

Uruguay has established new rules through Law 19.484, with the aim of converging with international standards of International Tax Transparency.

The law is divided into four chapters:

1. **BANKS AND OTHER FINANCIAL INSTITUTIONS MUST AUTOMATICALLY REPORT ACCOUNT BALANCES AND INCOME INFORMATION TO THE TAX ADMINISTRATION (DGI);**
2. **IDENTIFICATION OF FINAL BENEFICIARY OF COMPANIES;**
3. **INCREASE IN TAX BURDEN FOR ENTITIES LOCATED IN LOW TAX JURISDICTIONS;**
4. **NEW TRANSFER PRICING REQUIREMENTS.**

**1- BANKS AND OTHER FINANCIAL INSTITUTIONS MUST AUTOMATICALLY REPORT ACCOUNT BALANCES AND INCOME INFORMATION TO THE TAX ADMINISTRATION (DGI);**

Under this Law, financial entities are required to report account balances as of the end of the calendar year, annual account averages, gains or profits generated by deposits, and financial assets held in custody by the financial entity. The obligations are established for both resident and nonresident account holders.

The information collected may be used by the Tax Administration to fulfill its functions, as well as for exchange of information with foreign governments.

The new law applies regardless of any bank secrecy obligations the financial entities may have toward its clients. These reporting obligations are effective beginning 1 January 2017.

We note that Uruguay introduced these changes in order to comply with the commitments assumed with the Organization for Economic Cooperation and Development (OECD). The commitments involve adopting international standards for transparency and exchange of financial information. The Law also seeks to provide the Tax Administration with information allowing it to manage the national tax system more efficiently

**2- IDENTIFICATION OF FINAL BENEFICIARY OF COMPANIES**

Under the Law, Uruguayan resident entities must inform the Central Bank of Uruguay (BCU) of final beneficiaries. This obligation also extends to permanent establishments of foreign entities.

Final beneficiaries are understood as the individuals who, directly or indirectly, hold a minimum of 15% of the company's capital or equivalent, or the voting rights, or otherwise exercise ultimate control over an entity.

In the case of trusts the individuals fulfilling the agreed trustor, trustee and beneficiary conditions must be identified.

Failure to comply with these reporting obligations will result in monetary penalties and other sanctions, including a prohibition on dividend distributions and the suspension of tax certificates.

### **3- INCREASE IN TAX BURDEN FOR ENTITIES LOCATED IN LOW TAX JURISDICTIONS.**

The Law's goal is to adjust the tax system so as to discourage use of entities residing, domiciled and organized in low or no tax countries or jurisdictions.

The tax authority issued the list of the countries that are regarded as low or no tax countries or jurisdictions. This list is included in the Resolution 1315/2017

Following are the changes proposed :

#### **a) IRAE (Business Income Tax), IRPF (Individual Income Tax) and IRNR (Nonresident Income Tax) on income from sale of shares**

Income from the sale of shares and other equity stakes of low tax entities are taxed when more than 50% of their assets, valued per IRAE rules, consist directly or indirectly of assets located in Uruguay.

#### Treatment of such earnings

<b>Current system</b>	<b>Proposed system</b>
Foreign source (NOT taxed)	IRAE – taxed at 25% IRPF – taxed at 12% IRNR – taxed at 12% (*)

*(\*) The rate is 25% if the seller of the shares is also an entity located in a low tax jurisdiction.*

#### **b) Changes in IRNR (Nonresident Income Tax)**

##### **b.1) Rate Increase**

The rate applicable to income obtained by entities residing in low or no tax countries is increased to 25% (previously was 12%). Dividends and profits paid or credited by IRAE taxpayers are not included in the increase, and the applicable rate will stay at 7%.

**b.2) Income from export and import transactions involving related entities located in low tax jurisdictions is considered Uruguayan-source income**

- Income obtained by low tax entities deriving from the prior purchase of goods from a related IRAE taxpayer (export by the IRAE taxpayer) is considered Uruguayan-source income.
- Income obtained by a low tax entity deriving from the sale to a related IRAE taxpayer (import by the IRAE taxpayer) is considered Uruguayan-source income, subject to IRNR.

In both cases it will be assumed that the income obtained abroad is 50% of the pertinent price, unless proven otherwise. Additionally, the Law provides for joint and several liability of the IRAE taxpayer for payment of the foreign company's IRNR.

As a general rule these transactions are presumed to be conducted with related parties when the taxpayer does not produce evidence to the contrary. For such purposes the taxpayer must file a sworn declaration.

### b.3 Other transactions with low tax entities (related or not)

- Income from the sale of real property as well as leases located in Uruguayan territory are taxed at a general rate of **25%** plus a supplementary rate of **5.25%**.
- Capital gains obtained from the sale of real property are determined on a real basis. If this is not possible it can be determined on a notional basis.
- In the case of income from other conveyances of real property located in Uruguayan territory notional income ranges from **20%** to **30%**.

### **c) Transition regime to encourage dissolution of entities located in low tax jurisdictions**

The Law provides for exemption from payment of IRNR and ITP (Conveyance Tax) on asset transfers made by low tax entities, provided the following conditions are met:

- i. Transfers take place by June 30, 2017
- ii. The acquiring party is not one of the aforesaid entities
- iii. If they are registered, that they have requested winding-up with the Tax Administration and the Social Security Administration within 30 days following the aforesaid date

### **d) Net Worth Tax and Corporate Oversight Tax – Changes**

Entities located in low tax jurisdictions will begin paying the Net Worth Tax at a **rate of 3%** (previously was 1,5%)

#### 4- NEW TRANSFER PRICING REQUIREMENTS

New transfer pricing requirements are established for multinational companies having a volume of billings to be set by the Executive.

The obligations, as set forth in action No. 13 of the Base Erosion and Profit Shifting (BEPS) Project of the OECD, include:

- o Country-by-country reporting

IRAE taxpayers who are part of an economically large-scale multinational group and meet some of the criteria for relatedness established in transfer pricing rules must submit a **country-by-country** report. The report is to contain information on all of the entities constituting the multinational group, with respect to gross income, taxes accrued and paid, and other data.

- o Additionally, the Law provides for submission of a **“master report”** containing information on the multinational group related to the organizational structure, activities engaged in, functions performed, assets used and consolidated gross income for the group, corporate capital, accrued earnings, number of employees and intangible assets, as well as the group’s financial and tax situation.

Finally, the Executive is authorized to order application of anticipated price agreements (APAs) bilaterally with other tax administrations.

These reports can be used by the Tax Administration to fulfill its functions and for the exchange of information with foreign governments in the context of double taxation agreements or treaties.