

# Withholding Taxes in Latin America: B2B Domestic Transactions

*Focus on Argentina, Brazil and Mexico*

January 2017

Ana Paula Maciel, Tax Research  
Analyst – Principal, Vertex Inc.

Ernesto Levy, Senior Leader –  
Global Indirect Tax, Intuit



*“Every hundred feet the world changes.”<sup>1</sup> — Roberto Bolaño*

Corporate tax functions in companies that conduct business in Latin America (or are exploring an expansion to the region) can take a page from a celebrated Chilean novelist when untangling the multifaceted complexities of withholding taxes in Argentina, Brazil and Mexico.

Roberto Bolaño, who also lived in Mexico for a time, has been described as the most important Latin American literary voice of his generation. Although his themes of art, politics, philosophy and crime never veered into tax management narratives, Bolaño’s depiction of the speed and impact of change, certainly resonate with the current withholding tax storyline. Tax managers grappling to manage withholding taxes in Argentina, Brazil and Mexico may feel that multiple withholding tax rules, scattered throughout government layers change at least every 100 days.

The reality is that effectively managing withholding taxes on domestic business-to-business (B2B) transactions throughout most of Latin America requires a firm, high-level understanding of several-country specific withholding tax regulations. It also requires an appreciation of the challenges and pitfalls that lead to non-compliance, potentially triggering substantial penalties.

## A Withholding Primer

Withholding tax is a government requirement for the buyer of goods or services to deduct a specific amount from the payment made to the supplier. The withholding amount is then submitted to the tax authority.

Withholding tax is usually calculated as a percentage of the net amount of the sale. When it comes to value added tax (VAT) withholding, it can also be calculated as a percentage of the VAT amount. That said other calculation methodologies also exist.

Here is an example involving a \$100 net sale, subject to a 16% VAT rate, to illustrate one variation of withholding tax calculation:

Invoice from Seller		Payment from Buyer	
Net Amount	\$100	Withholding Tax (10%)	\$10
VAT (16%)	\$16	Monetary Payment	\$106
Total Amount	\$116	Total Payment	\$116

At the moment of payment, the buyer will calculate and subtract from the payment the withholding tax amount, in this case \$10 to be submitted to the tax authority. The remaining amount, \$106, will be paid to the seller along with a withholding tax certificate for \$10 for a total payment of \$116. In this example,

the withholding tax is calculated using the net amount of the transaction as the basis. Other countries use the VAT amount instead.

In some countries, such as Argentina, it is important to distinguish between withholding tax and collection tax. The key difference is that collection tax essentially represents an advanced payment of a tax that the government mandates the seller to collect from the buyer, as opposed to a deduction made by the buyer. Collection tax is typically, but not always, calculated as a percentage of the net amount of the transaction. In some countries, a collection tax may also be calculated as a percentage of the VAT amount.

At the moment of invoicing a transaction, the seller adds the collection tax, and then subsequently submits this amount to the relevant tax jurisdiction. The buyer receives a tax credit for the collection tax as applicable; the invoice document usually serves as a collection tax certificate for the buyer to claim the credit.

Here is an example of a collection tax for another \$100 net transaction subject to a 16% VAT rate:

Invoice from Seller	
Net Amount	\$100
VAT (16%)	\$16
Collection Tax (10%)	\$10
Total Amount	\$126

The first line of this form identifies the net amount (\$100). The second line identifies the VAT amount (\$16), and the third line is the collection tax (\$10). The total invoice amount of \$126 indicates the amount that the buyer will pay the supplier. The buyer will be entitled to take the collection tax as tax credit. As with the previous withholding tax example, this collection tax scenario uses the net amount as basis for the collection tax calculation; other countries use the VAT amount as the basis.

This variation represents just one of several unique differences among the withholding tax approaches in Argentina, Brazil and Mexico.

Tax Translation 101		
English	Spanish	Portuguese
Withholding Tax	Retención de Impuestos	Impostos Retidos na Fonte
Collection Tax	Percepción de Impuestos	Substituição/ Antecipação Tributária

## Country-by-Country Overviews

Several common challenges crop up when tax functions address withholding tax requirements in Argentina, Brazil and Mexico. Each country has multiple forms of withholding taxes, rates and procedures. The penalties that each country imposes on companies that run afoul of these rules can be sizeable as well. As is the case with all forms of transactional taxes in these three countries, the rules governing withholding taxes qualify as complex.<sup>2</sup>

There are also a number of noteworthy withholding tax differences among these three Latin American countries. In Argentina, for example, withholding taxes, as well as collection taxes, are used more pervasively than they are in Brazil and Mexico. A high-level summary of the withholding tax environments in Argentina, Brazil and Mexico follows:

### *Argentina: Withholding Taxes for All (Government Levels and Tax Types)!*

In Argentina, withholding and collection taxes can be found at the federal, provincial and municipal levels of government. What's more, withholding and collection taxes are applied within almost all tax categories, including income tax, VAT and turnover tax, as the following table illustrates:

Federal Level	
Income Tax	General Withholding Tax
	Specific Withholding Tax
VAT	General Withholding Tax/ Collection Tax
	Specific Withholding Tax/ Collection Tax

Provincial Level	
Turnover Tax	General Withholding Tax/ Collection Tax
	Specific Withholding Tax/ Collection Tax

This approach complicates business and tax compliance in Argentina. Tax departments must collaborate closely with finance and accounting teams investing significant time in tax management and compliance activities. The fines for non-compliance are hefty; they can amount to up to 10 times the amount of tax not paid to the tax authority.

We will start with a look at the federal government's withholding and collection tax complexities before concluding with an assessment of the provincial level.

At the federal level, the income tax withholding regime applies to almost all goods and services. Interestingly, almost all registered taxpayers must act as withholding tax agents. Collection of this tax must be performed upon payment. This is generally the case for withholding taxes in Latin America, although there are some exceptions; in Venezuela, for example, income tax withholding is either determined at the moment of payment or when creating the entry for accounting purposes, depending on which activity occurs first.

Regarding Argentina's general withholding tax for income taxes, there are some excluded transactions, including chargebacks (as often occurs in the transportation industry), currency exchange transactions, and payments made to government institutions among others. Taxpayers that believe the withholding amount will exceed their tax liability for the current period may request a withholding tax exemption certificate. It is fairly common for companies to obtain these certificates, and the procedure for doing so (i.e., providing supporting documentation) is straightforward.

Income tax withholding rates vary depending on the type of good or service being supplied. A lengthy list identifies all of the different categories and corresponding withholding tax rates, along with thresholds. The calculation is highly complex, in part because it requires the buyer to track all payments made to each taxpayer within a specific category throughout the month. The total payments for each category must then be compared to each threshold. Once these total payments exceed this threshold, the withholding tax is calculated.

At this point, another threshold related to the withholding tax amount is applied. These thresholds are extremely low (\$6 and \$30); they were originally set this way years ago. Due to an inflationary economic trend and the fact that the tax code has not yet been updated, these limits remain very low. The end result of this calculation is that the vast majority of transactions are subject to withholding.

Another important withholding regime, related to VAT, also exists at the federal level in Argentina. VAT withholding is similar to the income tax withholding regime in several ways: it applies to almost all goods and services; there are special VAT withholding regimes for certain categories of goods and services; and withholding is triggered upon payment. There are also differences: for example, the calculation of VAT withholding tax is simpler than the calculation of income tax withholding.

Additionally, there is a general VAT collection regime in addition to the general VAT withholding regulations. The scope of these two regimes is quite similar with the exception of capital goods. The following table highlights the key aspects of each:

	VAT – General Withholding Tax	VAT – General Collection Tax
<b>Scope</b>	Taxable transactions made with local suppliers	Taxable transactions made with local suppliers
<b>Tax Agent</b>	Taxpayers appointed by the tax authority	VAT withholding agents
<b>Trigger</b>	Withholding triggered upon payment	Collection triggered upon invoicing, payment or when good/service is supplied
<b>Excluded Transactions</b>	Transaction subject to specific VAT withholding regimes	Sales of capital assets
<b>Excluded Taxpayers</b>	Withholding tax exemption certificate, other withholding agents	Collection exemption certificate, other collection agents
<b>Rates</b>	<ul style="list-style-type: none"> <li>• 50%: Sale of goods and certain construction services</li> <li>• 80%: Supply of goods/services subject to the reduced VAT rate</li> <li>• 80%: Other services</li> <li>• 100%: Taxpayers included in a “black list”</li> </ul>	<ul style="list-style-type: none"> <li>• 3%: Goods and services subject to the standard VAT rate</li> <li>• 1.5%: Goods and services subject to the reduced VAT rate</li> </ul>
<b>Calculation</b>	Withholding tax rate applied on VAT amount	Collection tax rate applied to net amount
<b>Threshold (USD)</b>	\$20	\$2.50

The withholding tax rates listed above bear further explanation. Goods and certain construction services are subject to a VAT rate of 21 percent, and the withholding tax rate for these goods and services is 50 percent. If the goods or services are subject to the reduced VAT rate, 10.5 percent, then the withholding tax rate will be 80 percent. Remaining services subject to the standard 21 percent VAT rate have a withholding tax rate of 80 percent. Finally, the “blacklist” identified in the table refers to entities categorized as “high-risk taxpayers” by the tax authority. A taxpayer may receive this designation due to failing to submit tax returns, for example. The entire VAT amount must be withheld in transactions involving high-risk taxpayers.

Despite those rate nuances, the calculations—for VAT withholding as well as for VAT collection—are relatively simple.

At the provincial level, however, Argentina’s approach to withholding and collection taxes applied to turnover tax qualifies as complex. There are 24 autonomous tax jurisdictions at the provincial level, each one handles withholding and collection taxes based on a unique set of regulations. As a result, there are numerous different withholding and collection tax rules, procedures and calculations that buyers and sellers of goods and services need to follow. Generally speaking (but again, not in all cases), withholding taxes are triggered upon payment, and rates are typically based on the net amount of the sale. Collection taxes are usually triggered upon invoicing.

Usually, in order to be designated as either withholding or collection agent, a taxpayer must have activities in the jurisdiction. Some provinces might also make the determination based on the company’s revenue; under this approach, larger companies tend to bear more of the brunt of withholding taxes.

It is also important to keep in mind that certain transactions may be excluded under different provincial tax regimes. In some cases, sales of capital goods are excluded from withholding and collection taxes. Additionally, some taxpayers may have exemptions based on certain particular conditions.

### ***Brazil: Numerous Taxes and Withholding Rates***

The Brazilian tax environment remains one of the most complex and fast-changing in the world. It is important to recognize this condition in a country where indirect taxes and VAT withholding taxes apply only to services.

At last count, there were more than 80 different taxes in the country. For the purposes of understanding Brazil’s withholding

tax methodology, it is useful to focus on corporate taxes and VAT, including the following:

VAT	
<b>IPI</b>	Federal tax on manufactured goods, calculated on transactions with goods produced or imported
<b>PIS</b>	Federal contribution for social integration program, applied to corporate gross revenues
<b>COFINS</b>	Federal contribution for financing of social security, applied to monthly invoicing
<b>ICMS</b>	A state VAT on services listed in federal legislation
<b>ISS</b>	Municipal service tax, applied to services a company provides to a third party

Corporate	
<b>IRPJ</b>	Corporate income tax, calculated on a company's gross income
<b>CSSL</b>	Social contribution tax on net profit), an additional income tax imposed on a company's income before taxes
<b>INSS</b>	National Institute of Social Security contributions, based on a percentage charged monthly on employers and employees calculated on employees' monthly salaries

It is important to keep in mind that these some of these taxes apply differently—or do not apply at all—depending upon whether a transaction involves a good or a service. For example, at the federal level, IPI applies to goods but not to services. At the state level ICMS applies to goods and some transportation and communications services, but no other services. And at the municipal level, ISS only applies to services.

When it comes to Brazil's withholding tax approach and methodology, the location of the transaction and the transaction's participants are also important. With most standard taxes, the seller or service provider is responsible for payment of taxes related to its business. However, in the case of withholding taxes, the buyer or services acquirer is responsible for calculating, retaining and paying taxes levied on the transaction on behalf of the seller or services provider.

In general, the withholding tax basis is the gross value indicated in the service invoice. The withholding amount is deducted from the amount to be paid to the supplier. However, the deemed output tax being accrued on behalf of the seller is not recoverable by the buyer. Services subject to withholding are listed in federal and municipal legislation. Exact rates vary according to the type of service in the transaction and the tax jurisdiction in which it took place.

At the municipal level, ISS is subject to Brazil's withholding methodology. At the federal level, the following taxes are subject to withholding:

- IRPJ
- CSSL
- PIS
- COFINS
- INSS

### *Mexico: Less Complexity*

Regarding current withholding tax methodologies, Mexico's approach is quite straightforward compared to Brazil and, especially, to Argentina.

The primary withholding regimes in Mexico are the income tax withholding regime and the VAT withholding regime; both apply at the federal level. Perhaps the most important quality of income tax withholding is that it typically applies to payments made from entities to individuals for professional services. Local entities operate as the withholding tax agent, and withholding is triggered upon payment. The withholding rate is 10 percent, and it is applied to the net amount of the transaction.

VAT withholding tax—again, at the federal level in Mexico—applies to payments from local entities related to:

- Independent personal services or temporary use or enjoyment of goods supplied by individuals;
- Acquisition of scrap to be used as a raw material or sold;
- Ground transportation of goods; and
- Commission services supplied by individuals.

Local entities operate as the withholding tax agent, and withholding is triggered upon payment. In terms of exclusions, transactions between local entities are usually not subject to VAT withholding. VAT withholding rates vary from 4 percent (for ground transportation of goods) to 10.67 percent (for independent personal services, temporary use or enjoyment and commission services) to 16 percent (for the acquisition of scrap to be used as raw material or sold). And withholding rate calculations are performed by usually applying these rates to the net amount of the transaction, with some exceptions where the VAT amount is the basis used for calculation.

## Conclusion: The World of Withholding Changes, Constantly

Despite the complexity surrounding withholding taxes in Argentina, Brazil and Mexico, it is important for tax professionals to recognize that this area can quickly become even more complex as the result of sudden regulatory and legislative shifts.

Those legislative changes mark one of four primary challenges affecting withholding taxes (see “4 Withholding Tax Challenges” side bar).

Other issues also pose challenges. For example, when the value of individual goods and/or services is not itemized on an invoice, withholding tax calculations become more difficult. Chargebacks, payments in kind and installment payments also tend to create additional layers of difficulty in the determination and management of withholding taxes. Finally, some tax authorities provide software that taxpayers are required to use for reporting—and compliance—purposes.

Withholding taxes in Argentina, Brazil and Mexico can be managed. The leading approaches to doing so typically feature a blend of overall tax expertise, local knowledge, leading tax-data management practices and supporting tax automation. Regardless of a tax function’s individual approach, it is helpful to understand that the complex withholding tax plot may thicken—and the pace of change may accelerate—in the next 100 days and beyond.

### 4 Withholding Tax Challenges

In addition to the inherent complexity of withholding tax applicability, rates, calculations and exemptions in Argentina, Brazil and Mexico, there are four major sources of disruption that can further complicate the management of withholding taxes:

1. **Multiple levels:** Withholding taxes exist at the federal, provincial and municipal levels of government.
2. **Multiple methodologies:** Withholding tax applicability, rates and calculations also vary, sometimes significantly depending on the country, the transaction and the level government applying the tax.
3. **Frequent changes:** These rules, rates and calculations are subject to frequent adjustments and legislative changes, especially during periods of economic stress in which governments are hungry for faster ways to collect revenue.
4. **High penalties:** Some federal, provincial and even municipal tax authorities can impose substantial financial penalties — 100 percent of the tax due, in some cases—for compliance lapses.



## Endnotes

- <sup>1</sup> Roberto Bolaño, "2666: A Novel" (Farrar, Straus and Giroux; 2008).
- <sup>2</sup> Ana Paula Maciel and Ernesto Levy, "Transactional Tax Complexity in Brazil, Argentina, and Mexico," Tax Notes International, April 18, 2016: [www.taxnotes.com](http://www.taxnotes.com).

## About Vertex

Founded in 1978, [Vertex Inc.](http://Vertex Inc.) is the leading provider of corporate tax software and services to automate, integrate, streamline or outsource tax processes for companies of all sizes, from small to medium-sized businesses to global multinationals. Vertex provides solutions for all tax types with industry-specific solutions for retail, communications, hospitality and leasing industries.

---

### Locations

North America  
King of Prussia, PA

Latin America  
Sao Paulo, BR

Europe  
London, UK

Asia Pacific  
Chennai, IN



[vertexinc.com](http://vertexinc.com)