

CIRCULAR

MAY 21, 2018

SUBJECT THE LAW NO 7143 ON RESTRUCTURING OF TAX AND OTHER CERTAIN RECEIVABLES AND AMENDMENTS TO CERTAIN LAWS

The Law facilitates the payment of taxes, tax penalties, customs duties, SSI premiums, delay interests, late fees and administrative penalties which are prescribed in certain laws in respect of the periods prior to 31/03/2018, includes adjustments for tax receivables which are subject to examination and judicial proceeding, and in addition provides tax base increase and declaration of the commodities, machines, equipment and fixtures which are not in the records although they exist in the enterprise, and the commodities, cash balances and receivables from shareholders which do not exist in the enterprise although they are in the records.

SPECIFIED RECEIVABLES:

As of the date on which the Law has been published (18/05/2018), in case of the entirety of the portion of taxes which are unpaid although they have become due or the unpaid portion thereof which has not yet become due ,

50% of the tax penalties imposed regardless of the principal tax and of the tax penalties imposed due to participation, the entirety of the unpaid portion of customs duties, 50% of the administrative penalties imposed regardless of the principals of the customs duties, 30% of the administrative penalties imposed based on the value of the goods in bond and the entirety of the principals of the customs duties if any, are paid within the period and in the manner specified in the Law, together with the amount which will substitute the

secondary public receivables related thereto such as delay interests and late fees, **which will be calculated up to the date on which this Law was published based on the monthly rate of change of the DOMESTIC PRODUCER PRICE INDEX, collection of the balance of the penalties and the delay interests and late fees shall be renounced.**

In case the principals of **Social Security Institution insurance premiums**, pension contributions and provisions for the institution, unemployment insurance premiums and social security support contributions pertaining to **March 2018 and previous months**, which are not paid as of the date on which this Law was published although they were accrued prior to the date on which this Law was published as well as **the amount to be calculated for the period from maturity date for payment of these receivables until the date on which this Law was published based on the monthly rate of change of the DOMESTIC PRODUCER PRICE INDEX, are paid within the period and in the manner specified in the Law, collection of the secondary receivables to be imposed on these receivables such as delay penalty and late fee shall be renounced in full.**

Applications shall be filed until July 31, 2018. Payment of the first installment for tax and other receivables shall commence in September, and the first installment for social security premiums shall start in August. The payments to be made in every two months, may be made in 6, 9, 12 and 18 installments. A maximum of two late payments may be made, and in case of late payments in excess of this, the debt shall return to its former value. Again pursuant to the Law, the first two installments are required to be paid in due time and in full.

In case the amount calculated in accordance with the provisions of this Law is paid in full within the payment period for the first installment, no interest shall be charged over this amount for the period from the date on which this Law was published to the date of payment, and in addition, a discount of 90% shall be made to substitute the secondary receivables, at the amount which will be calculated based on the monthly rate of change of the DOMESTIC PRODUCER PRICE INDEX.

In case payment is made in installments, provided that the provisions of the relevant articles are reserved, the debtors are obliged to select one of the options of payment in six, nine, twelve or eighteen equal installments during the application. Payment may not be made within a period longer than the selected installment period.

In order for the payments to be made in installments, the amount determined in accordance with the relevant articles shall be multiplied with the below coefficients, and the amount of installment to be paid in every two months shall be calculated by dividing the amount obtained into the number of installments. The debtors who have filed an application to benefit from the provisions of this Law are given a payment plan in accordance with the installment period they have selected. However, in case the payment is made within a period shorter than the selected period, the amount is corrected according to the relevant coefficient.

Number of Installments	Payment Period (Months)	Coefficient to be Applied
6	12	1,045
9	18	1,083
12	24	1,105
18	36	1,15

TAX BASE INCREASE:

Application for tax base increase may be filed until the end of August 2018. For the years in which an increase is made as follows, no tax inspection in respect of the relevant tax types and no other assessment for these tax types pertaining to these years shall be subsequently carried out.

Period	Income/ Corporate Tax Base Increase Rate (%) *	Minimum Tax Base Increase Amount (TL) *		VAT Increase Rate Calculated (%)	Rate of Taxes to be Paid over the Annual Sum of the Gross Amounts such as Wage, Self-Employment, Real Property Income etc. (%)
		Income Tax	Corporate Tax		
2013	35	18.095	36.190	3,5	6
2014	30	19.155	38.232	3	5
2015	25	20.344	40.701	2,5	4
2016	20	21.636	43.260	2	3
2017	15	24.525	49.037	1,5	2

*A tax of 20% is paid at the increased tax base amount (15% in case the annual returns for the year in which an increase is intended to be made are deposited within their legal periods and the taxes accrued are paid in due time, and in addition, the benefits provided under articles 2 and 3 of the Law do not apply to these tax types).

For the income and corporate taxpayers, 50% of the losses for the years in which they have made a tax base increase may not be offset against the incomes for 2018 and subsequent years.

Tax base and tax increase are required to be made as stipulated in this article until the end of the third month following the date of publication of this Law, and the income, corporate and value added taxes calculated or increased are required to be paid within the period and in the manner specified in the Law, in cash or in minimum six equal installments, in every two months, the first installment which shall commence within the period specified in article 9, paragraph one, sub-paragraph (b) of this Law. **In case these taxes are not paid in the manner specified in this Law, their follow-up and collection shall continue together with the late fee in accordance with article 51 of the Law no 6183 shall be continued, however, provisions of this article cannot be benefitted from.**

The tax base or tax increase does not constitute an impediment to the tax examinations and assessment transactions which commenced prior to the publication of the Law.

However, if the tax examinations and assessment transactions about the taxpayers who have made an increase cannot be concluded within two months from the beginning of the month following the date of publication of the law, these transactions may not be continued.

RECEIVABLES WHICH ARE UNDUE OR WITHIN THE COURSE OF COURT CASE:

1. For the additional or ex officio tax assessments or tax assessments carried out by the administration and accruals in relation to customs duties, which are disputed before first degree judicial authorities or the term of litigation of which has not expired as of the date on which the Law was published; provided that 50% of the taxes/customs duties and the amount which will substitute the interests, delay interests and late fees related to this amount, which will be calculated until the date on which this Law was published based on the monthly rate of change of the DOMESTIC PRODUCER PRICE INDEX, are paid in full within the period and in the manner specified in the Law, and collection of 50% of the taxes/customs duties and the entirety of the interests, delay interests and late fees and the tax penalties/administrative penalties imposed based on the principal and the late fees related to these penalties shall be renounced.

2. For the additional or ex officio tax assessments or tax assessments carried out by the administration and accruals in relation to customs duties, appeal deadlines of which have not expired or which are appealed/objected or for which request for revision of decision deadlines of which have not expired or for which a request of revision of decision has been made as of the date when the Law was published, application shall be as follows according to the last decision rendered prior to the date on which this Law was published.

In Case the Last Decision	Amount Payable	The Amount Collection of which is renounced
In case of cancelation	<ul style="list-style-type: none"> 20% of the taxes/customs duties which are basis for first assessment/accrual, The Amount to be calculated according to DOMESTIC PRODUCER PRICE INDEX 	<ul style="list-style-type: none"> 80% of the principal taxes/customs duties The entirety of the interests, delay interests and late fees and the tax penalties/administrative penalties imposed based on the principal receivables and the late fees related to these penalties
In the case of an approval decision or an amended approval decision	<ul style="list-style-type: none"> The entirety of the taxes/customs duties approved 20% of the taxes/customs duties canceled The Amount in relation thereto, to be calculated according to DOMESTIC PRODUCER PRICE INDEX 	<ul style="list-style-type: none"> The remaining 80% of the taxes/customs duties canceled The entirety of the interests, delay interests and late fees and the tax penalties/administrative penalties imposed based on the principal receivables and the late fees related to these penalties

If the last decision is a decision for reversal	<ul style="list-style-type: none"> · 50% of the taxes/customs duties · The Amount to be calculated according to DOMESTIC PRODUCER PRICE INDEX 	<ul style="list-style-type: none"> · The remaining 50% of the taxes/customs duties · The entirety of the interests, delay interests and late fees and the tax penalties/administrative penalties imposed based on the principal receivables and the late fees related to these penalties
If the last decision is partially an approval decision and partially a decision for reversal (for the portion approved)	<ul style="list-style-type: none"> · The entirety of the taxes/customs duties approved · 20% of the taxes/customs duties canceled · The Amount in relation thereto, to be calculated according to DOMESTIC PRODUCER PRICE INDEX 	<ul style="list-style-type: none"> · The remaining 80% of the taxes/customs duties canceled · The entirety of the interests, delay interests and late fees and the tax penalties/administrative penalties imposed based on the principal receivables and the late fees related to these penalties
If the last decision is partially an approval decision and partially a decision of reversal (for the portion reversed)	<ul style="list-style-type: none"> · 50% of the taxes/customs duties · The Amount to be calculated according to DOMESTIC PRODUCER PRICE INDEX 	<ul style="list-style-type: none"> · The remaining 50% of the taxes/customs duties · The entirety of the interests, delay interests and late fees and the tax penalties/administrative penalties imposed based on the principal receivables and the late fees related to these penalties

3. In case where a lawsuit has been filed only for tax penalties/administrative penalties in relation to customs obligation as of the date on which the Law was published;

a. Provided that the penalties imposed based on the principal, taxes/customs duties are paid prior to the date on which the Law was published and they are paid within the period and in the manner specified in the Law, collection of the the entirety thereof and the late fees related thereto shall be renounced.

b. For the tax penalties/administrative penalties in relation to customs obligation which are not imposed based on the principal, the amounts collection of which shall be renounced, shall be determined as follows according to the stage of the transaction.

Judicial Proceeding	Amount Payable	The Amount Collection of which is Renounced
Those for which a lawsuit is filed before the first degree courts or the term of litigation of which has not expired	25% of the penalty	75% of the penalty
For those which are subject to objection/appeal proceeding, in case there is a decision for cancellation	10% of the penalty	90% of the penalty

For those which are subject to objection/appeal proceeding, in case there is an approval decision or an amended approval decision	50% of the penalty approved 10% of the penalty canceled	The remaining 50% of the penalty approved The remaining 90% of the penalty canceled
In case the last decision is a decision for reversal	25% of the penalty	75% of the penalty
In case the last decision is partially an approval decision and partially a decision for reversal (for the portion approved)	50% of the penalty approved 10% of the penalty canceled	10% of the penalty canceled The remaining 90% of the penalty canceled
In case the last decision is partially an approval decision and partially a decision for reversal (for the portion reversed)	25% of the penalty	75% of the penalty

4. The receivables for which an application has been filed in order to benefit from provisions relating to settlement, the date of settlement has not been given or has not come or no settlement has been reached, but the term of litigation of which has not expired as of the date on which the Law was published, may also benefit from the above adjustments.

5. Those who wish to benefit from this cannot file any lawsuit, to withdraw from the lawsuits which have been filed, and not to take any legal action.

TRANSACTIONS IN EXAMINATION AND ASSESSMENT STAGE:

As regards to the periods prescribed by the Law, the tax examinations which could not have been completed despite having been started prior to the date of promulgation of the Law, and assessment, imposition and accrual transactions, will be continued, provided that the provisions of this Law regarding the tax base and tax increase are reserved, and for the assessments following such examinations to be completed, application shall be as follows.

Assessment Type	Amount Payable	The Amount Collection of which is Renounced
Taxes Assessed Based on the Tax Principal	50% of the tax Amount to be calculated according to DOMESTIC PRODUCER PRICE INDEX until the date on which the Law was published The entire delay interest to be calculated until the expiry date of the term of litigation determined upon the service of the notice after the date of publication of the Law	The remaining 50% of the tax principal The entirety of the penalties imposed based on the principal tax The delay interest applied until the date when the Law was issued
Penalties not Based on the Principal Tax	25% of the penalty	75% of the penalty
Tax Loss Penalties to be Imposed due to Participation	25% of the penalty	75% of the penalty

CORRECTION OF THE ENTERPRISE RECORDS:

The corporate taxpayers which keep their books on balance sheet basis, may correct their records by declaring to the tax offices until the end of the third month following the date on which this Law was published, the cash balances which do not exist at the enterprise although they are shown on their balance sheets that they have drawn up as of 31/12/2017, and the net amounts related to the amounts owed to them by their shareholders and the amounts they owe to their shareholders due to their transactions other than the main area of activity of their enterprise (arising from lending or similar reasons), and their transactions in other accounts in relation thereto, and by paying the tax calculated at 3% over the declared amounts within the term for submitting the return.

The taxpayers may record into their books the commodities, machines, equipment and fixtures which are not in records although they exist at the enterprise, at a market value to be determined by them or by their affiliated professional organization, by notifying the same to the tax office with an inventory list until the end of the third month following the date on which this Law was published. Taxpayers which keep their books on balance sheet basis, open a special provisions account separately for the commodities that they include in their assets and for machines, equipments and fixtures. In case the fund set aside for commodities is distributed among the shareholders or in case the enterprise is liquidated, they are deemed as a capital element and they shall not be subjected to any tax. Machines, equipments and fixtures are recorded into the inventory, and the fund which is set aside is deemed as depreciation. The value added tax is calculated at 10% over the price of machines, equipments, fixtures and commodities which are subject to general

rate, and at half of the price of machines, equipments, fixtures and commodities which are subject to discounted rate, and it is paid within the term for submitting the return, by declaring with a separate return in the capacity of taxpayer. This tax which is paid on the machines, equipments and fixtures cannot be discounted from the value added tax calculated. The tax paid on the commodities is discounted according to the general principles.

The commodities which do not exist at the enterprise although they are in records, may be recorded into records and returns until the end of the third month following the date on which this Law was published, by issuing an invoice by taking into consideration the rate of gross profit determined according to the current year records in relation to the commodities of the same type, and by fulfilling all kinds of tax obligations. The value added tax which is required to be paid in accordance with this provision, are paid in three equal installments, the first installment being within the term for submitting the return, and the following installments being in the second and fourth months following the term for submitting the return.

BRINGING CERTAIN ASSETS IN NATIONAL ECONOMY:

Real and legal persons who report their money, gold, foreign exchange, securities and other capital market instruments which are located abroad to **banks and intermediary firms in Turkey** within the framework of the provisions of this paragraph by 30/11/2018, can freely appropriate such assets. With regard to the assets reported to them, the **banks and intermediary firms declare to their affiliated tax office the tax that they calculate at a rate of 2% until 31/12/2018, by submitting a return in the capacity of taxpayer, and they pay this tax within the same period.**

Money, gold, foreign exchange, securities and other capital market instruments which are located abroad, may be used in paying off the loans obtained from foreign banks and financial institutions, which are recorded in their legal books as of the date of coming into force of this paragraph, until 30/11/2018 at the latest. In such a case, it is possible to benefit from the provisions under this paragraph without being required to bring the assets used in paying off the debt to Turkey, provided that they are removed from the book entries. In case the capital advances which are recorded in the legal books as of the date of coming into force of this paragraph, are compensated by bringing to Turkey prior to the date of entry into force of this paragraph the money, gold, foreign exchange, securities and other capital market instruments located abroad, it is possible to benefit from the provisions of this paragraph, provided that the aforementioned advances are removed from the book entries. Taxpayers who keep books pursuant to the Law no 213 can include their assets they bring to Turkey within the scope of this paragraph, without taking them into consideration in the determination of the profit for the period and are also able to remove the same assets from their enterprises without taking them into consideration in the determination of the taxable profit and the distributable profit for the corporations.

It is possible for the income and corporate taxpayers to record in their statutory books their money, gold, foreign currency, securities and other capital market instruments as well as immovable properties situated in Turkey but not contained in their book records

by 30/11/2018 without taking them into consideration in the determination of the profit for the period. In this case, the aforementioned assets may be removed from their enterprises without taking them into consideration in the determination of the taxable profit and the distributable profit for the corporations. **A tax of 2% is levied over the value of the assets declared to tax offices, and this tax is paid until 31/12/2018.**

Until 31/7/2018; for the assets which are brought to Turkey by being reported as money, gold, foreign exchange, securities and other capital market instruments located abroad, or used in paying off the above-mentioned loans or processed within the scope of the capital advances recorded in books, and the assets which are declared and recorded in legal books as money, gold, foreign currency, securities and other capital market instruments as well as immovable properties located in Turkey but not contained in the book records, **the above-specified tax of 2% is not levied.**

Under no circumstances shall a tax examination or tax assessment be carried out regarding the assets which are reported or declared within the above-mentioned scope. In order to benefit from this provision, it is obligatory that the tax levied on the amounts reported or declared is paid in due time, and the assets which are reported to be within the scope of money, gold, foreign exchange, securities and other capital market instruments located abroad are brought to Turkey within three months from the date on which they are reported or they are transferred to an account to be opened at a bank or an intermediary firm in Turkey.

In addition;

With regard to real entities and organizations which are subject to full liability , their

(aa) incomes generated from sales of the participation stocks of the organizations, legal head offices of which are not located in Turkey,

(bb) participation incomes that they have gained from the organizations, legal head office of which is not in Turkey,

(cc) commercial incomes that they have gained through their workplaces and permanent representatives located abroad,

are exempted from income or corporate tax, including those that they have gained until 31/10/2018, provided that they are transferred to Turkey until 31/12/2018 starting from the date of entry into force of this article.

Incomes of real entities and organizations which are subject to full liability which arise from the liquidation of organizations, legal head offices of which are not located in Turkey, are exempted from income and corporate tax, provided that they are transferred to Turkey until 31/12/2018.

In case you need additional information on the issues explained hereby, please contact us.

**Best regards,
PKF Istanbul**



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