

## **The cumulative base burden both on the employee and employer!**

At the end of 2019, while new taxes such as "digital services tax" were added to the in fiscal legislation in Turkey, the amendments in the Income Tax Law have been introduced in order to increase the number of "taxpayers". Therefore, annual tax declaration will be mandatory for those who submit their annual tax returns" for the income owners of both self-employed whose income being exempt from income taxes and workers whose wage earnings exceeding a threshold in a calendar year. Explanations regarding the implementation of the amendments were disclosed through the Income Tax General Communique numbered 311.

### **The withholding ("WHT") liability of an employer**

Since the wages are subject to a taxation at source (WHT tax), employers are liable for deducting and paying income tax from the wages of their employees as "tax responsible". Due to this responsibility, employers are the respondents of the tax office in terms of the payment of the tax withheld at source and hence they are responsible for these taxes' payment and overdue.

### **Cumulative tax base**

Until the publication of the Communique numbered 311 on the implementation of the amendments brought by the Law, other than their own wage payments in a calendar year as tax responsible, employers were not required to follow the "cumulative income tax base" that includes the wage payments of their employees from other employers or the wages of the employees who started working during the year at the previous employer in any circumstance. Each employer applied WHT to the wages paid without making a connection with the wage paid by other employer or employers (called "cumulative tax base").

However, new explanations were made with the headline "the situation of those working with more than one employer in private sector workplaces" through Article 21 of the Communique numbered 311. With the announcement of the Communique, the taxation of the wages deemed to be obtained from a single employer in the same calendar year predicated upon "cumulative tax base" was taken as basis. However, in addition to this, a statement was also made with regard to the employees changing their jobs within the same calendar year, indicating that the new employer ought to withhold the taxes by taking into the cumulative base of an employee in case of an employee requests to do so. However, carrying forward the cumulative base from previous employer to the current one does not eliminate the employee's duty to submit an annual income tax return.

### **Who benefits from carry forward of "cumulative tax base"?**

Let's look at who will be benefitting from carrying forward the base? Firstly, number one beneficiary will be the Ministry of Treasury and second one is going to be the employee

requesting from the employer. Because of this application, the tax administration will collect more withholding taxes throughout the year, while the employees requested the practice will not pay additional income tax upon annual income tax submission since their wage income calculated and paid by the employer with the cumulative tax base practice.

Even in case of an annual income tax declaration, it may also possible for these employees to get a withholding refund due to the allowances in their tax returns (such as health insurance policy, education and health expenses).

### **Potential issues and costs**

The statement of the Communiqué numbered 311 may jeopardize the "work peace" between an employer and an employee as it is incompatible with "contract freedom" and could be an interference to an existing employment contract. Additionally, this practice probably creates additional WHT tax i.e. increase in "the WHT" and social security premiums based on the new wage employment contracts and other financial burden for the parties, apart from the risk of causing problems between the employer and the employee. Therefore, this implementation of carry forward the cumulative base in the same fiscal year has the potential to bring additional burden and trouble both for the employer and the employee during Covid-19 days.

*This article is published on the Economist magazine issue of 2020/27 dated 20 September 2020.*

*Explanations in this article reflect the writer's personal view on the matter. EY and/or Kuzey YMM ve Bağımsız Denetim A.Ş. disclaim any responsibility in respect of the information and explanations in the article. Please be advised to first receive professional assistance from the related experts before initiating an application regarding a specific matter, since the legislation is changed frequently and is open to different interpretations.*