TURKEY CORPORATE TAX (KURUMLAR VERGISI)

The basic rate of corporation tax for resident and non-resident companies in Turkey is 20%.

Corporations in Turkey can be regarded as either limited or unlimited taxpayers. Unlimited taxpayers are liable for tax on their worldwide income. Limited taxpayers are subject to tax on income derived in Turkey.

Corporations are regarded as unlimited taxpayers if their statutory head office or actual business centre is located in Turkey. Thus, foreign-owned subsidiaries wholly established in Turkey are regarded as unlimited taxpayers whereas foreign branches are treated as limited taxpayers.

A foreign corporation is regarded as a limited taxpayer in Turkey and is taxable on its Turkish-sourced income only.

The tax year is the calendar year although a special permit can be obtained from the Ministry of Finance for a different fiscal period. Returns are due during the fourth month (until April 25) after the fiscal year end. Corporation tax is normally payable in April. The taxpayer also has to pay an advance tax throughout the accounting period which is credited against the tax liability of the same period to be calculated in the return for that tax year.

Residence – A company is resident in Turkey if its legal seat or place of management is in Turkey.

Basis – Resident companies with unlimited liability are taxed on worldwide income; nonresident companies are subject to tax only on income derived from Turkey.

Taxable income – All profits derived in the earning of income are included in taxable income, with the exception of dividends qualifying under the Turkish participation exemption. Expenses incurred in the course of the business are generally deductible.

Taxation of dividends – See under "Participation exemption".

Capital gains – Capital gains derived by a company generally are taxable as ordinary income. However, 75% of capital gains derived from the sale of domestic participations are exempt from corporation tax if the following conditions are satisfied:

1. the property has been held for at least 2 years;
2. the gains are kept in a special fund account under shareholder equity for 5 years following the year of the sale;
3. the exempt profits are not transferred within the specified period to another account (except for transfers to the capital account by way of a capital injection); and
4. the consideration for the sale is collected by the end of second calendar year following the year of the sale.

If the transferor company is liquidated in the 5 years following the year of the sale, the 75% exemption will be forfeited and the associated corporate tax must be paid, together with a cash penalty equal to the tax not assessed as a result of the exemption and a delay charge interest (currently 2.5% per month). Capital gains derived from the sale of foreign participations that have been held for at least 2 years by an international holding company resident in Turkey are exempt from corporate income tax (see under "Holding company regime").

Losses – Tax losses may be carried forward for 5 years but may not be carried back except where the company is liquidated.

Tax rate – 20% (30% if a corporate taxpayer chooses to use the investment allowance exemption accumulated from prior years (if any).

Surtax – No
Alternative minimum tax – No

Foreign tax credit – A tax credit is granted for foreign tax paid up to the amount of Turkish corporate tax attributable to the foreign income. Any part of the credit that cannot be used in a particular year may be carried forward to the following 3 years, but the foreign tax credit is limited to the Turkish corporate tax attributable to the foreign income. The foreign tax paid must be documented through foreign tax office receipts approved by the Turkish consulate in the country in which the foreign tax was paid. Specific conditions apply to foreign tax credits relating to dividends received by resident Turkish companies from their foreign participations.

Participation exemption – Dividends paid by resident companies to other Turkish companies are exempt from corporate income tax in the hands of the shareholder. Dividends received from nonresident companies are exempt from corporate tax if:

1. the nonresident payer is a corporation or limited liability company;
2. the Turkish recipient has owned at least 10% of the paidin capital of the payer for at least 1 year;
3. the profits out of which the dividends are paid were subject to foreign income tax of at least 15% (20% if the main activity of the payer is the provision of financing, including financial leasing, insurance services or investments in securities); and
4. the dividends are remitted to Turkey by the date the corporate tax return is due.

Holding company regime – To qualify as an international holding company, (1) a Turkish company must be a corporation (i.e. an Anonim Şirket - A.Ş); (2) at least 75% of its total assets (excluding cash items) must be comprised of foreign participations that have been held for a continuous period of at least 1 year; (3) the Turkish company must hold at least 10% of the capital of each foreign participation; and (4) the foreign participation must be in the form of a corporation or limited liability company. Capital gains derived by a Turkish international holding company are exempt from corporation tax provided the foreign participation has been held for at least 2 years (see under "Capital gains tax").

Tax Incentives – Various incentives are available. An allowance is available to companies that carry out qualifying R&D (research and development) activities between 1 April 2008 and 31 December 2023. The allowance is equal to 100% of the R&D expenditure and is available in addition to the deduction of the R&D expenditure in the statutory accounts. Further, 80% (90% for employees holding a PhD) of the income tax computed on the wages of R&D personnel is exempt from income withholding tax, 50% of the social security premium contribution paid for each R&D employee will be compensated by the Ministry of Finance for 5 years (up to 10% of the total number of full-time R&D employees) and documents prepared with respect to the R&D activities are exempt from stamp duty.

To qualify for the benefits, the R&D centre must be set up outside the designated technology development zones. Income derived from the development of software and R&D activities carried out in technology development zones is exempt from corporation tax through 31 December 2013. Salaries paid to researchers, software programmers and R&D personnel also are exempt from income withholding tax through 31 December 2013.

Companies operating in Turkish free trade zones (FTZ) based on a valid operation license obtained before 6 February 2004 benefit from tax exemptions; the exemptions for trading activities are abolished after that date. A tax exemption is provisionally available for manufacturing activities. An income tax withholding exemption under the FTZ Law is available for companies engaged in manufacturing within Turkish FTZs and that export at least 85% of the total FOB value of the products manufactured within the FTZ. This exemption will be provisionally applicable until the end of the year in which Turkey becomes an EU member state.

A reduction of up to 90% of the corporate income tax rate may be granted on earnings derived from investments in specified regions/cities and sectors.

Withholding tax:

Dividends – Dividends paid to a nonresident company are subject to a 15% withholding tax, unless the rate is reduced under an applicable tax treaty.

Interest – Interest on loans payable to foreign states, international institutions, or foreign banks and foreign corporations that qualify as "financial entities" are exempt from withholding tax. A 10% rate applies to interest paid on loans from nonresident entities that do not qualify as "financial entities".

Royalties – Income derived from the sale or transfer of intangible assets such as copyrights, patents and trademarks, royalty payments, and payments for professional services such as consulting, supervision, technical assistance and design fees, are subject to a 20% withholding tax. The withholding rate may be reduced under an applicable tax treaty.

Branch remittance tax – After-tax branch profits remitted to the headquarters are subject to a 15% withholding tax.

Other taxes on corporations:

Capital duty – No duty is applied on share capital. However, there is a compulsory contribution to the Competition Board equal to 0.04% of the capital amount committed when the company is established, and 0.04% of any subsequent increase in capital.

Payroll tax – Employers are required to withhold tax at source on salaries at progressive income tax rates ranging from 15% to 35%.

Real property tax – Real property tax is levied based on the value of land or buildings. Rates are as follows: 0.2% for buildings in general, 0.1% for dwellings, 0.1% for land in general; and 0.3% for building sites. The rates are increased by 100% for buildings and land located within larger cities. The square meter rates for valuing buildings depend on the location of the property.

An environmental tax is levied by the municipalities on buildings used, inter alia, as a place of business. Tax is levied at fixed amounts that change annually based on defined categories. The resident of the building (either the landlord or the tenant) is liable for the environmental tax. The landlord is responsible for making a compulsory contribution to the municipality at a rate of 10% of the annual accrued real estate tax for the protection of immovable cultural property. The contribution is levied through the real estate tax. Real property tax paid by companies is deductible from the corporation tax base.

Social security contributions – Both the employer and the employee must contribute to social security, with the rate depending on the risk category of the job. The general rates are 19.5%-25% for the employer and 14% for the employee.

Employers and employees also must contribute to the Unemployment Benefit Plan at rates of 2% and 1%, respectively, based on the gross salary of the employee (subject to the maximum base applicable for the social security premium calculations).

Stamp duty – Stamp duty applies at rates ranging from 0.75% to 0.6%, depending on the type of document.
Transfer tax – No

Other – A banking and insurance transaction tax applies at a general rate of 5% on bank and insurance charges. A contribution to the resource utilisation support fund is levied. Banks are required to withhold 3% on foreign-denominated loans with an average maturity of less than 1 year and on interest on consumer loans and imports realized on credit.

Anti-avoidance rules:

Transfer pricing – When transactions between (resident or nonresident) related parties are not carried out on arm's length terms profits arising from the transaction will be deemed to be "constructive dividends" subject to both corporate income tax and dividend withholding tax. The transfer pricing rules provide for the 3 traditional methods listed in the OECD Transfer Pricing Guidelines (comparable uncontrolled price, cost-plus and resale price methods), as well as profit-based methods (e.g. the profit-split method and the transactional net margin method). In addition, a taxpayer may adopt any other method based on its particular circumstances.

Taxpayers are required to maintain documentation to support their transfer pricing. Corporate taxpayers that are registered with the tax office of the largest taxpayers (the "large taxpayer office") must prepare an annual transfer pricing report with respect to domestic and foreign related party transactions. Those registered with other tax offices only have to prepare the annual report with respect to their foreign related party transactions.

Taxpayers registered with the large taxpayer office also must include their transactions with related parties in FTZs (including branches) and their branches abroad in their annual transfer pricing report, and corporate taxpayers operating in FTZs must prepare an annual transfer pricing report with respect to domestic related party transactions. Unilateral, bilateral and multilateral advance pricing agreements may be concluded with the Ministry of Finance.

Thin capitalisation – The thin capitalisation rules apply when loans from shareholders or related parties exceed a 3:1 debt-to-equity ratio at any time in an accounting period (6 times shareholder equity for loans from related party banks or financial institutions).

Related parties for these purposes are defined as shareholders and persons related to shareholders that own, directly or indirectly, 10% or more of the shares, voting rights or the right to receive dividends of the company. The amount of equity is that determined under the Tax Procedures Code at the beginning of the accounting period.

Where the debt-to-equity ratio is exceeded, interest payments in excess of the safe harbour ratio will be deemed to constitute a hidden profit distribution or a remittance of profits as of the last day of the accounting period in which the conditions for application of the thin capitalisation rules are satisfied and, therefore, subject to the 15% dividend withholding tax. Related expenses, foreign exchange losses and interest payments are nondeductible.

Controlled foreign companies – The CFC rules are triggered where a Turkish resident company controls, directly or indirectly, at least 50% of the share capital, dividends or voting power of a foreign entity, and: (1) 25% or more of the gross income of the CFC is comprised of passive income, such as dividends, interest, rents, license fees or gains from the sale of securities that are outside the scope of commercial, agricultural or professional income; (2) the CFC is subject to an effective tax rate lower than 10% in its country of residence; and (3) the annual total gross revenue of the CFC exceeds the foreign currency equivalent of TRY 100,000. If these requirements are met, the profits of the CFC are included in the profits of the Turkish company in proportion to the Turkish company's share in the capital of the CFC, regardless of whether such profits are distributed, and will be taxed currently at the 20% Turkish corporation tax rate.

Other – Transactions with parties resident in countries/regions that are deemed to cause harmful tax competition (as yet to be determined by the Council of Ministers) are considered related party transactions.

Payments made by resident companies to such parties are, in principle, subject to a 30% withholding tax (with some exemptions). However, the 30% withholding tax cannot be applied until the Council issues the list of relevant countries/regions.

Disclosure requirements – Certain disclosures must be made in the footnotes attached to the statutory financial statements submitted to the tax office, together with the corporate tax return.

Administration and compliance:

Turkish Tax year – Turkey tax year is calendar year or fiscal year. It is also possible to obtain permission from the Ministry of Finance to use a special accounting period.

Consolidated tax returns – Turkey does not allow tax consolidation. Each company in a group must file its own corporate tax return.

Tax Filing requirements – The corporate tax return must be filed by the 25th day (i.e. between the first and 25th day) of the fourth month after the end of the company's accounting period. Corporate income tax is payable by the end of the month in which the tax return is due (i.e. by the end of April for companies using the calendar year).

Corporations are required to pay advance corporate tax based on their quarterly profits at the rate of 20%. Advance corporate tax payments made during the year are offset against the ultimate corporate tax liability, which is determined in the annual corporate income tax return. Advance corporate tax returns must be submitted by the 14th day of the second month following the quarterly period and the tax is payable by the 17th of the same month (the Ministry of Finance may extend the deadline for submission of quarterly advance tax returns).

Penalties – Delay interest (currently 1.95% per month) is charged for the period between the date the tax was due and the date of assessment. Procedural penalties are imposed for failure to submit tax returns on time, failure to properly keep statutory accounts, failure to comply with the statutory accounting principles and failure to have the statutory books notarized on time. Special noncompliance penalties are charged at fixed amounts (subject to change annually) for failure to issue invoices and other documents as specified in the Tax Procedures Code. A tax loss penalty imposed for tax evasion is equal to the tax loss amount.

Rulings – Taxpayers may request advance rulings on the tax treatment of specific transactions. Unilateral, bilateral and multilateral APAs also are possible, although the procedures for bilateral/multilateral APAs are not yet clear.