City of Buenos Aires and Province of Buenos Aires update turnover tax withholding systems for nonresidents

The tax authorities for the City of Buenos Aires have indefinitely suspended the turnover tax withholding system for nonresidents for revenue derived from internet use, while the Province of Buenos Aires has established provisions implementing a turnover tax withholding system for nonresidents.

Background

The turnover tax is an indirect provincial tax imposed by the tax authorities in each of the 24 jurisdictions in Argentina (including 23 provinces and the City of Buenos Aires). Typically, the tax applies to gross revenues derived from activities carried out in each jurisdiction. The rates typically vary between 3% and 5% for the sale of goods and services.

In the past, foreign entities with no permanent establishment in the country (for instance, through a branch or subsidiary) were not subject to this tax. Through the issuance of several laws and resolutions, however, some provinces have established turnover tax withholding systems applicable to foreign entities.

City of Buenos Aires

The City of Buenos Aires Tax Authorities (AGIP) indefinitely suspended the turnover tax withholding system (which was initially intended to become effective on 1 November 2014, but never entered into force), for revenue derived from the use of the internet to access movies, TV series, games, music, videos and other similar services when payments are made to nonresidents with credit or debit cards.
Resolution No. 593/2014 previously required credit and debit card issuers involved in processing the payments to foreign service providers to act as withholding agents for internet activities described above.

The turnover tax withholding rate was 3% of the net price, and was to be withheld before the funds were transferred abroad. The withheld amount was supposed to be treated as the turnover tax payment for the foreign service providers.

Province of Buenos Aires

Through Law No. 14,653, the Province of Buenos Aires established the initial provisions for implementing a turnover tax withholding system on nonresidents for revenue derived from certain activities carried out in the Province of Buenos Aires.

The law establishes that the resident contractor, organizer, administrator, user, holder or payer of the taxable activities will be responsible for making the tax payment. The Province of Buenos Aires Tax Authorities (ARBA) still must define many aspects of the system, such as the activities subject to the tax, the tax rates and the methods for making the tax payment. Therefore, the system does not yet apply.

Implications

These developments from the City of Buenos Aires and the Province of Buenos Aires entail unprecedented dispositions, which can potentially show a new trend in the provincial taxation of cross-border transactions.

Foreign companies involved in the provision of services to Argentine residents, as well as local residents acting as recipients of those services, should monitor the developments in this area.

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