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CIRCULAR NOTE /18/18-2

Subject: Law on Amendments to Tax Codes and Several Laws and Decree-Laws Has Been Published.

The Law no. 7103 on “Amendments to Tax Codes and Several Laws and Decree-Laws” has been published in Official Gazette no. 30373 (2nd repetition) on 27 March 2018.

According to the amendments brought by the Law:

1) New items are added to the payments to be included in calculation of the amounts to be excepted from severance pay.

According to article 5 in this Law, with the amendments to the Law on Income Tax, article 25 titled “Compensation and Assistance”, clause 1, any compensation to the employee under the mutual termination contract or mutual rescission contract, job loss indemnity, termination compensation, job security compensation and similar payments and assistance that are paid after the termination of the service contract shall be taken into consideration when calculating the sums to be excepted from severance pay. **The sums that exceed the exception shall be considered as pay** and shall be subject to income tax.

Effective date: 28/03/2018

2) There is an arrangement for inclusion of mutual rescission compensation, mutual termination compensation and other payments and assistance made under similar names in the pay.

Similarly, with article 7 of this Law, a paragraph has been added to the Income Tax Code, article 61 titled “Description of Salary”, clause 3, which states that any compensation to the employee under the mutual termination contract or mutual rescission contract, job loss indemnity, termination compensation, job security compensation and similar payments and assistance that are paid after the termination of the service contract shall be considered as part of the salary.

Effective date: 28/03/2018

5) There is a permanent arrangement which ensures that the minimum pay is not affected by the changes in tax brackets throughout the year.

With the article 6 in this Law and the new clause added to article 32 titled “Minimum subsistence discount” in the Income Tax Law, for the minimum wage workers who are single and childless and for the workers whose net salary is below the new salary paid of the period of January-July in the current year due to the tax imposition shall receive minimum subsistence discount to compensate for the decrease in the net minimum wage paid until July below the net salary

applicable in January, and to compensate for the decrease in the net salary paid after July below the net salary applicable in July.

Effective date: 28/03/2018

B) Arrangements to the Tax Procedure Law no. 213

1) The foreign currencies brought from abroad and used as capita by the capital companies which have been recently established and which hold an investment incentive document shall not be subject to exchange rate valuation.

Under article 11 of this Law, the article 280/A titled “**Foreign currencies brought from abroad and used as capital:**” has been added to the Tax Procedure Law. For the fully accountable capital companies which will make investments under the investment incentive document, a new system of valuation has been brought with this article for the foreign currencies brought from abroad as capital during the accounting period when they started work and for the following accounting period.

This arrangement aims to mitigate the tax consequences that may arise from foreign currency valuation for the portion of the foreign currencies thus brought which was not used until the end of the accounting period that follows the accounting period when work was started, and for the portion which was used to realize the investments stipulated in the investment incentive document.

Effective date: 28/03/2018. It shall be applicable for the capital companies registered after this date.

2) The special irregularity fines to be imposed for actions specified in the article related to the documents which should be issued in electronic media have been elaborated.

The article 12 of this Law, as well as the amendments to article 353 titled “Special Irregularities and Fines”, clause one, paragraphs (1) and (2) aim to eliminate the doubts related to special irregularity fines to be imposed for the actions specified in the articles on documents which should be issued in electronic medium. Besides, the requirement to impose a special irregularity fine if the documents covered by this Law have not been issued has been clarified.

Effective date: 28/03/2018

3) The discount rate for irregularity fines and special irregularity fines will be increased from 1/3 to 1/2.

With the amendments in Article 14 of this Law, as well as article 376 titled “**Discounts in Tax Loss, Irregularity and Special Irregularity Fines**”, clause one, paragraph (2), the discount rate for irregularity and special irregularity fines has been increased from 1/3 to 1/2.

Effective date: 28/03/2018

4) The irregularity fines and special irregularity fines will be excluded from conciliation before assessment.

With article 15 of this Law, and with the amendments in the article 11 titled “**Conciliation Before Assessment**”, clause one of the Tax Procedure Law, irregularity fines and special irregularity fines have been excluded from conciliation before assessment.

Effective date: 28/03/2018. This excludes those who have applied from conciliation before assessment before this date.

5) It allows writing off newly purchased machinery and equipment as expenses by including them in the depreciation in a period that is half the current depreciation period of such machinery and equipment.

Article 16 of this Law as well as the “PROVISIONAL ARTICLE 30” added to the Tax Procedure Law allows writing off any machinery and equipment that are used in innovation and design activities and that were purchased before 31/12/2019 as expenses by including them in the depreciation in a period that is half the current depreciation period of such machinery and equipment.

Besides, article 31 of this Law allows delivery of abovementioned machinery and equipment by exempting them from VAT.

Effective date: 01/05/2018

6) Transfer of provisions related to individuals who will be subject to tax assessment and penalties before and during liquidation

With article 9 of this Law as well as with the amendments to article 10 of the Tax Procedure Law titled “**Responsibility of the Legal Representatives**”, the provision in Corporate Tax Law no. 5520, article 17 titled “**Liquidation**”, clause nine related to the individuals who will be subject to tax assessment and penalties before and during liquidation process has been moved to the Tax Procedure Law no. 213. Besides, in the event that organizations without legal identity, such as ordinary partnerships, and organizations with legal identity, such as foundations, associations and universities are terminated, the assessments to be made for the period preceding the termination and the addressees of the penalties have been clarified.

C) Arrangements in Value Added Tax Code

1) Infrastructural investments by Organized Industrial Zones and small industrial sites have been exempted from VAT.

With the article 29 of this Law as well as the paragraph added to first clause of the article 13 titled “**Exceptions for vehicles, valuable mine and oil exploration and national security spending and investments**” in Value Added Tax Code no. 3065, delivery of goods and services to organized industrial zones and small industry sites and financial organizations created by these related to water, sewer system, water treatment, natural gas, electricity, communication facilities and road construction at organized industrial zones and small industrial sites and construction of work places in small industrial sites are excepted from value added tax. This aims to decrease the burden of value added tax on investments.

Any purchase of goods or services by taxpayers who offer goods or services to organized industrial zones and small industry sites and financial organizations created by these under the exception shall be subject to VAT according to general provisions.

Effective date: 01/04/2018

2) Purchases of new machinery and equipment are excepted from VAT.

With the article 31 of this Law as well as with the provisional article 39 added to the Value Added Tax Code no. 3065, any new machinery and equipment used in manufacturing industry or in R&D, innovation and design activities, with or without investment incentive document, and which were purchased before 31/12/2019, have been exempted from VAT.

The tax to be paid by taxpayers who are exempted from tax under this article due to the exempted operations may be subject of discount, and the tax which cannot be compensated via discounts may be refunded.

If the machinery and equipment purchased under the exception are used outside the R&D, innovation or design activities or outside the manufacturing industry or sold within **three years** after the beginning of the calendar year following the date of delivery, the tax which was not collected shall be collected from the buyer, along with the tax loss fine and late interest. Taxes which were not collected in the past and the expiration of tax penalties shall start in the beginning of the calendar year that follows the date when the conditions that require tax assessment or penalty arise.

Effective date: 01/05/2018

D) Arrangements in Law no. 4632 on Private Retirement Saving and Investment System

Amendments were made in the Private Retirement System.

With the article 45 in this Law, and with the amendments to the additional article 2 in the Law no. 4632 on Private Retirement Saving and Investment System, the Council of Ministers has been authorized to extend the retraction period given to those who are covered by mandatory private retirement insurance from 2 months to 6 months, and several arrangements were made in the implementation of mandatory private retirement system.

E) Arrangements Related to Law no. 5510 on Social Security and Universal Health Insurance

1) The statements for the insured workers who work less than 30 days in a month shall be based on the statement by the employer.

With the article 67 in this Law and with the amendments to clauses four and five of the article 86 titled “**Premium documents and workplace records**” in Law no. 5510, the statements for the insured workers who work less than 30 days in a month shall be based on the statement of the employer, and the Institution shall not request these documents unless necessary.

2) Minimum wage support to the employers shall be continued in 2018.

With the article 73 of this Law, and with the provisional article 75 added to Law no. 5510, arrangements were made to continue the minimum wage support to the employers in the private industry.

Effective date: It has come into execution on 28/03/2018, to be applicable starting on **01/01/2018**.

F) Arrangement Related to Corporate Tax Code

1) Exemption of corporate tax for regional administrative centres has been abolished.

With article 74 of this Law, the paragraph (ç) in the first clause of the fourth article titled “**Exemption**” of the Corporate Tax Code no. 5520 has been revoked, and the exemption of regional administrative centres from corporate tax has been terminated.

Effective date: **01/01/2019** (to be applicable after 01/01/2022 for the regional administrative centres that have been established as of 01/01/2019).

2) Transfer of provisions related to individuals who will be subject to tax assessment and penalties before and during liquidation

With the article 74 of this Law, the clause nine of the article 17 titled “**Liquidation**” in the Corporate Tax Code no. 5520 has been revoked since it has been moved to the Tax Procedure Law with the provisions in the article 9 of this Law.

Effective date: **28/03/2019**

Best regards,

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