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Investment in Turkey

2014

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Investment in Turkey

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Preface

This publication "Investment in Turkey - 2014", compiled by KPMG Turkey's Tax Practice, aims to provide general outline of the Turkish tax environment in which foreign investors consider investing and doing business in Turkey.

The set of information contained in this publication is an introduction for the foreign investors that plan to take a look into tax and business environment in Turkey. It reflects developments to March 2014 and the information herein is not exhaustive and should be read as a frame. Therefore, the information should not be perceived as the sole basis for investment decisions in Turkey. Detailed advice in tax, accounting, legal and other matters should be sought from professional advisers.

I would like to take this opportunity to thank to KPMG Turkey Tax Professionals as the authors of this booklet.

Abdulkadir Kahraman
KPMG Turkey
Head of Tax, Partner

1 Country Profile

1.1 General Information

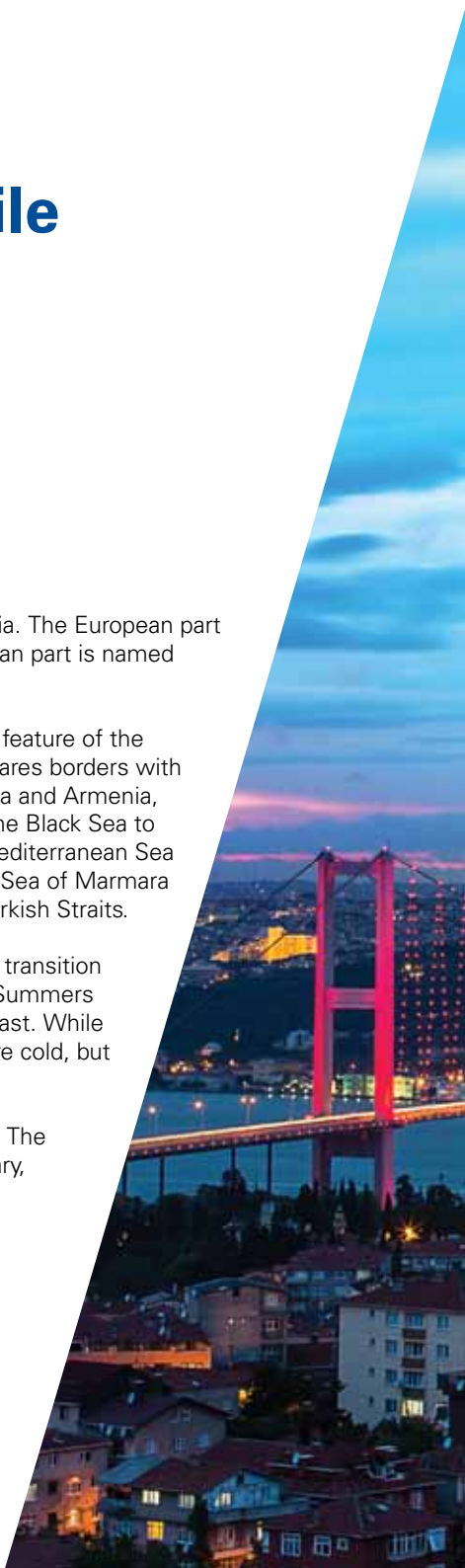
Geography and Climate

Turkey is situated at the junction of Europe and Asia. The European part of the country is called Thrace (Trakya) and the Asian part is named Anatolia (Anadolu).

The location on two continents has been a central feature of the Turkish history, culture and politics. The country shares borders with Greece and Bulgaria to the northwest, with Georgia and Armenia, and Iran to the east, Iraq and Syria to the south. The Black Sea to the north, the Aegean Sea to the west, and the Mediterranean Sea to the south are connected by the Bosphorus, the Sea of Marmara and the Dardanelles, a water way known as the Turkish Straits.

The climate of coastal regions shows features of a transition between a Mediterranean and Black Sea climate. Summers tend to be hot and dry except for the Black Sea coast. While spring and fall are warm and temperate, winters are cold, but the number of snowy days is few.

The inner land is more snowy and colder in winter. The coldest months of the year are January and February, while the hottest are July and August.



History and Government

The Republic of Turkey was established in 1923. The new Republic looked to the West for industrialization and the establishment of a secular political system under the guidance of the new Republic's first President Mustafa Kemal Atatürk, whose reforms constituted the framework for the development of the modern Turkish Republic. Turkey has enjoyed multi-party politics since 1946. Turkey is a unitary parliamentary republic. The Grand National Assembly has 550 members elected for four years term, by secret ballot. The executive branch is the Government, headed by the Prime Minister. The President is elected by citizens for a five-year term and s/he cannot be elected consecutively more than twice. The Prime Minister, who is appointed by the President, nominates the other members of the cabinet, which is approved by the President, and is subject to a parliamentary vote of confidence. The judiciary is independent of both the legislature and the executive. The legal system is largely based on continental European models. A Constitutional Court is also entitled to cancel legislation passed by the Parliament. It can cancel those laws, or parts of them, which it decides to be incompatible with the Constitution.

Foreign Relations of Turkey

Turkey is a founding member of the United Nations (UN), the Organization of Islamic Cooperation (OIC), the Organization for Economic Co-operation and Development (OECD) and the Organization for Security and Co-operation in Europe (OSCE), a member state of the Council of Europe and NATO.

Since 2005, Turkey is in accession negotiations with the European Union. The negotiations have been launched with the adoption of the Negotiation Framework by the Council of the European Union. Turkey and European Union's relations cover 3 elements. These are; the application of Copenhagen Criteria's, the application of EU acquis and the strength of civil society dialogue. According to the basis, negotiations are keeping up with European Union[1].

Turkey is also a member of the G20 industrial nations which brings together the 20 largest economies of the world.

[1] www.abgs.gov.tr

Population and Language

The population of Turkey

According to the Population Services Law No. 5490 acted in 2006, new population registration system, which will be the main data source of population censuses, was established in the country. The results of the census states that the population is approximately 76.667.864[2] as of 31.12.2013.

The proportion of population living in cities is 91.3%

The number of people living in Istanbul is 14.160.467. Most populated provinces are Ankara, Izmir, Bursa and Antalya. Bayburt is the least populated province in Turkey, with a population size of 75.620.[3]

The half of the population is below age 30.4 in Turkey

The median age of the population in Turkey is 30,4. While the median age is 29,8 for males, it is 31 for females.[4]

The proportion of the population at ages between 15 and 64 is 67.7%

People between the ages of 15-64 are the working group, which constitute 67,7% of the total population. The age group 0-14 form the 24,6% of the overall population, while the 7,7% of the population is made up by people at 65 and over.[5]

2-3-4-5 www.tuik.gov.tr

1.2 Economy and Currency

Economy

Turkey has marked a remarkable rate of growth after 1980's. This has been attributed to three factors, namely a shift from agriculture towards industry and service activities, the modernization of the existing industry and technology transfer, and the effect of international trade and competition.

Significant improvements in such a short period of time have registered Turkey on the world economic scale as an exceptional emerging economy, being the 16th largest economy in the world and the 6th largest economy when compared with the EU countries, according to GDP figures (at PPP) in 2012.[6]

- 16th largest economy in the world and 6th largest economy compared with EU countries in 2012 (GDP at PPP, IMF-WEO).
- Robust economic growth over the last decade with an average annual real GDP growth of 5 percent.
- GDP reached USD 786 billion in 2012, up from USD 231 billion in 2002.
- Sound economic policies with a prudent fiscal discipline.
- Strong financial structure resilient to the global financial crisis.

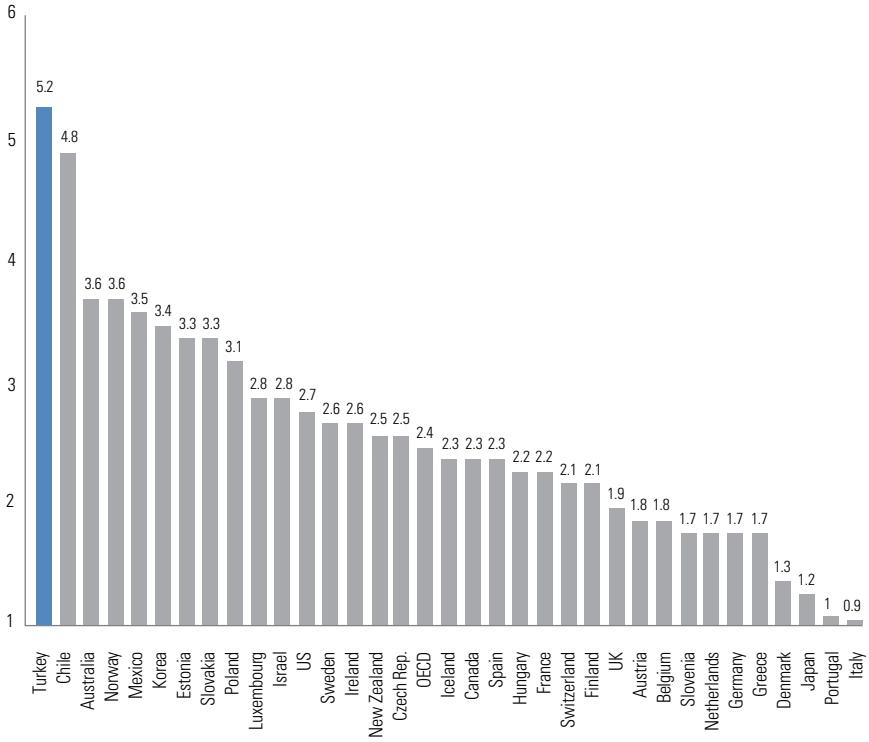
Turkey's GDP current prices and growth rates of GDP are as follows:[7]

Years	GDP Current Prices (Million TRY)	Growth Rate (%)
2006	758,391	16.9
2007	843,178	11.2
2008	950,534	12.7
2009	952,559	0.2
2010	1,098.799	15.4
2011	1,297.713	18,1
2012	1,415.786	9,1

Private investments were the driving force in accelerating economic activities over the recent years. The liberalization of capital movements and the willingness of foreign creditors to lend to Turkish investors contributed to the high growth rate of private investment.

[6] http://www.invest.gov.tr
[7] www.tuik.gov.tr

Annual Average Real GDP Growth (%) Forecast in OECD Countries 2012-2017[8]



Turkey attaches a high priority to the encouragement of foreign investment and provides a variety of incentives.

[8] www.tuik.gov.tr

Currency

The Turkish currency is called Turkish Lira (TL/TRY), which was introduced, instead of New Turkish Lira as from January 1, 2009. In addition, six digits were dropped from Turkish Lira denominations as from January 1, 2005. On the other hand, together with the (TL), Kurush (Kr), which is a hundredth of (TL), has become in use again as from January 1, 2005.

The Turkish Central Bank has issued notes of TRY5, TRY10, TRY20, TRY50, TRY100 and TRY200. There are also coins in circulation in denomination TL 1, Kr 50, Kr 25, Kr 10, Kr 5 and Kr 1.

The following table shows the Central Bank's exchange rate of Turkish Lira, to other major currencies as of December 31, 2013.

Country	Currency	TRY value [9]
US	1 USD	2.1343
Euro	1€	2.9365
Great Britain	1 Pound Sterling	3.5114
Switzerland	1 Swiss Franc	2.3899
Japan	100 Japanese Yen	2.0231

[9] www.tcmb.gov.tr

Inflation

Turkish economy has experienced high inflation rates for more than a decade, but there has been significant improvement in reducing the inflation rates under the stabilization program run since 2001.

The following table shows the inflation rates of past 5 years:[10]

Years	Producer Price Index (Annual %)	Consumer Price Index (Annual %)
2007	5.94	8.39
2008	8.11	10.06
2009	5.93	6.53
2010	8.87	6.40
2011	13.33	10.46
2012	2.45	6.16
2013	6.97	7.40

[10] www.tuik.gov.tr

1.3 Employment Conditions

Residence and Work Permits

Most foreigners enter Turkey without a Visa and they can stay in the country up to 3 months. In cases where a visa is required, it may be obtained at the airports.

A foreign individual sent by a foreign company to carry out business on its behalf in Turkey has to obtain a work permit from the Ministry of Social Security and Labour Affairs and a work visa from the Turkish consulate.

Then with this work permit he should apply for the residence permit to the Foreigners Office of Police Department.

Opening Hours

Office hours of large scaled companies are from Monday to Friday from 8:30 am to 5:30 pm. Shopping hours are basically from Monday to Saturday from 9:00 am to 7:30 pm. However, on Sunday some have longer shopping hours. Government institutions do not have office hours on weekends. Banks are open till 5:00 pm from Monday to Friday. Automatic teller machines are widespread all over Turkey.

Cost of Living and Housing

Living in Turkey is not expensive for foreigners from EU and the USA. Except for certain locations, housing and the cost of living is cheaper compared to that in their home countries.

Cost of Living Index for Each Country in 2014[11]

Country	Consumer Price Index	Rent Index	Consumer Price Plus Rent Index	Groceries Index	Restaurant Price Index	Local Purchasing Power Index
Norway	144.45	58.88	102.88	135.52	165.88	94.40
Switzerland	143.88	63.84	104.99	148.50	145.59	138.05
Denmark	114.87	40.05	78.52	102.61	132.27	100.66
Luxembourg	109.93	64.11	87.67	97.07	126.51	115.31
Australia	108.51	57.97	83.95	105.03	97.44	104.20
New Zealand	104.48	42.43	74.33	104.47	90.09	87.58
Sweden	103.68	33.79	69.72	100.35	103.76	106.11
Finland	103.28	35.32	70.26	100.40	103.17	97.90
France	100.21	36.86	69.43	100.19	98.70	92.29
UK	100.11	44.19	72.94	94.25	96.94	94.34
Belgium	100.04	34.89	68.39	93.51	105.82	87.93
Netherlands	98.82	40.94	70.70	78.03	115.25	97.54
Italy	96.81	31.55	65.10	85.00	104.62	75.39
Japan	94.13	35.51	65.65	97.55	58.78	99.64
Israel	91.45	35.23	64.14	79.52	95.42	69.29
Austria	89.50	33.23	62.16	88.71	79.25	91.53
Canada	87.90	35.71	62.55	94.57	78.78	105.53
South Korea	87.56	37.56	63.27	106.50	51.76	80.63
Germany	87.14	30.29	59.52	77.86	77.83	112.28
Greece	83.79	15.12	50.43	70.51	84.76	44.27
USA	77.39	36.93	57.74	83.38	67.74	132.91
Uruguay	77.36	25.26	52.05	68.66	71.63	39.64
Spain	77.18	26.41	52.51	64.24	79.05	72.48
Slovenia	75.37	22.47	49.67	65.19	61.44	60.36
Russia	61.80	29.65	46.18	50.91	68.48	37.30
Turkey	49.93	12.81	31.90	40.56	37.53	55.79

[11] http://www.numbeo.com/

2 Opportunities for International Investors

2.1 Incentives for International Investors

Turkey has been restructuring its economy since 1980 along the lines of a more liberal economic policy. In this context, more emphasis is being placed on private sector especially in productive sectors of economy and the role of State is limited to infrastructure development and the provision of public services.

The new economic policy aims to diminish unemployment, to realize technology transfers, to privatize State Economic Enterprises, to overcome the deficit in the balance of payments and especially to increase the integration of the economy with the world economy and to attract more foreign capital to the Country. Turkey also uses the option of fiscal incentives to channelize domestic and foreign investments for industrial development and rural-urban integration.

These incentives or tax expenditures are usually available to investors for the promotion of private investment activities in selected sectors/regions depending on the scale of investment and in the following forms:

2.2 Investment Incentive Regime

Turkey has introduced a developed version of the old incentive regime which provides valuable incentives to investors investing into the distressed regions of Turkey.

The objective of the incentives is to encourage exports, high technology, increase competitiveness of the investments and employment, continuity of investment tendency and provide sustainable development.

Classification of investments

- Regional and sector-based investments: Turkey is separated into six regions based on the development level of the districts/cities in these regions. The first three zones represent well developed regions, respectively, whereas the last three show relatively less developed zones in Turkey.

- Large scale investments: Investments in excess of at least TRY50 million where such amount increases depending on the industry of the investment. The minimum investment amounts for certain industries such as automotive supplier industry has been decreased whereas certain mining investments were included in the large scale investment schedule.

- Prioritized investments: This type of investments can benefit from the incentives that are granted to 5th region investments. Investments in the below industries can qualify as prioritized investment:
  - Investments regarding sea transportation of load and/or passengers
  - Railway investments that are to be made by the private sector members for the purpose of domestic load and/or passenger transportation and inner city load transportation
  - Automotive, space or defence orientated test centres, wind tunnels and other related investments. Accommodation investments for tourism purposes that are entitled to regional incentives in areas in the scope of protection and development of culture and tourism
  - International fair investments with a minimum closed area of 50 thousand square meters (excluding the accommodation and shopping mall units)
  - Investments with a minimum amount of TRY20 million and in biotechnological, oncology and blood product investments in Pharma industry, following the approval of project by the Ministry of Health
  - Investments with a minimum amount of TRY20 million in defence, aviation and aerospace areas, following the approval of the project by the Undersecretariat of Defence
  - Mine extraction and/or mine processing investments (excluding the ones to be realized in Istanbul and aggregate investments and investments into the 1st group of mine defined in the Mining Law.
  - Pre-school, primary, secondary and high school investments to be made by the private sector members
  - Products developed as a result of R&D projects that are supported by Ministry of Science, Industry and Technology, Small and Medium Sized Enterprises Development Organizationand the Scientific and Technological Research Council of Turkey
  - Investments in motor vehicles industry with a minimum investment amount of TRY300 million and auto components industry (i.e. engine production investments with a minimum investment amount of TRY75 million, investments in components and transmission components of engines and electronics of automotive with a minimum investment amount of TRY20 million)
  - Investments in coal based electricity generation power plants (under a mining and prospecting license).

- Strategic investments: A strategic investment should altogether qualify the below:
  - The minimum fixed amount of the investment should exceed at least TRY50 million
  - Total imports related to the investment good should exceed TRY50 million in the closed year.
  - Added value that is expected to be provided by the potential investment should be minimum 40%.
  - The total domestic production capacity of the final good to be produced should be less than the imports.

- Investments entitled to incentives applicable in a successive region: This incentive is granted to large-scale and/or regional investments with one of the below properties:
  - Investments in the Organized Industrial Zones (OIZ)
  - Investment that is made by an investor with at least 5 individuals or corporate shareholders and provides an integration of the investments to be made in a common operating area.

If the investment is in 6th region, 2 years to social security employer contribution and 5 points to the investment contribution rate are added to the current incentives applicable in that region.

- Other investments: Investments that are entitled to general incentives.

Investment incentives

Investment incentives are available to investors through an "Investment Incentive Certificate" ("IIC"), which is obtained from the General Directorate of Incentive Application and Foreign Capital under the Ministry of Economy ("Authority").

In order for an investment to be granted an IIC, the minimum investment amounts should be TRY1.000.000 for the first two regions and TRY500.000 for other regions. It should also be noted that any investment fulfilling the minimum investment amounts are still subject to the evaluation of the Ministry of Economy.

The incentives under an Investment Incentive Certificate are summarized below for each investment type:

Incentives	Customs duty	VAT exemption	Tax reduction	SS employer	Land allocation	Interest support	Income w/h tax	SS employee	VAT refund
General Investment	✓	✓							
1st region	✓	✓	✓	✓	✓				
2nd region	✓	✓	✓	✓	✓				
3rd region	✓	✓	✓	✓	✓	✓			
4th region	✓	✓	✓	✓	✓	✓			
5th region	✓	✓	✓	✓	✓	✓			
6th region	✓	✓	✓	✓	✓	✓	✓	✓	
Large scale	✓	✓	✓	✓	✓	x	only in 6th region	only in 6th region	
Strategic	✓	✓	✓	✓	✓	✓	only in 6th region	only in 6th region	✓
Prioritized	✓	✓	✓	✓	✓	✓	only in 6th region	only in 6th region	

x: Not applicable

2.3 Application of Incentives

Customs duty exemption: 100% customs duty exemption is available on the imported machinery and equipment (Imports from EU countries are already customs duty free).

Value Added Tax ("VAT") exemption: 100% Value Added Tax ("VAT") exemption for both domestic purchase of and import of machinery and equipments for the qualified investments (Under the VAT Code, importation of machinery and equipment under an investment incentive certificate is not subject to VAT, as well as local purchases of machinery and equipments).

Corporate tax reduction: Statutory corporate tax rate is 20%.

Regional and sector-based, prioritized, large-scale and strategic investments are entitled to benefit from corporate tax reduction limited to the tax savings that reach the investment contribution rate.

Government provides a corporate tax reduction from 50% up to 90% depending on the location and the amount of the investment.

Social security employer premium contribution: Social Security employer premium incentive is granted from 2 years to 10 years, depending on the location of the investment and limited to the premiums applicable to minimum wage ceiling (monthly). The incentive amount is also limited to a percentage of the actual investment amount which should be checked for each investment project eligible for this incentive.

Social security employee premium contribution: This incentive is provided only for the investments in 6th region limited to 10 years.

Allocation of Land: Land can be provided to the investors as a right of easement or usage right for 49 years by the Ministry of Finance. (Subject to the provisions of Law no. 4706)

Interest support on the financing: Government contributes also to interest payments on the loans granted in the scope of incentive regime. This support is in a range of 3 points to 7 points. The highest amount of contribution is TRY900 thousand which is provided for investments in the 6th region.

The highest amount of interest support is granted to strategic investments, with a limitation of 5% of the fixed investment amount but can reach up to TRY50 million.

Income withholding tax: This incentive is granted to investors only for the investments in 6th region limited to 10 years.

VAT refund: This incentive is granted to investors for strategic investments over TRY500 million and limited to their building and construction expenses.

2.4 Research and Development Incentives

Law No. 5746 Pertaining the Support of Research and Development Activities has been enacted as of April 1, 2008. Basic incentives and supports set forth under the Law No. 5746 for the R&D investment projects are as follows;

- **R&D Allowance**
  - 100% of R&D and innovation expenditures are deductible from taxable profits for corporate tax purposes provided that the companies making these expenditures are located in R&D Centres and employ at least 50 R&D personnel.
  - 100% of research and development expenditures incurred for eligible projects those which are oriented to new technology and knowledge research are deductible from taxable profits provided that the number of researchers exceeds 500. An extra allowance at half of the increase in R&D and innovation expenditures compared to the previous year's expenditures is provided to these taxpayers.

  The amount, which cannot be deducted in the relevant period due to the lack of taxable profit, is carried forward to the following fiscal periods.

- **Income Tax Incentives**

  The salaries of R&D and support personnel are exempt from income tax until December 31,2023 at the following percentages under certain conditions:
  - 90% exemption for the employees having a PhD,
  - 80% exemption for other employees

- **Social Security Premium Incentives**

  50% of the employer's contribution of social security premiums is supported for five years for each R&D and support personnel. The incentive will be financed by the Ministry of Finance.

- **Technological Enterprise Capital Subsidy**

  A capital subsidy of up to TRY100 thousand would solely be given for once to business ideas of university and college graduates focusing on technology and innovation, without requesting any guarantee.

- **Stamp Duty Exemption**

  All documents made out regarding R&D and innovation facilities within the scope of the Law No 5746 (R&D Law) are exempt from Stamp Tax.

2.5 Incentives for Technology Development Zones

- Income derived from software and research & development (R&D) activities performed in technology development zones by the taxpayers (doing business in these zones) are exempt from income and corporate tax until December 31, 2023.

- Wages of researcher, software programmer and research & development personnel related to these R&D activities in these zones are exempt from income tax and stamp tax until December 31,2023.

- 50% of the employer's contribution of social security premiums is supported for five years for each R&D and support personnel.

- Delivery of goods and services which are produced exclusively in these zones and in the form of system management, data management, business applications, sectoral/industrial, internet, mobile and military command control application software are also exempt from VAT until December 31, 2023.

2.6 Incentives for Free Trade Zones ("FTZ")

Turkey aims to encourage production and export activities, fasten the entrance of foreign capital and technology in Turkey as well as developing the international trading activities through the grant of these incentives to investors.

The following incentives are granted to investors investing into the Free Trade Zones. These incentives are applicable until the end of the fiscal year in which Turkey fully accesses to the EU:

- The income derived from the sale of goods that are manufactured by license holders in Free Trade Zones is exempted from corporate income tax. Moreover, income derived by the license holders having a valid license obtained before February 6, 2004 can also benefit from corporate tax exemption until the expiration date of their licenses.

- Corporate income tax exemption does not cover the dividend distributions. Dividend distribution from a company in a Free Trade Zone is subject to withholding tax at the standard rate of 15% at source (i.e. dividend distributions to an individual shareholder (resident or non-resident) or to non-resident corporations).

- The salary payments made by taxpayers operating in Free Zones to their employees are exempted from Income Tax, provided that the taxpayers export at least 85% of annually produced goods (i.e. FOB values). It should be noted that Council of Ministers is authorized to decrease this rate to 50%.

- The documents and transactions regarding operations in Free Zones are exempted from stamp tax and charges.

- In addition to the abovementioned incentives, the delivery of goods and performance of services in free trade zones are excluded from VAT under VAT Code without any time limitation.

Foreign Trade & Customs

3.1 Foreign Trade Legislation

Some of the applicable laws that regulate foreign trade activities are:

- Customs Law No: 4458
- Import Regime Decree
- Export Regime Decree
- Law on the Prevention of Unfair Competition in Imports No: 3577
- Law on Regulation of Foreign Trade No: 2976
- Decree on the regime of technical regulations and standardization
- Free Trade Zone Law No:3218
- Combating with Smuggling Law No: 5607
- Value Added Tax Law No: 3065
- Special Consumption Tax Law No: 4760

3.2 Customs Regimes and Synopsis of Customs Transactions

In Turkish Customs Legislation, there exist 8 customs regimes which are:

- Release For Free Circulation Regime
- Transit Regime
- Customs Warehousing Regime
- Inward Processing Regime
- Processing Under Customs Control Regime
- Temporary Admission Regime
- Outward Processing Regime
- Exportation Regime

Established companies with a valid tax number can perform importation/ exportation. Exporters should also be a member of relevant exporters union. After a customs declaration is submitted by customs broker, computer system evaluates the data and designates a line for the transaction.

Basically, there are four lines:

- Red line (means physical control)
- Yellow line (means document control)
- Blue line (means deferred control i.e. simplified procedure)
- Green line (means no control)

Depending on the goods, their origin and regime, some documents should be submitted for import customs clearance: commercial invoice, pro forma invoice (when final commercial invoice does not exist at the time of entry); A.TR, EUR.1,Form A or EUR-MED if applicable; depending on the consignment freight and/or insurance invoice, Certificate of Origin if applicable, Value Declaration Form, Packing List, Inspection/ Control/Surveillance Certificate etc. (if importation is subject to certification).

Some of the documents that should be submitted for export customs clearance are: commercial invoice, A.TR if applicable, packing list etc. Customs Code Article 60 and Customs Regulation Article 114 provide more details about documents that should be attached to customs declarations. Specifications related to customs duty, excise duty and documentations such as required certificates are designated according to HS number of product (12-digit code is used in Turkey).

3.3 Turkey and the EU

After the EU Turkey Association Agreement of 1963, Turkey signed a Customs Union agreement with the EU in 1995 which seeks to promote trade and economic relations. Turkey is a candidate country to EU since 1999 and an accession country since 2005.

The EU and Turkey have a profound trade relationship. The EU ranks number one in both Turkey's imports and exports, while Turkey ranks 7th in the EU's top import and 5th in export markets. Textiles, transport, machinery, equipment and agricultural products dominate EU imports from Turkey. Main EU exports to Turkey are machinery, transport material, chemical products and manufactured goods. (European Commission Trade, 2011).

The customs union is based on free circulation of goods and preferential treatment is applicable for industrial goods and processed agricultural goods (Customs Union between EU and Turkey doesn't cover agricultural goods, services and ECSC goods). According to Council Decision about Rules of Implementation Customs Union between Turkey and EC numbered 2006/10895, in order to enjoy preferential treatment goods that should be delivered directly to Turkey with an A.TR Certificate (this is a movement certificate rather than a certificate of origin). But, if it is necessary to deliver over 3rd country, goods should be under customs observation of the country and it should be proved to Turkish Customs Authorities that the goods are not further processed in 3rd countries. The information and description of goods on the invoice and customs declaration should correspond with the information on the A.TR certificate (an A.TR certificate should be submitted to customs administration within 4 months and if it is issued retrospectively or it is duplicated, this should be indicated on the remarks section of the certificate).

On the other hand, Turkey has signed FTA with EFTA and other various countries and 18 of these agreements are in force (including those with Republic of Korea, Egypt and Chile).

3.4 Turkish Import Regime

The Import Regime reflects both Turkey's international rights and obligations and the country's economic needs. The Import Regime Decree is prepared every year, published in the official journal by December 31 and put into force by January 1. Import Regime Decree indicates the rates of the customs duties separately for countries and country groups and the products are classified under six lists which are:

- Agricultural products (List: I)
- Industrial products (List: II)
- Processed agricultural products (List: III)
- Fish and fishery products (List: IV)
- Suspension list (List: V)
- List of goods used in civil aircraft eligible to relief from customs duties (List: VI)

3.5 Customs Valuation

The customs value of goods is determined to apply ad valorem rates of customs and excise duties. i.e; VAT, SCT, anti-dumping duties and some other applicable funds. Turkey accepted provisions of the WTO Agreement on Customs Valuation. Customs Valuation is regulated between articles 23 – 31 of Customs Law. The law primarily defines the customs value as the transaction value of imported goods which is the price actually paid or payable for the goods considering necessary adjustments of the import related costs and charges.

3.6 Anti-Dumping and Anti-Subsidy Practices

Ministry of Economy carries out dumping and subsidy investigations relating to unfair pricing practices of companies or countries exporting to Turkey. According to results of the investigation an anti-dumping duty or countervailing duty may be set up over goods of such companies or such countries.

3.7 Resource Utilization Support Fund (RUSF)

RUSF on importation depends on the terms of payment. RUSF is applicable on importations which have the defined terms of payments in relevant regulations. There are some applicable exemptions such as importation via an incentive certificate, inward processing regime or temporary importation regime. According to article 3/d of Council of Minister's Decree of RUSF numbered 88/12944 dated 12 May 1988, imports conducted through acceptance letter of credit, deferred payment letter of credit or cash against goods shall be subject to RUSF which is calculated over the amount of invoice. The current RUSF rate is 6% for importation on credit basis.

3.8 Authorized Economic Operator (AEO)

As of January 2013, Turkey has launched Authorized Economic Operator (AEO) Program which facilitates foreign trade operations and minimize lead times and costs. The certificate privileges involve local clearance, authorized consignor status, using lump sum guarantees, issue A.TR circulation, issue EUR.MED invoice declaration, submit incomplete declaration& documents, FAS declaration, lab report facilitations, blue-line facilitations on FAS declarations, less documentation and physical controls, control priorities.

AEO certificate will be obtained by reliable Turkish resident companies, operating at least 3 years who has adequate traceable documentation, financial solvency and practicing safety and security measures. The AEO program brings recognition and competitive advantage to companies in the long run.

4 Company Law Requirements

4.1 Available Business Structures

A foreign company may perform its business in Turkey by establishing a subsidiary, branch or liaison office.

The new Turkish Commercial Code, legislated by July 2012, brought many changes to corporate structures in Turkey. In accordance with the New Code, both subsidiary and branch establishments in Turkey are subject to registration with the Trade Registry in order to be legally established. Furthermore, both subsidiary and branch establishments shall be registered with local tax office in order to receive tax identification number.

4.2 Subsidiary Types: Joint Stock Corporations (JSC) and Limited Liability Companies (LLC)

The Joint Stock Corporation (in Turkish: Anonim Sirket, A.S.) and the Limited Liability Company (in Turkish: Limited Sirket, Ltd.) are the most common forms of subsidiary companies under Turkish Commercial Law.

In the following businesses, the company structure is compulsory as a JSC by the related laws and decrees:

- Banking & Insurance,
- Reinsurance,
- Securities, Real Estate, Venture Capital Investment Companies,
- Intermediary Institutions (Brokerage Houses),
- Financial Leasing, Factoring, Consumer Financing,
- Holdings.

4.3 Limited Liability Company (LLC)

Number of shareholders

A Limited Liability Company can be formed by only one shareholder and number of shareholders of a LLC cannot exceed 50. The shareholder(s) may be individuals or corporate bodies, residents or non-residents.

Shareholders' liability

LLC shareholders are liable to the company only with the amount of subscribed capital and in proportion to their capital contribution with regards to third party receivables. LLC shareholders are jointly and severally liable against public receivables such as taxes with their own/personal assets. Such liability occurs only if the tax office cannot collect outstanding taxes from the assets of the company.

Articles of association

The LLC type of company should have an Articles of Association which includes among others; trade name, shareholders, seat and business scope of the company, the amount of the capital and the amount subscribed by each shareholder and managers of the company. Articles of association articles may be altered by General Assembly resolution after the establishment of the company.

Management

General Assembly is the supreme body of the limited liability company which consists of the shareholders of the company. The company is represented and managed by the manager or managers appointed by the general assembly. At least one of the shareholders of the LLC shall be appointed as manager. The managers can be either resident in Turkey or in abroad as well as they can be either foreigners or local persons. The authorities to be vested in those either as limited or unlimited can be determined by the shareholders of the company. The shareholders can at any time change the manager(s) of the company by adopting a general assembly resolution, which requires some legal procedures. The annual general assembly of limited liability companies should also convene once a year, which usually occurs for the approval of the financial statements by the shareholders.

Share Capital

The minimum capital requirement for a limited liability company is TRY10.000. Nevertheless, the Council of Ministers is empowered to raise the minimum capital amount requirement. It is also possible to allocate the number of shares

freely among shareholders. The capital amount is divided into shares each with a minimum nominal value of TRY25 or its multiples.

The following assets may be treated as capital for foreign investors:

- Cash,
- Machinery, equipment, parts, tools and goods as capital in kind,
- Intangible assets (patents, trademarks, etc.),
- Profits obtained from foreign investment and principals of foreign loans and interest thereon and other financial rights,
- Natural resources exploration and manufacturing rights,
- Shares in another company.

LLC can issue registered share certificates in the name of shareholders for demonstrative purposes. Share transfer of a LLC must be approved by at least half of the shareholders present at the General Assembly meeting. The share transfer agreement between the current and new shareholder shall be executed in front of a Notary Public. Further, the share transfer process requires registration with the local trade registry.

Annual Meetings

Shareholders meetings of a LLC are normally called by the managers or by the holders of at least 10% of the share capital, once a year over the course of a three-month period following the closing of the financial year.

The statutory rights of the general meeting include decisions on the amendment of the articles of association, appointment of company managers, approval of the financial statements,the determination of the destination of net profits, approval of share transfers, dissolution of company etc.

Dissolution

A Ltd. company may be dissolved in the following cases:

- Bankruptcy of the company
- The occurence of a dissolution reason which have been constituted by the articles of association,
- The decision of the shareholders' assembly,
- The court decision based on the application of the shareholders,
- Other considerations stated in the related laws such as impossibility of the realization of the establishment, the loss of two thirds of the share capital, the realization of any cause of dissolution provided for by the articles of association.

Liquidation

Except for the cases of merger with another company or in the event of a conversion into another form of a company or transfer to a public law corporation, the company shall be dissolved through a formal liquidation process.

In the absence of any liquidators having been designated by the articles of association or by a resolution of the shareholders' assembly, the company manager shall carry out the liquidation formalities. The company managers shall have the names of the liquidators registered with the Trade Register and announced three times at intervals, not exceeding one week. The creditors of the company shall be called upon to apply within one year and present their documents.

The official liquidation formalities which executed with the local authorities take around 12-18 months and all the fiscal requirements should be met during this period.

4.4 Joint Stock Corporation (JSC)

Number of shareholders

A.S. can be formed by at least one person. This shareholder may be a real person or a legal entity, residents or non-residents.

Shareholders' liability

In Joint stock companies, liabilities of shareholders are limited to the amount of capital subscribed by shareholders for both tax and legal purposes.

Articles of association

The JSC type of company should have an Articles of Association which includes among others; trade name, shareholders, seat and business scope of the company, the amount of the capital and the amount subscribed by each shareholder and board of directors of the company. Articles of association articles may be altered by General Assembly resolution after the establishment of the company.

Share Capital

The minimum amount of capital required for establishing a joint stock company is

TRY50.000, with a minimum nominal value of 1 Kurush. However, for the joint stock companies that adopt a registered capital policy as they areopen to public, the minimum amount of capital is TRY100.000. Nevertheless, the Council of Ministers is empowered to raise the minimum capital amount requirement in order to establish a joint stock company.

The properties, including, but not limited to intellectual property rights and virtual platforms and media, which can be transferred or assigned in cash, with no limited real rights or attachment or injunction or other encumbrances thereon, may be injected as capital in kind. Another important point regarding the establishment procedures is that, founders are obliged to provide a declaration of establishment regardless of the type of capital which can either be submitted in cash or in kind.

Management

There are two administrative bodies in the A.S. as the Board of Directors and the General Assembly.

In accordance with the TCC, Board of Directors (BoD) can be consisted of one or more individuals or corporate bodies designated by the articles of association or elected by the general meeting.

Moreover, the obligation of being a shareholder of the company is no longer required in order to be a member of Board of Directors. In case, a corporate body becomes a member of BoD, an individual shall be appointed to act on behalf of the corporate body in the BoD and this individual shall also be registered with the local Trade Registry.

The Board can also delegate its authorities in fully or partially to a board member or to a general manager appointed from outside of the company.

General Assembly, consisting of its shareholders, convenes as ordinary or extraordinary. The details are explained in the section below regarding the annual meetings.

General Assembly Meetings

As mentioned above, General Assembly, consisting of shareholders, convenesas ordinary or extraordinary.

General Assembly can be called by the Board of Directors, liquidator, courts or by the minority shareholders of at least 10 % in non-public companies and 20% in public companies if there are due reasons in doing so. The general meeting

is to be held at least once a year within three months following the end of the financial year. The meeting is held generally at place where the A.S. has its statutory seat, unless the articles of Association provide otherwise.

If there is no restriction in the articles of association, voting right is computed on the participation rate. The owner is entitled to one vote for each of the participation, with a nominal value of Kr 1. The meeting quorum for the mentioned meetings is the presence of shareholders holding at least one fourth of the capital, or their representatives. In case this quorum cannot be established in the first meeting, no quorum is required for the second meeting. As per the resolution quorum, this quorum is the majority of votes present at the meeting.

Dissolution

A.S. company may be dissolved in one of the following cases:

- The expiration of the term for which they have been constituted by the articles of association,
- The realization of the object of the company or the impossibility of its realization,
- The realization of any cause of dissolution provided by the articles of association,
- Bankruptcy of the company.
- In case of non-existence of one of the legally required organs or in case the general assembly could not be convened
- Shareholders representing one tenth of the capital or one twentieth of the capital in publicly held joint stock companies may request the dissolution of the company

If the dissolution results from a cause other than bankruptcy, the board of directors shall have it registered with the Trade Register and announced three times at intervals not exceeding one week. The creditors of the company shall be called upon to apply within one year and present their documents.

Liquidation

Except for the cases of merger with another company and conversion into a limited liability company or transfer to a public law corporation, the dissolved company shall enter into liquidation.

In the absence of any liquidators having been designated by the articles of

association or by a resolution of the general assembly, the board of directors shall conduct the liquidation. The board of directors shall have the names of the liquidators registered to the Trade Registry and announced three times at intervals not exceeding one week. The creditors of the company shall be called upon to apply within one year and asked to notify their receivables.

The official liquidation formalities to be executed with the local authorities takes around 12-18 months and all the fiscal requirements should be met during the liquidation period.

4.5 Other Forms of Doing Business in Turkey

Liaison / Representative Offices

A liaison office can be established in Turkey with the permission of the Ministry of Economy Incentive Administration and Foreign Investment Department (FID). Under the present regulations, a liaison office is not allowed to be engaged with any trading activity. In other words, it cannot be authorized to do business and to conclude contracts. Therefore, for example, a liaison office cannot issue invoice or proforma invoices. All expenses of the liaison office incurred in relation to running the office (including the salaries) should be met with the import of foreign currency sent by the parent company. Under the present regulations, irrespective of nationality, remunerations to the employees of the liaison office will be exempted from Turkish income tax as long as the payment of the salaries is foreign source.

In accordance with the latest amendments in the Communiqué related to Direct Foreign Investment Code Liaison offices are granted to maximum 3 years permission upon first application.

Branch

The branch is represented by the branch representative based on the power of attorney to be issued by the parent company. Kindly be informed that in case the representative of the branch is a foreign national, he/she should have a valid residence permit in Turkey.

The branch will not have separate articles of association but the parent's articles of association will be applicable as the scope of activity of the Turkish branch.

The Turkish Branch, therefore, will not have a separate legal personality. At the operational stage, it may be more bureaucratic to run a branch since the change or authorization of the branch representative; increase of capital etc. requires parent's decisions. In other words, the branch will not have a separate shareholders' assembly, which will take the related resolutions for the operations of the company, but these should be executed by the board of the parent of the Turkish branch.

The branches are subject to official liquidation process, which is minimum 12 months. Additionally, there will also be tax and accounting requirements to be filled in under the Turkish Law. In terms of corporate tax liability branch is subject to same rates as a subsidiary company.

4.6. General Requirements for Joint Stock and Limited Liability Companies

Company with one shareholder

Capital stock companies such as joint stock companies and limited liability companies can be established with one shareholder. Furthermore, the aforesaid companies which are already established will be able to decrease the current number of shareholders to only one shareholder.

Moment of Establishment

The moment of signing articles of association by company founders in front of the notary public will be deemed as the establishment moment of companies. The moment of acquirement of legal personality will be the moment of registration with the Trade Registry.

Statement of Founders

At the time of establishment of a capital stock company such as a A.Ş. or Ltd., founders shall be obliged to prepare and sign a statement that is pursuant to the principal of integrity and in accordance with content stated within the TCC.

Turkish Companies Trade Registry and Company Trade Names

Trade Registries shall be centralized and a Trade Registry Database that will be used as an electronic information bank shall be founded by the Ministry of Industry and Commerce and Turkish Union of Chambers and Commodity Exchange.

Furthermore, according to the TCC, Government and the related Chamber shall be held jointly and severally liable against the errors on the Trade Registry and for the compensation arising from the said error.

There is also an amendment concerning the tax office application for starting of work during the establishment procedures. Under the TCC, sending the copies of the application documents to the related tax Office for Corporate Tax payers will become obligatory for the Trade Registry officials. Thus, the obligation of notification regarding starting of work with the tax office shall be deemed as completed.

Regarding trade names, they will be protected as equally as the names under the Copyright Law such as Industrial property rights.

Web Site

Capital companies that are subject to independent auditing will be required to establish an Internet site within 3 months of their registration at the trade registry and to reserve a part of this site for publishing the announcements that the company is legally required to make.

Prohibition to become indebted to the company

It is possible for shareholders to be indebted to the company in the existence of certain conditions.

Indebtedness of shareholders has been made possible provided that they do not have any debts that are due, which arise from capital subscription, and the total of profits of the company together with the free reserves must be at a level sufficient to compensate the previous year's losses.

General Assembly

General Assembly can be convened by way of using the benefit of the online technologies in accordance with the New Turkish Commercial Code. Procedures regarding the online general assembly are determined with a regulation. The Communique regarding On-line General Assembly conventions of Joint Stock Companies is published on the Official Gazette dated August 28, 2012 .
In accordance with the Communique, Joint Stock Companies will be able to held on-line general assembly.

Group of Companies

According to the TCC, the concept of "corporate group" is introduced for the first time. Companies under a common control are considered as part of a corporate group. Control is defined as majority shareholding or majority voting rights. Also ability to influence the management and bilateral control agreements constitute control rights.

The parent company may not use its domination in such manner to cause damages to the affiliated company. Otherwise the shareholders of affiliated company may claim and demand indemnification of resulting damages and losses from the parent company. If there are such losses under the affiliated company, these losses shall be compensated by the parent company until 01.07.2014

Squeeze –out

If and when the parent company directly or indirectly owns and holds at least 90% of capital shares and voting rights in a capital company, and:

- the minority is preventing the operation of the company, or
- is acting and behaving contrary to the good faith and honesty rules, or
- is distinguishably causing problems in the company, or
- is acting and behaving recklessly and heedlessly,

then; the parent company may purchase and take over capital shares of the minority (squeeze out).

Independent Auditor

Under the TCC the companies are not obliged to have an internal auditor as a statutory organ. Companies to be subject to independent auditing are determined by the Cabinet of Ministers. Independent auditing involves the inspection of whether compliance with the Turkish Accounting Standards, Law and provisions of the articles of association regarding the financial statements is ensured. Financial statements and annual activity report of the Board of Directors that are subject to auditing but failed to be audited are considered to be non-existent. An auditor is appointed by the Company General Assembly while the group auditor is appointed by the general assembly of the parent company. The requirement to appoint auditor is in force after January 2013 in accordance with the implementation of the new Turkish Commercial Code.

Other than Cabinet of Ministers' decision, an amendment has been published regarding the auditing and according to this amendment; Joint Stock Companies which are not in the scope of the Council of Ministers' decision will be subject to auditing as well. Financial statements and annual activity report of the Board of Directors that are subject to auditing but failed to be audited are considered to be non-existent.

This new amendment which extends the scope of the auditing companies is not applied to the limited liability companies.

Independent Audit Requirement under the New Commercial Code

In accordance with the New Turkish Commercial Code, the below companies are be subject to independent audit starting from 2013.

Total Assets: minimum TRY150 million

Net Sales: minimum TRY200 million

Employee number: minimum 500

If companies exceed the abovementioned limits of at least two criteria among three criteria in two successive fiscal periods, they shall be subject to independent audit. Companies subject to independent audit shall be excluded from the scope of independent audit as of the following period only if they remain below the limits of at least two of these criteria at the rate of twenty per cent or more.

Companies operating in specific fields which are specified on the lists annexed to the decision are also subject to independent audit without considering the abovementioned general criterion. The attached lists consist of firms operating in regulated markets such as Energy Market, Electricity Market, Petroleum Market, Insurance, CMB, BRSA etc.

New Code states that auditing activities shall be done according to the Turkish Accounting Standards complying with the International Financial Reporting Standards. Today, with the progress of the international financial market and increased economic relationships between countries, corporations have a greater need to have transparent and illuminating audit reports and therefore, the independent auditing obligation has been enacted to satisfy that need.

5 Corporate Taxation

New Corporate Tax Law No: 5520 has been enacted on 21 June 2006. In this context, the previous Corporate Tax Law No: 5422 dated 03 June 1949 and its annexes and amendments have been abolished.

New Corporate Tax Law has made some important amendments in the current applications and also brought some new concepts into the tax legislation. With the new Corporate Tax Law, Turkish corporate tax legislation has especially more clear, objective and harmonized provisions concerning to "thin capitalization" and "transfer pricing" in line with the international literature. On the other hand, Corporate Tax Law No: 5520 has brought some new concepts into Turkish tax legislation such as "Controlled Foreign Corporation", "Tax Havens".

5.1 Taxes on Corporate Income

Companies Subject to Tax

The following entities are subject to taxes on income levied under the Corporate Tax Law, No. 5520 of June 21st 2006,

(i) Companies with Share Capital: Joint stock companies, limited liability companies and limited companies with shares which are founded under the Turkish Commercial Code and similar foreign companies. Funds which are subject to regulation and supervision of Capital Markets Board and similar foreign Funds are also included here.

(ii) Co-operative Companies: Co-operatives founded under Co-operatives Law No: 1163 or co-operatives founded under its special laws and similar foreign co-operatives.

A
B
C
D

(iii) State Economic Enterprises: Commercial, industrial and agricultural organizations outside of (i) and (ii) above, which have continuous business activity and owned by or affiliated to central and local administrations, municipalities, and other public organizations,

(iv) Commercial, industrial and agricultural organizations outside of (i) and (ii) above owned by or affiliated to foreign states, foreign state administrations and organizations are also treated as state economic enterprises.

(v) Economic entities owned by foundations and associations: commercial, industrial and agricultural organizations outside of (i) and (ii) above, which have continuous business activity and owned by or affiliated to foundations or associations and similar foreign enterprises are economic entities run by foundations or associations. Unions are treated as association and congregations are treated as foundation.

(vi) Joint Ventures: These are established between entities subject to corporation tax and individuals to render work with the objective of sharing profits under the joint responsibility. Corporate tax liability of joint ventures is subject to election by its partners and therefore the joint ventures are considered as partnerships (i.e. partners are liable to tax) unless the partners made such an election so that the joint venture is treated as if it is a company for corporate tax purposes.

State economic enterprises and economic entities run by foundations and associations, whether or not they have a) legal personality, b) independent accounting systems, or c) share capital or d) own business places and regardless of whether they are formed for the purposes of profit, are subject to taxes on income.

Territoriality

Those taxpayers whose legal or business centers are in Turkey, are subject to taxes on their worldwide income. If both of the legal and business centers are not in Turkey, then the company is qualified as non-resident and is subject to tax only on income generated within Turkey. The legal centre is shown in the Articles of Association and the business centre is the place where business activities are concentrated.

Taxable Income

Taxable income is defined as the difference between the net worth at the end of the year and the net worth at the end of the preceding year, with certain adjustments, mainly to eliminate capital items and to recognize special statutory allowances and disallowances. Turkish companies must compute their taxable income by starting with the balance sheet income included in their annual statements (so called commercial balance sheet) and then make the adjustments required by the tax laws. Non-deductible expenses are added, whilst the tax exempt income and losses carried forward are deducted.

In the preparation of financial statements, Turkish commercial law permits wider latitude in the valuation of assets, and in the determination of accruals, reserves and liabilities than those which are allowed by the tax laws.

Inflation accounting has become available in determination of taxable profits, as from January 1, 2004, if (i) accumulated inflation rate during the last 3 years (including the current year) is more than 100%, Council of Ministers is authorized to reduce this rate to 35% or to increase it to the legal rate and, (ii) the inflation rate of the current year is higher than 10%. Council of Ministers is authorized to increase this rate to 25% or to reduce it to the legal rate. Inflation accounting for tax purposes is designed more or less in a similar manner of IAS 29 under which, in principle, non-monetary items (such as inventory, fixed assets, paid-in capital, etc.) are adjusted for inflation. Monetary gain or loss arising from the inflation accounting is evaluated as taxable income. On the other hand, since the conditions stated above were not satisfied for the year 2005 and subsequent years, inflation accounting was just applied for the year 2004.

Upon the introduction of the inflation accounting, possibility of revaluation of fixed assets and making use of LIFO as inventory valuation method have been abolished also as from January 1, 2004.

5.2 Allowable Deductions

The net business income is determined by deducting expenses relating to the operating of the business from the gross income realized by the business. The tax law first provides that all general expenses incurred with the purpose of generating and maintaining commercial income are tax deductible. Then the law lists all other tax-deductible expenses. Non-deductible expenses are also separately determined.

- Charges to Turkish companies for management expenses by a parent or sister corporation are tax deductible as long as they comply with Turkish transfer pricing regulations. (Please refer to section 7 for details information).
- Taxes imposed on goods such as taxes on real estate, stamp tax, registration duties and municipal fees, are deductible.
- Payments of royalties for the use of patents, copyrights, know-how and trademarks are deductible.
- A specific bad debt reserve is allowed where:
  - (a) The dispute on the receivable is under review by the Courts, or
  - (b) Miscellaneous receivables which have not been paid after a formal notarized or written request to pay,
  - (c) The Banking Law and related regulations have special reserve requirements for non-performing loans.
- Expenses incurred for business entertainment are deductible on condition that bills, which state the purpose and the names of the guests, support them.
- Travel expenses (including meals and lodging) are deductible if they are incurred for business purposes and are reasonable as compared with the importance of business. By Budget Law each year per diem allowances are set out for government employees at each wage level. Payments by an employer to an employee in excess of the amount paid to government officials earning the same salary levels are subject to taxation as remuneration. However, if an employer pays actual meal and lodging expenses, based on receipts issued by the third parties, such payments are not taxable.
- Donations to government offices, municipalities, villages, associations that pursue the public interest and foundations under the Civil Code with a tax exempt status granted by the Government, and organizations engaged with scientific research and development are deductible up to 5% of taxable income of the relevant year.
- All construction expenses made for the school, health premises, dormitories,

nursery schools, rest homes, rehabilitation centers donated to the establishments stated above, and all kind of donations and gifts made to these corporations for the construction of the mentioned premises or for the continuance of the activities of the existing premises.

- Total amount of the donation made in cash or in kind via Prime Ministry upon are receipt for the natural disasters decided to be helped by Board of Ministers.
- Total amount of sponsorship expenses for amateur sport activities decided by the relevant laws and 50% of sponsorship expenses for the professional sport activities.
- Employee salaries and payment to the chairman, directors and auditors are deductible. Payments may be in the form of allowances, fees, premiums and bonuses. Payments in kind are also tax deductible but are deemed as salary and taxed as such.
- Interest costs; either as a direct charge or as depreciation allowance when capitalized.
- Undocumented expenses up to 0.5% of the gross income realized in foreign currency related to export, construction and maintenance services performed outside of Turkey, and international transportations.
- Fees paid to the Employer's Union are deductible with the condition that monthly fees paid should not exceed the daily total payment of salaries.
- A loss incurred in any financial year can be carried-forward for 5 years against future profits for purposes of corporation tax. It cannot be carried back.
- In addition to the usual deduction of R&D expenses, 100% of R&D costs incurred for eligible projects can be entitled as a deduction from the taxable profits subject to certain conditions. The amount, which is not deducted in the relevant period due to the lack of sufficient taxable profits, can be carried forward to the following accounting periods provided that they are under the scope of Law number 5746 regarding with R&D activities.

Donations and Charities to Green Crescent Societies in Turkey

All of the monetary donations or charities that are made against a receipt to the Green Crescent (which is a non-profit and non-governmental organization that empowers youth and adults with factual information about drugs so they can make informed decisions against different kind of addictions including alcohol, tobacco, drug, gambling etc) in Turkey will be deducted from taxable income on condition that shown on the corporate tax return. The in-kind donations and charities are deductible up to 5% of taxable income of the relevant year.

Deduction of the Venture Capital Fund

The amounts allocated as a venture capital fund will be deducted from taxable income starting from 01.01.2013.

Conditions for the Deduction;

- The amount of funds allocated for the Venture Capital should not exceed 10% of the declared income, and the total amount of the fund should not exceed the 20% of the paid in capital. (Both conditions must be satisfied)
- Having invested to venture capital investment fund or partnership which are established or will be established in Turkey and subject to regulation and supervision of Capital Market Board at the end of the year of funds are allocated
- The amounts of allocated funds should be shown on the relevant year corporate tax return separately to benefit from the deduction

Services provided from Turkey to corporations and individuals who are resident abroad

The income derived from the services rendered to non-residents in Turkey which are solely benefited outside Turkey may be subject to a 50% deduction from corporate tax base. In case there is not enough corporate tax base for the deduction, the amount which is not deducted cannot be carried forward. In the case that there is not a business profit, the deduction will not be applied.

Please see the example of the aforementioned services stated in below;

- Architectural, engineering, design, software, medical reporting, bookkeeping, data storage services and call center services
- Education and health services which are subject to relevant ministry's permission and supervision.

There are also specific conditions to benefit from the exemption.

5.3 Non-allowable Deductions

Disguised Profit Distributions through Transfer Pricing

If a taxpayer enters into transactions regarding sale or purchase of goods and services with related parties, where the prices are not set in accordance with arm's length principle, then related profits are considered to be distributed in a disguised manner through transfer pricing. Such disguised profit distributions through transfer pricing are not accepted as tax deductible for corporate income tax purposes. (Please refer to section 7 for detailed information).

Legal Reserves

Any kind of reserves (including all kinds of reserves computed under the Turkish Commercial Code, Banking Law and special laws concerning corporations or their Articles of Associations) is not deductible.

Cost Allocation

Interest, commissions etc. paid to a parent company or branches outside Turkey for purchases and sales carried out on behalf of a non-resident company in Turkey and amounts allocated to meet the expenses and losses of the parent company and its branches outside Turkey, are not tax deductible with the exceptions of;

- amounts related to the generation and continuation of income in Turkey and allocated in line with the cost allocation keys determined in accordance with the arms length principle, and
- travel expenses incurred by authorized persons sent from foreign countries in connection with the auditing and supervision of a branch in Turkey.

Thin Capital

Interest, foreign exchange losses and other similar expenses related to the borrowings from related parties which are regarded as thin capital are treated as non-deductible expenses for corporate income tax purposes.

The Corporate Tax Law imposes a specific debt/equity ratio of 3:1 for consideration of thin capital. If the borrowing obtained directly or indirectly from shareholders or persons related to shareholders exceed three times the shareholders' equity of the company at any time during the relevant year, the exceeding portion of the borrowing will be treated as thin capital.

If the shareholder (or related party) providing the loan is qualified as a bank or a financial institution which operates in line with its own field of activity, then the 50% of the borrowings obtained from these will be taken into consideration in the calculation of debt/equity ratio - hence the allowable debt/equity ratio will be increased to 6:1.

However, borrowings obtained from the intra-group credit companies which are only financing the relevant group companies cannot be taken into consideration as 50% in the calculation of debt/equity ratio.

Loans mentioned below (but not limited to) will not be qualified as thin capital;

- Loans obtained from the 3rd parties against non-cash guarantees provided by shareholders or the persons related to the shareholders,
- Loans obtained by companies' subsidiaries, shareholders or related persons from the banks and financial institutions or from the stock markets that are transferred wholly or partially to the company with the same term and conditions.

Excluding foreign exchange differences, the interests paid or calculated and other similar expenses over the thin capital (that exceeds the 3:1 debt equity ratio) is treated as dividend distributed to shareholders as of the last day of the accounting period in which thin capital conditions are satisfied.

Financial Expense Restriction

Effective from 01.01.2013, a certain percentage of the financial expenses (i.e. interest, commission) incurred over the borrowings from external sources exceeding the shareholder's equity of a Turkish company may be regarded as disallowable expense. The Council of Ministers is authorized to determine the percentage up to 10% and re-determine the rate per sectors. The credit institutions, financial institutions, leasing, factoring and finance companies are excluded from this application.

5.4 Exclusions from Income

Dividends - domestic participation gains exemption

Dividends received by a Turkish company and venture capital investment fund/ venture capital investment partnerships from a resident corporate taxpayer are not taxed in the hands of the recipient company. The exemption is also available to the non-resident companies to the extent that the dividends are attributable to a Turkish permanent establishment or branch. Dividends received by the companies from founder's shares that give a participation right to the profit of another resident company and from other redeemed shares are exempt from corporate taxation. Capital gains are not covered under this exemption.

Dividends - foreign participation gains exemption

Dividends received from participations outside Turkey are exempt from corporate taxation if certain conditions are valid. These are, generally, among others, (i) the participation rate has to be at least 10%, (ii) the participation should have been held at least for 1 year, and (iii) foreign tax burden is at least 15%, (iv) gain should be transferred to Turkey until the date filing of corporate tax return of the fiscal year in which the relevant gain obtained. Capital gains upon disposal of shares in foreign participations are not covered under this exemption. Under the same conditions, foreign branch profits may also eligible for this exemption.

Capital gains exemption for the sale of the shares of a foreign participation / subsidiary

The capital gains obtained by a resident joint stock company from the sale of the shares of the participations/subsidiaries whose legal and business centres are outside of Turkey (i.e. shares of the foreign subsidiaries) are exempted from the corporate tax if the following conditions are satisfied all together;

- At least 75% of the total assets of the Turkish company, other than cash equivalents, should be composed of participation in foreign subsidiaries shares al least for an uninterrupted period of 1 year as of the date of the gain obtained,
- A Turkish joint stock company must hold at least 10% of shares of these foreign subsidiaries,
- The foreign subsidiary must be a company in the status/nature of a joint stock or a limited liability company,
- The shares of the foreign subsidiary must be held by the resident joint stock company at least for two whole years.

Exemption for the gains obtained through foreign place of business and legal representative

Gains obtained by the companies through the place of business or legal representatives abroad are exempted from the corporate tax with the fulfilment of the certain conditions. These are, generally, among others, (i) gains should be subject to at least 15% tax burden in accordance with the tax legislation of the relevant countries, (ii) gains should be transferred to Turkey until the date of the filing of the corporate tax return of the fiscal year in which the relevant gain obtained.

Export exemption

Profits of non-resident companies which have a place of business or a permanent representative in Turkey which forwards goods purchased in Turkey for the purpose of export, without selling such items in Turkey, are not considered as taxable profits attributable to the place of business or permanent representative.

Exempt Income

The following types of income are exempted from Corporation Tax:

(a) New share issue premiums (Agio), which represent the difference between the nominal and sale values of shares issued by joint-stock companies, are exempt from corporation tax.

(b) Offshore income from construction, repair, maintenance and technical services is exempt from corporation tax.

(c) Portfolio management income by securities investment funds and companies, the profits of real estate investment funds and companies, and venture capital investment funds and companies, and pension funds, and housing financing funds and wealth financing funds, and the portfolio management profits obtained by investment funds or companies which have portfolio based on the gold and precious metals dealing in exchange markets founded in Turkey are exempt from corporation tax.

However, this income, except for pension funds' income, will be subject to a withholding tax at 15% irrespective of whether distributed or not under new Corporate Tax Law. Council of Ministers is authorized to reduce this withholding tax rate to zero or to increase it to 20% and also authority to differentiate within the same limits according to the types of funds or companies and nature & allocation of the assets in their portfolios. In this context; the withholding tax rates are as follows based on

Council of Ministers Decree 2009/14594;

- 0% for investments funds or earnings arising from partnership's portfolio management based upon the gold and and precious metals which are traded in stock market established in Turkey
- 0% for portfolio management income by securities investment funds and companies.
- 0% for profits of housing financing funds and wealth financing funds.
- 0% for profits of real estate investment funds and companies.
- 0% for profits of venture capital investment funds and companies.

(d) 75 % of capital gains arising from the disposal of immovable properties and participation shares, founder's shares, pre-emptive rights and redeemed shares in other companies are exempt from the corporate tax. Major requirements are (i) assets sold should have been held at least for two years; (ii) the exemption is applied in the year in which sale occurred and capital gain benefit from the exemption should be kept in a special reserve account at least for five years (iii) sales revenue should be collected until the end of second calendar year following sale year (iv) exempted amount cannot be transferred to another account (other than paid-up capital) or withdrawn from company within five years and also the company is not liquidated within 5 years.

(e) There are tax-holidays available also under some specific laws related to the business activities maintained in Turkish Free Zones (i.e. the income concerning manufacturing activities in Free Zones is exempted from corporate income tax up to the membership of Turkey to EU, this exemption does not cover the dividend distributed) and in Technology Development Areas as well as the tax holiday available for profits made through operating vessels that are registered as Turkish International Ship Registry Office. Profits arising from providing education and rehabilitation services are exempt from corporate taxation for period of 5 years starting from commencement of such businesses subject to fulfilment of certain conditions.

Investment Incentive Allowance

Investment Incentive Allowance was a mechanism which enabled the taxpayers to deduct some of their eligible investment expenditures against their fiscal profits.

In the absence of any fiscal profits, the carried forward investment allowance was being allowed to be carried forward for utilization against the future fiscal profits without any time limitation.

Article 19 of the Income Tax Code concerning investment incentive allowance has been abolished as of January 1, 2006. However, it is envisaged that the application of investment incentive allowance, with some exceptions, would continue to be applied until the end of 2008 under some circumstances. Alternation has been made in 2010 as the companies might continue utilizing deferred investment allowances as 25% of their fiscal income due to the law numbered 6009, article 5. Finally, in February 2012, constitutional court decided to terminate existing process and by the publish of decision in official journal on 02.18.2012, the companies are able to utilize the whole amount of their investment incentives.

5.5 Corporate Taxation

Computation of Corporate Income Tax

The corporate income tax rate is 20%.

Withholding Tax on Dividends

When dividends are paid out, the company is required to make a withholding from the dividends. The rate of withholding tax is 15%. Dividends paid to a Turkish resident entity (i.e. Turkish holding company) or a Turkish branch of a foreign company is not subject to the withholding tax. A share capital increase by the company using the retained earnings would not be considered as a dividend distribution, so no dividend withholding tax applies.

Advance Profit Distribution

Incorporated, limited and joint stock companies formed in accordance with the Turkish Commercial Code may distribute profit during advance corporate tax quarters as per New Turkish Commercial Code.

In order to distribute advance profits during the year, companies should report profits during first, second and third quarter advance tax periods and take a decision in the general assembly.

In case the advance profit which is distributed during advance corporate tax quarters exceeds the final distributable dividend amount, the exceeding amounts will be settled from the legal reserves, if any. Also, in case the amount of legal reserves is not enough to offset the distributed advance dividend amount, the overpaid amounts will be rendered to the company by shareholders. Companies are obliged to offset the distributed advance profits to the relevant year-end profit before any further dividend distribution.

Withholding Tax on Branch Profits

There would be a withholding tax on the branch profits of non-resident companies upon remittance of such profits to the headquarters. The rate of withholding tax is 15% effective which is applied on the amount after the deduction of corporate income tax from taxable branch profits.

Advanced Corporate Income Tax (ACIT)

All resident and non-resident companies, who earn commercial or professional income and who are obliged to file annual corporate income tax return, are also required to file ACIT return at 20% on the basis of the actual quarterly profits.

ACIT is not a requirement for the multi-year construction works being subject to taxation on the basis of completed project basis.

ACIT paid during the year is offset against the final taxes calculated on the annual corporate income tax return. Any excess payment may be offset against other tax liabilities, and in the absence of such liabilities it is refundable upon the claim within one year.

Tax Returns and Payments

The normal fiscal year-end is December 31st. Where the calendar year is not appropriate because of the nature of business, permission can be obtained from the Ministry of Finance for an alternative fiscal period.

Annual corporate income tax returns must be filed, within the period from 1st to 25th days of the fourth month following the end of the fiscal year and corporate income tax is payable (after the offset of ACIT and other available tax credits) until the end of the month in which the tax return filed.

Advance corporate income tax return must be filed by the 14th of the second month following the quarter end and is payable on the 17th of the same month.

Withholding tax on dividends has to be filed by the 23rd of the month following the dividend payments to shareholders and paid on 26th of the same month.

Controlled Foreign Corporation (CFC)

The profits of foreign companies controlled by tax resident companies or persons by means of the direct or indirect and separate or joint ownership of at least 50% of the capital, dividends or voting rights are subject to corporate income tax in Turkey irrespective of whether profits distributed or not, subject to the fulfilment of the below conditions all together;

- 25% or more of the gross revenue of CFC must be composed of passive income such as interest, dividend, rent, license fee, security sales gain etc,
- The CFC should be subject to a tax burden lower than 10% over its commercial income in its country,
- The CFC's total gross revenue in the relevant year should exceed the foreign currency equivalent of TRY 100,000.

The highest rate owned at any time within the relevant fiscal year should be taken into consideration as "Control Rate". If CFC distributes dividend over its profit, dividends that has already been taxed in Turkey will not be subject to any additional corporate income tax in Turkey. However, profit distributed that has not been previously taxed in Turkey will be subject to corporate tax. Taxes paid by CFC over its related profit in foreign countries will be offset against the corporate income tax calculated over this profit in Turkey.

Foreign Tax Credit

Taxes paid abroad on profits transferred back to Turkey may be credited against corporate income tax, but only to the extent that they do not exceed local corporate income tax calculated thereon.

Statute of Limitations

A tax return is not subject to question or additional assessment after the end of the fifth year following the year the tax liability was incurred. This period cannot be prolonged. However, the time taken for an administrative or court proceeding is not counted in the five years.

Withholding Taxes

In general, the Turkish Taxation System has the following types of withholding taxes applicable to corporations.

Construction or Repair Works, Spread over the Years

Progress payments for the construction and repair works lasting more than one year are subject to 3% withholding . Such construction works is taxed on completed project basis, and the amount of withholding taxes paid on progress payments are deducted from the tax due at the end of the construction.

Payments to Non-resident Entities

The following payments to non-resident companies are subject to withholding tax;

- Progress payments for the construction and repair works lasting more than one calendar year at 3%
- Professional fees at 20%,
- Rentals and royalties at 20%,
- Dividends and interest at 15%,
- Sales proceeds of copyrights, patents, trademarks etc. at 20%.

The rates applicable for payments to non-residents can be seen in Appendix IV in detail.

Payments to Tax Havens

All sorts of payments made to the entities (including business places of resident companies in the relevant countries) that are established or operating in the countries which are announced by the Council of Ministers by taking into consideration whether there is an unfair tax competition or not and the exchange of information, would be subject to withholding tax at a rate of 30% until a new rate is determined by the Council of Ministers irrespective of the fact that;

- The said payments are in the scope of tax or not or,
- The entity that receives the payments is a taxpayer or not.

On the other hand, the Council of Ministers has authority to amend the above mentioned rate within certain limits and might use its authority for each sort of payments or for each line of activities and sectors separately.

Withholding tax will not be applied to principal, interest and dividend payments for the borrowings obtained from foreign financial institutions and also insurance and reinsurance payments.

Withholding taxes over payments made to Controlled Foreign Corporations (CFC) in line with the above regulation can be offset from corporate income tax calculated over CFC's profit included in the tax return in Turkey.

Payments to Resident Companies

The following payments to resident companies are subject to withholding taxes:

- Interest on all types of bonds and bills
- Capital gains derived from the sale of bonds and bills issued on or after 1.1.2006 and from the sale of stocks quoted in Istanbul Stock Exhange (ISE) that are purchased on or after 1.1.2006 and held less than 1 year.
- Interest on bank deposits and Repo income.

Alternate Tax Basis

A non-resident company which does not have commercial income generated from a business in Turkey and pays withholding tax at source may file a corporate income tax return showing gross revenue and expenses and calculating the taxes payable on net income. If the tax computed is less than the tax deducted by withholding, then a claim may be made to have the excess tax refunded. Otherwise, withholding taxes are final.

Independent Audit Requirement under the New Commercial Code

In accordance with the New Turkish Commercial Code, the below companies will be subject to independent audit starting from 2013.

Total Assets: minimum TRY150 million

Net Sales: minimum TRY200 million

Employee number: minimum 500

If Companies exceed the abovementioned limits of at least two criteria among three criteria in two successive fiscal periods, they shall be subject to independent audit. Companies subject to independent audit shall be excluded from the scope of independent audit as of the following period only if they remain below the limits of at least two of these criteria at the rate of twenty per cent or more.

Companies operating in specific fields which are specified on the lists annexed to the decision are also subject to an independent audit without considering the abovementioned general criterion. The attached lists constitutes of firms operating in regulated markets such as Energy Market, Electricity Market, Petroleum Market, Insurance, CMB, BRSA etc.

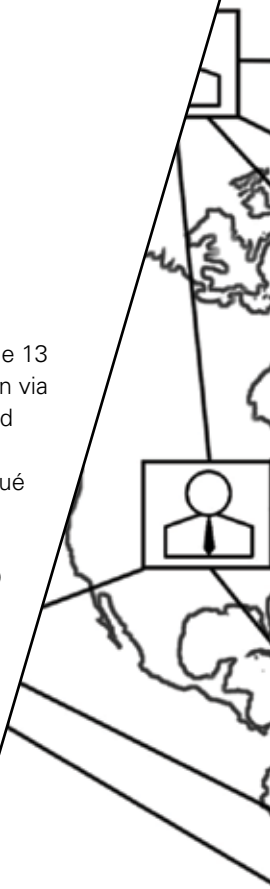
New Code states that auditing activities shall be done according to the Turkish Accounting Standards complying with the International Financial Reporting Standards. Today, with the progress of the international financial market and increased economic relationships between countries, corporations have a greater need to have transparent and illuminating audit reports and therefore, the independent auditing obligation has been enacted to satisfy that need.

5.6 Effects of Law No: 6111 (Tax Amnesty Law) from a Corporate Tax Perspective

Turkey introduced a wide-ranging tax amnesty on 25th February 2011 through the enactment of Law No: 6111 (which is known as Tax Amnesty Law). The application period for Tax Amnesty Law expired in year 2011 but its impact has to be considered for Turkish entities.

Amongst other aspects, the Tax Amnesty Law provided shelter to entities against tax inspections for corporate taxes for years from 2006 to 2009 if the tax payer made a voluntary increase in its tax base and pay the additional taxes. In the case that taxpayers benefit from Tax Amnesty Law from a corporate tax perspective losses, 50% of the unused carried forward tax losses originated within that year cannot be utilized against the future profits of the company (including fiscal year 2010).

6 Transfer Pricing Regulations



In Turkey, transfer pricing provisions have been stated under the Article 13 of Corporate Tax Law with the heading of "disguised profit distribution via transfer pricing". The Transfer Pricing Communiqué No. 1 on disguised profit distribution via Transfer Pricing, dated November 18, 2007 sets details about implementation of the rules. Transfer Pricing Communiqué No. 2 was released as a supplementary document to the first communiqué on April 22, 2008. The transfer pricing regulations in Turkey are created in line with the principles established by the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.

If a taxpayer enters into transactions regarding sale or purchase of goods and services with related parties, where the prices are not set in accordance with arm's length principle, then related profits are considered to be distributed in a disguised manner through transfer pricing. Such disguised profit distributions through transfer pricing are not accepted as tax deductible for corporate income tax purposes.

6.1 Arm's Length Principle

Arm's length principle is defined as setting prices or amounts for the purchase or the sale of the goods or services between the related persons as the prices or amounts would be charged for the same transactions carried out with unrelated parties/ third parties.

The transfer pricing regulations state that taxpayers should select the best suitable transfer pricing methodology for setting the arm's length prices and amounts for the transactions with related persons. The selection of a transfer pricing methodology serves to find the most appropriate method for the nature of the intercompany transactions under consideration. Taxpayers will set the arm's length prices or amounts for their intercompany transactions by choosing one of the following methods stated in the article.

- Comparable uncontrolled price method: This method means that arm's length selling price applied by a taxpayer is determined by comparing with the market price stated for the comparable purchase or sale of the goods or the services between the unrelated parties.

- Cost plus: Arm's length price is calculated / determined by increasing the costs of the relevant goods or services with a reasonable rate of gross profit margin.

- Resale price method: Arm's length price is calculated/determined by deducting a reasonable rate of gross sale profit margin from the price which will be applied for the resale of the relevant goods or services to the unrelated parties,

  If the arm's length price cannot be achieved by using one of the methods mentioned above, taxpayer can choose one of the following transactional profit methods that are defined under Transfer Pricing Communiqué No. 1.

- Profit split method: Arm's length price is determined by allocating the total operating profit or loss attributable to one or more intercompany transactions among the related parties by reference to the functions performed and risks assumed by them.

- Transactional Net Margin Method: Determines an arm's length profitability by examining the net profit margin on the basis of an appropriate base such as costs, sales, assets that a taxpayer realizes from a related party transaction. If it is not possible to establish the arm's length price or amount by using any of these methods, taxpayer can use another method that he will determine as the most appropriate for the nature of his transactions.

The methods determining the arm's length price or value for the related party transactions can also be agreed on with the Ministry of Finance upon the request of the taxpayer. The method determined via such agreement will be certain in the conditions and periods stated in the agreement, not exceeding three years.

The related profit regarded as distributed wholly or partially in a disguised way via transfer pricing is treated either as dividend distributed or amount transferred to the headquarters for the non-resident entities as of the last day of the accounting period in which the conditions specified under the Article 13 of Corporate Tax Law 13 Article occur. Previous taxations will be adjusted for the parties involved. In order to make this adjustment, taxes assessed for the companies distributing the profit in a disguised way should be finalized and paid.

For intra-country group transactions, disguised profit distribution via transfer pricing would be applicable if treasury loss results from the domestic intercompany transactions of the corporate taxpayers. The treasury loss is defined as under declaration or late declaration of all type of taxes as a result of the prices or the amounts which are not in line with the arm's length principle.

6.2 Documentation Requirements

According to government decree and the Transfer Pricing Communiqué No. 1 taxpayers have two different documentation requirements; preparation of transfer pricing form and yearly transfer pricing report.

Also in 2014, a new guidance issued by Capital Markets Board of Turkey (SPK) requires additional information reporting about controlled transactions of listed companies and thus may affect the transfer pricing disclosures by these companies. The communiqué (Communiqué of Corporate Governance) dated January 3, 2014 concerns corporate governance and directs listed companies to submit an additional board decision and an explanatory report regarding certain controlled transactions (i.e., those controlled transactions having a value above certain limits as set forth in the communiqué).

- **Transfer Pricing Form**

  According to the regulations, all taxpayers are obliged to complete a form According to the regulations, all taxpayers are obliged to complete a form called "transfer pricing, controlled foreign company and thin capitalization form" attached to the company's annual corporate tax return. In this form, taxpayers are required to present all intra-group transactions that take place during the year and indicate the selected transfer pricing methods to test the arm's-length nature of the intra-group transactions. Taxpayers are also required to complete the 'controlled foreign company' and 'thin capitalization' sections.

- **Annual Transfer Pricing Report**

  Corporate taxpayers registered with the Large Taxpayer Tax Office are required to document their international and domestic related party transactions in the annual transfer pricing reports. Companies registered with the Large Taxpayer Tax Office are typically the largest companies determined by reference to

their turnover, payable taxes, and asset size and location being in Istanbul. All banks and insurance companies are also among the members of the Large Taxpayer Tax Office regardless of their location and size. Corporate taxpayers who are not registered with Large Taxpayer Tax Office are required to prepare the transfer pricing annual reports including only their international transactions with related parties.

Additionally, Transfer Pricing Communiqué No. 2 requires that all corporate taxpayers should document their transactions with their related entities and/or their branches that operate in Free Trade Zone in Turkey.

Transfer Pricing Communiqué No. 1 sets forth details of the information that needs to be included in the transfer pricing documentation. According to the communiqué, transfer pricing reports should be prepared covering the following information and documents.

- Description of activities of the company, organizational structure, definition of the related parties (i.e., tax id number, addresses, phone number, etc.) and ownership information of these parties,
- All functions are performed and risks taken,
- Pricing lists of the products of the year,
- Details of cost of goods,
- The amount and invoice information about all transactions with related and unrelated parties within the year,
- All agreements signed with the related parties,
- Financial statements of related parties,
- Intra-group pricing policies,
- Intra-group accounting standards and policy differences if they exist,

- Ownership of intangible assets,
- Transfer pricing method selected by the company (comparability analysis, selected comparables whether external or internal),
- Calculations and assumption for reaching the arm's-length price,
- Calculations for reaching the arm's-length range, if applicable.

Corporate taxpayers who do not have international related party transactions and individual taxpayers are not required to prepare a yearly transfer pricing report. However, the above mentioned documents and information should also be submitted if requested by the tax authorities by corporate taxpayers other than those registered at Large Taxpayer Tax Office for their domestic operations performed with related parties and by the payers of income tax for their domestic and foreign operations performed with related parties during a calendar year.

The Government Decree and the General Communiqué state that documentation should be prepared by the tax return submission date, which is 25th of April for normal calendar year, and it should be submitted to the Tax Authority upon request. The decree and general communiqué state that if the transfer pricing documentation is prepared in a foreign language, Turkish translations also have to be submitted to the tax authorities.

6.3 Advance Pricing Agreements (APA)

A taxpayer can agree upon the methods to be used for determining the transfer prices for his intercompany transactions with the Ministry of Finance. The methods that are determined within the terms and conditions of the agreement could be used by the taxpayer for a maximum period of three years.

If the agreement is entered into between one tax authority and a taxpayer, then it is called unilateral APA; and as transfer prices affect related enterprises that are located in other countries, there can be bilateral or multilateral APAs. In this respect, unless local laws and regulations provide guidance for tax authority and taxpayers, the mutual agreement procedure of applicable double tax treaties can be used to conclude bilateral or multilateral APAs.

Since the transfer pricing regulations went into effect on January 1, 2007, Turkish taxpayers have been entitled to enter into APAs with the Ministry of Finance for the determination of methods in relation to setting fees and prices for their transactions with foreign related parties (i.e., non-resident related parties) upon their request.

According to press releases from the Turkish Revenue Administration (TRA) on July 15, 2011 and December 26, 2012, the first three unilateral APAs have been concluded and signed between the TRA and taxpayers and this number has increased recently.

The main purpose of the application of APAs is to prevent potential tax related disputes and controversies in relation to transfer prices applied by taxpayers for their transactions with related parties. Concluding an agreement with the TRA, taxpayers will be protected against potential tax risks and penalties that may be imposed by the tax authorities.

With the first three APAs signed in Turkey, we expect that there would be more unilateral APA applications from now on and this will pave the way for bilateral and multilateral APAs in the future.

7 Indirect Taxation

7.1 Value Added Tax

Taxable Transactions

VAT applies to the following transactions:

- The supply of goods or services in the course of performing commercial, industrial, agricultural, or independent professional activities made in Turkey by a taxable person.
- Goods and services imported into Turkey
- Deliveries and services arising from other activities specifically stated in law.

VAT Taxpayer

A taxable person is any person or legal entity that has VAT liability in Turkey. Any entity that has a fixed place of business or regularly carries out commercial or professional activities in Turkey must register in Turkey.

VAT registration is granted automatically by the tax office when a business registers for corporate income tax purposes.

Group registration: VAT grouping is not permitted under Turkish VAT law. Legal entities that are closely connected must register for VAT individually.

Non-established businesses: A non established business may not register for only VAT. If a Turkish taxable person receives services from an entity

that does not have a fixed place in Turkey, VAT is accounted for using the reverse-charge mechanism.

Reverse charge: The reverse charge applies if certain supplies subject to Turkish VAT are made by a person that is not resident in Turkey or that does not have a permanent establishment or headquarters in Turkey. It is a form of self-assessment for VAT through which the recipient of a supply of services accounts for the tax.

The reverse charge applies to the following services performed by non residents without a fixed place of business in Turkey:

- Services of independent professionals, such as engineering, consulting, data processing, and provision of information
- Transfers of copyrights, patents, licenses, trademarks, know-how, and similar rights
- Import commissions
- Interest payments made to foreign entities other than banks and financial institutions
- Rentals
- Transfer or assignment of the right to use capacity for the transmission, emission, or reception of signals, writings, images, sounds, or information of any nature by wire, radio, optical or other electromagnetic systems
- Other services not specified in this list but utilized in Turkey

VAT rates

In Turkey, the following VAT rates are applied:

- Standard rate: 18%
- Reduced rates: 1% and 8%

The standard VAT rate applies to all supplies of goods or services, unless a specific measure provides for a reduced rate or exemption.

Examples of goods and services taxable at 1%

- Newspapers and magazines
- Some foods and beverages
- Used passenger cars

Financial leasing services (with certain conditions)

Examples of goods and services taxable at 8%

- Some foods and beverages
- Books
- Pharmaceuticals and medical products
- Some construction equipment
- Ready-wear products, garments and textile products
- Admission charges for cinemas, theaters, and operas

VAT Exemptions

Exemptions are classified in two different groups. The term "fully exempt" supplies refers to supplies of goods and services not subject to VAT and recovery or refund of the input VAT is possible (exempt with credit).

"Partially exempt" supplies refer to supply of goods and services not subject to VAT but no right of input tax deduction.

Examples of fully exempt with credit supplies of goods and services are;

- Exports of goods and services
- Services rendered at marines and airports for marine and air conveyances
- Supplies to persons engaged in petroleum exploration
- Supplies of goods to investment certificate holders
- Sales to the Directorate of the Defense Industry
- Sales to diplomats or diplomatic entities based on reciprocity principle
- International transport

Examples of partially exempt supplies of goods and services are;

- Leasing immovable property by an individual
- Financial transactions
- Supplies to certain cultural bodies
- Supplies by and to certain governmental bodies
- Water for agriculture
- The supply of unprocessed gold, foreign exchange money, stocks and bonds, duty stamps, scrap metal, plastic etc.

- Storage services performed at bonded warehouses or temporary storage places
- Delivery of goods or performance of services in free-trade zones

Time of supply or service

Time of supply for goods takes place when they are delivered and for services it takes place when they are performed. However, if the supplier issues an invoice before the time of supply, VAT applies to the extent that the supply is covered by the invoice. A prepayment or deposit does not result in a taxable transaction.

The time of supply for imported goods is either the date of importation, or the date on which the goods leave a duty suspension regime.

Taxable Base

The taxable base of a transaction is generally the total value of the consideration received, not including the VAT itself. The VAT Law deals with the taxable base under four headings, namely the taxable base on deliveries and services, on importation, on international transportation, and special types of taxable base.

In case a consideration does not exist, is unknown or is in a form other than money, the taxable base is the market value. Market value is the average price payable in the market for similar goods and services and is determined with reference to the Tax Procedural Law.

Recovery of input VAT

A taxable person may recover input VAT, which is charged on goods and services received for business purposes and related with taxable or fully exempt transactions.

Input tax includes VAT charged on goods and services supplied in Turkey, VAT paid on imports of goods, and VAT self-assessed on reverse-charge services.

A valid invoice or customs document must accompany to recover input tax.

The right of deduction may be exercised in the tax period in which the purchase documents are entered into the recipient's books of account, but only during the calendar year in which the taxable event takes place.

Non-deductible input tax: Input tax is not recoverable if it is charged on purchases of goods and services that are not used for business purposes and are considered to be non-deductible expenses for corporate tax purposes. In addition, input tax may not be recovered for partially exempt transactions (input VAT associated with passenger cars is recoverable only if they are rented or operated for a usage fee).

Partial exemption: An input tax deduction is granted for taxable supplies and for supplies that are VAT exempt with credit. An input tax deduction is not granted for partially exempt supplies. If a taxable person makes both taxable and partially exempt supplies, it may recover only input tax allocated to supplies that are taxable or fully exempt.

Refunds: If the amount of input VAT recoverable in a period exceeds the amount of output VAT payable in the same period the excess amount is carried forward to following months. Refunds of the excess are available only for the following:

- VAT related to supplies of goods subject to a reduced rate
- VAT related to supplies of goods and services that are exempt with credit

The amount of the VAT refund may be credited against other tax liabilities.

Invoicing

Delivery of goods or performance of services should be invoiced within 7 days. Moreover, recipients of the supplies must retain copies of the invoices.

Foreign-currency invoices: An invoice issued for a domestic sale must be issued in Turkish lira (TRY). The invoice may also show the invoiced amount in a foreign currency if the TRY equivalents are stated. However, an invoice issued for an export sale may be issued in a foreign currency.

VAT returns and payment

Returns are filed on monthly basis and must be submitted by the 24th day of the following month.

Payment in full must be made by the 26th day of the same month and in TRY.

7.2. Special Consumption Tax

Special Consumption Tax is an excise tax and it is imposed on the import, manufacture and first acquisition of a range of goods.

Special Consumption Tax was implemented in August 2002 by abolishing 16 different indirect taxes and funds in order to make the indirect taxation system harmonized. Unlike VAT, which is applied on each delivery, Special Consumption Tax is charged only once. There are mainly 4 different product groups that are subject to Special Consumption Tax at different tax rates.

Scope of Tax

Goods in the Lists attached to the Special Consumption Tax Law are the subject of the tax.

There are mainly 4 different product groups that are subject to special consumption tax at different tax rates;

- List I is related to petroleum products, natural gas, lubricating oil, solvents and derivatives of solvents.
- List II is related to automobiles and other vehicles, motorcycles, planes, helicopters, yachts.
- List III is related to tobacco and tobacco products, alcoholic beverages and cola.
- List IV is related to luxury products (durable white goods, cellular phones, diamonds etc.).

The taxpayers of the Special Consumption Tax

Taxpayers are different according to the lists. They are;

For List I; manufacturers (including refineries) and importers of the petroleum products,

For List II; motor vehicle dealers, importers for special purpose or motor vehicle sellers through auction.

For List III; manufacturers, importers or sellers through auction of tobacco, alcoholic beverages and cola.

For List IV; manufacturers, importers or sellers through auction of luxury products.

9 Income Tax on Individuals

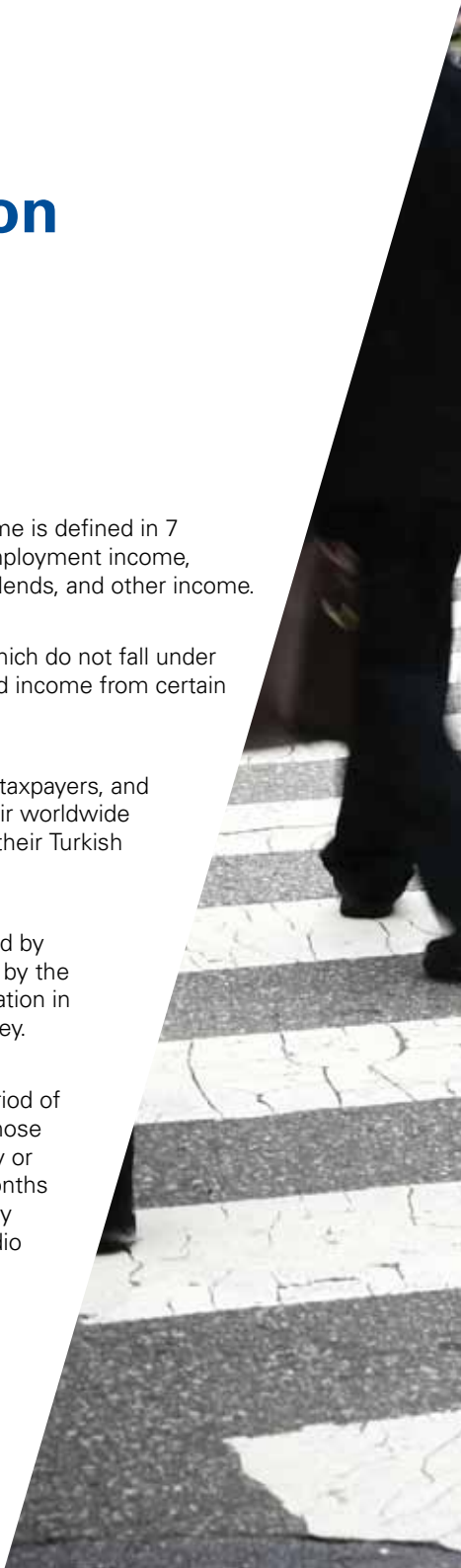
Income tax is unitary in nature. The source of income is defined in 7 categories: Business profits, agricultural profits, employment income, professional income, rental income, interest & dividends, and other income.

The category of "other income" covers income, which do not fall under the first 6 categories, mainly being capital gains and income from certain incidental transactions.

There are two main types of tax statutes: resident taxpayers, and non-resident taxpayers. Residents are taxed on their worldwide income, whereas, non-residents are taxed only on their Turkish source income.

Turkish citizens, who work abroad, even if employed by companies with headquarters situated in Turkey or by the Turkish Government, are not subject to Turkish taxation in respect of income obtained and taxed outside Turkey.

A foreigner who spends less than a continuous period of six months in Turkey during a calendar year and whose centre of vital interest is not concentrated in Turkey or who, although stays in Turkey for more than six months but has come to Turkey for a specific and temporary assignment (e.g. businessman, expert, press or radio correspondent), is regarded as non-resident and is taxed accordingly.



8.1 Taxable Income

Gross Income

Taxable gross income includes amounts received from the following sources:

- Income from commercial activities,
- Income from agriculture,
- Income from professional services,
- Income from employment services (wages and salaries),
- Income from movable properties (interest and dividends),
- Income from immovable assets and rights (rental income), and
- Other income and earnings (capital gains, etc.).

With some exceptions, income (or losses) from the above categories is combined.

Exclusions and Exemptions

Certain amounts received by individuals need not to be reported for tax purposes. The followings are specifically exempt:

- Annual rental income up to TRY3.300,
- Employment income wholly consisting of salaries derived from one resident employer, provided that all payments are taxed by withholding mechanism on payroll,
- Interest income which has been subjected to withholding tax at source,
- Half of dividend income received by a resident taxpayer from a resident corporation,
- Income derived by authors, sculptors, painters and composers, etc. and their heirs from copyrights and patent rights,
- Pensions and other social security compensations received up to certain levels,
- Reimbursement (made by the employer) of travelling expenses incurred by employees for business purposes,

- Salaries paid in foreign currency by the representative/liaison offices of foreign companies,
- Retirement and termination indemnity payments (maximum ;TRY3,438.22for the first half of 2014)
- Capital gains from the disposal of Turkish corporation shares held for more than two years,
- Capital gains from the disposal of real estates retained by individuals for more than five years.

Deductions and Allowances

Turkish income tax law provides various deductions and allowances for each category of income. Some important deductions and allowances are explained below:

- Business expense deductions set out for companies are also applicable to individuals, to the extent that they relate to an individual's business income, and
- Compulsory pension contributions and social security premiums,

The following benefits are not taxable from the employee standpoint:

- Insurance premiums paid for the taxpayer and his family for death, sickness, disability, birth and education are deductible from the taxable salary. However, the insurance company should be established in Turkey and monthly insurance premiums should not exceed those established by law,
- If meals are provided at the business premises, total payment made by the employer is tax exempted. Otherwise, only certain amount is exempted.
- Transportation provided by the employer,
- Accommodation provided by the employer, to the employees working in mining, factory and those whom the employee should provide accommodation in accordance with the special legislation. (which should be owned by the employer and not be more than 100 square meters),
- Children allowance up to the amount received by a government employee, for maximum two children,

- Indemnity and assistance payments for reasons of death, disability, illness and unemployment,
- Assistance paid to employees because of marriage and birth, limited to two months' salary.

  - Donations to government offices, municipalities, villages, associations in the public interest and foundations under the Civil Code of up to 5 % of taxable income, and
  - 50% of the life insurance premiums paid to the insurance companies established in Turkey and 100% of the premiums for death, sickness, disability, motherhood, etc. up to 15% of declared income and with a maximum of the minimum wage/salary for each member of the family. This deduction is not applicable for non - residents.
  - Annual expenses incurred on education and health up to 10% of the income declared on the annual tax return are deductible,
  - Effective from January 1, 2007, minimum subsistence allowance entered into force. Accordingly, it is adopted that an amount is calculated by multiplying the rate applied to the first income tax bracket of the income tax tariff with 50% for the taxpayer, 10% for his spouse not working or not having any income, 7,5% for the first two children and 5% for each of the children remaining, of the annual gross amount of the minimum wage (amount valid at the beginning of the calendar year when the wage is earned, for the employees who are above 16 and working in the industrial sector); then this amount can be deducted from the income tax to be calculated over the wage.
  - Rental income earners may either itemize expenses related to immovable or may deduct a lump sum of 25 % of gross rentals expenses,
  - In calculation of taxable capital gains, the cost of assets whose disposal led to capital gains may be indexed to the inflation only if the inflation during the holding period is in excess of 10%. Non-residents are allowed to eliminate foreign exchange gains when calculating the taxable gains from disposal of Turkish securities.

8.2 Income Tax Rates

Income tax rates applicable for year 2014 are as follows:

INCOME SCALES (TRY) (NON-EMPLOYMENT INCOME)	RATE (%)
Up to 11.000	15
11.001-27.000	20
27.001-60.000	27
60.001 and upwards	35

INCOME SCALES (TRY) (EMPLOYMENT INCOME)	RATE (%)
Up to 11.000	15
11.001-27.000	20
27.001-97.000	27
97.001 and upwards	35

Tax Credit

After tax has been calculated, credits against tax payable are allowed for;

- Tax withheld at source on certain income, and
- Foreign income tax that is limited to the amount of Turkish tax applicable to foreign income provided that the primary taxing right belongs to Turkey and certain conditions are satisfied.

Tax Credit on Dividends

Resident taxpayers have to include 1/2 of gross dividends received from a resident company in their taxable income. Withholding tax paid at source, however, is wholly creditable against tax calculated on the return.

Tax Returns, Filing, Payments

Tax returns must be filed by 25th March in the following year. Income tax is payable in two equal installments in March and July.

Non-residents are taxable on all earnings of income collected or realized in Turkey unless exempted. The filing requirements and taxation systems on non-residents in general, are as follows:

- Income from commercial and agricultural activities must be included in the tax return,
- Salaries, income from services and proceeds of sale of rights, interest, rent and dividends are subject to withholding tax. No further filing is required, and
- The proceeds of sale of real estate and income from movables that have not been subjected to withholding tax must be declared on individual declarations.

9 Labour

9.1 Labour Legislation

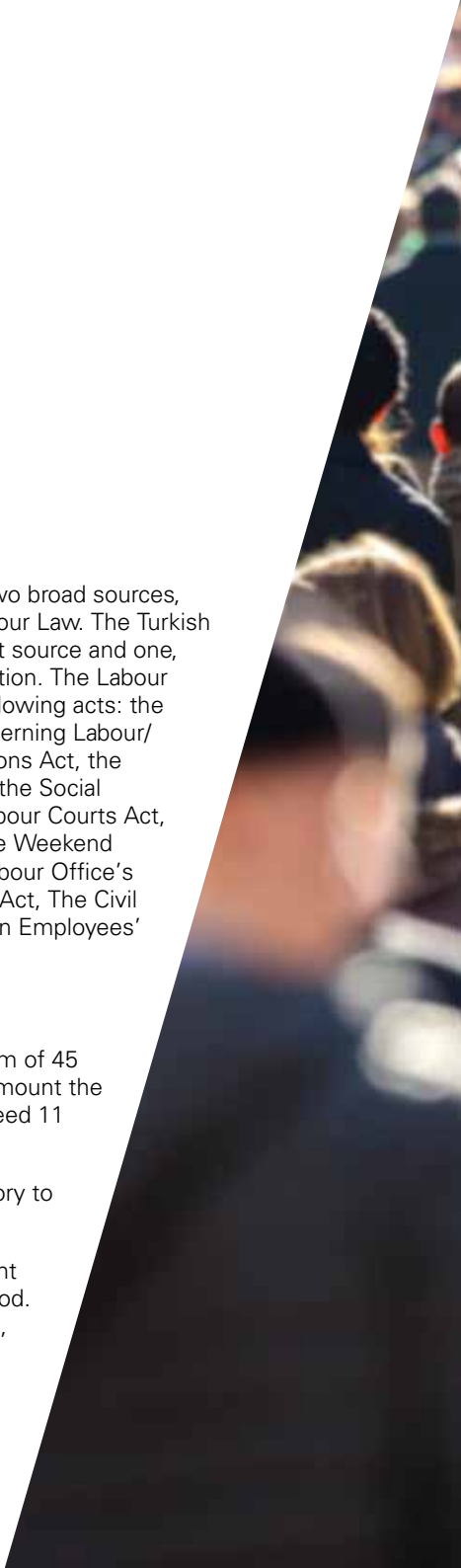
Turkish Labour Law practices derive mainly from two broad sources, namely the "official" and "private" sources of Labour Law. The Turkish Constitution of 1982 stands as the most prominent source and one, which takes precedence over other areas of legislation. The Labour Legislation in Turkey consists, at present, of the following acts: the Labour Act, the Maritime Labour Act, the Act Concerning Labour/ Management Relations in the Press, the Trade Unions Act, the Collective agreements, Strikes and Lock-Outs Act, the Social Insurance & Unemployment Insurance Act, the Labour Courts Act, the National Holiday and General Vacations Act, the Weekend Holiday Act, the Employment Services Act, The Labour Office's Act, the Apprentice, Artisan and Master Workmen Act, The Civil Servants' Trade Unions Act, Employment of Foreign Employees' Act.

Weekly Working Hours and Vacations

In general the working week consists of a maximum of 45 hours. Total working hours may be divided freely amount the working days; however, working hours cannot exceed 11 hours in any day.

Under Weekend Holiday Act (No: 394), it is obligatory to hold a holiday one day in a week.

Employees are entitled to use minimum subsequent 24 hours weekend holiday in a 7 days working period. Nevertheless, on condition of obtaining permission, it is possible to keep the workplace open 7 days a week. For example, large department stores can hold their workplaces open without holding a weekend holiday.



Under the National Holiday and General Vacations Act, the official holidays are the following:

* January 1st, New Year's Day.
* April 23rd National Sovereignty and Children's Day, 1 day.
* May 1st, Labor and Solidarity Day
* May 19th, Youth and Sports Day, 1 day.
* August 30th Victory Day, 1 day.
* October 29th the Republic Day, starts at 13.00 pm. on October 28 and continues on October 29.
* Ramadan Holidays, 3.5 days, the dates vary, starts at 13:00 pm on the day before the religious day
* Offering Holidays 4.5 days, the dates vary, starts at 13:00 pm on the day before the religious day

Overtime Work

The overtime work is defined as the working hours, which exceeds 45 hours in a week. The days on which overtime work is done cannot exceed 270 hours a year. Hourly wages for overtime is 50 % more than that for ordinary working hours. When overtime work is undertaken in the weekend holiday or on official holidays, the employee is entitled to an additional full day working wage. The consent of the worker is necessary for overtime work.

Vacation Pay

Workers who have been employed more than one year starting from the day he is entered to the place of work and including the period of probation are entitled to an annual paid vacation. The duration of the legal annual paid vacations are as follows:

* 14 working days per year for service period from 1 year to 5 years,
* 20 working days per year for service period over 5 years but less than 15 years,
* 26 working days per year for service period over 15 years.

Employment Contracts

Work, which continues for maximum 30 workdays on account of its nature, is called temporary work, and work that lasts longer is called permanent work. In

case of temporary work, a large number of provisions of the Labor Code are not applied.

Employment contracts that have duration of one year or longer should be concluded in written form. It is not necessary to execute these at the office of the notary public, and employment contracts are exempt from all taxes, duties and charges. Nevertheless, should the notary public certify the contract; a fee must be paid to it. In the case that the contract is not in written form (for jobs with a duration of less than one year), the employer is responsible for giving the worker a signed document specifying the general and special conditions of the job.

Work on Call Basis

"Work on call basis" is a newly defined part time employment agreement, where the employer requests from the employee to perform a specific work deemed necessary and the terms of such agreement should be drawn as a part time employment contract. In such a case, if not otherwise stated in the employment contract, the working hours are accepted as 20 hours in a week and at least 4 hours in a day. The call should be made at least 4 days before the starting date of the work.

Compensating Work

Employer has the right to request for compensating work within two months if the work is stopped due to the compulsory reasons or if the employees have holidays before and after the official and general holidays or work less than ordinary working hours or if a vacation right is given to the employee at his own request. Compensating work cannot be more than three hours in a day and cannot also exceed maximum working hours.

Termination of the Contract

When employment contracts for a definite period of time terminate on the date stipulated in the contract, no further financial responsibilities fall on the parties. In case of permanent employment contracts for an indefinite period of time, matters pertaining to the annulment of the contract and the rights ensuing from this annulment can be summarized as follows:

Notice Pay

Prior to the annulment of permanent employment contracts for an indefinite period of time, notice should be given to the other party. Thus employment contract will be considered as annulled in:

* 2 weeks from the date of notification for employment of 0-6 months,
* 4 weeks from the date of notification for employment of 6 months-1.5 years,
* 6 weeks from the date of notification for employment of 1.5 years-3 years, and
* 8 weeks from the date of notification for employment of exceeding 3 years.

These intervals, so called the period of notice, may be extended, but not curtailed, through contracts.

The employer may cancel the employment contract by paying the employee his/her wage for this period in advance. Should the employee be dismissed for affiliation or making a complaint to a trade union, the wages mentioned are paid in 3-fold.

Severance Pay

The obligation to pay the worker a severance pay arises in the case the permanent employment contracts for an indefinite period of time are cancelled:

* by the employer for reasons other than those stipulated in Article 25-II (Unethical behaviours of the employee) of the Labour Code,
* by the worker in conformity with Article 24 of the Labour Code,
* on account of obligatory military service,
* a woman on her own volition terminates the service contract within one year from the date of her marriage, or
* the termination of the contract with the death of the employee.

Severance pay is assessed according to the last wage received and number of the years worked for the employer. Such payments are calculated at a minimum 30 days' wage per year of employment at the rate of pay of which maximum amount is announced by the government applicable at the date of retirement or termination. In calculating the wage that will form the basis of the severance pay, any benefits other than wages that were given to the worker during the last year under various names and all privileges that accrue from the contract and can be measured in money will be taken into consideration.

Presently, the maximum severance pay for each year of employment is TRY 3,438,283.438,22 (for the period 01.01.2014 - 31.12.06.2014).

Collective Layoffs

Collective dismissal of the workers from a workplace is defined under Article 29 of the Turkish Labour Law (No: 4857). Accordingly, if the number of the employees dismissed in one month period is within the below mentioned ranges, then this should be deemed as "collective dismissal" and subject to special provisions:

* between 20 and 100, at least 10 worker
* between 101 and 300, at least 10 % of the workers
* 301 and more, at least 30 workers.

In case of the above, the employer shall provide the union shop-stewards, the relevant regional directorate of labour and the Public Employment Office with written information at least 30 days prior to the intended lay-off which shall also include the reason for the contemplated layoff, the number and groups to be affected by the lay-off as well as the length of time the procedure of terminations.

Furthermore, workers who have been dismissed by means of compliance with the periods of notice, or those that cancel the service contract on account of the emergence of force majeure conditions that necessitate the stopping of work at the workplace where the worker is employed for a period exceeding one week cannot be replaced by other workers within the 6 months following the date of dismissal or resignation.

The employer who wishes to reemploy workers for work of same nature during this period publishes the situation through suitable means, and notifies the former workers of the fact through the notary public. Workers who do not apply to the workplace within 15 days forfeit this right.

9.2 Labour Costs

Wage Regulation

There is no ceiling to the wages that can be given. On the other hand, wages cannot be below the minimum wage. The minimum conditions concerning wages have been specified in the Labour Code.

However, the restrictions stipulated by the law may be altered in favour of the worker. The representatives of the government, workers and employers determine the minimum wages to be given in the agricultural and industrial sectors latest every two years. In recent years the minimum wage has been determined before the two-year period was over.

Monthly minimum wage applicable for the period of *01.01.2014 - 30.06.2014 and 01.07.2014 - 31.12.2014* is determined respectively as TRY1.071 and TRY1.134 in gross terms. It is forbidden to employ workers at wages below this minimum. The employer is obliged to pay or to advance to all workers using their annual vacation the wages for the vacation period before the worker starts his/her vacation. Wages for the weekend holidays, national holidays and general holidays that coincide with the annual paid vacation period are paid separately.

Bonuses and Other Extra Payments

There are no legal obligations in this respect. They are determined totally by the own accord of the parties. Should a certain sum be given as a monthly wage or bonus, there will be no tax advantages.

9.3 Social Insurance - Health Insurance

Social Insurance

All workers and functionaries are considered as insured from the moment they start working. Prior to commencement of work, the company must be registered with the local labour office as an employer, and must register itself and each employee with the local social security office. The company has the responsibility for registering any employee subsequently hired within the month of his engagement.

Social insurance covers industrial accidents, occupational diseases, illness, maternity, disablement and death.

In the case the worker suffers an industrial accident in connection with his job at the work place or in another location or contracts an occupational disease, he/ she receives assistance for treatment, is paid wages for the periods he/she is unable to work, and when necessary he/she is provided with artificial devices and appliances.

This insurance branch is applied in general illness, accident and disablement cases other than industrial accidents and occupational diseases. For this purpose a physician, hospitalization, medication and treatment give the worker assistance for examination.

The spouse, children and parents of the worker also benefit from the sickness insurance.

The hospital treatments of the insured persons are carried out at the Social Security hospitals established for this purpose.

Maternity insurance provides for the extension of a certain and necessary assistance to the insured women and the non-insured wives of insured men in case of pregnancy and childbirth.

Social Insurance Premiums

Social security premiums are compulsory in respect of all persons earning salaries and wages.

Social insurance premiums are calculated on the basis of the monthly wages and are paid jointly by the worker and the employer at the following rates:

BRANCHES	EMPLOYEE (%)	EMPLOYER (%)	TOTAL (%)
Short Term Social Security Branches including occupational accidents and diseases (varies according to the job)	-	1 – 6,5	1 – 6,5
Disability, Old Age, Death	9	11	20
General Health Insurance	5	7.5	12.5
Total Minimum	**14**	**19.5**	**33.5**
Total Maximum	**14**	**25**	**39**
Unemployment insurance	1	2	3

The above rates are applied to the gross total of salaries, wages and bonuses up to a current maximum monthly of TRY 6.6.961,50 and TRY 7.371,00 respectively for the period of 01.01.2014-30.06.2014 and period of 01.07.2014-31.12.2014.

The premiums are paid each month to the Social Insurance Institution at the place where the worker is employed prior to the 30th day of the following month.

In calculating the income withholding tax on the wages by the employer, the employee contribution (e.g. 15%) is deducted from the withholding tax base.

Health Insurance

As explained above, social insurance also includes health insurance. Furthermore, social insurance is compulsory. Individuals or enterprises, which wish to do so, cannot be released from the obligation of social insurance on the grounds that they have subscribed to a private health insurance scheme.

Social Security and General Health Law, numbered 5510, will be implemented after 01.01.2012. Accordingly, anyone resident in Turkey will be covered by the General Health Insurance according to the conditions of the 60th article of the Social Security and General Health Law.

Effective January 1, 2012 this law applies to foreigners who have been resident in Turkey more than 1 year.

The foreigners are required to apply to Social Security Institution within the one month after the completion of one year residence without interruption in Turkey. Otherwise, according to mentioned law article 102; these foreigners will be charged with interest applied by the Social Security Institution.

Foreigners entitled to social security in their home countries are not covered by the General Health Insurance in Turkey.

In Turkey many employers subscribe to private health insurance schemes for their employees in addition to the social insurance. They can, in this manner, ensure that their employees are examined and treated in better hospitals. However, a private health insurance is not obligatory. There are many insurance companies that offer health insurance schemes.

9.4 Rules Applicable to Expatriates

A foreign individual sent by a foreign company established abroad to carry out business on its behalf in Turkey who has notified the Department of Social Security that he is insured abroad will not be subject to Social Security deductions in Turkey.

International Agreements

Turkey has agreements with Germany, Austria, Belgium, Denmark, Sweden, Libya, Norway, UK, Switzerland, Netherlands, France, T.R.N. Cyprus, Azerbaijan, Romania, Albania, Bosnia Herzegovina, Czech Republic, Georgia, Canada, Quebec and Macedonia, Luxembourg, Bulgaria, Italy, Portugal and Spain. In case of individuals who are nationals of one of the above countries, which have social security tantalization agreements, the provisions of the above agreements have to be considered to determine their social security status in Turkey. Except in the cases referred to above, a foreigner employed by a Turkish company is liable for full Social Security deductions as is the case for a Turkish national.

9.5 Collective Agreements - Trade Union Rights

Matters pertaining to collective agreements, strikes and lockouts have been regulated by Act Number 2822 dated 5.5.1983.

Collective Agreements

According to the law, collective agreements are agreements reached between the trade union and the employers' association or the non-affiliated employer for drawing up a service contract and regulating its content, termination and relevant matters.

Collective agreements can also contain provisions regulating the mutual rights and obligations of the parties, the implementation and supervision of the agreement and the methods to be applied for the settlement of the disputes.

Collective agreements have to be made in writing and can have duration of minimum one year and maximum 3 years. This period cannot be shortened or extended after the agreement has been signed.

The procedure for contracting a collective agreement has been stipulated by the law. This consists of, in the stated order, determining the unions that will make the agreement and obtaining the certificate of authorization for making an agreement, calling the other party to collective negotiations within 15 days from the date of receipt of certificate of authorization, specifying the venue, date and hour of the collective negotiations within 6 workdays following the forwarding of the call to the other party, carrying out the collective negotiations, and finally signing the agreement.

Strikes

In cases when the dispute in the collective negotiations cannot be settled, within the 6 days starting after 6 days have elapsed from the notification of the above mentioned document, a decision can be taken to strike. Strikes undertaken before the legal periods have elapsed are those for political purposes, general strikes and sympathy strikes that are illegal.

The cases of occupation of the workplace, slow-downs, decreasing efficiency and other types of job actions are subject to the same sanctions as illegal strikes. A strike or lockout that is in the nature of endangering public health or national security can be postponed for 60 days by the Council of Ministers.

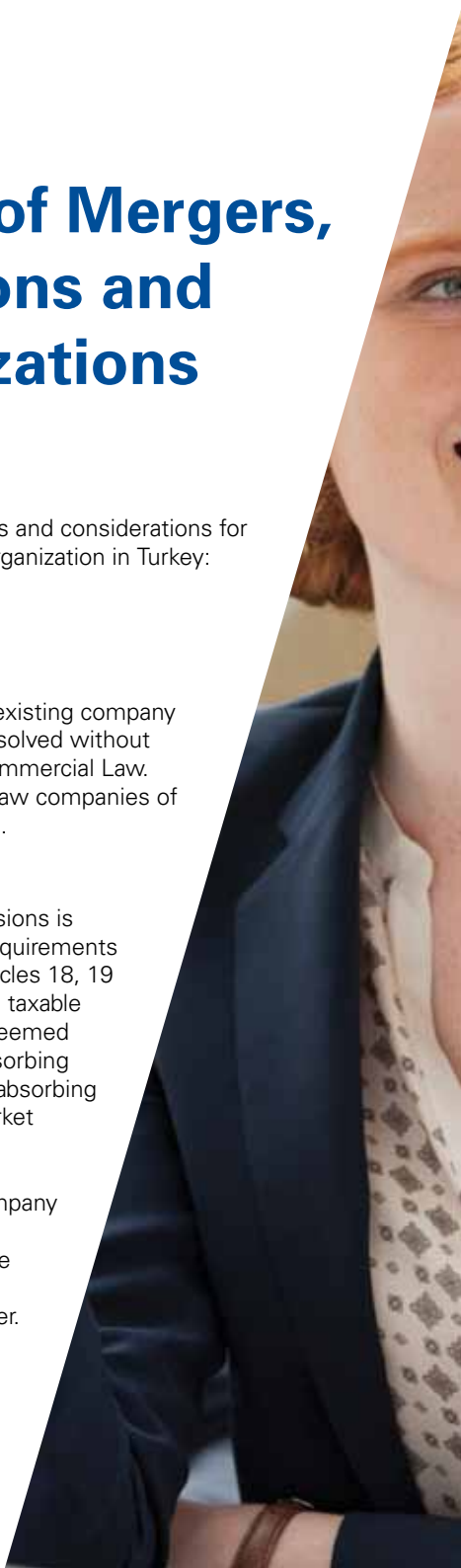
Lockouts

The employers' association or the non-affiliated employer who is a party to the dispute can decide for a lockout within 6 workdays after the decision to strike adopted by the trade union has been notified to him/her.

Special arbitrator

The parties can with mutual consent refer to a special arbitrator at any stage of their dispute regarding collective rights and interests. A provision in the collective agreement to the effect that the matter can be referred to a special arbitrator through the application of one of the parties will be valid. In that case, the arbitrator upon the application of the party settles the dispute.

10 Taxation of Mergers, Acquisitions and Reorganizations



This chapter aims to explain the basic taxation rules and considerations for an investor planning a merger, acquisition or a re-organization in Turkey:

10.1 Mergers

The absorption of one or more companies into an existing company where the absorbed company is deemed to be dissolved without liquidation is defined as a merger under Turkish Commercial Law. Under the recent changes in Turkish Commercial Law companies of different legal type can also participate in a merger..

Taxable Mergers

A merger under the Turkish Commercial Law provisions is considered to be a taxable merger if the specific requirements for a tax free merger (pursuant to provisions of Articles 18, 19 and 20 of Corporate Tax Law) are not satisfied. In a taxable merger, the assets of the absorbed company are deemed to have been transferred at market value to the absorbing company which leads to taxable capital gains. The absorbing company is entitled to book the assets at their market values as their tax basis for depreciation purposes.

In a taxable merger, tax losses of the absorbed company cannot be transferred to the absorbing company. Nevertheless, the absorbed company can offset the existing tax losses against the capital gains arising from the transfer of assets through a taxable merger.

Tax Free Mergers

A merger under the Turkish Commercial Law provisions is recognized as a tax free merger (also referred to as a "takeover") if the following tests are satisfied:

- Both the absorbing and absorbed companies are tax residents
- The absorbing company incorporates all assets and liabilities of the absorbed company into its balance sheet on a carryover basis (i.e. the whole balance sheet is transferred on the basis of book values)
- Other procedural and filing requirements with respect to the merger are satisfied on a timely basis

Under a Tax Free Merger

- The absorbed company is subject to the usual taxation rules for profits up to the date of the merger however the gains arising from the merger itself (and the related transfer of assets) is not calculated and taxed
- The absorbing company assumes all known or unknown tax liabilities of the absorbed company
- Tax losses of the absorbed company can be transferred to the absorbing company, if the absorbing company continues the business activities of the absorbed company minimum for 5 years following the date of the merger. However, tax losses that can be transferred to the absorbing company are limited to the shareholders equity of the absorbed company as of the date of the merger.
- The tax free merger does not affect the tax attributes of the absorbing company
- There are also tax exemptions in other laws (such as VAT, stamp tax, real estate transfer tax) in reference to a tax free merger conducted as per Corporate Tax Law provisions.

10.2 Acquisitions

An investor may execute an acquisition in Turkey either through acquisition of a company (share deal) or acquisition of a certain business (asset deal). The following represents the key considerations when planning an acquisition in Turkey:

Regulations for Acquisition

There are no general government controls or restrictions on investments in assets, business entities or acquisition of other rights in Turkey. However, certain specific business activities require a regulatory approval before change of ownership (e.g., banking and insurance, telecommunications, tobacco and alcoholic beverages, production and distribution of energy, etc.). Acquisition of real estate in Turkey by foreign investors is also subject to specific regulations which need to be observed by the foreign investors. A merger or acquisition transaction may also trigger approval requirement from Turkish Competition Board based on certain criteria.

Asset vs. Share Acquisition

A foreign company can acquire a Turkish company by acquiring either the assets or the shares of the target company. In case of an asset acquisition, this can be done either via a branch of the foreign entity, which is taxable in Turkey on non-resident status, or via a Turkish subsidiary of the foreign company. The respective tax implications are summarized below:

- **Purchase of assets**

  Acquisition of assets can only be done through a Turkish company or a Turkish branch of a foreign company.

  Purchase Price

  In principle, the transfer of assets should be conducted at fair value, which should represent the market value. Transfers between related parties must be documented to comply with transfer pricing requirements.

Goodwill

In case of an asset-deal, an excess of the purchase price over the fair value of the assets being transferred represent the goodwill, which can be capitalized by the buyer and depreciated for tax purposes over a period of five years. Turkish tax law does not require recognition of internally developed goodwill and rights in the tax basis balance sheet, so there is usually no tax basis cost for the goodwill in the seller's books and it, therefore, represents pure taxable income.

Depreciation

The depreciation period of assets are refreshed in an asset deal. The selling entity has the right to deduct all remaining net book value of assets as the tax basis cost against the transfer value; and the buyer has to book the assets at their transfer value and start depreciating a new term of useful life for each asset (as prescribed by the Communiqués of the Ministry of Finance).

Tax Attributes

The tax attributes (i.e. tax losses and incentives) are not transferred to a buyer in an asset deal. However, the selling entity has the right to use its existing tax losses and VAT credits against the taxable profits (such as capital gains) and VAT obligations arising from the asset transfer.

Value Added Tax ("VAT")

Transfer of assets through a regular asset purchase agreement is subject to VAT at regular rates depending on the type of assets being transferred (normally 18%).

Real estate properties that are included in the asset purchase agreement could potentially be exempt from VAT if held for a period of more than 2 years. The buyer has the right to get a deduction of the VAT incurred on asset deal against VAT generated from its sales. However, the full recovery of VAT can take time depending on the VAT generation of the acquiring entity, which may lead to an additional cash flow problem on asset purchase transactions.

Transfer Taxes

In an asset deal, asset purchase agreement would usually be subject to 0.948% stamp tax on the basis of contract value whereas transfer of title to real estate is subject to a title deed registration fee of 2% for both seller and buyer separately.

- **Purchase of shares**

Acquisition of shares by a foreign entity has no immediate Turkish income tax consequences except for potential stamp tax on the share transfer agreement.

Goodwill

If the acquisition is via a Turkish branch or subsidiary, goodwill implicit in the share price cannot be recognized for tax purposes. There is no step-up availability for target company assets during a share acquisition.

Depreciation

A Turkish company buying the shares in another entity cannot depreciate the value of shares for tax purposes. The shares are booked at historical acquisition value and offset against future proceeds from sales as a tax basis cost.

Tax Attributes

A change in the shareholding will not have any effect on the tax attributes of the target company. Following the acquisition of shares, the target company can continue to carry forward its tax losses.

Value-Added Tax (VAT)

Share transfers by an individual are out of the scope of Turkish VAT. Where the transferor of shares is a corporate entity (e.g. a company or a branch) in Turkey, the transaction is principally in the scope of Turkish VAT. In this case, transfer of shares (in Joint Stock Companies) are exempted from VAT, however sale of participation shares (in Limited Liability Companies) by a Turkish entity can potentially attract Turkish VAT at 18% unless the participation shares are held for a period of more than 2 years.

Tax Indemnities and Warranties

In a share deal transaction, the historical tax liabilities of the target (known or unknown) remain in the company and are acquired by the new shareholder(s). It is, therefore, usual for the buyer to ask for tax indemnities and warranties in a share acquisition.

Transfer Taxes

Agreements relating to purchases and sales of shares are normally subject to stamp duty at 0.948%. Agreements relating to transfers of shares of a Turkish company by another Turkish company after a holding period of two years can be exempt from stamp duty.

- **Concerns for the Seller**

Sale of assets

The sale of assets of an entity is subject to usual corporate tax on the gains realized from the sale of the assets. Losses arising from the sale of assets are available for immediate deduction or carry-forward. With respect to sale of certain fixed assets (e.g. real estate property), 75% of the gains realized from such sales may be exempted from corporate taxation provided that the real estate has been held for at least two years and the gains are retained in a special reserve account in the Balance Sheet for at least five years. Note that the transfer of the real estate property which has been held at least for two whole years by the companies is exempt from VAT.

Sale of shares

The sale of shares in another corporation is subject to corporate tax on the gains realized from the sale of shares. Losses are available to off-set income from other activities of the entity. The corporate tax exemption on 75% of such gains is available under the conditions mentioned above (i.e. 2 year holding period and requirement to retain the gains in a special reserve account for at least 5 years) in respect of sale of real estate property.

If the seller of the shares is an individual, capital gains derived by individuals on the sale of shares (of a Joint Stock corporation) held for more than two years are fully exempt from personal income tax; otherwise, if the shares are held less than two year, then the capital gains are subject to personal income tax at usual rates. (i.e. 15% to 35%). There are no similar exemptions for individuals in respect of capital gains arising from transfer of participation rights in a Limited Liability Company.

Please refer to our comments above with respect to VAT implications in case of share transfer transactions.

- **Comparison of Assets and Share Purchases**

In view of the above, please find below a summary of the tax considerations comparing an asset purchase transaction vs. a share purchase transaction:

	Advantages	Disadvantages
Asset Acquisition	Purchase price can be depreciated for tax purposes	Potential need to renegotiate the contracts, renew the licenses etc
	Step-up in tax basis of assets is possible	Tax attributes like losses remain with the seller
	Previous tax liabilities not inherited by the buyer (except for certain anti-avoidance rules for related party transactions)	More transactions costs (stamp duty, transfer taxes, registration fees etc)
	Possible to acquire part of a business	Potentially represents more tax cost to the seller (compared to share acquisition)
Share Acquisition	Possible to purchase on net asset basis; hence lower capital outlays	Acquisition of potential tax liability due to difference between market value and book value of assets in the target company
	Likely to be more attractive to the sellers due to possible tax exemptions	Inability to recognize a goodwill for tax purposes
	Tax attributes like losses are also acquired with the company	Acquisition of contingent (unknown) tax liabilities with the company
	Continue to enjoy existing contracts, licenses, incentives etc	Potential need for post-acquisition structuring if non-core assets are also acquired with the company

10.3 Corporate Reorganizations

Tax Free Divisions

There are two types of tax free divisions allowed under the Turkish tax laws:

- A full division is reorganization where a company is divided into two or more existing or new companies while the transferring company is dissolved, pursuant to the provisions of Article 19-3-a of Corporate Tax Law. This type of division allows transfer of tax losses. By the introduction of the new Turkish Commercial Law effective from July 2012, it also became possible to implement such a division from a Commercial Law perspective.
- A partial division (also called a "partial de-merger") is reorganization where certain assets (i.e. participation shares or real estate property that has been held for a period of more than 2 years or complete production / service facilities) of a company are contributed into a new or existing company as capital in kind on a carryover basis, pursuant to the provisions of Article 19-3-b of Corporate Tax Law. A reorganization of a Turkish branch of a foreign company by way of a partial division has recently become possible provided that the transferee company is a tax resident. Tax implications are similar as a tax free merger, except that transfer of losses is not possible under a partial division.

Tax Free Share Swaps

A share swap is a tax free transaction if the acquiring company receives the target shares in exchange for its shares to acquire control of management as well as a majority of shares in the target company. Although a tax free share swap is principally defined as a non-cash transaction, it is allowed to pay the shareholders of the company whose shares have been acquired up to 10% of the nominal value of the shares to be given to them.

Conversions

Conversions (i.e. change of legal form of a company) carried out under the requirements for tax-free mergers will not be considered as a taxable reorganization.

Liquidations

A Turkish Corporation may liquidate its assets and distribute the proceeds to its shareholders through a formal liquidation process to be carried out in accordance with Turkish Commercial Law requirements.

In the taxation of liquidations, financial period is replaced by liquidation period, which starts when a company is put into liquidation. The period between this date and the end of the same calendar year, as well as every calendar year following this date, is considered as a separate liquidation period. When liquidation is finalized, the final liquidation profit or loss is computed and the liquidation returns, which were previously filed, are corrected and, if necessary, taxes overpaid are refunded.

The company will be subject to usual taxation rules during the liquidation period and will be required to maintain all legal bookkeeping and filing obligations as a normal company.

The repayment of capital to shareholders at the end of liquidation does not trigger any taxes, but distribution of excess profits or reserves to the shareholders will attract dividend withholding tax at 15% (may be reduced by Double Tax Treaty provisions).Note that it is statutory requirement for the tax office to carry out a tax audit upon the closing of liquidation.

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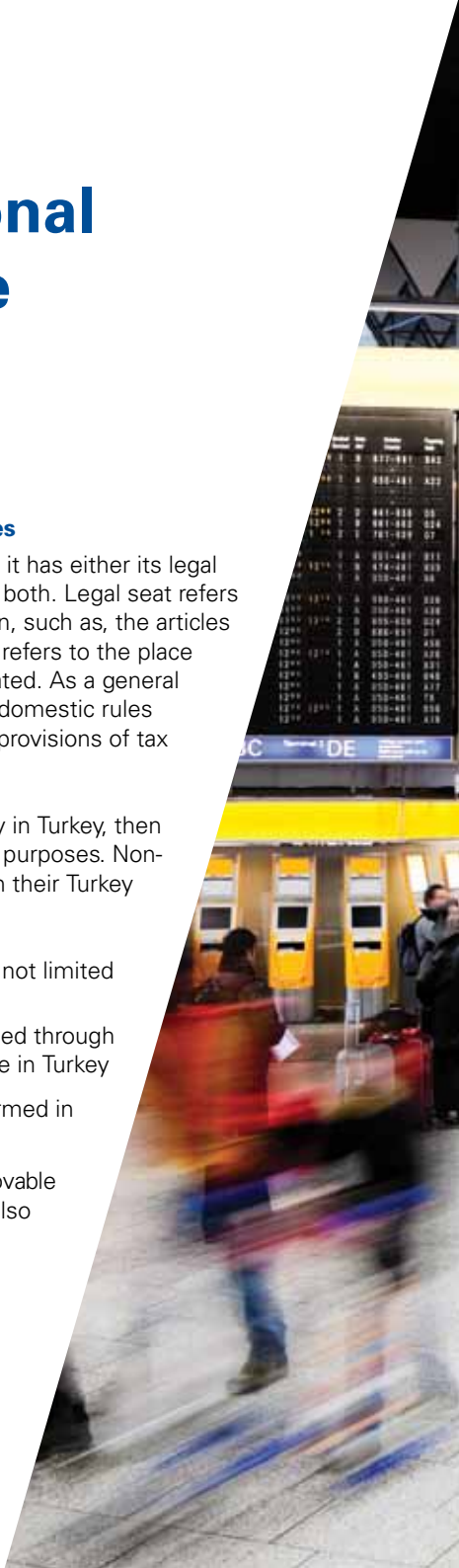

Residency and Taxation of Non-Resident Entities

A company is considered to be resident in Turkey if it has either its legal seat or place of effective management in Turkey or both. Legal seat refers to the place of official center of company, defined in, such as, the articles of association. The place of effective management refers to the place where the top management of the company is located. As a general rule, residence of a company is determined by the domestic rules of the contracting states. However, in some cases provisions of tax treaties might be applied.

If neither of two conditions is met for the residency in Turkey, then a company is considered to be non-resident for tax purposes. Non-resident entities are subject to taxation in Turkey on their Turkey sourced income.

Taxable income of non-residents is determined-but not limited to these-based on the following type of income:

- Profits from commercial (business) activities earned through a place of business or a permanent representative in Turkey
- Income derived from professional services performed in Turkey (or the fees that are obtained in Turkey)
- Income derived from income from lease of immovable properties, intangibles and machinery in Turkey (also transfer of intangibles in Turkey)
- Interest income obtained from Turkey
- Dividend income obtained in Turkey
- Capital gains of transactions performed in Turkey or obtained in Turkey

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Foreign entities may operate in Turkey to run a business in form of branch or through their subsidiaries as separate entity. These forms are elaborated in more detail below. Besides, operations of non-resident entities might be considered to constitute a permanent establishment for tax purposes. These create the concept of business place in local rules. Of course the provisions of tax treaties should also be taken into account. Business profits of non-resident entities are assessed in the same way as that of resident companies for their Turkish sourced income (please see the other sections in "Corporate Taxation").

Permanent Establishment

Under Turkish Corporate Income Tax Legislation; the income derived by nonresident entities through their Permanent Establishment ("PE") or Permanent Representative ("PR") in Turkey are subject to tax in Turkey. Turkish Corporate Tax Law refers to provisions of Tax Procedural Law regarding the definition of PE and provisions of Income Tax Law regarding the definition of PR.

In this respect, a workplace (PE) is defined as the places of business which is dedicated/allocated to the carrying out commercial, industrial, agricultural or professional activities. A business place of a non-resident entity operating in Turkey solely for the purpose of buying or producing goods in Turkey to be later exported is not considered to be a PE.

On the other hand, a PR is defined as the person who is bound to a principal by a service or representation act, and is authorized to carry out transactions on behalf and on account of the principal for a definite or indefinite period of time.

There are no further specific definitions or guidelines in respect of the definition of a PE under domestic law. Based on the generally accepted interpretation of the above mentioned tax law provisions, the following are seen as common features of a PE of a foreign entity in Turkey:

- There should be an income generating activity performed by the foreign entity (or its representatives) in Turkey
- The foreign entity should have a fixed place of presence in Turkey where the activities are concentrated
- There should be a close link between this fixed place of presence and income generating activities

Based on the above, it is usually accepted that Turkish tax laws follow the PE definition OECD model tax treaties where activities carried out in Turkey who do not have a strong connection with the income generation (e.g. preparatory and auxiliary services) should not lead to recognition of PE; on the other hand, the persons who carry out commercial transactions on behalf of a foreign entity may still lead to taxation in Turkey if deemed as PR as explained above.

In contrast to the provisions under domestic rules, warehouses and independent agents are generally not included in the definition of "permanent establishment" under Turkey's treaties.

Branches

Branches are treated as non-resident entities for tax purposes and subject to corporate taxation in Turkey for their profits generated in Turkey.

Under local foreign investment legislation, a branch of a foreign company is a type of foreign direct investment and the establishment of a branch is subject to the same requirements and procedures as a foreign company that intends to run a business in Turkey. A branch office may only operate in the areas of activities of the head office. It is managed by a representative (could be a foreigner but is required to be a Turkish resident) who is appointed to this effect by a power of authorizations. The representative must be authorized to represent the foreign entity in Turkey before all public and private authorities.

A Branch has to fulfill all statutory bookkeeping and filing requirements in Turkey same as a usual resident entity.

Subsidiaries

Another form which can be used to run a business in Turkey is to set up a subsidiary as a separate legal entity, which can be established as Limited Liability Company (Ltd.) or Joint Stock Company (A.Ş).

These two forms of companies are considered as Turkish resident for tax purposes and subject to corporate taxation on their worldwide income as opposed to PE and Branches.

Withholding Taxation

The taxation of income received by non-resident entities in Turkey is regulated under the Article 30 of Corporate Income Tax Law. According to the Article, parties who make the payment to non-residents are responsible for withholding and the payment of taxes. The general withholding tax rate is 15% under the article, however the Council of Ministers are authorized to determine the rates between the range of 0% and 30%.

Dividends

Dividends distributed to non-resident entities are subject to 15% withholding tax. The withholding tax applies when the dividends are actually distributed in cash or on account. The use of profits to increase the capital of the company is not considered as profit distribution and hence not subject to dividend withholding taxation. This is the final tax for non-residents and there is no further filing requirement.

Income of Branches in Turkey is not subject to withholding taxation unless remitted to headquarters. The 15% withholding taxation applies for remittance of income to head office. The transfer of income of PEs is also subject to 15% remittance withholding. The rate of 15% withholding tax can be reduced to 5%-10% through the use of tax treaties.

Royalties

Royalties paid to non-residents are subject to withholding tax at 20%. In a case that the non-resident company has a PE in Turkey, no withholding tax applies, however those royalties should be declared in the annual corporate income tax return and subject to taxation accordingly. This is the final tax for non-residents and there is no further filing requirement.

Gains received from the sale of copyrights, patents, trademarks and other intangible rights are subject to a final withholding tax of 20%.

The reduced rates of withholding tax over the royalty payments are available for all Turkish Tax Treaties and the rates vary between 5% and 15% (the general cap of 10% applies for nearly all tax treaties)

Interest

Interest paid to non-resident entities is subject to withholding taxation at the gross amount of interest paid to non-resident entity. In a case that the non-resident entity has a PE in Turkey, the interest income is included in the annual tax return and subjected to taxation accordingly. This is the final tax for non-residents and there is no further filing requirement.

Withholding tax rates applied to interest payments to non-resident companies are as follows, unless a treaty provides for a lower rate;

A rate of 0% applies to:

- Interest on Turkish government bonds and debentures (including those issued abroad);
- Interest on bonds and debentures issued by companies on or after 1 January 2006;
- Loan interest paid to foreign banks or states, or to international institutions;
- Loan interest paid to other companies that are authorized habitually to provide loans in the country in which they are established and provide loans not only to related companies but also to all individuals and legal entities.
- Interest on debentures issued by Turkish resident companies with the maturity over than 5 years.
- Income on lease certificates issued by Turkish resident asset lease companies with the maturity over than 5 years.

A rate of 1% applies to:

- Interest paid by banks on subordinated loans similar to equity and interest paid by banks and other companies on loans received by way of securitization abroad.

A rate of 3% applies to:

- Interest on debentures issued by Turkish resident companies with the maturity between 3 and 5 years.
- Income on lease certificates issued by Turkish resident asset lease companies with the maturity between 3 and 5 years

A rate of 5% applies to:

- Interest in relation to the sale of goods on credit.

A rate of 7% applies to:

- Interest on debentures issued by Turkish resident companies with the maturity between 1 and 3 years.
- Income on lease certificates issued by Turkish resident asset lease companies with the maturity between 1 and 3 years

A rate of 10% applies to:

- Interest on other loans
- Interest on debentures by Turkish resident companies with the maturity less than 1 year
- Income on lease certificates issued by Turkish resident asset lease companies with the maturity less than 1 year
- Interest on deposit accounts with the maturity more than 1 year
- Portion of profits received from profit/loss partnership accounts/certificates in participation banks (interest-free) with the maturity more than 1 year;

A rate of 12% applies to:

- Interest on deposit accounts with the maturity between 6 months and 1 year
- Portion of profits received from profit/loss partnership accounts/certificates in participation banks (interest-free) with the maturity between 6 months and 1 year;

A rate of 13% applies to:

- Interest on foreign currency deposit accounts with the maturity more than 1 year;

A rate of 15% applies to:

- Interest on deposit accounts with the maturity less than 6 months or demand deposit accounts
- Interest over profit participating loans
- Portion of profits received from profit/loss partnership accounts/certificates in participation banks (interest-free) with the maturity less than 6 months

- Interest on foreign currency deposit accounts with the maturity between 6 months and 1 year
- Income from repo transactions for treasury bonds and debentures;

A rate of 18% applies to:

- Interest on foreign currency deposit accounts with the maturity less than 6 months or foreign currency demand deposits.

Capital Gains

In accordance with the provisions of Income Tax Law, capital gains received by non-residents upon disposal of shares and other assets are taxable in Turkey as long as the related gains are deemed to be Turkish sourced. In reference to Turkish income tax code provisions, such capital gain is deemed to be Turkish sourced if the sale transaction is performed in Turkey or the transaction is evaluated in Turkey (i.e. the payment is born by a Turkish taxpayer).

If capital gain, received by non-resident entities, is considered as Turkish sourced then it would be subject to corporate income tax at usual rate of 20%. Furthermore, the remaining amount after corporate taxes would also be subject to 15% dividend withholding taxation (taxation of remittance of capital gains). Hence, the effective tax rate reaches up to 32%.

The taxation right of the capital gains over the disposal of shares is generally remains with the country of which the selling entity is a resident provided that the minimum holding period should be more than 1 year under many of Turkish Tax Treaties.

Professional Services

Professional service fees paid to non-resident companies are subject to 20% withholding if the service is rendered in Turkey or the payment is made in Turkey. Turkey generally follows 183 days test in tax treaties. Accordingly, in most of Turkish Tax Treaties, the professional services are taxable in Turkey if the employees of the non-resident entity stay in Turkey more than 183 days in a 12 months period or has fixed place of business in Turkey.

Withholding tax rate is reduced to 5% for oil exploration activities performed in Turkey.

Income from Lease of Tangible Assets

According to local rules, payments to non-residents for the lease of movable or immovable properties are taxable in Turkey if the assets are in Turkey or the relevant rights are used in Turkey. Such leasing payments to non-residents are subject to withholding tax at 20%. The payments for the financial leasing, however, are subject to 1% reduced rate of withholding taxes.

Construction and Repair Works, Spread Over the Years

Payments for construction works and repair projects which spread more than one calendar year are subject to 3% withholding taxes..

Turkey's Treaty Network

Turkey's double tax treaty network consist of 84 countries, 80 of this are already in effect, 3 new treaties (Philippines, Kosovo and Mexico) have been signed but not yet in effect and 1 new treaty (Palestinian) has been initialed but not yet in effect.

Please refer to Appendix 4 where the table for the treaty countries and relevant provisions are summarized.

In addition to the double tax treaties, Turkey has started to sign Exchange of Information Treaties with the jurisdictions, so called as tax heavens, within the scope of measures for the prevention/control of capital movements and tax avoidance. In this view, Turkey has signed exchange of information treaties with 5 countries (Jersey, Gibraltar, Isle of Man, Guernsey and Bermuda) in addition to the ongoing negotiations with 5 countries (Barbados, Panama, Cayman Islands, British Virgin Islands and Bahamas).

Tax Treaties Signed but not yet in Force

Turkey has signed tax treaties with the below list of Countries and these treaties will be in effect following the approval of the Parliaments of both Countries.

Country	Date of Signature	Dividend (%)	Branch Profits (%)	Interest (%)	Royalty (%)
Philippines*	18.03.2009	10/15	10	10	10/15
Palestinian**	15.11.2012				
Kosovo***	10.09.2012	5/15	5	10	10
Mexico***	17.12.2013				

(*) Treaty has been ratified by Turkey, and would be in effect from 1 January following the year of completion of ratification process by the contracting state.

(**) Treaty has been initialed only.

(***) Treaty has been signed only and would be in effect following the completion of ratification process in both countries.

12 Appendices

12.1 Appendix I: Chart of Principal Turkish Taxes

Corporate income tax Advance corporate income tax Individual income tax	Increase in net worth Net taxable income	20% 20% 15 - 35% (all source of income including salary income)
Value Added Tax – VAT • General • Certain products and services • Certain products and services	Sales value	 18% 8% 1%
Banking & Insurance Transaction Tax • General • Interbank deposit transactions • Repos • Money market transactions between banks and brokers • Sale of Government bonds and T-bills • Sale of foreign currency		 5% 1% 1% 1% 1% 0%
Stamp Duty (Where the stamp duties are payable, the amount of the stamp duty payable on each document is limited to TRY1.545.852,40 for the year 2014.)	Value specified in the documents	generally at 0,948% (0,189% for rental contracts, 0,759% for salaries
Gift and Inheritance Tax	Value	1 - 30 %
Customs Duties	Value	Various
Transfer of real estate	Sales Value	2 %, each buyer and seller
Special Consumption Tax • Petroleum products • Vehicles • Alcoholic beverages & tobacco products • Certain luxury goods	 Per liter, kg, etc. Value and engine size Value, retail sale price for tobacco products Value	 Specific 1 to 145 % 25% - 65.25% (*) and specific 6,7 % - 25%
Special Communication Tax • Mobile telecommunication services • Radio & Television broadcasting services through satellite or cable • Wired, non-wired and mobile internet service providing facility • Other telecommunication services	Service fee	 25% 15% 5% 15%
Lottery taxes (National Lottery, horse racing, Toto, lotto, etc.)	Various	Specific and ad valorem at 10%
Motor Vehicle Tax	Model, engine, weight	Certain amounts revised each year
Major Municipal & Local Taxes: Real estate taxes * Buildings * Land Entertainment tax Communication tax Electricity & Gas consumption tax Sanitation Tax	 Tax Value Per tariff, gross profit Fee Sales Value Per flat and business premises	 0.1 - 0.4% 0.1 - 0.6% Specific (TRY 1 – 80) and ad valorem at 5 – 50% 5 – 15% 1 - 5 % Certain amounts revised each year

(*) Only the percentage tax rate is applied provided that not being less than the tax calculated by using the minimum lump-sum tax amounts.

12.2 Appendix II: Chart of Withholding Tax

DESCRIPTION	TAX BASE	NON RESIDENT COMPANY (*) (%)	NON-RESIDENT INDIVIDUAL (***) (%)	RESIDENT COMPANY (**) (%)	RESIDENT INDIVIDUAL (***) (%)
Technical / Professional Services • General	Gross billings	20	20	n a	20
Construction projects lasting more than a calendar year	Progress billings	3	3	3	3
Salaries • Turkish payroll	Gross less social security contributions	-	15 - 35	n a	15 - 35
Rentals/Royalties	Gross	20	20	n.a	20
Financial Leases	Gross	1	n.a	n.a	n.a.
Dividends	Gross	15 (****)	15	n.a	15
Branch profits	Net profits less corporate taxes	15	n a	n a	20
Interest on loans	Gross	0 (*****) / 1/5/10	-	-	-
Sales proceeds: • of copyrights and patents • of other intangible rights	Gross billing	20 20	20 -	n a n a	17 -

* In the Article 30 of Corporate Tax Law, withholding tax rate applied to certain payments to non-resident companies is set as 15%. On the other hand, the Council of Ministers is authorized to reduce withholding tax rate to zero or to increase it to 30%.

** In the Article 15 of Corporate Tax Law, withholding tax rate applied to certain payments to resident companies is set as 15%. On the other hand, the Council of Ministers is authorized to reduce withholding tax rate to zero or to increase it to 20%.

*** Withholding tax rates applicable to resident and non-resident individuals are based on the Council of Ministers Decrees numbered 2013/4552, 2012/3141, 2011/1854, 2009/14593-4, 2006/11449, 2006/10731 and 2003/6577.

**** Except those who are receiving dividends via a fixed business place or a permanent representative.

***** Zero rate withholding tax is available depending on status of the foreign lender (i.e. banks and financial institutions). 1% interest on subordinated loan facilities to the Turkish banks being subject to the provisions of the supplementary capital in compliant to the Turkish Banking Law and interest on loans received by banks and other corporations by way of securitization based on a cash flow or an asset portfolio from abroad. 5% withholding tax is applied for interest on installments or credit for the purchase of imported goods. 10% withholding tax is available on other loans and transactions that are not within the above mentioned loans.

12.3 Appendix III: Computation of Taxes on the Year-end Profits

The corporate income tax will be calculated in its simplest form as follows:

Explanation	Calculations
Book profits adjusted for tax purposes	100
Corporation tax at 20%	20
Available for distribution	80

The following tax computation may be more applicable in most of the cases:

Operating profits	500
Dividends from a resident company	250
Total book profits	750
Disallowable expenses	100

"No dividend policy" is assumed.
Computation of corporation tax would be as follows:

Book profits	750
Disallowable expenses	100
Tax adjusted profits	850
Exempt income	250
• *Dividends*	*250*
Taxable profits	600
Corporate tax base	600
Corporate tax at 20%	120
Total taxes	120
Available for distribution	630

Dividend distribution and legal reserve requirements

Dividend distribution paid from a Turkish company to another Turkish company is exempted from withholding tax (without any further condition). Dividends received by a holding company in Turkey from another Turkish subsidiary are exempt from corporate income tax (without any further conditions). Dividend distribution from a Turkish company to a Turkish individual or a non-resident shareholder (whether individual or corporate) is subject to withholding tax 15%. The rate of dividend withholding tax applied for a non-resident shareholder may be reduced if the shareholder is located in a jurisdiction having a favorable double tax treaty with Turkey. Profits retained in the company are not subject to withholding tax unless declared as dividend to shareholders.

Consider the following example, with assumption that the paid in capital of the company is TRY100.000 and a full dividend policy is adopted.

Explanation	Calculations
Book profit	100,000
Corporate income tax at 20%	20,000
Available for distribution	80,000
First legal reserves (5% of net profits, capped at 20% of paid in capital)	4,000
1st level gross dividends (5% of paid in capital)	5,000
Available for secondary dividends	71,000
Secondary legal reserves (1/11 of available for secondary dividends)	6,455
2nd level gross dividend	64,545
Gross dividends (first and secondary dividends)	69,545
Withholding taxes on dividends at 15%	10,432
Net dividends	59,113

12.4 Appendix IV: Turkish Withholding Taxes by Treaty Countries

	Country	Dividends (%)	Branch Profit (%)	Interest (%)	Royalty (%)
1	Austria	5/15	5	10/15	10
2	Ireland	5/10/15	5	10/15	10
3	South Korea	15/20	-	10/15	10
4	Jordan	10/15	-	10	12
5	Tunisia	12/15	-	10	10
6	Romania	15	15	10	10
7	Netherlands	15/20	7.5	10/15	10
8	Pakistan	10/15	10/15	10	10
9	United Kingdom	15/20	15	15	10
10	Finland	5/15	5/15	5/10/15	10
11	T.R.N.Cyprus	15/20	15	15	10
12	France	15/20	7.5	15	10
13	Sweden	15/20	15	15	10
14	Belgium	15/20	15	15	10
15	Denmark	15/20	7.5	15	10
16	Italy	15	15	15	10
17	Japan	10/15	10/15	10/15	10
18	U. Arab Emirates	5/10/12	5/10/12	10	10
19	Hungary	10/15	10	10	10
20	Kazakhstan	10	10	10	10
21	Macedonia	5/10	5	10	10
22	Albania	5/15	5	10	10
23	Algeria	12	12	10	10
24	Mongolia	10	10	10	10
25	China	10	10	10	10
26	India	15	15	10/15	15
27	Malaysia	10/15	10	15	10
28	Egypt	5/15	5	10	10
29	Poland	10/15	15	10	10
30	Turkmenistan	10	10	10	10
31	Azerbaijan	12	12	10	10
32	Bulgaria	10/15	10	10	10
33	Uzbekistan	10	10	10	10
34	United States	15/20	15	15/10	10/5
35	Ukraine	10/15	10	10	10
36	Israel	10	10	10	10
37	Belarus	10/15	15	10	10
38	Russia	10	10	10	10
39	Kuwait	10	10	10	10
40	Slovakia	5/10	10	10	10

	Country	Dividends (%)	Branch Profit (%)	Interest (%)	Royalty (%)
41	Indonesia	10/15	10/15	10	10
42	Lithuania	10	10	10	10/5
43	Croatia	10	10	10	10
44	Moldova	10/15	10/15	10	10
45	Singapore	10/15	10	7.5/10	10
46	Kyrgyzstan	10	10	10	10
47	Tajikistan	10	10	10	10
48	Sudan	10	10	10	10
49	Czech Republic	10	10	10	10
50	Bangladesh	10	10	10	10
51	Latvia	10	10	10	5/10
52	Spain	5/15	5/15	10/15	10
53	Slovenia	10	10	10	10
54	Greece	15	15	12	10
55	Syria	10	10	10	15/10
56	Estonia	10	10	10	10/5
57	Thailand	10/15	10/15	10/15	15
58	Luxembourg	5/10/20	10	10/15	10
59	Iran	15/20	15	10	10
60	Saudi Arabia	5/10	5/10	10	10
61	Lebanon	10/15	10	10	10
62	Morocco	7/10	7	10	10
63	Rep. of South Africa	10/15	10	10	10
64	Portugal	5/15	5	10/15	10
65	Serbia Montenegro	5/15	5	10	10
66	Ethiopia	10	10	10	10
67	Bahrain	10/15	15	10	10
68	Qatar	10/15	10/15	10	10
69	Bosnia Herzegovina	5/15	5/15	10	10
70	Canada	15/20	15/20	15	10
71	New Zealand	5/15	5/15	10/15	10
72	Norway	5/15	5	5/10/15	10
73	Oman	10/15	10	10	10
74	Georgia	10	10	10	10
75	Yemen	10	10	10	10
76	Germany	5/15	-	10	10
77	Switzerland	5/15	5/15	5/10	10
78	Brazil	10/15	10	15	10/15
79	Australia	5/15	5/15	10	10
80	Malta	10/15	10	10	10

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