

# Changes to the Aruban Transparent company regime – part II



*On April 10<sup>th</sup>, 2019, the National Decree regarding the Aruba transparent company regime was published in the National Gazette 2019 no. 22. In this newflash, we will summarize the official content of this National Decree.*

## Background

We have previously published the newflash regarding the changes to the Aruban transparent company regime that was approved by the Parliament of Aruba on April 4<sup>th</sup>, 2019. On April 10<sup>th</sup>, 2019 the official content of this National Decree regarding the Aruba transparent company regime was published in the National Gazette 2019 no. 22. This national decree went in effect on the same day. The content of this National Decree mainly applies to:

- Qualifications and definitions of core income generating activities in Aruba, and
- The qualifications of real economic presence for a transparent company also known as the economic substance requirement.

## Core income generating activities

One of the main requirements for the new transparent company status is that the activities considered to be the core income generating activities must be performed in or from Aruba. If a transparent company is engaged in one of the below mentioned core income generating activities, also known as geographically mobile activities, then the core activities must be performed in or from Aruba in order to maintain the transparent company status. These core income generating activities are:

- Head office activities
- Distribution and other service activities
- Financing activities and leasing activities
- Asset management activities
- Banking activities
- Insurance activities
- Shipping activities
- Pure holding company activities
- Intellectual property activities

The geographically mobile activities go hand in hand with the core income generating activities. For instance, stricter requirements now apply for intellectual property activities. It is up to the transparent company to prove that the income from intellectual property activities are directly linked or are sufficiently justified by activities that take place in or from Aruba. This results in a reversal of the burden of proof as a consequence of which now the transparent company must prove that their core income generating activities take place in or from Aruba.

## Economic substance requirement

In case a company performs one of the aforementioned activities and wants to apply for the fiscal transparency status, it must meet the real economic substance requirements. Whether a company meets the real economic substance requirements will be evaluated on a case-by-case basis by the tax inspector based on the following criteria:

- The company should have adequate tangible assets in Aruba;
- The company should have an adequate number of qualified full-time employees working directly or indirectly for the company in Aruba. The employees should be appropriate to the nature and scope of the company's activities;
- The company should have an adequate minimum amount of annual recurring local operating costs. This amount should be appropriate to the nature and scope of the company's activities.

The transparent company can also meet the economic substance requirement if the relevant activities are carried out by another entity established in Aruba, provided that the transparent company actively commands and controls that entity.

The Aruban tax authority will provide a policy in which more specific interpretations and explanations will be given regarding these criteria.



## What to do next?

Here at Grant Thornton, we have specialists dedicated in the field of transparent companies. We can assess your transparent company's current state of compliance and advise changes in order to fulfil the requirements necessary to maintain the transparency status in connection with these changes. If you have any questions, feel free to contact any of our tax advisors here at Grant Thornton.

# Contact



If you would like to learn more or have questions or remarks in respect of the contents of this newsletter, you can contact:

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