Argentina may impose tax on capital gains and dividends

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In brief

The Argentine government has sent to the Congress a draft bill that creates a 15% tax on capital gains arising from the transfer of unlisted stock and quotas. The bill also includes a 10% tax on dividend distributions.

The same bill repeals the current exemption available for foreign beneficiaries on income derived from Argentine share transfers. Thus, foreign beneficiaries would become subject to a 13.5% effective income tax withholding rate on gross proceeds or, alternatively, a 15% income tax on the actual capital gain if the seller's tax cost basis can be duly documented for Argentine tax purposes.

Both Income Tax law amendments seek to mitigate an expected decrease in tax revenues due to an announced income tax cut for workers. The announced cut already has the approval of Congress's Lower House.

In detail

The Executive Branch's bill was filed with Congress last week. The most relevant proposed measures include:

- Gains derived from the transfer of depreciable movable goods, shares (including quotas in an Argentine Sociedads de Responsabilidad Limitada), bonds and other securities would be subject to an income tax of 15% regardless of the beneficiary's nature and residence. The new law would include an exemption for assets transferred on listed Argentine stock exchanges, but the exemption would be available only to Argentine individuals and undivided estates.
- Regarding non-resident taxpayers, the bill would repeal the capital gains tax exemption established by Section 78 of Decree No. 2,284/1991 (covering gains derived from the transfer of shares, bonds and other securities). Based on the above, transfer of Argentine stock/quotas by non-residents would become subject to tax. Although subject to additional Congressional amendments, the tax would be calculated by applying the 15% rate to a gross presumed margin of 90% (the effective tax would then equal 13.5% of the transfer value) or 15% on the actual gain. The bill does not cover indirect transfers. Although the bill does not establish a procedure for transfers involving two non-resident parties; the bill states that the transferee is liable to pay the tax that applies to the transferor. Therefore, we expect additional regulations will provide further guidance.
- Under the bill, Argentine entities' dividend distributions would be

subject to a 10% income tax. Under certain circumstances, the new 10% income tax could apply simultaneously with the so-called Argentine equalization tax (the existing 35% withholding on distributions that exceed the accumulated tax earnings of the Argentine entity making the distribution). In principle, foreign beneficiaries would pay this tax through an income tax withholding mechanism to be applied by the distributing company. The Argentine Congress may clarify this and other provisions prior to enactment.

The bill would apply to taxable events occurring after the law's publication in the Official Gazette.

The takeaway

Final wording of the changes must be monitored to identify potential additional implications for multinational corporations (MNCs) operating in Argentina that would also be affected in the case of intra-group restructuring since no exceptions are envisioned so far for the new capital gains tax. US MNCs with operations in Argentina may want to revisit their holding structures and consider any restructurings in light of the proposed changes.

Let's talk

To discuss how these issues might affect your business, please contact:

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