



GUIDE TO GOING GLOBAL TAX

Argentina



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INTRODUCTION

Welcome to the 2023 edition of DLA Piper's *Guide to Going Global – Tax*.

GUIDE TO GOING GLOBAL SERIES

Many companies today aim to scale their businesses globally and into multiple countries simultaneously. In order to help clients meet this challenge, we have created a handy set of global guides that cover the basics companies need to know.

The *Guide to Going Global* series reviews business-relevant corporate, employment, intellectual property and technology, global equity and tax laws in key jurisdictions around the world.

TAX

Multinational companies continue to expand globally at an ever faster pace. Successful expansion depends, in part, on strategic and effective tax planning and compliance. This guide, brought to you by DLA Piper's Tax group summarizes the key features of tax laws in 41 popular jurisdictions.

This guide addresses common tax questions, by jurisdiction, including:

- Taxation of resident companies and non-resident companies
- Availability of tax holidays, rulings, and favorable tax regimes
- Ability to use losses to offset income
- Anti-deferral (ie CFC) rules
- Withholding taxes
- Employment tax issues

With more than 300 tax lawyers and economists in offices throughout the Americas, Europe and Asia Pacific, DLA Piper's global tax advisory services help multinational companies address the complex challenges of international commerce and business operations as well as manage and resolve tax audits. Our global tax group also assists clients in structuring a wide range of transactions, from private equity deals to corporate acquisitions and disposals. We provide these tax services across our global platform, while at the same time offering clients the benefits of the attorney-client and work-product privileges.

The information in this guide is an accessible, high-level summary of the tax laws in each jurisdiction. This is not a substitute for legal or tax advice. If you have specific questions or require detailed advice, we encourage you to contact one of the attorneys listed in the contributors section of this guide.

We hope that you find this guide valuable and we welcome your feedback.

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This is a general reference document and should not be relied upon as legal advice. The application and effect of any law or regulation upon a particular situation can vary depending upon the specific facts and circumstances, and so you should consult with a lawyer regarding the impact of any of these regimes in any particular instance.

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ARGENTINA



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RESIDENCE AND BASIS FOR TAXATION

In Argentina coexist 3 levels of taxation: federal, provincial (state) and municipal level.

An entity is deemed resident for tax purposes when it is incorporated in Argentina under the laws of Argentina. An Argentine individual is considered a tax resident unless they lose their tax residence status by choice, obtain legal residence in other country or by fact, when the individual is outside the country for at least a 12-month period, with certain exemptions.

Domestic

Local entities and resident individuals are subject to income tax on domestic and foreign source income.

Foreign

Non-resident entities or individuals are taxed on income of Argentine source. The tax applicable is the income tax that comprises corporate earnings and capital gains. In general, a local resident paying to a foreign entity or individual is obliged to withhold income tax. The withholding rate varies in connection with the type of payment.

Permanent establishments are taxed as local entities on income attributable to the permanent establishment.

Income tax on indirect transfer

Income tax on an indirect transfer may apply if a non-resident entity is transferred provided that at least 30 percent of value of the entity is represented by assets located in Argentina and provided that the transferor owns at least 10 percent of the capital of such entity.

TAXABLE INCOME

Domestic

In general, the taxable income in the income tax for resident entities and resident individuals is equal to gross earnings minus deductions. In general, all expenses incurred to obtain, maintain and preserve taxable income are deductible unless expressly forbidden.

Foreign

Non-resident entities and individuals are taxed on income of Argentine source by way of income tax. The local resident paying to a foreign entity or individual is obliged to withhold the income tax at a 35-percent (or 15-percent for some gains as capital gains) tax rate applied on a presumption of taxable income that varies in connection with the concept by which the payment is made. The presumption of taxable income can be from 35 percent up to 100 percent of the amounts paid.

For incomes connected to the transfer of shares, bonds or titles, or incomes connected with the rental of real estate or the transfer of assets located in Argentina owned by a non-resident, the non-resident individual or entity is entitled to choose to apply the presumption of income or to present evidence of all the expenses incurred and deduct those expenses from the gross amount to be paid.

TAX RATES

Domestic

Local entities are subject to an income tax rate of 30 percent for the fiscal year 2020 and 25 percent as of the fiscal year 2021.

In general, local individuals are taxed at a progressive tax rate that goes from 5 percent to 35 percent, except for earnings with a fixed tax rate. Those are the following:

- For local individuals, the transfer of sovereign bonds or any title is taxed at a 5-percent income tax rate if the title is issued in Argentine pesos, or 15-percent income tax rate if a share of a corporation is transferred, or if the title or sovereign bond is issued in Argentine pesos with an adjustment clause or in foreign currency except an exemption results applicable.
- The transfer of real estate by a local individual is taxed at a rate of 1 percent of income tax.

Foreign

In general, non-resident entities and individuals are taxed at an income tax rate of 35 percent applied on the presumption of taxable income with effective tax rates of 12.5 percent up to 31.5 percent (see Taxable Incomes). Some concepts are not taxed at the general 35-percent tax rate and are taxed to a specific tax rate.

- Transfer of sovereign bonds or any title (public or private) is taxed at a 5-percent income tax rate if the title is issued in Argentine pesos, or 15-percent income tax rate if the title is issued in Argentine pesos with adjustment clause, or in foreign currency except an exemption results applicable. The transfer of shares of a local corporation is taxed at a 15-percent income tax rate. This assumes that the foreign beneficiary is in a jurisdiction considered as cooperative for tax purposes.
- Dividends paid to a non-resident individual or entity are taxed at a 7-percent tax rate for the fiscal year 2020 and 13 percent as of the fiscal year 2021.
- The applicable tax rates can be lower if a double taxation treaty is applicable.

TAX COMPLIANCE

Local entities and individuals are obliged to fill tax returns at the federal, state and municipal level depending on their activities. Tax returns must be filled on a monthly or yearly basis depending on the tax.

Information regimes are applicable to certain activities. Advance payment regimes are applicable for some taxes.

ALTERNATIVE MINIMUM TAX

Not applicable for this jurisdiction.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Not applicable for this jurisdiction.

Tax rulings

In some cases, taxpayers are entitled to present to the tax authorities a request for a ruling on a specific case. The ruling is binding for the consultant.

Tax incentives

There are tax incentives at the federal, state and municipal level which target specific activities, such as renewables and software services and development.

CONSOLIDATION

Not applicable for this jurisdiction.

PARTICIPATION EXEMPTION

Argentina tax legislation does not provide for a participation exemption.

Dividends paid by a local entity to another local entity are exempt from income tax. Dividends are only taxed when distributed to a local individual or to a foreign entity or individual.

CAPITAL GAIN

Capital gains are taxed by the income tax.

Domestic and foreign, see [Taxable income](#) and [Tax rates](#).

Income tax on indirect transfer

Income tax on indirect transfer may apply if a non-resident entity is transferred provided that at least 30 percent of value of the entity is represented by assets located in Argentina and provided that the transferor owns at least 10 percent of the capital of such entity. When the transfer is carried on intragroup, the income tax on indirect transfer is not applicable.

DISTRIBUTIONS

Distributions are taxed as dividends. Regardless of the tax residence of the recipient, dividends are taxed at a 7-percent tax rate for the fiscal year 2020 and 13 percent as of the fiscal year 2021.

Domestic and foreign, see [Taxable income](#) and [Tax rates](#).

LOSS UTILIZATION

Losses can be carried forward and can be offset with future profits for a 5-year period.

Losses considered to be of Argentine source can be offset only with profits considered to be of Argentine source. Losses considered to be of foreign source can only be an offset of foreign-source profits.

TAX-FREE REORGANIZATIONS

In Argentina, it is possible to carry on an intragroup reorganization with no tax effects. Mergers, spinoffs or partial spinoffs are exempted from income tax, VAT and turnover tax if certain requirements are met.

Income tax on indirect transfers can also be carried on with no tax costs if it is an intragroup transfer.

ANTI-DEFERRAL RULES

According to CFC rules, the profits of a foreign entity directly or indirectly owned by a local entity or individual should be declared and taxed in the fiscal year of accrual in the following cases:

- Trusts: When the trust is revocable, when the settlor is also the beneficiary or when the resident individual or entity has full control of the trust
- When the foreign entity is not considered a tax resident of the jurisdiction where it is incorporated
- When:
 - The local individual or entity directly or indirectly owns at least 50 percent of the capital of the foreign entity
 - The foreign entity does not have sufficient structure to carry on its business or when at least 50 percent of the profits of the foreign entity are passive income

- The taxes paid by the foreign entity in the country where it is incorporated are less than the 25 percent of the income tax that would be payable in Argentina (this requirement is deemed as occurred if the entity is incorporated in a non-cooperative jurisdiction).

FOREIGN TAX CREDITS

Subject to conditions and limitations, foreign tax credits are available for foreign income taxes paid.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Domestic and foreign

When a local entity or a non-resident individual or entity sells or transfers real estate property located in Argentina, income tax is triggered.

For resident individuals, if the real estate property that is being transferred has been acquired by the seller before January 1, 2018, no income tax is applicable, and the local individual must pay a special tax on transfer of real estate property.

There is the possibility of a tax deferral on the income tax applicable to the sale of a real estate property using a sale and replacement mechanism.

TRANSFER PRICING

Argentine transfer pricing rules apply to transactions between an Argentine party and a foreign related entity or any entity domiciled in a tax haven jurisdiction, a jurisdiction considered as non-cooperative, or that is subject to a privileged tax regime.

Argentine transfer pricing rules follow arm's-length rule and follow the OECD guidelines with some divergences.

WITHHOLDING TAX

(see [Taxable income](#) and [Tax rates](#).)

Domestic

Payments made by banks and financial institutions to local entities or individuals in the case of interests on bank deposits or financial investments are subject to income tax withholding.

Dividends paid by a local entity to a local individual are subject to income tax withholding. The tax rate applicable is 7 percent for the fiscal year 2020 and 13 percent as of FY 2021.

Foreign

Non-resident entities or individuals are taxed on their income considered to be of Argentine source.

The local payer is obliged to withhold the income tax at the time of the payment. Tax rates and presumptions of taxable income vary in connection with the type of payment made.

Tax treaties may reduce or eliminate withholding of income tax.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

Capital gains are taxed by the income tax (see [Taxable income](#) and [Tax rates](#)).

Stamp duty or stamp tax is a provincial tax triggered by the entering of written agreements signed by both parties. The tax rate applicable varies in connection with the province and in connection with the agreement. Tax rates are of 0.2 percent up to 5 percent of the total amount of the agreement.

There are legal mechanisms to avoid the payment of stamp tax by entering into an agreement as an offering letter.

Transfers of shares, assets and real estate property are taxed under the income tax (see [Taxable income](#) and [Tax rates](#)).

EMPLOYMENT TAXES

Employers must withhold income tax and social security contributions. Employers also must pay their share of social security contributions. These taxes are deductible by an employer for Argentine income tax purposes.

OTHER TAX CONSIDERATIONS

Provincial taxes - Turnover tax

Turnover tax or gross income tax is a tax collected by the province. The taxable event is the performance of commercial or industrial activity in the territory of the province. Tax rates can be 0.5 percent up to 6 percent in connection with the activity applied on the gross income. Some activities are charged with higher tax rates, such as online gambling, which is taxed at a 15-percent tax rate in the Province of Buenos Aires.

In some provinces, turnover tax is also applicable to the import of digital services.

Every province has its own turnover tax. However, the turnover tax collected by each province is similar, although different tax treatments may be applicable for certain activities.

Tax benefits

For some activities, there are special tax benefits at the federal level and provincial level.

There are tax benefits for an investment in renewable energy, software production and services, investments in capital assets, biodiesel fuel and mining.

The benefits may include partial or full exemptions, accelerated depreciation and drawback.

VAT on the import of digital services

The federal government collects VAT on the importation of digital B2C services. The taxpayer is the local resident unless the service provider has a fixed place in the Argentina. The tax rate is 21 percent.

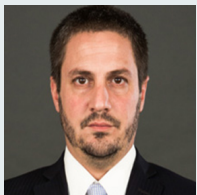
PAIS Tax

The PAIS tax is applicable to the purchase of foreign currency by resident individuals. It is also applicable when a local individual pays for services to a foreign entity using their credit/debit cards. The tax rate is 30 percent, or 8 percent when the service being paid is already taxed with the VAT on digital services.

Double taxation treaties

Argentina has signed tax treaties with Germany, Australia, Austria, Belgium, Bolivia, Brazil, Canada, Chile, Denmark, United Arab Emirates, Spain, Finland, France, Italy, Mexico, Norway, Netherlands, the UK, Russia, Sweden and Switzerland (all in force), and Japan, Luxembourg, Turkey, China, and Qatar (signed but not yet in force).

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