

If you are planning on **doing business in the Dominican Republic**, you need to understand the investment environment and to know the country's legal, accounting and tax rules to keep you on the right track



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# Grant Thornton in the Dominican Republic

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## Foreword

Grant Thornton International is one of the world's leading organizations of independently-owned and managed accounting and consulting firms providing assurance, tax and specialist advice to mid-market, entrepreneurial, owner-managed and high-growth companies around the world.

The member and correspondent firms of Grant Thornton International operate in 109 countries, bringing together 27,800 personnel in 540 offices worldwide.

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The purpose of this guide is to give an insight into doing business in Dominican Republic, together with relevant background information, which will be of assistance to organizations considering establishing a business there.

The most common way of doing business is through companies or branches of foreign companies, and the information has been produced mainly with these entities in mind. Other business structures exist and in some situations may be more appropriate. Some entities such as banks and insurance companies are subject to special regulations, which are not dealt with in this booklet.

It is essential that advice be obtained from local professional sources before any business is undertaken. This booklet contains only brief notes and includes legislation in force at February 2009.

## Country Profile

### Basic data

Population (est. 2008)	9.51 million
Area	48,442 sq. Km
GDP (est. 2008)	US\$45,885 million
GDP per capita (est. 2008)	US\$4,825
Exports of goods (est. 2008)	US\$6,835 million
Imports of goods (est. 2008)	US\$16,171 million
Literacy rate (2005)	87%
Life expectancy (est. 2008)	73.39 years
Population below poverty line (2005)	25%
Official language	Spanish
Local currency	Dominican Peso

### Geography and climate

The Dominican Republic is located in the Caribbean and occupies the eastern two-thirds of La Hispaniola Island, between the Caribbean Sea and the North Atlantic Ocean, east of Haiti. Its topography is very diverse with mountains, fertile valleys, cacti-studded desert regions, 1,600 kilometers of coastline and around 300 kilometers of soft sand beaches. The climate is tropical maritime with little seasonal temperature variation. The average temperature is 25° (77°F).

### Political and legal system

The Dominican Republic is a democracy, uninterrupted since 1966. The government is formed by three separate branches: the legislative branch (Congress), which includes the Senate and the House of Representatives; the executive branch, which is headed by the President; and the judicial branch, which is headed by the Supreme Court.

Since 1991, the Dominican Republic has been involved in a reform process aiming to modernize the legal and economic framework that regulates business in the country in order to adapt its economy to the new competitive schemes, to facilitate its immersion in economic groups at a global and regional level and to promote the flow of foreign capital.

The Dominican Republic Congress has been working in several reforms related to the legal system. In the early nineties, new tax, labor, customs and criminal procedure codes were enacted. However the turning point for liberalization of the Dominican economy was the enactment of Law 16-95 on Foreign Investment, which eliminated all the restrictions to foreign investment and set the scene for other important reforms.

Over the last few years, the main concerns have been the adapting of the local legal standards to those parameters set forth by the World Trade Organization. The main reforms implemented include new laws on telecommunications, stock exchange, industrial and intellectual property rights, exports development, environment, tax and customs reform, electricity law, e-commerce, financial and monetary reform, protection of children and adolescents, money laundering, migration, electoral, insurance, national police and the Criminal Procedure Code, among others.

The social reforms have taken a place in the legislative agenda. In fact, one of the most significant reforms was the social security law, which modernizes and broadens the scope of the social security system.

Finally there have been legislative decisions taken in order to implement the DRCAFTA agreement, mainly in the intellectual property rights aspect.

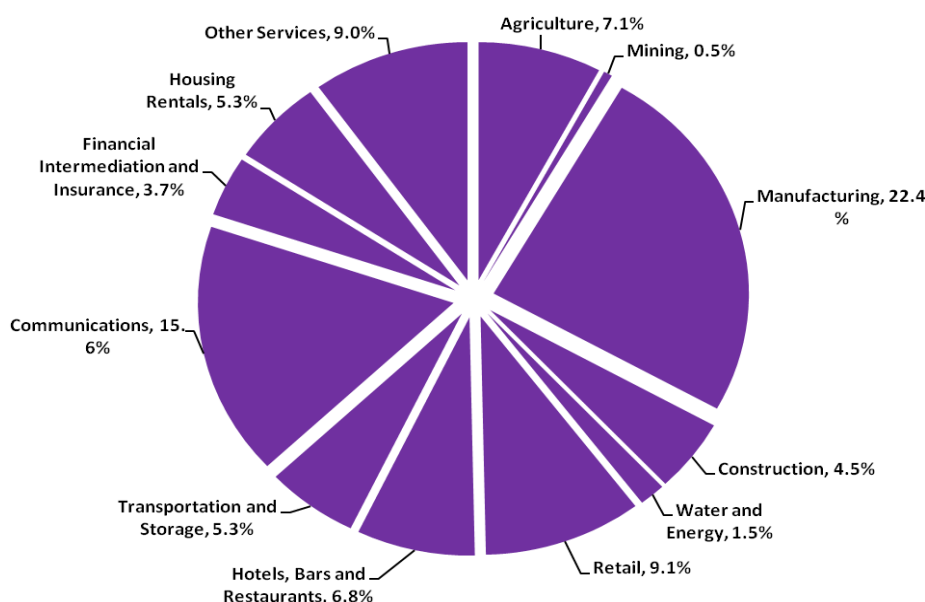
**Economy**

Throughout the 90’s the Dominican Republic ranked among the fastest growing economies in Latin America and the Caribbean. The average growth rate during 1991-2000 was of 6.7%. From year 2001, growth started to decline, especially because of the external shocks (high oil prices, sluggish external demand, and terrorism) and the deterioration of the country’s macroeconomic situation, which became more evident in year 2003 with a banking crisis that affected three national banks. Despite the pervasive effects and costs of this banking crisis (ranging from 17% to 20% of the Gross Domestic Product or GDP) the economy only decreased by 0.25%, and since then has been consistently growing again. Between 2004 and 2008, the economy grew at an average rate of 8.4% per year. The economy is expected to slow down during 2009, as a result of the international financial crisis and the recession of its main trade partner, the United States. Forecasts show real GDP in 2009 growing at a rate ranging from 0.5% to 1%.

**Main sectors of the economy**

The Dominican GDP is formed by 13 main sectors, with four of them (manufacturing, communications, retail and agriculture) representing more than 50% of the total real GDP in 2008. The contribution of each of these sectors to the GDP can be seen in the following graph:

**Contribution to GDP by different sectors:**



**Free Trade Agreement with US**

The Dominican Republic authorities are making every effort to broaden its trade relations. These efforts have allowed the signature of important trade agreements. The Dominican Republic signed the Partial Scope Treaty with Panama, the Free Trade Agreement with the Caribbean region, the Free Trade Agreement with Central America and the DR-CAFTA which includes the United States.

Another important achievement is the signature of the letter of intent for a Free Trade Agreement between Dominican Republic and Taiwan, in order to promote trade and investment between both nations.

The Dominican Republic is member of the World Trade Organization (WTO).

**Other country facilities**

The country has several port facilities. The most modern one is “Multimodal Port Caucedo” which began operations on May 15th 2004. This port was designed to be the main logistical center of the Caribbean. The port is located on the Caucedo Peninsula, adjacent to Las Americas International Airport in Santo Domingo city. This new port facility has 50 hectares of container terminal area, 600 meters of deep –water berth, a capacity to move 500,000 containers a year and to store as many as 9,500 40-foot containers, etc.

# Regulatory environment for foreign investments

## **Foreign ownership of business in the Dominican Republic**

A more liberal Foreign Investment Law (Law 16-95) was adopted in November of 1995, together with the regulation for its application approved by presidential Decree No. 380-96 later amended by Presidential Decree 163-97. This law was created in order to promote the flow of capitals to the country and to adapt the national economy to the trends of global markets. This law establishes an equal treatment, without any discrimination, for foreign investors.

Foreign investors are not required to obtain government approval to invest in the Dominican Republic; except in the case of some sensitive activities such as: a) the disposal of toxic or radioactive waste not generated in the country, b) activities that may affect public health and the environment, and c) the production of material or equipment directly related to national defense and security.

Even though no government approval is required before engaging in business in the country, for statistical purposes it is advisable to notify the Central Bank within 90 days that a foreign investment has been made. This notification will allow the foreign investors to obtain a Certificate of Foreign Investment Registration. Once obtained, this is the only requirement for the investor to freely buy foreign currency in the private exchange market (commercial banks) for the purpose of remitting abroad the dividends obtained or the capital invested.

The lack of registration of Foreign Investment at the Central Bank, does not affect in any way the validity of such investments. However, the investor will have difficulty to freely repatriate its funds abroad, since without the Certificate, he will not be able to go to commercial banks for buying the foreign currency needed to remit abroad the dividends.

## **Investment Promotion (CEI-RD)**

The Export and Investment Center (CEI-RD) main goal is to promote the investment in the country and to develop the export sector. Another objective is to encourage the export offer and to attract foreign capitals and national investment through the strengthening of the general export climate and to increase competitiveness, to improve the balance of payments and contribute to the sustainable development of the nation.

It offers free services to the investors in the following areas:

- specific information by sector

- drafting specialized opinions for investors
- co-ordination of legal forums
- receiving complaints
- following specific cases
- intermediation in the event of conflict between the investors and public administration
- consultations on the national tax system.

### **Tax incentives for foreign investments**

The Dominican Republic encourages foreign investment and offers some incentives for establishing operations in some sectors. Most investment incentives for foreign investors are in the form of tax exemptions to operations where there is still considerable development potential, such as free zones and tourist investments in certain areas (poles of lower development and new poles in provinces and places of great potential not yet developed).

# Forms of business organization

## Summary

Foreign investors are allowed to use any of the corporate structures recognized by the Dominican Law when establishing a business in the Dominican Republic.

Our country has recently approved The General Law on Companies and Individual Enterprises with Limited Liability No. 479-08 (herein "Law 479") which was enacted on December 11, 2008 with the main goal of modernizing and updating the existing legislation on corporate matters. Among the most relevant changes and innovations of the Law, the following are of principal importance:

- it provides a new and improved classification of legal entities with the purpose of providing more flexibility to the current system and enabling corporate structures to better and more accurately reflect the reality of business ventures and the relationship among the partners
- it details, more clearly and unequivocally, principles that incorporate legal practice, to date, were followed as a result of interpretations of principles of law or of general legal rules rather than on consistent and clear legal provisions
- it regulates corporate procedures that, until now, were followed without a proper set of legal guidelines and were more a result of administrative regulations or internal shareholder rules
- it sets forth new rules that modify current practices or legal provisions, in some cases with the purposes of prohibiting certain practices and in other cases to enable previously prohibited ones
- it undertakes to address, in a more detailed fashion, matters that had been previously subject of very little or no regulation, such as those concerning fiduciary duties of the managers and administrators, related-party transactions, and others
- it introduces new penal sanctions establishing new fines and prison sentences to be imposed for violations of the Law on founding partners, directors and administrators, and upon the corporate entities themselves, thus creating the possibility of imposing penal sanctions upon them.

Law 479 recognizes the following corporate structures and entrepreneurial forms of doing business:

- General Partnerships (Sociedad en Nombre Colectivo)

- Ordinary Limited Partnerships (Sociedad en Comandita Simple)
- Limited Partnerships with Shares (Sociedad en Comandita por Acciones)
- Publicly or Privately Owned Share Companies (Sociedades Anónimas Públicas o Privadas)
- Limited Liability Partnership (Sociedad en Responsabilidad Limitada)
- Individual Enterprise with Limited Liability (Empresas Individuales de Responsabilidad Limitada)

Law 479 also recognizes the accidental company or participation company, which does not have a separate legal personality.

### **The concept of unenforceability of the legal personality of commercial companies**

Law 479, created the concept of unenforceability of the legal personality of corporations in cases where these entities are used (i) for fraud against the law, (ii) for violating the public order or (iii) for fraud to the detriment of the rights of partners, shareholders or third parties. To seek the unenforceability of the legal personality of a corporation, proof needs to be submitted to the effect that a specific corporation has been used as a means to achieve the above.

This new concept makes it possible for interested parties to disregard the corporate entity of a company and to seek judicial redress against shareholders and directors who have been responsible of the violation without the need to annul the company itself, in which case it will continue to exist for all other purposes.

### **Corporate Processes**

#### **Constitution:**

Law 479 provides abbreviated incorporating processes for some of the types of companies recognized therein. It simplifies the number of documents and administrative steps necessary to constitute a Privately Owned Share Company.

#### ➤ ***Contributions in Kind***

The main requirements imposed by Law 479 in relation to contributions in kind are as follows:

- they must be included in the by-laws of the entity
- they are subject to a valuation which is determined in partnership agreement or by-laws, or which may be made by an expert, depending on the type of business entity concerned
- only assets that may be economically valued may be contributed in kind to a business entity. Know-how, work or personal services may not be compensated by shares
- when the assets transferred are subject to liens and encumbrances, they can only be contributed by its value minus the value of the lien involved

- when formalized after the constitution of the entity, they must first offered by the owner to the entity, offer which is subject to review by an certified public accountant appointed for such purposes by the directors of the company. Based on the report issued, a general meeting is held to decide on the contribution and, if acceptable, approve the amended by-laws needed to reflect these new contributions.

### ➤ *Paid-in Capital Increases*

Paid-in capital increases through the subscription of shares that have not been issued from the authorized capital of a company. This is evidenced by the execution of documentation that prove that such subscription has been accomplished executed by the directors of the company and the investing subscriber. A share subscription can also occur by (i) the compensation of its value against certain receivables, due and payable by the entity or (ii) the incorporation of reserves or profits to the capital of the company, with the consent of shareholders.

For subscription of shares through contributions in kind, the company must follow the rules laid down by Law 479 and detailed in the relevant section of this summary.

### Amortizations

Amortizations are subject to the following rules:

- they must be provided by a by-laws amendment or by an extraordinary general assembly
- they must be made by means of profits or reserves, excluding the legal reserve
- they must be made by an equal value for each share in the same class and respecting the equality of shareholders
- they do not necessarily imply a reduction in capital, since the shares can be kept in treasury and not cancelled.

### Capital Reductions

With regard to this issue, Law 479 provides that:

- a capital reduction can be achieved through (i) the redemption of shares or (ii) by reduction of the nominal value of the shares
- it may be (i) voluntary, (ii) due to losses suffered by the company or (iii) a result of restructuring and market requirements
- a reduction in the authorized capital must be done by amending the by-laws, but it may not be reduced to less than the paid-in capital
- a reduction of the paid-in capital must be made through the celebration of an extraordinary general meeting of shareholders, which must respect the equality of all shareholders.

With respect to mergers and spin-offs, Law 479 also provides that:

- they can be accomplished between two different types of business entities
- the parties involved may decide on the conditions for by-laws amendment
- they become effective (i) in the case where a new entity is incorporated, on the date of registration in the Mercantile Registry of the new company or (ii) otherwise, with the conclusion of the last general assembly approving the transaction, unless otherwise agreed at that meeting.

#### **Dissolution and liquidation of commercial companies**

The dissolution of a corporation is subject to the approval of the extraordinary general assembly of the organization, under the grounds provided for in Law 479 and the by-laws of the organization. The dissolution does not imply the loss of legal personality until the liquidation is complete, according to the provisions of Law 479.

#### **Dominican branch of a foreign company – Designation of agents in Dom. Rep.**

The legal personality of foreign commercial companies is recognized by Law 479, provided they have met the requirements for such entitlement by virtue of their legislation of origin, but locally the Law provides that they have an obligation to become duly registered in the Mercantile Registry, like locally incorporated companies, as well as with the Internal Revenue Department, when executing a transaction in Dominican territory.

Law 479 recognizes the equality between foreign and local companies and, therefore, declares that foreign entities shall have no obligation to provide any kind of bond or litigation insurance when seeking judicial action in local courts.

In this sense, if a foreign company desires to establish permanent operations in the Dominican Republic by setting up a branch, it does not need to incorporate a Dominican company (as used to be the case before the approval of Law 16-95 on Foreign Investment). Plus, the benefits that net profits made can be freely repatriated in foreign currency without any restrictions.

The foreign company willing to designate agents or licensees in the local market should mainly take into account the Law 173 of 1966 on Protection of Import Agents of Goods and Products and Law 16-95 on Foreign Investment. These laws protect the local agents from the unfair termination of their contracts by their foreign principals. The provisions of Law 173 are of public order and therefore are applied irrespectively of what has been agreed by the parties.

The Free Trade Agreement between the United States, Central America and the Dominican Republic assumed certain commitments for the application of Law 173, which only apply to the relations with the United States.

Law 16-95 extended the scope of application of Law 173 by eliminating Article 12, and established that all local agents, regardless of their nationality, may enjoy the rights granted by Law 173. Moreover it allows the registration at the Central Bank of technology transfer agreements. Such as know-how, franchises, technical assistance; that enables the license to pay abroad in foreign currency the royalties and commissions owed to the licensor.

The law also allows foreign companies that make «intangible» technological contributions, like trademark, designs, etc. to register such contributions as foreign investment, and thus receive freely in foreign currency the profits obtained in the Dominican territory.

**A subsidiary or a branch, which one to use?**

The decision will depend on the type of business and the potential liability exposures that the operations in the country may entail to the parent company. Foreign corporations usually operate in the country by forming a separately incorporated subsidiary rather than through a branch, mainly because this minimizes its potential liability exposure. When a branch is used, all of the foreign corporation's assets, not only those in the Dominican Republic, may be subject to potential liability for actions made in the Dominican Republic. However, when a subsidiary is used, the potential liability is generally limited to the assets owned by that subsidiary.

## Books and records

### Summary

The Commercial Code of the Dominican Republic indicates that all companies domiciled in the country must keep accounting records of their transactions. The mandatory books are: a) a journal to register operations and b) an inventory book. These books should be kept up to ten years subsequent to the cease of operations of the company. For Dominican tax purposes, companies are generally required to use the accrual method of accounting.

### Annual requirements

**Income tax filing** Domestic corporations must file an annual income tax return to the tax administration regardless of whether they have any taxable income to report. This annual tax return includes a certification (“dictamen”) that needs to be signed by an independent auditor to ensure that the amounts presented on the tax returns are accurate.

**Annual audits** All financial statements to be submitted annually by companies or companies legally constituted, must be verified and accompanied by the opinion of an independent certified public accountant (CPA) or an audit firm duly authorized. The Certified Institute of Public Accountants of the Dominican Republic adopted as generally accepted accounting principles the international accounting standards (IAS) issued and to be issued in future by the committee of international accounting standards.

**Other disclosure and filing requirements** Besides the filing requirement with the tax authorities, the Law usually does not require a company to disclose its financial statements information with any other authorities, except in the case of companies in regulated industries such as banking and insurance. These regulated industries must disclose their financial statements to their respective regulatory bodies.

# Labor legislation

## Summary

Labor Laws regulate working conditions such as minimum salaries, fringe benefits, severance payments, working hours, employment safety conditions, the rights of employees to organize and bargain collectively with their employers, etc.

The Ministry of Labor (Secretaría de Estado de Trabajo) is the governmental entity in charge of overseeing the compliance of these laws.

## Main labor conditions

### Working hours

The normal working week for full time employees is 44 hours, with a working day of eight hours from Mondays to Fridays and four hours for those companies working on Saturdays. The working week for part-time employees cannot exceed 29 hours.

### Minimum Salaries

The minimum salaries are adjusted every one or two years depending on the inflation pressures existing in the economy. Last adjustment made to minimum private salaries was set on April 2007; since that date the minimum salaries according to the different types of employers are:

Types of companies	Minimum Monthly Salary in RD\$
Companies with capital equal or greater than RD\$4,000,000	8,465.00
Companies with capital between RD\$2,000,000 and RD\$4,000,000	5,820.00
Companies with capital lower than RD\$2,000,000	5,158.00
Free Zone Companies	4,900.00
Tourism Companies with capital greater than RD\$4,000,000	5,575.00
Sugar-industry companies	3,700.00

### Fringe Benefits

Legally mandated fringed benefits represent approximately a 35% of the basic wages of employees. These benefits are provided in the form of:

- 1 **Christmas Bonus:** All employees are entitled to receive, on the latest at December 20<sup>th</sup> of every year, an additional monthly salary.
- 2 **Profits sharing:** A 10% of the profits before income tax should be distributed as bonus to the workers of a company. The bonus, however, is limited to a maximum of 45 or 60 days of

ordinary salary per employee, depending on the time this employee has been working for the company.

Companies in the agricultural, industrial, forestry and mining sectors are exempted from the payment of this bonus during the first three years of operations. Agricultural companies with a capital lower than RD\$1,000,000 and free zone companies are completely exempted from this payment throughout their lives.

- 3 **Vacations:** Employees are entitled to at least 14 labor days of paid vacations per year of work, if they have worked in the organization from 1 to 5 years. For those employees with more than 5 years, 18 labor days of vacation should be paid per year.

### **Paid leaves of absences**

Mandatory paid leaves of absence are: 5 days for marriage, 3 days in the event of death of a close family member, and 2 days for a male employee whose wife gives birth.

### **Termination of employees**

Legislation regulates the unjustified dismissal of employees. Employees are entitled to receive severance payment that will be determined by time seniority of service for the company. Employers are entitled to give 7 to 28 days of notice to employees (depending on the working time seniority of the employees) before their unjustified termination. If employers prefer to make this dismissal immediate, they can pay these days to the employees and no advance notice will be needed.

### **Social security**

Social Security Law (Law 87-01) indicates that all Dominican nationals and foreigners working in the country are entitled to receive social security protection, which will be financed jointly by their employers and by themselves (contributively regime). Under this regime the coverage provided is as follows:

#### **1 Insurance for old age, disability and survival (pensions):**

- this will be financed with a 7% of the employee's salary and will be increased gradually up to 10% after the fifth year of implementation of this Law. The proportion of this insurance to be paid by the employer and the employee will vary during the first five (5) years. Year 2009 is the seventh year of implementation, where 9.47% insurance applies, of which the employer is responsible for 6.75% and the employee for the remaining 2.72%
- the top maximum insurable salary is an amount equal to 20 national minimum salary.

#### **2 Health insurance (for the worker and his/her family):**

- this will be financed with a 10.03% of the employee's salary. The proportion of this insurance to be paid by the employer and the employee will vary during the first five (5) years of this Law. For instance, at the moment the employer is responsible for 7.02% and the employee for 3.01%
- the top maximum insurable salary is an amount equal to 10 national minimum salaries.

### 3 Labor risks insurance:

- this will be financed with a 1% of the employee's salary (with an additional contribution up to 0.6% depending on the type of activity and the level of risk at work). The 100% cost of this insurance has to be paid by the employer.

# Tax legislation

## Summary

In the Dominican Republic, income is taxable when generated from Dominican sources, including capital gains. Financial income from abroad is also taxed. In addition to income tax, the government imposes customs duties, excise taxes, and property taxes. The following is an overview of the major taxes that the Dominican Tax Code (Law 11-92) and its subsequent amendments (including the fiscal reform introduced in January 1<sup>st</sup> 2006) levy on companies and on individuals.

## Companies

### Tax Rates

During 2009, domestic and foreign corporations (branches) operating in the country are subject to an annual tax rate of 25% on their net income from Dominican sources. Besides this corporate tax, withholding taxes for the same annual rates are applied on the earnings received by shareholders when dividends are distributed. However, the tax withheld for dividends can be used as a tax credit against the corporate income tax. Consequently, there is no double taxation.

### Advance tax payments

Corporations are required to make monthly advance income tax payments throughout the fiscal year. The monthly amount to be paid depends on two modalities: 1) If in the previous fiscal year the Effective Income Tax –EIT- (liquidated tax over gross income) was lower than 1.5%, the monthly amount to be paid will be equivalent to 1.5% of the liquidated income, and 2) if the EIT was higher than 1.5%, then the monthly advance payments will be equivalent to 1/12 of the total income tax liquidated on the previous fiscal year.

If at the end of the fiscal year, the advance tax payments result higher than the effective liquidated tax (the 25% tax on net income in case of year 2009); the excess paid will be a tax credit for the company that may be offset against the corporate income tax for the following years. The fiscal reform introduced in January 1st 2006 (Law 557-05), established that the compensation can be done “automatically” from the monthly advance tax income payments for the following year.

### Operating Losses

The net operating losses in a fiscal year can be carried forward for five years to offset taxable income in those years. As indicated in the table below, a 20% per year of the amount of losses can be deducted during the first five years; in the fourth year a 20% of the 80% of taxable income for that year can be deducted; and finally, in the fifth year, a 20% out of the 70% of taxable income for that year can be deducted.

**Schedule for compensating operating losses**

<b>Years</b>	<b>Compensation process</b>
1 <sup>st</sup>	20%
2 <sup>nd</sup>	20%
3 <sup>rd</sup>	20%
4 <sup>th</sup>	20% of the 80% of Taxable Income
5 <sup>th</sup>	20% of the 70% of Taxable Income

The portion of operating losses not compensated in a year cannot be transferred to subsequent years. Therefore, companies with recurrent operating losses will “lose” their right to compensate part of these losses.

It is worth noting that this rule does not apply for newly formed companies during the first two years of operation. These companies can completely deduct their operating losses during the following first and second year, if possible. If there is any remaining amount not compensated during these two years, it will received the same treatment applicable to the third to fifth years presented in the table above.

**Tax on total assets**

With the introduction in January 1st 2006 of the new fiscal reform, a tax of 1% over the total assets of companies (net from depreciation and other provisions) was introduced. This tax will be levied on companies only if at the moment of presenting their annual tax return, the amount resulting from calculating the 1% over total assets is greater than the amount resulting from applying the corporate tax rate over the net income. Companies in such situation will pay the amount that results from the 1% of total assets (net from the advance tax payments made for corporate income during the year) in two instalments: 50% with the presentation of the declaration for the annual tax return; and the remaining 50%, six months later.

**Taxes on dividends, royalties and interests paid to foreign affiliates**

Dividends, royalties or payment of services, remitted by domestic and/or foreign companies to entities abroad are subject to a 25% withholding tax during 2009.

Interests paid abroad are subject to a withholding tax of 10% if the recipient is a financial institution; otherwise a 25% rate applies (as with the case of corporate income tax).

**Tax payment dates**

- corporate income tax must be paid within the 120 days following the closing date of the fiscal year
- monthly advance tax payments are due the 15th of the following month.

**Individuals****Tax Rates applicable to Dominican Citizens and Resident aliens**

Dominican Citizens and resident aliens (for tax purposes resident aliens are those residing in the country for at least 182 days) are subject to taxes on the income generated from Dominican sources; financial income from abroad is also taxed. However, financial income from abroad is taxable only after the third year that a foreigner is residing in the country.

### Ordinary Income

Dominican citizens and resident aliens must pay taxes on their income from Dominican sources and the financial income from abroad. The tax rates applicable are graduated and vary depending on different income tranches. The tranches and rates applicable for 2009 are:

#### Withholding tax rates for 2009

Tranches	Withholding tax rates for 2008
Income equal or lower than RD\$330,301.00	Exempted
Income from RD\$330,301.01 to RD\$495,450.00	15% of the surplus over RD\$330,301.01
Income from RD\$495,450.01 to RD\$688,125.00	RD\$24,772.00 plus 20% of the surplus over RD\$495,450.01
Income from RD\$688,125.01 and up	RD\$63,307.00 plus 25% of the surplus over RD\$688,125.01

These different tranches are subject to an annual inflation adjustment based on the Consumer Price Index (CPI) published by the Central Bank.

### Capital gains

In 2009, net capital gains are taxed at a flat rate of 25%.

### Rates applicable to non-resident aliens

During 2009, non-resident aliens (those living in the country for less than 182 days) are taxed at a flat rate of 25% on the gross income effectively connected with a Dominican operation and/or transaction. No allowances or deductions are permitted.

### Filing and payment procedures for individual income tax

Usually the common way for filing and paying the income taxes on individuals is through withholding, which in the case of employees will generally be done by the company that they are working for. The company will act as an agent responsible for submitting to the tax authorities the tax payments withheld. Also a 10% withholding tax applies if income is from sources other than salary (i.e. fees for services). At the end of the fiscal year, the individual will have to fill a tax declaration detailing all the income withheld by the different agents and pay applicable taxes not withheld. This procedure also applies to liberal professionals.

### Value Added Tax (VAT)

The VAT (known locally as "ITBIS") is applicable on the transfer of industrialized domestic goods, imported industrialized goods and on services rendered. The ITBIS rate is 16%.

There is a wide range of agricultural and livestock goods that are excluded from ITBIS such as living animals, meat, fishes for reproduction, plants to cultivate, vegetable and fruits for public consumption, coffee, sugar, etc. Also fuel and energy, books and magazines and medicine are exempted.

The services excluded from ITBIS are: education, culture, health, financial (excluding insurance), pension plans, ground transportation, electricity, water and garbage collection, rent of houses, and personal care.

### Excise taxes

Excise taxes are applicable to certain domestic and imported goods, as well as to certain services. Some examples of these goods and services are tobacco and alcohol derivatives, vehicles, hotel rooms, etc. The tax rates applicable range from 5% to 80% and vary depending on the type of product or service.

There are two important excise taxes on services that were introduced with the modifications to the tax code in October 1st, 2004 that are worth mentioning. These are: tax on checks or electronic transfers and tax on telecommunications.

- 1 **Excise tax on checks and electronic transfers:** A tax of 1.5 per thousand (0.15%) is levied on every check or electronic transfer. Only cash withdrawals and payments to the Social Security Administration and the Dominican Government are exempted from this tax. With the modification introduced in January 1<sup>st</sup>, 2006 to the Fiscal Code, it was agreed that this tax had to be reduced gradually until eliminated according to the schedule presented as follows:

Year	Excise tax on financial transactions
2006	0.00150
2007	0.00100
2008	0.00050
2009	0

- 2 **Excise tax on telecommunications:** A 10% tax is levied on telecommunication services.

### Taxes on International Trade

Due to the increasing liberalization of the Dominican Republic, trade barriers have been considerably reduced in the last twenty years. Despite this liberalization, customs duties and tariffs still represent an important proportion of the tax collections for the country. There are 8 duty rates imposed on imported goods, ranging from 0% to 40%.

The Dominican Republic has signed some bilateral trade agreements with Central America and some Caribbean countries. More recently, the country ratified a Free Trade Agreement (FTA) with the United States, which is our major trading partner. This treatment took effect in 2006 and with it 70% of total imports from this country were immediately exempted from custom duties. The remaining 30% will be eliminated in different periods that extend up to 20 years for the most sensitive products.

These movements towards a more liberalized Dominican economy will continue as currently the country is trying to expand its commercial ties with the European Union, and some South American countries such as Colombia.

### International Treaties to avoid double taxation

Currently the Dominican Republic has a tax treaty with Canada. This treaty avoids double taxation by agreeing on the mutual reduction or elimination of taxes on specified items of income. These items include special provisions for industrial and commercial profits, investment income, dividends, interests, royalty income, real property income, personal service income, etc.

Many countries accept income tax paid by their subsidiaries in the Dominican Republic as foreign tax credits on their tax return.

**Tax Information Exchange Agreement (TIEA)**

In 1989 the Dominican Republic entered into a Tax Information Exchange Agreement with the United States. Under this agreement, the tax authorities from both countries can share tax information regarding the entities or individuals nationals from one of these countries with operations in the other country.



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