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Agenda

1. Latest amendments to the VAT Act
2. Wage tax & Personal Income Tax in the offshore area
3. Petroleum Act – contractor/subcontractor
4. Permanent Establishment in the Oil & Gas sector
5. Legal updates
6. Q&A.



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VAT – Suriname (1)

- ❑ VAT, January 1, 2023
- ❑ Input VAT – practice
- ❑ Appendix 1.a Imports by and supplies and services to (except article 14 sub 6 VAT Act):
 - 1°. contractors and subcontractors under the Petroleum Act 1990, as the changes made thereto;
 - 2°. state-owned enterprises under the Petroleum Act 1990, as they read after the therein amendments made thereto.



VAT – Suriname (2)

- ❑ Contractor: joint reference to the third parties who have entered into a petroleum agreement with state-owned enterprises, including Staatsolie Maatschappij Suriname NV, or at least the legal successors of those third parties
- ❑ Sub-contractor: a natural person or legal entity, directly or indirectly, providing services to a contractor in connection with and characteristic to petroleum activities in accordance with common practice in the international petroleum industry.



VAT – Suriname (3)

- ❑ Relevant change to the VAT Act 2022:

"the delivery of goods performed in relation with their export" has been changed into "delivery of exported goods"

- ❑ Impact on oil marketing and the export outside of Suriname

VAT – Suriname (4)

- Oil Marketing – export crude oil – example before January 1, 2023



- Oil Marketing – export crude oil – example after January 1, 2023





VAT – Suriname (5)

- ❑ Most recent amendments to the VAT Act, September 5, 2023

- ❑ VAT applicable and no Input VAT of following mentioned domestic supplies of goods and services to contractors and subcontractors:
 - the provision of food, beverages, and tobacco products.
 - providing business gifts and other gifts.
 - the provision of wages in kind and opportunities for relaxation.
 - motor vehicles intended for the carriage of passengers and of goods or services related to such motor vehicles, except for car dealers and leasing companies and motor vehicles with a maximum authorized mass exceeding 3,500 kg.



Wage Tax & Personal Income Tax

- ❑ Changes in Wage Tax as of January 1st, 2023
- ❑ Changes in Personal Income Tax as of January 1st, 2023

Wage Tax - General

- ❑ Tax jurisdiction extended as of February 1st, 2023 to include the exclusive economic zone.

- ❑ Different type of employees and their liabilities:
 - Local onshore employees
 - Tax resident employees will be taxed on their worldwide income. Onshore employment are taxed in Suriname.
 - Local offshore employees
 - Tax resident employees are taxed on their worldwide income.
 - Expat onshore employees
 - Employment physically executed in Suriname will in principle be taxed in Suriname.
 - An expat onshore employee will in principle be taxable from day one in Suriname.
 - **Expat offshore employees**
 - Expat offshore employees working in the territorial waters and exclusive economic zone of Suriname will be subject to tax in Suriname for their income earned out of the offshore employment.



Wage Tax (1)

- Tax-free amount increased from SRD 4,000 to SRD 7,500 per month.
- The untaxed amount for vacation allowances is increased from SRD 4,500 to SRD 10,016 per year.
- The untaxed amount for gratuities/bonusses is increased from SRD 4,500 to SRD 10,016 per year.

Wage Tax (2)

Example 1

Gross wage is fixed at SRD 6,500 with no other payroll components:

<i>Salary with old</i>	<i>tax-free</i>	<i>amount</i>		<i>Salary with new</i>	<i>tax-free</i>	<i>amount</i>
Gross wage	6,500.00			Gross wage	6,500.00	
Addition health costs	16.67			Addition health costs	16.67	
Deductible costs	100.00			Deductible costs	100.00	
Tax-free amount	4,000.00			Tax-free amount	7,500.00	
Wage tax		421.42		Wage tax		-
Old age premium		256.67		Old age premium		256.67
Net wage		5,821.92		Net wage		6,243.33

Difference net wage SRD 421.41

Wage Tax (3)

Example 2

Contract wage at SRD 20,000 with no other payroll components VS optimized:

Gross wage	20,000.00		Gross wage	16,200.00	
Untaxed representation allowance (15%)	-		Untaxed representation allowance (15%)	3,000.00	
Untaxed exchange rate compensation	-		Untaxed exchange rate compensation	800.00	
Addition health costs	16.67		Addition health costs	16.67	
Deductible costs	100.00		Deductible costs	100.00	
Tax-free amount	7,500.00		Tax-free amount	7,500.00	
Wage tax		4,211.47	Wage tax		2,767.47
Old age premium		796.67	Old age premium		644.67
Net wage		14,991.87	Net wage		16,587.87

Difference net wage SRD 1,596

Wage Tax (4)

□ Recommendation

Payroll scan to identify any potential risks regarding the offshore expats and to review the calculation for optimization

Personal Income Tax - General

❑ Liability for Personal Income Tax:

- i. Non-residents are taxable only on income derived from certain Suriname sources.
- ii. Non-residents are generally subject to personal income tax as of the first day in Suriname.
- iii. A resident individual is taxed in Suriname for the personal income tax for his worldwide income.
- iv. Residency is determined based on the applicable facts and circumstances, such as an individual's domicile (the availability of a permanent home), physical presence and location of an individual's vital personal and economic interests.

❑ Suriname source of income:

- a) Employment income (Directors' fees and supervisory directors' fees are treated in the same manner as ordinary employment income);
- b) Self-employment and business income;
- c) Income from immovable property (rental income);
- d) Income from movable assets (interest and dividend income);
- e) Income from periodic allowances, provided that the allowances are dependent on life.



Personal Income Tax (1)

- ❑ Interest paid by taxpayers for mortgage debt is deductible from their taxable income if:
 - a) The interest is paid for a property used as a private residence; or
 - b) Is intended for private household purposes; and
 - c) The maximum mortgage amount is increased to SRD 600,000 (was SRD 125,000).

Personal Income Tax (2)

OLD tax brackets (annual)

SRD	SRD	Rate
-	48,000.00	0%
48,000.00	59,356.80	8%
59,356.80	67,273.80	18%
67,273.80	78,193.80	28%
Above	78,193.80	38%

NEW tax brackets (annual)

SRD	SRD	Rate
-	90,000.00	0%
90,000.00	101,356.80	8%
101,356.80	109,273.80	18%
109,273.80	120,193.80	28%
Above	120,193.80	38%



Petroleum Act (1)

- ❑ The amendments, effective as per December 31, 2022.
- ❑ The main idea of the amendment was to move the tax exemptions from the State Decree 2018 no. 52 to the Petroleum Act 1990.



Petroleum Act (2)

The amendments

- ❑ The definitions of Contractor and Contractor party in the Petroleum Act 1990 are in line with the definitions in the State Decree 2018 no. 52 of these parties.
- ❑ The tax exemptions in the State Decree 2018 no. 52 of Article 4 (g) are regulated in the Petroleum Act 1990 in Article 9, paragraph 9 and will be applicable to Contractors.
- ❑ Sub-contractors are granted the same exemptions as Contractors except for Article 9 (8) (fiscal stabilization).



Petroleum Act (3)

The amendments (continued)

- ❑ The term Sub-contractor as defined in the Petroleum Act 1990 in Article 1 under 1 was not amended and is in line with the State Decree 2018 no. 52.
- ❑ A new paragraph 4 was added to Article 15. This new paragraph will give the Government the possibility to issue warranties through a State Decree to more than one Contractor party as was intended by the State Decree 2018 no. 52.



Petroleum Act (4)

The Explanatory Memorandum

- ❑ The explanatory memorandum states that the 3 exemptions were never granted to Sub-contractors by State Decree 2018 no. 52.
- ❑ With respect to Sub-contractors who will be entitled to the exemptions, the explanatory memorandum refers to Sub-contractors as those who are closely and specifically involved and necessary in the Contractor's petroleum work.



Petroleum Act (5)

Observations

- ❑ The explanatory memorandum creates uncertainty with respect to the application of the exemptions for Sub-contractors.
- ❑ The explanatory memorandum was used to write into law that
 - (i) certain Sub-contractors cannot rely on the tax exemptions therein;
 - (ii) the State Decree 2018 no. 52 was never implemented correctly, as it was unconstitutional, and the Petroleum Act did not allow for a general State Decree;
 - (iii) any other tax stabilization or tax exemptions are not valid unless included in the petroleum law.
- ❑ State Decree 2018 no. 52 will remain effective by virtue of the (new) Article 15 paragraph 4.



Permanent Establishment (1)

Deemed permanent establishment

- ❑ According to article 28, paragraph 2 of the Income Tax Act, the following activities performed in Suriname are deemed to be carried out through a PE:
 1. acting as an insurer;
 2. the execution of building, construction, assembly, digging, exploration, dredging or cleaning activities or other activities, either for more than 183 (one hundred eighty-three) days within a period of twelve months, or as part of a work which is subsequently executed by various entrepreneurs and of which the total duration exceeds 183 days within a period of twelve months; and à anti-fragmentation rules included in the legislation
 3. aerial surveying activities and other activities aimed at the inventory of natural resources.
- ❑ Article 28, paragraph 3 of the Income Tax Act: profit from business shall always be considered to have been obtained by means of a PE present in Suriname in as far as it has taxable results from **exploration or exploitation** of natural resources on a part of the continental shelf before the Surinamese coast for which the State **has granted a license or concession** for such exploration or exploitation.
- ❑ No further explanation in the Acts, however two tax treaties in place. Furthermore, the OECD rules will apply.

Permanent Establishment (2)

- ❑ **Fixed place of business through which the business of an enterprise is wholly or partly carried on;**
- ❑ **Examples in OECD and UN-models:** a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
 - ❑ should be interpreted broadly;
 - ❑ Suriname has the exploration activities included in its local legislation and in the tax treaty with Indonesia, but not in the tax treaty with the Netherlands.
- ❑ **A PE does not exist if preparatory or ancillary activities are being exercised in the place of business**
 - ❑ These exceptions are not included in the local legislation of Suriname, however, these are included in the tax treaties.
- ❑ **Services PE:** Suriname does not have this services PE in its local legislation, but it has one included in the tax treaties (in the treaty with the Netherlands the threshold is 183 days in that with Indonesia it is 91 days).



Permanent Establishment (3)

Office versus a permanent establishment

According to article 19 of the Petroleum Act: A contractor shall have his office in Paramaribo, in order to perform the activities resulting from a petroleum agreement. The office established in pursuance of paragraph 1, shall be registered in accordance with the legal provisions thereto.

Ringfencing for commercial purposes

Annex 3 of a model PSC: *If there is more than one commercial field, Contractor shall separately identify and charge Petroleum Expenditures to the specific Commercial Field.*

Ringfencing for tax purposes

No ringfencing rules applicable.



Permanent Establishment (4)

Offset of losses

In Suriname tax losses can be carried forward for a maximum of 7 years after the tax year involved. However, tax losses in the first 3 years after the establishment of the branch/company (initial period) can be carry forward for an indefinite period.

- Offset of losses various blocks within the same entity and/or PE - possible
- Offset of losses between different entities and/or PE - not possible



Legal updates (1)

- Revised bill for the Procurement Act 2023
- Ongoing debate regarding the bills for the New Civil Code and New Code of Civil Procedure
- Introduction of the Anti Money Laundering and Terrorism Financing Act 2022



Legal updates (2)

Procurement Act 2023

- Submitted January 31, 2023. Replaces 2019 draft. Based on existing legislation in the Dutch Caribbean
- Mandatory for any governmental procurement
 - *Currently, the Procurement Regulation 1996 must be opted-in.*
 - *Exception for procurements below (in general) SRD 30,000 (USD 780) and for procurements that cannot be satisfied within Suriname.*
 - *Some procurements allow lighter procedures, such as when there is only one possible candidate.*
- Introduction of the Procurement Authority, does planning and execution
 - *The need and practicality is subject to discussion. Bureaucracy.*



Legal updates (3)

Procurement Act 2023

- Codification of procurement principles and general principles of good government
 - *This removes uncertainty regarding the applicable legal framework, helps develop caselaw and supports transparent and fair procurements.*
- The possible selection criteria are price-quality ratio, life cycle costs and upfront costs
 - *Comparable to existing criteria.*
- Procurement decision is subject to objection with the contracting authority, OR appeal at the cantonal court
 - *Not necessary to object first.*
 - *New: mandatory 'freeze' only in case of appeal.*



Legal updates (4)

Procurement Act 2023

- All in all, a welcome proposal
 - *Requires more professional and objective procurements. May affect handling speed and bureaucracy.*
 - *Encourages transparency, without being extremely subject to appeal. In the DC and The Netherlands, the contracting authority still has a wide margin of appreciation.*
- Timing is uncertain

Legal updates (5)

New Civil Code

- The biggest civil law reform in more than 160 years - will not happen overnight
 - *Introduction will most likely take years, as was the case in The Netherlands and the Dutch Caribbean.*
 - *Submitted November 21, 2021.*
 - *Not the first attempt, although this attempt seems more serious than the previous one.*
- Modernization of civil law
 - *Same approach as in the DC. Blueprint of Dutch Civil Code, with minor adjustments.*
- In July 2023, parliament has decided to discuss and introduce Books 1 (family law) and 4 (succession law) first
 - *Following numerous meetings and consultations.*
 - *Books 2 (legal entity law) and 7 (special agreements) may also be handled together.*

Legal updates (6)

New Civil Code

- Many of the changes do not directly affect a commercial business
 - *Legal fundamentals remain (roughly) the same. While the current Civil Code is outdated, Suriname caselaw has developed in line with that of the DC and The Netherlands.*
- Some however, do. Especially in legal entity law (Book 2):
 - Dissolution by the commercial chamber
 - *Potentially materially adverse consequences*
 - *Especially relevant for offshore asset management entities*
 - *6 weeks objection notice*
 - Buyout, withdrawal and forced transfer of shares
 - *Requires legal proceedings*
 - *Buyout requires 95% of 90% stake*
 - *Withdrawal requires urgent reasons for termination of shareholdership*
 - *Forced transfer must be opted in at articles of incorporation*
 - Legal merger, demerger and conversion

Legal updates (7)

New Civil Code

- Some of the additional notable changes (non-exhaustive):
 - Introduction of the trust
 - *Requires notarial deed.*
 - *Trustee must reside or have statutory seat in Suriname.*
 - Amended prescription terms, will generally be 5 years
 - *Shorter for services without legal definition (currently 30 years)*
 - *Longer for services with legal definition (currently 1-5 years)*
 - Purchase agreement of real estate must be done in writing
 - *Signed or not?*

Legal updates (8)

New Code of Civil Proceedings

- No indication on the timing of introduction. Could be next year, could take years
- Based on the Code of Civil Proceedings in the Dutch Caribbean
- Decreases ‘formalism’, however, uncertain whether it will accelerate proceedings

Legal updates (9)

New Code of Civil Proceedings

- Fewer different proceedings (no difference between ‘real’, ‘personal’ or ‘mixed’ claims)
- Fewer restrictions on the appreciation of evidence
 - *Almost any evidence is acceptable.*
 - *Witness declarations from the litigating parties are now acceptable.*

Legal updates (10)

New Code of Civil Proceedings

- Arbitration makes sense now
 - *No more appeal possibility at the regular courts, unless explicitly agreed to.*
 - *Execution requires approval of the cantonal judge.*
- Annulment or arbitration is only possible if the arbitration proceedings were evidently flawed
 - *There was no arbitration agreement.*
 - *Arbitrators were wrongly appointed.*
 - *Arbitrators exceeded their assignment.*
 - *Judgement is not motivated or signed.*
 - *Judgement is in violation with public order or public morality.*
- Same criteria for the approval for execution of foreign verdicts
 - *There is a difference between countries with or without a treaty for the enforceability of verdicts.*
 - *In practice, this difference is limited for jurisdictions that include appeal possibilities and insure that both sides are heard.*

Legal updates (11)

Anti Money Laundering and Terrorism Financing Act

- Implemented November 19, 2022
- Combines and expands the Disclosure Unusual Transactions Act and the Identification of Services Act
- Mandatory registration and possible disclosure of client identity and of certain transactions
 - *Applies to a wide range of services providers: any financial service provider, including providers of virtual financial services.*
 - *Also includes service providers that consult or help with the purchase of real estate, securities or precious metals or consult or help with the incorporation of legal entities.*
 - *Transactions above a certain threshold must be disclosed to the Financial Intelligence Unit of Suriname (whose website does not seem to be aware of this new legislation).*
 - *Threshold is USD 5,000 - USD 25,000 depending on the nature of the transaction.*
 - *Additionally, services may only be performed after (proper) identification of the client and its ultimate beneficiary owner.*

Legal updates (12)

Anti Money Laundering and Terrorism Financing Act

- Mandatory compliance officer
- Mandatory registration at the FIU of Suriname
 - *Including the registration of the compliance officer.*
- Mandatory disclosure of identity information if that is requested by the competent authority
 - *Such as the FIU of Suriname or the prosecutor of Suriname.*
- Mandatory disclosure of identify information if there is a suspicion of money laundering or financing of terrorism
 - *This also applies for notaries, attorneys, and accountants.*





Location

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