

Argentina adds new transfer pricing documentation requirements

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In brief

Argentina published General Resolution 4717 (GR 4717) on May 15 in the Official Gazette. Through GR 4717, which supersedes GR 1122, the Federal Administration of Public Revenue (AFIP) sets forth formalities, requirements, and other conditions for taxpayers that carry out transactions that are governed by transfer pricing regulations and/or that import and export goods from/to independent parties. GR 4717 regulates the modifications introduced to the Income Tax Law and its Regulatory Decree regarding transfer pricing — as a result of the latest tax reform (see PwC Tax Insights issued in [January 2018](#) and [January 2019](#)) — and applies to fiscal years ended from December 31, 2018 onward.

GR 4717 introduces new transfer pricing documentation requirements, including a Transfer Pricing Report, Master File, and annual transfer pricing form (2668). GR 4717 further sets forth transaction assessment guidelines, information, and additional documentation requirements. Particularly, it focuses on transactions of imports and exports of goods carried out through international intermediaries, intra-group financial transactions, intra-group services, and activities that would contribute to the development of intangibles (such as research and development services and marketing activities), among other relevant aspects that must be taken into consideration in the preparation of the Transfer Pricing Report.

In detail

Documentation requirements

New transfer pricing documentation requirements include the preparation and filing of a Transfer Pricing Report or Study, Master File, and annual transfer pricing form (2668).

Observation: Country-by-Country report (CbCR) rules have not been amended and have been in force since 2017.

Transfer Pricing Report

Taxpayers required to prepare and file the Transfer Pricing Report with the tax authorities are entities that carried out transactions with foreign related parties and/or transactions with counterparties located in countries considered non-cooperative for tax purposes or in low or nil tax jurisdictions, provided that any of the following thresholds are met:

- Transactions carried out by the taxpayer with foreign related parties exceed ARS 30,000,000 (total amount of transactions), or
- If the taxpayer is a member of a Multinational Enterprise Group (MNE Group) obligated to file the CbCR, or if its consolidated revenues are higher than ARS 2,000,000,000 in the fiscal year prior to the one being reported, and the transactions carried out by the taxpayer with foreign-related parties exceed ARS 3,000,000 (total amount of transactions) or ARS 300,000 (individual amount per transaction), or
- The transactions carried out by the taxpayer with counterparties located in countries considered non-cooperative for tax purposes or in low or nil tax jurisdictions exceed ARS 3,000,000 (total amount of transactions) or ARS 300,000 (individual amount per transaction).

Tax authorities are entitled to request the Transfer Pricing Report from taxpayers that did not meet the thresholds mentioned above if the amounts of the transactions carried out with foreign-related parties and/or transactions with counterparties located in countries considered non-cooperative for tax purposes or in low or nil tax jurisdictions exceed ARS 3,000,000 (total amount of transactions) or ARS 300,000 (individual amount per transaction). Taxpayers have 45 days to prepare and file the Transfer Pricing Report and the corresponding working papers.

Observation: The minimum requirements of the Transfer Pricing Report generally are consistent with the Organisation for Economic Co-operation and Development (OECD) standards established for the Local File, but with some local and important deviations, such as the mandatory use of the local taxpayer as tested party, among others.

The Transfer Pricing Report must be certified by an independent economic sciences professional and filed with the tax authorities every year.

International intermediaries

In addition, taxpayers that carried out transactions of imports and/or exports of goods through related international intermediaries must perform a functional analysis of the international intermediary to demonstrate that the remuneration obtained by it is consistent with the functions, assets, and risks involved in the transactions. Such functional analysis must be included in the Transfer Pricing Report. Further, in the case of exports of commodities carried out through such international intermediaries, the taxpayer must inform (1) whether the main activity of the intermediary consists in obtaining passive income or in the intermediation in the trade of goods to or from Argentina and (2) whether its main activity is the international foreign trade with other members of the MNE. Additional details of the documentation and supporting evidence related to the substance of the international intermediaries that must be prepared are described below.

Observation: According to the GR 4717, such functional analysis also must be prepared if the foreign intermediary is an unrelated entity located in a country considered non-cooperative for tax purposes, or a low or nil tax jurisdiction.

Financial transactions

For intercompany financial transactions, a detailed functional analysis is required. In this sense, the taxpayer must demonstrate whether the lender has sufficient economic and financial capacity to provide the funds and for assuming the control of the related risks. Further, among other aspects, the taxpayer must demonstrate that the borrower has financial capacity for repaying the loan principal and interest at the time committed. Additionally, the Transfer Pricing Report must include a specific Appendix with additional information requested for each of the intercompany financial transactions carried out in the fiscal year. Finally, among other aspects, GR 4717 also provides that if the taxpayer does not provide the requested information in the Appendix, the interest rate consistent with the credit rating of the MNE will be used as a reference for determining the arm's-length price of such financial transaction.

Observation: GR 4717 tends to use a similar language to the document recently published by the OECD for intercompany financial transactions. However, its considerations are not necessarily consistent in all cases (e.g., for cash pooling arrangements).

Intragroup services

For intragroup services, GR 4717 provides examples of transactions that will not be considered as carried out between unrelated parties, and requires the taxpayer to prepare an economic analysis which must explain whether the services provided an economic benefit for the service recipient.

Observation: Based on the guidance provided in GR 4717 and the existing jurisprudence on this matter, taxpayers should develop a defense file for justifying the deductibility of the intercompany services received.

Transactions that involve intangibles

In relation to transactions that involve the use of intangibles, the GR 4717 focuses not only on the payment of royalties, but also on local taxpayers performing research and development activities on a contract basis. For these types of activities, the GR 4717 requires a detailed functional analysis and highlights that there will be an evaluation of whether the local entity participates in strategic decisions, monitoring of the research and development activities, utilization of the tangible and intangible assets, and control of the risks, in order to determine the arm's-length remuneration that should be attributed to the local taxpayer and its possible remuneration in the value chain of the intangible asset. On the other hand, the Transfer Pricing Report must include a comparison between the level of marketing expenses incurred by the local taxpayer with the amounts that would have been incurred by independent entities, aiming to determine whether the local taxpayer contributes in the value chain of a given intangible asset.

Financial information and segmentation

Taxpayers must describe in the transfer pricing report the criteria and procedures applied for the preparation of the segmentation of the financial information used in the transfer pricing analysis, explaining how the profit margins were calculated and detailing the allocation keys used for the apportionment of the revenues and operating expenses to each line of business. The resolution states that the profit margins of the taxpayers must be calculated based on the accounting information prepared in accordance with Argentine General Accounting Standards.

Other special rules

GR 4717 provides special rules for the evaluation and analysis for the exports of hydrocarbons and for business restructuring. For the latter case, the economic analysis that determines the value of the compensation that would have been agreed between unrelated parties under comparable circumstances must be included in the Transfer Pricing Report.

In addition, among other aspects, GR 4717 provides rules for the analysis of transactions that involve the transfer of unique intangibles, financial assets with no public pricing; or unique assets that do not have comparables, when the traditional and transactional transfer pricing methods — explicitly recognized by the rules — are not applicable. GR 4717 also provides for the possibility of determining the value of the transaction with the Discounted Cash Flow (DCF) method.

Finally, among other aspects, the resolution provides some guidance, including a suggested formula for the attribution of the operating results among the related entities involved in the transactions, for the application of the Profit Split Method.

Other information

According to GR 4717, the Transfer Pricing Report must include detailed information related to the MNE to which the local entity belongs, such as the name and residence of the president in the last three years, a detail of each of the entities of the MNE and its main activities, or the transfer pricing adjustments determined by other entities of the MNE during the last three years, among others.

Special documentation requirements for international intermediaries

Taxpayers that carried out transactions of imports and/or exports of goods through international intermediaries must obtain and keep and following documentation regarding such foreign intermediaries:

- (a) Evidence proving the actual presence of the subject in its territory of residence according to the regulation of that jurisdiction, having to demonstrate its registration as a legal entity, commercial or similar registration in the country, and its registration with the tax authorities of such jurisdiction

- (b) Audited financial statements
- (c) Certification issued by a competent professional in the jurisdiction of the international intermediary, certifying the detail of the direct taxes to which the entity is subject to in such jurisdiction, and the tax identification of the entity in the jurisdiction of residence
- (d) Certification issued by a competent professional in the jurisdiction of the international intermediary, certifying both the remuneration of the international intermediary related to its intervention in the transactions and — if the international intermediary is a related entity — also certifying the detail of the purchase and selling prices, and expenses associated with the transactions (e.g., the segmentation of the operating results of the international intermediary related to the transactions with the Argentine entity).

Items (b) and (d) are only required if transactions carried out by the taxpayer with the foreign intermediary exceed ARS 30,000,000.

Master File

Taxpayers must prepare and file the Master File with the tax authorities, provided that the following thresholds are met:

- The taxpayer is a member of a MNE Group with consolidated revenues higher than ARS 2,000,000,000 in the fiscal year prior to the one being reported; and
- The transactions carried out with foreign-related parties exceed ARS 3,000,000 (total amount of transactions) or ARS 300,000 (individual amount per transaction).

The minimum requirements of the Master File generally are consistent with the OECD standards, but with some minor deviations. The Master File must be prepared in Spanish and signed by the taxpayer and must be filed annually by the taxpayer in the website of the tax authorities.

Information Regime Form No. 2668 and other forms

Form 2668 must be prepared and filed, reporting the detail of the transactions carried out with foreign related parties and transactions of imports and exports of goods carried out with independent parties, provided one of following thresholds is met in the fiscal year:

- Transactions with foreign related parties and/or transactions with counterparties located in countries considered non-cooperative for tax purposes or in low or nil tax jurisdictions exceeding ARS 3,000,000 (total amount of transactions) or ARS 300,000 (individual amount per transaction); or
- Exports and imports of goods with independent entities exceeding ARS 10,000,000 (total amount of transactions).

The new Form 2668, which would require detailed information not only of the mentioned transactions, but also related to the transfer pricing analysis itself, supersedes previous annual forms 743 and 867.

Note: The Transfer Pricing Report and its certification must be filed attached to the Form 4501, which, in turn, will be filed embedded in the Form 2668. Working papers of the transfer pricing analysis and other relevant information also must be included attached to the Form 2668.

Due dates for submission

The due dates for the filing of the Transfer Pricing Report and Form 2668 are between the 23rd and the 27th day of the sixth month following the fiscal year-end of the taxpayer. On the other hand, the due dates for the filing of the Master File are between the 23rd and the 27th day of the twelfth month following the fiscal year-end of the taxpayer. The exact day depends on the last digit of the taxpayer's tax identification number.

However, Form 2668, the Transfer Pricing Report, and the Master File for fiscal years ended as from December 31, 2018 to April 30, 2020 must be submitted — exceptionally — by the taxpayers in June, August, and October 2020, as follows:

- Fiscal years ended from December 2018 to May 2019, between June 10-16, 2020.
- Fiscal years ended from June 2019 to November 2019, between August 10-14, 2020.
- Fiscal years ended from December 2019 to April 2020, between October 12-16, 2020.

The exact due date depends on the last digit of the taxpayer's tax identification number.

The takeaway

GR 4717, along with the modifications previously introduced in the Income Tax Law and its Regulatory Decree, represents the most significant change in transfer pricing legislation in Argentina since the publication of GR 1122 in 2001. These amendments are intended to harmonize local legislation with international standards and align domestic transfer pricing obligations to the expectations of the Argentine tax authorities. The amendments highlight the importance the Argentine tax authorities are placing on transfer pricing.

Taxpayers in Argentina should review their transfer pricing obligations to determine whether they are compliant with the new legislation.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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