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## **LEGISLATIVE DECREE 1372**

THE PRESIDENT OF THE REPUBLIC,

WHEREAS

By means of Law 30823, Law that delegates within the Executive Branch, the power to legislate with regard to economic management and competitiveness, integrity and fight against corruption, prevention and protection of individuals under a situation of violence and vulnerability and modernization of the Government Management, the Congress of the Republic has delegated within the Executive Branch, the power to legislate for a term of 60 calendar days.

In that sense, subparagraph k) paragraph 1) of section 2 of the above mentioned legal provision establishes that the Executive Branch is empowered to adapt the national legislation to international standards and recommendations issued by the Organization for Economic Cooperation and Development (OECD) and the International Financial Action Group (GAFI) to fight against tax evasion and avoidance, money laundering and terrorist financing, as well as to guarantee the mutual administrative assistance for tax purposes and the adoption of access standards, availability and exchange of information of the ultimate beneficial owner of legal persons or legal arrangements provided that law professionals, and accounting and finance professionals give that information to the competent authority when they have access it in a situation other than the professional practice while observing the rights and principles stipulated in the Political Constitution of Peru;

As established in section 104 of the Political Constitution of Peru and pursuant to the powers granted under section 2, paragraph 1), subparagraph k) of Law 30823;

By means of the affirmative vote of the Council of Ministers; and,

With the obligation to give notice to the Congress of the Republic;

The following legislative decree has been provided:

### **LEGISLATIVE DECREE REGULATING THE OBLIGATION OF LEGAL PERSONS AND/OR LEGAL ARRANGEMENTS TO INFORM ABOUT THE IDENTIFICATION OF BENEFICIAL OWNERS**

#### **CHAPTER I GENERAL PROVISIONS**

##### **Section 1. Purpose**

This Legislative decree regulates the obligation of legal persons and/or legal arrangements to report on the identity information of their beneficial owners.

##### **Section 2. Objectives**

2.1 This Legislative decree is intended to grant the competent authorities timely access to accurate and updated information on the beneficial owner of the legal person and/or legal arrangement, in order to strengthen the fight against tax evasion and avoidance, ensure compliance with obligations of mutual administrative assistance in tax matters, as well as support the fight against money laundering and terrorist financing.

2.2 The obligations to identify, obtain, update, report, keep and provide information on the beneficial owner referred to in this Legislative decree are mandatory even when the legal person and/or legal arrangement is under a dissolution, liquidation or bankruptcy proceeding or agreement; in which case, this obligations rests with liquidators or receivers.

After the expiration or completion of the term of existence of the legal person or legal arrangement, as appropriate, the documentation supporting the information on the beneficial owner shall be retained for such time as provided for in the Commercial Code, Section 49, unless a different one established in a special law is applicable.

##### **Section 3. Definitions and References**

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3.1 The following terms shall have the definition set forth below:

a) Beneficial owner:

It means:

a.1) the individual who actually and ultimately owns or controls legal persons or legal arrangements, as established in Section 4; and/or

a.2) the individual who ultimately owns or controls a client or on behalf of whom a transaction is carried out. For the purposes of item a.2), "client" has the definition provided in subsection 19.1 of Section 19 of the Regulations of Law No. 27693, Act on the Creation of the Financial Intelligence Unit - Peru (FIU - Peru).

The expressions "ultimately owns or controls" or final effective control used in this Legislative decree refer to situations in which ownership and/or control is exercised through a chain of ownership or through any other means of control other than direct control.

The definitions of beneficial owner contained in this item are applicable, as appropriate, for the purposes of this Legislative decree, the applicable supplementary regulations and those referring to mutual administrative assistance in tax matters, as well as those that regulate the Anti-Money Laundering and Terrorist Financing System.

b) Beneficial owner Affidavit:

It means the informative affidavit provided for in item 15.3 of Section 87 of the Tax Code, which contains the information of the beneficial owner referred to in item a.1) above, which must be submitted by taxpayers before the National Superintendency of Customs and Tax Administration (SUNAT), according to its pertinent regulations and in such form, within such term and under such conditions as established by means of a Resolution of the Superintendency.

c) Parties required to submit the beneficial owner affidavit:

It means the legal persons and legal arrangements required to identify, obtain, update, report, keep and provide the information on the beneficial owners referred to in item a.1) above, including supporting documentation.

d) Legal Arrangements:

It means:

(i) The independent equity managed by third parties that lack legal standing; or ii) contracts and other agreements permitted by current regulations in which two or more persons, who are temporarily associated, have a common right or interest to carry out a specific activity without incorporating a legal person. Investment funds, mutual funds for investment in securities, trust assets domiciled in Peru or trust assets established abroad with administrator or protector domiciled in Peru, and consortia, among others are considered in this category.

The definitions of legal arrangement contained in this item are applicable, as appropriate, for the purposes of this Legislative decree, the applicable supplementary regulations and those referring to mutual administrative assistance in tax matters.

e) Competent Authorities:

It means all the bodies included in the Legislative decree, as well as the supervisory and control agencies in matters of prevention of money laundering and terrorist financing referred to in item 9.A.2 of Section 9. A of Law No. 27693. Regarding the fight against tax evasion and avoidance and mutual administrative assistance in tax matters, the competent authority is SUNAT.

f) SBS:

It means the Superintendency of Banking, Insurance and Private Pension Fund Management Companies.

g) SMV:

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It means the Peruvian Securities and Exchange Superintendency.

h) SUNAT:

It means the National Superintendency of Customs and Tax Administration.

i) FIU:

It means the Financial Intelligence Unit of Peru, a specialized unit of the SBS.

j) Tax Code:

It means the Code approved by Legislative Decree 816, the Consolidated Text of which has been approved by Executive Order No. 133-2013-EF.

k) Law No. 27693:

It means the Act on the creation of the Financial Intelligence Unit - Peru (FIU-Peru).

3.2 When reference is made to a section without mentioning the legal provision to which it belongs, it shall be understood as referring to this Legislative decree. Likewise, when reference is made to subclauses, subsections or items without indicating the section to which they belong, they are understood to refer to the section or paragraph or subclause in which they are mentioned, respectively.

## **CHAPTER II CRITERIA TO DETERMINE THE BENEFICIAL OWNER OF LEGAL PERSONS AND LEGAL ARRANGEMENTS**

### **Section 4. Criteria for determining the beneficial owner of legal persons and legal arrangements referred to in Section 3, subsection 3.1, item a.1).**

4.1 The following criteria determine the status of beneficial owner of the legal persons referred to in Section 3, subsection 3.1, item a.1).

a) The individual who directly or indirectly through any form of acquisition owns at least ten percent (10%) of the capital stock of a legal person.

Legal persons must report on the beneficial owners indicating their shareholding in the capital stock of the legal person.

Information regarding the chain of ownership is included in this item, in cases where the beneficial owner is indirectly the owner.

b) An individual who, acting individually or with others as a decision-making unit, or through other individuals or legal arrangements or legal persons, holds powers, by means other than ownership, to designate or remove most of the administrative, management or supervisory bodies, or has decision-making power in the financial, operational and/or commercial resolutions adopted, or that exercises another form of control of the legal person.

This item includes information on the chain of control in cases where the beneficial owner has such status through means other than ownership.

c) When no individual is identified under the criteria indicated in items a) or b), the individual who holds the senior administrative position shall be considered as the beneficial owner.

4.2 The following criteria determine the status of beneficial owner of the legal arrangements referred to in Section 3, subsection 3.1, item a.1):

a) In the case of trusts or investment funds, individuals acting as settlor, trustee, trust beneficiary or group of beneficiaries and any other individual who, having the status of participant or investor, exercises final effective control over the estate, results or profits in a trust or investment fund, as appropriate.

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b) In other types of legal arrangements, the beneficial owner is the individual who holds a position similar or equivalent to those mentioned in item a); and in the case of the trust established according to the sources of foreign law, also the individual who acts as protector or administrator.

4.3 Notwithstanding the provisions set forth in the preceding paragraphs regarding the scope of the term "beneficial owner," it must be construed in accordance with the recommendations of the Financial Action Task Force (FATF) and its interpretative notes issued on the date of publication of the Legislative decree.

#### **Section 5. Criteria for determining the beneficial owner and due diligence procedure in the anti-money laundering and terrorist financing system**

For the purposes of fighting money laundering and terrorist financing, the liable parties in accordance with the regulations on these matters apply the criteria and the due diligence procedure that allow the identification of the beneficial owner in accordance with the provisions of Law No. 27693 and its regulations, as well as by the standards issued by the SBS and the SMV, in the scope of their powers.

### **CHAPTER III MECHANISMS TO OBTAIN AND KEEP BENEFICIAL OWNER INFORMATION AND ITS USE**

#### **Section 6. Mechanisms that legal persons or legal arrangements must adopt to obtain and keep updated information on the beneficial owner**

6.1 To ensure access and availability of adequate and accurate information on the beneficial owner referred to in item a.1) of subsection 3.1 of section 3 and section 4, legal persons or legal arrangements must implement an internal procedure including reasonable mechanisms to obtain and retain identification information of their beneficial owners.

The information is deemed adequate if it is sufficient, relevant and valid to support the identification; and accurate, if it is specific, unequivocal and unambiguous.

6.2 For the purposes set forth in subsection 6.1, legal persons or legal arrangements must adopt the following mechanisms:

a) Identify and properly validate the beneficial owner of legal persons or legal arrangements. For this purpose, all persons who qualify as beneficial owners, in accordance with the provisions of item a.1) of subsection 3.1 of section 3, are required to disclose their identity to legal persons or legal arrangements, as appropriate, as well as provide their full names, ID type and number, usual residence and other details established by Executive Order.

b) Access and keep available adequate, accurate and updated information about the identity data of the beneficial owners and other details established by Executive Order, in which case the beneficial owners provide the supporting and updated information of their condition as such to legal persons or legal arrangements, as appropriate; and report any changes in their condition.

6.3 Without prejudice to the provisions of subsection 6.2, legal persons or legal arrangements must:

a) Verify the identity data of the beneficial owner and other details established by Executive Order, through documents, data and adequate and reliable information accompanied by supporting documentation.

b) Keep updated the information on the beneficial owner established by the Legislative decree and its regulations.

c) Keep the information on the beneficial owner, the chain of ownership and the supporting documentation during the period specified in the specific regulations. In the event that the information of the beneficial owner is taken by third parties, such third parties shall continue to be responsible for said conservation.

When after applying the criteria for the determination of the beneficial owner referred to in Section 4, as appropriate, information on their identification cannot be obtained, legal persons or legal arrangements are required to publish this fact in any suitable publicly available means of communication.

d) Provide and/or allow timely access by the competent authorities to the information on the beneficial owner, including access to supporting documentation.

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## **Section 7. Reporting obligation by public administration entities**

The Public Administration entities referred to in Section I of the Preliminary Title of the General Administrative Procedure Act, whose Consolidated Text was approved by Executive Order No. 006-2017-JUS, are under the obligation to meet the information requirements set forth by SUNAT, the SBS and the SMV and other competent authorities, so that they can identify and/or corroborate the information provided on the beneficial owners of legal persons or legal arrangements, as appropriate.

The SMV and the SBS, in compliance with the provisions of Section 62 and the Eighth Final Provision of the Tax Code, must provide SUNAT with the information they have available on the beneficial owner referred to in Section 5 so that it can comply with the provisions set out in subsection 8.1 of section 8, and there is no exception regarding said reporting obligation.

## **Section 8. Use of the information on the beneficial owner**

8.1 The information on the beneficial owner can be used by SUNAT, the SBS and the SMV:

a) To comply with mutual administrative assistance in tax matters in accordance with the provisions of international treaties, the decisions of the Andean Community Commission and to exchange information between the above-mentioned institutions in order to comply with the provisions of items b) to d).

b) For the fulfillment of the functions of control of compliance with tax obligations and the fight against tax evasion and avoidance that are under the responsibility of SUNAT.

c) For the fulfillment of the financial supervision and analysis functions of the SBS.

d) For the fulfillment of the functions of securities market supervision and control of the SMV.

8.2 In order to ensure compliance with the provisions of sections 5 and 6, the SBS, the SMV and SUNAT, as appropriate, may require the information that is necessary to corroborate the identification of the beneficial owner and the other pertinent details that are established in the regulatory standards.

8.3 If it is verified that false information regarding the beneficial owner has been declared, the penalties provided for in the sectoral regulations shall be imposed, when appropriate; without prejudice to initiating the pertinent criminal actions in accordance with the criminal regulations.

## **CHAPTER IV**

### **MEASURES TO ENSURE THE SUBMISSION OF INFORMATION ON THE BENEFICIAL OWNER**

#### **Section 9. Verification of compliance with the obligation to submit the beneficial owner affidavit by notaries public**

SUNAT shall make available to Notaries Public a virtual access through which they must verify the submission of the beneficial owner affidavit by legal persons or legal arrangements.

Notaries Public who, in the discharge of their duties, become aware of the non-submission of the beneficial owner affidavit, must inform SUNAT in such form, within such term and under such conditions as established through a resolution of the superintendency.

#### **Section 10. Countersigning**

This Legislative decree is countersigned by the Prime Minister, the Minister of Economy and Finance and the Minister of Justice and Human Rights.

## **FINAL SUPPLEMENTARY PROVISIONS**

### **One. Regulations**

The Executive Branch, by means of an executive order, regulates this Legislative decree, within a period not exceeding one hundred and twenty (120) days, in order to regulate the detailed information that must be gathered and declared on the beneficial owner; as well as the actions to be carried out and implemented by

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legal persons and legal arrangements required to submit the beneficial owner affidavit so that they can access, provide and keep said information.

## **Two. Definition of the beneficial owner and the due diligence procedure to be applied by financial institutions**

By means of the Executive Order referred to in Section 143-A of Law No. 26702, the Financial System and Insurance System Act and Internal Organization Act of the Superintendency of Banking and Insurance, the definition of beneficial owner is established for purposes of automatic exchange of information, as well as the due diligence procedure to be applied by financial institutions, considering the existing approved international recommendations and standards, such as those established in international conventions.

## **Three. Provision of information on the beneficial owners by law and accounting and financial professionals, as well as by Notaries Public**

Communications between law professionals or professionals in accounting and financial sciences and their clients are only protected by professional secrecy to the extent that they practice their profession.

The aforementioned professionals may not refuse to provide the information requested by the competent authorities invoking the right to professional secrecy when they act, among others, as company owners, partners, shareholders, holders of units of interest, legal representatives, attorneys in fact, administrators, directors, members of the board of directors or if they act in a capacity as provided in items a) and b) of subsection 4.2 of section 4.

The identification information on beneficial owners of legal persons and legal arrangements that is provided to the competent authorities in compliance with this Legislative decree by law or accounting and financial professionals does not represent a violation of the professional secrecy nor is it subject to restrictions on disclosure of information derived from the confidentiality duty imposed by a contract or by any legal or regulatory provision.

The provisions set forth in this section are applicable to the Notary Public, as appropriate.

## **TRANSITIONAL SUPPLEMENTARY PROVISION**

### **Single Provision. Appointment of the Compliance Officer**

To process the appointment of the compliance officer, as referred to in Section 10 of Law No. 27693, Act on the creation of the Financial Intelligence Unit - Peru, liable parties must attach proof of submission of the beneficial owner affidavit, in addition to the information and documentation established in the current anti-money laundering and terrorist financing regulations.

Liable parties who, on the effective date of this Legislative decree, have a designated compliance officer or have an application in process for the designation thereof must submit to the FIU, proof of submission of the beneficial owner affidavit within thirty (30) working days following the date established for its expiration. Individuals who carry out the procedure for the appointment of their compliance officer as of the effective date of this Legislative decree and until the expiration period of the referred affidavit indicated in the schedule approved by SUNAT must also submit the referred proof within the specified deadline. Upon expiration of the above-mentioned thirty (30) working day period, the FIU requires in all cases proof of submission of the corresponding beneficial owner affidavit.

## **ADDITIONAL AMENDING PROVISIONS**

**One. Amendment to the third paragraph of item a) of point 10 and the last paragraph of section 62, the first paragraph of point 7, the first paragraph of point 8, the heading of point 15 and item 15.1 of section 87, points 7 and 8 of section 175, points 2, 3 and 27 of section 177, the sixth paragraph of item b) of section 180, items 7 and 8 of subsection 3, items 2, 3 and 27 of subsection 5 of the Tables of Tax Offenses and Penalties I, II and III referring to breaches of points 7 and 8 of section 175, and items 2, 3 and 27 of section 177; as well as item 4 of subsection 4 referring to the breach of point 4 of section 176 and Notes (10), (11), (14) and (20) of the Tables of Tax Offenses and Penalties I and II of the Tax Code.**

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The third paragraph of item a) of point 10 and the last paragraph of section 62, the first paragraph of point 7, the first paragraph of point 8, the heading of point 15 and item 15.1 of section 87, points 7 and 8 of section 175, points 2, 3 and 27 of section 177, the sixth paragraph of item b) of section 180, items 7 and 8 of subsection 3, items 2, 3 and 27 of subsection 5 of the Tables of Tax Offenses and Penalties I, II and III referring to breaches of points 7 and 8 of section 175, and items 2, 3 and 27 of section 177 of the Tax Code; as well as item 4 of subsection 4 referring to the breach of point 4 of section 176 and Notes (10), (11), (14) and (20) of the Tables of Tax Offenses and Penalties I and II of the Tax Code shall be amended as follows:

**“Section 62. SUPERVISORY AUTHORITY**

(...)

10. Request information from the Financial System Companies on:

a) (...)

(...)

Regarding financial information requested by SUNAT to exchange information in compliance with the provisions set out in international agreements, it shall be provided taking into account the provisions of Law No. 26702, the Financial System Act and Internal Organization Act of the Superintendency of Banking and Insurance, as replaced from time to time, as well as its regulatory and supplementary rules and may be used for the exercise of its duties.

(...)

In the case of SUNAT, the power referred to in this section is also applicable to carry out the actions and procedures to provide and request mutual administrative assistance in tax matters, as well as to control the formal obligations related to the aforementioned mutual administrative assistance, and no person or entity, public or private, may refuse to supply the information requested by SUNAT for that purpose.”

**“Section 87. OBLIGATIONS OF TAXPAYERS**

(...)

7. Store, file and keep books and records, kept in a manual, computerized or electronic systems, as well as documents and background information of operations or situations that represent events likely to generate tax obligations or that are related to them, or that support compliance with the due diligence procedures that support the informative affidavits for mutual administrative assistance in tax matters or those that contain information on the beneficial owner, five (5) years or during the tax limitation period, whichever is greater. The five-year period is counted as of January 1 of the year following the deadline for the submission of tax return of the corresponding tax obligation. In the case of payments on account of income tax, the five-year period is counted considering the expiration date of the annual return of said tax.

(...)

“8. Keep under operating conditions the electronic program systems, magnetic media and other information storage media used in their applications that include data related to the taxable base or that support compliance with the due diligence procedures that support the informative affidavit for mutual administrative assistance in tax matters or those that contain the information on the beneficial owner, five (5) years or during the tax limitation period, whichever is greater. Accordingly, the Tax Administration must be notified of any fact that prevents compliance with said obligation so that it evaluates said situation.

(...)

15. Allow SUNAT to carry out the actions that correspond to the various forms of mutual administrative assistance, for which purpose taxpayers, among others, must:

15.1 Submit or produce, in the tax offices or before authorized officials, as indicated by the Administration, affidavits, reports, minute books, accounting books and records and any document, including those supporting compliance with the due diligence procedures that support the informative statements that are submitted to SUNAT, in such form, within such terms and under such conditions as they are required, as well as, when appropriate, their respective copies, which must be endorsed by taxpayers or by their legal representative; and where appropriate, make the clarifications requested.

This obligation includes providing the necessary data to know the programs and files on magnetic media or of any other nature.

If the necessary elements to allow access to the Tax Administration are not available, compliance with due diligence procedures must be proven.

(...)”

**“Section 175. OFFENSES RELATED TO THE OBLIGATION TO KEEP BOOKS AND/OR RECORDS OR TO HAVE REPORTS OR OTHER DOCUMENTS**

(...)

7. Failure to keep books and records, kept in manual, computerized or electronic system, supporting documentation, reports, analysis and background information of operations or situations that represent events likely to generate tax obligations or that are related to them, or that support compliance with due diligence procedures that support the informative affidavits for mutual administrative assistance in tax

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matters or those containing the information on the beneficial owner, five (5) years or during the tax limitation period, whichever is greater.

8. Failure to keep electronic accounting systems or programs, magnetic media, micro-files or other information storage media used in their applications that include data related to taxable base or that support compliance with due diligence procedures that support informative affidavits for mutual administrative assistance in tax matters or those containing information on the beneficial owner, five (5) years or during the tax limitation period, whichever is greater.

(...)"

**"Section 177. OFFENSES RELATED TO THE OBLIGATION TO ALLOW CONTROL BY THE ADMINISTRATION, REPORT AND APPEAR BEFORE IT**

(...)

2. Hiding or destroying assets, books and accounting records, supporting documentation, reports, analysis and background information of operations or situations that are related to events that may generate tax obligations or that support compliance with due diligence procedures that support the informative affidavits for mutual administrative assistance in tax matters or those containing information on the beneficial owner, before five (5) years or the expiration of the tax limitation period, whichever is longer.

3. Failure to keep under operating conditions the carriers of recorded microforms, magnetic carriers and other information storage media used in applications that include data related to the taxable base or that support compliance with due diligence procedures that support informative affidavits for mutual administrative assistance in tax matters or those containing information on the beneficial owner, when records are made through micro-files or computerized electronic systems or in other information storage media.

(...)

27. Failure to exhibit or submit the documentation and information referred to in subsection g) of Section 32-A of the Income Tax Act or, if applicable, its translation into Spanish; which, among others, support informative affidavits such as Local File, Master File and/or Country-by-Country Report; or failure to exhibit or submit documentation that supports other informative affidavits for the fulfillment of mutual administrative assistance in tax matters or information on the beneficial owner referred to in item 15.3 of Section 87 of this Tax Code or that support compliance with due diligence procedures, in such form, within such term and under such conditions as required by SUNAT.

(...)"

**"Section 180. TYPES OF PENALTIES**

(...)

b)

(...)

When the tax debtor has submitted the Annual Tax Return or monthly returns, but does not enter or report zero in the fields or boxes for Net Sales and/or Service Income and other taxable and non-taxable income or net income; or when the tax debtor is not required to file the Annual Tax Return or monthly returns; or when he/she had started operations in the year in which the offense was committed or detected, or when he/she had started operations in the previous year and the deadline for submitting the Annual Tax Return had not expired; or in the case of taxpayers that do not generate income and fail to comply with the obligations related to mutual administrative assistance in tax matters; a penalty equivalent to forty percent (40%) of a Tax Unit (UIT) shall be applied, with the exception of non-compliance with obligations related to the beneficial owner referred to in item 15.3 of Section 87 of this Code, in which case the following shall apply:

- i) For offenses subject to a penalty of 0.6% of the IN according to the Tables of Tax Offenses and Penalties: A penalty equivalent to two percent (2%) of the amount recorded in the total equity box of the Annual Tax Return of the previous year, or failing that, a penalty equivalent to one percent (1%) of the amount entered in the Net Assets box of the Annual Tax Return of the previous year, which may not be less than 5 Tax Units (UITs) or greater than 50 UITs. If zero or no amount has been entered in said boxes, a penalty equivalent to 5 UITs shall be applied.
- ii) For offenses subject to a penalty of 0.3% of the IN according to the Tables of Tax Offenses and Penalties: A penalty equivalent to one percent (1%) of the amount recorded in the total equity box of the Annual Tax Return of the previous year, or failing that, a penalty equivalent to zero-point five percent (0.5%) of the amount entered in the Net Assets box of the Annual Tax Return of the previous year, which may not be less than 3 UITs or greater than 25 UITs. If zero or no amount has been entered in said boxes, a penalty equivalent to 3 UITs shall be applied.
- iii) (...)"

**"TABLE I**

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**TAX CODE - BOOK FOUR (OFFENSES AND PENALTIES)  
THIRD-CATEGORY INCOME GENERATING INDIVIDUALS AND ENTITIES, INCLUDING THOSE OF  
THE MSE TAX REGIME**

(...)

Offenses	Reference	Penalty
(...)		
<b>3. OFFENSES RELATED TO THE OBLIGATION TO KEEP BOOKS AND/OR RECORDS OR HAVE REPORTS OR OTHER DOCUMENTS</b>	<b>Section 175</b>	
(...)		
- Failure to keep books and records, kept in manual, computerized or electronic system, supporting documentation, reports, analysis and background information of operations or situations that represent events likely to generate tax obligations or that are related to them, <b>or that support compliance with due diligence procedures that support the informative affidavits for mutual administrative assistance in tax matters or those containing the information on the beneficial owner</b> , five (5) years or during the tax limitation period, whichever is greater.	Subclause 7	0.3% of IN (11)
- Failure to keep electronic accounting systems or programs, magnetic media, micro-files or other information storage media used in their applications that include data related to taxable base <b>or that support compliance with due diligence procedures that support informative affidavits for mutual administrative assistance in tax matters or those containing information on the beneficial owner</b> , five (5) years or during the tax limitation period, whichever is greater.	Subclause 8	0.3% of IN (11)
(...)		
<b>4. OFFENSES RELATED TO THE OBLIGATION TO FILE AFFIDAVITS AND COMMUNICATIONS</b>	<b>Section 176</b>	
(...)		
- Filing affidavits or communications incomplete or that do not conform to reality.	Subclause 4	30% of UIT or <b>0.6% of IN (14)</b>
(...)		
<b>5. OFFENSES RELATED TO THE OBLIGATION TO ALLOW CONTROL OF THE TAX ADMINISTRATION, INFORM AND APPEAR BEFORE IT</b>	<b>Section 177</b>	
(...)		
- Hiding or destroying assets, books and accounting records, supporting documentation, reports, analysis and background information of operations or situations that are related to events that may generate tax obligations <b>or that support compliance with due diligence procedures that support the informative affidavits for mutual administrative assistance in tax matters or those containing information on the beneficial owner</b> , before five (5) years or the expiration of the tax limitation period, whichever is longer	Subclause 2	0.6% of IN (10)
- Failure to keep under operating conditions the carriers of recorded microforms, magnetic carriers and other information storage media used in applications that include data related to the taxable base <b>or that support compliance with due diligence procedures that support informative affidavits for mutual administrative assistance in tax matters or those containing information on the beneficial owner</b> , when records are made through micro-files or computerized electronic systems or in other information storage media.	Subclause 3	0.3% of IN (11)
(...)		
- Failure to exhibit or submit the documentation and information referred to in subsection g) of Section 32-A of the Income Tax Act or, if applicable, its translation into Spanish; which, among others, support informative affidavits such as Local File, Master	Subclause 27	0.6% of IN (10) (20)

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File and/or Country-by-Country Report; or <b>failure to exhibit or submit documentation that supports other informative affidavits</b> for the fulfillment of mutual administrative assistance in tax matters or <b>information on the beneficial owner referred to in item 15.3 of paragraph 15 of Section 87 of this Tax Code or that support compliance with due diligence procedures, in such form, within such term and under such conditions as required by SUNAT.</b>		
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(...)"

**“TABLE II  
TAX CODE – BOOK FOUR  
(OFFENSES AND PENALTIES)  
INDIVIDUALS RECEIVING FOURTH-CATEGORY INCOME, INDIVIDUALS SUBJECT TO THE  
SPECIAL INCOME REGIME AND OTHER INDIVIDUALS AND ENTITIES NOT INCLUDED IN TABLES I  
AND III, AS APPLICABLE**

(...)

Offenses	Reference	Penalty
(...)		
<b>3. OFFENSES RELATED TO THE OBLIGATION TO KEEP BOOKS AND/OR RECORDS OR HAVE REPORTS OR OTHER DOCUMENTS</b>	<b>Section 175</b>	
(...)		
- Failure to keep books and records, kept in manual, computerized or electronic system, supporting documentation, reports, analysis and background information of operations or situations that represent events likely to generate tax obligations or that are related to them, <b>or that support compliance with due diligence procedures that support the informative affidavits for mutual administrative assistance in tax matters or those containing the information on the beneficial owner</b> , five (5) years or during the tax limitation period, whichever is greater.	Subclause 7	0.3% of IN (11)
- Failure to keep electronic accounting systems or programs, magnetic media, micro-files or other information storage media used in their applications that include data related to taxable base <b>or that support compliance with due diligence procedures that support informative affidavits for mutual administrative assistance in tax matters or those containing information on the beneficial owner</b> , five (5) years or during the tax limitation period, whichever is greater.	Subclause 8	0.3% of IN (11)
(...)		
<b>4. OFFENSES RELATED TO THE OBLIGATION TO FILE AFFIDAVITS AND COMMUNICATIONS</b>	<b>Section 176</b>	
(...)		
- File affidavits or communications incomplete or that do not conform to reality.	Subclause 4	15% of UIT or <b>0.6% of IN (14)</b>
(...)		
<b>5. OFFENSES RELATED TO THE OBLIGATION TO ALLOW CONTROL OF THE TAX ADMINISTRATION, INFORM AND APPEAR BEFORE IT</b>	<b>Section 177</b>	
(...)		
- Hiding or destroying assets, books and accounting records, supporting documentation, reports, analysis and background information of operations or situations that are related to events that may generate tax obligations <b>or that support compliance with the due diligence procedures that support the informative affidavits for mutual administrative assistance in tax matters or those containing information on the beneficial owner</b> , before five (5) years or the expiration of the tax limitation period, whichever is longer	Subclause 2	0.6% of IN (10)

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- Failure to keep under operating conditions the carriers of recorded microforms, magnetic carriers and other information storage media used in applications that include data related to the taxable base <b>or that support compliance with due diligence procedures that support informative affidavits for mutual administrative assistance in tax matters or those containing information on the beneficial owner</b> , when records are made through micro-files or computerized electronic systems or in other information storage media.	Subclause 3	0.3% of IN (11)
(...)		
- Failure to exhibit or submit the documentation and information referred to in subsection g) of Section 32-A of the Income Tax Act or, if applicable, its translation into Spanish; which, among others, support informative affidavits such as Local File, Master File and/or Country-by-Country Report; <b>or failure to exhibit or submit documentation that supports other informative affidavits</b> for the fulfillment of mutual administrative assistance in tax matters <b>or information on the beneficial owner referred to in item 15.3 of paragraph 15 of Section 87 of this Tax Code or that support compliance with due diligence procedures, in such form, within such term and under such conditions as required by SUNAT.</b>	Subclause 27	0.6% of IN (10) (20)

(...)"

**"TABLE III  
TAX CODE – BOOK FOUR  
(OFFENSES AND PENALTIES)  
INDIVIDUALS AND ENTITIES THAT ARE IN THE NEW SIMPLIFIED SINGLE REGIME**

(...)

Offenses	Reference	Penalty
(...)		
<b>3. OFFENSES RELATED TO THE OBLIGATION TO KEEP BOOKS AND/OR RECORDS OR HAVE REPORTS OR OTHER DOCUMENTS</b>	<b>Section 175</b>	
(...)		
- Failure to keep books and records, kept in manual, computerized or electronic system, supporting documentation, reports, analysis and background information of operations or situations that represent events likely to generate tax obligations or that are related to them, <b>or that support compliance with due diligence procedures that support the informative affidavits for mutual administrative assistance in tax matters or those containing the information on the beneficial owner</b> , five (5) years or during the tax limitation period, whichever is greater.	Subclause 7	0.3% of I or closure (2) (3)
- Failure to keep electronic accounting systems or programs, magnetic media, micro-files or other information storage media used in their applications that include data related to taxable base <b>or that support compliance with due diligence procedures that support informative affidavits for mutual administrative assistance in tax matters or those containing information on the beneficial owner</b> , five (5) years or during the tax limitation period, whichever is greater.	Subclause 8	0.3% of I or closure (2) (3)
(...)		
<b>5. OFFENSES RELATED TO THE OBLIGATION TO ALLOW CONTROL OF THE TAX ADMINISTRATION, INFORM AND APPEAR BEFORE IT</b>	<b>Section 177</b>	
(...)		
- Hiding or destroying assets, books and accounting records, supporting documentation, reports, analysis and background information of operations or situations that are related to events that may generate tax obligations <b>or that support compliance</b>	Subclause 2	0.6% of I or closure (2) (3)

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<b>with due diligence procedures that support the informative affidavits for mutual administrative assistance in tax matters or those containing information on the beneficial owner, before five (5) years or the expiration of the tax limitation period, whichever is greater</b>		
- Failure to keep under operating conditions the carriers of recorded microforms, magnetic carriers and other information storage media used in applications that include data related to the taxable base <b>or that support compliance with due diligence procedures that support informative affidavits for mutual administrative assistance in tax matters or those containing information on the beneficial owner</b> , when records are made through micro-files or computerized electronic systems or in other information storage media.	Subclause 3	0.3% of I or closure (2) (3)
(...)		
- Failure to exhibit or submit the documentation and information referred to in subsection g) of Section 32-A of the Income Tax Act or, if applicable, its translation into Spanish; which, among others, support informative affidavits such as Local File, Master File and/or Country-by-Country Report; <b>or failure to exhibit or submit documentation that supports other informative affidavits for the fulfillment of mutual administrative assistance in tax matters or information on the beneficial owner referred to in item 15.3 of paragraph 15 of Section 87 of this Tax Code or that support compliance with due diligence procedures, in such form, within such term and under such conditions as required by SUNAT.</b>	Subclause 27	

(...)"

**“TABLE I  
TAX CODE – BOOK FOUR (OFFENSES AND PENALTIES)  
THIRD-CATEGORY INCOME GENERATING INDIVIDUALS AND ENTITIES, INCLUDING THOSE OF  
THE MSE TAX REGIME**

(...)

Notes:

(...)

(10) When the penalty applied is calculated based on the annual IN, it may not be less than 10% of the UIT nor greater than 25 UITs, except in the case of offenses related to the beneficial owner referred to in item 15.3 of Section 87 of this Tax Code, in which case the penalty may not be less than 5 UITs nor more than 50 UITs.

(11) When the penalty applied is calculated based on the annual IN, it may not be less than 10% of the UIT nor greater than 12 UITs, except in the case of offenses related to the beneficial owner referred to in item 15.3 of Section 87 of this Tax Code, in which case the penalty may not be less than 3 UITs and no more than 25 UITs.

(...)

(14) 0.6% of the IN shall be applied in the case of offenses related to the informative affidavits such as Local File, Master File and/or Country-by-Country Report, or the informative affidavits for the fulfillment of mutual administrative assistance in tax matters or the informative beneficial owner affidavit referred to in item 15.3 of Section 87 of this Tax Code subject to the limits indicated in note (10).

(...)

(20) For the cases of the antepenultimate and last paragraphs of subparagraph b) of Section 180, the penalty shall be equivalent to 3.5 and 6.5 UITs, respectively; except in the case of offenses related to the beneficial owner referred to in item 15.3 of Section 87 of this Tax Code, to which the limits indicated in the sixth and last paragraphs of subparagraph b) of Section 180 shall be applied.

(...)"

**“TABLE II  
TAX CODE – BOOK FOUR  
(OFFENSES AND PENALTIES)  
INDIVIDUALS RECEIVING FOURTH CATEGORY INCOME, INDIVIDUALS SUBJECT TO THE  
SPECIAL INCOME REGIME AND OTHER INDIVIDUALS AND ENTITIES NOT INCLUDED IN TABLES I  
AND III, AS APPLICABLE**

(...)

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Notes:

(...)

(10) When the penalty applied is calculated based on the annual IN, it may not be less than 10% of the UIT nor greater than 25 UITs, except in the case of offenses linked to the beneficial owner referred to in item 15.3 of Section 87 of this Tax Code, in which case the penalty may not be less than 5 UITs nor more than 50 UITs.

(11) When the penalty applied is calculated based on the annual IN, it may not be less than 10% of the UIT nor greater than 12 UITs, except in the case of offenses related to the beneficial owner referred to in item 15.3 of Section 87 of this Tax Code, in which case the penalty may not be less than 3 UITs nor more than 25 UITs.

(...)

(14) 0.6% of the IN shall be applied in the case of offenses related to informative affidavits such as Local File, Master File and/or Country-by-Country Report, or the informative affidavits for the fulfillment of mutual administrative assistance in tax matters or the informative beneficial owner affidavit referred to in item 15.3 of Section 87 of this Tax Code, subject to the limits set forth in note (10).

(...)

(20) For the cases of the antepenultimate and last paragraphs of subparagraph b) of Section 180, the penalty shall be equivalent to 3.5 and 6.5 UITs, respectively; except in the case of offenses related to the beneficial owner referred to in item 15.3 of Section 87 of this Tax Code, to which the limits indicated in the sixth and last paragraphs of subparagraph b) of Section 180 shall be applied.

(...)"

**Two. Incorporation of point 12 to the third paragraph of Section 16, item 15.4 to Section 87, point 28 of Section 177 and item 28 of section 5 of the Tables of Tax Offenses and Penalties I, II and III referring to the breach of point 28 of Section 177 of the Tax Code.**

Point 12 shall be incorporated to the third paragraph of Section 16, item 15.4 to Section 87, point 28 of Section 177 and item 28 of section 5 of the Tables of Tax Offenses and Penalties I, II and III referring to the breach of point 28 of Section 177 of the Tax Code, under the following terms:

**"Section 16. REPRESENTATIVES – JOINT AND SEVERAL LIABLE PARTIES**

(...)

It is considered that there is willful misconduct, gross negligence or abuse of powers, unless proven otherwise, when the tax debtor:

(...)

12. Fails to submit the informative affidavit provided for in item 15.3 of Section 87 of the Tax Code, which contains the information related to the beneficial owner.

(...)"

**"Section 87. OBLIGATIONS OF TAXPAYERS**

(...)

15. Allow SUNAT to carry out the pertinent actions corresponding to the various forms of mutual administrative assistance. For this purpose, taxpayers must, among others:

(...)

15.4 Carry out, when appropriate according to the respective regulations, the due diligence procedures that support the informative affidavits that are submitted to SUNAT.

(...)"

**"Section 177. OFFENSES RELATED TO THE OBLIGATION TO ALLOW CONTROL BY THE ADMINISTRATION, REPORT AND APPEAR BEFORE IT**

(...)

28. Failure to provide supporting documentation regarding the performance of due diligence procedures that support the informative affidavits that are submitted to SUNAT for mutual administrative assistance in tax matters or on the information of the beneficial owner or support only the partial performance of such procedures."

**"TABLE I  
TAX CODE - BOOK FOUR (OFFENSES AND PENALTIES)  
THIRD-CATEGORY INCOME GENERATING INDIVIDUALS AND ENTITIES, INCLUDING THOSE OF  
THE MSE TAX REGIME**

(...)

Offenses	Reference	Penalty
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(...)		
<b>5. OFFENSES RELATED TO THE OBLIGATION TO ALLOW CONTROL OF THE TAX ADMINISTRATION, INFORM AND APPEAR BEFORE IT</b>	<b>Section 177</b>	
(...)		
- Failure to provide supporting documentation regarding the performance of due diligence procedures that support the informative affidavits that are submitted to SUNAT for mutual administrative assistance in tax matters or on the information of the beneficial owner or support only the partial performance of such procedures.	Subclause 28	0.6% of IN (10)

(...)."

**“TABLE II  
TAX CODE – BOOK FOUR  
(OFFENSES AND PENALTIES)  
INDIVIDUALS RECEIVING FOURTH-CATEGORY INCOME, INDIVIDUALS SUBJECT TO THE SPECIAL INCOME REGIME AND OTHER INDIVIDUALS AND ENTITIES NOT INCLUDED IN TABLES I AND III, AS APPLICABLE**

(...)

Offenses	Reference	Penalty
(...)		
<b>5. OFFENSES RELATED TO THE OBLIGATION TO ALLOW CONTROL OF THE TAX ADMINISTRATION, INFORM AND APPEAR BEFORE IT</b>	<b>Section 177</b>	
(...)		
- Failure to provide supporting documentation regarding the performance of due diligence procedures that support the informative affidavits that are submitted to SUNAT for mutual administrative assistance in tax matters or on the information of the beneficial owner or support only the partial performance of such procedures.	Subclause 28	0.6% of IN (10)

(...)."

**“TABLE III  
TAX CODE – BOOK FOUR  
(OFFENSES AND PENALTIES)  
INDIVIDUALS AND ENTITIES THAT ARE IN THE NEW SIMPLIFIED SINGLE REGIME**

(...)

Offenses	Reference	Penalty
(...)		
<b>5. OFFENSES RELATED TO THE OBLIGATION TO ALLOW CONTROL OF THE TAX ADMINISTRATION, INFORM AND APPEAR BEFORE IT</b>	<b>Section 177</b>	
(...)		
- Failure to provide supporting documentation regarding the performance of due diligence procedures that support the informative affidavits that are submitted to SUNAT for mutual administrative assistance in tax matters or on the information of the beneficial owner or support only the partial performance of such procedures.	Subclause 28	

(...)."

**Three. Incorporation of subsection i) and subsection j) to paragraph 10.2.1 of item 10.2 of Section 10 of Law No. 27693, Act on the Creation of the Financial Intelligence Unit – Peru**

Subsection i) and subsection j) shall be incorporated to paragraph 10.2.1 of item 10.2 of Section 10 of Law No. 27693, Act on the Creation of the Financial Intelligence Unit – Peru, under the following terms:

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#### **“Section 10. Supervision of the anti-money laundering and terrorist financing system**

(...)

10.2 For the fulfillment of its supervisory functions, it shall have the support of the following agents:

10.2.1 Compliance Officer

(...)

i. For the FIU - Peru to proceed to the registration of the Compliance Officer designated by the liable party, the liable party must submit proof of having made the beneficial owner affidavit referred to in item 15.3 of Section 87 of the Tax Code, as approved by Legislative decree No. 816, the Consolidated Text of which has been approved by Executive Order 133-2013-EF, as amended.

j. The components that make up the anti-money laundering and terrorist financing system are compatible with those of the prevention model referred to in Law No. 30424, Act that regulates the administrative responsibility of legal persons for the crime of transnational active bribery. In these cases, the duty of the prevention officer and compliance officer providing services on an exclusive or non-exclusive basis for the legal persons that are liable parties can be assumed by the same person, provided that the requirements laid down in this Law and the applicable anti-money laundering and terrorist financing regulations are met for their appointment. The only additional duty that a Compliance Officer of a legal person acting as liable party can perform on an exclusive basis is serving as a prevention officer.

(...).”

#### **Four. Amendment to the Notaries' Act**

Items d) and p) of Sections 16, and item e) of Section 54 of Legislative decree No. 1049, the Notaries' Act shall be amended as follows:

#### **“Section 16. Obligations of the Notary Public**

The Notary Public is required to:

(...)

d) Request the participants to submit the national identity document (D.N.I.) and the identity or travel documents specified for the identification of foreigners in the national territory, in addition to the respective migratory status in force in accordance with the regulations on the matter, the proof of submission of the informative beneficial owner affidavit before SUNAT; a document proving that the beneficial owner has complied with providing information about their identity to the legal person or legal arrangement, when appropriate; as well as the required documents for the extension or authorization of notarially recorded and off-the-record public instruments.”

(...)

p) Comply with all pertinent anti-money laundering and terrorist financing regulations, in accordance with the legislation on the matter; including the identification of the beneficial owner in the documents submitted for the extension or authorization of notarially recorded and off-the-record public instruments.”

#### **“Section 54. Contents of the Introduction**

The introduction shall specify:

(...)

c) That a person may act in the name, place and stead of another, for which purpose they shall submit the document authorizing such representation; as well as the identification details of the beneficial owner, in accordance with the legislation on the matter.

(...).”

#### **Five. Amendment to the first paragraph of point 29 of item 3.1 of Section 3 of Law No. 29038, Act that incorporates the Financial Intelligence Unit of Peru (FIU-PERU) to the Superintendency of Banking, Insurance and Private Pension Fund Management Companies.**

The first paragraph of point 29 of item 3.1 of Section 3 of Law No. 29038, Act that incorporates the Financial Intelligence Unit of Peru (FIU-PERU) to the Superintendency of Banking, Insurance and Private Pension Fund Management Companies shall be amended as follows:

#### **“Section 3. Reporting parties**

3.1. The following individuals and legal persons are required to inform and, as such, are obliged to provide the information referred to in Section 3 of Law No. 27693, Act on the Creation of the Financial Intelligence Unit - Peru and to implement the anti-money laundering and terrorist financing system:

(...)

29) Attorneys-at-law and certified public accountants, who independently carry out procedures, and legal persons whose corporate purpose is to provide legal and/or accounting services, who perform or are required to perform on behalf of their client, on a regular basis, the following activities:

(...).”

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THEREFORE:

This Legislative decree shall be published and enforced, serving notice on the Peruvian Congress.

Given at the Government House, in Lima, on August 1, 2018.

MARTÍN ALBERTO VIZCARRA CORNEJO  
President of the Republic

CÉSAR VILLANUEVA ARÉVALO  
Prime Minister

CARLOS OLIVA NEYRA  
Minister of Economy and Finance

VICENTE ANTONIO ZEBALLOS SALINAS  
Minister of Justice and Human Rights