

No. 54804*

**Peru
and
Portugal**

Convention between the Republic of Peru and the Portuguese Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Lisbon, 19 November 2012

Entry into force: *12 April 2014, in accordance with article 27*

Authentic texts: *English, Portuguese and Spanish*

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**Pérou
et
Portugal**

Convention entre la République du Pérou et la République portugaise tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu (avec protocole). Lisbonne, 19 novembre 2012

Entrée en vigueur : *12 avril 2014, conformément à l'article 27*

Textes authentiques : *anglais, portugais et espagnol*

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[ENGLISH TEXT – TEXTE ANGLAIS]

CONVENTION BETWEEN THE REPUBLIC OF PERU AND THE
PORTUGUESE REPUBLIC FOR THE AVOIDANCE OF DOUBLE
TAXATION AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME

The Republic of Peru and the Portuguese Republic,

Desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, in order to promote and strengthen the economic relations between the two countries,

Have agreed as follows:

CHAPTER I
SCOPE OF THE CONVENTION

ARTICLE I
PERSONS COVERED

This Convention shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2
TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State and, in the case of Portugal, on behalf of its political or administrative subdivisions or local authorities as well, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which this Convention shall apply are in particular:
 - a) in the case of Portugal:
 - (i) the personal income tax (Imposto sobre o Rendimento das Pessoas Singulares – IRS);
 - (ii) the corporate income tax (Imposto sobre o Rendimento das Pessoas Colectivas – IRC); and

(iii) the surtaxes on corporate income (Derramas);

(hereinafter referred to as "Portuguese tax");

b) in the case of Peru, the income taxes imposed under the Income Tax Act (Ley del Impuesto a la Renta);

(hereinafter referred to as "Peruvian tax").

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

CHAPTER II DEFINITIONS

ARTICLE 3 GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) the term "Portugal" when used in a geographical sense comprises the territory of the Portuguese Republic in accordance with the International Law and the Portuguese legislation;
 - b) the term "Peru", for purposes of determining the geographical scope of application of this Convention, means the continental territory, the islands, the maritime zones and the air space that covers them, under sovereignty or sovereign rights and jurisdiction of Peru, in accordance with its domestic law and international law;
 - c) the terms "a Contracting State" and "the other Contracting State" mean Portugal or Peru as the context requires;
 - d) the term "person" includes an individual, a company and any other body of persons;
 - e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

- g) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- h) the term “competent authority” means:
 - (i) in the case of Portugal: the Minister of Finance, the Director General of the Tax and Customs Authority or their authorised representative;
 - (ii) in the case of Peru: the Minister of Economy and Finance or his authorized representative;
- i) the term “national” means:
 - (i) any individual possessing the nationality of a Contracting State; and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

ARTICLE 4 RESIDENT

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State and any political or administrative subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources situated in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State,

he shall be deemed to be a resident only of the State in which he has an habitual abode;

- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to determine by mutual agreement the Contracting State of which such person shall be deemed to be a resident for the purposes of the Convention, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by this Convention, except for Articles 24 and 25.

ARTICLE 5 PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop; and
- f) a mine, an oil or gas well, a quarry or any other place relating to the exploration for or the exploitation of natural resources.

3. The term “permanent establishment” shall also include:

- a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than 183 days within any twelve month period;