

# Today

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It is the 140th day of 2015. There are 226 days left in the year

## NEW TAX LEGISLATION IS BENEFICIAL TO ECONOMY



The president of the Common Court of Justice, Erik Jan van der Poel and project leader Jane Jansen. Photo Today / Hilbert Haar

GREAT BAY – Sint Maarten should implement as soon as possible legislation that makes appeal in fiscal cases possible. That is the message from the president of the Common Court of Justice, Erik Jan van der Poel, and project leader Jane Jansen. The latter made a presentation to a select audience of tax experts at the courthouse yesterday afternoon.

Van der Poel said that Aruba had jumped enthusiastically on the topic as it is the first of the three autonomous kingdom countries in the Caribbean to implement the legislation. Per June 30, these appeals will also become a reality for the BES-islands.

The expectation is that St. Maarten and Curacao will soon follow. Van der Poel said yesterday that he expects St. Maarten to be ready before Curacao.

Currently, St. Maarten has

125 tax cases pending for the fiscal court; half of them are ready to go to court; on a monthly basis, 25 new cases are added to the cue.

Jane Jansen said that under the current legislation, taxpayers use their right to go to court over tax disputes as a way to postpone the payment of their fiscal obligations. That is interesting, because it takes sometimes one-and-a-half year or more for these cases to come to court. In a streamlined system, the process speeds up. "Because of that, a lot of cases are withdrawn," Jansen said.

Gert Bergman, a tax attorney at BergmanZwanikkenSnow-Essed, suggested to increase the court fees for filing a tax case from the current 150 guilders to a higher level, akin to the court fees for civil cases. "Then you will

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only get the serious cases," he said.

In civil court, the fee is usually 1 percent of the money that is at stake with a minimum of 450 guilders.

The new legislation will make the courts on the islands the place to go for settling fiscal disputes. The Common Court of Justice will handle the appeals for all islands and the Supreme Court in The Hague will deal with cassation.

Until the new legislation is in place, the Council for Appeal for Fiscal Affairs remains the only instance where citizens are able to settle their disputes. The moment the new legislation goes into effect, all cases that have not yet been scheduled for a ruling will be handled by a fiscal judge in the Court in First Instance. The new legislation will offer taxpayers more protection – at least more options to seek their rights in a dispute with the tax inspectorate.

In Aruba, the legislation went into effect on January 1 of this year. In Curacao, the Council of Advice has issued an advice on February 12. In St. Maarten, the Council of advice issued its advice in December of last year. "The legislation is practically ready for submission to parliament," Jane Jansen said.

The back office for tax cases from all islands is located on Aruba. The courts on the other islands

will function as a reception, contact and information point. The court in St. Maarten also does this for nearby Saba and Statia.

Jansen indicated that the new approach is ambitious: "The objective is to handle tax cases within one year after an appeal has been submitted.

The fiscal judge will hold court more frequently – from twice per year to once a month in Aruba and Curacao; in St. Maarten, once per two months – given the number of cases – is considered sufficient. The court will pronounce verdicts within six weeks after the court hearing.

To speed up the process, the courts will process dossiers digitally.

Van der Poel noted that the new system makes it possible to distinguish small cases from larger ones and to handle some cases without going to court.

While fiscal legislation does not sound very exciting, a good and orderly process is in the interest of the economy. "Large investors want to know whether their rights are protected. That makes it economically interesting."

Gert Bergman added to this point: "When cases take a very long time, they will deter potential investors, because they will realize that they could be in uncertainty for a long time."

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