

Temporary reduced rate on dividends

The government of Aruba has published Beneficial Policy for dividends distributed in the calendar year 2019 and relating to retained earnings up to and including 2018. The Beneficial Policy reduces the personal income tax burden to 10% on such dividends, implying that the dividend withholding tax (of 10%) is the final levy on these qualifying dividends.

Conditions

The conditions to apply the Beneficial Policy are the following:

- Dividends need to come from entities with a capital divided into shares that are residence of Aruba. This condition implies that entities not subject to Aruba dividend withholding tax will not qualify for application of the Beneficial Policy.
- The dividends need to be distributed from retained earnings built up in the financial years up to and including 2018.
 - A financial year is defined as the financial year ending in 2018, i.e. the Beneficial Policy applies to retained earnings up to and including 2017/2018.
 - It is not allowed to distribute a revaluation reserve or other so-called “hidden reserves” including goodwill.
 - Waiving (in Dutch: “kwijtschelding”) a receivable on a shareholder is considered a qualifying dividend under the Beneficial Policy.
- The dividends need to be distributed in the calendar year 2019.
- The dividends distributed cannot relate to “future profits”, i.e. one is not allowed to distribute a dividend out of expected profits for the years 2019 and following.
- If a loan is contracted to finance the dividend distribution, the interest due is not tax deductible.
 - If the dividend is owed by the company to the shareholder, we are of the opinion the same applies and the interest is not tax deductible.
 - Based on Dutch case law, payables to shareholders (individuals) do not need to carry interest.

Anti-abuse stipulation

In case dividends are distributed that include one or more elements that violate the conditions of the Beneficial Policy, the full dividend distributed will be taxed against the normal 25% personal income tax rate.

What to do?

In order to make use of the Beneficial Policy, the following steps need to be considered:

- The retained earnings per the financial year 2018 (or 2017/2018) will need to be determined;
- The cash flow position of the Company needs to be determined, since at a minimum the 10% dividend withholding tax should be available in cash;
- In case you have one or more loans from Banks, prior approval for the dividend distribution from your Bank may be required;
- In case you have a non-Aruba holding company, a ruling with the Tax Authorities may be required to receive a “flow-through” ruling that confirms you may use the Beneficial Policy. In this case, a statement of approval from the Central Bank of Aruba also needs to be obtained beforehand;

- A shareholder's resolution needs to be drawn up that confirms the dividend to be distributed.
 - If not done so already, you may take the opportunity to immediately approve the (prior year) financial statements.
- A dividend withholding tax return will need to be filed at the Tax Authorities within fifteen (15) days after the dividend has been put at the disposal of the shareholders, and the amount due in dividend withholding tax is paid.
- If the net dividend (i.e. after payment of the dividend withholding tax) is not paid out in full to the individual shareholder(s) a loan agreement is required; an interest percentage is optional but no tax deductibility will be honored.

BDO Aruba has a dedicated team of professionals that are at your service. Please do not hesitate to contact us should you have any questions relating to the above or how the Beneficial Policy may be applied in your situation. You can reach BDO in Aruba at:

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