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TECHNICAL ASSISTANCE REPORT—SUSTAINABLE TAX REFORMS

October 2021

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Kingdom of the Netherlands—Sint Maarten

Sustainable Tax Reforms

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Technical Report

September 2021

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Abbreviations and Acronyms

ABB	*Algemene Bestedingsbelasting* (General Expenditure Tax)
AML	Anti-Money Laundering
ANG	Antillean or Dutch Guilder
APT	Automated Payment Transaction Tax
AWG	Aruban Guilder
BAD	Bank Account Debits Tax
BBD	Barbadian Dollar
BBO	*Belasting op Bedrijfsomzetten* (Business Turnover Tax)
BEPS	Base Erosion and Profit Shifting
BES Islands	Bonaire, Eustatius, and Saba
BSD	Bahamian Dollar
CARTAC	Caribbean Technical Assistance Center
CD	Capacity Development
DOP	Dominican Peso
EBITDA	Earnings Before Interest, Tax, Depreciation, and Amortization
EUR	Euro
FAD	Fiscal Affairs Department
FMV	Fair Market Value
FTT	Financial Transaction Tax
GDP	Gross Domestic Product
IAS/IFRS	International Accounting Standards/International Financial Reporting Standards
IMF	International Monetary Fund
ITC	Investment Tax Credit
MNE	Multinational Enterprise
MoF	Ministry of Finance
OECD	Organization for Economic Cooperation and Development
PIT	*Loon- en Inkomstenbelasting* (Wage and Personal Income Tax)
PT	*Winstbelasting* (Profit Tax)
SPV	Special Purpose Vehicle
TEATT	Ministry of Tourism, Economic Affairs, Transport and Telecommunications
TTD	Trinidadian Dollar
USD	Unites States Dollar
VAT	Value-added Tax
XCD	East Caribbean Dollar

PREFACE

In response to a request from the Minister of Finance, Mr. Ardwell Irion, a capacity development mission from the Fiscal Affairs Department (FAD) of the IMF held virtual meetings with Sint Maarten's authorities during the period from February 1 – March 15, 2021. The mission comprised of Mr. Geerten Michielse (FAD, Head) and Mr. David Wentworth (STX). The mission provided assistance in assessing the proposed tax reforms in Sint Maarten, focusing on increasing the revenue capacity of the tax system and stimulating economic growth, within the administrative capacities on the island. The mission reviewed various tax reform ideas, including introduction of a general consumption tax, broadening current tax base while reducing tax rates, and introducing a financial transaction tax replacing (part of) the current tax system. Finally, the mission recommends enforcing the existing recurrent property tax and introduce taxing casinos and the winnings as best options.

At the Ministry of Finance, the mission met with Mr. Arno Peels, Acting General Secretary, Ms. Maria Buncamper, Ms. Julisa Labega-Frans, Mr. Janio Chayadi, and Ms. Mercedez James. At the Ministry of Tourism, Economic Affairs, Transport and Telecommunications, the mission met with Ms. Ludmila de Weever, Minister, Mr. Miguel de Weever, General Secretary, and Mr. Jason Lista, Head of the Minister's Cabinet. At Tax Administration, the mission met with Ms. Sherry Hazel. In addition, the mission met with representatives of the Government of the Kingdom of The Netherlands: Ms. Luz-Stella Dagelet (Adviseur Landen, Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, Directoraat-Generaal Koninkrijksrelaties), Mr. Albert van der Meer (Dutch Tax Administration), Mr. Hans van der Vlist (Dutch Tax Administration, Former Director Tax Investigation Unit), Mr. Frans Hartman (Senior Official, Tax Policy Department MoF), and Mr. Ruud de Swart (Former Deputy Director Tax Policy Department MoF).

The mission is grateful for the efficient support of Sint Maarten's authorities, especially the Minister's Office for the assistance in organizing the meetings. Finally, the mission would like to particularly thank Mr. Chayadi and Ms. James in the Ministry of Finance for their extensive consultations and assistance.

EXECUTIVE SUMMARY

Sint Maarten's economy has been hit hard over the last 4 years. In 2017, two major hurricanes struck the island causing significant damage. While reconstruction was largely financed by insurance proceeds and grants from The Netherlands, economic recovery from the hurricane damage was slow and in early 2020 the coronavirus pandemic shut down most of Sint Maarten's tourism sector. As a result, fiscal revenue declined by 15 percent since 2016; payroll tax revenue declined by only 4.5 percent, whereas the turnover tax revenue declined by 23 percent. Since April 2020, The Netherlands has provided immediate financial support to cushion the economic shock of the pandemic. In December 2020, Sint Maarten concluded an agreement with The Netherlands to receive more substantial financial support for recovery and ensuring long-term fiscal sustainability. In return, the authorities committed to make structural changes to their tax system, making it more growth-friendly and equitable, while optimizing and ensuring its revenue mobilization capacity.

In general, the best tax instruments to create a growth-friendly tax system (while also securing revenue raising capacity) are recurrent property taxes and broad-based general consumption taxes (such as a value added tax). Recurrent property taxes and broad-based consumption taxes are the least distortionary tax instruments, as they do not directly affect the economic production process. Sint Maarten effectively does not have a recurrent property tax, nor does it have a value added tax (VAT). Unfortunately, introduction of a VAT in Sint Maarten would face insurmountable problems. Consumption taxes heavily depend on physical borders to ensure that all domestic consumption is captured in the tax base. Sint Maarten does not have such a controlled physical border because of the open land border with Saint Martin. Sint Maarten does not impose any import or export taxes and is a de factor free trade zone. Without such borders any consumption tax would most likely be extremely difficult to enforce and prone to avoidance. At this stage, the mission does not recommend introducing a VAT. The introduction of an ABB (an import tax on goods combined with a domestic service tax) poses additional problems and is therefore also not recommended.

Despite the fact that the current business turnover tax (BBO) is highly distortionary, it should be maintained in the medium term, unless Sint Maarten and Saint Martin can agree on a harmonized general consumption tax. The BBO currently accounts for roughly one-third of revenue, which would be difficult to replace without major economic disruptions. Sint Maarten's economy has already borne the consequences of the BBO's distortion though elimination of most of the standard delivery chain (import-wholesale-retail). Furthermore, the retail sector is increasingly endangered by online sales that remain currently untaxed. Therefore, the mission recommends introduction of an additional direct-to-consumer sales tax by foreign entities, collected by freight handlers or where consumers pick up their parcels shipped from abroad. The mission suggests a tax rate slightly higher than the BBO rate, to compensate for domestic cascading and provide some incentive to buy from domestic retailers.

Although simplification and strengthening several direct taxes (personal income tax and profit tax) is needed, revenue impact will be minimal or even negative in the short-term. Nevertheless, this report includes some suggestions to close tax loopholes (e.g., the introduction of a more comprehensive tax on capital gains), reduce some incentives (e.g., pensionado regime and tax holidays), and broaden the base by limiting some deductible expenses, especially when considered part of a base erosion arrangement. These measures would increase the perception of fairness and could ultimately result in a reduction of the marginal personal income tax (PIT) and the profit tax (PT) rate. A concrete recommendation about revenues and rates, however, is not possible, due to a lack of relevant taxpayer data. That said, the PT rate of 34.5 percent is quite high by international standards, and it is recommended that the rate be reduced as part of a package of reforms including base broadening.

The mission sees two main tax instruments that could help the Sint Maarten authorities to increase revenue in the short to medium term: enforcement of the existing recurrent property tax and introduction of taxation on gambling. A recurrent property tax is a stable revenue source as the tax base is literally immovable and property values do not tend to fluctuate dramatically in the short to medium term. The property transfer tax, however, is distortive, creates lock-in effects, and typically adversely affects the local property market. The mission therefore recommends reducing the property transfer tax rate while increasing the recurrent property tax rate and enforcing that tax.

Taxing casino profits, turnover, and winnings is another potential revenue source. Currently casinos are only subject to small fees which contribute only three percent of total government revenue. As a minimum, casinos should become subject to the BBO, with their turnover defined to include the total amounts wagered. In addition, the mission recommends introducing a 12.5 percent withholding tax on winnings earned by gamblers. The withholding tax reflects the rate of the lowest PIT bracket and should be allowed as a credit against PIT for Sint Maarten residents and is final for non-residents.

This mission examined tax policy and not tax administration. That said, it is clear that Sint Maarten has weak tax administration. Successful tax policy reforms will also require improvements to tax administration. CARTAC may be able to provide assistance.

Finally, the mission strongly recommends against introducing a financial transaction tax (FTT). The potential appeal of an FTT is the promise of very low tax rates. However, the rates necessary to replace a significant portion of Sint Maarten's current revenue would not be very low. While many of the existing taxes that might be replaced by a FTT are poorly designed and inhibit economic growth, replacing them with an FTT would be even more growth-unfriendly and distortionary. Absent of behavioral effects to shrink the tax base (which are probably inevitable) an FTT would have to employ rates in the range of 1.5 to 3 percent on every financial transaction to replace either current income taxes or all taxes. The tax cascading that would result from such a tax would be detrimental to growth, would stimulate tax avoidance. This would ultimately result in diminishing revenue, thus requiring increased FTT rates.

Summary of Recommendations, Timing, and Revenue Expectations

Recommendations	Time Line	Revenue Impact
General		
Request urgent capacity development assistance to strengthen the tax administration functions (through CARTAC or the Dutch Government)	S	+
Collect taxpayer data going forward to enable revenue estimates on future reform initiatives	M	0
Request a clear political mandate for a long overdue tax reform package	M	0
Develop a coherent tax system designed along best practices	M	0
Solicit input from major stakeholders (private sector, unions, etc.) on that tax reform package	M	0
Business Turnover Tax (BBO)		
Impose a 7.5 percent retail sales tax on purchases from foreign suppliers direct to Sint Maarten consumers (both residents and non-residents). The tax would not apply to any sales by a Sint Maarten business that is subject to the BBO	S	+
Other Indirect Taxes		
Introduce a personal property tax on the value of motor vehicles and boats owned by Sint Maarten residents. For purposes of this tax, a resident would have to be defined as anyone staying on Sint Maarten for over 90 days or taking possession of the same vehicle or boat on multiple visits. The tax would apply to all motor vehicles and boats owned by residents regardless of where the vehicles or boats are purchased, registered, or located	M	+
Undertake a study of excise taxes on alcohol and tobacco in neighboring jurisdictions to gauge the possibilities for expanded revenue from excise taxation of these goods	M	0/+
Wage and Personal Income Tax (PIT)		
Clarify that the returns to Original Issue Discount bond will be treated as accrued (taxable) interest, not capital gains	S	0/+
Reduce the spread between the top PIT rate (47.5 percent) and the pensionado rate (10 percent). Further taxpayer data study will be necessary before choosing new rates, but reducing the top PIT rate to roughly 35 to 40 percent and increasing the pensionado rate to 15 percent would be a possible starting point for consideration	S	-/+
Undertake a study to determine how best to implement a comprehensive capital gains tax as part of the PIT	M	+
Profit Tax (PT)		
Reduce the Profit Tax rate to be more consistent with international standards (in the range of 20 to 25 percent)	M	-
Seek capacity building assistance from IMF or other international organizations on how to combat base erosion and profit shifting within the Sint Maarten Profit Tax	M	+

Summary of Recommendations, Timing, and Revenue Expectations (concluded)

Recommendations	Time Line	Revenue Impact
Tax Holidays		
Cease issuing any future tax holidays	S	+
If necessary, implement tax incentives based on carefully constructed accelerated depreciation deductions or investment tax credits within the profit tax	M	-/0
Property Taxes		
Enforce the existing recurrent property tax law	S	+
After careful review of the Saint Martin property tax regime, increase recurrent property tax rates from the current 0.3 percent to a rate in the range of one percent	M	+
Reduce the property transfer tax to a rate of one percent or below	M	-
Casino Taxation		
Include casinos in the BBO. For purposes of the BBO, casino turnover would include total amounts wagered in each casino	S	+
Include gambling winnings in the taxable income of taxpayers subject to the Sint Maarten income tax. Deductions against gambling winnings would not be allowed except for "professional" gamblers, who would have to demonstrate that at least 75 percent of their non-investment income comes from gambling. In any case, allowable deductions would be limited to the amount of gambling winnings	S	+
Impose a 12.5 percent withholding tax on all gambling winnings (to be collected by the casino and remitted by the casino to tax administration). In the case of non-residents, the withholding tax would be a final withholding tax. In the case of resident taxpayers, the withholding tax would be non-final, with final adjustments made as part of income tax filing	S	+
Undertake a study of gambling taxation in the Caribbean to determine the extent to which a casino specific tax (or license fee) in Sint Maarten could tax a portion of the casinos' economic rents	M	+
Bank Transaction Taxes		
Do not introduce any Financial Transaction Tax in Sint Maarten	S	0

Legend: S = short-term; M = medium-term

- = negative revenue impact; 0 = no revenue impact; + = positive revenue impact

I. INTRODUCTION

1. **The authorities of Sint Maarten are considering a long overdue tax reform.** Since the constitutional reforms in 2010 in which Sint Maarten—together with Curaçao—abandoned the Netherlands Antilles and became a constituent country within the Kingdom of the Netherlands, its tax system has not changed. In 2015, the authorities issued a reform plan that would shift towards more indirect taxation, broaden the tax base, and reduce tax rates. That reform package stalled after two major hurricanes hit the island in September 2017. While recovering from the devastation, the world was hit by the COVID-19 pandemic in early 2020, which hit in particular the tourism industry of the island hard. While base broadening and reducing rates remain important goals of tax reform, increased reliance on indirect taxation is not a viable option for Sint Maarten, as discussed below.

2. **Sint Maarten needs structural tax reform that guarantees sustainable revenues and support economic growth going forward.** Sint Maarten has lost about 15 percent of its tax revenues over the last five years (Table 1). According to the latest IMF's Macro-Fiscal Framework (February 2021), Sint Maarten's GDP growth has been reduced by 27 percentage points relative to the pre-COVID-19 projections.[1]

Table 1. Sint Maarten Tax Revenues 2016–2020
(in million ANG)

Tax Instrument	2016	2017	2018	2019	2020
Wage and Personal Income Tax	141.72	136.34	132.80	142.43	135.26
Profit Tax	42.33	33.92	20.83	25.51	38.63
Turnover Tax	132.58	117.59	117.49	141.02	102.20
Bank License Fee	24.12	21.58	25.79	17.06	17.08
Real Property Transfer Tax	12.74	11.23	10.22	15.45	7.47
Motor Vehicle Tax	9.60	9.98	9.42	10.37	7.65
Stamp Duties	1.33	0.89	1.47	0.82	0.96
Other	0.20	0.09	0.13	0.09	0.11
Total	364.62	331.62	318.15	352.75	309.36

Source: Sint Maarten Tax Administration.

3. **Sint Maarten has been in constant negotiations with the Netherlands for financial assistance since 2017.** At the end of 2020, the Sint Maarten authorities and the Netherlands signed a so-called "*landspakket*" (country package) in which the Dutch Government would provide financial support to the Dutch Caribbean islands in exchange for structural and other reforms in the tax system. The document states that Sint Maarten struggles with low tax compliance, enforcement issues with the tax administration, and a quite unequal income distribution. A robust tax system must be introduced that creates appropriate incentives, limits

[1] Kovtun, Dmitriy, Rand Ghayad and Atsushi Oshima, *The Kingdom of The Netherlands—Sint Maarten: Macro-Fiscal Framework*, IMF Aide Mémoire, February 2021.

distortions, and is enforceable to enhance economic growth. The package suggests use of either a value added tax (VAT), a general expenditure tax (*Algemene bestedingsbelasting* or ABB), or other broad-based consumption tax. However, the package notes the open land border with Saint Martin, it does not suggest significantly different solutions than those offered to the other Dutch islands (Aruba and Curaçao). As discussed below (see Paragraph 8), the unique circumstances of Sint Maarten argue against use of such broad-based consumption taxes in Sint Maarten.

4. A successful tax reform requires that certain parameters be met. Any tax policy change should preferably be based on analysis of taxpayer data, forecasts of revenue impact caused by proposed policy changes, and on a clear political mandate. While a clear mandate is necessary, it is not sufficient. High-level political commitment and broad buy-in from all stakeholders should be secured. Effective communication with stakeholders that emphasizes the intended benefits of the reforms can help overcome resistance of vested interests. A simpler tax system with a broader base, fewer exemptions, and a limited number of rates will foster compliance. This makes tax administration less challenging in a small island economy.

5. Many of these parameters are currently not met in Sint Maarten. Sint Maarten tax administration is weak and only very limited taxpayer data are available. It is unclear whether the current Government—a coalition cabinet—has sufficient political mandate for and internal agreement on a comprehensive reform package. Finally, it also became clear to the mission that important stakeholders (e.g., private sector) has not yet been engaged in consultations.

General Recommendations:

- Request urgent capacity development assistance to strengthen the tax administration functions (through CARTAC or the Dutch Government).
- Collect taxpayer data going forward to enable revenue estimates on future reform initiatives.
- Secure a clear political mandate for a long overdue tax reform package.
- Develop a coherent tax system designed along best practices.
- Solicit input from major stakeholders (private sector, unions, etc.) on that tax reform package.

II. TAX REFORM OPTIONS

A. General Principles

6. **All tax systems typically use multiple tax instruments to achieve additional goals outside the principal revenue-raising objective.** No tax is perfect, each has (in varying degree) advantages and disadvantages. In general, the best tax instruments to raise revenue with minimal economic distortion are the recurrent property tax and the value added tax (VAT, or other broad-based general consumption tax). Income taxes (wage tax, personal income tax, and profit tax) are more distortionary and are often easier to avoid. But income taxes can achieve more equitable distribution of tax burdens than any other tax. Excise duties are typically used to incorporate externalities (e.g., health costs in case of alcohol or tobacco) into the market price of certain products, whereas import tariffs are used to protect domestic industries or protect a small economy from over-reliance on imports. Transaction taxes—on real property or financial transactions—are the most distortionary taxes, as they randomly discourage certain economic activities and are particularly prone to abuse.

7. **In general, small Caribbean islands face significant challenges generating sufficient tax revenue.** As small economies usually highly dependent on foreign tourism, these islands can face severe competition from neighboring islands in their appeal to tourists. Each island is unique and both residents and tourists can have strong preferences for one island over another. But significant tax differences across the islands can shift tourist, residential, and business preferences among the islands, thus also changing the economic activity and tax base of each island. How much tax difference across islands can be sustained or counts as a "significant" difference in an open question.

8. **Sint Maarten's unique situation poses additional problems.** Because the island is shared by two national jurisdictions (Dutch Sint Maarten and French Saint Martin), and because there is no border control either across the land border or on the sea borders (Sint Maarten is part of a de facto free-trade zone), Sint Maarten's options for taxation are even more constrained than is true for other Caribbean islands. Reliance on indirect taxes such as tariffs and value-added tax (VAT), common on other islands, is not a currently viable option on Sint Maarten. It is possible that a VAT or similar tax that is fully harmonized between Sint Maarten and Saint Martin might prove viable but dealing with the impact of the free trade zone on a VAT would remain a difficult issue.

9. **Given these constraints, significant tax collection on Sint Maarten should focus primarily on direct taxation.** The taxes that likely will work best in Sint Maarten's situation are personal income tax and recurrent property tax. Other taxes may also prove useful, but on a smaller scale, including taxes designed to primarily tax tourists, standard excise taxes (e.g., on fuel, alcohol, tobacco), and taxes on gambling. However, the competitive implications of each of these other taxes will have to be carefully considered, otherwise the tax base could migrate to

Saint Martin or to other islands. Furthermore, significant taxation of alcohol and tobacco could pose risks from smuggling. Each of the major existing and proposed taxes is examined below.

10. As noted above, Sint Maarten appears to lack adequate tax administration capacity. Tax administration is outside the scope of this mission. However, serious problems with tax administration were raised by virtually everyone with whom the mission spoke, as well as being referred to in the *landspakket* (see Paragraph 3). As in all countries, the effect of any tax system is the combination tax policy as implemented through tax administration. In general, improvements to tax policy cannot compensate for poor tax administration, nor can improvements to tax administration compensate for tax policy. This report deals only with tax policy. However, all of the tax policy problems discussed below are made worse by ineffective tax administration. Without strengthening tax administration, changes to Sint Maarten's tax policy will likely prove ineffective.

B. Business Turnover Tax (*Belasting op Bedrijfsomzetten*; BBO)

Current Status

11. The Business Turnover Tax (BBO) is a cascading turnover tax. That is, it is imposed on gross business turnover, but (unlike under a Value Added Tax) there are no deductions or credits for business inputs. The BBO is imposed at five percent. The BBO is not imposed on casinos.

12. The BBO provides special rules for imports and exports. Imports are not directly subject to BBO, but they are indirectly taxed when imported goods and services are incorporated into a business's turnover. However, imports of services to final consumers are subject to BBO as all foreign businesses selling directly to consumers are deemed to have a Sint Maarten presence and are thus taxable on their turnover. Exports of goods are not exempt from BBO, but if over 50 percent of a business's turnover are exported goods, then the business may obtain an exemption from BBO. Exports of services are not subject to the BBO.

Analysis

13. In general, turnover taxes, even at low rates, are distortionary and inefficient and should be avoided. The natural reaction of businesses facing a BBO is to vertically integrate, to reduce tax cascading and thereby reduce their effective tax rate. This has happened in Sint Maarten since introduction of the BBO. However, the lack of tax on imports and lack of a consumer-level sales tax to accompany the BBO creates an additional problem. Unlike a Value Added Tax or a comprehensive retail sales tax, the BBO applies only to goods and services sold by domestic businesses. Direct sales of goods from foreign entities (such as Amazon) to Sint Maarten consumers face zero tax.[2] As a consequence of the BBO's introduction, the standard import-wholesale-retail delivery chain has largely been replaced by direct sales (from Amazon

[2] Technically, foreign service providers are deemed to be domiciled in Sint Maarten, but, as in all jurisdictions, this is extremely difficult to enforce.

and others), with significant loss of local business activity. Some of this shift from "brick and mortar" sales to online sales would have happened anyway, as it has in most countries. It has also been accelerated by the current pandemic. But in Sint Maarten, the shift has received an added push from the BBO. The shift has reduced government revenue, since the former BBO on store-based sales has been replaced by zero tax on foreign online sales.

14. Major overhaul of the BBO is probably not a viable option for Sint Maarten. While it would have been preferable if Sint Maarten had not introduced a BBO in the first place, now that it exists and the inevitable negative impacts on the economy have already taken place, it would be unwise, at least in the short run, to eliminate or dramatically change the BBO. It is too important a source of current revenue. In the long run, the BBO should probably be converted into a low-rate VAT or eliminated, but that change should not be undertaken until the other reforms discussed here have been fully implemented.

15. As a minimum, Sint Maarten needs to introduce a retail sales tax on direct-to-consumer sales by foreign entities. As a practical matter, such a sales tax could be imposed on the freight handlers, administered where consumers pick up parcels shipped from abroad, or processed by on-line platform companies.[3] The tax should also be imposed on services, although enforcing collection on online services will be difficult. The goal of such a new sale tax would be to achieve rough parity with the BBO. The tax should not be imposed on any sales by a Sint Maarten business that is subject to the BBO. Since the BBO is a cascading tax, setting the sales tax rate higher than the BBO rate (for instance, at 7.5 percent) would provide either parity with the BBO or perhaps provide some incentive for consumers to purchase form local business rather than directly from abroad.

Recommendation:

- Impose a 7.5 percent retail sales tax on purchases from foreign suppliers direct to Sint Maarten consumers (both residents and non-residents). The tax would not apply to any sales by a Sint Maarten business that is subject to the BBO.

C. Other Indirect Taxes

Current Status

16. Excise taxes on motor vehicles and gasoline are the only other major indirect taxes in Sint Maarten. Together, these two taxes generate approximately four percent of Sint Maarten's government revenues.

[3] .Over 80 countries already require nonresident providers of digital services to register and collect VAT. See the OECD International VAT/GST Guidelines and the 2021 World Development Report, Chapter 7: https://www.worldbank.org/en/publication/wdr2021

Analysis

17. Given Sint Maarten's open borders, options for indirect taxes are very limited. As noted elsewhere, it is easy for consumers to make purchases on the French side of the island to avoid Sint Maarten's tax, if that tax is noticeably higher than the taxes on the French side. It is not clear that the excise tax on motor vehicles or gasoline can be significantly increased, or that other goods typically subject to excise taxation (alcohol and tobacco) could be significantly taxed, without either losing sales to Saint Martin and/or encouraging smuggling.

18. Use of personal property taxes could address the border problem for taxation of motor vehicles. Under a personal property tax, a vehicle would be subject to recurrent property tax based on the value of the vehicle, regardless of where the vehicle was purchased, registered, or located. A personal property tax could be imposed in addition to the existing motor vehicle tax, or as a substitute for the current tax. If a personal property tax were introduced, it should apply to boats as well as to motor vehicles. See Sub-Chapter G for a discussion of the reasons why a recurrent property tax is desirable.

Recommendations:

- Introduce a personal property tax on the value of motor vehicles and boats owned or leased by Sint Maarten residents. For purposes of this tax, a resident would have to be defined as anyone staying on Sint Maarten for over 90 days or taking possession of the same vehicle or boat on multiple visits. The tax would apply to all motor vehicles and boats owned or leased by residents regardless of where the vehicles or boats are purchased, registered, or located.
- Undertake a study of excise taxes on alcohol and tobacco in neighboring jurisdictions to gauge the possibilities for expanded revenue from excise taxation of these goods.

D. Wage and Personal Income Tax (*loon- en inkomstenbelasting*; PIT)

Current Status

19. Personal Income Tax (PIT) is imposed on both residents and non-residents. Income from a limited number of sources is taxed under a global regime. Residents are subject to tax on worldwide income, non-residents are subject to tax only on Sint Maarten income. Tax on labor income is collected through a payroll tax, but taxpayers who have non-labor income or who want to claim specific tax benefits must file a PIT form. The system is overly complex, with the standard PIT tax form running to over 20 pages. Types of income subject to tax are listed below and then each is briefly described:

- Employment income
- Self-employment and business income
- Income from immovable property (rental income)
- Income from movable assets (dividend and interest income)
- Income from periodic allowances

20. Employment income. Taxable employment income consists of employment income, (including directors' fees) less deductions and allowances (see below), pension premiums and social security contributions. Directors' fees are treated as ordinary employment income. A nonresident individual receiving income from current or former employment carried on in Sint Maarten is also subject to income tax. Employment income is subject to withholding, but an exemption from the withholding may be requested if employment lasts less than three months. Nonresidents who are employed by Sint Maarten entities are subject to employment tax, even if the employment takes place outside Sint Maarten.

21. Self-employment and business income. Self-employment income generally follows the definition of employment income. Business income is profit as defined in standard accounting practices (*"goed koopmansgebruik"*). Nonresidents earnings and business profits earned in Sint Maarten through a permanent establishment are taxed as if earned by residents.

22. Rental income. Sixty-five percent of real estate rental income is taxable. However, income derived from a person's residence is not taxed as income from immovable property. Interest paid on mortgage loans (for acquisition or restoration of real estate) can be deducted from taxable income. However, there is no deduction for depreciation. Nonresident individuals are taxed on rental income derived from real estate located in Sint Maarten.

23. Dividend and interest income. Both domestic and foreign dividends and interest are generally subject to income tax. Interest income received from local bank accounts is taxed at a rate of 6.5 percent.[4] Interest and dividends are not subject to withholding tax. For investments in foreign portfolio investment companies and investments in Sint Maarten exempt companies, a deemed yield of 4 percent is reported annually, based on the fair market value of the investments at the beginning of the calendar year.

24. In general, capital gains are not subject to PIT, except as part of business income. However, under the following circumstances, capital gains are taxable, at normal or special rates. Gains are taxable if:

- Gains are realized on the disposal of business assets and on the disposal of other assets, if qualified as income from independently performed activities;
- Gains are realized on the liquidation of a company or on the repurchase of shares by the company in excess of the average paid-up capital (for non-substantial business interests');
- Gains are derived from the sale of a substantial business interest in a company,[5] in which case gains are taxed at 15 percent; and

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[4] Technically 5 percent with a 30 percent surtax. The surtax has been in effect since 1965.

[5] Defined as either (1) an interest of at least 5 percent of the issued share capital of a company, (2) a right to acquire such interest, or (3) a corresponding profit-sharing right.

- Gains in Sint Maarten resident corporations received by nonresidents and derived from the disposal of business assets or of shares if those shares constitute a substantial business interest.

25. Both personal and business deductions are available against taxable income. Deductions (with some restrictions) are allowed for personal exemptions, mortgage interest, pension contribution, and medical insurance and expenses. Individuals may take a standard deduction of ANG 500 or may itemize deductions if they exceed ANG 1,000. In general, business expenses are fully deductible. However, the deduction of certain expenses is limited. The following deductions are available for self-employed persons:

- Accelerated depreciation of fixed assets at a maximum rate of $33^1/_3$ percent.
- An investment allowance of 8 percent (12 percent for buildings) for acquisitions of or improvements to fixed assets in years one and two. Allowance only applies to investments over ANG 5,000 (USD 2,793).

26. Sint Maarten uses progressive PIT rates, but also provides for alternative rates for certain situations. In general, both resident and non-resident taxpayers face the same tax rates, which are progressive. The current rates start at 12.5 percent and increase to 47.5 percent.[6] The alternative rate applies to the "pensionado" system, described below.

27. Sint Maarten also has a "pensionado" system, designed to attract wealthy foreigners. Under the pensionado, or "pensioners regulation" an eligible taxpayer can choose to have foreign income (from a pension or foreign investment company) taxed at a flat 10 percent rate or the taxpayer can apply the standard (progressive) tax rates on deemed foreign income of ANG 500,000 (USD 279,332). To obtain pensionado status, a taxpayer must apply and meet the following criteria:

- The applicant must not have been a resident of Sint Maarten for the past 5 years;
- The applicant must at least be 50 years of age;
- The applicant must apply for the pensionado status within 2 months of his or her registration in Sint Maarten;
- The applicant must acquire a house for personal use with a value of at least ANG 450,000 (USD 251,398).

Analysis

28. Sint Maarten's PIT seems overly complex. Income tax complexity was noted as a problem by a number of the officials with whom the mission spoke. Some of these officials believed that tax complexity contributes to the compliance issues noted in the *landspakket* (see

[6] Technically the rates start at 10 percent and rise to 38 percent, with a 25 percent surtax. However, since the surtax has been in effect since 1965, tax forms and documentation general present the post-surtax rates without reference to the surtax.

Paragraph 3). Unfortunately, income taxes are inherently complex, particularly if they are carefully designed to minimize tax avoidance and evasion, although this is not the source of complexity in in Sint Maarten. Most income tax complexity relates to taxation of business and capital income. Taxation of labor (wage and salary) income should be straightforward. It is not clear if the length and complexity of the PIT form is driven by the structure of the PIT or is a result of poor administrative design or both. PIT simplification could be a significant undertaking and yield only limited short-term results in terms of increased revenue. However, in the longer-term, some simplification may be necessary to decrease tax evasion and increase the voluntary compliance on which any tax system depends. Any major simplification program should be a joint policy and administrative undertaking, which is outside the scope of this mission.

29. Taxation of rental income follows the system that used to exist in the Netherlands. Only 65 percent of net rental income is subject to tax. Deductions are allowed for mortgage interest and insurance costs, but not for depreciation or other maintenance costs. While this avoids the complexity of depreciation calculations, it is also quite inequitable across rental units. Old units, or those that for market reasons command a high price relative to the owner's costs, benefit substantially from the 35 percent income exclusion, since their depreciation costs are likely to be smaller (although maintenance costs could be higher). New units, or those that are not as profitable, likely pay a higher tax under this system than they would with standard depreciation accounting. In general, depreciation account by itself is not particularly complex, although there is some administrative complexity in distinguishing between maintenance costs (which are expensed) and improvement costs (which are depreciated).

30. The absence of capital gains taxation on non-business gains simplifies the tax system for individuals, but at considerable cost and inequity. Most capital gains are earned by wealthy individuals. Furthermore, investors can generally convert interest and dividends into capital gains (depending on the exact details of tax regulations) to avoid paying tax. For instance, zero-coupon bonds (or other "original issue discount" bonds) are an obvious example of an instrument that converts interest income into capital gains. Implementation of a new capital gains tax on individuals (who have been exempt from this taxation in the past) would be a significant undertaking. In the short run, this difficulty may not be worth the revenue or economic efficiency gains expected. However, failure to tax personal capital gains generates significant inequity in the tax system. In general, the Sint Maarten PIT is progressive. But the absence of capital gains taxation is a large tax benefit accruing primarily to wealthy taxpayers. Examination of the costs, benefits, and practical considerations of moving to comprehensive capital gains taxation should be undertaken by the Sint Maarten authorities going forward.

31. The pensionado system available in Sint Maarten could be adjusted. Pensionado systems are available in a number of attractive retirement locations worldwide (Table 2), so it is not inappropriate that Sint Maarten offers such a tax benefit. But the system in Sint Maarten appears extremely generous. It seems possible that Sint Maarten could achieve its goal (encouraging wealthy foreigners to retire to Sint Maarten) at lower cost. As with any tax incentive, it is very difficult to determine the extent to which the incentive changes behavior (that is, attracts foreigners who might settle elsewhere) versus the extent to which the incentive loses revenue on taxpayers who do not change their behavior (that is, they would have resided in Sint Maarten even without the tax incentive). Under the current rules, any eligible foreigner who chooses to use the pensionado system will receive a tax break, no matter the size of their foreign pension and investment income. The amount of the tax savings increases with foreign income and are very large for very wealthy individuals. It is unlikely that there are significant numbers of taxpayers at the following income levels, but for taxpayers with foreign income up to approximately ANG 2.1 million per year, the 10 percent tax on reported foreign income is preferable. For taxpayers with incomes over that amount, the standard rates on a deemed income of ANG 500,000 are preferable and are fixed, regardless of how much foreign income increases (Table 3). There may be room to use the tax system to attract wealthy foreigners without losing quite so much tax revenue as the current pensionado system.

Table 2. Examples of Pensionado Tax Regimes

Country	Pensionado Regime Features
Portugal	10 percent flat rate on foreign-sourced pension income for "non-habitual residents"
Greece	HWI regime: - not a Greek resident in 7 of last 8 years; and - investment in Greek real property at least EUR 500,000 Lump-sum tax levied: EUR 100,000 (foreign sourced income), other income must be reported and is taxed according to Greek regular tax law
Curacao	Eligible taxpayers may opt for taxation on foreign income at 10 percent flat rate, or taxed at progressive rates on deemed income of ANG 500,000
Malaysia	Foreign pension income is exempt from Malaysian taxes
Malta	"Malta Retirement Plan" offers an income-tax rate of 15% for EU nationals who take up residency (and free health care)
Costa Rica	Territorial-based personal income tax system – all foreign-sourced pension is thus tax exempt
Panama	Territorial tax system – foreign pension income is exempt
Dominican Republic	Various tax reductions (property tax, dividends and interest, capital gains); minimum pension payment USD 1,000/month
Belize	Permanent exemption for tax (income tax, import tax)
Nicaragua	Foreign-sourced income exempt

Source: IMF Staff.

Table 3. Comparison of Standard Taxes and Pensionado Taxes

Foreign Income	Tax Using Standard Rates	Pensionado Tax	Savings
100,000	23,332	10,000	13,332
300,000	115,204	30,000	85,204
500,000	210,204	50,000	160,204
750,000	328,954	75,000	253,954
1,000,000	447,704	100,000	347,704
2,000,000	922,704	200,000	722,704
3,000,000	1,397,704	210,204	1,187,500
4,000,000	1,872,704	210,204	1,662,500
5,000,000	2,347,704	210,204	2,137,500

Source: IMF Staff calculations.

Recommendations:

- Clarify (through administrative action or legislation as necessary) that the returns to Original Issue Discount bond will be treated as accrued (taxable) interest, not capital gains.
- Reduce the spread between the top PIT rate (47.5 percent) and the pensionado rate (10 percent). Further study of taxpayer data will be necessary before choosing new rates but reducing the top PIT rate to roughly 35 to 40 percent and increasing the pensionado rate to 15 percent would be a possible starting point for consideration.
- Undertake a study to determine how best to implement a comprehensive capital gains tax as part of the PIT.

E. Profit Tax (*Winstbelasting*; PT)

Current Status

32. Sint Maarten has a fairly simple and straightforward business Profit Tax (PT). Taxable income is based on business accounting profits, as defined under International Accounting Standards/International Financial Reporting Standards (IAS/IFRS). As with personal income tax, resident businesses are taxed on worldwide income, while non-resident businesses are taxed on only Sint Maarten income. Taxable businesses include public companies, private limited liability companies, general partnerships, limited partnerships, and subsidiaries or branches of foreign corporations. Subsidiaries and branches are taxed in the same way. Intra-group dividends and capital gains are exempt from taxation if the business is eligible for a participation exemption.[7] The PT rate is 34.5 percent.

[7] Participation exemption requires at least a five or 10 percent holding in the affiliated company, depending on various corporate criteria.

Analysis

33. There are two primary concerns raised by the existing PT, namely the tax rate and the lack of protection from base erosion and profit shifting (BEPS). By current international standards, Sint Maarten's 34.5 percent tax rate is high. While there remains a wide range of rates worldwide, there has been a clear trend toward lower rates over the last 20 years (Table 4).[8] This trend is evident whether counting country-by-country regardless of each country's size (the upper portion of the table), or calculating the weighted average rate across all countries, weighting the results by the size of each country's economy (reported at the bottom of the table). Worldwide, the weighted average CIT rate has decline from 37.1 percent in 2000 to 25.8 percent today. While CIT tax rates over 30 percent used to be common, currently there are only 25 countries with rates over 30 percent. Most (but not all) of those high-rate countries are small, including Sint Maarten. The high PT rate generates significant incentive for local businesses to avoid the tax. Given the lack of specific provisions to protect the PT base, and the increasing sophistication of most businesses to avoid corporation income taxes, tax avoidance in Sint Maarten is likely to be fairly easy. As noted above (Table 1), Profit Tax generates less than 10 percent (on average) of total Sint Maarten tax revenue.

Table 4. Trends in Worldwide Corporate Tax Rates (1980 to 2020)
(*in percentage of total*)

Tax Rates	1980	1985	1990	1995	2000	2005	2010	2015	2020
> 0% and <= 10%	0.0	0.0	1.0	0.0	0.6	2.4	7.1	6.5	7.2
> 10% and <= 15%	0.0	3.6	3.1	2.3	3.2	6.1	8.2	8.0	7.2
> 15% and <= 20%	5.4	4.8	5.2	4.7	5.8	12.2	13.5	16.9	16.7
> 20% and <= 25%	2.7	3.6	3.1	10.1	10.3	14.0	20.6	22.9	28.2
> 25% and <= 30%	4.1	7.1	10.3	17.1	23.9	26.2	27.1	27.9	28.2
> 30% and <= 40%	31.1	26.2	40.2	48.1	47.7	38.4	23.5	17.4	12.0
> 40% and <= 50%	47.3	41.7	30.9	13.2	7.1	0.0	0.0	0.5	0.5
> 50% and <= 100%	9.5	13.1	6.2	4.7	1.3	0.6	0.0	0.0	0.0
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Weighted Average Rate	27.0	36.1	38.5	38.7	37.1	33.9	30.8	29.6	25.8

Source: Staff Calculations, based on Tax Foundation's Corporate Tax Rates Around the World database.

34. Addressing BEPS within the Sint Maarten Profit Tax will be a major undertaking. The mechanisms available, particularly to multinational enterprises (MNEs), for shifting profits and thereby eroding a domestic tax base are many. They range from the fairly simple use of excessive interest payments (thin capitalization) to complex transactions employing transfer pricing or arrangements involving special purpose vehicles (SPV). The underlying logic of all these approaches is to legally shift profits from Sint Maarten, which imposes a high PT rate by

[8] Based on Corporate Tax Rates Around the World, 2020, published by the (US) Tax Foundation, https://taxfoundation.org/publications/corporate-tax-rates-around-the-world/. The database provides the top standard CIT rate in each country, including effective state or provincial level taxation if there is any.

international standards, to an affiliated company located in a low-tax jurisdiction, thus reducing both Sint Maarten revenues and the MNEs overall tax burden. While international BEPS strategies are most easily employed by major MNEs, even modest-sized domestic entities can practice some of the same techniques by use of "round-trip" arrangements that move profits through foreign shell corporations and eventually bring the profits back to the domestic parent.

35. A reduction in the PT rate should be accompanied by a broadening of the profit tax base. There is no reason to assume that at lower rates the business sector would grow sufficiently fast enough to make up for the lower tax rate. Thus, reducing the tax rate without parallel base broadening will lead to a loss of tax revenue. Base broadening will have to involve anti-avoidance mechanisms to address BEPS. While defining these changes is outside the scope of this mission, such anti-BEPS provision often include limits on thin capitalization, restrictions on tax deduction based on corporate EBITDA (Earnings Before Interest, Taxes, Depreciation, and Amortization) and transfer pricing rules.

Recommendations:

- Seek capacity building assistance from IMF or other international organizations on how to combat base erosion and profit shifting within the Sint Maarten Profit Tax.
- Reduce the Profit Tax rate to be more consistent with international standards (in the range of 20 to 25 percent). Reduction in rates should be coordinated with efforts to combat base erosion and profit shifting.

F. Tax Holidays

Current Status

36. Tax holidays are available upon request for investments that broaden the Sint Maarten economy through investment. Various tax holidays are currently in effect. Holidays may be granted after a company submits a request to the Minister of Finance. The Ministry's Department of Fiscal Affairs reviews this request against the applicable tax holiday law and advises the Minister on the request, including the length of time for the holiday. The Minister of Finance ultimately grants or denies the holiday after the request is reviewed by the Council of Ministers.

Analysis

37. Provision of tax holidays in exchange for investment is generally regarded as an ineffective mechanism to encourage economic growth. As with any tax incentive designed to encourage additional economic activity, there exists substantial risk that the incentive will apply to activity that would have taken place even without the incentive, in which case the government gets no value from the incentive but nonetheless loses revenue. In the case of tax holidays, the cost of the incentive increases with the profitability of the investment, even assuming that the holiday has been carefully constructed and is not subject to outright abuse. Holidays based on case-by-case requests and political approval, rather than on clearly defined and uniformly applied investment criteria not subject to political approval, can pose additional problems, by opening the door to cronyism and corruption.

38. If Sint Maarten determines that some form of tax incentive is essential for economic growth, tax holidays should be replaced with incentives designed to reduce the risk of investment. Investment tax credits (ITCs) and accelerated depreciation reduce the risks of business investments while also ensuring that profitable investments will generate tax revenue for the government. An ITC and accelerated depreciated can be tailored to be more or less economic equivalent, by adjusting the size of the credit and the rate of depreciation, although at high credit rates an ITC will always be more valuable than accelerated depreciation. Unlike a tax holiday and if properly designed, ITCs and accelerated depreciation limit the government's incentive cost, by tying it to the amount of investment.[9]

Recommendations:

- Cease issuing any future tax holidays.
- If necessary, implement tax incentives based on carefully constructed accelerated depreciation deductions or investment tax credits within the profit tax.

G. Property Taxes

Current Status

39. There are two forms of real property taxation in Sint Maarten. Transfers of real (immovable) property are subject to a 4 percent transfer tax. There is also a small (0.3 percent) recurrent property tax on property values. However, the recurrent tax is not currently enforced, so the effective recurrent property tax rate is zero.

Analysis

40. In general, property transfer taxes are inefficient and harm economic growth, while recurrent property taxes are highly efficient and do not harm economic growth. As noted above (see Paragraph 6), property transfer taxes are among most inefficient taxes. High transfer taxes may generate revenue, but they impede efficient markets by discouraging economically efficient transfers of ownership and encouraging tax avoidance (and evasion). Revenues from transfer taxes are also highly variable and unpredictable. At the other extreme, recurrent property taxes are among the most efficient of all taxes.

41. Both property transfer and recurrent property taxes are widely used worldwide. Because of the damage that property transfer taxes can do to an economy, the rates for transfer taxes should be quite low. While there is no rate (for either tax) that is optimal in all locations, generally property transfer tax rates should not exceed one percent (of sale price) and recurrent

[9] https://www.tax-platform.org/sites/pct/files/publications/100756-Tax-incentives-Main-report-options-PUBLIC_0.pdf

property taxes should be in the range of one percent per year of current market value.[10] In the Caribbean, most jurisdictions impose both taxes, and property transfer tax rates higher than Sint Maarten's four percent are imposed in many countries (Table 5). The fact that other islands use higher transfer tax rates than does Sint Maarten does not mean that Sint Maarten's property transfer tax rate of four percent is a good idea.

42. Recurrent property taxes are particularly important in Sint Maarten because of the ease with which other taxable activities can shift between Sint Maarten and Saint Martin or other islands. Essentially all tax bases (e.g., income, consumption, business activity) can be shifted from one jurisdiction to another if the incentive to shift is large relative to the cost of shifting (and relative to the non-tax benefits from not shifting). But land cannot be moved. So recurrent property tax is particularly appropriate in Sint Maarten, where most other tax bases can easily move across the border to Saint Martin. The appropriate rate in Sint Maarten could probably be increased above the current (and unenforced) rate of 0.3 percent. Worldwide, most recurrent property tax rates are typically in the range of one percent per year. There appears to be room to increase the Sint Maarten tax rate before the difference between it and the Saint Martin tax rate becomes a problem.[11] Too large a difference between property tax rates in Sint Maarten and in Saint Martin would, over time, encourage some people and businesses to move across the border, thus devaluing the land on the Sint Maarten side of the border. It is mission's understanding that there is considerable political resistance to making changes to real property taxation in Sint Maarten. However, reform of real property taxation is one of the most important (and obvious) improvements that can be made to the existing tax system in Sint Maarten. A revised property tax regime can also include provisions to reduce tax on low-income small landowners, so the tax does not overburden low-income residents.

[10] All recurrent property tax systems depend on "assessed" value, which should be an estimate of current market value, not value at time of last sale, which could vary dramatically from current value.

[11] Saint Martin's property taxation is complex and includes different recurrent taxes on commercial property and leaseholds. Tax on commercial properties is based on 50 percent of the cadastral rental value, which is taxed at 47.3 percent. Depending on how cadastral rental value is calculated, this suggests a relatively high rate of property tax. Leaseholds are taxed at three percent per year. However, a five-year exemption from property taxes is provided when new buildings are constructed.

Table 5. Property Taxes in Caribbean Islands

Jurisdiction	Property Transfer/ Stamp Duty	Recurrent Property Tax
Anguilla	5% (temp reduced by half for residents)	0.24% on assessed value
Antigua and Barbuda	7.5% seller 2.5% buyer	Agricultural land: 0.10% Commercial buildings: 0.5% Non-agricultural land: 0.4%
Aruba	<AWG 250,000: 3% >AWG 250,000: 6%	0.4% on adjusted rental value (=FMV)
Bahamas	2.5%	Owner-occupied: 0.75-1.0% (brackets) with BSD 50,000 cap Vacant land: 1.5% Commercial properties: 1-2%
Barbados	2.5%; base exemption BBD 150,000	0-0.75% property value
BES Islands	5%	0.91% nonresidents 0.345% residents
British Virgin Islands	4%-12%	Locals: first acre: 10 USD, 3 USD additional acre Foreigners: first 0.5 acre: 50 USD, up to acre: USD 150, additional acre 50 USD Buildings: 1.5% on notional annual value
Cayman Islands	7.5%	None
Curaçao	4%	0.4-0.6%
Dominica	4%	None
Dominican Republic	3%	1% on total value > DOP 7.7m
Jamaica	2%	0.5-0.9%
Montserrat	None	Agriculture: 0.2% Residential: 0.5% (land) + 0.25% (building) + 1% (surcharge) Business, industrial/hotel: 1% (land) + 0.5% (building)
Puerto Rico	None	8%-12% value based on 1957 values
St. Kitts and Nevis	10%	Kitts: commercially used land and buildings: 0.3% Nevis: 0.2-0.3%
St. Lucia	Up to XCD 50,000: 0% XCD 50,001- XCD 75,000: 2.5% XCD 75,001- XCD 150,000: 3.5% > XCD 150,000: 5%	Residential: 0.25% market value Commercial: 0.40% market value
Trinidad and Tobago	Residential: 3-7%, exemption TTD 1.5m Commercial: 2-7%, no exemption	Not enforced
US Virgin Islands	2%-3.5% on value	Unimproved non-commercial: 0.4946% Residential: 0.377% Commercial: 0.711% Timeshare: 1.407% Exemption: religious worship, cemeteries Reduced: homesteads and farmland

Source: International Bureau of Fiscal Documentation (IBFD).

Recommendations:

- Enforce the existing recurrent property tax law.
- After careful review of the Saint Martin property tax regime, increase recurrent property tax rates from the current 0.3 percent to a rate in the range of one percent.
- Reduce the property transfer tax to a rate of one percent.

H. Casino Taxation

Current Status

43. While there are thirteen casinos located in Sint Maarten, there is no significant tax on casinos (or other gambling) in the country. Casinos are subject to small license fees, but they are not a significant source of revenue and cannot be considered casino taxes. According to data provided by the Tax Administration, revenues from "Staff to third parties (Casinos)", "Casinos", "Hazard Games", and "Lottery Regulation" (all paid to the Ministry of Tourism, Economic Affairs, Transport and Telecommunications or TEATT) account for less than three percent of total government revenues. Casinos are not subject to the BBO, unlike virtually all other businesses in Sint Maarten. In addition, income tax is not imposed on the winnings earned by gamblers in casinos.

Analysis

44. While the mission has no specific information about money laundering in Sint Maarten, the existence of casinos should always raise concerns about possible criminal activity. Worldwide, casinos play a major role in converting "dirty" money into "clean" money and thereby hiding (and perpetuating) the criminal activities that generated that money. There is no reason to assume that Sint Maarten is exempt from this worldwide phenomenon. Any money laundered in Sint Maarten is likely derived from criminal activities elsewhere, but the existence of casinos in Sint Maarten opens the door to criminal activity on the island. As regulators in major gambling markets (e.g., United States and Europe) increase enforcement of anti-money laundering (AML) procedures, it is inevitable that smaller market casinos become more important to criminals needing to launder their money. Sint Maarten is particularly attractive for money laundering because of its international airport. Taxation of gambling is not directly related to the AML regulation of casinos, but the two issues should be addressed together. AML is outside the scope of this mission.

45. In most jurisdictions where casino gambling is legal, the host government imposes significant casino-specific taxes or fees on casino operations. In most jurisdictions where casinos or other forms of gambling are legal, they are highly regulated, and their supply is limited. The combination of typically high demand for gambling and legally constrained supply generates significant economic rents (supra-normal or "excess" profits) for casino owners. The gambling-specific taxes (or fees) are designed to capture some portion of those economic rents for the government, while still leaving attractive returns for the owners of the gambling businesses. As noted above, Sint Maarten imposes almost no tax on casinos, leaving virtually all the economic rents in the hands of the casino owners.

46. The amount of casino economic rents is not readily measurable from available public data, but it is likely that those rents have declined (in relative terms) in recent decades. Many decades ago, casinos were legal in a relatively few locations worldwide, notably Monte Carlo, Las Vegas, and Macau. There was little competition between locations, and casino competition within the same location was often in the form of amenities, not differences in the games themselves. But the number of casinos worldwide has exploded in recent decades. In addition, there is now easy access to internet gambling (which is an imperfect substitute) from almost everywhere. In the Caribbean, there are over 150 casinos in operation, although the vast majority are small. In addition to the competition Sint Maarten faces from other islands, gambling is also available on cruise ships, which can operate essentially as unregulated and untaxed casinos in international waters. As competition has increased, the economic rents generated by casinos have presumably decreased.

47. Obtaining some measure of the economic rents generated by Sint Maarten casinos is critical to design any casino-specific tax. As in other jurisdictions, the goal of such a tax would be to capture a significant portion (but less than 100 percent) of the economic rent generated by gambling, leaving all the "normal" profits in the hands of casino owners. Without valid measurement of the rent, it will be impossible to design a tax that captures a meaningful amount of economic rent without either damaging the casinos' operations or foregoing revenues that the government ought to capture. Without data, casino interests will undoubtedly argue that any proposed tax is too high, and the government will have no way of knowing if that argument is valid or merely self-serving. Estimating the casinos' economic rents would be a major undertaking and is outside the scope of this mission. But estimating those rents can be done, based primarily on analysis of detailed financial data from each casino.

48. In addition, an analysis of existing gambling tax regimes in the neighboring competitor islands should be undertaken. Such an analysis is outside the scope of this mission. However, some information on gambling taxation in a handful of Caribbean islands are present in Table 6.

Table 6. Gambling Taxation in Select Caribbean Islands

Country	Tax on Winnings	Tax on Casinos
Aruba	N/A	4% of net profits
Bahamas	N/A	Small (<5,000 sqft): BSD 50,000+ 10-15% on taxable revenue Medium (<10,000 sqft): BSD 100,000 + 25-5%[??] Large (>10,000 sqft): BSD 200,000 + 25-5%[??]
Barbados	20% Withholding	17.5% of net wagers
Belize	N/A	15% on gross winnings from lotteries, slot machines and table games
Curaçao	N/A	2% of net profits
BES Islands	None	10% on difference between wagers placed and net payout (winnings)
Grenada	N/A	15-30% on gross receipts
Jamaica	25%	N/A
Trinidad and Tobago	10%	Exemption from VAT

Source: International Bureau of Fiscal Documentation (IBFD)

49. **Without addressing specific design parameters, the basic options for casino taxation can nonetheless be specified.** There are two sides to this question, namely the taxation of the gambler and the taxation of the casino. (The analysis below could also apply to other forms of gambling such as racing, but this report focuses on casinos.)[12] Each will be addressed in turn.

50. **Taxation of the gambler is conceptually the easier of the two tax problems to solve.** Winnings from any form of gambling constitute income, just like wages or interest income. As such, winnings should generally be taxable. The more difficult question is how a gambler's losses should be treated for tax purposes. In the aggregate, gamblers always lose money, otherwise the casinos would never turn a profit. Therefore, allowing an un-restricted deduction for gambling losses would result in zero tax revenue (and would actually reduce tax revenue if the losses could be used as a deduction against non-gambling income). Therefore, the typical approach to taxing gambling winnings is that all gambling winnings are includable in taxable income, and gambling losses are not deductible, except by "professional" gamblers. A professional gambler would be defined as a person who receives most of his/her annual income from gambling. The threshold for "most" income should be set quite high, probably at 75 percent or higher.

51. **Competition with other Caribbean islands may influence whether taxation of winnings should be applied equally to resident and non-resident taxpayers.** The case of taxing winnings of residents (domestic taxpayers) is clear. Winnings are income, and as such should be taxed under a comprehensive income tax. Under the Sint Maarten PIT, winnings ought to be added to all other forms of income and would thus be taxed at the standard progressive rates.

[12] There are also some "racinos" in the Caribbean, which are a combination of a racetrack and a casino in an integrated location.

52. The case for taxing winnings of non-residents is more complex. The same general principle applies to both residents and non-residents, but the realities of competition between Caribbean islands may temper the goal of taxing all gamblers' winnings. If most other islands allow foreign tourists' winnings to be untaxed (or taxed at low rates), then a significant Sint Maarten tax on tourist winnings could be an incentive for tourists to visit other islands rather than Sint Maarten. Harmonization of tax rates across multiple islands might help all countries but might also be difficult to achieve. However, if non-residents were treated differently from residents, Sint Maarten locals would be subject to tax on winnings while Saint Martin locals would not, which would represent bad tax policy and would be politically awkward. Whatever taxation of winnings are imposed in Sint Maarten, it is probably essential that the winnings be subject to withholding tax by the casino. Without withholding tax it may be very difficult for Sint Maarten to actually collect the taxes due on winnings.

53. Casino operations could be subject to a number of taxes, including BBO, profit tax (PT), value added, sales, or turnover taxes, and excise taxes. Of these, only casino-specific turnover or excise taxes directly tax casino rents.

54. Profit taxes, or corporate income taxes, are not designed to tax excess profits or economic rents. Rent taxes often aim to capture 50 percent or more of economic rents (but less than 100 percent of rents). The Sint Maarten PT rate is high, but it can only capture 34.5 percent of casino rents (along with 34.5 percent of their normal profits). In practice, sophisticated corporations can easily avoid standard profit-based taxes, so the effective tax rate on casino rents is almost certainly much less than the nominal rate of 34.5 percent. In short, the PT alone does not constitute a tax on casino rents.

55. Value added taxes, sales tax, and Sint Maarten's existing turnover tax would have limited impact on casino rents. Value added and sales taxes are consumption taxes. If properly designed, they would tax some portion of the service provided by a casino but would leave most of the rent untaxed. Even if casinos were subject to Sint Maarten's BBO (which is not the case), that tax would *probably* leave most casino rents untaxed. That said, it is critical to note that in the absence of casino data and analysis, it is impossible to determine the desirable rate of tax on casino turnover. A casino-specific turnover tax, at a higher rate than five percent, could potentially capture a reasonable portion of casino rents. Most gambling jurisdictions use a casino-specific turnover tax (typically on amounts wagered), although they are often characterized as "fees". Specific excise taxes (usually a fixed amount per table or gambling machine) can also generate smaller amounts of tax revenue.

Recommendations:

- Include casinos in the BBO. For purposes of the BBO, casino turnover would include total amounts wagered in each casino.
- Include gambling winnings in the taxable income of taxpayers subject to the Sint Maarten income tax. Deductions against gambling winnings would not be allowed except for

"professional" gamblers, who would have to demonstrate that at least 75 percent of their non-investment income comes from gambling. In any case, allowable deductions would be limited to the amount of gambling winnings.

- Impose a 12.5 percent withholding tax on all gambling winnings (to be collected by the casino and remitted by the casino to tax administration). In the case of non-residents, the withholding tax would be a final withholding tax. In the case of resident taxpayers, the withholding tax would be non-final, with final adjustments made as part of income tax filing.
- Undertake a study of gambling taxation in the Caribbean to determine the extent to which a casino specific tax (or license fee) in Sint Maarten could tax a portion of the casinos' economic rents.

I. Bank Transaction Taxes

Current Status

56. There is currently a Bank License Fee in the currency union of Curaçao and Sint Maarten. This tax is imposed at one percent on money outflow from Sint Maarten from transfers from residents to non-residents and foreign currency cash transactions.[13] Separately, TEATT has proposed a broader banking transaction tax as a possible replacement for some or all existing taxes in Sint Maarten. The proposal from TEATT is based on the work of Edgar L. Feige, Professor of Economic Emeritus, University of Wisconsin-Madison, who proposed an Automated Payment Transaction (APT) tax in 2000.[14] The APT is similar to the Bank Account Debits (BAD) tax, which has been levied in some Latin American countries and in Australia.[15] Both the APT and the BAD are forms of Financial Transaction Taxes (FTTs). All these taxes are characterized by a large number of transactions intended to be taxed at very low tax rates. The key variation among these taxes is the scope of transactions that are subject to taxation. The TEATT proposal would apply to all banking credit transactions in Sint Maarten.

Analysis

57. Financial Transaction Taxes are generally quite distortionary and should be avoided.[16] While the details of TEATT FTT proposal have not been specified to the mission, it appears that the intended base is all banking credit transactions for both individuals and businesses, in short, any transaction that goes through the banking system. At first glance, such a broad-based FTT can appear attractive, being a tax with a broad base and potentially a low rate. However, like almost all turnover or transaction taxes, FTTs distort market transactions because

[13] Curaçao has proposed an increase to 1.5 percent, which would have to affect both Curaçao and Sint Maarten at the same time.

[14] *Taxation for the 21ST Century: The Automated Payment Transaction (APT) Tax*, (unpublished) 2000.

[15] The Australian tax was a state-level tax limited to cash withdrawals from checking accounts. These taxes were repealed prior to July 2005 as part of reforms that led to introduction of a goods and services tax.

[16] The use of FTTs to reduce stock speculations in a special case in which FTTs may be appropriate. This is not the problem in Sint Maarten that the TEATT proposal is designed to address.

there is no consistent relationship between the aggregate value of transactions by the taxpayer and any of the criteria that represent appropriate basis for taxation, namely income, wealth, or consumption. For an individual whose only "automated payment transaction" (to use Prof. Feige's terminology) is deposit of a paycheck and a series of purchases roughly equaling that paycheck, that taxpayer's aggregate APTs (that will be taxed) is equal to roughly twice the taxpayer's paycheck. But for a single business (or a set of business in a supply chain) which trade goods or services, multiple times with small price differences (or little value added), the aggregate value of their APTs could be many times the final value of the goods or services produced. Thus, an APT tax will lead to the same market distortions as the Sint Marten's existing business turnover tax (BBO), namely extreme vertical integration of supply to avoid multiple levels of tax.

58. The proposed FTT cannot generate significant revenue at a very low tax rate. All FTT proposals are based on the promise of extremely low tax rates (typically less than one percent per transaction). However, using data on banking credit transactions provided to the mission by TEATT, staff calculations indicate that the FTT tax rate in Sint Maarten would have to be over one percent to replace income taxes or even higher to replace all tax revenues (Table 7). The FTT tax rate would have to be 1.46 percent to replace individual and business income taxes, based on the average credit transfers and revenues for the four-year period 2016 to 2019. To replace all tax revenues, the FTT rate would have to be 2.95 percent. Such tax rates cannot be considered "very low". Such a FTT rate would result in either huge market distortions (that would damage the economy) or huge disintermediation that would reduce the tax base (thus reducing government revenue), or likely both. The FTT proposal assumes that the impact of the new tax on each taxpayer would be so small that there would be no incentive to avoid the tax. This assumption seems implausible at rates in the range of one and one-half to three percent per transaction. Furthermore, in a world in which non-bank payment systems (such as Bitcoin, other cryptocurrencies, and many online payment platforms) are exploding in popularity, it would become increasingly easy for taxpayers to avoid paying the FTT on many of their transactions.

Table 7. Summary of TEATT's Proposed FTT
(in million ANG)

	2016	2017	2018	2019	Average
Credit Transfers	11,134.2	11,040.8	11,463.7	12,683.1	11,580.4
FTT at 1.46%	162.5	161.1	167.3	185.1	169.0
Income Taxes	184.1	170.3	153.6	167.9	169.0
Surplus (Deficit)	(21.6)	(9.2)	13.6	17.1	-
FTT at 2.95%	328.6	325.9	338.3	374.3	341.8
Total Taxes	364.6	331.6	318.2	352.8	341.8
Surplus (Deficit)	(36.0)	(5.8)	20.2	21.6	-

Source: Staff Calculations from TEATT and Tax Administration Data

Recommendation:

- Do not introduce any Financial Transaction Tax in Sint Maarten.