



Guatemala | Salvador | Honduras | Nicaragua | Costa Rica | Panama | Dominican Republic

**REGIONAL GUIDE FOR THE PROMOTION  
OF TOURIST DEVELOPMENT  
2016**

## Guatemala

The historical, natural and cultural heritage of Guatemala can be found throughout the breadth and length of its territory, and the magic and mystery of the Mayan world is alive in millenary cities such as Yaxhá, Tikal, Aguateca, Quirigua, among others.

Guatemala is a multicultural country that has made significant strides in establishing macroeconomic stability and democratic consolidation, improving access to foreign markets through various trade agreements. According to the World Bank, the Guatemalan economy is the strongest in Central America.

Guatemala has maintained a substantially stable economic growth during recent decades. A prudent macroeconomic management allowed the country an annual average economic growth of 4.2% between 2004 and 2007. After the 2008-2009 global financial crisis, the economy has recovered at a moderate but steady pace, with growths of 3.0% in 2012, 3.7% in 2013, an estimated 4.2% in 2014, and 3.6% in 2015, driven by consumer spending and an increase in exports and remittances, according to data from the World Bank.

In recent years, tourism in Guatemala has been the second largest foreign currency generating sector after family remittances, and has outperformed the main import products, according to statistics from the Guatemalan Institute of Tourism (INGUAT).

In July 2015, the revenues generated by tourism reached US\$1,256,566, representing a slight growth of 3.3% in comparison with the previous year. The type of traveler is distributed as follows: 26% campers (day-trippers) and 74% tourists.

The main countries of origin of the 2015 tourists include: El Salvador (38%), United States (24%), Honduras (9%), Mexico (7%), Nicaragua (3%), Costa Rica (2%), Colombia (2%), Belize (1%), Spain (1%), and Canada (1%), representing 88% of all the foreign visitors.

In July 2015, Guatemala received US\$139.5 millions in foreign currency generated by the tourism industry, which represents a 2.8% increase over the previous year, according to the Guatemalan Institute of Tourism. During the first half of 2015, the

tourism sector generated US\$912.1 million in revenues, a 3.4% increase over the same period of the previous year.

This Central American country has begun to exploit new sources of tourism activities, such as agritourism, bird watching, mountaineering, and is making efforts to improve air connectivity and facilities for cruise ships in order to attract more foreign visitors.

At present, there is no specific law for tourism in place in Guatemala.

On February 27, 2016, the Congress of the Republic of Guatemala passed –deeming it a national emergency – the Emerging Law for the Conservation of Employment, which represented a big step forward in preserving and generating new investments, mainly in the field of call centers and textiles, as well as in promoting job creation, mainly in urban areas. The law seeks to preserve at least 80,000 jobs, and has the potential for creating up to 50,000 direct jobs.

This law is not strictly aimed to the tourism sector, but nonetheless it applies to it and will benefit it.

## **DECREE NUMBER 19-2016**

### **EMERGING LAW FOR THE CONSERVATION OF EMPLOYMENT**

This law was created by virtue of the commitment undertaken by the State of Guatemala in the year 2010, to eliminate export subsidies prohibited by the World Trade Organization in the subsidy programs notified to such organization, with the exceptions provided for in the agreements of the World Trade Organization prior to December 31, 2015.

Among the subsidy programs notified to the World Trade Organization, is Congressional Decree number 29-89, Law for the Promotion and Development of Export Activities and Drawback; and Decree number 65-89, Free Trade Zones Law, both of which have been amended by the enactment of the Emerging Law for the Conservation of Employment.

## El Salvador

---

Full of attractions to discover, El Salvador offers to visitors over than 300 kilometers of coastline, majestic volcanoes and an extensive system of national parks and reserves; also the culture of its rich colonial towns and archaeological sites, vestige of a historical past.

Known as the country of short distances, El Salvador allows to the tourists the pleasure of having breakfast at the beach, lunch in town and dinner at the mountains; all the mentioned in only one day. A great place to enjoying a wonderful holiday destination.

According to the Ministry of Tourism, for its acronym in Spanish (“MITUR”), the growth rate reported in monetary terms is up to US\$ 1.187.05 million obtained through foreign currency. That information is up to date until the second quarter of 2016, which it is considered as a record number for the country in 34 years. The result before mentioned is reached through an investment of US\$2.9 million in tourism projects in 2015.

In words of the Minister of Tourism, this industry in our country, is proving to be a very generous area, businessmen are increasingly investing in this sector generating jobs, resulting in greater supply and competitiveness for visitors. To continue with the developing and maintaining competitiveness of tourism, the Inter-American Development Bank, for its acronym in English (“IDB”) will invest US\$25 million in the coastline fringe, a project that will benefit and promote the tourism industry in 11 municipalities in the departments of La Libertad and Usulután.

**DECREE # 899**  
**TOURISM LAW**  
**CHAPTER I**

**OBJECTIVE AND DEFINITIONS**

Art. 1 – The objective of this Law is to foster, promote, and regulate the tourism industry and services of the country provided by domestic or foreign natural or legal persons.

Art. 2 – For the purposes of this Law, these terms shall be understood as follows:

- a) Tourism or tourist activities: Activities carried out by individuals during their trips to areas different from their normal place of residence, for a period of less than one year and with the objective of rest or recreation.
- b) National Tourism Resources: All recreational, archeological, cultural and natural resources found within the country and considered as or developed to be tourist attractions.
- c) Tourism Industry and Services: Activities carried out by providers of goods for consumption by tourists and service providers for tourist activities, as well as public and private institutions related to the promotion and development of tourism in El Salvador.
- d) Tourist: anyone who stays at least one night away from their usual place of residence and performs tourist activities.
- e) Project of National Tourism Interest: Project or Master Plan for construction, remodeling, or improvement of tourism infrastructure and services that is recognized as such by the Executive Body of the Tourism Branch due to its recreational, cultural, historical, natural, or ecological nature that makes it eligible to enjoy the incentives granted by this Law.
- f) Tourism Region, Zone, or Center of National Interest: Place or area of the national territory that, due to its characteristics, represents a real or potential tourist attraction but which lacks necessary infrastructure or services for its development, and which is declared as such by the Executive Body of the Tourism Branch.
- g) Tourism Companies: Companies that offer and provide services to tourists including information, transportation, lodging, food, and recreation.
- h) CORSATUR: Salvadoran Tourism Corporation

- i) Shipping/Short-Haul Flights: Air or maritime transportation services provided within the national territory for tourism.
- j) Construction: Creation or construction of new work.
- k) Expansions: Constitute a complementary investment to enlarge an already existing work.
- l) Remodeling: Is the change in the structure or form of architectural work that increases its value.
- m) Improvements: Are those introduced in already existing works or structures, substituting certain parts, increasing their value.

Art. 3 – In the text of this Law, references to the Executive Body of the Treasury Branch, or the Ministry of the Treasury, will be understood as alluding to the Departments of this Branch charged with overseeing these types of taxes.

## **CHAPTER II**

### **COMPETENCIES IN MATTERS OF TOURISM**

Art. 4 – State Department/Ministry of Foreign Affairs that, according to the Internal Regulations of the Executive Branch, is the body in charge of matters of tourism, heretofore referred to as the State Department/Ministry of Foreign Affairs, must establish the National Tourism Policy and Plans and ensure their fulfillment, as well as compliance with the objectives in the current law and its regulations.

The governmental authorities whose powers include the conservation of the natural, cultural, and historic assets of the country will ensure the integral use, preservation, and restoration of said national tourism resources in close collaboration with the State Department/Ministry of Foreign Affairs.

Art. 5 – The State Department/Ministry of Foreign Affairs will create and execute studies and projects to allow for the identification of areas for tourism development.

Art. 6 – The State Department/Ministry of Foreign Affairs will exert oversight for strict compliance by the tourism companies of the obligations set forth in this law and its Regulations, particularly those companies that obtain corresponding certification and

classification from the National Tourism Registry, in order to maintain said services valid and pertinent to the applied classification and category.

Art. 7 – The State Department/Ministry of Foreign Affairs may order inspections of the establishments that provide tourism services, and business owners or their agents or dependents will facilitate access for accredited delegates to their facilities and documents related to the provision of tourism services in the following cases:

- a) When interested parties request inscription to the National Tourism Registry as tourism companies;
- b) When interested parties request the granting of the fiscal incentives set forth in this law;
- c) When knowledge is obtained through any means possible of non-compliance with the legal obligations to which tourism companies are subject;
- d) In any other case in which the purpose is to assure compliance with this law or with international conventions.

Art. 8 – Natural, archeological, and cultural resources that make up the tourism inventory of the country will be preserved and protected by the institutions charged with such responsibilities. State or municipal entities and bodies that have the legal power to authorize construction or infrastructure will be obligated to respect and maintain the touristic vocation of said resources and their scope of influence. Authorized construction and infrastructure must be compatible with the elements necessary for tourism development of these resources.

### **CHAPTER III**

#### **NATIONAL TOURISM REGISTRY**

Art. 9 – There will be a National Tourism Registry, which will be of national scope and under the jurisdiction of CORSATUR, tasked with administration and control of the Registry. Tourism companies operating in the country which enjoy the benefits of the incentives granted by this Law may register in the Tourism Registry upon request and compliance with legal requirements.

## **CHAPTER IV**

### **OBLIGATIONS OF REGISTERED PERSONS**

Art. 10 – The owners of tourism companies included in the Registry, whether or not they receive the fiscal incentives set forth in this law, will have the following obligations:

- a) Strict compliance with the dispositions this law and its regulations
- b) Provision of information and documents requested that are related to the development of their activities; this information will be treated confidentially, except for use in consolidated data regarding the tourism sector and its activities;
- c) Permission of entrance of duly accredited officials and employees into their facilities upon request.

In this case, the State Department/Ministry of Foreign Affairs must provide corresponding identification for its delegates, which must be up to date and worn in a visible location. Said officials or employees may not disclose confidential information provided by the Tourism Companies, opposite case they will remain subject to pertinent legal sanctions.

Art. 11 – Those persons who enjoy the fiscal incentives set forth in this Law, in addition to the previous stipulations, must also comply with the following obligations:

- a) Use the fiscal incentives granted exclusively for the promoted activity.
- b) Comply with the current legal dispositions for tourism infrastructure, quality norms, and service provision.
- c) Communicate any modifications to the plans and projects of the company to the State Department/Ministry of Foreign Affairs within ten business days following the modification, and report sale or transfer of assets or shares within ten business days after sale or transfer.
- d) Allow and facilitate inspections by duly accredited delegates from the State Department/Ministry of Foreign Affairs as well as from the Ministry of the Treasury, providing access to documentation and information relative to the activity for which the incentive has been provided, as requested.

Art. 12 – Tourism companies are required to facilitate truthful and objective information to tourists regarding destinations and travel conditions, reception, and lodgings.

Additionally they must ensure absolute transparency regarding the clauses proposed to their clients in reference to the price, reservations, and quality of the facilities committed.

Art. 13 – Tourism companies, in cooperation with public authorities, will work to guarantee security, accident prevention, sanitation, and food hygiene of those who acquire their services.

Art. 14 – All tourism infrastructure and activities will be designed in a way such as to protect the natural assets of ecosystems and biodiversity and to preserve endangered species and wild flora and fauna.

Companies that carry out tourism activities will be subject to the limitations imposed by the authorities when their activities occur in particularly vulnerable areas such as coastlines, tropical forests, or wetlands; these areas may be ideal for the creation of natural parks or protected reserves.

Art. 15 – Tourism policies and activities will be done with respect to artistic, archeological, and cultural patrimony; these policies and activities will be organized in a way such as to allow cultural, artisanal and folk production to survive, enhance, and flourish.

## **CHAPTER V**

### **INCOME FOR TOURISM PROMOTION**

Art. 16 – A special contribution will be established for tourism promotion, which will have two different trigger sources:

- a) Payment for lodging, made by taxable entities, in any establishment that provides such a service;
- b) Exit of a taxable entity from the national territory by air transportation.

In the first case, the special contribution for the promotion of tourism development will be 5%, calculated based on the daily price of lodging services used by the taxable individual. The amounts paid for Taxes upon Real Properties and Services, as well as the price of any other service not strictly for accommodations, will be excluded from that base calculation.

In the second case, the amount of the special contribution will be of seven US Dollars (\$7.00) per person when leaving the country.

Exits of flight crew members of commercial and military flights from the national territory, national and foreign official missions, national or foreign sports delegations, and representatives of international organizations, will be exempt from payment of the special contribution for promotion of tourism development. Qualification for said exemption must be requested of the Ministry of the Treasury by the Executive of the Foreign Relations Branch.

Art. 17 – The special contribution in the previous article will be collected by the hotel establishment used by the taxable subject, or the airline that provides the transportation services. Collection will be carried out at the time of payment for services, and the amount of the special contribution must be specified separately in the receipt document that is provided to the client according to pertinent fiscal law.

Art. 18 – The company responsible for collection of the contribution must transfer the collected resources from the previous month to the General Fund of the State within the first ten business days of each month, through a declaration made via special forms provided by the Tax Administration.

Sanctions for non-collection or for non-payment of collected amounts to the treasury will be established in Art. 246 of the Tax Code. Implementation of these sanctions by the Ministry of the Treasury will follow the procedures established in the aforementioned legal body. In these cases the Ministry of the Treasury will have the power to determine the amount that was not collected.

Art. 19 – In annual budget allocations for CORSATUR in the General State Budget, the projected amounts to be collected through the payments of special contributions

established in Art. 16 of this law will be included. This allocation may be expanded with prior approval from the Legislative Assembly.

## **CHAPTER VI** **PROMOTION OF THE TOURISM INDUSTRY**

### **Section A**

#### **Benefits and Incentives**

Art. 20 – The benefits and incentives that are set forth in this Law are oriented to promoting the development of tourism in the country, increasing national and foreign investments to that end, and decentralizing and augmenting employment opportunities in the tourist areas of the country.

Art. 21 – All natural or legal persons and tourism companies inscribed in the Registry may enjoy the general benefits described below:

- a) Inclusion in the catalogue of El Salvador tourism services published by CORSATUR;
- b) Information and support from the State Department/Ministry of Foreign Affairs in dealings with diverse governmental offices when warranted by national tourism interests;
- c) Support from the State Department/Ministry of Foreign Affairs when requested by associations in the tourism sector and in the interest of the national tourism effort.
- d) Participation in contests for prizes or recognition for the tourism industry that are sponsored by the State Department/Ministry of Foreign Affairs;
- e) Support for governmental or private entities and organizations in the creation of national parks or natural protected areas, when these areas truly fall under the scope of tourism.

### **Section B**

#### **Conditions and Regulations for Granting Incentives**

Art. 22 – The Secretary of State/Ministry of Foreign Affairs, through the respective agreement, will be in charge of awarding the classification, or rejection of the Projects of National Tourism Interest, upon favorable opinion from the Ministry of

Treasury, the Ministry of the Environment and Natural Resources and the Secretariat of Culture of the Presidency of the Republic, to those investments that exceed fifty thousand dollars of the United States of America (US\$ 50,000.00). For those investments below fifty-thousand dollars of the United States of America (US\$ 50,000.00), the favorable opinion of the Ministry of the Environment and Natural Resources, of the Secretariat of Culture of the Presidency of the Republic, and of the Ministry of Tourism, will be enough.

The awarding of the referred fiscal incentives in an associated manner will only apply when investment projects are carried out within the same geographic area. These areas can be located in any part of the country with tourism orientation.

The monitoring and control of the investments made with the benefits established in the present Chapter will be the responsibility of the Secretary of State/Ministry of Foreign Affairs through duly identified delegates, authorized by it.

Art. 23 – Oversight and control of the fiscal regime of the incentive-backed activities will be the responsibility of the Executive Branch in the Treasury Field, as warranted. Despite this, natural or legal persons who carry out auditing functions, and who concretely carry out said functions with respect to the financial statements of the companies receiving support through this Law, will be asked to examine and assess the correct use and application of the incentives.

Art. 24 – The goods imported through incentive clauses set forth in this Law may not be transferred to third parties before the timelines established in the regulations of this law.

These goods must be re-exported, or taxes that existed at the moment in which the free introduction into the country was granted must be paid, when the benefitted company ceases to operate in the country before the expiration of the timeframe set forth in the regulations of this Law, unless they are transferred in keeping with the exceptions established for this effect in the same regulations.

## **CHAPTER VII**

### **INFRACTIONS AND SANCTIONS**

Art. 25 – The possible infractions committed by tourism companies under this law are the following:

- a) Non-authorized use of authorized fiscal incentives and goods imported under the incentives in this law, or not duly designating the goods imported through the law as for exclusive use in the activity for which the incentive was granted.
- b) Providing false information to the entities or organizations mentioned in this law, or not providing required information to the corresponding authorities.
- c) Forging inscription in the Registry
- d) Charging taxes, rights, or other tributes for service provision that are not established in law.
- e) Not reporting the sale or transfer of assets or shares mentioned in Art. 11, Section C.
- f) Denial or hindering the supervisory functions of the competent authorities.
- g) Non-appearance with no justified cause to legal summons made by the aforementioned institutions, according to their respective legal functions.
- h) Commission of discriminatory acts based on gender, nationality, ethnicity, sexual preference, religion, or other traits in the course of providing tourism services.
- i) Non-compliance with any other obligation not specified in this article, whether contained in this law, its regulations, or in any other law that regulates the issue.

Art. 26 – Infractions to this law will be sanctioned as follows:

- a) MINOR: Fine of twenty current minimum wages applicable to the industry in the city of San Salvador
- b) MAJOR: Fine of thirty current minimum wages applicable to the industry in the city of San Salvador
- c) SEVERE: Fine of forty current minimum wages applicable to the industry in the city of San Salvador

The specified sanctions will be applied without prejudice with regard to other laws that cover the same acts or omissions. Compliance with these sanctions will not exempt the offender from compliance with the obligations regulated in this law.

Art. 27 – For the effects of the previous article, severe infractions will include those contained in sections a, b, c, and d of Article 25; major infractions will include sections e and f; and minor infractions will include those contained in sections g and h.

When an infraction sanctioned with a severe penalty occurs, the Agreement granting incentives will be definitively revoked, and the inscription of the company in the Registry will be cancelled. The same measures may be taken in the case of repeated major penalties.

Any other infractions against this law, its regulations, or any other law on the issue, will be sanctioned in the same manner as the serious infractions described in the law.

Art. 28 – The State Department/Ministry of Foreign Affairs may order an investigation of infractions and apply sanctions for violations of the stipulations of this law and its regulations.

## **CHAPTER VIII**

### **SANCTIONS PROCESS**

Art. 29 – Any stakeholder may request an investigation for the purposes of enforcing the responsibilities that stem from the infractions against this law and its regulations.

Art. 30 – When the State Department/Ministry of Foreign Affairs, from any source, obtains knowledge of non compliance with the legal obligations of the titleholders of tourism companies, it is obligated to immediately begin the corresponding investigation processes.

Art. 31 – The State Department/Ministry of Foreign Affairs will investigate the acts for which complaints have been filed, and if in the corresponding report it appears that there has been

an infraction against this law and its regulations, a corresponding administrative file will be opened

The State Department/Ministry of Foreign Affairs will notify the presumptive offender, providing a copy of the report mentioned in the previous paragraph, in order to schedule a hearing within three business days starting the day following service and notification.

Art. 32 – Once the aforementioned deadline has passed, if warranted, the file will be opened for evidence during ten business days counted from the day following service and notification, for any pertinent evidence to be provided. Once the evidence period is over, if appropriate, a resolution will be emitted and a sanction will be imposed, if applicable, in keeping with the stipulations of this law.

Art. 33 – After the resolution is emitted, reversal appeals will be admitted within three business days following notification of the resolution. If the reversal is submitted on time, the head of the State Department/Ministry of Foreign Affairs will resolve in the following hearing.

Art. 34 – All fines assessed by virtue of this law must be paid within five business days following the date in which the sanctioned entity is notified of the definitive resolution.

Art. 35 – The statute of limitations for investigation and imposition of sanctions derived from infractions against this law and its regulations is of six months for minor and major infractions, and of one year for those infractions considered to be severe; in both cases the deadlines are calculated starting on the date on which the infraction was committed.

## **CHAPTER IX**

### **TEMPORARY STIPULATIONS**

Art. 36 – During a period of five years counted as of the validity of the present Law, any new investment that is classified as a Project of National Tourism Interest according to what is regulated by Art. 22 of this Law, for an amount equal to or

greater than twenty-five thousand dollars of the United States of America (US\$ 25,000.00), will be entitled to the following incentives:

- a) Exemption from the Tax to the Transference of Real Estate that affects the acquisition of the real estate property or properties destined for the project.
- b) Exemption from import duties on its assets, equipment and accessories, machinery, vehicles, aircrafts or watercrafts for coastal navigation, and the construction materials for the buildings throughout the project. The exempted amount shall not be greater than 100% of the invested capital of the referred project.
- c) Exemption from payment of Income Tax for a period of ten years, counted as of the beginning of operations.

For the application of the present exemption, the following rules must be obeyed:

1. The exemption to which the present subsection refers to will be applicable to income generated by the new investment, for which the beneficiary must keep separate records that allow for complete identification of such income, so that these are not included as taxable income and besides, that it allows for identifying the beginning and end of the fiscal benefits period.
2. When it is not possible to identify the income generated by the new investments, such as improvements or renovations, the amount of the exempted income will be determined by fiscal year or period, applying a factor to the total income from the tourism activity. Such factor will be calculated dividing the value of the new investment by the total value of the movable and fixed assets related to the tourism activity, owned at the closing of the fiscal exercise immediately before the classification of the project.
3. Not favored with exemption is the maintenance or partial or total repair of real estate, equipment, machinery and other movable goods; besides, that maintenance that implies the substitution of assets due to their normal use in the activity carried out.
4. The individuals or legal persons that are already established and that are the representatives of tourism companies and that meet all the requirements regulated in this Law, can enjoy the incentives, provided the Project of National Tourism Interest of the investment consisting of the expansion, remodeling or improvement is equal to or above twenty percent (20%) of the value of the movable assets or real estate

related to the tourist activity, owned at the closing of the fiscal exercise immediately before the classification of the project.

The twenty percent (20%), in any case, cannot be lower than the amount established in subsection one, part one, of this article.

5. Within the exemption period of the present subsection, if the holder of a Project of National Tourism Interest decides to carry out an expansion, improvement or remodeling of the approved project, the exemption period will extend for another ten years, counted as of the date when the Ministry of Tourism classifies the new project. In this case, the investment in the expansion, improvement or remodeling project must be equal to or greater than twenty percent (20%) of the initially approved investment.

The extension period for enjoying the exemption can be requested only once during the period established in subsection one of this article.

6. In any case, the benefits established in this paragraph will end when the ten-year period expires or, in its case, when the exemption from income tax reaches the amount of the value of the rated project(s).

For the effects of the previous subsection, the holders of Projects of National Tourism Interest classified by the Ministry of Tourism must calculate the fiscal incentive for the exemption from Income Tax every fiscal year, for which they must make a calculation of the tax not paid based on the exempted income determined according to numbers 1 and 2 of this subsection and to the proportion of corresponding costs and expenses according to what is established in Art. 28, subsection two of the Income Tax Law.

d) Partial exemption from municipal taxes for a period of five (5) years, counted as of the beginning of operations, related to tourism activities for up to 50% of their value. For that purpose, the interested party will submit to the municipality corresponding to its registration in the tourist registry, the classification of the tourist project awarded by Executive Agreement in the Area of Tourism and certification of the income tax return submitted to the Ministry of Treasury. These incentives can be requested only once during the period established in subsection one, part one of the present article; however, if expansions, remodeling or improvements are made to the infrastructure of the requesting tourism enterprise within that period, each one of them for an

amount equivalent to what is established in subsection one, part one of this article, the awarding of incentives can be requested for each one of such expansions, remodeling or improvements.

Art. 37 – All beneficiary companies receiving the incentives established through this law must contribute 5% of the profits obtained during the exemption period; this percentage will be added to the special contributions established in the law for tourism promotion.

## **CHAPTER X**

### **FINAL DISPOSITIONS, REPEALS, AND FORCE**

Art. 38 – The stipulations of this law, given its special nature, will supersede those stipulations contained in other laws. Moreover, application of these dispositions will be done in a way such as to best guarantee the effectiveness of the powers attributed by the law.

Art. 39 – The President of the Republic will emit the application regulations for this law.

Art. 40 – Repeal the following laws:

- a) Legislative Decree No. 367 of June 28, 1967, published in Official Paper No. 117, Tome No. 215 from June 29 of the same year, containing the Law for Tourism Industry Promotion;
- b) Legislative Decree No. 134 of June 28, 1984, published in Official Paper No. 159, Tome No. 284 from August 28 of the same year, containing the Temporary Law for the Reactivation of the Tourist Industry; and,

Art. 41 – This law will enter into force eight days after its publication in the Official Paper.

SIGNED IN THE LEGISLATIVE PALACE, San Salvador, on the tenth of December of year two thousand and five.

## Honduras

Honduras, located in the heart of Central America, is a mountainous republic with a population of 8.1 million, working on its national development through the conservation of its rich biodiversity along with the organic growth of tourism as the highlight of its communal development.

Eighty percent (80%) of the Honduran territory is mountainous and it includes one hundred and seven (107) protected natural zones, including the second largest rainforest in America after the Amazons; and, the second largest coral reef in the world, the Mesoamerican Barrier Reef.

Abundant flora, fauna, submarine life, history, archeological sites are plentiful in Honduras. COPAN, the most important ceremonial center from the classic Mayan period is located on the country; scuba diving paradises and Caribbean beaches form part of its attractive touristic spots.

Honduras as a destination attracts tourists because of the natural beauty that it boasts: its white sand, as well as dark sand beaches; coral reefs; abundant flora and fauna; and, millennial archeological sites. Honduras specializes in cultural tourism as well as archeological and ecological.

According to the Competitive Tourism Report (2015) published by the World Economic Forum (WEF), in relation to the evaluation of policies and conditions that foster tourism, Honduras is positioned at number 18 out of 144 countries, which evidently means that the Government has a real interest in nurturing this sector.

The tourism industry in Honduras produces about \* direct jobs and tourism is the country's fourth largest industry, only surpassed by remittances, production plants and coffee. All together, the tourism industry represents an important income for other sectors in the countries with which it relates to like transport, hotels, restaurants, car rentals, recreational centers, museums, galleries and many more.

According to official data in 2014, tourism brought in about 700 million USD.

**DECREE NO. 314-98.**  
**TOURISM INCENTIVES LAW**

**i. Objective.**

The main objective of this law is to provide the development of a touristic offer for the country through granting fiscal incentives that will foster a greater participation in national and international private investment as well as the development of touristic products in order to facilitate the creation of jobs, local and foreign investment that will increase tax contributions to the State.

**ii. Application Environment.**

The beneficiaries of the stipulated incentives in this Law are individual or social merchants, whose activity is linked directly to the following touristic services:

- 1) Hotels, hostels, shared-room rentals, or any other similar business;
- 2) Convention Centers;
- 3) Air travel;
- 4) Recreational centers. Excluding casinos, night clubs, arcades, video, slot machines or similar, cinema, television, cable television or similar, private clubs, gyms, billiard rooms, saunas or similar SPAs, internet cafes, discotheques, teaching centers under any manner, fundraisers or any other with no relation to tourism;
- 5) Craft workshops and craft stores that are dedication to the elaboration, manufacture or sale of Honduran crafts exclusively, and it excludes carpentry workshops, cabinetmaking, balcony structure making, painters, jewelry, or any other with no relation to tourism;
- 6) Receptive tourism agencies;
- 7) Aquatic transport of persons;

8) Car rentals in relation to the business;

The persons and corporations interested in benefiting from these incentives must file a formal request form at the Tourism Institute, which includes: 1) Articles of Incorporation; 2) Public and official documents as per the land where the project will be developed; or, a leasing contract; 3) The project's feasibility study; 4) Topographic map of the project's premises signed by a professional in the field; 5) A general map of the project; 6) Investment and execution schedule of the project; 7) Evidence of fund availability in order to execute the project; 8) Duly registered in the National Tourism Registry; 9) List of goods and equipment to be imported, with its respective nomenclature.

If the project will be executed in a historical part of a city, the Honduran Institute of Anthropology and History must issue the respective opinion.

**iii. Governing Body.**

The Secretary of State in the Tourism Office will be the competent authority in charge of knowing all issues concerning this law. Additionally, The Honduran Institute of Tourism will have certain competencies as well in the application of this law.

**iv. Incentives.**

The incentives that this law grants are limited rendering to the beneficiary according to the following:

1. Ten (10) years of income tax exoneration from the starting of operations. This incentive will be granted exclusively to new projects.

For the effects of the present law, it is understood that new projects are those developed by people, natural or legal, national or foreign, in the modality of a touristic establishment, that will start operations for the first time and that do not imply an expansion, remodeling, owner change, name change, reason or social denomination or any other similar situation;

2. Tax exoneration and other tributes that cause the importation goods, services and new material necessary for the construction and initiation of operations of the new projects; excepting supplies, parts, construction equipment, weapons and ammunition, amenities, foods, toxic products and consumables;
3. Tax exoneration and other tributes that cause the importation of printed material for the promotion or publicity of the new projects or of the country as a touristic destination; and,
4. Tax exoneration and other tributes that cause the importation of reposition of the depreciated material and equipment during a period of 10 years, before contribution.
5. Tax exoneration and other tributes that cause the importation of new transport vehicles, like: buses, pick-ups, panel, trucks, and others acquired in car rental agencies, all for the exclusive use of the business and previous evaluation of the activity, type of establishment, capacity, magnitude and location.
6. Tax exoneration and other tributes that cause the importation of aircraft and boats, new or old, for aerial transport, maritime or river, always need to be in compliance with security measures, comfort and quality, as well as technical conditions of operation for the specific utilization in the realm of tourism.
7. With the exception, there will be exoneration for the payment of municipal property tax for projects in relation to patrimonial rescue and for natural conservation, with the previous approval of the corresponding Municipality and the Honduran Institute of Anthropology and History or the Secretary of State in the Offices of Natural Resources and the Environment, as deemed necessary.
8. Without previous judgment of the established in this and other laws, natural or legal persons, nationals or foreigners, domiciled in the country and are developing hotel projects with a minimum of one-thousand (1000) rooms or expand existing ones to the same number, there will be exoneration, for a period of up to ten (10) years, of the sales tax payment and the payment for the corresponding touristic service fee, as long as such projects are completely built and in plain operation for a

period no longer than three (3) years, starting as soon as the Resolution emitted by the Secretary of State in the Tourism Office.

9. Likewise, it is permitted that the contributors will not benefit from the cited incentives until the deduction is made for the fifteen percent (15%) of the net recorded rent corresponding for the concept of reinvestment of its utilities, without previous judgment of the established in other valid laws that will be emitted in the future, or in relation to hotel projects, establishments for meetings and conventions, new or for remodeling or expansion of the physical facilities already existent and development inside the application environment of this law (accommodations, food and beverages, air transport, etc.).

**v. Exemption Period.**

The law establishes a period of up to ten (10) years for the enjoyment of the exemptions and benefits that it states.

**vi. Obligations, prohibitions and sanctions.**

**a) Obligations.**

If after three years (03) of the authorization resolution of the project or operation and granted incentives the project has not started operations, the interested party will need to file an authorization renovation for one (01) year explaining the motives why the operation has not started, or else the previously granted authorization will be annulled.

**b) Prohibitions and Sanctions.**

If there is any deviation or inappropriate use of goods and any intentional act of tax fraud in the prejudgment of the State, DEI, will apply the presenters of the touristic services responsible with the sanctions that are established by the Tributary Code, the customs regime and the other applicable laws.

Similarly, in the case that the granted benefits are not used to meet this law, the Secretary of State in the Office of Tourism will have to apply the following sanctions:

- 1) Cancellation of the respective Resolution without any responsibility to the State, and the loss of the right to be able to apply for these incentives again.
- 2) Closing of the establishment in case of determining a violation committed in accordance to this law.

**vii. Special Regime for the Free Trade Touristic Zone of the Bay Islands.**

Besides the Tourism incentives law, Honduras also offers a special regime for the free trade touristic zone of the Bay Islands. It is a customs regime, fiscal and of territorial order that operates in the department of the Bay Islands.

It includes all legal activities in relation to the trade of goods, merchandise or services that authorize or develop in the territory within the department of the Bay Islands.

**a) Requirements to benefit from the Customs and Fiscal Special Regime for the Free Trade Touristic Zone of the department of the Bay Islands.**

1. Legally granted Power of Attorney;
2. Authenticated copy of the Articles of Incorporation in relation to an individual merchant or legal person registered to the corresponding Registry;
3. National Tributary Registered Number (RTN);
4. Technical and economic study of the activity to be developed with a projection of 3 years, has to include quantity detail, values and tariff position of goods to be imported, employment generation, added value and foreign exchange earnings;
5. Certification of inscription, approved by the Registry in charge of the Administrative Commission from the ZOLITUR;
6. Approved certification by the corresponding Registry according to the activity to be developed;
7. Operating permit granted by the corresponding Municipal Corporation;
8. Schematic drawings describing the property and facilities where the Project will be developed, presenting the deed, contract and/or authorization;
9. Environmental license in cases where it's needed;
10. Socio-economic study that reflects the impact that the massive recruitment will generate for individuals that are not residents of the ZOLITUR;

**11.** For purposes of facilitating the petitioner's submission of the application, the Administrative Commission should provide technical instructions.

**b) Benefits.**

Exoneration of tax payments or importation customs tariffs, special excise fees or surcharges, production or sale taxes, consumption or added value, as well as all internal taxes and consular fees or stamps for the introduction of goods without any limitations signaled by the law, of all types of goods, merchandise or services derived from legal activity, traffic or possession is legally permitted, even if it's from abroad, or free trade zone, for the consumption, commercialization, process, transform, storage, re-exportation, if and only if these goods were legally introduced in the country according to the articles 83 and 84 of RECAUCA.

**c) Special Fiscal and Tributary Regime**

All natural or legal persons, national or foreign, subject to the Special Regime of Special Regime for the Free Trade Touristic Zone of the department of the Bay Islands or that enters or maintains investment within this territory, is obliged to declare or pay depending on the case, the following taxes and tariffs:

**1)** A tax of four percent (4%) in lieu of tax capital gain established in the Income Tax law and to be paid on the value of capital gain that occurs in each transaction in which it operates, tradition for valuable consideration of the real property and its improvements, or the transfer of corporate assets, shares or shares in the capital of companies or by proprietary natural persons property or assets objects of this tax is made, when they are located within the territory of the Free Trade Touristic Zone except for those located within the territory of the archipelago of Cayos Cochinos.

**2)** The tariffs destined for the conservation of the natural environment and the security of the Free Trade Zone will be levied as follows:

**a.** Two U.S. Dollars (\$2.00) or its equivalent in Honduran Lempiras, to be paid by each reported passenger that enters from abroad to the Free Trade Touristic Zone through maritime transport;

- b.** Six U.S. Dollars (\$6.00) or its equivalent in Honduran Lempiras, to be paid by each reported passenger that enters from abroad to the Free Trade Touristic Zone through aerial transport;
- c.** One U.S. Dollar or its equivalent in Honduran Lempiras, to be paid by each reported passenger that enters the Free Trade Touristic Zone from through maritime or aerial transport on a domestic level.

The Administrative Commission of the Free Trade Touristic Zone of the Bay Islands will determine the proposal for the distribution of this income in order to fortify the Executive Commission for Sustainable Tourism and the Municipalities of the Free Trade Touristic Zone.

## NICARAGUA

Nicaragua is the perfect place to enjoy the encounter of two worlds. It has a variety of festivities that are interesting cultural expressions, which shows the religious fervor, a mixture of pre- and post-conquest indigenous demonstrations. Similarly, colonial buildings, petroglyphs and ruins, the legacy of our ancestors, have an unforgettable story to tell.

During the last five years the tourism industry in Nicaragua has achieved a growth of 20.5%.

Until August last year, Nicaragua had received 917,000 tourists, 4.3% more than the same period in 2015, according to the Nicaraguan Institute of Tourism Cooperation Affairs and Tourism Projects.

"Nicaragua has all the requirements to become the new destination in Central America, for its unique natural beauty and security offered by the country", it states the founder of World Travel List.

According to the Boston Globe in a publication in 2015, Nicaragua was considered by the industry experts as "the best tourist destination in Central America." In addition to classify it in the list of the six main touristic destinations for 2016.

Among the attractions of Nicaragua, we can emphasize their rain forests, natural reserves, volcanoes and the rich ecological biodiversity. Notably, the country has more than five million acres as protected parks and a wide variety of stocks, which are teeming with wildlife.

**LAW No. 306**

**LAW ON INCENTIVES FOR THE TOURISM INDUSTRY OF THE REPUBLIC OF NICARAGUA.**

**i. Object**

This Law has as object to grant incentives and benefits to the persons and companies, national or foreign, dedicated to the touristic activity.

**ii. Area of application**

The persons and companies dedicated to invest directly in the following services and touristic activities shall be able to apply to the incentives from the Law.

- 1) Hostelry services (hotels, motels, aparthotels and condo-hotels).
- 2) Investment in protected areas from touristic and ecology interest, without harming the environment, prior authorization from the competent authority ("MARENA" for its acronym in Spanish) as well as in public places of touristic and cultural interest.
- 3) Air transport.
- 4) Water transport (maritime, fluvial and lacustrine).
- 5) Intern and receptive tourism and touristic-land collective transport.
- 6) Food, Beverage and entertainment services.
- 7) Investment in movies filming and beneficial events for tourism.
- 8) Lease of land and water vehicles to tourists (Rent-a-car).
- 9) Investment in touristic infrastructure and related tourism equipment.
- 10) Development of Nicaraguan crafts; Rescue of Endangered Traditional Industries; Productions of Typical Music and Folkloric Dance; Materials and Printed of Tourism Promotion;

11) Small, medium and micro businesses operating in the tourism sector, in all areas of sectoral activity.

The persons and companies located at Special Zones of Tourism Planning and Development (“ZEPDT” by its acronym in Spanish), that invest directly in the development of touristic activities or those who indirectly participated financing such activities, defined by INTUR, will be able to benefit from the exonerations and tax credits under this law.

Likewise, the companies interested in invest in areas and installations with domain of the State, may benefit with a concession, whenever the executive branch, through INTUR, has interest to develop touristic activities of high quality, as long as they operate under the terms and conditions of a long-term contract.

### **iii. Competent Authority**

The competent authority of the tourism sector in Nicaragua is the Nicaraguan Institute of Tourism (“INTUR” by its acronym in Spanish) and is who authorizes the activities that will be favored with the benefits and incentives disposed by the Law. These incentives must be approved by the National Committee of Tourism.

### **iv. Incentives**

The law gives a preferential treatment regarding the benefits and fiscal incentives, according to the activities established by the law. Some of the quoted incentives are:

1. For companies providing services to the Hotel Industry and whose minimum investment, per project and including the value of the land, will be in dollars or their equivalent in national currency: (i) for Hotels: five hundred thousand dollars (US\$ 500,000.00), or its equivalent in national currency, in the urban area of Managua

and one hundred fifty thousand dollars (US\$ 150,000.00), or its equivalent in national currency, in the rest of the Republic. If said investment qualifies under the INTUR's program of "Paradores de Nicaragua", the minimum investment is reduced to two hundred thousand dollars (US\$ 200,000.00), or its equivalent in national currency, in the urban area of Managua, and eighty thousand dollars (US\$ 80,000.00), or its equivalent in national currency, in the rest of the Republic; (ii) In the case of Minimal Hostelrys the minimum investment is reduced to one hundred thousand dollars (US\$ 100,000.00), or its equivalent in national currency, in Managua and fifty thousand dollars (US\$ 50,000.00), or its equivalent in national currency, in the rest of the Republic. For the touristic PYMES that validated before INTUR such category, these minimum amounts shall be reduced by forty percent (40%), as long as they obtain a quality seal from INTUR. The incentives to be granted are:

- One time only exemption from the import fees and taxes, and from Value Added Tax (VAT.) in the local purchase of materials, equipment and parts, used for the construction, restoration or equipping of the property. The exempted materials and equipment, must be used in the construction and equipping of the buildings that are being restored and such exemption shall be granted, if these articles are not produced, or are not produced in sufficient quantity or quality within the country.
- Exemption of Import Tax and Value Added Tax (VAT) on the local purchase of goods, furniture, equipment, ships and vehicles of twelve (12) passengers or more or cargo vehicles (this must be declared necessary for the establishment and operations of the tourism activity by the Tourism Board; and on the purchase of equipment that contribute to save water and energy and those necessary for the safety of the project, for a period of ten (10) years, as of the date on which INTUR certifies that the touristic activity has started to operate.

- Exemption from the Real Estate Property Tax (IBI) for a period of ten (10) years, as of the date on which INTUR certifies that the project has been completed. This exemption shall only cover the properties of the company, used exclusively for the touristic activity.
- Exemption of Value Added Tax (VAT) applicable to design services, engineering and construction services.
- Exemption of 80 to 100 percent of the income tax (IR) for a period of ten (10) years, as of the date on which INTUR certifies that the touristic activity has entered into operation. If the project is located in a Special Zones of Tourism Planning and Development (“ZEPDT” by its acronym in Spanish), the exemption will be of ninety percent (90%). If the project qualifies and besides has been approved under the “Paradores de Nicaragua” program, the exemption shall be for one hundred percent (100%). The company has the option of deferring the initiation and application of the said ten (10) year exemption annually, and up for a period of three (3) years.
- During the period granted for the exemptions, if the company is willing to do an addition and/or substantial renewal of the project, the exemption period will extend for another ten (10) years, as of the date on which INTUR certifies that the company has contemplated the aforesaid reinvestment and renewal. In this scenario, the reinvestment will apply as if it were a new project and the minimum amount of investment shall be superior to thirty five percent (35%) percent of the value of the originally approved and realized investment. The extension of tax exemption shall apply for a new period of ten (10) years to the total of the touristic activity from the company of the project.
- For those companies investing in touristic installations which comply with the criteria and specialized standards under the program sponsored by INTUR to foment and stimulate the creation of a natural network of “Paradores de

Nicaragua”, there will be free specific incentives for promotion and marketing, prepared by the Institute, in the form of advertising and publications in national and international fairs, leaflets, brochures and maps, connection to an efficient reservation system, promotion in the internet, etc.

- For the depreciation computing purposes of real states, the rules to be followed will be as per the taxation and commercial law and its regulation.

2. To those companies dedicated to the service of Food, Drinks and Amusements in restaurants, bars, gastronomical eateries, discotheque and night clubs, whose minimum investment, including the value of the land, is of one hundred thousand dollars (US\$ 100,000.00), or its equivalent in national currency, within the urban area of Managua and thirty thousand dollars (US\$ 30,000.00), or its equivalent in national currency, in the rest of the Republic. For the touristic PYMES that validated before INTUR such category, these minimum amounts shall be reduced by forty percent (40%), as long as they obtain a quality seal from INTUR.

- Exemption from the import fees and taxes, and from Value Added Tax (VAT.) in the local purchase of construction materials and fixed accessories of the building. The exempted materials and equipment, must be used in the construction and equipping of the installations and said exemptions shall be granted if such articles are not produced, or are not produced in sufficient quantity and quality in the country.

- Exemption of Import Tax and Value Added Tax (VAT) on the local purchase of goods, furniture, equipment, ships and vehicles of twelve (12) passengers or more or cargo vehicles (this must be declared necessary for the establishment and operations of the tourism activity by the Tourism Board; and on the purchase of equipment that contribute to save water and energy and those necessary for the

safety of the project, for a period of ten (10) years, as of the date on which INTUR certifies that the touristic activity has started to operate.

- Exemption from the Real Estate Property Tax (IBI) for a period of ten (10) years, as of the date on which INTUR certifies that the project has been completed. This exemption shall only cover the properties of the company, used exclusively for the touristic activity.

- Exemption of Value Added Tax (VAT) applicable to design services, engineering and construction services.

- For the depreciation computing purposes of real states, the rules to be followed will be as per the taxation and commercial law and its regulation.

- For those companies investing in touristic installations which comply with the criteria and specialized standards under the program sponsored by INTUR to foment and stimulate the creation of a natural network of “Mesones de Nicaragua”, dedicated to the taste and gastronomy of traditional and regional cuisine, shall be granted free specific incentives for promotion and marketing, prepared by the Institute, in the form of advertising and publications in national and international fairs, leaflets, brochures and maps, connection to an efficient reservation system, promotion in the internet, etc.

- If the project qualifies and is approved under the “Mesones de Nicaragua” program, it shall besides receive partial exemption of 80 to 100 percent of the income tax (IR) for a period of ten (10) years, as of the date on which INTUR certifies that the touristic activity has entered into operation. If the project is located in a Special Zones of Tourism Planning and Development (“ZEPDT” by its acronym in Spanish), the exemption will be of ninety percent (90%). If the project qualifies and besides has been approved under the Paradores de Nicaragua program, the exemption shall be for one hundred percent (100%). The company has the option of

deferring the initiation and application of the said ten (10) year exemption annually, and up for a period of three (3) years.

3. To companies involved in the operation of internal and receptive tourism (Travel Agencies and Tour Operators), and Collective Tourism Land Transportation between airports, docks, hotels and other tourist destinies in the Republic of Nicaragua.

- Exemption from import fees and taxes and of the Value Added Tax (VAT) of new and used vehicles in perfect mechanical condition, such as buses, mini-buses of twelve (12) passengers or more; of new four-wheel drive vehicles for more than six (6) passengers and in such case only those used exclusively by Tour Operators, specialized in hunting and adventure; and of promotional and advertising material, provided the companies have been authorized by INTUR, and the vehicles have been declared by INTUR as necessary for the operation of said activity, with a prior favorable opinion issued by the Ministry of Treasury and Public Credit.
- Exemption from import fees and taxes and of the Value Added Tax (VAT) in the acquisition of computer equipment and accessories. The same treatment will be granted to telecommunications equipment, or any other having a direct and necessary relation with the service of internal or receptive tourism.
- Exemption from import fees and taxes and of the Value Added Tax (VAT) in the acquisition of hunting fire arms, ammunitions and sports fishing gear.
- Exemption of the rights importation and taxes for fishing boats.

## **v. Period of Exemption**

The Law provides different periods, according to the incentives provided for each of the activities within the scope of it. The maximum period established is of ten (10) years. However, if the company is willing to do a reinvestment and/or substantial renewal of the project, the exemption period will extend for another ten (10) years, as of the date on which INTUR certifies that the company has contemplated the aforesaid reinvestment and renewal, which must be superior to 35 percent of the value of the originally approved and realized investment.

## **vi. Obligations and Sanctions.**

### **A) Obligations.**

The companies that benefit from the aforesaid law, will be obligated to:

- 1) Invest in the touristic project the indicated amount in the respective application.
- 2) Start the building, renewal or restauration of the location designated to the proposed touristic activities in the project application, within a timeframe of six (6) months as of the date of inscription on INTUR in the Touristic Investment Registry. INTUR shall prorogate the timeframe under exceptional circumstance that justify the prolongation.
- 3) Start the operation within a timeframe of three (3) years, as of the date of inscription at the Touristic Investment Registry.
- 4) Realize the touristic activities in compliance with the bylaws of INTUR, INC (“Nicaraguan Institute of Culture” by its acronym in Spanish) and MARENA (“Ministry of Environment and Natural Resources” by its acronym in Spanish) whenever applicable.

5) Carry a record of the exonerated goods, which shall be accessible to the competent officers from INTUR and the Ministry of Treasury and Public Credit.

6) Grant a performance bond in favor of INTUR, equivalent to 0.006% of the amount of investment. This performance bond shall never be superior to the amount of One Hundred Fifty Thousand Dollars (US\$ 150,000.00) or its equivalent in national currency and shall remain valid until INTUR declares the starting of operation from the touristic activity.

7) Hire Nicaraguan workers, with exception on experts and specialized technicians, prior authorization of the national competent authorities.

8) Specialized and continue capacitation to Nicaraguan citizens, according to the tourism demands.

9) Submit disputes to the jurisdiction of national courts.

## **B) Sanctions**

Regarding the sanctions regime, the established dispositions in the common tax law shall apply.

In addition, the Law establishes that the benefits persons and companies benefitted according to the spirit of the law and the makes a bad faith use from the benefits will be creditors to the sanctions established by the tax code.+

### **vii. Inscription and Investment Registry**

The investor that wishes to apply to the incentives regimes referred in the point iv from this guide, shall head to the Touristic Investment Registry, seconded to INTUR, to file the following documents:

1. An Application Form.
2. Description of the touristic activity to be developed, with a situation plan along with other surveys, such as the cadastral, including a schedule and implementation phases.
3. Property Deed (or lease).
4. This Law has as object to grant incentives and benefits to the persons and companies, national or foreign, dedicated to the touristic activity.
5. Document of the Evaluation of the Environmental Impact.
6. Cost of the project (if the value of the project exceeds the amount of US\$ 200,000.00 or its equivalent in national currency, an economic study must come with the application).

## **COSTA RICA**

The variety of landscapes and microclimates in Costa Rica makes it a paradise destination. The traveller may find sun and beach, adventure and culture in just 51000 square kilometers, being the necessary components to meet the needs of thousands of tourists who find their ideal destination in Costa Rica.

Tourism in Costa Rica is one of the productive activities deriving more income and foreign investment for this country. This is mainly due to Costa Rica's image as a safe, peaceful and democratic destination, which is also the country's "Brand".

Costa Rica has reached record figures as of 2015, in both tourist arrivals with 2,665,608 visitors, and the generation of visitors for that sector which has already reached \$2.882 million, as per the figures provided by the Costa Rican Tourism Institute (ICT).

Therefore, a deduction can be made that the number of tourists entering the country increased 5.5% in comparison to 2014, while the global growth for the same period in 2014 was 4.4%. An increase of the revenues generated by tourism of 9% was recorded in comparison to 2014.

The number of tourists coming from the United States of America, main country of origin for Costa Rica, increased 8% ranging from 997,262 travellers in 2014 to 1,077,044 in 2015, according with the data by this institution.

The visitors arriving from Europe increased 6,1%, from which a 20% increase on tourists from the United Kingdom should be highlighted. The increase of South American tourists, particularly from Brazil and Argentina, was 13%.

The arrival of tourists in Costa Rica has hit a meaningful increase since 1984, with some interruptions only as a result of the impact of terrorist attacks on the Twin Towers in the United States in 2001, and the world economic crisis in 2009.

The tourism sector in Costa Rica has definitely experienced an increasing growth due to the country's strong offer for the tourist, its excellent position in the market, the strong promotion for this sector, among others.

**Law N° 6990**

**LAW OF INCENTIVES FOR TOURISM DEVELOPMENT IN COSTA RICA**

**i. Purpose.**

This law is aimed at establishing an accelerated and rational development process of the Costa Rican tourist activity, reason to establish the incentives and benefits to be granted as stimulus for undertaking important programs and projects for such activity.

**ii. Scope.**

The dispositions herein will be applied to the following tourist activities:

- a) Hotel services
- b) International and national air transport of tourists,
- c) Aquatic transport of tourists
- ch) Receptive tourism of travel agencies exclusively dedicated to this activity
- d) Car rental to foreign and national tourists

For the effects of granting the benefits of this law the following aspects, among others, will be taken into account: i) Contribution on the balance of payments. ii) Utilization of raw material and national supplies. iii) Creation of direct or indirect employment. iv) Effects on regional development. v) Modernization or diversification of the national tourist offer. vi) Increase of the internal and international tourist demand. f) Benefits reflected on other sectors.

**iii. Steering Committee.**

The incentives included in this law will be granted by the Costa Rica Tourist Board by way of a tourist contract, prior approval of the tourism regulating commission, to

be appointed by the Presidency of the Republic. This commission will be composed by one representative of the following institution: Costa Rica Tourist Board, Ministry of Public Treasury, Ministry of Economy and two representatives of the private sector directly related to any of the previously indicated activities, who will represent different activities.

**iv. Incentives.**

To the companies qualified for obtaining the benefits of this Law, the following incentives may be granted, totally or partially, according to the activity in which they are classified:

a) Hotel services:

i) Exemption of all taxes and overcharges that apply to the import or local purchases of all the indispensable articles required for the functioning or installment of new companies, or of those already established, offer new services, as well as for construction, enlargement or remodeling of the respective building, except for automobiles and fuel.

This exemption does not apply to the import of those similar goods, which are manufactured in the territories of signatory countries of the Agreement of the Central American Tariff and Customs System, on equal conditions as to quality, quantity and prices, as decided by the Ministry of Economy, Industry and Commerce.

ii) Accelerated depreciation of the goods that by their use and nature are extinguished more rapidly, in conformity with the law of Income Tax.

iii) Concession of municipal patents that companies require for the development of their activities. Municipalities will grant these patents in a maximum term of thirty natural days after presentation of the request and will charge the corresponding tax. No patents may be given for game rooms forbidden by other laws.

iv) Authorization of the Central Bank of Costa Rica so that Costa Rican hotel companies dedicated to the reception of international tourism, be contracted as auxiliary cash boxes of such Institution to purchase currency from foreign tourists. Operations will be done to the name of and on account of the Central Bank of Costa

Rica, which will establish, at the respective agreement, the terms and conditions in which hotels will transfer the foreign exchange currency received by that activity.

v) Exoneration on the property tax for up to six (06) years starting from the contract's subscription, for those businesses located outside the metropolitan region as determined the Ministry of Planning.

**a) International and national air transport of tourists:**

The only companies to be classified in this category are those transporting tourists on international routes and flights with itinerary within the national territory.

i) Accelerated depreciation in conformity with the Law on Income Tax.

ii) Fuel supply at competitive prices not higher than the average established at the international market.

iii) Exemption of taxes and overcharges to import or local purchase of necessary spare parts for the correct function of the airplanes

**b) Aquatic transport of tourists:**

1) Exemption of all taxes and overcharges that apply to the import or local purchase of indispensable goods required for construction, enlargement or remodeling of the wharves and other places destined to putting on board and disembarkment of tourists, as well as for the construction and maintenance of marinas, bathing resorts and aquariums destined to the attention of tourism, assuming that the goods imported are not manufactured in the territory of signatory countries of the Agreement of the Central American Tariff and Customs system, on competitive conditions as to price, quality, and quantity, as decided by the Ministry of Economy, Industry and Commerce.

2) Accelerated depreciation in conformity to Law on Income Tax.

3) Exoneration of all taxes and overcharges, except for customs duties to imports whose tariff is fixed at twenty per cent (20%), import or local purchase of aquatic

ships destined exclusively for tourist transport of passengers, for which it should count with adequate facilities for landing, embarkment and disembarkment of passengers.

Tourist coasting trade activities in any of its forms, from Costa Rican port to port, will be only and exclusively reserved to yachts, tourist cruise ships and similar, under national flag.

Classification of ships, their characteristics and verification requirements about the use and destination of exonerated goods will be established by Executive Decree.

**c) Receptive Tourism Travel Agencies dedicated exclusively to this activity.**

1. Exoneration of all taxes and overcharges, except for customs duties for the import of vehicles for collective transport, with a minimum capacity of fifteen persons. If the fee according to the value of the tax is higher than five per cent (5%), it will be exonerated of the corresponding taxpaying obligation corresponding to such tariff excess.

**d) Vehicles' rentals to foreign and national tourists.**

1) Exonerate fifty percent (50%) of the total amount resulting from applying the standing taxes affecting the import of vehicles destined exclusively to leasing them to tourists.

These vehicles must be duly authorized to circulate by means of a permit granted by the Costa Rica Tourist Board. They should also be identified with a corresponding plate and special sticker issued by the General Direction for Automotive Transport of the Ministry of Public Works and Transport.

Vehicle fleet exonerated by this law has to be renewed, maximum every three years. Service and fees will be regulated by the Costa Rica Tourist Board.

The improper use of such vehicles will imply automatic canceling of the indicated license and the respective commercial patent of operation. Likewise, canceling of all

taxes not covered will be drawn up, as well as an imposition of a fine equivalent to ten times the exonerated amount.

Transfer of goods exonerated by this Law, done by beneficiary tourist companies to third parties that do not enjoy equal legal benefits, at any time, may only be done validly by such companies by previously paying the corresponding taxes and overcharges. The Executive Power in the Regulation of this Law will establish adequate controls for the correct application of the norms contained in this article.

On the other hand, article 8 of the Law indicates:

*“Physical persons or legal entities, which have been previously authorized by the Costa Rican Tourist Board and have allocated funds to pay for tourist vacation programs for their employees, may deduct such expenses from the taxable base for the income tax. The expenses resulting from vacation programs cannot be deducted on the worker-employee quotas for the Costa Rican Social Security System (Caja Costarricense de Seguro Social), the National Learning Institute (Instituto Nacional de Aprendizaje) or any other type of social taxation.”*

**v. Exoneration period.**

The contractual validity terms will be determined by the Tourism Regulating Commission, although the Law indicates a six-year term to enjoy such benefits starting from the subscription of the herein referred Contract.

**Prohibitions and penalties.**

The Costa Rica Tourist Board and the Ministry of Public Treasury will investigate every aspect related to compliance of contracted obligations of companies or natural persons, in virtue of the concession of benefits and incentives of this law.

Incompliance to the quality level and prices of the corresponding services corresponding to the class granted by the Costa Rica Tourist Board, will give it the right to cancel the benefits and incentives granted, with the corresponding legal implications that such cancellation implies.

Natural persons or legal entities importing construction materials, furniture, equipment or any other articles that have been exonerated in accordance with this law, and who sold, rented, lent, negotiated in any way, or gave a different use to the asset enjoying the exoneration or benefit, will be penalized with a fine equal to ten times the value of the exoneration notwithstanding other criminal or civil penalties that may apply.

## Panama Republic

Panama has become one of the most attractive and innovative tourist destinations in Central America, offering a wide variety of attractions and activities.

Tourism shopping and business convention, beaches and luxury destinations and eco-tourism are just some of the modalities offered by our beautiful country. Its beaches and islands in the Caribbean Sea (Comarca de San Blas and Bocas del Toro), in the Pacific Ocean (Farallon, Pedasí, Coronado, among others), the Panama Canal, historic sites (Fort San Lorenzo, Panama La Vieja and Old) Town and its diversity in flora and fauna, make us the new destination for tourists and travelers who visit us and declare us as the best kept secret in the world.

The best airlines in the world as Iberia, Continental, KLM, Taca, Air France, American Airlines, Condor, Lufthansa and national COPA, among others, show how easily get to Panama, via the Hub of the Americas at Tocumen International Airport. Many major cruise lines include transit through the waterway on your itinerary, which allows passengers to enjoy luxurious comfort, while experiencing the unforgettable delight to see the eighth wonder of the world of engineering in action.

Panama is one of the countries of Latin America that has one of the cheapest markets today. So much so that some television networks like CNN include Panama as one of three countries where they can live without high costs of living. They are based on the fact that Panama has one of the richest economies in Central America, as it has with the operation of two internationally renowned companies such as the Colon Free Zone and the Panama Canal. But it also has another that comes with very strong steps: Tourism.

"The areas that generate more revenue per year in Panama are: Panama Canal, the Colon Free Zone; and Tourism.

## **DOING BUSINESS IN PANAMA**

Government attitude toward foreign investment Panama is open to foreign investment. It recognizes its importance and is focused on efforts to attract foreign investment in areas such as logistics service providers of value-added hotel developers and exporters of fruits.

Panama has not issued paper currency, and the U.S. dollar is used as the medium of circulation. The Balboa is an even value and the U.S. dollar equivalent.

Therefore, it is not necessary to change control authority. There are no registration requirements for capital and there is no tax on the transfer of funds to the country.

There are no controls on the repatriation of capital or retained earnings. The Government is encouraging foreign investment and working to position Panama as the primary destination in Latin America for foreign investors.

However, the same business channels are open to domestic and foreign investors alike. There are no major restrictions on foreign investment. Special trading rules, granting migration, labor, and tax incentives for investment and creating the PROINVEX office are among the principle ways Panama has encouraged foreign investment.

Investors can also obtain updated information on special fiscal regimens such as the Multiregional Headquarters (MHQ), Panama Pacifico Special Economic Zone (APP), The City of Knowledge, Colon Free Zone (ZLC), Investment Stability Law, and other Free Trade Zones, The organization of commercial companies and commercial activities is regulated by special laws and by the Commercial Code on issues that have not been regulated.

Price controls over meals, pharmaceuticals and construction materials are given by the market interaction. There is no price control authority in Panama, but rather a government authority in charge of surveillance against bad business practices.

To date we have no restriction on mergers and acquisitions, as well as any special restrictions on foreign investment in this regard. Our legislation addresses both the merger with foreign entities as domiciliation, and is currently permitted under

Panamanian law: the Demerger. One of the incentives provided in the development of industrial laws is the protection from foreign competition by establishing tariffs and import quotas on some sensitive products. There are imposed tariffs on all foreign goods entering the country, except those who are exempted by law or special contracts. Tariffs are taxes on either the value or are based on quantity, weight, size or volume.

Rates vary from low to significant or clearly protectionist (0% protectionist low 33%). Panama has considered the advantages and disadvantages of requesting admission to the Central American Common Market.

An application for admission is not expected in the immediate future. A seven percent (7%) tax is applied on the transfer of goods and services (ITBMS) on all imports except food, medicines and several other products. Documents relating to the payment of import duties and re-export of imported goods shall be prepared and signed by a local customs broker. Free trade agreement and other agreements Panama has free trade agreements with Honduras, Costa Rica, El Salvador, Taiwan, Singapore, Nicaragua, Guatemala, Chile and other trade agreements with the Dominican Republic, Mexico and Colombia. In 2008 Panama concluded negotiations regarding a Trade Promotion Agreement with the United States.

This agreement will promote economic opportunities by eliminating tariffs and other barriers to trade in goods and services. The treaty negotiated under the Bush administration is still pending approval by the new U.S. Congress and by the Assembly of Deputies of Panama.

Panama Foreign Investment Since Panama's incorporation into the World Trade Organization, domestic commercial protectionism has decreased. The negotiation of Free Trade Agreements (FTA) has greatly contributed to the increase of foreign investment in Panama. The government has incorporated the Basel II recommendations into its banking legislation, to improve transparency in the Panamanian Banking System and to prevent money laundering.

Migratory legislation has been modified, improving the monitoring of foreign individuals in the country.

The creation of the Multiregional Headquarters special regime has been the most successful initiative to attract the establishment of multinationals in Panama.

Destination of foreign investment According to information provided by the General Comptroller of the Republic of Panama, as of December 2011, Foreign Direct Investment was USD 23,136,500. Establishing business in Panama Business structures: Forms of business entities The Panamanian law recognizes five different forms of legal entities:

- Corporations or Stock company (Sociedad Anónima).
- Limited Liability Company (Sociedad de Responsabilidad Limitada).
- General partnerships (Sociedad en Nombre Colectivo).
- Ordinary Limited Partnership (Sociedad en Comandita Simple).
- Joint – stock Company (Sociedad en Comandita por Acciones).

These five types of entities can be used for the operation of any type of commercial business. A business can also be operated by a single owner.

In practice, most businesses operate as corporations, partnerships or sole proprietor. Although some foreigners living in Panama conduct business in any of the ways described above, foreign businesses, with very few exceptions, exist in the form of corporations.

Branch of a foreign company Foreign companies may establish branches or agencies in Panama.

They must file with the Public Registry of Panama the registration documents listed below, Foreign corporations can establish in Panama branches or agencies for the purpose of starting operations in our territory, by presenting the documentation (detailed below) for registration with the Panamanian Mercantile Registry. Panama's Commercial Code stipulates that foreign corporations "will not be able to develop operations to which they do not have rights in their country of domicile".

It is considered that a natural or legal person domiciled abroad has operations in Panama through a permanent establishment when they perform business either directly or by proxy, holding an employee or representative in Panamanian territory, any premises or fixed place of business, whether they develop their activity wholly or partially. Registration procedure The registration procedure is established in

accordance with the Commerce's Code and the special rules governing LLC's or Corporations.

As a general rule, a document is drafted by a practicing attorney appointing subscribers and approving the incorporation bylaws. This procedure allows a local attorney to get the deed ready without the need for the foreign investor to come to Panama to sign it.

The board and the stockholders can be either nationals or non-nationals, individuals or juridical entities. Where incorporation takes one day, and the incorporation of branches may take longer, but no more than three days on average.

Joint-Venture (Sociedades de hecho): Joint Venture is a contract between two or more persons who are classified as partners with an interest in one or various specific and transitional business operations, which shall be run by one of them in his name alone and under his personal credit, with responsibility for tabulating and dividing with stakeholders the gains or losses in the proportion agreed upon.

Panama Banking System Central Bank Panama does not have a Central Bank. Decree Law 9 of 1998 as amended by Decree Law 2 of 2008, along with the Cabinet Decree No. 238 of July 2, 1970 and Law No. 1, 1999 regulated the banking system and created the Superintendent of Banks, which is autonomous from the State. This law establishes three different types of banking licenses as described below: General: For banks organized under the laws of Panama and branches of foreign banks that transact in Panama and internationally.

International: For banks organized under the laws of Panama and with branches that only practice business abroad. Representation: For foreign banks that maintain offices in Panama, but that do not carry out banking transactions on their own account. The law provides for various reserve and capital requirements and certain other conditions, depending on the type of license.

Panama has two national banks: The National Bank of Panama (Banco Nacional de Panamá) and The Savings Bank (Caja de Ahorros). Commercial banks The Superintendent of Banks is the government entity responsible for granting licenses to all banks with an interest in operating in Panama. Currently Panama has one of the largest banking and financial centers of the region, including large banking institutions worldwide. The banking system in Panama is well established, composed

of a number of private institutions composed of 93 private that are regulated by the Superintendent of Banks. There are 93 banks in Panama. (Source: [www.superbancos.gob.pa](http://www.superbancos.gob.pa))

Panamanian law establishes three different types of employment contracts: permanent contracts, agreements and contracts defined by work or services.

Companies in need of employing foreigners must obtain permission from the Ministry of Labor and Workforce Development.

Work permits issued to foreigners are valid for one year and may be extended for up to five years. It is mandatory by law to grant employees a day of rest per week, preferably on Sundays. However, if the type of employment requires Sunday work, another day should be given in lieu of it, and Sunday will be paid with an extra charge of 50%. Each employee is entitled to thirty (30) days paid vacation after eleven (11) months of continuous work. It is mandatory by law for employers to pay their employees a bonus or special pay representing a full month's wages which shall be paid in three equal games (April 15, August 15 and December 15). This bonus is calculated based on the total wages received and is subject to the payment of social security contributions.

Panama has a minimum wage scale depending on location and economic activity, which is adjusted periodically. The system of minimum wage scale is applicable in practice only to apprentices employed. Labor law requirements Below is a summary of the most important requirements of the Labor Law. Wages and salaries Panama has a minimum wage system by economic activity, which is adjusted periodically. The minimum wage system is applicable in practice only to non – skilled employees. The effective average wages are substantially higher than the minimum wages, especially in metropolitan areas. Profit sharing Companies are not required to share 10% of the company's profits with the employees. Christmas bonus Companies are not required to pay the worker a christmas bonus. Fringe benefits Housing and children's education are among the most common fringe benefits, which are treated as salary in kind for calculations: income taxes and social security contributions. Paid holidays and vacations Every employee has the right to 30 days remunerated vacation after 11 months of continuous work. Foreign personnel Panama recognizes joint investment with no restrictions. The Labor Code is applied equally to Panamanian and foreigners. Most foreign personnel wishing to work in Panama are

required to have a work permit and/or resident visa. Under the Labor Law, foreign personnel may not exceed 10% of a company's total workforce, and the monthly payroll for foreign employees, may not exceed the 10% of the total company payroll.

In the case of technicians, up to 15% may be foreign personnel. Under special regimens, foreigners may work in Panama with a special immigration permit, without the need of a work permit and with exemption from income tax and social security contributions. Social security The Social Security Fund is an autonomous government agency that provides apid leave due to illness or maternity, age or disability pensions to widows and orphans, as well as funeral assistance and compensation for occupational injuries and death. The enactment of the Social Security Law (Act No. 51 of 2005), makes it is mandatory for the employer to affiliate its domestic or foreign employees to the regime of the Social Security Fund. The current contribution for the employee is 9% and 12% for the employer. According to the law, this will increase progressively up to a maximum of 9.75% in 2013.

Accounting and audit requirements and practices Accounting The accounting principles normally followed in Panama are the International Financial Reporting Standards (IFRS) and the International Financial Reporting Standard for Small and Medium-sized Entities (IFRS for SMEs). For the banking sector and for entities supervised by the Superintendence of Securities Market (formerly the National Securities Commission), IFRS or US GAAP are used upon previous notification to the regulatory entity.

Although, it has been established that the banking sector entities should present their financial statements only under IFRS from 2014. In terms of the insurance industry, it has been established that the insurance companies in Panama shall present their financial statements prepared under IFRS from 2014. There are three active accounting professional organizations: the Certified Public Accountants Association, the Panamanian Association of Women Accountants and the Panamanian Certified Public Accountants College.

The three organizations appointed a Financial Accounting Standard Committe in 1978 to define generally accepted accounting principles in Panama.

A Panamanian company operating in Panama, companies in free zones and qualified foreign companies, may be subject to reporting obligations and / or preparation of

audited financial statements, even though it did not generate Panamanian source income. The minimum corporate accounting books required for a company in Panama:

- Book of Share Certificates
- Share Record Book
- Book of Acts
- General Journal A company doing business in Panama must maintain their accounting records required by law, correspondence, and other supporting documentation in the country.

It is possible to request the authorities the cancellation of the use of manual accounting records and establish the use of magnetic systems instead. According to the law, these certificates must be issued by a Panamanian CPA.

Statutory audit requirements There are no requirements for filing statutory audits in Panama. However, the companies regulated by the Superintendence of Securities Market, banks with general and international licenses, thrifts companies operating in Panama, companies regulated by the Public Services Authority, and the insurance and reinsurance companies are required to have an annual financial statement audited by independent auditors to be submitted to the authorities.

Whether listed or not, if the capital of the taxpayer exceeds US\$100,000 or annual sales or gross income exceeds US\$50,000, an annual income tax return must be prepared and signed by a Panamanian certified public accountant and financial statements shall be duly audited by CPAs. Accounting profession Licenses to practice as Authorized Public Accountant (CPA) are issued by the executive branch. Candidates must have obtained a degree in accounting.

The Panamanian tax system is regulated by the Tax Code and many other different laws governing specific matters. The most recent structural reform is Law No. 8 of 2010.

It reduces tax rates, raising the overall rate ITBMS, and sets the new Tax Tribunal, among other relevant provisions. Additionally, the law 33 of 2010, adapts the Panamanian tax system, for the application of treaties to avoid double taxation.

The main taxes in Panama are:

- Income Tax • ITBMS - Tax on Transfer of Goods and Service
- ISC - Excise Tax
- Tax and other fuel products
- Stamp Duty
- Tax on dividends and supplementary
- Operation Tax Notice Tax on corporate income The tax rate is 25%. Companies performing the following activities: generation or distribution of energy, telecommunications, insurance, reinsurance, financial institutions regulated by Law No 42 of 2011, cement industries, the operation and management of gambling activities, and mining in general, are subject to the corporate income tax rate of 27.5% and as of January 2014 the referred tax rate will be reduced to 25%. For companies in which the State owns more than 40% of the stock, the tax rate will remain at 30%. The tax base (amount to which the tax rate will apply) for companies whose taxable income is greater than US\$1,500,000, will be the greater of one of the followings:
  - Net Taxable income calculated on the normal basis, or
  - 4.67% of the gross taxable income (excludes exemptions and non-taxable income and foreign source income) – this is called the Alternate Calculation of Income Tax (“Cálculo Alternativo del Impuesto sobre la Renta” or CAIR.

Panama If the entity’s fiscal year results in a loss due to the alternative calculation, the taxpayer may request from the Tax Administration (the General Directorate of Revenues, i.e., DGI or “Dirección General de Ingresos”) to not be subject to the CAIR.

The DGI has a six- month period in which to reach a decision on the request, otherwise the petition will be considered granted. The taxpayer may also ask not to apply the CAIR if its effective income tax rate is higher than the applicable income tax rate.

Franchise income tax must be paid by all corporations on an annual basis. The deadline for payment depends on the date of the company's incorporation. If the company was incorporated on any date in the first six months of the year, the due date for payment will be July 15 of each year.

If it was incorporated in the last six months, the due date will be January 15 of each year.

Nonprofit organizations, cooperatives and civil partnerships are not subject to franchise tax. Tax on branch income Branch profits are taxed at the same rate as corporate profits 25%.

There is an additional withholding tax 10% on domestic – source income on branch profit remittances to the company's headquarters payable with the annual income tax return. Excise tax Is applied to goods (jewelry, automobiles, guns, tobacco, alcoholic beverages, etc) and services that are considered as non essential (mobile or Cable TV).

The tax base is the cost, insurance and freight (CIF) price plus import duties for imported items and sales prices for all the other activities. The tax is levied at only one stage: on the importation of tax product or the sale of taxed goods produced in Panama; and for services, it may be levied at the same time when the service is involved, the service is invoiced, the service is completely rendered or upon receipt of advance payments, whichever first occurs. • Movable goods and services transfer tax (ITBMS); is the Panamanian value add tax (VAT). • Tax rate is 7% effective June 30, 2010, according to Law 8, of 2010.

- Alcoholic beverages are taxed at 10% and tobacco – derived products are taxed at 15%.

- ITBMS is calculated on the value added through a method of tax credits (ITBMS paid on taxable transactions) and tax debits (ITBMS collected on transactions.)

- Exports are not taxed and the ITBMS paid to generate the exports may be refunded. The sale of goods such as medicines, foods, and certain products for infants are not taxed, and may not allow the supplier to recover the ITBMS as an exporter if certain criteria's are met. Real estate transfer tax The sale of real estate has

a special tax treatment related to the regularity of the activity by the seller. Panama refers to the three regimes of capital gains as follow:

1. If the taxpayer's ordinary business is not the sale of real estate: The vendor must make an advance payment in respect of income tax of 3% on the gross value of the transaction of the assessed value, whichever is higher. The taxpayer may consider this as final payment and not pay on net capital gain, or can calculate the tax based on the net capital gain (10% gain) and request the return of the advance payment and the tax calculated.

2. If the taxpayer's ordinary business is the sale of real estate: If the construction permit is issued after January 1, 2011 and the property was valued at least two years prior to the date of sale, the following table applies:

Value	Rate %
New house from B/.35,000	0.50
New house from B/.35,000 to B/. 80,000	1.50
New house of more than B/.80,000	2.50
New commercial construction	4.50

3. Unless one of the previous requirements is not met, the general income tax regimen would apply. A special 2% Real Estate Transfer Tax applies on the transfer of real estate, except in cases where the new construction is being transferred for the first time.

In the case of the sale of shares, the following income tax applies:

- The buyer must make a deduction of 5% of the total value of the transaction and remit it to the tax authorities on behalf of the seller.
- The vendor may choose to accept it as the final withholding applicable to income tax on the capital gain or file a tax return, calculate the income tax at a rate of 10% on capital gains and then deduce the retention performed. In the case of the sale of personal property and fixed assets, a 10% on the capital gain, with no withholding will apply. Corporate deduction Allowed Deductions Business Expenses with some minor limitations, all expenses necessary to generate income or to preserve the income – generating source are deductible. Intercompany and other charges from abroad Companies can claim deductions for royalties, fees for technical services and maintenance and interest charges paid to foreign affiliates, provided a deduction applied to the implementation of the respective tax rate on 50% of the consignment.

The need for transfer pricing studies is linked to the validity of treaties to avoid double taxation. Exchange gains or losses These will be taxable or deductible depending on the taxpayer's business activities. Ordinary repairs and improvements These are deductible provided that they don't increase useful life of assets.

Panama Net operating losses Carry forwards losses incurred by common taxpayers may be deducted from the taxable profits for the next five years, 20% each year but limited to 50% of taxable income each year.

Loss carry backs are not allowed. Withholding tax (WHT) The WHT on payments to foreign corporations are as follows: Royalties paid to foreign entities are taxed at 25% on 50% of withholding tax remittance (effective tax rate 12.5%).

Commissions and professional services in general are subject to a withholding at 25% over 50% of remittance. Domestic corporations paying certain types of income must withhold taxes in the following way: Recipient Dividends % (1) Interest % (2) Royalties % (3) Foreign entities 5, 10, 20 12.5 12.5 Group taxation Group taxation is not permitted in Panama. Withholding tax (WHT) The WHT on payments to foreign corporations are as follows: Royalties paid to foreign entities are taxed at 25% on 50% of withholding tax remittance (effective tax rate 12.5%). Commissions and professional services in general are subject to a withholding at 25% over 50% of remittance.

Tax incentives Inward Investment in industries, agro- industrial, marine resource transformation, industries dedicated to extracting and transforming raw agricultural and forestry materials may get industrial promotion certificates which allow crediting the investment against taxes such as income tax.

## Dominican Republic

Dominican Republic is the second largest and most diverse country in the Caribbean and has direct flights from the main cities throughout Latin America, USA, Canada and Europe. One of its airports serves the most international flights and destinations in the Caribbean, namely, Punta Cana International Airport.

Dominican Republic is outstanding for its warm climate and the hospitality of its people. Without a doubt it is a unique destination with extraordinary natural attractions, fascinating history and great cultural wealth.

Encompassed by the Atlantic Ocean to the north and the Caribbean Sea to the south, Dominican Republic boasts 1,600 kilometers of coastline including 400 kilometers of the best beaches in the world, magnificent hotels and resorts, an infinite choice of sports, entertainment and recreation as well as an exquisite and varied cuisine.

Dominican Republic is the number 1 golf destination in the Caribbean and Latin America, with twenty (25) golf courses by renowned designers, bordered by stunning coastlines, majestic mountains in the background, and lush green "fairways", as well as breathtaking natural scenery, romantic waterfalls and relaxing hotels and resorts.

Over the last 20 years the Dominican economy has been one of the fastest growing economies in Latin America, with an average annual GDP growth rate of 5.4% between 1992 and 2014.

According to the World Bank's [Doing Business 2015](#) indicators, Dominican Republic was one of the countries to introduce the most reforms in Latin America in an attempt to facilitate negotiations for investors by providing better protection in terms of shareholders' rights and improving requirements for greater corporate transparency.

The tourism industry is one of the main driving forces of the Dominican national economy. According to figures released by the World Tourism Organization and the International Monetary Fund, in 2013, Dominican Republic had the highest percentage of revenue from tourism accounting for 8.4% of the Gross Domestic Product (GDP), surpassing all the countries in Latin America.

Local statistics show positive figures for the tourism industry in the Dominican Republic. The Dominican Central Bank figures show an increase in non-resident passengers starting from 2012 with 4.5 million, 4.6 million in 2013, 5.1 million in 2014 and 5.5 million by 2015.

Official figures show the year 2015 closing with a 10.1% year-to-year growth rate in the flow of non-resident foreigners in terms of trend-cycle, leading to forecasts that the flow of foreign currency in the form of tourism revenue in 2016 will continue to grow at a similar pace to last year.

Dominican Republic has seven (7) airports dotted throughout the country as well as excellent road infrastructures allowing tourists to access the many destinations nationwide. According to Dominican Central Bank figures, at the close of 2015 there were 68,821 hotel rooms in the country, a number that will increase this year according to statements by the Minister for Tourism at the International Tourism Fair (FITUR) held in Spain in January, 2016, who said that the building of 2,000 hotel rooms is in the pipeline for this year.

**LAW NO. 158-01**  
**TOURISM DEVELOPMENT ACT**

**i. Object**

This law is aimed at accelerating a rationalized development process of the tourism industry nationwide.

**ii. Scope of application:**

Any individual or entity domiciled in the country and engaged in undertaking, promoting or investing capital in any of the activities listed below are eligible for these incentives:

1. Hotel facilities, resorts and/or hotel complexes;
2. The construction of any facilities designed for conventions, fairs, international meetings, festivals, stage shows and concerts;
3. Any businesses engaging in the promotion of ocean cruises that include any of the ports mentioned herein as ports of origin and final destination for their vessels;

4. The construction and/or operation of amusement and/or ecological and/or theme parks;
5. The construction and/or operation of port and maritime infrastructures serving tourism, such as leisure ports and marinas;
6. The construction and/or operation of tourist infrastructures such as aquariums, restaurants, golf courses, sports facilities and any others as may be classified as a tourist-related facility;
7. Any small and medium sized businesses whose market is fundamentally geared towards tourism (crafts, ornamental plants, tropical fish, small endemic reptile breeding farms and others of a similar nature);
8. Enterprises providing basic infrastructure services for tourism, such as aqueducts, treatment plants, environmental drainage, garbage collection and solid waste disposal.

Therefore, the Law states that investments made in developing the abovementioned tourism activities, hotels and other tourist attractions will enjoy the entire (100%) of the exemption scheme set forth under this law.

Although the Law was originally aimed at new projects, it was amended in 2013 given the need to update hotel facilities that were over five (5) years old and to reconstruct or refurbish those over fifteen (15) years old, namely:

- Investments in tourism activities relating to hotel facilities, resorts or hotel complexes, in pre-existing structures will benefit from a 100% exemption from transfer tax on services and processed goods (ITBIS) and other taxes applicable to machinery, equipment, materials and furnishings necessary for updating, improving and renovating said facilities, provided they are at least 5 years old.
- Hotel facilities, resorts and/or hotel complexes whose existing structures are at least 15 years old, that undergo a reconstruction or refurbishment process of over 50%

of their facilities and that its final purpose will be hotel facilities will enjoy 100% of the exemption scheme set forth in Article 4 of this Law.

### **iii. Regulating Body**

The Tourist Development Council, (CONFOTUR), chaired by the Minister for Tourism, is in charge of the enforcement of this law. The members of the Council are The Minister of Finance or his / her representative, The Minister of the Environment and Natural Resources or his / her representative, The Minister of Culture or his / her representative, a representative of the Dominican Hotel and Tourism Association (ASONAHORES), a representative of the Technical Vice-ministry of Tourism, who shall act as secretary, an certified environmental impact professional to be selected by the Ministry for the Environment and Natural Resources and a representative of the Ministry of Culture.

### **iv. Incentives**

Beneficiaries of this Law are exempt from:

- a) Income tax;
- b) Any national or municipal taxes on the organization of companies, on increasing the capital of any already existing companies; any national and municipal taxes on the transfer of real property, or on any sale, exchange or contribution in kind or any other manner of assignment of real property; Tax on Luxury Dwellings and Undeveloped Lots (IVSS), as well as any rates, fees and levies on any blueprints, studies, opinions and supervision of the construction of any works to be built in the relevant tourist development, the latter exemption to be applied to any contractors in charge of the construction of the works.
- c) Any import and other taxes, any rates, fees, surcharges, including Transfer Tax on Manufactured Goods and Services (ITBIS) levied on any machinery, equipment, materials and personal property that were necessary for the construction and for the original furnishing and commissioning of the relevant tourist facility.

Other benefits under this Law are:

- a) Any local and international financing or any interest charged thereon that were granted to any enterprises receiving these incentives shall be exempt from all tax or withholding of any kind;
- b) A total and absolute tax exemption on any machinery and equipment (furnaces, incubators, production control treatment plants and laboratories, among others) that were required to achieve a high quality profile for any resulting product at the time of implementation.
- c) No new taxes, excises or fees, etc. may be levied during the tax exemption period.

**v. Term of exemption**

The tax exemption period is for fifteen (15) years starting from the date of termination of the construction and outfitting of the project availing of these incentives. A period of no more than three (3) years is allowed for initiating a sustainable constant operation of the project. Failure to comply with this deadline automatically leads to the loss of the acquired right to the exemptions.

**vi. Obligations and Penalties**

The main obligation for those availing of the Law is to preserve all natural resources and duly protect the environment, as provided under the General Environment and Natural Resources Act Nr. 64-00 of 18 August 2000, and any relevant rules, regulations and laws relating to the sector.

The incentives granted under this law are forfeited:

1. Whenever an enterprise or investor fails to comply with such laws, rules and regulations as regulate tourism as decided by the Ministry of Tourism;
2. Whenever an enterprise or investor fails to comply with such guidelines and rules as are prescribed under the Zoning Plan for the area where the investment shall be carried out, as decided by the Ministry for the Environment and Natural Resources;
3. Whenever an enterprise engages in any practices that are damaging to the environment or natural resources and the environmental authorities were

determined the existence of an environmental offence under the provisions of the General Law on the Environment and Natural Resources Nr. 64-00 of 18 August 2000, or its regulations, rules and laws relating to the sector.

Before any sanctions implying the suspension of any incentives can be applied, in each case the Ministry for the Environment and Natural Resources must issue a resolution recommending the Ministry of Finance to suspend any incentives granted.

Such sanctions as are mentioned above shall be apart from any other sanctions of a civil or criminal nature that may be applied under Dominican laws, especially under General Law on the Environment and Natural Resources Nr. 64-00 of 18 August 2000.