



CIRCULAR NUMBER: 2022/132eng

05.07.2022

NEW CASH REPATRIATION REGULATION ENTERS INTO FORCE

With Article 50 of Law No. 7417, published in the Official Gazette dated 05.07.2022 and numbered 31887, a new “Cash Repatriation” regulation was introduced with the provisional article 15 added to Law No. 5520 on Corporate Tax. The said regulation entered into force on the publication date of Law No. 7417 (05.07.2022). Our circular provides information about the new regulation on cash repatriation.

1. Declaration of Assets Owned Abroad

Real or legal persons shall notify banks or intermediary institutions of their money, gold, foreign currency, securities and other capital market instruments owned abroad until **31.03.2023**.

Assets within this scope can be used to pay off the loans obtained from banks or financial institutions abroad and recorded in the legal books as of the effective date of the regulation, until 31.03.2023 at the latest. In this case, provided that they are deducted from the book records, the provisions of this regulation can be benefited from without the condition of assets used in the payment of the debt being brought to Turkey.

In case the capital advances registered in the legal books as of the effective date of the regulation are met by bringing the money, gold, foreign currency, securities and other capital market instruments abroad to Turkey before the entry into force of this

regulation, the provisions of the said regulation can be benefitted from, provided that the said advances are deducted from the book records until 31.03.2023 at the latest.

2. Declaration of Assets Owned in Turkey

Money, gold, foreign currency, securities and other capital market instruments and immovables owned by income or corporate taxpayers that are located in Turkey but not included in the legal book records can be declared to tax offices until 31.03.2023.

3. Inclusion of Notified and Declared Assets in Accounting Records

Assets owned and declared abroad or owned and declared in Turkey shall be recorded in the legal books as of the date of notification or declaration by taxpayers who keep books in accordance with the Tax Procedure Law.

Taxpayers who keep books on the basis of balance sheet shall open a special fund account in liabilities for the assets they have recorded in their legal books, as per the provisions of this article. This fund account cannot be withdrawn from the business before two years as of the date of notification or declaration, cannot be used for any purpose other than adding to the capital, and will not be taxed if the business is liquidated.

Taxpayers who keep books on the basis of self-employment earnings book and business account will also indicate the said assets in their books.

These assets will not be taken into account in the determination of the profit for the period and can be withdrawn from the business without being taken into account in the determination of the taxable income and distributable income for corporations, provided that two years have passed since the date of notification or declaration.

Those who do not have income and corporate tax liability shall be able to benefit from the provisions of the article without seeking other conditions other than declaration, and it will be obligatory for them to deposit their assets other than immovables to banks or intermediary institutions as of the declaration date at the latest.

In accordance with the Fees Law No. 492, no fee will be charged for the transactions to be made in the title deed regarding the transfer of immovables owned in Turkey, and the transfer of such immovables to the business will not be considered divestment in the enforcement of the duplicated article no. 80 of Revenue Law.

4. Tax Payable for Declared Assets

4.1. Tax Payable for Notification of Assets Owned Abroad to Banks and Intermediary Institutions

Banks and intermediary institutions, over the value of the assets declared by the notifier regarding the assets notified to them, shall collect the tax in advance at the rate of,

- **1%** for declarations made until 30.09.2022,
- **2%** for declarations made between 01.10.2022 and 31.12.2022 (including this date),
- **3%** for declarations made until 31.03.2023,

and declare the said tax with a declaration to the tax office to which they are affiliated under the title of taxpayer until the evening of the 15th day of the month following the notification and make the payment within the same period of time.

As far as the tax rate, **0%** will be applied if the declared assets are kept for at least one year from the date on which they are transferred to accounts opened in banks or intermediary institutions in Turkey or brought from abroad and deposited into these accounts. In this case, the tax collected by the banks and intermediary institutions at the time of notification and paid to the tax office will be returned upon the application of the applicant to the relevant tax office.

The paid tax cannot under any circumstances be written off as expense nor deducted from any other tax.

4.2. Tax Payable of Declaration of Assets Owned in Turkey to the Tax Office

A tax of **3%** will be imposed over the value of the assets declared to tax offices, and this tax will be paid until the end of the month following the month in which the assessment is made.

The paid tax cannot under any circumstances be written off as expense nor deducted from any other tax.

5. Depreciation for Reported Assets and Loss upon Their Disposal

The provisions of the Tax Procedure Law regarding depreciation shall not apply to the assets subject to notification and declaration.

Losses arising from the divestment of these assets will not be considered expense or deduction for income or corporate tax purposes.

6. No Tax Audit Will Be Conducted for Amounts Corresponding to Declared or Notified Assets

No tax audit or tax assessment will be conducted for the amounts corresponding to the declared or notified assets. In case it is determined that the tax assessment difference found as a result of tax audits initiated for other reasons and the decisions of the valuation commission is due to the assets declared or notified within the scope of this regulation, and if the amount of the declared or notified assets is equal to or greater than the tax assessment difference found, no assessment will be made regarding the assessment difference. In case the assessment difference is greater than the said asset amount even though it has been determined that the assessment difference found is due to the declared or notified assets, a tax assessment will be conducted only for the amount of difference. In the event that a tax assessment difference is determined due to reasons other than the assets subject to notification or declaration as a result of tax audit or valuation commission decisions, the amounts declared or notified within the scope of this regulation will be assessed without deducting from the assessment difference found.

If the assets owned abroad and declared within the scope of this regulation are not brought to Turkey within three months from the date of notification, not transferred to an account to be opened in banks or intermediary institutions in Turkey, or if the taxes imposed on the declared or notified amounts are not paid in due time, and in the event that the other conditions stipulated in the regulation are not met, it will not be possible to benefit from the provision of the ninth paragraph (provision of no tax audit).

The provisions of the ninth paragraph of the regulation (no tax audit) shall not be applied for the assessments to be made as a result of the said audit or assessment commission decisions due to the notifications and declarations made within the scope of this regulation after the date on which the tax audit was initiated or referred to the valuation commission. Failure to pay the accrued tax on due date, together with the late fee, will not constitute an obstacle to the follow-up and collection of the tax original pursuant to Law No. 6183. Collected taxes shall not be refused or refunded.

7. No Corrections Will Be Made After the Expiry of the Notification or Declaration Period

After the notification and declaration period has expired, no corrections can be made regarding the notification or declarations.

Sincerely,

**DENGE İSTANBUL YEMİNLİ
MALİ MÜŞAVİRLİK A.Ş.**

(*) The remarks in our circulars are for information purposes only. We recommend that the opinion and support of a qualified counsellor be sought before taking final action on 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, please contact our experts below.

Erkan YETKİNER
Certified Public Accountant
Mazars Denge, Partner
eyetkiner@mazarsdenge.com.tr

Güray ÖĞREDİK
Independent Accountant and Financial Advisor
Mazars Denge, Director
gogredik@mazarsdenge.com.tr