



Peru

Introduction

A person's liability to Peruvian tax is determined by residence status for taxation purposes and the source of the individual's income. For residents, income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income. For nonresidents, income tax is levied at a flat rate on an individual's taxable income for the year.

Contact

Guillermo Grellaud-Pigati
KPMG in Peru

Tax Partner

T: +51 1 611 3000

E: ggrellaud-pigati@kpmg.com

Key messages

Extended business travelers are likely to be taxed on employment income relating to their Peruvian workdays.

Income tax

Liability for income tax

A person's liability for Peruvian tax is determined by residence status. A person can be a resident or a nonresident for Peruvian tax purposes.

A resident is defined as someone who has spent 183 days in Peru within any 12-month period. This status is lost after the individual is absent from the country at least 184 days (in total) during the previous year.

A change in the tax treatment applies at the start of the following Peruvian tax year.

As a general rule, a person who is a resident of Peru is assessable on the individual's worldwide income. Nonresidents are generally assessable on income derived directly or indirectly from sources in Peru. Extended business travelers are considered nonresidents of Peru for tax purposes.

Definition of source

Employment income is generally treated as Peruvian-sourced compensation when the individual performs the services while physically located in Peru.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Peru. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment and Peruvian-sourced income and gains from taxable Peruvian assets (such as real estate).

Tax rates

Peruvian individual income taxes are calculated using a progressive scale expressed in tax units. These units are established each year by the government, and the current tax unit value for 2011 is 3,600 Peruvian nuevo sol (PEN). It was PEN 3,600 for 2010; PEN 3,550 for 2009; and PEN 3,500 for 2008.

For residents, net taxable income is taxed at graduated rates ranging from 15 percent to 30 percent (15 percent, 21 percent, and 30 percent). The maximum tax rate is currently 30 percent on income earned over 54 tax units. Nonresidents are subject to a flat tax rate of 30 percent on total taxable income.

Social security

Liability for social security

Employers and employees must make contributions to the social tax scheme in Peru as follows:

Type of insurance	Paid by		Total percent
	Employer Percent	Employee Percent	
Health system	9	0	9
Pension Fund	0	13	13
Total percent	9	13	22

Source: KPMG in Peru, June 2010

With regard to the pension fund:

- The employee can choose between the Public Pension System (ONP) and the Private Pension System (from the available pension management companies)
- ONP applies a rate of 13 percent, while each company of the Private Pension System applies different rates, so the 13 percent listed above is an average value.

Peru has entered into a formal social security totalization agreement with the 20 other Iberoamerican Organization countries to prevent double taxation and allow cooperation between Peru and overseas tax authorities in enforcing their respective tax laws. However, such agreement has not been entirely implemented in Peru.

Compliance obligations

Employee compliance obligations

Annual income tax returns are due during the first three months following the tax year-end, which is December 31. Due dates are established each year by the Peruvian tax administration (SUNAT).

Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Go (PAYG) system. If an individual is taxable on employment income, the employer has a PAYG withholding requirement.

Withholding obligations are applied only to resident employers. If the employer is a nonresident entity, no tax withholding obligation arises, and it is the responsibility of the employee to file and pay the corresponding taxes properly.

Other

Work permit/visa requirements

In general, the individual must apply for a visa before entering Peru. The type of visa required will depend on the purpose of the individual's entry into Peru. Under limited circumstances, an individual may enter the country on a business visitor

visa, called Visas de *Negocios*. In order to qualify for the business visa, the short-term traveler, among other very limited activities, may attend meetings, attend a sales call on behalf of a non-Peruvian entity, and attend seminars. Another type of visa and, possibly, work permits will be required for individuals not meeting the criteria.

Business visas are generally valid for 90 days. The maximum business visa stay is 183 days.

If the foreign individual will perform services within Peruvian territory under an employment relationship (either with a Peruvian employer or with a foreign employer), the individual will need a work visa. This visa could be applied for and granted by the Peruvian Consulate abroad before entering Peru or as a result of the procedure of change of migratory quality upon DIGEMIN (Peruvian immigration office). Therefore, a foreign individual is allowed to change migratory status while being in Peru.

Double taxation treaties

In addition to Peru's domestic legislation that provides some relief from international double taxation, Peru has entered into double taxation treaties with six countries (Bolivia, Brazil, Canada, Colombia, Chile, and Ecuador) to prevent double taxation and allow cooperation between Peru and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is the potential that a permanent establishment (PE) could be created as a result of extended business travel, but this would depend on the type of services performed and the level of authority the employee has.

A simple assignment of employees to Peru will not result in a PE in Peru. The following are considered to be examples of a PE of a nonresident entity:

- A person acting in Peru on behalf of the nonresident entity and empowered by it to sign contracts on its behalf who habitually uses such empowerment in Peru
- A person acting in Peru on behalf of the nonresident entity who habitually maintains goods in stock within Peruvian territory to be negotiated in Peru.

Indirect taxes

The standard rate of value-added tax (VAT) is 16 percent. The municipal promotion tax (*Impuesto de Promoción Municipal* (IPM)) of 2 percent is also added to the value of goods or services used to determine the IGV (Peruvian VAT), which results in an 18 percent sales tax overall.

The Peruvian VAT (*Impuesto General a las Ventas* (IGV)) is a tax based on the value-added method. It is applied following the subtraction method on a financial basis of tax against tax.

VAT is payable on:

- The sale of goods in the country
- The rendering of services in the country
- The use of services in Peru (rendered by nonresidents)
- The first sale of real estate performed by the builder or companies linked to the builder
- Building activities
- Imports of goods

There is no special registry in Peru for VAT. Nevertheless, there is a general obligation for taxpayers to register with the Peruvian tax authority (SUNAT) to obtain their taxpayer identification number (*Registro Único de Contribuyentes* (RUC)).

The aforementioned registry not only includes VAT-taxable persons, but all other types of taxpayers and/or taxable persons subject to Peruvian tax laws as well (including income tax, VAT, and others).

Transfer pricing

Peru has a transfer pricing regime based on arm's-length principles. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Management fees are deductible unless they are paid to a resident of a tax haven. The authorities release a list of tax havens each year. A 30 percent withholding rate is applied to management services performed in Peru, but does not apply if the services were rendered abroad. Additional information can be found in Articles 24 and 108-118 of the Income Tax Regulations and Resolution 167-2006.

Local data privacy requirements

Recent legislative activity and governmental agency reports has Peru moving towards a comprehensive data protection regime based upon the EU Data Protection Directive 95/46/EC. Until those laws are passed, various laws and articles of the 1993 constitution outline current data privacy rights.

Exchange control

Peru does not restrict the flow of Peruvian or foreign currency into or out of the country.

Nondeductible costs for assignees

Nondeductible costs for assignees include contributions by an employer to non-Peruvian pension funds.

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