

Amendments announced for the implementation of contracts in TL

A Presidential Decision was issued in September on the grounds that contracts could not be executed in foreign currency and requiring the previous ones to be converted into TL. In accordance with the authority granted by the Decision, the Treasury and Finance Ministry has identified the contracts that should be concluded in TL and the contracts permitted to be concluded in foreign currency through a Communiqué issued on 6 October.

Several amendments were made to the concerning Communiqué after about one and a half months, on November 16. In this article we will try to summarize the changes introduced through the new Communiqué.

Real estate sale and leasing

As a general rule, value on the real estate sale and leasing contracts to be executed by and between Turkish residents was not permitted to be set in foreign currency or indexed to foreign currency. This requirement was covering the real estate located in free zones as well. The values set in foreign currency on real estate leasing contracts executed prior to 13 September had to be converted into TL for two years. Free zones have been removed off the article's text through the latest Communiqué.

Certain exemptions introduced

The new Communiqué has cleared the way for the contracts concerning real estate sale and leasing indicated below to be concluded in foreign currency or indexed to foreign currency:

- a. Real estate sale and real estate leasing contracts concluded by persons resident in Turkey where the parties to the contract as buyer or lessee are not Turkish citizens,
- b. Real estate sale and real estate leasing contracts concluded by branches, representatives, offices, liaison offices, companies owned by non-residents (shareholding rate must be at least 50% or over directly or indirectly or jointly controlled and/or controlled) in Turkey and companies in free zones that are party for their activities in free zones, as buyer or lessee,
- c. Real estate lease contracts concerning the leasing of accommodation facilities certified by the Ministry of Culture and Tourism with the purpose of operating,
- d. Real estate lease contracts to be concluded for the leasing of duty-free shops.

Vehicle sale and leasing

Vehicle sale and leasing contracts to be concluded by and between Turkish residents are not permitted to be executed in foreign currency or indexed to foreign currency. Engineering vehicles were also included in the scope of vehicles. Through the new Communiqué, the wording of "including the engineering vehicles" has been removed from the aforementioned arrangements.

Also, the previous Communiqué was containing an arrangement indicating that any requirement for converting vehicle leasing contracts in foreign currency executed prior to 13 September into TL does not exist. “Commercial vehicles with the purpose of passenger transport sale contracts” has been added to this section with the new Communiqué.

Labour contracts

The labour contracts to be executed by and between Turkish residents were not permitted to be set in foreign currency or indexed to foreign currency either. The exemption for that had been defined in the Communiqué as the contracts concerning the services to be executed abroad. Any amendment for this provision does not exist, however the contracts in which shipmen are party to have also been included into the scope of the exemption through the Communiqué.

Service contracts

Within the first Communiqué, it was indicated that the service contracts concerning electronical communication to be executed by and between Turkish residents starting in Turkey and ending abroad and starting abroad and ending in Turkey are permitted to be set in foreign currency or indexed to foreign currency.

Through the latest Communiqué, service contracts starting abroad and ending abroad have also been included into this regulation. Also, the wording has been changed by the latest Communiqué as “service contracts” while only “the service contracts concerning electronical communication” were within the scope in the previous implementation.

Work contracts

The requirement of setting work contracts to be executed by and between Turkish residents in TL was introduced through the previous Communiqué. However, the contracts for construction, repairing and maintenance of ships defined in Turkish International Ship Registry Law were permitted to be concluded in foreign currency or indexed to foreign currency. Through the new Communiqué, it can be seen that a provision indicating that the value within the work contracts containing cost in foreign currency may be set in foreign currency or indexed to foreign currency has been added.

Companies with foreign partnership

The labour and service contracts concluded by branches, representatives, offices, liaison offices, companies owned by non-residents (shareholding rate must be at least 50% or over) in Turkey and companies in free zones that are party for their activities in free zones were permitted to be set in foreign currency or indexed to foreign currency.

Through the latest Communiqué, companies directly or indirectly or jointly controlled and/or controlled of non-residents have been included into this provision and the scope is extended.

Also, the wording as labour and service contracts in which the institutions provided above are party to has been amended as labour and service contracts as the party in status of employer or service receiver.

Public tenders

Pursuant to the previous Communiqué, provided that they are within the context of the execution of tenders, contracts and international agreements in foreign currency or indexed to foreign currency in which the public institutions and organisations are party to; contracts to be concluded by contractors with third parties were permitted to be arranged in foreign currency or indexed to foreign currency.

Through the new Communiqué, excluding the contractors, the contracts that will be concluded between the attendant companies and the contracting third parties have also been included into the scope of contracts that are permitted to be set in foreign currency or indexed to foreign currency.

Trouble resolved, however...

The previous Communiqué was containing an arrangement requiring the contracts to be redefined as TL in the circumstance that one of the parties that does not exist within the scope of requirement of setting contracts in Turkish currency demands the upcoming contract to be in TL or demands the conversion of existing contracts in foreign currency or indexed to foreign currency into TL. This provision does not exist within the latest Communiqué.

Stamp tax clarified

The Revenue Administration has released a stamp tax circular on 22 November. Through that circular it was indicated that additional stamp tax shall not be sought for the documents related to the conversion of contracts into TL if the conditions indicated below are met:

1. If only the value is redefined, without making any changes on the other articles of the contracts (party, period extension, addition of new business etc.),
2. If the total amount to be set in TL does not exceed the amount to be reached by multiplying the value in foreign currency existing on the initial contract and the current foreign exchange selling rate announced by the Central Bank of the Republic of Turkey (CBRT) at the date on which the document concerning the change was drafted,
3. If there is a reference to the initial contract.

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