

Uncertainty on exchange transaction tax in insurance companies and private pension funds

As the BITT (banking and insurance transactions tax or foreign exchange expense tax) rate on foreign exchange (forex) sales transactions has been applied as zero percent for almost 11 years, this rate was set as 1 per thousand by a Presidential Decision on 15 May 2019 and then it has been increased to 2 per thousand through the Law no.7194. On 24 May 2020, it was increased to 1 percent with a Presidential Decision and then the rate was reduced to 2 per thousand on 30 September 2020 again. As exceptions to this implementation, the BITT rate that should be calculated in some transactions was determined as 0 (zero) per thousand. However, no determination has been made for insurance companies and investment funds.

Investment funds are considered as taxpayers in tax implementations and are considered as bankers. Therefore, the transactions of the concerning funds regarding the securities indicated in the second paragraph of Article 28 of the Law for Expenditure Taxes and handled by them as main field of activity are subject to BITT. However, in practice, these funds are taxpayers of BITT due to certain transactions they have carried out, but they do not calculate BITT since there is no transaction subject to BITT but not within the scope of exception. As the foreign exchange purchases and sales transactions within the scope of the Law for Expenditure Taxes are not the main field of activity of these funds, they will not be within the scope of BITT.

Unlike bankers, all transactions made by insurance companies are subject to BITT. In the current situation, there are no exceptions in our legislation for these transactions carried out by insurance companies and there is no regulation in Presidential Decisions where BITT rates are determined that the BITT rate in these transactions can be applied as zero.

Therefore, it can be concluded that foreign exchange sales transactions to be carried out by insurance companies should be subject to foreign exchange expense tax.

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