

## Codification of the Expatriate Beneficial Policy

To improve the Aruban business establishment climate an expatriate beneficial policy (hereafter: the Expat Regulation) was introduced in 2013, which provides highly qualified employees with certain tax advantages.

The Government of Aruba codified this beneficial policy into tax law on October 4, 2017. Upon reopening of the oil refinery, several changes and updates were made that affect the expat regulation. It is important for tax practitioners and their expat clients to be aware of these changes. The expat regulation has been codified into Articles 10 through 19 of the Fringe Benefits policy.



### The Expat Regulation and conditions at a glance

The expat regulation applies to highly qualified employees who are hard to find in Aruba. The regulation offers advantages such as exempt salary components, while the fringe benefits taxation regulations will be supplemented with special rules applicable to expats.

The most important advantage is that expatriates' wages will not be grossed up provided their employers have concluded an agreement to pay their employees a net salary and to account for the wage tax.

*The expat regulation applies to all employees*

- Who have not lived in Aruba during the five years prior to commencement of their employment on Aruba;
- Who have specific expertise that is not or hard to find on the Aruban labor market;
- Whose annual income is at least AWG 150,000 (USD 83,800).

Remarkably - though understandably -, the additional requirement that expats should educate local employees who will replace them after their contracts end has not been codified into law.

*The expat regulation provides for the following benefits:*

- Cash allowances are tax exempt up to a maximum of AWG 15,000 per calendar year. This involves cash remunerations, such as daily reimbursements;
- Allowances for education of expats' children are tax exempt up to an annual maximum of AWG 25,000 per child. Such allowances relate to education of expats' children who attend school in Aruba or abroad;
- Allowances for housing (rental) are tax exempt up to a maximum of AWG 2,500 a month.

## The following changes are adopted and codified as announced:

### *Procedure*

- Employers have to file a written application for the benefits of their employees, the latter have to sign the application and should qualify as expatriates for a term of five years (previously four years).
- The expatriate status may be extended by five years upon request (previously two years), provided the expats can argue that no local employee has been found whose expertise is equivalent to theirs.
- Written applications have to be filed with the tax authorities ultimately four months after the respective employees started working.

### *Employers should submit the following documents with their expat applications:*

- Résumé of the expatriate;
- Relevant diplomas and certificates;
- A work and residence permit, showing that the expat has permission to perform work in Aruba;
- An employment contract;
- An overview of all allowances/benefits received, including all wage in kind.

Employees will obtain expat status from the first day of their employment. If a work and residence permit cannot be submitted with the application, the respective employee will qualify as an expatriate from the first day of his employment but for a period of one year. This one-year period will be extended by four years if the work and residence permit is still submitted within one year.

### *Termination of work/change of employer*

Employees whose employment contracts are terminated lose their expatriate status and must inform the tax authorities of this within one month after termination.

Employees who change employers will maintain their expatriate status for the rest of the term if:

- (a) they meet the requirements at the new employer, and
- (b) the new employer files an application with the Inspector within three months after the employee ended his employment at his previous employer

If employees change employers within the same group, they will keep their expatriate status if:

- (a) they meet the requirements at the new employer, and
- (b) the new employer can prove that the expatriate status is applicable, and
- (c) they can provide information on who the former employer was

**For more information about tax advantages for your (potential) foreign employees, please contact one of our advisors.**

## CONTACTS

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