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The Dominican Republic Hotel Case: Tourism or A "Tax Holiday"?

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The Dominican Republic Hotel case illustrates how some multinationals in the Tourism business have shifted profits to low tax/no tax jurisdictions contrary to applicable law.

In the Dominican Republic, the tourism industry represents about 10 percent of Gross Domestic Product GDP (figures for 2007, 2008, 2009-2010). The Dominican Republic is the fourth largest tourism market in Latin America and the Caribbean (surpassed only by Brazil, Mexico and Argentina). The Foreign Direct Investment (FDI) in the Dominican tourism industry represents about 1/3 of total FDI in the country.

Tourism industry
Percentage of GDP; 2005-2010

Year	% of GDP
2005	11.60
2006	11.60
2007	10.70
2008	10.10
2009	9.50
2010	9.20

Source: Central Bank of Dominican Republic

However, some hotels in the tourism industry in the Dominican Republican (DR) had declared losses repeatedly, for more than ten years.

The Dominican Tax Administration ("DGII") investigated one aspect of the DR tourism business: "all inclusive hotel packages," and determined the following:

Some tourism/hotel companies in the Dominican Republic were selling at least 80% of hotel rooms to a related company in a tax haven jurisdiction ("Tax Haven Company") at a price per room lower than the cost per room. However, the hotel group would advertise the hotel room on the booking webpage and Tour Operator catalogue at a significantly higher price, a fair market rate.

The Tax Haven Company would receive the higher price, but would pay the related tourism/hotel company in the Dominican Republic the lower price. The result: The tourism/hotel company in the Dominican Republic would declare losses for tax purposes in the Dominican Republic. And the Tax Haven Company would have tax free income. It was determined that the Tax Haven Company performed no substantial services to justify such income.

The Dominican Tax Administrations (DGII) audited and determined the following:

Sector Audit Strategy

Tax Base: Based on the hotel rate at which the guest or final consumer overseas pays per night:

Sector Audit Strategy

Procedure:

1. Find the per night rate by the foreign tourist, in a 7 nights package, discounting the transportation.

2. The rates were segmented according to the category of the hotel, location and season Five categories were identified in each zone. The Association of Hotels in the Dominican Republic (ASONAHORES) submitted such information.

- Two Seasons were identified: high and low season.

- Three different regions: A, B, and C. A for the most expensive one C for the least expensive one.

3. 10% of mandatory Tip and 16% of IVA (local sales tax) were discounted.

4. The margin of 20% and 25%, as a markup was discounted. This margin is it supposed to be the profit margin the tourism intermediaries get for the commercialization service.

Results:

Audits by Fiscal Year
2005 – 2010

Tax Period	**Quantity**
2005	1
2006	1
2007	16
2008	3
2009	32

Fiscal Period Audited
2005-2010

Audited Periods	**Taxpayers**
1 period	5
2 periods	14
3 periods	12
4 periods	1

2010	20
Total	**73**

Total	**33**

The DGII determined the taxable income and the taxes due.

The Supreme Administrative Court of the Dominican Republic sustaining and confirming the action of the DGII as legal and correct, in both form and substance, and therefore, confirming the amounts of the estimates contained in the resolutions of determination of tax. The hotels that were audited paid the taxes due.