

# Argentinean measures to control and tax transfers

New measures introduced by the Argentinean government seek to establish a tax regime for player transfers in football. The regulations introduced will record those involved in player transfers, including who owns the economic rights to players. Ramón Moyano and Santiago Montezanti, of Edstudio Beccar Varela, explain the new regulations, including how they apply to players joining overseas clubs.



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On 23 and 24 August 2012, the Federal Administration of Public Revenue (AFIP) issued General Resolutions N°3374 and N°3376, which were published in the Official Gazette. By means of these resolutions, the AFIP aims to increase control over professional football clubs and the representatives of football players.

### General Resolution N° 3374

The General Resolution N°3374 sets up an information regime to be fulfilled by the Argentine Football Association (AFA) and the professional football clubs that belong to the first and second division of the Argentine League. Under this regime, the clubs will have to make a filing before the AFA every six months, in which they will report the following information:

- Professional football players that are part of the team at the end of each 'semester' (defined below).
- Players who were subject to economic transactions during the semester, even if at the end of the semester they are not part of the team anymore.
- Player representatives. In cases where the club does not have the information related to who the player representatives are, the players will have to submit it by means of a sworn statement.
- Holders of the informed professional player's economic rights, even when all the rights belong to the club that is providing the information.
- Individuals who have participated in player transactions as transfers, assignment of their rights and/or loan agreements.
- Operations in which the club acted as an intermediary in payment.
- Individuals who acted as intermediaries in operations defined above, even when the operations were carried out

between clubs.

- Existing debt with local or foreign individuals to 31 December each year due to the purchase of players economic rights and loan agreements, with an exception for loans agreed with Financial Entities governed by Law N° 21.562.
- Amounts paid to the team members.

The AFA will submit this information to the AFIP. If clubs fail in the accomplishment of this regime, the AFA must inform the AFIP.

The information will be submitted in a half yearly basis, as follows:

- First 'semester' between 1 September and the last day of February of the following year;
- Second 'semester' between 1 March and 31 August of the following year.

Once the 'semester' is completed, the clubs must fulfil the regime and file the information to the AFA within the 10th day of the following month. The AFA must submit the information to the AFIP within the 15th day of that month. The operations that were performed in a foreign currency must be converted to Argentine Pesos, taking into account the exchange rate fixed by the Banco Nación the day before the informed operation took place. Despite the fact that the General Resolution has only been in force since 23 August 2012, information to be submitted must include events between 1 March and 31 August 2012.

This General Resolution also sets up a registration regime regarding football player transfers and total or partial, final or temporary assignment of their economic or federative rights, performed since 23 August 2012. These operations must be registered by the sellers or assignors and purchasers or assignees through the AFIP's

website, within 10 days from the date of the agreement. In the event that the DJAF (as defined below) was filed pursuant to General Resolution N° 3376, it won't be necessary to comply with the regime described above.

**General Resolution N°3376**

The General Resolution N° 3376 sets a tax control regime regarding football player transfers and total or partial, final or temporary assignment of their economic or federative rights. The resolution also creates a 'Nómina Dinámica de Paraísos Fiscales Deportivos' (Dynamic List of Sports Tax Havens). The purpose of this list is explained below.

Football players who are no longer attached to first and second division clubs of the Argentine League and that remain contractually free must inform the AFIP within 10 days of leaving the club they belonged to. The fulfilment of this regime will be necessary so as to enter an agreement with a foreign football club.

While a player transfer is taking place and the total or partial, final or temporary assignment of their economic or federative rights is being decided, a filing must be made with the AFIP. This filing must include the information indicated on the AFIP's website under the heading *Declaración Jurada Anticipada de Fútbol* (Anticipated football affidavit) and must be made before the transfer takes place. This affidavit must be filed by:

- Professional football players that are contractually free, in the event of entering an agreement with a foreign club;
- Local football clubs that want to transfer players to foreign clubs;
- Local clubs that want to hire players from foreign clubs.

The filed information will be

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submitted to the AFA by the AFIP.

When such operations are agreed with clubs that are in one of the jurisdictions listed under the 'Dynamic List of Sports Tax Havens', an advanced income tax payment must be made. The amount payable will be calculated as 35% of the taxable base rate established by the AFIP under the *Ventanilla Única Electrónica de Comercio Exterior* (Foreign Commerce Electronic Window) document on its website. The advanced payment must be made within five business days from the filing of the DJAF. The advanced payment should not be made if the club hires a player that belongs to a foreign club included in the List, if they can prove that the player was formed at the local club or that he represented the local club for at least one season in Argentina's official tournaments in the past.

It should also be noted that, despite the fact that the General Resolution has only been in force since 24 August 2012, all transactions dated from 1 January 2012 onwards must be recorded using this process.

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