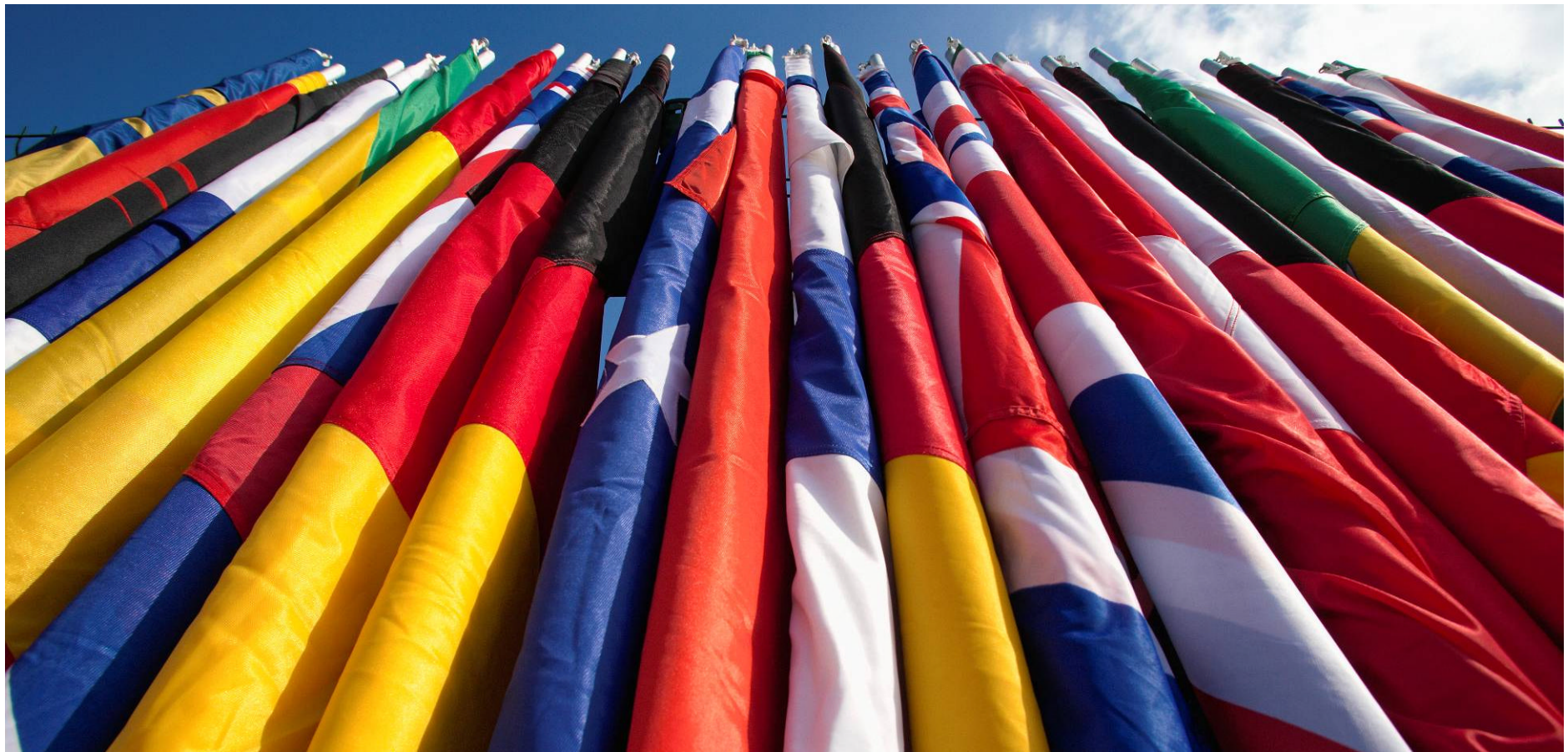


PricewaterhouseCoopers Aruba
Tax and Legal Services

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The Aruba Limited Liability Company



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Introduction

As of January 1, 2009, Aruba introduced a new legal entity, the Aruba Limited Liability Company (in Dutch: “Vennootschap met Beperkte Aansprakelijkheid”, hereinafter “VBA”). The VBA is a very modern and flexible legal entity. The VBA is especially designed to make Aruba more attractive for foreign investors and can be used in international company structures. Below we will give a short description of the most important fiscal and corporate law features of the VBA.

Corporate law

Name, incorporation and representation

The VBA can use the Dutch name “vennootschap met beperkte aansprakelijkheid”. The VBA can also use the names “limited liability company” or “sociedad responsabilidad limitada”.

The VBA can be incorporated by one or more persons. The person that incorporates the VBA does not have to participate in the capital of the VBA. There is a free choice of language for the articles of incorporation. However, if the language is other than Dutch, English or Papiamentu, a translation in one of these three languages has to be attached to the articles of incorporation.

The VBA is incorporated by notarial deed. The articles of incorporation can be very short. Only the name, seat and purpose of the VBA and limitations in the representation authority of the directors must be mentioned explicitly in the notarial deed. All other matters can be arranged in a regulation, which does not have to be made public.

Shares

Shares can be issued with or without nominal value. Further, shares can be issued with or without voting rights or with limited voting rights. Shares can also be issued with or without profit rights.

Liability shareholders

The VBA is a hybrid entity. In principle the shareholders are not liable for debts of the company. However, the VBA can also be construed as a company of which the shareholders are personally liable for the debts of the company. In that case the VBA can be compared with a limited partnership or in Dutch a “vennootschap onder firma”.

Board

The board of directors can be construed according to the “one tier” or the “two tier” model.

In the one tier model, the operational and supervisory board is one and the same. In the two tier model, there is a separate supervisory board, apart from the operational board. It is also possible to give the shareholders the supervisory role over a normal board of directors.

The VBA must have a legal representative. This legal representative must be an Aruban NV, which has as its purpose the representation of VBA's. The legal representative must have the necessary government licenses. There is no obligation to have a legal representative if the VBA has individuals as directors who are Aruban residents.

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Conversions, mergers and split ups

A normal Limited Liability Company (in Dutch: “naamloze vennootschap”) and a Aruba Exempt Company (in Dutch: “Arubaanse vrijgestelde vennootschap”) can be converted in a VBA. A VBA can be converted into a normal limited liability company (naamloze vennootschap).

Furthermore, it is possible to merge the VBA with another legal entity or to split the VBA in two legal entities.

Tax

In principle the VBA is subject to the normal corporate income tax regime, with a tax rate of 28%. However, the VBA can elect to be subject to each available fiscal regime on Aruba. Below we will give a short description of each fiscal regime.

Exempt status

The VBA can elect the tax exempt status. This is only possible if the VBA performs certain qualifying activities. The following activities qualify for the tax exempt status:

- Holding activities.
- Financing of other companies, whether or not the financing is intercompany.

- Investment activities, with exception of investing in real estate.
- The licensing of intellectual and industrial property rights and similar rights according to the laws of Aruba or the laws of other countries.

Some additional conditions might apply for these activities. We will not go further into these additional conditions at this moment.

Transparent status

The VBA can also elect the fiscal transparent status. As a consequence the VBA will be considered transparent for tax purposes. If the VBA does not have a taxable presence on Aruba, no taxation will occur on Aruba. The Aruba tax authorities have issued safe harbor rules regarding the question whether or not there is a taxable presence on Aruba for a transparent company on August 15, 2005. Although these rules only apply to the Aruba Exempt Company, according to the literal text of the publication, it is generally assumed that the rules also apply to the VBA if the VBA elects for the transparent status. Summarized, the safe harbor rules are as follows:

- Only active business activities can constitute a permanent establishment. Passive investment activities will not lead to a permanent establishment.

- In case of active business activities, a permanent establishment can only occur if the business activities are conducted from durable, physical company space on Aruba. If the services of a lawyer’s office or a trust company are used, there is no permanent establishment, if no separate office space is made available to the VBA at the lawyer’s office or trust company. In that respect, additional indications that there is no permanent establishment are the absence of a gas, electricity, water, telephone, fax or internet connection in the name of the VBA. Also the absence of maintenance and cleaning costs is an indication of the absence of a permanent establishment.
- The fact that an Aruban resident (individual or trust company) is director of the VBA, in itself, does not lead to a permanent establishment.

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- If the only obligation of the local employee of the VBA is to perform administrative services (for example compiling financial statements or filing a tax return), this will not lead to a permanent establishment. An indication of the limited task of the employee is the remuneration of the employee. If this remuneration can be compared with the fee that is charged by a trust company, this is an indication that the employee in fact does not materially contribute to the business activities of the VBA.
- Other factors which in itself do not lead to a permanent establishment, are:
 - Keeping an administration at a trust company on Aruba by the VBA.
 - Keeping a bank account at an Aruban financial institution by the VBA.
 - Ownership of intangible assets which are registered on Aruba by the VBA.
 - Ownership of tangible assets which are not located on Aruba (for example aircrafts) by the VBA, even if these assets are registered on Aruba.
 - The holding of shares in a company, established on Aruba, by the VBA.

We advise to ask confirmation from the tax authorities in case the VBA elects the transparent status and wants to avoid a taxable presence on Aruba.

Please note that the country of the shareholder of the transparent VBA will in most cases not consider the VBA as transparent (if the VBA is considered an entity for corporate law purposes), because in general the foreign country does not follow the transparency rules of Aruba but has its own set of rules to qualify the VBA. This opens interesting possibilities for tax planning.

Imputation payment status

The VBA can elect the status of imputation payment company (hereinafter: "IPC"). The IPC is a normally taxable company which is subject to a tax rate of 28%. The shareholder of the IPC is eligible for an imputation payment after a dividend distribution of the IPC. The imputation payment amounts to 26/72 of the distributed dividend. This leads to a tax rate of 2% on consolidated (shareholder and subsidiary) basis.

The IPC status can only be elected if the VBA performs certain qualifying activities. The following activities qualify for the IPC status:

- Exploitation of a hotel.
- Exploitation of a shipping company.

- Exploitation of an aviation company.
- The development, acquisition, exploitation, maintaining and licensing of intellectual and industrial property rights and similar rights according to the laws of Aruba and the laws of other countries.
- Captive insurance activities.
- Holding of shares certificates or other certificates of participation.
- The financing of other companies, whether or not intercompany, other than as a credit institution in the sense of the State Ordinance Supervision Financial Institutions.
- The investment of assets, with the exception of:
 - Investment in real estate.
 - Investment of (financial) assets with related companies in any form.

Some additional conditions might apply for these activities. We will not go further into them at this moment.

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Free zone status

The VBA can elect the free zone status. The free zone is a designated area in Aruba where certain activities can be performed. Most important activity is the import, processing and export of goods. Also certain services are allowed. Financial services are not allowed.

A free zone company is subject to 2% corporate income tax. A free zone facility charge of 1.133% is due on the net turnover of the free zone company.

Turnover tax and foreign exchange tax

Under certain conditions, an exemption for the 3% turnover tax and the 1.3% foreign exchange tax can be obtained in each of the above-mentioned special tax regimes. In case of the tax exempt status and transparent status, also an exemption from the dividend withholding tax applies. We will not go further into this at this moment.



Contacts

Please note that the aforementioned has a general character and can only be used as guideline. If you need further assistance or if you have specific questions, please do not hesitate to contact:

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The above is exclusively meant to inform you in general. Therefore this information should only be used as a guideline, and consequently no rights can be derived from this. We advise you to discuss any possible actions with your tax advisor in advance.

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