A. At a glance

The main federal taxes applicable to mining activities in Argentina include a combination of the following:

<table>
<thead>
<tr>
<th>Tax Type</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income tax rate</td>
<td>35%</td>
</tr>
<tr>
<td>Value added tax</td>
<td>21%</td>
</tr>
</tbody>
</table>

B. Fiscal regime

The Argentine taxation structure is classified into the following three categories:

- Federal taxes: At the federal level, the Federal Public Revenue Agency (Administración Federal de Ingresos Públicos, or AFIP), a decentralized entity, is the agency in charge of applying, collecting and auditing taxes and interest and supplementary charges. The AFIP reports to the Under Department of Government Finance, which, in turn, reports to the Ministry of Economy. The Argentine Tax Bureau Dirección General Impositiva, or DGI) and the Argentine Customs Authorities (Dirección General de Aduanas, or DGA) are the two divisions of the AFIP.

  Federal taxes include:
  - Minimum presumed income tax
  - Value-added tax (see Section H, indirect taxes)
  - Personal assets tax — substitute taxpayer
  - Tax on bank account transactions and other similar transactions

1 This is the general rate and may be increased or reduced in certain circumstances.
Provincial taxes: The provincial tax authorities (Direcciones Generales de Rentas, or DGR) of each province are in charge of applying, collecting and auditing provincial taxes. These agencies are subordinate to the respective provincial ministries of economy.

The main provincial taxes include the following:

- Turnover tax
- Stamp tax

Municipal taxes: Each municipality is in charge of applying, collecting and auditing its resources. Municipalities obtain resources by applying rates and assessments.

**Income tax**

**General framework**

Income tax is levied on Argentine-source income earned by individuals or legal entities, regardless of nationality, residence or domicile. In addition, income tax is levied on income earned by Argentine residents outside Argentina.

The net earnings of stock corporations organized in Argentina are taxed at 35%. Mining establishments organized as stable businesses belonging to associations, companies or businesses organized abroad, or to nonresidents, are also taxed at 35%.

Nonresidents pay income tax exclusively on their Argentine-source income. In these cases, the law irrefutably presumes a variable percentage of the income resulting from the activities carried out in Argentina to be taxable income. The income tax rate of 35% is applied to these percentages of net income.

The disposal (e.g., sale, transfer) of shares, quotas, bonds and other securities held by non-Argentine residents are subject to a 15% income withholding tax, which the beneficiary can choose to apply over:

- A 90% net presumed income (thus reaching an effective 13.5% rate on the price) or
- The effective income, i.e., the income after the Argentine tax cost deduction

The income withholding tax must be applied by the buyer.

In case of transactions performed between foreign residents, the law states that the withholding tax shall be applied and entered by the buyer; however, until now neither the federal executive power nor the federal tax authorities have determined the mechanism to apply such withholding tax in this case.

**Deductions allowed for stock corporations and other companies**

The general principle is that expenses incurred to obtain, maintain and keep taxable income will be deductible.

The following rules apply to certain deductions:

- Reserves may be deducted only for tax purposes if expressly allowed by law (e.g., the tax purposes allowance for uncollectible accounts, with certain restrictions). Any other allowances, provisions or reserves are generally not deductible.
- All taxes levied on income-generating assets, other than income tax itself, are income tax deductible.
- Start-up expenses related to setting up a business may be deducted in the year they are incurred or amortized over a maximum term of five years.
- Donations may be deducted when made directly to the federal, provincial or municipal government; the FPP (permanent funds for political parties); religious or charity institutions; or exempt private organizations with specific goals. Deductible amounts are limited to 5% of net income for the year.
- Foreign exchange gains or losses are included in taxable income on an accrual basis. Receivables and payables in foreign currency should be restated by the exchange rate set by the Argentine Central Bank at the respective year-end.
- Interest and other financial expenses are deductible considering the limitations provided by thin capitalization rules.
- Extraordinary losses caused by acts of God or force majeure may be deducted to the extent they are not covered by insurance or compensation.

In addition to the specific items referred to above, other deductions that may be allowed include salaries, wages, commissions, director’s fees, technical services fees, contributions to pension funds and traveling expenses. These are subject to certain restrictions.

**Tax losses**

A tax loss (NOL) sustained in a given year may be deducted from taxable income generated in the five subsequent years. Tax losses may not be carried back against taxable income for prior years. The NOLs arising from the transfer of shares or equity interests may offset only income of the same origin. The same applies to NOLs from activities not to be considered of Argentine source and from transactions under derivative agreements, except for hedging transactions.
Minimum presumed income tax

General framework

Minimum presumed income tax (MPIT) is determined on the basis of assets at a 1% tax rate. For consideration, as of fiscal year starting 1 January 2019, the MPIT will be repealed.

Assets subject to tax in Argentina that have an aggregate value of equal to or lower than ARS 200,000 are exempt from MPIT. When the value of assets exceeds ARS 200,000, all taxable assets held by the taxpayer shall be subject to MPIT.

The following items, among others, should not be considered when calculating MPIT:

► The value of new depreciable movable asset, other than automobiles, in the year of acquisition or investment and in the following year
► The value of investments in new buildings or improvements in the year in which total or partial investments are made and in the following year

The following are subject to tax:

► Companies domiciled in Argentina
► Not-for-profit organizations and foundations domiciled in Argentina
► Sole proprietorships located in Argentina
► Individuals, undivided estates and owners of rural real estate
► Permanent establishments domiciled or otherwise located in Argentina for, or by virtue of, the performance of business, industrial, agricultural, forest and mining activities

Income tax determined for the tax year in which MPIT is calculated may be computed as a payment on account of the latter. If computable income tax was insufficient and thus minimum presumed income tax had to be paid, minimum presumed income tax actually paid could be considered a payment on account of any excess of income tax over minimum presumed income tax that arises in any of the subsequent 10 tax years.

Factors for consideration by the mining and metals industry

The assets used in carrying out activities within the system created by the Mining Investments Law 24,196 are exempt from this tax. Mining companies must be duly registered with the mining secretariat.

Personal assets — substitute taxpayer

General framework

Tax on personal assets generally applies to assets owned by individuals as from 31 December each year. For resident individuals, the tax applies on assets owned in Argentina and abroad. For nonresident individuals, the tax applies only on assets owned in Argentina.

From 2002, a non-rebuttable presumption was instituted that shares, quotas and other participation interest in the capital of Argentine companies held by nonresident entities are indirectly owned by foreign individuals; thus, the tax applies to such ownership.

Argentine companies annually pay tax, as substitute taxpayers, on equity interests held by Argentine individuals and by foreign shareholders (either foreign individuals or foreign entities). The company is then entitled to request a refund of the tax from its shareholders or partners.

The tax rate is 0.25% and is calculated according to the proportional equity value as of 31 December of each year based on the amount of equity deriving from the firm’s balance sheet for accounting purposes. So, an Argentine company has to pay 0.25% tax on its equity at year-end as a substitute taxpayer for its foreign shareholders, who would then reimburse the Argentine company for the amount of tax paid.

Tax on bank account transactions and other similar transactions

A tax is levied on debits and credits to checking accounts opened with banks governed by the Financial Institutions Law. In addition, all cash movements or payments are subject to this tax, whatever the mechanism used, when made through organized payment systems in lieu of bank checking accounts.

The general rate is 0.6% for bank debits and 0.6% for bank credits. It is 1.2% when the movement of funds is not made through a bank account. In addition, differential rates and exemptions apply to certain transactions.

The law establishes that the federal executive is empowered to resolve whether this tax is to be computed on account of other taxes (either fully or partially). Accordingly, as from May 2004, 34% of the amount paid for tax on bank account credits is used toward paying income tax and/or minimum presumed income tax (the computation is 17% in the case of taxable events subject to a 1.2% rate).
Turnover tax

General framework

Turnover tax is a provincial tax charged by tax authorities in each of the 24 jurisdictions (including provinces and the city of Buenos Aires). This tax is applied on revenues from the usual activities carried out for profit in business, industry, the professions and contracts for work or services, regardless of the result of such activities, the nature of the service provider or the place where the activities are performed.

Turnover tax rates vary according to the jurisdiction and the activity involved. The general rate (applicable to commerce and services) ranges from 3% to 5%

The rate on production activities is generally 1.5%. Higher differential rates are applied to other activities, such as loans and commissions. In case the taxpayers carry out activities in more than one jurisdiction, the company’s revenues should be distributed among the different jurisdictions to pay this tax, according to the rules laid out in the Multilateral Agreement signed by the Argentine provinces.

In most jurisdictions, exports are exempt from this tax.

Factors for consideration by the mining industry

The rates vary according to the jurisdiction and the activity involved. It is therefore necessary to review each jurisdiction specifically. The following table lists the rates applicable to mining activities in some of the main jurisdictions.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Turnover tax rate^</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Buenos Aires</td>
<td>1%</td>
</tr>
<tr>
<td>Catamarca</td>
<td>1.33%</td>
</tr>
<tr>
<td>Chubut</td>
<td>3%</td>
</tr>
<tr>
<td>Jujuy</td>
<td>Exempt</td>
</tr>
<tr>
<td>La Rioja</td>
<td>1.25%</td>
</tr>
<tr>
<td>Mendoza</td>
<td>5%</td>
</tr>
<tr>
<td>Neuquen</td>
<td>Exempt</td>
</tr>
<tr>
<td>Rio Negro</td>
<td>1%</td>
</tr>
<tr>
<td>Salta</td>
<td>Exempt</td>
</tr>
<tr>
<td>San Juan</td>
<td>Exempt</td>
</tr>
<tr>
<td>San Luis</td>
<td>1.20%</td>
</tr>
<tr>
<td>Santa Cruz</td>
<td>1%*</td>
</tr>
<tr>
<td>Santiago del Estero</td>
<td>Exempt</td>
</tr>
<tr>
<td>Tucuman</td>
<td>3.5%</td>
</tr>
</tbody>
</table>

^ In force as of February 2017
* This rate applies in case the mining exploitation is located within the involved provincial jurisdiction. Otherwise, the tax rate increases. In addition, the tax rate increases when the revenues exceed certain amount in the fiscal year.

Stamp tax

General framework

This tax is also a provincial tax charged by each of the 24 jurisdictions (including provinces and the city of Buenos Aires), and it is levied on acts documented in public or private instruments such as agreements, mining concessions, deeds, acknowledged invoices, promissory notes and securities. In addition, it is levied on acts documented through correspondence.

The general stamp tax rate is 1% but on certain occasions, such as when real property is sold, it may reach 3%. Each jurisdiction has its own stamp tax law, which is enforced within its territory. Double taxation sometimes occurs, for which no legal recourse currently exists.

Factors for consideration by the mining industry

The rates vary according to the jurisdiction and the agreements executed. Given below is a list of the rates applicable in the main mining jurisdictions in Argentina.
<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Stamp tax rate^</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Buenos Aires</td>
<td>1%*</td>
</tr>
<tr>
<td>Catamarca</td>
<td>Exempt **</td>
</tr>
<tr>
<td>Chubut</td>
<td>1,2%</td>
</tr>
<tr>
<td>Jujuy</td>
<td>Exempt **</td>
</tr>
<tr>
<td>La Rioja</td>
<td>2%*</td>
</tr>
<tr>
<td>Mendoza</td>
<td>1,5%*</td>
</tr>
<tr>
<td>Neuquen</td>
<td>1,4%*</td>
</tr>
<tr>
<td>Rio Negro</td>
<td>1%*</td>
</tr>
<tr>
<td>Salta</td>
<td>Exempt **</td>
</tr>
<tr>
<td>San Juan</td>
<td>Exempt **</td>
</tr>
<tr>
<td>San Luis</td>
<td>1,2%*</td>
</tr>
<tr>
<td>Santa Cruz</td>
<td>1,4%*</td>
</tr>
<tr>
<td>Santiago del Estero</td>
<td>1%*</td>
</tr>
<tr>
<td>Tucuman</td>
<td>1%***</td>
</tr>
</tbody>
</table>

^ In force as of March 2017.
* This is the general stamp tax rate since there is no specific rate or exemption aimed to the mining industry. However, different rates may apply, depending on each specific act or contract.
** General exemption granted to the mining industry.
*** Stamp tax’s general rate may be increased when the tax base exceeds ARS 1,000,000.

Mining royalties

According to Mining Investments Law No. 24,196, the jurisdictions that implement a system of royalties may not collect more than 3% of the pithead price of the extracted ore.

Pithead ore is the ore extracted, transported and/or accumulated before being subjected to any beneficiation.

Pithead price is defined as the ore and/or metals declared by the mining producer as the value obtained from the first stage of commercialization, less direct and/or operating costs necessary to take the pithead ore to that stage, with the exception of direct or indirect expenses and/or costs inherent to the extraction process.

The following are the costs deducted, as applicable:

► Transport, freight and insurance costs until delivery of the product, minus the costs related to the ore extraction process up to the pithead
► Crushing and grinding costs, beneficiation contributing to the sale of the final product by the mining operation
► Commercialization costs of selling the end product
► Administration costs of delivering the end product, minus the extraction costs
► Smelting and refining costs

All depreciation-related amounts are excluded from costs to be deducted. In all cases, if the price taken as the basis for the pithead price calculation is lower than the price of such product on the local or international market, the latter shall be applied as the calculation basis.
C. Incentives

The Mining Investments Law No. 24,196, regulated by Administrative Order No. 2,686/93, sets forth a series of benefits for companies that carry out mining activities not related to oil and gas and are registered with the Mining Investments Registry. These include the following:

► Total tax burden stability for 30 years, which is determined upon presentation of the feasibility study — this provision does not include VAT, which will be subject to the general tax treatment. The tax stability will also be applicable to foreign exchange and tariff systems, excluding the foreign exchange parity and export tax rebates, refunds and/or reimbursements (refer below).

► Double income tax deduction of all the amounts invested in prospect, exploration, special studies, mineralogical and metallurgical assays, pilot plant and other work intended to determine the technical and economic feasibility of projects; exploration fees are not included as a deductible expense.

► Income tax exemption regarding income from mining contributions and rights, such as capital stock, in companies engaged in performing the activities regulated by this system. This applies if the contributor and beneficiary companies keep the contribution in their related equity for a term of at least five consecutive years.

► Accelerated amortization system for income tax purposes of capital investments incurred in executing new mining projects and expanding the existing ones (refer below).

► Exemption from the payment of customs duties related to the entry of capital goods, special equipment or components of such assets or of the inputs determined by the enforcement agency, as required to undertake the activities regulated by this system (refers to Section H).

► System to request VAT credits resulting from imports and purchases of goods and services intended for use in mining activities: prospecting, exploration, metallurgical assays and applied research (refer to Section H).

► The companies may book a provision for environmental expenses, which may be deducted from the income tax assessment. The latter may not exceed 5% of extraction and benefit operating costs.

Tax stability

Investments in new mining projects and in extending the existing ones, protected by Law No. 24,196, benefit from the tax stability for a 30-year term as from the date when the feasibility study is filed.

Tax stability means that companies’ tax burden, as determined at the time of filing the feasibility study, cannot be increased as a result of changes in federal, provincial or municipal taxes and rates. The tax stability regime is applicable to all taxes that the companies registered are subject to, as well as the duties, tariffs or other taxes on imports or exports.

The total tax burden in each tax-related area may rise because of the below factors, as long as their effects are not compensated in that same jurisdiction through abolishing or reducing other taxes or tax regulation amendments favorable to the taxpayer:

► Creation of new taxes
► Increase in rates or amounts
► Change in the mechanism or proceedings in assessing a certain tax base, whereby different guidelines or conditions are established than those established when the beneficiary filed its feasibility study and which entail an increase in the tax base

On the other hand, the following situations shall not be covered by the tax stability or shall not violate such tax stability:

► Changes in the valuation of assets, when such valuation forms the base for the tax’s application and assessment
► Extension for a specified period of time of the validity of enacted regulations that are enforced upon obtaining the tax stability
► Defeasance of exemptions, exceptions or other measures applicable for a given period and that such defeasance results from the expiration of such a period
► Employer and employee contributions to the Single Social Security System and indirect taxes

D. Capital allowances

Mining capital expenditure

Exploration expenditures, mine development expenditures and mining acquisition costs should be capitalized and depleted. An accelerated amortization system applies to capital expenditures incurred in executing new mining projects or expanding those already in existence. The law stipulates the following:

► Investments made with regards to equipment, civil construction projects and construction for infrastructure needed for the operation may be depreciated over three years in the following manner:
  ► 60% of the total amount of the infrastructure unit in the fiscal year in which the facilities start to be used
  ► The remaining 40% in equal portions in the two subsequent years
Investments made in machinery, equipment, vehicle and facilities may be depreciated over three years as from start-up.

The computable annual tax amortization cannot exceed, in each tax period, the amount of taxable income before subtracting the relevant amortization and, as the case may be, after prior-year net operating losses have been computed.

The non-computable surplus in a given tax period can be carried forward to subsequent years, considering the above-mentioned cap for each of them.

The term for computing the tax amortization of assets cannot exceed their respective useful lives. The existing residual value at the end of the year when the useful life of assets expires can be fully charged for tax purposes in this tax period.

E. Withholding taxes

Dividends

When an Argentine company pays dividends or distributes earnings exceeding income (assessed by applying the general Income Tax Law provisions) accumulated as of the year-end immediately preceding the payment or distribution date, it is required to apply a 35% withholding tax over such excess as a single and definitive payment (equalization tax).

Income to be considered in each year is that assessed by applying the general provisions of Income Tax Law less income tax paid for the tax period(s) in which income being distributed originated, plus the dividends or earnings not computed upon assessing such income.

Interest

Deduction — thin capitalization

For corporations and companies, except banks, the Income Tax Law restricts the computation of interest arising from loans granted by their parent companies abroad. The interest involved in the restriction shall not be deductible “in the proportion related to the amount payable that gives rise to such interest, existing as of fiscal year-end, exceeding two times the company’s equity as of such date.”

The regulation provides the definitions related to the restriction. The restriction is not applicable if the creditor is a bank based in a non-cooperative country. This is because upon payment of such interest abroad, they are subject to the maximum withholding rate of 35%. In practice, this restriction is applicable to interest resulting from loans, granted by foreign related banks, which are located in jurisdictions that do not qualify as non-cooperative countries.

In other words, the deduction is restricted to the interest that upon remittance abroad is affected by an actual withholding of less than 35%. Furthermore, if through the application of a treaty to avoid double taxation the interest of a certain loan between related parties is subject to a lesser withholding than what it would be subject to if the maximum rate of 35% were applied, such interest would also be subject to the restriction.

The law also adds that nondeductible interest shall receive the treatment applicable to dividends.

At-source withholdings

When the local party pays beneficiaries abroad through the payment of interest, the following items shall be presumed to represent net income:

- Forty-three percent of the amount paid as interest of the loans of any nature or origin when the borrower is a financial institution governed by Law 21,526, or in the case of transactions, for the import of personal property subject to depreciation, except for cars granted by suppliers. This rate is also applicable when the creditor of the loans is a bank or financial institution based in a cooperative country.

- The entire amount paid as interest for loans of any origin or nature when the borrower of a loan is an Argentine company, except banks, a natural person or indivisible estate and where the creditor does not fall under the above-mentioned description.

Technical services

Deduction

Under Section 12 of the Income Tax Law, any technical, financial advisory or other service rendered from abroad will be considered Argentine-sourced income and will therefore be subject to at-source withholding.

The technical advisory agreements, which involve a transfer of knowledge related to the production of goods in Argentina, must be registered with the enforcement entity INPI (Federal Industrial Property Institute). The effective regulation establishes that failure to register the agreements subject to such current regulation shall not affect their validity, but the obligations in favor of the supplier shall not be deductible for tax purposes as the receiver’s expenses.

At-source withholdings

When the local party pays beneficiaries abroad in compensation for technical assistance, the following items shall be presumed to represent net income:
- 60% of the amounts paid for services derived from technical assistance, engineering or advisory services that are not available in Argentina according to the applicable authorities regarding technology transfer, duly registered and effectively provided.

- 80% of the amounts paid in consideration of rights assignments or licenses for exploiting invention patents and other items not considered in the point above.

Other payments, i.e. those not involving technical assistance related to the core business of the payer, shall be presumed to represent 90% of net income.

### Double taxation agreements

Argentina has signed double taxation treaties with several European and American countries to avoid double international taxation and thus promote reciprocal investment and trade. Consequently, lower withholding rates may be applicable when the beneficiary abroad is based in any of the countries with which Argentina has signed a treaty. But certain formal requirements may need to be met for the lower rate to apply.

The table below shows the effective income tax rates under these treaties:

<table>
<thead>
<tr>
<th>Country</th>
<th>Dividends a) %</th>
<th>Interest %</th>
<th>Royalties %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>10/15 b)</td>
<td>0/12</td>
<td>10/15</td>
</tr>
<tr>
<td>Belgium</td>
<td>15</td>
<td>15.05/35</td>
<td>21/28/31.5</td>
</tr>
<tr>
<td>Bolivia</td>
<td>35</td>
<td>15.05/35</td>
<td>21/28/31.5</td>
</tr>
<tr>
<td>Brazil</td>
<td>35</td>
<td>15.05/35</td>
<td>21/28/31.5</td>
</tr>
<tr>
<td>Canada</td>
<td>10/15 b)</td>
<td>0/12.5</td>
<td>3/5/10/15 c)</td>
</tr>
<tr>
<td>Chile</td>
<td>10/15 b)</td>
<td>4/12/15</td>
<td>3/5/10/15 c)</td>
</tr>
<tr>
<td>Denmark</td>
<td>10/15 b)</td>
<td>0/12</td>
<td>3/5/10/15 c)</td>
</tr>
<tr>
<td>Finland</td>
<td>10/15 b)</td>
<td>0/15</td>
<td>3/5/10/15 c)</td>
</tr>
<tr>
<td>France</td>
<td>15</td>
<td>15.05/20</td>
<td>18</td>
</tr>
<tr>
<td>Germany</td>
<td>15</td>
<td>10/15</td>
<td>15</td>
</tr>
<tr>
<td>Italy</td>
<td>15</td>
<td>15.05/20</td>
<td>10/18 d)</td>
</tr>
<tr>
<td>Netherlands</td>
<td>10/15 b)</td>
<td>0/12</td>
<td>3/5/10/15 c)</td>
</tr>
<tr>
<td>Norway</td>
<td>10/15 b)</td>
<td>0/12</td>
<td>3/5/10/15 c)</td>
</tr>
<tr>
<td>Russia</td>
<td>10/15 b)</td>
<td>0/15</td>
<td>15</td>
</tr>
<tr>
<td>Spain</td>
<td>10/15 b)</td>
<td>0/12</td>
<td>3/5/10/15 c)</td>
</tr>
<tr>
<td>Sweden</td>
<td>10/15 b)</td>
<td>0/12</td>
<td>3/5/10/15 c)</td>
</tr>
<tr>
<td>Switzerland</td>
<td>10/15 b)</td>
<td>0/12</td>
<td>3/5/10/15 c)</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>10/15 b)</td>
<td>0/12</td>
<td>3/5/10/15 c)</td>
</tr>
<tr>
<td>Non-treaty countries</td>
<td>35</td>
<td>15.05/35</td>
<td>21/28/31.5</td>
</tr>
</tbody>
</table>

a) The rates shown in the table apply to the amount of the dividend distribution exceeding the after-tax accumulated taxable income of the payer. Mining companies are allowed to recalculate the taxable base for this purpose so as not to neutralize the tax benefits they are entitled to get from the Mining Investment Law (e.g., double deduction, accelerated depreciation).

b) The 10% rate applies if the beneficial owner of the dividend is a company that controls, directly or indirectly, at least 25% of the voting power of the payer. The 15% rate applies to other dividends.

c) In general, the rates apply to the following categories of payments: 3% for the use of, or right to use, news; 5% for the use of, or right to use, copyrights of literary, dramatic, musical or other artistic works (but not royalties with respect to motion picture films and works on film or videotape or other means of production for use in connection with television); 10% for the use of, or right to use, industrial, commercial or scientific equipment or patents, trademarks, designs, models, secret formulas or processes, or for the use of or information concerning scientific experience, including payments for the rendering of technical assistance; and 15% for other royalties. These categories may differ slightly from treaty to treaty.

d) The 10% rate applies to royalties for the use of, or the right to use, copyrights of literary, artistic or scientific works. The 18% rate applies to other royalties.
F. Financing considerations
Not applicable.

G. Transfer pricing
Transfer pricing rules regulate the prices of transactions between a local foreign-owned company and its head offices abroad or one of the latter’s subsidiaries. The rules also apply to transactions with nonrelated parties located in no cooperative countries. Argentine laws generally follow the Organisation for Economic Co-operation and Development (OECD) guidelines.

H. Indirect taxes

Import and export duties
Import of goods into Argentina is levied with import duties, statistical rate, VAT and tax withholdings.
Import duties are assessed on an ad valorem basis on the customs value of the goods (cost, insurance and freight (CIF value)), and range from 0% to 35% depending on the commodity being imported. Additionally, the statistical rate is an ad valorem rate of 0.5% calculated on the CIF value of the imported goods, with a maximum of US$500.

VAT is an ad valorem tax applied to imports for consumption. The VAT is calculated on the CIF value of imported goods, plus import duties and statistical rate. The general VAT rate in Argentina is 21% or 10.5% for certain capital goods.

Tax withholdings: VAT and income tax withholdings amount to 20% (or 10% for goods levied with a reduced VAT rate) and 6% respectively, when the imported goods are to be sold in the local market. In the case of goods imported to be used by the company, such as spare parts, the income tax withholding arises to 11%. There is also an additional turnover tax (provincial tax) withholding that amounts to 2.5%. In case imported goods are to be registered as fixed assets, they are exempt from these withholdings.

Additionally, within the framework of the Common Market of the South American Cone (Mercado Común del Sur, or MERCOSUR), the country members have granted tariff preferences to imports. Currently, goods originated in any MERCOSUR country (evidencing such condition by means of a Certificate of Origin) are not subject to import duties and statistical rate when imported into another MERCOSUR country. The MERCOSUR was established in March 1991 between Argentina, Brazil, Paraguay and Uruguay. Venezuela has recently become a full member, and Bolivia is in process to become a full member.

Specifically, mining companies registered with the Mining Investments Registry shall be exempt from the payment of import duties and taxes regarding the import of capital goods, special equipment or spare parts of such goods, and inputs deemed necessary for conducting mining activities by the enforcement authorities. In virtue of this benefit, certain restrictions to the sale of goods imported under this system apply.

Export duties are calculated based on the free on board (FOB) value of goods valued under the Argentine Customs Code standards. Any other taxes and charges levied on exports and the CIF value of materials imported on a temporary basis are excluded from the taxable value.

Between 21 December 2015 and 2 February 2016, export duties on mining exports have been eliminated, including those applied on gold/silver doré as well as gold/silver/copper concentrates.

VAT

General framework
VAT is levied on the following:

- Sale of personal property located or placed in Argentina
- Works, contracts for services and service provisions in Argentina
- Works, contracts for services and service provisions abroad when the actual use or exploitation of which is carried out in Argentina, only if the service receiver is a registered VAT payer
- Works, contracts for services and services provision made by foreign parties in Argentina hired by local parties
- Definitive imports of personal property

In general, VAT payers are the sellers of goods or services. However, the VAT amount is based on the price of goods or services and may be calculated as a tax credit if the related person is registered as a VAT payer. Therefore, it is in fact the end consumer or exempt entity which bears the VAT cost.
Credit and debit system

The VAT that a company charges on sales or service provisions is known as “VAT debit.” The VAT paid by companies with goods or services purchases is called “VAT credit.” In general, companies deduct their VAT credit from the VAT debit every month, file a VAT return and pay in the difference, if any. If in a given month the VAT credit exceeds the VAT debit, the difference may be added to the VAT credit for the next month.

The general VAT rate is 21%. This rate is increased to 27% for the following services:

► Telecommunications
► Gas and electric power supply
► Water supply and sewerage services

This differential rate is applied when such services are provided to properties not used exclusively as dwelling, and the service recipient is a registered VAT payer or enrolled in the simplified system for small taxpayers.

The general rate is reduced to 10.5% for the following taxable events, among others:

► Sales, manufacturing, fabrication or construction and definitive imports of goods that qualify as capital assets according to the list included in the VAT law
► Works on real property belonging to other parties and earmarked for housing, excluding those performed on preexisting constructions that cannot be considered work projects in progress, and works performed directly or through third parties on real property owned by the taxpayer, when earmarked for housing
► Interest, commissions and fees on loans granted by financial institutions, subject to certain conditions

VAT applicability to specific transactions

► Definitive imports, whether recurring or not, are subject to VAT. The importer must pay the VAT before the imported goods are withdrawn from customs. VAT paid by the importer is considered a VAT credit. There is an additional withholding system applicable upon importing goods definitively. The rate is usually 20%-10% in the case of goods subject to the reduced VAT rate. The importation of items to be added to fixed assets in the nature of tools of trade is not subject to VAT additional withholdings.
► Local companies are required to pay VAT on services rendered by others from abroad and given economic use in Argentina. The VAT paid can be computed as a tax credit in the following month (reverse charge method).
► Local companies are required to pay VAT on services rendered by foreign parties in Argentina. The VAT paid can be computed as a tax credit.
► Exports, whether of goods or services, are VAT exempt, but exporters are allowed to offset any VAT billed to them for goods or services against VAT they are payable for other transactions subject to this tax. If a VAT credit results from this offset, the taxpayer may request that the respective amount be credited against other taxes collected by the AFIP, that it be reimbursed, or that it be transferred to other taxpayers.

Factors for consideration by the mining industry

Law No. 24,196 and its administrative order establish that the VAT credits resulting from the import of goods and services carried out by the companies engaging in mining exploration activities, existing after 12 tax periods as from the one in which computation was appropriate, can be returned to them, provided certain formalities are met.

In order to be entitled to this benefit, the following requirements must be met:

► The mining exploration tasks must be carried out by taxpayers registered with the Mining Investment Registry.
► The imports and purchases of goods and services must be intended for use in mining activities, such as prospecting, exploration, metallurgical assays and applied research.

I. Others

Mining investment guarantees

Terms and conditions regarding foreign investments

Mining Investment Law No. 24,196 establishes equal treatment for Argentine and foreign capital. This means that natural persons domiciled in Argentina and artificial persons organized in Argentina or who are authorized to do business in Argentina and are duly registered, who engage in mining activities in Argentina or set up operations in Argentina for such purposes, may join the system.
The above-mentioned law denies access to the system set forth in such law only to the following:

- Persons condemned of willful crimes that are incompatible with the above-mentioned legal system
- Artificial persons, the directors, managers, statutory auditors, attorneys-in-fact or agents of those guilty of willful crimes
- Natural or artificial persons who, upon registration with the registry run by the enforcement agency, carry actual social security or tax-related debts that are due and payable; or in the event of a final administrative or court order stating such noncompliance with regard to matters related to customs, tax or social security, until such an order is not complied with

Additionally, Law No. 21,382 (Foreign Investments Law) places Argentine investments on an equal footing with foreign investments, whenever it is shown that foreign investors investing capital in Argentina intended for use in promoting financial-related activities, or in broadening or perfecting the already-existing activities, shall have the same rights and obligations that the Argentine Constitution and laws grant and impose on Argentine investors.

Prior approval to operate in Argentina is not required. Law No. 24,196 requires parties interested in joining the system to register with the registry run by the enforcement agency for such purposes (Argentine Department of Mining).

Federal Mining Agreement

The Federal Government and the Provinces are discussing the issue of a Federal Mining Agreement which contain social, productive, environmental, economics and taxes matters; aiming to promote long term mining investments environment.

Foreign exchange regulations

Over the last year, the Argentine federal government implemented relevant measures dealing with foreign exchange matters, in order to optimize and facilitate foreign trade operations, which is an area that has been subject to several restrictions and delays in the last years.

Inflow of funds

Exports of goods

The foreign exchange regulations establish that the foreign currency obtained from exports of goods, must be converted on the foreign exchange market within 3,650 running days as from the date of shipment.

Services rendered to nonresidents

Funds derived from the collection of services rendered to nonresidents will be subject to the obligation to enter through the foreign exchange market within 365 running days as from the date of collection, as long as they are part of the FOB and/or CIF value of the goods exported.

Capital contributions

It is not mandatory to bring into Argentina the foreign currency obtained from capital contributions; the related funds may be kept in an account abroad.

Capital contributions should be reported in the Direct Investment Report issued by Communication BCRA “A” 4237. This System establishes the obligation to inform semi-annually direct investments in the country of non-residents (higher or equal than US$ 500,000), and resident direct investment abroad in the form of shares in the capital of companies and real estate (higher than US$ 1,000,000). If the amount of the resident direct investment abroad is higher than US$ 1,000,000 but less than US$ 5,000,000 the information could be presented annually.

Loans from abroad

Financial loans are not required to be settled into Argentina. Regardless of whether the funds are entered Argentina or not, it is mandatory to register the debt on Central Bank’s Communique “A” 3602.

Import of goods

Regarding import payments, the Foreign Exchange Regulations allow payments:

- In advance
- On demand

Deferred, which is performed after the nationalization of the goods. Import for consumption of goods from every tariff heading of the Mercosur’s common nomenclature (NCM) is subject to the approval of prior automatic or non-automatic import licenses, depending on the goods, through the Imports System of Monitoring (Sistema Integral de Monitoreo de Importaciones, or SIMI).

Import licenses are effective for a 180-running-day period as of the date of approval through the SIMI.

The SIMI identification number must be submitted when registering the destinations for the consistency controls agreed with the relevant agencies to be performed and for verifying that it has been validated.
Payments of dividends

In the case of earnings and dividends, the Central Bank of Argentina (Banco Central de la República Argentina, or BCRA) provides access to the foreign exchange market to remit earnings and dividend payments as long as they are related to closed and audited financial statements. The intervening financial entity may require the documentary evidence it deems advisable to support the transaction’s legitimacy.

Distribution of dividends should be reported in the Direct Investment Report issued by Communication BCRA “A” 4237. Finally, dividends debt should be informed in the informative system established by Communication BCRA “A” 3602.

Payments of services

To make payments of services abroad, the Argentine resident will need to inform in the informative system established by Communication BCRA “A” 3602 to the Argentine Central Bank, which should be approved.

Limits to payments abroad for imports of goods and services

Payments abroad for imports of goods and services can be made without any limit through the foreign exchange market.

New direct investments repatriation

There is no special requirements in the current foreign exchange regulations in order to repatriate foreign direct investments made abroad.
How EY’s Global Mining & Metals Network can help your business

With increasingly positive sentiment in the sector, miners are focused on restoring balance sheet strength and liquidity in preparation for growth. The sector’s key opportunity is still productivity. Although many have made productivity improvements, the critical next wave of gains needs a strong focus on loss elimination, with digital being a key enabler.

EY has significant experience in assisting companies to evaluate and implement strategic initiatives, with deep sector knowledge to support you on finance initiatives, such as portfolio optimization and capital planning, and through to operational improvement programs, such as productivity and digital enablement.

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