

International Fiscal Transparency Regime (IFTR) - Peru

19th February, 2013

IWP Miami Meeting

IFTR Legislation

- ▶ **The regime is applicable to:** Peruvian domiciled tax payers owners of non-domiciled controlled entities (NDCE).
- ▶ **Condition:** Domiciled tax payer (the controller must be subject to taxation in Peru for foreign source revenues).

IFTR: NDCE

Definition

- ▶ **NDCE:** Any entity independently of its nature that complies with following conditions:
 - a. Independent “personality”: revenues recognizable by NDCE. Any entity that allows tax deferral.
 - b. Domiciled in a Fiscal Haven or in any jurisdiction that determines IT for unearned revenues equal or inferior to the 75% of the IT applicable in Peru for such revenues.
 - c. Domiciled subject controls, directly or indirectly: (i) participates in more than 50% of the capital, results or voting rights of the NDCE.

IFTR: Attribution

- ▶ Unearned revenues obtained by the NDCE will be attributed at the end of the fiscal year.
- ▶ Attribution will proceed controller has a participation in more than 50% of the results of the NDCE.
- ▶ Fiscal Year (January 1st – December 31st): Peruvian Fiscal Year.
- ▶ Attribution for net revenues.

Important: when fiscal year differs from Peruvian, attribution at the end of local fiscal year but “with effect” as of December 31st. By applying exchange rate as of December 31st.

IFTR: Unearned Revenues

- ▶ Dividends or any other concept that implies distribution of profit.
- ▶ Interests except when NDCE results to be a banking or financial entity.
- ▶ Royalties.
- ▶ Capital gains obtained for transference of intangible assets, real estate property, shares or securities.
- ▶ Revenues for lease of real estate, except when corporate object of NDCE is real estate business.

IFTR: Unearned Revenues

- ▶ Revenues obtained for assignment of rights of use or exploitation of any goods or intangible assets previously considered.
- ▶ Revenues obtained by NDCE from their operations with Peruvian domiciled subjects when: (i) executed with a related party; (ii) revenues qualify as an acceptable expense for the Peruvian domiciled; and, (iii) those revenues do not qualify as Peruvian source income, or are considered partially as Peruvian source revenues and partially foreign source revenues; or, when considered as Peruvian source revenues are subject to an Income Tax rate smaller than 30%.

IFTR: Unearned Revenues

- ▶ Dividends paid by NDCE to another do not qualify as unearned revenues. This disposition allows to avoid duplication of unearned revenues when more than one controlled entity is located abroad.

IFTR: Non taxable Unearned Revenues

- ▶ Peruvian source revenues.
- ▶ Those subject to taxation abroad with an IT exceeding 75% of the Peruvian IT applicable to such revenues.
- ▶ When Unearned Revenues does not exceed approx. an annual amount of US\$7,300.00.
- ▶ When unearned revenues does not exceed 20% of total revenues of the NDCE.

IFTR: Miscellaneous

- ▶ IT paid abroad for attributed unearned revenues will be deductible from Peruvian IT determined (maximum limits: taxes paid and average rate of the tax payer).
- ▶ Dividends distributed by NDCE in the portion that corresponds to attributed unearned revenues will not be subject to taxation in Peru.
- ▶ Domiciled tax payers will maintain in its accountancy books attributed unearned net revenues, dividends distributed and taxes paid abroad.

IFTR: Questions for open discussion

- ▶ What are we doing in Peru with regards to the IFTR?
- ▶ What are we currently analyzing?
- ▶ What are we currently implementing?
- ▶ What is the Peruvian Tax Administration currently doing?
Auditing processes, criminal cases, increased legislation.

IFTR

- ▶ Is tax deferral currently possible in Peru after this brand new legislation?
- ▶ Umbrella Mutual funds? Mutual funds with segregated cells?
- ▶ Dual trust and split share company?
- ▶ Life insurance with death benefit?

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