



AGENDA ITEM : MUTUAL ASSISTANCE



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- **DIRECT TAXES**
- **INDIRECT TAXES**
- **TAX COLLECTION**



DIRECT TAXES

- **Background and Framework**
- **Double Taxation Agreements**
- **Tax Procedure Law**



DIRECT TAXES (1/21)

Background and Framework

- There is no specific provision relating to exchange of information in the field of direct taxation under Turkish tax legislation. However, there are some related articles in double taxation agreements.
- Tax Procedure Law (TPL) No:213 (Art: 5, 148, 149, 150 and 152)



DIRECT TAXES (2/21)

Double Taxation Agreements

In Turkish taxation system (in the framework of double taxation agreements concluded according to OECD model tax convention), exchange of information is conducted bilaterally only between Turkey and the Country that signed the agreement.

- In general, OECD model tax convention is the basis of exchange of information article.
- Double Taxation Agreements have been signed and put into force with 61 countries.
- Although the forms of exchange of information are on-request, automatic and spontaneous, the form of on-request is the operative one at present.
- However, information is sent from other countries unilaterally within the scope of automatic and spontaneous exchange of information.
- Works are carried out to provide automatic and spontaneous exchange of information. After the completion of works, these methods can be used in exchange of information.



DIRECT TAXES (3/21)

Double Taxation Agreements (Cont'd)

- Within the scope of exchange of information, if the related real or legal persons are established in Turkey the requests received from other countries are evaluated, and the requesting country is informed following the necessary investigation.
- In 2004 and 2005, 280 and 205 requests have been received respectively.
- For the years 2004 and 2005, in return for our requests 8 and 23 responds are received respectively from other countries.



DIRECT TAXES (4/21)

Double Taxation Agreements-EU Members

- Germany
- Austria
- Belgium
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Netherlands
- UK
- Spain
- Italy
- Latvia
- Lithuania
- Luxembourg
- Hungary
- Poland
- Slovakia
- Slovenia
- Greece
- Sweden



DIRECT TAXES (5/21)

Double Taxation Agreements-Other Countries

- Norway
- Korea
- Jordan
- Saudi Arabia
- Tunisia
- Romania
- Pakistan
- T.R. of Northern Cyprus
- U.A. Emirates
- Malaysia
- Japan
- Kazakhstan
- Macedonia
- Albania
- Algeria
- Mongolia
- India
- Egypt
- PR of China
- Turkmenistan
- Azerbaijan
- Bulgaria
- Uzbekistan
- USA
- Belarus
- Kuwait
- Ukraine
- Israel
- Russia
- Indonesia
- Croatia
- Moldova
- Singapore
- Kyrgyzstan
- Tajikistan
- Bangladesh
- Syria
- Thailand
- Sudan
- Iran



DIRECT TAXES (6/21)

Tax Procedure Law No. 213

Tax Procedure Law (TPL) No. 213 (Art. 5, 148, 149, 150 and 152)



DIRECT TAXES (7/21)

Tax Procedure Law No. 213 (Cont'd)

Scope

- Revenues (taxes and dues) of the administrations with general budget and special administrations of the provinces and municipalities (Personal and Corporate Income Tax, VAT, Excise Duties, Banking and Insurance Transactions Tax, Property Tax etc.)
- Penalties related to these taxes and dues.
- Customs duties are excluded.



DIRECT TAXES (8/21)

Tax Procedure Law No. 213 (Cont'd)

Article 148- Request of Information

- Public institutions and enterprises,
- Taxpayers,
- Other real and legal persons who are dealing with the taxpayer,
are entitled to provide all information requested by the Ministry of Finance or by persons authorised to carry out tax examination
- Refraining from providing information is subject to penalties according to the TPL No. 213.



DIRECT TAXES (9/21)

Tax Procedure Law No. 213 (Cont'd)

Article 149- Continuous Provision of Information

- Public institutions and enterprises,
- Real and legal persons

are entitled to submit the information on taxation requested by the Ministry of Finance and tax offices, in written form regularly and periodically.



DIRECT TAXES (10/21)

Tax Procedure Law No. 213 (Cont'd)

Article 150- Informing Deaths and Transfers

- Justices of the peace, officials of census bureau, land registry and execution officers,
- Turkish consulates,
- Administrators of city districts and villages,
- Banks, bankers, companies and real and legal persons accepting deposits

are entitled to declare all deaths and transfers brought to their knowledge monthly in written form to the tax office until the evening of the 15th day of the following month.



DIRECT TAXES (11/21)

Tax Procedure Law No. 213 (Cont'd)

Article 151- Obligation for the Provision of Information

Real and legal persons who are requested to provide information can not refrain from providing information by setting forth secrecy provisions of special laws.



DIRECT TAXES (12/21)

Tax Procedure Law No. 213 (Cont'd)

Article 152- Tax Intelligence Records

All information gathered from the sources indicated in Tax Procedure Law are kept confidentially in archives.



DIRECT TAXES (13/21)

Tax Procedure Law No. 213 (Cont'd)

The Persons Within the Scope of Tax Confidentiality

- Officials dealing with tax transactions and examinations,
- Those working in the Council of State, tax courts and regional administrative courts,
- Those participating in the commissions established in accordance with tax laws,
- Experts participating in tax transactions



DIRECT TAXES (14/21)

Tax Procedure Law No. 213 (Cont'd)

The Subject of Tax Confidentiality

The persons mentioned in the previous slide can not disclose and use the secrets of which they have become acquainted during their duties about the taxpayers;

- personalities,
- transactions and their accounts,
- businesses,
- wealths,
- professions

for their own or for third parties' interests.



DIRECT TAXES (15/21)

Tax Procedure Law No. 213 (Cont'd)

Exceptions of Tax Confidentiality

- Declaration of tax statements.
- Tax charts.
- The information and documents requested by public officials in dealing with the judicial and administrative investigations.
- Information provided to the banks on tax collection.
- Reporting of the taxpayers issued or used false or misleading documents ascertained by tax examination report, to the professional organizations and associations established by law.



DIRECT TAXES (16/21)

Tax Procedure Law No. 213 (Cont'd)

Prohibitions

The persons who are in the scope of tax confidentiality can not be engaged in the tax examinations and assessments of

- themselves,
- their fiancées,
- their spouses even if they are divorced,
- their ancestors and posterity by blood or marriage,
- their adopted child or the persons adopted them,
- those for whom they are acting as legal representative or assignee.



DIRECT TAXES (17/21)

Tax Procedure Law No. 213 (Cont'd)

Tax Confidentiality Violation Penalty

According to Turkish Criminal Code No.5237 Art.239, if a complaint has been received, persons violating tax confidentiality is punished with 1-3 years of imprisonment and pecuniary punishment up to five thousand days.



DIRECT TAXES (18/21)

Tax Procedure Law No. 213 (Cont'd)

Other Regulations

- Article 242 (*bis*)
- Article 257 (*bis*)



DIRECT TAXES (19/21)

Tax Procedure Law No. 213 (Cont'd)

Other Regulations (Cont'd)

The Ministry of Finance is authorized to determine procedures and principles of forming, recording, transmitting, keeping and presenting electronic books, records and documents.



DIRECT TAXES (20/21)

Tax Procedure Law No. 213 (Cont'd)

Other Regulations (Cont'd)

The Ministry of Finance is authorized to give permission or bring obligation for keeping obligatory books, records and documents in the form of;

- microfilm,
- microfiche,
- electronic information and recording instruments.



DIRECT TAXES (21/21)

Tax Procedure Law No. 213 (Cont'd)

Other Regulations (Cont'd)

Two communiqué drafts have been prepared on;

- The procedures and principles concerning formation, transmission and storage of electronic books and documents instead of their paper form,
- Standards of computerized accounting and presented to the related parties, especially to the taxpayers for their opinions and suggestions at the official web page of the Turkish Revenue Administration.



INDIRECT TAXES

- Value Added Tax
- Excise Duty



INDIRECT TAXES (1/2)

The provisions of TPL concerning direct taxes provided in the former slides are also applied to indirect taxes.



INDIRECT TAXES (2/2)

Concerning the collection of indirect taxes, there is no legal arrangement on exchange of information or mutual assistance with other countries.

However, provisions concerning mutual assistance in the field of indirect taxation is planned to be included in the future double taxation agreements, on reciprocal basis.



TAX COLLECTION

- Background and Framework
- The Procedure Law of Collection of Public Claims No.6183
- OECD Model Tax Conventions



TAX COLLECTION (1/6)

Background and Framework

- No specific provision regarding the exchange of information.
- Provisions on collection and executory proceedings in Turkish legislation.
 - Execution and Bankruptcy Law No. 2004
 - The Procedure Law of Collection of Public Claims No. 6183
- Article 107 of the Procedure Law of Collection of Public Claims



TAX COLLECTION (2/6)

The Procedure Law of Collection of Public Claims No. 6183

Scope

- Taxes and dues
- Punishment and court expenditures
- Fiscal penalty, pecuniary offence, interest

of the central and local administrations.



TAX COLLECTION (3/6)

The Procedure Law of Collection of Public Claims No.6183 (Cont'd)

Methods of Tracking and Collecting Public Claims

- Provisions on the protection of public claims
 - Guarantee
 - Precautionary assessment and precautionary seizure
 - Other safeguard provisions
- Provisions concerning collection through enforcement
 - Converting guarantee into money
 - Distrain
 - Bankruptcy



TAX COLLECTION (4/6)

The Procedure Law of Collection of Public Claims No.6183 (Cont'd)

Article-107

Public officials responsible for tracking and collection of public claims are subject to punishment by imprisonment if they disclose the secrets and other matters on debtors, their profession, their business, their accounts and transactions, which should be remained as secrets.

TAX COLLECTION (5/6)

OECD Model Tax Conventions

- In collection, OECD Model Tax Convention is the basis for mutual assistance with other countries.
- Agreements signed with Azerbaijan, Belgium, Jordan, Algeria, Denmark, Romania, Turkish Republic of Northern Cyprus and Norway include provisions related to mutual assistance in collection.
- Agreements which are not including such provisions are planned to be revised.



TAX COLLECTION (6/6)

OECD Model Tax Conventions (Cont'd)

- Revenue claim of the requesting State has no priority in the requested State.
- Requesting State shall annex the supplementary documents to its request.
- In 2004 and 2005, 12 and 13 administrative assistance requests have been received respectively.



THANK YOU