Curacao Private Foundation
Stichting Particulier Fonds (SPF)

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Curacao is an autonomous territory of the Kingdom of the Netherlands

- Curacao is an island in the Caribbean
- It is a part of the Kingdom of the Netherlands
- The Kingdom of the Netherlands consists of:
  - The Netherlands
  - Aruba
  - Curacao
  - Sint Maarten
  - Bonaire
  - Sint Eustatius
  - Saba
Legal System in Curacao

• The Head of State is the Queen of The Netherlands, who is represented in Curacao by a Governor

• Curacao has its own corporate laws and tax laws

• The highest court of justice is the Supreme Court of Justice in The Hague, the Netherlands

• Curacao is not part of the European Union
Characteristics of the SPF

- Civil Law Entity - as opposed to Common Law
- Legal Entity - as opposed to a Trust
- Private Foundation - as opposed to a Foundation
- No Shareholders, only Beneficiaries - as opposed to a Company
- Mainly created for Capital Preservation, Holding Purposes, Portfolio Management and Estate Planning
- No Tax Liabilities
- No disclosure of identity of the Founder, Protector (if any) and Beneficiaries (only the Board member(s) are registered)
Treatment for Foundations in most Jurisdictions

- Only Social or Charitable Objectives
- Not for Private Purposes
Curacao Private Foundation (SPF): Confidentiality & Tax Planning Tool

- No Gift Tax
- No Estate Tax
- No Income Tax
- No Capital Gains Tax
- No WHT

Holding or Investment Company

Curaçao Private Foundation
Estate Planning, the Owner/Founder becomes a Beneficiary

- Owner/Founder
- SPF
  - Holding Co (Jurisdiction with DTA)
    - OPCO 1
    - OPCO 2
    - OPCO 3
  - Bank Accounts
  - Portfolio Investments
  - Real Estate
  - Other Assets
- Beneficiaries (including Founder)

Curacao Private Foundation
Benefits of the SPF for Estate Planning

Founder retains full Control over Assets

Contributions

Real Estate, Shares, Portfolio Investments, IP Rights, Cash...

Orderly Distribution at 0% Estate Tax

Beneficiaries

Curaçao Private Foundation
• **SPF: Tax Planning & Top Holding Entity**

  • Contributions to and Distributions by the SPF are tax-exempt
  • Distributions can be made to any
    - natural person
    - legal entity
    - partnership
    - trust
  in any jurisdiction
  • Top Holding entity for Corporate Structures maintaining full confidentiality & tax benefits
Example of Tax & Top Holding Structure

- Top Holding Structure
- DTA with Spain
- Spanish Law regarding ETVE: tax-exemption
- Curacao: participation exemption
- Curacao: no WHT on distributions
- 0% Colombia - Spain
- 0% Venezuela - Spain
Listing the underlying IBC on a stock exchange (DCSX) creates confidentiality and an increased transferability of shares.

The shares are placed with the custodian of the exchange, and booked against a broker (GLEX). The broker keeps a record of who owns the shares.

www.dcsx.an

www.glexservices.com
Other Uses

- The Private Foundation can act as trustee for a group of holders of shares, bonds or notes, whose assets are secured by mortgage, pledge or other security right;
- The Private Foundation can act as legal owner of IP rights and license these rights against the payment of royalties, subject to the condition that such licensing will not be construed as a business activity;
- The Private Foundation can, in its capacity as trustee or nominee, act as shareholder of a company and exercise all rights and powers attached to such shares on behalf of the Principals.
## Comparison between (Anglo-Saxon / Anglo-American) Trust & Private Foundation (SPF)

<table>
<thead>
<tr>
<th><strong>Trust</strong></th>
<th><strong>Private Foundation</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Common Law concept</td>
<td>• Civil Law concept</td>
</tr>
<tr>
<td>• Legal Arrangement</td>
<td>• Legal Entity (Legal Person)</td>
</tr>
<tr>
<td>• Usually irrevocable (Settlor gives up control)</td>
<td>• Flexible organization (the control of the Founder is arranged in the Articles)</td>
</tr>
<tr>
<td>• The Trustee holds legal title to the Trust assets</td>
<td>• The Foundation, being a legal person, holds legal title to the assets of the Foundation</td>
</tr>
<tr>
<td>• Limited period of existence (depending on jurisdiction, e.g. 80 or 100 years)</td>
<td>• Unlimited period of existence (until a resolution is adopted to dissolve the SPF)</td>
</tr>
</tbody>
</table>
## Comparison between (Anglo-Saxon / Anglo-American) Trust & Private Foundation (SPF)

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<td>• Can not be converted into a Legal Entity</td>
<td>• Can be converted into another Legal Entity type (e.g. common foundation or corporation, even in a foreign jurisdiction)</td>
</tr>
<tr>
<td>• Incorporation documents in English</td>
<td>• Incorporation documents in English, Spanish or Dutch</td>
</tr>
<tr>
<td>• Trust Deed is governed by jurisdictional law and jurisprudence</td>
<td>• Applicable law is Book 2 Civil Code of Curacao, almost no jurisprudence applicable</td>
</tr>
<tr>
<td>• The Trust cannot exist without assets and beneficiaries</td>
<td>• The SPF can exist without assets and beneficiaries (can be contributed c.q. appointed later)</td>
</tr>
<tr>
<td>• “Trust” or “Settlement” in the name</td>
<td>• “Private Foundation” in the name</td>
</tr>
</tbody>
</table>
Articles and Founder’s Powers

• Articles without Founder's rights
• Articles with Founder's rights (Pro-Services NV will keep the Founder's rights as Nominee Founder) (Nominee Agreement)
• Articles with Founder's rights (the client will hold the Founder's rights after having been appointed as successor Founder by Pro-Services NV)
• Founder’s Powers

The Founder can appoint and remove:

• members of the Board
• members of the Supervisory Board (if any)
• the Protector (if any)
• members of the Advisory Board (if any)
The Founder

• The identity of the Founder is not mentioned in any public deed or public registry.
• The Founder is the person with most control with respect to the Private Foundation.
• He can appoint other persons to control the Board (Supervisory Board, Protector).
Letter of Wishes

In the Letter of Wishes the Founder can express his views and wishes with regard to:

• the Beneficiaries of the Private Foundation
• the distributions to be made to the Beneficiaries of the Private Foundation
• the management and administration of the assets of the Private Foundation

The Letter of Wishes is private and confidential; the identity of the Beneficiaries is not mentioned in any public deed or public registry (unless the client prefers to include the Beneficiaries in the Deed of Establishment / Articles)
Conclusions

- Multiple purposes: Asset Protection, Estate Planning, Tax Planning
- More flexible vehicle than Common Law Trust
- Tax-Exempt Entity
- No filing of financial statements or tax returns required by law
- Person transferring assets does not have to be disclosed
- Possibility to change the beneficiaries at any time
- The Founder can also be a Beneficiary
- The Founder maintains control over assets
- The Foundation is a legal person
- Undetermined period of duration, can be dissolved or converted whenever the Founder wants
- Lower cost solution
<table>
<thead>
<tr>
<th>Africa</th>
<th>Asia Pacific</th>
<th>Europe</th>
<th>The Americas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mauritius</td>
<td>Auckland, Bangalore, Beijing, Chengdu, Davao, Dubai, Guangzhou, Hong Kong, Mumbai, New Delhi, Shanghai, Shenzhen, Singapore, Taipei</td>
<td>Amsterdam, Barcelona, London, Luxembourg, Madrid, Malta, Moscow, Nicosia, Vilnius, Zug, Zurich</td>
<td>Bogotá, Bridgetown, Buenos Aires, México, Miami, New York, Rio de Janeiro, San Diego, Santiago, São Paulo, Tortola, Willemstad, Wilmington</td>
</tr>
</tbody>
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Thank YOU