CIRCULAR **Istanbul, December 12, 2019**
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Subject:
THE LAW NO. 7194 ON DIGITAL SERVICE TAX AND AMENDING SOME LAWS AND THE DECREE-LAW NO. 375 WAS PUBLISHED IN THE OFFICIAL GAZETTE

The Law No. 7194 on Digital Service Tax and Amending Some Laws and Decree-Law No. 375 was published in the Official Gazette No. 30971 of December 7, 2019.

Some of the amendments made by the law in question are summarized as follows.

1. THE TARIFF OF INCOME TAX APPLIED TO WAGES AND OTHER REVENUES WAS AMENDED

The income tax tariff stipulated in Article 103 of the Income Tax Law was amended as follows by Article 17 of the Law.

Up to TRY 18,000	15%
TRY 2,700 for TRY 18,000 out of TRY 40,000, above	20%
TRY 7,100 for TRY 40,000 out of TRY 98,000 (TRY 7,100 for TRY 40,000 out of TRY 148,000 concerning wages), above	27%
TRY 22,760 for TRY 98,000 out of TRY 500,000 (TRY 36,260 for TRY 148,000 out of TRY 500,000 concerning wages), above	35%
TRY 163,460 for TRY 500,000 out of TRY 500,000 (TRY 159,460 for TRY 500,000 out of TRY 500,000 concerning wages), above	40%

Effective Date: The aforementioned tariff entered into force on December 7, 2019 ***to be effective for the revenues acquired starting from January 1, 2019.***

Under the provisional article added into the Income Tax Law by Article 22 of the Law, **the current income tax tariff shall apply** to **the wages acquired between January 1, 2019 and December 31, 2019**. However, the new tariff shall apply to the declaration of revenues other than wages acquired in 2019 (rent, dividend, security income, other gains).

2. LIMITATIONS ON THE RENTAL EXPENSES, DEPRECIATION EXPENSES AND OTHER EXPENSES OF PASSENGER CARS

All expenses (including the depreciation but excluding the Motor Vehicles Tax) of passenger cars registered in the assets of businesses and the self-employment earning book in case of self-employed people and used for acquiring the earning used to considered as expenses for the determination of earnings.

Considerable limitations were introduced regarding the deductible expenses of **passenger cars** in the determination of commercial earnings by Article 13 of the law and self-employed income by Article 14. According to the explanations made in the justifications of the relevant articles, the following limitations were introduced regarding the expenses of passenger cars on the ground that the current legal regulations might be abused by taxpayers and the expenses of the passenger cars used for personal needs might be deducted from taxable earnings.

Accordingly;

Except for the passenger cars used by those who lease or operate in various ways passenger cars as part of or the entirety of their operations, the following expenses may be considered as expenses for the determination of commercial earnings and self-employed income:

a) A maximum amount of TRY 5,500 of the monthly rental fee concerning each passenger car acquired by leasing,
b) A maximum amount of TRY 115,000 out of the total amount of special consumption tax and VAT pertaining to the acquisition of passenger cars,
c) Up to 70% of the expenses associated with passenger cars,
ç) As for depreciation expenses;

ç.1) TRY 135,000 out of the initial acquisition price excluding special consumption tax and VAT

ç.2) In cases where special consumption tax and VAT are not written off and added into the prime cost of the passenger car or it is acquired as a second-hand car, as for the passenger cars the depreciable amount of which exceeds TRY 250,000, the portion of the amount written up for each of them corresponding to these amounts at most.

will be treated as deductible expenses for tax purposes.

According to the regulations issued in repeating Article 123 of the Income Tax Law by Article 19 of the Law, the limits listed above shall be annually updated according to the revaluation rate. However, according to the provisional clause added to the Income Tax Law by Article 22 of the Law, no revaluation shall be made for the aforementioned limit of rental fee, TRY 5,500, and, in other words, the limit of TRY 5,500 shall be valid also for 2020.

Effective Date: ***The aforementioned regulation*** entered into force on December 7, 2019 ***to be effective for the revenues and earnings pertaining to the taxation period starting on January 1, 2020.***

The enforcement article of the Law No. 7194 provides that "*Articles 13 and 14 shall enter into force on the date of publication to be effective for the revenues and earnings pertaining to the taxation period starting on January 1, 2020*". However, no certain statement is in place for the method of application of the said articles regarding the passenger cars acquired prior to December 7, 2019, on which the law entered into force, or prior to January 1, 2020, on which the implementation thereof will commence. It is necessary to follow the communiqués to be issued by the Ministry of Treasury and Finance regarding this subject.

2.1. VAT Pertaining to Non-Deductible Expenses

We would like to kindly remind you that the VAT corresponding to the amounts to be considered as a non-deductible expense out of the leasing payments and expenses pertaining to passenger cars may not be taken into consideration as deductible VAT and the said VAT amount must be considered as a non-deductible expense in the tax return for income or corporate tax although its will be recorded as an expense.

3. THOSE ACQUIRING HIGH WAGES WILL SUBMIT AN ANNUAL INCOME TAX RETURN

As known, the wages acquired from a single employer and taxed by way of withholding were not previously included in the annual income tax return irrespective of the amount. In case of the acquisition of wages from more than one employer, the wage acquired from the second employer used to be included in the annual income tax return in the event that it exceeded the amount specified in the second income bracket of the income tax tariff. The taxpayer had the right to determine his/her first employer.

The regulation made in Article 15 of the Law amended Article 86(1)(b) of the Income Tax Law titled "Cases of No Collection".

Text of the article before the amendment:	**Text of the article after the amendment:**
b) Wages acquired from a single employer and taxed by way of withholding (including the wages all of which are taxed by way of withholding for the taxpayers whose total wages acquired from the employers excluding the first employer in case of the acquisition of wages from more than one employer do not exceed the amount specified in the second income bracket of the tariff stipulated in Article 103),	b) Wages which are acquired from a single employer, are taxed by way of withholding and do not exceed the amount specified in the fourth income bracket of the tariff stipulated in Article 103 (including the wages all of which are taxed by way of withholding for the taxpayers whose total wages acquired from the employers excluding the first employer in case of the acquisition of wages from more than one employer do not exceed the amount specified in the second income bracket of the tariff stipulated in Article 103 and whose total wages including the wage acquired from the first employer do not exceed the amount specified in the fourth income bracket of the tariff stipulated in Article 103),"

Accordingly;

- If the total wage acquired from a single employer and taxed by way of withholding exceeds the amount specified in the fourth income bracket of the income tax tariff (TRY 500,000), then such income shall be declared.

- If the total wages acquired by taxpayers excluding the first employer in case of the acquisition of wages from more than one employer and taxed by way of withholding exceeds the amount specified in the second income bracket of the income tax tariff (TRY 40,000), then such income shall be declared as done previously.

- If the total wages acquired by taxpayers excluding the first employer in case of the acquisition of wages from more than one employer and taxed by way of withholding does not exceed the amount specified in the second income bracket of the income tax tariff (TRY 40,000) but the total sum of these wages and the wage acquired from the first employer exceeds the amount specified in the fourth income bracket of the income tax tariff (TRY 500,000), then such income shall be declared.

Effective Date: The aforementioned regulations entered into force on December 7, 2019 to be effective for the wages to be ***acquired starting from January 1, 2020***.

4. CONVENIENCES IN FAVOR OF TAXPAYERS REGARDING THE APPLICATION OF 5% TAX RELIEF FOR COMPLIANT TAXPAYERS

Article 18 of the Law amended duplicate Article 121(2)(1) and (3) and duplicate Article 121(5) of the Income Tax Law.

The phrase “tax returns” specified in the article shall be restricted to:

- Annual income tax and corporate tax returns,
- Provisional tax returns,
- Withholding tax returns,
- Withholding tax returns and
- VAT and special consumption tax returns that must be submitted to tax offices.

Accordingly, the aforementioned tax returns pertaining to the year regarding the deductible tax return and the last two years before this year must have been submitted in due time. For example, the failure to submit the stamp duty return in due time except for the said tax returns will not pose any obstacle concerning benefiting from the said relief.

Similarly, the phrase "Incomplete payments up to TRY 250 concerning any tax return shall not be considered as a violation of this condition." was abolished and the new regulation provides that the condition of paying the taxes accrued with regard to the said tax returns must be fulfilled until the date of submitting income and corporate tax returns. However, it is not possible to benefit from the said relief of 5% if the tax accrued with regard to the aforementioned tax returns is not paid until the date of submitting income and corporate tax returns.

For example, (A) A.Ş. failed to pay in due time the taxes accrued with regard to its withholding tax return for October 2019. (A) A.Ş. submitted its corporate tax return for 2019 through e-return system on April 15, 2020. In this case, if (A) A.Ş. pays its outstanding debt from the withholding tax return for October 2019 until April 15, 2020 on which it submits its corporate tax return, then it will be entitled to a tax relief of 5%. Otherwise, it will not be possible it to benefit from such relief.

Furthermore, the article allows for benefiting from the relief concerning incomplete payments up to 10% of the amount to be paid on account upon further determinations in relation to the payments made on account. Thus, the article aims to increase the number of compliant taxpayers to be covered thereby.

Effective Date: The aforementioned regulation entered into force on December 7, 2019 to be effective for the annual income and corporate tax returns that ***must be submitted starting from January 1, 2020***.

5. REGULATIONS MADE CONCERNING THE LAW ON EXPENDITURE TAXES

BITT (Banking and Insurance Transaction Tax) rate for foreign exchange buy/sell transactions was increased from 0.1 to 0.2 percent.

According to the amendment made in Article 33 of the Law on Expenditure Taxes No. 6802 by Article 8 of the Law, BITT rate for foreign exchange transactions was increased from 0.1 to 0.2 percent.

Effective Date: The amendment entered into force on December 7, 2019.

6. TAXATION OF DIGITAL SERVICES (DIGITAL SERVICE TAX)

A new tax named "Digital Service Tax" was introduced as per Articles 1 to 7 of the Law.

Proceeds out of the following services offered by digital service providers in Turkey shall be subject to the digital service tax:

a) Any and all digital advertising services (including advertising control and performance measurement services, services such as data transmission and management related to users, and technical services for the rendering of advertising),

b) Digital services rendered for the sale of any audio, visual or digital content (including computer software, applications, music, video, games, in-game applications and similar software) in digital media, and the listening, viewing, playing or recording such media into electronic devices such as phones and computers or the use thereof in such devices,

c) Services for the provision and operation of digital media through which users can interact with each other including the services rendered for the sale or the facilitation of the sale of a good or service among users
(such as commissioning for transport or accommodation activities or the facilitation of such activities and the platform, system and portal services over which such goods and services are placed on the market),

ç) Mediation services provided in the digital environment for the aforementioned services.

Digital tax service liability shall not be affected by whether or not they are fully liable in line with the Income Tax Law and the Corporate Tax Law and whether or not they perform such activities through their workplaces or permanent representatives in Turkey within the framework of limited liability.

In cases where the taxpayer does not hold any domicile, workplace, legal and business headquarters within Turkey and in other cases deemed necessary, the Ministry of Treasury and Finance may hold responsible for the payment of the tax **those who act as a party to taxable transactions and act as mediators for such transactions and payments so as to secure tax receivables**.

Those whose domestic revenue are less than TRY 20 million or global revenue are less than EUR 750 million within the accounting period before the relevant accounting period shall be exempt from the digital service tax. If the taxpayer is a ***member*** of a ***consolidated*** group in terms of financial accounting (all enterprises listed in consolidated financial statements in accordance with International Financial Reporting Standards or Turkish Financial Reporting Standards), the total **revenue** of the group regarding taxable services shall be taken into account in the application of these limits.

In the event that both of the aforementioned **limits** (TRY 20 million for the proceeds acquired in Turkey and EUR 750 million for the global revenue) **are exceeded** within the relevant accounting period, **such exemption** shall come to an end and **digital service tax liability shall start from the fourth taxation period following the taxation period in which the limit is exceeded.** In determining whether these limits are exceeded, the cumulative revenues obtained in the relevant accounting period shall be taken into consideration **as of the end of the quarterly periods** of the accounting period. Tax liability shall start from the upcoming accounting period for those which are below any of the aforementioned limits for two subsequent accounting periods.

	Digital Service Tax
Tax Base	Base of the digital service tax shall be the revenue obtained out of taxable services during each taxation period. No deduction shall be made from the tax base in the form of expense, cost and tax.
Rate of the Digital Service Tax	7.5%
Taxation Period	Monthly
Type of Return	Digital Service Tax Return
Period for Submitting Returns	Until the end of the month following the taxation period
Tax Office for Submitting the Tax Return	The tax office to which the taxpayer is affiliated in terms of VAT (the tax office designated by the Ministry of Treasury and Finance for those not liable to pay value added tax)
Term of Payment	Until the end of the month following the taxation period
Indication of the Digital Service Tax on the Invoice	The digital service tax shall not be separately indicated in invoices and the documents considered as invoices.
Writing Off the Digital Service Tax	Payable tax may be written off in the determination of net income that would set the basis of income and corporate tax.

If digital service providers fail to fulfill the tax liabilities briefly explained above, they or their authorized representatives in Turkey shall be warned. In the event that such liabilities are not fulfilled in spite of the period granted within the warning, then the Ministry of Treasury and Finance may decide to ***block access*** to the services in question.

Effective Date: The aforementioned regulations will enter into force on March 1, 2020.

7. ACCOMMODATION TAX

A new tax named "Accommodation Tax" was introduced as per Article 9 of the Law.

	Accommodation tax
Taxpayer	Overnight stay service offered in accommodation facilities such as hotels, motels, holiday resorts, boarding houses, apart houses, guesthouses, camping, mountain houses and upland houses as well as all other services offered to those benefiting from this service (such as food, beverage, activities, entertainment services and the use of pools, thermal areas and similar areas) on the condition that they are sold with the overnight stay service Provision of the overnight stay service within facilities such as healthy life facilities and entertainment centers does not have any impact on taxation
Tax Base	The total sum of interests, services and values which are charged under any circumstances in return for the services covered by the tax except for value added tax or offered in cash, goods and other ways for such services and may be represented by money.
Rate of the Accommodation Tax	1% for the period between April 1, 2020 and December 31, 2020
	2% starting from January 1, 2021
Taxation Period	Monthly
Type of Return	Accommodation Tax Return
Period for Submitting Returns	Until the end of the 26th day of the month following the taxation period
Tax Office for Submitting the Tax Return	The tax office to which the taxpayer is affiliated in terms of VAT (the tax office affiliated to the place where the facility is located for those not liable to pay value added tax)
Term of Payment	Until the end of the 26th day of the month following the taxation period
Indication of the Accommodation Tax on the Invoice	Accommodation tax shall be separately indicated in the invoices and similar documents. (No discount shall be made over the tax under any name whatsoever and this tax shall not be included in the base of VAT)

The following services shall be exempt from the accommodation tax:

a) Services rendered in student dormitories, boarding houses and camps.
b) Services offered to the diplomatic missions and consulates of foreign states in Turkey and their personnel holding diplomatic rights as well as to the international organizations to which tax exemption is granted as per international agreements and their personnel on the condition that the principle of reciprocity is complied with.

Effective Date: The aforementioned regulations will enter into force on April 1, 2020.

8. VALUABLE PROPERTY TAX

The amendment made in the Real Estate Tax Law provides that the immovable properties **qualified** as **residence** which are located within the borders of Turkey, whose **building tax value** forming the basis of real estate tax or **value ascertained by the General Directorate of Land Registry and Cadastre** is equal to and higher than **TRY 5,000,000** shall be subject to "Valuable Property Tax". This amount shall be annually increased based on the revaluation rate.

The tax base shall be the building tax value or the value ascertained by the General Directorate of Land Registry and Cadastre (whichever is higher).

The tax rate is as follows:

Value of the residential property	**Rate (%)**
Those between TRY 5,000,000 and TRY 7,500,000	0.3
Those between TRY 7,500,001 and TRY 10,000,000	0.6
Those exceeding TRY 10,000,001	1

Taxpayers must submit a tax return to the authorized tax office in the place where the residential property is located until the 20th day of February of the year following the year on which they exceed the amount of exemption (the aforementioned amount of TRY 5,000,000) and **pay the due tax in two installments in February and August**. Taxpayers shall be obliged to submit a tax return each year.

Effective Date: Regulations regarding the valuable property tax entered into force on December 7, 2019. Only the provision regarding the revaluation of the amounts stipulated in the relevant articles will enter into force on January 1, 2020. In this case, the aforementioned amounts shall apply to the calculation of valuable property tax for 2019 and 2020.

Sincerely,

DENGE İSTANBUL YEMİNLİ
MALİ MÜŞAVİRLİK A.Ş.

(*) The remarks in our circular are for informational purposes only. We recommend that the opinion and support of a qualified counsellor be received before establishing final transactions on the questionable matters. Our company shall not be held responsible for any damages to be incurred as a result of transactions to be made solely on the basis of the statements in our circular.

(**) For opinions, criticisms and questions about our circular, you can contact our specialists the contact information of whom is provided below.

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