



Argentina Tax Reform: Major International Implications

Miami & New York, May 2018

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Argentina Tax Reform



CONTENT OF THE PRESENTATION

- Introduction
- Key International Aspects of the Tax Reform
- Final Comments

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 and many other tax laws.
- Objective: Update Argentina's tax system, eliminate distortions and increase competitiveness of Argentina (attract investors, local and international), among other.

Argentina Tax Reform



Current Status

In force (Law 27,430 enacted by Congress on December 2017)

Is it a Relevant Reform?

Most important tax reform in 25 years

Tax on Indirect Sales



In general, sale of shares of Company "B" by Company "A" subject to tax to the extent the follow two conditions are met:

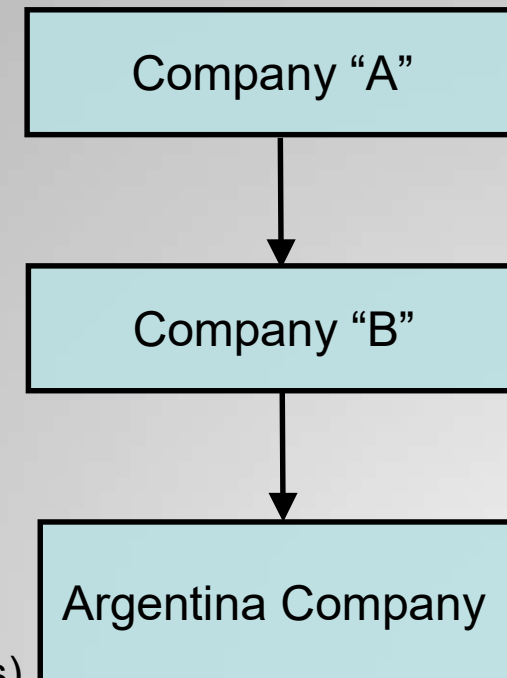
- 1) Market value of the participation in Company "B" owned by Company "A" must be 30% or more of the value of the Argentina Company (or Argentina PE or Argentina assets) that is owned by Company "B"; AND
- 2) Transfer of at least 10% of the shares of Company "B"

Anti Avoidance Regulations:

- Rule of "12 months"
- Includes direct or indirect participation (for many layers).
- 10% includes control or connection (family, etc).

Applicable to shares acquired as of 1/1/2018 (new structures)

Tax payable by Arg legal representative (or by the beneficiary, if no Arg legal representative)



Corporate Taxation and Dividend Taxation

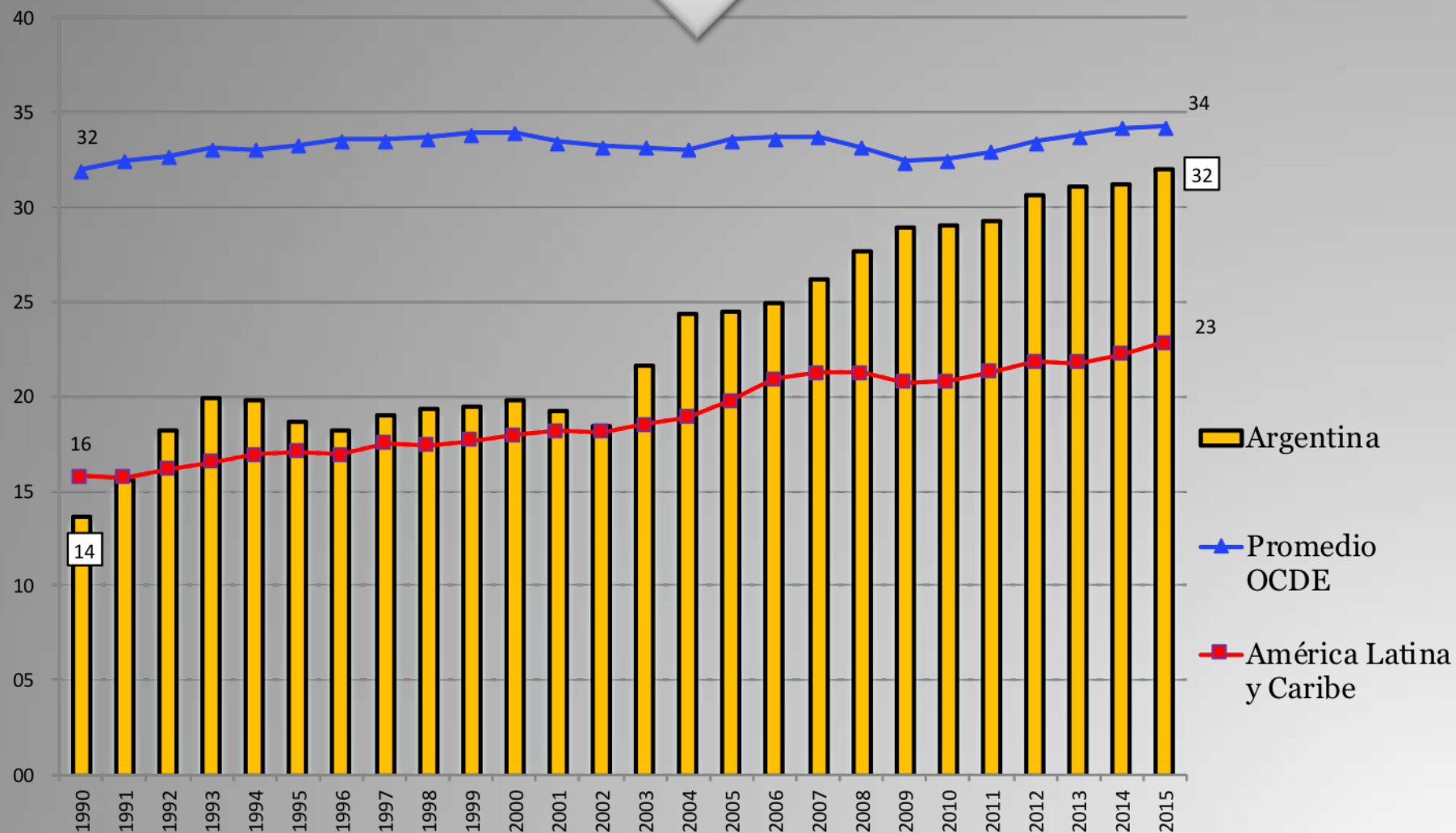


- Rate of the corporate income tax to be gradually reduced from 35% to 25%:
 - 2017 – rate of 35%
 - 2018 and 2019 – rate of 30%
 - 2020 and onwards – rate of 25%

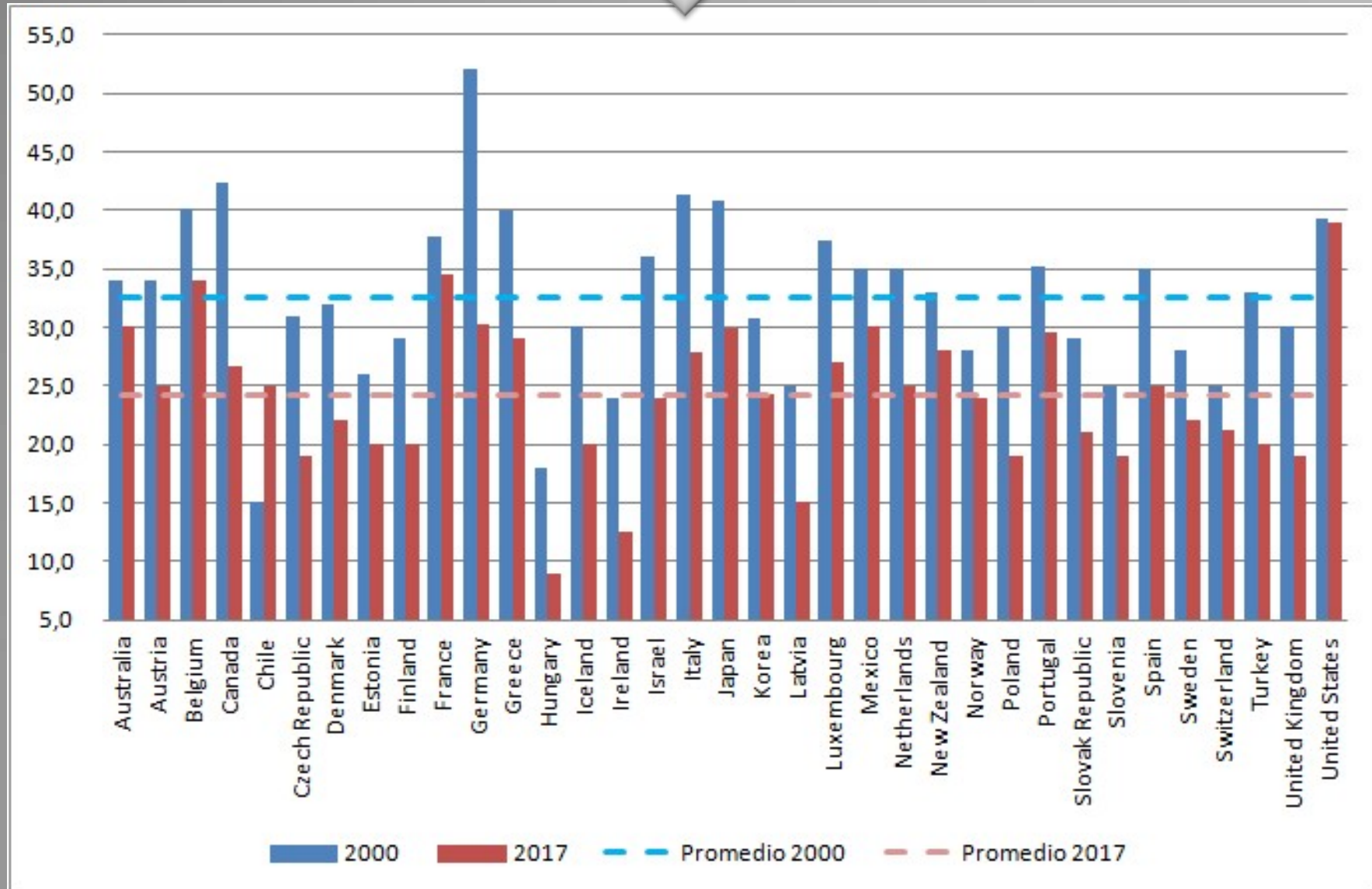
An additional withholding tax is levied on distributed dividends or profits to bring the total tax rate to approximately 35%.

Context: Consolidated Tax Pressure against GDP

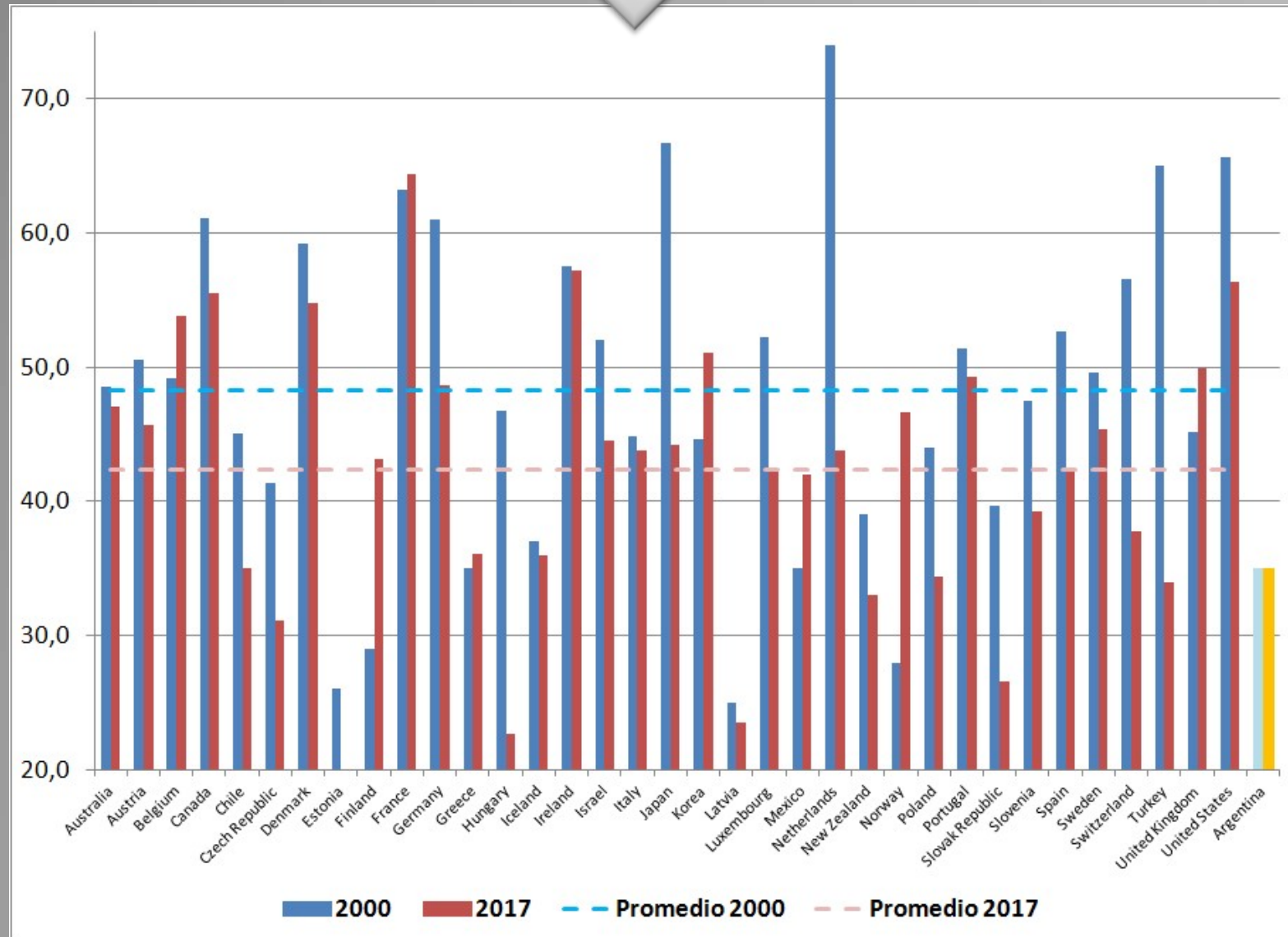
Comparison Argentina against OECD Countries and LATAM & Caribbean



Corporate Income Tax Rates: Comparison 2000 / 2017



Corporate & Personal Income Tax Rates Combined: Comparison 2000 / 2017





New Definition of Tax Havens



- Old system: White List of Cooperative Jurisdictions (temporarily still in force)

- Tax Reform includes 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% (**)

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 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 regulations for foreign trusts, private foundations and other international vehicles. Key Aspect: "Control".

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.
- 5% tax rate for capital gains arisen from Argentine pesos denominated titles with no inflation adjustment clause.

(*) 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
- Certificates of Deposits of Shares issued abroad by Argentina companies authorized by Argentine Securities and Exchange Commission.

NOTES:

- Non-resident and/or funds cannot be from non-cooperative jurisdictions.
- Exemption not applicable to LEBACs (*Letras del BCRA*). Applicable rate varies depending type of investor.

Other Modifications



- Definition of Permanent Establishment: Follow OECD recommendations (Connected with **BEPS Action 7**).
- Revised Thin Cap Rules (Connected with **BEPS Action 4**).
- VAT on digital services (Netflix, AppStore, Tinder, etc). Credit card companies would effectively act as collection and paying agents. The regulations from AFIP are still pending. Said regulations will include a list of digital service providers Connected with **BEPS Action 1**.
- Refund of value added tax (VAT) credit balances related to capital investments.

Other Modifications



- New Tax Procedure Regulations:
 - Mutual Agreement Procedure (Connected with **BEPS Action 14**).
 - Advanced Pricing Agreements.
 - Increased sanctions regime for failing to provide the information requested by the Federal Public Revenue Administration related to Country by Country Reporting (Connected with **BEPS Action 13**).

- Changes to criminal tax law.



Final Comments



- ✓ Major Tax Reform
- ✓ Aimed at improving competitiveness of Argentina's Tax System
- ✓ From an international standpoint it has critical tax impact on:
 - Inbound and outbound projects.
 - Corporate projects and family planning projects.



Thank you!

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