

## Highlights transparency regime

### General

Aruba exempt companies (AVV), corporations (NV), and the per January 1, 2009 newly introduced limited liability company (VBA), can opt to become transparent, i.e. for corporate income tax, individual income tax and dividend withholding tax purposes the AVV, NV, or VBA is treated as a partnership. In case the AVV, NV, and VBA has foreign shareholders, the shareholders will only be subject to Aruba taxes if the shareholders have a permanent establishment or permanent representative.

### Permanent establishment or permanent representative

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.

### Formal requirements

- The AVV/ NV/VBA must opt for the transparent status within one month after its incorporation. It is not possible for an existing AVV, NV or VBA to opt for the transparent status.
- Within six months after the end of the financial year, the shareholders of the AVV, NV, or VBA must be disclosed to the tax authorities. Special forms exist for the notification, which notification should be accompanied by a balance sheet and profit & loss account.

### Transparency and turnover tax/ dividend withholding tax

Transactions between the transparent entity and its shareholders are in principle subject to turnover tax. Dividend withholding tax is, because of the treatment as a partnership, not applicable.

### Country of residence shareholder

For the transparent regime to be fully effective, it is essential that the country of residence of the shareholder does not tax profits until realized. This because in the absence of a taxable presence on Aruba, Aruba does not levy taxes, while the shareholder does not pay taxes either because no income (in the form of a dividend or capital gain) has been realized.

### Important points of attention

Changing the transparent regime to the normal regime will result in a corporate income tax rate of 42% (150% of the normal tax rate of 28%). The transparent status is therefore a permanent regime choice. If the shares in a transparent entity are sold, for corporate income tax, individual income tax, and dividend withholding tax purposes, the assets of the transparent entity are sold. Any selling gain will be subject to these taxes (if any).

### 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.