

*“It’s complicated,  
that’s why we’re  
bringing in BDO.”*



## Temporary reduced rate on dividends - Extension & expansion of Beneficial Policy

The government of Aruba has published a new Beneficial Policy for dividends distributed in the calendar years 2021 and 2022 and relating to retained earnings up to and including 2021. The Beneficial Policy reduces the personal income tax burden to 10% on such dividends, implying that the dividend withholding tax (of 10%) is the final levy on these qualifying dividends.

### Conditions

The conditions to apply the Beneficial Policy are the following:

- Dividends need to be distributed from entities with a capital divided into shares. No distinction is made between resident and non-resident entities.
- The dividends need to be distributed from retained earnings accrued in the financial years up to and including 2021.
  - A financial year is defined as the financial year ending ultimately on December 31, 2021, i.e. the Beneficial Policy applies to retained earnings up to and including the financial year 2020/2021.
  - It is not allowed to distribute a revaluation reserve or other so-called “hidden reserves” including goodwill.
  - Waiving (in Dutch: “kwijtschelding”) a receivable on a shareholder is considered a qualifying dividend under the Beneficial Policy.
- The dividends need to be distributed in the calendar year 2021 or 2022.
- The dividends distributed cannot relate to “future profits”, i.e. one is not allowed to distribute a dividend out of expected profits for the years 2019 and following.
- If a loan is contracted to finance the dividend distribution, the interest due is not tax deductible.
  - If the dividend is owed by the company to the shareholder, we are of the opinion the same applies and the interest is not tax deductible.
  - Based on Dutch case law, payables to shareholders (individuals) do not need to carry interest.
- When a foreign company distributes a dividend to its resident shareholder(s), the tax authorities should be notified of this dividend distribution. A preliminary personal income tax assessment will then be issued by the tax authorities.
- NEW: Dividends may be owed, but should be paid off within five financial years after the financial year in which the dividend is put at the disposal of the shareholders. If after that period lapsed an amount of dividend is still payable, the tax authorities are allowed to raise an assessment for the difference between the normal rate on dividends of 25% and the special rate applied.



### Anti-abuse stipulation

In case dividends are distributed that include one or more elements that violate the conditions of the Beneficial Policy, the full dividend distributed will be taxed against the normal 25% personal income tax rate.

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## What to do?

In order to make use of the Beneficial Policy, the following steps need to be considered:

- The retained earnings per the financial year 2021 (or 2020/2021) will need to be determined;
- The cash flow position of the Company needs to be determined, since at a minimum the 10% dividend withholding tax should be available in cash;
- Is it feasible that the dividend not paid out in cash upon distribution will be redeemed within five financial years after the financial year in which the dividend is put at the disposal of the shareholders;
- In case you have one or more loans from Banks, prior approval for the dividend distribution from your Bank may be required;
- A shareholder's resolution needs to be drawn up that confirms the dividend to be distributed.
  - If not done so already, you may take the opportunity to immediately approve the (prior year) financial statements.
- For Aruba resident entities:
  - A dividend withholding tax return will need to be filed at the Tax Authorities, including remittance of the dividend withholding tax, within fifteen (15) days after the dividend has been put at the disposal of the shareholders.
- For foreign resident entities:
  - A notification should be sent to DIMP including the amount of the dividend and the Aruba resident owners.
- If the net dividend (i.e. after payment of the dividend withholding tax) is not paid out in full to the individual shareholder(s) a loan agreement is required; an interest percentage is optional but no tax deductibility will be honored.
- It is recommended that a separate GL is created for this owed dividend. Any repayments to the shareholders should be deducted from this payable first, and before any other payable to the shareholder is paid back.

BDO Aruba has a dedicated team of professionals that are at your service. Please do not hesitate to contact us should you have any questions relating to the above or how the Beneficial Policy may be applied in your situation. You can reach BDO in Aruba at:

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