

Uruguay: Guidance issued on deduction of cross-border expenses

The Uruguayan tax authorities issued regulations in June 2009 clarifying the circumstance in which Uruguayan (i.e. resident) taxpayers can deduct expenses incurred overseas.

According to Uruguayan tax law, foreign expenses may be fully deducted in Uruguay only if the payment that gave rise to the expense is subject to an effective tax rate of 25% (i.e. the Uruguayan corporate income tax rate) or more in the country where the recipient is resident. If the foreign tax rate is lower than 25%, the expenses will be deductible in proportion to the maximum applicable rate if the rates are progressive, or if the rates are not progressive in proportion to the applicable rate. However, if the foreign provider is taxed in Uruguay under the nonresident income tax regime (which imposes a maximum 12% rate), the foreign effective tax rate must exceed 13% for the expense to be 100% deductible.

The recent guidance adds two more conditions to qualify for deductibility:

- Where the recipient of the payment is located in a no- or low-tax jurisdiction, the Uruguayan taxpayer must submit a certificate issued by the tax authorities in the recipient's country of residence that verifies the effective tax rate applicable to the recipient of the payment; and
- In other cases, the Uruguayan taxpayer must produce a certificate if so requested by the Uruguayan tax authorities. Once issued, the certificate will be valid for a calendar year and must include the following: (1) the nominal rate of corporate or personal income tax in the relevant jurisdiction (if rates are progressive, this must be mentioned, but for purposes of the deduction, only the maximum rate on the scale will be considered); (2) a statement that the recipient of the income is subject to the tax; and (3) a statement that no tax credit will be granted in the foreign jurisdiction for the nonresident income tax paid in Uruguay.

If the foreign authorities will not issue the certificate, Uruguay will accept a certificate obtained from a private well-known audit firm.

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