

# Global Tax Alert

News from EY Americas Tax

## Peruvian Tax Authorities establish guidelines for capital gains tax exemption applicable to transfers of shares through the Lima Stock Exchange

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Peru's Tax Authorities have issued guidance (Ruling 109-2020-SUNAT/7T0000), clarifying how to calculate whether more than 10% of a company's shares have been transferred to determine if the capital gains tax exemption applies to the capital gains derived from transfers of shares on the Lima Stock Exchange (LSE).

### Background

In 2015, Peru enacted Law 30341, which temporarily exempts capital gains derived from transfers of shares listed and traded on the LSE from capital gains tax until 31 December 2022, if certain requirements are met. Under one of those requirements, the taxpayer and its related parties must not transfer more than 10% of the shares issued by the taxpayer through one or more simultaneous or successive transactions (the 10% rule) in any given 12-month period.

In addition, Supreme Decree 382-2015-EF establishes the 10% is determined by taking into account the total shares representing the taxpayer's capital stock at the time of the transfer.

## Ruling 109-2020-SUNAT/7T0000

Ruling 109-2020-SUNAT/7T0000 clarifies the 10% rule. To calculate 10% of the shares, the second transfer of the same shares within 12 months is not considered in the calculation.

For example, if the same shares listed on the LSE and representing less than 10% of the shares of a company are transferred to a related party and the related party transfers the same shares within 12 months, the second transfer of shares will not be considered in calculating the 10% rule because the same shares have been transferred.

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For additional information with respect to this Alert, please contact the following:

### **Ernst & Young Asesores S.C.R.L, Lima**

- ▶ Roberto Cores [roberto.cores@pe.ey.com](mailto:roberto.cores@pe.ey.com)
- ▶ Ramón Bueno-Tizón [ramon.bueno-tizon@pe.ey.com](mailto:ramon.bueno-tizon@pe.ey.com)

### **Ernst & Young LLP (United States), Latin American Business Center, New York**

- ▶ Ana Mingramm [ana.mingramm@ey.com](mailto:ana.mingramm@ey.com)
- ▶ Enrique Perez Grovas [enrique.perezgrovas@ey.com](mailto:enrique.perezgrovas@ey.com)
- ▶ Pablo Wejcman [pablo.wejcman@ey.com](mailto:pablo.wejcman@ey.com)

### **Ernst & Young Abogados, Latin America Business Center, Madrid**

- ▶ Jaime Vargas [jaime.vargas.c@es.ey.com](mailto:jaime.vargas.c@es.ey.com)

### **Ernst & Young LLP (United Kingdom), Latin American Business Center, London**

- ▶ Lourdes Libreros [lourdes.libreros@uk.ey.com](mailto:lourdes.libreros@uk.ey.com)

### **Ernst & Young Tax Co., Latin American Business Center, Japan & Asia Pacific**

- ▶ Raul Moreno, *Tokyo* [raul.moreno@jp.ey.com](mailto:raul.moreno@jp.ey.com)
- ▶ Luis Coronado, *Singapore* [luis.coronado@sg.ey.com](mailto:luis.coronado@sg.ey.com)

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EYG no. 002487-20Gbl

1508-1600216 NY  
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