Presentation license fee

October 8, 2013
Outline presentation

• Explanation license fee
• License fee issues Sint Maarten
• License fee and Article 58 LGO decree
Explanation license fee
Legal basis license fee (1)

1. Article 9 of the Central Bank Statute (2010):

   — The Bank is the central foreign exchange bank of the countries and regulates the payments between residents and non-residents according to the Foreign Exchange Regulation of Curaçao and Sint Maarten (2010).

   — The Bank can, under certain conditions, authorize other local banks to operate as a foreign exchange bank.

   — Foreign exchange banks must pay a monthly fee for this authorization.
Legal basis license fee (2)

1. Article 9 of the Central Bank Statute (2010):
   — The license fee is calculated according to rules determined by uniform national decrees.
   — The collected license fees are considered government revenues.
   — The license fee collected in a specific country is fully transferred to that country.
Legal basis license fee (3)

   – the calculation of the 1% fee (article 2);
   – introduction as of January 1, 1996;
   – Replacement of the then foreign exchange tax of 1.3%.
Calculation license fee

License fee due by a foreign exchange bank is equal to 1% of the value of payments from residents to nonresidents and the (cash) sale of foreign exchange.
Calculation license fee

Exemptions:

– government transactions;
– free-zone imports for re-export;
– re-investments of securities.
Implementation license fee

• Foreign exchange banks pass on the license fee to their clients for:
  – resident payments to non-residents;
  – cash withdrawals from resident $-accounts.
• License fee is included in the (official) selling rate of foreign exchange.
• License fee is calculated and charged by the Bank on a monthly basis from the reporting by the foreign exchange banks.
• The Bank collects the license fee and transfers the proceeds to the governments.
License fee revenues

(Mln. NAf.)

Netherlands Antilles  Curaçao  Sint Maarten

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License fee issues Sint Maarten
License fee issues Sint Maarten

1. Programming errors in new system by a local bank.
2. Correct classification of a resident.
3. Payments with cheques.
4. Payments through different local commercial banks.
Correct classification of a resident

Article 1 of the Foreign Exchange Regulation Curaçao and Sint Maarten defines residency as:

1) Person living in Sint Maarten/Curaçao, legally registered, with the intention to live for more than one year in Sint Maarten/Curaçao;
2) Companies or institutions established in Sint Maarten/Curaçao with the majority of their activities in Sint Maarten/Curaçao.

Open border with French side makes it difficult for commercial banks to properly determine residency.
Payments with cheques

- Volume of payment transactions with cheques is very high.
- On the cheque you can see whether the issuer is a resident or non-resident.
- **However:** the issuer of the cheques does not necessarily know whether the cashier of the cheque is a resident or non-resident.
Payments through different local commercial banks

Common types of transactions are:

- **Online transfers between accounts of different commercial banks:**
  - Example: a resident transfers funds from his/her account at bank A to a third party account at bank B.

- **Cheques cashed/deposited at one bank while the issuer of the cheque is a client of another bank:**
  - Example: a non-resident deposits a cheque on his/her account at bank C and the issuer of the cheque banks with bank A.
License fee
and
Article 58 LGO Decree
Article 58 LGO Decree

• LGO Decree regulates preferential access to the market of the European Union for overseas countries and territories of European countries.

• Article 58 stipulates that there may be no impediments to payments between the LGOs and the European Union.

• The license fee in its current setup may be considered a limitation.
Solution

- **Amending Article 9 of the Central Bank-Statute:**
  - eliminate paragraph 6: the collected license fees are not part of the Bank’s revenues;
  - eliminate paragraph 7: the license fee collected in a country is fully transferred to that country.

- **Amending Article 40 of the Central Bank-Statute:**
  - the profit related to the license fee will be distributed pro rata between the countries.
Thank you for your attention