

Curaçao: The Digital Hub to the Americas

Curaçao Tax Benefits
and Incentives for
Digital Service Providers

From high-end consulting to software development, Curaçao digital companies excel in delivering value. When you include the state-of-the-art Tier-IV data center and exceptional connectivity, Curaçao becomes the ideal digital hub to the Americas.

In this Tax Alert we delve into the tax incentives and benefits that make operating digital companies cost-efficient in Curaçao. Uncover how these advantages give digital hubs in Curaçao another competitive edge and help drive growth and success in the digital realm.



Innovation Box

Digital service companies fuel their creative drive and harness the potential of Curaçao as they create and develop their next big tech hit, all while benefiting from a 0% profit tax rate on qualifying income.

Income derived from intellectual property (IP) in Curaçao may qualify for a reduced profit tax rate of 0% under the so-called Innovation Box regime. The reduced rate applies when the income is generated from intangible assets that undergo research and development (R&D) in Curaçao or when the intangible assets are developed for the account and risk of Curaçao tax-resident companies by a foreign, unaffiliated enterprise. If the development is outsourced, the taxpayer must demonstrate their capability to direct the R&D based on their own expertise.

As a rule, taxpayers can request a reduced effective tax rate of 0% for qualifying income from qualifying intangible assets when submitting their profit tax return.

Qualifying intangible assets are intangible assets from R&D activities for which the taxpayer obtained an R&D certificate issued by the Bureau of Telecommunication and Post of Curaçao (BTP) and include:

- ▶ Copyrighted software.
- ▶ Intangible assets that possess a supplementary protection certificate from the patent office or similar agency.
- ▶ Intangible assets with a registered utility model designed to protect innovation.

Intangible assets may also qualify if the applicant is a "small taxpayer," and the IP is non-obvious, useful, and novel. However, certain limitations apply.

To be classified as a small taxpayer, the following conditions must be met:

- ▶ The total sum of benefits received from intangible R&D assets in the current financial year and the preceding four years, along with the corresponding expenses incurred, should not exceed ANG 75 million.
- ▶ The taxpayer's total net turnover, as reflected in the (consolidated) financial statements of the current financial year and the preceding four financial years, must not exceed ANG 500 million.

Territorial Profit Tax System

The income generated by digital service companies that is not attributable to the domestic enterprise in Curaçao, commonly referred to as "Foreign Income", remains untaxed.

Based on the territorial profit tax system, the income of Curaçao companies is generally subject to a profit tax rate of 15%-22%, however, the Foreign Income generated by these companies may be excluded from the taxable base and, therefore, remains untaxed for Curaçao profit tax purposes.

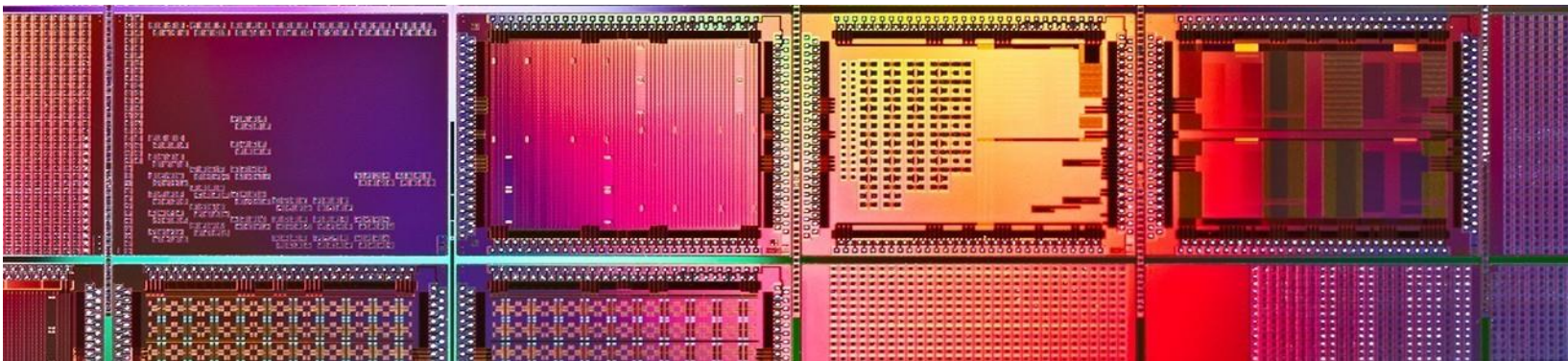
To ascertain the classification of income as Foreign Income for a company in Curaçao, the profit before indirect costs is allocated based on local versus foreign direct expenses. However, costs of materials, if applicable, are excluded from this allocation.

It is worth noting that international digital services companies, including online gaming companies, often outsource significant operational activities to entities outside of Curaçao, resulting in the incurrence of foreign direct expenses. As a result, these companies often realize qualifying Foreign Income in Curaçao, leading to highly competitive effective profit tax rates in Curaçao.

It is also worth noting that the Curaçao territorial tax system has received approval from the Forum on Harmful Tax Practices (FHTP) of the Organization for

Economic Cooperation and Development (OECD) and the Code of Conduct Group (COCG) of the European Union (EU) and also offers additional advantages, including broad participation exemption rules, the ability to offset taxes paid abroad, and a fiscal unity regime.





Other favorable profit tax regimes, reduced profit tax rates and general tax considerations

In addition, Curaçao also provides various tax regimes and rates that digital services companies can readily leverage to enhance their profit tax position.

Digital services companies in Curaçao can take advantage of various tax regimes and benefits to enhance their overall tax position. Some examples of these tax regimes and benefits are:

- ▶ **3% profit tax rate on income related to support services**

Curaçao companies engaged in support services such as administrative services, back-office services, and call or data centers, may be eligible for a reduced profit tax rate of **3%**. To qualify for this rate, these services must be provided to an enterprise with a turnover of at least US\$28 million (approximately).

- ▶ **0% profit tax rate on financing income**

Curaçao companies involved in passive investment and/or financing activities eligible for the Curaçao Investment Company status, may benefit from a **0%** profit tax rate, provided certain conditions, including specific substance requirements, are met. This positions Curaçao as an excellent jurisdiction for conducting international financing activities.

- ▶ **10% profit tax rate on income from IP**

Income from IP that does not meet the eligibility criteria for applying the reduced rate under the Innovation Box may instead be subject to a 10% profit tax rate. This applies when the IP is held by a Curaçao company with a Special Purpose status.

- ▶ **3% profit tax rate for companies that qualify for Tax Facilities for Investments (Tax Holiday)**

Companies whose establishment in Curaçao requires an investment of at least US\$2.8 million and will provide permanent and full-time employment to at least ten persons registered in the local population

register at the start of business activities, and whose activities are entirely or almost entirely focused on R&D in relation to process or product innovation, may qualify for a Tax Holiday. In this context, R&D refer to the process aimed at process and product innovation.

One of the tax benefits of the Tax Holiday is a reduced profit tax rate of 3% for a period of 5 or 10 years (depending on the amount of the investment). Additionally, companies eligible for a Tax Holiday can import assets that are essential to the core operations of the business, without incurring any Curaçao import duties or turnover tax when setting up their Curaçao operations.

- ▶ **Capital gains on IP upon exit may be untaxed**

Depending on the specific circumstances, capital gains realized by a Curaçao company when it relocates to a different jurisdiction or undergoes liquidation may be untaxed. In this respect, the capital gain entails the difference between the fair market value and the fiscal book value of the IP held by the company. As a result, Curaçao digital services companies with IP that is used internationally, may have the flexibility to restructure and move their operations without incurring adverse profit tax implications related to their IP.

- ▶ **No withholding taxes in Curaçao**

Since Curaçao does not have any type of withholding tax act in effect, no taxes are withheld in Curaçao when resident entities make, e.g., dividend distributions, royalty payments and/or interest payments to abroad.

From an international perspective, it is noteworthy to emphasize that Curaçao is on the verge of attaining the status of an Associate Member of CARICOM. This significant stride underscores Curaçao's unwavering commitment to fortify its economic ties and relationships with the current 15 CARICOM Member States and 5 Associate Members, while further solidifying its standing as a prominent digital hub in the Americas.

Expat regime for qualifying ex-patriates

The expat regime in Curaçao's wage tax system aims to assist companies in attracting highly skilled individuals with exceptional expertise in fields that may be limited in Curaçao, through beneficial taxing of the compensation of these qualifying ex-patriates (expats).

The expat regime consists of two essential components: a 'fringe benefits facility' and a 'net wage facility'. The fringe benefits facility allows certain components of compensation to be excluded from the taxable income of the expat as a one-time benefit. This includes reimbursements for travel expenses, hotel costs, relocation expenses, and transportation allowances, all incurred in connection with the immigration of the expat. Furthermore, allowances for covering school expenses for children and non-cash rewards up to a maximum of US\$8,500 (approximately) per year are also exempt for the expat.

Based on the net wage tax facility of the expat regime, the wage (and income) tax liability of the expat will be calculated on a net wage basis provided certain conditions are met (thus without the employer having to gross up the net wage of the expat when calculating the wage tax liability). This could lead to significant wage and income tax savings for the expat.

Curaçao's unilateral decree for the avoidance of double taxation

Curaçao has proactively addressed issues of double taxation in wage, income, and inheritance taxes by implementing a consistent approach through a unilateral decree (Decree). The Decree provides individuals residing abroad with the confidence and tax efficiency they need when considering a move to Curaçao.

To introduce a consistent means for the avoidance of double taxation, the Decree provides rules that allow for either an exemption or credit for various types of income.

Within the realm of personal income tax, the Decree presents a mechanism for obtaining Curaçao personal income tax exemption for various types of income, including but not limited to income from:

- ▶ Employment exercised in another jurisdiction.
- ▶ Employment exercised on behalf of a foreign government entity.
- ▶ Directorships or activities as a board member of a foreign corporation.
- ▶ Labor performed outside of the territorial waters of Curaçao on board of a ship or aircraft operated by an enterprise which is effectively managed in another jurisdiction.
- ▶ Sports and entertainment exercised in another jurisdiction.
- ▶ Real estate in a foreign jurisdiction, as well as rights pertaining to such real estate.
- ▶ Shares in the profits of an enterprise that is managed in a foreign jurisdiction (except from employment or securities).
- ▶ Entitlement to periodic payments from foreign government entities or foreign funds incorporated by such government entities

Curaçao tax relief is given provided that the income is subject to tax in another jurisdiction. Consequently, individuals relocating to Curaçao and earning any of the aforementioned income abroad, can rest assured that they (effectively) will not have to pay personal income tax on the same income within Curaçao's jurisdiction.

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