

Health Tax part V Aruba: a few practical (additional) pointers



The Health Tax became effective on December 1, 2014. On the back of the Newsflash Health Tax/Part IV, more has now become known about the practical side of how the Health Tax should be paid. We would like to inform you about a few practical pointers in this newsflash.

Definitions

The special-purpose tax relating to the AZV is also referred to as the "Health Tax", "special-purpose tax AZV" or "BAZV". We will use "BAZV" in this newsflash.

The invoice

Under the National Ordinance, the BAZV must be stated on the invoice.

The BBO, if applicable, and the BAZV should preferably be stated on two separate lines on the invoice.

Example:

Payment goods/service:	AWG 1,000
BBO (1.5%):	AWG 15
BAZV (1%):	AWG 10
Total:	AWG 1,025

We now know that the Aruba tax authorities also permit both taxes to be stated on a single line on the invoice. There is no mandatory format.

BBO/BAZV tax return

The BAZV is to be declared on the current BBO tax return forms for the time being.

Cash basis of accounting and accrual basis of accounting

As regards the timing of payments due, the **cash basis of accounting** is basically applied for the BAZV. Consequently, the BAZV will be due when the payment has been partially received or in full. The entrepreneur may apply in writing with the inspector for the application of the **accrual basis of accounting**. If the request is granted (upon a decision by the inspector that is open to objection), the BAZV will be due when an invoice is issued for the goods or service from which the business revenue is generated. The entrepreneur will then have the obligation to issue an invoice for the goods and/or service within 15 days of the calendar month in which the goods were delivered or service was performed.

Tip: If you apply the accrual basis of accounting, please check whether your records include the Inspector's decision in writing.

Tip: If you already have a (written) decision authorizing you to apply the accrual basis of accounting for the BBO, you will not need to apply for a decision for the BAZV.

Fiscal unity BAZV and BBO

The National Ordinance BAZV provides for the option to apply for a fiscal unity for the BAZV, similar to the fiscal unity for the BBO. The entrepreneur should apply for the fiscal unity in writing, with the tax authorities. The inspector takes a decision that is open to objection. For both the BBO and the BAZV the Aruba tax authorities will handle and grant any applications already filed.

Tip: If you have already applied for a fiscal unity for the BBO, please check whether you have the written decision on the fiscal unity for the BBO in your records.

Tip: If you already have a fiscal unity for the BBO and the (written) decision on the fiscal unity for the BBO has been filed in your records, then you do not have to apply separately for a new fiscal unity for the BAZV.

Calculation and payment

The current implementation policy of the Aruba tax authorities prescribes the payment of the BAZV and the BBO to be calculated over the full payment received, if both the BAZV and the BBO are stated on the invoice:

Invoice:

Payment goods/service:	AWG 1,000
BBO (1.5%):	AWG 15
BAZV (1%):	AWG 10
Total:	AWG 1,025

Calculation:

Payment goods/service:	AWG 1,025
BBO payable (1.5%):	AWG 15.37
BAZV payable (1%):	AWG 10.25

An alternative may be to solely state the BAZV (statutory obligation) on the invoice, while the payment may either be deemed to be inclusive of the BBO or to be for the expense of the entrepreneur:

Invoice:

Payment goods/service:	AWG 1,000
BAZV (1%):	AWG 10
Total:	AWG 1,010

Calculation:

Payment goods/service:	AWG 1,010
BBO payable (1.5%):	AWG 15.15
BAZV payable (1%):	AWG 10.10

As a result of the implementation policy the BBO and BAZV charged is not the same as the BBO and BAZV payable.

Bear in mind that the taxpayer will receive a single (combined) payment receipt from the Aruba tax authorities, for both the payment of the BBO and of the BAZV.

Tip: Contact our office for advice tailored to your specific case.

Legal interpretation methods

Discussions have been held over the past weeks, about the calculation of the BBO and BAZV payable. Please be aware of the different interpretations of legislation. See the following enumeration (not exhaustive):

1. *Grammatical/linguistic interpretation:* in this case the text of the law is taken as literal as possible.
2. *Systematic interpretation:* the exact meaning of a certain provision may sometimes be identified by considering it in conjunction with similar provisions.
3. *Teleological interpretation:* the objective, supposed or otherwise, of an act is taken as a guideline. This is different from a historical interpretation in that parliamentary documents are not taken into consideration and it allows new circumstances to be factored in that the legislature did not think or even knew about at the time.
4. *Comparative law interpretation:* in this case other, comparable legal systems are examined to see how such systems interpret a regulation.
5. *Anticipating interpretation:* Anticipating interpretation means future legislation and regulations are anticipated.

Applying different interpretation methods to the same legislation, means contradictory outcomes cannot be excluded.

We emphasize that the payment method represents the current official implementation policy of the Aruba tax authorities (in line with case law pronounced earlier on, in respect of payment of the BBO). A Ministerial Policy Decision formalizing this policy may follow. If this policy is deviated from, there is a risk of the Aruba tax authorities imposing additional tax assessments (including penalties), on the back of, e.g., a tax audit.

Tip: If a specific ruling for the BBO is in place, the Aruba tax authorities should be contacted.

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