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PRACTITIONERS' CORNER

An Overview of Dominican Tax Law

by Fabio J. Guzman

Fabio J. Guzman is the director of Guzman Ariza, Attorneys at Law, a Dominican Republic national law firm with offices in Santo Domingo, Punta Cana, Sosua, Las Terrenas, Samana, and San Francisco de Macorís. E-mail: FGuzman@drlawyer.com

Taxation in the Dominican Republic is governed by Law 11-92 of May 31, 1992, commonly known as the Tax Code (*Código Tributario*), and by its amendments and regulations (*reglamentos*).

This 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 that can 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 (for example, stocks and bonds or certificates of deposits) must pay taxes in the Dominican Republic on their income from those investments (article 269). Pensions and Social Security benefits are exempt (article 2 of Regulation 139-98). For the resident foreigner, this obligation starts three years after obtaining residency (article 271).

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

The Tax Code includes a general antiavoidance provision whereby the tax authorities may ignore the existence of legal entities or some transactions when used to secure a tax advantage (article 2).

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

A summary of the most important taxes in the Dominican Republic follows.

Income Tax

For Individuals

Individuals obtaining income from a Dominican source or from financial investments abroad pays taxes according to the scale shown in the table below (article 296), in Dominican pesos.

This scale is adjusted for inflation every January based on the rate of inflation calculated by the Central Bank of the Dominican Republic. There are very few deductions.

Employers must retain and pay to the DGII, within the first 10 days of each month, any income tax due on the salaries paid to their employees the previous month (article 307). Individuals who receive incomes

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Income up to DOP 316,017 annually	Exempt
DOP 316,017 to DOP 474,024	15 percent
DOP 474,024 to DOP 658,367	DOP 23,701 plus 20 percent of income above DOP 474,024
Income above DOP 658,367	DOP 60,570 plus 25 percent of income above DOP 658,367

from nonwage sources must file a tax declaration every year, on or before March 31 (article 110 of Regulation 139-98).

For Corporations and Other Entities

Corporations and any other for-profit organizations pay a flat 25 percent income tax on net taxable income (article 297). Unlike in the United States and other countries, in the Dominican Republic the tax treatment of 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).

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All corporations 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 (article 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* (article 289). Capital gains are taxed as regular income.

For example, if an individual with an annual income higher than DOP 604,672.01 purchases a house for DOP 4 million and sells it two years later for DOP 6 million, while inflation during the two-year period is a cumulative 15 percent, the tax due on capital gains is calculated as follows:

DOP 6 million - DOP 4.6 million (DOP 4 million x 15%) x 25% tax = DOP 350,000

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

ITBIS

The tax on the transfer of industrialized goods and services (ITBIS) is a value added tax applicable to the transfer and importation of most goods and to most services (article 335). The rate of the ITBIS is 16 percent (article 341). For imports, the ITBIS is charged on the cost, insurance, and freight (CIF) value of the goods plus applicable duty (article 339).There are many exemptions to the ITBIS tax (articles 342 and 343), among them:

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

The 16 percent ITBIS 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 DGII within the first 20 days of the following month (article 353). Noncompliance is subject to a 10 percent surcharge for the first month and 4 percent for each month thereafter, in addition to 2.58 percent interest for each month or fraction of a month (article 252). From the total ITBIS received, the individual or entity is allowed to deduct any ITBIS paid to, for example, suppliers or customs (article 346).

Selective Consumption Tax

The selective consumption tax is applied to the acquisition or import of some goods and services, including the following (articles 361 and 381 to 383):

- motor vehicles;
- guns;
- tobacco products;
- alcohol products;
- jewelry;
- electronic products;

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- long-distance phone calls; and
- insurance.

The selective consumption tax varies according to the good or service taxed.

Tax on Assets

Businesses and corporations must pay a 1 percent annual tax on assets (articles 401 and 404) in two installments, due on April 30 and October 30 (article 405). For the purposes of this tax, all assets are taken into account, minus depreciation and amortization, except:

- stock holdings in other corporations;
- real estate in rural areas;
- real estate used for agriculture or animal husbandry;
- tax advances; and
- provisions for bad debts (article 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 (article 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 some conditions are met.

Real Property Tax

A 1 percent annual tax is assessed on any real property owned by individuals, based on the value of the property 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 percent is calculated only for values exceeding DOP 5 million. For unbuilt lots, the 1 percent tax is calculated on the actual appraised value without the DOP 5 million exemption. Individuals must pay this tax every year on or before March 11, or in two equal installments: 50 percent on or before March 11, and the remaining 50 percent on or before September 11.

The DOP 5 million threshold is adjusted annually for inflation.

The following properties are exempt from this tax:

- built properties valued at DOP 5 million or below;
- farm properties;
- properties whose owners are 65 years old or older, who have owned it for more than 15 years, and who have no other property in their name; and
- properties subject to the tax on assets.

Real Property Transfer Tax

A 3 percent tax is assessed on any transfer of ownership of real estate (article 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 (article 7 of Law 173-07). Noncompliance is subject to fines.

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

Tax on Mortgage Tax

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

Motor Vehicle Transfer Tax

A 2 percent tax is levied on any change of ownership of motor vehicles (article 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, regardless of the nationality or domicile of the deceased (article 1 of Law 2569 of 1950).

Law 288-04 lowered inheritance taxes to 3 percent 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. The rate is increased to 4.5 percent for beneficiaries who do not reside in the Dominican Republic (article 7 of Law 2569).

Beneficiaries must file a declaration with the tax authorities within 90 days of the death of the decedent. An extension of an additional 3-1/2 months is possible in complex cases (article 26 of Law 2569). Delays in filing are subject to a 2 percent per month penalty, up to a maximum of 50 percent of the tax owed (article 9 of Law 2569).

Gifts are taxed at a 25 percent rate (article 6 of Law 2569), except for the following, which are exempt:

- gifts of less than DOP 500;
- gifts to government institutions or recognized non-profit organizations; and
- gifts to the family homestead (*bien de familia*).

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Withholding or Retentions at the Source

The Tax Code establishes the following retentions:

- *Payments abroad* to persons or entities not domiciled or resident in the Dominican Republic are subject to a 25 percent retention on the amount paid (article 305). This retention is considered the 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 percent retention instead (article 306).
- *Payments to workers.* Employers must retain income taxes according to the table published by the DGII (article 307).
- *Dividends.* Corporations must retain 25 percent of the dividends paid to shareholders (article 308). The amount retained becomes a credit against the income tax of the corporation.
- *Rentals.* Payments to individuals (not corporations) are subject to a 10 percent retention (article 309).
- *Fees for services and commissions.* Payments to individuals (not corporations) are subject to a 10 percent retention (article 309).
- *Prizes.* All payments are subject to a 15 percent retention.
- *Government payments* to suppliers are subject to a 5 percent retention.

Dividends and interests paid by financial institutions regulated by the government are not subject to retentions (article 309). ◆

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