

THE PRICING OF GASOLINE IN CURAÇAO

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Prices are set monthly by the Government for a number of fuels, including Mogas (gasoline). **When determining the price, all elements of the final pump price are explicitly stated.** According to the current pricing publication it is clear that **no import duty and sales tax on imports are taken into account** whilst also the possibility to set off 50% of the sales tax paid on imports against the sales tax due is not included. In the current published pricing, 6% sales tax is charged once on the wholesale transaction and once on the retail transaction. Please note that also a special import duty on mogas is due of 41.34 cents per liter. This amount is applied correctly in the current pricing and will therefore not be discussed here. In this article we will only focus on the pricing of Mogas.

Legal framework

Under the name turnover tax, in Curaçao a tax is levied in respect of the supplies of goods and services provided in the taxable area by entrepreneurs in the context of their business. The general rate is 6% and there is an increased rate of 9% for the supply of “luxury” goods and services. In addition, 9% sales tax is levied on the import of goods. On request, 50% of the sales tax paid in respect of the import of commercial goods in the period of declaration, can be set off against the sales tax due on the resale.



The right of deduction only applies if the trade goods leave the business assets of the entrepreneur as a result of a taxable performance.

If the goods are dispatched or transported in connection with a delivery, the place where a delivery is made, is the place where the dispatch or transport commences. In other cases, the place where the goods are located at the time of delivery is the place of delivery. **Deliveries of goods within the taxable territory of Curaçao that have not yet been imported in Curaçao are exempt from sales tax.** This can be the case when goods are first stored in a customs warehouse, as is the case here. Customs warehouses are storage areas of goods in designated storage areas where the owners or consignees of incoming goods, which are not prohibited for importation, can temporarily store the goods without having to pay import duties and excise duties. The goods are not yet in free circulation.



Import duties are due on release for free circulation in Curaçao (import), both directly from abroad and after prior storage in a customs warehouse. The tax is calculated on the import value. The import value shall be determined in accordance with the provisions on customs import value. The customs value of imported goods is determined in accordance with Article 17 of the National Ordinance on the Tariff of Import Duties (Lvti). **In the case of gasoline, the customs value should be determined on the basis of the transaction value**, which is the price actually paid or payable for the goods when sold for import in Curaçao. Costs for storage and distribution should be excluded from the value. Import duties are levied every time goods are actually imported into Curaçao.

The pricing under applicable legislation

Based on the above it can be concluded that the current pricing structure is not in accordance with applicable legislation. The reason for this is not clear but it can lead to extremely complex situations if the tax authorities/customs implement the legislation in accordance with the formal provisions. **The incorrect price structure has arisen from the moment that Mogas is imported and no longer produced locally.**

First of all, imports take place, so 5.5% import duty will have to be levied on the import of Mogas, as well as 9% sales tax on imports. Mogas is, however, first stored in a customs warehouse and from there it is sold on to the retail trade by the wholesaler. After this sale, the fuels are therefore only removed and imported into Curaçao by the clay trade. This means that, on the one hand, the wholesale turnover tax does not have to be levied, since this transaction is exempt on the basis of Article 7, paragraph 2, sub c Lv OB. **Import duties must then be levied on the price actually paid or payable for the goods for export to the country** (excluding storage and distribution costs).

The sale then takes place to the end user by the retail trader (tank stations). In doing so, the retail trade can deduct half (50%) of the sales tax paid on import from the sales tax due on sales to end consumers based on Article 2a Lv OB.