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Taxademy Newsletter

2020-54

Date : May 5th, 2020

Subject: Monthly Financial/Tax Regulations Summary in Turkey (April 2020)

Distinguished readers,

April 2020 was very busy in terms of financial agenda, because of the pandemic lots of expected arrangements were made and we are expecting May to be much busier month as well in tax, financial, monetary and economic agenda. We would like to submit for your attention as a summary the important tax-related and financial issues that occurred within the last month.

Let's briefly start with the headings and then examine the details. We will submit information about;

- Turkish measures explained and executed in April, 2020 to combat with Covid-19
- The New Omnibus Law covering many of the measures explained by the President
- Different measures taken by the Authorities, and postponements of the tax, financial and regulatory obligations
- Draft Communique regarding Transfer Pricing in Turkey to be in line with OECD standards,
- Important Changes on Tax Legislations in April
- Social Security Issues
- Other Measures and Postponements to Fight with Covid-19
- Finance issues including CMB, BRSA and TBA
- Changes in the Public Organizations in Presidential System in Turkey
- Changes in Public Procurement and Tenders in Covid-19
- Organized Industrial Zones Overseas Legislation and related changes
- Amendments made to the Free Zones Implementing Regulation
- The management structure change of Eximbank.

In addition, you can visit our [Covid-19 Support](#) website that we prepare in order to support the business society, employees and all stakeholders.

In April, including in this context, the new roles of internal audit in Covid-19 world, Turkey and the comparison of health systems in OECD countries, the sociological analysis of the epidemic, the proposal of refunding the accumulated VAT to the firms, the new transfer pricing provisions draft, regulations on public real property debts, the effect of the epidemic to public tenders, discounts and adjustments made in banking fees, and the tax-free periods, with special newsletters with the experts are published.

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We hope that you will benefit and enjoy our newsletters. In this context, we would like to add the topics you want to be analyzed. For example, the possible effects of the epidemic on tax justice and tax burden, the taxation regime of the healthcare system, especially the healthcare professionals, the creative fiscal policy recommendations that should be implemented in this period, and the examples of good practices that companies make for their suppliers and ecosystems can be considered within this scope. We are looking forward to hearing from you to convey both your subject proposal and such expertise to a wider audience.

A. Tax Issues

- **Draft Transfer Pricing Communiqué**

- Long-awaited Presidential Decree regarding **Transfer Pricing in Turkey** put in force in February and now the Ministry of Finance and Treasury has announced the Communiqué to collect feedbacks and opinions. Here are the details.
- **CbCr (Country Report)**: Turkish resident ultimate parent company of an MNE group having consolidated revenue exceeding Euro 750 Million is needed to submit this report. This annual report will be uploaded online until the end of a fiscal year.
 - Reporting should include the sales, profits, capital, retained earnings, headcount and other information.
 - The first country file will be submitted for the FY 2019.
 - Turkish and foreign headquartered firms with CbCR filing obligation should inform the Turkish tax authorities about their ultimate firm, reporting firms in Turkey, and fiscal year of the companies until June of each fiscal year. This information should be reported this year until the **end of August 2020** as well.
- **Master File**: With the amendments in legislation, corporate MNE taxpayers having TRY 500 million in both asset and net sales figures for the previous year need to prepare a master file and submit to the Tax Office and tax auditors upon request. The first master file will be submitted for the FY 2019 if there is no postponement because of Covid-19.
- We have included all the details regarding the draft of the Communiqué in our circular numbered [2020-50](#).
- The Communiqué also includes the following form and report templates in accordance with the new reporting format:
 - Annex-5 Notification Form Regarding Country-Based Reporting
 - Annex -5 Explanations on Filling Out the Country-Based Reporting Form
 - Annex -6 Country Based Report
 - Annex -6 Explanations on Filling the Country Based Report

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- **New Omnibus Law:** Covid-19 Measure Package 2 was enacted as Law No. 7244.
 - The Law Proposal, prepared as the second measure package for the outbreak, was sent to the Parliament Assembly and quickly accepted.
 - The Law includes the measures to ensure social isolation in various laws, granting 39.24 TL per day as temporary employment, reducing the conditions sought for the financial aids for elderly and the disabled, authorizing the relevant Ministries to postpone obligations such as notification, meeting, general assembly, continuing to benefit from incentives for R&D, design centers and technocities for those working at home, electricity debts, credit and dormitory payments, postponement of some dues, the costs related to the usage of various public lands can be postponed without interest, and limitation of profit distribution.
 - You can examine all of these regulations in [2020-45](#) newsletter.
- **Force Majeure Appeal Petitions:** Within the scope of force majeure, the possibility of submitting an application for taxpayers who have objection about tax deferral was provided by the Ministry of Finance and Treasury.
- **Withholding VAT:** VAT Withholding within the Scope of Force Majeure: Partial withholding for VAT will not be applied to taxpayers within the scope of force majeure.
- **Corporate Tax Return of 2019:** The corporate tax return for 2019 was postponed to 1 June.
- **Deferrals of Submissions and Payments:** Dates related to certain declarations and notifications such as payroll tax, VAT, social security premiums, Ba and Bs forms, and receipt of electronic ledger statements have been postponed or arranged by the competent authorities.
- **Private Pension Funds:** The exchange rate difference in the private pension in foreign currency has been clarified in terms of income taxation and the state payment contribution rate is determined as 10% instead of 25%.
- **Double Taxation Agreements:** Double taxation agreement signed between the Ivory Coast with Turkey and the Protocol amending the Agreement was signed with Ukraine have both been approved.

B. Social Security Issues

- **International Social Security Agreements:** Social Security Agreements signed with Mongolia and the Kyrgyz Republic have been approved.
 - The administrative agreement for the approval of the implementation of the Social Security Agreement signed between Turkey and Moldova Resolution No. 2472 was published in the Official Gazette dated April 22, 2020.

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- You can review our Social Security Guide [2020-14](#) for the implementation of social security agreements and your rights and obligations and details in this regard.
- **SGK (Social Security Premiums) Payment Delay:** SGK payments have also been postponed for taxpayers whose tax returns have been postponed as part of the force majeure. Postponed payment is only, declarations should be given on time.
- **Postponement of MPH:** The project of combining the Concise and Premium Service Declaration (Muhtasar SGK) has been postponed to July 2020, except for 7 provinces which have started to implement as pilot cities.
- **Unpaid Leave:** A new code definition has been made by SSI (SGK) for employees on unpaid leave. These newly created codes can also be selected for foreign policy holders.
- **Minimum Wage Support:** SSI Circular on Minimum Wage Support, which will continue in 2020, has been published.
- **Unpaid Leave Transactions:** Covid-19 leave without payment transactions module for employees who are not fired was opened by SGK.

C. Other Measures and Postponements

- **Housing Credit Payments:** It was aimed to prevent the citizens from falling economically by providing convenience in the payments of the state-sponsored housing account.
- **Postponement of Declarations:** Association (NGO's) statements and notifications were postponed to 1 August 2020.
- The BDDK (BRSA) went to postpone the deadline for some notifications, financial reports and statements.
- **Cessation of Time in Judicial Procedures:** The period of cessation brought until 30 April to prevent loss of rights in the judiciary has been extended to 15 June 2020. These periods include lawsuits, initiation of enforcement proceedings, application, complaint, appeal, notice, notice, submission and timeout periods, all periods related to the beginning, use or termination of a right, including mandatory administrative application periods.
- **Vehicle Inspections:** Deferral was made in conducting vehicle inspections and an additional period of 45 days was granted.
- **Postponement of submissions to EMRA:** The Energy Market Regulatory Authority (EPDK) has announced its postponement decision (number 2 April 2020/9276) in relation to certain obligations. Accordingly, the liabilities listed have been extended for 3 months without any further action.

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D. Finance Issues

- **Limitation on Derivatives:** BRSA (BDDK) and CMB (SPK) changed the limit of derivative transactions with the decisions they issued. Due to the imbalances in global markets and increased risks, this decision is a result of the evaluation made in order to increase the effectiveness of the steps and measures taken to manage these risks and maintain financial stability.
- **Expanding Credit Facilities:** BRSA announced to the Banks in Turkey to expand its credit facilities and announced a new active ratio (AR) formula that they could take some more risk.
- **Money Transfers Abroad:** The Banks Association (TBB) has published an information note on money transfers abroad. The transactions to be carried out at the banks will continue within the normal flow process, and there are no restrictions or suspension of transactions. Within the scope of FATF's recommendation, only the regular notifications of 1 million Turkish Lira and equivalent foreign currency transfers and money transfers abroad to the Financial Crimes Investigation Board (MASAK) were taken one day before.
- **Bad Debts:** An information note was published by the Turkish Banks Association on the temporary article added to the Law on the Failure to Consider Records Regarding Bad Checks and Protested Bills and Credit and Credit Card Debt.
- **Postponing the Debts of Forest Villagers:** With the amendment of the Regulation published in the Official Gazette dated April 30, it was decided to postpone the loan installments that need to be collected for the 3-month period from April 1, 2020, without any application requirements.

E. Other Issues

- **Organized Industrial Zones Overseas:** The amendments to the Organized Industrial Zones Legislation have been made and the President's decision on the establishment and operation of an organized industrial zone abroad has been published which is a quite new in Turkey.
- **The Amendment to the Implementing Regulation on Organized Industrial Zones** was published in the Official Gazette dated April 16, 2020 and entered into force.
 - With the aforementioned regulation, some changes made in the powers of the general assembly and the board of directors, the OIZ type change, the follow-up of the OIZ occupancy rate and notification to the Ministry, the right to vote in the general assembly, the decision to make a donation, the evaluation of past donations within this scope, the substitute members in the board of directors, the supervisory board's inability to call the general assembly for an extraordinary meeting, construction plan in the OIZs, places where the participant's support units can be built, commercial books to be kept, facilities that cannot be established in the OIZs, the form of the land allocation agreement, in which cases the land allocation can be canceled, the amount to be

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reimbursed in the cancellation of the land allocation, the conditions for the participant to rent his own facility to another tenant, the e-mail system registered in the call of the general assembly.

- **Free Zones:** Amendments have been made to the Free Zones Implementing Regulation.
 - With the amendment of the Regulation published in the Official Gazette dated April 25, 2020, the definitions in the Regulation were changed and how to extend the time in the business or organization and operating contracts was regulated. In addition, changes have been made on how to re-grant the business or establishment and business permit, the duration of time extensions, the formation of commissions and independent audit reports to be requested.
- **Changes in the Public Organization in Presidential System:** Significant changes have been made in the organizational structures of the related institutions and organizations such as the Ministry of Finance and Treasury and Industry and other institutions and organizations affiliated to the Ministries through Presidential Decrees numbered 58, 59 and 60.

Information Box: *Presidential Decrees issued in the New Government System:*

- *Within the framework of the new government system in Turkey, the ministries and all public institutions and organizations were redefined within the new public administration system and regulated with a single Legislative Decree. (Decree No. 4, Official Gazette dated 15/7/2018 - 30479)*
- *Presidential Decree No. 1 regulates the organization of the Presidency. (Decree No.1 Official Gazette dated 10/7/2018-30474)*
- *Decree No. 2 regulates the principles and procedures for the establishment, cancellation and use of the positions and positions of the public institutions and organizations within the scope of it. (Decree No. 2, Official Gazette dated 10/7/2018-30474)*
- *Procedures and principles related to senior public administrators and appointment procedures and principles in public institutions and organizations are determined by Decree No. 3. (Decree No. 3, Official Gazette dated 10/7/2018 - 30474)*

- **Changes in Public Procurement and Tenders:** The opportunity to give termination and time in public tenders has been stretched.
 - It is possible to decide on the extension of the contract or termination of the contract due to *force majeure* in the works carried out within the scope of the public procurement contract.

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- Within this scope, a circular on the effect of the epidemic on public procurement contracts was published in the Official Gazette with the Presidential Circular No. 2020/5 on April 2, 2020.
- In this context, applications will be made to the administration and the Ministry of Treasury and Finance will be asked to make an assessment. As a result of the evaluation, the conditions that arise should not be caused by a defect arising from the contractor, should prevent the contractor from fulfilling its contractual obligations, and the contractor should not be able to eliminate this obstacle.
- **Regulation on Tourism:** Some arrangements have been made in the quality of tourism facilities.
 - Amendments to the Regulation on the Qualifications of Tourism Facilities were published in the Official Gazette No. 31089 dated April 4, 2020. With the Regulation, arrangements have been made regarding the conditions sought in gastronomic facilities, camping and recreation areas.
- The Ministry of Commerce has published the Regulation on Market Surveillance.
 - In this new regulation, the procedures and principles of the market surveillance and supervision processes carried out in accordance with the Law No. 4703, sensory examinations, corrective actions, the way of sampling and inspection, and the record and registration procedures, and the measures to be taken in violation are arranged in detail. The producer and distributor have duties and obligations such as the announcement, voluntary recall and traceability of non-technical regulation, insecurity and consequently unsafe products. The old Regulation of 2014 has been repealed. Documentation of transactions, VAT, commodity to be destroyed are the issues from tax point of view that needs to be carefully examined and implemented by production and distribution companies.
- **Other Amendments:** Within the scope of Covid 19, some relaxing and regulatory legislative amendments have been made. The following regulations were made with the arrangements made within the scope of the epidemic:
 - The importation of medical diagnostic kits in Turkey. The Pharmaceuticals and Medical Devices Agency should give a written permission (2020-19 Import Communiqué)
 - **Lemon Export:** Implementation of the Ministry of Agriculture preliminary permit requirement for lemon exports (Export 2020-7 Communiqué)
 - **Expenditure on Pandemic:** Healthcare pricing commission decision application related to pandemic care services (SGK-2020-3)
 - **Exemption on Healthcare Spend:** by the President's Decision No. 2399 dated April 13, 2020 (All personal protective equipment, tests, kits and medicines to be supplied and distributed under the scope of Pandemic are included in the scope of exemption. This decision came into force to be effective as of March 1st.)

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- **Payment for Teachers:** Administrators and teachers affiliated to the Ministry of National Education benefit from additional tuition fees and do not make additional payments for compensatory and distance education activities (President's Decision No. 2347)
- **Force Majeure in Farming:** In the regulations on good agricultural practices and organic farming, the Ministry of Agriculture and Forestry has been given the authority to make regulations regarding the validity periods and the procedures and principles regarding the validity of the certificates, control and inspection in case of force majeure. (Official Gazette, April 28)
- New arrangements have been made in accordance with social isolation in the fields of artificial insemination, medical insemination, embryo transfer, import of animal products, and preliminary notification and veterinary checks on the entry of animals and products into the country. (Official Gazette of 28 and 30 April)
- The management structure of Eximbank has been changed.
 - On the basis of Law No. 3332, with the Decision of the President dated April 3 and numbered 2366, changes were made in the appointment of the Ministry, the General Manager and the structure of the High Advisory and Loans Steering Committee. These regulations came into force on April 4, 2020.

We have summarized our notes on the changes and developments regarding the summary financial / tax legislation in the last one month, in short headings. Please do not hesitate to contact us for further information.

Please send us your comments and suggestions regarding this bulletin format.

Best regards,

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