

Latin American Tax Newsalert

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Peruvian government introduces new tax regulations on derivative transactions

On November 29, 2011, the Peruvian government issued regulations, as instructed by Law No. 29773, applicable to derivative transactions executed by non-residents. These regulations are described in Supreme Decree No. 213-2011-EF.

This Newsalert covers the most relevant changes affecting US companies operating in Peru.

Law No. 29773, introduced on July 27, 2011, amended the Peruvian income tax law providing that gains realized by non-Peruvian residents arising from derivative transactions referencing Peruvian currency in which the counterparty is a Peruvian resident, are deemed to be Peruvian sourced.

Law No. 29773 provided that the taxation of derivative transactions would apply only to contracts where the contract term is less than the number of days specified in the regulations to the income tax law. Therefore, Law No. 29773 granted authority to the Peruvian Government at the same time to issue such regulations.

Accordingly, the Peruvian Government issued Supreme Decree No. 213-2011-EF which provides that gains arising from a derivative contract will be Peruvian sourced



when the derivative contract's term is less than 60 calendar days, in addition to the other requirements mentioned above (i.e., Peruvian currency and domestic counterparty). This treatment is effective for derivative transactions executed on or after November 30, 2011.

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