

Tax measures and - COVID-19: Argentina

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ABSTRACT

The article gives an overview of the key fiscal measures, i.e. direct and indirect taxation, procedural and international tax aspects and post COVID tax measures, undertaken in Argentina to counteract the economic damages caused by the lockdown due to the worldwide coronavirus pandemic. The study also provides a high-level analysis of the macroeconomic effects of the COVID crisis based on different criteria as public debt, currency issues and economic growth.

KEYWORDS

Argentina – Tax – COVID-19

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I. Introduction

The unexpected global economic crisis caused by the coronavirus (COVID-19) has generated unprecedented measures around the world, which have had an impact not only on health, transport, supply, labour law, contractual relations, judicial activity, and, moreover, tax law. The Argentinian Government took, through the Ministry of Social Development, in the face of the Coronavirus emergency, a series of measures based on the decision of the World Health Organization (WHO) to declare the pandemic worldwide, which will be discussed below¹.

This article addresses at a high level the Argentinian key fiscal and tax administrative response to COVID-19 at national level as of September 2020. Section II gives a general overview of the impact of the pandemic in terms of economic and social measures for industries and population, the effects on unemployment and fiscal revenues due the general lockdown, and the system of subsidies for families and enterprises. Section III examines the measures taken in connection with direct taxation for individuals and corporations and special sectors of the economy directly affected by the COVID-19 emergency, i.e. the health system. Section IV explores the indirect tax measures introduced with the aim of supporting mainly the public sector and hospitals. Section V analyses the procedural tax aspects that could contribute to facilitate tax compliance in general. Section VI further scrutinizes the impact of the pandemic in certain international key tax aspects that could trigger unintended results as regards the jurisdiction to tax mainly due to the border closures. Section VII describes whether there are post-COVID-19 tax measures in the agenda. Section VIII draws some conclusions.

II. General overview

COVID-19 from a critical point of view and against the panic spread in the media did not have a great impact in Argentina in terms of casualties considering a death rate of 0.005%² in relation to the total country's population and of 2.6% in relation to the infected people. Moreover, approximately 97% of the COVID-19 cases successfully recovered³. In addition

¹ <<https://www.argentina.gob.ar/economia/medidas-economicas-COVID19>>; (last access on 11.12.2020).

² At the time of writing this article Argentina had circa 24,000 casualties over almost 45,000,000 inhabitants, see <<https://www.worldometers.info/coronavirus/country/argentina/>> (last access 21.09.2020).

³ 488,231 out of 501,284 people see <<https://www.worldometers.info/coronavirus/country/argentina/>> (last access 21.09.2020).

to that, when comparing the number of casualties caused by respiratory diseases in past years, it can be concluded that the virulence of COVID-19 is scarce⁴.

As a consequence of the pandemic declared by the WHO, the Argentinian Government decided to set up the so-called Programa de Aislamiento Social, Preventivo y Obligatorio (Social, Preventive and Compulsory Isolation Program) as an exceptional measure with the enactment of a decree of the Executive Power vested in the President of Argentina⁵. With the aim to protect public health against the spread of the coronavirus, it was established that all people who live or are temporarily in the Argentinian territory must remain in their homes, exclusively allowed to make minimal movements for essentials, e.g. cleaning supplies, medicine and food. Even tough at the beginning of the pandemic, people mostly agreed with the extremely restrictive movement measures⁶, over time people began to be less tolerant due to the effects of confinement from a social and economic point of view⁷. Based on official information from the Instituto Nacional de Estadísticas y Censos (National Institute of Statistics and Censuses, INDEC) and from the Argentine Integrated Pension System (SIPA), it was estimated that as a result of the crisis caused by the coronavirus pandemic, the unemployment rate would rise to 10.4% in the first quarter of the year to values close to 15,5% in the second quarter (April, May and June)⁸. This raise from 10,4% to 15,5% would have generated an increase in the absolute number of unemployment from 2,2 million to 3,3 million. The figures are projected for a total economically active population of 19 million people. This coincides with a study from the Observatory of Social Debt Argentina from the Universidad Católica Argentina (Argentine Catholic University, UCA) that signalizes that the coronavirus crisis generated one million of new unemployed with an unemployment rate of 15,5%⁹. As highlighted by the UCA, approximately 950,000

⁴ In 2017 64,869 people died out of a population of circa 45,376,763 of respiratory diseases what means a death rate of 0,014 % higher than the death rate of COVID-19 see <<https://www.argentina.gob.ar/salud/instituto-nacional-del-cancer/estadisticas/mortalidad>> (last access 21.09.2020).

⁵ National Decree 297/2020 published in the Official Gazette on 20/03/2020. The full text (in Spanish) is available at <https://www.boletinoficial.gob.ar/suplementos/2020031201NS.pdf>; see also <<https://www.argentina.gob.ar/sites/default/files/207.pdf>> (last access 21.09.2020).

⁶ See <http://wadmin.uca.edu.ar/public/ckeditor/Observatorio%20Deuda%20Social/Presentaciones/2020/2020_OBSERVATORIO_EDSA%20COVID19_ADHESION%20CIUDADANA-I.pdf>(last access 21.09.2020).

⁷ <http://wadmin.uca.edu.ar/public/ckeditor/Observatorio%20Deuda%20Social/Documentos/2020/2020_OBSERVATORIO_ODSACOV19_PRESENTACION-I.pdf> (on the SOCIAL IMPACT OF THE MANDATORY ISOLATION MEASURES DUE TO COVIDCOVID 19 IN THE metropolitan area of the city of Buenos Aires); <http://wadmin.uca.edu.ar/public/ckeditor/Observatorio%20Deuda%20Social/Presentaciones/2020/2020_OBSERVATORIO_EDSA%20COVID19_EMPOMBRECIMIENTO-II.pdf>(on impoverishment and social inequalities in times of pandemic); <http://wadmin.uca.edu.ar/public/ckeditor/Observatorio%20Deuda%20Social/Presentaciones/2020/2020_OBSERVATORIO_EDSA_COVID19_TRABAJO_III.pdf>(on the crisis on employment and fall on the labor income) (last access 21.09.2020).

⁸ <https://www.indec.gob.ar/uploads/informesdeprensa/mercado_trabajo_eph_1trim20AF03C1677F.pdf> (last access 21.09.2020).

⁹ <http://wadmin.uca.edu.ar/public/ckeditor/Observatorio%20Deuda%20Social/Presentaciones/2020/2020_OBSERVATORIO_EDSA_COVID19_TRABAJO_III.pdf; <https://www.infobae.com/economia/2020/08/11/segun-la-uca-la-crisis-del-coronavirus-genero-1-millon-de-nuevos-desempleados-con-una-tasa-de-desocupacion-del-155/>> (last access 21.09.2020)

workers lost their jobs during the coronavirus crisis. The UCA Social Debt Observatory also estimated that about a third of these workers (300,000) had a formal, e.g., salaried, or self-employed jobs, whereas the majority of those unemployed workers (more than 650,000) were informal workers, e.g., self-employed, non-professionals, casual workers, and unregistered salaried jobs in small and mid-size enterprises.

With the aim to diminish the negative economic effects of the crisis, the national Government launched an exceptional non-contributory monetary benefit called Ingreso Familia de Emergencia (Emergency Family Benefit, IFE)¹⁰. The IFE has been created to compensate the loss or decrease of income of people affected by the coronavirus pandemic¹¹. Moreover, the National Government created a program with two large groups of beneficiaries to support job positions in companies which were facing huge falls in turnover and self-employed people who recorded a significant cut in their income. The focus was on companies (SMEs and large companies) which had been confronted with major losses in turnover as a result of the corona crisis, and sectors which had been particularly affected by measures such as entry bans, travel restrictions and bans on meetings. In the first case, the state pays the worker's part of the salary; in the second, it is committed as a guarantor of credits at zero rate that will have a grace period of six months and may be paid in at least twelve fixed instalments without interests¹². It has been announced that these subsidies could be available until October 2020¹³.

A recovery plan from a macroeconomic point of view seems not to be on the agenda despite the precarious economic situation of the country. However, the Ministry of Social Development provides a plan for the social response after the COVID-19, based on five pillars: construction, food production, textile industry, care economy and recycling and a "universal income"¹⁴.

As regards fiscal revenues, a recent report from the Centro Interamericano de Administraciones Tributarias (Inter-American Centre of Tax Administrations, CIAT) -COVID-19 Collection Report¹⁵- reveals the behaviour of national collection in real terms (net of inflation) of 16 countries, mainly American and European, showing that Argentina, in April 2020, had a decline of 23,3% of its tax revenues (against 27.7% of the average for countries), it was the

¹⁰ Decree 310/2020 published on the Official Gazette on 24/03/2020. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335820/norma.htm>>.

¹¹ Decree 309/2020 published on the Official Gazette on 24/03/2020. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335821/norma.htm>>; see also <<https://www.argentina.gob.ar/justicia/derechofacil/leysimple/emergencia-sanitaria-COVID-19-ingreso-familiar-de-emergencia>> (last access 21.09.2020). The IFE amounts \$10,000 Argentinian pesos.

¹² <<https://www.argentina.gob.ar/atp>>; <<https://www.argentina.gob.ar/justicia/derechofacil/leysimple/COVID-19-asistencia-de-emergencia-al-trabajo-y-la-produccion-atp>> (last access 21.09.2020).

¹³ <https://argentina.as.com/argentina/2020/09/15/actualidad/1600180932_466243.html>; <https://argentina.as.com/argentina/2020/09/15/actualidad/1600174230_997608.html?omnil=resrelart> (last access 21.09.2020).

¹⁴ <<https://www.argentina.gob.ar/salud/coronavirus-COVID-19/plan-operativo>> (last access 21.09.2020).

¹⁵ <<https://www.ciat.org/reporte-de-recaudacion-CoViD-19-rrc-julio-2020-2/>> (last access 21.09.2020).

fifth country with the lowest drop among these countries with data for that month. In May 2020, tax collection in Argentina fell by 20,1% (versus 24,8 % of the average for countries surveyed), similar to the values of Peru and Uruguay and much less than the collapse in Ecuador (35,3%), Spain (26,9%) and the United States (25,1%). According to most recent information from August 2020, tax revenues declined 24.6% with respect to August 2019¹⁶. It is of utmost importance to consider that Argentina has a persistent high inflation rate and therefore a fiscal imbalance over the last past years what leads to a negative impact on the effective fiscal revenues and a more drastic fall in tax revenue in real terms¹⁷.

III. Direct tax measures

III.1. Taxation of Cross-Border Workers

For employees working abroad, the measures related to the corona crisis can cause a shift in the taxation of (or part of) their income from the country of employment to the country of residence. This is the case, for example, if they work from home (out of necessity) on days that they would normally be in the other country. In the case of Argentina, cross-border work is not that common as it is in Europe, for example. Therefore, there is no special tax regime for this type of situation in place. However, tax issues could potentially arise due to the permanence of individuals within the territory for the exceptional circumstances of COVID-19 and the subsequent border closure what will be analysed in section VI.

III.2. Repatriation of Foreign Assets within the Framework of the Personal Assets Tax

Among the several measures taken in connection with direct taxation, one of them considered the postponement of the deadline for the repatriation of foreign assets. Within the framework of the personal assets tax or wealth tax, Argentina's Government approved Law 27,541 which introduces modifications to the Argentinian wealth tax, among other things at the end of 2019¹⁸. The changes to the wealth tax include an increase of the tax rates;

¹⁶ <<https://www.afip.gob.ar/institucional/estudios/comparativo-mensual-y-acumulado/2020.asp>> (last access 21.09.2020).

¹⁷ Due to the effect of the quarantine and the fall in activity, the collection has been crumbling. Until April, national tax revenues have grown only 10% in nominal terms. This implies that when discounting the effect of inflation on taxes, collection falls 25% in real terms compared to the same month of 2019 see <https://www.clarin.com/economia/economia/recaudacion-mueve-debajo-inflacion-abril-cae-25-terminos-reales_0_crayntpaE.html>; <<https://www.lanacion.com.ar/economia/coronavirus-la-recaudacion-nacional-impuestos-cae-25-nid2359306>>; for a comparative study on nominal value see the statistics released by the tax authorities available at <<http://www.afip.gob.ar/institucional/estudios/>> (last access 21.09.2020).

¹⁸ Law N° 27.541 ("Ley de Solidaridad Social y Reactivación en el Marco de la Emergencia Pública"). The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/330000-334999/333564/norma.htm>>; Decree

application of different tax rates for assets in the country or abroad; and it introduces new criteria for taxation under wealth tax rules¹⁹. In case of assets abroad, they will be subject to a higher tax rate, i.e. 5%, unless they are converted into cash and repatriated before 31 March 2020²⁰. Due to COVID-19, the federal Government of Argentina issued a decree which postponed the deadline for the repatriation by Argentine residents of assets held abroad from 1 April 2020 to 1 May 2020²¹.

III.3. Taxation of Health Workers

Regarding the possibility of facilitating the taxation of health personnel and related entities, the National Congress passed the Law 27,547²² which determined that the Argentine Red Cross is exempted from the tax on bank credits and debits²³ and other operations with the aim of promoting development under the emergency circumstances. In the same vein, the income tax has been exempted from 1 March 2020 until 30 September 2020 in relation with the remuneration of compulsory shifts, overtime and any other concept that is settled specifically and by virtue of the health emergency caused by COVID-19²⁴. The beneficiaries of the exemption will be professionals, technicians, assistants and operational personnel of the public and private health systems, armed forces, security forces, immigration and customs services, firefighters and waste collectors²⁵. Furthermore, it has been created an *ex gratia* and life pension for all those relatives of related employees who died in the

58/2019 published in the Official Gazette on 21/12/2019. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/330000-334999/333565/norma.htm>> ; see also related Decree 99/2019 published in the Official Gazette on ; General Resolution No. 4659/2020 published on 06/01/2020. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/330000-334999/333777/norma.htm>> (last access 21.09.2020).

¹⁹ The criterion of the taxpayer's domicile was abandoned and the applicable principle to determine the scope of the tax has been assimilated it to the income tax, i.e., the acquisition of permanent residence in a foreign state or absence from the country for more than 12 months, whichever has happened first, will be required in order to stop paying on worldwide assets. Henceforth, the criteria for income tax and Wealth Tax are aligned.

²⁰ Please note that the repatriated funds need to be deposited in certain financial institutions maintained in the country prior to December 31 of the year of repatriation.

²¹ Decree 330/2220 published on 1 April 2020. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335979/norma.htm>> (last access 21.09.2020).

²² Law 27.547 published in the Official Gazette on 08/06/2020. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/338402/norma.htm>> (last access 21.09.2020).

²³ Law No. 25,413 (Official Bulletin March 26, 2001) has created a tax on credits and debits in bank checking accounts opened in financial institutions

²⁴ Law 27,549 published in the Official Gazette on 06/08/2020. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=338404>> (last access 21.09.2020); see J.L. Sirena, Exención Especial Y Transitoria En El Impuesto A Las Ganancias Para Trabajadores Que Presten Servicios Relacionados Con La Emergencia Sanitaria por COVID-19, Práctica y Actualidad Laboral (PAL) XVIII (August 2020).

²⁵ On a detailed analysis of the special measures for the sectors see C.M. Cavalli, Beneficios Especiales A Personal De Salud, Fuerzas Armadas, De Seguridad Y Otros Ante La Pandemia de COVID-19, Consultor Tributario (July 2020).

aforementioned period due to COVID-19. Moreover, a tax relief has been provided for companies that are employers and that provide healthcare-related services²⁶:

- a reduction of 95% of employer contributions to the social security system was granted for 150 days after 20 March 2020; and
- a reduction of 59% of the bank credit tax; and a reduction of 17% of the bank debt tax.

III.4. Tax Benefits for Corporations and Small-Medium Size Companies

As a consequence of the general lockdown of the economy, businesses were forced to close down, especially those categorized as non-essential. Therefore, job positions of non-essential activities were gravely threatened. Within this context, several financial and social security initiatives to reduce the financial burden on businesses have been announced. Among the initiatives taken by the Argentine Government in response to the crisis, the Programa de Asistencia de Emergencia al Trabajo y la Producción (Emergency Assistance Program for Employment and Production, ATP)²⁷ was launched. This program mitigate the tax burden for corporations through extraordinary and temporary reductions in social security contributions for employers that are engaged in certain business activities (in general, employers that are not considered to be “essential” and therefore have been affected by the quarantine). Moreover, employer contributions were postponed for a three-month period²⁸. However, access to these benefits is not automatic and depend on certain conditions that corporate taxpayers must meet to demonstrate their eligibility²⁹. The following key points can be highlighted:

- a carry-over of due payments relate to the Sistema Integrado de Jubilaciones y Pensiones (Argentine Integrated Pension System) contributions;

²⁶ Decree 545/2020. Published in the Official Gazette on 19/06/2020 The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/338953/norma.htm>> (last access 21.09.2020).

²⁷ Decree 332/2020 published in the Official Gazette on 04/01/2020 and its successive modifications. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/336003/texact.htm>> (last access 21.09.2020).

²⁸ An important exception to the eligibility for the new programme is set out in article 4 of Decree 332/2020. Specifically, the benefits do not apply to taxpayers that undertake essential activities or provide essential services as established by the relevant regulations, and, therefore, whose staff are exempt from compliance with quarantine and social isolation orders.

²⁹ The conditions to be met are: (i) evidence the taxpayer belongs to a segment of the economy that has been affected adversely by the pandemic (the exact text of Decree 332/2020 uses the phrase “[a]ctividades económicas afectadas en forma crítica en las zonas geográficas donde se desarrollan” (economic activities critically affected in the geographical areas where they take place); (ii) evidence that the taxpayer in question employs a “significant number” of workers who have had to be furloughed due to the quarantine and social isolation measures enacted by the Argentine Government; and (iii) evidence that the taxpayer suffered a “substantial reduction” in income after 12 March 2020 – the start of quarantine and social isolation measures in Argentina.

- a reduction of employer contributions to SIPA of 95% for those companies not considered carrying out essential activities³⁰; and
- a partial salary payment for employees from the private sector taken over by the Administración Nacional de la Seguridad Social (National Administration of Social Security, ANSeS). The employer deducts the partial payment from the total salary and the State transfers the allowance to the employee directly on its bank account³¹.

It is important to mention that employers who apply for the salary subsidy cannot make dividend distributions, engage in certain financial transactions, make payments to beneficiaries located in low-tax or non-cooperative jurisdictions. These restrictions apply for 12 months for companies with 800 or less employees and 24 months for the rest. In addition, companies with more than 800 employees cannot increase wages or fees of their Board of Directors or similar collegiate bodies.

Regarding micro, small and medium-sized companies enrolled in a special program which was on place since before the COVID-19 crisis, it suspended the embargo and other precautionary measures until 30 June 2020³². In line with these measures, the extension of terms for the fulfilment of the formal and material duties related to income tax was determined for legal entities with business closing in December 2019 in income tax until 26 and 27 May 2020³³. Likewise, a special term was granted to legal entities that act as withholding agents of the income tax of their beneficiaries to make the annual declaration corresponding to the fiscal period 2019³⁴.

The Government has also implemented successive extensions to the filing of tax returns determining the income tax for individuals, as well as in specific cases, it has extended this benefit to the informative tax returns (see section 5). It is worth mentioning that, the postponement of tax liabilities had no penalties and interests.

³⁰ That is, they have been able to continue working during the period of “preventive and mandatory social isolation” period since March 2020.

³¹ The value of the allowance is related to the minimum living wage and mobile (\$16,875 Argentinian Peso).

³² General Resolution No. 4684/2020 published in the Official Gazette on 20/3/2020. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335773/norma.htm>>; General Resolution No. 4705 published in the Official Gazette on 29/4/2020. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/336876/norma.htm>> (last access 21.09.2020).

³³ General Resolution No 4714/2020 published in the Official Gazette on 13/5/2020. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/337439/norma.htm>> (last access 21.09.2020).

³⁴ General Resolution No 4721/2020 published in the Official Gazette on 21/05/2020. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=337829>>; General Resolution No 4725/2020 published in the Official Gazette on 28/5/2020. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/338063/norma.htm>> (last access 21.09.2020).

IV. Indirect taxes

Within the framework of the health emergency and the advance of the coronavirus pandemic, the Government decided to remove the tariff for the importation of medical products. The Decree 333/2020 set an Extra-zone Import Right (DIE) of 0% for entering products from countries with which there is no bilateral trade agreement, as for example with the members of the Mercosur. Moreover, the statistical rate for import operations, currently of 2,5%, has also been exempted. The main products covered were alcohol, disinfectants, surgical gloves, cloth masks, ultrasound scanners, tomographs, endoscopes and respiratory devices, among several others³⁵.

There were no special measures taken to postpone VAT payments during COVID-19 for companies or individuals facing financial difficulties. However, it is important to mention that before the pandemic small-medium size companies (Pequeñas y Medinas Empresas, PyMEs) had the opportunity of deferring the VAT payment for 90 days³⁶. The companies covered by the regulation have more time to comply with the applicable tax law and thus to avoid the financial mismatches that occur when invoicing with VAT.

V. Procedural tax aspects

Several measures were implemented in connection with procedural tax aspects due to the COVID-19 crisis. First, administrative deadlines for the duration of the Preventive and Mandatory Social Isolation³⁷ were suspended. Second, further relevant actions were taken such as:

³⁵ Decree 333/2020 published in the Official Gazette on 02/04/2020. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/336009/norma.htm>>; General Resolution No. 4696 published in the Official Gazette on 15/04/2020. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/336336/norma.htm>> (last access 21.09.2020).

³⁶ Law 27.264 published in the Official Gazette on 01/08/2016. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/260000-264999/263953/norma.htm>>; related Decree 1101/2016 published in the Official Gazette on 18/10/2016. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/265000-269999/266553/norma.htm>> (last access 21.09.2020).

³⁷ Social, preventive and compulsory isolation is an exceptional measure that the national Government adopts in a critical context. In order to protect public health against the spread of the new coronavirus, it was established that all people who live, or are temporarily, in the jurisdictions where this regulation governs must remain in their usual homes, only being able to make minimal movements and Essential to stock up on cleaning supplies, medicines and food. Considering that the epidemiological situation is not homogeneous within the national territory, the isolation administration will adopt a modality that takes into account the reality of the different jurisdictions of the country. Provincial and local authorities may request exceptions to isolation from personnel affected by certain activities and services, or from people who live in specific and delimited geographic areas based on compliance with a series of requirements, as well as the strict application of health protocols. corresponding. The exceptions granted may be totally or partially rendered ineffective in accordance with the provisions of the health authorities. Declared for the first time through Decree 297/2020, Official Gazette 03/19/2020.

- determination of an Extraordinary Tax Fair³⁸. In this regard, deadlines provided in the different procedures in force related to the application, collection and inspection of taxes will not be counted except for the inspection procedures related to the information provided by the OECD, as well as the examination, summary and ex officio determination procedures related to the transfer pricing rules. Also, the processing of electronic examination procedures is enabled as of 23 September 2020³⁹;
- the transitory term corresponding to the number of admissible payment facility plans, as well as the number of instalments and the financing interest rate applicable in the permanent payment facility regime, is extended until 31 October 2020⁴⁰;
- lock on embargoes and other precautionary measures for micro, small and medium-sized companies is suspended until 30 September 2020⁴¹;
- digital presentations were implemented for the interaction between taxpayers and the treasury, replacing a large number of procedures that were previously carried out in person at the agency's offices⁴²;
- deadlines for the presentation and payments of the income tax and personal assets returns for corporations and individuals were extended for fiscal year 2019 until 31 August 2020⁴³. This also reaches the deadlines for the financial income tax return. This measure was accompanied by the increase from 1,500,000 to 2,000,000 Argentinean pesos income threshold from which taxpayers must fill an informative tax return. To

³⁸ General Resolution 4682/2020 published in the Official Gazette on 03/18/2020, amendments and supplements. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335646/norma.htm> >(last access 21.09.2020).

³⁹ Those that are governed by General Resolution of the Federal Administration of Public Revenue 3416/2012.

⁴⁰ General Resolution No. 4683/2020; Official Gazette 03/20/2020, amendments and complementary. The full text (in Spanish) available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335772/norma.htm> (last access 21.09.2020).

⁴¹ General Resolution No. 4684/2020; Official Gazette 03/20/2020, amendments and complementary. The full text (in Spanish) available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335773/norma.htm> (last access 21.09.2020).

⁴² General Resolution No. 4503/2020 published in the Official Gazette on 12/06/2019. The full text (in Spanish) available at <http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do;jsessionid=E2BE94162A8B41AFC89BE1F5BBB07001?id=324241>; General Resolution No. 4685 /2020 published in the Official Gazette on 20/03//2020, amended and supplemented. The full text (in Spanish) available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335797/norma.htm> (last access 21.09.2020).

⁴³ General Resolution No. 4686/2020 published in the Official Gazette on 03/20/2020, amendments and complementary. The full text (in Spanish) available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335801/norma.htm> (last access 21.09.2020); see also General Resolution No. 4714 /2020 Official Gazette 15/05/2020. The full text (in Spanish) available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/337439/norma.htm> (last access 21.09.2020)

the same extent, deadlines for filling transfer pricing documentation⁴⁴ and filling return of company reorganizations have been extended⁴⁵; and

- Suspension of exclusions and ex officio cancellations of small taxpayers' regime (Monotributo)⁴⁶.

With the aim of alleviating the burden of payments, which has been severely worsened by the catastrophic economic effects of the pandemic on businesses, corporate and individuals, the Administración Federal de Ingresos Públicos, Argentinian tax authorities (AFIP) launched an extension of benefits of instalment programs. First, it extended the benefits of an instalment programme established in 2018⁴⁷ for the settling of tax and social security obligations, together with interest or fines assessed because of the pending obligations⁴⁸. One of the elements of the instalment programme was the implementation of a special collection of more generous instalment limitations and interest rates for a limited period. Second, the AFIP also extended the deadline to enrol in the special instalment programme established at the end of January 2020⁴⁹. This special programme permits small and medium-sized businesses and not-for-profit entities as recognized under Argentinian law to regularize their tax situation concerning outstanding debts in respect of a number of taxes and social security contributions. Large corporate taxpayers are not eligible for enrolment in the programme. Under the new deadline, taxpayers may apply for enrolment in the programme until 30 June 2020 – but with less generous benefits, including a reduction of the maximum number of instalments and an increase in the initial payment. The deadline for payments of the first instalment was postponed to 16 July 2020.

In addition to the measures above-mentioned, it shall also be considered that before the COVID-19 crisis, the national Government implemented a regime (instalment payments) for the regularization of debts with important reductions of interests and up to 10 years cancellation-plan with the objective that companies can regularize their tax debts, given the complex economic context of our country. Due to the pandemic, the application deadline was postponed until 31st July 2020. However, considering that the economic situa-

⁴⁴ General Resolution No. 4689/2020, Official Gazette 03/31/2020 The full text (in Spanish) available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335968/norma.htm> (last access 21.09.2020).

⁴⁵ General Resolution No. 4700/2020, Boletín Oficial 17/04/2020 The full text (in Spanish) available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/336435/norma.htm> (last access 21.09.2020).

⁴⁶ General Resolution No. 4687/2000 published in the Official Gazette on 03/28/2020, amendments and supplements. The full text (in Spanish) is available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335935/norma.htm> (last access 21.09.2020).

⁴⁷ General Resolution No. 4268, published on 28/06/2018. The full text (in Spanish) is available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/310000-314999/311960/norma.htm> (last access 21.09.2020).

⁴⁸ General Resolution No. 4683/2020, published on 20/03/2020. The full text (in Spanish) is available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335772/norma.htm> (last access 21.09.2020).

⁴⁹ General Resolution No. 4690/2020, published on 20 March 2020. The full text (in Spanish) is available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335998/norma.htm>. The instalment programme has been originally launched by the General Resolution No. 4667/2020, published on 30/01/2020. The full text (in Spanish) is available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/330000-334999/334168/norma.htm> (last access 21.09.2020).

tion continued to get worse, the scope of the regime has been expanded, and therefore new tax debts were included with the opportunity of regularizing overdue debts already included in the regime⁵⁰. It is important to mention that interests were not excluded from the instalment payments.

VI. International tax aspects

Argentina has not taken any specific measures from an international tax perspective. However, it is worth considering the implications of certain tax issues that might trigger international tax consequences even if they were not addressed by tax authorities. One of the main topics that deserved special attention is the effect of permanence of individuals in a country different from the habitual country of residence, i.e. employees or key personal of companies' boards. These issues might have an impact on the potential right to tax between the country where the individual is staying due to unforeseen circumstances and the habitual country of residence. Accordingly, the key aspects under concern are: (i) time spent within a country due to the lockdown for the purposes of resolving conflicts that can arise regarding an individual's residence due to border closures; (ii) the possibility of considering the existence of permanent establishments (PE) of foreign enterprises due to employees working from their homes within the country; and (iii) the possibility that the place of effective management of a foreign corporation has changed due to key personnel being locked down in Argentina. On the matter, the OECD provided some clarifications on some of these cross-border issues triggered by the worldwide extraordinary situation that might have an impact on the right to tax between countries, which will be considered in the discussion⁵¹.

VI.1. Concerns Related to the Residence Status of Individuals

For the income tax purposes, an individual is resident in Argentina when⁵²: (i) he is of Argentine nationality (or naturalized), or (ii) a foreigner who has obtained his permanent residence status in Argentina or has legally been living in the country for at least twelve months or more⁵³. Argentine citizens will lose the resident status when they become per-

⁵⁰ Law 27,562 published in the Official Gazette on 26/08/2020. The full text (in Spanish) is available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/340000-344999/341458/norma.htm>> (last access 21.09.2020).

⁵¹ OECD, Secretariat Analysis of Tax Treaties and the Impact of the *COVID-19* Crisis (3 Apr. 2020), available at <https://read.oecd-ilibrary.org/view/?ref=127_127237-vsdaagpp2t3&title=OECD-Secretariat-analysis-of-tax-treaties-and-the-impact-of-the-COVID-19-Crisis> (last access 21.09.2020).

⁵² Law 27,430, art. 119 published in the Official Gazette 29/12/2017 (Argentina Income Tax Law). The full text (in Spanish) available at <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/40000-44999/44911/texact.htm>> (last access 21.09.2020).

⁵³ There are some exceptions to the general rule. On the one hand, are also considered residents in Argentina: (i) Persons of visible existence who are abroad and act as official representatives within the National State or in the performance

manent residents in a foreign state, or when they stay uninterruptedly in a foreign country for at least twelve months. However, an individual is considered a resident in Argentina, even if he/she has obtained the permanent residence in a foreign country, or has lost its residence status in the Argentine Republic (the person is regarded as resident of another country for tax purposes), when he/she actually lives in the national territory or re-enters the country in order to stay. To that end, Argentinian income tax law stipulates that such status is verified when the following conditions take place in the sequential or preference order described below: (i) if the individual has its permanent dwelling in the Argentine Republic (a suitable facility currently used for living or available for the main end of housing); (ii) if its centre of vital interest is located within the national territory (in which he/she has his/her closest personal and economic relationships, mainly the personal ones); (iii) if the individual permanently resides in the Argentine Republic, a condition that will be considered fulfilled if the person remains there more time than spent in the foreign State which granted the permanent residence, or which considers them as residents for tax purposes during the calendar year); (iv) if they are of Argentine nationality.

Consequently, according to Argentinian law, factual circumstances (i.e. actual stay within the territory) might prevail over formal legal requirements (i.e. formal tax residence in another country or nationality). Within this context, the fact that an individual has to stay within the Argentinean territory, even due to extraordinary circumstances like COVID-19, he/she could potentially be considered as a resident. However, if the person has remained in Argentina solely because of COVID-19 travel restrictions, that factor alone will not cause the factual test of residency to be met, considering that the individual is usually a resident of another country and intends to return to his or her country of residence as soon as it is permitted.

From an international point of view, conflicts might arise with respect to taxation of income from employment, i.e. art. 15 (1) (2) OECD Model Tax Convention on Income and on Capital (OECD MC)⁵⁴, and mainly the consideration of the 183-days rule to determine taxation at source considering that it was the policy of Argentina to include that article in its double tax treaties. Article 15 OECD MC establishes the general principle that the remuneration obtained by a resident of a state by virtue of employment can only be taxed in that state. However, the exception to the rule is that the employment is exercised

of the duties entrusted by the National State, the Provinces or Municipalities or the Autonomous City of Buenos Aires; (ii) Civil servants of Argentine nationality who perform their duties at international agencies of which the Argentine Republic is a member state. On the other hand, the following are considered non-residents: (i) the persons who remain permanently in the country because they are part of diplomatic or consular missions of foreign countries in our country, as well as the technical and administrative staff; (ii) the representatives and agents working at international agencies, of which the Argentine Republic is a member, and who perform their duties in the country, provided they are foreigners and not residents at the moment of hiring them; (iii) foreign persons hired to perform their duties in the country for a period no longer than 5 years and foreign students or researchers with temporary residence permit in the country.

⁵⁴ OECD (2017), Model Tax Convention on Income and on Capital: Condensed Version 2017, OECD Publishing, Paris.

“physically” in the other contracting state, so that the other State may have the right to tax the income therein obtained. Notwithstanding that, if the employee physically performs the activities in the source State, the State of residence will “only” have the right to tax if certain conditions are met: (i) the recipient is present in the other State for a period or periods not exceeding the aggregated 183 days; (ii) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and (iii) the remuneration is not borne by a permanent establishment of the employer in the other State. For example, an employee who came to perform its activity in Argentina for a short period (less than 183 days) and due to the isolation measures could not return to its country of residence; could be considered tax resident in Argentina if he/she has to stay more than 183 days and he/she was performing his/her activity remotely receiving his remuneration paid by the resident abroad. This situation could technically trigger the right to tax the employment income in Argentina, the source State. However, it is expected that due to the extraordinary and temporary circumstances any prolonged stay of more than 183 days within the country will trigger source taxation. The OECD for home-office cases as explained later reflected its position. However, the OECD has not a clear-cut opinion with regard to taxation of income from employment leaving the room open to coordination among states to mitigate potential compliance and administrative burden for employers and employees due to involuntary permanence in a jurisdiction different from its residence State. It is worth mentioning that the OECD states that in those cases when the employee continued to receive the salary but in form of subsidy as a consequence of a stimulus package proposed by the residence state Government to keep workers on the payroll during the crisis; those payments resemble termination payments taxable in the residence state⁵⁵. The OECD establishes that the present exceptional circumstances warrant an exceptional level of coordination to mitigate administrative and compliance costs for employees and employers associated with voluntary and temporary changes regarding the place where employment is exercised.

VI.2. Concerns Related to Permanent Establishments

As regards PE risks, the lockdown could potentially create a PE (Art. 5 (1) OCDE MC) by the performance of the working activities by employees in home offices in foreign countries. While constituting a PE would give rise to source taxation on the profits attributed to the PE, a change in the company’s tax residence would entail worldwide taxation. A head office could technically create a fixed PE for a foreign company in Argentina for those employees stranded in the country performing their work remotely; therefore, Argentina would have the right to tax at source the income generated therein. Regarding this issue,

⁵⁵ OECD, supra n. 53, para. 24 available at <https://read.oecd-ilibrary.org/view/?ref=127_127237-vsdaagpp2t3&title=OECD-Secretariat-analysis-of-tax-treaties-and-the-impact-of-the-COVID-19-Crisis para. 24> (last access 21.09.2020); para. 2.6 of the Commentaries on Article 15 of the OECD MC.

the Commentary on Article 5 of the OECD Model Convention (OECD MC) clarifies that a home office generally does not meet the test of “at the disposal of” the foreign enterprise. An employee who carries out work at home does not automatically result in the conclusion that the home office is at the disposal of the employer, even though a legal right is not required, a mere presence is insufficient. Even more when employees would work from his home office “intermittently or incidentally”⁵⁶. In fact, the disposal of the employer depends on the facts and circumstances but if the employee uses the home office on a “continuous and regular basis” fashion (for example, not providing office space), the home-office could be considered as “at the disposal” of the employer, and therefore, constitute a PE⁵⁷. However, considering the COVID-19 situation in which the employee had no choice where to perform the activity due to ‘force majeure’ circumstances, a PE should not be triggered⁵⁸.

It is worth mentioning that Argentina has recently introduced (2018) a PE definition in its income tax law⁵⁹ in line with Art. 5 of the OECD Model Tax Convention (including BEPS Action 7)⁶⁰ which also adds a “service PE”⁶¹ definition in line with the United Nations Model Tax Convention (Art. 5(3)(b) UN Model)⁶². In this regard, if a person provides, for example, consultancy services in Argentina for more than 6 months because he could not return to its country of residence due to the travel restrictions, such a situation could give

⁵⁶ Para. 18 Commentaries on Article 5 OECD MC.

⁵⁷ J.J.P. de Goede et al., Interpretation and Application of Article 5 (Permanent Establishment) of the OECD Model Tax Convention: Response from IBFD Research Staff, 66 Bull. Intl. Taxn. 6 (2012), Journal Articles & Papers IBFD, sec. 3.3.

⁵⁸ See OECD, *supra* n. 53; also in this regard for example, Australia, Ireland and Greece have announced that they will not consider employees of foreign companies stranded in their countries due to COVID-19 restrictions see <<https://www.atg.gov.au/General/COVID-19/Support-for-individuals-and-employees/Employees-working-from-home/>> (last access 21.09.2020); <<https://www.dilloneustace.com/legal-updates/the-impact-of-COVID-19-on-tax-residence-and-permanent-establishments>> (last access 21.09.2020); Greece – COVID-19 Pandemic: Clarifications on PEs and Frontier Workers for Domestic and Tax Treaty Purposes Published (29 July 2020), News IBFD.

⁵⁹ Law 27,430, art. 16, 1° Paragraph (Income tax Law).

⁶⁰ OECD/G20, Preventing the Artificial Avoidance of Permanent Establishment Status – Action 7: 2015 Final Report (OECD 2015), International Organizations’ Documentation IBFD [hereinafter Action 7 Final Report (2015)].

⁶¹ Law 27,430, art. 16 cont. paragraph 3 (Income tax Law). There is a service PE in Argentina by the provision of services by an entity from abroad, including consultant services, directly or through its employees or personnel hired by the company for that purpose, but only in the event that such activities continue in the territory of the country during a period or periods that in total exceed six (6) months, within any period of twelve (12) months.

⁶² On the modifications to income tax law in connection with Action 7 BEPS see L.M. Mendez, M.S. Screpante, Argentina National Report in Lang/Owens/Pistone/Rust/Schuch/Staringer/Storck (eds.), Implementing Key BEPS Actions: Where do we stand? IBFD (2019), p. 56-58; see also M.I. Brandt; S. D. Vergara, El Concepto de establecimiento permanente La Ley Del Impuesto A Las Ganancias Y Su Reglamentación Establecimiento, Doctrina Tributaria Errepar, Tomo XL (2013), p. 613; A.L. Ferreyra, Atribución de Beneficios a Establecimientos permanentes ¿Qué es lo que la reforma intento reformar?, in M.F. Braccia, (Ed.) La Reforma Tributaria y Tributación Internacional, La Ley-Thomson Reuters, Buenos Aires (2018).

rise to a PE; however the home-office criteria should apply, and therefore, not consider the extended involuntary permanence a driver for a PE⁶³.

It is also worth mentioning that according to Argentinian income tax law, services which do not qualify as a PE, could still be subject to tax at source. For example, by the performance of acts or activities generating benefits in Argentine territory⁶⁴. Even though, income derived from services provided from abroad are considered foreign sources and, therefore, excluded from the object of income tax, if services provided from abroad qualify as “technical assistance” or “other assistance”⁶⁵ they might be subject to tax based on the principle of “economic use” within the territory of Argentina⁶⁶. Therefore, in the latter case, even though there is no PE risk, it could potentially trigger taxation at source in the case of services provided from abroad but economically used in Argentina.

VI.3. Concerns Related to the Residence Status of Corporations

The residence of a corporation for Argentinian income tax purposes and for purposes of Argentina’s tax treaties is important because a corporation that is resident in Argentina for Argentinian income tax purposes is subject to Argentinian income tax on its worldwide income, whereas a corporation that is not resident in Argentina is taxed only on Argentinian-source income⁶⁷.

Legal persons, partnerships and other types of business entities (such as sole proprietorships, non-profit civil associations, foundations, trusts, mutual investment funds, etc.) are considered residents in Argentina if they are incorporated in accordance with current Argentine Republic laws⁶⁸. Commercial, industrial, agricultural, mining or any other type of business organized as permanent company and owned by associations, partnerships or companies, whatever its nature, registered abroad or by natural persons living abroad, are also considered residents. In general, they correspond to branches of companies incorporated abroad but operating in the source country.

⁶³ Once again, we emphasize that in the event that the subject residing abroad is a resident of a country that signed a CDI with Argentina, the definition of in article 5 of that DTT should be sought, which may present differential nuances with respect to the definition provided by the LIG and its regulatory decree, in whose analysis we will focus on this work. Additionally, it is important to bear in mind that in June 2017, the Argentine Republic signed the OECD Multilateral Agreement which, once in force and certain conditions have been verified, could lead to the modification of article 5 of some of the CDIs signed by our country permanent establishment. On the contrary, if Argentina and the country of residence of the foreign subject did not sign a CDI, the definition of permanent establishment contained in the LIG must be followed, with the clarifications of its regulatory decree.

⁶⁴ Law 27,430 art. 5 (Income tax Law).

⁶⁵ Law 27,430, art. 12 (Argentina Income Tax Law).

⁶⁶ See M.S. Screpante, La importación de software frente al impuesto a las ganancias, *Consultor Tributario Errepar* 43 (2011).

⁶⁷ Law 27,430, art. 5 (Argentina Income Tax Law).

⁶⁸ Law 27,430, art. 199 (Argentina Income Tax Law).

Other jurisdictions consider that a legal entity or corporation, including a foreign-domiciled corporation, is resident where its “place of effective management” is located and exercised. Having that principle in place in the domestic law in times of COVID-19 and travel restrictions, this could lead to a potential change of residency due to the relocation or inability to travel of members of the management or other executives⁶⁹. In this regard, the OECD stated that – considering that the change in the location of directors and other executives is an extraordinary and temporary situation – the place of effective management should not change⁷⁰.

VI.4. Transfer Pricing Considerations and the Performance of Functions

The COVID-19 travel restrictions could have an impact on the attribution of profits for transfer pricing purposes based on the place of performance of people functions. BEPS actions 8-10 established new guidelines regarding the ownership of intangibles and their remuneration⁷¹. This is directly related to the emphasis on substance of the new guidelines through the incorporation of the notion of value creation as a jurisdictional nexus⁷². Accordingly, legal ownership alone does not guarantee the allocation of profits from an intangible unless the legal owner performs any of the DEMPE (i.e. development, enhancement, maintenance, protection and exploitation) functions; otherwise, it should remunerate all entities performing the corresponding functions⁷³. In this sense, it is convenient to analyse considerations similar to those related to the impact of the COVID-19 pandemic on the creation of PEs in particular with respect to a fixed PE (see section 2)⁷⁴. It is necessary to see if any function was relocated from the geographic point of view, either by location of the people who carry out the functions or if related risks were relocated, both at the level of the legal owner and the entities that perform other functions. A situation may arise, for example, where a key employee responsible for the development of a certain intangi-

⁶⁹ OECD (2020) “Tax and Fiscal Policy in Response to the Coronavirus Crisis: Strengthening Confidence and Resilience”, at sec. 15 (hereafter OECD Report in Response to the Coronavirus crisis) available at <https://read.oecd-ilibrary.org/view/?ref=128_128575-o6rakt0aa&title=Tax-and-Fiscal-Policy-in-Response-to-the-Coronavirus-Crisis>, para. 14 (last access 21.09.2020).

⁷⁰ Ibidem, para. 15.

⁷¹ OECD/G20, Aligning Transfer Pricing Outcomes with Value Creation – Actions 8-10: 2015 Final Report (OECD 2015), Paris Publishing, Chapter VI.

⁷² On an analysis on the notion and role of value creation in the new (2017) OECD Transfer Pricing Guidelines see M.S. Screpante, The Arm’s Length Principle Evolves Towards a “Value creation Functional (i.e. DEMPE) Formula Standard”: A Barrier or a Gateway to Locational Business Planning? *Intertax*, Vol. 48 Issue 10 (2020).

⁷³ On the role and effects of DEMPE functions in intangibles structures see M.S. Screpante, Rethinking the Arm’s Length Principle and Its Impact on the IP Licence Model after OECD/G20 BEPS Actions 8-10: Nothing Changed but the Change? *11 World Tax Journal* 3, (2019).

⁷⁴ S. Prasanna & G. Capristano Cardoso, Developing a Transfer Pricing Policy Framework for the Current Economic Crisis and Beyond, *27 Intl. Transfer Pricing J.* 5 (2020), *Journal Articles & Papers IBFD*, sec. 5.2.

ble was exercising such a role at the entity's premises in Europe, but due to the COVID-19 outbreak, the employee now works remotely at home in Argentina.

While employees performing DEMPE functions may do so in different parts of the world, the performance of the activity continues to be on behalf of the entity for which the DEMPE function is performed, regardless of the remote location of the employees. Therefore, there should be no tax implications as long as the permanence in a country other than where habitually performs the functions is temporary due to COVID-19 travel restrictions mainly.

VII. Post-COVID-19 tax measures

It can be anticipated that the crisis caused by the COVID-19 pandemic will have a strong impact on the labour market in Argentina, which was already in a very weak situation before the outbreak of the pandemic that aggravated and accelerated the current situation. Likewise, it must be understood that with an unemployment rate of 10.6% registered during 2019, a poverty rate of 35, 7% that was registered during the same period, and 1, 5% corresponding to the Manufacturing Industrial Production Index. In addition to the annual inflationary index of 50% and a general fall in industry, the Argentine peso was losing its value during 2019, accumulating a 65% depreciation since April 2018. Moreover, after a 2, 5% drop in the Gross Domestic Product (GDP) in 2018, the economy contracted an additional 2,5% in the first half of 2019. All this placed the country as the third economy in the region with the greatest slowdown, second only to Venezuela and Nicaragua (ILO, 2020) what has led the country to a strong pressure on public accounts⁷⁵.

Within that burdensome context, the need of revenues increases in order to finance the social and economic measures implemented by the Government. Paradoxically, instead of incentivizing investments of the private sector to increase tax collection, the Executive Power finances the fiscal debt with monetary issue, which directly affects the inflation rate. Furthermore, in contrary to general expectations, the Argentine Congress intends to initiate a debate on taxing large fortunes seeking to increase the tax burden on those individuals with greater wealth⁷⁶. The tax will reach those who have declared a wealth of over USD 2.5 billion by the end of 2019 and it will have an aliquot of between 2% and 3,5% with an aggravating factor if the taxpayer has assets abroad⁷⁷. Arguably, the doctrine

⁷⁵ OIT (2020), Informe técnico "La COVID-19 y el mundo del trabajo en Argentina: impacto y respuestas de política", at sec. 5 available at <https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/---ilo-buenos_aires/documents/publication/wcms_740742.pdf> (last access 21.09.2020).

⁷⁶ <<https://www.telesurenglish.net/news/argentinas-congress-considers-taxing-large-fortunes-20200829-0004.html>> (last access 21.09.2020).

⁷⁷ On the project bill see <<https://www.infobae.com/economia/2020/08/28/impuesto-a-las-grandes-fortunas-todos-los-detalles-del-proyecto-que-el-gobierno-pretende-aprobar-en-el-congreso/>>.

claims that the tax could be declared unconstitutional for violating the principle of non-confiscation⁷⁸. Argentina's Government looks forward to raise around 300 billion pesos (\$ 4 billion) through this one-off tax on the super-rich, in order to help pay for the coronavirus response, support small businesses and bolster energy production⁷⁹.

The opportunity to move towards a green economy or explore new environmental incentives or special tax regimes could generate thousands of new job opportunities considering the natural resources that Argentina owns, i.e. energy, petroleum, gas, and mining. However, it is a discussion that to date has not been pondered yet.

As regards the possibility of creating new digital taxes, Argentina has not created a digital services tax as such but it has added to the VAT Law in the tax bill passed in 2017, as a taxable activity, the supply of digital services by non-residents to final consumers or non-taxable persons⁸⁰. According to the law, the services "provided by a resident or domiciled abroad whose use or effective exploitation is carried out in the country" will pay the tax on purchases. The services included are the download of movies and other audio-visual content on internet-connected devices, the download of online games, broadcasting music, movies, bets or similar digital content, obtaining jingles, mobile tones and music, watching online news, traffic information and weather forecasts, weblogs and website statistics.

VIII. In a nutshell

As corollary, it can be said that the measures adopted by the tax administration and the Government were sought to alleviate the burden of taxes that falls on taxpayers. Among the main measures taken, there were the postponement of tax due dates, suspension of lawsuits and tax executions, granting of payment plans even to expired plans, reduction of financing interests and social security contributions, suspension of withholdings taxes on export duties and import of medical equipment, flexibility of controls in certain procedural aspects, in particular with focus on the sectors most affected by the emergency.

Yet, it must also be said that due to the crash of the economy tax collection severely falls, and, conversely, public expenses remarkably increased to attend the crisis what leads to

⁷⁸ The principle of non-confiscation is the result of a praetorian creation of the Argentinean Supreme Court of Justice, in view of the guarantee of the inviolability of private property enshrined in art. 14 of the National Constitution (CN): "All the inhabitants of the Nation have the following rights ... to use and dispose of their property ..." and 17 of the CN: "Property is inviolable, and no inhabitant of the Nation may be deprived of it" (unofficial translation made by the authors); on a detailed analysis on the issue see M. Gonzales, *El Principio De No Confiscatoriedad En Impuestos Con Fines Extrafiscales. A Propósito Del Proyecto De Creación Del "Impuesto A La Riqueza"*, DTE XLI, Octubre 2020; R.A. Fuster, *Apuntes Constitucionales Sobre El Proyecto De Aporte Solidario Y Extraordinario A Los Patrimonios De Las Personas Humanas*, DTE XLI (Octubre 2020).

⁷⁹ <<https://www.reuters.com/article/us-argentina-tax-rich-idUSKBN25O2V8>> (last access 21.09.2020).

⁸⁰ VAT Law, Art. 1 sec. e) in accordance with the modifications introduced by Law 27,432 in the Official Gazette on 27/12/2017.

higher indebtedness and additional monetary emission, therefore triggering an exponential primary deficit of the public accounts. In fact, the GDP fell 19, 1% in June compared to the same month of 2019 and tax revenues fell almost 25%.