

Taxation of wages of employees in Turkey due to Covid-19

We have examined the tax liabilities of employees resident abroad or returning to Turkey as a precaution when working abroad with international assignment, employees performing their tasks from Turkey due to the pandemic after signing a contract with a company abroad and foreigners staying in Turkey due to flight bans.

Before making an assessment, it would be useful to briefly touch upon residence. One of the important matters in terms of taxing the income belonging to any person is the issue of tax residency. Residency is a concept that expresses the person's being deemed as resident from the aspect of taxation. In principle, people are taxed on all their worldwide income in their countries of residence. Whether individuals are considered to be residents of the relevant countries or not is determined by the local tax laws of those countries. However, in international assignments, there may be situations where individuals can be considered as residents in both countries according to local legislation. In these cases, if there is a double taxation avoidance agreement between the two countries, this agreement should be referred to determine the residency. Another importance of residency is that in cases where double taxation occurs, eliminating the double tax is the obligation of the country which the person is resident to.

Interior Ministry's decrees among the measures in the initial months of the Covid-19 outbreak for making people to stay at home (curfews declared on weekends and official/religious holidays, intercity and international travel prohibition, etc.) have resulted in citizens' abroad spending that time in their own country, employees' planning to settle abroad to work in Turkey on behalf of employers in the country they plan to settle by physically staying in Turkey and foreigners already in Turkey who were not able return to their countries to stay in Turkey longer than planned.

Below, we will examine some of the scenarios caused by Covid-19:

Situation of non-tax residents spending the Covid-19 period in Turkey

As it is well-known, people who qualify as non-tax resident in Turkey are only taxed on income sourced in Turkey. When determining whether wage income obtained from abroad will be taxed or not, both the Turkish legislation and the relevant agreement if there is an applicable double taxation treaty (DTT) should be used.

Generally, if the service takes place in Turkey, it is enough for taxation according to the Turkish legislation. However, the criteria in double taxation agreements are different. Upon the occurrence of a combination of the three factors mentioned in Article 15/2 of the DTTs, Turkey will not have the right for taxation, but if any of them are not met, Turkey will tax that wage income:

- a. If the income recipient stays in Turkey [in a calendar year / in a fiscal year / in any 12-month period]* for not more than 183 days in one or a few times
- b. If the payment is made by a non-resident employer or on behalf of that employer
- c. If the payment is not made from the employer's workplace in Turkey or a fixed base.

** Since these expressions indicating the period differ in agreements, it will be necessary to examine on agreement basis.*

Status of the Turkish tax resident employees signing a contract with a company abroad, but continue to work for that company from Turkey due to Covid-19 reasons

Turkish tax residents are taxed in Turkey for earnings obtained from Turkey and abroad and apart from the non-tax residents, no specific conditions need to be considered for the taxation of these incomes. Therefore, we can say that employees who are regarded as tax resident in Turkey and who are receiving a wage income from a different country should pay income tax in Turkey.

However, a taxation problem may arise if the relevant income is taxed in the country where the payment is made. In fact, this problem will be a problem related to the other country in which the company that the employee works for is based (not a problem related to Turkey) since the DTTs will give the taxation rights to Turkey in such a situation.

Therefore, it will be important for people with similar situations to evaluate their positions in these countries to avoid financial difficulties.

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