



## ARGENTINA – 2009 BUSINESS ENVIRONMENT

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**Currency:** Argentine Peso (ARS)

**Foreign exchange control:** Argentina operates a complex foreign exchange control regime. Transfers of funds in and out of the country must be made according to Central Bank regulations. Restrictions are imposed on inward and outward investment and interest and other amounts payable in foreign exchange. It may be necessary to provide documentation or obtain authorisation from the Central Bank and 30% of certain inbound loans may be frozen for 1 year as a legal reserve deposit (meaning that portion of the incoming funds will be held in a non- remunerated bank account). Certain loans (i.e. those granted for investments in fixed assets and inventory) are exempt from the above requirement.

Dividends paid out of profits reported on an audited financial statement may be paid without prior approval. Capital contributions can enter the country without restriction but require Central Bank authorisation for repatriation. In general, USD 2 million monthly may be freely transferred abroad.

**Accounting principles/financial statements:** Argentinean GAAP. Financial statements must be filed annually.

**Principal business entities:** Businesses may be established as sole proprietorships, general partnerships, limited partnerships (sociedades en comandita por acciones), co-operatives, branches, corporations (sociedades anónimas—SAs) or limited liability companies (sociedades de responsabilidad limitada—SRLs). Most foreign companies organise as SAs, but some take the form of the SRL.

Only an SA may issue shares to the public. An SRL is, in effect, a partnership, but the liability of the partners is limited to their subscribed capital. If one partner is a foreign company, the SRL is taxed as a branch.

### TAX ID NUMBER

**CUIT** It is a numerical code whereupon the Federal Administration of Ingresos Públicos (AFIP) identifies to companies, independent commerce and workers.

### C.U.I.T.: "Clave Unica de Identificación Tributaria"

Its structure is only numeric and is shown with 11 numbers, Ejemplo:

30-68969983-5

30 First two numbers determine the category of the fiscal entity

A man single (23), a woman single (27), a man married (20), a woman married (29), companies...(30 or 33)

68969983 (middle eight numbers) represent the DNI (National Identification) on individuals and it is given by Tax bureau on companies.

5 (The last number) is only a verification digit.

This number is requested by all Official authorities for any application or procedure.

### Corporate taxation:

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

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

Nonresidents pay tax only on Argentine- source income.

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

**Taxation of dividends** – Dividends received by an



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

**Capital gains** – Most capital gains are included in taxable income and subject to the normal corporate income tax. Gains derived from the sale of shares by an Argentine entity are subject to income tax, whereas gains derived by nonresidents on the sale of shares of Argentine corporations are exempt. Gains on the sale of SRL quotas are taxable both for local entities and nonresidents.

**Losses** – Net operating losses may be carried forward for 5 years, but carryback is not permitted. Certain losses (i.e. the sale of shares, foreign-source losses) may be set off only against profits of the same kind.

**Rate** – 35%

**Surtax** – No

**Alternative minimum tax** – A 1% minimum presumed income tax is applied to assets located in Argentina. The presumed tax, imposed annually, applies only in excess of income tax. The excess may be credited against income tax in the next 10 years.

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

**Participation exemption** – No

**Holding company regime** – No

**Incentives** – Tax incentives are available for

certain activities (including mining, forestry, biotechnology and software production) and there is a tax-free zone (Tierra del Fuego).

### Withholding tax:

**Dividends** – Dividends are subject to withholding tax only if they exceed accumulated taxable income with certain adjustments. If applicable, the withholding tax rate is 35%.

**Interest** – The rate is 15.05% where the lender is a bank or financial institution located in a non-tax haven country and in certain other circumstances. The rate is 35% for interest paid on loans other than from non-tax haven banks (with certain exemptions).

**Royalties** – Royalty payments to nonresidents for the exploitation of copyrights in Argentina are subject to a final withholding tax of 35% on 35% of the gross payment (effective rate of 12.25%), provided the works are registered with the National Copyright Bureau and other conditions are satisfied. Patent royalties and fees for technical assistance, engineering or consulting services paid to nonresidents are subject to a final withholding tax of 35% on a prescribed percentage of the gross payment, which varies according to the type of payment. The effective withholding tax rates are 28% (35% x 80%) on patent royalties and 21% (35% x 60%) on fees for technical assistance, engineering or consulting services, if the agreement under which the royalties or fees are paid is registered by the National Institute of Industrial Technology (INTI) and, in the case of fees, the services cannot be obtained in Argentina. If these conditions are not satisfied, the effective rate on the royalties or fees is 31.5% (35% x 90%).

**Branch remittance tax** – Profits remitted by branches to their head offices are subject to the same regime as dividends.

### Other taxes on corporations:

**Capital duty** – No

**Payroll tax** – No



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**Real property tax** – Real property tax is levied annually by the provincial authorities. The tax is deductible for income tax purposes.

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

**Stamp duty** – Stamp duty is levied on the formal execution of public and private instruments. Documents subject to stamp tax include contracts, notarised deeds, invoices confirmed by a debtor, promissory notes and negotiable instruments. The rate is 1% but there are exceptions, such as real estate sales, where the rate can be as high as 2.5%.

**Transfer tax** – No

**Other** – The tax on financial transactions is levied on debits and credits in current accounts at a rate of 0.6% per transaction. Of the amount levied on credits in the accounts, 0.2 percentage points may be taken as an advance payment of income tax or minimum presumed income tax, resulting in an effective rate of 0.4% and, therefore, 1% on a complete collection/payment cycle. There are some exemptions.

### Anti-avoidance rules:

**Transfer pricing** – Transactions between related resident affiliates must be at arm's length. The following transfer pricing methodologies are authorised: (1) comparable uncontrolled price; (2) cost-plus; (3) resale price; (4) profit split method; and (5) transactional profit margin. A "sixth" method, which is a variation of the comparable uncontrolled price method, must be used in some circumstances and for certain products (mainly commodities).

Argentina also imposes documentation requirements. The tax authorities may request information on transactions with affiliated companies if the arm's length nature of a

transaction is not sufficiently documented.

**Thin capitalisation** – An interest deduction will be disallowed if a company's debt-to-equity ratio exceeds 2:1 and the interest is paid to a controlling financial institution or other controlling creditors applying reduced withholding rates. The excess interest is reclassified as a dividend.

**Controlled foreign companies** – The CFC rules require resident shareholders to 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. Current taxation will not apply if at least 50% of the profits of the low-taxed company are related to active income. Foreign partnerships and branches are taxed on an accrual basis.

**Other** – Statutory GAAR (economic reality principle) also applies.

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

### Administration and compliance:

**Tax year** – Fiscal year

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

**Filing requirements** – Companies must make 10 advance payments of income tax during the year, with the first installment, equal to 25% of the previous year's income tax liability, paid by the 20<sup>th</sup> day of the sixth month after the start of the company's fiscal year. The other 9 installments must be equal to 8.33% of the previous year's income tax liability.

**Penalties** – Interest is imposed for late payments (2% monthly), plus fines from 50% to 100% of the tax omitted (reductions available). Tax evasion is subject to higher penalties and possibly imprisonment.



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Rulings – No

### Value added tax:

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

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

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

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

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

**Tax treaties:** Argentina has concluded approximately 18 tax treaties.

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

**International organisations:** Aladi y Mercosur.

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For further information about this issue, please contact: [info@crlacorp.com](mailto:info@crlacorp.com)

 CREDIT REPORT through the years:

1994

2004



2007

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