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### **MINING INVESTMENT REGIME - NEW TAX INCENTIVES AND BENEFITS**

*This brief provides an executive summary of the recent Resolution 89/2019 issued by the Ministry of Production and Labor from Argentina, Secretariat of Mining Policy, on October 24, 2019, as part of the mining investment regime. This new normative regulates the conditions of use of the benefits established in Section 21 ("exemption from payment of import duties and other related fees") of Law No. 24,196 on Mining Investments and the intervention of the Application Authority regarding this procedure. This resolution is intended to improve the processing of said authorizations seeking simplification.*

The Argentine Mining Investment Law 24.196 from 1993 established that the mining undertakings that so request and comply with the legal conditions required, will enjoy fiscal stability for the term of thirty (30) years, counted from the date of presentation of their feasibility study before the Mining Policy Secretariat. The fiscal stability reaches all taxes, understood as such to direct taxes, tax rates and contributions, as well as duties, tariffs or other charges on import or export.

Section 21 of the said law sets out that those enrolled in the mining investment regime shall be exempt from the payment of import duties and any other rights, special tax, correlative tax or statistical fee, excluding other service tax, for the introduction of capital goods, special equipment or part or component elements of said goods, and of the inputs determined by the enforcement authority, that are necessary for the execution of activities included in the mentioned regime (Chapter III). The exemptions or the consolidation of the rights and encumbrances will be extended to the spare parts and accessories necessary to guarantee the implementation and development of the activity, which will be subject to the respective verification of the destination, which must respond to the project that motivated said requirements.

Below is a quick review of the main provisions of the recent Resolution 89/2019.

(a) List of admitted tariff positions

The list of tariff positions of the MERCOSUR Common Nomenclature (NCM) corresponding to capital goods that may be imported under the provisions of Article 21 is approved. At the request of the interested party, the Enforcement Authority may evaluate the inclusion of tariff positions that are not listed. We can proceed to complement this detail if required.

(b) Request proceeding. Sworn Statement

All procedures related to the application for authorization to import must be carried out through the Distance Processing Platform (TAD), created in October 2016, or by written submission, addressed to the Application Authority.

Those registered in the Registry of Law No. 24.196 that request authorization to import with the exemption contemplated in Article 21 must complete, as a sworn statement, the following information:

- a. Tariff Positions;
- b. Description or denomination of the good;
- c. Identification data as appropriate (part number or code, brand, model, serial number, chassis or engine, sector/equipment where it will be used, brochure or "layout");
- d. Quantity and unit of measurement;
- e. Unit value;
- f. Origin;
- g. Destination/site/project;
- h. If it is new, used or reconditioned, with its year of manufacture;
- i. Identifier number of the declaration made through the Integral System of Import Monitoring (SIMI), or the one that in the future replaces it;
- j. Useful data for destination verification (purchase order, invoice number, supplier, total import value);
- k. Other data related to the operation as appropriate (such as a phased regime, purchase orders, contracts, etc.).

(c) Certificate. Period of validity

Once the application for authorization to import has been submitted with the exemption contemplated in Article 21 of Law No. 24,196 on Mining Investments, the Application Authority will proceed to its analysis within the period of SEVEN (7) days, and if the requirements are met, will issue a certification stating such authorization.

The import authorization will have a validity period of ONE HUNDRED AND EIGHTY (180) days from its approval. At the request of the interested party, during the period of validity, the Application Authority may grant an extension or rectification for the approved import.

(d) Exclusive mining use identification

Motor vehicles and non-stationary mining equipment imported with the benefit of Article 21 must have an identification logo on both front doors, recording the expression "EXCLUSIVE MINING USE".

(e) Transfer to another registered subject

Those registered who wish to transfer imported goods, parts, spare parts or supplies with the benefit of Article 21 to a registered subject, must previously request authorization from the Application Authority, meeting certain requirements.

(f) Transfer of goods to other mining operations

Imported non-stationary mining vehicles and equipment with the benefit of Article 21, affected by a specific mining project, may be transferred to other mining operations with due notice to the Application Authority within the deadline of FIVE (5) days after the same.

For this purpose, interested parties must inform:

- a. Original location;
- b. New destination;
- c. Transfer period;
- d. Reason for transfer

(g) Release for the use of goods in a non-mining destination

For the purpose of requesting the releasing of goods, parts, spare parts or inputs imported with the benefit of Article 21 for their involvement in a non-mining destination or for transfer to a human person or legal entity not registered in the Registry of the Mining Investment Law, authorization must first be requested from the Application Authority and, for the purpose of paying the corresponding taxes, the goods to be releasing and their import authorizations must be identified.

(h) Release because of end of life or conclusion of the mining cycle

For the purpose of requesting the releasing of goods, parts, spare parts or inputs imported under the benefit of Article 21 by end of useful life, the interested party must identify the corresponding goods and import authorizations, and attach a technical report, which proves the obsolescence or inability of the good for the mining tasks subject to its importation. In the case of an incident, the supporting documentation must be attached.

In order to request verification of the conclusion of the cycle of the mining activity that motivated its importation to release the imported goods, the registrant must attach the documentation that accredits said situation.

(i) Release due to the end of useful life presumed

The end-of-useful life of new or used capital goods or special equipment imported under the benefit of Article 21 shall be presumed, upon compliance with the stipulated deadlines for each type of property as it is foreseen in Annex III. As a consequence of it, it will be possible to dispose of the exclusive mining destination, making the goods freely available and available.

(j) Release of used property

Capital goods and special equipment imported as used with the benefit of Article 21 that at the date of importation would have been older than that established in Annex III of this resolution to each type of property may not be released from mining use or transferred to an unregistered human or legal person. Releasing may only be authorized when its final disposal is proven as scrap metal or scrap metal.

Specific provisions refer to lease contract options, used goods and the exclusion of anti-dumping duties.

***Should you have any queries or concerns related to the above described, please do not hesitate to contact Nicolas Ferla at [nferla@alfarolaw.com](mailto:nferla@alfarolaw.com)***

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