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BOLETIN ESPECIAL 2021

Novedades impositivas, previsionales y societarias



TRANSFER PRICING AND INTERNATIONAL TRANSACTIONS REGIME NEWS GENERAL RESOLUTION (AFIP) 5010/2021

Introduction

Through the publication of General Resolution (GR) 5010 (June 18, 2021), the Argentinian Tax Authority (AFIP) established new provisions in the **Transfer Pricing and International Transactions** regime. The new regulation complements and modifies the GR 4717 (May 15, 2020). Among the most important news we can mention:


- A new "**Simplified Regime for International Transactions**" is established for small and medium-sized companies reached by the current regime, when certain conditions are met.
- **An additional term of 3 months** is granted to the general due dates, for fiscal years closed between 12/31/2020 and 12/31/2021, both inclusive, due to the effects of the **COVID-19** pandemic.
- The use of contemporary comparable information due to the difficulties of comparability because of the effects of the Pandemic, formalizing the recommendations and suggestions published by the AFIP for the analysis to be made in the fiscal years indicated.
- Modifications are introduced regarding the comparability analysis, in particular, limitations for the selection of comparable with operating losses, as long as they are not duly justified.
- Certain thresholds for the established filing obligations are modified.
- It is established the possibility of submitting an affidavit instead of the **Master File**, whereby the information provided in the last one submitted is ratified, as long as there are no changes in the period to be reported.

The new rules are applicable for fiscal years ending on or after 12/31/2020, inclusive.

Simplified Regime for International Transactions ("SRIT")

The new SRIT is established, for which the taxpayers subject to the Transfer Pricing provisions may opt, provided that certain conditions associated to the total annual turnover level of the taxpayer or the relative weight of the transactions with related parties must be met. In addition, other specific requirements related to the relative weight of certain types of special transactions, not having presented recurrent negative results and not having undergone a business restructuring process must be met.

El Boletín Especial emitido por RSM AR es un resumen, con las novedades más relevantes en materia impositiva, societaria y previsional. La presente edición no constituye un análisis exhaustivo de las normas sancionadas en el período que abarca, sino que expone en forma sintética aquellas que hemos considerado de mayor interés. Para mayor información y análisis de las disposiciones, sugerimos contactar a nuestros profesionales, quienes lo asesorarán particularmente.



The SRIT may also be applied to taxpayers that carry out import and/or export transactions with independent parties whose annual amount in the fiscal year is between AR\$10,000,000 and AR\$60,000,000; as well as exempted entities that have an exemption certificate issued by the AFIP.

Those taxpayers that are part of Multinational Groups that must file the *Country-by-Country Report* and/or those taxpayers bound to submit the *Master File* in Argentina are excluded from the SRIT.

The purpose of the SRIT is to alleviate the operational and cost burden for taxpayers with low materiality and risk for AFIP in their international transactions.

Qualified taxpayers may choose to comply with the SRIT, through the new **F. 2672**, replacing the Transfer Pricing Study ("**Local File**") and the Informative Statement **F. 2668** established in the general regime, stating as an affidavit that the prices of their transactions have been agreed as if they had been carried out between independent parties, without the intervention of an international intermediary.

Notwithstanding the above, the AFIP reserves the right to request the filing of the Local File to the taxpayers that opts for the SRIT when the specific conditions, or the risk assessment, so justify it, and provided that the operations foreseen in the regime exceed the established thresholds.

Special Considerations for Fiscal Years Affected by the COVID-19 Pandemic

As a general rule, the Local File and F. 2668 (as well as the new F. 2672 under the SRIT) must be filed until the 23rd to 27th day of the 6th month after the fiscal year end, according to the last digit of the Tax ID.

Extension to general due dates: Because of the difficulties involved in compiling the information in the context of the **COVID-19** pandemic, a special deadline is established, as an exception, for the filing of the Local File, F. 2668, and F. 2672, for **fiscal years ended between 12/31/2020 and 12/31/2021** (both inclusive). The aforementioned documentation must be submitted until the 23rd to 27th day of the **9th month** after the fiscal year end, according to the last digit of the Tax ID.

Assessment Rules

In April 2021, AFIP published in its website a document entitled "**International Transactions. Transfer Pricing and COVID-19**" with recommendations and suggestions for the Transfer Pricing analysis to be conducted for the fiscal years covered by the Covid-19 pandemic context. Through GR 5010 the document is formalized.

In summary, a robust Functional Analysis is required, which duly documents the impact of the consequences of the pandemic on the taxpayer's business, the value chain and risk-taking. The extraordinary results generated by the pandemic that affected the business profit must be properly identified through a thorough analysis without being able to invoke the impact of COVID-19 as a mere force majeure cause.

In relation to the Comparability Analysis, the adequacy of the comparable data used and the respective financial information should be considered, within the framework of the Pandemic, for the same period under analysis.

Limitation in the use of loss-making comparable data

GR 5010 limits the selection of comparable data that reflect operating losses, unless it is objectively justified that such losses are a characteristic of the business, due to market circumstances, industry or other appropriate comparability criteria.

Filing Thresholds

GR 5010 modifies certain filing **thresholds**, as follows:

- **Local File and Form 2668:** must be filed when the total amount of the transactions carried out in the fiscal year with foreign related parties, and/or parties located in non-cooperating or low or no tax jurisdictions, exceeds the total amount of AR\$ 3,000,000 or AR\$ 300,000 individually.
- **Master File:** It must be filed when the following circumstances are verified jointly:
 - Total consolidated revenues of the Multinational Group exceeds AR\$ 4,000,000,000 in the fiscal year prior to the one being reported, and
 - Transactions with foreign related parties during the fiscal year exceeds the total amount of AR\$ 3,000,000 or AR\$ 300,000 individually.

Master File

In 2020, the GR 4717 established the obligation to submit the **Master File** for taxpayers that are part of multinational groups exceeding the established thresholds, in order to provide general information on the composition of the group to which they belong. This obligation applies for fiscal years 2018 onwards.

The new GR 5010 established that in the event that there are no modifications in the period to be reported with respect to the information included in the last Master File, taxpayers may choose to submit, instead, a sworn statement ratifying the information provided in the last Master File submitted, attaching together the required annual Consolidated Financial Statements of the Multinational Group for the fiscal period being reported.

The Master File, or the note filed in its place, must be filed by taxpayers between the 23rd and 27th day of the 12th month following the fiscal year end, according to the last digit of the Tax ID.

RSM Argentina is at your disposal to evaluate the scope of this new regulation and to assist you in its due compliance.

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