



# Argentina

<b>Taxing Authority and Tax Law</b>	<p>The Administración Federal de Ingresos Públicos-Dirección General Impositiva or AFIP-DGI is the Argentine Internal Revenue Service ("ARS"). Tangible goods exports and imports between independent parties: Income Tax Act ("ITA") Section 8, Income Tax Act Regulations ("ITA Regulations") sections 10 &amp; 11. Transactions between related parties and deemed related parties (including tax haven entities): ITA Sections 14, 15, 15.1, 129 &amp; 130. ITA Regulations, Sections 19, 20, 21, 21.1-21.2, 21.3, 21.4, 21.5, 21.6, 21.7, 21.8, 21.9, 21.10, 21.11. ITA has been amended by Act No. 25,063, Act No. 25,239 and Act 25,784.</p> <p>ITA Regulations have been amended by Executive Orders No. 290/00, 1037/00, 115/03, and 916/04.</p>
<b>Regulations and Rulings</b>	<p>Currently in effect: ARS Regulation No. 1,122 (Published Oct. 31, 2001, but applicable for fiscal years beginning from December 31, 1999) amended by ARS Regulations No. 1,227/02, No. 1,296/02, No. 1,339/02, No. 1,590/03, and No. 1,670/04. ARS Regulation No. 1,375/02 (Information program) as amended by ARS Regulations No. 1,417/03, No. 1,463/03, No. 1,476/03, No. 1,508/03, No. 1,517/03, No. 1,524/03 and No. 1,530/03. In force before December 31, 1999: ARS Regulation No. 702 amended by 1007/01.</p>
<b>Priorities/Pricing Methods</b>	<p>The tested party must be a local entity (i.e., entity based in Argentina). The ARS accepts the most appropriate method. For exports and imports on tangible goods between related and independent parties where there is an international price in transparent markets, use the market price, unless there is evidence to the contrary. For transactions between related parties (tax haven entities included) the ARS will accept CUP, Resale Price, Cost Plus, Profit Split, and TNMM. Other transactions between independent parties will be subject to requirements yet to be established in order to test prices, in case the amounts of import and export transactions exceed an annual value of AR\$ 1,000,000. In addition, a new specific method applies to companies that operate through international intermediaries, who are not the final consignees of the goods. Such goods include grains, oleaginous products, other soil products, oil &amp; gas, and in general all goods with well-known prices in transparent markets. In these cases, the price to be applied is the price in those markets on the day the goods are loaded for shipment, or the agreed-upon price if higher. This method may be not applicable if the local exporter is able to prove the substance of the operations of the consignee abroad. The ARS has the power to limit the application of this method, or extend it to other transactions based on the characteristics of such transactions.</p>
<b>Transfer Pricing Penalties</b>	<p>As of September 1, 2004, interest on unpaid tax balances is in effect (1.5% monthly basis; 2.5% upon lawsuit filing). For unpaid taxes related to international transactions the taxpayer is fined 100% to 400% of the unpaid tax. Penalties for fraud are 2 to 10 times the unpaid taxes. Criminal tax law stipulates imprisonment for 2 to 6 years, if the tax balance exceeds AR\$ 100,000 for each tax and for each fiscal year. If the tax balance exceeds AR\$ 1,000,000, the prison term shall increase from 3 ½ to 9 years. For the late filing of tax returns concerning international transactions (exports/imports of goods) with independent parties, the taxpayer is fined AR\$ 9,000. For the late filing of tax returns concerning other international transactions, the taxpayer is fined AR\$ 20,000. For non-compliance with formal duties of furnishing information requested by the ARS the taxpayer faces fines up to AR\$ 45,000. The same applies to a failure to keep vouchers and evidence of prices on available files, and failure to file tax returns upon request. If tax returns are not filed at third request, and the taxpayer has income amounting to more than AR\$ 10,000,000, the fine is graduated from AR\$ 90,000 to AR\$ 450,000.</p>
<b>Reduction in Penalties</b>	<p>Concerning underpayment and fraud, if the taxpayer voluntarily amends its return before a special notice ("vista") from the ARS, the penalty is reduced to 1/3 of the minimum fine. If the taxpayer amends the return within 15 days of receiving the notice, the penalty is reduced to 2/3 of the minimum fine as long as the taxpayer is not recidivist. If the non-recidivist taxpayer accepts the adjustments made by the ARS and pays the amounts due, then the penalties are set at the minimum amount. If the taxes due do not exceed AR\$ 1,000 and are paid voluntarily, or within 15 days from the special notice, then no penalty shall be applied.</p>
<b>Documentation Requirements</b>	<p>Transfer pricing regulations require extensive documentation. Taxpayers are required to submit and keep all the documents evidencing that prices, amounts received and profit margins have been correctly determined in the tax return. Furthermore, taxpayers are required to keep an "Annual Transfer Pricing Study" for related parties' transactions, deemed related parties, and independent parties' transactions subject to transfer pricing methods.</p>

Continued on next page



# Argentina (continued)

<b>Documentation Requirements (continued)</b>	<p>In addition, taxpayers are required to file with the ARS the following documentation.</p> <ul style="list-style-type: none"> <li>■ Special Report including the key elements of the Transfer Pricing Study</li> <li>■ Audited financial statements for the last 3 fiscal years</li> <li>■ An independent CPA's certification of certain contents of the Special Report</li> <li>■ Annual Form 743 return</li> <li>■ Form 742 return (for the first 6-month period of each fiscal year)</li> <li>■ Semi-annual Form 741 return</li> <li>■ Annual Form 740 return for fiscal years governed by ARS Regulation No. 702/99.</li> </ul> <p>ARS Regulation No. 1375/02 set forth an information program for economic transactions entered into between Argentine residents and representatives of foreign individuals or entities. Moreover, parties participating in those transactions as service providers must comply with this regime. Representatives must register with the ARS and file "Tri-annual Form 886" return, and service providers shall generate "Tri-annual Form 887."</p>
<b>Categories of Documentation Required</b>	<p>The Annual Transfer Pricing Study must contain the following data: Business overview, organization structure, relevant controlled transactions, Functional analysis (functions, assets, and risks), selection of transfer pricing analysis methods, comparables used, application of the methods selected.</p>
<b>Deadline to Prepare Documentation</b>	<p>The transfer pricing documentation must be ready to be filed with the ARS by the date the corresponding transfer pricing returns filings are due.</p>
<b>Deadline to Submit Documentation</b>	<p>The Special Report, financial statements and certification must be filed with the tax authorities within eight months after the end of the fiscal year. The annual transfer pricing returns must be filed within eight months after the end of the fiscal year. The semi-annual returns must be filed within five months after the end of the relevant 6 month period.</p>
<b>Statute of Limitations on Transfer Pricing Assessments</b>	<p>Although there is no specific background on transfer pricing, the statute of limitations for federal tax matters is 5 years for registered taxpayers or for those who are exempt from registration, and 10 years for unregistered taxpayers. These periods begin on January 1 of the year following the one in which the tax return is due. The transfer pricing documentation must be kept by the taxpayer and filed upon ARS request for 10 years or for a longer period if it is a key element for a final tax assessment.</p>
<b>Return Disclosure-Related Party Disclosure</b>	<p>The ARS requires annual and semi-annual returns for transactions subject to transfer pricing rules. Semi-annual returns for tangible goods, and exports and imports with independent parties are not subject to transfer pricing methods.</p>
<b>Audit Risk/Transfer Pricing Scrutiny</b>	<p>Within the current context, it is likely that Argentine authorities will try to strengthen their image by increasing revenue and strictly enforcing penalties with companies that are not complying with transfer pricing legal requirements.</p>
<b>APA</b>	<p>APAs are not specifically addressed.</p>