

# Global Tax Alert

News from EY Americas Tax

## Argentina implements mandatory disclosure rules

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The Argentine Federal Tax Authorities (AFIP) have issued General Resolution No. 4838/2020 (published in the *Official Gazette* on 20 October 2020), which establishes a mandatory reporting regime for domestic and international arrangements (*planificaciones fiscales*, in Spanish) implemented since 1 January 2019 or implemented before that date but with effects that subsist as of 20 October 2020.

### Reportable arrangements

In accordance with the Resolution, the following arrangements must be reported:

**Domestic arrangements:** Any agreement, plan or any other action through which a taxpayer obtains fiscal advantages or other tax benefits (i.e., any reduction in the taxable base of the taxpayer or related entities) in Argentina with respect to federal taxes or informative regimes. Specifically, taxpayers and tax advisors must report arrangements included on the microsite, "Tax Arrangements Information Regime" (Régimen de Información de Planificaciones Fiscales), on the AFIP's [website](#).

**International arrangements:** Any agreement, plan or any other action through which a taxpayer obtains tax advantages or other tax benefits in Argentina and any other jurisdiction. Taxpayers and tax advisors must report international arrangements involving the following:

- ▶ Legal entities used to obtain double tax treaty benefits
- ▶ Strategies adopted to avoid triggering a permanent establishment

- ▶ An arrangement resulting in double international non-taxation
- ▶ An intention to avoid compliance with an informative regime
- ▶ The involvement of a non-cooperating jurisdiction or a low- or no-tax jurisdiction
- ▶ A mismatch between two or more jurisdictions regarding the tax treatment of an entity or agreement that results in a tax advantage or other tax benefits
- ▶ A foreign individual or entity holding double tax residency
- ▶ A taxpayer who is the beneficiary, grantor or trustee (or has similar characteristics as those taxpayers) of non-Argentine trusts, non-Argentine private foundations or any other non-Argentine business
- ▶ An arrangement specifically listed on the AFIP's tax arrangements microsite

## Reporting parties

Taxpayers that participate in any domestic or international tax planning arrangements as defined previously must comply with the mandatory reporting regime.

Additionally, tax advisors that participate (directly or through related parties) in implementing a tax planning arrangement must comply with the regime, unless they invoke professional confidentiality and report that option to the tax authorities. The taxpayer, however, may waive professional confidentiality.

If multiple parties are involved in a transaction, all will need to report and the reporting by one will not exempt others from reporting. It is not clear which of the parties will have the primary obligation to report in that scenario.

## Reporting due dates

Taxpayers and tax advisors must report domestic tax planning arrangements implemented since 20 October 2020, in the month following the end of the tax year in which the arrangements were implemented.

They also must report international tax planning arrangements implemented since 20 October 2020, within 10 business days counting from the day in which the implementation begins (i.e., when the first step is taken).

Domestic and International tax planning arrangements implemented from 1 January 2019 to 19 October 2020 or implemented before 1 January 2019 but still in effect on 20 October 2020, must be reported no later than 29 January 2021.

## Characteristics of the information required and filing procedure

When reporting arrangements, taxpayers and tax advisors must include a complete description of the relevant facts, details on the parties involved, and any other relevant element or transaction regarding the tax planning arrangement. They also must include a detailed analysis of the rules (including foreign legislation) that apply to the arrangements. The information must be reported electronically on the AFIP's website.

## Penalties

Taxpayers and tax advisors that do not comply with this regime may be subject to fines as set out in the Tax Procedural Law. They also could be excluded from tax registries that provide tax benefits and barred from obtaining tax credit certificates. Additionally, their risk of being assessed or audited, as determined by the tax authorities under the "Risk Perception System" (*SIPER* in Spanish), could increase.

## Implications

Taxpayers and tax advisors in Argentina should carefully review transactions conducted in 2020 and in prior years to determine whether any of the transactions give rise to a reporting obligation. Transactions conducted before 2020 that result in tax benefits must be disclosed.

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