

## **Assessment on the term of equal percentage in redemption of leasehold improvement amounts, stated in TPL**

As per Article 272 of the Tax Procedure Law no.213 (TPL) titled as “Cost increase in real estate or electricity generation and distribution assets”; leasehold improvements can be defined as the sum of expenditures continuously increasing the economic value and economic life of the property made and leased by the lessee, regarding the real estates rented by an economic enterprise to carry out its activities.

Also, within Article 327 of VUK no.213 titled as “Redemption of Leasehold Improvements Amounts”, it is regulated that the leasehold improvements amounts which increase the economic value of real estates, electricity generation and distribution assets and ships and which are indicated in Article 272 will be amortized in equal percentages according to the lease or operating right period.

The depreciation method is not defined as normal or declining balance in the article of the law and only the wording of equal percentages has been used. We will first need to look at depreciation methods.

It is possible to define the ordinary depreciation as the amortization of the economic asset every year by equal amounts in a given period.

In the declining balances method, the ratio will be twice the normal depreciation rate; the same rate applies to the value from which the accumulated depreciation of previous years is deducted. Equal percentage is applied every year in the declining balances method and the remaining amount is completely destroyed in the last year. However, here it can be considered that the amount that hit the last year remains within the same percentage. Considering the wording of equal percentage, it is possible to consider that both depreciation methods can be applied.

The common opinion which is included in the tax administration's rulings and accepted in a non-controversial manner, is that the redemption provision should be understood in equal quantities and amounts in line with the Law's article and therefore the depreciation method cannot be applied with declining balances method.

In cases where the wording is not clear, in accordance with VUK's Article 3, titled as “The implementation of Tax Laws and Evidence”, the commentary method shall be brought into the agenda.

Therefore, if it is not clear whether the phrase in the article refers to an equal amount or if it is different in meaning from the provisions of the other clauses; this time it will be necessary to look at the purpose of this provision and its relation to other articles. For this reason, in order to evaluate the term of equal percentage, it should be checked whether any other expression is used or not to cover redemption methods within the law.

Through the Article 326 of VUK, on the circumstances mentioned in paragraph 3 of the repetitive Article 320, it's indicated that the relevant values will be redeemed in equal amounts, as well.

In accordance with the provisions of these two articles, in the article titled as “The redemption of leasehold improvements amounts”, the legislator can be considered to have used the expression of equal percentage by deliberately moving away from the expression of equal amount.

If the lawmaker meant equal quantity or amount, it could have been using the wording of equal quantity again in Article 327 titled as “The Redemption of Leasehold Improvements” as it was clearly indicated in Article 326 of VUK and VUK’s repetitive Article 320.

From another perspective, if the if the legislator intended that the cost of leasehold improvements leasehold improvements would be redeemed in equal amounts, it would have included the wording of leasehold improvements into Article 326 and might not include the provision of “Redemption of Leasehold Improvements” within Article 327 additionally.

Consequently, pertaining to the aforementioned provision, there is not a legal requirement indicating that the amortization with declining balances method cannot be applied in the redemption of leasehold improvements or it should be applied in equal amounts. Such a commentary may be in violation of legal regulations.

Hence considering the fact that both depreciation methods are applied with equal percentages, as the ambiguous statements are not favourable in terms of the legal technique, the legislator should have clearly stated that the ordinary depreciation method should be applied in redemption of leasehold improvements.

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