

IMPORTANT TRANSITIONAL PROVISION OFFSHORE UNTIL 2019

(P.B. 1999-244, as amended by P.B. 2001-144 and P.B. 2001-145)

Article VI

1. Articles 8A, 8B, 14, and 14A of the National ordinance on Profit Tax of 1940, as they read on 31 December 1999, will remain in force on entities, which are established in the Netherlands Antilles and are subject to tax there and which on the last day of the last fiscal year which ends before 1 January 2002, exclusively or almost exclusively invest in and receive income from assets listed in the aforementioned articles.
2. The provisions mentioned in the first paragraph will also remain in force for entities established in the Netherlands Antilles, which are subject to tax there - including a permanent establishment of an entity as meant in article 1, first paragraph, under c of the National ordinance on Profit Tax 1940 – whose profit is entirely or almost entirely subject to one or more of the profit tax rates mentioned in the Guarantee ordinance on Profit Tax of 1993 and who on the last day of the fiscal year referred to in the first paragraph are in possession of a ruling from the Tax inspector, which is still valid and which confirms the applicability of one or more of the aforementioned rates, or have filed a request for a ruling as meant before or for the extension of such a ruling.
3. Article 12, first paragraph, of the National ordinance on Profit Tax of 1940, as it read on 31 December 1999, will remain in force for the profit derived from real property or rights with respect to same by entities mentioned in said article who are established in the Netherlands Antilles and are subject to tax there and on the last day of the fiscal year referred to in paragraph 1 invest exclusively or almost exclusively in real property located outside of the Netherlands Antilles or in rights with respect to same.
4. For entities which were constituted on or after 1 July 1999, paragraphs one, two and three will only be applicable if those entities effectively started carrying out their own business activities, before or on the last day of the fiscal year referred to in paragraph one. Barring proof to the contrary, the entities meant before will be considered not to have started carrying out their own activities if their assets for the most part consist of deposits or credits on shareholders or related parties. The entities mentioned in the previous sentence will be considered not to have carried out their own activities during the period that the holding of shares in these entities can be considered as the holding of inventory.
5. Upon request of the entities referred to in the first, second and third paragraph the provisions of those paragraphs will no longer be applicable. The request must be made in writing to the Tax inspector. Applicability of the provisions in question can either end, at the choice of the taxpayer, during the fiscal year in which the

request is made or from the following fiscal year unless the taxpayer withdraws the request within 3 months. Article 3, paragraph 4, of the National ordinance on Profit Tax of 1940 is applicable by analogy if the request is made with respect to the following fiscal year. Article 3, paragraph 5, of the National ordinance on Profit Tax of 1940 is applicable by analogy if the request is made for the current fiscal year. The provision just mentioned is also applicable by analogy if at any time the conditions set forth in the first, second or third paragraph are no longer met.

6. If at any time, whether or not at the request of the taxpayer, the articles mentioned in the first, second and third paragraph are no longer applicable, it will not be possible to reinstate their applicability subsequently. The previous sentence is not applicable to public limited companies as described in article 3A, paragraph 4, of the Guarantee ordinance on Profit Tax of 1993, it being understood that a request to reinstate the applicability of the articles in question will only be granted once.
7. The application of articles 8A, 8B, 12, first paragraph, 14 and 14A of the National ordinance on Profit Tax of 1940, as these read on 31 December 1999, and the application of the profit tax rates mentioned in the Guarantee ordinance on Profit Tax of 1993, will be terminated, regardless of the date of constitution of the entity, if and when the entity ceases to effectively carry out its own statutory activities at a moment in time which comes after the last day of the fiscal year referred to in the first paragraph, and at the same time all or almost all shares of the entity are transferred to third parties, other than to entities belonging to the same concern or to shareholders who own a substantial interest in the sense of article 11, paragraph 1, sub 3° of the National ordinance on income tax of 1943 in the entity, or if the shares are held for others not being the original shareholders.
8. The application of articles 8A, 8B, 12, first paragraph, 14 and 14A of the National ordinance on Profit Tax 1940, as they read on 31 December 1999, will be terminated no later than at the moment stipulated in the Guarantee ordinance on Profit Tax of 1993 for each taxpayer referred to in the first, second and third paragraph separately.
9. Should, as a consequence of the application of the seventh or eighth paragraph the applicability of articles 8A, 8B, 12, first paragraph, 14 and 14A of the National ordinance on Profit Tax 1940, as they read on 31 December 1999, or the applicability of the profit tax rates mentioned in the Guarantee ordinance on Profit Tax of 1993 be terminated, no rights can be derived from agreements with the Tax inspector, even those which have not expired as yet.
10. The National ordinance on Profit Tax of 1940, as it read on 31 December 1999, remains in force for entities referred to in the first and second paragraphs. For the application of the remaining National ordinances and regulations of the Netherlands Antilles those provisions, which refer to articles 4, third paragraph, 8A, 8B, 11, 14, 14A, and 15, fourth paragraph, 25 through 29F, 39, second

paragraph, 45E, fourth and fifth paragraphs of the National Ordinance on Profit Tax of 1940, as it read on 31 December 1999, remain in force with respect to the entities referred to in paragraphs 1 and 2.

11. Contrary to the stipulations of the first sentence of paragraph 10 the entities referred to in paragraphs 1 and 2 may, with reference to dividends, as described in article 11, third paragraph, first sentence of the Tax Arrangement for the Kingdom, which are received on or after 1 January 2002, choose the application of article 11 of the National ordinance on Profit Tax 1940, as it reads on 1 January 2001. If the taxpayer chooses for the application of that article, articles 8B and 14 of the National ordinance on Profit Tax 1940, as it read on 31 December 1999, will no longer be applicable with regard to dividends as described in the previous sentence.

xx
Translator's statement: I hereby certify the above to be a true and accurate translation of the Dutch text seen by me.
Curaçao, 18 March 2011.