



This document has been provided by the International Center for Not-for-Profit Law (ICNL).

ICNL is the leading source for information on the legal environment for civil society and public participation. Since 1992, ICNL has served as a resource to civil society leaders, government officials, and the donor community in over 90 countries.

Visit ICNL's **Online Library** at
<http://www.icnl.org/knowledge/library/index.php>
for further resources and research from countries all over the world.

Disclaimers

Content. The information provided herein is for general informational and educational purposes only. It is not intended and should not be construed to constitute legal advice. The information contained herein may not be applicable in all situations and may not, after the date of its presentation, even reflect the most current authority. Nothing contained herein should be relied or acted upon without the benefit of legal advice based upon the particular facts and circumstances presented, and nothing herein should be construed otherwise.

Translations. Translations by ICNL of any materials into other languages are intended solely as a convenience. Translation accuracy is not guaranteed nor implied. If any questions arise related to the accuracy of a translation, please refer to the original language official version of the document. Any discrepancies or differences created in the translation are not binding and have no legal effect for compliance or enforcement purposes.

Warranty and Limitation of Liability. Although ICNL uses reasonable efforts to include accurate and up-to-date information herein, ICNL makes no warranties or representations of any kind as to its accuracy, currency or completeness. You agree that access to and use of this document and the content thereof is at your own risk. ICNL disclaims all warranties of any kind, express or implied. Neither ICNL nor any party involved in creating, producing or delivering this document shall be liable for any damages whatsoever arising out of access to, use of or inability to use this document, or any errors or omissions in the content thereof.

PERU

TAX AND COMPANY LAW AMENDMENTS

TAX TREATMENT OF FOREIGN CURRENCY

Law No. 27390, promulgated on December 29, 2000 and published December 30, 2000 governs the tax treatment of foreign currency ingress to the country. The text of the Law follows.

Article 1. Object of the Law

The ingress of foreign currency is free and is guaranteed by the State. The Tax Administration may not presume that it is undeclared income of Peruvian source and, taxpayers may not maintain unjustified increases in net worth therewith.

Article 2. Effective Date of the Law

This Law shall enter into force as from January 1, 2001.

Article 3. Standard Repeal

Provisions that oppose the provisions of this Law are hereby repealed.

AMENDMENT OF INCOME TAX LAW

Law No. 27386, promulgated December 28, 2000 and published December 29, 2000 amends letter b) of article 19 of the Income Tax Law (Consolidated Text approved by Supreme Decree No. 054-99-EF). The text of the Law follows.

Article 1. Repeal

The amendment of letter b) of article 19 of the Consolidated Text of the Income Tax Law, approved by Supreme Decree No. 054-99-EF, disposed by paragraph 4.2 of article 4 of Law No. 27356 shall become ineffective.

Article 2. Application of the exemption to foundations and associations

Letter b) of article 19 of the Consolidated Text of the Income Tax Law, approved by Supreme Decree No. 054-99-EF, as amended, is substituted by the following text:

"b) Income of certain foundations and non-profit associations, whose deed of formation includes exclusively one or more of the following purposes and intended for specific purposes in the country: welfare, social assistance, education, culture, science, artistic, literary, athletic, political, guilds, housing; provided that such income is not directly or indirectly distributed among the members and that their by-laws provide that the net wealth of the foundation or association shall be destined to any of the purposes stipulated in this letter in the case of dissolution.

Income deriving from mercantile transactions the purposes of which were different from the statutory purposes of the foundations and non-profit associations indicated, shall not be subject to this exemption. The Minister of Economy and Finance shall stipulate the regulatory standards for the classification of the beneficiaries and the corresponding application of that which is stipulated in this paragraph."

Article 3. Effective date

The provisions in this Law shall enter into force as from January 1, 2001.

Editorial Note: The full text of Article 19 of the Income Tax Law is given below as amended by this Law.

Article 19.

(Last amended by Law No. 27386, published December 29, 2000) The following are exempted from the tax until December 31, 2002:

a) Income that religious companies or institutions intend for the realization of their specific purposes in the country.

b) (Amended by Law No. 27386, published December 29, 2000) Income of certain foundations and non-profit associations, whose deed of formation includes exclusively one or more of the following purposes and intended for specific purposes in the country: welfare, social assistance, education, culture, science, artistic, literary, athletic, political, guilds, housing; provided that such income is not directly or indirectly distributed among the members and that their by-laws provide that the net wealth of the foundation or association shall be destined to any of the purposes stipulated in this letter in the case of dissolution.

Income deriving from mercantile transactions the purposes of which were different from the statutory purposes of the foundations and non-profit associations indicated, shall not be subject to this exemption. The Minister of Economy and Finance shall stipulate the regulatory standards for the classification of the beneficiaries and the corresponding application of that which is stipulated in this paragraph.

c) Interest deriving from promotion credits granted directly or through suppliers or financial intermediaries by international organizations or foreign governmental institutions.

d) Income from real estate owned by international organizations and serving as their principal office.

e) (Amended by Law No. 26731, published December 31, 1996) Remunerations received by officials and employees, considered as such within the organizational structure of foreign governments, foreign official institutions and international organizations, for the exercise of their duties in the country, provided that conventions constitutive thereof have been established.

f) (Amended by Law No. 26731, published December 31, 1996) The income to which letter g) of article 24 of this Law refers.

g) Repealed by Law 27536, published October 18, 2000, effective January 1, 2001.

h) Interest and other gains deriving from credits granted to the National Public Sector, except such arising from deposits of reserves that credit institutions realize.

i) (Amended by Law No. 26731, published December 31, 1996) Any fixed or variable interest rate, in national or foreign currency, paid on occasion of a deposit pursuant to the General Law of the Financial System and of the Insurance System and Organization of the Superintendent of Banks and Insurance, Law No. 26702, as well as capital increases of the deposits and deposits in national or foreign currency from which readjustable certificates of deposit arise.

Likewise, any fixed or variable interest rate, in national or foreign currency, as well as the increases or readjustments of capital provided in article 1235 of the Civil Code which shall be paid to holders of registered or made out to order securities, representative of debts issued by Investment Funds, Patrimonios Fideicomitidos de Sociedades Titulizadoras and legal persons, constituted or established in the country, provided that their investment was effected by means of a public offering under the Securities Market Law.

Also, any fixed or variable interest rate, in national or foreign currency, and capital increases, deriving from Debentures and Negotiable Mortgage Credit Instruments to which Law No. 26702 refers, as well as Endorsable Mortgage Certificates to which the Securities Market Law refers.

Securities, registered or made to the order, issued by means of a private offer may benefit from the exemption when they meet the requirements to which letters a) and b) of article 5 of the Securities Market Law.

Every yield generated by voluntary contributions for non-social security purposes to which article 30 of Decree Law No. 25897 refers, shall be included in the exemption to which this letter refers.

The interest and capital readjustments that enterprises of the Financial System authorized to operate by the Superintendent of Banking and Insurance receive for any of the concepts to which this letter refers, shall not be included in the exemption.

j) (Amended by Law 27356, published Oct. 18, 2000, effective January 1, 2001) Gross earnings received by national athletic representatives of foreign countries for their performances in the country.

k) Royalties for technical, economic, financial or other advice, rendered abroad by state entities or international organizations.

l) Capital gains deriving from:

1) Sale of securities recorded on the Public Register of the Securities Market through centralized mechanisms of negotiation to which the Securities Market Law refers;

2) Sale of securities made on the Commodities Markets authorized by CONASEV;

3) The redemption or recapture of securities, registered or made to the order, representative of debts issued by means of a public offer in accordance with the Securities Market Law, by legal persons, Investment Funds or Trust Assets, constituted or established in the country;

4) (Amended by Law No. 26731, published Dec. 31, 1996) The redemption or recapture of share certificates of Mutual Funds Investing in Securities and of securities representative of participation in Patrimonios

Fideicomisos de Sociedades Titulizadoras issued by means of public offer in accordance with the Securities Market Law.

l) Interest and capital readjustments deriving from mortgage notes in accordance with the legislation on the matter.

m) (Added by Legislative Decree No. 882, published Nov. 9, 1996) Private Universities constituted under the legal form to which article 6 of Law No. 23733 refers, so far as they comply with the requirements stipulated by that Law.

n) (Amended by Law 27356, published Oct. 18, 2000, effective Jan. 1, 2001) Gross income received by representative of foreign countries for live theater shows, musical comedies, classical musical concerts, opera, operettas, ballet and folkloric shows, qualified as cultural public shows by the National Institute of Culture, performed in the country.

ñ) Repealed by Law 27536, published Oct. 18, 2000, effective Jan. 1, 2001.

o) (Amended by Law No. 27034, published Dec. 30, 1998) Interest that savings and credit cooperatives receive or pay for transactions that they make with their members.

The entities included in letters a) and b) of this article must apply for registration in SUNAT, in accordance with the Regulation.

Verification of non-compliance with any of the requirements for receipt of the exemption established in letters a), b) and m) of this article shall allow a presumption, without admitting evidence to the contrary, that all of the income received by the entities mentioned in those letters should be taxed with the Income Tax for the taxable years that have not yet prescribed under the statute of limitations and the penalties established in the Tax Code shall be of application.

LAW AMENDING THE INCOME TAX LAW AND LEGISLATIVE DECREE 299

Law No. 27394, promulgated Dec. 29, 2000, published Dec. 30, 2000, amended the Income Tax Law and Legislative Decree No. 299. The text of the Law follows.

CHAPTER I. INCOME TAX LAW AMENDMENTS

Article 1. General rule

When this rule refers to the Law, the Consolidated Text of the Income Tax Law, approved by Supreme Decree No. 054-99-EF, as amended shall be understood.

Article 2. Depreciation

Article 40 of the Law shall be replaced by the following text:

"Article 40.

Other assets used in the production of taxable income shall be depreciated by applying the percentage that is established in the regulation on their value.

In no case may depreciation percentages greater than those mentioned in that regulation be authorized."

Article 3. Tax rates

The second paragraph of article 53 and article 55 of the Law shall be replaced by the following texts:

"Article 53.

.....

If that income exceeds 54 Tax Units the rate of 20% shall be applied on the surplus.

....."

Editor's Note: The full text of article 53, as amended by Law 27394, is given below. Please note that the 20% rate