

TAX REGIME FOR INVESTORS IN TURKIYE

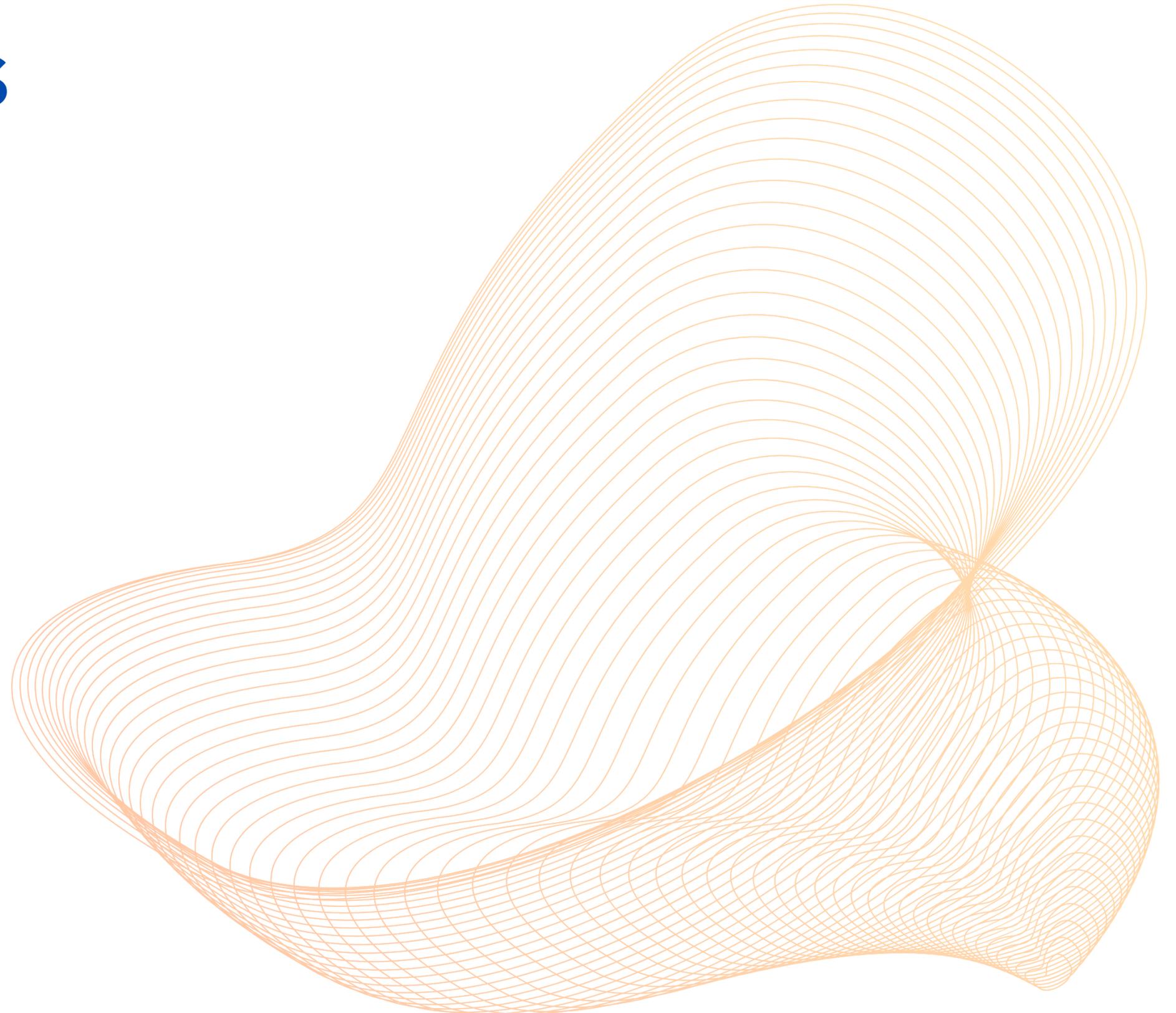
A BRIEF INTRODUCTION TO TAX REGIME AND A GUIDE FOR INVESTMENT

2023



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INTRODUCTION

For foreign investors, Türkiye has always been a desirable country, ripe for lucrative investments in its industry, agriculture, real - estate and technology and textile markets. These bountiful markets to invest, combined with the competitive currency exchange rates allow more investors to invest in Türkiye, especially in energy, petrochemicals, banking and real - estate markets.

In this article, we will explain the applicable tax regime in Türkiye, and indicate the possible exemptions for the foreign investors where applicable.

TAXPAYERS AND THEIR STATUS

In Türkiye, there are two types of taxpayers. First type is broadly translated to “fully burdened” whereas the second type is “partially burdened.”

a. Fully Burdened Taxpayers

In accordance with the Income Tax Law, fully burdened taxpayers are (i) Turkish Citizens and Companies, and (ii) those who act on behalf of the Turkish state in other countries. These taxpayers are taxed on all their income, gained in Türkiye and abroad.

However, as per the terms of the relevant bilateral treaties between Türkiye and other countries regarding prevention of double – taxation, it is possible to deduce the already paid taxes to another country, from the tax that should be paid to Türkiye. The term of such regime is subject to the specific regulations within the bilateral treaty.

b. Partially Burdened Taxpayers

Partially burdened taxpayers are foreign individuals who gain their income within the borders of Türkiye, or whose services end up creating a value in Türkiye. These taxpayers are only taxed for the amount they gain in or from Türkiye.

APPLICABLE TAXES

a. Income Tax

All real person taxpayers are subject to income tax. The rate of this tax, calculated based on the yearly total income, is as follows:

(i) For Payments and Salaries

15% Until ₪70.000,00

For the first ₪70.000,00, ₪10.500,00; and 20% for the remainder of ₪150.000,00

For the first ₪150.000,00, ₪26.500,00; and %27 for the remainder of ₪550.000,00

For the first ₪550.000,00, ₪134.500,00; and %35 for the remainder of ₪1.900.000,00

For the first ₪1.900.000,00, ₪607.000,00; and %40 for the excess amount.

(ii) For Other Types of Incomes

15% Until ₪70.000,00

For the first ₪70.000,00, ₪10.500,00; and 20% for the remainder of ₪150.000,00

For the first ₪150.000,00, ₪26.500,00; and %27 for the remainder of ₪370.000,00

For the first ₪370.000,00, ₪85.900,00; and %35 for the remainder of ₪1.900.000,00

For the first ₪1.900.000,00, ₪621.400,00; and %40 for the excess amount.

APPLICABLE TAXES

As per the Income Tax Law, there are seven types of income. A taxpayer can be subject to the income tax, due to the income arising from multiple sources, which can be categorized within the different types of income.

(i) Payments and Salaries

This is the primary type of income when income tax is discussed. This type of tax arises out of a salary or regular payment, typically made by the employers to their employees. Even though employee is responsible of paying this tax, as they are the one gaining the income, the employer pays this tax to the Tax Authority on behalf of the employee. Thus, the employees do not need to declare their taxes. However, if an individual receives any other payment or salary other than what their employer is paying, then they are bound to report this income to the tax authority as well.

(ii) Self – Employment

If a taxpayer is self – employed, then this type of income will be gained. For example, those who engage in trade, retail or similar activities are mostly self – employed. In addition, lawyers and similar professions fall into this category most of the time. Income arising from these businesses must be declared by the taxpayer. Certain expenses made towards gaining the income can later be offset from the total taxable amount.



APPLICABLE TAXES

(iii) Commercial Income

If a taxpayer earns a commercial income but is not a corporation that would have been subject to corporate tax instead, then income tax arising from commercial income will be applicable. Certain expenses made towards gaining the income can later be offset from the total taxable amount.

(iv) Securities and Investment

Income derived from the profits of securities and investment, and dividends are subject to the income tax. This tax, if arising from operations in the stock exchange or investment funds, is primarily collected at the source, by application of the withholding tax. Thus, the taxpayer will not need to declare any additional taxes. There are certain exemptions to the taxation as well. For example, having held physical shares of a Joint Stock Company for at least 2 years, allow the owner to sell their shares without paying any taxes.



APPLICABLE TAXES

(v) Real – Estate Properties

Income arising from the real – estates fall into this category. For example, income arising from the lease, or profits accumulated from the sale of a real – estate property. If a proprietor holds a real – estate for at least 5 years before selling, they will be exempted from the income tax.

(vi) Agricultural Income

This tax arises from income accumulated by agricultural operations.

(vii) Other Incomes

This type of income is an income that cannot be included within the categories mentioned therein. The primary mindset of Turkish taxation is that any income, that is not exempted, shall be subject to taxation. Thus, if an income is sourced from illegal or illicit activities such as gambling, drug trade or otherwise will be subject to taxation under this category.

APPLICABLE TAXES

b. Corporate Tax

Corporate tax is the applicable tax for the corporations. Instead of any of the other “income tax”. The rate of this tax is 20% as per the Corporate Tax Law but can be modified by the decree of the President each calendar year. For example, in 2022, this rate was 23%. For 2023, no modification has been made, so the rate is 20%. This rate is a flat rate and is not subject to different rates based on the amount gained, as it is in the income tax. Certain expenses made towards gaining the income can later be offset from the total taxable amount.

As part of the corporate tax, a company must declare their income and expenses each month and pay a “temporary corporate tax” once in 3 months. At the end of the fiscal year, the tax amount paid as the temporary corporate tax is offset from the corporate tax amount a company must pay. If by offsetting these amounts, the company has excess tax payments, then the excess amount is counted towards the tax obligations of the company for the next fiscal year.

Due to the economic and humanitarian effects of the earthquake occurred in Türkiye on February 6th, 2023; an extra 10% corporate tax application was enacted. The application and subjects of this tax are determined as per the changes in the Corporate Tax Law.



APPLICABLE TAXES

c. Withholding Tax

Withholding tax is a government requirement for the paying party to “withhold” a portion of the payment and pay it to the tax authority on behalf of the receiving party. The mentality arises from “taxing the income at the source.” Application of this tax is seen in the income arising from self-employment, in the securities and investment incomes, real – estate related income and some other types of income.

If the paying party declares the withholding amount to the tax authority on behalf of the receiving party, the receiving party’s obligations to pay income tax or corporate tax are offset for the same amount. In addition, the paying party may indicate the withholding tax amount as an expense, so that they may deduce this amount from their taxable income.

The rate of the withholding tax changes between 10% and 20% where applicable. For example, for payments arising from a self-employment service, the rate is 20%.



APPLICABLE TAXES

d. Value Added Tax (VAT)

Like many countries, Türkiye applies the VAT as a form of indirect taxation. VAT is accrued at each step where a value is created. The payer of the VAT then reflects this tax to the next taxpayer, until the consumer receives the finished product and pays the final VAT. Thus, in the end the VAT is reflected to the final consumer.

The rate of the VAT changes between 1% - 18% based on the specific product or service. For primary consumption goods such as bread, seeds, or similar consumption goods, as well as certain real - estates under the size of 150 m² net, the rate is applied as 1%. For meat, fish, chicken, dairy products and similar the rate is applied as 8%. For all other goods and services, the rate is applied as 18%.

e. Special Consumption Tax (SCT)

The SCT is yet another example of Turkish indirect taxation. Enacted in 2002, SCT primarily aimed to control the consumption of certain goods such as alcohol and tobacco. Furthermore, this tax is used as a measure to artificially “slow down” the import by reducing the demand of certain goods when the government deems necessary.

For example, alcohol and tobacco is subjected to excessive amounts of SCT, even surpassing the original price of the product. Similarly, SCT applied to vehicles can reach up to 220% of the vehicles’ price, based on its original sales price and engine displacement.

APPLICABLE TAXES

f. Stamp Duty

Stamp duty is applied to all written contracts and documents containing a price. In accordance with the Stamp Duty Law, the rate can go up to 0.948% of a contracts' value. However, the total stamp duty amount cannot exceed ₺10.732.371,80 for 2023.

g. Banking and Insurance Transactions Tax (BSMV)

BSMV is applied to all banking and insurance transactions such as inter - bank fund transfers, wire transfers, investment via banking services etc. The rate changes between 0 - 5% depending on the transaction.

h. Deed Title Tax - Property Tax

Deed title tax is accrued during a real estate property's transfer. The rate is 4%, applied to the sale price of the real estate in question. It is collected from the buyer and the seller in equal fashion but in practice payment of this tax is subjected to a bargain between the buyer and the seller. This tax will only arise during the transfer of the real estate and is not a regular tax.

Property tax, on the other hand, is a regular tax that is accrued for all real estate properties. The rate of this tax changes between 0.2% - 0.4%, applied to the "appraised value" of the real estate. The appraised value is not the actual value of the real estate, but generally a much lower value than what the real estate property is worth. This tax is accrued each year and paid in two installments.



CUSTOMS DUTIES

Customs duties are determined by the Turkish Presidency and Ministry of Commerce. The rate varies between 0 – 30% based on the specific product and HS Code. Given the fact that Türkiye is part of the customs union with European Union, no customs duties are applied to the imported products originated from the member countries and exported products to these countries originating from Türkiye.

In addition to the advantage provided by the customs union, Türkiye also offers inward processing regime and transit trading regime, allowing exemptions from various taxes as well as other applicable benefits. For example, an investor may establish a production facility in Türkiye, import raw materials or semi – finished materials to create a finished product, and could export it to Europe without having to pay any customs duties, subject to terms of the inward processing regime.



CUSTOMS DUTIES

(i) Transit Trading Regime

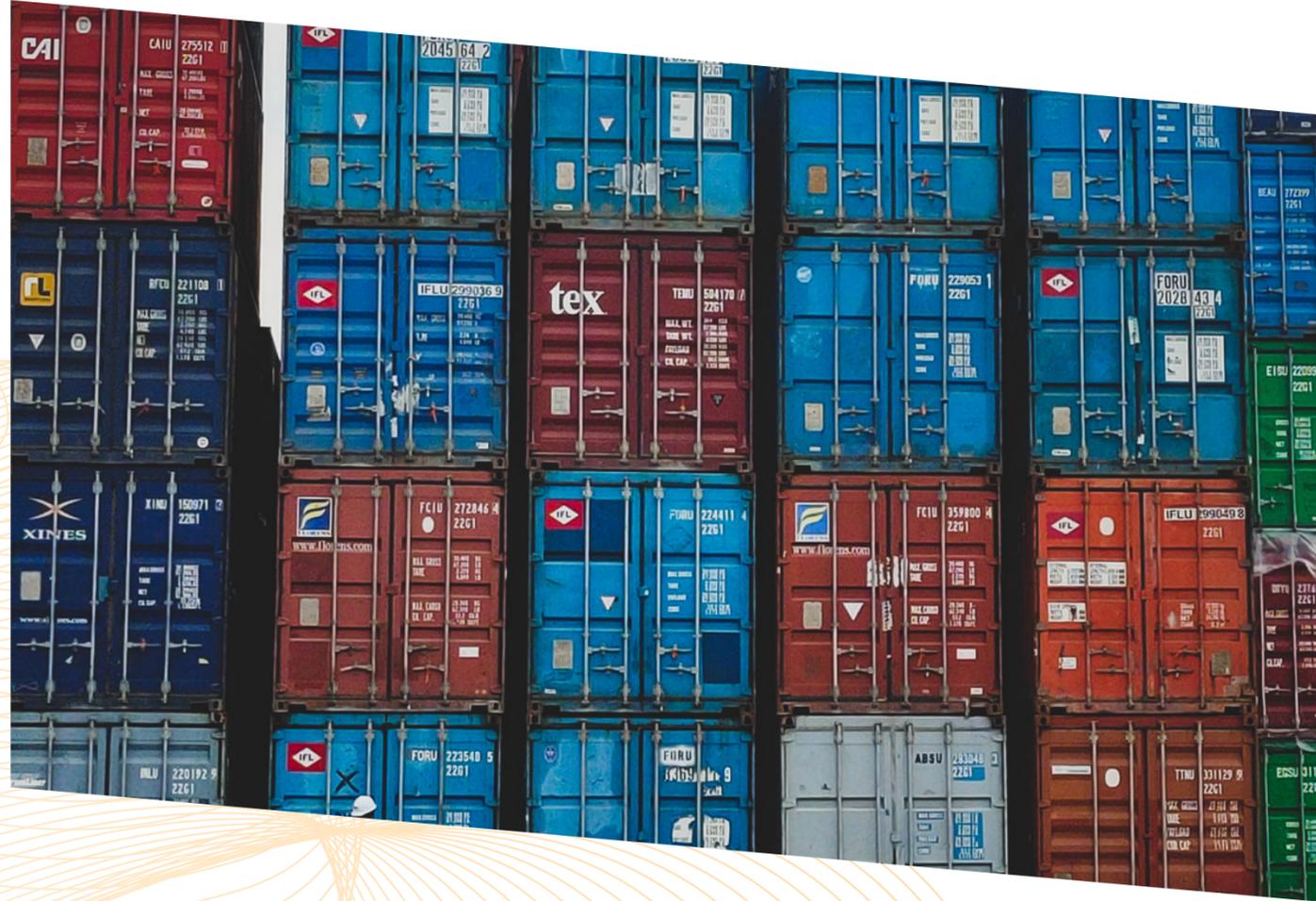
Transit trading regime allows Türkiye to become a hub for goods trade. Türkiye has many ports and associated free zones which allow a company to transit trading facilities. In transit trading, a product is not nationalized by Türkiye, but sold over transfer from Türkiye.

While waiting for the shipping process, the goods can be stored in warehouses specifically arranged for such operations. In addition, goods under transit procedure shall, except the cases of suspicion or denunciation, be directed to customs administrations of entry or exit, without being examined. Where deemed necessary, goods carried under transit procedure from warehouses or other places permitted by customs administrations may be examined.

Under the transit trading regime, VAT and customs duties do not apply, as the goods are never nationalized in Türkiye.



CUSTOMS DUTIES



(ii) Inward Processing Regime

The inward processing procedure is a custom procedure based on the principle that goods not in free circulation are imported temporarily to the customs territory of Türkiye for processing operations and re-exporting of the products obtained as a result of processing. Via inward processing regime, imported goods can be exempted from VAT and customs duties and then the value-added finished product may be exported without any customs duties as well.

In addition, given the fact that as per the rules of customs union with the European Union accepts a products' origin as the country of final value addition, finished products may be exported to Europe as goods originating from Türkiye, with a certificate origin indicating so.

This is especially beneficial for certain companies based in Russian Federation, Belarus or any other countries that are under sanctions by Europe, as Türkiye does not officially enforce these sanctions. Having established production facilities in Türkiye, companies in these countries may import their raw or semi - finished materials without having to pay customs duties or VAT, and export their finished goods without having to pay any customs duties or VAT.

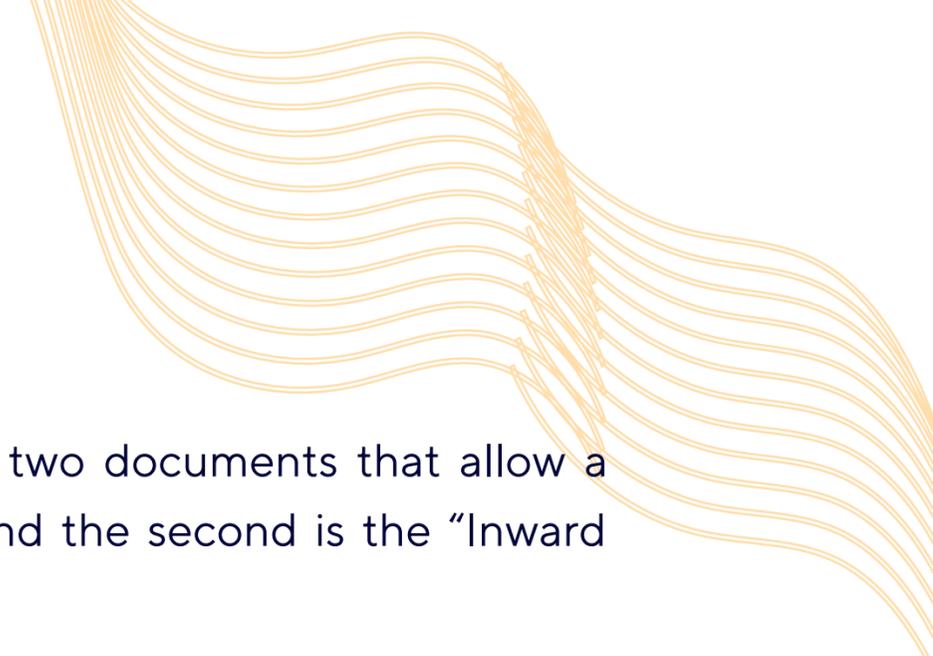
CUSTOMS DUTIES

Of course, Türkiye requires certain assurances from a company that wishes to engage in inward processing regime. The operations require regular approval from the Ministry of Commerce. In addition, there are securities that needed to be provided. There are two systems for this purpose.

(i) Suspension System: In the suspension system, a collateral is provided to cover potential customs duties and any other applicable taxes arising from the nationalization of a product. Having provided this security, the goods can be freely moved in Türkiye. Following the export of the processed goods, the security can be returned.

(ii) Drawback System: In the drawback system, all taxes and duties arising from the import of the goods are paid directly as if the goods were actually being imported and nationalized in Türkiye. Then, following the export of the finished goods, the paid taxes and duties can be recovered.

If the company does not adhere to the rules of inward processing and provides the imported goods or value-added products, then the collateral can be liquidated by the relevant authorities to make up for the applicable tax. Those who violate the terms of the inward processing regime will not be granted any other permits for the regime.



CUSTOMS DUTIES

There is a distinction that an investor may face while engaging in inward processing regime. There are two documents that allow a company to engage in sorts of inward processing regime. First one is the “Inward Processing Permit”, and the second is the “Inward Processing Certificate”.

(i) Inward Processing Permit: As per the Communiqué for Inward Processing no. 2006/12 art. 14, issued by Ministry of Commerce, there are certain goods that can be subjected to “basic” processing such as dyeing, packaging, labeling, simple revisions etc. To do so, a permit is obtained by the relevant Customs Administration.

(ii) Inward Processing Certificate: For the operations not in the scope of the Communiqué for Inward Processing no. 2006/12 art. 14, a certificate can be obtained from the Ministry of Commerce.

Both the permit and certificate are issued for 12 months as a rule in general. However, in larger inward processing projects such as defense industry products, ship building etc., they may be issued for the duration of the project.



EMPLOYMENT AND SOCIAL SECURITY PREMIUMS

Another important subject for the investors is the employment regime applicable in Türkiye. Not only the regime imposes additional financial burdens on the employer, but also provides certain rights and obligations for both the employer and the employee.

a. Social Security Premiums

All employers must pay a social security premium for each of their employee. There are two separate payments. First is the responsibility of the employee, and second is the responsibility of the employer. Employee's part is also paid by the employer, on behalf of the employee, like the income tax.

The premium for the employee is 15% of the employee's gross salary. For the employer, the rate is 22.5% of the employee's gross salary. For the employers who pay all their premiums on time, a 5% rate discount is applicable, reducing the rate for the employer from 22.5% to 17.5%.

To better summarize these responsibilities a calculation is provided below. In an example where an employee is paid net ₺10.000,00 per month, the following amounts will have accrued in a year:

Net Amount Paid to the Employee	: ₺120.000,00
Social Security Premium (Employee)	: ₺20.544,14
Unemployment Premium (Employee)	: ₺1.467,47
Income Tax (Employee)	: ₺21.446,48
Stamp Duty	: ₺1.113,78
Social Security Premium (Employer)	: ₺22.745,31
Unemployment Premium (Employer)	: ₺2.943,85
Minimum Wage Income Tax Exemption	: (₺16.931,32)
Minimum Wage Stamp Duty Exemption	: (₺911,52)
Total Cost to the Employer	: ₺172.424,27

As seen in the example, an employer must pay ₺52.424,27 in taxes and premiums to be able to pay ₺120.000,00 net to its employee in a year, around 43% of the net amount paid to the employee. This rate will differ based on the actual net income the employee receives.

EMPLOYMENT AND SOCIAL SECURITY PREMIUMS

b. Severance and Notice Payment

If an employer employs an employee, they may not terminate the agreement without proper or justified reasons. Save for specific justified reasons for termination, in any case the employer must pay a severance and notice payment, if the conditions are applicable. Severance pay is paid to employees who are working in for at least one year. The companies must allocate a certain number of resources for the severance and notice payments.



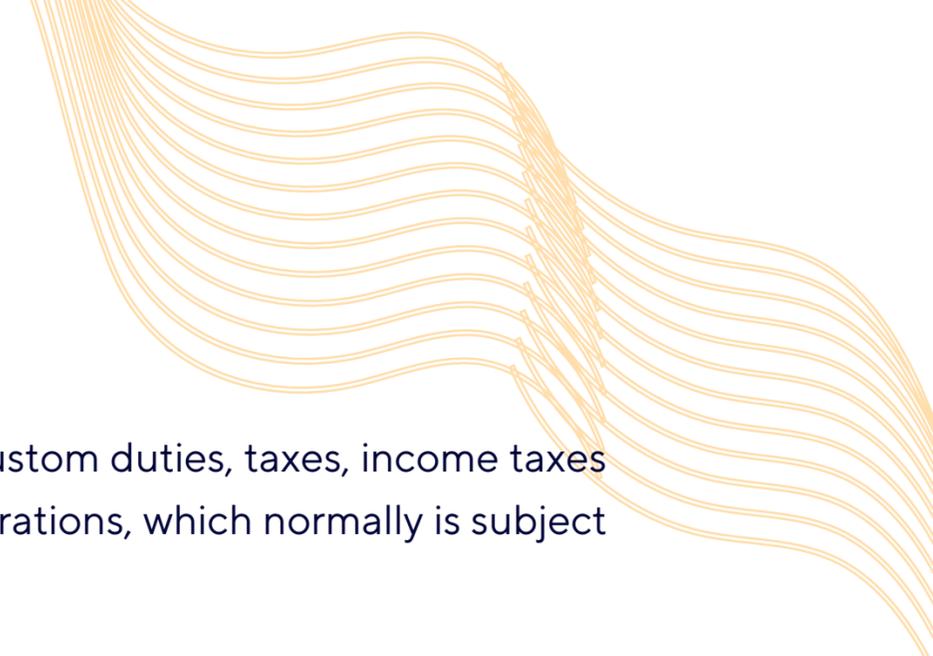


FOREIGN DIRECT INVESTMENT REGIME

Türkiye offers a special incentive regime applicable for foreign direct investments. For this purpose, “Law on Foreign Direct Investments”, “Regulation of Application of the Law on Foreign Direct Investments” has been enacted and the “Incentive Application and Foreign Capital General Directorate” has been established under the Ministry of Industry and Technology.

Foreign direct investments can be provided with a myriad of exemptions. These exemptions will be tailor-made to the requests and needs of the investment, and will be based on the capital amount, investment amount, number of Turkish personnel to be employed and other objective standards. The exemptions can include VAT, Customs or similar tax exemptions, employment related exemptions such as reduction in social security premiums and/or employment of foreign individuals while not being subjected to the regular regime for doing so.





FREE ZONES

There are 19 free zones available in Türkiye. Companies established in a free zone will enjoy many exemptions such as custom duties, taxes, income taxes for the employees etc. In addition to the tax advantages, free zone companies may import used machinery for their operations, which normally is subject to a permit issued by the Ministry of Commerce.

a. Legal Status



An important point is as per the legislation, the Companies established in free zones are deemed to be outside of Turkish customs, except for the origin of their products. For the origin of products, they are still deemed to be “Turkish”. However, this distinction means that if the free zone company sends any product to Türkiye, they will be subject to external trade regime. For example, selling any products from the free zone to Türkiye will constitute an export to Türkiye.

Another important point is the fact that certain laws are inapplicable to the free zones. For example, the Law on Working Permit for Foreigners is not applicable to the companies established in the free zones. This means that such a company may employ any desired amount of foreign nationals without having to employ 5 Turkish employees for each foreign employee; a requirement for ordinary companies. This will allow the free zone company to employ any desired individual or expert. Another law that is not applied is the Law on Municipalities. The free zone company will only be bound by the regulations imposed by the free zone authority, without any interference from any Municipalities. (The regulations regarding sewage, fire safety etc. derived from said law are still applicable.) However, one of the laws that are not applicable to the free zone company is the Law on Foreign Direct Investment. This is because establishment in the free zone do not “constitute” any investment and the advantages provided by said law will not be applied to free zone companies.



FREE ZONES

b. Establishment

In order to establish a Company in a free zone, the Company will require an operational permit from the Free Zones Management Authority (“FZMA”), established under Ministry of Commerce. There is a fee of USD 5.000,00 in order to apply for said permit and the application must be accompanied by a set of documents laid out by the legislation. Following the acquisition of the operating permit, the Company may be established. During the establishment of a free zone company, the FZMA takes into account whether the proposed operations of the company are production facilities and destined for abroad. The general application is to allow the production companies being established in the free zones, instead of resellers. The FZMA will also take into account the rate at which the company will export their products abroad. The companies with a higher rate of export will be preferred by FZMA.

There are additional minor criteria as well. For example, the potential to create workforce, that the company is being established by foreign investors, the company or its products are based on high technology production or products and similar criteria that are deemed to have a positive effect on Turkish economy is sought. A company may operate in a free zone, in the following areas: Warehouse Management, Insurance, Production, Banking, Montage - Demontage, Workplace Rental, Resale, Repair and Maintenance, off - shore Banking and Leasing.



Türkiye's tax regime is a complicated area and requires specific knowledge on the subject. There are direct and indirect taxes that are applicable. However, Türkiye also offers many different regimes for those who wish to engage in transit trading, inward processing, or direct investment. As GRATA International Türkiye, we offer legal assistance and services for applying for all the regimes mentioned therein the document. Please feel free to reach out to us for further questions and/or enquiries on the subject.



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