

# SETTING UP BUSINESS IN PERU



## General Aspect

President of the Republic and powers of the State:

Peru is a country whose authorities are democratically elected; the Political Constitution in force has been approved in 1993 by the Democratic Constituent Congress. The Head of State and Government is the President of the Republic, the President is Mr. Pedro Pablo Kuczynski Godard (Position to be held until July 28, 2020).

There are three powers in the State:

The Executive Branch, represented by the President of the Republic, who is elected for a 5-year term, the Ministers of State is appointed by the President of the Republic.

The Legislative Branch, represented by 130 congressmen elected for a 5-year term, and

The Judicial Branch composed of Judges appointed by the National Judicial Council.

### **Number of Regional Governments:**

- Amazonas Regional Government
- Ancash Regional Government
- Arequipa Regional Government
- Ayacucho Regional Government
- Cajamarca Regional Government
- Cusco Regional Government
- Ica Regional Government
- Huancavelica Regional Government
- Huánuco Regional Government
- Junín Regional Government
- La Libertad Regional Government
- Lambayeque Regional Government
- Loreto Regional Government
- Madre de Dios Regional Government
- Moquegua Regional Government
- Pasco Regional Government
- Piura Regional Government
- Puno Regional Government
- San Martín Regional Government
- Tacna Regional Government
- Tumbes Regional Government
- Ucayali Regional Government
- Apurímac Regional Government
- Lima Regional Government
- Callao Regional Government

### **Number of Local Governments:**

They are governed by the Municipalities Organic Law

It has a total of 196 Provincial Municipalities

It has a total of 1,646 District Municipalities

### **Geography:**

Peru is located in the south of the Equatorial line in South America.

Its boundaries are: Ecuador and Colombia to the north; Brazil and Bolivia to the east and Chile to the south.

It is divided into three natural regions:

Coast: it is a desert region and is considered one of the most arid regions of the hemisphere, and having Lima as the political and economic capital of Peru.

Highlands: conformed by an extensive area with agricultural potential and varied morphology and minerals.

Jungle: have enormous forests with a diversity of flora and fauna resources.

**Currency:**

The official currency is the Sol (S/.) and the monetary authority is the Central Reserve Bank of Peru (BCRP), whose president is Mr. Julio Velarde Flores.

There is no state control on foreign currency possession and their conversion. They are determined by supply and demand.

**Autonomous Organizations:**

- Constitutional Court
- Central Reserve Bank of Peru
- Comptroller General of the Republic
- Public Ministry
- National Office of Electoral Processes
- National Election Jury
- National Registry of Identification and Civil Status
- Ombudsman
- National Judicial Council
- Superintendence of Banking, and Pension Funds Administrators

**Population and Language:**

Year	Population	Year	Population	Year	Population	Year	Population
2000	25'983,588	2004	27'460,073	2008	28'807,034	2012	30'135,875
2001	26'366,533	2005	27'810,540	2009	29'132,013	2013	30'475,144
2002	26'739,379	2006	28'151,443	2010	29'461,933	2014	30'814,175
2003	27'103,457	2007	28'481,901	2011	29'797,694	2015	31'151,643

**Source:** National Institute of Statistics and Informatics

<http://proyectos.inei.gob.pe/web/poblacion/>

In accordance with Article 48 of the Political Constitution, the official languages are Spanish and in areas where are also predominant the Quechua, Aymara and other aboriginal languages, according to the law.

# Legal Forms of Business Entities

The companies are governed by Law N° 26887, Corporations Act, the most common types of companies are

Types	Modality	Features
<b>Corporation</b>	Open Corporation	<ul style="list-style-type: none"> <li>• The minimum number of shareholders is 750.</li> <li>• The shareholders have limited liability.</li> <li>• The share capital is based on shares.</li> <li>• It aims at a profitable investment; therefore the transaction of its shares is open to the stock market.</li> <li>• Its shares must be registered in the Securities Market. The shares and their commercialization will be supervised by the Superintendence of the Securities Market (SMV).</li> </ul>
	Close Corporation	<ul style="list-style-type: none"> <li>• The representation of share capital is through shares.</li> <li>• The minimum number of shareholders is 02 and the maximum is 20.</li> <li>• It governs the members' personal conditions and not just the one who contributes the money.</li> <li>• In this case, shareholders will only be responsible for their contributions.</li> <li>• Its shares cannot be registered in the Public Registry of Securities Market.</li> <li>• It has a Facultative Directory, in case there is no Directory, the Manager could assume the functions of the Director.</li> </ul>
<b>Limited Liability Commercial Partnership</b>		<ul style="list-style-type: none"> <li>• It is constituted by the contributions made by its partners, which must be paid in not less than 25% of each share. These must be deposited in a bank on behalf the company.</li> <li>• The participations are equal, cumulative and indivisible and cannot be incorporated into securities nor can they be called shares.</li> <li>• Contributions may be in monetary or non-monetary assets.</li> <li>• It has a minimum of 02 and a maximum of 20 partners. By its nature it is closed.</li> <li>• The share capital is based on shares.</li> <li>• The partners respond in a limited way for the amount they have contributed.</li> </ul>
<b>Civil Company</b>	Ordinary Civil Company	<ul style="list-style-type: none"> <li>• It has at least 02 partners and there is no maximum limit.</li> <li>• In this type of society, it governs the personal element over capital.</li> <li>• There are two types of elements that characterize it: the personal element that means trust, the personal quality in order to obtain a profit.</li> <li>• The partners respond in a personal and subsidiary manner, they enjoy the benefit of exclusion.</li> </ul>
	Limited Liability Civil Company	<ul style="list-style-type: none"> <li>• It has a maximum number of 30 partners.</li> <li>• The partners do not respond in solidarity. The contribution is limited.</li> <li>• The Law establishes that it is mandatory to include the name or names of some of the partners.</li> </ul>

## General Partnership

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- The partners are unlimited and jointly responsible for the obligations of the company. (Not very common its constitution).
- The minimum number of partners is 02 and there is no maximum limit.
- The partners are selected for their personal qualities and will perform trading operations for as long as they deem convenient.
- The share capital is based on shares that are not securities.
- It has a fixed term of duration.

## Establishing Branches

A foreign company is requested by the Parent Company and it is necessary to legalize it by the Peruvian consulate and certified by the Ministry of Foreign Affairs in Peru. It is also required a certificate of validity of the parent company.

In accordance with Article 403 of the Corporations Act, the branch of a company incorporated and domiciled abroad is established in Peru by a public deed registered in the Registry which must contain at least:

The certificate of validity of the principal company in its country of origin with proof that its social agreement or its statute prevents it from establishing branches abroad;

Copy of the social agreement and the statute or equivalent instruments in the country of origin; and,

The agreement to establish the branch in Peru adopted by the competent social organ of the company that indicates: the capital that is assigned to it for running its activities in the country; the declaration that such activities are included within its corporate purpose; the place of residence of the branch; the designation of at least one permanent legal representative in the country; the powers conferred upon it and its subjection to the laws of Peru to respond for the obligations incurred by the branch in the country.



## Share Capital

There is no minimum capital to establish companies in Peru.

In the case of entities of the Peruvian Financial System, we have the provisions of article 16 of Law N° 26702:

### Multiple Operations Companies:

- Banking Company: S/. 14 914 000.00
- Financial Company: S/. 7 500 000.00
- Municipal Saving and Loans: S/. 678 000.00
- Municipal Popular Credit: S/. 4 000 000.00
- Small and Microenterprise Development Entity – EDPYME: S/. 678 000.00
- Cooperatives of Savings and Credit authorized to raise funds from the public: S/. 678 000.00
- Rural Saving and Loans: S/. 678 000.00

### Specialized Companies:

- Real Estate Capitalization Companies: S/. 7 500 000.00
- Financial Leasing Companies: S/. 2 440 000.00

- Factoring Companies: S/. 1 356 000.00
- Guarantee Companies: S/. 1 356 000.00
- Fiduciary Services Companies: S/. 1 356 000.00
- Mortgage Companies: S/. 3 400 000.00

### Investment Banks: S/. 14 914 000.00

### Insurance Companies:

- Company operating in a single business (general or life risks): S/. 2 712 000.00
- Company operating in both business (general and life risks): S/. 3 728 000.00
- Insurance and Reinsurance Company: S/. 9 491 000.00
- Reinsurance Company: S/. 5 763 000.00

## Legal Reserve in the Company's Equity

A minimum of ten percent of the distributable profit of each fiscal year once the income tax is deducted until it reaches an amount equal to one-fifth of the equity.

The losses corresponding to one year are offset with freely available profits or reserves.

The company may capitalize the legal reserve and be obliged to replenish it.

## National Register of State Suppliers

It is the unique information system whose purpose is to register and maintain updated the information of national and foreign natural and legal persons who are interested in contracting with entities of the Peruvian State, for this and to facilitate the access to the services provided.

**Source:** <http://portal.osce.gob.pe/rnp/>

¿How do I register in the National Register of Suppliers for goods and/or services as not domiciled foreign suppliers with legal representative?

Contact the OSCE Headquarter, where the registry technician will validate your simple copy of current power registered in Public Records of Peru and the verification of the business purpose of the Public Deed registered with the institution or competent authority in the place of origin in order to indicate the amount to be paid.

Make the payment of the respective fee in the OSCE office.

After two (02) working days of the payment, the representative will go to the OSCE Headquarter where the user kit will be delivered.

Enter "Online Operations with RNP Key", in the "Online Procedures" option by entering your Non-Domiciled Alien Code and RNP key in order to complete the required data in the electronic form, save it and send it by clicking on "Data Complete".

Print the form and the shipping label and present it the next day attaching the requirements established in the TUPA at the OSCE Headquarter or the Zonal Offices. The form must be duly signed by the legal representative,

The day after submitting the form in physical, the process is considered automatically approved and the Certificate of Enrollment can be printed to be a participant, bidder and contractor.

## Employment

	Type	Concept	Maximum Duration
<b>Temporary</b>	Start or activity increas	Start or activity increase	3 years
	Market Needs	To meet production increases.	5 years
	Business Reconversion	By substitution or extension of activities.	2 years
<b>Accidental</b>	Ocassional	For temporary needs to the habitual activity	6 months a year
	Substitution	To temporarily replace a permanent worker	Subject to timely reinstatement of the holder
	Emergency	By accident or force majeure	For the duration of the emergency
<b>By work or serivece</b>	Work or service	For a particular job	Time required
	Intermittent	Those which by nature are permanent but not discontinuous	It doesn't have
	Seasonal	At certain times of the year	Season (school or others)

# Labor Regime

## Working Day

The ordinary working day is 8 hours daily or 48 hours weekly. It is the obligation of all employers to keep a record of entry and exit of its staff.

## Overtime Hours

Those that exceed the daily or weekly working day as long as they have been effectively worked They will be paid with a surcharge of not less than 25% of the ordinary time value for the first two hours and after the third hour, the surcharge will be subject to a minimum surcharge of 35%.

## Inspection Body in labor matters

The National Superintendence of Labor Inspection – SUNAFIL has the following main functions:

- Supervise the fulfillment of the social-labor regulations by conducting the control functions.
- Approve the institutional policies on labor inspection in accordance with national and sectoral policies.
- Formulate and propose the normative dispositions of its competence.
- Monitor and enforce the fulfillment of legal and regulatory rules and contractual conditions.
- Impose the legally established sanctions for non-compliance with social and labor standards within the scope of its competence.
- Promote and provide support for carrying out activities to promote the socio-labor standards as well as for the development of inspection functions.
- Provide guidance and specialized technical assistance within its field of competence.
- Practice the power of coercive execution regarding the sanctions imposed in the exercise of its powers.
- Monitor and enforce the fulfillment of legal, regulatory and conventional rules and contractual conditions in the private labor regime.
- Subscribe management agreements with regional governments on matters within their competence.

## Minimum Living Wage, Family Allowance, Social Security and Pension System

The Remuneration or minimum living wage is S/. 850 and the Family Allowance is S/. 85.

The rate for employer contributions to Social Security (EsSalud) is 9%, while the rate for the National Pension System is 13% and the Private Pension System is an average of 13.97%.

## Employees' Severance Indemnities (CTS) and Workers' Profit Sharing

The CTS is 1.16666% of the monthly remuneration of the worker.

The rates for profit sharing of the companies that have more than 20 workers in payroll are:

- Fishing Companies 10%
- Telecommunication Companies 10%
- Industrial Companies 10%
- Mining Companies 8%
- Trade Companies and Restaurants 8%
- Companies carrying out other activities 5%





# Taxation

## Direct Taxes:

Concept	Rate
Value Added Tax (IGV)	18%
Third Category Income Tax (2015 – 2016)	28%
Third Category Income Tax (2016 – 2017)	27%
Third Category Income Tax (2019 onwards)	26%

## Payment System of Tax Obligations (SPOT)

Concept	Rate
Labor Intermediation and Outsourcing	10%
Property Leasing	10%
Maintenance and Repair of Movable Property	10%
Cargo Movement	10%
Other Business Services	10%
Business Commission	10%
Manufacture of Goods on Request	10%
Transport Service for People	10%
Building Contracts	10%
Other Services taxed with IGV	10%

## Tax Unit

Value of the Tax Unit (UIT) for the year 2017 is S/. 4,050.

## Moratorium Interest Rate

The value of the Moratorium Interest Rate (TIM) is 1.2% per month.

## Types of Credit in the Peruvian Financial System

Types of credit	Considerations
<b>Corporate</b>	Sales Level higher than S/. 200,000,000 in the last two years.
<b>Large Company</b>	Annual sales higher than S/. 20 million but not more than S/. 200 million in the last two (2) years.
<b>Medium Company</b>	Have a total indebtedness in the financial system higher than S/. 300,000 in the last six (6) months.
<b>Small Company</b>	Whose total indebtedness in the financial system (without including mortgage loans for housing) is higher than S/. 20,000 but not more than S/. 300,000 in the last six (6) months.
<b>Micro Enterprise</b>	Whose total indebtedness in the financial system (without including mortgage loans for housing) is no more than S/. 20,000 in the last six (6) months.
<b>Mortgage for housing</b>	Granted to natural persons for the acquisition, construction, refurbishment, remodeling, extension, improvement and subdivision of their own dwelling, as long as those credits are granted under mortgages duly registered.
<b>Revolving consumption</b>	Granted to natural persons in order to pay for goods, services or expenses not related to business activity.
<b>Not revolving consumption</b>	Granted to natural persons in order to pay for goods, services or expenses not related to business activity.



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