

BBO at import: Expected June 1, 2023



Timeline

As mentioned in our previous newsflash, on November 11, 2022 the Minister of Finance and Culture (hereinafter: the Minister) introduced various changes to the draft legislation regarding the establishment of the 2023 budget of the Ministries of Aruba. One of the proposed changes is implementing BBO (also BAZV & BAVP) at import as of June 1, 2023.

Recently, the Minister and the Tax Authorities held a meeting together with Parliament in order to discuss the upcoming legislation and implementation of the BBO at import. Based on the sheets discussed during this meeting, we will provide you with our insights on this matter.

BBO at import

Aruba currently does not levy BBO on the import of goods. However, businesses who sell these goods locally do charge BBO to their customers. This creates an incentive to self-import to save 7% BBO. According to the sheets presented, the fiscal incentive to self-import goods becomes stronger as the BBO rate increases. Because the Government is of the opinion that this may result in economic inefficiencies and in order to create a level playing field, an introduction of BBO on the import of goods is proposed to be implemented.

BBO at import and right of deduction

The introduction of BBO at import is proposed to be accompanied by a right of deduction for entrepreneurs in respect of the BBO due at import of trade goods (in Dutch 'handelsgoederen'). Because of this right of deduction, it is mentioned that levying BBO on the import of goods will not lead to additional costs for (amongst others) supermarkets and other retailers and wholesalers, who resell these goods. This would solely entail an 'advance payment' of the BBO due at import.

Definition of trade goods

The definition of 'trade goods' (in Dutch: handelsgoederen) is mentioned as all goods that are intended for resale and includes goods which have been processed or assembled into a new trade good by the same company and which goods are intended for resale (in Dutch: Onder handelsgoederen worden goederen verstaan die bestemd zijn voor de wederverkoop alsmede goederen bestemd om te worden verwerkt, bewerkt of geassembleerd tot een nieuw handelsgoed in de eigen onderneming). Only an entrepreneur will have the right of deduction of the BBO paid at import for the aforementioned goods.

Please note that the right of deduction is not applicable to natural persons (not being entrepreneurs). This means that goods imported by non-entrepreneurs will be subject to import duties and BBO at import, without the possibility to deduct the BBO paid at import.

Goods purchased online from any website (for personal use) and imported will therefore also be subject to BBO at import against a rate of 7% as of June 1, 2023.

Processed and Assembly

There is no definition mentioned for the terms ‘processed’ (in Dutch: bewerkt en verwerkt) and ‘assembly’ (in Dutch: geassembleerd). However, we feel that these terms should be interpreted broadly, considering the definition of trade goods solely mentions that these goods should remain intended for resale and that the processing and/or assembly happens within the company.

Examples which can illustrate the above are as follows:

Based on the above, a carpenter, who in the context of his business, imports wood to make a table and/or chairs with the intention of resale would have the right of deduction for the BBO paid for the wood imported. However, it is unclear if, for example, this carpenter imports different goods (wood, paint & tools) with the intention to provide a workshop (a service to the client), if the right of deduction would also apply to these goods.

Furthermore, a wholesaler who imports wine bottles with the intention to resell to supermarkets and restaurants/hotels will have the right of deduction of the BBO paid at import.

On the other hand, a restaurant imports its wine directly from abroad with the intention to (i) serve the wine at its restaurant and (ii) to resell the wine (bottle) to its wine enthusiast customers. In the case that the bottles are resold to its customers it seems that the right of deduction will apply. However, for the wine bottles which will be opened and served in the restaurant itself, it is unclear if the restaurant will be able to deduct the BBO paid at import on these bottles.

We note that the legislation is currently being reviewed by the Advisory Council (Raad van Advies) and has therefore not been shared publicly as of yet. As soon as the legislation is provided to Parliament we will provide you with an update including any possible changes and clarifications.

Transitional regulation

It is mentioned that no transitional regulation will apply. This means that entrepreneurs who have imported and paid the import duties before June 1, 2023, will not be subject to BBO at import. Note that goods are considered to be imported when all customs formalities have been completed and the goods are no longer under customs supervision.

Payment of import duties due for containers with (trade) goods after June 1, 2023, will be subject to BBO at import. However, importers who have filed their customs forms and paid the import duties due before June 1, 2023, are able to clear their containers after June 1, 2023, without BBO consequences.



Other points of attention

Simplification of the import duties rates

It is also mentioned that considering the introduction of the BBO at import, it is the intention to simplify the import duties rates. Currently the import duties has 12 different rate categorizations. It is also mentioned that less rates will contribute to reducing the chance of incorrect or inaccurate completion of customs declarations by entrepreneurs (and/or importers). This also simplifies the verification by the customs department.

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