Peru

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What's new?

Summary of updates/Changes to R&D and government incentives from 1 January 2019 through 31 October 2020

On 31 October 2019, through Emergency Decree No. 10-2019, the Peruvian government extended the tax benefits of the Scientific Research, Technological Development, and Technological Innovation Law (STTL) through fiscal year (FY) 2022. The decree also provides that as from 1 January 2020, taxpayers may benefit from a super deduction of 150%, 175%, or 215% of R&D expenses, with the applicable percentage depending on whether the taxpayer's net taxable income exceeds 2,300 tax units ((UIT), equivalent to around USD 3.2 million). The taxpayer's additional deduction (i.e., the additional 50%, 75%, or 115% deductible under the incentive) cannot exceed 500 UIT (equivalent to PEN 2,150,000 in FY 2020).

Various temporary incentives and reliefs have been introduced in response to the COVID-19 pandemic, but these are not covered in this survey.

Featured government incentives

Incentive name	Description	Maximum percentage	Qualification standards	Key exclusions or issues
Super deduction for scientific research, technological development, and technological innovation expenses	Super deduction available regardless of whether an R&D project is linked to the company's core business	Deduction of 150%, 175%, or 215% of qualifying expenditure, depending on how the R&D project is carried out and whether the taxpayer's net taxable income exceeds 2,300 UIT	• R&D projects must be approved by the public institution for scientific research (CONCYTEC) • The project must be carried out by the taxpayer or through a scientific research center • Taxpayers that benefit from the incentive must keep "control accounts" for each project • The result of the project must be registered with the National Institute for Protection of Intellectual Property (INDECOPI), if applicable	Technical opinion and CONCYTEC approval are needed
Regime for early recovery of value added tax (VAT) on the acquisition or import of capital goods	Special regime for early recovery of VAT that provides for the right to a refund of VAT credits generated from imports or domestic acquisitions of new capital goods, services, or construction contracts	Qualifying VAT credits are fully refundable (VAT is levied at a rate of 18% on the taxable base, which is the sales/customs value (in the case of goods or imports), the service fee (in the case of the provision or use of services), or the value of construction (in the case of construction contracts)	Under the general regime: • The acquisitions must be made during the taxpayer's pre-operational period, which must last at least two years from the investment start date • There must be approval from the relevant sectoral ministry and PROINVERSION (the agency that promotes private investment in Peru) prior to the investment • The investment must be at least USD 5 million	• There are technical and compliance requirements that will be analyzed by PROINVERSION • Approval through a resolution of the ministry for the relevant sector is needed

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Industries most often affected by government incentives in country

	Technology, Media & Telecom		**Financial Services**
●	Telecom, Media & Entertainment	●	Banking & Capital Markets
●	Technology		Insurance
	Consumer	●	Investment Management
●	Consumer Products	●	Real Estate
●	Retail, Wholesale & Distribution		**Life Sciences & Health Care**
	Automotive	●	Health Care
●	Transportation, Hospitality & Services	●	Life Sciences
	Energy, Resources & Industrial		**Government & Public Services**
●	Power & Utilities		Health & Social Care
●	Mining & Metals		Defense, Security & Justice
●	Oil, Gas, & Chemicals	●	Civil Government
●	Industrial Products & Construction		International Donor Organizations
		●	Transport

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Type	National incentive?	State, provincial, regional or local incentives?[1]	Filing deadlines imposed?	Is the claim made in advance or arrears?[2]	Nature of incentive	Maximum benefit available to large enterprises	Maximum benefit available to small and medium-sized enterprises
Innovation							
Research & development (R&D)	●	●	● ●	National: Arrears Local: Arrears	Taxpayers that incur scientific research, technological development, and technological innovation expenses are eligible for the incentive, regardless of whether the project is linked to their core business. A super deduction of 150%, 175%, or 215% of R&D expenses is available. The taxpayer's additional deduction (i.e., the additional 50%, 75%, or 115% deductible under the incentive) cannot exceed 500 UIT (equivalent to PEN 2,150,000 in FY 2020).	Taxpayers whose net taxable income exceeds 2,300 UIT (equivalent to PEN 9,890,000 in FY 2020) are eligible for the following deductions: A. 175% of qualifying expenditure if the project is carried out directly by the taxpayer or through a resident scientific research, technological development, or technological innovation center; and B. 150% of qualifying expenditure if the project is carried out through a nonresident scientific research, technological development, or technological innovation center.	Taxpayers whose net taxable income does not exceed 2,300 UIT (equivalent to PEN 9,890,000 in FY 2020) are eligible for the following deductions: A. 215% of qualifying expenditure if the project is carried out directly by the taxpayer or through a resident scientific research, technological development, or technological innovation center; and B. 175% of qualifying expenditure if the project is carried out through a nonresident scientific research, technological development, or technological innovation center.

Key: ● = PERMANENT INCENTIVE = TEMPORARY INCENTIVE = NEGOTIABLE = NO = LIMITED APPLICABILITY = NOT APPLICABLE

Notes:

1. Green means that this incentive is currently in effect. Yellow means that the incentive has limited applicability, i.e., the requirements for this incentive limit its value to most companies. Red means that there is no incentive.
2. If the response is advance, this means that the government must approve the award of the incentive prior to the commencement/completion of the project/activity. If the response is arrears, this means that the award of the incentive is determined at the end of the tax period or after the completion of the qualifying project or activity. Most tax incentives are considered to be claimed in arrears because they are reported on tax returns.

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Investment							
Regime for early recovery of VAT on the acquisition or import of capital goods	●	●	● ●	National: Varies Local: Varies	The incentive provides for the right to obtain an early refund of VAT credits generated from imports or domestic acquisitions of capital goods. (VAT is levied at a rate of 18% on the taxable base.) There is a general regime for large investments. Taxpayers must invest more than USD 5 million to be eligible for the regime. The acquisitions must be made during the taxpayer's pre-operational period, which must last at least two years from the investment start date. If the project is based on contracts, agreements, or authorizations executed or granted by the government pursuant to the sectoral rules, the pre-operational stage is considered to start on the date that the contract or agreement is executed or the date when the authorization is granted. There also is a temporary special regime available until 31 December 2023 for taxpayers whose annual net taxable income does not exceed 300 UIT (equivalent to PEN 1,290,000 in FY 2020) and that are covered by the income tax regime for small and medium-sized companies or the general tax regime.	Qualifying VAT credits are fully refundable	Qualifying VAT credits are fully refundable

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Investment (continued)							
Tax benefits for hiring disabled individuals	🟢	🟢	🟢 🟢	National: Arrears Local: Arrears	Corporate taxpayers that hire disabled individuals are eligible for tax benefits. The benefits are based on the number of disabled employees and the number of months worked each fiscal year by these employees.	• Additional deduction of 50% or 80% of the wages, depending on the number of disabled employees hired; and • Tax credits equal to 3% of the annual wages for disabled employees and 50% of the costs for adapting work tools, machinery, and the work environment	• Additional deduction of 50% or 80% of the wages, depending on the number of disabled employees hired; and • Tax credits equal to 3% of the annual wages for disabled employees and 50% of the costs for adapting work tools, machinery, and the work environment
Income tax exemption for gains from securities transferred on the stock market	🟢	🟢	🔴 🔴	National: Not applicable Local: Not applicable	Taxpayers that transfer securities through a centralized negotiation mechanism supervised by the Peruvian stock market regulator are eligible for this regime. The exemption applies only to certain types of securities and the securities must "have a presence" (i.e., be regularly traded) on the stock market. The exemption is effective for transfers carried out up to 31 December 2022.	Full tax exemption for gains from qualifying securities	Full tax exemption for gains from qualifying securities

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Type	National incentive?	State, provincial, regional or local incentives?[1]	Filing deadlines imposed?	Is the claim made in advance or arrears?[2]	Nature of incentive	Maximum benefit available to large enterprises	Maximum benefit available to small and medium-sized enterprises
Investment (continued)							
Stability regime				National: Advanced Local: Advanced	The Peruvian government guarantees certain legal stability to qualifying foreign investors and the Peruvian enterprises in which they invest, through the signing of agreements with legal contract status and the Civil Code's general provisions on contracts. The competent agency for signing the legal stability agreements is PROINVERSION for foreign or domestic investors investing foreign resources, or domestic and foreign investors investing in the same company that file a joint application. To benefit from an agreement, investors and investee companies must fulfill certain requirements. These include that the investor must make capital contributions to a company currently established or to be incorporated in Peru for an amount no less than USD 10 million for investments in the mining and hydrocarbons sector, or USD 5 million for investments in any other economic sector.	Benefits for investors: • Equal treatment of foreign investors; • Stability of the income tax system in force at the time of signing the agreement; and • Stable and free access to foreign currency, and freedom to repatriate profits, dividends, and royalties Benefits for investee enterprises: • Stability of the systems for labor engagement in force at the time of signing the agreement; • Stability of the export promotion system applicable when the agreement is signed; and • Stability of the income tax system (however, the applicable tax rate for these enterprises is stabilized at the tax rate in force plus two additional percentage points)	N/A
"Works for taxes" regime				National: Advance Local: Advance	Private companies that sign "investing agreements" with a local or regional government and that finance and execute public investment projects within the framework of the National System of Public Investment are eligible for this incentive. The incentive allows corporate taxpayers to use the amount paid for an investment project to reduce their advance payments and annual settlement of income tax. The tax is offset through tax credit certificates (CIPRLs) issued by Ministry of Economy and Finance (MEF).	The national government establishes for each regional and local government a maximum amount for the issuance of CIPRLs. The amount is updated by the MEF in March of each year. CIPRLs are negotiable and are valid for 10 years from their date of issuance.	The national government establishes for each regional and local government a maximum amount for the issuance of CIPRLs. The amount is updated by the MEF in March of each year. CIPRLs are negotiable and are valid for 10 years from their date of issuance.

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Country background

The corporate income tax rate in Peru is 29.5% as from 2017. To determine the taxable base, a company deducts from its revenue the expenses necessary to generate or maintain the source of income.

Innovation Incentives

Research & Development (R&D)

Tax benefits for research, technological development, and innovation

Peru offers tax benefits for expenses incurred for projects related to scientific research, technological development, and technological innovation. Under Peruvian tax legislation, corporate taxpayers may deduct 100% of expenses for scientific research, technological development, and technological innovation projects ("R&D projects"), regardless of whether the project is linked to the company's core business.

In addition, a special deduction regime has been established for projects related to scientific research, technological development, and technological innovation. As from 1 January 2020, taxpayers that invest in these types of projects will be eligible for a super deduction of 150%, 175%, or 215% of qualifying expenses, with the applicable percentage depending on how the project is carried out and on their income. The additional deduction (i.e., the additional 50%, 75%, or 115% deductible under the incentive) cannot exceed 500 UIT annually (equivalent to PEN 2,150,000 in FY 2020).

To qualify for the special deduction regime, a taxpayer must comply with the following requirements:

- Have the R&D project evaluated and approved by the public institution for scientific research (CONCYTEC), which evaluates the nature of projects based on regulations;
- Carry out the project directly or through a scientific research, technological development, or technological innovation center;
- Keep "control accounts" (specific accounts for each project), which must be duly supported; and
- Register the result of the technological development or technological innovation project with the National Institute for the Defense of Competition and the Protection of Intellectual Property (INDECOPI), if applicable.

Taxpayers whose net taxable income exceeds 2,300 UIT (equivalent to PEN 9,890,000 in FY 2020), are eligible for the following deductions:

- 175% of qualifying expenditure if the project is carried out directly by the taxpayer or through a resident scientific research, technological development, or technological innovation center; and
- 150% of qualifying expenditure if the project is carried out through a nonresident scientific research, technological development, or technological innovation center.

Taxpayers whose net taxable income does not exceed 2,300 UIT (equivalent to PEN 9,890,000 in FY 2020) are eligible for the following deductions:

- 215% of qualifying expenditure if the project is carried out directly by the taxpayer or through a resident scientific research, technological development, or technological innovation center; and
- 175% of qualifying expenditure if the project is carried out through a nonresident scientific research, technological development, or technological innovation center.

The R&D incentive will be available up to 31 December 2022. It is important to note that the Peruvian tax authorities (SUNAT) cannot object to a CONCYTEC decision that approved an R&D project.

Investment Incentives

"Works for taxes" regime

This regime targets private companies that sign "investing agreements" with a local or regional government. Companies that finance and execute public investment projects relating to infrastructure within the framework of the National System of Public Investment are eligible for the incentive.

The Law on the Transfer of Public Works for the Payment of Taxes (Law No. 29230) established a mechanism to allow private companies to carry out public investment projects for regional and local governments and universities and to claim the total amount of the investment as a credit against their income tax liability. The incentive allows corporate taxpayers to use the amount paid for an investment project to reduce the advance payments and annual settlement of income tax.

Each year, the national government establishes, for each regional and local government within the country, a maximum amount for the issuance of tax credit certificates (CIPRLs), which is updated by the Ministry of Economy and Finance (MEF) in March of each year.

CIPRLs may be issued during the investment project, based on the stage of completion. CIPRLs are used by private companies solely to offset their advance payments and for the annual settlement of

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income tax on business activities, including any late payment fees. Private companies may use the CIPRLs in the current period up to a maximum of 50% of the income tax calculated in the annual tax return for the previous FY and may use the balance in subsequent FYs, with a 2% annual revaluation adjustment on the unused balance.

CIPRLs are negotiable and are valid for 10 years from their date of issuance. If CIPRLs are not used by their expiration date, the SUNAT will return any remaining amount to the company, via negotiable credit notes.

The total amount approved by the public entity for the development of the projects will be subject to the National Control System, in accordance with the current legal regulations.

Regime for early recovery of VAT on the acquisition or import of capital goods
Peruvian tax law provides for the right to obtain an early refund of VAT credits generated from domestic acquisitions or imports of capital goods under two regimes. (VAT is levied at a rate of 18% on the taxable base.)

The first regime is aimed at large investments and provides for the right to a refund of VAT credits generated from imports and/or domestic acquisitions of new capital goods, services, or construction contracts that are used directly in the execution of a project. To benefit from the regime, taxpayers must fulfill the following conditions:

- Make the acquisitions during the taxpayer's pre-operational period, which must last for at least two years, counted as from the investment schedule's start date. If the project is based on contracts, agreements, or authorizations executed or granted by the government pursuant to the sectoral rules, the pre-operational stage is considered to start on the date that the relevant contract or agreement is executed or the date that the relevant authorization is granted;
- Obtain approval from the relevant ministry (e.g., the production ministry) and PROINVERSION prior to making the investment; and
- Make an investment of at least USD 5 million.

The second regime is a special temporary regime aimed at small and medium-sized companies. The regime provides for the right to a refund of VAT credits generated from imports and/or domestic acquisitions of new capital goods, if the goods have been retained for a period of at least three consecutive months following the date of entry of the relevant transaction in the purchase record.

The special temporary regime is available to taxpayers whose annual net taxable income does not exceed 300 UIT (equivalent to PEN 1,290,000 in FY 2020) and that are covered by the income tax regime for small and medium-sized companies or the general tax regime. These companies may benefit from the regime until 31 December 2023.

Income tax exemption for gains from securities transferred on the stock market
An exemption is available for capital gains from the transfer of certain securities, such as common and investment shares, American depositary receipts (ADR) and global depositary receipts (GDR), exchange traded fund (ETF) units that have underlying shares and/or underlying debt securities, debt securities, mutual investment certificates, investment certificates for real estate funds (FIRBI) and/or securitization trusts for real estate investments (FIBRA), and negotiable invoices.

To qualify for the exemption, a transaction must meet the following requirements:

- The transfer must be carried out through a centralized negotiation mechanism supervised by the stock market regulator;
- During the 12-month period prior to the transfer, the taxpayer and its related parties must not have transferred, by one or several simultaneous or successive transactions, 10% or more of the total securities issued by the company (in the case of ADR and GDR, this requirement is determined considering the underlying shares); and
- The securities must "have a presence" (i.e., be regularly traded) on the stock market.

To determine if the securities have a presence on the stock market, the following procedure is followed:

i. The number of days during the 180-business day period before the date of the transfer on which the "daily negotiated amount" of the same type of securities exceeded a threshold established in the relevant regulations is determined. The threshold cannot be less than six UIT and the daily negotiated amount is based on the transaction volume carried out through a centralized negotiation mechanism. (The UIT is PEN 4,300 for 2020.)

ii. The number of days determined in i) above is divided by 180 and multiplied by 100.

iii. The result is treated as a percentage and reviewed to determine if it equals or exceeds a threshold established by the regulations; if so, the securities are considered to have a presence on the stock market. The threshold cannot exceed 45%.

The exemption is effective for transfers carried out up to 31 December 2022.

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Stability regime

The Peruvian government guarantees certain legal stability (including tax stability) to qualifying foreign investors and the Peruvian enterprises in which they invest, through the signing of agreements with legal contract status and the Civil Code's general provisions on contracts. The agreements generally are valid for a period of 10 years.

The competent agency for signing the legal stability agreements is PROINVERSION for foreign or domestic investors investing foreign resources, or domestic and foreign investors investing in the same company that file a joint application.

The agreements guarantee the following to investors:

- Equal treatment of foreign investors, i.e., the Peruvian law does not discriminate against investors because of their status as foreign nationals;
- Stability of the income tax system in force at the time of signing the agreement; and
- Stable and free access to foreign currency, and freedom to repatriate profits, dividends, and royalties.

The agreements guarantee the following to companies receiving the investment:

- Stability of the systems for labor engagement in force at the time of signing the agreement;
- Stability of the export promotion system applicable when the agreement is signed; and
- Stability of the income tax system. However, the applicable tax rate for these enterprises is stabilized at the tax rate in force plus two additional percentage points (i.e., 31.5% for agreements signed during 2017 and onward).

To benefit from a legal stability agreement, investors and investee companies must fulfill certain requirements.

Investors must make the following commitments:

- To make capital contributions to a company currently established or to be incorporated in Peru for an amount no less than USD 10 million for investments in the mining and hydrocarbons sector, or USD 5 million for investments in any other economic sector; and
- To make the investment within a period of no more than two years.

Companies receiving an investment must meet the following requirements:

- One of the company's shareholders must have signed the relevant legal stability agreement;
- If tax stability is requested, the contributions received must increase the recipient's total amount of capital and reserves by at least 50% and must be used for expanding production capacity or introducing new technology in the enterprise;
- If the recipient is a government enterprise undergoing the privatization process, more than 50% of the enterprise's shares must be transferred to the investors; and
- If the recipient is a company with a concession contract, the investment requirements established in the contract must be fulfilled.

Employment incentives

Tax benefits for hiring disabled individuals

Tax benefits are available to corporate taxpayers that hire people with disabilities. The benefits include:

- An additional income tax deduction equal to 50% or 80% of the remuneration paid to each disabled employee, depending on the number of individuals with disabilities hired compared to the total number of employees. The additional amount deductible annually for each person with a disability may not exceed 24 minimum wages (RMV) when the employee's employment relationship is for 12 months in a FY and may not exceed two RMV per month worked for each person with a disability when the employee's employment relationship is for less than 12 months in a FY; and
- Income tax credits equal to 3% of the annual remuneration for employees with disabilities and 50% of the costs of adapting work tools, machinery, and the work environment for such employees. The credit calculated at 3% cannot exceed the amount resulting from multiplying the factor 1.44 by the RMV and by the number of employees with disabilities on which the annual remuneration is estimated. The credit calculated at 50% cannot exceed the amount that results from multiplying the factor 0.73 by the UIT and by the number of employees with disabilities that required expenses to be incurred for adaptations relating to the work environment. The credits do not generate a balance in favor of the taxpayer, they cannot be carried over to subsequent years, they are not refundable, and they cannot be transferred to third parties.

The employer must prove the employee's disability status through a notarized copy of the certificate issued by the Ministry of Health, Ministry of Defense and the Interior, or the social health insurance authority (ESSALUD).