

Circular

1 March 2023

Circular No: 35

Subject: Explanations have been made on amendments regarding miscellaneous laws and Corporate Tax Law.

In previous periods, amendments summarized below have been made on Laws numbered 7338, 7417, 7420,7421 and Corporate Tax Law:

1. Tax reduction application in terms of capital increase in cash

Deduction provision regarding capital Increase in Cash is mentioned under subparagraph (1) of paragraph one of article 10 “Other Deductions” of Corporate Tax Law. Amendments made with Laws numbered 7338 and 7417 regarding such practice are summarized as follows:

a. Law numbered 7338

50% of the amount calculated by taking into account the last interest rate announced by the Central Bank of the Republic of Turkey for the year in which the discount is utilized over the cash capital increases of the capital companies can be deducted from the corporate income.

This rate is applied incrementally in accordance with the free float ratio of companies whose shares are traded in the stock exchange within the scope of the Cabinet Decree issued in 2015 and in production and industrial facilities with investment incentive certificates and machinery and equipment investments belonging to these facilities.

In accordance with article 59 of Law numbered 7338 (OG: 26.10.2021), 50% rate above has been increased to 75% for the portion of capital Increase in Cash which are paid in cash transferred from abroad.

This provision has entered into force on its publication date to be applicable for capital Increase in Cash made as of October 26, 2021.

b. Law numbered 7417

While the deduction right with respect to capital Increase in Cash may be exercised for each consecutive period starting from the fiscal period when the decision on capital increase or the articles of association is registered during the initial establishment stage, with the article 49 of the Law No. 7417 (OG:05.07.2022), the duration of benefiting from the deduction application is limited to 5 years. Accordingly, the said deduction may be benefited separately for the accounting period in which the decision regarding the capital increase or

the articles of association was registered at the initial establishment stage, and for the four accounting periods following this period.

On the other hand, with Article 50 of the Law No. 7417, a regulation was made regarding the cash capital increases realized before 5 July 2022, that the deduction would be applied for 5 accounting periods, including the 2022 accounting period. This regulation has entered into force as of July 5, 2022.

2. Taxation in capital decrease

In accordance with article 22 of Law numbered 7420 (OG: 09.11.2022) article 32/B titled "Taxation in capital reduction" has been added to the Corporate Tax Law. In the said provision, there are regulations regarding the cases where the equity items added to the capital are subject to capital decrease after 5 years and capital decrease is made before the completion of the five full-year period. These provisions has entered into force as of the publication date of the Law.

3. Deduction Practices in terms of income gained by entities carrying out their activities at Istanbul Finance Center

With the article 20 of the Law No. 7421, the item (i) was added to the article 10 of the Corporate Tax Law titled "Other Deductions". In this framework, 50% of income, obtained exclusively from sales of goods, purchased from overseas exclusively in scope of this activity, at overseas again without transferring the goods in question to Turkey or acting as an intermediary for such trading of goods at overseas, of the entities carrying out their activities at Istanbul Finance Center through receiving participation certificate according to provisions of Istanbul Finance Center Law, can be deductible from corporate tax base.

In order to benefit from this discount; it is required that the annual corporate tax return for the accounting period in which the income is earned has been transferred to Turkey by the due date, and the seller and buyer of the goods related to the intermediary activity must not be in Turkey. These provisions have entered into force as of the publication date of the Law (November 26, 2022).

According to Serial No.21 General Communiqué on Corporate Tax Law published on Official Gazette dated March 1, 2023, detailed and illustrative explanations have been made regarding the provisions summarized above and such regulations are processed in related sections of Serial No.1 General Communiqué on Corporate Tax.

Our explanations provided above include general information on the issue. No responsibility can be claimed against EY and Kuzey YMM ve Bağımsız Denetim A.Ş. due to the implications arising from the context of this document or emerging with respect to its context.

Best Regards,
KUZEY YMM VE BAĞIMSIZ DENETİM A.Ş.