

Policy memorandum on offshore companies

Definitions

According to article 1, paragraph 12 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010), an offshore company is a company established in Curaçao or Sint Maarten, the statutory objective of which is pursued on account of one or more nonresidents or the company itself with means belonging to one or more nonresidents or the company itself and the shares of which are owned by one or more nonresidents or a company that is considered a nonresident according to this Regulation. This definition implies that residents cannot be shareholder of an offshore company.¹

According to article 23 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010), the Bank can grant an exemption from the conditions, regulations and provisions pertaining to the articles 10, 11, 12, 13, 14, 15 and 16. As a result, an offshore company is considered a nonresident in international transactions. This exemption is known as a foreign exchange exemption.

Status of offshore companies

An offshore company has a special status in economic transactions in Curaçao and Sint Maarten. Indeed, it is a locally established company that is considered a nonresident. There are several benefits attached to this status compared to resident companies. For example, no foreign exchange license is required for capital transactions with nonresidents and no license fee² is charged on payments to nonresidents. Moreover, offshore companies are eligible for a special profit tax rate³ that is considerably lower than the rate for resident companies.

Because of the benefits an offshore company enjoys vis-à-vis a resident company, an offshore company is prohibited to do business with residents. Therefore, an offshore company must direct its activities exclusively to nonresidents. This condition is also mentioned explicitly in the business license of such a company. Namely, this license is granted under the condition that the activities of the company take place abroad. Thus, unfair competition with resident companies is prevented. This means that offshore companies, among other things, are not allowed to offer goods and services to residents, to participate in resident companies and to extend loans to residents.

Revocation foreign exchange exemption

This policy memorandum provides a clarification of the conditions attached to a foreign exchange exemption. If the Bank observes that one or more conditions are not met anymore, it can revoke the foreign exchange exemption in accordance with article 24, paragraph 2 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010).

Centrale Bank van Curaçao en Sint Maarten

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¹ There are also other legal entities eligible for a foreign exchange exemption, e.g., a foundation or association. For these legal entities, the same limitations apply as for companies.

² 1% of the transaction value (Central Bank Statute (2010), article 9 and PB 1995, nr. 187, article 2).

³ The different tax regimes for offshore and resident companies were abolished in 2001. For offshore companies, a transitional arrangement has been effective guaranteeing the special profit tax rate until 2019.