

New Legislation for Pensioners and Revenue Earners

Web page:

<http://www.dgii.gov.do/legislacion/pdf/leyes/Ley171-07.pdf>

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Law No. 171-07 on Special Incentives for the Pensioners and Revenue Earners^[1] of Foreign Source (sobre Incentivos Especiales a los Pensionados y Rentistas de Fuente Extranjera).

El Congreso Nacional (The National Congress)
In the Name of the Republic

Law No. 171-07.

CONSIDERING: That Law No. 16-95 on Foreign Investment (de Inversión Extranjera), of November 20th, 1995, establishes the principle of the national treatment inspired in the necessity that the investors, both foreigner ones as well as national ones, might have similar rights and duties in the matter of investment;

CONSIDERING: That the role that has to be played by the government in order to facilitate the flow of investments towards the country makes it necessary to implement a joint strategy of the public institutions for the execution of coherent actions oriented to the promotion of those investments, optimizing the efforts that had been made and their competitive advantages;

CONSIDERING: That the Dominican State recognizes that the investments in currency or capitals from the foreign countries contribute to the collective development and well-being of the country through the dynamism that it is generated in the economic and productive national activity;

CONSIDERING: That the Dominican Republic has natural, cultural, technological, and human resources that are enough in order to launch itself as a suitable place for the pensioners and revenue earners^[2] (rentistas) interested in the country as a retirement and jubilation destiny;

CONSIDERING: That the countries of Central America and the Caribbean region have developed this program in their territories with highly satisfactory results.

SEEN: Law No. 14-93, of August 26th, 1993, on Customs Duty of the Dominican Republic (sobre Arancel de Aduanas de la República Dominicana) (whereof the tax payment for home appliances and personal goods are exempted);

SEEN: Law No. 168, of May 27th, 1967, on Partial Tax Exemption of Motor Vehicles (sobre

Exoneración Parcial de Impuestos de Vehículos de Motor), amended by Law No. 146-00, on Customs Duty Reform and Tax Compensation (sobre Reforma Arancelaria y Compensación Fiscal);

SEEN: Law No. 16-95, of November 20th, 1995, on Foreign Investment (sobre Inversión Extranjera);

SEEN: Law No. 11-92, of May 16th, 1992, which establishes the Código Tributario (Taxes Code), and its amendments;

SEEN: Decree No. 950-01, of September 20th, 2001, which creates the Residency Permit due to Investment (Permiso de Residencia a través de la Inversión), establishing the Regulations for Implementing Articles 5, 6 and 7 of the Law No. 95, of Immigration (de Migración), of April 24th, 1939;

SEEN: Decree No. 756-03, of August 12th, 2003, which gives special incentives to the pensioners or retired people of a foreign source.

HAS GIVEN THE FOLLOWING LAW:

TITLE I.
DEFINITIONS, OBJECT, AND CONDITIONS.

ARTICLE 1.- For the purpose of implementing the present law, the following definitions are given:

1.- Pensioners or Retired People: Foreign or Dominican people who are beneficiaries of a monthly income from a pension or retirement plan of a government, official organism, or private company of foreign origin, who have stated their intention of changing their permanent residency to this country, and to receive their pension or retirement benefits in the Dominican Republic;

1.- Pension: Rents of foreign origin coming from income that it is utility or benefit, that renders a good or activity, and all of the benefits; utilities that are generated or earned of materialized patrimony, not justified by the taxpayer, whatsoever it is its nature, origin, or denomination;

1.- Revenue Earners (Rentistas): Those people who enjoy stable and permanent rents, whose main capital is generated or originated from a foreign country due to any of the following reasons:

1.- Deposits and/or investments in established banks abroad;

1.- Money transfers coming from banking or financial institutions abroad;

1.- Investments in established companies abroad;

1.- Money transfers generated from real estate property^[3];

1.- Interests received out of titles issued in foreign currency generated abroad, that are located in financial institutions authorized legally for operating in the Dominican Republic;

1.- Benefits obtained by investments in titles issued in foreign and/or national currency, with the State or its institutions, whenever the capital has been generated abroad, and that a currency exchange has been done in any of the financial institutions of this country;

1.- Interest, rents or dividends from real estate and non-real estate investments done in the Dominican Republic, whose principal capital has been generated or earned mainly abroad.

ARTICLE 2.- Main Objective of the Law. The pensioners as well as the revenue earners (rentistas) who comply with the requirements and conditions established through the present law, will be able to get the same benefits and exemptions given to the foreign investors and resident citizens abroad, through the following legal dispositions:

1.- Program of Residency due to Investment (Programa de Residencia por Inversión), created through Decree No. 950, of September 20th, 2001, which allows to the foreign investors to obtain the permanent residency in a period of 45 days;

1.- Law No. 14-93, of August 26th, 1993, on Customs Duty of the Dominican Republic (sobre Arancel de Aduanas de la República Dominicana), which gives exemptions to the payment of taxes for home appliances and personal goods;

1.- Law No. 168, of May 27th, 1967, on Partial Tax Exemption of Motor Vehicles (sobre Exoneración Parcial de Impuestos de Vehículos de Motor).

Additionally, the pensioners and revenue earners (rentistas) who get protected under the present law will have the following benefits, according to the conditions and stipulations stated in this law:

1.- Tax exemption on real estate transfers, for the first acquired property.

1.- Tax exemption for 50% on mortgages, when the creditors are financial institutions duly regulated by the Monetary and Financial Law (Ley Monetaria y Financiera);

1.- Tax exemption for 50% on the real estate property, whenever this applies;

1.- Tax exemptions that burden the payment of dividends and interests, generated in the country or abroad;

1.- Tax exemption for 50% on the Gain of Capital, whenever the revenue earner (rentista) is the major stockholder of the company that it is subjected to the payment of this tax, and that such company is not endeavored in commercial or industrial activities.

ARTICLE 3.- Minimum Amount of the Pension or Monthly Revenue. For the purpose of acquiring the preferential regime established in the present law, the pensioner will have to receive a monthly income of no less than one thousand, five hundred dollars, United States' currency (US\$1,500.00); and the revenue earner (rentista) will have to receive a monthly sum of two thousand U. S. dollars (US\$2,000.00), or its equivalent in national currency.

PARAGRAPH.- For each dependant defined in Article 5 of the present law, who applies jointly with the main applicant, it will be required an additional monthly income of the sum of two hundred and fifty U.S. dollars (US\$250.00).

ARTICLE 4.- In order to qualify for this program, the main applicant will not be required to have a minimum age, simply he/she will have to comply with the requirements of the present law.

TITLE II. OF THE RESIDENCY PERMIT DUE TO INVESTMENT.

ARTICLE 5.- Beneficiaries. Under the protection of the dispositions of the present law, the pensioners and revenue earners^[4] (rentistas) defined in Article 1 of the present law will be able to apply for the Program of Residency Permit due to Investment (Programa de Permiso de Residencia por Inversión); as well as his/her spouse and single sons and daughters under the age of 18 years-old, disabled ones who are of age, or the ones of age who can prove that they are studying at an university, and that they depend financially on the main applicant. In the same way, the minors under guardianship of the titleholder or his/her spouse can also be included when they are under a fully recognizable guardianship.

ARTICLE 6.- Application Procedure. The foreigners who acquire the category of resident pensioners and resident revenue earners (rentistas) through the Program of Residency Permit due to Investment (Programa de Permiso de Residencia a través de la Inversión) will have to comply with all the requirements for these purposes at the foreign investment window of the General Directorate of Immigration (Dirección General de Migración).

PARAGRAPH I.- In the case of pensioners, the applicants will have to show a certificate of the government, the official organism or the private company of foreign origin where they rendered their services, duly translated into Spanish by a judicial translator, legalized by the Dominican consular office from the country of origin of the document. Such certificate will have to include the general data of the applicant, the time that he/she stayed on the company, position that he/she held, and the amount of money received as a pension.

PARAGRAPH II.- In the case of revenue earners (rentistas), these ones will have to prove that they enjoy these permanent and stable rents generated or coming from abroad for a period of no less than five years, through a copy of the contract of the revenue duly translated into Spanish by a judicial translator, legalized by the Dominican consular office from the country of origin of the document. At the same time, they will have to show the income's receipt of the money to the country, through a copy of the check(s) or notice(s) of money transfer from the financial entity(ies) established abroad.

ARTICLE 7.- Once the documents have been deposited at the foreign investment window, the personnel in charge will proceed to verify and to purge the validity of them, according to the established requirements in the present law, and to send them at the shortest time to the Director of Immigration (Director de Migración) for the purpose of approving them. In the positive case, the General Directorate of Immigration (Dirección General de Migración) will issue an approval letter of the application for the Residency Permit due to Investment (Permiso de Residencia a través de la Inversión), whereof will be stated that the application has been satisfactorily accepted, and it is authorized the issuance of a residency card in a minimum period of time of forty-five (45) working days, beginning at the date after receiving the application.

ARTICLE 8.- Renewal of the Residency Permit. After the expiration of one year of validity of the residency permit, the pensioner and/or revenue earner (rentista) will be able to apply for a renewal at the foreign investment window of the General Directorate of Immigration (Dirección General de Migración). For such purposes, the interested party will have to deposit the following documents:

1.- Renewal form of the residency permit for pensioners and/or revenue earners (rentistas).

1.- Copy of identification card.

1.- Certificate of no background files^[5] issued by the Prosecuting Attorney's Office (Procuraduría Fiscal) of the Judicial District (Distrito Judicial) where the applicant belongs or by the National Police (Policía Nacional) of the Dominican Republic.

1.- Expired Residency Card.

PARAGRAPH I.- The pensioners and revenue earners (rentistas) will have to deposit at the foreign investment window of the General Directorate of Immigration (Dirección General de Migración) the documents that prove that they have received their pensions or revenues in the national territory for the same period of time that they received the previous residency permit.

PARAGRAPH II.- Once that the renewal application has been approved, the General Directorate of Immigration (Dirección General de Migración) will issue a residency card in a minimum period of time of eight (8) working days, beginning at the date of the application. The residency card will have an expiration period of two (2) years, or the time given by the General Directorate of Immigration (Dirección General de Migración), and it could be renewed at the time of

expiration.

ARTICLE 9.- Loss of the Residency Card. In the case of loss of the residency card, the interested party will have to fill up and show at the foreign investment window of the General Directorate of Immigration (Dirección General de Migración) the application form due to loss, with two (2) photos, size of 2 inches by 2 inches, and loss certificate issued by the National Police (Policía Nacional).

ARTICLE 10.- Tax Exemption for the Pension or Revenue Received. The sums of money declared as income in order to enjoy the benefits of this law will be exempted from the Income Tax (Impuestos Sobre la Renta) (Article 271 of the Taxes Code (Código Tributario) is amended).

TITLE III.

ON THE BENEFITS OF THE LAW NO. 14-93, WHICH GIVES AN EXEMPTION FROM THE PAYMENT OF TAXES FOR HOME APPLIANCES AND PERSONAL GOODS OF THE FOREIGNERS WHO COME TO THE DOMINICAN REPUBLIC TO LIVE PERMANENTLY.

ARTICLE 11.- The pensioners and revenue earners (rentistas) whose residency applications have been approved according to the dispositions of the present law will have the benefit of the exemption of the customs duty for the imports of personal and home appliances as well as equipment used in their occupations or professions, according to what it is established by the Law No. 14-93, which gives an exemption from the payment of taxes for home appliances and personal goods to the foreigners that come to the country to live permanently. In addition to the standard requirements and formalities of the General Directorate of Customs (Dirección General de Aduanas) for the application of the Law No. 14-93, the pensioners and revenue earners (rentistas) will have to include in their application a copy of their Permanent Residency Card (Tarjeta de Residencia Definitiva).

PARAGRAPH I.- The pensioners and revenue earners (rentistas) whose applications of Residency due to Investment (Residencia por Inversión) have been appropriately approved by the General Directorate of Immigration (Dirección General de Migración), which are in the waiting process for the issuance of the residency card will be able to begin the procedures of applying for the benefits of the Law 14-93 before the General Directorate of Customs (Dirección General de Aduanas). For these purposes, it will be necessary to show a certified copy of the Approval Letter of the Residency due to Investment (Carta de Aprobación de la Residencia por Inversión), issued by the General Director of Immigration (Director General de Migración).

This document will have to be filed with all the standard requirements of the General Directorate of Customs (Dirección General de Aduanas) for the enjoyment of the benefits of the Law 14-93.

PARAGRAPH II.- The dispositions of the present article will benefit only and exclusively the pensioners and revenue earners (rentistas) who have a Residency due to Investment (Residencia

por Inversión) application form appropriately approved by the General Directorate of Immigration (Dirección General de Migración). Therefore, the benefits stated on the Law No. 14-93 will be applied neither to the spouses nor to the dependants of the applicant.

PARAGRAPH III.- All of the exempted goods like home appliances will not be able to be taken away without previously paying for the applicable attributes^[6] to the Dominican State.

TITLE IV.

ON THE BENEFITS OF THE LAW NO. 168, ON PARTIAL TAX EXEMPTION OF MOTOR VEHICLES, MODIFIED BY THE LAW NO. 146-00, ON CUSTOMS DUTY REFORM AND TAX COMPENSATION.

ARTICLE 12.- The pensioners and revenue earners (rentistas), and their respective spouses^[7], whose permanent residency applications have been approved according to the dispositions of the present law, will benefit from the Regime of Partial Tax Exemption of Motor Vehicles (Régimen de Exoneración Parcial de Impuestos de Vehículos de Motor), established by the Law No. 168, of May 24th, 1967, amended by the Law No. 146-00, on Customs Duty Reform and Tax Compensation (Reforma Arancelaria y Compensación Fiscal).

In addition to the standard requirements and formalities of the General Directorate of Customs (Dirección General de Aduanas) for implementing the Regime of Partial Tax Exemption of Motor Vehicles (Régimen de Exoneración Parcial de Impuestos de Vehículos de Motor), the interested party will have to include in his/her application form a copy of his/her permanent residency card.

PARAGRAPH I.- The pensioners and revenue earners (rentistas), and their respective spouses, whose applications of Residency due to Investment (Residencia por Inversión) have been appropriately approved by the General Directorate of Immigration (Dirección General de Migración), which are in the waiting process of the issuance of the residency card will be able to begin the procedures of applying for the benefits of the Law 168 before the General Directorate of Customs (Dirección General de Aduanas). For these purposes, it will be necessary to show a certified copy of the Approval Letter of the Residency due to Investment (Carta de Aprobación de la Residencia por Inversión), issued by the General Director of Immigration (Director General de Migración). This document will have to be filed with all the standard requirements of the General Directorate of Customs (Dirección General de Aduanas) for the enjoyment of the benefits of the Law 168, amended by the Law No. 146-00, on Customs Duty Reform and Tax Compensation (Reforma Arancelaria y Compensación Fiscal), which establishes the Partial Tax Exemption of Motor Vehicles (Exoneración Parcial de Impuestos de Vehículos de Motor).

PARAGRAPH II.- The motor vehicles that enjoy the benefits of the present disposition will not be able neither to be sold nor transferred to a third party in a period of time of five (5) years, beginning on the date of their arrival to the country, except in the case that the difference of the total rights and applicable taxes are paid.

PARAGRAPH III. For the purpose of implementing the present disposition it will be understood as motor vehicles:

Automobile: It is allowed to the applicant to import one (1) automobile under the benefits of this program; even though, the vehicles which are acquired in the local market will be exempted from the payment of the Transfer Tax to Industrialized Goods and Services (Impuesto de Transferencia de Bienes Industrializados y Servicios) (ITBIS), as well as the Selective Tax on Consumption (Impuesto Selectivo al Consumo^[8]).

TITLE V.

ON THE EXEMPTION FROM THE PAYMENT OF TAXES ON TRANSFER, MORTGAGES, TAX ON THE REAL ESTATE PROPERTY, AND GAIN OF CAPITAL.

ARTICLE 13.- The pensioners and revenue earners (rentistas), and their respective spouses, whose permanent residency applications have been approved according to the dispositions of the present law, will benefit from the exemption from the payment of taxes on real estate operations for the first property that they acquire. At the same time, and while their Residency Permit due to Investment (Permiso de Residencia por Inversión) is valid, they will benefit of the exemption of the 50% of the tax on documents and Real Estate Property Tax (Impuesto sobre la Propiedad Inmobiliaria). At the same time, they will be exempted from the payment of the 50% of the mortgages taxes. Therefore, for the beneficiaries of this law and while their Residency Permit due to Investment (Permiso de Residencia por Inversión) is valid the following taxes are modified in the established proportions:

1.- Law No. 18-88, of January 19th, 1988, and its amendments;

1.- Law No. 145-02, of September 9th, 2002, which amends the Law No. 18-88;

1.- Law No. 3341, of July 13th, 1952, on Real Estate Operations (sobre Operaciones Inmobiliarias), and its amendments, including the Law No. 288-04, of September 28th, 2004;

1.- Law No. 33-91, of November 8th, 1991;

1.- Law No. 80-99, of July 29th, on Documents.

ARTICLE 14.- All of the real estate properties acquired by the pensioners and revenue earners (rentistas), under the protection of this law, at the moment of their sale to a third party, will be exempted from the payment of the 50% of the tax on gain of capital.

TITLE VI.

POSSIBILITY OF DOING REMUNERATED WORKS IN THE COUNTRY.

ARTICLE 15.- The pensioners and revenue earners (rentistas) protected under this law will be able to endeavor themselves in remunerated works. Even though, the wages earned for that activity will be subjected to the payment of the applicable taxes to the Dominican State, like any other national employee, according to the principle of equal treatment established on the Law No. 16-95, of November 20th, 1995, on Foreign Investment (sobre Inversión Extranjera).

TITLE VII.

GENERAL DISPOSITIONS.

ARTICLE 16.- The benefits of this law protect in an equal way the Dominican citizens who are pensioners or retired people, by governmental institutions of other countries, and for those ones who do not have that character can prove that they receive rents or revenues according to the terms that Article 1 of the present law establishes, and who have lived permanently abroad no less than ten (10) years.

PARAGRAPH.- The foreign residents in this country who acquire the condition of pensioners and/or revenue earners (rentistas) will be able to obtain the benefits of this law.

ARTICLE 17.- In the case of death of the main applicant, the acquired rights by him/her as beneficiary will be adjudicated to the spouse, or by default to any other dependant, defined in Article 5 of this law, whenever these ones comply with the legal requirements that were requested to the main applicant, established on Articles 3 and 6 of this law.

ARTICLE 18.- Sanctions due to Violation of the Present Law. The persons who apply in order to be beneficiaries of this law and who on a conscious manner provide false information in order to benefit themselves of the concessions that this law gives will be liable of sanctions, and they will have to pay a fine of an equivalent sum of the double amount of applicable taxes which they have to pay to the Dominican tax authorities.

ARTICLE 19.- The present law annuls any other disposition that might be contrary to the purpose of its implementation.

GIVEN in the Meeting Hall of the Deputies' Chamber (Sala de Sesiones de la Cámara de Diputados), Palace of the National Congress (Palacio del Congreso Nacional), in Santo Domingo de Guzmán, Distrito Nacional, capital city of the Dominican Republic, at the 10th day of the month of April of the year two thousand and seven (2007); at the 164th year of the Independence, and the 144th year of the Restoration (Restauración).

Julio César Valentín Jiminián

President

María Cleofia Sánchez Lora
Secretary

Teodoro Ursino Reyes
Secretary

GIVEN in the Meeting Hall of the Senate (Sala de Sesiones del Senado), Palace of the National Congress (Palacio del Congreso Nacional), in Santo Domingo de Guzmán, Distrito Nacional, capital city of the Dominican Republic, at the 19th day of the month of June of the year two thousand and seven (2007); at the 164th year of the Independence, and the 144th year of the Restoration (Restauración).

Reinaldo Pared Pérez
President

Amarilis Santana Cedano
Secretary

Luis René Canaán Rojas
Ad-Hoc Secretary

LEONEL FERNÁNDEZ
President of the Dominican Republic

In the exercise of the attributions that confer me the Article 55 of the Constitution of the Republic.

I PROMULGATE the present Law, and I give the order to publish it in the Official Gazette for its knowledge and enactment.

GIVEN in Santo Domingo de Guzmán, Distrito Nacional, capital city of the Dominican Republic, at the 13th day of the month of July of the year two thousand and seven (2007); at the 164th year of the Independence, and the 144th year of the Restoration (Restauración).

LEONEL FERNÁNDEZ.

[1] Translator's Note: A bondholder is a specific case of revenue earner.

[2] Translator's Note: There is a mistake on the original text since the Word "and" is missing.

[3] Translator's Note: The Word "abroad" is missing in the original. According to the context, this Law is dealing with income generated from a foreign source.

[4] Translator's Note: There is no consistency in the original text when it refers to the pensioners and revenue earners. Sometimes they are called "pensioners and/or revenue earners", which is the correct way of referring to them. Most of the time, they are called "pensioners and revenue earners".

[5] Translator's Note: Criminal Records.

[6] Translator's Note: Instead of "attributes", this Law could be speaking of "tributos" (taxes) in the original text.

[7] Translator's Note: This Law should also mention the "dependants" of the main applicant in some articles like in this one.

[8] Translator's Note: The original text has a mistake when naming this tax. It wrongly calls it "Impuesto sobre el Selectivo al Consumo".