

Is it possible to issue the invoice that should be drawn up as an e-invoice in a printed form?

The Ministry of Finance introduced the implementation of e-invoice as of 5 March 2010, through the Tax Procedures Law (TPL) General Communiqué series no.397. In this article, we tried to indicate the possible negative outcomes of issuing printed hard copy invoices despite being within the scope of e-invoice, concerning the taxpayers.

The e-invoice which is not a new sort of document and shares the same legal qualifications with the printed invoice became a mandatory requirement for the real persons and legal entities through the TPL General Communiqués no.397, 416, 421 and 454.

Pursuant to the repeating Article 242 of TPL, for the parties there is an obligation of issuing and receiving e-invoice that is in the nature of an electronic document; while the terms regarding invoices within TPL and other tax laws are applicable for the e-invoice as well.

Within that context, both the printed and the electronic versions of the invoice should be issued within 7 days following the delivery of the goods and/or performing the service. Since the aforementioned 7 day period is a maximum deadline, in the circumstance that these deadlines are breached, penalties existing in TPL would be applied. The special irregularity fine which is one of the sanctions against the acts of failing to issue/receive invoices will be applicable concerning the e-invoices, too.

Pertaining to the Article 353/1 of TPL, despite the Tax Administration continues punitive practices in cases of failure to issue/receive invoices, based on the fact that the actions indicated in Article 353/1 of TPL do not contain failure to issue/receive invoices, there are decisions in the direction that those special irregularity fines issued are contrary to the law.

While the implementation of punitive actions against taxpayers in cases of issuing printed invoice instead of e-invoice is a controversial matter; VAT reduction subject to the invoices that are not issued as e-invoice and printed as hard copies is another disputable matter.

Among the opinions disclosed by the Administration concerning the matter; since the taxable event and the real state of the transactions with respect to this event are essential, the certification of expenditures based on a real transaction (delivery of goods or performing a service) through a printed invoice instead of an electronically issued invoice, apart from the implementation of punitive terms indicated in TPL, does not constitute a hurdle in considering as a cost in the detection of gross earnings and deduction of the VAT indicated in the invoice and meeting the conditions identified in the Article 29 of VAT Law.

So as to resolve the controversies in terms of the Tax Procedures Law, through the Article 12 of the Draft Law Requiring Amendments to the Tax Laws and Certain Laws and Legislative Decrees submitted to the Grand National Assembly of Turkey on 02.02.2018, the sub-clause (2) within Article 353 of TPL has been proposed to be amended as; "... in the circumstance that their issuance as hard copies instead of an electronical document has been detected, or if those documents are deemed to be never printed as per the Article 227 of the Law, a special irregularity fine of TL 240 should be imposed for each document". If the aforementioned draft passes into law with its current form, it appears that the uncertainties with respect to the Tax Procedures Law will be ending.

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