



Grounds for the Reconstruction of the Argentine Economy. State Reform Bill, Decree 72/23 and Reforms to the Foreign Trade and Exchange Regime.



In the last few days, as part of the state reform agenda and the project of deregulation of the economy promoted by the new Argentine administration, decrees and regulations have been issued that make important changes in the way of contracting within the private sector and the Foreign Exchange and Trade Regime. These changes are already in effect or will be before December 31, 2023. Likewise, as part of this reform program, the Executive Branch called Congress to extraordinary sessions with an agenda to discuss a State Reform Bill, which details are not yet public but it is known to include the topics indicated below.

This bill needs the approval of both houses of Congress to become law.

State Reform Bill Project

Please refer below for some of the important items within this law project:

- **Tax Moratorium.** This project establishes a tax, customs and social security obligations program which provides for the waiver of fines
- **Tax Amnesty:** It reaches a wide variety entities and individuals that can participate and holdings and assets that can be declared under this regime. As part of this voluntary disclosure of undeclared assets, a special tax called Special Regularization Tax will be established.
- **Export Duties:** The tax rate for all export duties will be increased and unified at a 15% for all exported goods, except those for which exports duties are higher (e.g. soybean, other commodities and some agro-industrial products).
- **Consumer Tax Transparency Regime:** The invoice or equivalent document issued in accordance the Value Added Tax Law must specify the tax levied on the sale, lease or service rendered. As well, invoices, receipts or equivalent documents issued to consumers must contain sufficient information on the national, provincial and municipal taxes that have an incidence on the formation of the sale price.

Decree 70/23. Grounds for the reconstruction of the Argentine economy.

By way of this Decree, many laws and regimes were modified or abolished, with the spirit of removing arbitrary regulations that hinder the normal development of the economy, among which we highlight the important changes that were made to the contractual relationship between private parties and the removal of the restrictions for import and export.

With the modification of articles 958 and 960 of the Argentina Civil and Commercial Code (ACC), the principle of contractual freedom takes a more central role, leaving the provisions of the ACC to be of a supplementary nature and only imperative when specified by law. As well, the power of judges to modify *ex officio* the terms of a contract are limited.

As well, article 765 of the AAC is modified in a way that payments stipulated in a currency other the official currency (e.g., any currency different to the Argentine peso) must be paid in that other currency. As well, judges faculties to stipulate another way of payment are eliminated. In the previous version of this article, for example, in certain circumstances, whoever had a debt in US dollars could extinguish it by delivering the equivalent in Argentine pesos. In the new rule, whoever promised to deliver US dollars must deliver US dollars.

Lastly, regarding customs modifications, by way of this decree, restrictions for import and export were eliminate as well as it was set the basis to eliminate the SIRA/SIRASE (mandatory import licenses). SIRA/SIRASE implied an obstacle to the imports of goods and services that it is expected will not exist under the new rules. Separate regulations already eliminate the SIRA/SIRASE system. However, the possibility of payment, through the official exchange market, for obligations derived from foreign trade is not fully regularized, as we explain below.

The decree will become effective eight days after its publication (12/21/2023), from that moment on it will be effective as a law unless the two houses of Congress repeal it.

Please find the full text of the Decree (in Spanish) in this link: [BOLETIN OFICIAL REPUBLICA ARGENTINA - BASES PARA LA RECONSTRUCCIÓN DE LA ECONOMÍA ARGENTINA - Decreto 70/2023](#)

Exchange Regime

Communication “A” 7917

This Communication establishes, among other issues, new rules for the payment of imports of goods and services as from 12/13/2023.

Different terms are established for the access to the Foreign Exchange Market for the payment of imports of goods, depending on their tariff classification. Although there are specific rules, most of the goods may be paid within the following terms, counted as from the customs clearance: 25% within 30 calendar days, another 25% within 60 calendar days, another 25% within 90 calendar days and the remaining 25% within 120 days from the customs entry registration. There are certain exceptions to this regime.

With respect to the payment of services rendered by non-residents, in general terms, services rendered by non-related entities may be paid after 30 days, while services rendered by related entities may be paid after 180 days, both counted from the date of rendering or accrual of the service.

Commercial debts arising from imports of goods that cleared customs until 12.12.23 (inclusive) or services received from abroad until the same date cannot be paid through the official exchange market. The restrictions by which those who make payments through the official exchange market cannot carry out certain financial transactions (e.g. MEP, CCL, etc.), for a certain prohibition period, continue in place.

Please find the full text of the Communication (in Spanish) in this link: [Aplicación de "Envío de Comunicaciones y Comunicados" \(bcra.gob.ar\)](#)

Bonds for the Reconstruction of a Free Argentina (BOPREAL) Decree 72/23

By means of this decree, the Central Bank issues bonds or securities (called BOPREAL), denominated in US dollars that may be subscribed by delivering pesos (converted at the official rate) by those legal entities that have accumulated stock of debts for imports of goods with customs entry registration and/or import of services effectively rendered, until December 12, 2023.

The initial subscribers of the bonds may use the US dollars received from their amortization to make payments abroad. They can also deliver the bonds in payment of their obligations to the foreign creditor or carry out certain financial transactions with them (e.g. CCL) without affecting their access to the official exchange market.

The BOPREALs may also be given in payment for the cancellation of tax and customs obligations, plus interest, fines and accessories, whose application, collection and control are in charge of the AFIP.

The subscription in Pesos of this type of bond will be taxed with the PAIS Tax.

This decree is in force and has been in effect since its publication. Since it is a delegated decree, it would cease to be law only if both houses of Congress repeal it, same congressional process as Decree 70/23.

Please find the full text of the Decree (in Spanish) in this link: [Decreto 72/2023 | Argentina.gob.ar](https://www.argentina.gob.ar/decree/72-2023)

General Resolution 5468/2023

This General Resolution amends General Resolution No. 4,659, which regulates the form, terms, requirements and other conditions for the declaration and payment of the Tax PAIS, both by the collecting agent and the taxpayer.

Regarding the payment on account of the PAIS tax, it establishes a devolution process for the cases in which the tax would not be due. In particular, for the case of certain subscriptions of BOPREAL.

Please find the full text of the Resolution (in Spanish) in this link: [BOLETIN OFICIAL REPUBLICA ARGENTINA - ADMINISTRACIÓN FEDERAL DE INGRESOS PÚBLICOS - Resolución General 5468/2023](https://www.boletinderepublica.gob.ar/boletines/BOLETIN%20OFICIAL%20REPUBLICA%20ARGENTINA%20-%20ADMINISTRACION%20FEDERAL%20DE%20INGRESOS%20PUBLICOS%20-%20Resolucion%20General%205468/2023)

General Resolution 5469/2023

This General Resolution establishes that Series 1A, 1B and 1C of the BOPREAL issued by the Central Bank, can be creditable against federal tax and customs obligations, plus interest, fines and accessories. The computation of the aforementioned bonds shall be made as indicated below:

SERIE	Maximum Value	Term
1A	USD 1.000.000.000.-	from April 30, 2025 to April 29, 2026, both dates inclusive
1B	USD 1.000.000.000.-	from April 30, 2026 to April 29, 2027, both dates inclusive
1C	USD 1.500.000.000.-	from April 30, 2027 to October 31, 2027, both dates inclusive

The resolution establishes a favorable exchange rate applicable to determine the value of the bond to be applied to these payments.

Double Tax Agreements

As the Executive branch has called Congress for extraordinary sessions, within the subjects to be treated by Congress are the following Double Tax Agreements:

- 1) Double Tax Agreement signed between Argentina and Japan regarding taxes on income and the prevention of tax evasion and avoidance;
- 2) Double Tax Agreement signed between Argentina and Luxemburg regarding taxes on income and capital and the prevention of tax evasion and avoidance;
- 3) Double Tax Agreement signed between Argentina and China regarding taxes on income and patrimony and the prevention of tax evasion and avoidance;
- 4) Double Tax Agreement signed between Argentina and Turkey regarding taxes on income and the prevention of tax evasion and avoidance;

Please find the full text of the Resolution (in Spanish) in this link: [BOLETIN OFICIAL REPUBLICA ARGENTINA - ADMINISTRACIÓN FEDERAL DE INGRESOS PÚBLICOS - Resolución General 5469/2023](#)