



Tax alternatives and/or incentives for offshore companies

Introduction

In the past, Curaçao applied the so-called offshore regime, which was abolished on January 1st, 2002. The offshore regime is applicable up to the year 2019 for companies existing before January 1st, 2002. As of this date, no new companies can apply for this favorable regime.

Under the offshore regime a low profit tax rate of 2.4% - 3% was applicable.

As of the year 2020, offshore companies will in principle be subject to the onshore profit tax regime. According to this regime, a profit tax rate of 22% (2018) is applicable. However, an (effective) lower profit tax rate may apply depending on the activities performed by the entity.

On June 28, 2018, the proposal on the so-called "Remediation of the Curaçao Preferential Tax Regimes" was approved. This entails that offshore companies may opt for one of these regimes as an alternative to the offshore tax regime. These regimes or alternatives are:

- Fiscally Transparent Entities;;
- Curaçao Investment Institution;
- Special Purpose Vehicle (in Dutch "doelvermogen");
- Curaçao Innovation Box;
- Economic Zone (E-zone) Company; and
- Exemption for foreign source income.

Hereinafter, we will outline the aforementioned alternatives.

Fiscally Transparent Entities

A limited company (N.V.) or private company (B.V.) with the offshore status may request the Tax Authorities to be considered as a Fiscally Transparent Entity ("FTE"). For profit tax purposes an FTE will be treated as a partnership. As a consequence, the assets and income from the FTE will be allocated pro rata to the partner(s) (i.e. shareholders), which may subsequently be subject to profit or personal income tax in Curaçao. In other words, the owners and investors are taxed for the income earned by the FTE and not the FTE itself.

This fiscally transparent status does not apply for the sales tax.

The following conditions must be met to qualify for this status:

- All shares are registered;
- The deed of incorporation must include a clause which specifies that the shareholder who wishes to transfer one or more shares is obliged to request the new shareholder to sign a declaration agreeing that the entity is treated as a partnership; and
- The board of directors are required to keep a register with the names and addresses of the ultimate beneficial owners owning 10% or more of the shares in the entity.

For former offshore companies it is also required that the (direct or indirect) shareholders natural persons reside in Curaçao or the activities of the company constitute a permanent establishment or a permanent representative in Curaçao.

In case the company no longer meets the aforementioned conditions, the company will be taxed at a rate of 22% increased with 125% in its first year as taxable entity.

Curaçao Investment Institution

A limited company (N.V.) or private company (B.V.) which is a tax resident in Curaçao and which performed financing and investments activities may be interested in the Curaçao Investment Institution. The investment institution is in principle subject to profit tax at a rate of 0%, except for the income from IP that is not developed by or on behalf of the company ("nexus approach").

In order to be considered as an investment institution the company must meet the following conditions:

- a) The management of the company has to keep a registry including the names and addresses of all ultimate beneficiaries of the company;
- b) The management of the company must consist of one or more residents of Curaçao, who may be individuals or certified trust companies or the directors or other personnel of such certified trust companies.
- c) The management of the company is required to draw up the company's financial statements

which must be checked and approved, by means of a declaration by an independent expert on an annual basis. This means that a declaration of review and approval must be obtained from the independent expert within twelve months

- d) from the end of the financial year. The declaration must also contain a confirmation that the company has met all the requirements to be considered a Curaçao Investment Institution;
- e) The statutory purpose of the company consists exclusively or almost exclusively in the extension of credit, investment in securities and deposits or the development and exploitation of intellectual and industrial property rights and similar property rights or rights;
- f) The company is not allowed to have banking activities, or activities subject to the supervision of the Central Bank of Sint-Maarten and Curaçao;
- g) The company must have actual presence in Curaçao.
- h) From its total proceeds, the company may only receive a maximum of 5% of 'tainted' dividends. Dividends will be considered 'tainted' when they originate in a country:
 - where the profit tax rate amounts to less than 10%; and;
 - Curaçao does not have a Tax Agreement for the Avoidance of Double Taxation (DTA) with; or
 - Curaçao does not have an agreement for the exchange of tax information with and/or a country that is not mentioned on the 'white list' of the OECD and/or the entity is subject to a special regime in its country of residence.

If in any year the company receives dividends from subsidiaries resident outside the Kingdom of the Netherlands, the European Union including its equated outermost regions and the OECD member countries (hereinafter: "qualifying countries"), an independent expert should issue a declaration with respect to the untainted nature of those dividends.

Click [here](#) for more information on the Curaçao Investment Institution.

Special Purpose Vehicle

Entities performing financing and investments activities and which meet the aforementioned conditions under a) through f) set forth to be considered as a Curaçao Investment Institution, may request to be designated as a Special Purpose Vehicle.

The entity which has the status of a Special Purpose Vehicle is subject to 10% profit tax rate.

Curaçao Innovation Box

The offshore companies that performed activities relating to development and exploitation of intellectual and industrial property rights and similar property rights or rights may be interested in the so-called Curaçao Innovation Box. The Curaçao Innovation Box entered into force on July 1, 2018. Based on the Curaçao Innovation Box, companies generating income from qualifying intangible assets (i.e. intellectual property) may apply a profit tax rate of 0% on the income which relates to the qualifying intangible assets which meets the "nexus approach".

The following intangible assets are considered to be qualifying intangible assets for the Curaçao Innovation Box:

Intangible assets resulting from research and development activities for which the company obtained a statement from a designated institution, and:

1. for which the company has been granted a patent or breeder's right or for which a patent or breeders right has been applied;
2. which have the form of copyright protected software;
3. in respect of which a marketing authorization has been granted for a medicinal product;
4. in respect of which a supplementary protection certificate has been granted to the taxpayer by a patent office or equivalent;
5. in respect of which a registered utility model for the protection of innovation has been assigned to the taxpayer; or
6. which is related to an intangible asset as referred to under 1 to 5;

An exclusive license to use such intangible asset in a specific manner, for a certain period or in a specific geographical area is also considered as a qualifying intangible asset for the Curaçao Innovation Box. Please note that brands, logos and similar assets are not considered as qualifying intangible asset for the Curaçao Innovation Box. "Small companies" are not required to meet the aforementioned conditions. For these companies, a certified statement for the intangible assets that have similar characteristics of, e.g., a patent or breeder's right, is sufficient. "small companies" are companies with a total (group) net turnover not exceeding ANG 500,000,00.00 (turnover criterion) and that earned an income from intangible assets of ANG 75,000,000.00 during a period of 5 years (income criterion).

A company applying the Curaçao Innovation Box must keep records of the qualifying intangible asset for which the Curaçao Innovation Box is applied.

Click [here](#) for more information on the Curaçao Innovation Box.

Economic Zone (E-zone) Company

The (new) E-zone is especially for companies that deliver goods and derive at least 75% of their income from foreign sources.

The E-zone is a specifically designated geographical area. A qualifying legal entity which has actual presence in Curaçao (i.e. meets the substance requirements) can request to be established in an e-zone as per approval of the local government.

The objective of an E-zone Company is limited to the trade in goods. No distinction is made between goods delivered to local or international customers. The entire profit of the E-zone Company is taxed at a reduced profit tax rate of 2%.

Goods that leave an E-zone to be imported in Curaçao or goods which are transferred from an e-zone to a warehouse are subject to 9% sales tax. Please note that there is no exemption from sales tax on the export of goods.

Click [here](#) for more information on the E-zone company.

Exemption for foreign source income

For companies established in Curaçao an exemption for foreign source income can be applied. Foreign source income generated by companies established in Curaçao is excluded from the taxable base for profit tax purposes in Curaçao. The following income is regarded as foreign source income:

- Profits derived by a Curaçao tax resident entity through a permanent establishment or a permanent representative;
- Profits derived by a Curaçao tax resident entity from immovable property or rights thereto located abroad;
- Profits derived by a Curaçao tax resident entity with local assets which are used for the delivery of goods or provision of services to the extent that these are received abroad.

For the supply of goods or services provided to non-resident customers or to resident customers who have a Foreign Exchange License, 3% sales tax is due on the taxable amount for sales tax purposes. The entrepreneur may under certain condition also deduct the aforementioned sales tax due.

The following services are excluded from the exemption: insurance and reinsurance activities, acting as the management of companies whose registered office or actual management is located in Curaçao and other services relating to the trust, the services of notaries, lawyers, public accountants and tax consultants, and related services, income derived from the exploitation of intellectual property (IP) and shipping activities.

Click [here](#) for more information on the exemption for foreign source income.

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We would be pleased to assist you with your questions.

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