BAŞPINAR& PARTNERS LAW FIRM

Tax Regime in Turkey

The Law on Corporate Tax Nr. 5520 dated June 21st, 2006 introduced a number of significant changes to the applications and created new tax legislation concepts. The new Corporate Tax Law made the corporate tax legislation clearer, more objective and it has better-harmonised articles that comply with international standards.

Turkish tax regime is an essential element of the economy and can be divided into three main categories;

1. **Income Taxes**

    i. Individual Income Tax,
    ii. Corporate Income Tax

2. **Taxes on Expenditure**

    i. Value Added Tax (VAT)
    ii. Special Consumption Tax (SCT)
    iii. Banking and Insurance Transaction Tax (BITT)
    iv. Stamp Duty

3. **Taxes on Wealth**

    i. Inheritance and Gift Tax
    ii. Property Taxes
    iii. Motor Vehicle tax

Tax Liability

Tax liability in Turkey depends on whether the tax authorities regard a person as being a Turkish resident. Foreigners are regarded as tax residents (full liability taxpayers) if they live in Turkey for more than six months within a calendar year, or if they have legal residence status in Turkey. Legal residency status affects the scope of the incomes subject to taxation.

Tax Treaties

Turkey has signed Double Taxation Prevention Treaties with 60 countries as of 1st September 2013. A Double Taxation Prevention Treaty, in principle, enables offsetting tax paid in one of two countries against the tax payable in the other, in this way preventing double taxation.

The countries which signed treaties with Turkey is as follows: USD, Germany, Albania, Austria, Azerbaijan, Belarus, Belgium, UAE, Bulgaria, Algeria, China, Denmark, Indonesia, Finland, France, South Korea, Croatia, India, Netherlands, England, Israel, Sweden, Italy, Japan, Kazakhstan, Kirgizstan, Kuwait, Turkish Republic of Northern Cyprus, Lithuania, Hungary, Macedonia, Malaysia, Egypt, Mongolia, Moldova, Norway, Uzbekistan, Pakistan, Poland, Romania, Russian Federation, Singapore, Slovakia, Saudi Arabia, Tajikistan, Tunisia, Turkmenistan, Ukraine and Jordan.

Tax Categories

1. Income Taxes

i. Individual Income Tax

As explained above, any individual who lives in Turkey for more than six months within a calendar year is considered as a full liability taxpayer. Foreigners who fall into this category have tax liability from their worldwide income.

The individual income tax rate varies from 15% to 35%. The income tax rate is determined in accordance with the total annual income of the individual.

ii. Corporate Income Tax

Companies who have legal or business headquarters in Turkey or whose operations are located and managed in Turkey are considered as full liability taxpayers (or resident companies) and they are subject to corporation tax on their worldwide income. The legal headquarters is stated in the company's Articles of Association and the business headquarters is the location where its business activities are concentrated.

In Turkey, the basic corporate income tax rate levied on business profits is 20%. However, there are incentive programs that provide reduced corporate tax rates for the income generated from the supported investments.

In the event a company is considered as a limited liability taxpayer, it has tax liability from the above incomes:

- Professional fees obtained in Turkey
- Profits from commercial, agricultural and industrial enterprises in Turkey (if they have an establishment or a permanent representative in Turkey)
- Income arising from rental of real estate, rights and movable property in Turkey
- Income obtained in Turkey from various types of securities
- Other income and revenue obtained in Turkey

Taxable income of a company can be defined as the difference between the net worth at the end of the year and the net worth at the end of the preceding year. Taxable income calculation should be made by the Turkish companies by starting with the balance sheet income included in their annual statements and then make the adjustments required by the tax laws. Non-deductible expenses are added, while the tax exempt income and losses are deducted.

2. Taxes on Expenditure

i. Value Added Tax (VAT)

VAT taxpayers are defined in the Value Added Tax Law numbered 3065 as those engaged in taxable transactions, irrespective of their legal status or nature and their position with regard to other taxes. Commercial, industrial, agricultural, and independent professional goods and services, goods and services imported into the country, and deliveries of goods and services as a result of other activities are all subject to VAT. Applicable VAT rate generally varies between 1%, 8% and 18%.

The taxable base of a transaction is generally the total amount of the consideration received, excluding the VAT itself. The VAT Law deals with the taxable base under four headings, namely the taxable base on deliveries and services, on importation, on international transportation, and special types of taxable base.

ii. Special Consumption Tax (SCT)

SCT applies to the goods, which are shown in the attached lists to the Special Consumption Tax Law numbered 4760. Unlike VAT, which is applied on each delivery, SCT is charged only once.

There are mainly 4 different product groups that are subject to special consumption tax at different tax rates:

- List I is related to petroleum products, natural gas, lubricating oil, solvents and derivatives of solvents.
- List II is related to automobiles and other vehicles, motorcycles, planes, helicopters, yachts.
- List III is related to tobacco and tobacco products, alcoholic beverages and cola.
- List IV is related to luxury products.

iii. Banking and Insurance Transaction Tax (BITT)

Banks and Insurance companies are exempted from VAT in Turkey. However, BITT applies to the income generated by banks from both banking (e.g. loan interest) and non-banking activities regardless of the transaction's nature. The same principle applies to the insurance companies as well; income generated by insurance companies from both insurance and non-insurance activities regardless of the transaction's nature is subject to BITT.

The general rate of BITT is 5%, while interest on deposit transactions between banks is taxed at 1% and no tax is levied on sales from foreign exchange transactions.

iv. Stamp Duty

Stamp duty applies to a wide range of documents including but not limited to contracts, agreements, notes payable, letters of credit and letters of guarantee, financial statements and payrolls. Stamp duty applies as a fixed fee or a percentage of the value depending on the document type. Stamp duty rates vary from 0.189% to 0.948%. Documents shown in the attached List 1 to the Stamp Duty Law numbered 488 are subject to the stamp duty. Taxpayers of the stamp duty are the parties signed the documents, which are shown in the mentioned list.

3. Taxes on Wealth

i. Inheritance and Gift Tax

Any assets acquired through inheritance or as a gift are subject to Inheritance and Gift Tax, which is levied at a rate of %1-30. This is a tax, which applies on the assets acquired without any remuneration. In the event tax paid in a foreign country concerning inherited property, the total amount of the tax paid is deducted from the taxable value of the asset. Inheritance and Gift Tax is regulated with Law on Inheritance and Gift Tax numbered 7338.

ii. Property Tax

Owners of buildings, apartments and lands in Turkey shall pay Property Tax whether or not the owner lives in the property. The property tax is ranging at a rate of 0.1% and 0.6%. Property tax is annually paid in two instalments to the municipality where the real estate is located. Another tax Contribution to the Conservation of Immovable Cultural Property is levied at a rate of %10 percent of this real estate tax.

The tax rate for several Real Estate Transactions, in particular the transfer of real estate property, has been increased from 1.65% to 2%. The increased rate for Real Estate Transfer Tax was introduced by Council of Ministers Decision No. 2012/3735 and promulgated in the Official Gazette on 22 September 2012.

iii. Motor Vehicle Tax

Real and legal persons who have registered motor vehicles are the taxpayers and the subject of the tax is motor vehicle. Motor Vehicle Tax is an annual fixed amount tax, which varies according to the age and engine capacity of the vehicle.