

Turkey Introduced a New Tax Amnesty

Issue

2020/38

Date

02.11.2020



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TURKEY INTRODUCED A NEW TAX AMNESTY

A new tax amnesty was introduced by the government last week. Provisional Article 93 was added to the Income Tax Law with the Law No. 7256 regarding new tax amnesty which involves bringing some assets to Turkey which can be either in Turkey or abroad in order to legalize them with zero tax. The last day of the tax amnesty application period is determined as 30 June 2021.

Provisional Article 93 includes:

- ◆ Natural or legal persons who have reported their assets which is in abroad to banks or intermediary firms in Turkey, will be able to use those assets without constraint, and
- ◆ Income or corporate taxpayers will be able to register their domestic assets that are present but not included in their records.

Let's look at the issues regarding tax amnesty applications that will end on **30 June 2021**.

1. Which assets are covered?

Those assets are covered in the scope of the tax amnesty:

- ◆ cash, gold, foreign exchange, securities, and other capital market instruments of natural and legal persons which are abroad, and
- ◆ cash, gold, foreign exchange, securities, and other capital market instruments that are not included in the statutory books of income and corporate taxpayers.

2. Who can benefit from new tax amnesty?

- ◆ All natural and legal persons in relation to assets abroad,
- ◆ Turkish income or corporate taxpayers in relation to assets located in Turkey

3. How will the notification or declaration of assets be made?

Assets located abroad must be reported to a bank or an intermediary firm in Turkey, using the notification form which is the annex of the General Communiqué on the subject of tax amnesty application.

Domestic assets must be declared to the affiliated tax office of the income or corporate taxpayer either with the tax return form attached to the aforementioned General Communiqué or electronically.

4. Status of assets acquired by third parties

Legal representatives, shareholders of the companies or their authorized representatives who were authorized to evaluate the assets with a valid proxy or representation agreement prepared by the authorized bodies dated before 17.11.2020

can benefit from tax amnesty. These persons can either

- ◆ repatriate the assets located in abroad by bringing them to Turkey or transferring to an account in a bank or intermediary firm in Turkey; or
- ◆ benefit from tax amnesty for assets which are located in Turkey but have not been recorded until 17.11.2020, by declaring those assets on behalf of the company

The assets that belong to the company or its shareholders, but are utilized by the authorized representatives, shareholders or other persons will be subject to notification or declaration on behalf of the company.

In addition, it is also possible to benefit from tax amnesty for assets that are utilized by companies abroad on condition that a real person who is a shareholder or representative of this company declare the relevant assets in the scope of tax amnesty.

5. Are the assets previously brought to Turkey subject to tax amnesty?

It is possible to use the assets abroad for the closing of the loans until 30/06/2021 at the latest which are used from the banks or financial institutions abroad and registered in the legal books as of 17/11/2020. In this case, taxpayers will not be required to bring those assets to Turkey.

In addition, capital advances registered in the statutory books as of 17.11.2020 can benefit from tax amnesty in case that those capital advances were realized with money, gold, foreign exchange, securities and other capital market instruments which were brought to Turkey before this date. The capital advances benefited from tax amnesty must be deducted from the book records.

6. Will any taxes be paid?

No tax will be paid on the value of declared assets.

7. How will the declaration or declaration value of the assets be determined?

In notifications or declarations, the Turkish lira equivalent of the assets will be taken as a basis and as of the date of notification or declaration, the assets will be valued with the following valuation criteria:

- ◆ Money in Turkish lira, with its nominal value;
- ◆ Gold, at its fair value;
- ◆ Foreign Exchange, with the exchange rates at Central Bank of the Republic of Turkey;
- ◆ Securities and other capital market instruments:
 - ▶ Shares such as stocks, with their stock market value, if there is no stock market value, with their current value, if this price cannot be determined, with their purchase price, if the purchase price is not known, with their nominal value;
 - ▶ Borrowing instruments such as bonds, bills, and Eurobonds, with their stock exchange rate, if there is no stock market value, with their current value, if this price cannot be determined, with their purchase price, if the purchase price is not known, with their nominal value;
 - ▶ Mutual fund participation certificates with the closing price determined in the relevant market;
 - ▶ Derivative instruments such as futures and options contracts, with their stock market value, if there is no stock market value, with their current value, if this price cannot be determined, with their purchase price, if the purchase price is not known, with their nominal value.
- ◆ Immovables, with their current value.

8. What are the advantages of tax amnesty?

a) No tax inspection and assessment will be made

No tax inspection or tax assessment will be made under any circumstances for declared assets, provided that:

- ◆ assets abroad will be brought to Turkey within three months from the date of notification, or be transferred to a bank or intermediary firm account to be opened in Turkey, and
- ◆ assets other than immovable were deposited into accounts at a bank or intermediary firm account.

Some assets that were entered in statutory books until 17.11.2020 will not be required to be brought in Turkey for tax amnesty application:

- ◆ assets that will be used to close loans until 30.06.2021, or
- ◆ assets that were used to delete capital advances from statutory books

The acquisition date of those assets does not matter in case the taxpayer brings those assets abroad to Turkey within three months from the date of declaration of the assets

b) 2- Assets can be withdrawn from the business and no tax will be paid.

Notified or declared assets can be recorded in statutory books by the taxpayers who keep books in accordance with the Tax Procedure Law.

The assets in the scope of tax amnesty can be **either included in the business without considering in the period income or withdrawn from the business without considering in distributable profits.**

Taxpayers who keep books on the basis of the balance sheet will open a special fund account in liabilities for the assets they have recorded in their statutory books. The account can be utilized freely, added to the capital, or

distributed to shareholders. This account will not be taxed in case of liquidation of the enterprise, nor will it be taxed in cases of merger, transfer, and spin-off in accordance with Article 81 of the Income Tax Law and articles 18, 19, and 20 of the Corporate Tax Law.

In addition, there will be no withholding tax based on profit distribution if the amounts related to the said assets are distributed by the corporate taxpayers. The distributed profit which is obtained by a natural person or corporate taxpayer shareholder will not be taxed.

9. Expense, loss, and depreciation

Within the scope of tax amnesty:

the paid tax cannot be recorded as an expense and cannot be deducted from any other tax;

losses arising from the subsequent disposal of recorded assets will not be accepted as an expense or deduction in terms of income or corporate tax application;

provisions regarding depreciation in the Tax Procedure Law will not be applied for immovables that are transferred to statutory book records.

Kind Regards,

Please contact us for the further details on our international tax bulletin



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