

The state of amounts paid based on mutual rescission contracts in terms of the Income Tax Law

Concerning the employees with a business relation terminated through a mutual rescission contract, some hesitations exist whether the amounts paid by their employer is subject to income tax or not.

The rulings released by the Revenue Administration consider the portion of them up to severance pay as exempt from income tax and indicate that the exceeding amount should be taxed as earning.

Particularly within the latest court verdicts declared regarding this matter, opinions exist pointing out that these payments cannot be specified as an earning since they cover the period following the termination of employee-employer contact and within that context, the whole amount should not be subject to income tax.

So as to remove the uncertainties and eliminate controversies; there was an intention to make the matter of considering payments to the employee following the termination of the business contract under various names (as job loss, termination compensation and indemnity of mutual rescission contract) and their state in terms of income tax exemption clear and new regulations have been introduced through the Law Requiring Amendments to Tax Laws and Certain Laws and Statutory Decrees no.7103 published in the 2. Repetitive Official Gazette dated 27 March 2018.

Through the amendments on articles 25 and 61 of the Income Tax Law, by a provision added to the Law it has become apparent that these payments are considered as earning. Besides, the aforementioned payments will be considered together with the severance pay amounts paid if any, the portion remaining within the indemnity limit should be exempted and the rest will be subject to income tax. The concerning legal provisions have been enacted as of the publication date (27 March 2018).

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