

ANNEX - REGULATORY FRAMEWORK

PROMOTION OF NATIONAL AND FOREIGN INVESTMENTS

Uruguay has a legal and incentive framework that is very well aligned with the needs of companies seeking to settle in the country.

One of the main incentives is the Investment Law No. 16,906 (1998), which declares the promotion and protection of domestic and foreign investments to be of national interest. One of its main characteristics is that foreign investors are granted the same incentives as local investors and there is no tax discrimination or restrictions on the transfer of profits abroad. Decrees 455/007, 002/012, 143/018 and 268/020 updated the rules of this regulation. This regime allows the investor to pay less tax on both corporate income and wealth.

In other words, for all investment projects under this regime and promoted by the Executive Power, it is possible to compute as part of the tax payment (IRAE - tax on income from economic activities) between 30% and 100% of the amount invested, depending on the type of project and the score obtained based on different indicators present in a matrix. The fixed rate of IRAE at the national level is 25%.

Wealth tax on movable fixed assets and civil works is also exempted, and VAT included in the purchase of materials and services for civil works can be reclaimed. Likewise, the law exempts the payment of import duties or taxes on movable fixed assets that have been declared non-competitive with the national industry.

FREE TRADE ZONE REGIMES

The free trade zones are part of a set of policies whose main objective is to encourage investment in Uruguay, and included in these policies are the Investment Promotion and Protection Law, free port and free airport regimes, the Public-Private Participation Law (PPP), the Industrial Parks Law, among others.

The first two free trade zones established in Uruguay were created in 1923 by Law No. 7,593 with the purpose of developing industrial centers in the interior of the country. They were later

reformulated by Law No. 15,921 of December 17, 1987¹ and Regulatory Decree 454/988 of July 8, 1988. In December 2017, by means of Law No. 19,566², the regulation was updated.

Free trade zones may be operated by the government or private individuals who are duly authorized. Private trade zones are managed by individuals and authorized by the government, which supervises and controls them through the Free Trade Zone Area of the General Directorate of Commerce³. For the establishment of a free trade zone in Uruguay, a governmental resolution is required, detailing information such as: the period of authorization of operations, the surface area occupied by the free trade zone, the minimum investment to be made by the operator(s) and the fee to be paid by the operator(s), among other relevant information.

The interested party in carrying out activities in a free trade zone must submit the request for authorization to the Executive Power, accompanied by an investment project that shows the economic and financial feasibility of the undertaking and its benefits to the country.

Any type of activity may be developed in the free trade zones: commercial, industrial or services.

Commercial activities mean the purchase and sale of goods or merchandise that enter the free trade zone where the activity is carried out or another free trade zone, and that have as origin and destination both the national and foreign territories. Logistics activities⁴ are also included in commercial activities.

Service activities include the rendering of all types of services from the free trade zone, either within the same zone, to users or developers of other free trade zones or to other countries. According to the new law, free trade zone users may also provide services within the rest of the national territory⁵ to companies that are IRAE taxpayers, as well as offer other types of services such as *call center*, mailboxes, and others⁶.

The companies authorized to develop activities in the free trade zones may be individuals or legal entities under any corporate form, including companies with bearer shares. Through article 14 of the new law, users within a free trade zone are required to have as their exclusive purpose any of

¹ Law 15,921

² Law 19,566

³ Webpage: <https://www.gub.uy/ministerio-economia-finanzas/zonas-francas>

⁴ These are considered operations that can modify the state or nature of the merchandise without implying in any case a process of industrial transformation. Art. No. 5 – Law No. 19,566.

⁵ Monopolies, government exclusivities or public concessions must be observed. Services rendered to the rest of the national territory will receive the same tax treatment as services rendered from abroad.

⁶ Services whose only or main destination is the rest of the national territory are excluded.

the activities set forth in the law. Foreign investments are no different from national investments, so they do not require special procedures or conditions to be established.

The activities of free trade zone users are exempt from all national taxes, current or future, and they also have the following benefits:

Exemption from income tax on economic activities (IRAE in Spanish), wealth tax (IP in Spanish) and any other national tax.

Tax exemption for dividends paid to shareholders domiciled abroad.

Option for foreign personnel (up to 25% of the total employed personnel⁷) to be exempt from social security contributions in Uruguay. For service activities, the minimum percentage of Uruguayan citizens may be 50%, when the nature of the business carried out so requires and always seeking the highest possible levels of participation of Uruguayan citizens.

Sales and purchases abroad of goods and services are not subject to value added tax (VAT), nor are sales and services rendered within the free trade zone. The update given by Law 19,566 includes the sale and purchase of goods that enter the free trade zone, and that have as origin and destination the national territory.

The goods exchanged by the free trade zones with the rest of the world are exempt from customs duties.

Likewise, and as detailed in article 25 of the law: "the government, under liability for damages and losses, ensures that the user, during the term of their contract, will have access to the tax exemptions, benefits and rights granted to them".

Sales from the rest of the country to the corresponding free trade zones are considered exports from Uruguay, and sales from free trade zones to the rest of Uruguay are considered imports, subject to the corresponding customs duties and national taxes.

Sales from the free trade zones to Mercosur countries are subject to the common external tariff (CET) of the bloc that applies to goods from outside the bloc. This is due to the fact that goods coming from free trade zones do not have preferential access, save for exceptions specifically established in bilateral agreements negotiated by Uruguay.

⁷ In warranted cases the percentage may be increased, with prior authorization from the government.

However, Decision 33/15 of July 2015 of the Mercosur Common Market Council (CMC) introduced modifications to the previous Decision 8/94 (the rule came into force on 07/21/2019 and was regulated by Decree 253/0198). The latter states that all goods originating from a Mercosur member state (or from a country with the same rules of origin, according to the Mercosur agreement) will not lose their origin status when they transit through a free trade zone, provided that such areas are under government control. Thus, only operations aimed at ensuring the trade, conservation, fractioning or other activities with a similar purpose may be carried out within the premises, without altering the tariff classification of the product or the verified status of origin⁹.

Prior to Decision 33/15, Uruguay already had agreements with Argentina and Brazil for certain products from the free trade zone of Colonia and Nueva Palmira (including goods produced by PepsiCo, wheat, barley, barley malt and soybeans)¹⁰. Sales from the free trade zones are also included in the trade agreements with Chile, Israel, Mexico, India, Ecuador, Venezuela and Colombia.

Additional Protocol No. 83 to ACE 2 has been in force since the end of 2022. This new agreement with **Brazil** extends the benefit to all products included in ACE 18 (leaving out sugar and the automotive sector) and to all free trade zones and special customs areas, for an indefinite period of time. In order to qualify for the benefit, the goods must comply with the Mercosur origin regime. In this way, Uruguay and Brazil expand the free trade area between them, granting preferential treatment to a broad definition of territorial scope as established in the current free trade agreements¹¹.

Finally, it is important to note that Uruguay signed 30 Agreements for the Promotion and Reciprocal Protection of Investments (APPRI in Spanish) with foreign countries¹², therefore, many of the foreign companies that are operators and users of free trade zones are covered by these agreements.

FREE PORTS AND AIRPORT REGIME

As a result of the Port Law No. 16,246 of May 1992 -and its subsequent regulations-, Montevideo is the first terminal on the Atlantic coast of South America to operate under a "free port" regime.

⁸ <https://www.impo.com.uy/bases/decretos-originales/253-2019>

⁹ http://www.adau.com.uy/innovaportal/file/13024/1/dec_033-2015_es_zonasfrancas.pdf

¹⁰ The agreement with Argentina only covers the free trade zone in Colonia.

¹¹ <https://www.gub.uy/ministerio-economia-finanzas/comunicacion/noticias/acuerdo-uruguay-brasil-para-productos-elaborados-zonas-franca>

¹² For further information see: International Agreements - Investor's Guide - Uruguay XXI. Link.

This regime also applies to the commercial ports of Colonia, Fray Bentos, La Paloma, Nueva Palmira, Paysandú and Puerto Sauce, as well as to Carrasco International Airport.

When operating in a free port, the goods may move freely without the need for authorizations or formal procedures. During their stay in the port customs area, the goods will be exempt from all taxes and surcharges applicable to the import, and the following operations may be carried out: those related to the goods or those related to the services rendered to the goods.

In addition to the aforementioned customs benefits, the circulation of goods and the rendering of services carried out in port customs areas are excluded from the application of value added tax. Likewise, goods deposited under the free port regime are not included in the taxable base of the wealth tax or income tax. Several of the agreements signed by Uruguay, including Mercosur and Israel, include a system of derived certificates of origin that facilitate the type of operations foreseen in the free port regime.

CUSTOMS WAREHOUSES

In anticipation that the port area might be insufficient for storage and logistics activities, Decree Law No. 15,691 of 1984 (Customs Code) allowed the establishment of bonded customs warehouses. These are enclosed spaces, closed or open-air, boats and pontoons (floating warehouses) and tanks where goods are stored with the authorization of Customs. Goods of foreign origin are considered to be in transit through the national customs territory and may be unloaded and reshipped at any time, free of import or export taxes of any internal tax.

According to the regulations, customs warehouses may be official or fiscal, belonging to the government or leased by it, and may also be private. In turn, warehouses may be commercial, duty-free or industrial. Special warehouses for the fractioning of packages are also allowed.

The operation of customs warehouses is similar to that of free ports, with the difference that industrial activities may be carried out in customs warehouses, i.e., operations aimed at varying the nature of the goods, such as:

- the addition of parts, articles and products coming from the national market (such as industrialization of raw materials and semi-finished products),
- the adjustment, assembly, installation and finishing of vehicles, machinery and apparatus,

- or all other similar transformation operations.¹³

Goods may not remain under this regime for more than one year, even if they are transferred to another warehouse of this or another holder¹⁴, as opposed to free ports where there is no such limitation. Regarding warehouses, the new CAROU proposes a new classification including logistic warehouses where changes in the nature but not in the origin of the goods can be made.

REFUND OF VAT PAID ON SUPPLY PURCHASES

VAT paid on purchases is generally recovered by deducting it from the VAT invoiced on sales made within the national territory, only paying the difference to the government. For exports (of goods and services) this tax is not invoiced, so the VAT included in the purchase of inputs is refunded directly at the request of the company. The General Tax Directorate (DGI in Spanish) issues credit certificates that may be used in the payment of other taxes.

Decree No. 220/998 lists the operations included under the concept of exports of services. Examples include: the transmission abroad of television material produced in the country, logistical support services for film and television productions of foreign companies, advisory services rendered to persons abroad, services rendered to persons abroad for the design, development and implementation of specific support, services rendered by international call centers provided that the main activity is destined for the foreign market and in the same sense, data processing, services rendered for the design, development and implementation of digital content, market research and social research services, and advertising services rendered by advertising agencies to clients abroad.

¹³ Article 100 of the Customs Code.

¹⁴ Law No. 16,736 of January 5, 1996, Article 180; and Decree No. 216/06 of July 10, 2006, Article 21.

TRADING (RESOLUTION 51/997)

In Uruguay, the general income tax rate (IRAE) is 25%. For trading operations, instead of taxing at the 25% income rate, the special regime first applies 3% to the difference between the sale price and the purchase price of the operation, and then applies the 25% IRAE rate to that result. For this reason, the effective income rate is 0.75%.

This regime applies both to *trading* operations of products and services, as long as the following conditions are met:

- the goods do not physically transit through Uruguay;
- the services are not rendered or used in Uruguay (they must be rendered or used abroad), and
- the supplier and the client of the Uruguayan company are not from the same country.

The company must also have a physical presence in the country and prove its existence.

Logistic operations with medical cannabis products (Decree 282/020)

Uruguayan legislation provides for the promotion of these activities in Decree 282/020, which governs the regulation and control of logistical operations with therapeutic medical cannabis products in customs warehouses authorized by the Ministry of Public Health (MSP) and the IRCCA. In this way, the warehouses may receive imports -prior authorization from the MSP- to be redistributed in the region.

The customs warehouses regulated in Decrees No. 97/015 and 99/015 that have the authorization to exercise functions as pharmaceutical operators with cannabis products granted by the Ministry of Public Health and the corresponding license from the Institute for Regulation and Control of Cannabis in force, are authorized to carry out operations as commercial or storage warehouses of cannabis-based products derived from cannabis or cannabinoids, plants or finished or semi-finished products of cannabis for medicinal purposes, provided that such operations do not imply alterations in the nature of the products.

SECTORIAL INCENTIVES

PROMOTION OF BIOTECHNOLOGY ACTIVITIES

Decree No. 011/013 declares the promotion of the production of biotechnology products, services and processes with application in strategic productive sectors, prioritizing the agricultural, environmental, energy, human and animal health sectors¹⁵.

The Executive Power, in consultation with the Biotechnology Sectorial Council, will review this prioritization every two years and may include new biotechnological development sectors to be promoted.

To be eligible for the benefits, the decree establishes as a requirement that one of the following alternatives be met: implementation of a program for the development of biotechnology products and services suppliers, that the company be a micro, small or medium-sized company producing biotechnology services and/or products, or that it be a new company that is going to produce biotechnology products and/or services.

The regulation establishes the IRAE exemption to the income originated in the promoted activities, according to the following percentages and terms:

- fiscal years started between January 1, 2018, and December 31, 2019: 75%.
- fiscal years beginning between January 1, 2020, and December 31, 2023: 50%.

PUBLIC PROCUREMENT SUB-PROGRAM FOR THE PHARMACEUTICAL INDUSTRY

Decree 194/014 creates the Public Procurement Sub-program for the Pharmaceutical Industry, which grants the possibility of applying in public tenders a market reserve to industries of the pharmaceutical sector with goods and services of their production that qualify as being national.

It is applicable to contracts made by the three branches of government, the Court of Accounts, the Electoral Court, the Court of Administrative Litigation, departmental governments, autonomous entities and decentralized services, public education entities and in general all state agencies, services or entities.

These regimes are explained in detail in the [Investor's Guide](#).

¹⁵ Supplemented by Decrees No. 315/018 and 75/022.