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Turkiye proposes draft bill amending tax laws for corporations and individuals

- *The Turkish government has presented a draft bill amending various tax laws affecting corporate and individual taxpayers, largely with the goal of improving fairness in the tax system and bringing it in line with international standards.*
- *This Tax Alert outlines the key aspects of Income Tax Law and Corporation Tax Law.*

On 16 July 2024, Turkish government presented a draft bill (Bill) amending various tax laws, including the Corporation Tax Law, Income Tax Law for individuals, Tax Procedural Law, Value Added Tax Law, Special Consumption Tax Law, Law on the Collection Procedure of Public Receivables, Law on Free Zones, and Law on the Departure Fee.

This Tax Alert outlines the key aspects of Income Tax Law and Corporation Tax Law. (A separate EY Global Tax Alert, *Turkiye proposes to introduce Pillar Two rules to be effective from 2024*, dated 17 July 2024, highlights Pillar Two issues addressed in the Bill.)

Amendments to Law on Collection Procedure of Public Receivables No. 6183

Article 22

A new amendment in the Bill authorizes the Minister to require a receipt of discharge for court decisions and enforcement orders.

Article 22/A of the Law No. 6183 provides that a "receipt of discharge" must be obtained from the collection offices of the Ministry of Treasury and Finance for certain payments. This authorization was extended by the Law No. 7061, and the Minister of Treasury and Finance was authorized to require a receipt of discharge for all types of payments of public administrations. However, the Council of State annulled this obligation for payments made upon court decisions and enforcement orders, stating that this obligation is considered to be outside the authority of the Minister of Treasury and Finance.

Amendments to the Income Tax Law No. 193

Article 17

With the amendments made to the repealed Article 17 of the Income Tax Law, up to a certain value of the share certificates given by techno-initiative companies are exempted from income tax and different rates are envisaged to be applied depending on the holding period of the share certificates.

The statute of limitation for taxes not collected due to this exemption starts from the date of disposal of the share certificates. The Ministry of Treasury and Finance is authorized to determine the procedures and principles regarding the implementation.

Article 69

Based on the amendment, to determine the daily revenue amounts for those who are taxpayers due to their commercial or professional activities, not fewer than three inspections can be made in a month and not fewer than 12 inspections can be made in a calendar year. Taxpayers' monthly and annual revenues will be determined by comparing the average of the daily revenue amounts determined as a result of these inspections and with the declared revenue amounts of the taxpayers. If there is a difference of more than 20%, taxpayers will be asked to explain the difference.

This regulation will also apply to corporate taxpayers. The President is authorized to increase the 20% rate up to one time or to reduce it to zero, while the Ministry of Treasury and Finance is authorized to determine the procedures and principles regarding the implementation of this article.

Article 94

With the amendments made to Article 94 of Law No. 193, payments that intermediary service providers and electronic commerce intermediary service providers make to service providers within the scope of Law No. 6563 on the Regulation of Electronic Commerce are subject to withholding tax. In addition, it is envisaged to withhold tax on payments for the purchase of goods and services related to the sectors or fields of activity determined by the President. With the amendment, the President is also authorized to determine the withholding tax rates based on the fields of activity, payment types, sectors, business groups and business types.

Amendments to the Tax Procedural Law No. 213

Article 153

Under the amendment in the Article 153/A of the Tax Procedure Law No. 213, individuals identified through a tax inspection report as having established tax liability solely for the purpose of creating fraudulent documents, and whose tax liability has been cancelled, as well as those associated with them, are required to either terminate their legal status or provide a guarantee if they become a legal representative or a partner with more than 10% share in another company. A regulation is being made to impose a special irregularity penalty in the amount of the guarantee if the relationship with the company is not severed and no guarantee is provided.

Repeated Article 257

Entities that engage in commercial activities such as purchasing, selling, leasing, advertising, and listing in any digital environment are being brought under the obligation to provide information so that details regarding these activities can be obtained. The subjects on which regular information must be provided are being regulated.

Articles 263 and 274

This amendment proposes that, similar to foreign currencies and foreign currency accounts, precious metals held in the assets of companies and banks, as well as deposit accounts based on precious metals, will be valued at the stock exchange rate and, as a result of this valuation, the taxation of valuation differences is ensured for the respective accounting periods, including provisional tax.

Article 344

In the existing implementation, the tax loss penalty imposed on taxpayers who do not accrue (or under-accrue) their taxes on time is equal to the penalty imposed on the taxpayers who carry out informal activities without registering as a taxpayer.

With a paragraph added to Article 344, if a tax loss is caused by engaging in commercial, agricultural or professional activities without registering as a taxpayer, the tax loss penalty to be imposed will be increased by 50% and this increased penalty will also be applied in subsequent assessments for the same tax type and period.

Article 352

The Bill proposes to increase the irregularity penalties listed in the Article 352. Additionally, these penalties will be adjusted annually according to the revaluation rate.

Article 353

The Bill proposes to increase the special irregularity fines imposed under Article 353 of Tax Procedure Law No. 213. Additionally, the penalty amounts for the repeated acts are also proposed to be increased.

Article 355

The Bill proposes to increase the special irregularity penalty imposed on notary publics who certify or issue copies of documents for which the stamp tax has not been paid.

Repeated Article 355

The Bill proposes to increase various irregularity penalties regulated under Repeated Article 355 to ensure compliance and enhance the effectiveness of enforcement measures.

Articles 112 and 376; Additional Articles 1, 7, 8, 9 and 11

Under the Tax Procedure Law No. 213, taxpayers may request a settlement for various taxes and penalties assessed by the Tax Administration. This includes taxes and related tax loss penalties, taxes assessed from a tax inspection and the related tax loss penalties, as well as irregularity and special irregularity penalties exceeding a legally determined amount. The proposed amendment would exclude the tax principal from the scope of settlement, thereby encouraging voluntary tax compliance.

Additional Article 13

Because the tax collection and inspection duties of the Revenue Administration continue during weekends and holidays, amendments have been proposed for overtime wages to be paid up to a certain limit to the personnel working during these periods.

Provisional Article 35

The amendment aims to process current settlement applications based on the provisions of the Tax Procedure Law before the amendments.

Amendments to the Corporation Tax Law No. 5520

Article 5

According to the Corporation Tax Law, the earnings of various investment funds and partnerships established in Turkiye are exempted from corporation tax. However, funds and partnerships investing in immovable properties are required to distribute 50% of their earnings from commercial immovable properties as dividends. To encourage dividend distribution in the taxation of the earnings of investment funds and partnerships, it is proposed that if the immovable property earnings are not distributed within the specified period, the exemption cannot be benefited from and if the dividends up to the specified rate are not distributed to the shareholders, the taxes that are not accrued on time due to the utilization of the exemption will be deemed to have been lost.

Article 15

Article 15 of the Corporation Tax Law applies a 15% withholding tax to various payments made to public administrations, companies, associations, foundations, cooperatives and certain other institutions. This includes payments for construction and repair work, lease payments, interest on bonds and bills, interest on deposits, participation bank-sourced earnings and payments for games of chance. The President is authorized to adjust these withholding rates within certain limits.

To enhance fairness and efficiency in taxation, reduce informality, and prevent tax loss, there are plans to amend the law to include payments made by intermediary service providers in electronic commerce marketplaces within the scope of tax withholding. Additionally, provisions will be added to cover payments made by electronic commerce service providers and payments for the purchase of goods and services in certain sectors, as determined by the President. The President will also be authorized to adjust these rates to zero or increase them up to the corporation tax rate.

Article 30

Article 30 of the Corporation Tax Law applies a 15% withholding tax to various earnings of nonresident taxpayer corporations, including those from construction and repair work, self-employment earnings, real estate capital gains and securities capital gains. The proposed amendments plan to introduce provisions for tax withholdings on payments made for the purchase of goods and services from electronic commerce service providers and those with a workplace or permanent representative in Turkiye. These provisions will apply to sectors or fields of activity determined by the President, who will also be authorized to adjust these rates to zero or increase them up to the corporation tax rate.

Article 32

The Corporation Tax Law applies a 30% corporate tax rate to the earnings of banks, companies established under the Law No. 6361, electronic payment and money institutions, authorized foreign exchange establishments, asset management companies, capital market institutions, insurance and reinsurance companies and pension companies. The proposed amendments aim to ensure that a 30% corporation tax rate is applied to all earnings of entities operating in projects conducted under the build-operate-transfer model according to Law No. 3996 and the public-private partnership model according to Law No. 6428.

Article 32/C

With the addition made into Article 32, a Turkish domestic minimum tax (*yurt içi asgari kurumlar vergisi*) has been introduced for the corporations. Accordingly, the existing corporation tax calculation methods will be applicable; however, the calculated tax will not be less than 10% of the corporate income before deducting certain exemptions and deductions. In this calculation, certain exemptions and deductions, such as the participation exemption and certain tax relief, will not be taken into account. Income such as earnings from immovable properties will also be considered within a certain scope in this calculation.

The President is authorized to reduce the 10% rate to zero or to increase it one time, separately or together, by sectors, fields of activity, business lines or production areas. The Ministry of Treasury and Finance is authorized to determine the procedures and principles regarding the implementation of the article. This regulation is aimed at making the tax system fair and in line with international standards.

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Contact Information

For additional information concerning this Alert, please contact:

Kuzey Yeminli Mali Müsavirlik ve Bagimsiz Denetim A.S., Istanbul
- Ates Konca, *International Corporate Tax Advisory Leader* | ates.konca@tr.ey.com
- Irmak Deniz Sugozu | irmak.sugozu@tr.ey.com

Ernst & Young LLP (United States), Turkish Tax Desk, New York
- Gamze Durgun | gamze.durgun1@ey.com

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