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# Tax Alert

KPMG in the Dominican Republic

**Tax and Legal Practice**
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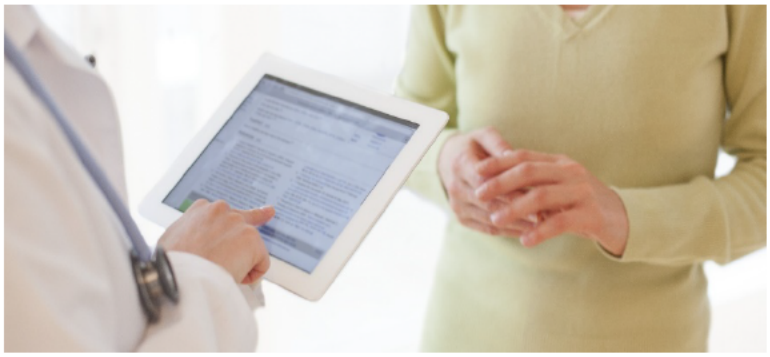
## The Dominican Tax Authority is drafting a proposal with the purpose of modifying and updating certain provisions of Title I of the Dominican Tax Code.



Last week, the Dominican Tax Authority ("DGII" for its Spanish acronym) announced a draft of a proposal to modify and update certain provisions of Title I of the Dominican Tax Code. The draft is to be subject to a public consultation before being submitted to the Congress.

An overview of the most relevant tax changes set forth by the draft proposal reveals the following: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- The draft proposes that surcharges imposed for delayed payment of taxes would be reduced to a rate of three percent (3%) per month or fraction thereof and would not in any event be greater than the amount of the original underlying tax due.

- A "taxpayer's rights plan" would serve as a framework for compliance with certain duties and tax obligations as well as the "National Office for the Defense of Taxpayer's Rights".

- An "electronic administration" would aim to optimize the reception and remittance of notifications through the DGII's virtual portal. This would include updates regarding the DGII's virtual portal, enabling its mailbox to serve as a means of receiving requests from taxpayers (and not exclusively used to notify taxpayers of certain legal proceedings).

- Tax refund processes would be modified and improved so that:

  - Compensations are carried out automatically.
  - Taxes paid in excess of amounts due could be offset against any type of tax (including advanced corporate income tax payments and penalties of any nature); and,
  - Compensatory interest would be available for taxpayers when there are unreasonable delays are attributable to the DGII.

- The proposal would establish a new statute of limitation for the collection of tax debts, in addition to the existing statute of limitation establishing the time period to perform a legal action in order to pursue the collection of taxes.

- Rules regarding technical rulings/consultations issued by the DGII would be modified so as to apply the principles of publicity and equality; thus, all technical rulings/consultations would have to be published by the DGII, making these rulings binding to all taxpayers operating under the same conditions as the taxpayer making the request.

- Rules regarding the burden of proof or the rules of evidence in matters before the courts would be improved, and would include a shifting of the burden of the proof to the DGII when the evidence is in possession of the tax authority.

- Direct or indirect shareholders with participations exceeding thirty percent (30%) ownership of a domestic

entity would be jointly liable for any noncompliance regarding the local entity's tax obligations. In addition, a there would be a procedure whereby the DGII would from the outset notify such shareholders of any procedures to enforce any outstanding tax obligations, hence making them liable for such potential payment.

- Rules regarding the procedure of administrative sanctions would be revised, and rules regarding criminal autonomy versus administrative sanctions would be introduced.

- One unique measure would be established at the Superior Administrative Court regarding appeals (*Recursos Contenciosos*) before the DGII. In addition, a new appeal (*Recurso Contencioso Sumario*) would be created regarding all acts of an executor and administrative closures.

- Administrative representation would be allowed and admitted by any legally available means.

- There would be revisions regarding the rules for assumptions used to determine the presumed base for the determination of a tax obligation.

- There would be provisions regarding mutual assistance and international collaboration.

- A search warrant would be required for the purpose of conducting inspections in closed places or personal dwellings.

- Criminal procedures relating to tax crimes/offenses would not be suspend and would not be used to obstruct administrative procedures on enforcing sanctions for such violations. Additionally, a ruling, resolution or decision resolving such a procedure would not affect the outcome of other procedures or the enforcement of decisions.

- Illegal disclosure of reserved or confidential information would be established to be a criminal offense if made by any official or employee of the tax administration, when the official or employee fails to comply with the duty of protecting such confidential data.

KPMG confirms its interest in providing its tax and legal advisory services, concerning any current or prospective operations which may be affected by the draft bill being proposed to the Dominican Congress.

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If you have any questions, email us at do-fmkpmg@kpmg.com

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