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Argentina – New Rules on Taxing Stock Sales, Tax Provisions for Low-Income Workers

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flash International Executive Alert

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In this *Flash International Executive Alert* we report on some recent tax developments in Argentina that may affect individuals – including those on international assignment – and their multinational employers.

Legislation to Tax the Transfer of Shares and Dividends

Multinational corporations with Argentine subsidiaries must quickly assess and take possible steps to address the potential impact of provisions in a tax reform law¹ that seeks to eliminate certain tax exemptions for purchases and sales of stocks by foreign investors. The bill passed the final hurdle in Argentina's Senate on September 12 and became law. The law introduces measures such as a 15-percent tax on capital gains derived from the disposition of unlisted securities (such as shares, bonds, and other instruments, etc.) and a 10-percent tax on dividends and profit distributions.

A summary of main aspects of the tax measures in this legislation is provided below.²

KPMG Note

The new taxes may present a considerable challenge for taxpayers with relevant investments and may make investments in Argentina more costly for foreign investors. The changes become effective immediately from the date of publication in the official gazette (September 23, 2013).

Tax on Capital Gains

Under the prior rules, resident and nonresident individuals who sell or dispose of Argentine shares are not subject to Argentine income tax. Now that the legislation has been enacted:

- Capital gains derived from the sale of shares, stocks, bonds, and other securities that are *unlisted* would be subject to income tax at a 15-percent rate for individuals resident in the country and nonresident corporations. According to the wording of the law, the 15-percent rate will not be applicable to nonresident individuals. They will be taxed at an effective 31.5-percent tax rate.
- Capital gains derived from the sale of shares, stocks, bonds, and other securities that are *listed* would be subject to income tax at a 15-percent rate for nonresident entities (resident individuals remain as exempt). According to the wording of the law, the 15-percent rate will not be applicable to nonresident individuals. They will be taxed at an effective 31.5-percent tax rate.

- Taxpayers could elect to be taxed on the gross sales price. In such situations, 90 percent of the gross sales price would be deemed to be the amount of capital gain that would be subject to the 15-percent tax — effectively, a 13.5-percent tax on the gross sales price (applicable to nonresident corporations).

Tax on Dividends and Profit Distributions

The new law provides that dividends and profit distributions are subject to a new tax on such distributions, at a rate of 10 percent.

The dividend distribution tax is in addition to the existing 35-percent "equalization" tax that applies when the distribution is made from earnings of the distributing entity and has not previously been subject to corporate income tax (i.e., so that the earnings are taxed in Argentina).

Under the current integrated tax rule, dividend and profit distributions from earnings that have previously been taxed are generally not subject to income tax. In other words, if the earnings have been subject to a corporate level tax at a 35-percent rate, a dividend distribution is not subject to any additional income tax withholding. However dividends paid to either residents or nonresidents from book earnings that exceed previously taxed earnings are subject to an "equalization tax" at a rate of 35 percent, thereby providing that those earnings are subject to tax at least once in Argentina.

KPMG Note

Given that the potential impact of this legislation may be significant, multinationals and individuals with significant investments in Argentina immediately need to consider the effects of these measures on their business transactions, compliance, and tax liability.

New Decree Cuts Taxes for Workers

Executive Branch Decree No. 1242/2013 modifies the taxation of low-income workers, with increases to the basic and family allowances.³ The Decree was published in Argentina's Official Gazette on August 28, 2013, and took effect on September 1, 2013. The changes should exempt approximately 1.5 million workers from income tax.

The main changes are as follows:

- Workers with gross monthly income between the months of January and August 2013 of up to \$15,000 (Argentine pesos) will not be subject to income tax. (Until now, the income tax floor was set to \$8,360 a month for individual workers, and \$11,563 a month for couples with children.) (All figures are Argentine pesos unless specifically stated otherwise.)
- The non-taxable threshold from September 1 rises 20 percent to \$10,032 per month for single taxpayers and \$13,875 for families with children for workers with monthly gross income of between \$15,000 and \$25,000 between January 2013 and August 2013. (The increase is in the order of 30 percent for workers in Patagonia.) Related allowances (personal allowance, family allowance, etc.) also increased by 20 percent
- For workers with gross monthly income exceeding \$25,000, the tax rules remain the same.

KPMG Note

This measure should have almost no impact on international assignees, whose incomes tend to be higher than the upper \$25,000 threshold under the new rules.

Footnotes:

1 Ley para Gravar la Transferencia de Acciones y la Obtención de Dividendos (Ley 26.893) and the implementing decree (Decreto 1472/2013) Promúlgase la Ley Nº 26.893) were published in Argentina's official gazette, *Boletín Oficial de la Republica Argentina*, 23 de septiembre de 2013. Go to (in Spanish): <http://www.boletinoficial.gov.ar/Inicio/Index.castle> .

2 For an earlier report on this development, see as "[Argentina - Non-resident Capital Gains Tax: Limited Time to Act](#)" in KPMG LLP's *TaxNewsFlash-Americas* (September 5, 2013), a publication of KPMG LLP (U.S.).

3 See the August 27, 2013 press release from the President's office (in Spanish) at: <http://www.prensa.argentina.ar/2013/08/27/43591-a-partir-del-1-de-setiembre-ya-no-pagaran-impuesto-a-las-ganancias-los-trabajadores-que-cobren-hasta-15-mil-pesos.php> .

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ARS 1 = EUR 0.126

ARS 1 = USD 0.171

ARS 1 = GBP 0.0107

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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