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Türkiye introduces additional tax for 2022

- *A recently enacted Turkish law adds a tax on corporations for 2022 to help address damage caused by recent earthquakes.*
- *Taxpayers affected by the new law will need to become familiar with how it applies to their particular situations.*

The Turkish Parliament recently enacted Law No. 7440 (Law), which was then published in the Official Gazette and entered into force on 12 March 2023. Based on a bill entitled “the Restructuring of Certain Receivables and the Amendment of Some Laws,” the Law includes new taxes for 2022 to help address the damage that recent earthquakes caused in the Türkiye’s southeastern region beginning on 6 February 2023.

The Law adds a tax for corporations that benefitted from certain exemptions and deductions to be claimed in their corporate tax returns for 2022.

Generally, corporate taxpayers will declare a 10% additional tax on their 2022 corporate income tax return, regardless of their corporation tax base, on (1) the amounts they claimed as deductions and exemptions based on the certain provisions of Corporation Tax Code (CTC) and other laws and (2) the tax bases to which a discounted corporation tax rate applied within the scope of Article 32/A of the CTC. In some cases, the additional tax will be 5%, rather than 10%. For example, a 5% rate will apply for exemptions related to participation earnings, including foreign participations.

This new tax will be paid in two installments, with the first installment due in 30 April 2023 (which will be extended to 2 May 2023 due to holidays) and second installment due in August 2023.

The additional tax liability does not apply to certain exemptions and deductions, including:

- The return exemption for cooperatives (Article 5/1-i of the CTC)

- Earnings from Sale-Lease-Repurchase transactions (Article 5/1-j of CTC)
- Earnings from the sale of assets and rights for the purpose of issuing a leasing certificate (Article 5/1-k of CTC)
- Earnings related to transitioning foreign exchange deposits into Turkish lira deposits
- Sponsorship expenditures
- Donations as per article 10/1-c, 10/1-ç, 10/1-d of CTC
- Donations as per the campaigns initiated by the President (Article 10/1-e of CTC)
- Donations in cash to the Turkish Red Crescent (KIZILAY) and Green Crescent (YESILAY) Associations
- Capital investment funds, up to 10 % of the declared income per to the Article 325/A of Tax Procedure Code (Article 10/1-g of the CTC)
- Investment Allowances as per temporary article 61 of the Income Tax Code
- Income derived by micro and small enterprises, defined in article 407 of Presidential Decree dated 10 July 2018, from technology development zones and research and development and design centers
- Other donations regulated in the relevant legislations

Exemptions and deductions for which the additional tax will apply include:

- Participation income (Article 5/1-a of CTC)
- Participation income obtained from overseas (Article 5/1-b of CTC)
- Capital gains derived through the disposal of foreign company shares (Article 5/1-c of CTC)
- Income on share premiums (Article 5/1-ç of CTC)
- Capital gains on sales of immovable assets and subsidiary shares (Article 5/1-e, f of CTC)
- Income that companies obtain through their international subsidiaries or their permanent representatives (Article 5/1-g of CTC)
- Income from construction, repair, assembly work, and technical services performed abroad (Article 5/1-h of CTC)

- Income for the operation of preschool education, primary education, special education, secondary education private schools, private nursery and day care houses and rehabilitation centers (Article 5/1-i of CTC)
- Half (50%) of the income obtained from the services provided to people and institutions resident abroad in Turkey or benefited abroad (Article 10/1-g of CTC)
- Income exemption given to the institutions in Istanbul Finance Center Region (Article 5/1-i of CTC)
- Income derived from industrial property rights (Article 5/1-B of CTC)
- Discounted corporate tax base (Article 32/A of CTC)
- Notional interest deduction resulting from capital increase (Article 10/1-i of CTC)
- Deduction on research and development/design expenditures calculated according to Law No. 5746
- Income in Free Trade Zones
- Income in Technology Development Zones
- Other deductions and exemptions that are not exempted in Law No. 7440

A 5% additional tax will be calculated on the exempted income obtained from abroad with a 15% tax burden and the participation exemption in Article 5/1-a of the CTC mentioned above.

A 10% additional tax will be calculated and paid on other exemptions and deductions.

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