



Doing Business Peru 2010

September 2010

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Deloitte

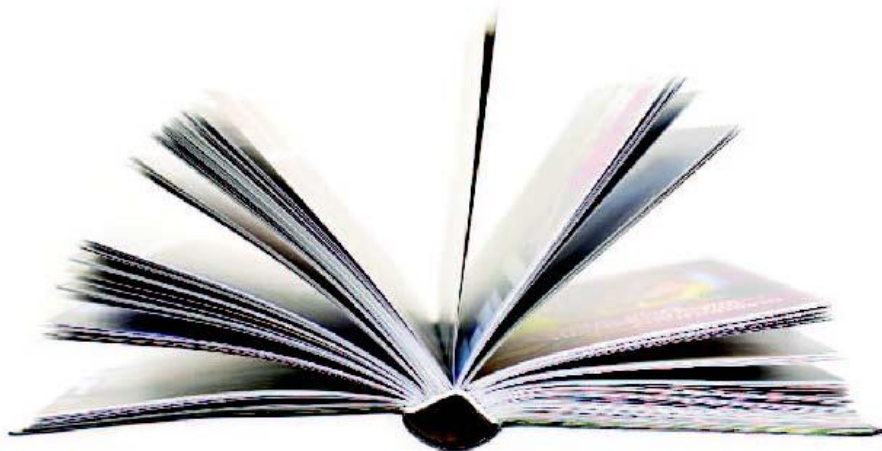
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We turn ideas into action. We work with your specialists to assist in the implementation of the solutions proposed, and our industry specialists will help you to understand how today's developments may affect your business tomorrow. Our experts help other companies in similar circumstances and possess a first-hand knowledge of the problems and opportunities that may be encountered now and in the future.

We offer personalized attention and a team comprising qualified professionals from our various divisions. Our professionals will be devoted to your business and will provide the advice you require when you need it. Our multi-functional team will provide an integral service, with added value, which will respond to your needs and surpass your expectations.

Investment in Peru

Legal framework

Peru has established a secure and attractive legal framework for private local and foreign investment with the purpose of obtaining financial and technological resources required to develop vast natural resources and opportunities in the country.

Peruvian legislation includes several guarantees favorable to private sector investment, particularly foreign investment. Some of them are:

- Free private initiative exercised in a market-based social economy.
- Freedom of work and to engage in business, trade and industry.
- Free competition and prohibition of restrictive practices and the abuse of dominant or monopolistic positions.
- Freedom to engage workers.
- Powers of the State to establish guarantees and grant securities by means of contract law.
- Equal treatment as for local investors.
- Right to submit controversies arising from contractual relationships with the government to national or international arbitration.
- Freedom to hold and dispose of foreign currency.
- Inviolability of property and establishment of conditions for exceptional causes that empower expropriation, specifically, in-advance cash payment of a fair-value; equal treatment on taxation matters; and the express acknowledgement that no tax may have confiscating effects.

The principal rules related to investment in Peru are established in the Peruvian Constitution, Foreign Investment Promotion Law (Legislative Decree N° 662) and Framework Law for Private Investment Growth (Decree Law N° 757).

The legal framework governing foreign investments in Peru is based on equal treatment for all investors, local or foreign. Foreign investments are allowed, without restrictions, in most economic activities.

No prior authorization is required for foreign investments; acquisition of local investor's shares is fully allowed through stock exchange or other mechanism. As to ownership, foreign individuals or corporate bodies are in the same conditions as Peruvians. However, foreigners may not acquire mines, land, woods, water, fuels, and energy sources, within fifty kilometers from the borders, except in case of public necessity, expressly declared by Supreme Decree and approved by the Cabinet.

Foreign investment may be made in any income-generating activity, under any of the following forms established by Law:

- Direct Foreign Investment, as contribution to capital stock.
- Contributions to the development of contractual joint ventures.
- Investment in goods and properties located within Peruvian Territory.
- Portfolio investments.
- Intangible technological contributions.
- Any other investment manner contributing to the development of the country.

Basic rights to foreign investors

- Right to receive non-discriminatory treatment versus local investors.
- Freedom to conduct commercial and industrial activities and import and export operations.
- Right to remit abroad profits or dividends, after payment of the corresponding taxes.
- Right to use the most favorable exchange rate existing in the market for any exchange operation.
- Right to free re-exportation of invested capital, whether from a sale of shares, reduction of capital or total or partial liquidation of investments.
- Unrestricted access to domestic loans, under the same conditions than local investors.
- Free acquisition of technology and free remittance of royalties.
- Freedom to acquire shares of local investors.
- Right to acquire insurances for investments.
- Right to subscribe Legal Stability Agreements with the State over investment in the country.

Legal stability agreements

The State guarantees the legal stability to foreign investors and to the enterprises where they invest, through the subscription of agreements with law-contract status, and abide by the general provisions on contracts established in the Civil Code.

The competent agency for signing the legal stability agreements shall be PROINVERSION, for foreign or local investors making investments with resources from abroad, or local and foreign investors making investments in the same company and filing their applications jointly.

These agreements guarantee the following:

To the foreign investor

- Equal treatment, by which the national legislation does not discriminate against investors participating in enterprises, due to their status of foreign person.
- Stability of the Income Tax System in force when the agreement is signed.
- Stability of the system of free availability of foreign currency and remittance of profits, dividends and royalties.

To the enterprise receiving the investment

- Stability of the systems of labour engagement in force when the agreement is signed.
- Stability of the export promotion system applicable when the agreement is signed.
- Stability of the Income Tax System. However, the applicable tax rate to these enterprises will be the tax rate in force plus two additional percentage points. For example, at this moment the Income Tax rate in force is 30%. Therefore, if a company enters into a stability agreement at this moment the stabilized tax rate will be 32%.

In order to achieve the commented agreement the investors and enterprises receiving the investment will have to fulfill the following requirements:

Investment commitment by foreign investors

The investor shall fulfill one of the following investment commitments:

- To make, in a two-year term, capital contributions for an amount not lesser than US\$ 5 million in any economic activity, except mining and hydrocarbon sectors.
- To make, in a two-year term, capital contributions not lesser than US\$ 10 million in mining and hydrocarbon sectors.
- To acquire more than 50% of shares of an enterprise participating in the privatization process.
- To make capital contributions in a concession contract, fulfilling the investment requirements established in the contract.

Requirements for the receiving enterprise

- One of its shareholders shall have concluded the corresponding Legal Stability Agreement.
- In case tax stability is requested, contributions shall account for 50% increase in relation with the total amount of capital and reserves, and shall be destined to the expansion of the production capacity or to the technological development of the enterprise.
- Transfer more than 50% of shares of an enterprise participating in the privatization process.
- In the case of an enterprise involved in a concession contract, fulfilling the investment requirements established in the contract.

Term

The term of Legal Stability Agreements is 10 years, and it may be modified only by common agreement between the parties. In case of concessions, the term of the legal stability agreement shall extend to the term of the concession.

Settlement of disputes

Legal stability agreements derive settlement of disputes to arbitration tribunals.

Peruvian Tax Regime

The Peruvian Tax Régime comprises:

- Income Tax
- Value Added Tax / Excise Tax
- Temporary Net Assets Tax
- Customs Duties
- Municipal Taxes
- Other taxes: Financial Transaction Tax, Social contributions.

Income tax

Corporate Income Tax

Scope of application

Corporate Income Tax is an annual tax levied nation-wide on all Peruvian-source and foreign-source taxable income obtained by Companies and other legal entities resident in Peru. Corporate Income Tax is levied on activities conducted by corporations, limited liability companies, and joint ventures with independent accounting residing in Peru. Foreign company branches and permanent establishments are taxed on their Peruvian-source income only.

Corporations of all kinds, limited liability companies and civil partnerships, constituted in the country- among others, are considered as resident legal entities.

The fiscal year begins on 1st. January and ends on 31st. December, without any exceptions.

The tax returns for the accrued income generated during the fiscal year must be filed during the first 3 months of the next year.

Determination of the tax

Corporate Income Tax of resident legal entities is determined by applying a 30% rate on their total annual net taxable income. Companies have to pay an additional 4.1% rate for expenses that imply an indirect disposal of income which cannot be subject to subsequent tax control by the Tax Authorities.

As “net taxable income” is considered the fiscal period profits, plus the additions (non-deductible expenses) and less the deductions (non taxable items) established by the Income Tax Law.

In general, expenses related to the generation of taxable income and the maintenance of the income source will be tax deductible. Some of the expenses that are tax deductible are the following:

- **Interest.** Interests are deductible as expenses only to the extent that they exceed exempt interests received. Thin capitalization rules have been introduced into Peru’s Income Tax legislation. Under those rules, interests paid by resident taxpayers to economically related or associated enterprises are not deductible in the portion that the debt exceeds the result of applying a coefficient (debt/equity ratio), equivalent to three times the taxpayer’s net equity at the end of the preceding year.
- **Directors’ remuneration.** Deductions for directors’ remunerations are restricted to 6% of the year’s profits before taxes.
- **Taxes.** Taxes on assets or activities producing taxable income are deductible. Income tax itself is not deductible. Value Added Tax qualifying as a tax credit (VAT input) is not deductible.
- **Formation and start-up costs.** Companies may opt either to deduct formation and start-up costs in full in the first fiscal year in which the operation begins or to spread them evenly over a period of up to ten (10) years.
- **Depreciation.** Fixed assets are depreciated by the straight-line method on the basis of their useful lives. Buildings can be depreciated with a 5% rate. For the other goods the following maximum depreciation rates apply: (i) For vehicles, 20%; (ii) for machinery and equipment used in mining, construction and oil industries, 20%; (iii) for other machinery acquired since 1991, 10%; (iv) for data processing hardware and other fixed assets, 25%; (iv) for cattle and fishing nets, 25%.
- **Other expenses.** Moratoria interest, fines, and penalties imposed by Tax Authorities or

other Governmental authorities, are not deductible. Donations to certain institutions may be deductible if some conditions are met. Entertainment expenses are deductible to the extent that, in the aggregate, they do not exceed the lower of 0.5% of gross revenue or forty (40) tax units.

Taxpayers can offset their tax losses against their taxable income using one of the following systems:

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

Transfer pricing rules

Transfer pricing rules are based on the arm's length principle as interpreted by the OECD. In Peru, however, these rules not only apply to transactions between related parties (both domestic and cross-border) but also to transactions with companies resident in tax havens. Moreover, they must be considered not only for income tax purposes but also for Value Added Tax and Excise Tax (ISC) purposes. Taxpayers must keep an independent transfer pricing study to support the value of the operations made with related parties.

Income Tax prepayments

Resident taxpayers subject to Corporate Income Tax, are required to make monthly prepayments. Monthly prepayments are determined by applying a coefficient or a percentage on the taxpayer monthly taxable revenues.

Prepayments may be suspended (i) if the tax payer carries forward tax losses or (ii) if the results shown in the accumulated balance as of January 1st or June 30th disclose no taxable income.

Non resident taxation

Non residents are subject to Income Tax, on their Peruvian-source income only. Among others, the following revenues qualify as Peruvian source income:

- Royalties resulting from the exploitation of intangible property in the country.
- Revenues produced by the exploitation of goods in the country.
- Interest generated by capital placed or economically used in the country.
- Revenues produced by commercial or working activity performed in the country.
- Dividends generated by Peruvian companies.
- Income produced by technical assistance and digital services economically used in Peru, even if these services have been provided abroad.
- Capital gains resulting from the sale of goods located in the country.
- Capital gains resulting from the sale of shares issued by companies incorporated in Peru.

Resident taxpayers who pay taxable income to non-resident parties must withhold and pay to the Peruvian Fiscal Authorities, the non-resident Income Tax.

Activities that are performed partially in Peru and partially abroad by non-resident companies are subject to withholding tax, on a portion of gross income, according to the following chart:

Percentage of Peruvian-Source Gross Income Presumed as Taxable Income	
International Activity	Presumed Percentage of Taxable Income
Insurance	7% of gross income
Airplane Leases	60% of gross income
Chartering vessels	80% of gross income
Communications	5% of gross income
Air transportation	1% of gross income
Sea transportation	2% of gross income
Telecommunication	5% of gross income
International news activities	10% of gross income
Distribution of films	20% of gross income
Supply of containers	15% of gross income
Overstay of containers	80% of gross income
Television retransmission	20% of gross income

Generally, a 30% withholding rate over their net income is levied on non-residents (including the results of derivative financial instruments). However, some business activities are subject to other tax withholding rates.

For example:

- Dividends and other forms of profit distributions are subject to a 4.1% withholding tax.
- Branches' available profits are subject to a 4.1% withholding tax. In this case, profits are deemed to be distributed on the expiration date for the filing of the annual Income Tax return.
- Technical assistance economically used in Peru, is subject to a 15% withholding tax, regardless if they are provided in Peru or not. Non-residents must provide a sworn statement (affidavit) indicating that technical assistance will be provided and the income generated by this type of services will be recorded in their accounting books. Also, local taxpayers must keep a report issued by an International Audit Firm certifying that the technical assistance was actually provided by the non-resident entity.
- Interests paid abroad are subject to 4.99%, only if the debt meets certain conditions. This rate is not applicable to loans granted between related parties.
- Interest paid abroad by multiple operating companies, established in the country, as a result of domestic use of its lines of credit abroad: 1%
- Sale of Securities made through the Peruvian Stock Exchange: 5%.

Permanent establishments

Peruvian Income Tax considers as permanent establishments in Peru the following:

- Any fixed place of business in Peru in which it is developed, in whole or in part, the activity in which a foreign entity is engaged;
- The acting in Peru of a person possessing and habitually exercising in Peru, powers and faculties to enter into contracts on behalf of a foreign entity;
- The habitual maintaining in Peru by a person of inventories of goods or merchandise to be traded in Peru by foreign entities;
- The conduction of commercial operations in Peru through a broker, general concessionary or any other independent representative when they conduct more than eighty percent (80%) of their activities on behalf of the foreign entity.

On the contrary, the following situations, among others, are not considered as permanent establishments in Peru:

- The use of facilities destined solely to store or display goods or merchandise belonging to a company, society, etc. from abroad;
- The maintaining of a place or location destined solely to the purchase of goods or merchandise to supply a foreign entity;
- The maintaining of a place or location destined solely to the conduction of activities of a preparatory or auxiliary character.

Individual Income Tax

Scope of application

The Income Tax is an annual tax levied on the world-wide source income received by individuals considered by law as resident in Peru. The tax year for individuals is the calendar year. In the case of individuals not resident in Peru, this tax is levied on their Peruvian-source taxable income only.

Peruvian citizens and foreign nationals who have resided or stayed in Peru continuously for more than 183 days during a period of 12 months (absences of up to 183 days in each calendar year do not interrupt continuity) are considered as resident.

The status of an individual as resident in Peru or not, is determined according to his condition as of 1st January. In most cases, changes that take place in a fiscal year only produce effects as from the following tax period.

Individual Income Tax is levied on individuals on their income generated by (i) goods and real property leasing, (ii) capital, capital gain, and dividends, (iii) individual services and (iv) dependent services.

Resident Taxation

As from fiscal year 2009, the income generated by i) goods and real property leasing as well as from capital/capital gain (excluding dividends) will be levied with a 6.25% tax rate over the net income. Thus, the effective tax rate is 5%. It also includes capital income.

Immovable good sales are levied with a tax rate of 5% only for the two first sales. For the third sale onwards it is considered habitual and it is used a tax rate of 30%.

The three bracket accumulative scale shown below, will only apply for income derived from either individual or dependent services, also includes foreign source income:

Up to 27 tax units*	15%
For the excess over 27 and up to 54 tax units	21%
Any excess	30%

(*) A tax unit is currently equivalent to S/.3,600.(approx. US\$1,286).

Dividends are subject to a 4.1% withholding rate.

Resident taxpayers have the right to deduct fixed percentages and amounts from their gross income.

Non resident taxation

Non-resident individuals will determine their tax using the following rates:
Immovable goods and securities sales made outside the country: 30%.

Sales of securities issued by companies domiciled or incorporated in Peru when the transaction takes place in the Peruvian Stock Exchange: 5%.

Other Capital Income: 5%.

Dividends and other profit distribution: 4.1%.

Derivative financial instruments (IFD): 6.25%, provided that comply the same requirements established for the not resident legal people.

Pensions or payments for personal services in the country, royalties and other revenue: 30%.

Artists or performers Incomes: 15%.

Other Incomes: 30%

Tax exemptions

Among others, the following tax exemptions will remain until December 31, 2011

Any fixed or variable interest rate, in national or foreign currency, to be paid in connection with deposits in the Financial System and Banking and Insurance System, as well as capital gains and charges of such deposits in national or foreign currency, except when the incomes constitutes third category Income Tax.

Interests earned on loans granted to promote directly or through financial intermediaries, suppliers or by international organizations or foreign government institutions.

Capital gains from the sale of securities (stock, bonds) engaged in individuals, undivided successions or civil unions that opted taxed as such until the first 5 Tax Units (UIT) in each tax year (Tax Unit for 2010 is S/.3,600)

Value Added Tax (VAT)

Scope of application

VAT is levied on the following operations:

- Sale of goods within Peru.
- Services performed or used in Peru.
- Construction contracts executed in Peru
- Real property sales made by the constructors.
- Goods importation into Peru.

Rate

The applicable rate for this tax is nineteen percent (19%).

Fiscal credit

VAT levied on the acquisition of goods and services (VAT input) may be used as fiscal credit against the VAT generated for the taxpayer operations (VAT output).

Therefore, the tax payable is determined monthly by deducting the corresponding fiscal credit from the gross tax corresponding to the period.

Exemptions

The following operations are exempt from VAT:

- Assets transfer made by individuals not habitually engaged in any business activity.
- Assets transfer taking place as a result of a merger or split.
- The sale in the country, or the import, of Certain food products of an animal or vegetable origin and of books, indicated in Appendix I of the VAT Law.
- The rendering of services indicated in Appendix II to the VAT Law, such as cargo transport service from and to Peru, among others.

- Credit services provided by banks and financial institutions,
- The sale of goods and the rendering of services in the jungle region, made by companies established in the jungle region.

Exportation operations

Exportation is not subject to VAT. Nevertheless, exporters may use the VAT paid on the acquisition of goods and services as fiscal credit to offset VAT generated by other taxable operations. If this is not possible, exporters may use this tax as a credit to offset other taxes. Exporters may also file a petition for said tax to be refunded.

Services exportation is exempt only for the services indicated in the VAT Law Appendix V. This Appendix includes services such as consulting and technical assistance services, goods leasing, advertising services, data processing services, financing operations, among others.

Early recovery regime for the VAT

The VAT Law considers the Early Recovery Regime of the VAT paid on imports and/or local acquisitions of capital goods made by individuals or legal entities engaged in Peru in activities generating goods and services intended for export, or goods and services the sale of which is subject to VAT.

The capital goods included within this regime are the new machinery and equipment used in agriculture, the manufacturing industry and transport, recorded as a company's fixed assets according to the Income Tax Law and acquired to be used directly in the said activities.

There are special Advance Recovery rules for companies that are involved, among others, in the following activities: (i) exploration, development and/or exploitation of natural resources, the investment in which requires a period longer than four (4) years, (ii) Mining (iii) investment projects in public works of infrastructure and public services.

Temporary Net Asset Tax (TNAT)

It is a temporary tax applied on the value of Net Assets as of 31st December of the previous year. This tax shall be in force until December, 2009.

The tax rate shall be determined by applying the following progressive accumulative scale over the taxable base:

- Rate: 0% Net Assets: Up to S/.1'000,000.
- Rate: 0.4% Net Assets: Over S/.1'000,000.

The tax duly paid could be considered as tax credit against installments or regularization payments of Income Tax.

Companies who have not started their production activities are not subject to the TNAT.

Excise tax

This tax is levied on the acquisition of luxury goods and other goods such as beer, cigars, cigarettes, liquor, soft drinks, fuel and others. ISC rates fluctuate from 10% to 300% on CIF (imports) or sale value, depending on the goods concerned. Nevertheless, in the case of certain goods such as fuels, the ISC is calculated on a specific basis depending on the amount of goods sold or imported.

Custom duties

There are no restrictions to import goods. For security and public health reasons the import of certain goods is not allowed. The applicable customs duties and taxes are summarized below:

Tax	Rate	Tax Base
Custom duties	0%, 9%, 17%	Transaction value
IGV	19%	Transaction value + custom duties

Customs duties rates depend on the kind of items imported. Temporary surcharge may be applicable to the import of certain goods. Certain items may be subject additionally to SCT.

Drawback

As a result of Drawback Regime, Peruvian Government refunds to exporters a sum equivalent to 5% of their exportation FOB value. This regime is applicable only for exported products the value of which does not exceed **US\$20'000,000.**

Temporary admission regime

This regime implies the suspension of taxation on imports destined to “active improvement” process for further exportation of goods.

Replacement of raw materials and input

This regime allows duty- and import tax-free replacement, in kind, by importing an equal amount of material identical to that which was imported and used to produce exported goods. The term to enjoy this benefit is one year as from the importation of goods to be replaced.

International trade

The main agreements executed by the Peruvian government in order to gain access to international markets are as follows:

- Andean Trade Promotion and Drug Eradication Act (ATPDEA) - Enables the duty free importation of Bolivian, Colombian, Ecuadorian and Peruvian products into the United States. This Act will be in force until December 2009 and covers approximately 6,000 products. The benefits of this program have not yet been fully exploited by Peruvian exporters.
- Andean Community (CAN) - Peru maintains a duty free zone with Bolivia for most of its products. Peru and the rest of the member countries (Colombia and Ecuador) have agreed to progressively reduce the customs duties levied on the trade of goods among such countries. Also, Peru is a member of other Andean Community agreements related to the service market deregulation, transportation, telecommunications and several other matters related to international trade.
- Southern Common Market (Mercosur) - Partial agreements executed by the Peruvian government with each of the member countries (Brazil, Argentina, Paraguay and Uruguay) are in effect. By means of the aforementioned agreements, Peru and Mercosur’s member countries have reciprocally granted each other preferential customs duty margins. Nevertheless, currently the member countries of the Andean Community are working together in the

implementation of a Free Trade Agreement with Mercosur.

- The Peru-United States Free Trade Agreement (FTA or PFTA), also known as the United States-Peru Trade Promotion Agreement (TPA), was approved on December 4, 2007 and will come into effect on January 1, 2009. This free trade agreement is important because it will allow expanding the Peruvian market for goods and services and consequently it’s crucial to continued economic growth and job creation.

Finally, it is important to mention that Peru is a founding member of the World Trade Organisation (WTO). Therefore, the WTO’s regulations regarding antidumping practices, subsidies and countervailing duties, service market deregulation, among others, are applicable in our country. The WTO’s regulations about customs valuation are applicable to all importation of goods into Peruvian territory.

Tax treaties

Peru has signed a Tax Treaty to avoid double taxation with Bolivia, Colombia and Ecuador (signatories to the Andean Pact).

Peru has also subscribed Tax Treaties with Chile, Brazil and Canada which are largely based on the OECD Model Tax Convention on Income and on Capital. At this moment, we are negotiating a similar agreement with Spain.

In these cases, in order to apply the benefits of the Tax Treaties, the non domicile must prove its residency status by a certificate issued by its local Tax Administration.

Municipal taxes

The principal Municipal Taxes are the following:

Property tax

It is an annual tax levied on the value of real property, both urban and rural, being considered as such the land, buildings and fixed and permanent facilities.

This tax is to be paid by the owner of the property, and calculated using a cumulative, progressive scale, with aliquot parts ranging from 0.2% to 1.0% of the self-appraisal value of the

taxpayer's real property located within the same district.

Vehicle property tax

Annual tax levied on the ownership of automobiles, vans and station wagons, whether locally manufactured or imported, aged no more than three (3) years. This term is calculated as from the vehicle first inscription in the Vehicular Property Records.

The applicable rate is 1%, however, the amount payable may not be lower than 1.5% of the Tax Unit (UIT) in force as of 1st. January in the year in which the tax is to be paid.

Real property transfer tax

Levied on the transfers of real property, both urban and rural, made for a price or free, in any form or manner. The tax rate is 3%, applicable on the agreed price.

The portion of the value of the property covered by the first 10 Tax Units (UIT) is not subject to this tax.

Street cleaning, parks and gardens rates

These are monthly taxes, charged quarterly, for the service of garbage collection, transport, unloading, transfer and final disposal of the solid urban refuse from real property.

Property owners are subject to these taxes, when they inhabit the property, develop activities there, when the property is not used or when a third party uses the property in whatever manner or form. Also, property possessors or holders are subject to this tax when the owner's identification may not be possible.

The tax rate is determined every year by Municipal Ordinance.

Other taxes

Financial transactions tax

It is a temporary tax levied with a 0.05% proportional rate on banking operations in local or foreign currency (both debits and credits) during 2010.

Social security

The Peruvian Health Social Security Office (ESSALUD) runs the National Health System (RPS). The employer contributes 9% of total payroll to the RPS. ESSALUD provides employees disability, illness, maternity and death benefits, as well as medical care.

According to the Health Care Law, the National Health System will be supplemented by the health programs and plans that the employers may grant to their employees with their particular health services or with private Health Care Companies (Empresas Prestadoras de Salud - EPS) that shall be authorized to carry out such activities. The employers may elect the healthcare plan or program for their employees; however, they shall previously submit it to their vote. Employees that should desire to remain in or enter the RPS may do so.

The employers that provide healthcare through the supplementary plans and programs are also required to pay the 9% contribution to the RPS. However, employers may use a portion of the expenses incurred in healthcare as credit against the 9% contribution.

The Health Care Law and regulations also foresee a supplementary insurance for employee engaged in activities that are deemed to involve a significant level of risk. This insurance coverage shall be provided by the employer.

Besides, employees contribute 13% of their salaries to the National Pensions System (SNP) which is managed by the National Pension Office (Oficina de Normalización Previsional - ONP). Employees affiliated to SNP, at their choice, may switch to the Private Pension System (SPP). This system is operated by private entities (AFPs) authorized to manage pension funds. They provide employees retirement and disability pensions and funeral costs. Healthcare and accident insurance coverage expenses are not included in this system.

Employers are responsible for withholding employees' contributions to AFPs from monthly salaries and depositing them with the AFP elected by each employee. The average withholding amount is 11.5% of gross salary.

Employees profit participation

Peruvian Labour Laws rule that employers have to distribute among their employees every year a part of their profits in the following proportion:

Fishing companies	10%
Telecommunication companies	10%
Industrial companies	10%
Mining companies	8%
Retail companies	8%
Other activities	5%

This payment is deductible for Income Tax purposes.

Special tax regime for mining activities

Mining stability agreements

Investors developing mining activity can enter into special stability agreements known as "Warranty Contract and Measures to Promote Mining Investment". Taxpayers who enter into this kind of agreements stabilize the tax regime in force at the time the contract is formalized. Therefore, subsequent tax regime modifications will not be applicable to the said investment.

The scope of this stability is the following:

- The Income Tax rate will be stabilized with an additional 2 percent. In this manner, stability agreement entered into under the current tax regime will stabilize an Income Tax rate of 32%.
- VAT and Excise Tax stability will only guarantee the possibility of transferring the financial effects of this tax to third parties.
- The stability includes any special customs regime in force relating to tax refunds, temporary admission of goods, among others.
- Stability for tax exceptions, tax incentives and other tax benefits will be subject to time limitations in force at the time the agreement is formalized.

The stability benefit will only apply to the mining company activities related in cases of investment.

These stability agreements can have a 10 or a 15 years term, which may not be extended. The following conditions must be met in order to apply for these agreements:

- a) **10-year stability agreement.** Start up of mining activities that exceed the production rate of 350 TM/day or commit investments in mining activities for US\$ 2' 000,000.
- b) **15-year stability agreement.** Start up of activities intended to produce 5000 MT/day or in the case of companies in activity, the expansion of their production capacity in 5,000 MT/day or more in one or various mining properties.

Additionally, it is applicable to taxpayers that (i) committed investments for US\$20'000,000 in the case of new companies and (ii) committed investments for US\$50'000,000 in the case of existing companies.

Income tax - mining investment special regime Acquisition value of mining concessions. These investments may be amortized as from the fiscal year in which, as per the law, the minimum production requirement should be fulfilled, within a period to be then determined by the titular of the mining activity, according to the probable life of the mining deposit.¹

For such purposes, the acquisition value of the concessions shall include the price paid, or the petition expenses (if any), as well as the amounts invested in prospecting and exploration up to the date when, according to the law, the minimum production is to be attained. Nevertheless, the titular of the mining activity may opt to deduct the prospecting and/or exploration expenses in the fiscal year in which they are incurred.

When the economic exploitable reserves are used up, the mining concession is declared as lapsed before its acquisition value is fully amortized. At the taxpayer's option, the balance may be amortized immediately or continue being amortized annually until completing its cost within the period originally established.²

Exploration expenses. Exploration expenses incurred once the concession is in the obligatory minimum production stage, may be fully deducted in the fiscal year or amortized as from that fiscal year, based on an annual percentage determined according to the probable life of the mine established at said fiscal years' closing, which will be determined based on the volume of proven and probable reserves and the obligatory minimum production as required by law.

Development and preparation expenses. Development and preparation expenses that lead to the exploitation of the deposit for over one fiscal year, may be fully deducted in the fiscal year in which they are incurred, or amortized in following fiscal years, up to a maximum of two additional fiscal years.

Investments in infrastructure considered as a public service. Those investments made by the titular of the mining activity in infrastructure considered as a public service, will be deductible from the taxable income, provided the investment had been approved by the competent sector authority.

Special depreciation tax rate

Investors who signed mining stability agreements may depreciate their assets without exceeding the following yearly rate:

- 20% in the case of machinery, industrial equipment, and other assets.
- 5% in the case of buildings and constructions.

VAT early recovery benefit

In the case of mining activities there are two possible special regimes for the VAT Early Recovery.

- Regime applicable to companies that have signed contracts with the Government for the exploration, development and/or exploitation of natural resources and Concession contracts for the development of infrastructure and utilities.

This regime allows the refund of the taxes paid on the imports and local acquisitions of goods, services, and construction contracts required for the execution of the Project matter of the contract. The refund of taxes paid during the exploration stage is excluded.

It should be mentioned that prior Government qualification is needed to obtain this benefit. The Government, via a Supreme Decree, is to indicate which taxpayers fulfill the requisites to use this benefit. Generally, those companies developing "Megaprojects" qualify.

- Regime applicable to the titular of mining activity during the exploration stage.

This regime applies to the titular holders of mining activity that have entered into an Investment in exploration contract with the Government, save for those who had initiated productive operations.

The regime covers the refund of the VAT paid for all imports or local acquisitions of goods, services, and construction contracts used directly in the execution of mineral resources exploration activities in Peru during the exploration phase, conducted as from the date of signing of the corresponding Investment in Exploration contract.

It should be mentioned that under this regime, the titular holders need not have initiated the exploitation stage to request refund of the taxes paid.

Finally, in order to sign the Investment in Exploration contract, the titular holders of mining concessions shall submit an application to the General Direction of Mining (Dirección General de Minería), attaching thereto the corresponding Investment Programme for an amount not lesser than US\$500,000.

Mining royalties

The royalties are a compensation paid to the Government by the titular holder of mining concessions, for the exploitation of metallic and non-metallic mineral resources.

The royalty is calculated over the value of the mineral concentrate or its equivalent as per international market quotations, on which the rate would be applied based on the range into which said value falls.

The first range: up to US\$ 60 million per year pays 1% (one percent), the second range: for the excess over US\$ 60 (sixty) million up to US\$ 120 (one hundred twenty) million per year pays 2.0% (two percent), and the third range: for the excess over US\$ 120 (one hundred twenty) million per year pays 3.0% (three percent).

Those minerals that lack international quotations shall pay 1% (one percent) on the mining component.

The paid royalties qualify as a cost which is tax deductible for Income Tax purposes.

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