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## Card ELANBiz: Peruvian Tax System for Companies<sup>1</sup>

(Prepared by the ELANbiz in Peru Expert, based on secondary information. Updated to June 30, 2016)

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The aim of this Card is to give an overview of the taxes generally applied in Peru, at the time this card was issued. This report also includes a description of certain tax issues relevant to business activities.

### Introduction<sup>2</sup>

Taxation in Peru is ruled by the principles of reservation of law, equality and respect for the fundamental rights of the person. The term tax includes taxes, contributions and duties. Taxes are created, modified or abolished only by an Act of Congress or Legislative Decree.

The administration and collection of the Central Government taxes and taxes relative to foreign trade are responsibility/competition of the National Superintendence of Tax

<sup>1</sup> *"The information contained in this Card is only general. For more detailed, events and trade promotion as well as possible business contacts, please contact the Commercial Offices of the Member States, European trade organizations and bilateral Chambers or Commerce in Peru".*

<sup>2</sup> *Main Sources: Inversiones en Perú 2015, publicaciones preparadas por KPMG y Guía de Negocios e Inversión en el Perú 2015/2016, Cámara de Comercio de Lima (CCL), Superintendencia Nacional de Administración Tributaria (SUNAT)*

Administration (Superintendencia Nacional de Administración Tributaria (SUNAT)<sup>3</sup>). Taxes that the law creates in favour of municipalities (local governments) and the taxes according to the municipalities' law are authorized to create (municipal taxes and contributions) are administered and collected by the municipalities themselves.

## Taxpayer Identification/Registry (Registro Único de Contribuyentes (RUC))

The SUNAT, institution administrator of taxes in Peru, has, among other functions; the taxpayers register, granting them the certificate attesting their registration in the RUC ("RUC", for its Spanish acronym). To obtain the RUC the taxpayer must submit the following:

- Testimony of Social Constitution, duly registered in the Peruvian Public Registry.
- Receipt or bill of water or light of the fiscal domicile
- Format of RUC's inscription of the SUNAT
- Document of identity in original of the legal representative
- If the procedure is done by a third person, simple power of attorney granted by the legal representative with legalized signature.

## Peruvian Source Income

Whatever the nationality or residence of the parties involved in the operations and the place of celebration or fulfilment of the contracts, it is considered Peruvian source income/revenues, with certain exceptions, the incomes produced in Peru and obtained by companies domiciled in the country<sup>4</sup>. Also it is considered Peruvian income the ones obtained by carrying out export operations as well as the obtained by the indirect sale of shares or participations issued by companies domiciled in Peru.

## Main taxes:

- **Income Tax (Impuesto a la Renta (IR)):** is levied on income obtained from capital, work and from the joint application of both factors; capital gains. See detail below.

<sup>3</sup> <http://www.sunat.gob.pe/>

<sup>4</sup> Full details of Peruvian considered income in <http://orientacion.sunat.gob.pe/>



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- **General Sales Tax (Impuesto General a las Ventas (IGV)):** Applies to sales transactions and import of goods as well as the provision of commercial services, construction contracts or the first sale of property. See detail below.
- **Excise Tax (Impuesto Selectivo al Consumo (ISC)):** Applies only to the production or importation of certain products such as cigarettes, liquor, beer, soft drinks, fuel, etc. See detail below.
- **Extraordinary Tax for the Promotion and National Tourism Development:** Destined to finance the activities and projects aimed at the promotion and development of domestic tourism.
- **Temporary Tax on Net Assets:** Applicable to companies, on the net assets on of December 31 of the previous year. The rate is 0.4% on the excess of S/. 1,000,000 (US \$ 350,000 approx.).
- **Tax on Financial Transactions:** It charges some operations that are realized across companies of the Financial System.
- **Custom Duties or Ad Valorem:** applied to the value of goods entering the country, contained in the tariff schedule.
- **Contributions to ESSALUD and ONP:** Social Health Insurance (ESSALUD) and the Office of Normalization (ONP), retirement. For more information see Card ELANBiz: Main Labour Issues and Workers' Contracting Workers in Peru.

## Income Tax - Business Activities (IR) (third category income):

### a. IR Domiciled Companies:

It charges the revenue obtained by business activities (called Third Category income) develop by the natural (physical) and juridical persons (companies). Generally the joint of investment capital and labour produces these rents.<sup>5</sup>

<sup>5</sup> Source: SUNAT and [Doing Business in Peru by Ministerio de Relaciones Exteriores y Estudio Rodrigo, Elias, Medrano.](#)



- **Scope:** Peruvian residents are subject to income tax on their worldwide income. Non-residents or permanent establishments in Peru of foreign corporations are taxed only on their Peruvian source income.
- **Peruvian Residents:** For tax purposes, the following are considered residents in Peru, among others:
  - o Peruvian individuals who reside in Peru;
  - o Foreign individuals who have resided or remained in the country more than 183 calendar days within a 12-month period;
  - o Legal entities incorporated in the country;
  - o Branches, agencies or other permanent establishments in Peru of non-resident corporations, in which case the status of resident applies to the branch, agency or other permanent establishment as to its Peruvian source income.
- **Peruvian Source Income:** The term “income from Peruvian sources” includes, among others, the income generated and/or produced by real estate, loans, capital investments, technical assistance used for economic gain within the country, royalties and property located in or used for economic benefit within the country, personal work undertaken in the country, as well as that which is derived from civil, commercial, business or other activities conducted in Peruvian territory.
- **Business Income:** Tax Regime Commercial entities are subject to the business income tax regime – at the corporate level – levied at a rate of 28% (which will be reduced to 27% in 2017 and 2018 and to 26% as of 2019).<sup>67</sup>
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Ejercicios Gravables	Tasas
2015-2016	28%
2017-2018	27%
2019 and beyond	26%

<sup>6</sup> Legal Base: Article 28 of the IR. Law

7, 8, 9 y 10 This document was updated on June 2016, as of which the laws and regulations referred to throughout the report were fully in force. Please seek legal advice on their enforcement when required. Tax regulations and tax rates may be subject to variation. It is recommended to check <http://www.sunat.gob.pe/>



In addition, dividend distributions made to individuals (both residents or non-residents in Peru) or non-resident corporations are further subject to an additional Income Tax levied at a rate of 6.8% on the value of said distributions (this rate will be increased to 8% in 2017 and 2018, and to 9.3% as of 2019).<sup>8</sup>

Ejercicios Gravables	Tasas
2015-2016	6,8%
2017-2018	8,0%
2019 en adelante	9,3%”

The tax on profits must be withheld and paid to SUNAT by the domiciled company that does the distribution, unless the shareholder is another legal person domiciled in Peru.

**IR Branches of Foreign Legal persons:** The branches, agencies or other permanent establishments of foreign companies in Peru require to be domiciled for purposes of IR, so are the revenues produced of Peruvian source. Indeed, net income earned by branches of foreign companies is subject to tax in the same way as domestic firms.

### b. IR Non-resident companies

Non-resident companies are taxed in Peru with the IR for their Peruvian source income at the following rates:<sup>9</sup>

- Interest from external credits (with certain conditions): 4.99%
- Interest paid to outside companies with multiple operations established in Peru (banks and finance companies) for use in the country of abroad credit lines: 4.99%
- Income from the rental of ships and aircraft: 10.00%
- Royalties: 30.00%
- Dividends and other profit distribution: 6.80%
- Technical Assistance (prior compliance with certain requirements): 15.00%
- Revenue from sale of securities held, movable values within the country: 5.00%
- Revenue from sale of securities held, movable values outside the country: 30.00%
- Interest from bonds, debt, deposits: 4.99%
- Other income: 30.00%

**Presumption of Net Income for Non-Resident's international activities:**

IR Act presumes that companies not domiciled in Peru that perform part of their operations in the country and some abroad, earn income of the Peruvian source equivalent to the following percentages of their gross income:<sup>10</sup>

- Insurance activity: 7%
- Rent of aircraft: 60%
- Rent of ships: 80%
- Telecommunication Services: 5%
- Air Transport: 1%
- Chartering maritime transport: 2%
- Supply news or informative material: 10%
- Film distribution or similar: 20%
- Supply of containers: 15%
- Demurrage of containers for transport: 80%
- Transfer of television broadcasting rights: 20%

**Value-Added Tax (Impuesto General a las Ventas (IGV))<sup>11</sup>**

- **Scope:** applies to the following transactions:
  - Sale of movable goods within Peru;
  - Services provided or used within Peru;
  - Construction contracts;
  - First sale of real estate by constructors; and
  - Import of goods.

There will be a taxable sale in case of a transfer of movable goods for a price, regardless of the designation given to the transaction in the contracts or negotiations that originated said transfer and the conditions agreed upon by the parties.

- **Payers:** Individuals, companies, legal entities, irregular partnerships, associations, trusts, and mutual and investment funds that carry out any of the transactions subject to IGV. Also, the following may be subject to IGV rules as responsible parties: the purchaser of the goods, when the seller is not a

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<sup>11</sup> Source: SUNAT and [Doing Business in Peru by Ministerio de Relaciones Exteriores y Estudio Rodrigo, Elias, Medrano.](#)





Peruvian resident; individuals, companies or entities of any type designated as such by Law or regulation; the trustee – in case of a securitization trust – for the operations that the securitized property carries out according to its purpose, among others. Individuals and any type of entity that does not carry out business activities may be subject to IGV rules if they regularly import goods or carry out activities subject to IGV, as well as joint ventures, consortiums and other forms of business cooperation contracts that keep independent accounting from that of the investors or ventures.

- **Tax Rate:** As a general rule, the taxable base for IGV is the sale price paid for the goods or services, which may be adjusted by the tax administration based on their fair market value. The IGV tax rate is 16%. A 2% rate is added for the Municipal Promotion Tax, which is governed by the provisions applicable to IGV, resulting in a total tax rate of 18%.
- **Fiscal Credit:** is assessed and collected on the value of goods and services provided each time a transaction subject to IGV takes place. It applies to every stage of the production and distribution cycle, and has no cumulative effects. Generally, each seller of goods or services in the supply chain charges IGV on its sales, and is entitled to deduct from this amount the IGV paid on its purchases (“fiscal credit”).

Under IGV rules, in order to obtain fiscal credit, the purchase of goods or services must constitute operating costs or expenses to the taxpayer pursuant to Income Tax regulations (IR).

### Selective Consumption or Excise Tax (Impuesto Selectivo al Consumo (ISC))

The ISC (levies the import and local sale of certain so-called “luxury goods”, such as cars, cigars, cigarettes, liquor, beer, fuel and others. Depending on the respective good’s nature, the tax is determined based on different systems:

- on the good’s value (e.g., 30% in the case of used vehicles for public transportation); and,
- on a specific basis (e.g., S/.1.50 per litre of “pisco” – a Peruvian liquor).

The tax liability of this tax originates from the same opportunities and conditions for IGV, except for the case of gambling and betting where the tax liability arises at the time the income is perceived.

## [Detail of ISC Tax calculation](#)

### Detractions System

The system of detractions, commonly known as SPOT, is an administrative mechanism that contributes to the collection of certain taxes and basically consists of the deduction (discount) making the buyer or user of a good or service affect the system. They must deposit a percentage of amounts payable for these operations.

This sum is deposit it in the Bank of the Nation (Banco de la Nación), in a current account in the name of the seller or service provider, which, in turn, use the funds deposited to make tax payment.

The system of detractions applies to domestic sales of goods and services. Rates vary depending on the goods and services concerned, being the general 10%. We suggest reviewing relevant legislation for details.<sup>12</sup>

### Double Taxation Treaties with UE:

Peru has entered into double taxation conventions with Portugal and Switzerland, which are currently in force and are mainly based on the OECD Model Tax Convention. Generally speaking, the first right to tax is given to the taxpayer's country of residence. If any tax is applied or withheld in the source country, said tax may be used as a credit in the country of residence.

- [Convenio con la Confederación Suiza](#), in force since January 1st. 2015.
- [Convenio con la República de Portugal](#), in force since January 1st. 2015.

In addition to the above conventions, Peru has a multilateral agreement with the Andean Community (Bolivia, Colombia, Ecuador and Peru). According to this agreement, the first right to tax is given to the source country (the country in which the income arises or is generated).

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<sup>12</sup> <http://orientacion.sunat.gob.pe/index.php/empresas-menu/regimen-de-detracciones-del-igv-empresas/normas-legales-detracciones-empresas>





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## Links of interest:

- **Superintendencia de administración Tributaria Peruana - SUNAT:**  
<http://www.aduanet.gob.pe/aduanas/informag/importac.htm> .
- **MINCETUR: Ministerio de Comercio Exterior y Turismo:**  
<http://www.mincetur.gob.pe/newweb/>
- **Orientación al contribuyente:**  
<http://orientacion.sunat.gob.pe/>
- **Proinversión:**  
<http://www.proinversion.gob.pe/>

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