

Uruguay

Transfer Pricing Country Profile

February 2022

		SUMMARY	REFERENCE
The Arm's Length Principle			
1	Does your domestic legislation or regulation make reference to the Arm's Length Principle?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Art 38 Title 4 of the Tax Ordinance 1996
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	The TPG has a soft law status in Uruguay.	
3	Does your domestic legislation or regulation provide a definition of related parties? If so, please provide the definition contained under your domestic law or regulation.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Parties are related when: two parties are subject, directly or indirectly, to the management or control of the same individuals or legal entities, or one has the power to direct or define the taxpayer's activities – due either to participation in capital interest, to credit rights, or to functional or any other type of influence, whether contractual or not. Transactions undertaken by the Corporate Income Tax taxpayers with their foreign subsidiaries, branches, permanent establishments or other related foreign entities are subject to the same condition. Transactions between a permanent establishment and its home office fall within the scope of the transfer pricing rules. The permanent establishment is considered economically independent of its head office. For this purpose, compliance with the same formal and substantial conditions is required for transactions made between parties that are economically and legally independent.	Art 39 and 40 Title 4 of the Tax Ordinance 1996

	<p>Operations undertaken with non-residents that are domiciled, constituted or located in countries with low or nil taxation, or that benefit from a special tax regime of low or nil taxation, as expressly stated in detailed regulations, are treated as being between related parties (without admitting proof to the contrary), and are deemed to be at variance with normal market practice. Transactions with entities operating in customs havens and benefiting from a low or nil-taxation regime, are also included in this presumption.</p> <p>Imports and exports between related parties involving primary farming products or, in general, goods known to be quoted on transparent markets, if a foreign intermediary (that does not fulfil certain requirements established by law) participates in such transactions. This intermediary can be a related party or a third party. In this last case, the rule passes through the intermediary and takes into account the associated status with the second entity which participates in such operation (the foreign client/provider of the intermediary).</p>	
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Transfer Pricing Methods

4	<p>Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" data-bbox="687 859 1540 1017"> <thead> <tr> <th>CUP</th><th>Resale Price</th><th>Cost Plus</th><th>TNMM</th><th>Profit Split</th><th>Other (<i>If so, please describe</i>)</th></tr> </thead> <tbody> <tr> <td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td></tr> </tbody> </table> <p>There is a specific method for the import and export of goods that are listed on transparent markets.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (<i>If so, please describe</i>)	<input checked="" type="checkbox"/>	Art 41, Art 42 and Art 43 Title 4 of the Tax Ordinance 1996					
CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (<i>If so, please describe</i>)										
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>										
5	<p>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</p>	<p>Please check all that apply:</p> <p><input type="checkbox"/> Hierarchy of methods</p> <p><input checked="" type="checkbox"/> Most appropriate method</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</p>	Art 41 Title 4 of the Tax Ordinance 1996												

6	<p>If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.</p>	<p><input type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.</p> <p><input checked="" type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>)</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</p>	<p>Art 42 Art 43 Title 4 of the Tax Ordinance 1996</p>
For import and export of goods that are listed on transparent markets or similar, Uruguay uses the prices of these markets.			

Comparability Analysis

7	<p>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	<p>Art 6 Decree No 56/009</p>
8	<p>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>There is no express treatment regarding foreign or domestic comparables. From a practical point of view, both are accepted, depending on the facts and circumstances of the case under analysis. However, it is required to take into account the geographical market in order to carry out the comparability.</p>	
9	<p>Does your tax administration use secret comparables for transfer pricing assessment purposes?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>The tax administration may use secret comparables as a means of proof for justifying the prices it has determined. However, there are no practical cases in which the tax administration has made use of such faculty.</p>	<p>Art 45 Title 4 of the Tax Ordinance 1996</p>
10	<p>Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>When, due to the application of one of the methods stated in the law, two or more comparable transactions are identified, the median and the interquartile range should be determined for the prices, for the amount of consideration or for the profit margins involved. If the price, the amount of consideration or the profit</p>	<p>Art 8 Decree No 56/009</p>

		<p>margin fixed by the taxpayer with the related party falls within the interquartile range, such price, amount or margin is deemed to have been agreed between independent parties.</p> <p>In the event the price, amount of consideration or profit margin agreed is higher/lower than the value of the third/first quartile, the respective median values plus/less 5% are deemed to apply.</p>	
11	Are comparability adjustments required under your domestic legislation or regulations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>Article 7 of Decree No 56/009 explicitly provides for a number of adjustments that can be applied to eliminate differences between the controlled and comparable uncontrolled transactions.</p>	Art 7 Decree No 56/009

Intangible Property

12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <p>Uruguayan TP regulations do not establish specific provisions on the topic of transactions with intangibles; neither do they establish guidelines to identify their existence in a given transaction. The general TP rules stated in the law and its regulatory decree apply.</p>	
13	Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard-to-value intangibles (HTVI)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
14	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>Uruguay has a general expense limitation rule, including royalties and other similar expenses.</p>	Art 19 and Art 20, Title 4 of the Tax Ordinance 1996

Intra-Group Services

15	<p>Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <p>Uruguayan TP regulations do not establish specific provisions regarding intra-group service transactions. The general TP rules stated in the law and its regulatory decree apply.</p>	
16	<p>Do you have any simplified approach for low value-adding intra-group services?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
17	<p>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <p>Uruguay adopts the “substance over form” approach, which requires that the analysis of any particular transaction should adopt a substantial approach based on economic reality.</p> <p>The general expense limitation rule contained in Art 19 and 20 or the T. O. will also apply.</p>	<p>Art 19 and Art 20, Title 4 of the Tax Ordinance 1996</p> <p>Article 6 of the Tax Code</p>

Financial Transactions

18	<p>[NEW] Does your domestic legislation or regulations provide guidance specific to financial transactions?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
19	<p>[NEW] Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions? (e.g. whether your jurisdiction has implemented the measures in BEPS Action 4 to limit interest deductions and other financial payments or any similar rules)</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Art 19 and Art 20, Title 4 of the Tax Ordinance 1996</p> <p>Uruguay has a general expense limitation rule, including interest expense.</p>

Cost Contribution Agreements

20	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Transfer Pricing Documentation			
21	Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If affirmative, please check all that apply:</i> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG <input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG <input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG <input checked="" type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input type="checkbox"/> Other (specify): 	Art 46 and Art 46 TER Title 4 of the Tax Ordinance 1996
22	Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)	<p>Taxpayers are required to file annual information if they meet any of the following conditions:</p> <ul style="list-style-type: none"> - their aggregate transactions subject to TP rules, undertaken during the fiscal year, are in excess of 50 million indexed units (approximately EUR 5.3 million); or - they have been notified for filing such information by the DGI. <p>Taxpayers meeting the above criteria must file the following information:</p> <ul style="list-style-type: none"> - a sworn declaration stating the details and amounts of the transactions of the period subject to the transfer pricing regime; - a copy of the financial statements for the fiscal period, if not submitted previously in compliance with other regulations; and - a transfer pricing documentation report with a minimum content (local file). <p>The filing deadline for the presentation of this information is 9 months after the closing date of the fiscal year.</p> <p>Taxpayers exempted from the requirement to file the annual information referred to above must maintain the invoices and other supporting evidence justifying the</p>	Resolution of DGI N° 2084/2009 (numerals 10 to 13).

		<p>transfer prices used and the comparison criteria applied, during the statute of limitations (5 years, or 10 years in certain cases), in order to be able to duly demonstrate and justify the correct determination of those prices.</p> <p>All information provided to the tax authorities must be in Spanish language. If it is necessary to submit information from abroad, such information must be duly translated into the Spanish language and legalized.</p> <p>CbCR is consistent with BEPS Action 13. CbCR could be submitted in English or Spanish.</p> <p>Uruguayan law provides for a Master file but the Decree necessary to enforce it has not yet been issued.</p>	
23	Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	Art 46 Bis, Title 4 of the Tax Ordinance 1996
24	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	<p>When the aggregate transactions subject to transfer pricing rules, undertaken during the fiscal year, do not exceed 50 million Indexed Units (~ EUR 5.3 million), taxpayers are exempt from submitting the transfer pricing return. However, these transactions must equally comply with the arm's length principle.</p>	
Administrative Approaches to Avoiding and Resolving Disputes			
25	Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?	<p>Please check those that apply:</p> <p><input type="checkbox"/> Rulings</p> <p><input type="checkbox"/> Enhanced engagement programs</p> <p><input checked="" type="checkbox"/> Advance Pricing Agreements (APA)</p> <p><input checked="" type="checkbox"/> Unilateral APAs</p> <p><input checked="" type="checkbox"/> Bilateral APAs</p> <p><input checked="" type="checkbox"/> Multilateral APAs</p> <p><input checked="" type="checkbox"/> Mutual Agreement Procedures</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>	<p>Art 44 Bis Title 4 of the Tax Ordinance 1996</p> <p>Art. 15 bis of the Decree N° 56/2009</p> <p>Uruguay MAP Profile</p>

		<p>With regards to the APAs, Uruguay has regulations under the domestic law and an internal procedure. The duration of the APA is three years from the following year that it was signed.</p> <p>With regards to the MAPs, Uruguay does not have internal regulations, but Uruguay includes an article in its double tax treaties that allow MAPs. An internal procedure is in process. This information was provided in Uruguay's MAP profile.</p>	
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Safe Harbours and Other Simplification Measures

26	Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>The law authorizes the executive power to establish, on a general basis, special notional profit regimes (safe harbours), considering the modus operandi of transactions and the type of business activity or exploitation. Such regimes are optional and serve to determine the Uruguayan-source income from transactions subject to the transfer pricing regulations. Up to now, the executive power has not made use of such faculty.</p>	Art. 44 of Title 4 of the Tax Ordinance 1996
27	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Other Legislative Aspects or Administrative Procedures

28	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
29	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Attribution of Profits to Permanent Establishments

30	[NEW] Does your jurisdiction follow the Authorised OECD Approaches for the attribution of profits to PEs (AOA)?	<input checked="" type="checkbox"/> Yes <i>In how many tax treaties?</i> In two treaties.	
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		<p><i>If yes, how do you implement it in cases, where the old tax treaties do not contain the new version of Article 7 (OECD MTC 2010 and later)</i></p> <p>Despite Uruguay's internal law recognizing operations between the different parties of the enterprise (such as PE and principal), Uruguay can apply the OECD approach in the context of a DTA only if it has the new version of Article 7.</p>	
		<p><input checked="" type="checkbox"/> No</p> <p><i>In how many tax treaties?</i></p> <p>For the remaining tax treaties.</p>	
31	[NEW] Does your jurisdiction follow also another approach?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	
Other Relevant Information			
32	Other legislative aspects or administrative procedures regarding transfer pricing	N/A	
33	Other relevant information (e.g. whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire)	N/A	

For more information, please visit: <https://oe.cd/transfer-pricing-country-profiles>