

Legislative Amendments 2019

Introduction

Due to the financial situation of the country, the Government is forced to provide, in anticipation of a more integral tax revision, temporary income-increasing measures to achieve a balanced budget for the year 2019 and therewith more healthy public finances.

For that reason, the Government of Curaçao has adopted a number of tax measures that should provide the desired additional revenue.

The general sales tax rate of 6% on importation is increased to 9% and the exemption from sales tax on importation for trade goods is withdrawn. Furthermore, the possibility of offsetting the general sales tax paid on import of trade goods is limited to 50%, instead of 100%, to provide the necessary additional income in the short term.

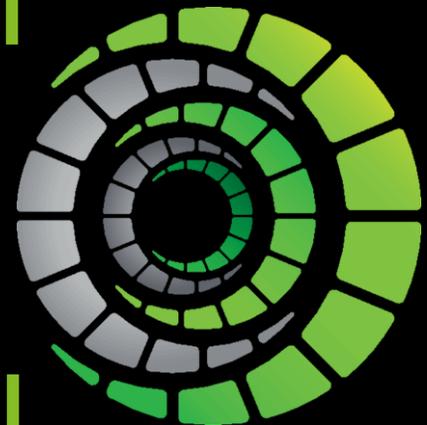
In addition, a declaration obligation is implemented in the Property Tax for immovable property that was not yet known to the Tax Authorities, the use of the tax incentives legislation is linked to the tax behavior of the applicant, the waste disposal charges for both individuals and companies is increased and the excise duty rates on spirits, wine, beer and cigarettes will also increase. Below we will elaborate on the above mentioned legislative changes.

The national ordinance will come into force on the day following the date of publication. However, it is expected that this national ordinance will enter into force at the beginning of September 2019.

Property Tax

A new article has been added to the property tax. In this new article, an obligation to declare is introduced for those who, under the right of possession or any other businesslike right, at any time, obtain the enjoyment of an immovable property. The period within which the declaration must be made is two months after the acquisition of (or any changes with regard to) the immovable property. If it is acquired by more than one person, it is possible that only one of the acquirers makes a declaration as a representative.

For completeness sake, it should be noted that this is a free form declaration indicating why the declaration is being made, in other words the form of ownership or possession, the details of the immovable property (e.g. address), if applicable, what has been rebuilt or improved and an indicative value of the property. It is not necessary for the taxpayer to have the property appraised. The final value is determined by the Tax Authorities.



If a taxpayer does not comply with the obligation to declare, the Inspector is authorized to impose a fine of at most 100% of the amount due at the same time as the assessment. In principle, an assessment and fine must be paid within two months of the date of the assessment, unless a reasoned objection has been timely submitted.

If a taxpayer does not comply with the obligation to declare as regulated in this article, or if incorrect or incomplete information has been provided to the Inspector in this declaration, the authority to impose an additional assessment and a fine expires after a period of ten years after the tax liability has arisen. An additional assessment is justified if the taxpayer 'knew or should have known' that too little or no tax was levied and this cannot be attributed to the Inspector.

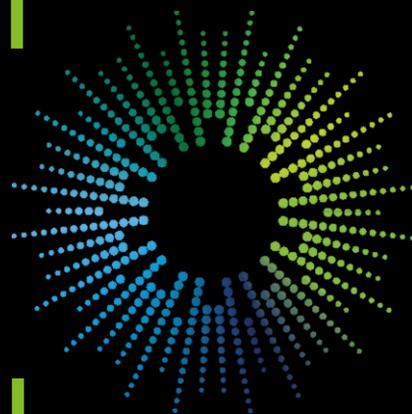
A transitional provision has also been included. Those who, at the time that this amendment enters into force, has already the enjoyment of an immovable property by virtue of the right of ownership, possession or limited right and who has not received a property tax assessment in the past five years, is held to make a declaration within six months. In the event that several persons have the enjoyment of the immovable property by virtue of the right of ownership, possession or limited right, one of them can make the declaration referred to as a representative. The 100% fine as cited also applies to this group.

This article also applies to those with a building on rented ground, as they are also liable to Property Tax in accordance with the legislation.

Please note that in the event that it is established that there is no rental agreement with anyone, the user of the rental land will be charged for property tax.

Sales Tax

The sales tax rate of 6% on import is increased to 9% for all goods. The exemption from Sales Tax on import of trade goods will be withdrawn. However, for goods to be designated by ministerial order with general effect, sales tax exemption may be granted for the import of goods whose delivery inland is exempted.



The exemption permits for imports for commercial goods will expire. Because of this, in all cases, unless an exemption applies, sales tax is due on import. On the other hand, it becomes possible for an entrepreneur, subject to certain conditions and instructions, to deduct this sales tax on importation (for 50%) from the tax that he owes in a tax period, as is currently the case, provided that the tax has been charged on an invoice drawn up in the prescribed manner.

The right of deduction, as is currently the case, only applies to trade goods that are sold subject to sales tax. If the good is used for an exempt service, the sales tax paid may therefore not be deducted. As in the existing situation, a possible surplus (in deduction) in a certain tax period may be transferred to the next tax period and so on.

A transitional arrangement applies to goods that at the time this legislation enters into force, are already being transported to Curaçao by an entrepreneur who was entitled to the old exemption for sales tax on import of trade goods. These goods can be imported under the application of the old import exemption.

Furthermore, with the adjustment of the 'small entrepreneurs' scheme, the intention is that the exemption may not be granted to an entrepreneur who exploits an asset to obtain a sustainable return from it, or provides services consisting in giving the opportunity to participate in lotteries, scratch cards, number tickets, the bet on numbers and bingo, owed by the operator of these games.

The national ordinance tax incentives investments

This provision includes a requirement for the application of tax incentives that the applicant provides proof that has been issued by the Tax collector and that the taxpayer has no direct debts in taxes or social security contributions, or that the taxpayer has made a payment arrangement and complies with this payment arrangement. As long as this proof, as well as the other required information, has not been submitted to the Director, the application will not be processed and therefore the handling period will not start.



Waste Tax

The adopted proposal also raises waste tax for households from ANG 20 to ANG 35 per month. This corresponds to an amount of ANG 420 instead of ANG 240 per tax year, which is an increase of 75%.

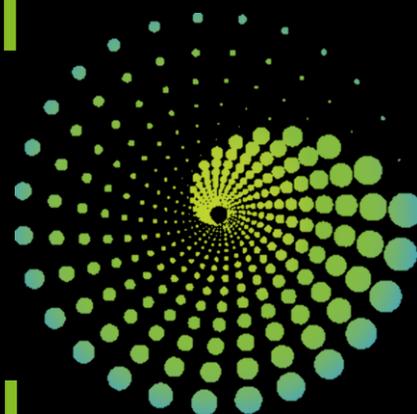
Furthermore, various categories of cleaning rights are also being increased. These cleaning rights do not include removal of industrial waste on request from businesses in the City Centre. The following table shows the waste tax due per unit, per month, before and after the implementation of the proposal.

Waste per Unit	Waste Tax before implementation	Waste Tax after implementation
Between 0m ³ and 40m ³	ANG 125	ANG 161
Between 40m ³ and 60m ³	ANG 200	ANG 241
Between 60m ³ and 80m ³	ANG 275	ANG 322
Between 80m ³ and 100m ³	ANG 350	ANG 405
Above 100m ³	ANG 350	ANG 405
Additional tax for every 10m ³ above 100m ³	ANG 75	ANG 85

Excise Duties

Excise duties on alcoholic beverages and cigarettes are not periodically adjusted nor systematically adjusted. The government aims to adjust excise duties on alcoholic beverages and cigarettes on a periodic bases. The following changes are made:

- The rate of excise duty on spirits will increase from ANG 1,150 per hectoliter to an amount of ANG 2,000 per hectoliter
- In addition, an excise duty on wine with an alcohol content of 20% or less is introduced, amounting ANG 400 per hectoliter
- The excise duty on beer will increase from ANG 120 per hectoliter to ANG 240 per hectoliter



With regard to the excise duties on cigarettes, an increase was implemented by national decree on February 2nd, 2009. However, the legislative process surrounding this decree has never been completed. This omission is firstly corrected as follows:

- The excise duty on domestic manufactured cigarettes will increase from ANG 8.75 to ANG 9.55 per 100 cigarettes
- The excise duty on domestic licensed manufactured cigarettes of a foreign brand will increase from ANG 11.75 to ANG 12.55 per 100 cigarettes
- The excise duty on imported cigarettes will increase from ANG 13.75 to ANG 14.55 per 100 cigarettes.

The excise duty on imported cigarettes will additionally increase from ANG 14.55 to ANG 21.85 per 100 cigarettes.

Other Amendments

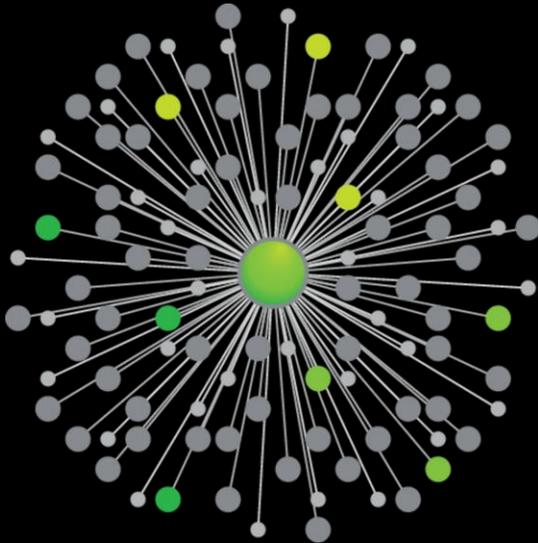
The National Ordinance of protection of personal data will no longer be applicable to the National Ordinance on International Assistance in Taxation. This due to the fact that the National Ordinance on International Assistance in Taxation is deemed to offer an adequate level of protection.

With regard to the innovation box in the National Profit tax ordinance, the Telecommunications and Mail Office will get the power to revoke the declarations they provided on research and development.



Please contact our office at the email addresses mentioned in this newsflash if you have any questions about this amendment or need additional information.

We would be pleased to assist you with your questions.



Legal jurisdiction

Any dispute or other legal matter resulting from this correspondence shall be governed by the jurisdiction of the Common Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba.

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