

DOING BUSINESS

Main fiscal and legal issues of
the Argentina mining industry



Ministerio de
Desarrollo Productivo
Argentina

Argentina is a Federal Republic **and the resources are of provincial domain**

	Federal Government	Provinces
Natural Resources (including mineral deposits)	X	✓
Mining Code	✓	X
Mineral title & permits	X	✓
Mining Investment Law	✓	X
Environmental regulations	✓	✓

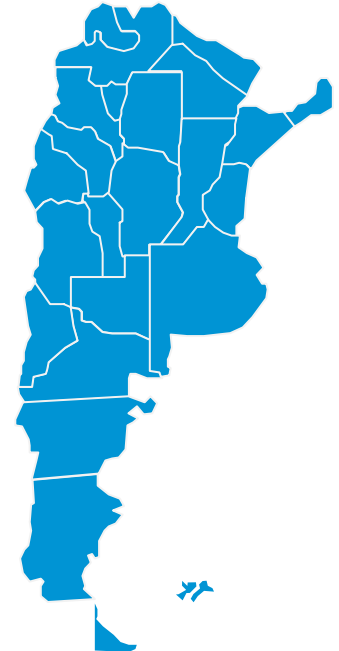


The territory consists of:

1 Federal Government

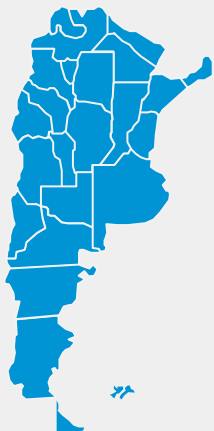
23 Provinces and
1 Autonomous City

+2000 Municipalities



COFEMIN
Consejo Federal Minero
Nation-Province consensus for Mining Policy

Argentina's mining framework: legal aspects



TITLE

- **Belongs to the discoverer.** Must file claim with the Province
 - "Free-entry system" Concession for all minerals type (**no restricted minerals**)
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TENURE

- **Simple to maintain:** annual payment and executed investment plan
 - (within 5 years of title)
 - Granted in **perpetuity**, provided there is mineable ore and continued mining activity by owner
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PERMITS

- **Unified, clear and timely environmental approval process.**
- **Environmental and construction permits** mostly granted and controlled by the **Provinces**.

Classification of mines

according to the type of mineral discovered

First

Mines in which the soil is an accessory, that belongs to the provincial state in which it lies, and can only be exploited given legal grant by the regarding mining authority.

- A. The following metals: gold, silver, platinum, mercury, copper, iron, lead, tin, zinc, nickel, cobalt, bismuth, manganese, antimony, wolframite, aluminum, beryllium, vanadium, cadmium, tantalum, molybdenum, lithium and potassium.
- B. Arsenic, quartz, feldspar, mica, fluorite, calcareous phosphates, sulfur, borates.
- C. Precious stones.
- D. Certain fuels: mineral coal, lignite, anthracite coal and solid hydrocarbons.

Second

Mines that because of their relevance are granted preferably to the soil owner; and mines that due to the deposit conditions are destined to the common advantage.

- A. Metallic sands and precious stones which are found in river beds and on the banks of water courses, or at tailing dams of abandoned mines.
- B. Saltpeter, salines, peat bogs.
- C. Metals not included in the first class.
- D. Low grade aluminous soils, abrasives, ochres, resins, steatite, barium sulfate, low grade copper ores, graphite, fine white clay, alkaline salts or earthy alkaline salts, amianthus, bentonite, zeolite and permutic minerals.

Third

Mines that belong to the soil owner and no one may exploit it without the owner consent except public utility declaration.

Includes mines where the minerals are of an earthy or rocky nature used in the construction and ornamental industries.



The National Constitution states that mines are private property of the Provinces which are able to grant concessions

However, legislation allows individuals or legal entities to acquire concessions, by requesting them to the competent authority in order to explore and develop those deposits and freely dispose of the minerals extracted within the area of the concession. The mining rights are granted in perpetuity provided that the annual tax is paid and investments are made for each stage of the mining activity.

The basic statute which governs mining activities in Argentina is the Mining Code, which establishes that mining resources are “non-renewable”, so their utilization requires certain conditions.

When the **Provincial State** grants a mine concession to a third party, it maintains the original ownership. If the concession holder does not comply the conservation conditions that the Mining Code imposes - payment of royalties, capital investment, effective exploitation when applicable- his rights expire, and consequently the State can once again grant the mine concession to the next first applicant.

Summarizing, a) the State holds the original ownership of the mine as a private asset, which subsists before, during and after the granting of “the concession” to a third party; b) that private third party holds the property right of, constituted by the State through a regulated act that is the “concession”.

This system distinguishes the existing property on the surface of the land from the mining (underground) property.

EXPLORATION

The initial prospecting stage is legally included in the exploration or search phase. It takes place on a surface called “search permit”, which the miner holds exclusively for a specific period of time to carry out the tasks of mineral search.

To obtain the permit to explore, an application must be submitted to the provincial mining authority. The Mining Notary establishes the exact date and time of submission of the application. The application is registered in the Provincial Graphic Registry or Mining Cadastre in strict order of presentation.

Along with the request for exploration, the Minimum Work Program to be carried out must be submitted. It must include an estimation of the planned investments to be made, and the elements, equipment and machinery to be used in the project. The applicant will pay the exploration fee corresponding to the units of measurement requested.

Argentina is a federal country consisting of 23 provinces:

- At a national level Argentina dictates the Mining Code, and establishes general laws for the whole country in which the different productive activities (civil, commercial, tax, environmental and labor) are framed.
- The mining activity has a special promotional regime dictated by the National Government, to which the Provinces have adhered. It grants, among other benefits, accelerated amortization of capital assets and tax stability to mining projects.
- Provinces, for their part, grant mining rights for exploration and exploitation, and other permits. The provincial enforcement authority monitors compliance of the applicable regulations.
- Mining rights for exploration and exploitation and other corresponding permits are granted at the provincial level. Compliance with applicable regulations is monitored by the Provincial Authority.
- The provinces of Chubut, Mendoza, Tucumán, La Pampa, Córdoba, San Luis and Tierra del Fuego prohibited the processing of minerals with certain chemicals or open pit exploitation.

OWNERSHIP OBTENTION PROCEDURES FOR MINING CONCESSIONS (based on the mining code for minerals of first and second category) *

STAGES

TENURE

DISCOVERY

1.

Submitting the request (Article 25)

- Applicant information and ownership description of the land (cadastral parcels, ejidos etc) Superficial owner of the land information
- Indicate concerns surface – (Article. 19- Gather croquis with vertices coordinates of the requested area, using the coordinates official system.)
- Work plan description (Schedule of minimum work to be done, investment estimation, equipment and elements to be used)
- Statement articles 29 and 30 C.N.M. regarding the non-existence of the prohibitions resulting of the articles 29-(paragraph 2°) and 30 (paragraph 5°). (Regarding maximum amount of permit and consecutive permits of the same area or part of it) and maximum of granted units per province to a landholder, a society, or person/ society bounded to the landholder.

Manifestation discovery note (articles 45,46 and 60)

- Discoverer information
- Accompanied mineral sample
- Mine Name
- Discovery point description (Article 19) and name and mineral of the bordering mines.
- Land domain description (cadastral parcels, ejidos, etc), Superficial owner of the land data.

OWNERSHIP OBTENTION PROCEDURES FOR MINING CONCESSIONS (based on the mining code for minerals of first and second category) *

STAGES	TENURE	DISCOVERY
2.	<ul style="list-style-type: none"> Chronological and sequential number assignment (Provincial Mining Authority) Location in the Mine Cadastral- Graphic registration (unavailability area) (Article 20) 	<ul style="list-style-type: none"> Chronological and sequential number assignment (Provincial Mining Authority) Location in the Mine Cadastral- Graphic registration (unavailability area) (Article 20)
3.	<ul style="list-style-type: none"> Official Documents(Domain reports department; Province Direction of lands, Province office cadastral direction , Property Register of immovable 	<ul style="list-style-type: none"> Official Documents(Domain reports department; Province Direction of lands, Province direction of cadastral, Property Register of immovable
4.	<ul style="list-style-type: none"> Edicts Publications (official Journal and graphic media of wide circulation)(100 days for opponents)- Concession granting resolution 	<ul style="list-style-type: none"> Publish registration (official Journal and graphic media of wide circulation, articles 51, 52,53 and 66
5.	<ul style="list-style-type: none"> Ownership registration of tenure, file registration. (Three years from the register date the payment of the mining annual cannon begins according to articles 76 and 213 of the mining code) 5 year to submit minimum investment plan). 	<ul style="list-style-type: none"> Mine Registration.(Article 221, Every mineral discoverer will be exempt of cannon payment for three years regarding the belongings given, After that date, the payment of the annual mining cannon begins and the minimum investment plan must be introduced.

OWNERSHIP OBTENTION PROCEDURES FOR MINING CONCESSIONS (based on the mining code for minerals of first and second category) *

STAGES	TENURE	DISCOVERY
6.	<ul style="list-style-type: none">• Exploration Permit conditioned to the environmental impact report approval and the obtaining of the environmental impact declaration, Articles: 233,246,250,256; General environmental law N° 25675 and its annex; Provincial Laws and Resolutions.	<ul style="list-style-type: none">• Exploration Permit conditioned to the environmental impact report approval and the obtainment of the environmental impact declaration, Articles: 233, 246, 250, 56; General environmental law N° 25675 and its annex; Provincial Laws and Resolutions.
7.	<ul style="list-style-type: none">• Legal labor Statement and belonging request (reduction). (Article 68)	<ul style="list-style-type: none">• Legal labor Statement and belonging request (reduction). (Article 68)
8.	<ul style="list-style-type: none">• Belongings location (graphic register and publication)	
9.	<ul style="list-style-type: none">• Measurement: publication, measurement tasks and legal task acknowledgment (requested belongings are set) (article 53,81 to 92)	<ul style="list-style-type: none">• Measurement and requested area demarcation. Discovery verification by the mining authority (Article 47)

OWNERSHIP OBTENTION PROCEDURES FOR MINING CONCESSIONS (based on the mining code for minerals of first and second category) *

STAGES	TENURE	DISCOVERY
10.	<ul style="list-style-type: none">• Minimum investment plan: must be submitted within a year term from the petition date and accounting for five years since the mentioned date. Amount not lower than 300 times the mine annual cannon. (article 217)	<ul style="list-style-type: none">• Minimum investment plan: must be submitted within a year term from the petition date and accounting for five years since the mentioned date. Amount not lower than 300 times the mine annual cannon. (article 217)
11.	<ul style="list-style-type: none">• Unavailability area release, belonging registration in the graphic register, legal constitution belonging possession (Article 93)	<ul style="list-style-type: none">• Concession–Definitive title
12.	<ul style="list-style-type: none">• Publication and mine constitution.	

* The procedures are based on the mining code, and the concerning paper work to access a mining concession, given this, the demands are similar in each province.

Exploration & Mining Exploitation



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Exploration & Mining Exploitation

MINING EXPLOITATION

In the second stage of the mining process, once a discovery has been made and registered, the provincial mining authority grants the mining concession to the first discoverer. Once granted, the miner can begin the exploitation of the mine.

The miner can carry out the recognition in the field, in order to specify the most convenient location to establish the properties and develop the exploitation, taking into account the type of mineral discovered.

The public utility status of the exploration and exploitation stages enables the miner to use the surface land, securing the damages and losses that it may cause.

Exploration & Mining Exploitation

Since the granting of the mining concession, mining easements may also be constituted for the occupation of surface lands, the opening of communication and transport routes, and the use of the natural waters for exploitation requirements.

According to the Mining Code, mining works are considered of public utility and therefore cannot be prevented or suspended, except when this is required to safeguard the public safety, the conservation of belongings and the health or life of workers.

The miner is the owner of all the breeding grounds located within the boundaries of his property, regardless of the mineral substances they contain, and is obligated to report to the mining authority on the finding of any substance different from those stated in the mine registry, for the purposes of the payment of royalties

Exploration & Mining Exploitation

ENVIRONMENT

The Mining Code establishes that miners can exploit their belongings freely, without being subject to other rules than those concerning their safety, police power and environment conservation. Before the start of operations, miners must submit an Environmental Impact Report (IIA) to the appropriate Provincial Application Authority according to the location of the deposit.

Once approved, an Environmental Impact Statement (EIS) is issued, and the Provincial Application Authority will be responsible for monitoring compliance. A new EIS will be issued for each stage of the project, approving or rejecting it within a maximum period of sixty (60) business days.

The EIS is updated every two years.

Exploration & Mining Exploitation

NUCLEAR MINERALS

Under Argentine law, those minerals considered nuclear ones are uranium and thorium. Those who operate mines that contain nuclear minerals must submit to the mining authority a plan to restore the natural area affected by mining waste, and neutralize, conserve or preserve tailings and other processing products, complying with current regulations. In order to export nuclear minerals, as well as concentrates and their derivatives, the approval of the National Atomic Energy Commission is required.

CYANIDE

The following Argentine provinces have banned cyanide from mineral processing: Chubut, Mendoza, Tucumán, La Pampa, Córdoba, San Luis and Tierra del Fuego.

Mining Investment Law

Promotional regime of the
mining sector



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The Mining Investment Law (24.196 / 93)

The taxes to be applied to mining activities in Argentina are the same as those applied to all other economic activities.

Thus, the Income Tax applies to capital companies with an aliquot of 30% for the fiscal years.

In addition, mining activity in Argentina has a special tax regime, established by Law 24.196.

The Mining Investment Law (24.196 / 93)

Benefits granted



TAX STABILITY

Applies for **30 years to all taxes** (national and provincial) applicable from the filling date of the feasibility study to the Federal Government



IMPORTS

0% tax on capital goods (equipment & spare parts) and raw materials imports for mining purposes



EXPLORATION PROMOTION

- **Double 'Income Tax' deduction** of Exploration expenditures up to Feasibility
- **VAT Reimbursement** within 6 months



ACCELERATED DEPRECIATION

3 years accelerated depreciation scheme



ROYALTIES UPPER BOUND

The Law set an upper bound of **3%** for Provincial **Royalties**

Mining Investments **24196 LAW**

1. Beneficiary Subjects:

Companies or individuals that carry out prospecting, exploration, development, preparation and extraction activities of mineral substances included in the Mining Code, and those that realize crushing, grinding, smelting, refining processes, when they are carried out by the same economic unit or are integrated regionally with the previous activities.

Likewise, the companies that provide mining services will be able to benefit from the exemptions of import duties.

2. Tax Stability:

New mining ventures, as well as existing projects that increase their productive capacity, will enjoy a 30-year tax stability regarding taxes in force at the time the feasibility report is submitted. The creation of new taxes or the increases of aliquots, rates or amounts cannot affect it. The total tax burden will be determined, separately, for the national jurisdiction and for each of the provincial and municipal jurisdictions, as appropriate.

3. Imports:

Mining projects are exempt from the payment of all import duties and any other taxes due to the import of capital goods, special equipment or components thereof and inputs for their activity.

For each good, an authorization must be requested from the competent authority.

4. Additional deduction of exploration expenses in the Income Tax:

It is allowed to deduct from the income tax statement up to 100% of the amounts invested in prospecting, exploration, special studies and other works aimed at determining the technical and economic feasibility of a project.

5. Refund of Value Added Tax (VAT) in exploration:

This benefit applies to operations of importation and acquisition of goods and services carried out by companies performing mining exploration tasks (prospection, exploration, mineral testing and applied research), registered in the regime of the law.

6. Accelerated depreciation system:

Companies may choose between the income tax general regime, or a special amortization regime for their capital investments. This system does not distinguish according to the origin of the goods (national or imported) and applies for both new and used goods. The special system allows a 60% amortization of investments made on equipment and on civil and infrastructure works during the fiscal year in which it is enabled, and 40% in equal parts in the next 2 years. For investments in machinery, equipment, vehicles and facilities, the system allows a one third per year amortization.

7. Mandatory environmental forecast deduction:

The special forecast to repair possible alterations in the environment is deductible from the Income Tax, fixed in 5% of the operating costs of extraction and benefit.