

Social Dialogue – changes in the laws

In the months of July and August the first Social Dialogue on Aruba was held between representatives from the Government, the employers' organizations and the labor unions. The Social Dialogue resulted in the signing of a Protocol, which Protocol is currently being ratified by all participants.

*The agreements reached in the Protocol require amendments in various laws. W-Tax & Legal Services **WTS** would like to inform you in this SmartNews letter in more detail about the changes that are expected to take place per January 1, 2011.*

1 Purchasing power compensation

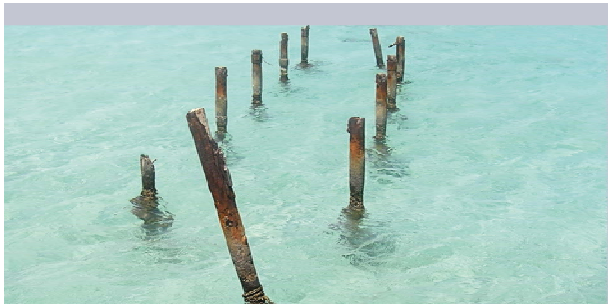
General

The Aruba Government finds that the purchasing power has decreased over the last couple of years. In order to compensate the lower incomes for this loss in purchasing power, per January 1, 2011 a purchasing power compensation will be introduced for employees in the private sector. The compensation is determined as per the following table:

Monthly income of	But no more than	The compensation amounts to
1,542.90	1,550.00	75.00
1,551.00	1,650.00	70.00
1,651.00	1,750.00	65.00
1,751.00	1,850.00	60.00
1,851.00	1,950.00	55.00
1,951.00	2,050.00	50.00
2,051.00	2,150.00	45.00
2,151.00	2,250.00	40.00
2,251.00	2,350.00	35.00
2,351.00	2,450.00	30.00
2,451.00	2,500.01	25.00

Important aspects

- The employee needs to fill in a declaration before being entitled to the compensation.
- The amount of the compensation will be determined on a monthly basis. For example, if the employee earns Afl. 1,500 in January, (s)he will be entitled to a compensation of Afl. 75. If in February the employee earns Afl. 1,600, (s)he will be entitled to a compensation of Afl. 70. If in March the employee earns Afl. 2,600, (s)he is not entitled to any compensation.
- The compensation will only be paid to Aruba resident employees.
- The compensation is net of taxes.
- If the employee works less than 20 hours, no right to any compensation exists. If the employee works between 20 and 40 hours, the monthly wage earned will be recalculated to a full month's wage to determine the exact amount of the compensation.



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- The compensation can only be claimed at one employer (i.e. where the employee earns the highest income).

Administrative agent

The employer is the administrative agent for the compensation. This implies that the employer will pay out the compensation to the employee. The employer withholds the compensation from the wage tax due, and if not sufficient, from the AOV/AWW premiums due, and if still not sufficient, from the AZV premiums due.

The employer is obliged to mention the paid out compensation on the monthly payroll tax returns, the wage tax summary and the wage tax card of the employee.

The above also applies to the individuals earning an AOV or AWW pension. In that case, the Social Security Bank (SVb) will pay out the compensation.

Overpayment

If in a year too much compensation has been received, the tax authorities will claim the amount overpaid at the employee. In case of retirees, the SVb will handle that task.

Penalties

If the employee fills in a false declaration, the penalties amount to Afl. 100 with a maximum of 100% of the received compensation. If upon request of the tax authorities no information is provided, the penalty amounts to a maximum of Afl. 1,000.

If the employer does not pay out the compensation, the penalty amounts to Afl. 2,500 with a maximum of Afl. 25,000. In all other cases (like not mentioning the compensation on the monthly payroll tax returns, wage tax cards or wage tax summaries) a penalty with a maximum of Afl. 2,500 can be levied.

2 Reintroduction investment allowance

Per January 1, 2011 the investment allowance will be reintroduced. The following conditions apply:

- In 2011, an entrepreneur should invest at least Afl. 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;
 - Licenses;
 - Investments made by oil refineries or oil terminals.
- The investment allowance cannot be applied by imputation payment companies and free zone companies.

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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.

It is important to note that anti-abuse stipulations will be introduced to avoid that e.g. a local NV is interposed which imports the assets, and then “sells” it to the local entrepreneur. The exact situations covered by these anti-abuse regulations are not yet known.

3 Amendment tax deductible gifts

Currently, gifts are only tax deductible if they do not exceed Afl. 10,000 on an annual basis and if they are made to registered institutions (a list is included in the explanation to the corporate income tax return). All gifts made to institutions not registered are not tax deductible.

As per January 1, 2011, the maximum of tax deductible gifts is increased to Afl. 50,000. It is also the intention to broaden the institutions that qualify for tax deductible gifts. Details are not yet known however.

4 Excise tax and import duties

According to the government it was never the intention that when the BBO was reduced to 1.5%, liquor and tobacco would become cheaper. In order to reverse the effects of the lowering of the BBO, the excise taxes will, as per January 1, 2011, be amended as follows:

- The excise tax on beer will be increased from Afl. 333 to Afl. 395 per hectoliter.
- The excise tax on hard liquor will be increased from Afl. 1,500 to Afl. 1,775 per hectoliter.
- The excise tax on wines will be increased from Afl. 455 to Afl. 535 per hectoliter.
- The excise tax on all other wines will be increased from Afl. 350 to Afl. 410 per hectoliter.

Also, it is the intention to amend the import duties as follows:

- The import duties on stout beer will be lowered from Afl. 125 to Afl. 80.
- The import duties on solar panels (and parts), wind turbines (and parts), and electrical cars (and parts) will be set on 2%.
- The import duties on cars predominantly used for private purposes will be set on:
 - 30% for cars with a CIF value of less than Afl. 20,000;
 - 40% for cars with a CIF value between Afl. 20,001 and Afl. 30,000;
 - 50% for all cars with a CIF value exceeding Afl. 30,000.
- The import duty on hybrid cars is set on 12%. Hybrid is being defined as having a compression ignition and a CO2 emission lower than 116 grams per kilometer, or if no compression ignition is present, with a CO2 emission lower than 140 grams per kilometer.

5 AOV

Because currently the payment of AOV to retirees exceeds the premiums received, some short term measures are necessary.

As per January 1, 2011, the AOV premium income will be increased from Afl. 54,600 to Afl. 65,052. The basis for the AOV will be set on the gross income (“onzuiver inkomen”), which is the same as the AZV basis. The premiums will also be individualized, implying that married persons who both work, will as of January 1, 2011 no longer be entitled to a refund.

6 AZV

The AZV premium will be increased with 2%, of which 1% is borne by the employer and 1% is borne by the employee.

7 Mandatory pension private sector


Per January 1, 2012, all employees in the private sector will be granted with a pension right based on a defined contribution system (“beschikbare premie”). The premium is set on a minimum of 6%, dividend by employer and employee, each 3%. A transitional regulation for the introduction of the mandatory pension will be introduced in which the premiums are determined as follows:

Year	Employer	Employee
2012	1.00%	1.00%
2013	2.00%	2.00%
2014	3.00%	3.00%

The employee is free to choose his/her insurer for the pension, and the pension is transferable in case the employee switches employers. The employee is however no longer allowed to buy off his pension rights if (s)he only has a limited number of years.

8 Finally

In the above we have highlighted the expected changes per January 1, 2011 that result from the Protocol Social Dialogue. Since the text of the law is not yet available, the above may be subject to changes. Please do not take action based on the above without consulting your tax advisor.

The team of W-Tax & Legal Services  can assist you with any questions you may have with respect to the above. You may reach us by visiting us at Caya Punta Brabo # 13, by telephone (297) 582 6336, by fax (297) 582 5256 or by e-mail at the following addresses:

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