

The introduction of an UBO register & compliance

As of January 1, 2023, Aruba has introduced an ultimate beneficial owner registration (“UBO register”) in its legislation. In this SmartNews, we would like to share our understanding of the contents of this UBO register with you.

Ultimate Beneficial Owner (“UBO”)

An UBO is defined as the natural person who ultimately owns or controls a company, a legal person or a trust or similar legal arrangement, including the natural person exercising ultimate effective control in a company, a legal person or a trust or similar legal construction.

What needs to be registered?

For the UBO of an enterprise, legal entity, or Trust, the following must be registered:

- A. For resident of Aruba: tax identification number (“persoonsnummer”);
 - B. For non-resident of Aruba: tax identification number of the country of residence (in as far as the UBO disposes over such a number);
 - C. Name, month of birth, year of birth, state of residence and nationality;
 - D. Day of birth, place of birth, country of birth and residential address;
 - E. Sort of interest held, percentage of the interest (classification to be stipulated in a general ordinance);
 - F. (Copies of) Documents verifying the information mentioned above.
- The above does not apply to individuals, associations without full authority, and other private legal entities (art. 2a lid 1 letter b).

Who need to register?

The following persons need to register the UBO information at the Chamber of Commerce in Aruba:

- Owner of an enterprise;
- Each director of a legal entity that operates an enterprise;
- A partner of a partnership, and in case of a limited partnership, the managing partner;
- Trustee;
- If none of the persons mentioned above are residents of Aruba, the obligation to register shifts to the person that acts on a daily basis on behalf of the legal entity.

Viewing rights

The documents relating to the UBO will be kept by the Chamber of Commerce, and can be viewed by the Financial Intelligence Unit, the Central Bank of Aruba and other via State Decree appointed authorities (jointly hereinafter: “the Authorities”), for a period of 10 years. The appointed authorities are e.g. tax authorities, gaming authorities, police, public prosecutor’s office, Aruba’s safety service and national counter terrorism bureau and Interpol.

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The Chamber of Commerce will provide that information, in as far as requested based on the tasks of aforementioned authorities, without letting the UBO know.

However, financial service providers like tax advisors, accountants, and lawyers have the possibility to view the information mentioned in C and E above in relation to their customer due diligence. The Chamber of Commerce will record the information including tax identification number of each requestor of information not being the Authorities. The UBO may request the Chamber of Commerce to inform the UBO how many times his/her information has been viewed. The Authorities may also request the same information at the Chamber of Commerce.

Penalties



The following penalties can be raised for non-compliance with the UBO information, provided the Minister has heard the person involved first and the person had the chance to express his/her point of view (either verbally or in writing):

- Burden under penalty;
- Monetary penalty with a maximum of AWG 100,000;
- In as far as repetition occurs, the penalties may be doubled each time for the same offense within a period of 5 years.

Transitional regulation



For existing enterprises, legal entities and trusts, the UBO information should be filed at the Chamber of Commerce within 18 months after January 1, 2023, i.e. ultimately June 30, 2024.

BDO observation



In light of the international regulations to combat money laundering, terrorism financing and proliferation, introducing the UBO register was the next step in making the world more transparent. The penalties that can be raised are significant, implying that non-compliance is deterred as much as possible. Each change in UBO, either directly or indirectly, should be registered at the Chamber of Commerce.

How can BDO assist?



BDO Aruba has a dedicated team of professionals that is at your service. Our team will take care of this registration obligation for you when we also assist with the filing the final approved financial statements at the Chamber of Commerce. Please do not hesitate to contact us should you have any questions relating to the above or how the UBO requirements should be applied in your situation. You can reach BDO in Aruba at:

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