



Liability arising from Tax and other Public Debts in Capital Companies

In joint stock companies (*anonim şirket*) and limited liability partnerships (*limited şirket*), besides the legal entity other related parties may also be pursued for its outstanding tax and public debts.

- **Responsible parties.** Board member(s) (*yönetim kurulu üye(leri)*) in joint stock companies, and manager(s) (*müdür(ler)*) in limited liability partnerships may be followed for outstanding tax and public debts of the legal entity, including its outstanding social security premium debts. As a direct result of being the *legally designated representative body* of the legal entity they represent, board members and managers may be held accountable before public administration.

In limited liability partnerships, partner(s) (*ortak(lar)*) may be pursued for outstanding tax and public debts as well.

- **Legal basis.** There are mainly three Articles of law governing liability of board members, managers and partners: Article 4 of the Tax Procedural Code No 213 for outstanding tax debts, excluding customs tax debts; Article 35-bis of the Law on the Procedure for Collection of Public Receivables No 6183 for outstanding public debts of a legal entity including customs tax debts; and Article 88 of the Social Security and General Health Insurance Code No 5510 for outstanding social security premiums debts.
- **Nature of liability for tax and public debts.** Liability of board members, managers and partners arising from the outstanding tax and public debts of a legal entity is of secondary (*ferî*) nature. That is to say, responsible parties may only be pursued by the relevant authority if it is understood that it is impossible for that authority to collect its receivables from the legal entity.
- **Nature of liability for social security premium debts.** Liability of responsible parties regarding the unpaid social security premium payments is joint and several. Therefore, the Social Security Institution may directly pursue the responsible parties, without following first the legal entity.
- **Release from liability.** If the responsible parties can prove that they are not at fault or negligent while performing their duties, they can be released from liability arising from the tax and social security premium debts. On the other hand however, the Law on the Procedure for Collection of Public Receivables provides a strict/absolute legal liability scheme, whereby responsible parties cannot be released from liability even if they prove that they did not commit any fault during the exercise of their duties.