



# Argentina Tax Reform: Major International Implications Part 1

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# Argentina Tax Reform



## CONTENT OF THE PRESENTATION

- Introduction
- Key International Tax Aspects of the Proposed Reform. Part 1.

# Argentina Tax Reform



## **Current Status**

Bill of Law sent to Congress on  
November 15th 2017

## **Is it a Relevant Reform?**

Most important tax reform in  
25 years

## Most Important Tax Reform in 25 Years



- Tax and labor reform plan to be implemented over a five year period
- Substantial amendment to income tax law, VAT law, Customs Code, tax procedure law, criminal tax law and other tax laws
- Objective: update Argentina's tax system, eliminate distortions and increase competitiveness of Argentina (attract investors, local and international), among other

## New Definition of Tax Havens



- ❑ Current system: White List of Cooperative Jurisdictions
  
- ❑ Tax Reform proposes two categories (instead of White List):
  - Non-Cooperative Jurisdictions (Black List), AND
  
  - Low or Nil Tax Jurisdictions

## Non-Cooperative Jurisdictions



1. No information exchange agreement with Argentina and no convention to avoid double taxation with Argentina with broad exchange of information clause; or
2. Signed 1. but does not effectively exchange information

The Executive Branch must issue a list of non-cooperative jurisdictions (Black List)

## Low or Nil Tax Jurisdictions (“LONT”)



- Jurisdiction with maximum corporate income tax rate lower than 60% (\*) of rate set forth in Section 69 a)
- New Section 69 a): 25% (\*\*)

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Hence, qualifies as LONT if maximum corporate income tax rate of jurisdiction (\*\*\*) is lower than 15%

### NOTES:

(\*) Effective or nominal tax rate?

(\*\*) Section 85.d) of the Bill of Law states that for 2018 and 2019, 25% “should be read 30%”. Thus, for 2018 and 2019 is it 18% (and not 15%)?

(\*\*\*) Includes country, jurisdiction dominium, territory, associated state and/or special tax regime

# LONT and Non-Cooperative Jurisdictions



	LONT Jurisdictions	Non Cooperative Jurisdictions
Transfer pricing rules?	Yes	Yes
Could benefit from exemption for sale of listed securities, public bonds, negotiable obligations?	Yes	No
Expense deduction only on a cash basis?	Yes	Yes
Non-rebuttable presumption of Section 133 f) applies (anti deferral rules)?	Yes	Yes
Use of these jurisdictions is regarded an "aggravation factor" for criminal tax fraud purposes?	No	Yes
Other previous regulations for tax havens apply?	Yes	Yes

Conclusion: very similar treatment with worse situation for non-cooperative jurisdictions.



## New Rules on Financial Income for Non Residents



In general, 15% tax rate for capital gains arisen from transfer of shares, representative securities and deposit certificates shares and any type of corporate participations, including mutual funds shares and rights over trusts and similar contracts, digital currencies (\*), securities, bonds and other securities.

(\* ) Digital currency (e.g. bitcoins) regarded as assets. Thus, realized capital gains subject to income tax.

## New Rules on Financial Income for Non Residents



Exemption for capital gains re sale of listed shares, listed securities representing shares and listed certificates of deposit of shares. Must be:

- Through stock markets “authorized” by Argentine Securities and Exchange Commission AND must be securities “placed” (*colocados*) through public offering; OR
- Through a takeover tender offer (Oferta Publica de Adquisición or OPA) or through a public offer placement authorized by Argentine Securities and Exchange Commission

## New Rules on Financial Income for Non Residents



Exemption for capital gains and interests arisen from:

- Public securities;
- Negotiable obligations; and
- Shares or deposit certificates shares and “other securities” (*valores*) issued abroad by Argentina entities.

### NOTES:

- Non-resident and/or funds cannot be from non-cooperative jurisdictions.
- “Other securities” (*valores*): negotiable values issued in series able to be exchanged in stock markets (Section 8.1 of Regulatory Decree applies?)



## New Anti Deferral Rules



- ❑ Fiscal transparency for foreign passive income applicable to (i) companies in which passive income represents more than 50% of gross income, (ii) companies without adequate "substance" (i.e. no organization of material and personal means needed to undertake the activity of the company), among other cases. Certain additional requirements are applicable.
  
- ❑ New (unclear) regulations for foreign trusts, private foundations and other international vehicles. Key Aspect: "Control".



**Thank you!**

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