

Tax Newsflash

September 2023

Proposal Tax Plan 2024 BES Islands

Although Budget Day (in Dutch: 'Prinsjesdag') always takes place more than 7,000 kilometers away in the Netherlands, the Tax Plan 2024 with the theme 'Necessary Steps for Society and the Tax System' also affects the islands Bonaire, Sint Eustatius and Saba (BES). The Proposal Tax Plan 2024 BES Islands contains proposed tax changes, which relate this year to the Tax Act BES, Income Tax Act BES, Wage Tax Act BES and the Customs and Excise Act BES. The proposed changes mainly affect entrepreneurs and are aimed to improve and simplify the tax legislation. This Newsflash provides an outline of the most notable proposed adjustments below, which, if approved, will enter into force on January 1, 2024, unless otherwise stated.

Tax Act BES

General

The definition of 'passenger car' is standardized within the Tax Act BES by aligning with the definition in the Passenger Cars and Motorcycles Tax Act 1992 of the Netherlands. As a result, the separate definitions in the General Expenditure Tax (ABB), income tax and wage tax will be withdrawn to avoid confusion. Because of this adjustment, pick-ups (with a single cabin) and vans, apart from those with a special function such as ambulances, will in principle be subject to the high rate of the ABB. For Bonaire this means 25% instead of 8% and for Sint Eustatius and Saba this means, depending on the car value, 10%, 18%, 22% or 30% instead of 6%.



Revenue tax

Three important adjustments have been proposed to the conditions of the establishment permit (in Dutch: 'vestigingsplaatsbeschikking') for holding companies. Firstly, an establishment permit can already be obtained with a participation percentage of 50% (previously 95%). Secondly, it will be required that the holding company with its other assets also independently meets the condition of the so-called business test of the establishment permit. This test requires that a maximum of 50% of the assets consists of investments, participations, liquidities and/or assets of which the (right of) use is made available to people who live or are established outside the BES islands. Other assets that are used to directly or indirectly finance people who live or are located outside the BES islands may also amount to a maximum of 50% of the total assets. Thirdly, it is proposed that the date of entry into force of the establishment permit can, on request, commence retrospectively with a maximum of twenty-four months after the Inspector has received the request. This period is currently six months.



General Expenditure Tax

- **Abolishment of integration levy**

To stimulate entrepreneurs and increase the supply on the housing market, it is proposed to abolish the integration levy of the ABB. As a result, ABB will no longer be levied on goods that have been self-manufactured or on self-owned premises, as is the case for example with a self-built home or an empty office building that is converted into a house.

- **Increase of maximum turnover Small Businesses Scheme**

The maximum yearly turnover that entrepreneurs may achieve in order to apply the Small Business Scheme (in Dutch: 'kleineondernemersregeling') will be increased from USD 20,000 to USD 30,000. As a result, more small BES entrepreneurs will be exempt from paying ABB, which will significantly reduce their administrative burden and improve the business climate for these entrepreneurs.

- **Adjustment of invoice obligation**

It is proposed to align the invoice obligations of the ABB with the invoice obligations laid down in Chapter VIII of the Tax Act BES. The invoice requirements from the latter will be leading and where necessary references will be made to them in the ABB. This adjustment implies that producers and entrepreneurs who supply self-produced goods are obliged to apply the invoice system and must always issue an invoice.

Minimum Tax Act 2024

The Minimum Tax Act 2024 is being introduced to implement the European directive to achieve a global minimum level of effective taxation. This law aims to create a more level playing field by preventing tax avoidance and tax competition. This also means that multinational groups and domestic groups established on the BES islands with a turnover of at least 750 million euros must effectively pay at least 15% tax on their profits. Under certain conditions, permanent establishments on the BES islands are also included. If the minimum percentage is not reached in the relevant reporting year, the entity itself must report and pay an additional tax in order to still reach the minimum percentage of effective taxation. The date of entry into force is December 31, 2023, but the additional tax will only be actually due for reporting years starting on or after December 31, 2024.



Formal Tax Law

• Obligation of notification real estate tax

Due to the information of the tax authorities that is not always up to date, an obligation to send a notification in order to pay real estate tax is proposed for those who:

- have the enjoyment of ownership or obtaining another limited right of immovable property or;
- have the enjoyment of immovable property by virtue of ownership, possession or any other real right, which has been changed by construction, renovation, improvement, demolition or destruction or;
- have the enjoyment of immovable property by virtue of ownership, possession or another limited right at the beginning of the calendar year, but have not received an assessment in the following year.

In the first two situations, the period within which the tax authorities must be notified is four months after acquisition or change. The period for the third situation is also four months, but only starts once the calendar year following the calendar year for which no assessment has been received, has ended. If this obligation is not fulfilled on time, an administrative fine may be imposed.

• Expansion of information obligations and administrative obligations

To promote the exchange of information between the tax authorities and taxpayers and to facilitate audits, various provisions regarding information and administrative obligations are being expanded.

Income Tax Act BES and Wage Tax Act BES

Adjustment of customary wage director-major shareholders

In the proposal several adjustments to the customary wage of director-major shareholders are proposed. In principle, the customary wage is set at the highest of the following amounts.

- 90% of the salary of the most comparable employment.
- The highest salary of employees employed by the (affiliated) company. If the (affiliated) company employs no other people, the customary wage is set at 90% of the company's net turnover.
- Twice the tax-free amount, which will be USD 34.704 in 2024.

Finally, the customary wage of director-major shareholders will also apply to the person who is the partner of a person with a substantial interest and is employed by the company.

Codification of increase in tax-free amount

The increase in the tax-free amount from USD 12.198 to USD 17.352 will be codified into law. This increase was already put into action in 2023 through a temporary policy decision to quickly accommodate residents.

Abolishment of dividend exemption

It is also proposed to abolish the dividend exemption of up to USD 5,000 per year to treat the various forms of income more equally and to prevent tax avoidance through dividend payments.

Adjustments that did not make it into the Proposal Tax Plan 2024 BES Islands

A significant number of the above proposed legislative changes will not be a surprise for those who closely follow the reporting of the State Secretary of Finance. On May 8, 2023 and August 31, 2023, the State Secretary already provided insight into the adjustments that would be part of the proposal. However, a number of these ultimately did not make it into the Proposal Tax Plan 2024 BES Islands. For example, the property tax rate for hotels will not be increased from 10% to 12.5%. The proposed rate increase from 5% to 10% of the dividend tax and for the substantial interest shareholder in the income tax are also not included in the proposal. Finally, there will be no possibility of forming a fiscal unity for ABB.

Please feel free to contact us if you have any questions. We are happy to assist you.

 info@bq.gt.com