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PRESIDENTIAL DECREE REVOKING THE RIGHT TO DEDUCT VAT ON IMPORTS UNDER SURVEILLANCE AND SAFEGUARD MEASURES PUBLISHED

As is known, Article 21 of the Value Added Tax Law enumerates the components incorporated into the tax base for imported goods.

“Article 21 – In the case of imports, the tax base comprises the aggregate of the following elements:

- a) The value of the imported goods, which serves as the foundation for customs duty; in cases where customs duty is not determined based on value or the goods enjoy an exemption, the (CIF) value covering insurance and freight costs; in cases of uncertainty, the customs-determined value of the goods,*
- b) All taxes, duties, fees, and charges incurred during the importation process,*
- c) Other non-taxed expenses and payments made until the date of customs declaration registration, including payments like price differences and exchange rate variances calculated over the cost of goods.”*

Decision No. 2004/7304 on the Implementation of Surveillance in Imports outlines the procedures and principles for closely monitoring developments related to the import of a specific good. Import surveillance involves establishing a minimum price per unit based on the value of goods to prevent harm to domestic producers of similar or directly competing goods. This practice includes monitoring through a “surveillance certificate” issued by the Ministry of Trade for imports below this established price. When the price of an imported product is below the surveillance price, many taxpayers opt to increase the tax base to the surveillance price in the customs entry declaration instead of obtaining a surveillance certificate.

According to the Decision on Safeguard Measures in Imports No. 2004/7305, if a good is imported in increasing quantities and under conditions that may cause serious damage or a threat of severe damage to domestic producers manufacturing similar or directly competing goods, a safeguard measure may be implemented following an investigation, considering the national interest. Safeguard measures can take the form of increased customs duty, the imposition of additional financial obligations, quantity/value restrictions, tariff quotas, or a combination of these.

The deduction of VAT paid within the scope of surveillance and safeguard measures on imports has been revoked with Presidential Decree No. 7846, published in the Official Gazette No. 32379 of November 24, 2023. This decision aligns with the authority granted by Article 36 of the VAT Law. Under this decree;

1. As per the relevant legislation governing the **implementation of surveillance measures on imports**, the right to deduct VAT paid is no longer applicable for amounts declared in customs declarations related to goods subject to surveillance practice. This includes all kinds of taxes, duties, fees, and charges arising from these amounts and included in the VAT base.
2. The right to deduct customs duties and additional financial obligations imposed as safeguard measures, anti-dumping duties, countervailing duties, and VAT paid due to various taxes, duties, fees, and charges included in the VAT base, as per the legislation on the **implementation of safeguard measures on imports**, anti-dumping, countervailing duties, and prevention of unfair competition in imports, has been revoked.

Article 29/2 of the VAT Law allows the deduction of value-added tax paid for imported goods and services.

According to Article 36 of the VAT Law, the President has the authority to partially or wholly abolish or reinstate the right to the deduction. This includes determining goods or services whose right to deduction is restricted, allowing unclaimed value-added tax within a specific period to be eliminated as an expense when determining income or corporate tax base, and setting the minimum amount that can be requested for a refund.

The decree has revoked the right to deduct VAT paid for all types of taxes, duties, fees, and charges arising from the implementation of surveillance and safeguard measures on imports, which were previously included in the VAT base. Given that the mentioned regulation became effective on November 24, 2023, the deduction of VAT paid within the scope of the regulation is no longer applicable from this date onward.

The said decree has entered into force on November 24, 2023.

Sincerely,

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

APPENDICES

Presidential Decree No. 7846

(*) 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 to be made solely based on the statements in our circular.

(**) For opinions, criticism and questions about our circulars, please get in touch with our experts below.

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