

## **Fiscal Transparency Regime ("Check the Box")**

In a way resembling the US check-the-box regime, Aruba introduced the possibility for companies (NVs or AVVs) to opt for fiscal transparency, effective as from 1 January 2006. The fiscally transparent company (the "Aruba Transparent Entity", or "ATE") will then be treated as a partnership for purposes of corporate income tax, dividend withholding tax and personal income tax. This means that the assets and liabilities and the income of the ATE are directly attributed to the shareholders of the ATE for tax purposes. Domestic enterprises may use this regime to file the tax return of a group of companies on a consolidated tax basis, by having their subsidiaries opt for fiscal transparency. Foreign investors may use this regime to have the best of both worlds: the use of a legal entity but without the burden of adding a new taxpaying entity to their investment structure. Foreign investors who use the transparency regime will be taxed in Aruba if the activities of the ATE constitute a branch ("permanent establishment", or "PE") for the foreign investor in Aruba, or if the ATE owns real property in Aruba. Whether the foreign investor owns a PE in Aruba will be decided along the lines of the OECD-model convention and the OECD commentary to the model convention.

An election to be treated as a fiscally transparent partnership should be made within the first month after the incorporation of an NV or AVV. The election cannot be undone, which means that the NV or AVV will be treated as an ATE during its entire existence.

An NV or AVV can only opt for treatment as an ATE if it discloses its accounts and the identity of its shareholders on an annual basis.

[Public register of ATE's]