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CSR Reporting and its Inspection

By Ralf Wieriks

**Fiscal actions to
kick-off the year with**

By Farine Larmonie and Behnaz
Hasanzadah

**Where do we stand with our
privacy regulations?**

By Danny van Haaren

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Contents

02 Assurance:

CSR Reporting and its inspection

By Ralf Wieriks

04 Tax:

Fiscal actions to kick-off the year with

By Farine Larmonie and Behnaz Hasanzadah

06 Advisory:

Where do we stand with our privacy regulations?

By Danny van Haaren

Stakeholders

Each organization can have different stakeholders who, in one way or another, are required to trust the information provided by the organization concerned. In addition, each stakeholder can and may have his own information needs and requirements, ranging from the nature of the information to the level of detail and frequency it should be provided in. However, all stakeholders have one thing in common: they all want reliable information. This development has led to an increase in corporate social [CSR] reporting.

CSR Reporting

Different publications about this subject have shown that it is very difficult to identify and categorize different types of stakeholders. However, once an organization has defined its corporate governance structures and its concrete mechanisms, a CSR report can be used as a communication tool between an organization and its stakeholders. This way of reporting has seen a steady increase since the release of the first CSR reports in the early 90's of the last century.

Companies communicate about their accountability for the impact of their daily activities on the economy, the society in general and the environment. Furthermore, they also communicate on the pursuit of their values, their

governance structures, and how they link their strategy to a sustainable world economy.

A CSR report is a tool that enables an organization to assess, understand and communicate with its stakeholders about its economic and social achievements, especially, those with respect to the environment and corporate governance. An organization can also set its targets based on their achievements, which in return will guide in changing processes. Thus, a CSR report is a highly suitable platform to communicate about the positive and negative aspects of sustainability.

Several organizations took the initiative to set up CSR regulations. At a global level, the most common used CSR reporting framework is the one issued by the Global Reporting Initiative (GRI), with the Consolidated set of GRI Sustainability Reporting Standards as its last version, which has gone into effect on June 28, 2018. The GRI is a group that operates under the authority of the United Nations, and who's aim is to improve GRI guidelines for CSR reporting.

Assurance and CSR-reports

If certain conditions are met, an auditor can assess the information provided in a CSR report, just as he does during an audit of

financial statements. The findings on the reliability of the content of the CSR report are reported in an assurance report.

You may ask, does an auditor have the adequate knowledge to issue an opinion on the reliability of non-historical financial information? In terms of audit methodology, an auditor does have the appropriate knowledge, and thus, is able to audit any subject matter. Basically, there are no limitations towards the subject matters that an auditor can provide assurance on. Where needed, an auditor can involve a professional with specific expertise, such as a valuator or a medical doctor, in the audit engagement. In addition to an auditor's knowledge on audit methodologies and the assessment of identified findings, he is also tied to the Code of Ethics of the International Federation of Accountants (IFAC) and other audit regulation..



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Fiscal actions to kick-off the year with

Recently, many developments have taken place in the tax area in Curaçao. You might have even experienced some trouble finding your way through the maze. Looking at all developments and other additional obligations, we have summarized some of the most important action points that need to be taken in the first quarter of this year.

Income tax

Even though the official call for submission hasn't been sent yet, you are already able to fill in the digital income tax return form on the Tax Authorities' website. To fill in this form, you need to create a personal account. We recommend start collecting all mandatory documents that need to be attached to the tax return. Think for example of your wage tax card, an overview of your mortgage interest tax relief, the school statement of your children or a proof of transferred study fees (in case you have children attending college) and, if applicable, a proof of incurred medical expenses you paid (and that haven't been compensated by your insurance company).

Wage Tax

With regards to wage tax, the following steps have to be taken:

- The wage sheet for the tax inspector: an annual recurring obligation for employers is the submission of the wage sheet. The submission deadline for the wage sheet is 1 April 2020.
- Reduction wage tax decree: employees with tax credits, such as personal mortgages, can apply for a reduction in wage tax. At submission of the 'reduction wage tax decree', deductible items can be considered when determining the remuneration. This means that the wage tax and premiums due on the salary will reduce.

- Customary wage requirement: as a result of all amendments in our tax regulations, the customary wage requirement now also apply to companies who could previously use the territorial/foreign profit exemption. Since the cancellation of this exemption in 2020, the customary wage requirement may also apply to you in the upcoming fiscal year. We therefore, recommend checking the impact this may have on you. In short, the customary wage requirement means that an employee working for an organization from which he owns substantial interest (at least 5% of shares), is deemed to have a minimum wage for the calendar year of which in principle varies between the amount of 50 percent of the turnover or the amount of 50.000 guilders under certain conditions.

Sales tax

The following action points are of importance when it comes to sales tax during the first quarter of the year:

- Annual return: the deadline for the annual return for the sales tax 2019 was in principle 15 January 2020. Nonetheless, the Tax Authorities have given permission to postpone this date to 15 February 2020.



50% deduction right - Furthermore, it is important to check whether your 50% deduction right is still applicable. The 'Aanschrijving beschikking aftrekrecht omzet belasting', dated September 2019, states that old dispositions with regards to the 50% deduction right remain in force until 31 December 2019. Therefore, we recommend verifying with your tax consultant whether you are able to apply for the right to deduct 50% in the first quarter of this year.

General Expenditure Tax - the implementation of the 'General Expenditure Tax' (GET) has been discussed for some time now. The GET may replace the sales tax as per 1 April 2020. Based on the draft legislation of the GET, a general tax rate of 12 percent has been proposed on the import of goods and 7 percent or 9 percent on the provision of services. In case of the possible implementation of the GET, we recommend to analyze the impact of the GET has for your business activities.

Profit tax

With regard to the profit tax, we would like to address the following items:
Tax filing obligation - the provisional profit tax return deadline is 1 April 2020.

Fiscal unity request - the deadline to request a fiscal unity for the fiscal year 2020 is 1 April 2020.

Tax filing obligation for Private Foundations - we would like to remind you that Private Foundations are obliged to file a profit tax return as per book year 2019. For Private Foundations, the deadline for filing the provisional profit tax return is also 1 April 2020.

Applying for the Curaçao Investment Company status (CIC) - former offshore companies from which the actual activities are solely focused on credit exposures, investments in securities and deposits and the development and exploitation of intellectual and industrial rights,

can file a request to apply the CIC status. If the request is submitted before 1 April 2020, the CIC status will apply with retroactive effect as per 1 January 2020. The profit tax rate for the CIC is 0 percent.

Requesting transparent status - Should you opt for fiscal transparency in the fiscal year 2020, your request should be submitted no later than 1 April 2020.

Real estate tax

Should you own a property (or have limited rights on rental of government land) and haven't been assessed for real estate tax, then you are obliged to report this no later than 1 March 2020. Change in property value in the last 5 years should also be reported no later than 1 March 2020 to prevent a fine of 100%. Please note, declarations do not lead directly to payment of real estate tax. The Inspectorate of Taxes should first impose a real estate tax assessment.

Bvz

In case you're a Curaçao resident, and privately insured or via a foreign insurance company, you can apply for exemption on the basic insurance. The deadline is 1 April 2020.

Road tax

To conclude, the deadline for the road tax is 30 January 2020. You can also consider paying the amount due in 2 terms. The first half should be paid no later than 30 January 2020 and the second half by 30 June 2020.



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Where do we stand with our privacy regulations?

Developments in retrospect concerning the European privacy legislation in the Caribbean region.

Nowadays, the collection, storage and processing of personal data has become an important part of the business operations of almost all companies. In a “Big Data” era, decisions by companies are often made based on available data. The term “Big Data” has indeed become a true symbol of the big data revolution we now live in.

That almost everything is happening online nowadays is no longer a trend but has rather become a fact of life: people display their entire lives on social media, physical stores replaced by web stores and governments going digital with their processes. Nowadays people and organizations arrange almost everything online. In summary, huge amounts of personal data are being used and this is only increasing faster and faster.

Privacy in the headlines

The subject of privacy is increasingly being addressed, both in the media and in our daily lives. Looking back at 2019, several information security related incidents occurred in the Caribbean region. Just a couple of months ago, the Aruban hospital was hit by a cyber-attack related to ransomware. This attack destroyed a large part of the hospital’s IT infrastructure. In addition, it was also announced in October that the government of Curaçao had been hacked, with the consequence that a great amount of data was lost. The year 2020 also started with various privacy incidents on multiple islands in the Dutch Caribbean. All and all, the point is that people are becoming more protective about their privacy and the value of personal data is increasing by the day. In addition to the destruction of information systems and the disruption of a company’s daily activities, it is especially important to look at what will ultimately happen with “the data”. We can already imagine what kind of impact such a data breach could have on the privacy of, for example, hospital patients, with a high risk that their medical data becomes accessible. In recent years we also see the term GDPR appear more often, but what is still relatively unclear is the answer to the question: What effect does GDPR actually have on Curaçao and the Caribbean region?

The General Data Protection Regulation

Since 25 May 2018, the General Data Protection Regulation (GDPR), came into effect. This legislation affects all companies that are established in the European Union (EU) and/or all companies outside the EU that deal with customers or even relationships established in the EU, that store or process personal data in some way.

This legislation provides citizens more options to stand up for themselves and more control over the processing of their private data by third parties. The privacy rights of individuals have been strengthened and expanded. GDPR is therefore in fact a reinforcement and extension of the previous known Dutch

“Wet Bescherming Persoonsgegevens” (Wbp).

In Curaçao we have our own regulation, namely the national ordinance on protection of personal data. The regulation is very similar to the previous Dutch Wbp. What is striking, is that there is little to no local control in the field of protection of personal data. Companies must comply with these regulations in accordance with the national ordinance, but so far, no authority has yet been established to provide oversight on the adherence of privacy legislation.



20 months later ...

We constantly hear questions like: “Do Curaçao companies have to take into account or pay attention to the GDPR legislation? We are not part of the European Union, are we?”

The fact that Curaçao is not part of the EU, does not mean that you as a company or individual do not have to consider complying with the collection, storage and/or processing requirements of personal data that are outlined in the GDPR. According to Europe’s regulatory framework, it is important to know that as a foreign company or individual, you must also comply with GDPR if you work with the personal data of people who are established in the EU. This applies to a large number of companies in Curaçao and of course also in the Caribbean region.

As the GDPR regulation is a reinforcement of the previous Wbp (which strongly corresponds to the national ordinance of Curaçao), it will be an advantage for Curaçao companies to look at their privacy protection taking GDPR into account. Especially when we look back at

the aforementioned incidents that have recently occurred and the increasing digitization of organizations, it is of imminent importance to be well prepared. This allows organizations to reduce the risk of something undesirable happening with the data of customers, relations and people based in the EU, such as data breaches, unintentional misuse of personal data and especially the related consequences, such as high fines, claims and reputational damage.

This way you as a company are already well prepared for the future development of the privacy regulation of Curaçao, and possibly also with the various countries and islands in the Caribbean region. It is therefore recommendable for almost all locally established companies to carry out an assessment of possible privacy risks and to ensure enough knowledge about the (in some cases) complex implications of the different privacy regulatory frameworks. And since we, as Curaçao, want to present ourselves as a “Smart Nation”, leading the way is the only right choice in this case.

So far GDPR has made people more aware of the risks and the importance of information security, with a specific aim on personal data. At the same time, companies are managing information more seriously. It’s important for companies to develop and implement a “data privacy compliance strategy”. By doing this, you as an organization will not only ensure privacy compliance, but you can also realize process optimization and process efficiency within your organization. The same can also be seen in the development that many software suppliers and website developers have undergone in a short time. The introduction of GDPR thus contributes to the development of a kind of collective awareness to guarantee the privacy of collected data.

In a follow-up article, we will discuss the various benefits that “GDPR compliance” can bring with it, regarding reputation management, transparency, innovation, marketing and corporate communication.



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