

Newsletter 2nd Quarter 2011



Latest developments

Report of meeting with Dutch Undersecretary Mr. Weekers

On June 25th, a meeting took place between CIFA/IFG, Undersecretary Weekers, a delegation of the Ministry of Finance and representatives from The Netherlands. The meeting that was perceived as constructive and conducted in a good atmosphere took place at Avila Beach Hotel.

General subject of the meeting was the BRK, a general tax law for the Kingdom of the Netherlands. Both parties indicated their intent to improve the BRK in accordance with current international standards and agreed that a renewed BRK should present a win-win situation and benefit both the Netherlands and Curacao. Parties acknowledged that the negotiations should be in good faith and take any possible imbalance regarding proportionality and interest into consideration during the negotiations. Also discussed were non-BRK related issues such as the importance of a well functioning regulatory and supervisory structure as well as the ability to gain more benefits from the special and strategic position of Curacao within the Latin American region. The Undersecretary expressed his appreciation for CIFA/IFG's contribution and vision towards a new BRK. The Dutch delegation asked CIFA/IFG to present a 'wish list' or a position paper, in which Curacao summarizes and explains its proposed improvements in the BRK.

CIFA's networking event in Colombia

On May 10, a cocktail reception was hosted by CIFA at the JW Marriott hotel in Bogotá, Colombia. CIFA offered this reception at the start of the 3rd Latin American IFA meeting. The reception provided an excellent networking opportunity for the CIFA members that attended this regional IFA meeting. Chairman Etienne Ys gave a short informal speech. The reception was attended by some 80 to 100 guests from various countries and all board members of the regional Latin American IFA committee. A well appreciated initiative that helped "break the ice" at the start of this IFA meeting.

CIFA's Networking Event in Miami

On June 14, CIFA hosted a cocktail party in Miami, Florida, at the Mandarin Oriental Hotel. At the Mandarin, the International Bar Association (IBA) organized their 2nd Annual U.S.-Latin American Tax Planning Strategies Conference.

On behalf of the CIFA Board, Etienne Ys, Arthur Adams and Eric Paassen were present, as well as several representatives of CIFA members. Although it was an unexpected rainy evening, the Mandarin staff managed to quickly setup an indoors venue, ensuring a pleasant and professional interaction between the Curacao representatives and the several guests. Approximately 50 lawyers and bankers, both from the US and abroad, attended. We are confident that our networking event - "Discover the potentials of Curacao" - served as a good start of the IBA-conference.

Being visibly present, with our own members acting as our ambassadors, at well-visited, professional events such as the IBA-conference, the IFA-regional conference in Bogota, Colombia, earlier in May or alike events in the region is an important tool in CIFA's strategic plan to ensure that Curacao again becomes a well-known brand in the international financial industry.

The CIFA-board would like to thank our sponsors for making this event possible: AIC, ANT Management, ATC, Ennia, Intertrust, Equity Trust, HBM Group, Spigthoff and Vistra.

We need your participation!

Send your information or interesting story to

info@cifa-curacao.com

CALENDAR:

- A general members meeting will be held on August 16th at Avila Beach Hotel
- The next Breakfast Briefing will take place on August (date and time t.b.a.). The topic will be "reputational risk and its impact for the sector".
- CIFA is working with the Chamber of Commerce to organize a trade mission to Canada in the 4th quarter of 2011.

More information to follow soon.



Tax Agreement for the Kingdom

Recently, the Tax Agreement for the Kingdom (TAK) has received a lot of interest. Negotiations have been conducted between the Netherlands on the one hand and Aruba and Curaçao each on the other hand. Most important issue in these negotiations from the Curaçao side is the current Dutch dividend withholding tax of 8.3% (net).

This rate has been a fixture in the TAK for 10 years now. Worldwide, corporate income tax rates as well as (dividend) withholding tax rates have been reduced. The Dutch corporate income tax for example went from 35% in 1999 to 25% in 2011. The Dutch dividend withholding tax was also reduced from 25% to 15% in 2007. To this date, the Dutch Government has not been willing to reconsider the 8.3% on dividends paid to the – former – Netherlands Antilles, now Curaçao and St. Maarten. In the mean time, as a result of the Tax Information Exchange Agreement (TIEA) with Spain, it is now possible to receive dividends from Spain without any withholding tax, which means there need be no withholding tax on dividends paid by a European subsidiary, if the structure avoids our Kingdom partner in Europe.

As a result, within the Kingdom cooperation for the benefit of all parties until now seemed very difficult and, tax wise, the partnership within the Kingdom does not offer much of an advantage. It is therefore an opportunity that negotiations are currently held to come to a new and modern TAK with regard to the Netherlands and Curaçao. The Dutch Fiduciary Association (DFA) and the CIFA share the opinion that the new TAK should make it possible to offer at least the same opportunities as are now available with for example Luxembourg, Cyprus and Malta, as well as Spain with its ETVE and an extensive network of DTA's.

Hopefully the negotiators will be able to agree that reduction or elimination of the dividend withholding tax for holding structures is fair when comparing Curaçao with other jurisdictions with regard to the Netherlands. Improving the opportunities of the TAK does not mean that there are unfair advantages given to Curaçao. On the contrary, improving the TAK to include more favorable opportunities would also mean that the partners in the Kingdom can once again work together to offer international investors and multinational corporations an efficient low tax financial support which will result in more substance based structures in the Netherlands as well as Curaçao. That would be good for both Governments in the two countries and the financial services sector. Ideally it should also be a turning point where the Government of both countries will be able to work together to actively seek to conclude more DTA's for Curaçao and thus improve the international stature of our jurisdiction.

While we are on the subject of withholding taxes, it must be noted that Curaçao does have a withholding tax on interest paid to, generally speaking, natural persons who are residents of one of the member states of the European Union. It might well be easier for everyone if Curaçao would opt for information exchange instead. That would once more show that we are serious about reducing or abolishing withholding taxes.

Arne Kattouw
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FATCA Awareness session by Deloitte.

FATCA Awareness Seminar

On June 6th, 2011, Deloitte Dutch Caribbean held a successful FATCA seminar at their new Curacao offices. The seminar was given by Mrs. Denise Hintzke, the global leader for FATCA and was held to potential and existing clients and other interested parties.

This act refers to some provisions included in the Hiring Incentives to Restore Employment Act signed into law on March 18th, 2010 and effective January 1st, 2013. The new rules require Foreign Financial Institutions (“FFI’s”) to provide the Internal Revenue Service (“IRS”) with information on certain U.S. persons investing outside of the U.S. and for certain non-U.S. entities to provide information about any U.S. owners.



Any entity which holds U.S. assets must consider whether it is subject to FATCA. This Act may apply to both financial and non-financial operating companies. Due to this breadth, FATCA impacts virtually all non-U.S. entities, directly or indirectly, receiving most types of U.S. source income, including gross proceeds from the sale or disposition of U.S. property which can produce interest or dividends. U.S. entities, both financial and non-financial, that make payments of most types of U.S. source income to non-U.S. persons will also be impacted as they may now be required to withhold a 30% tax on that income paid to a recalcitrant accountholder under FATCA.



Generally non-U.S. entities such as banks, brokers/dealers, insurance companies, hedge funds, securitization vehicles and private equity funds will be considered FFIs. During the seminar we had attendance covering almost all the above mentioned entities and we also had one-on-one meetings based on specific requests by larger financial institutions.

Most attendees were very surprised of the level involvement and set up that will be required to implement the FATCA regulations in order to comply.

The Curacao market will be deployed by a joint team from the Global FATCA Team and a multi-disciplinary team from the Deloitte Dutch Caribbean firm, whereby for the second, most of the work will be done on a local level, with supervision and quality control from the Global Team. The FATCA deployment team is a multidisciplinary effort between the Global FATCA team, our local Tax and ERS division, complemented with staff members of the regulatory compliance services. We are very excited about this new service offering which provides an excellent opportunity to keep striving to be the standard of excellence in the Dutch Caribbean.

For more information our Deloitte Curacao office FATCA team can be contacted:

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Or reached at our telephone number: (5999) 433 3333

We need your participation!

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Office formation changes

Welcome New Employee Vistra Curacao

Please be advised that Shadiah Elhage has joined the Vistra Group on Wednesday 15 June 2011 and takes up the position of Senior Trust Officer in the Curacao Office. Her previous extensive experience with the Curaçao and Dutch legal and fiduciary environment and her marketing and operational experience enables her to help further expanding Vistra's service offering in Curaçao.

We would like to extend a warm welcome to Shadiah Elhage and should you need to contact Shadiah she is available on tel nr: +5999 736 6044 alternatively, you can e-mail her at: shadiah.elhage@vistra.com

Gerard Jan van Spall
Vistra Curacao



Welcome new employee PWC

As of June 1st, Jorik Julsing has joined PwC Dutch Caribbean on Curacao as a senior tax manager. He graduated in Fiscal Economics in Groningen in 1999. Julsing has worked for the Dutch Finance Ministry in The Hague and after the implementation of a new law for income tax, he decided to switch to consultancy and worked as a tax advisor with BDO in The Hague for almost 10 years. He was part of the general practice and can be described as a generalist, but is also specialized in the real estate sector and due diligence research.

Arne Kattouw
PwC | Bureau Vaktechniek

Peter Bolwerk retires as Partner with PwC

Bolwerk steps back after 32 years of service with PwC

Willemstad – June 27th 2011 – Peter Bolwerk, Tax Partner at PwC Dutch Caribbean, will retire from the accountancy & tax firm on July 1st 2011. After 32 years of service, Bolwerk has decided it is time for new challenges.

After completing his HEAO in Arnhem, the Netherlands, he started his career at Ernst & Young. In the evening, he studied at the Federation- Tax Academy, from which he graduated in 1985. He received the prestigious Mr J.F. Udo prijs, an award for the number one graduate Federation tax advisor in The Netherlands.

In 1985, Bolwerk started as Head of the Tax filling practice at PwC (then Van Dien & Co.) in Arnhem. He decided to make the move to Curacao in 1988, when there was a vacancy at PwC Curaçao. After a year on the island, he decided to combine his activities at PwC with studying Fiscal Law at the Katholieke Universiteit Brabant. After graduating, he was named a Partner on January 1st 1995. In 2003, Bolwerk became Chairman of the partnership. In July of 2009 he passed the torch to Cees Rokx, who is still the Senior Partner.

PwC's clients and other stakeholders have been informed about this change within the organization. Bolwerk is proud of PwC and its' position within the accountancy and tax consultancy market. He has full confidence in the current partners, Cees Rokx, Steve Vanenburg en Gerald Stacie op Curaçao and Edsel Lopez and Hans Ruiter on Aruba.

Arne Kattouw
PwC | Bureau Vaktechniek

Office/ Formation Changes? Please let us know the new contact information

info@cifa-curacao.com



New guidelines

Likely in preparation for the upcoming (C)FATF evaluation of Curaçao, the CBCS updated their sector specific "Provisions and Guidelines on the Detection and Deterrence of Money Laundering and Terrorist Financing" ("the Guidelines") in May 2011, of which notification was sent to all stakeholders in June 2011. They are also available on the website of the FATF.

The most relevant changes across the sectors in the



new guidelines are:

1. The wording is less permissive: '*should*' is replaced by '*must*';
2. In respect to Politically Exposed Persons (PEP's) the guidelines encourage regulated entities to apply increased scrutiny to local PEPs as well, and stipulate that regulated entities must have in place procedures to determine if an existing customer becomes a PEP during the course of the relationship (while this may not have been the case at the time of acceptance);
3. Fines and other measures can now be imposed by CBCS for violations;
4. Risk Based approach: all financial institutions must implement a risk based approach. The Guidelines also provide the factors which must be considered in a customers' risk assessment, at a minimum. The resulting risk rating will determine the frequency of the periodic customer review, the extent of monitoring, as well as which additional documents and information are necessary for further verification and managing the risk. The Compliance risk must be based on at least the following factors:
 - a. Customer Risk;
 - b. Products / Services Risk;
 - c. Country or Geographic Risk;
 - d. Risk Delivery Channels.

5. High risk and Non-Cooperative Countries are specifically named as a factor in customer due diligence and risk assessment. High risk countries are countries which score 10 or more Non Compliant or Partially Compliant on the 16 key + core FATF Recommendations., and have not made efforts to remedy this. In addition, the FATF issues warning letters from time to time naming countries with serious deficiencies in their AML/CTF oversight. Regulated institutions are thus encouraged to analyze the countries with which they or their customers do business in order to keep abreast of the associated risks.

Furthermore, the sector specific Guidelines may incorporate further changes, specific to a particular sector. Hopefully, CBCS will issue a notification to outline the changes to the Guidelines for each sector. This will certainly assist the sector to address and implement the changes in the most efficient manner. Alternatively, each regulated institution will have to invest time to carefully compare the old and the new Guidelines. Different from other jurisdictions, there does not seem to have been a consultation period, where regulated entities in each sector get the opportunity to comment and feed-back on draft Guidelines. This input will ensure that the proposed measures are implementable and supported by the regulated entities.

Benno van Leeuwen CFE CAMS
Forensic Services Caribbean N.V.



Presentation Ben Steinebach MeesPierson

On the 5th of May MeesPierson Curaçao invited the members of the Curaçao International Financial Services Association (CIFA) to attend a presentation of Ben Steinebach, Head of Investment Strategy ABN AMRO MeesPierson, at Hotel Kura Hulanda.

MeesPierson Curaçao is part of the ABN AMRO International Private Banking Group, one of the largest European Private Banks with over EUR 175 billion in assets under management. The Curaçao branch offers its clients discretionary asset management services, investment advisory services, lending facilities and private and commercial banking services such as cash management for onshore and offshore clients.

Ben Steinebach provided the CIFA members with an overview of factors currently driving the financial markets as well as an overview of the Investments Strategy for the coming period. Furthermore Steinebach gave the audience insight in the way the bank manages the investment portfolios of its clients and outlined different risk profiles available to clients. MeesPierson Curaçao manages client portfolios actively taking into account specific risks associated with each profile through diversification over the various asset classes.

It was a learning experience and we hope to meet Ben Steinebach on Curaçao again next year.

Edward Pietersz
Meespierson

CIFA joins forces with VIMS and DFA

CIFA recently contacted its Dutch counterpart VIMS (Nederlandse Vereniging International Management Services) and the FDA (Dutch Fiduciary Services) to coordinate efforts for the purpose of improving the BRK for both Curacao and the Netherlands. Through both informal meetings and formal correspondence the parties agreed on the importance of renewing the BRK in accordance with the present time and current developments, in order to create a win-win situation in the form of a 'Dutch-Antillean corridor' to connect the emerging Asian and Latin American regions. CIFA also presented a letter to the Minister of Finance, Mr. Jamaloodin, referring to the positive correspondence between the parties with an eye on the meetings with the Undersecretary Weekers and the negotiations with the Dutch authorities moving forward.