration this private system offers which our government systems do not. As a practical matter, the private invoice is very often still necessary.²¹

In the case of a large volume business such as a retail store this might be burdensome.²²

So, the benefit of this private system is it runs off the “cash register”, meaning as invoices are entered into the business’ system, this private software initiates and implements this “ATV Renta Factura” system simultaneously. We are told the minimum current cost for this private system is US\$300.00 monthly which rapidly escalates based on transactional volume. One can only visualize the volume and cost this would impose on a modestly larger medical practice or modest super market or department store let alone that which would be imposed on the likes of Auto Mercado, PeriMercado or Pali here in the Central Valley.²³

In any event, this is getting fixed systemically.

Here I must acknowledge a great teacher of me Erick Garro Badilla of GABA. Erick is an accountant here in Costa Rica. He is part of our MIS/IT and internet provider MyCoderWeb with his brother Alejandro Garro Badilla. I am blessed with many great teachers throughout my life. Any implicit or explicit criticism of my profession is explicitly in no way ever directed at Erick or Alejandro. Quite the contrary. They are extraordinary examples of the principles of which I speak and more. So, yes, there are saintly people out there as well.

One of the prevalent misunderstandings is that somehow if Chapple Blondet or other providers do not issue our invoices via this ATV Renta Factura system and then use the attendant “e-pay” systems to collect payment of our invoices, the

²¹ There are many reasons a private invoice needs to be issued as well. One of which is providing sufficient detail for both internal purposes and that of the client or the purchaser.

²² I am aware of one such business that issues in excess of 20,000 invoices monthly and successfully uses our government provided system which carries no incremental cost. They are aware of the private system. They are satisfied including efficiency and cost using our government system.

²³ We are informally advised that large volume retail operations do not, in fact, use this system.

client cannot deduct our fee from calculating their taxable income. There are invariably various other innuendos of additional “vague wrong doing”. All of this is simply 100% rubbish with respect to Chapple Blondet, our clients and the vast majority of others.

The responsibility for this withholding process lies with the service provider or seller of goods. It does not impact our client or the buyers. The responsibility for this lies with the seller and no one else. Thus, the penalty for failure to comply on this end is properly limited to the person with the legal responsibility.

There is another issue imbedded in here dealing with invoicing for products from or services to external businesses or individuals. In this context, “external to Costa Rica” means when, for example, Chapple Blondet provides services in USA, Europe, Asia or countries other than Costa Rica including the Republic of Nicaragua and others here in Central America. Costa Rica uses an appropriate “territorial tax regime” while, for example, USA the union but not the sovereign states uses an awkward “global income tax regime”.

The purpose of a territorial tax regime is to tax only the income or other economic activity within the sovereign or other taxing territory physically defined. In the case of Costa Rica it is that which sits within the nation state boundary of *la Republica* and internationally recognized. Thus, for example, when Chapple Blondet physically located within Costa Rica, invoices or bills for services rendered external to the Costa Rican tax regime, including income tax, as defined in Costa Rican law, are not subject to Costa Rican income tax.

Thus, in this new ATV Renta Factura system, one may need a separate local bank account explicitly limited to external collections. I am not going to discuss this in detail here as this I think remains unresolved but likely will be easily implemented. In this moment, there is actually no difficulty in Costa Rica for administering external billings and collections globally.²⁴

²⁴ So people are aware, there has been some confusion in this very area including with the people on the front desks of the banks. We think most of this confusion has been largely corrected.

D-151 Declaración Informativa Anual de Clientes, Proveedores y Gastos Específicos (Annual Declaration of Income from Clients, Vendor Costs and Other Costs)

This Form D-151 and its process applies to nearly all transactions involving goods and services where a business activity²⁵ is involved including those which involve the purchase and sale of depreciable capital assets such as machines in a factory, refrigeration systems in a food market or computers used by Chapple Blondet and similar. All this form reports is the total sum received from each client or customer and the total sum paid to each vendor during the fiscal year ended 30 September. Included is the relevant name and *cédula* or national identification number of the taxpayer, the client or customer and the vendor. It is due with the taxing authority by 30 November for the fiscal year ended 30 September.

There are *di minimus* rules which exempt inclusion in this form²⁶ based on the sums received from the client or customer or sums paid to any given vendor. These *di minimus* sums are periodically adjusted for inflation. The data on this form are compiled using the accrual method of accounting.

²⁵ For those accustomed to the USA system where individual income tax returns must be filed by every person including small children who receive taxable income, this distinction seems odd.

On the other hand, the concept of filing a personal income tax return is distinctly odd to many outside of the USA system including in Costa Rica. A rational income tax system does not require a corporal individual person to file such nonsense administration including when, as in Costa Rica, we do indeed pay personal income taxes. We use a final withholding tax regime which removes the vast majority of us, including me, from having to bother with a personal income tax return or anything vaguely similar.

One secret here is that much if not nearly all of the cost including professional fees to administer this portion of our system are, in fact, deducted systemically in calculating the taxes due which, in the total scheme of things, I think gets to a fair result for all in an elegantly simple manner.

Services provided by Chapple Blondet or others similarly situated which do not relate to a "business activity" are simply not deductible in calculating any Costa Rican income tax. Thus, this D-151 system is simply irrelevant. So, while I think there is likely no harm in including the fees we charge to prepare, for example, USA personal income tax returns are typically not included in Chapple Blondet's annual D-151.

In some of the areas in which we advise and provide tax compliance services, this distinction is a bit more and properly nuanced resulting in a lower global taxable income and other tax burden.

²⁶ These *di minimus* limitations are strictly limited to this form for this purpose. These *di minimus* amounts are in no way exempt from actual taxation.

This system is not a tax system but rather an information reporting system as are the corresponding forms.²⁷

The data on this form are not routinely compared by our taxing authorities to the entries on the Form D-151 used to report net taxable income and attendant income tax by the same taxpayer.²⁸

There is some comparing of the D-151s systemically say, for example, being sure that my entry for our costs paid to Jiménez Tanzi and that reported as received from us by Jiménez Tanzi rationally compare.²⁹

This form is filed via e-file. This form and the attendant system are not vaguely new in our larger system here in Costa Rica.

There are penalties for omissions, failure to file and failure to timely file. There are two primary penalties:

1. If Chapple Blondet fails to include a vendor on this form including failing to file the form in its entirety, Chapple Blondet may not deduct the sum in calculating our otherwise taxable income via the Form D-101. This is a rather elegant solution, to my way of thinking. What it does is force Chapple Blondet to pay the tax which would otherwise be paid by the seller should there be an inappropriate “co-ordinated” effort to “mitigate” income tax. Should there be no collusion, it imposes a financial penalty of up to 30% on the party omitting the required data.
2. There is a pure financial penalty which can be considerable if the form is filed late.

Other than the relatively recent e-file systems, this system and the consequent D-151 have not materially changed in more than a few years. It remains in place.

²⁷ Many tax regimes include this very system. In the USA system, the forms and colloquial reference to the system are Forms 1099.

²⁸ Given the appropriate *di minimus* rules, it is difficult to conjure a factual circumstance where one could actually do this nor is it intended by the Ministerio de Hacienda.

²⁹ Jiménez Tanzi is a rather large retailer and service provider. Thus, by this example, I am not implying that they are actually required to use the system administered by the Form D-151. I honestly do not know.

“Rationally compares does not, per se, mean the sums of money are the same. Systemically, these sums of money could easily differ due solely to the differing manner in which the Costa Rican systems handle FOREX in our dual currency economy. However, this difference would not likely be large relative the transactions and reports being compared on a judgmental basis. In short, once one works within our system for awhile, one develops a good sense of it. Further, if there is a question, the staff of our Ministerio de Hacienda and Tributación simply make an appropriate inquiry resulting in appropriate resolution.

The Form D-151 is **not** a part of the ATV Renta Factura system. It is wholly unrelated. Neither system even interacts with the other nor were they ever intended to do so.

Bank Accounts with Respect to New Withholding Tax Regime

As discussed above and as a part of this process, new business bank accounts need to be established in a thoughtful and orderly manner.

We encourage people to use our public banks for this purpose, Banco Nacional or Banco de Costa Rica which we often reference as BCR. Private banks here in Costa Rica which are licensed to issue demand deposit accounts or checking accounts do offer these accounts as well.³⁰

The data necessary to open these accounts is as follows:

1. A Personaria Judicia. This is necessary when the bank account is for a business functioning within an incorporeal person, typically a *sociedad anónima* or *sociedad responsabilidad limitada* here in Costa Rica. Chapple Blondet is an example of such a business. This is the reason for “SRL” at the end of our business name.

The purpose of this document is the attestation of the corporeal or real human being who has the legal authority to act on behalf of the incorporeal *sociedad* which, in this circumstance, entails opening a bank account.

This is often obtained from an attorney or notarial here in Costa Rica. On the other hand it can actually be obtained via the internet from our Registro Nacional³¹ or national registry on the internet. The necessary web site is www.registronacional.go.cr .

³⁰ Licensed private banks here in Central America are as obvious as elsewhere. A bank which is allowed to issue demand deposit or checking accounts must be licensed by the relevant local authority throughout planet earth.

Scotia Bank is one which operates here in Costa Rica. Scotia Bank is the same group headquartered in Canada. Scotia Bank assumed CitiGroup’s operations here in Costa Rica when CitiGroup left.

Banco Davivienda assumed the operations of HSBC here in Costa Rica when HSBC withdrew. Banco Davivienda is headquartered in Bogotá, Columbia.

³¹ In my experience over the decades, Costa Rica’s Registro Nacional is world class. I have the honor of visiting the main offices from time to time which you can see here: <http://www.archivonacional.go.cr/index.php/rincon-pedagogico/pdf/index.php?limitstart=35> . In recent years, we have been renovating these historic buildings in which the main offices of our

2. One's personal *cedulá* or DIMEX. There are *cedulás* or national identification numbers issued to corporeal and incorporeal persons by Costa Rica. A DIMEX or *Documento de Identidad Migratoria para Extranjeros* is Costa Rica's national identification number for a corporeal person or human being who is not a citizen. Thus, because I am a lawful *residente permanente* (permanent resident), not a citizen, I carry a DIMEX.³²

Registro Nacional sit. They are so well done and the people who work in this great registry are simply delightful.

I have had the honor of working before more than my fair share of these great registries on this small planet earth. I have had the honor of working before the Commonwealth of Massachusetts, the Secretary of the Commonwealth of Massachusetts. The Secretary of the Commonwealth traces to 15 August 1776.

https://en.wikipedia.org/wiki/Massachusetts_Secretary_of_the_Commonwealth

The Suffolk County Registry within the Commonwealth of Massachusetts can be seen here:

https://en.wikipedia.org/wiki/Suffolk_County,_Massachusetts .

Chapple Blondet's last offices in USA were in the Village of Centerville in the Town of Barnstable. Here is their registry: https://en.wikipedia.org/wiki/Barnstable,_Massachusetts . This registry commences in the year 1639 and actually precedes that year.

In short, these are necessary and proper for administration. Again, Costa Rica in this critical area is first class global.

³² There has been some confusion concerning this matter here in Costa Rica including amongst some of my fellow attorneys and accountants. Suffice it to say, I frankly have no idea why we call my national identification number a DIMEX and Felipe's national identification number a *cedulá*. *E.g.*, if one looks at them, the pattern of numbers and coding are identical. But, in the fullness of time and so long as we understand, it really makes no difference.

By the way, this issue exists elsewhere. In USA, I have a Social Security Number because I am a citizen of USA. My Social Security Number (never tell an American this) is a national identification number.

When a client who was a citizen of the Republic of Venezuela obtained a "permanent residence" visa in USA (also known as a green card), she obtained a Social Security Number. In truth, the issuance of an USA Social Security Number can happen long before due to various visa within the USA system and even when one has no visa whatsoever to even enter USA. But beware. Getting rid of an USA Social Security Number when appropriate and required by law is, well, a tale for another day but not easy.

There is nothing whatsoever wrong with this. The same occurs in the Federal Republic of Germany, the Swiss Federation and elsewhere.

These numbers are necessary for simple proper administration especially when one uses computers. My personal Social Security Number, if I recall, was issued in the 1960s when USA first initiated the "next wave" of computerized administration of the USA system.

3. A six month budget of estimated cash to be received in this account. This does not need to be prepared by an attorney or accountant.

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We hope this helps get this mess fixed in an appropriate manner as well as allow our fabulous productive economy to get back to producing the things we need and want with a whole lot less cost of administration.

As always, please never hesitate to call or e-mail.

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