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## Doing Business in Peru

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*MSI's guide on Doing Business in Peru provides current information about the financial, regulatory and legal considerations that could affect business dealings within Peru. For further assistance please contact our MSI member firm in Peru.*

## Country overview

### Population

Peru has a total population of 33.4 million inhabitants (Julio 2022).

### Government

The Peruvian Government is a representative democratic, secular Republic. The current President is Professor Pedro Castillo Terrones, the Peruvian government is presidential. The president is head of the State and Head of the Government. As Head of Government, the President is entitled to appointed several Ministers, how will be in charge of each Ministry.

Peru is politically divided into 24 departments, which are grouped into 8 regions, each region with his own regional local government.

The national language is Spanish. However, a considerable amount of people, especially in the large cities, speak English.

### Currency

The national currency is the Sol (ISO code PEN)

### Economic summary

GDP: US\$ 148,571,429.-

Income per capita: US\$ 6,692

Inflation: 6,5% (estimated at the end of 2022)

It is necessary to mention that Peru has 21 years of economic growth as of December 2019, that growth was interrupted by the pandemic in 2020, in 2021 there was a moderated growth, and for this year 2022 the expectations of economic growth are higher.

### Main sectors of the economy

The main sectors of Peruvian economy are mining, fishing, agriculture, livestock and tourism.

Peru has solid macroeconomic fundamentals, including relatively low public debt relative to GDP, sizeable international reserves, and a strong central bank. The Peruvian economy rebounded strongly in 2021, but poverty reduction slowed due to structural rigidities in the labour market and inflation. Projections are for GDP growth to return to its pre-pandemic trend of about 3 percent a year in 2022, as favourable export price momentum offsets political uncertainty. However, projections indicate that poverty will remain well above its 2019 levels.

Peru has 21 free trade preferential and binding trade agreements with 54 countries from up to from up to four continents. In addition, its a member of the world trade Organization and the Asia-Pacific Economic Cooperation Forum (APEC).

The Peruvian economy is open to trade with all the countries of the world, being its main trading partners China, United States, Canada, Korea Republic, Switzerland; Brazil, Mexico and Argentina.

The concession project to a Chinese economic group has been resumed, in order to build in Peru, the largest maritime port in Latin America, which would be the hub of trade between Asia and Latin America.

## Setting up a business

Companies in Peru must be incorporated and duly registered before a Notary Public and Public Registries.

Currently the processes to set up a company have been simplified and it is relatively fast to set up a company in Peru

In Peru it is easy to create a company, because the legal system makes it very easy for Peruvian investors and foreign investors to invest, private investment is encouraged and the requirements for it have been simplified

### Legal types of business entities

The main types of companies in Peru are the following:

1. Sociedad Anonima (S.A.)
2. Sociedad Anonima Cerrada (S.A.C.)
3. Sociedad Comercial de Responsabilidad Limitada (S.R.L.)
4. Empresa Individual de Responsabilidad Limitada (E.I.R.L.)
5. Sociedad Anonima Abierta (S.A.A.)

### Process of how to set up a business

In information provided by Sunarp, the national entity indicates and recommends that before starting the process of setting up a company or partnership, interested parties should evaluate the type of business they wish to register, the amount of initial capital and how they wish to finance it.

As an entity that regulates the procedures for setting up a business,

Sunarp highlights that there are various types of business activity as an individual or company.

According to what is stipulated by Sunarp, these are the requirements and 6 steps to follow to comply with the registration procedure of the natural or legal person:

1. Search, choose and reserve the name of your company
2. Prepare the minute of incorporation of the company or society
3. Capital contribution
4. Prepare public deed before the notary
5. Registration of the person or company in the Registry of Legal Entities of the Sunarp
6. Registration to the Single Registry of Taxpayers (RUC) for Legal Entities

#### *Financial year of taxes and financial accounts*

The financial year is equal to the calendar year. However, legal entities may choose for a different financial year if they wish. The BV is subject to corporation income tax. The branch is taxed with corporation income tax as well, but the parent company is liable to pay.

#### *Accounting and auditing*

In Peru, the presentation of audit reports is mandatory for those companies that list their shares on the Lima Stock Exchange, those that issue bonds and those regulated by the Superintendence of the Securities Market, Superintendence of Banking and Insurance and AFPs, National Health Superintendence

#### *Economic and fiscal incentives*

The Tax expenditures are the income that the State fails to receive by granting tax incentives and benefits that reduce the tax burden of a particular group of taxpayers.

Thus, it is estimated that with this denomination there would be about 200 benefits and tax incentives in the country, which represent 2.2% of GDP

According to the National Superintendence of Customs and Tax Administration (Sunat), the most relevant incentives have been granted to the agricultural sector, promotion of the Amazon, financial intermediation, education, drawback, transportation, games of chance and betting, and construction.

Hence, the agricultural sector includes the sale of agricultural goods exempt from VAT payment, accelerated depreciation of hydraulic and irrigation infrastructure works, and a lower rate of income tax (IR).

#### *Incentives foreign investors/ local investors*

Foreign tax relief Tax credits are permitted, within certain limits, for taxes paid abroad on foreign-source income. Since January 1, 2019, domiciled taxpayers are entitled to deduct the corporate income tax paid by non-domiciled companies of first and second level that distributed them dividends. Regarding paid Income tax deduction by first level non-domiciled companies, the domiciled entity must have direct participation on at least 10% of the total shares with voting rights of the first level non domiciled company. In this context, there are two forms of deductible income tax: (i) The one paid or withheld abroad for distributed dividends or; (ii) the corporate income tax according to the amount of the dividends abovementioned. In terms of paid Income tax deduction by second level companies, the domiciled entity must have direct participation on at least 10% of the total shares with voting rights of the second level non-domiciled company. For this, the second level non-domiciled company needs to be:

1. Resident of a country that has celebrated an information exchange treaty with Peru or
2. Resident of the same country as the first level non-domiciled company.

## **Taxation**

Pursuant to the Peruvian Income Tax Law (PITL), domiciled taxpayers are

subject to said tax on a worldwide basis; whereas, branches, agencies, and permanent establishments (PE) of non-resident entities incorporated in Peru, are subject to income tax on their Peruvian source income. Peruvian income tax applies on an annual and accrual basis. Taxpayers are also subject to monthly advanced income tax payment.

#### *VAT*

Peruvian VAT law establishes that the following transactions will be subject to VAT at a rate of 18%.

#### *Income tax*

The tax base for income tax purposes is divided into the following:

1. Income from work and home
2. Income from substantial interest
3. Income from savings and investments.

Each has a different tax rate.

#### *Corporate income tax*

Subjects who have obtained income or losses of third category as taxpayers of the General Regime and/or the Regime Tax MYPE of the Income Tax (for medium and small companies) They are also required to submit the annual sworn statement, persons or entities generators of third category income that had carried out operations taxed with the Tax on Financial Transactions (ITF) for having made the payment of more than 15% of their obligations without using cash or means of payment

#### *Registration procedures*

Private persons and companies are registered with the tax authorities and are given a fiscal registration numbers Single Taxpayer Registry (RUC). Communication with the tax authorities by way of tax returns and tax assessments is largely done in an electronic way.

#### *Participation exemption*

The value of the shares and participations that a person owns in a company is exempt from Wealth Tax, if ALL of the following requirements are met:

**Requirement 1: Minimum Participation**

In the first place, for the shares or participations to be exempt, one of these two assumptions must be met:

That the person owns at least 5% of the capital of the company individually, that you own at least 20% jointly with your spouse, ascendants, descendants or collaterals up to the second degree.

**Requirement 2: Economic activity**

Another requirement is that the main activity of the company does not consist of the mere possession of real estate or shares in other companies, so that more than 50% of the assets must be used for economic activities.

**Wage tax**

The basis and rates of wage tax is similar to the income tax for individuals. Wage tax is a withholding tax and as such it is an advance payment on income tax. Retention rates are in the range of 8% to 20% depending on the salary level of the employee.

**Withholding taxes**

The AFPs (Retirement Fund) retain up to 12% of your salary, while the latter is the public system and applies a discount of 13% of your monthly salary. On the other hand, the other law discount is the Income Tax whose rates are staggered depending on the salary level of the employee.

**HR/ Labour Law****Employment law**

There are two main forms of direct labor relation in Peru:

**Unlimited Term Agreements:** Those signed for an unlimited period of time.

**Fixed Term Agreements:** Those signed for a limited period of time.

They must be formalized in writing and the purpose must be duly detailed in the contract. According to Legislative Decree 1246, approved on November 11th, 2016, fixed term agreements and trainee agreements do not need to be registered with the Labour Authority.

**Social security**

The Employee's Compulsory Social Security to provide protection to public and private employees against the risks of illness, maternity, disability, old age and death.

Through the Social Security System, it is a set of schemes through which the State guarantees people included in its field of application, for carrying out a professional activity, or for fulfilling the requirements demanded in the non-contributory modality, as well as to relatives.

According to the above schemes, social security in Peru has been diversified into four entities:

1. ESSALUD Health Provider, belongs to the government
2. Health Provider Entities (EPS) is private
3. Pension Standardization Office (ONP) belongs to the government
4. Private Pension Fund Administrators (AFP) is private

The main sources of health financing are Peruvian households; employers; and the State, through regular resources, regional resources and health debt. To a lesser extent, contributions are received from external cooperators, internal donors and the private sector.

**Pension**

Peru has a mixed pension scheme. Workers can choose between belonging to the National Pension System (SNP), run by the ONP, or the Private Pension System (SPP), managed by the AFPs. The current structure of Peru's pension scheme has been in operation since 1993, when the Private Pension System (SPP) was instituted, managed by the Pension Fund Administrators (AFP). The mandatory individual capitalization model was taken as a reference; however, in the Peruvian scheme, the SPP coexists with the National Pension System (SNP), which was created 20 years earlier and is now in charge of the Pension Normalization Office (ONP). This "mixed" scheme between public and

private administration works in other countries of the region.

**Payroll**

The company must first be registered with the labour authority, who will be the agent that will withhold the taxes on the worker's remuneration, in order to then register the worker. The worker must be registered in the salary sheet from the first day of work, said salary and wage sheet is reported to the labour authority on a monthly basis for the payment of the taxes withheld from the worker and the contributions of the company.

**Visa and work permits**

A work visa can be applied for from abroad or after entering Peru for business or tourism. The procedure is personal or through a legal representative. Having a work visa is an essential requirement for registration on the professional's payroll that will allow you to live and work legally in our country.

Although the process of obtaining a work and/or residence visa in Peru can take 3 to 4 months, the requirements to apply for that visa are simple to obtain.

## Contact us

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The information provided in this guide cannot be exhaustive and we recommend anyone considering doing business in Peru should seek professional advice from our member firms before making any business or investment decision.

### Contact our member firms in Peru to discuss your requirements:

#### Accounting member

#### **Cruzate La Torre & Asociados**

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