

Tax Changes 2023 Part II

BBO at import, import duties rate reduction and investment allowance on foreign investments

Introduction

On July 5, 2023 the Government of Aruba approved the BBO on import legislation. The BBO on import will take effect as of August 1, 2023. Also as of August 1, 2023 a simplification and rate change for the import duties will be introduced. Finally, an investment allowance of 10% for local and foreign investments will remain applicable as of the year 2023.

BBO on import

As of August 1, 2023 BBO will be levied on the import of goods by entrepreneurs and non-entrepreneurs. The BBO on import is due at the moment of import. The BBO will be levied on the value of the imported good. This value is equal to the customs value.

An exemption for the BBO on import applies if the imported good is exempted from import duties. This exemption for import duties will automatically also apply for the BBO on import. Please note that a 0% rate for import duties is not considered as an exemption. If a 0% rate applies for the import duties, BBO on import will be due.

No transitional regulation applies for the BBO on import. This means that all imports after August 1, 2023 will be subject to the BBO on import. If the goods are declared before August 1, 2023 and the import duties are paid before August 1, 2023, BBO on import is not applicable on those goods.

Deduction on BBO on import

BBO paid on the import of goods can be deducted from the BBO due by the entrepreneur if the import BBO relates to imported trade goods. Trade goods are defined as goods meant for resale. Most of the discussions with stakeholders revolved around the offset of the import BBO. According to the Explanatory Notes, resale is defined as the resale of imported goods without any processing, as is done by retail shops or importers. According to the Explanatory Notes, sales by restaurants and hotels cannot be considered as the resale of trade goods.

However, after the discussions with the stakeholders before the introduction of the law, a more broad definition of trade goods and resale seems to be used by the Tax Authorities. The Tax Authorities gave the following examples based on frequently asked questions:

- If a company imports tortilla, meat and cheese and sells this (with other ingredients) as a taco, the import BBO is deductible.
- If a bike shop imports parts and assembles these parts to a bike, the import BBO on the parts is deductible.
- If a kitchen shop imports parts and assembles these parts to a kitchen, the import BBO on the parts is deductible.
- If a supermarket imports a cheese roll, cuts the cheese and sells slices or blocks of cheese, the import BBO on the cheese roll is deductible.
- If a supermarket imports chicken, cuts the chicken and sells the chicken as chicken cut small, shoarma chicken or chicken salad, the import BBO on the chicken is deductible.
- If a supermarket imports tuna and makes tuna salad, the import BBO on the imported tuna is deductible.
- If a supermarket imports oranges and makes orange juice, the import BBO on the imported oranges is deductible.



Based on these examples (some) processing and assembling is allowed by the Tax Authorities. This processing and assembling doesn't change the qualification as a trade good and still allows for deduction of import BBO. According to the Tax Authorities a Ministerial Decree will be issued regarding the deduction of BBO by the Food and Beverage industry. The Minister of Finance, Xiomara J. Maduro LLM, indicated in her letter of July 4, 2023 to Aruba Hotel & Tourism Association and Aruba Food & Beverage Association that clear guidance will be provided that allows restaurants to offset BBO so that restaurants will receive a fair and equal treatment under the law. Although it is not explicitly mentioned in the letter of the Minister of Finance, it may be assumed that the same applies to hotels.

The BBO on import can be deducted in the month it is paid from the BBO due by the company in that month. If the deductible BBO is more than the BBO due in the month, the difference will, after the settlement of any other outstanding amounts at the tax authorities, be refunded to the company the following month based on a decision of the tax inspector. The total BBO on import will be prefilled in the BBO return of the company by the Tax Authorities. The deductible BBO will have to be selected by the company from the prefilled list.

Import duties

It was the intention of the government to simplify and modernize the import duties at the moment of introduction of the BBO on import. To achieve this the law should be amended, but this was not possible anymore before the summer recess of the parliament. To compensate for the cost increase of the BBO on import the Minister of Finance is authorized by law to publish a beneficial policy by Ministerial Decree based on which the import duties rates will be reduced at the moment the BBO on import will take effect (August 1, 2023). The beneficial policy will apply until the formal law is amended.

The Ministerial Decree is not published yet, however, an unofficial list is published dated June 12, 2023 based on which it may be expected that the rates will be reduced. Some examples regarding the rate changes are as follows.

- Energy efficient items (refrigerators, LED lights, wind turbines, solar panels, electrical cars): from 2% to 0%;
- Transportation (automobiles): from 40% or 50% to 32%;
- Building materials (e.g. tiles): from 10% to 6%;
- Stout beer: from Afl 169 per hectoliter to Afl 80 per hectoliter.

Investment allowance

For the years 2020, 2021 and 2022, under the Fiscal Relief Package 2, the investment allowance was increased from 6% to 10% and extended from only investments with local companies to investments with local and foreign companies. As of January 1, 2023 the investment allowance of 10% will remain applicable to investments with local and foreign companies based on an amendment of the law.

