



## **ARGENTINE TAX CONSIDERATIONS**

### **1. INCOME TAX**

Income Tax Law, as amended ("ITL"), establishes a federal tax on the worldwide income obtained by individuals, legal entities domiciled in Argentina and Argentine branches of foreign entities.

As regards income earned by Argentine residents from activities performed abroad, any payment of foreign taxes will be allowed as a credit against payment of the applicable Argentine tax. However, the credit may only be applied to the extent the foreign tax does not exceed the Argentine tax.

There are special rules regarding source of income in the case of certain specific activities such as international transport, telecommunications and in the case of foreign technical assistance.

Income tax is payable upon the net income obtained during a given fiscal year. As a general rule, income is allocated to the fiscal year in which it accrues. However, there are certain exceptions to the general rule, such as for example the interest paid on government issued securities and bonds, where the income is allocated to the fiscal year in which the interest becomes due.

In principle, all ordinary and necessary expenses incurred in earning taxable income are tax deductible (such as interest, salaries, taxes, etc.). Expenses, in the same manner as income, are generally allocated to the fiscal year in which they accrue.

#### **1.1. LOSS CARRYFORWARD**

Losses incurred during any fiscal year may be carried forward and set off against taxable income obtained during the following five fiscal years.

Losses arising from the sale or other disposal of stock and other forms of equity such as mutual fund shares, may only be set off against capital gains arising from the disposal of these types of assets.

Losses from foreign sources may only be set off against income or capital gains arising from foreign sources.

#### **1.2. RATES OF INCOME TAX**

The tax rate applicable in Argentina upon the net income of corporate entities domiciled in Argentina is thirty five percent (35%).

The distribution of dividends to shareholders, the distribution of income to partners and remittances of profits abroad by branches or establishments are in general not subject to tax in Argentina. However, the distribution of dividends, income or remittances of profits may under certain circumstances, be subject to tax. The ITL provides for a 35% withholding tax to be applicable to the amount of dividends and earnings distributed in excess of a company's net taxable income.



### **1.3. FILLING AND PAYMENT REQUIREMENTS**

All taxpayers must fill an annual tax return during the fifth month following the end of their fiscal year.

Corporations and branches of foreign companies are required to make ten monthly pre-payments, starting the sixth month of any given fiscal year. The amount of the pre-payments is calculated on the basis of the tax paid in the preceding fiscal year.

### **1.4. TRANSFER PRICING PROVISIONS**

Transfer pricing practices are considered to take place when an Argentine company enters into business transactions with:

- (i) a related company located abroad, or
- (ii) a non-related company located in a low tax jurisdiction,

and the prices agreed upon in such transactions do not reflect normal market practices (i.e. are not at arm's length).

Pursuant to the provisions relating to transfer pricing, any transactions between related companies or unrelated companies located in low-tax jurisdictions are deemed not to be at arm's length, unless evidence to the contrary is provided. The Argentine taxpayer is only able to deduct payments made to a related company located abroad or to an unrelated company located in a low tax jurisdiction, to the extent that it can establish that the price paid is one that would have been paid in an arm's-length transaction. To the extent that the taxpayer cannot prove the foregoing, the tax authorities can make transfer pricing adjustments to the income and expenses allocated between the parties.

In order to establish that the terms of the transaction are equivalent to an arm's length transaction ("arm's length compliance"), Argentine businesses must submit special reports containing detailed information including data and supporting documentation.

The law provides for different methods (such as comparing prices, margins, levels of profit, etc. with transactions between unrelated parties) in line with OECD guidelines that can be used by the Argentine taxpayer to establish "arm's length compliance". Taxpayers are required however to employ the method that best reflects the economic reality of each transaction.

## **2. WITHHOLDING TAX ON NON-RESIDENTS**

In principle, any income or gain, other than dividends, deemed by the ITL to be from an Argentine source, obtained by a non-resident individual or a foreign legal entity without a permanent establishment in Argentina, is subject to withholding tax.

The effective rates of withholding tax upon payments to non-residents depend on the kind of activity. In all cases, should the local payer assume the obligation to pay the tax for the non-



resident recipient, the net amount payable must be grossed-up in an amount equal to the tax assumed by the Argentine taxpayer.

Argentina, along with a number of other countries, is a party to tax treaties which impose ceilings on withholdings of certain taxable income, which may reduce the rates of the withholding tax.

### **3. TAX ON PRESUMED MINIMUM INCOME**

This tax applies to all assets of Argentine companies and other entities and individuals in Argentina.

The tax only applies if the total value of the assets exceeds ARS 200,000 at the end of the entity's financial year. In this case, the total value of the assets will be taxed at the rate of 1%.

Any tax payable hereunder is allowed as a credit toward normal corporate income tax.

Furthermore, to the extent that this minimum tax cannot be credited against normal corporate income tax, it may be carried forward as a credit for the following ten years.

### **4. VAT (VALUE ADDED TAX)**

This tax applies to the sale of goods, the provision of services and the importation of goods.

Under certain circumstances, services rendered outside Argentina which are effectively used or exploited in Argentina, are deemed rendered in Argentina and therefore are subject to VAT.

VAT is paid at each stage of the production or distribution of goods or services upon the value added during each of the stages. Thus, this tax does not have a cumulative effect.

The tax is levied on the difference between the so-called "tax debit" and the "tax credit". The "tax debit" is the tax corresponding to sales made by the tax payer or services rendered by him. It is obtained by applying the tax rate to the price of such sales or services. The "tax credit" is the tax indicated in the invoices of the suppliers of goods or services contracted by the taxpayer. The difference between the "tax debit" and the "tax credit", if it is positive, constitutes the amount to be paid to the Tax Authority.

The present general rate for this tax is 21%.

Since exports of goods are subject to VAT at a 0% rate, exporters may utilize the VAT charged to them as a "fiscal credit", if such VAT is actually connected to any stage of the production or sale of the exported goods.

### **5. TURNOVER TAX (TAX ON GROSS INCOME)**

Turnover tax is a local tax levied on gross income. Each of the provinces and the Federal District of Buenos Aires apply different tax rates; however, most provinces apply a 1% rate on



agricultural, cattle breeding and mining activities, 1.5% on industrial activities, 3% on trade or services in general and 4.9% on financial activities. The tax is levied on the amount of gross income resulting from business activities carried on within the respective provincial jurisdictions. Exports of goods and services are subject to a 0% turnover tax rate.

The provinces have signed an agreement ("Multilateral Agreement") to avoid the double taxation of activities performed in more than one province. Under this agreement, gross income is allocated between the different provinces applying a formula based on income obtained and expenses incurred in each province.

## **6. SHARES AND EQUITY INTERESTS**

There is a presumption that shares and equity interests in Argentine Corporations owned by any kind of foreign entity, are owned by an individual domiciled in Argentina and are, therefore, subject to a tax.

The rate applicable is 0.5 %. The Argentine issuer company is liable for the payment of such tax and it is entitled to seek recovery from the foreign entity.

Certain conventions for the avoidance of double taxation entered into between Argentina and other countries may prevent the applicability of this tax.

## **7. TAX ON CREDITS AND DEBITS IN BANK ACCOUNTS**

This tax is applied upon debits and credits in bank accounts and upon other transactions which, due to their special nature and characteristics, are similar or could be used in substitution for a checking account.

Transfers and deliveries of funds also fall within the scope of this tax, regardless of the person or entity that performs them, when those transactions are made through organised systems of payment in substitution for checking accounts.

The tax law and its regulations provide several exemptions to this tax.

The general rate of the tax is 0.6%.

## **8. TAX TREATIES/CONVENTIONS**

Argentina has tax treaties presently in force with the following countries: Australia, Austria, Belgium, Bolivia, Brazil, Canada, Chile, Denmark, Finland, France, Germany, Italy, Norway, Spain, Sweden, Switzerland, The Netherlands and the United Kingdom. These treaties are based, other than those with South American countries, upon the OECD model and seek in particular to avoid double taxation.