TAX AMNESTY LAW IN TURKEY

In Brief

Law Nr. 6736 enabling restructuring of public receivables, which is also referred to as "Tax Amnesty" or "Asset Peace" Act was approved by the President of Turkish Republic on 19 August 2016 and announced on Official Gazette Nr. 29806.

The Law enables restructuring of outstanding tax and other public receivables and also provides an opportunity to Turkish companies to close their accounts against potential tax audits through voluntary tax base increases. The law also provides an opportunity to bring certain assets into Turkey under a voluntary disclosure program, without any additional tax burden. We would like to draw attention to the some of the key regulations introduced by the Law, which could be of higher interest for multinational investors.

Restructuring of public receivables

The Law introduces regulations on restructuring and settlement of outstanding public receivables as of 30 June 2016. The receivables covered within the law that would be subject to restructuring will be as follows:
- Certain public receivables (i.e. subject to a final assessment)
- Uncertain receivables or on-going litigation process (i.e. not subject to a final assessment yet)
- Transactions that are subject to on-going tax audits or pending assessments

All sort of taxes and tax assessments, customs duties, administrative fines, insurance premiums, social security premiums unemployment portions and all related interest and late payment charges related to period before 30 June 2016 are covered within this Law. As a part of the restructuring program, certain amount of taxes and related, penalty and interests are reduced (with different ratios depending on the status of the underlying public receivable) and remaining amounts can be payable in lump-sum or in 6 to 18 instalments that elapse to a period of 12 to 36 months subject to an inflationary adjustment.

Voluntary tax base increases ("Tax amnesty")

Turkish companies will be entitled to close their accounts of the previous years against a tax audit upon benefiting from voluntary tax base increase provisions of the Law. Voluntary tax base increases will be available for corporate (income) tax, value added tax, and withholding tax bases declared in previous years starting from 2011.

The Law determines certain rates for voluntary tax base increases for all sort of taxes covered within the scope and the accounts will be closed against potential tax audits for the years subject to tax base increases. It is optional for the taxpayers to make election on which years and type of taxes will be subject to the voluntary tax base increase.

The tax base increases will be applied over the already declared tax bases in respective years. In cases where no tax bases were reported in prior years, the tax base increases will be made over the minimum tax base amounts determined through the Law. The taxpayer is not obliged to disclose the reason or transaction for the voluntary tax base increase.

The additional taxes as a result of tax base increases will be declared through filing specified tax returns to the tax offices and can be paid either in a single lump sum will be payable in 6 to 18 instalments that elapse to a period of 12 to 36 months subject to an inflationary adjustment.

Correction of company accounts

The Law also enables taxpayers to correct their accounts (statutory financial statements) as of 31 December 2015 through paying additional 3% tax on the account balances that will be subject to the adjustment. The following accounts can be subject to correction by virtue of law provisions:

- Cash balances that are recorded in the accounts but do not physically exist in the company
- Receivable from shareholders that are recorded in the accounts but do not physically exist and the related transactions

Along with the above items, companies may also correct their balances with respect to inventory, machinery and equipment and other fixed asset balances with respect to the law provisions. The additional payable tax amounts as a consequence of correction of account balances are also determined through law.

Voluntary Disclosure for Turkish taxpayers having undisclosed assets out of Turkey ("Asset Peace")

The Law provides a one-time opportunity for the Turkish taxpayers (real or legal persons) who has unrecorded assets out of Turkey. The cash, gold, marketable securities or other capital market instruments may be subject to a voluntary disclosure scheme until 31/12/2016.

The assets subject to voluntary declaration will be declared through an intermediary bank in Turkey. Such declaration will not lead to any additional tax liabilities on the disclosed amounts. There are no other conditions to be fulfilled to benefit from these provisions (such as adding the disclosed amount to capital of a Turkish company, not distributing for a certain period, paying a minimum tax etc. that existed in previous Tax and Asset Amnesty laws). Therefore, this regime could be perceived as a wider amnesty provided to such persons having unrecorded assets out of Turkey.

Conclusion

In order to benefit from the provisions of the law, taxpayers shall complete the application process to the respective authority until the end of October.