



Amendments to Curaçao tax legislation

The proposal to write the OECD's country-by-country reporting standards into Curaçao tax legislation was approved on June 7, 2018. This proposal includes multiple amendments regarding administrative obligations.

International Reporting Standards

The Inclusive Framework Members of the Organization for Economic Cooperation and Development (“OECD”), including Curaçao, have committed to implement the minimum internationally accepted standards of the OECD. One part of the minimum standard is the transparency framework for compulsory spontaneous exchange on certain rulings which, in the absence of transparency, could give rise to Base Erosion and Profit Shifting (“BEPS”) concerns. The transparency framework focus on five key elements: i) information gathering process, ii) exchange of information, iii) confidentiality of the information received; iv) statistics on the exchanges of rulings; and v) transparency on certain aspect of intellectual property regimes.

In order to prevent sections from the all-inclusive framework members of the OECD, Curaçao has make adjustments in the tax legislation with regards to the administrative obligations. This newsflash will outline these adjustments.

Documentation obligations

The new legislation includes documentation obligations for a multinational group of entities regarding the transfer prices within the group. The obligation to prepare the documentation starts retroactively from January 1, 2018 and, hence, it applies to the reporting year 2018.

Country-by-country reporting

Under the new legislation, the obligation to provide the Curaçao Tax Authorities with a country-by-country report arises in the following circumstances.

- The multinational group has a combined turnover in excess of ANG 1,500,000,000; and
- The Curaçao entity acts as a parent entity or a similar entity of a multinational group.

The Curaçao reporting entity must provide the country-by-country report to the Inspector of Taxes within twelve months after the last day of a financial year. It should include specific information regarding all countries in which the group operates. Not providing the country-by-country report to the Inspector of Taxes, or failing to do so within the permitted timeframe, or

filing incomplete or incorrect documentation, due to willful misconduct or gross negligence, constitutes a failure to comply with the documentation obligation. If so, fines of ANG 100,000 up to ANG 250,000 may be imposed on the reporting entity.

Click [here](#) for more information on the country-by-country reporting standards.

Master file and local file

Under the new legislation, the obligation to provide the Curaçao Tax Authorities with a master file and local file encompasses the following circumstances.

- The multinational group has a combined turnover in excess of ANG 100,000,000 in the year directly prior to the related tax year; and
- At least one of the multinational group companies is a Curaçao entity.

A Curaçao entity is obliged to submit a master file and a local file within the period set for the filing of the profit tax declaration. The master file and local file must contain specific information regarding the activities, cost and revenue allocation, and the transfer pricing analysis.

Obligation to file a tax return for a Private Foundation

As of fiscal year 2019, article 1 of the Profit Tax Ordinance will be amended. As a result, each Private Foundation (also referred to as ‘Stichting Particulier Fonds’ or ‘SPF’ in Dutch) must file a profit tax return every year. Please be informed that this declaration obligation applies whether profit tax is due or not. In addition, an appendix stating the beneficial owners should be attached to this profit tax return. A declaration obligation for profit tax already applies.

Please note, there are no changes for the Private Foundation in respect of the tax liability itself. If the Private Foundation does not carry on a business for profit tax purposes, the profit is basically exempted from profit tax under the applicable legislation.

As of the day following publication of the new text, the following amendments will be enter into force and should be taken into account.

Electronic filing of tax returns

The amended legislation on electronic filing of tax returns will come into force on the day following publication of the new text.

If a tax return is filed with the Curaçao tax authorities electronically, the Inspectorate will provide a proof of receipt. The Inspectorate must ensure that the tax return is encrypted in order to comply with the requirements regarding reliability and confidentiality. Please be informed that guidelines with general effect can be given by Ministerial Regulation.

Administrative expansion

The group of taxpayers with administrative obligation has been expanded with:

- The liquidator;
- The person whom the court appoints for custody purposes, at the request of the liquidator.

Administrative amendments relating to ultimate beneficial owners

Taxpayers with an administrative obligation must register the ultimate beneficial owner of their equity in their records. The list of ultimate beneficial owners must be attached to the profit tax return. Depending on the legal form of the entity with the administrative obligation, specific requirements will apply in order to qualify as the ultimate beneficial owner of that legal entity.

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Amendments relating to administrative fines

Please be informed that the legislation on administrative fines has been amended. It should be noted that in certain situations this change could result in higher fines.

Introduction of costs of ruling requests

As of the day following publication of the new text, the price of a ruling request will be ANG 500. It should be paid to the Collector within one week after filing the request at the Inspectorate of Tax. Subsequently, the Inspectorate of Tax must be provided with a proof of payment.

Abolition of the notification in advance to taxpayers

As of the day following publication of the new text, the Minister of Finance is no longer required to inform a taxpayer in advance regarding its intention to provide information of the taxpayer to a foreign country due to an international information request. The notification requirement of the Minister of Finance is abolished under the applicable legislation. In this respect, taxpayers no longer have the possibility to request the Minister of Finance to reconsider its intentions to provide the information.

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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