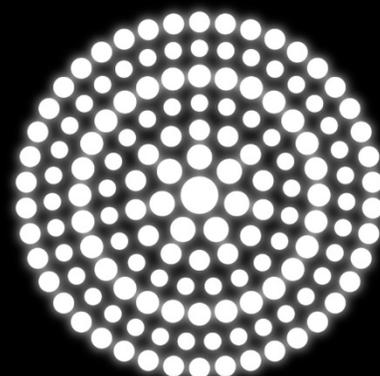


International Tax Peru Highlights 2021

Updated January 2021



Recent developments

For the latest tax developments relating to Peru, see [Deloitte tax@hand](#).

Investment basics

Currency: Peruvian 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 UIT for 2021 is PEN 4,400.

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 (SA); closed corporation (SAC); public corporation (SAA); limited liability company (SRL); and branch, agency, or other permanent establishment (PE) of a sole proprietorship, corporation, or entity of any nature incorporated abroad.

Corporate taxation

Rates

Corporate income tax rate	29.5% (in general)
Branch tax rate	29.5% (in general), plus 5% branch profits tax on deemed profit distributions
Capital gains tax rate	29.5% (in general)

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 corporate income tax in the same way as Peruvian-source income, but it is calculated separately. Branches are taxed at the corporate income tax rate, plus an annual branch profits tax on deemed profit distributions. Subsidiaries are taxed at the normal corporate income 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.

Rate: The standard corporate income tax rate is 29.5%. Different corporate income tax rates may apply to certain activities under special regimes

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: There is no surtax.

Alternative minimum tax: There is no alternative minimum tax.

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 income tax rate, but with a tax credit for foreign tax paid on the dividends. Dividends and other profit distributions 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. Net operating losses generated in 2020 may be carried forward up to five years.

Foreign tax relief: 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.

A special method applies for calculating the foreign tax credit for income tax paid abroad arising from dividends distributed by nonresident entities. In addition to the tax credit for the income tax paid or withheld abroad on dividends or profit distributions (a direct credit), a credit is available for the corporate income tax paid by the nonresident company distributing the dividends (an indirect credit). Certain conditions must be fulfilled to qualify for the indirect credit.

Participation exemption: There is no participation exemption.

Holding company regime: There is no holding company regime.

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

Compliance for corporations

Tax year: The tax year is the calendar year (there are no exceptions).

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

Filing and payment: 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.

Individual taxation

Rates		
Individual income tax rate	Taxable income	Rate
	Up to 5 UITs	8%
	6 UITs–20 UITs	14%
	21 UITs–35 UITs	17%
	36 UITs–45 UITs	20%
	Over 45 UITs	30%
Capital gains tax rate		5%/30%

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.

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

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.

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

Capital gains: Capital gains are taxed at a rate of 5%. Gains derived by a nonresident from the transfer of securities of a Peruvian entity outside the country are subject to withholding tax at a 30% rate; the rate is 5% for transfers in Peru, as long as the transaction is carried out through the Lima stock exchange. Gains derived by a nonresident from the transfer of real property located in Peru are subject to withholding tax 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 UITs 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.

Foreign tax relief: 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.

Compliance for individuals

Tax year: The tax year is the calendar year (there are no exceptions).

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

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 filing or failure to file.

Rulings: No private binding ruling regime is available for individuals.

Withholding tax

Rates				
Type of payment	Residents		Nonresidents	
	Company	Individual	Company	Individual
Dividends	0%	5% (for distributions of profits earned in 2017 and subsequent years)	5% (for distributions of profits earned in 2017 and subsequent years)	5% (for distributions of profits earned in 2017 and subsequent years)
Interest	0%	5% (6.25% rate applied to 80% of gross income)	4.99%/30%	4.99%/30%
Royalties	0%	5% (6.25% rate applied to 80% of gross income)	30%	30%
Fees for technical services	0%	8%	15%	15%

Dividends: Dividends paid to a resident entity are not subject to withholding tax. 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 through 31 December 2016 are subject to a 6.8% withholding tax.

Interest: Interest payments made to a resident entity are not subject to withholding tax. Interest payments made to a resident individual are subject to a 6.25% withholding tax rate that is applied to the net income determined by applying a 20% discount to the gross income, for an effective rate of 5% of the gross income.

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 to a resident entity are not subject to withholding tax. Royalty payments made to a resident individual are subject to a 6.25% withholding tax rate that is applied to the net income determined by applying a 20% discount to the gross income, for an effective rate of 5% of the gross income.

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

Fees for technical services: Fees for technical services paid to a resident entity are not subject to withholding tax. An 8% withholding tax applies to fees for technical services paid to a resident individual.

Fees paid to a nonresident 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 where the total amount of the services provided exceeds 140 UITs (approximately USD 178,000).

Branch remittance tax: Peruvian branches of nonresident entities are subject to the 29.5% standard rate of corporate income tax, plus an annual 5% branch profits tax that applies to deemed profit distributions.

Other: The direct or indirect transfer of shares of a Peruvian entity by a nonresident is subject to withholding tax at a rate of 30% or 5% (the 5% rate is applicable if the shares are listed on the Peruvian stock exchange market and they are sold through that mechanism).

Anti-avoidance rules

Transfer pricing: Transactions between related parties; or between a Peruvian taxpayer and an entity that is resident in a tax haven jurisdiction, an entity that is resident in a noncooperative jurisdiction, or an entity whose income is subject to a preferential tax regime 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 for income tax purposes only. Jurisdictions that are deemed to be tax havens or noncooperative jurisdictions are set out in a list issued by the tax authorities. Transfer pricing documentation is required.

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.

In addition, a "benefit test" must be fulfilled to deduct expenses arising from transactions with related parties; or transactions between a Peruvian taxpayer and an entity that is resident in a tax haven jurisdiction, an entity that is resident in a noncooperative jurisdiction, or an entity whose income is subject to a preferential tax regime.

Interest deduction limitations: As from 1 January 2021, the 3:1 debt-to-equity ratio is replaced with a rule under which interest is nondeductible to the extent that it exceeds 30% of the entity's EBITDA (earnings before interest, taxes, depreciation, and amortization) of the previous fiscal year; however, interest exceeding this limit may be carried forward and deducted in the following four fiscal years. (Prior to 1 January 2021, interest paid by resident taxpayers could not be deducted to the extent that a debt-to-equity ratio of 3:1 was exceeded. However, the interest was not recharacterized as a dividend. Interest arising from debts with unrelated parties incurred or modified up to 13 September 2018 was not subject to an interest deductibility limitation until after 31 December 2020.)

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 controlled foreign company (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.

Hybrids: There are no anti-hybrid rules.

Economic substance requirements: Under the transfer pricing rules, all services provided between related parties, as well as services provided to resident taxpayers by entities resident in tax havens or noncooperative jurisdictions, or entities whose income is subject to a preferential tax regime, must comply with the "benefit test" to demonstrate that the transactions had economic substance and are necessary or essential to the company receiving the services. Moreover, under the general anti-avoidance rule (GAAR), all transactions (including mergers, spin offs, or other types of reorganization) must have economic substance to avoid having the tax authorities consider that the transactions were agreed on for the sole purpose of obtaining tax benefits, which could result in the tax authorities disregarding the transactions and assessing additional tax.

Disclosure requirements: There are no disclosure requirements, other than those relating to transfer pricing documentation (see "Transfer pricing").

Exit tax: There is no exit tax applicable.

General anti-avoidance rule: The GAAR gives the tax authorities the power to disregard transactions and to assess and collect a tax debt in certain circumstances where they consider that the sole purpose of a transaction was tax avoidance. The GAAR may be applied only during a definitive tax audit and only with the prior approval of a review committee. In February 2020, the tax authorities published the first version of the catalog of “aggressive tax planning schemes,” which provides a list of high-risk tax planning schemes that may indicate a potential breach of the tax laws and, in some cases, may warrant the application of the GAAR.

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.

Value added tax

Rates	
Standard rate	18%
Reduced rate	0%

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: The standard VAT rate is 18%.

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

Filing and payment: VAT returns must be filed monthly.

Other taxes on corporations and individuals

Unless otherwise stated, the taxes in this section apply to both companies and individuals.

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

Payroll tax: There is no payroll tax.

Capital duty: There is no capital duty.

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.

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

Stamp duty: There is no stamp duty.

Net wealth/worth tax: There is no net wealth/net worth tax.

Inheritance/estate tax: There is no inheritance/estate tax.

Other: A temporary net assets tax is imposed on the value of a company's 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%.

Tax treaties: Peru has seven bilateral tax treaties in effect and an agreement with the Andean Community. Peru signed the OECD multilateral instrument (MLI) on 27 June 2018. For information on Peru's tax treaty network, visit [Deloitte International Tax Source](#).

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

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