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LAW NO. 7352 INTRODUCING A DEFERRAL OF INFLATION ADJUSTMENT UNTIL THE END OF 2023 AND A CORPORATE TAX EXEMPTION ON EXCHANGE DIFFERENCES IN FX-TO-TL AND GOLD-TO-TL TERM ACCOUNT CONVERSIONS AND THE RELATED PROCEEDS IS PROMULGATED IN THE OFFICIAL GAZETTE

The regulations introduced by the “Law No. 7352 Amending the Tax Procedure Law and the Corporate Tax Law”, which was published in the Official Gazette No. 31734 of January 29, 2022, are summarized below.

A. Practice of Inflation Adjustment Postponed to the End of 2023

As is known, pursuant to repeated article 298 of the TPL, if the increase in the price index of income and corporate taxpayers, who determine their earnings on the basis of a balance sheet, is more than 100% in the last three accounting periods, including the current period, and more than 10% in the current accounting period, their financial statements shall be adjusted for inflation. As of the end of December 2021, due to the emergence of the aforementioned conditions specified in the law, it is required that the income and corporate taxpayers who determine their earnings on the basis of balance sheet should subject their financial statements to inflation adjustment in the 4th Term provisional taxation period of 2021. However, there was public expectation about the deferral of the said practice due to the intense process and time requirement of the inflation adjustment process. To that end, through the Law No. 7352, provisional article 33 was added to the Tax Procedure Law, practically postponing the inflation adjustment until December 31, 2023.

Provisional article 33 of the Tax Procedure Law introduced the following regulations:

1- In the 2021 and 2022 accounting periods (for those who are assigned a special accounting period, as of the accounting periods ending in 2022 and 2023), including the provisional tax periods of the foregoing tax periods, and in the provisional tax periods of the 2023 accounting period, financial statements shall not be subject to inflation adjustment, regardless of whether the conditions for inflation adjustment within the scope of repeated article 298 of the Tax Procedure Law are formed.

2- On the other hand, financial statements dated December 31, 2023 shall be subject to inflation adjustment, regardless of whether the conditions for inflation adjustment are met or not.

3- The profit or loss difference calculated due to the inflation adjustment of the financial statements dated December 31, 2023 shall be indicated under the accounts previous years' profits or previous years' losses, and the profit or loss to be determined as such shall not be associated with the taxable income in the 2023 accounting period.

In summary, inflation adjustment will not be applied in 2021 and 2022. In addition, inflation adjustment will not be applied in the 1st, 2nd and 3rd provisional tax periods of 2023. However, only the financial statements dated December 31, 2023 will be subject to inflation adjustment.

Pursuant to repeated article 298(A)9 of the TPL, taxpayers who are exclusively engaged in the purchase, sale and manufacture of continuously-processed gold and silver, make inflation adjustments regardless of the conditions in subparagraph (1) of the same article. Provisional article 33 added to the Tax Procedure Law through the Law No. 7352 will not be applicable to such taxpayers. Therefore, the taxpayers in question will continue to subject their financial statements to inflation adjustment in the relevant years.

B. The following corporate tax exemptions are regulated in the provisional article 14 added to the Corporate Tax Law through Article 2 of the Law on Corporate Tax Exemption on Exchange Differences in FX-to-TL and Gold-to-TL Term Account Conversions and the Related Proceeds.

1.1. Corporate Tax Exemption on 2021 Q4 Portion of Exchange Difference Proceeds from End-of-Period Valuation on December 31, 2021 for the FX Accounts to be Converted if the FX Accounts in the Balance Sheet dated December 31, 2021 are converted to Turkish Lira accounts until February 17, 2022, and the Exchange Difference to arise Until the Date of Conversion in 2022, and the Proceeds from the Aforementioned Turkish Lira Accounts in 2022

Regarding the accounts converted into Turkish Lira over the conversion rate within the scope of supporting the conversion to deposit and participation accounts denominated in Turkish Lira, if institutions convert their foreign currencies in their balance sheets dated December 31, 2021 into Turkish Lira until the submission of the fourth temporary tax period declaration (until February 17, 2022) and keep the Turkish Lira assets thus obtained **in TL-denominated deposit and participation accounts opened in this context with a maturity of** at least three months, their below-mentioned earnings will be exempt from corporate tax.

a) The portion of the exchange proceeds arising from the end-of-period valuation of the said foreign currencies corresponding to the period between October 1, 2021 and December 31, 2021.

b) Exchange difference proceeds on accounts that will be converted into Turkish Lira until the date of submission of the declaration for the fourth provisional tax period of 2021 (until February 17, 2022), and the interest and dividends to be yielded at the end of the period, including those arising from the end-of-period valuation of these accounts as well as other proceeds.

1.2. Corporate Tax Exemption for Exchange Difference Proceeds Between the End of the Provisional Tax Period and the Conversion Date and for the Proceeds from the Related TL-Denominated Accounts in Case the FX Accounts in the Balance Sheet dated December 31, 2021 are converted into TL accounts until the end of 2022

Out of the exchange difference proceeds to arise if institutions convert their foreign currencies on their balance sheets dated December 31, 2021 into Turkish Lira at the conversion rate within the scope of supporting the conversion to TL-denominated deposit and participation accounts until the end of 2022 after February 17, 2022 (the date to submit the provisional tax return for 2021/4), convert them into TL over the said conversion rate and keep the Turkish Lira assets thus obtained **in TL-denominated deposit and participation accounts with a maturity of** at least three months, the portion that corresponds to the period between the end-of-period valuation for the provisional tax period and the date they are converted into Turkish Lira, and the interest and dividends to be yielded at maturity including those that will arise from the end-of-period valuation as well as other proceeds will be exempt from corporate tax.

1.3. Corporate Tax Exemption for Proceeds on the Conversion Date and Proceeds from the Related TL-Denominated Accounts in Case the Gold Accounts in the Balance Sheet dated December 31, 2021 are converted into TL accounts until the end of 2022

Out of the exchange difference proceeds to arise if institutions convert their gold accounts on their balance sheets dated December 31, 2021 and their gold account balances for processed and scrap gold to be opened after the foregoing date into Turkish Lira at the conversion rate within the scope of supporting the conversion to TL-denominated deposit and participation accounts until the end of 2022 and keep the Turkish Lira assets thus obtained **in TL-denominated deposit and participation accounts with a maturity of** at least three months, the proceeds arising on the date of conversion into Turkish Lira, and the interest and dividends to be yielded at maturity, including those that will arise from the end-of-period valuation as well as other proceeds will be exempt from corporate tax.

1.4. In Case of Withdrawal from Accounts Converted to TL Before the Expiry of ***At Least Three Months***, The Taxes Not Collected on Due Date will be Collected Together with the Tax Loss and Default Interest

If money is withdrawn from a TL-denominated deposit or participation account before the maturity date, the taxes not accrued on time due to the exempted amounts will be collected together with the default interest by deducting the tax loss penalty.

1.5 FX Loss in Conversion to Turkish Lira

The provision of Article 5(3) of the Corporate Tax Law shall not be applied, only limited to such exception, to FX accounts and gold accounts converted into TL-denominated deposit and participation accounts over the conversion rate/price in the time and manner stipulated in the provisional article 14 added to the Corporate Tax Law.

Article 5(3) of the Corporate Tax Law provides the following: “Except for the financial expenses related to the purchase of participation shares, the expenses related to the proceeds of corporations exempted from corporate tax or the losses arising from the activities under the exemption cannot be deducted from the non-exempt corporate income.”

Accordingly, if foreign exchange loss occurs on the date of conversion to Turkish Lira, this loss can be deducted from the corporate income.

C. Exemption for Income Taxpayers Keeping Books on the Basis of Balance Sheet

The exemption provisions included in provisional article 14 of the Corporate Tax Law will also equally apply to the proceeds of the income taxpayers who keep books on the basis of balance sheet.

We would like to state that we expect an explanatory communiqué to be issued in the near future regarding the exemption in the TL conversion of foreign currencies in the balance sheets of income and corporate taxpayers dated December 31, 2021.

Sincerely,

DENGE İSTANBUL YEMİNLİ MALİ MÜŞAVİRLİK A.Ş.

APPENDIX

Law No. 7352 Amending the Tax Procedure Law and the Corporate Tax Law

(*) The remarks in our circulars are for information purposes only. We recommend that the opinion and support of a qualified counsellor be received before establishing final transactions on the questionable matters. Our company shall not be held responsible for any damages to be incurred as a result of transactions to be made solely on the basis of the statements in our circular.

(**) For opinions, criticism and questions about our circulars, you can contact our specialists below.

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