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International Tax
Turkey Highlights 2017

Investment basics:

Currency – Turkish Lira (TRY)

Foreign exchange control – The TRY is fully convertible, at least from the Turkish side, to the extent Turkey is recognized by the International Monetary Fund as having achieved article 8 status. (Under article 8, no limitation may be imposed on the purchase and sale of foreign exchange within the scope of current items in the balance of payments. Profits from these transactions must be freely convertible.)

Companies and individuals may open foreign exchange accounts and transfer funds abroad through banks (i.e. savings deposit banks, participation banks (formerly “special finance houses”) and development and investment banks). There are no restrictions on the export of capital, but a special form must be submitted to the Undersecretariat of the Treasury within 30 days following the export of capital of USD 50,000 or its equivalent.

Even though the import and export of TRY and foreign currency are possible, the export of cash exceeding TRY 25,000 or the export of cash in foreign currency exceeding the equivalent of EUR 10,000 is subject to procedures set by the ministry of economy.

Turkish resident companies may grant loans to their foreign parent companies, affiliates and group companies abroad in TRY or foreign currency, provided the requirements under the Commercial Code are met.

Accounting principles/financial statements – In principle, all taxpayers are subject to the valuation rules in the Tax Procedures Code. A Uniform Chart of Accounts (UCA), governed by the Procedures Code, prescribes the basis on which statutory books are required to be kept. Another UCA applies to banks, insurance companies and other financial entities. Public companies whose shares are traded on the Istanbul stock exchange or companies registered with the Capital Market Board must comply with the accounting/reporting principles and standards of the board, which generally are in line with IFRS. Companies that satisfy certain conditions and operate in regulated industries must prepare both single and consolidated financial statements according to IFRS.

Principal business entities – These are the corporation (*Anonim Sirket* (AS)), limited liability company (*Limited Sirket* (Ltd. Sti.)), ordinary partnership, limited partnership, sole proprietorship and branch of a foreign company.

Corporate taxation:

Residence – A company is resident in Turkey if its legal seat or place of management is in Turkey.

Basis – Resident companies with unlimited liability are taxed on worldwide income; nonresident companies are subject to tax only on Turkish-source income.

Taxable income – All profits derived from the earning of income are included in taxable income, with the exception of dividends qualifying under the domestic participation exemption. Expenses incurred in the course of the business generally are deductible.

Taxation of dividends – See under “Participation exemption.”

Capital gains – Capital gains derived by a company generally are taxable as ordinary income. However, 75% of capital gains derived from the sale of domestic participations is exempt from corporation tax if the following conditions are satisfied: (1) the property has been held for at least two years; (2) the gains are kept in a special fund account under shareholders’ equity for five years following the year of the sale; (3) the exempt profits are not transferred within the specified period to another account (except for transfers to the capital account by way of a capital injection); (4) consideration for the sale is collected by the end of the second calendar year following the year of the sale; and (5) the company does not hold the participations for the purpose of an ordinary business involving the trading of participations.

Capital gains derived from the sale of foreign participations that have been held for at least two years by an international holding company resident in Turkey are exempt from corporate income tax (see under "Holding company regime").

Losses – Tax losses may be carried forward for five years. Losses may not be carried back, except where the company is liquidated.

Rate – The standard corporate tax rate is 20%. A reduced rate applies to earnings derived from investments in specified sectors/regions (see under "Incentives").

Surtax – No

Alternative minimum tax – No

Foreign tax credit – A tax credit is granted for foreign tax paid, up to the amount of Turkish corporate tax attributable to the foreign income. Any unused credit may be carried forward to the following three years, but the foreign tax credit is limited to the Turkish corporate tax attributable to the foreign income. The foreign tax paid must be documented through foreign tax office receipts approved by the Turkish consulate in the country in which the foreign tax was paid. Specific conditions apply to foreign tax credits relating to dividends received by resident Turkish companies from their foreign participations.

Participation exemption – Dividends received by a resident company from another Turkish company are exempt from corporate income tax in the hands of the shareholder. Dividends received from a nonresident company are exempt from corporate tax if the following requirements are met: (1) the nonresident payer is a corporation or limited liability company; (2) the Turkish recipient has owned at least 10% of the paid-in capital of the payer for at least one year; (3) the profits out of which the dividends are paid were subject to foreign income tax of at least 15% (20% if the main activity of the payer is the provision of financing, including finance leasing, insurance services or investments in securities); and (4) the dividends are remitted to Turkey by the date the corporate tax return is due.

Holding company regime – To qualify as an international holding company, a Turkish company must be a corporation; at least 75% of its total assets (excluding cash items) must be comprised of foreign participations that have been held for a continuous period of at least one year; the Turkish company must hold at least 10% of the capital of each foreign participation; and the foreign participation must be in the form of a corporation or limited liability company.

Capital gains derived by a Turkish international holding company are exempt from corporation tax, provided the foreign participation has been held for at least two years (see under "Capital gains tax").

Incentives – Various incentives are available. An allowance is available until 31 December 2023 to companies that carry out qualifying R&D and design activities; the allowance is equal to 100% of R&D and design expenditure and is available in addition to a deduction for such expenditure in the statutory accounts. Further, 80% (95% for employees with a PHD or master's degree in liberal arts and 90% for employees with a master's degree in any field and a bachelor's degree in liberal arts) of the income tax computed on the wages of R&D and design personnel is exempt from income withholding tax; 50% of the social security premium contributions paid for each R&D and design employee will be compensated by the Ministry of Finance (up to 10% of the total number of full-time R&D employees); and documents prepared with respect to the R&D activities are exempt from stamp duty. To qualify for the benefits, the R&D and design center must be set up outside designated technology development zones (TDZs) and must have at least 15 full-time R&D and 10 full-time design center employees.

In addition to the general incentive regime, a project-based investment incentive package has been introduced to provide financial support for certain innovative, technology- oriented, R&D-focused, high value-added projects.

Withholding tax:

Dividends – Dividends paid to a nonresident company are subject to a 15% withholding tax, unless the rate is reduced under a tax treaty.

Interest – Interest on loans payable to a foreign state, international institution or foreign bank or a foreign corporation that qualifies as a "financial entity" is subject to a 0% withholding tax. A 10% rate applies to interest paid on loans from other nonresident entities, unless the rate is reduced under a tax treaty.

Royalties – A 20% withholding tax is imposed on royalties paid to a nonresident, unless the rate is reduced under a tax treaty.

Technical service fees – A 20% withholding tax is levied on fees paid for professional services, such as consulting, supervision, technical assistance and design fees, unless the rate is reduced under a tax treaty.

Branch remittance tax – A 15% withholding tax is levied on after-tax branch profits remitted to a head office, unless the rate is eliminated under a tax treaty.

Other taxes on corporations:

Capital duty – No duty is levied on share capital, but there is a compulsory contribution to the competition board equal to 0.04% of the capital amount committed when the company is established, and 0.04% of any subsequent increase in capital.

Payroll tax – The employer must withhold income tax on salaries at progressive income tax rates ranging from 15% to 35%.

Real property tax – Real property tax is levied based on the value of land or buildings at rates of 0.2% for buildings, 0.1% for dwellings, 0.1% for land and 0.3% for building sites. The rates are increased by 100% for buildings and land located within larger cities. The square meter rates for valuing buildings depend on the location of the property.

An environmental tax is levied by the municipalities on buildings used, *inter alia*, as a place of business. Tax is levied at fixed amounts that change annually based on defined categories. The resident of the building (either the landlord or the tenant) is liable for the environmental tax. The landlord is responsible for making a compulsory contribution to the municipality at a rate of 10% of the annual accrued real estate tax for the protection of immovable cultural property. The contribution is levied through the real estate tax.

Social security – Both the employer and the employee must make social security contributions. The general rates are 20.5% for the employer (although the employer share for long-term risk is 6% instead of 11% if the monthly social security declarations are submitted on time and there are no unpaid social security premiums, penalties or unemployment premiums for current and previous months), and 14% for the employee. The employer and the employee also must contribute to the unemployment benefit plan at rates of 2% and 1%, respectively, based on the gross salary of the employee (subject to the maximum base applicable for the social security premium calculations).

Stamp duty – Stamp duty applies at rates ranging from 0.189% to 0.948%, depending on the type of document.

Transfer tax – The registration of a transfer of real estate is subject to real estate transfer tax calculated as 4% of the acquisition/transfer value and is split equally between the buyer and the seller.

Other – A banking and insurance transaction tax applies at a general rate of 5% on bank and insurance charges. Banks are required to withhold a contribution to the resource utilization support fund (RUSF) on the principal amounts of foreign-denominated loans with an average maturity period of three years or less. The rate is 3% for loans with an average maturity period of less than one year, 1% for loans with an average maturity period of at least one year and up to two years and 0.5% where the average maturity period is between two and three years. A 3% contribution applies to the interest accrued on TRY-denominated loans, irrespective of their maturity. In addition, imports realized on credit are subject to a 6% RUSF (subject to certain exemptions).

Anti-avoidance rules:

Transfer pricing – When a transaction between related parties (domestic or foreign) is not carried out on arm's length terms, profits arising from the transaction will be deemed to be “constructive dividends” subject to both corporate income tax and dividend withholding tax. The transfer pricing rules provide for the comparable uncontrolled price, cost-plus and resale price methods, as well as profit-based methods (e.g. profit-split and transactional net margin methods). However, a taxpayer may adopt another method based on its particular circumstances.

Taxpayers are required to maintain documentation to support their transfer pricing. Corporate taxpayers that are registered with the large taxpayers’ tax office must prepare an annual documentation report with respect to both domestic and foreign related party transactions. Those registered with other tax offices only have to prepare the annual report with respect to their foreign related party transactions.

Taxpayers registered with the large taxpayers’ tax office must include in their annual transfer pricing report their transactions with related parties (including branches) in FTZs and their branches abroad. Corporate taxpayers operating in FTZs must prepare an annual transfer pricing documentation report with respect to domestic related party transactions.

Unilateral, bilateral and multilateral advance pricing agreements may be concluded with the ministry of finance.

Thin capitalization – Thin capitalization rules apply when loans from shareholders or related parties exceed a 3:1 debt-to-equity ratio at any time in an accounting period (six times shareholder equity for loans from related party banks or financial institutions). Related parties for these purposes are defined as shareholders and persons related to shareholders that own, directly or indirectly, 10% or more of the shares, voting rights or rights to receive dividends of the company. The amount of equity is that determined under the tax procedures code at the beginning of the accounting period.

If the debt-to-equity ratio is exceeded, interest payments in excess of the safe harbor ratio will be deemed to constitute a hidden profit distribution or a remittance of profits on the last day of the accounting period in which the conditions for application of the thin capitalization rules are satisfied and, therefore, subject to the 15% dividend withholding tax. Related expenses, foreign exchange losses and interest payments are nondeductible.

Controlled foreign companies – The CFC rules are triggered where a Turkish resident company controls, directly or indirectly, at least 50% of the share capital, dividends or voting power of a foreign entity, and: (1) 25% or more of the gross income of the CFC is comprised of passive income, such as dividends, interest, rents, license fees or gains from the sale of securities that are outside the scope of commercial, agricultural or professional income; (2) the CFC is subject to an effective tax rate lower than 10% in its country of residence; and (3) the annual total gross revenue of the CFC exceeds the foreign currency equivalent of TRY 100,000. If these requirements are met, the profits of the CFC are included in the profits of the Turkish company in proportion to the Turkish company's share in the capital of the CFC, regardless of whether such profits are distributed, and will be taxed currently at the 20% corporation tax rate.

Disclosure requirements – Certain disclosures must be made in the footnotes attached to the statutory financial statements submitted to the tax office, together with the corporate tax return.

Other – Transactions with parties resident in countries/regions that are deemed to cause "harmful tax competition" (as yet to be determined by the council of ministers) are considered related party transactions. Payments made by resident companies to such parties are, in principle, subject to a 30% withholding tax (with some exemptions), although the tax cannot be applied until the council issues the list of relevant countries/regions.

Compliance for corporations:

Tax year – The tax year is the calendar year or fiscal year. It is possible to obtain permission from the ministry of finance to use a special accounting period.

Consolidated returns – Turkey does not allow for tax consolidation; each company in a group must file its own corporation tax return.

Filing requirements – The corporate tax return must be filed between the first and 25th day of the fourth month after the end of the company's accounting period. Corporate income tax is payable by the end of the month in which the tax return is due (i.e. by the end of April for companies using the calendar year).

Corporations are required to pay advance corporate tax at 20% based on their quarterly profits. Advance payments made during the year are offset against the ultimate corporate tax liability, which is determined in the annual corporate income tax return. Advance corporate tax returns must be submitted by the 14th day of the second month following the quarter, and the tax is payable by the 17th of the same month (the ministry of finance may extend the deadline for submission of quarterly advance tax returns).

Penalties – Delay charge interest (currently 1.4% per month) is charged for the period between the date the tax was due and the date of assessment. Procedural penalties are imposed for failure to submit tax returns on time, failure to properly keep statutory accounts, failure to comply with the statutory accounting principles and failure to have the statutory books notarized on time. Special noncompliance penalties are charged at fixed amounts (subject to change annually) for failure to issue invoices and other documents as specified in the tax procedures code. A tax loss penalty imposed for tax evasion is equal to the tax loss amount.

Rulings – A taxpayer may request an advance ruling on the tax treatment of specific transactions.

Personal taxation:

Basis – Residents are taxed on worldwide income; nonresidents are taxed only on Turkish-source income.

Residence – Individuals who are in Turkey for a continuous period (including temporary absences) of more than six months in any calendar year are deemed to be resident for tax purposes. However, foreign individuals who are on assignment in Turkey for a specific business project or mission, or those in Turkey for holiday, health care or educational purposes are not regarded as resident, even if they stay for more than six months.

Filing status – Each individual must file an individual income tax return; joint assessments are not permitted. However, certain exemptions are available.

Taxable income – Taxable income is comprised of employment income, business income, income from agricultural activities, professional income, income derived from shares, income from immovable property and other income (capital gains and nonrecurring income).

Capital gains – Capital gains derived from the sale of shares and capital market instruments are subject to income tax, with certain exceptions. Regardless of the holding period, gains derived from the sale of intangible rights, capital gains from the sale of shares/participations in limited liability companies and gains derived from the alienation of an enterprise that has ceased operations are subject to income tax. Gains on the sale of immovable property within five years from the date of acquisition also are subject to income tax.

In determining the taxable gain, the acquisition cost is adjusted for inflation by the increase in the producer price index between the date of acquisition and the date of sale in certain cases.

Deductions and allowances – Available deductions depend on the type of income. For business income, the same general deductions as apply to corporations are available. The scope of deductions for income derived from professional services is narrower. For salaried employees, the deductions generally are limited to social insurance premiums.

Rates – Individual income tax rates apply on a progressive basis ranging from 15% to 35%.

Other taxes on individuals:

Capital duty – See above under “Corporate Taxation.”

Stamp duty – See above under "Corporate taxation." Salary payments are subject to stamp tax at a rate of 0.759%.

Capital acquisitions tax – No

Real property tax – Real property tax is levied based on the value of the land or buildings (see above under “Corporate taxation”).

Real property tax paid by individuals deriving business income is deductible from the income tax base for commercial business activities, provided the property is recorded as a business asset.

Individuals that derive rental income from real estate may deduct the real property tax paid in calculating the taxable amount of rental income.

The registration of a transfer of real estate is subject to real estate transfer tax. The tax is calculated as 4% of the acquisition/transfer value and is split equally between the buyer and the seller.

Inheritance/estate tax – Items acquired as gifts or by inheritance are subject to gift tax at rates between 10% and 30%, and inheritance tax between 1% and 10% of the appraised value of the item.

Net wealth/net worth tax – No

Social security – The employee contribution to social security is 14% of gross earnings: 9% is for disability, retirement and life insurance; and 5% for general health insurance. The employee also is required to contribute to the unemployment benefit plan at 1% of gross salary.

Compliance for individuals:

Tax year – Calendar year or fiscal year

Filing and payment – An income tax return must be filed by all individuals that derive business or professional income. For other types of income (e.g. salary, income from securities, income from immovable property, capital gains, etc.), the obligation to file an annual return depends on the type of income, the amount, the exemption limits applicable and whether the income is subject to withholding tax at source.

Individuals required to file an annual income tax return must submit the return between the first and 25th day of March of the following calendar year. Income tax accrued must be paid in two equal installments in March and July.

Penalties – Penalties apply for late filing, failure to file or tax evasion.

Value added tax:

Taxable transactions – VAT is imposed on the supply of most goods and the provision of services.

Rates – The standard rate is 18%, with reduced rates of 8% applicable to basic foodstuffs, pharmaceutical products and other items, and 1% for journals, newspapers certain farm products and certain machine/equipment acquired under finance leases. Certain supplies are exempt. Reverse-charge VAT at 18% applies to payments made to nonresidents for professional services, the use of intangibles (e.g. royalties, licenses or know-how) and on the sale of such rights.

Registration – There is no turnover threshold for VAT registration in Turkey. Any person or entity engaged in an activity within the scope of the VAT law must notify the local tax office where its place of business is located or, if there is more than one place of business, the same tax office at which the business registered for income/corporation tax purposes.

A foreign business with no establishment in Turkey but that sells goods located in Turkey must appoint a tax representative (agent) to register for VAT. Direct registration is not possible. Such a business must use the reverse charge mechanism for charging VAT.

Filing and payment – VAT payments are due monthly. VAT returns must be filed with the local tax office by the 24th day of the following month, and VAT is payable by the 26th day of the month in which the return is submitted.

Source of tax law: Corporate Income Tax Code, Tax Procedures Code, Personal Income Tax Code, VAT Code

Tax treaties: Turkey has concluded 83 tax treaties

Tax authorities: Ministry of Finance, Turkish Revenue Administration

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