



# Investment in Argentina

2019



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# Preface

***Investment in Argentina* is one of the booklets published by KPMG to provide information to those interested in investing in the country or doing business from abroad.**

As laws and regulations in Argentina are subject to be changed, we recommend that legal, accounting or other professional advice be obtained before deciding whether to invest in the country.

Investment in Argentina was prepared by KPMG, a partnership established under Argentine law and a member firm of the KPMG network of independent firms affiliated with KPMG International Cooperative, and is one of a series of guides that KPMG is publishing on investing in different countries.

This is the thirteenth edition of this booklet and includes all major changes in regulations occurred to this date.

This edition is based on information available up to April 2019.

**June 2019.**

# 1

# Argentina - Country Outline

## Geography and Climate

Argentina, officially the Republic of Argentina, is a large country of about 3.8 million square kilometers (1.45 million square miles). It borders Chile, Bolivia, Paraguay, Brazil and Uruguay.

To the west, the country is limited by the Andes Mountains, which in the north reach considerable altitudes. The central and eastern areas of the country are flat and fertile, but almost half of the country experiences rainfalls of less than 500 mm per year and a good deal of this area is desert-like.

The climate is mainly moderate to dry. The north of Argentina is subtropical and the south is arctic. The climate in Buenos Aires is pleasant, with many days of sunshine; summer months (December through February) are at times hot and humid. Very few businessmen stay in town during January and February; therefore, business visitors from abroad should plan their visits outside this period.

## History and Government

During the time of the Spanish colony, Argentina had very little development. Only the northern area was developed as a supply base for Potosí, an important mining town in

current Bolivia. Buenos Aires was mainly founded to stop as far as possible the smuggling of goods through Río de la Plata, as Spain had decided that all commercial relations of the South American colonies should be channeled through Central America and Callao, the port of Lima. For this reason, the development of what is now Argentina started very late, only two centuries ago.

The first census was conducted in 1869 and at that time only 1,629,000 inhabitants were counted. However, this number did not include any native inhabitants (who were not taken into account). But even after correcting this omission, there were certainly less than 2 million inhabitants in Argentina at that time; in other words, just 145 years ago Argentina was virtually empty of inhabitants. From 1890 to 1915 Argentina showed an amazing development and millions of immigrants were drawn in from Europe.

The Argentine constitution was shaped on that of the USA, but not always in Argentine history have constitutional provisions been respected. Since 1983, the democratic government has been reestablished and the general feeling is that this time democracy will stay for good.

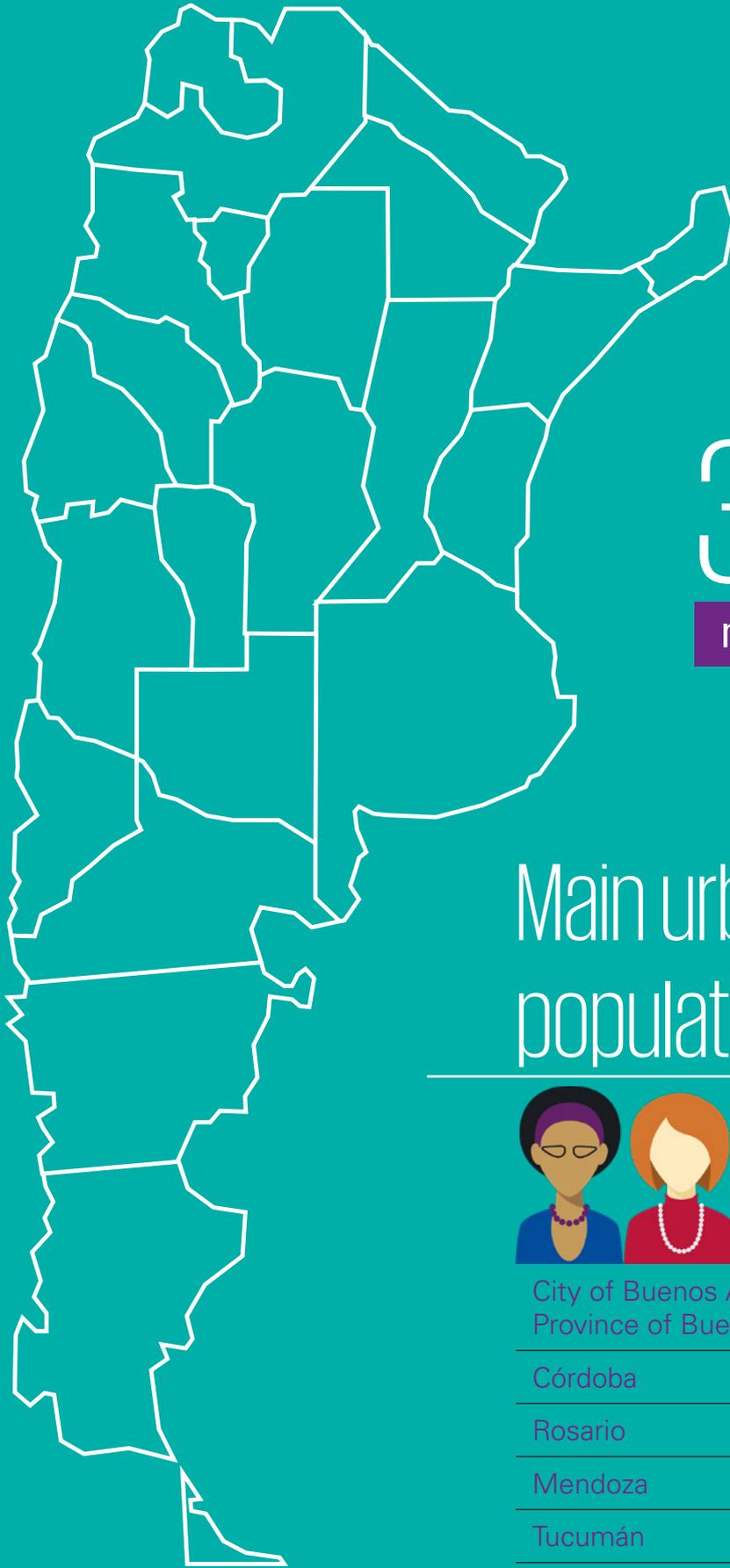
## Population and Language

The population of Argentina may be estimated at about 43.9 million inhabitants (as per estimations from the original 40.1 million according the 2010 census), mostly of European origin. Most of the inhabitants live in cities, the countryside being very sparsely populated. More than 15.6 million people live in the Province of Buenos Aires, and 2.9 million in the City of Buenos Aires (Ciudad Autónoma de Buenos Aires), which is also the main financial and business district of the country.

The growth rate of the population is 1.1 % per year. Its demographic profile is relatively young with a median age of 29.8 and a life expectancy at birth of 76 years.

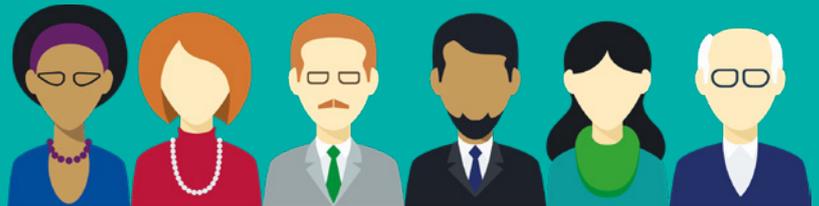
The urbanization rate is high, with 93 % of the population living in metropolitan areas.

Spanish is the official language of Argentina. The cultural links with Spain are still very significant, but an important native culture has been developed and also the influence of other Latin American cultures is noticeable. However, the rather European character of Buenos Aires always surprises visitors from abroad.



3.8 km  
millions square

## Main urban areas by population (2010 Census)



City of Buenos Aires and Province of Buenos Aires	13,175,000
Córdoba	1,418,000
Rosario	1,272,000
Mendoza	912,000
Tucumán	822,000
La Plata	751,000
Mar del Plata	621,000
Salta	549,000
Santa Fe	513,000
San Juan	477,000

Education is compulsory in Argentina from 4 years old to high school. The National Government has put forward a bill, which is currently being analyzed, to raise compulsory education to 13 years in total (from the age of 5 to the age of 18). In the City of Buenos Aires, this bill has already been approved.

There are secondary schools all around Buenos Aires and in most of the important towns. There are numerous private schools in addition to those operated by the Government. Moreover, some of these schools are registered in examination programs, which qualify for application to certain foreign universities, mainly in the U.S.A. Many new universities have been created over the last decades. There are now over 121 universities, including public and private institutions.

## Currency

On January 1, 1992, a new currency was introduced, the Peso (ARS), which currently remains as the official currency of the country. The exchange rate was very close to 1 Peso (ARS) = 1 US Dollar (USD). This new monetary unit was the result of the fourth monetary reform introduced in 1970. As a consequence of the high inflation rates prevailing in recent decades, 13 zeroes have been chopped off from the currency since January 1970.

In response to political and economic uncertainties in Argentina, on January 7, 2002, the Argentine Government announced an official abandonment of the "peg" and a devaluation of the Peso, adopting the current floating system.

## Visa Requirements

Upon an international assignment, every assignee travelling to Argentina to perform activities other than tourism or leisure purposes must apply for the appropriate category and benefit conferred by the Immigration Office in Argentina or Consular Authority in the country of residence. However, as of April 2017, OECD (Organization for Economic Co-operation and

Development) member countries are exempt from the Argentine consular visa requirement when the entry into our country is made on a transitional basis and for a period of up to NINETY (90) days, under the provisions of Section 24 of Law No. 25871, whenever the reasons for admission involve:

- a) The development of any unpaid activity, or
- b) The carrying out of business activities or performance of commercial or economic transactions, at one's own risk or with one's own capital, or with an interest in companies or legal entities that perform such activity, or on behalf of them, as provided for in Section 1 of Provision No. 1171, as amended, issued by the Immigration Office in Argentina on June 29, 2010 (Resolution No. 137-E.2017).

## Work Permits

### There are three categories of residences for Argentina:

- Transitional residence: This type of residence is for those foreigners remaining in the country for a short period of time, generally less than 3 months. There are two kinds of transitional residences: technical residence and business residence.
- Temporary residence: This type of residence is for those foreigners who need to live in the country for a long period of time. They are able to work, study, live, etc. Mostly, the following categories are required: Work residence, intra-company transfer residence, family reunification residence, Mercosur agreement.
- Permanent residence: This type of residence is for those foreigners who want to live in the country permanently. Under this residence, foreigners can work, study, live, etc.

Employers and employees who violate the above rules are subject to penalties. Further, employers are legally obliged to comply with social security regulations and must make social security payments, except for foreign professional, scientific or technical research personnel hired

for a maximum of two years and employees from countries that have signed social security agreements with Argentina. These expatriates can ask for an exemption.

To obtain temporary or permanent resident status, foreigners must file personal documentation with the immigration authorities from host and home countries.

## Registration of the Local Company

Renure is the national registry where all the local companies requiring foreign staff must be enrolled in order to require the type of residence involving a local company. The requesting person (private or state, individual or legal entity) must be registered with Renure.

## Foreign Exchange Regulations

In Argentina, exchange control regulations apply to the purchase and sale of foreign exchange. Visitors holding foreign bank accounts can obtain Pesos through an automated teller machine.

## Cost of Living

Argentina has been, generally speaking, an expensive country. Only food, public transportation and cabs are comparatively economical. Due to the recent devaluation, prices have decreased dramatically compared to foreign currencies; however, this situation may not continue due to inflationary pressures.

## Housing

Housing in Buenos Aires is rather expensive for expatriates, as they usually wish to live in fashionable areas where they can find an abundant supply of services, including foreign schools. However, any expatriate willing to buy a house or a flat may still be able to find a home at a price lower than that charged in other big cities. We do not refer to housing elsewhere in Argentina as conditions vary greatly among different areas, and most expatriates settle in Buenos Aires anyway.

## Transportation and Communications

Although public transportation is available in most large urban areas, an automobile is essential in many regions. Car rentals are available throughout the country. Because of the distances involved, business visitors frequently travel between Argentine cities by air. Austral and Aerolíneas Argentinas and other less important airlines provide air transportation services. In Buenos Aires, trains connect most major suburban areas, and buses connect Buenos Aires with major Argentine cities.

## Medical Services

Argentina has extensive public and private medical facilities. Employees of companies and family members are entitled to medical assistance under the country's social security system, which provides medical services directly through associated hospitals.

Many middle and high-income people pay a monthly fee to a private health care organization to receive medical assistance in private hospitals.

## Public Holidays

### There are 3 types of public holidays in Argentina:

- Public holidays that can be celebrated on a different day.
- Public holidays that cannot be celebrated on a different day, depending on the day of the week they fall. If the public holiday falls on a Tuesday or Wednesday, it will be celebrated on the previous Monday. If the public holiday falls on a Thursday, Friday, Saturday or Sunday, it will be celebrated on the following Monday.
- Touristic public holidays, which is an extra holiday. National Decree 1584/2010 establishes that whenever public holidays fall on a Tuesday or Thursday, the Government will establish 2 holidays per year on a Monday or Friday immediately before or after the holiday date. If the holiday date does not fall on a Tuesday or Thursday, the Government will set 2 holidays to encourage tourism.

Under Argentine law, those of Jewish or Islamic faith are entitled to additional public holidays. These include Yom Kippur, the first and last days of Passover and New Year for Jews; Eid al Fitr, Eid al Adha, and the Islamic New Year for Muslims; Genocide Remembrance Day for Armenians. The dates in italics vary from year to year.

**New Year's Day (a):** January 1

**Carnival:** March 3 and 4

**Remembrance for Truth and Justice:** March 24

**Malvinas Islands Day:** April 2

**Maundy Thursday:** March 29 (b)

**Good Friday:** March 30 (c)

**Labor Day:** May 1

**Anniversary of the May Revolution:** May 25

**Flag Day:** June 20

**Independence Day:** July 9

**Anniversary of the death of General José de San Martín:** *(August 17)* (d)

**Remembrance for Cultural Diversity:** *(October 12)* (d)

**National Sovereignty Day:** *(November 20)* (d)

**Feast of the Immaculate Conception:** December 8

**Christmas Day (a):** December 25

(a) Banks and most offices are open only in the morning during the previous days (December 24 and 31).

(b) Maundy Thursday is optional for business activities, it depends on the date of Catholic Easter.

(c) It depends on the date of Catholic Easter.

(d) According to National Decree 1584/2010, based on the day these holidays fall, national holiday of August 17 will be moved to the third Monday of that month; national holiday of October 12 will be moved to the second Monday of that month; national holiday of November 20 will be moved to the fourth Monday of that month.

# Spanish is the official language of Argentina.



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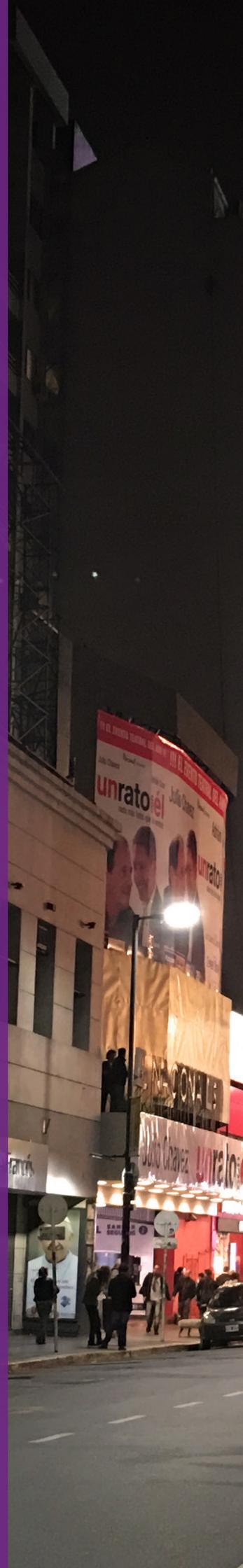
## Buenos Aires

The best destination  
in Latin America and  
number 14 in the world

### Leisure and Tourism

Buenos Aires offers entertainment possibilities that satisfy all tastes. Tripadvisor rated Buenos Aires as the best destination in Latin America and number 14 in the world. There are many theaters, cinemas and discos, as well as art and science museums. Teatro Colón (the main opera house in Argentina) ranks five among the best concert venues in the world. National and international sporting tournaments are held in many clubs and stadiums. Restaurants offering international cuisine (French, Italian, Mexican, Japanese, Indian, Chinese and so forth) compete in excellence with those offering local cuisine. Argentine restaurants are particularly famous for their beef.

Argentina's wide range of climates and scenery make the country attractive for tourism. Varied landscapes include wide and beautiful beaches, the highest mountains in the Western Hemisphere, soft green hills in the central provinces, a wonderful lake region and paradises for skiing in the south and west. Argentina also offers an extensive network of protected areas –national parks– throughout the country.





# 2 Opportunities for international investors

## ► Attitudes towards foreign investment

Since 2015, the current administration has implemented significant market-oriented political and economic changes. It has removed the restrictions on the purchase of foreign currency, the payment of dividends, royalties and technical assistance services, among others, and it has also passed new laws on transparency, such as the Law on Access to Public Information (Law No. 27275), and the Public-Private Partnerships Law (Law No. 27328). Furthermore, significant tax reforms were adopted in order to improve economic competitiveness. Such reforms include changes aimed at reducing the tax burden and export duties on primary products (which were reinstated as from September 2018 due to the tax difficulties encountered by the Government in light of the need to remedy public accounts, and will be applicable until 2020) as well as import duties applied to high added value products. In addition, as a result of the implementation of a floating exchange policy and the application of true positive interest rates (in pesos) the Argentine Central Bank's reserves in foreign currency amounts to over USD 60 billion, supported by the stand-by arrangement (SBA) signed with the IMF. This arrangement provides for a loan of more than USD 57 billion and partial disbursements until 2021 upon the achievement of certain tax and monetary goals.

In addition, the successful deal with the hedge funds to definitively close the still pending hindrance of the default on the external debt declared in 2002 is worth mentioning, since it enabled Argentina to regain access to international credit markets. It is also worth highlighting that the country has recently been reclassified as "emerging market" by the rating firm Morgan Stanley (MSCI), since, according to this firm, the country is ready to allow access to international investors so that they may operate there. Such firm also warned

about potential reviews of this rating if, upon the recent devaluation of its currency, the country implements any exchange restrictions, such as capital or exchange controls.

At present, there are no restrictions on foreign investment. No prior approval from Argentine authorities is required, though some of them are applicable to sensitive areas, such as telecommunications, defense and oil and gas. Profits may be freely transferred, and BCRA has eliminated restrictions for banks to sell foreign currency to their clients. There is also a legal system that seeks to prevent money laundering based on the recommendations of the FATF. Moreover, Argentina has signed international bilateral agreements with capital exporting countries (whereby foreign investments from these countries are given a favorable treatment), and joined the new global standard on AEOI (Automatic Exchange of Information).

The BCRA has eased several regulations which, in the past, controlled the country's capital inflows and outflows. Foreign investors are not required to obtain government permission to make investments in the country. Foreign companies as shareholders, partners or home office have to be registered with the Public Registry of Commerce. In general terms, there are not any legal restrictions to take money out of Argentina.

Some of the main measures adopted over the last years to revitalize the economy may be summarized as follows:

Argentina has always been a very attractive country to potential investors.



Recent political and economic changes resulted in an attractive environment to foreign investors.”

-Withholdings on exports were eliminated or reduced, mainly in the agribusiness and natural resources (mining) sectors. However, such withholdings have been reinstated recently (September 2018) and are applicable to all exports until 2020.

-Import tariffs on electronic products have also been eliminated (Executive Decree 117/2017).

-Removal of capital/repatriation restrictions.

-An important tax reform was brought about in order to reduce taxes and increase competitiveness.

-Free floating rate and recovery of international reserves.

-No restrictions on the purchase of foreign currency.

-Inflation targeting to reach single-digit CPI in 2020-23.

-Argentina was reclassified as an “emerging market”

-The IMF granted a ~US\$ 57 billion loan through a SBA.

-New laws have been passed. These laws have been much expected, since they provide more transparency and attract investments:

-Law 27401: Corporate criminal liability

-Law 27275: Law on access to public information.

-Law 27328: PPP contracts ()

-Law 27260: Tax Amnesty and Voluntary Disclosure Regime

-Creation of Investment & Foreign Trade Promotion Agency

-Plan to eliminate primary fiscal deficit in 2019 (0% of GDP)

-For the purposes of stabilizing and revitalizing the economy, strict controls and restrictions on cross-border transfers were lifted. Authorization from the Tax Authorities is no longer required for cross-border money transfers (applying a single exchange rate) and for transfers of funds to be either invested or used to settle liabilities and other payables (royalties, dividends, etc.) abroad.

President  
Mauricio Macri

Vice president  
Gabriela Michetti



Additionally, Argentina has always been a very attractive country to potential investors. US companies traditionally lead the process of permanent investment in the country. In fact, according to the AMCHAM (2017), US companies represent around 20% of Argentina's GDP and employ 400,000 individuals. However, in the last years, as a consequence of the default and the policies followed by the former government, the country had one of the lowest levels of foreign direct investment (FDI) of the region. The abovementioned change in policies offers excellent opportunities in various sectors, particularly in infrastructure. Argentina is one of the countries with bigger opportunities in the shale gas industry, underexploited mining resources and a field of opportunities in the traditional and renewable energy sectors. During the last years, the demand for energy has grown substantially, whereas investment did not accompany such demand, so growth in this sector is expected. Additionally, the lack of private sector investment in the last decade generates the need for major infrastructure projects, and opportunities would be greater with a more developed financial system, which is expected to exist in the country.

### **Promotion and Protection Agreements for International Investors**

As it has been previously mentioned, Argentina has signed a number of international bilateral agreements with capital exporting countries (USA, Italy, UK, France, Germany), whereby foreign investments from these countries are given a favorable treatment. Argentina has also adhered to the Multilateral Investment Guarantee Agency (MIGA)<sup>1</sup>, whereby investments in Argentina have become eligible for insurance by this agency against political risks. MIGA is a member of the World Bank Group who seeks to promote FDI into developing countries to help support economic growth, reduce poverty, and improve people's lives. Argentina entered into fifty "bilateral investment treaties" in order to protect foreign investments and avoid double taxation.

### **State Assistance and Grants**

Special incentives for certain activities and tax refunds on exports, among others, are granted under identical conditions to nationals and foreigners. Foreign investors are not required to obtain government permission to invest in Argentina. Foreign investors may wholly own a local company, and any investments in shares listed on the stock exchange require no government approval.

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<sup>1</sup> MIGA helps investors and lenders deal with risks by insuring eligible projects against losses relating to: currency convertibility and transfer restrictions, expropriation, war, terrorism and civil disturbance, breach of contract, non-honoring of financial obligations.



“

Foreign investors are not required to obtain government permission to invest.”



## Development of key sectors

There are many areas that are very attractive for investment, among others:

### Energy



Argentina is amongst the first four countries with the highest levels of unproven reserves of shale oil and shale gas, and its territory offers plenty of opportunities to renewable energy sources. In fact, in the last two years, the production of unconventional resources (mainly shale oil and shale gas) has shown a significant growth: after representing a small share of local hydrocarbon production recently, it now accounts for over one third of gas production and 15% of oil production. Such figures are expected to continue to show an upward trend, provided that macroeconomic imbalances at the country level are corrected and that investments improve.

Furthermore, Argentina also has important reserves of conventional oil and gas<sup>2</sup>, which, to this date, continue being the hydrocarbon sources with the largest share in total production. As regards renewable energy, Law No. 27191 was enacted in 2015 to promote the use of renewable sources for electric power generation. This law requires that, by the end of 2025, 20% of all the electric power derives from renewable energies. With the aim of attracting capital investments in the sector in order to achieve the goals set by the new law, the government launched the RenovAr program. Rounds 1.0, 1.5 and 2.0 of the program showed very positive results in terms of number of bids and prices. In fact, despite the current situation, the government is planning to launch rounds 3 and 4 of the program during 2019 in order to continue transforming the local electric power generation matrix by increasing the share of renewable sources and, in this way, starting to gradually achieve the goals set by Law No. 27191. Furthermore, by means of Resolution No. 281/2017 issued by the Ministry of Energy (now, the Department of Energy), the Renewable Energy Term Market (MATER) was created. Through this market, large

<sup>2</sup> According to the reports of the U.S. Energy Information Administration (EIA) issued from 2011 to 2013, Argentina is one of the countries with stronger possibilities for the production of unconventional energy resources, particularly, in terms of shale gas and oil endowment in the formations of Vaca Muerta and Los Molles.

users (stores and industries) may negotiate the purchase of renewable energy from generating and trading entities, being allowed to purchase from the minimum amount established by law to 100% of their total consumption of power. In addition, other opportunities within the power sector have been identified. Such opportunities include the following:

- o Over 10GW of new baseload generation capacity and transmission infrastructure needed.
- o Great production potential and investment promotion regimes for shale oil/gas.
- o Large conventional oil and gas reserves.
- o Development of offshore and biofuels.
- o Energy opportunities add up to more than USD 200 Bn.

### Mining



The regulatory framework governing mining activities (excluding oil and natural gas, which are governed by Hydrocarbons Law No. 27007) is provided by Law No. 24196, enacted in 1993. The national and provincial governments have expressed their intention to amend such regulatory framework (i.e. Mining Law No. 24196, enacted in 1993), by means of the so called Federal Mining Agreement (“AFM”, for its Spanish acronym), which has been signed by most mining provinces to channel and increase investments in the sector. In terms of performance and contribution to the Argentine economy, the mining industry, understood as the business involving all activities aimed at the extraction of metallic minerals, stones for construction and hydrocarbons, provides 3% of Argentina’s GDP and 6% of total national exports. Mining is one of the largest generators of indirect employment –around three indirect positions per direct position created by the sector–, and most of its gross production value is demanded as supplies of other economic activities, which underlines the importance of this sector for the local economic growth. Finally, it is to note that the mining industry represents an always-present investment opportunity in Argentina. This is so because there are large reserves of minerals, such as copper, gold, silver and, mainly, lithium, since Argentina is part of the “lithium triangle” (together

with Bolivia and Chile), a geographic area where a large portion of global lithium reserves can be found. Mining opportunities add up to more than USD 30 billion.

## Infrastructure



In addition to the preceding investment in energy areas, the following should be included: investment in transportation, communication, ports, and internal security. Also, there are unmet needs for housing, particularly for middle and lower classes. It is expected a more developed financial system, allowing many people to get a mortgage that facilitates their access to housing. The infrastructure plan is extremely ambitious, offering more than USD 45 Bn. investment projects.

## Agribusiness



Complement its very competitive agriculture sector with industrial developments that exploit the economies of scale and add value to the chain. Argentina has excellent conditions for agriculture, high technology adoption, and meat production (with potential to satisfy a growing local and global demand). A significant increase in the production of cattle, pork and poultry is expected for 2025. Some other opportunities are related to forestry, and cellulose, paper and wood production activities as well as to food industrialization. Agribusiness opportunities add up to USD 7 billion.

## People



Argentines remain one of the best educated people in the region and source of talents, despite the regression observed in this area in the last years. Thus, this is also an area of potential attraction for companies interested in producing contents, and outsourcing human resources for international markets, taking advantage of the language skills and time zone of the country.

## Investing in a fund



They are private equity funds managed by a trust whose aim is to invest in real estate. Their profitability comes from the revenue generated by leases and the recovery produced in buying and selling. Usually, the investment is made in warehouses, offices and strategic locations, where the purchase by an individual investor would be difficult.

## ➤ Tax system

Taxes are levied at three levels: national, provincial and municipal. National taxes, especially value added tax (VAT), which are collected by the federal government and distributed to the provinces, yield most of the revenue.

The provinces levy taxes primarily on gross receipts (turnover tax) and on real estate and, jointly with municipalities, they levy charges for services.

Argentine residents (whether individuals, companies or any other type of entity) are taxed on worldwide income. Non-residents are taxed only on Argentine-source income.

A tax credit is allowed for similar taxes paid abroad, up to the amount of the Argentine tax on the foreign-source income. All profits of local companies are taxable, including any kind of capital gain such as those from sales of depreciable assets, shares and real property.

An Argentine company is allowed to deduct from gross revenue the expenses incurred in producing taxable income, including a percentage of royalties, technical assistance fees, with some restrictions, and interest payable to beneficiaries abroad, regardless of whether these are economically related to the paying entity. Some restrictions apply to transfer prices and interest deductibility.

The income tax at a 35 % rate on amounts paid to non-residents (e.g. interest, technical assistance fees, royalties, etc.) is applied to assumed Argentine-source income. The assumed Argentine-source amount may vary depending on the nature of the payment.

In addition to income tax, the federal government imposes value added tax, excise taxes, customs duties, and a tax on financial transactions.

## ➤ Other benefits

### **Trained Labor Force**

Strong labor force (47% of total population), renowned for its technical skills, creativity and versatility. Argentina ranks #2 in Latin America and #47 in the World, according to the Human Development Index (2018). In addition, there is a high literacy rate (98 %), ~110,000 higher education graduates per year, and #1 in English proficiency. According to official data (IMF), the unemployment level –taking into account those beneficiaries of welfare programs- is projected around 9.2 % by the end of 2019. Argentina offers a well-trained labor force and, especially, an important pool of well-motivated and reliable people for managerial positions.

### **Availability of Financing Resources**

The deep economic crisis undergone by Argentina, which worsened by the end of 2001, had an impact not only on the financial system but also on the behavior of economic agents. Indeed, the fall in the demand, the tax pressure, the financial system need to raise lending and the uncertainty as to macroeconomic changes helped build resilience in the traditional borrowers. During 2002 and part of 2003, the high interest rates, short financing terms and uncertainty as to the possibility of agreeing future renegotiations or as to the changes in interest rates developed strong aversion to borrowing in the financial system. Thus, many companies and individuals got used to the fact that private financing is unavailable.

However, the lending activity has reactivated. Since 2003 a significant recovery of the financial intermediation levels has been observed, being the Argentine private banking sector one of the main drivers of such reactivation, restoring the deposit level, rebuilding the private sector's confidence in the financial system and, at the same time, offering more credit lines destined to production and consumption. This change could be seen again in 2008, when banking liquidity made interest

“  
The Argentine labor  
force strong is about  
47% of the total  
population”

rates start to drop, drastically increasing the credit offer in a context of growth in the activity levels. Thus, based on World Bank data, the participation of the non-financial private sector in the GDP averaged 9% in 2003-2005 and 14% in 2005-2015, thus showing a positive trend. In 2017, it reached 16%.

The behavior shown by private lending was related to the policies developed by the Argentine Executive Branch to boost consumption (2003-2015), which sought to support growth within a clear economic slowdown, whereas with the current government the objective will be to increase production loans as well as mortgage loans as from 2016. Nevertheless, it should be noted that the incentives to boost consumption led to an accelerated increase in domestic prices, as they were not backed by policies aimed at developing production, investment and employment; a mistake that the current government is trying to undo by applying the adequate policies and measures to improve them considerably. As regards the policies adopted to boost lending and financial intermediation activities, it should be noted that the financial sector has granted UVA (purchasing value unit) mortgage loans in an amount exceeding ARS 100 billion since its implementation in mid-2016, which has given dynamism to the real estate market

In the energy sector, which together with the industry and agribusiness make up the main activities of national production, several measures have been taken to deal

with the lack of oil and gas production (chronic since 1998) and the purchase of energy abroad<sup>3</sup> which, in prior years, implied a significant portion of national imports. In addition, the current increase in rates to make them more realistic in electricity and gas for residential and business use implies new measures intended to improve the distribution and transportation of energy and thus promote future investments in the sector. These measures stimulated the oil and gas industry, which has recently helped maintain the energy trade balance, boost investments in Vaca Muerta and resume gas exports.

### Raw Materials

The country has traditionally had a self-contained economy. Raw materials are available within the country in an adequate supply to meet domestic needs and have a surplus to export. Argentina has largely unknown mineral resources and, of course, a very important and efficient agricultural industry. Industries based on raw materials derived from these sources would seem to be well positioned in Argentina.

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3. Some of them are i) the nationalization of YPF in 2012, ii) the agreements with companies for the exploitation of unconventional resources, iii) the new hydrocarbon law enacted in 2014, and iv) price agreements with producers (over decreasing international prices).



## The 1990s

The Convertibility Law, approved in 1991, pegged the Argentine currency to the U.S. dollar at a fixed rate (i.e. 1 USD = 1 ARS).

The convertibility regime was a stabilization device to deal with the hyperinflation that existed at the beginning of the 1990s and, for this purpose, it was very successful. It was also part of a larger Convertibility Plan, which included a broader agenda of market-oriented structural reforms designed to promote efficiency and productivity in the economy. Under the Convertibility Plan, Argentina witnessed a marked improvement in its economic performance, particularly, during the early years of the plan. Inflation, which was ranging at a monthly rate of 27 % in early 1991, declined to single digits in 1993 and remained low. Growth was steady through early 1998, except for a brief setback associated with the Mexican crisis, and it averaged nearly 6 % during 1991-1998. Attracted by a more investment-friendly climate, there were large capital inflows in the form of portfolio and direct investments.

Argentina's performance deteriorated from the second half of 1998 onwards owing to adverse external shocks, including a reversal in capital flows to emerging markets following the Russian default in August 1998; the weakening of demand of major trading partners, notably of Brazil; a fall in oil and other commodity prices; the general strengthening of the U.S. dollar against the euro; and the 70 % devaluation of the Brazilian real against the U.S. dollar in early 1999. Real GDP fell by over 3 % in the second half of 1998.

There was a mild pickup in the economic activity in the second half of 1999, spurred by increased government spending in the run-up to the October presidential elections, but this was not sustained, and GDP declined by 3.5 % for 1999 as a whole. The economy never recovered till the end of the convertibility regime.

In 1999, the economic slowdown, coupled with the election-driven surge in public spending, had important implications for fiscal solvency. Argentina's consolidated fiscal balance had been in deficit throughout the 1990s except in 1993, but the magnitude was not large. Consolidated public sector debt, however, increased more rapidly because of the periodic recognition of off-budget liabilities, of past pension benefits, as a consequence of the transition to a new capitalization-based pension plan scheme.

## The 2000s

Argentina's problems intensified in 2000, when growing solvency concerns over the cumulative increase in public debt were exacerbated by the continued appreciation of the U.S. dollar and a further drying up of capital flows to emerging market economies. These developments would normally require a smaller current account deficit and a depreciation of the real exchange rate, but the convertibility regime placed severe limitations on the ability of Argentina to achieve this adjustment in a manner that could avoid recession. Market confidence did not recover as expected and market access was effectively lost later in the year, leading Argentina to seek an increased IMF support.

At the end of December 2001, following the resignation of President Fernando De La Rúa, the country partially defaulted on its international obligations. In early January 2002, Argentina formally abandoned the convertibility regime and replaced it with a flexible exchange rate system.

After reaching a pick of almost 1 USD = 4 ARS in June 2002, the exchange rate stabilized at levels that ranged from ARS 2.80 to ARS 3.1 per 1 USD. The average exchange rate was 1 USD = 3.30 ARS for year 2002, 1 USD = 2.92 ARS for year 2005 and 1 USD = 3.12 ARS for year 2007. A significant devaluation of approximately 50 % of the Argentine peso against the U.S. dollar occurred from 2013 to 2014, the exchange rate being 1 USD = 8 ARS. In 2015, 2016 and 2017, the exchange rate reached ARS 9.2, ARS 15 and ARS 16.6 per 1 USD, respectively. At present, the official exchange rate has stabilized at approximately 40 ARS per 1 USD (2019).



Year	Gross Domestic Product (GDP)	(GDP)	Exchange Rate (average)	Total Investment	Government Deficit (primary)	Current Account Balance	Inflation (average)	Unemployment Rate
	USD (in billions)	Growth (%)	\$ per dollar	% GDP			(%) change	(%) EAP
2009	334,633	-5.9	3.7	16.1	-1.3	2.2	14.8	8.7
2010	424,728	10.1	3.9	17.7	-0.6	-0.4	25.7	7.8
2011	527,644	6.0	4.1	18.4	-1.6	-1.0	22.5	7.2
2012	579,666	-1.0	4.5	16.5	-1.7	-0.4	25.2	7.2
2013	611,471	2.4	5.5	17.3	-2.6	-2.1	27.9	7.1
2014	563,614	-2.5	8.1	17.3	-3.5	-1.6	38.5	7.3
2015	642,464	2.7	9.2	17.1	-4.4	-2.7	27.8	6.5
2016	556,774	-1.8	14.8	17	-4.7	-2.7	36.2	8.5
2017	642,928	2.9	16.6	19.1	-4.2	-4.9	25.7	8.4
2018	518,092	2.0	28.1	17.4	-2.2	-5.4	47.6	9.2
2019	477,743	3.2	40.0	17.4	0.0	-2.0	36.0	9.9
2020	515,353	3.1		17.8	1.1	-2.5	23.3	9.9
2021	560,869	3.2		18	1.2	-2.5	16.8	9.7
2022	604,538	3.4		18.1	1.3	-2.5		9.4
2023	648,848	3.6		18	1.3	-2.5		9.1
2024	673,118	3.6			1.6	-2.5		8.8

Source: Prepared by KPMG based on information from the International Monetary Fund (IMF) and other sources.

## Activity

The industry has always been a relevant component of GDP (18%-20% of GDP). In the last decade, its growth rates have been somewhat volatile, which may be explained by the measures and policies in place that certainly do not promote it. After reaching growth rates of 11% in 2010, the industry started to show a significant shrinkage in 2012 (-3%), jointly with a drop in total investment (16% of GDP). Although investment has recovered between 2013 and 2017 (to nearly 19% of GDP), its growth rate has been volatile. By the end of 2018, total investments, as a percentage of GDP, reached 17% of GDP. It is expected that this value will be maintained during 2019.

It is also worth noting that, during the second half of the first decade of the new century, changes in the international context have particularly favored the Argentine economy. The rise in the international prices of commodities and the improvement in the exchange terms encouraged investment and production of tradable goods, mainly those including a significant primary component. All this was added to the economic benefits brought about by the local currency devaluation occurred in 2001/2002 (import-substitution industrialization,

increased exports and substantial increase in the production of commodities and industrial goods). The growth of the emerging countries and their need for better food and supplies for production were also some of the forces that drove the development of producing and commodity-exporting countries, including Argentina among them. During the 2003-2015 period, public and private consumption had been the most important driver of economic development, though the consequent overheating (rise in prices due to the lack of investments) had undesired effects, mainly on the price structure and salaries.

In addition, economic growth has been significantly slowing down. In fact, GDP dropped by more than 2% in 2018. However, according to IMF's projections, such slowdown will be significantly reduced in 2019 (-1.2%) and a strong recovery will be achieved in 2020 (2.2%). The government understands that the return on investments (and, therefore, the income obtained by investors) depends mainly on competitiveness and productivity; in this way, it seeks to organize the macroeconomic, legal and institutional components to generate a foreseeable framework and gradually reduce uncertainty levels.

## Inflation

According to the National Statistics and Censuses Institute (in Spanish, INDEC), the inflation rate of the CPI was around 9 % from 2005 to 2010 (average annual accumulated rate). As the official institute in charge of publishing inflation data was seriously questioned since 2011, the Argentine Congress, on a monthly basis, has been reporting the inflation rates gauged by private consulting firms. During 2017, inflation has evidenced a decreasing trend, reaching 25 %. However, in 2018, inflation reached a significant increase (47 %). In the next years, inflation rates are expected to decrease and reach 16 % by 2021.

## Fiscal Sector

Public spending measured in real terms had been significantly lower in 2002-2005 than in the previous years. Nevertheless, from 2006 onwards, public spending started to grow considerably until a level of around 40% of GDP by 2015/2016. Over the last years, although tax collection kept on growing, public spending increased at a rate higher than tax revenue, which gives rise to a considerable fiscal deficit that reached 5% of GDP by the end of 2016. However, the figures of 2017 onwards seem to show a more favorable trend as a result of the reduction in expenditures carried out by the current government (basically the reduction in capital expenditures, the number of public employees and funds allocated to transport and energy subsidies). Despite the primary fiscal deficit reached ~2.3% of GDP in 2018, by the end of 2019, it is expected to be 0%. In addition, positive figures are forecasted for 2020.

## Foreign Trade

The depreciation of the peso led to a significant surplus in Argentina's foreign trade, mainly as a result of import-substitution industrialization. However, imports have grown faster than exports taking the surplus to USD 12 billion in 2012 and USD 3.1 billion in 2014. In 2015, the growth of imports brought about the first trade balance deficit since 1999. In 2016, in turn, as a result of export incentive policies, the trade balance showed again a

surplus (of around USD 2 billion). In 2017 and 2018, even though exports experienced an increase, a much more significant growth of imports led to a trade balance deficit of around USD 8.4 billion and ~USD 4 billion, respectively. However, this trend is expected to change: as a result of a higher exchange rate and a slowdown in industrial activity, the trade balance is expected to reach a surplus of around USD 7 billion by the end of 2019, led by significant increases in agro exports.

## Labor and Social Indicators

Unemployment rate fell from 10.1% in 2005 to 7.5% in 2007. Over the last years, unemployment rate has averaged ~8% (2010-2017). According to IMF's statistics, an unemployment rate of ~10% is forecasted for the end of 2019, followed by a downward trend for the next years.

## Government Debt

As of 2018, Argentina's official gross debt was +80% of GDP. This figure is expected to decrease gradually over the next years.

## Other issues

### Local Banking System

Control and supervision of the banking and financial system is carried out mainly by the BCRA, which is a government agency.

The BCRA is the exclusive currency issuer. It also has a significant participation in the foreign currency market through the purchase and sale of foreign currency. The BCRA also issues, trades and pays government bonds and notes.

The BCRA controls and supervises banks and other financial institutions through the following methods, among others:



Consumption has been the leading force of the economy.”

- setting rules regarding, among others, credit risk, debt-to-equity ratios, liquidity and minimum capital requirements;
- determining the minimum cash reserves to be maintained by banks;
- issuing detailed rules concerning periodic reports (daily, weekly, monthly, quarterly and annually) to be filed with the BCRA;
- establishing detailed accounting and auditing standards;
- conducting audits; and
- authorizing the creation and set-up of entities and branches.

As of 2016, total assets in the Argentine banking system amounted to approximately USD 130 billion. The public sector owns about 45 % of total assets and private local and foreign banks own 55 %. The market is highly concentrated: 18 banks, each with assets exceeding USD 1 billion, account for most of the financial system's total assets (88 %).

## Stock Exchanges

The main stock exchange is Bolsa de Comercio de Buenos Aires (Buenos Aires Stock Exchange). There are also smaller exchanges throughout Argentina. In 2009, about 100 companies were listed on the Buenos Aires Stock Exchange. This number has been falling since then: 97 in 2013 and 93 in 2016, because the market did not fulfill the role of providing capital to companies. The general public preferred to invest their savings in bank deposits or foreign currency. Indeed, market capitalization<sup>4</sup>, as a percentage of GDP, has been decreasing over the

<sup>4</sup> It is the total value of listed companies' outstanding shares. It is calculated by multiplying a company's shares outstanding in a given period by the average price of one share.



last decade, from 20 % in 2007 to around 12 % in 2016.

Shares are purchased and sold on the Buenos Aires Stock Exchange through brokers, some of them are related to national or international banks. The system is controlled by the Comisión Nacional de Valores (Argentine Securities and Exchange Commission), which has functions similar to those of the Securities and Exchange Commission (SEC) of the United States. Listed companies must file their financial statements and board of directors' reports with the Stock Exchange on a quarterly basis as well as annual audited financial statements.

The over-the-counter market, also regulated by the Argentine Securities and Exchange Commission, is growing. The shares traded in this market are those of the companies listed on the Buenos Aires Stock Exchange. A trend towards using more sophisticated financial instruments is reflected in the growth of the negotiable instruments and options market. Both are traded on the Buenos Aires Stock Exchange. Foreign-owned companies may be listed on the Stock Exchange. To list its shares on the Stock Exchange, a company must comply with certain detailed requirements.

## Commodity Exchanges

Cash and forward transactions, primarily in agricultural and cattle-raising products (such as grains, oil-seeds and meat), are carried out in the commodity markets. Two of the leading markets in Buenos Aires are the Mercado de Hacienda de Liniers (Liniers Livestock Market) and the Mercado de Cereales de Buenos Aires (Buenos Aires Grain Market).

## Exchange Controls

The release of exchange restrictions, the elimination of, or reduction in, export duties and the elimination of the mandatory deposits for investment flows in foreign currency, as well as the elimination of additional charges for purchases abroad (35 %) are intended to promote growth and investments in the various national production sectors.

As it has already been said, there are no restrictions on foreign investment. No prior approval from Argentine authorities is required, though some of them are applicable to sensitive areas, such as telecommunications, defense and oil and gas. After the new government took office, profits may be freely transferred and the Argentine Central Bank has eliminated restrictions for banks to sell foreign currency to their clients. However, there is a legal system that seeks to prevent money laundering based on the recommendations of the FATF.

The Central Bank has eased certain regulations to control the country's capital inflows and outflows. Foreign investors are not required to obtain government permission to make investments in the country. They can wholly own a company, and any investments in shares listed on the stock exchange requires no government approval. The most common entities used to do business in Argentina are stock companies or *Sociedades Anónimas* ("SA"), limited liability companies or *Sociedades de Responsabilidad Limitada* ("SRL") and branches. Foreign companies as shareholders, partners or home office have to be registered with the Public Registry of Commerce.

### **Business Regulatory Requirements**

Only in some special cases, such as mass media, banking, airlines, etc. do specific regulations exist with respect to foreign investments which, however, have been diluted in recent times to such an extent that foreign investments are practically on the same footing as local investments in these areas.

### **Limitation on the Possession and Ownership of Rural Lands**

The new Rural Lands Law No. 26737 of 2011 regulates and limits the possession and ownership of lands by foreign individuals or entities, excluding those individuals with a continuous and permanent residence in the country of or over 10 years; or those who can prove a 5-year residence and have sons and daughters born in the country; or those individuals who, complying with other requirements, are married to an Argentine citizen.

The law states that ownership or possession of rural lands will be limited to 15% in any province, municipality or equivalent administrative organization. Additionally, it states that the same foreign holder will not be able to have an area or surface of rural lands bigger than 1000 ha (one thousand hectares) and that the purchase of lands by foreigners cannot be computed as investment, as it is a natural, non-renewable resource.



The general public preferred to invest their savings in bank deposits or foreign currency.”

## 3

# Exporting to/from Argentina

## ▶ Import Regulations

Argentine Customs Authorities have incorporated the Harmonized System Codes (HS codes) to classify goods and assign tariffs, which is the basis for the Mercosur Common Nomenclature (NCM), applicable to Mercosur member countries. Basic rates are calculated on the CIF (cost, insurance and freight) value of imports. Tariff rates vary according to the different kinds of goods and range from 0 to 35 %.

Imports are also subject to the revenue tariff of 0.5 %. However, such tariff cannot exceed the following maximum amounts:

Customs value	Maximum revenue tariff
Less than USD 10,000	USD 50
Between USD 10,000 and USD 20,000	USD 100
Between USD 20,001 and USD 30,000	USD 200
Between USD 30,001 and USD 50,000	USD 300
Between USD 50,001 and USD 100,000	USD 400
More than 100,001	USD 500

In addition, imports are subject to VAT. The VAT rate may be 21 % or 10.5 %, depending on the classification of the goods, and is calculated on an amount equivalent to the addition of the customs value, the import duties and the revenue tariff.

The import of goods is subject to the advance payment of certain taxes (VAT / Income Tax / Excise Tax/ Turnover Tax advances). These charges are actually advances for VAT, Income Tax, Excise Tax and Turnover Tax liabilities that the importer shall pay in relation to its activities (sales, services, supplies, etc.) in the domestic market. For instance, the income tax advance collected by the Customs Authorities upon the import is a credit towards the payment of the annual income/corporate tax liability of the importer. (Please bear in mind that these advances –additional VAT, income tax and turnover tax– are not applicable if goods are regarded by the importer as fixed

assets for accounting purposes, or if the importer obtains specific tax exemption certificates.) The VAT advance rate is 20 % or 10 % (depending on the classification of the goods), the income tax advance rate is 6 %, and the turnover tax advance rate is 2.5 %.

For intra-MERCOSUR, special trade regulations apply. The applicable import duty rate is 0 %. The revenue tariff is not applicable. Eligible products must have a certificate of origin from a Mercosur member country showing that a sufficient manufacturing process occurred within a Mercosur member country.

During the last nine years, Argentina implemented a general import substitution industrialization and trade balancing policy through import licensing procedures and informal export requirements. These measures were introduced initially to cushion the impact of the world economic and financial crisis in 2009, but they were extended and generalized till the end of 2015 through the Advance Import Affidavit (in Spanish, *Declaración Jurada Anticipada de Importación* – “DJAI”), which operated as a non-automatic import licensing procedure applicable to any single product to be imported.

In December 2015, when the new government took office, the DJAI system was replaced by the new Comprehensive Import Monitoring System (in Spanish, *Sistema Integral de Monitoreo de Importaciones* – “SIMI”). Under this system and in order to obtain an import license (which, depending on the classification of the goods, may be an automatic license or a non-automatic license), the importer shall submit a standard set of information through the Tax Authorities (in Spanish, *Administración Federal de Ingresos Públicos* – “AFIP”) website. This information will be shared with all the agencies and regulatory bodies involved in the clearance of goods through the Foreign Trade e-Window (in Spanish, *Ventanilla Única de Comercio Exterior* – “VUCE”). Authorities may request additional information. The approval will be granted within a term of 10 days in

the case of an automatic license and 60 days in the case of a non-automatic license, from the filing date. Once it has been approved, the import license will be valid for a term of 180 calendar days. However, according to the applicable legislation, said term may be extended once.

It is also important to point out that an Economic and Financial Capacity System ("CEF System") has been recently created as a risk management tool. For the purposes of authorizing imports, the Tax Authorities (i.e. AFIP) shall take into account the companies' capital and their economic and financial capacity to carry out the imports, in order to authorize said imports.

## Export regulations

### Export Duties on Goods

As of September 2018, Argentina has reinstated export duties. An export duty of 12% will be applicable to definitive exports of goods until December 31, 2020. The aforementioned export duty shall not exceed ARS 4 or ARS 3 (depending on the tariff classification of the goods) per U.S. dollar of the taxable value or the official FOB price of the exported goods.

### Export Subsidies

There are also certain export incentives, for example, a scheme involving the refund of domestic taxes on the export of certain products. The rate of refund depends on the classification of the products.

The export of certain agricultural products is subject to the prior approval of the government.

### Export Duties on Services

In January 2019, Argentina established an export duty of 12%, applicable to the export (provision) of services until December 31, 2020.

"Provision of services" shall mean any rental or provision of services carried out in Argentina for valuable consideration and under no labor relationship, provided that such services are effectively used or exploited abroad. To that end, services shall be deemed used or exploited abroad when the immediate use or the first act of disposition of the services by the recipient occurs.

The aforementioned export duty shall not exceed ARS 4 per U.S. dollar of the taxable value determined in accordance with the provisions of the Argentine Customs Code.

## Authorized Economic Operators Program

As per General Resolution No. 4150/2017 of AFIP, Argentina implemented the Authorized Economic Operators program ("AEO Program"), in accordance with the SAFE Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organization.

Importers-Exporters that comply with the requirements established by the regulations in force may request to Customs Service their inclusion in the AEO Program, in order to obtain important benefits in relation with the customs operations that are carried out.

As per General Resolution No. 4197/2018 of AFIP, an AEO Program pilot plan ("AEO Pilot Plan") has been implemented for automobile companies that are users of the in-factory customs system (in Spanish, *Régimen de Aduana en Factoría*).

In-factory customs system users may request to Customs Service to be included in the AEO Pilot Plan in order to carry out specific import operations, and export operations. If such request is approved, the user will be included in the AEO Pilot Plan for a 12-month term.

We understand that the Customs Service will be opening this AEO Pilot Plan for other groups of companies in the near future.



## Common Market of the Southern Cone (in Spanish, *Mercado Común del Sur* - "Mercosur")

On March 26, 1991, Argentina, Brazil, Paraguay and Uruguay signed a treaty stating a gradual reduction in import duties on trade among the 4 countries. The full implementation of this treaty started as of January 1, 1995. While there have been discussions and, at several times, unilateral measures by the member countries, the MERCOSUR has already promoted trade among member countries. In the meantime, this trade agreement has become so important to the participants that it can be expected that any future difficulties will be overcome by negotiations between the parties. An agreement has also been reached with respect to a common duty for imports from third-party countries, which accounts for a significant percentage of trade.

Since June 2006, Venezuela has been incorporated as a full member. However, the elimination of import duties is subject to a convergence program. Chile and Bolivia signed free trade agreements with MERCOSUR. MERCOSUR has also signed preferential trade agreements with other ALADI countries (Mexico, Colombia, Ecuador, Peru, Cuba), aiming at creating free trade areas. There are also trade agreements with India and Israel.

There are important distinctions between the objectives of MERCOSUR and those of the North American Free Trade Agreement (NAFTA) signed by the United States, Canada and Mexico. NAFTA creates a free-trade zone, but it does not provide for a common foreign tariff. The basic motivation compelling NAFTA member countries was to remove protectionism barriers among them, not to align member countries' policies.

The MERCOSUR model shows greater similarity with the European Community as to the motivation and degree of integration intended to attain.

Considering the broad scope of the South American integration project, the timeframe for implementation is quite tight, though up to now, the rate of progress has been good. MERCOSUR is expected to be extremely important in the development of foreign trade, especially with Brazil. Any investment project should consider the potential effect of MERCOSUR.

## Regional and International Trade Associations

Argentina is a member of the Latin American Integration Association (LAIA), which was organized to promote the economic and social development of the region. Other members of the LAIA are Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela. The LAIA carries out its purpose through an economic reference area with a regional tariff preference, regional agreements and agreements between particular member countries. To date, however, LAIA has not had much influence on the region's economic development.

Argentina is a member of the General Agreement on Tariffs and Trade (GATT) and the Organization of American States (OAS).



# 4 Business Entities

Please find below a summary of the basic guidelines and aspects regarding different vehicles for doing business in Argentina. In particular, we will describe the organization of the “Sociedad Anónima” (SA), the “Sociedad de Responsabilidad Limitada” (SRL), and the “Sucursal Argentina” (Branch) which are the most commonly used entities to do business in Argentina. Additionally, we will briefly describe the “Sociedad por Acciones Simplificada (SAS), a new corporate type recently set forth in Argentina.



A SA is a stock company whose articles of incorporation and by-laws shall be registered with the Public Registry (PR) to operate regularly in Argentina. SAs allow its equity holders to limit their liability, in general to the par value of the shares they have agreed to subscribe.

A description of the main requirements and aspects involved in the process of incorporation of a SA follows:

**(i) Equity holders:** the Argentine Companies Law No. 19550 (ACL), as amended, requires that Argentine companies have at least two members (except in the case of SAUs, as defined below), and that any members that are foreign companies shall be duly registered with the PR. The PR considers that the plurality of equity holders required by the ACL is a substantial matter, and not merely a formal matter. Consequently, we recommend that the SA's minority shareholder hold at least a 5 % interest in the company. We point out that the transfer of shares is not required to be registered with the PR.

**(ii) Foreign company as equity holder:** as mentioned above, the ACL requires that in order to hold an interest in Argentine companies (such as a SA, SRL, or a SAS), a **foreign company** shall be duly registered with the PR. We may expand on this matter at your request and prepare a memorandum with the relevant requirements.

**(iii) Corporate capital:** the PR requires an initial minimum stated capital of ARS 100,000. In addition, if the capital is contributed in cash, at least 25 % of its amount shall be paid in at the time of issuance and the 75 % balance may be paid within two years. If the contributions are made in kind (such as real estate,

equipment or other non-monetary assets), they shall be fully paid in at the time of issuance.

**(iv) Management and supervision:** SAs are managed by a board of directors, whose members may be elected for a maximum term of three fiscal years and may be reelected. The majority of the members of the board of directors shall be Argentine residents. If the corporate capital is lower than ARS 50,000,000, the board of directors may be comprised of one regular director. If the corporate capital exceeds such amount, the board of directors shall be comprised of at least three regular directors. The chairman of the board of directors is vested with the legal representation of the SA as well as the corporate signature.

SAs may be organized with or without supervisory auditors. If the SA is organized without supervisory auditors, the equity holders shall appoint at least one alternate director. In some cases, it is mandatory to appoint one or more supervisory auditors (for instance, if the SA is a listed company; if the corporate capital exceeds the amount of ARS 50,000,000, etc.).

**(v) Shareholders' meetings:** SA is governed through shareholders' meetings. The shareholders are required to hold an ordinary meeting at least once a year and such annual shareholders' meeting is competent to approve the audited annual financial statements, to appoint and/or remove directors and supervisory auditors and to deal with any other matters related to the SA's ordinary course of business. In addition to the ordinary meeting, the shareholders may hold extraordinary meetings to consider any other matters (for instance, amendments to the by-laws or reorganizations).

**(vi) Financial Statements:** SAs shall approve financial and file them with the PR on an annual basis.

Please note that the registration of a SA with the PR might take approximately fifteen working-days as from the date on which the relevant documentation is submitted to the PR. Pursuant to PR Resolution No. 1/2018, as from April 4, 2018, SAs and SAUs filed on an urgent basis will be registered within 24 hours, provided no observations are raised to the documentation submitted to the PR. The PR also provides the company's Tax ID upon registration, provided certain additional documentation is furnished with the initial filing.

The "*Sociedad Anónima Unipersonal*" (SAU) is a type of SA which has been recently incorporated into the Argentine regime. The SAU may be organized with only one equity holder and is subject to certain additional requirements. Pursuant to Argentine law, SAUs are subject to permanent governmental control. In this regard, SAUs shall, among other requisites: (i) appoint at least one regular supervisory auditor; and (ii) comply with the filings required for companies subject to permanent governmental control by the PR. The fact that SAUs are subject to permanent governmental control makes them an expensive type of corporate entity, which would not be convenient for small-scale business operations.



A SRL is a limited liability company whose articles of organization shall be registered with the PR to operate regularly in Argentina. This company allows its members to limit their liability to the par value of the units that they have agreed to subscribe, although each member shall guarantee, jointly and with no limitation, all pending capital contributions and any overvaluation of non-monetary contributions.

A description of the main requirements and aspects of this type of company follows:

**(i) Members:** in this case, the ACL also requires a minimum of two members (being the requirement of substantial plurality of the PR applicable), who may be residents or non-residents in Argentina. However, the SRL may have a maximum of fifty members. The transfer of units shall be registered with the PR.

**(ii) Foreign company as member:** please see our comments in section 1(ii) above, which also apply to the SRL.

**(iii) Corporate capital:** there is no minimum capital required by the ACL for a SRL, though each unit –i.e. the way the membership interests are represented in SRLs– shall be equal to ARS 10. As regards the paid-in capital, we refer to our comments in section 1(iii).

**(iv) Management and supervision:** SRLs are managed by one or more managers, who may be appointed for an indefinite period of time (and may also be reelected). It is not required that the managers are members of the SRL, but the majority of them shall be residents in Argentina. The legal representation of the SRL shall be vested on one or more managers, as set forth in its operating agreement.

SRLs may be organized with or without supervisory auditors. However, the appointment of one or more supervisory auditors is mandatory if the SRL's capital exceeds ARS 50,000,000.

**(v) Meetings of members:** the authority governing the SRL is the meeting of members. The form in which the members of a SRL discuss and adopt resolutions is simple and flexible, and it may be established in the operating agreement. Unless the operating agreement provides otherwise, members may adopt resolutions by written consent; annual members' meetings shall be held to consider annual financial statements of SRLs with a stated capital in excess of ARS 50,000,000.

**(vi) Financial Statements:** SRLs shall approve financial statements, but there is no need to file them with the PR, unless its corporate capital reaches the amount of ARS 50,000,000.

The terms for registration of the SRL with the PR are similar to those applicable to the SA. The registration within 24 hours as from the filing performed on urgent basis is also applicable for SRLs pursuant to PR Resolution 5/2017, in which case the PR additionally grants the corporate books with their respective rubrics. In this case, the PR also provides the company's Tax ID upon registration, provided certain additional documentation is furnished with the initial filing.

## Branch

Another alternative for doing business in Argentina is setting up a Branch of a foreign company.

According to the ACL, the Branch shall be registered with the PR to validly operate in Argentina on a regular basis (habitually), though it is governed by the laws of the place of organization of the Branch's headquarters. We may expand on the requirements for this registration at your request.

To perform activities in Argentina, the Branch shall keep accounting records; thus, it shall keep books of account separate from those of the headquarters to record the transactions carried out locally. Accordingly, its legal representative shall prepare and file with the PR annual financial statements.

Additionally, the Branch shall establish a legal domicile in Argentina and appoint a legal representative, who may or may not be an Argentine resident.

The Branch may be assigned capital, though such assignment is not mandatory. Headquarters is liable for all the Branch's operations in Argentina.

Please note that, normally, the registration of a Branch with the PR might take approximately thirty working-days as from the date on which the relevant documentation is submitted to the PR.

## SAS

A SAS is a new corporate type set forth in year 2017 by means of Law No. 27,349. The articles of incorporation and by-laws of the SAS shall also be registered with the Public Registry (PR) in order to operate regularly in Argentina. This new company structure allows its members to limit their liability to the paid in capital, even though all shareholders are jointly liable vis-a-vis third parties for full payment of all the shares.

A description of the main requirements and aspects of this type of company follows:

**(i) Members:** SASs can be organized with a minimum of one shareholder.

**(ii) Foreign company as member:** please see our comments in section 1(ii) above, which also apply to the SAS.

**(iii) Corporate capital:** the minimum capital required for a SAS is twice the minimum wage required by law (currently ARS 25,000). The paid-in capital shall be fully paid in upon incorporation.

**(iv) Corporate purpose:** the corporate purpose can comprise multiple activities not linked with each other.

**(v) Management:** SASs are managed by one or more managers, who may be appointed for an indefinite period of time (and may also be reelected). It is not required that the managers are members of the SAS, at least one of them shall be resident in Argentina and all members shall have a Tax ID ("CUIT" for its acronym in Spanish). The legal representation of the SAS shall be vested on one or more managers, as set forth in its operating agreement.

The managers meetings can be convened by electronic means, and be held outside the registered office.

SASs may be organized with or without supervisory auditors, if there is no supervisory auditors appointed, the shareholders shall appoint at least one alternate director.

It is also worth mentioning that SASs can carry books, grant powers of attorney and sign minutes and other documents digitally.

**(vi) Shareholder's meetings:** SAS are governed through shareholder's meetings, which may be held at the corporate offices or elsewhere (shareholders should communicate simultaneously). Resolutions may also be adopted by written consent of shareholders.

**(vii) Financial Statements:** although SASs shall approve financial statements, they can only consist on the balance sheet and income statement. There is no need to file them with the PR, even when its corporate capital exceeds the amount of ARS 50,000,000.

**(viii) Restrictions:** this corporate structure is not allowed for those companies included within some cases of permanent surveillance of the PR, as provided in Section 299 of the ACL (such as: government owned companies, companies that develop financial activities and/or companies that operate public concessions or public services). The same restriction applies to companies holding participation in the SAS, provided such participation exceeds 30% of its share capital, or control the SAS in any manner.

It is worth noting that SASs can be registered by electronic means and within 24 hours since the time of the filing with the PR. The PR also provides the company's Tax ID upon registration, even if evidence of legal address is not furnished at the moment of the filing. The SASs will have to provide such within 12 months after registration.

Please note that depending on the jurisdiction in which the Foreign Company (pursuant to Section 123 of the ACL), the SA, the SRL or the Branch is registered, it shall comply with certain filings with the relevant PR on an annual basis.



# 5 The Argentine Tax System

## ➤ Main Taxes

Federal, provincial and municipal governments levy taxes in Argentina. The Federal Government imposes income tax, value added tax, wealth tax, excise tax, tax on financial transactions and customs duties.

The provincial and municipal jurisdictions levy turnover tax, real estate tax, stamp tax, tax on vehicles and tax on public advertising, among others.

## ➤ Sources of Tax Law

The Legislative Branch (Congress), which consists of the House of Representatives and the Senate, enacts federal tax legislation. Legislation is generally proposed by the President of Argentina based on studies conducted by the Ministry of Economy.

Decrees and regulations issued by the Government facilitate the proper interpretation and application of the law. Moreover, the Tax Authorities continuously issue rules that establish practical application procedures or provide information on official interpretations of tax legislation. Answers to the Tax Authorities' requests of information also provide a guideline for interpretation, exclusively binding on the firm submitting the query. In addition, decisions rendered by Argentine courts result in case law, which provide additional guidance and clarification to taxpayers.

Provincial and local tax laws are enacted by the legislatures of each province or local government and, therefore, vary among jurisdictions. Most provinces and local governments issue regulations to assist in the interpretation of their tax laws.

## ➤ Tax Administration

### Filing Procedures and Tax Payments

The Argentine tax system is based on the principle of self-assessment. Federal tax laws require taxpayers to file annual or monthly returns to report their taxable income, determine their tax liability, deduct any taxes withheld or paid in advance, and pay any balance due.

Companies are required to make 10 monthly advance payments of their annual income tax liability. Advance payments are calculated based on a percentage of the previous year's income tax obligation. An optional system to make estimated payments is available. The corporate income tax return shall be filed within five months after the end of the company's fiscal year.

The tax year for individuals is the calendar year. Individuals whose sole earnings are employee's compensation are not required to file an individual income tax return for the year. Instead, their employers are required to withhold income tax monthly, and this tax is considered final. Notwithstanding the abovementioned, depending on the level of income, informational tax returns could be required.

Individuals with significant amounts of non-wage income, such as income from self-employment, are required to make 5 advance payments towards their final tax liability. These payments are calculated as a percentage of the prior year's income tax and are made bimonthly from August to April. Resident individuals with non-wage income shall file an annual income tax return within six months after the end of the calendar year.

Foreign taxpayers not established in Argentina are not required to file a tax return if their income tax liability is fully satisfied by withholding taxes on Argentine-source income.

## Audits, Assessments and Appeals

The Tax Authorities (AFIP) review tax returns to confirm their accuracy and completeness. Tax officials usually visit the premises of taxpayers to examine books and documents and determine if the taxable bases are correct. Likewise, they make routine visits to monitor compliance with value added tax obligations.

The appeal procedure for assessments received as a result of a tax audit is divided into two phases: administrative and legal. The administrative phase begins when the taxpayer answers the notice of assessment (in Spanish, *vista*). If the taxpayer challenges the assessment, but the Tax Authorities maintain their position by issuing a resolution (ex officio assessment), the file is forwarded to the tax collector that issues a tax bill (in Spanish, *boleta de deuda*), unless the taxpayer files an appeal with the same Tax Authorities or with the special tax court.

It is important to mention that, in light of the tax reform, before the administrative tax assessment of the debt occurs, the Tax Authorities may authorize a final voluntary agreement instance. If the taxpayer does not accept the conciliatory solution, the original assessment will continue through the usual procedure.

If the Tax Authorities' position is confirmed when the administrative phase ends, the tax bill is bound to be collected, and the taxpayer shall pay the amount assessed. To challenge the unfavorable decision issued by the Tax Authorities or the special tax court, the taxpayer may begin the legal phase, after paying the amount assessed, by filing an appeal with a federal district court or with the federal court of appeals.

## Calculation of Tax

Tax laws establish very detailed rules on how the tax should be calculated. In general, the calculation is based on known facts, such as those shown in the books kept by the taxpayer or in the documentation kept on file. Only when no detailed information has been provided by the taxpayer or no proper books of account are being kept, or the information or records prove to be incorrect or incomplete, may the Tax Authorities turn to legal assumptions to establish the tax obligation of the taxpayer at issue.

## Penalties

The Tax Authorities may impose various penalties for late filing of returns, unreported taxable income or fraud. A penalty equal to 100 % of the underpaid tax is imposed for failure to file tax returns or withhold taxes, and for filing inaccurate returns. The fine will be equivalent to 200% in case of recidivism. When the failure to report or withhold tax arises from operations with foreign entities, the fine will be equivalent to 200% of the omitted tax, and may increase to 300% in the case of recidivism. The penalty for fraud is equivalent to 2 to 6 times the evaded amount. There is a penalty interest of 3.76 % per month (rates are updated periodically) for late payment of taxes. There are penalties involving imprisonment for those who commit fraud. This embraces directors, managers, supervisory auditors, members of the statutory audit committee, administrators, agents, and representatives of entities involved in the commission of fraud.

The Federal Government has promoted a law whose regulation sets forth how to pay tax credits, deductions or other transactions. It requires that any transaction over ARS 1,000 be paid by bank check, wire transfer or other specific checks created for such purposes. Also, the Government decided to create a special legal forum for tax frauds in order to reduce the tasks of the current federal courts, and to improve tax collection.

## Confidentiality

Data and information given to the Tax Authorities shall be kept confidential. The AFIP may, however, share information with the Customs Authorities, the Argentine Securities and Exchange Commission (in Spanish, CNV) and the BCRA. Moreover, a judge may request the AFIP to disclose information to a court. However, on certain occasions, the AFIP have published the amount of the tax on the private property paid by individual taxpayers, and the names of taxpayers that, according to the records of the AFIP, have missed a tax deadline.

## Statute of Limitations

The statutory period for assessment is normally five years. Still, there are circumstances that might be examined in each case. For social security matters, the statute of limitations extends to ten years.

# 6 Business Taxation

## ▶ Federal Taxes

### Corporate Income Tax

A comprehensive tax reform (Law 27430) was enacted through publication in the Official Gazette on 29 December 2017. The amendments introduced by the Law are generally effective from January 1, 2018.

The abovementioned reform has introduced a partial integration system, in which the tax paid by the company is supplemented by the tax withheld from the shareholder at the time of the distribution of the dividends.

### Tax Rates

The rate of the corporate income tax will be gradually reduced according to the following schedule:

- 2019—a rate of 30 %
- 2020 onwards—a rate of 25 %

An additional withholding tax will be levied on distributed dividends or profits, bringing the total tax rate to

35 %, as follows:

- 7 % dividend withholding tax rate applicable to distributions of earnings accrued during tax years between January 1, 2018 and December 31, 2019.
- 13 % dividend withholding tax rate applicable to distributions of earnings accrued during tax years starting on or after January 1, 2020.

### Territoriality

For resident companies, worldwide income is taxable, including income of foreign branches and subsidiaries. Income of foreign subsidiaries is taxable only to the extent of dividends actually paid, unless the subsidiary is subject to the tax transparency regime, in which case, the Argentine company is taxed on the allocable share of the subsidiary's income regardless of whether dividends are paid (CFC rules further explained below). Companies formed under Argentine law, as well as commercial, industrial, agricultural, mining, and other types of permanent establishments of foreign entities, are considered to be residents. They must keep separate books and records for a permanent establishment in Argentina.

### Gross Profit

Gross profit generally includes all income collected by or due to the company.

### Business Income

Business income includes income from the sale of goods, depreciable assets, shares or real estate; income from dividends other than from resident companies; interest; royalties and fees; and foreign exchange gains.

The only type of business income for which the law specifically defines “gross profit” is that derived from the sale of inventories; it is defined as net sales less the cost of acquisition or production.

Other gross profit may be determined by any appropriate, technically sound and consistently applied accounting procedures.

### Capital gains

A company's capital gains are not subject to a specific tax. They are included in the scope of income tax and, consequently, subject to a 30 % rate, the same as ordinary income.

### Net Operating Losses

Net operating losses may not be carried back, but may be carried forward for a maximum of five years.

### Specific Losses

Tax losses arising from the sale of stock, representative shares or deposit certificate shares, membership or equity interest, bonds or other securities in Argentine companies can only be offset against income arising from similar source and nature. Same treatment applies to losses incurred in derivative transactions (excluding hedge transactions). Losses from activities producing foreign-source income may be offset only against foreign-source income.

## Valuation of assets

Tax regulations generally provide for valuation of assets in such a way that current values are usually reached.

### *Inventory*

Specific methods of inventory valuation must be used, depending on the nature of the inventory.

Goods held for resale and raw materials must be valued at the price of the latest purchase made during the last two months before the end of the year. If no purchase was made in that period, the last prior purchase must be considered.

For manufactured products, companies that can determine their production costs are allowed to use them for tax purposes. Indirect costs must be included. If a company cannot determine its production cost, it must value its inventories at selling price less direct selling expenses incurred and net profit margin realized in the last two months before the end of the year. If no sales were made in that period, the last prior sale must be considered.

### *Fixed Assets*

Fixed assets are valued at cost less accumulated depreciation - calculated according to law - and adjusted for the effects of inflation up to March 1992.

Notwithstanding the abovementioned, as a result of certain amendments introduced by the tax reform, fixed assets purchased as from January 1, 2018 may be adjusted for inflation in order to determine the related depreciation and their computable cost in the event of sale or transfer.

## Deductions

### *Business Expenses*

Companies may deduct from gross profit all ordinary and necessary expenses incurred to obtain, maintain and keep taxable income. If an entity's income is partially taxable and partially non-taxable, its expenses must be allocated proportionately to taxable income.

### *Depreciation and Amortization*

Depreciation of buildings used to generate taxable income may be deducted at a 2 % annual rate on the cost of the buildings. Such depreciation expense must be indexed to inflation occurring between the month of acquisition or construction and the end of the tax year but not beyond March 1992. Other depreciation rates may be used if they are technically supported.

Annual depreciation of all other depreciable assets used to generate taxable income is determined by dividing the acquisition cost of the asset by its estimated years of useful life, and then indexing the result to inflation in the same manner as for buildings and improvements.

Tax law does not provide standard depreciation rates.

Other depreciation methods, such as those based on units of production or sum of the years, may be used if they are technically supported.

Amortization of goodwill, trademarks and similar intangible assets is not deductible.

At the taxpayer's option, organization costs may be deducted either in the year in which they are incurred or capitalized, and then amortized over a period not exceeding five years.

As a result of certain amendments introduced by the Tax Reform, fixed assets purchased as from January 1, 2018 can be adjusted for inflation in order to determine depreciation.

### *Reserves*

Write-offs and allowances for bad debts, in reasonable amounts and in accordance with prevailing practices, are deductible. However, the criteria for the deductibility of bad debts are somewhat restrictive.

### *Other Deductions*

The general rule for deduction of expenses is that they must be related to business and deemed necessary to earn income.

Interest expense on loans, plus related exchange losses, may be considered for deduction. In addition, expenses incurred in obtaining, renewing and settling loans are deductible. Loans granted by a foreign home office or affiliate must comply with the arm's length principle. Furthermore, limitations to interest and exchange losses deductibility must be considered.

Taxes other than income tax, are generally deductible.

Extraordinary losses resulting from casualties (such as a fire or storm), theft or force majeure involving assets that generate taxable income are deductible to the extent they are not covered by insurance or otherwise indemnified.

Losses derived from crimes committed by employees against business property which contribute to the generation of taxable income are deductible to the extent they are not covered by insurance or otherwise indemnified. Such losses must be proven to the satisfaction of the Tax Authorities.

Fees paid to resident directors are deductible up to a maximum of 25 % of book earnings or an amount established by law, whichever higher.

Fees to non-resident directors are deductible up to 12.5 % of book earnings if all of them are distributed as dividends. If no dividend is distributed, the maximum is 2.5 %. If a dividend is distributed between these two limits, the maximum deduction must be calculated proportionally according to the lowest limit.

Entertainment expenses are deductible up to a maximum of 1.5 % of the salaries paid during the calendar year.

There are limits imposed by law on the deduction of depreciation and other expenses related to automobiles.

Expense deductibility as a result of payment (instead of accrual) is established for Argentine-source expenses paid to a foreign related party or a party located in a low or null taxation jurisdiction.

Payments for technical assistance from abroad are deductible up to 3 % of the sales on which the fees are based or 5 % of the investment made as a result of the assistance.

Expenses incurred or contributions made to personnel for purposes of sanitation, education and cultural improvement are deductible. In general, all payments made by an employer to the benefit of employees and their dependents, such as annual bonuses paid to employees prior to the filing of the employer's annual tax return, are deductible.

Amounts reserved for retirement plans established by the company for its employees are deductible if payment to employees is not subject to conditions, such as reaching a certain age or not being dismissed.

Contributions to certain retirement plans managed by authorized entities are also deductible, up to fixed amounts established by the tax law.

Research and development expenses may be deducted as they are incurred, or may be capitalized and subsequently amortized over a period not exceeding five years at the taxpayer's option.

### **Bad Debts**

A deduction of bad debts is generally allowable when the debts are determined to be uncollectible based on uncollectibility events. Some of the uncollectibility events established by law include bankruptcy, presumption of death from absence, legal actions, and statute of limitations.

The actual or presumed suspension of payments is excluded from the uncollectibility events considered to determine bad debt deductions.

In addition, in relation to receivables that are "not material" in accordance with the guidelines of the AFIP, given the wide range of activities that may emerge, the AFIP must decide, by considering each activity type, the maximum amount of overdue receivables that are not material and can be deducted as bad debts without the need to implement mandatory collection efforts.

In the case of secured receivables, they may be deducted in the amount secured, only if the related judicial sale has been ordered.

### **Limitations to interest deductibility**

The expenses incurred by Argentine Companies in favor of a related party located abroad that constitute Argentine-source income for such foreign beneficiary (in this case, the interest on the loan), can only be deducted in the year of accrual if they are paid until the due date established for filing the Income Tax return. Otherwise, they will be deductible upon payment.

Additionally, according to the new rules introduced by the tax reform, a limit has been established for the deduction of interest on financial debts owed to related parties (whether Argentine residents or otherwise). Such limit is equal to 30% of the net taxable income (before deducting interest, adjustments, exchange differences, and depreciation) or an annual amount set by the Argentine Executive Branch, whichever higher. The abovementioned annual amount has been fixed in ARS 1,000,000.

It is important to highlight that the term interest includes exchange losses and -where appropriate- any adjustments arising from principal.

The excess accumulated during the preceding three (3) fiscal years may be added to the aforementioned cap amount, when, in any of such years, the interest actually deducted is lower than the applicable cap amount, as long as such excess had not been previously used in accordance with the procedure established herein. In other words, the limit will be increased by the amount related to the unused deduction capacity in the prior three years.

Any interest that could not be deducted in accordance with the preceding paragraphs may be added to the interest subject to limitation accrued in the following five (5) fiscal years, in which case the cap amount referred to above will be applicable.

The foregoing implies that -unlike previous regulations, in which the interest paid on liabilities in excess of the ratio was permanently non-deductible- if certain interest is not deductible due to the limitations established by the law, it can be carried forward for five years.

The limit to deductibility will not be applicable in the following cases:

- 1.** entities governed by Law 21526, as amended;
- 2.** financial trusts created in accordance with sections 1690 to 1692 of the Argentine Civil and Commercial Code;
- 3.** companies whose main business is the execution of lease-purchase agreement, and whose secondary business consists exclusively in financial activities;
- 4.** when the interest amount does not exceed the amount of interest income (active interest income);
- 5.** when, for a given fiscal year, it is evidenced through reliable means that the ratio between the interest subject to the limitation and the net income is equal to or lower

than the ratio between liabilities to independent creditors and net income determined for such fiscal year by the economic group to which the entity belongs. An entity is part of an economic group when, at least, 80% of its equity belongs -either directly or indirectly- to the same owner, whether or not a resident in the country, provided that ownership is maintained during the period in which such entity owes the amounts generating interest and similar deductible items. The ratio shall be supported by a special report to be issued and signed by an independent public accountant;

6. when it is evidenced through reliable means, that the beneficiary of the interest has actually paid tax on such income in accordance with the Income Tax Law;

7. when the beneficiary is not a resident in the country, the exclusion referred to above will be applicable to the extent interest paid is subject to a one-off withholding tax, even when the withholding is limited or not applicable due to double taxation conventions. It is important to highlight that the exclusion is not applicable to exchange losses incurred in relation to foreign currency debts not subject to the withholding tax (i.e. the exchange losses are always subject to limitation).

## Inflation Adjustment

Argentine tax legislation sets forth an adjustment for inflation. However, although these rules have not been repealed, their application has been suspended, and no inflation adjustments for tax purposes have been permitted since April 1, 1992.

The new tax reform has reinstated the comprehensive adjustment for inflation procedures based on the general consumer price index, which is applied whenever inflation calculated from the beginning until the end of each of the first three years exceeds:

1. for the first fiscal year, 55%,
2. for the second fiscal year, 30% and
3. for the third fiscal year, 15%

In this case, the (positive/negative) adjustment for inflation for the first three years shall be recognized as follows: one third, in the first fiscal year, and the remaining two thirds, over the next two fiscal years on a pro rata basis

Additionally, it is worth mentioning that the Tax Reform introduced a Revaluation of Assets Regime for Tax Purposes (RARTP). The RARTP intends to partially revert the distortions in the taxpayer's tax financial statements (in particular, for Corporate Income Tax purposes) which were caused by inflation. Under the RARTP, the taxpayer will have the option to adjust the tax base of the assets used in its income generating activities.

The taxpayers who elect to be included in the RARTP will be subject to a special tax which will be levied on the amount of the adjustment to tax base of the assets.

Additionally, the tax reform has also introduced a Revaluation of Assets Regime for Accounting Purposes.

## Foreign Tax Credit

Resident companies may compute foreign income taxes as a credit towards their Argentine tax liability, up to the amount of the increase in their tax liability that results from including foreign-source income in the taxable base. This credit includes foreign withholding taxes where the Argentine entity is considered the payer, even if the foreign payer of the income is a third party. The foreign tax credit cannot be carried back, but may be carried forward for a period of up to five years.

## Treatment of Groups of Companies

### Group Returns

Consolidated filing is not permitted. Each entity, irrespective of whether they belong to the same owner or affiliated group, shall file a separate tax return.

### Foreign-source Dividends - CFC Rules

The tax transparency test consists in validating whether the entity abroad meets the conditions required to be eligible for the purposes of the tax transparency regime.

- Revocable Trusts and similar vehicles: Income obtained by trusts, private foundations and entities of any similar nature organized, domiciled or located abroad whose main purpose is the management of financial assets, shall be allocated by the resident managing them to the fiscal year or period in which the fiscal year of such entities ends.

The situations in which an individual/legal entity will be regarded as managing these entities are expressly regulated.

- Companies not legally registered for tax purposes in the foreign jurisdiction: Income earned by local residents as a result of their ownership interest in companies or other legal entities organized, domiciled or located abroad, shall be allocated by shareholders residing in Argentina to the fiscal year or period in which the fiscal year of such companies or legal entities ends, pro rata to their ownership interest.

- Companies legally registered for tax purposes in the foreign jurisdiction: Income earned by local residents as a result of their direct or indirect ownership interest in companies or other legal entities organized, domiciled or located abroad, shall be allocated by shareholders residing in Argentina to the fiscal year or period in which the fiscal year of such companies or legal entities ends, provided always that these requirements (among others) are met: a) controlling interest (interest equal to or higher than 50% in the equity, the P&L or voting rights of the non-resident entity, individually or jointly with

certain relatives; or -regardless of ownership percentage-faculties or attributes evidencing control), b) substance or nature of the income (in general, passive income accounting for at least 50% of income for the fiscal year), c) low taxation in the foreign jurisdiction (below 75% of the tax that would have been levied under applicable Argentine tax law).

Income allocated according to the abovementioned provisions shall receive in relation to the individual/legal entity residing in Argentina the same treatment that should have been given in the event such income had been earned directly.

### ***Distribution upon Liquidation***

In general, a company distributing property at the time of final liquidation must recognize the gain or loss that would have resulted from selling such property at fair market value. In most cases, gains earned by the owners from the company's liquidation could be taxed as a dividend.

### ***Dividends, Interest and Royalties Paid to Foreign Affiliates***

It should be noted that the tax reform has eliminated the Equalization Tax mechanism for dividends or profits that correspond to accrued profits in fiscal years started as of 1/1/2018, maintaining its application for the previous ones. The purpose of the Equalization Tax was to subject to withholding the excess that would be verified between accumulated accrued and taxable profits.

The profits generated in years beginning in January 2018 will be subject to the new scheme of partial integration between the corporate income and the dividend.

Therefore, in order to define the treatment applicable to dividends, the time of accrual of the distributable earnings must be considered following a FIFO methodology.

Interest is a deductible expense -with certain limits- and is subject to withholding tax when paid to foreign beneficiaries at the rate of 15.05 % or 35 %.

Royalties and technical assistance fees are deductible and subject to withholding tax. The withholding rate depends on the nature of the service and the local legislation on the transfer of technology. The applicable rates may be 21 %, 28 % and 31.5 %.

The deductibility of royalties is limited to 80 % of the gross payment made to non-resident entities. As regards technical assistance fees, the deduction cannot exceed 3 % of sales or 5 % of investment (should the advice be related to an investment).

## **Reorganization of Companies**

Tax losses and exemptions can be transferred from the former company to the surviving company.

However, it is required that the owner/s of the former companies hold(s) at least 80 % of their ownership interest during a period no shorter than two years prior to the reorganization date.

This requirement shall not be in force when the former company or companies offer(s) shares in equity markets for the same period.

It is still mandatory for the owner/s of the former company and during two years after the reorganization date to keep at least 80 % of its ownership interest to that date or offer shares in equity markets for the same period.

## **Non-resident Companies**

Foreign companies are taxed only on Argentine-source income. They are generally imposed withholding taxes at different rates, depending on the nature and source of income.

### ***Import-related Income***

Income earned by a foreign company from imports into Argentina is not taxable, provided that the ownership of goods is transferred overseas and that the local purchaser clears the goods through the Argentine Customs Authorities.

### ***Portfolio Income***

Dividends paid by resident companies (corporations, limited liability companies or branches) are subject to a withholding tax. Withholding rates are as follows:

- 7% for profits accrued in fiscal years 2018 and 2019.
- 13% for profits accrued in fiscal year 2020 onwards.

Proceeds from the sale of shares of local companies are subject to tax at a 13.5 % rate on the gross amount, or at a 15 % rate on the net amount (at the taxpayer's option).

However, foreign beneficiaries -provided they do not reside in and the funds do not come from non-cooperative jurisdictions- will be exempt in relation to the following:

- Income derived from the sale of shares that are publicly traded in stock exchanges or stock markets under the supervision of the Argentine Securities and Exchange Commission (CNV).
- Interest income and capital gains on the sale of public securities, corporate bonds and certificates of deposit of shares issued abroad that represent shares issued by entities domiciled or located in Argentina (i.e., ADRs provided the underlying asset

is an exempted share authorized for public offering in Argentina). It is worth clarifying that in the case of ADRs, the new rules confirm that the source of income is determined by the place in which the original issuer of the shares is located.

LEBACS (Central Bank notes) do not fall within this exemption.

The tax reform has also introduced the indirect taxation of shares. A non-resident is deemed to obtain Argentine-source income from the sale of shares or any other right representing the capital or equity of an entity domiciled or located abroad, when the following conditions are met:

**(a)** The market value of shares at the time of the sale or in any of the twelve (12) months prior to the sale, accounts for -at least- 30 % of the value of the assets owned by such entity -either directly or through the intermediation of other entities- in Argentina.

**(b)** Shares, interests, units, securities or rights sold which, at the time of the sale or in any of the twelve (12) months prior to the sale, account for -at least- 10 % of the foreign company's equity that owns, either directly or indirectly, the assets indicated above.

Argentine-source income is determined only as the proportion of the interest that the assets in the country represent in the value of the shares sold. Note that indirect transfers within the same economic group are not taxable. It is understood that a transfer is carried out within an economic group when the sellers of shares have, either directly or indirectly, a joint interest in or over 80% of the capital stock of the purchaser, or vice versa; or when one or more entities have, either directly or indirectly, a joint interest, in or over 80% of the capital stock of both the seller or the purchaser. Interests mentioned above shall be held for, at least, two immediate prior years to the date of transfer.

Additionally, it is worth mentioning that taxation will only apply to interests in foreign entities acquired after effective date of the tax reform.

## Partnerships, Limited Liability Companies and Joint Ventures

Taxable income of individuals, who are partners in a general partnership organized under Argentine law, is first computed for the partnership as a whole and, then, it is generally allocated to the partners in accordance with their capital or profit sharing agreement. Each partner is subject to income tax on his or her own allocated taxable income.

Limited liability companies are taxed in the same manner as corporations.

For joint ventures, taxable income is allocated among the joint venture members, whether companies or

individuals. Each joint venture member is then subject to income tax on its allocated taxable income under the rules applicable to the related member (whether company or individual).

Tax losses are also allocated to partners and joint venture members.

## Transfer Pricing

### Overview of the Transfer Pricing Regime

Argentine regulations on transfer pricing require that prices in transactions between related companies abroad be consistent with prices that would have been charged in similar transactions performed on an arm's length basis.

Additionally, pursuant to the provisions of sections 8 and 15 of the Income Tax Law, the transactions carried out with individuals or legal entities domiciled, created or located in non-cooperative countries<sup>5</sup> shall not be considered to be consistent with the arm's length principle.

Even though Argentina is not an Organization for Economic Co-operation and Development (OECD) member, local transfer pricing rules are based on the main concepts of OECD Guidelines.

It is worth mentioning there is no hierarchy for the application of the OECD accepted methods. The selection of the appropriate transfer pricing method in Argentina depends, primarily, on the availability of information and the number and significance of adjustments necessary to achieve comparability.

The Income Tax Law incorporated the following methods to evaluate controlled transactions of any type:

- Comparable uncontrolled price
- Profit split, and
- Resale price
- Transactional net margin
- Cost plus

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5 - In accordance with Regulatory Decree 589/2013. In addition, pursuant to General Resolution 3576, the list of non-cooperative countries as from January 1, 2014 came into force.

Countries, domains, jurisdictions, territories, states or other special tax regimes are deemed to be cooperative for the purposes of tax transparency whenever they have signed with the government of the Republic of Argentina a tax information exchange agreement or a double taxation convention, including a broad information exchange covenant, provided that the exchange is effectively fulfilled.

## Taxpayer Considerations

To collect taxpayer's information relevant to transfer pricing, the AFIP require that supplementary transfer pricing returns be filed, disclosing the amounts related to the different intercompany transactions, including:

- Tangible goods
- Advertising
- Royalties
- Freight
- Loans
- Services
- Insurance
- Other transactions

Taxpayers are required to file supplementary transfer pricing returns<sup>6</sup>:

Return	Due date
Annual form F.969	15 days after the income tax deadline
Annual form F.743	Eight months after the fiscal year end

In addition to the above obligations regarding transactions with related parties abroad, taxpayers must also disclose on an annual basis (Form F.867) information involving the import from, and export to, unrelated parties abroad of tangible goods, with the exception of commodities, with non-related parties, provided that the amount exceeds ten million <sup>7</sup>Argentine pesos (ARS) during the fiscal year. In the case of imports and exports of commodities from and to unrelated parties companies shall file the annual <sup>8</sup>form (Form F.741) per fiscal year.

Return	Due date
Annual form F.867	Seven months after the fiscal year end
Semi-annual form F.741	Five months after the fiscal year end <sup>9</sup>

On the other hand, regulations also state that it is mandatory to file, together with the annual returns mentioned above, a transfer pricing analysis report containing, at least, the following information:

- The taxpayer's activities and functions.
- The risks assumed and the assets used by the taxpayer in such activities and functions.

6 - According to AFIP's General Resolution 4338/2018 the taxpayers do not have to file semiannual transfer pricing forms (F.742 and F.741) as from fiscal years starting on or after January 1, 2018.

7 - According to Regulatory Decree 1170/2018, the threshold was raised from one to ten millions ARS for fiscal years starting on or after January 1, 2018.

8 - See footnote 6, which refers to AFIP's General Resolution 4338/2018.

9 - Coinciding with the income tax due date.

- A detail of the elements, documentation, circumstances and facts that have been priced for the purpose of the transfer pricing analysis.
- A detail and the amounts of the transactions that fall within the scope of the transfer pricing analysis.
- Identification of the foreign taxpayers with which the transactions, stated in the returns, have been conducted.
- Method used in support of transfer prices, with a description of the reasons and grounds for considering it to be the best method for the transaction involved.
- Identification of each comparable company selected to justify the transfer pricing method applied.
- Identification of the sources of information from which the comparable companies were selected.
- A detail of the comparable companies selected and subsequently discarded with an indication of the reasons.
- A detail of the amounts and method applied to make the necessary adjustments to the selected comparable companies.
- Determination of the median and the interquartile range.
- Transcription of the Income Statement of the comparable companies corresponding to the fiscal years necessary for the comparability analysis, with an indication of the sources of such information.
- Description of the corporate activity and the characteristics of the business carried out by the comparable companies.
- Conclusions reached.

The transfer pricing report shall be electronically filed, attached to form F.4501, accompanied by a Certified Public Accountant (CPA) Certification on an annual basis. F.4501 shall bear three digital signatures (i) the taxpayer, (ii) the CPA involved, and (iii) the representative of the professional association where the CPA has been licensed.

## Potential Penalties

In case of noncompliance with the formal obligation of filing the returns, the transfer pricing analysis report and the statutory financial statements at due date, taxpayers will be imposed a fine of ARS 10,000 for locally owned entities and a fine of ARS 20,000 for foreign owned entities.

Additionally:

- The failure to provide the information requested by the Tax Authorities to audit international transactions is subject to a fine ranging from ARS 150 to ARS 45,000.
- The transfer pricing tax adjustment is subject to a fine that ranges from two to six times the unpaid tax amount.<sup>10</sup>

10 - An exhaustive detail of penalties is found in the Argentine Tax Procedure Law enacted in November 2003.

## Recent regulatory changes

On December 29, 2017, a comprehensive tax reform, approved by the Argentine Congress, was published in the Official Gazette. Such law includes several changes in the Argentine Income Tax Law and in the tax system in general (Law 27.430/17). Some of them involve regulations related to the transfer pricing rules. Here follows a brief summary:

### **a) Intermediary substance test**

For import and export of goods where an international intermediary is part of the transaction it will be required that the local taxpayer demonstrate that the compensation of such intermediary is aligned with functions, assets and risks involved in the transactions. Such provision will apply either (i) the intermediary is a related party of the local taxpayer or (ii) the foreign counterparty in the transaction is a related party of the local taxpayer.

### **b) Sixth Method**

The previously so called “sixth method”<sup>11</sup> has been now adapted to the principles recently developed in the Action 10 BEPS initiative as integrated to the OECD guidelines for commodity transactions. The previous law included a mandatory “method” in order to consider the price at shipment date in certain commodity<sup>12</sup> export transactions. The new rules include provisions requiring that in export of commodities where an international intermediary participates the local taxpayer must –on top of complying with the substance test as explained before– register with the local tax authorities the written agreements where the price and other conditions of the export of such goods has been determined. Only upon the lack of such registration the pricing of the transaction will be determined based on the price at shipment date.

### **c) Low Tax Jurisdictions**

While transfer pricing rules apply not only to related parties transactions but also to transactions where the counterparty is located in jurisdictions considered “Non cooperative”, the new law add again the concept of Low Tax Jurisdictions that will make the transactions with them also subject to transfer pricing scrutiny.

11- Introduced by Law 25784, published in the Argentine Official Gazette on October 21, 2003.

12 - Grain, oil seeds, other soil products, hydrocarbons and hydrocarbons by-products and, overall, goods quoted in transparent markets.



Buenos Aires is the center of technology promotion and development, innovation and knowledge”

#### **d) APAs**

A first step in including regulations embracing APAs has been done by introducing in the Tax Procedure Law a chapter called "Determinación Conjunta de Precios de Operaciones Internacionales" which rules determine the possibility of agreeing

#### **e) Transfer Pricing compliance thresholds**

The new tax law delegates to the tax administration to enact through further regulations the minimum thresholds to be considered for general transfer pricing compliance filings (Transfer Pricing Returns and Local Transfer Pricing Report).

On the other hand, General Resolution N°4130 (AFIP) published in the Official Gazette on September 20, 2017, introduces on one hand an information regime –Country by Country Report (Title I)- which consists on an annual filing of a Country by Country Report –CbCR-, regarding entities belonging to Multi-National Enterprise Groups (MNE Groups).

-The resident entities informative regime is open to be completed through the Tax Administration (AFIP) web service named "*Régimen de Información País por País*", obtaining the form F.8097 as a proof of filing.

-While the report is intended to cover ultimate parent companies (UPC) of MNE Groups with residence in Argentina, also impose the obligation to local taxpayers being part of an MNE Group to comply with the CbCR informative regimen either of the following is observed: (i) there is no obligation to comply in the jurisdiction of the UPC, (ii) there is a lack of competent authorities agreement with the UPC jurisdiction that allow the Argentine authorities to automatically obtain the CbC report or (iii) there are systematic failures of the UPC jurisdiction to submit the CbC report to Argentine authorities.

-The regime will not apply to those MNE Groups whose total consolidated annual revenues attributable to the fiscal year prior to the fiscal year to be reported, are less than € 750,000,000 or its equivalent converted into the local currency of the fiscal jurisdiction of the UPC.

-The CbCR shall be filed annually, until the last business day of the twelfth month immediately following the UPC fiscal year end to be reported.

On top of that, it is ruled an informative regime (Title II of Resolution 4130) for resident entities of a MNE Group to submit information about their UPC and the MNE group, among others, with a deadline the third month after the fiscal year end of the UPC.

-The resident entities informative regime – Title II- is open to be completed through the Tax Administration (AFIP) web service named "*Régimen de Información País por País*", obtaining the form F.8096 as a proof of filing.

-When more than one entity integrating an MNE Group reside in the country, one of them may be designated to make the notification referred to in Title II, without prejudice to the sanctions entitled to the obligated parties in the present regime in case of non-compliance of the designated entity.

- Also, two months after the CbCR filing deadline<sup>13</sup>, local entities are also required to inform if the CbCR was filed in the jurisdiction of the UPC.

The provisions of General Resolution 4130 (AFIP) are applicable to fiscal years beginning on or after January 1, 2017.

#### **CbC Reporting penalties**

Also the Tax Procedure Law includes a new article where material penalties in relation to lack or deficiencies in complying with the CbC Reporting rules adopted in Argentina (AFIP Resolution # 4130/17). The most relevant, among others are:

- Local CbCR filing failure – Penalties range from ARS 600,000 to ARS 900,000
- Local CbCR related notifications failure – Penalties range from ARS 80,000 to ARS 200,000

Finally, on December 27, 2018 Regulatory Decree 1170/18 issued by the Argentine Government was published in the Official Gazette. Such Decree includes comprehensive regulations related to the last tax reform introduced in Argentina with the enactment of Law 27430/17. Some of its provisions start to address certain changes introduced through Law 27430 related to the application of the transfer pricing regulations in the country.

The most significant changes are related to the following matters:

- Adoption of the Master File.
- Possibility of applying a method alternative to the traditional ones when the transaction involves the transfer of valuable and unique intangible assets or financial assets that are not quoted or comparable transactions.

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13 - CbCR filing deadline in the jurisdiction of the reporting entity.

- Introduction of minimum thresholds to file the transfer pricing returns, the local report and the Master File.
- Detail of information associated with the registration with the local Tax Authorities (AFIP) of the contracts relating to the export of goods with listed prices.
- Guidance on those aspects that must be evidenced in relation to international intermediaries involved in imports and/or exports of goods to assess whether the related compensation is in line with the arm's length principle.
- General criteria applied on an operation by operation basis for the purposes of assessing compliance with the arm's length principle as well as the use of internal comparables as a priority source of information. Such provisions also indicate that the information of the tested party shall be related to the fiscal year under analysis.

Even though the Decree has a comprehensive scope, up to date, it is still expected that AFIP also issues a supplementary rule to provide more details and clarify certain provisions related to transfer pricing compliance in Argentina.

## Other Considerations

In terms of audits and transfer pricing scrutiny, there is an increasing tendency for the AFIP to challenge transfer prices for taxpayers that present systematic losses beyond a specific fiscal year, mainly among resellers. There are no particular types of transactions under scrutiny and the AFIP have initiated audits in different industries. The AFIP do pay special attention to the analysis criteria applied to the different fiscal years, mainly with respect to the use of multi-year periods for the tested party. They also require that financial information used in the analysis of comparables is checked against the relevant data sources. Lack of supporting information may cause the exclusion of the comparable from the analysis by the AFIP.

In the context of the OECD/G20 BEPS Project, it should be mentioned that, on June 7, 2017, Argentina took part in the signing ceremony for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS held during the annual OECD Week.

## Indirect Taxes

### Value Added Tax

#### Scope

The value added tax (VAT) is a general tax on consumption within the Argentine territory. Value added tax shall be levied on:

- a) the sale of movable property situated in Argentina;
- b) works, contracts for services and service provisions included in section 3 of the VAT Law, and taking place within the Argentine territory. Notwithstanding the foregoing, the services provided from Argentina and economically used abroad qualify as "export of services," and are subject to tax at a zero rate;
- c) definitive imports of movable property;
- d) services provided abroad, but actually used or exploited in the country, to the extent that the service recipients are VAT taxpayers in connection with other taxable events as well as VAT registered;
- e) the digital services provided by a legal entity/ individual residing or domiciled abroad, but actually used or exploited in the country, to the extent that the service recipient does not fall within the scope of d) above.

Under the VAT system, the tax is levied at each stage of the manufacturing and distribution process on a non-cumulative basis. The accumulation of tax is avoided through the deduction of VAT invoiced to the entity. The entity pays VAT on the total amount invoiced by it in each monthly tax period, but it is entitled to recover the input VAT that was invoiced to the entity during the same period. If in any tax period, the credit arising from input VAT is higher than the amount of VAT due on output, the entity is not entitled to a refund (unless the refund is related to exports or the purchase of fixed assets); rather, the excess is used as a credit towards the payment of future VAT liabilities.

In the case of services provided abroad to be used in Argentina ("import of services"), the applicable tax should be self-assessed by the local taxpayer on the amount of the interest payable to the foreign provider, and paid to the Tax Authorities within 10 days after the taxable event arose. The payment thereof will be used as a VAT credit.

Real estate transactions are outside the scope of VAT, except for the lease of commercial buildings exceeding the amount of ARS 1,500, which is taxable. On the other hand, certain transactions are exempt, such as sales of shares and securities. Entities performing these activities may not recover input VAT.

Since June 5, 2001, the amounts paid on the purchase, import, or lease (including lease agreements) of automobiles may be claimed as a tax credit, only if the cost of acquisition, import or market price is equal or less than ARS 20,000 (net of VAT). If the value exceeds that limit, the tax credit can be only claimed up to this limit. When the automobiles are inventory or a key operating fixed asset for the purchaser, this limitation will not be applicable. The restriction on computing the tax credit related to maintenance, repair and use of automobiles, which can be deductible with no limit, has also been lifted.

### **Taxable Basis**

The VAT basis is the net price of the goods or services, or interest on loans, including the following items:

- Readjustments, interest and financing charges on deferred payments of services or sales of goods, including compensatory interest accruing during the corresponding monthly period, and
- CIF (cost, insurance and freight) value of imports or customs value plus customs duties.

### **Rates**

The general rate is 21 %.

A higher rate of 27 % is applied to electricity, natural gas and water supplied to business activities.

The rate of 10.5 % is applied to some activities. For example, to the construction industry only with respect to the construction of dwellings (houses).

A special rate of 10.5 % applies to interest and commissions paid on loans granted by local financial institutions. The same rate applies to loans granted by a bank located in a country, whose central bank or equivalent body has adopted the international standards on banking supervision set forth by the Basle Committee. Borrowers must be registered taxpayers.

Capital goods, whether imported or manufactured, are subject to a regime under which a VAT rate of 10.5 % is applied. A list of HS codes for goods that will be considered under this regime is available. Taxpayer's credits originated as a consequence of these transactions may be refunded under certain limits.

A 10.5 % rate also applies to soy and soy-related products.

There are special reduced rates of 5 % and 10.5 % for activities of digital journalistic editions of online information. The rate applicable depends on the accumulated income for the past twelve months.

A 10.5% rate could also apply to the editorial production or the rental of advertising space in newspaper, magazines and periodicals, depending on the invoicing amount in previous 12 months.

Services related to the distribution, classification, and/or return of newspapers, magazines and periodicals provided to taxpayers engaged in editorial production are subject to a 10.5 % rate.

### **Documentation**

If the purchaser is a VAT-registered taxpayer, the invoice must segregate the price of the sale or service from the VAT amount. Such invoice allows the purchaser to determine and compute the related VAT credit.

If the purchaser is a final consumer or is VAT exempt, VAT need not be segregated in the invoice. The seller shall, therefore, include the VAT in its selling price. As a consequence, only 82.64 % of the total invoicing is revenue for the seller because 17.36 % (21 % of 82.64 %) is a tax liability.

### **Administration**

The VAT is reported and paid monthly, based on a system designed by the Tax Authorities.

### **Transfer of VAT Credits**

Under the provisions of Section 24 of the VAT Law, VAT credits arising from direct payments may be transferred to other taxpayers according to the provisions of Section 29 of Law 11683 (Tax Procedure Law).

### **Refunds of VAT credit balances:**

- Exports of goods and services are included within the scope of VAT, but they are taxed at a zero rate. This means that VAT is not levied on output, but the VAT paid on inputs may be recovered through tax refunds, which shall be requested by the taxpayer.
- VAT credit balances (input VAT) derived from the purchase or importation of fixed assets (except automobiles) which, after a period of six consecutive months, have not been absorbed by VAT debits (output VAT) will be refunded by the Tax Administration.

Within a term of 60 months, the taxpayer must (i) apply such funds to pay VAT on domestic supplies or (ii) demonstrate that it would have had the right to reimbursement pursuant to the Exporters Regime. If the taxpayer fails to comply with these requirements, it will have to repay the amounts in question to the Tax Administration, plus interest.

## Other Federal Taxes

### Minimum Presumed Income Tax

The minimum presumed income tax –1 % on assets held at the end of the tax period, supplementary to income tax– is no longer effective as from January 1, 2019.

### Wealth Tax

Technically, the wealth tax is a tax on the net assets of individuals; however, there is a substitute taxpayer when the shareholder of a local entity, organized under Law 19550, and most local trusts, is a foreign entity.

At present, domestic companies shall pay the tax as substitutes for their shareholders. Such tax is equivalent to 0.25 % of the equity of the local entity annually. Local companies responsible for paying the tax will be entitled to be reimbursed by their foreign shareholders.

### Tax on Financial Transactions

Competitiveness Law 25413 (Argentine Official Gazette, March 26, 2001) has created a tax on debits and credits in bank accounts opened in financial institutions, except for those expressly excluded, as well as on the following transactions:

- The transactions carried out by financial institutions, in which a demand deposit account is not used, no matter how they are named, the mechanisms used to carry them out and their implementation for legal purposes.
- All transactions or release of owned or third party's funds –even in cash– that any individual or entity –including financial institutions– may carry out in their own accounts or in the account of another and/or on behalf of other parties, no matter the mechanisms used to carry them out, how they are named and their implementation for legal purposes. This paragraph includes the transactions necessary to credit funds to merchants operating with the credit card system, except for the transactions or release of funds related to the payroll deposit service for employees.

The taxable event will take place:

- Bank account debits and credits: at the time of making the debit or credit to the related account.
- Other: at the moment of making payments, crediting the amounts or making funds available. In the case of drafts and transfers, when they are issued.

The general tax rate is 0.6 ‰ (six per thousand) for credits and 0.6 ‰ (six per thousand) for debits, except for transactions involving collection management, report of receipts from, and payments to, merchants within the credit card system – when the amounts collected and receipts and payments are not credited to accounts opened in the name of the beneficiaries of the checks or issuers of the management, receipt or payment order– as applicable, in which case, the tax rate to be levied will be 12 ‰ (twelve per thousand).

Holders of bank accounts levied with the general rate of 6 ‰ can compute, as a tax credit, 33 % of the tax paid for both credits and debits.

Such amount will be considered as a credit towards the payment of income tax.

Even though the Executive Branch is entitled to progressively reduce (by up to 20% each year), the portion of the tax on debits and credits that is non-creditable against Income Tax obligations, no changes will be introduced in 2019.

### Excise Taxes

The excise tax is imposed by the federal government on the sale, transfer or import of specific products, based, in general, on the amount invoiced. Main items subject to this tax are tobacco and tobacco products, alcoholic beverages, soft drink concentrates and soft drinks, diesel engines and cars, cellular phone services, electronic products and insurance premiums. This tax does not apply to exported items. Excise tax rates vary depending on the item.

### Estate and Gift Taxes

Transfers of property upon death and inter vivos are not subject to any special tax at a federal level, and are considered income tax exempt.



## Tax Incentives

Incentives are available for mining, research and development activities, the software industry, investment in capital assets and infrastructure works, the biofuel industry, modern biotechnology and the bioethanol industry.

### Mining Promotion (Law 24196)

Several tax incentives are granted to resident individuals and legal entities organized or established in Argentina. For them to be eligible, they must develop mining activities in Argentina, or create an establishment in Argentina for that purpose, and register with the applicable authorities.

Individuals or entities rendering mining services as well as state-owned organizations engaged in mining activities are exclusively eligible for benefits relating to import duties exemptions on capital assets and equipment.

The incentives are granted for the prospecting, exploration, development, preparation, extraction and certain processing of minerals subject to the Mining Code.

In order to be eligible, the project must be located in the territory of the provinces under the incentive scheme.

Hydrocarbons, the industrial production of cement, the industrial production of ceramic, the extraction of sand and quarrying are not eligible activities.

Eligible projects receive, among others, the following tax benefits:

#### • **Tax stability:**

Except for VAT and social security contributions, the total tax burden may not be increased during 30 years from the filing of feasibility studies. This benefit covers taxation at federal, provincial and municipal levels (i.e. provinces and municipalities under the scheme).

In February 2019, General Resolution 4428 was jointly issued by the Argentine Tax Authorities (AFIP) and the Mining Bureau. By means of such resolution, the procedure for mining companies to request the refund of taxes that may have affected the tax stability was established.

#### • **Special rules regarding deductibility and depreciation:**

- double deduction for exploration expenses;
- accelerated depreciation of fixed assets;
- special ARO allowance.

#### • **Royalties:**

Royalties charged by provinces are limited to 3 % of the value of the mineral extracted and transported before any transformation process (the pithead value).

The administration and control of the scheme is the responsibility of the Mining Bureau. In order to obtain the benefits, it is necessary to be registered with the Mining Bureau. This authority must issue a certificate stating the taxes and charges (whether national, provincial or municipal) applicable to the project at filing date and send a copy of that certificate to the Tax Authorities.

### **Incentives for national production of capital goods, IT, telecommunications and agricultural machinery**

Tax benefits are granted to domestic manufacturers of certain capital goods, information technology, telecommunications and agricultural machinery.

The beneficiaries of this regime will receive a credit bond for the purpose of offsetting federal tax liabilities, provided certain requirements are met.

This regime will be in force until December 31, 2019.

### **Forestry Regime (Law 25080)**

Through the Forestry incentive regime, the following benefits are granted to both new projects and expansion of the existing ones:

- Fiscal stability for 30 years. Such period may be extended for 20 additional years.
- Accelerated depreciation for equipment, construction, and infrastructure.
- VAT refund applicable to the purchase of assets, services and imports destined to the forestry investment required by the project.
- Certain companies may receive a non-refundable financial aid.

### **Tax Credit Regime for Institutions (Law 22317)**

A tax credit is granted on qualifying gifts or expenses incurred by companies or sole entrepreneurs destined to support training institutions. For large companies, the tax credit may not exceed 0.8 % of the annual payroll (30 % or a fixed amount for micro, small and medium-sized enterprises, whichever lower). The tax credit is granted, upon request, by the applicable government agency and it may be used to pay any federal tax (e.g. income tax, VAT). Expenses or gifts originating the tax credit are not deductible for income tax purposes. The tax credit may be granted only once a year. The property acquired with the expenses relating to the tax credit is subject to certain limitations (e.g. with respect to its transfer).

### **Tax Credit on Research and Development Projects (Law 23877)**

Argentine companies may obtain a "tax credit certificate" of up to the lower of 10 % or ARS 5 million of certain eligible expenditures in research, development or technological innovation. Such certificates will be creditable against federal taxes. The Executive Branch will assign and fix the annual amount of tax credit that may be granted under this regime (the quota for this regime cannot exceed ARS 2,000,000,000 annually).

### **Software Industry Regime**

The law provides for tax benefits to certain activities undertaken in the software industry, including the creation, design, development, production and implementation of software systems and operating instructions.

Taxpayers shall be included in the registry of beneficiaries of the software industry promotion regime to be eligible for the tax benefits granted to the software industry.

#### Registry of beneficiaries of the software industry promotion regime

The tax benefits provided by this regime are available until December 2019, according to Law 26692.

Under the law, tax benefits include:

#### • **Tax stability:**

Under the new tax regime, the tax rates applicable to taxpayers (both entities and individuals) at the national level will not be raised until December 31, 2019.

#### • **Bonus tax credit:**

Under the law, taxpayers are allowed an additional tax credit in an amount equivalent to 70 % of employers' contributions effectively paid to the social security system, generally, based on the total payroll of the company. The bonus tax credit can be used to offset certain national taxes. Income Tax can only be offset in proportion to the export activities duly informed. Taxpayers cannot use the bonus tax credit to satisfy outstanding tax debts dated before registration under the special tax regime.

#### • **60 % reduction in income tax payable:**

Qualifying taxpayers can benefit from a 60 % reduction in income tax imposed on promoted activities, either arising from Argentine or foreign sources.

#### • **Withholding regimes:**

Taxpayers benefiting from this regime will not be subject to VAT withholdings and collections.

Law 25922 - Software Industry Promotion Regime became effective upon the issuance of Decree 1182/2004 published in the Argentine Official Gazette on September 9, 2004.

## Renewable Energy Regime

By the end of 2015, Law 27191 was enacted for the purpose of fostering the generation of electricity from renewable sources.

The Law defines that an 8 % of electricity should be generated from renewable sources by the end of year 2017 and 20 % by the end of year 2025. Goals shall be progressively met in accordance with the following schedule:

- 12/31/2017: Minimum consumption 8%
- 12/31/2019: Minimum consumption 12%
- 12/31/2021: Minimum consumption 16%
- 12/31/2023: Minimum consumption 18%
- 12/31/2025: Minimum consumption 20%

Main benefits are as follows:

- **VAT:** Early tax refund in the construction stage.
  - Income tax:
    - Accelerated depreciation of personal property and infrastructure works.
    - Tax losses can be computed for a term of 10 years.
- **Minimum presumed income tax:** exemption up to the eighth year subsequent to start-up, on property involved in the project subject to the promotion regime (nevertheless, this tax was abrogated by Law 27260 as from 01/01/2019).

• **Tax certificate:** equivalent to 20 % of the amount of the Argentine-source component (60 % of Argentine-source component shall be evidenced, which can be reduced up to 30 % to the extent that no local production is evidenced). The certificate can be granted only once.

• **Import duties:** exemptions only for some specific goods (e.g. solar panels and WEC).

• **Loans from Banco de la Nación Argentina:** Short-term loans will be granted at a special interest rate to finance the payment of VAT by the beneficiaries of the regime during the development of the project until it becomes operative.

• **Treatment under the Companies Law:** For the purposes of section 94, subsection 5 and section 206 of the Companies Law, interest and exchange losses

arising from the financing of the project subject to the promotion regime may be excluded from the company's losses. They may be disclosed for accounting purposes in an explanatory note. For tax deduction purposes, the provisions of the Income Tax Law (general treatment) shall be applied.

## Biofuel Industry

The law defines biofuel as bioethanol, biodiesel and biogas produced with raw material from agriculture, agro-industrial and organic waste, in compliance with the quality standards established by the applicable authorities.

Tax benefits available under this regime are the following:

- Accelerated depreciation/amortization of equipment and investments for income tax purposes;
- Early refund of VAT on purchases of fixed assets and investments in infrastructure;
- Exemption for bioethanol and biodiesel from the hydro-infrastructure fee, the tax on fuel liquids and natural gas and the tax on the transfer of gasoil.

The Income Tax and VAT benefits are mutually exclusive.

The tax benefits mentioned above shall be in force for 15 years and may be extended for other 15 years by the Argentine Executive Branch.

## Modern Biotechnology (Law 26270)

The law defines "modern biotechnology" as the technology application based on rational knowledge and scientific principles derived from biology, biochemistry, microbiology, bioinformatics, molecular biology and genetic engineering, which uses live organisms or part of them for the production of goods and services or for the substantial improvement of production processes or products.

The preferential regime is available to resident individuals and legal entities incorporated in Argentina that submit a research and development project based on the application of modern biotechnology, and also to individuals and legal entities filing or executing application projects of modern biotechnology for the production of goods and/or services. Eligible individuals/entities shall be registered with the relevant regulators.

Tax benefits available under this regime, which shall be in force for 15 years (as from 2007), are the following:

- Accelerated depreciation of fixed assets, equipment and parts thereof for income tax purposes;
- Early refund of VAT on purchases of such assets.

This credit will be used towards the payment of other national taxes, and

- A credit certificate for 50 % of the social security contributions paid. This certificate can be used as a credit towards the payment of national taxes, e.g. VAT, income tax, income tax advances.

Resident individuals and legal entities incorporated in Argentina that submit a research and development project based on the application of modern biotechnology will also have the benefit of a credit certificate for 50 % of the research and development expenses incurred with qualified institutions (as defined by law).

Credit certificates are effective for 10 years from project approval.

### **Micro, Small and Medium-Sized Enterprises Regime (in Spanish, MiPyME)**

Law 27264 provides MiPyME with several tax benefits. Such benefits include the following:

- Micro and small-sized enterprises may compute 100 % of the tax on bank account debits and credits effectively paid as a credit towards income tax. Medium-sized enterprises related to the manufacturing industry may offset 60 % of such payments.
- MiPyME may pay the VAT balance on the due date corresponding to the second month immediately following its original maturity.
- Further tax benefits are provided for those MiPyME making productive investments and those that contribute to the development of the manufacturing industry.
- Law 27440 has established the electronic credit invoice as a financing instrument for MiPyMEs.
- Exporting MiPyMEs are exempt from export duties up to USD 600,000.

### **Tax Credit for Capital Goods, IT and Telecommunications (Decree 379/2001 and Decree 196/2019)**

Under this regime, local manufacturers -by means of a tax certificate- are reimbursed an amount that is equivalent to a percentage of the sales of capital goods. Such certificate can be used to pay federal taxes. For sales of goods taking place from January 1, 2019 to December 31, 2019, the certificate will be issued for an amount equivalent to 50 % of the sum of the following items:



1. 6 % of the sale price of the goods, less the related components added to such goods, imported with a 0 % duty.
2. 8 % of the sale price of the goods, less the value of the related components added to such goods, imported with a duty other than 0%

For MIPyMES, the certificate will be issued for an amount equivalent to 60 % of the sum of the items detailed in 1) and 2) above.

Finally, the tax reimbursement may be increased by 15 %, provided beneficiaries can evidence the existence of investments in the improvement of productivity, quality and innovation.

Decree 196/2019 extended the promotion regime for capital goods, IT and telecommunications investments (originally established by Decree 379/2001) to December 31, 2019, and introduced changes in the calculation of benefits.

## Promotion of Knowledge Economy

A law establishing a knowledge economy promotion regime will be in force from January 1, 2020 to December 31, 2029

Such regime is applicable to companies engaged in the following activities: software development and related activities, audio-visual productions, biotechnology, geological services, electronic and communication services, professional services qualifying as exports, nanotechnology, aerospace industry, artificial intelligence and robotics, among others.

To be eligible for the benefits under this regime, companies shall meet the following requirements:

- 70% of their business shall consist in promoted activities;
- Inexistence fiscal or social security debts;
- Registration in a special Registry;
- Compliance with -at least- two of the following requirements: a) research and development in promoted activities (3 % of sales) or personnel training (8 % of total salaries of individuals devoted to promoted activities), b) exportation related to promotional activities (13 % of total invoicing) or c) meeting certain quality standards.

Benefits include:

- Fiscal stability.
- Fixed 15% income tax rate.

- Reduction in social security contributions;
- Tax credit for social security contributions paid that could be used as a credit towards income tax or VAT.
- Exemption from VAT withholdings and collections.
- Credit towards the payment of foreign income taxes withheld from Argentine-source income related to the eligible activities.

## Double Taxation onventions

Argentina has valid double taxation conventions signed with the following countries: Australia, United Kingdom, Chile, Denmark, Germany, Belgium, France, Italy, Sweden, Canada, Bolivia, Brazil, Finland, Norway, Spain, Switzerland, the Netherlands, Russia, Mexico and United Arab Emirates. In addition, a number of treaties concerning income tax exemption for international transport are in force.

## Local and Provincial Taxes

### Turnover Tax

Local governments impose tax on the turnover (revenues) of businesses. Tax rates vary depending on the type of activity and jurisdiction (there are 24 jurisdictions). In general, farming and cattle raising, mining and other primary activities are taxed at a rate ranging from 0 % to 0.75 %; industrial activities, at a rate from 0 % to 1.5 %; commerce and services in general, at a rate from 3 % to 5 %; and financial and intermediation activities, at a rate from 5.5 % to 7 %. Rates are applied to the total amount of gross receipts accrued in the calendar year.

To avoid multiple taxation a multilateral treaty exists for the distribution of the taxable basis among the different tax jurisdictions.

In general, exports of goods and services are tax exempt.

### Stamp Tax

Stamp tax is levied on the execution of public or private instruments. It is payable in the jurisdiction in which the economic transaction is documented, but it may also be applicable in the jurisdiction in which it has effects.

Documents subject to this tax include, among others, all types of contracts, deeds, invoices confirmed by a debtor, promissory notes and negotiable instruments. In general, the taxable basis is the economic value of the agreement.

In general, the applicable rates are 1 % or 1.2 %, although it can vary depending on the type of deed and on the legislation of the jurisdiction imposing this tax. In the case of real estate sales, among others, the rates may be 2.5 % or 3.6 %.

## Real Estate Taxes

Local governments assess the value of local real estate and levy a progressive real estate tax on the assessed values. The applicable rates vary from one jurisdiction to another.

## Estate and Gift Taxes

On September 23, 2009, Law 14044 was enacted in the Province of Buenos Aires, whereby a tax on the transfer of assets for no valuable consideration was created in that jurisdiction. This tax levies all increases in equity for no valuable consideration, such as:

- Inheritances;
- Legacies and devises;
- Gifts;
- Inter vivos gifts; and
- Any other event resulting in an increase in equity for no valuable consideration.

It is worth noting that this tax is levied on assets located in the province (even though the owner is not domiciled in that jurisdiction) and/or transferred to individuals or legal entities domiciled in the province.

In addition, the transfer of assets for no valuable consideration is exempt when the aggregate value is equivalent to or lower than ARS 269,000 or ARS 1,120,000 in the case of parents, children or spouses. When the value of assets is in excess of the referred amount, all the assets transferred for no valuable consideration will be levied with the tax.

This tax shall be paid at a rate ranging from 1.6026 % to 8.7840%, depending on the taxable basis and the relationship with the decedent or the donor.

The tax is effective as from January 1, 2010.

## Tax Incentives

### Technological District (Buenos Aires)

The District shall function as a center of technology promotion and development, innovation and knowledge, which gathers software, IT and Communication companies and highly qualified professionals.

The aim of the Technological District is to place Buenos Aires as the Latin American city of technology.

Companies that set up in the District shall enjoy, among others, the following benefits and exemptions:

- Turnover tax exemption until December 31, 2019 or December 31, 2014, depending on the date of registration and the type of entity. After such date, qualifying entities will be benefited from a reduction in the turnover tax burden (75 % in the first five years, and 50 % in the subsequent five years).
- Stamp tax exemption as well as public lighting, sweeping and cleaning (in Spanish, ABL) service charge exemption until January 31, 2029 (or January 31, 2034 in the case of certain taxpayers).

### Industrial Promotion Regime (National Territory of Tierra del Fuego)

The industrial promotion regime ruled by Law 19640 states that activities and operations carried out in the National Territory of Tierra del Fuego, or assets existing in this territory, are exempt from all national taxes (in the case of some specific taxes, reduced rates may apply).

Regarding customs duties, the benefits include the exemption or reduction in taxes that levy the imports and exports of movable property.

Decree 751/2012, published on May 16, 2012, removed tax and customs benefits, as previously provided for by Law 19640, for activities relating to the production and export of oil, gas, and certain mineral resources. By means of Decree 1049/2018, the tax benefits for new oil and gas projects in Tierra del Fuego have been reinstated.

It is important to mention that in order to claim the tax exemptions, activities need to be performed in Tierra del Fuego's territory.

The aim of this regime is to promote the establishment of companies in the referred province and, therefore, encourage its inclusion, development and competitiveness.

# 7 Taxation of Individuals

## Territoriality

Individuals residing in Argentina are subject to tax on their income arising from both Argentine and foreign sources. Non-residents are taxed only on Argentine-source income.

## Residence

Individuals who reside permanently in Argentina (having obtained a permanent residence or having remained in the country for 12 months) are considered residents. If double residence situations are verified, permanent residence of an individual is determined by reference to matters such as location of home, location of spouse and dependents, personal property, economic interests and social ties. Individuals working in Argentina under duly evidenced working contracts for periods of five years or less are not considered residents, but non-residents with permanent presence in Argentina. As such, these individuals may be taxed as residents on their Argentine-source income, but are not subject to tax on their worldwide income.

Non-residents working less than six months are subject to a 24.5 % withholding tax on the compensation for services rendered.

As a result of several exemptions being eliminated, the individuals with income from financial products (Argentine sovereign bonds, corporate bonds issued by Argentine entities, fixed-term deposits made in local financial institutions, among others), are taxed as follows on both the sale and yields (as applicable):

- A 15% rate will apply to income derived from indexed or foreign currency-denominated securities and other financial income. Currency exchange gains will not be subject to taxes in those instances.
- A 5% rate of tax will apply to income derived from fixed-income securities denominated in Argentine pesos and that have no adjustment clauses.

The sale of shares listed on the Argentine stock exchange are exempted, subject to certain requirements.

## Dividends, Interest and Rental Income

Dividends distributed by foreign companies to residents, interest and rental income are taxable at regular income tax rates.

Dividends distributed by local companies are taxable at a 7% rate (for profits accrued in FY 2018 and 2019) and 13% (for profits accrued in FY 2020 onwards).

## ➤ Taxation of Residents

### Income Subject to Tax

For income tax purposes, income in Argentina is classified into four categories:

- Income from real estate.
- Income from capital gains.
- Business income.
- Compensation for services rendered.

### Capital Gains

Residents are taxed on their worldwide investment income.

### Compensation

As a rule, it can be stated that all types of compensation and benefits received by an employee for services rendered in Argentina constitute taxable income, regardless of where they are paid.

Additionally, Argentine residents' compensation received for services rendered outside the country will be taxable for income tax purposes.

### Deductions upon Computing Taxable Income

As a rule, expenses incurred to obtain or maintain taxable income may be deducted. In addition, certain deductions that may be claimed are exhaustively described and capped by the law.

## Personal Deductions

Personal deductions are available to individuals who stay more than six months in Argentina.

The following deductions are available for fiscal year 2019:

### Deductions 2019

Non-taxable income	ARS	85,848.99
Spouse	ARS	80,033.97
Each dependent child (under 18 years of age)	ARS	40,361.43

A special deduction from compensation for services rendered is available. The amount that may be deducted for fiscal year 2019 is ARS 85,848.99 (minimum amount not subject to tax); and ARS 412,075.14 as special deduction for employees, regardless of whether the individual stays or not in Argentina for more than six months.

## Rates

General rates applied to residents and non-residents with permanent presence in Argentina range from 5 % to 35 % as follows:

Accumulated net taxable income		Base tax in ARS	Tax	
Higher than ARS	Up to ARS		Plus percentage	Of the ARS amount exceeding
0	33.039,81	-	5 %	0
33.039,81	66.079,61	1.651,99	9 %	33.039,81
66.079,61	99.119,42	4.625,57	12 %	66.079,61
99.119,42	132.159,23	8.590,35	15 %	99.119,42
132.159,23	198.238,84	13.546,32	19 %	132.159
198.238,84	264.318,45	26.101,45	23 %	198.238
264.318,45	396.477,68	41.299,76	27 %	264.318
396.477,68	528.636,91	76.982,75	31 %	396.477,68
528.636,91	Onwards	117.952,11	35 %	528.636,91



## **Foreign Tax Credit**

A tax credit is allowed for similar taxes paid abroad up to the increase in the Argentine tax due to the foreign-source income. Foreign taxes may not be carried back but they may be carried forward up to five years.

## **Treatment of Losses**

Tax losses may not be carried back but they may be carried forward for a maximum of five years. Tax losses resulting from foreign sources may be offset only against foreign-source income.

Tax losses derived from the purchase and sale of shares, bonds and other securities may be offset only against income of the same nature and source.

## **Wealth Tax**

This tax is imposed upon all assets owned at the end of the calendar year. Individuals domiciled in Argentina are taxed on assets located in Argentina and abroad in excess of the amounts established by law. Individuals domiciled outside Argentina, including non-residents with permanent presence in Argentina are taxed only on assets located in Argentina. For instance, expatriates residing in Argentina on international assignments for a period that does not exceed five years are considered to be domiciled abroad. Thus, they are taxed only on their personal assets located in Argentina.

### ***Assets Exempt from Wealth Tax***

Deposits in Argentine financial institutions – except for checking accounts- are not included in the taxable base.

Permanent abode with a value not exceeding ARS 18,000,000 will not be subject to tax, either.

In addition, the wealth tax exemption is currently applicable to:

- Securities, bonds, and other negotiable instruments issued by national, provincial and municipal governments and the City of Buenos Aires, regardless of the date of acquisition.
- Securities issued by the BCRA.

The tax to be levied on shares or interests in the capital stock of companies incorporated under Law 19550 and most local trusts, which are held by individuals and/or undivided estates located in the country or abroad, should be calculated and paid by the referred companies.

### ***Fiscal Year 2019 (and onwards) – Tax Returns Due in 2020 (and onwards)***

The minimum amount of assets and tax rates for individuals domiciled in Argentina will be as follows:

Fiscal year	Amount in excess of	Tax rate
2019 & onwards	ARS 2,000,000	0.25 % to 0.75 %

A tax credit is allowed for similar taxes paid abroad, limited to the Argentine wealth tax payable on the assets located abroad.

A 0.25 % fixed rate will apply to individuals domiciled outside the country, who continue to be taxed only on the assets located in Argentina at the end of each year.

## **Taxation of Non-residents**

### **Withholding Taxes**

Foreign individuals and entities that do not have a permanent establishment in Argentina are subject to a withholding tax on income received from Argentine sources. A 35 % withholding tax is applied to presumed net income, which is a fixed percentage of the gross amount received. This percentage varies depending on the type of income, and the effective withholding rates vary accordingly. See the discussion below regarding taxation of foreign beneficiaries.

“  
Tax losses may not be carried back but they may be carried forward for a maximum of five years.”

# 8 Taxation of Foreign Beneficiaries

## Taxation of Branches of Foreign Companies

Foreign companies that have set up a branch office in Argentina are taxed in exactly the same way as local companies. Accordingly, for corporate income tax purposes, the applicable fixed rate is 30 % on taxable income; the distribution of earnings is taxed in the same way as dividends.

## Taxation of Foreign Companies

Foreign companies earning Argentine-source profits are subject to a withholding tax that, in many cases, is based on an assumed net profit percentage on the gross amount paid. Listed below are the main cases of assumed net profit percentages, the resulting effective tax rate on gross amount, and the same rate in case of grossing up, should the tax be assumed by the Argentine taxpayer. The existing double taxation conventions may stipulate lower percentages, which will be applicable in the case of payments to beneficiaries in the relevant countries.

Type of payment	Assumed net profit (%)	Effective tax rate on gross amount (%)	Same rate in case of grossing up (%)
Interest (if not exempt) or	43	15.05 or	17.716
Interest (if not exempt)	100	35 (3)	53.846
Fees on technical assistance	60	21	26.582
Royalty payments	80	28	38.889
Royalty payments (if not complying with the Transfer of Technology Law)	90	31.5	45.985
Copyrights (if registered locally)	35	12.25	13.960
Lease of goods	40	14	16.279
Lease of real estate (1)	60	21	26.582
Sale of assets located in Argentina (1)	50	17.5	21.212
Insurance	90	31.5	45.129
Reinsurance	10	3.5	3.627
Exploitation of images and sounds	50	17.5	21.212
Benefits, in general, paid to foreign residents	90	31.5	45.985
Dividends	N/A	7/13	7.527/14.943
Sale of shares (2)	90/100 (4)	13.5/15 (4)	15.607/17.647

(1) The beneficiary may choose to pay 35 % on actual net profit, which shall be computed subject to the AFIP's approval.

(2) The profit derived from the public offering of bonds is exempt for foreign beneficiaries.

(3) Loans granted by banks located in a country that has either (a) not been considered a low-tax jurisdiction, or b) signed a treaty providing for the exchange of information with Argentina, and has no local restrictions regarding such exchange between the Tax Authorities of both countries: 15.05 %. If the borrower is a local financial institution, the rate is always 15.05 %. In the case of imports of depreciable movable equipment, except for vehicles, the rate is always 15.05 %. For all other loans: 35 %.

(4) Proceeds from the sale of shares of local companies are subject to tax at a 13.5 % rate on the gross amount, or at a 15 % rate on the net amount (at the taxpayer's option). The sale of shares that are publicly traded in stock markets or stock exchanges under the control of the CNV (Argentine Securities and Exchange Commission), are tax exempted.

Artists, technicians, professionals, sports persons and the like, working for less than 6 months a year in Argentina, are assumed to earn a net taxable income of 70 % on the gross amounts collected (effective tax rate of 24.5 %). Non-resident artists engaged by the Argentine government or by tax exempt entities for less than 2 months a year are taxed on 35 % of their receipts (effective tax rate of 12.25 %).

## Maximum Withholding Tax Rates under Double Taxation Conventions

Country	Interest % (a)	Royalties % (b)	Dividends % (c)
Australia	12	10(d)	10(f)
Belgium	12	10(h)	10(f)
Bolivia	(g)	(g)	(g)
Brazil	15	10	10(f)
Canada	12.5	10(h)	10(f)
Chile	12 or 15	10 (i)	10 (f)
Denmark	12	10(h)	10(f)
Finland	15	10(h)	10(f)
France	20	18	15
Germany	10 or 15	15	15
Italy	20	18(e)	15
Mexico	12	10(d)	10 (f)
The Netherlands	12	10(h)	10(f)
Norway	12	10(h)	10(f)
Russia	15	15	10(f)
Spain (i)	12	10(h)	10(f)
Sweden	12	10(h)	10(f)
Switzerland	12	10 (h)	10 (f)
U.K.	12	10(h)	10(f)
United Arab Emirates	12	10(f)	10

(a) Interest paid to non-residents or foreign loans granted by banks located in a country that has either a) not been considered a low-tax jurisdiction, or b) signed a treaty providing for the exchange of information with Argentina, and has no local restrictions regarding such exchange between the Tax Authorities of both countries - it is subject to a final withholding tax of 15.05 % of the gross payment. Interest on foreign loans to finance imports of depreciable movable equipment, except for vehicles, is subject to a withholding tax of 15.05 %. All other loans are subject to a 35 % rate. Some double taxation conventions also provide for certain exemptions, which may include interest paid to or by governments.

(b) The rate shown is the effective rate for patent royalties. Film royalties are taxed at an effective rate of 17.5 %, all other copyright royalties are taxed at 12.25 %. The effective rate for technical assistance, engineering and consulting fees is 21 %, if technology is not available locally, and 28 % for other license fees. Otherwise, the rate is 31.50 %.

(c) Dividends are subject to withholding tax at a 7 % rate, which will be increased to 13 % in 2020.

(d) Copyright of literary or artistic works, use of industrial or scientific equipment, or supply of scientific, technical, or industrial knowledge are taxed at 10 %; otherwise, the withholding is reduced to 15 %.

(e) Copyright royalties are taxed at 10 %.

(f) If the receiving company owns 25 % or more of the distributing company; otherwise the rate is 15 %.

(g) Income is only taxed in the state where income is sourced.

(h) This rate applies to patents, trademarks and similar royalties. The rate is 3 % for the use of news. It is 5 % for copyright royalties (excluding film royalties). Otherwise, the rate is 15 %.

(i) This rate applies to patent, trademark and similar royalties. The rate is 3 % for the use of news. Otherwise, the rate is 15 %.

(j) 15 % on royalties arising from the use or the right to use trademarks. 10% in other cases.

# 9 Labor Legislation

**A general Employment Contract Law, complemented by additional laws and statutes related to specific activities, regulates employment conditions throughout the country and collective bargaining agreements. The Employment Contract Law does not apply to household and government employees, whose work conditions are covered by separate statutes.**

## Workforce

Argentina has a skilled labor force.

Currently, Argentina has an unemployment rate of 9.1 % (Third quarter of 2018).<sup>14</sup>

Methods of recruiting employees vary depending on the qualifications required, from hiring directly at the employer's facilities to using specialized private employment agencies. Agencies are used especially in recruiting managerial and technical positions. Many are located in the city of Buenos Aires and its surroundings, where the labor force is highly concentrated.

Employment contracts are not required in writing and, in practice, they are not usually used.

## Executive Compensation

Executives receive various fringe benefits in addition to salaries. Foreign companies usually provide such benefits in accordance with the parent company's policies. The most common benefits are employer-provided automobiles and bonuses.

If the employer agrees to pay all income tax and social security contributions on salaries, executive compensation may constitute a significant cost to the employer. This kind of agreement is common for expatriates, but not for local employees.

### Salaries and Wages

Salaries and wages for office and industrial workers are not the same in all the regions of the country. Minimum salaries for employees included in the collective bargaining agreement are generally established by the collective bargaining agreement itself, but supply and demand usually have great influence on determining the salaries of the best qualified workers.

Further, during the last years, labor unions have bargained new salary ranges.

## Advance Notice

Employer shall give notice of the termination of the labor relationship to the employee no later than 15 days, in case the employee is working under probationary period; one month, when the employee has worked for the employer for a period that does not exceed 5 years; and two months for employees with more years of service.

The employee shall give notice of his intention to terminate the employment contract 15 days in advance.

During the notice period, the employee is entitled to take two hours off each day to search for new employment. He may also accumulate these hours in one or more full working days.

Should employer or employee fail to give proper notice of termination, the party at fault shall pay the other party compensation in lieu of notice equal to the salary that the employee would receive during that period.

Notice must be served in writing and is effective as from the day following service of notice.

If termination of the employment contract took place without advance notice and the day termination occurred is other than the last day of the month, compensation in lieu of notice owed to the employee shall be made up of an amount equal to salary for the remaining days up to the end of the month.

## Severance Pay – Compensation for Years of Service

If an employee or worker is dismissed, without having committed an act of gross misconduct or a criminal offense, severance pay is due, equivalent to one month's salary for each year of service or period higher than three months. For such purposes, the calculation basis is the highest monthly regular and habitual compensation received during the last year or during the length of service, if this period were shorter.

<sup>14</sup> - National Statistics and Censuses Institute.

In conformity with the law in force, such basis shall not exceed the equivalent to three times the average monthly salary established by the respective collective bargaining agreement.

The minimum severance payment is equivalent to one month's salary currently received by the employee.

With regard to the already mentioned limit –three times the average monthly salary established by the respective collective bargaining agreement–, it should be noted that the Supreme Court of Justice (in re Vizzoti, Carlos Alberto vs. AMSA S.A.) stated that the application of the severance cap described above (i.e. three times the average monthly salary established by the applicable collective bargaining agreement) should not result in more than a 33 % reduction of the highest monthly compensation received by the employee during his last year of service. Otherwise, the referred cap will be considered unconstitutional and the compensation will be calculated on the basis of an amount equivalent to 67 % of the employee's highest salary.

Compensation amounts may increase under special circumstances (e.g. dismissal of sick or injured employees, pregnant women, women with a newborn child, recently married employees, etc.).

## Labor Union Organizations

Most office and industrial workers are unionized. However, the political influence of unions decreased during the 1990s, but has increased in recent years.

## Payroll Taxes

The main social security contributions are listed below. Other minor payments apply under certain circumstances, mainly according to collective bargaining agreements and provincial taxes.

Until January 2018, there were two different social security contributions' rates: 17 % or 21 %.

Please, take into consideration that Tax reform (Law No. 24,730) modify some relevant Social security issues, as follows:

- a. Employers' contributions rate: The Employers' contributions at differentiated rates of 17% and 21 %, will be gradually eliminated, in a way that by 2022 there shall be only one rate of 19.5% for all employers. During 2019 the applicable rates will be 18 % for employers with industrial activities (among other few exceptions) and of 20.40% for the rest of the employers.

- b. Exemption Limits: There will be an exemption limit to be applied to employers' social security contributions, which shall be updated periodically. Regarding 2019, the exemption limit would be ARS 7,003.68 per employee.

- c. Tax credit for VAT purposes: The possibility to take the employers' contributions as tax credit for VAT purposes will be progressively eliminated until final conclusion in 2022.

- d. Reduction of employers' contributions rate (Law No. 26,940): Benefits will be gradually eliminated during this year.

- e. Special regimes: some laws establish special pension systems, which, basically, reduce the statutory years of service and/or the eligibility age, so that the coverage may extend to the different situations that may be faced by any employee over his/her years of service, for example, unhealthy environment or unfavorable conditions. The activities falling within the scope of special regimes are oil and gas, transportation, and air transportation, among others. In these cases, employers shall pay an additional contribution of 2 % of the compensation of the employees involved, without any limit.

In the case of expatriate technicians not residing in the country for more than two years, exemption from this contribution may be requested, if the expatriate enters the country with a temporary visa not exceeding two years.

### a) Pension Fund

Employees of most industrial and commercial enterprises make contributions to the pension fund equivalent to 14 % of all their earnings in cash or in kind (such as schooling or housing) received as salaries, wages, commissions or profit sharing up to the limit established (since March 1, 2019: ARS 117,682.47).<sup>15</sup>

Employers contribute 12.36 % of their employees' compensation without any limit.

Service and commercial companies invoicing more than ARS 48,000,000 a year<sup>16</sup> contribute 13.92 % of their employees' salaries without any limit.

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<sup>15</sup> - This cap is updated every three months (March, June, September and December).

<sup>16</sup> - This parameter is sustained by the Tax Authorities. Nevertheless, in the most recent years, taxpayers objected to the lack of update thereof. At present, there is case law against the Tax Authorities' position.

## b) Family Allowances

Employers contribute 4.70 % (5.40 % in case of commercial or service activities invoicing more than ARS 48,000,000<sup>17</sup> a year) of all compensation to a family allowance fund.

In this respect, it should be noted that, as from November 2005, any person, whether an individual or an entity, from the private sector registered as an employer shall be directly included in the SUAF.<sup>18</sup> By virtue thereof, family allowances shall be paid directly by the National Administration of Social Security (in Spanish, ANSES).

Allowances consist of gradual amounts depending on the employees' salaries, usually very small, paid for each child, for marriage and for the birth or adoption of a child.

However, there is no family allowance for employees whose salaries exceed ARS 53,829 or ARS 107,658 considering the family group since March 2019 (except for maternity and disabled children).

Allowances are adjusted periodically.

## c) Unemployment Fund

Employers are required to contribute 0.94 % of all compensation to an unemployment fund. For service and commercial companies invoicing more than ARS 48,000,000<sup>19</sup> a year, the contribution amounts to 1.08 % of their employees' remuneration.

## d) Medical Care Contributions

Employees contribute 3 % of their earnings or the monthly limit of ARS 117,682.47 (since March 1, 2019)<sup>20</sup>, for medical care. The amounts paid are allocated to several organizations that provide healthcare assistance.

17 - Please refer to Note 13.

18 - Family Allowances System (in Spanish, *Sistema Único de Asignaciones Familiares*)

19 - Please refer to Note 13.

20 - Please refer to Note 12.

The employer also contributes 6 % of employee earnings without limit since November 2008. The government, through a public fund named ANSSa, takes a percentage from medical care contributions and withholdings. This percentage varies from 10 % to 20 %, depending on the healthcare assistance category and the monthly salary.

## e) Workers Compensation Insurance

In July 1996, a new Workers Compensation Insurance Law came into force.

Workers Compensation Law prescribes that a mandatory insurance policy be taken from an authorized Workers Compensation Insurance Company. The policy shall cover salaries, the cost of medical care, professional rehabilitation, prostheses and orthopedic elements, burial assistance and indemnities for partial or total disability and death as a consequence of occupational accidents and diseases.

Companies can directly afford (without taking out an insurance policy) the costs of these services and/or indemnities, provided that they periodically give evidence of their financial stability. It should be highlighted that, in general, companies take out insurance through insurance companies.

In principle, pursuant to what the Workers Compensation Law explicitly provides for, in the case of taking out an insurance policy, employers are exempt from any civil liability for their employees and their heirs.

Contribution to Workers Compensation Insurance Companies is composed of a fixed amount per employee and a variable percentage calculated on the amount of the salary applied as calculation basis by the employer's contribution to Pension (without any cap) plus non-wage items (not including compensatory items in case of termination).

The insurance premium is calculated taking into consideration a percentage of the employees' remuneration and varies according to the company's activity, the amount of employees and the compliance with security standards.

The average range varies from 0.50 % to 17 % of the taxable salary of each employee.



## Summary of Employer and Employee Contributions

The following table summarizes the main contributions (2019).

	<b>Employer (I) %</b>	<b>Employer (II) %</b>	<b>Employee %</b>
Pension fund	10.77 (1)	12.35 (1)	11.00 (3)
Pensioners' healthcare fund	1.59 (1)	1.57(1)	3.00 (3)
Family allowance fund	4.7 (1)	5.40 (1)	-
Unemployment fund	0.94 (1)	1.08 (1)	-
Private health insurance	6.00 (2)	6.00 (2)	3.00 (3)
	<b>24</b>	<b>26.40</b>	<b>17.00</b>

Ref.:

(I) Employers of all activities, except for commercial and service invoicing more than ARS 48,000,000 a year according to the restrictive nature of the AFIP's criterion. Based on case law, the amount indicated would be higher.

(II) Commercial and service activities invoicing more than ARS 48,000,000 a year according to the restrictive nature of the AFIP's criterion. Based on case law, the amount indicated would be higher.

(1) These percentages apply to the total remuneration without any limit

(2) In principle, these percentages apply to the total remuneration without any limit since November 2008

(3) These percentages apply to the total remuneration or to the monthly limit of ARS 117,682.47 –since March 1, 2019– (taxable monthly salary), whichever lower. This cap is updated every three months (March, June, September and December)

From such employer contribution, a percentage that varies depending on the geographical area where the employees are located can be computed as a VAT credit. For example, in the so called "Greater Buenos Aires" (which includes the city of Buenos Aires and some surrounding cities), the percentage computable as a VAT credit is 0 % on the same taxable basis used for contributions' calculation, whereas in Ushuaia it is 6.50 % and 1.45 % in Greater Córdoba.

The possibility to take the employers' contributions as tax credit for VAT purposes will be progressively eliminated until final conclusion in 2022 (Tax reform).

“  
The insurance premium  
is calculated taking into  
consideration a percentage  
of the employees”

## Special Regimes of Promotion of Registered Employment

Law No. 26940 established that companies hiring up to 80 employees, thus increasing the head count, will benefit from a reduction in social security contributions per employee incorporated to the payroll for a period of 24 months.

### *Special regimes are explained below:*

#### a) Permanent Regime of Social Security Contributions for Micro Employers

This benefit includes all natural persons, de facto corporations and limited liability companies, which hire up to 5 employees and have an annual invoicing which does not exceed a certain amount that will be established by the appropriate regulation. Such payroll might be raised up to 7 workers, if the employer increases the existing payroll as of the date of its inclusion in this regime.

The benefit consists of a partial reduction in contributions to the social security system equivalent to 50 % of the applicable rates in case of hiring full-time employees for an undetermined period. In case of part-time employees, the benefit consists of a partial reduction in contributions to the social security system equivalent to 25 % of the applicable rates.

#### b) Promotion Regime for the Recruitment of Registered Employment

In the case of employers that hire up to 15 workers, for the new employees representing an increase in the company's payroll, they will be entitled to a reduction in contributions to the social security system equivalent to 100 % of the applicable rates during the first 12 months of the labor relationship, whereas during the second period of 12 months, the reduction will be 75 % of such contributions.

For employers with a head count between 16 and 80 employees, the benefit will consist of a reduction of 50 % in the above mentioned contributions during the first 24 months of the labor relationship.

The regulation sets forth the cases to which the reduction in social security contributions is not applicable; for example, the case where employees are hired within 12 months following termination without cause of an employee under the general social security regime.

This law was regulated by Decree 1714/2014 and came into force on August 1, 2014.

The term to benefit from this regime has been set to 12 months since effective date (i.e. from August 2014 to July 2015). However, it was extended from August 2015 to July 2016 by means of Decree 1801/2015, from August 2016 to July 2017, by means of Decree 946/2016, and from August 2017 to July 2018 by means of Decree 638/2017.

It should be noted that only the Argentine Executive Branch is empowered to extend this regime for subsequent periods.

These benefits will be gradually eliminated during this year. (Tax reform).

## Self-Employed Individuals

Workers who do not have an employer are required to make a contribution to a specific pension fund. The assessment of the amount payable will depend on the activity and category established according to the laws in force. This category is established based on the worker's activity and a taxable reference income.

In this respect, it should be noted that in the case of directors of corporations or legal representatives of foreign companies, the contribution to National System of Self-Employed Individuals (in Spanish, *Régimen Nacional de Trabajadores Autónomos*) ranges from ARS 3,862.40 to ARS 8,497.26 (since March 15, 2019), depending on the annual gross revenues.

Both directors of corporations and legal representatives shall contribute to the Social Security System as self-employed individuals, even if carrying out activities under a labor relationship. Contributions to the Social Security System as employees are not mandatory for them.

## Scope of Benefits

Except for the case of certain multinational and local leading companies, in Argentina, it is not customary for companies to provide additional pension benefits to employees over and above the official pension payment.

Medical care benefits cover most of the employee's needs satisfactorily. In contrast, pension payments at retirement are very small, which has contributed to the increasing development of private pension plans.

Some measures have been taken in order to attenuate the effect of pension payments at retirement. Individuals older than 65 years are entitled to a guaranteed monthly payment of ARS 10,410.<sup>21</sup>

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<sup>21</sup> - Please refer to Note 12.

## Social Security Agreements

Argentina has entered into reciprocal social security agreements with Mercosur countries (Brazil, Paraguay, Venezuela and Uruguay), the Ibero-American Convention on Social Security (Bolivia, Brazil, Chile, Ecuador, El Salvador, Spain, Paraguay, Peru, Portugal and Uruguay) as well as agreements with Chile, Slovenia, France, Greece, Italy, Peru, Colombia, Portugal, Belgium, Luxembourg, and Spain.

Whether the provisions of these agreements should apply, they shall be analyzed in each case, since many of the abovementioned agreements were signed prior to the amendments introduced to the pension system in force in each country.

## Other Employee Benefits

Argentine labor laws are distinguished for the protection they provide to employees. Regulations cover labor contracts, forms of wage and salary payments, women and minors in employment, and many other matters. Some of the main regulations are detailed below.

## Annual Legal Bonus

Employers shall pay a complementary annual bonus equal to an extra monthly salary. It shall be paid on June 30 and December 18 each year.

It amounts to one-half of the highest monthly salary paid to the employee during the previous semi-annual period.

## Paid Vacation

Providing an annual paid vacation is compulsory. The vacation period ranges from 14 to 35 consecutive days, depending on the number of years of service. To be entitled to a vacation period, an employee must have worked at least half of the working days in the calendar year. Employees hired during the second half of the calendar year are entitled to one day of vacation for every 20 days of effective work.

Vacations shall be taken and cannot be exchanged for cash payments, for which employees may be penalized.

## Illness

The payment of remuneration shall be maintained in case of illness or accident (not labor related) for 3-6 months, if the employee has been providing services to the company up to 5 years or more. These periods will double if the employee has dependents.



## Life Insurance

It is mandatory for employers to take out insurance coverage of ARS 68,750 per employee (as from March 2019).

## Unemployment

Industrial and office workers are included in a government system of compensation for unemployment. Under certain conditions, they are entitled to receive monthly payments for a period from 2 to 12 months on the basis of variable percentages of the highest monthly salary earned in the 6-month period prior to unemployment. Such payments derive from a fund formed with a portion of social security contributions.

Unemployed individuals are also entitled to receive medical care for three months.

## Overtime

A 48-hour working week is the norm, with a limit of 9 hours per day (6 hours per day for hazardous occupations). Office working hours are usually less. Twelve hours must elapse between consecutive working days. Night work is limited to a seven-hour shift.

Overtime work is permitted with certain restrictions. Overtime on weekdays and Saturday mornings is paid at time-and-a-half. Double time is paid for Saturday afternoons, Sundays and holidays.

Overtime is typically limited to personnel subject to collective bargaining agreements. It is mandatory for salaried workers.

Decree 484/2000 established a limit of 200 hours overtime per year and 30 hours overtime per month.

## Minimum Wage

A single general minimum wage is established for all industrial and office workers. It amounts to approximately ARS 12,500 as from March 2019 for monthly salaries, and ARS 62.50 for hourly salaries. Actual salaries, however, are higher.

Collective bargaining agreements establish more realistic minimum salary tables, which are generally used.

## Labor Contracts

Labor law allows for unwritten contracts for an indefinite term of time (traditional contracts).

In accordance with Argentine laws, employment contracts are for unspecified terms to promote the permanence principle.

This principle ceases to be applicable if a) the term of the contract has been set in writing, and b) the activity justifies the exception.

Employment contracts for unspecified terms are understood to have been entered into on a trial basis for the first three months.

During the probationary period either party may terminate the relationship without specifying the cause but by giving notice. This termination will not give right to payment of indemnity.

Other types of contracts are part-time contracts (working hours are less than two thirds of the normal working day) and seasonal contracts (when the relationship between the parties generated by the normal course of business or exploitation is limited to certain months of the year, subject to repetition in each business cycle as a result of the nature of the activity).

Other hiring methods accepted by Argentine labor legislation, which are exceptions to the general unspecified term principle, include fixed term contracts and temporary employment contracts.

As these are exceptions to the general principle, their applicability shall be analyzed taking into account the provisions of the Employment Contract Law on a case-by-case basis.

### **a) Fixed Term Contracts**

These contracts require that the term be stated explicitly and in writing. In addition, there should be justified reasons to choose this contracting method based on the type of business or activity.

The contract is in effect until the end of the term agreed, which must not exceed five years.

Use of successive contracts exceeding the above term turns them into contracts for unspecified term.

The parties must give notice of termination; otherwise, the contract will become an unspecified term contract.

If the contract is fulfilled and notice is given, and the duration of the contract is less than one year, severance pay will not be required. However, if the contract term exceeds one year, the worker is entitled to claim severance pay equivalent to half the amount established for ordinary termination by the employer without just cause contemplated in the general regime.

Dismissal without just cause before the end of the contract term entitles the worker to claim damages in addition to the indemnity due to contract termination.



### ***b) Temporary Employment Contract***

Employment Contract Law establishes that this method is adopted in connection with extraordinary services or extraordinary and temporary needs of a company, without a specified termination date.

If the purpose of the contract is to supply extraordinary market demand, the duration of the cause giving rise to the contract cannot exceed six months a year and up to one year every three years. The cause giving rise to the contract must be accurately stated.

If the contract is terminated for the same reason for which it was entered into (conclusion of works or task assigned or cessation of the cause giving rise to the contract), no indemnity will be paid. Otherwise, the regulations established by the general regime will be applicable.

### ***c) Other***

The law currently in force provides for the possibility of recruiting personnel through internship systems for a definite period. The main object of this system is the training of the intern. The amount paid as internship pay is not subject to social security contributions.

## **Special Requirements for Foreign Nationals**

In principle, there would be no restrictions on employment of foreign nationals, nor are quotas established.

In general, no particular employee functions are required to be performed solely by Argentines. However, the reasons for hiring an expatriate in lieu of a local employee must be given by the local employer in a presentation to the Immigration Authority at the time the expatriate files an application for a temporary visa.

Compliance with Immigration Law is required.

Expatriates may qualify for an exemption from pension fund contributions or for the benefits of a social security agreement.

They can also receive various fringe benefits in addition to salaries, which are usually collected in their home country. Foreign companies usually provide such benefits in accordance with the parent company's policies. Employers are used to grant employer-provided automobiles, housing and bonuses.

For each case, the social security, labor and tax treatment to be given to the abovementioned benefits shall be analyzed taking into consideration the current laws in force since, under certain circumstances, the whole package of benefits is taxable in our country.

## Public Registry of Employers with Labor Sanctions (in Spanish, REPSAL) – Law 26940

The REPSAL was created by the Ministry of Work, Employment and Social Security (in Spanish, MTEySS). Such Registry will include the final sanctions imposed by the MTEySS, the AFIP, the provincial authorities as well as the authorities of the city of Buenos Aires, the National Registry of Agribusiness Workers (in Spanish, RENATEA), the Workers Compensation Insurance Regulator (in Spanish, SRT) and the National Labor Courts on employers who fail to register or report employees in compliance with all the formal requirements set forth by the applicable laws.

The REPSAL will be a public, fee-free registry that will be regularly updated by the MTEySS.

Non-complying employers will remain registered in such registry for a maximum period of 3 years; and they will be removed from it once they have paid the related fine, remedied the situation for which they were sanctioned, and once the applicable term has lapsed, which will depend on when the fine is paid and on when the undue registration or report of employees is remedied (with a minimum 60-day term).

Consequences for employers registered in the REPSAL:

- They are not eligible for national government programs, aid or stimulus plans, benefits or subsidies.
- They are not eligible for credit lines offered by banking institutions.
- They are not eligible for the benefits set forth by this law.

In case of recidivism within a 3-year term counted as from the date on which the first sanction imposed becomes final, employers who are registered in the Simplified Regime for Small Taxpayers will be excluded from such regime by operation of law.

In addition, taxpayers registered in the General Tax Regime may not deduct personnel-related expenses from income tax as long as they remain registered in the REPSAL for recidivism.

This law was regulated by Decree 1714/2014 and came into force on September 1, 2014.



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