An Overview of Dominican Tax Law

by

Fabio J. Guzmán Ariza
Guzmán Ariza, Attorneys at Law

(As of December 31, 2012)

Introduction

Taxation in the Dominican Republic is governed by Law No. 11-92 of May 31, 1992, commonly known as the Tax Code ("Código Tributario"), its amendments and regulations ("Reglamentos"). This overview is a brief summary of the Tax Code's most relevant provisions. All references in parentheses refer to articles in the Tax Code unless otherwise specified.

Taxes are collected by the Bureau of Internal Revenue (*Dirección General de Impuestos Internos* or **DGII**), an autonomous government entity which may also issue its own regulations ("Normas").

Dominican income tax law is primarily territorial. All income derived from work or business activities in the Dominican Republic is taxable, no matter if the person is a Dominican, a resident foreigner or a nonresident foreigner (Articles 269 and 270).

Income derived from work done outside of the Dominican Republic, by Dominicans or resident foreigners, is not taxable in the Dominican Republic.

The exception to the principle of territoriality is income from financial sources abroad (Articles 269 and 271). A Dominican or a resident foreigner receiving income from financial investments (stocks and bonds, certificates of deposits, etc.) must pay taxes in the Dominican Republic on their income from those investments (Art. 269). Pensions and social security benefits are exempt (Art. 2 of Reglamento #139-98). For the resident foreigner, this obligation only starts three years after obtaining residency (Art. 271); however, those who have obtained their residence as retirees are exempt from paying taxes on the income they have declared for resident purposes. (Art. 10 of Law 171-07).

For tax purposes, any person residing in the Dominican Republic for more than 182 days in a year is considered a resident (Art. 12).

The Tax Code includes a general anti-avoidance provision whereby the tax authorities may ignore the existence of legal entities or certain transactions when used to secure a tax advantage (Art. 2).

Law #53 of 1970 makes it mandatory for all taxpayers to register with the tax authorities and obtain a tax or RNC ("Registro Nacional de Contribuyentes") number.

The most important taxes in the Dominican Republic are the following:

Income Tax

For Individuals

Individuals obtaining income from a Dominican source or from financial investments abroad shall pay taxes according to the following scale (Art. 296), in Dominican pesos (RD$):

Income up to RD$399,923.00 annually	-	exempt
RD$399,923.01 to RD$599,884.00	-	15%
RD$599,884.01 to RD$$833,171.00	-	RD$29,994.00 plus 20% of income above RD$599,884.01.
Income above $833,171.01	-	RD$76,652.00 plus 25% of income above RD$833,171.01

This scale is adjusted for inflation every January based on the rate of inflation calculated by the Central Bank of the Dominican Republic. This adjustment has been recently suspended for the period 2013 to 2015 (Art. 3 of Law 253-12).

Employers must retain and pay to the DGII, within the first ten days of each month, any income tax due on the salaries paid to their employees the previous month (Art. 307). Individuals who receive incomes from non-wage sources must file a tax declaration every year, on or before March 31 (Art. 110 of Regulation #139-98).

For Corporations and Other Entities

Corporations and any other for-profit organizations pay a flat 29% income tax on net taxable income (Art. 297). The rate will be reduced to 28% for fiscal year 2004 and to 27% thereafter. Unlike in the United States and other countries, in the Dominican Republic the tax treatment for corporations, partnerships and limited liability companies is exactly the same.

Net taxable income is determined after deducting from gross income those deductions, credits and advance payments admitted by law (Articles 284 to 287).

All corporation and for-profit entities must file a tax declaration every year, on or before April 30, if their business year coincides with the calendar year. Otherwise, the filing must be done within 120 days after the end of the business year (Art. 112 of Regulation #139-98)

Capital Gains Tax

Capital gains are defined as the difference between the sale price of an asset and the acquisition or production price **adjusted for inflation** (Art. 289). Capital gains are taxed as regular income.

An example: if an individual with an annual income higher than RD$833,171.01 purchases a house for RD$4 million pesos and sells it two years later for $6 million pesos, while inflation during the two-year period is a cumulative 15%, the tax due on capital gains is calculated as follows:

RD$6 million pesos - $4.6 million pesos ($4 million pesos + 15%) x 25% tax = $350,000 pesos.

Taxes are levied based on the capital gains calculated in Dominican pesos.

Tax on the Transfer of Industrialized Goods and Services (ITBIS)

The ITBIS is a value-added tax applicable to the transfer and importation of most goods , and to most services (Art. 335). The rate of the ITBIS is 18% (Art. 341). For imports, the ITBIS is charged on the CIF value of the goods plus applicable duty (Art. 339).There are many exemptions to the ITBIS tax (Arts. 342 and 343), among them, the following:

- exported goods
- some basic foodstuffs
- medicines
- fuels
- fertilizers
- books and magazines
- educational materials
- financial services
- transportation services
- home rentals
- utilities
- educational and cultural services

The 18% IBIS must be added to every bill for goods and services that are not exempt. The individual or entity receiving the ITBIS must disburse it to the GII within the first 20 days of the following month (Art. 353). Noncompliance is subject to a 10% surcharge for the first month and 4% for each month thereafter, in addition to 2.58% interest for each month or fraction of a month (Art. 252). From the total ITBIS received, the individual or entity is allowed to deduct any ITBIS paid to suppliers, customs, etc. (Art. 346).

Selective Consumption Tax (ISC)

The Selective Consumption Tax is applied to the acquisition or import of certain goods and services, such as the following (Articles 361, 381 to 383):

- motor vehicles
- guns
- tobacco products
- alcohol products
- jewelry
- Electronic products
- long distance phone calls
- insurance

The ISC rate varies according to the good or service taxed.

Tax on Assets

Businesses and corporations must pay a 1% annual tax on assets (Arts. 401 and 404) in two instalments due on April 30 and October 30 (Art. 405). For the purposes of this tax, all assets are taken into account, minus depreciation and amortization, except: a) stock holdings in other corporations, b) real estate in rural areas, c) real estate used for agriculture or animal husbandry, d) tax advances and e) provisions for bad debts (Art. 402).

The tax on assets operates as a kind of minimum income tax. If the income tax paid by the business or corporation is equal or higher than the amount of the tax on assets, then the business will have no obligation to pay the tax on assets (Art. 407). If the income tax paid is less than the amount of tax on assets due, the business must pay the difference.

New capital-intensive businesses may obtain a temporary exemption from this tax if certain conditions are met.

The tax on assets will be eliminated in 2015. Also, the tax rate for 2014 will be reduced to 0.5%. After 2015, real estate properties held by corporations will pay the same property tax as individuals.

Real Estate Tax

A 1% annual tax is assessed on any real property owned by individuals, based on the cumulative value of the properties owned by the same individual, as appraised by the government authorities. (Articles 1 to 3 of Law #18-88). Properties are valued without taking into account any furniture or equipment to be found in them. For built lots, the 1% is calculated only for values exceeding RD$6.5 million pesos. For unbuilt lots, the 1% tax is calculated on the actual appraised value without the RD$6.5 million pesos exemption. Individuals must pay this tax every year on or before March 11, or in two equal instalments: 50% on or before March 11, and the remaining 50%, on or before September 11.

The RD$6.5 million pesos threshold is adjusted annually for inflation.

The following properties are exempt from this tax:

(1) Built properties valued at RD$6,500,000 or below.
(2) Farm properties.
(3) Properties whose owners are 65 years old or older, who have owned it for more than 15 years and have no other property in their name.
(4) Properties subject to the Tax on Assets.

Real Property Transfer Tax

A 3% tax is assessed on any transfer of ownership of real estate (Art. 20 of Law #288-04). The transfer tax is paid based on the market value of the property as determined by the appraisal done by the DGII, not on the price of purchase stated in the deed of sale. The deed of sale cannot be filed at the Title Registry Office without paying this tax. The transfer tax must be paid within six months of the date of the deed of sale (Art. 7 of Law #173-07). Noncompliance is subject to fines.

Properties worth less than RD$1 million pesos acquired through a bank loan are exempt from the transfer tax (Art. 20 of Law #288-04). The RD$1 million pesos exemption is adjusted annually for inflation.

Tax on Mortgages

A 2% tax is levied on all mortgages recorded in the Dominican Republic (Art. 8 of Law #173-07).

Tax on Transfers of Motor Vehicles

A 2% tax is levied on any change of ownership of motor vehicles (Art. 9 of Law #173-07). The transfer tax must be paid within three months of the date of the acquisition. Noncompliance is subject to fines.

Inheritance and Gift Taxes

The estate of any person, Dominican or foreign, whose last domicile was in the Dominican Republic is subject to Dominican inheritance taxes. The inheritance of property located in the Dominican Republic is subject to Dominican inheritance taxes, irrespective of the nationality or domicile of the deceased (Art. 1 of Law #2569 of 1950).

Law #288-04 lowered inheritance taxes to 3% of the value of the estate, after deductions, as determined by the tax authorities. Medical and funeral expenses, as well as outstanding debts and mortgages, are some of the allowed deductions.

Beneficiaries must file a declaration with the tax authorities within 90 days of the death of the decedent. An extension for an additional three and half months is possible in complex cases (Art. 26 of Law #2569). Delays in filing are subject to a 2% per month penalty, up to a maximum of 50% of the tax owed (Art. 9 of Law #2569).

Gifts are taxed at a 25% rate (Art. 6 of Law #2569) except the following, which are exempt;

- Gifts for less than RD$500
- Gifts to government institutions or recognized nonprofit organizations
- Gifts to the family homestead ("bien de familia").

Withholding or Retentions at the Source

The Tax Code establishes the following withholdings:

- Payments abroad to persons or entities not domiciled or resident in the Dominican Republic are subject to a 29% withholding on the amount paid (Art. 305). This withholding is considered as final and definitive payment of the taxes owed for the operation. No deductions are allowed. The only exceptions to this provision are interest payments to financial institutions abroad which are subject to a 10% withholding instead (Art. 306).

- Also, payments abroad by a subsidiary domiciled in the Dominican Republic to its parent company abroad are subject to a 10% withholding (Art. 308).

- Payments to workers. Employers must retain income taxes as per the table published by the DGII (Art. 307)

- Dividends. Corporations must retain 10% of the dividends paid to shareholders (Art. 308).

- Rentals. Payments to individuals (not corporations) are subject to a 10% withholding (Art. 309).

- Fees for services and commissions. Payments to individuals (not corporations) are subject to a 10% withholding (Art. 309).

- Prizes. All payments are subject to a 10% to 25% withholding, depending on the amount of the prize.

- Government payments to suppliers are subject to a 5% withholding.