

8 January 2020

Global Tax Alert

News from EY Americas Tax

Argentina makes sweeping changes to tax laws, followed by regulations implementing recently enacted tax reform

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Executive summary

Argentina's tax reform law (Law 27,541 or the Law), enacted 23 December 2019, makes sweeping changes to Argentina's tax laws. The Law amends the income tax, personal assets tax, excise tax on certain goods, tax on debits and credits in local bank accounts, and social security rules. It also establishes a new tax on certain purchases of foreign currency, a new tax debt settlement plan for certain taxpayers, and new rates on exports of goods and services and the "statistical fee."

Following the law's enactment, Argentina published Decree 99/2019 (the Decree) in the *Official Gazette*. The Decree contains final regulations implementing the tax reform enacted through the Law, which is now fully effective.

This Alert discusses the main changes introduced by the Law and the Decree.

Detailed discussion

Corporate income tax rate and dividend withholding tax

The Law maintains the corporate income tax rate of 30% for one more year for tax years starting 1 January 2020, instead of reducing the rate to 25% as established under the previous law. The Law also maintains the dividend withholding tax rate of 7% for one more year for profits accrued during tax

years starting 1 January 2020, instead of applying the 13% rate as previously established. When the reduced rates will apply (2021 or 2022) is unclear due to confusing text in the law; however, it is expected that the uncertainty will be clarified shortly.

Inflation adjustment for income tax purposes

Previously, the negative or positive inflation adjustment applicable to Argentine entities (for years 2018, 2019 and 2020) were allocated equally over three years. For tax years 2019 and 2020, the Law requires the inflation adjustment factor to be allocated equally over six years. For tax years beginning on or after 1 January 2021, taxpayers may deduct 100% of the negative or positive inflation adjustment in the year in which the adjustment is calculated.

Taxation on interest and capital gains from certain Argentine investments

The Law restores the income tax exemption Argentine individuals may claim for interest arising from term deposits in local currency in Argentine banks (except term deposits with adjustment clause), investments in negotiable obligations (in Spanish, *Obligaciones Negociables*), certain common investments funds, debt titles of financial trusts and similar contracts, bonds, and certain other investments. This provision applies to tax year 2019 and onwards.

For capital gains arising from the sale of negotiable obligations, certain common investment funds, debt titles of financial trusts and similar contracts, bonds, and certain other investments, the Law restores the income tax exemption for Argentine individuals for tax year 2020 and onwards, to the extent those investments are publicly traded on stock exchanges under the supervision of the Argentine Securities and Exchange Commission (CNV); thus, capital gains from the sale of these items will remain subject to tax for tax year 2019.

Personal assets tax

For companies, the Law increases the tax on the net equity value of stock owned by Argentine individuals and foreign individuals or entities from 0.25% to 0.50%.

For Argentine individuals, assets with a value of ARS2 million (approx. US\$31,800) or less remain exempt from tax. For assets above that threshold, the progressive tax rates increase as follows: (1) 0.50% (instead of the previous 0.25%) for assets over ARS2 million to ARS3 million (approx. US\$47,600); (2) 0.75% (instead of the previous 0.50%) for

the assets over ARS3 million to ARS6.5 million (approx. US\$103,200); (3) 1% (instead of the previous 0.50%) for assets over ARS6.5 million to ARS18 million (approx. US\$285,700); and (4) 1.25% (instead of the previous 0.75%) for assets over ARS18 million.

For assets held outside Argentina by Argentine individuals, the Decree establishes differential tax rates as follows: (1) 0.7% (instead of the regular 0.5%) for assets over ARS2 million to ARS3 million (approx. US\$47,600); (2) 1.2% (instead of the regular 0.75%) for assets over ARS3 million to ARS6.5 million (approx. US\$103,200); (3) 1.8% (instead of the regular 1%) for assets over ARS6.5 million to ARS18 million (approx. US\$285,700); and (4) 2.25% (instead of the regular 1.25%) for assets over ARS18 million.

The differential rate will not apply to foreign financial assets that are repatriated to Argentina if: (i) at least 5% of the total foreign assets is repatriated; (ii) the repatriation occurs by 31 March of each year; and (iii) the repatriated funds remain deposited in an Argentine bank account until 31 December of the year of repatriation.

The Law also applies, to individuals, the "Argentine tax residence" criteria contemplated in the income tax law instead of the previous "domicile" criteria. The criteria is used to determine if an individual will be subject to personal assets tax on the assets held in and outside Argentina (Argentine residents) or only on the assets held in Argentina (nonresidents).

For foreign individuals (nonresidents) with assets in Argentina, the Law increases the tax rate from 0.25% to 0.5% for the assets held in Argentina. Those individuals must designate a local substitute taxpayer to pay the tax.

These new rules apply to tax year 2019 and onwards.

Tax on debits and credits in local bank accounts for cash withdrawals

For Argentine entities not considered as micro and small enterprises, the Law subjects cash withdrawals from local bank accounts performed since 24 December 2019 to a tax of 1.2% (instead of the 0.6% regular rate).

Excise taxes on terrestrial vehicles, vessels and aircrafts

The Law modifies the amounts exempt from the excise taxes on sales of terrestrial vehicles, leisure and sport vessels and aircraft.

For sales of terrestrial vehicles (except motorcycles), the Law exempts ARS1.3 million (US\$20,600) from the excise tax. For motorcycle sales, the exempt amount is ARS390,000 (US\$6,200), while the exempt amount for leisure and sports vessels is ARS1.7 million (US\$27,000). The Law does not exempt an amount from the excise tax for sales of aircraft.

The Law also modifies the tax rate from a flat 20% rate to a progressive rate as follows:

- ▶ 20% for terrestrial vehicles (except motorcycles) if the sale price before taxes is from ARS1.3 million (US\$20,600) to ARS2.4 million (US\$38,000), and 35% if the sale price before taxes exceeds ARS2.4 (US\$38,000)
- ▶ 20% for motorcycles if the sale price before taxes is from ARS390,000 (US\$6,200) to ARS500,000 (US\$7,900), and 30% if the sale price before taxes exceeds ARS500,000

The Law, however, maintains the flat 20% rate for leisure and sport vessels and aircraft.

The new rules will apply to sales performed from 1 January 2020.

New tax on purchase of foreign currency

The Law establishes a new tax (under the name of “tax for an inclusive and supportive Argentina”) that will apply for five years to the following transactions performed from 23 December 2019:

- ▶ Purchases of foreign currency (i.e., “constitution of foreign assets”) without a specific purpose by Argentine residents, under the limitations imposed by the Central Bank
- ▶ Purchases of goods or services from abroad or purchases by Argentine residents abroad through credit, debit or purchase, including cash withdrawals made outside Argentina
- ▶ Purchases made online through portals or virtual websites in foreign currency
- ▶ Purchases of services rendered abroad through Argentine travel agencies, including if they are paid in cash and access to the foreign exchange market to buy foreign currency is needed to pay the foreign service provider
- ▶ Purchases of ground, air and water passenger services with destinations outside Argentina (except ground passenger services to neighboring countries), including if they are paid in cash and access to the foreign exchange market to buy foreign currency is needed to pay the foreign service provider

The Decree extends application of the tax to purchases of goods or services from abroad with any other payment method; however, the final scope of this provision is still under discussion.

Both Argentine individuals and entities are subject to the tax. The tax rate is 30% and applies to taxable purchases, except for the purchase of digital services, which will be subject to an 8% rate.

Argentine financial institutions, credit card issuers, travel agencies and transport companies will act as collection agents of the tax, which will be withheld at the time of payment for the purchases.

New tax debt settlement plan for micro and small enterprises

The Law establishes a new regime for settling outstanding tax debts as of 30 November 2019, for micro and small enterprises, including federal taxes, social security taxes (certain exceptions apply), and import and export duties. The Law also allows tax liabilities subject to administrative or judicial claims to benefit from this regime. The deadline to apply for the settlement plan is 30 April 2020.

The plan will provide the following benefits:

- ▶ Exemption from fines and penalties not yet determined as of the date the regime is entered
- ▶ Total or partial exemption from compensatory and punitive interest
- ▶ Reduction of up to 15% of the consolidated tax debt, depending on the payment conditions chosen (e.g., cash, installment plan)
- ▶ Possible payment plan of up to 120 monthly installments, with a monthly interest rate of 3% for the first 12 months

Export duties

The Law allows the Executive Power to increase export duties up to 33% for exports of soybeans, 15% for exports of other products that were not subject to export duties as of 2 September 2018, and 5% for industrial products and services.

The Decree extends the application of duties on exports of services until 31 December 2021. The rate is 5% without limit (previously a maximum limit applied of ARS4 per each US dollar of the amount arising from the invoice).

These new rules went into effect on 1 January 2020.

“Statistical fee” on import of goods

The Law increases the “statistical fee” rate from 2.5% to 3% for imports of goods from 1 January 2020 to 31 December 2020. The Decree establishes progressive maximum limits of “statistical fee,” depending on the amount of the import (up to a maximum fee of US\$150,000 for imports whose value exceeds US\$1 million).

For imports of certain capital assets and temporary imports, the Decree extends the 0% rate until 31 December 2020.

Social security

The Law establishes a 20.4% social security rate to be paid by private sector employers when their main activities are “commerce” or “services” and their total sales exceed certain limits established by the Entrepreneur and Small- and Medium-Enterprises Secretary. Other private sector employers will pay an 18% rate.

The Law establishes a non-taxable base of ARS7,004 (US\$112), which will be subtracted monthly from each employee’s tax base used for calculating employer contributions.

In addition, employers with a payroll of up to 25 employees will benefit from an additional non-taxable base for social security taxes of ARS10,000 (US\$159) on the salaries paid.

The Law restores employer contributions creditable against value-added tax according to certain percentages based on the taxpayer’s location.

These rules apply for the calendar month December 2019 tax period and onwards.

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EYG no. 000085-20Gbl

1508-1600216 NY
ED None

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