

All that remain after the VAT reform...

The draft law containing radical changes in Value Added Tax (VAT) Law also called as the “VAT reform” had been submitted to the Turkish Grand National Assembly at the end of February. The Law no.7104 was published in the Official Gazette dated 6 April 2018 following its approval in the General Assembly with the removal of its certain arrangements from the text.

Deferred VAT is not refunded!

The VAT Law contains a provision indicating that the deferred VAT would not be refunded except some specific circumstances particularly for exports. The total amount of deferred VAT, deemed to be a sort of receivable from the government is pronounced at about TL 160 billion.

The draft law which was submitted to the Grand National Assembly contained regulations allowing the refund of deferred VAT amounts to the taxpayers. Despite the different perceptions within the public opinion, of course a complete refund at one time was not possible. It was indicated that a certain portion of that amount would be refunded by considering the budgetary opportunities and through handling inspections.

However, regulations concerning the refund of deferred VAT have been removed from the Law’s text during the negotiations at the General Assembly.

Group VAT liability cancelled

A regulation authorizing the Ministry of Finance to permit group companies for assigning a single VAT liability under certain terms was also existing within the draft. That provision has been removed from the Law’s text at the General Assembly, as well.

No interest payment on late refund

One of the most essential regulations was the provision requiring an interest payment, even at a rate of deferment interest to the taxpayer in the circumstance that the VAT had been refunded late. That was removed from the Law during the negotiations at the General Assembly, too.

Period for VAT deduction extended

Pertaining to the existing implementation, taxpayers are able to deduct the VAT on the documents issued for themselves within the period that they were entered into the books provided that the calendar year in which the taxable event occurred is not exceeded. By the new Law, a facility has been introduced to use that deduction right until the end of the calendar year following the calendar year in which the taxable event occurred. However, this will not be enacted immediately. It will be effective from 1 January 2019.

Time limit on claims for VAT refund

Regarding the VAT incurred for the refundable transactions such as exports and could not be compensated through deduction; the requirement of claiming it until the end of second calendar year following the period in which the transaction is made has been introduced. By this arrangement to be effective from the beginning of 2019, the period for claiming VAT refund is apparently indicated in the Law.

Time limit for the inspections on VAT refunds

While there was an arrangement within the Tax Procedures Law indicating that it's essential to finalize the inspection within 1 year for the full inspection whereas 6 months for limited inspection, such a time limit on VAT refunds did not exist. Through the new Law, a certain inspection period is identified for the VAT refund inspections, too. Accordingly, the aforementioned inspections should be finalized within 3 months.

In the circumstance that the inspection could not be finalized, it would be possible to claim for additional time. This claim for period extension will be assessed by the relevant department comprising the ones authorized for tax inspection and an additional period may be assigned as long as it does not exceed 2 months. This latest implementation will be applicable on the inspections handled concerning the taxation periods following 1 January 2019.

Revenue based taxation

The practice of "revenue based taxation" has been launched for the tradesmen making entries based on operation account and the self-employed. As per that, taxpayer groups operating within the sectors and occupations specified by the Council of Ministers would be able to declare and pay a certain ratio of their revenue without considering the deductible VAT amount if they prefer. The VAT rate to be applied will be set by the Council of Ministers provided that it should not exceed the highest rate.

For the taxpayers preferring this procedure, VAT paid during goods and service purchases will be treated as cost or expense according to the nature of the transaction while the VAT that they calculated concerning the deliveries and services performed will be considered as income. Taxpayers preferring this procedure of revenue based taxation which will be effective from the beginning of 2019 would not be able to retreat from that before two years.

Authorization to Independent Accountant and Financial Advisors to issue VAT report

The new Law authorizes the Ministry of Finance to let the Independent Accountant and Financial Advisors (SMMM) for the issuance of VAT refund report, provided that it's limited to the period that they signed tax returns and taxpayers.

The Ministry has also the authority to set the refund types and maximum refund amounts that are appropriate for issuing reports as well as the qualifications and requirements for the SMMMs which will issue the reports. Also, the Ministry would be able to impose SMMMs for participating in trainings and succeed in them.

According to the regulation enacted as of 6 April 2018, the SMMMs will be jointly and severally be liable for tax loss and possible penalties together with the taxpayer in the circumstance that the report comes out inaccurate.

Income derived from sale of vehicle registration plates of taxis, minibuses

The new Law contains an arrangement on the income tax as well. That arrangement is related to the income derived from sale of registration plates of taxis, minibuses and public transportation vehicles.

As of 6 April 2018, the income derived through those sales will be exempted from income tax regardless of the amount.

Well, then what about the income based on a sale prior to the publication date of the Law, but not declared? The answer to that is just within the new Law. Concerning those sales, any tax assessment will not be handled, tax penalty will not be assigned regarding the tax inspections or assessment procedures. Previous assessments, penalties, lawsuits if any will be remitted through disclaim.

Income derived from sales is being removed off the scope of income tax, however, from now on a fee at a rate of 3 % will be applied on the transfer transactions of those vehicle registration plates. That fee to be effective from 6 April 2018 will be calculated over the transaction value.

in brief...

- Pursuant to the concerning laws, deliveries of brand new machinery and equipment performed to be used in R&D, innovation and design activities will be exempted from VAT. In the circumstance that the machinery and equipment subject to full exemption are used with purposes other than the indicated ones or sold out within 3 years as of the start of calendar year following the date of delivery, the tax that is not taken at the beginning will be collected from the buyer with the late fee by applying tax loss penalty on it. This will be applicable as of 1 June.

- The Ministry of Finance is authorized for extending the payment period of the taxpayer entering records based on the operation account method until the end of the second month following the submission of the tax return. Accordingly, if the Ministry uses its authority for that from the start of 2019, the concerning taxpayers will be able to pay their taxes one month later.

- The Ministry of Finance is also authorized for presenting an opportunity of allowing to write off the deferred VAT that is not claimed as refund within its period and transferred to other periods to be compensated through deduction during the detection of income or corporate tax base. Accordingly, deferred VAT amounts that would not be refunded within the context of regulation which was removed from the Law's text will be written off on the occasion that the Ministry permits. This provision is taking effect as of the Law's publication date.

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