

Newsflash

Pre-judicial questions by the Supreme Court

Last Friday, April 14, 2023, the Supreme Court answered pre-judicial questions of the Court of First Instance in Aruba related to the Aruba ground tax. The questions were technical tax questions. We will not go into the technicalities of the answers to the pre-judicial questions by the Supreme Court at this moment but would like to provide you with a summary of the provided answers.

Summarized, the Supreme Court is of the opinion that the ground tax assessment in 2019, was the first assessment and that the Government of Aruba was allowed to increase the ground tax rate from 0.4% to 0.6% in the 5-year period (2017-2021), even though the system of the law clearly determines that the assessments cannot be changed within the 5-year period.

The answers of the Supreme Court were very surprising, especially because the taxpayer, the tax inspector, three courts, and the attorney-general were all of the opinion that this was not the first assessment for 2019 but the second assessment. The first assessment was already determined in 2017 according to the system of the law. The answers of the Supreme Court are currently being strongly criticized in literature.

The Court in First Instance still has to decide on the pending cases based on the answers of the Supreme Court. It will be interesting to see how the Court of First Instance will interpret these answers. Especially in situations where there are no other discussions about the assessments (for example the value of the property), it seems that the law is very clear that there is no possibility to change the amount of the assessment in the 5-year period, even if the rate changes. We will keep you updated on the progress of the pending cases.

