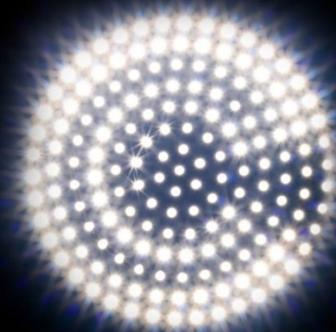


## International Tax Argentina Highlights 2017



### Investment basics:

**Currency** – Argentine Peso (ARS)

**Foreign exchange control** – Argentina operates a foreign exchange control regime. Transfers of funds into and out of the country must be made according to central bank regulations. The regime was simplified in relevant aspects during 2016.

The rules that required that foreign currency proceeds disbursed by nonresidents with respect to the indebtedness of an Argentine resident be repatriated (and converted into pesos) within a specified period of time have been eliminated, as has the nonremunerated deposit. The minimum term of maturity also has been reduced from 365 to 120 days.

Dividends paid out of profits reported on an audited financial statement may be paid without prior approval.

**Accounting principles/financial statements** – Argentine GAAP is used. Financial statements must be filed annually.

**Principal business entities** – These are the corporation (SA), limited liability company (SRL) and branch of a foreign company.

### Corporate taxation:

**Residence** – An entity is resident if it is incorporated in Argentina. A branch of a foreign company also is deemed to be a tax resident.

**Basis** – Argentine corporations are subject to tax on worldwide income, but they receive a tax credit for foreign income tax paid. Capital gains normally are included in regular income. Nonresidents pay tax only on Argentine-source income.

**Taxable income** – Income tax is imposed on the profits of an entity. Expenses related to obtaining taxable income generally are deductible.

**Taxation of dividends** – Dividends received by an Argentine resident entity from another Argentine entity are exempt from income tax. Dividends received from a foreign corporation are subject to income tax in the period in which the dividends are paid, but a credit for underlying corporate tax and withholding tax generally is available for foreign tax paid on the dividends.

**Capital gains** – Most capital gains are included in taxable income and are subject to corporate income tax at the normal rate. Gains derived from the sale of shares by an Argentine entity are subject to income tax.

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% tax. The seller has the option to calculate tax on 90% of the gross proceeds or on the gross proceeds less expenses incurred in deriving the gains.

**Losses** – Net operating losses may be carried forward for five years, but the carryback of losses is not permitted. Certain losses (i.e. losses from the sale of shares, foreign-source losses) may be set off only against profits of the same kind.

**Rate** – 35%

**Surtax** – No

**Alternative minimum tax** – A 1% asset tax, which operates as a minimum income tax, is imposed on corporate assets, including shareholdings in foreign companies (but not holdings in resident companies).

Asset tax paid may be credited against the company's income tax liability for up to 10 fiscal years.

**Foreign tax credit** – A tax credit may be claimed for foreign tax paid, up to the amount of the Argentine tax liability related to the foreign-source income. Withholding taxes incurred are creditable, as are underlying direct and indirect income taxes paid (under certain conditions).

**Participation exemption** – No

**Holding company regime** – No

**Incentives** – Tax incentives are available for certain activities (including renewable energy, mining, forestry, biotechnology and software production), and there is a tax-free zone (*Tierra del Fuego*).

#### Withholding tax:

**Dividends** – The former 10% withholding tax on dividends paid to a nonresident was eliminated as from 23 July 2016. A withholding tax applies only if dividends exceed the payer company's accumulated taxable income, after certain adjustments. If applicable, the rate of the withholding tax is 35%.

**Interest** – The general 35% withholding tax is reduced to 15.05% in the following cases:

- The borrower is a financial institution;
- The lender is a bank or financial institution located in a "cooperative jurisdiction";
- The interest relates to certain bonds 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.

The 35% rate applies to interest paid on other loans (with certain exemptions).

**Royalties** – Royalty payments made to a nonresident individual for the exploitation of copyrights in Argentina are subject to a final withholding tax of 35% on 35% of the gross payment, resulting in an effective rate of 12.25%, provided the works are registered with the National Copyright Bureau and certain other conditions are satisfied. Film and television royalties are subject to a final withholding tax of 35% on 50% of the gross payment, resulting in an effective rate of 17.5%.

Patent royalties paid to a nonresident are subject to a final withholding tax of 35% on 80% of the gross payment (effective rate 28%) if the agreement under which the royalties are paid is registered by the National Institute of Industrial Technology (INTI). If these conditions are not satisfied, the effective rate on the royalties or fees is 31.5% (35% x 90%).

**Technical service fees** – Fees for technical assistance, engineering or consulting services paid to a nonresident are subject to a final withholding tax of 35% on 60% of the gross payment (giving rise to an effective rate of 21%) if the agreement under which the fees are paid is registered with the INTI and the services cannot be obtained in Argentina. If the agreement is registered with the INTI, but the services can be obtained in Argentina, the effective rate is 28% (35% x 80%). If an agreement does not fall within the scope of the transfer of technology law or does not comply with the law, the effective rate is 31.5% (35% x 90%).

**Branch remittance tax** – Profits remitted by a branch to its head office are subject to the same regime as dividends.

#### Other taxes on corporations:

**Capital duty** – No

**Payroll tax** – No

**Real property tax** – Real property tax is levied annually by the provincial authorities.

**Social security** – Both the employer and the employee must make social security and health care scheme payments. The company must pay between 23% and 27% of the employee's salary, depending on the activity and size of the company. In certain provinces, part of the employer's social security payment is creditable against VAT.

**Stamp duty** – Stamp duty is levied on the formal execution of public and private instruments. Documents subject to stamp duty include contracts, notarized deeds, invoices confirmed by a debtor, promissory notes and negotiable instruments. The rate varies in each province, but generally is 1%. The rate can range between 2.5% and 4% in real estate sales, and there are certain other exceptions.

**Transfer tax** – No

**Other** – A tax on financial transactions is levied on debits and credits to current accounts, at a rate of 0.6% per transaction. Of the amount levied on credits in the accounts, 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% and, therefore, 1% on a complete collection/payment cycle. There are some exemptions.

An annual net wealth tax applies at a rate of 0.25% on the net equity where the shareholder is a nonresident or a resident individual. The company has the right to request reimbursement from the shareholder. Under

certain conditions, companies that have fulfilled their tax obligations for 2014 and 2015 may request an exemption from this tax.

Municipalities impose assessments on services.

#### Anti-avoidance rules:

**Transfer pricing** – Transactions between resident related entities must be on arm's length terms. The following transfer pricing methodologies are authorized: (1) comparable uncontrolled price; (2) cost plus; (3) resale price; (4) profit split; and (5) transactional profit margin. A "sixth" method, which is a variation of the comparable uncontrolled price method, must be used in certain circumstances and for certain products (mainly commodities). Argentina has documentation requirements. The tax authorities may request information on transactions with affiliated companies if the arm's length nature of a transaction is not sufficiently documented. Transactions with noncooperative countries also are subject to the transfer pricing provisions.

**Thin capitalization** – An interest deduction will be disallowed if a company's debt-to-equity ratio exceeds 2:1 and the interest is paid to a controlling financial institution or other controlling creditor that benefits from a reduced withholding tax rate. The excess interest is recharacterized as a dividend.

**Controlled foreign companies** – The tax authorities have issued a list of countries that are considered "cooperative" for tax transparency purposes. Any country or jurisdiction not included on the list of cooperative countries is deemed to be a noncooperative country that is subject to all tax provisions that apply to low or no-tax jurisdictions.

The CFC rules require resident shareholders to include in their taxable income the taxable profits derived by a company resident in a noncooperative country from dividends, interest, royalties, leases and other passive income. Current taxation will not apply, however, if at least 50% of the profits of the noncooperative country company are related to active income.

Foreign partnerships and branches are taxed on an accruals basis.

**Disclosure requirements** – Except for documentation requirements under the transfer pricing rules and certain shareholding matters, there are no special disclosure requirements.

**Other** – A statutory general anti-avoidance rule (economic reality principle) applies.

#### Compliance for corporations:

**Tax year** – Fiscal year

**Consolidated returns** – Consolidated returns are not permitted; each company must file a separate return and there are no provisions for relief of group losses.

**Filing requirements** – Companies must make 10 advance payments of income tax during the year, with the first installment equal to 25% of the previous year's income tax liability. The advance payment must be made by the 20th day of the sixth month after the start of the company's fiscal year; the other nine installments must each be equal to 8.33% of the previous year's income tax liability. The final return must be filed by the 15th day of the fifth month following the fiscal year.

**Penalties** – Interest is imposed for late payments (3% monthly), plus fines from 50% to 100% of the tax omitted (reductions are available). Tax evasion is subject to higher penalties and possibly imprisonment.

**Rulings** – No

#### Personal taxation:

**Basis** – All individuals earning income in Argentina, whether or not resident, are subject to income tax. Residents are taxed on worldwide income and nonresidents are taxed only on Argentine-source income.

**Residence** – For tax purposes, an individual is resident if he/she lives in Argentina (an individual with Argentine nationality is deemed to be a resident, although residence status can be lost if the individual lives abroad). Argentine individuals who have not lost their residence status, foreign individuals that obtain their permanent residence status or stay in Argentina for a 12-month period (temporary absences do not count) and undivided estates of resident individuals are considered Argentine residents.

**Filing status** – Each individual must file a return; joint returns are not permitted.

**Taxable income** – Employment income, including most employment benefits, is taxable. Rental and interest income also are subject to tax. Profits derived from the carrying on of a trade or business in the form of an enterprise generally are taxed in the same way as a corporation. Most Argentine-source financial income is exempt (e.g. time deposits on local banks, sales of listed shares or bonds, etc.). Dividends and other profits distributed by Argentine entities are subject to a 10% tax.

**Capital gains** – Gains derived by an Argentine resident individual from the sale of shares, bonds and other securities not listed on an authorized stock exchange or authorized for public offering are subject to income tax at 15%.

**Deductions and allowances** – Subject to certain restrictions, deductions are granted for medical expenses, certain donations, mortgage interest, retirement annuities, etc.

**Rates** – Rates are progressive, ranging from 9% to 35%.

#### Other taxes on individuals:

**Capital duty** – No

**Stamp duty** – Stamp duty is levied on the formal execution of public and private instruments. Documents subject to stamp duty include contracts, notarized deeds, invoices confirmed by a debtor, promissory notes and negotiable instruments. The rate varies in each province, but generally is 1%. There are some exceptions, such as real estate sales, where the rate can range between 2.5% and 4%.

**Capital acquisitions tax** – No

**Real property tax** – Real property tax is levied annually by the provincial authorities.

**Inheritance/estate tax** – There is no inheritance tax at the federal level, but the provinces of Buenos Aires and Entre Ríos have introduced such a tax.

**Net wealth/net worth tax** – A personal asset tax at 0.50% for 2017 (reduced from 0.75% for 2016 and to be further reduced to 0.25% for 2018) is levied on personal property over ARS 950,000 (increased from ARS 800,000 for 2016 and to be further increased to ARS 1.05 million for 2018). Assets of a nonresident are taxed at the same rate as local individuals. Under certain conditions, individuals that have fulfilled their tax obligations for 2014 and 2015 may request an exemption from this tax.

**Social security** – An employee is subject to a 17% contribution that is withheld by the employer, up to a certain amount of salary. An individual carrying on an independent profession must make his/her own monthly contribution of a fixed amount.

#### Compliance for individuals:

**Tax year** – Calendar year

**Filing and payment** – Individuals who derive taxable income must file an annual tax return, except for individuals that earn only employment income from which

tax is withheld by the employer. Five prepayments of tax must be made at bimonthly intervals, beginning in June of the tax year. Final payments of tax are made at the time the tax return is submitted. The annual return generally is due by mid-April or mid-May of the year following the tax year.

**Penalties** – Interest is imposed for late payments (3% monthly), plus fines ranging from 50% to 100% of the tax omitted (reductions are available). Tax evasion is subject to higher penalties and possibly imprisonment.

#### Value added tax:

**Taxable transactions** – VAT is levied at all stages of import, production and trading, including retailing and the provision of services (including financial services).

Sales taxes are levied at the provincial level.

**Rates** – The standard VAT rate is 21%, but certain transactions are subject to a 10.5% or 27% rate. Exports are zero-rated.

The municipal sales taxes in Buenos Aires City generally range from 3% to 5% of gross revenue. Higher rates may be imposed on certain services in some provinces; industrial activities usually are exempt or subject to lower rates.

**Registration** – Except for small operations, entities that engage in taxable activities must be registered for VAT purposes.

**Filing and payment** – VAT must be paid on a monthly basis.

**Source of tax law:** Income Tax Law, VAT Law, Tax Procedures Law

**Tax treaties:** Argentina has 18 tax treaties in force.

**Tax authorities:** *Administración Federal de Ingresos Públicos* (AFIP)

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