

Peru



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1. Types of tax

1.1 Inheritance

Peru's tax legislation does not establish an inheritance tax.

1.2 Gift or donation

Peru's tax legislation does not establish a gift or donation tax.

Donations are defined as voluntary acts by which an individual disposes part of its assets and transfer them to a third party free of payment. However, donations that have not been carried out by means of a public deed or any other reliable document will be considered as an unjustified increase in wealth and therefore be taxed under the progressive accumulative income tax rates (8%, 14%, 17%, 20%, 30%).



1.3 Real estate transfer tax

The transfer of the ownership of real estate is subject to the Alcabala tax, either if such transfer is in exchange of a contribution or is free of payment. It is important to point out that, among others, if the transfer is carried out due to the advance deposit of an inheritance or due to the death of an individual it will not be levied with the Alcabala tax.

1.4 Endowment tax

There is no endowment tax in Peru.

1.5 Transfer duty

There is no transfer duty tax in Peru.

1.6 Net wealth tax

There is no net wealth tax in Peru.

Nevertheless, Peruvian tax legislation establishes three types of taxes that levies property:

- a) **Real estate tax:** This tax levies the value of urban and rustic real estate. The individual that owns real estate is obliged to the payment of the real estate tax. The collection and administration of this tax corresponds to the local government where the real estate is located.
- b) **Pleasure boats tax:** This tax levies the value of pleasure boats. The individual that owns one or more pleasure boats is obliged to pay the pleasure boats tax. The collection and administration of this tax corresponds to the Peruvian Tax Authority.
- c) **Motor vehicle tax:** This tax levies the property of motor vehicles (i.e., cars, station wagons, trucks and buses) since the following year of their registration in the Public Vehicle Registry, this tax is imposed only for three years. The individual that owns one or more motor vehicles is obliged to pay the motor vehicle tax. The collection and administration of this tax corresponds to the local government where the owner of the vehicle is domiciled.

2. Who is liable?

2.1 General

Depending on the type of tax that the individuals generate, it will determine who is the taxpayer, this is, who will be obliged to declare and pay the corresponding tax to the Peruvian Tax Authority or to the Local Government. In general terms, the owner of the asset or assets will be the taxpayer.

2.2 Residency

According to the Peruvian Income Tax Law, among others, the following are considered as Peruvian residents:

- a) Peruvian individuals who, under civil law, have their domicile in Peru. Peruvian individuals will lose their resident status in any of the following cases: (i) when they acquire residency in a foreign country and leave the country, in which case the loss of residency will be applicable since the individual left the country; or (ii) when they remain in a foreign country for more than 183 calendar days within any 12-month period. In which case, the loss of residence will be effective as from 1 January of the following year to which the 183-day term was met. The law establishes that Peruvians will recover residency once they return to the country, unless they return temporarily by staying in Peru 183 calendar days or less in any 12-month period
- b) Individuals carrying out abroad representative functions or official duties, provided that they have been appointed by the Peruvian central government
- c) Foreign individuals who stay in the country for more than 183 calendar days within any 12-month period. Note that, any change of status occurring during a year becomes effective as from 1 January of the following year to which the 183-day term was met
- d) Marital partnership, if one of the spouses is domicile in Peru
- e) Successions, when the deceased, on the date of his/her death, had the status of domiciled in the country

3. Rates

3.1 Real estate transfer tax

Alcabala tax: The transfer of the ownership of real estate is subject to a 3% tax rate over the transfer value, which cannot be lower than the self-determination value (autovaluo), that is the value assessed by the local government in which the property is located. This value is adjusted in accordance with specific parameters set forth by law and duly communicated to the owner of the property.

The first 10 Tax Units, approximately USD 12,500,¹ are not subject to tax. The buyer or acquirer of the real estate is obliged to pay the corresponding tax.

3.2 Net wealth tax

Real estate tax: The tax base for determining the real estate tax is composed of the total value of the real estates that the individual owns. The owner of the real estates is obliged to pay the corresponding tax.

The tax is calculated according to the following progressive accumulative rates:

Stages	Rates
Up to 15 Tax Units	0.2%
More than 15 and up to 60 Tax Units	0.6%
More than 60 Tax Units	1.0%

Pleasure boat tax: The tax rate is 5% and will apply over the original value of the acquisition or importation of the boat, which will not be lower than the reference value published annually by the Ministry of Economy, such value will include an adjustment for antiquity.

Motor vehicle tax: The tax rate is 1% and will apply over the value of the vehicle, which will not be lower than the reference value published annually by the Ministry of Economy. Such value will include an adjustment for antiquity.

In any case, the payable amount will not be less than 1.5% of the Tax Unit in force in the taxable year in which the tax is due.

4. Exemptions and reliefs

4.1 Donation

In general, donations are not deductible from income tax.

However, if an individual carries out a donation, the amount donated may be deducted as an expense as long as such donation is done in favor of national public entities and nonprofit organizations that have one or more of the following purposes: charity, social assistance, education, cultural, scientific, artistic, literary, sports or health. Also, prior to the donation, these entities need to be qualified by the Peruvian Tax Authority as “entities authorized to receive donations.”

¹ For the fiscal year 2021, one Tax Unit equals PEN 4,400.

It is important to point out that the amount donated can only be deducted if the individual has received labor income. The deduction cannot exceed the 10% of the sum of their net labor income and their foreign source income.

5. Filing procedures

5.1 Real estate transfer tax

Alcabala tax: For this tax, the buyer or acquirer is not obliged to submit a tax return to the Peruvian Tax Authority, the tax is calculated directly by the local government where the real estate is located, since it qualifies as a municipal tax and can be paid by the buyer or acquirer until the last business day of the following month in which the transfer was carried out.

5.2 Net wealth tax

Real estate tax: The owner of the real estate is obliged to submit a tax return in any of the following cases:

- a) Annually, on the last business day of February, unless the local government establishes an extension
- b) When the ownership of real estate is transferred. In this case, the tax return must be submitted by the last business day of the month following of the transfer
- c) When the Peruvian Tax Authority establishes the obligation

The resulting tax can be paid in cash, until the last business day of February of each year or in installments, up to four quarterly installments.

Pleasure boat tax: The owner of the pleasure boat is obliged to pay annually the resulting tax to the Peruvian Tax Authority.

Motor vehicle tax: The owners of motor vehicles are obliged to submit a tax return in any of the following cases:

- d) Annually, on the last business day of February, unless the local government establishes an extension
- e) When the ownership of the motor vehicle is transferred. In this case, the tax return must be submitted by the last business day of the month following of the transfer
- f) When the Peruvian Tax Authority establishes the obligation

The resulting tax can be paid in cash, until the last business day of February of each year or in installments, up to four quarterly installments.

6. Assessments and valuations

For Peruvian tax purposes, in the case of donations, the tax basis of the assets received by the donee will be zero, unless the acquisition cost of the assets paid by the transferor can be fully supported with the corresponding documentation.

7. Trusts, foundations and private purpose funds

7.1 In general

A trust serves as a legal means for the allocation of economic benefits derived from the ownership of assets transferred to the trust. Having as final goals not only the preservation of the assets transferred to the trust but also to increase the net worth, considering the purposes for which it was established. In the past years, the use of trusts for estate and succession planning purposes has increased considerably, since families and/or individuals want to consolidate, protect and preserve the family wealth for future generations.

Trusts incorporated under Peruvian legislation are subject to Peruvian law regardless of the residence of the settlor. For Peruvian tax purposes, trusts incorporated in Peru are considered as look-through entities (transparent investment vehicles). Depending on the type of trust, the settlor or beneficiaries of the trust will be considered as the taxpayers of the income generated by the trust when it is effectively distributed. The tax rate will depend on the type of income generated.

7.2 Types of trusts in Peru

In Peru there are different type of trusts, such as “banking trust,” “securitization trust,” “warranty trust,” “administration trust,” “testamentary trust,” among others. Each of these have their own rules regarding the tax consequences of its establishment.

The “testamentary trust” is a specific type of trust regulated under the Peruvian Banking Law in which the settlor can detail his/her wishes that should be fulfilled by the trustee once the settlor dies, as long as the wishes are not contrary to the inheritance regulations. In that regard, the Peruvian Income Tax Law indicates that the “testamentary trusts” are understood to be established from the opening of the succession, and the profits, income or capital gains generated by the assets or rights transferred to these will be attributed to the trustees who qualify as beneficiaries.

Also, the Peruvian Banking Law details that in any of the abovementioned trusts, the forced heirs of the settlor may demand the return of the trust assets by the deceased as a free trust, in the part that has damaged their inheritance. The fiduciary company has the power to select, among the trust assets, those to be returned. However, the settlor may transfer to the trust the assets that are part of the inheritance of any of the minor or incapacitated heirs, for their benefit and while the minority or disability subsists. The fiduciary company, in any case, should attend to the maintenance of the minor or the incapacitated person with the income or the profits of the trust.

8. Grants

This is not applicable in Peru.

9. Life insurance

Pursuant to the Peruvian Income Tax Law, as a general rule, the income generated by the difference between the updated value of the premiums or installments paid by the insured and the sums that the insurers give to them at the termination of a life insurance contract; and, the benefits or participations in a life insurance contract that the insured obtain, will qualify for income tax. However, the referred law establishes a specific and permanent tax exception for this type of income (the exception does not have a due date). In that regard, the income received due to death, that originates in an insurance contract, will not be subject to income tax. Upon the death of the insured, the compensation that is obtained by the beneficiaries of a life insurance policy will not qualify as a taxable income.

10. Civil law on succession

In Peru the rules that regulate succession are mandatory and the individuals are not allowed to enter into agreements against such regulations when it is not specifically authorized to do so.

According to the Peruvian Civil Code, when a person dies, his/her assets, rights and obligations are transmitted to his/her successors. Not only does a succession start at the time of the person's death, but also when the death is presumed based on the absence or disappearance of an individual. It is important to mention that, the Peruvian Civil Code establishes that the heir is only liable for the debts of the inheritance as far as the total value of the assets inherited.

10.1 Testamentary succession

The testament is a legal instrument by which an individual decides what he/she wants to do with his/her assets at the time of death. The testament is a unilateral, formal and solemn act, where an individual expresses his/her will regarding how he/she will dispose the assets after his/her death.

In case of this type of succession, testamentary provisions must be the direct expression of the will of the testator, who cannot grant power to another person to testify, nor leave his/her provisions at the discretion of a third party. There are different types of testaments; however, the information or regulations that every testament should have are: the written form, the date of its granting, the name of the testator and his/her signature. The specific formalities of each type of testament cannot be applied to the other types of testaments.

In the testamentary succession, the will must contain the distribution of the deceased's assets for each forced heir. According to the Peruvian Civil Code, the force heirs are daughters, sons and descendants, parents and direct ascendants and spouse or life partner. When the testator has forced heirs, there is a part of the inheritance from which he/she cannot freely dispose. In case the testator has descendants or spouse, he/she will be allowed to freely dispose a third of the total assets through his/her testament; if the testator only has parents or ascendants, he/she will be allowed to freely dispose 50% of the total assets. The portion applicable to the spouse or life partner is independent to the applicable rights generated by the dissolution of the marriage or partnership.

10.2 Intestate succession

The cases of instate succession are the following:

- a) An individual dies without leaving a testament or the one he/she has left is declared void, it has expired, or the disinheritance has been revoked
- b) The testament does not indicate an heir

- c) The mandatory heir died prior the testator, renounces to the inheritance or loses it by indignity or disinheritance and has no descendants
- d) The voluntary heir or legatee dies before the testator, renounces to the inheritance or loses it by indignity without having a substitute heir
- e) The testator who does not have mandatory or voluntary heirs established in a will

Pursuant to the Peruvian Civil Code, there are six orders of successors in the case instated succession:

- a) Daughters, sons and other descendents
- b) Parents and other ascendants
- c) Spouse or life partner
- d) Siblings
- e) Uncles and aunts
- f) Nephew and nieces

10.3 Undivided successions

As mentioned before, Peru's tax legislation does not impose an inheritance tax, this is, the assets, rights and obligations transfer to the successors will not qualify as taxable income. However, once the person has passed away, until the declaration of heirs, if it is an intestate succession; or until the testament is registered in the Peruvian Public Registry, if it is a testamentary succession, the undivided succession should obtain a tax ID number to comply with the tax obligations generated by the assets inherited. Once the declaration of heirs is carried out or the testament is registered in the Peruvian Public Registry, each heir should declare and pay the taxes corresponding to the part of the inheritance received.

11. Estate tax treaties

11.1 Unilateral rules

Peru does not have specific rules on tax credits or transfer of properties abroad.

11.2 Double-taxation treaties

Peru has not signed any gift or inheritance tax treaties.