

CIRCULAR
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SUBJECT:

DRAFT GENERAL COMMUNIQUÉ SERIAL NO: 3 REGARDING DISGUISED PROFIT DISTRIBUTION THROUGH TRANSFER PRICING HAS BEEN ANNOUNCED

Draft communiqué, which proposes changes and amendments to General Communiqué regarding Disguised Profit Distribution through Transfer Pricing Serial No: 1 which is published in the Official Gazette No: 26704 dated 18 November 2007, has been submitted to public opinion.

As it is known, BEPS action plans aim to eliminate double non-taxation which is caused by the loopholes in the tax legislations of each respective countries; to balance the relationship between the substance of the transactions and taxation and to increase the transparency regarding taxation. The 13th Action Plan of BEPS project action plans which are fifteen in total is called “Guidance on Transfer Pricing Documentation and Country-by-Country Reporting”. The said action plan aims to update OECD Transfer Pricing Guidelines and to implement those updates to the local legislations of the respective countries. In general the draft communiqué has been prepared to reflect the most recent OECD guidelines, especially the “Documentation” section as well as to clarify subjects such as treasure loss and cost contribution agreements.

Draft communiqué includes;

1. Documentation

- Taxpayers have different reporting obligations such as “Masterfile”, “Local File” and Country-by- Country Reporting (Appendix: 5) based on their turnover, assets and group organization.
- The taxpayers with assets and net sales revenue exceeding 100 million TL have to submit “Transfer Pricing Form Regarding Related Party Transaction” and “Transfer Pricing Form On The Basis Of Related Parties” (Appendix: 4) in addition to “Form Relating to Transfer Pricing, Controlled Foreign Companies, and Thin Capitalization” (Appendix: 2).
- 30.000 TL threshold has been introduced. Only those related party transactions equal to or above the 30.000 TL threshold shall be declared.
- Overseas related party transactions of taxpayers operating in Free Trade Zones have to be covered in the annual transfer pricing report.

2. Withholding taxation of intra-group services.

- According to the substance of the services purchased, to be in line with the double non-taxation presentation agreements, withholding tax will be applied with subject to Corporate Income Tax Article 30.

3. Definitions and examples related to cost contribution arrangements are included in the draft
4. Detailed explanation regarding the treasure loss is given in the draft.

Reporting obligations of taxpayers mentioned above are summarized below;

Turnover and Assets in the last year	Reporting Obligations*		CIT Return Appendices Obligations*		
	Masterfile	Local File	Appendix - 2	Appendix - 4	(CbC) / Appendix - 5
≥100 Million TL	non-mandatory	mandatory	mandatory	non-mandatory	
Between 100 Million TL and 250 Million TL	non-mandatory	mandatory	mandatory	mandatory	
≥250 Million TL	mandatory	mandatory	mandatory	mandatory	
Turkish Taxpayers which are ultimate parent in their group and annual consolidated group revenues are 2.037.000.000 TL (approx. € 750.000 Euro)					mandatory

Taxpayer	Transactions Subject to Local File			
	Domestic Transactions		International Transactions	
	< 30.000 TL	≥ 30.000 TL	< 30.000 TL	≥ 30.000 TL
(Transaction Amount for each related party)				
Large Tax Office Taxpayers	out of scope	mandatory	out of scope	mandatory
Free Trade Zones Taxpayers	out of scope	mandatory	out of scope	mandatory
Other Taxpayers Subject to CIT	out of scope	non-mandatory	out of scope	mandatory
Taxpayers Subject to Income Tax	out of scope	out of scope	out of scope	out of scope

Corporate Tax Payer	Transactions Subject to Appendix - 2			
	Domestic Transactions		International Transactions	
(Transaction Amount for each related party)	< 30.000 TL	≥ 30.000 TL	< 30.000 TL	≥ 30.000 TL
Large Tax Office Taxpayers	out of scope	mandatory	out of scope	mandatory
Free Trade Zones Taxpayers	out of scope	mandatory	out of scope	mandatory
Other Taxpayers Subject to CIT	out of scope	mandatory	out of scope	mandatory

Taxpayers with Turnover and Assets in the last year more than 100 million TL	Transactions Subject to Appendix - 4			
	Domestic Transactions		International Transactions	
(Transaction Amount for each related party)	< 30.000 TL	> 30.000 TL	< 30.000 TL	> 30.000 TL
Large Tax Office Taxpayers	out of scope	mandatory	out of scope	mandatory
Free Trade Zones Taxpayers	out of scope	mandatory	out of scope	mandatory
Other Taxpayers Subject to CIT	out of scope	mandatory	out of scope	mandatory

The draft communiqué can be reached from the below link.

<http://www.gib.gov.tr/3-seri-nolu-transfer-fiyatlandirmasi-yoluyla-ortulu-kazanc-dagitimi-hakkinda-genel-teblig-taslagi>

Best regards,

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(*) Explanations provided in our circulars are for informative purposes only. We advise you to obtain the opinions and support of a consultant specialized in issues about which you have questions before taking action. Our consulting firm disclaims any and all losses that might be incurred as a result of transactions realized solely on basis of the explanations provided in our circulars.

(**) You may send your opinions, criticisms and queries about our circulars to our specialists, whose contact details are provided below.

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