



Doing Business in
Argentina



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Preface

This guide has been prepared by Baker Tilly Argentina, an independent member of Baker Tilly International. It is designed to provide information on a number of subjects important to those considering investing or doing business in Argentina.

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This guide is one of a series of country profiles compiled for use by Baker Tilly International member firms' clients and professional staff. Copies may be downloaded from www.bakertillyinternational.com.

Doing Business in Argentina has been designed for the information of readers. Whilst every effort has been made to ensure accuracy, information contained in this guide may not be comprehensive and recipients should not act upon it without seeking professional advice. Facts and figures as presented are correct at the time of writing.

Up-to-date advice and general assistance on Argentine matters can be obtained from Baker Tilly Argentina; contact details can be found at the end of this guide.

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1 Fact Sheet

Geography

Location	Southern South America, bordering the South Atlantic Ocean, between Chile and Uruguay
Area	2,780,400km ²
Land boundaries	Bolivia, Brazil, Chile, Paraguay and Uruguay
Climate	Mostly temperate; arid in the southeast, subantarctic in the south-west
Terrain	Varied, ranging from fertile plains in the central region to mountains in the west and a semi-arid zone in the south
Time zone	GMT -3

People

Population	41 million, of which 13 million live in the City of Buenos Aires and the greater Buenos Aires area
Ethnic groups	White (97%), mestizo (mixed white and Amerindian ancestry), Amerindian and other non-white groups (3%)
Religion	Nominally Roman Catholic 92% (less than 20% practising), Protestant 2%, Jewish 2%, other 4%
Language	Spanish (official language)

Government

Country name	The Republic of Argentina
Government type	Constitutional federal republic
Capital	Buenos Aires
Administrative divisions	The Republic of Argentina comprises 24 provinces and the federal capital – Buenos Aires Autonomous City. Executive power is exercised by the President, who is elected by direct popular vote for a four-year term and is entitled to run for an additional consecutive term. Legislative power is exercised by the Senate and by the House of Representatives. The Senate comprises three senators from each province and the City of Buenos Aires. The number of representatives for each province is proportional to its population. The judicial system consists of the Supreme Court (nine judges) and federal courts. Each province enacts its own constitution, elects its own governor and legislators and appoints its own judges to the provincial courts

Economy

GDP – per capita	US\$14,700 (2010 est.)
GDP – real growth rate	7.5% (2010 est.)
Labour force	16.5 million
Unemployment	7.8% (2010 est.)
Currency (code)	Argentine peso (ARS)

2 Business Entities and Accounting

2.1 Forms of Business Enterprise

Business may be carried out in Argentina through incorporated companies, branches of foreign entities, partnerships, or by individuals as sole traders.

The principal entities with limited liability are:

- Stock company (*Sociedad Anónima*)
- Limited liability company LLC (*Sociedad de Responsabilidad Limitada*)
- Branch of a foreign company
- Limited partnership (*Sociedad en Comandita*)
- Joint venture.

The most common forms used by foreign investors are stock companies or LLCs. However, foreign investors are permitted to use other forms to organise their activities.

Foreign investors who intend to set up a legal entity in Argentina must be registered with the Public Registry of Commerce (*Registro Público de Comercio*). Registration procedures are simple and consist of filing a copy of the articles of incorporation (bye-laws) and a certificate issued by the authority of the country of origin stating that the company is registered and in good legal standing. It is also necessary to include minutes of a board meeting resolving to register a branch in Argentina, establishing a domicile in the country and appointing its legal representative.

Documents must be certified by a notary. If the country of origin is part of The Hague Convention on International Documentation, legalisation by the Argentine Consulate is not necessary.

Documents issued in a language other than Spanish must be translated by an Argentine public translator.

Companies are formed by incorporation and registration under the appropriate legal bye-laws, which contain detailed provisions concerning the company's objects, duration, capital, management, administration and liquidation.

According to the Trade Corporations Act (*Ley de Sociedades Comerciales*), at least two parties (individuals and/or companies) are required to constitute a legal business entity.

2.1.1 Stock company (*Sociedad Anónima*)

A stock company is equivalent in general terms to a joint stock company in the US and many other countries. It is the only company type permitted to seek a listing on the stock exchange.

A stock company must be established via a public deed. Minimum share capital of ARS12,000 is required, of which at least 25% must be paid in cash at the time of incorporation and deposited in the Banco Nación Argentina until establishment procedures are complete. Capital contributions other than in cash are permitted, subject to specific formalities.

Shares must be registered and cannot be endorsed. The transfer of shares may be subject to restrictions established through the bye-laws, but can never be prohibited.

Stock companies are managed by a board of directors elected by shareholders. The duration of their term must be established through the bye-laws and may not exceed three years. They may be re-elected. There is no restriction on the directors' nationalities, but the majority must be Argentine residents.

The number of board members is determined by the shareholders' meeting in agreement with maximum and minimum limits established through the bye-laws. There may be only one director, except in those entities subject to permanent government control (including those with capital exceeding ARS10m). In these cases, a minimum of three directors must be appointed.

Every director must provide a guarantee for the benefit of the company. As from 2005, the amount of such guarantee must be the same for each director, must be no less than ARS10,000 and may not be provided through the direct deposit of funds.

The President (chairman of the board) is the legal representative of the stock company; joint representation, together with other directors, may be provided for by the bye-laws.

The members of the board are appointed by the shareholders' meeting. When the company dispenses with the statutory auditing committee, substitute directors must be designated. The number of substitutes will depend on the statute of each company. As the statutory auditor and external auditor functions are compatible, the statutory auditor may fulfil this role. If, however, the stock company does not have a statutory auditor, the shareholders' meeting must appoint alternative members in order to cover possible vacancies.

Stock companies with capital exceeding ARS10m must appoint a statutory auditor, who must be either an Argentine resident lawyer or accountant. Stock companies with capital below ARS10m do not need to appoint a statutory auditor provided that this is established in the bye-laws.

2.1.2 Limited liability company (*Sociedad de Responsabilidad Limitada*)

A limited liability company (LLC) or private limited company is similar to a stock company, with the following exceptions:

- The number of members may not exceed 50
- A stock company may not be a member
- The deed of incorporation must be amended if members change
- Formation procedures are easier than for a stock company
- More flexibility is permitted in the deed of incorporation.

There are no conditions regarding members' nationality or residence. The deed of incorporation may establish some restrictions on the transfer of shares, but it may not prohibit them.

LLCs are managed by one or more persons – either members or individuals appointed by the members.

The incorporation deed establishes the basis upon which decisions concerning all matters outside the normal course of business must be agreed.

2.1.3 Branch of a foreign company

A foreign investor may carry out operations in Argentina through a branch, which is treated as an independent entity. For legal and tax purposes, branches are treated in nearly all respects as companies in their own right.

Certain additional requirements and procedures must be complied with in order to register a branch of a foreign company and a foreign investor.

2.2 Accounting and Audit Requirements

2.2.1 Books and records

The Trade Corporations Act sets basic requirements regarding accounting records and the financial statements of business entities.

All commercial entities must maintain official accounting records approved by the Supervisory Board of Companies (*Inspección General de Justicia or Registro Público de Comercio*). Transactions must be entered chronologically and in such a way that each may be identified.

Accounting and company books must be bound and numbered and presented before the Justice General Inspection (IGJ) for them to be identified. The IGJ is liable for the functions allocated by the legislation appropriate to the Public Registry of Commerce.

Regulatory bodies set rules in connection with accounting records and the presentation of financial statements for regulated entities, such as banks, insurance companies and companies with shares listed on the stock exchange.

Accounting principles are set by the Professional Council of Economic Sciences (*Consejo Profesional de Ciencias Económicas*), of which all public accountants practising in Argentina are members.

2.2.2 Financial reporting

All companies must prepare annual financial statements which must be audited by an independent public accountant. In certain cases, financial statements must be filed with the regulatory and tax authorities, together with the auditor's report.

The National Securities Commission requires companies with shares listed on the stock exchange to present quarterly financial statements.

Accounting records and financial statements must be written in Spanish and expressed in ARS.

Dividends are payable provided that they are made out of realised and net income, as per the annual financial statements approved in general meeting.

2.2.3 Contents of financial statements

Annual financial statements must include:

- A report from the board of directors
- A balance sheet
- An income statement
- An analysis of expenses
- A statement of changes in shareholders' equity
- A statement of cash flow.

Financial statements must include comparative figures for the immediately preceding period.

2.2.4 Group financial statements

Consolidated financial statements are required if a company holds more than 50% of the voting rights of another company or when it controls another company jointly with a third party.

In the event that a company holding fewer than 50% of the voting rights has control as a result of written agreements with other minority shareholders, it must consolidate its financial statements with those of the controlled company by means of the proportional consolidation method.

Consolidated financial statements must disclose the parent company's consolidation policy. Inter-company transactions and balances should be eliminated in the consolidation process and any minority interest should be stated separately, both in the consolidated income statement and the consolidated balance sheet.

2.2.5 Accounting principles

Generally accepted accounting principles (GAAP) in Argentina are similar to US GAAP and to International Financial Reporting Standards (IFRS). The main exception relates to inventories, where the referred accounting frameworks are based on acquisition cost and the Argentine principles promote the application of current values and original cost adjusted by inflation as an alternative.

Generally accepted audit principles are compatible with International Statements on Auditing (ISAs).

3 Finance and Investment

3.1 Requirements for Doing Business and Trade

Any individual aged 21 years or older is qualified to conduct business provided that they have not been declared legally incapable or banned from managing their assets.

Individuals between 18 and 21 years of age may also conduct business if they are legally authorised to do so or if they are married.

Individuals may enter into associations to carry on business or for any other lawful purpose provided they comply with the rules and regulations concerning the business in which they are engaged.

3.2 Exchange Controls and Cross-border Currency Transfers

In 2002 the Argentine government reinstated exchange controls, mainly affecting the inflow and outflow of funds to and from Argentina.

Argentine and non-Argentine residents can only transfer, purchase and sell foreign currency in the single foreign exchange market (the FX Market) in transactions generally authorised by foreign exchange regulations.

There are no restrictions on cross-border transfers for foreign direct investments, repatriations thereof and payment of dividends, provided certain requirements are met.

Argentine residents must transfer to Argentina and settle in pesos the proceeds of foreign financings granted by foreign residents.

Unless qualifying for an exemption, foreign financings are subject to a 365 day mandatory deposit in US dollars with a local financial entity equal to 30% of the financing proceeds sold in the FX Market (the mandatory deposit). The principal can only be repaid 365 days after the proceeds have been sold in the FX Market (the mandatory waiting period), unless a qualifying exemption applies (eg international trade financings).

Subject to the above and to compliance with certain other formal requirements, principal and interest payments of foreign financings can be paid without prior Central Bank approval.

Portfolio investments of non-Argentine residents are subject to a mandatory deposit and mandatory waiting period (with certain exemptions). Repatriation of portfolio investments in excess of an aggregate amount of US\$500,000 per calendar month requires prior Central Bank approval.

The execution of and cross-border transfers under derivative transactions require prior approval from the Central Bank unless they qualify for a specific exemption.

3.3 Import and Export Restrictions

There are no restrictions on the import or export of goods; nevertheless some products are subject to a fixed quota. Imports are subject to prior authorisation.

The Central Bank of the Argentine Republic is responsible for regulating the foreign currency outflows from and inflows to the country. Such operations have minimum and maximum terms depending on the operation involved.

Export operations are taxed at a rate ranging from 0% to 35% of the FOB value. Tax incentives up to 6% may be granted on goods with a high value added. In turn, tax is levied on imports at a rate between 0% and 26% depending on the type of good.

Diverse tax benefits are applicable on operations among Mercosur member countries, ie Argentina, Brazil, Paraguay and Uruguay.

3.4 Banking and Sources of Finance

The Central Bank of the Argentine Republic is the federal regulatory authority that controls and monitors the supply of money. Under the supervision of the Ministry of the Economy, its main functions are to:

- Regulate monetary circulation
- Issue currency
- Manage the guarantee for deposits and fiduciary funds
- Act as a clearing house
- Act as superintendent of the banking system
- Act as financial agent of the Federal Government.

Historically, the Argentine banking system has adhered to Basel regulations. However, due to the current crisis affecting the financial sector, these rules are now not always fulfilled although they remain in force; enforcement will resume once the crisis ends.

Argentina's financial centre is located in the City of Buenos Aires. The majority of the country's banks are privately owned and are either commercial, co-operative, investment, financial entities, or mortgage and loan institutions.

Commercial banks handle most of the country's banking business. They grant short, medium and long-term loans, provide banking services in connection with international trade and deal with foreign exchange, sending and receiving remittances from abroad and handling other capital market transactions.

Finance companies offer a variety of services to investors, including portfolio management and brokerage for all classes of financial transactions in the capital markets.

The law requires confidentiality for banking transactions, except when information is requested by a judge in connection with a lawsuit or for investigations carried out by the tax authorities.

3.5 Foreign Investment Incentives

Foreign investors have the same rights and obligations as Argentine investors and access to the same incentive programmes.

Argentina has created several tools in order to promote investment, classified into three categories:

- General incentives: export incentives, tax exemption on imported capital goods, reduced VAT for capital goods, special import regime for large industrial investments, in-house customs, simplified import system and a temporary admission regime, accelerated depreciation for machinery, equipment, and infrastructure works, and refunds of VAT on goods destined for investment projects
- Sectorial incentives: particularly in the mining, forestry and tourism sectors
- Regional promotion: specific investment promotion regimes including exemption from state taxes such as, turnover tax, stamp tax and real state tax.

4 Employment Regulations and Social Security Contributions

4.1 Entry Visa and Work Permit Requirements

Labour affairs in Argentina are complex and foreign investors are recommended to seek specialist advice.

4.2 Social Security Contributions

4.2.1 Employer contributions

	Nominal Rates (%)
SIPA contribution	10.17
National Social Services Institute for Pensioners	0.89
National unemployment fund	1.5
Family subsidy fund	4.44
Health scheme	6.0
Sub-total	23.0
Insurance for labour risks ⁽¹⁾	–
Mandatory life insurance ⁽²⁾	–
Complementary annual salary (CAS) ⁽³⁾	–

Notes

- ⁽¹⁾ The cost varies between insurance companies and takes into account the type of work performed by the worker.
- ⁽²⁾ ARS2.46 per employee, periodically adjusted by the Government.
- ⁽³⁾ A 13th mandatory salary, payable 50% on 30 June and 50% on 31 December. Employer contributions and employee contributions apply to CAS.

4.2.2 Employee contributions

	Employee Contributions (%)
Pension and retirement fund system	11.0
National Social Services Institute for Pensioners	3.0
National unemployment fund	–
Family subsidy fund	–
Health scheme	3.0
Sub-total	17.0
Labour union (2% + 0.5%) ⁽¹⁾	2.5
Total	19.5

Note

⁽¹⁾ Each labour union establishes a different rate. The rate of 2.5% is an example and relates to the trade labour union.

4.2.3 Fringe benefits

Fringe benefits granted to personnel, including accommodation, company car etc, must be considered, in principle, as remuneration and are liable to labour taxes.

5 Taxation

5.1 Income Tax

Entities based in Argentina and Argentine residents are subject to tax on their worldwide income.

Residents are defined as:

- Argentines and naturalised Argentines
- Foreigners with a permanent residence in Argentina, or those who have legally stayed in the country for 12 months and been absent for 90 or fewer days per year.

Foreign residents are taxed on their Argentine income, defined as income generated by assets located or used in Argentina and as the result of activities carried out in the country.

5.1.1 Company taxes

Rate: The applicable rate for both resident companies and branch offices of foreign companies is 35%.

Transfer pricing: There are specific regulations for price setting among related parties based on the principle of market normal price defined for operations among independent parties.

Foreign sourced profit: Credit is given for foreign tax effectively paid up to the amount of Argentine tax due as a consequence of the inclusion of foreign source profit within the taxable base of the Argentine company.

Losses: Trading losses incurred in a year can be offset against profits of the following five years. Losses on shares and similar instruments can only be offset against profits of the same nature. Foreign source losses can only be offset against foreign source profits.

5.1.2 Individual taxes

Income of individuals resident in Argentina, of Argentine and foreign source, is subject to income tax at a progressive rate ranging from 9% to 35%.

Foreign individuals staying in the country for work purposes for less than five years are subject to income tax only on Argentine income.

5.1.3 Withholding taxes

Argentine income paid to non-residents, either individuals or companies, is subject to a final withholding tax of 35%, calculated over presumed income. Presumed income can vary up to 90% of taxed income depending on the income source, eg in the case of income derived from a lease over property 21% will be withheld, being 35% of the presumed income of 60% of taxed income. The level of presumed income for each income source is prescribed in Article 93 of the Income Tax Law.

The following agreements to avoid international double taxation are currently in force: Sweden, Switzerland, Germany, Bolivia, France, Brazil, Italy, Chile, Spain, Canada, Finland, UK & Northern Ireland, Netherlands, Belgium, Norway, Australia, Russia and Denmark.

5.2 Minimum Assumed Income Tax (MAIT)

MAIT is calculated as 1% of the total assets of a corporation. The payment of MAIT can be considered payment on account of the income tax payable for the same period. In the event that the MAIT payable exceeds the income tax payable, the difference can be carried forward for ten periods, taking into account that it will be applicable only against income tax.

5.3 Value Added Tax (VAT)

VAT is applied on the sale of goods and the provision of services carried out in Argentina and goods and services imported into the country.

The general rate is 21%. The rate of 27% applies to certain services, such as communications, energy, natural gas and water; a reduced rate of 10.5% applies to certain items such as industrial equipment, computers, food (uncooked), interest on foreign loans provided by financial entities which fulfil certain requirements, and loans from local banks.

Payments are made monthly. For that purpose, fiscal credits deriving from purchases made during the previous month are deducted from fiscal debits deriving from sales of that month. Those involved in agricultural and farming businesses can pay annually, but must file returns monthly.

Exporters are entitled to VAT credit for goods purchased and services received for the manufacture of exported goods. Such credit can be applied to VAT liabilities generated by other taxed operations carried out by the exporter or may be refunded.

5.4 Other Taxes

Bank debit and credit tax and other operations: This tax is applied on credit and debit entries in bank accounts. The general rate is 1.2%.

Turnover tax: All Argentine provinces, as well as the Buenos Aires Autonomous City (jurisdictions), apply turnover tax to the gross income of any company that carries on commercial, industrial, agricultural, financial, or professional activity. Rates vary depending on the activity and each jurisdiction's law, but the average rate is around 3%.

Tax on personal assets: This tax is applied to the worldwide assets of individuals with an address in Argentina as of 31 December each calendar year. Applicable rates range from 0.5% to 1.25% depending on the asset value.

In respect of holdings of shares and similar instruments this tax is calculated and paid by the Argentine company; the applicable rate is 0.5%.

Custom duties: The average rate is 12% of the taxable value to which a further 0.5% of the taxable value must generally be added. Statistics rate is a further mandatory tax which is not available to be used as a tax credit. The level of statistics rate depends on the origin of the goods and nature of the product.

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Notes



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