



## **SCREENING CHAPTER 16 TAXATION**

### **AGENDA ITEM: CODE OF CONDUCT FOR BUSINESS TAXATION**

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## **Business Taxation – CIT Law No. 5520 (1/12)**

### **Subject and Base of CIT**

- Subject of Corporate Tax is the corporate profits derived by corporate taxpayers.
- Corporate profits consist of all kinds of income elements that constitute the subject of income tax.
- Corporate tax is calculated on the net corporate profit derived in a taxation period after deduction of expenses and allowances.

## **Business Taxation - CIT Law No. 5520 (2/12)**

### **Exemptions (Art.4)**

- Establishments operated by public institutions and enterprises for social purposes and to protect general human and animal health (such as schools, school workshops, conservatories, hospitals, libraries, workshops of the day nurseries, home for the elderly, dormitories, dispensaries, boarding home for animals, etc.),
- Local, national or international exhibitions, fairs and shows organized by public institutions and enterprises by permission of authorized administrative bodies,
- Kinder-gardens, guesthouses operated by general budget institutions exclusively for their staff,

## **Business Taxation - CIT No. 5520 (3/12)**

### **Exemptions (Art.4) (Cont'd)**

- Pension and support funds as well as social security institutions which are established by law,
- Public establishments that charge levies and duties in consideration of the work or services rendered,
- Privatization Administration and Fund, Housing Development Administration, National Lottery Administration,
- Mint and Stamp Printing House, military factories and workshops,



## **Business Taxation - CIT No. 5520 (4/12)**

### **Exemptions (Art.4) (Cont'd)**

➤ Following enterprises and establishments operated by local public administrations:

- water supply facilities,
- passenger transportation enterprises within municipal boundaries,
- slaughter houses,

➤ Agricultural enterprises of village or village unions; public baths, laundries and mills operated by these for common needs of villagers as well as qualifying passenger transportation enterprises thereof.

## **Business Taxation - CIT No. 5520 (5/12)**

### **Exemptions (Art.4) (Cont'd)**

- Enterprises of sports clubs carrying on training and sports activities.
- Qualifying cooperatives.
- Institutions established solely for the purpose of providing guarantee for SME loans.
- Associations and institutions engaged in scientific research and development activities.
- Enterprises established jointly by public organizations and other persons for the construction of infrastructure in Organized Industrial Zones and respond to the common needs therein.

## **Business Taxation - CIT No. 5520 (6/12)**

### **Other exemptions(Art.5)**

The following gains are exempt from corporate tax if specific conditions are met:

- Dividends from a resident subsidiary,
- Dividends from a foreign subsidiary,
- Profits derived from foreign branches,
- Gains derived by international holding companies from the sale of participation shares.



## **Business Taxation - CIT No. 5520 (7/12)**

### **Other exemptions (Art.5) (Cont'd)**

- Exemption of shares issued by joint stock companies during establishment or capital increase for that part of the shares which exceeds nominal value.
- Exemption of gains concerning mutual funds and trust companies, real-estate investment funds and trusts, venture capital funds and trusts, retirement funds, housing funds provided that these institutions are established in Turkey.
- Revenues derived from the transfer of immovables, participation shares, founders' shares, bonus shares and pre-emptive rights owned by corporations under legal prosecution due to their debts to banks or those that are in debtor position against the Savings Deposit Insurance Fund as well as their guarantors, to be credited from such debts to these banks or the Fund or; 75% of gains derived from the sale of such assets which the banks acquired by these means.

## **Business Taxation - CIT No. 5520 (8/12)**

### **Other exemptions (Art.5) (Cont'd)**

- 75% of gains from the sale of immovables and participation shares.
- Profits derived from construction, maintenance and assembly works outside Turkey.
- Returns derived from cooperatives.
- Gains derived from the pre-school education, primary education, special education and private secondary schools as well as those derived from rehabilitation centers operating under foundations which are recognized for tax exemption by the Council of Ministers or societies working for public interest are exempt from corporate tax for five taxation periods.

## **Business Taxation - CIT No. 5520 (9/12)**

### **Allowances (Art. 10)**

#### **➤ Research and Development Allowance**

- 40% of the R&D expenditures realized inside the business in search of new technology and information can be credited against the tax base.
- Regardless of being resident or non-resident in Turkey, all individual corporate income taxpayers can benefit from the incentive.
- Goal of incentive is to encourage the R&D activities inside the enterprises.

## **Business Taxation - CIT No. 5520 (10/12)**

### **Allowances (Art. 10) (Cont'd)**

- 100% of sponsorship expenses for amateur sports branches and 50% for professional branches, according to Law No.3289 and Law No.3813.
- The amount of donations and aids to public administrations, foundations which are recognized for tax exemption by the Council of Ministers; societies working for public interest and institutions engaged in scientific research and development activities, provided that the deducted amount shall not exceed 5% of the relevant year's corporate income.



## **Business Taxation - CIT No. 5520 (11/12)**

### **Allowances (Art. 10) (Cont'd)**

- 100% of expenses as well as aids and donations in respect of activities which are realized by the above mentioned institutions or supported by the Ministry of Culture and Tourism for the promotion, development and preservation of cultural, artistic, historical, etc. values ,
- 100% of donations and aids made through the Prime Ministry in respect of natural disasters for which the Council of Ministers adopts a resolution of aid.

## **Business Taxation - CIT No. 5520 (12/12)**

### **Allowances (Art. 10) (Cont'd)**

- If the following facilities are donated to the public administrations stated above; 100%
  - of expenses incurred respect of construction of such facilities (schools, health centers, dormitories and children's nurseries with a minimum capacity of 100 beds (50 for the Priority Development Areas), rest homes and rehab centers);
  - of aids and donations to these public administrations which shall be used for the construction of such facilities;
  - of aids and donations for the continuation of activities of these facilities.

## EXEMPTIONS IN OTHER LAWS (1/8)

### Free Zones Law No. 3218

- Free Zones Law No. 3218 and its Implementation Regulation regulate establishment of free zones, determination of their location and boundaries, their management, scope of the activities, operation and establishment of installations and facilities within the zone.
- In accordance with the Customs Law No. 4458; the entry and exit points are controlled by the customs authorities, the stock records are kept in accordance with the Customs Law and approved by customs authorities.

## EXEMPTIONS IN OTHER LAWS (2/8)

### Free Zones Law No. 3218

With the amendment of the Article 6 of the Free Zones Law No. 3218 by Law No. 5084 that came into effect on February 6, 2004,

- **Only, the earnings generated from the sale of the produced goods** are exempted from the individual or corporate income taxes until the end of the taxation period of the year Turkey becomes a full member of the European Union.



## EXEMPTIONS IN OTHER LAWS (3/8)

### Free Zones Law No. 3218

Users who obtained operating licences before February 6, 2004;

- are exempted from individual and corporate income taxes within the validity period of their operation licence,
- shall pay income tax on the wages paid to workers and indirect taxes generated from their activities related to their free zone operations beginning from 2009. However, if the duration of users' existing operation licence ends earlier, this exemption applies until the end of duration of the operation licence.

## EXEMPTIONS IN OTHER LAWS(4/8)

### Free Zones Law No. 3218 (Cont'd)

- Taxpayers operating in Free Trade Zones are liable to document and book keeping provisions of Tax Procedure Law.
- These taxpayers are obliged to supply information with regard to Tax Procedure Law or information asked by the Ministry Of Finance or tax auditors.
- They are subject to tax audit.

OECD Committee on Fiscal Affairs has held a Forum on “Harmful Tax Practices” and has stated in its Draft 2003 Report of 24 April 2003 that Turkish Free Trade Zones are not harmful in terms of ring-fenced taxation criteria.



## **EXEMPTIONS IN OTHER LAWS(5/8)**

### **Turkish International Ship Registration Code No.4490 (Amended by Article 3 of Law No. 5266)**

- Earnings arising from operating and transferring of ships and yachts, registered into Turkish International Ship Registry, are exempted from duties, PIT and CIT.
- Contracts of buying and selling, mortgage, registration, credit and freight related to ships and yachts to be registered into Turkish International Ship Registry are exempted from Stamp Duty, Fees, Banking and Insurance Transaction Tax and Duties.
- Wages of staff working in ships and yachts registered into Turkish International Ship Registry, are exempted from income tax and duties.

## EXEMPTIONS IN OTHER LAWS(6/8)

### Law on Technology Development Zones No. 4691

- Earnings from software and R&D activities carried out in the determined zones are exempted from income and corporation taxes until 31.12.2013.
- Wages paid to researchers, programmers and R&D staff employed in these zones are exempted from income tax until 31.12.2013.
- Earnings derived by Administrator Companies of Technology Development Zones within the scope of this Law are exempted from income and corporation taxes until 31.12.2013.



## **EXEMPTIONS IN OTHER LAWS(7/8)**

### **Law No. 5084 Concerning Incentives on Investment and Employment**

- It is applied in the provinces where GDP per capita as determined by Turkish Statistical Institute for 2001 is equal to or lower than 1500 USD or the index value based on the social-economic development ranking as determined by State Planning Organisation for 2003 is negative.
- It shall apply until 31.12.2008.



## **EXEMPTIONS IN OTHER LAWS(8/8)**

### **Law No. 5084 Concerning**

### **Incentives on Investment and Employment (Cont'd)**

- Depending on whether the enterprise is established in an Organized Industrial Zone, 80% or all of wages paid to the workers employed by the enterprises in these provinces are exempted from income tax, provided that a minimum of 30 workers are employed within the business.
- Goal of the incentive is to promote employment in the underdeveloped regions.

## DEDUCTIONS FOR BUSINESS TAXATION (1/5)

### **PIT Law No. 193 (Art.40)**

The following expenses can be deducted from gross income to determine the net business income. According to CIT Law No: 5520 (Art:6) this provision is also applied upon calculation of corporate profit.

- Overhead expenses for the derivation and continuation of business income.
- Following expenses of the workers:
  - ✓ Treatment and medicine expenses,
  - ✓ Insurance premiums and pension contributions,
  - ✓ Board and lodging expenses in the work place and outlying buildings thereof.



## DEDUCTIONS FOR BUSINESS TAXATION (2/5)

### PIT Law No. 193 (Art.40) (Cont'd)

- Provided that they are related to the business; losses, damages and compensations paid on the basis of a contract, court decision or legal order.
- Travel and accommodation expenses which are related to and proportionate with the importance and scope of the business
- Expenses of vehicles which are acquired on leasing or already included in the business and used for business purposes.
- Provided they are related to the business; taxes, fees and duties in kind such as building taxes, stamp duties, municipal taxes etc.



## DEDUCTIONS FOR BUSINESS TAXATION (3/5)

### PIT Law No. 193 (Art.40) (Cont'd)

- Depreciations according to the provisions of Tax Procedure Law.
- Contributions of employers to trade unions.
- Contributions by employers to private pension funds on behalf of their employees.
- Donations to qualified associations and foundations working for the purpose of aiding the poor people.

## DEDUCTIONS FOR BUSINESS TAXATION (4/5)

### Depreciations

#### Extraordinary Depreciation (Law on TPL No. 213 Art.317)

- Movables, immovables and rights **which**;
  - lose in whole or in part their value due to disasters such as fire, earthquake or flood,
  - lose technical efficiency and value and become partially or wholly obsolete due to new inventions,
  - are exposed to over-wear due to forced performance,**are subject to** exceptional economic and technical rates which are determined for each enterprise separately according to the nature of business by the Ministry of Finance on application of taxpayers and opinion of the relevant Ministries.

## DEDUCTIONS FOR BUSINESS TAXATION (5/5)

### Depreciations (Cont'd)

#### Depreciations allowing 100% depreciation rate

#### Law on Cash Register No.3100 (Art.7).

- Taxpayers are entitled to choose a 100% depreciation rate for the cash registers they purchased for business use.

## ALLOWANCES FOR BUSINESS TAXATION (1/8)

### PIT Law No.193

The following allowances can be used to determine the taxable business income for **PIT taxpayer**:

- **Investment Allowance PIT Law No. 193** (Art.19, Provisional Art.61)
  - Investment Allowance for the qualifying taxpayers has been abolished by Law No.5479 (Official Gazette No:26133, dated 08.04.2006 ) starting from 01.01.2006.
  - A three-year transitional period will be implemented for the antecedent rights of taxpayers.



## ALLOWANCES FOR BUSINESS TAXATION (2/8)

### PIT Law No. 193 (Art.89)

#### ➤ Premiums of personal insurance and private pension funds

**Provided that** the premium does not exceed;

- concerning private pension funds; 10%, concerning other personal insurance funds; 5% of the income declared,
- and the annual sum of minimum wage,

**Premiums paid** on behalf of the taxpayer himself, his spouse or his children under 18, in respect of personal insurances such as life, death, sickness, maternity, birth etc. as well as **contributions** to the private pension funds.

## ALLOWANCES FOR BUSINESS TAXATION (3/8)

### PIT Law No. 193 (Art.89)(cont'd)

#### ➤ Expenses on education and health

**Provided that** the expenses;

- do not exceed 10% of the income declared,
- are incurred in Turkey,
- are confirmed by documentary evidence received from income or corporate income taxpayers who are real or legal persons,

**expenses on education and health** relating to the taxpayer himself, his spouse or his children under the age 18.

## ALLOWANCES FOR BUSINESS TAXATION (4/8)

### PIT Law No. 193 (Art.89)(cont'd)

#### ➤ Donations and aids

The amount of donations and aids to public administrations, foundations which are recognized for tax exemption by the Council of Ministers; societies working for public interest and institutions engaged in scientific research and development activities; provided that the deducted amount shall not exceed 5% (10% for Priority Development Zones) of the relevant year's income to be declared.

## ALLOWANCES FOR BUSINESS TAXATION (5/8)

### PIT Law No. 193 (Art.89)(cont'd)

#### ➤ Donations and aids relating to educational and health care facilities

if the following facilities are donated to the public administrations with general or private budgets and provincial administrations, municipalities or villages;

- 100% of expenses incurred respect of construction of such facilities (schools, health centers, dormitories and children's nurseries with a minimum capacity of 100 beds (50 for the Priority Development Areas), rest homes and rehabilitation centers); or
- 100% of aids and donations to these governmental institutions which shall be used for the construction of such facilities;
- 100% of aids and donations for the continuation of activities of these facilities.



## ALLOWANCES FOR BUSINESS TAXATION (6/8)

### PIT Law No. 193 (Art.89)(cont'd)

➤ Donations and aids to qualifying associations and foundations working for the purpose of aiding the destitute people

➤ Donations and aids relating to cultural and artistic activities

100% of expenses as well as aids and donations in respect of activities;

- which are realized by public administrations, foundations that are recognized for tax exemption by the Council of Ministers, societies working for public interest and institutions engaged in scientific research and development activities,

- or supported by the Ministry of Culture and Tourism for the promotion, development and preservation of cultural, artistic, historical, etc. values.

## ALLOWANCES FOR BUSINESS TAXATION (7/8)

### PIT Law No: 193 (Art.89)(cont'd)

#### ➤ Sponsorship expenditures

- 100% of sponsorship expenses for amateur sports branches and 50% for professional branches, according to Law No.3289 and Law No.3813.

#### ➤ Research and Development allowance

- 40% of the R&D expenditures realized inside the business in search of new technology and information can be credited against the tax base by both full and limited liable (foreign) taxpayers.



## **ALLOWANCES FOR BUSINESS TAXATION (8/8)**

**Law on Social Security Organization for Artisans and the Self-Employed No:1479(Art.49/3)**

➤ **Premiums paid to the occupational funds**

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**THANK YOU**