

Turkey enacts law introducing new taxes and amending various tax laws

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Executive summary

On 7 December 2019, Law No. 7194 (the Law) was published in Turkey's *Official Gazette*; the Law enters into force on the same date. As background, the Turkish Parliament enacted the Law on 21 November 2019, following close to one month of debate.

The Law introduces new taxes namely, the digital services tax (DST), the luxury housing tax and the hospitality tax. It also covers changes in income tax rates for individuals. This Alert provides a summary of the changes introduced by the Law.

Detailed discussion

Introduction of new taxes

New taxes	Scope of new tax
DST	A DST will be imposed at the rate of 7.5% over the revenue derived from certain activities in the digital environment.
Luxury housing tax	<ul style="list-style-type: none"> ▶ A luxury housing tax will be imposed for residential houses located in Turkey with a tax value or the value which is determined by the General Directorate of Land Registry and Cadastre of over TRY5 million. ▶ The tax base will be the highest one. ▶ The luxury housing tax rates are: <ul style="list-style-type: none"> – %0.3 for houses with a value between TRY5 and 7.5 million – % 0.6 for houses with a value between TRY7.5 and 10 million – %1 for houses with a value of TRY10 million and above
Hospitality tax	<p>A hospitality tax will be imposed at a rate of 2% on accommodation services in hotels, hostels, guesthouses, camping sides and other services provided during the stay (food & entertainment, pool, sports facilities, thermal spas ...).</p> <p>Through a temporary article in this law, the hospitality tax rate will be applied 1% until 31 December 2020.</p>

Digital Services Tax

According to the Law, revenues derived from the provision of the following services are subject to the DST:

- ▶ All kinds of digital advertising services (including services such as advertisement control and performance measurement services, the services for data transmission and management of users, and technical services for the presentation of ads)
- ▶ The sale of any audio, visual or digital content in digital media, and services provided in digital media for listening, viewing, playing or recording or using them in digital media (including computer programs, applications, music, video, games, in-game applications, among others)
- ▶ Services for the provision and operation of digital media in which users may interact with each other (including platforms enabling the sale of goods or services among users)
- ▶ Intermediary services provided in the digital environment for the above services are also subject to DST

The tax base for the DST is revenue derived from the provision of the respective services during the related tax period. The taxation periods for the DST are one-month periods of the calendar year.

The tax rate is 7.5%. The President has the authority to reduce the rate to 1% or double the rate of 7.5%, based on the service type, separately or on a consolidated basis.

Taxpayers subject to this proposed tax will be the providers of these digital services. Their state of being fully liable, or not, as per the Income Tax Law No. 193 and the Corporation Tax Law No. 5520, under limited liability status, does not affect the tax liability for digital services. Neither does the question of whether they are dealing with the concerning activities through a place of business or permanent representatives in Turkey play a role. In situations where the taxpayer has no residency, legal and/or business center in Turkey and other situations where it is deemed appropriate, the Ministry of Treasury and Finance may determine the taxpayer to be the parties to the transaction subject to taxation or the ones who mediate the transaction and payment.

Taxpayers exceeding a revenue threshold of €750 million in global revenues and TRY20 million in local revenues are subject to the DST.

According to the Law, revenues derived from the provision of the following services are exempt from DST:

- ▶ Services that are subject to “treasury duty” paid in accordance with the Telegram and Telephone Law
- ▶ Services that are subject to the “special communication tax”
- ▶ Services within the scope of Article 4 of the Banking Law No. 5411
- ▶ Payment services within the scope of Article 12 of the Law on Payment and Securities Settlement Systems, Payment Services and Electronic Money Institutions
- ▶ Sales of products and services provided exclusively through these products developed as a result of research and development (R&D) activities in R&D centers that are defined under Article 2 of the Law on Supporting Research, Development and Design Activities dated 28/2/2008 No. 5746

Provisions of this Law regarding the application of the DST will be effective on 1 March 2020.

Changes in income tax rates for individuals

The Law introduces a new bracket and tax rate into the income tax rate tariff as follows:

	Tax brackets	Tax rates
Income other than wages	Up to TRY22,000	15%
	Up to TRY49,000; TRY3,300 for the first TRY22,000, any amount exceeding	20%
	Up to TRY120,000; TRY8,700 for the first TRY49,000, any amount exceeding	27%
	Up to TRY600,000; TRY27,870 for the first TRY120,000, any amount exceeding	35%
	Above TRY600,000; TRY195,870 for the first TRY600,000, any amount exceeding	40%
For wages	Up to TRY22,000	15%
	Up to TRY49,000; TRY3,300 for the first TRY22,000, any amount exceeding	20%
	Up to TRY180,000; TRY8,700 for the first TRY49,000, any amount exceeding	27%
	Up to TRY600,000; TRY44,070 for the first TRY180,000, any amount exceeding	35%
	Above TRY600,000; TRY191,070 for the first TRY600,000, any amount exceeding	40%
	Through an addition to Article 86/1-(1)-(b) of Law No.193; people who earn wages of TRY600,000 and above annually will now have to file annual tax declarations.	

Changes in exempted self-employment income

Income of self-employed taxpayers, whose exempted income defined under article 18 of the Income Tax Code No. 193 exceeds the 4th income tax bracket, will no longer be subject to this exemption. These taxpayers do not have withholding tax liability as per Article 94 of the Income Tax Code.

Depreciation and expenses of private cars

Income type	Scope of new tax
Businesses	<p>The following will be accepted as expense for the determination of commercial income; (Except for the private cars owned by the businesses whose activities are fully or partially about the rental or the usage of the private cars)</p> <ul style="list-style-type: none"> ▶ Amount of rent up to TRY5,500 per month for each private car obtained by renting ▶ Up to TRY115,000 for the total of Special Consumption Tax (SCT) and value-added tax (VAT) paid for the acquisition of private cars ▶ At most 70% of the expenses related to the private cars could be deducted <p>Depreciation allocated to private cars which at most equals (Except for the private cars used during business activities of businesses whose activities are fully or partially about the rental or the usage of the private cars):</p> <ul style="list-style-type: none"> ▶ TRY135,000 for the private cars that the first acquisition price excluding SCT and VAT exceeds TRY 135,000 ▶ TRY250,000 when the amounts subject to depreciation of first-hand private cars with SCT and VAT added to the acquisition costs and for second-hand private cars exceeds TRY250,000
Self-employment	<p>The following will be accepted as expense for the determination of self-employment income:</p> <ul style="list-style-type: none"> ▶ Amount of rent up to TRY5,500 per month for each private car obtained by renting ▶ Up to TRY115,000 for the total of SCT and VAT for the acquisition of passenger cars ▶ At most 70% of the expenses related to the private cars could be deducted <p>Depreciation allocated to private cars which at most equals to:</p> <ul style="list-style-type: none"> ▶ TRY135,000 for the private cars that the first acquisition price excluding SCT and VAT exceeds TRY135,000 ▶ TRY250,000 when the amounts subject to depreciation of first-hand private cars with SCT and VAT added to the acquisition costs and for second-hand private cars exceeds TRY250,000

Employee benefits regarding transportation

If the transportation service is not provided by the employer, benefits provided to workers in the form of a public transportation card or another payment instrument with the same purpose will be exempt from the income tax, provided that the daily transportation cost does not exceed TRY10.

Changes in the Banking and Insurance Transaction Tax (BITT) applied on transactions made in foreign currency

The BITT rate applied on transactions made in foreign currency is increased to 0.2% from 0.1%. The President has the authority to raise the applicable rate up to 10 times.

By Presidential Decision no. 1149 published in the *Official Gazette* dated 17 June 2019, the BITT rate to be calculated over the FX sales has been decreased to 0%.¹

Withholding on counterparty power of attorney fee payments

The Law imposes the income tax withholding obligation on payments to a counterparty power of attorney fees (including power of attorney fees paid to the enforcement and bankruptcy offices) by those who are responsible to withhold income tax as per Article 94/1 of Law No. 193.

Changes in the provisions regarding the tax deductions available for compliant taxpayers

Under the Law, several changes have been made to Duplicated Article 121 of Law No. 193 which regulates the tax deductions for compliant taxpayers.

- ▶ Paragraph 2/Subparagraph 1 - "Tax declarations for the year deduction is calculated and declarations of the two previous years should be made on time."
- ▶ Paragraph 2/Subparagraph 3 - "Taxes payable due to tax declarations defined under Subparagraph 1 must be paid and the taxpayer should not have overdue liabilities with a tax principal higher than TRY1,000."
- ▶ Paragraph 5 - "Tax declarations mentioned in this article represent annual individual income tax and corporation tax declarations, advance tax declarations, withholding tax declarations, value added tax declarations, special consumption tax declarations; taxes mentioned in this article represent taxes payable due to these declarations."

Additions to Article 160 of Law No.213

The Law adds Article 160/A. Article 160/A describes cancellation and reclamation of tax liabilities for taxpayers that seem to have a high risk of forgery as determined by the Ministry of Treasury and Finance.

Changes in exemption given to referees on fee payments

The tax-exempt status of the fees paid to referees are now only applicable to referees conducting amateur sports competitions.

Changes in income tax withholding application on wage payments to athletes

Through changes made to the temporary article 72 of Law No. 193:

- ▶ The period of withholding application has extended to 31 December 2023.
- ▶ Withholding rates on the wages paid to athletes who perform activities in the 1st league has increased to 20% from 15%.
- ▶ If the athlete's income falls under the 4th income bracket, he/she will be required to file an income return.

Cancellation of unjust payments made to relatives of martyrs, veterans and successful athletes

With a temporary article to the Social Security and General Health Insurance Law No. 5510, payments made to disabled veterans and martyrs defined under Laws No. 1005, 2330 and 3713, civil terror victims defined under Law No. 5233 and athletes due to incorrect entry of their grades in competitions will be cancelled.

Endnote

1. See EY Global Tax Alert, [Turkey defines Banking and Insurance Transaction Tax rate as 0% for FX sales to entities with industrial registration certificate and members of Exporters' Association](#), dated 28 June 2019.

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