

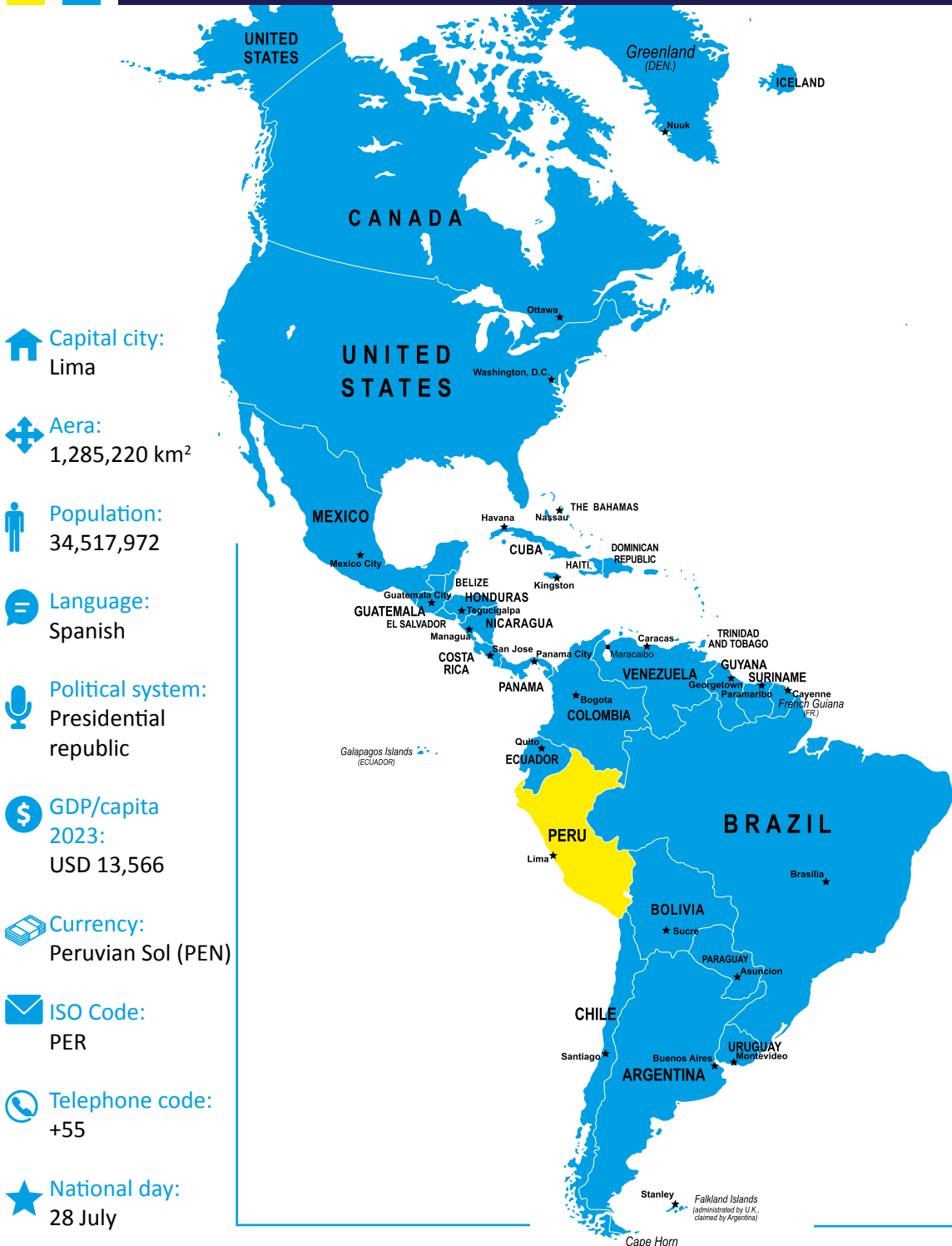


TAXES IN AMERICA

2024

6th EDITION

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Capital city:
Lima



Aera:
1,285,220 km²



Population:
34,517,972



Language:
Spanish



Political system:
Presidential republic



GDP/capita 2023:
USD 13,566



Currency:
Peruvian Sol (PEN)



ISO Code:
PER



Telephone code:
+55



National day:
28 July

OVERVIEW

In Peru, as of 15 January 2024, the following taxes are levied: Income, labor, capital, joint action of both capital and labor, consumption, circulation of money and remunerations (Social contributions: Health benefits and pensions). All these taxes correspond to the Central Government, we will not deal with the Regional and Local Governments.

The Administration, Collection and Control of Taxes is the responsibility of the National Superintendency of Customs and Tax Administration (SUNAT).

Below is a summary of the main taxes and their virtual forms (PDT, that is, the Telematic Declaration Program)

Type of Tribute	Rate (%)	Virtual Form –PDT (Telematic Declaration Program)
I. Third Category Income Tax - Companies	29.50	PDT 0710 - Annual Rent 2023 Third Category and ITF PDT 0709 – Physical persons PDT 0617- IGV / Rent not domiciled / Other-Monthly PDT 3560 - Transfer Prices - Annual
II. Temporary Tax on Assets - Net	0.0 to PEN 1,000,000 0.4 for the excess	PDT 0648 - Temporary Tax on Net Assets (ITAN) -Annual
III. Taxes on Financial Transactions	0.005 Of the operation performed	PDT 0695 - Tax on Financial Transactions -Annual
IV. General Sales Tax	18	PDT 0621 - IGV / Business Income-Monthly
V. Social Health Insurance	9	PDT 0601 - Electronic Form -Monthly
National Pension System	13 ONP (Office of Pension Normalization) 13.5 PFA (Pension Fund Administrator)	PDT 0601 - Electronic Form - Monthly

1. Income Tax (IR)

IR comprises Net Income and is determined annually with monthly payments. The fiscal year begins on 1 January of each year and ends on 31 December, without exception. Tax returns for companies, branches and individuals must generally be submitted before 11 April of the following year, following the criteria of the last digit in the Taxpayer's Unique Registry (RUC). In the case of non-do-

miciled individuals, they are not required to submit an Annual Sworn statement. The legislation identifies the following taxpayers that we will detail:

- **Legal Entities (Companies)**

Companies incorporated in Peru are subject to the Third Category Income Tax for their worldwide source income. Non-domiciled companies, branches established in Peru and permanent establishments are only subject to taxation for their Peruvian source income.

The Income Tax rate of domiciled companies is 29.50% in the years, 2023, 2022 and 2021 respectively, it is applied to the net income, which is determined by deducting the expenses incurred in the generation of income or maintenance of the source.

Dividends received from other legal entities domiciled are not affected. Dividends received from non-domiciled legal entities are taxed at the 5% rate.

In general, subject to certain requirements and conditions, the deduction of interest, insurance, extraordinary losses, collection, depreciation and pre-operating expenses, authorized reserves, write-offs and provisions for uncollectible debts, provisions for social benefits, retirement pensions, bonuses and rewards to employees, among others, is allowed.

Expenses incurred abroad are deductible whenever they are necessary and are accredited with the respective payment vouchers issued abroad.

Likewise, expenses not accepted as deductions include, among others, personal expenses, Income Tax assumed (except in the case of interest), tax and administrative fines, donations and reserves or provisions not allowed by Law, among others.

For the loss carryover, domiciled companies can choose between one of the following two systems:

- Losses can be carried forward for four consecutive years, beginning to compute the term from the first year after the loss was generated.
- Losses can be carried forward indefinitely, but with a deduction limit of 50% of net income for each year.

It is not allowed to carry forward losses from previous years of their generation nor is it allowed to calculate net losses from abroad.

On the other hand, it should be noted that companies domiciled are required to

make payments on account of Income Tax, the amount of which is determined by the one that is greater than comparing the monthly installments resulting from the application of the following methods:

- Percentage method: Apply 1.5% to the total net income of the month.
- Coefficient method: Divide the tax calculated from the previous year between the total net income of the same year and apply the resulting coefficient to the net income of the month. For the months of January and February, the coefficient determined on the basis of the calculated tax and net income corresponding to the preceding year is used.

Notwithstanding this, it is possible to request the suspension of the aforementioned obligation to pay on account, under certain circumstances.

In case payments on account exceed the tax determined in such opportunity, the excess is susceptible to be carried forward as credit against subsequent payments on account and regularization tax or be reimbursed to the taxpayer.

• **Individuals**

According to the Peruvian tax system, Peruvian citizens domiciled in Peru are subject to taxation for their worldwide source income, regardless of the country in which they were generated, the country in which they were paid, or the currency in which they had been received. On the other hand, for those not domiciled, only the Peruvian source income is subject to taxation in Peru.

In the case of individuals domiciled, the Income Tax of fourth and fifth category, that is, the one originated by the income from personal work (independent and dependent, respectively), as well as the income from a foreign source, is determined by applying a tax progressive cumulative, according to the following detail:

Fees applicable from the fiscal year 2021 – 2022 - 2023 (%)	
Up to 5 UIT	8
More than 5 UIT to 20 UIT	14
More than 20 UIT to 35 UIT	17
More than 35 UIT to 45 UIT	20
More than 45 UIT	30

For salaries, wages and any other type of remuneration derived from dependent or independent work (income of fourth and fifth category), a non-taxable minimum of 7 UIT is set).

The following will also be accepted for write-offs:

- Up to 30% of the payment for the concept of lease or sub-lease of the taxpayer's property. It includes the conductive mercy, taxes levied by the lease and, if applicable, the VAT;
- Up to 30% of the interest paid by the taxpayer for a mortgage on a first home;
- Up to 30% of the fees for medical and dental services of the taxpayer, his/her spouse and children under 18 years of age or older with disabilities;
- Up to 30% for other services considered fourth category;
- The EsSalud contributions that the employer pays for its domestic workers.

Income obtained by individuals domiciled by the lease, sublease and assignment of goods (first category income), as well as other capital income (second category income), is taxed at an effective rate of 5% on gross income.

Dividends distributed by companies incorporated or established in Peru, received by individuals, are taxed with the 4.1% scheduled rate.

- **Non-domiciled persons**

Those not domiciled in Peru are subject to taxation only for their Peruvian source income.

In general, the following are considered as Peruvian sources of income:

- Those produced by properties and the rights related thereto, including those arising from their alienation, when the properties are located in the Peruvian territory;
- Those produced by goods or rights, including those arising from their sale, when they are physically located or used economically in the country;
- Royalties when the goods or rights are used economically in the country or when they are paid by a subject domiciled in the country;
- Interest when the capital is placed or economically used in the country; or when the payer is a subject domiciled in the country;
- Dividends distributed by entities domiciled in the country;
- Civil, commercial, business activities and personal work carried out in the country;
- Alienation or redemption of transferable securities (shares, participations, bonds, etc.) when they have been issued by entities incorporated or established in Peru;
- Technical assistance and digital services used economically in Peru;
- Results obtained by non-domiciled individuals from Derivative Financial Instruments contracted with domiciled individuals whose underlying assets are related to the exchange rate of the national currency with respect to another foreign currency and provided that their effective term is

less than 60 calendar days;

- Those obtained by indirect transfer of shares or participations representing the capital of legal entities domiciled in the country, provided that certain requirements are met.

In the case of non-domiciled individuals, Income Tax on income from dependent work is 30%, without deductions;

Income generated by independent work is subject to an effective rate of 24%.

Notwithstanding the foregoing, the income obtained in their country of origin by non-domiciled individuals, who enter Peru temporarily in order to carry out any of the activities listed below, are not considered as Peruvian source income. Such activities are:

- Acts prior to the realization of foreign investments or businesses of any kind;
- Acts intended to supervise or control the investment or the business (data or information gathering, conducting interviews with people from the public or private sector, among others);
- Acts related to the hiring of local personnel.

- **Non-domiciled entities**

In the case of income obtained by non-domiciled entities, a retention rate is applied depending on the type of income, according to the table that is detailed in the following table:

Withholding rates by type of income applicable to non-domiciled entities

Incomes	Rate (%)
Dividends and other forms of distribution of profits, as well as the remittance of profits of the branch	5
Interest paid to a non-domiciled, provided certain requirements are met	4.99
Interest paid to related companies abroad	30
Technical assistance services used economically in Peru	15
Digital services used economically in Peru	30
Capital gains derived from the sale of transferable securities through the Lima Stock Exchange, including:	
Alienation, redemption or redemption of shares, bonds or other securities issued by companies incorporated in Peru	4.99
Indirect alienation of shares of Peruvian companies	5
Capital gains derived from the alienation of transferable securities outside the Lima Stock Exchange, including:	
Alienation, redemption or redemption of shares, bonds or other securities issued by companies incorporated in Peru	30

Indirect alienation of shares of Peruvian companies	30
Other income derived from business activities carried out in Peruvian territory	30

Revenues for activities carried out by a non-domiciled, party in Peru and part abroad, including income obtained by their branches or permanent establishments, are subject to the following effective rates of Income Tax, according to the following chart:

Activities	Net income from Peruvian source (% of gross income)	Effective rate of Tax on Income (%)
ship rental	80	22.4
Aircraft rental	60	16.8
International news agencies	10	2.8
Assignment of television broadcasting rights	20	5.6
Distribution of cinematographic films	20	5.6
Supply of transport containers	15	4.2
Demurrage of shipping containers	80	22.4
Insurance	7	1.96
Telecommunications services	5	1.4
Air Transport	1	0.28
Marine transport	2	0.56

- **Treaties to avoid double taxation**

Currently, Peru has signed and ratified agreements to avoid double taxation with the following countries: Mexico, Korea, Switzerland, Brazil, Chile, Canada and Portugal, which sets credit as a method to avoid double taxation. Likewise, Peru is part of the Andean Community, along with Colombia, Ecuador and Bolivia. In this regard, Decision 578 is applicable to avoid double taxation between the aforementioned countries. Unlike the OECD Model, Decision 578 privileges taxation at source and uses the exemption method as a method.

It should be noted that Peru has signed agreements to avoid double taxation with Switzerland, Spain and Mexico, which are pending ratification. In addition, there are negotiations with Japan, Qatar, the United Arab Emirates, the Netherlands, Italy, France, Sweden and the United Kingdom.

Transfer Pricing Legislative Decree No. 1381 (24/08/2018), Supreme Decree No. 340-2018-EF (30/12/2018).

Local Report

- **Regarding the Taxpayer:**

- Description of its organizational structure;
- A chart of the organization;
- Identification of the persons on whom the taxpayer's address and administration hierarchically depend and identification of the countries in which said persons have their main offices;
- Detailed description of the lines, activities and business strategies of the taxpayer, indicating whether the taxpayer has been a party or has been affected by corporate restructuring or assignment of intangibles in the year in respect of which the sworn statement is filed Informative Local Report and/or in the previous fiscal year, as well as the explanation of how the restructuring and/or assignment have affected the taxpayer;
- Identification of the main competitors.

- **Regarding Taxpayer transactions with related parties made in the year in which the informative sworn statement is filed Local Report:**

Description of the transactions carried out, such as the acquisition of manufacturing services, purchase of goods, rendering of services, loans, guarantees and licenses of intangible assets, having to indicate the agreements or contracts that governed such transactions, the obligations and rights that arise from them and the context in which they were made.

Information regarding the benefit test, the value of the consideration and, if applicable, the reasons why they do not qualify as added value, in the case of services.

Amount of the transactions carried out in their currency of origin and registration, as well as the amounts paid and collected
Identification of the counterparties in the transactions and, if applicable, of the third parties involved.

Detailed functional analysis, that is, the functions performed, the substantial risks assumed and the significant assets used; and of comparability with respect to the taxpayer and its counterparts, for each of the transactions carried out.

Identification of the most appropriate transfer pricing method applied to the analysis of each transaction and the reasons for the selection of said method, specifying why said method is the most appropriate to reflect the economic reality of the operation; as well as, the information on the calculations and data that derive from the application of the applied method.

Identification of the related party selected as the party examined and the

explanation of the reasons for their election.

Summary of the substantial assumptions adopted for the application of the transfer pricing methodology.

Support for a multi-year analysis, if applicable.

A list and description of comparable transactions (internal or external), if any, information of the financial indicators for independent companies that have served as the basis for the analysis of transfer prices, as well as the description of the search methodology of comparables and the sources from which the information comes.

Description of the comparability adjustments made, indicating if such adjustments were applied to comparable transactions, to the characteristics of the parties that perform the transactions and/or to the functions that they perform.

Explanation of the reasons why it is concluded that the amount of the transactions is that which independent parties had used on equal or similar terms, according to the chosen transfer pricing method.

Summary of the financial information used in the application of the transfer pricing methodology.

Copy of the anticipated price agreements related to the transactions under analysis.

- **Regarding the financial information of the Taxpayer:**

- Annual Financial Statements of the Taxpayer, corresponding to the fiscal year for which the informative sworn statement is filed Local Report. If there are audited financial statements, they must be filed, otherwise, the unaudited financial statements will be filed.
- Work papers demonstrating the way in which the financial data used to apply the transfer pricing method are related to the annual financial statements.
- Summary appendixes of the financial information of the comparables used in the analysis and the source they come from.

- **Countries with low or no taxation (See Tax Havens)**

Companies domiciled in the country cannot deduct, for purposes of determining Income Tax, the expenses derived from operations carried out with persons or entities resident in countries or territories with low or no taxation, nor will they be entitled to offset the losses generated for these operations with the income from a foreign source. This except in the case of operations of:

- Credit;
- Insurance and reinsurance;
- Assignment in use of ships or aircraft;

- Transportation carried out from the country to the outside and from abroad to the country and;
- Right to pass through the Panama Canal.

Likewise, operations carried out from, to or through tax havens must comply with the transfer pricing rules.

On the other hand, interest paid by companies domiciled to an individual not domiciled for credit operations from, to or through tax havens are taxed with a retention rate of 30%. Finally, the Derivative Financial Instruments entered into with individuals domiciled in tax havens will be considered as speculative, in which case the losses can only be compensated with profits of the same class.

Fiscal credit

The taxes actually paid abroad are compensable against the Peruvian Income Tax, even if there is no agreement to avoid double taxation and provided that the amount resulting from applying the average rate of the taxpayer to the income obtained in the case is not exceeded abroad.

It is not allowed to compensate the credit not applied in a certain fiscal year to the following or previous years, nor its reimbursement.

2. Temporary Tax on Net Assets (ITAN)

ITAN equals 0.4% of the total value of net assets exceeding PEN 1,000,000, determined as of 31 December of the previous year. Pre-operational companies are excluded from this tax. The ITAN is a credit against Income Tax and, if at the end of the year it has not been fully applied, it can be requested for a refund.

However, in order to avoid double taxation problems, the subsidiaries and branches of foreign companies may choose to credit the ITAN credit for the Income Tax paid in Peru. In this way, taxpayers can claim as a foreign credit in their countries of origin the Income Tax paid in Peru, instead of a tax levied on the assets.

3. Tax on Financial Transactions (ITF) and means of payment

A rate of 0.005% is generally imposed on deposits and withdrawals in accounts of financial institutions in Peru.

Any payment made that exceeds the sum of PEN 3.500 or USD 1.000 must be made through one of the so-called "means of payment", which include deposits in accounts, drafts, transfers of funds, payment orders, debit or credit cards issued in the country and "non-negotiable" checks.

The consequence of not using said means of payment is that the cost or expense associated with said payment may not be recognized for purposes of Income Tax. Additionally, the General Sales Tax paid for the acquisitions of goods or services involved may not be taken as a tax credit.

4. General Sales Tax (IGV) Taxable base and application

The IGV taxes the sale in the country of goods, the provision and use of services and the implementation of goods with a rate of 18% (includes 2% of the Municipal Promotion Tax).

The VAT Act follows the debit / credit system, by virtue of which the IGV of the sale is compensated against the VAT paid on purchases. The VAT not applied as credit in a particular month, may be applied in the following months until it is used up. Said credit is not subject to statutes of limitations or expiration.

The corporate reorganizations are not subject to this tax.

- **Regime of anticipated recovery of the IGV**

Individuals or legal entities that are developing projects that are in the pre-operational stage (the same that must be equal to or greater than two years), may request the early return of the IGV prior to the start of commercial operations and obtain Ministerial Resolution of Sector corresponding to the project to be developed. For this purpose, it is requested before Pro Inversión the subscription of an Investment Contract with the Peruvian Government. The investment that must be made during the pre-operative stage must be no less than USD 5.000.000, except in the case of investments to be developed in the agricultural sector, which is exempt from this requirement.

- **Definitive refund of the VAT**

They can access the definitive refund of the IGV:

- The companies and individuals who are holders of mining concessions, and
- The investors who have signed license or service contracts referred to in the Organic Hydrocarbons Act. For these purposes, in both cases, the beneficiary must be in the exploration phase. In the case of mining concession holders, additionally, an exploration investment contract must be signed.

- **Export of goods**

The VAT Act defines the export of goods as the sale of chattels made by a subject domiciled in the country in favor of another non-domiciled, regardless of whether the transfer occurs abroad or in the country, provided that said assets are subject of the definitive export customs procedure.

If the property transfer occurs in the country until before the shipment, the qualification as export of goods is conditioned to the goods being shipped in a period no longer than 60 calendar days from the date of issuance of the respective payment voucher.

When the sale involves documents issued by a customs warehouse referred to in the General Customs Act or by a General Warehouse Depository regulated by the SBS and AFP that guarantees the purchaser the disposition of said goods, the condition will be that the shipment will be carry out within a period no longer than 240 calendar days from the date on which the warehouse issues the document.

Once the deadlines have expired without the shipment having been made, it will be understood that the operation has been carried out in the national territory, being taxed or exempt from the VAT, as applicable.

- **Exportation of services**

The operations considered as exports of services are those contained in Appendix V of the VAT Act, provided they are provided for consideration, the exporter is domiciled, the user is not domiciled and the use, exploitation or use of the services by of the non-domiciled take place abroad.

These services include, among others, consulting services and technical assistance, leasing of chattels, advertising services, data processing services, application of computer programs and the like, placement services and supply of personnel, commission services for credit placements, financing operations, insurance

and reinsurance, certain telecommunications services, tourism services, and business support services. Likewise, accounting, treasury, technological, computer or logistic support, contact centers, laboratories and similar services are considered.

- **Excise tax**

It is the tax on the consumption of specific goods, such as fuels, cigars, beer, liquors, carbonated beverages, among others. It is applied under 3 systems:

- Specific, which involves a fixed amount in new soles per unit of measurement;
- The value, which is applied based on a percentage on the sale price; and
- Retail price, applied on the basis of a percentage of the suggested retail price.

5. Independent workers

Legislation in Peru is characterized by being paternalistic that is, it protects the worker. There are two types of workers in the public and private sectors, those who are on the payroll and those who present their receipts for professional fees that correspond to independent workers, that is, those who are not on the payroll. These workers, in addition to granting their fees receipts, are required to keep their Professional Income Registry. The law requires that you do not depend on your client, do not have a schedule and issue a report on the work performed. These workers provided they exceed PEN 36,050 (for 2023), and have obtained exoneration from SUNAT, 8% retention is applied to the excess, for each receipt issued. Which must be paid monthly and will be considered as payment on account of the Annual Income Tax.

6. Social Health Insurance

Within the taxes in Peru, we have one that corresponds to the contributions, which are those that as consideration for your payment a service is received. In this case Social Health Insurance (EsSalud), affects all remunerations, defined as everything that the worker perceives that is freely available, fixed and permanent.

The person obligated to pay this contribution is the employer's party, that is, the company.

Main concepts within the remuneration affected by EsSalud: piece commissions, eventual commissions to workers, on time, work on holidays and rest days, sales

awards, vacations truncated, remuneration in kind, family allowance, assignments granted regularly, among others.

The percentage of this contribution is 9%, PDT 601 is declared and paid monthly (electronic Spreadsheet).

7. National Pension System and Pension Fund Administrators (AFP)

In Peru, it has two regimes that subsist at the date of issuance of this report, they are: National Pension Office (ONP) and Private Administrator of Pension Funds (AFP), these two systems are responsible for collecting these contributions from workers, on the basis of monthly remunerations, with different percentages for the ONP is 13% and the AFP 13.5%. (The percentage varies according to the AFP: HABITAT, PRIMA, INTEGRAL, PROFUTURO).

8. Peru (tax haven countries)

- | | | |
|------------------------|---|------------------------------------|
| 1. Alderney | 16. Hong Kong | 29. Madeira |
| 2. Andorra | 17. Isle of Man | 31. Maldives |
| 3. Anguilla | 18. Cayman Islands | 32. Monaco |
| 4. Antigua y Barbuda | 19. Cook Islands | 33. Montserrat |
| 5. Netherland Antilles | 20. Marshall Islands | 34. Nauru |
| 6. Aruba | 21. Turks and Caicos Islands | 35. Niue |
| 7. Bahamas | 22. British Virgin Islands | 36. Panamá |
| 8. Bahrain | 23. United States Virgin Islands of America | 37. Samoa Occidental |
| 9. Barbados | 24. Jersey | 38. Saint Kitts and Nevis |
| 10. Belize | 25. Labuan | 39. St. Vincent and the Grenadines |
| 11. Bermuda | 26. Liberia | 40. Saint Lucia |
| 12. Cyprus | 27. Liechtenstein | 41. Seychelles |
| 13. Dominica | 28. Luxembourg | 42. Tonga |
| 14. Guernsey | | 43. Vanuatu |
| 15. Gibraltar | | |

Abbreviations

PEN = Sol (Peruvian Currency)

UIT = Tax Tax Unit = S/ 5.150, for Fiscal Year 2024 and S/ 4.950 for the year 2023 (D.S: N° 309-2022-EF) IGV = General Sales Tax

ITF = Tax on Financial Transactions PDT = Telematic Declaration Program EsSalud = Social Security of Peru

Explanatory notes

- Individuals pay Annual Income, and have a cumulative scale
- PDTs are of two types, declarative and informative
- Income Tax requires monthly payments on account
- Exonerations: Non-profit entities, Jungle and Sierra Zone, others.
- The Transfer Pricing Study Report was replaced by the Local Report from the year 2016, norm that was issued on 18 January 2018.

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