

Doing Business

A Guide for the Dominican Republic

January 2014



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The information in this book is current through December 2013, and should only be used for reference.

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Professionals

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Countries
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Locations

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Europe

7,507

Asia

34,591

South and Central
America

11,174

Middle East
and Africa

10,436

Australia and
Pacific Islands

6,111

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We work to support our clients by leveraging the knowledge and skills of our local people and professionals through our global network. In this way we strive to provide quality services to all our clients.

A constant display of excellence and technical expertise has positioned PwC Interamericas as the number one in our region, providing our principal lines of services Assurance, Tax and Legal, Advisory and Business Process Outsourcing, which include a wide range of solutions for our clients.

Preface



**ANGEL
DAPENA
LAMBRIDGE**

Territory
Senior Partner

We are honored to publish the first edition of the PwC Dominican Republic Doing Business Guide, a book prepared for the assistance of those interested in doing business in Dominican Republic. This guide will provide you with an overview and insights of the key aspects for starting a business or investing in this country. It covers economic, legal, fiscal, and statutory aspects that will help you understand and evaluate the framework in each particular case. However, we will always invite you to refer to concrete laws, regulations and also to obtain advice when possible. In the last 10 years Central America and the Caribbean have been attracting investors due to their location, human and natural resources as well as the opportunities that are present. This Guide contains materials gathered before March, 2013 and, unless otherwise indicated, is based on information available at that time of writing.

Our Tax & Legal line of service at PwC Dominican Republic serves the main corporations and clients in the country. I am proud to introduce our Tax & Legal team, which is comprised of highly experienced professionals in various fields: accountants, lawyers, economists, business managers, among others; with extended degrees and masters. This mixture of professionals is what allows us to provide a better and value-added service to our clients and makes us different from our competitors. PwC Dominican Republic has been an active participant in comparative studies in the region regarding tax legislation and reforms, as well as business competition. PwC Dominican Republic has a trajectory and experience offering a range of services that include internal audits, external audits; accounting advisories, tax consulting, management advisory, business management, due-diligence, information technology and human resources, among others.

Foreword



**RAMON
ORTEGA**

Lead Regional Tax
Partner

We are pleased to launch this first edition of the Dominican Doing Business Guide 2013, which offers information to investors who wish to carry out business in this country regarding the culture, investment climate and taxation system, including answers to most frequently asked questions, as a result of our cumulative knowledge and experience working with leading companies. We know how important and reassuring it is to find someone you can trust when you arrive at a new location and to receive timely advice on all your issues such as what to do, where to go, and how to do things right, while respecting and understanding the local culture.

Our extensive expertise in mergers and acquisitions has led us to become the preferred advisor for the main business transactions taking place in Dominican Republic.

At PwC we take great pride in having a team that works hard to differentiate our firm from a crowded marketplace and are truly "Second to None". We enthusiastically strive to make your tax compliance efficient and are genuinely motivated to exceed your expectations on each engagement. PwC is a firm you can trust and rely upon to help solve complex business problems, always acting within our strict code of conduct and independence policies.

We look forward to assisting you in your business endeavors and to help you prosper and succeed while strengthening mutually beneficial relationships.

Dominican Republic



Geographic and demographic background

The Dominican Republic (DR) is on the eastern two-thirds of the Hispaniola Island, located in the Caribbean; Atlantic Ocean at its north, Caribbean Sea to the south, Puerto Rico to the east, and Cuba to the west. Hispaniola, Puerto Rico, Cuba, and Jamaica are referred to as the Greater Antilles.

The western portion of the island is occupied by the Republic of Haiti.





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Overview of the country

Brief history

The island was discovered on December 5, 1492 by Christopher Columbus, who named it Hispaniola. The Taino Indians, the indigenous people, were forced into slavery and eventually annihilated by diseases introduced by the Spaniards and by the abuses of slavery. Bartholomew, Christopher Columbus' brother, was appointed governor and in 1496 he founded Santo Domingo, the capital city. The island of Hispaniola remained under Spanish reign until 1697, when the western part of the island became a French possession. In 1804 it became the Republic of Haiti, and in 1809 the eastern part of the island returned to Spanish rule. In 1821 the Spanish settlers declared an independent state, but just weeks later, Haitian forces invaded the eastern region and incorporated Santo Domingo, known then as Saint Domingue.

For the next 22 years, the entire island was under Haitian control. On February 27, 1844, the eastern part of the island declared independence as the "Dominican Republic." The next 70 years were characterized by political unrest and civil war, mainly due to power struggles among Dominican strongmen for control of the government.

In 1916, Dominican Republic was invaded by the United States Armed Forces until 1924, when USA withdrew its troops due to Harding Plan.

In 1930, Rafael Trujillo came into power and established a dictatorship that ended with his assassination in 1961.

In 1964, during a civil war, USA's marine corps made a second intervention until April 1965 in which a truce was declared.

Juan Bosch became the first democratically elected president in four decades. In 1966, Joaquin Balaguer won a free election against Bosch. Since then the presidency has changed among three major parties: the Partido Revolucionario Dominicano (PRD), the Partido de la Liberación Dominicana (PLD) and the Partido Reformista Social Cristiano (PRSC).

Climate

The DR has a moderate tropical climate, even though it is located in a tropical zone. The northeast winds blow steadily from the Atlantic Ocean all year long, tempering the climate. The average temperature throughout the year is 75°F (25° C).

Population, form of government, language, currency:

Area	48,442 km ²
Population	9.3 millions of inhabitants
Population per km ²	193.6 hab. /km ²
Population growth	1.47%
Urban population	64% (2008)
Political system	Republican democracy
Form of government	Presidential
Language	Spanish
Currency	Dominican peso (RD\$ or DOP)
Administrative division	31 national provinces and 1 national district
Religion	Roman Catholic / Protestant
Capital city	Santo Domingo de Guzmán

Education

The educational system in the DR is regulated by Law 66-97, passed in 1997, and comprises the following levels:

- Birth - First grade (0 - 6 years old).
- First grade - 6th grade – Elementary (starts after initial level is completed and lasts 8 years).
- Middle level – High School (starts after basic level is completed and lasts 4 years).
- Superior level (starts after the middle level is completed and last 4-5 years).

Initial, basic and middle levels are officially free. The last year of the initial level and all years of the basic and middle levels are mandatory.

The Autonomous University of Santo Domingo (Universidad Autónoma de Santo Domingo), founded in 1538, is the oldest institution of higher education in the New World. It is the only public university in the Dominican Republic and has the largest student body and the highest number of graduates. There are numerous private universities, many sponsored by religious institutions. Among the well-known private universities regarded as high-quality education providers are: Pontificia Universidad Católica Madre y Maestra (PUCMM), Universidad Acción Pro-Educación y Cultura (UNAPEC), Universidad Católica de Santo Domingo (UCSD) and Universidad Iberoamericana (UNIBE).

Political and legal system

Legal framework

The political and legal structure of the DR is composed of three main branches – Legislative, Executive and Judicial – organized as follows:

Political and legal framework			
	Executive	Legislative	Judicial
Exercised by the:	The President	Bicameral Congress	<ul style="list-style-type: none"> • Supreme Court of Justice (*) • Court of Appeals • District Court • Small Claims Court (*) the highest of all judicial bodies
Composed of:	The President	<p>The Chamber of Deputies, made up of 178 deputies, 1 deputy elected for every 50,000 citizens (including 1 deputy for every voting district of more than 25,000 citizens).</p> <p>The Senate, composed of 32 senators, one representing each province.</p>	<p>The Supreme Court of Justice is composed of 16 judges.</p> <p>The number of Courts of Appeals, District Courts and Small Claims Courts and the number of judges sitting on them are determined by law.</p>
Elected or appointed by:	The President and Vice President are elected by direct vote every four years.	Senators and Deputies are elected by direct vote every four years.	<p>Judges are appointed by the National Judicial Council.</p> <p>The Council is made up of five judges: two from the Supreme Court of Justice (one of them serving as President of the Council) and one judge from each of the other courts described above.</p>

The Dominican legal system is based on Napoleonic Code.

Main political parties

- Dominican Liberation Party (Partido de la Liberación Dominicana - PLD)
- Dominican Revolutionary Party (Partido Revolucionario Dominicano - PRD)
- Social Christian Revolutionary Party (Partido Reformista Social Cristiano - PRSC)

Elections take place every four years. The last presidential elections were held in 2012 and the last congressional elections in 2010.

The economy

The DR's economy is the largest in the Caribbean and Central America. It is an upper-middle-income country, reliant on the service sector. The most prominent economic activities are tourism, retail, manufacturing and financial services.

The country's free zones and mining industries dominated exports for fiscal years 2011 and 2012.

Inflation

Inflation, as measured by changes in the Consumer Price Index (CPI), reached 3.9% in 2012. This level of annual growth was due mainly to price increases in transport, fuel and electricity.

Doing Business in the Dominican Republic

Government attitude toward foreign investment

The government is encouraging foreign investment and working to position the DR as the primary destination in the Caribbean for foreign investors. However, the same business channels are open to domestic and foreign investors alike. There are no major restrictions on foreign investment, and investors can repatriate their profits and capital.

The relaunching of free trade zones, incentives for investment in tourism and the signing of CAFTA-DR are among the principle ways the DR has encouraged foreign investment. Over the last ten years, there has been an emphasis on restructuring the current free trade zones and strengthening the textile free trade zone, the film industry and other sectors.

Free trade agreement and other agreements

The DR is a member of the World Trade Organization and has received preferred treatment. The country has access to the United States through the Caribbean Basin Trade Partnership Act (CBTPA), which was an extension of the Caribbean Basin Initiative (CBI) and the Preferred Generalized System GSP.

The Cotonou Agreement with the European Community allows preferential access to Dominican goods without quantitative restrictions.

DR-CAFTA (FTA between the US, Central American Countries and DR) was signed and implemented by the DR on March 1, 2007. In 1998, the DR signed a Free Trade Agreement with other Caribbean islands (CARICOM).

Foreign investment

The Export and Investments Center of the Dominican Republic (CEI-RD) is the official agency responsible for the promotion of international trade and foreign direct investment (FDI).

Foreign investment is regulated by Law 16-95, which sets the principle of equal treatment for domestic and foreign investments, guaranteeing the same legal protection for foreigners.

All foreign investments must be registered at CEI-RD. Foreign investors must notify the CEI-RD within 180 days of placing an investment in the country, and will then automatically obtain a Certificate of Foreign Investment Registration.

Under Art.2 of Law No. 16-95, foreign investment may take the following forms:

- Contributions in freely convertible currency, exchanged in a banking institution authorized by the Central Bank.
- Contributions in kind, such as industrial plants, new and reconditioned machinery, new and re-conditioned equipment, parts (including replacement and spare parts), raw materials, intermediate products and final goods, as well as intangible technological contributions.
- Financial instruments which the Monetary Board classifies as foreign investment, except those that are a result of contributions or internment of a transaction to restructure the Dominican foreign debt.

Under Art.3 of Law no. 16-95, foreign investment may be directed as follows:

- Investments in the capital of an existing, new or branch company based on the framework of the DR's commercial code. Stock should be nominative shares for foreign investment in companies with share capital.
- Investments in real properties in the country.
- Acquisition of financial assets.

There are certain constraints, which are standard in most countries:

- Disposal of toxic, dangerous or radioactive waste not produced in the country.
- Activities affecting public health and the environment.
- Production of materials or equipment directly linked to national defense and security, except with the express authorization of the Chief Executive.

Establishing business in the Dominican Republic

There are different business categories in the Dominican Republic – permanent establishment (PE), branch or subsidiary – as defined below.

Commercial Societies

Under Law no. 479-08, the legal commercial societies are:

- General Partnership (Sociedad en Nombre Colectivo).
- Ordinary Limited Partnership (Sociedad en Comandita Simple).
- Joint-stock Company (Sociedad en Comandita por Acciones).
- Limited Liability Company (Sociedad de Responsabilidad Limitada -S.R.L.-).
- Stock company (Sociedad Anónima -S.A.-).
- Simplified Stock Company (Sociedad Anónima Simplificada -S.A.S.-).

Foreign investors may establish their business through any of the legal forms allowed under domestic legislation. Local companies with foreign capital can access domestic credit with the same rights and under the same conditions as local companies with domestic capital.

Aside from the branch, the Limited Liability Company is the vehicle most frequently used by both domestic and foreign investors.

Incorporation procedure of a local entity

- Register the company name at the Trademark Office (ONAPI) and obtain the Business Name Certificate.
- Pay capitalization tax to tax authorities (branches are not required to make this payment).
- Submit to the Chamber of Commerce:
 - The articles of incorporation;
 - The list of shareholders and copies of their IDs or passports;
 - Documentation of the first general shareholder's meeting.
- Obtain mercantile registration certificate from the Chamber of Commerce.
- Submit the RC-02 form to tax authorities and obtain the tax identification card.

Closing procedure

Liquidation or dissolution of a company in the DR is regulated by Law No. 479-08 and its Reform 31-11.

Branch and/or permanent establishment:

A branch is created upon its registration with the Chamber of Commerce, whereas a permanent establishment (PE) is a fixed place where the business of the enterprise is wholly or partly conducted, such as: management offices; branches; a mine, oil or gas well, quarry or other location for extraction of natural resources; assembly projects, including monitoring the activities thereof; construction of or sales management of machinery or equipment when the cost exceeds 10% of the purchase price of such goods; business consulting services provided in excess of six months within a fiscal year; offices for staff or free-lance representatives or agents, when the latter work exclusively or almost exclusively on behalf of the company.

If a PE develops, the foreign company is subject to registration with the Chamber of Commerce and tax authorities. Both the branch and/or PE are considered an extension of the parent company. A PE has the same characteristics as a branch for tax and legal purposes.

Registration procedure

Submit to the Chamber of Commerce the following documentation:

- The Articles of Incorporation;
- An updated Certificate of Incorporation of the parent company;
- A power of attorney issued by the company designating a representative in the DR, including authorization for registering the branch and establishing the domicile in the DR.
- Copies of the ID's or passports of the main shareholders and members of the board of directors.

(Note: These documents need to be legal IDs in the country of origin and translated into Spanish by an official translator in the DR.)

- Obtain Mercantile Registration Certificate at the Chamber of Commerce.
- Obtain Tax Identification from tax authorities by submitting the RC-02 Form.

It takes the same amount of time to incorporate a domestic company or to register of a branch in the DR, once the documentation is submitted to the DR authorities, and the same procedure is followed.

Joint venture (Sociedades de hecho)

Joint Venture is a contract between two or more persons who are classified as partners with an interest in one or various specific and transitional business operations, which shall be run by one of them in his name alone and under his personal credit, with responsibility for tabulating and dividing with stakeholders the gains or losses in the proportion agreed upon.

Banking system

Central Bank

The Central Bank (Banco Central de la Republica Dominicana / BCRD) was created on October 9, 1947 by Law No. 1529. Its main office is located in Santo Domingo, with a regional office in Santiago de los Caballeros.

The Central Bank is an autonomous institution responsible for executing policies issued by its Monetary Board. In a capacity similar to that of U.S. Federal Reserve Board, it oversees currency, credit and foreign exchange controls and closely regulates and supervises the activities of banks and other financial intermediaries.

Commercial banks

The banking system in the DR is well established, composed of a number of private institutions that are regulated by the Central Bank and the Superintendence of Banks.

List of banks

Central bank

- Central Bank of the Dominican Republic

Government-owned banks

- Banco de Reservas de la República Dominicana

Foreign banks

- The Bank of Nova Scotia
- Citibank, N.A.
- Banco de las Americas S.A. (Bancamérica)
- Banesco, S.A.
- Banco Promerica de la Republica Dominicana, C. por A.

Commercial banks

- Banco Popular Dominicano C. por A.
- Banco BHD S.A.
- Banco Leon S.A.
- Banco Dominicano del Progreso S.A.
- Banco Santa Cruz, S.A.
- Banco Caribe Internacional, S.A.
- Banco BDI, S.A.
- Banco Vimenca, S.A.
- Banco Lopez de Haro S.A.

Labor and Social Security

Labor supply

Employment statistics, according to the last National Workforce Survey, conducted in October 2010, are as follows:

Economically Active Population (1) and Unemployment (2) by age group, 2007-2010.

Year	Employed (1)				
	Total	10-19	20-39	40-59	60 and more
2007	4,202,276	397,503	2,234,55	1,291,842	278,378
2008	4,256,447	397,117	2,274,117	1,340,486	262,727
2009	4,221,883	331,258	2,221,758	1,373,248	295,619
2010	4,378,866	372,233	2,250,893	1,426,197	329,543
Year	Unemployed (2)				
	Total	10-19	20-39	40-59	60 and more
2007	653,972	120,328	414,975	111,093	7,577
2008	602,501	104,737	387,645	104,507	5,612
2009	627,895	109,163	389,783	118,427	10,522
2010	625,337	116,920	377,171	115,981	15,265

Sources: Central Bank of the Dominican Republic.

Labor law requirements

Below is a summary of the most important requirements of Labor Law no. 16-92, enacted on May 29, 1992.

Wages and salaries

Minimum wage is the lowest salary that can be agreed upon in an employment contract and is established by the National Salary Committee, a division of the Ministry of Labor, and varies according to different types of businesses and their installations and/or holdings.

Profit sharing

It is mandatory to share 10% of the company's profits with employees.

Christmas bonus

In the month of December, the employer is obliged to pay the worker a Christmas bonus consisting of one-twelfth of the usual salary earned by the worker in the calendar year.

Fringe benefits

Non-cash compensations given to employees (benefits in kind) are taxed at a 29% rate, levied on the employer. This rate will be reduced to 28% in 2014 and 27% in 2015, as established in Law 253-12. This compensation includes cars, housing, relocation expenses, club memberships, etc.

Hours worked

The maximum work day is 8 hours, not to exceed 44 hours a week. The work week must end at noon on Saturday. Any change in the end of a work week has to be approved by the Ministry of Labor. In the case of overtime, the employer must pay all overtime hours at 100% the regular hourly wage plus 35%, and an additional 15% for night-time hours.

Paid holidays and vacations

After each year of continuous employment, employees are entitled to receive 14 days of paid vacation. More vacation time may be granted upon agreement between the employer and the employee, but the additional vacation days must total less than one week.

Termination of employment

The employment contract can be terminated with or without legal liability for both parties. Termination of the contract without legal liability can be done by mutual consent, under the terms of the contract or in cases where the contract cannot be fulfilled.

Termination of the contract with legal liability:

- Dismissal without cause.
- Dismissal with cause.
- The worker’s resignation.

Termination due to incapacity or death of the employee:

- In the event of the employee’s death or disability, the employer shall pay the employee, or his/her heirs, economic assistance in the amounts shown in the table below (Art. 82 DLC).

Economic assistance	
Time employed	Assistance
3 to 6 months	5 days salary
6 to 12 months	10 days salary
Over 1 year	15 days salary per year

Severance payment

Severance payment varies depending on the duration of the employment contract as outlined in the Art.80 of the DLC. When applicable, any sums owed by the employer must be paid within ten days of the contract’s termination (Art. 86). Noncompliance entails a penalty of one day salary for every day of delay (Art. 86).

Technical education tax

Employers and employees are required to make payroll-based contributions to finance programs for technical instruction and training of workers. The contribution for employers is 1% of total monthly payroll and for employees 0.5% of bonuses received.

Foreign personnel

There is a limit on foreign personnel in a Dominican company, as the DLC requires that 80% of employees are Dominicans. Wages received by the Dominican employees must amount to at least 80% of the company’s total payroll (Art.138 DLC). Employees with exclusively executive or managerial duties and those in technical positions that cannot be filled by Dominicans are exceptions to these rules (Art. 138).

Social security

The Dominican Social Security System (DSSS), established by Law no. 87-01 enacted on May 10, 2001, regulates and determines the mutual rights and interests of the state and the people with regard to a fund for protection against the risks of old age, disability, unemployment due to advanced age, illness, childhood disabilities and occupational hazards, and for provision of survivors' and maternity benefits.

The DSSS is conducted and regulated by the National Social Security Board. The administration of the system is the responsibility of two autonomous agencies, the Superintendent of Pensions (Art. 06) and Superintendent of Health and Labor Risks (Art.175).

Social security law no. 87-01 introduces three benefits:

- Old-age, disability and survivors insurance (Pensions)
- Family health insurance, and
- Occupational hazard insurance

The system covers legal residents in the Dominican Republic (nationals and foreigners) and Dominicans residing abroad.

Both the employer and the employee finance the system. Contributions are based on the employee's reported salary, with a ceiling of 20 national minimum salaries for pensions, ten national minimum salaries for Family Health Insurance and four national minimum salaries for occupational hazard insurance.

The DSSS, under resolution no. 322-02 of August 1, 2013, fixes the official minimum wage at DOP 8,645.00 (monthly) to calculate the family health, labor risk and pension contributions. This resolution does not imply that this amount will be the official minimum wage.

Pension

The current applicable percentages for pensions are 2.87% (employee) and 7.10% (employer) of the employee's taxable income. This contribution is mandatory. If the employee already contributes in another country (as a resident), a certificate of contribution from the relevant Social Security Ministry should be issued and filed in the Dominican Social Security Ministry, in order to avoid double contribution.

Family health

The current family health rates are 3.04% (employee) and 7.09% (employer) of the employee's salary subject to Social Security deductions.

INFOTEP

A payroll tax is imposed on employees and employers to finance programs for the technical instruction and training of workers. The contribution by employers is 1% of monthly payroll (after employee social security); for employees it is 0.5% of bonuses received.

Occupational hazard

This contribution is covered 100% by the employer and has four different rates depending on the risk category assigned by the Social Security Treasury. It takes into account the type of activity performed by the company and its personnel. The rates for each category are defined as follows:

Category	Percentage of salary
I	1.10%
II	1.15%
III	1.20%
IV	1.30%

Accounting and audit requirements and practices

Accounting

The accounting principles followed in the DR are those established by the Institute of Certified Public Accountants of the DR (ICPARD). Under Resolution No. 2010-004 001, the ICPARD adopted the International Financial Reporting Standards (IFRS) in Spanish version for companies that are listed in the Superintendency of Securities or International Financial Reporting Standards for Small and Medium Size Entities (SMEs) for the remaining companies as the accounting principles for companies operating in the DR and allowed companies that apply US GAAP may continue to use them. Regulated companies must follow the accounting standards established by their respective regulatory bodies.

The ICPARD has established January 1, 2013 as the date by which all companies operating in the DR should be following the IFRS or IFRS for SMEs, to allow adequate time for companies to adopt the new principles.

Currently, some companies follow a set of accounting principles that can be characterized as generally accepted accounting principles in the DR. They are in accordance with many aspects of the IFRS, but do not comply with all of their requirements.

Statutory audit requirements

Art. 33/Law no. 31-11 of February 10, 2011, which amends the Law No. 479-08, regulating commercial entities and limited companies, indicated that companies should be required to prepare audited financial statements if one of the following conditions is met:

- Borrows from financial institutions or financial intermediaries.
- Issues any type of security.
- Shows annual income more than 100 times the official minimum salary.

In addition, companies are required to elect Statutory Auditors (comisarios) to oversee management's actions on behalf of stockholders for S.A and optional for S.R.L.

Books and records

- Accounting records should be kept in Spanish and, as specifically required by the Commercial Code, should include two bound books of account, a daily journal (libro diario) and an inventory book (libro de inventarios). These books should be kept for at least ten years.
- Accounting books/records could be kept in a variety of ways, by digital or manual means. These methods meet the Commercial Code's formal requirements.

Accounting profession

Licenses to practice as Authorized Public Accountant (Contador Publico Autorizado - CPA) are issued by the government's executive branch. Candidates must obtain a degree in accounting, auditing or finance from a Dominican university. The accounting profession is regulated by ICPARD.

Auditing standards

The DR follows the International Auditing Standards issued by the International Auditing and Assurance Standards Board.

Tax system

The Dominican constitution states that the National Congress is empowered to levy taxes. Taxes will be collected and administered by the Dominican Government through the General Directory of Internal Taxes (Dirección General de Impuestos Internos – DGII).

Tax on corporate income

The DR follows a territorial concept for the determination of taxable income.

The current corporate income tax rate is 29% to be decreased to 28% in 2014 and 27% in 2015.

Please note that the asset tax is an alternative minimum tax that is payable when it is higher than a company's corporate income tax liability. See also asset tax in 'Other Taxes' section.

Asset tax / Minimum tax

Asset tax/Law No. 557-05 imposes a 1% tax on total assets. Share investments in other companies, land in rural areas, immovable property pertaining to livestock and agriculture, and advance tax payments are excluded from this tax base.

Depreciation, amortization and reserves for bad debts are allowable deductions for application of the 1% tax on total assets.

This tax shall be filed and paid in combination with the Annual Corporate Income Tax Return (Form 1R-2) and as follows:

The asset tax is an alternative minimum tax.

- The income tax is allowed as a credit against the asset tax.
- If the income tax is greater than the asset tax, the obligation to pay the asset tax is cancelled and the income tax is paid instead.

Minimum tax test

If the income tax is less than the asset tax, the difference (in order to complete the asset tax value) shall be paid in two equal installments as follows:

- First installment shall be paid within 120 days of closing date.
- Second installment shall be paid within six months after first quote's due date.

Companies may request a temporary exemption from the asset tax. For example, companies that require large capital (among other requirements established by General Ruling No. 3-06) may make such a request, which shall be submitted at least 90 days before the filing due date. The Internal Revenue Agency shall evaluate the merits of the request and approve or deny it as appropriate.

If the company has an income tax credit arising from excess advance payments, it may request that the refund of such balance be applied against the asset tax.

In the case of financial institutions, power generation and distribution companies, pension fund entities and stock brokerage companies, the tax is calculated based on the book value of fixed assets.

According to rule no. 07-2007, construction companies may seek exemptions from the asset tax, provided that they meet the requirements established in this rule.

Important observation: Tax Reform Law No. 253-12 reduced the rate to 0.5% and will be abolished in 2016 provided that the tax burden goal of 16% is met in 2015; consequently Property Tax will be applicable to real estate owned by juridical persons (refer to that section).

Tax over net financial assets

In addition to the corporate tax, financial institutions must pay an additional tax. The current tax rate is 1% over net financial assets, in accordance with Law no. 139-11 of June 29, 2011. This tax will be valid for a period of two years (24 months) from the date of enactment and shall apply in the portions of fiscal years 2011, 2012 and 2013 (extended until December 31, 2013 as indicated in Law No. 253-12) that fall within this two-year period. The Law 109-13, enacted July 3, 2013 limited the application of this tax over net financial assets up to June 30, 2013.

This tax applies to financial institutions, savings and loan associations, savings and credit banks and credit corporations. In addition, it should not exceed the taxable income before the expenses generated by this tax, and it will apply for the first DOP 700MM.

Net financial assets consist of the following:

- The portfolio of net loan provisions.
- Investments in net securities of provisions, excluding investments in securities of the Dominican Government and the Central Bank of the Dominican Republic.

This tax return does not nullify the company's obligation to file the corporate income tax return or the assets income return described above, except for those entities which are obliged by law 139-11 not to file the net financial assets return.

Tax on branch income

The branch profits tax rate is 29%, decreased to 28% for 2014 and 27% for 2015.

Free Trade Zone Tax

Law 139-11 establishes a 2.5% tax rate on sales of goods and services rendered by companies in free trade zones, traded in the local market with individuals and legal entities. Law 253-12 increased this tax to 3.5%.

Export free trade zones

Free trade zones are regulated by Law 8-90, which defines the special customs, tax and commercial rules that benefit entities classified as Free Trade Zone (FTZ).

FTZs are expected to be in a specific geographical area within the DR, with special customs and tax controls, with the products introduced, stored or transformed in these areas to be located abroad, and the services provided therein to be rendered abroad.

The three types of free trade zones are as follows:

- Industrial or services free zones, located in specific non-metropolitan areas within the DR;
- Border free zones, located on the border of DR and Haiti; and
- Special free trade zones – those that must be located outside a FTZ park to be near the resources needed to manufacture goods.

The National Export Free Zone Council (CNZFE) is in charge of regulating and supervising the sector, and every 30 days the CNZFE Board meets to study and approve any operations in the Free Zone.

Special FTZs and call centers

There are over 20 legal entities acting as call centers, classified as Special FTZ, most of which are located in cities, even though there are no legal provisions for call center activities to obtain this classification. Special FTZs are only engaged in call center activities, in compliance with the FTZ Council requirement. No financial or other business operations different from call center activities are allowed to be performed.

However, Law 253-12 abolished Special FTZ classifications. Therefore, only FTZ located in specific geographical FTZ park will be eligible to apply for a classification under Law 8-90.

Excise tax

Excise tax (ET) is applied to the acquisition or import of certain goods and services.

Alcoholic goods and cigarettes are subject to ET, which is adjusted to annual inflation:

Alcohol: ranges from DOP 418.00 to DOP489.60 for every litre of absolute alcohol for fiscal year 2013. These amounts will increment gradually up to DOP495 for every litre in 2017.

- Cigarettes: DOP 40 for a 20-pack and DOP 20 for a 10-pack for fiscal year 2013, to be increased gradually to DOP 50 for a 20-pack and DOP 25 for a 10-pack in fiscal year 2017.

Other products subject to this tax are:

- 7.5% on the transfer of alcoholic beverages, applied on the retail price. Imports and transfers made by domestic manufacturers are subject to this tax.
- 20% on the transfer of tobacco products, applied on the retail price. Imports and transfers by domestic manufacturers are subject to this tax.
- 19.50% to 130% on the consumption of certain imported goods (listed in the law) that are considered to be non-essential.
- 10% on telecommunications services, including cable TV.
- 16% on insurance services.
- 0.0015% on the value of checks or wire transfers made through financial entities

(this tax does not apply to cash withdrawals or credit card use).

Value-added tax (VAT)

In the DR, VAT is known as Tax on the Transfer of Industrialized Goods and Services (ITBIS). The ITBIS is a value-added tax applied to (movable) industrialized goods and services, with exemptions established by law for certain goods and services. The rate is 18%. Tax Reform Law 253-12 imposed 8% VAT for fiscal year 2013 to previously exempt goods, to be increased to 11% for 2014, 13% for 2015 and 16% for 2016. Amongst newly taxed goods are: dairy products, coffee, animal and vegetable fats, sugar, cocoa and chocolate.

Exports

Zero percent rates apply to exports, including sales to free trade zones.

Imports

18% VAT applies to imports, and it will also applies in the sale of goods to local market made by free trade zones.

Real estate transfer tax

This tax is assessed at the basic rate of 3%.

Other tax regimens

Simplified regimen

Taxpayers can apply for the simplified regimen, which consists of an estimated income tax payment, in accordance with rule no. 758-08. This regimen can be applied if at least one of the following conditions is met:

- Companies engaged in informal retail sales (groceries stores, markets, etc.).
- Companies engaged in wholesale and retail sales (groceries stores, markets, etc.) in which the inventory is normally acquired from domestic suppliers or identified as domestic suppliers based on their products.
- Companies engaged in manufacturing of goods sold to non-hosted in the simplified regimen and which purchase their materials in the domestic market.

In addition, the following conditions should be met:

- Purchases cannot exceed DOP 30,000,000.00 annually.
- If an invoice is issued with a NCF, and applied by other taxpayers as a credit for ITBIS (VAT) purposes, the company should pay the ITBIS (VAT) invoiced in the corresponding month and the estimated ITBIS (VAT) value established in rule no. 758-08.
- Companies must be registered in the National Taxpayers Database (Registro Nacional de Contribuyente - RNC).
- Fiscal year should be year ending December 31st.
- The registration form must be duly signed and filed.
- Tax obligations at the time of the application should be fulfilled.

Simplified regimen for casino and slot machines

The income tax rate is 5%, as established under law no. 139-11 of June 29th, 2011.

Total operations or gross sales of operating and legally installed slot machines should be considered the taxable base, regardless of geographic location.

There is a simplified regime for income tax payments from casinos based on the number of tables in operation.

Simplified regime for companies engaged in the lottery business (Bancas de apuestas)

Law no. 139-11 of June 29th, 2011, establishes a single annual tax of DOP 35,000 for companies engaged in the lottery business. This tax should be paid on a monthly basis. This tax amount is indexed annually according to the Consumer Price Index (CPI) published by the Central Bank.

In addition, they must pay monthly taxes of 1% tax on gross sales or operations and DOP 200,000, and are obliged to meet the fiscal code requirements.

Simplified regimen for companies engaged in the sports betting business (Bancas de apuestas deportivas)

Law no. 139-11 of June 29th, 2011, establishes that companies engaged in the sports betting business (bancas de apuestas) with establishments in Dominican territory should pay an annual tax based on their geographic location, to be paid monthly.

In addition, they must pay monthly taxes of 1% tax on gross sales or operations and DOP 500,000.

Income obtained by transportation entities

Art. 274/ Law no. 166-97: Income obtained by foreign transportation companies through operations made from the Dominican Republic to other countries shall be presumed to be from Dominican sources and to be equivalent to ten percent (10%) of the gross amount of fares received for passengers and cargo. National transportation companies shall be subject to this presumption when the net income cannot be determined. Regulations shall establish pertinent provisions for the application of this provision.

Income of insurance companies

Art. 275/ Law no. 166-97: Foreign insurance companies, whether located within or outside the country, shall be presumed to have obtained a minimum net profit from Dominican sources equivalent to ten percent (10%) of the gross premiums charged by them to insure or reinsure persons, goods or enterprises located in the country. National insurance companies shall be subject to this presumption when the net income cannot be determined.

International treaties to avoid double taxation

On August 6, 1976, the Dominican Republic and Canada signed a tax treaty to prevent double taxation and tax evasion with respect to taxes on income and on capital.

The treaty covers all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises and taxes on capital appreciation.

Corporate deduction

Allowed deductions

Art. No. 287 of the Dominican tax code specifies that all expenses incurred in order to obtain, maintain and conserve taxable income are considered deductible for tax purposes. Deductible expenses arising from company activities include the following:

Interest

Interest deductibility is limited to 2 criterion in which the most favorable one for Tax Authorities will apply:

- Deduction of interest paid abroad (or to resident physical persons) is limited to the amount resulting from the application of the quotient, resulting from 10% WHT and 29% corporate income tax to the interest expense.

Remark: In case interest recipient is subject to taxation abroad on said income, this limitation to interest deductibility will not apply, provided that the final nominal rate is equivalent or exceeds the applicable rate in the Dominican Republic. If said rate is inferior, interest deductibility limitation will apply with nominal rate abroad and local corporate income tax rate as benchmark.

- **Relation between nominal rate and effective rate and its implications:**

Nominal and effective rates are considered equivalent, unless tax resulting from the application of nominal rate is reduced by special tax incentives.

- **Interest deduction limitation (Thin Capitalization):** The deduction will be on the amount incurred but may not exceed the product of multiplying total interest amounts yielded during taxable period, times the value of three times the maximum annual average of accounting capital and the annual average of taxpayer's total interest bearing debt (excluding those in which its creditors with local residency or domicile and are subject to corporate income tax). Average accounting capital is obtained from the sum of the period's initial and final balances, divided by two. This is comprised of the paid-in capital, legal reserve and retained earnings as reflected in the financial statements (excluding period's earnings effect). Taxes expenses deduction: Deductibility of taxes will proceed if these were paid for the generation of taxable income, are part of its cost and do not represent a credit or advanced tax.

Taxes

In principle, taxes are not deductible, nor are interest and surcharges imposed on taxes, inheritances, donations, fringe benefits tax and penalties related to all taxes.

Insurance premiums

All insurance premiums that cover risks on goods that generate profits should be deducted.

Extraordinary damages

Extraordinary damages suffered by goods that produce profits as a result of accidental causes (force majeure) are deductible.

Depreciation and depletion

Depreciation allowances on fixed assets are determined by the declining balance method at the following rates:

Class	%
Buildings	5
Furniture, fixtures, computers, vehicles, etc.	25
Other assets not specified	15

The fiscal book value is adjusted to the annual inflation rate.

Amortization

Depreciation of the monetary cost of each intangible asset, including: patents; copyrights; drawings; models; contracts; and franchises with a finite term must reflect the life of said asset, using the straight line method over a recovery period.

Bad debts

These are deductible only in the year the loss is suffered. Authorization may be obtained to use an alternative method, which consists of a provision allowing the deduction only in the year the bad debt qualifies as doubtful, up to 4% of the balance of accounts receivable at year-end.

Other significant issues

- Changes in the inventory valuation method are not allowed without advance approval.
- Bonuses to employees are deductible within the year if paid within 120 days after year-end.
- Tax receipt (Comprobante Fiscal – NCF), documents that validate the transactions between two parties should meet all the requirements established in rule no. 254-06. If the requirements are not met, the income or expense should not be considered deductible for tax purposes.

Net operating losses

Carry forward of losses by legal entities can be used to offset profits up to the fifth period following the period in which the losses were generated, with a maximum amortization of 20% in each period. For the fourth period the deduction allowed should not exceed 80% of the net taxable income. In the fifth period, the percentage is 70%.

Group taxation

When a person, company or group of persons, whether or not domiciled in the DR, conducts its activities through a company or business and other divisions associated, controlled or financed by them, the tax authorities may classify this as an economic unit. In this case, the Administration may contribute, assign or allocate gross income, deductions, and credits between such organizations or businesses if it determines that such distribution, adjudication or assignation is necessary to prevent tax evasion or to clearly reflect the income of any such organizations or companies.

Withholding tax (WHT)

The WHT on payments to foreign corporations which are not permanently established in the DR, are as follows:

	Interest %	Dividends %	Royalties %	Technical assistance %	Other services %
Non-treaty, basic	10 ₍₁₎	10 ₍₁₎	29	29	29
Treaty (Canada)	18	18	18	29 ₍₂₎	29

- (1) This withholding is a sole and definite payment.
 - In case of interests, this withholding tax rate applies to both financial and non-financial institutions.
 - Dividend distribution of shares is not subject to withholding tax.
- (2) Technical assistance withholding tax could constitute a tax credit if certain conditions are met.

Tax incentives

To promote the economy, the government constantly develops and amends incentive laws which benefit specific sectors. The main sectors that benefit from these incentives include tourism, industrial free trade zone operations, alternative energy, industrial renovation and modernization and border development.

Law No. 158-01 – Tourist Development and its amendment Law No. 184-02
Establishes tourism development for limited development poles and new poles in provinces and places of great potential, and creates the Official Tourism Promotion Fund.

Law 253-12 eliminated exemptions to resident physical/juridical persons that invest in tourism projects (directly to the promoters/developers) within the specified tourist development zones.

Law No. 57-07 – Incentives for renewable energy and special regime
Establishes the basic regulatory framework, to be applied throughout the nation, to encourage and regulate development of and investment in projects that develop renewable sources of energy and seek to benefit from such incentives.

Tax Reform Law 253-12 eliminates:

- Income tax exemption granted to companies generating renewable energy approved by the National Power Board (“Consejo Nacional de Electricidad”).
- Financing incentives granted to social and cultural institutions that develop renewable energy resources for community use, and
- Reduces to 40% the credit on investment expense granted to self power producers 40% (previously 75%).

Law No. 392-07 – Industrial renovation and modernization

It creates a new institutional framework and a regulatory body to allow the competitive development of the manufacturing industry. It suggests policies and support programs that will encourage renovation and industrial innovation, with a view to greater diversification of national production and strengthening of the manufacturing chain through the promotion of industrial parks and districts and links to international markets.

Law No. 28-01 – Border development zone and its amendment Law No. 236-05

Creates Special Zones for Border Development in order to attract new investment and development projects to those zones, such as industrial, agroindustrial, construction, free zone tourism, metal and energy companies, etc. It declares a national interest in the promotion and protection of such companies, to encourage the development of the border region with Haiti.

The border cities entitled to benefits under the law are: Pedernales, Independencia, Elías Piña, Dajabón, Monte Cristi, Santiago Rodríguez and Bahoruco.

Law No. 56-07 – Textile industry

Declares the textile sector a priority sector for the nation and creates a national regulatory regimen for the sector.

Law No. 84-99 – Reactivation and promotion of exports

It reintroduces a system which supports exports, consisting of the following new mechanisms: 1) Refund of customs duties and taxes, 2) Simplified Compensation for customs duties, and 3) Temporary Admission for Investment.

Law No. 480-08 – Law of international financial zone in the DR

Defines a legal framework for the establishment of International Financial Zones in certain geographic areas of the DR, which will be opened for offshore, financial services and related activities for persons who are not DR residents and citizens whose primary residence is outside the DR.

Law No. 179-09 – Deduction of educational expenses from personal income tax
Allows natural persons except sole-owner business tax filers to deduct from gross income the costs incurred in the education of their self-employed direct dependents.

Law No. 502-08 – Promotion on books and libraries aims to:

- Establish principles and standards to promote the foundation of an integral and sustainable policy that will lead to equal access to books in the DR;
- Achieve well-integrated development of all sectors of the Dominican publishing industry; and build a National Library as a means to the nation's social, educational, cultural, scientific, technological and economic development and its integration with the world.

Law No. 108-10 – Promotion of film activity and its amendment Law No. 257-10 promotes progressive, well-integrated and equitable development of the domestic film industry, and generally promotes film production in the Dominican Republic.

Law No. 171-07 - Retirees and annuitants of foreign sources

Establishes certain benefits and exemptions for foreign retirees and self-supporting foreigners who wish to reside permanently in the DR, provided that they meet the requirements and conditions set by this law.

Law No. 8-90 Development of free trade zone export incentives

Grants free zone companies a 100% exemption from the following for a 15-year period:

Income tax payment on:

- Construction and loans for registration and transfer of real estate through construction of the corresponding Free Zone Operator.
- Incorporation of commercial entities or their capital increase.
- Municipality tax payment.
- All import, tariff, customs rights and other taxes affecting raw material, equipment, construction material, buildings, office equipment, etc. for free zones.
- Tax on patent filings or patrimonies as well as tax on transfers of industrial goods and services (ITBIS / VAT).

- Custom duties related to:
 - Equipment and necessary tools for the installation and operation of affordable dining rooms, health services, medical assistance, nursery facilities and any other kind of equipment promoting the welfare of the workforce.
 - Transportation equipment, trucks, garbage collectors, and minibuses for employee transport to and from work centers, with the CNZFE's prior approval in each case.

Transfer pricing ruling

Transactions between related parties in the DR must meet the requirements initially established by general rule 04-2011 issued on June 2, 2011, further included in the Dominican Tax Code by Law 253-12. This rule provides additional regulations for transfer pricing dispositions included in Law no. 495-06, which were promulgated in 2006 and which introduced the concept of transfer pricing in the DR.

Transfer Pricing regulations mainly adheres to the arm's length principle and are in line with the guidelines issued by the Organization of Economic Cooperation and Development (OECD), referred to as the "OECD Guidelines".

These regulations mainly establish the following:

- That the intercompany transactions subject to analysis include those that may take place with domestic and foreign related parties, as well as any transactions with tax havens or operating in free trade zones. The list of tax haven countries will be published by the DGII, taking into considerations the OECD pronouncements on the matter.
- That even if there is no ownership, an exclusive relationship is considered a related party.

From the obligations perspective, an information return is required to be filed no later than 60 days after filing of the corporate tax return.

Also, Taxpayers should prepare a transfer pricing report, which will be provided to DGII upon request. This report shall include: a functional analysis, details and quantification of the intercompany transactions, method selected for the analysis, details on sources for all information, inter-quartile ranges (if applicable) and details on adjustments that may have been performed by the analysis.

Corporate tax compliance

Returns

The corporate annual tax return must be filed and tax paid within 120 days after year-end. Tax authorities may allow extensions of up to 60 days, upon request. Tax returns are based on self-assessment and must be filed on electronic forms supplied by the Internal Tax Department.

Payment of tax

The balance of any tax due must be paid no later than the due date for filing the return. Corporations domiciled in the country and permanent establishment of foreign enterprises shall be obliged to make monthly advance payments of tax related to the period in progress.

Year-end dates established by the DR tax code

Corporate bylaws should establish as year-end one of the following: December 31, March 31, June 30 or September 30. Once the year-end is selected, any changes must be authorized by the tax authorities.

Individual taxation summary

The DR follows a territorial concept for the determination of taxable income. Dominican citizens are subject to income tax on their income from Dominican sources and from sources outside the DR arising from investments and financial gains.

Foreign citizens will be subject to income tax on their income from Dominican sources from day one, regardless of where they receive the payment for their work in the DR. Additionally, income from sources outside the DR arising from investments and financial gains will be subject to income tax after the third year of becoming tax residents. For tax purposes, an individual will be considered a resident of the DR if he/she spends more than 182 days in the country during one fiscal year, continuously or not. Resident individuals are taxed at graduated rates ranging from 0% to 25%. In principle, non-resident individuals are taxed at a flat 25%, however, the tax authorities apply a progressive scale of 0-25%. See also Current Tax Rates in Other Taxes section.

Gross income

Broadly, the entire remuneration for personal services rendered in the Dominican Republic is subject to income tax. The employer is taxed at 29% (on a monthly basis), as set forth by the tax code on fringe benefits. This rate will be reduced to 28% in 2014 and 27% in 2015. This additional compensation includes housing, living allowances and automobiles, among others. However, the calculation for the fringe benefits tax on vehicles is different and would be subject to further analysis.

Individual deduction

Current deductions / credits

The personal deductions allowed include:

- Yearly exemption of DOP 399,923 (DOP 33,327 per month) and the social security contributions.
- Deduction of educational expenses of direct/non-salaried dependents.
- These expenses include education at basic, medium, technical and college levels. The deduction is limited to 10% of the individual's total taxable income.

Individual tax compliance

Returns

Spouses are required to file separate income tax returns covering their respective income. Income from property held in common is included in the husband's return, so it should not be included in the spouse's return. Individuals are required to file a personal

tax return (Form IR-1) only when income from sources different from the salaries, wages and bonuses (where the employer withholds tax) is received, or when these are not enrolled in local payroll.

Tax payment

Employers are required to withhold income tax on salaries, wages and bonuses on all earnings over and above DOP 399,923 annually. Christmas bonuses, Social Security contributions, severance and termination payments are not subject to income tax, according to the labor code.

Current tax rates

Individuals pay tax on all earnings exceeding DOP 399,923 annually. The following scale is for the year 2013-2015. After 2015, these figures will be adjusted to annual inflation.

Scale	Rate
Up to DOP 399,923	Exempt
From DOP 399,923.01 to DOP 599,884	15% of earnings over DOP 399.923.01
From DOP 599,884.01 to DOP 833,171	DOP 29,994 plus 20% of earnings over
DOP 599,884.01	OP 71,132.00 plus 25% of earnings over DOP 773,173.01
From DOP 833,171.01 and above	DOP 76,652.00 plus 25% of earnings over
DOP 833,171.01	

Tax news

To review updated information on taxes in the Dominican Republic, visit our web page, following the next link:

<http://www.pwc.com/ia/es/publicaciones/tax-news/index.jhtml>.

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