

# DOING BUSINESS IN THE DOMINICAN REPUBLIC

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# DOING BUSINESS IN THE DOMINICAN REPUBLIC

## ABOUT THIS GUIDE

This Doing Business Guide is a publication of Dominican law firm Pellerano & Herrera. It has been prepared for those interested in investing in the Dominican Republic and provides information about the country, the laws that regulate the local economy, and the investment climate. This Guide allows readers to have an idea of the legal framework that will apply to projects in the various investment areas and sectors as well as the legal provisions applicable to foreign citizens when visiting the Dominican Republic.

This Guide does not constitute legal advice or a legal opinion about any specific matter. Should legal advice or other professional assistance be required, the services of a competent professional should be sought. The information contained in this guide has been updated as of December 2017.

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# DOMINICAN REPUBLIC

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## ABOUT PELLERANO & HERRERA

Pellerano & Herrera has been the leading law firm in the country for more than 25 years. The firm has represented parties in virtually all of the country's major business transactions and projects and it regularly provides advice to prominent international companies and entities that are interested in doing business in the Dominican Republic or investing in local companies, as well as in corporate restructuring projects of ongoing businesses in the country. Pellerano & Herrera has the most complete and multidisciplinary team of lawyers in the country, with vast experience in more areas of practice than any other firm in the Dominican Republic. Pellerano & Herrera is recognized for providing pragmatic and constructive legal advice to its clients, always striving to add value in the process of meeting their business goals. The firm is committed to innovation and to the application of best practices in the legal services industry, and its attorneys focus on identifying new opportunities for firm clients and creating the most effective legal strategies. Pellerano & Herrera has adopted a "green" office policy, aimed at minimizing its impact on the environment.

## EXPERIENCE

Pellerano & Herrera regularly advises international clients in transactions involving acquisitions, joint ventures, project finance, and tax planning, among other matters. It also advises multinational companies and other clients on the process of entering the Dominican market. The firm has a well-known corporate and finance practice and has successfully participated in bond issuances, LBOs and project finance transactions that have allowed the entrance of highly recognized companies to the Dominican market.

Moreover, Pellerano & Herrera has a strong and successful litigation practice – considered one of the best in the country – with vast experience in sophisticated civil and commercial lawsuits, civil rights actions, issues of constitutional law, alternative dispute resolution, business, insurance, and intellectual property litigation. The firm is responsible for the setting of important precedents such as the first invocation of the *Amparo* remedy in the country and the elimination of the *Solve et Repete* obligation in tax matters.

Attorneys at Pellerano & Herrera regularly perform *pro bono* work for those who seek to improve the educational standards and general welfare of their community and the country, aimed at the protection of civil rights in the Dominican Republic, such as freedom of the press, the right to information and freedom of expression.

## AREAS OF PRACTICE

Antitrust and Unfair Competition; Banking and Finance; Capital Markets; Corporate; Dealership and Distribution; Dispute Resolution; Energy; Environmental Law; Family Law; Franchising; Government; Immigration; Infrastructure; Insurance; Intellectual Property; International Agreements; Labor and Social Security; Litigation; Maritime; Mergers and Acquisitions; Mining; Oil and Gas; Project and Structured Finance; Real Estate; Sports Law; Sustainable Development; Taxation; Telecommunications; Tourism; and Transportation.

## GLOBAL REACH

Pellerano & Herrera is the exclusive Dominican law firm member of Lex Mundi, the world's leading association of independent law firms. The firm's membership to Lex Mundi, which has member firms in more than 100 countries, provides the firm with a global reach and access to legal resources that enhance its ability to serve its clients' needs around the world.



Pellerano & Herrera is also part of other important legal networks and specialized associations, such as World Services Group, *Club de Abogados*, Islamic Finance Lawyers, and Legal Sector Alliance.

## AWARDS AND RECOGNITIONS

Pellerano & Herrera is the most awarded and respected law firm in Dominican Republic.

**“Law Firm of the Year”** of the Dominican Republic, Chambers & Partners - 2009, 2010, 2011, 2013, 2015 and 2017.

**“Law Firm of the Year”** of the Dominican Republic, International Financial Law Review (IFLR) – 2017.

**“Law Firm of the Year”** of the Dominican Republic, Who’s Who Legal – 2017.

**“Sovereign Liability Management Deal of the Year”** by LatinFinance Deals of the Year Awards. Pellerano & Herrera assisted the underwriters in the bond offering of the Dominican State – 2015.

**“Deal Maker of the Year”** by Finance Monthly. Pellerano & Herrera counselled Grupo Popular in a US\$100 million corporate bond issuance by Desarrollos Sol, local subsidiary of renowned hotel group, Meliá Group – 2015.

**“Deal of the Year 2010”**, Latin Lawyer, for Pellerano & Herrera’s work for Barrick Gold Corporation in the Pueblo Viejo Mine Financing, largest foreign investment registered in the history of the Dominican Republic, amounting to an estimated US\$2.7 billion- 2011.

**“Private Equity Deal of the Year 2009”**, International Financial Law Review (IFLR) for Pellerano & Herrera’s work as legal counsel to the buyers in the acquisition of the Dominican Republic’s airports, the first leveraged buyout in the Dominican Republic – 2010.

**“Leading Firm”**, Chambers Global – 2004-2018.

**“Leading Firm”**, Chambers Latin America – 2009-2018.

**“Top Tier Firm”**, International Financial Law Review (IFLR1000) – 2010-2018.

**“Leading Firm”**, Latin Lawyer – 2008-2018.

**“Top Tier Firm”**, Legal 500 - 2012-2018.

**“Most Admired Law Firm”** in the Dominican Republic in the *“Most Admired Companies”* ranking by Revista Mercado, the most prestigious Dominican business magazine – 2009-2017.

**“Best company to work for”** in the annual ranking by Revista Mercado, the most prestigious Dominican business magazine – 2007-2017.

**“Topbrand”** of the Dominican Republic, Superbrands UK 2010, 2013, 2016.

# EXPORT AND INVESTMENT CENTER OF THE DOMINICAN REPUBLIC (CEI-RD)

GOVERNMENT AGENCY  
THAT PROMOTES  
AND SUPPORTS EXPORTS  
AND FOREIGN INVESTORS



We provide confidential and comprehensive support services to all **investors, exporters and buyers** interested in doing business in the Dominican Republic in order to provide assistance throughout all establishment processes. Among them:

-  • Advisory.
-  • Business Development.
-  • Customized Assistance.
-  • Link generation between foreign investors and local industry.
-  • Strategic FDI Information.
-  • Permits and licenses management.
-  • Certificate of foreign investment.
-  • Investment promotion strategy.
-  • Aftercare services to established investors.



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# DOING BUSINESS IN THE DOMINICAN REPUBLIC

The Dominican Republic offers multiple business and investment opportunities as a result of a variety of factors, such as its unique geographical location, current legal framework, economic stability, and infrastructure. Its location in the center of the Caribbean, allows it to access the North, South, and Central American markets with relative ease, as well as to serve as a bridge between those markets and Europe to trade goods and services.

The country's legal system constitutes another incentive for investment. In the recent years the Dominican economy has experienced a continuous process of regulatory modernization, which has led to the adoption of a variety of measures aimed at opening and commercially integrating the economy into the international markets. Having acknowledged that the Dominican market depends on international economic integration, the Dominican government has opted to create a solid legal foundation that allows for sustained economic stability and growth as well as assures freedom and security to the economy's different participants when commercializing goods and services.

Additionally, the Dominican Republic has a widespread, developed and growing physical infrastructure adjusted to the requirements of a society focused on the production and commercialization of goods and services. The Dominican roadways are among the best in the region, connecting practically all areas of the country. It also has modern, broad, and efficient airport and port systems formed by eight international airports and fourteen significant seaports located close to key production centers. Likewise, the Dominican Republic's modern telecommunications system is one of the country's main competitive advantages.

## **MACROECONOMIC INDICATORS**

The Dominican Republic as a Latin American economy that has experienced the highest economic growth for three consecutive years with a 6.6% growth rate in 2016, according to the Dominican Republic Central Bank's Preliminary Report on the Dominican economy. According to the report, the economic sectors that experienced the highest growth during this period were: Mining (26.5%), Financial Intermediation (11.0%), Agriculture and Livestock (9.6%).

The inflation rate observed during the year 2016, measured by the variation of the CPI, was 1.7%, positioning it below the lower limit of the target established in the Monetary Program of 4.0%.

The flow of international trade in the Dominican Republic, determined by the sum of imports and exports, increased by 3.22% in the year 2016, indicating a rise from US\$26,261.3 million in 2015 to US\$27,107.7 million in 2016. Exports grew by 3.47%, showing a momentous growth superior to those of imports, which displayed a total growth of 3.09%. The significant increase in national exports (especially mining), which decisively affected the export's performance, together with tourism revenues and remittances were the main variables that allowed the current account deficit to be reduced to US\$1,065.5 million.

The revenues generated by tourism were US\$6,723.3 million; a 10% increase over the revenues generated in the year 2015. This substantial increase was the main factor that allowed the balance of services to be US\$583.9 million dollars higher than that of the year 2015.

Family remittances, in turn, reached US\$5,261.4 million, growing 6.1% compared to what was collected in 2015. This behavior allowed the secondary income account to have a positive balance of US\$ 5,041.6 million in 2016. Regarding Foreign Direct Investment, 2016 ended with a net balance of US\$ 2,593.4 million, increasing by 16.7% compared to 2015.

## DOMINICAN REPUBLIC'S MACROECONOMIC INDICATORS 2012-2016

Variables	2012	2013	2014	2015	2016*
Growing Rate (GDP) %	2.8	4.7	7.6	7.0	6.6
Rate of inflation	3.9	3.9	1.6	2.3	1.7
Exports US\$ Million	8,935.5	9,424.4	9,898.9	9,397.9	9,723.6
Imports US\$ Million	17,651.8	16,801.2	17,273.1	16,863.4	17,384.1
Tourism Income (US\$)	4,680.1	5,054.7	5,629.8	6,115.8	6,721.5
Var. Tourism Income (%)	6.7	8.0	11.4	8.6	9.9
Remittances (US\$)	4,045.4	4,262.3	4,571.2	4,960.6	5,261.4
Var. % Family Remittances	0.9	5.4	7.2	8.5	6.1
FDI US\$ Million	3,142.4	1,990.5	2,208.5	2,221.5	2,593.4

Source: Prepared with data from the Central Bank of the Dominican Republic.

(\*) Preliminary figures subject to change.

## FOREIGN DIRECT INVESTMENT (FDI) BEHAVIOR IN THE DOMINICAN REPUBLIC

In the period 2010-2016, the Dominican Republic's accumulated Foreign Direct Investment was \$16,456.7 million dollars. For the year 2016 in particular, the flow was a total of \$2,593.4 million dollars.

## DOMINICAN REPUBLIC'S FDI FLOW 2010-2016 (MILLIONS OF US\$)



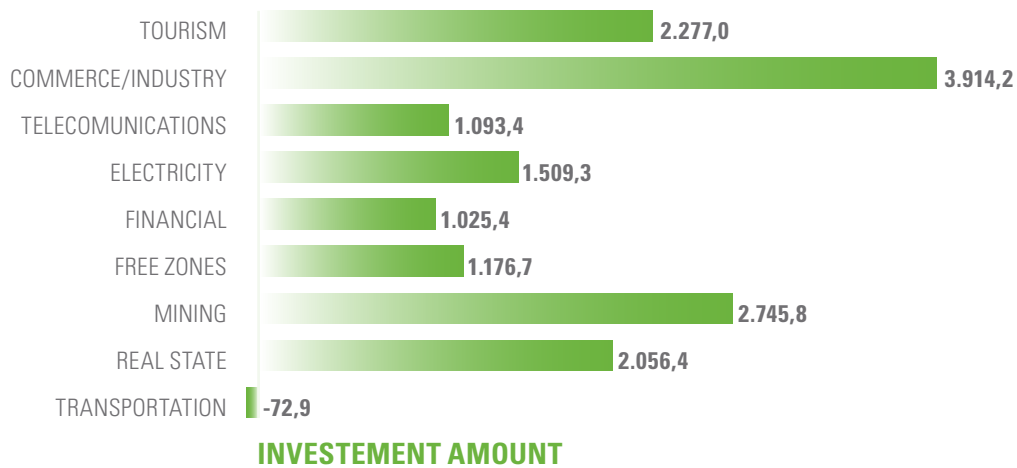
Source: Prepared with data from the Central Bank of the Dominican Republic (2016). Preliminary figures subject to change.

The economic sectors receiving foreign investment have been very heterogeneous over the years. The trade / industry FDI balance for the period January 2010 - September 2016 was US\$3,914.2 million, making it the main receiving sector. In second and third place are the mining and tourism sectors, with US\$2,745.8 million and US\$2,277.0 million, respectively.

Following, in descending order, : Real Estate, Electricity, Free Zones, Telecommunications, Financial and finally Transport, which by the end of this period turned out to be negative (\$ -72.9 million dollars), indicating an outflow of investments higher than the inflow in this sector.

### DOMINICAN REPUBLIC'S FDI FLOW, BY SECTOR

2010 - SEPTEMBER 2016 (MILLIONS OF US\$)

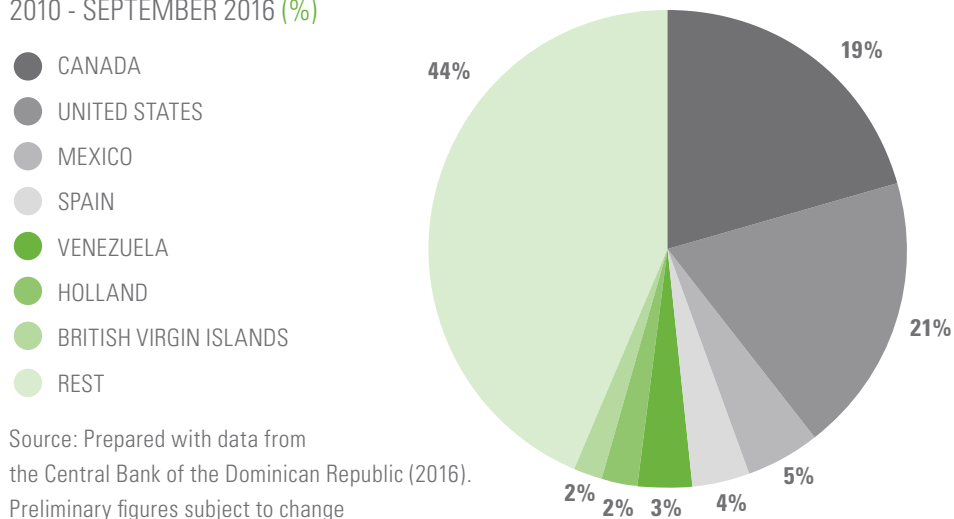


Source: Prepared with data from the Dominican Republic's Central Bank

21% of the foreign investments that entered the Dominican Republic in the period from September 2010 to September 2016 came from Canada; making it the country that contributed the most in this regard. In second place is the United States, with an accumulated total of 19%. To a lesser extent, follow Mexico (5%), Spain (4%), Venezuela (3%), the Netherlands (2%) and British Virgin Islands (2%).

### PARTICIPATION IN FOREIGN DIRECT INVESTMENTS, BY COUNTRY OF ORIGIN

2010 - SEPTEMBER 2016 (%)



Source: Prepared with data from the Central Bank of the Dominican Republic (2016). Preliminary figures subject to change

## THE DOMINICAN REPUBLIC AT AN INTERNATIONAL LEVEL

The Dominican Republic has countless features, many of which allow it to position itself in numerous important regional and worldwide rankings. The following table shows the main indicators / rankings in which the country reached an important position during the year 2016.

Indicator/Ranking	Position	Evaluating Entity
Most Economic Growth in Latin America (6.4%)	1	Comisión Económica para América Latina y el Caribe (CEPAL)
Capturing Foreign Direct Investment (FDI) in the Caribbean	1	Economic Commission for Latin America and the Caribbean (CEPAL)
Main Tourist Recipient in the Dominican Republic	1	Caribbean Tourism Organization (Organización de Turismo del Caribe)
Best Long Distance Destination	1	Tour Mag Magazine
Best Destination in the Caribbean	1	Expedia.com
Best 25 All-inclusive Hotels Worldwide	4 Hotels	Trip Advisor
Best Connectivity in Central America and the Caribbean	2	Caribbean and Central American Countries of the Future 2015/2017
Best Language Proficiency in English as a 2nd language in Latin America	2	English Proficiency Index (EPI)

Also, an important part of the Dominican exportable supply is very well positioned worldwide.

Export Ranking	Position
World Exporter of Cigars	1
Exporter of Cacao to India	1
Exporter of Cigars of Latin America and the Caribbean	1
Global Exporter of fresh or dried plantains	1
Exporter of Rum to Spain	2
Exporter of Rum to Chile	2
Exporter of Cacao to Latin America and the Caribbean	2
Exporter of Cacao to the European Union	2
Exporter of medical instruments and devices at a Regional Level	2
Exporter of Avocados the United States	4
Exporter of Cacao in grain to the United States	4
Exporter of Cacao in grain to Japan	5
Exporter of Peppers to the United States	6

Source: TRADEMAP

## WHY THE DOMINICAN REPUBLIC?

The Dominican Republic offers an extraordinary opportunity for successful and profitable business. The Dominican Government works hard to improve its investment climate, maintaining macroeconomic, political and legal stability in recent years.

Accordingly, the main attributes that make the Dominican Republic an attractive destination for Foreign Direct Investment (FDI) in the region are the following:

- The country offers preferential access to nearly 900 million consumers globally and wide advantages to companies doing business in the country, through trade agreements with favorable and flexible rules of origin.
- The Dominican Republic is one of the few countries with free trade and preferential entry to the US market (DR-CAFTA) and the European Union (EPA).
- Strong legal framework and incentive programs.
- Bilingual, competitive, experienced and qualified workforce.
- Modern transport logistics infrastructure that enables fast and reliable shipment of goods.
- The most advanced telecommunication infrastructure in the Caribbean and among the best in Latin America.
- Competitive costs.
- Quality of life.



# THE DOMINICAN REPUBLIC'S MODERN **LEGAL SYSTEM**

During the 1990s, the Dominican Republic initiated the first wave of reforms to modernize legal system and the economic framework under which corporate vehicles operate in the country, in order to: (i) promote the flow of foreign capital into the country; (ii) adapt the economy to international competition; and (iii) facilitate its integration into economic groups at a regional and global level. This process continued with a second wave of reforms which initiated during the early 2000's to continue to modernize the legal system's regulation of specific industries, such as the banking and monetary systems, as well as the strengthening of corporate governance rules, competition, and consumer protection regulations, which affect all sectors in general. Chronologically, the main reforms implemented include new laws regarding telecommunications, industrial property, copyright, reactivation of exports, environmental, the financial system, the insurance sector, the energy sector, fiscal and customs reform, a special legislation to attract retirees and baby-boomers, antitrust, and more recently regarding trusts and the development of low cost real estate projects, money laundering, risk prevention in financial institutions, government procurement, restructuring and liquidation of companies, among others. Legislative measures relating to the entry into force of the DR-CAFTA were also adopted, especially with respect to intellectual property protection.



Social reforms have occupied a large part of the legislative agenda. The most significant reforms during the past two decades have been the modernization of the criminal justice system, the adoption of a Code for the Protection of Children and Adolescents, the Public Health Law, the Social Security Law and the creation of specialized courts to prosecute the Public Administration. However slow, significant steps in the implementation of these regulations have taken place, and some important accomplishments are becoming evident, especially regarding the transparency of the judicial system. In 2010, the Dominican Constitution was also amended with the goal of modernizing the State as well as its essential regulations.

To highlight some of the reforms have taken place over the last two decades in order to promote the modernization of the most important sectors in the Dominican economy and to promote and protect investment, both local and foreign, we can mention the following:

### **SECURITIES MARKET**

Since the year 2000, a burgeoning and constantly diversifying Securities Market has been operating in the Dominican Republic. The regulatory framework provides everything concerning the authorization and treatment of public offerings of securities and issuers; from their issuance to their placement in the market, imposing superior transparency standards to those accustomed in the country. The law defines and regulates strictly the fiduciary responsibility of market participants, such as the Superintendence of Securities as the regulating agent, the National Council of Securities as the appellate organ for the Superintendence's decisions, the Stock Exchange and exchange posts, the centralized deposits of securities, compensation chambers, risk assessment companies, investment funds, fund administrators, mutual funds and securitization companies. All the aforesaid with the purpose of guaranteeing to investors market transparency.

The development of the Dominican Securities Market until August 2017 has consisted only in the public offering of bonds.

### **MONETARY AND FINANCIAL SYSTEM**

The assets of the financial sector account for more than half of the country's Gross Domestic Product (GDP), possibly being the most dynamic sector of the economy and, after a severe crisis in 2003, the most regulated sector of the national economy. With the objective of keeping the exchange rate under control, easing the access to capital and fostering trust in the savers nationwide, the financial system is under the supervision and

control of the Central Bank, as the entity responsible for the issuance of currency and the custody of the financial reserves, the Superintendence of Banks as the regulating agent and the Monetary Board as the highest hierarchical organ and responsible for issuing authorizations to operate in the sector.

The national monetary system allows the free convertibility of currency, the free determination of interest rates, the free cross border movement of capitals and the unrestricted participation of foreign financial institutions in the Dominican market, as long as the security deposits ordered by law to all banks, regardless of their nationality, are kept in the Dominican Republic.

Among the most relevant regulations that affect business in the sector are antitrust laws which imply the obligation to notify and obtain authorization from the Monetary Board for any fluctuation in the capital of the institution or a change in the equity distribution. Likewise, are noteworthy the regulations in regards to consumer protection as well as taxes on bank deposits, electronic transfer of funds and withholding taxes applicable to interest payments to financial institutions established overseas.

Moreover, it is also important to note that in order to comply with the recommendations of the IMF and the World Bank, the Superintendence of Banks initiated a process of updating and reviewing the regulatory framework of the Dominican financial system, in accordance with the Risk Based Supervision Model and international best practices. This process led to an improvement in the compliance level of the Superintendence of Banks with respect to the guidelines of the IMF and World Bank's Financial Sector Assessment Program. In addition, the Superintendence of Banks revises its rules in accordance with international standards with the objective of promoting access to financial services, increasing the solvency of the financial system and the average quality of its credit portfolio.

## **FOREIGN INVESTMENT**

Dominican law accords equal treatment to domestic and foreign investment. The only restrictions on foreign investment apply to some particularly sensitive sectors from a strategic point of view, such as mining, in the sense that no other sovereign State may invest in Dominican mining projects. Aviation, health projects such as hospitals and pharmacies, the handling of toxic waste and radio transmissions require a minimum of Dominican capital. Public media managers must be Dominican, among other industry-specific restrictions.

To promote foreign investment in the country and to develop the export sector, the Center for Export and Investment (CEI-RD) was created. The registering of investments before the CEI-RD is not mandatory and even

without it foreign investors may remit profits and repatriate capital without prior authorization, provided they comply with local tax regulations, which are the same as for nationals. The remittable amounts also include royalties, capital gains and capital upon liquidation of the company receiving the investment, to the extent of invested capital. However, registration in CEI-RD allows access to preferential treatment and expedited residence for investors and management positions.

The Dominican Republic has maintained an active policy of multilateral trade relations, signing numerous free trade agreements as well as bilateral investment treaties with Argentina, Chile, South Korea, Spain, Finland, France, Italy, Morocco, Panama, Republic of China (Taiwan), Kingdom of the Netherlands, and Switzerland. At the same time it has signed treaties to avoid double taxation with Canada and Spain.

### **PROMOTION OF NATIONAL COMPETITIVENESS**

In 2008, Law No. 42-08 on Defense of Competition was enacted in the Dominican Republic; however it was not until the beginning of the year 2017 when such law entered into force.

The main objective of the Competition Law is to promote and defend effective competition in the services and goods markets, in order to generate benefits and value in favor of consumers. This law, which is of a public order nature, applies to all economic agents, whether natural or legal persons, public or private, for or non-profit, national or foreign, who carry out economic activities within the national territory.

Law No. 42-08 establishes forbidden practices and sanctions the following actions: (i) concerted practices and anticompetitive agreements coordinated between competing agents; (ii) abuse of dominant Position; (iii) unfair competition. It is important to note that the Law establishes what is considered as forbidden or unfair practices in detail.

The National Commission for the Defense of Competition is responsible for administering compliance of such Law, as well as promoting and ensuring the existence of competition to increase economic efficiency in the services and goods market.

### **TRUSTS**

Among some legislative developments in the banking sector it is important to mention Law No. 189-11 for the Development of the Mortgage Market and Trusts, which as its name indicates, includes among its main objectives the creation of the legal figure of a trust, which did not previously exist in our legislation. This law

allows the existence of separate estates (autonomous and independent), separated from the personal assets of those who constitute the trust (trustor), the trustee or beneficiaries thereof (trustees), as well as other trusts held by the trustee. Secondly, another objective of the law is the promotion of the mortgage market in the country through the mentioned figure of the trust. Law 189-11 provides a regulatory and fiscal regime applicable only to trusts and projects for the development of low-cost housing.

Another relevant and new aspect of Law 189-11 is the simplification of the securitization process with the purpose of making the figure viable and promoting its use in the Dominican Republic, since prior to the enactment of said law certain required procedures which made the process very expensive.

Additionally, Law 189-11 provides that financial intermediation entities may issue public offering securities, as well as other financial instruments, such as: mortgage bills; mortgage bonds; mortgage participation agreements; endorsable mortgage loans; non-endorsable mortgage loans; quotas of closed investment funds and of mutual or open funds; trust values; securitized mortgage securities; among other values or instruments authorized by the Monetary and Financial Authority. Law 189-11 also establishes the possibility for creditors to avail themselves of a procedure for the execution of real property security abridged with more expedited decisions.

## **RESTRUCTURING AND LIQUIDATION OF COMPANIES AND BUSINESS PERSONS**

The entry into force of Law No. 141-15 on the Restructuring and Liquidation of Companies and Business Persons, enacted by the executive branch on August 7, 2015, has generated great expectations in the business environment and legal sphere of the Dominican Republic, especially following the recent promulgation of its implementation regulation number 20-17.

This law of public order applies to national companies and companies domiciled or with permanent presence in the national territory, with certain exceptions, as well as to business persons, whether national or foreign. Law No. 141-15 aims to establish mechanisms and procedures designed to protect creditors vis-a-vis the financial difficulty of their debtors, as well as to allow the restructuring of debtors. This process culminates in a reduction of the debtor's liability load in order to achieve its operational continuity, protecting and facilitating the recovery of credits in favor of its creditors and preserving the jobs it generates, leaving the judicial liquidation as a last and exceptional phase.

The procedure contemplated in Law No. 141-15 entails several steps, depending on the situation of the debtor – commercial company or business person – and the level of their capacity to comply with their economic and

financial obligations, which are: (i) restructuring, which establishes the designation of a verifier who shall recommend to the court whether or not to initiate a process to restructure the company or individual debtor, or whether it is appropriate to proceed directly with the liquidation of the same; (ii) conciliation and negotiation, which provides for the appointment of a conciliator who will ensure that the debtor and its creditors reach an agreement and approve a restructuring plan. The approval of the plan gives rise to the novation of the debtor's obligations and its creditors, being the responsibility of the conciliator to supervise its correct execution; and, (iii) judicial liquidation, applicable in the event that the verifier, conciliator, debtor or any of its creditors consider that the debtor is not in a position that makes possible the restructuring process.

One of the novelties and greater challenges that this legislation has is the creation of a specialized restructuring and liquidation jurisdiction, which would have jurisdiction over the processes established in the law and judicial actions that are linked to said processes. In this regard, the Judicial Council appointed several magistrates of reputed trajectory to serve as the first judges who will head these specialized courts.

In addition, the new law, takes into account the reality of the globalized world by contemplating international cooperation, in order to facilitate internal judicial or administrative processes with foreign elements or vice versa.

## **MONEY LAUNDERING AND TERRORISM FINANCING**

With the purpose of adapting the local legal framework to the international norms against money laundering, Law No. 155-17 against Money Laundering and the Financing of Terrorism was enacted in the Dominican Republic on June 1, 2017, which repeals and replaces Law No. 72-02, on the Laundering of Assets arising from Illicit Drug Trafficking from 2002. This new legislation constitutes an important advance for the country, since it introduces to our legal system the new international standards against money laundering and terrorism financing according to the recommendations of the Financial Action Task Force (FATF) issued in February 2012 and updated in 2016.

The main purpose of Law No. 155-17 is to establish: (i) acts that typify money laundering, previous or determinant infractions and terrorism financing, as well as the applicable criminal sanctions; (ii) special investigation techniques, cooperation mechanisms and international judicial assistance, and precautionary measures applicable to money laundering and terrorism financing; (iii) the regime for the prevention and detection of money laundering operations, financing of terrorism and financing for the proliferation of weapons of mass destruction, determining the obligated parties, their obligations and prohibitions, as well as administrative

sanctions applicable in case of their non-compliance; and, (iv) institutional framework aimed at preventing the use of the national economic system in money laundering, terrorism financing and financing of weapons of mass destruction activities.

Among the most important provisions introduced by Law No. 155-17 we can mention the following:

- Establishes as regulatory bodies the Committee against Money Laundering and Terrorism Financing and the Financial Analysis Unit (UAF), as well as the supervisory entities of the obligated parties, which include the Superintendence of Banks, Superintendence of Securities, Superintendence of Insurance, the Tax Administration (DGII), the Directorate of Casinos and Gambling, among others.
- Broadens the activities that constitute money laundering by introducing the new term precedent or determinant infraction, which is defined as the infraction that generates assets or assets susceptible to money laundering activities.
- Includes new financial and non-financial obligated parties and requires them to incorporate practices that include: (i) the adoption, development and execution of a compliance program based on risk; (ii) the implementation of policies and procedures that include due diligence based on risk, which must also be carried out continuously as a monitoring mechanism; (iii) the maintenance of records relating to the transactions of its clients/customers for at least 10 years after the end of the business relationship or after the date of the occasional transaction; (iv) the designation of a high level executive, to oversee the strict observance of the compliance program; (v) registration and reporting of all transactions related to its customers and clients that equal or exceed the amount of fifteen thousand dollars (US\$15,000.00) or its equivalent in national currency. In the case of casinos, they shall report and record transactions that equal or exceed the amount of three thousand dollars (US\$3,000.00) or its equivalent in national currency; and (vi) communication of suspicious transactions to the Financial Analysis Unit (UAF) within five (5) business days after the transaction was made or attempted; among others.
- Modifies Law No. 479-08 on Commercial Entities and Individual Companies with Limited Liability, to eliminate the possibility that companies may issue bearer shares, establishing

a term of 1 year from the entry into force of Law No. 155-17, for the conversion of shares issued to the order and/or in bearer form to registered shares.

- Amends the provisions of the Tax Code of the Dominican Republic concerning the information that taxpayers, responsible persons and third parties must report when registering in the National Registry of Taxpayers.



# INTERNATIONAL **COMMERCE** AND **TRADE** OPENNESS

International commerce plays an important role in today's world, and particularly in the Dominican economy. Both the government and private sector have made significant efforts to strengthen this dimension of the Dominican economy, achieving, in general, very positive results. This is also reflected in the interest that has been placed on the development of free zones, and matters related to competitiveness as well as in the dedication with which regional integration has been sought and the adoption of bilateral and multilateral agreements with several countries.

## **IMPORTS**

In the year 2000, the country adopted the Single Spanish version of the Harmonized Commodity Description and Coding System, used internationally and thus simplified the process of calculation and collection of tariffs. The customs taxes are calculated and paid in Dominican pesos, with most being ad valorem taxes. The value of products is determined according to the Agreement establishing the World Trade Organization on Customs Valuation. The General Directorate of Customs (DGA) has simplified the import process by eliminating the



consular invoice and allowing the electronic transmission of most documents. For conversion of the value of the goods into Dominican pesos the official exchange rate in effect at the time of the payment is used. In addition to tariffs, which have followed a downward trend since 1996, the importer must pay the value added tax that corresponds to the product, called in Dominican Republic Tax on the Transfer of Industrialized Goods and Services (ITBIS) as well as a Selective Consumption Tax (ISC) for certain goods, mainly alcohol and tobacco.

## **EXPORTS**

The Dominican Republic exports a wide range of finished and semi-finished goods, with the exportation process being substantially simplified in 2007 with the implementation of a Single Customs Declaration. The incorporation of the CEI-RD as a one stop shop for obtaining technical or sanitary permits has also expedited the process. No export permits are necessary, except for certain products, as metallic waste.

A large part of exports takes place within the framework of the free zones, including electronics, jewelry and medicines. Traditional exports include sugar, coffee, cocoa and tobacco. In recent years, with the installation of large-scale projects of gold and ferronickel mining, the country has increased its minerals exports to the point that, together with the manufacturing, it constitutes one of the most important export items..

## **LAW 173 ON PROTECTION OF AGENT AND IMPORTERS OF GOODS AND PRODUCTS**

The contractual relations between parties linked by distribution agreements in the Dominican Republic, whether exclusive or not, are generally governed by Law No. 173-66 on Protection of Agent and Importers of Goods and Products. The purpose of it being the protection of individuals or companies engaged in the Dominican Republic in promoting and managing the importation, distribution, sale, rental or any other form of exploitation of goods or products imported from abroad or manufactured in the country, but belonging to a foreign person, from an unilateral termination without just cause from the foreign licensor. The termination process includes several stages of conciliation and judicial assessment of the causes of the breach of contract and if unilateral termination from the licensor is demonstrated, the indemnification contemplated under the aforementioned law can reach very important amounts.

For the particular case of companies from the United States and wich have entered into distribution agreements after the entry into force of the DR-CAFTA, they will be automatically excluded from the application of Law No. 173, unless the parties expressly provide so.

## REGIONAL MERCANTILE PARTNERSHIPS

The Dominican Republic has developed a policy of promoting trade integration in Latin America and the Caribbean. The Dominican position has been geared towards an approach to its closest geographic region, which will expand the market and exporting capacity of these countries, easing the negotiation with the large commercial blocks of the hemisphere.

The country has already signed a Free Trade Agreement with Central America, a similar agreement with the Caribbean Community (CARICOM) and a Partial International Treaty with the Republic of Panama. With the other Caribbean nations the Dominican Republic forms part of the CARIFORUM, with whom at the same time it belongs to the Forum of African, Caribbean and Pacific States. The latter have signed a free trade agreement called Economic Partnership Agreement (EPA) with the European Union which provides non-reciprocal market advantages for developing countries, although it has had problems in its application by not complying with the reciprocity policies of the World Trade Organization (WTO).

**FREE TRADE AGREEMENT WITH CARICOM.** The Caribbean Community or CARICOM provides for political cooperation and the creation of a common market among the English speaking countries of the region.

The Dominican Republic is part of CARICOM since August 22, 1998. This agreement was ratified by National Congress in January 2000 and liberalizes more than 85% of products traded between both markets, benefiting an estimated 47 million consumers.

**FREE TRADE AGREEMENT WITH CENTRAL AMERICA.** On April 16, 1998 the Central America-Dominican Republic Free Trade Agreement was signed. The signatory countries were members of the Central American Economic Integration System, comprised by Costa Rica, El Salvador, Honduras, Nicaragua and Guatemala. It was ratified in March 2002.

The treaty provides for trade in goods and services and the protection and promotion of investments. It is consistent with the principles of the WTO. This treaty opens to the Dominican Republic a potential market of about 30,000 million dollars and more than 40 million consumers.

**ASSOCIATION OF CARIBBEAN STATES (AEC).** The Association of Caribbean States was created in 1992 to implement schemes for the growth and consolidation of economic relations among its members, as well as the

development of strategies leading to an increase of the comparative advantages thereof. In 2001, an agreement between the AEC and the Dominican Republic that provides the free access of goods, elimination of non-tariff barriers, rules of origin, investment promotion, etc., entered into force.

The main advantages offered by this alliance consist in that Dominican products have preferential entry into Jamaica, Barbados, Trinidad & Tobago, Guyana and Suriname. A further liberalization in the services market is expected

**COMMERCIAL TREATY OF A LIMITED SCOPE WITH THE REPUBLIC OF PANAMA.** On February 6, 2003 Panama and the Dominican Republic signed a treaty which provides a list of products free from tariffs between the two countries as well as a list of free products in one-way for one party and the other. The main advantage for the Dominican Republic is the preferential entrance to Panama, nexus of global trade.

**FREE TRADE AGREEMENT BETWEEN THE UNITED STATES, CENTRAL AMERICA AND DOMINICAN REPUBLIC (DR-CAFTA).** The Free Trade Agreement between the Dominican Republic, Central America and the United States, effective since 2007, is the main free trade instrument in force in the Dominican Republic, as well as the most extensive, ranging from the complete elimination of tariffs by 2015, even on products with local competition, to the modernization of the public procurement process, allowing signatory countries to participate in this previously restricted market.

The commercial opportunities of DR-CAFTA surpass those of any other instrument signed by the Dominican Republic, with all possible tariff items and facilities superior to those of other WTO members to participate in the services sector, resolve disputes and protect investment.

**ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND THE CARIFORUM (EPA).** The EPA was signed in October 2008 by the CARIFORUM countries (except Haiti, which signed in 2009). Basically, the purpose of this agreement is to make compatible with the WTO the preferential programs unilaterally offered by the European Union to the ACP countries under the Cotonou Agreement. It is important to highlight that this agreement in addition to promoting free trade, has an important component related to cooperation and investment between its signatory countries.

**THE DOMINICAN REPUBLIC AND THE WORLD TRADE ORGANIZATION (WTO).** The Dominican Republic is a founding member of the WTO and all trade policies not defined in specific agreements follow the rules agreed within the WTO. The influence of the organization has been noted not only in the field of international trade, but it has helped modernize most regulatory aspects of the country in the past two decades.

### **INTERNATIONAL FINANCING SOURCES**

The Dominican Republic benefits from several international financing sources and insurance programs against political and exchange risks. It is a member of the World Bank group and its different institutions, such as the Multilateral Investment Guarantee Agency (MIGA), an agency that promotes the flow of capital toward member countries that are in the development stage and that insures against political risk. Likewise, the Overseas Private Investments Corporation (OPIC) is active in the Dominican Republic with programs for financing and insuring investments against risks.

The European Investment Bank offers long term loans with low interest for the financing of projects within ACP countries, mainly in industrial, tourist, mining and energy, transportation, and telecommunications sectors.

### **BILATERAL AGREEMENTS FOR THE PROMOTION AND PROTECTION OF INVESTMENTS**

The Dominican government has accelerated the process of negotiation of bilateral agreements for the promotion and protection of investments with different nations in the matters of direct foreign investment FDI which based on reciprocity are designed for the promotion and legal protection of investment and economic development of the country.

Among the agreements of this type are those signed with Argentina, Chile, South Korea, Spain, Finland, France, Italy, Morocco, Panama, Republic of China (Taiwan), Kingdom of the Netherlands, Switzerland, while treaties to avoid double taxation have been signed with Canada and Spain.



# PRINCIPAL ECONOMIC SECTORS

## **AGRICULTURE**

The Dominican Republic is the largest exporter of agricultural products and livestock in the region. While the industry is constantly surpassed by manufacturing and services, with the benefits of DR-CAFTA and other trade agreements, placement possibilities for Dominican products around the world have increased substantially over the past 10 years. The sector is attractive for investment to the extent it is protected by the government through tax incentive policies, zero tariffs for importation of machinery and soft loans from the Agricultural Bank, a governmental entity.

The main agricultural exports are sugar, coffee, cacao and tobacco. Since the late 80's other products are also exported in large quantities, such as fruits, tubers and other vegetables. Under the direction of the Ministry of Agriculture the Dominican Republic has been steadily making inroads in organic farming, which is a growing market. The main products are organic dried coconut, bioorganic bananas, pineapples, mangoes, avocados, lemons, green coffee, herbs, raw coconut oil and cacao.

Other items which in recent years have grown significantly are livestock, forestry and fisheries, especially the production of chickens and eggs. Since the local legislation does not impose restrictions on foreign investment, agriculture is an important sector to invest.

## **AVIATION**

The national aviation sector is one of the most important in the region, especially in view of the renewed commitment of the authorities to gradually increase the flow of tourists to the island. As such, the country boasts a modern civil aviation law, which since 2013, admits the offer of civil aviation services even by companies with 100% foreign capital if they are duly authorized by the executive branch of the Dominican Republic.

The civil aviation services are provided after obtaining a license from the national authorities, which are the Civil Aviation Board (JAC) as dictating body of sector policies and entity with the final say in the granting of licenses, and the Dominican Civil Aviation Institute (IDAC), as regulatory body. Of importance is the involvement of the Specialized Corps of Airport Security and Civil Aviation (CESAC) who are responsible for ensuring the safety of passengers, crew, ground staff and the general public in all matters relating to civil aviation. Dominican Civil Aviation Law applies to all civil aircraft (not owned in whole or in part by a sovereign state), its owners, operators, crew, passengers and transported effects, as well as any person involved in the aviation activity, which is in the country, departs from it, lands, flies over or is otherwise under the jurisdiction of national sovereignty.

The licenses are issued for specific routes, renewable every 10 years, based on bilateral aviation agreements, which the country has signed with countries such as Argentina, Austria, Belgium, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, El Salvador, France, Germany, Guatemala, Haiti, Hungary, Israel, Italy, Jamaica, Mexico, The Netherlands, The Netherlands Antilles, Panama, Portugal, Russia, Spain, Trinidad and Tobago, United Arab Emirates, United Kingdom, United States, the Bolivarian Republic of Venezuela and Associate Members of the Association of Caribbean States. In the absence of bilateral agreement, licenses will be granted based on reciprocity between states. Foreign airlines can exercise until the fifth freedom. The eighth freedom requires a minimum of 51% Dominican capital, in addition to other requirements.

Finally, it is necessary to emphasize that there are no restrictions for foreign companies to operate airports in the country.

## **BANKING**

As previously discussed, the current banking regulation allows the operation of different types of entities within the financial system such as: Multiple Banks, Credit Entities, Savings and Loan Associations, and Savings and Credit Cooperatives. Legislative changes adopted in the early 2000s, liberalize banking services by granting

equal treatment to foreign financial intermediation entities, establishing the parameters to regulate their admission in the Dominican Republic. Likewise, foreign banks not domiciled in the country are authorized to establish representative offices in Dominican territory, in accordance with current regulations.

The establishment of financial intermediation entities is subject to the approval of the Monetary Board, subject to the prior favorable opinion of the Banking Superintendence.

With respect to prudential standards, Dominican regulation takes into account modern international trends. To promote the stability and security of the system, our legislation follows the principles established in Basel Agreement I and II and has a strict compliance and close supervision system operated by the financial and monetary authorities.

The law reaffirms the obligation to maintain liquidity reserves at the Central Bank, under the system called “legal reserve” (*encaje legal*). It establishes norms of mandatory compliance with the objective of facilitating the supervision of financial entities; creates strict requirements of governance and establishes a preventive supervision model based on a process of permanent follow-up on the minimum conditions of liquidity and solvency to avoid regulatory insolvency.

The law’s preventive approach is especially manifested in the regulation system created to confront financial difficulties that may affect these entities. The Extraordinary Program of Risk Prevention for financial intermediary institutions is a fund that can channel public and private resources to protect deposits and avoid a systemic risk that may affect the financial system as a whole.

In addition, there are clearly established rules for weighting of assets, the types of infringement and the corresponding penalties, as well as the particularities of the sanctioning process. The entity and its directors, as well as affiliated entities may incur in administrative liability and be subject to the penalties provided by law. Also criminal offenses for the commission of certain infringements are typified.

On the other hand, the Monetary Board recently approved the regulation of banking subagents, which allows said entities to provide certain banking operations and services, such as receiving payments, sending or receiving transfers within the Dominican territory and processing certain requests for products and services. Among the main advantages of banking subagents is the possibility that people living in rural areas may have access to banking services and thus access the Dominican financial market.

## **CONSTRUCTION**

Dominican construction laws and regulations establish requirements for the layout of cities, residential areas and buildings, and also regulate public ornamentation and safety in construction and that of the professional and technical personnel operating in the sector. The regulatory body is the Ministry of Public Works and Communications (MOPC), to which is attached the General Directorate of Standards, Regulations and Systems. Construction permits in Dominican Republic are granted by both the MOPC and the municipality corresponding to the project's location. Each project will require the prior assessment of the Ministry of Environment, and in certain cases, a non-objection certification from the Ministry of Tourism.

On the other hand, Law 322 of 1981 establishes certain requirements for foreign companies that wish to participate in the bidding of projects of the State and its dependencies. However, foreign participation in a contract for the construction of works shall not exceed 50%, although up to a 70% may be accepted when the national participation cannot be higher than 30%.

## **ELECTRICITY AND ENERGY**

The electricity market in the Dominican Republic consists of three state distribution companies, a state transmission company and tens of generators, ranging from private to semi-public and public. Each company can focus exclusively on one of the abovementioned three activities except distributors, which may have a stake of up to 15% in power generators.

The General Electricity Law regulates all stages of production, transmission, distribution and commercialization of electricity, as well as the roles of the competent State agencies that oversee the energy sector. These entities are essentially the National Energy Commission (CNE), as policy making body of the sector, and the Superintendence of Energy (SIE), as the regulatory body. To participate in the sector a concession from the SIE is required, which does not distinguish between national and foreign capital, but controls the prices charged to users, which vary by area. In the case of renewable energy projects, the CNE is in charge of processing the applications for provisional and definitive concessions.

In 2014, the Ministry of Energy and Mines was created as the hierarchically superior body of the CNE, SIE and other entities related to the energy sector, with the purpose of consolidating energy regulation and being the governing body on issues of formulation and administration of national energy policy and mining of metallic and non-metallic sources.



The Dominican Corporation of State Electric Companies (CDEEE) is the entity of the Dominican government that acts as the conglomerate of all generation, transmission and distribution companies belonging to the Dominican State. Among these is the electric transmission system which is under the responsibility of the Dominican Electric Transmission Company (DTS), which has transmission lines around the country.

Most of the electricity generation in the Dominican Republic is heavily dependent on hydrocarbons, however, in recent years both the government and local and foreign investors have shown a high interest in developing renewable energy projects, some of which have been completed or are in the process of development. A major advantage of the sector constitutes the exemption from taxes on oil purchased for electricity generation under Law 112-00 on Hydrocarbons, as well as various tax exemptions in the area of renewable or alternative energy under Law 57-07 on Renewable Energy.

## **FILM INDUSTRY**

The recent technical and tax legislation has stimulated the development, production, dissemination and preservation of films on Dominican soil. The Law No. 108-10 for the Promotion of Film Activity and its regulation creates and organizes a series of governmental structures responsible for overseeing the sector and channeling incentives, such as the General Directorate of Film (DGCINE) as a promotional agency of national film industry; the Intersectoral Council for the Promotion of Film Activity in Dominican Republic (CIPAC) as the hierarchical superior entity, composed of government officials and private sector professionals; the System of Information and Registration of Dominican Film (SIRECINE) as a database of qualified professionals; and, the Film Promotion Fund (FON-PROCINE) administered by CIPAC through DGCINE, as a financial institution for Dominican projects.

As to how the system operates, film projects and its budgets must be submitted to the DGCINE before starting preproduction, DGCINE serving as a one stop shop for other permits and authorizations such as the Filming Permit that allows the occupation of streets and necessary environmental permits.

As for the incentives contemplated in the law, among the most important we can highlight that once the project has exceeded the minimum of USD\$500,000 investment, 25% of the approved DGCINE budget is deductible from the income tax the producer has to pay, who also can transfer such exemption. It is also appropriate to mention a general exemption affecting services subject to value added taxes, permits for the temporary importation of necessary equipment and an exemption up to 100% of the income tax for movie studios and movie theaters. Foreign films produced in the country also enjoy tax exemptions and customs facilities as mentioned.

## **FREE ZONES**

Free zones are geographical areas within the Dominican Republic that are subject to special fiscal and customs regimes, within which companies dedicated to the production of goods or provision of services exclusively for the international market are located. The free zone system in the Dominican Republic is one of the most advanced in the world and free zones are the source of 57% of the products exported by the Dominican Republic, besides being the main recipients of foreign direct investment in the country.

The Dominican free zone system has always been especially attractive to foreign investors because of the many advantages it offers, such as:

- The tax incentives regime; including subsidies to export or energy expenditure;
- Preferential access to the United States and European markets, without the application of customs tariffs;
- The possibility of obtaining financing from local or foreign institutions; and,
- Availability of a capable workforce.

Dominican law seeks to promote the establishment of free zones and the growth of those in existence, regulating their functioning and development. The Law No. 8-90 on Promotion of Free Zones creates the National Export Free Zones Council (CNZFE), the entity in charge of regulating and supervising the sector as well as defining and classifying free zones; indicating the requirements for their installation and the applicable incentives; and regulating, on an exceptional basis, the sale of their goods in the local market, which are taxed under a special rate.

Likewise, there are other laws establishing special tax incentives regimes, such as the one that creates a special zone for the development of the areas of the country along the border with Haiti, Law No. 28-01 on Special Zone for Border Development. By virtue of said law, the promotion and protection of companies establishing operations within that geographical area is declared of national interest, and it aims to promote the development of frontier region with the neighboring country of Haiti, establishing a preferential system that, subject to specific limitations, grants additional fiscal incentives for the incorporation of free zones and received utilities.

## **GOVERNMENT**

With the enactment of two laws on public procurement in 2006, and their regulation for application in 2012, one of the main markets of the country was opened to the general public, including foreign firms.

Under the Public Procurement Directorate, which is ascribed to the Ministry of Finance, the procurement process

for both the sale of goods or services as well as for construction, is governed by the principles of efficiency, competition, equality and transparency. It covers all public and non-regional financial institutions, whether central, decentralized or autonomous, financial or non-financial. The only restriction imposed on foreign companies in certain bids is their duty to partner up with a Dominican partner who owns at least 30% equity and employ 50% of Dominican labor. For the signatories to the DR-CAFTA, this limitation applies only to construction bidding. Contests have different levels of openness depending on the amounts involved therein. Similarly, contracts financed through international loans or donations will not be open to public bidding, neither will paltry contracts, contracts declared of urgency, contracts between government agencies, contracts involving issues that could put national security at risk and those with the aim of benefiting Micro Small and Medium Enterprises (MSMEs).

## **HEALTHCARE AND PHARMACEUTICALS**

The General Health Law No. 42-01 dated as of March 8th, 2001, whose provisions are of public order and social interest, are intended to regulate all necessary actions in order to guarantee and make effective the access to health services.

The Ministry of Public Health and Social Assistance (MISPAS) is the governmental entity in charge of applying the norms that regulate the sector, as well as maintaining the control in the sanitary surveillance in the processes of manufacture, commercialization, evaluation and registration of food, beverages, drugs, cosmetics, personal care and household hygiene products, medical devices, and any sanitary products, as well as any toxic substance or health procedure which may constitute a risk to health or which is necessary to guarantee access to a quality health system.

The applicable regulatory framework establishes that any institution that provides health services, manufacturing companies and pharmaceutical establishments, including pharmacies, drugstores, distributors and industrial laboratories, require for their installation and operation of a permit or license and must operate under technical supervision of MISPAS, without prejudice to the permits and authorizations required by other institutions for its operation.

Likewise, in order to guarantee to the population the access to safe, efficient products, of optimum quality and elaborated in accordance with good manufacturing practices, other regulations of the industry provide that in order to import, export, manufacture, assemble, market and perform all types of contracting in relation to pharmaceutical, cosmetics, personal care products and household products, including medical devices,

as well as food and beverages, must first obtain the corresponding sanitary registration from the Directorate General of Medicines, Foods and Health Products (DIGEMAPS).

The applications for the sanitary registration must be processed, in principle, by an establishment duly authorized by MISPAS and must be accompanied by the original documentation and samples of the product required by the current regulations. It is important to indicate that, in principle, it is necessary that the trademark of the product is duly registered before the National Office of Industrial Property (ONAPI).

In addition to the aforementioned authorizations and licenses, all products and their packaging must comply with the labeling rules applicable to each category of products.

The advertising and promotion of medicines, cosmetics, sanitary products, personal care and household products are regulated by MISPAS, being DIGEMAPS the department in charge of applying the established dispositions in the matter; this in addition to the provisions established by Law 358-05 on Protection of Consumer Rights or User. Regarding to the medical research, Law 42-01 states that any research must comply with nationally and internationally approved scientific and bioethical principles. The National Directorate for Health Research (DINISA) is the lead agency for health research in the Dominican Republic. Together with this institution, the National Commission on Bioethics in Health (CONABIOS) is the permanent body of MISPAS, which is entrusted with the fundamental responsibility to ensure compliance with the principles that must be applied in all biomedical research involving human beings in the Dominican Republic and the entity that must previously approve the protocols of any medical research that is intended to be carried out in our territory.

The failure to comply with current health regulations, as well as irregularities or faults in the preparation, import, export, distribution and marketing of regulated products without being legally registered is subject to sanctions.

## **INSURANCE**

The insurance industry is also of ample importance to the national economy. To operate an insurance company, it is necessary to obtain the authorization of the Superintendence of Insurance (regulatory body of the sector, but hierarchically dependent on the Ministry of Finance), responsible for supervising the operations of insurance and reinsurance institutions, intermediaries and adjusters.

In general, the law does not discriminate as to the composition of capital of insurance companies, except in the case that the foreign company comes from a country that would not allow the operation of a Dominican insurance company. The Law No. 46-02 on Insurance and Bonds also prohibits cross-border procurement of

insurance save in the cases of insurance that are not offered locally. Finally, it requires that a foreign insurer that intends to offer its products in the country incorporate a Dominican subsidiary and makes the deposits contemplated by law, being unable to operate through branches, or otherwise, offer its services and products through a fronting agreement with a Dominican insurance company, with the prior authorization from the Superintendence of Insurance. As to reinsurance, it may be offered without having to establish a local presence, but the reinsurer shall obtain an authorization as Non Domiciled Foreign Reinsurer from the Superintendence of Insurance.

Finally, companies are free to set premiums for their products, although they are subject to an evaluation of the Superintendence of Insurance. Law no. 46-02 establishes the necessary requirements to operate as an insurance and reinsurance company in the country, as an intermediary or as an adjuster as well as the process to initiate operations. Also, the law governs all matters relating to insurance and bail agreements, such as their execution, provisions, payment of premiums and claims, among other things, and establishes the creation of a guarantee fund to secure the obligations derived from these contracts.

## **MINING**

Traditionally, mineral extraction has been an important activity in the Dominican Republic, which has exported gold, silver, nickel, copper, bauxite, marble, limestone, gypsum, granite, as well as semi-precious stones for jewelry, such as larimar and amber. Mining is one of the activities that most affects the GDP of the Dominican economy, generating resources through foreign investment, exports and exchange of currency. In this sector, both foreign-owned companies and local companies and small producers participate in both metallic and non-metallic mining.

The importance of the country's mineral resources, in addition to the advanced technical requirements necessary to obtain mining concessions, has made it one of the most interesting sectors for investment. The sector's supervisory body is the Ministry of Energy and Mines, which was created in 2014 and actively regulates the mining sector through its dependency, the General Directorate of Mining (DGM).

Since late 2016, the Ministry of Energy and Mines has banned the export of larimar and amber in natural and whole state pieces, allowing only the export of these stones in polished and separated pieces, in order to develop local artisanal jewelry and support small Dominican miners.

## **PORTS**

Maritime transport plays a very important role in the Dominican trade, with about 90% of goods entering and leaving the country by sea.

The country currently has 12 major ports, with the busiest being located in Santo Domingo. The ports are monitored and operated by the Dominican Port Authority (APORDOM), which may in turn award them in concession, with no restriction on foreign capital for the concessionaire companies, although they must establish a local agent to represent them. Similarly, foreign companies can provide any maritime service at Dominican ports, provided they have obtained authorization from APORDOM and appointed a local agent for representation.

Companies providing services and port managers are free to set the rates for their services, although there are a number of government fees set by decrees of which the ships with a Dominican flag are wholly or partially exempt. Any vessel may obtain a Dominican flag regardless of its owners' nationality, provided they have a valid address in the Dominican Republic.

Finally, although the law provides that cabotage services, passenger transport, stevedoring, among others, must be provided by Dominican flag vessels, the current absence of a national fleet makes this provision momentarily not in application.

## **TELECOMMUNICATIONS**

During the last years, the telecommunications sector has been one of the most dynamic sectors of the Dominican economy. With the adoption of the General Telecommunications Law it was possible to modernize the sector and adapt it to the parameters established in the area by international organizations such as the World Trade Organization (WTO) and the International Union for Telecommunications (UIT). Dominican law is complemented by the constant work of the Dominican Telecommunications Institute (INDOTEL), regulatory body of the sector, in the drafting of regulations which are subject to prior consultation with the industry's actors.

The telecommunications sector is one of the main recipients of Foreign Direct Investment, to the extent that there are no restrictions as to the nationality of capital, except for public broadcasting in which Dominican control capital is required. However, it is required that licensee and concessionaire companies be incorporated in the Dominican Republic. The Dominican State is currently not participating in the sector.

Telecommunication services may be offered only after obtaining a concession and/or a license from INDOTEL, as applicable. Once operations commence, companies are free to set their prices, although INDOTEL can intervene when it determines that there is abuse of dominant position. Interconnection costs are also freely set and INDOTEL may also intervene when there is no consensus between the parties.

## **TOURISM**

Because of the country's natural resources, climate, cultural diversity, historical interest, accessibility along with its competitive prices and political stability, the Dominican Republic is currently the island with the greatest tourist influx in the Caribbean.

In addition, tourism is one of the most attractive sectors for investment in current times. Firstly, there are no restrictions for foreign capital, although tour guides and casino employees must be Dominican. Similarly, travel agents cannot offer cross-border services unless they have a local representative in the Dominican Republic. Additionally, the industry has attractive tax incentives, granted under Law No. 158-01, on the purchase of real estate properties for tourism development, construction and supply of hotels and taxes levied on the profits generated. These incentives are greater when the projects are developed in certain areas considered "underdeveloped".

Management and sector policies are dictated by the Ministry of Tourism, which in addition to its facilities in the country, has offices in several countries around the world. The State is not directly involved in the tourism market, but supports the development of the sector especially in areas considered sustainable, such as cultural tourism and ecotourism.



# INCENTIVES FOR INVESTMENT

## **AGRICULTURE**

### **Law No. 150-97 on Customs Duties for Inputs, Machinery and Agricultural Equipment**

The agricultural sector is attractive for foreign investment to the extent that it is protected by the government through tax incentive policies, rate zero for imports of machinery and soft loans through the Agricultural Bank. Additionally, some of its main advantages are derived from the DR- CAFTA and other trade agreements, which facilitate the possibility of placing Dominican products worldwide.

## **CONSTRUCTION**

### **Law No. 189-11 for the Development of the Mortgage Market and Trusts**

This law aims to create the necessary legal figures and strengthen existing ones, in order to develop the Dominican mortgage market, channeling saving resources for the long-term financing of housing and construction in general, as well as deepening the capital markets with the expansion of alternatives for institutional investors and encouraging the use of debt instruments that facilitate such channeling, which together with the creation of special incentives, State contributions and process economy, serve to promote housing projects, especially low-cost, and thus mitigate the housing deficit in the Dominican Republic. To this end, Law 189-11 creates the trust figure, as well as authorizes the issuance of certain public offering securities and funding instruments such as mortgage letters, mortgage bonds, mortgage participation agreements, and endorsable



and non-endorsable mortgage loans, among others. These securities have certain attractive characteristics such as immunity from seizure due to debts of their issuer and privileged treatment in case of dissolution and/or the liquidation of the referred entities.

On the other hand, such law provides for the use of trusts for the development of low-cost housing, which count with a special tax regime, in addition to the benefits granted to certain purchasers of such housing, which may apply to receive a contribution from the State.

## **ENERGY**

### **Law No. 57-07 on Incentives for the Development of Renewable Energy Resources and their Special Regimes**

In order to promote the establishment of companies and the development of energy projects derived from renewable resources, Law No. 57-07 grants incentives to the persons or entities that invest or develop clean energy production projects, such as wind farms; hydroelectric power plants; photovoltaic, thermos-solar, biomass and biofuel installations, as well as installations for the exploitation of oceanic energy. Said incentives include exemptions on import duties and taxes, on the Transfer of Industrialized Goods and Services (ITBIS) tax on the equipment and machinery for the production of renewable energy, reduction on the tax applicable to interest payments for financings and issuance of carbon credits under the Kyoto agreement, among others. The National Energy Commission is in charge of the classification and supervision of projects under this law.

## **FILM INDUSTRY**

### **Law No. 108-10 for the Promotion of the Film Industry**

This law encourages the realization, production, dissemination and conservation of Dominican films, as a means for cultural diversity and an activity of great economic potential. Its main incentives include the deduction or exemption, as applicable, of up to 100% of the Income Tax applicable to the investment made; exemption from the Tax on the Transfer of Industrialized Goods and Services (ITBIS) on all goods, services and/or leases directly related with the pre-production, production and post-production of cinematographic and audiovisual works; general exemption on services subject to value added tax; permits for the temporary importation of the necessary equipment; and an exemption of up to 100% of the Income Tax on film studios and movie theaters. The foreign films produced in the country also enjoy tax exemptions and customs facilities established by this law.

## **FOREIGN INVESTMENT**

### **Law No. 16-95 on Foreign Investment**

Law No. 16-95 on Foreign Investment establishes a special regulatory framework for foreign investment in general in the Dominican Republic through incentives such as: (i) National and non-discriminatory treatment; (ii) The possibility of repatriating abroad 100% of the capital invested and profits obtained through the investment made; (iii) Simplified procedure for the registration of the investment; (iv) Protection from the Multilateral Investment Guarantee Agency of the World Bank (MIGA) and the Overseas Private Investment Corporation (OPIC) of the United States of America, being the Export and Investment Center of the Dominican Republic (CEI-RD), the governmental entity in charge of the registration and supervision of the investments made under this law.

### **Law No. 171-07 on Special Incentives for Foreign Retirees and Passive Investors**

This law seeks to attract the investment of foreign retirees and passive investors, facilitating for those who meet the requirements and conditions established in the law, the enjoyment of the same benefits and exemptions granted to other foreign investors. Law No. 171-07 allows them to obtain the definitive residence within a period of 45 days; exonerates them totally or partially from the payment of certain taxes, such as those on goods for the home and personal property, motor vehicles, real estate transfers, among others. To benefit from this law, the foreign retiree or passive investor shall receive a minimum monthly sum equivalent to US\$1,500.00 and US\$2,000.00, respectively.

## **FREE ZONES**

### **Law No. 8-90 on Export Free Zones**

Law No. 8-90 aims to promote the establishment of new export free zones, as well as the development of those already established in the country. For these purposes, Law 8-90 contemplates benefits such as a customs regime and a series of deductions or exemptions from most of the taxes applicable to commercial activities developed under this regime for a period of up to 15 years from the date of issuance of the free zone permit.

### **Law No. 28-01 on Development of the Border Region**

Under this law, the promotion and protection of companies that are located in certain provinces of the country that constitute the border region with the neighboring country of Haiti, is declared of national interest with the purpose of promoting the development of these areas. These companies have access to a preferential regime that grants them, subject to specific limitations, additional fiscal incentives for the creation of free zones and of the profits generated. These incentives shall only be applicable for a period of 25 years from the Law's enactment in 2001.

### **TEXTILE**

#### **Law No. 84-99 on The Revival and Promotion of Exports and Law No. 56-07 on Textile Chain**

Both Laws provide benefits to exporters and participants in the textile, clothing and footwear industry respectively, such as the exemption of the Transfer of Industrialized Goods and Services (ITBIS) tax and Income Tax on goods, raw materials and inputs for their productions. The government entities in charge of receiving and approving the requests to apply for the benefits under Laws No. 8-90 and No. 56-07, as well as under Law No. 84-99, are the National Council of Export Free Zones and the Export and Investment Center of the Dominican Republic, respectively.

### **TOURISM**

#### **Law No. 158-01 on the Promotion of Tourism Development for the Undeveloped Areas**

Law No. 158-01 establishes the basis for the development and construction, as applicable, of tourism and entertainment projects, from hotels and resorts to amusement parks and cruise ports; through the granting of tax incentives and other benefits to individuals or companies that undertake, promote or invest in such activities, in certain zones of the country with tourism potential. Such incentives include tax exemptions in the purchase of land for tourism purposes, construction and provision of hotels and taxes levied on profits generated and financing interests. These incentives are greater when projects are carried out in certain areas considered to be "underdeveloped" and are granted for a maximum period of 10 years from the completion of the project, with the Tourism Promotion Council being the government entity responsible for receiving, approving or rejecting projects developed under this law.

## **OTHER LAWS THAT PROMOTE INVESTMENT**

### **Law No. 392-07 on Competitiveness and Industrial Innovation**

Law No. 392-07 has been designed to stimulate the competitiveness of industrial sectors with legal and institutional regulations that allow the competitive development of the Dominican manufacturing industry through incentives. The incentives include a series of exemptions on taxes and tariffs for companies in this industry applicable to the acquisition of raw materials, industrial machinery and capital goods; the possibility of accelerating the depreciation of the value of machinery, equipment and technologies acquired for the operation of the industry; the possibility of excluding fixed assets for the purpose of calculating the asset tax; and exemption from their obligation to act as an income tax withholding agent when making payments to foreign natural or legal persons who provide them with professional services.



# COMMERCIAL VEHICLES

Dominican law recognizes the following types of corporate structures and business forms, and regulates, among other things, everything from an entity's name, capital, and transfer provisions to the administration and supervision of these entities, decision making of their corporate bodies, transformations, mergers, divisions and corporate dissolutions.

## **CORPORATION**

The corporation (*Sociedad Anónima*) is an entity with a legal existence, formed by two or more shareholders who only assume the risk of losses up to their capital contributions in the entity.

The corporation structure has been designed with the purpose of organizing large companies that require, above all, important levels of control over their corporate governance. Corporations may or may not seek funding from the securities markets as a form of financing and expansion of their operations, in which case, they will be required to obtain an authorization from the Dominican Republic's Securities Superintendence.

**CAPITAL AND TRANSFER PROVISIONS:** A corporation's capital is represented by shares, which are essentially negotiable securities. The minimum authorized corporate capital is DOP\$30,000,000 and 10% of such amount must always be paid and represented by outstanding shares. The law does not establish any restriction on the assignment of shares. Nevertheless, it provides that shareholders may agree to restrictions, so long as they do not contain any permanent prohibition on the transfer of shares.

**ADMINISTRATION, SUPERVISION, AND DECISION MAKING:** A board of directors composed of a minimum of 3 members is normally in charge of managing these companies. A company cannot be appointed as president of a corporation. In terms of supervision, the law establishes that corporations must be supervised by one or several vigilance officers that are named for 2 fiscal periods and are primarily appointed to verify the annual accounts and financial situation of the entity.

The supreme decision making body is the general meeting of shareholders, which annually receives a report of all the company's operations, decides on the distribution of dividends and also approves the management's annual report.

### **SIMPLIFIED CORPORATION**

The simplified corporation (S.A.S.) is a limited liability company formed by two or more shareholders whose losses with respect to the company's activities are limited to their capital contributions. Unlike a corporation, this company allows some freedom to shareholders to regulate the organizational structure of the entity in its bylaws, according to the needs and objectives of the company.

**CAPITAL AND TRANSFER PROVISIONS:** The capital of a simplified corporation is divided into shares, which can only be issued in registered form. The minimum authorized capital required is DOP\$3,000,000 and at least 10% of such amount needs to be subscribed and paid in.

**ADMINISTRATION AND SUPERVISION:** The shareholders may, by means of the bylaws, freely determine the organizational structure of the company, which can be managed and directed by a board of directors or by one or more president-administrators. Also, a simplified corporation does not require the supervision of a vigilance officer, unless it issues debt instruments.

### **LIMITED LIABILITY COMPANIES**

A limited liability company (S.R.L.) is the entity formed by a minimum of 2 and a maximum of 50 partners, none of whom are personally liable for company debts. This form of commercial organization is used for medium-sized businesses and closed capital entities.

**CAPITAL AND TRANSFER PROVISIONS:** The social capital of an SRL is divided into equal parts denominated corporate quotas or units, which are not in essence negotiable securities and may not have a nominal value below DOP\$100. The minimum corporate capital of an SRL is DOP\$100,000, which must be fully paid-in and outstanding.

Quotas or units are freely transferable in cases of a succession due to the death of a partner, or in case of liquidation of marriage property, and between family members. Likewise, the transfer of quotas between partners is free, unless limitations in the bylaws are established. The assignment of corporate units to third parties, as well as the constitution of pledges thereon, requires the consent of three fourths of the partners, prior to compliance with other conditions and formalities.

**ADMINISTRATION, SUPERVISION, AND DECISION MAKING:** The administration is handled by one or several managers, who must be individuals and who are individually vested with the broadest powers to act in the name of the company under any circumstances. The designation of a vigilance officer is not necessary, but the financial statements of the company must be audited if it obtains credit from financial intermediation entities; or has gross income greater than 100 minimum wages of the public sector.

### **INDIVIDUAL ENTERPRISE OF LIMITED LIABILITY**

An individual enterprise of limited liability (E.I.R.L.) is a company of limited liability that belongs to one person, that has the legal ability to exercise rights and obligations, and that forms an independent and separate entity from the rest of the assets of its owner. Legal entities may not incorporate or purchase companies of this type.

**CAPITAL AND TRANSFER:** The amount of contributions to be made by the owner of an E.I.R.L. may be freely established and increased, in accordance with the procedures established by law. An E.I.R.L. may be transferred in accordance with the rules established by law, but only to another natural person.

**ADMINISTRATION AND DECISION MAKING:** The owner may appoint a manager or assume the functions of the manager, if possible. The manager will be invested with the widest powers to act under any circumstance in the name of the company, within the limits of the corporate purpose and subject to those powers that under the law correspond to the owner. *Vis-à-vis* third parties, the company will be bound by the acts of the manager even if they do not correspond to the corporate purpose, unless it is proved that the third party was aware that the act was beyond the scope of the corporate purpose or that such person could not ignore it in view of the circumstances.

### **FOREIGN COMPANIES**

Commercial entities, duly incorporated anywhere in the world, are recognized in the Dominican Republic upon confirmation of their legal existence by the appropriate authorities, according to the formalities prescribed by the law of the place of incorporation. The law provides that foreign companies, as to their existence, capacity,

operation and dissolution, are governed by the law of the place of incorporation, and regarding its operations and activities in the country are subject to Dominican law.

Foreign companies that establish a branch or permanent establishment in Dominican Republic or when performing commercial transactions regularly in the country must be registered in the Commercial Register and the National Taxpayers Registry kept by the Directorate General of Internal Revenue.

The law recognizes the equality of foreign companies with local companies and, therefore, declares that they have no obligation to provide any kind of bail or guarantee before initiating litigation in the country.

### **PERMANENT ESTABLISHMENTS**

A permanent establishment is defined by Dominican legislation as a fixed place of business in which an individual or a company, either local or foreign, does all or part of its business, including having a place of management, offices, branches, services, among others, provided they exceed six months within a year period.

In 2013, the concept of foreign entity was broadened to include entities that in their home country may or may not have legal personality, such as partnerships, trusts, branches, among others. Also, non-resident taxpayers with permanent establishments are required to register before the Dominican Tax Administration (DGII), and submit information, such as data identifying their taxpayer registration number in their country of tax residence, and data concerning equity holders with more than 10% of the capital or interest in such non-residing person or entity, in addition to any other information that may be required from any taxpayer.

Likewise, non-resident permanent establishments will be required to appoint and notify to the Dominican Tax Administration (DGII), a local taxpayer that will represent such establishment in regards to its tax obligations. This designation of a local representative will also be required for persons or entities residing in countries or territories with preferential tax regimes, that have low or no taxation or are considered tax havens, if the own property or rights in Dominican territory.

### **OTHER PROVISIONS OF THE LAW ON CORPORATE ORGANIZATIONS**

The law also regulates corporate processes such as mergers and divisions, the increases and reductions in subscribed capital and paid-up entities and the dissolution and liquidation of commercial companies.

The law also provides detailed fiduciary duties of directors and includes penal provisions to punish violations of the law by companies and their managers.





# LEGAL FRAMEWORK FOR **COMMERCIAL** ACTIVITIES

There are several legal provisions that regulate or affect business transactions in the Dominican Republic. The most important are those related to taxation, labor, the environment, the protection of intellectual property, existing rules for conducting business transactions and electronic commerce and the recent regulations created to govern the restructuring and liquidation of commercial entities and merchants, which were mentioned in the preceding section.

## **TAX REGIME**

The tax system in the Dominican Republic is governed by Law No. 11-92 , also known as the Dominican Tax Code, and other modifications, and it is of territorial nature with the exceptions established further below. The Dominican Tax Code (DTC) covers the following national taxes: 1) Income Tax (IT) 2) Value Added Tax (VAT), 3) Excise Tax (ET) and 4) Asset Tax (AT).

In order to comply with the obligations and taxes established by the DTC, taxpayers are required to obtain a National Taxpayers Registry or Tax ID number (RNC, for its acronym in Spanish) from the Tax Administration.

## INCOME TAX/ADVANCE TAX PAYMENT

The income tax applies annually to income from Dominican sources, obtained by individuals, entities or undivided estates, as well as from income generated abroad from investments and financial gains. The exception to the territoriality principle is the tax income generated abroad by investments and financial gains (for foreigners, this exemption applies after the third year of tax residence).

### 1) Individuals

Income generated by individuals that independently engage in an economic activity, whether by profession or occupation, are subject to the payment of income taxes. The applicable rate changes in accordance to the income amount received as well as the annual threshold exemption, which varies depending on the inflation rate established by the Central Bank of the Dominican Republic. Resident individuals (those who reside for more than 6 months in the country, whether continuously or not in the same calendar year) will be subject to progressive tax rates ranging from 0-25%, while non-residents (individuals who reside for less than 6 months in the country) shall be subject to a fixed rate of 25%. The income tax payment shall be made through the filing of the annual income tax for individuals (IR-1 Tax Return) within 90 days after fiscal year-end (calendar year).

In addition to the income tax and upon the filing of IR-1 Tax Return, tax advances will be generated, which the individual may deduct from the annual income tax that results when filing IR-1. These advances are calculated based on the liquidated tax and shall be paid in three installments: 50% by June 30, 30% by September 30, and 20% by December 30. The individual may require total or partial exemption of the advance, at least 15 days before the due date of the first advance payment, provided the request is duly supported with documentation evidencing a reduction of the individual's income. Individuals whose income derives from commercial and industrial activities shall pay advances of 1.5% of the total gross income of each month.

**Comments:** For individuals whose only source of income is via payroll their employer will act as withholding agent and remit such payment to Tax Authorities through monthly IR-17 tax returns within the first 10 days of the following month. The employer shall also make other withholdings on account of other taxes.

## 2) Legal persons

Legal persons are subject to the payment on the income generated in a fiscal year after applying the deductions established in the DTC. The applicable rate to legal resident entities for the 2017 fiscal period is 27%, provided they are subject to the ordinary tax system and are not operating under a special tax regime. This tax shall be paid within 120 days of fiscal year-end through the annual corporate income tax return (IR-2 tax return). The filing of the IR-2 tax return is also applicable to legal entities under special tax regimes, which even if they are exempt from the income tax, shall file the form in an informative manner. The DTC provides 4 different dates for fiscal year closing: December 31 (which is the default date), March 31st, June 30th and September 30th. The Tax Administration must authorize the date other than the ordinary one for the closing of the fiscal period. Within 45 days of filling of the IR-2, advances will be generated to be paid within the first 15 days of each month.

For legal entities under the ordinary tax regime, tax advance installments are determined by the effective tax rate (ETR): if the ETR is greater than 1.5%, the tax advance is calculated based on the liquidated Income Tax divided by 12 months and if lower or equal to 1.5%, the advance is calculated applying 1.5% to the income of the declared fiscal period.

The legal entities with commercial activities which generate income for regulated margins shall pay the advance based on 1.5% of the gross income for said margins plus any other income.

The legal entities that generate income from commissions, shall pay advance for 1.5% of the gross income.

**Comments:** In addition to the IT and advances, in accordance with Article 281 of the DTC, local and foreign companies shall file with the Tax Administration an informative return of intercompany transactions (DIOR, for its acronym in Spanish) within the 180 days of the closing of the fiscal year. The DIOR shall include data of the transactions with:

- Related local or foreign entities; and
- Individuals, companies or companies resident or domiciled in countries with tax havens or low to zero taxation.

In accordance with Law 155-17 against Money Laundering and Terrorism Financing, which amended Article 50c of the DTC, any legal entity domiciled and resident in the Dominican Republic, shall disclose to the Tax Administration its final beneficiary. For these purposes, the final beneficiary is (are) the

individual(s) with final effective control over a legal entity or that hold at least 20% of the capital of the legal entity in question. Legal person or individual(s) who, without prejudice to directly or indirectly holding a participation of less than 20% in the company or through a chain of control, exercises effective control over the company or legal entity. The taxpayer should reflect this information in the new annexes of the IR-2 Tax Return and RC-02 Form (form used to register, modify or deregister the Tax ID). In the case of late tax payment, both individuals and legal entities will be subject to the payment of surcharges and interest, calculated based on the amount due. For 2017, these penalties are:

- Surcharges: 10% for the first month and 4% for the following months, plus
- Interests: 1.10%

Companies that are exempt from income tax and that do not file the informative IR-2 Tax Return, will be subject to penalty which value will be determined by the Tax Administration.

## CAPITAL GAINS

Capital gains are subject to a 27% tax and apply for the disposal, transfer or sale - whether directly or indirectly - of a capital asset placed or used in the Dominican Republic. In order to determine the gain, the cost of acquisition or production, adjusted for inflation, is deducted from the price or value of the transfer of the asset. The same is generated for the seller or transferor and shall be paid through the IR-1, in the case of individuals, or the IR-2, if it is a legal entity.

## WITHHOLDING

Legal entities and businesses of sole ownership shall act as withholding agents when making payments or crediting account of other natural persons and undivided estates, as well as to other entities not exempt from the tax, except to legal entities. The withholding is made on gross income as indicated below:

- 10% on sums paid or credited on account of rent or lease of any type of movable or immovable property, as payment on account;
- 10% on the fees, commissions and other remunerations and payments for the rendering of services generally provided by individuals, not executed in a subordinate work relationship, whose provision would require the direct intervention of employee; as a payment into account;

- 25% on prizes or profits obtained in lotteries, or any type of prize offered through promotional or advertising campaigns, as a final payment. In case of gains obtained through betting and lotteries, progressive rates will apply;
- 10% on dividends paid or credited in the country;
- 5% on payments made by the State and state bodies including companies and autonomous and decentralized entities, to individuals and legal entities, for the acquisition of goods and services in general, not executed due to a subordinate work relationship, as payment on account;
- 10% on payments of interest to resident individuals as a single and definitive payment;
- 10% on payments to individuals, legal entities or non-resident entities as a single and definitive payment;
- 10% for any type of income not expressly contemplated in these provisions, as payment on account; and,
- 27% on payments in general from Dominican source income made to individuals, legal entities or entities residing or domiciled abroad as single and definitive payment.

#### VALUE ADDED TAX (VAT)

The Tax on Transfer of Industrialized Goods and Services (ITBIS, for its acronym in Spanish) is applicable on the transfer and import of industrialized goods, as well as on the provision of all services except education, health, transportation, electricity, water, garbage collection, personal care, financial services and pension and retirement plans. The taxpayers are individuals and legal entities (national or foreign), that carry out transfers and imports of industrialized goods, or render services.

This tax is transferable to the final consumer. The current rate for 2017 is 18% on the invoiced price; a reduced rate of 16% applies to certain goods.

#### EXCISE TAX (ET)

ET rates vary and are applicable to the manufacture and/or import of some goods such as tobacco, alcohol, luxury items, among others, as well as the provision of the following services: telecommunications, insurance, and cable television.

For 2017, the applicable ET will depend on the good or service, as listed below:

- Alcohol: based on the amount of liters of absolute alcohol
- Tobacco: based on cigarette packets

- Telecommunications: 10%
- Insurance in general: 16%

Individuals, national or foreign companies, which produce or manufacture these goods, are obliged to pay these taxes in the final stage of the process; importers of taxed goods and the providers of taxed services are expected to pay this tax.

### ASSET TAX (AT)

The AT levies all assets, not adjusted for inflation, which are included in the balance sheet of the taxpayer (legal entity) after applying deductions for depreciation, amortization, provision for bad debts, investments in shares, rural areas, real estate by nature for agricultural purposes and advance taxes. The current rate is 1%. Financial intermediation entities, stock market intermediaries, pension fund managers, and securitization companies, as well as electricity generation, transmission and distribution companies, must pay this tax on the basis of their fixed assets.

This tax is a substitute for the income tax, therefore it is only paid when the amount due for the Income Tax is less than the Asset Tax, and must be paid even if at the end of the fiscal year the legal entity has declared losses and if the company had no operations during the fiscal period. The Asset Tax, if applicable, must be paid through the corresponding annex of IR-2 Tax Return.

### OTHER TAXES CREATED BY DIFFERENT LAWS

#### REAL ESTATE PROPERTY TAX (REPT)

The REPT is an annual tax of 1% that is applied on the total amount of taxed real estate that individuals and trusts have registered. The same was created by Law 18-88 of 1988.

Within the scope of this tax are real estate properties intended for residential, commercial and industrial activities, belonging to natural or physical persons, provided that the total property owned by the taxpayer exceeds DOP\$7,019,383.00 (for 2017). This value is adjusted annually by inflation. This tax is paid in 2 semi-annual installments: 1) before March 11 and 2) before September 11 of each year. The penalty for late payment is 2% per month on the amount due.

The following properties are exempt from the REPT:

1. Housing (and the plot on which it is built) whose owners are over 65 years of age, provided this constitutes their only real estate property;
2. Properties of passive investors and retirees of foreign source by 50%;
3. Rural lands; and,
4. Properties for agricultural use located on rural land.

### TAX ON REAL ESTATE TRANSFERS

According to Law No. 831-45, real estate transfers are subject to a flat tax of 3% on the value that is greater between the one established in the purchase agreement, and the one assigned by the Tax Authorities to the property in question by means of an authorized appraiser. This tax is also applicable to the transfer of real estate through financing granted by the regulated financial intermediation entities, provided that the acquired housing or the land is destined for sale at a value higher than DOP1,572,383, which is adjusted by annual inflation.

The buyer shall make the corresponding tax payment within 6 months from the date of the purchase agreement, otherwise surcharges and interests will apply.

### TAXES ON MOTOR VEHICLES

This tax was created by law No. 241 - 67 on transit of vehicles. This tax is generated by the registration, license plate assignment, circulation and changes in the vehicle registration, whether by change of owner, application for duplicate or color change. The annual circulation of motor vehicle tax will depend on the year of manufacture of the same. The transfer tax is 2% on the value that is greater between that stipulated in the purchase and exchange agreement, and that assigned by the Tax Authorities.

### COMPANY INCORPORATION TAX

The incorporation of corporate vehicles regulated by Law No. 479-08 are subject to a 1% tax of the authorized share capital. This tax may not be less than DOP1,000.00. Entities that do not issue shares, such as branches, are not subject to the payment of this tax.

## AGREEMENTS TO PREVENT DOUBLE TAXATION AND FISCAL EVASION

Currently the Dominican Republic is signatory of two agreements to avoid double taxation and tax evasion:

- Canada (effective January 1977) concerning income tax and patrimony
- Spain (effective July 2014) concerning income tax

## LABOR LAW

The relationship among employers, whether natural or juridical, with their employees is regulated by the Dominican Labor Code and related laws, which offer numerous guarantees to workers. Some of the key legal obligations are:

### QUOTAS FOR DOMINICAN EMPLOYEES

At least 80% of the workers in a company must be Dominican citizens unless qualified individuals from the local market cannot fulfill this quota. Managers and other employees with management functions must be preferably Dominicans, although there are no legal restrictions at the management level.

### WORK PERIODS

The normal working week is 44 hours; a normal working day is 8 hours. The common practice is to work from Monday to Friday and, in some companies, until midday Saturday. Part time workers cannot work more than 29 hours per week.

### PAID LEAVE

The law grants 5 days of paid leave in case of marriage, 3 days in case of a close family member's death and 2 for a father whose wife has had a child.

### VACATIONS

After 1 year of uninterrupted services, it is mandatory to grant 14 working days of paid vacation. After 5 years, the employees are entitled to 18 days of payment while 14 days of vacations remain the same.



## HARASSMENT

The law prohibits employers or their representatives from committing actions that may be considered to be sexual harassment, abuse of authority, mobbing, repression of free speech and other repressive actions against an employee.

## MATERNITY PROTECTION

Female employees are entitled to a paid maternity leave of 14 weeks due to for pregnancy and delivery, which she can administer to her convenience within the parameters established by law, before or after birth and with the right to enjoy her corresponding vacation immediately said period expires. Similarly, mothers are entitled to request during the first year of the child, half day of work each month to take the child to the pediatrician. While the employer can generally terminate employment contracts without cause, this right is suspended when the employee is pregnant. In this case, she may only be dismissed with cause when committing a major fault. The aforementioned fault must be verified by an inspector from the Ministry of Labor.

## MINIMUM WAGE

Dominican labor legislation establishes a minimum salary for private industry employees. This wage is revised periodically by the National Salary Committee, a tripartite organ conformed by the employer sector, the workers sector and the government. The minimum wage applicable to employees depends on the industry in which they work.

## OVERTIME, NIGHT WORK, AND HOLIDAYS

Overtime is paid with an increase of 35% on regular salary when not exceeding 68 weekly hours, and, in excess of that, the increase shall be 100%, as well as for work during weekly rest or holidays. Night shift (work 9PM and 7AM) requires payment of a 15% increase over the regular salary.

## OTHER BENEFITS

Other benefits established by law, include the Christmas salary (equivalent to 1/12 of salary earned during calendar year) and profit sharing of the company's benefits (equivalent to 10% of yearly net profits distributed among employees under indefinite term employment contracts).

## TERMINATION OF LABOR CONTRACTS

A labor contract may be terminated, among other reasons, by i) dismissal without cause undertaken by any of the parties; ii) by dismissal with cause when one of the parties has committed a major fault; or iii) by mutual consent. During the first 3 months of work, employees may be terminated without the right to be paid severance or compensation on prior notice. After this period they may be entitled to termination benefits, depending upon their time of services.

In the case of a dismissal with cause undertaken by the employer pursuant to the provisions of the Labor Code, the employee will only be entitled to certain termination benefits. If, however, it is declared by an appointed labor court as unfair, the employer will have to pay all termination benefits established by the Labor Code. Meanwhile, if the employee undertakes dismissal without cause against the employer alleging a major fault of the latter, and the same is declared as justified, the employer shall have to pay similar indemnifications as described above for a dismissal with cause undertaken by the employer which is declared as unfair.

In case of dismissal without cause undertaken by the employer, prior notice must be granted to the employee in the terms established by law; otherwise, it must be compensated. In addition, in those cases of dismissal without cause, the employer must pay severance which varies depending upon the time of services of the employee. Severance and compensation on prior notice are exempted from income tax.

## SOCIAL SECURITY OBLIGATIONS

Social Security in the Dominican is of a mixed nature. For salaried workers, both the employer and employees must contribute to the social security system, in the proportions of 70% and 30%, respectively. The contributive regimes which corresponds to the employer, covers three different insurances: health family insurance, old age insurance and worker's compensation (this latter is exclusively covered by the employer). For each of these contributions are not necessarily for the full salary amount but up to the top limits established by law. Besides registering its employees in the social security system, other obligations of the employer include, contributing with the corresponding coverage percentage of all employees, acting as withholding agent, contributing, and paying in due time to the social security authorities. Lack of compliance by the employer of its obligations, entitle the employees to undertake dismissal with cause.

## **ENVIRONMENTAL LAW**

The Dominican Republic, in less than a decade, has achieved the cohesion of the regulations with a recent legal framework in the area of environmental law; achieving with such regulation the effective protection of the environment, natural resources and the sustainable use thereof in the plans, projects and activities which allow sustainable growth as a National Strategy for Development. This environmental regulation is composed by the Dominican Constitution (2015), the General Law on the Environment and Natural Resources (64-00), Sectorial Law on Protected Areas (202-04) and the technical environmental rules issued by the regulatory body. The Ministry of Environment and Natural Resources is the regulator of the sector, with the responsibility of ensuring the effective protection of the environment and the natural resources.

Compliance and application of environmental law is critical to the planning, implementation, development and closure of all activity and investment, whether domestic or foreign in the Dominican Republic. Law 64-00 states every project, work of infrastructure, industry, or any other activity that due to its characteristics affect the environment and natural resources, must obtain from the Ministry of the Environment and Natural Resources, prior to its execution, an Environmental Authorization which can be in the form of an Environmental License, Environmental Permit, Environmental Constancy, Minimum Impact Certificate, Sectorial Authorization or Certification on the Non Requirement of an Environmental Authorization, which differ in complexity depending on the project and the categorization and classification thereof A,B, C and D as determined by the Ministry. These authorizations are obtained after the filing of an Environmental Impact Statement (EIS) or an Environmental Impact Assessment (EIA). Non-compliance with environmental regulations produces an environmental infraction which can be of an administrative or criminal nature and thus the law provides for administrative and criminal sanctions for those violating such provisions.

## **INTELLECTUAL PROPERTY PROTECTION**

The Dominican Republic is one of the countries that grants one of the highest levels of protection to intellectual property in the region, being a signatory of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the WTO, the Paris Convention for the Protection of Industrial Property, the Cooperation Treaty in Patents (PCT), Chapter 15 of DR-CAFTA and other international agreements.

Current legislation states that classifications for registration purposes must be consistent with internationally recognized classification systems: For patents and utility models, the Strasbourg Convention of 24 March 1971; for industrial designs, the Locarno Agreement of October 8, 1968; and for trademarks, the Nice Agreement of June 15, 1957.

The government agency responsible for granting patents and registering industrial property rights is the National Office of Industrial Property (ONAPI), which is under the Ministry of Industry and Trade.

Civil and criminal penalties may be applied in case of infringement of intellectual property rights by the courts and these include payment of damages and fines and / or imprisonment.

### PATENTS AND INDUSTRIAL DESIGNS

Patents may be obtained to protect inventions and utility models. An invention is defined as any idea or creation of the human intellect related to products or procedures, capable of being applied in industry. It must be novel, i.e., it must be unknown in the relevant industry. Dominican regulation contemplates essential requirements for registration, such as possessing an innovative nature (it must be unknown given the current state of scientific development) and it must have an inventive character, (it must not be able to be deduced by a person with technical knowledge). Any changes that present novelty or uniqueness in aesthetic components of a product, without changing the character or function of the product, must be registered as industrial designs.

Requests for patents and industrial designs are directed to ONAPI and must comply with the requirements stated by law.

Patents of invention have validity of 20 years counted from the date of submission of the application in the Dominican Republic.

### TRADEMARKS

Dominican law protects all kinds of trademarks, including collective trademarks, certification trademarks and sound and scent trademarks. The registration of a trademark grants exclusive rights over the same. On the other hand, the period of use of those trademarks that have been registered (more than 6 months) determines the priority for the registration. Dominican law also recognizes certain rights of priority for trademarks registered

abroad. New trademarks are registered in favor of the person who first requests them. Registration is granted for a period of 10 years, renewable for consecutive periods of 10 years.

Among the distinctive signs that may not be registered are some prohibitions relative to the sign itself, such as:

- Signs that may be used commercially to describe the product;
- Generic or scientific denominations of products, colors, etc.;
- Signs that are contrary to the public order or moral standards ;
- Signs that ridicule persons, religions, countries, or others;
- Signs that may deceive the public in terms of the nature or the qualities of the product, etc.

## TRADENAMES

Names, brands, emblems, slogans and other elements that identify a company or establishment are protected by the law as tradenames. The right for the exclusive use of a commercial name comes from its first commercial use. The protection is granted even before registration and eases with the abandonment of the name. Only in cases of commercial slogans, the right of exclusive use is granted by registering.

Tradenames may not be composed of indications or signs that are contrary to public order or moral standards, or that may create confusion in the public in terms of the nature, activities, or any other aspect related to the company or business associated with the same or its products and services.

## COPYRIGHTS

The main objective of the Dominican copyright law is to provide a legal and institutional framework in accordance with the provisions of the Aspects of Intellectual Property Rights Agreement related to Commerce (TRIPS), which allows for the effective protection of copyrights in the Dominican Republic, taking into account the national interest. The National Copyright Office (ONDA), ascribed to the Ministry of Industry and Commerce, is the national authority in charge of the registration and organization of the applications related copyright. For these purposes, the law has granted administrative, supervision, and arbitration powers. Its supervision activities are enforced by the obligation of any importer or distributor of commercial goods, services, and equipment with author or related rights to register the same.

Likewise, the country has ratified the following international conventions regarding this matter:

- Berne Convention for the Protection of Literary and Artistic Works from 1886;
- Universal Copyright Convention from 1952;
- Rome Convention for the Protection of Interpreters, Audio Producers, and Radio Transmission Organizations from 1961; and,
- Treaties of the Intellectual Property World Organization (OMPI) for the Rights of Authors and Interpreters and Phonograms of 1996.

Dominican copyright law protects all kind of original intellectual creations that may be fixed, transmitted, or reproduced by any existing means or are existing in print, reproduction, or dissemination. It also protects the independent creations derived from original works, such as those resulting from the adaptation, translation, or in another manner transformed from its original version.

## **COMMERCIAL AGREEMENTS AND CONSUMER RIGHTS**

Business agreements and covenants in the Dominican Republic are primarily based on the principle of freedom of contract, as provided in the country's Civil Code. Accordingly, parties to an agreement are free to establish the provisions that will regulate their relationship and to make those provisions legally binding on them, as long as they do not contravene laws regarding public order.

There are, however, regulated sectors such as finance, the provision of public services (water, electricity), health services, etc., all of which contemplate certain elements of legal control. Even when the law allows contractual freedom, the general framework of consumer law still applies. It has constitutional status in order to avoid situations like draconian clauses in adhesion contracts, false advertising, selling defective products, etc. Likewise, all contests open to the public must submit their bases to the Institute for the Protection of Consumer Rights (Pro consumer) prior to their celebration.

## **PROTECTION OF CONSUMER OR USER RIGHTS**

In the Dominican Republic, the legal regime that regulates the protection of consumer rights is mainly consecrated in the Constitution of 2015, which grants consumer protection provisions the rank of fundamental rights ratifying the establishment of a regime for the protection, guarantee, security and defense of consumers in

their relations with suppliers of goods and services and the General Law on the Protection of Consumer or User Rights No. 358-05. The main objective of said law is to establish a system for the defense of consumer and user rights that guarantees fairness and legal certainty in relations between suppliers, consumers of goods and users of services, whether of public or private law, national or foreign, in harmony with the provisions to that effect contained in the sectorial laws.

The aforementioned law has a public order nature and creates the National Institute for the Protection of Consumer Rights (Pro Consumidor) whose main objective is to define, establish and regulate the policies, rules and procedures necessary for the application of said law. According to the provisions thereunder, suppliers of products and services may incur in civil and criminal liability. With regard to civil liability all members of the commercialization chain will be liable for injuries or losses caused. On another hand, the agent guilty of the offense will be criminally liable, according to the classification established by Law 358-05, the Penal Code and other special laws. In addition to the above, the Executive Direction of Pro Consumidor may impose administrative sanctions.

Another important aspect of Law No. 358-05 is that it provides consumers with a free procedure for an out-of-court settlement of their disputes, prior to completing the administrative procedure established by the Law or going to court, in which case, the competent jurisdiction would be the local courts of peace.

## **SECURITY**

Among the main securities available to creditors in Dominican Republic it is important to highlight the following:

### **MORTGAGES**

In general, any type of real estate right can be mortgaged, be it land or even a registered right of use or exploitation of real estate. The construction or improvements of existent buildings on land are also considered real estate and may be mortgaged. Mortgages over real estate properties that will be acquired or built in the future are not permitted, although, in practical terms, the security interests of a creditor with respect to a mortgaged property will extend to any buildings or improvements made on the property while a mortgage is in place.

Because a mortgage security depends on the debt it guarantees, the validity of such debt is necessary for the mortgage to be valid. The secured obligation may, however, be conditioned or eventual, in which case the mortgage will also be conditioned or eventual. Likewise, a mortgage may be granted to ensure future obligations, which allow guaranteeing financial instruments such as lines of credit and credit cards. The mortgage debtor must have a duly registered title for the mortgage to be valid with respect to third parties. The persons with conditional property rights may grant mortgages under the same conditions affecting those rights.

## PLEDGES

Encumbrances over movable assets may be structured with or without relinquishing possession of such assets. A pledge may cover tangible assets, such as machinery and inventory, and intangible goods, such as credits, bank accounts, contracts, etc., in which case the debtor of the obligation granted as a pledge must be notified.

## PURCHASE OF REAL ESTATE PROPERTY

The purchase of real estate properties or real estate rights by foreigners is not subject to any special requirement. The same rules that apply to Dominican nationals also apply to foreign purchasers. However, in order to protect foreign investors, their presence or further assurances will often be required in order to conduct certain real estate transactions.

Before purchasing real estate, it is appropriate to verify the legal status of the property at the Title Registry Office to confirm the identity of the registered owner of the property and whether there are any liens or encumbrances over the property and/or any other transfer restrictions. After executing a transfer agreement, the prompt filing of the corresponding transfer documentation before the corresponding Title Registry Office is very important. The purchaser shall file at the Title Registry a notarized original of the purchase agreement along with the Title Deed in the name of the seller, which shall be cancelled and substituted for a new one in the name of the buyer. Furthermore, the payment of transfer taxes at the National Directorate of Internal Revenue is also required, which to this date is 3% of the value of the purchase price, as well as other documents which may apply to each particular case.

Additionally, as per new regulations issued by the Supreme Court of Justice as of December 2016, all foreign individuals that are interested or whom are involved in an acquisition of a property in the Dominican Republic



shall obtain a Tax Identification Number. In principle, the process is relative simple and may be done jointly with the payment of the applicable transfer taxes.

## **ELECTRONIC COMMERCE AND INFORMATION TECHNOLOGY**

The law on Electronic Commerce, Digital Documents and Signatures has adapted the Dominican legal system to new technologies and has allowed the economy and its agents to benefit from the opportunities that new digital technologies offer for the promotion of economic activities and the execution of commercial transactions in the global market. Specifically, the law seeks to:

- Facilitate electronic commerce within and among the nations;
- Validate transactions that have been made by means of new information technologies;
- Promote and support the development of technological initiatives related to electronic commerce and to promote the use of these services and diffuse its use among the population.

The law is based on model laws prepared by the Commission of the United Nations for International Mercantile Rights (UNCITRAL) regulating concepts of origin, conservation, data messages, and digital documents to grant legal validity to the same. Such laws also specify the conditions for the use of a digital signature, differentiating it from an electronic signature; establish the requisites for the establishment of certification entities, with the Chamber of Commerce of Santo Domingo and AVANSI, S.R.L. as the only ones currently in operation; and fixes the requirements for digital certificates, among other matters.

## **DATA PRIVACY**

In the Dominican Republic, the Constitution consecrates as a fundamental right of the individuals, the right to intimacy and personal honor which scope includes the honor, good name, own personal image and access to the information and data existing on the individual and its assets registered in official or private records, as well as to having the knowledge regarding the destination and use of such data with the limits established by the law.

It is Law No. 172-13 which rules the exercise of said fundamental right. In such sense, the Law sets forth the legal framework applicable to the whole protection of personal data registered in public records, data centers or any other technical means for the treatment of personal data with the purpose of providing reports, either public or private, and to guarantee the rights of individuals are not violated, while easing access to their

information, as well as to regulate the incorporation, structure, activities, operation and termination of Credit Information Companies ( "SIC" for its acronym in Spanish). Likewise, this Law provides credit reference services; with the purpose ensuring respect for the privacy and the rights of holders promoting the veracity, accuracy, effective update, confidentiality and the proper use of such information.

The general principle of this Law states that the processing and transfer of personal data is deemed unlawful when the owner of the data has not given their free, explicit consent in writing or by any other means. Such consent, provided with other statements, must appear explicitly and prominently, prior notification to the data owner.



# LEGAL FRAMEWORK APPLICABLE TO **FOREIGNERS**

## **ENTRY AND DEPARTURE**

Foreign investors whose businesses or activities require them to visit the Dominican Republic or to move their residence to the country will find in this chapter information about the most important laws and regulations that will apply to their entry and stay in the country.

## **ENTRY REQUIREMENTS**

In general, foreigners need a visa to enter the Dominican country as tourists, except for nationals of countries with which the Dominican Republic has signed agreements to exonerate this requirement. In such cases, foreigners may enter the country for a period of sixty (60) days solely with the purchase of a tourist card, which can be purchased at the airport of arrival. However, for cases in which the foreigner wishes to enter the country for residency purposes, he or she must apply for a residence visa or business visa for labor purposes.

In general terms, visas are classified as Diplomatic, Official, Courtesy, Business, Business for labor purposes, Dependents, Tourist, Residence, Temporary Workers and Student and are issued by the Officials of the Ministry of Foreign Affairs, both from the Chancellery as well as the Foreign Service of the Dominican Republic. A foreigner

cannot visit the country with a tourist visa and process another visa during their stay, as any change of visa category must be requested through a Dominican consulate abroad; therefore, the foreigners must necessarily return to their country of origin.

## **DOMINICAN RESIDENCE**

Foreigners may be admitted in the resident and non-resident categories, depending on the activities to be performed, trip purpose and/or their conditions. The resident category is granted to those foreigners that enter with the intention of living in or staying in Dominican territory; while the non-resident category is granted to those foreigners that enter the country with no intention to settle there.

The resident category is subdivided in permanent and temporary, in the first subcategory, the foreigner enters the country with the purpose of staying indefinitely in the Dominican territory; however, in the second subcategory, the foreigner enters the country to reside in the Dominican territory for the duration of the activities which gave rise to his/her admission.

The permanent and temporary residents must renew their permit granted by the General Directorate of Immigration and are mandated by law to maintain and keep such valid and to carry their immigration ID, which they must show to the competent authority when it so requires.

## **DOMINICAN NATIONALITY**

The granting of nationality is a discretionary power of the President, which the process has a time of duration of approximately 8 months to 1 year, under the following circumstances;

- Individuals with Dominican parents;
- Those who have resided for 6 months in the country, if married to a Dominican citizen;
- Those that can justify an uninterrupted permanent residence of at least 2 years in the country; and,
- Those who have obtained a special concession from the Dominican President (also called "Privileged Nationality", normally granted to foreigners that have served meritoriously to the country.



# IMPORTANT ASPECTS OF FAMILY LAW

## **MARRIAGE**

Foreigners who wish to marry in the Dominican Republic must present an original and copy of their passport, a legalized and apostilled document certifying their single status issued by the country of origin, and their tourist card, residence card, or identity card, whichever is applicable.

The Dominican Civil Code regulates the financial relationship between spouses marrying in the Dominican Republic. The default legal regime applicable to couples who enter into marriage in the Dominican Republic is the community property system, save the spouses have followed the legal procedure in order to adopt a different regime, such as separate property or community of gains.

## **DIVORCE**

Divorce in the Dominican Republic may be executed by mutual consent or due to a specific cause, such as irreconcilable differences, absence or home abandonment, criminal conviction, physical abuse, alcoholism or drug addiction and cruelty or grave injury.

Dominican law has also instituted a special divorce procedure called “special or quick divorce”, which applies only to foreign individuals or Dominican citizens residing abroad, wishing to divorce by mutual consent. This procedure is characterized by how quickly it can be decided, registered, and published. It usually takes from one to four weeks to complete.

However, under Law No. 544-14 of Private International Law, a part of the local doctrine has concluded that the process of special or quick divorce in the case of foreign individuals that do not reside in the country has been repealed by such law. This is due to the fact that the aforementioned law does not mention the possibility of local courts being competent to process divorces between foreign spouses who are not resident in the country.

## **ADOPTION**

The National Council for Children and Adolescents (CONANI) is in charge of coordinating Dominican adoptions. A request for adoption must comply with the provisions of the International Convention for the Protection of Minors and other international measures in the interest of minors, and must comply with Dominican legal requirements.

The following people may legally adopt children in the Dominican Republic:

- Dominican couples, married for at least three years, and foreign couples, after at least five years of marriage;
- Dominican couples, formed by one man and one woman, evidencing having lived together for at least five consecutive years prior to the adoption process;
- Single individuals who have or have had the responsibility for the upbringing, care and education of a child or adolescent;
- A widower or widow, if the adoption process was initiated before the death of the spouse.
- Divorced or separated individuals, when the adoption procedure was initiated before the divorce or separation; and
- Grandparents, uncles and older siblings, grandchildren, nephews and younger brothers, whose father or mother or both parents are deceased and the adopters can ensure the well-being of their relatives

With respect to foreign individuals, and Dominicans residing abroad, all must deposit supporting documentation to show their suitability, similarly to those required for Dominicans living in the country.

## **INHERITANCE LAW**

The Dominican Civil Code establishes the rules and principles that apply to inheritances. Estates must be divided equally among the surviving closest family members, who will inherit in the following order, in the understanding that individuals in a lower order will only inherit if there are no individuals in a higher order: In the first instance, immediate descendants will inherit; then, ascendants then, privileged collaterals; then, collaterals; then, the surviving spouse, and finally, the State.

Dominican laws provide a mandatory reserve in favor of the descendants of an individual, which limits the individual's ability to dispose of all his/her estate through a will in favor of third parties. This legal reserve equals 50% of the estate if the individual has only one descendant; 66% of the estate if there are two descendants; and 75% if there are three or more.

After death, if the deceased was governed by Dominican law or if there are assets in the country, the law instructs the heirs to proceed with a "Probate Declaration" addressed to the Directorate General of Internal Revenue corresponding to the last domicile of the deceased. After this step, the heirs can proceed with the proper allocation of rights and the partition of the property by a notary or a probate court in the event of conflict or if there are minors among the heirs.



# FOREIGNERS BEFORE THE DOMINICAN JUSTICE SYSTEM

## **FOREIGNER BAIL**

While today it is not applicable, legal texts still enshrine the obligation for foreigners who do not have domicile or possess real estate in the country to post a bond to be determined by the judge before starting court proceedings against a Dominican citizen. This guarantee was abrogated considering its unconstitutional nature as set in the Dominican Constitution and Law No. 544-14 on Private International Law regarding the right of equality enjoyed by the persons without discrimination on the grounds of nationality.

## **CRIMINAL CONVICTIONS**

Dominican courts have the jurisdiction over foreign individuals who commit infractions within Dominican territory, even when the author and or victim are foreigners.

## **DEPORTATION**

Foreign individuals that engage in certain illegal activities in the Dominican Republic may be arrested and eventually deported to their country of origin.

Foreigners may not be deported without having the possibility of defending themselves from the charges of which they are being accused.



## **EXTRADITION**

Extradition is regulated by the Dominican Constitution, the Criminal Procedure Code, and the provisions contained in treaties and international conventions signed and approved by the Dominican Government. In the absence of treaties, the Dominican laws provide that extradition may be granted by the country, on the basis of the principle of reciprocity between the countries involved.

The Dominican Republic has signed extradition treaties with the United States of America, Spain, among other countries. The country also is a signatory to the International Extradition Convention of 1981.

## **FOREIGN PARTIES BEFORE DOMINICAN COURTS**

Access to justice and the right to ask a Dominican court to defend an individual is recognized both to Dominican citizens as well as to foreign individuals and entities, without regard to their country of origin.

By virtue of the principle of contractual freedom, any foreign legislation may be chosen as the applicable law to any contract, so long as it does not contradict public order laws, as they cannot be waived or amended by private contracts.

Private documents issued or executed abroad, to be admissible in a local court or before any governmental agency, must be notarized and authenticated by the corresponding agencies in their country of origin and in the Dominican Republic. In addition, documents that are not in Spanish must be translated by an official translator or a similar officer in the country of origin.

For public documents executed in countries that are parties to the Hague Convention of October 5, 1961, the simple submission properly annotated according to the terms of the Apostille Convention is enough to make valid in the Dominican Republic.

## **ARBITRATION**

Beginning in 2008 with the enactment of the Commercial Arbitration Act, this alternative method of dispute resolution has experienced an unexpected boom, to the point that now the Chambers of Commerce in Santo Domingo and Santiago de los Caballeros and have fully functioning arbitration tribunals able to render enforceable awards across the country without requiring the intervention of the national courts.

The advantages of arbitration are not only evident in time and price, but provide a degree of specialization often standard for foreign litigants, but that the judicial courts not necessarily have.

It is worth mentioning that in October 2001, the Dominican Republic became a member of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention). It is also part of the Interamerican International Commercial Arbitration (Panama Convention). Therefore, the enforcement of foreign arbitral awards must be ordered by a local court, based on the provisions of international conventions and local laws on the subject.





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