

# Uruguay

## Chamber of commerce:

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## Fabián Rivero Estudio Bergstein Montevideo

Although Uruguayan law regulates several types of business organizations, the most common forms of business entities are corporations (*sociedades anónimas*) and limited liability partnerships (*sociedades de responsabilidad limitada*). While the corporation is usually considered a suitable vehicle for all kinds of business, the limited liability partnership is normally adopted by small and medium-sized businesses.

Both for corporations and limited liability partnerships, either individuals or legal entities can be shareholders or quotaholders, and there are no nationality or domicile requirements in this respect, no matter the type of business entity chosen.

Corporations require a minimum face capital of about \$30,000, of which 25% must be paid in at the time of incorporation. Such capital can be represented by registered (nominative) or bearer shares, all of them of equal value and expressed in Uruguayan pesos (except in the case of offshore companies, where the capital can be expressed in foreign currency). Transfers of shares are free and not subject to any approval, communication or other requirements. Shareholders' liability is limited to the capital shareholders have paid into the corporation.

Limited liability partnerships require a face capital of at least \$680 and no more than \$30,000. Such capital is divided into equal quotas expressed in Uruguayan pesos, with a minimum value of about \$7.60 each. Additionally, quotas cannot be represented by negotiable certificates, and their transfer to third parties requires the consent of the majority of the quotaholders. This involves an amendment to the articles of association. Partners' liability is limited to the capital subscribed by each partner.

Offshore corporations (*sociedades anónimas financieras de inversión*) are also common, especially because of the advantageous special regime to which they are subject. Their main corporate purpose is to perform financial investment activities abroad. Offshore corporations are only subject to an annual tax of 0.3% on their net worth.

Free trade zone companies are those companies whose scope is limited to the performance of industrial or commercial

activities, and/or the provision of services, within free trade zones. Free trade zone companies benefit from broad tax exemptions.

Foreign companies can also set up a local branch in Uruguay. They are required to register their bylaws, along with the corporate decision approving the branch registration, with Uruguay's Registry of Commerce.

## General tax regime

### Value-added tax (VAT)

Sales of movable assets in the domestic market, the rendering of services in the Uruguayan territory, and the import of goods, are subject to VAT at the rate of 23%. A reduced rate of 14% VAT applies to certain goods considered as basic for the satisfaction of primary needs.

Exports are not subject to VAT. Exporters are entitled to a tax credit for the VAT billed to them – if effectively related to any stage of the export process – for the goods exported.

### Income tax

At the rate of 30%, income tax is only assessed on business entities' income (there is no personal income tax) sourced in Uruguay. Such taxable income is determined on the basis of net profits obtained throughout the fiscal year.

Remittance of dividends abroad is taxed, provided that: (i) the foreign shareholder is taxed in the foreign country for the dividends collected in Uruguay; (ii) the foreign country recognizes a tax credit for the tax paid in Uruguay; and (iii) the foreign shareholder has a positive tax income to offset the tax paid in Uruguay.

### Net equity tax

Net equity tax is assessed on companies' net worth in Uruguay at the rate of 1.5%. Assets abroad are not subject to this tax. Only a few liabilities can be deducted, including debts with local financial institutions subject to the tax on bank assets (*impuesto a los activos bancarios*) and debts with suppliers (other than loans, guarantees and outstanding balances for imports, commercial paper issued by public subscription and quoted at the stock exchange).

*Corporations control tax (Icosa)*

Icosa is assessed on the following basis: (i) as of the time of a corporation's incorporation, at the rate of 1.5% calculated over the minimum face capital admitted (around \$30,000); and (ii) as of the end of each fiscal year, at the rate of 0.75% over the same tax base. For corporations maintaining assets in Uruguay, the sums paid for Icosa are creditable to annual net equity tax, to which they are also subject.

*Additional sales tax (Cofis)*

Cofis is assessed on the import and domestic circulation of industrialized goods, when the import or sale of such goods is effected in favour of public or private companies or in favour of VAT or specific internal taxpayers. The applicable rate is 3% of the price.

## Corporate and commercial

### Recommended firms

Tier 1

**Ferrere**

**Guyer & Regules**

Tier 2

**Hughes & Hughes**

**Posadas Posadas & Vecino**

Tier 3

**Estudio Bergstein**

**Jiménez de Aréchaga Viana e Brause**

**Olivera & Delpiazzo**

**Sanguinetti Fodere Bragard Abogados**

### Ferrere

With 10 partners and 41 associates in its Montevideo office, Ferrere is Uruguay's largest law firm, and continues to expand, hiring three new associates between June and October 2004. Interviewees describe the firm as "a very focused, very professional firm," with particular strength in advising on complex securitizations. Alejandro Hernández is considered the firm's top lawyer in this area, while Daniel Ferrere heads the firm overall and is "without doubt a leading lawyer in Uruguay."

Much of the firm's recent business has been instructions to act in high-profile litigation cases after the bankruptcies of certain banks. In securitization, Ferrere's biggest deal was advising light and power company UTE and Banco Surinvest (the trustee), regarding UTE's securitization of cashflows for \$25 million. A notable banking deal, meanwhile, saw the firm act for Parmalat in relation to its \$30 million debt restructuring and acquisition.

Over the past year Ferrere also advised Bellsouth on the sale of its domestic cellular businesses to Telefónica for \$70 million, and counselled Archer Daniels Midland regarding the \$60 million concession of a port in Nueva Palmira.

The firm's impressive client list includes Esso, IBM, Weyerhaeuser, Gillette, Procter & Gamble and Microsoft.

### Leading lawyers

Daniel Ferrere

Alejandro Hernández

### Key contact partners

Andrés Cerisola

Martín Cerruti

Laura Ramón

### Guyer & Regules

Guyer & Regules, founded in 1911 and now a 12-partner firm, is one of the two top-tier firms in Uruguay, along with Ferrere. Interviewees describe the practice as "strong in banking, with a good clientèle," and "traditional, with an excellent track record." Guyer & Regules was "the first Uruguayan firm to project itself internationally," and has built up its global connections through membership of several notable international and regional law firm affiliations, including Lex Mundi, Club de Abogados, Multilaw and the World Services Group.

Guyer & Regules has an excellent long-standing relationship with many large international investment banks and recently represented Citigroup and ABN Amro in their capacity as syndicated underwriters of the Republic of Uruguay's issue of Uruguayan peso-denominated devaluation protected securities. As part of the transaction, holders of local securities were allowed to tender their securities in exchange for the new securities being issued.

The firm's corporate mandates have been equally impressive. Among the year's highlights, Danone recently hired Guyer & Regules regarding the sale of its Uruguayan beer business to Fábricas Nacionales de Cervezas, and Telefónica Móviles turned to the firm for advice when it purchased telephone company Movicom and successfully bid for a mobile licence in Uruguay.

Nicolás Herrera, a former professor of commercial law, works mainly in public and private sector financing and M&A, and is recognized as a top business lawyer in Uruguay. Alvaro Tarabal also has extensive experience in bond issues, banking transactions, M&A and project financing.

The firm's client roster is exceptional. Representative institutions include Bank of America, Unilever, BankBoston, BBVA, Citibank, HSBC, American Express, Deutsche Bank, American Airlines, General Motors, ChevronTexaco, Walt Disney and Kodak.

### Leading lawyers

Nicolás Herrera

Alvaro Tarabal

### Key contact partners

Nicolás Herrera

Nicolás Piaggio

Alvaro Tarabal

### Hughes & Hughes

Hughes & Hughes has 20 lawyers, almost half of whom specialize in M&A work, where the firm is probably strongest. Commentators state that Hughes & Hughes "is rather small,

but has a great track record.” Marcela Hughes is now widely considered to be the leading lawyer at the practice.

The highlight of the year for the firm was providing local counsel to Finnish company Oy Metsä-Botnia, Europe’s second-largest manufacturer of chemical pulp, in relation to the future construction of a mill to produce eucalyptus pulp in Fray Bentos, Uruguay. The pulp mill project, which will cost an estimated \$1.1 billion, is the biggest industrial investment in Uruguay’s history, and the largest-ever international industrial private sector investment by a Finnish company. Hughes & Hughes advised on commercial contracts, real estate purchases and the granting of government permits, including an investment treaty between Uruguay and Finland.

Hughes & Hughes also served as local counsel to International Shipping Enterprises (ISE) and the shareholders of Navios Maritime Holdings (Navios) when ISE purchased the entire equity of Navios for about \$607.5 million, and acted for Caesars Entertainment in connection with the restructuring of Baluma’s share capital, whose \$110 million debt was capitalized and whose outstanding local notes were rescheduled.

The firm’s other clients include Shell, San Miguel, Siemens Westinghouse Power Corporation, KLM, Compañía Forestal Oriental and Panasonic Latin America.

#### Leading lawyers

Conrado Hughes  
Marcela Hughes

#### Key contact partner

Marcela Hughes

#### Posadas Posadas & Vecino

Interviewees spoke highly of Posadas Posadas & Vecino, describing it as “a very good firm with excellent clients and an impressive list of deals, particularly in M&A.” The practice has many noteworthy clients, including numerous large international investment banks (such as ABN Amro, BankBoston, Citibank, Deutsche Bank and UBS) and multinational corporations (including MasterCard, Renault, General Motors, John Deere and Burns Philp).

Ignacio de Posadas Montero, an ex-economics minister, heads the 25-strong legal team. Tomás Guerrero Costa is another highly recommended partner.

#### Leading lawyers

Tomás Guerrero Costa  
Ignacio de Posadas Montero

#### Key contact partner

Fernando Posadas

#### Estudio Bergstein

Montevideo firm Estudio Bergstein was founded in 1957 and advises on a variety of corporate and litigation matters. It retains some excellent clients – Visa, Lexmark, América Móvil, Diageo and the World Bank among them – but some

interviewees did point out that the firm is somewhat centered on the “very capable and intelligent” Jonas Bergstein. Others, however, said that the firm is not one-man show, and certainly, some junior lawyers are beginning to make their mark in the market, such as Gabriel Ejenberg, Alicia Pini and Amalia de la Riva. It will be interesting to see what happens once Bergstein stops practising, but on current evidence, it seems likely that the future is bright.

The largest of the transactions the practice recently acted on was América Móvil’s successful bid for a licence to operate three broadband frequencies in Uruguay through its subsidiary, AM Wirless Uruguay. Bergstein advised América Móvil, Latin America’s largest mobile services provider, on the acquisition of cellular frequencies, regulatory work, lease agreements and all relevant labour matters.

The firm also acted as local counsel to Corporación Andina de Fomento in connection with the financing it provided to Corporación Nacional para el Desarrollo regarding an infrastructure concession for 770 miles of highways, and represented E D & F Man Group, an English sugar trading company, in relation to a joint venture with Uruguayan sugar producer Calnu for the supply and distribution of sugar in the European market.

#### Leading lawyer

Jonas Bergstein

#### Jiménez de Aréchaga Viana e Brause

Jiménez de Aréchaga Viana e Brause is a banking and litigation firm comprising seven partners and 18 associates. Led by the “highly respected” Fernando Jiménez de Aréchaga, the firm is “well known for some good banking clients” such as ABN Amro, BankBoston and Banco Santander. The firm also has some notable corporate clients on its roster, including Pepsi-Cola, Ericsson, Warner Bros and Nortel.

#### Leading lawyers

Fernando Jiménez de Aréchaga  
Hector Viana

#### Key contact partners

Fernando Jiménez de Aréchaga  
Alberto Brause  
Hector Viana

#### Olivera & Delpiazzo

Olivera & Delpiazzo is in a transitional stage following the the departure of partners Alberto Fodere, Carlos Delpiazzo, Jean Jacques Bragard and Eduardo Sanguinetti to form new firm Sanguinetti Fodere Bragard Abogados in late 2004. However, in name partner Ricardo Olivera the firm retains an excellent practitioner, who attracted much praise from the market, being variously described as “very good” and “well recognized in banking.” It will be interesting to see how well the firm handles the change to its personnel, and how successfully it adapts to its new circumstances.

**Leading lawyer**

Ricardo Olivera

**Key contact partner**

Ricardo Olivera

**Sanguinetti Fodere Bragard Abogados**

Sanguinetti Fodere Bragard was formed in late 2004 when a number of lawyers broke away from Olivera & Delpiazzo to form their own practice. The firm now has three partners and 16 associates covering all aspects of corporate and commercial law, and interviewees appear excited by the prospects of this new outfit. "This firm is young, but should make a good impact in the future," says one interviewee. "Some of its younger lawyers are very promising," adds another.

Although it is probably too soon to accurately evaluate the credentials of the firm, Sanguinetti Fodere Bragard has made impressive steps towards attracting high-profile clients, and already counts Gaz de France, Kimberley-Clark, Nexus and Banco Credit Uruguay among its customers.

Already it has managed to act on some important project finance transactions. For example, in a \$508 million deal, Sanguinetti Fodere Bragard advised Zona Franca de M'Bopicuá and Celulosas de M'Bopicuá when they successfully secured a permit for a free zone in which to construct and operate a cellulose plant. Puerto Graneles, a syndicate of Chilean forestry producers, also sought the firm's advice regarding an international public bidding process to build and operate a private port for 30 years. The transaction was worth \$27 million.

The firm's M&A team has also been busy. In the months since the firm was set up it represented Uruwood when it sold its forestry assets to Tile Forestal for \$20 million, and acted for Gaz de France's Uruguayan subsidiary concerning a \$10 million credit facility arranged by Natexis Banques Populaires.

From among the team, Alberto Fodere is very well respected, and Carlos Delpiazzo is "excellent in tender offers and procurement."

**Leading lawyers**

Carlos Delpiazzo

Alberto Fodere

**Key contact partners**

Jean Jacques Bragard

Alberto Fodere

Eduardo Sanguinetti