



Accountants &  
business advisers

# Doing business in Argentina



## PKF Villagarcía & Asociados

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It has more than 20 years of experience rendering services and solutions to companies' problems as regards Audit and Assurance, Tax Management, Consulting and Corporate Finance as well as experience in different industries and economic sectors based on the experience of the firm's partners.

It has an excellent combination of experience, commitment, knowledge and professionalism respect for its personnel, ethics and flexibility complete our values.

Local and international clients can give testimony for the quality of the firm's services.

Human Resources is a feature that provides quality and professionalism to the services rendered. Such features are essential to achieve the firm's goal: "Help Improve Clients' Business".

PKF Villagarcía & Asociados has 155 professionals working in Argentina including correspondent offices in Córdoba, Santa Fe, Mendoza and Neuquén provinces.

PKF Villagarcía & Asociados is member of PKF International, a worldwide association of legally independent firms, comprising over 200 member firms in 120 countries and is still expanding. It is one of the most important audit and consulting services network worldwide.

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# Foreword



If you are considering doing business in Argentina, whether setting up a factory and distribution network or just selling goods over the Internet, then this is the guide for you.

This handy booklet leads you through different issues, from the complexities of personal and corporate taxation to government assistance available to new business enterprise. It does not aim at being comprehensive in tackling such a varied and complex subject. Rather, it is intended as a starting point to help you on your way.

Your next step should be contacting PKF Villagarcía & Asociados. We have wide long experience in giving companies or individuals a helping hand. As one of the leading accountants and business advisers firms worldwide, with offices in all the major business centers, we provide a comprehensive range of services to local investors based on a broad range of business-sector expertise.

We are members of PKF International, an international association of legally independent firms, which operates in 119 countries worldwide. We are therefore ideally placed to service your needs, whatever they may be and wherever you are located.

Argentina can be a strange place for those not familiar with the way business is conducted and regulated. However, with PKF's assistance, it provides an excellent opportunity both as a market place and as a staging post for those wishing to expand into Latin America.

We look forward to working with you.

Sergio Villagarcía  
Managing Partner

# Our services for inward investors



PKF Villagarcia & Asociados is the firm of business consulting and accounting services you and your company require by offering a high value added service.

Every professional service helps improve efficiency, profitability and business management.

Our goal is to help you improve your business and we are working for that.

- Financial Services Industry (Banking)
- Audit and Assurance Services
- Tax Advice
- Tax Legal Defense
- Fiscal Risk Management
- Corporate Transactions Management Assistance
- Outsourcing
- Consulting
  - Management Consulting
  - Implementation of Quality Management System ISO 9000
  - Corporate Governance Assistance (SOX)
- Legal Services and Counseling
- Insolvency
- Anti Money Laundering
- Corporate Finance

# Introduction



This booklet is designed to provide an overview of the business environment in Argentina and presents various considerations involved in establishing a business enterprise in Argentina.

While every attempt has been made to keep this brochure up to date and concise, the constant changes in laws and regulations and the complexity of the interrelated world mean that consultation with professional advisors is indispensable.

The highly skilled and devoted professionals of PKF look forward to working with you in order to implement your business plans.

This firm always acts with responsibility and is devoted to excellence, regardless of its location, either in Argentina or in other parts of the world. Although the greatest possible care has been taken in doing this booklet, it is possible for this information to become outdated or incorrect with the passing of time.

Neither PKF nor PKF Villagarcía & Asociados incur any obligation whatsoever for the consequences resulting from activities undertaken on the basis of this publication.

Consultation with an expert remains necessary at all times and this brochure should be taken as a mere introductory guide to developing business in Argentina.

# General aspects



This is a summary with an overview of the most relevant aspects concerning investments and business in Argentina.

## Geographic location

Argentina is located in South America. It borders on Chile on the West, Uruguay on the East and Paraguay on the North. On the north-east and north-west it borders on Brazil and Bolivia, respectively.

The official language is Spanish.

## Area and Population

The country has a long Atlantic coast, which is its natural eastern border. Argentina has a surface of 3.761.274 km<sup>2</sup>. and a population of 36.223.947 inhabitants, distributed through 23 provinces and the City of Bs. As., as follows:

Map:



| %  | Men               | Women        | Density           | Inh/km <sup>2</sup> |             |  |
|--|-------------------|--------------|-------------------|---------------------|-------------|--|
| Capital Federal  | 2.768.772         | 7,6          | 1.257.286         | 1.511.486           | 13.843,9    |  |
| Buenos Aires   | 13.818.677        | 14           | 6.731.123         | 7.087.554           | 44,9        |  |
| Catamarca  | 333.661           | 0,9          | 166.274           | 167.387             | 3,3         |  |
| Córdoba  | 3.061.611         | 8,5          | 1.488.058         | 1.573.553           | 18,5        |  |
| Corrientes   | 929.236           | 2,6          | 459.123           | 470.113             | 10,5        |  |
| Chaco  | 938.087           | 2,7          | 568.665           | 491.936             | 9,9         |  |
| Chubut   | 413.240           | 1,1          | 207.408           | 205.832             | 1,8         |  |
| Entre Ríos   | 1.156.799         | 3,2          | 568.665           | 588.134             | 14,7        |  |
| Formosa  | 485.700           | 1,3          | 243.929           | 241.771             | 6,7         |  |
| Jujuy  | 611.484           | 1,7          | 301.762           | 309.722             | 11,5        |  |
| La Pampa   | 298.460           | 0,8          | 148.945           | 149.515             | 2,1         |  |
| La Rioja   | 289.820           | 0,8          | 144.903           | 144.917             | 3,2         |  |
| Mendoza  | 1.576.585         | 4,4          | 769.340           | 807.245             | 10,6        |  |
| Misiones   | 963.869           | 2,7          | 484.206           | 479.663             | 32,3        |  |
| Neuquén  | 473.315           | 1,3          | 236.323           | 236.992             | 5,0         |  |
| Río Negro  | 552.677           | 1,5          | 274.791           | 277.886             | 2,7         |  |
| Salta  | 1.079.422         | 3,0          | 535.298           | 544.124             | 6,9         |  |
| San Juan   | 622.094           | 1,7          | 306.029           | 316.065             | 6,9         |  |
| San Luis   | 366.900           | 1,0          | 182.990           | 183.910             | 4,8         |  |
| Santa Cruz   | 197.191           | 0,5          | 100.842           | 96.349              | 0,8         |  |
| Santa Fé   | 2.997.376         | 8,3          | 1.456.054         | 1.541.322           | 22,5        |  |
| Santiago del Estero  | 806.347           | 2,2          | 404.248           | 402.099             | 5,9         |  |
| Tucumán  | 1.336.664         | 3,7          | 657.489           | 679.175             | 59,3        |  |
| Territorio Nacional de Tierra del Fuego, Antártida e Islas del Atlántico Sur | 100.960           | 0,3          | 51.637            | 49.323              | 4,7         |  |
| <b>Total del país</b>  | <b>36.223.947</b> | <b>100,0</b> | <b>17.667.874</b> | <b>18.556.073</b>   | <b>13,8</b> |  |

Source: INDEC, National Institute of Statistics and Census of Argentina (2001)

|                           |                 |
|---------------------------|-----------------|
| Life Expectancy (males)   | 70.64           |
| Life Expectancy (females) | 77.74           |
| Birth Rate                | 19 per thousand |

## Geography

The main feature of the Argentine geography is the significant contrast between immense eastern plains and the Andes mountain range in the West, which has the highest peak in the west hemisphere and second around the world the Aconcagua, with 6,959 metres.

From Jujuy to Tierra del Fuego, the mountain range shows the wonderful variety of landscape: northern plateaus - with desert, valleys, mountain streams and colorful hills-, lakes, woods and Patagonia's glaciers.

In the north, Chaco is a forest linked to the Bermejo, Salado and Pilcomayo rivers.

Between the Parana and Uruguay rivers, the Mesopotamia area (Entre Ríos, Corrientes and Misiones provinces) is formed by low hills, pools and estuaries that show the old trace of these large rivers. In some areas, within the subtropical forest, there are breaks that make great phenomena such as the Iguazu Falls .

In the centre of Argentina, the pampa region is the largest and best known plain with livestock and farming. It includes the province of Buenos Aires, the north-east of the province of La Pampa and the south of the provinces of Cordoba and Santa Fe . Its landscape is discontinued in the south by Tandil and Sierra de la Ventana, and in the west by the Cordoba mountain range.

In the South, from the Andes mountain range to the sea, you can find the sterile and stony Patagonic plateaus, lashed by the wind. The Atlantic coast, rounded by high cliffs, shows winding shapes, like Peninsula Valdes, with its spectacular sea animals rookery.

## Weather

The weather variations in the country depend on its latitude and geography. The weather in the northeast is warm and humid with temperatures of about 16,6 degrees centigrade in winter and 28,0 degrees in summer. There is also

desert weather in the northwest with temperatures of 5,0 degrees centigrade in winter and 13,0 degrees in summer, and cold and freezing temperatures in the southern part of the country.

## Political System

Argentina is an independent federal republic divided into 23 provinces and the City of Bs. As. where the central government is located and which is the capital city of the country.

The national government is divided into three branches: The executive branch presided over by a President and a Vice president elected by popular vote every 4 years with the sole possibility of being reelected once to allow the change of authorities. The President is in charge of appointing the members of the cabinet (ministers). Its members are 8 together with a cabinet chief who acts as the link between the President and his ministers.

Two chambers compose the Legislative branch. Deputies and senators are elected by popular vote. As regards the latter, three are elected for each province.

Judicial authority resides in federal and provincial courts.

Each province also has division of powers. The executive branch is presided over by a governor and a vice governor elected by popular vote every 4 years with the possibility of being reelected depending on each provincial constitution, a legislative branch of only one chamber and a judicial branch composed of an upper court and different local courts.

Cities are organized by a Mayor in charge of the executive branch, a council as a legislative authority and minor tribunals for municipal issues.

Primary school is mandatory and free and higher education is organized in high schools which also are free but not mandatory. As regards superior education, it is taught in Universities which are also free but not mandatory.

# Economy



## General aspects

During the 1980s, the Argentine economy confronted high inflation rates and an unstable macroeconomic development. Furthermore, the foreign debt crisis arising from the default in Mexico, in 1982, resulted in financial isolation in the region and Argentina was not excluded therefrom. The different areas of the economy unpredictably developed and lost competitiveness in relation to other countries.

As from 1989, restrictions on currency transactions were eliminated and government securities were rescheduled. Subsidies to industrial growth were cancelled and the idea of privatization of state-owned companies began to grow within the framework of changes in structure that would take place during the 1990s. Furthermore, a campaign to avoid tax evasion was set up.

In April 1991, the Convertibility Act was passed. It determined the exchange parity of USD1=AR1, which involved a strict monetary and fiscal regime by eliminating the governmental funding through the Central Bank. The monetary base was extremely related to international reserves. Monetization, both in pesos and US dollars had a remarkable growth, and during the first years of such decade, manufacture was benefited with the reappearance of credit. The inflation rate reduced rapidly and reached international levels of one digit.

In December 1992, with the announcement of the Brady Plan, the country regularized the situation with foreign commercial banks. Thus, it improved the public debt maturities and the Argentine economy benefited with an intense capital flow as a result of the international high liquidity levels. It is considered that the capital inflow as direct foreign investment during 1990 and 1994 amounted to USD 15.140 million. However, as a result of the

Mexican crisis in 1994, the reversion of those capital flows affected the economy.

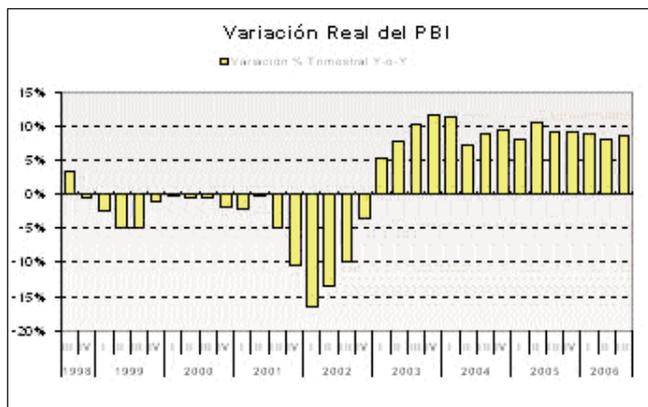
As we have mentioned before, most capital inflows entered the country as direct foreign investments. The acquisition of state-owned companies was mainly related to public services industries. Food, mining, automobile, oil and gas industries were benefited with these inflows.

As from January 1, 1995, Argentina became a member, together with Brazil, Paraguay and Uruguay, of a customs union called Southern Common Market (MERCOSUR, its abbreviation in Spanish). The bloc comprises an area of almost 12 million square kilometers and a population of 230 million with a Combined Gross Domestic Product of USD 635.700 million.

Chile and Bolivia have associate member status. In 1996, a free trade area was created with Chile. It gives access to the Pacific Ocean. In 1997, a similar area was created with Bolivia and in 2005 a membership agreement was signed to allow Venezuela to become full member.

In December 2004, the Union of South American Nations was established with the purpose of integrating two free-trade organizations, Mercosur and the Andean Community (Bolivia, Colombia, Ecuador, Peru and Venezuela) together with Chile for the improvement of the free trade area and for integration in physical, energetic and communication terms.

Argentina is currently dealing with several international trade negotiations. It holds a vast agenda which includes negotiations with the European Union, with the Free Trade Area of



the Americas (FTAA), and on a multilateral aspect, with the World Trade Organization (WTO). Likewise, free trade agreements were entered into with China and other countries of the southern region of Asia to achieve greater marketing opening levels and export diversity.

During the year 2000, the international aspects changed: the levels of fluctuation increased in emerging markets, the US exchange market fell and the monetary policy then became more severe. All these aspects adversely affected the demand of securities issued by emerging markets and thus, financial costs increased. Furthermore, foreign private capital inflows significantly reduced as a result of institutional-political conditions that adversely affected trust and quietness necessary for the net capital inflows.

All the abovementioned aspects and the domestic crisis the country was going through as from the second semester of 1998 had a negative effect on the economic activities.

In December 2001, the country incurred default due to the failure to meet its obligations related to the foreign debt with private creditors and the Convertibility system was abandoned. Argentina currently holds a “dirty” - flotation system and is taking all the necessary steps to apply an inflation targeting monetary policy similar to that applied by many countries in the world. Likewise, the international financial situation was regularized in 2005 with the foreign debt restructuring. By the end of that year, the country paid the total amount of the debt it held with the IMF.

## Argentine Economic Development in 2007

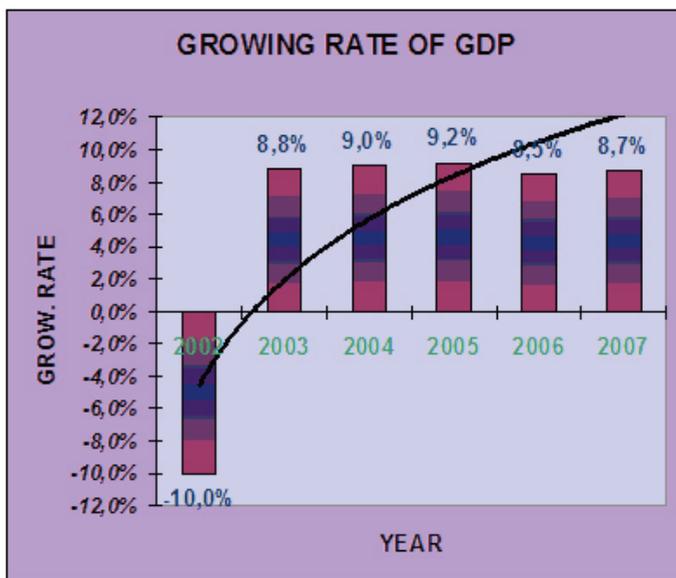
The Economy in Argentina grew by 8.7% during 2007 and thus confirmed the trend of growing rates exceeding 8.5% in the last five years and determined a carry over effect of 3.6% for 2008.

As regards the elements of aggregate demand, private demand increased 9% while public demand 7.4%. As regards investments, there was an increase of 14.4% (lower than the increase in 2006, which was of 18.2%). However, Gross Domestic Product grew by 22.8% in 2007 while in 2006 the increase

was 21.6%. Growth in exports was 8.9% and thus reached 56.000 american dollars. 40% of said amount pertains to the agriculture and livestock area. As to supply, there was increasing activity in imports which expanded in 20.7% (while the increase in 2006 was 15.4%).

As regards the leading economy areas, 2007 involved a change in trend as manufacturers of goods – with an increase of only 7.9% - gave way to service producers, that expanded much more than the former – at a 8.7% rate – and changed what has been happening between 2003 and 2006. Within service producers areas, transport, communications and financial trade areas stood out.

Vehicles manufacture has had an important impact on Industry (it increased 27.7%). It is considered that this increase may have been affected by two factors: the speed up in manufacture plans due to the delay in the delivery of units based on the increasing demand and the desire of manufacturers to accumulate stock on the basis of possible lack of energy during winter season. Agriculture and Livestock also increased (27.6%), as well as input and other material for Construction (20.7%).



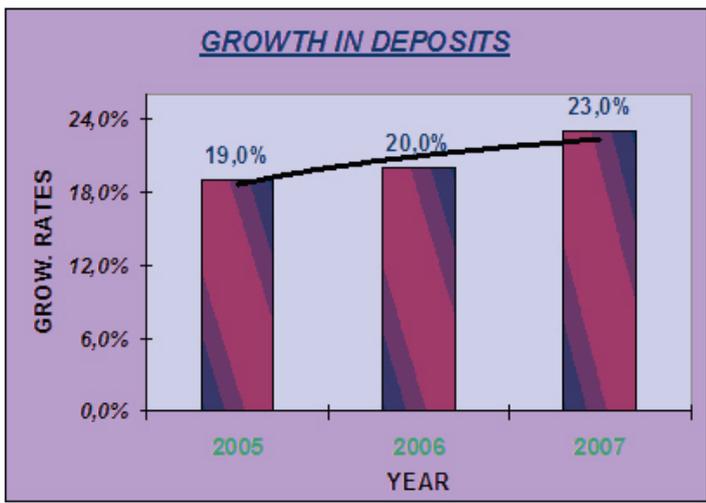
Therefore, the Argentine GDP amounted to AR\$ 359.189 million, at 1993 price rates (AR\$ 806.648 million at current market value), which would currently amount to USD 260.000 million. Gross domestic investment amounted to AR\$ 81.693 million, particularly due to construction and long term equipment for manufacture.



Despite this information, construction only grew by 6.4% in 2007 and was thus considered the area with the lowest expansion in the last five years.

As regards employment, in 2007, there was an increase of 14% in hiring of staff on the

part of companies. 12% thereof pertains to the request for professionals and staff for the service sector. Unemployment levels reached almost 8.9% As regards the financial sector, 2007 meant, for financial entities, a higher growth in credits rather than in deposits.



Private sector deposits in pesos increased 23%, and loans thereto also went through an increase, in this case, of 40.2%. Both growing rates exceeded those of prior years and thus derived in deep

banking in Argentina. As to deposit facilities, they constitute the area of greater growth in 2007. Among them, time deposits (28%) and savings

accounts (25%) can be found.

As regards credits, there has been an important growth in personal loans (62%) and credit cards (48%). Although their demand has slowed down, they still explain the greatest part in financing. Financing with security (pledge and mortgages) increased 46.6% while trade facilities increased 25% in 2007.

International reserves of the Central Bank of Argentina (BCRA) amounted to almost USD 2770 million in 2007. USD 1.983 million thereof derives from bonds and term deposits, while the remaining USD 783 pertains to the reassessment of currencies, part of the BCRA portfolio such as, the euro, pound, yen, swiss franc and gold which in whole represent 15% of almost USD 48.000 million in reserves the BCRA held at year end.

The Balance of Trade showed a surplus of USD 11.154 million, that is to say 9.1% lower than 2006's surplus. Exports amounted to almost USD 56.000 million, while imports amounted to USD 44.790 million. In relation to 2006, exports and imports grew by 20% and 31% respectively.

## **Inflation**

The GDP tacit price index increased 14.2% in 2007 thus exceeding the Consumer Index Price of the INDEC, which increased 8.8%. Shopping baskets in both cases differ; however these indexes used to keep a similar variation in the past. Private consumer tacit prices (IPICP, its abbreviation in Spanish) showed an annual increase of 13% during 2007 with a basket similar to Consumer Index Price's.

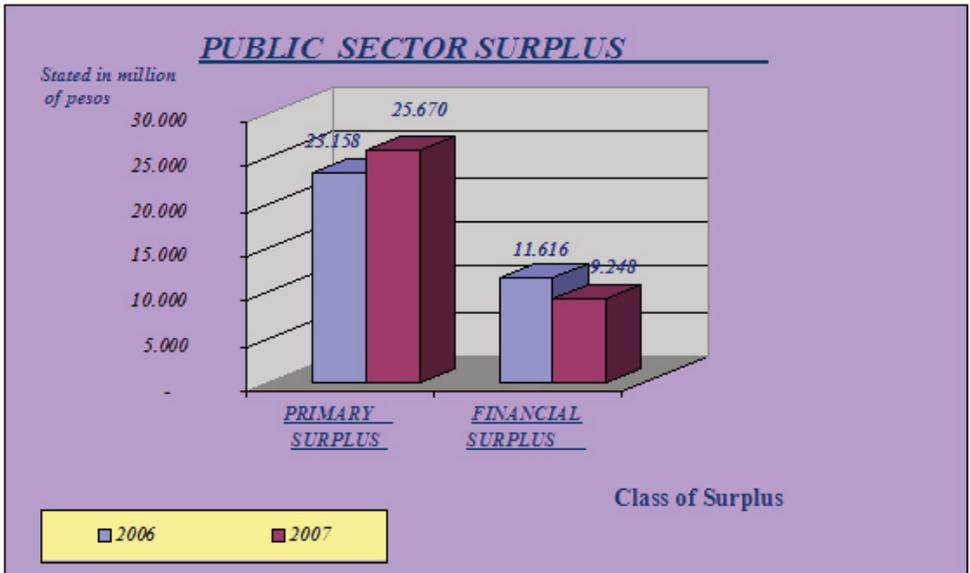
It is worth mentioning that the Government's policy aimed at developing the exchange terms and the increasing payroll costs supported by a reduction in the unemployment rate and the important salary increases obtained from Labor Unions only keep demand of consumer goods stable, which, with the reduction in production resulting from a lower increase in investments and the production process, do not allow the creation of a suitable environment for reduction of the inflation process.

## Public Sector

In 2007 Government was able to collect AR\$ 199.781, 33% more than in 2006 when it collected AR\$ 150.008 and much more than the amount set forth in the Act on National Budget.

This important increase in collection was mainly encouraged by value added tax (VAT), income tax and export duties or withholdings. If payment of interest on debt is taken into consideration, the annual savings amounted to AR\$ 9.240 million, in other terms, there was a reduction of 20 points in relation to 2006. The maturity date of the bond coupon subject to the increase of GDP and payment of interest (AR\$ 4.000 million) were elements that helped, together with salary increases, retirement payments, transfers to private sectors through subsidy and investment in public works, December to close with a level of deficit considered a record for the history of the Argentine Economy as it reached \$5.241 million in nominal terms.

Consolidated revenue in provinces amounted to AR\$ 111.820 million, that is to say, it increased by 26.1% in relation to 2006. Total consolidated expenses amounted to AR\$ 111.930 million (13.8% of the GDP), 27.2% more than in



2006. Therefore, the financial deficit of all the provinces amounted to AR\$ 110 million in 2007 unlike the surplus of AR\$700 million in 2006.

## Expectations for 2008

By the end of January, the Monthly Estimator of Economic Activity data for November was issued. Based on the information provided, it was considered that the GDP growing rate could have reached between 8.7% and 8.8% in 2007. It is considered that this growth will continue during the first quarter of 2008, thus creating optimism as to the long growing stage Argentina has been going through since 2002. This expectation is related to domestic elements that explain this phenomenon. However, expectations as to external elements are not so clear, as they operate beyond reality.

The evaluation of the Argentine future cannot be limited to good conditions seen in macroeconomic variables and future records of main export goods. It is worth mentioning that they are promising. In fact, the Argentine foreign sales have reached the highest level in the Argentine history and the high actual exchange rate applicable to transactions did not prevent imports, in unprecedented amounts. Transactions are performed with important economic liberalization, regardless of the different point of views.

What are the bases to trust in the current situation? First of all, the growing participation of Asian countries, India and China in the Argentine export of agricultural commodities. They are necessary to feed a workforce that has doubled in only twenty years. Together with the low worldwide stock of these goods and the growing use of some of them as a substitute for carbohydrates, they let their prices keep current levels.

Secondly, the increase in prices for cereals and oil and the good results in the development of the Argentine GDP are based on a strong development of domestic demand. The increase of domestic demand is not only based on the increase in employment and salaries, but it is also based on the high exchange rate that encourages the replacement of industrial imports.

The reserve formation policy already accumulates a stock of more than USD 48,000 million. Unlike the period of convertibility, this currency resource is

exclusively formed by the accumulation of positive proceeds arising from the private sector in relation to foreign affairs. It is not formed by loans requested by the public sector.

This situation provides monetary authorities with great capacity to overcome pressure against them. Furthermore, Government expects to reach a tax surplus level high enough to pay the public debt and have a net savings margin to use in the future if any difficulties arise.

It is possible that, during 2008, rates similar to asian rates of 2003-2007 can be reached with a GDP growing at 7.5% or 8%, with a reduction in unemployment and with tax surplus of 4% of the GDP and of 2.5% on payments. Mid term consistency of this trend will require that the investment coefficient develops in the next years, at great strides, until it reaches the equivalent to 30% of the GDP. A possible crisis may be advantageous as it may reduce the price of equipment, may generate liquid resources aimed at “investment in goods” and may also give rise to suitable mid term profitable rates.

## Privatizations

In August 1989, Congress passed Act no. 23.696 (State Reforming Act). Chapter II thereof authorized the Executive branch to perform the privatization, either in whole or in part, the concession, either in whole or in part or liquidation of state owned companies “subject to privatization”.

In a second stage, on October 3, 1990, the Executive branch issued Executive Order 2074/90 by means of which it established terms of 180 days to define the bidding terms and conditions of several state owned companies and companies managed and controlled by government.

The main privatizations were:

| Área                  | Company  | Forn  |
|-----------------------|--|---|
| Telecommunication (1) | ENTel (telephones)   | Total privatization   |
| Air flights (2)       | Aerolíneas Argentinas  | Partial privatization   |
| Energy (3)            | YPF Oil Company<br>YPF: Main Oil Areas<br>YPF: Secondary Oil Areas<br>SEGBA electricity<br>State owned gas company<br>Water and Energy suppliers | Concession/Association<br>Total privatization<br>Total privatization<br>Total privatization |
| Trains                | Argentine trains   | Concession (sev. branch lines)  |
| Roads                 | National Road System   | Concession  |
| Defense (4)           | Comp. controlled by Min. of Defence  | Sale of gov. shares   |
| Water supply(5)       | OSN (Obras Sanitarias de la Nación)  | Concession for 30 years   |
| Financial System      | Caja Nacional de Ahorro y Seguros<br>Banco Hipotecario Nacional  | Total privatization<br>Partial privatization  |
| Communication         | Argentine post office<br>Airports  | Concession for 30 years<br>Concession for 30 years  |

(1) USD 2.270 million in cash and USD 5.030 million in debt securities at fair value. .

(2) USD 260 million in cash and USD 1.610 million in debt securities at fair value.

(3) USD 6.134 million in cash and USD 3.223 million in debt securities at market value.

(4) USD 270 million in cash and USD 180 million in debt securities at fair value.

(5) Offered fees reduction of 26.9%.

## Monetary Policy

By the end of 2001, the Convertibility system that guaranteed the Exchange parity of USD1=AR\$1 collapsed. From that moment on, the exchange rate began to fluctuate allowing the Central Bank to apply an active monetary policy. At present, the idea is to adopt a scheme based on inflation targeting. This scheme has already been adopted by Australia, Canada, Brazil and Chile, among other countries. It aims at controlling the inflation rate through a range within which the inflation rate must be kept stable for a given period. To meet that goal, a monetary instrument is chosen to regulate the amount of money.

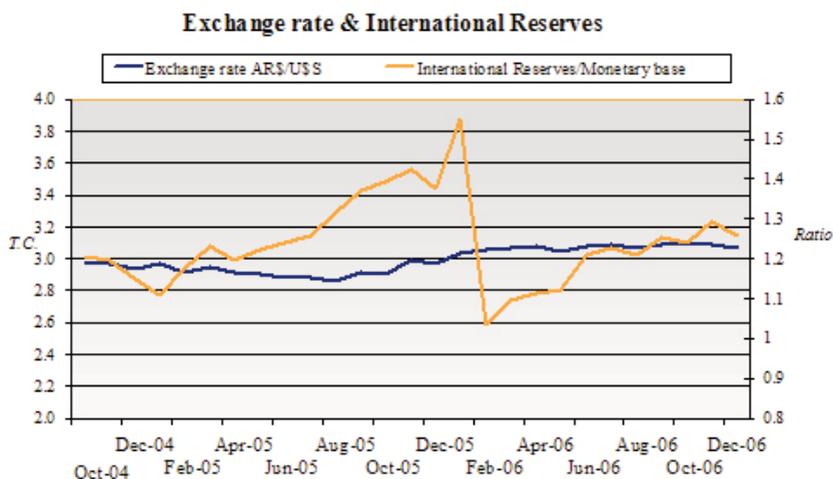
Countries which have been stable during their existence provide much better conditions to calculate demand of money and there is greater chance to use the interest rate as a long term instrument to deal with the monetary policy.

Therefore, at the beginning, the monetary policy was based on the control of the monetary base since the banking system and the credit activity were poor. In 2005, credit recovered. Short term interest rate is used to affect liquidity in consistency with money supply. This policy is similar to the one used by the European Central Bank.

As from December 2002, the liberalization of exchange and capital controls has increased. The duty to liquidate a minimum amount through the Central Bank of Argentina as a result of export inflows is no longer mandatory. There are neither restrictions to payment of interest, profits and dividends nor restrictions to capital payments.

Finally, it is worth mentioning the participation of the Central Bank in the Exchange Market by means of currency purchases and sales, as well as its participation in rediscounts, issuance of bonds (Lebacs and Nobacs<sup>1</sup>) particularly in relation to liquidity.

The official policy is based on the maintenance of an Exchange rate near ARS 3 per USD 1 and on the accumulation of international reserves that provide independence in the management of possible external financial shocks.



# Financial Markets

## Macrofinancial System

Within the Argentine economic – financial system, as regards capital movements, there is a system formed, not only by the Exchange Market but also by:

- Capital market
- Financial market

## Capital market

### General features

This Market includes several operators in charge of participating in securities public offering. Both, companies and government are financed by investors through transactions related to negotiations with shares and public and private debt securities.

Capital market operators are grouped as follows:

#### 1. Stock market

- Stock exchanges
- Securities markets
- Stock brokers
- Stockbroker companies
- Listed companies
- Securities Clearing House
- Banco de Valores SA (in charge of the structure and quoting of securities)

#### 2. Mutual funds

- Mutual funds
- Management companies
- Depository institutions

### 3. Over the counter market

- Over the counter Market Agents
- Mercado Abierto Electrónico S.A. (Electronic Securities Market)

These operators are supervised by the Comisión Nacional de Valores (SEC), autarchic entity that authorizes and controls the parties thereto and markets that publicly offer securities.

## Main entities

### Stock exchange

Stock exchanges are formed as non profitable entities or corporations in charge of performing transactions with shares and marketable securities. Their duties are the following:

- Authorize, interrupt or cancel securities listing.
- Control the fulfillment of legal and regulatory requirements of listed companies.
- Issue rules and take measures to guaranty the truthfulness of financial statements and other documents.
- Organize Clearing Houses to settle transactions. There are 14 Exchange markets currently operating in Argentina. Six of them have securities market adhered thereto and are authorized to list securities. These exchange markets are located in Buenos Aires, Córdoba, Mendoza, Santa Fe, La Plata and Rosario. The oldest and most important one is the Buenos Aires Stock Exchange (BCBA, its abbreviation in Spanish) which was founded in 1854. The Stock Exchange is duly authorized to accept and cancel securities quotation, pursuant to its own rules approved by the Comisión Nacional de Valores. A Securities Commission duly created by the Board and formed by representatives of Stock Exchanges and other Market areas rules on legislation and decisions related to quotation. Publicly held companies shall file with the Stock Exchange their

financial statements, on an annual and quarterly basis, and the reports on any relevant issue. The Stock Exchange is entitled to control and cancel securities listing, if deemed necessary, to control or prevent unusual changes in prices. The Stock Exchange's duties include, among others: record of transactions, publication of number of transactions and prices and disclosure of any piece of information that may affect securities listing.

- The Buenos Aires Stock Exchange has two quotation areas, a special quotation area and a general quotation area with different information requirements.
- The Special quotation area (where more information is required) is mandatory for those companies that either hold a corporate capital exceeding AR\$ 60 million; or whose sales revenue or annual services exceed AR\$ 100 million; or have 1.000 shareholders not related between them by means of government. Listed securities for an amount exceeding AR\$ 60 million. The remaining companies are entitled to choose the area where they prefer to operate.
- Companies that operate in the General Quotation Area do not have to file financial statements on a quarterly basis. Instead, they shall file a summary memorandum of significant information.

## Securities markets

Securities Markets are corporations where Stock brokers and Stockbroker companies hold shares. Their aim is to record, guaranty and settle transactions. Furthermore, they trade listed securities, keep records of stock brokers and stockbroker companies and control and apply disciplinary measures.

The Mercado de Valores de Buenos Aires S.A. (MVBA, abbreviation in Spanish), adhered to the Buenos Aires Stock Exchange (BCBA) is the most important securities market in Argentina. Its shareholders are the only individuals and companies authorized to trade securities that are listed in the Buenos Aires Stock Exchange, either as principals or agents. The MVBA

supervises members and the transactions they perform therein. In 1990, authorization was granted to Stock Exchanges to enter the Securities Market. Some of the authorized Stock Exchanges are parent and related companies of commercial banks.

In the Buenos Aires Stock Exchange, securities are traded by means of two different systems: a) the Traditional Session operates in business days from 13.00 to 18.00 and b) the Continuous Session operates in business days from 10.00 to 18.00. Private transactions of publicly held securities performed through registered stock brokers and stockbroker companies are recorded and published in the Continuous Session.

In order to control price fluctuations, the Mercado de Valores uses a system that interrupts shares trading for 30 minutes when their price exceeds or falls behind 10% of the price at the end of the prior business day. If, after such interruption, the price of shares exceeds or falls behind an additional 5% of the price of the prior business day, the Mercado de Valores decides to interrupt the negotiations for the rest of the day. Negotiation continues the following business day.

There is also an important over the counter market, the Mercado Abierto Electrónico S.A. (hereinafter MAE) in charge of the private trading of listed debt securities. The MAE is similar to the Continuous Session, but independent herefrom. Only open market brokers registered with the Comisión Nacional de Valores are entitled to trade securities in MAE. Before May 3, 1993, publicly held securities and privately listed debt securities were traded through MAE. As from May 3, 1993, pursuant to an agreement between the Buenos Aires Stock Exchange and the representatives of open market brokers, the transactions of the Buenos Aires Stock Exchange and the MAE were reorganized so that shares could only be traded in the Buenos Aires Stock Exchange. Debt securities can be both traded in the Buenos Aires Stock Exchange and the MAE.

Transactions are settled within 72 hours as from the negotiation, as agreed by the parties to the transaction.

## Caja de Valores

It is a corporation belonging to the Buenos Aires Stock Exchange, to the MVBA and certain provincial securities markets. The Caja de Valores operates as a Clearing House for securities trading and provides central facilities to deposit securities. It also operates as a transfer and payment agent. Furthermore, it settles securities transactions performed in the Buenos Aires Stock Exchange by means of its computer – based book entry - system.

## Capital Market Regulations

Both the Comisión Nacional de Valores (CNV) and the Central Bank supervise the Argentine capital markets regulation. Generally speaking, securities markets in Argentina are ruled by Act no. 17.811 as amended (Public Offering Act) that authorized the creation of the CNV and determines the regulatory framework for securities markets, brokers, market transactions and securities public offering. The CNV issues regulations that rule securities market thus authorizing public offering of securities and supervise brokers.

Pursuant to the Public Offering Act, public trade of securities in securities markets must be performed by securities markets organized as corporations and adhered to a Stock Exchange. The internal rules of each stock exchange for its adhered securities Market determine the conditions to list securities, to appoint brokers and to perform transactions. Each securities market is in charge of regulating and supervising all transactions performed by their shareholders and is entitled to impose disciplinary measures on their members. Each securities market guarantees the settlement of transactions performed by their brokers to facilitate the timely completion thereof. Pursuant to the Argentine legislation, stock brokers or open market brokers shall deposit most of debt securities and shares traded in securities markets and in the MAE with the Caja de Valores S.A.

The changes in the legal framework performed in the last years allow the issuance and negotiation of financial products within the capital markets of Argentina. Among these financial products short, medium and long term bonds ruled by Act 23.576 as amended can be found.

Bonds are private debt securities issued either by corporations, limited partnerships, non profitable entities, cooperatives and foreign branches formed pursuant to section 118 of Act no. 19.550.

These bonds can be issued in pesos and in foreign currency. Furthermore, they can be secured by the issuer's assets, by chattel mortgage or by other issuer's assets or by any other means, as a bank guaranty.

In November 1991, financial transaction charges were canceled together with the tax on transfers and stamp taxes on listed securities. The CNV rules the filing and disclosure of information and prohibits certain unlawful negotiation practices, such as price rigging and insider trading.

To list securities in Argentina, issuers shall comply with the requirements set forth by the CNV as regards economic – financial and operative background, management and other corporate issues. Those securities that can be listed in the Buenos Aires Stock Exchange are those whose quotation is approved by the CNV.

## Financial Market

### Introduction

In Argentina, the bank activity is regulated by Act no. 21.526 of 1977 according to which the Central Bank of Argentina is the enforcement authority and as such, issues rules and controls entities included in the abovementioned Act (authorization and conditions to operate within the banking industry; definition of allowed, prohibited and limited transactions; monetary controls; fulfillment of certain technical relationships; filing of information; accounting and control system; dissolution and liquidation, among other duties).

Holdings of foreign individuals and corporations (that do not reside in Argentina) in local banks with foreign capital shall exceed 30% of capital (either directly or not). Otherwise, the foreign shareholder shall have the opportunity to control the number of votes to impose its decisions at the Shareholders' Meetings. Furthermore, this shareholder shall be registered

with the Registry of Foreign Investments. In Argentina, foreign banks can only perform transactions as investment or commercial banks and shall have the prior authorization of the Central Bank of Argentina to set up branches in the country.

By the way, a minimum amount of capital is required for banks to carry on business in Argentina.

## **Features of the Argentine financial system**

### **Classification**

- Commercial banks
  - State - owned banks: national, provincial and municipal banks.
  - Privately owned banks: cooperative and non cooperative banks.
  - Foreign banks: subsidiaries and branches.
- Investment banks
  - State owned provincial banks.
  - Local banks with foreign capital.
- Mortgage banks
- Development banks
- Savings account
- Financial entities
- Savings and loans entities for home building and other property
- Credit associations
- Representative offices

## Financing systems. Main transactions

Financial transactions are mainly performed in AR pesos (legal currency), in US dollars and securities.

The Argentine financial system's segments are the following:

- Pesos segment
- Foreign currency segment
- Segment of own resources

The main transactions include the following:

- Checking account overdrafts
- Discount papers
- Mortgage loans
- Collateral loans
- Consumer loans
- Credit cards
- Sight deposits
- Time deposits
- Savings deposits
- Deposits in government securities
- Interbank transactions
- Swaps, repos and reverse repos
- Bank acceptances
- Spot Exchange transactions
- Forward exchange transactions

Main regulations. Technical relationships

- Keep a minimum equity (minimum capital)
- Fulfill requirements as to the maximum limit of investment in other companies.
- Fulfill limit requirements on the grant of credits. These limits are determined based on the minimum required equity.
- Monetary regulations

- Minimum reserve requirements
- Optional deposits guarantee
- Prohibited and limited transactions
- Banks are not entitled to develop commercial or any other activity on their own.
- Banks are not entitled to encumber their assets unless the Central Bank so authorizes.
- Banks are not entitled to accept their shares as security for their debts.
- Banks are not entitled to transact with related individuals and/or companies on more advantageous conditions than those offered to their clients
- Banks, except for commercial banks, are not entitled to issue bank drafts or perform transfers between different financial markets.

# Business presence



## Competition and Consumer Protection Act

### Regarding this subject in Argentina, we can say the following:

1) There exists a Competition and Consumer Protection Act whose main feature is the prohibition to create monopolies or oligopolies, characterized by a dominant market position.

This issue is regulated by Act 25156, which came into force on September 28th, 1999. The Argentine Commission of Competition Protection is the compliance body.

Such statute prohibits certain acts or conducts related to the production and exchange of goods and services, when such acts or conducts limit, restrict, misstate or distort competition or constitute abuse of the dominant market position and, in both cases, when they may damage general economic interest. Therefore, said conducts are neither illegal themselves, nor is it necessary that they result in real damage; they are illegal insofar far as they may cause damage to the general economic interest.

The Act under consideration lists different acts that constitute practices that restrict competition, such as to fix prices; limit or control technological development, or the manufacture of goods and services; set up minimum quantities or adjudication of zones, markets, clients and procurement sources; define or coordinate positions in bids or contests; prevent, or exclude one or more competitors from having access to market or making it difficult; condition the sale of any good to the acquisition of another good or

the use of a service, or condition the rendering of a service to the use of another service or to the acquisition of a good; subject the purchase or sale to a condition not to use, acquire, sell or supply goods or services that have been manufactured, processed, distributed or commercialized by a third party; refuse without any reason to satisfy purchase or sale orders related to goods or services; establish discriminatory conditions for the acquisition or sale of goods or services without any reason based on trade customs; suspend the supply of a market-dominant monopolized service in relation to any provider of public services or of public interest; and fix unfair values.

Said statute is applicable to every person and entity carrying out economic activities in Argentina and abroad, as long as their acts, activities or agreements may have some effect on the national market.

2) There exists a "Consumer Protection Act" which aims at the protection of consumers and users including individuals or legal entities that enter into contracts, for consideration, for their own consumption or other's consumption. Its goal is to avoid any situation that may cause a risk to user's health or security and, therefore, regulate any issue regarding the information to be provided to the consumer so that the user becomes aware of the essential characteristics of the good acquired and of its risks as well as provide user with a regulatory framework as to the liability of manufacturers, importers, distributors and sellers that commercialize a faulty product. To that effect, the Consumer Protection Act establishes a "legal guarantee" for the defects of the product sold which brings about the joint and several liability of the above-mentioned individuals.

With respect to consumers' associations, it is worth mentioning that this law not only legitimates their functioning but it also establishes a regulatory framework.

## Intellectual Property

Intellectual property is regulated by Act 11723 named "Intellectual Property Law" and by Act 24425, which incorporates the "agreement on issues relating to intellectual property rights related to trade" into the domestic legal system. Said agreement has been made within the Uruguay round (GATT) framework; it states the national treatment and the most-favored nation principles.

In conformity with the first Act mentioned above, every member is required to give other members' citizens the same treatment as the one given to their own citizens regarding intellectual property protection. The second Act extends to every GATT member country any privilege or benefit a Member may grant to another member. The agreement regulates copyrights, trademarks, industrial drawings and designs and patents. It also regulates the protection of non-disclosed information, the control of non-competitive practices and it establishes the procedure and administrative and civil appeals that are available in order to enforce intellectual property rights.

It should be noted that as from 1998, the Argentine legislation has included "Software" as part of "Intellectual Property", thus applying to this term every related statute.

## Personal Data Protection

Law 25326 regulates personal data protection, whose improper disclosure may cause serious damage or injury. It establishes the legal action for the protection of personal data, which was included, with no name of its own, in the Argentine constitution in 1994, in the section involving rights, statements and guarantees.

This legal action consists of the right of any person to file an action to take knowledge of any data related to them and their purpose, included in public or private data records devoted to provide reports. Should there be any misstatement or discrimination, the person affected is entitled to request such information be eliminated, rectified, deemed confidential or updated. It is aimed at the protection of honor and privacy of individuals and legal persons

when they may be adversely affected by the information included in files, records or any other technical treatment of them, whether public or private.

Pursuant to its purpose as well as the status of the persons included in the records, it may be stated that the legal action for the protection of personal data is a useful tool and fully applicable to all areas.

Said law regulates matters of law related to the protection of data; it states administrative penalties for noncompliance and adds two new sections to the Criminal Code: sections 117 bis and 157 bis, which respectively refer to the right to honor and secret's disclosure as a manner to reinforce protection of data by individuals included in records.

The controlling body is the Argentine office for the protection of personal data which establishes security measures for the treatment and maintenance of personal data comprised in files, records and databases, whether private or non-stately public.

Thus, individuals in charge of databases must take the necessary technical and organizational measures to guarantee the security and confidentiality of personal data included in their databases, in order to avoid their non-authorized treatment, modification, loss or enquiry and by which data alterations may be detected. To that effect, Law 25326 prohibits the record of personal data in databases that do not comply with technical security requirements.

## Types of Companies

The types of trading companies mostly used by foreign investors are corporations and, to a lesser extent, branches of foreign companies. The main features of both types are described below.

### Corporations

- Capital is represented by shares.
- Shares must be registered nominative and non-endorsable. They may be

represented by certificates or otherwise be registered in the pertinent holders' accounts by the issuing company in a book-entry shares record or by commercial or investment banks or authorized securities clearing houses. Likewise, according to the ownership rights granted by them, shares may be common or preferred shares. The latter usually have priority regarding dividends payment, have no voting right and, in general, receive an accumulative fixed dividend.

- Must have at least two shareholders.

The Inspección General de Justicia (IGJ) (Supervisory Board of Companies) in and for the City of Buenos Aires will not register the constitution of corporations whose multiple shareholders requirement is merely formal or nominal (for example, when any shareholder owns 99,99% of shares). The extent of the compliance with legal standards control carried out by the IGJ includes checking out the existence of multiple shareholders. To that effect, the initial contribution made by every founding shareholder will be assessed, thus determining, in order to decide whether the registration is correct, if said contribution has minimum economic significance to comply, together with the others' contribution, with the above-mentioned requirement.

- Shareholders' liability is limited to the paid-in capital.
- Basic features of corporations are established in the by-laws, which must be approved by the IGJ.
- If the sole shareholder or shareholders of a corporation incorporated in Argentina are foreign companies, they must be locally registered pursuant to section 123 of the Business Associations Law.
- Shareholders must hold at least one Shareholder's Meeting per year, the main goal being to approve financial statements.
- The Shareholder's Meeting appoints a Board of Directors, formed by one or more individuals who are in charge of administration. A majority of directors must reside in Argentina.

- Corporations that, by virtue of their features, are subject to constant inspection by pertinent authorities must have at least three directors.

## **Limited Partnerships (where limited partners hold shares of stock)**

These companies, created to join capital and work, involve general and limited partners. General partners are liable for the debts of the partnership, like partners in a general partnership. By contrast, limited partners, whose contribution is represented by shares of stock, are liable to the extent of the subscribed capital. Management falls within the general partner or a third party appointed to that effect. The applicable law regarding this kind of partnership is no other than the one relating to corporations. These partnerships are hardly used in the Argentine economic system.

## **Limited Liability Companies**

A Limited Liability Company (SRL by its stands in spanish), unlike corporations, is a type of company preferably used by small-and-medium sized companies for, as its name indicates, members (who cannot exceed fifty) are liable to the extent of the subscribed "interests", that is to say, paid in Capital. This limits members' liability and at the same time, they are entitled to enjoy the benefits of being a regular company organized pursuant to one of company types. Company's management is represented by the "manager", who may be a member or a third party. It must be mentioned that a limited liability company differs from a corporation. A corporation has a more dynamic structure, since any modification made in a limited liability company requires registration in the pertinent public records.

## **Branch of Foreign Company**

- The Argentine legal system establishes that companies incorporated abroad are regulated by statutes in force in the place of incorporation regarding their existence and structure.
- Performance of acts according to their business purpose within Argentina carries out the duty to set up a branch, offices or any other kind of permanent representation.

- For the purposes of doing business as a branch, it is necessary to prove the existence of the head office abroad, to register the Articles of Incorporation, by-laws or association agreement of head office with the Public Register of Commerce, to appoint representatives and register them in the same way.
- Branches must keep accounting separate from the head office's and file financial statements with the companies controlling body.
- Foreign companies requesting incorporation as branches shall report legal prohibitions and restrictions to conduct, in the place of origin, their activities, identify members and check they operate abroad, under at least one of the following conditions:
  - To have, anywhere but Argentina, one or more agencies, branches or permanent representatives.
  - To own non current fixed assets or exploitation rights over third parties' assets having such condition.
  - To own interests in other companies not subjected to public offering.
  - To usually perform investment activities in stock exchanges or markets as provided in their corporate purpose.
- It must be noted that Section 123 of the Business Associations Law states that whenever a foreign company wishes to constitute or acquire shares of an Argentine company, it must first be registered in our country by filing its by-laws, appointing a representative and establishing a domicile. It also must comply with the provisions of the previous point.
- It is worth mentioning that the IGJ will not register "off shore" companies created in jurisdictions as, companies incorporated abroad which, according to the statutes in force in their place of incorporation or registry, are not allowed, or have some restriction, to conduct their activities where statutes are applicable.

## General Partnerships

The Argentine Business Associations Law describes this type of company as one in which partners have secondary, unlimited and joint and several liability; the partnership name is formed by the words "general partnership" and the trade name by the name of any of the partners or all of them. Said law also states that management shall be regulated by the partnership agreement or otherwise vested in any of the partners. Likewise, it establishes that partnership decisions are made by absolute majority of the partnership capital (unless a different system is provided in the agreement) except as to any amendment to the partnership agreement, in which case consent of every partner is required. It should be noted that this type of partnership is not currently used.

## Associations

Associations are mere legal entities, joint on the basis of a common non-for-profit purpose and, therefore, not included in the Business Associations Law framework. However, the law provides associations with the opportunity to adopt any company structure.

## Sole Proprietorship

The Argentine legal system has not adopted sole proprietorships, thus the "entrepreneur", businessperson acting individually, is regulated by the provisions applicable to "traders" pursuant to the Argentine Code of Commerce. That is, sole proprietorships are nonexistent in Argentina.

## Joint Ventures

The Argentine Business Associations Law includes a whole chapter for this type of association which is broadly used in trade. Nevertheless, it must be noted that this is not a type of company but an agreement between companies incorporated, and domiciled, in Argentina that join each other for the development or performance of a specific job, service or supply, in Argentina or abroad.

## Anti - Money Laundering of a criminal source

With the aim of providing an answer to the world wide phenomenon of Money Laundering and Terrorist Financing, since May 2000 Argentina has issued several provisions and rules, through its surveillance organisms, thus adapting its legal system to international standards and international best practices.

Government has determined a criminal policy to prevent and detect transactions of suspicious nature by appointing several collaborators based on their proximity to transactions susceptible to Money Laundering and Terrorist Financing.

These collaborators perform activities within financial, bank, exchange, insurance, gambling areas, in fund remittance activities, in the purchase and sale of gold and jewelry and may also be accountants and notaries public. They have been assigned the duty to report unusual and/or suspicious transactions on Money Laundering and Terrorist Financing by using internal control policies, procedures and systems developed for such purpose.

These reports are submitted to the Financial Intelligence Unit for its analysis and further filing with the criminal court, if applicable.

It is worth mentioning that reporting suspicious transactions does not involve a violation to any professional or contractual agreement, pursuant to our legislation.

Therefore, the risk of Money Laundering and Terrorist Financing should be evaluated and measured in any business or investment made in Argentina, whether it is made as obliged party or as claimant of services.

## Accounting and Audit

### Mandatory Accounting

The Argentine Commercial Code and the Business Associations Law (law

19550 as amended) state that businessmen and companies must keep accounting records as required by law.

To that effect, the use of books signed by the Argentine Public Registry of Commerce is mandatory. Books' pages must be numbered and the books, bound. The use of the journal and the inventory and financial statements book is also mandatory; other accounting records may be kept as an option.

Stock companies must also keep the following signed Books: Board Minutes Book, Minutes of Shareholders' Meeting, Minutes Book, Share Registry Book, Meeting Attendance Registry.

The latter, in the case of companies dealing with computerized processing systems, may be kept in loose leaves or electronic media, prior authorization by the controlling body of control.

Businessmen must file, within three months after closing of the fiscal year, the financial statements, which must include certain information as stated by law 19.550 (Business Associations Law).

In the case of financial statements from stock companies and foreign branches, a report by an independent certified public accountant, including the pertinent opinion, is required.

## **Financial Statements**

The commercial law (Law 19550) states that it is mandatory for stock companies and certain limited liability companies to file financial statements on an annual basis. Such compulsory statements are the following:

- Balance Sheet
- Income Statement
- Statement of Changes in Shareholders' Equity
- Statement of sources and use of funds (for companies comprised in section 299)

These statements must include an external audit report and an independent opinion on them.

Financial Statements are essential for the preparation of Tax Returns to be submitted to the Argentine tax collection authorities (AFIP), and also must be filed with different controlling bodies, according to the company type and the activity carried out.

They must be filed as follows:

| Company Type  | Controlling Body                 | Term    |
|---|----------------------------------|---------|
| Stock companies,<br>Foreign branches, foundations<br>civil associations | Corporation Control Bureau (IGJ) | 15 days |
| Financial entities regulated<br>by Law 25436                            | Central Bank                     | 50 days |
| Listed companies  | Argentine Securities Commission  | 70 days |
| Insurance Companies   | Insurance Superintendancy        | 60 days |
| AFJP (Argentine Pension<br>Funds Body)                                  | AFJP Superintendancy             | 55 days |
| ART (Labor Risk Insurance<br>Companies)                                 | ART Superintendancy              | 60 days |
| Cooperatives  | INAES                            | .....   |

Listed companies, financial entities and insurance companies must also file quarterly Financial Statements with the pertinent controlling authorities.

## Accounting Standards

In general, professional accounting standards approved by technical resolutions Nro. 16 to 19 year 2000 promote convergence of local accounting standards and International Standards (IAS) issued by the IASB -International Accounting Standards Board.

In Argentina, financial statements must be adjusted to accounting legal standards in force; the auditor must determine the effect of possible variations in financial statements due to the application of the technical resolutions (local professional accounting standards) instead of legal standards. For the purposes of assessment and reporting of local financial

statements according to International Standards, the pertinent adjustments must be made.

There are some differences between local and international standards regarding assessment and/or reporting of some issues such as:

- Adjustment by inflation
- Inventories assessment
- Property, plant and equipment assessment
- Differed taxes according to write-up of property, plant and equipment
- Intangible assests

Currently, the IASB has issued the IFRS - International Financial Reporting Standards - which are not mandatory in Argentina. The technical resolutions standards are applied. However, IFRS are applied in a supplementary manner when issues cannot be sorted out within the frame of such technical resolutions.

Legally speaking, the different controlling bodies have issued different legal accounting standards for reporting of financial statements by entities regulated by those said bodies.

There exist legal standards issued by:

- BCRA - Central Bank of Argentina for banks and financial entities.
- CNV - Argentine Securities Commission, for listed companies.
- Insurance Superintendancy - for insurance companies.
- INAES - For mutual associations and cooperatives.
- Commercial Companies Control Bureau (IGJ) - For stock companies.

- AFJP Superintendancy - For pension funds body.
- ART Superintendancy - For labor risk insurance companies.

## **Audit Standards**

In this case, technical resolution Nro. 7 is in force and basically follows the International Audit Standards (IAS) issued by the IFAC.

# Foreign investment



In Argentina, Law 21382 is currently in force. It states that foreign investment may take place without prior authorization, regardless of the sum involved or the economy area in which said investment is carried out. Moreover, it is not mandatory to record any foreign investment, not even for statistical purposes.

The foreign investment law comprises three principles: a) equal treatment between local and foreign investors; b) development of investment in any economic activity with no need of prior approval; and c) the right to repatriate foreign investment and issue profits abroad anytime.

Foreign investors can adopt any of the forms admitted in the Commercial Associations Law to perform their activities in Argentina.

Companies settled up have the same rights and obligations as national companies.

# Taxation



## Tax regime and its doctrine

### • Doctrine

1. Although the tax system is based on value added tax (V.A.T.), income tax (both federal taxes), and turnover tax (a provincial tax); the tax system in Argentina is composed of a number of levies. Apart from these, the federal government imposes the following taxes on taxpayers: minimum presumptive income tax (assets tax), personal assets tax (wealth tax), excise tax, tax on checking account debits and credits, real estate sales tax, single simplified tax, and social security tax (payroll tax levied on employee work -both employer and employee- and calculated on employees' salaries). Provinces also levy stamp tax, land and real estate tax, and car tax.

2. There is a variety of withholding and collection at source tax regimes (income tax, V.A.T., and turnover tax).

3. Companies and individuals are required to make advance payments (monthly or every two months) assessed on the previous annual tax return (income tax, minimum presumptive income tax, personal assets tax).

4. The most important taxes are self-assessed by the taxpayer, who must prepare a tax return after the period levied (month or year). The tax to be paid is the tax liability minus the withheld and collected at source tax minus the advanced payments. Tax returns should be prepared using computers. Software is provided by the revenue service (AFIP). Some provincial taxes (real estate tax, car tax) are "ad valorem".

5. Federal taxes are managed by the Administración Federal de Ingresos

Públicos (Federal Administration of Public Revenue -A.F.I.P.-) which provides the revenue service. Provincial taxes are administered by Dirección General de Rentas (each province has its own revenue service). These organisms are responsible for administering tax law, interpreting, auditing tax returns and collecting revenues.

6. Failure to either pay or withhold taxes will make the taxpayer pay interest in arrears, as well as penalties.

7. Fraud in tax return may impose prison for the taxpayer for penal responsibility.

8. The statute of limitations to bring suit to collect taxes is five years for federal taxes and most of the provincial taxes, and ten years in some provinces.

## • Substance over Form

Tax laws state that the substance of a transaction prevails over its form. Since transactions can be structured in several different ways, tax results may vary. Proper planning is essential in this scenario but, if there is a litigation, courts will generally judge tax consequences based on the economics of the transaction taken as a whole.

## • Corporate Groups

Companies belonging to the same group or holding, but having separate legal status, should pay their taxes separately. Nevertheless, payment is waived in the case of taxes arising from corporate reorganizations (split-ups and mergers/consolidations) which comply with established legal requirements, particularly those related to maintenance of the original distribution of ownership interests and continuance of the business being reorganized. In such cases, any outstanding tax loss carry forward, as well as other existing allowances (net input tax internal charge) and liabilities, may be passed on to the successor companies.

## • Transfer Pricing and related party transactions

Under Argentine Law, judicial acts executed between a corporation domiciled in Argentina and its shareholders, any other controlling legal entities domiciled abroad, or any entity domiciled in a tax haven (in any case, either foreign individuals or legal entities) are deemed to have been executed as related party transactions.

When the obligations, consideration and terms provided thereunder are in conformity with normal market practices as between non-related entities, no adjustment is necessary in the assessment of income tax.

For income tax assessment purposes, the Argentine law provides the traditional methods generally used for transfer pricing (comparable uncontrolled price, resale price, cost plus, profit split, transaction net margin).

## • Tax Treaties

For elimination of double taxation, Argentina has signed several tax treaties with other countries. Once a treaty has been signed by both countries, Congress (Senate and Representatives) must ratify it. Under the Argentina constitution, international treaties override other laws. Taxation of Corporations and Individuals

## Taxation of Corporations and Individuals

### Corporate Income Tax

Companies domiciled in Argentina are subject to income tax on all their income, whether sourced in Argentina or in a foreign country. Non-resident companies are subject to tax on Argentine source income. Income from export of goods situated in Argentina is deemed to be fully taxable, and for other specific international activities (e.g. new agencies, insurance, commercial use of films produced abroad, international transport, etc) the tax law establishes a certain percentage as presumed income.

The tax rate for corporations (corporations, limited liability companies, limited

partnerships) and branches of foreign companies domiciled in Argentina is 35%. For other partnerships, tax is charged to each partner according to a progressive tax rate scale ranging from 9% to 35% depending on the amount of the taxable income.

Foreign recipients not qualifying as a permanent establishment in Argentina are subject to withholding tax at source. The rate is 35% on the applicable presumptive net income percentage, depending on the type of payment made (i.e., interest, fees, royalties, rentals, etc).

For companies organized or incorporated in Argentina, any income tax (or similar tax) paid abroad on a foreign source income is creditable against Argentine income tax up to a limit (see paragraph C and H).

Company income is taxed on an accrued basis during the company's business year. The tax is assessed annually within five months after fiscal year end. The advanced payments must be paid monthly on the basis of the tax amount paid the previous year. Moreover the AFIP (Tax authority) has enforced several withholding tax regulations that involve almost all kind of activities. The income tax withheld during the fiscal year is creditable against the income tax assessed.

**Capital Gains Tax:** There is no separate tax levied on capital gains for companies organized in the country or for branches, as they fall under the scope of income tax. For foreign corporations, capital gains are also included under withholding at source income tax regime at the time payment is made.

For foreign resident companies that own shares issued by an Argentine company, gains derived from the alienation of those shares are not levied with income tax, provided that the owner's shares (issued by the foreign resident company) are registered (not issued to the bearer). The same exception is applicable on the alienation of shares and bonds that quote on the stock exchange.

On the other hand, for foreign companies residing in tax heavens (off shore companies) that are shareholders of an Argentine company, gains derived from the alienation of those Argentine shares are levied with income tax. The

applicable withholding tax rate is 17,50%.

## **Individuals Income Tax**

Tax is levied on income earned in Argentina and abroad by individuals residing in Argentina.

It is payable on an annual basis, with advanced payments (every two months), and any expenses incurred in generating such income may be deducted from gross income. The law establishes fixed deductions: non-taxable minimum, special tax free amount, dependant allowance, etc.

Capital gains not related to income-generating activity are not subject to tax. In the case of alienation of real property not assigned to such activity, a 1,50% real estate sales tax is charged on the selling value of the property, regardless of whether a loss or a profit is made.

Under income tax act, some exemptions are provided for the financial and capital markets, whereby interest on time deposits, government securities, and income from public stocks and bonds quoting on the stock exchange, are not subject to tax.

On the other hand, the alienation of stocks (issued by an argentine company) is not levied with income tax provided that the activity of buying and selling stocks is not performed on a regular basis.

Employees are subject to withholding tax at source, for which the employer is responsible (withholding agent).

Resident individuals are liable to the tax on the basis of a progressive tax rate scale, ranging from 9% to 35% of annual taxable net income.

Fringe Benefits: No tax is levied specifically on fringe benefits, since they are levied with income tax and social security contributions.

## **Determination of taxable income**

Deductions for income tax assessment purposes include expenses needed to obtain, maintain and preserve such income. Income tax act lists specific regulations for assessing the cost of products, inventories, real estate, or securities sold, as well as deductible bad debts, and property plant and equipment depreciation.

a) Investment allowance: At present, there is no income tax incentive scheme in force allowing additional deductions, in whole or in part, for investment on facilities and equipment.

b) Depreciation of fixed assets: Personal property may be depreciated over their estimated useful life on a straight-line basis. For real estate, the law establishes a depreciation rate of 2.00% annually on the portion attributable to the building. Assets subject to depletion (mines, quarries, etc.), may be depreciated, not on the straight-line method, but proportionally to the units extracted in each period.

c) Stock / inventory: Inventories of resale goods and raw material should be valued for tax purposes, as of the end of each business year, at acquisition cost (last purchase value). For self-manufactured items, the inventory value is determined on the basis of the sales price at the end of the fiscal year less any direct expenses associated with the sale and the net profit margin. In special cases where cost accounting systems are maintained, own-production goods could be valued at their production cost.

d) Capital gains and losses: As companies' capital gains are taxed, capital losses are deductible, subject to the limitations noted in paragraph "Losses" below.

e) Losses: Income tax losses occurring in a given fiscal year may be carried forward to the next five years after the one in which the loss was incurred. Yet taxpayers may only offset losses against the same kind of income. Thus, stocks and foreign-sourced losses may only be offset against income of the same kind.

f) Foreign capital inflows: No special regulations exist to control incoming funds, as the current policy is designed to encourage inflows of foreign

capital.

However, foreign companies that hold stock issued by an Argentine company, should pay personal assets tax (see paragraph E).

On the other hand, there are specific regulations in force to control outgoing funds set by the Central Bank.

g) Incentives: Promotional tax schemes are enforced for new investments in agricultural transactions and tourism in certain areas of Argentina. Approval of new industrial investment projects has been suspended.

h) Foreign tax credit: Any sums local residents effectively pay for similar taxes on foreign-sourced income may be creditable against Argentine income tax up to the limit of the increase in the tax liability resulting from aggregating the foreign-sourced income.

i) Corporate mergers: Corporate reorganizations (split-ups and mergers / consolidations) are to be considered "tax free" provided legal requirements and proceedings are fulfilled. Particularly those related to maintenance of the original distribution of shareholders' interests and continuance of the business activity carried out, reorganized. In such cases, any outstanding tax loss carry forward, as well as other existing allowances and liabilities, may be passed on to the successor companies.

j) Shares and bonds: For corporations domiciled in Argentina, income produced by share holding is levied when share alienation takes place (not just because of holding them). On the other hand, bonds must be valued at their current value, therefore, income produced by bond holding is levied whether they are sold or not.

For foreign residents domiciled in any country but tax heavens, the alienation of shares (issued by an Argentine Company) is not levied with income tax.

k) Dividends: Corporate dividends are subject to income tax only if dividends exceed the taxable income. If the approved dividends do not exceed the taxable income, they are not levied, whoever their recipients are, provided the

dividends are distributed on nominative (registered) shares. If the dividends outnumber taxable profit, the company in charge of approving these dividends will withhold 35% on the difference (equalization tax). No tax credit is derived from the tax withheld because dividends are considered non-taxable income for the recipient (the whole tax was withheld).

l) Interest deduction: Interest is deductible on condition that it is related to activities levied with income tax, otherwise the deduction is not allowed.

Notwithstanding, there is a threshold set on deductible interest. The limit must be applied under the "Thin Capitalization Rule", provided that all of the following conditions take place all together:

- Liabilities generating interest exceeding 2 times the net worth, at fiscal year end.
- Loans granted by foreign residents that control the Argentine company (directly or indirectly).
- The withholding tax rate applicable on interest for foreign residents is 15,05% (that is 35% tax rate on 43% presumptive net income).

If these conditions do not take place simultaneously, no limitation will be applied and interest will be fully deductible. See paragraph K for more details about withholding tax on interest).

If the limit is applicable, interest is not deductible on the percentage of 2 times net worth over total liabilities. The reminding percentage of interest is deductible.

## **Minimum Presumptive Income Tax (Assets Tax)**

This tax is levied on all assets located in Argentina or in foreign countries, owned by companies domiciled in Argentina, or branches of foreign companies located in Argentina.

The tax act sets how to value the assets, which, in general, must be assessed

at their current market value. Some assets are not levied, e.g.: shares of other companies domiciled in Argentina, dividends earned, investment in constructions (for 2 years), new movable goods purchase (for 2 years).

Companies having less than \$ 200.000 of assets are not levied. Field real estate property is levied allowing a special deduction of up to \$ 200.000. The tax rate is 1%. Banks and Insurance Companies assess the tax on a 20% of their assets basis.

Although in fact this is an "assets tax", the spirit of the law is to set a minimum of Income Tax (for example, in case of tax losses). The income tax assessed may be creditable against minimum presumptive income tax, for the same fiscal year.

If in the same fiscal year income tax exceeds minimum presumptive income tax, the net amount will not generate tax credit. On the other hand, if in the same fiscal year minimum presumptive income tax exceeds income tax, the net of minimum presumptive income tax may be carried forward and offset against income tax in the following ten fiscal years. Despite this tax credit, every fiscal year the company must pay effectively at least the amount of minimum presumptive income tax assessed. Therefore, every year the company must assess both, paying either income tax or minimum presumptive income tax, the higher.

## **Personal Assets Tax (Wealth Tax)**

This tax is levied on:

- a) all assets located in Argentina or in foreign countries, that belong to individuals domiciled in Argentina.
- b) all assets located in Argentina, that belong to individuals domiciled in foreign countries.
- c) shares issued by an argentine company. In this case the company pays the tax on behalf of the shareholders.

## Individuals residing in Argentina:

This tax is levied on all assets located in Argentina and in foreign countries. The sums the taxpayer pays abroad as a result of a similar tax levying assets located in foreign countries, are creditable against personal assets tax.

The only deduction allowed is the amount of liabilities arising from the taxpayer's home purchase or construction.

Investment on shares issued by an argentine company is not included on the taxable base, because the tax act determines that the company shall pay this tax on behalf of the shareholders. This does not mean that shares are exempted, but the tax should be fully paid by the company that issues the shares. The legislation allows the company to claim the tax to each shareholder. If it is supported by the company the amount is not deductible for income tax assessment.

The tax is assessed on the value of property deducting a non-taxable minimum amount of \$ 102,300, and is calculated on a progressive tax-rate-scale basis. The applicable rate is 0.50% on taxable base valued up to \$ 200,000, and 0.75 % when exceeding that amount.

## Individuals residing in a foreign country:

The tax is also charged on assets located in Argentina and owned by individual foreign residents. In this case, the tax rate is 0.75%. Neither deductions nor non-taxable minimum are allowed.

This tax deems that some assets (securities, non-exploited real estate property, etc.) located in Argentina and owned by foreign companies, belong to individuals and are levied with personal assets tax.

Shareholders of an argentine company, residing in foreign countries, have to pay this tax. The tax liability is not assessed directly but throughout the company, that is obliged to pay the tax on behalf of its shareholders

## Shares issued by an argentine company:

The tax liability arising from holding shares of an argentine company, whose shareholders are individuals residing in Argentina, individuals residing in a foreign country, or companies (or any entity) domiciled in a foreign country; should be assessed and paid directly by the company that issues the shares. The tax act deems that shares whose holders are companies (or entities) domiciled abroad, belong indirectly to individuals residing in a foreign country, thus the tax is levied on those shares.

When the shareholder is an argentine company, those shares are not levied to avoid double or multiple taxation on the same taxable base. Therefore, only "holding" argentine companies will pay the tax on their investments.

The taxable base is the argentine company's equity value assessed in the last financial statements closing as of December 31st of each year. The tax rate is 0,50%.

In this case, the tax is assessed and paid by the argentine company on behalf of the shareholders. The tax paid is not deductible for Income tax purposes, because the company is legally allowed to claim the tax to its shareholders. Foreign company's branch that qualify as a permanent establishment in Argentina (but not organized as an argentine company) are also levied on personal assets tax, on the capital assigned to the branch.

Concerning foreign companies shareholders of argentine company's shares, residing in treaty countries (for the avoidance of double taxation), it is important to analyze each tax Treaty to understand whether shares are levied in Argentina or in the country where the holder has its fiscal residence.

## Value Added Tax (VAT)

This tax is applied to all stages of production and selling processes (output tax), and the tax amount of the immediately preceding stage is deductible (input tax).

The tax is imposed on the following transactions:

- Sale of personal property situated in Argentina.
- Leases and services, including financial and insurance services.
- Real Estate lease.
- Work performed on third-party real state.
- Work performed on owned real state, in the case of constructors.
- Production of personal property commissioned by a third party.
- Procurement of natural goods commissioned by a third party.
- Permanent import of personal property.
- Services provided from abroad but used in Argentina.

VAT is assessed on a monthly basis. The inception of the taxable event is to issue the invoice, deliver the good, render the service, or the receipt, whichever comes first.

The standard tax rate, currently 21%, is charged on the net price of the transaction. There are some leases and services levied at 27% (electricity, telecommunications, etc.). Some goods and services are levied at 10,50% (beef, fresh vegetables, lodgings, interests on loans received from Argentine financial institutions, property plant and equipment included in a list provided, newspapers and magazines, transportation for individuals, etc.).

Exports are levied at a zero rate (destination country method). Exporters can apply input tax (incurred in making exports) against output tax arising from other taxable transactions. In case of a net input tax (internal charge), exporters are entitled to be refunded (under a special procedure established by the tax authority). Foreign tourists are also entitled to a VAT refund included in personal property purchases and lodging services in some tourist areas.

There are several withholding and collection at source regimes in force. The VAT withheld or collected at source is creditable against the internal charge. In case of a reminding tax credit, it can be offset against any other federal tax liability.

Technical tax credit, when input is major than output tax only net can be offset against VAT.

## Excise Tax

This is a federal tax on specific goods and services, levied on a variety of items such as cigarettes, tobacco, alcoholic beverages (whisky, spirits, liquor, etc.), soft drinks, beer, some electronic products, automobiles, ships and aircrafts, mobile phone services, insurance premiums, luxury items (jewelry, stones, pearls, furs, etc), electronic products (microwave oven, television set, radio, etc.). Excise tax is levied on the sale price. The tax rate varies depending on the item. Furthermore, a fuel and gas tax is levied on sales of these products.

## Tax on Checking Account Debits and Credits

This tax is levied on financial transactions. The taxable event is not only each debit and credit in a checking account, but also a large variety of financial transactions (money remittances, money orders, check deposit on saving accounts, etc.). The law sets several exceptions (i.e.: saving accounts, stock exchange agents, non profitable associations, etc.), as well as if reduces the tax rate for certain transactions (i.e.: time deposits).

In order to prevent tax avoidance, it is mandatory to pay with check any amount higher than \$ 1.000.

The applicable tax rate is 0.60% on each debit and 0.60% on each credit on checking account; thus, the whole transaction is levied at a 1.20% rate. On the other hand, for specific activities performed by taxpayers (that must use checking account), a 0,075% rate is applicable.

A 17% of the tax amount paid monthly is creditable against income tax or minimum presumptive income tax. The reminding 83% is considered an expense. Financial institutions act as withholding agents.

## Single Simplified Tax

This is a tax paid voluntarily, applicable to individuals and small entities that perform few activities, which income does not surpass a threshold set by the act. The taxpayer can choose whether to pay Income Tax and VAT, or

substitute both paying monthly single simplified tax. The tax is determined considering a scale of income.

## **Provincial and Municipal Taxes**

The different provinces and jurisdictions within the territory of Argentina apply local taxes. A brief description is provided as follows.

### **Turnover Tax:**

This is a provincial tax levied on the various stages of productive and selling processes, but no input tax is deductible from the tax amount of the immediately preceding stage (waterfall effect).

In general, it applies to gross revenues accrued during each fiscal period (month). The tax rate is approximately 3% for commercial activities, 1,5% for industrial activities, and 1% for primary activities, according to the regulations enforced by each provincial tax act.

Under an agreement signed between the national administration and the provincial administrations, several exemptions to some productive activities have been established and the tax scheme will be changed gradually, until this tax becomes ineffective and replaced by a "neutral" tax. In general, industrial activities are not levied in the jurisdiction where the factory is located.

### **Stamp Tax:**

The duty is levied, in each of the country's jurisdictions, on judicial acts and instruments entailing cash flow between the parties involved in the legal relationship. Thus, stamp tax is applicable, inter alia, to acts whereby transactions on real estate and civil, commercial, or financial obligations are documented. Rates vary according to the jurisdiction and the type of instrument involved, the most common one being 1.00% of the contract value. Under the aforesaid fiscal agreement, stamp tax is also to be phased out in the future, yet it is currently still in effect.

## Tax on real and personal property

These taxes, typically "ad valorem", are levied on land and automobiles located or registered within any of the country's 24 provinces. The fiscal assessment value of the assets and the applicable tax rate vary jurisdictions according to each province.

## Rates

These are municipal levies applied on a range of taxable bases in the various jurisdictions, in consideration of services provided by each country. The taxable event is the performance of an activity for profit in a town. The tax rate, set by each municipal act, is applicable on the turnover, and depends on the activity performed.

## Withholding Income Tax for foreign transactions

When Argentine-source income is paid to foreign recipients without a permanent establishment (branch, office, etc.) domiciled in Argentina, such income is subject to 35% withholding tax.

For each activity, the law establishes a percentage of presumptive net income on which 35% withholding tax is applicable, reducing the effective tax rate. The following chart shows the presumptive net income percentages:

| Income   | Presumptive net income % | Effective withholding tax rate % |
|--|--------------------------|----------------------------------|
|  | A                        | B = 35% x A                      |
| Interest on loans granted by overseas banks only if the lender bank is domiciled in a country whose Central Bank (Federal Reserve) has supervision on financial activity.<br>Off shore banks domiciled anywhere are not included                 | 43%                      | 15,05%                           |
| Interest on loans granted by overseas banks, corporations or individuals domiciled in a country whose Central Bank (Federal Reserve) does not apply supervision on financial activity.<br>This item includes off shore banks domiciled anywhere. | 100%                     | 35,00%                           |
| Interests for time deposits made by foreign residents (either companies or individuals) in financial institutions located in Argentina, provided that time deposit interest is not levied with Income Tax in the country of residence            | 43%                      | 15,05%                           |
| Royalties for technical assistance or consulting not available in Argentina under specific regulations (the contract must be duly registered with the official authority)  | 60% -80%                 | 21% -28%                         |
| Other royalties  | 90%                      | 31,50%                           |
| Author's Copyright<br>(the play must be duly registered with the official authority)   | 35%                      | 12,25%                           |
| Salaries of technicians, professionals, sportsmen, and artists for temporary work in Argentina (individuals) (not applicable when the provider is a company).  | 70%                      | 24,50%                           |
| Personal property leases   | 40%                      | 14,00%                           |
| Real Estate property leases  | 60%                      | 21,00%                           |
| Alienation of assets situated in Argentina   | 50%                      | 17,50%                           |
| Other incomes (not previously included)  | 90%                      | 31,50%                           |

## Treaty and non treaty withholding tax rates

|                      | DIVIDENDS %<br>(ver "C" Dividendos) | INTEREST %     | ROYALTIES %    |
|----------------------|-------------------------------------|----------------|----------------|
| Non Treaty Countries | 0 / 35                              | 15,05 - 35 (9) | 21 a 31,50 (6) |
| Treaty Countries     |                                     |                |                |
| Austria              | 15 (1)                              | 12.50          | 15             |
| Australia            | 10/15 (1)                           | 12             | 10/15 (7)      |
| Belgium              | 10/15 (1)                           | 12             | 3/5/10/15 (7)  |
| Bolivia              | (4)                                 | (4)            | (4)            |
| Brazil               | (4)                                 | (4)            | (4)            |
| Canada               | 10/15 (1)                           | 12.50          | 3/5/10/15 (7)  |
| Chile                | (4)                                 | (4)            | (4)            |
| Denmark              | 10/15 (1)                           | 12             | 3/5/10/15 (7)  |
| Finland              | 10/15 (1)                           | 15 (3)         | 5/10 (8)       |
| France               | 15 (1)                              | 20 (3)         | 18 (5)         |
| Germany              | 15 (1)                              | 10 (2)         | 15/15 (3)      |
| Italy                | 15 (1)                              | 20 (3)         | 10/18 (5)      |
| Norway               | 10/15 (1)                           | 12.50          | 3/5/10/15 (7)  |
| Spain                | 10/15 (1)                           | 12.50          | 3/5/10/15 (7)  |
| Sweden               | 10/15 (1)                           | 12.50          | 3/5/10/15 (7)  |
| Switzerland          | 10/15 (1)                           | 12             | 3/5/10/15 (7)  |
| The Netherlands      | 10/15 (1)                           | 12             | 3/5/10/15 (7)  |
| United Kingdom       | 10/15 (1)                           | 12             | 3/5/10/15 (7)  |
| Russia (10)          | 10/15 (1)                           | 15             | 15             |

### References:

(1) This is the percent ceiling set under the agreement; however, it is only applicable when the conditions set under (B) are met (Dividends).

(2) For credits associated with the sale of equipment, bank loans, and public works financing.

(3) This is the ceiling set by the treaty for the remaining cases; nevertheless, when the effective rate for non-treaty countries is lower, this latter rate is applicable.

(4) Under the agreement no ceilings were set, but the jurisdiction where the tax should be levied was established. Therefore, applicable rates are those for non-treaty countries.

(5) A 10% rate is appropriate only where the payment is related to author's copyright.

(6) Varies according to contract purpose and terms.

(7) A 3% rate applies to the use of news, a 5% rate applies to the author's copyright, a 10% rate is appropriate for the use of trademarks, patents and technical assistance and 15% rate to the other cases.

(8) A 5% rate is appropriate only where the payment relates to author's copyright.

(9) See withholding taxes description (F).

(10) The exchange of instruments has not occurred as of the date of publication.

# Labor law



## Labor Contracts

Within the national territory, contracts and work relations are ruled by law 20.744 of contract of employment, complementing laws and collective bargaining agreements agreed on by unions and companies.

## Employees' Rights

Employees have the right to have an adequate occupation according to their contract qualification, to be respected, to have freedom of speech, to work safely and under good conditions, to have a pay and not to be object of discrimination.

## Working hours and overtime

There are maximum hour rules legally established. Working day cannot extend for more than 8 hours a day or 48 a week, individuals of two parties can agree to work less hours. Night work (from 9pm to 6am) cannot extend for over 7 hours. When the piece of work is performed in insalubrious places endangering workers' health, the duration of work day will not extend for more than 6 hours a day or 36 hours a week.

Overtime is that exceeding an eight-hour days' work and is paid to the worker bearing an extra charge of 50% when it is a week day and 100% Saturdays after 1pm, Sundays or holidays.

## Vacations

Workers have the right to enjoy a minimum period of time to rest annually

(Holidays). During vacations the worker keeps earning his salary.

Rights are related to the term worked. The holiday entitlement depends on the time employees have been working for the company:

- 14 days after having worked for no more than 5 years
- 21 days after having worked more than 5 years and less than 10 years.
- 28 days after having worked for more than 10 years and less than 20.
- 35 days after having worked for more than 20 years.

## Termination of labor contract and severance compensation

The termination of the labor contract takes place in the following cases:

- Causes attributed to the worker:

Resignation  
Disability  
Retirement

- Causes attributed to the company:

- Dismissal with or without fair cause. When the employer dismisses without a fair cause he has to pay a severance of 1/12 of the monthly salary for every year worked, this is aggravated when the dismissal is due to discrimination causes.

- Lack or reduction of work.

Nowadays the "special severance" consisting in a 50% plus assessed on the value set in the previous paragraph is in force.

The company has the obligation to serve notice on the worker of the

termination of the contract one or two month beforehand depending on the years the employee has been working for him.

This termination may also take place because both parties come to an agreement or due date of the term of contracts for a fixed time.

When the worker is in the trial period (the first three months in the job) the employer can resign the contract without serving notice, and without the right to a severance for the worker. In this case, the employer must notify the employee 15 days before terminating the contract.

## Foreign personnel in Argentina

In order to get a work license issued by Migrations Office, foreign personnel should file a labor contract with a company located in the country before entering the country.

## Social Security Contributions

- Retirements and pensions: it is a mixed system composed of a public regime and a private one managed by AFJP.
- Family allowance payments to the worker for certain family allowance.
- Health: it is intended to give workers the full right to health.

These are contributions to be paid by the employer. The amount is assessed on the payroll as follows:

- 27% of the salaries in case of employers that perform commercial activities or services providers, with turnover higher than \$ 48.000.000.- per year.
- 23% of the salaries in case of other employers.

The employer has also to pay installments for Work –relates accidents:

insurance system managed by private companies called Aseguradora de Riesgos de Trabajo (ART)

# Import and export



## Argentine Regime for Import and Export Goods

Law 24.425 incorporates the "General Agreement on Customs and Commerce Tariffs" according to the last record and the Marrakech protocol in Argentina.

Law 22.415 (Customs Code) describes the tax levied on imports and exports in our country. They are:

### Imports

#### Import Rights:

They levy goods imported for an indefinite period of time, it can be either specific or ad valorem; in this case the "Customs Value" will be determined according to the valuation standards of GATT.

#### Anti-dumping rights:

They levy goods imported for a certain period of time, they are applied to a percentage ad valorem on those goods whose export price in the original country is less than that of similar goods consumed in that country market.

#### Statistics Rate:

This tax exists because Government produces and issues statistics. This rate is levied on definite and suspended goods. Import is applied as a percentage of "Customs Value" determined according to the valuation standards of GATT.

## Exports

### Export Rights:

This tax is levied on export goods for an indefinite period of time. It can be either specific or ad valorem, that is to say a percent of the taxable value (FOB) of goods.

### Statistic Rate:

This tax exists because Government produces and issues statistics. This rate is levied on definite and suspended goods. Import is applied as a percentage of "Customs Value" determined according to the valuation norms of GATT.

This law also regulates regimes for stimulating exports according to the following:

### Drawback Regime:

It is usually defined as the partial or full restitution of import or export rights or other internal taxes paid on imported goods, when they are exported back either with a higher elaboration degree or appertaining to other products exported.

### Refund Regime:

It is usually defined as the full or partial restitution of internal taxes levied on goods definitely exported or services rendered in relation to it.

### Reimbursement Regime:

It is usually defined as the partial or full restitution of import rights or other internal taxes paid on imported goods, which are afterwards exported definitely or the services rendered in relation to it. This regime cannot be accumulated with drawback or refunds.

## Our Presence in the Following Argentina Provinces.

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