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**“INTERNATIONAL TAXATION ASPECTS THAT AFFECT
MANAGEMENT OF THE TAX ADMINISTRATIONS”**

Topic 3:

**“EXCHANGE OF INFORMATION AND MUTUAL ADMINISTRATIVE ASSISTANCE
BETWEEN TAX ADMINISTRATIONS”**

Federal Administration of Public Revenues

Argentina

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SUMMARY

In this presentation we will be discussing tax information exchange carried out by this Federal Administration since February 2010, when significant organizational improvements and specific working guidelines were set with respect to information exchange, which, among other factors, constitute an important qualitative and quantitative leap in said management.

The impressive development in the information exchange agreements and conventions network since 2009 was a key element in the success of information exchange management wherein very relevant partners were introduced. The current network includes 50 countries considering the Agreements to Avoid Double Taxation, Specific Information Exchange Agreements and the OECD-European Union Multilateral Convention on Fiscal Affairs.

The successful combined review (regulation and practice) by the Peer Review Group highlights the fact that Argentina presents itself to the world as a jurisdiction with high transparency and effective information exchange.

Likewise, through AFIP, Argentina participates in several international organizations, thus evidencing the important commitment assumed. In this context it takes part in meetings, working groups and other activities dealing with information exchange and related matters.

The working experience throughout these years has made it evident that there are problems and challenges to be faced, such as:

- Taking advantage of the automatic modality or in-block information exchange, assuming the pertinent commitments.
- Implementation of strategies for speeding up management and facilitating contact with exchange partners.
- Importance of counting on a computerized system for information exchange management, follow-up and evaluation that may ensure effectiveness, efficiency and security.
- Identification of jurisdictions that are not prepared for receiving a certain amount of information requests or with whom there may be an unbalance in flows (greater requests made than those received).

Of the abovementioned issues, the last one is of fundamental importance if one wants to achieve an effective information exchange. Thus, it is absolutely necessary not to disregard such situation and consider the implementation of different types of compensation mechanisms vis-a-vis a possible unbalance.

A- PRESENTATION OF THE TOPICS

The topics to be discussed in this presentation are those dealing with the current operational aspects of tax information exchange management at AFIP, to conclude with the problems and challenges that have been detected and the solutions implemented.

The topics are the following:

- 1- Role of AFIP in information exchange
 - 1.1 - Vision
 - 1.2 - Background
 - 1.3 - Current organization and recent improvements
 - 1.4 - Successful review of Argentina by PRG
 - 1.5 - Participation in international organizations

- 2 - Expansion of the exchange partners' network

- 3 - Problems and challenges of information exchange management
 - 3.1 - Technical support to the operational areas in international taxation issues to encourage a greater use of the information exchange tool.
 - 3.2 - Integrated computerized system for information exchange management, follow-up and evaluation.
 - 3.3 - Use of automatic information exchange
 - 3.4 - Strategies for speeding up information exchange management
 - 3.5 - Problems regarding effective information exchange

B- DEVELOPMENT OF THE TOPICS

1- Role of AFIP in information exchange

1.1 - Vision

The Federal Administration shares the vision that international information exchange is a fundamental tool for the intelligent control of global taxpayers. The valuable information obtained through this tool, in addition to allowing for testing evasion and international tax planning practices in specific cases, as well as in the automatic or block modality helps to promote crosschecks and detect omissions resulting from undeclared income, properties and activities abroad.

Within the framework of said vision and under the “Single Agency” concept, since 2010 the integrated management of international information exchange is centralized in the International Information Management Department, which is dependent on the International Examination Directorate that in turn is part of the Deputy General Directorate of Examination. As of this time, there has been a significant progress toward a very strengthened organization that is in charge of all taxes, whether internal or customs duties and which renders possible an effective increase in the perception of taxpayers and customs operators risk, through coordinated control and at times joint actions; although recognizing their respective operational and functional specialties.

With respect to the joint use of international tax and customs information, the following specific benefits are generated:

- Identification of more precise and realistic risk profiles that are integrated with the tax and customs information, which results in a more selective and intelligent control, thereby facilitating foreign trade and ensuring the logistic chain.
- Use in planning examination strategies in regular operations, covering not only fraud or evasion situations, but also labor exploitation.
- The efficient use of human, technical and administrative resources, avoiding unnecessary duplicities and thereby affording the taxpayer a faster and better administrative management.

1.2 - Background

Until 2010, tax information exchange was carried out with other technical and operational tasks related to international taxation (opinions, reports, case selection, etc.) within the International Operations Department that was dependent on the Deputy General Directorate of Examination.

The international stimulus in the area of transparency and information exchange, along with the vision of AFIP’s current management of taking advantage of the information

Exchange tool to control global taxpayers, led to a strategic reconsideration of the structure, organization and working methodology on this subject matter.

1.3 – Current organization and recent improvements

Argentina, through AFIP, exchanges information in accordance with the information exchange clauses that are included in the Agreements to Avoid Double Taxation as well the Information Exchange Agreements that have been entered into.

With respect to the Agreements to Avoid Double Taxation entered into by Argentina, although the competent authority is the Ministry of Economy and Public Finance, by virtue of Resolution N° 336/2003 of said Ministry, the processing of information exchanges and the regulation of procedures dealing with information exchange within the framework of said Agreements with the Tax Administrations of other countries has been delegated to AFIP.

On the other hand, AFIP has the power to enter into information exchange agreements with other Tax Administrations, in which case it takes over the capacity of competent authority.

Through Provision N° 258/10 (AFIP) the Federal Administrator has afforded the following areas the capacity of competent authority:

- Deputy General Directorate of Examination.
- International Taxation Directorate.
- International Information Management Department.
- Tax Information Exchange Division

Shown below is the structure of the International Taxation Directorate, created in February 2010 and from which there arises a specific area for information exchange, thereby resulting in the improvement of processes and control on this subject.



Tax information exchange management is centralized at the Tax Information Exchange Division which is dependent on said Department within the International Taxation Directorate.

In those cases where the information requested is not available in the centralized data bases of the Federal Administration, their compilation takes place through the operational areas (Metropolitan and Inland Regional Tax Directorates, Directorate of Examination of National Large Taxpayers) that may correspond according to the tax jurisdiction of the taxpayer with respect to which information is being requested; there being a total of 27 throughout the country. In turn, these areas are the ones that make the requests for information abroad.

The aforementioned information exchange management includes all the exchange modalities (at request, spontaneous, automatic, etc.) with respect to all countries and taxes involved in the legal instruments signed.

In this respect, it is worth noting that in 2010 single internal regulations of obligatory application in tax information exchange were developed. The guidelines and procedure for processing and managing information requests made and received, including spontaneous reports were set through General Instruction N° 894 (DI PyNF). Subsequently, changes were made to the regulation, based on the experience, whereby a 60-day deadline was set in order for the operational areas to obtain the information and likewise guidelines were determined for the translation of the information and documents received.

1.4 – Successful review of Argentina by PRG

The Global Forum on Transparency and Information Exchange, adopting the OECD guidelines, has developed a mechanism for the review of countries, which is intended to control and verify the effective application of information exchange and transparency standards. The mechanism is known as “Peer Review”.

Argentina, through AFIP, is a member of said Global Forum¹ and in turn is a member of the more reduced group of countries that are part of the Peer Review Group. Said review consists of monitoring the effective implementation of transparency and information exchange standards for tax purposes.

At the last meeting of the Global Forum on Transparency and Information Exchange held in 2012 in Cape Town, South Africa, final approval of Argentina’s evaluation by the member countries was received.

It is worth noting that to said date, 103 reviews (including supplementary ones) were carried out which included reviews by 66 countries only of phase 1 (legal aspects) and 22 countries in a combined manner of phases 1 and 2 (legal aspects and actual information exchange practice).

¹ Currently consisting of 118 jurisdictions.

Given Argentina's experience in information exchange, the country was subjected to a combined evaluation, thereby becoming the first in Latin America to be subjected to this type of review and the second in the Americas, together with the United States.

As a result of the evaluation it was concluded that Argentina presents and satisfactorily complies with all the parameters analyzed, it being verified that the net worth, accounting and financial information is available and that AFIP may access it and likewise that it may be facilitated through the different information exchange agreements signed with other countries.

Argentina is among the 32% of the countries that have sufficient and reliable information regarding ownership of corporations, trusts and properties, among 51% of the countries analyzed that have obligatory accounting and among the 60% of the countries whose Tax Administration has sufficient power to obtain information.

By way of conclusion, it may be said that Argentina appears as a jurisdiction with high tax transparency, because of the existing regulations as well as effective practice of information exchange, with a prominent situation at the regional as well as world contexts.

1.5 – Participation in international organizations

AFIP participates actively in Working Group N° 10 of the OECD's Tax Policies area, which is currently involved in promoting the inclusion of countries in the Multilateral Convention on Mutual Administrative Assistance, monitoring of the process of the Global Forum on Transparency and Information Exchange, the development of a Common Reporting Standard to unify data to be exchanged under the automatic modality, among others. All these guidelines and international standards are then analyzed and adapted to be applied in the organization's internal policies.

Standing out within the Tax Policies area is Working Group N° 10 of which Argentina is a member which examines the way in which the governments may cooperate to minimize tax evasion.

The purpose is to provide strategic policies; legal, administrative and technical support to develop and improve the legal, practical and administrative frameworks and thus facilitate information exchange and mutual administrative assistance, with a view to improving tax compliance and at the same time maintain an adequate balance with respect to the protection of taxpayer rights.

In addition, the strengthening of international cooperation in information exchange between tax administrations and those responsible for generating tax policies is being sought, as well as increasing the countries' ability to face tax evasion and counteract harmful tax planning.

On the other hand, this Administration actively participated in Working Groups N° 1 and N° 6 with certain relationships with information exchange.

Also worth noting is the active participation of AFIP representatives in MERCOSUR meetings. In this regard, Argentina proposed analyzing the possibility of entering into a Multilateral Cooperation Agreement between the member countries and participants. One could also include automatic exchange and a unified FRS at the MERCOSUR level.

2 – Expansion of the exchange partners’ network

Argentina has information exchange clauses in 15 Double Taxation Agreements (DTA) in force (Germany, Australia, Belgium, Bolivia, Brazil, Canada, Denmark, Finland, France, Italy, Norway, Netherlands, United Kingdom, Russian Federation, Sweden). It should also be mentioned that a new DTA was recently signed with Spain.

Likewise, the Federal Administration has signed numerous Specific Information Exchange Agreements (SIEA) with strategically selected countries, the latest ones being Azerbaijan, Andorra, Bahamas, Bermuda, China, Costa Rica, Ecuador, Guernsey, India, Italy, Cayman Islands, Isle of Man, Jersey, Monaco, San Marino and Uruguay. It is worth mentioning that there were already SIEAs with Brazil, Spain, Chile and Peru.

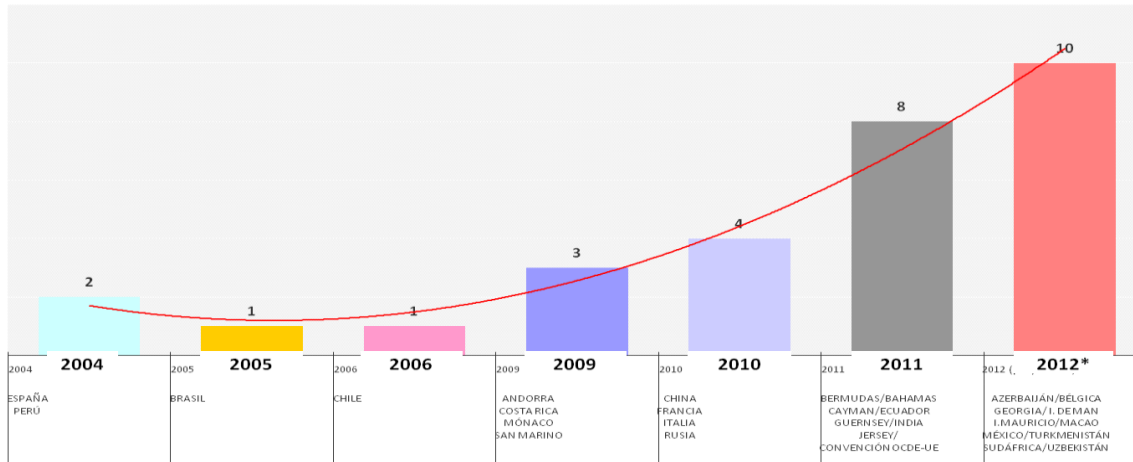
A significant achievement is the enforcement since 2013 of the Multilateral Convention on Mutual Assistance in Fiscal Matters of the OECD² countries and the European Union. Adhesion to this multilateral mechanism allows for including the United States, Mexico, Colombia, Ireland, Indonesia, Poland, Portugal and Turkey, among others.

All these instruments constitute a contacts network that is extended to 50 countries throughout the world and which has been expanded over 60% in the past three years.

The following graph shows the exponential leap in the number of partners for information exchange that has occurred since 2009 and the subsequent increases.

2 Formed by 31 countries.

**Evolución Suscripción Acuerdos de Intercambio de Información
Período 2004 - 2012*(proyectado)**



When making a request, a careful review is made of the fiscal periods or taxable events about which consultations may be made to the exchange counterparts or partners. In some cases, it may be possible, as allowed by certain Agreements to make requests, as of the time they enter into force (even though the fiscal periods or taxable events may have taken place previously), regarding issues that may be provided in the Criminal Tax Law.

3 – Problems and challenges of information exchange management

In spite of progress achieved in information exchange management, the working experience in recent years has raised the following problems and challenges:

3.1 – Technical support to the operational areas in international taxation issues to encourage a greater use of the information exchange tool.

There is an evident need to support the operational areas with respect to international taxation, as well as to establish standard criteria that may be applied by these areas throughout the country. The complexity and specificity of certain issues (transfer pricing and treaty shopping, among others) evidences the need to provide technical support to said areas.

On the other hand, one must also encourage the maximum use of information exchange agreements and conventions.

In this context, the Support to International Taxation Division was also created in 2010, for the purpose of establishing standard criteria and assisting the operational areas in this regard, endeavoring mainly to promote the use of information exchange based on the network of agreements and conventions in force.

Likewise, from this Division crosschecks were promoted which resulted in detecting inconsistencies that gave way to examination actions that, in many cases, used information exchange, based on the network of agreements and conventions.

Said Division has a key role in supporting the operational areas in structuring the request for information from abroad, as well as in the preliminary analysis of the responses obtained from the exchange partners.

It is also in charge of using the information received through the automatic exchange modality, including the crosscheck against data available in the Administration's data bases and follow-up of the cases.

To conclude, it may be said that the joint work of said Division with the Tax Information Exchange Division plays a key role in achieving the objectives determined with respect to the effective use of international information exchange agreements and instruments.

3.2 – Integrated computerized system for information exchange management, follow-up and evaluation

On the other hand, there is the need to implement a system that may facilitate the management of exchanges between areas involved in AFIP, while at the same time allowing for a greater and better follow-up and evaluation of results.

Currently, the control, updating and follow-up of information exchange management is carried out through a data base on a platform, wherein one enters and organizes in a structured, reliable, homogeneous, independently organized manner and with the least possible redundancy, the following items: date of entry, CUIT, surname and name or designation/corporate name, activity, reason for the exchange, date of the event, status of the exchange, among others.

It is a local data base, physically located at a working station with restricted access. Its main characteristics are its simplicity, generality, ease of use by the end users and the information inquiries are specified in a simple manner. The interface is friendly, accessible on real time, easy to understand and operate, without it being detrimental to its security and reliability.

The system currently being used is based on the entry of a series of data, by completing a series of fields developed for the purpose of providing necessary and complete information to the request.

According to the proposed guidelines, the fields are divided into obligatory and optional, according to the level of importance of the data to be entered therein.

Each of the requests is individualized (single code) and assigned a consecutive number according to the fields: Country, Year of Request and Type of Exchange (upon request,

automatic or spontaneous). It is assigned automatically, after filling out the fields mentioned in the previous paragraph.

Worth noting is the preparation of statistics for different purposes, among them, for the control of terms, monitoring of compliance by the operational entities, managerial reports to high level authorities, use of Agreements and Conventions to Avoid Double Taxation, evolution of requests, etc.:

- General
- Pending
- By country
- By subject consulted
- Detailed by subject
- By the country's operational area
- Inter-annual variation
- Accumulated inter-annual variation

The aforementioned statistics quantify the requests received, the answers given and the pending cases. The data base includes all the information for identifying requests, especially dates, reason for the request, name and/or corporate name, etc. Request and response variation indexes are prepared, with the same closing date each month.

Lastly, it is worth mentioning that a computerized system via Web that may result in a qualitative leap in management information known as SYSTEM FOR MANAGING AND PROCESSING INTERNATIONAL INFORMATION EXCHANGE is being developed. It is a computerized application intended to automate the internal logistics of international information exchange (between the operational and central areas), and as a result thereof, to provide management data that may serve for decision-making in the pertinent areas.

The creation of this system is based on the need to support the following basic pillars:

- Establish a computerized platform that may generate a direct and fluid communication link with the Operational Areas that request, as well as provide international information.
- On the other hand, generate an automated management and control support that may assist all pertinent areas, by creating alerts to correct possible deviations.
- Likewise, and as a result thereof, to accelerate processing time for the purpose of providing greater international cooperation, by ensuring compliance with the terms resolved in the Agreements and Conventions entered into.
- Finally, and almost as an institutional issue, to advocate for the security of the information. The application design was developed in order that it could run on the safe data bases available in the Organization.

It is clear that the base currently being used, together with the system to be implemented shortly will allow for a permanent monitoring of information exchange management and of the results that it may generate to this Tax Administration. Based thereon, periodic reports showing the progress and achievements are submitted to the top level authorities.

3.3 – Use of automatic information exchange

Recently, automatic information exchange has been acquiring importance in the international agendas and thus, AFIP wishes to take advantage of the achievements resulting from this tool.

With respect to automatic information exchange, since 2010, following the creation of the abovementioned specific areas, this modality has been used in a very advantageous manner as indicated below:

- Greater and better use of the information received (Italy, Australia, Denmark, etc.), including a methodology agreed among the areas involved within AFIP which clearly establish the responsibilities and synergies among them.
- Improvement in the data capture mechanisms with respect to nonresident individuals, in the tax returns filed by the taxpayers (profit tax and tax on personal properties) as well as in the information systems (e.g., system for making withholdings to beneficiaries abroad, etc.).
- Use of the information obtained through the new recently implemented electronic examination modality. Based on said online control methodology taxpayers complete a questionnaire with their personal tax code, where it is determined whether or not to continue with an in-depth examination action.

3.4 – Strategies for speeding up information exchange management

Without disregarding the obligation of a safe and reliable management of the information exchanged, at present the urgencies and facilitations afforded by the new technologies, call for implementing speedy management mechanisms.

In order to improve information exchange management, hereunder are some of the strategies implemented:

- Participation in events, meetings and working groups that allow for interacting with other competent authorities.
- Telephone and e-mail communication ensuring security and confidentiality measures.
- Agreeing with some countries on specific formats for the requests.
- Visits to verify the status of requests; provide clarification, establish joint working mechanisms, etc.
- Establish memorandum of understanding for the automatic exchange.

3.5 – Problems regarding effective information exchange

A relevant issue that is being observed by AFIP deals with the problems that could originate if some jurisdictions are not prepared for managing the number of requests received and even though they may be, there may occur an unbalance in the flows of requests sent and received.

This matter should not slip by, if an effective information exchange is expected. It is clear that the interests between the contracting parties may not be balanced and there may be situations where a country may find itself with a pile of requests it cannot handle.

It is worth pointing out that this Administration is not unaware of the fact that with respect to the recent Agreements signed, problems may arise due to the accumulation of requests that may occur, considering that some Administrations have just recently begun to work with information exchange and that is the reason why the following compensation alternatives may be considered:

- Following the OECD guidelines, a mechanism for the economic compensation of regular and special expenses may be considered.
- Include the possibility of technical support in information exchange and other matters (for example, transfer pricing, agreements to avoid double taxation, etc.).
- Collaborate jointly with the other State in the search for information and in obtaining evidence.

D- CONCLUSIONS

All of the above evidences Argentina's commitment through the current management of the Federal Administration of Public Revenues, with respect to the standards of transparency and effective exchange of information that may be summarized as follows:

- a significant expansion of the information exchange agreements network in recent years, including key partners in information exchange,
- the implementation of a central entity for managing the exchange in all its modalities,
- the establishment of standard and clear working guidelines,
- the continuous training of officials in charge of said management including the participation in meetings and international events,
- the development of a system for the follow-up and control of exchanges, which system has been determined and is in the development stage in order to be implemented this year and which will allow the systematic linking of all areas of the country involved in exchange, thereby achieving a greater level of efficiency in response times.
- the maintenance of data bases that may ensure timely and complete compliance with the requests,
- the preparation and dissemination among all officials of the organization so that they may understand the importance of information exchange, their responsibilities and the use of the powerful data bases for promptly responding to the requests made.
- With respect to management, per se, problems and challenges have been identified, which deal with making greater use and taking advantage of automatic information exchange, with the implementation of strategies that may speed up management, although without disregarding the necessary security and confidentiality of the information exchanged and lastly, considering compensation mechanisms in view of an unbalance that may occur in information exchange with some partners.
- Of the issues mentioned above, the last one is of utmost importance if one wants to achieve an effective information exchange. It evidences the pressing need to not ignore such situation and to consider compensation mechanisms vis-a-vis a possible unbalance.