



# Doing Business in Argentina 2008

November 2008



BDO International



# DOING BUSINESS IN ARGENTINA 2008

**November 2008**





# Introduction

The aim of this publication, which has been prepared for the exclusive use of BDO Member Firms and their clients and prospective clients, is to provide background information for the setting up and running of a business in Argentina, in compliance with legislation in force on 31 December 2007. It is created for anyone who is thinking of establishing a business in Argentina as a separate entity, as a branch of a foreign company or as a subsidiary of an existing foreign company, and to anyone who is considering coming to work or live permanently in Argentina.

The publication describes the business environment in Argentina and outlines the financial and legal implications of running, or working for an Argentine business. The most important issues are included, but it is not feasible to discuss every subject in detail within this format. Accordingly, *Doing Business in Argentina 2008* is written in general terms and is not intended to be comprehensive. If you would like to know more, please contact the BDO Member Firms with which you normally deal, who can provide you with information on any further issues and on the impact of any legislation subsequent to 31 December 2007.

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*Doing Business in Argentina* has been written by Becher y Asociados S.R.L., the Argentina Member Firm of BDO. Its contact details may be found on page 45 of this publication.

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# 1. *The business environment*

## **General information**

### **Geography and climate**

Argentina has a total surface area of 3.8 million km<sup>2</sup>, of which about three quarters – just under 2.8 million km<sup>2</sup> – is located in the South American continent. The rest is composed by a sector of Antarctica and three groups of islands in the South Atlantic. Based on the area, continental Argentina is the seventh largest country in the world, the fourth largest in America and the second largest in Latin America.

Its international frontiers stretch across 25 728 km, mostly on the Atlantic Ocean, but in the West and across the Andes Mountains, Argentina is also bordered by Chile, in the North West by Bolivia and in the North by Paraguay, Brazil and Uruguay.

Weather conditions range from subtropical in the North East, to temperate in the central region, to arid and semi-arid and cold in the South and near the mountains. The country's main agricultural region is in Central Argentina. There is a wide 'climate belt' where the richness and fertility of the soil and the rainfall régime are perfectly suited for agricultural development.

### **History and government**

Until 1810, Argentina was part of the Spanish Viceroyalty of the River Plate, but that year it rebelled against Spanish rule. After some unsuccessful attempts to regain control, the Spaniards were finally defeated and on 9 July 1816 independence was proclaimed.

Different governmental systems were in force until 1853, when the Constitution was sanctioned by the Constitutional Convention. Certain amendments have been introduced since then – the latest in July 1994 – but it has remained essentially the same.

The 1853 Constitution organised the country into a Federal Republic with 23 provinces and a Federal Capital (the city of Buenos Aires) under a presidential system of government. The Federal Government consists of three branches: the Executive, headed by the President (who is directly elected for a four-year term); the Congress, composed of the Senate and the Chamber of Deputies; and the Judiciary, represented by the Courts of Justice and headed by the Supreme Court of Justice. Provincial and Federal Governments are structured in the same way.

In November 2007, Cristina Fernandez Kirchner, from the Partido Justicialista, was elected President to succeed her husband, Dr Néstor Kirchner. During Dr Kirchner's term of office the country's economy experienced considerable recovery after facing a crisis of staggering proportions.

### **Population and language**

Argentina's total population is 36.2 million, and is mostly of European origin. Almost 45% of its population lives in the city of Buenos Aires and the province of Buenos Aires. The city has a population of 3 034 161 inhabitants, whereas over 13 million people live in the greater Buenos Aires metropolitan area, making it the third largest conurbation in Latin America. Other important cities are Córdoba (1 272 334), Rosario (909 397), Santa Fe (369 046) and Mendoza (111 000).

Spanish is the official language. Indigenous languages, such as Guaraní and Quichua are spoken in some parts of the country. There are no colour, racial, religious or other minority-group conflicts. The literacy rate is high (97.4%) and, in terms of skills and abilities, the labour force is comparable with that in most developed countries. Technical and professional standards are also comparable. This is especially important when

considering human resources available when undertaking production activities in the country.

### **Economy**

Due to the recovery after the late 2001 crisis, performance of the principal macroeconomic variables of Argentina has been notably steady. The economy has been growing for the last five years at an average rate of 8%, also exhibiting a decrease in the unemployment rate and an increase in the creation of formal employment. Such is the ongoing trend these days, making it possible to forecast a 6% growth of the gross domestic product for the year 2008.

As a result of this expansion, the country's installed capacity has been put to use up to its maximum levels, increasing power demand. In order to allow the present economic performance to be sustainable it will be necessary to encourage investments that will promote greater energy generation.

However, nowadays inflation is the most serious threat derived from an unequal growth of supply and demand. To this we need to add the inflationary effect originating from the increase of international food and oil prices, attributable to diverse factors, such as the growth experienced by Asian economies, speculative activities by large investors on negative interest rates and the higher demand for grains for biofuel production.

The monetary policy applied by the Central Bank is based on the concept of expansion achieved through a competitive exchange rate. Thus, the monetary institution has intervened in the currency market to sustain the value of the US dollar. Thanks to this, an important number of funds have been accrued in order to allow a higher management margin in the maintenance of the expectations about the exchange rate.

In the international context, the duration and depth of the current crisis originated by the North American economy will condition the impact that it could have on the local environment. In this sense a casual contagious effect on the global economy could affect the emerging economies that are currently favoured by the high prices of exports commodities. However, most analysts believe that the growth in the Chinese and Indian economies will not slow down in future years, thus the main engine for food demand would be intact.

Thus, despite the increasing threat of inflation, the macroeconomic situation of the country is featured by strengths such as the presence of the tax surplus and the current balance of payments, to a level relatively high of international accumulated reserves and financing needs still manageable in the current context.

### **Currency**

The local currency is the Argentine Peso (ARS). There is a free exchange market requiring transaction records. Currency value is established by free supply and demand, and the Banco Central de la República Argentina [Central Bank of Argentine Republic] may intervene by carrying out its own transactions. At the time of publication (late November 2008), the peso was quoted against the Euro and the US dollar at ARS 4.1418 = EUR 1 and ARS 3.3013 = USD 1, respectively.

### **Weights and measures**

Argentina uses the metric system of weights and measures and measures temperature in degrees Celsius.

### **Business Entities**

#### **Forms of Business Enterprise**

Business may be carried out in Argentina through incorporated companies, branches of foreign entities, partnerships and by individuals as sole traders.

The principal entities with limited liability are:

- the joint-stock company (*Sociedad Anónima*)
- the limited-liability company (*Sociedad de Responsabilidad Limitada*)
- a branch of a foreign company
- the limited partnership (*Sociedad en Comandita*)
- a joint venture

Foreign investors' businesses are usually organised in the form of a joint-stock company or a limited-liability company, as these are more suitable for multinational organisations. However, foreign investors are allowed to use other forms to organise their activities in the country.

Foreign investors who intend to set up a legal entity in Argentina must be registered with the Public Registry of Commerce (*Registro Público de Comercio*). Registration procedures are simple and consist basically in filing a copy of the articles of incorporation (bylaws), a certificate issued by the authority of the country of origin stating that the company is registered and in good legal standing. It is also necessary to include a minute from the board meeting resolving to register a branch in Argentina, in order to form part of a company in the country (or to set up a branch), establishing a domicile in the country and the appointment of its legal representative.

Furthermore, it should be noted that foreign companies wishing to do business in the jurisdiction of the City of Buenos Aires, must submit evidence to the appropriate regulatory agency (*Inspección General de Justicia* or *Registro Público de Comercio* [Supervisory Board of Companies]) regarding the fact that they are authorised by their country of origin to conduct the activities mentioned in the company's purpose set forth in its bylaws, as well as evidence of compliance with any of the following requirements:

- existence of one or more permanent agencies, branches or representatives
- ownership of non-current assets in other companies
- ownership of fixed assets in the company's place of origin

It should be noted that a Register of Individual Acts carried out by Companies Organised in Foreign Countries (*Registro de Actos Aislados de Sociedades Constituidas en el Extranjero*) has been set up. In this register, all actions related to real property located in the City of Buenos Aires must be registered, provided that the purpose of such actions is the creation, acquisition, transmission or cancellation of real-property rights involving a company organised in a foreign country. Based on the information included in such registry, as well as any other additional element requested to such effect, the regulatory agency is able to determine that the company performs regular business in Argentina, and hence, to demand compliance with the appropriate registration requirements.

Additionally, one or more persons must be appointed to perform registration procedures, and a special power of attorney must be granted for this purpose.

Documents must be certified by a notary. If the country of origin is part of The Hague Convention on International Documentation, legalisation by the Argentine Consulate will not be necessary, due to the apostille.

Documents issued in a language other than Spanish must be translated by an Argentinean public translator.

Companies are formed by incorporation and registration under the appropriate legal bylaws. Bylaws contain detailed provisions concerning the object, duration, capital, management, administration and liquidation of the company.

According to the Trade Corporations Act (*Ley de Sociedades Comerciales*), at least two parties (individuals and/or companies) are required to constitute a legal business entity.

## **Joint-stock company (Sociedad Anónima)**

This type of company is equivalent in general terms to the joint-stock companies in the United States, United Kingdom and many other countries (e.g. the *Aktiengesellschaft* in Germany). It is the only type permitted to seek a listing on the Stock Exchange.

A joint-stock company must be established through a public deed. A minimum share capital of ARS 12 000 (EUR 2900; USD 3625) is required, of which at least 25% must be paid in cash at the time and deposited in the Banco Nación Argentina until establishment procedures are completed. Capital contributions other than in cash are allowed, subject to some specific formalities.

Shares must be registered and not endorsable. Transfer of shares may be subject to restrictions established through bylaws, but can never be proscribed.

Joint-stock companies are administered by a board of directors, which is elected by shareholders. The duration of their mandates must be established through the bylaws, and may not exceed three years. They may be re-elected. There is no restriction with regard to the nationality of the directors, but the majority of them must be Argentine residents.

The number of members of the board is determined by the shareholders' meeting in agreement with maximum and minimum limits established through bylaws. As per the minimum requirement, there may be only one director, except in those entities that are subject to permanent government control (among others, those whose capital exceeds ARS 10 million (EUR 2.414 million; USD 3.029 million). In these cases, a minimum of three directors must be appointed.

Pursuant to the provisions of the law, every director must provide a guarantee for the benefit of the company. As from 2005, the amount of such guarantee provided by each director must be similar and not less than ARS 10 000 (EUR 2425; USD 3025). This guarantee may not be provided through the direct deposit of funds, but by means of other instruments, such as the following: bonds, government securities, or sums of money deposited with financial entities and to the order of the company, sureties or personal security, guarantees or civil liability insurance.

The President (Chairman of the Board) is the legal representative of the company, but joint representation together with other directors may be provided by the bylaws.

Apart from these members, if the company does not have a Statutory Auditor, the shareholders' meeting must appoint alternative members in order to cover possible vacancies.

Companies whose capital exceeds ARS 10 million must appoint a Statutory Auditor, who must be either an Argentine-resident lawyer or accountant. Companies whose capital is below this amount may dispense with a Statutory Auditor provided that this is established in the bylaws.

Shareholders' Meetings must be held at least once a year to approve year-end financial statements and the performance of the members of the board of directors, to declare dividends, pay directors' remuneration, and elect the members of the board. Shareholders' Meetings must be notified at least 10 days in advance, through notices published for five days in the Official Bulletin. If the company is subject to government supervision, it must also publish a notice in one of the main national newspapers. If the meeting is called unanimously, the notice need not be published.

The majority of shareholders possessing a share with voting rights must attend ordinary meetings. If the quorum is not reached at the first summons, the meeting must be held after a second call, irrespective of the number of shareholders able to be present.

Shareholders may be represented in meetings by a power of attorney, provided that certain requirements are met.

The company must pay an annual fee to the *Inspección General de Justicia* or *Registro Público de Comercio*. The amount differs according to the jurisdiction of registration. For 2004, the yearly fee in the City of Buenos Aires ranged between ARS 100 and ARS 2500, depending on the amount of the company's share capital.

### **Limited-Liability company (Sociedad de Responsabilidad Limitada)**

A limited-liability company is quite similar to a joint-stock company, with the exception that:

- the number of members may not exceed 50
- a joint-stock company may not be a member
- the deed of incorporation must be amended if members change
- formation procedures are easier
- more flexibility is permitted in the deed of incorporation

No conditions regarding members' nationality or residence are imposed. The deed of incorporation may establish some restrictions on share transfers, but it may not prohibit them.

Limited-liability companies are managed by one or more managers, who can be members or individuals appointed by the members.

The incorporation deed establishes how decisions concerning all matters outside the normal course of business must be discussed and decided upon.

### **Branch of foreign company**

A foreign investor may carry out operations in Argentina through a branch, which is treated as an independent entity for that purpose. For legal and tax purposes, branches are treated in nearly all respects as if they were companies in their own right.

Certain additional requirements and procedures should be complied with in order to register a branch of a foreign company and a foreign investor.

## **Labour relations and working conditions**

### **Employee/employer relations**

Labour relations are governed by the *Ley de Contrato de Trabajo* (the Contracts of Employment Act) and by supplementary laws and other regulations.

Argentina has a labour pool of about 14.5 million people. Skilled and semi-skilled labour is usually available, and workers are generally responsible for learning any additional skills required.

The law establishes that employers have the right to organise and manage the way in which work is carried out and change the manner and mode of activities, as well as to apply disciplinary measures. There are regulations concerning these rights, and measures in order to protect workers against abusive practices.

Workers' participation in ownership and management is not mandatory by law, except for some specific cases related to the privatisation of formerly state-owned public-utility companies.

### **Employee remuneration**

Remuneration is generally arranged on the basis of agreements reached between trade unions and representatives of employers engaged in the related activity. Nowadays, agreements are performed with different companies, rather than sectors. These must then be approved by the Ministry of Labour.

Wages are paid fortnightly and are determined on the basis of an hourly rate. Incentive systems based on productivity or similar features are legally permitted and are generally used.

Salaries of office employees are paid monthly and they are generally based on a fixed amount. Office employees may also be subject to some incentive systems.

The law establishes that all workers must receive a thirteenth monthly salary, payable in two parts: half in June and the other half in December.

Besides cash remuneration, employers can grant fringe benefits to their staff. For both parties, those fringe benefits are exempt from payroll taxes

In order to provide state financial cover for all employed workers with larger families, or with dependants, employees whose remuneration is under ARS 4000 (EUR 975; USD 1200) per month are entitled to collect a family allowance for childbirth, marriage, maternity, school attendance, and so forth. These may be paid either by the employer – who is allowed to offset them against payroll taxes – or else by the Government.

### ***Holidays and other leaves of absence***

Workers are entitled to a yearly minimum and continuous paid vacation period, depending on seniority, as follows:

- minimum term up to five years' service: 14 consecutive days
- from 5 -10 years' service: 21 consecutive days
- from 10 to 20 years' service: 28 consecutive days
- over 20 years' service: 35 consecutive days

However, if the employee works less than half of the working days in the calendar year, he or she is entitled to a proportional yearly vacation period, equivalent to one vacation day for every 20 worked days.

There are other special leave entitlements, such as:

- childbirth: two consecutive days
- marriage: 10 consecutive days
- maternity: 90 consecutive days
- spouse's, child's or parent's death: three consecutive days
- brother's or sister's death: one day
- high school or university exam: two consecutive days, up to a limit of 10 days per calendar year

### ***Working week***

The standard working week is set by law, by professional or trade regulations, and by collective union agreements. In general, it is eight hours a day or 48 hours a week. The law provides for a weekly rest period from 13:00 on Saturday and all day on Sunday. Some professional and trade regulations and collective union agreements have shortened the working week and also provide for a full Saturday off work.

Overtime work is permitted up to 30 monthly hours, with a maximum amount of 200 hours yearly, and involves a premium amounting to 50% more than the standard hourly rate for overtime worked from Mondays to Saturdays up to 13:00 or 100% more than the standard hourly rate for overtime worked on Saturdays after 13:00, Sundays and holidays.

### ***Illness and accident***

In the event of illness or accidents for which they are not to blame, employees have the right to continue collecting their wages or salaries for a period of time depending on their years of service and the number of family dependants.

In cases of on-the-job injuries and certain work-related illnesses, the worker has the right to claim an indemnity. The employer must take out insurance to cover this liability

### **Termination of employment**

Employment contracts may be terminated for any of the following reasons:

- employee's resignation
- termination of relationship by mutual arrangement of the parties
- justifiable cause
- *force majeure*
- lack or decrease of work
- employee's death
- employer's death
- end of contract term
- employer's bankruptcy or creditors' meeting
- employee's retirement
- employee's disability
- without fair cause

Law 20.744 currently governs termination of employment.

Contract termination may not occur unilaterally without prior notice. Prior notice must be given with certain advance notice. Unless parties have previously agreed specific prior-notice terms, the terms provided for through the applicable legislation must be followed.

The party that fails to give prior notice or gives improper notice must pay a substitution indemnity. This is equivalent to the remuneration payable to the employee during the prior-notice period established by the applicable legislation.

Irrespective of whether a prior notice exists or not, in the case of contract termination without fair cause, employers must make a severance payment, in an amount depending on seniority, as follows:

Severance pay is equivalent to one month of salary for each year or period of over three months' service. The calculation is based on the highest usual monthly salary. This basis cannot exceed the highest of these: either the limit established by the Labour Agreement applicable to the worker's activity or 67% of the regular monthly salary.

Severance payment cannot be less than one month of the employee's regular, monthly and usual salary.

If termination occurs due to *force majeure*; a lack of or a decrease in work (not attributable to the employer and duly justified); or to the death of the employer or the employee, the indemnity is half of the above-mentioned amount.

### **Social security**

Regardless of nationality, all individuals over the age of 16 who are employed on a salary basis, or who are carrying out independent activities are covered by mandate under the rules related to Government and private pension funds, sickness benefits and family allowances.

Employees can elect to contribute to the Government Pension Fund or to one of the authorised private pension funds.

The minimum age for retirement is 60 years for women and 65 for men.

For contribution rates, see Chapter 7.

### ***Foreign personnel***

Foreigners with a work contract in Argentina and any accompanying family members require a working visa and a work permit valid for one year. The temporary visa may be renewed twice for an equal period.

Working visas should be requested through written application to the immigration authorities, accompanied by identity documents and a certificate of good conduct verified by the Argentine Consulate of the country of origin.

Expatriates engaged to work in Argentina for a period not exceeding two years can obtain an exemption from contributions to the Argentine Pension Fund. The exemption is granted only once, provided the expatriate does not have permanent residence in Argentina and proves that he or she is covered in his or her country for retirement, disability and death.

## 2. Finance and investment

### Regulation of business

#### Regulatory agencies

Several Ministries of the Federal Government are responsible for regulations governing commerce and industry. In general, these regulations are established through government departments and regulatory ministry agencies.

These are some of the main government offices and agencies:

- *Inspección General de Justicia or Registro Público de Comercio*: (Supervisory Board of Companies) controls corporations and branches
- *Comisión Nacional de Valores* (National Securities Commission): controls the activities of the Stock Exchange and of companies whose shares are traded on it
- *Secretaría de Industria y Comercio* (Industry and Trade Department): sets regulations governing trade and consumer rights
- *Banco Central de la República Argentina* (Central Bank of the Argentine Republic): sets regulations governing banking activities and monetary policy
- *Secretaría de Agricultura, Ganadería y Pesca* (Department of Agriculture, Livestock and Fishing): sets regulations governing these activities
- *Secretaría de Energía* (Energy Department): regulates activities connected with the oil, gas and electricity industries
- *Sub-Secretaría de Medio Ambiente* (Sub-Secretariat of Environmental Matters).
- *Administración Federal de Ingresos Públicos* (Internal Revenue Service) and its agencies: The Tax Authority (*Dirección General Impositiva*), which collects, monitors compliance and issues regulations concerning national taxes, and the Customs Administration (*Dirección General de Aduanas*) the controlling authority concerning foreign trade
- provincial and municipal authorities issue rules and regulations primarily concerning activities carried out within their jurisdictions

#### Requirements for doing business and trade

Any individual who is at least 21 years old is qualified to conduct business, provided that he or she has not been declared legally incapable or been barred from managing his or her assets. Individuals who are 18 years old or more may also do business if they are married or legally authorised to do so.

Individuals may enter into associations to carry on business or for any other lawful purpose, providing that they comply with the rules and regulations concerning the business in which they are engaged.

#### Price controls

There are no government-imposed price restrictions on most economic activities. At present, the government and public-utility companies are negotiating public-utility tariffs.

#### Anti-monopoly and pro-competitive practices

Special regulations ensuring a competitive environment are set out in the Unfair Competition Act (*Ley de Competencia Desleal*). Regulations require that information on goods must be true, correct and not misleading (the same applies to advertising). Comparative advertising is not permitted.

Fines or imprisonment may be imposed in the case of proven monopolistic practices; in addition competitors may file civil claims for damages caused by these practices.

Other regulations ensuring a competitive environment are set out in the Restraints on Competition Act (*Ley de Defensa de la Competencia*).

No discrimination is made in this respect between Argentine nationals and foreigners.

### ***Consumer and environmental protection***

Federal and provincial governments have enacted laws concerning this issue in order to protect the environment and natural resources of the country.

There are rules concerning the treatment of effluents and industrial waste, transportation of dangerous substances, and the general effect of industrial activities on the environment.

Although the level of regulations passed is not yet comparable with that in more developed countries, there is a trend towards the establishment of increasingly strict rules to control pollution and the management of hazardous waste, as well as to protect the environment.

Where consumer protection is concerned, the Consumer Protection Law (*Ley de Defensa del Consumidor*) sets out penalties for fraud against consumers, resulting either from deficient products or services, or from misleading advertising.

### ***Import and export***

There are no restrictions in the import or export of goods; nevertheless some products are subject to a fixed quota.

Funds in foreign currency received in return for the export of goods and services must be brought into the country and there are maximum terms for collecting payments derived from sales abroad. There are minimum terms for payments abroad connected with import operations.

Export operations are taxed at a rate ranging from 0% to 35% of the FOB value. Tax incentives up to 6% may be granted on goods with a high value added. In turn, tax is levied on imports at a rate between 0% and 26% depending on the type of good.

Diverse tax benefits are applicable on operations among Mercosur member countries.

### ***Patents, trademarks and copyrights***

Argentina has formally entered into the 1883 Paris Agreement for Protection of Intellectual Property, as successively amended and including the 1967 Stockholm amendment.

Acceptance of the GATT Treaty's copyright trade rules has been ratified (TRIP'S GATT).

Within the framework provided by the TRIP'S GATT, registration of patents is admitted in Argentina.

### ***Copyright protection***

Authors, composers, etc. may obtain copyright protection by registering their works with the National Register of Intellectual Property (*Registro Nacional de Propiedad Intelectual*). The period for which protection is afforded varies according to the type of work (musical, literary, scientific). It varies from one year (renewable) in the case of newspapers and magazines to the lifetime of the registrant (plus 50 years if the copyright extends to his or her heirs) for musical and literary works.

Foreign copyright may be extended to Argentina by submitting the related registration. In these cases, protection is granted for the remainder of the life of the related foreign copyright, but not in excess of the period set by the Argentine law.

## **Banking and local finance**

### **The banking system**

The Banco Central de la República Argentina [Central Bank of the Argentine Republic] is the Federal Regulatory Authority controlling and monitoring the supply of money. When provisions set through the Convertibility Act (*Ley de Convertibilidad*) ceased, the monetary policy changed from 'passive money' to 'active money' according to an established 'Monetary Plan'.

Nowadays, the Banco Central de la República Argentina is under the supervision of the Ministry of the Economy. Its powers may be changed by Presidential decision, without requiring any congressional approval.

Its main functions are to:

- regulate monetary circulation
- issue currency
- administer the guarantee for deposits and fiduciary funds
- undertake the clearing-house function
- act as superintendent of the banking system
- act as financial agent of the Federal Government

Argentina's financial centre is located in the City of Buenos Aires. Most banks are private and only a few are state-owned.

In the past, the Argentine banking system adhered to Basel regulations, and followed them strictly. Nowadays, because of the crisis affecting the financial sector, these rules are not always complied with. However, they are still in force and enforcement will be resumed once the banking system is back to normal.

Private banks fall into the following categories:

- commercial banks.
- cooperative banks.
- investment banks.
- financial institutions.
- mortgage and loan institutions

Commercial banks handle most of the country's banking business. They receive deposits and other forms of investment from the public and grant short, medium and long-term loans. They also provide banking services in connection with international trade and deal with foreign exchange, in addition to making and receiving remittances from abroad and handling other capital-market transactions.

Many of the small regional banks are organised as cooperative societies conducting business as commercial banks.

In the past, mortgage lending was performed mainly by the state-owned *Banco Hipotecario Nacional* but nowadays commercial banks account for a substantial part of the mortgage-lending financial market, offering very competitive rates and reimbursement periods of more than 20 years.

Finance companies offer a variety of services to investors, such as portfolio management and brokerage for all classes of financial transactions on the capital market.

The law requires confidentiality for banking transactions, except when information is asked by a judge in connection with a lawsuit or for investigations carried out by the tax authorities.

Since the onset of the 2002 crisis, the banking system in Argentina is undergoing a process of constant reorganisation, with entities closing, being merged and/or acquired.

## **Capital markets**

Stock exchanges are regulated by the National Securities Commission (*Comisión Nacional de Valores*); this body sets conditions required for the quotation of securities and controls the companies whose shares are listed on the stock exchange market.

Capital markets experienced remarkable growth in Argentina as a consequence of investments made by the Private Pension Fund System, which started operating in 1994. Because of the financial crisis, local capital markets have lost their capacity to obtain financing and figures have experienced a severe downturn.

## **Accounting and audit requirements**

### **Books and records**

The Trade Corporations Act sets basic requirements regarding accounting records and the financial statements of business entities.

All commercial entities must maintain official accounting records officially marked by the Supervisory Board of Companies (*Inspección General de Justicia* or *Registro Público de Comercio*). Transactions must be entered chronologically and in such a way that each one can be identified.

The different regulatory entities set rules to be complied with in connection with accounting records and the presentation of financial statements for certain types of regulated entities, such as banks, insurance companies and companies whose shares are listed on the stock exchange.

Accounting principles are set by the Federation of Professional Councils of Economic Sciences (*Consejo Profesional de Ciencias Económicas*), of which all public accountants practising in Argentina are members.

### **Financial reporting**

All companies have to prepare annual financial statements, which must be audited by an Independent public accountant. In certain cases, financial statements must be filed with regulatory and tax authorities, together with the auditor's report.

The National Securities Commission requires that companies, whose shares are listed on the stock exchange, present quarterly financial statements.

Accounting records and financial statements must be written in Spanish and expressed in ARS.

Dividends are payable provided that they are made out of realised and net income, as per the annual financial statements approved by the general meeting.

### **Contents of financial statements**

Annual financial statements must include:

- a report from the board of directors
- a balance sheet
- an income statement
- an analysis of expenses
- a statement of changes in shareholders' equity
- a statement of cash flow

Comparable financial statements must be issued; this is comparable with the immediately preceding period.

## **Group financial statements**

Consolidated financial statements are also required if a company holds more than 50% of the voting shares of another company, or when it controls another company jointly with a third party.

In the event that a company, even if holding less than 50% of the voting shares, has control (so-called joint control) as a result of written agreements with other minority shareholders, it must consolidate its financial statements with those of the controlled company by means of the proportional consolidation method.

Consolidated financial statements should disclose the parent company's consolidation policy. Inter-company transactions and balances should be eliminated in the consolidation process and any minority interest should be stated separately, both in the consolidated income statement and the consolidated balance sheet.

## **Accounting principles**

Generally accepted accounting principles in Argentina do not differ materially from those applied in countries having longer and more extensive experience with accounting theory and practice.

By the end of 2000, new accounting regulations were issued by the Argentine Federation of Professional Councils in Economic Sciences, seeking increased standardisation to match the standards established by the International Accounting Standards Committee. However, as enforcement depends on instructions issued by respective Professional Councils, such regulations are not yet applicable throughout the whole country. For example, authorities in the City of Buenos Aires established that these must be applied for the period starting on 1 July 2002.

When provisions set by the Convertibility Act were annulled, and a new inflationary process set in, entities controlling corporations and accounting practices established that financial statements should be expressed in constant value, by adjusting them for inflation, applying the same method used until August 1995.

Given the difficult economic scenario in Argentina and the abolition of the Convertibility Act (which established the 1 ARS = 1 USD exchange-rate parity), many companies are facing severe losses and have closed their accounting periods with negative equity. As per provisions set through Law 19.550 (the Trade Corporations Act), companies with negative equity must undergo liquidation unless shareholders restore the lost capital. But a Special National Government Decree has established an exception whereby, until the end of 2004, corporations were allowed to file financial statements reflecting negative equity without necessarily having to face liquidation for this reason.

## **Attitudes to foreign investment**

### **The exchange-rate system in force**

#### *Preliminary comments*

Every purchase or sale operation in foreign currency (funds and/or bills) must be exclusively carried out through the institutions authorised to operate in exchange rates. Subsequently, and with respect to such operations, these institutions should provide information to the Banco Central de la República Argentina [Central Bank of the Argentine Republic].

#### *Characteristics of the exchange-rate system*

- the BCRA standards should be complied with.
- the Criminal Exchange Law in force: Law 19.359 and complementaries – Ordered Text: Decree 480/1995.
- the tax standards resulting from the application should be complied with

- the money-laundering standards should be complied with
- the institutions authorised to operate in exchange rates (in transactions of purchase or sale of funds) should take the necessary precautions in order to determine the moral and material solvency of their clients (either individuals or legal entities), their business regularity and the reasonability of the amounts for which they operate, so that they could request the support elements they consider necessary

#### *Other features of the system*

- there are no restrictions for payments made abroad of services rendered by non-residents
- regarding the importation of assets, the total payment of the same (in cash or with deferred payment) could be performed before the shipping, regardless of the type of asset. In all cases, the domiciliation of the assets in Argentina should be evidenced

#### *Operations subject to regulations*

It is important to mention that certain transactions are subject to regulations established by the Banco Central de la República Argentina, among others:

1. **Export of Assets:** There exists the obligation to enter the funds through institutions authorised to operate in exchange rates, within different periods (depending on the type of assets shipped) starting from the shipping date, plus an additional period of 120 working days.
2. **Export of services:** There exists the obligation to enter the funds through the institutions authorised to operate in Exchange Rates, within 15 working days of its payment made abroad or in the country or crediting in foreign accounts, plus an additional period of 120 working days.
3. **Pre-financing of exports:** These should comply with the rules concerning the export of assets within different periods depending on the type of assets pre-financed. Otherwise, they could only be settled according to the rules related to the settlement of foreign financial loans.
4. **Financing indebtedness:** There exists the obligation to enter through the institutions authorised to operate in exchange rates. The minimum period of 365 calendar days should be agreed and kept; they cannot be settled before the due-date (regardless of the settlement of the debt abroad). This minimum period is also applicable to renewals.

In certain cases and in accordance with their destination, the funds entered could be subject to the constitution of a non-payable deposit to 365 days, in foreign currency and for an amount of 30% of the total value of the operation.

5. **Interest payments:** Interest may be paid abroad under the following conditions:
  - a) before 15 calendar days as of the due-date of each instalment;
  - b) at any moment of the accrued current interest period.
6. **Profits and dividends:** They may be paid abroad as long as they correspond to the closed and audited commercial financial statements.
7. **Purchases of funds and bills in foreign currency from non-residents:** These may be effected through the group of institutions authorised to operate in exchange rates if the equivalent of USD 5000 (per calendar month) is not exceeded. For larger amounts the previous authorisation of the Banco Central de la República Argentina is required.

This regulation is not applicable to international entities, diplomatic and consular representations, diplomatic personnel authorised in the country and representations established by international treaties or agreements to which the Argentine Republic is a party.

8. **Exchange-rate sales to non-residents to be transferred abroad:** When the operations correspond to collections of a series of items in the country and the pertinent documentation exists, they can be performed without the previous approval of the Banco Central de la República Argentina, among others:
- a) Payment of Argentine imports at sight.
  - b) External debts of residents for Argentine imports.
  - c) Services, revenues and other current transfers with foreign countries.
  - d) Financial debts originated by external loans of non-residents
  - e) Inheritances, in accordance with the statement of inheritance
  - f) Repatriation of direct investments in the non-financial private sector, in companies that do not control local financial entities, and /or property, as long as that investment is registered in the country and for a period not less than to 365 calendar days, for the following:
    - o sale of the direct investment.
    - o definitive calculation of the direct investment.
    - o capital reduction decided by the local company.
    - o return of irrevocable contributions performed by the local company

**Composition of external assets of Argentine residents:** Individual and legal entities not included in the financial sector may perform purchase and/or sale operations of foreign currency (funds and/or bills) with a monthly limit of USD 2 000 000, for the total of the items involved in the group of institutions authorised to operate in exchange rates and if they do not register unpaid overdue debts abroad for capital services and debt interests of all types.

## 3. The tax system

### The tax structure

#### Taxing authorities

The Argentine Constitution establishes the powers vested in the Federal Government and the provinces to levy taxes.

The Federal Government has the power to levy taxes on foreign trade (imports and exports) and direct taxes for a set period of time, and indirect taxes concurrently with the provinces.

The provinces have the power to levy direct and indirect taxes. Municipalities possess taxing authority to establish taxes, rates and assessments to the extent that the related province allows this in its constitution.

#### Law enactment

The Congress (Senate and Representatives) enacts tax laws. These are usually proposed by the Executive, jointly with the Ministry of the Economy. The Executive Power is entitled to enact laws only in case of urgent need, through Emergency Decrees (but this is not in force for tax purposes).

Regulatory Decrees passed by the Executive allow the interpretation of laws. The tax authorities are responsible for issuing rules concerning interpretation or administrative matters. Taxpayers may refer to opinions, rulings or court decisions to assess tax.

Provincial and municipal governments enact their own legislation so taxes and regulations may vary in the different jurisdictions.

#### Main taxes

##### National taxes

- corporate income tax (*Impuesto a las Ganancias de Sociedades*)
- income tax on individuals (*Impuesto a las Ganancias de Personas Físicas*)
- minimum presumed income tax (*Impuesto a la Ganancia Mínima Presunta*)
- tax on personal assets (wealth tax) (*Impuesto sobre los Bienes Personales*)
- tax on the transfer of real estate (*Impuesto a la Transferencia de Inmuebles*)
- value added tax (*Impuesto al Valor Agregado*)
- tax on bank account debits and credits (*Impuesto sobre los Débitos y Créditos Bancarios*)
- excise duties (*Impuestos Internos*)
- import duties (*Derechos de Importación*)
- export duties (*Derechos de Exportación*)
- cooperative capital tax (*Fondo para la Educación y la Promoción Cooperativa*)

##### Provincial taxes

- turnover tax (*Impuesto sobre los Ingresos Brutos*)
- land tax (*Impuesto Inmobiliario*)
- stamp duty (*Impuesto de Sellos*)

##### Local-authority taxes

- business taxes (*Contribuciones Especiales*).
- rates for public-utility services (*Tasas por Servicios Públicos*).
- tax on vehicles (*Impuesto al Automotor o Patentes*).

## **Tax administration**

### **Tax returns**

Argentina has a system of self-assessment. Taxpayers are required to assess their own tax. This means that taxpayers must compute their own tax and file tax returns and they are responsible for the information reported therein.

### **Tax assessment**

In general, taxpayers assess tax based on their accounting records or documentation. The tax authorities may use presumption-based procedures to assess tax only in certain cases.

### **Withholdings and advance payments**

Most of the tax-collection system is based on withholding of tax at source, advance payments, withholding and reverse withholding performed at the moment of payment. These amounts may be deducted when calculating the tax payable in the respective tax return.

### **Reporting systems**

The tax authorities obtain data to cross-examine and improve monitoring tax compliance through diverse reporting systems. Considerable penalties are imposed for failure to file these reports.

### **Payments**

In order to include deductions, tax credits and other tax allowances, tax regulations demand that when operations exceed ARS 1000 (EUR 2425; USD 3025), payments must be made with an 'account payee only' check to deposit in a bank account, deposits in financial entities' accounts, money orders or bank transfers, credit, purchase or debit cards, credit invoice or other procedures authorised by the Executive Power.

### **Inter-company transactions**

In principle, inter-company transactions are considered as carried out by independent parties, provided certain requirements are complied with.

### **Penalties**

Two laws govern penalties related to tax issues: the Tax Procedures Act (*Ley de Procedimientos Tributarios*) and the Tax (Criminal Law) Act (*Ley Penal Tributaria*). These laws establish the following basic penalties:

- failure to file tax returns on time: an automatic fine of ARS 200 (EUR 50; USD 60) or ARS 400 (EUR 100; USD 125), for individual taxpayers or companies, respectively
- failure to file tax returns due to the issue of extra information: a fine of ARS 5000 (EUR 1200; USD 1525) or ARS 10 000 (EUR 2425; USD 3025), for individual taxpayers or companies, respectively
- failure to file tax returns concerning import and export transactions between independent parties: a fine of ARS 1500 (EUR 350; USD 450) or ARS 9000 (EUR 2175; USD 2725), for individual taxpayers or companies, respectively
- failure to file tax returns concerning transactions conducted with related foreign subjects or subjects located in tax havens (transfer pricing returns): a fine of ARS 10 000 or ARS 20 000 (EUR 4825; USD 6050), for individual taxpayers or companies, respectively
- formal misdemeanours or non-fraudulent tax omissions: fines of between ARS 150 (EUR 35; USD 45) and ARS 2500 (EUR 600; USD 750), which penalties range between ARS 150 and ARS 45 000 (EUR 10 875; USD 13 625) for some infringements, among others, the failure to keep documentation supporting the

prices agreed on for international transactions, refusing to submit to audit by the Tax Authority, the omissions referred to tax address, etc

- failure to comply with requests of filing informative tax returns: fines of between ARS 500 and ARS 45 000. Where taxpayers whose annual gross income is equal to or exceeds ARS 10 million (EUR 2.414 million; USD 3.029 million) fail to comply with the third request, the appropriate penalty ranges between ARS 90 000 (EUR 21 725; USD 27 250) and ARS 450 000 (EUR 108 650; USD 136 300)
- non-fraudulent tax omissions: fines between 50% and 100% of the omitted tax (including not deducting a withholding tax). If the omission results from transactions conducted among local companies and foreign natural persons or legal entities, the penalty shall range between one and four times the amount of the tax that failed to be paid or withheld
- tax evasion (tax fraud): fines of between 200% and 1000% of the omitted tax and in some cases imprisonment for directors, managers, Statutory Auditors, etc
- failure to issue invoices for transactions, record transactions, register as a taxpayer as required by the laws and regulations, or failure to both maintain in operative conditions and use the production measuring and control instruments determined by the law: temporary closure of the place of business, as well as a penalty ranging between ARS 300 (EUR 75; USD 90) and ARS 30 000 (EUR 7250; USD 9075)
- failure to ask for the bill: the consumer may be fined
- failure to deduct withholding tax: fines of between 50% and 100% of the tax not withheld
- failure to account for withheld tax: fines of between 200% and 1000% of the tax not accounted for and imprisonment for directors, managers, Statutory Auditors etc.the improper use of a tax loss: a penalty ranging between two and 10 times the amount resulting from applying a 35% rate on the tax loss challenged by the tax authorities
- holding, moving or transporting goods without complying with the instructions set forth in the applicable invoicing regulations: interdiction and seizure as preventive measures, and forfeiture as penalty
- employing people without declaring their employment in accordance with the legal requirements established therefor: a penalty ranging between ARS 300 and ARS 30 000, in addition to which the company may be further closed down, depending on the seriousness of the infringement and upon recurrence of the infringement
- there is a penalty interest of 2% per month for late payment of taxes

It should be noted that the penalties mentioned above may be reduced, depending on the behaviour (voluntary consent) and past record of the defaulter. Penalties may be omitted in certain cases.

### **Tax audits**

The tax authorities have ample powers to verify taxpayers' compliance with legal requirements incumbent upon them, and may do so at any time, and not only during current tax periods.

In this respect, they may review the accounting records and verify the accuracy of tax returns filed by taxpayers. They also have the power to assess due tax if a taxpayer has failed to file tax returns, or to assess the differences arising with regard to tax returns that have been filed.

The tax authorities' powers to assess and claim taxes for a given period become statute-barred after five years. In the case of annual tax returns, the actual time during which they are open to review is somewhat longer because of the way in which the statutory term is counted.

### ***Appeal procedures***

Appeal procedures may be of two kinds: administrative or legal. In the event of a dispute between the taxpayer and the tax authorities, an administrative appeal may be filed by the taxpayer either to the tax authority or to the National Tax Court (*Tribunal Fiscal de la Nación*). Following an unfavourable decision, the taxpayer may first appeal to the Trial Court (*Juzgado Nacional de Primera Instancia*). Further appeals may be filed before the Court of Appeal (*Cámara Nacional de Apelaciones*) and finally to the National Supreme Court of Justice (*Corte Suprema de Justicia de la Nación*).

## **4. Taxes on business**

### **Corporate income tax**

#### **General**

Corporate income tax is levied on a company's net earnings.

#### **Territorial scope**

Companies resident in Argentina are subject to corporate income tax on their world wide income and gains. In order to avoid double taxation, taxpayers may apply tax credits emerging from similar taxes effectively paid abroad on foreign-source income, up to the limit established by law.

Non-resident companies are liable to corporate income tax on their Argentine-source income.

#### **Fiscal year**

Tax is reported on profits obtained in each annual accounting period. The fiscal year coincides with each company's financial year. Only in exceptional cases does the tax authority authorise a tax period of less than one year, generally related to a change in the closing date or to the commencement of activity.

#### **Gross income**

Companies are taxed on all the profits obtained during the fiscal period, including capital gains and foreign-source income. The tax criteria used to determine income and expenditure are basically similar to generally accepted accounting principles, except for some differences regarding requirements for recognising bad-debt allowances, certain non-deductible expenses, special non-taxable income and certain other special valuation criteria.

#### **Inventory valuation**

Raw materials and finished goods are valued at the last cost price obtained during the last two months of the accounting period. Manufactured goods are valued at the latest sale price in the last two months of the accounting period, net of sales expenses and of the net profit margin contained in the price. Work-in-progress is valued as finished goods, taking into account the completion percentage.

#### **Capital gains**

Capital gains are treated as part of normal income. Gains consist in the difference between disposal proceeds and computable cost. Capital losses are only deductible against future capital gains.

#### **Dividends**

Dividends received from Argentine companies are exempt from corporate income tax, provided that distributions do not exceed taxable income, whereupon a withholding tax of 35% must be paid on the excess. No deduction is available for dividends paid.

#### **Exchange-rate differences**

Tax is levied on exchange-rate differences derived from transactions in foreign currency or the restatement of balances in accounts receivable or payable in foreign currency during the year when the transaction or restatement takes place. On the other hand, losses derived from exchange differences for the above mentioned reasons can be deducted in the tax balance sheet.

Where negative income arose following the abolition of parity between the peso and the US dollar and its substitution on 6 January 2002 by an exchange rate of USD 1 = ARS 1.40, the deduction with respect to the loss had to be spread in equal 20% amounts over the next five fiscal periods. This restriction, however, was applicable only to taxpayers exhibiting certain characteristics (income exceeding ARS 16.3 million (EUR 3.935 million; USD 4.937 million) or equity of over ARS 8.1 million (EUR 1.956 million; USD 2.454 million).

## **Deductions**

### *Business expenses*

Expenses are generally deductible if incurred to obtain, to maintain or to preserve taxable income. If a company's income is partially taxable and partially non-taxable, its expenses must be allocated accordingly. Expenses lacking supporting documentation cannot be deducted and the company paying them must withhold 35% on those amounts. Contingency provisions and reserves cannot be deducted. Car rental, maintenance, insurance, fuel and repair expenses are deductible, up to a certain limit. The same applies to entertaining expenses, which cannot exceed 1.5% of the yearly salary of the corresponding year.

### *Tax depreciation*

Fixed assets generating taxable income may be depreciated according to their estimated useful life. Argentine legislation imposes the straight-line basis of depreciation, but also allows the use of other methods, provided that there are good technical reasons for applying them.

Building depreciation is computed at a 2% yearly rate using the straight-line method. Land amortisation cannot be deducted and car depreciation is subject to a limit. There is no prescribed annual rate for other assets, but the tax authorities generally accept the following:

- machinery and equipment: yearly 10-20% straight line
- office furniture and fixtures: yearly 5-10% straight line
- computers: yearly 33.33% straight line

Amortisation of intangible assets may be deducted, provided that their useful life is established by contract or law. For this reason, amortisation of brands that can be indefinitely renewed and going concerns cannot be deducted for tax purposes.

Taxpayers may choose to deduct organisation expenses in a single period or else amortisation over a period not exceeding five fiscal periods. These alternatives are applicable to research and development expenses.

### *Directors' remuneration*

The deduction for directors' remuneration may not exceed the higher of 25% of the accounting income of the period and ARS 12 500 (EUR 3025; USD 3775) per director. .

### *Royalties and technical-assistance fees*

Royalty payments may be deducted from companies' corporate income tax returns.

Local subsidiaries of foreign companies are allowed to pay royalties to the parent and/or related companies. Those payments are subject to withholding tax and can be deductible in the corporate income tax computation, subject to conditions described below.

It should be noted whether the royalty is paid:

- for a licence to use technology: royalties paid to a foreign company for the right to use technology are deductible for tax purposes by the local entity, provided that

the contract is registered in the National Institute of Industrial Property (*Instituto Nacional de la Propiedad Industrial – INPI*)

- for technical assistance: The deduction for tax purposes is limited to 3% of revenue or 5% of the total investment made for the operation for which technical assistance was required, whichever is applicable

#### *Trademarks, brands*

Generally, only 80% of payments made for the use of trademarks and brands can be deducted.

#### *Interest payable*

Interest may be deducted from companies' corporate income tax computations, provided that it is connected with debts related to the business, unless applied in earning exempt income. Interest determined on the company's own capital may not be deducted, nor may interest on the investment made by the members in limited-liability companies.

For thin capitalisation restrictions, see below.

#### **Tax losses**

Corporate tax losses of a fiscal year can be deducted from taxable profits of the following five fiscal years. Operating losses incurred abroad and losses arising from securities trading may only be offset against profits from the same source. There is no carry-back of losses.

#### **Tax-free reorganisation**

Argentine legislation includes provisions for tax-free company-reorganisation schemes (spin-offs, mergers) which are possible if certain requirements are met, including: conducting related activities prior to the reorganisation; continuing the activities of the old company in the new one; maintaining a participation in the continuing company etc.

#### **Tax groups**

There is no consolidation for tax purposes and no special relief for group members. The results of each company must be treated separately.

#### **Thin capitalisation**

Interest connected with debts incurred by local companies – except financial entities – with foreign related financial and/or banking entities that are not located in tax havens, is not deductible to the extent that the related debt at the end of the fiscal year exceeds twice the equity of the company on the same date.

The excess interest that is not deductible under this rule is treated as a dividend, that is to say, it cannot be carried forward to future periods and gives rise to a 35% withholding tax.

The same treatment is extended to interest payable on loans taken by local companies from non-residents controlling said companies, as far as the tax withheld upon payment was below 35%, which would be the case if the clauses of an international double taxation convention limiting withholdings in the source country, Argentina, were applied.

#### **Transfer pricing**

The Corporate Income Tax Act contains provisions requiring transactions between related companies to be at an arm's length price. Inter-company transactions, among others, may include: tangible goods, royalties, loans, insurance, advertising, freight, services and other transactions. In addition, transfer pricing rules are applicable to imports and/or exports of tangible goods carried out between unrelated parties (without an international public market price), and transactions with parties located in low or no-tax jurisdictions. To such effect, low or no-tax countries are those expressly included in the appropriate legal list, which does not include those jurisdictions establishing the effectiveness of an

information exchange agreement with Argentina, and those which – as a result of their internal regulations – cannot claim banking secrecy, stock-exchange secrecy, or secrecy of any other type, in the event of a request of information made by the Argentine tax authorities, or which introduce changes to their internal legislation on income tax, so as to adapt such legislation to international tax standards in the area.

Five transfer-pricing methods are prescribed by the legislation, namely:

- comparable uncontrolled price
- resale price
- cost-plus
- profit split
- transactional net margin

Argentina has established the best-method rule. The choice of the appropriate method depends on the information available and the number and magnitude of adjustments required for comparability.

However, in order to determine the Argentine-source income resulting from export transactions of commodities with related subjects, with the intervention of an international intermediary who is not the final recipient of the goods, the following method is applied. This method is deemed to be the 'best method', and to apply it, it will be necessary to consider the quotation value of the product in the transparent market on the day on which the goods are loaded, irrespective of the price agreed on, except if the latter was higher, in which case that price is the value to be taken into consideration. This provision is intended to prevent tax fraud through the interposition of fictitious intermediaries. In light of the above, the method based on the price upon loading of the goods is not applicable, whenever it may be duly evidenced that the foreign intermediary complies with the following requirements:

- it is actually present in the territory where it is located and complies with the legal requirements for the preparation and filing of financial statements
- its main activity is neither obtaining passive income, nor acting as intermediary in the trading of goods from or to the Argentine Republic, or with other members of the economically related group and
- its international business transactions with other members of the same economic group do not exceed 30% of the total annual transactions conducted by the foreign intermediary

Argentine legislation on this issue has undergone diverse and material changes in recent years. Applicable rules are similar to the OECD, with some differences (for example, APAs are not used).

As per Argentine legislation, to complement the corporate income tax return, two biannual returns and one annual return on transfer-pricing controlled transactions must be filed. The annual return must report the amount of operations, method and adjustment involved. Additionally, taxpayers must file a transfer-pricing study providing, *inter alia*, the following information:

- the taxpayer's activities and rôles
- the risks assumed and assets used by the taxpayer
- details of elements and circumstances taken into consideration for the transfer-pricing analysis
- detail and amount of operations
- identification of foreign parties with whom transactions were carried out
- the method used to justify transfer pricing, indicating reasons why this was considered to be the best method
- identification of comparable companies selected to justify transfer pricing

- identification of sources of information where comparables were obtained
- detail of selected comparables that were discarded and the reason why they were not taken into consideration
- detail, amount and method used to practice necessary adjustments on comparables
- determination of the median and inter-quartile range
- copy of the income statement of comparable subjects
- description of the business conducted by comparable companies
- conclusions

On the other hand, in the case of export and/or import transactions of unquoted goods, conducted between independent parties and for an amount exceeding ARS 1 000 000 (EUR 241 450; USD 302 900), the exporter and/or importer must provide the tax authorities with any information requested in order to determine that the prices declared are reasonably in agreement with market prices.

In the case of export and/or import transactions of commodities conducted with foreign independent or related subjects, the information mentioned above must be submitted irrespective of the amount of the said transactions.

### ***Corporate income tax rates***

The standard corporate income tax rate is 35%.

All non-resident entities obtaining profits from an Argentine source are taxed on these profits. There are different withholding rates on income earned by non-residents, depending on the type of income.

### ***Compliance***

Argentina operates a self-assessment system for corporate income tax. Companies are responsible for computing their own tax liabilities.

#### *Tax returns and assessments*

Returns must be generally filed by the fifth month following the year-end (i.e. by May for a calendar year-end).

#### *Payment and collection*

A company must make advance payments in monthly instalments, which are based on the previous year's liability, less any withholding tax incurred in the current period. The first instalment amounts to 25% of the adjusted liability, the remaining nine of 8.33% each. This amounts to a total paid in advance of 100%.

If the company estimates that its advance payments will amount more than the current period's final liability, it may reduce them accordingly.

Any balance of tax due as per the company's return and self-assessment – after taking into account withholding tax incurred and any foreign tax credits – must be paid by the final due date for the return (see above).

### ***Taxation of non-resident companies' profits***

Profits obtained by a non-resident company from isolated transactions conducted in Argentina are deemed to be of Argentine source, and so are amounts collected from residents of Argentina for any of the items specifically described in income tax legislation. Profits arising from exports to Argentina undertaken by non-resident companies do not entail Argentine-source income.

Payments made by a resident to non-residents, without setting up a branch office in Argentina, for any of the items detailed below are deemed to be of Argentine source and are subject to the withholding indicated in each case:

### *Royalties and technical assistance*

In every case payments for services are subject to income tax withholding, at a rate, which depends on the type of services, as follows:

- contracts for technical, engineering or consulting services, which cannot be obtained in Argentina. This kind of contract must deal with specific works, and cannot be paid as royalties. The withholding tax rate for such contracts is 21% (with grossing up: 26.58%)
- royalties, licences and contracts not included above that qualify under the Transfer of Technology Act (*Ley de Transferencia de Tecnologia*). The withholding tax rate for these contracts is 28% (with grossing up: 38.89%)

The decision of categorising contracts is the responsibility of the National Institute of Industrial Property (INPI), after complying with the information requirements.

Argentina has signed treaties with certain countries to prevent double taxation. Under these treaties, and provided registration with INPI is carried out, the withholding tax on royalties or technical-assistance services is reduced. See the Appendix for details.

The reduced withholding rates available under the treaty are conditional on the foreign company's not having a permanent establishment in Argentina. A certificate must also be obtained from the tax authority of the country to which the payment is made, stating that the agreement provisions are applicable.

### *Interest*

The following are subject to a 15.05% tax withholding (increasing to 17.72% with grossing-up): interest or consideration of any kind paid as a result of loans or placements of funds to banks or financing entities – supervised by the appropriate regulatory agency – resident in jurisdictions that are not considered low or no-tax jurisdictions, or else in jurisdictions that have entered into information-exchange agreements with the Argentine Republic; and which – as a result of their internal regulations – cannot claim banking secrecy, stock-exchange secrecy, or secrecy of any other type, in the event of a request of information made by the tax authorities. These rates are also applicable to financing granted by suppliers in import operations involving movable assets subject to depreciation (except cars) and to financing obtained by credit institutions regulated by Law 21.526. A 35% rate (which increases to 53.85% with grossing-up) is applied to all other operations. Here again, treaties for avoiding double taxation can reduce the withholding rate. See the Appendix for details.

### *Management fees*

Usually, due to the nature of services rendered under a 'management fee' agreement, contracts do not fall under the 'technical assistance' category so they are not granted registration in the INPI. Assuming that the item 'services' refers to general supervision and/or assistance, payments made to the parent company are subject to a withholding tax of 31.50% (increasing to 45.99% with grossing-up).

In general, considerable controversy has arisen with the tax authorities concerning deductibility because of the 'management fee' concept.

This withholding rate is also applied on benefits obtained by foreign residents not categorised elsewhere.

### *Dividends*

Dividends paid to foreign shareholders are not subject to withholding tax. Dividends are not deductible from the tax base of the local company. When amounts paid or distributed exceed taxable income as determined under income tax legislation, a 35% withholding will be levied on the excess distributed amount, in one single and final payment. Maximum withholding tax rates under double taxation treaties are given in the Appendix.

### *Copyrights*

In Argentina copyright royalties are taxed at a rate of 12.25%, provided certain legal requirements are fulfilled.

### *Movable-asset rentals*

The withholding rate amounts to 14% for lessors based abroad.

### *Immovable-asset rentals*

Non-resident landlords are subject to a withholding tax of 21% applicable to the rental of real estate situated in Argentina, calculated on the amount paid.

### *Sale of movable assets and real estate*

In this case, the withholding rate amounts to 17.50% of the sale proceeds.

### *Sale of shares, bonds and other securities*

In general terms, these transactions are not taxed.

Regarding both the rental of real estate and the sale of movable assets and real estate, the beneficiary abroad may assess tax liability by applying the general rate of 35% on the effective result of the operation (sale price less purchase price, or rent received less expenses related to the rent).

## Summary of Withholding Rates

**Table 1**

Presumption of Net Income	Withholding		Rate with Grossing up
	Estimated income	Tax rate	
<b>Technology Transfer Services (1)</b>			
Technical assistance, engineering or advisory services	60%	21%	26.58%
Cession of rights or licenses for the exploitation of patents or other.	80%	28%	38.89%
<b>Copyright Exploitation in the country(2)</b>	35%	12.25%	13.96%
<b>Interests or consideration paid by loans or credits, obtained abroad</b>			
When the borrower is a financial organisation governed by Law 21.526	43%	15.05%	17.72%
In the case of redeemable mobile import financing operations (except cars) granted by its suppliers	43%	15.05%	17.72%
When the borrower is a company, an individual or an undivided succession, and the creditor is:			
- financial entity settled in a tax haven or in countries with information exchange agreements	43%	15.05%	17.72%
- person settled in tax haven	100%	35%	53.85%
<b>Interest on the following deposits made in financial entities:</b>			
Savings accounts	43%	15.05%	17.72%
Special Savings Account	43%	15.05%	17.72%
Deposits of third parties or other forms of fund capturing	43%	15.05%	17.72%
<b>Remuneration for temporary exercise of personal activities</b>			
Wages, fees and other remuneration paid to intellectuals, technicians, professionals, athletes, artists etc.	70%	24.5%	32.45%
Rent of movable assets	40%	14%	16.28%
Real estate rentals	60%	21%	26.58%
<b>Transfer based on valuable consideration</b>			
Assets located or economically used in the country	50%	17.5%	21.21%
<b>Other previously unexpected earnings</b>	90%	31.5%	49.99%

### Notes

(1) The contract must be registered with the applicable authority

(2) Certain requirements must be satisfied

### Branches of foreign companies

Branches of foreign companies must prepare annual financial statements for their Argentine operations and determine their net taxable profit in the same way and at the same rate applicable to a resident company.

They are taxed at the corporate rate of 35% and the net after-tax profit they transfer to their head office is not subject to withholding tax, provided it does not exceed taxable income determined under the income tax legislation. If it does, a withholding of 35% will be levied on the excess distributed amount, in one single and final payment.

### ***Subsidiaries of foreign companies***

Profits obtained by subsidiaries of foreign companies are subject to corporate income tax at a rate of 35%.

There is no discrimination based on shareholders' nationality, and dividends remitted abroad are subject to no further tax, provided they do not exceed taxable income as determined under the income tax legislation. If they do, a 35% withholding will be held on the excess distributed amount, in one single and final payment.

### ***Minimum presumed income tax***

This 1% tax is levied on existing assets (liabilities cannot be deducted) at the closing date or year-end (for companies and single individuals conducting their own business respectively). It is effectively a form of wealth tax.

The tax is not levied on shares in companies in which it has already been levied. Similarly, the value of amortisable movable assets, which are not considered as inventory items, cannot be considered during the year of acquisition or investment or the following year.

The tax is not applicable if total assets are below ARS 200 000 (EUR 48 275; USD 60 575).

Corporate income tax paid is considered as a prepayment of minimum presumed income tax. If the corporate income tax liability is lower than the liability to minimum presumed income tax, only the difference remains payable as minimum presumed income tax. However, neither minimum presumed income tax nor corporate income taxes are refundable if the latter exceeds the former. Minimum presumed income tax paid may be used as a credit against corporate income tax for the 10 following periods, subject to certain conditions.

Banks, insurance companies and leasing companies should consider 20% of their assets as their taxable base. Brokers dealing with livestock, fruit and local products should regard 40% of their assets used in these activities to be their taxable base.

### ***Value Added Tax***

VAT in Argentina is applied to all sectors of the economy, with a few exceptions in social services. It is levied on:

- sales of goods or movable assets made in Argentina
- the import of movable assets
- services rendered in Argentina
- services originated abroad but effectively used in Argentina

VAT is levied on those who regularly sell movable goods, provide services, make final import operations and deliver services from abroad.

VAT is levied at each stage of the production and distribution chain on a non-cumulative basis. Tax accumulation is avoided through the deduction of input VAT. VAT payable is the difference between VAT billed by the taxpayer in respect of its sales of goods and services during the reporting period (output VAT), and VAT billed to the taxpayer for its purchases of goods and services during the same period (input VAT). Monthly reporting is required.

Input VAT related to vehicles, hotels, restaurants, etc. cannot be recovered, except for some specific cases. Sale or transfer of real estate is not subject to VAT, although VAT is imposed on the rental of land for meetings or conferences, as well as the rental of any kind of land (even as a home) provided that this exceeds ARS 1500.

When input VAT exceeds output VAT, a credit balance for the taxpayer arises, which may be used to offset VAT liabilities in subsequent periods. There is no option for repayment except in relation to some transactions, for example: zero-rated transactions and input VAT derived from purchase, construction, or import of fixed assets (provided that they have been retained for 12 months).

The current standard VAT rate is 21%. There is a higher rate, namely 27%, for public utilities (water supply, electricity, gas and telecommunications) and a reduced 10.5% rate for:

- sales, services and import of fruit, vegetables, cattle, sheep (and their respective by-products), honey, legumes and grain
- construction and house building
- certain interest and commissions on loans granted by domestic and foreign loan institutions
- sales, services and import of fixed assets, including computers, printers and similar
- sales, services and importation of newspapers and magazines
- passenger transport services
- medical and healthcare services
- sales and import of unfinished bovine leather

In the case of foreign lenders, the 10.5% rate applies only where the home jurisdiction of the lender adheres to the supervisory bank standards of the Basel Banks Committee.

A zero rate applies to export goods and services, and international passenger and freight transportation, enabling suppliers of these goods and services to recover the associated input VAT. This rate is not applicable on export of services.

VAT is levied on the final import of goods at a rate of 21% or 10.5% (for the exceptions mentioned above) and it must be paid to the Customs Administration before withdrawing the merchandise. VAT withholdings, import duties and corporate income tax withholdings are also payable at that moment.

It should be noted that withholdings are applicable in connection with VAT. Purchasers impose withholdings on their payments to registered suppliers, and vendors and customs authorities also practice withholdings on sold or imported goods, respectively.

## **Provincial taxes**

### **Turnover tax (sales tax)**

The provinces and the Federal District (the City of Buenos Aires, which has become autonomous) impose taxes on turnover (sales) arising from and within their boundaries, no matter whether the vendor maintains a domicile or a place of business in the jurisdiction or not.

An agreement between the 24 jurisdictions has established common rules for taxpayers, allowing the allocation of taxable turnover among the jurisdictions.

Almost all jurisdictions have excluded from this tax nearly all manufacturing, agricultural, and construction activities, as well as some tourism activities and exports of goods. In general, there must be an establishment within the jurisdiction.

Although each jurisdiction may impose different rates, the following are generally applied:

- industries 0% –3%
- agriculture, forestry, fishing and mining 1%
- sale of goods 3%
- services 3%
- financial activities 5.5%
- commissions 4.9%

## 5. Taxes on Individuals

### **Personal income tax**

#### **Territoriality and residence**

Argentine residents are subject to tax on income arising from both Argentine and foreign sources. Non-residents are taxed only on Argentine-source income.

The following individuals are considered as resident in Argentina for tax purposes:

- Argentine nationals living in Argentina
- Argentine nationals working abroad, for the first 13 months of their absence, unless they have become permanently resident in another jurisdiction before the beginning of the 14<sup>th</sup> month of absence
- foreign nationals who have been present in Argentina for more than 12 months – from the first day of the 13<sup>th</sup> month of their presence in Argentina
- foreign nationals working in Argentina on an assignment intended to last for more than five years, from the first day of their presence in Argentina

Profits obtained abroad by individuals resident in Argentina are subject to personal income tax, with a tax credit for taxes paid abroad, up to the increase in the Argentine income tax caused by the inclusion of the foreign profits.

#### **Persons liable**

Personal income tax is payable by individuals. Individuals who are partners in a partnership are liable to income tax on their earnings resulting from that partnership.

#### **Taxable period**

The taxable period is the calendar year.

#### **Structure of income tax**

For personal income-tax purposes, there are four income categories in Argentina:

- income from real estate
- income from the investment of capital
- income from a business
- income from employment

Income from real estate is primarily derived from rental operations involving property. Income from the investment of capital includes, for example, interest, rent from personal property, royalties, and capital gains from the sale of shares not listed in the stock exchange. Examples of non-taxable income from the investment of capital are proceeds from the sale of shares (with certain exemptions), income from government bonds and interest on time deposits and saving accounts. Income from a business refers to income from normal business or commercial activities. Finally, income from employment includes all remuneration paid to individuals for services rendered in an employer-employee relationship (salaries, bonuses, commissions, allowances, tax reimbursements and housing expenses paid by the employer).

Profits and gains are considered to be of Argentine source when they arise from:

- capital, assets or rights located or exploited on Argentine territory
- civil or commercial activities or personal work in Argentina, regardless of the nationality or country of residence of the parties carrying out these activities; or of the work or the place where any related contract has been entered into.

Income and gains of Argentine source are subject to personal income tax, except for certain capital gains, which are not taxed for individuals, and lottery and gambling winnings, which are subject to a specific tax.

### ***Income from employment***

Taxable income from employment includes all types of remuneration, including allowances, bonuses, benefits-in-kind and reimbursed expenses. Benefits-in-kind are normally valued at market value.

Pensions from state or private sources are taxable as income from employment, but directors are considered to be self-employed.

#### *Deductions*

In general, all losses and expenses incurred in obtaining and preserving taxable income are deductible.

The following are deductible and of particular relevance to employees:

- mandatory Pension-Fund and social security contributions
- employment-related insurance premiums
- voluntary pension-fund contributions (up to a certain limit)

General, personal and family expenses are not deductible.

For the earned-income allowance, see below under 'Allowances and deductions'.

### ***Salary tax***

Employers are obliged to withhold amounts with respect to personal income tax, as well as mandatory social security contributions, from employee salaries. Tax is withheld at the rate appropriate to the employee's taxable remuneration, taking into account any allowances due, so that as far as possible, the correct amount of tax has been deducted from the employee at the year-end.

### ***Income from a business***

All income derived by an individual from a business or profession, carried on either alone or in partnership and considered as commercial, is included in this category.

The rules for computing business income are similar to those pertaining to companies (see Chapter 4).

#### *Deductions*

The general rule applies, that all losses and expenses incurred in obtaining and preserving taxable income (including interest) are deductible in principle.

Sole proprietors and self-employed professionals are entitled to a fixed earned-income allowance of ARS 7500 (EUR 1800; USD 2275) per annum.

### ***Taxation of investment income***

In principle, all income from capital investment is taxable. Residents are liable on their world wide investment income (with credit for foreign tax paid) while non-residents are liable on Argentine-source investment income only.

Interest on savings-bank accounts and term deposits in Argentine banks is exempt from income tax.

#### *Rental income*

This is taxable on a net basis, after deducting eligible expenditure, including interest. Non-resident landlords and non-resident lessors of movable property are liable to withholding tax (see above).

## Capital gains

There is no special capital gains tax. In principle, capital gains from the disposal of assets are subject to income tax as investment income if certain conditions are met, but gains from the sale of shares are not taxable, unless the disposals are of such a volume and frequency as to suggest that the individual is trading.

Tax on income derived from the purchase or sale of unlisted shares held by the taxpayer for over 12 months may not exceed 15% of the transaction.

## Allowances and deductions

### *Mortgage interest*

Mortgage interest on the purchase or construction of personal residential property is deductible from taxable income, up to an annual limit of ARS 20 000 (EUR 4825; USD 6050).

### *Domestic help*

Taxpayers who engage individuals to perform cleaning and other domestic tasks may claim a deduction in computing their taxable income, provided that the employee is properly registered with the tax and social security authorities and the taxpayer deducts social security contributions from the helper's wages and pays employer's contributions on a monthly basis. Depending on the weekly hours worked, the employee contribution ranges from ARS 8.00 to ARS 24.44 and the employer's contribution from ARS 12.00 to ARS 35.00. Additional amounts need to be paid if the employee is to be eligible for pension benefits.

The maximum deduction that may be claimed by the taxpayer is ARS 7500 (EUR 1800; USD 2275) per year.

### *Earned-income allowance*

Taxpayers in receipt of income from employment are allowed an earned-income allowance; nevertheless considering the amount of the taxable income of the employee some reduction on this is applicable.

The full allowance in 2008 is ARS 43 200 (EUR 10 425; USD 13 075), and is available to employees with taxable income of no more than ARS 91 000 (EUR 21 975; USD 27 575). Thereafter, the allowance is reduced as follows:

**Table 2**

<b>Taxable income range (ARS)</b>	<b>Reduction in allowance</b>	<b>Allowance available (ARS)</b>
91 001 – 130 000	50%	18 000
130 001 – 195 000	70%	10 800
195 001 – 221 000	90%	3600
221 001 and above	100%	0

### *Medical expenses*

Premiums for private medical insurance policies are deductible, up to a limit of 5% of taxable income. Medical expenses may be deducted where supported by the appropriate bills, but to no more than 40% of the bill, and subject to an aggregate cap of 5% of taxable income.

### *Personal allowances*

Individual taxpayers may deduct the following personal allowances (2008 figures) from taxable income:

**Table 3**

<b>Nature of allowance</b>	<b>Amount (ARS)</b>
Personal allowance	9000
Spouse allowance <sup>1</sup>	10 000
Child allowance (per child)	5000
Dependant allowance	3750

<sup>1</sup> Available only if the spouse is not working

These allowances are available to taxpayers who have been present in Argentina for a minimum of six months in the tax year.

As with the earned-income allowance, these allowances are reduced as taxable income increases. See Table 2 for the appropriate percentage reduction.

### **Tax rates**

The tax rates for 2007, unchanged in 2008, are shown in Table 4.

**Table 4**

<b>Band of taxable income (ARS)</b>	<b>Tax rate (%)</b>
First 10 000	9
Next 10 000	14
Next 10 000	19
Next 30 000	23
Next 30 000	27
Next 30 000	31
Remainder above 120 000	35

### **Visiting professionals, artists and sportspeople**

Professionals staying in Argentina on a temporary basis for no more than six months per calendar year (intellectuals, technicians, professionals, artists, sportspeople etc) are subject to an effective income tax rate of 24.5% (35% of 70% of the gross income), to be withheld by the local employer or payer of the remuneration as a final liability. They are not entitled to deduct actual expenses or claim personal allowances.

### **Returns and payment**

#### *Tax returns*

Individual taxpayers are normally required to file annual tax returns, no later than the second week of April in the following tax year. Individuals in receipt solely of employment income are generally not required to file returns, as their tax liability should have been settled by salary-tax deductions (see above) and the employer is obliged to file an annual salary-tax return in respect of all employees. However, if an employee earns more than ARS 144 000 (EUR 34 775; USD 43 625) of gross remuneration in a year, he or she is obliged to file a return for information purposes, no later than 30 June of the following year.

#### *Payment of tax*

Individuals who are self-employed and company directors have to make payments in advance of their income-tax liability. These payments are based on the final liability of the previous tax year, and must be made in five equal instalments.

Any balance of tax outstanding is to be paid when the tax return is filed.

### **Appeals**

See Chapter 3.

## **Wealth tax (tax on personal assets)**

Argentina levies an annual wealth tax on personal property.

### **Territoriality and residence**

Individuals resident or located in Argentina are liable on their world wide property, whereas non-residents are liable only on their personal property situated in Argentina. The definition of residence is that used for income-tax purposes (see above).

### **Tax point**

Tax is due on assets owned as at 31 December of each year.

### **Valuation of assets**

Assets are valued at their market value, with no allowance for liabilities.

### **Taxable and non-taxable assets**

All personal property is taxable if not exempt. Exemptions include:

- intangibles (going concern, brands, licences etc)
- funds in Argentine or foreign currency in time-deposits and savings accounts held at Argentine banks and other financial entities governed by Law 21.526

Where owned by foreign individuals, the following assets are also exempt:

- deeds, bonds and other securities issued by the national, provincial or municipal governments
- securities listed on the stock exchange, subject to certain requirements
- shares and interest in any kind of company
- shares of mutual funds
- shares in cooperative entities

For non-residents assessed to wealth tax in respect of their assets located in Argentina, the tax rate is 1.25% of the asset value, payable in a single instalment. The exception is for participations in companies, securities, and bonds issued by the nation, provinces or municipalities, corporate bonds and instalment holdings in common investment funds. If certain conditions are satisfied, the rate of tax in this case is 2.5%.

### *Shares in Argentine companies*

Taxpayers are not obliged to list Argentine shares (in companies governed by Law 19,550) in their wealth-tax returns. Nevertheless, these assets are not out of the scope of the tax. It is the company that is responsible for computing and paying the tax on behalf of local individual and non-resident shareholders. They are entitled to recover the tax paid from the shareholder, even by retaining or attaching the assets if necessary.

### **Tax rate**

For residents, the rate of tax is as follows:

**Table 5**

<b>Total value of taxable assets (ARS)</b>	<b>Rate</b>
305 001 – 749 999	0.50%
750 000 – 1 999 999	0.75%
2 000 000 – 4 999 999	1.00%
5 000 000 and above	1.25%

## **Notes**

(1) Taxable wealth of ARS 305 000 or less is exempt

(2) Tax on shareholding or participation in companies governed by Law 19,550, whose holders are individuals settled in the country or abroad or legal entities settled abroad, must be assessed and paid by Argentine corporations. The tax base in this case will be the net equity of the company considered as of 31 December of each year, where a rate of 0.50% will be applied.

## **Exemptions:**

These include:

- assets belonging to members of diplomatic, consular and foreign missions
- social quotas (shares) of cooperatives
- intangible assets (goodwill, brands, patents, concession rights and others)
- titles, bonds and other credit instruments issued by the nation, the provinces and the municipalities
- fixed-term deposits, saving accounts and others in Argentine and foreign currency with Argentine financial entities

## **Foreign tax credits**

Tax of a similar nature paid abroad may be recognised as a tax credit, up to the Argentine tax attributable to the foreign assets.

In certain cases, double taxation treaties may restrict Argentina's taxing rights on certain personal property.

## **Returns and payment**

All taxpayers must file an annual wealth-tax return no later than April (if they hold shares in unlisted companies with a 31 December year-end) or May (if they do not hold such shares). The tax is self-assessed and payable when the return is filed.

## **6. Other taxes**

### ***Tax on bank-account debits and credits***

This tax is applicable on debits and credits on accounts of banks ruled by Law 21,526. The tax rate amounts to 0.6% on each debit or credit. It is also levied on financial operations and transactions that do not involve the use of bank accounts, in which case the applicable tax rate amounts to 1.2%. Financial institutions must practice this withholding, as well as individuals who transfer or deliver funds on behalf of third parties. It is levied mainly on bank-account holders, and some lower rates are applicable on certain circumstances and individuals.

Thirty four percent of the tax on bank credits may be considered as a payment on account of income tax and minimum presumed income tax. This percentage is reduced to 17% for taxable events subject to a 1.2% tax rate.

Deposits and withdrawals of salaries and pensions are exempt.

### ***Business tax***

Provinces levy a tax on the gross revenues of businesses owned by the self-employed. The rate varies from province to province, but is generally 3% in the City of Buenos Aires, although professionals are exempt there.

### ***Tax on transfer of real estate***

This is levied on the transfer of real estate by individuals or the estates of deceased persons (provided that the transaction is not subject to income tax) at a rate of 1.5%, calculated on the sale price of the property. If the object of the transaction is the taxpayer's only residence, the transaction is exempt from this tax, provided that the taxpayer can prove that the proceeds were used to reinvest in a new home.

### ***Land tax***

The provinces and the City of Buenos Aires levy taxes on real estate. Tax rates and procedures for determining the taxable value vary with each jurisdiction, but do not exceed 3%.

### ***Stamp duty***

Stamp duty is levied by each of the 23 provinces, mainly on documented contracts and agreements, deeds, mortgages and other obligations, transfers of real estate and in general, agreements of a civil, commercial and financial nature of which there is written evidence.

In the City of Buenos Aires, stamp duty is levied only on the sale of real estate, at a rate that ranges between 0.75% and 2.5%, excluding households and land used to develop housing projects. It is usually paid in equal parts by the two parties involved (50% vendor and 50% purchaser).

Tax rates and assessment rules are established by each jurisdiction. The standard rate is 1%, calculated on the economic value of the document.

## 7. Social security contributions

Regardless of nationality, all individuals over the age of 16 who are either in gainful employment or self-employed must make social security contributions to several designated funds.

Employees can elect to contribute to the Government Pension Fund or to one of the authorised private pension funds.

Employer contributions are shown in Table 6 below.

**Table 6**

<b>Social Security Fund</b>	<b>General</b>	<b>33% Reduction<sup>(3)</sup></b>	<b>50% Reduction<sup>(3)</sup></b>
	<b>%</b>	<b>%</b>	<b>%</b>
Pension Fund	10.17/12.71 <sup>(1)</sup>	5.72/	3.49
Family Allowances Fund	5.33/6.67 <sup>(1)</sup>	2.50	1.53
INSSJP (Social Services)	1.50/1.62 <sup>(1)</sup>	1.28	1.17
Social Healthcare	6.00 <sup>(2)</sup>	6.00	6.00
	<b>23.00/27.00<sup>(1)</sup></b>	<b>16.00</b>	<b>12.49</b>

**Notes:**

(1) The higher rates (total 27%) apply to companies mainly engaged in commerce or the service sector whose annual turnover exceeds ARS 48 million (EUR 11.589 million; USD 14.540 million).

(2) The maximum monthly remuneration for the healthcare contribution is ARS 4800 (EUR 1150; USD 1450) and the minimum is ARS 240 (EUR 60; USD 75).

(3) Employers who hire extra workers can benefit from a 12-month reduction in contributions equal to 33% for each new employee who joins the company. The reduction is 50% if the employee joining the company is part of the Head of Household Programme (*Programa Jefes de Hogar*). Companies eligible for this benefit must have less than 80 employees and yearly income which does not exceed amount established for small and medium-sized enterprises.

Employee rates are given in Table 7.

**Table 7**

	<b>Private Pension Fund</b>	<b>State Pension Fund</b>
	<b>%</b>	<b>%</b>
Pension Fund	11.00 <sup>(1)</sup>	11.00 <sup>(1)</sup>
Family Allowances Fund	0.00	0.00
INSSJP (Social Services)	3.00 <sup>(3)</sup>	3.00 <sup>(3)</sup>
Social Healthcare <sup>(2)</sup>	3.00 <sup>(3)</sup>	3.00 <sup>(3)</sup>
	<b>17.00</b>	<b>17.00</b>

**Notes:**

(1) The maximum monthly remuneration for pension fund contributions is ARS 7800 (EUR 1875; USD 2375).

(2) Plus 1.5% for each dependant outside the employee's basic family unit to whom the employee wishes to provide coverage under the system.

(3) The maximum monthly remuneration for the healthcare contribution and the social services contribution is ARS 4800 and the minimum is ARS 240.

Employers must account for contributions on a monthly basis, between the 7<sup>th</sup> and the 11<sup>th</sup> of the following month.

## 8. *Becher y Asociados S.R.L.*

Becher y Asociados S.R.L. is the BDO Member Firm in Argentina. Its main office is located in Buenos Aires at:

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## ***Double taxation agreements***

Argentina has income or income and capital tax treaties with the following jurisdictions:

Australia	France
Austria	Germany
Belgium	Italy
Bolivia	The Netherlands
Brazil	Norway
Canada	Spain
Chile	Sweden
Denmark	Switzerland
Finland	United Kingdom

Treaties have also been signed with Russia and the United States, but neither of these is in effect.

### ***Estate tax treaties***

Argentina has no treaties to avoid double taxation on gifts and inheritances.

### ***Social security treaties***

Australia has social security agreements with:

Brazil <sup>1</sup>	Italy
Chile <sup>1</sup>	Mexico <sup>1</sup>
Colombia <sup>1</sup>	Nicaragua <sup>1</sup>
Costa Rica <sup>1</sup>	Panama <sup>1</sup>
Dominican Republic <sup>1</sup>	Paraguay <sup>1</sup>
Ecuador <sup>1</sup>	Peru <sup>1</sup>
El Salvador <sup>1</sup>	Portugal
Guatemala <sup>1</sup>	Spain
Greece	Uruguay <sup>1</sup>
Honduras <sup>1</sup>	Venezuela <sup>1</sup>

<sup>1</sup> Multilateral treaty

## ***Rates of withholding tax under double tax treaties***

### ***Royalties***

<b>Country</b>	<b>Limit</b>	<b>Note</b>
Australia	10% or 15%	(6)
Austria	15%	(2)
Belgium	3% to 15%	(1)
Bolivia	21% to 31,5%	(5)
Brazil	21% to 31,5%	(5)
Canada	3% to 15%	(1)
Chile	21% to 31,5%	(5)
Denmark	3% to 15%	(1)
Finland	3% to 15%	(1)
France	18%	(3)
Germany	15%	(2)
Italy	10% or 18%	(4)
Netherlands	3% to 15%	(1)
Norway	3% to 15%	(1)
Spain	3% to 15%	(1)

Country	Limit	Note
Sweden	3% to 15%	(1)
Switzerland	3% to 15%	(1)
United Kingdom	3% to 15%	(1)

**Notes:**

- (1) 3% for use or concession to use news, 5% for use or concession to use copyrights of works of art, 10% for use or concession to use licenses, trademarks, designs, etc., and 15% in all other cases
- (2) A tax reduction is in force for royalties only. Royalties must be approved or registered before the National Institute of Industrial Property (INPI).
- (3) Contracts for services or royalties must be approved or registered before the National Institute of Industrial Property (INPI).
- (4) 10% for use or concession to use copyrights of works of art and 18% in all other cases.
- (5) Levied only in the country where payment is carried out.
- (6) 10% for use or concession to use copyrights of works of art, licenses, trademarks, designs, know how, etc., and 15% in all other cases.

**Interest**

Country	Limit	Notes
Australia	12%	
Austria	12.50%	
Belgium	12%	
Bolivia	15,05% to 35%	(1)
Brazil	15,05% to 35%	(1)
Canada	12.50%	
Chile	15,05% to 35%	(1)
Denmark	12%	
Finland	15%	
France	20%	
Germany	10% or 15%	(2)
Italy	20%	
Netherlands	12%	
Norway	12.50%	
Spain	12.50%	
Sweden	12.50%	
Switzerland	12%	
United Kingdom	12%	

**Notes:**

- (1). Levied only in the country where payment is carried out
- (2) 10% rate for interests on credits derived from the sale of industrial, commercial or scientific equipment, or from bank loans, as well as those accrued on bank loans or on financing of public works and 15% in the remaining cases.

## **Dividends**

<b>Country</b>	<b>Limit</b>	<b>Notes</b>
Australia	10% or 15%	(1)
Austria	15%	
Belgium	10% or 15%	(1)
Bolivia	35%	(2)
Brazil	35%	(2)
Canada	10% or 15%	(1)
Chile	35%	(2)
Denmark	10% or 15%	(1)
Finland	10% or 15%	(1)
France	15%	
Germany	15%	
Italy	15%	
Netherlands	10% or 15%	(1)
Norway	10% or 15%	(1)
Spain	10% or 15%	(1)
Sweden	10% or 15%	(1)
Switzerland	10% or 15%	(1)
United Kingdom	10% or 15%	(1)

### **Notes:**

- (1) If the effective beneficiary is a corporation which directly owns no less than 25% of stock of the company paying dividends. In all other cases, the limit is 15%
- (2) Levied only in the country where payment is made.

## **BDO Member Firm offices**

BDO Member Firms have offices in the following countries:

Angola	Hungary	Peru
Argentina	India	Philippines
Australia	Indonesia	Poland
Austria	Ireland	Portugal
Bahamas	Isle of Man	Qatar
Bahrain	Israel	Reunion
Belgium	Italy	Romania
Bolivia	Jamaica	Russia
Botswana	Japan	Saudi Arabia
Brazil	Jersey	Senegal
British Virgin Islands	Jordan	Serbia
Bulgaria	Kazakhstan	Seychelles
Canada	Korea	Singapore
Cape Verde	Kuwait	Slovakia
Cayman Islands	Latvia	Slovenia
Chile	Lebanon	South Africa
China (PRC)	Liechtenstein	Spain
Colombia	Lithuania	Sri Lanka
Comoros	Luxembourg	Suriname
Croatia	Macao	Sweden
Cyprus	Madagascar	Switzerland
Czech Republic	Malaysia	Taiwan
Denmark	Malta	Thailand
Dominican Republic	Mauritius	Trinidad & Tobago
Ecuador	Mexico	Tunisia
Egypt	Morocco	Turkey
El Salvador	Mozambique	Turkmenistan
Estonia	Namibia	Ukraine
Fiji	Netherlands	United Arab Emirates
Finland	Netherlands Antilles	United Kingdom
France	New Zealand	United States of America
Germany	Nigeria	Uruguay
Gibraltar	Norway	Vanuatu
Greece	Oman	Venezuela
Guatemala	Pakistan	Vietnam
Guernsey	Panama	Zambia
Hong Kong	Paraguay	Zimbabwe

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BDO International is a world wide network of public accounting firms, called BDO Member Firms, serving international clients. Each BDO Member Firm is an independent legal entity in its own country. The network is coordinated by BDO Global Coordination BV, incorporated in the Netherlands, with its statutory seat in Eindhoven (trade register registration number 33205251) and with an office at Boulevard de la Woluwe 60, 1200 Brussels, Belgium, where the International Executive Office is located.



