6. International Aspects

6.1. Resident companies

For the concept of residence, see section 1.2.1.

6.1.1. Foreign income and capital gains

Resident companies are subject to tax on their worldwide income.

Capital gains derived by resident companies are subject to income tax under general rules (see section 1.4.).

Dividends received from foreign companies are subject to income tax and must therefore be included in the recipient’s taxable base. A foreign tax credit is granted, see section 6.1.4.

6.1.2. Foreign losses

Losses from activities generating foreign-source income may only be offset against foreign-source income. These losses may be carried forward for 5 years. There is a separate limitation for foreign-source capital losses from the disposal of shares or other participations in investment funds or similar entities. Such losses may be set off only against capital gains from the same activity.

6.1.3. Foreign capital

IGMP is levied on assets held by the taxpayer, wherever located. However, there are separate rules for valuing assets located in Argentina and those located abroad. For the general IGMP rules, see section 5.1.

A foreign tax credit for similar taxes paid abroad on foreign-situs assets is granted against – and only up to – the IGMP liability arising from those foreign-situs assets.

6.1.4. Double taxation relief

To avoid double taxation of foreign-source income, Argentina applies the ordinary tax credit method, both unilaterally and generally under its income tax treaties.

For a list of Argentinian income tax treaties in force, see section 6.3.5. In 2012, Argentina terminated the tax treaties with Chile, Spain and Switzerland. A new tax treaty between Argentina and Spain is retroactively effective from 1 January 2013. A new tax treaty between Argentina and Switzerland was signed on 20 March 2014, passed by the Federal Congress and published in the Official Gazette of 11 December 2014, but it has not entered into force yet.

A taxpayer that is subject to tax in Argentina on worldwide income is entitled to have the foreign tax actually paid on that income credited against its Argentinian income tax liability. The credit is limited to the increase in Argentinian tax arising from the computation of foreign-source income.

For dividends, the foreign tax credit includes the tax paid on the profits out of which the dividends were paid. In order to determine which foreign taxes may give rise to a credit, the law provides for a definition of “similar taxes”. Specific rules are also provided for determining the foreign tax credit of foreign permanent establishments of Argentinian residents.

6.2. Non-resident companies

For the concept of residence, see section 1.2.1.

6.2.1. Taxes on income and capital gains

See section 6.3. for withholding taxes on payments to non-resident companies.
Permanent establishments of foreign companies in Argentina are subject to tax on their worldwide income. Non-residents without a permanent establishment or agency in Argentina are subject to tax only on Argentinian-source income.

The taxation of income derived by resident subsidiaries owned by non-resident taxpayers is governed by the general rules for resident legal entities. However, there are certain specific rules for such companies, for example with respect to the calculation of the taxable base.

The profit of branches of foreign companies is subject to income tax in the same manner as the profit of local corporations. Remittances from a branch, agency or establishment are subject to withholding tax at the rate of 10%. Distributions in excess of taxable profits are also subject to the “equalization tax” (see section 1.1.).

Income exempt from corporate income tax for non-residents includes:

- interest on foreign credit granted to the national treasury, provinces, municipalities or the central bank;
- interest on public bonds and on eligible corporate bonds (interest on obligaciones negociables governed by Law 23,576, as amended); and
- interest and gains derived from securities placed by public offer issued by qualifying trustees (Law 24,441 of 9 January 1995).

Certain exemptions listed in section 1.3.2. may apply.

Argentinian-source taxable income derived by non-residents is taxed at the general income tax rate (35%). However, due to the rules on notional income described in section 6.3., the effective rate (calculated on the gross payment) differs for each type of income. For the effective rates, see below.

**6.2.2. Taxes on capital**

Non-residents are subject to the net worth tax (IGMP) only if they are deemed to have a permanent establishment under the appropriate definition provided for this tax. For this purpose, there is a detailed definition of circumstances that trigger the deemed existence of a permanent establishment. See section 5.1.

**6.2.3. Administration**

For general information regarding the administration of taxes, see section 1.8.

**6.3. Withholding taxes on payments to non-resident companies**

For withholding purposes, taxable income from Argentinian sources is normally presumed to be a certain specified percentage of the gross payment. As a result, different percentages of notional income are specified, without right of rebuttal in most cases. In the case of unspecified income, Argentinian-source notional income is presumed to be 90% of the gross payment, without right of rebuttal.

**6.3.1. Dividends**

Dividends paid by resident companies to non-residents and remittances from permanent establishments are subject to a final withholding tax at the rate of 10% on the gross amount distributed.

For the equalization tax, see section 1.1.

Dividends derived by resident companies are exempt from tax (see section 2.2.).

**6.3.2. Interest**

Interest is taxed as ordinary income. However, certain interest is exempt from income tax.

Interest payments to non-residents are subject to final withholding tax either at the reduced 15.05% rate or at the general 35% rate. See section 1.6.2. The 15.05% rate applies in the following cases:
(1) the borrower is an Argentinian financial institution;

(2) the lender is a banking or financial entity (under the supervision of the central bank or equivalent entity), and is not located in a tax haven jurisdiction or in a jurisdiction that has executed an exchange of information agreement with Argentina (and thus, under the application of its local rules it may not refuse to provide the information based on bank, stock exchange and other similar secrecy);

(3) the interest is for financing the importation of movable depreciable assets (other than automobiles), provided the financing is granted by the supplier of the assets. Not all financing qualifies for the reduced rate (e.g. interest on a loan granted by the supplier of the assets which is subsequently assigned to a third party);

(4) the interest is derived from one of the following deposits in financial institutions supervised by the central bank: savings accounts, special savings accounts, fixed-term deposits, or other deposits as determined by the central bank; and

(5) the interest is paid on certain bonds filed for registration in countries with which Argentina has concluded an investment protection agreement, provided that the bonds are registered according to the procedure specified in Law 23,576 (i.e. authorized for public offering) within 2 years after they were issued.

In cases described under (1) and (2), the reduced rate is applicable for any type of financing, i.e. not only that from loans but also from securities (e.g. commercial paper).

The Income Tax Law and supplementary laws provide attractive tax incentives to boost foreign investment in Argentina, such as the tax exemption of interest on qualifying corporate bonds and interest on qualifying securities issued by trustees for the securitization of assets.

For thin capitalization rules, see section 7.3.

6.3.3. Royalties

Argentinian-source taxable income from the assignment of rights or the licensing of patents, trademarks (only licensing between unrelated parties is admitted), industrial models, designs and know-how is presumed to be, without right of rebuttal, 80% of payments to non-residents. This percentage is increased to 90% if the requirements of the Transfer of Technology Law are not met (e.g. if the agreement giving rise to the royalty is not registered with the National Institute of Industrial Property (INPI) in due time). As this notional taxable income is subject to withholding tax at a rate of 35%, the effective rates on gross payments are 28% and 31.5%, respectively.

Argentinian-source taxable income derived from the exploitation of copyrights in Argentina is presumed to be, without right of rebuttal, 35% of payments to non-residents, provided that: (i) the copyrights are duly registered with the National Copyright Bureau; (ii) the payment is made to the author or the author’s heirs; and (iii) certain other conditions are met. This provision has been construed by the Supreme Court as applicable only to individual beneficiaries. Payments to foreign corporate beneficiaries are taxed in accordance with the next paragraph.

If the conditions are not met, the notional taxable income is 90%. As this 35% or 90% notional income is subject to withholding tax at a rate of 35%, the effective rates are 12.25% and 31.5%, respectively.

6.3.4. Other

6.3.4.1. Capital gains

Capital gains derived by non-residents from the transfer of title of shares, quotas and other participations in the capital of companies, bonds and other securities representing debt claims are subject to tax.

Non-residents collecting the price for the transfer of title of bonds, shares, quotas and any other participation in the capital of resident companies are, in principle, subject to a 13.5% final withholding tax on the price, by application of the previously mentioned rule of notional income, equal to 90% of the amount paid.

Regulatory Decree 2334/2013 has confirmed that non-residents have the option to determine the tax on a net basis. That is, the selling price minus the cost of the security and any expenses incurred to buy it or sell it. The applicable rate on the net taxable base is 15%.

Rules to determine how the tax is paid when both seller and buyer are non-residents are still pending.