



Thinking beyond borders: Management of extended business travelers – Costa Rica

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01

Key message

1 Key message

Costa Rican Tax System is ruled by Territoriality Principle:

According to Costa Rican Income Tax Law, No. 7092, Article 1, establish the Territoriality Principle through which only income generated within the Costa Rican territory will be considered Costa Rican sourced income, hence, subject to taxation in Costa Rica.

An individual may be considered a tax resident in Costa Rica, as long as they comply with the provisions of article 10, paragraph a) of the Regulations to the Income Tax Law, Executive Decree No. 43189-H ("RITL" hereinafter).

Business travellers are likely to be taxed on employment income earned during their time working in Costa Rica, unless said business traveller applies for a Digital Nomad Visa (Migratory category of non-resident, subcategory of stay as "Remote Worker or Service Provider").

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Income tax

2 Income Tax

2.1.1. Liability for income tax - Salary Tax

Costa Rican Tax System is ruled by Territoriality Principle:

According to Costa Rican Income Tax Law, No. 7092 ("ITL"), Article 1, establish the Territoriality Principle through which only income generated within the Costa Rican territory will be considered Costa Rican sourced income, hence, subject to taxation in Costa Rica.

According to article 32 of the ITL, the income or benefits obtained by domiciled individuals providing services within Costa Rican territory under a labour relationship, the income will be subject to salary or wage tax (benefits paid in cash subject to a tiered rate capped at 25%, on the contrary benefits in kind will be subject to flat rate of 15% will be applied to the total value of the benefit to be received).

However, for an individual may be considered a tax resident in Costa Rica, as long as they comply with the provisions of article 10, paragraph a) of the Regulations to the Income Tax Law, Executive Decree No. 43189-H ("RITL" hereinafter).

This rule states that individuals who remain continuously or discontinuously in Costa Rica for more than 183 days during the respective tax period are considered residents for tax purposes in Costa Rica. To define whether the natural person has completed those 183 days, the Tax Administration will count non-prolonged sporadic absences, that is, those who do not leave Costa Rican territory for more than 30 continuous calendar days.

When applying the Salary Tax, whose tax period is not annual, the term "respective fiscal period" will correspond to the twelve months prior to the moment in which the settlement of the tax in question occurs and it will be within this same period that it must be verified whether a natural person has remained in the country, continuously or discontinuously, for more than 183 three days.

However, the above must be taken into consideration that, as provided in Directive DGT-D-002-2019 and Resolution DGT-R-65-2018, amended on March 6, 2023 by resolution No.MH-DGT-Res-0003-2023, both issued by the General Directorate of Taxation and the Ministry of Finance, in the process to obtain the tax residence certificate, it is required to count whether within the year 2023 a natural person remains in Costa Rica for more than 183 days: if the answer is negative, the individual will not be considered a tax resident for the year 2023.

Now, considering the following years, this exercise must be repeated; the business traveller must remain within Costa Rican territory for more than 183 days, considering sporadic departures of no more than 30 days.

Nonetheless, it is explained in article 30 of the RITL that, in the case of foreigners not domiciled in Costa Rica—natural persons who are not considered residents for tax purposes (that is, who do not comply with the provisions of article 10 of the RITL), for the income they receive from dependent personal work, the Payer of the income must apply a withholding corresponding to 15% of the gross income, without any deduction, in accordance with article 26 of the ITL.

It is relevant to consider that, according to the local business practice, on many occasions, once the employee is included in the local payroll, the salary tax brackets is applied, which is calculated based on tax bracket, explained in the next section.

2.1.2. Salary Tax Rate

According to article 32 and 33 of the ITL The income or benefits obtained by **domiciled individuals providing services within Costa Rican territory under a labour relationship**, the income will be subject to salary or wage tax. The employer will apply the withholding of the salary or wage tax monthly. The Tax will be applied on gross income, no deductible expenses are allowed.

In accordance with article 33 of ITL, the Salary Tax should be calculated and withheld, in accordance with the following brackets (expressed in Costa Rican colones):

Monthly Taxable Income		Tax Rate
<u>CRC</u>	<u>CRC</u>	<u>%</u>
0.00	929,000.00	0.00%
929,000.00	1,363,000.00	10.00%
1,363,000.00	2,392,000.00	15.00%
2,392,000.00	4,783,000.00	20.00%
Over	4,783,000.00	25.00%

These tax brackets apply only concerning benefits paid in cash. Bonuses and other Benefits paid in kind will be subject to flat rate of 15% will be applied to the total value of the benefit to be received, on which no deductions apply, this following article 33 paragraph h) of the ITL.

2.1.3. Salary Tax Withholding and tax payment

As established in article 32 and 33 of the ITL, the withholding, tax return filling and payment of the Salary Tax to the Tax Administration is made by the Employer.

The employer is jointly and severally responsible for applying the withholding, filing the tax return, and paying the salary tax to the Tax Administration, therefore, the employees are not required to complete and fill any tax return.

This is the final obligation, there is no requirement to submit additional affidavits before the tax administration.

2.1.4. Self-withholding scenarios and applicable tax rates:

A. If the Business Traveller can be considered as a tax resident in Costa Rica but receives income from a non-domiciled payer (i.e., not located in Costa Rica) derived from the work performed within Costa Rica, must file the D-103 form "Withholdings at source". The withholding must be filed in a monthly basis and the form D-103 must be submitted during the first 15 calendar days of the month following to the one in which the withholding was made.

The business traveller considered as resident in Costa Rica, must calculate the tax payable according to the Salary Tax rate scale.

The Tax Administration and the Administrative Tax Court follow this criterion according to their respective rulings DGT- 400-2012 and TFA-377-2012, by which was indicated that individuals perceiving income from

a Costa Rican source which should be subject to withholding, but when there is not a withholding agent, hence a self-withholding should be applied.

B. If the Business Traveller cannot be considered as tax resident in Costa Rica, and also the income derived from work performed within Costa Rica is paid abroad by a foreign entity or individual, the business traveller should withhold and pay a 15% tax rate on the gross income he will receive from abroad in accordance with article 26 of the ITL.

In both scenarios, the Business Traveller must file the D-103 form "Withholdings at source". The withholding must be filed in a monthly basis and the form D-103 must be submitted during the first 15 calendar days of the month following to the one in which the withholding was made.

This is the final obligation, there is no requirement to submit additional affidavits before the tax administration.

2.1.5. Applicable Family Credits

Regarding family credits applicable to Salary Tax, ITL's article 34 establishes, that once the tax has been calculated, taxpayers will have the right to deduct from it, as a tax credit, the following items:

- i. For each dependent child, the sum of ₡1.730,00 (\$3.5) monthly, applicable for children doing higher studies, as long as they are not older than 25 years old). If both spouses are taxpayers, each child can only be deducted by one of them.
- ii. For the spouse, the sum of ₡2.620,00 (\$5) monthly. If both spouses are taxpayers, this credit can only be deducted, in its entirety, by one of them.

2.2. Digital Nomads Visa

The Employee can opt and consider what is established in the "The Law to attract remote workers and international service providers, Law number 10008, popularly known as "Digital Nomads Law" (enacted on August 11th, 2021). Visa category (Estancia) for Remote Workers and Service Providers.

The benefits to be granted are detailed below:

Benefits	Migratory Condition: The migratory benefit will be granted for a period of 1 year, extendable -in case of complying with the requirements established in this file- for a period of 1 additional year.
	Importation of Equipment: It is exempted from the payment of all taxes on the importation of basic personal equipment necessary to fulfill the tasks or the provision of the services, according to the criteria that will be established by the National Customs Directorate of the Ministry of Finance.
	Income Tax: it is established an exemption of the income tax, also it is provided that the income obtained from abroad does not constitute income from a Costa Rican source.

The people covered by this law cannot engage in paid work or services in the national territory other than what is allowed by their migratory subcategory of stay as a Worker or Remote Service Provider of an international nature.

Regarding Social Security Charges, the Digital Nomads Law, does not establish any duty to foreigners to contribute to the Costa Rican Social Security Fund.

Foreign nationals shall provide paid services remotely, irrespective of whether such services are subcontracted, using digital or telecommunication technologies or analogous means, to a natural person or legal entity located outside of Costa Rica, earning a minimum amount of three thousand U.S. dollars (\$3,000.00) per month originating from outside of Costa Rica for the provision of such services, or a minimum of four thousand U.S. dollars (\$4,000.00) per month originating from outside of Costa Rica for the provision of such services if they also wish to apply for their dependents to legally stay in the country. The above amounts will be determined in accordance with the official sale price set by the Central Bank of Costa Rica.

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Social Security

3 Social Security

3.1 Social Security Charges

In addition to the Salary Tax, employment benefits are subject to Social Security Charges, according to the Constitutive Law of the Costa Rican Social Security Fund (whose acronym in Spanish is CCSS):

“Article 3.- Social Security coverage -and entry into it- are mandatory for all manual and intellectual workers who receive a wage or salary. The amount of the fees that must be paid by this law will be calculated on the total of the remunerations that under any denomination are paid, due to or derived from the worker-employer relationship.”

By virtue of the above, Social Security Charges must be paid according to the following rates: 26,67% by the Employer and a 10,67% must be covered by the Employee. The employer is the sole responsible for applying the social security charges withholding and payment to the Social Security Fund.

Costa Rican Social Security Fund Deductions Year 2023		
Concept	Employer	Employee
Sickness and Maternity Insurance	9.25%	5.50%
Disability, Old Age, and Death Benefits	5.42%	4.17%
Total Amount Costa Rican Social Security Fund	14.67%	9.67%
Other Institutions		
Concept	Employer	Employee
Banco Popular Employer Fee	0.25%	-
Family's Assignations	5.00%	-
Joint Institute of Social Aid	0.50%	-
National Learning Institute	1.50%	-
Total Amount Other Institutions	7.25%	-
Worker's Protection Law		
Concept	Employer	Employee
Banco Popular Patron Contribution	0.25%	-
Labor Capitalization Fund	1.50%	-
Supplementary Pension Fund	2.00%	-
Banco Popular Worker Contribution	-	1.00%
National Insurance Institute	1.00%	-
Total Amount Workers' Protection Law	4.75%	1.00%
Total Percentage of Social Contribution Year 2023		
	Employer	Employee
	26,67%	10,67%

In Costa Rica social security charges are applicable when there is a labor relationship being executed locally.

Nonetheless, legislation has not been updated in accordance with new employment conditions, as a result, from a conceptual standpoint, in this case there is not an employer in Costa Rica, the Business Traveler should be subject to the charges.

Accordingly, as an alternative, the Business Traveler should file by the third business day of each month and pay by the 15th day of the same month, voluntary contributions to the Social Security Chamber, regarding the salary and benefits related to the time worked in Costa Rica. This with the purpose of complying with the contributions to the social security system.

The registration could be done on a normal basis, just by using a passport. However, the registration request could be denied if someone does not have their formal immigration permit. Therefore, there is a low risk that the registration process could not be completed until the work permit is issued.

The applicable social security charges rate would depend on the income to be reported, nonetheless, it could be up to 18,62% of the gross income. With regard this scenario, there are considerations about the cash bonus and cash allowances payment, and the CCSS contributions, which should be considered.

Nonetheless, there is not precedents or jurisprudence in which the CCSS had ever charged a foreign company with social security contributions. Hence, it consists in a conceptual risk that could be triggered, but that from a practical standpoint, is low.

3.2 Costa Rican National Pension System

The Costa Rican National Pension System is based on four pillars that determine the way an individual will receive their pension.

Considering individuals who work in a dependent relationship (i.e., who have an employer), as a general rule, the application of the two First Pillars of the Pension System should be considered, which are:

Pillar 1: Basic Contributory Pension as Disability, Old Age and Death Insurance Regime (known in Spanish Régimen de Invalidez Vejez y Muerte or “IVM”).

Pillar 2: Mandatory Supplementary Pension (known in Spanish as Pensión Complementaria Obligatoria or “ROP”).

The ROP was created to supplement the main pension (IVM) received by workers at the end of their working lives, so that, in addition to the basic scheme pension, they receive additional financial support on a monthly basis.

Now, according to the Regulations of the Disability, Old Age and Death Insurance (known as IVM in Spanish) of the Costa Rican Social Security Fund, article 5, those individuals who reach 65 years of age, provided that they have contributed at least 300 contributions to this Pension, will be entitled to an old age pension. The worker pays one contribution per month, which is 4.17% of the worker's salary reported to the Costa Rican Social Security Funds.

However, those individuals who, having reached 65 years of age, have not contributed 300 contributions, but have accumulated at least 180 (one hundred and eighty), are entitled to a proportional pension. This is the minimum participation to qualify for an IVM Pension in Costa Rica.

Nonetheless, in the case of the ROP, there is no minimum number of contributions to be able to acquire the right to receive the complementary pension. If an individual cannot retire under the IVM Pension, they will be entitled to enjoy the benefits of the ROP when they reach 65 years old.

3.3 Labour Capitalization Fund

The Labour Capitalization Fund (known in Spanish as Fondo de Capitalización Laboral "FCL") is a savings fund contributed by the employer as part of the employee's severance payment, which is managed by pension operators. The employer contributes 1.5% of the worker's salary reported to the Costa Rican Social Security Funds.

Once the employment relationship is terminated, the employee has the possibility of withdrawing the FCL (all the money accumulated in this fund must be withdrawn).

To withdraw the FCL funds, the procedure must be carried out directly by the employee through an online platform, providing the following information:

- Provide the identification document in force and in good condition.
- If the employee is a foreigner, they must indicate their assigned social security number.
- Proof of your client account number or IBAN in colones.
- Document issued by the employer indicating the date of the end of the labor contract. If the procedure is performed about three months after the termination of the employment relationship, it will not be necessary to present a letter or voucher signed by the employer.

Consider that, unless the employee chooses another pension operator, the FCL will be managed by default by the Pension Operator of the Costa Rican Social Security Fund.

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Compliance obligations

4 Compliance obligations

4.1 Employee's compliance obligation

As established in article 32 and 33 of the ITL, the withholding, tax return filling and payment of the Salary Tax to the Tax Administration is made by the Employer.

The employer is jointly and severally responsible for applying the withholding, filing the tax return, and paying the salary tax to the Tax Administration, therefore, the employees are not required to complete and fill any tax return.

Said tax return submitted by the employer is the final obligation, currently, any employee must submit any additional income tax return before the Tax Administration.

4.2 Self-withholding scenarios

A. If the Business Traveller can be considered as a tax resident in Costa Rica but receives income from a non-domiciled payer (i.e., not located in Costa Rica) derived from the work performed within Costa Rica, must file the D-103 form "Withholdings at source". The withholding must be filed in a monthly basis and the form D-103 must be submitted during the first 15 calendar days of the month following to the one in which the withholding was made.

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In both scenarios, the Business Traveller must file the D-103 form "Withholdings at source". The withholding must be filed in a monthly basis and the form D-103 must be submitted during the first 15 calendar days of the month following to the one in which the withholding was made.

This is the final obligation, there is no requirement to submit additional affidavits before the tax administration.

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Immigration

5 Immigration

5.1 Work permit/visa requirements

In most cases, a visa must be obtained before an individual can enter to Costa Rica. It depends on the nationality of the foreigner if a visa must be obtained before entering into Costa Rica.

The type of visa required will depend on the purpose of the individual's entry into Costa Rica.

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