

## Tax on corporate lending and bond issues in Argentina: overview

- **Resource type:** Country Q&A
- **Status:** Law stated as at 01-Mar-2015
- **Jurisdiction:** Argentina

A Q&A guide to tax on corporate lending and bond issues in Argentina.

This Q&A provides a high level overview of finance tax in Argentina and focuses on corporate lending and borrowing (including withholding tax requirements), bond issues, plant and machinery leasing, taxation of the borrower and lender when restructuring debt, and securitisations.

To compare answers across multiple jurisdictions, visit the Tax on corporate lending and bond issues *Country Q&A tool*.

The Q&A is part of the global guide to tax on transactions. For a full list of jurisdictional Q&As visit [www.practicallaw.com/taxontransactions-mjg](http://www.practicallaw.com/taxontransactions-mjg).

*Santiago L Montezanti, Ezequiel A Martínez Iriarte and Enrique López Rivarola, Estudio Beccar Varela*

---

### Contents

- Tax authorities
  - Pre-completion tax clearances
  - Disclosure of finance transactions
- Taxes on corporate lending/borrowing
  - Taxes potentially chargeable on amounts receivable
  - Tax reliefs available for borrowing costs
  - Tax payable on the transfer of debt
  - Withholding tax
  - Guarantees
- Bond issues
  - Taxes payable on the issue and/or transfer of a bond
  - Exemptions
- Plant and machinery leasing
  - Claiming capital allowances/tax depreciation
  - Rate of capital allowances/tax depreciation
  - Lessees not carrying on business in the jurisdiction
  - Taxation of rentals
  - Rulings and clearances
- Restructuring debt
  - Unpaid or deferred interest or capital
  - Debt write-off/release and debt for equity swap
- Securitisation

- Foreign Account Tax Compliance Act (FATCA)
  - Bank levies
  - Reform
  - Contributor profiles
    - Santiago L Montezanti, Partner, Head of Tax Department
    - Ezequiel Martínez Iriarte, Senior Associate
    - Enrique López Rivarola, Associate
- 

## Tax authorities

### 1. What are the main authorities responsible for enforcing taxes on finance transactions in your jurisdiction?

At the federal level, the tax authority is the Federal Administration of Public Revenue (*Administración Federal de Ingresos Públicos*).

At the provincial and municipal levels, there are local tax authorities for each province or municipality.

## Pre-completion tax clearances

### 2. Is it possible or necessary to apply for tax clearances from the tax authorities before completing a finance transaction?

#### Circumstances for obtaining clearance

It is possible to obtain clearance; however, it is not necessary. Local regulations grant taxpayers the possibility to submit a binding consultation to the Tax Authority before a given transaction is performed, provided that several formal requirements are met.

The resolution issued is binding for both the Tax Authority and the taxpayer until any of the following occur:

- The applicable legislation is amended.
- The Tax Authority revokes its opinion and gives notice of its revocation to the taxpayer (the revocation produces effects as from the notice date).
- The taxpayer appeals the resolution and, as a result of it, the Tax Authority revokes it.

Issues relating to double taxation treaties, withholding or collecting regimes or issues that have been raised in a tax audit or tax assessment procedure cannot be consulted under this procedure.

Taxpayers can also submit a non-binding consultation. The resolutions of these consults are not binding for the Tax Authority. However, if the criteria followed in the resolution is modified by the Tax Authority and a claim is made, it is less likely that a penalty will be applied to the taxpayer.

#### Mandatory or optional clearance

Clearance is optional.

#### Procedure for obtaining clearance

The consultation must be submitted before the taxable event takes place or before the relevant tax return must be filed.

## Disclosure of finance transactions

### 3. Is it necessary to disclose the existence of any finance transactions to the tax authorities?

#### Circumstances where disclosure is required

There are no general rules or regimes on disclosure of financial transactions to the tax authorities, just certain specific information regimes. For example, there is a regime where a report must be made to the tax authority on any transaction (including finance transactions) made between local related parties (RG 3572).

#### Manner and timing of disclosure

All local related parties must report the economic transactions made between them on a monthly tax return. If no transactions occur between related parties in a certain month, the companies must still submit this tax return, reporting that no operations took place between them.

## Taxes on corporate lending/borrowing

### Taxes potentially chargeable on amounts receivable

#### 4. What are the main corporate taxes potentially chargeable on interest and other amounts receivable under a loan?

#### Income tax

**Key characteristics.** Interests and other receivables are subject to income tax at a rate of 35%.

**Calculation of tax.** Assuming that the lender is an Argentine company, the accrued interest must be reported in the relevant income tax return.

**Triggering event.** Interest must be included in the tax return of the fiscal year in which it is accrued.

If the lender and the borrower are Argentine legal entities or enterprises (unless the lender is a financial entity), the borrower must perform a 35% withholding on interest paid. If payment is made after the lender filed his tax return or after its due date, the borrower must not perform the withholding provided that the lender declares that he has included the accrued interest in the tax return.

**Applicable rate(s)** . A rate of 35% applies.

#### Value added tax

**Key characteristics.** Interest is subject to valued added tax.

**Calculation of tax.** The tax rate is applicable on the total amount of the interests.

**Triggering event.** The taxable event is triggered when the interests are due or when they are paid, whichever occurs first.

**Applicable rate(s)** . If the lender is a domestic or foreign financial institution, the applicable tax rate is 10.5%. In any other case, the rate is 21%.

#### Turnover tax

**Key characteristics.** Turnover tax is a local tax levied on commercial activities carried out within the jurisdiction of a province or the City of Buenos Aires. Generally, it is applicable on corporate lending and borrowing; however, it depends on the regulations of each jurisdiction.

**Calculation of tax.** The taxable base is the gross income obtained by the taxpayer. Capital reimbursement is not taxed (therefore the tax is levied on interest). The taxation of the operations may vary between jurisdictions.

**Triggering event.** The tax is paid on an annual basis. However, monthly advance payments must be usually made.

**Applicable rate(s).** The tax rate varies depending on the jurisdiction where the tax must be paid. In the City of Buenos Aires the applicable tax rate on this type of transactions is 7%.

## Stamp tax for loan agreements and other instruments

**Key characteristics.** Stamp tax is a local tax that is levied by all provinces and the City of Buenos Aires on private written agreements and other onerous juridical acts.

The tax is applicable in the jurisdiction where the agreement is executed or where the act or agreement takes place or produces effects; also where the assets they relate to are located.

For loans, the relevant facts or effects for tax purposes would be, for example, the location of the bank accounts in which the principal is disbursed or where funds or interest are deposited.

For stamp tax to be applicable an "instrument" must be executed; that is a document deemed to be self sufficient to demand compliance of its terms and conditions (such as an agreement signed by both parties). Therefore, according to the criteria currently upheld by the Federal Supreme Court of Justice, the tax is not applicable if an agreement is executed in either of the following ways: an "offer letter" is sent to the counterparty and it is tacitly accepted by the latter by means of performing a certain act (for example, payment of the price), or by merely sending a simple and plain acceptance letter with no reference to the terms of the agreement.

The execution of liens, mortgages or other guarantee agreements that are aimed to secure the loan are also subject to this tax. In some jurisdictions, mortgages, liens and other guarantees may be exempt from tax if the loan agreement is subject to this tax or exempt in the jurisdiction of its execution.

**Calculation of tax.** The taxable base is, generally, the economic value of the agreement. Usually, for loan agreements it is understood that the taxable base is the amount of the borrowed capital.

For liens, mortgages and agreements that secure loans, in some jurisdictions, the tax is levied on the amount of the borrowed capital of the loan secured.

**Triggering event.** The tax is paid on the execution of the agreement or juridical act.

**Applicable rate(s).** The applicable rate varies depending on the relevant jurisdiction and the nature of the agreement or act. General rates range between 1% and 2%, depending on the jurisdiction.

## Stamp tax for monetary operations

**Key characteristics.** Stamp tax is also applicable to monetary operations registered in accounting records that represent grants or disbursements of funds that bear interest made by local banks or financial entities.

**Calculation of tax.** The tax is calculated applying the corresponding rate on the amount of the taxable operation.

**Triggering event.** The triggering event is the debit or payment of the relevant interest.

**Applicable rate(s).** The applicable rate varies depending on the relevant jurisdiction. In the City of Buenos Aires, the applicable rate is 1.2%.

## Tax on debits and credits on bank accounts

**Key characteristics.** This tax is levied on debits and credits in bank accounts held at Argentine financial institutions and on other transactions used to replace the use of bank accounts.

A portion of the paid tax can be used as a tax credit against income tax or presumptive minimum income tax (34% of the 0.6% tax applied on the credits and 17% portion of the tax applied on the operations subject to the 1.2% rate).

Financial institutions are only taxed for credits or debits made on their behalf relating to certain operations not related with their banking business (for example, payment to directors, employees, administration expenses and so on).

There are several exemptions applicable to finance transactions, including, debits relating to time deposits, credits relating to loans granted by banks, credits or debits relating to advances of discount operations, among others.

**Calculation of tax.** The tax is levied on the amount of each debit or credit.

**Triggering event.** The occurrence of a debit or credit in a bank account.

**Applicable rate(s).** A 0.6% rate is applicable on each debit and credit. Fund transfers that are made not using bank accounts can be subject to a rate of 1.2%.

## Tax reliefs available for borrowing costs

### 5. What corporate tax reliefs are available for borrowing costs (including interest and other amounts payable under a loan)?

The only tax relief available is in relation to income tax.

**Key characteristics.** Interests paid are deductible provided that they are linked or related to taxable income.

**Calculation of relief.** The full amount paid can be deducted.

Interest may not be deductible if thin capitalisation rules are applicable. These would be applicable only for interest arising from loans granted by foreign related entities when the debt-equity ratio exceeds 2:1. The non-deductible interest is deemed to be dividend (not deductible).

Thin capitalisation rules are not applicable for domestic financial institutions or if the interest is subject to a 35% income tax withholding rate when paid.

**Triggering event.** If the debtor is a domestic legal entity or enterprise, interest can be deducted when accrued.

However, if the interest is payable to foreign related entities or to entities located in jurisdictions deemed to be tax havens, it is deductible when it is effectively paid (under the definition of payment set out in the Income Tax Law).

**Applicable rate(s).** Not applicable.

## Tax payable on the transfer of debt

### 6. What corporate, transfer, stamp or other taxes are payable on the transfer of a debt under a loan?

#### Income tax

**Key characteristics.** When a performing credit is acquired with a discount, Income Tax is levied on the difference between the transfer price and the final amount of the credit that can be collected. This difference is a taxable income for the acquirer of the debt and a (potentially deductible) tax loss for its assignor.

If a non-performing debt is transferred, income tax is applicable on the difference between the acquisition cost of the credit and the amount that is effectively collected.

**Calculation of tax.** See above, *Key characteristics*.

**Triggering event.** For performing debt: see above, *Key characteristics*.

For non-performing debt: the tax is triggered when the debt is settled.

**Liable party/parties.** Assuming that the credit is assigned with a discount, the assignee is the liable party.

**Applicable rate(s).** A rate of 35% applies.

#### Value added tax

**Key characteristics.** If the transaction is construed to be a financial service (for example, when a performing credit is assigned with a discount), the assignment of credits or debts is subject to value added tax. The difference between the acquisition price of the credit and its final amount or face value is treated as an interest.

Transfer of debts to a trust (for example, in order to securitise them) is not taxed.

Although it could be debatable, transfer of non-performing debts should not be taxed, as there would not be a financial service but a mere assignment of rights.

**Calculation of tax.** The tax rate is applicable on the difference between the acquisition price and the final value of the credit transferred.

**Triggering event.** The taxable event is triggered when the execution of the assignment takes place.

**Applicable rate(s)** . If the lender is domestic or foreign financial institution, the applicable tax rate is 10.5%. In any other case, the rate is 21%.

### Turnover tax

**Key characteristics.** Turnover tax is levied on commercial activities carried within a province or the City of Buenos Aires, including lending of money. The difference between the acquisition price of the credit and its final amount or face value is treated as a taxable interest.

**Calculation of tax.** The taxable base is the gross income obtained by the taxpayer (*see above, Key characteristics*). The taxation of the operations may vary between jurisdictions.

**Triggering event.** The tax is paid on an annual basis. However, usually monthly advance payments must be made.

**Applicable rate(s).** The tax rate varies depending on the jurisdiction where the tax must be paid. In the City of Buenos Aires the applicable tax rate on this type of transactions is 7%.

### Stamp tax

**Key characteristics.** Assignment agreements may be subject to this tax (*see Question 4, Stamp tax for loan agreements and other instruments*).

**Calculation of tax.** See Question 4, *Stamp tax for loan agreements and other instruments*.

**Triggering event.** See Question 4, *Stamp tax for loan agreements and other instruments*.

**Applicable rate(s).** See Question 4, *Stamp tax for loan agreements and other instruments*.

### Tax on debits and credits on bank accounts

**Key characteristics.** See Question 4, *Tax on debits and credits on bank accounts*.

**Calculation of tax.** See Question 4, *Tax on debits and credits on bank accounts*.

**Triggering event.** See Question 4, *Tax on debits and credits on bank accounts*.

**Applicable rate(s).** See Question 4, *Tax on debits and credits on bank accounts*.

### Withholding tax

#### 7. Is there withholding tax on interest or any other payments under a loan?

#### When withholding tax applies

For the treatment of loans between local parties see *Question 4, Income tax: Triggering event*.

If the lender is a foreign resident, income tax must be withheld when a payment of interest or receivables is made. The taxable base is the presumed income derived from the operation.

#### Applicable rate(s) of withholding tax

For the treatment of loans between local parties see *Question 4, Income tax: Triggering event*.

For foreign lenders, the income tax applicable rate is 35% on the presumed net income obtained.

43% of the gross interest paid may be presumed to be the net income arising from the operation if:

- The lender is a foreign financial institution.
- The borrower a financial institution.

- The loan related to the import of capital goods (this results in a 15.05% effective rate).

100% of the gross interest paid is presumed to be net income in any other case (this results in a 35% effective rate).

### Exemptions from withholding tax

If the lender is a foreign resident, withholding tax effective rate is usually limited by double taxation treaties (DTTs) signed by Argentina. In these DTTs the rate is limited to 10% to 20% of the gross amount paid, depending on the DTT.

### Guarantees

#### 8. Do any particular tax issues arise on the provision of a guarantee?

Normally, the only tax issue arising on the provision of a guarantee (such a lien or mortgage) is the triggering of stamp tax over both the loan and the guarantee. In some jurisdictions guarantees are exempt from stamp tax if the relevant loan agreement was subject to this tax or was exempt.

From an income tax perspective, interest derived from loans that are secured *in rem* with assets located in Argentina is deemed to be Argentine source income.

### Bond issues

#### 9. For corporate taxation purposes, are bonds treated any differently from standard corporate loans?

In principle, both private and public bonds have a similar treatment to corporate loans. However, there are several exemptions applicable for public bonds and also for certain private bonds (*obligaciones negociables*) that are publicly quoted (see *Question 11*).

For income tax purposes, these exemptions are not applicable to local companies or enterprises.

Taxation may be payable on interest paid under these securities if these exemptions do not apply (see *Question 4*).

### Taxes payable on the issue and/or transfer of a bond

#### 10. What stamp, transfer or similar taxes are payable on the issue and/or transfer of a bond?

#### Income tax

**Key characteristics.** The income arising from the trading of bonds is subject to income tax, unless an exemption is applicable. Income tax is also levied on the increase of value of the bonds at the end of the fiscal year, even if they are not sold.

**Calculation of tax.** Tax is calculated on the difference between the sale value and the book value registered at the beginning of the fiscal year (or the acquisition cost if the bond is purchased within the same year of its sale).

Additionally, at the end of each fiscal year, the current value of the bonds must be assessed and any difference between this value and the value registered at the end of the previous fiscal year is deemed to be a taxable income.

**Triggering event.** Income tax is paid at the end of the fiscal year.

**Applicable rate(s).** For Argentine companies, the applicable rate is 35% on the net income obtained.

The applicable rate is 15% on the net capital gain derived from the sale when the seller is an Argentine individual or a foreign resident (in the latter case, the taxpayer can choose to be taxed at an effective 13.5% rate on the gross income).

#### Stamp tax

**Key characteristics.** See *Question 4, Stamp tax for loan agreements and other instruments*.

**Calculation of tax.** See *Question 4, Stamp tax for loan agreements and other instruments.*

**Triggering event.** See *Question 4, Stamp tax for loan agreements and other instruments.*

**Applicable rate(s).** See *Question 4, Stamp tax for loan agreements and other instruments.*

### **Tax on debits and credits on bank accounts**

**Key characteristics.** See *Question 4, Tax on debits and credits on bank accounts.*

**Calculation of tax.** See *Question 4, Tax on debits and credits on bank accounts.*

**Triggering event.** See *Question 4, Tax on debits and credits on bank accounts.*

**Applicable rate(s).** See *Question 4, Tax on debits and credits on bank accounts.*

### **Exemptions**

#### **11. Are any exemptions available?**

The following exemptions are applicable to private bonds (*obligaciones negociables*) that are publicly quoted:

- Income tax: interest arising from these bonds and income derived from the trading of bonds is exempt from income tax. This exemption is not applicable to domestic companies and enterprises.
- Value added tax (VAT): interest arising from these bonds is exempt from VAT.
- Stamp tax: documents related to trading of these bonds are exempt in several local jurisdictions (including the City of Buenos Aires).

Income tax and value added exemptions are applicable provided that the funds obtained through the public offering are applied to:

- Investments in physical assets located in Argentina.
- Working capital.
- Refinancing of debt.
- Capital contributions made into companies controlled by the issuer that applies the proceeds exclusively for the purposes above.

The issuer must prove to the National Securities Commission that the public offering of the bonds complies with these requirements.

Public bonds benefit from similar exemptions.

For domestic companies and enterprises, no general income tax exemptions are applicable (either for public or private bonds).

### **Plant and machinery leasing**

#### **Claiming capital allowances/tax depreciation**

#### **12. What are the basic rules for enabling the lessor or lessee of plant and machinery to claim capital allowances/tax depreciation?**

From a tax perspective, there are three different types of leasing transactions set out by Argentine rules: financial leasing (assimilated to a financial operation), operating leasing (assimilated to a rental agreement) and leasing assimilated to a sale on credit.

A leasing agreement is deemed a financial leasing when the following requirements are met:

- The lessor is an Argentine financial institution, an Argentine financial trust or an entity that is primarily engaged in the leasing business.



- The property leased is tangible property or real estate property.
- The term of the agreement is longer than 50%, 20% or 10% of the leased asset's useful life, depending on whether the asset is a movable asset, real estate not to be used for residence purposes or real estate to be used for such purpose, respectively.
- The purchase option price is a true and certain price at the time of the execution of the agreement.

A leasing agreement is deemed an operating leasing if both:

- It does not fulfil the requirements for financial leases.
- The value of the purchase option is higher than the tax cost of the leased assets at the time that the purchase option is exercised.

A leasing agreement is assimilated to a sale on credit if the value of the purchase option is lower than the tax cost of the asset at the time when that option is exercised.

The lessor is entitled to claim depreciation of the assets for financial and operational leasing.

For financial and operational leasing, the lessee can deduct the full amount of the fees paid. Therefore, if the term of the lease is shorter than the useful life of the asset, it may allow the lessee to claim a greater tax deduction than it would be entitled to if the lessee deducted depreciation of assets purchased by regular means (in this case, the assets' value will have been fully deducted through tax depreciation at the end of its useful life).

If the lease is assimilated to a sale on credit, the lessee is the one entitled to claim the asset tax depreciation depending on its useful life.

## **Rate of capital allowances/tax depreciation**

### **13. What is the rate of capital allowances/tax depreciation; does it depend on the type of assets?**

Tax depreciation depends on the type of assets.

For real estate assets, the land itself is not depreciable. The depreciations of the value of the assets attributed to its buildings can be deducted at a 2% annual rate.

Tax depreciation can be claimed for the remaining fixed assets used to generate taxable income. To determine the annual deductible amount, their acquisition cost must be divided by the number of estimated useful life years.

Tax depreciation of intangible assets that have a limited useful life can also be deducted. However, depreciation of goodwill, trade marks or other assets that do not have a limited life is not deductible.

Financial and operational leasing may allow accelerated tax depreciation.

## **Lessees not carrying on business in the jurisdiction**

### **14. Are there special rules for leasing to lessees that do not carry on business in your jurisdiction?**

There are no special rules for leasing to lessees that do not carry on business in Argentina.

## **Taxation of rentals**

### **15. How are rentals taxed?**

## **Rental agreement and operational leasing**

Income tax: for the lessor, the fees derived from a rental agreement are subject to income tax at 35%.

For the lessee, the rent accrued can be deducted from its income tax return provided it is linked with taxable income.

### **Financial lease**

Income tax: the lessor is subject to income tax for the portion of the fees paid that are deemed to be the financial component (the difference between the reimbursement of capital and the total fee paid by the lessee).

However, the lessee can deduct the full amount paid (including the capital repaid), this allows accelerated tax depreciation.

### **Lease assimilated to a sale on credit**

Income tax: the lessor is subject to income tax for the portion of the fees paid that are deemed to be the financial component (the difference between the reimbursement of capital and the total fee paid to the lessor, plus the value of the purchase option).

The lessor must inform the lessee of that financial component, so that the lessee can deduct the relevant amount.

In other words, the lessee can deduct only the financial cost of the leasing plus the tax depreciation corresponding to the asset.

### **Value added tax**

VAT is levied on the rental and the purchase option of tangible assets, in principle, at a rate of 21%.

VAT is levied when the fees are accrued or when they are paid. This treatment is applicable to financial leasing, leasing assimilated to a rental agreement or to a sale on credit.

If the leased asset is real estate, its sale, in principle, is not subject to VAT. However, the sale of constructions made by entities deemed to be constructing enterprises may be subject to VAT (the value of the construction is used to assess the payable tax).

### **Rulings and clearances**

#### **16. Is a ruling or clearance necessary or common?**

No ruling or clearance is necessary or common.

### **Restructuring debt**

#### **Unpaid or deferred interest or capital**

#### **17. What is the tax treatment of the borrower and the lender if interest or capital is unpaid or deferred?**

##### **Income tax**

From the lender's standpoint, Argentine companies must declare and pay income tax on interest when it is accrued, even if it is not paid. If interest or capital is unpaid, income tax must be still paid and no deduction can be claimed. It is permitted to deduct non-collectable debts (bad debts), but only if certain circumstances are verified (for example, the filing of a judicial claim, bankruptcy declaration, disappearance of the debtor).

If interest or capital is deferred there are no special rules from the tax point of view. Income tax must be paid and deduction permitted when interest accrued according to the terms of the deferral.

##### **Value added tax**

Value added tax debits must be invoiced and remitted to the Tax Authority when the interest is due or when it is paid (whichever occurs first). If the interest is due but not paid, the lender must still remit the tax; currently there are no provisions that allow the lender to request a refund from the Tax Authority of the remitted tax if the interest is never paid (that is, for VAT purposes, there are no uncollectable debts

provisions).

Interest arising from defaulted and accelerated loans is subject to VAT when the interest is effectively paid (not when it is accrued). If that interest is capitalised, as result of the execution of an instalment plan, then VAT derived from this interest must be remitted when each instalment is due or paid (whichever occurs first). Interest is deemed to be distributed pro-rata between the agreed instalments.

## Debt write-off/release and debt for equity swap

### 18. What is the tax treatment of the borrower and lender if a loan is:

- **Written off or released (wholly or partly)?**
  
- **Replaced by shares in the borrower (debt for equity swap)?**

## Debt release

From the creditor's standpoint, the release of a debt does not allow the creditor to deduct the loss, given that remission of debt is not deemed to be evidence of its non-collectability but a gratuitous act.

From the debtor's standpoint, the release of debt is deemed to be a gratuitous enrichment subject to income tax at a 35% rate. However, if the released interest was not previously deducted by the debtor, its release is not taxed.

## Debt for equity swap

The capitalisation of a debt (debt for equity) is treated as if it is the payment in kind of such debt and subject to the regular tax treatment. Therefore, it triggers the obligation to perform any income tax withholding applicable depending on the origin of the debt. If the borrower does not have any funds that belong to the creditor at its disposal, it must remit the tax with own resources. In this case, the borrower has the right to claim reimbursement of the amount paid to the creditor.

## Securitisation

### 19. Briefly explain the key features of the tax regime applicable to securitisations, including details of any specific tax rules that apply or issues that arise in relation to securitisations.

Financial trusts are the most common securitisation vehicle in Argentina.

## Tax treatment of financial trusts

**Income tax.** Trusts are subject to income tax, in general terms, in the same manner corporations are. Therefore, the trust must declare its accrued taxable net income in the relevant tax return and apply a 35% rate on it.

Financial trust can issue debt and/or equity securities. Debt securities' interest is deductible for the financial trust.

Earnings distributed to beneficiaries (equity holders) are not deductible, except in the case of financial trusts that are linked with or related to infrastructure public works to provide public services. In the latter case, the earnings are deductible provided that the securities issued by the trust are publicly quoted and other requirements are met.

**Value added tax.** Trusts may have to register as VAT taxpayers if they carry out taxable activities or operations.

The assignment of credits from the settlor to the trust (for their securitisation) is exempt from Value Added Tax.

**Tax on debits and credits on bank accounts.** This tax is levied on the debits and credits made on the trust's bank accounts. However, financial trusts that are created for the sole purpose of securitisation that also issue securities that are publicly quoted and that comply with certain requirements may be exempt from this tax.

**Stamp tax.** Acts executed relating to the incorporation of the trust or the issuance of securities, in principle, are taxed in most jurisdictions. However, if these acts are linked or related to financial trusts that issue securities that are publicly quoted in Argentina, they are exempt from this tax (in most jurisdictions).

### **Tax treatment of the investors**

**Income tax.** Interest arising from debt securities is subject to income tax at 35%.

If the securities are publicly quoted, the income derived from interest arising from the debt securities is exempt from income tax, provided that certain requirements are complied with. This exemption is not applicable to domestic companies or enterprises.

Equity securities: the distribution of earnings to equity holders that are domestic companies is not taxed. The distribution of earnings to holders that are not domestic companies (that is, individuals or foreign investors) is subject to a 10% withholding tax. Potentially, equalisation tax may be applicable (a 35% withholding must be performed on income distributed that has not been taxed at trust's level; this is not applicable if the equity securities are publicly listed).

Trading of securities: income arising from trading of debt or equity securities is subject to income tax at 35% on the net income. The tax rate is 15% if the investor is an individual. Foreign resident investors are taxed at a 13.5% rate on the gross income or 15% on the net income, at their option.

If the securities are publicly quoted, income derived from trading of securities is exempted. This exemption is not applicable in the case of domestic companies or enterprises.

**Value added tax.** Interest arising from debt securities is subject to VAT, unless the security is publicly quoted and certain requirements are met.

The sale of debt or equity securities is exempt from VAT.

## **Foreign Account Tax Compliance Act (FATCA)**

### **20. Has your jurisdiction entered into an intergovernmental agreement (IGA) to implement FATCA, or do you intend to enter into an IGA to implement FATCA?**

No IGA has been signed. However, recently certain domestic rules have been issued to comply with FATCA.

For example, Argentinean Central Bank Communications "A" Nr. 5581 and 5588 establish that financial institutions must take the necessary measures to identify bank accounts holders that fall under FATCA rules. The National Securities Commission issued a similar resolution applicable to agents registered before that authority (Resolution Nr. 631/2014).

According to these rules, the collected information must be reported to the Argentinean Federal Tax Authority.

### **21. Have there been any particular difficulties in light of your jurisdiction's domestic legislation with implementing the FATCA requirements?**

There have been no particular difficulties in implementing FATCA requirements. The Argentine Government is actively involved in the exchange of tax information and its current trends. However, from a theoretical point of view, there may be conflicts between FATCA requirements and domestic regulations about bank secrecy.

### **22. Are there any provisions of your jurisdiction's IGA and/or domestic implementing legislation, if any, that are more onerous than the US FATCA requirements?**

There are no provisions that are more onerous than the US FATCA requirements.

## **Bank levies**

### **23. Are there any bank levies or similar taxes imposed specifically on financial institutions?**

Not applicable.

**24. On what are any such levies or taxes charged?**

Not applicable.

**25. At what rate(s) are the levies or taxes charged?**

Not applicable.

**26. Are there any thresholds or exemptions?**

Not applicable.

## Reform

**27. Please summarise any proposals for reform that will impact on the taxation of finance transactions described above.**

The Income Tax Law was amended in 2013 to tax the transfer of bonds and securities by individuals and foreign investors (domestic companies were already taxed). To the authors' knowledge, there are currently no other proposals for reform.

### Contributor profiles

**Santiago L Montezanti, Partner, Head of Tax Department**

**Estudio Beccar Varela**



**T** +54 11 4379 6885

**F** +54 11 4379 6860

**E** smontezanti@ebv.com.ar

**W** www.ebv.com.ar

**Professional qualifications.** Argentina, Lawyer

**Areas of practice.** Tax Law.

**Non-professional qualifications.** Law degree, Universidad de Buenos Aires (Summa Cum Laude), 1999; Postgraduate degree in Tax Law, Universidad Católica Argentina, 2000; Certified Postgraduate degree in Tax Law, Universidad Austral, 2005

**Languages.** Spanish, English, German

**Professional associations/memberships.** International Bar Association, International Fiscal Association, Buenos Aires Bar Association, among others.

**Ezequiel Martínez Iriarte, Senior Associate**

**Estudio Beccar Varela**

**T** +54 11 4379 4726  
**F** +54 11 4379 6860  
**E** emartinez@ebv.com.ar  
**W** www.ebv.com.ar

**Professional qualifications.** Argentina, Lawyer

**Areas of practice.** Tax Law.

**Non-professional qualifications.** Law degree, Universidad Nacional de Tucumán, 2001; Postgraduate Degree in Tax Law, Universidad Austral, 2005

**Languages.** Spanish, English, German

**Professional associations/memberships.** International Bar Association, International Fiscal Association, Buenos Aires Bar Association, among others.

**Enrique López Rivarola, Associate****Estudio Beccar Varela**

**T** +54 11 4379 4731  
**F** +54 11 4379 6860  
**E** elopez@ebv.com.ar  
**W** www.ebv.com.ar

**Professional qualifications.** Argentina, Lawyer

**Areas of practice.** Tax Law.

**Non-professional qualifications.** Law degree, Universidad de Buenos Aires (Cum Laude), 2010; Postgraduate degree in Tax Law, Universidad Austral, 2014

**Languages.** Spanish, English

**Professional associations/memberships.** Buenos Aires Bar Association and Argentine Association of Fiscal Studies (Asociación Argentina de Estudios Fiscales).

**Resource information**

**Resource ID:** 2-521-7710

**Law stated date:** 01-Mar-2015

**Products:** PLC Cross-border, PLC UK Corporate, PLC UK Finance, PLC UK Law Department, PLC UK Tax, PLC US Corporate & Securities, PLC US Finance, PLC US Law Department, PLC US Tax, Tax on Transactions multi-jurisdictional guide

Series: Country Q&A

## **Related content**

### **Country Q&A**

Doing business in Argentina (<http://uk.practicallaw.comtopic2-517-8389>)

Tax on corporate transactions in Argentina: overview (<http://uk.practicallaw.comtopic9-519-0298>)

©2015 Thomson Reuters. All rights reserved. Privacy Policy and Cookies (<http://www.practicallaw.com/3-386-5597>). Legal Information (<http://www.practicallaw.com/8-531-0965>). Subscription enquiries +44 (0)20 7202 1220 or email [subscriptions@practicallaw.com](mailto:subscriptions@practicallaw.com). The reference after links to resources on our site (e.g. 2-123-4567) is to the PLC Reference ID. This will include any PDF or Word versions of articles.