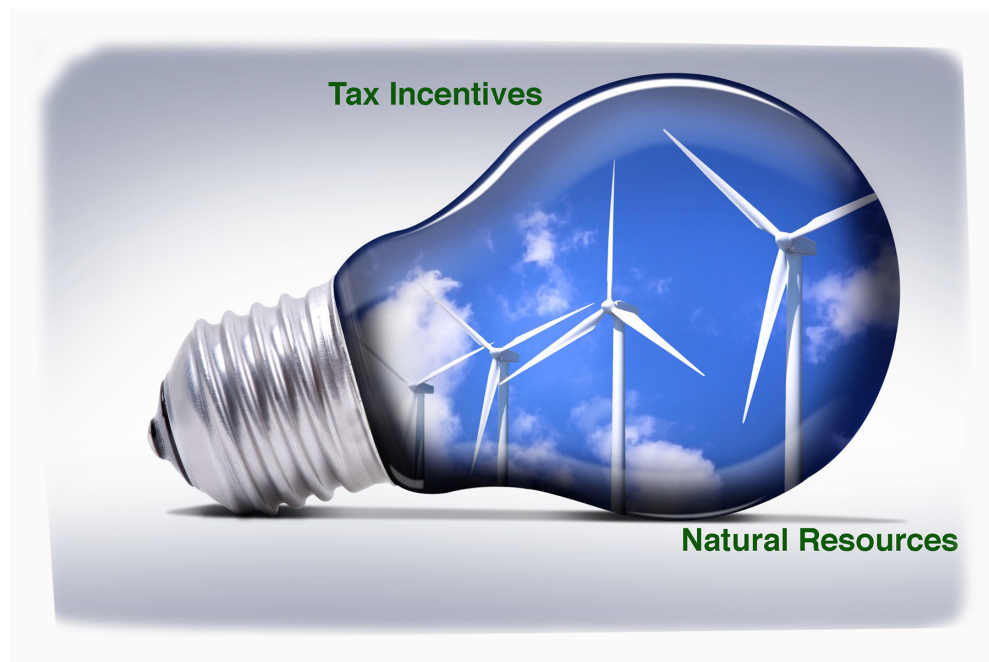


# TAX INCENTIVES AS INSTRUMENTS OF REGULATION OF THE USE OF NATURAL RESOURCES IN URUGUAY

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## SYNOPSIS

There is a world consensus on the need for proper regulation in the efficient use of natural resources. As a result, there have been global efforts in the pursuit of measures and specific guidelines that will ensure the protection and conservation of the environment. In our view the tax stimulus are a valuable tool to meet this need. This paper presents the environmental tax incentives implemented in the Oriental Republic of Uruguay, intended to improve the rational use of natural resources, as well as to prevent, correct or mitigate environmental damage.

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## Content

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We live in a context of increasing pressure on natural resources, which has caused their deterioration and depletion, deforestation, increase in global temperatures, biodiversity loss, and destruction of the ozone layer, desertification and many other environmental problems. There is an imminent need for regulation of the use of such resources that define an important debate about the relationship between production and conservation between economy and environment, politics and ecology.

This environmental problem, which threatens the prosperity of the 7 billion people who inhabit our planet, force us to question ourselves about the value we give to natural resources such as air, water, soil, Earth. The place of nature in our lives; what we consider to be quality of life; what we intend to leave to future generations; ¿are we aware of the gravity of the environmental damage and its causes? What are we doing to mitigate it?

In the 2011 Human Development Report of the United Nations Program for development (UNDP), it is noted with concern that the ecological footprint shows that the world threatened in its ability to generate resources and absorb. "If everyone in the world had the same pattern of consumption than those who live in countries with an index of human development (IDH)<sup>1</sup> very high, and the current technological level, we would need **more than three planet** earths to withstand the pressure that is exerted on the environment"<sup>2</sup>. (We highlight)

In addition, this report underlines that "environmental degradation harms people in multiple aspects and means of life, and beyond the revenue capabilities, affects the health, education, and other dimensions of well-being"<sup>3</sup>.

In this context, it is observed that in recent years the dominant political discourse is oriented, in our opinion, quite rightly, to the possibility of considering sustainability<sup>4</sup> and equity together, because they are very similar concepts in their concern for distributive justice<sup>5</sup>. However, this topic is not new since it had already been raised in the report of the Brundtland Commission (1987), and even in the international declarations in Stockholm (1972) and Johannesburg (2002).

The dynamics of sustainable development does not imply, as main objective, an economic-environmental model intended to the recovery of the State of the environmental heritage to their original levels, but the establishment of policies

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1. *The index of human development (IDH) is an indicator of human development country, prepared by the UNDP. It is based on a statistical social indicator composed of three parameters: long and healthy life, education and standard of living worth. 1 technical note. Calculation of the human development index. 2011 human development report. UNDP, 2011. P. 185. <http://hdr.undp.org/es/content/informe-sobre-desarrollo-humano-2011>.*
  2. *I2011 human development report. UNDP, 2011. P. 27. <http://hdr.undp.org/es/content/informe-sobre-desarrollo-humano-2011>.*
  3. *OB. cit. Note 2. P. 7.*
  4. *Sustainable development is understood in the report of the Brundtland Commission (1987) as: el development that meets the needs of the present without compromising the ability of future generations to meet theirs. In the same vein, the report on human development 2011.PNUD, defines it as: the expansion of the fundamental freedoms of the current generations while we make reasonable efforts to avoid the risk of seriously compromising the freedoms of future generations..*
  5. *OB. cit. Note 2. P. 1*

of structural support, which make compatible objectives of economic growth, minimizing the consumption and deterioration of natural resources<sup>6</sup>.

In this regard, at the UN Conference on sustainable development, named in short *Rio + 20*, recognizes that in the twenty years since the United Nations Conference on environment and development of 1992, progress has been uneven, even with regard to sustainable development and the eradication of poverty<sup>7</sup>.

The Summit stated that a green economy<sup>8</sup> in the context of sustainable development<sup>9</sup> and the eradication of poverty represents an important instrument, among those available to achieve sustainable development<sup>10</sup>.

With the aim of promoting the transition to a green economy, the document “*towards a green economy*”, of the UN program for the environment (UNEP)<sup>11</sup> stands *inter alia* the application of taxes and incentives tax instruments to modify the preferences of consumers and stimulate green investment, innovation, capacity-building and training market-based.

In our opinion, it is more effective to introduce environmental tax benefits than to create green taxes in order to prevent, mitigate or eliminate negative externalities on the environment. However, we recognize that, for their instru-

mentation, Governments must be willing to give up part of their collection<sup>12</sup>.

This article aims to describe the green tax incentives created in recent years in the Eastern Republic of Uruguay (in later Uruguay) for promoting the efficient use of natural resources, as well as preventing and combating environmental damage.

## SCOPE OF WORK

As mentioned supra, the purpose of the present work consists of exposing the tax benefits for environmental purposes implemented in Uruguay in recent years, in view of improving the rational use of natural resources, as well as to prevent, correct or mitigate environmental damage.

Below is the structure of the article. In the first section, we study tax incentives as economic tools aimed to regulate the use of natural resources. In the second section, we will present the status of the Environmental Law in Uruguay. Due to the breadth of the legal norms, we decided to describe the general rules that protect the environment in Uruguay, without focusing, on this occasion, on the legal and regulatory aspects governing specific natural resources. In the third section, we will make a description of the different green tax incentives established in the Uruguayan tax regulations included in the law No. 16,906, investment promotion, to reach finally our conclusions and references.

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6. *Enterprise and the environment*. Coordinators Santos M. Ruesga - Gemma Durán. Publishing pyramid, S.A., 1995. Madrid, Spain. P. 59.
  7. *A new edition of the United Nations Conference on sustainable development, known as abbreviated fashion “Rio + 20”, in Rio de Janeiro, Brazil, with the aim of obtaining political commitment renewed in favour of sustainable development took place in June 2012. As a result, the so-called document was drafted “The future we want”*. P. 5.
  8. *According to the United Nations program for the environment (UNEP), as that should be understood “improving human welfare and social equity, at the same time significantly reducing environmental risks and biological shortages”. Towards a green economy. Guide to sustainable development and poverty eradication. Summary for policy makers*. UNEP, 2011. Pp. 01-02. [http://www.pnuma.org/eficienciarecursos/documentos/GER\\_synthesis\\_sp.pdf](http://www.pnuma.org/eficienciarecursos/documentos/GER_synthesis_sp.pdf)
  9. *Ob. Cit. Note 4*.
  10. *Towards a green economy. Guide to sustainable development and poverty eradication. Summary for policy makers*. UNEP, 2011. Pp. 11-12 [http://www.pnuma.org/eficienciarecursos/documentos/GER\\_synthesis\\_sp.pdf](http://www.pnuma.org/eficienciarecursos/documentos/GER_synthesis_sp.pdf)
  11. *owards a green economy. Guide to sustainable development and poverty eradication. Summary for policy makers*. UNEP, 2011. [http://www.pnuma.org/eficienciarecursos/documentos/GER\\_synthesis\\_sp.pdf](http://www.pnuma.org/eficienciarecursos/documentos/GER_synthesis_sp.pdf)
  12. CALLEJA, Ana Laura. *Taxes and green incentives in Uruguay*. Uruguayan Institute of tax studies (IUET). *Tax Journal* No. 239. Montevideo, March - April 2014.

## 1. THE TAX INCENTIVES AS INSTRUMENTS TO PROTECT THE ENVIRONMENT

Before developing tax benefits in Uruguayan legislation, we consider appropriate to conceptualize some economic instruments that are presented as one more tool to regulate the efficient use of natural resources in order to protect the environment.

The UNEP document “towards a green economy”, argues that the establishment of strong regulatory frameworks, properly designed, can identify rights, create incentives that encourage activities for a green economy, increase confidence from investors and markets, reduce regulatory and commercial risks, as well as remove obstacles to environmental investments<sup>13</sup>.

We must however take into consideration studies on this topic, that have shown that although the State can influence environmental management through administrative tools, a very strict regulation, in addition to carry high administrative costs, may have a deterrent effect for new companies wishing to enter an industry<sup>14</sup>.

In this sense, we agree with part of the doctrine<sup>15</sup> who said that administrative instruments must be complemented with economic and financial instruments as a means to reduce costs and improve the efficiency in the use of resources. Tax incentives are part of these economic instruments.

Tax incentives are fiscal policy instruments that seek to influence the decisions of economic

agents. In the words of CRUELLES Hernan and FERRE, Edgardo<sup>16</sup>, they consist of particular treatments that the State grants or assigns to certain activities or regions. This is done in such a way that they will be attractive for investment and development, constituting one of the chosen tools within the incentive policies of a specific sector, region or economic activity and they may or not be related to the protection of the environment.

Governments that choose to implement this economic tool are based on the defense of the State intervention in the economic field, as opposed to the principle of economic neutrality applied to the tax system. The intervention of the public sector is also justified in the environmental protection based on negative externalities, public goods and economic theories, which recommend the state action to compensate the inefficiencies of the market<sup>17</sup>.

As pointed out by John Presno<sup>18</sup>: Incentives represent a conception of economic policy of finalist type, seeking to guide positively the performance of private operators, encouraging them to invest in those activities that generate positive externalities or discouraging them from doing the opposite.

These tax benefits can be found the so-called green or environmental tax incentives, which are used as economic tools designed to prevent, mitigate or eliminate negative externalities on the environment.

13. *OB. cit. Note 10. Pp. 27 and 28.*

14. *Deniz, Juan and VERONA, Maria. “Tax incentives and the environment. Opinion of the Canary Islands companies in the secondary sector”. Research Group INFISOC. Faculty of Economics and business. University of las Palmas de Gran Canaria. Magazine No. 26 of the Canarian Hacienda. 12 [http://www.gobiernodecanarias.org/tributos/portal/recursos/pdf/revista/Revista26/RevistaHC-26\\_1.pdf](http://www.gobiernodecanarias.org/tributos/portal/recursos/pdf/revista/Revista26/RevistaHC-26_1.pdf)*

15. *OB. cit. Note 14. P. 11 onwards..*

16. *CRUELLES, Hernan and FERRE, Edgardo. “Tax incentives and renewable energies”. CIAT/AEAT/IEF tax administration review. NO. 34. December 2012. P. 3*

17. *Regarding the economic theories: GIL, Macia. “Fiscalidad Ambiental”. MADAS. Dept. applied economic analysis. University of Alicante. 2011-2012 academic year.*

18. *PRESNO, John. “Incentivos fiscales a proyectos de inversión” sixth tax Conference of the DGI. UDELAR. 2013*

In our opinion, such incentives can be defined as the benefits provided by a State to certain entities (whereas entity in a broad sense, including both natural persons and legal public or private), with the aim of stimulating practices and friendly activities, without losing sight of the environmental objective which is to mitigate or discourage an activity that harms it.

This kind of incentives usually grants exemptions from taxes on the importation

or on-site acquisition of the equipment that it tries to promote, exemptions on income and property taxes, as well as deferral incentives, namely accelerated depreciation of long-lasting equipment.

Now, to give these environmental tax benefits, States must be willing to give up part of their revenue in order to achieve the environmental objective mentioned. This tax sacrifice is therefore called tax expenditure<sup>19</sup>.

## 2. THE LEGAL PROTECTION OF THE ENVIRONMENT IN URUGUAY

This chapter aims to develop the general legal framework of the environmental law in Uruguay, based on the 1997 constitutional reform, where the protection of the environment has been declared of general interest.

We will then develop the legal and regulatory framework that regulate activities and actions in relation to the environment in general, postponing for another opportunity the legal sources that regulate exclusively natural resources, due to their amplitude.

### 2.1. Constitution of the Eastern Republic of the Uruguay

As effective measures to prevent environmental degradation, the UNDP 2011 human development report suggests incorporate environmental law to the Constitution, which has been incorporated by at least 120 countries. However, the Nations that do not explicitly have that standard interpret the general constitutional provisions as a fundamental right of individuals to live in a healthy environment<sup>20</sup>.

As mentioned at the beginning of the chapter, in Uruguay environmental law achieved its constitutional basis since the constitutional reform of 1997, to consider of general interest in the environmental protection in the following article:

**“Article 47.** - The protection of the environment is of general interest.” Persons shall refrain from any act that causes serious environmental depredation, destruction or pollution. The law shall regulate this provision and may provide for penalties for transgressors.”

This very important provision gave constitutional backing to the law N ° 16.466 on Environment adopted on 19 January 1994. With the aforementioned law, for the first time in Uruguay was declared of general and national interest protection of the environment against any type of predation, destruction or pollution, as well as the prevention of environmental negative or harmful, and in your case, the recovery of the environment damaged by human activities.

19. *Defined as: the loss of revenue that is generated by deviated from the normal structure of a tax treatment. It is seeking is to favor a sector or group not through an increase in direct public expenditure, but through reductions of taxes charged that activity or group. The effect of this action could be seen as similar to the of grant aid through a game of public spending. General Tax Directorate. Tax education. Tax expenditure. Uruguay: <http://www.dgi.gub.uy/wdgi/page?2,educacion2013,dgi--educacion-tributaria--gasto-tributario,O,es,0>*

20. *Ob. cit. Note 2. P. 11.*

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Subsequently, with the constitutional reform of 2004, the bases of national water policy were incorporated into that article:

“**Article 47-** The protection of the environment is of general interest.”

(...)

Water is a natural resource that is essential for life.

Access to safe drinking water and access to sanitation are fundamental human rights.

1. The national water and sanitation policy will be based on:
  - a. Territorial planning, conservation and protection of the environment and restoration of nature.
  - b. Sustainable management, solidarity with future generations, for water resources and the preservation of the hydrological cycle that are matters of general interest. Consumers and civil society, will participate in all levels of planning, management and control of water resources; establishing watersheds as basic units.
  - c. Determining priorities for the use of water by regions, basins, or parts of them, the first priority being the supply of drinking water to populations.
  - d. The principle by which in the provision of the service of drinking water and sanitation, social order considerations have priority on the economic order.

Any authorization, concession or permission, which in any way violate the above provisions, should be left without effect.

2. Surface waters, as well as groundwater, with the exception of the rain, integrated in the hydrological cycle, are a unique resource, subordinated to the general interest, which is part of the state public domain, such as public water.
3. The public service of sanitation and the public service of water supply for human consumption will be offered exclusively and directly by public entities.
- 4) The law, with three fifth of majority vote in each Chamber, can authorize the water supply to other country, in case of shortage and by solidarity with this country.”

As a comparison with countries in the region, the Federative Republic of Brazil dedicated their constitutional basis to environmental law in the year 1988, unlike the Republic of Paraguay and the Argentina Republic, which included it in 1992 and 1994 respectively.

The incorporation of environmental law in the Constitution, which is currently one of the essential rights of human beings, is a fundamental measure that indicates the high degree of awareness that countries have reached to address environmental problems. Some of these rules are directly operational and others operate as guiding principles in economic and social policy. Anyway, the essential point is that when they are incorporated into the legal system, this ensures the existence of an effective power of reaction to prevent the development of behaviors harmful to the environment<sup>21</sup>.

## **2.2. General Law for the protection of the environment**

Among the above-mentioned constitutional reforms, was sanctioned the law N° 17.283, law General of protection of the environment

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20. *Ob. cit. Nota 2. Pág. 11.*

21. ANDORNO, Luis. “Aspectos constitucionales de la protección del medio ambiente “. *Constitutional guidelines. Cafferatta, Nestor. Suma Ambiental. Doctrina-legislación - jurisprudencia. 1ª. Ed. Abeledo Perrot, 2011 - Buenos Aires. Argentina. P. 615.*

on December 12, 2000, in compliance with the provisions of article 47 of the Constitution of the Republic.

The message attached to this Bill, the Executive Power (EP) indicated that it expected to provide the country with a modern instrument of environmental policy, assuming the international commitments of the Republic in this regard, which ensure the protection of the environment, and allow its compatibility with the national need for economic and social development.

The aforementioned law declares of general interest:

- a. The protection of the environment, the quality of air, water, soil and landscape.
- b. The conservation of biological diversity and the configuration and structure of the coast.
- c. The reduction and appropriate management of toxic or dangerous substances and wastes any be your type.
- d. The prevention, elimination, mitigation and compensation of negative environmental impacts.
- e. The protection of shared environmental resources and those located outside areas under national jurisdiction.
- f. The international and regional environmental cooperation and participation in the solution of global environmental problems.
- g. The formulation, implementation and application of national environmental policy and sustainable development, being understood by sustainable development that development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

The article 6 of the same regulatory body displays principles on which EP must rely to establish the national environmental policy. Among them are prevention and anticipation as a priority to any other in environmental management; the commitment of the whole society to participate in this process. The integration and coordination of the various public and private sectors involved, ensuring the national scope of the implementation of the environmental policy and decentralization in the exercise of the environmental protection tasks.

It should be noted that article 7° of this law establishes that among others, the **economic incentives and taxes** will constitute instruments of environmental management.

In the words of the Cr. Álvaro Romano<sup>22</sup> when the Law project was under study: “the project does not say “tax and economic incentives”, but considers expressly “economic incentives and taxes” as an instrument of environmental management. According to this article, taxes could be used perfectly for environmental purposes in our country without having to confine ourselves exclusively to “tax benefits”.

In the mentioned law, the EP is required to coordinate it through the Ministry of housing, Territorial Planning and environment (MVOTMA)<sup>23</sup>, which, as the governing body of the environmental policy in the country, is therefore expected to have more knowledge on the issue. It is in charge of coordinating the integrated environmental management of the State and public authorities in general as well as a issuing a national report on the environmental situation, which should contain systematized and referenced information, organized by topic areas.

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22. ROMANO, Alvaro. T *Revista Tributaria* N° 153. “Tributos ambientales”. Instituto de Estudios Tributarios. November - December 1999. Montevideo. Uruguay. Pp. 870-871.

23. *The Ministry of housing, Territorial Planning and environment (MVOTMA) was created by law No. 16.112, of June 8, 1990, as governing body of the environmental policy in the country. It establishes, in article 3, the following tasks: The formulation, implementation, monitoring and evaluation of the national plans for the protection of the environment and the implementation of the national policy. Coordination with other national or departmental, public agencies in the execution of its tasks, the conclusion of agreements with public or private national or foreign entities, for performing their tasks, without prejudice to the competences of the Ministry of Foreign Affairs. In addition, control if public or private activities comply with the standards of protection of the environment, establishing penalties for violating environmental protection regulations.*

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Sanctions are also provided, without prejudice to those that were already regulated by other legal provisions, to those who cause depredation, destruction or pollution of the environment. These are pecuniary, as well as civil and criminal. In the event of serious or repeated infringements by an industrial or commercial establishment, the EP may decide its temporary or definitive closure.

It is worth mentioning that the regulatory body establishes that public authorities should encourage the formation of the **environmental awareness** of the community through education, training, information and dissemination activities aimed at the adoption of behaviors consistent with the protection of the environment and sustainable development.

### 2.3. National Water Policy

With the law N° 18.610, on October 2, 2009, the guiding principles for national water policy are established pursuant to the second paragraph of article 47 of the Constitution of the Republic.

Article 8 of the aforementioned law sets forth the principles that govern the national water policy. They include sustainable management of water resources, solidarity with future generations and the preservation of the hydrological cycle, which are matters of general interest. Integrated water resources management must consider social, economic and environmental aspects. The environmental education is a social tool for the promotion of the responsible, efficient and sustainable use of water resources in its various dimensions: social, environmental, cultural, economic and productive. The supply of drinking water to the population is the main priority for use of water resources. Consumers and the civil society participate in all levels of planning management and control.

It is important to stress that, as in the law General of protection of the environment, establishes instruments of national policy of water, among others, the **incentives of any kind for its sustainable use**<sup>24</sup>.

### 2.4 General Procedure Code

To address the environmental problems of global nature, as for example climate change, it has been considered that the fair process implies an equal opportunity so that all countries can influence on the direction and content of international negotiations<sup>25</sup>.

In Uruguay we have the General code of the process (CGP), sanctioned by the law No. 15.982 of October 18, 1988, which was essentially updated during the year 2013 by the law No. 19.090 of June 14, 2013. It includes two articles that discuss the active legitimization in the defense of diffuse interests, which did not suffer changes in the current review.

Its article 42° is established for issues relating to the defense of the environment that belong to an indeterminate group of persons. It states that the public prosecutor's Office, any interested and the institutions or associations of social interest according to the law or judgement of the Court will be entitled to promote the relevant process, to ensure a proper defense of the case at stake.

Subsequently, article 6 of the law N° 16.112 30 May 1990, gives active legitimization to the MVOTMA.

"Diffuse interests" typically correspond to an indeterminate group of persons without precise limits in terms of their identification<sup>26</sup>. Adopting a broad approach, the CGP has opted for a

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24. *Literal J) of article 9 of the law 18.610, on October 2, 2009.*

25. *OB. cit. Note 2. P. 100.*

26. *VESCOVI, Enrique, "General of the process code. Reviewed, annotated and agreed." Volume 2. Article 31 to 116. Montevideo, 1993, p. 74.*



plurality of legitimate interests, thus expanding the eligible subjects to operate in favor of the interests involved. To such an extent, that it admits the promotion of the respective judgement by any interested, for example a particular in defense of the environment against anyone who causes pollution, harming the public interest<sup>27</sup>.

In relation to the above, article 220 of the CGP, complements it with the effects of judicial precedent, ruling that cases promoted in defense of diffuse interests, (referring to the previous

article) will have overall effectiveness, except if there is acquittal for lack of evidence, in which case another plaintiff can raise the issue again in another trial.

The exceptional solution that provides the article cited above, avoids the promotion of new and repeated processes on the same facts, while leaving open the possibility of any plaintiff to try the same action, using the new evidence, in the event of acquittal for lack of proof. In this way, stakeholders are prevented from suffering the consequences of a negligent action<sup>28</sup>.

### 3. TAX BENEFITS AIMED AT PRESERVING THE ENVIRONMENT IN URUGUAY

In recent years, a series of legal and regulatory rules that aim to mitigate or eliminate negative externalities on the environment and to encourage good use through fiscal stimulus have been approved in Uruguay.

#### 3.1 Regime of tax benefits through the Investment Promotion Act

Mostly, these environmental tax benefits are based on the law No. 16,906 of January 7, 1998, called Investment Promotion Act. For this reason, we focus exclusively on these profits, leaving to future research other more specific fiscal incentives not covered by this law.

For these reasons, we will begin our analysis describing the regime of the aforementioned law. The Investment Promotion Act is a tax law for the protection of investments, which article 1

establishes that national interest is to promote and protect national and foreign investments.

Chapter I of the law establishes that the State ensures under responsibility of damages, the maintenance and preservation of exemptions, benefits and rights that are agreed by law. It also guarantees the freedom of establishment of investments and equality in treatment, not only for investment but also for taxable investors. Free transfer of capital and profits abroad is also guaranteed and extended to the currency in which the funds can be transferred. Ultimately, it aims to create a stable legal framework that give guarantees to investors, providing equal treatment to national and foreign investors<sup>29</sup>.

The Act provides essentially two categories of tax benefits: 1) Automatic or General and 2) those requiring an EP a statement, also called specifics.

27. *OB cit, note 26, p. 78.*

28. *OB cit, note 26, p. 79.*

29. *SONDEREGGER, Johanna. Revista Impuestos & Fiscalidad Tomo IV. "Proyectos de Inversión. Superposición y Pagos a Cuenta". CADE. November 2013. Montevideo. Uruguay.*

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### 3.1.1. Automatic or general benefits

With regard to the first, taxpayers of the tax on the income from economic activities (IRAE) (CIT in English)<sup>30</sup> and the tax on the sale of agricultural goods (IMEBA)<sup>31</sup> who develop industrial and agricultural activities. In this case, those who engage in such activities and invest in certain assets set out in the law can enjoy the following tax benefits:

- Exemption from the property tax (IP)<sup>32</sup>,
- Exemption from indirect taxes (VAT - tax and Specific Internal Tax - IMESI)<sup>33</sup> — for import; a regime of VAT refund for local purchases is also established.

### 3.1.2. Benefits requiring an EP statement or specific

The CIT exoneration (IRAE) is among the benefits requiring an EP Statement PE. To benefit from this exemption, the company must present an investment project to the Ministry of Economy and Finance (MEF), which can authorize or reject it. Under this system, the company can also enjoy tax benefits for the VAT and Property Tax as well as for import duties and taxes.

Unlike the automatic or general benefit, those belonging to this category can access to the benefits mentioned regardless of the activity carried out.

The specific sectors activities that the EP declares to promote will receive the same benefits, understood as all actions leading to produce market or carry out, as applicable, specific goods or services

### 3.2. Environmental tax benefits under the Investment Act

We will then make a brief description of the legal and regulatory rules that, through the Investment Promotion Act, intend to stimulate eco-friendly behaviors.

#### 3.2.1. General Law of protection of the environment

The law N° 17.283, of 12 December 2000 empowers the EP to include the following investments within the scope of the automatic benefit of the Investment Promotion Act:

- A. Movable property aimed at the elimination or mitigation of the negative environmental impacts or environmental conditions.
- B. Durable improvements to the treatment of the environmental effects of industrial and agricultural activities.

This standard attempts to implement measures that favor the mitigation or elimination of negative environmental impacts thanks to tax incentives.

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30. In short, the IRAE is an annual tax that is applied to the net income of Uruguayan source of economic activities of any nature. Its aliquot part amounts to 25% (twenty five percent). -Title four of the ordered text 1996.

31. In brief summary, the IMEBA is a tax levied first alienation to any title, for certain agricultural goods, carried out by the producers, who are included in the IRAE, city councils and State agencies. -Title nine of the 1996 ordered text.

32. To summarize, the IP is an annual tax that falls on the net worth (assets less liabilities tax determined according to tax standards) of individuals, households, undivided, resident and legal entities formed abroad as long as they do not act on national territory through a permanent establishment. -Title 14 of the ordered text 1996.

33. Both VAT and the IMESI are indirect taxes on consumption. The first is a general sales tax levied on the internal movement of goods, provision of services within the country, the introduction of goods into the country and aggregated value in the construction done on buildings; while the IMESI is a specific excise tax, which taxes the first alienation, to any title, of certain goods specifically set out by law. - Titles 10 and 11 of the Ordered 1996 Text respectively.

As shown by Cr. Álvaro Romano<sup>34</sup>, with this legal framework certain tax benefits are granted to companies that contribute to certain investments to preserve or improve environmental conditions. He adds that this standard is intended to induce economic operators, by means of tax benefits, to implement measures that prevent negative environmental impacts, such as it happens in many countries of the world.

However, at this time the EP has not exercised that power. If it exercises it, taxpayers could benefit from exemptions in the IP, VAT and IMESI, but would be limited to the subjective scope of the Investment Promotion Act. In fact, only taxpayers of IRAE or IMEBA engaged in industrial or agricultural activities could use the regime.

However, if the tax benefits of this law are not accessible by lack of regulation, these entities could be exempt from the referred taxes by presenting an investment project covered by the Decree N° 2/012, January 9, 2012, or its predecessor Decree No. 455/007 on November 26, 2007.

### **3.2.2. General regime for the promotion of investments - Decree N° 2/012, January 9, 2012; and preceding Decree No. 455 / 007, of 26 of November of 2007**

As Decree No. 455/007 did previously, the Decree N° 2/012 allows access to the expected benefits in the Investment Promotion Act, to enterprises whose investment projects or their activity of their sector, are declared promoted by the EP. It should be noted that companies presenting investment projects must be the CIT taxpayers to have access to the tax benefits.

Regarding the objective aspect of the regime, the investments under the tax benefits of the law of promotion of investments and of the Decree N° 2/012 are the movable assets intended directly for entrepreneurial activity, among others. Non-utility vehicles and movable property for housing are excluded.

In terms of the criteria for granting benefits, priority is given to the attraction of investments that provide:

- generation of employment,
- decentralization,
- increase in exports,
- **use of clean technologies**,
- increase in research, development and innovation, and
- sectoral indicators

As a way to measure the contribution of each project in the fulfillment of these objectives, indicators will be used to qualify them according to an array of objectives and indicators that establishing the Commission of the MEF (COMAP) application.

The Commission is responsible for making recommendation to the PE so that, if it is appropriate, issue a resolution declaring the project promoted, specifying: purpose, maximum amounts and period of the tax benefits granted, among them the IRAE, IP, tax, as well as fees and taxes on imports.

With the approval of this Decree was sought, among other things, to increase the incentives for investment in cleaner production (CP), research, experimental development and innovation (RDI), energy efficiency and adaptation to climate change, because of the positive externalities generated by such projects.

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34. ROMANO, Alvaro. *Revista Tributaria N° 153. "Tributos ambientales". Instituto de Estudios Tributarios. November - December 1999. Montevideo. Uruguay. Pp. 870 a 871.*

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The tax benefits provided for in the decree are as follows:

- **Property tax exemption movable property**, belonging to fixed assets by the total number of life, on the condition that such property may not avail themselves to other benefits. With respect to the civil works exoneration will be 8 years if the project is located in Montevideo (capital of the country), and 10 years if it is rooted in the interior of the country;
- **Exemption of fees and taxes on imports including VAT**, of movable fixed assets and materials intended for civil works declared non-competitive national industry by the National Directorate of industry (DNI) of the Ministry of industry, energy and mining (MIEM) and provided that do not benefit from exemption under cover of other tax benefits;
- **Refund of value added tax included**, in the acquisition in square of materials and services for civil works, if properly documented.
- **Exemption from the IRAE**, by an amount and maximum period that will result from applying the matrix of objectives and indicators, which may not exceed 100% of the amount actually invested, or 60% of the tax that must be paid to the exercises included in the promotional Declaration. To determine the amount actually invested, not shall be taken into account the investments that protect in other promotional schemes that are granted exemptions from this tax.

### Indicator: Cleaner production

Within the objectives to be applied to obtain tax benefits, we found the use of clean

technologies. This term is used to refer to technologies that do not pollute and that use renewable and non-renewable natural resources in a rational way. This technology produces no side effects or transformations to the environmental balance or natural systems (ecosystems)<sup>35</sup>.

For measuring the contribution of each project to the fulfilment of this objective, the cleaner production (CP) indicator is used. For its implementation, the COMAP adopts the definition made by UNEP as a continuous application of preventive environmental strategy integrated to production processes, products and services to increase overall efficiency and reduce risks to humans and the environment<sup>36</sup>.

The aforementioned Commission allows computing<sup>37</sup> the following goods and services as investment for the calculation of the CP indicator, unless they are required for the development of projects:

- Electric utility vehicles.
- Electric freight elevators.
- Solar photovoltaic panels and solar collectors.
- Wind mills.
- Heat generation equipment that replace fossil fuels.
- Replacement of steam generators to fuel oil for gas more efficient equipment.
- Wood burning boilers.
- Generation of electricity through co-generation equipment.
- Electrical capacitors and LED lighting devices.
- Electronic ballasts.
- Conditioning equipment in environments with technology VRF (variable cooling volume).

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35. [http://www.innovartic.cl/tecnologias\\_limpias.html](http://www.innovartic.cl/tecnologias_limpias.html)

36. COMAP. Annex II "Guide for the calculation of CP": [http://www.mef.gub.uy/comap/anexoII\\_guia\\_calculo\\_p+l.pdf](http://www.mef.gub.uy/comap/anexoII_guia_calculo_p+l.pdf).

37. For projects submitted under cover of the Decree N° 2/012 effective 16/04/2012. Projects filed prior to that date or covered to Decree No. 455/007, were governed by the provisions of the following Annex: [http://www.mef.gub.uy/comap/20120203AnexoII\\_guia\\_calculo\\_indicador\\_%20P\\_L.pdf](http://www.mef.gub.uy/comap/20120203AnexoII_guia_calculo_indicador_%20P_L.pdf)

In the event that the projects include other related investments generate positive externalities<sup>39</sup> so are considered such investments in the indicator, they must achieve a saving or efficiency above of the minimum parameters required by the rules issued by national or departmental public bodies, and if not there will be to establish international standards.

The following table can be seen that since the implementation of this new regime of investment promotion, a growing number of companies choose to use the indicator of cleaner production, which means that they choose to invest in cleaner technologies, i.e., more favorable to the environment.

**Table 1**  
**Number of projects that used the CP indicator and related Investments by year**  
**Period: January 2008 - August 2014**

Year	Projects that used the CP indicator	Investment in CP (in thousand U\$S)	Total investment projects using the CP indicator (in thousand U\$S)
2008	8	44,837	65,165
2009	27	284,020	304,306
2010	39	75,949	146,082
2011	69	35,984	166,054
2012	142	214,217	487,538
2013	89	1,591,836	1,722,237
Jan-Aug 2014	52	592,827	645,856
<b>Total</b>	<b>426</b>	<b>2,839,670</b>	<b>3,537,238</b>

**Source:** Support unit to the private Sector (UnAsEP) of the MEF; [http://www.mef.gub.uy/unasep\\_institucional.php](http://www.mef.gub.uy/unasep_institucional.php).

As noted in the following table the already enrolled companies have chosen the CP indicator in more massively than the new companies have; however, according to the report, in the implementation of the projects promoted by the law 16,906 and its regulatory decrees<sup>39</sup> they have a higher degree of compliance with the indicator.

38. Such as: energy efficiency; saving in the consumption of water, raw materials, inputs and waste; recycling internal for the purpose of savings in energy, water, waste and improve the quality of products and environmental quality; use of best available technologies (BAT). Environmental improvement of the quality of air, water and soil; keep the human health; changes in products and processes aiming at the improvement of the quality.

39. Prepared by the UNASEP, MEF. September 2014. [http://www.mef.gub.uy/unasep/estudios/20141008informe\\_cumplimiento\\_proyectos\\_promovidos\\_ley16906\\_actualizado.pdf](http://www.mef.gub.uy/unasep/estudios/20141008informe_cumplimiento_proyectos_promovidos_ley16906_actualizado.pdf). P. 14.

**Table 2**  
**Classification of companies that used the CP indicator,**  
**new and in process, by year**  
**Period: January 2008 - August 2014**

Year	New companies	Investment in CP of new companies (in thousand U\$S)	Enrolled Companies	Investment in CP of companies in process (in thousand U\$S)
2008	1	15,814	7	29,024
2009	2	195	25	283,824
2010	5	66,145	34	9,804
2011	6	1,039	63	34,946
2012	19	153,669	123	60,548
2013	21	1,274,849	68	316,987
Jan-Aug 2014	16	458,947	36	133,880
<b>Total</b>	<b>70</b>	<b>1,970,657</b>	<b>356</b>	<b>869,013</b>

Source: Support unit to the private Sector (UNASEP) the MEF; [http://www.mef.gub.uy/unasep\\_institucional.php](http://www.mef.gub.uy/unasep_institucional.php).

In addition, the cleaner production indicator seems to be more attractive for small and medium-sized enterprises than for large enterprises. However, as might be expected, in monetary terms the investment in cleaner technologies is substantially higher in major projects.

**Table 3**  
**Classification of SME and Large companies that used the CP indicator, by year**  
**Period: January 2008- August 2014**

Year	SME projects	Investment in CP de SMEs (in thousand U\$S)	Large Projects	Investment in CP of Large (in thousand U\$S)
2008	3	17,223	5	27,614
2009	9	14,289	18	269,730
2010	24	67,803	15	8,145
2011	45	8,822	24	27,162
2012	97	21,270	45	192,947
2013	47	118,221	42	1,473,614
Jan-Aug 2014	29	40,978	23	551,849
<b>Total</b>	<b>254</b>	<b>288,608</b>	<b>172</b>	<b>2,551,062</b>

Source: Support unit to the private Sector (UNASEP) the MEF; [http://www.mef.gub.uy/unasep\\_institucional.php](http://www.mef.gub.uy/unasep_institucional.php).

The analysis by sectors of activity shows that companies corresponding to the industry sector trade and agriculture have opted for this indicator more massively than those of service and tourism have.

**Table 4**  
**Number of Projects that used the CP indicator by activity sector, per year**  
**Period: January 2008 - August 2014**

Year	Agriculture	Commerce	Industry	Service	Tourism
2008	2	0	5	1	0
2009	1	0	24	1	1
2010	3	4	21	4	7
2011	13	20	20	8	8
2012	37	48	24	19	14
2013	15	12	49	10	3
Jan-Aug 2014	10	3	28	6	5
<b>Total</b>	<b>81</b>	<b>87</b>	<b>171</b>	<b>49</b>	<b>38</b>

**Source:** Support unit to the private Sector (UNASEP) the MEF; [http://www.mef.gub.uy/unasep\\_institucional.php](http://www.mef.gub.uy/unasep_institucional.php).

In addition, when analyzed in monetary terms, we can see that the industrial sector is the one that most invests in clean technologies.

**Table 5**  
**Investment in CP in activity sector, by year**  
**Period: January 2008 - August 2014**

Year	Agriculture	Commerce	Industry	Service	Tourism
2008	110	0	43,412	1,315	0
2009	183	0	283,684	130	23
2010	1,624	135	71,399	1,966	825
2011	7,423	2,517	24,762	535	747
2012	21,152	6,358	180,334	5,219	1,155
2013	19,709	2,315	1,567,725	1,885	203
Jan-Aug 2014	6,106	373	583,990	1,399	959
<b>Total</b>	<b>56,306</b>	<b>11,697</b>	<b>2,755,306</b>	<b>12,449</b>	<b>3,912</b>

**Source:** Support unit to the private Sector (UNASEP) the MEF; [http://www.mef.gub.uy/unasep\\_institucional.php](http://www.mef.gub.uy/unasep_institucional.php).

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### 3.2.3. Management of used lead, acid or disposable batteries

There was a need to establish a regulation that ensures proper management of used lead-acid or disposable batteries. Because of the law of environmental protection developed in Chapter 2, reduction and the proper use, handling and disposal of waste, both substances especially that are considered toxic or hazardous are considered as of general interest. The EP gives priority to the establishment of a system of national scope, that order the recovering, collection and proper treatment of lead-acid batteries used or disposed of, without distorting the market, identify and assign responsibilities to stakeholders.

In that context, the Decree No. 373/003 of 10 September 2003 was issued. It establishes that management, recovery and where appropriate, the disposal of batteries or electric lead-acid accumulators, used or merely discarded, including their components, whatever its owner or holder, must be carried out so that it does not affect the environment, being forbidden to place, store, transport, process, abandon or dispose such batteries in places not qualified for it.

Article 2 of the decree is included within the scope of the Investment Promotion Act<sup>40</sup> i.e., imports of machinery and installations for the implementation and execution of the operations of recovery and recycling of batteries and its separate components containing lead are exempted from VAT and IMESI. If they are purchased on site, the included VAT is refunded.

To benefit from this exemption, certification of the National Directorate of environment (DINAMA) of the MVOTMA is required. The destruction or disappearance of such goods prior to the term maturity must be accredited

by the beneficiary to the aforementioned directorate. In the event of any breach of the foregoing, the granted benefits are cancelled, and the beneficiaries would have to pay any taxes with the fines and surcharges from the date they should have been paid, without prejudice to the sanctions that correspond for breach of the standards of environmental protection.

### 3.2.4. Renewable energies

Uruguay has a long-term energy policy (2005-2030) which was approved in 2008 and ratified by a multi-party Commission in the year 2010. It reflects the importance of this issue and confirms the energy policy as State policy, which includes a strong renewable energy commitment since Uruguay has an important availability of natural resources for the generation of solar power wind and hydro energy, as well as interesting opportunities from biomass<sup>41</sup>.

The World Wildlife Fund, World Wild Fund (WWF), in the report "leaders in clean energy"<sup>42</sup> in Latin America highlighted the leadership of Uruguay in renewable energy and said that Uruguay is defining the global trends of investment in renewable energy. It is the first in the top five of countries worldwide with the highest percentage of the gross domestic product (GDP) invested in renewable energy. In 2013, it ranked fourth as the country that attracted the absolute largest amount of investment in Latin America (in renewable energy) and in 2014, it ranked first in Latin America in terms of the highest rate of growth in investment in clean energy.

Uruguay currently has developed a legal framework oriented to the development of these energy sources, which provides significant tax exemptions.

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40. Article 7 of law N° 16,906, January 7, 1998.

41. Uruguay XXI. "Renewable energy, investment opportunities"... Promotion of investments and exports. August, 2014. P. 1. <http://www.uruguayxxi.gub.uy/inversiones/wp-content/uploads/sites/3/2014/07/Informe-de-energias-renovables.pdf>

42. WWF. "Countries Top renewable energy in Latin America". November 2014. <http://www.wwfca.org/?235411/lideresenenergiatimpia..>



### 3.2.4.1. Wind energy

As discussed in paragraph 3.2.2, Decree N° 2/012 of January 9, 2012, regulating the Investment Promotion Act, the methodology of evaluation of investment projects and provides attractive tax benefits for CIT taxpayers which submitted projects to the COMAP and are approved by the EP. To access these benefits, investments must be included in the definition in article 3 of the Decree, among which is the intangibles established by the EP.

From 2014, with the entry into force of the Decree N° 23/014 of 30 January 2014, are considered intangible assets included in the concept of inversion of the above-mentioned article investments in wind **power generation**. They must be intended for the connection of the national interconnected system, in accordance with signed contracts with the national administration of power plants and power transmission (UTE), from the moment in which occurs the transfer of their property to the aforementioned entity.

As developed in section 3.2.2, the investment projects are submitted to the COMAP, which is responsible for making recommendation to the EP. If it is appropriate, the EP issue a resolution declaring promoted the project, specifying the purpose, the maximum amounts and the term of the tax benefits granted, which include the IRAE, IP, VAT as well as fees and taxes on imports.

The CIT exoneration is defined depending on the application of a matrix of indicators and the score obtained. There are two indicators that relate directly to the activities of the energy sector: the P+L (cleaner production), developed in the cited section, and the technological level of the processed product (sectoral indicator for industrial activities)<sup>43</sup>.

The P+L indicator computes as private investment in the energy sector: photovoltaic solar panels and solar collectors, wind mills and thermal generation kits that replace fossil fuels, generation of electricity through co-generation, devices of LED lighting, electrical capacitors and electronic ballasts. In addition to the above-mentioned goods, projects involving investments linked to generate energy efficiency above the minimum parameters required by the rules issued by national or departmental, public bodies should be computed for the P+L indicator, prior evaluation of the COMAP.

In addition, the technological level of the developed product indicator can be specifically considered in investment related to industrial activity, and aims to promote the development of high added-value production processes.

The COMAP requires that companies presenting projects whose purpose is the generation of electrical energy from non-conventional renewable sources, will be computed for the matrix of indicators with the maximum score for the technological level of the developed product. Companies that do not have as main activity power generation are also included in this evaluation<sup>44</sup>.

### 3.2.4.2. Solar thermal energy

With the N° 18.585 act of September 18, 2009, the research, development and training in the use of thermal solar energy is declared of national interest. This standard is intended to accompany the international trend in the need to go replacing the generation of energy from traditional sources, such as hydrocarbons, by the generation of renewable energy, such as for example solar thermal.

Thermal solar energy reduces emissions linked to environmental impact and greenhouse

43. UNASEP. "Investment promotion. Renewable energy. Tab theme 1/2014 ". July 2014. P. 5. [http://www.mef.gub.uy/unasep/fichas\\_tematicas/20140801\\_promocion\\_inv\\_energ\\_renov.pdf](http://www.mef.gub.uy/unasep/fichas_tematicas/20140801_promocion_inv_energ_renov.pdf)

44. COMAP. Annex IV. 3: MIEM sectoral indicators. [http://www.mef.gub.uy/comap/anexo\\_IV\\_3\\_miem.pdf](http://www.mef.gub.uy/comap/anexo_IV_3_miem.pdf)

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in particular and enables compensation procedures referred to in the Clean Development Mechanism considered in the Kyoto Protocol.

The EP may grant exemptions provided for in the law of promotion of investments referred in the preceding paragraphs, for the manufacture, deployment and effective utilization of this energy.

### **Solar collectors**

The EP is also empowered for the total or partial exemption from VAT, consumption taxes and customs taxes, to national and imported solar collectors not in competition with the national industry, as well as imported goods and services not in competition with the national industry, necessary for their manufacture.

Regulatory decrees<sup>45</sup> made use of the Faculty granted by law, and establish the exemption from VAT on the sale of domestically produced solar collectors.

For the purposes of applying the law analyzed, devices capturing solar energy and battery for use exclusively in solar energy systems are considered solar collectors. Water heaters that do not use solar resources (article 1 of Decree No. 451/011) are not included.

Through the resolution of November 16, 2012, the EP said that domestically considered solar collectors would be those using inputs that have a national component greater than or equal to 35%. The term input includes direct labor, utility, components and raw materials used in the production of the goods concerned.

When machines, equipment, materials and services are purchased on site to manufacture solar collectors, they must include VAT, unless

they were exonerated, in this case it will be refunded through credit certificates. If these goods are imported and do not compete with the domestic industry, they are exonerated from surcharges, fees and taxes that apply on importation, including VAT<sup>46</sup>.

It is important to highlight that the wish to insert this technology in various sectors of activity in Uruguay, sets a compulsory schedule to include them in all new construction or rehabilitation of existing large consumption sectors such as hotels, health centers and sports clubs.

In addition, the CIT regulations<sup>47</sup> allows using the benefit of “exemption for investment” the solar collectors or solar panels made by the agricultural sector as improvement sets for their sector.

Also in March 2012, the Solar Plan oriented to promote the use of solar thermal energy in the residential sector began to be implemented in Uruguay. It finances and gives bonuses to the acquisition of solar panels.

### **3.2.4.3. Electric power through non-traditional renewable sources**

The Decree No. 354/009 of August 3, 2009, for the energy sector in general, which had already declared promoted the generation of electricity through non-traditional renewable sources and the transformation of solar energy into thermal energy.

With this Decree, the following activities are declared promoted under the Investment Promotion Act:

- the generation of energy from non-conventional renewable sources or through co-generation,

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45. Decree No. 451/011 of December 19, 2011 and Decree No. 325/012, October 3, 2012.

46. Informative mode, Decree No. 325/012 expected regulatory changes for the purposes of the tax exemptions starting from March 1, 2016 and from March 1, 2021.

47. Article 116 of the Decree No. 150/007, April 26, 2007, regulation of the IRAE.

- the transformation of solar energy into thermal energy,
- The conversion of equipment and integration of processes, aimed at the efficient use of energy.
- The national manufacture of machinery and equipment for the above activities.

For the purposes of the provisions in the referred decree, are considered non-traditional renewable sources small hydropower, wind energy, thermal and photovoltaic solar energy, geothermal energy, tidal energy, wave energy and different sources of biomass used in a sustainable way.

Thus, it is considered efficient use of energy (EUE) all changes resulting in an economically convenient decrease of energy required to produce a unit of economic activity. They must meet energy requirements of services requiring an equal or higher quality level and a decrease of negative environmental impacts whose extent covers the generation, transmission, distribution and consumption of energy.

Also within the concept of EUE is included the replacement of traditional energy sources by non-traditional renewable energy sources allowing diversification of the energy matrix and reducing emissions of polluting gases.

Co-generation means the simultaneous generation of electrical (or mechanical) energy and useful thermic energy to some process, using the same energy source. For the purposes of this Decree, the systems that can be classified as EUE shall be considered as co-generation systems.

For the purposes of this Decree, fossil fuels and large hydropower energy are considered as traditional energy sources.

The mentioned activities are exonerated from a percentage of the CIT, which can reach up to 90% (ninety percent) of the tax net income for a certain period. Throughout fiscal years, the percentage of reducible income goes declining.

The benefit applies starting from the year 2009 with a term of ten to twelve years, depending on the activity. To obtain the exemption, companies engaged in such activities must be submitted to the COMAP the corresponding request for exemption. This includes an affidavit, from the National Directorate for energy and Nuclear technology (DNETN), establishing the activities to be developed by the applicant which applies for the exemption, investments in machinery, components, equipment, and supplies to perform, discriminating by type, value and quantity of such goods.

In this way, the COMAP with the advice of the DNETN, will determine if the request complies with the requirements established by the decree and shall establish the procedures of control and financial and accounting information to be submitted by the beneficiaries according to the activity that they will develop and the magnitude of the project.

### **3.2.5. Biotechnology industry**

With the Decree No. 11/013 of 15 January 2013, is declared promoted the biotechnology industry, which includes the activities of generation of products, services and biotechnological processes in the national territory, applicable to strategic productive sectors, including the environmental.

The promotion of these activities falls fully into the goals of the Investment Promotion Act. For the purposes of this Declaration are defined as biotechnologies any technological application that uses biological systems, living organisms, or derivatives to make or modify products or processes for specific uses. Biotechnological products are any products that incorporate biological systems, living organisms, or derivatives in their production process; and biotechnology service are the production process by which biological systems, living organisms, or derivatives are incorporated into products or processes for specific uses.

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The tax benefits imply a CIT exemption for the promoted activities, beginning in 90% (ninety percent) in 2012 and decreases to 50% (fifty percent) over a period of 10 years. Net tax revenues used for the application of the percentages referred to cannot enjoy other benefits in terms of CIT. The tax arising from applying the corresponding aliquot to the remaining income may not be exempted under cover of other benefits.

To obtain to the exemption, the companies that carry out such activities must submit an affidavit with the description of the activity before the MIEM, which, with the advice of the COMAP will determine if it complies with the requirements established by the Decree on.

Note that the recently published Act 19.317 of 18 February 2015 declares of national interest the development of biotechnology and its applications as fundamental factors for technological innovation, productivity, competitiveness, sustainable development and the well-being of the population, establishing the regulatory framework for the promotion of biotechnology.

Article 3° mentions that the object of this law is to promote research, technology transfer and the application and development of biotechnology both national and departmental levels. The following article states that the purpose of this legal standard is to promote economic and sustainable development of the country while preserving biological diversity without affecting the health of the population or the environmental balance.

The activities of biotechnology and their applications covered by the Act are, in our view, more spacious than those promoted in the Decree 11/013, which generated the need for new regulation<sup>48</sup>.

Finally, article 7° declares general interest activities referred in the regime for the promotion and protection of investments set forth in the

Investment Promotion Act.

### 3.2.6. Solid waste

In order to minimize the impact on health and the environment arising from the treatment and final disposal of solid waste, the Decree No. 411/011 of November 2011, under the Investment Promotion Law, promote the activity of treatment and final disposal of solid industrial waste. Within the framework of the national system of industrial solid waste management and the agreement concluded between the Municipal Intendancy of Montevideo (IMM), the MVOTMA, and the Chamber of industries of Uruguay's on June 5, 2009.

The tax benefits are granted as follows:

- **Exemption of fees and taxes on imports, including VAT**, to goods aimed at integrating the cost of investment in fixed assets, directly imported by the organization that develops the promoted activity, provided that they have been declared as not in competition with the national industry;
- **Refund of value added tax** for the acquisition of goods and services to integrate the cost of investment in fixed assets directly applicable to the promoted activity.
- **Property tax exemption** on real and personal property that are incorporated to carry out the promoted activity;
- **CIT Exemption** for the income derived from the promoted activity.

To qualify for the tax exemptions established in the referred decree, the taxpayers who develop the promoted activity must be submit to the COMAP a statement with description of the activity to develop which are considered included in the exemption, as well as a detail of the investments to be carried out.

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48. Article 5 of the Law 19.317 of 18 February 2015.

## 4. CONCLUSIONS

There is a global consensus on the need for proper regulation in the efficient use of natural resources to achieve a better quality of life, and more importantly to ensure the survival of the planet inhabitants. As a result, global efforts are undertaken in the pursuit of measures and specific guidelines that will ensure the protection and conservation of the environment.

In our opinion, State policies play a key role in the pursuit of measures and specific guidelines that for the protection and conservation of the environment. However, in this work we have shown that administrative instruments may not be structured in isolation but that they require, in our view, a multidisciplinary approach to promote consistent and coordinated use of various tools and mechanisms at work.

In the previous sections, we have seen as of utmost importance that countries establish solid, clear and precise legal frameworks as a fundamental measure to regulate the efficient use of resources. We must take care not to convert them into obstacles for the development of enterprises, or an entry barrier for the installation of new ventures, or carrying high administrative costs both for the State and for such ventures.

Therefore, we share the view of much of the doctrine, in that the administrative instruments must be applied with economic and financial instruments such as the tax benefits. In our view, the fiscal stimuli are a valuable tool to regulate the efficient use of natural resources, when they are designed so that they are true instruments of support to the legal standards of environmental protection, harmonizing the objectives of economic growth with environmental damage reduction and minimization of natural resources consumption.

We find that the development of a social policy that will allow economic activities to affect positively the environment through tax benefits is more effective and beneficial for the care and prevention of the environment. We consider it as a more effective measure, since these instruments are intended to influence the decisions of economic agents, especially in the environmental management of enterprises, for the efficient use of natural resources. But we are aware that to implement it, the Governments must be willing to give up part of their collection for providing tax credits to these entities that take actions or measures to generate positive externalities on the environment.

In our opinion, Uruguay has directed its production processes towards more environmentally friendly and beneficial practices. This work discussed the environmental tax incentives included in the Investment Promotion Act, among others the stimuli in the clean energy investment. In that sense, it is projected that for 2016 Uruguay will be the country in the world with highest percentage of wind energy in its energy supply<sup>49</sup>.

Also in Chapter 3, we described the tax benefits that the CIT taxpayers whose investment projects were declared promoted by the EP if they invested in environmentally friendly technologies, and observed that since the implementation of these stimuli, companies are increasingly investing in technologies that produce positive externalities for the environment, mainly in the industrial sector.

Finally, among the major future axes of work, we feel that doing more empirical works it would be rewarding. They would allow informing society in general, and mainly

49. <http://www.elpais.com.uy/economia-y-mercado/uruguay-sera-pais-mundo-mayor.html>

companies and investors on the effects of the implementation of these tax stimuli, conducting surveys and interviews with employers leading to more environmentally friendly practices or those who contribute to

develop activities to protect the environment. In this way would be encouraging and building in every human being a solid environmental culture that ensure the path to a truly green economy. We definitely deserve it.

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