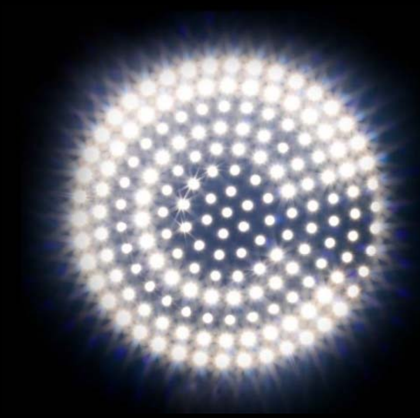
International Tax
Peru Highlights 2018



Investment basics:

Currency – Sol (PEN). Peru uses the "tax unit" (UIT), a figure set annually by the tax authorities, to determine applicable rates and deductions, among other uses. The applicable tax unit for 2018 is equal to PEN 4,150.

Foreign exchange control – No restrictions are imposed on the import or export of capital. Funds may be repatriated in any currency, and both residents and nonresidents can hold bank accounts in any currency.

Accounting principles/financial statements – IAS/IFRS applies. Financial statements must be prepared annually.

Principal business entities – These are the corporation, closed corporation, public corporation, limited liability company and branch of a foreign company.

Corporate taxation:

Residence – An entity is considered resident for tax purposes if it is incorporated in Peru.

Basis – Resident corporations are taxed on worldwide income. Nonresident corporations and branches of foreign entities are taxed only on Peruvian-source income. Foreign-source income derived by residents is subject to corporation tax in the same way as Peruvian-source income, but it is calculated separately. Branches are taxed at the corporation tax rate, plus a remittance tax. Subsidiaries are taxed at the normal corporation tax rate.

Taxable income – Taxable income comprises all income derived by a company, including capital gains. Normal business expenses may be deducted in computing taxable income.

Taxation of dividends – Dividend distributions between resident entities are not taxed. Foreign dividends received by a Peruvian entity are included in taxable income and are subject to the normal corporate tax rate, but with a tax credit for foreign tax paid on the dividends. Dividends and other profit distributions, as well as branch remittances of net profits abroad, are subject to withholding tax when paid to resident and nonresident individuals and nonresident entities (see “Withholding tax,” below).

Capital gains – Capital gains generally are included as income and taxed at the normal corporate rate.

Losses – A taxpayer has the option to carry forward all (Peruvian-source) net operating losses for four years, or to carry the losses forward indefinitely but to offset only up to 50% of the taxpayer's taxable income for each subsequent year. The carryback of losses is not permitted.

Rate – The standard corporate income tax rate is 29.5%. Different corporate income tax rates may apply to certain activities under special regimes (e.g. farming).

The income tax rate for investors in the mining and hydrocarbon industries (with the exception of natural gas) that enter into tax stability agreements is stabilized at the tax rate in force plus two additional percentage points (i.e. 31.5% for agreements signed during 2017 and onward).

Surtax – No

Alternative minimum tax – No

Foreign tax credit – A tax credit is available for income tax paid on foreign-source income and is equal to the lesser of the actual foreign tax paid or the Peruvian tax liability on the income. Excess credits may not be carried forward.

Participation exemption – No

Holding company regime – No

Incentives – Investors in large mining, oil or gas operations may conclude tax law stability agreements with the government for periods of 10 to 15 years.

Withholding tax:

Dividends – Dividends paid to a nonresident entity or to an individual (whether or not resident) are subject to a 5% withholding tax. The 5% rate is applicable only to dividend distributions of profits earned on or after 1 January 2017. Dividend distributions of profits earned before 1 January 2015 are subject to a 4.1% withholding tax, and dividend distributions of profits earned from 1 January 2015 until 31 December 2016 are subject to a 6.8% withholding tax.

Interest – Interest payments made to a nonresident unrelated party that satisfies certain requirements are subject to a 4.99% withholding tax; otherwise, the rate is 30%.

Royalties – Royalties paid by a Peruvian resident are considered Peruvian-source income and are subject to a 30% withholding tax.

Technical service fees – Fees that qualify as fees for technical assistance are subject to a 15% withholding tax, regardless of whether the services are provided in Peru. Domestic taxpayers must keep a report issued by an audit firm certifying that the technical assistance actually was rendered by the nonresident entity if the total amount of the services provided exceeds 140 tax units (approximately USD 178,000).

Branch remittance tax – The remittance of net profits abroad is subject to a 5% withholding tax.

Branches of foreign companies are subject to the 29.5% standard rate of corporate income tax, plus the 5% tax on the remittance.

Other taxes on corporations:

Capital duty – No

Payroll tax – No

Real property tax – The municipal authorities levy real property tax at progressive tax rates of 0.2%, 0.6% and 1%, depending on the value of the property. The tax is deductible for income tax purposes.

Social security – An employer pays a 9% social security contribution for its employees.

Stamp duty – No

Transfer tax – Transfers of buildings (real estate property) are subject to a 3% transfer tax, with the first 10 tax units being exempt.

Other – A temporary net assets tax is imposed on the value of total assets exceeding PEN 1 million, at a rate of 0.4%.

A financial transactions tax is imposed, primarily on debit and credit transactions with Peruvian bank accounts, at a rate of 0.005%.

A transaction that exceeds the amount of USD 1,000 must be paid via check or other verifiable way of payment.

Anti-avoidance rules:

Transfer pricing – Transactions between related parties or between a Peruvian person and an entity in a tax haven jurisdiction must be carried out at arm's length prices. If the price agreed upon is not arm's length, the tax authorities may adjust the price only for income tax purposes. Jurisdictions that are deemed to be tax havens are set out in a list issued by the tax authorities. Transfer pricing documentation is required. A transfer pricing report must be submitted along with the transfer pricing return.

Certain taxpayers are required to submit a local file and a master file, as well as a country-by-country report in accordance with BEPS action 13.

Thin capitalization – Interest paid by resident taxpayers to economically related or associated enterprises may not be deducted if a debt-to-equity ratio of 3:1 is exceeded. However, the interest is not recharacterized as a dividend.

Controlled foreign companies – Resident taxpayers that own nonresident entities established in tax havens or in countries where the income tax rate is equal to or less than 75% of the income tax rate in Peru are taxed on the passive income (dividends, interest, royalties, etc.) derived by the CFC. A resident taxpayer holds a CFC when, individually or jointly with a related party, it owns more than 50% of the capital of the CFC and certain other conditions are satisfied.

Disclosure requirements – No, other than transfer pricing documentation (see "Transfer pricing").

Other – A deemed dividend rule applies for credits granted to shareholders. The rule is intended to avoid the remittance of profits to shareholders in the form of a credit without paying the applicable tax in Peru.

Compliance for corporations:

Tax year – Calendar year (no exceptions)

Consolidated returns – Consolidated returns are not permitted; each company must file a separate return.

Filing requirements – Companies are required to make 12 monthly advance payments of income tax based on monthly taxable income. An annual self-assessment tax return must be filed and final tax must be paid by the first week in April following the end of the tax year.

Penalties – Penalties apply for late filing or failure to file.

Rulings – A private binding ruling regime is available.

Personal taxation:

Basis – Residents are taxed on worldwide income and nonresidents are taxed only on Peruvian-source income.

Residence – Peruvian individuals living in the country and foreign individuals who are present in Peru for more than 183 calendar days in any 12-month period are deemed to be resident for tax purposes. All individuals who qualify as resident on 1 January are subject to income tax for that fiscal year; any changes in residence status after that date will take effect for the next fiscal year.

Filing status – Spouses generally must file their tax returns individually, but can elect to file jointly (although there is no benefit in doing so).

Taxable income – Taxable income is divided into specific categories: income from employment, income from independent personal services and capital income (interest, royalties, capital gains and income from the leasing of assets). Business income earned by an individual is subject to the corporate tax regime.

Capital gains – Capital gains are taxed at a rate of 5%. Gains derived by a nonresident individual from the transfer of securities outside the country are taxed at a 30% rate; the rate is 5% for transfers in Peru, as long the transaction is made through the Lima stock exchange. Gains derived by a nonresident individual from the transfer of real property are taxed at a 5% rate.

Deductions and allowances – An individual is allowed a deemed deduction from capital income and employment income. Also, a maximum of 3 tax units may be deducted for amounts paid for the lease and/or sublease of real estate property; interest on mortgage loans for a first house; professional fees of doctors and dentists; services rendered in the country that qualify as "fourth category" income and contributions to social security for health (ESSALUD) that are made for domestic workers.

Rates – Progressive rates apply to employment income and foreign-source income, according to the following schedule: 8% up to the first 5 tax units; 14% for 6-20 tax units; 17% for 21-35 tax units; 20% for 36-45 tax units; and 30% on the excess. Nonresident individuals are subject to different rates, depending on the type of income.

Other taxes on individuals:

Capital duty – No

Stamp duty – No

Capital acquisitions tax – No

Real property tax – Tax is imposed on the total value of real property owned by a person.

Inheritance/estate tax – No

Net wealth/net worth tax – No

Social security – Only the employer is required to contribute, and it pays 9% of gross salary on behalf of the employee.

Compliance for individuals:

Tax year – Calendar year (no exceptions)

Filing and payment – An annual income tax return must be filed within three months of the end of the tax year.

Penalties – Penalties apply for late filling or failure to file.

Value added tax:

Taxable transactions – VAT is levied on the sale of goods, the provision and use of services, construction contracts, the first sale of real estate by a contractor and imports. Companies at the preoperational stage may apply for an early recovery of VAT and, under certain conditions, oil, gas and mining companies may apply for a definitive recovery of VAT.

Rates – 18%

Registration – Taxpayers are required to keep accounting books (such as purchase and sales books).

Filing and payment – VAT returns must be filed on a monthly basis.

Source of tax law: Income Tax Law, VAT Law and the Tax Code

Tax treaties: Peru has seven bilateral tax treaties in effect (Brazil, Canada, Chile, Korea (ROK), Mexico, Portugal and Switzerland) and an agreement with the Andean Community.

Tax authorities: Tax Administration (SUNAT), Tax Court (Tribunal Fiscal)

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