

ARGENTINA



ARGENTINE TAX REFORM CONTINUES TO BATTLE EFFECTS OF 1994 MEXICAN PESO CRISIS

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During 1996, Argentina experienced a period of sustained economic recovery, following the devastating effects of the 1994 Mexican crisis.¹ While gross domestic product fell by 8.1% between the fourth quarter of 1994 and the third quarter of 1995, it is estimated that the economy

grew close to 4% in 1996 and a base of 5% is expected for 1997.

The effects of the devaluation of the Mexican peso that took place in December 1994 and the recession that followed led the Argentine government to reform its tax system with the objective of increasing public revenue.² The

reforms implemented during 1995 were followed by additional reforms in 1996 that have contributed to an increase in tax collection of 8% in December 1995-December 1996. Improved industrial activity produced an increase of 7.6% in VAT revenues alone in November 1995-November 1996. These results enabled the country to meet its IMF target of a fiscal deficit of \$6 billion for 1996 and show that Argentina has come out of the recession. Discussed below are the main tax reforms that took place in Argentina during 1996.

VAT. Law 24,631, passed at the beginning of 1996, enabled the Executive Power to eliminate several exemptions to the payment of VAT. Previously exempt goods and services that became taxable at the discretion of the Executive include passenger transport; tickets to sport and artistic events; gold in coins or

Exhibit 1— Payments to Foreign Beneficiaries

Type of Income	Assumed Net Profit	Withholding Rate**	Grossing Up**
Transportation			
Foreign companies involved in cross-border transport	10%	3.30%	3.4126%
Payments made by companies with offices or incorporated in Argentina	10%	3.30%	3.4126%
Companies not incorporated in Argentina involved in the containers business	20%	6.60%	7.0661%
News agencies			
Payments to news agencies, with or without a branch in Argentina, that provide paid services to local entities or persons residing in Argentina	10%	3.30%	3.4126%
Insurance			
Assignment to foreign corporations of premiums through reinsurance or reimbursements	10%	3.30%	3.4126%
Films, tapes, radio transmission			
Payment to the producers, distributors, or intermediaries for the exploitation in Argentina of foreign films; foreign video and audio tapes; foreign radio and TV programs; telex, fax, or similar services; and any other means of projections, reproduction, or transmission of images.	50%	16.50%	19.7605%
Transfer of technology			
<i>(1) Contracts duly recorded with the INTI (National Institute of Technology)</i>			
Services resulting from technical assistance, engineering, or consulting, when payments are related to the duration or the amount of work performed	60%	19.80%	24.6883%
Transfer of technical know-how through installments or paid with a royalty over the net sales price, or according to the volume of production of the products or services licensed; the assignment of rights or licenses for the exploitation of patents, and other services not included in the previous paragraph	80%	26.40%	35.8696%
<i>(2) Contracts not duly recorded with the INTI</i>	90%	29.70%	42.2475%
Interest			
Interest paid on credits of any kind or origin	40%	13.20%	15.2074%***
Salaries, fees, or other compensation			
Payments to workers remaining in the country for less than six months	70%	23.10%	30.0390%
Lease or rent of movable goods			
	40%	13.20%	15.2074%
Lease or rent of real estate*			
	60%	19.80%	24.6883%
Transfer or sale of assets*			
Transfer or sale of assets located or used in the country for a value	50%	16.50%	19.7605%
Other income not specified	90%	29.70%	42.2475%

* The beneficiary has the option to apply the withholding to the net income after deducting from the gross revenue all the expenses made in the country necessary to obtain, maintain, and preserve the goods transferred and all other applicable deductions.

** To avoid double taxation, Argentina has signed treaties with Austria, Bolivia, Brazil, Canada, Chile, Finland, France, Germany, Italy, Spain, and Sweden. The maximum rates applicable in each situation are contained in the treaties.

*** The grossing up does not apply to interest paid for foreign loans directed to the industrial or manufacturing sector (as opposed to commerce, agricultural, services, etc.), mining, and the production of primary products.

Exhibit 2 — Tax Rates for Individuals

Taxable Net Income		Tax		
From \$	Up To \$	\$	Plus %	On amounts in excess of
0	10,000	0	6	0
10,000	20,000	600	10	10,000
20,000	30,000	1,600	14	20,000
30,000	60,000	3,000	18	30,000
60,000	90,000	8,400	23	60,000
90,000	120,000	15,300	28	90,000
120,000	and higher	23,700	33	120,000

bars; commercial passenger and cargo airplanes and ships; and the rent and freight of ships for international transport.

Most importantly, the reform maintained the VAT rate at 21% without the need to request an extension on April 1, 1996; as a consequence of the Mexican crisis, on April 1, 1995, the previous rate was raised from 18% to 21% for one year only.³

Therefore, the general rate of 21% applies to the following activities:

- All goods sold in the country (exports are exempt).
- Service agreements.
- Work performed directly or indirectly on a third party's real property, including construction, repairs, and maintenance.
- Manufacturing and processing of movable goods in Argentina for a third party, with or without the supply of raw materials, except when such works fall under services not subject to tax and the movable goods are material to the service rendered.
- Extraction of natural resources on behalf of third parties.
- Leasing and services for a fee (unless expressly exempt).
- Supply and distribution of utilities.
- Final imports of goods.

Water, gas, electricity, and telecommunications services are subject to a 27% VAT rate. In addition to the regular VAT of 21%, imports of goods are subject to a payment of an additional 9%.

Income tax. Law 24,631 also enabled the Executive Power to broaden the income tax base by granting it the ability to eliminate exemptions for income from copyrights; securities issued by official entities; premiums over the issuance of shares; the differ-

ence between the premiums or installments paid and the capital received at maturity of capitalization instruments; life insurance, and private pensions; and interest from credit obtained abroad to finance the import of certain goods. More recently, Law 24,698, passed in September 1996, introduced the following changes.

Sociedad de responsabilidad limitada.

This type of company (limited liability partnership) was previously not subject to income tax. Instead, the partners were individually responsible for reporting on their tax returns the income of the company distributed to them. Reform has now put the limited liability partnership on equal footing with corporations and the same tax treatment applies to both types of companies.

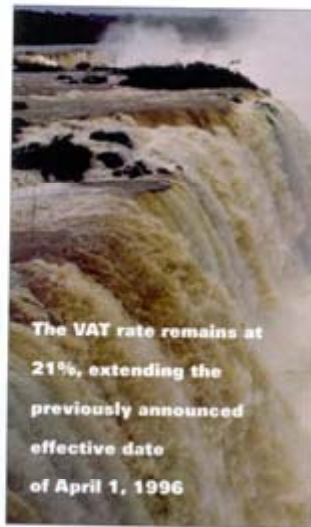
Rates modified. The applicable rates have also been modified, with an increase from 30% to 33% for the following:

- Non-documented distributions, i.e., payments that cannot be deducted as expenses related to the obtention, maintenance, or conservation of income.
- Corporations, limited liability companies, and other types of companies such as limited liability partnerships, civil associations, and foundations.
- Yield of private securities and related withholdings.
- Payments made abroad to foreign beneficiaries. Exhibit 1 on page 88 shows the applicable 33% income tax rate, the effective rates, and the rates that apply when the payor residing in Argentina absorbs the withholding tax (grossing-up).⁴

In addition, the rate increased from 15% to 40% for interest paid for credits obtained abroad, and income earned by national and foreign individuals residing in Argentina for more than six months per calendar year will be taxed between 6% and 33%, depending on the circumstances (see Exhibit 2 on page 88).

Other taxes. Other changes introduced by Law 24,698 are:

- A 10% tax for gasoil cars and engines as of January 1, 1997.
- An increase in taxes on fuels and natural gas.



The VAT rate remains at 21%, extending the previously announced effective date of April 1, 1996

- The agricultural, fishing, and mining sector will be able to deduct 100% of the payment of fuel taxes in purchases related to their respective activities.

Conclusion. Notwithstanding the above-mentioned reforms, Argentina continues to be a "friendly" country when it comes to taxes on profits. The income tax rate may have been increased to 33% but there is still no withholding on distribution of dividends or profits of corporations and other forms of company organizations, regardless of the residency of the beneficiary. Net operating losses can be offset against income generated in the following five fiscal years, and all expenses incurred to preserve assets that generate income may be deducted for purposes of calculating net taxable income, in addition to depreciation, which is calculated based on the original cost of the asset.

Furthermore, compared to the tax burden of the major countries in the region (e.g., Chile and Brazil), there are no substantial differences, and in some instances Argentina comes out ahead, even considering the recent increases. Therefore, barring a new crisis, no additional changes or amendments to the tax regime are expected in Argentina in 1997. ■

¹ See Kaye, "Mexico's Peso Devaluation Cuts Tax Revenue; New Tax Law Encourages Investment," 6 JGIT 283 (June 1995).

² See Alfaro and Guimarey, "Argentina Reforms Tax System to Cope With 'Tequila Effect,'" 6 JGIT 422 (September 1995).

³ *Id.*

⁴ Exhibit 1 is an update of the one that appeared in Alfaro, "Argentina Changes Its Tax System to Become More Competitive," 5 JGIT 256 (June 1994).