

Asset Regularization Regime

June, 2024

On 06.28.2024, the National Congress passed the “Law of Palliative and Relevant Fiscal Measures”, which contains an Asset Regularization Regime (hereinafter “the Regime”), the main aspects of which are described below:

a) General conditions:

Individuals, undivided estates, companies, and trusts considered Argentine tax residents as of December 31, 2023, may adhere to the Regime.

Additionally, non-resident individuals who were Argentine tax residents before December 31, 2023, and who lost that status, may access the Regime, which will imply the acquisition of residency again.

Only those assets over which one has ownership, possession, holding, or custody as of December 31, 2023, can be regularized.

The deadline to adhere to the Regime extends until April 30, 2025, and can be extended by the Executive Power until July 31, 2025, inclusive.

To adhere to the Regime, the taxpayer has to express adherence and subsequently file an affidavit identifying the assets to be regularized, all in accordance with the terms, deadlines, and requirements established by the regulations.

b) What assets can be included in the Regime?

Assets in Argentina:

- National or foreign currency (cash and deposits in financial entities in the country).
- Real estate.
- Shares, participations, or rights in companies and trusts (provided the issuer is an Argentine resident and they are not listed on exchanges or markets regulated by the National Securities Commission).
- Securities, shares, negotiable obligations, bonds, and mutual fund shares (listed on exchanges or markets regulated by the National Securities Commission).
- Credits of any nature when the debtor is an Argentine tax resident.
- Rights over intangible assets owned by an Argentine resident.
- Cryptocurrencies, crypto assets, and similar assets.
- Other assets located in the country with economic value, including assets and/or credits originating from insurance policies contracted abroad by Argentine tax residents, among others.

Assets abroad:

- Foreign currency (cash and deposits in financial entities abroad).
- Real estate located outside Argentina.

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- Shares, participations, or rights in companies and trusts (provided the issuer is not an Argentine resident and they are not listed on exchanges or markets).
- Securities, bonds, shares, negotiable obligations listed on exchanges or markets abroad.
- Credits when the debtor is not an Argentine resident.
- Rights and other intangible assets.
- Cryptocurrencies and crypto assets, regardless of the issuer or where they are deposited, among others.

Excluded assets:

- Holdings of currency or securities abroad that, as of December 31, 2023, are deposited in entities located in jurisdictions or countries identified by the Financial Action Task Force (FATF) as high risk or under increased monitoring, and holdings in cash physically located in those same jurisdictions.

c) Special Regularization Tax:

Those who regularize assets must exceptionally pay the “Special Regularization Tax” (hereinafter the “Special Tax”) according to the stage in which adherence to the Regime is made, provided the regularized assets exceed US\$100,000. If the taxable base is less than this amount, the Special Tax is not payable.

Stage 1:

- The adherence period is from the day following the entry into force of the regulations issued by AFIP until September 30, 2024, inclusive. Special Tax at a rate of 5%.

Stage 2:

- The adherence period is from October 1, 2024, to December 31, 2024, inclusive. Special Tax at a rate of 10%.

Stage 3:

- The adherence period is from January 1, 2025, to March 31, 2025, inclusive. Special Tax at a rate of 15%.

The taxable base will be calculated based on the total value of the regularized assets (in Argentina and abroad), expressed in US dollars according to the conversion rules provided by the law for each case. The Special Tax payment must also be made in US dollars.

The law also provides cases of assets that do not constitute the taxable base of the Special Tax, namely: (i) cash that is regularized and deposited in a Special Account or Special Client Account opened in brokerage houses (ALyCs) as indicated by the regulation, while they remain deposited there, which may only be invested in financial instruments indicated by the regulations; (ii) money and securities located abroad that are transferred to the Special Account or Special Client Account opened in ALyCs in Argentina.

The Special Tax must be determined at the time of filing the affidavit corresponding to the adherence to the Regime, and its payment may be made until November 30, 2024 (for Stage 1), January 31, 2025 (for Stage 2), or April 30, 2025 (for Stage 3). Failure to pay the Special Tax by the indicated date will nullify the legal effect of the adherence to the Regime, and the subject will be excluded from it by full right.

Additionally, an advance payment of the Special Tax is mandatory and must be made by the deadline for each stage. The advance cannot be less than 75% of the Special Tax. Failure to make the advance payment by the indicated date will result in the automatic termination of the adherence to the Asset Regularization Regime and exclude the taxpayer from all the benefits provided in the Regime. If the advance payment is less than 75% of the Special Tax to be paid, the Regime's benefits can be maintained if the pending balance is paid, increased by 100%. This advance payment will not apply to those who regularize assets up to an amount of USD 100,000.

d) Effects of regularization:

- The regularized assets will not be considered as unjustified patrimonial increases.
- They will not be subject to any presumptions for the tax determination ex officio provided in the Tax Procedure Law.
- Liberation from all civil and criminal actions for tax, exchange, and customs crimes, and administrative infractions originating from the declared assets and holdings (the release includes partners, managers, directors, trustees, members of the supervisory board of companies).
- Liberation from the taxes omitted from the declared assets, including Income Tax, undocumented outflows tax, Presumed Minimum Income Tax, Tax on the Transfer of Real Estate of Individuals and Undivided Estates, Bank Debit and Credit Tax, Internal Taxes, VAT, Personal Assets Tax, Solidarity Contribution.
- The regularization of assets by companies will release Income Tax corresponding to partners in proportion to the taxable matter attributable to them according to their participation in these.
- The aforementioned release includes taxes on assets no longer part of the subject's patrimony at the date of adherence.

e) Excluded subjects:

- Those who have served as public officials in the last five years from the effective date of the Regime and those currently serving in the positions expressly listed by law.
- Spouses, cohabitants, ascendants, and descendants in the first degree by blood or affinity of those serving in the positions expressly listed by law.
- Those declared bankrupt without the continuity of operations.
- Those convicted of customs or tax crimes (with a conviction confirmed in the second instance).
- Those convicted of common crimes (with a conviction confirmed in the second instance) related to non-compliance with their tax obligations or those of third parties.
- Legal entities where their partners, administrators, directors, trustees, members of the supervisory board, counselors, or equivalent positions have been convicted of customs or tax crimes.

- Those prosecuted for crimes against economic and financial order, fraud, other frauds, usury, bankruptcies, and other punishable debtors, crimes against public faith, forgery of marks, passwords, or official signatures, concealment by acquiring, receiving, or hiding money, things, or effects, or homicide for a price or remunerative promise, sexual exploitation, and kidnapping.

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