

The award winning Pekin & Pekin **Tax** practice team leaves regular compliance support to accounting firms and instead focuses on more complex cases, giving clients direct practical and innovative advice.

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TAX

Q1/2016 Double Taxation Agreement between United Mexican States and Turkey Entered into Force

As it is known, the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income has been signed between the United Mexican States and Turkey on December 17, 2013 (“DTT”).

The Grand National Assembly of Turkey approved the ratification of the DTT by Law No.6594 dated February 4, 2015 which was published in the official gazette dated February 20, 2015 and numbered 29273.

Upon the Law No. 6594, The Council of Ministers through its Decree (Decree No.2015/7628) (*published in the Official Gazette dated June 06, 2015 and No. 29378*) has ratified the DTT.

According to Article 28 of the DTT, the DTT will be entered into force 30 days after the date of the later of the reciprocal notifications of the parties, and the provisions of the DTT will be applicable for taxes to be assessed in the taxation periods starting from the first day of January of the year following the date when the DTT enters into force.

As it is understood from the Decree of the Council of Ministers (Decree No. 2016/8362) (published in the Official Gazette dated January 14, 2016 and No. 29593), the reciprocal notifications of the parties are completed and the DTT entered into force on July 23, 2015. Therefore, the DTT is applicable starting from January 1, 2016 according to Article 28 of the DTT.

Q1/2016 Double Taxation Agreement between Republic of Kosovo and Turkey Entered into Force

As it is known, the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income has been signed between the Republic of Kosovo and Turkey on September 10, 2012 (“DTT”).

The Grand National Assembly of Turkey approved the ratification of the DTT by Law No.6606 dated February 10, 2015 which was published in the official gazette dated February 27, 2015 and numbered 29280.

Upon the Law No. 6606, The Council of Ministers through its Decree (Decree No.2015/8056) (*published in the 2. repeating Official Gazette dated August 28, 2015 and No. 29459*) has ratified the DTT.

According to Article 27 of the DTT, the DTT will be entered into force on the completion date of the reciprocal notifications of the parties, and the provisions of the DTT will be applicable for the taxes to be assessed in the taxation periods starting from the first day of January of the year following the date when the DTT enters into force.

As it is understood from the Decree of the Council of Ministers (Decree No. 2016/8362) (*published in the Official Gazette dated January 14, 2016 and No. 29593*), the reciprocal notifications of the parties are completed and the DTT entered into force on October 15, 2015. Therefore, the DTT is applicable starting from January 1, 2016 according to Article 27 of the DTT.

Q1/2016 The Grand National Assembly of Turkey approved the ratification of the Exchange of Information Agreement signed, within the scope of Foreign Accounts Tax Compliance Act, between the United States of America (“USA”) and Turkey

It has been announced on the official website of the Directorate of Revenue Administration on July 30, 2015 that the “Agreement on Increasing International Tax Compliance through Extended Information Exchange” (“Agreement”) was signed on July 29, 2015 in Ankara between Turkey and USA within the scope of Foreign Accounts Tax Compliance Act (“FATCA”).

The Grand National Assembly of Turkey approved the ratification of the Agreement by Law No.6677 dated February 25, 2016 which was published in the official gazette dated March 16, 2016 and numbered 29655.

Q1/2016 Interest to be collected due to Loans to be extended for the financing of the machinery and equipment is exempted from Banking and Insurance transaction Tax

With the addition of the sub para. (z) to para. 1 of Article 29 of the Expenditure Tax Code (“ETC”) (Law No.6802) (*published in the Official Gazette dated July 23, 1956, No. 9362*) by Article 1 of the Law no. 6655 (*published in the Official Gazette dated January 1, 2016, No. 29580*), interest to be collected due to Loans to be extended by financial institutions for the financing of the machinery and equipment, to be exclusively used in manufacturing industry, acquired by the industrial enterprises having the industrial registry certificate obtained pursuant to Industrial Registry Law No.6948 is exempted from Banking and Insurance transaction Tax.

The principals and procedures with regards to the application of the above stated exemption are regulated by the Revenue Administration of the Ministry of Finance through the issuance of the Expenditure Tax General Communiqué No. 90 (“Communiqué”) (*published in the Official Gazette dated March 29, 2016, No. 29668*).

Within the scope of the Communiqué, it is stated that;

- Both individuals and corporations may benefit from the exemption,
- The machinery and equipment shall be the ones subject to depreciation,
- The machinery and equipment shall be in the form that shall be directly used in production (fixed assets such as air conditioning, heaters, vehicles which are not the essential part of the production function of the enterprises are not eligible to benefit from the referred exemption),
- The machinery and equipment shall be new (used ones will not be able benefit from the exemption),
- Industrial registry certificate and proforma invoice or the invoice issued within 7 days before the loan application shall be submitted to the financial institutions which will extend the loan,
- The copy of the records proving the booking of the machinery and equipment under the legal books of the industrial enterprise (barrower), and the copy of the original invoice if proforma invoice was used at the application stage shall be submitted to the respective financial institution (lender) within 1 month following the utilization of the loan,
- The capacity report which includes the machinery and equipment shall be submitted to the respective financial institution within 4 months following the utilization of the loan which is limited with the maturity of the loan,
- New machinery and equipment shall be purchased from the ones who produce or trade the referred goods. Therefore, any unused machinery or equipment purchased from the ones other than producers or traders of

such machinery and equipment will not be excepted as new and will not be benefited from the referred exemption

Q1/2016 The Corporate Income Tax Communiqué No. 9 in relation to application of the Deduction on Capital Increases in Cash was published

As explained in our Newsletters (No.Q2/2015 and Q3/2015); through the amendment made on Article 10 of the Corporate Income Tax Law by the Law No. 6637, companies were provided with the right to deduct 50% of the interest calculated over capital increases made in cash from the corporate income tax base.

The principals and procedures with regards to the application of the above stated deduction right are regulated by the Revenue Administration of the Ministry of Finance through the issuance of the Corporate Income Tax Communiqué No. 9 (*published in the Official Gazette dated March 4, 2016, No. 29643*).

Q1/2016 The Value Added Tax rate and exemption in supply of fertilizer, raw materials used in the production of fertilizer and animal feeds

The Value Added Tax rate in supply of fertilizer, raw materials used in the production of fertilizer and animal feeds is reduced to 1% by the Council of Ministers through its Decree (Decree No. 2015/8353) (*published in the Official Gazette dated January 1, 2016 and No. 29580*).

With the addition of the sub para. (i) to para. 1 of Article 13 of the Value Added Tax Code ("VAT Code") (Law No. 3065) (*published in the Official Gazette dated 02 November, 1984, No. 18563*) by Article 13 of the Law no. 6663 (*published in the Official Gazette dated February 10, 2016, No. 29620*), the supply of fertilizer, raw materials used in the production of fertilizer and animal feeds are exempted from value added tax.

This legal newsletter has been prepared for informational purposes only; it has not been prepared for advertising purposes or with the intention of creating an attorney-client relationship. It does not seek to provide information on all legal developments in Turkey with the quarter specified. None of the information contained in this legal newsletter shall constitute legal advice or anything akin thereto. To unsubscribe, email the editor:

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