

The Constitutional Court Rejected the Request For The Annulment of The Additional Corporate Tax Introduced Due to The Earthquake

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The Constitutional Court's decision dated 14 March 2024 and numbered 2023/169 E., 2024/77 K. (**"The Decision"**) was published in the Official Gazette dated 19 April 2024 and numbered 32522. With this Decision, the request for the annulment of the additional tax imposed due to the earthquake has been rejected.

The Istanbul 1st Tax Court has applied to the Constitutional Court with a request for the annulment of the provision (**"The Provision"**) in Article 10 of Law Act. No. 7440 on the Restructuring of Certain Receivables and Amendments to Certain Laws, which regulates the additional tax obligation in paragraph 27, on the grounds that it violates the principles of the constitutional state protected by the Constitution, the legality of taxes, and the right to property.

In this context, the Constitutional Court rejected the annulment request and made the following assessments:

In Terms of the Principle of Legality:

The amount and calculation method of the tax are clearly regulated in the Provision, and in this sense, it is specific and accessible, hence it does not violate the principle of legality under the Constitution.

In Terms of Restriction of Fundamental Rights and Freedoms:

The limitation imposed on the right to property is intended to provide financing to mitigate the impact of the earthquake through the introduced additional tax, thus it is suitable for achieving a legitimate purpose, and compensating losses in this manner is also proportionate in terms of the State's authority in taxation.

The imposition of an additional tax to compensate for the losses incurred is one of the most legitimate means of the State. Therefore, as the State exercises its discretion, it also meets the criterion of necessity.

Since the tax is levied only once, does not impose an excessive burden on the taxpayer, and taxpayers in the earthquake-affected areas are exempt from the additional tax, the balance between benefit and burden is proportional.

In terms of the Principle of Equality:

The advantage obtained through discounts forming the subject of the additional tax is subjected to an additional tax rate of 10%, and therefore, since it does not impose a disproportionate tax burden on the recipient, taxation according to financial capacity does not contradict the principles of fair distribution of tax burden and equality.

The full text of the Decision can be accessible via [this link](#). (Only available in Turkish)

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