

## The Upper Limits of Prison Sentences for Crimes Regarding Tax Evasion have been Increased within the Scope of the Tax Procedure Law

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With Law numbered 7394 on Certain Amendments to Utilization of Immovable Properties Belonging to the Treasury and to the Law on Certain Amendments to Value Added Tax Law and to the Law on Amendments to Certain Laws and Statutory Decrees which was published in Official Gazette dated 15 April 2022 and numbered 31810 ("**Omnibus Bill**"), certain novelties have been introduced in article 359 of Tax Procedure Law numbered 213 ("**TPL**") with regards to the tax evasion crimes.

With the Omnibus Bill, the upper limits of the prison sentences regarding the tax evasion crimes regulated in article 359 of the TPL have been increased.

Accordingly, the upper limit of the prison sentences, which are regulated in subparagraph (a) of article 359 of the TPL, to be imposed on

- those who (i) commit accounting and financial fraud in the books and records that are kept or arranged in accordance with the tax laws; (ii) open accounts on behalf of persons who are not real or not related to registered transactions; or (iii) record the accounts and transactions that are required to be recorded in such books in other books, documents or another recording medium, wholly or partially, in a way that results in a decrease in the tax base;
- those who (i) counterfeit or hide books, records, and documents records that are kept or arranged in accordance with the tax laws; or (ii) prepare or use misleading documents in terms of their content,

have been increased from 3 years to 5 years.

The upper limits of prison sentences subject to tax evasion crimes regulated in the other subparagraphs of article 359 of the TPL have been increased from 5 years to 8 years.

A summary of the other main novelties introduced to the TPL with the Omnibus Bill is as follows:

- An effective repentance mechanism has been provided for tax evasion crimes regulated in article 359 of the TPL. Accordingly, provided that it is determined that tax has been lost by committing the aforementioned tax evasion crimes, (i) if the assessed tax, interest of default, and the entire late fee, as well as half of the fines and related late fee is paid during the investigation phase, the penalty to be imposed will be reduced by half; and (ii) if the assessed tax, interest of default, and the entire late fee, as well as half of the fines and related late fee is paid until the judgment is rendered during the prosecution phase, the penalty to be imposed will be reduced by one third. In cases where there is no penalty imposed depending on the levied tax and tax origin, the penalty to be imposed will be reduced by half.

- In this context, in order to benefit from the aforementioned effective repentance mechanism in terms of tax evasion crimes, it is obligatory not to file a lawsuit for the assessed taxes in the tax court, to withdraw if it has been filed, not to make an appellate application, to withdraw the application, if it has been made.
- In case the tax evasion crimes regulated in article 359 of the TPL are committed within the scope of execution of the decision to commit the same crime within more than one calendar year or taxation period, the provisions of the successive offenses shall be applied within the scope of article 43 of Turkish Criminal Code numbered 5237. Accordingly, for the tax evasion crimes committed in more than one calendar year or taxation period, separate sentences shall not be imposed for each crime, instead, one sentence shall be imposed and increased from one-quarter to three-quarters.
- Pursuant to the amendment made by the Omnibus Bill to article 367 of the TPL, in case it is determined in the investigations or prosecutions carried out for the tax evasion crimes that the act subject to the opinion is carried out by or together with another person, a separate tax crime report and report evaluation commission opinion shall not be required for filing a public action against such person.
- Those who have been sentenced and whose case is at the execution phase will be able to benefit from the effective repentance provisions if they pay the assessed tax, interest of default, and the entire late fee, as well as half of the fines and related late fee within one year from the effective date of the Omnibus Bill (until 15 April 2023) and the prison sentence for such persons will be reduced by half.
- Such effective repentance provisions will also be applied to cases that are in the investigation and prosecution phase at the date of publication of the Omnibus Bill (15 April 2022). In this case, the payment must be made until the judgment is rendered.
- For the cases that are subject to the first or final appeal due to the crimes within the scope of the tax evasion offense at the publication date of the Omnibus Bill, a decision of reversal will be made if such cases require favorable consideration due to the amendments made by the Omnibus Bill.

Please find the full text of the Omnibus Bill, which was published in Official Gazette dated 15 April 2022 and numbered 31810, [here](#). (Only available in Turkish)

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