



Curaçao export facility replaced by an exemption for foreign source income as of July 1, 2018

Introduction

Until July 1, 2018, companies engaged primarily in transactions with foreign customers could apply for the export regime. Under this regime, at least 90% of the profits of the entity should be derived from qualifying international activities. The profits of a qualifying company were taxed at an effective profit tax rate of 3,19% (year 2018).

As of July 1, 2018, the export regime is replaced by an exemption for foreign source income. For Export Facility Companies that existed on June 30, 2018, a transitional arrangement applies through December 31, 2018. Please note that the transitional arrangement does not apply to income from non-qualifying intangible assets. As of July 1, 2018 the income from non-qualifying intangible assets is in principle taxed at 22% profit tax.

On the other hand, income from qualifying intangible assets is taxed at a profit tax rate of 0%. Qualifying intangible assets are intangible assets which arose 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 breeders' 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 are related to an intangible asset as referred to under 1 to 5.

An exclusive license to use such an intangible asset in a specific manner, for a certain period or in a specific geographical area is also considered as a qualifying intangible asset. Please note that brands, logos and similar assets are not considered as qualifying intangible assets.

Please note that if the company has qualifying intangible assets and applies the 0% profit tax rate, it must keep records for the qualifying intangible asset for which the 0% profit tax rate is applied.

Actual activities and taxability

Profit tax

As of July 1, 2018, only foreign source income is exempted from profit tax. 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 located abroad;
- profits derived from immovable properties located abroad;
- profits derived in connection with the delivery of goods or provision of services to customers located abroad. In case local assets were used for these activities, this profit will still be exempted for profit tax purposes.

Some services are excluded from the exemption. These are trust activities as well as services of notaries, lawyers, public accountants, tax consultants, income derived from exploitation of intellectual property, related services, and shipping activities.

Sales tax

The taxable amount for sales tax purposes from the supply of goods or provision of services to customers residing outside of Curaçao or to (legal) persons residing in Curaçao who have a Foreign Exchange License, is set at the added value of the transaction. The added value is an amount equal to the invoiced fee reduced by the costs directly or indirectly related to the transaction. If more is paid than what is due on the invoice, the taxable amount is set at the amount paid minus the (in)direct costs.

The applicable tax rate for the aforementioned supply of goods or provision of services is set at 3%. The entrepreneur can deduct the sales tax due and paid related to the provision of other services and goods that have been rendered in the same period as the sales tax due in connection with the aforementioned services rendered abroad.

Conditions

Companies that apply the exemption for foreign source income should organize their accounting records in such a way and record the data in these records in such a way that the revenues realized with the activities mentioned and the related costs can be calculated for the purpose of determining the foreign profit.

If the company fails to meet the aforementioned condition, the reserves recorded for profit tax purposes must be added to the profit of the last financial year in which these requirements have been met.

Request

No request is necessary to apply the exemption for foreign source income. The exemption is applied by mentioning the exempted foreign source income in the profit tax return. In case the company fails to meet the aforementioned condition, the reserves recorded for profit tax purposes must be added to the profit of the last financial year in which these requirements have been met.

The purpose of this newsflash is to inform you about recent developments. It is not a substitute for any professional advice or services, nor should it be used as a basis for any decision or action that may affect your finances or your business. We advise you to consult a qualified professional adviser before making any decision or taking any action that may affect your finances or your business.

Please contact our office at the email addresses mentioned in this newsflash if you have any questions about the amendments or need additional information.

We would be pleased to assist you with your questions.

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