The New Omnibus Law and its Effect on Banks and Brokerage Houses

Summary

The “Law on the Amendment of Tax Laws, Laws and Secondary Laws”, which includes several changes to tax regulations, was discussed by Parliament. Some of the changes will significantly affect the taxation of banks and brokerage houses.

Content

I. Introduction

The Law proposing amendments to several tax laws was approved by the Cabinet of Ministers and sent to Parliament.

The Law consists of 131 articles, excluding execution and enforcement articles, 41 of which are related to tax regulations.

The amendments introduced with Articles 12, 16, 94 and 95 are important for leasing and financing companies.

You can access our general bulletin covering all sectors from the link here.

You can access The New Omnibus Law from the link here.

II. Corporate Income Tax Rate

According to Article 95 of the Law, the corporate income tax (“CIT”) rate for banks, financial leasing companies, factoring companies, financing companies, payment and electronic money institutions, authorized foreign exchange institutions, asset management companies, capital market institutions (including brokerage houses), insurance and reinsurance companies and pension companies has been increased from 20% to 22%.

The Council of Ministers was given the authority to reduce this rate of 22% to 20%.

According to the Law, the regulation shall enter into force for application to earnings that should be stated in CIT returns to be submitted after 01 January 2018.

Accordingly, the new CIT rate will apply to earnings for fiscal year 2017 for those using the regular calendar year as their annual accounting period.

III. Corporate Income Tax Exemptions

According to Article 94 of the Law, the exemption to be applied to the capital gains derived by corporate income taxpayers from the sale of immovable property held for at least two years will be reduced from 75% to 50%.

The CIT exemption for the earnings bank debtors and their guarantors receive for transferring immovable properties and participation shares to banks in return for such debts, and for earnings received when banks sell off these assets, is extended to include financial leasing and financing companies, and the exception rate of 75% in the current regulation has been changed to 50% for immovable properties and 75% for participation shares.

This provision shall enter into force on 01 January 2018.

We would like to remind you that with this change the deferred tax calculation will also change.

IV. Banking and Insurance Transaction Tax Exemption

According to Article 12 of the Law, the scope of the existing Banking and Insurance Transaction Tax (“BITT”) exemption for derivatives traded on BIST has been extended by abolishing the statement “traded on BIST”.

In this context, derivatives are exempt from BITT irrespective of where they are traded.

This provision shall enter into force at the beginning of the month following the publication of the Law.

IV. Withholding Tax
According to Article 16 of the Law, the companies will be required to pay withholding tax on the distributable profits by the end of the second month following the month the CIT returns are submitted, unless the distributable profit is not added to the paid-in capital or is not distributed to the shareholders.

According to the Preamble, the main purpose of the change is to strengthen the financial structures of companies.

The Law indicates that:

- If the distributable profit is added to the paid-in capital, the previously paid withholding tax will be refunded to the entity.

- If the distributable profit is distributed to the shareholders, the previously paid withholding tax will be deducted from the withholding tax liability of the profit distribution.

The Law does not contain any provision for the withholding tax rate. The rate will be determined by the Council of Ministers.

A withholding tax rate of 1% has been announced in public statements.

The regulation shall enter into force on publication date.

It will be applied on earnings generated in the fiscal year whose CIT return is submitted following the publication date of the Law.

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