

Indirect Tax Alert

News from Americas Tax

Argentine Province of Buenos Aires and City of Buenos Aires impose turnover tax withholding on digital services provided by nonresidents

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Background

The "turnover tax" is an indirect provincial tax imposed by the tax authorities in each of the 24 jurisdictions in Argentina (including 23 provinces and the City of Buenos Aires). The tax is levied on the sale of goods or the performance of services within a given jurisdiction. Each jurisdiction provides different tax rules in relation to the taxable base (deductions, expenses, etc.), tax rates, exemptions and promotional regimes applicable to each activity. The tax rates typically vary from 3% to 5% for the sale of goods and services.

In the past, foreign entities with no permanent establishment in the country (for instance, through a branch or subsidiary) were not subject to this tax. Through the issuance of several recent laws, decrees and resolutions, however, some provinces have applied turnover tax withholding to nonresidents.

Province of Buenos Aires

Through Law No. 15,079, the Province of Buenos Aires required turnover tax withholding on nonresidents that provide digital services under certain circumstances. Under such law, residents paying for those services must withhold at the time they make the payment; if a resident intermediary (e.g., credit card company, bank) is involved in the payment, however, it will be required to act as a collection agent. The withholding tax is 2% of the amount paid to the nonresident.

The local tax authorities issued Resolutions No. 37, 38 and 42/2019, which contain the regulations to implement and enforce the withholding regime.

Resolution No. 38/2019 states that the local intermediaries involved in the payments will act as withholding agents. If more than one intermediary is involved, the intermediary with the closest commercial relationship with the digital service provider will be required to act as the collection agent. The local tax authorities will prepare a list of digital service providers for which the collection agents must collect the turnover tax if the users of the services are domiciled in the Province. The tax authorities will publish and update the list periodically.

According to Joint General Resolution No. 4632-37/2019 issued by Argentina's Federal Tax Agency and Province of Buenos Aires' Tax Agency, withholding agents will have to report and pay the amounts withheld under the terms and conditions established by General Resolution 2233 (SICORE System).

Finally, Resolution No. 42/2019 established that turnover tax withholding will apply to payments beginning 1 January 2020.

City of Buenos Aires

Through Law No. 6,279 (not published yet in the *Official Gazette*), the City of Buenos Aires required turnover tax withholding on payments to nonresidents that provide digital services to entities or individuals domiciled in that

jurisdiction, under certain circumstances. According to that law, residents paying for those services should withhold at the time the payment is made. If a resident intermediary (e.g., credit card company, bank) is involved in the payment, however, it will be required to act as a collection agent. The withholding tax is 2% of the amount paid to the nonresident.

The local tax authorities issued Resolution No. 312/2019, which contains the regulations to implement and enforce withholding. The Resolution states that the local intermediaries involved in the payments will act as withholding agents. If more than one intermediary is involved, the intermediary with the closest commercial relationship with the digital service provider will act as the collection agent. The local tax authorities will prepare a list of digital service providers for which the collection agents must collect the turnover tax if the users of the services are domiciled in the City. The tax authorities will publish and update the list periodically. The regime will apply to payments beginning 1 March 2020.

According to Joint General Resolution No. 4649/2019 issued by Argentina's Federal Tax Agency and City of Buenos Aires' Tax Agency, withholding agents will have to report and pay the amounts withheld under the terms and conditions established by General Resolution 2233 (SICORE System).

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