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TAX PAK

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EDITORIAL NOTE

We are pleased to issue the seventh edition of Tax Pak for the month of May, 2018. In this month, we have also published bridging document after enactment of Finance Act, 2018, which has identified the changes between Finance Bill, 2018 and Finance Act, 2018. In addition to that, we have also



pioneered in publishing our comprehensive Frequently Asked Questions on the recent Asset Declaration Scheme which has been well received by the readers. Both these publications may be accessed through our website and mobile applications through following links:

1. www.tolaassociates.com
2. <https://goo.gl/QDM4ZM> **(iOS)**
3. <https://goo.gl/LFiWyx> **(Android)**

Lastly, readers are requested to install our mobile applications to stay updated of our publications and notifications.

Ashfaq Tola - FCA
Editor in Chief

1. SINDH REVENUE BOARD'S AMNESTY SCHEME

The Sindh Revenue Board has issued an amnesty scheme by virtue of which JSRB intends to exempt the whole amount of penalty and default surcharge against the taxes outstanding on 21st May 2018 in the manner specified below.

- From 21 May 2018 to 27 May, 2018: pay the principal amount along with 5% of default surcharge.
- From 28 May 2018 to 04 June 2018: pay the principal amount along with 10% of default surcharge.
- From 04 June 2018 to 10 June 2018: pay the principal amount along with 15% of default surcharge.
- From 11 June 2018 to 20 June 2018: pay the principal amount along with 15% of default surcharge.

The benefits of the said notification shall also be available to

- Persons who are liable to be registered and get themselves registered between periods of 20 May 2018 to 20 June 2018.
- Persons who have withheld any amount of Sindh Sales tax but have not deposited withheld amount with Sindh Revenue Board.
- Persons against whom any tax liability has been adjudged or confirmed by the Commissioner Appeals or the Appellate Tribunal.
- Persons whose cases are under assessment or under adjudication with any officer of SRB or are pending at appellate stage with Commissioner Appeals or with Appellate Tribunal.

2. SALES TAX ON FRANCHISE SERVICES

The Sindh Revenue Board vide notification issued on May 16, 2018 made a major amendment in the Sindh

Sales Tax on Services Rules, 2012 (SSTSR). In Rule 36 of the SSTSR the services providers of franchise services (tariff heading 9823.0000) and Intellectual Property Services (tariff heading 9838.0000) have the option to elect standard rate of SST @13% and avail input tax adjustment against providing and rendering the services.

3. SALES TAX RATE AT INCEPTION OF A CONTRACT SHALL PREVAIL TILL COMPLETION OF CONTRACT - LHC

In pursuance of order of Lahore High Court (LHC) single bench comprising of Justice Shahid Jamil Khan in its judgement dated 13 June 2017 reported as 2018 PTD 778 issued the directions that the amendments made vide Finance Act, 2013 cannot be given retrospective effect.

The honorable judge of LHC drew inference from the decision of Supreme Court of Pakistan decision reported as in *Al-Samrez Enterprise v. Federation of Pakistan* (PTCL 1987 CL. 99) as applicable in the facts and circumstances of the case. It was held by the Supreme Court of Pakistan as under:

“It is well-settled that an enactment which prejudicially affected vested rights or the legality of past transactions or impairs contracts cannot be given retrospective operation.”

“Such acts of the legislature or made under the powers of delegated legislation cannot affect vested rights, legality of past transactions and impair contracts which have been concluded and which cannot be upset by giving retrospective operation to a piece of legislation or through a notification.”

The crux of the decision of LHC was that the contracts that were entered when the supply against International Tenders which was available at zero-rating will continue at the same rate of tax until the



completion of contract. Any subsequent amendment in the sales tax rate will not have effect on supplies that were entered through contract at earlier date.

4. COMMISSIONER CANNOT AMEND ASSESSMENT U/S 170 – LHC

Honorable Lahore High Court, Lahore in its Judgment in case of Commissioner Inland Revenue Vs Muhammad Ali has held that Commissioner cannot amend assessment order while examining the records under section 170 of Income Tax Ordinance, 2001.

Section 170 of ITO read with Rule 71 of the Income Tax Rules, 2002 [the Rules], deals with conditions, procedure and powers for issuing or refusing Refund.

A taxpayer who has paid tax in excess of the amount chargeable under Income Tax Ordinance, 2001 [ITO], may apply in terms of Section 170 of ITO to the Commissioner for a refund of the excess tax paid through an application made within three years of the later of:

- (i) the date on which the Commissioner has issued the assessment order to the taxpayer for the tax year to which the refund application relates; or
- (ii) the date on which the tax was paid.

The Commissioner shall, within [sixty] days of receipt of a refund application shall pass an order of accepting or refusing of refund application after providing the taxpayer an opportunity of being heard.

Section 170 gives powers merely to assess whether claimed refund is supported by evidence or not and he has to satisfy himself from supporting

documents that the tax is overpaid. However, examination of relevant provisions, does not suggest that the Commissioner can look into correctness of return, which has attained status of an assessment order. The assessment order under Section 120 is an order for all purposes of the Ordinance including issuance or rejection of refund under Section 170, therefore, the Commissioner cannot go beyond the assessment order, while exercising jurisdiction under Section 170.

In our opinion, the Commissioner may issue a fresh show cause notice for amendment or further amendment of an assessment order, passed under Section 120 of ITO, by invoking provisions of Section 122 of ITO, audit under Section 177 or otherwise. Hence, the Commissioner could not question the authenticity of assessment order passed under section 120 of ITO because Jurisdiction of Commissioner under Section 122, was and is distinguishable from the jurisdiction envisaged under Section 170 of ITO.

5. TOPIC OF THE MONTH

- TURKISH TAX SYSTEM

1.1. Introduction to the Turkish Tax System

Under the Turkish constitution, taxes, fees, duties and fiscal liabilities alike can be established, changed or abolished by law. To collect any kind of taxes, there must be a tax law in effect about that subject.

1.2. Classification of Taxes

Taxes are classified into three types according to their sources. The three types are:

1. Taxes on Income



2. Taxes on Expenditures
3. Taxes on Property

1.3. Taxes on Income (Direct Taxes)

Turkish direct taxation system consists of two main taxes; income tax and corporate tax. An individual is subject to the income tax on his income and earnings, in contrast to a company which is subject to corporate tax on its income and earnings. The rules of taxation for individual income and earnings are provided in the Income Tax Law 1960 (ITL). Likewise, the rules concerning the taxation of corporations are contained in the Corporation Tax Law 1949 (CTL). Despite the fact that each is governed by a different legislation, many rules and provisions of the Income Tax Law also apply to corporations, especially, in terms of income elements and determination of net income.

1.3.1. Personal Income Tax

1.3.1.1. Taxable Income:

The income tax is levied on the income of individuals. The term individuals mean natural persons. In the application of income tax, partnerships are not deemed to be separate entities and each partner is taxed individually on their share of profit. An individual's income may consist of one or more income elements listed below:

1. Business profits,
2. Agricultural profits,
3. Salaries and wages,
4. Income from independent personal services
5. Income from immovable property and rights (rental income)
6. Income from movable property (income from capital investment)

7. Other income and earnings without considering the source of income

1.3.1.2. Tax Liability:

In general residency criterion is employed in determining tax liability for individuals. This criterion requires that an individual who has his place of residence in Turkey is liable to pay tax for his worldwide income (unlimited liability). Any person who remains in Turkey for more than six months in a calendar year is assumed as a resident of Turkey. However, foreigners who stay in Turkey for six months or more for a specific job or business or particular purposes which are specified in the ITL are not treated as resident and therefore, unlimited tax liability does not apply to them. In addition to residency criterion, within a limited scope, nationality criterion also applies regardless of their residency status, Turkish citizens who live abroad and work for government or a governmental institution or a company whose headquarter is in Turkey, are considered as unlimited liable taxpayers. Accordingly, they are subject to the income tax on their worldwide income. Non-residents are only liable to pay tax on their income derived from the sources in Turkey (limited liability). For tax purposes, it is especially important to determine in what circumstances income is deemed to be derived in Turkey. The provisions of Article 7 of the Income Tax Law deal with this issue. In the following circumstances, the income is assumed to be derived in Turkey.

Business profit: A person must have a permanent establishment or permanent representative in Turkey and income must result from business carried out in this



permanent establishment or through such representatives.

Agricultural income: Agricultural activities generating income must take place in Turkey.

Wages and Salaries: Services must be rendered or accounted for in Turkey. Fees, allocations, dividends and the like paid to the chairmen, directors, auditors and liquidators of the establishment situated in Turkey must be accounted for in Turkey.

Income from Independent Personal Services: Independent personal services (e.g. Professional Services) must be performed or accounted for in Turkey.

Income from Immovable Property: Immovable property must be in Turkey. Rights considered as immovable must be used or accounted for in Turkey.

Income from Movable Capital investment: Investment of the capital must be in Turkey.

Other Income and Earnings: The activities or transactions generating for other income, specified in the Income Tax Act, must be performed or accounted for in Turkey.

The term accounted for used above to clarify tax liability of the non-residents means that a payment is to be made in Turkey, or if the payment is made abroad, it is to be recorded in the books in Turkey.

1.3.1.3. Determination of Net Income:

A. Business Profit:

Business profit is defined as profit arising from commercial or industrial activities. Although this definition is very comprehensive and includes all types of commercial and industrial

activities, the ITL excludes some activities from the contents of business profits. Generally, activities performed by tradesmen and artisans who do not have permanent establishments are not assumed as commercial and industrial activities and are exempt from income tax. Furthermore, in order to tax income resulting from commercial and industrial activities there has to be continuity in performing these activities. In other words, incidental activities in that nature are not treated as commercial or industrial activities and therefore, the ITL deals with these activities as the other income and earnings. The ITL does not list each commercial and industrial activity and only refers to the Turkish Commercial Law for the scope of these terms. Yet several activities are listed namely for clarification in Article 37. These are as follows:

1. The operation mines, stone and time quarries, extraction of sand and pebbles operations of brick and tile kilns;
2. Stock brokerage;
3. Operating of private schools, hospitals and similar places;
4. Regular operations of sale purchase and construction of real estate;
5. Purchase and sale of securities on someone's behalf and on a continued basis;
6. Fully or partly sale of land which has been obtained by purchase or barter and subdivided within five years of its date of purchase and sold during this period or in subsequent years; and
7. Earnings from dental prosthesis.

Basically, the taxable income of a business enterprise is the difference between its



net assets at the beginning and at the end of a calendar year. Two methods are used to compute business profits: Lump-sum basis and actual basis. In the former method, the ITR specifies estimated business profits for taxpayers who are qualified for such treatment according to the relevant provisions of the Law. The main assumption is that those taxpayers specified by the Law have difficulty to keep accounting books and to determine their income on the actual basis. Therefore, their income taxes are assessed on their estimated profits determined by the Law.

In the latter method business profits are determined on the actual basis: Taxpayers are required to keep accounting books to record their actual revenues and expenses which occur within the calendar year. In general, business related expenses paid or accrued related to business are deducted from revenues.

Expenses to be deducted: In order to determine net amount of business profits on the actual basis, the following expenses may be deducted from revenues:

1. general expenses made for earning and maintaining business profit;
2. food and boarding expenses provided for employees at the place of business or in its annexes;
3. expenses for medical treatment and medicine;
4. insurance and pension premiums;
5. clothing expenses paid for employees;
6. losses, damages, and indemnities paid based upon written agreements, juridical decrees, or by order of law;
7. expenses for travel and lodging relevant to the business;
8. expenses for vehicles which are part of the enterprise and used in the business;
9. taxes in kind such as building, and consumption, stamp and municipal taxes and fees and charges, related to the business;
10. depreciations set aside according to the provisions of the Tax Procedure Law;
11. payments to the unions;

Payments, which are not accepted as expenses: Those payments listed below are not considered as deductible expenses;

1. funds withdrawn from the enterprise by the owner or by his spouse or children, or other assets in kind taken by them;
2. monthly salaries, wages, bonuses, commissions and compensation paid to the owner of the enterprise, to his spouse, or his minor children;
3. interest on the capital invested by the owner of the enterprise;
4. interest based on the current account of the owner of the enterprise, his spouse, his minor children including interests on all form of receivables;
5. all fines and tax penalties as well as indemnities arising from unlawful actions. Indemnities incurred as penalty clauses of contracts shall not



be considered indemnities of a punitive nature;

6. 0 per cent of the advertising expenses for all kind of alcohol and alcoholic beverages, tobacco and tobacco products (current rate has been reduced to 0 percent by a Governmental Decree).

B. Agricultural Income:

Income derived from agricultural activities is also subject to the income tax. The term agricultural activity means any activity performed in land, sea, lakes and rivers in forms of cultivating, planting, breeding, fishing, hunting and etc. For tax purposes, persons who engaged in such activities are referred to farmers.

Small farmers are exempt from tax if a farmer's gross revenue or operational size of his farming enterprise is less than the amount specified by the ITL, then he is accepted as a small farmer for the application of income tax and exempt from the income tax.

The farmers who are not exempt from the tax fall into two categories in determining their agricultural income. The income of farmers, whose annual proceeds or yields are less than the amount specified by the Council of Ministers for each year, is determined on a lump-sum basis. In this method, only the gross revenues of farmers are calculated on the actual basis, while expenses are determined simply by applying an estimated expense rate to the gross revenues. On the actual basis, both revenues and expenses are computed in their real amounts. Therefore, farmers need to keep accounting books to record their revenues and expenses accrued in the relevant year.

Gross revenue arising from agricultural activities consists of the following elements:

1. sales revenues earned from selling every kinds of agricultural products produced, purchased or obtained in other ways including the products remained from the previous years,
2. proceeds received in return of using agricultural machinery and equipment in the agricultural works of other farmers.
3. sales revenues derived from the selling of items expensed previously,
4. insurance compensations received for the products damaged before or after they were produced
5. revenue arising from the selling of the fixed assets (except immovable used in agricultural activities).

The Tax Procedure Law specifies the rates that will be applied to gross revenue in determining the amount of the estimated expenses on the lump-sum basis. Thus, 80 per-cent of gross revenue is accepted as the amount of expenses in determining net income resulted from the sales of animals, animals' products and fishing and hunting products. This rate has been laid down as 70 per-cent for other agricultural products.

On the actual basis, the following expenses are deducted from the gross revenue to reach taxable income for the year:

1. expenditures made for obtaining seed, fertilizers, seedling plants, animal feeds and similar materials;



2. expenditures made for purchasing animals, agricultural products and other materials which are acquired for the purpose of resale;
3. salaries and wages paid to the employees;
4. operation and maintenance expenses of agricultural machinery; equipment, and vehicles;
5. depreciation expenses;
6. rents and fees paid for machinery and equipment,
7. interest incurred for loans received and used for enterprise,
8. general expenses made for earning and indemnities paid based upon written agreements, juridical decrees, or by order of law;
9. losses incurred in the selling of fixed assets (except immovable used in agricultural activities) which are part of the enterprise;
10. full depreciation expenses and half of other expenses of the vehicles which are part of the enterprise and also used for personal and family needs.

C. Salaries and Wages:

Income derived from dependent personal services is subject to the income tax. This income comprises such income from all kinds of employment in both public and private sector as salaries and wages, as well as associated supplementary income such as allowances, bonuses, anniversary gifts, gratuities, commissions, premiums, compensations and other wage and salary

related remunerations including benefits in kind at market value.

In determining taxable amount of salaries and wages the following expenditures are allowed to be deducted from gross amount:

1. Legal deduction made according to various laws or regulations,
2. Payments made for pensions,
3. Payments made for various insurances,
4. Payments made for labor union membership,

D. Income from Independent Professional Services:

The term independent professional services means any activity performed by a person who is self-employed, and based on professional and scientific expertise rather than capital, income from such activities is subject to the income tax. The term includes services given by such independent professionals as lawyers, accountants, doctors, consultants and engineers.

Revenues received from independent professional services within a year as well as expenses paid are recorded on a simple accounting book. In general, all expenses related to independent professional services can be deducted from revenues. But, the scope of those expenses is narrower than those specified for the commercial and business and business activities.

The following expenses are allowed to be deducted from the gross revenue in



reaching the profit from independent professional services:

1. rents paid for the leased premises in which the professional services are carried out.
2. overhead expenses;
3. expenses paid for illumination, heating, phone, wages and salaries of bureau employees, and other office overheads;
4. vocational and advertisement taxes as well as taxes in kind, including excises and fees paid occupational purposes;
5. expenses for occupational books and periodicals;
6. payments made for membership of occupational associations;
7. traveling and lodging expenses regarding the profession carried on;
8. expenses made for tools, equipment, and other materials necessary to perform the profession;
9. depreciation expenses for the fixed assets in performing the profession;
10. retirement payments;
11. losses, damages, and indemnities paid based upon written agreements, juridical decrees, or by order of law.

E. Income from Immovable Property:

Immovable property means real property which includes land buildings, and permanent leasehold rights. Ships, boats, aircraft and other types of transportation vehicles are also regarded as immovable property in the application of the Income Tax Law.

Income from immovable property comprises:

1. rental income arising from the lease land, buildings (furnished or unfurnished), and the rights to work mineral deposits, sources and other natural sources including mines, sand and gravel quarries, and property accessory to immovable property; - rental income from fishing place of every kind;
2. rental income from property to immovable property which may be subject to independent leasing;
3. rental income from the right to use any copyright of literary, artistic or scientific work, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience or for the use of or the right to use, industrial, commercial or scientific equipment;
4. rental income from the lease of ships, boats, aircraft and other transportation vehicles.

In computing net income from immovable property, costs related to maintenance, management, renovation and running, and depreciation may be deducted from the gross income on the actual basis, it is also allowed to make a lump-sum deduction instead of actual costs, except for the income from the lease of the rights mentioned above. In



such cases, lump-sum deduction is 25 per-cent of the rental income.

F. Income from Movable Property:

Income from movable property means any income such as interest, dividend, rent and the like derived from capital in cash or capital in kind. (Income from business activities, agricultural activities and independent personal services is not considered as income from movable property.

However, such capital income is not considered as income from movable property, should they are earned (gained) through business, agricultural or independent professional activities. Regardless of their sources, the following earnings are deemed to be income from movable property:

1. dividends from stocks of every kind including jousance shares (like debentures), founder's shares and interests and other remunerations paid to the stockholders in the preparatory stage of the corporation and earning from the securities issued by investment funds and investment trusts;
2. earnings from participation shares including the shares of limited companies, cooperatives and joint ventures;
3. dividends paid to the chairmen and the members of the board of directors;

4. after tax income of the corporations which are subject to annual declaration or special declaration;
5. interests of every kind from bonds, treasury bonds, and earning from the securities issued by the Mass Housing Administration (MHA) and the Public Participation Administration (PPA);
6. interest from debt-claims of every kind particularly interest from banks and other financial institutions;
7. profits from selling coupons of stocks and bonds before their maturity;
8. income from selling of dividends not accrued yet to the owners of the shares;
9. dividends paid to those who lend money without interest and dividends paid in return of profit-loss participation notes and profit-loss participation accounts;
10. tax claims calculated one third of dividends received by the stockholders;
11. income from repurchasing agreement on bonds and securities issued by the MHA and the PPA.

In determining net income from movable property, costs related to and allowed to be deducted from gross income include insurance costs, collection costs, and taxes and other levies, excluding income tax, paid for securities.

The mentioned elements are included in business profit when they are connected to the business activity of the recipient. In such case, this income is treated as business profit and become



subject to the rules described earlier related to the business profit.

G. Other Income and Earning:

Capital gains non-recurring is dealt with by the Income Tax Law under the heading "Other Income and Earnings".

Capital gains specified in the ITL are as follows:

1. earning exceeding certain amount TL from the selling of securities before or within one year after acquisition, except those acquired free of charge;
2. income exceeding certain amount TL from the selling of intellectual rights which are treated as immovable property for tax purposes;
3. income from the selling of participation rights and shares;
4. profits from the wholly or partly alienation of an enterprise which ceased its operations,
5. profits derived from the alienation of land, buildings, the rights to operate mineral deposits, sources and other natural sources, fishing place of every kind, the rights registered as immovable property, and ships, boats, aircraft and other transportation vehicles, within four years after their acquisition.

Net amount of capital gains is determined by deducting acquisition costs and the costs incurred to the alienation of the capital assets from the proceeds received in return of the alienation.

Non-recurring income comprises:

1. income derived from the business activities and independent professional services performed on occasion;
2. proceeds received not to start or to stop a business activity, agricultural activity or independent professional service, or in return for not bidding for contracts;
3. proceeds received to transfer leasehold rights or to evacuate leased immovable property;
4. income derived by the taxpayers from their previous operations;
5. income derived by the limited liable taxpayers from transportation activities performed on occasion.

1.3.1.4. Tax Rates:

Taxable Income (YTL)	Tax Rates (%)
Up to 11,000	15
11,001 – 27,000	20
27,001 – 60,000	27
Over 60,000	35

1.3.2. Corporate Income Tax

1.3.2.1. Taxable Income:

The corporate tax is levied on the income and earning derived by corporations and corporate bodies. The income elements by Corporate Tax Law are the same as those covered in the Income Tax Law. In other words, the Corporate Tax Law sets provisions and rules applicable to the income resulted from the activities of corporations and corporate bodies, whereas the income Tax Law deals with the income derived by individuals.



Corporations and corporate bodies specified by the Law as taxpayers in respect to the corporate tax are as follows:

1. Capital companies and similar foreign companies;
2. Cooperatives;
3. Public enterprises;
4. Enterprises owned by foundations societies and associations;
5. Joint ventures.

1.3.2.2. Tax Liability:

According to the Corporate Tax Law, those legal entities covered by the law, which their legal head office situated in Turkey, or the place of effective management in Turkey are taxed on their world-wide income (unlimited liability). By specifying two criteria, the law intends to prevent any problem, which may arise in determining tax liability. The term legal head office, as used in the context of the Corporate Tax Law, means the office specified in the written agreements of the mentioned entities. Therefore, it is not difficult to ascertain where the legal head office of a company is located. However, the place of effective management, which is defined as the place in which the business activities are concentrated and supervised, is not easy to determine in some cases.

As may be expected, the Law defines the term limited tax liability quite parallel to term unlimited tax liability, as the liability requiring to tax only the income derived in Turkey, provided that both legal head office and the place of effective management are abroad.

1.3.2.3. Determination of Net Taxable Income:

In essence, the provisions of the income Tax Law concerning the determination of business profit also applies to the procedure required in determining corporate income. Basically, net corporate income is defined as the difference between the net worth of assets owned at the beginning and at the end of the fiscal year.

In addition to the expenses mentioned in article 40 of Income Tax Code allowed to be deducted from revenues, the followings may also be deducted regarding to the determination of business profit, by corporations:

1. expenses related to the issuance of stocks and shares;
2. initial organization and establishment expenses;
3. expenses incurred for general board meeting as well as expenses made for mergers dissolutions, and liquidations;
4. in case of insurance companies, technical reserves required for the insurance contracts still valid at date of inventory;
5. profits shares accrued to active partners of partnerships in companies limited by shares;
6. profit shares accrued to partners by participation banks for participation accounts;
7. research and development deductions calculated as %40 of new technology and know-how research expenses realized within business.

In determining net corporate income, the following deductions are not allowed:

1. interests paid or accrued on the basis of equity;



2. interest, exchange difference and other costs paid or accrued on the basis of disguised capital;
3. disguised earning distributed by transfer pricing;
4. any kind of reserves;
5. the corporate tax, fines, tax penalties and late payment penalties and interest.;
6. leased or registered motor vehicles' depreciation and other expenses not related with business activities;

1.3.2.4. Corporate Tax Return:

Like income tax, the corporate tax is also assessed on the base declared through tax returns filled annually by taxpayers. Tax returns contain the results of related taxation period. In principle, every taxpayer is required to file only one single tax return, even if he has derived the income through different business places or branches and those places and branches have their own accounting and allocated capital.

The corporate tax return is filled until the 25th day evening of the fourth month of the year following the month in which the fiscal year ends, and the assessed taxes are paid until the end of that month. However, if a limited liable taxpayer leaves the country for sure the corporate tax return has to be submitted to the authorized tax office in the 15 days preceding. In such case, taxes are paid in the same period of time as forth for the declaration.

If the income earned by the foreign companies which are subject to the limited liability in respect to the corporate tax, consists of capital gains and non-recurring income discussed in the preceding sections (except for income earned from sale and

transfer of intangible rights like license, know-how, and royalty), then the income is declared to the authorized tax offices those taxpayers (or the persons acting on behalf of them) in the fifteen days after the income has been earned. This procedure is called "special declaration".

If there is no presence in Turkey, withholding tax will generally be charged on income earned; for example, income earned from sale and transfer of intangible rights like license, know-how, and royalty, income from movable and immovable property and income from independent professional services provided in Turkey. However, if there is an avoidance of double taxation treaty, reduced rates of withholding tax may apply.

1.3.2.5. Tax Rates:

Corporate income tax is applied at 20 % rate on the corporate earnings. Taxpayers (only for income from commercial activities and agriculture in limited tax liability cases) pay provisional tax at the rate of corporate tax, these payments are deducted from corporate tax of current period.

1.4. Taxes on Expenditures (Indirect Taxes)

In Turkey, there are several indirect taxes but most important indirect tax is Value Added Tax ("VAT").

1.4.1. VAT

The Turkish Tax System levies value added tax on the supply and the importation of goods and services. Liability for VAT arises:

1. When a person or entity performs commercial, industrial, agricultural or independent professional activities within Turkey,



2. When goods or services are imported into Turkey.

VAT is levied at each stage of the production and the distribution process. Although liability for the tax falls on the person who supplies or imports goods or services, the real burden of VAT is borne by the final consumer. This result is achieved by a tax-credit method where the computation of the VAT liability is based on the difference between the VAT liability of a person on his sales (output VAT) and the amount of VAT he has already paid on his purchases (input VAT).

The Turkish VAT system employs multiple rates and the Council of Ministers is authorized to change the VAT rates within certain limits.

The standard rate is 18 percent, but rates vary between 1 and 18 percent.

1. 1 percent VAT is applied to agricultural products, certain residential properties, newspapers and magazines.
2. 8 percent VAT is applied to basic foods, medical products and books.

1.4.2. Excise Tax (Special Consumption Tax)

Goods in the Lists attached to the Special Consumption Tax Law are the subject of the tax. For goods in the Lists, Special Consumption Tax is charged only once.

There are mainly 4 different product groups that are subject to special consumption tax at different tax rates:

1. List I is related to petroleum products, natural gas, lubricating oil, solvents and derivatives of solvents.

2. List II is related to automobiles and other vehicles, motorcycles, planes, helicopters, yachts.
3. List III is related to tobacco and tobacco products, alcoholic beverages and cola.
4. List IV is related to luxury products.

Taxpayers are different according to the lists. They are; for List I; manufacturers and importers of the petroleum products, for List II; merchants of motor vehicles, exporters for using or sellers through auction for List III; manufacturers, exporters or sellers through auction of tobacco, alcoholic beverages and cola; and for List IV manufacturers, exporters or sellers through auction of luxury products. (See Annexure – A)

1.5. Taxes on Property (Wealth Tax)

Wealth tax is also applicable in turkey in the form of Taxes on Property. This is further categorized into:

1. Motor Vehicle Tax
2. Real Estate Tax
3. Inheritance and Gift Tax

1.5.1. Motor Vehicle Tax

The taxpayer of Motor Vehicle Tax are real and legal persons to whom specified motor vehicles are registered in traffic, municipal or seaport records and in civil aviation records kept by Ministry of Transport.

1.5.2. Real Estate Tax

Property taxes are paid annually on the tax values of land and buildings at rates ranging from 0.1 to 0.3 percent. Property tax returns



are filed every four years; the tax is calculated based on the land and building's facilities and the size of the plot in square metres. The rates are applied twice for property that is located in Metropolitan Municipality areas.

Owners of rental properties are liable to pay property tax whether or not the owner lives in the property, however, those with an annual rental income of less than TL 3,600 are exempt. Those who have the right of usufruct (tenants) also have to pay property tax.

1.5.3. Inheritance and Gift Tax

In Turkey, a progressive tax is applied to items which have been acquired either through an inheritance or as a gift. Gift tax rates range from 10 to 30 percent of the item's appraised value. Inheritance tax rates range from one to ten percent of the amount inherited. The amount to be paid depends on the value of the gift or inheritance and the nature of the relationship between the two parties involved. Both taxes are paid in twice-yearly installments for three years.

When property is inherited, any tax paid on it in another country is deducted from its taxable value. Individuals need to declare gifts and inheritances so that the tax due can be assessed.

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