Caya Punta Brabo # 13
Phone: +297-582-6336
Fax: +297-582-5256

P.O. Box 5021
E-mail: info@wtsaruba.com
Web: www.wtsaruba.com

Highlights corporate income tax

General

Corporate income tax is levied over the profit of an enterprise conducted in Aruba in the form of either an Aruba legal entity (via for example a corporation or a limited liability company) or a permanent establishment/ permanent representative of a foreign entity. The corporate income tax rate is 28%.

Permanent establishment definition

A permanent establishment is deemed present in case of (i) a permanent representative or (ii) a foreign enterprise which builds, installs, maintains, cleans or repairs capital assets (whether movable or immovable) on Aruba for more than 30 days. Included in these 30 days are e.g. the technical preparation and cleaning up of the site. If the activities on Aruba are less than 30 days, the commentary to article 5, paragraph 3, OECD model convention will be used to determine if a permanent establishment is present.

Transfer pricing requirements

In case a corporate person or individual participates, directly or indirectly, in the management, supervision or the capital of two or more corporate entities, the conditions which are applicable to the supply of goods and the rendering of services between these entities must be arm's length, i.e. similar to the conditions that would have been closed with third, unrelated, parties. Documentation to substantiate the arm's length transactions should include – according to the explanatory notes – e.g. (i) the agreement, (ii) the transfer pricing method that was chosen, (iii) why this method was chosen and (iv) how the consideration has been determined.

Fiscal unity (group tax relief)

Two or more Aruba entities, which are doing business in Aruba, can opt to form a fiscal unity if the parent company owns at least 99% of the shares in the subsidiary at the beginning of the financial year. For corporate income tax purposes the subsidiary is then disregarded and all assets and liabilities, including the profits or losses, are allocated to the parent company.

Limitations in the deduction of payments

Even if the transaction is deemed at arm's length, based on the transfer pricing requirements, payments (including amongst others interest and all other compensations for the use of material and/or immaterial goods or rendered services, i.e. rent, royalty, management fee etc.) are not tax deductible unless the Aruba paying entity can make it credible that:

- The receiving party is not (in)directly related to the Aruba company; or
- The receiving company pays an effective tax rate of at least 15%; or
- All the shares in the receiving company are held by an entity that is directly or indirectly, for at least 50% of the shares and voting rights, listed at a qualified Stock Exchange.

If the payment is arm's length, one of these exceptions is not applicable but the receiving party is subject to taxes, 75% of the payment can be deducted.

Related entities

A relation with the taxpayer is deemed to exist if:

- The taxpayer has an interest of at least 1/3 in another entity; or
- An individual or entity has an interest of at least 1/3 in the taxpayer; or
- A third party has an interest of at least 1/3 in another entity, while this third party also has an interest of at least 1/3 in the taxpayer.

Offset of losses

Losses generated in a year can be offset with profits generated in the following five years. After the five year period, the remaining losses evaporate.
An imputation payment company (we refer to our "highlights imputation payment company") however can offset its losses without time restrictions.

Participation exemption

If an enterprise situated in Aruba holds shares or similar rights in another Aruba entity, the dividends received and capital gains realized with the sale of these shares are exempt from corporate income tax.
If an enterprise situated in Aruba holds shares or similar rights in a foreign entity, the participation exemption only applies if these shares in the foreign entity are not held as an investment and the foreign entity is subject to a tax over its profit.
All costs relating to participation however are not tax deductible (and should be charged to the participation). These costs include e.g. interest, administration costs, management costs, legal advisory costs and such.

Investment allowance

Per January 1, 2011 the investment allowance has been reintroduced. The following conditions apply:

- In 2011, an entrepreneur should invest at least AWG. 5,000 via local entrepreneurs. Investments bought directly from abroad will not qualify for the investment allowance.
- The investment allowance amounts to 6%.
- Investment allowance cannot be claimed on the purchase of for example:
  - Land;
  - Houses not used for an enterprise;
  - Goodwill;
  - Personal cars and boats;
  - Licenses;
  - Assets that will mainly be put at the disposal of third parties;
  - Investments made by oil refineries or oil terminals.

The investment allowance cannot be applied by imputation payment companies and free zone companies, nor on intercompany transfers.

If the asset on which investment allowance was claimed within 6 years (therefore in the period 2012-2017), a capital disposal charge of 6% of the selling price (with a maximum of the purchase price) needs to be added to the taxable income.

Final payment

In case of a liquidation, merger, division, conversion into a foreign entity, or transfer of the statutory seat abroad as per the State Ordinance Transfer of Statutory Seat Entities, the assets will be revaluated to the fair market value, and the gain will be subject to 28% corporate income tax.

Invoice requirements

All invoices will have to (i) be numbered consecutively, (ii) be dated, (iii) mention the date on which the goods are delivered or the service is performed, (iv) mention the name, address and personal identification number for tax purposes ("tax PIN") of the administrative agent, (v) mention the name and address of the buyer of the goods or recipient of the services, (vi) contain a description of the goods sold and delivered and/or the services rendered, including quantities involved and (vii) mention the consideration owed. The same requirements are applicable to cash register receipts, with the exception of the listing of the name and address of the buyer.

Others

Gifts are only tax deductible if made to certain qualifying institutions, with a maximum of AWG 50,000 per book year.

Penalties paid are not tax deductible.

Can WTS assist you further?

Should you be interested in more information or should you have plans to start a business on Aruba, our team of professionals is there to assist you with any questions you may have. You can reach us via the above mentioned contact information.