

DOING BUSINESS IN ARGENTINA

ARGENTINA'S ECONOMY IS PRIMARILY BASED ON RESOURCES:

Argentina offers many opportunities to skilled long term businessmen, such as highly literate population as well as its geographic advantages, extensive lands located mainly in the temperate zone, a variety of climates and plentiful natural resources.

The Argentine economy has traditionally been based on agriculture and livestock, but industry has become increasingly important. Primary activities, however, are still a main source of foreign revenues. Argentina is one of the world's most important suppliers of agricultural products such as wheat, corn, soybean and other grains. The woodlands produce hard and soft woods, which are used in timber and related industries. Forests supply the wood pulp and paper industries with raw materials. Vine yards are located in the central western area of Argentina, and the wine industry is highly developed. In addition fruit plantations are located in various areas of the country.

The predominant manufacturing industries are those producing machinery and equipment, foodstuffs, beverages, tobacco, chemicals and textiles. Argentina also has an important iron steel industry.

GENERAL BENEFITS FROM A FOREIGN PERSPECTIVE:

The low cost to a foreign investor of buying assets or of purchasing goods and services from Argentina. Wage rates for both managers and production staff. These are low by European and North American standards. Social Security contributions are approx. 23%. No problems for hiring people. Need to follow some formalities to fire people. Skilled and productive workforce readily available.

ECONOMIC OUTLOOK:

General:

- Rich natural resources
- Highly literate population
- Export-oriented agricultural sector

Modern infrastructure:

- Oil and gas industry
- Telecommunications system
- Comprehensive highway, road and railway network
- International & domestic flights

Comparative advantages:

- Relatively low cost of purchasing goods and services
- Low wage rates for both managers and production staff
- Skilled and productive workforce readily available

Benefited sectors:

- Agri-business
 - edible oils
 - cereals
 - meats
- Textiles and Clothing
- Motor vehicles and parts

- Tourism
- Food Processing
 - biscuits
 - chocolates
 - fish products
- Fisheries
- Software and computer assembly
- Wines

FREQUENT ASKED QUESTIONS:

Which are the first questions that a foreign investor does when arriving into Argentina?

They are focused on the economic and political outlook as well as the legal securities on foreign investments. Tax aspects also require a detailed explanation. Other aspects of interest are the foreign exchange regime, company's formation, labour and social benefits structure.

Foreign investors are astonished because the formation of personal companies is not allowed and that in order to comply with local regulations a minor shareholder cannot have less than 5% of the share capital.

Other controversial aspects to be considered are the complexities of the Central Bank regulations in order to introduce money into Argentina as well as to withdraw it.

What is the current monetary exchange regime?

At present exists a single and free exchange market.

Are there any limitations in the repayment of capital and dividends?

Repayment of capital do not require previous authorisation by the Central Bank.

How is the Foreign Investment Regime?

Legislation recognises an equal treatment between domestic and foreign investors.

Can a foreign investor buy immovable property in a frontier zone?

Certain areas of national security, such as frontier zones, are restricted to foreign ownership. If a foreign investor wishes to buy a property on such an area must have the prior consent of the Commission of Security Zones. The investor must provide to the Commission all the documentation regarding the buyer in Spanish and duly notarized by the Argentine consulate on the country of origin. The Commission has complete discretion regarding the granting of the approval.

Does an Argentine company require resident directors?

It is required that the majority of the directors to be Argentine residents. This could be regarded as an impediment in establishing a subsidiary in Argentina.

Is there any specific location for business and plants?

The bulk of Argentina's business and industrial activities are concentrated in Buenos Aires and surrounding area, with industry spreading north westward along towns located on the Paraná river as far as Rosario and Santa Fe. Cordoba is also an important

industrial center. New plants are forbidden within the precincts of the city of Buenos Aires.

Is it possible to use a foreign language in business transactions?

All business in Argentina is transacted in Spanish and all documents and records must be in Spanish to constitute valid evidence. A good working knowledge of Spanish is essential for any one planning to work in Argentina for any length of time.

Is it difficult to find English speakers?

Argentina is a multicultural society. Most Argentines with a secondary school education understand English. In the large cities it is not difficult to find clerical, technical and management staff with a reasonable working knowledge of at least one foreign language, such as English, French, German, Portuguese, Italian or Japanese.

What are the different types of companies? Is it possible to establish a branch office?

Business may be conducted by:

- incorporated companies,
- partnerships,
- individuals and
- branches of foreign constituted enterprises.

Pertinent information must be registered in the Superintendence of Corporations (Inspección General de Justicia). To start operations foreign investors generally choose either the form of a Limited Liability Company or of a Branch. The former may be a Sociedad Anónima (Corporation) or a Sociedad de Responsabilidad Limitada. The Branch has certain advantages, especially in the initial times of an investment. It is mandatory for foreign companies to name legally responsible individuals and to keep separate accounting records for their Argentine operations.

Sociedad Anónima

Corporations must be at least two shareholders and the shares may be privately held or quoted publicly. Their operation is governed by statutes in which the name, object, duration, capital, election and powers of the board of directors, and all other rules are established. The board may have one or more directors but the absolute majority must be domiciled in Argentina. The term “sociedad anónima”, which may be shortened with the acronym S.A., must be included in the corporate name. The minimum capital is Pesos 12,000 (some USD 3,140 as of August 2009).

Management is vested in a board of directors composed of one or more directors who are appointed by the stockholders’ meeting. Their terms of office are limited to three years, but they may be re-elected. The board must meet at least once every three months. The president of the board of directors (chairman) normally represents a corporation. However, its bylaws may authorise the vice-president and/or one or more directors to represent it.

Sociedad de Responsabilidad Limitada

Are similar in all respects to corporations except that:

- A corporation may not be a quota holder.
- They are always privately held.
- Any change in quota holders requires an amendment to the incorporation deed.

- Formation procedures are simplified.
- Greater flexibility is permitted in the deed.

Managers have the same rights and duties as the directors of corporations, but their terms of office are not subject to the three-year limitation. Partners must appoint one or more managers to assume direct responsibility for the business operations.

Branch of a Foreign Corporation

It may perform the same acts its head office is authorised to.

The head-office is:

- responsible for their operations, in the person of its nominated legal representative,
- liable to the extent of the corporation's subscribed capital.

The legal representative must register the branch with the Superintendencia of Corporations (Inspección General de Justicia), submitting all necessary documentation:

- duly authenticated by a public notary in the country of origin,
- then recognised by an Argentine consul, and finally
- translated locally by an Argentine public translator.

The tax burden is similar to that of an S.A. (Corporation)

As the parent is wholly responsible for the branch's liabilities, it is easier to deal with financial institutions and local suppliers.

Joint Ventures

Temporary unions of companies are allowed to:

- develop or execute a specific task, service or supply, and/or
- any extension thereof, both locally and abroad. Their duration is therefore limited to that particular task or service.

They are not separate legal entities in their own right. Agreements are entered through private or public deeds. Participants may be:

- resident businessmen,
- locally constituted entities, or
- non-resident companies that have established a separate branch or other type of presence in Argentina.

Agreements must be registered with the Superintendencia of Corporations (Inspección General de Justicia) and must include:

- their objectives,
- term of duration,
- name and
- other particular information on their partners' responsibilities, financial contributions and other legal implications.

They enjoy similar rights, obligations and, except for income tax purposes, the same tax requirements.

How much time does it takes to form a Sociedad Anónima?

Formation takes about 3 months.

Is it possible to form a Sociedad Anónima with only one shareholder?

A Sociedad Anónima must have at least two shareholders. The founders must report an Argentine domicile for the purpose of related proceedings.

What must you have in mind at the time of choosing the kind of organization?

As a matter of fact most foreign companies setting up operations in Argentina have tended to favour a Sociedad Anónima or a branch operation. As the tax burden is almost the same for a foreign investor, the choice is largely dependent on the size of investment considered. Bear in mind that the statutory reports and controls imposed on the Sociedad Anónima make it more complicated and expensive to run but, on the other hand, the smooth running of a branch is dependent to a greater extent on the trust placed on the appointed manager as deputy manager.

What if a branch is chosen?

Foreign investors have often chosen a separated incorporated subsidiary rather through branches to minimise their potential liability. If an Argentine or foreign subsidiary is used, the foreign corporation's liability is generally limited to the assets owned by the subsidiary. In comparison, if a branch is used, all of the foreign assets may be subject to potential liability.

What does the U.S. investor tend to use as an investment vehicle?

For purposes of the U.S. tax authorities the Sociedad de Responsabilidad Limitada is considered as a "non regarded entity". For purposes of the U.S. "check the box" entity classification rules, the Sociedad Anónima is classified as a "per se corporation". The two precedent definitions by the U.S. authorities make the Sociedad de Responsabilidad Limitada a useful vehicle due to the greater flexibility and its managerial cost-benefit.

What are the accounting requirements?

The board of directors is responsible for the maintenance of proper accounting records and for the preparation of financial statements. The financial statements must be approved by the shareholders, normally at a company's annual general meeting, having been circulated beforehand. Financial statements must be filed with the Superintendence of Corporations (Inspección General de Justicia).

What is the applicable tax system for business entities?

The **income tax** rate applicable to **business entities**, constituted in Argentina, is 35%, levied on taxable income less allowed deductions. Income Tax on Dividends is Nil if paid from post Tax Profits

Minimum presumed income tax law provides that business entities constituted in Argentina are tax liable at the rate of 1% levied on assets exceeding Pesos 200,000 (some USD 52,400 as of August 2009). Tax has to be paid even if the company is not liable for income tax for that period. Any tax payable under this tax is allowed as a credit for normal corporate Income tax. Furthermore, to the extent that this minimum tax cannot be credited against Income tax, it can be carried forward as a credit for the following ten years.

Specific consumer goods are taxable with **excise tax** at different rates and with various reporting and payment requirements. It is usually levied on importer or manufacturer when the product is sold.

Value Added Tax general rate is 21% on goods and services.

In certain provinces, public or private documents or transactions requiring formal execution are liable to **stamp tax**, including among others notaries' deeds.

The main **provincial tax** is based on gross sales, with a general rate ranging from 0% to 5% of the gross revenues from the sale of goods, services and other specific activities.

The main **municipal taxes** includes Inspection, Security and Hygienic charges levied on companies and charges for street lighting, garbage removal and cleaning, levied on the assessed value of all real estate property.

Are there tax treaties to avoid the double taxation?

Argentina has signed international treaties to avoid double taxation with the following countries:

- Australia
- Belgium
- Brazil
- Chile
- Finland
- Germany
- The Netherlands
- Spain
- United Kingdom
- Austria
- Bolivia
- Canada
- Denmark
- France
- Italy
- Norway
- Sweden

What is the applicable tax system for residents?

Income tax for residents adopts the principle of world-wide income as the basis of assessment. All individuals are presumed to be resident if they live in the country for a period of more than six months in any fiscal year, being these successive or not. Income tax is levied on taxable income less allowed deductions. Progressive rates are levied on the net income from each of four specific categories of income.

Under the **Personal Assets Tax** Law, assets of individuals living in Argentina, exceeding Pesos 305,000 (some USD 79,800 as of July 2009) are liable to a tax called "Impuesto sobre los bienes personales", at different rates starting with 0.5% up to 1.25%. An annual return must be filed, including properties held abroad. Valuation criteria for assets are similar to those provided for Income Tax purposes.

What is the applicable tax system for the non-residents?

Those living in Argentina on a temporary basis and keeping a permanent residence abroad are considered non-residents and are subject to an income tax rate of 35%. Tax should be withheld in full by the local payer upon Argentine source income over personal work such as salaries, fees or any other kind of payment. Non-residents are entitled to deduct from gross income, optionally, 35% thereof or duly documented expenses incurred to obtain and keep taxable income. Those living on a temporary basis and keeping a permanent residence abroad are subject to 35% flat rate after deducting expenses

Withheld in full by the local payer upon Argentine source income over personal work such as salaries, fees or any other kind of payment.

Personal Assets Tax Law, determines that assets, except for stocks and land without improvements, of non resident are liable to the "Impuesto sobre los Bienes Personales",

at the rate of 1.25%. Stocks belonging to companies domiciled in a tax heaven country the rate applicable is 2.5%.

How is the employment system?

Either party is allowed to terminate the relationship without cause or need to give notice. Indemnification rights are not applicable. There is a **legal trial period** of three months.

Parties are to serve notice on each other prior to the termination of the contract, in order to advise that the contract is to be terminated on a given date. **Unjustified dismissal:** Gives the employee right to indemnity for dismissal without cause, plus damages.

Annual Complementary Salary is a **bonus** paid half yearly and is equal to 50% of the highest monthly salary in the previous six months

All employees are entitled to an annual period of paid **vacations** that should be taken between October 1 of each year and April 30 of the following year, the length of which depends on years of service.

How is the social security regime?

Both parties have to contribute to the retirement system and the health care system. Employees pay 15.5% of gross salary. Employers pay between 23% and 27% depending on the activity and the age of the employee.

Independent workers have to contribute to the retirement system with an amount related to their estimated income and the activities performed. The monthly average contribution is around Pesos 250 (some USD 65 as of August 2009).

Companies' board members are compulsory affiliated to the retirement system for independent workers.

Are there any special requirements for foreign nationals?

Foreign nationals have no restrictions, providing they have a certificate of permanent or temporary residence issued by the national immigration authorities. It is necessary to comply with the contributions due to the national social security system.

Is the per diem paid to employees or managing directors subject to taxes?

As long there is an invoice in the name of the company, following the tax formalities, supporting the expense (car rental, restaurant and hotel bills, etc.) per diem it is not subject to income tax.

Nevertheless if the issue is relocating personnel, the housing expense, as long the contract is between the company and the proprietor, it is not considered as part of the salary/fee, and not subject to tax.

Tuition and private health system are considered as part of the salary/fee, and therefore subject to tax.

Is a non resident managing director subject to income tax?

Non residents may have income from other sources and not be taxed for it in Argentina, if this income is not related with businesses in Argentina.

Is a non resident managing director subject to Social security payments?

Managing board director of a company in Argentina is exempt from Social security payments. The company does not need to pay for him the social costs %23. This privilege is due to the fact that managing director has legal responsibility to the company.

The purpose of this section is to provide an outline on business conditions in Argentina as of August 2009. Please take into account that it indicates broad basis on which to proceed and it is primarily intended for the use of the clients, and staff of the Firm of Papantos, Parrella & Asociados. Be aware that parts of this section may become outdated. Please confirm its continuing applicability with our office and obtain sufficiently detailed advice for all specific queries.