

Introduction

Our Location Offer

The strategic location of Peru in the central coast of the South Pacific facilitates the development of a regional commercial hub to strategically connect economies from Asia and North America to the Brazilian and the Andean economies.

Peru maintains a proactive attitude regarding the participation in free trade agreements that allow the access to expanded markets. Investors, who are established in the country, may have access to them.

Beyond being a country that shows a stable macroeconomic situation, with less risk in comparison with other countries in the region and clear comparative advantages that it presents in various sectors of the economy, Peru is a country that has one of the most attractive policies to face private investment and in particular foreign investment.

Peru is consolidating as an attractive investment destination, projecting itself as an efficient exportation platform which thanks to the signed Trade Agreements, offers preferential access to a market of over 2 million people.

General Principles of favorable policy to investment development:

- * The private initiative is free. It is practiced within a social market economy. Under this scheme, the government guides the development of the country, and operates mainly in the areas of promotion of employment, health, education, security, public utilities and infrastructure.
- * Only authorized by express law, the State may execute subsidiarily business, directly or indirectly by reasons of high public interest or manifest national interest.
- * The government promotes and monitors the free competition. It fights against any practice that limits it and the abuse of dominant or monopolistic positions. No law or arrangement may authorize or establish monopolies.
- * The domestic and foreign investment is subject to the same conditions. The production of goods and services and foreign trade is free.

Introduction to investment regime

Within the context of the economic objectives, Peru aims to foster sustainable development to improve the livelihoods of Peruvian nationals by welcoming foreign investment in order to develop comparative and competitive advantages of the country, increase productivity in potential areas of investment, and expand growth of employment rates.

Peru offers an open Foreign Investment Regime based on core international principles, an opened and deregulated economy involved in the globalization process, modern competition policies, relaxed labour regulations and a simplified tax regime. The State promotes private domestic and foreign investment, given the important role it plays in the country's economic development.

The legal framework governing foreign investments in Peru is based on national treatment. Foreign investments are allowed, without restrictions, in the most economic activities; just few services establish specific restrictions (e.g. mass media, air transportation, and land transportation are reserved for national investors or majority national share is required). No prior authorization is required for foreign investments; acquisition of national investors shares is fully allowed, through stock exchange or other mechanism. Except for a constitutional exclusion of resources' ownership of various kinds within fifty kilometers of Peru's international borders, FDI is welcomed in every geographical area of the country. Nevertheless, this exclusion can be waived by decree on a case-by-case basis.

WTO commitments are fully abide by. In that sense, no selection mechanism or performance requirement is applied or demanded to foreign investment. In cases where investments enjoy benefits coming from the subscription of legal stability agreements with the State, requirements are the same than those established for national investors.

The legal framework provides a regime to guarantee the stability of important investment rules and bilateral and multilateral instruments consolidates a stable and predictable investment climate. Peru is a member of the Multilateral Investment Guarantee Agreement - MIGA of the World Bank, the International Constitutive Settlement of Investment Disputes - ICSID, and UNCITRAL.

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In 2008, Peru became 41st adherent to the organization of Economic Cooperation and Development (OECD) Declaration on International Investment and Multinational Enterprises in acknowledgement to its impressive progress in fostering political reforms and improving business climate in the country.

Investment priority plan/equivalent policy

Investment priorities drive to the sustainable development of the country, based on the exploitation of our vast natural resources. Thus, the development of infrastructure is our main objective, in order to promote competitiveness and to facilitate the later development of agribusiness, aquaculture, tourism, wood industry and petrochemical.

In order to improve the business climate and encourage private investment growth, the Plan to Improve the Business Climate - July 2009-July 2010 is being implemented. This plan includes reforms in ten areas where the country needs to keep improving in order to attract more investments and foster stronger business development.

The target is to dramatically improve our current position in the business climate attractiveness worldwide ranking by the end of 2011. The plan incorporates reforms in the following areas: business set up, construction permits, contracts enforcement, foreign trade, tax payment, property registration, and investors' protection.

More information

The Private Investment Promotion Agency of Peru - ProInversion: www.proinversion.gob.pe

Regulation of foreign investment

Process for foreign entities/nationals to invest in our economy

To start companies in Peru there is no special authorization or special licensing in the case of foreign investment. Public institutions shall approve and publish the pertaining Unique Text of Administrative Procedures (TUPA in Spanish) in order to avoid delays and facilitate start-up business activities.

These activities include operating license formalities in Municipal Governments, the Ministry of Production, several Ministries and public organizations, registration with the Taxpayers Registry (National Superintendence of Tax Administration) and registration with other institutions such as the Public Registry for real estate property, corporate bodies, individuals and goods and chattels.

According to a report of the World Bank in 'Doing Business?', there are nine procedures to start up a company and the average time of the implementation process is about 41 days. Currently, there is an administrative simplification process under way to reduce overtaking time and fees. However, the main focus is being placed on administrative processes that face strong bureaucratic obstacles.

Timing and Step Process to start Companies

1. Check the uniqueness of the proposed company name

Time to complete: 1 day

Cost to complete: USD 1.47 per search and USD 5.58 per reservation. Based on UIT (Tax Unit) of S/. 3,55 as of January 01, 2009.

Before the company name is selected, a search must be conducted in the Public Registry to verify that the name is unique. This search takes no more than one day. The proposed name may be reserved or blocked for 30 days in the Public Registry so that no other company can register the same name during that time.

2. Notarize company documents by a notary

Time to complete: 5 days

Cost to complete: USD 200 notary fee (both fees depend on market conditions)

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The incorporation documents, duly authorized by an attorney and signed by the company's shareholders, must be presented to the notary public. In turn, the notary drafts the public deed and files it with the Mercantile Registry in 30 days. Notary fees are up to 1% of capital, depending on the company size, the length of the public deed, and the initial capital contribution.

The incorporation documents must include, at least, (a) the company name; (b) its purpose and duration; (c) the company domicile; (d) the initial capital contribution; (e) the shares nominal value and the total number of shares; (f) the classes of shares, if needed; (g) the name, nationality, marital status, occupation, and residence of any individual shareholder; (h) the names of the initial directors, managers, and agents; and (i) the date of startup operations.

3. Deposit at least 25% of capital in a bank and obtain proof thereof

Time to complete: 1 day

Cost to complete: 0.06% of transaction value

Each share must be fully subscribed and at least 25% of its nominal value must be paid in. Payment may be made in cash, goods or real estate. It is recommended that the initial contribution be made in cash, in this case this is done by depositing the funds in a bank account and obtaining proof (most banks require a marginal deposit to open an account, USD 400 for example). Initial contributions in goods and real estate must be appraised and the appraisal must be approved by the board after the registration of the company and before the shares may be issued.

4. Register the incorporation documents with the local legal entities public registry

Time to complete: 1 day

Cost to complete: 0.3% of capital + USD 15 for performing the registration + USD 08 per appointment of each director, manager or other representative, up to the limit of PEN 3,550 (equivalent to 1 UIT - Peruvian Tax Unit for FY 2009).

The notary public submits the notarized agreement, including the (a) the company's name; (b) capital stock and purpose; (c) the address of its head office and branches; (d) the name, nationality, marital status, occupation, and residence of any individual shareholder; (e) the names of directors; (f) capital structure and contributions; (g) proposed bylaws; (h) start date of company operations; and (i) proof of capital deposit in a bank account.

By law, every corporation (sociedad an?nima) must have at least three directors and one manager, except for the closed corporation (sociedad an?nima cerrada), which may choose not to have a board of directors.

5. The notary stamps the accounting book and the minute book

Time to complete: 1 day

Cost to complete: USD 7 per book of no more than 100 pages. Most companies have between 5 and 9 of these books. Thus, the cost will range between USD 35 and USD 63.

6. Obtain taxpayer identification number (Registro Unico del Contribuyente, RUC) at the National Superintendency of Tax Administration (Superintendencia Nacional de Administracion Tributaria, SUNAT)

Time to complete: 1 day

Cost to complete: no charge

Companies are no longer required to register with the Peruvian Institute of Social Security. Now they register with EsSalud. EsSalud and the Oficina de Normalizacion Previsional (ONP) are the State entities providing health and pension coverage, respectively. However, employees may elect to get this coverage from private companies. Contributions to the state social security system (EsSalud and ONP) are collected by the National Superintendency of Tax Administration, (Superintendencia Nacional de Administracion Tributaria - SUNAT). No further action on the matter is required.

This taxpayer identification card is used to identify companies for tax purposes with the Peruvian government, including income tax, value-added tax, municipal tax, and any other fiscal matters. To register for the card, only the Unified Taxpayer Registry form must be duly completed and submitted, upon showing: (a) company incorporation documents; (b) original identification card of legal representative; and (c) original voucher of water or electric services of the registered office for one of the past 2 months. The company must indicate in the form what taxes will apply to its activities.

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SUNAT became the front desk for all social and other contributions that private companies have to pay to comply with national tax regime in the country. None of payroll books need to be stamped physically, or Ministry of Labor needs to be visited for that matter. This procedure could be done in electronic format. Once the company is incorporated it will receive its taxpayer identification number (RUC) and a special login and password -"clave SOL". This pass allows to undertake electronic payments and provide information through the web-based system; www.sunat.gob.pe. Additionally, since January 2008, there is electronic payroll system "Programa de Declaracion Telematica- PDT -601". To date, 98% of incorporated companies, both small and medium size, use this electronic system.

7. Obtain a Certificate of Compatibility from the District Council

Time to complete: 6 days

Cost to complete: USD 40 depending on the District Council, some of them don't charge for the certificate

Companies must obtain a certificate of compatibility before obtaining a municipal license from the District Council (Procedure 10). The certificate of compatibility indicates that the proposed business is compatible with the area where its offices will be located and that these offices meet certain prerequisites, such as parking lots.

8. Obtain technical report of approval from the National Institute of Civil Defense (Instituto Nacional de Defensa Civil, INDECI)

Time to complete: 5-15 days

Cost to complete: USD 2 per square meter (with a maximum of \$1,000)

According to law, all companies that plan to operate an office or any other kind of establishment must obtain a Technical Report of Approval from the National Institute of Civil Defense (Instituto Nacional de Defensa Civil, INDECI). The certificate is valid for a year. The technical inspection consists of complying with the minimum security conditions and identifying the risks from the facility or construction. This process is required to determine the basic equipment necessary to adequately react in case of emergency.

Most district governments request that companies obtain this report as a prerequisite to granting the municipal license to operate. As a result of accidents during 2003, the reports are more difficult to obtain, adding more time to companies whose activities concentrate people in their facilities.

9. Obtain municipal license from the City Council

Time to complete: 15 days

Cost to complete: USD 90 (varies depending on the City Council where the company's office is located)

This procedure must be done after Procedures 6, 7, 8, and 9 are completed. A municipal license, required to operate commercially, is obtained from the municipality of the jurisdiction where the company is located. Some district councils require a provisional license while the permanent license is being processed. In most cases, the district council requires a copy of the incorporation documents, the public deed, the distribution plan, property title documents (if applicable) and the certificate of compatibility approved by the district council. Ordinance No. 857 simplified the license application process in the metropolitan municipality of Lima (Municipalidad Metropolitana de Lima). The certificate of compatibility, the technical approval report, and the definite business license can be obtained at the municipality in 7 days as part of a one-step process. In this municipality, the cost was also reduced and ranges from USD 30 to USD 150, depending on the company's activities.

Does this apply to all investment or, are there differential treatment?

No screening mechanism is applicable to foreign investment in Peru. There is no minimum size of investment restriction on FDI. No restrictions apply exclusively to foreign investors as to the degree of ownership interest or management control that they may exercise in any form of investment.

Conditions of investment

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Peru maintains very few restrictions on foreign investment. Foreign nationals and firms are not authorised to acquire directly or indirectly land and water resources located within 50 kilometres of the Peruvian border. Exceptions are possible subject to the authorisation by a Supreme Decree approved by the Council of Ministers in the case of expressly declared public necessity. Such authorisations have been granted for example in the mining sector.

Broadcasting is open only to Peruvian nationals and juridical persons organised under Peruvian law and domiciled in Peru. Foreign national may not own more than 40% of the total shares or equity in such a corporation and must be owners or shareholders in a radio or television broadcasting enterprise in their country of origin. If a foreign national is, directly or indirectly, a shareholder, partner or associate in a corporation, that corporation may not hold a broadcasting authorisation in a zone bordering that foreign national's country of origin.

In air transport, at least 51% of capital must be owned by Peruvian nationals and be under the real and effective control of Peruvian shareholders or partners permanently domiciled in Peru. This limitation shall not apply to the enterprises constituted under the Law No. 24882 which may maintain the ownership percentage set in this law (70 % of foreign ownership) Six months after the company is authorised to provide commercial transportation services, foreign national or foreign citizens may own 70% of the company's capital.

Only companies with majority Peruvian ownership (51% of the paid-in capital) may supply water cabotage services (i.e. maritime, lakes and rivers). Water transport and related services supplied in bay and port areas (such as fuel replenishment services, diving, transport of persons) must be supplied by natural persons domiciled in Peru and corporations incorporated and domiciled in Peru and properly authorised Peruvian flag vessels and equipment. In some cases, such as fuel replenishment services, to get the authorisation for the Peruvian flag, the company must be a national ship enterprise.

Investment promotion and facilitation

The Private Investment Promotion Agency of Peru (ProlInversi?n) was established in 2002 by merging three agencies previously responsible for such activities, namely (i) the Commission for Promotion of Investment (COPRI), which implemented the privatisation process of state-owned enterprises, (ii) the National Commission for Foreign Technologies and Investment (CONITE) responsible for foreign investment, and (iii) the Economic Division of the Peruvian Promotion Agency (PROMPERU).

ProlInversion is member of WAIPA and it has received technical assistance from a number of international agencies such as FIAS, UNCTAD and IFC. It has also concluded several cooperation agreements and memoranda of understanding with different agencies, notably the US Overseas Private Investment Corporation (OPIC), the Finnish Fund for Industrial Cooperation (FINNFUND), the Italian Agency SIMEST, the Japan Institute for Overseas Investment (JOI), Korea Trade-Investment promotion Centre (KOTRA), China Council for promotion of International Trade (CCPIT) and China Investment Promotion Agency. Similar agreements are currently negotiated with Brazil's APEX, PROMEXICO, Czheinvest, Export Development of Canada.

ProlInversion's investment promotion activities abroad are supported by the Ministry of Foreign Affairs through Peruvian Embassies abroad.

ProlInversion's scope of action includes promoting concession granting among its investment promotion responsibilities, such as developing public-private partnerships, asset sales or fostering joint ventures or management agreements for State-owned interests or property. ProlInversion is responsible for encouraging both local and foreign private investment, in order to foster competitiveness and sustainable development in Peru to improve the welfare of Peruvian people; it provides information and guidance concerning the possibilities of investing in Peru, solves inquiries and organizes the agenda of visiting potential investors to Peru. ProlInversion also advises and assists investors on the procedures for investing, promotes local business initiatives among foreign potential investors, and taps alternative foreign funding sources for local investments.

Additionally, ProlInversion proposes and executes policies on foreign investment. It signs agreements to provide State-backed guarantees to investors on the stability of basic rules governing their investments, identifies obstacles to investment, and proposes measures to remove them. This is possible because ProlInversion's Board sits five Ministers of State in the production and investment fields Prime Minister, Ministry of Economy and Finance, Ministry of Housing and Construction, Ministry of Energy and Mining, Ministry of Agriculture and the Ministry of Transportation and Communications), and because ProlInversion has signed cooperation and assistance agreements with several Regional and Local Governments.

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ProlInversion's strategy seeks to assist in the socioeconomic development in large projects' areas of influence through different mechanisms. To do so, it coordinates work by various government agencies.

ProlInversion seeks to strengthen new high productivity poles or cities with acknowledged competitive capacities through such private investment shocks.

The main services provided by ProlInversion to investors may be found at www.proinversion.gob.pe.

ProlInversion does not have a One Stop Shop for investor's formalities. Although, ProlInversion is making joint efforts with other Public and private entities to identify and remove administrative barriers in order to have an efficient administrative simplification for formalities related to investments in Peru.

More information about the process of investing in our economy

The Private Investment Promotion Agency of Peru - ProlInversion: www.proinversion.gob.pe

Investment protection

Protection of property rights and conditions for expropriation

Peruvian legal framework provides high protection standards for foreign investment covering matters on transfer, expropriation and compensation, intellectual property rights and settlement of disputes.

No prior authorization is required for foreign exchange operations. Every individual or corporate body is entitled to remit abroad or keep foreign currency in the country. Convertibility or transfer of funds related to foreign investment is free.

According to the current legislation, foreign investors are entitled to remit abroad the following, without prior authorization:

* The full amount of their capital generated from investments registered with the competent agency (ProlInversion), including the sale of shares, participation of rights, capital reduction or partial or total wind-up of the companies; and,

* The full amount of verified dividends or net profits generated from their investments, as well as the payment for the use or usufruct of goods physically located in the country and registered with the national competent agency

There is no restriction for the repatriation of funds related to foreign investment. Repatriation of profits, dividends, royalties, loan payments and liquidation do not require specific previous authorization. The foreign investment law gives specific assurances to investors in relation to convertibility and repatriation, in particular:

a) Free remittance abroad of profits, proceeds of asset disposals, royalties and payments for the use of technology; and

b) Access to the most favorable exchange rate for currency conversions for inward and outward remittances.

The IIAs signed by Peru grant investors protection against eventual non-commercial risks, such as State measures that may affect, without justification, the ownership of their investment or the normal management and exploitation of it. IIAs establish compensation in cases where an action or measure with expropriation effect is taken.

Likewise, IIAs signed by Peru guarantee that all transfers relating to a covered investment be made freely and without unjustified delay. Nevertheless, Peru holds the faculty to keep the security, solvency and integrity of its financial system through the equitable, non-discriminatory and good faith application of certain measures.

Expropriation and Compensation

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The Political Constitution of Peru, approved in 1993, guarantees property rights for foreigners and nationals. It sets forth that no person can be deprived of their property except by reason of national security or public need, expressly declared by Law, and after payment in cash of a fair-value indemnity including redress for any possible damages. An action can be filed with the Judiciary to contest the value assigned to the property by the State in the expropriation procedure. Complementary actions have been established in General Law of Expropriations approved in May, 1999.

No case of expropriation of foreign investment has been produced during the last twenty years. In August 1993, the Peruvian government concluded a Compensation Agreement for 7 years with the American International Group-AIG, for the expropriation of BELCO assets, occurred before 1990.

IAs protect against direct expropriation and indirect expropriation having an effect equivalent to nationalization or expropriation, including tax measures that may have confiscating effects. Compensation mechanisms for losses in case of armed conflict or civil war are taken under national treatment.

More information

The Private Investment Promotion Agency of Peru - ProInversion: www.proinversion.gob.pe

Protection of IPRs

Legislation in force protects national or foreign intellectual and industrial property rights. Article 2, item 8) of the Political Constitution sets forth that every person has the right to freedom of intellectual, artistic, technical and scientific creation, as well as to the property of those creations and their product. Besides, complementary provisions focused on protection of intellectual property have been given. As to industrial property, Legislative Decree N° 823 is aimed at regulating and protecting the constitutive elements of intellectual property and invention patents. The protection of copyright is given through Legislative Decree No 822 - Law on Copyrights.

Contracts for the use of technology, patents, trademarks or another element of intellectual property of foreign origin, technical assistance, basic and detailed engineering, management and franchising are freely negotiated between the parties and further registered with the National Institute of Defense of Competition and Protection of Intellectual Property - INDECOPI. The remittance of royalties is freely made through the national financial system, prior payment of the corresponding taxes.

Peru has adhered to the Paris Convention for the Protection of Industrial Property and the Inter-American Convention for the Protection of Trademarks and Commerce of Washington.

The State facilitates and supervises free competition, fights any limiting practice and regulates the exercise of dominant position in the market.

More information

National Institute of Defense of Competition and Protection of Intellectual Property - INDECOPI: www.indecopi.gob.pe

Flow of funds

The exchange rate in Peru is based on the market rules.

And if managed, under what circumstances or purposes does your government/central bank intervene?

The entity in charge of implementing the monetary and currency exchange policy is the Central Reserve Bank of Peru- BCRP. This entity only intervenes in case of sudden volatility of the exchange rate which hinders the normal performance of the economic activity and triggers risk creating problems for payment to companies and people who operates with foreign currency.

Are there any restrictions on the repatriation of funds related to a foreign investment (e.g. profits, dividends, royalties, loan payments)?

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There is no restriction for the repatriation of funds related to foreign investment. Repatriation of profits, dividends, royalties, loan payments and liquidation do not require specific previous authorization. The foreign investment law gives specific assurances to investors in relation to convertibility and repatriation, in particular:

a) Free remittance abroad of profits, proceeds of asset disposals, royalties and payments for the use of technology; and

b) Access to the most favourable exchange rate for currency conversions for inward and outward remittances.

Mechanisms to review decisions, and settle disputes

In the understanding that the question refers to the process of approval of applications for investment, it's important to mention that, the legal framework governing foreign investments in Peru is based on national treatment. Thus, foreign investments are allowed, without restrictions, in most economic activities. On that sense, there are no decisions to be reviewed because there is no prior authorization required for foreign investments.

What, if any, mechanism do you have for foreign investors to settle disputes?

In accordance with Peruvian's Political Constitution, enacted in 1993, and at present in force, national and foreign investors are allowed to submit disputes arising out of contracts to judicial or arbitration courts, by virtue of the protection mechanisms established in those contracts or in the law.

Furthermore, in order to be prepared to attend claims arisen out of breaches of the obligations contained in treaties, contracts and other agreements signed between public entities and foreign or national investors that include provisions regarding international dispute settlement mechanisms, Peru has implemented an investment disputes legal framework.

The Law 28933, Law of the System of Coordination of the State before the arising of international investment disputes, enacted in 2005, (Investment Disputes System), constitutes the main Peruvian law related to investment disputes. Between its objectives are found the creation of a system to optimize the response and coordination of the public entities before the arising of investment disputes, allowing a timely and appropriate response to them.

The Law mentioned above creates a Special Committee comprised by representatives of the Ministry of Economy and Finance, Ministry of Foreign Affairs, Ministry of Justice, and the Private Investment Promotion Agency - PROINVERSION, the Ministry of Foreign Trade and Tourism and the public entity responsible of the arising of the investment dispute if necessary -in these two last cases, depending on the matters involved in the dispute. This Committee is a co-operative body with competence to attend the dispute claims submitted by investors before itself in the previous stage of consultations and negotiations and, as the case may be, coordinate the arbitral or conciliation procedure.

ICSID

Peru is a member of the Multilateral Investment Guarantee Agreement - MIGA of the World Bank, the International Constitutive Settlement of Investment Disputes - ICSID, and UNCITRAL.

Peru signed the ICSID agreement on September 14, 1991 and it entered into force on September 8, 1993. Peru also adhered to the New York Convention "Convention on the Recognition and Enforcement of Foreign Arbitral Awards) on July 7, 1988.

Besides, Peru subscribed the Convention Establishing the Multilateral Investment Guarantee Agency on December 19, 1990 and ratified it on April 1991 (Legislative Resolution No 25312).

More information

The Private Investment Promotion Agency of Peru - ProInversion: www.proinversion.gob.pe

International investment agreements

With;

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Argentina; Australia; Belgium; Bolivia; Brazil; Canada; Chile; China, People's Republic of; Colombia; Czech Republic; Denmark; Ecuador; El Salvador; European Union; Finland; France; Germany; Italy; Japan; Korea, Republic of; Luxembourg; Malaysia; Netherlands; Norway; Paraguay; Portugal; Romania; Singapore; Spain; Sweden; Switzerland; Thailand; United Kingdom ; United States; Venezuela;

Please provide a brief description of these IIAs, or your IIAs in general.

Up to date, 35 International Investment Agreements have been signed with economies from the Pacific Basin, Europe and Latin America.

Most of the bilateral investment treaties were negotiated under a post-establishment approach during the '90s. In the present decade, Peru has adopted a new approach. The current "model" includes a broad definition on investment together with a pre and post-establishment scope and a negative list approach.

This new approach is reflected in the investment chapters included in the FTAs with the USA, Canada, Chile, China, Singapore, the European Free Trade Association and somehow in the Trade Agreement with the European Union.

Currently, Peru is negotiating FTAs including investment chapters with Korea, Japan, Mexico and also with Vietnam, Malaysia, New Zealand, Australia, Brunei, in the framework of the Trans-Pacific Partnership Economic Agreement.

Peru has concluded double taxation treaties with Brazil, Canada and Chile.

More information

The Private Investment Promotion Agency of Peru - ProInversion: www.proinversion.gob.pe

Movement of persons

Treatment of foreign nations or personnel of foreign firms

Hiring of foreign personnel is based on Legislative Decree No 689, which sets forth that local companies are entitled to hire foreigners up to 20% of their work force, provided that their salaries do not exceed 30% of the total wages paid by the company. Employers shall be exempt from the limiting percentage in the case of highly skilled technical and professional personnel. Workers may freely remit their after-tax salaries abroad.

Specific restrictions on personnel managerial aspects are established in:

* Services of investigation and security - Only Peruvian personnel is allowed to be hired (Regulations on private security services - Supreme Decree No 005-94-IN).

* Services of maritime transportation - Companies are allowed to hire only Peruvian personnel for tasks as loading and unloading, transship and mobilization of cargo in trading ships, from dock to ship and vice versa, and on bay.

The employer is empowered to guide and regulate labour relationships, give orders for the correct execution and punish any breach thereof.

Workers cannot be fired unilaterally and arbitrary by the employer. Nevertheless, it shall be considered that some kind of contracts, such as part-time contracts or contracts for specific tasks, exclude from this protection.

Labour controversies or disputes that may rise between the employer or worker initially may be submitted to conciliation process. In case, the solution is not reached by this process, controversies may be submitted to the Court where specialized tribunals solve them.

Applicable legislation is contained in the Unique Arranged Text of Legislative Decree No 728, approved by Supreme Decree No 002-97-TR; General Law on Labour Surveillance, approved by Legislative Decree No 910, and, Process Labour Law, approved by Law 26636.

Peruvian migration laws consider the existence of different migratory status, which allow foreigners to carry out several activities.

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Business: Foreigners are allowed the entry and sojourn up to 90 days, extended to 30 days more. In this case, foreigner cannot receive any income from Peruvian source, nevertheless, he may entered into contracts or make transactions. This kind of visa is temporary.

Worker: Foreigners are allowed to stay in Peru with the purpose of carrying out labour activities, as the result of labour contracts. The time authorized for living in Peru depends on the extension of the contract, previous approval from the Labour Ministry. In this case, the visa is a residence visa.

Free lance: Foreigners are allowed to live indefinitely in Peru to make investments, receive any income or to make free lance labours. The visa is a residence visa.

More information

Ministry of Labour: www.mintra.gob.pe/PERUINFOMIGRA/

Taxation

Taxation of foreign nationals and foreign firms

The taxes are created, amended or repealed, or an exemption is established only by law (Congress of the Republic) and Legislative Decree (Executive Branch) in case of delegation of Congress powers, unless tariffs (imports) and rates (administrative procedures), which are regulated by Supreme Decree. Town councils can create, modify and eliminate contributions and rates, or exempt from them, within their jurisdiction and within the limits prescribed by law.

The State, exercising the taxing power, must respect the reservation principles of the law reserve, equality and respect of the fundamental human rights. No tax shall have a confiscatory effect. The "legal reserve" means that all essential tax elements (obligors, tax base, aliquot, etc.), should be prescribed by law and having not entrusted the regulation of such matters to the regulations or to tax raising authorities.

Tax regulation issued in violation of the rules indicated in the preceding two paragraphs; simply do not take legal effect.

Central Government

The main taxes are:

- * **Income Tax** : rate applicable to domiciled legal persons is 30%, except for agricultural, agribusiness and aquaculture activities, for which is in effect a promotion regime that establishes a rate of 15%. There is also a promotional regime for the development of economic activities in the Amazonian and exemption from all taxes for certain productive activities in five industrial zones.
- * **Dividends and other forms of profit distribution** are subject to a rate of 4.1% applicable to the payment of dividends. The interest payable on foreign loans are taxed at a rate of 4.99% in the case of an interest to refute that does not exceed in more than three points the prime rate prevailing in the home market - it is worth mentioning that the interest paid abroad by multiple operating companies, established in the country, as a result of domestic use of its credit lines abroad pay a rate of 1% - the fee for technical assistance are taxed at a rate of 15%, while royalties for the use of know-how and intellectual property rights and other income payable abroad are subject to a rate of 30%.
- * **General Sales Tax**: value added tax that affects sales, imports, service provisions and construction activity, with a rate of 19%, which includes the rate of Municipal Promotion Tax.
- * **Excise Tax**: tax on the sale in the country, at the producer level, and imports of goods such as cigarettes, alcoholic drinks, soft drinks, mineral water, other luxury goods, fuels, and casino and bet games, applying rates of between 0% and 300% depending on the type of good or service. In some cases, it anticipates the payment of fixed amounts depending on the taxed product or service.
- * **Financial Transaction Tax**: temporary tax which tax at the rate of 0.05%, banking transaction in local or foreign currency (both debit and credit.) The tax will be in force until December 31, 2010. The tax will be deductible for purposes of income tax.
- * **Temporary Tax on Net Assets**: temporary tax that was in force until December 31, 2009. It is applied to the value of net assets to December 31 of the last year. For payments to be made during 2010, the tax shall be determined by applying on its taxable base the cumulative progressive scale as follows:

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o Rate: 0.0% Net Assets: Up to S/. 1 million

o Rate: 0.4% Net Assets: For more than S/. 1 million

o The properly paid tax may be used as a credit against payments on account or adjustment payments of income tax.

Local Governments

* Property Tax: rates vary between 0.2 and 1% according to the value of the property.

* Sales tax: Tax property purchaser with a rate of 3% (they are exempt of the first 10 UIT).

Others

Social contributions, including contributions to the Pension System (the employee will contribute 13% of his salary if he is affiliated in the national system, or proximately 12% if he is affiliated in the private system) and the contribution to EsSalud (employer shall contribute with 9% of worker's remuneration).

Others, such as contribution to SENCICO (0.02%) and contribution to SENATI (0.75%).

Is the basis for taxation economy or global? If the basis for taxing is global, with whom do you have tax treaties?

In order to solve the problems of international double taxation, Peru has begun a process of bilateral negotiations for the signing of "Agreements to Avoid Double Taxation." To date, agreements have been signed with Chile, Canada, Brazil and Spain. The agreements signed with Chile and Canada are in force since 2006. The agreement with Brazil will be implemented from 2010, while the agreement signed with Spain is in ratification process by the Congress of each country.

In addition, for investments among member countries of the Andean Community, there is the regime contained in Decision 578 issued by this organization.

More information

National Superintendence of Taxes Administration (SUNAT):
<http://inversionistaextranjero.sunat.gob.pe/index.php?lang=en>