

Aruba enacts 2019 Tax Reform

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Executive summary

The Government of Aruba (the Government) recently announced a framework to reform the Aruba tax system in four phases beginning in January 2019. The Government aims, through this reform, to modernize and simplify the Aruba tax system as well as to generate additional revenue to reduce government debt.

This Alert summarizes the bill that was approved by Parliament on 20 December 2018 as phase I of the tax reform (the bill). It also outlines the tax reform proposals of phases II, III and IV, which have been announced by the Government.

Detailed discussion

Phase I

BBO/BAZV/BAVP

General

Currently, the turnover tax laws (BBO/BAZV/BAVP) do not prohibit entrepreneurs from choosing their pricing method and applicable BBO/BAZV/BAVP rates. Because of the nature of the taxes, entrepreneurs can freely decide: (i) whether to shift the BBO/BAZV/BAVP burden to the consumer; and (ii) at what rate. Only the BAZV amount to be remitted to the tax authorities must be mentioned on the invoice or receipt.

After the increase of the BBO/BAZV/BAVP rate to 6% as of 1 July 2018, due to the so-called temporary crisis levy, concerns arose regarding the way entrepreneurs reflect their prices to consumers. With the adopted change as of January 2019, the Government intends to regulate how entrepreneurs determine their prices "offered on the shelf."

Amendments

As of 1 January 2019 entrepreneurs are prohibited:

1. To offer goods and services (which are taxable) with prices that do not include the BBO/BAZV/BAVP.
2. To state on their invoices and receipts that BBO/BAZV/BAVP is levied on the (taxable) turnover.

Penalty

Violation by an entrepreneur of the above-mentioned provisions may result in a penalty of maximum AWG10,000.

Administrative adjustments

Entrepreneurs who currently shift the BBO/BAZV/BAVP burden to their consumers will have to decide if, starting January 2019, they will absorb this tax burden or if they will increase all their prices to include this burden. Under both scenario's entrepreneurs will need to change their administration (point of sale) systems with the following adjustments:

- ▶ Mandatory: the BBO/BAZV/BAVP is no longer mentioned on the invoice or receipt.
- ▶ Optional: adjustment of sale prices.

Transitional rules

Parliament instructed the Government to implement a transitional period of six months for entrepreneurs to comply with the above-mentioned prohibitions. It appears that the Government will implement the transitional period through beneficial policy. Future Alerts will report on this as more information is forthcoming.

Ground Tax

General

Currently, the ground tax has one tariff (0.4%) irrespective the residency of the owner of the real estate and the type of real estate. Furthermore, a general exemption of AWG60,000 applies for each owner of real estate(s). With the following amendments, the Government aims to increase compliance and to introduce a levy based on the ability to pay principle.

Amendments

As of 1 January 2019, the following amendments were introduced:

Abolishment of the exemption

The general exemption of AWG60,000 of the property value - when determining the taxable amount for the owner - will be abolished.

Change in tariffs

The following tariffs will apply as of 2019:

- ▶ The tariffs for individuals - citizens of Aruba - will be differentiated depending on the value of the real estate based on the following table:

Real estate(s) value		Tariff
–	120,000	0.0%
120,000	250,000	0.2%
250,000	500,000	0.3%
500,000	750,000	0.4%
750,000	–	0.6%

- ▶ The tariff for all other taxpayers will amount to 0.6%.

Filing requirement for the taxpayer

As of 1 January 2019, the following filing requirements were introduced:

- ▶ Within one month after a natural person or legal entity becomes a new legal owner or - in brief - obtains a real right of enjoyment (in Dutch: *genot krachtens zakelijk recht*) of real property the person must file a return.
- ▶ Within one month after one of the below events occurs (during a five-year period), the person must file a return. The events are:
 - Transition of a property
 - Partial renovation or additional construction to the real property
 - Total or partial demolition of real property
 - Total or partial destruction of real property caused by unforeseen disasters
 - Splitting or uniting real property
 - Untaxed property (all or partial) becoming taxed property and vice versa
 - Change in destination of the real property

Filing invitation by the tax authorities

As of 1 January 2019, the tax inspector can invite a (legal/natural) person, who presumably is an owner or - in brief - obtains a real right of enjoyment of real property, to file a return. The person must file the return within two months after the invitation date.

Penalty

Non-compliance with the abovementioned filing requirements may result in a maximum penalty of 100% of the amount of ground tax that was not levied or insufficiently levied.

Electronic filing

In the near future, the tax authorities may introduce electronic filing for the abovementioned filing requirements.

Wage/Income Tax

General

Currently, the wage/income tax has 14 different tax brackets, which is differentiated in two different tariff groups (I and II), and a general tax-free income of AWG20,455. With the below amendments the Government aims to simplify the wage/income tax, reduce the tax burden for persons earning lower income and compensate business owners receiving dividend from their entities.

Amendments

As of 1 January 2019, the following changes were made to the income tax:

- ▶ Increase of the tax-free amount to AWG27,751
- ▶ Abolish the tariff groups (I and II)
- ▶ Reduction of the progressive tariffs

The new (progressive) income tax tariffs will be:

Bracket number	Table income ¹		Income tax ²	
	I	II	III	IV
1	0	33,587	-	14.00%
2	33,587	63,369	4,702.18	25.00%
3	63,369	141,783	12,147.68	42.00%
4	141,783	-	45,081.56	52.00%

Reduction of the fixed tariff on dividends

Another phase I amendment which the Government announced is the reduction of the income tax tariff from 25% to 10% on dividends received by individuals from their companies. Note that, the bill which was approved on 20 December 2018, does **not** include the legal provision for this reduction, however the reduction was discussed in Parliament as an upcoming amendment to compensate entrepreneurs for the increase in the Ground tax tariff as of 1 January, 2019 (see above). At this moment it is unclear if the Government will implement this reduction through beneficial policy. Future Alerts will report on this as information becomes available.

Endnotes

1. Table income: taxable income/AWG 27,751.
2. Table income: taxable income/AWG 27,751.

Phase II, III and IV

General

Following the phase I tax reform amendments as summarized above, the Government intends to also work on a phase II, III and IV tax reform. They are highlighted below.

Tax reform proposals

- ▶ *Phase II*: by mid-2019 the Government intends to:
 - Replace the BBO/BAZV/BAVP with a single turnover tax.
- Simplify the custom duties tariffs.
- Introduce an increase of the (excise/custom duty) tax on alcohol and tobacco and introduction of excise duties on sugary drinks (all which are products which may be considered harmful to public health).
- ▶ *Phase III*: Simplify the profit tax and the income tax by broadening the tax base including a reduction of the tariffs.
- ▶ *Phase IV*: Simplify the levies which, in particular, relate to taxation of tourists.

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