October 4, 2021
2021-6016

Turkey proposes new tax bill

Executive summary

On 1 October 2021, Turkish Parliament members submitted a new tax package (the Bill) to the Turkish Parliament.

The Bill addresses many crucial topics including tax exemptions, tax filing periods, revaluation, and incentives, among others.

The Bill includes amendments in various tax laws and aims to implement changes that encourage tax compliance of taxpayers, increase tax security, strengthen social justice and competitiveness, encourage investments, reduce conflicts, and promote predictability in tax practices.

This Alert summarizes the key provisions of the Bill.

Detailed discussion

Income tax exemption for individual social media content producers and app developers

Income, derived by individual social media content producers who share content such as written text, audio, visual or video content over social network providers and those who develop apps for mobile devices such as smart phones and tablets, that does not exceed the fourth income bracket set forth in Article 103 of the Income Tax Code (TL 650.000 for 2021) will be exempt from income taxation and there will be no obligation to submit a tax return for such income.

To benefit from this tax exemption, it will be mandatory to open a Turkish bank account and collect all revenues related to such activities only through this account.

Banks operating in Turkey will be required to withhold 15% tax on the amount of revenue transferred to such accounts.

The President of Turkey will be authorized to reduce the withholding rate to zero and to redetermine it by increasing it by one-fold for each type of activity.

This provision will be applicable on the income generated starting from 1 January 2022.

Amendments in the tax return filing periods

The Bill proposes changes in the tax return filing deadlines for corporation and income taxes.

Under the proposal, income of individuals obtained in a calendar year is to be declared by 25 February of the following year through a personal income tax return. The personal income tax for an annual year will be paid in two equal installments, in February and June.

Corporation tax returns are to be filed by the 25th of the third month following the year in which the fiscal year is closed. For taxpayers who have a financial year as a calendar year, income of the corporation taxpayers will be declared by the end of March of the following year.

These provisions will be applicable on income generated starting from 1 January 2022.

Reduction in the number of advanced tax returns

The number of advanced tax returns will be reduced from four to three.

With the regulation, the first nine months of the taxation period will be determined as provisional taxation periods. Accordingly, three, six and nine-month periods within a current taxation period will be considered as “provisional taxation periods.” The last quarter of a calendar year or accounting period will not be counted within the scope of the provisional taxation period, and no advanced tax return will be submitted for this period by the taxpayers.

Conditions for 5% tax deduction for compliant taxpayers

According to a provision, which was effective as of 1 January 2018, introduced in the Income Tax Code No. 193; a tax deduction of 5% was introduced for income tax taxpayers who conduct commercial, agricultural and self-employment activities, and for corporation taxpayers (excluding those operating in the finance and banking sectors, insurance, and retirement companies and retirement investment funds).

One of the conditions to be a compliant taxpayer was that there should be no additional ex officio or administrative tax assessments conducted against the taxpayers in terms of tax types subject to declaration, in the year in which the deduction is to be calculated, and in the last two years before this year.

The Bill changes this condition and states that there should not be a finalized tax assessment in the said period and in the event that the finalized assessments within the said period is less than 1% of the discount amount limit, the conditions for benefiting from the tax deduction will not be deemed as “violated.”

Notional Interest Deduction (NID) rate on cash capital contributions

To increase and incentivize cash capital contributions from abroad (except in specific situations), the Bill proposes to increase the NID rate for cash contributions made from abroad to 75%. It was previously set at 50%.

Tax return submissions under voluntary disclosure

The Bill provides that the taxpayers will be able to file tax returns under voluntary disclosure for the other types of taxes which are not subject to ongoing tax inspection.

Irregularity/special irregularity fines will also be covered through the tax settlement process

The Bill provides that the taxpayers will be able to apply to tax settlement procedures for the irregularity and special irregularity fines exceeding TRY5,000.

Mutual Agreement Procedures (MAP) in Double Taxation Treaties

Turkey proposes the introduction of new provisions regarding MAP for the application of double tax treaties into its local tax legislation.

The Bill introduces five additional provisions into the Turkish Tax Procedural Code No. 213 regarding the MAP, its application procedures, its finalization procedures, impacts on the lawsuits already filed before the MAP application and the filing of lawsuits after the MAP.

Taxpayers may apply to the Turkish Revenue Administration (TRA) in accordance with the MAP provisions of the double tax treaties with the allegation that they have been taxed in violation of the provisions of the double tax treaties or that there are strong indications that they will be.

It is also regulated in the Bill that the application should be made in due time and in line with the procedure that is stipulated in the double taxation agreements.

However, when there is no time limit in the double taxation agreement or reference is made to the provisions of the domestic legislation, it is explained that the application must be made within three years from the date that the taxpayer first became aware of a taxation transaction alleged to be in violation of the provisions of the double taxation agreement.

The Bill provides that applying to MAP will cease the period of filing a lawsuit. The result of the agreement reached between the TRA and the competent authority of the other Contracting State will be notified to the taxpayer by letter. The taxpayer will notify the TRA of the acceptance of the decision within thirty days from the date of notification of the letter.

Adjustments will be made in taxes and penalties accordingly in the case of the taxpayer's acceptance of the agreement result in due time.

The Bill provides that courts will not be able to decide on the conflict if there is a MAP underway. However, in the event that the court examines and decides on the conflict, the result of the MAP will be taken into consideration and the result will be notified to the judicial authorities by the administration.

The MAP application made to the TRA suspends the statute of limitations for the taxes and penalties subject to the application as of the date of application. If a correction is required in Turkey according to the result, the result is applied regardless of the statute of limitations provisions of the Law.

Permanent exemption on Resource Utilization Support Fund (RUSF) and dues for asset management companies

Asset management companies will be permanently exempt from stamp tax, RUSF and dues. The banking and insurance transaction tax exemption will be removed for these companies.

Amortization practice for the newly acquired machines and equipment under certain conditions

The Bill proposes amortization rates and periods for certain newly acquired machines and equipment to be as half of the useful life of such equipment until 31 December 2023.

Revaluation practice

The Bill introduces additional provisions into Repeated Article 298 of the Turkish Tax Procedural Code No. 231 regulating the inflation adjustments and revaluation rates.

The Bill provides taxpayers who would like to increase the value of their assets, the ability to re-valuate their immovables and other economic assets subject to depreciation that are recoded in the balance sheet, under certain conditions, by the end of fiscal period prior to the fiscal period in which they will be revalued for the first time.

New arrangement for the investment contribution

On the basis of an investment incentive certificate, 10% of the amount determined by applying the investment contribution rate to investment expenditure, will be used by corporation taxpayers, provided that the deduction from other accrued tax liabilities excluding special consumption tax and value added tax is requested by the end of the second month of the following month in which the corporation tax return should be submitted.

Exemption for small business tradesmen

According to the Bill, income of tradesmen whose income is determined on small business taxation basis will be exempt from income tax.

They will not submit annual tax returns for the exempted income and if they submit a tax return for their other income, they will not include the said exempted income into their tax returns.

This provision will be applicable on income generated starting from 1 January 2021.

Withholding tax on agricultural support payments

Support payments which are made by public institutions for supporting the agriculture industry and farmers will be exempted from income taxation and there will be no withholding tax on these payments.

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