

Restructuring of Public Receivables and Repatriation of Offshore Assets to Turkey

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“The Law Relating to Restructuring of Some Receivables and Amendments to Various Laws” (the “**Law**”) which offers taxpayers a very favorable restructuring possibility for public receivables; and repatriation of offshore assets to Turkey without being subject to taxation and tax investigation was published on official Gazette on November 17, 2020. The Law also amends a couple of other tax laws.

1. Restructuring of Tax Debts

Pursuant to the Law, taxes, custom duties, social security premiums, taxes collected by municipalities and fines not based on the principal tax and related tax penalties, delay interest and surcharges and a number of other types of receivables relating to periods prior to August 31, 2020 were included within the scope of the restructuring.

Depending on the type of the Receivable, the Law offers full or partial amnesty for the principal amount, penalties and/or interest provided that the taxpayer satisfies the conditions described in the Law.

In the event that the taxes which are collected by the Ministry of Finance or by Municipalities and which are undisputed and unpaid although they are due, are paid by with an increase at the rate of increase in the producer price index (0.35 per month after 1 November 2016), taking into account the period from the normal due date to the date of publication of the Law, the collection of fines and interests based on the principal tax will be disclaimed.

In cases of penalties with no underlying tax or other principal, 50% of the penalty amount and all of the default interest relating to the penalty will be disclaimed.

The amount of increase in the producer price index to be applied to debts under restructuring pursuant to the Law offers a much more advantageous payment plan than the default interest or default increase rates that are normally applied to tax debts.

The receivables under restructuring within the scope of the Law can be paid in a maximum of 18 instalments in two-month periods as of January 2021. If the calculated amounts are split into instalments in this way, the calculated amounts will be increased by multiplying by the coefficients specified under the Law and paid accordingly. Therefore, debts within the scope of restructuring will first be updated using the domestic producer price index and the resulting amount will then be split into instalments by multiplying by coefficients based on the number of instalments to be selected.

In order to encourage the advance payment of the amounts under restructuring, 90% of the amount to be found as a result of the domestic price index increase to be calculated over the principal tax for cash

payments will be crossed out. Thus, it will be possible to evade almost all of the penalty and interest in advance payments under the Law.

The applications for the restructuring can be made until December 31, 2020.

2. Repatriation of Offshore Assets to Turkey

The Law provides that real persons and legal entities who declare their money, gold, foreign exchange, securities and other capital market instruments that are abroad until the end of June 2020 and repatriate these assets within three months following the declaration to Turkey can dispose of such assets freely. . No tax investigation or tax assessment will be made on these assets. Unlike previous cash or asset repatriation practices in the past years, there is no tax payment requirement to in order to benefit from the Law.

In case the assets abroad are used for the payment of loans that are used abroad, transferring the assets abroad to Turkey will not be made a prerequisite.

The assets abroad can be transferred into the assets of a business enterprise and withdrawn from the enterprises without being subject to taxation. The same practice will be applicable for the assets held in Turkey by taxpayers. The taxpayers can record such assets into the accounting books without being subject to taxation.

The President has the authority to extend the implementation period of the cash repatriation up to 1 year, with periods not exceeding six months.

3. Other Important Tax Regulations Under The Law

In cases where companies redeem their own shares for a price above the nominal value, sell them at a lower value or hold their own shares for a certain period of two full years, the difference amount will be considered as a profit distribution and will be subject to withholding at the rate of 15%.

The implementation period of the Temporary Article 67 of the Income Tax Law, regulating the taxation of interest income capital gains out from the securities through the agency of banks and intermediary firms by means of withholding has been extended until December 31, 2025.

The income obtained from the option contracts and to leveraged transactions contracts executed through the agency of banks and intermediary firms were included in the scope of the Temporary Article 67 of the Income Tax Law and therefore included into the withholding taxation regime.

The corporate tax rate will be applied at a discount of 2 points on the corporate earnings of the institutions (excluding banks, leasing companies, factoring companies, financing companies, payment and electronic money institutions, authorized foreign exchange institutions, asset management companies, capital market institutions, insurance and reinsurance companies and pension companies) whose at least 20% of the shares is offered to the public to be traded on the Istanbul Stock Exchange Equity Market starting from the accounting period in which the shares were offered to the public for the first time for a term of five accounting periods.

The effective date of the accommodation tax has been postponed to January 1, 2022.

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