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Turkey Introduces Regulations on Assets Brought into Turkey from Abroad

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As per article 2 of the Law Amending the Income Tax Law and Certain Other Laws numbered 7186 (the "**Omnibus Bill**"), the provisional article 90 (the "**Provisional Article 90**") has been included in the Income Tax Law numbered 193.

Following that, procedures and principles regarding the implementation of the concerning Provisional Article 90 have been determined under the General Communiqué on the Inclusion of Certain Assets in the Economy (the "**Communiqué**").

Some important points put forth by the Provisional Article 90 are as follows:

- Between 19 July 2019 and 31 December 2019, real and legal persons who notify banks or other intermediaries in Turkey, either themselves or through their authorized agents or legal representatives, of their assets such as money, gold, foreign exchange, securities and other capital market instruments held abroad, may freely dispose of such assets. In this regard, provided that these assets are brought into Turkey within three months as of the notification, the acquisition date of these assets abroad will not bear any importance. Additionally, as per article 4/4 of the Communiqué, provided that assets located abroad which are not within the abovementioned scope, such as immovable property, are converted to the assets mentioned herein until 31 December 2019, the provisions of the Provisional Article 90 should still apply.
- As per article 3 of the Communiqué, within the same month of the notification, in case there are any mistakes or it is desired to increase or decrease the assets notified, the initial notification may be amended. In the months following the notification, the initial notification may be amended, in case of any mistakes or it is desired to decrease the assets notified. However, if it is desired to increase the assets notified, an additional notification must be made. All notifications except corrections will be considered as new notifications.
- Following this notification, banks and other intermediaries will calculate the amount of the tax at the rate of 1% regarding the assets notified and will declare and pay such tax to the tax office as the tax responsible until the evening of the 15^{th} day of the month following the notification.
- The concerning assets can be utilized until 31 December 2019 at the latest to pay up credits received from banks and financial institutions abroad and recorded under legal books. In this case, provided that such will be deducted from the book records, the assets used to pay up such debts, may benefit from the regulations hereunder without having to be brought into Turkey. Persons who benefit from this regulation must include in their notification, documents obtained from banks or financial institutions abroad displaying that these credits have been paid up.
- In the event that the share capital advances registered under legal books as of 19 July 2019 are paid up by bringing assets such as money, gold, foreign exchange, securities and other capital market instruments held abroad into Turkey before such date and provided that such advances are deducted from the book records, the regulations hereunder will apply.
- As per article 4 of the Communiqué, within the scope of the Provisional Article 90, bringing into Turkey means; bringing money, gold, foreign exchange, securities and other capital market instruments physically into Turkey or transferring such to an account opened in banks or other intermediaries located in Turkey. In this regard, if such assets are transferred to an existing or newly opened account in banks or other intermediaries located in Turkey, the bank receipt or transaction forms of intermediaries may be used to authenticate that such assets have been brought into Turkey. With regards to securities or other capital market instruments that cannot be brought into Turkey physically or transferred to an account in intermediaries, notification of such to intermediaries will be deemed to fulfill the condition of being brought into Turkey.

- Money, gold, foreign exchange, securities and other capital market instruments owned by income or corporate taxpayers and held in Turkey, but that have not been included in the legal book records and immovables will be declared to tax offices until and including 31 December 2019. These declared assets can be recorded onto the legal books until 31 December 2019 without having to take them into consideration when determining their profits for the period. In this manner, these assets can be withdrawn from establishments without having to take them into consideration when determining the taxable profits or distributable profits.
- In the event that these declared immovables are registered under establishment records by means of capital in-kind, the provisions of this Provisional Article 90 may be utilized provided that the capital increase decision has been taken as of the date of declaration and the said decision has been registered before the trade registry until the end of the 10th month following the date of declaration. Tax offices will assess tax at the rate of 1% based on the values of the assets declared and this accrued tax will be paid until the end of the month following the month in which the assessment is made.
- Taxpayers obliged to keep books as per the Tax Procedure Law numbered 213 may include such assets brought into Turkey in accordance with the Provisional Article 90 in their establishments without having to take them into consideration when determining their profits for the period and exclude the same from their establishments as well.
- The taxes paid under the Provisional Article 90 cannot be recorded as an expense and deducted from taxes. Losses arising out of the disposal of assets brought into Turkey or recorded onto legal books will not be considered as expense or deduction in terms of income or corporate tax.
- No tax inspection and tax assessment will be carried out under any circumstances due to the assets notified or declared under this Provisional Article 90.
- In order to benefit from the provisions of the Provisional Article 90, the tax assessment made based on the declared amounts must be paid on time and the reported assets must be brought to Turkey or transferred to an account to be opened before banks or other intermediaries located in Turkey, within three months from the date of the declaration.
- The President of the Republic of Turkey can extend the periods set forth under the Provisional Article 90 up to six months.
- Turkey's Ministry of Treasury and Finance may determine the matters related to bringing these assets to Turkey, declaration, notification and inclusion thereof as well as the base values for and the method, content, annexes and place of the declaration and notification, information and documentation required for the implementation of the Provisional Article 90 and other related principles procedures.

Please see this link for the Law Amending the Income Tax Law and other Certain Laws numbered 7186 including the full text of the Provisional Article 90, published in the Official Gazette dated 19 July 2019 and numbered 30836, and this link for the Communiqué, published in the Official Gazette dated 2 August 2019 and numbered 30850 (both links are only available in Turkish).

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