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Global Tax Alert

News from EY Americas Tax

Argentine court allows taxpayer to allocate entire negative inflation adjustment to tax year to which it corresponds

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An Argentine federal court recently affirmed a precautionary measure (i.e., a provisional ruling similar to an injunction), allowing a taxpayer to deduct the entire negative adjustment for inflation in the tax year to which it corresponds, instead of allocating it over three tax years as provided by the income tax law.

Background

Laws 27,430 and 27,468 established an integral inflation adjustment mechanism that is triggered when the variation of the Consumer Price Index (in Spanish, *Índice de Precios al Consumidor nivel general* or IPC) supplied by the National Institute of Statistics and Censuses (in Spanish, *Instituto Nacional de Estadística y Censos* or INDEC), exceeds certain thresholds.

For tax years beginning on or after 1 January 2018 and on or before 31 December 2018, taxpayers must allocate one-third of any resulting negative or positive inflation adjustment to the tax year to which it corresponds, and the remaining two-thirds, in equal parts, to the following two tax years. For tax years 2019 and 2020, the inflation adjustment factor must be allocated equally over six years.

Spreading the inflation adjustment over a number of years (i.e., deferral mechanism) could negatively affect certain taxpayers by preventing them from deducting the full amount of the negative adjustment in the tax year to which it corresponds.

New court decision

On 14 February 2020, Federal Court “B” of the Province of Córdoba affirmed the precautionary measure issued by Federal Judge No. 1, which had ordered the Argentine tax authorities to allow a taxpayer to allocate the entire negative inflation adjustment to its tax year ended 31 March 2019, instead of spreading it over three years, as established by income tax regulations.

The court did not rule on the constitutionality of the deferral mechanism, but rather imposed a temporary protective measure while the courts decide the constitutional issue. The court observed that having the taxpayer pay the income tax liability as established by law would cause financial and economic damage to the taxpayer.

Even though the decision applies for that specific taxpayer and tax year, companies doing business in Argentina should monitor the progress of this issue for further court decisions.

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