

Highlights penalty system

General

Aruba's penalty system is quite strict. The penalties can be divided into two categories:

- Omissions.
- Gross negligence or intent.

Omissions

The tax authorities can impose penalties for not filing your return (on time) and for not, not timely, or only partially paying the amounts due. These penalties can "cumulate". The maximum penalties (which will depend on the number of omissions) are:

Assessment taxes (e.g. corporate income tax and individual income tax):

- Not filing your return (on time): AWG 10,000

Filed return taxes (e.g. payroll taxes, turnover tax and dividend withholding tax):

- Not filing your return (on time): AWG 500
- Not paying on time: AWG 5,000
- Not or partially paying: AWG 10,000

If the withholding agent (i) does not provide the employee with a wage tax card or (ii) fails to have the proper employee documentation in his/her administration, a penalty with a maximum of AWG 10,000 can be imposed.

Gross negligence or intent

According to the Aruba penalty policy, no penalty will be levied in case of less than gross negligence or if an arguable position exists.

The penalty policy defines gross negligence as an omission, attributable to the tax payer. Gross negligence is deemed present if the tax payer should or could have known that his/her behavior could result in levying or paying less taxes than otherwise would have been the case. The penalty amounts to 25% of the additional tax due.

Intent is defined as knowingly and deliberately doing or omitting something, resulting in not or not within the stipulated period levying or paying taxes. Conditional intent is defined as knowingly and deliberately accepting the chance that doing or omitting something results in not (timely) levying or paying taxes. The penalty amounts to 50% of the additional tax due.

A penalty of 100% of the additional tax due can be levied in case of e.g. repetition, fraud or substantial amounts not being levied or paid. The burden of proof for these aggravating circumstances lies at the tax authorities.

Penalties are not tax deductible

Penalties paid are not tax deductible for corporate income tax or individual income tax purposes.

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.