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Argentina – New Foreign Currency Restrictions Imposed

by KPMG, Buenos Aires,
(KPMG in Argentina is a KPMG International member firm)

On July 5, 2012, in a move that may complicate assignments of foreigners to Argentina, Argentina's Central Bank issued a new rule that prohibits individuals and companies from purchasing foreign currency to accumulate (or hoard) funds abroad or to acquire assets abroad.

This new rule may have a significant impact for those employees that collect full compensation in Argentina given that from now on their savings must be kept in the country in Argentine pesos. Similarly, individuals will be affected in cases where part of their compensation was paid abroad with funds that the employer accumulated abroad on a regular basis.

This new rule will also have an impact on certain employers' equity-based incentive plans. Indeed, in the case of certain stock options, it will mean that those options will need to use a cashless exercise facility.

The Rule

Communication "A" 5318, issued by the Argentine Central Bank, establishes the new rule by suspending the provisions of paragraph 4.2. of the Annex to Communication "A" 5236. This had allowed legal entities and individuals to purchase foreign currency for the following purposes:

- Foreign investments in real estate.
- Loans granted to nonresidents.
- Foreign direct investments made by residents.
- Foreign portfolio investments made by individuals.
- Other foreign investments made by residents.
- Foreign portfolio investments made by legal entities.
- Purchase of foreign currency for savings in the country.
- Purchase of travelers checks.

Under the provisions of the new Communication, access to the foreign exchange market is limited to certain situations, such as:

- Transfers to pay for services rendered by nonresidents to residents, subject to proper documentation supporting the bona fide nature of the transaction/service rendered by the nonresident to the resident and the amount to be remitted abroad.

- Payment for trips made by individuals and their dependents, and the directors and employees of legal entities, in quantities considered to be "reasonable" based on the destination and days of stay abroad, provided that certain additional requirements are met (e.g., validation of the funds to be used with the Argentine tax authorities).
- Payment for other services (e.g., information and IT services, royalties, trademarks and patents, copyrights, etc.) after mandatory registration of the agreements, effective as of the date of access to the foreign exchange market, and the acquisition of authorization from the Argentine Central Bank where amounts greater than USD 100,000 are involved.
- The sale of foreign currency to nonresidents for tourism or travel purposes (without the Argentine Central Bank's prior authorization necessary), provided the following requirements are met:
 - Prior settlement of the foreign currency transaction through the foreign exchange market is evidenced by means of the proper supporting documentation; and
 - A cap of USD 5,000 per person and per period of stay.
- Payment for rentals or leases of real property located in the country and owned by nonresidents.
- Payment of family allowances, pension, and retirement payments, study grants, and payments due to court rulings.

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For further information or assistance, please contact your local IES professional or Adriana Laurino (tel. +54 11 4316 5784 or e-mail: alaurino@kpmg.com.ar) with the KPMG International member firm in Argentina.

The information contained in this newsletter was submitted by the KPMG International member firm in Argentina. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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