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COUNTRY

Doing Business in
the Dominican Republic

Preface

This guide has been prepared by Baker Tilly República Dominicana, an independent member of Baker Tilly International. It is designed to provide information on a number of subjects important to those considering investing or doing business in the Dominican Republic.

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This guide is one of a series of country profiles compiled for use by Baker Tilly International member firms' clients and professional staff. Copies may be obtained from Baker Tilly República Dominicana or any of our independent member firms.

Doing Business in the Dominican Republic has been designed for the information of readers. Whilst every effort has been made to ensure accuracy, information contained in this guide may not be comprehensive and recipients should not act upon it without seeking professional advice. Facts and figures as presented are correct at the time of writing.

Up-to-date advice and general assistance on Dominican matters can be obtained from Baker Tilly República Dominicana; contact details can be found at the end of this guide.

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1 Fact Sheet

Geography

Location	The Caribbean, occupying the eastern two-thirds of the Isle of Santo Domingo, between the Caribbean Sea and the North Atlantic Ocean
Area	48,730km ² – the second largest island in the Caribbean
Land boundaries	Haiti
Coastline	1,288km
Climate	Tropical maritime; little seasonal temperature variation; seasonal variation in rainfall
Terrain	Rugged highlands and mountains with fertile valleys
Time zone	GMT -5

People

Population	9.7 million
Religion	Roman Catholic 95%, other 5%
Language	The official language is Spanish

Government

Country name	Dominican Republic
Government type	Democratic republic
Capital	Santo Domingo (4 million residents)
Administrative divisions	31 provinces and one district
Political situation	The Dominican Republic is a representative democracy with national powers divided among independent executive, legislative and judicial branches. The President, elected by direct vote for a four-year term, appoints the cabinet, executes the laws passed by the legislative branch and is Commander in Chief of the Armed Forces. Legislative power is exercised by a bicameral congress composed of the Senate (32 members) and the Chamber of Deputies (178 members)

Economy

GDP – per capita	US\$7,000 (2007 est.)
GDP – real growth rate	8.5% (2007 est.)
Labour force	4 million (2007 est.)
Unemployment	15.6% (2007 est.)
Currency (code)	The Dominican peso (DOP)



2 Business Entities and Accounting

2.1 Corporations

The most common form of business entity is the corporation.

A corporation's net assets are divided amongst its shareholders, who participate in the profits and losses in proportion to the number of shares they own.

Corporations require a minimum of seven shareholders who may be of any nationality.

Corporations have a separate legal personality from their shareholders. As a general rule, the liability of each shareholder is limited to the extent of their investment.

By law, a corporation's given name must be accompanied by the suffix "C. por. A." or "S. A.". There is no difference between these terms.

2.2 Partnerships

There are two forms of partnership:

- General partnership, where two or more people form an association to undertake certain business activities in which all partners are jointly and severally liable for the debts of the firm. The name of a general partnership must include the personal or business name of at least one of the trading partners, accompanied by the suffix "Asociados"
- Limited partnership, where there are two types of partners with different liabilities and different methods of contributing to the partnership.

2.3 Foreign Branches

An overseas company can have a permanent establishment in the Dominican Republic through a branch. For the purposes of operating in the country, it is generally recommended that the branch sets up a domicile in order to enjoy the same rights as locally incorporated companies and to assure its compliance with applicable laws.

An alternative option for foreign investors is to set up a subsidiary company by purchasing all or part of the stock and/or assets of a corporation already incorporated in the country.

2.4 Accounting and Filing Requirements

All businesses must maintain proper books of accounts and are required to keep accounting records and associated documents for a minimum of ten years.

Corporations must have their accounts audited by a qualified accountant only when capital contribution exceeds DOP5m.

3 Finance and Investment

3.1 Exchange Control

There are few exchange controls in the Dominican Republic. Exchange rates are determined by the market.

Foreign remittance requires approval only where a capital contribution for a foreign investment is filed in the Dominican Central Bank.

3.2 Banking and Sources of Finance

The following financial entities exist:

- Multiple banks: limited liability companies authorised to collect deposits from the public that can be withdrawn upon demand and can undertake any type of bank operation
- Credit entities: limited liability companies that collect money through savings and time deposits
- Saving and loan associations: mutual entities without corporate structure
- Saving and credit co-operatives: entities without a corporate structure, but which are subject to regulation by the monetary authorities.

Financial institutions generally grant short or medium-term loans (1 – 5 years).

Construction financing, mortgages and government funding can be long-term (10 – 20 years).

Foreign banks are permitted to operate in the Dominican Republic and are treated in the same way as local financial entities.

3.3 Foreign Investment

The main characteristics of foreign investment in the Dominican Republic are:

- Equal treatment of both local and foreign investment
- Elimination of restrictions on capital contribution
- Simplified procedure of registering foreign investment
- Free repatriation of dividends and contributed capital.

The fact that a foreign investment is not registered in the Central Bank does not affect the validity of such investments. However, the investor may find it difficult to freely

repatriate its funds abroad given that without a Certificate of Foreign Investment they will not be able to go to the commercial banks to buy the foreign currency necessary to remit abroad the dividends obtained or the capital invested.

3.4 Foreign Investment Incentives

A number of schemes are available to foreign investors offering valuable incentives for investment in the Dominican Republic. These incentives are wide ranging and may include restrictions. It is recommended that potential investors seek local advice.

4 Employment Regulations and Social Security

4.1 Residence and Work Permits

Regulation for foreign employees is liberal and work permits can be obtained with relative ease. However, at least 80% of a company's workforce must be Dominican citizens. Supervising officers should preferably be Dominicans, but there are no nationality restrictions at manager level.

When a Dominican citizen substitutes a foreign citizen in an employment position, the Dominican employee is entitled to the same salary, rights and conditions as the foreign employee. Additionally, during periods of lay-offs, foreign citizens are the first to be laid-off.

4.2 Working Terms and Conditions

The Labour Code (Law No. 16-92), regulates the relations between employers and their employees.

4.3 Engagement and Dismissal

During the first three months of employment workers can be dismissed without the employer being liable for severance payments. Afterwards, employees can be dismissed in accordance with the provisions of the Labour Code.

Dominican labour law recognises written and oral contracts, but termination of a contract must be made in writing and is subject to minimum notice periods based on the period of employment.

An employer cannot terminate the contract of a female employee during pregnancy and up to three months after the birth without just cause. Furthermore, in order to dismiss her with just cause the employer must obtain the prior authorisation of the Ministry of Labour, amongst other formalities.

4.4 Working Week

The normal working week is 44 hours, with an eight hour working day. The usual practice is to work 40 hours from Monday to Friday and, in some companies, the remaining four hours on Saturday.

Part-time employees cannot exceed 29 hours per working week.

4.5 Wages

The monthly minimum wage for private sector employees, periodically adjusted by the National Salaries Committee, is currently:

Companies with assets over DOP4m	DOP6,400
Companies with assets between DOP2m-4m	DOP4,400
Companies with assets below DOP2m	DOP3,900

Minimum wages are fixed for certain other industry sectors:

Free zone companies	DOP4,450
Tourist sector	DOP3,030

Overtime, night and holiday work attract additional premiums over the basic wage:

Overtime	35%
Night work	15%
Overtime resulting in an increase of more than 68 working hours per week	100%
Sundays and holidays	100%

4.6 Paid Leaves of Absence

Mandatory paid leaves of absence are:

Marriage	five days
Death of a close family member	three days
Paternity leave	two days

4.7 Fringe Benefits

- Christmas bonuses – all employees are entitled to receive by 20 December an additional month's salary.
- Participation in company profits – employees are entitled to receive a 10% participation in the company's annual net profits, not exceeding 45 days' salary for workers at the company less than three years, and 60 days' salary for those at the company more than three years. Mining, industrial, agricultural and forestry companies are exempted from this obligation during the first three years of operation. Free zone companies, regardless of their capital, and agricultural companies with capital no more than DOP1m, are completely exempted.

- Vacations – the amount paid to the employee for annual vacations depends on their seniority – an employee who has been with the company between one and five years is entitled to 14 days' salary. An employee with over five years of service is entitled to 18 days' salary.

4.8 Labour Unions

Labour unions may be formed with a minimum of 20 workers. The Government Labour Department recognises a union upon notification of its bye-laws and membership list. Some unions are under collective bargaining agreements, which bring together two or more unions with one or more corporations or employer associations to form a collective pact. Pacts must register through the Government Labour Department for a period of no greater than three years. Pacts establish salaries, working conditions and fringe benefits. If a company is under a pact, all employees, whether members of the unions involved or not, receive the same conditions.

4.9 Social Security Obligations and Contributions

There are three regimes for the payment of social security obligations:

- Contributive regime – applies to employees in public bodies and private companies and is financed jointly by employers and employees
- Subsidised regime – applies to unemployed or disabled persons and is financed by the State
- Mixed regime – applies to independent professionals and is financed by the beneficiary and the State.

Under the contributive regime, contributions are:

Contribution of Worker's Salary (%)	Total Amount	Employer Contribution	Employee Contribution
Pension	9.47%	6.75%	2.72%
Health insurance	10.03%	7.02%	3.01%
Insurance against labour risks (depending on level of risk involved in the job)	1% – 1.6%	100%	0%
Social solidarity fund (established by law)	0.4% of salaries	100%	0%

When calculating health insurance contributions, it is important to consider that the top contribution is limited to the equivalent of ten minimum wages. Anyone earning more than this does not pay for the difference in excess of that amount.

For pensions, the top contribution is calculated based on the equivalent of 20 minimum wages.

It should be noted that for insurance against labour risks, the law provides the possibility of a reduction in the applicable rates as an incentive for a company to improve safety conditions.

5 Taxation

Taxes are imposed on a territoriality basis so all income from Dominican sources is taxable.

Locally imposed taxes include assets tax, property tax, inheritance tax, excise tax, transfer tax, stamp tax and value added tax (VAT).

Residents and non-residents are treated equally under the Dominican Tax Code.

Residents are:

- Dominicans (born or naturalised)
- Aliens with a permanent address in the Dominican Republic
- Aliens residing in the country for at least 182 days over a 12-month period (continuously or not continuously).

Resident aliens are subject to income tax on their financial income from remittances abroad after the third year from the day they became resident.

Certain entities are tax exempted – government institutions and related offices, chamber of commerce, religion institutions, civil organisations of social assistance, social, artistic and scientific centres and sport associations.

5.1 Income Tax

The corporate tax rate is 25% of taxable income.

Taxable income is calculated by applying allowable expenses against the corporate operating income. Brought forward losses and inflation adjustments are deducted in arriving at taxable income.

Certain corporations are subject to a special tax rate:

Type of Industry	Tax Rate
Transportation	10% of gross income
Insurance	10% of total premium
Film and movie distribution	15% of total income
Communication	15% of gross income
Agriculture and forest	10% of total fixed asset
Sole tax rate for entrepreneurial*	15% of total income

*Corporations or sole proprietorship with annual income.

5.2 Filing Date

The deadline for filing a corporate income tax return is within 120 days after the year-end. There are four permissible year-ends – 31 March, 30 June, 30 September and 31 December. The tax year must be 12 months unless prior agreement is obtained.

5.3 Carried Forward Losses

Net operating losses can be carried forward for five years to offset future taxable income. Annually, 20% of the total losses can be deducted in each of the next three years; in the fourth year 20% of 80% of taxable income for that year (ie a 16% of the fourth year taxable income) can be deducted; and finally, in the fifth year, a 20% of 70% of taxable income for that year (ie a 14% of the fifth year taxable income) can be deducted.

The portion of the operating losses not compensated in a year cannot be transferred to subsequent years. This rule does not apply for a newly incorporated company during its first two years of operation.

5.4 Advance Tax Payments

Corporations are required to make monthly advance income tax payments throughout the year.

- If in the previous year the income tax return filed was lower than 1.5% of the gross income, the monthly advance is equivalent to 1.5% of the prior year total income paid in 12 instalments.
- If in the previous year the income tax return filed was higher than 1.5% of the gross income, the monthly advance is equivalent to the prior year total income tax filed paid in 12 instalments.

If the advance tax payments are higher than the income tax filed in a year, the excess paid becomes a tax credit available for offset against the following year's income tax return.

5.5 Double Tax Avoidance

Withholding tax from dividends distributed to shareholders can be used as a tax credit against the next year's corporate income tax.

5.6 Asset Tax

Asset tax is calculated at the rate of 1% of the total corporate assets (net of depreciation and other provisions) and is levied on corporations only if at the filing date 1% of total assets exceeds the amount resulting from applying the corporate tax rate to the net taxable income. In this situation, corporations pay the greater amount, credit is given for the advance tax payments made for corporate income during the year and the balance is payable in two instalments – 50% with the presentation of the declaration for the annual tax return and the remaining 50% six months later.

Corporations in a free zone or those benefiting from an income tax exemption are not subject to this tax. Intensive asset corporations may apply for a temporary exemption under certain conditions.

5.7 Capital Gains

Capital gains are subject to a 25% tax rate. For corporations, capital gains are determined by deducting from the sales price the historical cost of the property adjusted by the annual inflation adjustment based on the Consumer Price Index (CPI) published by the Central Bank related to the acquisition year.

5.8 Withholding Tax on Payments Abroad

Dividends, royalties and payment of services remitted by domestic and/or foreign companies to entities abroad are subject to a 25% withholding tax during 2007.

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

5.9 VAT

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

A wide range of agricultural and livestock goods are excluded from ITBIS; fuel and energy, books and magazines and medicine are exempted.

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

5.10 Other Taxes

A share issuance tax of 1% of the amount of shares issued is charged on companies on incorporation.

Stamp tax is levied on a wide range of official documents.

Inheritance tax is charged at the rate of 3% on the assets passing on death.

Gift tax is charged at the rate of 25% of the gift value without any regard to the relationship between the parties.

Property tax is charged at the rate of 1% on any real state property exceeding DOP5m that is owned by individuals and located in an urban site. This threshold is subject to annual inflation adjustment.

Real estate transfer tax is charged at the rate of 3% over the transaction value or the market value of the property, whichever is greater.

Securities transfer tax is charged at the rate of 2% over the transaction value in the contract. Securities listed on the Dominican Stock Market are exempted from this tax.

5.11 Double Tax Treaties

Currently the Dominican Republic has a tax treaty with Canada.

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

Under the Tax Information Exchange Agreement with the United States, the tax authorities from both countries can share tax information regarding the entities or individual nationals from either country with operations in the other country.

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Notes



Notes



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