



CIRCULAR NO: 2022/132eng.

05.07.2022

DEDUCTION IN CASH CAPITAL INCREASES LIMITED TO FIVE YEARS

With Article 49 of the Law No. 7417 published in the Official Gazette dated 05.07.2022 and numbered 31887, the third paragraph of the sub-article (ı) of the Article 10 of the Corporate Tax Law (CTL), which regulates the deduction in the cash capital increase, has been amended. Information regarding the said change was provided in our circular [dated 05.07.2022 and numbered 2022/132](#) .

As per Article 10-1/ı of CTL, it is provided that the corporations, except for the institutions and state economic enterprises, actively involved in finance, banking and insurance sectors may deduct from its corporate profit the 50% of the amount being calculated until the end of the relevant accounting period by considering the “most recent weighted annual average interest rate applied to the TL commercial bank loans” announced by the Central Bank of the Republic of Turkey over

- the cash capital increases in paid-in or issued capital or
- the paid-in capital provided in cash in newly-established corporations

registered in the trade registry. The said deduction for the relevant year shall be separately indicated in the corporate tax return for the determination of the corporate tax base.

Prior to the amendment made with the Law No. 7417, this deduction could be benefitted from for each period, starting from the accounting period in which the decision regarding the capital increase or in case of newly-established companies, the articles of association were registered, without any limitations in terms of year. With the amendment to the law, the period of benefiting from the deduction in capital increase has been limited to five years.

According to the new regulation, as regards the cash capital increases to be made after 05.07.2022, the capital increase deduction can be benefitted from separately for the accounting period in which the decision on the capital increase or in case of newly-established companies, the articles of association were registered before Trade Registry and for the following four accounting periods. For instance, a taxpayer who registered the capital increase decision on 15.08.2022 will be able to benefit from the deduction for the 2022, 2023, 2024, 2025 and 2026 accounting periods.

On the other hand, according to the regulation in paragraph 13 of the provisional article 15 added to the CTL with Article 50 of the Law No. 7417, the cash capital deduction will be applied for a further five accounting periods, including the 2022 accounting period, for companies which increased their capital before 05.07.2022 or are newly-established.

We are of the opinion that the application of the five-year limit to cash capital increases made before 05.07.2022, when the article came into force, may have consequences against the taxpayers due to the retroactive execution of a legal provision that was not in force at the time the transaction was made, and may be the subject of an action for annulment at the Constitutional Court on the grounds that the regulation violates the principles of legal security, certainty and predictability.

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.

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