



**DOING BUSINESS
IN PERU**

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Foreword

This publication was prepared by MG Abogados Peru, an independent member of ABL. It has been designed as a guide to assist foreign businesses and entrepreneurs by answering questions they may have when planning their first venture into the Peruvian market.

MG Abogados Peru is an international business law firm located in Lima. Its practice focuses on providing comprehensive assistance, both judicial and extrajudicial, to foreign companies wishing to invest or expand in Peru. The firm is highly experienced in leading clients through the complex bidding processes for large-scale projects throughout Peru.

This guide is one of a series of "Doing Business" publications compiled by ABL and its member firms. The ABL network links lawyers around the world. With nearly 1,000 lawyers and 53 offices in 31 countries, ABL allows businesses access to global creative and entrepreneurial legal advice encompassing tax, labor, intellectual property, securities, and mergers and acquisitions.

Up-to-date advice and general assistance on Peruvian legal matters can be obtained from:



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1. Peru: Profile and Business Environment

1.1. The Peruvian Constitution and Government

- Peru is a presidential democratic republic.
- The President is the head of state and government and is elected for one 5-year term.
- The President can be re-elected only after standing down for at least 1 term (5 years).
- Voting is compulsory for all citizens aged 18 to 70 years.
- The President appoints the Prime Minister, who advises the President on the selection of members of the Council of Ministers.
- The Peruvian parliament, known as El Congreso de la República, is unicameral with 130 members elected every 5 years by universal suffrage. Additionally, 5 members of the Andean parliament are elected on the same day as their Peruvian national counterparts. The members of Congress are elected from each Peruvian province or region.
- Bills can be proposed by either the executive or the legislative branch; a bill becomes law after being passed by Congress and promulgated by the President.
- Peru is divided into 25 autonomous regions plus the constitutional province of Callao. These regions share in the centrally collected tax revenues and collect certain taxes that are reserved for their autonomous use. Each region has an elected government composed of a regional governor and council that serve 4-year terms.

1.2. Domestic Market Population

- According to the National Institute of Statistics & Computing (INEI), the country's population is estimated at 31,151,643 as of June 30, 2015. As of 2014, the annual growth rate of the Peruvian population is 1.10%.
- 76.6% of the population resides in urban areas, while 23.4% reside in rural areas.

1.3. Area and Borders

- Peru encompasses an area of 1,285,216 square kilometers and is bordered by Ecuador and Colombia to the north, Brazil to the east, Bolivia to the southeast, Chile to the south, and the Pacific Ocean to the west.

1.4. Currency

- The currency of Peru is the SOL (S/).

1.5. Language

- According to Article 48 of the Peruvian Constitution, Spanish is the official state language. Quechua, Aymara, and other predominant regional indigenous languages are also considered official.



2. Economy

Figure 1. Peru GDP (\$USD in millions)

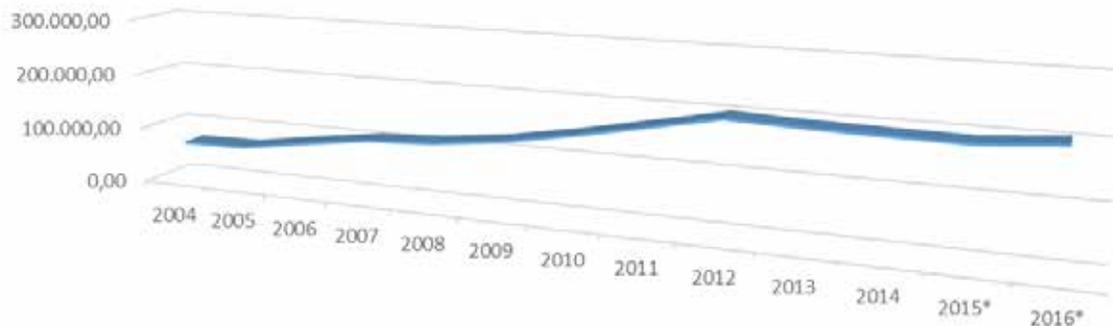


Figure 1: Source: BCRP/MEF

In 2015, the Central Reserve Bank of Peru (in Spanish: Banco Central de Reserva del Perú [BCRP]) and the Ministry of Economy and Finance (MEF; In Spanish: Ministerio de Economía y Finanzas) estimated that the gross domestic product (GDP) was \$194 billion. The estimated GDP for 2016 is \$204 billion (**Figure 1**). *Estimated GDP.

According to the most recent data compiled by the Economic Commission for Latin America and the Caribbean (ECLAC; in Spanish: Comisión Económica para América Latina y el Caribe [CEPAL]), Peru's GDP of economic activity is categorized by percentage in **Figure 2**.

Currently, the services sector is the main contributor to the Peru's GDP at 60%. Telecommunications and financial services are the main branches of the services sector; together, they account for nearly 40% of the GDP.

Figure 2. Total Peru GDP by Economic Activities (%)

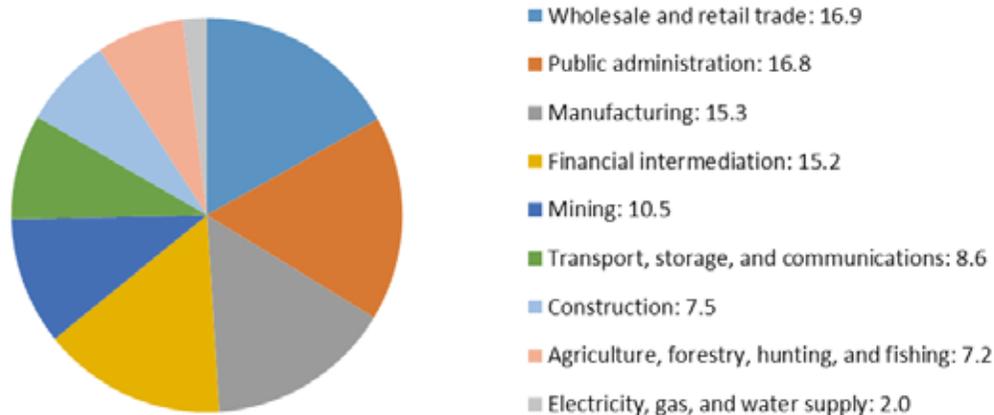


Figure 2: Source: ECLAC

2.1. Unemployment

Peru's unemployment rate has fallen considerably in the past decade thanks to improvement in the nation's macroeconomic performance. The International Labor Organization (ILO) 2013 Global Employment Outlook indicated that Peru presented the greatest decrease in urban unemployment in Latin America and the Caribbean, dropping from 7.2% to 6.0% by the close of 2013. In 2014, the Peruvian Ministry of Labor reported that the unemployment rate dropped further to 5.5%.

2.2. Prices and Interest Rates

Consumer prices in Peru rose 3.91% in April 2016, slowing from 4.30% in March of the same year; it is the lowest inflation figure since October 2015. For 2016, the BCRP has targeted an annual inflation rate of 1.0% to 3.0%.

Peruvian interest rates are set and reported by the BCRP. The average interbank interest rate in 2015 was 3.5%, and the preferential corporate rate was 4.5%. The average annual rate for national consumer prices and food in 2014 was 3.2%.

The most important categories in the Consumer Price Index basket for Peru are Food and Non-Alcoholic Beverages (25.7%), Transportation (12.6 %), Restaurants and Hotels (11.9 %), Housing, Water, Electricity, and Other Fuels (9.2%), and Education (9.1 %). The other categories, Goods and Services, Furniture and Household Equipment, Clothing and Footwear, Leisure and Culture, Communications, Health Care, and Alcoholic Beverages and Tobacco, account for the remaining 31.5%.

2.3. Foreign Trade and Balance of Payments

Peru's foreign trade policy has promoted a challenging trade liberalization program that enables the country to fully participate in and contribute to the global economy. The government has focused on expanding the market for Peruvian exports and increasing and diversifying trade to promote employment, cost reduction, and improving the country's general competitiveness.

As documented by the International Monetary Fund (IMF), World Bank, and other domestic and global financial authorities, Peru's export earnings depend heavily on world market prices in metals and fish meal. For this

reason, the country is now experiencing a slight current account deficit. It is expected that this deficit will narrow over the coming years.

In 2015, Peruvian exports reached \$USD 34.15 billion, and imports reached \$USD 37.36 billion. Specialized institutions expect that Peru's global position will remain stable due to a low debt profile and a strong business environment that can secure foreign investment.

2.4. Financial Institutions

The Superintendence of Banking and Insurance (SBS) is a constitutionally autonomous institution organized under public law. Its purpose is to protect the public's interests in the country's financial and pension insurance systems. The SBS controls and supervises the companies of the financial and insurance systems, as well as individuals and corporations organized in accordance with the SBS and other laws, exclusively in corresponding matters.

The General Law of the Financial and Insurance Systems and Organic Law of the Superintendence of Banking and Insurance (Law No. 26702) establishes the non-participation of the state in the financial system, except for its investments in the Peruvian Development Bank (in Spanish: Corporación Financiera de Desarrollo S.A. [COFIDE]) as a second-level development bank in the National Bank (in Spanish: Banco de la Nación), the Agriculture and Livestock Bank (In Spanish: Banco Agropecuario), and in the Housing Fund (in Spanish: Fondo MiVivienda).





According to Law No. 26702, the following companies exist in the Peruvian financial system:

- **Banking company:** Receives money deposits from the public or under any other public contractual modality and uses that money, its own capital, and capital that may be obtained from other financial sources. The banking company can grant credit under different modalities, or applies credit to operations (subject to market risks).
- **Financial company:** Obtains monetary resources from the public; it specifically facilitates placement or primary securities issues, operates with bearer securities, and advises on financial character assessments.
- **Rural saving and credit institution:** Obtains monetary resources from the public; it specializes in granting financing to small and micro companies in rural regions.
- **Municipal saving and credit institution:** Obtains monetary resources from the public; it specializes in the development of financing operations for small and micro companies. These companies are not allowed to make business deals with any municipality in Peru.
- **Municipal popular credit institution:** Grants credit for material goods to the general public as well as performs active and passive operations with the corresponding Provincial and District Councils and municipal companies; it also provides banking services to these councils and companies.
- **Company for the development of small and micro enterprise (in Spanish: Entidad de Desarrollo para la Pequeña y Microempresa [EDPYME]):** Grants financing to Peruvian companies of small and micro enterprise.

- **Financial leasing company:** Specializes in the acquisition of personal and real property which are then assigned for use by an individual or corporation in exchange for a periodic rental payment. This may be done with the option of purchasing said property at a predetermined value.
- **Factoring company:** Acquires approved invoices, securities and, in general, any bearer securities representing a debt.
- **Bond and guaranty company:** Grants bonds to guaranty individuals or corporations, before other financial system foreign companies, for operations related to foreign trade.
- **Trust service company:** Acts as the trustee in the administration of autonomous trust assets or in the fulfillment of trust commissions of any type.
- **Savings and credit cooperatives:** Authorized to receive monetary resources from the public as detailed in Article 289 of Law No. 26702.

2.5. Stock Market

Stock exchanges in the Peruvian capital of Lima provide markets for government securities, public and corporate bond issues, and shares in leading Peruvian companies.

The Lima Stock Exchange (in Spanish: Bolsa de Valores de Lima [(BVL)]) is the stock and major securities exchange market of Peru. The General Index of the Lima Stock Exchange (in Spanish: Índice General de la Bolsa de Valores de Lima [(IGBVL)]) is a value-weighted index that tracks the performance of the largest and most actively traded stocks on the Lima exchange. Business is conducted both on a trading floor and via an electronic system.



3. Foreign Trade and Investment

Rapid growth in global trade and foreign investments in Peru in recent years has made the country one of the 20 most international trade-oriented nations in the world. According to the World Bank's report, Doing Business 2016, Peru is very much open to regional and international trade and has a favorable environment for foreign investors, ranking 50th out of 189 countries. Additionally, Doing Business 2016 ranks Peru as 15th in international credit worthiness. Among South American countries, The World Bank ranks Peru as 2nd in ease of doing business. Also, the IMF and Bloomberg L.P. note that Peru is one of the best frontier markets for global investments.

Peru's new commercial policies have allowed expansion of the Peruvian export market and has enabled over 94% of Peruvian exports to penetrate more than 50 countries under very competitive conditions. The main traditional exports of Peru are gold, oil, natural gas, zinc, lead, iron, fish meal, and coffee.

Peru's sound economic policies have been key to obtaining an investment grade from major international credit rating agencies Standard & Poor's, Fitch, and Moody's. From 2004 to 2014, Peruvian exports grew from \$USD 12.5 billion to \$USD 34.1 billion (Figure 3).



Figure 3. Trade Balance (\$USD in millions)

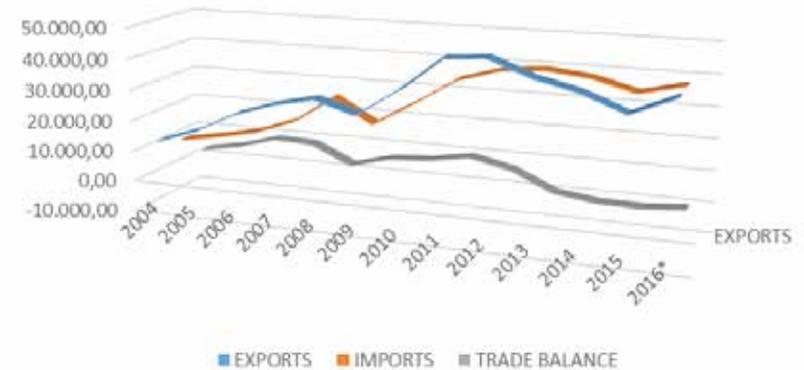


Figure 3: Source: BCRP/MEF

Peru has worked alongside 12 of the 21 participating countries of the Asia Pacific Economic Cooperation Forum (APEC) to develop the Trans-Pacific Partnership Agreement (TPP) that has become the most challenging negotiation process between the Asia, Oceania, and the Americas. The TPP paves the way for a future Free Trade Area of Asia Pacific (FTAAP).

Peru has also signed 20 trade agreements to increase and consolidate access to its main trading partners' markets for its main products, as well as the Free Trade Agreement with the European Union (EU) that has been in effect since March 2013. Peru is currently negotiating additional agreements with Turkey, El Salvador, the Trade in Services Agreement (TISA), and the Doha Development Round.

In 2014, the EU certified Peru's access to the Schengen System in recognition of the country's trade accomplishments. As of March 15, 2015, Peruvians do not need a Schengen Visa to enter Europe. In October 2015, the annual meeting of the World Bank Group and the IMF took place in Lima and brought together finance ministers and central bank governors from the institutions' 188 member countries.

Table 1 shows the Peruvian trade balance for 2015.

| Table 1. Peruvian Trade Balance, 2015 (\$USD in millions) | | |
|--|-----------------------------|---------------|
| I. | Exports* | 34,157 |
| | Traditional products | 23,263 |
| | Fishing products | 1,438 |
| | Agricultural products | 691 |
| | Mining products | 18,832 |
| | Oil and derivatives | 2,301 |
| | Non-traditional products | 10,807 |
| | Other exports | 87 |
| II. | Imports | 37,363 |
| | Consumer goods | 8,762 |
| | Intermediate goods | 15,932 |
| | Capital goods | 12,006 |
| | Other imports | 664 |
| III. | Trade balance (I-II) | -3,207 |

*Includes estimated gold exports not recorded by Customs.

Table 1: Source: BCRP, 4th Quarter 2015

Peru recorded \$ 7.89 billion in foreign investments in 2014, placing the country high in the top 5 best investment grades in Latin America. The 5 Latin American nations with the highest investment grades (2016 data) are presented in **Table 2**.

| Table 2. Investment Grades: Top 5 Countries in Latin America | | | |
|---|------------------------------|--------------|----------------|
| Country | Standard & Poor's | Fitch | Moody's |
| Chile | AA | A+ | Aa3 |
| Peru | BBB+ | BBB+ | A3 |
| Mexico | BBB+ | BBB+ | A3 |
| Brazil | BBB- | BBB | Baa2 |
| Colombia | BBB | BBB | Baa2 |

Table 2: Sources: Standard & Poor's, Fitch, and Moody's

Peru is now a leader amongst the South American receptors of foreign direct investments (FDIs), behind Chile but ahead of Argentina with an FDI influx reaching \$USD 7.68 billion in 2015. A favorable external environment, prudent macroeconomic policies, and structural reforms helped to create a scenario of high growth and low inflation; thanks to its attractive legal and fiscal framework, Peru continues attracting FDI.

Figure 4 shows the FDI flows into Peru from 2000 to 2016.

Figure 4. FDI Flows Into Peru (\$USD in millions)

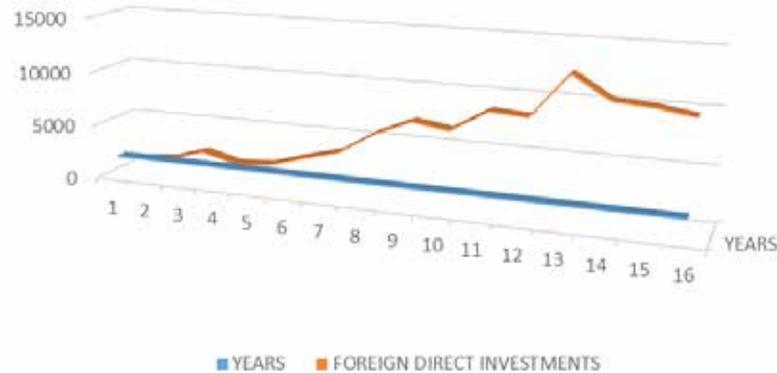


Figure 4: Source: BCRP/MEF

Peru, a country rich in natural resources, exports goods that are highly subject to price volatility. FDI flows into Peru fell in 2013 following slowdowns in Latin American and China. As noted in Section 2.3 (Foreign Trade and Balance of Payments), Peru's export earnings depend heavily on world market prices in metals and fish meal, and for this reason is now experiencing a current account deficit.

According to the World Bank, the main challenges ahead that may have an impact on Peru's economic growth include the decline in commodity prices and a possible period of financial volatility associated with the expectation of higher interest rates in the United States.

Peru's FDI comes primarily from Spain, its largest investor; the United States, and Great Britain. Chile, Brazil, and the Netherlands were also important investors in Peru in 2015.

Investors in Peru have the same rights over their investments as local investors, based on the principle of "national treatment." Peru has also a friendly legal framework for investments and offers an attractive business environment for both national and foreign investment, including non-discriminatory treatment of foreign investors, unrestricted access to most economic sectors, and free transfers of capital. It is strictly forbidden to apply unequal treatment to investors with regard to prices, exchange aspects, tariffs, non-custom duties, business information, or any other feature with equivalent effects based on nationality, types of economic activity, or geographic location in the country.

The only investments requiring approval are those involving weapons and/or explosives, private security and surveillance, investments in maritime or air transport, and those located within Peru's borders or in protected natural areas.





4. Setting Up a Business

All companies established in Peru are governed by the General Law for Companies, No. 26887 (in Spanish: Ley General de Sociedades [LGS]) that was approved and published by the Peruvian Congress on December 9, 1997.

There are many ways in which a business may be set up in Peru. This section outlines the most common methods.

4.1. Public Limited Company (in Spanish: Sociedad Anónima [SA]) and Private Limited Company (in Spanish: Sociedad Comercial de Responsabilidad Limitada [SRL])

The Public Limited Company (SA) is the most commonly established business and frequently used by medium to large corporations to create a business entity. This constitutes the basis for other forms of SA, such as the Private Closed Company (in Spanish: Sociedad Anónima Cerrada [SAC]) and the Public Company (in Spanish: Sociedad Anónima Abierta [SAA]). Conversely, the Private Limited Company (SRL) is used by small to medium corporations. In both the SA and SRL, the responsibility of the shareholders is, in principle, limited to their shareholding in the capital of the company.

The SA contributions of capital are represented by shares and must be overseen by a General Manager; a Board of Directors is optional. A minimum of two shareholders is required. There is no minimum capital amount established by law, but financial institutions generally require a minimum initial deposit of S/.1,000 soles (approximately \$USD 301.00). The chosen capital must be paid in full upon incorporation.

The capital of the SA and SRL may be paid in cash or in goods including equipment, stock, and property. A cash contribution to the capital must be certified by a bank, and any contribution in goods must be independently

valued by appointment of the Companies Registry for the SA. For the SRL, a contribution in goods does not require an independent valuation.

A Private Closed Company (SAC) is a limited liability company that requires a minimum of 2 and a maximum of 20 shareholders. Shares cannot be registered on the Lima Stock Exchange, and their transfer is subject to restrictions. The SAC must have a General Manager; a Board of Directors is optional.

A Public Company (SAA) is generally intended for companies with a large number of shareholders (more than 750) or in which more than 35% of the capital stock belongs to 175 or more shareholders. All shares must be registered in the Public Registry listed on the Stock Exchange of Lima. This type of company is subject to Stock Market Exchange (SMV) supervision. Transfer of shares is completely free, and no restrictions or limitations are imposed.

The 2 forms of SA (SAC and SAA) and the SRL must be incorporated before a notary public; the minimum incorporation requirements include information regarding the shareholders, registered office, business activities, capital structure, year-end accounting, and duration (limited or non-limited). The deed of incorporation usually includes the minutes of the first company meeting, during which the administration of the company is decided upon.

4.2. Setting Up a Company

The formalities and expenses involved in setting up a company are similar for Public Limited Companies (SAs) and Private Limited Companies (SRLs). Setting up an SA or SRL through capital contribution usually takes 2 to 4 weeks with the following required formalities:

- Selection of a company name and conducting of a search to verify that the name is unique in the Peruvian Central Companies Registry (in Spanish: Superintendencia Nacional de Registros Públicos [SUNARP]), the country's public register office.
- Execution of the formal act of constitution or incorporation before a notary public who drafts the correspondent public deed, the Memorandum, and Articles of Association
- The share capital should be fully subscribed, with at least 25% disbursed when the company is incorporated. The remaining 75% should be disbursed within the period stipulated in the Articles of Association. In the case of an SRL, the full share of the capital is payable upon constitution

There is no minimum share capital required in Peru.



Table 3 lists the formalities necessary for the establishment of an SA or SRL.

| Table 3. Necessary Formalities for the Establishment of an SA or SRL | | |
|---|--|---|
| 1. Clear name search certificate | Application to SUNARP by the interested party or anyone authorized by it. The SUNARP will issue a name reservation certificate for the new company. Names are reserved for a period of 30 days from the date of issue of the certificate. | The notary, the interested party, or anyone authorized by it may apply online for a clear name search certificate that may contain up to 3 alternative corporate names. The SUNARP issues the certificate within 1 business day of the application. |
| 2. Opening of a bank account | A bank account in the new entity's name is opened for payment of the capital stock. Once the founding shareholders have paid the capital, the bank must issue a payment certificate. | |
| 3. Prepare and sign the deed of incorporation with a notary | During the first 7 days after the presentation of this term, the SUNARP is required to register the company or identify and any problems that hinder the registration so that the interested parties can resolve them. | The entrepreneur pays the registration fees to the notary public, and the SUNARP receives the public deed and registers the company. When this process is finalized, a certified document of registration of the company is issued. |
| 4. Procurement of taxpayer ID | Obtaining a Taxpayer ID (in Spanish: Registro Único del Contribuyente [RUC]) is compulsory to operate the company. The company's legal representative must complete certain RUC forms to present before the National Tax Authority (in Spanish: Superintendencia Nacional de Administración Tributaria [SUNAT]), accompanying them with the RUC; a document which demonstrates the place of activities; and the SUNARP document of registration. | |
| 5. Legalization of the minute and accounting books | The accounting and minute books must be stamped by a notary. | |



Fees and costs. Fees of the attending notary public are usually charged on a sliding scale based on the company size and/or capital stock. Notary fees are up to 1% of capital, depending on the company size, the length of the public deed, and the initial capital contribution.

Cost details. Many public costs in Peru are based on the Peruvian taxation unit (in Spanish: Unidad Impositiva Tributaria [UIT]) established each year by the Ministry of Economy and Finance. In 2016, Supreme Decree No. 397-2015 EF established that the UIT is equivalent to PEN S/. 3,950 (approximately \$USD 1,235).

Notary fees depend on market conditions (between \$USD 250.00 and 350.00) plus registration fees, which are calculated as 0.3% of capital + PEN S/. 40.00 for performing the registration (1.08% of the UIT) + PEN S/. 9.00 per appointment of each director (0.24% of UIT), manager, or other representative up to the limit of PEN S/. 3,950 (equivalent to 1 UIT).

Obtaining the taxpayer identification number [RUC] is necessary in order to present the certificate of registration of the company on the Public Registry; this certificate takes 1 day and has no cost. The accounting and minute books must be stamped by a notary public, whose fees will depend on the notary rates and the length of the books, usually between \$USD 6.00 and 9.00 per book.

Opening license. A one-time municipal tax, usually a relatively small amount (generally 3.9% to 5.3% of the UIT).

Additionally, other expenses, including professional fees, may be required and are not readily quantifiable.

4.3. Joint Ventures With Other Companies Established in Peru

Associative agreements are the most attractive and ideal way of doing business in Peru, as they provide for sharing risks and combining resources and experience. This type of agreement does not create a legal entity, and it is not subject to registration. There are 2 common types of associative agreements: Consortium or Joint Venture, and Association Contract.

The 2 types of associative agreements usually allow non-domiciled companies, agencies, or other establishments in Peru to participate actively in local tenders and pay tax only on their Peruvian-source taxable income. The general corporate income tax rate is 30%.

4.4. Other Methods of Investing

Other methods of investing in Peru include:

- Entering into a distribution agreement
- Establishment of an investment representative or commission agent
- Establishing a franchise
- Purchasing shares of an existing company in whole or part. Transfer of shares in Public Limited Companies (SAs) and Private Limited Companies (SRLs) should always be formalized before a notary public. The cost is calculated based on the notary's fees and the price of the shares
- Establishing a Representation Office: Despite not having the powers and formalities of a Branch Office, establishment of a Representation Office allows a company to begin business immediately. The Representation Office appoints a permanent representative in the country with broad powers to carry out commercial activities as required, mainly in the private sector. If the Representation Office is interested in public sector projects, a non-domiciled company register in the National Register of Suppliers (in Spanish: Registro Nacional de Proveedores [RNP]) will be necessary. The permanent representative must hold resident status in Peru in order to carry out its business without restriction.



4.5. Opening a Branch Office

According to Peruvian law, branch offices (“branches”) are secondary establishments through which foreign companies develop their activities in places other than their legal domicile. Branches lack a legal identity that is independent of their parent companies except for tax purposes.

In terms of requirements, formalities, and expenses, opening a branch is similar to setting up a company. The main differences are their legal formalities and expenses; the deed of establishment of the new branch must be executed before a notary public and must include, at minimum:

1. A Certificate of Good Standing of the parent company, issued in the country of incorporation, proving that neither its articles of incorporation nor its bylaws prevent the establishment of branches abroad;
2. A copy of the articles of incorporation and the bylaws of the parent company or equivalent documents in the country of incorporation;
3. An agreement by the competent body to approve the establishment of a branch in Peru indicating the capital for the development of activities in the country, stating that the activities are carried out according to the business’ purpose;

4. The physical address of the branch;
5. The designation of at least 1 permanent legal representative in the country, as well as a clear indication of the powers granted to him or her; and
6. Submission to Peruvian law in order to comply with the liabilities incurred by the branch in Peru.

A parent company agreement will be put into the form of a notarial recorded instrument and registered in the Public Records Office of Peru. This document must be certified by the Peruvian Consulate in the home country of the company establishing the branch and authenticated by the Peruvian Ministry of Foreign Affairs (MMRREE) where applicable. Otherwise, it must be stamped with The Hague Apostille in the country of origin. This procedure consists of publicly formalizing a previously adopted resolution to open the branch by the parent company’s Board of Directors.

Branches must be registered and are overseen by the appointed representatives from the parent company in accordance with the powers granted.



5. Labor, Employment, and Social Security

Employment in Peru is legally regulated through rules and collective agreements which vary by sector. The maximum length of the work week is 8 hours per day and 48 hours per week; lunch time is included and should be a period of at least 45 minutes.

Employees who complete a year of service for the same employer are entitled to a 30-day paid vacation.

The social security system is obligatory in Peru and provides for all situations arising from illness, work accidents, and retirement.

The principal characteristics of labor, employment, and social security are summarized in this section.

5.1. Trial Period of Employment

The trial period is a set amount of time during which the working relationship established by the employment contract can be broken without the obligation of compensation to the employee. Under Peruvian employment law, trial periods are counted from the start of the labor relationship and have a maximum term of 3 months, 6 months for skilled workers or positions of confidence, or 12 months for management positions.

5.2. Employment Contracts

Written employment contracts are obligatory. The hiring of employees without written contracts can result in severe consequences, including fines, for the employer. Special care should be taken in the employment of those from abroad by ensuring that all necessary documentation is in order prior to signing the contract. The termination of contracts by the employer and the dismissal of contractors are regulated by law.

5.3. Types of Employment Contracts

Employment contracts of unlimited duration are encouraged by lawful incentives that may vary between regions depending on the activity of the company, the type of project, the market's needs, the nature of the service, part-time contracts, and the residency status of the employee.

There are different types of employment contracts that can meet the different needs of each employer. The most common contracts include:

- **Indefinite contracts.** These contracts have no expressly defined duration and grant workers all labor rights and benefits in force. The indefinite term is presumed in artistic, professional, subordinate, and paid services.
- **Fixed-term contracts.** These contracts require proof of an objective cause that guarantees temporary hiring (ie, specific projects, market needs, major production in the company, and the temporary or incidental nature of the service).
- **Part-time contracts.** These contracts cover work schedules with a weekly average of less than 4 hours per day.
- **Foreign workers' contracts.** Peruvian law allows the hire of foreign employees and gives them the same rights and benefits provided to all Peruvian workers in the private business sector. Foreign workers' contracts must be made in writing and require the approval of the Ministry of Labor, and are subject to the same taxes and contributions as Peruvians. The only existing restrictions are that foreign workers cannot exceed 20% of all personnel, and their overall wages cannot exceed 30% of the total wages of the company.



5.4. Social Security and Pensions

The Social Security Administration for Health Services in Peru (in Spanish: Seguro Social de Salud del Perú [EsSalud]) provides health coverage. All employees must be covered by social security; contributions are obligatory. An employer is responsible for paying the employees' contribution to EsSalud at a rate of 9% of the employee's compensation. Self-employed persons can also access to this system, but they are responsible for making their own contributions.

The Pension Fund System in Peru is divided into 2 systems:

- **The National Pension Fund System.** This system is managed by the Oficina de Normalización Previsional (ONP) and is responsible for providing pensions to retired workers who have reached the age of 65 years and have contributed to the system for 20 years or more. The contribution is 13% of the employee's salary.
- **The Private Pension System.** This is an alternative System managed by private administrators known as Pension Fund Administrators (in Spanish: Administradora Privada de Fondos de Pensiones [AFP]) that guarantee pensions for retirement, disability, survivorship, and burial expenses. The contribution is 10% of the employee's salary plus a 2.5% to 3% commission charged by the chosen AFP.



6. Taxation

The Peruvian government tax system is regulated by the Tax Code. In addition, local authorities levy taxes on property and its capital gains, new construction, and business activity, though the latter applies only to large companies. Taxes in Peru can be schematically classified as follows.

6.1. Direct Taxes

A. Taxes on income. Taxes are levied on general income and are determined annually (from January 1 to December 31). These taxes apply to individuals and legal entities. Domiciled citizens pay individual income tax on their worldwide income, regardless of where it was generated. All persons who stay in Peru longer than 183 days within a 12-month period are considered residents for fiscal purposes. Non-domiciled individuals must pay taxes only on Peruvian- and foreign-source income. A progressive rate, determined according to Peruvian tax law, is applied to calculate the corresponding tax (Table 4).

Table 4. Individual Income Tax and Progressive Tax Rates

| Range of Applicable Tax | Tax rate |
|----------------------------------|----------|
| Up to 5 UITs* | 8% |
| From 5 to 20 UITs | 14% |
| From 20 to 35 UITs | 17% |
| From 35 to 45 UITs | 20% |
| Any excess of the sections above | 30% |

*For salaries and remunerations, the first 7 UITs are exempt from Income tax.

B. Taxes on legal entities. Legal entities incorporated in Peru are considered domiciled and are also subject to income tax on a worldwide income basis. Non-domicile companies are only taxed on Peruvian-source income. The following rates, as determined by Peruvian tax law, are applied to calculate the corresponding tax (Table 5).

Table 5. Tax Rates on Legal Entities

| Years | Tax rate |
|----------------|----------|
| 2015-2016 | 28% |
| 2017-2018 | 27% |
| 2019 and later | 26% |

Legal entities are obliged to make advance payments of income tax each month of the fiscal year. If the advance payments do not cover the whole tax debt, the company must pay the difference. If the advance payments exceed the respective annual tax, the company will be entitled to a credit against future fiscal obligations.

C. Temporary Net Assets Tax (in Spanish: Impuesto Temporal a los Activos Netos [ITAN]). This is a tax equivalent to 0.4% of the total value of the net assets set forth in the taxpayer's balance sheet as of December 31 of the previous fiscal year. This tax is only paid by taxpayers exceeding S/. 1 million (approximately \$USD 304,853) in income. It can be used as a credit toward future tax payments, and if not completely used, the remaining ITAN may be refunded by the tax administration (SUNAT). Companies in preoperative stage are exempted.



D. Financial Transaction Tax (in Spanish: Impuesto a las Transacciones Financieras [ITF]): This is a tax on deposits and withdrawals in the Peruvian financial system. Financial operations are taxed at rate of 0.005%.

6.2. Indirect Taxes

A. Value added tax (VAT; in Spanish: Impuesto General A Las Ventas [IGV]): The rate is 18%, and levies the consumption of goods and services in the country, including the construction contracts and/or first sale of real estate by the constructor and the importation of goods. The exportation of goods is not subject to the VAT payment.

There are two possible systems to recover the IGV:

Early recovery. This system benefit corporations developing projects whose preoperative stage is equal or longer than two years. Corporations may apply before starting operations and must sign an Investment Agreement with the Peruvian government. Investments may be bigger than US\$ 5 million (except for investments on the agricultural sector and micro-enterprises during the first 3 months of a registered operating stage).

Final recovery. This system applies to the mining and oil sectors. These kind of companies must sign an Investment Agreement of Exploration with the State. The beneficiaries must always be in the exploration stage.

B. Excise tax or luxury tax (in Spanish: Impuesto Selectivo al Consumo [ISC]): This tax is levied on in-country sales at the producer level and the import of goods such as fuel, cigarettes, beer, liquor, soft drinks, gambling games, and other luxury items. It is applied under 3 methodologies: 1) a fixed amount per unit of measurement, 2) a percentage of the sale price, and 3) a percentage of the suggested retail price.

Tax rates range from 0% to 50% depending on the type of good or service taxed.

6.3. Town Council or Municipal Taxes

Town council or municipal taxed can be classified as follows:

A. Real estate tax (in Spanish: Impuesto Predial): This is an annual tax levied on the value of urban and rural property (including land, buildings and permanent facilities). This tax varies among 0,2% (from 0 to 15 UIT), 0.6% (from 15 to 60 UIT) and 1 % (for the excess of 60 UIT) depending on the value of the property.

B. Property Transfer Tax (in Spanish: Impuesto de Alcabala): This tax levies the transfer of urban and rustic premises in any form or manner, including sales with reservation of ownership. The tax base is the sale value of the property. The first 10 UIT are exempted and the excess of 10 UIT rates 3%.

C. Tax on mechanical traction vehicles (in Spanish: Impuesto al Patrimonio Vehicular): This annual tax is levied on the ownership of cars, pick-up trucks, and station wagons manufactured domestically or imported. It is payable during the first 3 years following the original vehicle registration with the Vehicle Property Registry. The tax creditor is the provincial municipality from the domicile of the owner. The tax rate is 1% of the value of acquisition, importation, or official ownership.

6.4. Custom Taxes

The importation of goods is subject to the payment of the 18% VAT and is levied on the Cost, Insurance and Freight (CIF) value plus customs tariffs, depending on the type of goods; and custom duties with ad valorem rates of 0%, 4%, 6%, and 11% based on the CIF value.

The tariffs are subject to a refund or drawback scheme, which enable producers/exporters to recover all or part of the tariffs that affect the importation of commodities or goods incorporated or consumed in the production of the exported goods. The condition is that the CIF value does not exceed 50% of the Free On Board (FOB) value of the exported product.





7. Accounting and Reporting

The Peruvian Accounting Standards Board (in Spanish: Consejo Normativo de Contabilidad [CNC]) is comprised of stakeholders from the private and public sectors and is the official standard-setting body for private-sector accounting under the leadership of the Accountant General's Office within the MEF. This institution is also responsible for issuing the General Accounting Plan for companies and the methodologies that apply to private and public entities.

Corporations that issue shares or debt in the capital market are subject to regulation, and their annual financial information must be audited (including the previous year) for comparative purposes. These audits are conducted according to the regulations of the International Federation of Accountants (IFAC).

Through the CNC, Peruvian domestic law incorporates the standards approved by the International Financial Reporting Standards (IFRS) rules which are approved and published in its official Gazette.

All businesses are required to keep adequate accounting records in accordance with the Code of Commerce and the General Law for Companies (LGS). All registered companies are obliged to file an annual report including a balance sheet, profit and loss account, notes to the accounts, statement of changes in the net equity, and a director's report.

Law No. 29720 and Resolution SMV 028-2014-SMV/01 established that all corporations included in the LGS whose revenues exceed the 3,000 UITs (approximately \$USD 3,705,000) are obliged to submit their audited financial statement to the SMV.

Auditing is a legally regulated activity in Peru. Audit law No. 28951 restricts the audit of accounts to suitably qualified persons or firms who are inscribed in the Association of Public Accountants Peruvian Official Register of Auditors and Accounts. Persons or firms who are not so ascribed cannot legally act as independent auditors of accounts in Peru, no matter what other Peruvian or foreign qualifications they may have.





8. Intellectual Property and Technologies

Peruvian courts and legislation in Peru grant a high level of protection for intellectual property rights, as it is a matter that falls under literal 8, Article 2º of the Constitution of the Peruvian Republic.

The national authority and responsible institution for the registration and protection of intellectual property in Peru is the Institute of Defense of Competition and Protection of Intellectual Property (in Spanish: Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual [INDECOPI]). This institution encourages the development of a fair and honest competitive culture within the Peruvian economy, safeguarding all forms of intellectual property from distinctive signs and copyright to patents and biotechnology.

Peru has ratified the main international treaties and agreements dealing with intellectual property rights. Among others, our country has been an official member the World Intellectual Property Organization (WIPO) since 1980 and is a member of the Paris Convention for the Protection of Intellectual Property. Peru is also a founding member of the World Trade Organization (WTO) and applies the WTO's regulations regarding anti-dumping practices, subsidies and countervailing duties, and service market deregulation, among others.

Peru is also a signatory state of the agreement that oversees intellectual property rights and trade, which protects intellectual property rights via the following protection systems:

- **Through the copyright system.** Original artistic creations made by any means or format are protected, including pictorial, photographic, literary, scientific, musical, audiovisual, architectural, sculptural, computer programs, and applied work. The period of protection of copyright is 70 years from the author's death. The rights of musical and audiovisual

producers, as well as the artists and their interpreters, are also acknowledged.

These rights have been protected in Peru since the country's conception; nevertheless, copyright registration is recommended to establish concrete proof of when the right was established.

- **Through the patent system.** The protection of those inventions meeting 3) legal requirements-- innovation, invention, and industrial use-- may be obtained. A favorable opinion of experts in the respective field and an international search is required in order to grant a patent. The length of a patent protection is 20 years, after which the invention enters the public domain.
- **Through the trademark system and distinctive signs.** The protection of trademarks and distinctive signs that distinguishes unique products and services from others can be obtained. A registration mark is not compulsory in Peru, but it is advised in order to avoid situations that may affect the promotion and marketing of products and services, and to obtain an exclusive rights. The registration procedure involves a publication in the official Gazette to allow oppositions from third parties with legitimate interests. The right of exclusive use is first granted for 10 years and can be renewed indefinitely.

INDECOPI safeguards also new technologies and protects the rights of the consumers by exerting control in advertising practices, eliminating bureaucratic barriers imposed by acts or decisions of administrative authorities, and imposing penalties for the abuse of dominant positions and cartels.



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