



# Doing Business in Peru 2020

## Mining Chapter





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# Foreword

Peru remains as one of the most stable and promising economies in the region. In fact, the country's resilience allowed it to achieve a 2.5% growth in 2019, and it is expected that 2020 will see a recovery of growth, despite the country's vulnerability to external shocks such as a decline in commodity prices or changes in international financial conditions. This stability is possible because, over the years, different Peruvian governments have carried out several reforms to improve business climate, promote foreign investment and boost the country's competitiveness.

Peru has experienced constant growth in its Gross Domestic Product (GDP) for the past few years, driven mainly by the production and export of commodities. However, due to the international volatile context, such as the trade war between China and the United States, and the social outbreak the region has experienced in the last months, Peru's growth rate has decelerated, as occurred in most of the neighboring countries and other emerging economies.

Doing business in Peru contains the most recent, reliable and detailed information on the major macroeconomic, tax, corporate, labor and social security matters about Peru. We are confident that the content of this publication will be helpful for both investors who wish to participate in our market and business leaders already present, who need to be up-to-date on the most relevant regulatory changes in order to conduct a successful business in Peru.

PwC has 95 years of uninterrupted presence in Peru, and significant experience providing business advisory as well as tax and audit services through its multidisciplinary teams, assisting organizations to accomplish their business goals.

# Content



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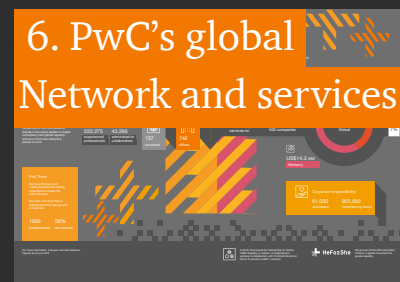
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# 1. Peruvian mining industry in numbers

The Peruvian mining sector stands out for its geological potential and low production costs, which makes it attractive for new companies and higher investments.

The mining activity represented 9% of the country's gross domestic product (GDP) for the last 10 years and almost 60% of the total value of national exports.

Mining investment in Peru increased significantly in the past 20 years, exceeding 63,000 million dollars. For the last decade, mining investment represented 16% of the country's private investments.

**48**  
**Portfolio of mining construction projects**

**1,059**  
**Mining activity units (production and exploration)\***

**14%**  
**Percentage of territory granted to mining\***

**US\$15.18 Bn**  
**Mining GDP \***

**59.7%**  
**Participation of mining exports over total exports\***

**US\$2.50 Bn**  
**Foreign direct investment in mining\***

**US\$29,81 Bn**  
**Mining exports\***

**24.5%**  
**Growth of mining investments between 2018 to 2019**

Source: BCRP, INEI, MINEM

\* Year 2018



# 2. Corporate considerations

# Corporate considerations

## Mining legislation

Peru is one of the most attractive destinations for mining investments due to the high level of its reserves and the legal framework that promotes private investment, the easily available land registry and geological information, as well as the presence of the main global mining companies. In order to provide orientation to investors in the mining sector, we describe the most common and important legal procedures:

### The Consolidated Text of the current General Mining Law in Peru regulates four types of concessions:

- i. The mining concession, which grants the holder the right to explore and exploit the mineral resources located within a determined area. It is a different and separate property from the real estate in which it is located, and it grants its holder a property right over the resources extracted from the subsoil;
- ii. The beneficiation concession, which grants the holder the right to remove or concentrate the valuable part of an aggregate of uprooted minerals and/or smelt, purify or refine metals;
- iii. The general works concession, which grants the holder the right to provide auxiliary services such as ventilation, sewage, lifting or extraction to two or more mining concessions;
- iv. The mining transport concession, which grants the holder the right to install and operate continuous mass transport of mineral products between one or more mining centers and beneficiation port or plant, to a refinery in one or more sections of these routes.

The Peruvian government has established certain rules to provide economic stability to new private investors. These stability rules will protect the private investor from any arbitrary change in the legal framework and conditions, reducing the interference of the government in the market.

It is important to highlight that no Peruvian law or regulation distinguishes between national and foreign investors. As a result, foreign investors receive exactly the same treatment as national investors, except for what is indicated in article 71 of the Political Constitution of Peru, which states that foreigners cannot acquire or possess by any title mines, lands, forests, waters, energy sources, among others, within 50 km of the Peruvian borders.

In order to apply for ownership of a mining concession, the company must execute, in the first place, the search or survey of the area where it wants to carry out a greater exploration. The company does not need any type of authorization in order to carry out this search.

Once the search has been completed, the company must present an application to the Geological, Mining and Metallurgical Institute - Ingemmet<sup>1</sup>, and the payment of the subsoil fee and/or administrative fee. Subsequently, the notices must be published as required

by law. The adjudication of the mining concession is granted through a resolution issued by the president of the Ingemmet. Finally, the concession title can be registered in the Mining Registry of the Public Registry Office.

It must be taken into account that before beginning the operations in the area, the holder must request an authorization for the initiation of activities from the Minem<sup>2</sup>, a procedure that requires the holder to include a document indicating that prior consultation has been carried out. Prior consultation is a procedure requested from the Ministry of Culture – Mincul<sup>3</sup> and it consists in obtaining an opinion of the indigenous communities considered as such by the Mincul with regard to the activities that have been announced. This opinion is not an obligatory requirement to obtain the authorization since it can be issued at the discretion of the Minem.

It must also be considered that, as mentioned above, the concession does not grant the property right over the surface of the land. This right can be acquired through the purchase of the land from the owner or through an easement right.

<sup>1</sup> Instituto Geológico Minero y Metalúrgico – Ingemmet: specialized public technical agency whose objective is the collection, storage, administration and efficient dissemination of geoscientific information and that related to basic geology.

<sup>2</sup> Ministerio de Energía y Minas – Minem: It is the organ of the executive power of Peru in charge of the energy and mines sector.

<sup>3</sup> Ministerio de Cultura – Mincul: It is the organ of the executive power of Peru in charge of the culture sector.



The Minem and the Ministry of the Environment<sup>4</sup> have established certain regulations related to the environmental norms for the mining industry. To obtain an authorization to initiate operations, concession holders must present and obtain the approval of an Environmental Impact Declaration (Declaración de Impacto Ambiental - DIA), or a Semi-detailed Environmental Impact Assessment (Estudio de Impacto Ambiental Semidetallado - EIA-sd), depending on the amount of drilling platforms, the size of the interrupted area and the construction of tunnels. It is important to mention that these studies must include technical, social and environmental aspects, as well as the actions that will be carried out to prevent possible contingencies through an Environmental Management Plan.

The Organism for Environmental Evaluation and Control – OEFA<sup>5</sup> is in charge of monitoring all the environmental obligations, and has the authority to carry out audits and establish fines for mining companies.

All the mining companies must prepare a Closure Plan, which must be delivered and executed for the closure of mines. Additionally, the company must issue environmental guarantees to ensure the compliance of the Closure Plan during the concession. The amount of the guarantee must cover the estimated amount of the Closure Plan.

The Peruvian government maintains the ownership of the land and all the mineral resources in that area, but the ownership of the extracted mineral resources belongs to the holder of the mining concession. It is important to highlight that there is a difference between the ownership of the surface and that of the natural resources located in said area.

The mining concession grants the holder a real right, which is the right to explore a specific area and exploit all the mineral resources located therein. It is important to consider that the concession holders are not the owners of the surface of the land. The holder of the concession has the right to request an easement over the land of third parties, with prior compensation, so as to be able to carry out any other necessary activity.

The water rights are independent from the concession rights and are granted by the National Water Authority - ANA<sup>6</sup>. To be able to use the water for mining activities, the Peruvian legal framework determines that the company must have an authorization for the use of the water. In the event that the company intends to drill wells, there are other procedures to be followed, as well as in the case of the discovery of water as a result of the drilling of wells.

Once the surface right is granted, the holder has certain obligations that must be fulfilled; for example, to only consume the amount of water that is permitted and make payments to the ANA according to the water volume granted, among others. It is important to highlight that there are certain standards for the deposits of mineral residues included in the Law of Water Resources that must be observed.

<sup>4</sup> Ministerio del Medio Ambiente – Minam: It is the organ of the executive power of Peru in charge of the management of the environment and renewable natural resources.

<sup>5</sup> Organismo de Evaluación y Fiscalización Ambiental – OEFA: public body, specialized technician, attached to the Ministry of Environment of Peru in charge of environmental control.

<sup>6</sup> Autoridad Nacional del Agua - ANA: body responsible for carrying out the necessary actions for the multisectoral and sustainable use of water resources by river basins.



The use of explosives in Peru is regulated, controlled and supervised by the National Superintendence of Control of Safety Services, Weapons, Ammunitions and Explosives for Civil Use – Sucamec<sup>7</sup>. The Explosives Regulation establishes that companies which use explosives in their mining activities must observe specific rules during the placement and transport of these goods.

It is important to consider that each type of transport is specifically addressed in the Explosives Regulation, and that, depending on the type of explosive that the company uses, a specific rule will be applied.

There are safety requirements that are obligatory for all mining companies which use explosives. The administration requires technical specifications of every type of explosive that the company will use during the mining activities.

The form commonly employed by the national or international investors to carry out business in Peru is the limited liability company.

The formation of a local company is relatively simple and is regulated, basically, by the General Company Law. The Company can be formed through a shareholders agreement (privately). The company can be incorporated by two or more persons, directly or through representatives or legal entities, which must sign a public deed of formation before a Public Notary, and registered in the Public Registry Office.

Companies incorporated in Peru must be registered before the Tax Administration and obtain a Single Taxpayer's Registration. For these purposes, its legal representative must request registration with the Tax Administration, for which they must present the original and provide a photocopy of the following documents: (i) identity document, (ii) any document that verifies the domicile of the company (for example, energy/water/telephone bill, lease contract, etc.). In said case, it will not be necessary to present a registration form.

<sup>7</sup> Superintendencia Nacional de Control de Servicios de Seguridad, Armas, Municiones y Explosivos de Uso Civil - Sucamec: specialized technical institution of national scope, in charge of, control, administer, authorize, control the activities of private security, manufacturing, trade and use of weapons, ammunition and related, explosives.



# 3. Labor

# Legislation

## Labor legislation

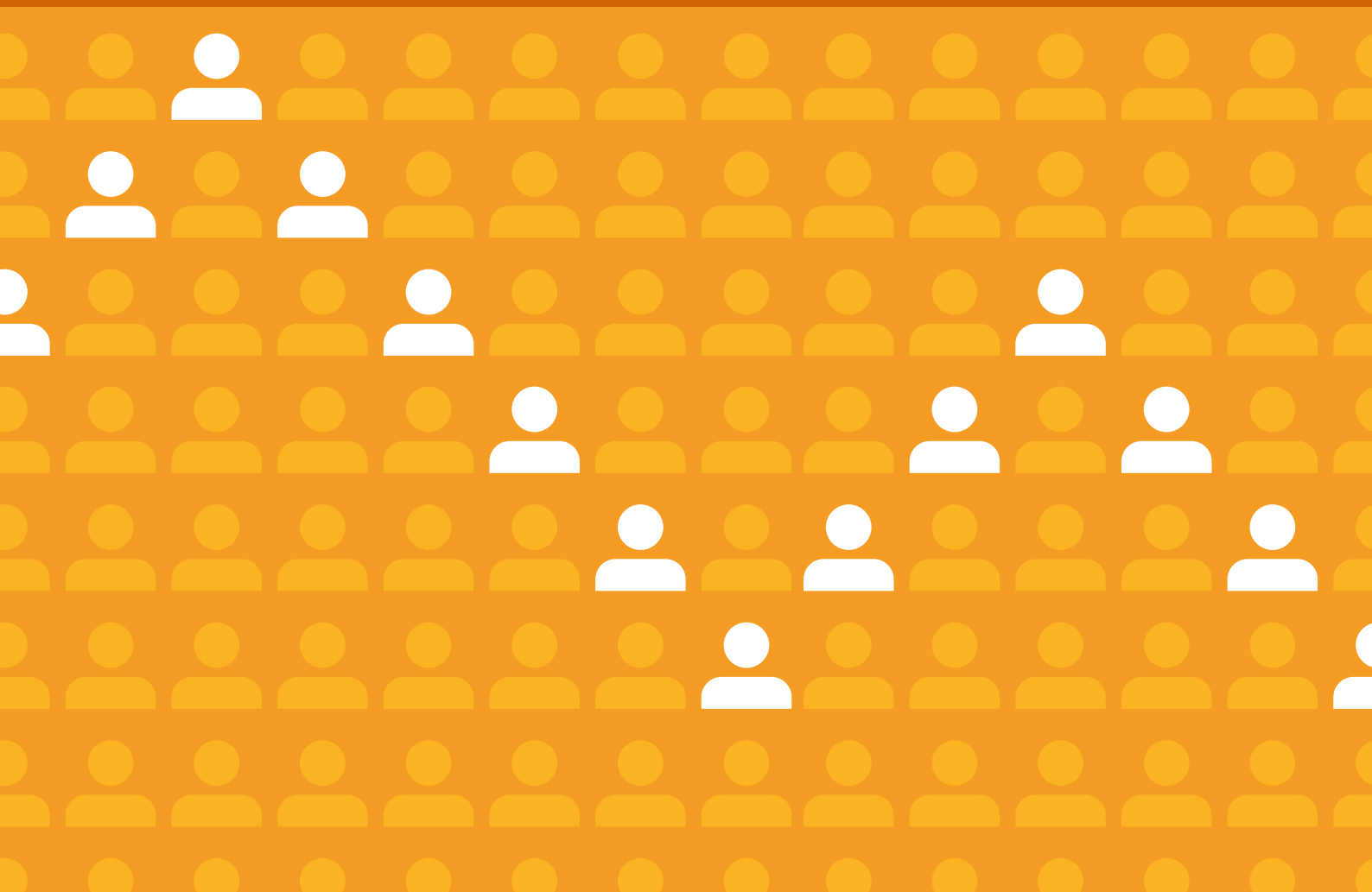
According to the “Consolidated Annual Declaration 2018 (CAD)” published by Minem, in 2018, there was an average of 201 547 jobs generated directly by the mining activity, a rate 0.6% higher than the one obtained in 2017 (200,369 workers). Of the total direct jobs registered in 2018, the mining companies employed 66,357 workers, 32.9% of the total; while mining contractors employed 135,191 workers, the remaining 67.1%

The mining sector constitutes a notable source of employment generation for other sectors. According to estimates of the Peruvian Institute of Economy - IPE<sup>8</sup>, for each job generated directly in the mining activity, 6.25 jobs are additionally generated in the rest of the economy: 1 for indirect effect, 3.25 for the induced effect on consumption

and 2 by the induced effect on the investment. In this way, it is estimated that in 2018, the mining activity generated 1.26 million indirect jobs that added to the 0.20 million direct jobs, which means the activity provided work to, approximately, 1.46 million people.

The mining sector in Peru has produced socio-economic benefits in recent years, consolidating itself as a sector of importance for the country's growth, and it is characterized by providing higher wages to market average.

<sup>8</sup> Instituto Peruano de Economía - IPE: private nonprofit institution, whose purpose is the promotion of balanced development and propose economic policy measures.





## The minimum mining wages

It is established that this income may not be less than the amount resulting from applying an additional 25% to the minimum vital wage (MVW) in force at the time of payment. Currently, Peru has an MVW of PEN 930. In that sense, the mining worker must earn at least PEN 1,162.5.



## Labor administration

The health and social security system in Peru is administered by EsSalud<sup>9</sup>, the governmental entity responsible for providing medical attention to workers and their families. The employers' contribution is based on a rate of 9% of the total monthly remuneration of the worker.

According to Peruvian law, workers can decide to contribute to the Private Pension Fund System, administered by the Pension Fund Administrators (Administradoras de Fondo de Pensiones - AFP), a system in which the contribution is equivalent to approximately 13.25% of the remuneration; or to the National Pension Fund System (managed by the Office of Pension Normalization – ONP<sup>10</sup>), a system in which the contribution is equivalent to 13%. This amount is collected by the employer and paid to the fund selected in the name of the employee.

There is a Complementary Mining, Metallurgical and Steel Retirement Fund, which has the objective of granting an additional amount in favor of the workers, affiliated to the National Pension System (Sistema Nacional de Pensiones – SNP<sup>10</sup>) or to the Private Pension System (Sistema Privado de Pensiones - SPP), who have retired in accordance with the Retirement Law of mining employees and the Law that governs the early retirement applicable to workers affiliated to the SPP who perform tasks that cause risks to their life or health.

<sup>9</sup> Seguro Social de Salud - EsSalud: institution of social security in health, committed to the integral attention of the needs of the insured population.

<sup>10</sup> Oficina de Normalización Previsional - ONP: public technical and specialized organization of the economy and finance Sector, which is responsible for the administration of the National Pension System.



This Fund is formed with contributions from both employees and employers, which are distributed as follows:

- Employers will contribute 0.5% of the annual income before taxes; and
- The employees will contribute 0.5% of their monthly gross remuneration. The employer's contributions are paid before taxes and, therefore, are expenses deductible in the respective fiscal year.

The entities that develop mining activities are obligated to contract a Complementary Insurance for Hazardous Work (Seguro Complementario de Trabajo de Riesgo - SCTR) and assume the cost of the premium and/or contributions. This insurance covers the risks presented by hazardous activities, since there is a greater risk of suffering illnesses or accidents.

The mining company can contract a professional hazard insurance with EsSalud or a Health Maintenance Organization (Entidad Prestadora de Salud - EPS).

Furthermore, with regard to economic benefits, the employer can choose between affiliation with the SNP or with a private insurance company for the following benefits: (i) survivors' pension, (ii) disability pension and (iii) funeral expenses.



# 4. Foreign Trade

## Foreign trade

Peru is a member of the World Trade Organization (WTO) and has several bilateral agreements based on most favored nation treatment on a reciprocal basis.

### Customs duties

Customs duties are applied on import at rates of 0%, 4%, 6%, 11% considering their tariff subheading. Almost 71% of the goods are subject to a 0% rate (including capital goods).

Taxable base for determining customs duties is the Customs Value of the goods under CIF consideration (including insurance and freight). Peru follows the rules of the WTO Customs Valuation Agreement for these purposes.

Specific goods are considered forbidden from import and export (i.e. used tires and drugs) and others are considered restricted (i.e. chemical inputs, GPS equipment). Regarding restricted goods, special permits are required for their importation.



### Trade agreements

Peru has signed Free Trade Agreements with 22 countries and economical territories (i.e. US, China, Canada, Japan, Singapore, South Korea, Chile, Mexico, UE, Mercosur, EFTA, WTO, APEC).

### General Sales Tax (VAT)

Import of goods to Peruvian territory is levied with VAT. Peruvian VAT foresees specific mechanism in order to avoid double taxation of services imported into Peru when related to imported goods. For this purpose, specific requirements and procedures are of application.

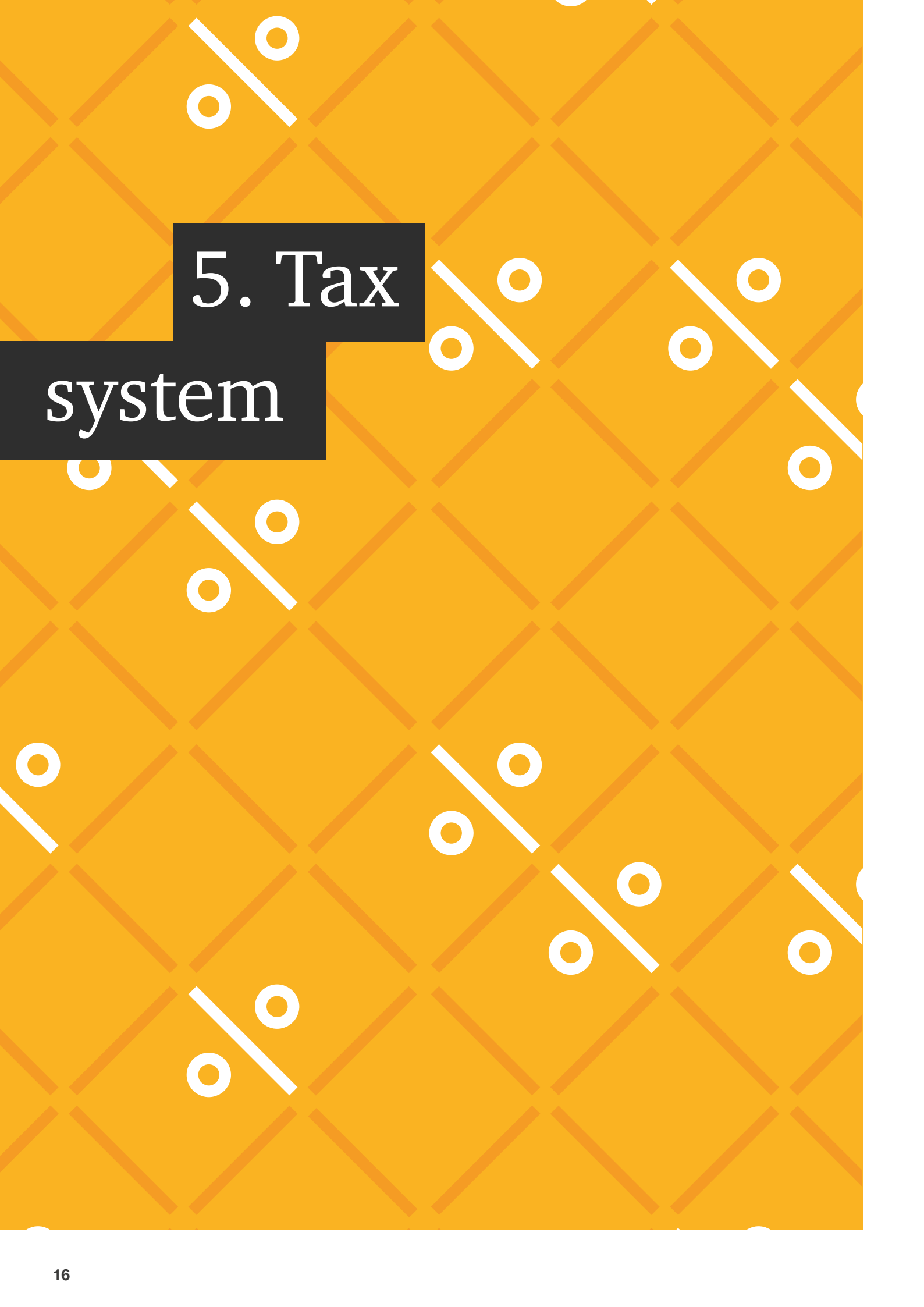
### VAT perception regime (advanced payment)

This system also applies to the import of goods, scenario in which the Tax Administration acts as the perception agent. In this case, the perception rates vary between 3.5% (second importation onwards and new goods), 5% (used goods) and 10% (first importation, among others).

### Balance in Favor of the exporter

Export of goods (i.e. ore concentrates and precious metals bars) as well as some services performed for foreign entities, are taxable at 0% rate. VAT paid upon the acquisition of goods, services, construction agreements and import of goods related to the exported goods or services, grants exporter a positive balance which may be refunded by the tax administration.

The positive balance may be offset with: (i) output VAT, (ii) income tax, (iii) any other outstanding tax debt in favor of the Central Government. In case the positive balance is not completely offset, because the amount of the aforementioned tax obligations does not fully absorb



# 5. Tax

# system



## Tax system

### Mining Taxation in Peru:

Corporate income tax	Mining taxes	Value Added Tax (VAT)
<p><b>Annual rate:</b> 29.5%</p>	<ol style="list-style-type: none"> <li>1. Mining Royalty (Regional Government).</li> <li>2. Special Mining Tax (Central Government).</li> <li>3. Special Mining Contribution (for companies with tax stability)</li> <li>4. Contribution to OSINERGMIN<sup>(11)</sup>: 0.14%</li> <li>5. Contribution to OEFA: 0.10%.</li> </ol>	<p><b>Rate:</b> 18%</p>
<p><b>Rates of Depreciation:</b></p> <ul style="list-style-type: none"> <li>• Buildings and constructions: 5%</li> <li>• Machinery and equipment used in mining activities: 20%.</li> <li>• Other fixed assets: 10%</li> </ul>	<p><b>Basis:</b> Operating profits</p> <p><b>Rates:</b></p> <ol style="list-style-type: none"> <li>1. Mining Royalty: 1% - 12% (minimum 1% of sales).</li> <li>2. Special mining tax: 2% - 8.4%</li> <li>3. Special Mining Contribution: 4% - 13.12%</li> <li>4. Contribution to Osinergmin: The rate of the contribution is calculated on the value of the monthly invoicing minus VAT.</li> <li>5. Contribution to OEFA: The rate of the contribution is calculated on the value of the monthly invoicing minus VAT minus VAT.</li> </ol> <p>Deductible in CIT calculations: YES</p>	<p><b>Transactions subject to VAT:</b></p> <ul style="list-style-type: none"> <li>• Sales of movables goods within Peru;</li> <li>• Rendering or use of services within Peru;</li> <li>• Import of goods;</li> <li>• Construction agreements;</li> <li>• The first sale of a construction performed by constructors.</li> </ul>
<p><b>Restriction on use of tax losses:</b></p> <p>4 years or indefinite but up to 50% of net taxable income.</p>	<p><b>Other payments:</b></p> <ul style="list-style-type: none"> <li>• License Fee (mining right fee).</li> </ul>	<p><b>VAT charged in exports:</b></p> <ul style="list-style-type: none"> <li>• 0% rated</li> </ul>
<p><b>Employee Profit Sharing:</b></p> <ul style="list-style-type: none"> <li>• 8% of the employer's taxable income.</li> <li>• Deductible for CIT purposes: YES.</li> </ul>	<p><b>Tax stability Agreements:</b></p> <ul style="list-style-type: none"> <li>• Legal</li> <li>• Mining</li> </ul>	<p><b>VAT Refund</b></p> <ul style="list-style-type: none"> <li>• Early VAT Recovery</li> <li>• Definitive VAT recovery.</li> <li>• Exported VAT reimbursement.</li> </ul>

<sup>11</sup> Organismo Supervisor de la Inversión en Energía y Minería - Osinergmin: public institution responsible for regulating and supervising that companies in the electricity, hydrocarbons and mining sector comply with the legal provisions of the activities they carry out.

## Income Tax (IT)

Companies incorporated in Peru are considered domiciled for IT purposes and, therefore, subject to IT at a 29.5% rate on net income determined on a worldwide basis, whereas branches of foreign companies are only subject to Peruvian IT on their Peru source income.

In order to determine their taxable income, domiciled companies are allowed to deduct expenses, to the extent that these are necessary to produce taxable income or to maintain its source. In addition, limits and/or caps may be applicable for the deduction of certain expenses, such as financial expenses (thin-capitalization rules apply), bad debt provisions, salaries, travel expenses, and gifts, among others.

However, certain expenses are not tax deductible, such as those derived from transactions with entities domiciled in the “tax havens,” permanent establishments located in tax havens, or with entities that obtain revenues or income through tax havens. Notwithstanding, expenses derived from interest on loans, insurance premiums, among others, are excluded from this limitation. For this purpose, the Peruvian IT Law has provided a list of countries or territories considered as “tax havens”, as well as guidelines to determine whether a territory can be considered as a tax haven even if they are not mentioned in said list.

Depreciation is applied under the straight-line method. The maximum depreciation deduction allowed for a given period is the one recorded for accounting purposes; however, IT Law establishes maximum tax depreciation rates which may not be exceeded in any case.

Peruvian IT Law also allows crediting different payments against IT, such as the amounts paid in advance, amounts paid for certain other taxes and income tax paid in foreign tax jurisdictions provided that the foreign country’s tax rate is not higher than the Peruvian corporate tax rate.

Dividends and any other kind of profit distributions are taxed at a 5% rate, upon distribution in benefit of domiciled individuals or non-domiciled beneficiaries (either individuals or legal entities). The entity distributing dividends or profits is liable for applying the 5% withholding. Nevertheless, legal entities are subject to an additional tax rate of 4.1% on every amount or payment in kind that, as result of a tax audit, is construed as taxable income, to the extent that it is an indirect distribution of such income which is not subject to further tax control, including income that has not been declared.

In general, corporate taxpayers must meet their year-end tax liability by making monthly advanced payments. An Annual IT Return must be filed no later than the first three months of the following tax year. There are no local income taxes in Peru.

**These are the main considerations to take into account in determining the Peruvian Corporate IT:**

### i. Deductible expenses

The general deduction rule is that an expense is deductible against gross income if it was necessary to produce said income, produce capital gains or to maintain the source of income. For such purpose, expenses must be ordinary to the economic activity of the company and meet other requirements such as being general and reasonable, as the case may be. Even though the Peruvian IT Law establishes specific deduction rules for certain expenses, this does not mean that these expenses are the only ones that may be deducted, due to the fact that the Peruvian IT Law allows the deduction of any expense that complies with the causality principle (including mining taxes).

<b>Start Up Costs</b>	<p>Organization expenses, pre-operating expenses -including initial operations and further expansion of operations-, and interest accrued during the pre-operating period may be deducted in the first period of operation or amortized using the straight-line method over a maximum period of 10 years.</p> <p>The amortization period may be varied provided that the approval of the Tax Authority is granted. The total period may not exceed 10 years.</p>
<b>Acquisition of mining rights</b>	<p>Amortization of the acquisition costs of mining rights starts after the period granted to the owner of the mining right to comply with the minimum production. The amortization period must be established based on the probable life of the ore, calculated by taking into account the proved and probable reserves and legal minimum production.</p>
<b>Exploration expenditures</b>	<p>Exploration costs accumulated up to the year when minimum production is achieved must be added to the acquisition cost and amortized as part of it. However, mining companies may choose to expense said costs when incurred, provided, as mentioned above, that the company has earned revenues.</p> <p>The exploration costs incurred after minimum production is achieved may be deducted in the fiscal period in which it is accrued or amortized during the probable life of the mine.</p> <p>Both the acquisition and explorations costs may be written-off if, prior to achieving minimum production, the mining right is abandoned or revoked. In the event that the mining right is abandoned, revoked or the mining deposit is depleted after minimum production is achieved, the company may choose to write-off the acquisition and exploration costs or continue the amortization thereof.</p>
<b>Development costs</b>	<p>Development costs may be expensed in the year. The mining company may choose to amortize these costs over a maximum period of three years, provided the development allows a production period comprising at least two fiscal periods. The development cost may be written off if the mine is depleted or the mine right is abandoned or revoked.</p>
<b>Production costs</b>	<p>The General Mining Law does not include any regulations regarding the allocation of production costs, neither for accounting purposes nor for tax purposes. The Peruvian IT Law, however, states that production costs have to be allocated to the products sold, and thus, a deduction for them takes place upon the sale of the products.</p>

## Depreciation rates

Assets	Maximum annual tax depreciation rate
Work and reproduction livestock; fishing nets	25%
Land transportation vehicles (except railways); furnaces in general	20%
Machinery and equipment used for mining, oil, construction; except furniture and office equipment	20%
Data processing equipment	25%
Machinery and equipment acquired after January 1st 1991	10%
Other fixed assets	10%

In order to accept depreciation for tax purposes, such depreciation must:

- i. be recorded in the company's accounting records, in the current fiscal year;
- ii. not exceed financial depreciation;
- iii. not exceed the depreciation rates previously mentioned.

Differences between financial and tax depreciation may also be deducted, provided that a temporary account is recorded until the assets are fully depreciated for tax purposes.

## ii. Withholding taxes

Peru source income paid to non-domiciled entities is subject to withholding tax, in accordance to the following rates:

Peru source income	Rate
Interest paid on loans with non-related parties, provided certain requirements are met	4.99%
Interest paid on loans with related parties	30%
Dividend and any other profit distributions	5%
Royalties	30%
Technical assistance, to the extent certain formal requirements are met	15%
Digital services	30%
Lease of vessels or aircraft	10%
Other income	30%

## Mining Taxes

In addition to the corporate income tax, mining companies must pay, on a quarterly basis, mining taxes for exploitation of mineral resources based on operational profit.

- i. **Royalty:** Under the 2004 Mining Royalty Law, revised in 2011, the royalty is applied to the quarterly operational profit of the mining companies, at an effective rate varying from 1% to 12%, depending on the operational margin identified within 16 separate brackets.

A minimum royalty payment equivalent to 1% of the sales is always required. The law defines the distribution of royalties among Local Governments, Province Governments, Regional Governments and National Universities.

- ii. **Special Mining Tax:** Mining companies without tax stability agreements with the government (further explained below) are subject to this tax. It applies to the quarterly operational profit at an effective rate varying from 2% to 8.4%, depending on the operational margin identified within 17 separate brackets
- iii. **Special Mining Contribution:** Mining companies that have taxation stability agreements previously signed with the government are subject to this contribution in the form of a levy. It applies to the quarterly operational profit at an effective rate varying from 4% to 13.12%, depending on the operational margin identified within 17 separate brackets.

## Value Added Tax (VAT)

VAT is levied on the following operations at a rate of 18%:

- a. Sale of movable goods within Peru,
- b. Services rendered within Peru,
- c. Importation of services (services economically used within Peru by a domiciled entity),
- d. Importation of goods,
- e. Construction agreements, and
- f. The first sale of constructions performed by constructors.

The VAT Law follows a debit/credit system through which input VAT (paid in purchase of goods and services) may be offset with output VAT (originated by taxable operations). Any VAT credit that is not offset in a certain month can be carried forward (at historical values) to be offset with any future output VAT. It should be noted that VAT credit cash refunds are only available for exporters and some entities at pre-operative stage, provided certain conditions are met.

Peru has three different VAT withholding regimes with rates that fluctuate between 0.5% - 12%. These withholding regimes apply to specific transactions or when the Tax Authorities appoints persons liable to VAT as withholding agents.

### VAT withholding regime

This system is applicable to recipients of goods or services subject to VAT. Purchasers of goods and the user of services must withhold 3% of the price or fees invoiced where the price of the supply exceeds PEN 700.

### VAT perception system

This system is applied to the sale of certain goods within the country, such as mixed oil gas, carbon dioxide, among others. The perception rates are 0.5%, 1% and 2%.



This system is also applicable to the import of goods, where the Tax Administration acts as the perception agent. In this case, the withholding rates range between 2% and 5%. Exceptionally, a 10% perception rate may apply. Amounts subject to this perception regime can be recovered either as a credit or refund.

### Tax Obligatory Payment System (SPOT)

This system is applicable to the sale of certain goods, construction contracts and the rendering of services subject to VAT (with some exceptions).

Sales of certain movable goods are subject to this system at rates ranging from 4% to 10%, depending on the goods whereas in case of services the rates are 10% or 12%, depending on the service.

The recipient of goods or services must withhold the corresponding percentage from the price of the transaction when its consideration exceeds PEN 700, approximately, and deposit it in the National Bank – BN<sup>12</sup> account of the supplier. Withheld amounts can be recovered either as a credit or refund, provided certain specific rules are met. n which the shareholder agreement is executed.

<sup>12</sup> Banco de la Nación – BN: national bank that represents the peruvian state in commercial transactions in the public or private sector, either nationally or abroad. It is a member of the Ministry of Economy and Finance.

## Other taxes

<b>Excise Tax</b>	The sale of some specific goods, such as fuel, cigarettes, beer, liquor, vehicles, among others, is subject to Excise Tax. The rates are determined according to the type of good or service.						
<b>Temporary Net Assets Tax</b>	<p>Companies subject to corporate IT are obliged to pay the Temporary Net Assets Tax. The taxable basis is the value of the net assets set forth in the taxpayer's balance sheet as of December 31 of the year prior to the one that corresponds to the tax payment, adjusted with the deductions and amortizations accepted by the Peruvian IT Law. Thus, the amount of the Temporary Net Assets Tax is determined by the application of the following rates on the taxable basis:</p> <table border="1" data-bbox="440 562 1358 763"> <thead> <tr> <th>Rates</th> <th>Net Assets</th> </tr> </thead> <tbody> <tr> <td>0%</td> <td>Up to S/1,000,000</td> </tr> <tr> <td>0.4%</td> <td>Excess of S/1,000,000</td> </tr> </tbody> </table> <p>The amount paid for the Temporary Net Assets Tax by the taxpayer is a credit to be offset against the monthly IT advanced payments or to the annual IT regularization payment. If not totally offset, the remaining Temporary Net Assets Tax may be refunded by the Tax Administration.</p>	Rates	Net Assets	0%	Up to S/1,000,000	0.4%	Excess of S/1,000,000
Rates	Net Assets						
0%	Up to S/1,000,000						
0.4%	Excess of S/1,000,000						
<b>Financial Transfer Tax</b>	<p>Obligations that are fulfilled through cash payments, the amount of which exceeds S/.3,500 or USD1,000, must be performed through a bank account or deposit, wire transfers, payment orders, credit cards, non-negotiable checks, among other means of payment provided by the Peruvian financial system entities.</p> <p>Any obligation that is not performed using such methods does not allow deduction of the expense or recognition of the cost for tax purposes, nor recognition of tax credits (i.e. input VAT).</p> <p>Moreover, Financial Transactions Tax levies, among other transactions, all debits and/or credits on bank accounts held by the taxpayers. The tax rate in force as from April 1, 2011 is 0.005%.</p> <p>There are certain operations exempted from the Financial Transactions Tax, such as, operations between accounts of the same holder, credits or debits made in bank accounts opened at the employer's request exclusively in order to deposit their employees' salaries, credits or debits in bank accounts of severance indemnities.</p> <p>Financial Transactions Tax is deductible as expense for IT purposes.</p>						

### Statute of limitations

Pursuant to the Peruvian tax legislation, the Tax Administration is entitled to audit taxpayers in order to assess their tax liabilities, request the payment of any due tax and assess any applicable penalty, for up to (a) a 4 year term from January 1st of the year following the date the corresponding tax return had to be filed; (b) 6 years to the extent that the corresponding tax return was not filed, and (c) 10 years when the tax withheld by the taxpayer has not been paid to the Tax Administration.

### Formal liabilities

Peruvian corporations must comply with the following formal liabilities: (i) register before the Tax Administration and obtain a Taxpayer's Registry number; (ii) file monthly and annual tax returns; (iii) issue invoices and other receipts, in accordance with the Invoice's Regulations; (iv) keep accounting books and records; (v) allow the Tax Administration to perform tax audits; (vi) comply with the transfer pricing formal liabilities (annual informative statement and transfer pricing study), when applicable.

### Employees' profit sharing

There is a maximum limit of 18 salaries per employee; however, the difference is destined to a special training fund. The profit sharing is distributed among all employees according to their salaries and the actual days worked during the year.

Basis for calculating the employees' profit sharing is the company's net income. In that sense, in case the company has no taxable income, no profit-sharing obligation will arise.

### International treaties

Peru has entered into Double Taxation Treaties (DTT) with Canada, Chile, Brazil, Mexico, Portugal, South Korea, and Switzerland which are currently in force and follow the OECD model. Furthermore, Peru has entered into a DTT with Japan, which also follows the OECD model, but is not in force yet.

In addition, Peru is a member of the Andean Community of Nations - ACN in which Bolivia, Colombia and Ecuador are also current members. These countries have a Tax Treaty in force (Decision 578) which follows the United Nations Model.

## Tax Incentives

### Stability Agreements

Investors may enter into stability agreements with the Government, either under the general regime or specific regimes (i.e. mining and petroleum).

- **Juridical Stability Agreements**

Under the general regime, investors may enter into Juridical Stability Agreements that guarantee the following advantages for a ten-year period:

- Stability of the income tax regime in force at the time the agreement is entered into with respect to dividends and profit distribution.
- Stability of the Peruvian government monetary policy, according to which there is a complete absence of exchange controls, foreign currency can be freely acquired or sold at whatever exchange rate the market offers, and funds can be remitted abroad without any previous authorization.
- Right of non-discrimination between foreign and local investors.

- **Mining Tax Stability Agreements**

Under the mining regime, local mining companies may enter into stability agreements of guarantees and investment promotion measures that guarantee the following for 10, 12 or 15 years:

- Stability of the overall tax regime. (IT rate +2 points)
- Stability of the overall administrative regime.
- Free disposition of funds (foreign currency) arising from export operations.
- Keep accounting in foreign currency (for 12- and 15-year projects).
- For 15-year projects, the benefits of the regime also apply to activities not initially considered in the investment project, provided certain conditions are met.
- No exchange rate discrimination.
- Free trade of products.
- Stability of special regimes for tax refunds, temporary importation, etc.

The tax stability regime will enter into force upon the date in which the Mining Tax Stability Agreement is subscribed, or at the date of approval of the Technical-Economic Feasibility Study (in some scenarios).



## VAT Recovery Regimes

In order to promote investment in the mining industry, a VAT recovery regime is in force for holders of mining concessions who have not started operations and are at exploration stage. In addition to this regime exclusively applicable to the mining industry, there is a VAT early recovery regime which can be applicable to any industry (including mining industry) for companies at pre-operative stage (e.g. construction stage).

Therefore, the following regimes are applicable to mining companies in exploration stage and at pre-operative stage:

- **VAT recovery regime for mining companies in exploration stage**

Holders of mining concessions have the right to recover the VAT paid in connection to their activities during the exploration stage.

In order to access this regime, mining companies must comply with certain conditions, such as being entirely at pre-operative stage and performing exploration activities of minerals within the country, and entering into an Exploration Investment Contract with the Government for a minimum investment of the equivalent amount in national currency to USD 500,000.00.

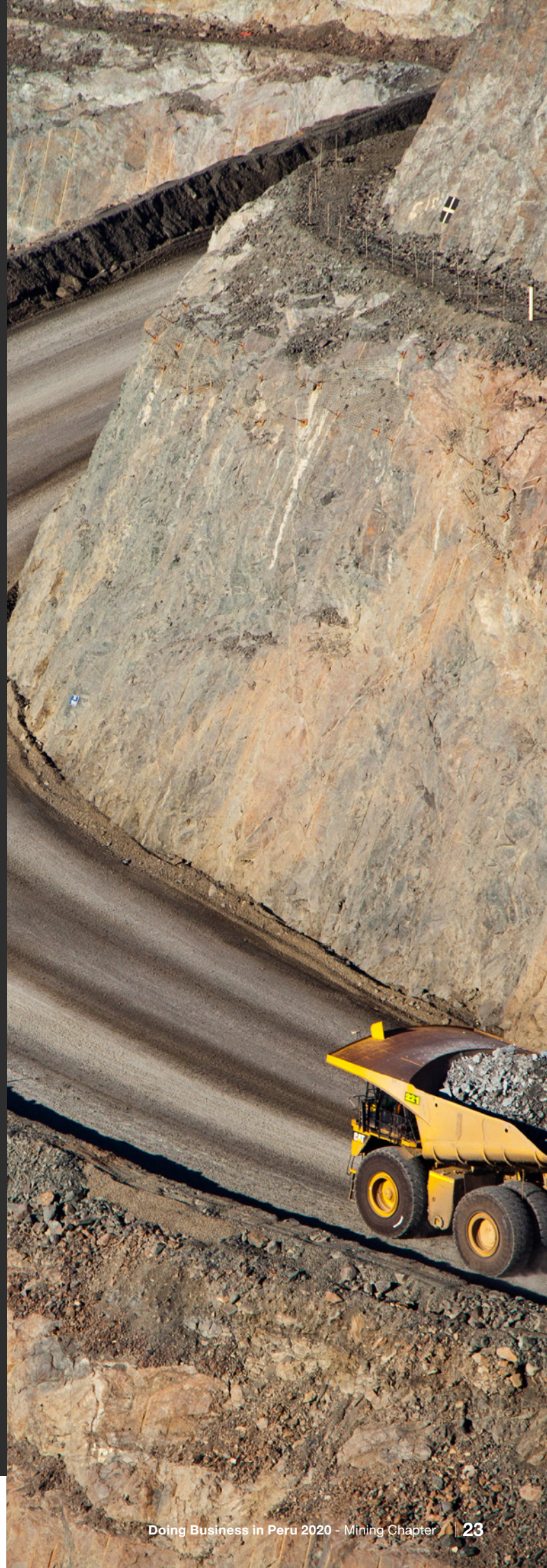
Regarding the VAT reimbursement, this comprises VAT applicable to all imports or acquisition of goods, services hired or used within national territory and construction contracts linked to mineral exploration activities in the country. Such VAT may be requested on a monthly basis as from the month following the registration of the mentioned transactions in the purchase ledger of the concession holders and for a minimum amount equal to 4 tax units, this is, approximately USD5,200 (currently, the tax unit approximately amounts to USD1,300).

- **VAT early recovery regime for companies at pre-operative stage**

Companies at pre-operative stage (which includes mining companies at construction stage) may recover the VAT for the import and/or local acquisition of new capital goods, new intermediate goods, services and construction contracts, in the pre-operative stage, to be used directly in implementing projects.

For such purposes, among other requirements, companies must enter into an Investment Contract with the Government for a minimum investment of USD5'000,000 (VAT not included) in any economic activity area that generates business income, and the company must have at least one project at pre-operative stage with a period not lower than 2 years as of the start date of the investments schedule contained in the Investment Contract.

The VAT reimbursement may be requested on a monthly basis as from the month following the registration of the mentioned transactions in the purchase ledger of the concession holders and for a minimum amount equal to 36 tax units, this is, approximately USD46,800.



### Public Private Partnership (PPP)

Companies have the option of paying part of their tax bill in the form of regional infrastructure works in some of the countries' poorest regions. For such purposes, the companies must comply with certain conditions, such as enter into agreements with the Regional and Local Governments and obtain an authorization from Proinversion<sup>13</sup> (Peru's investment promotion agency) for listed projects or new projects.

The amount invested by the company may be used as a tax credit against up to 50% of its income tax of the previous fiscal year.

This Regime generates benefits for the private companies and for the Governments, such as:

For the Company	For the Government
<ul style="list-style-type: none"><li>• Total investment refund (with a 2% annual indexation).</li><li>• Associate their image with social work, carried out in areas of interest.</li><li>• Improve the efficiency of their corporate social responsibility programs.</li><li>• For construction companies, is an additional way to compete for public works.</li></ul>	<ul style="list-style-type: none"><li>• Sustain or increase the local economy.</li><li>• Accelerate the implementation of works.</li><li>• Efficiencies in the execution and simplify procedures.</li><li>• Releasing its technical and financial resources.</li><li>• Increase its current investment budget.</li></ul>

<sup>13</sup> Proinversion: Peru's investment promotion agency.  
Web page: <https://www.proinversion.gob.pe/>





# 6. PwC's global network and services

## One network

We are part of the largest international professional services network, carrying out multidisciplinary work to offer effective and innovative solutions to our clients.

We build value relationships that are sustainable over time, generating confidence and solving complex problems.

We are one of the most powerful brands in the world, leaders in digital consultancy and gender equality, and one of the most attractive places to work.

## One collaborators

69,734

New collaborators around the world

11,464

Partners

21%

are women

222,275

experienced professionals

42,266

administrative collaborators

276,005

collaborators around the world



157 countries



742 offices

## PwC Peru

We have 95 years and 1,000 professionals helping organizations create the value they seek.

We work with all of Peru's leading economic groups and companies.

1000

professionals

56%

are women



### Our revenues



US\$10.7 MM

Tax & Legal Services



US\$17.3 MM

Assurance

### Our clients

PwC firms provide services to:

425

Fortune Global 500 companies

US\$  
42.4 MM  
Global

7%



US\$14.3 MM

Advisory



### Corporate responsibility

61,000

volunteers

925,000

volunteering hours



In 2019, PwC joined the Partnership for Global LGBTI Equality, a coalition of organisations working in collaboration with the World Economic Forum to advance LGBT+ inclusion.



HeForShe

We are part of the UN's HeForShe initiative, a global movement for gender equality.

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