



## Law No. 7338 on Amending the Tax Procedure Law and Certain Laws has been published on the Official Gazette

Law No. 7338 Amending the Tax Procedure Law and Certain Laws was published in the Official Gazette dated October 26, 2021 and numbered 31640. The amendments made in the Tax Laws constitute the subject of our bulletin.

### **-Tax Exemption of Commercial Earnings of Taxpayers Subject to Small Business Taxation**

- According to the Income Tax Law, the income of taxpayers which has considered as the taxpayers subject to small business taxation, according to article 46, are exempted from income tax.

### **-Exceptional Provisions for Income from Social Media**

- Earnings of people who are defined as social content producers through social media and earnings from electronic application sharing and sales platforms of application developers are exempted from income tax.
- To benefit from that exception; It is obligatory to open an account in banks established in Turkey and collect all revenues related to these activities exclusively through this account.
- Banks are obliged to withhold income tax at the rate of 15%, as of the date of transfer, on the proceeds transferred to the accounts opened within this scope. Following Article 94 of the Law, no withholding will be made on the aforementioned revenue amounts.
- Those who exceed the total amount of the covered earnings in the fourth tariff of the tariff written in Article 103 of the Law (650.000 TL for the year 2021) and those who do not collect the related earnings by the above conditions cannot benefit from this exemption.

### **-Tax Exemption for Support Payments to Farmers**

- Support payments made by public institutions and organizations to support the agricultural sector and farmers are exempt from income tax. Income tax withholding on these incomes has also been terminated. In addition, it has become possible to return the deductions made before, provided that the necessary conditions are met.

### **-Time of Submission of Annual Income Tax Returns**

- All annual income tax returns, including those whose income consists only of commercial earnings determined in the simple procedure, will be declared from the beginning of March until the evening of the twenty-fifth day.
- In addition; The income tax accrued on the income declared with the annual return will be paid in two equal instalments in March and July.



### **-Rearrangement of Advance Tax Periods and Change in the Declaration Time of Corporate Tax Returns**

- According to the amendment made in the temporary tax periods in Article 120 of the Income Tax Law; 4. Provisional Tax declaration has been abolished. Accordingly, temporary tax periods; will be applied in three periods (January-March, April-June, July-September) as of 01.01.2022.

### **-Regulation of Tax Reduction Conditions for Tax Compliant Taxpayers**

- Under the amendment of the Article 121 of the Income Tax Law, which regulates tax deductions for tax-compliant taxpayers; Provided that the corporate tax return is finalized in the year it is submitted and in the two previous years if there is a tax assessment made as complementary and ex officio or by the administration in the tax returns, the deduction amount limit applicable for the year to which the tax return is to be calculated for the finalized assessments (for the year 2021) 1.500.000 TL) does not exceed 1%, it has become possible to benefit from the tax deduction.

### **-Regulation on Establishment of Tax Office in Electronic Environment**

- With the amendment made in Article 4 of the Tax Procedure Law, the establishment of a tax office in an electronic environment as independent of the physical environment, the determination of tax offices as branches of other tax offices, providing fast and effective service to taxpayers, and the fulfilment of the transactions made by the tax office established in the electronic environment has been aimed. The Ministry of Treasury and Finance is authorized to make arrangements.

### **-Regulations Regarding the Procedure of Notifications to be Made to Foreigners**

- In the notification to be made to Turkish citizens in foreign countries; A regulation has been made to send the documents to be notified to these people directly to the foreign representations without being sent to the Revenue Administration.

### **-Regulations Regarding Tax Reviews**

- Under the amendment made in Article 139 of the Tax Procedure Law; tax inspections will be done remotely. However, it is also possible to determine and work at the taxpayer's workplace. Based on the taxpayer's request, if the workplace is available, the examination can also be carried out at the workplace.
- The subject of the examination will be notified in writing of the subject of the tax examination and the start of the examination. The review commencement report will not be signed.

### **Regulation Regarding Certification in Electronically Kept Ledgers**

- It has been regulated that acquiring or giving approval for the books kept in the electronic environment is in the force of ratification.



### **Giving Additional Time for Matters Required to Prepare a Sworn-in CPA Certification Report to benefit**

- According to Article 227 of the Tax Procedure Law; If the a Sworn-in CPA Certification Report, which must be prepared to benefit from the, exemption, revaluation, loss offset and similar provisions in the tax laws, is not submitted on time, Provided that the taxpayer is notified, a 60-day grace period will be given. If the certification report is not submitted within this period, taxpayers will not be able to benefit from the right subject to certification.
- In case the certification report is not submitted within the additional time given; On behalf of the taxpayer whose presentation is required, a special irregularity penalty will be imposed at the rate of 5% of the amount that is subject to the submission of the certification report, provided that it is not less than 50,000 Turkish liras and not more than 500,000 Turkish liras.

### **-Regulations Regarding the Conditions in which the Note of Expense Is Obligatory**

- With the amendment made in Article 234 of the Tax Procedure Law, an expense note to be signed by the person who does the work or who sells the goods should be issued for the works or goods purchased from those who are not obliged to issue the documents within the scope of this Law (except for the goods purchased from the farmers who are not taxed in the real procedure).
- The expense note must be issued within seven days from the delivery of the goods or the performance of the service; In cases where it is not issued within this period, the expense slip will be deemed to have never been issued.
- In cases stipulated in the article, documents issued by the bank, payment institution and PTT (receipt, etc.) and documents prepared by other relevant legislation to which public institutions and organizations that are not obliged to issue documents in the implementation of this Law are accepted instead of expense slips, and in these cases taxpayers It is also ensured that expense slips are not issued by the company.

### **-Adjustment in Purchase Price Criteria**

- Purchase price has been added to Article 261 as a valuation measure. In addition, the purchase price is defined as the purchase price of an economic asset and it has been decided that other expenses related to the acquisition of an economic asset are not included in the purchase price.

### **-Regulation of Elements Included and Not Included in the Cost Price**

- Under the regulation made in Article 262 of the Tax Procedure Law, the expenses listed below will also be included in the cost price.
  - a) Directly related to the acquisition or increase of the economic value; customs duties, customs commissions, loading, unloading, transportation and assembly expenses,
  - b) Directly related to the acquisition or increase of the economic value; fees, notary public, a title deed, court, valuation, consultancy, commission and announcement expenses,
  - c) Interest expenses of the loans used in the financing of economic assets and exchange differences related to them; In commodities, until the date, the commodity enters the inventories, and in other economic assets, until the end of the accounting period in which the



economic asset is taken into the inventory, and the expenses related to the aforementioned loans (Taxpayers are free to import interest expenses and other parts of exchange differences into the cost value or show them among general expenses),

d) Storage and insurance expenses until the date the economic asset is taken into stocks or inventory,

e) Expenses arising from the purchase and demolition of an existing building in real estate and the levelling of its land.

- Provided that they are directly related to real estate, the grants received until the end of the accounting period when they are included in the inventory will be deducted from the cost value.
- Taxpayers are free to import the special consumption tax, non-deductible value-added tax, banking and insurance transactions tax and resource utilization support fund related to the acquisition or increase in value of economic assets (excluding commodities) at cost or to show them among general expenses.

#### **-Revaluation Conditions in Fiscal Periods When Inflation Adjustment Conditions Are Not Fulfilled**

- With the paragraph added to the article 298 of the Law No. 213, the income or corporate taxpayers, including the collective, ordinary limited partnership and ordinary companies, who are subject to full liability and keep books on the balance sheet basis, are depreciated as of the end of the accounting periods in which the conditions for making inflation adjustments are not met. financial assets (except those subject to sale-lease-repurchase transactions or issuance of lease certificates as long as they maintain these qualities) and the depreciation shown in the liabilities of their balance sheets have been revalued in line with the conditions specified in the aforementioned article.
- There is no provision in the article regarding the tax to be calculated after revaluation.

#### **Adjustments Made in Depreciation Period**

- With the amendment made in Article 320 of the Tax Procedure Law (except for the ones covered by the second paragraph of the article), the taxpayers are offered as an optional opportunity to set aside depreciation daily for economic assets subject to depreciation that will be newly recorded in operating assets. Accordingly, in the calculation of the depreciation period, the useful life periods determined as years by the Ministry of Treasury and Finance will be calculated by multiplying by three hundred and sixty-five.
- In addition to this regulation, the taxpayer is given the freedom to extend the amortization periods by taking into account longer useful lives, provided that the useful life period determined by the Ministry of Treasury and Finance does not exceed fifty years and the same ratio is applied for each year.

#### **-Regulations Regarding Doubtful Trade Receivables**

- With the amendment stipulated in the article on Doubtful Trade Receivables regulated in Article 323 of the Tax Procedure Law, the maximum amount for the receivables that are not worth much in the litigation and execution phase, which has not been paid by the debtor despite



the protest or written request more than once, has been determined as 3,000 Turkish Liras. In addition, it has been allowed to apply the doubtful receivable provisions by the taxpayers who keep books based on the operating account.

#### **-Changes Made in the Scope of the Renewal Fund**

- With the amendment made in Article 328 of the Tax Procedure Law, titled "Sales of Depreciable Goods", if the depreciable economic asset is sold, the renewal of the economic asset sold or the acquisition of a similar economic asset is obligatory depending on the nature of the business, or it has been decided and attempted to be executed by the managers of the enterprise, it is stated that the profit can be kept in a suspense account in liabilities until the end of the three calendar years following the date of sale.
- There is no limit on the number of new economic assets to be purchased by stating that the profit kept in a suspense account and one or more assets acquired, including those acquired through financial leasing, will be deducted from the depreciation set aside by the provisions of the law.
- In case the compensation kept in the suspense account is more than the depreciable amount of the net assets acquired to replace the economic asset that was damaged wholly or partially, this excess will be added to the profit and loss account for the third calendar year following the year in which the compensation is received.

#### **-Regulation on Duplication Application Due to Tax Loss and Irregularity**

- Under the amendments made to Article 339 of the Tax Procedure Law; From the day following the finalization date of the tax penalty fine until the end of the calendar year in which the fifth year is struck, from the day following the date of the finalization of the penalty in case of irregularity until the end of the calendar year in which the second year is struck, the tax loss penalty will be implemented as increased by fifty percent and the irregularity penalty will be implemented as increased by twenty-five percent.
- The amount of the increase cannot be more than the finalized penalty (in case of more than one finalized penalty, the highest of them in terms of amount).
- In the calculation of the five and two-year periods, the finalization date of the penalties based on the increase will be taken into account.

#### **-Regulation Regarding the Submission of Declaration with Conusance**

- With the amendment made in Article 371 of the Tax Procedure Law, titled as "conusance and adjustment", the provision of the article can be applied for a tax type different from the tax type to which the ongoing tax inspection is related and the event referred to the valuation commission. is provided.

#### **- Arrangements Made in Pre-Assessment Reconciliation in Irregularity and Special Irregularity Penalties**

- To reduce disputes and increase efficiency in taxation processes, it has become possible to request a compromise regarding irregularity and special irregularity penalties exceeding 5,000



Turkish Liras, and to apply the discount rate in Article 376 of the Tax Procedure Law with 50% increments for irregularity penalties not exceeding the said amount.

- In the determination of irregularities and special irregularities that may be subject to reconciliation, the total amount of fines to be imposed based on the act necessitating the penalty will be taken into account.

#### **-Regulations Made in the Scope of Avoiding Double Taxation**

- Article 14 which has just added additionally to the Tax Procedure Law, the taxpayers are subject to the provisions of the Revenue Administration prevention agreement by the "Mutual Agreement Procedure" provisions of the agreement, with the allegation that there are strong indications that taxpayers are taxed or will be taxed in violation of the provisions of a taxation avoidance agreement that has been duly put into effect. It is explained that it can also apply to the competent authorities of other countries.

- In the article, it is also regulated that in cases where taxation can be divided in terms of base or tax differences, an application can be made for the part that falls within the scope of the double taxation agreement. According to this article, the application will be made in the time and procedure stipulated in the double taxation agreement. On the other hand, when there is no time limit in the double taxation agreement or when reference is made to the provisions of the domestic legislation, it is explained that the application must be made within three years from the date the taxpayer first became aware of a taxation transaction alleged to violate the provisions of the double taxation agreement.

#### **-Revaluation Conditions**

- With this Law, taxpayers who will make revaluation according to paragraph (C) added to the article 298 of the Law No. 213 with this Law, if they would like, they can see the immovables and other economic assets subject to depreciation recorded in their balance sheets as of the end of the accounting period before the accounting period in which they will revalue for the first time and they are allowed to be revalued, provided that they comply with the provisions.

#### **- Arrangements Made for Stamp Duty Exemption on Receipts and Papers Arranged for Guarantees Subject to the Issue of Capital Market Instruments**

- With the arrangements made in the section titled "IV- Papers related to commercial and civil affairs" of the table numbered (2) attached to the Stamp and Law,

- To reduce the transaction costs in the issuance of secured capital market instruments, stamp duty exemption is provided for the receipts and papers issued for the collateral subject to the issuance of capital market instruments, including the collateral manager, within the scope of Article 31/B of the Capital Markets Law.

- The possibility of donations to be made to the general and special budget administrations, provincial private administrations, investment monitoring and coordination offices, municipalities and villages written in the schedules (I) and (II) attached to the Public Financial



Management and Control Law No. stamp tax exemption is provided and the stamp tax burden of donors is removed.

#### **-Regulations on Special Consumption Tax Rates on Tobacco Products and Vehicles**

- The President has been authorized to triple the rates of vehicles in List II and tobacco products in List III in Article 12 of the Special Consumption Tax Law, as well as the lower and upper limits of the special consumption tax base associated with the rates.

#### **-Regulations on Customs Tariff Statistics Position Codes and Tax Rates of Some Vehicles**

- In the annexe of the SCT Law, With the amendment made in the list numbered (II); Vehicle types named ATV (All-Terrain Vehicle/all-terrain vehicle) and UTV (Utility Task Vehicle/multi-purpose utility vehicle) are classified according to their physical and technical characteristics in the 87.01. It is ensured that the vehicles in question, included in tariff positions 87.03 and 87.04 and declared in different GTIP numbers, are not excluded from the scope of Law No. 4760 and are taxed at the same rate.
- In addition, a singtarifele taxable rate has been determined for motor caravans, which are taxed at different rates according to the engine cylinder volume and special consumption tax base under the 87.03 GTIP number.

#### **-Changes on Exceptions Made to Asset Management Companies**

- With the regulation made, the stamp duty, fee and RUSF exemption applied to asset management companies during the calendar year they were established and for the following five years are made permanent, and the exemption regarding the banking and insurance transactions tax granted to these companies is abolished.

#### **-Regulations on Cash Capital Increase Application**

- With the amendment made in subparagraph (i) of the first paragraph of Article 10 of the Corporate Tax Law, the cash capital interest rate reduction rate for the portion of the cash capital increases that are met with the cash brought from abroad has been regulated as 75%.

#### **-Regulations Made on Investment Contribution Amounts**

- With the regulation made in the current article 32/A of the Corporate Tax Law No. 5320; 10% of the amount determined by applying the investment contribution rate to the investment expenditure based on the investment incentive certificate, provided that the corporate tax return is requested until the end of the second month following the month in which the tax return should be submitted, the exemption from other accrued tax liabilities excluding the special consumption tax and value-added tax. may be used by
- A maximum of 10% of the investment contribution amount earned by the investors due to the investment expenditures made within this scope can be deducted from other tax debts excluding SCT and VAT within the framework of this regulation.
- Along with this amount, a multiple of this amount will be deducted from the total investment contribution amount as the investment contribution amount is abandoned. In the calculation of



the total amount that can be claimed to be cancelled as a whole of the investment, it will not be possible to exceed 10% of the amount determined by applying the investment contribution rate to the total investment expenditure of the taxpayer within the scope of the relevant investment incentive certificate.

- The regulation will enter into force to be applied to investment expenditures to be made as of 01/01/2022 within the scope of both existing and new investment incentive certificates.

For any questions please contact [vergi@kpmg.com.tr](mailto:vergi@kpmg.com.tr)

**Regards,**

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