

TAXATION AND MICRO AND SMALL ENTERPRISES

The Tax Law of the Netherlands Antilles is not compiled into a unified tax code. It is comprised of a number of tax acts, which Government updates and amends from time to time. The latest changes took place in the year 2001, and it became effective as from January the same year. The amendment of the Kingdom Tax Arrangement has been introduced with effect January 1, 2002. The New Fiscal Framework (NFF) and the Kingdom Tax Arrangement are complimentary to each other.

In order to meet a variety of challenges faced by its international financial sector, the Netherlands Antilles focused its attention to completely upgrade and modernize its tax legislation in line with the recommendations of the Organization for Economic Development (OECD).

Transitional provisions are enacted for international companies that existed on December 31, 2001. For companies preferring to remain being taxed under the old legislation, measures were taken to safeguard their tax position for a certain period of time running from 2010 up to 2019.

With the NFF the following changes became in effect as from January 1, 2001:

- The distinction between onshore and offshore companies ceases to exist;
- The traditional tax regime for offshore companies can no longer be applied for.
- The average profit tax is decreased from 44.5 to 34.5%;
- An exemption of 95% of profits from foreign holding and permanent establishments is applicable;
- A 100% participation exemption is granted to NFF companies that hold 25% or more of the share capital of a Dutch subsidiary;
- Capital gains derived by the said NFF holding company out of its Dutch Antilles holding structures are fully N.A. tax exempt.
- Capital gains derived by NFF companies from other holding structures than the one referred to above are N.A. tax exempted for 95%;
- Under certain conditions additional profit tax may be levied. This additional taxation is specially related to the exemptions granted under the prevention of unjustified use of these exemptions.;
- The National Ordinance introducing a Dividend Withholding has been accepted by Parliament enacted it will be a 10% withholding tax;
- The so-called Netherlands Antilles Closed Company (NABV) was introduced. Provided that certain conditions are met it is exempted from profit tax. It is not eligible to any benefits of the Kingdom Tax Agreement or any other treaty. Provisions for the exchange of information will apply, as well as other measures to avoid criminal use of the NABV. The NABV will not be subject to dividend withholding tax when implemented.

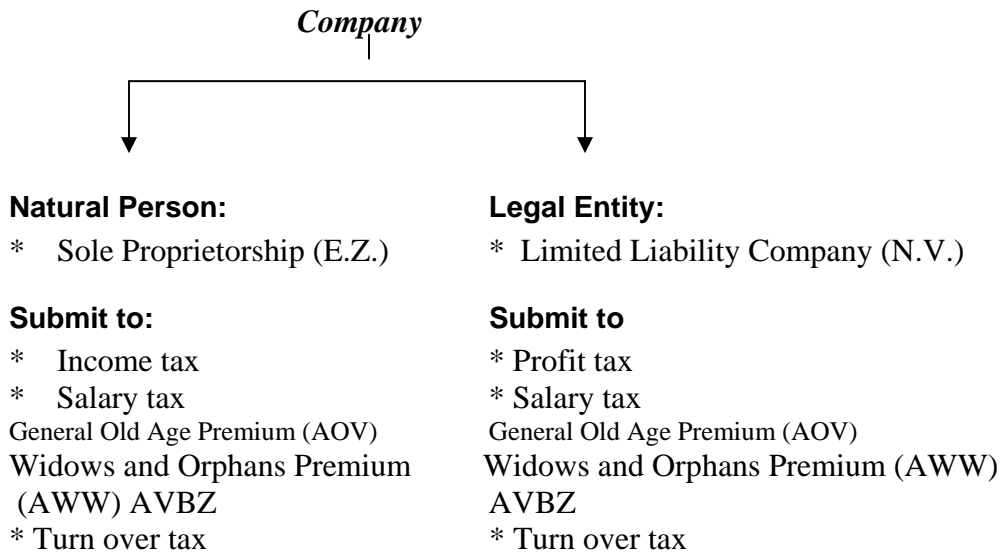
There are three major ordinances presently in effect in the Antilles; the Profit Tax Ordinance, and the Income Tax Ordinance, and the Wage Tax Ordinance. The former was enacted to provide a cash flow for the Government. Employers are obliged to withhold a percentage of employee's monthly salary and pay this to the Island Receiver. This ordinance must be considered quite seriously as failure to withhold taxes and pay these to the Island Receiver may result in the principals of companies being held personally responsible for the taxes due. In this instance, the limited liability of a corporation may not hold sway.

The Central Government is principally responsible for Profit and Personal Income Taxes. The island Governments are responsible for a variety of less significant taxes. The Director of Taxation is responsible for the administration of Income Tax Regulations for the Central Government. Bonaire has a deputy of Finance who oversees the execution of Tax Law. The Island Receiver, who is an employee of the Island Government, however, collects taxes. Each island territory is allowed to levy a 25% surtax to the existing Income and Wage schedules.

These monies are to be used for the benefit of the island territory in question. All schedules have the surtax included.

Income and Profit are the principal taxes levied by the Central Government. These affect: Individual, both resident and nonresident; corporations, resident and non-resident (if profit are derived locally) Bonaire levy import duties.

There are different structures to operate a business. Sometimes businesses are operated by natural persons (E.Z.) and other times by a legal entity (N.V.)



It's mandatory by the law that business owners keep a financial administration of the business activities. For Micro and Small Enterprises a cashbook will do. In the cashbook they have to keep the records of the incomes and expenses of the business on a daily basis. The administration should be archive for ten approximately ten years.

5.1 Income tax

For the determination of tax status, individuals are classified into either resident or non-resident categories. The determination of status depends on "how one lives". Factors such as where one's family resides (spouse and children) and home ownership or as they are referred to in the law, "the center of one's social and economic life" play a major role in the determination of resident status.

Foreign personnel or expatriates who are paid by a Netherlands Antilles company, and who have resided in the territory for less than one year, are defined, and thus taxes as nonresidents.

Nonresident and resident of the Netherlands Antilles alike, are subject to individual income taxes of the Antilles. These taxes are to be assessed on the net profit received from personally owned immovable property, which is situated in the Netherlands Antilles.

Nonresidents are taxed on income from immovable property such as real estate, loans secured by mortgage on Netherlands Antilles immovable property, permanent establishment in the Netherlands Antilles, and the shares/bonds/interests received on loans of Netherlands Antilles corporations in which the nonresident has "considerable interest", and on capital gains on the sale of the "considerable interest" shares.

Nonresidents are further taxed on income on existing or expired employment from their own companies or in the capacity as Managing Director or President (Directors) of a

Netherlands Antilles corporation and when the nonresident receives pension paid by the Netherlands Antilles government.

The Income Tax-entrepreneur pays tax over his income existing of the revenues from:

- property
- moveable property
- business and labour
- rights on periodic payments

5.2 Profit Tax

A profit tax on worldwide income is levied on resident entities including Corporation, Unlimited Partnerships, Cooperative Societies, Mutual Insurance Companies, and Associations/Foundations whose place of management is within the Netherlands Antilles. Entities not based in the Netherlands Antilles are subject to tax where (1) profits are derived through a permanent establishment in the Netherlands Antilles; (2) profits are derived from debt obligations secured by mortgage rights on Netherlands Antilles real estate; and (3) profits are derived from real estate situated in the Netherlands Antilles.

5.3 Turn over tax

On the turnover, means that for every sale that you make and/or services provided that you invoiced, one needs to pay a 5% turnover tax (NAOB).

Payment of this tax should in principle take place every month.

These tax forms can be obtained from the tax department at the helpdesk and payments are made at the Central Government tax collectors office.

Your accountant should at the end of each fiscal year based upon your administration, determine how much, if any, profit the N.V. has made.

Based upon that “ Net Profit”, everything included, approximately 35% tax needs to be paid. This tax is referred to as “ Profit Tax”.

The accountant provides and/or reports this information to the tax department and the N.V. receives the assessment from the department. In this case payment is also made to the Central Government tax collectors office.

With regard to the turnover tax, the same story implies for the E.Z. as for the N.V. with the understanding that there is a special arrangement for the small entrepreneur. This arrangement is the KOR arrangements. KOR stands for Small Enterprise Arrangements. If the turnover is less than Naf. 30.000, no turnover tax is paid. This arrangement can only be received from the tax inspector for the next fiscal tax year. A written petition has to be addressed to the Tax Inspector.

For the E.Z. there is no “ Profit Tax”.

The E.Z. accountant determines at the end of the fiscal year whether, if nay, how much profit was made. That profit is categorized as an income for the entrepreneur and based upon that he/she needs to pay an income tax.

The income tax system knows a progressive gradation, meaning, the more is earned the higher the tax shall be for the small entrepreneur with a limited entrepreneurs risk. The E.Z. is tax technical more chosen than the N.V.

Also in this case can the accountant, administration consultant and/or business adviser assist you with the best choice.

Important is the fact that once you have started your business as an E.Z. this can always be transformed into an N.V. in the future. One simply has to follow the path needed to establish an N.V. and incorporate the E.Z. as is called.

5.4 Premiums AOV, AWW and AVBZ

The premium percentage for the AOV/AWW and AVBZ is the following:

19. Premium percentage

Year 2003	Additional premium employer	Premium employee	Total premium
Premium A.O.V.	5,5 %	4,5%	10%
Premium A.W.W.	0,5%	0,5%	1%
Total premium A.O.V/A.W.W.	6%	5%	11%
Premium A.V.B.Z.			
with wages:			
- < f. 9.600	0,5%	0,5%	1%
- ≥ f. 9.600	0,5%	0,5%	2%
with pension income:			
- < f. 9.600	n.a.	1%	1%
- ≥ f. 9.600	n.a.	1,5%	1.5%

Source: Tax department

For the AOV and AWW is the maximum fixed income for the premium calculated at: Naf. 336.830, - Therefore the maximum premium is Naf. 6.736,60.

5.5 Social Insurance Bank

When do you have to register with the Social Insurance Bank (SVB)?

When you have established a business or company. There are two kind of registration:

1. Companies without any employees in their service
2. Companies with employees in their service.

What is required to register with the SVB?

- a copy of the proof of registration with the Chamber of Commerce and Industry.
- Bank or Giro account number
- ID number, full name, sex, marital status, occupation/profession, terms of employment and the wages of you employees completed on the summary wage statement.
- A proof of identity of the person who will sign on behalf of the employer (in case of an authorized person, a letter of authority and a proof of identity are required).
- Articles of Association in case the firm is a corporate body.

Who pays the premium for Sickness and Accident Insurance?

The premium for the employee is completely at the employer's expense. The Sickness Insurance premium rate is a certain percentage of the employee's gross income, but is at the employer's expense.

For Accident Insurance the premium rate varies, depending on the classification of the company's accident risk and is at the employer's expense.

The employees who are insured against sickness pay a certain percentage of their gross income up to the wage limit in order to have their family members insured, irrespective of the composition of their family, unless they have been granted an exemption.

How is the premium collected?

By means of monthly declarations and payments by the employer. The employer also deducts the employee's share and transfers it to the SVB.

Every year a specific summary wage list has to be submitted, from which per employee is evident:

- the duration of the employment
- the level of the gross income paid
- the premium paid

As of 1st of January 2003 the Social Insurance Bank is responsible for levied and collecting from the AOV/AWW premiums.

Consequently the Tax Collector Department "The Landsontvanger" from Bonaire will not collect the AOV/AWW premium, with the exception of the premiums before 2003. Be aware that the Social Insurance Bank will only collected the premium, the Tax Collector department will be responsible for levying (tax form/tax return).

In the instance where employees are laid-off for reasons external to their performance, employers must pay a one-time taxable allowance to each employee, which is determined by tenure. The table below is shown how the allowance is calculated.

20. Layoff Allowance

1-10 years of service	1 week's wage per year
11-20 years of service	1-1/4 weeks wage per year starting with year 11 additional to the 1 week's wage or the first 10 years
21+ years of service	2 weeks per year additional to the calculation of the first 20 starting with year 21.

5.6 Taxation of the shareholders

Dividends

Netherlands Antilles shareholders, referred to as domestic shareholders, either as corporate entities or individuals, receiving dividends can be assessed taxes on said dividends. Tax –exemption status exists only in the case where the exchange of dividends transpires between related Netherlands Antilles corporations. Non-Netherlands Antilles shareholders, or foreign shareholders, incur no withholding of taxes or interest paid to foreign shareholders on dividends by a Netherlands Antilles corporation. Foreign individuals with share capital available incur an income tax, which is assessed on the dividend and interest income. This “considerable interest” (in excess of 25% of total share capital) takes into account family members, stock holdings. Any family member considered with direct lineage is included: spouses, parents, grandparents, children, siblings, grandchildren, and in-laws are considered as part of the direct lineage.

5.7 Capital Gains

Capital Gains on the sale of shares in a Netherlands Antilles corporation is not taxable on ownership of less than 25% of total share capital.

5.8 Tax Investment Incentives

There are several tax incentives ordinance, which can be used by all businesses. Ordinance, regarding facilities and incentives for companies are:

- Text of the Ordinance to promote business establishment and hotel construction, P.B. 1953,no.194 (edit by ordinance the 1st of march 1999, P.B. 1999,no.42)
- Ordinance Tax facilities Industrial Businesses, P.B. 1985, no. 146 (edit by ordinance the 1st of march 1999, P.B. 1999, no. 42)
- Ordinance Renovation Hotels
- Ordinance promoting Land Development

There are specific incentives for industries;

1. A profit tax of 2% on export profits
2. Exemption from Netherlands Antilles income tax on dividends paid from the export profits.
3. Unlimited compensation of losses incurred during the first four years (initial losses) of the company's operations.

These facilities only apply to Netherlands Antilles companies.

For newly incorporated Netherlands Antilles companies who contribute to broaden the economic basis for the Netherlands Antilles, a special tax facility is available. This is referred to as a "tax-holiday" and consists of an exemption from import duties and income tax on dividends, while a profit tax of only 2% will be applicable. The tax-holiday is granted usually for a period of between 5 and 11 years.

Tax-holidays may be obtained with an investment of at least 150.000 and market protection may also be obtained for a period of 10 years. Land Development companies are exempt from profit tax.

For hotels there is:

- A reduced profit-tax including additional charges- of at least 2% for a period of 11 years at the most.
- Exemption from import duties (including levies) on materials and on goods required for construction (includes expansions) and initial refurbishing (i.e. capital equipment) of the hotel premises.
- In case of renovation, exemption for a two-year period from import duties (including levies) on materials and goods required for expansion, improvement and/or renewal. To qualify the limited liability company's investment in expansion, improvement and/or renewal should amount to at least US \$ 165,000.

- Exemption from personal income tax on income earned from dividends and other distribution of profit within two years after the fiscal year in which the profit was obtained.
- To qualify a limited liability company should invest at least US\$ 550,000 in its construction and initial refurbishing (includes expansions) within two years of the date of the Central Decision.

Depending on the type of offshore company, different taxation is applied.

Types of offshore companies:

1. Offshore Trading Companies are Netherlands Antilles companies, the purpose of which is to organize, invoice, and administer in the Netherlands Antilles, the company's transactions abroad. By advanced ruling the profits of such companies are taxed at rate of 5%-7%. If the profits exceed Naf.1, 000,000.00 a more ruling can be obtained. The investment income of such a company is taxable at a rate of 2.4%-3% except interest income derived from activities directly related to the trading activities. Changes in the value of investment are not taken into account in the calculation of the taxable income.
2. Investment and Holding Companies are Netherlands Antilles companies the purpose of which is to invest in securities, such as shares and the other certificates of participation, bonds and other interest bearing claims under whatever name or form. Changes in the value of assets and capital gains are not accounted for when calculating taxable income. The company is allowed to deduct: reasonable costs" from the income, although the interest is not deductible unless paid to a bank or similar institution or a favourable tax is ruling is obtained.
3. Patent-holding Companies are Netherlands Antilles companies which are formed primarily to achieve income from:
 - proceeds from the alienation or the disposal of the rights to use copyrights, patents, trademarks, or similar assets.
 - Royalties (inclusive rentals) from motion pictures, from the use of industrial, commercial, and scientific equipment and from the exploitation of mines or quarries or any other natural resource and other real property.
 - Compensation paid for the rendering of technical assistance.
4. Real Property Holding Companies, companies exploiting real property that are located outside the Netherlands Antilles is not assessed any profit taxes.
5. Financing Companies must request a special tax ruling.

When interest has been paid to institutions other than banks, the interest deduction must be laid down in the ruling.

The Tax Inspection for the Netherlands Antilles will allow deductions and will acknowledge the business-like nature of the employed interest percentage provided that there is a certain spread indicated.

6. Mutual Funds are investment companies with several shareholders, the main purpose of the companies being to gain exchange profits. The profit of the company asset value (NAV) of the company. An exemption from profit tax can be obtained for companies with share capital of at least US\$50 million with at least 50 different shareholders and with at least four local employees. Mutual funds that employ at least two local persons and with a share capital of at least US\$300 million are also exempt.
7. Captive Insurance Companies, these offshore companies can obtain a ruling by which their profits are taxed at a lower rate.
8. Shipping companies (Tonnage Tax) are assessed a normal rate on profits of 9%. Companies who solely practice the ocean shipping trade are exempted from profit tax, if the company registers all the ships in the register of taxable ships.
9. Offshore Banking Companies refer to companies with a license from the Central Bank allowing the firm to engage in international bank transactions with non-residents and with offshore companies.

The income derived from the operations (results of banking transactions like commissions and discounts) of such a company may be taxed in a similar manner as an offshore trading company if a ruling is obtained. This rate is 5%-7% of income. More favourable rulings may be available depending on the circumstances.

For more information about the tax system in Bonaire it is advisable to pay a visit to the office located at:

Kaya Jean B.F. Vitté 1
Kralendijk – Bonaire N.A.
Telephone: 717-8371
Fax: 717-8794

Office hours:

Monday: from 9.00 to 12.00 and from 14.00 to 16.00 u.

Tuesday till Friday: from: 8.00 to 12.00 and from 14.00 to 16.00 u.

Or:

Tax Collector Office (Landsontvanger)
J.A. Abraham Boulevard 27
Kralendijk – Bonaire N.A.

Tel. 717-5330 ext. 512

RECCOMENDATIONS: The group in charge of making suggestions to our present tax structure is of the opinion that our tax structure is one of the most complicated tax systems known in the world. In the same breath, they were also of the opinion that based upon the fact that the Netherlands Antilles derives majority of its funds from taxes, that it is import to have professionals in this area conduct a thorough study on the matter and to make a proposal with sound solutions to not only the Central but also the Island territories.