

CIRCULAR
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Subject:
THE GENERAL COMMUNIQUE REGARDING THE CONTRIBUTION OF CERTAIN ASSETS TO ECONOMY HAS BEEN PUBLISHED.

The Law Amending the Income Tax Law and Certain Laws numbered 7186 has been published in the bis Official Gazette dated 19.07.2019 and numbered 30836. Our circulars dated [29.07.2019 and numbered 2019/118](#) and [dated 10.07.2019 and numbered 2019/114](#) regarding the matter was published.

In the communique published in the Official Gazette dated 02.08.2019 and numbered 30850, within the scope of the provisions of provisional article 90 that was added to the Income Tax Law by means of the Law numbered 7186;

a) The procedures and principles regarding the repatriation and contribution to the national economy of the money, gold, foreign currency, securities and other capital market instruments of the real and legal persons **in the foreign countries** and

b) entry of the legal book records upon being stated to the tax office of the money, gold, foreign currency, securities, other capital market instruments and immovable properties **that are based in the country** but which are not stated in the legal book records of the income and corporate taxpayers,

have been determined.

1. Declaration and Repatriation of the Foreign-Based Assets and Payment of the Taxes Related With These Assets

1.1. Declaration regarding the foreign-based assets

The real and legal persons who/which declare their money, gold, foreign currency, securities and other capital market instruments in the foreign countries to the banks or brokerage houses in Turkey until 31.12.2019 (including this date) within the framework of the provisional article 90 will be able to dispose these assets freely.

The declarations can also be made by the authorized agents or legal representatives.

Provided that the assets which will be subjected to declaration will be repatriated in to Turkey within three months, the acquisition dates of these assets in the foreign countries will not be important in terms of benefiting from the provision of the mentioned article.

The mentioned assets will be able to be declared to the banks or brokerage houses by means of the form attached in Annex-1 (exclusively for the securities and other capital market instruments) as from 19.07.2019 until 31.12.2019. The real and legal persons shall not make any statements to the tax offices with respect to the mentioned assets.

Submission of a single declaration by the real and legal persons is fundamental with regard to the foreign-based assets. However, for the reason that each month in which a declaration is made is regarded as a different taxation period with respect to the implementation of the article, it will be possible to make more than one declarations until 31.12.2019. In the case where it is desired to make a new declaration which will decrease or increase the assets subjected to declaration in order to correct the mistakes made in the declaration, within the same month in which the declaration is made, the first declaration must be corrected.

In the case where it is desired to make a declaration which will decrease the assets subjected to declaration in order to correct the mistakes made in the declaration, in the months subsequent to the month in which the declaration was made, the previous declaration must be corrected. In this case, the correction request with regard to the assets that were declared to the tax office by the banks and brokerage houses by means of the statement attached in Annex-2, must be made via the banks and brokerage houses. In the case where a declaration which will increase the assets subjected to declaration is desired to be made in the months following the month in which the declaration is made, the correction of the previous declaration will not be possible and a new declaration shall be made with respect to the assets that are desired to be declared additionally. Within this framework, **all declarations that are submitted apart from the scope of correction** shall be regarded as a new notification and these declarations shall not be associated with the previous declaration.

For instance; in the case where a real person who made a foreign currency statement equivalent to 100,000 TL in 2019/August desires to decrease the amount that was stated by him/her to 50,000 TL or increase this amount to 150,000 TL within the same month, he/she must submit the correction statement with respect to his/her first statement.

In the case where a real person who made a foreign currency statement equivalent to 100,000 TL in August desires to decrease the amount that was stated by him/her to 50,000 TL in September or October, he/she must submit the correction statement with respect to his/her statement made in August. The correction request with regard to the assets that were declared to the tax office by the banks and brokerage houses by means of the statement attached in Annex-2, shall be made via the banks or brokerage houses.

In the case where a real person who made a foreign currency statement equivalent to 100,000 TL in August desires to increase the amount that was stated by him/her to 150,000 TL in September or October, he/she must submit a new statement at the amount of 50,000 TL with respect to September or October. Due to the fact that the newly submitted declarations will not be associated with the previous declaration, attention shall be paid to declaration of only the additional amount.

The correction requests with respect to the declarations that are made subsequent to expiration of the declaration period shall not be considered. Within this framework, it will not be possible to correct the declarations that were made until 31.12.2019, subsequent to this date.

1.2. Repatriation of the foreign-based assets to Turkey

Meaning of repatriation to Turkey;

- a) Physical repatriation of money, gold, foreign currency, securities and other capital market instruments to Turkey or transfer of these assets to an account to be opened in the banks or brokerage houses based in Turkey and
- b) Declaration to the brokerage houses of the securities and other capital market instruments that cannot be physically repatriated to Turkey or which cannot be transferred to an account to be opened in the brokerage houses.

With regard to the declared assets, no tax inspections or tax assessments shall be made under any circumstances. In order to benefit from this provision, the tax levied with respect to the declared amounts must be paid on the due date and the assets subjected to declaration must be repatriated to Turkey or they must be transferred to an account to be opened in the banks or brokerage houses based in Turkey within three months as from the date on which the declaration was made. With respect to the transactions concerning the transfer of relevant asset to the account to be opened in the banks or brokerage houses based in Turkey, the fact that the account owner who makes the declaration and the person who transfers the assets that was acquired by him/her in the foreign countries are different persons shall be important in terms of benefiting from the mentioned provision.

The foreign-based assets will be able to be used with regard to closure of the credits that were used from the foreign-based banks or financial institutions and which were recorded in the legal books as of 19.07.2019, until at the latest 31.12.2019. In this case, provided that they will be deleted from the book records, repatriation to Turkey condition shall not be sought with regard to the assets that are used in the payment of the debt. The persons who/which benefit from this provision must attach to their declarations a copy of the certifying documents that will be obtained from the foreign-based bank or financial institution regarding that they have closed their credits and the bank or brokerage house which will receive this declaration shall not have any checking obligation with respect to the transaction concerning the deletion from the book records.

In the case where the capital advances, foreign-based money, gold, foreign currency, securities and other capital market instruments that were recorded in the legal books as of 19.07.2019 are covered by means of repatriating these assets to Turkey prior to this date, it will be possible to benefit from the provisions of the mentioned article provided that the mentioned advances will be deleted from the book records.

The assets that are based in foreign countries but which are not included within this scope (for instance, the immovable properties) will be able to be repatriated to Turkey within the provisions of the mentioned article by means of being converted into the assets that are included within the scope, until 31.12.2019.

In the case where the foreign-based money, gold, foreign currency, securities and other capital market instruments are transferred to an existent or newly opened account in the banks or brokerage houses based in Turkey, **the bank receipts or the transaction result forms of the brokerage houses** will be able to be used with regard to certification of the fact that the assets have been repatriated to Turkey.

Provided that the relevant notifications will be made to the banks or brokerage houses until 31.12.2019, the documents obtained from the Customs Administration on the basis of the declaration/statement made in the course of physical repatriation to Turkey will be able to be used with respect to certification of the fact that the assets have been repatriated to Turkey.

With respect to repatriation of the assets that are included within the scope, no tax inspections or tax assessments shall be made under any circumstances.

1.3. Transactions to be made by the banks or brokerage houses upon declaration of the foreign-based assets and payment of the taxes related with these assets

The real and legal persons shall declare the foreign-based assets to the banks or brokerage houses along with the form attached to the communique as “Annex-1”, to be prepared in two copies by them. A copy of the form shall be returned to the relevant person by the relevant bank or brokerage house along with the issued bank receipts or transaction result forms upon writing and certification of the information with respect to the account opened due to declaration, if available.

In the case where the declaration is made by the agent or representative of the real or legal person, the banks or brokerage houses shall check whether the mentioned agent or legal representative is authorized or not.

With respect to the assets subjected to declaration, no documents shall be requested from the declarants by the banks or brokerage houses.

The banks and brokerage houses shall state in the capacity of tax responsible to their registered tax office the tax which will be calculated at the rate of 1% with respect to the assets that have been declared to them, until the evening of the fifteenth day subsequent to the statement date in the annex of the statement attached as “Annex-2”. The tax to be levied by the tax offices at the rate of 1% with respect to the value of the declared assets shall be paid by the banks and brokerage houses in the capacity of tax responsible within the mentioned statement period.

With respect to the assets subjected to declaration, no documents shall be requested from the banks or brokerage houses by the tax offices.

2. Statement of the Assets Based in Turkey and Payment of the Taxes Related With These Assets

2.1. Statement of the assets based in Turkey

The money, gold, foreign currency, securities, other capital market instruments and immovable properties that are owned by the income or corporate taxpayers and which are based in Turkey but that are not stated in the legal book records of them can directly be declared to the registered tax offices in terms of income or corporate tax along with the statement attached to the communique as “Annex-3” or they can also be declared in the electronic environment in accordance with the procedures and principles stated in the General Communique with serial number 340 Regarding the Tax Procedure Law, until 31.12.2019 (including this date).

The taxpayers who/which are obliged to submit their annual income or corporate tax statements in the electronic environment must submit their statements stated in Annex-3 in the electronic environment in accordance with the procedures and principles stated in the General Communiques with serial numbers 340 and 346 Regarding the Tax Procedure Law.

In the case where the immovable properties that were stated within the scope of the Provisional article 90 of the Income Tax Law are registered in the records of the business in the form of capital in kind, it will be possible to benefit from the provisions of this article provided that the decision regarding capital increase will have been obtained as of the statement date and the mentioned decision will be registered in the trade registry until the end of the tenth month subsequent to the statement date.

2.2. Payment of the tax

Tax at the rate of 1% with respect to the value of the assets that are stated to the tax offices shall be levied. The tax calculated in this manner shall be paid until the end of the month following the month in which the tax assessment is made.

3. Common Provisions

3.1. Status of the assets that are registered on behalf of the legal representatives, partners or agents of the companies

The legal representatives, partners of the Companies or the persons who are authorized to dispose the assets within the scope of the provisional article 90 on the basis of a power of attorney or representation contract that was issued by the competent authorities prior to 19.07.2019 will be able to benefit from the provisions of the Law with respect to the foreign-based assets owned by them as of this date by means of repatriating these assets to Turkey by making them subject to declaration on behalf of the company within the framework of the explanations stated in the Communique or transferring of these assets to an account to be opened in the banks or brokerage houses in Turkey or by means of declaring on behalf of the company their assets which are based in Turkey but not stated in their legal books as of 19.07.2019 within the framework of the explanations stated in the Communique.

The assets that are disposed by the persons apart from the legal representatives, partners or agents of the company even though they are owned by the company or partners of the company will be able to benefit from the provisions of the mentioned article by means of being subjected to declaration or statement on behalf of the company within the framework of the provisions of the mentioned article. Furthermore, it will also be possible for the assets that are disposed by the partners or foreign-based companies which are the legal representatives of the real persons even though they are owned by the real persons from the provision of the article in the case where these assets are subjected to declaration or statement on behalf of the relevant real persons. However, in the course of an inspection to be conducted due to reasons apart from the declaration or statement, it must be proved that the mentioned assets belong to the company or partners of the company or real persons.

3.2. Declaration or statement value of the assets

Both with respect to statement of the foreign-based assets to the banks or brokerage houses and the statement of the assets based in the country to the tax offices, the assets shall be valued on the basis of the below stated valuation criteria as of their declaration date or statement date.

- a) Turkish lira-denominated money according to its nominal value.
- b) Gold according to its current market value.
- c) Foreign currency according to the buying rate of exchange of the Central Bank of the Republic of Turkey.
- d) Among the securities and other capital market instruments;
 - 1) Share certificates such as the shares according to their stock exchange prices if available and in the case where this price cannot be determined, according to their purchase prices and if their purchase prices cannot be determined either, according to their nominal values.
 - 2) Debt instruments such as the debentures, notes and eurobonds according to their stock exchange prices if available and in the case where this price cannot be determined, according to their purchase prices and if their purchase prices cannot be determined either, according to their nominal values.
 - 3) Investment bond participation certificates according to their closing price determined in the relevant market.
 - 4) Derivative instruments such as the futures contracts and option contracts according to their stock exchange prices if available and in the case where this price cannot be determined, according to their purchase prices and if their purchase prices cannot be determined either, according to their nominal values.
- e) Immovable properties according to their current market values.

With respect to the declarations and statements, equivalent amount of the mentioned assets in Turkish lira shall be taken as a basis.

The current market value with regard to implementation of the communique constitutes the purchase and sale price determined as of the date on which the mentioned assets are declared or stated and this price must reflect the real conditions.

With regard to determination of the stock exchange price of the assets that will be valued according to their stock exchange prices, the prices that are formed in the domestic or foreign stock exchanges in which these assets are traded on the declaration date or statement date of these assets shall be taken into consideration.

With respect to the foreign currency-denominated assets, the buying rate of exchange of the Central Bank of the Republic of Turkey on the declaration date or statement date of these assets.

With regard to the corrections to be made until 31.12.2019 in order to correct the made mistakes or decrease the assets subjected to declaration subsequent to making the declaration, the values of the assets on the first declaration date shall be taken as a basis.

3.3. Transfer of the declared or stated assets to the legal book records

The declared or stated assets will be able to be recorded in the legal books by the taxpayers who/which keep their books pursuant to the Tax Procedure Law.

With respect to the foreign-based assets; for the reason that in the case where these assets are stated on behalf of the company, the relevant company and in the case where these assets are stated on behalf of individuals, these individuals, themselves will be able to benefit from the facilities that are provided by the provisional article 90, the assets subjected to statement will be able to be transferred to the legal book records of the company.

With respect to the taxpayers who/which keep their books pursuant to the Tax Procedure Law, the assets which are repatriated to Turkey and the assets that are recorded in the legal books by the income or corporate taxpayers can be included in their businesses without being taken into consideration in terms of determination of the profit for the period and the same assets can also be withdrawn from the businesses without being taken into consideration with regard to determination of the taxable profit and for the corporations without being taken into consideration concerning the determination of the distributable profit.

The taxpayers which keep their books on a balance sheet basis shall open **special fund accounts in the liabilities** for the assets they record in their legal books. The mentioned account will be able to be subjected to disposal **freely** and **it can be added to the capital** or **distributed to the shareholders**. These amounts that are kept in the fund account shall not be in case of liquidation of the business and they shall not be taxed in cases of merger, transfer or split to be materialized pursuant to article 81 of the Income Tax Law and article 18, 19 and 20 of the Corporate Tax Law either. Furthermore, in the case where the amounts with respect to the mentioned assets are distributed to the shareholders by the corporate taxpayers, withholding concerning the profit distribution shall not be deducted and these amounts obtained by the real person shareholders and the corporate taxpayer shareholders shall not be taxed either.

The taxpayers who/which keep self-employment income books and that keep their books pursuant to the operation account method will be able to separately state these assets in their books.

The declared or stated assets will be able to be recorded in the legal books according to their equivalent amounts in Turkish lira that are determined within the framework of the principles stated in article 9 of the communique as of the date these assets are declared to the banks or brokerage houses or they are stated to the tax offices by the taxpayers who/which keep their books pursuant to the Tax Procedure Law and these amounts shall be taken into consideration with respect to determinations of the sales profit in case of divestiture of these assets.

3.4. Implementation of expenditure and depreciation

The tax to be paid at the rate of 1% shall not be taken into consideration as expenditure with regard to determination of the tax base of the income or corporate tax and it shall not be set off from another tax under any circumstances.

With respect to the immovable properties that are transferred to the legal book records upon being stated, no depreciation amounts shall be reserved within the scope of Tax Procedure Law.

The losses that arise from the subsequent divestiture of these recorded assets shall not be regarded as expenditure or reduction with respect to determination of the income or corporate profit in terms of application of the income or corporate tax.

3.5. The conditions in which no tax inspections or tax assessments shall be made

Provided that the tax levied with respect to the declared or stated amounts are paid on the due date and the assets subject to declaration are repatriated to Turkey or transferred to an account to be opened in the banks or brokerage houses based in Turkey within three months as from the date on which the declaration was made, no tax inspections or tax assessments shall be made with respect to the declared or stated assets under any circumstances.

In order to benefit from the facility regarding non-execution of tax inspection or tax assessment with respect to the declared or stated assets, the tax with regard to the declared or stated assets must be paid on the due date, the assets subject to declaration must be repatriated to Turkey or transferred to an account to be opened in the banks or brokerage houses based in Turkey within three months as from the date on which the declaration was made.

The declared assets will be able to be used with respect to closure of the credits used from the foreign-based banks or financial institutions and that were recorded in the legal books as of 19.07.2019, until at the latest 31.12.2019 and the assets which are used for the payment of the debt will be able to benefit from the facility regarding non-execution of tax inspection or tax assessment without being subject to the condition concerning repatriation to Turkey provided that these assets will be deleted from the book records.

In the case where the capital advances, foreign-based money, gold, foreign currency, securities and other capital market instruments that were recorded in the legal books as of 19.07.2019 are covered by means of repatriating these assets to Turkey prior to mentioned date, it will be possible to benefit from the facility regarding non-execution of tax inspection or tax assessment provided that the mentioned advances will be deleted from the book records.

4. Other issues

The relevant institutions and organizations shall be obliged to fulfill the requests of the real or legal persons with respect to the transactions to be executed pursuant to the provisional article 90 of the Income Tax Law. In the case where the tax that is calculated at the rate of 1% of the declaration value of the assets which are declared to the banks or brokerage houses is not paid, the banks or brokerage houses shall not be obliged to receive the mentioned declaration.

Non-payment of the accrued tax or non-fulfillment of other terms stated in the mentioned article shall not constitute an impediment with regard to follow-up and collection of the principal tax along with the default interest pursuant to the Law numbered 6183. Furthermore, the taxes that were collected pursuant to the declarations or statements shall not be rejected or refunded.

Yours respectfully,

**DENGE İSTANBUL YEMİNLİ
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ANNEX:

The General Communiqué Regarding the Contribution of Certain Assets to the Economy (Serial No: 1)

(*) The statements made in our circulars are provided only for information purposes. Prior to executing final transactions with regard to the matters of hesitation, we recommend you to receive opinion and support from a specialist consultant; our Consultancy shall not be responsible with respect to the losses that arise as a result of the transactions that are executed merely by indicating the explanations made in our circulars as a basis.

(**) With respect to your opinions, critiques and questions regarding our circulars, you can write to our specialists whose contact information are provided below.

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