

# Global Tax Alert

News from Americas Tax Center

## Argentina issues tax regulations related to the financing of real estate and infrastructure projects

### NEW! EY Tax News Update: Global Edition

EY's new Tax News Update: Global Edition is a free, personalized email subscription service that allows you to receive EY Global Tax Alerts, newsletters, events, and thought leadership published across all areas of tax. Access information about the tool and registration [here](#).

### EY Americas Tax Center

The EY ATC brings together the experience and perspectives of over 10,000 tax professionals across the region to help clients address administrative, legislative and regulatory opportunities and challenges in the 33 countries that comprise the Americas region of the global EY organization. Access more information [here](#).

### Executive summary

In Decree 382/2019 (Decree 382), published in the *Official Gazette* on 29 May 2019, and General Resolution No. 4498 (GR 4498), published in the *Official Gazette* on 3 June 2019, the Argentine Government clarified the rules related to the financing of real estate and infrastructure projects as enacted by Law 27,440.

Law 27,440 established that, under certain circumstances, Argentine trusts (*fideicomisos*) and common investment funds (CIFs) will not be subject to income tax. Rather, the investors in the trusts and CIFs will be liable for the income tax. Law 27,440 also established a promotional 15% tax rate applicable to income derived from the development of real estate (and related activities) for low- or middle-income classes.

### Detailed discussion

Decree 382 establishes that trusts and CIFs that are authorized by the Argentine Securities and Exchange Commission to be publicly offered will not be subject to income tax on their Argentine-source income, provided that they:

- Develop or directly invest in real estate, agriculture, forestry or infrastructure
- Finance or invest in other projects or assets through securities or other instruments

If the trusts or CIFs do not have foreign-source income, they will not be subject to income tax. The investors, however, will be subject to tax on the distributions from the trusts or CIFs.

Agents of the trusts or CIFs in charge of making income payments to foreign investors must withhold tax on those payments at the tax rate that would have applied if the investors had directly obtained the income. For real estate development activities, the applicable withholding tax rate is 15%.

In addition, the income distributed by the trusts and CIFs will not be subject to the withholding tax rate applicable to dividends and profits. However, the disposal of a participation in the trusts or CIFs will be subject to capital gains tax at the applicable rate (typically 13.5% effective rate for foreign investors).

Decree 382 also regulates the promotional tax system established by Law 27,440, which applies to publicly offered trusts or CIFs with investments of at least 75% in assets related to real estate developments for low- or middle-income classes, or mortgage loans. Resident investors will be subject to a 15% income tax rate only upon receiving the distributions from the trusts or CIFs. For foreign beneficiaries, agents in

charge of the income payments to the foreign beneficiaries must withhold the tax, which will be applied on a presumed 90% of net Argentine-sourced income (thus resulting in a 13.5% rate).

If the trusts or CIFs are liquidated within five years of their creation, or if they do not comply with the requirements of the promotional tax system, foreign investors will be subject to a 31.5% withholding tax on any accumulated and undistributed income. If the trusts or CIFs are liquidated 10 years after their creation, the distribution of accumulated income will be subject to a 0% withholding tax rate.

Finally, GR 4498 establishes procedures for remitting the corresponding tax. For resident investors, the administrators of the trusts and CIFs will provide the investors with the information necessary for calculating the tax. For foreign investors, the administrators will directly withhold and remit the corresponding tax to the tax authorities.

Companies doing business in Argentina and foreign investors evaluating projects in Argentina should review the new regulations and consider structuring alternatives for present and future projects.

For additional information with respect to this Alert, please contact the following:

**Pistrelli, Henry Martin & Asociados S.R.L., Buenos Aires**

- ▶ Carlos Casanovas                      carlos.casanovas@ar.ey.com
- ▶ Gustavo Scravaglieri                gustavo.scravaglieri@ar.ey.com
- ▶ Ariel Becher                            ariel.becher@ar.ey.com

**Ernst & Young LLP (United States), Latin American Business Center, New York**

- ▶ Pablo Wejcman                        pablo.wejcman@ey.com
- ▶ Juan Ignacio Pernin                juan.ignacio.pernin@ey.com
- ▶ Ana Mingramm                        ana.mingramm@ey.com
- ▶ Enrique Perez Grovas                enrique.perezgrovas@ey.com

**Ernst & Young LLP (United Kingdom), Latin American Business Center, London**

- ▶ Pablo Baroffio                        pablo.baroffio@uk.ey.com
- ▶ Jose Padilla                            jpadilla@uk.ey.com

**Ernst & Young Tax Co., Latin American Business Center, Japan & Asia Pacific**

- ▶ Raul Moreno, *Tokyo*                raul.moreno@jp.ey.com
- ▶ Luis Coronado, *Singapore*        luis.coronado@sg.ey.com

**About EY**

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit [ey.com](https://ey.com).

Americas Tax Center

© 2019 EYGM Limited.  
All Rights Reserved.

EYG no. 002853-19Gbl

1508-1600216 NY  
ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

**[ey.com](https://ey.com)**