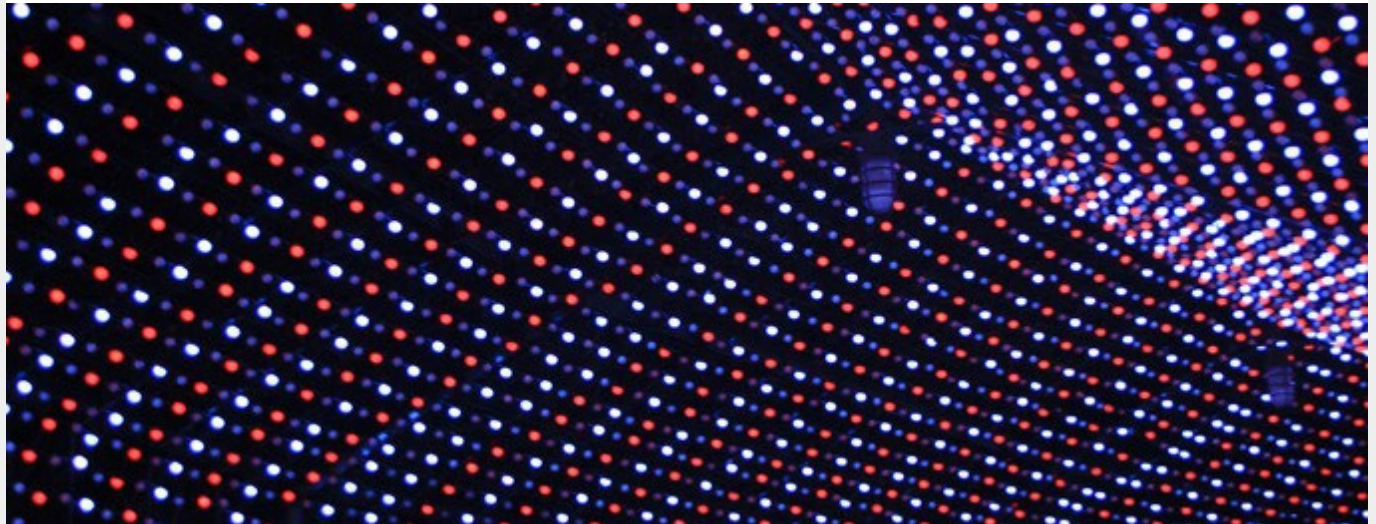


Key Changes in the Local Tax Legislation

August 2024



Dear Clients, Colleagues and Friends,

Significant amendments to Türkiye's tax legislation were enacted (Law No. 7524) amending various tax laws, including the Turkish Corporate Income Tax Law, the Turkish Income Tax Law, the Turkish Value-Added Tax Law, and the Turkish Tax Procedural Law. This amending law was published in the Official Gazette on 2 August 2024 and entered into force on the same date. Below is an overview of the key changes and our initial thoughts on their potential implications for your business considerations or decision-making.

- Domestic Minimum Corporate Income Tax

From the 2025 fiscal year, a minimum corporate income tax amount will be calculated by applying a flat rate of 10% based on pre-exemption and pre-deduction net income. This ensures corporations pay a minimum level of tax based on each taxpayer entity's commercial profits before deductions and exemptions, aiming to increase overall tax revenue and discourage any tax avoidance practices. There are specific holidays and exemptions regulated for newly-established businesses and specific regimes (such as Free-Trade Zones and R&D), respectively.

Given the significant concerns over the lack of clear regulation regarding the utilisation of carried-forward losses (from the previous five fiscal years), we expect further guidance in upcoming secondary regulations as amendments to the Corporate Income Tax Law General Communiqué.

- Limitation on the Income Tax Exemption for the Free-Trade Zones

From 1 January 2025, the exemption that has been benefitted from by the entities in the Free-Trade Zones on profits from their sales to the domestic market is abolished by introducing a limitation resulting income taxation based on domestic sales. This change aims to standardise the overall income tax treatment across all regions within Türkiye, and it prevents tax avoidance for companies enjoying the free zone benefits with no major sales to other countries.

- Exemption for Salary Taxes (Income Tax) in Tech Startups

Effective 2 August 2024, shares provided to the employees as award plans by specific tech startups established in Türkiye are exempt from local income tax up to the annual gross salary of each employee

– the shares must meet specific criteria set by the Ministry of Industry and Technology to qualify for this exemption.

Though the application would likely be limited in practice, this exemption aims to enable retaining talent by the offering of tax-efficient share-based employee compensation, and we believe the recognition of these benefits is promising. Yet, currently, there are pretty strict post-vesting lock-up requirements, in the sense that the exempt taxes would become fully or partially payable by the employer (retrospectively, with late payment interest) if the shares are disposed by the recipient employee before 3 years or 12 years (from the acquisition), respectively.

- **Income Taxation at Source (Through Withholding) in E-Commerce Transactions**

Starting 1 January 2025, intermediary service providers and e-commerce intermediary service providers will be acting as withholding agents for their payments to the service providers in the ordinary course of business as regulated under the Turkish E-Commerce Law No. 6563.

The President is granted authority to determine the specifics of taxation through withholding, including implementation, scope and tax rates. This gross-basis tax retention practice targets the growing e-commerce sector to ensure proper and somewhat centralised tax collection from online transactions, and naturally, it has the potential to lead to taxpayers' refund claims, given the fact that corporations are eventually taxed based on net profits.

- **Distribution Requirements for Investment Funds and Companies**

The corporate income tax exemption being enjoyed by the investment funds and companies involved in real estate investments has been modified. In order to qualify for the exemption, they are required to distribute a minimum of 50% of their profits, especially those derived from real estate investments, to their shareholders by the end of the second month following the declaration of the corporate tax return.

The distribution requirement addresses profits derived from the real estate investment activities, such as the gains on sale of real estate and rental income. If not distributed adequately and on a timely manner, the concerned profits (from real estate investments) will be taxable, which may take place retrospectively, for example, on the third month following the initial submission of the tax declaration.

Finally, double taxation is eliminated in Türkiye by providing a new specific exemption in the Corporate Income Tax Law. A special corporate income tax exemption is available for the local parent entity receiving profits that were subject to corporate income taxation (and not eligible for exemption) at the level of the investment fund or company, i.e., Turkish corporate income tax only applies once.

- **Public-Private Partnerships and Build-Operate-Transfer Projects**

The corporate income tax rate for profits derived from Public-Private Partnership and Build-Operate-Transfer projects, as regulated under Law No. 3996 and Law No. 6428, increases from 25% to 30% (flat) – such taxation will be applicable based on the entire amount of taxable income, on a net-basis, effective for fiscal years starting in 2025.

This regulation primarily aims to ensure an adjusted tax contribution for the project companies taking into consideration the projects' fiscal impact on the public budget, and it does not address the subcontractors.

- **Cancellation of Reconciliation for Unpaid Taxes and Increase in Penalties**

As a matter of significant regulatory change regarding the taxpayers' reconciliation process with the local tax authorities, taxpayers who opted-in for such a settlement will no longer benefit from a reduction in the principal amount of tax claims.

Separately, to enhance tax compliance, penalties for irregularities and tax losses have been significantly increased. For instance, the application of the one-fold (or three-fold, as the case may be) tax loss penalties will be increased by 50% (i.e., will be claimed as %150 or %450 of the unpaid or underpaid amount of tax

principal) from the deemed taxpayers or tax agents that did not get registered for tax purposes in Türkiye. This measure aims to deter non-compliance by imposing stricter financial consequences and by explicitly addressing avoidance of tax registration with increased penalties.

- **Limitation on Long-Term VAT Deduction Limitation**

Starting 1 January 2030, VAT deductions that are not utilised as tax assets within five calendar years will no longer be carried forward. Instead, these amounts will be transferred to a special account in the following year, and (if opted) it can be accounted for as expense for the purposes of income taxation (or corporate income taxation) requiring a special audit by the revenue administration. This change aims to prevent indefinite deferral of the concerned tax assets.

Paksoy is dedicated to offering thorough legal, tax and fiscal services to help you navigate these legislative changes. Do not hesitate to contact us for any further information on this briefing; our team of experts is ready to provide tailored solutions and ensure your compliance with the new regulations.



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