

Uruguay

Transfer Pricing Country Profile

Updated October 2017

		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 of Title 4 of the 1996 T.O. http://www.dgi.gub.uy/wdgi/afiledownload?2,4_207,O,S,0,13920%3BS%3B44%3B115 , Art. 1 of Decree N° 56/2009. http://www.impo.com.uy/bases/decretos/56-2009
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	The domestic legislation or regulation is silent on the adoption of the OECD TP Guidelines or any other international rules of reference.	
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 (IRAE) 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 as for transactions made between parties that are economically and legally independent.	Arts. 39 and 40 of Title 4 of the 1996 T.O. (related parties) Art. 43 of Title 4 of the 1996 T.O. and art. 10 of Decree N° 56/2009 (intermediary participation in a commodity transaction). Art. 2, 3 and 3 Bis, of Decree N° 56/2009 (related parties) Art. 63 and 63 bis of Decree N° 150/2007 (EP and home office transactions). Resolution of DGI N° 2084/2009 (numerals 1, 2 and 3). http://www.dgi.gub.uy/wdgi/page?2,principal_Ampliacion,O.es,0,PAG:CONC:40;16;D:resolucion-no-2-084-009;0;PAG;

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.

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).

Transfer Pricing Methods

4 **Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?**

- Yes
- No

If affirmative, please check those provided for in your legislation:

CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The applicable methods shall be the method of comparable price between independent parties, the method of resale prices fixed between independent parties, the method of cost plus profit margin, the method of profit split and the method of transactional net margin, in the form determined by the detailed regulations, which may establish other methods for the same purposes.

Arts. 41 of Title 4 of the 1996 T.O.
 Art. 4 of Decree N° 56/2009.
 See links in question 1

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> <p>As a general principle, the method to be used in order to determine the prices of the transactions under analysis is that considered most appropriate for the type of transaction being made.</p> <p>In the case of commodity transactions the CUP method is mandatory.</p>	<p>Arts. 41 of Title 4 of the 1996 T.O. (general principles).</p> <p>Arts. 42 and 43 of Title 4 of the 1996 T.O. (for commodity transactions).</p> <p>http://www.dgi.gub.uy/wdgi/afiledownload?2,4_207,O,S,0,13920%3BS%3B44%3B115,</p>
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 checked="" type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.</p> <p><input 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 checked="" type="checkbox"/> Other (<i>if so, please explain</i>)</p> <hr/> <p>For imports and exports of goods where a public international price quoted in transparent markets, product exchange markets and similar can be determined, such prices should be used, unless it is proven that another price is more appropriate.</p> <p>In transactions between related parties involving primary farming products, and, in general, goods known to be quoted in transparent markets, with the participation of a foreign intermediary other than the final recipient of the goods, the CUP method must be applied. In this case the price applied must be the value quoted in such market at the date the goods are loaded, regardless of the transportation means and the price agreed with the intermediary.</p> <p>However, if the contract of the purchase and sale of commodities has been registered, the only price to be considered as comparable uncontrolled price is the price quoted in the transparent market on the date of the contract. If the contract is not registered, the same quoted price is applied as of the date of the corresponding bill of lading or equivalent document issued. In this last case, an anti-avoidance rule is applied.</p> <p>The quoted price referred to in this case may be reasonably adjusted to the value of the merchandise at the local market in respect of the insurance and freight costs involved.</p> <p>Registration of contracts is optional for taxpayers.</p>	<p>Arts. 42 and 43 of Title 4 of the 1996 T.O.</p> <p>Art. 9 Bis, 10, 11, 11 Bis, 12, 13, 13 Bis, of Decree N° 56/2009.</p> <p>http://www.dgi.gub.uy/wdgi/afiledownload?2,4_207,O,S,0,13920%3BS%3B44%3B115,</p> <p>Resolution of DGI N° 2084/2009 (numerals 4 to 9).</p> <p>http://www.dgi.gub.uy/wdgi/page?2,principal,Ampliacion,O,es,0,PAG;CONC;40;16;D;resolucion-no-2-084-009;0;PAG;</p>

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 <input type="checkbox"/> No</p> <p>From a practical point of view, although there is no a specific guidance on how a comparability analysis should be done, the general guidance on comparability analysis outlined in Chapter III of the TPG is followed.</p> <p>For the purpose of the comparability analysis and justification, “comparable transactions” are defined as those which do not show differences affecting price, profit margin or the amount of the consideration, or only differences that can be adjusted for with a substantial degree of reliability.</p>	<p>Arts. 4, 6 and 7, of Decree N° 56/2009. http://www.impo.com.uy/bases/decretos/56-2009</p>
8	<p>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</p>	<p><input checked="" type="checkbox"/> Yes <input 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.</p> <p>Law 19.149 modified article 97 (bis) of Uruguayan Company Law 16.060 to state that all companies, whatever their organizational form, should file and register their financial statements with the National Internal Audit Bureau (AIN). The regulatory decree defines the amount of assets and gross income that these companies must have in order to be obligated to file its financial statements with the AIN.</p> <p>The AIN’s register constitutes a public register for taxpayers and for the tax administration. The financial statements filed with the AIN are available to any interested party during a period of 3 years.</p> <p>Considering the availability of information regarding domestic transactions, domestic comparables could be preferable in certain cases.</p>	<p>Art. 97 Bis of Law 16.060 (in the wording given by art. 151 of the Law 19.149 of October, 2013). Decree N° 156/2016. www.ain.mef.gub.uy http://ain.mef.gub.uy/16323/11/areas/registro-de-estados-contables---central-de-balances-electronica-cbe.html</p>
9	<p>Does your tax administration use secret comparables for transfer pricing assessment purposes?</p>	<p><input type="checkbox"/> Yes <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>Arts. 45 of Title 4 of the 1996 T.O. http://www.dgi.gub.uy/wdgi/afiledownload?2,4,207,O,S,0,13920%3BS%3B44%3B115</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>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Arts. 8 of Decree N° 56/2009. http://www.impo.com.uy/bases/decretos/56-2009</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 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. A tolerance of 5% of the median is admitted.</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	<p>Are comparability adjustments required under your domestic legislation or regulations?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Arts. 5, 6, 7 and 9, of Decree N° 56/2009. http://www.impo.com.uy/bases/decretos/56-2009</p>
		<p>In order to determine whether a transaction is comparable, due consideration must be given to, inter alia, the following circumstances or elements reflecting the economic reality of the transaction or transactions: a) the characteristics of the transactions; b) the functions, assets and risk; c) the contractual terms; d) the economic circumstances. The regulatory decree describes these comparability factors.</p> <p>The decree explicitly establishes the adoption of the principle of the primacy of reality when delineating the transaction, stating that it must be taken into consideration "those elements or circumstances which best reflect the economic reality of the transaction or transactions to a greater extent".</p>	
Intangible Property			
12	<p>Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?</p>	<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.</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 Qualifying goods as intangibles is not conditional on the existence of a legal or contractual protection, although many of the goods fiscally considered as intangibles enjoy this feature. Thus, the approach adopted by the Uruguayan legislation is of an economic nature, broader than the notion of private law, which would also apply to transfer pricing rules.	Article 6 of the Tax Code. www.dgi.gub.uy http://www.impo.com.uy/bases/codigo-tributario/14306-1974
Intra-group Services			
15	Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No The general TP rules stated in the law and its regulatory decree apply.	
16	Do you have any simplified approach for low value-adding intra-group services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
17	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No From a tax point of view, Uruguay adopts the “substance over form” approach. The analysis of any particular transaction should adopt a substantial approach based on economic reality.	Article 6 of the Tax Code. http://www.impo.com.uy/bases/codigo-tributario/14306-1974
Cost Contribution Agreements			
18	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Transfer Pricing Documentation

19	<p>Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><i>If affirmative, please check all that apply:</i></p> <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): 	<p>Arts: 41 (paragraphs 4° and 5°), 46 and 46 ter, of Title 4 of the 1996 T.O.</p> <p>Arts. 14 and 15 of Decree N° 56/2009.</p> <p>Resolution of DGI N° 2084/2009 (numerals 10 to 13).</p> <p>See links in question 1 and 3.</p>
20	<p>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)</p>	<p>In accordance with Resolution 2084/2009, 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 USD 5 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>Other taxpayers subject to the transfer pricing regime (who are not required to file the annual information referred to above) must also maintain the invoices and other supporting evidence justifying the 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 the 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>Resolution of DGI N° 2084/2009 (numerals 10 to 13).</p> <p>http://www.dgi.gub.uy/wdgi/page?2.principal._Apliacion,O.es,0,PAG;CONC;40;16;D;resolucion-no-2-084-009;0;PAG;</p>

21	Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Non-compliance with formal obligations (such as failure to file a sworn declaration or to file the presentation of the transfer pricing documentation report) is punished with a fine for contravention (according to the seriousness of the infringement), apart from other sanctions that may apply depending of the facts and circumstances of the case. Article 46 bis of Title 4 (introduced by article 315 of Law 18,996) provided that in the case of any formal infringements related to the transfer pricing regime the fine for contravention shall be applicable gradually according to the seriousness of the infringement (until a thousand times the fine of contravention, as a maximum). There are no compliance incentives.	Arts: 46 bis of the Title 4 of the 1996 T.O. http://www.dgi.gub.uy/wdgi/afiledownload?2,4,207,O,S,0,13920%3BS%3B44%3B115
22	If your legislation provides for exemption from transfer pricing documentation obligations, please explain.	When the aggregate transactions subject to transfer pricing rules, undertaken during the fiscal year, are not in excess of 50 million indexed units (approximately, USD 5 million), taxpayers are exempt from TP documentation obligations. However, these transactions must equally comply with the arm's length principle.	Resolution of DGI N° 2084/2009 (numerals 10 to 13). http://www.dgi.gub.uy/wdgi/page?2,principal,_Amplicacion,O,es,0,PAG;CONC;40;16;D;resolucion-no-2-084-009;0;PAG
Administrative Approaches to Avoiding and Resolving Disputes			
23	Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?	Please check those that apply: <input type="checkbox"/> Rulings <input type="checkbox"/> Enhanced engagement programs <input type="checkbox"/> Advance Pricing Agreements (APA) <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Unilateral APAs <input checked="" type="checkbox"/> Bilateral APAs <input checked="" type="checkbox"/> Multilateral APAs <input checked="" type="checkbox"/> Mutual Agreement Procedures <input type="checkbox"/> Other (please specify):	Art. 44 bis of the Title 4 of 1996 T.O. Art. 15 bis of the Decree N° 56/2009. Tax Convention on Income and on Capital (art. 25 of the Double Tax Treaties signed by Uruguay). See links in question 1. Law N° 19.428 of August 29, 2016 (<i>Convention on Mutual Administrative Assistance in Tax Matters</i>). https://legislativo.parlamento.gub.uy/temporales/D2016080518-002146903.pdf#page=13

Safe Harbours and Other Simplification Measures

24	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	Art. 44 of the Title 4 of 1996 T.O. http://www.dgi.gub.uy/wdgi/afiledownload?2,4,207,O,S,0,13920%3BS%3B44%3B115
		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.	
25	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	The Tax Administration may determine notional profits derived from import or export transactions concerning goods with quoted price in transparent market (i.e. commodities referred to in articles 42 and 43 of the Title 4 of the 1996 T.O.). This regime is optional, and could be applied during a period of not more than 3 years. However, up to now, the Tax Administration has not made this kind of agreements.	Article 11 bis of Decree 56/2009. http://www.impo.com.uy/bases/decretos/56-2009

Other Legislative Aspects or Administrative Procedures

26	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Article 38 and 41 of the Title 4 of the 1996 T.O. http://www.dgi.gub.uy/wdgi/afiledownload?2,4,207,O,S,0,13920%3BS%3B44%3B115
		It must be noted that taxes are paid on a self-assessment basis. Transactions made by Corporate Income Tax taxpayers with related entities are considered as being executed between unrelated parties, if the consideration provided and conditions comply with normal market practices between unrelated parties (the arm's length principle). When the consideration provided and conditions referred to are not in accordance with this principle, which should be duly substantiated by the Tax Administration, those terms will be adjusted following the TP methods stated in article 41 of the Title 4 of the 1996 T.O. There are no specific rules related to global year-end adjustments.	
27	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Other Relevant Information

28	Other legislative aspects or administrative procedures regarding transfer pricing		
29	Other relevant information (e.g. <i>whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire</i>)	The issuance of a regulatory decree is expected for the next months, in order to contemplate the minimum standard introduced by the Action 13 of the BEPS Plan regarding the CbC regime and the Master File.	