



Curaçao Private Foundation

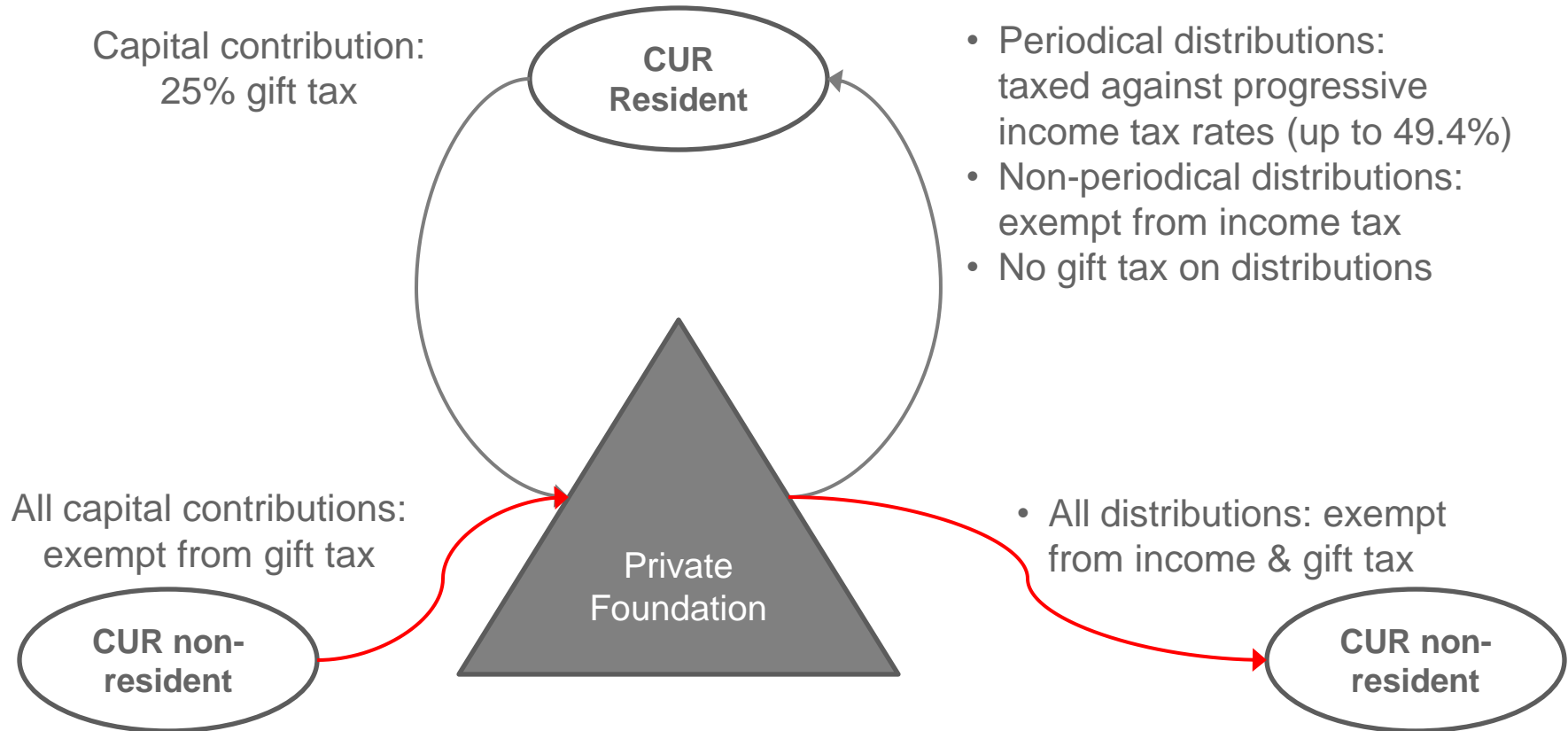
Practical Interpretation of the Tax Plan 2011

19 January 2012

Curaçao Private Foundation

- ▶ Tax Highlights up to 2012
- ▶ Tax Highlights as from 2012
- ▶ Outstanding issues to be solved
- ▶ Will the Private Foundation remain attractive?

Curaçao Tax Highlights up to 2012



- Private Foundations that do **not** conduct an enterprise are exempt from Profit Tax.
- Private Foundations that **do** conduct an enterprise are subject to 34.5% Profit Tax.

Curaçao Tax Highlights up to 2012

	Capital Contribution	Enterprise (active)	Passive*	Periodical distributions	Non-periodical distributions
Resident	25% gift tax	34.5% profit tax	Exempt from profit tax	Progressive income tax	Exempt from income tax
Non-Resident	Exempt	34.5% profit tax	Exempt from profit tax	Exempt from income tax	Exempt from income tax

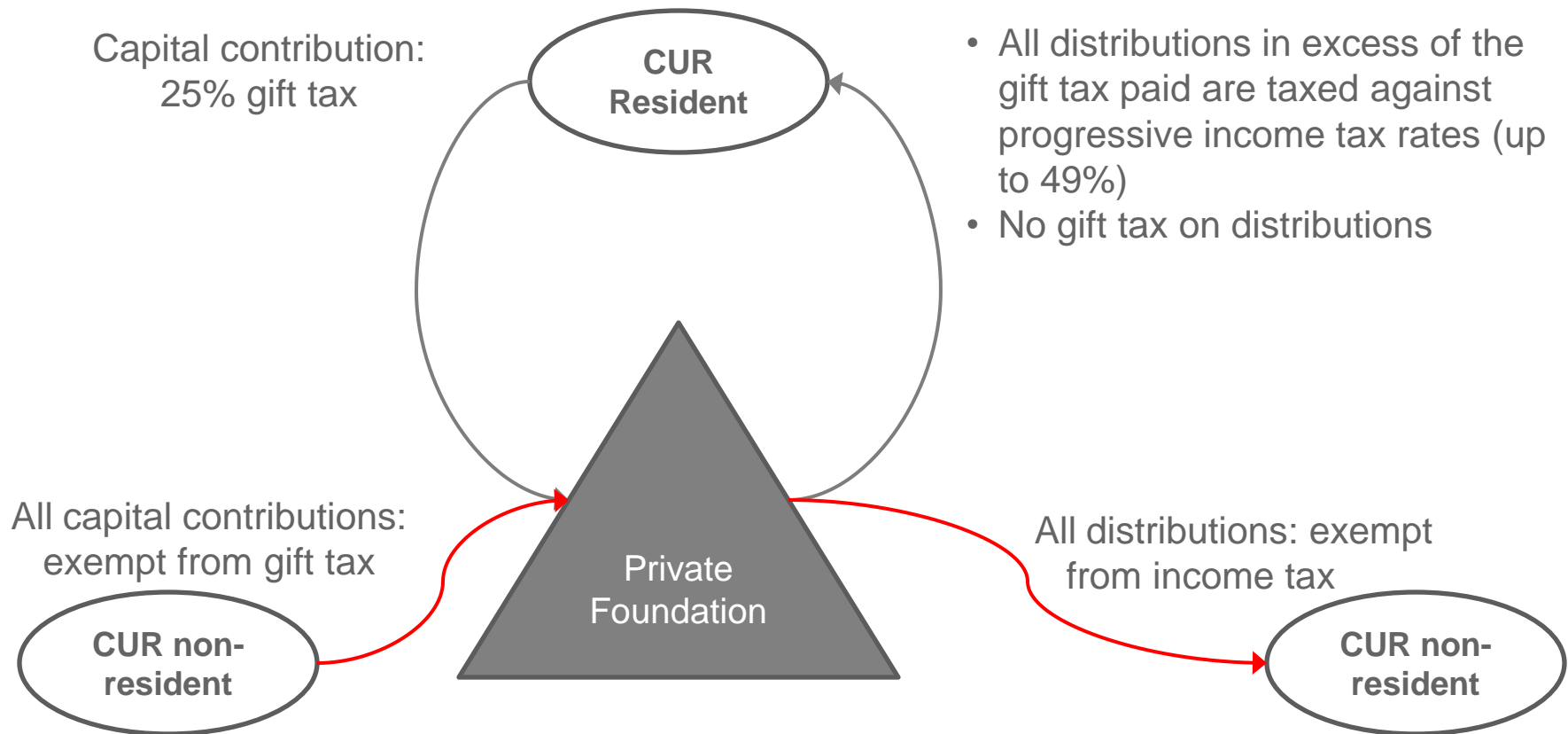
* Under 'passive' can be understood: participation as a limited partner in a limited partnership, acting as a holding company or any other 'passive' investments in securities, real estate, etc.

Too good to be true?

- Was this situation too good to be true? **Yes!**
- Was the Private Foundation being overly (ab-)used? **Yes!**
- Were changes necessary? Unfortunately, for a LOT of people: **Yes!**

However, the required changes should be aimed specifically at avoiding local abuse; not local and international (proper) use. And (drastic) changes must be introduced carefully (e.g. information campaign and/or grandfathering period).

Curaçao Tax Highlights as from 2012



- Private Foundations that do **not** conduct an enterprise are exempt from Profit Tax, unless they opt for profit taxation against 10%.
- Private Foundations that **do** conduct an enterprise are subject to 27.5% Profit Tax.

Outstanding issues to be solved

- Mitigation of overkill situations
- Distributions to residents in excess of “capital contributed” to the Private Foundation should be subject to income tax, not distributions in excess of the gift tax paid
- There should be a step up in taxable basis for non-residents with a Private Foundation upon immigration
- Introduction of guidance on when a Private Foundation will be treated as transparent for Curacao tax purposes and/or introduction of the option to choose for tax transparency.
- Information campaign and/or grandfathering period and/or step up in taxable basis as per 1 January 2012 for all non-abusive situations

Will the Private Foundation remain attractive?

- Yes, for international structures (i.e. founders and beneficiaries who never have or will live in Curacao)
- The Tax Authorities have proven to be understanding and willing to eliminate or reduce possible overkill situations as long as the (real) abusive situations are eliminated
- Depending on how and how quickly they publish new policy on how to deal with overkill situations, the Private Foundation can remain an interesting tool for asset protection, estate planning, etc.



Thank you

Bryan Irausquin

Tax Partner

Ernst & Young Caribbean

Office: +5999 430 5075

E-mail: bryan.irausquin@an.ey.com

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