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# Global Tax Alert

News from EY Americas Tax

## Peru amends rules for capital gains tax exemptions

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On 30 December 2019, Peru's Minister of Economics issued Supreme Decree 410-2019-EF, which amends the Supreme Decree 382-2015-EF regulations that implemented the temporary tax exemption, enacted by Law 30341, for capital gains derived from transfers of securities carried out through the Lima Stock Exchange (LSE). The Supreme Decree is effective 1 January 2020.

### Background

In 2015, Peru enacted Law 30341, which temporarily exempted from tax the capital gains derived from transfers of securities carried out through the LSE, provided certain requirements were met:

- a) Shares must be listed and traded on the LSE.
- b) In any given 12-month period, the taxpayer and its related parties must not transfer more than 10% of the shares issued by the company whose shares are sold.
- c) Shares should meet the liquidity threshold set out in Law 30341 to be considered "stock market securities."

Supreme Decree 382-2015-EF contained regulations implementing Law 30341. Specifically, it established the following parameters for determining when securities comply with the “liquidity threshold”:

- a) Over 180 business days before the transfer, taxpayers must determine the number of days in which the daily traded amount exceeded the threshold of 4 tax units (US\$5,058).
- b) Taxpayers must divide the number of days determined in (a) above by 180 and then multiply by 100.
- c) The securities comply with the “liquidity threshold” if the result (ratio limit) of the calculation in (b) is not lower than:
  - 5% for debt securities, including bonds convertible into shares
  - 15% for other securities different from debt securities.

On 24 October 2019, Peru issued Urgent Decree 005-2019 extending the capital gains tax exemption from 31 December 2019 to 31 December 2022.

## Liquidity threshold

Supreme Decree 410-2010-EF modifies the parameters to determine when the securities comply with the “liquidity threshold” as follows:

- a) Over a period of 180 business days before the transfer, taxpayers must determine the number of days in which the daily traded amount exceeded the threshold of 6 tax units (US\$7,350), instead of 4 tax units.
- b) Taxpayers must divide the number of days determined in (a) by 180 and then multiply by 100.
- c) The securities comply with the liquidity threshold if the result (ratio limit) of the calculation in (b) is not lower than:
  - 5% for debt securities, including bonds convertible into shares
  - 45%, instead of 15%, for other securities different from debt securities.

The Peruvian House of Clearance will continue publishing the list of securities that comply with the liquidity threshold on a daily basis.

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