DOING BUSINESS IN ARGENTINA
2022

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BDO

INTRODUCTION

This publication has been prepared by the International Bureau of Fiscal Documentation (IBFD) for BDO, its clients and prospective clients. Its aim is to provide the essential background information on the taxation aspects of setting up and running a business in this country. It is of use to anyone who is thinking of establishing a business in this country as a separate entity, as a branch of a foreign company or as a subsidiary of an existing foreign company. It also covers the essential background tax information for individuals considering coming to work or live permanently in this country.

This publication covers the most common forms of business entity and the taxation aspects of running or working for such a business. For individual taxpayers, the important taxes to which individuals are likely to be subject are dealt with in some detail. We have endeavoured to include the most important issues, but it is not feasible to discuss every subject in comprehensive detail within this format. If you would like to know more, please contact the BDO firm(s) with which you normally deal. Your adviser will be able to provide you with information on any further issues and on the impact of any legislation and developments subsequent to the date mentioned at the heading of each chapter.

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BDO's brand promise is to be the leader for exceptional client service and when you choose to work with BDO you quickly discover what makes our service offering stand out. BDO offers a comprehensive collection of high-quality tax services and assets designed to support exceptional performance, and all our tax engagements benefit from the hands-on involvement of experienced professionals, backed by world-class resources. BDO's people bring a particular quality to our working relationships and to how we respond to our clients. We understand that digital acceleration is impacting our clients more than ever: BDO's unique culture of accessibility helps to build close relationships and maintains excellence in service delivery, ensuring that we create value for our clients and our colleagues. Your advisers are both fit for the future and are agile enough to handle the biggest and the smallest names in the industries we serve.

We work hard to understand our clients' businesses and ensure that we match both our service offering and our people to their complex individual needs. We believe that providing our clients with access to experienced professionals who are actively engaged in addressing their tax and business issues is the most reliable way to provide exceptional service, always with a strong focus on trust and transparency.

Regardless of your location, size or international ambitions we can provide effective support as you expand into new areas of the world. In an ever-evolving economic environment, businesses need a global organisation that provides exceptional, bespoke service combined with local knowledge and expertise. BDO is uniquely positioned to serve this demand, providing effective support and a truly global integrated global footprint.

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Introduction

Companies are subject to corporate income tax.

Employers must pay social security contributions on salaries. A VAT system applies.

Companies are also subject to tax on current accounts and local turnover taxes levied by the federal district (City of Buenos Aires) and by the provinces on gross receipts.

On 1 July 2021 and 8 October 2021, Argentina signed joint statements with other Inclusive Framework members as part of an agreement on a new framework for international tax reform (key elements for a two-pillar agreement).

The currency is the Argentinian peso (ARS).

The federal tax authority is the *Administración Federal de Ingresos Públicos* (AFIP).

1. Corporate Income Tax

1.1. *Type of tax system*

Income derived by companies is subject to income tax at the corporate level. Dividends distributed to resident companies are exempt. However, the distribution of profits to non-resident persons and resident individuals is subject to a final withholding tax at a rate of 7%. A corporate income tax rate in accordance with a sliding scale of between 25% and 35% applies as of 1 January 2021 (previously, a 30% rate applied). Permanent establishments are subject to an equivalent treatment on the taxation of profits and the distribution thereof. *See also* sections 2.2. and 6.2.1.

The Income Tax Law (ITL) contains a mechanism to adjust the taxable income for inflation when annual inflation exceeds a certain threshold. As provided by Law 27,541, the adjustment for inflation for fiscal years 2019 and 2020 must be allocated among the relevant tax year and the following 5 years equally (as an exception to the regular method) where the total adjustment impacts the taxable base of the relevant year only.

The profits of partnerships and other transparent entities must be reported by their members.

The basis of taxation is worldwide.

1.2. *Taxable persons*

The main rules on taxable persons are found in articles 53, 54, 73 and 74 of the ITL.

Taxable persons are joint-stock companies (*Sociedad Anónima*, SAs); limited liability companies (*sociedad de responsabilidad limitada*, SRLs); limited partnerships; partnerships limited by shares; permanent establishments of foreign enterprises (*see* section 6.2.); non-exempt civil associations and foundations; and companies owned by the government (income derived by these entities is subject to tax in the hands of the respective entity).

General partnerships (SCs) and sole proprietorships are treated as semi-transparent entities: the income tax is calculated under the general rules applicable to companies, but it is levied on partners or owners, irrespective of actual distribution. Joint ventures or de facto companies are treated as transparent entities and their income must

be reported by their members. The new Civil and Commercial Code enacted by Law 26,994, in force from 1 August 2015, no longer contemplates the category of civil companies and has created a special type of joint-stock company of only one shareholder, different from the standard joint-stock company that requires a minimum of two shareholders. The ITL makes no distinction regarding the tax treatment of both types of joint-stock companies.

Law 27,349, published in the Official Gazette of 12 April 2017, established the simplified joint-stock company as a means to promote entrepreneurial activities. The expected benefits derive from simplified steps to incorporate and less costly bookkeeping and compliance requirements (e.g. digital books and electronic filing). The Companies Law (Law 19,550 as amended) rules all legal matters not specifically addressed by Law 27,349.

Trusts and investment funds may be either treated as taxable persons or transparent entities, depending on the type. Trusts (*fideicomisos*) created under Law 24,441 and investment funds (*fondos comunes de inversion*), except those comprised by article 1 of Law 24,083, are treated as taxable persons.

Enterprises belonging to national, provincial and municipal governments are in principle taxable, unless otherwise provided. Cooperative societies, religious institutions, certain social welfare institutions and non-profit international institutions, among others, are exempt from income tax.

The rules applicable for determining the corporate taxable base must also be applied by sole proprietorships, unincorporated partnerships and, in general, in relation to any activity deemed to be a business or an enterprise, resulting in partners or members (individuals) applying the corporate rules to determine their taxable base.

This survey is restricted to joint-stock companies (SAs), limited liability companies (SRLs), limited partnerships (*sociedad en comandita simple*), partnerships limited by shares (*sociedad en comandita por acciones*) and permanent establishments of foreign enterprises, as well as foreign-incorporated entities of a similar description, whether resident or non-resident.

1.2.1. Residence

The main rules about residence are found in article 116 of the ITL. A company is resident for tax purposes if it is incorporated in Argentina.

Permanent establishments of foreign companies are deemed to be residents and therefore subject to income tax on their worldwide income as provided by article 116 of the ITL.

1.3. *Taxable income*

1.3.1. General

The main rules about taxable income are found in articles 1, 2, 23, 24, 44, 48, 53 and 82 of the ITL.

Resident taxpayers are taxed on their worldwide income. The ITL specifies four categories of income; for a description of the four categories, *see* Individual Taxation section 1.2.1.

All income derived by a company is classified as Third Category income, regardless of the category into which the income would ordinarily be included if it were earned by a taxpayer other than a company. More specifically, the following are included in Third Category income:

- income derived by companies, civil associations and foundations established in Argentina, mixed economy companies (private and government entities) with regard to that portion of their income that is taxable, and permanent establishments of non-residents;
- income derived by any other entity incorporated in Argentina (e.g. limited liability companies, general partnerships, limited partnerships, sole proprietorships and partnerships limited by shares);
- income derived from the activities of commission agents, auctioneers, consignees and other trade agents not specifically included in the Fourth Category;
- income received by certain trusts or investment funds;
- income arising from the transfer of certain immovable property; and
- any income not included in other categories.

In computing taxable income, net income is calculated by deducting from sales proceeds and other income (gross income), exempt income, the cost of goods sold and business expenses.

Companies apply the "balance sheet principle" to determine their taxable income, i.e. all increase or decrease in the net worth of a company, based on the accrual method as reported in its annual financial statements, is in principle taxable income or losses. Profits reported in the financial statements are subsequently subject to adjustments to reflect any differences between the accounting principles used to prepare the statements and the provisions of the tax law. Capital gains are taxed as ordinary income.

1.3.2. Exempt income

The main rules on exempt income are found in article 26 of the ITL.

The following items are exempt from corporate income tax: Argentinian-source dividends from registered shares (*see* section 2.2.) and premiums derived by stock companies, limited liability companies, limited partnerships and partnerships limited by shares from contributions to their capital.

Some entities which are formally corporate taxpayers may derive exempt income in accordance with the purpose of the activity (e.g. charities, non-profit international organizations and sports clubs), provided they do not distribute their profits and are recognized by the tax authorities.

1.3.3. Deductions

The main rules on deductions are found in articles 83, 85-88 and 91 of the ITL.

Deductible business expenses are those expenses which are necessary to earn income or to maintain or preserve the source of income. In general, the rules discussed below (applicable to Argentinian-source income) also apply for assessing foreign-source income; however, some particular rules provide for the determination of foreign-source income when converting foreign currency into Argentinian pesos (articles 124-164 of the ITL).

Net sales proceeds are calculated by deducting refunds, bonuses, discounts and similar items from gross sales proceeds, in accordance with market practice.

Deductions for business expenses paid to related parties or to parties domiciled in low-tax jurisdictions, whether related or not, are allowed in the tax year in which they are effectively paid.

1.3.3.1. Deductible expenses

The main rules on deductible expenses are found in articles 83, 85 and 91 of the ITL.

The general principle provided in article 80 of the ITL is that all expenses that are deemed "necessary" (a term that has led to some doctrinal and jurisprudential debates) to obtain and maintain taxable income are deductible.

Deductions which are specifically mentioned include:

- advertising;
- amortization;
- automobile maintenance;
- bad debts;
- depletion;
- depreciation (*see* section 1.3.4.);
- directors' fees (the deduction is limited to the greater of 25% of accounting profits of the tax period or ARS 12,500 for each recipient of the fees; however, the fixed amount is increased to ARS 17,000 if the recipient of the fee is a woman and to ARS 20,000 if the recipient is a transgender person;
- gifts to certain exempt entities, the federal and provincial states and recognized political parties not exceeding 5% of the fiscal year's net profit;
- insurance premiums;
- interest (thin capitalization rules apply; *see* section 7.3.);
- organization expenses;
- representation expenses;
- royalties credited or paid abroad for technical assistance, provided the agreement under which they are paid is registered with the National Institute of Industrial Technology as provided for in the Transfer of Technology Law. However, the deduction may not exceed (i) 3% of the sales or proceeds for purposes of determining the consideration for the technical assistance or (ii) 5% of the investment made as a consequence of the technical assistance;
- trademark or patent royalties paid to non-residents. Only 80% of the royalty is deductible. If the parties are related or the foreign party is a resident of a low-tax jurisdiction the 80% limit is applied to the notional arm's length consideration;
- salaries and other employment income;
- service fees;
- severance payments;
- social security and welfare contributions; and
- taxes (other than income tax) and legal fees.

For deductible expenses under tax incentives, *see* section 1.7.

1.3.3.2. Non-deductible expenses

The main rules on non-deductible expenses are found in article 88 of the ITL.

Under certain circumstances, some items are not deductible in calculating taxable income, including:

- expenses related to exempt income and expenses related to personal expenses of the shareholder and the shareholder's family;
- dividends;
- interest on the capital owned by the company, member or partner;
- losses suffered in illegal operations and the payment of bribes or inducements;
- taxes on income; and
- taxes on unimproved land.

1.3.4. Depreciation and amortization

The main rules on depreciation and amortization are found in articles 87 and 88 of the ITL.

Depreciation occasioned by normal wear and tear of assets used in the business or activities of the taxpayer which produce taxable income must be computed at a fixed annual percentage.

Depreciation is allowed on buildings and other constructions of immovable property. Depreciation is also allowed as a deduction on fixed assets having a useful life that exceeds 1 year. Cattle kept for breeding are treated as depreciable fixed assets, provided that they have been purchased by the taxpayer.

Depreciation allowances are calculated on the basis of a straight-line method. Other depreciation methods may be used if justified for technical reasons. In general, neither accelerated depreciation nor postponement of depreciation is allowed. The amortization of intangible property is computed under the same rules, except in relation to trademarks and goodwill for which amortization is not allowed.

There are special provisions for the depreciation of mines, quarries and forests under the depletion method.

The ITL provides a legal prescription of useful life only for immovable property, setting it at 50 years but allowing, however, a shorter period in proven circumstances. Accordingly, there is no legal link to accounting books depreciation. Notwithstanding, it is a matter of common sense and good practice to calculate the same useful life of assets for both tax and accounting purposes, save in cases where deviation is objectively justified (e.g. tax incentives regime).

An accelerated depreciation system may be available in respect of investment in capital assets and infrastructure projects under incentives regimes (*see* section 1.7.).

Conventional percentages used in computing annual depreciation allowances include:

- trucks and automobiles, 20%;
- office furniture, 10%; and
- machinery and equipment, 10%.

A higher percentage rate for immovable property may be accepted when sufficient proof is provided that the useful life is less than 50 years and notice is given to the tax authorities at the time the income tax return is filed for the first tax period in which the higher percentage is used.

Depreciation on automobiles, including those used for leasing, is deductible on that part of the acquisition cost not exceeding ARS 20,000 (net of VAT).

When movable assets are no longer of use, the taxpayer may opt to continue annual depreciation until the respective residual value is exhausted or to stop depreciating the asset until it is sold, at which time the taxpayer may compute the residual value as a deduction and the proceeds from the sale as a taxable item.

Article 71 of the ITL provides for an optional rollover scheme by which the profit derived from the sale of a depreciable asset is imputed to the cost of another newly acquired asset reducing in consequence the depreciable tax basis of the latter. The rollover option is also available for immovable property used for the generation of taxable income.

For special depreciation rules under tax incentives, *see* section 1.7.

For treatment of losses, *see* section 1.5.

1.3.5. Reserves and provisions

The main rules on reserves are found in article 92 of the ITL.

Amounts added to reserves established to meet anticipated future expenditures or provisions for contingencies are generally not deductible. Global deductions made when valuing inventory, in order to establish general reserves that cover price fluctuations or other contingencies, are not permitted. However, amounts set aside for bad debts are deductible provided certain conditions are met (e.g. the creditor has started legal collection proceedings or the debtor is bankrupt).

1.4. *Capital gains*

The main rules on capital gains are found in articles 2, 3, 62, 63, 64, 65, 69, 71 and 93 of the ITL.

The taxable base of capital gains from the disposal of securities is the difference between the selling price and the acquisition cost. In the case of stock dividends, the acquisition cost is the face value.

Capital gains are not subject to a specific tax, but are instead considered ordinary income subject to income tax under general rules.

The alienation of any asset by a company may produce a capital gain subject to income tax.

Article 3 of the ITL provides that alienation (*enajenación*) means a sale, exchange, expropriation or contribution to the capital of a company and, in general, any act of disposal that produces the transfer, for consideration, of the property right.

A liquidation of a company that entails a distribution of assets may give rise to a taxable profit for the company if there is a difference between the market value and the tax cost of the assets involved.

When movable or immovable property which is subject to depreciation and is not part of inventory is sold, capital gains are calculated by deducting from the sales price:

- the acquisition cost, as adjusted for inflation, less depreciation; or
- the manufacture cost, as adjusted for inflation, less depreciation.

Capital gains derived from the transfer of goodwill, trademarks, patents, concession rights and other similar assets are calculated by deducting from the sale price the acquisition cost, as adjusted by inflation, less amortization.

Capital gains derived from the transfer of shares, ownership interests or participation rights, including shares in common investment funds, are calculated by deducting from the transfer price the acquisition cost, as adjusted by inflation. In the case of stock dividends, the acquisition cost is the face value thereof. For allocation purposes the "first in, first out" (FIFO) method is used. No cost is computed in the case of transfer of shares received as exempt dividends from taxable periods beginning after 11 October 1985.

Capital gains derived from the transfer of public securities, bonds and other documents are calculated by deducting from the transfer price a cost equal to the value registered in the inventory at the beginning of the fiscal year in which the transfer was made. If the acquisition of the securities was made during the fiscal year of the sale, the cost is the price of purchase. For allocation purposes the FIFO method is used.

Capital gains derived from the sale of goods other than those mentioned above are calculated by deducting from the sale price the acquisition, production or construction cost, plus the amount of improvements (articles 62 to 69 of the ITL).

As a general rule, there are no exemptions for capital gains derived by companies.

There are no specific provisions regarding the deferment of tax on capital gains, except in situations of replacement of assets described in section 1.3.4.

1.5. *Losses*

1.5.1. Ordinary losses

The main rules on losses are found in article 25 of the ITL.

Losses incurred in a year may be carried forward to be set off against taxable income for up to 5 years from the year in which the loss was incurred. Losses may not be carried back. For foreign-source losses, *see* section 6.1.1.

The following losses may be offset only against income of the same nature:

- losses from transactions with shares, quotas and participations in other companies;
- losses from transactions with derivatives except those transactions entered into for hedging purposes (to which the general rule applies); and
- losses caused by transactions that generate foreign-source income.

Additionally, losses derived from the exploration and exploitation of natural resources in Argentina´s continental platform and exclusive economic area in the sea may only be offset with income of Argentine source.

1.5.2. Capital losses

The main rules on capital losses are found in article 25 of the ITL.

Losses incurred by companies upon the disposition of shares, ownership interests in companies or shares in common investment funds may only be set off against net income derived from the disposition of similar property. Such losses may be carried forward up to 5 years from the year in which the loss was incurred, to be set off against income derived in other years from the same type of transaction.

1.6. *Rates*

1.6.1. Income and capital gains

The main rules on rates are found in article 73 of the ITL.

With effect from 1 January 2021, the corporate tax rate is changed from a proportional 25% to the following sliding scale:

Taxable income (ARS)			*Tax due on lower limit (ARS)*	*Marginal rate on the excess (%)*
Up to		5,000,000	0	25
5,000,000	–	50,000,000	1,250,000	30
Over		50,000,000	14,750,000	35

As an exception, a special flat rate of 41.5% applies to income from gambling derived through casinos and bets through bookmakers.

There are no surtaxes or surcharges imposed on corporate income.

1.6.2. Withholding taxes on domestic payments

The main rules on withholding taxes are found in article 22 of Law 11,683, and General Resolutions AFIP 830-2000, as amended.

Domestic income derived by companies resident in Argentina may be subject to withholding tax as described below. This tax is generally treated as an advance payment, which is credited against the recipient's final corporate income tax liability for the year concerned.

Interest paid on loans or any other financing (including qualifying corporate bonds) is subject to withholding tax at a rate of 3% or 6% (depending on the type of payment), which is credited against the final income tax due. The withholding tax system does not apply to payments made to financial institutions, interest derived by fixed time deposits made in financial entities regulated by Law 21,526, interest derived by financial trusts, or any other similar income as provided by the first article added after article 94 of the ITL by Law 27,430.

For withholding tax on interest paid to non-residents, *see* section 6.3.1.

Royalties, service fees and fees for technical assistance are generally subject to a 2% withholding tax rate if the beneficiary of the payment is a registered taxpayer (otherwise the applicable rate is 28%).

The mentioned rates apply on the excess over a non-taxable amount defined for each category of income that is adjusted regularly (to reflect the effect of inflation).

Fees and payments to members of the board of directors exceeding ARS 67,170 annually are subject to withholding tax at rates ranging from 10% to 30%.

The withholding tax does not apply to royalties paid to certain taxpayers (e.g. insurance companies and banks).

Dividends paid to resident companies are exempt and, therefore, no withholding tax applies. However, dividends paid to resident individuals and to non-resident persons are subject to a withholding tax. For withholding tax on payments to non-resident companies, *see* section 6.3.

1.7. *Incentives*

Incentives are available for mining, financial investments, personnel training, research and development, the software industry, investment in capital assets and infrastructure works, the biofuel industry, modern biotechnology, the bioethanol industry, the petroleum industry and electricity produced using renewable sources of energy.

1.7.1. Mining promotion

Mining promotion is ruled by Law 24,196 as amended.

Tax incentives are granted to resident individuals and legal entities organized or established in Argentina that engage in mining activities. Eligible projects receive, among others, the following benefits:

- fiscal stability, except for VAT and social contributions (the total tax burden may not be increased during 30 years from the filing of feasibility studies). This benefit includes taxation at federal, provincial and municipal levels;
- development expenses (amounts invested in mineral prospecting, exploration, special studies, mineral assays, applied research and feasibility studies) are deductible from taxable income;
- investments in infrastructure (equipment, civil works and construction work) may be depreciated at a rate of 60% in the year in which the asset is approved and 20% in each of the 2 following years. Other investments in machinery, equipment, vehicles and installations may be depreciated from the operation start-up at an annual rate of 33.33%;
- profits derived from the contribution of mining deposits or rights to the capital of an enterprise engaged in eligible activities are exempt from income tax. The capital increase and issue of shares derived from the capitalization of such contributions are exempt from stamp duties;
- for the input VAT derived from imports and acquisitions of goods and services by enterprises engaged in mining exploration after 12 fiscal periods, a refund is granted under the conditions established by the Executive Branch;
- import of capital assets, special equipment or parts thereof and inputs specified by the competent authority are exempt from duties, special taxes and charges (including the statistical rate but excluding other legal fees); the same exemption applies to spare parts and accessories necessary to start the operation. This benefit is also granted for imports of goods that are to be transferred under commercial or financial leasing; and
- royalties charged by provinces are limited to 3% of the value of the mineral extracted and transported before any transformation process (the so-called *boca mina* value).

Up to 50% of the value of proven reserves (as valued by a responsible professional) may be capitalized. The capitalization has effects for accountancy purposes only and is neutral for income tax purposes. The issue of shares resulting from the capitalization is not subject to federal tax. The provincial governments are invited to grant similar exemptions concerning provincial taxes (basically stamp taxes).

1.7.2. Personnel training

A tax credit against federal taxes (e.g. income tax and VAT) is granted on qualifying gifts or expenses incurred by any corporate or individual entrepreneur destined for the support of training institutions. This is ruled by Law 22,317 and Decree 819/1998, as amended.

1.7.3. Research and development projects

A tax credit is granted on qualifying expenses incurred by corporate or individual entrepreneurs on research and development projects, which may be offset against the income tax due up to a certain limit. The credit may not exceed 50% of the total amount of the submitted project. This is ruled by Law 23,877.

1.7.4. Modern biotechnology

"Modern biotechnology" is defined 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 the substantial improvement of productive processes or products.

Tax benefits available by Law 26,270 are the following:

- accelerated depreciation for income tax purposes of fixed assets, equipment and parts thereof;
- pre-reimbursement of VAT on purchases of such assets. This credit can be used against other national taxes;
- a credit certificate in respect of 50% of the social security contributions paid. These certificates can be credited against national taxes, e.g. VAT, income tax and income tax advance payments; and
- beneficiaries may also obtain a credit certificate in respect of 50% of the outflows incurred for contracting research and development services with the national system of science, technology and innovation.

1.7.5. Electricity produced using renewable sources of energy

This preferential regime is made available by Law 26,190 as amended to resident individuals and legal entities which produce electricity using renewable sources of energy and are approved by the competent authorities. The tax benefits available under this regime are:

- pre-reimbursement of VAT on investments in capital assets or infrastructure works; or
- accelerated depreciation of such assets for income tax purposes.

The two tax benefits mentioned above may not be combined. The tax benefits may apply for 15 years from the date of approval of the project.

The AFIP's General Resolution 4101-E, published in the Official Gazette of 8 August 2017, implemented VAT incentives for investments in the generation of electricity from renewable sources.

Accordingly, taxable persons investing in new equipment for the generation of electricity from renewable sources or in connected infrastructure projects have the option of using the related input VAT for the settlement of other federal taxes or, in the absence of such liabilities, for refund purposes.

1.7.6. Domestic production of car parts

Law 27,263, published in the Official Gazette of 1 August 2016 and in force from the following day, established an incentive regime to promote the domestic production of car parts.

Beneficiaries of the regime are legal entities:

- that manufacture cars, trucks, equipment for agriculture and for road building, gearboxes and other sub-components of the aforementioned vehicles; and
- that have manufacturing facilities in the national territory.

The Secretariat of Industry and Services within the Ministry of Production is the competent authority for the application of the incentive.

Beneficiaries will receive a transferable tax credit bond which can offset federal taxes, the amount of which will be related to the value of car parts added to the products by applying a polynomial formula.

The period for application will be open for 10 years from the date of publication of the implementing decree of the Law. Beneficiaries will receive benefits for the full duration of approved projects.

The Law establishes a wide range of penalties, from the filing of incorrect information by applicants to the failure to comply with agreed obligations by beneficiaries.

1.7.7. Housing financing

On 15 September 2016, Law 27,271 introduced a framework for financing the acquisition and construction of housing.

The framework comprises savings accounts, fixed-term deposits, mortgages and treasuries as means of using both private and public savings to increase the availability of housing and financing ownership. These instruments are subject to special terms, such as a minimum duration, and are denominated in living units (*Unidades de Vivienda*, UVIs). A UVI is a mechanism used for indexing the capital invested in ARS, one UVI being equivalent to one square metre of construction. The use of financial trusts as regulated by the Civil and Commercial Code is also an option within the framework.

Article 9 of the Law provides for tax exemptions. Savings accounts, fixed-term deposits and treasuries are exempt from personal assets tax. The adjustment of capital resulting from the adjustment in value of the UVIs and any interest accruing to the investments are exempt from income tax, provided that the investor is an individual. Financial trusts created within the framework of Law 27,271 are exempt from tax on debits and credits in banking accounts, while the mortgages underlying the assets are exempt from VAT.

1.7.8. Venture capital

Law 27,349, published in the Official Gazette of 12 April 2017, established measures to promote venture capital, including tax incentives. The Law has the aim of promoting entrepreneurial activity within the country and also the international expansion of such activity. To such end, it defines a “venture” (*emprendimiento*) as any productive activity with or without profit aim, performed in Argentina by a new legal entity or a legal entity incorporated in the previous 7 years.

Law 27,349 defines as a "venture capital entity" the legal entity (whether privately owned, state owned or with a mix of private and state ownership) incorporated in Argentina with the purpose of applying its own resources and those contributed by third parties to a number of entrepreneurial activities.

Investors in venture capital (as defined by Law 27,349) may deduct up to 75% of the capital contribution from their income tax taxable base. The deduction increases up to 85% when the entrepreneurial activities take place in areas less developed or without access to debt financing.

The deduction, however, cannot exceed 10% of the investor´s taxable net profit in any given tax year. In case of excess, the non-deducted balance may be carried forward for the subsequent 5 years.

Eligible capital contributions must be made in ARS or liquid financial assets convertible to ARS.

The legal entity or trust receiving the capital contribution must issue a certificate to the registry of entities engaged in venture capital (registry created by Law 27,349) providing information about the capital contribution and the investor.

In order to benefit from the investment, the capital participation should be maintained for at least 2 years.

Law 27,349 establishes a joint responsibility between the investor and the entity receiving the capital contribution in the case of fraud or non-compliance with the conditions to access the tax benefits.

1.7.9. Generation of distributive renewable energy

On 27 December 2017, Law 27,424 established a framework to promote the generation of distributive renewable energy by consumers connected to the distribution network and to allow those consumers to inject to the network the renewable energy generated in excess of their own consumption needs.

The tax incentives of the regime are the following:

- Incentives for generators/consumers:
  - tax credit bond with the ability to cancel federal tax obligations;
  - other incentives for the acquisition of generation equipment to be determined by the competent authority;
  - tax incentives will be available for 12 years from the enactment of the implementing measures.
- Incentives for domestic manufacturers of equipment: tax credit bonds, accelerated depreciation for income tax purposes and anticipated reimbursement of VAT.

1.7.10. Creation and expansion of forests

Law 25,080 establishes an incentive regime including tax measures to promote investment in new forests or the extension of existing forests. In particular, it promotes the planting of forests, maintenance and its sustainable management, and may comprise the use of wood for manufacturing purposes when the forests are integrated into a manufacturing undertaking.

Tax incentives comprise:

- fiscal stability: once the application is approved, beneficiaries are guaranteed that the applicable tax burden will not increase through the life of the project (that could be extended up to 50 years);
- reimbursement of excess input VAT;
- accelerated depreciation for income tax purposes; and
- exemption on any present or future tax on capital or net worth.

In addition, beneficiaries may receive a subsidy related to the plantation costs that varies in accordance with the cultivated area.

Beneficiaries are the investors in the approved project, comprising both individuals and companies. Foreign investors are eligible for the incentives regime promoting investment in forests if they establish a domicile in Argentina and comply with the applicable rules for registering their business as provided by Decree 776/2021.

The regime was due to come to an end on 15 January 2019. Law 27487, published in the Official Gazette of 4 January 2019, extends the period of validity of the regime for 10 years.

1.7.11. "Knowledge-related" economic activities

Law 27,506, as amended by Law 27,570, and implemented by Executive Branch Decree 1034/2020 have established a regime for the promotion of "knowledge-related" economic activities.

The regime covers the development, design, creation, production, implementation and adaptation of a wide range of products and services in "knowledge-related" economic areas (e.g. software, digital and IT services, audio-visual, biotechnology, biology, biochemistry, microbiology, genetic engineering, geological services related to electronics and communications, nanotechnology, automated solutions for industrial manufacturing and export of certain professional services).

Eligible beneficiaries are corporations set up in Argentina and permanent establishments of non-resident companies registered to do business in the country that are in good standing regarding their tax, social security and labour law obligations, and carry out any of the promoted activities as their main activity. In that regard, beneficiaries must derive at least 70% of their total revenues from the promoted activities. However, the regime may also apply to companies that have not yet generated any revenues, provided that they prove that they carry on promoted activities in accordance with the conditions established by implementing measures.

The regime establishes other eligibility requirements which apply according to the size of the undertaking (i.e. micro, small, medium-sized or large companies).

Companies qualifying for the regime enjoy the following tax benefits:

- a reduction of the income tax liability that corresponds to the promoted activities. Such reduction will be determined according to the information contained in the annual tax returns filed by the beneficiaries and is scaled as follows:
  - 60% for micro and small enterprises;
  - 40% for medium-sized enterprises; and
  - 20% for large companies;
- beneficiaries of the regime may receive a non-transferable credit certificate of up to 70% of the social contributions effectively paid by the employer in connection

with the salaries of employees engaged in the promoted activities. The credit certificate may be offset against VAT and other federal taxes (except income tax) within a 24-month time frame. However, beneficiaries carrying on exports related to the promoted activities may offset the credit certificate against their income tax liability;

- beneficiaries of the regime that are exporters will not be subject to VAT withholdings or surcharges. The tax administration will provide exporters with a special certificate for such purposes, once their registration in the regime is completed; and
- a 0% export duty rate will apply to the export of services performed in Argentina to be used or exploited abroad, as defined by article 10 of the Customs Code (as amended).

Prospective beneficiaries of the regime must apply for registration before the Ministry of Productive Development (*Ministerio de Desarrollo Productivo*). The Ministry is in charge of approving the applications and keeping an ad hoc registry (i.e. *Registro Nacional de Beneficiarios del Re?gimen de Promocio?n de la Economi?a del Conocimiento*).

1.7.12. Development of real estate and infrastructure projects

Law 27,440 and Executive Branch's Decree 382/2019 established tax incentives to promote infrastructure projects and the construction of dwellings for the medium and low-income population.

The main measures regarding infrastructure projects (article 205 of Law 27,440) are the following:

- *fideicomisos* and mutual funds benefiting from the incentives regime are those that develop and/or invest directly in real estate, farming, forestry and infrastructure projects, or finance investment in any kind of undertaking through the issuance of any kind of security or debt;
- insofar as the securities or rights issued to finance these structures (*títulos de deuda* and *certificados de participación* in the case of the *fideicomisos*, and quotas in the case of mutual funds) are offered publicly and authorized for public quotation by the Argentine Securities and Exchange Commission (*Comisión Nacional de Valores*), these structures are not subject to income tax on their profits of Argentine source;
- resident individual investors and non-resident investors in these structures are subject to income tax on the distributions. For that purpose, in the case of individual residents, the income is considered to be outside the financial income special schedule, and thus is subject to progressive tax rates. The tax treatment for non-residents is not specified but a final withholding tax applies;
- individuals deriving capital gains from the transfer of their investment are subject to a 15% tax rate;
- legal entities investing in the promoted structures are subject to normal corporate taxation on the distributions and capital gains; and
- participations in the mentioned structures are subject to the personal assets tax.

The main measures regarding housing (article 206 of Law 27,440) are the following:

- *fideicomisos* and mutual funds benefiting from article 206 of Law 27,440 are those of which at least 75% of the portfolio relates to real estate development of social housing (aimed at the medium and low-income sector of the population) and/or related mortgages;

- insofar as the securities or rights issued to finance the creation of those structures (*títulos de deuda* and *certificados de participación* in the case of the *fideicomisos*, and quotas in the case of mutual funds) are publicly offered and authorized for public quotation by the Argentine Securities and Exchange Commission, the structures are not subject to income tax on their profits;
- resident individual investors are subject to income tax on the distributions made by the mentioned structures at a 15% proportional rate irrespective of the type of the income (interest, rents or capital gains). Non-residents are subject to a final withholding tax rate at the rate of 31.5% on the mentioned distributions;
- if a *fideicomiso* or mutual fund engaged in the promoted activities is liquidated before a 5-year lapse since its set-up, the final distribution will be subject to the general progressive tax rates in the hands of resident individuals and to a 31.5% final withholding tax in the case of non-residents. If the structure is liquidated after 10 years, the final distribution will be subject to nil taxation in all cases;
- individuals deriving capital gains from the transfer of their investment are subject to a 15% tax rate;
- legal entities investing in the promoted structures are subject to normal corporate taxation on the distributions and capital gains; and
- participations in the mentioned structures are subject to the personal assets tax.

Executive Branch's Decree 382/2019 is in force as from 30 May 2019 and effective retroactively for fiscal years started as from 1 January 2018.

1.7.13. Investment in capital assets

Executive Branch Decrees 379/2001 and 594/2004, as amended, established an incentive regime for domestic manufacturers of capital goods.

Beneficiaries of the regime may apply for a transferable "credit bond" (i.e. a certificate that may be applied by beneficiaries for the payment of federal taxes). The full amount of the credit is a percentage of the sale price of the promoted goods, i.e. 6% or 8% depending on the raw materials and components used in the manufacturing. "Credit bonds" resulting from invoices issued as from 1 January 2019 will suffer a reduction in value of 40% if the issuer is a micro, small or medium-sized company, or 50% in other cases.

Eligible sales transactions are those for which the corresponding invoice is issued no later than 31 December 2021. Beneficiaries of the regime may apply for a "credit bond" until 31 March 2022.

1.7.14. Promotion of tourism and accommodation industry

Law 27,563 and Executive Branch Decree 795/2020 established temporary tax incentives to boost the domestic travel, tourism and hospitality industry (e.g. providers of all types of accommodation, including hotels, apartment rental, hostels, camping and timesharing apartments; travel agents and tour operators; transport providers, etc.) and reduce the economic impact of COVID-19 pandemic.

Tax benefits comprise the following:

- a 180-day postponement of deadlines for paying any tax levied on income, capital or wealth derived from travel and hospitality activities, due before 1 January 2021;
- suspension of any enforced collection measure (e.g. seizure of goods, garnishment) in respect of tax or social security obligations related to travel and hospitality activities until 1 January 2021; and

- from January 2021, the federal government will provide vouchers to an amount of up to ARS 20,000 to certain families (the main eligibility criteria are the number of members of the family group and income not exceeding a certain limit). Families must use the vouchers to pay services provided by the beneficiaries of the regime. The latter may credit the vouchers they receive for the provision of services against their VAT liability and social security contributions obligations.

1.7.15. Private building construction

Law 27,613 established a regime to promote private building construction and to facilitate the access to housing through the granting of tax incentives as well as an amnesty regime for unreported cash placed offshore or onshore, which applies provided that the cash is used for financing the promoted investments.

An eligible building project is a new private building construction (including improvements, expansions and installations, provided that the work is subject to approval by a competent authority in accordance with the applicable building code) started as from 12 March 2021. Nonetheless, works started before that date, but for which the progress is below 50% of the total project, are also included in the regime.

Investments made in building construction projects are exempt from net wealth tax on personal goods (*impuesto sobre los bienes personales*, ISBP) until 31 December 2022. The maximum duration of the benefit is 2 tax years, which may be shorter if the project is finished or sold earlier (whichever happens first).

The regime also provides for the deferral of payment of the tax on the transfer of immovable property or income tax (generally, the transfer of immovable property is subject to income tax or to the tax on the transfer of immovable property, depending on when the property was acquired).

An amnesty regime is established for unreported cash held onshore or offshore, including cash held in bank accounts. A special tax determined in ARS applies to the regularized cash, of which the rate varies between 5% and 20% according to the celerity with which the taxpayer applies for the regularization.

1.7.16. Tierra del Fuego, Antarctica and South Atlantic Islands

The incentives regime was established by Law 19,640 of 1972 with the aim of promoting economic activity and populating the province of Tierra del Fuego. Companies therein established are exempt from, or benefit from a reduction of, most federal taxes (e.g. income tax, VAT and excise taxes) as well as customs duties. Since its introduction, the regime has been subject to a significant number of amendments and adaptations, the latest of which was the extension of the validity of the regime until 31 December 2038 (Decree 727/2021).

1.7.17. Promotion of investment in financial products denominated in domestic currency

An exemption from income tax and personal assets tax (*see* Individual Taxation section 4.1.) applies with the aim of creating an incentive to promote investment in financial products denominated in domestic currency (ARS). Accordingly, the following are exempt from income tax (exemptions introduced to article 26 of the Income Tax Law):

- interest derived from bank deposits in ARS (e.g. fixed-time deposits) with adjustment clauses (i.e. adjustment for inflation); and

- interest or income derived from financial instruments denominated in ARS to be created in the future by the Executive Branch with the aim of promoting productive investments, if established as such by the relevant legislation.

In addition, the following assets are exempt from personal assets tax (*see* Individual Taxation section 4.1.) (exemptions introduced to article 21 of the Personal Assets Tax Law):

- commercial paper (*obligaciones negociables*) denominated in ARS and complying with the requirements provided by article 36 of Law 23576 (i.e. commercial paper placed by public offering, among other requirements);
- financial instruments denominated in ARS to be created in the future by the Executive Branch with the aim of promoting productive investments, if established as such by the relevant legislation; and
- quotas in mutual funds regulated by article 1 of Law 24083 and listed securities issued by financial trusts (*fideicomisos*), if a minimum percentage (to be determined by an implementing measure) of the underlying assets of the mentioned structures are promoted securities or investments denominated in ARS.

The exemptions are applicable from tax year 2021.

1.8. *Administration*

The AFIP controls the application, collection and administration of national taxes, customs duties and social security contributions. The main rules are found in Law 11,683 as amended. The tax authorities fall under the jurisdiction of the Ministry of Economy. The directors of the tax authorities are administrative judges and have the power to make assessments, impose fines and decide claims for tax refunds.

1.8.1. Taxable period

The main rules concerning the taxable period are found in article 24 of the ITL.

The fiscal year for resident entities is the commercial year established in the by-laws. If a taxpayer is, by law, not obliged to keep accounting records, the tax year is the calendar year unless the tax authorities specify a special closing date, taking into consideration the nature of the venture or other specific circumstances.

1.8.2. Tax returns and assessment

The main rules on tax returns and assessment are found in article 11 of Law 11,683 as amended, and General Resolution (AFIP) 4626.

Argentina has a self-assessment system. All companies and legal entities (including partnerships and sole proprietorships which maintain accounting records and prepare balance sheets) must file their tax returns within 5 months of the end of their fiscal year.

1.8.3. Payment of tax

The main rules on payment of tax are found in article 5 of Law 11,683 as amended.

Companies (except those that only receive income subject to a final withholding tax) must make ten monthly prepayments in respect of income tax, starting in the sixth month of the fiscal year. The first payment is 25%, and the remaining payments are 8.33%, of the tax assessed for the last tax year, as reduced by non-final withholding taxes paid in respect of the same tax year. Any balance of tax due after taking prepayments into account must be paid when filing the return. The tax authorities may authorize the final tax to be paid in instalments (including interest).

Tax paid in excess of any given tax liability may be reimbursed or applied to other tax obligations as established by article 29 of Law 11,683. The procedure and applicable forms are regulated by General Resolutions 2224 and 2542.

In view of the COVID-19 pandemic, Argentina has established a wide-ranging package of relief measures with the aim of assuring a way out of the pandemic. Such measures include the waiver of tax, customs duties and social security debts pending as of 31 August 2021, as well as some benefits available for compliant taxpayers.

1.8.4. Rulings

The main rules on rulings are found in article 4.1. of Law 11,683 as amended, and its implementing measure General Resolution 4497.

The General Director of the tax authorities is responsible for interpreting the laws and decrees regarding taxes under its jurisdiction where the taxpayer's general interest is involved. Such interpretations, made by means of public rulings, are published in the Official Gazette and are binding on both the tax administration and taxpayers. Taxpayers may appeal decisions of the tax authorities to the Ministry of Economy within 10 days. Such an appeal does not release the taxpayer from the obligation to pay taxes on transactions deemed to be taxable during the ruling request procedure, but if the decision of the tax authorities is revoked by the Ministry of Economy, the taxpayer will be entitled to a tax refund.

Advance rulings may be requested in respect of all national taxes, including social security contributions. However, customs duties are not covered by the advance rulings regime. The regime does not apply to questions regarding the application of income tax treaties.

According to General Resolution 4497, advance pricing agreements that are regulated by article 217 of Law 11,683 are excluded from the regime.

2. Transactions between Resident Companies

2.1. *Group treatment*

Although company law requires consolidated accounts to be prepared, for income tax purposes there are no provisions for fiscal unity or other forms of consolidation. Consequently, the tax authorities take the position that consolidated returns are not allowed for tax purposes and that the transfer of losses from loss-making to profit-making members of the same group of companies is not permitted.

2.2. *Intercompany dividends*

Dividends paid by resident companies to other resident companies are exempt from income tax.

Foreign-source dividends are taxed, *see* section 6.1.1. For dividends derived by non-residents, *see* section 6.3.1.

3. Other Taxes on Income

There are no other federal taxes on income in addition to the normal income tax.

4. Taxes on Payroll

4.1. *Payroll tax*

There is no payroll tax.

4.2. *Social security contributions*

The main rules on social security contributions are found in Law 27,541 and Decree 99/2019.

Both employers and employees are obliged to contribute to the social security system. In addition to paying their own contributions, employers must withhold and remit the contributions of their employees.

Contributions by the employer are determined based on the total of the employee's salary, as follows:

- rates:
  - 20.4%: applicable to employers in the services and wholesale and retail sectors to the extent that annual sales exceed the limit established for qualification as "medium-sized 2" companies in accordance with the categories established by Resolution 220/2019 issued by the Secretariat of entrepreneurs and small and medium-sized enterprises, as amended. Those annual sales limits are ARS 940,220,000 for services and 3,698,270,000 for wholesale and retail; and
  - 18%: applicable to other employers, the state (federal, provincial and municipal) and companies and entities controlled by the state;
- deductions from the taxable base: an amount for each employee may be deducted from the social contribution's taxable base. The monthly amount is ARS 7,004 or 17,509, depending on the activity of the employer. An additional total amount of ARS 10,000 may be deducted by employers with a payroll not exceeding 25 employees; and
- computation of social contributions as input VAT: article 21 of Law 27,541 provides that employers may compute as input VAT an amount equivalent to a percentage on the same taxable base used to calculate the social contributions. The applicable percentages are established in Annex I of Law 27,541 in accordance with the geographic region where the undertaking is located – the rates range from 0% (City of Buenos Aires) to 8.85% (for areas of the provinces of Formosa and Santiago del Estero).

Employers must also finance a labour risk insurance.

See also Individual Taxation section 3.

5. Taxes on Capital

5.1. *Net worth tax*

Law 27,486, published in the Official Gazette of 8 January 2019, established a new tax on cooperatives for a term of 4 fiscal years applicable from the tax year started as from 1 January 2019.

The tax applies to the net worth of cooperatives (*cooperativas y mutuales*), as regulated by Laws 20,337 and 20,321, engaged in savings and loans activities, and providing insurance and reinsurance.

Such cooperatives with a taxable base not exceeding ARS 50 million are tax exempt provided that they are at the same time income tax exempt (as provided by the ITL for cooperatives that meet certain conditions).

The tax rates are:

- 3% on a taxable base up to ARS 100 million; and
- 4% on the amount in excess of that threshold.

For tax on personal assets (*impuesto sobre los bienes personales*, ISBP), *see* Individual Taxation section 4.1.

5.2. *Real estate tax*

Land and buildings are subject to the immovable property tax (*impuesto inmobiliario o contribución territorial*, local tax) with some exceptions. This tax is collected by the provinces. The tax is normally levied on the cadastral value of each piece of immovable property without regard to the number of owners or to the taxpayer's personal wealth.

The applicable rates generally range from 0.5% to 3% and apply to the cadastral value of the property, depending on the jurisdiction and in consideration of the rural, suburban or urban nature of the property, as provided by the 2021 Federal Fiscal Agreement.

See also section 9.2.1. for transfer taxes on immovable property.

6. International Aspects

6.1. *Resident companies*

For the concept of residence, *see* section 1.2.1.

6.1.1. Foreign income and capital gains

The main rules on foreign income and capital gains are found in articles 1 and 2 of the ITL.

Resident companies are subject to tax on their worldwide income. Any type of foreign-sourced income derived by a resident company is subject to income tax under general rules. However, differently from the treatment of domestic dividends, dividends received from foreign companies are subject to income tax and must therefore be included in the recipient's taxable base. A foreign tax credit is granted, *see* section 6.1.4.

Capital gains derived by resident companies are subject to income tax under general rules (*see* section 1.4.).

6.1.2. Foreign losses

The main rules on foreign losses are found in article 25 of the ITL.

Losses from activities generating foreign-source income may only be offset against foreign-source income. These losses may be carried forward for 5 years. There is a separate limitation for foreign-source capital losses from the disposal of shares or other participations in investment funds or similar entities. Such losses may be set off only against capital gains from the same activity.

6.1.3. Foreign capital

The main rules on foreign capital are found in Law 21,382 (Foreign Investments Law).

6.1.4. Double taxation relief

The main rules on unilateral double taxation relief are found in article 165 of the ITL.

To avoid double taxation of foreign-source income, Argentina applies the ordinary tax credit method, both unilaterally and under its income tax treaties. Tax treaties concluded by Argentina have supremacy over domestic law including the ITL.

For a list of Argentinian income tax treaties in force, *see* section 6.3.5.

A taxpayer that is subject to tax in Argentina on worldwide income is entitled to have the foreign tax actually paid on that income credited against its Argentinian income tax liability. The credit is limited to the increase in Argentinian tax arising from the inclusion of foreign-source income.

For dividends, the foreign tax credit includes the tax paid on the profits out of which the dividends were paid. In order to determine which foreign taxes may give rise to a credit, the law provides for a definition of "similar taxes". Specific rules are also provided for determining the foreign tax credit for foreign permanent establishments of Argentinian residents.

6.2. *Non-resident companies*

There is no definition of non-resident companies. Non-resident companies are those not qualified as resident companies. For the concept of residence, *see* section 1.2.1.

For the permanent establishment, *see* section 6.2.1.

6.2.1. Taxes on income and capital gains

The main rules on taxes on income and capital gains are found in articles 95, 96, 97 and 103 of the ITL.

As a general rule, non-resident companies without a permanent establishment in Argentina are subject to income tax on their Argentinian-source income. Non-resident companies that carry out activities through a permanent establishment in Argentina are subject to the general corporate income tax on the portion of income that is attributable to such permanent establishment. The definition for permanent establishment under domestic law is aligned with the one in the OECD Model. However, the definition also has some influence from the UN Model, especially with regard to the time threshold for qualification as services permanent establishment.

Permanent establishments of foreign companies in Argentina are subject to tax on their worldwide income and under the same rules applicable to resident companies. Non-residents without a permanent establishment or agency in Argentina are subject to tax only on Argentinian-source income.

The taxation of income derived by resident subsidiaries owned by non-resident taxpayers is governed by the general rules for resident legal entities. However, there are certain specific rules for such companies, for example with respect to the calculation of the taxable base.

The profit of branches of foreign companies is subject to income tax in the same manner as the profit of local corporations. Remittances from a branch, agency or permanent establishment are subject to the same final withholding tax rate applicable to dividends (*see* section 6.3.1.).

Income exempt from corporate income tax for non-residents includes:

- interest on foreign credit granted to the national treasury, provinces, municipalities or the central bank, however, the exemption does apply to the central bank's short-term treasury bills (*Lebac*);
- interest on government bonds;
- income derived from mutual funds regulated by article 1 of Law 24,083 quoted in domestic bourses; and
- capital gains derived from shares listed in authorized stock exchanges in Argentina, provided the non-resident is not resident of a non-collaborative jurisdiction.

Certain exemptions listed in section 1.3.2. may apply.

Argentinian-source taxable income derived by non-residents is taxed at the general income tax rate (35%). However, due to the rules on notional income described in section 6.3., the effective rate (calculated on the gross payment) differs for each type of income. For the effective rates, *see* section 6.3.

Decree 279/2018 clarified the tax treatment of income of Argentine source earned by non-residents, as follows:

- income derived by non-residents from securities issued by the Central Bank (*Letras del Banco Central*, Lebac) is subject to a 35% tax rate;
- non-exempt capital gains derived by non-residents, e.g. transfer of non-listed shares, are subject to a 13.5% rate;
- non-residents without a legal representative in the country are responsible for the direct payment of taxes;
- income and capital gains derived by non-residents that are residents of non-cooperating jurisdictions are generally excluded from the exemptions available to non-residents, and therefore are taxed at a rate of 35%. A list of non-cooperating jurisdictions can be found on the tax authorities' website; and
- income and capital gains derived from investing in mutual funds regulated by article 1 of Law 24,083 will be taxed in accordance with the tax treatment granted by the ITL to its main underlying asset. The main underlying asset is defined as that comprising of at least 75% of the investments of the fund.

See section 6.3. for withholding taxes on payments to non-resident companies.

For the taxation of digital services provided by non-resident persons, *see* section 9.6.7.

6.2.2. Taxes on capital

Non-residents are subject to the net worth tax in relation to participations in Argentinian companies at the rate of 0.50% as provided by Law 23,966, calculated on the market value or net worth of the shares, depending on whether the company is quoted or not. Permanent establishments of non-resident companies are excluded from the tax in accordance with jurisprudence confirmed by the Federal Supreme Court.

6.2.3. Administration

For general information regarding the administration of taxes, *see* section 1.8.

Taxes on Argentinian-source income derived by non-resident companies without a permanent establishment are generally withheld at source – *see* section 6.3.

On 13 January 2017, General Resolution 3986-E established a special tax identification number for non-resident entities.

The measure aims to facilitate investment in financial products by non-resident entities that have no economic activity in the country and thus have no standard tax identification number (*Clave Única de Identificación Tributaria*, CUIT). The investments are to be channelled through authorized intermediaries (banks, brokers, etc.), which are the organizations that will obtain the tax identification number for foreign investors (*Clave de Inversores del Exterior*, CIE). The CIE requires the appointment of an individual representative registered as a resident taxpayer who will normally be pro-

vided by the financial intermediary. The CIE is not valid for carrying on business beyond the limited scope mentioned above. Entities which exceed that scope must register as general taxpayers and obtain the regular CUIT.

General Resolution 4227/2018, published in the Official Gazette of 12 April 2018, establishes the procedures for the payment of taxes by non-resident persons in respect of income and capital gains from financial assets.

6.3. *Withholding taxes on payments to non-resident companies*

The main rules on withholding taxes on payments to non-resident companies are found in articles 94, 102 and 104 of the ITL.

Argentinian-source taxable income derived by non-residents is taxed at the general income tax rate (35%). However, for withholding purposes, taxable income from Argentinian sources is normally presumed to be a certain specified percentage of the gross payment. Different percentages of notional income are specified, without right of rebuttal in most cases (*see* sections 6.3.1. to 6.3.4.). In the case of unspecified income, Argentinian-source notional income is presumed to be 90% of the gross payment, without right of rebuttal. As a result, the effective rate differs for each type of income; for the effective rates, *see* sections 6.3.1. to 6.3.4.

6.3.1. Dividends

Dividends paid to non-resident persons are subject to a final withholding tax at a 7% rate.

General Resolution 4478 (AFIP) establishes that withholding agents are the companies distributing dividends or the managers of investment funds when distributing profits or when redeeming participations involving dividends.

For taxes on the remittances from branches, agencies or permanent establishments, *see* section 6.3.4.4.

6.3.2. Interest

Interest is taxed as ordinary income. However, certain interest is exempt from income tax (*see* section 6.2.1.).

Interest payments to non-residents are subject to a final withholding tax either at the reduced 15.05% rate (35% headline rate on a notional net income of 43% of the interest paid) or at the general 35% rate (that is, a notional net income of 100% of the interest paid). The 15.05% rate applies in the following cases:

- the borrower is an Argentinian financial institution; or the interest is for financing the importation of movable depreciable assets (other than automobiles), provided the financing is granted by the supplier of the assets; or the borrower is an entity other than a financial institution and the lender is a banking or financial entity not located in a nil or low tax jurisdiction or located in a jurisdiction that has executed an exchange of information agreement with Argentina, and the lender is supervised by the respective central bank or equivalent entity;
- the interest is derived from one of the following deposits in financial institutions supervised by the Argentinian Central Bank: savings accounts, special savings accounts, fixed-term deposits, or other deposits as determined by the Central Bank; and
- the interest is paid on certain bonds filed for registration in countries with which Argentina has concluded an investment protection agreement, provided that the

bonds are registered according to the procedure specified in Law 23,576 (i.e. authorized for public offering) within 2 years after they were issued.

For thin capitalization rules, *see* section 7.3.

6.3.3. Royalties

Argentinian-source taxable income from the assignment of rights or the licensing of patents, trademarks (only licensing between unrelated parties is admitted), industrial models, designs and know-how is presumed to be, without right of rebuttal, 80% of payments to non-residents. This percentage is increased to 90% if the requirements of the Transfer of Technology Law are not met (e.g. if the agreement giving rise to the royalty is not registered with the National Institute of Industrial Property (INPI) by the due date). As this notional taxable income is subject to withholding tax at a rate of 35%, the effective rates on gross payments are 28% and 31.5%, respectively.

Argentinian-source taxable income derived from the exploitation of copyrights in Argentina is presumed to be, without right of rebuttal, 35% of payments to non-residents, provided that: (i) the copyrights are duly registered with the National Copyright Bureau; (ii) the payment is made to the author or the author's heirs; and (iii) certain other conditions are met. This provision has been construed by the Supreme Court as applicable only to individual beneficiaries. Payments to foreign corporate beneficiaries are taxed in accordance with the next paragraph.

If the conditions are not met, the notional taxable income is 90%. As this 35% or 90% notional income is subject to withholding tax at a rate of 35%, the effective rates are 12.25% and 31.5%, respectively.

6.3.4. Other

6.3.4.1. Capital gains

Non-residents receiving the proceeds for the transfer of title of bonds, shares, quotas and any other participation in the capital of resident companies, as well as the transfer of immovable property, are, in principle, subject to a 13.5% final withholding tax on the proceeds, by application of the previously mentioned rule of notional income (*see* section 6.3.), 90% of the amount paid.

Article 63 of Law 27,430 confirmed that non-residents have the option to determine the tax on a net basis. That is, the selling price minus the cost of the security and minus expenses incurred to buy it or sell it. The applicable rate on the net taxable base is 15%.

Capital gains from the disposal of Argentinian government bonds (except the central bank's short-term treasury bills (*Lebac*)) held by non-residents are exempt from tax.

Rules to determine how the tax is paid when both seller and buyer are non-residents are still pending.

6.3.4.2. Services

Payments to non-residents in respect of technical assistance are subject to final withholding tax at a rate of 35% on notional taxable income.

Argentinian-source taxable income is presumed to be, without right of rebuttal, 60% of the gross payment of fees for services comprised in the Transfer of Technology Law which consist of: (i) technical assistance services; (ii) engineering services; or (iii) con-

sulting services under an agreement duly registered with the INPI, provided that the aforementioned services are not obtainable in Argentina. A certificate to that effect is issued by the INPI.

In order to apply the 60% notional income rule, certain additional requirements must be met:

- the payment for the services must not be based on a royalty calculated by reference to the sales price or the production volume of licensed products or services;
- the payment must be in proportion to the duration or amount of work performed;
- the supplier must render specific, predetermined services involving the technical knowledge (as opposed to low value recurring services); and
- the services must not be rendered for needs that are general, unspecified or conditional upon the signing of the transfer of technology agreement.

Such services include: (i) engineering services and (ii) consulting services subject to registration, but only where such services involve technical knowledge applicable to the productive activity of the local company and the transfer of such knowledge to the company or its personnel by means of training and advisory services, detail of mechanical and technical procedures, supply of plans, reports and studies.

If the above-mentioned requirements are not met, but the technical assistance involves a transfer of technology and the relevant contract is registered with the INPI, the Argentinian-source notional income is 80% of the payments (*see* section 6.3.3.).

If the agreement is not registered with the INPI, the deemed taxable income is 90% of the payments. As notional income is subject to a 35% withholding tax, the effective rates on gross payments are 21%, 28% and 31.5%, respectively.

If the service is outside the scope of the Transfer of Technology Law, but it involves technical assistance, the notional income is 90% of the payment, so the effective tax rate is 31.5%.

6.3.4.3. Members of boards of directors

Payments to non-resident members of the board of directors of an Argentina-based enterprise are generally subject to withholding tax on 90% notional income at an income tax rate of 35%, resulting in an effective rate of 31.5% on gross fees. However, if the director works temporarily in Argentina for a period not exceeding 6 months in the tax year, Argentinian-source taxable income is presumed to be, without right of rebuttal, 70% of wages, fees and other remuneration paid to such person. This 70% notional income is subject to final withholding tax at a rate of 35%, resulting in an effective rate of 24.5% on gross wages or fees.

6.3.4.4. Branch tax

Remittances from a branch, agency or permanent establishment are subject to a 7% withholding tax in accordance with Law 27,430.

6.3.5. Withholding tax rates chart

This table provides the treaty withholding tax rates for dividend, interest and royalty. The corresponding domestic rates are also specified.

The treaty rate is directly applied if a certificate of residence is presented.

	Dividends		Interest[1]	Royalties
	Individuals, companies	Qualifying companies[2]		
	(%)	(%)	(%)	(%)
Domestic Rates				
Companies:	7	7	0/15.05/35	12.25/28/31.5[3]
Individuals:	7	n/a	0/15.05/35	12.25/28/31.5[3]
Treaty Rates				
Treaty With:				
Australia	15	10 [2]	12	3/10/15[4]
Belgium	15[5]	10[2,5]	0/12[5,6]	3/5/10/15[5,7]
Bolivia	_[8]	_[8]	_[8]	_[8]
Brazil	15	10[9]	15	10/15[10]
Canada	15	10[2]	0/12.5[11]	3/5/10/15[7,12]
Chile	15	10[2]	4/12/15[13]	3/10/15[14]
Denmark	15[15]	10[2,15]	0/12[15,16]	3/5/10/15[7,15]
Finland	15	10[2]	15	3/5/10/15[17]
France	15	15	20	18
Germany	15	15	10/15[18]	15
Italy	15	15	0/20[11]	10/18[19]
Mexico	15	10[2]	0/12[11,13]	10/15[20]
Netherlands	15[21]	10[2,21]	0/12[11,21,22]	3/5/10/15[7,21]
Norway	15[23]	10[2,23]	0/12/12.5[11,24]	3/5/10/15[7,23]
Qatar[25]	15[26]	10[2,26]	12	10
Russia	15	10[2]	15	15
Spain	15	10[2]	0/12[11,22]	3/5/10/15[27]
Sweden	15[28]	10[2,28]	0/12/12.5[29]	3/5/10/15[7,30]
Switzerland	15	10[2]	0/12[16,22]	3/5/10/15[7]
United Arab Emirates	5/15[31,32]	5/10[2,31,32]	12[33]	10
United Kingdom	15[34]	10[2,34]	0/12[11,16,22,34]	3/5/10/15[7,34]

1. Many treaties provide for an exemption for certain types of interest, e.g. interest paid by the government or to government institutions or to state-owned institutions, or in respect of commercial debt claims in the case of the supply of goods, in respect of a loan for development purposes or for the promotion of exports, etc. Such exemptions are not considered in this column.
2. The rate generally applies with respect to participations of at least 25% of capital or voting power, as the case may be.
3. The actual rate is 35%, but levied on 35%, 80% or 90% of the income, which results in the effective rates of 12.25%, 28% or 31.5%.
4. The 3% rate applies to news-related royalties. The 10% rate applies to copyrights, patents, lease of equipment; the supply of know-how or information; and technical assistance.
5. A most favoured nation clause may be applicable with respect to dividends, interest and royalties.
6. The lower rate applies, inter alia, to interest paid to banks and interest on commercial debt claims. Conditions may apply.
7. The 3% rate applies to news-related royalties; the 5% rate applies to copyright royalties (other than royalties related to films or tapes); the 10% rate applies to patents, trademarks, know-how, certain lease-related royalties and technical assistance.
8. The domestic rate applies; there is no reduction under the treaty. The source state has the exclusive right to tax.

9. The rate generally applies with respect to participations of at least 25% of capital held for a 365 day period that includes the day of payment of the dividend (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganization, such as a merger or divisive reorganization, of the company that holds the shares or that pays the dividend).
10. The 15% rate applies to royalties arising from the use of, or the right to use, trademarks, otherwise, the rate will be 10%. However, the 10% rate will only apply if (i) the contracts relating to the transfer of technology are registered or authorized according with the requirements of domestic law; and (ii) the beneficial owner of the payments for the use of, or the right to use, literary, dramatic, musical or any other artistic work, including software, is the author or his heirs; otherwise, the rate will be 15%.
11. The zero rate applies, inter alia, to interest paid by public bodies.
12. A most favoured nation clause may be applicable with respect to royalties.
13. The interest rates under the treaty are 4%, 12% and 15%. The 4% rate applies to interest from sales on credit (conditions apply), the 12% rate applies to interest derived from loans granted by banks and insurance companies and on bonds or securities that are regularly and substantially traded on a recognized securities market and the general rate under the treaty is 15%. However, by virtue of a most favoured nation clause, from 1 January 2019, the general rate is reduced to 12%. Under the Chile-Japan treaty the general rate for interest is 10%. However, due to a restriction in the MFN clause, the rate cannot be reduced below 12%. For further details, *see* Circular No. 27/2019 issued by the Chilean tax administration.
14. The 3% rate applies to news-related royalties and the 10% rate applies to copyright royalties (other than royalties related to films or tapes), patents, trademarks, know-how, certain lease-related royalties and technical assistance.
15. A most favoured nation clause may be applicable with respect to dividends, interest and royalties.
16. The zero rate applies to interest paid to banks and financial institutions (under certain conditions).
17. The 3% rate applies to payments for news; the 5% rate applies to copyright royalties (excluding computer software, cinematographic films, and works on film, videotape or other means for television or radio broadcasting); 10% for patents, equipment, software, know-how and technical assistance; and 15% for copyright royalties paid to someone other than the author or the author's *mortis causa* successor (including cinematographic films and works on film, videotape or other means for television or radio broadcasting).
18. The 10% rate applies to sales on credit of industrial, commercial or scientific equipment, and loans granted by a bank or for the financing of public works.
19. The 10% rate applies to copyright royalties.
20. The lower rate applies to any copyright royalties of literary, dramatic, musical, artistic or scientific work; any patents, designs and models, plans, secret formulas or processes, computer programmes, industrial, commercial or scientific equipment, and for information concerning industrial, commercial or scientific experience, as well as for the rendering of technical assistance services.
21. A most favoured nation clause may be applicable with respect to dividends, interest and royalties.
22. The zero rate applies in respect of sales on credit, purchase or importation (as the case may be) of industrial, commercial or scientific equipment (certain conditions may apply).
23. A most favoured nation clause may be applicable with respect to dividends and royalties.
24. The rate under the treaty is 12.5%. However, by virtue of a most favoured nation clause, the rate is reduced to 12%. Under the Argentina and Australia treaty, the rate is 12%.
25. Effective from 1 January 2022.
26. A most favoured nation clause may be applicable with respect to dividends.
27. The 3% rate applies to news-related royalties; the 5% rate applies to copyright royalties; the 10% rate applies to patents, trademarks, know-how, certain lease-related royalties and technical assistance.
28. A most favoured nation clause may be applicable with respect to dividends.
29. The rate under the treaty is 12.5%. However, by virtue of a most favoured nation clause, the rate is reduced to 12%. Under the Argentina and Denmark treaty, the rate is 12%.
30. A most favoured nation clause may be applicable with respect to royalties.
31. The lower rate applies if the beneficial owner is the government of the other contracting state.
32. A most favoured nation clause may be applicable with respect to dividends.
33. There is no taxation at source in case the interest is paid to the government of the other contracting state.
34. A most favoured nation clause may be applicable with respect to dividends, interest and royalties.

7. Anti-Avoidance

7.1. *General*

The main rules on general anti-avoidance are found in Law 11,683.

Argentinian domestic tax law establishes the rule of "economic reality" which may be considered a general anti-avoidance rule. Under that rule the tax authorities may challenge transactions where the legal form (e.g. corporate structures and agreements) does not appear consistent with the intended economic purpose or objective of the parties entering into the transaction.

On 1 July 2021, a joint statement was signed by Argentina with other Inclusive Framework members with an agreement on a new framework for international tax reform, including key elements for an agreement on both Pillar 1 and Pillar 2.

7.2. *Transfer pricing*

The main rules on transfer pricing are found in article 17 of the Income Tax Law.

Argentina had adopted the arm's length principle and other OECD transfer pricing principles. The Argentinian transfer pricing provisions establish five methods for transactions between related parties, namely the comparable uncontrolled price method, cost-plus method, resale price method, profit split method and transactional profit margin method. It is anticipated that forthcoming regulations may introduce additional methods. One of particular issue is that Argentinian rules include the "most appropriate method" principle.

The domestic legislation also adds an additional method, the "sixth method", applicable to the export of commodities entered with traders that are deemed to be related to the exporter in accordance with certain objective criteria described in the law. When this method applies, the export price for tax purposes is set in accordance with the relevant market (there is always at least one public market because that is one of the requirements for the application of this method) on the day the goods are loaded on to the means of transport used to ship the goods from Argentina. The price agreed by the parties only applies if it is higher than the market price.

Law 27,430 introduced an amendment to article 17 of the ITL to refine the application of the so-called sixth method. International intermediaries and traders must file a transfer pricing study when the intermediary is considered a related party to the domestic taxpayer. Further, when the international intermediary is resident of a non-collaborative jurisdiction or low-tax country, and is engaged in the export of commodities, the contract must be registered with a special registry that will be carried by the federal tax authorities. Failure to comply with these requirements will result in the export price being determined in accordance with the value of the commodity in the relevant public market at the day of loading of the vessel, and disregarding the actual contractual terms between the parties.

Transfer pricing rules apply to cross-border transactions between related parties and to transactions between unrelated parties if the foreign party is located in a non-collaborative or low tax jurisdiction.

Article 19 and 20 provide a legal definition of non-collaborative and low tax jurisdictions respectively.

A transaction between related parties takes place if Argentinian residents, not being individuals, undertake transactions with non-residents and both are managed or controlled directly or indirectly by the same persons, whether individuals or legal entities, or if the individuals or legal entities have the power to decide or define the activities to be carried out by the Argentinian residents and non-residents.

The related parties test is broad and includes not only transactions between a local subsidiary and its parent company, but also other relationships (e.g. local company and foreign subsidiary; local permanent establishment and foreign head office; and local company and foreign permanent establishment).

In cases involving transactions with a party located in a non-collaborative/low-tax jurisdiction, it is presumed with right of rebuttal that the transfer prices are not at arm's length. An arm's length range is first established. Then, if the prices, margins or profits as determined by the taxpayer fall within the range, the transactions are deemed to comply with the arm's length principle. Otherwise, the prices, margins or profits are deemed to be the median of the range, plus or minus 5%, depending on where the value determined by the taxpayer falls in relation to the median.

General Resolution (AFIP) 4717, as amended by General Resolution 5010 regulates the reporting rules and compliance in respect of documents that must be filed annually. Accordingly, resident taxpayers must file the Local File when total revenue derived from transactions with related parties exceeds ARS 3 million in the tax year or when dealing with parties established or resident in low-tax or non-cooperative jurisdictions provided that aggregated revenues of those transactions exceed ARS 3 million or individual transactions exceed ARS 300,000 in the tax year. A country-by-country (CbC) report and a Master File (for entities belonging to same economic group) must be filed. The latter is optional in certain cases, e.g. if the total revenue of the economic group for the year preceding the one reported does not exceed ARS 4 billion).

The Local File must be filed between the 23rd and 27th day (the exact date depending on the taxpayer's tax ID) of the 6th month following the closing of the tax year subject to report, while the Master File must be filed between the 23rd and 27th day (the exact date depending on the taxpayer's tax ID) of the 12th month following the closing of the tax year subject to report.

However, in view of the COVID-19 pandemic, the tax authorities have established special deadlines for filing the annual transfer pricing reports and forms required by General Resolution 4717/2020, related to tax years closed between 31 December 2020 and 31 December 2021.The special deadlines are between the 23rd and 27th day of the ninth month following that of closing of the fiscal year, the exact date depending on the tax ID of the taxpayer.

The country-by-country (CbC) reporting regime is regulated by General Resolution 4130, as amended, and is effective for fiscal years beginning as from 1 January 2017. The CbC rules are applicable to the ultimate parent entities with annual revenues for the preceding reporting period of EUR 750 million or more, or surrogate parent entities with a net worth of at least ARS 50 million.

Law 27,430 introduced a procedure for advance pricing agreements between the tax administration and the taxpayer for the purpose of establishing the transfer pricing methods to be used in the determination of the arm's length price in future transac-

tions between the taxpayer and related parties. The agreement is binding only to the taxpayer involved and the tax authority, but the results may eventually be exchanged with third countries under existing international conventions.

7.3. *Limitations on interest deductibility*

As a rule, interest on debt attributable to an income-generating activity is deductible (*see also* 1.3.3.1. and 1.3.3.2.). However, under certain circumstances, interest on the capital owned by the company, member or partner is not deductible.

Article 85 of the ITL (as amended by Law 27,430) establishes limitation on interest deductibility applicable to interest accrued in fiscal years started as from 1 January 2018. Interest whose deduction is subject to limitations is that accruing from "financial debt" (debt incurred to acquire assets or services related to the operation of the company is excluded) with related parties, whether resident or not. The deduction of such interest is limited to a yearly fixed amount of ARS 1 million (as provided by Decree 1170/2018) or 30% of EBITDA, whichever limit is higher.

The regime provides for a carry-back of 3 years and a carry-forward of 5 years in respect of interest that was not deductible when accrued, applying the FIFO method. Additionally, the regime does not apply to financial entities, certain financial trusts (*fideicomisos*) and certain companies providing operational leasing. Alternatively, a company may avoid the limitation of the deduction of interest if it can demonstrate that the annual charge of interest related to financial debt as compared to its taxable income is within or below the ratio determined by the economic group to which the company in question belongs.

Further, interest may be deducted without limitations if the company incurring the debt can demonstrate that the beneficiary of the interest paid the corresponding income tax on that interest. This alternative is subject to the following regulation as provided by Decree 1170/2018;

- if the beneficiary is a resident, the interest must be included in the respective annual tax return and taxed accordingly, and
- if the beneficiary is not resident, the interest must be effectively paid and subject to withholding tax.

7.4. *Controlled foreign company*

The main rules on controlled foreign company are found in article 130 of the ITL, as amended by Law 27,430.

Shareholders resident in Argentina must include in their taxable income the profits derived by a subsidiary resident of a foreign jurisdiction when the Controlled Foreign Company (CFC) regime applies.

A foreign subsidiary is considered CFC when: (i) the entity is controlled by resident shareholders, (ii) at least 50% of the earnings of the foreign entity are passive income, and (iii) the effective corporate taxation in the country of residence of that entity is below 75% of the tax that would be applicable in accordance with the Argentine corporate taxation regime.

Resident shareholders of CFC that become transparent, as provided by article 130 of the ITL, will have the foreign income treated as if it had been earned directly by the those shareholders for purposes of income tax. Consequently, the foreign income will be characterized in accordance to its original nature (e.g. interest, rent) instead of being characterized as anticipated dividend derived from the CFC.

Otherwise, the profits of the foreign entity are taxable in the hands of the shareholders when receiving the dividends.

Correspondingly, if Argentinian residents are shareholders in a CFC which has a direct or indirect participation in an Argentinian company, the dividends distributed by the CFC are not taxable in Argentina in so far as the Argentinian income tax has been paid by the original distributing company.

This exemption applies only if the CFC is located in a country not considered to be a non-collaborative or low-tax jurisdiction.

7.5. *Other anti-avoidance rules*

7.5.1. Tax havens

Articles 19 and 20 of the ITL, as amended by Law 27,430, provide a legal definition of non-collaborative and low-tax jurisdictions, respectively.

A non-collaborative jurisdiction is one that:

- does not have an agreement with Argentina to exchange tax information or a double tax convention with an updated clause to exchange tax information; or
- does have in place instruments like those mentioned above, but is not compliant in the effective exchange of information.

The tax authority provides a list of collaborative and non-collaborative jurisdictions at the following link: https://www.afip.gob.ar/jurisdiccionesCooperantes/default.asp.

A low-tax jurisdiction is the one where the applicable rate of corporation tax is below 15%. In this case, however, the threshold may be applicable not only to the entire country or jurisdiction, but also to the preferential regime.

Non-collaborative and low-tax jurisdictions are relevant for transfer pricing purposes, but also in connection with the deduction of expenses and other anti-avoidance measures.

7.5.2. Taxation of indirect transfers of assets located in Argentina

Article 15 of the ITL, as amended by Law 27,430, taxes non-residents on the transfer of shares or other participation in the capital of non-resident entities provided those entities own directly or indirectly assets located in Argentina.

To such end, the following conditions must be met:

- at least 30% of the market value of the participation in the foreign entity is determined by Argentinian assets; and
- the participation transferred amounts of at least 10% of the net worth of the non-resident entity.

The transfer of shares or participation within the same economic group is excluded from this anti-avoidance measure. “Same economic group” is defined as a transaction between entities that are at least 80% owned (directly or indirectly) by the same party.

7.5.3. Disclosure of tax planning schemes

General Resolution 4838 introduced a disclosure regime regarding tax planning schemes.

The disclosure regime applies in respect of tax planning schemes with a domestic or international scope, i.e. any plan, scheme, agreement or any other action from which the taxpayer derives a fiscal advantage or benefit. An advantage or benefit is defined as any reduction of the taxable base of the taxpayer or its related parties.

Domestic tax planning schemes refer to events taking place in Argentina relating to federal taxes and domestic information regimes. International tax planning schemes refer to cross-border situations (e.g. abuse of tax treaties, avoidance of permanent establishment status).

Taxpayers participating in the relevant plan or scheme and tax advisers that assist, promote or provide advice in connection to the reportable transactions (by themselves or through third parties) are obliged to report tax planning schemes through the tax authorities' website within the following deadlines:

- regarding domestic schemes, until the last working day of the month following that of the close of the taxpayer's fiscal year; and
- regarding cross-border schemes, within 10 days following the date of beginning of their implementation.

Aggravated sanctions apply in case of failure to comply with the disclosure regime.

8. Value Added Tax

8.1. *General*

The main rules on VAT are found in Law 20,631.

Argentinian VAT is a general value added tax levied on taxable supplies of goods and services, as well as on final imports of taxable goods and services into Argentina. Exports of goods and services are zero-rated. Some specified transactions are exempt.

8.2. *Taxable persons*

The main rules on taxable persons are found in article 4 of Law 20,631.

Taxable persons are individuals and legal entities making taxable supplies of goods or services. With regard to imports, the taxable person is any person carrying out the importation. A special regime applies for certain small taxpayers.

The concept of taxable persons specifically includes temporary joint ventures, consortia, associations not considered to be legal entities, groups not forming a company and any other entity engaging in taxable transactions.

Law 27,430, by amending Law 20,631, added as taxable persons non-resident who are suppliers of digital services to final consumers resident in Argentina.

8.3. *Taxable events*

The main rules on taxable events are found in article 3 of Law 20,631.

VAT is levied on: the sale of movable property located in Argentina by taxable persons; work, leasing and services specified in the law, provided that they are performed in Argentina; the final importation of movable property; and the use or exploitation in Argentina of services which are supplied abroad by non-residents to Argentinian taxpayers, provided that they are related to taxable transactions (i.e. the importation of services).

Law 27,430, by amending Law 20,631, added as a taxable event the supply of digital services by non-resident parties.

8.4. *Taxable amount*

The main rules on taxable amount are found in article 10 of Law 20,631.

VAT is levied on the net price of the taxable transaction, i.e. the invoice price less any discounts allowed under commercial practice. VAT and excise taxes are not included in the taxable amount. The value of services rendered together with the taxable transaction or as a consequence thereof, such as transportation, cleaning, packing, insurance, guarantees, installation and maintenance; financing expenses charged by the taxpayer, such as interest and commissions for deferred payments or payments in arrears; and the price of goods included in taxable services must be included in the taxable amount.

For imports, the taxable amount is equal to the customs value plus customs duties.

8.5. *Rates*

The main rules on rates are found in article 28 of Law 20,631.

The standard VAT rate is 21%. Reduced rates apply, such as, for example, the rate of 10.5% on supplies of certain food, dwellings, interest and medical services, and the rates of 5%, 10.5% and 21% for advertisements in digital newspapers (depending on the total sales amount).

An increased rate of 27% applies to supplies of telecommunication services, gas and electrical power and running water and sewage services. Immovable property is subject to VAT only in specific cases, depending on who has constructed the property.

Exports of goods and services are zero rated.

8.6. *Exemptions*

The main rules on exemptions are found in article 7 of Law 20,631.

There are two types of exemptions, namely:

- exemption without the right to deduct input VAT; and
- exemption with the right to deduct input VAT. Such exemptions are commonly referred to as zero rating.

Exempt supplies (without the right to deduct input VAT) include, inter alia: books (including electronic formats); retail distribution of newspapers and periodicals; shares, bonds and securities; gold coins, gold bars and other coins; medical services in specified cases; and transportation of persons and freight.

The Budget Law for tax year 2021 introduced a temporary VAT exemption for the importation of vaccines in connection with the COVID-19 pandemic. The exemption applies to the importation of vaccines by the Ministry of Health or the Pan American Health Organization (PAHO), which are comprised in article 7 of Law 27,491 (i.e. vaccines included in the National Calendar of Vaccination and those to be used in an epidemiologic emergency), and to disposables needed for their application. The exemption applies during the National Sanitary Emergency in 2020 and tax year 2021.

8.7. *Non-residents*

As a general rule, non-residents must register if they perform taxable transactions in Argentina. Law 27,346 amended the VAT Law in respect of services performed and works of construction done within the Argentine territory by non-resident persons. From 1 January 2017, the concept of taxable person was extended to include substitute taxable persons (i.e. the customer or the beneficiary of services performed and

work of construction done within the Argentine territory, as well as agents or intermediaries, who are residents in Argentina, including the national government, the provinces, the city of Buenos Aires, and entities exempted by the Income Tax Law). Substitute taxable persons have to calculate and remit the VAT on the services received, and therefore they have to be registered as taxable persons at the AFIP. Substitute taxable person can deduct the VAT on those services as input VAT in their VAT return.

The reverse charge mechanism is compulsory in cases of supplies of services performed abroad and used or exploited within the country by a taxable person whose status is derived from other taxable events. "Performed abroad" means that the service could be rendered without the supplier performing activities within the country (some ancillary activities taking place within the country such as meetings with customers would not alter this situation).

Decree 813/2018 established, with particular reference to the supply of services by non-residents, that their status (as non-resident) will be defined according to the amendment of the ITL (Law 27,430), which introduced a full definition of permanent establishment. Foreign suppliers will be considered residents for VAT purposes if (i) they are residents for income tax purposes or (i) they have a permanent establishment. Otherwise, they will be considered as non-residents. However, foreign suppliers may be considered as established for VAT purposes but not established for tax purposes if they operate from a fixed base within the country that does not qualify for permanent establishment.

A special situation is that of digital services provided by non-residents to final consumers (B2C transactions). For the digital service to be taxable in Argentina, article 1(e) of the VAT Law requires that the digital service is (i) supplied by a non-resident and (ii) used or effectively exploited within the Argentine territory by a final consumer or non-taxable person. The VAT is charged at the time that the supply is completed, or the consideration has been paid partially or in full, whichever occurs first. Article 27.1 of the VAT Law provides that the acquirer of digital services should remit the VAT or, when the service is paid through an intermediary (e.g. a credit card company, or a bank), the intermediary should act as withholding agent and remit the VAT to the tax authority.

9. Miscellaneous Taxes

9.1. *Capital duty*

There is no capital duty.

9.2. *Transfer tax*

9.2.1. Immovable property

The main rules on immovable property transfer tax are found in Law 23,905. The transfer of immovable property by resident corporate taxpayers is not subject to transfer tax; the tax applies only to individuals and non-resident persons, provided that the transaction is not subject to income tax (*see* Individual Taxation 1.6.). The transfer tax is levied on the transfer (for consideration) of title to Argentinian-situs immovable property, provided that the proceeds of the transaction are not subject to income tax. The tax is calculated on the transfer price at the rate of 1.5%.

The transfer of immovable property located in Argentina by non-residents is subject to a final withholding tax of 13.5% on the transfer price of the property.

See also section 9.3.1.

9.2.2. Shares, bonds and other securities

A stamp duty applies – *see* section 9.3.2.

9.3. *Stamp duty*

9.3.1. Immovable property

Transfers of immovable property are subject to stamp duty (levied by the federal capital and the provinces) on the value of the property stated in the sales contract, or the cadastral value, whichever is greater. The stamp duty paid on a previous promise to sell immovable property may be credited against the liability for the stamp duty on the final transfer of that property. In accordance with the 2021 Federal Fiscal Agreement, the tax rate may not exceed 3.5%.

9.3.2. Shares, bonds and other securities

Transfers of shares are subject to stamp duty provided generally that the transfer is made by a written agreement. In accordance with the 2021 Federal Fiscal Agreement, the tax rate may not exceed 2% for this type of transactions. In addition, jurisdictions may exempt certain transactions (e.g. transfer of listed shares).

9.3.3. Other transactions

Stamp duty applies to contracts and written agreements (e.g. procurement agreements and distribution agreements provided they are written agreements). Tax rates vary in accordance with the tax jurisdiction and the nature of the transaction. In general, the tax rate may not exceed 2% of the economic value of the agreement in accordance with the 2021 Federal Fiscal Agreement.

9.4. *Customs duty*

9.4.1. Import duties

The main rules on import duties are found in Law 22,405.

Import duties are levied at different rates depending on the type of imported good, e.g. for new capital assets, generally 0%; for raw materials, parts and pieces generally from 0% to 35%; and for consumable goods, generally from 0% to 35%. Duties are set by identifying goods by way of their harmonized code in the MERCOSUR Common Code (*Nomenclatura Común del Mercosur*, NCM), based on the Harmonized Commodity Description and Coding System (HS) for classifying goods and assigning tariffs.

9.4.2. Export duties

The main rules on export duties are found in Law 27,541, applicable as from 1 January 2020.

In general, the tax on exports may not exceed 33% of the taxable base or 33% of the free-on-board (FOB) price of the relevant goods. However, a 15% limit applies for goods that were not subject to export taxes on 2 September 2018. Additionally, the applicable rate may not exceed 5% for industrial goods or 8% for hydrocarbons and goods derived from mining.

9.5. *Excise duty*

Excise duty is levied (in only one stage) on the transfer and importation of goods specified by the excise duties law, and on the rendering of specified services. Taxable persons include producers, importers and merchants with respect to taxes on tobacco,

alcoholic beverages, wine, non-alcoholic beverages, syrup, extracts, cellular and satellite phone services, vehicles and motors, luxury objects, recreation and sports craft and spaceships.

Excise duty is normally calculated on the sales price including the excise tax itself and any other tax levied on the chargeable product except VAT. It is levied at ad valorem rates based on the price of goods or services, at rates which vary and range from 0.1% to 60%.

9.6. *Other taxes*

9.6.1. Tax on gross receipts

The Argentinian provinces, the City of Buenos Aires and all other jurisdictions levy local taxes on the habitual exercise of economic activities, known as the tax on gross receipts (*impuesto a los ingresos brutos*). The tax is levied on: receipts derived from the exercise of civil or commercial activities for the purpose of earning profits; professions; occupations; brokerage; and any habitual activities. Certain transactions are exempt from this tax, for example development of dependent work; discharge of a public office; liberal professions in certain jurisdictions; and exportation. The jurisdictions are currently expanding situations that would qualify as digital presence or domicile in order to levy a tax on digital commerce.

Internal double taxation of activities developed by one taxpayer in several jurisdictions is avoided under a multilateral agreement which provides for the allocation of the taxable base among the jurisdictions concerned.

As a general rule, the tax is levied on gross receipts accrued during the tax period (i.e. the calendar year) and derived from the development of the activity taxed by the applicable law. In certain cases, special provisions provide for taxation on a cash basis (e.g. taxpayers for whom bookkeeping is not compulsory). There are also instances in which the tax is calculated on the difference between the purchase and sales prices (e.g. certain fuel and tobacco products). Special rules are also established for the computation of the taxable base in certain cases such as banks, insurance companies, foreign exchange and news agencies.

Certain items are excluded or deducted from the taxable base, for example output VAT and excise duty.

Rates vary by province and activity. However, under the 2021 Federal Fiscal Agreement signed between the provinces and the federal state, the rates must not exceed certain percentages ranging from 0.75% (for farming and fishing) to 9% (for financial services).

9.6.2. Tax on debits and credits on bank accounts

Law 25,413, established a tax on credits to and debits from (i.e. deposits in and withdrawals) bank current accounts. The tax is assessed and collected by the financial entities with which such accounts are registered. The individuals or entities holding such accounts bear the tax.

In general, the base for the tax is the gross amount of credits and debits, excluding additional expenses relating to these transactions. The general tax rate is 0.6%. The application of special rates of 1.2%, 0.5%, 0.25%, 0.075%, 0.05% and 0.01% depends on the subject and/or the transaction. For example, a 1.2% rate applies in the case of debits on bank accounts resulting from cash withdrawals. The increase does not apply to bank accounts owned by individuals and by businesses that qualify as micro or small enterprises as provided in article 2 of Law 24,467, as amended.

Another example of special rates was introduced by the Budget Law for year 2021, which reduced the rate of the tax from 0.6% to 0.25% for companies in which the federal state holds at least 80% of the capital. The reduction is effective for taxable events taking place as from 14 December 2020.

Certain transactions are exempt from this tax, for example transfers of funds to checking accounts (excluding transfers made by cheque) in respect of the same entity or individual effecting the transfer, debits and credits related to the transfer of title of immovable property and debits in respect of the payment of this tax, among others. Other exemptions may apply (e.g. accounts used exclusively by airline companies to deposit amounts collected from passengers in connection with charges for the use of airports, security and the tax on airline tickets). However, under Decree 796/2021, the Executive Branch established that exemptions will not apply in cases where the movement of funds relates to the acquisition, sale, trade, intermediation or any other similar transaction related to crypto assets, cryptocurrencies, digital currency or similar instruments.

In order to provide equal tax treatment for payments made through electronic wallets and payments made using bank current accounts, the Executive Branch through Decrees 301 and 796 of 2021 has amended the taxable events to include the so-called electronic wallets, as defined by Communiqués A 6885 and A 6859, and payment services provided by companies falling within the framework established by Communiqué A 7153 of the Central Bank, respectively. Applicable tax rates are the same as those applied to bank accounts (i.e. 0.6% on debits and 0.6% on credits) and reduced rates also apply accordingly.

9.6.3. Tax on the exploitation of betting machines

On 27 December 2016, Law 27,346 established a new tax on the exploitation of betting machines or terminals.

The tax applies on bets made in the Argentine territory through electromechanical terminals in authorized places (e.g. casinos, bingos).

Taxpayers are enterprises (irrespective of their legal form) exploiting those devices. The tax must be paid on a cumulative basis every 2 weeks, in accordance with regulations established by Decree 179/2017 and the AFIP's General Resolution 4036-E. The tax is effective from 1 January 2017 and is levied at the rate of 0.95% on the amount of each bet.

9.6.4. Tax on online gambling

On 27 December 2016, Law 27,346 established a new federal tax on gambling on the Internet, effective from 1 January 2017.

The tax applies on gambling and bets made from the Argentine territory through any digital platform available on the internet irrespective of the place where the servers are located or the system is operated.

Taxpayers are individuals engaged in gambling. However, the tax is to be collected and paid to the tax authorities by any intermediary facilitating the payment of the activity (e.g. credit card issuers) on a cumulative basis every 2 weeks, in accordance with regulations to be established by the federal tax authorities.

The Budget Law for year 2021 introduced amendments to the tax by establishing that, in order to identify the location of the person gambling, the bet will be considered to have been made in Argentina if the mobile phone, invoicing address of the customer,

bank account or credit card used to make the relevant payments, or the client associated with them, is located in Argentina. The Budget Law for 2021 also increased the rate of tax on online gambling from 2% to 5%, which is applied on the gross amount of each bet. Nonetheless, the new headline rate will be increased to 10% in cases where a non-resident participates directly or indirectly in the exploitation of the gambling platform, and to 15% when the non-resident is located in a low-tax or non-cooperative jurisdiction as defined by the Income Tax Law. Both measures are effective as from 15 December 2020.

9.6.5. Liquid fuel and carbon dioxide tax

The tax is levied on importers and companies producing or refining fuels and any other type of combustibles derived from hydrocarbons directly or through third parties, as well as those producing mineral coal. The tax is established as a fixed amount per litre or kilogram depending on the nature of the taxable product.

9.6.6. Tax on purchase of foreign currency

Law 27,541, implemented by Executive Branch's Decree 99/2019, established a tax on the purchase of foreign currency applicable for 5 years as from 23 December 2019.

The taxable events are: (i) the acquisition of foreign currency for the purpose of savings; (ii) the payment of travel expenses; (iii) the payment of services rendered by foreign parties (typically streaming services); and (iv) the payment of goods acquired abroad with credit and debit cards and other equivalent payment systems.

Taxable persons are resident individuals and resident legal entities. However, the tax will be collected by intermediaries (credit and debit card issuers, or financial entities selling the foreign currency or making the payments), as implemented by General Resolutions (AFIP) 4659 and 4815.

The applicable tax rate is 30%; however, the payment of streaming services is subject to a reduced rate of 8%. The taxable base is the amount of foreign currency converted to ARS.

The purchase of foreign currency is exempt if the purchase is made for the payment of (i) medical services, medicines and books; (ii) expenses related to research projects carried out within the state (federal, provincial or municipal) or by universities; and (iii) expenses of travel by land to bordering countries.

A surcharge (*percepción*) applies to acquisitions of foreign currency carried out as from 16 September 2020. The surcharge applies to transactions subject to tax on the purchase of foreign currency. Intermediaries (i.e. financial entities authorized to operate in the foreign currency market, entities issuing debit and credit cards, and travel agents) are withholding agents for the purpose of this surcharge. Intermediaries must determine the surcharge by applying a 35% rate to the same taxable base of the tax on the purchase of foreign currency (before tax).

The surcharge will be considered a payment on account of the income tax or the personal assets tax of the tax year where the surcharge is withheld by the intermediary. Companies and individuals that are not taxpayers of income tax or personal assets tax, or that are not required to file tax returns of the relevant taxes may apply for a reimbursement at the end of the relevant tax year.

9.6.7. Tax on digital services

The City of Buenos Aires applies a 2% tax on digital services provided by non-residents through internet or any adaptation of internet technology. In order to deem the activity performed in the City of Buenos Aires, the service should produce economic effects in the territory or establish a connection with individuals, entities or assets located or placed in the City.

The taxable base is the price charged for the service without VAT.

The tax is generally paid through financial intermediaries (credit card companies and other payment services) that add the tax (*percepción*) to the price charged by the supplier.

However, on 1 July 2021 and 8 October 2021, Argentina signed joint statements with other Inclusive Framework members as part of an agreement on a new framework for international tax reform. This includes key elements of Pillar One (taxation of digitalized economy) and the statement that a multilateral instrument for its implementation would be opened for signature in 2022 and be effective in 2023.

ARGENTINA

This chapter is based on information available up to 15 January 2022.

Introduction

Resident individuals are subject to income tax on their worldwide income. Employees, independent contractors and entrepreneurs must contribute to the social security system. Non-residents are taxed only on income sourced in Argentina.

Taxation of capital gains depends on the person, activity and property involved. Capital gains from financial investments and alienation of intangibles are, in general, subject to tax.

There is no ring-fencing regime.

On 1 July 2021 and 8 October 2021, Argentina signed joint statements with other Inclusive Framework members as part of an agreement on a new framework for international tax reform (key elements for a two-pillar agreement).

The currency is the Argentinian peso (ARS).

The federal tax authority responsible for the administration and collection of taxes is the *Administración Federal de Ingresos Públicos* (AFIP).

1. Individual Income Tax

Resident individuals are subject to income tax on their worldwide income. Income tax on individuals is levied at progressive rates. There are no special regimes applicable to individuals.

1.1. *Taxable persons*

The main rules concerning taxable persons are found in articles 30, 35 and 116-118 of the Income Tax Law (ITL).

Taxable persons include individuals and estates.

For income tax purposes, the following persons are deemed to be residents:

- nationals, unless they have lost their residential status by becoming resident of another country or by residing outside Argentina for at least 12 months;
- nationals who are government employees working abroad for the state;
- foreign nationals who reside in Argentina with a permanent visa (for immigration purposes) or with a temporary visa for at least 12 months; and
- estates where the deceased individual was a resident at the time of death.

The following are deemed not to be residents and thus subject to tax only on Argentinian-source income (but taxed under the rules for assessing income applicable to residents):

- foreigners who are resident in Argentina for work purposes for less than 5 years;
- foreign members of diplomatic or consular missions and the technical or administrative personnel of such missions who were not residents at the date they were appointed to such positions;
- foreign members of international organizations who were not deemed to be residents at the date of commencing their activities; and

- foreigners who stay in Argentina with a temporary visa for studying or researching, so long as their only remuneration is in the form of a scholarship or other similar consideration.

The ITL also contains rules on dual residence similar to the tiebreaker rules under article 4 of the OECD Model Treaty, which apply in determining the residence of an individual who became resident in another country (after losing status as an Argentinian resident) and who then returns to Argentina with the purpose of remaining in Argentina. In these situations, the tax authorities have provided a definition of the terms "permanent home" and "centre of vital interests" to be applied in situations where a treaty does not apply.

Spouses file separate returns. Income is allocated to each party in accordance with their respective earnings as derived from personal work or from assets owned. Only when direct attribution is indeterminable, the allocation is made in halves.

Owners or partners of a sole proprietorship or a general partnership must include their share of the entity's taxable income in their taxable base. There is no tax at the entity level.

There is no domestic legislation concerning trusts, but foreign trusts are recognized by Argentine law. However, the *fideicomiso* established by the Civil and Commercial Code is a contract that sometimes is used as an alternative to a trust. For tax purposes the *fideicomiso* is treated as a corporate subject.

1.2. *Taxable income*

1.2.1. General

The main rules regarding taxable income are found in articles 2, 44, 48, 53 and 82 of the ITL.

Resident individuals and estates are subject to income tax on their worldwide income. For income tax purposes, the concept of income includes:

- income and gains that are periodically produced by a permanent source;
- capital gains from the alienation of movable property subject to depreciation;
- capital gains from the alienation of shares and other participation interests in the capital of companies, bonds and other securities representing debt claims;
- capital gains derived from the transfer of immovable property; and
- any other income from the categories mentioned below such as alienation of trademarks, patents and any other right to earn a royalty or income flow.

The ITL specifies four categories of income sources. Losses may be offset only with profit of the same nature (i.e. the offsetting of losses is allowed within the same "box").

The purpose of this categorization is to further define the concept of taxable income (although some items may be later treated as exempt income) and to specify the corresponding deductions and allowances. Each category of income has specific deductions (e.g. tax on land or depreciation in the case of immovable property or business expenses in the case of the third category of income, etc.). The net income resulting from each category is added up (if an individual earns income from more than one category) and the general and personal allowances are subtracted from that sum, resulting in the taxable base, which is subject to progressive tax rates.

First Category Income: income from immovable property (not being Third Category income, *see* below). This category includes rental income and any other income realized from the ownership of immovable property.

Second Category Income: income from capital assets (not being Third Category income, *see* below). This category includes:

- income from securities, bonds, treasury bills, debentures, guarantees, financing and loans;
- income from the lease of movable property;
- royalties and periodic subsidies;
- life pensions and gains or participations in life insurance;
- compensation for a promise to abstain from doing something, to abandon or to prevent performing an activity. However, such income is included in the Third or Fourth Category, as the case may be, when the abstention relates to a business, industry, profession, occupation or employment;
- gains from the alienation of goodwill, trademarks, patents and any other right to earn a royalty or income flow;
- alienation of shares, quotas and any other participation interest in the capital of companies, bonds and securities in general; and
- gains from the alienation of immovable property and rights derived from immovable property.

Third Category Income: income derived by enterprises. This category includes income derived by/from:

- a proprietorship located in Argentina;
- partners from their partnership or membership in other transparent entities;
- the activities of commission agents, auctioneers, consignees and other trade agents not specifically included in the Fourth Category;
- the transfer of immovable property;
- *fideicomisos*; and
- income not included in other categories.

Fourth Category Income consists of income from employment and personal work such as:

- earnings from public positions of authority;
- employment earnings;
- retirement earnings;
- professional earnings;
- earnings from the rendering of personal services to cooperative societies;
- the earnings of directors, managers and executives of corporations; and
- the earnings of brokers, travel agents and customs agents.

1.2.2. Exempt income

The main rules concerning exempt income are typically found in article 26 of the ITL.

Income exempt from individual income tax includes:

- gifts, inheritances and legacies;

- income subject to the tax on games and sporting events;
- gains from the sale, exchange, barter or disposal of shares and quotas in mutual investment funds, obtained by resident individuals and undivided estates, provided the securities are authorized for quotation on stock exchanges in Argentina and the transactions are made through those markets. This exemption does not cover income derived by commission agents, auctioneers, consignees and other trade agents and capital gains derived by individuals from frequent securities trading;
- royalties and other income from copyrights derived by the author or the author's heirs, up to an annual amount of ARS 10,000;
- interest accrued on savings accounts, special savings accounts and fixed-time deposits in ARS made in authorized financial institutions, with or without adjustment for inflation clauses;
- interest derived from government bonds, commercial paper (*obligaciones negociables*), and certificates of participation and debt notes issued by financial trusts (*fideicomisos financieros*) quoted in the Argentine stock exchange market;
- interest or income derived from financial instruments denominated in ARS created by the Executive Branch with the aim of promoting productive investments, if established as such by the relevant legislation, as provided by Law 27,638;
- capital gains from the sale, exchange, barter or disposal of government bonds, commercial paper (*obligaciones negociables*), and certificates of participation and debt notes issued by financial trusts (*fideicomisos financieros*) quoted in the Argentine stock exchange market;
- compensation obtained by medical doctors and all level of assistance, whether professional or technical, and any other auxiliary personnel for time spent in mandatory service at public hospitals or public health centres located in areas deemed risky or "unfavourable";
- severance payment not exceeding a certain threshold (*see* section 1.3.1.);
- the notional rent of the house used as a family or personal dwelling;
- capital gain derived from the transfer of title of the house used as family or personal dwelling;
- compensation or reimbursement received by teleworking employees for connectivity expenses and for any other additional expenses incurred in relation to remote working (the amount of such compensation is to be determined through collective bargaining with representative unions);
- productivity bonus and similar compensation derived by employees with a monthly gross salary not exceeding ARS 300,000, with an annual cap equivalent to 40% of the basic personal allowance;
- special compensation items established by article 57 of Law 19,101 (related to risky activities, levels of education, specialization, etc.) for active military personnel; and
- the 13th annual salary for employees with a monthly gross salary below ARS 175,000.

Article 28 of the ITL limits, as a general rule, the tax exemptions to be enjoyed by non-residents when the Argentine tax renouncement is not matched by the non-resident home state. However, where there is an applicable tax treaty between Argentina and the country involved in the transaction, the treaty rules apply and as a result the income may be tax exempt in Argentina. In addition there are some items that do not follow the general rule (i.e. are not limited by article 28 and therefore are exempted),

e.g. exemptions granted to non-residents from capital gains derived from trading quoted shares (in Argentina) and (Argentine) government bonds, and interest derived by government bonds.

1.3. *Employment income*

1.3.1. Salary

The main rules on taxation of salaries are found in article 82 of the ITL.

Salaries are included in the individual's total income and taxed under the general rules. Salaries are subject to withholding tax at the progressive rates (*see* section 1.9.1.) under the ITL. The tax withheld is final for taxpayers who receive only employment income and do not choose to register with the tax authorities (*see* section 1.10.2.). General Resolution (AFIP) 4003-E, as amended, regulates the withholding regime.

With regard to deductible expenses or costs that reduce the taxable base, the general principle provided by article 83 of the ITL, and applicable to all categories of income, is that all expenses that are "necessary" (a term that has led to some doctrinal and jurisprudential debates) to obtain and maintain taxable income are deductible. The case of salaries, in particular, due to their nature, provides a very narrow scope for deductible expenses. However, there is some case law allowing the deduction of professional attire in the case of a television reporter, as well as cases where expenses deemed "necessary" to treat clients (e.g. meals) were allowed as a deduction.

Severance payment is tax exempt in general. However, severance payment received by "high rank employees" in excess of the minimum legal established by the Labour Law is taxed. To such end, Decree 976/2018 established the conditions to characterize the high-rank position of the employee as follows:

- earning a monthly salary exceeding 15 times the minimum salary (*salario mínimo, vital y móvil*) – as regulated by the Labour Law at the time of the termination of employment; and
- holding, at any time in the 12 months prior to the termination date, executive or management positions with the capacity to make decisions and execute the policies established by the shareholders or the board of directors of the company, or a similar governing body.

In order to further clarify the treatment of severance payments, the tax authorities have issued an interpretation through Circular 4/2021 in accordance with the powers conferred by Decree 618/1997. Three different situations been have addressed, as follows:

- payments made to employees other than "high-rank employees" are deemed to be outside the scope of income tax and are therefore not subject to withholding tax by the employer in accordance with General Resolution 4003;
- payments made to "high-rank employees" are subject to tax, with the employer having a withholding obligation, in accordance with the regime established by General Resolution 4003, on any excess above the mandatory indemnifications established by article 245 of the Labour Law (which are exempt); and
- items accrued during the employment relationship and paid upon its termination, such as the 13th-month salary, regular bonuses, compensation for failure of advance notification (of the termination of employment), postponed salaries, among other things, are subject to tax and to the withholding tax regime mentioned above even if they are not expressly identified or are subsumed in a different caption or name.

1.3.2. Benefits in kind

The main rules on taxation of benefits in kind are found in article 82 of the ITL.

Benefits in kind are fully taxable and are added to the individual's income taxable base. In general they are valued by reference to market prices or the actual value of the benefit granted. Benefits in kind include education of the taxpayer's children, rent-free accommodation, lodging and holiday travel allowances, car expenses, and personal expenses paid by company credit card. However, clothes and equipment provided by the employer to be used by the employee while performing their duties is considered outside the scope of the tax. The same applies to kindergarten expenses reimbursed by the employer for children up to 3 years old, in so far as the employer has no equivalent facilities and the employee provides adequate documentation of the outlays. The same tax treatment applies to the purchase of learning tools for the employee's children and training courses taken by the employee limited to 40% of the basic personal allowance, as provided by Law 27,617.

With respect to employee compensation consisting of stock purchase options for shares of the employer or of any other company in the same group, the difference between (i) the acquisition cost and (ii) the stock exchange quotation or, if not available, the proportional value of the company's net worth at the date the option is exercised, is deemed to be employment income and therefore taxable.

1.3.3. Pension income

The main rules on taxation of pension income are found in article 82 of the ITL.

Retirement pensions and retirement compensation are included in the individual's total income and are taxable under the general rules.

Contributions to pension funds are deductible provided the fund is a scheme organized and administered by the federal state, provinces or municipalities.

1.3.4. Directors' remuneration

The main rules on taxation of directors' remuneration are found in articles 82 and 91 of the ITL.

Directors' fees which qualify as subject to tax (not exceeding the limits established under the ITL: the greater of 25% of accounting profits of the tax period or a fixed sum per recipient of the fees (in general ARS 12,500 but increased to ARS 17,500 if the recipient is a woman and to ARS 20,000 if the recipient is a transgender person) are included in the individual's total income and are taxed under the general rules. Fees exceeding these limits are not subject to tax provided that the company paying the fees pays corporate income tax in the tax year to which the fees correspond.

1.4. *Business and professional income*

Business and professional income is treated as Third Category income and generally taxable under the general rules.

1.4.1. Business income

The main rules on taxation of business income are found in articles 53, 73,127 and 130 of the ITL.

Net business income derived by individuals is included in their taxable base and taxed at the income tax rates applicable to any other type of income subject to income tax. Expenses incurred to obtain and maintain the taxable income are deductible.

The owner or partner of a sole proprietorship or a general partnership must include his share in the entity's taxable income in his taxable base. There is no tax at the entity level. Civil companies (*sociedades civiles*) used to be subject to the same tax treatment but are no longer included in the new Civil and Commercial Code in force from 1 August 2015 (enacted by Law 26,994).

Resident shareholders must include in their taxable income the taxable profits derived by a company resident in a low-tax jurisdiction from dividends, interest, royalties, leases and other passive income in accordance with the controlled foreign company (CFC) legislation and provided that the conditions for application of this legislation are met (*see* Corporate Taxation section 7.4.). Otherwise, profits derived by the foreign entity are taxable only when distributed.

1.4.2. Professional income

The main rules on taxation of professional income are found in article 82 of the ITL.

Income from independent personal services is included in the individual's total income and taxed under the general rules. Expenses incurred to obtain and maintain the taxable income are deductible.

Income from independent work is also subject to withholding tax at source if it exceeds ARS 16,830 in any 1-month period in accordance with General Resolution 830 as amended. The tax withheld may be credited against the annual income tax or the monthly advance payments. The general withholding rate for professional income depends on whether the recipient is registered with the tax authorities or not:

- if registered, the rates are progressive and range from 9% to 31%; and
- if not registered, the rate is 28%.

1.5. *Investment income*

The main rules on taxation of investment income are found in articles 94, 73, 48 and Title IV, Chapter II of the ITL.

Dividends derived from resident companies are taxed at a 7% rate on distribution of profits from fiscal years started from 1 January 2018. Distribution of profits accrued in previous fiscal years is exempt. The tax on dividends is withheld by the distributing company.

Dividends derived from non-resident companies are taxed as ordinary income at progressive rates (*see* section 1.9.).

Interest is taxed, except when accrued in saving accounts, special savings accounts and fixed-time deposits in ARS made in authorized financial institutions, including deposits in ARS with an adjustment for inflation clauses.

Royalties are considered ordinary income, but special rules govern the expenses that may be deducted. Residents that habitually develop research in order to obtain assets which may produce royalties must calculate their income under the rules applicable to companies (Corporate Taxation) and not under the rules in this section.

Income from immovable property is included in the recipient's taxable income.

For foreign-source investment income, *see* section 6.1.1.

1.6. *Capital gains*

The main rules on taxation of capital gains are found in articles 44, 48, and 99 of the ITL.

Taxation of capital gains derived by resident individuals depends on the person, activity and property involved.

Capital gains subject to tax are the following:

(1) capital gains derived from immovable property that is subdivided for urbanization purposes;

(2) capital gains derived from immovable property built and sold according to Law 13,512 (horizontal property buildings);

(3) gains derived from the transfer of title of immovable property acquired after 1 January 2018, other than the one used as dwelling by the taxpayer, or for the transfer of any right derived from immovable property (e.g. usufruct);

(4) capital gains derived from the alienation of goodwill rights, trademarks and patents;

(5) capital gains derived from the transfer of movable depreciable assets; and

(6) gains from the alienation (e.g. sale, exchange or barter) of shares (except shares listed and traded through authorized stock-exchanges), as well as the transfer of title of quotas and any other participation interest in the capital of companies. Gains derived from financial instruments denominated in ARS and created with the purpose of promoting investments in domestic currency as provided by Law 27,638 are exempt.

Capital gains described in categories (1), (2), (4) and (5) are subject to tax as ordinary income. Capital gains described in categories (3) and (6) are subject to income tax at the rate of 15%. Capital gains on government bonds are exempt.

The alienation of immovable property outside the scope of income tax (e.g. transfer of the dwelling of the taxpayer or transfer of title of immovable property acquired before 1 January 2018) remains subject to the tax on the transfer of immovable property, as provided by Law 23,905. The tax is calculated on the transfer price at the rate of 1.5% (for the transfer tax, *see* Corporate Taxation 9.2.1.).

1.7. *Personal deductions, allowances and credits*

The main rules on personal deductions, allowances and credits are found in articles 23, 30, 83, 85, 86 and 165 of the ITL.

The income tax levied on individuals and estates is calculated on their total income subject to tax, less applicable deductions and allowances. Income derived through partnerships and other transparent entities is included in taxable income and reported by partners on a net basis (income derived by partnerships is computed under the general income tax rules, i.e. gross income minus applicable deductions).

1.7.1. Deductions

In computing taxable income, resident individuals may deduct expenses that are necessary to obtain income or maintain or preserve the source of income, as well as certain expense allowances as described below.

The following annual allowances are applicable:

- gifts to the government and eligible institutions: up to 5% of the taxpayer's net taxable income derived during the year under certain conditions;
- contributions to pension funds – *see* section 1.3.3.;
- contributions to private retirement schemes authorized by the National Superintendence of Insurance (*Superintendencia de Seguros de la Nación*) and amounts paid for the acquisition of quotas in mutual funds conceived for retirement purposes as regulated by the Securities and Exchange Commission (*Comisión Nacional de Valores*) up to ARS 24,000;
- funeral expenses: up to ARS 996.23;
- qualifying life insurance premiums (life insurance and mixed life insurance) up to ARS 24,000;
- premiums for additional health insurance for the taxpayer and his dependants: up to 5% of net income;
- mandatory social security contributions to the pension fund system: 100% of the contributions;
- medical expenses: up to the lower of 40% of those expenses and 5% of the taxpayer's net income;
- interest on mortgages on the taxpayer's occupied dwelling: up to an annual limit of ARS 20,000;
- consideration for the services and social security contributions paid to servant/housekeeper, up to an annual limit of ARS 252,564.84 (for 2022);
- compensation for overtime if work is performed during holidays and weekends; and
- 40% of the rent paid for a dwelling subject to a cap of ARS 252,564.84 and provided that the taxpayer owns no real estate.

1.7.2. Allowances

In computing taxable income, resident individuals may deduct certain family and personal allowances as described below.

For tax year 2022, the following fixed annual allowances are applicable:

- with respect to family allowances:
  - dependent spouse and qualified partners: ARS 235,457.25;
  - children[1] (biological or adopted under 18 years old): ARS 118,741.97; and
  - children (disabled): ARS 237,483.94;
- with respect to personal allowances:[2]
  - basic personal allowance: ARS 252,564.84; and
- with respect to special allowances:[3]
  - employees: ARS 1,212,311.24;

1 This is the total amount to be deducted for each child; either 100% of the amount by one parent or 50% of the amount by each parent, as provided by General Resolution 4286.

2 In the case of pensioners, this allowance is replaced by a specific allowance equivalent to six minimum guaranteed pensions, provided that the pensioner has no income other than the pension and he does not exceed the threshold for being liable to personal assets tax.

3 In the case of pensioners, this allowance is replaced by a specific allowance equivalent to eight minimum guaranteed pensions, provided that the pensioner has no income other than the pension and does not exceed the threshold for being liable to personal assets tax.

- self-employed (only if the taxpayer pays the annual social security contribution before filing a tax return): ARS 505,129.66;
- self-employed "new entrepreneurs" and "new professionals": ARS 631,412.12; and
- the special allowance for employees is increased as necessary so that monthly salaries of up to ARS 175,000 will accrue no income tax liability.

For tax year 2021, the following fixed annual allowances were applicable:

- family allowances:
  - dependent spouse and qualified partners: ARS 156,320.63;
  - children[4] (biological or adopted under 18 years old): ARS 78,833.08; and
  - children (disabled): ARS 157,666.16.
- personal allowances:[5]
  - basic personal allowance: ARS 167,678.40;
- special allowances:[6]
  - employees: ARS 804,856.34;
  - self-employed (only if the taxpayer pays the annual social security contribution before filing a tax return): ARS 335,356.79;
  - self-employed "new entrepreneurs" and "new professionals": ARS 419,196.02; and
  - the special allowance for employees is increased as necessary so that monthly salaries of up to ARS 150,000 will accrue no income tax liability.

The allowances and tax brackets are to be updated on a yearly basis in accordance with an index reflecting the average increase in workers' salaries.

1.7.3. Credits

Taxes withheld at source as advance payments (*see* sections 1.4.2. and 1.9.2.) and other advance payments may be credited against the amount of tax due.

Foreign income tax paid on foreign-source taxable income may be credited by a resident against his Argentinian income tax liability. The credit is limited to the increase in the Argentinian tax arising from the computation of the foreign-source income (*see* section 6.1.3.).

1.8. *Losses*

1.8.1. Ordinary losses

The main rules on ordinary losses are found in article 25 of the ITL.

Losses incurred in a year may be carried forward to be set off against taxable income of other fiscal years, up to 5 years from the year in which the loss was incurred. Losses may not be carried back.

4 This is the total amount to be deducted for each child, either 100% of the amount by one parent or 50% of the amount by each parent, as provided by General Resolution 4286.

5 In the case of pensioners this allowance is replaced by a specific allowance equivalent to six minimum guaranteed pensions, provided the pensioner has no income other than the pension and does not exceed the threshold to become liable to personal assets tax.

6 In the case of pensioners, this allowance is replaced by a specific allowance equivalent to eight minimum guaranteed pensions, provided the pensioner has no income other than the pension and does not exceed the threshold for being liable to personal assets tax.

Losses incurred in derivative transactions (excluding hedging transactions) may only be set off against income from derivative transactions in the same tax period or in the following 5 years.

1.8.2. Capital losses

The main rules on capital losses are found in article 25 of the ITL.

Losses incurred by persons to whom Third Category rules apply upon the alienation of shares, ownership interests in companies or shares in common investment funds, may only be set off against net income derived from the alienation of similar property. Such losses may be carried forward up to 5 years from the year in which the loss was incurred, to be set off against income derived in other years from the same type of transaction.

1.8.3. Foreign-source losses

The main rules on foreign-source losses are found in article 25 of the ITL.

Losses from activities which could generate foreign-source income may only be offset against foreign-source income. These losses may be carried forward for 5 years. There is a further limitation for foreign-source capital losses from the disposal of shares or other participations in investment funds or similar entities. Such losses may be set off only against capital gains from the same activity.

1.9. Rates

1.9.1. Income and capital gains

The main rules on applicable rates on income and capital gains are found in article 94 of the ITL.

Resident individuals are subject to income tax at the following progressive rates applicable for tax year 2022:

Taxable income (ARS)			Tax due on lower limit (ARS)	Marginal rate on the excess (%)
Up to		97,202.00	0	5
97,202.01	-	194,404.01	4,860.10	9
194,404.02	-	291,606.01	13,608.28	12
291,606.02	-	388,808.02	25,272.52	15
388,808.03	-	583,212.02	39,852.82	19
583,212.03	-	777,616.02	76,789.58	23
777,616.03	-	1,166,424.03	121,502.50	27
1,166,424.04	-	1,555,232.07	226,480.66	31
Over		1,555,232.07	347,011.16	35

Resident individuals are subject to income tax at the following progressive rates applicable for tax year 2021:

Taxable income (ARS)			Tax due on lower limit (ARS)	Marginal rate on the excess (%)
Up to		64,532.64	0	5
64,532.65	-	129,065.29	3,226.63	9
129,065.30	-	193,597.93	9,034.57	12
193,597.94	-	258,130.58	16,778.49	15

Taxable income (ARS)			*Tax due on lower limit (ARS)*	*Marginal rate on the excess (%)*
258,130.59	-	387,195.86	26,458.39	19
387,195.87	-	516,261.14	50,980.79	23
516,261.15	-	774,391.71	80,665.80	27
774,391.72	-	1,032,522.30	150,361.06	31
Over		1,032,522.30	230,381.54	35

The income of resident individuals is not subject to surcharges or surtaxes.

Capital gains derived from the alienation of real estate are subject to a 15% fixed rate on the net gain.

Domestic dividends are subject to a final tax of 7% (*see* section 1.5.) withheld by the paying entity. Such treatment applies irrespective of whether or not the beneficiary is a resident individual.

1.9.2. Withholding taxes

The main rules on withholding taxes are found in article 49 and 50 of the ITL.

Dividends derived from resident companies are taxed at a 7% rate on distribution of profits from fiscal years started from 1 January 2018. Distribution of profits accrued in previous fiscal years is exempt. The tax on dividends is withheld by the distributing company, *see* section 1.5.

The tax on dividends is withheld by the distributing company and is final.

A withholding tax is levied as an advance payment of the tax, to be offset against the final tax liability in certain cases, payment of interest, fees, royalties, etc., as regulated by General Resolution 830, as amended.

Employment income is also subject to withholding rules – *see* section 1.3.1.

For withholding taxes on payments to non-residents, *see* section 6.3.1.

1.10. *Administration*

1.10.1. Taxable period

The main rules on taxable period are found in article 11 of Law 11,683.

For individual income tax purposes, the tax year is the calendar year.

1.10.2. Tax returns and assessment

The main rules on tax returns and assessment are found in article 11 of Law 11,683.

The assessment and collection of taxes is normally based on signed returns to be filed by a taxpayer under the requirements and terms established by the tax authorities. Currently, most returns must be filed electronically.

Resident individuals and estates deriving taxable income must file annual returns, unless (i) their income is derived entirely from employment and the tax has already been withheld at source or (ii) taxable income is less than the available allowances; *see* section 1.7.2.

As provided by General Resolution 975, as amended, individuals and estates must file returns in June of the year following the tax year, the exact deadline depending on the last digit of the tax identification number of the taxpayer (*Clave Única de Identifi-*

cación Tributaria, CUIT), in accordance with the time frame that AFIP publishes each year for that purpose. The same deadlines apply to individuals obliged to file a tax return related to the schedular tax (that is, when they determine a tax obligation (*see* section 1.2.1.)) as provided by General Resolution 4468. However, Resolution 4488 established that resident individuals deriving ARS 200,000 or less from financial investments from an Argentine source may opt not to file the specific tax return that was established by General Resolution 4468. Such resident individuals can comply with their tax obligations by generating an electronic voucher indicating the applicable tax rate, in order to make an electronic transfer of the tax due.

Employees must file an informative affidavit which includes details of their net worth, income, allowances and deductions if the amount of gross salaries received exceeds a specific threshold (ARS 2.5 million as from fiscal year 2020).

1.10.3. Payment of tax

The main rules on rulings are found in article 11 of Law 11,683.

Individuals and estates (unless receiving only income subject to final withholding tax) must make five monthly prepayments of income tax in June, August, October and December of the relevant tax year, and in February of the following year. Each advance payment must be 20% of the tax assessed for the last tax year as reduced by both tax reductions granted under tax incentive schemes and non-final withholding taxes corresponding to the same year. The advance payment referred to above must only be made if the amount exceeds ARS 1,000.

Any balance of tax due, after taking advance payments into account, must be paid upon the filing of the return, although the tax authorities may authorize the final tax to be paid in instalments (including interest).

In view of the COVID-19 pandemic, Argentina has established a wide-ranging package of relief measures with the aim of assuring a way out of the pandemic. Such measures include the waiver of tax, customs duties and social security debts pending as of 31 August 2021, as well as some benefits available for compliant taxpayers.

1.10.4. Rulings

The main rules on rulings are found in article 4.1. of Law 11,683, as amended, and its implementing measure General Resolution 4497.

The General Director of the tax authorities has legal powers to interpret or enact regulations on the application of the laws and decrees regarding taxes under its jurisdiction. Such interpretations and regulations, made by means of rulings (*resoluciones*), are published in the Official Gazette and are in principle binding on taxpayers. Taxpayers may appeal those decisions that have an interpretative nature to the Ministry of Economy within 10 working days. Such an appeal does not release the taxpayer from the obligation to pay taxes on transactions deemed to be taxable during the ruling request procedure, but if the decision of the tax authorities is revoked by the Ministry of Economy, the taxpayer is entitled to a tax refund.

Advance rulings may be requested in respect of all national taxes, including social security contributions. However, customs duties are not covered by the advance rulings regime. In addition, the regime does not apply to questions regarding the application of income tax treaties.

General Resolution 4497 expanded the obligation to provide detailed information to situations where the party requesting the ruling is a non-resident or a resident with non-resident related parties and the matter under discussion concerns tax incentives and reductions of the taxable base, transfer pricing, or permanent establishment situations. For these purposes, a related-party threshold of at least 25% participation in the capital or voting rights was established. In addition, General Resolution 4497 excluded from the regime advance pricing agreements that are regulated by article 217 of Law 11,683, and determined that the party filing the ruling request must inform the AFIP if during the procedure a tax treaty covering the matter enters into force.

2. Other Taxes on Income

No other taxes on income are levied in Argentina.

3. Social Security Contributions

3.1. *Employed*

The main rules on social security contributions due by employees are found in Law 26,425.

Employees must contribute to the social security system. Social security contributions are computed as a percentage of the employee's salary, according to the rates detailed below. All employee contributions are computed, at the relevant rates, on the salary of the employee with a monthly salary cap of ARS 318,103.83 (effective from 1 December 2021).

The social security contribution rates are as follows:

Employee's contribution	*Rate (%)*
Pension Fund System	11
Retirement Fund	3
Medical assistance	3
Total	17

Compulsory social contributions made by employees and self-employed persons are deductible for income tax purposes. Deposits in pension funds agreed under a written contract are deductible for income tax purposes for the payer (*see* section 1.7.1.). Appreciation of shares in the fund is not treated as taxable income or gain. Pensions paid under the system are subject to income tax.

Both employers and employees are obliged to contribute to the social security system. In addition to paying their own contributions, employers must withhold and remit the contributions of their employees. For details, *see* Corporate Taxation section 4.2.

3.2. *Self-employed*

The main rules on social security contributions due by self-employed persons are found in Law 26,425.

Self-employed taxpayers pay contributions to the retirement and pension fund system established as fixed amounts. Those amounts are calculated as 32% (pension fund 27%, INSSJP 5%) on the minimum threshold net income of each category. There are different categories depending on the nature of the activity (e.g. standard or dangerous activities, voluntary contributors, minor workers, etc.).

Taxpayers can change their applicable category once a year.

Board members of corporations in which they are also employee may opt to contribute only as employees.

4. Taxes on Capital

4.1. *Net wealth tax*

The net wealth tax in Argentina is the personal assets tax (*impuesto sobre los bienes personales*, ISBP), which is levied on individuals resident in Argentina and estates situated in Argentina, including assets located both in Argentina and abroad at the end of each calendar year. Non-residents are subject to ISBP only on Argentinian-situs property owned at the end of each calendar year. The main rules are found in Law 23,966 as amended.

Law 27,432, published in the Official Gazette of 29 December 2017, extended the period of application of the net wealth tax to 31 December 2022.

A general allowance of ARS 6 million applies when assessing the taxable base of taxable dwellings.

The following Argentinian-situs property is exempt from ISBP: intangible property (e.g. goodwill, trademarks, patents, rights derived from concessions); non-urban land, irrespective of its use or purpose; government bonds and securities issued by the national, provincial or municipal governments; saving accounts and fixed-time deposits in financial entities regulated by Law 21,526; debt notes (*obligaciones negociables*) issued in accordance with article 36 of Law 23,576; financial instruments denominated in ARS created by the Executive Branch with the aim of promoting productive investments, if established as such by the respective legislation; and quotas in mutual funds regulated by article 1 of Law 24083; and listed securities issued by financial trusts (*fideicomisos*), if 75% of the underlying assets of the relevant structures are promoted securities or investments denominated in ARS.

In addition, a taxpayer's dwelling is exempt if its value, as determined in accordance with the tax rules, does not exceed ARS 30 million.

Foreign individuals who are present in Argentina to work for a period not exceeding 5 years are treated as being non-domiciled in Argentina and are thus liable to ISBP only on Argentinian-situs net wealth.

Except for mortgages on a taxpayer's dwelling, liabilities are not deductible.

The ISBP is levied at the following progressive rates as from tax year 2021 onwards:

Amount (ARS)			*Rate (%)*
Up to		3,000,000	0.50
3,000,001	-	6,500,000	0.75
6,500,001	-	18,000,000	1.00
18,000,001	-	100,000,000	1.25
100,000,001	-	300,000,000	1.50
Over		300,000,000	1.75

Law 27,667 established a system of aggravated taxation, shown in the table below, for assets placed or located abroad, replicating the system introduced to the Tax Law by Law 27,541 and its implementing Decree 99/2019, which was applicable for tax years 2019 and 2020.

The exemption allowance is the same, irrespective of the location of the assets, and may be computed only once. Taxation applies on any excess value over the allowance. The aggravated taxation does not apply if at least 5% of the assets located abroad is converted into cash and repatriated before 1 April of the year following the taxable year subject to assessment. Following the repatriation, the cash must be deposited in a financial entity regulated by Law 21,526 until the end of the year of repatriation, or invested in quotas of mutual funds that are in compliance with Law 24,083 and supervised by the Domestic Securities and Exchange Commission, or in securities issued by financial trusts (*fideicomisos*) that have the *Banco de Inversio?n y Comercio Exterior* as trustee.

Amount (ARS)			*Rate (%)*
Up to		3,000,000	0.70
3,000,000.01	-	6,500,000	1.20
6,500,000.01	-	18,000,000	1.80
Over		18,000,000	2.25

In addition to the annual payment, ISBP taxpayers are required to make advance payments. Individuals and estates are required to pay five monthly instalments as advance payments in June, August, October and December of the taxable period and February of the following year. Each advance payment must be 20% of the tax assessed for the previous year, reduced by the amount effectively paid for similar taxes levied abroad.

The taxpayer may credit amounts effectively paid for similar taxes levied abroad on the taxpayer's net wealth. The foreign tax credit may not exceed the increase in the ISBP liability resulting from the computation of property permanently located abroad (i.e. ordinary credit).

General Resolution 4266/18 amended article 4 of General Resolution 2151 to clarify that resident individuals are obliged to file tax returns and pay the tax due if:

- they are registered as personal assets tax taxpayers even though the assessment of the tax liability results in no taxable base; or
- a taxable base exists, but they have not registered as personal assets tax taxpayers.

Registered taxpayers are not obliged to file tax returns in any given year if, in the previous tax year, the value of the taxable assets did not exceed the relevant minimum exempt amount, provided that they apply for de-registration before the end of the year in accordance with General Resolution 2322.

An exemption applies under a regime to promote private building construction and to facilitate the access to housing – *see* Corporate Taxation 1.7.15.

4.2. Real estate tax

See Corporate Taxation section 5.2.

5. Inheritance and Gift Taxes

Argentina does not levy inheritance or gift tax at the federal level. At the time of this update, only the province of Buenos Aires imposed a tax on the beneficiary of an enrichment derived from an inheritance or a gift, provided the beneficiary is domiciled in the province or receives assets located in the province. The rate ranges from around 2% to 9%, depending on the value of the enrichment and the closeness of the family

relationship with the deceased/donor. The taxable base for individuals domiciled in the province comprises the full estate received. Individuals domiciled outside the province are taxed on the assets located or placed within the province's territorial boundaries.

Furthermore, the Federal Executive Branch and representatives from Argentinian provinces reached an agreement (known as *2021 Consenso Fiscal*) under which the participants agreed on establishing inheritance and gift taxes at a provincial level.

The *Consenso Fiscal* is an agreement (concluded on a yearly basis since 2017) which seeks to harmonize, within certain limits, the taxes that the provinces are entitled to levy in accordance with the Federal Constitution. Thus, the agreement confirms that, in accordance with the constitutional framework, inheritance tax is levied at the provincial level. However, it does not imply that all provinces will establish inheritance taxes, since this depends on the fiscal policy applied by each province.

5.1. *Taxable persons*

Not applicable.

5.2. *Taxable base*

Not applicable.

5.3. *Personal allowances*

Not applicable.

5.4. *Rates*

Not applicable.

5.5. *Double taxation relief*

Not applicable.

6. International Aspects

6.1. *Resident individuals*

For the concept of residence, *see* section 1.1.

6.1.1. Foreign income and capital gains

The main rules on taxation of foreign income and capital gains are found in article 1 of the ITL.

Resident individuals are subject to tax under the general rules on their worldwide income and capital gains. For the tax treatment of special items, *see* sections 1.3., 1.4., 1.5. and 1.6.

Dividends received from foreign companies are subject to income tax as ordinary income and must be included in the recipient's taxable base. A foreign tax credit is granted for foreign taxes paid.

6.1.2. Foreign capital

The main rules on taxation of foreign capital are found in Law 23,966.

Tax on net wealth is levied on the worldwide assets of resident individuals (*see* section 4.1.). The taxpayer may credit amounts effectively paid for similar taxes levied abroad on the taxpayer's net wealth. The foreign tax credit may not exceed the increase in the ISBP liability resulting from the computation of property permanently located abroad (i.e. ordinary credit).

6.1.3. Double taxation relief

The main rules on double taxation relief are found in articles 164 and 165 of the ITL.

To avoid double taxation of foreign-source income, Argentina applies the ordinary tax credit method, both unilaterally and under tax treaties. Tax treaties concluded by Argentina have supremacy over domestic law including the ITL.

Foreign income tax actually paid may be credited against the Argentinian income tax liability. The credit is limited to the increase in Argentinian tax arising from the computation of foreign-source income. The foreign income tax must be "equivalent" to the Argentine income tax. Any tax paid abroad on income not deemed of foreign source under Argentine tax law or any excess foreign tax credit is not considered.

For dividends, the foreign tax credit includes the tax paid on the profits out of which the dividends were paid. In order to determine which foreign taxes may be computed as a credit, the law provides for a definition of "similar taxes". Specific rules are also provided for determining the foreign tax credit related to the profits of foreign permanent establishments of residents.

For a list of tax treaties in force, *see* Corporate Taxation section 6.3.5.

6.2. *Expatriate individuals*

There is no special regime for expatriates. However, article 123 of the ITL determines that a non-resident individual working, studying or performing research activities in Argentina for less than 5 years is subject to income tax on his Argentinian-source income under the rules for resident taxpayers (i.e. tax on actual income, deductions and allowances and progressive rates). Any foreign source income accruing to that individual is outside the scope of this taxation.

For employees and other individuals performing personal services in Argentina, *see* section 6.3.1.

6.3. *Non-resident individuals*

The main rules on taxation of non-resident individuals are found in articles 5, 116 and 123 of the ITL.

Under certain circumstances individuals who do not meet the resident test are subject to income tax on Argentinian-source income under the rules for residents (*see* section 1.1.).

A resident who emigrates and remains outside Argentina for a period of 12 months or longer is deemed to be a non-resident. In calculating the 12-month period, temporary visits to Argentina up to a combined total of 90 days, whether consecutive or not, are disregarded.

For withholding purposes, those who receive their income abroad (either directly or through attorneys, agents, representatives or any other empowered persons in Argentina) and those who receive their income in Argentina but do not appear to have a residence in the country are deemed to be non-residents.

Argentinian-source income

Generally, income is considered Argentinian-source income if it is derived from:

- property situated, located or used in Argentina;
- the development in Argentina of acts or activities that may produce income; or
- events occurring in Argentina.

Income specifically considered to be Argentinian-source includes:

- income and capital gains derived from securities (shares, bonds, etc.) is considered to be Argentine source if the issuer of the security is resident in Argentina;
- interest on debt claims secured by property located in Argentina (if the property is not so located, the interest may still be considered Argentinian-source under the rules discussed above);
- income from exported goods produced, manufactured, processed or bought in Argentina;
- income from the transfer of goods situated, located or used in Argentina belonging to enterprises or companies organized, established or located abroad;
- gains derived from derivative transactions when the risk assumed is located in Argentina, provided that the gain is derived by a resident.

Income exempt from income tax derived by non-resident individuals includes, in particular, interest on foreign credit granted to the national treasury, provinces, municipalities or the central bank; interest on public bonds (provided a law or a decree enacted by the executive branch so establishes) and on eligible corporate bonds (interest on *obligaciones negociables*); and capital gains from listed shares traded through authorized stock exchanges (*see also* section 1.2.2.).

6.3.1. Taxes on income and capital gains

The main rules on taxes on income and capital gains are found in articles 102-104 of the ITL.

Argentinian-source income (unless exempt) paid to non-residents is, in general, subject to final withholding tax levied on gross income under notional taxable income rules. However, in case of a lease of immovable property and capital gain resulting from the transfer of movable property, the non-resident taxpayer is allowed to calculate its actual taxable income by deducting the expenses attributable to the relevant Argentinian-source income.

For withholding tax purposes, taxable income from Argentinian sources is normally presumed to be a percentage of gross payments. As a result, different percentages of notional income are specified, without right of rebuttal in most cases (*see* sections 6.3.1.1. to 6.3.1.3.). In the case of unspecified income Argentinian-source notional income is presumed to be, without right of rebuttal, 90% of gross payments.

Non-residents alienating non-listed shares, quotas and any other participation interests in the capital of resident companies and immovable property are subject to a 13.5% final withholding tax on the price of the transfer, by application of the rule of notional income equal to 90% of the amount paid.

6.3.1.1. Employment income

The main rules on employment income are found in article 104 of the ITL.

Argentinian-source taxable income derived by non-resident employees working temporarily in Argentina for a period not exceeding 6 months in the tax year is presumed to be, without right of rebuttal, 70% of wages and other remuneration. As this 70% notional income is subject to the general 35% income tax rate for payments to non-residents, the effective rate is 24.5%.

Payments to non-resident members of the board of directors of an Argentinian-based enterprise are generally subject to withholding tax on notional income equal to 90% of the amount paid. However, if the director works temporarily in Argentina for a period not exceeding 6 months in the tax year, Argentinian-source taxable income is presumed to be, without right of rebuttal, 70% of wages, fees and other remuneration paid to such person.

Payments to non-resident pensioners are subject to withholding tax on notional income equal to 90% of the amount paid. As the general rate applicable to non-residents is 35%, the effective rate is 31.50%.

6.3.1.2. Business and professional income

The main rules on business and professional income are found in article 104 of the ITL.

Argentinian-source taxable income derived by non-resident individuals from the rendering of personal services temporarily in Argentina for a period not exceeding 6 months in the tax year (e.g. scholars, technicians, professionals, artistes in general and athletes) is presumed to be, without right of rebuttal, 70% of fees and other remuneration. As this 70% notional income is subject to the general 35% income tax rate for payments to non-residents, the effective rate is 24.5%.

Argentinian-source taxable income derived by non-resident artists hired by the national government, provinces, municipalities or other eligible institutions in order to perform services in Argentina for up to 2 months are subject to income tax on 35% of the income. Therefore, the effective rate on gross receipts is 12.25%.

Notional income in respect of technical assistance to non-residents is presumed to be, without right of rebuttal, 60% of the gross fees paid for the transfer of technology, provided certain conditions are met. If those conditions are not met, but the technical assistance involves a transfer of technology and the relevant contract is registered with the National Institute of Industrial Property (INPI), the Argentinian-source notional income is 80% of the payments. If the agreement is not registered with the INPI, the notional income is 90% of the payment.

Fees as consideration for technical assistance outside the scope of the transfer of technology law are subject to an effective withholding tax rate of 31.5% (notional income of Argentinian source being 90%).

For the definition of permanent establishment, *see* Corporate Taxation section 6.2.1.

6.3.1.3. Investment income

The main rules on investment income are found in articles 26 and 104 of the ITL.

Dividends derived from resident companies are taxed at a 7% rate on distribution of profits from fiscal years started from 1 January 2018. Distribution of profits accrued in previous fiscal years is exempt. The tax on dividends is withheld by the distributing company.

Interest, including interest on loans, derived by non-resident individuals is subject to a final withholding tax levied at the following effective rates:

- general rate: 35% (i.e. 35% tax rate levied on 100% of the interest); or
- reduced rate: 15.05% (i.e. 35% tax rate levied on 43% of the interest income). The rate applies where:
  - the interest arises from the financing of movable depreciable asset imports, other than cars, granted by the supplier; or
  - the interest arises from qualifying leasing agreements.

Interest on qualifying corporate bonds and that derived from government bonds is exempt from income tax.

Royalties and other Argentinian-source taxable income from the assignment of rights on or the licensing of patents, trademarks, industrial models, designs and know-how is presumed to be, without right of rebuttal, 80% of payments to non-residents. This percentage is increased to 90% if the requirements of the "transfer of technology" law (*Ley de transferencia de technología*) are not met. Under this law, "technology" encompasses invention patents, industrial models or designs and know-know for product manufacturing or provision of services. The law essentially provides that, in the case of "technology", the underlying contract must be authorized by and registered with the INPI. Therefore, the effective tax rates are:

- 28% (i.e. 35% tax rate levied on 80% of the royalties) for royalties paid for intangible property qualifying as "technology" under the transfer of technology law; or
- 31.5% (i.e. 35% tax rate levied on 90% of the patent royalties), provided the royalties are paid for intangible property that does not qualify as "technology" under the transfer of technology law or they qualify as "technology" but the underlying contract giving right to the royalties is not registered with the INPI at the time of payment.

Argentinian-source taxable income derived from the exploitation of copyrights in Argentina is presumed to be, without right of rebuttal, 35% of payments to non-residents, provided the beneficiary is the author and is not a legal entity. If the conditions are not met, the notional taxable income is 90%.

Non-residents alienating bonds issued by the federal, provincial or municipal governments, and listed shares, are exempt from tax, provided they are resident of a collaborative jurisdiction.

So far, in only two cases may a non-resident taxpayer choose to be taxed on either notional income or net taxable income, namely with regard to:

- payments on rentals of immovable assets located in Argentina; and
- payments on transfer of goods situated, located or used for economic activities in Argentina.

Where the taxpayer is taxed on net taxable income, taxable income is assessed by deducting from gross income the expenses incurred in producing that income and other allowed deductions according to the category of income under the general rules for resident taxpayers.

6.3.2. Taxes on capital

The main rules on taxes on capital are found in Law 23,966 as amended.

Non-residents are subject to net wealth tax (ISBP) only on Argentinian-situs property existing at the end of each calendar year. No tax-free amount applies to this category of taxpayers. Non-residents are not required to make any tax payment if the payable amount is less than ARS 255.75. *See also* section 4.1.

Taxpayers that were subject to the abrogated minimum deemed income tax (companies and sole proprietorships) and resident individuals and legal entities that use, have the right to use, or have the custody or administration of taxable assets belonging to non-resident individuals or estates, are subject to final tax at the rate of 0.50% on the value of the assets. This tax is not applicable with respect to the following assets:

- government bonds issued by the national, provincial or municipal governments;
- shares and participations in the capital of resident companies;
- participations in cooperatives; and
- quotas in investment funds.

Other taxable assets owned by legal entities resident in jurisdictions with preferential tax regimes, are deemed, without right of rebuttal, to be owned by an Argentinian individual. With respect to these assets, the tax rate is increased by 100% on the rates shown in the table above; and the taxpayer is the resident individual or legal entity in charge of the administration of the assets. However, the following non-resident owners are excluded from the legal presumption:

- insurance companies;
- open investment funds;
- pension funds; and
- banks or other financial entities that have their head office located in countries that have adopted the standards of the Basle Committee on banking supervision (www.bis.org).

These anti-avoidance rules do not apply if the Argentinian-situs property is deemed to constitute a permanent establishment.

In view of the COVID-19 pandemic, a once-only emergency tax on wealth applied in 2020. The tax was levied on assets of non-resident individuals located or placed in Argentina. The emergency tax applied if the value of the assets owned by the non-resident individual at 18 December 2020 exceeded ARS 200 million.

6.3.3. Inheritance and gift taxes

See section 5.

6.3.4. Administration

The main rules on administration are found in articles 5, 6 and 7 of Law 11,683.

Non-residents directly deriving Argentinian-source income are subject to final withholding tax, and thus are not generally required to file tax returns.

In case of capital gains from the transfer of immovable property, if the seller of the property or right is a non-resident person, the acquirer must withhold the respective tax. If both parties to the transaction are non-resident persons, the obligation to pay the tax is on the seller, either directly or by means of a resident representative (Executive Branch's Decree 976/2018).

General Resolution 4377 amended the procedure for cancelling a tax registration number following the migration of an individual taxpayer to another country by amending General Resolution 2322, which, among other things, regulates the deregistration of individual taxpayers relocating to another country and ceasing to be resident taxpayers in Argentina in accordance with the legislation established under article 120 and subsequent articles of the ITL.

With respect to income tax, individuals must file an online affidavit stating the new domicile abroad and attaching the documents required under article 2 of General Resolution 4236, i.e. a certificate of permanent residence issued by the competent authority of the destination state or proof of time spent outside Argentina – in accordance with the provisions of article 120 of the ITL – by means of a passport or consular documentation. The procedure is further regulated by General Resolution 4760.

The same procedure applies with regard to the personal assets tax. However, if migrant taxpayers keep assets subject to personal assets tax in Argentina, they must appoint a representative – who must accept the appointment through the AFIP webpage – for assessing and paying the tax levied on those assets.

KEY FEATURES

Last reviewed: **15 January 2022**

A. General information	
Sources of tax law	Income Tax Law (*Ley de Impuesto a las Ganancias*, LIAG) Tax Procedure Law (*Ley de Procedimiento Tributario*, LPT)
Main types of business entities	Joint-stock company (*sociedad anónima*, SA) Limited liability company (*sociedad de responsabilidad limitada*, SRL)
Accounting principles	IFRS
Currency	Argentinian peso (ARS)
Foreign exchange control	Yes, as prescribed by central bank foreign exchange regulations (limits on the purchase of foreign currency) Tax administration regulations also include rules on foreign exchange control
Official websites	Tax Administration http://www.afip.gob.ar/ Ministry of Finance https://www.argentina.gob.ar/hacienda
B. Direct taxation: Companies	
1. Resident companies	
Residence	A company is resident in Argentina if it is incorporated in Argentina
Tax base	Worldwide
Corporate tax rates	Progressive Top rate 35% (over ARS 14,750,000)
Alternative minimum tax	No
Capital gains	Part of ordinary income
Loss carry-forward	Yes, 5 years
Loss carry-back	No
Unilateral double taxation relief	Yes, ordinary tax credit
2. Non-resident companies	
Corporate tax rates	25%
Capital gains on sale of shares in resident companies	15% on 90% of the income (effective rate: 13.5%) or 15% on net taxable gain, at the choice of the seller 0% (if gains derive from a listed share (the rate increases to 35% if a resident of a non-cooperating jurisdiction derives the gain))
Capital gains on sale of immovable property	15% on 90% of the income (effective rate: 13.5%)
Withholding tax rates	
Branch profits	7%
Dividends	7%

Interest	35% 15.05% (effective rate depending on specific cases) 0% (foreign credit granted to the national treasury, government bonds or income derived from mutual funds)
Royalties	35% on notional taxable income (Effective rates: 31.5%, 28% and 12.25%, depending on type of intangible property)
Fees (technical)	35% on notional taxable income (Effective rates: 21%, 28% and 31.5%, depending on type of service)
Fees (management)	35% on notional taxable income (Effective rates of 24.5% and 31.5% depending on duration)
3. Specific issues	
Participation relief	Inbound dividends: no Outbound dividends: no
Group treatment	No
Incentives	Mining promotion Financial investments Personnel training R&D Software industry Investment in capital assets and infrastructure projects Modern biotechnology Electricity produced using renewable sources of energy Domestic production of car parts Incentives for micro, small and medium size companies Housing financing Restatement of tax value of productive assets Creation and expansion of forests Knowledge-related economic activities Development of real estate and infrastructure projects Generation of distributive renewable energy Venture capital Promotion of tourism and accommodation industry
Anti-avoidance legislation	
Transfer pricing	Yes
Limitations on interest deductibility	Interest deduction is limited to ARS 1 million or 30% of EBITDA, whichever is higher)
Controlled foreign company	Yes
General anti-avoidance rule (GAAR)	Yes
Other anti-avoidance legislation	Tax haven legislation Taxation of indirect transfers of assets Disclosure of tax planning schemes

C. Direct taxation: Individuals	
1. Resident individuals	
Residence	Residents include: - nationals, unless they have lost their residence status by becoming resident of another country or by residing outside Argentina for at least 12 months; - foreigners who stay in Argentina with a permanent visa (for immigration purposes) or with a temporary visa for at least 12 months; and - estates where the relevant individual was a resident at the time of death
Taxable income	Worldwide
Income tax rates	Progressive Top rate 35% (over ARS 1,555,232.07)
Alternative minimum tax	No
Capital gains	15% (0% for certain government bonds) or taxed as ordinary income (subject to progressive rates)
Unilateral double taxation relief	Yes, ordinary tax credit
Social security contributions	11% for pensions 3% for pensions (retirement fund) 3% for health insurance
2. Non-resident individuals	
Income tax rates	35% on different percentages of gross income according to type of income (notional taxable income)
Capital gains on sale of shares in resident companies	15% on 90% of income (effective rate: 13.5%) or 15% on net capital gain Exemptions possible
Capital gains on sale of immovable property	15% on 90% of income (effective rate: 13.5%) or 15% on net income
Withholding tax rates	
Employment income	35% on 70% of income (effective rate: 24.5%)
Dividends	7%
Interest	35% generally 15.05% (35% on 43% of income) in certain cases. 0% on qualifying corporate bonds
Royalties	35% on notional taxable income (Effective rates: 28% and 31.5% depending on type of intangible property)
Fees (technical)	35% on notional taxable income (Effective rates: 24.5% and 31.5%, depending on type of service)
Fees (directors)	35% on notional taxable income (Effective rates: 24.5% and 31.5% depending on duration)

D. Indirect taxation: Value added tax (VAT)/Goods and services tax (GST)	
Taxable events	Supplies of goods Supplies of services Importation
VAT/GST (standard)	21%
VAT/GST (reduced)	0%, 2.5%, 10.5%, 21%
VAT/GST (increased)	27%
Registration/deregistration threshold	No
VAT group	No
E. Other taxes	
Inheritance and gift taxes	No (few provinces do apply – rates from 2% to 9%)
Net wealth tax (individual)	Temporary tax on wealth (applicable until tax year 2022) levied at rates varying from 0.50% until 1.75% (0.70% until 2.25% for assets abroad). Exempt allowance of ARS 6,000,000. on
Net wealth tax (corporate)	Tax on cooperatives (rates are 3% and 4%; exempt bellow ARS 50,000,000)
Real estate taxes	Yes, tax rates vary from 0.5% to 3% depending on the province and nature of the property (e.g. urban, rural).
Capital duty	No
Transfer tax	Yes, 1.5% for immovable property (if not subject to income tax); 13.5% for non-residents
Stamp duty	Yes
Excise duties	Yes
Other main taxes	Tax on gross receipts Tax on debits and credits on bank accounts Tax on the exploitation of betting machines Tax on online gambling Tax on purchase of foreign currency Liquid fuel and carbon dioxide tax Tax on digital services (City of Buenos Aires)

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