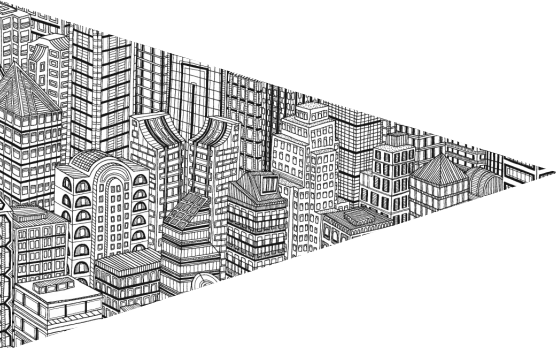


International Tax Alert



Turkey plans the most comprehensive tax amnesty ever

On 15 November 2010, explanations regarding the draft law planned to be introduced in respect of restructuring of many public receivables - primarily taxes and tax penalties and social security premiums, tax base increases and inventory amnesty -- were revealed in Ankara by Deputy Prime Minister Ali Babacan. In a press conference, the minister detailed the restructuring of tax and debt as it relates to nearly 300 specific items.

Later on, The "Draft Law on the Restructuring of Certain Receivables and Amendment to the Law on Social Insurance and General Health Insurance and Certain Other Laws and Decree Laws," was submitted to the Grand National Assembly of Turkey on 29 November 2010. The Draft Law includes regulations on the restructuring of various kinds of public receivables, primarily taxes, tax penalties and social security premiums; moreover tax base increases and inventory amnesty.

Turkish taxpayers are familiar with tax amnesties which occur every 5-6 years. Although this regulation is not regarded as a tax amnesty but simply as a restructuring of public receivables by the Government, it is expected to be the most significant overhaul in the history of the Turkish Republic.

After being discussed by the planning and budgeting commission, the Draft Law will be sent for approval to the Parliament. Therefore our explanations in this tax alert are based primarily on the Draft Law submitted on 29 November 2010.

In general, the following receivables and transactions are covered by the Law:

- ▶ Restructuring of public receivables which have been accrued but unpaid
- ▶ Accelerating the collection of disputed receivables by terminating the dispute
- ▶ Opportunity to benefit from the Law for taxes which will be accrued as a result of inspections or assessment processes commenced before the Law

- ▶ Tax Base and tax increases
- ▶ Stock declaration and correction of entries
- ▶ Payment of restructured debts in installments
- ▶ Ability to pay tax debts by credit card
- ▶ Ability to pay installments not paid on time under certain conditions
- ▶ Providing an additional right to those who have submitted notification and declaration in the Scope of the Cash Repatriation Law, but who cannot benefit from the reliefs provided under the Law due to various reasons.

I. Provisions on acceleration of collection

A. Receivables in the scope of restructuring

The Draft Law lists certain receivables which will be treated in the scope of restructuring as follows.

1. Taxes

- ▶ Pertaining to periods before 31 July 2010 (including this date); tax returns that must be submitted until this date in taxes based on declaration,
- ▶ Taxes accrued for 2010 before 31 July 2010 (including this date) as well as related tax penalties, delay interest, delay surcharges, and
- ▶ Tax penalties not based on principal tax amounts and imposed in relation to detections made before 31 July 2010 (including this date).

2. Customs duties

Customs duties, administrative fines, interest, surcharges and delay surcharge receivables which are currently followed by collection offices affiliated with the Undersecretariat of Customs whose liability arises before 31 July 2010 (including this date) in the scope of the Customs Law.

3. Social security premiums

a. The premiums listed below, which are currently followed by the collection office affiliated with the Social Security Institution and not paid although accrued by the date when this Law is promulgated or by the end of the deadlines specified in the related provisions of this Law and which pertain to June 2010 and previous months;

- Insurance premium, retirement deductions and institution provisions, unemployment insurance premiums, social security support premiums,
- Optional insurance premiums and community insurance premiums,
- Social security support premiums which must be deducted from the monthly salaries of / or paid by those who work independently in their own name and account after being put on old age, retirement pension or disablement pension, and therefore must be considered as insured,

b. Insurance premiums calculated on deficient labor costs pertaining to special construction works and

works subject to tender offerings, which are completed by 30 June 2010 (including this date),

- c. Administrative fines pertaining to actions committed by 31 July 2010 (including this date),
- d. Stamp duty, special transaction tax and education contribution amounts which are followed as per the related laws and which pertain to June 2010 and previous months.

In addition to the receivables mentioned above, the delay penalty and delay charge receivables pertaining to them are also in the scope of restructuring.

4. Receivables of municipalities

Receivables of municipalities listed below:

- 1. Taxes that are in the scope of the Tax Procedures Code and pertain to periods before 31 July 2010 (including this date) and that pertain to tax returns that must be filed by this date in case of taxes based on declaration, as well as the tax penalties delay interest and delay charges related with these taxes,
- 2. Administrative fines other than the receivables listed above, which are followed as per Law no. 6183 and which have not been paid as of the date when this Law is promulgated, although their maturity expired before 31 July 2010 (including this date),

3. Water bill receivables of municipalities due from subscribers to the water system, whose maturity expired before 31 July 2010 (including this date), but which have not been paid as of the date when this Law is promulgated, as well as other receivables related with these receivables.

4. Water and sewage bill receivables of metropolitan municipalities' water and sewage administrations, whose maturity expired before 31 July 2010 (including this date), but which are not paid as of the date when this Law is promulgated, as well as other receivables related to them such as interest, delay interest, delay charge (including all kinds of penalties and charges arranged in contracts),

B. Restructuring of accrued and unpaid receivables

1. Principal tax and related penalties and interest

Following receivables which have accrued, but are not yet paid, or whose payment deadline has not yet expired as of (and including) the date when this Law is published;

- ▶ Entire unpaid portions of taxes/customs taxes, social security premiums pertaining to June 2010 and previous months and other public receivables in the scope of the Law,
- ▶ 50% of the tax penalties imposed with no relation to the principal tax amount, as well as tax penalties imposed due to participation, inducement and support actions,

- ▶ 50% of the administrative fines imposed with no relation to the principal customs tax amounts,
- ▶ 50% of the principal amounts of administrative fines, which are related with actions committed until (and including) 31 July 2010 in the scope of the social security legislation, but which are not paid as of the date when this Law is published,
- ▶ The amount to be calculated on the basis of WPI/PPI monthly change rates until the date when this Law is published, instead of subsidiary receivables related with receivables in the scope of the Law, such as interest, penalized interest, delay interest or delay charge,
- ▶ If the unpaid receivable consists only of subsidiary receivables, the amount to be calculated based on WPI/PPI monthly change rates instead of the subsidiary receivables,

shall be waived in case;

- ▶ Entire amount of penalties imposed relating to the principal tax as well as the delay charges related with these penalties,
- ▶ Entire amount of administrative fines imposed relating to principal amounts in the scope of the customs legislation as well as the delay charges related with these penalties,
- ▶ 50% of the tax penalties which are not imposed in relation with the principal tax and administrative fines which are not imposed in relation with the principal customs tax amounts,

- ▶ 50% of the principal amounts of administrative fines in the scope of the social security legislation,
- ▶ Entire amount of subsidiary receivables such as interest, delay penalty, delay interest, etc.

are paid off completely within the term and in the manner specified in the Law;

The term WPI/PPI monthly change rates refers to the entire sale price index (WPI) monthly change rates until 31 December 2004 determined for each month by the Turkish Statistical Institute and the producer price index (PPI) monthly change rates as of 01 January 2005.

In addition to the conditions specified in the Draft Law, debtors wishing to benefit from this provision shall not initiate lawsuits, must cancel lawsuits they have initiated and must not resort to legal remedies.

C. Receivables which have not accrued yet or still in the stage of litigation (disputed receivables)

1. Disputes in judicial authorities of first degree

In tax assessments and accruals related with customs taxes, which are imposed arbitrarily, ex officio or by administration, and which are subject to lawsuits initiated at judicial authorities of first degree or whose term for initiating lawsuit has not yet passed, in case;

- ▶ 50% of taxes/customs taxes
- ▶ Amount to be calculated on the basis of WPI/PPI monthly change rates until the date when the Law

is published, instead of interest, delay interest and delay charges related to them;

are paid completely and within the term and in the manner specified in this Law;

- ▶ 50% of taxes/customs taxes and
- ▶ The entire amount of interest, delay interest delay charged related with them and tax penalties/administrative fines imposed in relation to principal tax amounts, as well as the entire amount of delay charges related with these penalties,

shall be waived.

2. Disputes at the phase of appeal or objection

In disputes which are at the phase or objection, appeal or rectification at Council of State or Regional Administrative Courts or for which the application period has not expired as of the promulgation date of this Law;

- a. In case the latest decision taken before the promulgation of this Law is the cancellation decision; provided that,
 - 20% of the customs duties/taxes taken as basis in the first assessment/accrual and
 - Amount to be calculated on the basis of WPI/PPI monthly change rates until the date when the Law is published, instead of interest, delay interest and delay charges related with them are paid within the term and way specified in this Law;

Collection of the following shall be waived:

- Remaining 80% of the customs duties/taxes,
 - The entire amount of interest, delay interest, delay surcharges and tax penalties/administrative fines imposed in relation with principal tax amounts, as well as the entire amount of delay charges related with these penalties.
- b. If the latest decision taken before the promulgation of this Law is the approval decision or approval after amendment decision; provided that

- The entire amount of approved taxes/customs duties, and
- Amount to be calculated on the basis of WPI/PPI monthly change rates until the date when the Law is published, instead of interest, delay interest and delay charges related with them are paid within the term and way specified in this Law;

Collection of the following shall be waived:

- The entire amount of interest, delay interest, delay surcharges and tax penalties/administrative fines imposed in relation with principal tax amounts, as well as the entire amount of delay charges related with these penalties.

Among the administrative fines applied related to the tax penalties imposed independent from the principal tax/related to the customs

duty liability, if the following are paid wholly within the term and way specified under this Law;

- 25% of the penalty for those at the phase specified under section I/C-1,
- 10% of the penalty for those at the phase specified under section I/C-2-a, and
- 25% of the penalty amount approved for those at the phase specified under section I/C-2-b,

collection of the remaining portion of penalties shall be waived.

As of the promulgation date of this Law, the receivables for which application is made to benefit from the reconciliation provisions, no reconciliation date is specified or the reconciliation date has not yet come or no reconciliation could be reached, but for which the litigation period has not expired, can also benefit from the provisions of this article.

3. Administrative fines that are at the phase of litigation

Within the scope of social security legislation, if;

- ▶ 25% of the original administrative fines which are related to the acts conducted by 31 July 2010 (including this date) and which were assessed until the end of the second month following the publication date of this Law but which are at litigation phase or litigation period of which has not ended, and
- ▶ The amount to be calculated based on the WPI/PPI monthly change rates for the period

between the dates when the payment terms end and the date when this Law is promulgated

are paid as specified within this Law within the due terms, the collection of the following will be waived:

- ▶ Remaining 75% of the original administrative fines, and
- ▶ Entire amount of subsidiary receivables such as delay penalty and delay surcharge applied on the administrative fine.

In order to be able to benefit from these provisions, no lawsuit should be initiated against the receivables covered by the article, the lawsuits already initiated should be withdrawn and legal remedies should not be resorted to.

II. Receivables at the phase of inspection and assessment

Tax inspections, assessment and accrual procedures which were started before the publication date of this Law but not completed until the promulgation date will be continued.

After the completion of these procedures; if the following are paid;

- ▶ 50% of the imposed tax,
- ▶ The amount to be determined based on WPI/PPI monthly change rates until the promulgation date of this Law, instead of the related delay interest amount,
- ▶ The entire delay interest to be calculated until the end of the litigation period specified upon the issuance of the notification after this date,

- ▶ 25% of the penalties that are not related to the principal tax amount,

Collection of the following will be waived;

- ▶ 50% of the principal tax amount,
- ▶ 75% of the penalties that are not related to the principal tax amount,
- ▶ The entire amount of penalties related to the principal tax amount and delay interest applied over taxes until the promulgation date of this Law.

According to this provision, payable amounts can be paid in six equal installments as per two month periods by making application in writing within thirty days as from the issue date of the notification, and the first installment will start from the month following the issuance of the notification.

In order to be able to benefit from the provisions of this article, no litigation should be initiated.

III. Declarations submitted through repentance or without being requested

If the following are paid within due term and in the way specified in the Law over the tax bases declared by the taxpayer who submitted declaration through repentance or without being requested until the end of the second month following the promulgation date of this Law:

- ▶ Entire amount of the tax imposed, and
- ▶ The amount to be calculated determined based on WPI/PPI monthly change rates until the

promulgation date of this Law, instead of repentance interest and delay interest to be calculated,

Collection of the following will be waived wholly:

- ▶ Repentance interest and delay interest, and
- ▶ Tax penalties.

In cases where the inconsistencies which were not declared by the taxpayer although they should have been accrued and collected are declared to the related customs administration, collection of all the interest and administrative fines will be waived in case the entire customs duty amounts and the amount to be calculated determined based on WPI/PPI monthly change rates, instead of repentance interest and delay interest to be calculated are paid until the promulgation date of this Law within the due term and in the way specified in the Law.

IV. Taxpayers who have not declared their property tax on time

Provided that taxpayers who have not submitted property tax declaration for 2010 or before or whose tax amount was accrued deficiently;

- ▶ Make declaration,
- ▶ Entire amount of imposed taxes (including the contribution fee for the protection of immovable cultural assets),
- ▶ The amount to be determined based on WPI/PPI monthly change rates, instead of related delay interest and delay surcharge, are paid until the

promulgation date of this Law within due term and in the way specified in the Law, collection of delay interest, delay surcharge and tax penalties arising from this tax due will be waived.

V. Tax base and tax increase

- If income tax and corporate tax taxpayers increase their taxable bases in the annual tax returns they submitted between 2006 and 2009 at the rates specified in the Draft Law,
- If value added tax taxpayers declare as tax increase the value added tax to be determined according to the rates specified in the Draft Law over the total annual amount of the value added tax calculated in their tax returns submitted related to each taxation period between the years 2006 and 2009 (including those submitted through reservation),
- If those who are obliged to withhold tax over the wages paid to employees declare the income tax to be calculated at the rates specified in the Draft Law over the total annual gross amounts related to the wage payments included in the withholding tax returns submitted for each

taxation period between the years 2006 and 2009 (including those submitted through reservation),

Tax inspection and assessment will not be conducted against these taxpayers related to the taxation periods of the years for which they accept to pay the mentioned taxes. Abovementioned taxpayers can perform tax base and tax increases for 2006, 2007, 2008 and 2009 or for one or several of these years.

In order to be able to benefit from the abovementioned provision, taxpayers must perform the tax base and tax increases until the end of the 2nd month following the promulgation date of this Law.

Taxes paid through calculation or increase cannot be accepted as expense or cost items and cannot be subject to deduction and refund in the determination of income or corporate tax bases.

Those who have eliminated the books, records and documents or who have eliminated some pages of the books and replaced them with other pages or have not replaced them at all or who have issued the original documents or their copies in a complete or partially untrue

way cannot benefit from the provisions of this Law on tax base and tax increase.

Tax inspections and assessment procedures initiated about the taxpayers who have realized tax base and tax increase (excluding refund reviews) should be finalized within 1 month after the beginning of the month following the promulgation date of this Law. If these procedures are not finalized within this term, they will not be continued.

Explanations on the provisions on taxes which are included within the scope of the tax base increase are presented below. However, it is observed that many taxes which are imposed in a widespread way apart from these are not included within the scope of the tax base increase. For instance, stamp duty, banking and insurance transactions tax, special consumption tax, non-wage income tax withholding and value added tax paid through reverse charge are left out of the scope.

A. Tax base increase in income tax and corporate tax

Tax base increase rates for income and corporate tax liables are as follows:

Year	Tax base increase rate according to the taxpayer's own declaration
2006	30%
2007	25%
2008	20%
2009	15%

Base amounts to be taken as basis in taxation cannot be less than the amounts presented in the following table in any case.

Minimum tax base increase		
Year	Income taxpayers	Corporate taxpayers
2006	10.000 TL	30.000 TL
2007	12.000 TL	36.000 TL
2008	15.000 TL	45.000 TL
2009	20.000 TL	60.000 TL

Tax base increases related to income and corporate tax will be taxed at the rate of 20%. However, provided that annual tax returns related to the year in which the increase realized are submitted within due terms and taxes accrued over these tax returns are paid within due terms and the provisions of the Draft Law on the acceleration of the collection are not benefitted from, the tax rate will be applied at 15%.

Furthermore, 50% of the losses of income and corporate taxpayers pertaining to the years in which they realized increase cannot be deducted from the profit of 2010 and following years.

If investment funds and partnerships have revenues from portfolio management and income benefitting from investment allowance which are subject to withholding, these withholding amounts should also be increased in order not to face any tax inspection or assessment.

B. Increase in value added tax

The following table presents the tax rates to be used in the increase as per the years covered by the Draft Law.

Year	Tax rate to be increased on the VAT amount calculated annually
2006	3.0%
2007	2.5%
2008	2.0%
2009	1.5%

Value added tax liables should make increase for the entire taxation periods of the related year subject to increase.

According to this provision, the value added tax paid cannot be considered as an expense or cost item in the determination of the tax bases of income and corporate taxes; value added tax amounts that must be paid cannot be deducted or refunded in any way.

C. Increase in income (withholding) tax

The following table presents the tax rates to be used in the increase as per the years covered by the Draft Law.

Year	Tax rate to be increased on the gross wage amount declared annually
2006	5%
2007	4%
2008	3%
2009	2%

According to this provision, the wage amount subject to increase and the income tax paid cannot be considered as an expense or cost item in the determination of the tax bases of income and corporate taxes. Any exemption or deduction cannot be applied over the income tax calculated by benefitting from the income (withholding) tax increase.

VI. Inventory and fixed asset declarations

A. Assets which are not present in the records despite being present in the enterprise

1. Goods, machines, equipments and fixtures

Income and corporate taxpayers can record under their books the related assets which are present in the enterprise but not present in their records with a market price to be determined by themselves or affiliated professional organizations, by declaring an inventory list to the tax office until the end of the third month following the promulgation date of this law. Depreciation cannot be set aside for the assets that are included under declaration.

Value added tax is calculated at the rate of 10% over the assets declared that are subject to the general rate and it is calculated for the other assets subject to reduced rate based on the half of the rate that they are subject to. This tax will be declared through reverse charge with a separate tax return and paid within the tax return submission period.

This tax calculated over machines, equipment and fixtures cannot be deducted from the value added tax. Tax paid over the goods is deducted based on general principles.

In case the assets declared within the scope of this article are sold, the sales value shall not be less than the values recorded under the books.

2. Precious metals and jewelry

Income and corporate tax liabilities which are engaged in production and trading of these assets must declare the assets that are not present under their record despite being present in the enterprise in the same way explained above. A 2.5% tax will be paid over the value of the declared assets. The tax

amount accrued in this way is paid within the tax return submission period.

These taxes paid cannot be deducted from income and corporate tax and cannot be considered as an expense in the determination of the tax base for income and corporate tax.

In case the assets declared within the scope of this article are sold, the sales value shall not be less than the values recorded under the books.

B. Goods which are not present in the enterprise despite being present in the records

Income and corporate tax liabilities can transfer their goods which are not present in the enterprise despite being present in the records to their records and declarations by issuing invoice and fulfilling all tax liabilities until the end of the third month following the promulgation date of this Law.

In the determination of the invoice amount, the gross profit rate determined according to the current year records of goods in the same nature will be taken as basis.

In cases where a gross profit rate cannot be determined according to the current year records, the rates to be determined by the professional chambers to which the taxpayer is affiliated will be taken as basis.

C. Cash balance which is present in the records but not present in the enterprise

Corporate tax liables can correct their records by declaring their cash balance which is not present in the enterprise but shown in their balance sheets as of 31 December 2009 to the tax offices until the end of the third month following the promulgation date of this Law.

The tax calculated at the rate of 10% over the declared amounts is paid within the tax return submission period. These amounts paid are not considered as an expense in the determination of the corporate tax base.

The following table presents the declaration of some assets in line with above explanations and tax rates that must be paid over the declared amounts.

Action	Tax to be calculated
Recording fixtures and commodities which are not present in the records despite being present in the enterprise	10% tax is payable for fixtures and commodities subject to general rate; for fixtures and commodities subject to reduced rate, tax at half the rate applicable to commodities and fixtures shall be paid.
Recording precious metals and jewelry which are not present in the records despite being present in the enterprise	Tax at 2.5% of the declared value shall be paid.
Correction of fixtures and commodities which are present in the records despite not being present in the enterprise	All kinds of tax liabilities must be fulfilled.
Correction of cash balance which is present in the records, but not present in the enterprise	Tax at 10% of the corrected amount shall be paid.

VII. Additional term for those who have not fulfilled the conditions specified under the cash repatriation law

Law no. 5811 on the "Contribution of Certain Assets to the National Economy," promulgated in the Official Gazette dated 22 November 2008, was issued for contributing to the economy some assets owned by real persons or legal entities abroad or within the country (such as cash, foreign exchange, gold, marketable securities and immovable properties). Accordingly, in case:

- ▶ Those making declaration and notification according to article 3/1 of this Law who have not brought into Turkey their assets located abroad or who have not transferred these assets to an account to be opened in a bank or intermediate institution in Turkey, and
- ▶ Those declaring their goods located within the country according to article 3/2 of this Law who are taxpayers keeping books according to the balance sheet principle and have not realized capital increase within due term,
- ▶ Bring their assets located abroad and subject to notification or declaration into Turkey or transfer these assets to an account to be opened in a bank or intermediate institution in Turkey,
- ▶ Realize capital increase due to their assets located in Turkey and subject to declaration,

From the end date of the related period until the end of the second month following the enforcement date of this article; then they will not be subject to any tax inspection due to these assets for the periods before the date 01 January 2008.

VIII. Payment

Within the scope of this Law, the payable amounts can be paid;

- At once or
- Maximum in 18 equal installments; as per two-month periods with the first installment starting as from the third month following the promulgation date of this Law.

Also for the payables to the collection offices affiliated with the Social Security Institution, the same payment alternatives are also valid; at once or in installments. However, unlike the other payables, first installment of these payables can be started as from the 4th month following the promulgation date of this Law.

If the payable is paid at once within the payment term of the first installment, no interest will be applied over this amount within the period from the promulgation date of the Law until the payment date.

The amount to be determined in payments made in installments will be multiplied by a certain coefficient as specified below:

- 1) 1.05 in payments to be made in 6 equal installments

- 2) 1.07 in payments to be made in 9 equal installments

- 3) 1.10 in payments to be made in 12 equal installments

- 4) 1.15 in payments to be made in 18 equal installments

And the amount found is divided by the number of installments and the installment amount to be paid as per two-month periods is calculated.

In case two or less installments are not paid within due term or are paid deficiently within a single calendar year, if the unpaid or deficiently paid installment amounts are paid until the end of the month following the last installment, the provisions of the Law can be benefitted from. However, in such case, late payment surcharge must be paid at the rate of delay surcharge determined according to article 51 of the Law no 6183 for each late month and fraction.

If the installments not paid within due term or paid deficiently are not paid in the specified way or more than two installments are not paid or paid deficiently within a single calendar year, provisions of this Law cannot be benefitted from, without prejudice to the provisions related to the tax base and tax increase.

IX. Other provisions

- For the remaining installment amounts of the receivables covered by this Law which

were postponed before the promulgation date of this Law and are being paid according to the postponement conditions, debtors can benefit from the provisions of this Law if they make a request.

- For the receivables to be paid according to this Law, attachments applied are withdrawn in proportion to the payments made and the guarantees corresponding to this are returned.
- As per related articles, debtors who should not initiate a lawsuit or should withdraw lawsuits already initiated shall submit their withdrawal requests to the collection office. The date when this request is submitted to the collection office is accepted as the date when it is submitted to the related judicial authority, and the requests are sent to the related judicial body.
- No procedures are processed for the disputes of the debtors that withdraw the lawsuits they initiated or made application for withdrawal as per the decisions issued after the promulgation date of this Law. If there are litigation expenses and attorney fees imposed against the tax authority with these decisions, these amounts are cannot be claimed.
- Excluding some exceptional cases, amounts collected before the promulgation date of this Law in return for the receivables covered by the Law and the amounts

collected within the scope of this Law cannot be dismissed or returned based on the provisions of this Law. However, with regard to the disputed transactions, if payment is made before the promulgation date of this Law, these amounts paid can be

dismissed and returned upon the cancellation decisions taken by the tax court with the applications made to benefit from this provision for the tax cases being ruled at tax court.

X. Enforcement

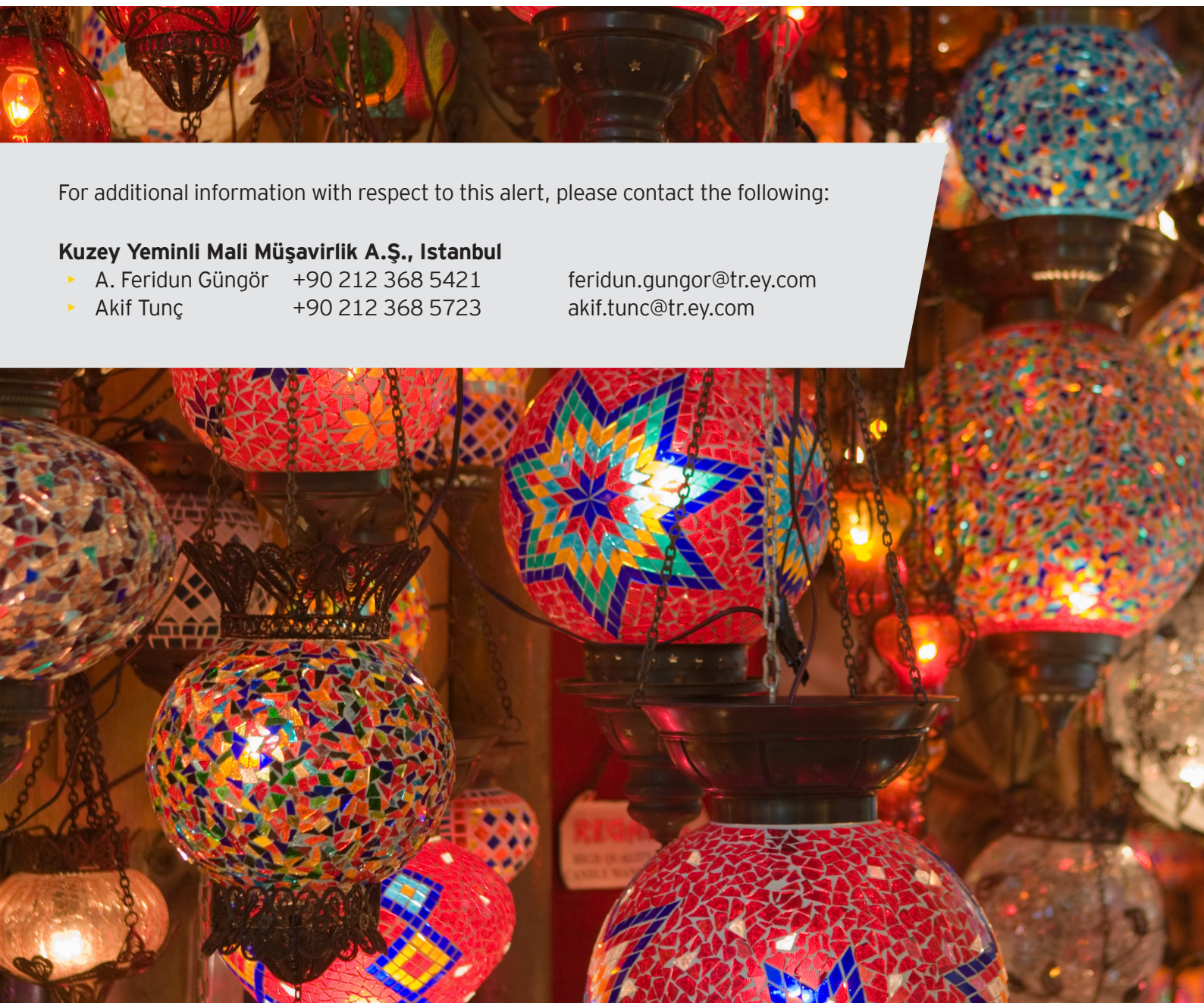
Although under the enforcement article of the Draft Law, special dates are specified for certain provisions, the provisions constituting the subject matter of this alert will come into force on the promulgation date of the Law.

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EYG no. CM2168

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