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Turkey

TAX

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This country-specific Q&A provides an overview of tax laws and regulations applicable in Turkey.

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TURKEY
TAX

1. How often is tax law amended and what is the process?

Turkish Tax Law derives its authority from the 1982 Constitution of the Republic of Turkey, specifically outlined in Article 73, Paragraph 4. This provision mandates that taxes, duties, charges, and similar financial obligations must be established, altered, or revoked through legislative acts.

Tax laws undergo frequent amendments throughout the year, primarily driven by factors such as actual tax figures and thresholds, which are adjusted in response to Turkish Lira devaluation-induced increases.

In 2023, several significant regulatory changes exemplify this adaptability. A few examples include:

Introduction of a Special Communication Tax: Starting on January 1, 2023, a Special Communication Tax of TRY 260 is imposed on mobile phone subscriptions, with exceptions for service provider changes.

Fee Adjustments: Fees defined in Law on Fees No. 492, covering Judicial, Notary, Tax Judiciary, Land Registry and Cadastre, Consular, and Fixed Fees, have increased by 50%. This encompasses a wide range of fees or duties applied to various services or documents, such as passports, residence permits, work permits, work permit exemptions, visas, Ministry of Foreign Affairs certifications, shipping and port services, concession licenses, diplomas, and traffic.

Tariff Quotas: Revision of import tariffs facilitates duty-free importation of numerous industrial products, including specific chemicals, accumulators, circuit boards, ion batteries, printed circuit boards, and sound mechanisms. These modifications are effective until February 15, 2024, aimed at stimulating trade and industrial growth.

2. What are the principal administrative obligations of a taxpayer, i.e. regarding the filing of tax returns and the maintenance of records?

Article 73 of the Turkish Constitution addresses general tax obligations, while broader tax legislation outlines both general taxpayer obligations and responsibilities during tax audit processes. Article 153 of the Tax Procedure Law (TPL) No. 213, enacted on January 4, 1961, defines the obligations of taxpayers as follows:

Notification Obligation: Taxpayers must promptly report various changes or events, such as starting new employment, changing their address, altering their occupation, modifying their business activities, changing business locations or properties, or discontinuing a business venture.

Book-keeping Obligation: Taxpayers are required to maintain accurate and organized records that enable the determination and examination of their tax-related assets, capital, and financial status. These records must adhere to prescribed recording guidelines outlined in the law. Additionally, taxpayers must have these books certified within the legal timeframe specified in the Law.

Filing Tax Returns: Taxpayers are responsible for completing tax returns with precision and completeness, adhering to any special filing periods stipulated in the law (for example, income and corporate tax returns are filed annually, while certain tax types may have different filing timelines).

Duty of Preservation and Submission: Taxpayers must adhere to the obligation of preserving and submitting records and documents when requested by tax authorities for inspection.

Furthermore, during a tax inspection, taxpayers must comply with additional obligations outlined in Article 257 of the TPL. These obligations include:

Facilitating Inspection: Taxpayers must grant access to their place of work to authorized officers conducting the inspection, ensuring that officers can carry out their duties during official working hours.

Providing Information: Taxpayers are obligated to provide all necessary explanations and information relevant to the inspection, allowing the inspecting officer to visit and examine all areas of the enterprise and, if necessary, conduct an actual inventory.

Offering Assistance: Taxpayers must fully cooperate by providing necessary tools, equipment, and personnel to facilitate inspection procedures.

3. Who are the key tax authorities? How do they engage with taxpayers and how are tax issues resolved?

Under the Law on Certain Regulations Regarding the Revenue Administration, tax enforcement authority rests with the Revenue Administration, operating under the Ministry of Treasury and Finance. While the Revenue Administration is a significant institution with a pivotal role, the identification and supervision of taxpayers' compliance with the law are carried out by tax offices. These tax offices are organized throughout Turkey, serving all cities and districts.

The tax offices perform a wide range of functions, including identifying taxpayers within their jurisdiction, assessing taxes, issuing notifications, handling accrual, collection, cancellation, deferral, refund, payment, and accounting transactions related to taxes and similar financial obligations. They also represent the tax authorities in disputes before administrative judicial authorities and oversee the implementation of judicial decisions.

Additionally, commissions play a role in determining various measures related to the calculation of tax bases, with the valuation commission being particularly important in making tax base and wealth assessments as requested by competent authorities.

To resolve tax disputes between taxpayers and the tax authorities more expeditiously without resorting to judicial procedures, taxpayers have the option to apply to the tax authorities within specified timeframes as outlined in the law. Various methods for resolving tax disputes outside the judiciary include:

Reconciliation: Except for taxes levied upon the declaration of the taxpayer and taxes resulting from acts constituting smuggling, taxpayers can apply for reconciliation to the Tax Authority Reconciliation Commission within 30 days following the date of notification of the tax or penalty notice. If reconciliation is reached through negotiations, a reconciliation report is issued, and the tax authorities are obligated to implement it. In cases of non-reconciliation, the taxpayer can file a lawsuit.

Correction of Tax Mistakes: Tax authorities can make ex officio corrections for obvious and definite tax mistakes. Taxpayers can also request the correction of errors made in tax transactions within the statute of limitations. If the tax authorities do not respond to the correction request within 30 days, the request is deemed implicitly rejected.

Penitence and Rectification: Individuals causing tax loss through unlawful acts in terms of declaration-based taxes can notify the tax authorities of the violations. This may allow them to avoid paying tax loss penalties if the institution applies the regret and amendment provision.

Ombudsman Institution: Taxpayers can apply to the Ombudsman Institution, regulated by Law No. 6328 on the Ombudsman Institution, instead of tax courts for transactions contrary to legislation. This application suspends the time period for filing a lawsuit, with applications to the institution typically finalized within 6 months.

Invitation to Explain: If it is determined that a taxpayer has caused tax loss, the taxpayer may be invited to explain by the authority through an invitation letter. A taxpayer is not subject to tax inspection if their explanation does not result in tax loss; otherwise, the taxpayer undergoes tax inspection and referral to the tax assessment commission.

Reduction In Tax Penalties: Taxpayers can receive a discount on tax penalties if they commit to paying the penalties to the tax administration within 3 months from the end of the due date, by paying the penalties on time, or by providing one of the specified types of assurances under Law No. 6183. This can be done without filing a lawsuit within the period for filing a lawsuit in the tax court.

4. Are tax disputes heard by a court, tribunal or body independent of the tax authority? How long do such proceedings generally take?

In addition to the administrative conflict resolution systems discussed in Question 3, recourse to the courts is always an available option.

The litigation process for tax proceedings is governed by Administrative Procedure Law No. 2577 and includes two distinct procedures: ordinary and extraordinary remedies. Within the ordinary procedure, a three-tier court system is established, comprising tax courts, the Court of Appeal (Higher Regional Administrative Courts), and the Council of State (Highest Administrative Court). In cases where all available layers of the litigation system fail to provide a fair and satisfactory outcome, taxpayers can also turn to the Constitutional Court of Turkey.

Tax lawsuits are subject to written form, with a standard 30-day filing period in tax courts, unless special laws specify a different timeframe. According to Article 7 of the Administrative Procedure Law, this 30-day period applies to disputes related to taxes, duties, fees, and similar financial obligations, including their increases and penalties. The specific filing period depends on the type of tax and the triggering event, such as collection, notification, or other transactions. Applicants typically receive estimates for the duration of these cases, which usually take up to 1 year for each court level.

After completing the ordinary procedures, taxpayers have the option to pursue extraordinary remedies, such as appeals to higher administrative courts (the two layers of appeal mentioned above) for the sake of the law or a retrial of the judgment. However, it is worth noting that these extraordinary remedies are less commonly employed in practice. The appellate stages may also take 1 to 2 years at each level of the court system.

5. What are the typical deadlines for the payment of taxes? Do special rules apply to disputed amounts of tax?

In accordance with Article 110 of the Tax Procedure Law (TPL), a tax receivable, the amount of which is determined by tax imposition and has reached the stage where it must be paid, can be remitted by the taxpayer or the tax responsible individual to the respective tax office with which the taxpayer is affiliated. It's also possible to make payments to tax offices located outside municipal boundaries, provided that the designated tax office account for payment is specified.

Regarding timeframes, as stipulated in TPL Article 111, payments must be made within the periods specified in the tax laws. Additionally, the second paragraph of the same article designates the last day of the payment period as the due date for the tax. In cases where a declaration is sent by mail, the payment must be made on the due date without waiting for the completion of the tax accrual process related to the declared tax base.

While the payment dates for taxes are typically governed by their respective specialized laws, Article 112 of the TPL introduces specific payment periods under certain conditions. These conditions include tax assessments conducted through assessment, ex officio actions by the tax authority, leaving the country or death of the taxpayer, filing a lawsuit in the tax court, and reaching a reconciliation agreement.

Moreover, the periods and payment due dates for tax returns vary by tax type and are outlined below:

Types of Tax Return	Tax Return Period	Payment Due Date
Annual corporate tax	Last day of the April	Last day of the April
Annual Income Tax	Last day of the March	Last day of the March and July
Value Added Tax	26th of the following month	26th of the month of tax return
Stamp Tax	26th of the following month	26th of the month of tax return
Monthly Withholding Tax	26th of the following month	26th of the month of tax return
3-months Withholding Tax	3-month period until the evening of the 26th day of the following month.	26th of the month of tax return
	Period 1 April 26th,	
	Period 2 July 26th,	
	Period 3 October 26th,	
	Period 4 January 26	
Real Estate Tax	There is no obligation to submit tax return.	First installment in March, April, and May Second installment in November
Special Consumption Tax	For products in List I, the 25th of the same month for the first 15 days and the 10th of the following month for the second 15 days, Until the evening of the 15th day of the 15th day of the month following the delivery of the products in List II that are not subject to registration and registration and the products in List III and IV, For products subject to registration and registration in List II, a declaration shall be submitted before the completion of the procedures.	Within the tax return submission period
Inheritance And Transfer Tax	In case the death occurs in Turkey, within 4 months from the date of death if the taxpayers are in Turkey, and within 6 months if they are in a foreign country	In 3 years from the date of accrual and in two equal installments in May and November each year
	In case the death occurs in a foreign country, within 4 months if the taxpayers are located in Turkey, and within 8 months if they are located in a country other than the country where the deceased is located,	
	In case of disappearance, it shall be submitted within 1 month following the date of registration of the disappearance decision in the registry.	
	Tax return related to gratuitous transfers; It is submitted within 1 month following the date of acquisition of the goods.	
Motor Vehicle Tax	There is no obligation to file a declaration. It is deemed to be accrued annually at the beginning of January each year.	1st installment by the end of January, 2nd installment is paid until the end of July.
Banking and Insurance Transaction Tax	15th of the following month	Within the tax return submission period
Announcement and Advertisement Tax	Before the advertisement and advertising work is carried out by the taxpayer Until the evening of the 20th day of the month following the date of the announcement and advertisement by those who do it as a habitual work.	It is to be paid within the declaration period. Taxes on annual advertisements and advertising may be paid in two equal installments during the year.
Environmental Tax	The environmental tax for workplaces and other buildings used in other ways is deemed to have accrued in January of each year in terms of its annual amount upon the adjustment of the buildings to the grades in the tariff by the municipalities.	1st installment in March, April, and May, 2nd installment is paid in November
	In case of first-time taxpayer establishment, notification is given to the relevant municipality within 30 days.	In the case of the first-time taxpayer, the payment period of the tax differs as of the date of the establishment of the taxpayer.

6. Are tax authorities subject to a duty of confidentiality in respect of taxpayer data?

Under Turkish law, the protection of tax secrecy is enshrined in Article 5 of the Tax Procedure Law (TPL) during the stages of assessment, notification, and accrual for taxes falling under the TPL's jurisdiction. Additionally, Article 107 of the Law on the Procedure for the Collection of Public Receivables addresses tax secrecy at the collection stage.

Article 5 of the TPL mandates that individuals involved in tax transactions and examinations, tax courts, regional administrative courts, the Council of State, participants in commissions established in accordance with tax laws, and experts engaged in tax affairs are prohibited from disclosing any confidential information. This includes details they have acquired about the personalities, transactions, accounts, businesses, enterprises, wealth, or professions of taxpayers and related individuals due to their official duties. They are also barred from using this information for their personal benefit or that of third parties.

Additionally, Article 107 of the Law on the Procedure for the Collection of Public Receivables addresses tax secrecy, stipulating that individuals responsible for enforcing this law can face penalties as per Article 239 of the Turkish Criminal Code if they divulge confidential information. This information may pertain to the personalities, professions, businesses, transactions, accounts, and other confidential matters related to the public debtor and individuals associated with the public debtor in the course of their official duties.

However, it's crucial to note that the sharing of such information with authorized authorities and individuals in specific cases specified by law, such as judicial and administrative investigations, does not constitute a breach of tax privacy.

7. Is this jurisdiction a signatory (or does it propose to become a signatory) to the Common Reporting Standard? Does it maintain (or intend to maintain) a public register of beneficial ownership?

Turkey, as a member of both the G-20 and the OECD, has actively participated in efforts to harmonize with the OECD's Common Reporting Standards (CRS). This international collaboration has resulted in the implementation of CRS regulations in Turkey. These regulations are aligned with the Law on the Approval of the Ratification of the Convention on Mutual Administrative Assistance in Tax Matters, which was published in the Official Gazette on May 20, 2017, under number 30071.

In line with these regulations, the Turkish Revenue Administration issued a letter and guidance to financial institutions on June 30, 2017. The guidance stipulated that financial institutions in Turkey are obligated to report information regarding accounts that are designated as mandatory for reporting. This reporting is required to be conducted annually and should be submitted to the Revenue Administration by the end of May of the calendar year following the year to which the reports relate. Consequently, financial institutions in Turkey submitted their initial CRS reports to the tax authority in May 2018, marking the commencement of CRS compliance.

Furthermore, Turkish law imposes requirements related to the public register of beneficial ownership for bearer shares in joint-stock companies. The Central Registry Agency is responsible for maintaining this register, enhancing transparency and accountability. Additionally, corporate taxpayers in Turkey are mandated to report their beneficial ownership information to the Turkish Tax Administration on an annual basis.

8. What are the tests for determining residence of business entities (including transparent entities)?

In Article 3 of Corporate Tax Law No. 5520, taxpayers are categorized into two groups: full-fledged taxpayers and limited taxpayers. The classification is as follows:

Full-Fledged Taxpayers: These are corporations whose legal headquarters are designated as Turkey in their articles of association or bylaws, or corporations whose legal headquarters are in Turkey where their commercial transactions are actually managed. Full-fledged taxpayers are liable for all the income they generate, regardless of whether it is earned within or outside of Turkey.

Limited Taxpayers: Corporations that do not meet the criteria for full-fledged taxpayers fall into this category. For limited taxpayers, both their legal and business centers are located outside of Turkey, and they are only subject to taxation on the income they generate within Turkey.

The conditions for income to be considered as generated in Turkey, which are also applicable under Corporate Tax Law Article 45, are outlined in Article 7 of the Income Tax Law. These conditions include:

- The income recipient must have a workplace in Turkey.
- The income recipient must have a permanent representative in Turkey.
- The income must be provided at or through these workplaces or representatives.

Article 156 of the Tax Procedure Law (TPL) provides a definition of a workplace. It encompasses places allocated to or used for conducting commercial, industrial, agricultural, or professional activities. These places can include stores, offices, administrative offices, clinics, workshops, branches, warehouses, hotels, coffee houses, entertainment and sports venues, fields, vineyards, gardens, farms, livestock facilities, mines, quarries, construction sites, ferry kiosks, and more.

Regarding the concept of a permanent representative, it is defined in paragraph 2 of Article 8 of the Income Tax Law. A permanent representative is a person who is bound to the represented person by a service or proxy contract and is authorized to conduct commercial transactions on behalf of and for the account of the represented person. This authority can be for a definite or indefinite period of time or for several commercial transactions.

Paragraph 3 of the same article lists certain individuals who are automatically considered as the permanent representative of the represented person without any additional conditions. These include:

- Commercial agents, merchant proxies, clerks, and those who are in the status of agents as per the provisions of the Commercial Code.
- Individuals whose expenses, excluding advertising expenses of the represented person, are continuously paid partially or wholly by the represented person.
- Individuals who hold goods in their stores or warehouses for sale on consignment on behalf of the represented person.

9. Do tax authorities in this jurisdiction target cross border transactions within an international group? If so, how?

The taxation of multinational companies and the regulation of cross-border transactions within international groups are critical issues worldwide. Turkey, as the host to numerous multinational companies, recognizes the significance of addressing these matters to prevent disguised profit transfers. To achieve this, Turkey has implemented measures that require taxpayers to prepare an annual transfer pricing report regarding their foreign transactions. The primary objective is to ensure that multinational companies price their transactions with related entities in a manner consistent with the arm's length principle.

The arm's length principle is a fundamental concept in transfer pricing. It suggests that transactions between related entities should be priced as if they were between unrelated entities under similar circumstances. By adhering to this principle, multinational companies are expected to ensure that their intercompany transactions do not lead to artificial profit shifting or tax avoidance.

In practice, tax authorities in Turkey closely scrutinize the transfer pricing practices of multinational companies to verify compliance with the arm's length principle. The preparation of annual transfer pricing reports is a critical step in demonstrating compliance and providing transparency to tax authorities.

10. Is there a controlled foreign corporation (CFC) regime or equivalent?

Under Turkish tax principles, taxpayers are generally not subject to taxation on the profits of their foreign corporate subsidiaries until those profits are distributed to the Turkish shareholder. However, there is a significant exception to this rule outlined in Article 7 of the Corporate Tax Law, which pertains to the regulation of Controlled Foreign Corporations (CFCs).

The CFC regime is designed as a tax safeguard mechanism that establishes regulations for Turkish corporations or natural persons who establish companies abroad or invest in existing foreign companies. This regime aims to address situations where the earnings of a foreign company are attributed to Turkish shareholders in proportion to their ownership shares, even if the foreign company does not distribute those earnings. Consequently, these earnings become subject to corporate tax or income tax in Turkey.

The CFC regime serves to ensure that taxpayers who direct their investments abroad to countries with lower tax rates via subsidiaries are subject to taxation in Turkey under specific conditions. This prevents them from enjoying tax advantages by keeping income offshore and eliminates tax disparities between taxpayers who invest abroad and those who invest domestically in Turkey.

The CFC regime comes into play when the following conditions are met simultaneously:

1. At least 25% of the foreign entity's gross income comprises passive income types, such as interest, dividends, rents, license fees, or gains from the sale of securities, which are derived from activities outside of commercial, agricultural, or professional service activities.
2. The corporate income tax burden of the foreign entity is lower than 10% of its commercial profit.
3. The annual gross income of the foreign entity exceeds a threshold, typically defined as a specific monetary value (e.g., TRY).

If these conditions are met, the profits of the foreign entity are subject to income tax in Turkey, regardless of whether they are distributed or not.

For natural persons who meet the conditions specified in the Corporate Tax Law, a declaration is required to be made in March, while legal entities are obliged to make their declarations in April. This declaration process ensures compliance with the CFC regime and allows tax authorities to monitor and assess the tax implications of foreign investments and foreign corporate entities owned by Turkish residents.

11. Is there a transfer pricing regime? Is there a "thin capitalization" regime? Is there a "safe harbour" or is it possible to obtain an advance pricing agreement?

In Turkey, there are two important tax regimes in place to regulate certain aspects of corporate taxation: the Transfer Pricing Regime and the Thin Capitalization Regime.

Transfer Pricing Regime: The Transfer Pricing Regime in Turkey is designed to ensure that the pricing applied in the purchase and sale of goods or services between taxpayers and related persons or organizations is in accordance with the calculations and criteria stipulated in the transfer pricing regulations. This regime aims to prevent the disguised distribution of profits between the two companies involved in such transactions.

Key points of the Transfer Pricing Regime include:

Arm's Length Principle: Pricing in transactions between related parties must adhere to the arm's length principle, meaning that the prices applied should be consistent with what would be expected in transactions between unrelated parties.

Methods for Comparability: Various methods are specified in the law for making transactions between related and unrelated parties comparable to determine whether the pricing is in accordance with the arm's length principle.

Advance Pricing Agreements (APAs): Taxpayers can enter into APAs with the Revenue Administration to determine the pricing methods to be applied in their transactions with related parties. These agreements provide certainty on transfer pricing for a defined period, usually not exceeding three years.

Transfer Pricing Report: Taxpayers are required to prepare a Transfer Pricing Report, which includes justifications, calculations, and evidence regarding the chosen pricing method. This report is submitted to the tax office as an attachment to the corporate tax return.

Form on Transfer Pricing: Corporate taxpayers must complete the “Form on Transfer Pricing, Controlled Foreign Entities, and Disguised Capital” for transactions with related parties and submit it to the tax office. Failure to do so may result in penalties.

Penalties: Provisions regarding penalties are applied to those who fail to submit the required information and documents related to transfer pricing. Special irregularity penalties may also apply for failure to submit the required forms.

Thin Capitalization Regime: The Thin Capitalization Regime is another important aspect of corporate taxation in Turkey, specifically targeting excessive debt financing within corporations. Key elements of this regime include:

Definition of Thin Capital: Loans obtained directly or indirectly from shareholders or persons related to shareholders, which exceed three times the shareholders’ equity of the corporation at any time during the accounting period, are considered thin capital.

Tax Treatment: Interest and similar payments or calculated amounts related to thin capital are treated as if they were dividends distributed as of the last day of the accounting period in which the thin capital conditions were met, affecting both the borrower and the lender.

Correction of Taxation Transactions: Taxpayers involved in transactions subject to correction are required to correct their previous taxation transactions, accordingly, including addressing exchange differences related to implicit capital. This correction can only be made after taxes levied on behalf of the institution using implicit capital have been finalized and paid.

12. Is there a general anti-avoidance rule (GAAR) and, if so, how is it enforced by tax authorities (e.g. in negotiations, litigation)?

Turkey has implemented a combination of general and specific anti-avoidance measures to combat tax avoidance. These measures are designed to ensure that taxpayers fulfill their tax obligations accurately and transparently. Here are some key aspects of Turkey’s approach to preventing tax avoidance:

General Anti-Avoidance Rule (GAAR): Article 3 of the Tax Procedure Law in Turkey contains a general anti-avoidance rule, often referred to as the “substance over form” principle. This principle is aimed at preventing taxpayers from engaging in transactions that lack economic substance or are primarily designed to obtain tax benefits in a way that circumvents the underlying tax law’s intent.

Special Anti-Avoidance Rules: Turkey has implemented specific anti-avoidance rules to address various tax avoidance schemes, including:

Transfer Pricing Rules: These rules ensure that pricing in transactions between related parties adheres to the arm’s length principle, preventing profit shifting through related-party transactions.

Thin Capitalization Rules: These rules limit the deductibility of interest expenses on excessive debt financing, reducing the potential for interest-based tax avoidance.

Controlled Foreign Corporation (CFC) Rules: CFC rules allow Turkey to tax the income of foreign entities controlled by Turkish taxpayers, preventing the use of low-tax jurisdictions for tax avoidance purposes.

Interest Limitation Rules: The Turkish government is authorized to limit the deductibility of interest expenses for corporate taxpayers, further preventing tax avoidance through excessive interest deductions.

Penalties: While there are no specific penalties exclusively related to anti-tax avoidance provisions, taxpayers accused of tax avoidance may face penalties such as:

Tax Loss Penalty: This penalty may be imposed when a taxpayer engages in actions that result in tax losses for the government.

Irregularity Penalty: Taxpayers who fail to comply with tax laws or submit incorrect information may be subject to irregularity penalties.

Tax Auditing: Tax auditing plays a critical role in enforcing tax laws and detecting potential tax avoidance. Tax authorities conduct audits to assess whether taxpayers have accurately reported their income, expenses, and other relevant financial information. These audits help identify tax avoidance schemes and ensure compliance with tax laws.

13. Is there a digital services tax? If so, is there an intention to withdraw or amend it once a multilateral solution is in place?

The introduction of Digital Service Tax (DST) in Turkey represents a significant step in taxing revenue generated from digital services. As of March 1, 2020, DST applies to various digital services, including digital advertising services, the sale of digital content, and digital environment interaction services. Additionally, revenue derived from intermediary services provided by digital service providers in the digital environment for these services is also subject to DST. The tax rate for DST in Turkey is set at 7.5% as of 2023.

The DST is aimed at capturing revenue generated in the digital space and contributing to the country's tax revenue. It aligns with the global trend of taxing digital services and ensuring that digital businesses operating in Turkey fulfill their tax obligations.

It's important to note that discussions and negotiations regarding international taxation of digital services have been ongoing at the international level. The United States, Austria, France, Italy, Spain, and the United Kingdom reached a political consensus to adopt a transitional approach to existing unilateral measures when implementing Pillar 1 of international tax reforms. As part of this consensus, it is envisaged that Turkey, along with other countries, may abolish its Digital Service Tax once the Pillar 1 measures enter into force.

However, as of the provided information, the abolition of DST in Turkey has not yet been implemented, and only Article 7 of the relevant law has been annulled by the Constitutional Court's decision dated May 18, 2023. The situation regarding the future of DST in Turkey may evolve as international agreements and negotiations progress.

14. Have any of the OECD BEPS recommendations, including the OECD's recent two-pillar solution to address the tax challenges arising from digitalisation of the economy, been implemented or are any planned to be implemented?

The adoption of the Base Erosion and Profit Shifting (BEPS) recommendations by the G20 and other international organizations represents a global effort to address tax avoidance strategies used by multinational corporations. The BEPS Project, with its various pillars, seeks to ensure fairness and equity in international tax systems, particularly in the face of evolving business models and profit-shifting practices.

Pillar 2 of the BEPS Project is designed to create a minimum tax rate, ensuring that multinational corporations are subject to a set minimum tax regardless of where they operate. This approach aims to prevent profit shifting to low-tax or no-tax jurisdictions.

While Turkey has taken steps to align with international standards and address BEPS concerns, as of the provided information, there is no specific provision in Turkish legislation regarding the application of the minimum tax rate introduced under Pillar 2 of the BEPS Project for the earnings of controlled foreign corporations. The absence of such a provision suggests that Turkey may not have yet incorporated this specific aspect of the BEPS Project into its domestic tax laws.

15. How has the OECD BEPS program impacted tax policies?

Turkey's approach to implementing BEPS (Base Erosion and Profit Shifting) recommendations reflects the country's efforts to address specific tax challenges while also prioritizing certain BEPS Action Plans over others. While Turkey has made legislative adjustments to align with BEPS in areas such as Country-by-Country Reporting, it has not implemented regulations for all BEPS Action Plans, including those related to eliminating the effects of hybrid agreements and permanent establishment status.

This selective adoption of BEPS measures is not unique to Turkey, as countries around the world have implemented BEPS recommendations to varying degrees based on their individual tax systems and priorities. The flexibility in implementing BEPS measures allows countries to tailor their approach to address specific tax challenges that are most relevant to their economic and tax environments.

16. Does the tax system broadly follow the OECD Model i.e. does it have taxation of: a) business profits, b) employment income and pensions, c) VAT (or other indirect tax), d) savings income and royalties, e) income from land, f) capital gains, g)

stamp and/or capital duties? If so, what are the current rates and how are they applied?

The Turkish tax system adheres to the OECD model and encompasses a variety of tax categories, including income taxes, expenditure taxes, and wealth taxes. Here's a brief overview of key aspects of the Turkish tax system:

1. Income Taxation:

Business Profit: Individuals earning income through a permanent establishment or a permanent representative in Turkey are subject to income tax on the income generated from their business activities.

Salaries and Wages: Employers withhold income tax on salaries and wages at the source. Deductions for social security contributions, pension funds, and labor union memberships can be made from the gross taxable base in accordance with regulations.

Independent Professionals: Individuals engaged in independent professional activities that rely on intellectual capital, technical knowledge, and professional skills, rather than monetary capital, are also subject to income tax.

Corporate Tax: The Turkish corporate tax rate is 25%. However, a corporate tax rate of 30% applies to the corporate earnings of specific entities such as banks, companies under Law No. 6361, electronic payment, and money institutions, authorized foreign exchange institutions, asset management companies, capital market institutions, insurance and reinsurance companies, and pension companies.

2. Taxes on Expenditures:

Value Added Tax (VAT): VAT includes input VAT (charged on local purchases and imports) and output VAT (calculated and collected on sales). Until July 10, 2023, Turkey applied VAT rates of 1%, 8%, and 18%, which were revised to 1%, 10%, and 20% with Presidential Decree No. 7346 published on July 7, 2023. The standard VAT rate is now 20%, and it is levied on various goods and services.

Special Consumption Tax (SCT): The SCT aims to simplify the Turkish tax system and align it with EU directives. SCT applies to the delivery, importation, and first acquisition of specific products. It is a one-time tax, and rates vary depending on the product category. The four product groups under SCT are petroleum products, natural gas, lubricating oil, solvents, and derivatives (List I); automobiles, motorcycles, planes, helicopters, and yachts (List II); tobacco products, and alcoholic beverages (List III); and luxury products (List IV).

Stamp Duty: Stamp duty applies to a wide range of documents, including contracts, agreements, notes payable, capital contributions, letters of credit, letters of guarantee, financial statements, and payrolls. Stamp duty rates range from 1.89 per thousand to 9.48 per thousand, depending on the document type. Share capital is exempt, but a compulsory contribution to the Competition Board, equivalent to 0.04% of committed capital, applies during company establishment.

3. Taxes on Wealth:

Property Rights: Revenues from immovable (real estate) property rights in Turkey are subject to taxation as income.

Capital Gains: Capital gains are also subject to income tax.

17. Is business tax levied on, broadly, the revenue profits of a business computed in accordance with accounting principles?

Under Turkish law, entities are subject to two distinct sets of financial reporting requirements, as governed by the Turkish Commercial Code (TCC) No. 6102 and the provisions of the Turkish Tax Procedure Law (TPL). These requirements lead to the preparation of two separate sets of financial statements, each following its own accounting standards:

1. Financial Reporting under the Turkish Commercial Code (TCC):

Turkish Accounting Standards ("TAS") and Turkish Financial Reporting Standards ("TFRS"): Companies operating in Turkey are mandated to adhere to the TAS and the TFRS as prescribed by the Turkish Accounting Standards Board. These standards are designed to assess the quality and consistency of financial reporting within these companies and align them with international accounting standards.

Convergence with International Standards: The adoption of TAS and TFRS aims to converge Turkish financial reporting practices with international accounting standards. This allows for improved comparability and transparency of financial statements on a global scale.

2. Financial Reporting under the Turkish Tax Procedure Law (TPL):

Uniform Chart of Accounts: Financial statements prepared under the TPL are based on the accounting standards specified within the law, which includes the use of a uniform chart of accounts. This chart of accounts is a standardized framework for recording financial transactions and preparing financial statements for tax purposes.

Differences in Financial Statements: Due to the distinct requirements and standards imposed by the TPL, financial statements prepared under TPL standards can differ significantly from those prepared under TAS and TFRS. These differences can affect how financial data is presented and can lead to variations in reported figures, even for the same entity.

18. Are common business vehicles such as companies, partnerships and trusts recognised as taxable entities or are they tax transparent?

Under Turkish tax regulations, the Corporate Tax governs the taxation of income arising from the activities of various entities. The taxpayers subject to Corporate Tax, as outlined in Article 1, include:

- Capital companies
- Cooperatives
- Public enterprises
- Enterprises owned by foundations or associations
- Joint ventures

Ordinary partnerships, despite lacking legal personality, may be subject to indirect taxes, but for direct taxes such as corporate tax and income tax, it is the individual partners of the ordinary partnership who are considered taxpayers. In the case of ordinary partnerships, business profits received by partners are subject to income tax based on the principle of individuality. Therefore, each partner must declare their share of business profits separately. It's worth noting that under the Turkish Code of Obligations, there are no limitations on the personality of partners in an ordinary partnership. Partners can be either real persons or legal entities. Consequently, income corresponding to the share of real person partners is subject to income tax, while income received by a partner who is a corporate entity is subject to corporate tax.

Additionally, ordinary partnerships in Turkey are required to:

- Notify the Social Security Institution of their employees' employment status.
- Make declarations to the tax office to which they are affiliated as Value Added Tax (VAT) and Withholding Declaration taxpayers.
- Establish Income Withholding Tax liability for the partnership.

In the Turkish legal system, there is no legal recognition of the concept of a trust as it exists in common law jurisdictions. Turkey is not a signatory to the HCCH Convention on the Law Applicable to Trusts and on their Recognition 1985 (Hague Trusts Convention). Consequently, Turkey does not formally recognize trusts, and there are no specific regulations regarding their taxation.

From a tax perspective, trusts established abroad are treated as foreign entities. A foreign trust may become subject to Turkish controlled foreign corporation (CFC) rules if a person's interest in that trust meets the criteria of a foreign corporation under CFC regulations. In such cases, a trust may be considered a legal entity, and any income received by beneficiaries from the trust would typically be treated as dividends subject to income tax.

19. Is liability to business taxation based on tax residence or registration? If so, what are the tests?

Under Turkish tax law, the criteria for determining tax residency for individuals and businesses are distinct. Here's how tax residency is determined for individuals and businesses:

Individuals: Individuals who have their domicile in Turkey and those who reside in Turkey continuously for more than six months in a calendar year are considered taxpayers. In essence, individuals are deemed tax residents in Turkey if they meet either of these criteria.

Businesses (Corporations): Tax residency for businesses, particularly corporations, is determined based on the principles outlined in Article 3 of the Corporate Tax Law. The key points to consider are as follows:

1. Legal or Business Centers: Corporations are considered tax residents in Turkey if they have either their legal center or business center in Turkey.

2. Income Taxation: Tax treatment varies based on tax residency:

- Corporations with legal or business centers in Turkey are taxed on all types of income, regardless of whether it is generated in Turkey or abroad.

- Corporations with both their legal and business centers located outside Turkey are only taxed on income generated within Turkey.

3. Definition of Legal and Business Centers:

Legal Center: This refers to an office designated in the entity's law of establishment, legislation, charter, or contract, which is subject to corporation tax.

Business Center: This is an office where business transactions are virtually conducted and gathered.

4. Taxation in Turkey Under Certain Conditions: Even if both the legal and business centers of corporations are located outside Turkey, there are circumstances under which they may still be subject to taxation on earnings obtained in Turkey. One of the key factors in this taxation is the presence of a permanent representative in Turkey.

20. Are there any favourable taxation regimes for particular areas (e.g. enterprise zones) or sectors (e.g. financial services)?

In Turkey, various incentives and tax benefits are provided to promote technological development, encourage research and development (R&D) activities, and stimulate economic growth. Here are some key incentives and tax benefits available in Turkey:

Technology Development Zones (Technoparks): The Regulation on the Implementation of Technology Development Zones introduced incentives for activities within technology development zones.

Article 35 of the Regulation provides exemptions, discounts, and exceptions for income and corporate taxpayers operating within these zones, particularly for income derived solely from software, design, or R&D activities. This exemption is applicable until December 31, 2028.

Law No. 5746 on Supporting Research, Development, and Design Activities offers discounts, exemptions, supports, and incentives to taxpayers engaged in R&D activities.

Article 5/B added to the Corporate Tax Law introduced exemptions for income and revenues derived from inventions resulting from research, development, innovation activities, and software activities, effective from January 1, 2015.

Free Zones: Tax incentives are available for taxpayers operating in free zones.

Taxpayers who obtained licenses to operate in free zones before February 6, 2004, benefit from income or corporate tax exemptions for revenues generated within the zones, as specified in their activity licenses.

Amendments to the Free Zones Law introduced tax incentives, including exemptions from stamp tax and fees related to zone activities. Additionally, the delivery of goods subject to free zone provisions is exempt from VAT.

Other exceptions include exemptions from special consumption tax, real estate tax, title deed fees for property transactions, and income tax exemptions for certain export-oriented logistics services.

Organized Industrial Zones: Organized industrial zones offer various supports and incentives.

These incentives include exemptions from VAT for land purchases, municipal tax exemptions for facility construction and use, real estate tax exemptions for five years after facility construction completion, and tax relief for land merging and/or separation.

21. Are there any special tax regimes for intellectual property, such as patent box?

Turkey also has its own patent box regime in place, which provides tax advantages to patent and utility model owners. Here's an overview of how this regime works in Turkey:

Tax Exemptions for Patent and Utility Model Owners:

Under Turkish law, patent and utility model owners can benefit from significant tax advantages. These advantages are outlined in the Corporate Tax General Communiqués.

Eligible Situations for Tax Exemption:

Gains from the Sale, Transfer, or Licensing of Patent or Utility Model Rights: If patent or utility model owners meet the basic conditions specified in the communiqué, they can be exempted from Corporate Tax at a rate of 50% on the earnings obtained from the sale, transfer, or licensing of these IP rights.

Revenues from the Sale of Products Protected by a Patent or Utility Model Certificate: Companies that generate revenue from the sale of products protected by a patent or utility model certificate can also benefit from this tax exemption.

Revenues from the Sale of Products Produced by a Patented Process: If a company manufactures products using a patented process and generates revenue from the sale of these products, the income can be eligible for the tax exemption.

Income Related to Insurance or Indemnities: In cases where patent or utility model rights are infringed upon, resulting in insurance payments or indemnities, the income obtained from these sources can also qualify for the tax exemption.

Proportional Tax Exemption:

Importantly, if only a part of a product is protected by a patent or utility model, the tax exemption will be applied proportionately to the protected part. This means that the tax advantage will align with the extent of IP protection.

Turkey's patent box regime provides a favorable tax environment for companies and individuals engaged in innovation and IP-related activities.

22. Is fiscal consolidation permitted? Are groups of companies recognised for tax purposes and, if so, are there any jurisdictional limitations on what can constitute a tax group? Is there a group contribution system or can losses otherwise be relieved across group companies?

In Turkish legislation, the consolidation of accounts for tax purposes among group companies is not legally permitted. Each company within a group is considered a separate taxpayer, and they are individually responsible for their own tax liabilities. This means that one company's tax liabilities cannot be offset or indemnified by other companies within the same group.

Additionally, there is another organizational structure in Turkey known as holding companies. In this arrangement, a parent company holds shares in one or more subsidiary companies. While the parent company can exercise control over its subsidiaries, it typically does not engage in commercial activities itself. Despite not being directly involved in commercial operations, holding companies are still subject to various tax liabilities, including corporate tax, withholding tax, dividend tax, and other applicable taxes. These tax liabilities for holding companies are based on their ownership and financial activities, even if they do not conduct day-to-day business operations. It's important for holding companies to comply with Turkish tax regulations and fulfill their tax obligations as required by law.

23. Are there any withholding taxes?

In Turkey, there are various types of individual incomes that are subject to withholding tax. Some examples of these income categories, along with their respective withholding tax rates for the year 2023, are as follows:

Income from Professional Services: The withholding tax rate for income from professional services varies depending on the nature of the service provided and the tax residency of the recipient. It can range from 5% to 20%.

Employment Income (Wage, Bonus, etc.): Income from employment is subject to withholding tax at progressive rates, which can range from 15% to 35% based on the annual income level.

Income from Sales of Rights and Intangibles: The withholding tax rate for income from the sale of rights and intangibles can vary, but it's typically 20%.

Dividend Income: Dividend income is subject to a 15% withholding tax rate for residents and 0% for non-residents.

Rental Income: Rental income is subject to withholding tax at rates ranging from 15% to 35% for residents, depending on the annual income level. Non-residents are subject to a 20% withholding tax rate.

Interest Income from Turkish Government Bonds and Treasury Bills: Interest income from these securities is subject to a 10% withholding tax rate for residents and 0% for non-residents.

Capital Gains from Sale of Shares Traded at Stock Exchange: Capital gains from the sale of shares held for more than one year are subject to a 0% withholding tax rate for residents and 10% for non-residents. For shares held less than one year, the rate is 15% for residents and 18% for non-residents.

Progress Billings on Long-Term Constructions: The withholding tax rate for progress billings on long-term constructions is 2% for residents and 0% for non-residents.

Time Deposit Interest and Repo Gains: The withholding tax rate for interest income from time deposits and repo gains can vary, but it's typically between 5% and 15%.

Income from Investment Funds: The withholding tax rate for income from investment funds varies depending on the type of fund and the tax residency of the investor. It can range from 0% to 15%.

Income from Online Advertising: Income from online advertising is subject to a 15% withholding tax rate for residents and 20% for non-residents.

24. Are there any environmental taxes payable by businesses?

Environmental tax in Turkey is levied on both residences and workplaces, regardless of whether they are occupied or vacant. The term "taxpayer" for environmental tax includes both the property owner and the property occupier. The tax rates for workplaces and other buildings are calculated on an annual basis and are determined based on officially announced tariffs. It applies to a wide range of properties, reflecting the shared responsibility of property owners and occupants in contributing to environmental preservation and resource management. The specific rates and regulations related to environmental tax may be subject to periodic updates and should be reviewed in accordance with the latest tax laws and official announcements.

In 2023, the environmental cleaning tax amounts to be applied are given below:

Environmental cleaning tax for residences, per cubic meter based on the amount of water consumption; in metropolitan municipalities:	TRY 1.50
in other municipalities:	TRY 1.10
The environmental cleaning tax for municipalities in priority development regions and municipalities with a population of less than 5000 is per cubic meter based on the amount of water consumption:	TRY 0.55

The environmental cleaning tax for workplaces and buildings used for other purposes is considered to have accrued in January of each year. This accrual is based on the adjustment of the buildings by the municipalities to the grades specified in the tariff. Property owners or occupants are responsible for paying this tax annually during the installment periods of the property tax. Typically, the property tax is divided into two installments:

1. The first installment covers the months of March, April, and May.

2. The second installment covers the end of November. During these respective periods, property owners or occupants are expected to fulfill their tax obligations by making the necessary payments for the environmental cleaning tax, along with any other applicable taxes.

25. Is dividend income received from resident and/or non-resident companies taxable?

Dividends paid to non-resident companies in Turkey are generally subject to a 10 percent withholding tax rate, as specified in Presidential Decree No. 4936. However, it's important to note that the withholding tax rate on dividends may be reduced if there is an applicable tax treaty between Turkey and the recipient company's home country that provides for a lower withholding tax rate on dividends. Please note below the current (sampled) treaty list and rates applicable:

TAX TREATY	SHAREHOLDING INTEREST	WHT RATE (%)	TAX TREATY	SHAREHOLDING INTEREST	WHT RATE (%)
Albania	If greater than or equal to 25%	5	Latvia		10
	In all other cases	15			
Algeria		12	Lebanon	If greater than or equal to 15%	10
				In all other cases	15
Austria	If greater than or equal to 25%	5	Lithuania		10
	In all other cases	15			
Australia		15	Luxembourg	If greater than or equal to 25%	10
				In all other cases	20
Azerbaijan			Macedonia	If greater than or equal to 25%	5
				In all other cases	10
Bahrain	If greater than or equal to 25%	10	Malaysia	If greater than or equal to 25%	10
	In all other cases	15		In all other cases	15
Bangladesh		10	Malta	If greater than or equal to 25%	10
				In all other cases	15
Belarus	If greater than or equal to 25%	10	Mexico	If greater than or equal to 25%	5
	In all other cases	15		In all other cases	15
Belgium	If greater than or equal to 10%	15	Moldova	If greater than or equal to 25%	15
	In all other cases	20		In all other cases	10
Bosnia Herzegovina	If greater than or equal to 25%	5	Mongolia		10
	In all other cases	15			
Brazil	If greater than or equal to 25%	10	Morocco	If greater than or equal to 25%	7
	In all other cases	15		In all other cases	10
Bulgaria	If greater than or equal to 25%	10	Netherlands	If greater than or equal to 25%	15
	In all other cases	15		In all other cases	20
Canada	If greater than or equal to 10%	15	New Zealand	If greater than or equal to 25%	5
	In all other cases	20		In all other cases	15
China		10	Norway	If greater than or equal to 20%	5
				In all other cases	15
Croatia		10	Pakistan	If greater than or equal to 25%	10
				In all other cases	15
Czech Republic		10	Philippines	If greater than or equal to 25%	10
				In all other cases	15
Denmark	If greater than or equal to 25%	15	Poland	If greater than or equal to 25%	10
	In all other cases	20		In all other cases	15
Egypt	If greater than or equal to 25%	5	Portugal	If greater than or equal to 25%	5
	In all other cases	15		In all other cases	15
Estonia		10	Qatar	If greater than or equal to 25%	10
				In all other cases	15
Ethiopia		10	Romania		15
Finland	If greater than or equal to 25%	5	Russia		10
	In all other cases	15			
France	If greater than or equal to 10%	15	Saudi Arabia	If greater than or equal to 20%	5
	In all other cases	20		In all other cases	10
Gambia	If greater than or equal to 10%	5	Singapore	If greater than or equal to 25%	10
	In all other cases	15		In all other cases	15
Georgia		10	Slovakia	If greater than or equal to 25%	5
				In all other cases	10
Germany	If greater than or equal to 25%	5	Slovenia		10
	In all other cases	15			
Greece		15	South Africa	If greater than or equal to 25%	10
				In all other cases	15
Hungary	If greater than or equal to 25%	10	Spain	If greater than or equal to 25%	5
	In all other cases	15		In all other cases	15
India		15	Sudan		10
Indonesia	If greater than or equal to 25%	10	Sweden	If greater than or equal to 25%	15
	In all other cases	15		In all other cases	20
Iran	If greater than or equal to 25%	15	Switzerland	If greater than or equal to 20%	5
	In all other cases	20		In all other cases	15
Ireland	If greater than or equal to 25%	5/10	Syria		10
	In all other cases	15			
Israel		10	Tajikistan		10
Italy		15	Thailand	If greater than or equal to 25%	10
				In all other cases	15
Japan	If greater than or equal to 25%	10	Tunisia	If greater than or equal to 25%	12
	In all other cases	15		In all other cases	15
Jordan	If greater than or equal to 25%	10	Turkmenistan		10
	In all other cases	15			
Kazakhstan		10	Ukraine	If greater than or equal to 25%	10
				In all other cases	15
Korea, Republic			United Arab Emirates	If greater than or equal to 25%	10
				In all other cases	12
Kosovo			United Kingdom	If greater than or equal to 25%	15
				In all other cases	20
Kuwait		10	United States	If greater than or equal to 10%	15
				In all other cases	20
Kyrgyzstan		10	Uzbekistan		10

26. What are the advantages and disadvantages offered by your jurisdiction to an international group seeking to relocate activities?

Turkey has indeed made significant efforts to attract foreign investments and promote economic growth. The country's strategic location at the crossroads of Europe and Asia, coupled with its diverse economy and skilled workforce, make it an attractive destination for entrepreneurs and international businesses.

Investment incentive programs, grants, and support for R&D and innovation projects can help stimulate economic development and technology transfer. These incentives aim to encourage both domestic and foreign investors to invest in priority sectors that have the potential for high growth and contribute to the country's economic advancement.

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