

Update Tax Regulations Netherlands - Curaçao



The Netherlands and Curaçao concluded a new tax treaty on December 17, 2013. The treaty will take the shape of a Kingdom Act (hereinafter: the treaty). The Memorandum of Reply and a Memorandum of Amendment were published on April 16, 2015. The treaty had been intended to become effective on January 1, 2015. This deadline was not met and the treaty is now expected to become effective on January 1, 2016. As from the effective date, the Tax Regulations for the Kingdom [*Belastingregeling voor het Koninkrijk* – BRK] will no longer apply between both countries. The BRK will continue to apply between Curaçao and Aruba and St. Maarten, as well as between the last two countries and the Netherlands. The intention is, however, to also conclude a treaty between the Netherlands and Aruba and St. Maarten, respectively. The treaty with St. Maarten was finalized on July 14, 2014; this treaty closely resembles the treaty between the Netherlands and Curaçao. A treaty with Aruba is being prepared. Insofar as treaties have been concluded between the countries of the

Kingdom no more meaning will be attached to the BRK. The intention is to also conclude bilateral treaties between the three Caribbean countries at some point in time.

The most significant amendments mostly regard clarifications, such as:

- The Memorandum of Reply states that a working party comprising representatives of all Caribbean islands belonging to the Kingdom has been set up. This will examine the pros and cons of and the preconditions for the introduction of a free trade zone.
- The Savings Directive will be repealed in 2016, after which exchange of information, automatic or otherwise, will be based on the directive regarding the exchange of information, which will be extended in 2016 (Directive 2011/16/EU).
- The treaty includes a transitional provision for off-shore entities that do not qualify for

the exemption from withholding of dividend withholding tax. Under this provision the current rules on dividends distributed by a Dutch subsidiary to a Curaçao based parent company - provided the latter has an interest of at least 25% in the share capital of the former - will continue to apply up to and including 2019. However, the levy is 5% instead of the current 8.3%. For these cases it has also been determined that, where appropriate, the Netherlands will refrain from applying the so-called Dutch substantial interest rules with respect to the Dutch resident subsidiary. The arrangement

regards both dividends and results from disposals and likewise applies to dividends distributed by a cooperative if dividend withholding tax is due.

- As regards persons who already resided on Curaçao on June 5, 2014 and who received pensions and/or annuities with a periodic character on that date the 15% tax in the source state will not apply. A provision with a similar purpose has been included with respect to residents of the Netherlands who are paid pensions and/or annuities from Curaçao.

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