



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

Summary Beneficial Policy COVID-19 pandemic (“Fiscaal Noodplan 2020” – parts 1 and 2)

The Government of Aruba presented the second fiscal relief plan with 11 additional or updated measures to alleviate the effects of the COVID-19 pandemic with entry date November 1st, 2020. On November 6, 2020, both Fiscal Relief plan 1 (we refer to our prior SmartNews of March 2020) and Fiscal Relief plan 2 have been converted into Beneficial Policy and were published in the National Gazette.

Point 1: Investment allowance

Summary of the measure:

To further stimulate investments in fixed assets, two measures have been introduced:

- The investment allowance will be increased from 6% to 10%;
- The investment allowance can be claimed on locally and foreign purchased fixed assets. The increased investment allowance will apply on investments made during the years 2020, 2021 and 2022.

BDO observation:

This measure intends to stimulate investments and thus the economy. It is however unfortunate that the investment allowance still does not include the own production costs (in Dutch: “voortbrengingskosten”), such as capitalized personnel expenses or finance expenses which directly relate to the investment and especially stimulates employment.

Point 2: Small business exemption

Summary of the measure:

The small business exemption applies to individuals operating a business, such as taxi drivers, (car) bus drivers, snack trucks, artists, musicians, beauty salons, hairdressers, as well as small restaurants and cafes. As of 2021, these small entrepreneurs with a turnover not exceeding AWG 84,000, can file a request at DIMP to obtain an exemption from paying BBO/BAVP/BAZV. However, the individual’s business must be registered with DIMP and will receive an annual declaration to review the turnover.

BDO observations:

- The scope of the measure is limited. It would have been more beneficial if all entrepreneurs would have received an exemption for the first AWG 84,000 of turnover.
- The request for the 2021 exemption needs to be filed prior to January 1, 2021.
- Should the threshold of AWG 84,000 turnover be exceeded in 2021 or later years, BBO/BAVP/BAZV will be due on the amount exceeding the threshold, but for the next year, the small business exemption will no longer be applicable.

Point 3: Loan deduction for promising sectors

Summary of the measure:

In the years 2020, 2021 and 2022, 50% of the principal amount of the loan up to a maximum of AWG 30,000 per calendar year can be deducted for fiscal purposes. The deduction applies for companies that exist from January 1, 2017 and that are registered at the Chamber of Commerce, DIMP and the Social Security Bank of Aruba. The following conditions will apply:



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1. The loan was entered into in 2020;
2. The new activities relate to the following six (6) promising sectors as determined by the Department of Economic Affairs, Trade and Industry (DEZHI):
 - *Tourism*: cultural tourism, sports tourism, adventure tourism, medical tourism;
 - *Knowledge economy*: solar energy, ocean technology, higher education, ICT, island-based solutions;
 - *Logistics*: maritime services, aviation services, hub port (Free Zone Aruba - FZA), goods with a high value;
 - *Agriculture economy*: local organic food production;
 - *Circular economy*: Waste-to-Energy, deep-sea water industries, recycle and reuse of waste;
 - *Creative industries*: art and music, graphic design, photography, web design, art studios and fashion.

BDO observations:

This measure intends to stimulate loans for start-up companies in the promising sectors. It is unfortunately unclear how this measure will work in practice. Two simplified examples to illustrate.

- In 2020 a loan is invited with a principal amount of AWG 30,000. Per January 1, 2021 the outstanding balance is AWG 20,000, and per January 1, 2022 the outstanding balance is AWG 10,000. Is the deduction:
 - 2020: AWG 15,000 (50% of AWG 30,000), 2021 AWG 15,000 (50% of AWG 30,000) and 2022: AWG 15,000 (50% of AWG 30,000); or
 - 2020: AWG 15,000 (50% of AWG 30,000), 2021 AWG 10,000 (50% of AWG 20,000) and 2022: AWG 5,000 (50% of AWG 10,000)?
- In 2020 a loan is invited with a principal amount of AWG 80,000. Per January 1, 2021 the outstanding balance is AWG 50,000, and per January 1, 2022 the outstanding balance is AWG 20,000. Is the deduction:
 - 2020: AWG 30,000 (50% of AWG 80,000, with cap of AWG 30,000), 2021 AWG 30,000 (50% of AWG 80,000, with cap of AWG 30,000) and 2022: AWG 30,000 (50% of AWG 80,000, with cap of AWG 30,000); or
 - 2020: AWG 30,000 (50% of AWG 80,000, with cap of AWG 30,000), 2021 AWG 25,000 (50% of AWG 50,000) and 2022: AWG 15,000 (50% of AWG 20,000)?
- The interest expenses on these loans remain tax deductible as well (provided the criteria are met).

In addition to the Fiscal Relief plan 2 published by the tax authorities, the Beneficial Policy includes a maximum deduction of AWG 30,000 per entity in the fiscal unity, as confirmed by the DIMP.

Point 4: Savings and provisions funds

Summary of the measure:

Besides the already approved tax exempt withdrawals from a qualifying savings fund, employees may withdraw the saved amount untaxed during the years 2020 and 2021, even though the saved amounts may not have been in the blocked account for the required four (4) years and regardless of the destination.

Additional withdrawals from the savings fund may now also take place tax exempt in the following events:

1. Investments in renewal energies provided certain conditions are met;
2. Voluntary or involuntary dismissal resulting in termination of employment (2020 and 2021 only).

BDO observation:

This measure will actually help the individuals that need a supplement on their (reduced) income and have participated in the savings plan but were not yet allowed to withdraw the funds untaxed. We noticed that for the first time since 2007 the tax authorities have formalized the savings plan facility by publishing this in the National Gazette, while honoring current practices and lowering the blocking period from 7 to 4 years.

Point 5: Professional training deduction and reimbursement of professional training costs

Summary of the measure:

An additional 200% (totaling 300%) of the costs for training and re-training (education) of employees can be deducted for the years 2020, 2021 and 2022. Furthermore, the additional 200% deduction also applies to costs made by employees for training, which are necessary for the performance of their relevant function and/ or profession, may be reimbursed tax exempt to the employee. This applies to both online and physical trainings.

Excluded from the additional 200% deduction are the costs related to travel and accommodation to and from the training facilities abroad as well as the costs of food and beverage. These expenses can be reimbursed tax-free to the employees already, provided that the specific conditions are met.

BDO observation:

This measure intends to retain as much employment as possible. It is however not clear if internally held trainings for reallocation purposes to the employees also fall under the additional 200% deduction. For example, in the event a hotel retrains their housekeeping staff to perform security services in order to prepare them for their new position, can the costs of the trainer (in-house) and the housekeeping employees attending the training be expensed and the 200% additional deduction be applied on training hours spent to acquire the desired skills?

Point 6: Additional deduction on marketing and promotional costs

Summary of the measure:

An additional 100% (totaling 200%) of the costs for marketing and promotion costs, up to a maximum of AWG 30,000, can be deducted for the years 2020, 2021 and 2022. This concerns the marketing and promotion costs that are considered an operational cost (“bedrijfskosten”) of the company. In accordance with the General Tax Ordinance, the actual invoices related to the marketing and promotional costs must be part of your administration in order to be eligible for the additional 100% deduction.

The above deduction can be illustrated with the following example.

If a company has AWG 48,000 in marketing costs in the year 2020, the company may deduct AWG 78,000 (AWG 48,000 + AWG 30,000) in the year 2020.

BDO observation:

No definition of marketing and promotional costs has been provided, which may lead to discussion with DIMP. For example, do the costs relating to the company’s website and other social media outlets qualify as marketing or promotional costs, since it is clear that they are operational costs?

Point 7: Extension of the carry forward loss compensation period

Summary of the measure:

Losses suffered in the years 2020, 2021 and 2022 may be carried forward to offset profits generated in the following 7 years, while under the current tax law, the carry forward option is limited to five years.

For companies with a financial year 2020 not equal to a calendar year, the above will apply to the losses incurred as in the financial years 2019/2020, 2020/2021 and 2021/2022.

BDO observation:

It is unfortunate that the proposal made by ATIA and AHATA to introduce a corona reserve, whereby the COVID-19 related losses of 2020 can be carried back to 2019 by forming a reserve, is not followed since that would provide the much needed cash flow relief, whereby the extension of the loss offset period may be advantageous for cash flow in the future only and provided that the company remains in business.

Point 8: Abolishment of the tax on rental cars and motorcycles

Summary of the measure:

The tax on rental cars and motorcycles (“BBVAM”) has been abolished as of the fourth quarter of the financial year 2020 (October). However, the license holders are still obliged to file a nil return.

The Beneficial Policy also stipulates that as of January 1, 2021, the law will be nullified/abolished.

BDO observation:

This measure effectively does not help the rental companies, since the rental tax is generally already charged to the customer. It may however attract the tourist if the rental price now decreases.

Point 9: Flexible payment arrangement

Summary of the measure:

- All entrepreneurs/businesses, individual tax payers, and pensioners (non-entrepreneurs) will be eligible for the flexible payment arrangement. The payment arrangement is applicable for already imposed assessments, including interests on collection, dunning costs, costs of service (“betekening”) and penalties.
- The flexible payment arrangement applies to all taxes, therefore including individual income tax, social premiums, corporate income tax, property tax and land lease, except for the monthly taxes for which the tax payers already had deferral of payment based on the first fiscal relief plan (e.g. BBO/BAVP/BAZV, rental tax on vehicles, tourist levy and environmental taxes, for the periods April, May and June 2020).
- The payment arrangement is as follows:
 - 3, 6 or 12 months with a minimum payment of AWG 500 for businesses;
 - 3, 12 or 18 months with a minimum payment of AWG 100 for individual persons;
 - 12, 18 or 24 months with a minimum of AWG 75 for pensioners.

BDO observations:

- The maximum payment periods for all categories have unfortunately been shortened (businesses was 24 months, individuals was 24 months and pensioners was 36 months).
- One of the conditions to apply for the flexible payment arrangement is the filling of the DB35 form, which requests individual and commercial information to be submitted. We understand that a forecast related to the years 2020 and 2021 has to be filed explaining the reason(s) why the tax payer cannot meet his/her obligations. This is an administrative burden that may prevent use of this measure.

Point 10: Discount for immediate settlement of outstanding taxes

Summary of the measure:

A discount of 30% for settlement in full of all outstanding taxes with an assessment date of December 31, 2019 and older will be provided until June 30, 2021. A taxpayer who does not wish to make use of the discount of 30% must request a payment arrangement for the outstanding taxes before July 1, 2021. The discount will apply to all personal and business taxes with the exception of (i) the land tax, (ii) long lease tax, (iii) wage tax, (iv) social security premiums, and (v) assessments for which a settlement agreement has already been closed with the tax authorities. After June 30, 2021, DIMP will apply strict collection measures to ensure payment of all back taxes.

BDO observations:

- If the statute of limitation of an assessment has expired, this assessment can formally not be collected anymore. However, if you apply for the discount, 70% of this amount will still be collected in the total settlement. In our opinion, this condition cannot reasonably be enforced.

- If you agree with the discount, any objections or appeals will be deemed to have been revoked, and payment of 70% of the total assessment is required. One will therefore have to examine whether or not the discount exceeds the amount in dispute or not. In our opinion, this is an unfair condition, since it effectively limits a tax payers' rights to an objection or appeal in case of a dispute over an assessment.

Point 11: Temporary reduced rate on dividends

Summary of measure:

As of November 1st, 2020, the existing Ministerial Regulation for the reduced rate of 10% personal income tax on dividend distributions from local entities from profits up to and including 2019 has been extended to:

- Include the dividend distributions in the years 2021 and 2022 out of the profits up to and including December 2019;
- Include dividend distributions from companies with a capital divided into shares but are established abroad (outside Aruba) to its shareholders residing in Aruba, provided the DIMP is notified thereof.

BDO observation:

Although the above may improve the cash flow of the Government, it assumes that companies and individuals still have cash to pay the dividend withholding tax (resident companies distributing dividends to its resident shareholders) or the personal income tax (non-resident companies distributing dividends to its resident shareholders, since the resident shareholders can expect a preliminary personal income tax assessment).

Further observations Ministerial Regulation

The Fiscal Relief plan 1 has been included in the Beneficial Policy, but its effect has ended per July 1, 2020 (all measures not mentioned hereinafter), November 1, 2020 (dividend distributions from companies not situated in Aruba but with resident shareholders, which has been replaced by measure 11 mentioned above) and December 1, 2020 (due date for the 2019 final corporate income tax return).

How can BDO assist?

Our team of tax experts is ready to assist you with any queries you may have or how the second fiscal relief plan may be applied in your situation. You can reach our team via telephone (transferred to the mobiles of the team who will be working from home) or via e-mail:

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