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Turkey: REVISIONS TO DRAFT Communiqué 263 IMPACT NON-RESIDENT CORPORATIONS

On February 5, 2007, a revised version of Draft Communiqué Serial No. 263 (“draft Communiqué”) was [published](#) on the official web page of the Turkish Revenue Administration. As reported in *Global Withholding Tax Reporter (GWTR) Tax Alert 2007/11*, this draft Communiqué, which was originally published on January 12, 2007, clarifies the implementation of Communiqué Serial No. 258 (“Communiqué 258”). Communiqué 258, which requires non-resident investors to submit a Certificate of Residence (COR) in order to benefit from the 0% withholding tax rate applicable to capital gains and interest derived from shares, government and corporate bond interest issued from January 1, 2006, caused confusion as it did not include guidance for entities that are not able to obtain a COR from their local authorities due to their legal structure and/or the fact that their country does not have a tax treaty in place with Turkey (please refer to *GWTR Tax Alert 2006/89* for additional details regarding Communiqué 258).

The revised draft Communiqué provides that non-resident corporations, regardless of investment fund status, are not required to submit a Certificate of Residence (COR) to obtain the 0% rate. Non-resident corporations must submit their Articles of Association,

which should be translated into Turkish; or, if a Turkish copy is available then such copy should be approved by the Turkish Consulate in the non-resident corporation's country of residence. Before the draft Communiqué was revised, it required that a COR must be submitted for both non-resident corporations and individuals, without investment fund status, in order to benefit from the 0% withholding tax rate. Note that non-resident individuals are still required to submit a COR to benefit from the 0% withholding tax rate. [Please refer to *GWTR* Tax Alerts 2006/89 and 2007/11 for background information regarding the COR requirement for non-resident corporations and individuals.]

Non-resident investors who fail to meet the aforementioned documentation requirements will be taxed in accordance with Turkish domestic laws. [Please refer to Turkey Statutory Rates, in the *GWTR* and *GWTR* Tax Alerts 2005/60, 2006/9, and 2006/52 for additional details regarding Turkish withholding tax.]

The draft Communiqué has yet to be promulgated into the Official Gazette.

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