Tax Residence in Uruguay: New flexible requirements

Decree 163/20 dated June 11, 2020, clarified by Decree 174/20 dated June 17 introduces two new grounds in order to set tax residence in Uruguay, within the framework of the policy of investment promotion and employment creation in the country.

Two new grounds have been added to the existing grounds in order to acquire the status of tax resident in Uruguay, namely:

A) To hold a real estate investment exceeding 3,500,000 indexed units (approximately USD 370,000) as of July 01, 2020 and effective presence on Uruguayan territory for 60 days on a calendar year. Such investment shall be by new acquisitions.
B) To hold direct or indirect interest in a company exceeding UI 15,000,000 (approximately USD 1,585,000) as of July 01, 2020 generating at least 15 new direct jobs on a full time dependency relationship employed as of July 01, 2020, on a calendar year, provided that this situation does not imply employment opportunities reduction at any related companies.

<u>Current situation: former grounds and additions introduced by the new decrees</u>

Uruguayan regulations set forth that any individual will be considered tax resident in Uruguay if any of the following conditions take place:

- That the individual remains for more than 183 days during a calendar year on Uruguayan territory. Occasional absences not exceeding 30 days will be considered for the calculation of the 183 days, unless the individual evidences to have tax residence elsewhere.
- That the individual locates on national territory the main core or basis of its activities or of its vital or economic interests:
- Vital interests. Unless proven otherwise, it is assumed that the individual has its vital interest on national territory whenever its spouse or dependent underage children regularly reside in Uruguay. Spouses must not be legally separated and any children must be subjected to parental authority. If there are no children, the spouse’s presence will suffice.

- Labor economic interests. An individual is deemed to have the main core or basis of its activities whenever such individual generates in the country a larger amount of income than elsewhere. The existence of the main core of its economic interests or the basis of its activities will not be considered in the case of exclusively obtaining pure capital income, even if all of its assets are located in Uruguay. Given that the provision refers to any income generated in the country, not only the individual's largest income must be paid by a Uruguayan company, but it should be applicable to a compensation for any duties carried out in Uruguay.

Additionally, and unless tax residence is evidenced elsewhere, an individual will be deemed to locate the basis of its economic interests in Uruguay (therefore being a tax resident) whenever such individual holds an investment in Uruguay meeting any of the following conditions:

- Economic interests due to real estate investment. A real estate investment exceeding 15,000,000 indexed units (approximately USD 1,585,000) considering the updated tax cost pursuant to any Personal Income Tax ("IRPF", in Spanish) provisions.
- Economic interests due to investment in a promoted project company. Directly or indirectly holding an investment in a company exceeding 45,000,000 indexed units (approximately USD 4,755,000) and that such company holds any activities or projects declared to be of national interest pursuant to investment laws. In order to appraise such interest, any Economic Activities Income Tax ("IRAE", in Spanish) provisions must be considered.
- Economic interests due to real estate investment and presence in Uruguay (NEW). Holding a real estate investment exceeding 3,500,000 indexed units (approximately USD 370,000) as of July 01, 2020 and effective presence on Uruguayan territory for 60 days on a calendar year. There shall be new acquisitions.
- Economic interests due to investment in a company and employment creation (NEW). Holding direct or indirect interest in a company exceeding UI 15,000,000 (approximately USD 1,585,000) as of July 01, 2020 that generates at least 15 new direct jobs on a full time dependency relationship, employed as of

July 01, 2020, on a calendar year, provided that this situation does not imply an employment opportunities reduction at any related companies.

Ground setting and effects:

Compliance with any of the seven foregoing grounds enables the status of tax resident in Uruguay, and therefore Uruguayan tax scheme must be adhered to.

As abovementioned, economic grounds by reason of investments are applicable unless taxpayer evidences to have tax residence elsewhere.

This description refers to Uruguayan domestic regulations and must be construed jointly with existing international treaties on avoiding double taxation entered into between Uruguay and any countries potentially involved.

Please do not hesitate to contact us if you require any further information.

Tax Benefits Extension for New Fiscal Residents – Draft Law

Within the framework of the policy of investment promotion and employment creation in the country, the Executive Branch has forwarded a Draft Law to the Parliament, whereby fiscal benefits are extended for any individuals becoming tax residents in Uruguay.

Current situation

Existing regulations set forth that any individual attaining the status of Uruguayan tax resident may decide not to be taxed under Personal Income Tax ("IRPF", in Spanish) for any transferrable capital yields originated abroad (namely, interest and dividends) in the fiscal year in which tax residence in Uruguay is set as well as the following 5 (five) years.

Amendments introduced under the Draft Law

The Draft Law strengthens this existing benefit by providing the possibility to any individual attaining the status of tax resident as of 2020 to choose to be taxed as follows:

1. Not to be taxed under Personal Income Tax ("IRPF", in Spanish) for any transferrable capital yields originated abroad in the fiscal year in which the change in tax residence is verified as well as the following 10 (ten) years.
2. To be taxed under Personal Income Tax ("IRPF", in Spanish) for any transferrable capital yields originated abroad, beginning on the fiscal year in which tax residence is attained, and indefinitely, at a 7% rate. Please note that the general Personal Income Tax ("IRPF", in Spanish) rate for these kinds of yields amounts to 12%.

Furthermore, the Draft Law sets forth that such individuals having attained the status of tax residents before 2020 and that decided not to be taxed under Personal Income Tax ("IRPF", in Spanish), may choose to be considered under the scope of this new scheme. In case of the 10 (ten) years option, any fiscal years for which this was already used must be deducted.

Please do not hesitate to contact us if you require any further information.