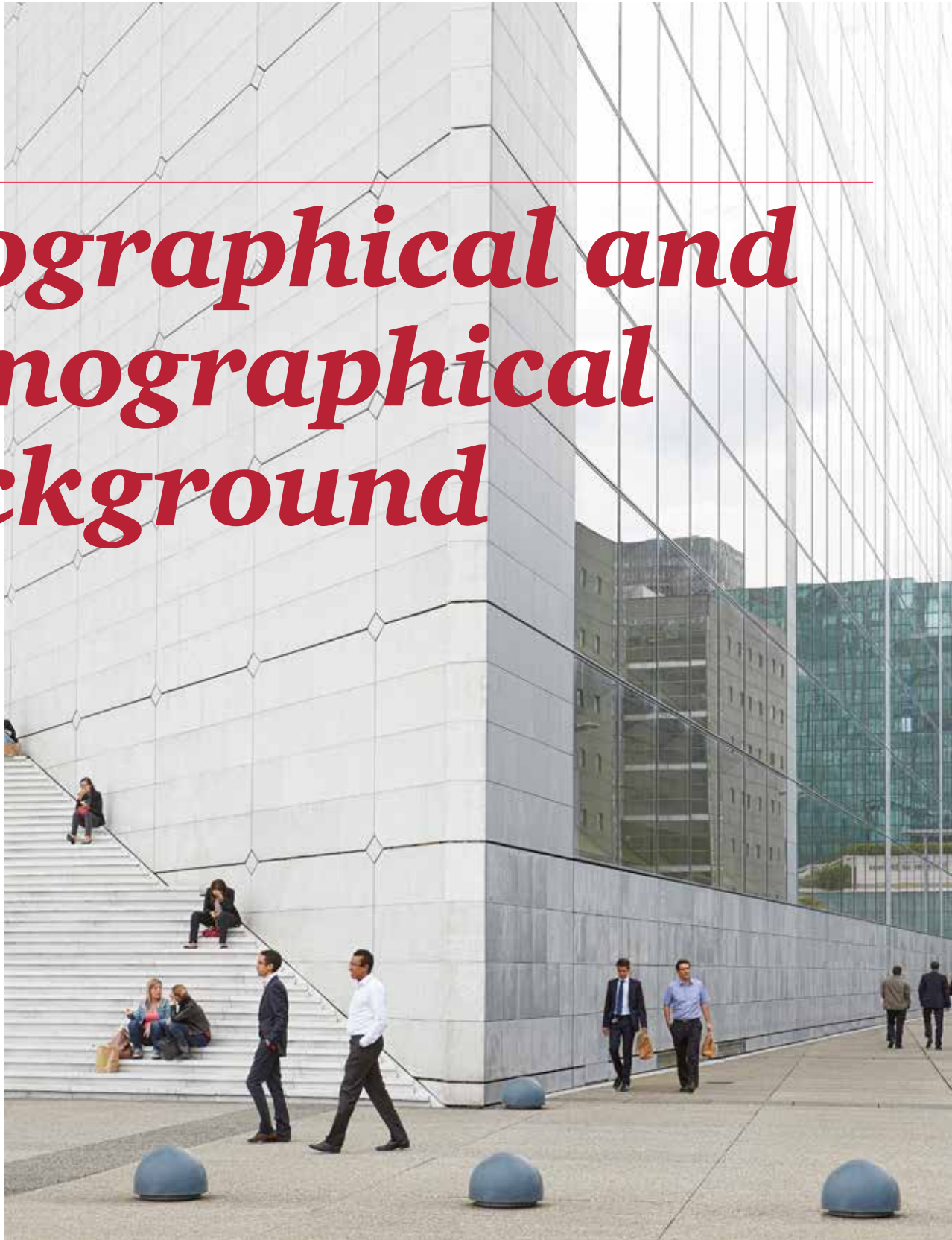


Doing Business in Argentina 2016



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Geographical and demographical background



Location

The **Republic of Argentina**¹ is located in South America, between latitudes 23°S (Tropic of Capricorn) and 55°S (Cape Horn). The Andes separates the country from Chile to the west and Bolivia to the northwest; Paraguay lies directly to the north, with Brazil, Uruguay and the South Atlantic Ocean to the east.

Brief history of the country

The history of Argentina began in 1776 with the creation of the Virreinato del Río de la Plata, the name given to the colonial territories of Spain. In 1810, Argentina initiated a process that led to independence in 1816, although for over sixty years there were internal battles for control of income from Customs, monopolized by the Province of Buenos Aires.

¹ Argentina has six major regions: the Northwest, Northeast, West (Cuyo), Central (Pampeana), South (Patagonia), and the Greater Buenos Aires metropolitan areas

After this period of civil war, the country began a process of modernization in 1880, with the creation of new public institutions and efforts to build a foundation to incorporate the country into the international system of division of labor as an agricultural commodity producer. At the beginning of the twentieth century, Argentina followed an agro-export economic model which placed it as a leader in the world economy. This model was based on three pillars: a) high prices of commodities, b) incorporation of extensive croplands to the production process, c) and the incorporation of hundreds of thousands of relatively highly-skilled immigrants to the labor market. Between 1930 and 1983 there was a period of institutional instability, characterized by rotating civilian and military governments.

The effects of the Great Depression severely affected the country in the thirties, essentially due to a drop in trade and export volumes. From the beginning of the fifties into the seventies, Argentina changed its economic model to substitute imports, in an attempt to create an industrialized economy. In the seventies, under a new military regime, the country adopted an open economic model, eliminating mechanisms to protect industry.

Once democracy returned in the early eighties, the country faltered in finding a clear path to growth. GDP was stagnant, as in most Latin American countries, with episodes of hyperinflation toward the end of the decade. At the beginning of the nineties, Argentina adopted a convertibility plan with a pegged exchange rate. Many of the country's public utility companies were privatized during this decade.

After the 2001-2002 economic and social crisis, convertibility and the pegged exchange rate were abandoned and replaced with a controlled floating rate system.

During the first decade of the twenty-first century, Argentina experienced rapid growth driven mainly by commodity exports. During the period 2003-2011, the country's GDP grew at an average rate of almost 8%. As from 2012, the economy recorded a strong deceleration, with a 2012-2015 average annual GDP growth of 1.56%, always at constant prices. The main cause of this drop was the growing imbalances in both the internal and external sectors. 2015 ended with a GDP growth of 2.1%.

The climate

The climate varies from subtropical in the north to sub-Antarctic in the south, featuring a wide temperate belt between these two extremes. The city of Buenos Aires and most of the other main cities and industrialized areas are situated in this temperate region, where maximum summer temperatures average between 27° C (81° F) and 32° C (90° F), with temperatures occasionally exceeding 38° C (100° F). Winters are relatively mild, with occasional frost. Snow and prolonged frost are rare except in the western mountainous areas and in the south.

Mineral and energy resources

Energy resources: oil, gas and electricity; mineral resources: gold, copper, lead, zinc, natural borates, bentonite, clays and construction stone.

Education in Argentina

Education access in Argentina is free; however, to encourage high attendance rates in school, it is mandatory from the age of 4 to 18. Over twelve million students attend public and private schools and universities.

Prominent industrial sectors in the major cities

Petrochemicals, Steel, Foodstuffs, Textiles, Metalworking, Cement, other construction materials, Printing and publishing, Glass, Pharmaceuticals, Industrial gases, Agrichemicals, Tires for vehicles, Basic chemical products and Sugar. Agriculture is the productive sector with the most important and dynamic assets.



Population, major races, legal language, common languages/dialects used:	
Area ²	2.78 million km ²
Population	42.3 million
Population per km ²	15.1
Population growth	5% ⁴
Urban Population	92%
Form of Government	Republican, representative and federal
Language	Spanish
Currency	Argentine peso (\$)
Political division	24 autonomous provinces with their own political, administrative and economic administrations (23 provinces and the Autonomous City of Buenos Aires)
Capital City	Autonomous City of Buenos Aires
Ethnic groups	White (85%); mixed-race (10%); indigenous and others (5%)

Source: UN Factbook, Worldbank and Wikipedia.

² Argentina is 2nd in territorial size in Latin America and 8th in the world



Political and legal system

Major government authorities since December 10, 2015:

President ³	Mauricio Macri
Vice President	Gabriela Michetti
Cabinet	Cabinet appointed by the President

Brief description of the legal framework

Argentina is a federal republic. The federal government consists of an Executive branch, headed by the President; a Legislative branch in the form of a Congress, which is divided into two chambers: the Senate and the Chamber of Deputies; and a Judicial branch. Provincial governments are generally organized along similar lines.

Legislative Branch

The Bicameral National Congress (Congreso Nacional) is made up of 72 seats in the Senate and 257 seats in the Chamber of Deputies. All members are elected by direct vote⁴. The governing Party has no majority in either Chamber, a situation that has never happened in the modern history of the Country.



³ The President is both the Chief of State and Head of Government

⁴ One-third of the members are elected every two years for a six-year term to the Senate, and one half of the members are elected every two years for a four-year term to the Chamber of Deputies.

The economy

In an economy replete with formal and non-formal restrictions, the previous government's economic policy moved in a corridor bound by levels of employment and the rate of inflation, using a nominal exchange rate as an anchor and public expenditure as the main driver of GDP growth.

Following this pathway for years, the current macroeconomic context is complex. GDP growth was 2.1% in 2015 (according to preliminary official figures), the primary fiscal deficit for 2015 represents 5% of GDP while the total deficit of 7.07% (is the highest imbalance in several years. The rate of inflation falls within a 30% range, even with frozen public sector tariffs, trade balance figures have been at their lowest since 2000, and the real exchange rate saw a decline in almost all the competitive level gained after abandoning Convertibility in 2002 .

The new government, which took office in December 2015, rapidly implemented measures to start fixing different imbalances and normalize the macro economy. However, the new government only won the elections in a second round, for the first time in Argentine history. The new government does not have a majority in any of the two chambers of Congress and is the first government in more than 80 years that is neither member of the Peronist or Radical parties. This situation implies a great need to create consensus and may indicate that all or many necessary adjustments must be taken gradually, rather than in an abrupt manner.

The exchange market was the first significant measure of the new government: at the end of 2015 the different exchange rates were unified at a value near the former unofficial markets. This strategy has been quite successful and in the first days after the liberalization of the restrictions, the exchange rate floated around the value set in the informal markets.

The value of the new exchange rate reflects an increase in the real exchange rate. Although when compared to other currencies besides the USD (but not for all sectors nor different commercial partners), the profitability margin for the export sector has not improved. In addition to a general reduction of export tariffs, the

economy should be able to improve results in the current account balance.

In the monetary field, along with removing the currency exchange control, a jump was observed in interest rates offered by the Central Bank to absorb liquidity, by issuing short term bonds (LEBACS), and increase the opportunity cost of the portfolios. Both have as aim the reduction of inflation. The government expects to reach one digit rate of inflation by 2019.

In the fiscal policy side, since approximately 50% of public expenses are wages and social security benefits not subject to nominal reductions, the first relevant government policy was directed towards the reduction of subsidies, updating energy tariff rates. Subsidies have been increasing over the years, representing in 2015 almost 4% of GDP (half of the total fiscal deficit). Energy tariff increase will mean a fiscal saving of approximately USD 4,000 million, equivalent to 1.2% of GDP. On the other hand, to stimulate private sector economic activity, the government has eliminated export taxes for all sectors (except for soy complex, which has been reduced 5 percentages points) and has announced reductions in income taxes for persons, which will have a negative short term impact in tax revenue but should improve them in the medium term through increasing economic activity.

Thus, the government has begun a gradual process of normalization of macroeconomic imbalances, and has begun to show concrete actions aimed at this objective. In order to reduce inflation rate, the government will need to limit financing its deficit through the Central Bank. But, to do so, it will need to transit a delicate balance between additional reductions of expenses (which could be difficult to implement due to social mood and weak positions in both chambers) and new genuine public debt issuance (for which the recent solution of the holdout conflict is a very positive signal).

In this context, according to IMF (International Monetary Fund) estimates, as of April 2016, the GDP at constant prices in Argentina will shrink by 1.0% annually in 2016.

Gross domestic product at market prices - Gross added value at producer prices

Millions of pesos at 2004 prices

Year	GDP at market prices	GDP growth at market prices
2004	485.115	
2005	528.239	8,9%
2006	571.251	8,1%
2007	622.753	9,0%
2008	648.248	4,1%
2009	609.266	-6,0%
2010	672.347	10,4%
2011	713.680	6,1%
2012	706.165	-1,1%
2013	722.425	2,3%
2014	703.942	-2,6%
2015	720.641	2,4%

Balance of payments estimates

		2012	2013	2014	2015
Current Account	Total	-1.440	-12.143	-8.075	-15.934
	Goods	14.940	4.670	5.907	-453
	Services	-2.985	-3.708	-3.075	-3.990
	Interests	-12.854	-12.279	-10.732	-11.079
	Current transfers	-541	-826	-175	-412
Financial Account	Total	-1.349	3.493	9.466	14.304
Net Errors and Omissions		-516	-3.174	-196	-3.241
Variation in International Reserves		-3.305	-11.824	1.195	-4.871

Source: Based on data from the INDEC





General business and investment climate

Government attitude toward foreign investment

Since the new administration took office last December, there is a general attitude towards a more market-oriented economy.

From an institutional standpoint, through its International Trade Under-Secretariat, the Argentine government promotes and coordinates foreign investment opportunities in Argentina. This Under-Secretariat identifies and assists potential foreign investors interested in developing new productive activities in Argentina or in expanding and improving existing activities.

To this end, the country has a series of regulations available to both domestic and foreign investors designed to promote investment.

- **Horizontal incentives:** Instruments and measures to encourage investment applicable to all regions and areas of economic activity.

- **Sectoral incentives:** Incentive regimes targeting specific sectors of the economy
- **Regional incentives:** Provincial promotion regimes to support infrastructure for investment.

Investment protection agreements

Local legislation provides foreign investment with protection and an arbitration process for disputes within Argentina. In addition, Argentina has signed Bilateral Investment Treaties (BITs) and is a member of the Multilateral Investment Guarantee Agency (MIGA), the Overseas Private Investment Corporation, and the International Center for the Settlement of Investment Disputes (ICSID).

Trademark legislation (Law No. 22362 and Law No. 24481 and its amendments) provides protection for trademarks that have been duly registered with the National Industrial Property Institute (INPI).





Under case law, protection is also granted to de facto brands, provided they have been used to such an extent that they have built up a degree of customer allegiance. This registration is subject to payment of a fee. Protection is granted for a maximum of 10 years each time a trademark is registered, and registration may be renewed indefinitely, provided the trademark has been used in the last five years.

Argentina has adopted the international classification of goods and services used by the International Intellectual Property Organization.

Local competitor attitude toward foreign investment

The main aspects of the existing legal framework governing the FDI address are: a) domestic treatment of foreign investors; b) absence of requirements for prior approval or registration of investment; c) access to all sectors of the economy; and d) access to domestic incentive schemes.

Pursuant to Law 26737, enacted on December 2011, foreigners shall not hold more than 15% of the total amount of land in the whole country, or in any province or municipality. An additional restriction prevents foreigners of a given nationality from owning more than 30% within the previously referred cap of 15%. The law specifically prevents any foreigner from owning more than 1,000 hectares (approx. 2,500 acres) of rural land in the Argentine “zona nucleo”, or an equivalent area determined in view of its location; and from owning rural lands containing or bordering significant and permanent bodies of water, such as seas, rivers, streams, lakes and glaciers.

Business Entities

Foreign companies willing to operate in Argentina on a regular basis may act either through a permanent representation office (a “Branch”) or a local company (a “Subsidiary”). Stock corporations (Sociedades Anónimas or “SA”) are the most widely used type of subsidiaries by foreign


corporations in Argentina, although some small businesses chose to operate through limited liability companies (Sociedades de Responsabilidad Limitada or SRL) mainly due to their simpler regulatory requirements and lower maintenance costs.

The main difference between a Subsidiary and a Branch is that a Subsidiary is a legal entity independent and separated from its shareholders, while a Branch is considered a legal extension of its parent company. In practical terms, this means that the parent company will be exposed to the Branch’s liabilities, and the foreign shareholder will limit its exposure to its share of the Subsidiary’s capital (except for fraud).

Foreign companies that intend to become shareholders of an Argentine Subsidiary or to operate in Argentina through a Branch must previously become registered as foreign shareholders or branches, as the case may be, with the Public Registry of Commerce, a governmental institution with supervisory authority over local companies. Each provincial jurisdiction has its own Public Registry of Commerce, and a registration completed in any provincial jurisdiction is valid to operate and do business in any other jurisdiction within the country. In the City of Buenos Aires, the Public Registry of Commerce is run and administered by the Superintendency of Commercial Companies. (Inspección General de Justicia or IGJ).

The incorporation, existence, validity, capacity, operation and, in general, all aspects concerning foreign and local companies doing business in Argentina are governed nation-wide through the provisions of the Business Corporations Act No. 19550. In addition to this norm, provincial jurisdictions apply their own procedural regulations concerning registration and incorporation processes, as well as with regards to the formal requirements that from time-to-time must be complied with by foreign or local companies.





Customs and Foreign Exchange Regulations

The exchange control system has been regulated since 2001 by the Argentine Central Bank (BCRA). From October, 2011, until December 2015, the exchange rate market was also regulated by the Federal Administration of Public Revenue (Administración Federal de Ingresos Públicos, AFIP), which established the necessary validations to allow access to the Single and Free Exchange Market (Mercado Único y Libre de Cambios, MULC).

Many of the mechanisms that had been established to obtain validation of the transactions prior to access to the MULC have been eliminated since the new Administration took office.

Financial debts

The obligation to bring and settle funds of foreign financial debts in the MULC has been overruled, but it is a necessary condition if access to MULC is required for capital or interest payments. However, it should be noted that if the financial loan has been taken by the local government, the obligation to demonstrate the settlement through the MULC will not be applicable when the local government intends to repay either principal or interest of an indebtedness, subject to compliance with certain conditions.

To settle capital services through the MULC, the maturity date of the financial debt and renewals of loan agreements from abroad must be arranged for a minimum term of 120 (one hundred and twenty) calendar days. Access to the MULC is authorized at any time prior to the expiration of the term, as long as the minimum number of days has been fulfilled.

Foreign Direct Investment

A presentation shall be made before the Registry of Commerce to assure the direct character of the funds.

Notwithstanding the obligation to bring funds into the country, the BCRA established that non-residents who intend to access the MULC to repatriate direct investments must demonstrate that funds have been brought into this market in a timely manner.

Payment of Dividends

Although there were no formal restrictions for the payment of dividends abroad, the former authorities were reluctant to authorize payments abroad to avoid the loss of foreign currency reserves in the BCRA.

This situation changed with the new administration, which started to normalize the flow of payments.

Imports of goods

Pursuant to the provisions of the BCRA, imported goods may be wholly paid in advance, at sight or through deferred payment, regardless of the type of goods.

Prior to December, 2015, advance or at sight payments could be made with the required DJAI form in the exit stage for the registration and subsequent nationalization of the goods. The new authorities replaced DJAIs for the Comprehensive Import Monitoring System (Sistema Integral de Monitoreo de Importaciones, SIMI).

For all import destinations, traders must provide certain information related to the imported goods through SIMI. This information will be available to all entities included in the Foreign Exchange One-Stop Window (Ventanilla Única de Comercio Exterior - VUCE) for 180 days from the presentation of the statement.

Automatic Import Licenses (Licencias Automáticas de Importación – LAI) are granted to all definite imports of goods identified with tariff code included in the Nomenclatura Común del Mercosur – NCM, except for certain specific goods that must apply for Non-Automatic Import Licenses (Licencias No Automáticas de Importación – LNA).

Non-Automatic Import Licenses and Automatic Licenses are valid for 180 days from the date of approval, as well as SIMIs.

Payment of services provided by non-residents

As of December, 2015, imports of services can be paid regardless of their amount. Authorization from BCRA is no longer required for payments over US\$ 100,000 a year.

Exports of goods

The terms to bring foreign currency into the MULC, according to the tariff code, are set by the Ministry of Economy and Public Finances (“ME&PF”) and have been unified in 360 (three hundred and sixty) calendar days counted as from the date of clearance of the shipping export declaration.

Regarding terms applicable to transactions between related parties, the 30-calendar-day period has been eliminated.

Exports of services

The funds of collections of exports of services must be traded in the MULC within 365 (three hundred and sixty five) business days counted as from the date of their collection in Argentina or abroad.

However, these funds can be brought into Argentina through local accounts in foreign currency without having to trade them in the MULC.

The amount that is to be brought into Argentina for exports of services must coincide with the amount collected, net of withholdings or discounts and/or when the company uses international clearing systems for transactions conducted in different countries, it must coincide with the net amount offset in the period.

Formation of external assets

Until July 6, 2012 foreign exchange regulations allowed the Formation of Residents’ External Assets. According to the rules in force, Argentine residents were allowed to remit foreign currency abroad up to a monthly limit of US\$ 2,000,000 (two million US dollars) without the prior authorization of the BCRA.

Subsequently, from that date, this possibility was suspended until January 2014 when this alternative was cancelled.

In December, 2015, the restriction was lifted and Argentine citizens regained free access to the MULC for real estate investments abroad, loans granted to non-residents, direct investment abroad, portfolio investment abroad, foreign currency purchase and donations. It should be noted, that the monthly limit of US\$ 2,000,000 (two million US dollars) has been increased as of May, 5 to US\$ 5,000,000 (five million US dollars).

Travel and tourism

As of December, 17, 2015, restrictions on purchases of foreign currency no longer apply.

Tax system



Significant developments

Introduction of on-line value-added tax (VAT) returns

On 22 January 2015, the Federal Tax Authority (AFIP) issued General Resolution 3711, introducing a web-based (online) modality for filing VAT returns.

This new regime is applicable to all registered VAT payers as of 1 July 2015, except for taxpayers carrying out certain activities that, due to the singularities of their transactions, are obliged to include specific information in their tax returns.

Electronic invoicing

On 11 March 2015, the AFIP issued General Resolution 3749, by means of which all registered VAT payers are compelled to use electronic invoicing as of 1 July 2015 and the use of the paper-based mechanism will be discontinued.

A few exceptions to the use of electronic invoicing remain in force, including operations performed by small taxpayers (*Monotributistas*), invoicing through the use of special fiscal hardware (*Controlador fiscal*), and invoicing in certain specific activities.

Standard for Automatic Exchange of Financial Account Information

On December 29, 2015, the Argentine Federal Tax Authorities issued General Resolution 3826 implementing the Standard for Automatic Exchange of Financial Account Information in Argentina.

The above-mentioned resolution sets forth a reporting and due diligence regime addressed to local financial institutions that are liable to exchange information on their reportable accounts in accordance with the *Common Reporting Standard* (CRS) issued by the OECD (Organization for Economic Development).

This resolution establishes the type of information to be reported as well as the penalties that may apply in case of failure to



fulfil the reporting obligations. Penalties – besides the ones that may apply in line with the Tax Procedure Law and with the administrative and judicial procedures that might take place – including, among others, the framing of the financial institution in an increasing category of risk of being inspected (Risk Profile System); the suspension or exclusion from the Special Tax Records; and/or the suspension of the exclusion and/or non-withholding certificate processing that may have been applied by the correspondent liable party.

The regime entered into force on January 1, 2016, and the first reporting (relating to information from calendar year 2016) is expected to be in May 2017.

Taxes on corporate income

Profits tax

The profit tax rate on net taxable business profits is 35%. Corporations residing in Argentina are subject to tax on Argentine and foreign-source income and are able to claim any similar taxes actually paid abroad on foreign-source income as a tax credit.

The same rate applies on net taxable profits from Argentine sources and from activities performed abroad by branches.

Tax on minimum notional income

The rate is 1% on the value of fixed and current assets. Income tax can be credited against the settlement of taxes for the tax return of the same fiscal year. In addition, any payment of this tax, not offset by income tax will be treated as payment on account of income tax chargeable for a maximum period of ten years.

According to a recent tax reform this tax would be repealed by 2019.

Corporate residence

Corporate residence is determined on the basis of centers of activity and is unaffected by the place of incorporation or management. Centers of activity in Argentina of non-Argentine corporations are treated as permanent establishments.

Other taxes

Value-added tax (VAT)

The current general rate of 21% is applied on the sales value of products and services (including professional services), with a few specific exceptions. This tax is applicable to imports of goods and services.

Certain goods are taxed at a reduced rate of 10.5% and some services taxed at 27%. Exports of goods and services are taxed at 0%. Nevertheless, input VAT related to exports can either be used as a credit against output VAT or refunded pursuant to a special procedure. VAT paid on purchases, final imports and rental of automobiles and not considered as inventory cannot be computed by the purchaser as a credit. The same tax treatment applies to other services, such as those provided by restaurants, hotels and garages.

The above-mentioned restrictions do not apply when the engagement of these services are for a conference, congress, convention or any similar event directly related to the specific activity of the contracting party.

Turnover tax (gross income tax)

Each of the 24 jurisdictions into which Argentina is divided imposes a tax on gross revenues from the sale of goods and services. Exports of goods are exempt from this tax. Rates, rules and assessment procedures are determined locally.

Wealth tax

Payable by Argentine companies on all shares issued by them and owned either by individuals, regardless of residence, or by companies residing abroad.

The wealth tax rate for this purpose is 0.5% on the value of the shares as of December 31 of each year, based on the Financial Statements of the respective fiscal year. However, companies are allowed to request reimbursement from the shareholders.

According to recent jurisprudence from the Supreme Court, branches of foreign entities may claim an exemption from this tax.

The wealth tax rate is expected to be reduced to 0.25% starting 2016.

Excise taxes

A wide variety of items, such as automotive and diesel motors, tobacco, alcoholic beverages (including wines, champagne and beer), insurance, cellular and satellite telephone services; recreational or sport boats, aircrafts; luxury goods and other goods and services, among others, are taxed at varying rates.

Tax on credits and debits on bank accounts

This tax is levied at a rate of 0.6% on the amounts credited to or debited from the taxpayer's bank accounts. Transactions made in banks without using a bank account and any disposal of one's own or the funds of a third party are subject to a tax rate of 1.2%.

Stamp duty

This local tax is applicable on documents or agreements that evidence acts or transactions for valuable consideration (usually referred to as taxable documents). The average tax rate is 1% and is applicable on the economic value of the agreement.

Import & Export duties

The levels of import duties currently range between 0% and 35%, except in cases where specific minimum duty is applied or which involve merchandise with a specific treatment. In general, merchandise originating from LAIA and MERCOSUR countries is entitled to preferential duty treatment. The levels of export duties range from 0% to 45%, although nearly all products have an export duty of between 5% to 10%.

As of January, 2016 export of agriculture products, as well as most industrial products are exempt from export duties.

Social Security Taxes

Law No. 24241 (Argentine Integrated Pension System Law) establishes the territoriality principle, under which all persons providing remunerated services on an employment basis within the national territory on a permanent or temporary basis are covered by the Argentine Social Security System.

Local employers must on a monthly basis deposit the employer social security contributions jointly with the employee withholdings to the National Social Security Regime and the National Health Care Scheme.

The employer social tax is payable on the total monthly compensation and is not subject to any cap amount.

The total employer contribution is 27% for companies whose main activity consists of rendering services or commerce, provided their annual sales exceed AR\$ 48,000,000 and 23% for all other companies.

The employee social security withholdings that include pension fund, social health and social services are levied on the monthly compensation up to a monthly compensation cap of AR\$ 56,057,93 except for June and December where the cap is increased by 50% due to the 13th salary. This salary cap is adjusted in March and September of each year.

The total employee social tax rate is 17% which consists of contributions of 11% to the pension fund, 3% to social health and 3% to social services.

Should any employee serve as Director of the same Company, the social security liability shall be limited to the contributions made as a self-employed individual for the management duties performed. The employee's enrollment to the Social Security System will be voluntary in regard to his salary as employee. Thus if the Director opts not to pay these contributions, the Company is not obliged to pay any employer's contributions.





Income determination

Inventory valuation

Inventory valuation is based on the latest purchase. Thus, LIFO may not be chosen for tax purposes. Conformity between book and tax reporting is not required.

Capital gains

Capital gains and losses attract normal profit tax treatment, except those losses from the sale of shares and other equity interest that may be offset only against the same type of income.

Intercompany dividends

These dividends are not included in the tax base of an Argentine entity (the recipient) if distributed by another Argentine company.

Foreign income

Foreign income received by resident corporations is subject to tax.

Stock dividends

These dividends are tax exempt if distributed by an Argentine company.

Transfer pricing rules

The transfer pricing regulations governing intercompany transactions, which were introduced into income tax law by Law 25063 as amended by Laws No. 25239 and 25784, adopt principles similar to those of the Organization for Economic Cooperation and Development (OECD) pursuant to which companies must comply with the arm's length principle to determine the value of goods and services in their transactions with foreign-related companies.

Deductions

Depreciation and depletion

Depreciation is generally computed on a straight-line basis over the technically estimated useful life of the assets or, alternatively, over their standard useful lives (e.g., machinery and equipment, ten years; furniture, ten years). Depreciation of buildings and other construction on real estate is 2% per annum on cost (on a straight-line basis), unless it can be proved that useful life is less than 50 years.

Depreciation of automobiles with an original cost in excess of AR\$20,000 is not deductible. Related expenses (gasoline vouchers, insurance, rentals, repairs and maintenance, etc.) are deductible up to an amount of AR\$7,200 per car per year. Conformity between book and tax depreciation is not required.

Percentage depletion is available for natural resources (mines, quarries, forests).

Net operating losses

The available life of income tax loss carry-forward is five years.

Payments to foreign affiliates

Transactions between related parties should be at arm's length. This principle was included in the transfer pricing rules and was extended to transactions with companies located in low or no tax jurisdictions. The tax authorities will determine income by applying one of six methodologies: comparable uncontrolled price, resale price, added cost, profit distribution, residue from profit distribution, and net margin of the transaction. Payments to foreign affiliates or related parties and companies located in low or no tax jurisdictions that represent income of Argentine source are tax deductible, provided they are paid before the due date for filing the tax return and the corresponding withholding is paid to the tax authorities.

Technical assistance and services that involve transfer of technology should be covered by agreements duly registered with the National Institute of Intellectual Property for information purposes. These transactions are governed by the Transfer of Technology Law (Law 22,426).

Taxes

All taxes are deductible except for the profit tax and tax on minimum notional income.

Other significant items

1. Donations: when made to companies and associations expressly exempt from assessment of tax on profits, donations up to a maximum of 5% of the donor's net taxable profits are admissible deductions, provided certain requirements are fulfilled.
2. Representation expenses: if adequately documented, representation expenses are admissible deductions up to 1.5% of the amount of salaries accrued during the fiscal year.
3. Directors' fees: Amounts of 25% of after-tax profit or AR\$12,500 per individual, whichever is greater, are deductible in the financial year to which they apply provided they are approved and available for the director before the tax return is due, or in a later year of payment.
4. Although the Convertibility Law is no longer in place, an adjustment for inflation for tax purposes is not yet in force. A fierce debate regarding the reinforcement of this is ongoing, with no final decision in view. Recent jurisprudence has accepted that in certain situations the application of an adjustment for inflation should be considered on a case by case basis.
5. Thin capitalization: except for financial institutions governed by Law No. 21526, leasing companies and certain financial trusts, whose interest is paid by an Argentine resident on loans granted by foreign-related parties would not be deductible if the debt exceeds twice the net equity of the local

debtor. The portion of non-deductible interest will be treated as if it were a dividend. An exception to thin capitalization rules applies in case the interest payment is subject to an effective withholding tax of 35%.

Tax incentives

Mining activity

Law No. 24196/93 created an investment regime for mining activity and is applicable to natural and legal persons. Mining ventures included within this regime enjoy fiscal stability (i.e., tax rates will remain basically the same) for a term of 30 years, except for VAT, which will adjust to the general regime. Furthermore, the regime grants incentives for tax on profits, tax on assets, import duties, and any other tax for introduction of certain assets. Additionally, the possibility to obtain a VAT reimbursement during the exploration stage as indicated in Law No. 24196/93 has been regulated by General Resolution 1641/2004.

As of January, 2016 a withholding tax exemption was granted to exports of mining products.

Forestry

Law No. 25080 established an investment regime for plantation, protection and maintenance of forests and contains rules similar to tax incentives for mining.

Software

Laws No. 25922 and 26692 establish a System of Promotion Benefits for the Software Industry that will be in force throughout the Argentine territory. Local legal entities whose main activity in the country (and on their own account) is the creation, design, development, production and implementation of software systems. The software self-development activity is excluded from this system.

The system grants benefits for tax and social security purposes which can be claimed if specific requirements are met: this has been extended until 2019.

Tierra del Fuego

Although with certain limitations in the case of new projects, companies established in this province enjoy a general tax exemption and important benefits in customs matters, based on a system established by Law No. 19640 and supplementary regulations.

Renewable Energy

Companies engaged in the production of energy through renewable sources are entitled to certain tax benefits, like early return of VAT or accelerated depreciation of capital goods for Income Tax purposes, among others.

Biotechnology

Law No. 26270 established a promotion regime for the development and production of biotechnology and grants benefits for tax and social security contributions which can be claimed if specific requirements are met.

Export incentives

Exports of goods and services are exempt from value-added and excise taxes. The temporary importation of raw materials and intermediate and packaging goods for the manufacture of products for export is free of duty with the obligation to offer sufficient guarantees for the import. A reimbursement regime is in place for VAT credits paid to suppliers in relation to the export activity.

Withholding taxes

Income tax withholding at a rate of 35% is applicable on dividends or other profits distributed by the company if the corresponding amounts have not been subject to income tax by the company. Additionally, starting in 2013, a 10% withholding tax is applicable on the distribution of dividends paid to non-residents or local individuals. According to a recent tax reform the 10% withholding would be repealed as from 2016.

Furthermore, in the case of non-residents, gains on the sale of shares would be subject to a 13.5% tax on gross proceed or, alternatively, 15% on actual (provided duly supported).

Other payments to residents and non-residents are subject to withholding rates as follows:

Recipient	Interest (%) (1)	Royalties (%) (1, 2)
Resident corporations	6/28 (3)	6 (4)
Resident individuals	6/28 (3)	6 (4)
Non-resident corporations and individuals (1) (2)		
Non-treaty	15.05/35	21/28
Treaty:		
Australia	12	10/15
Belgium	0/12 (5)	3/5/10/15
Bolivia	15.05/35	21/28
Brazil	15.05/35	21/28
Canada	12.5	3/5/10/15
Chile (9)	4/12/15	3/10/15
Denmark	12 (5)	3/5/10/15
Finland	15	3/5/10/15
France	15.05/20 (6)	18
Germany	10/15 (7)	15
Italy	15.05/20 (5)	10/18
Mexico (11)	12	10/15
Netherlands	12	3/5/10/15
Norway	12.5 (8)	3/5/10/15
Russia	15	15
Spain	12	3/5/10/15
Sweden	12.5	3/5/10/15
Switzerland	12	3/5/10/15
United Kingdom	12 (5)	3/5/10/15

Notes

1. Withholding from payments of interest and royalties to non-residents is based on a flat rate of 35% applied to an assumed percentage gross profit margin. This margin is not contestable, but the resultant rate may be limited by bilateral treaty. Under the 1998 tax reform, the general margin for interest paid for credits obtained abroad is 100%. However, a margin of 43% is applicable (i) if the debtor is a local bank; (ii) if the creditor is a foreign financial institution located in a country not considered as a low or no tax jurisdiction, or in countries that have signed an agreement with Argentina for exchange of information and have no bank secrecy laws, which are under the supervision of the respective central bank; (iii) if the interest is paid on a loan dedicated to the purchase of tangible assets other than cars; (iv) if the interest is paid on debt certificates (private bonds) issued by local companies and registered in certain countries that have signed an agreement with Argentina for the protection of investments; and (v) on interest paid on time deposits with local banks. 'Royalties' covers a variety of concepts. The rates given in this column relate specifically to services derived from agreements ruled by the Foreign Technology Law, as follows:
 - Technical assistance, technology, and engineering not obtainable in Argentina: 21% (35% on assumed profit of 60%).
 - Cessation of rights or licenses for invention patents exploitation and technical assistance obtained in Argentina: 28% (35% on assumed profit of 80%). On non-registered agreements, the rate is 31.5% (profit of 90% is assumed) or 35% (profit of 100% is assumed), depending on the case.

Several other concepts of royalties are subject to rates that, in turn, may be limited by treaty. A broad sample of these concepts and the non-treaty effective rates are set forth in Note 2.

2. Payments to non-residents (only) for royalties, rentals, fees, commissions and so on, in respect to the following are subject to withholding at the rates given below on the basis of assumed gross profit margins (Note 1), unless limited by treaty. The treaty concerned should be consulted to determine any limitation in each case.

Payment	WHT (%)
Freight and passenger bookings (other than those covered by special treaties), news and feature services, insurance underwriting	3.5
Containers	7.0
Copyright	12.25
Rental of movable assets	14.0
Motion picture, video, and sound tape rentals and royalties; radio, television, telex and telefax transmissions; any other means for projection, reproduction, transmission, or diffusion of image or sound; sale of assets located in Argentina (10)	17.5
Rental of real estate (10)	21.0
Any other Argentine-source income (unless the non-resident is or was temporarily resident)	31.5

3. The higher tax rate is applicable on non-registered taxpayers. On interest paid to corporations by financial entities or stock exchange/open market brokers, income tax must be withheld at 3% (10% if not registered); individuals are tax exempt.
4. Resident corporations and individuals who are registered for tax purposes are subject to 6% withholding (28% if not registered).
5. Interest is exempt if paid on credit sales of machinery or other equipment, specific bank loans at preferential rates or loans by public entities.
6. The treaty limits taxation of interest to 20% (registered).
7. The 10% rate is applicable to interest on credit sales of capital equipment, any bank loan, or any financing of public works; otherwise, 15%.
8. Interest paid on loans with guarantee of the Norwegian Institute for Credit Guarantees or paid in relation to imports of industrial equipment is tax exempt.
9. On 26 June 2012, the double tax treaty (DTT) with Chile was terminated. A revised DTT was signed in May 2015, but is pending ratification by both countries.
10. Deduction of actual costs and expenses may be optionally exercised.
11. The treaty was signed in November 2015, but it is not yet in force.

Tax administration

Returns

Tax is assessed on a fiscal-year, self-assessment basis. The due date for filing the profits and the notional income tax return is during the second week of the fifth month after the fiscal year end.

Payment of tax

Installment payments for tax on profits must be made in the course of the tax year. The installment payments must be made on a monthly basis beginning the first month after the due date for filing the tax return.

Labor issues

Workers' Compensation Insurance. Health Care System

There is a monthly employer contribution towards Workers' Compensation, whose rate depends on the risk of each job. This contribution is levied on the monthly compensation.

Employees are entitled, in the event of suffering an accident at work or while commuting to or from their place of work, to statutory compensation determined in accordance with the degree and duration of the disability suffered.

In addition, all employees and their immediate dependents, if they so elect, are entitled to receive free medical care and hospitalization and to receive prescribed medication at substantial discounts.

These services are arranged mainly through "Obras Sociales" –health care and welfare entities- established by the industry to which the social health care payroll tax is channeled and through mutual societies, hospitals and clinics.

Family Allowances

Family groups earning less than ARS 60,000 are entitled to family allowances (provided that no one collects monthly earnings greater than ARS 30,000): for marriage; pregnancy; maternity leave; childbirth; child adoption; and children (under 18 years of age).

These family allowances are paid by the Government through the Social Security Administration.

Foreign Personnel

Visas: Foreigners that wish to work in Argentina must obtain the necessary temporary visa from the National Immigration Authority.

Registration of Companies before Immigration Authority: Companies employing foreign workers must be registered before Immigration Authority as Requestors of Foreign Personnel.

Restrictions on employment: Argentina does not establish restrictions or quotas for foreign workers, as long as they comply with immigration regulations.

Social security exemption: Section 4 of Law No. 24241 provides that professionals, researchers, scientists and technicians hired abroad to render services in Argentina for less than 2 years and for only once, shall be exempt from taxation under the National Integrated Pension System Law, on condition that they have not taken up permanent residence in the country and have been provided coverage for the contingencies of old age, disability and death in their homeland or country of permanent residence.

Social Security Treaties: There are international treaties relating to social security matters, under which workers who are performing activities in a treaty country other than that of their nationality or residence are totally or partially exempt from making social security contributions in that country, provided they are making such contributions in the country in which they are nationals or residents.

In this sense, there are Social Security Treaties in force between Argentina and the following countries: MERCOSUR countries: Brazil,

Uruguay and Paraguay; Spain; Italy; Portugal; France; Greece; Slovenia (*); Chile; Colombia (*); Belgium (*); Luxembourg (*)
(* It is not applicable in practice.

Other issues for attention

Price control and unfair competition

There is no law on price control. In recent years the Trade Secretariat promoted price agreements in various sectors with the aim of curbing price increases of certain consumer goods. There are several laws dealing with unfair trade, including: a) Law No. 22802 on Fair Trade; b) Law No. 24425 (GATT, WTO Unfair Trade and Safeguards); c) Decree 1326/98 (Regulating Law No. 24425 Dumping and Subsidies); d) Decree 1059/96 (Regulating Law No. 24425 - Safeguard Clauses); e) Resolution 224/99 (Request for opening of Dumping and Subsidy investigation); f) Resolution 826/99 (Examination of measures on Dumping and Subsidies).

Resolutions 6/2016 and 7/2016 modified energy prices at a wholesale level which were previously subsidized. As a result energy fares are expected to rise for household and commercial use.

Environmental issues

The Secretariat for the Environment and Sustainable Development has issued a series of regulations relating to the environment which are frequently consulted by users. In addition to the National Constitution, which contains three articles that relate to the environment, at national level there are close to 70 laws, 68 decrees, 1 General Resolution, 374 Resolutions, 1 Joint Resolution, 26 Ordinances, 18 Regulations, 4 Minutes, 1 Pact, 30 Declarations, 7 Recommendations and 1 Manifesto on environmental matters.

Trademark and Name Registration

The legal framework is constituted mainly by the Trademarks and Trade Names Law (Law No. 22362), and a variety of international treaties such as the Paris Convention and the Agreement on Trade-Related Aspects of Intellectual Property Rights (GATT-TRIPS). Argentina is not

a member of any common system of trademark registration. Argentina has also adopted the international classification of goods and services under the Nice Agreement which divides products in 34 classes and services in 11 classes.

Copyrights

Copyright is regulated by the Copyright Law (Law No. 11723) and the Berne Convention, amongst other treaties to which Argentina is a signatory party. Law No. 11723 protects scientific, literary and artistic works, including writings of any kind and length. Protected items include, without limitations: software source and object code, data compilations, dramatic works, musical compositions, architecture works, models and artistic or scientific works applied to commerce or manufacturing, printed matter, blueprints and maps, and, in general, any scientific, literary or didactic production regardless of its reproduction process.

Patents

The legal framework is essentially constituted by the Patent Law (Law No. 24481), and a variety of international treaties such as the Paris Convention and the Agreement on Trade-Related Aspects of Intellectual Property Rights (GATT-TRIPS). Nevertheless, Argentina has not adhered to the Patent Convention Treaty (P.C.T.). According to Law No. 24481, inventions are patentable when the products and proceedings meet the following requirements: novelty, inventive activity and actual industrial application. It is important to note that since the GATT-TRIPS Agreement, pharmaceutical patents can be obtained in Argentina.

The Patent Law also regulates protection of Utility Models, which are defined as any new arrangement or shape applied to known tools, devices or objects of industrial use, insofar as they provide a new and better use or function for such tool, device or object. A mere innovation in procedures is excluded from this protection. Protection of utility models is granted for 10 years as from the application date. Renewals are not admitted.

Industrial Models and Designs

Industrial Models and Designs protect the shape or appearance given to an industrial product providing an ornamental feature. There is no examination of the application and the granting proceedings are quite straightforward.

Protection is granted for a 5-year term counted as from the filing date and can be renewed twice for identical periods of time.



Reference information

General statistics on cost/expense, i.e. average labor costs, office rental and utilities necessary for doing business locally

- Ministerio de Economía y Producción: www.mecon.gov.ar
- Instituto Nacional de Estadística y Censos: www.indec.mecon.gov.ar

Local government agencies

- Ministerio de Trabajo, Empleo y Seguridad Social: www.trabajo.gov.ar
- Ministerio de Ambiente y Desarrollo Sustentable: www.ambiente.gov.ar
- PosPeAR, Invierta en Argentina: www.inversiones.gov.ar
- Administración Federal de Ingresos Públicos: www.afip.gov.ar
- Administración Nacional de la Seguridad Social: www.anses.gov.ar
- Ministerio de Relaciones Exteriores, Comercio Internacional y Culto: www.mrecic.gov.ar
- Ministerio de Interior, Dirección Nacional de Migraciones: www.migraciones.gov.ar
- Secretaría de Turismo: www.turismo.gov.ar

Practical Tips for Business Visitors

- Requirements for visitors' visas
- International time zone
- Argentine time zone is GMT -0400

- **Banks and exchange houses:**

Monday to Friday, from 10am to 3pm

- **Business offices:**

Generally from 9am to 6pm

- **Stores:**

In large cities, from 9am to 8pm, although in the interior they tend to close at mid-day. On Saturday many are open only from 9am to 1pm

- **Cafés, bars and pizza parlors:**

Open almost around the clock, some closing between 2am and 6am

- **Restaurants:**

Lunch is served from 12.30pm and dinner from 8.30pm. Many establishments offer fast food at all times

- **Trading currency in the country:**

Argentina's legal tender is the peso. Although the US dollar and the euro are widely accepted, currency exchange for local currency is performed at banks and authorized exchange houses. The most commonly accepted credit cards are American Express, VISA, Diners and MasterCard. It can be difficult to exchange travelers' checks outside of Buenos Aires

- **Climate:**

Argentina enjoys a wide range of climates: temperate and humid on the plains of the Pampas; cold and humid in the extreme west of Patagonia; subtropical in the north of Mesopotamia; and warm in the north east of the country. From November to March the average temperature is 23° C and from June to September, 12° C

- **Weights and measures:**

Weight: kilo (k); Measurement: meters (m)

- **Format of dates**

DD/MM/YY (date/month/year)

- **Numbers:**

Thousands separated by a point, decimals by a comma

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
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