

# Court Case of July 10, 2023 regarding inheritance tax

## Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Saint Eustatius and Saba

It is not possible to impose an assessment if the corresponding legislation has been withdrawn without a transitional legislation (in Dutch overgangsrecht).

In this case, the taxpayer inherited a condominium in the year 2014. On December 31, 2019, an inheritance tax assessment for the year 2014 was imposed regarding the inheritance of the condominium. The inheritance tax assessment was imposed based on the inheritance tax legislation. However, the inheritance tax legislation has been withdrawn on July 1, 2018, without a transitional legislation. This means that the inheritance tax legislation is no longer in force as of July 1, 2018. As a result, it is no longer possible to impose an inheritance tax assessment as of July 1, 2018. This is also not possible in the situation where the taxable event (inheritance) took place before July 1, 2018, which was the case in this situation.

Considering the above, both the Court of First Instance of Aruba and the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Saint Eustatius and Saba concluded that as of July 1, 2018, no inheritance tax assessment can be imposed. This is not possible without a transitional legislation, regardless of whether it can be concluded from the explanatory notes that the legislator intended a different outcome. The additional assessment in this case was therefore wrongly imposed and should consequently be annulled.

