



ARGENTINA: NEW VOLUNTARY DISCLOSURE REGIME

On July 22, 2016, Law 27,260 (The Law) providing for a Tax Amnesty Regime which regulates the Voluntary and Extraordinary Disclosure Regime was published in the Official Gazette.

The main provisions concerning the Voluntary and Extraordinary Disclosure of Assets are set out below:

Disclosure Regime

Who can adhere to the Disclosure of Assets?

The voluntary disclosure program enables individuals or legal entities, residents or domiciled in Argentina on December 31, 2015, to voluntarily declare unreported assets of foreign or local currency, real estate (purchased or built, including bare land, buildings, work in progress and improvements), movable assets (including shares, equity interests, trust beneficiary rights), any kind of financial instruments or securities (bonds, negotiable obligations, American Depositary Receipts (ADRs), unit shares in common funds) and any other asset (including credits and rights for valuable consideration).

Newly and previously declared currency or securities that were held abroad would not have to be brought back into Argentina.

Who cannot adhere to the Disclosure of Assets Program?

The voluntary disclosure program excludes certain public officers (including spouses and emancipated minors), persons convicted for tax offenses or prosecuted for other crimes to regularize their tax situation.

Under this program it will not be allowed to disclose holdings of foreign currency or securities deposited in financial institutions or custody agents located in jurisdictions which have been identified by the Financial Action Task Force (FATF) as Non Cooperative such as the Cook Islands, Marshall Islands, Antigua & Barbuda (please refer to Decree No. 589/2013 from the Argentinean Tax Authorities "AFIP").

When the Disclosure starts and until when an individual adhere to it?

The adhesion to the voluntary disclosure program can be made from August 1, 2016 until March 31st, 2017. It is important to highlight that no extension period is foreseen under the Law.

What are the benefits to adhere to the Disclosure of Assets Program?

The extraordinary regularization regime suspends and would extinguish any tax, social security and custom criminal actions or offenses.

How the assets will be reported?

- a) Disclosure of foreign currency, or securities located abroad: declaration of deposit through an electronic certificate or statement of account which shall mention the



identification of the Bank or financial institution and jurisdiction in which it is incorporated, account number, name or the name of the company and address of the account holder, confirmation that the account was opened prior to December 31, 2015, the balance of the account or portfolio value expressed in foreign currency at December 31, 2015 and place and date of issuing of an electronic statement.

- b) Disclosure of local or foreign currency in cash located in Argentina: declaration of deposit in financial institutions until October 31, 2016. Once deposited, the assets must remain under the name of the account holder for a period no less than six months or until March 31, 2017 inclusive.
- c) Disclosure of other assets, abroad or locally: through a sworn declaration.

What will be the tax imposed on personal assets under the Disclosure of Assets Regime?

The adherents to the voluntary disclosure program would be liable for the payment of a special tax over the value of the declared assets, which will vary from 0% to 15% as follows:

- a) 0% which refers to the subscription of securities from the Argentine Government or local mutual funds with investments in the infrastructure sector,
- b) 0% to 5% refers to real estate and other assets located locally or abroad and which do not exceed AR Pesos 800,000, which is approximately USD 55,000,
- c) 10% refers to disclosed assets, which exceed AR Pesos 800,000 and if the Regularization Tax is paid before December 31, 2016 or
- d) 15% which refers to disclosed assets, which exceed AR pesos 800,000 and if the Regularization Tax is paid between January 1, 2017 and March 31, 2017

No tax would be applied if the declared funds are used to i) acquire, as an original investor, securities nominated in USD, issued by the Argentine Government for different periods (3 to 7 years) and/or subscribe or acquire units in open or closed Argentine common funds which purpose is the investment in financial instruments aimed at financing investment projects in Argentina for a period of five years.

Other Relevant Directives of the Tax Amnesty

The taxpayer will be granted for only one time the opportunity to disclose to the Argentinean Tax Authorities any underlying asset located abroad held by any company, trust, private foundation, association or other legal vehicle existing before and up to December 31, 2015.

Failure to do so will result in the withdrawal of the benefits and the re-establishment of all liabilities and sanctions.

Filing an application for the regime in no way limits the authorities' investigative powers in connection with money laundering crimes.

Resolution 92/2016 issued on August 8, 2016 by the Financial Information Unit (entity body within the Ministry of Treasury and Public Finance in charge of analysing financial information to prevent money laundering) provides specific regulations for financial entities in connection with the Tax Amnesty Regime. The measure aims at preventing the deposit of unreported assets within the Tax Amnesty Regime to be deemed an



“unusual” transaction and to exclude any tax profile in consideration of the compliance of the account owners with the anti-money laundering regulations.

Please do not hesitate to contact the author for any concerns or questions regarding the Argentina New Disclosure Regime and for restructuring matters.

Please do not hesitate to contact the author if you have any questions or queries.

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