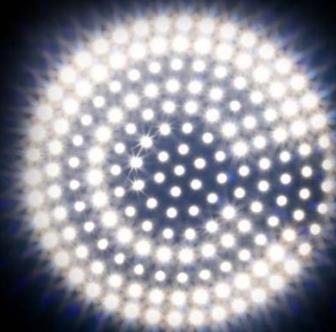


## International Tax Argentina Highlights 2018



### Investment basics:

**Currency** – Argentine Peso (ARS)

**Foreign exchange control** – Argentina operates a limited foreign exchange control regime. The transfer of funds into and out of the country must be carried out in accordance with central bank regulations. Dividends may be paid without approval with respect to profits arising from an audited financial statement.

**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 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 deriving 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** – 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. An exemption applies to the sale of publicly traded shares in local authorized markets and shares placed under a public offering in the same markets.

**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 or other securities, foreign-source losses) may be set off only against profits of the same kind.

**Rate** – The rate is 30% (reduced from 35%) for the two fiscal years beginning as from 1 January 2018, reducing to 25% for subsequent periods. The rate remains 35% for fiscal years in progress as of 1 January 2018.

**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.

According to Supreme Court precedents, if an entity is in a loss position for both book and tax purposes, the asset tax is not applicable.

The asset tax will be abolished for tax years beginning as from 1 January 2019.

**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** – A withholding tax on dividends paid to resident individuals and nonresidents has been introduced: the rate is 7% on dividend distributions from income generated for the two fiscal years beginning as from 1 January 2018, increasing to 13% for subsequent periods.

For dividend distributions from income generated for fiscal years in progress as of 1 January 2018 (or previous years), withholding tax applies only if the 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 not located in a low or no-tax 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, as well as royalties relating to other methods that include the reproduction or transmission of images or sounds, 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 of 28%) if the agreement under

which the royalties are paid is registered by the National Institute of Industrial Property (INPI). 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 INPI and the services cannot be obtained in Argentina. If the agreement is registered with the INPI, 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. As from March 2018, the employer must pay between 23.5% and 26.7% of the employee's salary (prior to March, the contribution is between 23% and 27% of salary), depending on the activity and size of the company. A progressive change in the rates will continue until 2022, when the rate will be set at 25.5% for all employers. In certain provinces, part of the employer's social security payment is creditable against VAT. The creditable amount will decrease until 2022, when the credit system will be eliminated.

**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% for 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 to 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.

Sales taxes are levied at the provincial level and in Buenos Aires City, generally at a rate of 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.

Municipalities impose assessments for services provided; in certain cases, these are calculated by applying the same taxable base as for sales tax purposes.

#### 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. 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 and low or no-tax jurisdictions also are subject to the transfer pricing provisions.

Argentina has introduced a country-by-country reporting regime for constituent entities of certain multinational entity groups, which applies to fiscal years beginning on or after 1 January 2017.

**Thin capitalization** – The deduction of interest and foreign exchange losses on financial loans with related (domestic and foreign) companies is limited to the higher of: (1) 30% of the taxable base before the deduction of interest and amortization; or (2) an amount to be determined by the executive branch. Certain exceptions apply for specific activities and in the case of highly leveraged economic groups. There is a five-year carryforward for excess interest/foreign exchange losses not deducted, and a three-year carryforward for any portion of the limitation that is not utilized.

**Controlled foreign companies** – The CFC rules require resident shareholders to include in their taxable income

the taxable profits derived by nonresident companies, if certain conditions are met. In general, this provision is applicable to entities with no tax registration in their country of incorporation or entities deriving mainly passive income or with no material and human resources to perform their activities, if the tax paid by the foreign entity on the profits is lower than 75% of the Argentina income tax rate (investments in low or no-tax jurisdictions or in noncooperative countries are deemed not to meet the rate test).

Branches and trust or similar arrangements to manage assets 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 first 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 each must 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 100% to 200% 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 at least 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.

Argentine-source financial income (e.g. interest income) is subject to tax at a rate of 5% (applicable to assets denominated in local currency with no adjustment clause) or 15% (applicable to assets denominated in local currency with an adjustment clause or assets denominated in foreign currency). Dividends and other profits distributed by Argentine entities are subject to a 7% withholding tax when paid from profits derived by the company in the two fiscal years beginning as from 1 January 2018, increasing to 13% for subsequent periods.

**Capital gains** – Gains derived by an Argentine resident individual from the sale of shares, bonds and other securities denominated in local currency with no adjustment clause are subject to a 5% tax on the gain. For securities denominated in local currency with an adjustment clause or those denominated in foreign currency, the rate is 15% on the gain (the adjustment clause impact or foreign exchange difference is not taxable). In certain cases, adjustment of the cost of acquisition for inflation is allowed. Shares listed on a local authorized stock exchange or authorized for public offering are exempt.

Sale of real estate acquired after 1 January 2018 are subject to a 15% tax. The acquisition cost may be adjusted for inflation. Residential property that is a home where the taxpayer lives on a permanent basis is exempt from taxation.

**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 5% to 35%. See also under "Taxable income" and "Capital gains."

#### 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 for 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 province of Buenos Aires has introduced such a tax.

**Net wealth/net worth tax** – A personal asset tax at 0.25% for 2018 (reduced from 0.50% for 2017) is levied on personal property over ARS 1.05 million (increased from ARS 950,000 for 2017). Assets of a nonresident are taxed at the same rate as resident 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 July 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-June of the year following the tax year.

**Penalties** – Interest is imposed for late payments (3% monthly), plus fines ranging from 100% to 200% 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 (see under "Other taxes on corporations").

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

**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 19 tax treaties in force.

Argentina signed the OECD multilateral instrument on 7 June 2017.

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

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