

Argentina: Steps in the Right Direction – Ley de Bases

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The Congress of Argentina has successfully been able to pass a significant set of reforms championed by the President, Javier Milei, which have focused heavily on improving the country's receptiveness and openness to foreign investment and shifting the domestic climate toward a more pro-business standing. Amongst other items, it concerns itself with the restructuring of the public sector and directing the liberalisation of businesses which have been accustomed over history to excessive state intervention.^[1] The Bill itself – known authentically as the *Ley de Bases*, or 'Framework Law' – passed on 28 June 2024, with a 147 to 107 final tally, demonstrating a legislative willingness to support such initiatives.^[2]

A substantial effort has been placed in order to attract investment from the energy sector in particular, given the incumbent advantage Argentina has in this regard with respect to the abundance of natural resources it possesses and the increased pace in which projects related to the sector are advancing – such as those in Vaca Muerta, containing one of the largest deposits of shale oil and gas in the world.^[3]

One of the most noteworthy aspects of the Bill is the investment promotion regime it contains, known as *RIGI* – authentically named *Regimen de Incentivo para Grandes Inversiones*, or 'Incentive Regime for Large Investments'. RIGI targets those projects with a required outlay of US\$200-900M, and more specifically 'grants certain tax benefits and exchange control exceptions for 30 years to large projects carried out by special purpose vehicles and enforceable by international arbitration'.^[4] The category of industries that RIGI is set to target is dramatically broad, and is perhaps a sign of the expansiveness and boldness with which the political force in Argentina is looking to supercharge the economy. These sectors include agribusiness, infrastructure, forestry, mining, oil and gas, energy, and technology.

Importantly, the predominant purpose of this regime is to provide investors with predictability, stability, legal certainty, and protection of acquired rights in tax, customs, and foreign exchange matters.^[5] RIGI is held to be open for a two-year period from inception, and to those entities which are classed as SPVs, or Special Purpose Vehicles. In order to fulfil the relevant criteria within the documentation and obtain the approval of the Application Authority, the primary objective is for the project to qualify as a 'large investment' – this broadly involves investing in one of the aforementioned sectors, with a sizeable amount (greater than US\$200M), for the long term. In addition, and given the broader impetus of Argentina to become a more dominant economic force on the global stage, it would be useful to note that there are specific considerations (enjoyment of incentives under RIGI) offered to those projects

that would have the consequence of positioning the country as a long-term supplier in those markets in which it does not yet have standing.[6]

Specific financial benefits include a 25% income tax rate, inflation adjustments, and tax credits. In addition, there is a graduated increase in percentage terms with which export collections become exempted from having to be entered and settled in the local Official Foreign Exchange Market, and can instead be freely available.

The prospect of increased profitability comes to the forefront, given that reduced tax burdens allow foreign investors to retain a larger portion of their earnings. This also serves to increase the attractiveness of Argentina as a destination for FDI and provides those investors with a competitive edge as they compete on the global marketplace. Provisions to do with offsetable losses also directly address one of the underlying concerns that investors may have when investing in a country undergoing change like Argentina, in that it reduces the financial risk associated with new investments, and especially in projects and sectors to do with infrastructure and energy. [7]

Stability, and ensuring confidence within the investment regime is another critical issue that this legislation seeks to address. The 30-year period in itself goes a long way toward building that, although it is not the time alone that brings assurance – there is a base level guarantee associated with the financial aspects involved with the regime, in that future legislative changes (should they be comparatively restrictive) will not have an impact on the incentives provided for within the regime the foreign investors had initially invested in.

For instance, this would apply to items such as taxes, or customs and foreign exchange regulations and in effect helps insulate foreign investors from what they may view as regulatory or political risk that would otherwise have discouraged them.[8] Critically, this is held as being one of the most beneficial aspects of RIGI, given that in countries like Argentina, tax policy decisions are predicated upon a requirement for steady increases in revenue – budget shortfalls thus lead to a ‘raid’ on benefits afforded to the private sector, such as those offered within this regime.[9]

Again, this is perhaps another sign that economic considerations are changing under the presidency of Milei, to the benefit of capital allocators across the world. Understandably, in sum, this provides an impactful opportunity for investors to pour capital into the country, with those entities being able to benefit from the incentives on offer with the knowledge that there is not only a longer-term plan in place but that there is legislative appetite for further progress in this matter.

There are similarities to be observed with the structural reforms and changes that Argentina went through in the 1990s, where there was rampant hyperinflation and severe economic instability.[10] The Argentina of today is also undergoing some financial challenges, with high inflation, a substantial debt burden and a tough macroeconomic environment. While privatisation was a key focus in the 1990s, the privatisation measures within RIGI are designed to be more selective, due predominantly to the need to gain legislative backing. Additionally, while the 1990s gave more attention to the broader picture of economic liberalisation, RIGI in 2024 offers a more specific incentive in order to attract foreign capital. In essence, RIGI is tailor made to the situation Argentina finds itself in today, by providing a more favourable and flexible investment environment.

In conclusion, the Ley de Bases and the RIGI within it are a strong step forward for Argentina in its quest to turn a chapter within its economic playbook, and strategically positions the country as a prime destination for foreign direct investment by offering a robust framework of incentives. The inclusion of strong pull factors to attract outside capital and a genuine willingness to engage with and nurture industries and sectors critical to the wellbeing of Argentina bode well for its future.

[1] <https://kluwertaxblog.com/2024/05/06/argentine-large-investments-incentive-program-a-primer/>

[2] <https://www.bloomberg.com/news/articles/2024-06-28/milei-wins-approval-for-landmark-economic-reform-in-argentina>

[3] <https://www.eia.gov/analysis/studies/worldshalegas/pdf/fullreport.pdf>

[4] <https://www.bnamericas.com/en/analysis/mileis-investment-regime-proposal-divides-argentine-mining-players>

[5] https://www.ey.com/en_gl/tax-alerts/argentine-executive-branch-sent-bill-to-congress-that-includes-n

[6] <https://kluwertaxblog.com/2024/05/06/argentine-large-investments-incentive-program-a-primer/>

[7] https://www.ey.com/en_gl/tax-alerts/argentine-executive-branch-sent-bill-to-congress-that-includes-n

[8] https://www.ey.com/en_gl/tax-alerts/argentine-executive-branch-sent-bill-to-congress-that-includes-n

[9] <https://kluwertaxblog.com/2024/05/06/argentine-large-investments-incentive-program-a-primer/>

[10] <https://www.imf.org/external/pubs/ft/fandd/2000/03/pou.htm>

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