

Dominican Republic
OFFICE OF THE LEGAL COUNSELOR FOR THE EXECUTIVE POWER
Santo Domingo
National District

Law No. 158-01 on Promotion of Tourist Development in scarcely developed locations and new tourist sites in provinces and places of great potential, and the establishment of an Official Tourist Promotion Fund.

**THE NATIONAL CONGRESS
In the Name of the Republic**

Law No. 158-01

CONSIDERING: That the state is interested in furthering an increase in such businesses as will contribute to overall social and economic development and promoting the necessary conditions for the creation of a favorable environment where local, foreign and multinational businesses shall be attracted to invest resources in the organization of new enterprises and the generation of employment.

CONSIDERING: That there is marked competition in international markets and, very especially in the Caribbean Area, to attract investment in major sectors of the economy

CONSIDERING: That tourism has become a major industry throughout the world and the number of individuals who travel outside their place of residence is constantly increasing..

CONSIDERING: That tourism is the most dynamic of all sectors and subsectors of the economy and one of the most important employment generators, both directly and indirectly.

CONSIDERING: That the State has a fundamental obligation to promote the creation of new jobs for citizens to be able to earn a salary that will provide a source of income sufficient to support their families.

CONSIDERING: That as a consequence of international competition in the area of tourism, this business have been negatively affected as to its growth levels and this might bring about a reduction in such foreign exchange income as is received by the country and a parallel decrease in employment levels.

CONSIDERING: That there are areas rich in natural resources in the country that could contribute to the development of tourism, while on the other hand, the number of hotel rooms available is unevenly distributed throughout the different areas in the national territory.

CONSIDERING: That on the basis of the Dominican tourist experience, it may be concluded that for scarcely developed areas that have however a marked tourist potential to become major tourist centers, it is necessary for the State to implement clear development and incentive policies.

CONSIDERING: That scarce financial resources and the high interest rates prevailing in the local market have led to a decrease in investment in the area of tourism.

CONSIDERING: That it is necessary to augment such specialized resources as are allocated to the promotion of the tourist image of the Dominican Republic under Decree No. 475-96 of September 28, 1996, and to assign any such additional resources for the implementation of promotion plans in such tourist areas or zones as are referred to herein.

CONSIDERING: That natural resources are the foundation that supports the tourist industry.

CONSIDERING: That in order to have a sustainable tourist industry natural resources have to be rationally and legally organized.

CONSIDERING: That a sustainable tourism will be promoted and guaranteed by a healthy environment.

SEEN: Organizational Law on Tourism of the Dominican Republic No. 541 of December 31, 1969 as amended.

SEEN: Law No. 256 of October 30, 1974, providing for such mechanisms as are required for a planned and controlled development of the entire area known as "Puerto Plata or Costa de Ambar Tourist Pole".

SEEN: Law No. 16-95 of November 20, 1995 on Foreign Investment.

SEEN: General Law on the Environment and Natural Resources, No. 64-00 of August 18, 2000, and its regulations, rules and other laws on the matter.

SEEN: Decree No. 2536 of June 20, 1968, declaring the development of tourism in the Dominican Republic of national interest.

SEEN: Decree No. 1157 of July 31, 1975, providing for any individual or corporation, whether Dominican or foreign, desiring to purchase land located in La Vega, to first secure an authorization from the Executive Power.

SEEN: Decree No. 2729 of February 9, 1977 providing for the design of a tourist development plan for the municipalities of Constanza and Jarabacoa.

SEEN: Decree No. 322-91 of August 21, 1991, designating the Southeastern area of the country as "Extended Tourist Pole for the Southern Region".

SEEN: Decree No. 16-93 of January 22, 1993 amending Article 8 of Decree No. 156-86 of February 26, 1986 on the Montecristi National Park.

SEEN: Decree No. 177-95 of August 3, 1995 designating the coastal area between the mouths of the Nizao and Ocoa Rivers as Tourist Pole or Area of the Province of Peravia.

SEEN: Decrees Nos. 196-99, 197-99 and 199-99.

SEEN: Decree No. 91-94 of March 31, 1994 designating the province of Samaná as a Tourist Pole.

SEEN: Decree No. 476-96 of September 28, 1996, providing for such compounded fund as is established under Decree No. 212-96 to be managed by the Secretariat of State for Tourism.

HAS GIVEN THE FOLLOWING LAW

PURPOSE OF THE LAW

ARTICLE 1. A law on the Promotion of Tourist Development is hereby enacted intended for such areas that are scarcely developed as well as new tourist areas in provinces and locations of great potential, besides establishing an Official Fund for the Promotion of Tourism.

PARAGRAPH I. The purpose of this law is to accelerate a rationalized process of development of tourism in areas of great potential or areas having superior natural conditions for tourism throughout the country which having, or having not been declared tourist areas, have so far failed to reach the desired degree of development, such areas being the following:

1. Tourist Pole No. 4, Jarabacoa and Constanza (Decreets Nos. 1157 of July 31, 1975 and No. 2729 of September 2, 1977).
2. Extended Tourist Pole IV: Barahona, Baoruco, Independencia and Pedernales (Decree No. 322-92 of August 21, 1991).
3. Extended Tourist Pole V: Montecristi, Dajabón, Santiago Rodriguez and Valverde (Decree No. 16-93 of January 22, 1993).
4. Extended Tourist Pole VIII, including the province of San Cristóbal and the Municipality of Palenque, the province of Peravia and the province of Azua.
5. The province of Maria Trinidad Sánchez and all municipalities therein **(Amended by Law No. 184-02 of November 23, 2002)**.
6. Tourist Pole of the Province of Samaná (Decree No. 91-94 of March 31, 1994).
7. The province and municipalities of Hato Mayor; the province and municipalities of El Seibo; the province and municipalities of San Pedro de Macoris; the province and municipalities of Espaillat: Gaspar Hernández, Higüerito, José Contreras, Villa Trina and Jamao del Norte; the provinces of Sánchez Ramirez and Monseñor Nouel; the province of Monte Plata, the province of La Vega: The municipalities of Jarabacoa, Constanza and Guaguá; the municipality of Luperón, as well as El Castillo and historical La Isabela in the province of Puerto Plata, and the Colonial Zone of Santo Domingo **(Amended by Law No. 184-02 of November 23, 2002)**.
8. The province and municipalities of Santiago.
9. The municipality of Las Lagunas de Nisibón, and the sections of El Macao, Uvero Alto and Juanillo, in the province of La Altagracia.

PARAGRAPH II. In that order, the law herein and such regulations as may be decreed hereunder, shall provide for such incentives as shall be granted to promote any projects and investments that will contribute to achieve any aims and goals that were identified.

PARAGRAPH III. The Puerto Plata, Costa de Ambar and Santo Domingo Tourist Poles as well as others having already been granted incentives for the construction of hotel facilities, shall be exclusively granted such complementary benefits as are provided under Article 3, with the exception of Section 1 on hotel facilities, resorts and/or hotel complexes.

PARAGRAPH IV. Except for such municipalities as are mentioned in section 9, Paragraph I hereof, to wit: The municipality of Las Lagunas de Nisibón and the sections of El Macao, Uvero Alto and Juanillo in the province of La Altagracia, which shall benefit from the entire range of exemptions provided hereunder; the province of La Altagracia and the municipalities thereof shall be granted tax payment exemption facilities for the construction and furnishing of hotels, but not such ten (10) year income tax payment exemption as shall be granted to all other areas contemplated hereunder. The same limitations shall apply to the province of Santiago and the municipalities thereof **(Amended by Law No. 184-02 of November 23, 2002)**.

ARTICLE 2. Such incentives and benefits as are granted hereunder may be profited from by any individuals or corporations domiciled in this country who were to undertake, promote or invest capitals in any of the businesses contemplated in Article 3 herein below and in any tourist poles and/or provinces and/or municipalities listed in the preceding article.

PARAGRAPH: Such incentives and benefits as are granted hereunder may also be resorted to by individuals or corporations who were to develop any new projects or plans in any of the Tourist Poles mentioned in Article I hereinabove that will complement those in Article 3 herein below under any license, lease or any other manner of agreement entered into with the Dominican State (Added under Law No. 184-02 of November 23, 2002).

ARTICLE 3. The development of enterprises engaged in the following tourist undertakings is hereby declared of special interest for the Dominican State:

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 as were to engage in the promotion of ocean cruises that will include any of the ports mentioned herein as mother 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 sporting 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 whereof were fundamentally geared to 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.

PARAGRAPH: Such exemptions as are granted to such businesses as are listed in sections number 2,3,4,5,6 herein shall be also granted to any lodging and other tourist facilities or undertakings of any nature that were constructed or developed as a complement thereof, such as villas, parcels, land lots, apartments, docking wharves for vessels, etc. whether these were designed for their operation by promoters or developers or for their sale to any individuals or corporations, provided they were part of a classified project. **(Added by Law No. 184-02 of November 23, 2002).**

INCENTIVES AND BENEFITS GRANTED BY THE LAW

ARTICLE 4. Any businesses that being domiciled in this country that resort to the such incentives and benefits as are provided hereunder shall be granted a one hundred percent (100%) exception as to the following:

- a) Any income tax on any such incentives as are provided in Article 2 hereinabove.
- b) Any national or municipal taxes on the organization of companies, on increasing the capital of any companies already organized; 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; the Tax on

Luxury Dwellings and Non constructed Lots (IVSS). As well as any rates, fees and assessments 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. **(Amended by Law No. 184-02 of November 23, 2002).**

- c) Any importation and other taxes, any rates, fees, surcharges, including the Tax on the Transfer of Manufactured Goods and Services (ITBIS) assessed 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. **(Amended by Law No. 184-02 of November 23, 2002).**

PARAGRAPH I: Any Such local and international financing or any interest charged thereon that were granted to any enterprises receiving the above incentives shall not be subject to any tax or retention of any kind.

PARAGRAPH II. Any Individual or corporation may have the amount of any investment in any tourist development included hereunder deducted or subtracted from his or her net assessable taxes, while being able to apply up to twenty percent (20%) of any assessable income each year to repaying any such investment. In no case shall any such term for repayment exceed five (5) years. **(Amended by Law No. 184-02 of November 23, 2002).**

PARAGRAPH III. There shall be a total and absolute tax exemption at the time of implementation 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.

PARAGRAPH IV. Such exemptions as are provided hereunder shall be benefited by any individuals or corporations making one or several investments directly with the promoters or developers of any of the businesses mentioned in Article 3 hereinabove, and in such tourist poles and provinces and municipalities as are described in Article 1 above, any subsequent assignment in favor of any third party purchaser(s) to be however excluded from any such benefits. **(Added by Law No. 184-02 of November 23, 2002).**

ARTICLE 5. It shall be forbidden to have any new taxes, excises or fees, etc. assessed during the fiscal exemption period.

ARTICLE 6. Granting such incentives and benefits as are referred to herein shall be strictly limited to any new developments the construction whereof were started after the enactment hereof.

TERM OF EXEMPTION

ARTICLE 7. Such fiscal exemption period granted to each tourist development, business or enterprise shall be for ten (10) years as of the date of completion of the construction and furnishing of the development that were the subject of said incentives. A term not to exceed three (3) years shall in all cases be given to commence operations for any such approved projects in a sustained and uninterrupted manner. The incompliance to this term shall result in automatically forfeiting any exemption rights awarded by the present law.

ARTICLE 8. A Tourist Development Council, the (Spanish) acronym whereof shall be CONFOTUR, to be chaired by the Secretary of State for Tourism shall be in charge of the enforcement hereof. Said Council shall further have as additional members:

1. The Secretary of State for Finance or his or her representative.
2. The Secretary of the State for the Environment and Natural Resources or his or her representative;
3. The Secretary of State for Culture or his or her representative.
4. A representative of the Hotel and Restaurant Association (ASONAHORES);
5. A representative of the Technical Sub-Secretariat for Tourism, who shall act as secretary.
6. An environmental impact professional of acknowledged capacity who shall be selected by the Secretariat of State for the Environment and Natural Resources; and
7. A representative of the Secretariat of State for Culture.

ARTICLE 9. All classification applications by any parties interested in having resort to the terms of this law shall be filed with the office of the Secretary of State for Tourism, where record shall be kept of any such applications in such manner as were provided under the regulations by CONFOTUR.

ARTICLE 10. All such applications as were submitted to the consideration of the Tourist Development Council shall be approved or rejected while giving the reasons there for , within a term not to exceed sixty (60) days in all.

ARTICLE 11. Any applications for classification that were favorably received by CONFOTUR shall be the object of a resolution duly detailing all such technical and financial features as were the basis for such a decision.

ARTICLE 12. The Secretariat of State for Tourism shall see to the faithful compliance with the provisions herein by means of inspectors who upon being duly authorized there for, may carry out inspections in the entire area of the works and in case of any breach of the law or any relevant rules or regulations, shall proceed to take due note thereof, any such record will be admitted as evidence until proven the contrary.

PARAGRAPH. Any such records of infractions shall be forwarded by the Secretariat of State for Tourism to the Attorney General for the Republic, who shall have them submitted to the District Attorney of the appropriate Judicial District.

ARTICLE 13. Any breach hereto by any individuals or corporations shall automatically entail forfeiting any incentives granted and concurrent payment of all values which had been exempted hereunder.

REQUIREMENTS FOR FILING APPLICATIONS

ARTICLE 14. Any new projects filed so as to have recourse to such incentives and benefits as are provided hereunder, shall be applied for together with the following documents:

1. An environmental impact study on type of project, any infrastructures required, the area of impact and sensitivity of area as determined by the Secretariat of State for the Environment and Natural Resources under the General law on the Environment and Natural Resources, No. 64-00 of August 18, 2000 and any regulations, rules and sectorial laws thereon.
2. A preliminary architectural plan as well as preliminary engineering details thereon to be presented by an acknowledged legally licensed Dominican professional or firm. Any assistance, consultation or participation by any foreign experts in the formulation of preliminary architectural or engineering studies or in any subsequent stages of

the tourist development shall in all cases be through a duly licensed local professional firm in charge of its implementation and bearing any legal liability there for.

3. Any projects involving the handling of large volumes of fuel and/or heaving sea-borne traffic shall be accompanied by a contingency plan to prevent and control any likely fuel spills.

PARAGRAPH: Projects shall be first approved by any urban and municipal planning bodies having competence in their jurisdiction.

ARTICLE 15. Before construction is begun and once all authorizations required have been secured, a bank guarantee or bond shall be posted by all infrastructure developers to cover any environmental recovery costs that as a result of developer's neglect, were to cause any damage to the environment.

ARTICLE 16. The Secretariat of State for the Environment and Natural Resources shall be responsible for guaranteeing that no infrastructure development project shall be approved within national park protected areas unless it were shown through an environmental impact study approved by that same Secretariat of State that such a project does not represent any danger to the preservation of natural resources or, that it shall not be a threat to the flora or fauna or shall mutilate the integrity thereof.

PARAGRAPH. A special regulation to be drafted by the Secretariat of State for the Environment and Natural Resources and approved by the Executive Power shall determine such criteria, rules and procedures as shall regulate the approval of projects within protected areas or national parks, always in consistency with the prescriptions of the General Law of the Environment and Natural Resources No. 64-00 of August 18, 2000, the Sectorial Law on Protected Areas, the Plan for the Management and Territorial Organization of each protected area as approved by the Secretariat of State for the Environment and Natural Resources.

SANCTIONS

ARTICLE 17. Any enterprises that were organized in view of such incentives and benefits as are provided hereunder shall guarantee the preservation of all natural resources and the due protection of the environment, such as provided under the General Law of the Environment and Natural Resources No. 64-00 of August 18, 2000, and any relevant rules, regulations and sectorial laws thereon.

PARAGRAPH I. The Secretariat of State for the Environment and Natural Resources shall be responsible for guaranteeing that during the construction and operation of any enterprise under the provisions herein, all natural resources in the surrounding area shall be respected and preserved, while requiring production of such environmental impact studies as were required in this connection, such as it is provided under the General Law of the Environment and Natural Resources No. 64-00 of August 18, 2000, and any relevant rules, regulations and sectorial laws thereon.

PARAGRAPH II. No enterprise shall be granted any of the incentives provided hereunder unless such requirements as are prescribed in the preceding paragraph have been duly complied with; no incentive to be thus granted unless the investor had first secured the appropriate environmental license granted by the Secretariat of State for the Environment and Natural Resources.

ARTICLE 18. Such incentives as are contemplated hereunder shall be forfeited in the following cases:

1. Whenever an enterprise or investor failed to comply with such laws, rules and regulations as regulate tourism, such as it were decided by the Secretariat of State for Tourism.
2. Whenever an enterprise or investor failed to comply with such guidelines and rules as are prescribed under the Territorial Organizational Plan for the area where the investment shall be effected, such as it were decided by the Secretariat of State for the Environment and Natural Resources.
3. Whenever an enterprise were to engage in any practices that were damaging for the environment or natural resources and the the existence were determined by the environmental authorities on an environmental offence under the provisions of the General Law on the Environment and Natural Resources No. 64-00 of August 18, 2000 or its regulations, rules and sectorial laws.

PARAGRAPH I. In order for any sanctions implying suspension of incentives to be applied, the Secretariat of State for the Environment and Natural Resources shall in each case have a resolution issued thereon therein recommending the Secretariat of State for Finance suspending any incentives granted.

PARAGRAPH II. Such sanctions as are mentioned above shall be apart from any other of a civil or criminal nature that may be applied under Dominican laws, especially under General Law on the Environment and Natural Resources No. 64-00 of August 18, 2000.

PARAGRAPH III. Any rights as were approved or any benefits as were granted to a tourist development after a resolution by the Tourist Development Board (CONFOTUR) under the provisions herein may only be assigned with the approval of such a Board **(Added by Law No. 184-02 of November 23, 2002).**

Any such authorization for assignment shall be applied for to the Tourist Development Board (CONFOTUR) either by the concerned investor or by the individual in favor of whom any such application were made. The Tourist Development Board (CONFOTUR) may require presentation of any additional information as were essential for a better consideration of the case. Any decision thereon by the Tourist Development Board (CONFOTUR) shall be taken within a term of 60 days as of due receipt thereof. **(Added by Law No. 184-02 of November 23, 2002).**

PARAGRAPH IV. Such approval by the Tourist Development Board (CONFOTUR) as is required hereunder shall exclusively apply to any assignment of rights implying an assignment of the actual control of the property and the operation of the project as such, there being no limitation or restriction whatever to project promoters or developers freely assigning to any purchasing investors without any formality other than those required under common law such rights as said purchasers are entitled to over such land and facilities as were purchased, such as parcels, lots, villas, apartments, etc. **(Added by Law No. 184-02 of November 23, 2002).**

ALLOTMENT OF FUNDS FOR THE PROMOTION OF TOURISM

ARTICLE 19. In view of a more effective promotion of tourism development in the Dominican Republic in such international markets where tourists originate from and given the creation of new tourism poles hereunder, an Official Fund for the Promotion of Tourism is hereby established under the management of the Secretariat of State for Tourism with the assistance of the private sector, mainly the National Association of Hotels and Restaurants (ASONAHORES) and other concerned organizations. Such a fund shall be managed in accordance with the following provisions:

1. The whole of such funds as were collected from the application of any airport taxes assessed by the General Civil Aeronautics Directorate to each incoming and outgoing passenger both in regular or non-regular or charter flights, shall be fifty percent (50%) allotted to such Official Fund for the Promotion of Tourism to be managed by the Secretariat of State for Tourism.
2. The remaining fifty percent (50%) shall be allotted to the Operational Fund held by the General Civil Aeronautics Directorate to be used for specific programs of said agency geared at enhancing safety in civil Aviation in the Dominican Republic.
3. The whole of such funds as accrued on tourist cards in all national ports and airports shall be deposited directly in the account of the Official Tourist Promotion Fund under the management of the Secretariat of State for Tourism.

OTHER PROVISIONS

ARTICLE 20. The Executive Power is given a term of one hundred and twenty (120) days after the enactment hereof to have the relevant regulation drafted and published.¹

ARTICLE 21. The provisions herein shall prevail over any other provisions under any laws previously enacted or any actions of an administrative nature taken by the Executive Power.

1 See Art. 10 of Law No. 184-02 of November 23, 2002.

GIVEN in the Hall of Sessions of the Senate, Palace of the National Congress, in Santo Domingo de Guzmán, National District, capital of the Dominican Republic, on the twenty-fourth (24) day of the month of July, year two thousand and one (2001) years 158th of the National Independence and 138th of the Restoration. (signed) **Ramón Alburquerque**, President; **Ginette Bournigal de Jiménez**, Secretary; **Dario Antonio Gómez Martínez**, Secretary.

GIVEN in the Hall of Sessions of the Chamber of Deputies, Palace of the National Congress, in Santo Domingo de Guzmán, National District, capital of the Dominican Republic, on the sixth (6) day of the month of September, year two thousand and one (2001) years 158th of the National Independence and 138th of the Restoration. (signed) **Rafaela Alburquerque**, President; **Ambrosina Saviñón Cáceres**, Secretary; **Rafael Angel Franjul Troncoso**, Secretary.

HIPÓLITO MEJIA
President of the Dominican Republic

In the exercise of such powers as I am conferred under Article 55 of the Constitution of the Republic.

I ENACT the law herein and order it being published in the Official Gazette, for its divulgation and compliance.

GIVEN in Santo Domingo de Guzmán, National District, capital of the Dominican Republic, on the ninth (9) day of the month of October, year two thousand and one (2001) years 158th of the National Independence and 138th of the Restoration. (signed) **HIPOLITO MEJIA**

The undersigned, **Dr. Guido Gómez Mazara**, Legal Counselor for the Executive Power CERTIFY that the above is the updated version of Law No. 158-01 of October 9, 2001 on the Promotion of Tourist Development published in Official Gazette No. 10104 of October 16 that year as amended by Law No. 184-02 of November 23, 2002, published in Official Gazette No. 10184 of November 28 this year.

In Santo Domingo de Guzmán, National District, capital of the Dominican Republic, on the twenty-ninth (29) day of the month of November, year two thousand and two (2002), (signed) **Dr. Guido Gomez Mazara, Legal Counselor, Executive Power**. (SEAL).