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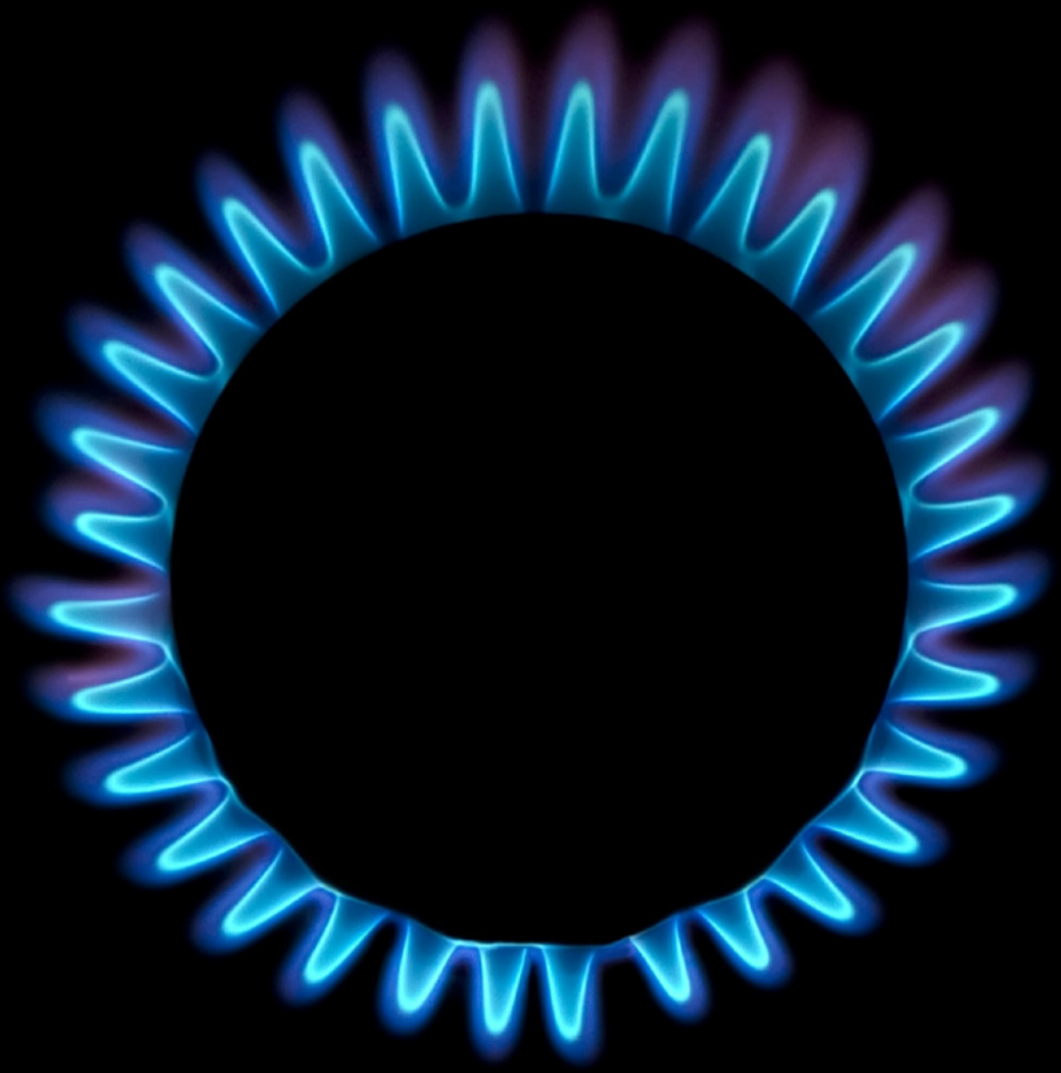

Oil and gas taxation in Argentina

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1.0 Summary

Argentina has three tiers of taxation: federal taxes, provincial taxes and municipal assessments. Oil and gas production is also subject to royalties. The most important taxes that apply to companies extracting oil and gas from Argentina are the following:

• Corporate income tax	35 percent
• Minimum presumed income tax	1 percent
• Value Added Tax (VAT)	21 percent (10.5 percent and 27 percent for specific activities)
• Tax on debits and credits in bank accounts	1.2 percent
• Personal assets tax	0.25 percent
• Royalties on oil and gas production	12 percent - 15 percent
• Turnover tax	3 percent in general for upstream, up to 3.5 percent in general for downstream
• Stamp tax in general varies from	1 percent to 2 percent
• Withholding taxes:	
– Interest	15.05 percent or 35 percent*
– Dividends	0 percent, (10 percent up to 22 July 2016)
– Royalties and technical assistance	21 percent - 28 percent - 31.50 percent*

* Subject to reduction under double tax agreements and domestic law exemptions.

Argentina also imposes export duties and applies a foreign exchange control regime.

2.0 Corporate income tax

2.1 In general

Argentine tax residents are subject to tax on worldwide income, with a tax credit granted for tax paid abroad on foreign income. Corporations, limited liability companies and branches generally are taxed in the same way.

2.2 Rates

The corporate income tax rate is 35 percent and there is no special tax regime for oil and gas companies.

2.3 Taxable income

Taxable income is the difference between income or gains derived by the taxpayer and the expenses incurred to obtain the income and keep and retain its source. All income and gains are subject to corporate income tax, unless specifically exempted. There are no relevant exemptions for oil and gas companies.

Dividends received by an Argentine company from another Argentine company are exempt from income tax. Dividends received from a foreign company are subject to tax, with a credit granted for the underlying corporate tax paid on the profits out of which the dividends are paid, as well as a credit for any withholding tax suffered on the dividends.

The income tax law does not contain a specific regime or provisions particularly applicable for the oil and gas business.

Joint ventures are not income taxpayers and no ring fence applies for income tax purposes.

2.4 Deductions and allowances

All expenses incurred in obtaining and preserving taxable income may be deducted. In addition to regular business expenses, deductible items include taxes paid (except for income tax and personal assets tax), arm's length payments made to foreign affiliates, directors fees, employee salaries and donations of up to a maximum of 5 percent of taxable income. Interest payments may be deducted unless the thin capitalization rules apply, and the deduction of trademark and patent payments to foreign beneficiaries is limited to 80 percent of the total amount paid. Other limits on certain expenses may exist (vehicles, entertainment, etc.). All deductions are subject to review by the tax authorities.

Accrual for contingencies and general reserves are not deductible.

The valuation of assets and liabilities denominated in foreign currency must be done by applying the exchange rate as of the fiscal year end.

In general terms, the deduction of expenses and interest are recognized on an accruals basis. However, when the expense or interest to be deducted is taxable income for a foreign related entity or an entity located in a non-cooperative jurisdiction, the deduction can be considered in the year of accrual if it is paid before the income tax return due date. Otherwise, the expense or interest will be deducted in the year of payment.

Exploration phase

Even though there are no specific regulations dealing with oil and gas companies, under reasonable interpretation and general guidance provided by the tax authorities, expenses incurred prior to the drilling of exploratory wells (including seismic, geophysical and other feasibility studies) and the investments related to such wells should be capitalized for tax purposes and may be amortized once the production of the field or assets commences, or written off upon returning or abandoning the area.

This implies that these expenses should be identified and segregated per the specific field to which they relate as their subsequent treatment will depend on the development of each area.

Capital allowances

Capital allowances (tax depreciation) rules that apply to all Argentine companies also apply to companies operating in the upstream and downstream oil and gas sector.

Once production has commenced, as provided by law, capitalized investment expenditure may be deductible by way of depreciation.

The general method for depreciating investments in oil and gas areas is the unit of production method.

Argentine law does not specify the reserves to be considered, so an analysis must be made depending on the nature of the investment.

Depreciable movable property, such as downstream facilities, furniture, automobiles, etc., may be depreciated under the straight-line method based on the estimated useful life of the asset.

In the case of real estate property (offices, etc.), the useful life of assets as estimated by law is 50 years.

Interest and foreign exchange differences are not capitalized.

Decommissioning costs

There is no guidance on decommissioning in the regulations. There have been certain court decisions where it has been held that decommissioning costs are deductible when the expenditure is incurred.

Other relevant matters

Adjustments for inflation for tax and accounting purposes currently is not applicable.

Investments and other disbursements are booked for tax purposes at their value in Argentine pesos at the relevant date.

Regulations do not provide for the adoption of a functional currency other than the Argentine peso to calculate taxes.

2.5 Losses

Operating losses incurred in one year may be deducted from future taxable income in any of the five subsequent years. There are specific types of carried forward expenditure that may be deducted only from future specific taxable income (e.g. shares transactions, derivatives – except hedging).

Foreign-source losses can be offset only by foreign-source income.

The carryback of losses to prior periods is not permitted.

2.6 Foreign entity taxation

Nonresidents without a permanent establishment in Argentina are subject to tax only on Argentine-source income. In this case, tax is levied in the form of a final withholding tax, at various rates depending on the type of income concerned.

Argentine-source income includes the exploration and exploitation of living and non-living natural resources, which, according to the standards applicable to this purpose include those located on the continental shelf and the Argentine Exclusive Economic Zone or on artificial islands, facilities and structures established in such a zone.

Gains derived by a nonresident from the sale of shares of an Argentine corporation or other participation in the capital of an Argentine entity are subject to a 15 percent tax. The seller has the option to calculate tax on 90 percent of the gross proceeds, or on the entire gross proceeds less expenses and costs incurred in deriving the gains, all of which should be measured in local currency. No distinction is made between short- and long-term gains. Double tax treaty provisions override domestic rules.

2.7 Minimum presumed income tax

An annual tax on minimum presumed income is applied at a rate of 1 percent on the assets of Argentine tax residents, including shareholdings in foreign companies (but not Argentine-resident companies).

Investments in fixed assets are not taxable in the year of investment or the subsequent year.

The minimum tax is imposed only where its amount exceeds the taxpayer's income tax liability. Any minimum tax payable is creditable against the excess of income tax over minimum tax in the following 10 years. The tax has been repealed for fiscal years beginning after 1 January 2019.

3.0 Royalties on production and surface fees

3.1 Royalties on production

According to the Hydrocarbons Law, holders of production concessions also are required to pay royalties to the province where production occurs. A 12 percent royalty is payable on the value at the wellhead of crude oil production and natural gas.

The value is calculated based upon the volume and the sale price of the crude oil and gas produced, less the costs of transportation and storage and certain specific deductions. In addition, if a concession holder allots crude oil production for further industrialization processes at its plants, the concession holder is required to agree with the provincial authorities or the Secretariat of Energy, as applicable, on the reference price to be used for purposes of calculating royalties.

Any oil and gas produced by the holder of an exploration permit prior to the grant of a production concession is subject to a 15 percent royalty.

Provinces can reduce royalties up to 5 percent, depending on the production conditions (location of wells, productivity, etc.).

In case of future extensions of exploitation concessions (either unconventional or conventional), the provincial government may establish an additional 3 percent royalty for each extension, up to a maximum total of 18 percent.

Holders of exploitation concessions of areas with extra-heavy oil (API< 16), offshore operations or with tertiary recovery (enhanced oil recovery) can request from the province a 50 percent reduction in royalties.

3.2 Surface fees

Pursuant to the Hydrocarbons Law, holders of exploration permits and production concessions must pay an annual surface fee to the provinces, which is based on acreage of each block and is dependent on the phase of the operation, i.e., exploration or production. In the case of the former, the surface fee also is dependent on the relevant period of the exploration permit.

4.0 Tax incentives

4.1 Benefits included in Decree 929/2013

Law 27.007 and Decree 929/2013 grant the following benefits to projects that bring funds of at least USD 250 million over the first three years of the project, into the country:

i. The right to export 20 percent (60 percent for off shore projects) of the hydrocarbon production derived from the project with 0 percent export withholding duty.

ii. The right to freely dispose of funds derived from those exports, with no obligation to repatriate the foreign currency.

iii. A 14 percent or 0 percent duty (depending on the tariff code) on the importation of certain capital goods that are essential for the projects. The list of the tariff codes included in the benefit can be extended.

Benefits will be available as of the third year from the commencement of the project and for non- conventional projects will apply for 20 percent of the hydrocarbons.

To qualify for the benefits of Decree 929/2013, projects that are to be approved by the Federal Commission for Hydrocarbons Investment must contribute to the province where the project is located, 2.5 percent of the initial investment for social projects.

4.2 Natural Gas New Project Stimulus Program

On 18 May 2016, resolution 74/2016 created the Natural Gas New Project Stimulus Program to foster natural gas production for companies submitting new natural gas projects provided they are not beneficiaries of certain previous programs.

The submission of new projects, which must be approved by the Hydrocarbons Resources Secretariat, may obtain a stimulus price of USD 7.50 /MMBTU. The program applies through 31 December 2018.

Certain requirements must be met to apply for the program.

5.0 Payments to related parties

5.1 Transfer pricing

All local companies involved in any kind of transaction (including sales of goods, provision of services, interest, royalties, etc.) with a related party located in another jurisdiction, or an entity located in a non-cooperative jurisdiction (even if the company is unrelated) are subject to the transfer pricing rules.

These rules generally follow the OECD transfer pricing guidelines and thus, require related party transactions to be made on an arm's length basis. An annual transfer pricing study, including a Charted Public Accountants (CPA) certification, must be prepared and filed with tax authorities at the beginning of the eighth month after the fiscal year end. In addition, information tax returns must be filed biannually.

The transfer pricing study essentially includes information on the local company, its economical group, details of the transactions subject to the transfer pricing tests, the method used to test the transactions, together with the comparable utilized and the conclusions.

For deals that involve exporting commodities (assets with well-known prices in transparent markets) to related parties where there is the intervention of an international intermediary agent that is not the actual addressee or consignee of the good, the best method to be considered is the quotation value of the asset on a transparent market on the day the goods have been shipped.

Notwithstanding the foregoing stipulation, if the price agreed on with the international intermediary agent ultimately is higher than the quote price in force on the abovementioned date, the first price is the one to be taken into consideration to assess the deal value.

This method will not be applicable when the taxpayer is in a position to clearly demonstrate that the international intermediary agent fully complies with certain requirements.

Foreign exchange control matters also must be considered in detail (see 9.3).

5.2 Interest deductibility - thin capitalization

In general, Argentinian income tax regulations allow the deduction of foreign exchange differences and interest related to taxable income.

The deduction is made on an accrual basis, except for interest paid to related parties, which may be deducted on an accrual basis only if it is paid before the filing of the income tax return.

Argentina's thin capitalization rules operate to deny an interest deduction if a company's debt-to-equity ratio exceeds 2:1 and interest is paid to a controlling financial non-resident in a non-cooperative jurisdiction. The excess interest is re-characterized as a dividend payment.

For the purpose of this calculation, only financial debt must be considered.

The scope of interest subject to thin capitalization rules has been extended to interest related to loans that benefit from reduced withholding rates under an applicable tax treaty.

6.0 Transactions

6.1 Capital gains - disposal of shares and other equity interests

Local entities are subject to income tax at a rate of 35 percent on any gain derived from the disposal of shares or other equity interest in domestic companies.

For nonresidents, see 2.6.

There are no provisions that allow a step-up in the basis for the buyer.

These transfers are not subject to VAT.

6.2 Asset disposals

Asset disposals also are subject to income tax at a rate of 35 percent. In this case, the price must be allocated to the different tangible and intangible assets transferred.

Depending on the nature of the asset transfer, VAT will be applicable.

6.3 Farmouts

There are no specific rules relating to farmouts so a detailed analysis of the terms and conditions must be performed to determine the tax consequences.

7.0 Withholding taxes

7.1 Dividends

Dividends and other profits from limited liability companies or branches are subject to withholding tax only if they exceed accumulated taxable income, subject to certain adjustments. If applicable, the withholding tax rate is 35 percent. A 10 percent withholding applied during the period 23 September 2013 to 22 July 2016.

7.2 Interest

The general 35 percent withholding tax is reduced to 15.05 percent if:

- The borrower is a financial institution;
- The lender is a bank or financial institution located in a cooperative country;
- The interest relates to certain bonds that are registered in countries that have concluded an investment protection agreement with Argentina; or
- The transaction involves the financing by a seller of depreciable movable property.

7.3 Rents and royalties

Patent royalties and fees for technical assistance, engineering or consulting services paid to a nonresident are subject to a final withholding tax of 35 percent on a prescribed percentage of the gross payment, which varies depending on the type of payment.

Patent royalties and technical assistance, engineering and consulting services fees obtainable in the country and paid to a nonresident are subject to a final withholding tax of 28 percent of the gross payment if the agreement under which the royalties and fees are paid is registered with the National Institute of Industrial Property (INPI).

Fees for technical assistance, engineering or consulting services paid to a nonresident, registered with the INPI and not obtainable in the country, are subject to a final withholding tax of 21 percent of the gross payment.

If the agreements under which the royalties and fees are paid do not fall within the transfer of technology law or are not registered, the final withholding rate is 31.5 percent.

Rent payments made for movable property are subject to a 14 percent withholding tax.

7.4 Tax treaties

Argentina has 18 tax treaties that provide for a reduction in the rate of withholding tax in many cases.

8.0 Indirect taxes

8.1 Value added tax

VAT is levied on the sale of personal property located in or placed within Argentina, construction and other contracts and services performed or rendered within the country, and on the import of personal property and services rendered abroad, but economically used in Argentina.

The general VAT rate is 21 percent, although a higher rate of 27 percent applies to some services, such as the supply of certain communications services, power, natural gas and water. A reduced rate of 10.5 percent applies to capital goods and other specific items. Exports of goods and services are zero-rated and a refund of credits related to exports can be requested.

Credits can be offset only against future debits so the immobilization of credits mainly during the exploration phase must be carefully considered.

VAT returns must be submitted monthly.

Joint Ventures and the Union Transitoria de Empresas (UTE) are separate VAT taxpayers.

8.2 Turnover tax

Turnover tax is applied at a jurisdictional level. There are 24 jurisdictions in Argentina (23 provinces and the federal district of Buenos Aires City). A taxpayer that conducts activities only in one jurisdiction pays tax only in that jurisdiction. However, where a taxpayer carries out activities in more than one jurisdiction, it must pay tax as provided under an agreement signed by the relevant jurisdictions.

Gross revenue is the taxable base. Exports are exempt.

The rate for oil and gas upstream sales generally is 3 percent and for downstream activities the range can reach up to 3.5 percent.

8.3 Import, export and customs duties

Customs duties (rates depending on product classification) and VAT usually are due on imports of goods into Argentina. Imports of goods originated in the Mercosur Trade Area are not subject to custom duties.

The export of goods is VAT exempt but export duties can apply on certain goods. The former regime that applied export duties on crude oil expired as of January 2017.

8.4 Financial transaction tax

The tax on financial transactions is levied on debits and credits in bank accounts at a rate of 0.6 percent per transaction. Of the amount levied on credits, 0.2 percentage points may be taken as an advance payment of income tax or minimum presumed income tax, resulting in an effective rate of 0.4 percent, and, therefore, 1 percent on a complete collection/payment cycle. The main exemptions are the collection of exports and credits originated in loans received from financial institutions.

8.5 Stamp tax

Stamp tax is levied on the formal execution of public and private instruments. Documents subject to stamp tax include all types of contracts, notarial deeds, receipted invoices confirmed by a debtor, promissory notes and negotiable instruments.

The average rate is between 1 percent and 2 percent, but there are exceptions, such as for real estate sales, where the rate ranges from 2.5 percent to 4 percent.

Each province has its own stamp tax law that applies within its territory. There are some instances of double taxation for which no legal remedy exists.

8.6 Net wealth tax

A net wealth tax of 0.25 percent is applied to any equity interests in a company set up in Argentina and owned by either resident individuals or a nonresident. The Argentinian company is responsible for the payment and has the right to be reimbursed by the owners for the tax paid. The tax rate was 0.5 percent up to the tax period 2015.

The taxable base is the net equity of the financial statements as of 31 December each year under local GAAP. Law 27.260, passed in July 2016, provides that if certain conditions are fulfilled, taxpayers that fully complied with all of their tax liabilities for fiscal years 2014 and 2015 and that did not use the voluntary disclosure regime or a previous special payment plan will be exempt from the net wealth tax.

9.0 Other

9.1 Choice of business entity

Holders of permits or exploration or concessions of exploitation must have a business presence in Argentina through a corporate entity (Sociedad Anónima "SA" or Sociedad de Responsabilidad Limitada "SRL") or a branch.

9.2 Foreign currency

Functional currency is not available for book or tax purposes. All taxes are calculated and paid in local currency (pesos).

9.3 Foreign exchange control regime

Argentina operates a foreign exchange control regime. The transfer of funds into and out of the country must be carried out in accordance with central bank regulations.

Export proceeds originated in goods must be brought into Argentina within 10 years of the exportation.

Dividends may be paid without approval with respect to profits arising from an audited financial statement. Capital contributions can enter Argentinaand be repatriated without restriction and/or central bank authorization.

Residents (both legal entities and individuals) outside the financial sector may access the exchange market to purchase foreign exchange without limit as from August 2016.

The prior restrictions for the payment of importation of goods and services have been eliminated in their relevant aspects.

9.4 Shale oil and gas

Shale oil and gas is in its early stages in Argentina. Public sources consider Argentina to have viable non-conventional oil and gas reserves located essentially in the Neuquén Basin (Vaca Muerta formation).

In general, for federal taxes no specific regulations have been enacted. The Province of Neuquén has created a promotional regime that grants stamp tax reductions and fiscal stability in certain cases.

9.5 Exploration permits and concessions

The Hydrocarbons Law was amended in 2014 to attract new investment to enable the country to achieve self-sufficiency in the supply of hydrocarbons.

Exploration permits

For exploration, unconventional hydrocarbons permits will last up to eight years (this period is divided into two sub-exploratory periods of four years each) with the possibility of requesting an extension for an additional five years.

In the case of exploration of conventional hydrocarbons, the permits will last up to six years (this period is divided into two sub-exploratory periods of three years each), with the possibility of requesting an extension for an additional five years.

At the time of requesting the five-year extension, the exploration permit holder will have to give back to the province 50 percent of the area or field (acreage). In the case of offshore exploration of conventional hydrocarbons, each of the sub-exploratory terms can be increased after one year.

Exploration permits cannot exceed 100 units of acreage. If the holder of an exploration permit discovers hydrocarbons and requests an exploitation concession during either the eighth or sixth period mentioned above, the remaining period of the permit that is not used will be added to the exploitation concession period described below.

Unconventional and conventional exploitation concessions

The law provides for 35 years unconventional exploitation with the possibility of requesting a 10-year extension.

Conventional exploitation concessions have a 25-year term while offshore concessions are given 30 years. In both cases, current and future concessionaires can request extensions for 10 years.

Current exploration permit or exploitation concession holders of conventional fields may request a new unconventional concession by means of dividing their current fields or through the unitization with adjacent unconventional fields belonging to the same holder. The concession holder must file a pilot plan with the corresponding regulatory authority to develop the unconventional resources before being granted unconventional concession rights.

Exploitation concessions cannot exceed 250 km^2.

10.0 Contact information

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