



Surprise, You Need to Pay Sales Tax Too!

Has this ever happened to you? You visit a shop and want to buy a certain item with cash. You look at the price tag and then gather the corresponding bills and coins while you are waiting in the queue. Once it's your turn to pay, you hand over the cash and the cashier explains that you need to pay more because the price excludes sales tax (in Dutch, *omzetbelasting* or OB). Even if you regularly pay with a debit card, you may be surprised to learn that you still need to pay the sales tax.

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Lack of Clarity

For a long time, there was no obligation for businesses in Curaçao to state prices that included sales tax. It was unclear to customers how much they actually had to pay for goods and services. The lack of clarity was exacerbated by the introduction of a differentiated sales tax rate and the expansion of certain exemptions. Most people enjoy surprises when they get a present, but not when they have to pay more than expected. Therefore, the government took measures to combat this by amending the legislation.

Introduction of Obligation

As of May 1st, 2013, businesses are obliged to include sales tax in the price of goods and services they provide. The obligation applies only if sales tax is applicable. This affects not only prices for products in shops or grocery stores, but also prices stated on restaurant menus, advertisements, brochures, quotations, et cet-

era. Currently, it is even not allowed to state prices both including and excluding sales tax.

Ministerial Approval

Due to the discussion about the possible introduction of a (limited) right to deduct input sales tax (the tax applied when a consumer buys a good or service) for certain businesses in the (near) future, the Minister of Finance announced an approval. Businesses who supply 70% or more of their goods and services to other businesses are allowed to state prices excluding sales tax. The approval prevents these businesses from having to adjust their prices again if the law changes. When this law is introduced, certain input sales taxes will no longer be an expense for these businesses. Please note that two specific requirements apply to the approval. First, it should be expressed clearly that the quoted price excludes sales tax. Second, the applicable sales tax rate should be mentioned explicitly.

Penalty

When prices exclude the sales tax, it is considered a misdemeanor. The penalty for committing a misdemeanor is generally less than the penalty for committing a felony, however, this misdemeanor shall be punished with a fine of the third category, (as stated by the law) up to a maximum of NAf 10,000. This hefty fine is not usually anticipated by businesses and can come to quite a surprise if the maximum fine is imposed.

Compliance

Currently, it still appears that several businesses are not meeting the obligation to list prices including sales tax. Next to the risk of incurring a penalty, it is unfair to their customers who expect that the pricing will include the tax. Recently, the Ministry of Finance published an additional announcement in the newspaper as a reminder of the obligation and to note that inspections will be conducted.

Conclusion

It is very important for businesses in Curaçao to state prices correctly. Although the obligation to mention prices including sales tax was introduced in May 2013, it still appears that several businesses in Curaçao do not meet this requirement. Next to the risk of incurring a fine, most customers don't like the surprise of paying more than expected. Why not choose a surprise customers would appreciate instead?

If you have any questions or need assistance with regard to sales tax, please feel free to contact the tax professionals of Meijburg & Co Caribbean. You can visit our website www.meijburgcaribbean.com or send an e-mail to meijburgcaribbean@kpmg.com.

