

December 22, 2019

**ECONOMIC EMERGENCY LAW**

On December 21, 2019 the Senate passed into law the draft bill of a new economic emergency law, called "*Ley de Solidaridad Social y Reactivación Productiva en el marco de la Emergencia Pública*" (the "Economic Emergency Law"), sent by President Fernández to Congress earlier this week.

The Economic Emergency Law declares the public emergency on economic, financial, administrative, fiscal, health and social matters until December 31, 2020.

It creates new taxes, increases export duties and delegates broad powers to the Executive Branch, with the double objective of increasing social spending and obtaining a relief in the Argentine public debt.

The main aspects of the Economic Emergency Law are outlined below:

(i) Public debt: it authorizes the Executive Branch a) to carry out the necessary measures to "*recover and assure the sustainability of the public debt*", which grants authority to the Executive to renegotiate the public debt; and b) it also authorizes the Federal Government to issue dollar-denominated notes to the Argentine Central Bank in exchange for reserves in US Dollars, which will be used to pay obligations denominated in US Dollars.

(ii) Energy: a) it suspends any increase of electricity and natural gas prices (tariffs) and authorizes the Executive Branch to either renegotiate the integral tariff review in force or initiate an extraordinary review of the regulatory framework under laws No. 24,065 and No. 24,076 within 180 days, fostering the reduction of the tariff burden on end consumers, commerce and industries; it also invites the local governments to adopt similar measures; and b) it establishes a one-year government intervention in the natural gas and electricity agencies.

(iii) Export duties: it entitles the Executive Branch to raise export duties -in addition to duties already in force- up to a 33% overall taxation on the tax base or the FOB price. For goods that were not previously taxed, the rate may not exceed 15%; for agro-industrial goods from regional economies and for industrial products the duties may not exceed 5%, and for hydrocarbons and mining the rate cannot exceed the 8% over the taxable value or the official FOB price.

The Executive Branch must put in place mechanisms of segmentation and stimulus aimed at improving the competitiveness and profitability of cooperatives and small producers affected by the increase in the export duties.

(iv) Taxes:

a) *Personal asset tax*: the tax is increased by way of raising the fixed sums that are due under each tax bracket and the tax rates, which range from 0.5% to 1.25% for individuals and undivided estates and 0.5% for shares of Argentine companies. The law authorizes the Executive Branch to double the tax rates if the assets of the taxpayers are located outside of Argentina. Taxpayers will be taxed with regard to their tax residence -as provided for in the Income Tax Law- rather than their domicile.

b) *Purchase of foreign currency*: it establishes a new emergency tax for a 5 (five) year term that will be levied on the purchase of foreign currency at a 30% rate for purposes of savings, withdrawals and cash advances which occur in foreign countries, purchase of services abroad acquired from Argentine travel agents and hiring of transportation services to travel abroad. The purchase of medication, books and education platforms is exempted from the tax.

c) *Inflation adjustment*: the recognition of tax effects of inflation is extended from three to six fiscal periods.

d) *Tax on credits and debits on checking accounts*: the rates of the tax are doubled upon cash withdrawals from checking accounts that belong to businesses except those which qualify as SME.

e) *Interest on fixed-term deposits*: interest on fixed-term deposits (that may not be adjusted) in domestic financial entities is exempted from income tax.

f) *Financial income*: the tax on income obtained by individuals and undivided estates arising from bank deposits, public bonds, negotiable obligations, participations in investment funds, debt securities issued by financial trusts and similar entities, bonds and other securities is abrogated as of fiscal period 2020; the scope of the exemption for the transfer of securities that are placed through public offering in markets under the jurisdiction of CNV is broadened as of fiscal period 2020; the taxpayer may choose to offset income accrued in 2019 arising from public bonds and negotiable obligations with the tax cost of those securities, which must be lowered in an amount equal to the income that is compensated.

g) *Income tax*: the reduction of the corporate tax rate is suspended until December 31, 2020. Consequently, the rates will continue to be 30% for businesses and 7% on the distribution of dividends.

h) *Excise tax*: the law raised the minimum non-taxable amount for the sale of certain goods such as cars and a 35% rate will be applicable for goods with a sales price higher than AR\$2.400.000.

i) *Moratorium*: the law established a moratorium for the payment of taxes and partially waived interest and penalties owed by businesses that qualify as SME.

(v) Social security, retirement pension and salary increases: a) it suspends for 180 days the current formula used to update the social security regime and authorizes the Executive Branch to fix the increases of retirement and pension payments on a quarterly basis; and b) it empowers the Executive Branch to set salary increases for the private sector as well as to establish temporary exceptions for the payment of employer's contributions and to reduce such contributions for certain jurisdictions or activities.

(vi) Private companies: it suspends, until December 31, 2020, the application of the article of the General Companies Law that mandates the dissolution of companies with a negative net worth.

(vii) Health system: a) it empowers the Ministry of Health to implement health policies and drive a federal plan to promote equity, access and quality in the health care of the population; b) it authorizes Ministry of Health to set a monitoring system for prices of medicines and health supplies and a system of direct import and compulsory and mandatory licenses in order to prevent shortage or irrational prices increases; c) it establishes temporary import duty exemptions for certain products; and d) it restores a program aimed at ensuring the provision of essential supplies and medicines through provincial or governmental health care centers ("*Remediar*").

(viii) Budget allocations: it broadens the Cabinet Chief's powers to set budget reallocations during the emergency term.

Finally, on the same session, the Senate passed the suspension of the Fiscal Agreement signed in 2017 between the Federal Government and the Provinces by means of which a general reduction of turnover and stamp taxes had been agreed. It is expected that the House of Representatives passes the suspension into law early next week.

Should you need any further information on the Economic Emergency Law, please do not hesitate to contact [María Inés Corrá](#), [Ariadna Artopoulos](#), [Esteban Carcavallo](#) or [Tomás M. Araya](#) or your regular contact in Bomchil.

The information of this newsletter is not to be construed as an opinion or legal advice and does not imply a comprehensive coverage of all the matters referred herein.

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