COUNTRY COMPARATIVE GUIDES 2024

The Legal 500 Country Comparative Guides

Argentina

PRIVATE CLIENT

Contributor

Estudio McEwan

Agustin Lacoste

Partner | alacoste@estudiomcewan.com.ar

Julieta Tula

Associate | jtula@estudiomcewan.com.ar

This country-specific Q&A provides an overview of private client laws and regulations applicable in Argentina.

For a full list of jurisdictional Q&As visit **legal500.com/guides**

ARGENTINA
PRIVATE CLIENT

1. Which factors bring an individual within the scope of tax on income and capital gains?

Individuals residing in Argentina are subject to personal income tax (*Impuesto a las Ganancias Personas Físicas*) on worldwide income while non-residents are only taxable on their Argentine sourced income through a withholding system.

Section 116 of Income Tax Law (hereinafter "ITL") establishes that the following will be deemed Argentine residents for income tax purposes:

- Argentine citizens, whether native or naturalized individuals excluding those that lost their income tax resident status according with the parameters mentioned in Section 117 of ITL. (see below);
- Foreign individuals who have obtained permanent residency status in Argentina or, if they have not obtained such status, have been in Argentina with temporary authorizations for 12 months if the temporary absences do not exceed 90 days. The acquirement of argentine income tax resident status will cause effect as from the beginning of the month which follows the month in which either the permanent resident status was obtained, or the 12-month period was achieved. However, foreign individuals who have not obtained permanent residency in the country and whose stay in the country is due to causes that do not imply an intention of habitual residence, may prove before the Argentine National Tax Authority ("AFIP", for its acronym in Spanish) the circumstances that motivated it within the deadline and conditions established by the regulations (example: complex health treatment, travel restrictions derived from a Pandemic). Contrarily, it must be stressed that if a foreign individual enters Argentina with the intention of habitual residence, he/she will be considered an Argentine resident for income tax purposes as from the beginning of the month which follows the month in which the mentioned individual entered Argentina. That is to say that the 12-month period would not apply in this case.
- Undivided estates in which the decedent´s last domicile was in Argentine.

According with Section 117 of ITL, an individual will lose its Argentine resident status if:

1. The individual acquires a permanent resident status in a foreign Country according to such foreign country's migration laws (*de iure*loss of residence cause known as *pérdida de residencia de derecho*); or
2. The individual stays abroad for a period of 12 months. For this purpose, the temporary presences in Argentina not exceeding 90 days during the above mentioned 12-month period will not interrupt the stay abroad and therefore the loss of residence will verify (*de facto*loss of residence cause known as *pérdida de residencia de hecho*).

The way in which an individual must prove the loss of its Argentine income tax resident status and the procedure that must be encouraged before AFIP to terminate the registration in income tax – alleging the grounds provided for in Section 117 ITL – are regulated in General Resolutions number 4236/2018 and 4237/2018. The loss of argentine income tax resident status will cause effect as from the beginning of the month which follows the month in which the registration was terminated. As from then the individual will be deemed a non-resident (*Beneficiario del Exterior*) and will be taxed exclusively for its Argentine sourced income. Notwithstanding the foregoing, the individual should file an income tax return for the involved irregular tax period.

If the individual who have lost his Argentine resident status for income tax purposes (according to Section 117 ITL) re-enters to Argentina for the periods mentioned below, the following would apply:

- Individual will acquire again the Argentine income tax resident status if he re-enters more than 183 days throughout the calendar year (in case of the *de iure*loss of residence cause). However, AFIP may consider that the Individual has an Argentine income tax resident status if he stays more than 90 days throughout the calendar year provided, he keeps his permanent home in Argentina and he has no permanent home in the other country. If the individual keeps permanent homes both in Argentina and in the other country, then AFIP will analyse other factors to ascertain with which country his personal and economic relations are closer (centre of vital interests). This is known as the double residence test (Section 122 ITL). Notwithstanding the foregoing, if the individual enters Argentina with the intention of habitual residence, he/she will be considered an Argentine resident for income tax purposes as from the beginning of the month which follows the month in which the mentioned individual entered Argentina. That is to say that the 183 days would not apply in this case.
- Individual will acquire again the Argentine income tax resident status if he re-enters more than 90 days throughout the calendar year (in case of the *de facto*loss of residence cause)

2. What are the taxes and rates of tax to which an individual is subject in respect of income and capital gains and, in relation to those taxes, when does the tax year start and end, and when must tax returns be submitted and tax paid?

At national level, individuals deemed Argentine residents for income tax purposes (as seen in Question 1 above) are subject to personal income tax (Ganancias Personas Físicas) applicable on their worldwide income. There is no capital gains tax for individuals in Argentina as such since it is income tax at a different rate as seen below.

ITL establishes a progressive rate which is composed of two concepts: one flat tax amount and another variable rate (ranging from 5% to 35%). However, ITL sets a differential treatment with rates of 7% or 15% in case of gains derived from the sale of bonds, shares, other securities, real property (residential property is exempt from taxation), and income derived from dividends distributed by entities.

Income tax is an annual tax and in the case of individuals the Fiscal Period begins on January 1st of each year and ends on December 31st. Argentine residents must submit their income tax return and pay the corresponding tax balance in mid-June of the year following the given Fiscal Period, except for individuals that earn only employment income from which tax is withheld by the employer. Five prepayments of tax must be made at bimonthly intervals, beginning in July of the Fiscal Period (which are known as Anticipos).

At provincial level individual's income is subject to Gross Revenue Tax (Impuesto a los Ingresos Brutos). It is regulated by each province and the Autonomous City of Buenos Aires, through their respective Tax Codes (Código Fiscal, hereinafter "CF"), where it is specifically defined the kind of activities to which it applies, who are deemed taxpayers and the rates which apply. The Gross Revenue Tax is a monthly tax. In general, the submission of the tax return and the payment of the respective balance must be done in the first 15 days of the following month.

In the Autonomous City of Buenos Aires, the applicable rates range from 0.48% to 15%. The law establishes differential rates for certain services, among the main ones are:

Services	Rates
Building Services	2,5%
Financial and other similar Services	5,5%
Brokerage and other similar services	7%
Real estate services performed on their own, with own or leased property	1,5%

In the case of the activity is not expressly mentioned, a subsidiary rate applies. The subsidiary rate of 3% is established when the annual gross income in the previous fiscal year is equal to or less than three hundred and thirteen million five hundred thousand ($ 313,500,000) and 5% when the annual gross income in the fiscal year previous fiscal exceeds three hundred and thirteen million five hundred thousand ($ 313,500,000).

In Buenos Aires Province, the applicable rates range from 0.1% to 15%. In the case of services, the law established a general rate of 3, 50%.

As general rule, a non-resident (Beneficiario del Exterior) receiving any Argentine sourced income will be subject to a withholding tax. The tax rate will vary according to the source of the income as explained in Question 3 below.

3. Are withholding taxes relevant to individuals and, if so, how, in what circumstances and at what rates do they apply?

Both resident and non-resident individuals are subject to a Withholding Personal Income Tax Regime.

As a general rule, a resident will be subject to withholding tax for certain Argentine sourced income (such as employment income, dividends distributed by an Argentine non listed Company, etc.) and may be subject to withholding tax in other countries which the given individual will compute in their income tax return (Tax Credit) as far as the requirements under ITL are met, that is, it must be an "analogous national tax" and it must have been "effectively paid in the countries in which such gains were obtained".

The amount to be computed as tax credit cannot exceed the increase in the global tax generated by the incorporation of income from a foreign source. The non-computable portion for exceeding the indicated limit may be deducted from the net tax from a foreign source obtained in the following five fiscal periods. Once this period is over, accumulated tax credit cannot be computed.

For resident individuals, the General Resolution 830 (hereinafter "GR 830") establishes which parties are required to act as withholding agents, among others:

- Financial Entities
- Companies
- Individuals and undivided estates, only when payments are made as part of their business or service activity.
- Brokers

The GR 830 establishes that the withholding tax must be practiced at the time in which the payment, distribution or liquidation of the amount corresponding to the concept subject to withholding is made.

A non-resident individual receiving any Argentine sourced income will be subject to a withholding tax. The tax rate and the withholding applicable regime will vary according to the source and type of income involved. Section 102 of ITL establishes that incomes received by foreign beneficiaries are generally subject to 35% income tax withholding. In addition to this, Section 104 ITL presumes a fixed level of net income (presumed income) to which the 35% income tax withholding rate applies, such as:

- The 60% of the amount paid for rental of an Argentine real property will be presumed net income and will be applicable the 35% tax withholding rate, being 21% the effective tax withholding rate.
- The 90% of any other payment not contemplated in Section 104 ITL will be presumed net income and will be applicable the 35% tax withholding rate, being 31,5% the effective tax withholding rate.

With the enactment of Law 27.430 (December 2017) which modified the ITL, many changes concerning income tax on capital gains and interest, have been introduced.

Before the enactment of Law 27.430, the ITL in Section 20 w) provided an exemption for the results from sale, transfer or disposition of shares, participations, bonds, and other securities obtained by individuals and undivided estates located in Argentina, whenever they were listed on stock exchanges or securities markets and had public offer authorization. Also, in Section 20 k), ITL established the exemption to gains derived from shares, bonds, letters, and other obligations issued by official entities.

The tax reform limits the exemption provided in Section 20 w) by establishing that only the results from sale, transfer or disposition of shares, securities representing shares and certificates of deposits that are carried out through stock exchanges or stock markets authorized by the Argentine Securities and Exchange Commission (CNV for its acronym in Spanish) will be exempt. It also established that the mentioned exemption would apply to foreign beneficiaries if they do not reside in and/or the funds do not come from non-cooperative jurisdictions. In the case of foreign beneficiaries, Section 20 w) also exempt interest received and capital gains from the following securities:

(i) Public securities issued by the National, Provincial, Municipal or the City of Buenos Aires governments

(ii) Negotiable obligations and representative shares or deposit certificates shares

(iii) Other securities provided that such securities have been issued by entities domiciled or located in Argentina

The exemption will not apply for Argentine Central Bank Notes (LEBACS, LELIQ, LECAP, etc.).

The changes introduced by the Tax Reform, have been regulated by different Regulatory decrees and General Resolutions issued throughout the year 2018. In particular, Regulatory Decree 279 (published on the Official Gazette on April 2018), General Resolution 4227

(published on the Official Gazette on April 2018) and Regulatory Decree 976 (published on the Official Gazette November 2018), have a major impact on the treatment on incomes received by **foreign beneficiaries**:

(a) Financial Investments:

- Regulatory Decree 279, extends the aforementioned in relation to the net income that is presumed to be Argentine sourced (Section 104 ITL), clarifying that for incomes derived from LEBACs (Argentine Central Bank Notes) the presumed percentage for Argentine-source income is 100% and a 5% tax rate applies to that income.
- General Resolution 4227 established the mechanism for non-resident investors to pay income tax on interest and capital gains.
- Law 27.541: incorporates modifications to certain exemptions

Interest Income

When the non-resident individual receives interest on bank deposits, government bonds, negotiable obligations, Argentine Central Bank Notes, term deposits and other securities will be subject to:

(i) A 5% withholding tax rate applies to investments in Argentine Pesos (ARS) without an adjustment clause (e.g., a clause to adjust for inflation).

(ii) A 15% withholding tax rate applies to investments in ARS with an adjustment clause or investments denominated in foreign currency.

The following parties will be required to act as withholding agents:

- The Argentine banks for interest arising from term deposits in Argentina banks.
- The entities having in custody Argentine Central Bank Notes.
- The parties that pay the interest arising from investments in negotiable obligations, certain common investments funds, debt titles of financial trusts and similar contracts, bonds, and certain other investments.
- The depositary company or the integral placement and distribution agent for participations in common investment funds.

Capital Gains

When the non-resident receives incomes from sale of financial investments (argentine source) will be subject to the following tax rate depending on the type of asset:

(i) Notes and negotiable obligations not listed in public offer: A 15% withholding tax rate applies.

(ii) Shares in common investments funds: A 15% withholding tax rate applies.

(iii) Shares listed on stock exchanges that are not listed in the aforementioned stock exchanges or markets (non-listed Argentine Companies): A 15% withholding tax rate applies.

(iv) Shares listed on markets but operation not carried out in authorized markets: A 15% withholding tax rate applies.

(v) Unlisted shares: A 15% withholding tax rate applies.

(vi) American Depositary Receipt: A 15% withholding tax rate applies.

The following parties will be required to act as withholding agents:

- The purchaser if this is a resident.
- The entity that exercises the custody in the case of Argentine Central Bank Notes and other securities quoted in public offer authorized by the National Securities Commission
- The legal representative domiciled in Argentina when the purchaser is also a non-resident. If there is no legal representative domiciled in Argentina, the tax must be paid by the seller (foreign beneficiary) through international transfer wire (expressed in USD or Euros). Before the enactment of Law 27.430, if the purchaser and the seller were both non-residents, the payment of the tax was the responsibility of the purchaser.

The rates apply on a 90% presumed net income unless the beneficiary of the income wishes to apply the rates to the actual net income.

If the non-resident wishes to apply the 90% presumed income tax rate on the income received, the effective rate will be 4,5% and 13.5% instead of 5% and 15%.

(b) Sale of Real Property

Regulatory Decree 976 regulates the sale of real property establishing that:

(i) A 1.5% withholding tax (Real Property Transfer Tax, ITI for its acronym in Spanish) upon the sale of real property situated in Argentina, whenever the real property sold was acquired prior to January 2018. The non-resident shall obtain from AFIP a certificate known

as “Certificado de retención ITI” for the notary taking part in the public deed (withholding agent) to withhold the sum indicated in the said certificate; or

(ii) A 15% withholding tax (Income Tax on capital gains) upon the sale on real property situated in Argentina, whenever the real property sold was acquired on or after January 2018. In case the seller is a non-resident and the buyer is an Argentine resident, such buyer must withhold and pay the tax and, if both parties are non- residents, the tax must be directly paid by the transferor, either personally or through its legal representative in the country.

(c) Dividends distributed non listed Argentine Companies

Law 27.430 modified ITL introducing a 7% withholding tax applicable to residents and non-residents which received dividends distributed from non-listed Argentine Companies.

(d) Tax on indirect transfer by non- residents of argentine situs assets

The income received by a non-resident which derives from the sale or transfer by of shares or other participations in foreign entities when at least 30% of its value derives from assets located in Argentina, will be taxable. The applicable tax rate must be determined in the same way as established in GR 4227 for capital gains (see (a) Financial Investments, GR 4227, Capital Gains).

4. How does the jurisdiction approach the elimination of double taxation for individuals who would otherwise be taxed in the jurisdiction and in another jurisdiction?

Argentina signed bilateral tax treaties to avoid international double taxation with the following countries: Australia, Belgium, Bolivia, Brazil, Canada, Chile, Denmark, Finland, France, Germany, Italy, Mexico, the Netherlands, Norway, Qatar, Russia, Spain, Sweden, Switzerland, the United Arab Emirates, the United Kingdom and Uruguay. Recently, the Argentine Executive signed tax treaties with Turkey, China, Luxembourg, and Japan but they are pending approval by the Argentine Congress.

In general terms, the tax treaties intend to limit the taxation giving power to one or another State depending on the type of income and limiting the tax imposed at source, among other methods.

5. Is there a wealth tax and, if so, which factors bring an individual within the scope of that tax, at what rate or rates is it charged, and when must tax returns be submitted and tax paid?

In Argentina there is a wealth tax known as personal asset tax (hereinafter “PAT”). Section 30 of Law 27.541 (published in the Official Gazette on 23 December 2019) changed the criteria by which an individual fells within the scope of PAT from domicile to residency under the terms and conditions foreseen in the ITL.

With the enactment of Law 27.667 (published in the Official Gazette on 31 December 2021), many changes concerning wealth tax, have been introduced.

The mentioned law increased the threshold for all assets from ARS2 million to ARS6 million. The law also provided that this value will be adjusted annually based on the IPC (consumer price index). The IPC adjustment began to apply from the 2022 tax period, in which the tax-free threshold amounted to AR11M.

Real property in which the taxpayer lives (Casa Habitación) or in which the deceased used to live in the case of undivided estates will not be taxable when its value is equal to or less than ARS56 million. The taxable base is the market value of such assets and, apart from a few exceptions, debts are not deductible.

It also modified tax rates which is composed of two concepts, one flat tax amount and another variable rate (ranging from 0.50% and 1.75%) and established differential rates for assets held outside Argentina (between 0.70% and 2.25%).

Therefore, an Argentine resident individual will be subject PAT on the assets held in and outside Argentina as of 31 December each year. The taxable base is the market value of such assets and except for few exceptions, debts are not deductible. Assets with a value of ARS6 or less remain exempt from tax. For assets above that threshold, the progressive tax rates increase as follows:

1. For assets between ARS0 to ARS5.6 million: a variable rate of 0.50% apply on the amount that exceed ARS0.
2. For assets between ARS5.6 to ARS12.2 million: a ARS28.205,35 flat tax applies and variable rate of 0.75% apply on the amount that exceed ARS5.6 million.
3. For assets between ARS12.2 to ARS33.8 million: a ARS77.564,72 flat tax applies and variable rate of 1.00% apply on the amount

that exceed ARS12.2 million.
4. For assets between ARS33.8 to ARS188million: a ARS293.805,76 flat tax applies and variable rate of 1.25% apply on the amount that exceed ARS33.8million.
5. For assets between ARS188 to ARS564.1 million: a ARS1.2.221.171,53 flat tax applies and variable rate of 1.50% apply on the amount that exceed ARS188 million.
6. For assets over ARS564.1 million: a ARS7.862.242,07 flat tax applies and variable rate of 1.75% apply on the amount that exceed ARS564.1 million.

For assets held abroad, the mentioned law also modified the differential tax rates as follows:

1. For assets between ARS0 to ARS5.6 million: a variable rate of 0.70% apply on the amount that exceed ARS0.
2. For assets between ARS5.6 to ARS12.2 million: a variable rate of 1.20% apply on the amount that exceed ARS5.6 million.
3. For assets between ARS12.2 to ARS33.8 million: a variable rate of 1.80% apply on the amount that exceed ARS12.2 million.
4. For assets over ARS33.8 million: a variable rate of 2.25% apply on the amount that exceed ARS33.8 million.

The differential rate will not apply to foreign financial assets if at least 5% of the total foreign assets is repatriated provided the repatriation occurs by 31 March of each year and that the repatriated funds remain deposited in an Argentine bank account until 31 December of the year of repatriation or applied to certain specific purposes.

PAT is also applicable to non-resident individuals exclusively on the assets held in Argentina. To ensure that the tax is collected, the law provides a method of substitution that imposes on the local resident that has the administration of the asset owned by a foreigner, the obligation to file the tax return and pay the tax ('substitute taxpayer regime'). Those individuals must designate a local substitute taxpayer to pay the tax it is assessed on property located in Argentina applying a fixed tax rate which has been increased by Law 27,541 from 0.25% to 0.5%.

Expatriates residing in Argentina on work assignments for a period not exceeding five years are considered non-residents (Section 123 (c) ITL). Therefore, they would be taxed exclusively on their Argentine situs assets. The employment reasons that required Argentina residence must be duly proven.

Personal Asset Tax is an annual tax. The tax return must be filed in mid-June of the year following the given Fiscal Period. In the case of individuals domiciled abroad the tax return should be filed by the Substitute Taxpayer.

In must be said, that although the shares and other equity participations in local companies must be disclosed in the relevant tax return by the resident individual or the Substitute Taxpayer, the taxable base conformed by the value of these assets would not be computed, due to the fact that the local company is responsible to file a special tax return (Declaración Jurada de Acciones y Participaciones) and pay the tax at the applicable rate of 0.5% on the net worth value of the company.

6. Is tax charged on death or on gifts by individuals and, if so, which factors cause the tax to apply, when must a tax return be submitted, and at what rate, by whom and when must the tax be paid?

In Argentina there is neither federal gift tax nor inheritance/estate tax. Tax on Gratuitous Transfer of Assets (ITGB for its acronym in Spanish) is only collected by Buenos Aires Province. An individual domiciled in the province of Buenos Aires who benefits from a gratuitous transfer (for example, inheritance, legacy, gift and so on) will fall within the scope of ITGB. In this case, the ITGB would apply to the total sum of the assets received by that individual. If that individual is domiciled outside the Buenos Aires Province, he/she will be also subject to ITGB if the assets he/she received gratuitously is/are located within Buenos Aires Province (for example, real estate located in the province). Therefore, both domicile and location of the assets is a connecting factor which is relevant for ITGB

The applicable tax rates vary between 1.6% and 9.51%, depending upon the value of the property transferred and the relationship between the transferor and the transferee of the property, and are based on the assessment value or the market value, whichever is higher.

7. Are tax reliefs available on gifts (either during the donor's lifetime or on death) to a spouse, civil partner, or to any other relation, or of particular kinds of assets (eg business or agricultural assets), and how do any such reliefs apply?

The Buenos Aires Province Tax Code (Section 320 of

Provincial Law 10.397) provides that certain heirs (surviving spouse, ascendants and/or descendants) will be exempt from ITGB when they receive any of the following assets mortis causa:

- a homestead (Vivienda Familiar, in accordance with Section 244 of the Argentine Civil and Commercial Code – CCC).
- real property entirely destined for the housing of the decedent or his or her family, provided it is the only property, and its assessed value does not exceed ARS1,154,400 (for the 2023 fiscal period); and
- a company, whatever its form of organisation, provided the valuation of its assets does not exceed the amount established by law (ARS66.845.493 for the 2023 fiscal period) and if the activity is effectively maintained in the five years following the death of the decedent. Otherwise, they must pay the tax reassessment for the remaining years to obtain the benefits of the exemption. However, this exemption will not apply when the income of the company derived from rental and financial assets exceeds ARS2.680.165(for the 2023 fiscal period).

8. Do the tax laws encourage gifts (either during the donor's lifetime or on death) to a charity, public foundation or similar entity, and how do the relevant tax rules apply?

The ITL only allows deduction of the gift when the destination of it is:

- National, Provincial and Municipal Tax authorities.
- To the Permanent Support Fund, to the political organization recognized also for the case of electoral campaigns

In addition, for the following entities, the same persons must be recognized by the Federal Administration according to current regulations:

- Religious institutions exempt from the tax
- Exempt entities
- The realization of the non-profit welfare medical assistance work, including the activities of care and protection of children, old age, and disability.
- Scientific and technological research recognized by the relevant body or scientific research on economic, political, and social issues oriented to the development of the plans of political parties.
- The systematic and degree educational activity for the granting of degrees officially recognized by the Ministry of Culture and Education.

9. How is real property situated in the jurisdiction taxed, in particular where it is owned by an individual who has no connection with the jurisdiction other than ownership of property there?

Individuals owning a real property in Argentina shall pay the following taxes:

– Real Property Tax at Provincial Level (Impuesto Inmobiliario) must be paid annually, in one or several instalments that expire in the months of February, April, June, August and October. The tax is composed of a fixed amount (from ARS 455 to ARS 4700.551 for the fiscal year 2023) and a tax rate to be applied on the surplus of the established minimum of the scale which goes from 0,028% to 2,363% and varies according to the type of property and the fiscal valuation carried out by the Land Registry and Territorial Information Service.

– Sweeping and Cleaning, Maintenance Fee at Municipal Level (Tasa por Alumbrado, Barrido y Limpieza), must be paid annually, in one or several instalments, with rates which are usually between 0.30% and 0.40% applicable on the fiscal valuation carried out by the Land Registry and Territorial Information Service.

– Personal Asset Tax at a Federal Level (Impuesto sobre los Bienes Personales). As mentioned in Question 5 above, through the Substitute Taxpayer.

– Real Property Transfer Tax at a Federal Level (Impuesto a la Transferencia de Inmuebles), in the event the individual sales its real property provided this was acquired before January 2018. Tax rate 1,5% that the notary will withhold and pay to AFIP.

– Income Tax at a Federal Level (Impuesto a las ganancias persona física): (i) if the individual rents its real property, the tenant should withhold 21% (which is the effective tax rate in this case, tax rate of 35% applicable to the net income which the ITL presumes is 60%) and pay to AFIP. (ii) If the individual sales its real property and this was acquired on or after January 2018, the notary will withhold income tax at the rate of 15% (incorporated by Law 27.430).

10. Does your jurisdiction have any specific rules in relation to the taxation of digital assets?

Prior to 2018 reform, profits from the sale of digital assets were only subject to taxation for habitual individual taxpayers.

Law 27430 (Official Gazette: 29/12/2017) amended Article 2 of the ITL, stating that profits from the sale of 'digital currencies' would be taxed, regardless of meeting habitual activity requirements or not. Capital gains from the sale of digital assets are subject to a 15% tax rate. Additionally, interest derived from the ownership of digital assets is subject to a progressive scale, which includes a fixed tax amount and a variable rate ranging from 5% to 35%.

In relation to PAT, the tax law does not make any reference to digital assets. Doctrine is mainly divided between those who assert that digital currencies are taxable assets as financial instruments and those who argue that they are exempt as intangible assets.

Those advocating for taxation base their argument on the provisions of Article 31 of the regulations of the PAT, which states that, for cases not covered by this normative body, the legal and regulatory provisions of the PIT shall be applied suppletory. Since digital assets are treated as financial assets for Income Tax purposes, they argue that they should be classified the same way in PAT and therefore be subject to taxation.

On the other hand, other tax experts argue that, due to their technical characteristics digital assets are intangible assets and, therefore, are exempt under Article 21, section d of the Personal Assets Tax Law.

However, in July 2022, the AFIP issued Opinion 2/2022, stating that cryptocurrencies shall be taxed with PAT, likening them to financial instruments. It must be said that AFIP´s opinions are only bindable for its tax officials. This means that the taxpayer may apply a different criterion when filling his PAT tax return and if audited, to challenge the AFIP´s decision before Tax Court.

11. Are taxes other than those described above imposed on individuals and, if so, how do they apply?

Value Added Tax (VAT) is a federal tax. It taxes sale of goods located in Argentina, services performed in Argentina, the imports of goods and services performed abroad but economically used in Argentina.

The general rate is 21% but there a increased rate of 27% applies to certain services such as communications services, natural gas, water and power and a reduced rate of 10,5% applies to services like passenger transports, provisions of fruits and certain medical services.

The VAT is a monthly tax. The submission of the tax return and the payment of the respective balance must be done between the 15th and the 21st of the following month.

Non-residents performing taxable services in Argentina are subject to VAT. The obligation to collect and report the VAT relies on substitute responsible domiciled in Argentina. The tenant or the individual perceiving the service and who carry out such operations as intermediaries or on behalf of foreign beneficiaries, provided that they are carried out in their own name are considered substitute responsible for the tax.

Stamp tax is a provincial tax. Each of the provinces legislates in its tax code. It taxes the formalized acts, contracts, and operations within the provincial jurisdiction. This tax reaches the public deeds or instruments of any nature or origin in which transfer the legal ownership of a property.

The instrument must have the following characteristics to be met by the tax:

- Onerous: there must be a price or a consideration.
- Formalization: the acts, contracts and operations must be formalized in public or private instruments.
- Territoriality: must be celebrated within the province, must cause effects on it.

The average tax rate is 1% applicable on the economic value of the contract. The submit and pay must be made by the taxpayers or third parties involved in the celebration of acts, contracts or operations reached by the tax, formalized through private instruments within 15 working days or calendar days (depends on the province) from the conclusion of the contract.

12. Is there an advantageous tax regime for individuals who have recently arrived in or are only partially connected with the jurisdiction?

Expatriates residing in Argentina on work assignments for a period not exceeding five years are considered non-residents (Section 123 (c) ITL). Therefore, they would be taxed exclusively on their Argentine situs assets and on

Argentine sourced income.

13. What steps might an individual be advised to consider before establishing residence in (or becoming otherwise connected for tax purposes with) the jurisdiction?

An individual must consider that upon becoming an Argentine tax resident he/she will be subject to PIT on their worldwide income and to PAT assessed on those assets located in Argentina and abroad as of 31st December each year.

The individual should consider too that Argentina have faced cyclical economic and political crisis (basically, every ten years) and that whenever a crisis arises, the right of ownership is at risk. Devaluation, asymmetric pesification, foreign exchange restrictions are a few examples of this. Insecurity is another important issue to consider.

Having said this, it would be advisable that if the person analysing the possibility of establishing residence in Argentina is a High-net-worth Individual, he/she shall previously settle up a structure in order to tackle asset protection, avoid disclosure of assets in the relevant tax returns (mainly for insecurity reasons), and ease their eventual tax burden.

14. What are the main rules of succession, and what are the scope and effect of any rules of forced heirship?

Under the CCC succession is governed by the law of the country where the decedent was domiciled at the time of his death. This law governs:

- The determination of the decedent's heirs.
- Any succession rights arising by reason of death.
- The validity of testamentary dispositions.

Argentina has a forced heirship (public order) regime. The forced heirship portion refers to a portion of the estate that is reserved for certain heirs by law (that is, the forced heirs). This allows for descendants, ascendants, and the surviving spouse to have a reserved portion in the deceased estate which cannot be deprived either by will or by any free *inter vivos act* (gifts) (Section 2444 CCC).

Under the CCC the reserved/forced portions are as follows:

- Descendants: the forced portion is two-thirds.
- Ascendants: the forced portion is one-half.
- The surviving spouse: the forced portion is one-half.

These portions are calculated considering the sum of the liquid value of the estate at the time of the decedent's death and the gifts provided for each of the forced heirs at the time the gift was made.

The CCC introduces the concept of improvement. This allows the decedent to reduce the reserved portion to exclusively improve it for disabled heirs, whether they are descendants or ascendants (first part of Section 2448).

A forced heir can be deprived of his legitimate portion by the decedent. However, upon the decedent death, any of the heirs can file a legal action to exclude another heir invoking one of the statutory causes for indignity established in Section 2281 CCC (for example, the heir invokes that the decedent was victim of violence by the heir against whom the action is filed). The onus probandi of the invoked indignity cause is in charge of the heir filing the action (*Acción de indignidad* under Section 2283 of the CCC).

15. Is there a special regime for matrimonial property or the property of a civil partnership, and how does that regime affect succession?

Under the CCC future spouses have the possibility of opting, by entering marriage conventions (the "Conventions"), between a shared/marital property regime or a separate property regime.

Section 463 of the CCC establishes that if no convention is made, or the convention does not set forth any provision regarding the property regime, the traditional shared/marital property regime will be applied.

Conventions may be created for the purpose of (Section 446, CCC):

- Designation and appraisal of the goods that each of the future spouses brings to the marriage.
- Admission of debts.
- Donations made between each other.
- Option chosen considering the regimes contemplated in the CCC.

Section 448 of the CCC provides that for the Conventions to be valid, they must be executed by public deed (*escritura pública*). For the Conventions to be effective

towards third parties, the marriage certificate must include a note in the margin specifying the chosen regime.

If the spouses decide to change the regime, the amendment must also be made by Convention and by a public deed, for which the spouses must have been married for at least one year. If there are creditors affected by this change, they will have one year to object, as from the date they became aware of the change.

When a marriage is terminated (due to death or divorce), the assets that qualify as shared/marital property are grouped together and, after the applicable liabilities and claims of each spouse have been worked out, divided, and distributed between the spouses and in the case of death, between the surviving spouse and the heirs of the deceased

Argentine law recognizes marriage between same-sex couples, so the same marital property regime applies in such cases. “Marriage” is defined as a person being united to another of the same or opposite sex, in a consensual and contractual relationship recognised by law, the consent to which is usually expressed in the presence of a public officer. Argentine law also recognizes a civil partnership, which is a legal union or contract like a marriage between two people of the same sex.

The CCC recognizes certain rights of domestic partners provided they have been together for at least two years. Through the means of “cohabitation agreements” (*Pacto de Convivencia*) domestic partners can regulate different aspects of their life together, such as economic aspects and other responsibilities. It also provides protection for the family home and, in case of death of one partner, the survivor is granted the right of free housing in the home they shared, for a period of two years.

Under Section 524 of the CCC, a domestic partner who suffers a glaring imbalance in his or her economic situation (because of the end of the cohabitation) may claim before court an economic compensation. The surviving domestic partner has no inheritance rights over the estate of the decedent.

16. What factors cause the succession law of the jurisdiction to apply on the death of an individual?

The last domicile of the deceased person and the location of the immovable property (if any) determines the territorial jurisdiction.

Therefore, if the decedent was domiciled in Argentina or if the decedent was domiciled abroad leaving immovable property located in Argentina, Argentine rules will apply, and a court-based procedure (*proceso sucesorio*) must be followed (section 2643 CCC).

The applicable law is determined by the last domicile of the decedent. However, an exception applies if the deceased was last domiciled in a foreign country and their estate comprises immovable property located in Argentina. In this case, the applicable law would be the CCC as established in section 2644 of the CCC. As mentioned in Question 14 above, this law governs:

- The determination of the decedent’s heirs.
- Any succession rights arising by reason of death.
- The validity of testamentary dispositions.

17. How does the jurisdiction deal with conflict between its succession laws and those of another jurisdiction with which the deceased was connected or in which the deceased owned property?

Our legislation (comprised under the Civil and Commercial Code, Law 26.994) establishes the concurrent jurisdiction of judges of the last domicile of the deceased, or the jurisdiction of Argentine judges in cases of and to the sole extent of local property (Section 2643).

Regarding applicable law, our legal rules (Section 2644) are clear for both intestate and testate successions. The law of the domicile of the deceased upon the time of his/her death must be applied. This exception is for real estate located in Argentina, to which local law must apply. This last sentence incorporates *loi de police* or the so-called internationally mandatory provisions, which, as laid down part of legal scholars and judicial precedents, contribute to local public order, so omitting or failing to apply such rules is forbidden.

Let us analyse a practical example: If the last domicile of the deceased is within Argentina, Argentine judges will be able to decide with respect to whole estate as prescribed by such section. Now, if the last domicile of the deceased is abroad, and he/she has assets in different jurisdictions and in Argentina, the succession process may be initiated in the State of the last domicile, thus attracting all assets there, due to the concurrent nature of the rule. Alternatively, succession may be initiated in Argentina as far as real property is concerned, and in the State of the last domicile with respect to the remaining estate. Such being the case,

Argentine judges would only be competent with respect to the former.

18. In what circumstances should an individual make a Will, what are the consequences of dying without having made a Will, and what are the formal requirements for making a Will?

As mentioned in Question 14 above, Argentina has a forced heirship (public order) regime. This allows for descendants, ascendants and the surviving spouse (that is, the forced heirs) to have a reserved/forced portion (*porción legítima*) in the deceased estate from which any of them cannot be deprived either by will or by any free inter vivos act (gifts) (Section 2444 CCC). The reserved/forced portions are as follows:

- Descendants: the forced portion is two-thirds.
- Ascendants: the forced portion is one-half.
- The surviving spouse: the forced portion is one-half.

Therefore, and assuming the decedent was last domiciled in Argentina, the absence of a will determines the application of intestacy rules. In such a case, the estate will be divided depending on who survives the decedent, as described below:

- Surviving descendants only. The children are entitled to the entire estate. If any of the children have predeceased but have surviving issue, the share that would have been allocated to that child goes to his issue per stirpes (if the predeceased has two children the portion of the predeceased is divided in two equal shares). This is known as "*derecho de representación*".
- Surviving spouse and surviving descendants. One-half of the decedent's marital property is distributed to the surviving spouse and the children are entitled to receive the other half. Both the surviving spouse and the children are entitled to receive equal portions of the decedent's own property.
- Surviving ascendants but no surviving descendants or surviving spouse. The whole estate passes to the surviving ascendants. In this case, the closer generations exclude the inheritance rights of the further generations (for example, the grandfather is excluded if the father survived).
- Surviving spouse and surviving ascendants but no descendants. The surviving spouse is entitled to one-half of the marital and one-half of the own property of the deceased. The other half goes to the ascendants.
- Surviving spouse but no surviving ascendants or descendants. The surviving spouse is entitled to the whole estate.
- No surviving ascendants or descendants, and there is not a surviving spouse. The collaterals (until the fourth degree of relationship) are entitled to the estate.

Therefore, under the CCC individuals have freedom to dispose one-third of their assets if they have descendants, one-half if they have ascendants and one-half if the relevant individual is married. In this sense an individual will be interested in making a will in case he wants to assign the available portion (*porción disponible*) for the exclusive benefit of one or more of his/her forced heirs or to any other person or entity. Otherwise intestacy rules will apply, and the heirs will be entitled to receive the estate according with the parameters seen above.

The law of the deceased's domicile at the date of his death governs the enforcement and contents of wills and the legal succession. The will's form is governed by either:

- The law in force in the territory where it is made.
- The law in force in the country from which the testator is a national.
- Where the testator has his domicile or his residency.

In this sense, the validity of a will, no matter where it was extended, is deemed to be governed by Argentine law if the decedent was last domiciled in Argentina.

The formalities for making a will in Argentina are the same, regardless of the nationality, residence and/or domicile of the testator.

Any person can make a will in Argentine in any of these two ordinary forms:

- Holographic will (*testamento ológrafo*): This will be wholly written by the testator in his own hand, dated and signed. This will be neither witnessed nor notarized.
- Notarized will (*testamento por acto público*): This will be made before a notary public and two witnesses and entered on a notary record. It is also known as an "open will".

19. How is the estate of a deceased

individual administered and who is responsible for collecting in assets, paying debts, and distributing to beneficiaries?

The administrator could be designated by the testator in his will. If there is no testamentary designation, the heirs acting by majority may designate an administrator. The administrator must carry out conservatory acts regarding the assets comprised in the estate and any act linked with the normal course of the decedent business (administración judicial).

To transfer certain assets, the administrator must have the unanimous consent of the heirs, or failing this, judicial authorization.

However, if no administrator has been designated, any heir may undertake acts of conservation or urgent measures to preserve the estate. To undertake administration or disposition acts, he will need the unanimous consent of the other heirs (administración extrajudicial).

The administrator must give full account of their administration on a quarterly basis, except the heirs, acting by majority, have agreed to an alternative term. If no objection is made, the judge will approve the accounts.

Regarding distribution of the assets composing the decedent´s estate, this may be done privately (partición privada) which under Section 2369 CCC requires unanimity of the involved heirs, or within the court-based procedure (partición judicial) which is mandatory whenever any of the heirs is a minor and/or faces an incapacity (Section 2371 CCC). If the heirs cannot agree on a distribution of the assets, the courts will order its liquidation (sale and distribution).

20. Do the laws of your jurisdiction allow individuals to create trusts, private foundations, family companies, family partnerships or similar structures to hold, administer and regulate succession to private family wealth and, if so, which structures are most commonly or advantageously used?

Argentina has no legislation on private foundations. Concerning Trusts (*fideicomisos*), this figure was previously regulated by the Housing and Construction Financing Law No. 24,441, in particular Title I (Trust Law), which contemplated two types of trusts:

- Financial trust (*fideicomiso financiero*). Under this type of trust, the trustee must be a financial entity, or a corporation specifically authorised by the Argentine Securities Commission to act as financial trustee.
- ordinary trust (*fideicomiso ordinario*). These can be:
    - management trusts (*fideicomisos de administración*); or
    - guarantee trusts (*fideicomisos de garantía*).

The CCC amended the Trust Law. Therefore, trusts are now regulated in Chapter 30 of the CCC, which incorporates suggestions of legal scholars and case law with respect to certain issues of interpretation and application of trust law.

To regulate succession to private family wealth of other assets rather than real property situated in Argentina or family-owned companies, foreign Trusts are a better option than local management Trusts, mainly for the following reasons:

- Asset Protection (mainly regarding the “argentine risk”).
- The 30-year limit under Section 1668 CCC would not apply, which gives flexibility to regulate private family wealth succession for different generations, extending in this way the asset protection period and allowing a gradual and prudent transfer taking into consideration any situation around any given beneficiary (political context, tax residency, marital situation, etc.); and
- Tax efficiency (under certain conditions, as seen in Question 25 below)

When it comes to real property situated in Argentina, both gifting the bare ownership to the forced heirs (as per the recent enactment of Law 27.587 which introduced amendments to the CCC, this gift no longer affects the marketability of the title) and transferring the bare ownership to a local management Trust are commonly used alternatives.

Regarding family-owned companies, it is common for the founder whether to gift the bare ownership of the shares/interest to his/her forced heirs reserving for himself/herself the economic rights and in some cases the political rights too, until his or her death (*usufructo vitalicio*). Related to this, and mainly when the family-owned company held real property or rural land, tax-free reorganizations procedures are commonly used to split them between their members (*escisión libre de impuestos*), without facing any tax burden, provided the following requirements are accomplished:

– prohibition for the owners to sell the reorganized entities within two years of the reorganization; or

– change their activities within two years of the reorganization.

In the case of family-owned companies were attaining to the activity of the given company a reorganization procedure as the mentioned above is not an option, further planning might be suggested aimed to achieve not only an efficient succession on the property (shares of the family company) but also the subsistence of the Family Company throughout generations. A Family Business Constitution (*Protocolo de Empresa Familiar*) might be an effective figure to future-proofing a Family Business provided it is executed together with other legal documents.

21. How are these structures constituted and what are the main rules that govern them?

A Tax Planning Information Regime was established by AFIP on October 20, 2020, through General Resolution No. 4838/2020. Under the mentioned regime, taxpayers must report any agreement, scheme, structure, plan, or any other action that results in a tax advantage or any type of benefit in favour of the taxpayers involved. Tax Advisors who have intervened in the implementation of a given tax planning are also subject to the reporting requirements (it's an autonomous obligation and as such, the compliance by one of the obliged subjects does not release the rest). Not complying the obligation to report could lead to the inclusion in a higher category of risk of being audited (SIPER), penalties and sanctions according to Law 11,683 and will be considered an aggravating factor under the terms of said law, and the impossibility of processing requests referring to the incorporation or permanence in the different registries implemented by the AFIP, to obtaining tax credit certificates and tax status certificates or social security, among other requests.

The mentioned informative regime adds to the one established by General Resolution 3312/2012 for trust-related transactions by which the creation of the trust, the incorporation of trustees and/or beneficiaries, amendments to the trust agreement and distributions were to be reported within 10 days of being carried out. If the trust has been set up in Argentina, the trustee will be responsible for reporting the transaction. In the case of foreign trusts, the settlor and beneficiaries are responsible.

22. What are the registration requirements for these structures and what information needs to be made available to the relevant authorities? To what extent is that information publicly available?

AFIP has published General Resolution 4697/2020 which established new beneficial ownership disclosure requirements. The Resolution entered into force on 15 April 2020. Therefore, corporations in general, non-profit civil associations, foundations, trusts, equity funds and permanent establishments located in Argentina, among others, must act as reporting agents. Information on every person who holds capital or voting rights in a corporation, legal person or another contractual entity or legal organization, or who through any other means exercise their direct or indirect control as of December 31 of each year, must be reported on an annual basis. When the holders are corporations or other entities or funds located abroad the final beneficiary shall be indicated, which shall be the natural person who holds capital or voting rights of a corporation, legal person or another contractual entity or legal organization –irrespectively of their share percentage-, or who through any other means exercise the direct or indirect control of such legal person, entity, or organization. If it is not possible to identify the natural persons being the final beneficiaries, either the president or manager should be informed as final beneficiary. In this scenario AFIP might request the reason not to comply with identification of the beneficiaries.

23. How are such structures and their settlors, founders, trustees, directors and beneficiaries treated for tax purposes?

N/A

24. Are foreign trusts, private foundations, etc recognised?

Argentina has not signed the Convention on the Law Applicable to Trusts and on their Recognition (July 1st, 1985). However, there have been court precedents recognizing the existence and enforceability of foreign trusts, providing that Argentine public order is not infringed (mainly, the forced heirship rules). This was then included in Section 2651, Subsection e) CCC. Therefore, Argentina recognizes both foreign trusts and private foundations. The property contributed to the structure will be owned by the Trustee in its fiduciary capacity. Notwithstanding the foregoing, the tax treatment will vary depending on the characteristics of

the mentioned structures. In certain cases, fiscal transparency will apply as seen in Question 25 below.

25. How are such foreign structures and their settlors, founders, trustees, directors and beneficiaries treated for tax purposes?

Until the enactment of Law 27.430, Section 140 (b), ITL was the only reference to foreign trusts in local legislation. Law 27.430 established the cases in which a foreign trust should be considered transparent for tax purposes. In this sense, fiscal transparency applies to revocable trusts, so they are no longer useful for income tax planning purposes. However, these structures are still useful for estate planning purposes.

Concerning irrevocable trusts, neither fiscal transparency nor anti-deferral rules will apply unless either of the following situations applies:

- the settlor is also a beneficiary of the trust; or
- the settlor has direct or indirect powers to decide how assets comprising the trust fund should be invested.

Therefore, if structured correctly, revenues derived from the assets held in trust will not be subject to tax in the jurisdiction of the trustee, and the trustee becoming the legal owner of the assets will ensure that neither PAT nor income tax will be levied on the settlor for such assets and their revenues.

Notwithstanding the foregoing, it must be stressed that there has been an attempt to change this situation by taxing the “rights inherent to the capacity as beneficiary of a foreign trust” with PAT’s differential rate (Law 27.541, Section 25, third paragraph). This provision has not, however, been regulated yet. Nevertheless, it seems that the way in which this provision has been included does not change tax consequences for the beneficiary of an irrevocable discretionary trust for the following reasons:

- the provision implies an excess in the exercise of taxing rights by Argentina.
- the provision infringes the ability to pay principle (*Principio de capacidad contributiva*). Until they receive actual distributions, beneficiaries of an irrevocable discretionary trust have no ability to pay PAT; and
- in any case, the value of the beneficiary’s rights would be zero.

26. To what extent can trusts, private foundations, etc be used to shelter assets from the creditors of a settlor or beneficiary of the structure?

These foreign structures could be used to shelter assets from creditors. However, and according to the circumstances around the set-up of the given structure, creditors could eventually encourage a legal action either under Section 333 CCC (*acción de simulación*) or under Section 338 CCC (*acción de fraude*). Both actions constitute a measure of patrimony integration because if the court issues a ruling favourable to the creditor those acts by which the structure has been set up will be regarded void and consequently those assets held in structure would be treated as if they had never left the patrimony of the involved party (Sections 334 and 390 of the CCCN).

27. What provision can be made to hold and manage assets for minor children and grandchildren?

Foreign Trusts are appropriate structures to hold and manage assets for minor children and grandchildren.

28. Are individuals advised to create documents or take other steps in view of their possible mental incapacity and, if so, what are the main features of the advisable arrangements?

The Medical Anticipated Directives (Directivas Médicas Anticipadas) is a relatively new method (regulated in the CCC) by which a capable person can anticipate directives and grant power of attorney regarding their health and foreseeing their own potential incapacity. A person (or more than one) may be appointed to express the consent to medical acts and to act as curator. However, directives related to euthanasia are null and void, and can be freely revoked.

29. What forms of charitable trust, charitable company, or philanthropic foundation are commonly established by individuals, and how is this done?

Charities are recognised under argentine legislation. However, in Argentina there is not a single regulatory authority for all charities. In addition, unlike some other jurisdictions, the Argentine law does not provide an exact definition of a “charity”.

Despite the lack of a legal definition, charity can be defined as an organization whose purpose is to work for the public benefit without making a profit. The two main types of not-for-profit organizations are:

- Foundations (*fundaciones*). These are non-profit legal entities created with certain funds or assets which have been endowed by its founders to carry out some specific activity for the public benefit without seeking profit. Foundations are governed by Chapter 3 of the CCC.
- Civil associations (*asociaciones civiles*). These are non-profit legal entities with a public benefit purpose. Unlike foundations, they are incorporated by a number people willing to carry out its charitable purpose for the benefit of those who are members of the organisation. Civil associations are governed by Chapter 2 of the CCC.

To incorporate a charity, the founding members must file the following documents with the local Public Registry of Commerce:

- Constituting documents: memorandum of association and the by-laws (*Estatuto*).
- Financial forecast for the first three years.
- Details of activities to be performed during the first three years.
- Evidence of paid-in capital or assets. The assets initially donated or promised to the foundation must be at least prima facie sufficient to carry out its purpose to obtain the registration by the relevant authority.

Local registration is mandatory, and the appropriate registry will be determined by the domicile of the foundation or association. For example, in the City of Buenos Aires, foundations and civil associations are registered with and controlled by the Public Registry of Commerce (*Inspección General de Justicia*), the government agency with supervisory authority over companies registered in the City of Buenos Aires. In other provincial jurisdictions, the same body that controls commercial companies may also be in charge of regulating charities, and registering them in the local Public Registry of Commerce.

Once the charity is registered with the Public Registry of Commerce, it must be registered with AFIP. The AFIP will provide the charity an identification number, which will identify the organisation as a charity, with all applicable tax exemptions.

The benefits for individuals when setting up a charitable organisation are the following:

- Separate legal personality. The law recognizes the charity as having a separate legal personality to that of their founders or members. Therefore, people may engage in charitable activities limiting their responsibility, and the charity's assets are segregated from the patrimony of the founder.
- Tax benefits. Most charities are exempt from property tax and/or value added tax (VAT). Charities are also usually income tax-exempt, provided the income is:

– used for charitable purpose only; and

– not directly or indirectly distributed among its members, founders or directors.

30. What is the jurisdiction's approach to information sharing with other jurisdictions?

As mentioned in Question 4, Argentina signed Tax Treaties to avoid double taxation, which are bilateral and include exchange of information clauses with the following countries: Australia, Belgium, Bolivia, Brazil, Canada, Chile, Denmark, Finland, France, Germany, Italy, Mexico, the Netherlands, Norway, Qatar, Russia, Spain, Sweden, Switzerland, the United Arab Emirates, the United Kingdom and Uruguay. Recently, the Argentine Executive signed tax treaties with Turkey, China, Luxembourg, and Japan but they are pending approval by the Argentine Congress.

After several negotiations, on December 5th 2022 Argentina signed an Intergovernmental Agreement (IGA) with the United States of America (hereinafter "USA") to facilitate implementation of the United States Foreign Account Tax Compliance Act (FATCA). This agreement allows the reciprocal exchange of certain financial account information between the USA and Argentina.

Although the agreement has been signed, it establishes that the obligation of USA to obtain and exchange information shall take effect on the date that USA provide written notification to the Argentina Competent Authority when it is satisfied that Argentina has in place appropriate safeguards to ensure that the information received pursuant to the Agreement shall remain confidential and used solely for tax purposes and that he infrastructure for an effective exchange relationship.

Taking the aforementioned into consideration, it is presumed that the first exchange of information will not take place before September 2024, with respect to information from fiscal year 2023 and it may even be

extended for another year, depending on the success of confidentiality and security protocols that will be carried out.

Argentine signed as well the “Convention on Mutual Administrative Assistance in Tax Matters” proposed by the OECD and commenced to exchange information under the AEOI Standard in 2017.

31. What important legislative changes do you anticipate so far as they affect your advice to private clients?

Javier Milei was elected as the new president of Argentina after prevailing in the elections on November 19, 2023, against the official candidate Sergio Masa. It is expected that in the coming weeks, an Omnibus Bill enters the Congress packaging several measures aimed to reduce the size of the public sector, to encourage a labour reform (we have had the same law since 1974 which explains both unemployment rates and unregistered and low-wage jobs), the reform of the Social security system (the current system is not sustainable, and it is a scam for our elders), and the simplification of the whole tax system.

The prospects of the above mentioned Omnibus Bill being ultimately approved remain uncertain.

High net worth individuals who have been hardly attacked in the last 4 years by the ruling coalition (brutal increase of PAT rates and the one-off “Tax on big fortunes”) can expect no further chasing. However, we don’t expect an immediate ease on their tax burden through reduction in the current PAT rates (not until the fiscal balance is achieved).

Several sources assert that, as part of the Omnibus Bill entering Congress, a new tax amnesty project will be treated. The so-called ‘Asset Regularization Project’ aims to encourage the regularization of assets located both in Argentina and abroad, applying equally to Argentine residents and foreigners.

Contributors

Agustin Lacoste
Partner
alacoste@estudiomcewan.com.ar

Julieta Tula
Associate
jtula@estudiomcewan.com.ar