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LETTER OF ADVICE

Government Administration Building
The Minister of Public health, Social Development and Labor, Mr. Richinel Brug
Soualiga Road no. 1
Philipsburg, Sint Maarten

April 23rd, 2025

Our reference: SER/25/CB/13

Re: Letter of advice concerning the draft national ordinance visitors tax and the draft national ordinance preparedness and resilience resources public health and tourism.

Honorable Minister Brug,

On June 22nd, 2023, the Social Economic Council (hereafter: "SER") received the solicited urgent advice request from the cabinet of the former Minister of Public Health, Social Development and Labor (hereafter: "Minister of VSA¹") Mr. Omar Ottley, concerning the draft National ordinance visitors tax (hereafter: "Visitors tax LV²") and the draft National ordinance preparedness and resilience resources public health and tourism hereafter (hereafter: Preparedness LV). The draft National Ordinances were discussed in the board meetings of Thursday January 30th, 2025, February 13th, 27th, March 13th, 27th and April 10th, 17th, 2025. During the 2025 National Budget debate, various Ministers and Members of Parliament (MPs) raised concerns about delays regarding pending advice at the SER.

The SER would like to provide the following clarification:

1. Delay with appointment 2023-2026 Board.

Due to an impasse between an employer organization and the former Minister of General Affairs, the SER was without an appointed Board from **April 2023 to August 2024**, a delay of 16 months. During this period, the SER Secretariat worked on the advice requests received from the government. Following the Board's appointment in August 2024, the Board prioritized and scheduled the pending advice, determining that the advice on the Visitor's Tax will be addressed in the second quarter of 2025.

2. Delay with the issuance of the National decree of the Chairperson.

After the Board's appointment, elections took place on September 5, 2024, to elect a chairperson. The SER submitted documentation for the national decree appointing the chairperson on September 6th, 2024, as mandated by Article 10, Paragraph 1 of the National Ordinance SER AB 2023 nr 38. Despite sending follow-up reminders on September 9th, October 25th, and November 12th, 2024, the SER never received a formal response from the Minister of General Affairs. Consequently, since September 2024, the SER was waiting for the signed national decree for its chairperson, which is required under Article 21, Paragraph 1 of the National Ordinance Social Economic Council (AB 2023 no. 38) for the chairperson to sign off on advisory reports. The National decree of the chairman was received in February 2025.

¹ Dutch acronym Ministerie van Volksgezondheid, Sociale voorziening en Arbeid (VSA).

² Dutch acronym Landsverordening (LV).

The SER has evaluated the socioeconomic and legal consequences of the advice request and has come to the following conclusions:

In general, the SER is in favor of the introduction of a visitor's tax.

Advice:

Given the information provided, the SER **majority** advises the following to the Government of Sint Maarten:

1. To incorporate a system within which information regarding the impending visitors' tax is readily available to any potential visitors. This should include a marketing campaign to ensure that all stakeholders (such as travel agencies, tourist bureaus and potential tourists) are aware of the change well ahead of time.
2. The SER recommends exploring the option of establishing a similar online payment option to the one made available by the government of Bonaire³.
3. The SER recommends quantifying the draft national ordinance's goals to allow for measurable success and to provide for additional substantiation surrounding the selection of fees that will be imposed as a visitor's tax. To aid in this process, the SER would recommend including a roadmap that will detail how the government intends to work towards this goal and what tasks it's managed to achieve, on a yearly basis.
4. To amend the draft preparedness LV, article 3, to include a balanced and defined scope that aims to fund projects that align with the purpose of the proposed legislation; namely, to increase the island's resilience and preparedness against economic shocks and natural disasters, as referred to in article 2 of the proposed legislation, whilst improving the financial position of the country. The SER is of the opinion that the scope of projects that will be executed by the Ministry of TEATT are perceived as too vague compared to the Ministry of VSA.
5. To review article 1 sub b of the draft LV visitor's tax as the term Embarkation/Disembarkation Card is currently incorrectly referred to as being defined by article 3 of the "toelatingsbesluit" whereas this should be article 15a of the Admission Decree.
6. To amend article 2 of the draft LV visitor's tax to apply a reduced fee to or exclude returning students that are studying abroad and were previously residents of Sint Maarten.
7. To amend article 2 of the draft LV visitor's tax to apply a reduced fee to or exclude residents from sister islands within the Dutch kingdom to continue the trend of applying reduced fees to residents from these countries as these countries offer the same courtesy to residents visiting from Sint Maarten.
8. The SER recommends incorporating the expressed intentions by including the legal obligation to conclude an additional repayment agreement with the SZV into the proposed draft legislation. This further secures the intention to allocate funds towards the repayment of the payment

³ website of the government of Bonaire on the collection of tourist tax for visitors. link:
<https://tourismtax.bonairegov.com/form>



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arrears to the SZV upon immediate enactment of the new visitor's tax. To amend the draft preparedness LV, article 3, to include the legal basis to allocate a portion of the tax revenue directly to the repayment of the payment arrears to the SZV.

9. To elaborate on the financial substantiation in the draft LV which considers the effects the introduction of a visitor's tax will have on businesses and employees. The SER has concerns about its feasibility as the goal is to ultimately achieve sustainable public finances, without negatively affecting sustainable economic growth.
10. To rename the visitor's tax legislation to travelers' tax and to introduce a flat fee across the board, regardless of age of XCG 27/USD 15, valid for a period of 2 years.
11. To amend article 1 of the draft LV Visitor's tax to include a definition of the terms transit passenger and transfer passenger, to clarify to whom the visitor's tax will be applicable.

We trust to have informed you sufficiently herewith. Should you require any additional information after reading the above, please feel free to contact us at your earliest convenience.

Respectfully,

Mr. Harlec G.F. Doran
Chairman



**Sociaal
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Mr. Gerard M.C. Richardson
Secretary-General

Cc: - The Minister of Finance, Ms. Marinka J. Gumbs,
- The Minister of Tourism, Economic Affairs, Telecommunication, Transport, Mrs. Grisha Heyliger- Martin

Elucidation

1.1. Background on the implementation of a Visitor's Tax

In 2017 and 2020, Sint Maarten was heavily impacted by the natural disaster, Hurricane Irma, and by the COVID-19 pandemic, respectively. In both occurrences, the island's economy came to a near halt whilst simultaneously placing an unprecedented amount of pressure on the community's economy and healthcare system. Considering that Sint Maarten is a small island developing state (hereafter: "SIDS"), the SER understands that the island is particularly vulnerable to such economic shocks caused by natural disasters and epidemics or pandemics. Specifically, this is due to Sint Maarten's one pillar economy, which remains vulnerable due to the country's small domestic market and a high dependence on a limited number of export products such as tourism and transportation⁴. Additionally, the one pillar economy further limits the country's fiscal capability to respond to the external shocks caused by natural disasters or pandemics.

As Sint Maarten is known for its yearly hurricane season, the SER further understands that the geographical location of the island makes it particularly susceptible to recurring natural disasters. Such external shocks can place unexpected pressure on the healthcare system and tourism sector and can therefore be accompanied by an unforeseen increase in costs. As a result, the SER understands the necessity to effectively increase the country's resiliency and preparedness for such economic shocks.

However, the increase in costs, the budgetary constraints of the CFT (*in Dutch: College Financieel Toezicht*) and the long-existing precarious financial position of country Sint Maarten have resulted in a liquidity impasse for Sint Maarten. Despite efforts to mitigate these negative effects through the implementation of other financial measures, the existing liquidity impasse could not support the allocation of funds to cater to the necessity to increase the country's resilience and preparedness⁵.

As a result, the implementation of a Visitor's Tax at Sint Maarten's entry points has been proposed to generate funds to execute measures geared towards resiliency and preparedness. Ultimately, these measures will be proposed and carried out by the Ministry of VSA and the Ministry of TEATT to mitigate negative effects, specifically in the health and tourism sector.

⁴ MvT, Ontwerp Landsverordening bezoekersbelasting, p. 1.

⁵ Ontwerp Landsverordening Bezoekersbelasting. MvT, Ontwerp Landsverordening paraatheid- en veerkrachtmiddelen volksgezondheid en toerisme, algemeen deel.

1.2. Introduction of a Visitors Tax

Based on the proposed legislation submitted to the SER, the government intends to implement two national ordinances that will provide the legal basis to implement a Visitor's Tax and, secondly, to allocate a portion of these funds to the Ministry of VSA and the Ministry of TEATT for the execution of various measures. These measures aim to increase the preparedness and resilience of the public health and tourism sector and to mitigate the negative effects of economic shocks caused by natural disasters or pandemics.⁶

The introduction of similar taxes is not uncommon within the Dutch Kingdom. Both Aruba (2024⁷) and Bonaire (2022⁸) have introduced similar taxes ranging from USD10 - USD75⁹ per visitor. The SER understands that, based on the draft national ordinances, a visitor's tax of 27,- for adults and XCG 18,- for minors will be imposed on persons entering Sint Maarten. Those legally residing on Sint Maarten or Saint Martin and cruise passengers will be exempt from the paying the visitors tax¹⁰. Furthermore, an intended 40% of the earned tax revenue will be proportionately divided amongst the Ministry of VSA and the Ministry of TEATT after the ministries have successfully submitted a budget to the council of ministers that depicts the manner in which the funds will be dispersed. The remaining 60% of the tax revenue will go towards the government's coffers¹¹. From the remaining 60%, a portion will be allocated to the repayment of the outstanding payment arrears to the SZV¹². The SER notes that the proposed budget must be approved by the council of ministers¹³ and any unutilized funds will flow back into the government's coffers¹⁴.

The SER has gathered that the proposed visitor's tax will provide an estimated XCG 16 million in additional tax revenue, which includes the deduction of XCG 2 million in operational expenses.¹⁵ An increase of XCG 16 million is equivalent to an estimated increase of 4.6% in tax revenue based on the tax revenue earned in 2022. (See figure 1¹⁶.) Furthermore, the ministry's calculations predict that roughly XCG 6.4 million will be evenly distributed amongst both ministries.

⁶ Article 2 Draft LV Preparedness.

⁷ <https://www.aruba.com/nl/sustainability-fee>

⁸ Eilandsverordening Toeristenbelastingverordening Bonaire 2022 (AB 2022, no. 11)

⁹ [Factsheet](#) Fees Visitors Tax Bonaire, website:

<https://bonaigov.com/inwoners/toeristenbelasting#:~:text=Bonairiaanse%20studenten%20met%20een%20verklaring,aan%20het%20OLB%20wordt%20afgedragen.>

¹⁰ Article 3 Draft LV Visitors Tax.

¹¹ Article 2 Draft LV Preparedness.

¹² Explanatory notes of the Draft national ordinance visitor's tax, general introduction.

¹³ Article 4 draft LV Preparedness

¹⁴ Article 2 Draft LV Preparedness.

¹⁵ Explanatory notes of the Draft national ordinance visitor's tax, general introduction.

¹⁶ table financial statements/vaststelling budget

| BATEN (X Naf 1 mln.) | Realisatie 2022 | Budget 2022 | Diff | Realisatie 2021 | 2022 vs 2021 |
|----------------------------|--------------------|----------------|------------|--------------------|-----------------|
| Loonbelasting | 143,5 | 138,9 | 4,6 | 133,1 | 10,4 |
| Inkomstenbelasting | 4,1 | 0,6 | 3,5 | 1,7 | 2,4 |
| Belasting Bedrijfsomzetten | 130,6 | 141,6 | (11,0) | 106,4 | 24,2 |
| Winstbelasting | 22,3 | 25,9 | (3,6) | 21,9 | 0,3 |
| Motorrijtuigenbelasting | 10,8 | 10,3 | 0,5 | 10,5 | 0,3 |
| Logeerbelasting | 8,9 | 2,5 | 6,4 | 4,3 | 4,6 |
| Verhuurautobelasting | 1,0 | 0,5 | 0,6 | 0,5 | 0,5 |
| Time Share Fee | 2,6 | 1,3 | 1,3 | 1,7 | 1,0 |
| Overdrachtsbelasting | 16,3 | 11,0 | 5,3 | 12,6 | 3,7 |
| Overige Belastingen | 0,7 | 0,9 | (0,2) | 1,1 | (0,4) |
| Accijnzen | 7,9 | 8,0 | (0,1) | 8,8 | (0,9) |
| Belastingen | 348,7 | 341,4 | 7,3 | 302,6 | 46,1 |

Figure 1: depicts the development of the tax revenue of 2022 and 2021 compared to the budget of 2022 and 2021.

1.3. Influence of Sint Maarten Market's position

The SER understands that in preparation for the implementation of a visitor's tax, a regional assessment¹⁷ was carried out to study the visitor's tax at other Caribbean airports and seaports and how these rates compare to the proposed visitor's tax for Sint Maarten. Additionally, the scope within which the visitor's tax fee could be adjusted without negatively impacting Sint Maarten's market position—and, therefore, its economy—was also reviewed. In the report, it was established that, where it concerns choosing Sint Maarten as its travelling destination, 50% of the reviewed airports and 75% of the reviewed seaports charged higher fees for passenger arrival, offering sufficient room for an increase of the fees without significantly negatively impacting Sint Maarten's market position. In terms of the tax elasticity and the potential response tourists may have to the increase, an approximate average decrease of 5% in passenger arrivals¹⁸ was estimated. Due to a lack of data, these numbers are based on comparative studies carried out on tax increases imposed at other airports within the Caribbean. The SER notes that reduced passenger arrivals can be negatively impacted by several factors of which a tax increase may be just one. Other factors may include airline discontinuing services, construction, limited marketing, airfare increases, major weather conditions etc. Therefore, the SER is reserved in attributing a 5% decrease in passenger arrival upon the introduction of a visitor's tax on Sint Maarten. The SER finds it noteworthy to mention that based on data compiled by the Central Bureau of Statistics, Bonaire's air travel passenger arrivals continue to rise, despite having introduced a visitor's tax of USD75 per traveler since July 2022.¹⁹

Based on these findings, the report recommended the implementation of a USD 15,00 visitor's tax along with a USD 2,00 fee increase of the head tax imposed at the Port for cruise passengers. The introduction

¹⁷ St. Maarten Passenger Arrival Taxation Report, October 2022, Kew, Burlington UK, p.2.

¹⁸ St. Maarten Passenger Arrival Taxation Report, October 2022, Kew, Burlington UK, p.22.

¹⁹ Data on yearly passenger transport within the Dutch Caribbean, website:

<https://opendata.cbs.nl/#/CBS/en/dataset/82332ENG/table?ts=1711541907043>.

of said fees would result in Sint Maarten moving to the 9th highest costing airport for passengers from the 21 Caribbean countries reviewed instead of the current 12th position.²⁰ Seemingly the increase of proposed head tax at the port will make the port the 8th highest costing cruise ship port of the 16 Caribbean ports reviewed. See figure 2 and figure 3 for a depiction of the potential effects of Sint Maarten's market position of potential increases ranging from USD 5, - to USD 20, - and respectively USD 2, - to USD 4, -. The SER notes that other Caribbean countries have implemented similar fees, at the airport, averaging USD 22,50 per passenger with a maximum of USD 44, -. ²¹²² making the proposed amounts on the lower end of the scale. In addition, the SER notes that imposing a USD 15, - visitor's tax will cause Sint Maarten to rank higher in fees than Curacao and Aruba, however lower than Bonaire, when reviewed separately. Considering the above and considering the precarious financial position of the country, the SER welcomes the introduction of fiscal reform that allows for an increase of revenue that is directly allocated to improving the social standard and quality of life of the average citizen. Finally, considering that there is a lack of data where tax elasticity is concerned, the SER recommends tracking the fluctuations in passenger arrival as a response to tax increases for future projection marketing position calculations.

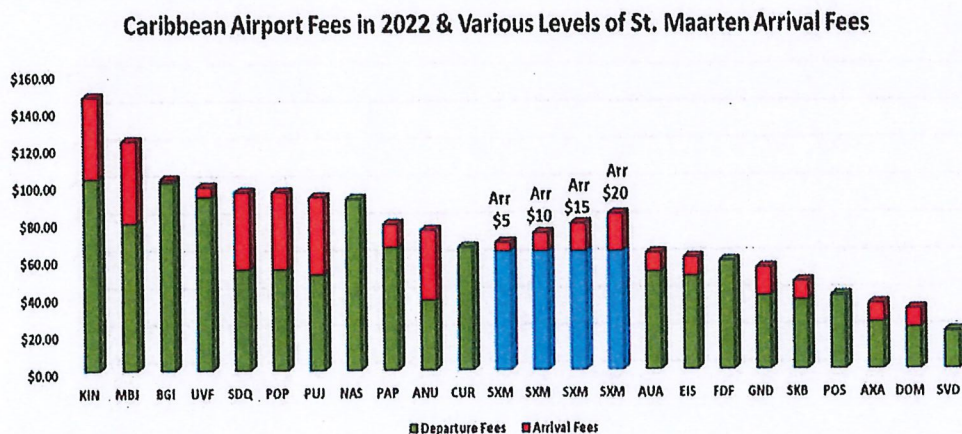


Figure 2: depicts the various levels of arrival fees in the Caribbean.

²⁰ St. Maarten Passenger Arrival Taxation Report, October 2022, Kew, Burlington UK, p.23.

²¹ The Flamingo airport on Bonaire was not included in this study. Therefore the highest rate is USD 44,- as opposed to the previously mentioned USD 75, -

²² St. Maarten Passenger Arrival Taxation Report, October 2022, Kew, Burlington UK, p.23.

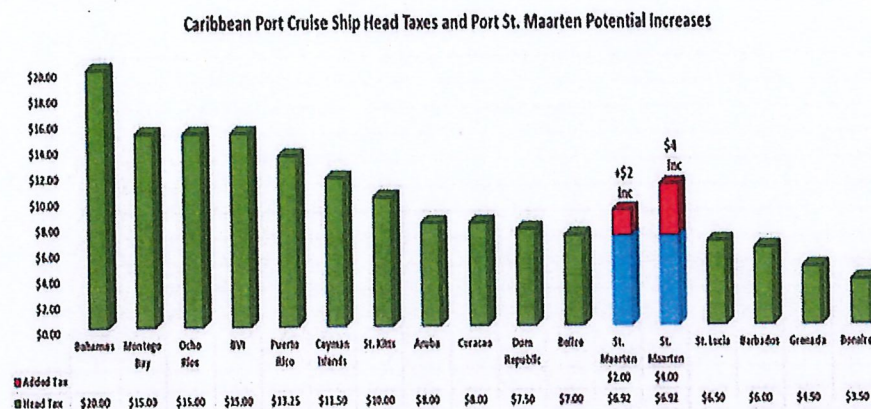


Figure 3: depicts the various levels of cruise port fees in the Caribbean.

2. Assessment framework for tax instruments: Principles of Taxation

2.1. Point of Departure

The SER understands that the government requires funding to finance public expenditures for which the primary source of income consists of the collection of taxes, also known as the budgetary function of taxation. However, the SER notes that the implementation of a new tax should be proposed in cases where these funds serve the public's best interest. In accordance with article 15 of the constitution and various other international conventions²³, everyone has the right to own, use, dispose of and bequeath his or her lawfully acquired possessions. However, exercising this right can be limited when such actions are in the public's best interest. Where taxation is concerned, the government can impose taxes on Sint Maarten insofar as these are in the public's best interest and are laid down in a national ordinance (the latter being based on article 99 of the constitution of Sint Maarten). Although this term is very broad, the SER reminds the government not to lose sight of this perspective as this can be considered an infringement on such rights.

As a one pillar economy, the SER understands that Sint Maarten is particularly vulnerable to economic shocks. Therefore, the SER welcomes the initial introduction of measures that aim to provide funds to protect the residents of Sint Maarten from the potential negative effects of tourism caused by natural disasters or pandemics. However, to assess the overall effectiveness of the implementation of a visitor's tax, the SER finds that the introduction of a tax should align with general principles of taxation, ensuring that the proposed tax is fair, transparent, simple, efficient and effective²⁴. Thus, in the following elucidation, the SER will review to what extent the SER considers the introduction of a Visitor's tax to align with the aforementioned principles.

²³ Article 17, EU charter Fundamental Rights.

²⁴ OECD (2014), "Fundamental principles of taxation", in Addressing the Tax Challenges of the Digital Economy, OECD Publishing, Paris, <https://doi.org/10.1787/9789264218789-5-en>.

2.2. Fairness

To measure fairness within taxation, the SER has narrowed it down to two criteria. These being the “ability to pay” the proposed tax and “benefits received” by the taxpayer. The SER finds that the ability to pay is generally high amongst tourists, as one's spending capacity is usually higher when on vacation. In addition, the SER has found that the average daily spending budget of a tourist arriving by airport is approximately \$142.62²⁵ and \$170.40 for cruise passengers²⁶. As the spending budget of a tourist on Sint Maarten is nearly 3x the daily minimum wage, the SER finds that tourists have a rather high ability to pay the proposed visitor's tax upon arrival. However, the SER has found that there are limited direct benefits for tourists from the implementation of a visitor's tax. In assessing the draft laws, it was established that the grounds for executing measures with the generated funds with respect to tourism are vaguely defined and therefore, no direct benefits can be established. In any case, the SER finds that allocating such funds towards increasing the country's resiliency and preparedness against economic shocks caused by natural disasters or pandemics can allow for a quicker restoration of the country's economy. In the event of such economic shocks, the ability to reopen and welcome visitors indirectly benefits tourists. As a result, the SER considers the introduction of an indirect tax both reasonable and fair.

2.3. Transparency

A transparent tax system will grant taxpayers easy access to information on the newly imposed tax system, in this case, the visitor's tax. As such, the SER recommends preparing a platform upon which the process for payment is explained to visitors before arrival. The SER also recommends a widespread marketing campaign within the tourist sector informing them of the soon-to-be implemented taxation. Additionally, a transparent tax system shares information on how this revenue is being allocated, which in turn should increase the willingness and understanding amongst taxpayers to pay the visitor's tax. The SER notes that factors such as which projects and measures were funded through the introduction of a visitor's tax should be shared with the public and made easy to find. The SER therefore suggests sharing these yearly insights on a public website, such as the tourism bureau website, where initial information on the tax can be found. The aforementioned will allow for increased accessibility and thus, transparency. However, the SER understands that institutions such as the General Audit Chamber have been established to conduct independent reviews on tax revenues and the public expenditures.

2.4 Practicality

Due to the impasse between the employer organization and the former Minister of General Affairs, the issuance of the advice was delayed for a period of 16 months, from April 2023 to August 2024. Following the appointment of the Board by national decree in August 2024, the Board prioritized and voted on the sequence for handling all outstanding advice. It was determined that this particular advice will be addressed in the first quarter of 2025. It was determined that this particular advice will be addressed in

²⁵ Department of Statistics, Report: Stay-Over Tourism Report 2022, part 1: Stay-over visitors, paragraph 4: Expenditures, p.17.

²⁶ Department of Statistics, Report: Stay-Over Tourism Report 2022, part 2: Cruise visitors, paragraph 4: Expenditures, p.28.



the first quarter of 2025. The SER understands that the goal of the implementation of a Visitor's tax and Preparedness and Resilience ordinance is to generate funds to allocate towards the execution of measures that aim to strengthen the country's preparedness and resilience of the healthcare system and improve tourism potentially caused by a crisis such as a pandemic. Furthermore, the objective also includes generating funds to reduce the outstanding payment arrears to the (in Dutch: "Uitvoeringsorgaan Sociale Ziektekostenverzekering", hereafter: SZV) SZV.

To that end, the SER understands that an estimated XCG 16.2 million guilders, an increase of roughly 5% of the yearly tax revenue, can be generated. With a growing stream of visitors to the island, the SER expects the proposed legislation to allow for a consistent flow of visitor's tax revenue that can be allocated towards the objectives of the preparedness and resilience ordinance. However, in terms of the actual realization of the ordinance's objectives, the draft ordinance offers no quantification of any legal objectives of the proposed legislation to measure its success. Therefore, the SER is unable to determine to what extent the introduction of a visitor's tax will indeed strengthen the preparedness and resiliency of the country and thus its effectiveness. To aid in this process, the SER would recommend including a roadmap that will detail, on a yearly basis, how the government intends to work towards this goal and what tasks it's managed to achieve. The aforementioned recommendation should also improve the legislation's transparency and ultimately accountability. Finally, the SER considers the collection of visitor's tax upon entry the most efficient way to collect a visitor's tax with minimal interference of third parties. Other forms may include collection through travel agencies, flight operators or lodging platforms; however, the SER finds that the use of one concentrated collection point already tasked with similar tasks is considered the most efficient and cost-effective manner to implement said tax.

3. Material observations of proposed laws

3.1. Scope

The SER welcomes any measures that aim to improve the country's ability to withstand the effects of economic shocks, potentially caused by pandemics, natural disasters or other crises. However, in reviewing the proposed legislation, the SER has observed that a selection of the grounds for allocating funds to projects seems to focus on objectives that go beyond the strengthening of the preparedness and resiliency related to the effects of a potential crisis. Generally speaking, the draft ordinance Resilience and Resources focuses on improving both the healthcare system and tourism industry as a whole. The SER has taken note of article 2 of the draft ordinance Resilience Resources, which defines the legislation's objective: to finance the execution of preparedness and resiliency measures that strengthen the country's public health infrastructure and tourism product against economic shocks caused by natural disasters or pandemics/epidemics. Based on article 3, a measure must fall into one of the categories provided before it can be approved and executed in accordance with the proposed legislation.

In reviewing article 3, the SER has found that Paragraph 1 section h (in Dutch: "versterken van het toeristisch product") does not provide any additional weight to the purpose and scope formulated in article 2, paragraph 1 of the draft ordinance Resilience Resources. In addition, the SER is of the opinion that the scope of the measures that will be executed by the Ministry of TEATT are perceived as too vague and broad in comparison to the Ministry of VSA. In all other cases, the categories referred to in article 3 aim to provide substance and definition to the execution of article 2 paragraph 1. Furthermore, the SER finds that the use of vague criteria should be used with restraint, as the latter leaves room for the allocation of funds that do not serve the objective of the proposed legislation because, from a legal standpoint, nearly all projects will qualify under section h in its current wording. Therefore, the SER recommends further specifying section h by defining measures that aim to strengthen the tourist product in relation to the legal objective of the proposed Resilience Resources ordinance. To ensure the proposed legislation's (article 6) effectiveness and efficiency, the SER recommends to amend the draft national ordinance resilience and preparedness, article 3, to include a balanced and defined scope that aims to execute projects that solely align with the purpose of the proposed legislation: to increase the island's resilience and preparedness against economic shocks and natural disasters, as referred to in article 2 of the proposed legislation.

3.2 Referrals.

Furthermore, it has come to the SER's attention that the term "ED-kaart" in article 1 sub B draft ordinance Visitor's Tax, "ED-kaart" refers to article 3 of the (in Dutch: "Toelatingsbesluit")²⁷ Admission Decree. However, after reviewing article 3 of the Admission Decree the SER has found that the term (in Dutch: "ED-kaart") ED-Card also referred to as the Embarkation/Disembarkation Card is actually defined in article 15a of the Admission Decree. Therefore, the SER recommends reviewing the aforementioned

²⁷ Article 2, paragraph 1, Draft visitor's tax and Article 15a, AB 2013, GT no. 499, [Toelatingsbesluit](#).

article as the term Embarkation/Disembarkation Card is currently incorrectly referred to as being defined by article 3 of the “toelatingsbesluit” whereas this should be article 15a of the Admission Decree.

3.2. SZV contingency clause

The SER notes that the explanatory notes on the draft Resilience Resources ordinance state that the government intends to allocate a portion of the generated funds towards repayment of the outstanding payment arrears to the SZV through the implementation of a financial contingency clause (in Dutch: “*bestemmingsclausule*”), inclusion in the multi-year budget and, to conclude, an additional repayment agreement. The SER supports the efforts made to ensure repayment of the outstanding payment arrears and deficits to the SZV, as these amounts are currently approximately XCG 404 million²⁸²⁹. As such, the SER welcomes the introduction of measures that limit the discretionary authority of the government to deviate from the allocation of generated funds to the aforementioned obligation. As a result, the SER would recommend including the legal basis to amend the draft preparedness LV, article 3, to include the legal basis to allocate a portion of the tax revenue directly to the repayment of the payment arrears to the SZV. The SER furthermore recommends strengthening the expressed intentions by incorporating the obligation to conclude an additional repayment agreement into the proposed draft legislation. This further secures the intention to allocate funds towards the repayment of the payment arrears to the SZV upon immediate enactment of the new visitor’s tax.

3.3. Exclusions

In reviewing the proposed legislation, the SER has observed the exclusion of a number of groups that will not be subject to the new visitors’ tax. Among these groups are residents, travelers continuing their journey to the French side and cruise passengers. As the SER understands the exclusion of the aforementioned groups, the SER would like to advise expanding this group for a number of reasons. The SER finds that, from a social standpoint, certain vulnerable groups should not be subject to the proposed visitor’s tax due to their lower income status and or their strong affinity with the country Sint Maarten.

3.3.1. Students

Such persons can be considered students that are former registered residents on Sint Maarten. Specifically, students that have left the island to further their education abroad on a scholarship from the government of Sint Maarten. The SER would like to advise the government to consider exempting or reducing the visitors’ tax for these students who, in most cases, have limited financial capacity due to their hours spent on their education instead of working and/or their inability to work. In addition, a large number of students are also partially supported with taxpayer’s funds through their scholarships received from the government of Sint Maarten. Finally, as a majority of these students are former

²⁸ Approximately XCG 331 million in unfunded reserves and XCG 73 million in payment arrears by the Government of Sint Maarten. See table depicting the payment arrears by the Government of Sint Maarten to the SZV in 2022.

²⁹ 2022 Condensed Annual Report SZV Sint Maarten, Balance Sheet, p. 19.

residents with increased ties to the country, such taxation can be experienced as burdensome and unjust. In addition, the SER finds it noteworthy to mention that on Bonaire, a similar taxation has been implemented where, as of July 1st, 2024, Bonairean students studying abroad are exempt from the visitor's tax.³⁰ These students must apply for an exemption and, every year in September, based on the evidence provided, the student receives an exemption statement. A similar approach can be implemented on Sint Maarten. For example, a student's status can be determined by cross-referencing passports with registered scholarship recipients at the Division Study Financing within the Ministry of Education, Culture, Youth and/or the verification of valid student ID's.

Therefore, the SER would like to recommend expanding the excluded group to include students³¹ or subject the group to a lower fee structure such as XCG 18,-. Finally, the SER would like to stress the importance of consideration for vulnerable groups when increasing the visitor's tax fee.

3.3.2. Kingdom Partners.

The SER has come to understand that on January 26th, 2024, the admission regulation (*Toelatingsregeling*³²) was amended to allow Dutch residents from the sister islands (Curacao, Bonaire, Sint Maarten, Saba and St. Eustatius) to travel with the use of a valid Identity Card (*Sedula*) from the aforementioned islands. Therefore, a passport is no longer needed to travel to said islands. As such, the SER understands that there is an upwards trend of reducing limitations to travel amongst the Caribbean Kingdom Partners. Following the aforementioned upward trend, the SER would welcome the exemption or reduction of visitor's tax upon travelers from Curacao, Bonaire, Saba and St. Eustatius as, not too long ago, together, the islands formed the former Netherlands Antilles. Furthermore, the SER has established a similar trend in the application of the Bonaire visitor's tax, where residents from the other sister islands are taxed at a reduced rate of XCG 18,-³³. Finally, the SER would like to note that visitors from the Caribbean only account for approximately 3% of the total number of visitors. This figure includes visitors from all Caribbean visitors in 2022.³⁴ Therefore, the impact on the potential visitor's tax revenue derived from visitors visiting from our sister islands will be limited. As such, the SER suggests exempting or reducing the visitor's tax applicable to residents traveling from the aforementioned islands

³⁰ As of July 1st, 2024 Bonairean students living abroad are exempted from paying the tourist tax of \$75 when visiting [Bonaire](https://bonairegov.com/nieuwsoverzicht/artikel/per-1-juli-2024-wijzigingen-verordening-toeristenbelasting-bonaire-van-kracht). Link: <https://bonairegov.com/nieuwsoverzicht/artikel/per-1-juli-2024-wijzigingen-verordening-toeristenbelasting-bonaire-van-kracht>

³¹ Or students that have received a scholarship from the government of Sint Maarten. The conditions based upon which students can qualify for the exemption or reduction should be aligned with the definition of students that qualify for a scholarship in accordance with the National ordinance study allowance scheme (*Landsstudietoelagenregeling*), A.B. 2010, GT no. 1 and A.B. 2010, GT no. 30.

³² Admission Ministerial Regulation (*Toelatingsregeling*), AB 2024, no. 05.

³³ Article 5 of the National ordinance Bonaire tourist tax 2022, [A.B. 2022, no. 11](#).

³⁴ Department of Statistics, Report: Stay-Over Tourism Report 2022, p.9.

Conclusion:

The introduction or revision of a Visitor's Tax on St. Maarten represents an important fiscal and policy instrument aimed at strengthening public finances while ensuring that tourism our primary economic pillar contributes equitably to national development. While the measure offers clear revenue potential, its design and implementation must be carefully balanced to avoid adverse impacts on visitor demand and the island's competitiveness as a destination. Stakeholder engagement, transparency, and the equitable reinvestment of collected funds into tourism infrastructure and community well-being are essential for public trust and long-term success. Ultimately, the Visitor's Tax should not be viewed solely as a revenue-generating mechanism, but as a tool to enhance sustainable tourism and economic resilience for the benefit of all residents of St. Maarten.

Dissenting views of the Minority:

Members Paul Henriquez and Edna Evans, representing Employer Council Sint Maarten

The draft law on the Visitors tax lacks a clear model showing the effects of implementation of the tax. While Sint Maarten lacks good data, there is sufficient data to analyze the effects of the tax in 2023. The Passenger Arrival study commissioned by the government pointed out that the implementation of the tax can lead to a decrease of 5-10% in arrivals.

If the government wants to increase its income, it must be done through increased sustainable economic activity. There is substantial room for creating an environment that stimulates sustainable socio-economic growth through tax reform on various levels by updating antiquated laws. There are areas where Sint Maarten's tax system puts resident taxpayers at a disadvantage compared to non-residents, these are the areas where tax reform should focus on long term improvements. While a visitor tax may appear to tax nonresident visitors as opposed to residents. The predicted downturn in economic activity and subsequent downturn in resident income will far outweigh any perceived benefit to government income. A sustained increase in government income will require tax reform and an increase in economic activity, leading to a broadening of the tax base.

Effects of the tourist tax based on 2023 economic activity³⁵.

| | | | Less 5% visitors | Less 10% visitors | Difference 5% | Difference 10% |
|---|---------------------|------------|---------------------|-----------------------|------------------|-------------------|
| GDP Millions XCG | | 2778 | | | | |
| Total stayover visitors x 1000 | | 395 | 375 | 356 | -20 | -40 |
| Expenditure Millions XCG | | 1500 | 1425 | 1350 | -75 | -150 |
| Exports Millions XCG | | 2692 | 2617 | 2542 | -75 | -150 |
| Imports Millions XCG | | 2665 | 2591.5 | 2518 | -73.5 | -147 |
| Potential revenue from tourist tax | Millions XCG | 10.7 | 10.1 | 9.6 | -0.5 | -1.1 |
| 10% admin fees | Millions XCG | 1.1 | 1.0 | 1.0 | -0.1 | -0.1 |
| Net Government revenue | Millions XCG | 9.6 | 9.1 | 8.6 | -0.5 | -1.0 |
| Historical averages | | | Less 5% visitors | Less 10 % visitors | Difference 5% | Difference 10% |
| Imports % of exports | 98% | 2665 | 2591.5 | 2518 | -73.5 | -147 |
| GDP % of exports | 103% | 2773 | 2696 | 2618 | -77 | -155 |
| Final Household expenditure % exports | 65% | 1749.8 | 1701.05 | 1652.3 | -48.75 | -97.5 |
| Final Government expenditure % exports | 15% | 403.8 | 392.55 | 381.3 | -11.25 | -22.5 |
| Gross capital formation % exports | 20% | 538.4 | 523.4 | 508.4 | -15 | -30 |
| Results of implementing | | | | | Difference 5% | Difference 10% |
| Changes in household income | Millions XCG | | | | -48.75 | -97.5 |
| Changes in government income | Millions XCG | | | | -2.1 | -13.9 |
| Changes in investments | Millions XCG | | | | -15 | -30 |
| Combined negative impact | Millions XCG | | | | -66 | -141 |

³⁵ Data sourced from the Centrale Bank van Curacao and Sint Maarten (CBCS), International Monetary Fund (IMF), Department of Statistics (STAT).