

Argentine tax reform: International implications

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NON RESIDENT TAXATION: CAPITAL GAINS ON DIRECT SHAREHOLDINGS

- Sale of shares taxed at 15% on a net basis, except on listed shares sold through local brokers
- Gross basis option maintained at 13.5%
- New collection mechanism on foreign-to-foreign transactions: through appointed legal representative of non resident seller
- Non resident purchaser no longer liable
- New!: tax basis in shares, adjusted for inflation as from acquisition date
- Presumably effective as from January 2018

NON RESIDENT TAXATION ON CAPITAL GAINS ON INDIRECT SHAREHOLDINGS

- New source rule: indirect transfers of shares representing assets or shares located in Argentina
- Captures any type of assets located in Argentina, including rights over those assets
- No limited number of layers
- Subject to tax if both statutory thresholds met:
 - 30% FMV value rule
 - 10% shareholding transferred
- Anti-abuse rules
 - Rule of 12 months
 - Imputation rule on sales by relatives
- New!: tax basis in the shares adjusted as from investment date
- Payment mechanism through legal representative of the seller: subject to controversy

CORPORATE AND SHAREHOLDER TAXATION NEW INTEGRATION SYSTEM SEEKING PROFITS REINVESTED

- Corporate income tax would be gradually reduced from 35% to 25%:
 - 2017 – a rate of 35%
 - 2018 and 2019 – a rate of 30%
 - 2020 and onwards – a rate of 25%

- Additional dividend withholding tax bringing the total tax rate to 35%
 - for 2018 and 2019: 7%
 - 2020 and onwards: 13%

Different nature of the dividend/withholding:

- To individuals
- To local enterprises and companies
- To non residents

PERMANENT ESTABLISHMENT CONCEPT NOW DEFINED IN THE ITL

- Not defined in the ITL up to now; only through Alternative Minimum Income Tax rules (tax no longer effective in 2019), however, situation did not trigger conflicts and significant litigation on the matter
- New definition follows OECD Model with minor deviations, as updated by BEPs Action 7
- Follows BEPs action on PE on agents, such as recently signed Argentine-Chilean and Argentine-Mexican tax treaties
- Construction, services or business activities extended for more than 6 months in any 12 months
- Following this tax reform, taxpayer registration required. Distinction with prior tax treaty scenario

REVISED THIN CAPITALIZATION RULES

- Follow BEPs Action 4
- Fall on related financial debt
- Both on local or cross-border debt: impact on tax treaties
- New ratio: interest that exceeds annual threshold set forth by government or 30% of annual net profits may not be deductible
- Non deductible excess may be carried forward for 5 FYs
- A few exclusions available
- Interest definition includes FX differences
- No longer dividend treatment on non deductible excess



OTHER RELEVANT CHANGES

- VAT
 - Digital services become taxed (such as Netflix, AppStore or Spotify), collected by intermediaries receiving payment
 - Expedited recovery: VAT credits associated with investments (equipment) not offset in six months
- Tax treaties: MAP protocol introduced and procedure implemented
- APAs introduced, to be implemented through regulations
- Changes in the criminal tax law: new aggravated tax evasion, through the use of structures, trusts or any non cooperating jurisdictions



FINAL REMARKS



Major tax reform



Aimed at improving competitiveness
of Argentine's tax system

From an international standpoint, it will have critical tax impact on:

- Inbound and outbound investment and business projects
- Corporate projects and family planning projects

