



CIRCULAR NO: 2023/075

March 12, 2023

CORRECTION OF BUSINESS RECORDS UNDER LAW NO. 7440

Law No. 7440 on the Restructuring of Certain Receivables and Amendments to Certain Laws was published in the Official Gazette No. 32130 of March 12, 2023.

In this circular, we will provide detailed information on the regulations introduced by Law No. 7440 on the following:

- Commodities, machinery, equipment and fixtures that are present in the enterprise but not included in the records
- Commodities, machinery, equipment and fixtures that are included in the records but not present in the enterprise
- Cash balance and receivables from shareholders and related transactions that are included in the records but not present in the enterprise

1. Commodities, machinery, equipment and fixtures that are present in the enterprise but not included in the records

1.1. Notification period

Income and corporate taxpayers (including ordinary, collective and ordinary limited partnerships) will be able to record the commodities, machinery, equipment and fixtures that are included in their business but not included in their records until **May 31, 2023** (including this day) by notifying the tax offices with an **inventory list** with the **fair value** to be determined by themselves or the professional organisation with which they are affiliated.

1.2. Depreciation of notified fixed assets

Depreciation will not be allowed for the assets included in the notification.

1.3. Opening a provision account in the balance sheet for the notified assets

Taxpayers who keep books based on the balance sheet will open a separate **special provision account** for the commodities to be recorded in their assets and a separate account for machinery, equipment and fixtures.

The provision set aside for the commodities will be considered an element of capital and will not be taxed if it is distributed to shareholders or the business is liquidated.

Machinery, equipment and fixtures will be recorded in the inventory, and the provision set aside will be considered **accumulated depreciation**.

Taxpayers who keep books based on the business account will record the commodity in question as purchased goods in the expense section of their books.

1.4. Declaration and payment of reverse charge VAT for the assets to be notified

VAT will be calculated based on **half of the VAT rates they are subject to** over the value of the machinery, equipment, fixtures and commodities to be declared and paid within the declaration period by declaring as reverse charge with a separate declaration.

This tax paid on machinery, equipment and fixtures will not be deductible from the calculated VAT. The tax paid **on the commodities will be deducted** based on the general principles, but **will not be subject to refund**. The provision of paragraph (2) of Article 9 of the VAT Law will not apply to these commodities, machinery, equipment and fixtures.

1.5. Sale of declared assets

If the notified assets are sold, the sale value shall not be less than their value in the books.

1.6. Special Consumption Tax

If the taxpayers, who have declared the goods subject to SCT and could not submit the purchase documents, declare the SCT valid over the amount and fair value of these goods on the declaration date with a separate declaration within the reverse charge VAT declaration period and pay it within the same period, the provision of paragraph (3) of Article 4 of the SCT Law will not be applied to these goods. No tax penalty will be charged for the SCT declared and paid this way.

Retroactive tax penalties will not be applied regarding the application of this provision.

2. Commodities, machinery, equipment and fixtures that are included in the records but not present in the enterprise

Income and corporate taxpayers (including ordinary, collective and ordinary limited partnerships) will be able to transfer their commodities, machinery, equipment and fixtures, which are included in their records but not present in their enterprises, to their records and declarations **by issuing invoices and fulfilling all kinds of tax obligations** until **May 31, 2023** (including this date), taking into account the following.

- The gross profit rate determined according to the current year records for commodities of the same type in terms of commodities,
- The fair value of machinery, equipment and fixtures is to be determined by themselves or by the professional organization with which they are affiliated.

In cases where the gross profit rate cannot be determined according to the current year's records, the rates determined by the professional chambers to which the taxpayer is affiliated will be adopted.

VAT to be paid pursuant thereto shall be paid in three equal installments, the first installment of which shall be paid within the declaration period. The subsequent installments shall be paid in the first and second months following the declaration period.

3. Cash balance and receivables from shareholders and related transactions that are included in the records but not present in the enterprise

Corporate taxpayers who keep books based on the balance sheets will be able to correct their records by declaring;

- the cash balances
- net receivable amounts between the amounts receivable from the shareholders and the amounts payable to the shareholders due to transactions other than the main activity of the entity (arising from lending and alike) and the transactions in other accounts related to them

that are not present in their enterprises, although they are in the **balance sheets issued as of December 31, 2022**, to the tax offices until **May 31, 2023** (including this date).

The tax calculated at the rate of **3%** on the amounts to be declared shall be paid within the declaration period.

Taxes to be paid cannot be deducted from income or corporate tax, and the declared amounts and paid taxes **will not be accepted as expenses** in determining the corporate tax base.

We want to state that we expect an explanatory communiqué on this regulation to be published shortly.

Sincerely,

ANNEXES

The Law No. 7440 on the Restructuring of Certain Receivables and Amendments to Certain Laws

(*) 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 incurred as a result of transactions made solely based on the statements in our circular.

(**) For opinions, criticism and questions about our circulars, don't hesitate to get in touch with our experts below.

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