



# **EMPLOYER OBLIGATIONS**

# **CONSTRUCTION SECTOR**

Tuesday April 17<sup>th</sup>, 2018

# Welcome

## Speakers:

Mr. Reginald Willemsberg

## Employer's Desk:

- Registration
- Finance
- Customer service

# General information

- General SZV obligations
- Registration procedures: Employer & Employees
- ZV/OV premiums: Declaration and Payment
- Chain of Liability
- Protest & Appeal procedure
- Employer desk services

# **Mr. Reginald Willemsberg**

**Corporate Strategist**

# Employer's Obligations General

# Social & Health Insurances SZV

- ❑ Entity with the task of implementing the Social Insurance Legislation.
- ❑ Social Insurance: measures to protect the employees in the working process, provisions against risk for the insured.
- ❑ Sociale Insurances are based on the solidarity principle.

# General SZV obligations

**ACCORDING TO THE FEDERAL ORDINANCES FOR THE SICKNESS AND ACCIDENT INSURANCE, AN EMPLOYER MUST BE REGISTERED AT THE SOCIAL & HEALTH INSURANCES SZV.**

- **Article 12** of the National Ordinance Sickness Insurance and the National Ordinance Accident Insurance states that everyone is, on behalf of the execution and control tasks of SZV, obligated to provide information upon request to SZV, if so required in writing. They are also obligated to follow the instructions given by SZV with regards to the implementation of these National Ordinances.
- **Article 14a** of both National Ordinances further states that by noncompliance or untimely compliance of the obligations mentioned in article 12 of these National Ordinances, a fine of up to a maximum of five thousand guilders can be levied. This is an administrative fine that can be imposed by SZV itself. By defaulting on your obligations, you will leave SZV no other recourse than to take the necessary steps to apply articles 12 and 14a of the abovementioned National Ordinances.

# General SZV obligations 1/3

## Who is an Employer on Sint Maarten (Dutch Caribbean):

Everyone who has one or more employees executing labor is an employer. There are three possibilities:

- You are established on Sint Maarten, and you have employees executing labor for you on Sint Maarten.
- You are established on Sint Maarten, and your employees are executing labor for you outside of Sint Maarten (Dutch Caribbean).
- A foreign company can also be categorized as an employer on Sint Maarten (Dutch Caribbean).

*An employer can be a natural person (such as an individual, called a sole proprietor), or a legal entity (such as a corporation, an N.V. or a B.V.)*



# General SZV obligations 2/3

- **All employers with employees are required to register at SZV.** This means that if you have no employees you are not considered an employer and consequently you are not obligated to register your company at SZV.
- **All employees must be registered at SZV no matter their salary amount or amount of working days/hours.** The salary amount and/or amount of working days will determine if the employee will be insured for both medical insurance (ZV) and accident insurance (OV) or only for accident insurance (OV).
- **Employee mutations regarding commencement and termination** must be submitted to SZV within two days in which the change occurred.
- **Employee mutations regarding changes in employment** such as, salaries, and functions should be submitted monthly, before the 15<sup>th</sup> of the following month in which the change occurred.
- **Employers must submit an accident form to SZV immediately after an employee has an accident on the job.** The form can only be filled in by the employer.

# General SZV obligations 3/3

- SZV must be notified within 2 working days by the employer, when the employer has ceased operations (inactive) or if the employer becomes dormant due to having no employees in service.
- The employer must declare on a monthly basis the wages for sickness and accident insurance through the ZV/OV declaration form.
- ZV/OV declarations must be filled in and submitted, completely and accurately by the 15<sup>th</sup> of each month. If the declarations are not submitted, you will be assessed. Non-payment of the assessment can result in further collection measures.
- ZV/OV premium payments must be paid by the 15<sup>th</sup> of each month.
- AOV/AWW premium payments must be paid by the 15<sup>th</sup> of each month.
- Cessantia contributions are due each year and must be paid between January 1<sup>st</sup> and June 30<sup>th</sup>.

# **Registration procedures: Employer & Employees**

## **Registration procedures: Employers**

- **Original documents**
- **Not older than 6 months**
- **In-person or Authorized representative known by SZV**

# Registration procedures: Employers

**N.V. (NAAMELOZE VENOTSCHAP), B.V. (Private Limited Company), FOUNDATION or ASSOCIATION:**

1. Chamber Of Commerce Excerpt (not older than 6 months);
2. Inspectorate Of Taxes statement that includes the Crib-Number;
3. Articles of Incorporation; (obtainable from the Notary)
4. Copy of your valid Sint Maarten identification card or passport of the director(s) or board members that is stated on the Chamber of Commerce excerpt;
5. The first Employee's Mutation form including copies of the employee's valid passport or valid Sint Maarten identification card;
6. If someone else is representing the company the original authorization letter is required that states the following:
  - Letter indicating person(s) name who is the authorized signatory;
  - The level of authority. (include a copy of the authorized person(s) valid passport or Sint Maarten identification card, telephone and/or mobile number);
  - Company address, email, telephone number and mobile number.

# Registration procedures: Employers

## SOLE-PROPRIETORSHIP (EENMANZAAK)

1. Chamber Of Commerce Excerpt (not older than 6 months);
2. Inspectorate Of Taxes statement that includes the Crib-Number;
3. Copy of your valid Sint Maarten identification card or passport of the owner;
4. The first Employee's Mutation form including copies of the employee's valid passport or valid Sint Maarten identification card;
5. If someone else is representing the company the original authorization letter is required that states the following:
  - Letter indicating person(s) name who is the authorized signatory;
  - The level of authority. (include a copy of the authorized person(s) valid passport or Sint Maarten identification card, telephone and/or mobile number);
  - Company address, email, telephone number and mobile number;
6. If owner and/or dependent family members are in possession of a valid Sickness Insurance card please also bring this to the appointment.

# Registration procedures: Employers

- ✓ The **mutation form** is your official way to communicate with SZV about **commencement, mutations and terminations** of employees
- ✓ The employer is responsible for filling in, signing and submitting the mutation form (not the employee!)
- ✓ To avoid fines send in your mutation form on time

Date Received by SZV: \_\_\_\_\_

Reg. #: \_\_\_\_\_

Assigned to: \_\_\_\_\_

Daum Ontvangst (D-M-Y):
Ingevuld door:
Daum (D-M-Y):
Gevoerd door:
Daum (D-M-Y):

**Explanatory notes:**

**Explanatory note 1**

State - if necessary - in the column of each '0', the date, enabling yourself to verify if the number of employees stated is correct.

**Explanatory note 2**

State whether the mutations regard a commencement of employment (C), a mutation (M) or termination (T).

**Explanatory note 3**

For married women, you only state the maiden name.

**Explanatory note 4**

Only show the surname of the husband.

**Explanatory note 5**

Definition of wages: any payment an employee receives by way of remuneration for labour. So this includes also extra and variable remunerations, such as commissions and tips, wages in kind, hazard allowance (for commuter traffic), vacation allowance, bonuses, gratuities, participations in profits, staff bonuses and child allowances. All compensations in profits for in the contract of employment (but no allowances for expense), come under the concept of wages. For additional definitions, the SZV has a booklet about 'Employers, employees and wages' at your disposal. When entering the wages, you enter it once as estimate of the total of extra variable elements and divide such total by the number of time units which you state in the next column (see also explanatory note 6).

**Toelichting:**

**Toelichting 1**

Geef u - indien nodig - in deze kolom bij iedere 0 de datum aan, waardoor u uiteindelijk kunt controleren of het aantal aangegeven werknemers juist is.

**Toelichting 2**

Hier geeft u aan of de mutaties een indiensttreding (C), een wijziging (M) of een ontsluiting (T) betreft.

**Toelichting 3**

Voor getrouwde vrouwen vult u hier alleen de meisjesnaam in.

**Toelichting 4**

U vult hier alleen de achternaam van de echtgenoot in.

**Toelichting 5**

De SZV versteht onder loon, iedere uitkering die aan werknemer ontbreekt als vergoeding voor zijn werk. Hieronder vallen dus ook extra vaste en variabele vergoedingen zoals provisies, commissies en toeloen, loon in natura, geverintoeslagen, transportvergoedingen (voor woon- en werkverkeer), vakantiegeld, bonussen, gratificaties, winstdelingen, leniens en kindtoeslagen. Alle vergoedingen (maar geen onkostenvergoedingen) die in het arbeidsovereenkomst zijn opgenomen, vallen onder het begrip loon. Voor nadere definities heeft de SZV een folder over werkgevers, werknemers en loon tot uw beschikking. Bij de invoering van de loon heeft u een overzicht van het totaal aan vaste en variabele vergoedingen en deelt u deze door het aantal tijdseenheden dat u invult in de volgende kolom (zie ook toelichting 6).

**Explanatory note 6**

You should state by what unit you have calculated the wages in the preceding column. Options: per hour (H), per day (D), per week (W), per fortnight (F), per month (M), or per year (Y), in doing so you may use the abbreviations stated here.

If all employees or categories of employees are paid by the same unit, you may omit yourself after stating the time unit for the first employee to drawing a vertical line for the following employees (who are paid in the same manner).

**Explanatory note 7**

In this column you should fill out the number of hours per workday.

**Explanatory note 8**

You should fill in a '1' for an employee with a contract for an indefinite period of time. You should fill in a date for an employee with a contract for a definite period of time. For every employee with a contract for a definite period of time, you have to state the last day of employment. For casual workers or employment agency workers, workers on call or vacation jobs you should state the date of the days worked.

**Please fill out clearly (print).**

You can contact the SZV info desk tel 1-721-5466782 ext 6721:

- for information about supplying your information digitally.
- if you need more forms
- for other information and questions.

**Toelichting 6**

U geeft hier aan in welke eenheid u het loon heeft berekend in de vorige kolom. Mogelijkheden: per uur (U), per dag (D), per week (W), per twee weken (Q), per maand (M), of per jaar (J). U kunt bij de invulling de hier aangegeven afkortingen gebruiken.

Indien alle werknemers of categorieën werknemers volgens dezelfde eenheid worden uitbetaald, kunt u na vermelding van de tijdseenheid van de eerste werknemer volstaan met een verticale lijn voor de volgende werknemers (aan op dezelfde wijze worden betaald).

**Toelichting 7**

Deze kolom vult u in de totale uren per dag.

**Toelichting 8**

U vult een '1' in als het een werknemer met een contract voor onbepaalde tijd betreft, en een datum als het een werknemer met een contract voor bepaalde tijd betreft. Voor iedere werknemer met een contract voor bepaalde tijd geeft u de laatste werkdag volgens het contract aan. Voor losse arbeiders of uitzend-, oproep-, of vakantiewerkzaam geeft u de data op van de gewerkte dagen.

**De gegevens in blokletters invullen a.u.b.**

U kunt contact opnemen met de SZV infodesk tel. 1-721-5466782 toesnel 6721:

- voor informatie over het digitaal aanleveren van uw informatie
- als u meer formulieren nodig heeft dan u zijn toegestaan
- voor andere informatie en vragen.

Salarisnummer Salarisnummer	1	2	3	4	5	6	7	8	9	10	11	12	13
	Commencement (C) Mutator (M) Termination (T) In Dienst (I) Wijziging (W) Uit Dienst (U)	Effective Date (D-M-Y) Ingangsdatum (D-M-Y)	ID-number (Seculs) ID-number (Seculs)	Date of Birth (D-M-Y) Geboortedatum (D-M-Y)	Surname - Maiden Name (See explanatory note) Achternaam - Meisjesnaam (Zie toelichting)	Married to (See explanatory note) (See explanatory note) Getrouwd met (Zie toelichting) (Zie toelichting)	Given Names (First name in full) Voornamen (Eerste voluit)	Occupation or Profession Beroep of functie	Wages in NAT. incl. compensations Loon in NAT. incl. with wages (5)	Time Unit H/D/W/F/M/Y Tijdseenheid (6)	Weekly work days (Average) Werkdagen per week (gemiddeld)	Working hours per day Werkuren per dag (7)	Duration of Contract (See explanatory note) Contractduur (Zie toelichting) (8)
1													
2													
3													
4													
5													
6													
7													
8													
9													
0													
1													
2													
3													
4													
5													
6													
7													
8													
9													
0													

The undersigned declares to have completed this form truthfully and to the best of his/her knowledge / Ondergetekende verklaart dit formulier zonder voorbehoud en naar waarheid te hebben ingevuld.

These data are valid as at: (date) /  
Deze gegevens zijn geldig per: (datum)

Business name / Handelsnaam  
Address - Island / Adres Eiland  
SZV Number / SZV Nummer

Place, date / Plaats, datum:

Name / Naam:

Signature / Handtekening:



# Employers: Mutation Form (2)

- ✓ The mutation form need to be filled out completely
- ✓ Only an authorized person can sign the mutation form
- ✓ Any correction on the form need to be initialed by the authorized person

→ Keep your record of authorized persons at SZV up to date!

# Employers: Mutation Form (3)

- ✓ Mutation form can be dropped off in drop box (no lines!). You will receive an email confirmation the next working day
- ✓ Mutation form can be dropped off in person, bring a copy to stamp for receipt

# Employers: Mutation Form (4)

- ✓ **C**: Commencement, start of a new employment
- ✓ **M**: Employment is open and you're updating information
- ✓ **T**: Termination, employment ended

## Examples:

- Contract renewal, you use **C** since you've started a new contract
- To make changes in an indefinite employment, you use **M** or **T**

# Employers: Mutation Form (5)

- ✓ Fill out column 13 correctly: a date or “Indefinite”
- ✓ Frequently made mistake: ‘2 months’ or ‘half year’

The screenshot shows a vertical grid of mutation form entries. The top row is the header row. Column 2 is labeled '2' and column 13 is labeled '13'. The header for column 13 reads: 'Duration of Contract (See explanatory note) Contractduur (Zie toelichting)'. Below this, the grid contains several rows, each with a small red circle containing the number '7' in the left margin and a small red circle containing the number '8' in the right margin. A vertical grey bar is positioned to the right of the grid.

# Registration procedures: Employees

- **Sickness insurance (ZV):** gives the employee in the case of sickness right to medical treatment, nursing and sickness benefit (maximum 2 years after reporting illness).
- **Accident insurance (OV):** gives right to medical treatment, nursing to employee who had accident on the job. In case of death – survivors entitled to funeral grant and accident benefit. Permanent disability – accident benefit for undetermined time.
- **Cessantia:** immaterial damage: financial benefit to help bridge the period the employee is looking for a new job, while the new job may not offer the same provisions and career possibility as the old job.  
Seniority: employee loses years that he/she worked.

# Employees

## Insured persons are:

- Sickness insurance (ZV): Employees < maximum wage limit.
- Accident insurance (OV): ALL Employees, including those above wage limit.
- Dependents of the employee:
  - Spouse < 60 years and
  - Children <17 years (18 < 25 years attending school)
- Ex-employees younger than 60 years.
- Dependents of ex-employees.

# Employees:

## what to bring during card renewal appointment

- ✓ Valid SXM ID or passport
- ✓ SZV Card
- ✓ Last two payslips (or last four payslips if paid bi-weekly)
- ✓ Evidence of salary received (bank statement, cash receipt, check stubs)
- ✓ Copy of signed contract
  
- Mutation Form needs to be submitted to SZV prior to Employee card renewal appointment
- Additional requirements apply for dependents (spouse, children)

# **ZV/OV premiums: Declaration and Payment**



# Declaration

If your payment of ZV/OV or AOV/AWW premiums is late or your declaration is completely or partially incorrect, the 'non or insufficient declared and paid premiums' will be corrected via an additional levy (assessment).

This additional levy will be increased by a fine. SZV determines the fine in regards to the ZV/OV premiums and the Inspectorate of Taxes determines the fine in regards to the AOV/AWW premiums.

Fines can range from 5-20% of the original amount. It is necessary that you pay and declare correctly and on time to avoid fines!

# Declaration

Pointers:

- Nihil declaration while having employee's registered
- Changing OV Risk class premium one self
- Company inactive (no employees) but still filing nihil declaration
- Company not registered but still filing nihil
- Employed but no wages – Mutation – Termination
- No cash policy (exception 60-plus)
- On line payments instead of depositing on bank account

# Declaration: Contributions

<b>Premium Percentages</b>	<b>Premiums (In percentages of income)</b>
AOV 13%	Employer's contribution 7.00 % Employee's contribution 6.00 %
AWW 1%	Employer's contribution 0.50 % Employee's contribution 0.50 %
OV 0,5 – 5 %	The premium depends on the risk class your company is categorized in, and must be paid by the employer.
ZV 12,5 %	Employer contribution 8.3 % Employee contribution 4.2 %

# Declaration: ZV/OV Wage limits

<b>Maximum wages ZV and OV</b>	<b>2018 (NAf)</b>
Per day (6-day workweek)	217.36
Per day (5-day workweek)	260.83
Per week	1,304.16
Per month	5,651.36
Per year	67,816.32

*The ZV and OV wage limits and premiums for the year 2018 are the same as year 2017.*

# What is considered wages by SZV and should include as salary?

- All payments which an employee receives as compensation for work performed are wages. This includes;
  - ❑ Basic salary
  - ❑ Vacation allowance
  - ❑ Christmas bonus
  - ❑ Child benefit (not tax deductible)
  - ❑ Shift duty premium
  - ❑ Standby allowance
  - ❑ Dark hours allowance
  - ❑ Permanent allowance
  - ❑ Wages in kind
  - ❑ Provision and commission
  - ❑ Tips
  - ❑ Dividends, profit sharing bonuses
  - ❑ Payment for contracted work

# Payment

- ✓ ZV/OV Declaration form
- ✓ Online Employer Portal
- ✓ Employer Desk at SZV office

[WWW.SZV.SX](http://WWW.SZV.SX)

**Chain of Liability**  
**Wet Keten**  
**Aansprakelijkheid (WKA)**

# Forerunner WKA

- Article 1 Federal Ordinance Sickness Insurance and Accident Insurance
- Definition of who is not considered an employee
- Personal contracted work unless considered an employer by the Bank
- If assisted by others also considered employees of main contractor



# Why WKA?

- Practices in construction sector of subcontracting to get around the obligation to pay premiums/taxes
- To determine who is/are the one(s) liable for payment of premiums/taxes for the different construction projects
- Not a new law but addition to the P.A.Y.E. (LLB) ordinance article 21a as of June 1, 2002

# Definitions I

## Employer-employee relationship:

- The one who other than in the conducting of a business or in the independent exertion of ones duty, has contracted oneself personally to produce work of material nature for a price
- The persons who assist him in the producing of the work.

# Definitions II

## Employer:

- All natural or corporate body that employs one or more employees in Sint Maarten.
- Foreign (sub)contractor is considered as an employer if it has a permanent organization or representative in Sint Maarten or has one or more employees.
- If the work to be executed is of a longer duration than 30 days then the foreign (sub)-contractor is considered to have a permanent organization and is considered an employer

# Definitions III

## Article 21 P.A.Y.E. Tax Ordinance :

- Contractor: the one who commits themselves towards a principal (client) outside of an employer-employee relationship to produce a work of material nature for a price.
- Subcontractor: the one who commits themselves towards a contractor outside of an employer-employee relationship to produce a work of material nature for a price.

# Definitions IV

- **Premium Liability:** A contractor has the main liability for the premium contributions that the subcontractor and if the work is executed partially or fully by one or more subcontractors, each subsequent subcontractor in connection with the tasks executed by their employees.

# Definitions V

- **Non-liability:** If a contractor can (1) make it plausible that non-payment of premiums can not be attributed to him, then the contractor is not liable. (2) If the contractor submits a signed subcontracting agreement with the subcontractor within one week of signing said agreement to the SZV, than the contractor will not be held liable.

# Definitions VI

**Reproachable actions:** If the contractor has not done anything reproachable but the subcontractor has acted in a reproachable manner the contractor can still be held liable. E.g. reproachable actions:

- The subcontractor does not have or does not maintain a good payroll administration
- Not all employees are in the payroll administration
- The salaries are higher than in the administration
- Non-declaration of premium payments
- Non-payment of premiums while there is liquidity
- Not registered at the Chamber of Commerce
- **Bid for the contract is so low that it is impossible to pay taxes and social premiums**
- The contractor does not have an administration to establish the wage component sufficiently in the subcontracted sum.
- The contractor subcontracted even though he fully aware that the subcontractor could not comply with his obligations.

# Definitions VII

## Appeal:

Appeal regarding ultimate liability can only be made after the Director of the SZV has determined the amount for which the liability exist through a written decision mentioning the grounds on which the liability is founded.



# Protest & Appeal procedure

# Option 1

By virtue of the Federal Ordinance Administrative Jurisprudence you have the following possibilities if you are in disagreement with the SZV-decision. You can **submit a written protest** to the Director of the Social and Health Insurances, Sparrow Road #4, Philipsburg, St. Maarten **within six weeks after the date that this decision has been issued or remitted**. In your letter of protest clear mention must be made of the **reasons** of your disagreement and also of **the decision which according to you the SZV should take**. Be sure to **date** your letter and please state your **identification number**. Please put on the envelope "letter of protest" and be sure to **sign your letter**.

**Free of charge.**

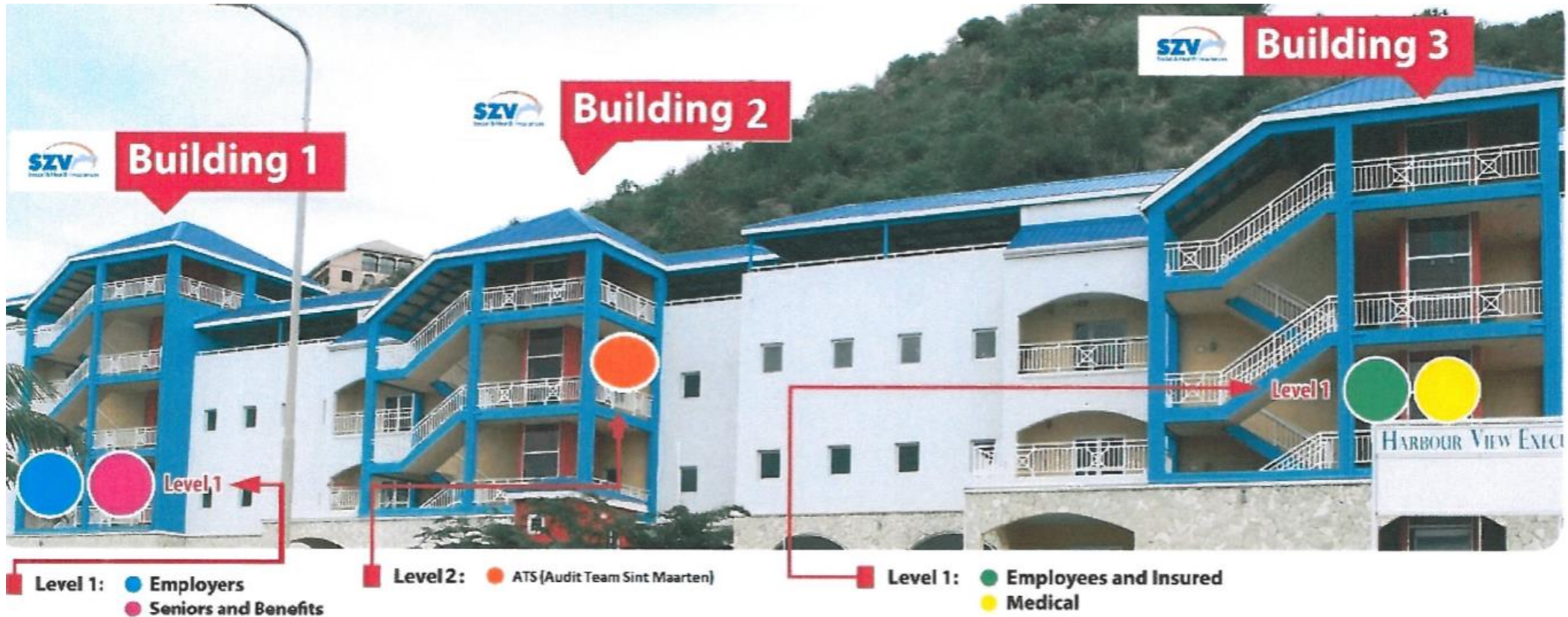
# Option 2

You can also file a **written appeal** with the **Court Recorder of St. Maarten**. This appeal must be submitted six weeks after the date that this decision has been issued or remitted. In your appeal, that has to be submitted in duplicate, clear mention must be made of the reasons of your disagreement and also of the decision which according to you the SZV should take.

As a matter of principle a **court fee** will be charged when submitting an appeal by the Court Recorder.

# **Employer Desk: services**

# Office locations / Service Desks



# Services

- ❑ Company registration
- ❑ Company deactivation
- ❑ Employer mutation
- ❑ Employee mutation
- ❑ Loss of wages
- ❑ ZV/OV declaration
- ❑ Levy & Collection
- ❑ Payment arrangements
- ❑ Confirmation reports
- ❑ Yellow cards
- ❑ Accident forms
- ❑ Mutation forms
- ❑ Drop box mutation forms
- ❑ Overview active employees

# Website / Online services



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SZV SHOWCASED SERVICES AT HEALTH & WELLNESS FAIR >

SZV STAFF FOR SXM DOET 2017 >



**SZV STAFF FOR SXM DOET 2017**

This year was the first year that SZV staff collectively volunteered for SXM DOET. We participated in four different projects throughout the island.



MEDICAL



EMPLOYERS



EMPLOYEES AND INSURED



SENIORS & BENEFITS



SZV Social & Health Insurances



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**HAS THE ANSWERS!**

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# CONTACTING SZV

## WWW.SZV.SX

 Call us: +1721 546 6782

 E-mail us: [info@szv.sx](mailto:info@szv.sx)

### Visit us and mail us:

Harbour View Building, Sparrow Road 4,  
Philipsburg, St. Maarten

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# Questions & Answers

**Note:** Questions asked during the information session will be made public with the answers via our website [www.szv.sx](http://www.szv.sx)

# Thank you



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