

Uruguay's Free Trade Zones

Concept, Relevance and Regulation

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1. Introduction

Free Trade Zones ("FTZs") are specific geographic areas within Uruguay with a special regulatory status: Companies operating within them face no taxation, as long as 50% to 75% of their workforce is local.¹ The tax exemption affects current and future taxes.

Uruguay has eleven FTZs in different parts of the country (near the main airport, inland, or in Montevideo's business district, contiguous to the main port- such as Aguada Park FTZ).

Global and regional companies set up subsidiaries in FTZs in Uruguay to provide services worldwide, or to engage in regional logistics activities. Operations which may be performed within FTZs include a broad range of services (such as financial, trading, IT, BPO, shared services, professional services), the storage, handling, and classification of goods or merchandise, and even the industrialization of products.

The way the activity is set up is:

- An operator of a FTZ offers space for lease (office space, warehouses, handling areas), plus an array of services (IT, telecoms, support).
- A company interested in operating from a FTZ chooses the one that best fits its needs, selects available space and signs a "user agreement" with the operator, establishing the terms of the lease and the services to be provided.

¹ The general rule for all FTZs is that 75% of labor must be local; but in service activities, this threshold can be lowered to 50% by requesting a waiver to the regulator.



- The Ministry of Finance's "*Area de Zonas Francas*" -the regulator- oversees that the user's activity is a permitted one. For this purpose, it requires that the user submit a business plan (prior to starting operations), which it approves within 90 days.

2. Free Trade Zones and Uruguay's Economy

Since the passing of legislation to promote the development of FTZs in Uruguay in 1987, they have become a cornerstone of the country's economy and global insertion.²

In recent years, FTZs have represented between 5% and 7% of the country's GDP, and they are one of the main sources of employment for young, qualified workers.

As a result, Uruguay has had a consistent policy -throughout different administrations of all major political parties- of supporting and promoting the growth of this sector, where foreign investment is a key ingredient. Uruguay has eleven FTZs, four of which were authorized in the past decade.

The original purpose for promoting FTZs was jobs creation, attracting foreign investment and generating business activity in diverse parts of the country. The results have exceeded the original goals and Uruguay has positioned itself as a one of the main global services providers and logistics operators in Latin America.

One of the key elements that draws foreign investors to Uruguay is the country's consistent reputation as a stable place to do business. Among the main attractions for investors are:

- The country's strong social, political and economic stability
- Its investment-grade status
- Equal treatment, guaranteed by successive laws, of local and foreign investors
- Free inflow and outflow of capital and repatriation of profits
- An open financial system with no capital controls
- Free exchange and use of foreign currency
- A solid banking system

² The legal framework regulating FTZs consists of Act 15,921 passed on December 17, 1987, as amended by Acts 17,292, 17,781, 18,721, 18,859 and 19,566. And certain Executive Decrees, most importantly: Decree 454/988, dated July 8, 1988, and Decree 309/018 dated September 27, 2018.

3. Activities Within Free Trade Zones

Companies that set up operations in FTZs may engage in industrial, commercial and service activities such as:

- All kinds of services, provided that the services are provided from within the FTZ and to third parties (to other users of the FTZs where the company operates, users of other FTZs, clients located outside of Uruguay, or clients located in Uruguay as long as they are Corporate Income Tax payers).
- Deposit, storage, conditioning, selection, classification, fractionating, assembly, disassembly, handling or mixture of goods or raw materials of national or foreign origin. The goods may or may not enter the national territory.
- Installation and operation of any kind of manufacturing enterprises.

FTZ user vehicles cannot perform any industrial, commercial or service activities in non-FTZ territory. Thus, a company wishing to operate in non-FTZ Uruguay must incorporate a separate vehicle for such activity.

4. Services Free Trade Zones

Among the eleven FTZs that have been authorized to operate in Uruguay, there are two “services only” FTZs. Aguada Park FTZ was the first one, and the nature of its activity dictated its configuration and location: a block with space for three buildings, strategically positioned at the footstep of the Montevideo port, three miles from the country’s main business and financial district, and next to the country’s telecommunications company.

Any type of service may be provided by users located in Aguada Park FTZ.

Examples include:

- Financial
- Professional (legal, tax advice, accounting, payroll, etc.)
- Advisory
- Trading
- IT
- BPO
- Shared services

These services may be provided to:

- Other users in the FTZs where the company operates
- Users or operators of other FTZs
- Clients located outside of Uruguay
- Clients located in Uruguay as long as they are Corporate Income Tax payers

5. The Key Advantage: Tax Exemptions³

FTZ regulation grants a general and total tax exemption on business activity carried out by FTZ users. This counts for current and future taxes, and this is guaranteed to users through the term of their user agreements.

As a result of the general tax exemption, users will not pay:

- Import and export taxes or duties
- Corporate Income Tax (IRAE), which has a rate of 25% of net income
- Dividend distribution tax, which has a 7% rate
- Capital Tax (IP), also called “Net Worth Tax”, which has a 1.5% rate
- Value Added Tax (VAT) on goods or services, generally taxed at 22%

The only exception to the general tax exemption is the payment of social security charges for local labor, which must be paid under the general social security rules for Uruguay (broadly, 19.625% to 23.125% for employees and 12.625% for employers).

Foreign workers are not bound by social security charges regulation and may choose not to pay those charges.

In terms of personal taxation, local employees face the general personal income tax system, which taxes income at progressive rates ranging from 0% to 36%.

Foreign workers may choose an alternative system: paying a 12% flat rate of the nominal salary (the so-called Non-Resident Foreign Income Tax).

³ While the key benefit for FTZ users is the general tax exemption, there are additional advantages: Government-owned monopolies don't apply. These are relevant in telecommunications and energy, for example. So, a company in a FTZ may hire telephone services from any carrier.

In sum, the only taxation and charges that a foreign worker faces on his or her salary while working at a FTZ company is a flat 12% income tax rate. This acts as an important stimulus to foreign companies and executives.

6. Requirements to Operate Within Free Trade Zones

To operate within FTZs, companies must fulfill five requirements:

- *Employees:* The key requirement for users of FTZs is employment related: they must hire at least 75% Uruguayan personnel -either natural or legal citizens. Service companies may -however- file a request to the regulator, to diminish that to 50% of the payroll. Once the request is filed, the regulator has 60 days to reply; if no reply is received within those 60 days, the authorization takes effect automatically, and for the duration of the user agreement.
- *Corporate Vehicle:* The user must incorporate a special purpose vehicle (“SPV”) to operate as a FTZ user. This may be a local corporation (“SA”) or limited liability company (“SRL”); or a branch of the foreign company. This SPV’s sole purpose must be to operate under the FTZs regime.
- *Business Plan:* FTZ users must submit a business plan to the regulator, explaining the type and scope of activity to be conducted in the FTZ, and projected income. This is usually approved within 90 days.
- *User Agreement:* Along with the business plan, the FTZ user must submit the user agreement (with the lease terms). User agreements are standard and are provided by the FTZ operators. User agreements on services or commercial activities, signed directly with the owner of the FTZ may have a maximum term of ten years. If the agreement is signed with another user of the FTZ regime, the maximum term is five years. After the period expires, a new agreement (and a new business plan) must be submitted.
- *Updating information on the business plan.* Every two years the FTZ user must file a progress report of the filed business plan to the regulator.

7. Establishing a Company in a Free Trade Zone

Selecting a FTZ

The first step that a company wishing to operate in a FTZ must take is selecting the FTZ that best fits its needs in terms of infrastructure, location, available space, costs and services offered.

Incorporation

Once the FTZ has been selected, a local corporate vehicle must be incorporated: a fully-owned corporation, limited liability company or registration of a branch of the foreign company.

Incorporation in Uruguay is easy. If the vehicle of choice is a corporation, one may acquire an inactivated shelf company, which is operational in 48 hours, or incorporate one from scratch (which takes four weeks). If one chooses a limited liability company, the process takes three weeks.

Corporate vehicles in Uruguay allow for:

- No minimum capital requirement
- A sole officer / director is possible
- A sole shareholder is possible in the case of corporations
- Officers / directors / shareholders may be foreign nationals
- Physical presence of officers / directors is not required

Signing the user agreement

The company then signs the user/lease agreement with the operator of the FTZ. The user can be a “direct” one or an “indirect” one (indirect users are those that sub-lease space or have an agreement with a direct one). The maximum term of the lease agreement for direct users is ten years, and for indirect ones, five years. When the lease term expires, a new one must be signed.

Preparing the business plan

A memorandum explaining the company’s intended activity and projected income (the “business plan”) is filed with the regulator. It is usually approved within 90 days.

8. Frequently Asked Questions

A multinational company wishes to establish operations in Uruguay and also in a FTZ. How does it incorporate?

Since FTZ vehicles must be specific for operating within a FTZ, the company will incorporate two different fully-owned vehicles: one for the operation within Uruguay, and the other one for FTZ activities.

Which types of corporate vehicles are available for FTZ users?

Companies will usually incorporate a Corporation (*Sociedad Anonima, SA*) or a Limited Liability Company (*Sociedad de Responsabilidad Limitada, SRL*).

Companies from the United States will generally choose to incorporate a local LLC (SRL) which qualifies as a “check the box” entity, and is more favorable for U.S tax reasons.

How can a FTZ user vehicle be financed?

The shareholder may finance the company with capital contributions or loans. There are no thin capitalization rules, nor any obligation to set a minimum interest rate on loans. When capitalizing a company, no taxes apply.

What is the process to open an office in a FTZ and operate from it?

The process is simple: after choosing the appropriate FTZ to operate from, a special purpose vehicle is incorporated, an agreement is signed with the FTZ owner or with an existing FTZ user, and a simple business plan must be filed (with the user agreement alongside) to the regulator for approval. Once approved, the company starts operations.

Is there a certain percentage of local labor required?

Yes. To operate with tax exemptions, the general rule is that 75% of employees must be Uruguayan. But in services activities it is possible to request a waiver to operate with only 50% local labor. The waiver is requested to the regulator, and if within 60 days an answer is not obtained, this is considered a tacit approval.

What taxes does a company operating in a FTZ face?

No taxes, except the social security charges on local employees (foreign employees may opt out of the local social security charges).

What taxes does a shareholder of a FTZ company face when dividends are distributed?

None. The payment/distribution of dividends by a FTZ company to its shareholders is exempted of taxes, as well as all other applicable taxes to the company.

What tax benefits do foreign workers employed in a company operating in a FTZ have?

Foreign workers may opt out of the local personal income tax regime, and instead pay a flat 12% tax on income. And they may opt out of the social security charges system entirely. This applies for all types of positions, including executives.

How do the benefits that Uruguay's FTZs grant compare to those in other countries with FTZs?

The Uruguayan system has broad and complete tax exemption, including dividend distribution tax and 100% income tax exemption, which some countries don't exempt in full.

Are there capital controls on the flow of capital into or out of Uruguay?

There are no controls. The flow of capital is free and can be done in any currency.

Is a FTZ company required to have a bank account in Uruguay?

No. It is not mandatory for a FTZ company to have a bank account in Uruguay. The flow of funds generated by the company can be operated through a bank account overseas.

Is it possible for a company to operate in more than one FTZ?

Yes. A company may have an office in a FTZ and provide services to companies located in other FTZs.

Also, a company may have offices in several FTZs. A request must be filed with the regulator for this for this.

Is it possible to start operations with a small office in a FTZ and then relocate to a bigger one?

Yes, it is possible to start operations in a small office and once the business activity increases, negotiate a new office lease with the FTZ operator. The new agreement must be filed with the regulator.

There are many instances when a company starts operations in the business center area of a FTZ, and later moves to a bigger office. Business center areas are an option offered by the FTZ operator, with smaller offices and where secretarial services, meeting rooms and utilities are included in a monthly flat fee.

How many directors is a FTZ company required to have?

One director is enough, and it may be a foreign individual or entity.

Which accounting rules must the FTZ company follow?

The FTZ company must have annual Financial Statements according to International Accounting Rules (IFRS).

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