

Meeting of the Parliament of St Maarten
Monday, June 06, 2011
Budget 2011

Questions posed by Members of Parliament (first round):

George Pantophlet:

1. Request to receive answers to questions that were posed in written format submitted in writing as indicated by law. **MINFIN**
Answers: to these questions with supporting attachments were submitted to parliament on May 16th, 2011 and another copy with the answers only was submitted during the meeting. Please find attached the final version with all answers included.
2. **Wage tax:** What is the reason for the deduction of about 9 million guilders in wage tax when making comparison in figures to the old and newly presented budget. Figures looking at old 2011 budget has under wage tax NAf. 124.500.000,-. **MINFIN**
Answer: The preliminary realized wage tax amount for 2010: NAf. 115.285 million. Initially the budgeted amount of NAf. 124.5 million was based on projections of the realized figures of Jan - Jun 2010, and a economic growth of 1.3%. From the onset of the budgeting process, CFT contested the income aspect of Budget 2011. Thus, as a compromise to achieving a balanced budget based on CFT's approval and stipulations, the Ministry of Finance decided to adjust its income to reflect the realized amounts of year 2010.
3. **Income tax:** The old budgets shows a 0 figure on income taxes while the new budget shows an amount minus NAf. 1.648.000,00. Provide clarity as to what is normally the amount generated on income tax by government, and where does it come from. **MINFIN**
Answer: As a compromise to achieving a balanced budget based on CFT's approval and stipulations, the Ministry of Finance decided to adjust its income to reflect the realized amount of year 2010. For the year 2010, the preliminary amount for income tax was negative NAf. 1.648 million, meaning we paid out more than we received.
4. **TOT:** Amount of NAf. 131.000.000 expected to be generated on the old budget, on the new budget this amount is reduced to NAf. 119.000.000,00, a difference of 12 million guilders, clarity as to why the deduction of 12 million while the TOT was increased and what is the reason for this deduction. **MINFIN**
Answer: The adjusted ToT figure was based on the realized figures 2010 taking into account an increase of 2% points starting in mid February. The original calculations were based on a higher projected realization in 2010 and an increase of 2 percentage points.

5. **Lottery ordinance:** Lottery ordinance is budgeted for NAf. 1.000.000,00 from account nr. 54007, is this a fixed fee; how long has the ordinance been in place? Suggest that Government should look into gaining more funds by changing the fee from lottery. **MINTEZVT**

Answer: This Ordinance is referred to as “de Landsverordening 1909 (PB 1965, 85)

Amended Landservordeningen:

1. 22 April 1965 (PB 1965, 85)
2. 19 January 1984 (PB 1984, 12)

Amended eilandsverordeningen

1. 24 December 1984 (Ab 1984, 17) went into effect as per January 8 1985
2. 21 December 1993 (Ab 1994,2) went into effect as per July 9 1994
3. 21 December 1999 (Ab 2000,2) went into effect as per January 6 2000

	Nafls.
lottery game	30,000.00
sweepstake	20,000.00
numbergame	12,500.00
scratch	Nafls.
game	12,500.00

6. **Casinos:** 6-7 years ago there was an issue as to funds generated by casino. To date no turnover tax is paid by casinos. How long is this ordinance being worked on and when will this ordinance come to the floor of Parliament? Suggests that an increase in casino fees be looked into so government can generate the necessary monies from the casinos. **MINTEZVT**

Answer: This Ordinance is referred to as “Landsverordening Hazardspelen 1948, no. 138”

Amended by:

- P.B. 1958, no. 45
 P.B. 1973, no. 56
 P.B. 1975, no. 162
 Ab 1986, no. 15
 Ab 1987, no. 6

Last two amendments made to the Landsverordening Speelvergunningrecht Hazardspelen 1957 (P.B. 1958 nr. 46) (Ordinance for fee structure)

were: in 1990 (Ab 1990, nr. 3) and 1992 (Ab 1992, nr. 3)

At this moment this ordinance is not being worked on.

In accordance with an Island Ordinance (AB 1998, NR. 33), lottery companies are assessed a monthly amount based on the following games the offer.

7. **Benzine accijns:** the old budget shows a budgeted figure of NAf. 10.600.000,00 while the new budget reflects a budgeted figure of New: NAf. 8.290.000,00; a difference of almost 2 million. If gasoline has been increased, then explain how we

would budget 2 million less in income than was formally proposed. **MINFIN + MINTEZVT**

As a compromise to achieving a balanced budget based on CFT's approval and stipulations, the Ministry of Finance decided to adjust its income to reflect the realized amount of year 2010.

8. **SXM debts to Netherlands:** The actual debt that St. Maarten owns the Netherlands and the borrowing in bonds are allowed up to 27 million in bonds; explain what is the actual debt that St. Maarten has with the Netherlands, what is interest rate and how much have we started paying back. **MINFIN**

Answer: Holland took over all debts of the NA and that part that was left over after debt relief that was allocated to St. Maarten was calculated at net present value and financed with bonds St. Maarten. The calculations were made by SOAB and Holland. Please see the attached spreadsheet outlining the amounts, terms and interest rates of the bonds. Interest on the bonds are due semi-annually(first payment was April 2011) and the first principal payment is due in October 2020..

9. Provide clarity as to whether NAf.183.000.000,00 is loan or a grant. CFT mentioned it is a grant. What is this money all about, is it still there or have it (the 78 million) been re-deposited to the Dutch Government. **MINFIN**

Answer: The NAf. 183 million relates to debt relief creditors and it was a grant. We received NAf. 65 million out of that for APNA and submitted NAf. 40 million in claims. The NAf. 78 million was not received so could not be resubmitted to the Dutch Government.

Lloyd Richardson:

1. **Min. Donner:** Min Donner mentioned that the budget should be balanced and the impact dealt with when occurs. He is not sure if this was a duty. What is the obligation of government towards 3rd parties as subsidies are reduced that can create malfunctioning of these parties. Operating on a past budget with certain obligations and then with a reduction by the Cft, what is then government's responsibility to these parties? **MINFIN**

Answer: During Minister Donner's visit he advised that emphasis must be put on a balanced budget and other technical matters/discrepancies with the CFT, which impacts the budget, should be dealt with in budget amendments. These technical adjustments in no way would hamper 3rd party contractual obligations as Government has a responsibility to adhere to these contracts for their agreed upon terms.

Patrick Illidge:

1. **Broadening the tax payers' basis:** Is there a plan of approach, have it started, when and how will it be executed. **MINFIN**

Answer: In theory it is the aim of any taxing authority whatsoever to have all citizens and businesses liable to tax within its database of taxpayers. The reality however is more contumacious. The tax system of Sint Maarten is like many others in democratic societies based on a voluntary compliance principle, i.e a system of compliance that relies on individual citizens and companies to report their income freely and voluntarily and file a tax return on time according to the tax legislation.

Voluntary does not mean that the tax law does not apply to any random person whatsoever.

Voluntary means that a taxpayer can minimize his taxes by taking advantage of various deductions and tax credits.

Voluntary also means that the citizen or a company, liable to tax must inform the tax authorities what their tax liabilities are, and the only way to do that is to file a tax return.

It is clear that the only way tax can be levied in a democratic society is with the cooperation of the citizens and companies.

Further it should also be mentioned that liability to tax of persons in the tax system of Sint Maarten is based on the principle of residency.

For this reason the database of both Census as of the Chamber of Commerce are of extreme importance for the functioning of the Tax Department and for the taxpayer's registration (Registration based on the residency of natural persons and the residency of companies)

The exchange of information from those organizations with the Tax Administration however still is not what it should be. Generally speaking the exchange of information between other government's departments is still not the way it should be. The exchange of data and data comparison of the databases of other government organizations with the data base of the tax administration is one of the instruments which the government itself has and in particular the tax administration to prevent abuse and fraud on the field of taxation and also to help identify possible free riders. It is not for nothing that article 48, paragraph 1 of the General National Ordinance on the application of national tax ordinances reads as follows:

“ Institutions and agencies of the Central Government or any Island Territory are obliged, if required in writing, to provide the data and information that the Inspector considers necessary for the implementation of the Tax Ordinance, free of charge”. However it must also be said that the necessary steps are being taken to improve the existing situation.

Precisely because of this existing, but undesirable situation within the government recently a Project funded by Usona was launched under the name “Project Improvement Data Management by Government Institutions” (“Project Verbetering Gegevensbeheer Overheid”).

It is expected that in September 2011 a so-called Integrated Coupling System between the files of different government departments (including the Tax Administration) will be fully developed, with a unique identifier so that data from different files could be linked together. This development will also improve the identification of potential free riders.

Another development directed at the compliance with the tax laws and also possible identifying of free riders is the institution within short of a so-called tax compliance team.

This team will make partial tax investigations on the field by known taxpayers in order to check if those taxpayers comply with the tax obligations but also through spot checks where potential free riders could be active (construction sites, hotels, restaurants and bars/pubs) amongst others.

Also the Tax Administration as a whole is being strengthened.

Investment in the knowledge of tax and audit staff takes a reasonable time effort and also the recruitment of specialized staff as tax inspectors and tax auditors, being both kind of professionals considered as very scarce on the labor market.

2. **New tax structure:** How far is it, when will it start? **MINFIN**

Answer:

New tax system for the country St. Maarten

With the acquisition of the new Country status and the associated autonomous legislative and executive authority in the field of taxation, the Minister of Finance established a Working Group New Tax System Country St. Maarten at the beginning of this year 2011.

The Working Group New Tax System Country St. Maarten (hereinafter Working Group) set up, will conduct a study into a possible to be modernized tax system more in line with the economy of the Country St. Maarten.

This study will look at:

The simplicity and efficiency of the tax system.

How can tax revenues be maximized at lower implementation costs and administrative burdens? Is the tax system sufficiently clear and known to taxpayers? How can compliance be increased and the tax morale be improved?

The fairness of the system.

Is there a fair distribution of the tax burden among the population? Are the right people, households and firms being charged? Is income from business, property and labor and consumption being taxed on a balanced way ?

The economic efficiency of the system.

Is the tax system (international) competitive within the Kingdom of the Netherlands and in the region? Is the choice of the tax mix so that the economic development, investment climate, employment, purchasing power and tourism of the country St. Maarten is being promoted ?

Does the tax system contribute to a clean and sustainable economy?.

The stability of tax revenues.

Are the sources of taxation sufficiently stable for both the short and long term generation of sufficient revenues to finance government spending without tax increases ?

The political and social feasibility of tax measures.

Are the tax measures to be taken widely accepted by politics?

Within the framework of these objectives an analysis will be made of the possibility of including a shift from direct to indirect taxes, broadening the tax base, lowering tax rates on income from business and labor, introducing a flat-tax, a change of taxing worldwide income to a territorial tax system(source state taxation) and an

introduction of a land tax and import duties on cars. It seeks to promote a balanced mix of direct and indirect taxes which contributes to a healthy economy for the Country St. Maarten.

It is expected, that the work of the Working Group will be finalized at the end of the year 2012

Be advised however that no wonders should be expected of a new tax system in the sense that just the introduction of a new tax system will have solved income generating problems of the Country. Besides a hopefully more simple and efficient tax system attention should also be paid to a flexible and effective functioning tax administration and as already has been said, cost saving measures.

3. Are there monies included for upgrading the service from the various Ministries to the community? Is there anything budgeted per ministry towards that? Please convey the plans per ministry to parliament. **ALL MINISTERS**

Answer: There is NAf. 700,000 in the 2011 budget for training courses and education. Moreover, there are currently intensive recruitment drives in each ministry, which were budgeted for in 2011. With more staff training and persons in place, service will be upgraded to the public.

Furthermore, in the plans of actions (“plannen van aanpak”) funds have been budgeted for the execution of the plans, which include the setting up of the operations such as the Police, Prison, Immigration and Naturalization Services and National Detectives, and therefore the service to the public. Funds are also allocated to such services as Parole Board and Court of Guardianship.

4. **Increasing governments' income:** is there any other increase that Government has planned and what does this entail. **ALL MINISTERS**

Answer: Extra revenue will be generated under existing legislation by the new tax work group during their initiative and by the tax audit and control department. No new legislation to increase governments revenue has been approved by the Council of Ministers.

Frans Richardson:

1. **UTS:** As a shareholder of UTS, will we be collecting dividend? Where does this reflect in the budget? **MINFIN**

Answer: For the book year 2011, no dividend was expected to be paid by UTS. However, discussions to look into the matter have started as total profits in 2010 was approximately 15 million.

2. **Gasoline deduction:** There was once a 1 cent that was given to the wholesalers of gasoline owners / concessions in the past; have the people of St. Maarten received the deduction of this 1 cent as well, where does this 1 cent go and have it been taken off from the people of St. Maarten as a burden? Does this government knows about the 1 cent deduction and is it being worked on? **MINTEZVT**

Answer: November 18, 2010 the Minister of TEZVT approved a new price build-up model for gasoline that omitted the 1 cent. This change was reflected in the price change of 20 November 2010.

3. There has been a drop in sales in gasoline on this island between 7 and 10 %, especially on the aviation side due to the high cost of fuel. How does this impact this budget? **MINTEZVT**

Answer: Due to the high fuel prices there has been a decrease in volumes. However the excise on petroleum products is only limited to ULG and not aviation fuel.

4. ***Renovation of Point Blanche prison:*** mention have been made of renovations of the Point Blanche Prison, where will these funds come from; from the SEI funds or from the Ministers budget? How and when will this project start? **MINJUS**

Answer: The former Antillean minister of Justice reserved ANG 2.517.401, 91 for the prison repairs and upgrading, under the “Master plan detention system” from USONA funding. The Minister of Justice has allocated from USONA funds another ANG 4.143.778, -- for said repairs and upgrading. Total funds reserved from USONA funding ANG 6.661.179, 91. However, estimated cost of repairs and upgrading is ANG 8 million. We intend to use the mentioned reserved funds to carry out as much repairs and upgrading possible. Estimated time of repairs is 18 months. We shall in the mean time seek to acquire the remaining funds to complete the repairs and upgrading.

5. ***Sports:*** nothing is budgeted where sports are concerned. What will be done to upgrade the existing facilities and bring them up to par? **MINOCJS**

Answer: Due to financial constraints it was necessary to remove the amount, initially budgeted for sports, from the budget. However, all efforts are being made to seek funding through other sources to renovate and upgrade existing facilities and bring them up to the required international standards in time for the Kingdom Games in 2013 which St. Martin is bidding to host

Roy Marlin:

1. ***GEBE invoices:*** ‘zegelbelasting’ of 25 cents is charged per consumer: does this come in to Government covers? **MINFIN**

Answer: Since 10/10/10 no payment for Stamp tax has been received from N.V. GEBE. We have been in communication with GEBE since February and we are expecting a payment in June 2011 retroactive to 10/10/10..

2. ***Introduction on new electricity tariffs:*** the price of fuel is increasing and causing hardship on citizens; in this regard the Minister of VROMI is requested to provide an overview on what is happening to the 40% produce in electricity and water to the consumers, what is happening within the company on this issue? How is Government working along with management of GEBE to get these matters resolve? **MINVROMI**

Answer:

Management answer:
We do understand the World market fuel prices are burdening the consumers on our island and we are looking for ways to give some relief. On May 6, 2011 we send a proposed fuel clause relief to our Supervisory Board for their approval and this was not approved as yet. As this is an issue that needs prior approval by our Supervisory Board we have to follow the due process before implementing such a relief.

As for the information you received on the light fuel consumption this is inaccurate, we are consuming 30% light fuel and not 40%. Furthermore the Fuel Clause

calculation is based on Heavy Fuel Oil which means that if GEBE consumes more electricity on the Light Fuel Oil then GEBE would be incurring the losses and this is not passed on to the consumers.

As for the water losses a team of specialist will be on island next week to do some leak detections test over our water distribution grid and as the leaks are detected they will be repaired. With this exercise we expect to reduce the losses from 30% to about 25% or less by the end of this year. Please be advised that this water distribution grid was inherited in 2007 with all of the deficiencies and as the years go by these deficiencies kept increasing because of the material chosen in the past for the grid. We will do all in our power to reduce these losses in a short, sustainable, cost effective and timely manner.

Hoping that this answers your question and if you require any other information please don't hesitate to contact us.

Kind regards,

Ir. William Brooks
President Managing Director
NV GEBE

Board answer:

Dear Sir,

Please, receive hereby attached the report “Financial Performance GEBE”, which was prepared in March by the Supervisory Board of GEBE. This report gives a detailed answer to your questions regarding the performance of GEBE, particularly in the following areas:

1. Fuel efficiency of the power plant operation (HFO/LFO fuel consumption of 67%/33%).
2. The unaccounted for water losses (34.4%).
3. The unaccounted for electricity losses (9.1%).

Furthermore the report gives an overview of the financial consequences of what these three areas of operation has caused GEBE in 2010. The Supervisory Board has engaged Management and requested Management to come up with a Plan of Action to address this drain on the financial resources of the company. These financial losses are all being passed on to the consumer in the fuel clause, as GEBE has agreed with our major Lender to comply with a yearly financial performance, measured by a debt service coverage ratio of no less than 1.5 each year.

Management has promised that that the overall plan is being prepared and other actions such as leak detection programs, verification of electricity meters for “theft”, etc are being executed to reduce these losses.

Regards,

Julius Lambert

Chairman Supervisory Board of GEBE

3. Is any effort being made to convince Minister. Donner to get the relief funds? **MINFIN**

Answer: Minister Donner has been approached on numerous occasions in order to come into consideration for the funds that were meant as debt relief for St. Maarten. This was done in person by the Council of Ministers when Minister Donner was here in January 8th 2011. Later he was again approached in writing with a letter dated February 9th with the request to use these funds in order to cover additional expenses.

4. What percentage of budget is for personnel cost, what percentage goes toward this specific post and what does the percentage looks like in the future. Will the Minister continue to maintain this percentage along the line? **MINFIN + MINAZ**

Ministry	Percentage
AZ	30.72
FIN	27.38
JUS	33.08
OCJS	23.57
VSOA	27.86
TEZVT	26.64
VROMI	28.18

Answer: The table shows the personnel costs as a percentage of the total costs. Differences can be explained by the task differences of the distinct ministries. OCJS budget for example contains the subsidies for the schools and therefore has a relatively low fraction of cost of personnel.

Ruth Douglas:

1. **National Health Insurance:** How realistic is it that the National Health Insurance will be implemented on the projected date? How ready will it be at that time? **MINVSA**

Answer: The greatest challenge in achieving this date is the finalization of the legislative trajectory.

Taking the shortage of human resources within the department of legal affairs into consideration, the department of Public Health has contracted a draftsman (wetgevingsjurist) to guide and facilitate the legal trajectory. In accordance to the procedures described in “procedureregels voor de totstandkoming van wettelijke regelingen” this process should take approximately 40 weeks.

Progress thus far:

1. Contracting a consultant (draftsman)
2. comparative study has been conducted with already existing legislation (e.g.AZV of Aruba) along with progress made

3. initiatives have been taken in defining the critical aspects of the draft legislation. This will result in draft regulations regarding package, tariffs, premiums and collection .

Based on this progress it is expected that the indicated 40 weeks will be shortened with approximately 14 weeks. If legislation trajectory is lengthy, a possible three months delay is currently reviewed and planned for.

In general, the transition process of NHI is in progress as scheduled. The key components (sub projects) of the NHI are the tariff study, the development of a Health Information system (HIS) and the legislative trajectory. All these sub projects are on target. In addition a communication plan has been adjusted and is expected to be executed by the beginning of July. The aim of this communication plan is to inform the population of St. Maarten as well as the various stakeholders (e.g. Unions, Chamber of Commerce, SHTA, Insurance Companies, Healthcare providers) as to what the transition to the NHI will entail for everyone.

2. What is the status of the transition process of National Health Insurance and what still needs to be done to complete this process? **MINVSA**

Answer: Since April 2010 the rules and regulations pertaining to social security were transferred to Sint Maarten and imbedded within the Ministry of Public Health, Social Development and Labor. As of October 2010 Sint Maarten by law installed the Executing Body of Social and Health Insurance. This Body (SZV) executes all social and health insurances of the former Curacao SVB and BZV. Till 10-10-2011 by Kingdom Agreement the SVB Netherlands Antilles (NA) has time to finalize the overall financial settlement to the former NA countries. Since October 2010 major strides have been made to transfer all Curacao SVB and BZV tasks to SZV Sint Maarten. As of January 1, 2011 all decision making is done by SZV. SZV invested in the SZV organization as a whole for example the infrastructure, ICT, better service to its clients and started with procedures to employ and train staff to execute all tasks. Final tasks that SZV prepares to take over is the execution of the AOV (General old age Benefits). Meanwhile all assets and rights of the beneficiaries of the citizens of Sint Maarten are safeguarded through Kingdom Agreements and negotiations.

3. If everyone will be insured as the case in the BES. How this system will be adequately financed if there is an enormous problem to collect the outstanding taxes and the tax department lacks the expertise to execute audits. **MINVSA**

Answer: The premiums for the NHI will be income based. We are receiving through structural meetings with stakeholders (e.g. tax department, Receiver's Office) valuable information regarding steps that should be taken into account when dealing with certain difficult groups in our society where contribution is concerned. The aim is to get as many premium paying persons in our NHI system. As the NHI evolves adequate measures will be taken to ensure participation of the difficult groups (e.g. non tax payers).

4. There is a tendency that healthcare costs only goes up because of our lifestyle. We also expect an increase of population size and aging for the coming years. Are there any concrete plans as to how the Ministry will contain these expenses? Is there a study or will a study be conducted that will give more insight in the mortality and morbidity rate on the island? **MINVSA**

Answer: A variety of plans are developed and introduced such as:

A scenario model has been developed by an Actuary together in collaboration with Ministry of VSA that projects demographics, economic growth (e.g. inflation, income distribution, medical costs) for the coming twenty years. This scenario model is based on information provided by the island registry, STAT, Census, Tax Office, Economic Affairs and SZV. With the scenario model the demographic and or other changes can be adjusted accordingly to ensure the sustainability of the health insurance and financing system during and after introduction of the NHI B. In addition, the new tariff structure is focused on containing health care costs. Similarly, the health care system will be organized in such a way that more emphasis will be placed on preventive care which is also a cost containment measure. Furthermore: an updated health care study (2012) and new Health information System (2012) will continue and intensify the monitoring of health care patterns such as mortality and morbidity rate.

Jules James:

1. **Comment on CFT:** Supports the statement that CFT should review budget when adjustments should be made upon request of Parliament.
2. **Free riders:** Is there a timeline to have this completed and will there be training for tax auditors? **MINFIN**

Answer: Concerning the worldwide known problem of free riders, under which term is understood citizens and companies taking advantage of government services and facilities, but not paying their fair share of taxes it can be said that no timeline can be set.

Tackling the free rider problem means ongoing investigation of the tax authorities concerning persons and/or businesses who don't meet their tax obligations in the course of times and for that reason no timeline can be set.

The tax compliance team which will be set up within short will consist of professional auditors of the Auditing and Criminal Tax Investigation Department of the Tax Administration and services acquired by the Tax Audit Foundation of Country Curacao.

3. **MinJus budgeted income:** The budgeted income for the Justice Ministry is too low, based on the handing out of proces-verbalen, shouldn't this be higher? **MINJUS**
Answer: As part of the ongoing recruitment of personnel for the Ministry of Justice, we are seeking to appoint officers, who shall be appointed as bailiffs to handle the collection of fines, processes-verbal etc. We are also in the process of proposing amendments to legislations to allow for the so-called "administrative fines" by authorized functionaries, which will allow for collectability of the fines etc., without prior court intervention. Also, the Traffic Department will be expanded to allow for more traffic regulation, controls and resulting fines.

Wiliam Marlin:

1. **Governing program:** it is difficult to be having a sensible debate on the outline of the budget 8 months into the new status, with no governing program / accord is in place to be guided by. **MINISTERS / MINPRES**

Answer: The governing program is currently in draft and is actively being updated per Minister. As soon as it is finalized, it will be forwarded to Parliament for review. The 2011 budget was drafted with previous policies and hardly any new policies to balance the budget, which was also urged by the CFT.

2. There seems to be an inconsistency in regards to the reason why the Governor did not sign off on the first budget. The first reason mentioned was because the Governor was awaiting an advice from the Cft, and what MinFin said today coincides with what was given, which is actually that the Governor had issues with some figures in the budget. Clarification is requested on what the actual reason was why the first budget was not signed by the Governor, as we are speaking about the Government office and have 2 different fundamentals on paper. **MINFIN**

Answer: The question as to why the Governor did not sign off on the budget should've been initially posed to the Governor. However, the decision of the Governor not to sign the ordinance regarding the budget 2011 was within his rights and is not anchored within the existing legislation. The Minister of Finance has no authority over the Governor and as such cannot obligate the Governor to sign any document. In December 2010, the Governor anticipated a problem with the income as it pertains to the increase in Turnover Tax and he explained that seeing the difference in income that existed, had he signed the ordinance knowing that there was a difference he would have had to immediately send it up for annulment. Thereafter in January 2011, the negative advice from the CFT came in and it also contained concerns regarding the income level as it pertains to the later introduction of the Turnover Tax.

3. Request MinFIN to be clearer as the impression is given that proper procedures were not followed; while Parliament established a budget that was then rejected by Cft. Based on the agreement between St. Maarten and the Dutch Government regarding Cft, were proper procedures followed in establishing the budget? Explain the agreement that exist between the Consensus government and Cft. As it seems that Cft is being blamed of overstepping their boundaries. If the suggesting is that the agreement in the consensus governing law needs to be revisited then this needs to be renegotiated between all governments/ parties. **MINFIN**

Answer: Proper procedures were followed and in line with the agreement between the Government and the CFT. I pointed out that due to the process and the order of the process a situation has occurred where it seems that CFT as an advisory body has the last "say" where as one would expect that Parliament, the Highest body in St. Maarten, would be the last to make a decision after all advices are given. This is not the case now and since the first presented Budget for 2011 was not signed into law by the Governor, it was possible for Government to bring forth a second draft Budget 2011 which has CFT's approval and is now being presented to Parliament for its approval. The correct legal procedures were followed concerning drafting and

presenting the 2011 Budget. Hence, CFT was not allowed to overstep their boundaries. However, the point is that this budget once approved by Parliament (and let's say for argument sake is approved exactly as presented) according to the Kingdom Law on Financial Supervision for Curacao and Sint Maarten would again have to go to the CFT for advice. Now here again the CFT has the opportunity to give a negative advice and thereby stall the process once more. They could say for example the economy looks sluggish so may be the income is not correct. This is my point exactly. Once Parliament approves a budget and if it is the exact same budget that the CFT advised positively on previously then there should be no need for the CFT to give an advice again after Parliament has approved it. And this could go on and on well into the year. If the budget was amended during the Parliament handling then only the changes should be sent to see if these concur with the norms as established in the Kingdom Law on Financial Supervision.

4. **Tax office ref. income tax return form:** Apparently a questionnaire is included in wage tax forms asking persons if they paid rent during that year, the amount of the rent and to whom the rent was paid. This is new and requires explanation. Is this a new policy now introduced by this Government, if not, why is this information being requested. To single out one group of citizens and not going after the others is not appropriate. If this is a new policy clarity is needed on the reason behind it and where it has been originated. **MINFIN**

Answer: In the first place it should be noted that the Inspector of taxes has an autonomous authority to enforce the tax law according to his own views, an authority based on the law itself and not prescribed by Government.

The Inspector of taxes is authorized to investigate any item of taxable income, irrespective of the fact whether it concerns one or the other group of taxpayers or not. This range is within the discretion of the Inspector of taxes.

The letter requesting a taxpayer -natural person not being an entrepreneur /tenant of an apartment or of any other immovable property to submit information concerning the landlord to the tax authorities is not based on a legally binding stipulation of the tax code, but is based on voluntary cooperation of the taxpayer to provide the information concerned.

On the other hand the tax provisions in the tax code relating to entrepreneurship as such allow the tax authorities to request for so-called third parties information, i.e information regarding others than the entrepreneur/taxpayer himself.

The relevant provision (article45, paragraph 1 of the General National Ordinance on the application of national tax ordinances, P.B 2001/nr. 89) reads as follows:

"In connection with the persons required to maintain an administration, as referred to in article 43, first paragraph), the obligations described in articles 40, 41, 42 and 43 shall be applicable by analogy for the taxation of third parties.

Persons required to maintain an administration are:

1. natural persons operating a company or exercising a profession;
2. natural persons who are responsible for withholdings at source;
3. corporations.

5. **TOT:** The wrongfully listing of Turn over Tax separately from the original price of items was an issue discussed in the past, as the law states that TOT should be included in the price and not at the end of the sales. What did the Ministry do about this? Does the Minister have an idea of the amount of business that are guilty of this practice, within what timeframe was this done and what was done to reverse the wrong that was done to consumers? Are there any directives in place where, if persons show up with receipt indicating TOT charges after, they will be reimbursed? Persons are complaining that our own phonecompany is listing TOT separate on their billing, is this so or not, if so, what will be done where this is concern. **MINFIN + MINTEZVT**

Answer: In the first place it should be necessary to clarify that it is the entrepreneur who in conformity with the legislation concerning the turn over tax is liable for the tax and not the consumer.

The correct levying of turn over tax is a question regarding the tax authorities and said entrepreneur.

Further based on the question of the Member of Parliament it is not clear for the Minister what should be understood under “the wrong that was done to the consumer”

Indeed from the practice questions are raised whether entrepreneurs should mention turn over tax on a bill, invoice receipt or other proof of payment in respect of the delivering of goods and the providing of services.

It is undisputed, that the turn over tax is an indirect tax as described in the Explanatory Memorandum of the Ordinance on the Turn over Tax as follows: “a sales tax in the nature of a consumption tax, which taxes the propulsion of goods and services on their way from producer to consumer and aims to include the consumption of goods and services in the taxable base”.

The turn over tax is therefore increasing the cost burden, which is passed to the consumer and is collected and transferred to the taxing authorities by the entrepreneur.

The chargeability of the turn over tax is based on the so-called cash-based system. The levy on the supply of goods and services does not have any invoicing obligation, therefore an indication of the tax on the bill, invoice , receipt or otherwise is not in its place.

The turn over tax is supposed to be incorporated in the prices.

Nevertheless several cases were identified, where entrepreneurs contrary to the purpose and intent of the legislation concerning the turn over tax mention the turn over tax due separately on the invoice.

Since no sanction in cases of non-compliance can be introduced through a circular, but only by means of a modification of an ordinance such sanction however will be introduced within a later timeframe due to the fact that modification of an ordinance takes considerably more time with respect to the legislative procedures to be followed.

The circular will be published in the coming days.

To remove ambiguities and to achieve uniformity in the administrative tasks to be carried out, I decided to emit an explanatory circular, which will be published within short, prescribing the following:

Under the term “total compensation received” as referred to in article 1, first paragraph, under g of the turn over tax ordinance, shall be understood, all compensation received concerning the delivering of a good or provision of a service, including the turn over tax to be passed on to the consumer.

This expresses that the turn over tax is supposed to be discounted in the total price and therefore should not be indicated separately on the bill, invoice, receipt or other proof of payment.

As seen in the attachment, Telem has notified all customers that they discontinued listing TOT on their bills.

6. **Broadening Tax Base:** Provide insight into what the plans of Government are in regards to broadening of the tax base; the same is requested for statement of simplifying the tax system and to eliminate the free riders, what is being done? Explain what exactly government take is on the free riders issues, how many free riders are referred to? What percentage of the tax population is considered free riders?
MINFIN

Answer: It should be mentioned on the forehand that the Government has no pretension to eliminate the worldwide known problem of free riders completely. Tackling the free rider problem means a continuous effort of investigation by the tax authorities in the course of times concerning persons who don't meet their tax obligations and on the other hand are taking advantage of the government facilities. It is known that the tax morale and compliance on Sint Maarten can and will be improved.

The degree of non-compliance and in relation therewith are based on estimations. However also the filing behavior of known tax payers at the Tax Department is also an indication of the degree of compliance.

Concerning broadening the tax base the following can be highlighted:

In theory it is the aim of any taxing authority whatsoever to have all citizens and businesses liable to tax within its database of taxpayers. The reality however is more contumacious.

The tax system of Sint Maarten is like many others in democratic societies based on a voluntary compliance principle, i.e a system of compliance that relies on individual citizens and companies to report their income freely and voluntarily and file a tax return on time according to the tax legislation. Voluntary does not mean that the tax law does not apply to any random person whatsoever. Voluntary means that a taxpayer can minimize his taxes by taking advantage of various deductions and tax credits. Voluntary also means that the citizen or a company, liable to tax must inform the tax authorities what their tax liabilities are, and the only way to do that is to file a tax return.

It is clear that the only way tax can be levied in a democratic society is with the cooperation of the citizens and companies. Further it should also be mentioned that liability to tax of persons in the tax system of Sint Maarten is based on the principle of residency. For this reason the database of both the Census Office as well as of the Chamber of Commerce are of extreme importance for the functioning of the Tax Department and for the taxpayer's registration (Registration based on the residency of natural persons and registration based on the residency of companies)

The exchange of information from those organizations with the Tax Administration, however, still is not what it should be. Generally speaking the exchange of information between government's departments is still not the way it should be. The exchange of data and data comparison of the databases of other government organizations with the data base of the tax administration is one of the instruments which the government itself has and in particular the tax administration to prevent abuse and fraud on the field of taxation and also to help identify possible free riders.

It is not for nothing that article 48, paragraph 1 of the General National Ordinance on the application of national tax ordinances reads as follows:

" Institutions and agencies of the Central Government or any Island Territory are obliged, if required in writing, to provide the data and information that the Inspector considers necessary for the implementation of the Tax Ordinance free of charge".

However the necessary steps are being taken to improve the existing situation.

Precisely because of this existing, but undesirable situation within the government recently a Project funded by Usona was launched under the name "Project Improvement Data management by Government Institutions" (Project Verbetering Gegevensbeheer Overheid)

It is expected that in September 2011 a so-called Integrated Coupling System between the files of different government departments (including the Tax Administration) will be fully developed, with a unique identifier so that data from different files could be linked together. This development will also improve the identification of potential free riders, but liable to tax.

Another development directed at the compliance with the tax laws and also possible identifying of free riders is the institution within short of a so-called tax compliance team. This team will make partial tax investigations in the field of (known) taxpayers in order to check if those taxpayers comply with the tax obligations but also through spot checks where potential free riders could be active (construction sites, hotels, restaurants and pubs)amongst others.

Also the Tax Organization as a whole is being strengthened.

Investment in the knowledge of tax and audit staff requires a reasonable time effort and also the recruitment of specialized staff like tax inspectors and tax auditors, both being the kind of professionals, considered as very scarce on the labor market. There are also plans to start an education programme for the Tax Office to upgrade the personnel.

Concerning **simplification** of the tax system the following can be remarked:

With the acquisition of the new Country status and the associated autonomous legislative and executive authority in the field of taxation, the Minister of Finance established a Working Group New Tax System Country St. Maarten at the beginning of this year 2011.

The Working Group New Tax System Country St. Maarten (hereinafter Working Group) set up, will conduct a study into a possible to be modernized tax system more in line with the economy of the Country St. Maarten.

This study will look at:

The simplicity and efficiency of the tax system.

How can tax revenues be maximized at lower implementation costs and administrative burdens? Is the tax system sufficiently clear and known to taxpayers? How can compliance be increased and the tax morale be improved?

The fairness of the system.

Is there a fair distribution of the tax burden among the population? Are the right people, households and firms being charged? Is income from business, property and labor and consumption being taxed on a balanced way ?

The economic efficiency of the system.

Is the tax system (international) competitive within the Kingdom of the Netherlands and in the region? Is the choice of the tax mix so that the economic development, investment climate, employment, purchasing power and tourism of the country St. Maarten is being promoted ?

Does the tax system contribute to a clean and sustainable economy?.

The stability of tax revenues.

Are the sources of taxation sufficiently stable for both the short and long term generation of sufficient revenues to finance government spending without tax increases ?

The political and social feasibility of tax measures.

Are the tax measures to be taken widely accepted by politics?

Within the framework of these objectives an analysis will be made of the possibility of including a shift from direct to indirect taxes, broadening the tax base, lowering tax rates on income from business and labor, introducing a flat-tax, a change of taxing worldwide income to a territorial tax system(source state taxation) and an introduction of a land tax and import duties on cars. It seeks to promote a balanced mix of direct and indirect taxes which contributes to a healthy economy for the Country St. Maarten.

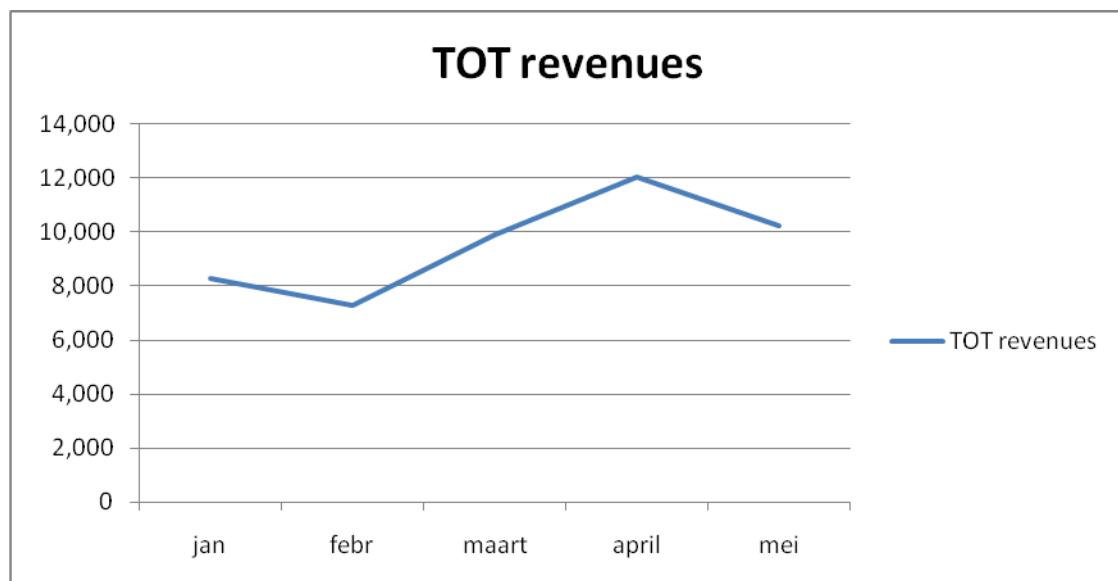
It is expected that the Working Group will finalize its work at the end of the year 2012.

7. ***Issue of appointment of St. Maarten representative on Cft.***: Mentioning was made that Cft is not in approval of the person appointed. Provide clarity on this on this matter. Why would the Dutch Government hold out on appointing the representatives from St. Maarten? Explain this entire issue. **MINFIN**

Answer: The appointment of St. Maarten's member to the CFT board has to be done through the Minister of Interior Affairs and Kingdom Relations who needs to put the appointment on the agenda for the Kingdom council of Ministers. Minister Donner has been approached with the issue of appointment of St. Maarten's candidate where after was indicated that the CFT has its objections. In a letter sent to CFT requesting clarification, the CFT replied that they had no authority in the process towards appointment of a member in the CFT and that this would be need to be addressed to the cabinet of Minister Donner.

A follow-up correspondence will be sent to Minister Donner on the status of St. Maarten's candidate and requesting a response by July 1, 2011. Imperative of course is that St. Maarten gets a member who will aggressively pursue the interests of St. Maarten on the board of the CFT.

8. ***Increased TOT***: TOT has been increased to better balance the budget; based on the increase there must have been a projection made by Government as to the generated amount. Can government provide a monthly overview of the TOT since it has been increased to 5% and are they in keeping with the projections made so far? **MINFIN**



Answer: The estimated amount of TOT revenues in the budget is 120 million. This needs an average revenue of 12 million each month. Implementation of the new tariffs as of February, 15 show the first increase in March followed by an "on the dot" realization of 12 million in April. May seems to fall back a little but we know that at this moment not all bank statements have been booked. We have to be attentive to the developments and act accordingly.

De Weever:

1. ***Airport concession fee***: Make known which instance from the airport this concession fee will be coming from. **MINVROMI**

Answer: PJIAE, the operating company.

2. How will this affect the operations from the instance that it will be coming from?
MINVROMI

Answer: The preliminary results from the airport is that the introduction of the concession fee will affect the profitability of the airport but they will continue to look into how to achieve this request of government.

3. Cft had request insight in the annual budget coming from these companies, harbor concession fee slated on 5.2 million, how will this affect the bottom line of these companies? **MINVROMI**

Harbor concession fee is already being paid monthly.

There is a worldwide decline in economic activity including construction etc. and this is also felt in St. Maarten. There is a 30% decline in imports through the harbor which affects cargo revenues, however cruise revenues are still very strong.

Adjourned till Friday, June 10, 2011 at 10:00am