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Recent developments in international taxation: Perú

Perú's tax framework has undergone a series of legislative modifications and jurisprudence developments that have materially affected the assessment of tax liabilities, the availability and scope of fiscal incentives, and the operation of various special tax regimes. This report provides a structured and technical review of the most significant legal developments enacted over the past 12 months, with particular focus on their practical implications.

Double taxation treaties (DTT)

Renegotiation of the Perú and Swiss Confederation DTT

Perú's Ministry of Economy and Finance (MEF) concluded the renegotiation of the DTT with the Swiss Confederation on 16 April 2025 (originally in force since 1 January 2015). The most significant amendments incorporated into the DTT include:

- incorporation of the principal purpose test (PPT);
- incorporation of base erosion profit shifting (BEPS) minimum standards: adoption of the OECD BEPS Action 6 and 14 minimum standards aimed at preventing treaty abuse and strengthening mutual agreement procedures (MAP); and
- enhancement of the dispute resolution mechanism.

While the renegotiation process has been completed, the formal signing of the amended treaty and its subsequent ratification by the Peruvian Congress remain pending, after which the official entry into force will be established.

Signing of the Perú and United Kingdom DTT

On 20 March 2025, Perú executed a DTT with the UK that incorporates the most recent standards of the OECD's BEPS Action Plan. The main features of the treaty include:

- the inclusion of modern anti-abuse provisions, notably the PPT;
- digital services and technical assistance payments are neither regulated nor treated as royalties under the treaty;
- inclusion of payments for know-how within Article 12 concerning royalties; and
- a mutual administrative assistance clause regarding tax collection enforcement.

The treaty will enter into force 30 days after both countries complete their internal ratification procedures, establishing a modern and secure legal framework for the taxation of cross-border income between Perú and the UK.

Other DTTs under negotiation

Perú is currently negotiating DTTs with China, France, Saudi Arabia, Singapore and the United Arab Emirates, according to publicly available information from the MEF.

The BEPS multilateral instrument in Perú

Given that many of the DTTs signed by Perú date back several decades, numerous provisions require updates to align with contemporary international tax standards. To address this, Perú signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) on 27 June 2018. At present, only formal ratification by the Executive Branch through Supreme Decree and the subsequent deposit of the instrument with the OECD remain pending.

Once said process is completed, the MLI will have immediate effect on Perú's DTTs with Canada, Chile, South Korea, Portugal and Mexico, as these jurisdictions have already finalised their respective internal ratification procedures. Conversely, the treaties with Brazil and Switzerland will not be modified at this stage: Brazil has yet to sign the MLI, and Switzerland did not include its treaty with Perú among its list of covered agreements (Switzerland is currently renegotiating its DTT with Perú directly).

The key updates accepted by Perú through the MLI include the following:

- **Preamble:** Introduction of language reflecting the intent to strengthen economic ties and enhance cooperation in tax matters, consistent with the overarching objectives of the MLI;
- **Prevention of treaty abuse:** Incorporation of the PPT, which denies treaty benefits where one of the principal purposes of a transaction or arrangement is to obtain such benefits;
- **Capital gains from the alienation of shares deriving value from immovable property:** Modification of treaty provisions to allow source-state taxation where: (1) more than 50 per cent of the value of the shares is derived from immovable property; and (2) the alienator held the shares at any time during the 365 days preceding the transfer;
- **Artificial avoidance of permanent establishment status:** Perú may specify, in its covered DTTs, which activities are deemed preparatory or auxiliary. The MLI also introduces an anti-fragmentation rule to prevent enterprises from artificially splitting activities to fall below the threshold required to constitute a permanent establishment; and
- **Mutual agreement procedure (MAP):** Introduction of a maximum period of three years within which taxpayers may request the initiation of a MAP between the competent authorities of the contracting states, aimed at resolving disputes regarding the application of treaty provisions.

New exemptions to operations on the stock market

Law 32218 (issued on 29 December 2024) incorporated two new cases of interest and capital gains that are exempt from income tax as of 1 January 2025.

- Interest and capital gains derived from repurchase agreements (repos) in which the securities transferred by the transferor to the transferee consist of:
 - Treasury Bills issued by the Republic of Perú; or

- Bonds and other debt instruments issued by the Republic of Perú under the market makers programme (*Programa de Creadores de Mercado*), its substitute mechanism, or in the international market since 2003.
- Capital gains derived from the transfer of participation units in exchange-traded funds (ETFs) whose investment objective is to replicate the performance of a publicly accessible index constructed and based on:
 - Treasury Bills issued by the Republic of Perú; or
 - Bonds and other debt instruments issued by the Republic of Perú under the market makers programme, its substitute mechanism, or in the international market since 2003.

Extension of tax benefits to investments in renewable energy plants

Law 32217 extends, until 31 December 2030, the accelerated depreciation regime under the Income Tax Law applicable to fixed assets used in electricity generation projects based on hydropower and other renewable energy sources. This tax incentive was originally established by Legislative Decree 1058 in 2008 and subsequently extended until 31 December 2025, by Law 30327, enacted in May 2015. The current extension applies to machinery, equipment and civil works necessary for the installation and operation of renewable energy plants, provided such assets are acquired and/or constructed from the effective date of the new law, and establishes a maximum annual depreciation rate of 20 per cent.

VAT over B2C digital services and download of intangible goods

Legislative Decree 1623 (August 2024), amended Perú's VAT Law to apply 18 per cent VAT to digital services and the import of intangible goods via the internet, even when acquired by individuals not engaged in business. Covered services include streaming, cloud storage, social media features and online subscriptions. Non-resident providers must register before the Peruvian Tax Authority, obtain a Taxpayer ID (*Registro Único de Contribuyente* or RUC), and meet monthly filing and payment obligations. If they fail to comply, financial institutions and telecom operators act as withholding agents.

Compliance profile by the Peruvian Tax Authority (PTA)

The Compliance Profile is a score assigned by the PTA aimed at promoting voluntary compliance with tax, customs and other obligations, enabling the application of differentiated treatments based on the taxpayer's compliance behaviour. Currently in a pilot phase extended through June 2026, the profile initially applies to taxpayers generating corporate/business income and classifies them into five levels (A to E), according to their degree of formal and substantive compliance. This tool supports risk management processes and may impact access to benefits or the imposition of restrictions; for instance, taxpayers with lower scores may be subject to extended processing times for refund requests or the approval of amended tax returns. New taxpayers are provisionally assigned a level C rating, unless non-compliant behaviour warrants reclassification.

Supreme Court ruling over the concept of ultimate beneficial owner (UBO) under the Perú–Chile DTT

In Ruling (*Sentencia de Casación*) 34212-2023, the Peruvian Supreme Court analysed whether a Chilean entity could claim the reduced 15 per cent withholding tax (WHT) rate on royalties under Article 12(2) of the Perú–Chile DTT.

The Court emphasised that entitlement to the treaty benefit hinges on the payee being the UBO of the income, a status requiring more than formal receipt – it requires ‘effective economic control’ over the income, assessed through both formal and substantive lenses. In reaching this conclusion, the Court expressly adopted a dynamic interpretation of the treaty, noting that the Perú–Chile DTT was concluded prior to both the expansion of the ‘ultimate beneficial owner’ concept in the OECD Model and the 2017 edition of the OECD Commentary. Nevertheless, the Court relied on the 2017 edition of the Commentary to construe Article 12’s scope, reasoning that, although the text of the DTT does not explicitly aim to combat tax avoidance (as more recent treaties do), its object and purpose implicitly align with that objective.

Upon reviewing the evidence, the Court found that the Chilean entity lacked economic substance: it had no fixed place of business or equipment in Chile (the relevant assets were located in Perú), it was minimally capitalised, and over 90 per cent of its cash flows were remitted to entities in other jurisdictions (data that was obtained based on the exchange of information agreement with Chile). Based on these findings, the Court concluded that the entity had neither the financial nor operational capacity to qualify as the UBO of the royalties. Accordingly, it denied treaty benefits and held that the full 30 per cent domestic WHT rate should apply.

Andean Community of Nations (CAN): criteria for the application of Decision 578

In 2023, the PTA issued Report 098-2023-SUNAT, in which it interpreted that double non-taxation was not permitted under Decision 578, as it would constitute a form of tax evasion.

However, in February 2025, the Andean Court of Justice issued Ruling 217-IP-2021, dated 26 February 2025, holding that the taxing power is exclusively vested in the state as established by the Decision, and that if one member state chooses not to tax the income or fails to collect it, this does not entitle the other member state to impose tax on it. In other words, the ruling interprets that double non-taxation is allowed under the Decision, as it does not constitute a tax evasion mechanism.

Digital services: PTA versus the Supreme Court

The PTA has insisted for years on considering consultancy services provided through the internet as digital services. In 2024, it issued Report 000039-2024-SUNAT/7T0000 where it established said conclusion as its official position (regardless of the fact that the Tax Court, the Supreme Court and doctrine support the opposite idea).

In 2025, the Supreme Court – in Case 2705-2024-Lima – concluded that to qualify a service as ‘digital’ it is necessary to meet the legal requirements to qualify as such. Specifically, they

must meet the essentially automatic nature and depend entirely on technology for its viability requirements. Thus, the mere use of the internet as a medium does automatically convert a service into digital. In response, on 8 May 2025, PTA issued an updated report (000046-2025-SUNAT/7T0000) changing its official position over consultancy services and accepting that to qualify a service as 'digital' it must meet all requirements provided by law (including the essentially automatic nature, not including relevant human intervention).

Income derived from personal work: Decision 578 versus DTT (signed under the OECD model)

The Peruvian Income Tax Law establishes that individuals domiciled in the country may apply a deduction of approximately US\$10,000 (as of 2025) for the purpose of determining income tax on personal labour income. However, non-domiciled individuals performing the same type of activities in Perú are not entitled to apply such a deduction. In 2010, the PTA issued Report 183-2010-SUNAT/2B0000, concluding that, by virtue of the non-discrimination clause under Decision 578 of CAN, non-domiciled individuals who are nationals of CAN member countries could also apply the aforementioned deduction.

On 16 May 2025, the PTA issued Report 000052-2025-SUNAT/7T0000, concluding that: (1) individuals resident in Chile or Portugal (countries with which Perú has signed a DTT) that have not obtained the fiscal domicile in Perú are not entitled to apply the deduction mentioned in the first paragraph, despite the existence of a non-discrimination clause under Article 23 of the relevant treaties; and that (2) the non-discrimination clause under Decision 578 does not apply to employment income earned in Perú by such individuals.