



Thinking Beyond Borders: Management of Extended Business Travelers - Peru



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01

Key message

A person's liability to Peruvian tax is determined by his or her residence status for taxation purposes and the source of his or her 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 non-residents, income tax is levied at a flat rate on an individual's taxable income for the year.

1 Key message

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

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Income tax

2 Income Tax

2.1 Liability for income tax

A person's liability to Peruvian tax is determined by his or her residence status. A person can be a resident or a non-resident for Peruvian tax purposes.

A resident is defined as someone who has spent more than 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 (the Peruvian tax year begins every January 1st).

As general rule, a person who is a resident of Peru is assessable on his or her worldwide income. Non-residents are generally assessable on income derived directly or indirectly from sources in Peru. Extended business travelers are usually considered non-residents of Peru for tax purposes, as we explained, the residence status depends on the days spent in Peru.

2.2 Definition of source

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

2.3 Tax trigger points for employment income

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.

2.4 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).

2.5 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 2023 is 4,950 Peruvian Soles (PEN).

For residents and for 2023, net taxable income is taxed at graduated rates ranging from 8 percent to 30 percent (the progressive scale of tax is 8 percent, 14 percent, 17 percent, 20 percent, and 30 percent). The maximum tax rate is currently 30 percent on income earned over 45 tax units. Non-residents are subject to fat tax rate of 30 percent on total taxable income.

Taxable Income	Rate
Up to 5 tax units (USD 6,700 approx.)	8%
Between 5 and 20 tax units (USD 20,120 approx.)	14%

Taxable Income	Rate
Between 20 and 35 tax units (USD 20,120 approx.)	17%
Between 35 and 45 tax units (USD 13,400 approx.)	20%
From 45 tax units and up	30%

2023 Tax Unit Value: PEN 4,950
Exchange rate 2023: PEN 3.69

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Social Security

3 Social Security

3.1 Liability for social security

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

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

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 ratified the Social Security Agreement promoted by the Iberoamerican Organization made with the purpose to prevent double taxation and allow cooperation between Peru and overseas tax authorities in enforcing their respective tax laws. But most important, this agreement has a positive impact on the situation of immigrant employees. However, this legal instrument has not been entirely implemented in Peru.

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Compliance obligations

4 Compliance obligations

4.1 Employee compliance obligations

Annual income tax returns are due during the first three months following the tax year-end, which is 31 December. The presentation date is established each year by the Peruvian tax administration (SUNAT) through a resolution issued by the end of the year. For the year 2023, the due dates have not been published yet. For the year 2022, the due date to submit the Income Tax Return were the following:

Last number of the ID	Filing due date
0	March 24th 2023
1	March 27th 2023
2	March 28th 2023
3	March 29th 2023
4	March 30th 2023
5	March 31st 2023
6	April 3rd 2023
7	April 4th 2023
8	April 5th 2023
9	April 10th 2023

4.2 Employer reporting and withholding requirements

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

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

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Immigration

5 Immigration

5.1 Business Visa

National of all countries, except Brazil, Chile, Colombia, Mexico and countries that are part of the Schengen territory, travelling to Peru for business purposes are required to apply for a “business visa” at a Peruvian Consulate before entering the country.

This type of visa is granted to foreign nationals who intend to perform business activities, including signing contracts, undertake business related financial transactions and specialized technical assistance activities.

The Peruvian business visa is a multiple entry visa and entitles its holder to enter Peru within a time period of 12 months from the date of issue. This visa holders can remain in Peru up to 183 days per year, but the consulates abroad reserve the right to grant visas for shorter stays.

Peruvian Business Visas are not renewable.

Visa processing times and requirements may vary depending on the Consulate of the country the foreign national is travelling from.

5.2 Work permit

A foreign national who has been assigned to work in Peru must obtain a work permit. The Peruvian Law for Hiring Foreign National Workers states that national or foreign companies are allowed to employ foreign nationals up to a maximum of 20% of their total employees. Their salaries shall not exceed the 30% of the total wages and payrolls. Hiring foreign workers is subject to the labor regime of the private sector and to the limits established in this Law. The employment contract and its amendments must be approved by the Administrative Labor Authority.

According to the Peruvian labor regulations, the following foreign individuals are not affected by those limits regarding hiring foreign personnel:

Foreign nationals with Peruvian spouses, ancestors, descendants or siblings. Foreign nationals with immigrant status.

Foreign nationals whose country of origin has treaties of labor reciprocity or dual citizenship with Peru.

Employees of foreign transport enterprises with foreign flag and registration.

Foreign employees who work for multinational companies or multinational banks that have a special regulation for these specific situations.

Foreign employees that according to bilateral or multilateral agreements with the Peruvian government, render services in the country.

Artists, athletes and, in general, those who work in public shows in Peru during a maximum period of time of three months within a calendar year.

Foreign investors, whether or not they have waived the right to repatriate capital investments or profits, as long as it has a fixed amount during the term of the contract no less than 5 Tax Units (S/ 24,750 for the year 2023, USD 6,700 approx.).

In addition, employers may apply for exemption of the mentioned limiting percentages in case of specialists or management or directive personnel of a new industry, employees of public sector

companies or private companies that have signed agreements with public sector organisms, institutions or companies, among others.

5.3 Designated workers

Foreign individuals who enter the country without the intention of residence and in order to carry out activities that need technical or highly specialized knowledge. They are sent by their foreign employer for a limited period of time and are allowed to sign contracts and undertake transactions but not to receive remuneration from a Peruvian company (should not be registered in Peruvian payroll).

In this case, instead of an employment contract, the following documents must be submitted:

A service contract between the foreign company and the Peruvian company, apostilled or legalized by the competent authorities.

A letter from the local company, signed by its legal representative appointing the length and location of the service to be rendered, that the work to be performed by the foreign national requires high specialization and that there is no personnel available in the country.

A letter of assignment from the foreign company, apostilled or legalized by the competent authorities.

A certificate issued by the foreign company indicating the specialization in the tasks the foreign individual intend to perform in Peru, signed by its legal representative and apostilled or legalized by the competent authorities.

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Other issues

6 Other issues

6.1 Double taxation treaties

In addition to Peru's domestic legislation, Peru has ratified nine agreements to prevent double taxation and allow cooperation between each tax authorities with Japan, Switzerland, Portugal, Korea, Mexico, Canada, Chile, Brazil and the CAN (known in Spanish as "Comunidad Andina" which is comprised of Ecuador, Colombia and Bolivia).

6.2 Permanent establishment implications

In some cases, there is the possibility 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 a PE of a non-resident entity:

A person acting in Peru on behalf of the non-resident entity and empowered by it to sign contracts on its behalf, and who habitually uses such empowerment in Peru; or

A person acting in Peru on behalf of the non-resident entity who habitually maintains goods in stock within Peruvian territory to be negotiated in Peru.

However, from 2019, PE services apply in Peru. It configures a when the provision of the service implies the physical presence of the non-resident for more than 183 days in Peruvian territory within any twelve (12) month period.

6.3 Indirect taxes

The standard rate of 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 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.

IGV 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 non-residents)

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 Authorities (SUNAT) in order to obtain their taxpayer identification number (in Spanish 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).

6.4 Transfer pricing

Peru has a transfer pricing regime based on the arm's-length principle. A transfer pricing implication could arise for the company in case the employee being paid by an entity in one jurisdiction performs activities for the benefit of the entity in another jurisdiction. In these cases, a cross-border service arises between the two entities and needs to be taxed accordingly. 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 by foreign entities in Peru but does not apply if the services are rendered abroad. Additional information can be found in Articles 24 and 108-118 of the Income Tax Regulations and Resolution 167-2006.

According to related party rules, two or more individuals, enterprises or legal entities are considered related parties when:

- An individual owns 30 percent of the capital of another enterprise, directly or through a third party.
- More than 30 percent of the capital of two or more enterprises are owned by the same individual or enterprise, directly or through a third party.
- In any of the above cases, when the indicated proportion of the capital belongs to spouses to each other or to individuals linked up to the second degree of consanguinity or affinity.
- The capital of two or more enterprises belong in more of 30 percent to common partners.
- Enterprises or legal entities have one or more directors, managers, administrators or other common directors, who have decision-making power in financial, operational and/or commercial agreements.

6.5 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.

Peruvian financial institutions must provide financial information to Peruvian Tax Authority for the automatic exchange of information with different jurisdictions under the Common Reporting Standard (CRS) modality. The amount of bank accounts whose information must be reported by companies in the financial system, every six months, is 7 Tax Units.

Directors or managers who have participated in the design, approval, or execution of the tax planning of an enterprise that has engaged in evasive or elusive practices, will be imputed joint and several liability for Tax Authority. They may prove this presumption in contrary.

Also, Peruvian local enterprises have the obligation to identify the Ultimate Beneficial Owner (UBO). The UBO will be the individual who finally owns or controls legal persons or legal entities within the method of control or property.

The method of property consists in identify the individual who directly or indirectly through any form of acquisition owns at least ten percent of the capital of a legal person or legal entities. The control method consists in identify the individual who, acting individually or with others as a decision-making unit, or through other individual or legal person or legal entity, holds powers, by means other than ownership, to appoint or remove most of the administrative bodies, direction or supervision, or has decision-making

power in the financial, operational and/or commercial agreements that are adopted or that exercises another form of control of the legal person.

When no individual is identified under the criteria indicated, the individual who occupies the superior administrative position will be considered as the UBO. It is specified that the scope of the term UBO should be interpreted in line with the recommendations of the Financial Action Task Force (FATF).

6.6 Exchange control

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

6.7 Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-Peruvian pension funds if granted without a local policy that fulfills certain legal requirements.

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