BUSINESS GUIDE
AND TAXES IN
PERU

This document has been prepared by the Division of Taxes of

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AUDITORES Y CONSULTORES

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Presentation

This document contains a summary of the most important information related to Peruvian economy and the tax issues that investors, entrepreneurs and companies require to know in order to start; develop or expand their commercial, services, industrial and financial activities in our country.

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The content of this document is informative and not is intended to address the different environments in which is operating each company, influenced by the sectors in which it develops its activities. RAMIREZ ENRIQUEZ Y ASOCIADOS seeks to provide correct and timely information; however, it cannot guarantee that this information is correct at the date on which it is received or that it will be the same in the future. We believe that the adoption of decisions, based on this information, must be made with proper professional advice, after a detailed study of the specific situation.
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GENERAL INFORMATION

1.1 Territorial description, area, population and organization

Peru is located on the west central coast of South America. It is bordered by Ecuador and Colombia to the north, by Chile to the south and Brazil and Bolivia to the east. To the west, its shores are bathed by the Pacific Ocean. Its territory is crossed from South to North by the Cordillera de los Andes, setting up three natural regions: the Coast, narrow desert strip, Highland or Andean Region of high mountains and narrow valleys, and the Jungle, vast region of forests and rivers, which forms part of the Amazon territory. It has a land area of 1,285,215.60 km2.

The Republic of Peru is politically and administratively divided in 25 Regional Governments (including the Constitutional Province of Callao). There are 195 Provincial Municipalities and 1,647 District Municipalities. The capital of the Republic is Lima at an altitude of 153 meters above the sea level. The population in Peru is approximately 31 million inhabitants, while Lima is more than 9 million.

The Peruvian territory has an extension of 1,285,216 km2 (496,223 miles2). The Coast has 52.1% of Peruvian population; in other words, more than half. The Andean Region has 36.9% while the Jungle only has 11% of the total population.
1.2 Language and Currency

The official languages are Spanish for general use in the country, quechua, aymara and other aboriginal languages in the areas where these ethnic groups predominate. The official currency is Sol.

1.3 Constitution and structural policy

The Republic of Peru is a democratic, social, independent and sovereign state. The State is indivisible and its government is unitary, representative and decentralized, divided in the following powers:

- **Executive Power**

  Headed by the President of the Republic, Ollanta Humala Tasso, elected for a term of five years (from July 2011);

- **Legislative Power**

  Represented by the Congress which consists of a single chamber composed of 130 members of congress, also elected for a term of five years. (From July 2011), and

- **Judiciary Power**

  Consisting of the Supreme Court based in Lima, the Superior Courts which exercise at the level of each region of Peru and judges of first instance, with jurisprudence at the level of capital cities. Judges are appointed by the Magistracy National Council.

**Situación Económica.**

Peru's economy is a reflection of its diverse geography. Traditionally, the economy was based on the exploitation, processing and exporting of natural resources, mainly mining, agricultural and fishery. However, it is shown in recent years an important diversification and notable growth in sectors such as agro-industry, services and light industries with significant added value. The implementation of an opening neo-liberal policy and correction of fiscal accounts in the 1990s, which continues to date, has allowed the country's economic growth.
Peruvian economy has experienced a growth in terms of GDP by more than 6% per year between 2002 and 2011. In 2013, the GDP was 5.8% and in 2014 was 2.4%.

During 2015, the Peruvian economy was the fastest growing in Latin America, 3.3% of its GDP and it is expected an increase of 5.2% for 2016.

The real value of exports FOB in 2015 amounted US $13,877 million, a lower amount in 2.1% to the value recorded in 2014, due to minor onboard volumes of non-traditional products (-4.1%), mainly in the sectors: textile (-24.7%), fishing (13.1%), chemical (-7.6%) and metalworking (-5.9%).

The following table shows the economy’s growth:

<table>
<thead>
<tr>
<th>Month</th>
<th>Monthly index</th>
<th>Percentage variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>131.14</td>
<td>136.70</td>
</tr>
<tr>
<td>February</td>
<td>129.67</td>
<td>136.52</td>
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<tr>
<td>March</td>
<td>137.61</td>
<td>144.93</td>
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<tr>
<td>April</td>
<td>142.76</td>
<td>146.68</td>
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<tr>
<td>May</td>
<td>145.61</td>
<td>149.30</td>
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<tr>
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<td>145.28</td>
<td>145.75</td>
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<tr>
<td>July</td>
<td>146.61</td>
<td>148.75</td>
</tr>
<tr>
<td>August</td>
<td>144.71</td>
<td>145.51</td>
</tr>
<tr>
<td>September</td>
<td>144.11</td>
<td>147.94</td>
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<tr>
<td>October</td>
<td>148.23</td>
<td>151.70</td>
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<tr>
<td>November</td>
<td>147.91</td>
<td>148.31</td>
</tr>
<tr>
<td>December</td>
<td>160.64</td>
<td>161.73</td>
</tr>
</tbody>
</table>

Traditional products increased in 0.1%, by the greater exported volume of mining sector (9.3%), but decreased those from fisheries (-19.2%) and agriculture sector (-4.8%).

The Peru’s major traditional exports are: gold, copper, oil petroleum, natural gas, zinc, lead, iron, fish flour and coffee; and its main trading partners are United States, China, Bolivia, Brazil, Chile, Colombia, Ecuador, Argentina, Venezuela, Switzerland, South Korea, Japan, Canada, Germany, Spain, Netherlands, United Kingdom, Mexico and Italy.
Peru has signed free trade agreements (FTA), covering approximately 95% of its exports at December 31, 2015. These free trade agreements have been signed with: United States, China, Thailand, European Union, European Free Trade Association (EFTA), Southern Common Market (MERCOSUR), South Korea, Canada, Costa Rica, Chile, Mexico, Venezuela, Panama, Japan, Singapore and Cuba. It also has 28 Reciprocal Investment Promotion and Protection Agreements (APPRIIs).

In addition, Peru has started trade negotiations for the Trans-Pacific Partnership which includes Chile, United States, Singapore, Australia and New Zealand, among others.

The growth of consumption private – approximately 4.5% – in 2015 and domestic demand – approximately 4.7% – has achieved that Peruvian economy is one of the most dynamic in Latin America. This is due to the improvement of labor indicators and the recovery of exports. On the other hand, the growth of private investment in 2015 was 3.0% and public investment has been 12%.

The main industries that show an attractive increase in commercial development for domestic and foreign investors are linked to the transformation of natural resources, such as: refined minerals, gold and silver jewelry, exports of traditional and non-traditional products as well as industry, trade, construction, agro-industry, tourism, among others.

On the other hand, it has been achieved to reduce the illiteracy rate to 6% of the population older than 15 years, being the tendency of government’s programs to minimize this rate in the coming years.
REGULATIONS ON FOREIGN INVESTMENT

2.1 Legal framework

In Peru, the incentives and guarantees legal framework for private investment is enshrined in the Legislative Decree 662 of the Political Constitution and the Legal Stability Law for Foreign Investments – through the recognition of certain warranties and the Framework for the Growth of Private Investment in Legislative Decree 757, which have as main features the non-discriminatory treatment of foreign investments over domestic investment, unrestricted access to the majority of sectors or economic activities, free remittance of annual profits or dividends, transfer of capital without restrictions, guarantees to private property, unrestricted access to internal and external credit, free recruitment of technology and remittance of royalties previous payment of taxes, freedom to acquire shares from domestic investors and ability to sign legal stability agreements with the Government both domestic and foreigners investors regarding the income tax rules and specifically the sharing of dividends that guarantee the invariability of the rules and changes in legislation.

Foreign investors who can request for signing a legal stability agreement are those willing to invest in Peru in a period for not less than two years, in minimum amounts of US$ 10 million in the mining and/or hydrocarbons sectors or US$ 5 million in any other economic activity. There are some restrictions for air and maritime transport, security and private surveillance and the manufacture of war weapons.
2.2 Foreign investment

Foreign investment can be done without limits in the following modalities:

- Direct foreign investment, as a contribution of money and/or goods to the capital of a new or existing company in Peru or through a subsidiary or branch that a foreign parent company set up in the country. These investments must be registered in the Private Investment Promotion Agency (Proinversion).

- Contributions to the development of contractual joint ventures or any other associative forms of businesses or corporations.

- Investments in goods and properties located within the national territory.

- Investments in stock market or in portfolio.

- Intangible technological contributions.

- Any other investment modality that contributes to the development of the country.

2.3 Foreign investor rights

- Right to receive non-discriminatory treatment against the national investor.

- Freedom of trade and industry and freedom of export and import.

- Possibility of freely remit abroad the profits or dividends, upon payment of taxes that are applicable.
Right to perform transactions both in local currency (Sol) and US dollars, without change control.

Right to freely re-export the invested capital, in the case of sale of shares, reduction of capital or total or partial liquidation of investments.

Unrestricted access to domestic credit under the same conditions as domestic investors.

Free recruitment of technology and remittance of royalties.

Freedom to acquire shares owned by domestic investors.

Possibility of hiring insurance abroad for their investment.

Possibility to sign Legal Stability Agreements with the Government for investment in the country.

Having a large number of international investment and participation agreements of the Investment Committee of the Organization for Economic Co-operation and Development (OECD).

### Incentives for foreign investment

Peru maintains economic growth which ranks it among the economies with greater prospects in Latin America, driven by the growth of private investment, the strengthening of external sector and supported by the increase of exports in a framework of macroeconomic stability in an environment of reduced interest rates; those factors are recognized by the market and allow the reduction of the country risk. The prudent and responsible economic program management has allowed keeping our risk country indicator among the lowest in the region, offering a favorable legal framework for foreign investment.
This is why Peru offers a range of sectoral investment opportunities as, for example, in the textile sector, highly competitive products as Pima cotton, textiles and alpaca and vicuña fine fiber garments, attractions in the agro-industrial sector which are based on the variety of ecosystem and stable climate, ideal for the development of high quality products. Attractions in the Jungle Region, being considered Peru as the seventh world forestry reserve, fisheries and aquaculture by the large variety of species in the Amazon, lower extractive costs and tax incentives. Several projects in the mining sector are in transfer process to private investors.

There are no impediments if all shareholders or officials of a company in Peru are foreigners. There are no restrictions on the percentage of foreign shareholding in local companies or participation in joint-ventures or in other forms of business association. In short, there is no need of a local partner for the realization of business of a subsidiary or foreign company in Peru.

The 291 Decision of the Cartagena Agreement (Andean Community) as well as the Legal Stability Law for foreign investments through the recognition of certain guarantees allow foreign investors to transfer abroad up to 100% of capital, dividends, royalties, interests and others, prior payment of taxes.

For income tax purposes, the profits that are distributed by domiciled companies in favor of their shareholders (natural persons and non-domiciled legal entities) are levied with a tax of 4.1% (at 31.12.2014) via retention. For fiscal years 2015 and 2016, the rate will be 6.8% for periods 2017 and 2018 the rate will increase to 8%, and from the year 2019 the rate is fixed at 9.3%. It is necessary to mention that earnings retained or other susceptible concepts to generate dividends obtained until December 31, 2014 should be applied the rate of 4.1%

In the case of distribution of profits by domiciled legal persons, there is no involvement by the dividends withholding.

It should be noted that, despite the global financial crisis, the concessions program was not stopped which involves the promotion of private investment for the development of infrastructure projects. The Central Reserve Bank of Peru (BCRP) reported a flow of US$8,750 millions of direct foreign investment in Peru for 2015 and US$ 23,283 million the balance of foreign investment as capital contributions at December 31, 2014.
LEGAL STABILITY

AGREEMENTS

Foreign investors may sign Legal Stability Agreements with the Peruvian Government, which ensures to investors and companies in which they invest, for the period of validity of the agreement, the stability of the existing tax system at the time of the signing of the agreement; stability of the regime of free convertibility of foreign currency and stability of non-discrimination rights. Such agreements may be signed prior compliance of requirements established by Peruvian laws. It is a condition for signing the agreement to ensure some level of investment.

Legal stability agreements may contain the following benefits:

- Stability of the current income tax regime at the signing of agreement.
- Stability of the regime of free provision of foreign currency and the right to the transfer of capital, dividends, royalties and profits abroad.
- Stability of the right to non-discrimination between domestic and foreign investors.
- The stability with respect to the Value Added Tax (VAT) and the Selective Consumption Tax (ISC), municipal promotion tax and any other consumption tax, shall be solely with regard to its portable nature.
- It also includes special regimes on return of taxes, temporary and similar admissions as well as the rules applicable to exports.

Legal stability agreements must be signed before the investment has been performed. In order to promote certain sectors of productive activity or development of some areas of the country, Peruvian legislation has provided the existence of certain exception regimes for the enjoyment of tax benefits.
Double or multiple taxation, is presented when two or more countries consider that they deserve the right to tax for the same taxable fact to a same subject. In those cases, the same profit may be taxed by more than one State, claiming jurisdiction by the principle of territoriality.

Through the use of international conventions, the signatory States renounce to their power to tax certain profits and agree that it is only one of the States that collects the tax or, in any case, to carry out a shared imposition, i.e. that both States collects part of the tax that must be paid by the obligated subject. In this way, they avoid hindering the trade exchange and prevent tax evasion.

In this regard, in order to solve the problems of double taxation, Peru carries out a process of bilateral negotiations for the subscription of "Treaties to avoid double taxation", having signed treaties with Canada (effective since 2004), Chile (effective since 2004), Brazil (effective since 2010), Mexico, Switzerland, South Korea and Portugal (signed between 2011 and 2012). In addition, Peru has signed agreements with member countries of the Andean Community – Decision 578 (Bolivia, Colombia and Ecuador). The treaties are part of our tax legislation and apply as equal as the rules of the Tax Code and specific tax laws with the rank of law.
Foreign investors may constitute companies or entities without any restrictions, except acquire or possess by any title, natural resources when their activities are performed within the 50 km. of the country’s international limits, where is required an authorization from the Government (Art. 71, Peru’s Political Constitution). There are limitations to invest in air transport, broadcasting and television services and banking, among others.

Companies or corporations may be constituted generally in two ways:

- An independent company, which can be organized at least by (two) natural or legal persons, Peruvian or foreign or through the public subscription of offered shares;

- Establishment of a branch in Peru by a foreign corporation, whose capital is provided by a company from abroad, assuming the latter, the responsibility for the activities of the branch in Peru.

Foreign investors usually manage their business through companies or corporations that are regulated by the rules of the General Law of Companies (LGS) and can be constituted in any of the four types: a) corporation; b) limited liability company; c) civil society and d) limited partnership, almost extinct in our legislation and commercial practices.
The Corporation (S.A.) is the most regulated by the LGS, whose capital is represented by shares and is made up of contributions from shareholders who do not respond personally for social debts. Also, the Corporation does not admit the contribution of services.

The corporation’s most important features are the following:

- The minimum number of shareholders is two (2), which may be natural or legal persons, both national and foreign. There is no maximum number of shareholders and they may be foreign or national, domiciled or not in the country, except for the performance of certain types of activities. However, if the company reaches 750 shareholders, it must take the form of a public corporation (S.A.A.) and quote its shares in the Stock Exchange.

- The share capital is divided into shares of equal value and at the time of the incorporation must be paid not less than 25% of each participation and deposited in a bank of the national financial system on behalf of the company.

- There is no legal requirement of minimum capital to incorporate a company, except in the case of banks, financial institutions, insurance, administrators of pension funds and for certain special companies that, by capturing the public funds, are regulated by special laws and are supervised by the Superintendence of Banking and Insurance – SBS.

- The incorporation and registration of S.A., according to the effectiveness of the instruments (if observations are not generated), are made approximately in ten (10) business days.
The Public Corporation (S.A.A.) is a special form of corporation, so it complies with the corporation's general requirements, but it has some own distinctive characteristics.

For the incorporation or adaptation of a corporation (S.A.C. or S.A.) to a public corporation, it shall comply with any of the following requirements:

- Primary public offering of shares or convertible obligations in shares;
- It must have more than 750 shareholders;
- Over 35% of its capital belongs to 175 or more shareholders, without considering within this number those shareholders whose individual shareholding tendency does not reach the two per thousand of capital or exceeds 5% of capital;
- To be constituted as such; or
- All shareholders with voting rights unanimously approve to abide by this regime.

All its shares must be registered in the Stock Exchange. Also, they are companies subject to the supervision of the National Supervisory Commission of Companies and Securities (SMV).
The Private Closed Corporation (S.A.C.) is a special form of corporation, so it complies with the corporation’s general requirements, but it has some own distinctive characteristics. The SAC’s most important aspects are the following:

- The maximum number of shareholders is 20. The share capital is divided into shares of equal value, and at the time of the incorporation shall be paid not less than 25% of each participation and deposited in a bank of the national financial system on behalf of the company.

The Board of Directors is optional in the SAC. Therefore, in the event is chosen to dispense the Board of Directors, its social organs will be: the shareholders meeting and the general manager, in which case the general manager assumes the duties corresponding to the board of directors. However, there is also the possibility of a S.A.C. with board of directors.

The incorporation and registration of S.A.C., if observations are not generated, is made approximately in ten (10) business days.
Limited Liability Company (S.R.L.) is an entity whose characteristics are similar to a S.A.C.

Both have the same maximum number of partners (20); having a limited responsibility for its participation in the capital. The difference lies in certain limitations or requirements for the transfer of membership which in the case of the S.R.L. has greater formalities.

- In the S.R.L.; the share capital is divided into equal shares, cumulative and indivisible, that may not be incorporated in securities values, nor denominated actions; it is made up of contributions from members.

- At the time of the incorporation, shall be paid not less than 25% of each participation and deposited in a bank of the national financial system on behalf of the company.

- The incorporation and registration of S.R.L., (if observations are not generated), is made approximately in ten (10) business days.

In accordance with the LGS, a branch of foreign company is a secondary establishment whereby a company develops certain activities within its social object in a location other than its domicile, which has no independent legal status to its main office, but enjoys management autonomy within the scope of activities that have been assigned to it, according the powers granted to their representatives.
The establishment of branches is carried out through public deed, duly registered in the Registry of the place of performance of the branch. For branches of foreign companies, the deed must contain at least:

- The certificate of entry into force of the main company in its country of origin;
- Copy of articles of incorporation and bylaws or equivalent instruments; and
- The agreement whereby it was decided to establish the branch should indicate: the capital assigned for its operations, the branch’s domicile, the statement that the activities of the branch are included within its corporate purpose, the designation of at least one legal representative detailing the powers, and submission to the Peruvian laws to answer for the obligations that the branch enters in the country.

Various government entities are responsible for monitoring and controlling the business’s economic activities; as required to have authorizations and comply with special registration procedures to start their activities. The main business’s economic activities which have a control and supervision by any government entity are: radio and television, air transport, electricity, banking and finance, insurance, mining, petroleum, fishing, and communications.
6.1 Tax administration

The Customs and Tax Administration National Superintendence (SUNAT), governing body of the tax system is the entity responsible for controlling, managing, collecting and regulating everything related to tax and customs aspects in Peru, except the municipal taxes which are managed and collected by the municipalities who are empowered to create municipal taxes and contributions.

The Peruvian tax administration is entitled to oversee the determination of the tax obligation carried out by taxpayers. If it is found an omission or inaccuracy in the determination carried out by taxpayers, the Tax Administration may modify it, issuing the corresponding resolution.

In order to exercise its power of determination, the Tax Administration has the widest powers and may require that debtors show their ledgers, documents, reports and all information that enables to establish the existence and the amount of the obligation, even, in certain circumstances, can boast the generation of tax debt.

The non-payment of taxes generates the application of moratory interest (TIM) whose amount is fixed by SUNAT. The current rate is 1.2% per month.

6.2 Taxpayer identification record - RUC

The RUC is the software mechanism in charge of SUNAT, which contains identification data and the obligations of taxpayers for taxes managed by SUNAT of the information linked to their economic activities, as well as their responsible.
SUNAT gives the taxpayer the number (11 digits) for personal tax ID or for its company for compulsory use for any procedure at the tax administration or any public or private entity.

All natural or legal persons, undivided companies or other domestic or foreign collective entities, domiciled or not-domiciled in the country, as long as they are in any of the cases listed below, are required to enroll in the RUC when:

- They are taxpayers and/or responsible of taxes managed by SUNAT in accordance with current laws.
- Without having the status of taxpayers and/or responsible of taxes managed by SUNAT, they are entitled to tax refund in charge of this entity, pursuant to a law or regulation with the rank of law. This obligation must be fulfilled to proceed with the processing of the request of refund.
- They are enrolled in the customs regime or special customs or exception destinations provided for in the Customs Act.
- By the acts and operations that they perform, if SUNAT considers necessary its incorporation into the registry.

### Tax unit - UIT

The Tax Unit (UIT) is a reference value used by the tax rules to set limits of affectation, deductions or determination of taxable income, the application of sanctions and others. Its value is determined annually by Supreme Decree, considering the macroeconomic assumptions. The UTI for 2015 was S/. 3,850 (US$ 1,288 approximately) and for 2016 is S/. 3,950 (US$ 1,128 approximately).
Two decades ago, it taxed with the income tax only income from Peruvian source, i.e. based on the criterion of territoriality (territorial income system); then, as it has been happening in all Latin America countries, it applied the worldwide income criterion, considering that all the incomes of people who have the quality of residents are affected to the tax; i.e. Peruvian and foreign income.

In this regard, in order to avoid a foreign investor is affected by tax income by the same taxable fact, both in its country of residence as in Peru, agreements have been signed to prevent double taxation (CDI), which prevents international tax evasion. The Peruvian tax system basically consists of:

### 7.1 Income tax applicable to business activity

#### (a) Income tax

The income tax is an annual tax that levies income arising from production and consumption, the circulation of money and equity, understanding as such those that come from a source that is durable and capable of generates regular income.

For income tax purposes, the fiscal year starts on 01 January of each year and ends on 31 December, without exception. The companies incorporated in Peru and the branches of foreign companies must submit the income tax affidavits within the first 3 months of the following year.
For income tax purposes, the companies are classified in: domiciled and non-domiciled in the country, the domiciled are taxed by their annual incomes of world supply with a rate of 28%, and must make monthly advances of the total annual tax. On the other hand, not domiciled taxpayers together with their permanent establishments in the country are taxed only by their Peruvian source income and the payments are for immediate implementation.

In order to determine the taxable net income for the income tax, it must be considered the total of taxable income (gross income), less the charges and costs necessary to produce and maintain the revenue-producing source; while deduction is not expressly prohibited by law.

It is allowed the deduction of expenses in general, such as interests, insurance, extraordinary losses, collection, depreciation and pre-operational expenses, authorized reserves, punishments and provisions for bad debts, provision for social benefits, pension retirement and bonuses to employees, among others.

Expenses carried out abroad are deductible as long as they are necessary and are accredited with the respective proof of payment issued abroad.

There are costs not accepted as deductions such as: personal expenses, income tax taken (except in the case of interests), tax and administrative penalties, donations and reserves or provisions not admitted by Law, etc.

Individuals or entities who pay or credit income of any nature to non-domiciled beneficiaries are considered withholding agents for income tax purposes, therefore, they must withhold and tax pay to the Treasury and within the deadlines set by law.
Companies can apply as credit the income tax paid abroad by foreign source incomes. They can also apply a limited credit for donations to educational institutions and public sector.

Taxes actually paid abroad are compensated against Peruvian income tax, even if there is no agreement to avoid double taxation and as long as they do not exceed the amount resulting from applying the taxpayer's average rate to income obtained abroad.

It is not allowed to offset the credit not applied in a particular fiscal year to the following or previous periods, nor its refund.

The income tax considers that domiciled companies can choose between any of the following two systems to carry forward the losses:

- Losses can be carried forward for four consecutive years, beginning in the first subsequent year in which the losses arise;
- Losses can be carried forward indefinitely, but with an annual limit equivalent to 50% of the net income for each year.

Loss carryover to prior periods to its generation is not allowed nor the computation of net losses from abroad.
(b) Prepayments

Companies must make monthly prepayments of income tax.

The amount that must be paid by that concept is the following, whichever is highest:

• 1.5% to the total net income for the month.

• Dividing the tax calculated for the previous fiscal year by the total net income for the same fiscal year and applying the resulting coefficient to the net income for the month.

Prepayments may be subject to suspension of the obligation to make monthly prepayments under certain circumstances.

In case the prepayments exceed the annual tax, the excess may be carried forward as credit against subsequent prepayments and regularization tax or may be requested to refund to the taxpayer.

(c) Tax havens

Companies domiciled in the country cannot deduct, for effects of determining the income tax, the expenses derived from operations performed with individuals or entities residing in countries or territories with low or no taxes, nor shall they have the right to offset losses generated by these operations with foreign-source income, except in the case of operations involving a) loans; b) insurance and reinsurance; c) assignment for use of vessels or aircraft; d) transport performed from the country abroad and from abroad to the country; and e) fee for transit through the Panama Canal.
Transactions performed from, to, or through companies incorporated in tax havens shall perform the Transfer Prices Study.

The Derivative Financial Instruments entered into with taxpayers domiciled in tax havens shall be considered speculative, in which case losses may only be offset with profits of the same kind.

**(d) Transfer prices**

The valuation of transactions between related parties, or those performed from, to or through companies domiciled in tax havens, must comply with transfer pricing rules, which are based on the arm's length principle, according to OECD’s guidelines and should be considered solely for income tax purposes.

In the event that there is a fiscal disservice by application of these transactions between related parties and transactions with companies domiciled in tax havens, it shall carry on an adjustment of the value agreed by the parties.

The prices of the transactions subject to transfer pricing rules shall be determined in accordance with any of the internationally accepted methods, for which purpose the one found to best reflect the economic reality of the operation shall be taken into account.

Peruvian legislation has established that taxpayers involved in international transactions involving two or more jurisdictions may enter into Advance Transfer Pricing Agreements (APAs) with the Tax Administration, which may be unilateral or bilateral, the latter which may only be entered into with regard to operations with residents in countries with which Peru has entered into agreements to avoid double taxation.
(e) Régimen de Transparencia Fiscal Internacional

In application of the International Tax Transparency System, the passive income (dividends, interests, royalties, capital gains from the alienation of real estate and securities, among others) generated by taxpayers (natural or legal persons) domiciled in Peru through nondomiciled controlled entities, can be attributed to domiciled taxpayers in the period they are generated. It means, the mentioned System allows the Tax Administration to ignore the existence of the nondomiciled controlled entity in order to avoid a tax deferral.

It has been established that if the income qualifying as passive is equal to or greater than 80% of the total income of the taxpayer, the total income thereof shall be considered passive income. The aforementioned passive income shall be attributed to its owners domiciled in Peru who, as of the close of the fiscal year, have a direct or indirect share in over 50% of the results of the controlled entity.

(f) Temporary net assets tax - ITAN

The ITAN is equivalent to 0.4% of the total value of net assets in excess of S/.1'000,000 (US$ 334,560 approximately) determined at December 31 of the previous year. Companies in the preoperational stage are excluded. The ITAN can be used as a credit against income tax and a refund may be requested for any balance not used at the end of the year.
(g) Tax on financial transactions – ITF and means of payment

The ITF rate is 0.005% and is generally imposed on deposits and withdrawals in Peruvian bank accounts.

Any payment in excess of S/. 3,500 or US$ 1,000 must be made through some of the so-called “Means of Payment”, which include bank deposits, wire transfers, payment orders, credit and debit cards issued in the country and “non-negotiable checks”.

Not using these methods of payment would mean that the corresponding cost or expense of the payment cannot be recognized for income tax purposes; in addition, the tax credit in the Value Added Tax (VAT) paid in such transaction may not be taken.

(h) Agreements to avoid double taxation

Peru has currently signed and ratified treaties to avoid double taxation with the following countries: Brazil, Chile, Canada, Portugal, South Korea, Switzerland and Mexico. Peru is also part of the Andean Community, along with Colombia, Ecuador, and Bolivia. As such, Decision 578 for the avoidance of double taxation between the countries referred to above applies. Unlike the OECD Model, Decision 578 prioritizes taxation at the source, using the exemption method.

It should be noted that Peru has signed an agreement to avoid double taxation with Spain, which is pending ratification. There are also negotiations with Japan, Qatar, United Arab Emirates, Holland, Italy, France, Sweden and United Kingdom.
7.2 Income tax of branches of foreign legal persons

In the case of incomes which are obtained by non-domiciled entities, it is applied a withholding rate depending on the type of income produced from Peruvian source. The net income obtained by branches of foreign companies is subject to tax in the same way as domestic companies; therefore, it is taxed at the rate of 28%.

7.3 Impuesto a la Renta de Empresas no Domiciliadas

Not-domiciled companies are taxed with the income tax by its Peruvian source income. The tax to legal persons not domiciled in the country is determined by applying the following rates:

<table>
<thead>
<tr>
<th>TYPES OF INCOME</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Interests from foreign loans, as long as they comply with certain requirements</td>
<td>4.99%</td>
</tr>
<tr>
<td>b) The interests paid to abroad by companies in multiple operations established in Peru, as a result of using in the country their credit lines abroad.</td>
<td>4.99%</td>
</tr>
<tr>
<td>c) Income from the rental of vessels and aircrafts.</td>
<td>10%</td>
</tr>
<tr>
<td>d) Royalties</td>
<td>30%</td>
</tr>
<tr>
<td>e) Dividends and other forms of profit sharing received from legal entities established by law.</td>
<td>6.80%</td>
</tr>
<tr>
<td>f) Technical assistance (prior compliance of certain requirements)</td>
<td>15%</td>
</tr>
<tr>
<td>g) Income from the sale of securities carried out within the country</td>
<td>5%</td>
</tr>
<tr>
<td>h) Income from the sale of securities carried out abroad</td>
<td>30%</td>
</tr>
<tr>
<td>i) Interest from bonds and other debt instruments, deposits and impositions performed according Law 26702, Financial System General Law.</td>
<td>4.99%</td>
</tr>
<tr>
<td>j) Other income.</td>
<td>30%</td>
</tr>
</tbody>
</table>

Foreign companies incorporated as branches are subject to the same tax rules as companies domiciled in the country, so they pay the income tax in the same way and places established by law and having the right to all deductions established by law.
7.4 Presumption of Net Income from Non-Domiciled for international activities

The Income Tax Law presumes that non-domiciled companies which partially perform its transactions in the country obtain Peruvian source income equivalent to the following percentages of their gross income:

- Insurance activities 7%
- Aircraft lease 60%
- Vessel lease 80%
- Telecommunication services 5%
- Air transport 1%
- Maritime transport 2%
- Supply of news or informative material 10%
- Motion picture distribution 20%
- Supply of containers 15%
- Demurrage of containers 80%
- Television broadcasting rights assignment 20%
(a) Domiciled

Under the Peruvian tax system, Peruvian citizens domiciled in Peru are subject to taxation on their worldwide income, regardless of the country from which it derives, from which payments are made, or the currency in which income is received. By contrast, non-domiciled individuals are only taxed in Peru on their Peruvian-source income.

In order to establish the first and second category net income (capital revenues), it may be deducted for all concept twenty percent (20%) of the total of gross income, being the tax rate 6.25% on net income, with the exception of dividends and any other form of distribution of profits. The effective rate in this case is 5% on gross income.

For fourth category incomes (self-employment income), it may be deducted from gross income for concept of expenses, twenty percent (20%), with the exception of the incomes received by carrying out functions of director of company and other similar activities, being the tax rate carried out by natural persons, 8%, 14%, 17%, 20% and 30%, starting from the year 2015.

For fifth category incomes (income from dependent work), whose gross income has no deductions, the applied tax rate is progressive 8%, 14%, 17%, 20% and 30% on gross income, depending on the remuneration section which the worker reaches.

For both fourth and fifth category income, it can be annually deducted, before determining the tax and up to the limit of such income, an amount equivalent to seven tax units. (S/. 27,650 or approximately US$ 7,900). Persons who obtain income from both categories only may deduct the amount designated for one time.
The benefit provided for in the labor regulations are not affected by the income tax.

There is no tax for succession acts in Peru. The successions income for income tax purposes are considered as a natural person until the Declaration of heirs or enrollment the Testament in Public Registers is issued.

Donations are also not taxed with any specific tax. However, the transfer of ownership via donation, can have tax purposes, as the case of the Property Transfer Tax which taxes the transfer in general, even the free one of real estate.

On the other hand, donations to people who perform certain activities established by law can, in some cases, generate tax benefits to the donor as a deduction from the income tax.

(b) Non Domiciled

Individuals and undivided not domiciled in the country are subject to tax by their Peruvian source income at the following rates:

<table>
<thead>
<tr>
<th>TYPES OF INCOME</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Dividends and other forms of profit distribution (2015-216)</td>
<td>6.8%</td>
</tr>
<tr>
<td>b) Income from the sale of real estate</td>
<td>30%</td>
</tr>
<tr>
<td>c) Interests, they are paid or credited by a generator of third category income which is domiciled or incorporated or established in the country, as long as there is no linkage between the parties.</td>
<td>4.99%</td>
</tr>
<tr>
<td>d) Capital gains from the sale of securities performed outside the country.</td>
<td>30%</td>
</tr>
<tr>
<td>e) Other income from capital</td>
<td>5%</td>
</tr>
<tr>
<td>f) Income from mining, trade, industrial, agricultural activities and provision of services.</td>
<td>30%</td>
</tr>
<tr>
<td>g) Work income (without deduction)</td>
<td>30%</td>
</tr>
<tr>
<td>h) Income from royalties</td>
<td>30%</td>
</tr>
<tr>
<td>i) Income from artists, interpreters and performers for live shows performed in the country.</td>
<td>15%</td>
</tr>
<tr>
<td>j) Other income different than those indicated in the preceding paragraphs.</td>
<td>30%</td>
</tr>
</tbody>
</table>
9.1 Impuesto general a las ventas

The Value Added Tax – VAT – taxes the sale in the country of goods, the importation of goods, the provision or use of services in the country, construction contracts and the first sale of real estate made by builders.

The VAT also taxes the use of services in the country by non-domiciled individuals, construction contracts, the first sale of real estate made by builders and import of goods.

The value added at each stage of the production and marketing of goods and services, allowing the deduction of the tax paid at the preceding stage, which is denominated as "tax credit". The tax is settled monthly, being its rate 18% (16% VAT + IPM 2%).

If the tax credit in a given month is greater than the tax debit, the balance can be applied in the following months.

The goods and services specified in the Appendices I and II contained in the VAT Regulation are exempted until 31-12-2018.

Among the exempted goods are fresh fish, vegetables, legumes, seeds, fruits, books among others, within the exempted services we have the public transport services of passengers within the country, international cargo transport, cultural spectacles, life insurance, among others.
(a) Untaxed concepts

Leasing and other forms of transfer on use of movable and immovable property, as long as the income constitutes first or second category income taxed with income tax.

The transfer of used assets performed by natural or legal persons who do not perform business activity, unless they are usual in carrying out such operations.

The transfer of goods carried out as a result of the reorganization of companies.

The import of goods donated to religious entities.

The royalties that correspond payment pursuant to license agreements signed according to Law 26221.

Import or transfer of goods carried out freely in favor of entities and agencies in the public sector.

Interests and capital gains generated by Certificates of Deposits of the Central Reserve Bank.

Gambling and betting.

(b) Amazon law

The sale of goods, provision of services and construction contracts that are carried out in the Amazon by taxpayers who develop certain activities and which are established there and meet certain requirements, like having their legal address, management and production in the region, as well as carrying out their accounting and having not less than 70% of their fixed assets in the area is exempted from VAT.
9.2 Early VAT Recovery Special System

Natural or legal persons who perform investments in any sector of the economy generating third category income and who have a project that is in the preoperative stage, may apply for the benefit of VAT early recovery which taxes the acquisition of goods, services and construction contracts during the preoperative stage. The preoperative stage shall have a minimum duration of two years.

For this purpose, it is necessary to have an Investment Contract signed with Pro Inversion and the corresponding sector linked to the activity of the project who will also issue a Ministerial Resolution qualifying the applicant as the beneficiary of the regime. The minimum amount of the investment commitment of the contract is US$5 million. This latter requirement does not apply to projects in the agricultural sector.

It has recently been approved a special regime that allows that micro-enterprises engaged in productive activities may enjoy the return of tax credit paid on imports and/or local acquisitions of new capital expenditures, which had not exhausted in the three consecutive months following the date of entry of the respective proof of payment in the Purchases Book.

(a) Definitive return of VAT

The definitive return of VAT can be accessed by: a) companies and natural persons who are holders of mining concessions, and b) investors who have signed license or services contracts concerning the Hydrocarbons Law. For these purposes, in both cases the beneficiary must be in the exploration stage. In the case of holders of mining concessions, it must additionally subscribe an investment contract in exploration involving a minimum investment of US$ 500,000.
(b) Export of goods

The export of goods are not taxed with the VAT.

The VAT Act defines the export of goods as the sale of real property performed by a taxpayer domiciled in the country to a non-domiciled party, regardless of whether the transfer occurs abroad or in the country, as long as the said goods are subject to a customs process for definitive export.

If the transfer of ownership occurs in the country prior to loading, the classification as export of goods is conditional upon the goods being shipped within a term of no more than sixty (60) calendar days after the date of issue of the respective payment voucher.

(c) Export of services

The export of services are not taxed with the VAT.

Operations considered as export of services are those contained in Appendix V of the VAT Act, as long as they are provided for valuable consideration, the exporter is domiciled, the user is non-domiciled, and the use or exploitation of the services by the non-domiciled party occurs abroad.
9.3 Selective consumption tax

It is a tax to the specific consumption levied by the sale in the country at the level of products or certain sumptuous goods, such as gasoline, motor vehicles, alcoholic beverages, mineral water, beer, cigarettes, etc., as well as the import, sale in the country of the same goods when is carried out by the importer and gambling and betting. The tax obligation arises in the same opportunity and conditions as for the value added tax, except in the case of gambling and betting where the tax obligation arises at the time the income is perceived.

Similarly to the Value Added Tax, this tax is for immediate implementation and is determined monthly. The rate of this tax vary depending on the product taxed between 17% and 50%.

(a) Customs duties

In the international trade environment, there are three types of custom duties: the ad-valorem, specific tariff and mixed tariff that arises from the combination of the previous two.

The ad-valorem is the one that is calculated as a percentage of the CIF import value, i.e. the value that includes cost, insurance and freight. The specific tariff is calculated as a certain amount of currency units per unit of import volume; and the mixed tariff is composed of ad-valorem and specific tariff.

In Peru, the 100% of the tariff universe is subject to the type of ad-valorem, whose rates are among the ranks of 0%, 6% and 11%. From these, approximately 54% of imports are subject to a zero percent tariff (0%), mainly due to the Free Trade Agreements signed with different countries, including United States, Canada, Japan, China, Europe and others.
In the importation of goods, the Value Added Tax is applied at the rate of 18%.

Specific taxes that fix variable additional rights to tax imports such as: yellow corn, rice, milk and sugar.

(b) Drawback

The simplified system of returning customs duties, or drawback, allows producer-exporters to recover all or part of the customs duties paid on importing raw materials, inputs, intermediate goods, and parts and pieces incorporated or used in the production of goods to be exported, provided the CIF import value is not more than 50% of the FOB value of the exported product, and all the requisites established in order to be eligible for this benefit are met. The drawback rate applicable is equivalent to 4% of the FOB value of the exported product for the year 2015 and since January 1, 2016 the rate is 3%.
10.1 Property tax

It is an annual municipal tax that taxes the value of urban or rustic premises that are located in the same district. For such purpose, premises are considered the land, buildings, and fixed and permanent facilities. The rate varies between 0.2% (up to 15 UIT) and 1% (more than 60 UIT) depending on the value of the property.

The tax is paid by natural or legal persons who at January 01 of each year are the owners of the property.

10.2 Property transfer tax

The transfer of ownership of real estate, urban and rural, for payment or free, whatever its form or modality, including sales with retention of domain. Notaries and public registrars request the liquidation and constancy to have canceled property transfer tax as a prerequisite for raising the purchase-sale minute to Public Records.

The tax base consists of the value of the sale of property. The applicable rate is 3% and is paid by the purchaser. The first 10 ITU are not affected (S/. 39,500 or US$ 11,280) and must pay in the Tax Administration Service (SAT) of the Municipality where the venue is located.
10.3 Vehicle property tax

This tax is for ownership of motor vehicles (cars, vans, station wagons, trucks and buses), manufactured in the country or imported.

The rate is 1% of the original value of the acquisition, importation or entry to the equity; it is an annual tax and applies on the value of the vehicle which is no older than three years. The Ministry of Economy and Finance annually determines these values by using a Reference Table considering an adjustment value by age of the vehicle.

10.4 Gambling tax

Gambling tax is applied to activities related to games such as lotteries, bingos and raffles, as well as the obtaining of prizes in gambling.

The tax is paid by the company or institution that performs the designated activity. It also qualifies as taxpayers the persons who obtain awards; in this case, companies or organizing persons shall act as tax withholding agents. The rate is 10%. The people benefited with prizes of lotteries must accept the withholding tax that make the organizing entity since receiving the award is set up the responsibility of taxpayers. The rate for the casino games and slot machines is 12% of the monthly gross profit and lottery is 10% of the value of the prizes.
11.1 Law on productivity and labor competitiveness

The relationship between workers and employers in the private regime is regulated by the Law on Productivity and Labor Competitiveness approved by Legislative Decree 728, which is applicable once the worker has passed the trial period of three months fixed by law, where it acquires its status of full-time employee. It is exceptionally allowed fixed-term contracts, as long as certain requirements are met that justify the temporality.

The worker’s arbitrary dismissal give rise to the indemnity payment equivalent to a remuneration and regular monthly average for each full year of service up to a maximum of 12 payments.

The reinstatement at work only comes in cases of dismissal which is limited to worker’s special conditions, for example, the dismissal of a trade union leader by the fact of having this condition, discrimination for reasons of sex, race, religion, opinion or language, or pregnancy, if the dismissal occurs at any time during the period of gestation or within 98 days after childbirth.

If it is found unforeseen situations or circumstances or force majeure, the employers are empowered to resolve contracts of work assuming minimum costs and procedures provided for in the law. This power is extended to situations that are based on economic, technical, structural or similar reasons and causes of dissolution, liquidation and bankruptcy of the company or asset restructuring.
## Minimum living wage (RMV)

The Minimum Living Wage amounts to date S/. 750.00 monthly soles (US$ 214) or S/. 25 (US$ 7) daily (T.C S/. 3.50 Feb-2016)

## Over time, bonuses, holidays and others

### Over time

Is the time worked before or after working hours that exceed the ordinary day. Payment for each extra hour is paid with a surcharge of 25% for the first 2 hours and 35% for the remaining hours. When the over time is less than an hour, the payment is proportional. It could be compensation to overtime work, with the grant of equivalent periods of rest.

### Bonuses

In the months of July (national holiday) and December (Christmas), workers receive a bonus equivalent to a monthly salary.

In addition, the amount paid by employers for contributions to Social Security (9%) in relation to bonuses in July and December of each year, are granted to workers as a "special bonus" with permanent, non-remunerative nor pensionable character.

### Holidays

The right to holidays is generated when the worker meets a full year of service for the same employer. Holidays are thirty calendar days of rest and are paid in advance by the equivalent of a monthly salary. However, if the company’ activities require, it can be set formulas to vary the opportunity and the number of days of rest, which shall not be less than 7 days.
Family allowance

Workers in the private sector whose salaries are not regulated by collective negotiation perceive the equivalent to 10% of the minimum legal wage of workers subject to labor regime of the private activity. It currently amounts S/. 75 per month ($ 21 approximately).

Profit sharing

According to company’s activities, it is recognized the right of workers to participate in a percentage of the company’s annual profit (net income) before tax (the percentage may vary between 5%, 8% and 10%) by third category income-generating activities. This benefit has a maximum of 18 monthly salaries for this concept. It is also excluded from this benefit those companies that have less than 20 workers.

Life insurance

Employers are required to pay a life insurance to workers who have more than four years of service.

Hiring foreign workers

Hiring foreign workers in Peru is regulated by special law, which says that Peruvian employers may hire foreign workers as long as they hold to the labor regime of private activity. For this purpose, domestic or foreign companies should consider that the foreign personnel to hire must not exceed the limit of 20% of the total number of employees (workers and employees); also that their salaries may not exceed 30% of the company’s total payroll.
Contracts to be signed should be in writing and for a maximum period of three years, extendable and for equal periods and must contain also the commitment to train domestic staff in the same occupation as foreign staff. The application of the employment contract and the respective documentation shall be presented to the Administrative Labor Authority since this will be the administrative authority that approves the hiring. With its approval, the documentation will be presented to the Peruvian Immigration Authority, which will grant the enabling immigration status to start the provision of services for foreign workers.

11.5 Social contributions related to remunerations

The worker can affiliate the National Pension System (SNP) or the Private Pension System (SPP), being both exclusive. This contribution is charge of worker, being only the employer responsible for the withholding.

The contributions to social security are calculated on the worker’s wages by the employer, who will be in charge of this contribution. The amount that is paid to social security for health benefits is 9% of the remuneration, being the minimum amount payable for S/. 68 (9% of the monthly minimum wage, which stands at 750 Soles).

The Supervisory Body regarding the labor part is the National Superintendence for Labor Audits – SUNAFIL which is a specialized technical body attached to the Ministry of Labor and Job Promotion, responsible for promoting, monitoring and overseeing the compliance of labor standards and those concerning to safety and health at work in companies in the private and public activity.
In Peru, the companies that issue debt or shares in the capital market are subject to regulations of the Superintendence of Stock Exchange – SMV. These companies are required to issue their financial statements in accordance with International Financial Reporting Standards – IFRS.

In turn, these financial statements must be properly audited according to the provisions of the International Auditing and Assurance Standards issued by the International Federation of Accountants (IFAC) and must include those from previous year to be comparative.

In 2011 was issued a rule that established that companies not supervised by the SMV incorporated under the General Law of Companies, whose total assets or annual revenues are equal or exceed to 3,000 tax units (approximately US$ 4 million) are required to present their financial statements with an opinion made by audit firms authorized by a College of Public Accountants of Peru.

This provision has had diverse modifications and currently is maintained the Resolution N° 002-2016-SMV/01 dated 30.01.2016 that sets the new parameters that allow entities that are obliged to present their Financial Statements to adapt properly to the existing IFRS, as described below:
### (a) Gradual implementation for the submission of audited financial statements

<table>
<thead>
<tr>
<th>Entities</th>
<th>Description</th>
<th>Year of presentation</th>
</tr>
</thead>
</table>
| Companies required to submit audited financial to the SMV for the first time, in accordance with Generally Accepted Accounting Principles (GAAP) | a) Those whose annual revenues reach or exceed the 8,000 tax units for December 31, 2015.  
                           b) Those whose annual revenues reach or exceed the 5,000 tax units for December 31, 2016.  
                           c) Those whose annual revenues reach or exceed the 3,000 tax units for December 31, 2017. | 2016  
                          2017  
                          2018 |

### (b) Gradual implementation of IFRS issued by IASB

<table>
<thead>
<tr>
<th>Entities</th>
<th>Description</th>
<th>Year of presentation</th>
</tr>
</thead>
</table>
| Companies required to submit audited financial to the SMV for the first time, in accordance with International Financial Reporting Standards (IFRS) | a) Those whose annual revenues reach or exceed the 8,000 tax units for December 31, 2015.  
                           b) Those whose annual revenues reach or exceed the 5,000 tax units for December 31, 2016.  
                           c) Those whose annual revenues reach or exceed the 3,000 tax units for December 31, 2017. | 2016  
                          2017  
                          2018 |