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THE DUTCH-AMERICAN FRIENDSHIP TREATY

*Emigrating to the Dutch Caribbean: the
advantage of being a U.S. citizen*

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Speed read

On December 15, 2014, the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba ruled that based on the Dutch American Friendship Treaty a U.S. citizen immigrating into Sint Maarten needs to be treated the same as immigrating Dutch Nationals not born on the island. On June 1st, 2015, the Curaçao Immigration Authority has officially adapted its immigration requirements for U.S. citizens in accordance with the Dutch-American Friendship Treaty and the judgment of the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba.

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1. **Emigrating to the Dutch Caribbean**

Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba attract many Americans for business or otherwise. Because of their geographical positions and excellent flight connections to the U.S., South America and Europe, these Dutch Caribbean islands create good investors' climates. And let's face it: in addition thereto the setting of sun, sea and sandy beaches creates that permanent vacation feeling. Condé Nast Traveler describes Curaçao as the Under-the-Radar Caribbean Island with many museums, restaurants and a UNESCO-listed historic downtown. Sint Maarten is an excellent sailing spot and Bonaire is an appealing diving spot. The Dutch Caribbean Islands therefore offer Americans unique environments to invest, to work and to live in.

Emigrating abroad can bring quite a lot of paperwork and is often a time consuming hassle. Many countries require residence and/or working permits for immigrants. Until recently U.S. citizens who wanted to stay and work on one of the Dutch Caribbean islands permanently had to apply for a residence permit as well as for a working permit. Until recently, because the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba (*"The Joint Court of Justice"*) ruled that these requirements may not be imposed as they are against the Dutch-American Friendship Treaty (*"DAFT"*).

2. **The Dutch American Friendship Treaty**

In 1956 The United States of America and The Kingdom of the Netherlands entered into a bilateral agreement, the DAFT, together with a Protocol and an exchange of notes relating thereto. The DAFT concerns friendship, commerce and navigation in order to encourage closer economic and cultural relations between both countries and its citizens. The DAFT is based upon the principles of national and unconditional most-favored-nation treatment reciprocally accorded. In other words the DAFT gives U.S. citizens a preferential treatment



when they prefer to invest, to stay and to work within the Kingdom of the Netherlands (“*The Kingdom*”).

The Kingdom consists of four autonomous countries: The Netherlands (in Europe), Aruba, Curaçao and Sint Maarten. Bonaire, Sint Eustatius and Saba are special municipalities of The Netherlands. The DAFT and its Protocol and notes relating thereto has been declared applicable to each of these countries within The Kingdom.

Article 3 of the DAFT Protocol states that U.S. citizens in the Dutch Caribbean shall be accorded the same treatment as Dutch Nationals not born in the Dutch Caribbean.

3. The LTU and WTU

The treatment of Dutch Nationals not born in the Dutch Caribbean is regulated in The Ordinance on Admittance and Expulsion (in Curaçao and Sint Maarten known as the “*LTU*” and in Bonaire, Sint Eustatius and Saba known as the “*WTU*”). Pursuant to article 3 paragraph f LTU (article 3 paragraph 5 WTU) a Dutch National not born on the island he is immigrating into will be admitted automatically under the sole conditions that he has (i) a certificate of good conduct, (ii) housing and (iii) sufficient means for living. Dutch Nationals do not require a working permit in Curaçao, Sint Maarten or in Bonaire, Sint Eustatius and Saba.

4. The judgment of The Joint Court of Justice

In connection with a U.S. citizen whose request to be admitted automatically in Sint Maarten had been refused by the Sint Maarten Minister of Justice, The Joint Court of Justice ruled that if it comes to their admittance and stay U.S. Citizens need to be treated the same as Dutch Nationals not born on one of the Dutch Caribbean islands¹. In its judgment The Joint Court of Justice specifically referred to article 3 of the DAFT Protocol and to article 3 paragraph f LTU. The Joint Court of Justice therewith confirmed earlier decisions of the Court of First Instance of Sint Maarten. Because all Dutch Caribbean islands apply the same rules in connection with the admittance and expulsion of strangers, the judgment of The Joint Court of Justice applies to all Dutch Caribbean islands. Therefore U.S. citizens have the right to be admitted automatically in Curaçao, Sint Maarten and in Bonaire, Sint Eustatius and Saba and do not require a working permit. For all other strangers, including EU Nationals, strict requirements apply.

5. Adapted immigration requirements

On June 1st 2015 the Curaçao Immigration Authority (“*Toelatingsorganisatie*”) has officially adapted its immigration requirements for U.S. citizens in accordance with the DAFT and the judgment of the Joint Court of Justice. U.S. citizens no longer need to apply for residence and working permits. U.S. citizens may invest, work and live in the Dutch Caribbean. Being an American in the Dutch Caribbean: what an advantage!

¹ www.Rechtspraak.nl: ECLI:NL:OGHACMB:2014:89, December 15, 2014, HLAR 69566/14.



6. Contact information

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