

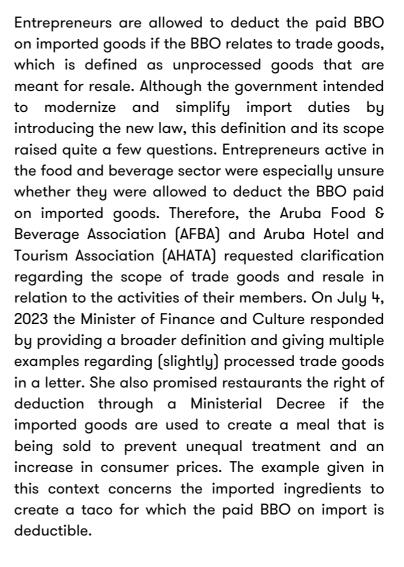
Tax Newsflash

September 2023



Do you prefer a three-course meal in a charming restaurant or a quick bite in a fast-food establishment? Taste differs per person and taxation on these meals will now most likely differ too due to the new BBO law regarding imported goods. As explained in a previous newsflash concerning the <u>Tax Changes of 2023</u>, entrepreneurs and non-entrepreneurs have to pay BBO on imported goods as of August 1, 2023. The tax authorities refer to this as BBO on import or, more informally, BBO at the border.









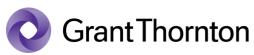
In the Explanatory Notes with the Ministerial Decree published on September 13, 2023, which is two days before the BBO declarations of August were due, several of the examples already given in the abovementioned letter of July 4, 2023 regarding (slightly) processed trade goods were included. A further explanation regarding the food and beverage sector was included as well to provide additional clarification and guidance for this category of entrepreneurs. According to the Explanatory Notes, the provision of food and beverages qualifies as a trade good if the supply of it almost completely predominates and is not subordinate to the provision of a service. This is illustrated by giving the example of buying a hamburger menu. Although this can include napkins and packets of sauce, the food and drinks that are part of menu are considered the performance. Therefore, this can be qualified as a trade good and entrepreneurs are allowed to deduct the BBO paid on the relevant imported goods.





However, this is different when it concerns restaurants that additionally offer their guests services such as advising and serving guests food at their table and offering a pleasant atmosphere by having air conditioning and live music. According to the Explanatory Notes, this qualifies as a service as offering "restaurant infrastructure" dominates the sole provision of food and beverages. The paid BBO on imported goods will therefore not be deductible for entrepreneurs of this category of establishments. Considering the earlier statements of the Minister of Finance and Culture, this can be quite a surprise for entrepreneurs active in the food and beverages sector. The question can be raised if the highly regarded equality, which the Minister explicitly said to keep in mind, is truly harbored this way.

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