Bulletin 2011

Changes in Uruguay law on bank secrecy – tax sharing information

Is Uruguay a tax haven? Most Uruguayans would be surprised to find that it has been classified as such by the OECD, particularly when looking at the amount they pay in income taxes from their often not overly generous wage packets.

However Uruguay has always had a tax regime which only taxes income or assets of a Uruguayan source – until last year when for the first time an exception was made to that principle for income arising from financial assets based off-shore for Uruguayan citizens and residents(resident for tax purposes does not mean the same as resident for immigration purposes: you can be one or the other or both, but not necessarily are you always both).

Uruguay has been on the OECD grey list of countries which do not share information with other countries and are presumed therefore to be a haven for all kinds of illegal money transactions. Uruguay has been working towards signing and ratifying the necessary number of treaties to get off the grey list, but has not yet done so. As a result Uruguay was one of the countries named (and shamed?) by President Sarkozy at the end of a recent EU summit.

Surprisingly for Uruguayans and perhaps other observers many countries which we have always associated with the term of “tax havens” were not named; e.g. Monaco, Switzerland, Jersey, Guernsey, Cayman Islands etc. Why were these countries not named? Is it all a plot by the OECD countries to gang up on Uruguayan and Panama (amongst others), whilst forgetting the other more blatant examples in their own back yards? Was the French intervention made at the request of the Argentine government, who have their own agenda when it comes to Uruguay?

Uruguay is now being obliged to proceed not only with the treaties it had proposed previously, but also with its other leading commercial partners – for which one should read Argentina basically. This is a problem for Uruguay, because everybody knows that the financial system and real estate market are dominated by Argentine deposits and purchasers. They themselves come to Uruguay, mainly to get their assets out of their own country, where historically they have been shown to be unsafe.

So, the Uruguayan government, after first making noises that it wanted to negotiate an agreement covering the whole of the MERCOSUR, has now started negotiating directly with the Argentine government. Not surprisingly this is causing concern amongst investors and there is already news of investments being halted.

What is the likely outcome?

In the writer’s opinion the government will have to flexibilize the bank secrecy regime and also agree tax sharing and double taxation agreements. However they are likely to drag those negotiations out as long as possible, before there is a real risk of sanctions being put in place by the OECD