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To discuss how these developments affect your business interests please contact either:

Fethi Pekin  
Managing Partner  
Email: [fpekin@pekin-pekin.com](mailto:fpekin@pekin-pekin.com)

Firat Yalçın  
Partner, Tax  
Email: [fyalcin@pekin-pekin.com](mailto:fyalcin@pekin-pekin.com)



## TAX

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### **Q4/2016 Deadline for the Application of Wealth Amnesty is extended until June 30, 2017**

As known, Article 7 of the Law regarding the Restructuring of Certain Receivables (Law No.6736) ("**Tax Amnesty Law**") includes provisions in relation to the integration of certain assets into the national economy.

Through the Decree of the Council of Ministers (Decree No.2016/9608) (published in the Official Gazette dated December 30, 2016 and No. 29934) the periods specified under Article 7 of the Tax Amnesty Law (i.e.; periods in relation to the cash repatriation, declaration of assets situated in Turkey and settlement of loans) have been extended until June 30, 2017 (including this date).

### **Q4/2016 Explanations in relation to Amendments made on the Income Tax Law by the Laws No. 6728 and No. 6745.**

As known, certain amendments were made on Turkish tax legislation by the Laws No.6728 and 6745 published in August and September. Explanations in relation to amendments made on the Income Tax Law (Law No.193) by the abovementioned laws are included under the Income Tax Law General Communiqué (Serial No.295) (published in the Official Gazette dated December 23, 2016 and No.29927).

One of the significant explanations made under the abovementioned Communiqué is regarding the amendment made by Article 8 of the Law No.6745 to the temporary Article 67/para.5 of the Income Tax Law.

Through such amendment, any withholding tax shall not apply in accordance with the temporary Article 67/para.1 and para.4 over the income derived by institutions which have been established solely for providing loan collateral under the framework of financial and technical cooperation agreements with foreign countries or international finance institutions and adding the income acquired through those activities into the collateral liability funds, holding the funds owned at loan extending banks and institutions instead of distributing them to partners.

Under the Income Tax Law General Communiqué (Serial No.295), detailed explanations have been made in relation to the above-stated amendment.

#### **Q4/2016 The Liability for Issuing E-Invoice in relation to the Exportation of Goods is postponed to July 1, 2017**

Through the Tax Procedural Law General Communiqué (Serial No.475) (published in the Official Gazette dated December 15, 2016 and No.29919), the period in relation to the obligation of issuing e-invoice during the exportation of goods and passengers' accompanied baggage has been extended to 1 July 2017.

In that regard, taxpayers who are being registered to the application of e-invoice as per Turkish Tax Law and will also be in a position to issue invoice during the exportation of goods and passengers' accompanied baggage, shall issue such invoices in the form of an e-invoice as of July 01, 2017.

#### **Q4/2016 The VAT Refund by the Taxpayers having Inward Processing Authorization Certificate on the Delivery of Goods Destined for Export**

Through the Communiqué making Amendments on the VAT General Implementation Communiqué (Serial No.8) (published in the Official Gazette dated December 13, 2016 and No. 29917), certain amendments have been made on the Section (No. IV/A-1.5.) of the VAT General Implementation Communiqué. Such amendments would briefly be stated as follows:

With respect to the delivery of goods produced with the input obtained through Inward Processing Authorization Certificate to the foreign trade capital companies and sectoral foreign trade companies by collecting VAT, taxes incurred by such companies can be refunded.

In addition, with respect to the delivery of such goods destined for export by the above-stated companies within the scope of Article 11/para.1-c, the limitation specified under the respective Communiqué in relation the refundable VAT amount shall not be applicable. The VAT that may be refunded in relation to these transactions will be the 18 % of the amount of delivery of goods destined for export limited to the VAT amount carried forward.

#### **Q4/2016 Additional Explanations on the Application of Cash Repatriation**

Additional explanations have been made under the Tax Amnesty Law Communiqué (Serial No.4) (published in the Official Gazette dated December 02, 2016 and No.29906) in relation the application of cash repatriation which was regulated under Article 7 of the Tax Amnesty Law. Such explanations would be stated as follows:

- Providing that the assets situated abroad are brought into Turkey until December 31 2016, there is no importance for the acquisition date of such assets abroad.
- For the transfer of assets abroad into Turkey or notifying the banks or brokerage houses of securities and other capital markets instruments, the form provided under the attachment of the Communiqué will be used as of December 02, 2016 with the original signature.
- Notification of the banks or brokerage houses of securities and other capital markets instruments personally or through the authorized people will be sufficient for the demonstration of the above-stated assets' have been brought into Turkey. For the ones preferring that option, it's voluntary to bring those assets to Turkey physically or as an account.
- In cases where the assets held abroad are transferred to an existing or new account within banks or brokerage houses in Turkey, bank receipts or transaction result schemes will be considered as a proving document.
- During the notification of the banks or brokerage houses on the securities and other capital markets instruments, the proving documents to be obtained from the respective bodies resident abroad (receipt, bank statement, voucher and etc.) that are inserted to the form within the Communiqué attachment will be

considered appropriate by the related organizations. Banks and brokerage houses would not be held liable for getting confirmation on the documents submitted to them. In addition, such documents are not required to be approved by Turkish embassies and consulates.

- Transfer of the assets which are seen as controlled by legal representatives, shareholders or proxies, but actually owned by companies is allowed to be transferred into Turkey within the scope of the abovementioned provision.
- The assets which are held abroad will be subject to the valuation as follows: TL-denominated money with its nominal value; gold with market price; foreign currency with the buying rate of Turkish Republic Central Bank; share certificates with stock exchange price if exists and with market price if not; with purchase price if that price could not be determined and if purchase cannot be determined then with nominal price. The date when such assets are brought into Turkey or notified to Turkish tax authorities will be considered during the valuation.
- With respect to the assets transferred into Turkey, under no circumstance, any retroactive tax inspection shall not be conducted as well as no taxes/tax penalties in terms of any tax type for other reasons shall not be imposed either.
- Assets transferred into Turkey and the information provided under the notifications in relation to those and other documents will be treated as confidential.

#### **Q4/2016 Principles on Granting Project Based Government Supports**

Procedure and principles on granting project based government supports have been determined under the Decree of the Council of Ministers (Decree No.2016/9495) (published in the Official Gazette dated November 26, 2016 and No.29900) (“Decree”).

Within the scope of the Decree, the undermentioned supports would be granted for the investments which are regarded convenient to be supported as project based.

a) Customs duty exemption	h) Supports for interest and donations
b) VAT exemption	i) Capital contribution
c) VAT refund	j) Energy support
d) Tax deduction or exemption	k) Public purchase guarantee
e) Support for employer's national insurance contribution	l) Allocation for investment location
f) Income tax withholding support	m) Infrastructure support
g) Support for qualified personnel	n) Facilitating arrangements support

The Ministry of Economy may invite one or more companies for the investment to be specified or notify the companies through announcements.

In order for projects being considered within the scope of the Decree, a minimum fixed investment amount of 100 million USD is required.

The Ministry of Economy will issue investment incentive certificate for the projects which are considered convenient for project based support by the Ministry through the Decree.

In cases where an investor does not fulfil the liabilities required within the Decree, the taxes which have not been accrued on time regarding the reduced corporate income tax or exemption, incentive of income tax withholding shall be collected including the delay interest, without applying any tax loss penalty. Other supports which have been granted shall also be withdrawn in accordance with the Law on Procedures of Collection of Public Receivables (Law No.6183).

Investors are obliged to submit information on the fulfillment of their undertakings in relation to the investment during investment/operating period and the support amount which has been benefited from, on January and July of each year throughout the period stated in the Decree with the report of a sworn-in certified public accountant.

#### **Q4/2016 Recent Amendments on Tax Inspection Process**

Through the regulations published in the Official Gazette dated October 25, 2016 and No. 29868, certain significant amendments have been made on the regulations which establish the framework of the tax inspection process under Turkish Tax Law. These regulations would be stated as follows:

- The Regulation in relation to the Establishment of Report Assessment Commissions and their working principals and procedures (*published in the Official Gazette dated October 31, 2011 and No. 28101*)
- The Regulation in relation to the Principals and Procedures to be Complied with during Tax Inspections (*published in the Official Gazette dated October 31, 2011 and No. 28101*)
- Tax Inspection Board Regulation (*published in the Official Gazette dated October 31, 2011 and No. 28101*)

Please find below our explanations with regard to the amendments made on the abovementioned regulations.

#### **i. Amendments to the Regulation in relation to the Establishment of Report Assessment Commissions and their Working Principals and Procedures**

As known, pursuant to Article 14 paragraph (No.1) of the Regulation in relation to the Establishment of Report Assessment Commissions and Their Working Principals and Procedures; upon request of the taxpayer or if the report assessment commission deems necessary, the report assessment commission may listen to the taxpayer or the tax inspector.

With the amendment made by the Amending Regulation on Article 14 of the said Regulation, the paragraph (No.2) has been added to such Article as a new paragraph following the paragraph (No.1).

As per Article 14 paragraph (No.2) which has been recently added, prior to listening to the taxpayer, a summary of the tax inspection report including the information in relation to the criticisms made under such report shall be provided to the taxpayer.

In this regard, with the abovementioned amendment, taxpayers gain the opportunity to obtain information with regard to tax criticisms which are subject to the tax inspection conducted against him prior to providing explanations to the report assessment commission. Accordingly, due to such amendment, taxpayers will have the chance to prepare a more influential defense against the specific tax criticisms which they have been aware of prior to listening by the report assessment commission.

## ii. Amendments to the Regulation in Relation to the Principals and Procedures to be Complied with in Tax Inspections

- Through the amendment made by the Amending Regulation on Article 6 Paragraph (No.3) of the Regulation in relation to the Principals and Procedures to be complied with in Tax Inspections (“Tax Inspection Regulation”); tax inspection can only be made for the subject and the taxation period which are stated under the assignment letter of the tax inspection. In addition, as per the same Article, the tax inspector shall not request, any information and document which are not related to the subject and the period specified under the assignment letter, from the taxpayer against whom the tax inspection is being conducted.
- As per amended Article 16 Paragraph (No.2) Subparagraph (No.1) of the Tax Inspection Regulation; upon request of a taxpayer, the draft tax inspection minutes must be provided to the taxpayer before two days from the issuance of such inspection minutes in order to write objections and considerations of the taxpayer to the tax inspection minute.
- According to amended Article 19/ of the Tax Inspection Regulation; if a matter which is determined within the scope of a tax inspection and requires a tax criticism in relation to a specific tax procedure will also require to make a correction for another tax procedure before the same taxpayer (i.e.; subject to the tax inspection), suggestions for the correction of such tax procedure shall be stated under the same tax inspection report. However, if such matter requires preparing a tax inspection report in order to make the correction of tax procedures before another taxpayer, that case shall be reported to the unit who assigned the tax inspection duty.

## iii. Amendments to the Tax Inspection Board Regulation

As known, pursuant to Article 57/3 of the Tax Inspection Board Regulation, in cases where certain matters are determined relating to more than a taxpayer or more than a tax type or more than a tax period of the same taxpayer within the scope of tax inspections conducted by the tax authorities, a Tax Technique Report may be issued in order to state all such matters in the same report. Then such Tax Technique Report shall be attached to the Tax Inspection Report to be issued thereafter.

With the amendment made by the Amending Regulation on Article 57 of the said Regulation, the paragraph (No.4) has been added to such Article as a new paragraph following the paragraph (No.3).

As per the new paragraph of Article 57, in cases where a Tax Technique Report which is issued in connection with the issuance of a forged document also includes determinations asserting that a forged document has been used by another taxpayer, such Tax Technique Report shall not be attached to the Tax Inspection Report which will be issued for the taxpayer who has used the forged document. However information, documents and considerations relating to the determination of the issuance of the forged document under such Tax Technique Report, will be included under the Tax Inspection Report to be issued in connection with the use of such forged document.

## Q4/2016 Significant Amendments to the VAT Law General Implementation Communiqué

Through the VAT Law General Communiqué (Serial No.7) (published in the Official Gazette dated 4 October 2016 and No.29847) certain amendments have been made to the VAT Law General Implementation Communiqué. Significant issues which have been regulated under the VAT Law General Communiqué would be stated as follows:

- Procedures and principles in relation to the VAT exemption on i) deliveries of fertilizers certified by the Ministry of Food, Agriculture and Livestock and ii) deliveries of raw materials existed within the content of those products to the fertilizer manufacturers and iii) deliveries of feeds have been determined.
- The VAT paid over the disguised profit through transfer pricing pursuant to Article 13 of the Corporate Income Tax Law (Law No.5520) and Article 41 of the Income Tax Law (Law No.193) during the importation or as reverse charge would be subject to the deduction.

- Certain amendments have been made in relation to the VAT implementation applicable on the Inward Processing Regime.

#### **Q4/2016 Certain Articles of the Double Taxation Treaty signed between Turkey and Belgium have been revised by the Protocol**

The Protocol amending the “Avoidance of Double Taxation Treaty with respect to Taxes on Income” (“**DTT**”) signed between the Republic of Turkey and Kingdom of Belgium has been ratified through the Decree of the Council of Ministers (Decree No.2016/9214) (published in the Official Gazette dated October 5, 2016 and No.29848).

Through the abovementioned Protocol, certain amendments have been made on Articles 3 (General Definitions), 26 (Exchange of Information) and 27 (Assistance in Recovery) of the DTT.

#### **Q4/2016 Certain Amendments on the Implementation of Investment Incentives**

Amendments have been made to the Decree for Government Supports on Investments (Decree No.2012/3305) by the Decree of the Council of Ministers (Decree No.2016/9139) (published in the Official Gazette dated October 5, 2016 and No.29848). Such amendments would be stated as follows:

- Certain amendments made on the applications of certificate for investment incentive.
- The requirement of application deadline over the interest support implementation on strategic investments has been removed.
- With respect to the support for employer's national insurance contribution, differing practices on period handled depending on the time of investment initiation terminated.
- In relation to the implementation of tax reduction support, differing rates adapted depending on the time of investment initiation have been terminated.
- Amendments made on investment subjects with high priority in relation to the energy productivity.
- Amendments made over supports provided for investments in manufacturing industry at Industrial Sites.
- Incentive regulations introduced specific to the investments dedicated to manufacturing of products within the medium-to-high technological industry classification of the OECD's definition of technology-intensive.
- Regulations introduced on supports to be provided for investments with purpose of manufacturing railroad/tram locomotives and wagons.

#### **Q4/2016 New Tax Rates, Amounts and Thresholds Applicable for 2017**

The revaluation rate has been set at 3,83% for the year 2016 according to the Tax Procedural Code General Communiqué No. 474 (*published in the Official Gazette dated November 11, 2016, No. 29885*). Taking into consideration the revaluation rate of 3,83%, The Ministry of Finance has recalculated certain tax rates and related amounts and thresholds that will be applied for the year 2017. You may find below the new rates, amounts and thresholds to be applicable for 2017.

Subject	Tax Rate/Amount/Threshold	The Relevant Communique
Income Tax Rates	<p>Up to TL 13,000.00: 15%.</p> <p>Up to TL 30,000.00: TL 1,950.00 for the first TL 13,000.00, plus 20% on the excess.</p> <p>Up to TL 70,000.00: TL 5,350.00 for the first TL 30,000.00, plus 27% on the excess. (For employment income up to 110,000.00: TL 5,350.00 for the first TL 30,000.00, plus 27% on the excess)</p> <p>More than TL 70,000.00: TL 16,150.00 for the first TL 70,000.00, plus 35% on the excess. (For employment income exceeding TL 110,000.00, TL 26,950.00 for the first TL 110,000.00, plus 35% for the excess.)</p>	The Income Tax Communique No. 296 (Published in the Official Gazette No. 29931 dated December 27,2016)
The Exemption Amount for the Rental Income Derived from the Residences	TL 3,900.00	The Income Tax Communique No. 296
The Exemption Amount for the meal benefits provided to the employee outside of the place of business	TL 14.00	The Income Tax Communique No. 296
The Disability Reduction Amounts	<p>For the 1<sup>st</sup> degree disabled employees : TL 900.00</p> <p>For the 2<sup>nd</sup> degree disabled employees : TL 470.00</p> <p>For the 3<sup>rd</sup> degree disabled employees : TL 210.00</p>	The Income Tax Communique No. 296
The Conditions for being subject to Simplified Taxation System	<p>General Conditions</p> <ul style="list-style-type: none"> <li>the annual rental value for the place of business rented by the taxpayer and the annual fair rental value for the ones owned by the taxpayers shall not exceed TL 6,500 within the boundaries of metropolitan municipality and TL 4,300 within other places.</li> </ul>	The Income Tax Communique No. 296

	<p>Specific Conditions</p> <ul style="list-style-type: none"> <li>• For the taxpayers who sell the goods, without processing or after processing, that they purchased; <ul style="list-style-type: none"> <li>- The annual purchase amount shall not exceed TL 90,000.00, or</li> <li>- The annual sale amount shall not exceed TL 130,000.00</li> </ul> </li> <li>• The gross income of the taxpayers other than the abovementioned ones shall not exceed TL 43,000.00.</li> <li>• For the taxpayers engaging in the businesses fall under both the first and the second bullets stated above, the total of the annual sale amounts and the gross income shall not exceed TL 90,000.00</li> </ul>	
The Exemption Amount for Capital Gains	TL 11,000.00	The Income Tax Communique No. 296
The Exemption Amount for Incidental Earnings	TL 24,000.00	The Income Tax Communique No. 296
The threshold amount for filing tax return regarding the security income and income from immovable property which are not subject to any exemption and withholding tax	TL 1,600.00	The Income Tax Communique No. 296
The Inflation Reduction rate that will be applied over some securities derived in 2016	<p>The inflation reduction rate will apply at the rate of 38,19% for the income derived by individual investors within 2016 from:</p> <ul style="list-style-type: none"> <li>• Treasury bills and government bonds,</li> <li>• Securities issued by Housing Development Administration and Privatization Administration,</li> <li>• Corporate bonds</li> </ul>	The Income Tax Communique No. 296

	which are issued in Turkish currency before January 01, 2006.																			
The threshold amount for the VAT refund applications arising from the transactions subject to the reduced VAT rate	TL 21,400.00	The Value Added Tax Communique (Serial No:9) made Amendments on General Value Added Tax Application Communique (Published in the Official Gazette No. 29931 dated December 27,2016)																		
Stamp Tax Threshold	TL 1.865.946,80	The Stamp Tax Communique No. 61 (Published in the Official Gazette No. 29931 dated December 27,2016)																		
Inheritance and Transfer Tax	<table border="0"> <thead> <tr> <th></th> <th style="text-align: center;"><u>Inheritance</u></th> <th style="text-align: center;"><u>Gift</u></th> </tr> </thead> <tbody> <tr> <td>For TL 210,000.00</td> <td style="text-align: center;">% 1</td> <td style="text-align: center;">% 10</td> </tr> <tr> <td>For additional TL 500,000.00</td> <td style="text-align: center;">% 3</td> <td style="text-align: center;">% 15</td> </tr> <tr> <td>For additional TL 1,110,000.00</td> <td style="text-align: center;">% 5</td> <td style="text-align: center;">% 20</td> </tr> <tr> <td>For additional TL 2,000,000.00</td> <td style="text-align: center;">% 7</td> <td style="text-align: center;">% 25</td> </tr> <tr> <td>more than TL 3,820,000.00</td> <td style="text-align: center;">% 10</td> <td style="text-align: center;">% 30</td> </tr> </tbody> </table>		<u>Inheritance</u>	<u>Gift</u>	For TL 210,000.00	% 1	% 10	For additional TL 500,000.00	% 3	% 15	For additional TL 1,110,000.00	% 5	% 20	For additional TL 2,000,000.00	% 7	% 25	more than TL 3,820,000.00	% 10	% 30	The Inheritance and Transfer Tax General Communique No. 48 (Published in the Official Gazette No. 29931 dated December 27,2016)
	<u>Inheritance</u>	<u>Gift</u>																		
For TL 210,000.00	% 1	% 10																		
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For additional TL 2,000,000.00	% 7	% 25																		
more than TL 3,820,000.00	% 10	% 30																		
Inheritance and Transfer Tax Exemptions	<ul style="list-style-type: none"> <li>• TL 176,600.00 of the inheritance shares corresponding to each child and spouse, including adopted children</li> <li>• TL 353,417.00 of the inheritance share corresponding to the spouse if there are no children</li> <li>• TL 4,068.00 of gratuitous transfers</li> <li>• TL 4,068.00 of the prizes won in games of chance defined under Law No.5602</li> </ul>	The Inheritance and Transfer Tax General Communique No. 48																		

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**[newsletter@pekin.pekin.com](mailto:newsletter@pekin.pekin.com)**

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t: +90 212 313 35 00 f: +90 212 313 35 35 e: [postmaster@pekin-pekin.com](mailto:postmaster@pekin-pekin.com) w: [www.pekin-pekin.com](http://www.pekin-pekin.com)

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