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Taxation and Investment in Turkey 2014

Reach, relevance and reliability



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1.0 Investment climate

1.1 Business environment

The legal framework of the Republic of Turkey is based on the 1981 Constitution. The president is elected for a four-year term. The unicameral parliament, the Grand National Assembly, which includes 550 seats representing the 81 Turkish provinces, is the legislative body. Members of parliament also are elected for a four-year period. The president designates the prime minister to form the new government. The main executive body is the Council of Ministers, consisting of the prime minister and 26 ministers. Independent courts have judicial power.

Turkey is pursuing membership of the EU and has been an accession country since 2005. Turkey has signed a customs union agreement with the EU (effective from 1 January 1996) with a view to promoting trade and economic relations.

A diversified economy; proximity to Europe, the Middle East, North Africa and Eurasia; integration with European markets; a young and vibrant workforce; and economic management make Turkey's economy strong. Industry is dominated by manufacturing. The manufacturing of consumer goods has been the most dynamic sector of the economy in recent years, although the contribution of services to GDP has risen steadily.

Foreign trade and exports have increased significantly, with automotive and iron and steel, textiles and clothing, machinery and agriculture being the major export items, while oil and natural gas, machinery, automotive products and chemicals are the major import items.

Turkey mainly exports to Germany, France, Iraq, Italy and the UK, and mainly imports from China, Germany, Italy, Russia and the US.

Price controls

Turkey generally does not have price controls, although the government sets prices for some items. However, the prices of pharmaceuticals are under strict control and are subject to certain pricing limitations specified by the Ministry of Health.

Turkish legislation prohibits unfair competition and specific laws protect competition (i.e. the Anti-Dumping Law and the Law on the Protection of Competition).

Intellectual property

Decree Law 551 on the Protection of Patent Rights permits the patenting of most inventions and allows for a standard protection (nonrenewable) period of 20 years from the date of application. Two forms of protection are available: (1) a fully protected patent, following a thorough examination process; and (2) a patent obtained without an examination, which is not guaranteed by the government and is valid for seven years. (Protection under the latter may be converted to full patent protection upon completion of the requisite examination.) The Copyright Law provides for a protection period of 70 years from the death of the author and penalties are imposed for copyright infringement. Broad fair use provisions allow copyrighted material to be used without payment of royalties to the rights holder.

Trade and service marks are protected. Marks, which must be registered, are protected if they can be illustrated or printed. Well-known trademarks may not be registered without the permission of their owners. Protection of a registered mark is granted for 10 years (renewable for subsequent 10-year periods) if specific procedures are followed. Failure to use marks within five years of registration, or for any subsequent five-year period, will result in cancellation. Marks may be transferred or licensed for all or part of the goods for which they are registered.

1.2 Currency

The currency in Turkey is the Lira (TRY).

1.3 Banking and financing

The central bank functions as a source of refinancing, clearing and collection for other financial institutions and as the bank of the government (although it is independent from the government).

Banks are required to prepare quarterly and year-end balance sheets and submit them to the Banking Regulation and Supervision Agency (BRSA), according to the inflation accounting method.

Istanbul is the major financial center.

1.4 Foreign investment

The Turkish government encourages foreign investment. The Foreign Direct Investment Law and its implementing rules have eliminated most restrictions on foreign investors and granted them the same legal status as Turkish companies under the Commercial Code.

Regulations allow for the free transfer of profits, fees and royalties, as well as the repatriation of capital. Foreign investors have access to incentive schemes on the same basis as local enterprises. The government has liberalized the oil exploration rules and reduced import controls to make joint ventures more attractive.

Equity participation by Turkish nationals is not required; majority or 100% foreign-owned operations are possible. However, although most sectors in Turkey have been opened to foreign investment, only state-owned entities may mine and process borax, uranium and thorium. The Foreign Investment Law and Competition Law prohibit investments that would create or become part of a monopoly.

The only type of investment that still requires a permit is the opening of a liaison office. Permission is not required for other investments, whether direct or portfolio, or for licensing and technology agreements. The same laws and regulations, with the same rights and obligations, apply to both foreign and domestic investors. Companies and branches are established under the Turkish Commercial Code and registered with the Turkish registry, which subsequently forwards details of foreign-owned companies to the General Directorate for Foreign Investment (GDFI).

Turkey has signed agreements to promote and protect foreign direct investment with many countries and is gradually harmonizing its incentive system with that of the EU's customs union agreement.

1.5 Tax incentives

General incentives

The general investment incentive program aims to encourage, support and direct investment in line with international commitments and in conformity with the objectives of the Turkish government's development plans and annual programs. Incentives specifically designed to encourage investment can be classified as investment incentives, export-oriented incentives or other tax/nontax incentives.

Investment incentives include a reduced corporate income tax rate on earnings derived from investments in specified sectors and regions; an exemption from VAT and customs duties, the land allocation for investment and social security; and loan support. Additionally, investments in specified regions benefit from social security premium support (for the employee's share) and income tax withholding support. Investments qualifying as "strategic investments" also may benefit from a VAT refund in certain cases. To qualify to benefit from the investment incentives, an investment certificate must be obtained from the Turkish government before the investment is initiated and the investment amount must exceed a threshold that depends on the location, scale and area.

The government provides support for the first five years of interest on loans that have a maturity of longer than one year and that have been taken out to finance specific investments. The support is applicable to the interest or dividends to be paid, up to a maximum of 70% of the fixed investment amount.

Regional investment incentives are available in areas that have been prioritized for development.

R&D incentives

Under the corporate income tax law, companies that conduct approved research and development (R&D) activities, universities and entities specialized in R&D activities, can benefit from an allowance equal to 100% of the R&D expenditure until 31 December 2023, in addition to a deduction of the expenditure itself. Any unused expenditure may be carried forward to be used in future years. The number of full-time employees required for the establishment and operation of an R&D center was reduced from 50 to 30, with effect from 1 July 2014.

Except for public sector employees, withholding tax on salaries of R&D center employees with doctorate degrees is reduced by 90% and the tax on salaries of other employees is reduced by 80%. Additionally, 50% of the social security premium contributions paid for each R&D employee will be compensated by the Ministry of Finance for five years (up to 10% of the total number of full-time R&D employees) and documents prepared with respect to the R&D activities are exempt from stamp duty. To qualify for the benefits, the R&D center must be set up outside the designated technology development zones (TDZ, discussed below).

Technology development zones

According to the technology development zones law, TDZ may be formed by private sector companies in Turkey, together with universities or high technology institutions, exclusively for the purpose of carrying out R&D activities (including the production of software) aimed at promoting technology development activities in the country.

A TDZ is run by an operating company, which must be a corporation. At least one of the founding shareholders of the operating company must be a university, a high technology institution or a state R&D institution. Legal entities with domestic or foreign capital may participate in the operating company, as either founding or participating shareholders.

The following tax exemptions are available under the TDZ law:

- Profits derived by a TDZ operating company are exempt from corporate income tax until 31 December 2023.
- Individuals or entities that carry out R&D and software development activities within a TDZ are exempt from income and corporate income taxes on income derived from such activities until 31 December 2023.
- The TDZ operating company is exempt from stamp tax on specific agreements.
- Salaries of personnel employed in a TDZ to carry out R&D and software development activities are exempt from all types of tax until 31 December 2023.
- The delivery of software (for systems management, data management, internet, mobile and military command control applications, etc.) that was developed as a result of activities carried out in a TDZ is exempt from VAT until 31 December 2023.

1.6 Exchange controls

Turkey has a liberal foreign exchange system. Although responsibility for exchange control rests with the Undersecretariat of the Treasury of the prime minister's office, administration is delegated to the central bank.

The Turkish Lira is fully convertible (at least from the Turkish side) to the extent Turkey is recognized by the IMF as having achieved "article 8 status." (Under article 8, no limitation may be imposed on the buying and selling of foreign exchange within the scope of current items in the balance of payments. Profits from these transactions must be freely convertible.)

Companies and individuals are free to open foreign exchange accounts and transfer funds abroad through banks (i.e. savings deposit banks, participation banks (formerly "special finance houses") and development and investment banks). There are no restrictions on the export of capital, but a special form must be submitted to the Undersecretariat of the Turkish Treasury within three months following the export of capital.

For transfers exceeding USD 50,000, the bank or special finance house involved must inform the central bank within 30 days of the transfer. This disclosure requirement applies to transfers from foreign exchange deposits, but does not apply to import, export or intangibles transactions.

Turkish companies are allowed to grant cash loans denominated in TRY or a foreign currency to their parent companies, affiliates and other group companies abroad. As a result, cash pooling arrangements are acceptable, provided the Turkish tax implications of such arrangements are taken into account and the parties comply with the Turkish thin capitalization and transfer pricing rules.

2.0 Setting up a business

2.1 Principal forms of business entity

All corporate forms are open to foreigners. In practice, however, foreign investors generally opt for the limited liability company (*limited sirket* (LS)) or the corporation (*anonim sirket* (AS)). The AS is typically used for larger projects because it is afforded more local equity financing from many shareholders and banks prefer it for credit purposes. The LS is subject to fewer restrictions in convening general meetings and changing its articles, and it incurs lower administrative expenses than an AS. The LS form is considered more convenient for sales and distribution enterprises that are best administered by a few partners. Banks and insurance firms must use the AS form.

Formalities for setting up a company

To form an AS or LS, the articles of association must be drawn up to conform to the approved terms, and must include a description of the capital, how it is to be supplied and the company's field of activity. The articles must be notarized. Within 15 days of the date of notarization, an application should be submitted to the relevant trade registry office, along with the required documents. After the application is processed, the company will receive "legal entity" status. The company then must register with the district tax office.

The following formalities apply to the establishment of all business entities:

- all trading entities must register with the chamber of commerce or chamber of industry in the location of their operations;
- permits to commence operations must be obtained from the municipal authorities;
- registration with the provincial office of the Ministry of Labor and Social Security is required;
- real estate contributed as capital (if any) must be registered with the title deed office; and
- registration with the local tax office must take place before establishment.

A new commercial code became effective in 2012, which regulates the establishment of an AS or LS with a sole shareholder.

Forms of entity

Requirements for an AS and an LS

Share capital: AS: The minimum capital for joint stock companies that are not open to the public and are subject to the registered capital system is TRY 100,000, whereas the minimum capital requirement for other joint stock companies is TRY 50,000, unless otherwise provided under special laws. In addition to cash, contributions in kind can be supplied in the form of imported capital goods, services or technical know-how, in which case a valuation of the assets contributed is necessary. Firms must contribute 5% of net pretax income to a legal reserve annually until the reserve reaches 20% of paid-in share capital; a second reserve is formed by setting aside 10% of declared dividends annually. LS: An LS must have a minimum capital of TRY 10,000. Other provisions are the same as for an AS.

Founders, shareholders: *Both:* There are no nationality or residence requirements.

Board of directors: AS: Under the 2012 commercial code, a board of directors may be constituted by one member but board members need not be shareholders. There are no restrictions on nationality or residence. A legal entity may be a board member but must be represented by an individual and such representation must be registered. The responsibilities arising from board membership are borne by the legal entity. LS: A board of directors is not required.

Management: AS: An AS is governed by a board of directors. LS: An LS is governed by managers. At least one of the partners of an LS must have the right to represent and bind the company. A legal entity may be a manager but must be represented by an individual. Such representation must be registered. The responsibilities arising from a manager role are borne by the legal entity.

Taxes and fees: *Both:* During a capital increase, 0.04% of the increase must be paid as a contribution to the competition council and 25% of the company's capital must be paid before registration with the trade registry. Any increase in capital must be registered and the company must pay the same fees on the new capital. There is no tax on the issuance of shares.

Types of share: *AS:* Shares held by foreigners must be registered with the GDFI. Ordinary shares are usual, although preferred shares are available. Multiple-vote and nonvoting shares are permitted. A company may issue bearer shares after paying in 100% of capital, and may issue bonds up to the value of the paid-in capital and reserves. Approval from the capital market board is required to issue bonds. *LS:* An LS can issue share certificates. Limited companies may not go public.

Control: *AS:* Annual meetings must be held within three months of the end of the financial year; shareholders may call other meetings. The quorum for holding an ordinary annual general meeting is 25% of the shareholders, unless otherwise stated in the articles of association. To be valid, a decision must be approved by a majority of the shareholders present. Changes to the articles of association require 50% of the shareholders to be present at the meeting and the resolution must be approved by a majority of the shareholders present. *LS:* An ordinary annual partners' meeting must be held within three months of the end of the financial year.

Branch of a foreign corporation

A foreign company may set up a branch in Turkey. The procedures for setting up a branch office are similar to those for setting up a corporation or a limited company. Supporting documents for the application include the statutes of the branch, relevant excerpts from the foreign head office's articles of incorporation, minutes of the meeting authorizing the branch and a copy of the foreign exchange purchase receipt issued and ratified by the central bank. A branch office must be operated by a fully authorized commercial representative residing in Turkey.

A branch is subject to the same operating rules as a subsidiary. For tax purposes, however, a branch is treated as a nonresident, i.e. it is subject to Turkish corporate tax only on income derived from Turkey. Business income derived by a Turkish branch of a foreign entity is subject to corporate income tax at 20%. Additionally, branch profits after deduction of the 20% corporate income tax will be subject to a 15% withholding tax if profits are transferred.

Liaison office

A permit is required to open a liaison office but such offices may not engage in any type of commercial activities in Turkey or enter into partnerships with other companies in the country. The activities of liaison offices are limited to specified activities that are considered noncommercial, such as market research, promotion of products or services of the foreign company, representation and hosting, etc. Applications for a liaison office should be made to the GDFI. Liaison offices are granted renewable permits for three years, with extension applications being evaluated by the GDFI based on the office's field of activity and past operations. Extensions may be granted for up to 10 years, depending on the field of activity.

A liaison office is not subject to corporate or personal income tax, since it is not permitted to generate income from its activities. However, the office should maintain statutory books and file the necessary documentation with the public authorities when required. Employees of a liaison office are not subject to income tax, provided their salaries are paid from abroad in a foreign currency (i.e. the salaries of liaison office employees must not be paid from Turkish sources).

2.2 Regulation of business

Mergers and acquisitions

Mergers and takeovers of companies satisfying the following conditions must be approved by the Competition Protection Council:

- the total turnover in Turkey of the parties to the transaction exceeds TRY 100 million and at least two of the parties to the transaction have turnover in Turkey exceeding TRY 30 million; or

- for merger transactions, at least one of the parties to the transaction has turnover in Turkey exceeding TRY 30 million and at least one of the other parties to the transaction has worldwide turnover exceeding TRY 500 million; for takeover transactions, these thresholds are applied to the value of the asset or the volume of the activity that is subject to the takeover.

Monopolies and restraint of trade

The competition law does not define a monopoly but it does provide that agreements or actions between enterprises that prevent damage or restrict competition are illegal and prohibited. The law defines situations that fall into this category and prohibits, among other things, acts that directly or indirectly fix purchase or selling prices or any other trading conditions; that limit or control production and markets; that share markets or sources of supply; or that apply dissimilar conditions to equivalent transactions.

2.3 Accounting, filing and audit requirements

Under the Turkish tax procedures code, all resident companies and Turkish branches of foreign entities are required to keep statutory books based on the Uniform Chart of Accounts (UCA) and in accordance with the accounting principles explained in accounting system application communiqués (Turkish GAAP). Another UCA applies to banks, insurance companies and other financial entities. Statutory books must be retained for five years. The commercial code requires the accounting systems of Turkish enterprises to be set up in conformity with Turkish accounting standards, which will be further enforced according to internationally accepted financial standards.

Public companies whose shares are traded on the Istanbul stock exchange or companies registered with the capital market board must comply with the accounting/reporting principles and standards of the board, which generally are in line with IFRS. Companies that satisfy certain conditions and operate in regulated industries are required to prepare both single and consolidated financial statements according to IFRS.

According to the 2012 commercial code, companies whose single or consolidated financial statements together with their affiliated companies and subsidiaries, satisfy at least two of the following conditions during the 2012 and 2013 financial years, will be required to obtain an independent audit of their financial statements as from 1 January 2014:

- total assets were equal to or greater than TRY 75 million (the threshold was TRY 150 million for year 2013, before an amendment on 14 March 2014);
- net sales revenues were equal to or greater than TRY 150 million (the threshold was TRY 200 million for 2013, before an amendment on 14 March 2014); or
- the total number of employees was equal to or greater than 250 (the threshold was 500 for 2013, before an amendment on 14 March 2014).

To determine whether these criteria are met for 2014, an entity's financial statements for 2012 and 2013 will be taken into account to determine the total assets and the annual net sales value, and the average number of employees for 2012 and 2013 will be taken into account to determine the number of employees. If at least two of the three conditions above are satisfied, the company will be subject to the independent audit requirement as from 1 January 2014. It should be noted that the financial statements and the annual report of the board of directors will be deemed null and void in cases of failure to comply with the independent audit requirement.

In addition, companies listed in Annex 1 of Decree No. 2012/4213 that sets out the regulations for companies that will be subject to an independent audit (such as companies subject to the audit requirements of the capital market board and the banking regulation and supervision agency) automatically are subject to an independent audit. Companies listed in Annex II (license-holding companies subject to the regulations of the energy market regulatory authority, public companies subject to the capital market law) will be subject to an independent audit if they meet criteria specified in Annex II (which differ from the criteria listed above).

3.0 Business taxation

3.1 Overview

The principal taxes imposed on companies doing business in Turkey are the corporate income tax, withholding tax, value added tax (VAT), special consumption tax, banking and insurance transaction tax and stamp duty.

Turkey has a holding company regime under which there is no corporate tax or withholding tax on dividends paid between resident companies and a 75% exemption is available for capital gains on the sale of shares in a Turkish company, with a full exemption potentially available for the disposition of shares of a foreign company.

As noted above under “Tax incentives” in section 1.5, Turkey grants a reduced corporate tax rate for specified investments.

The main tax law affecting companies is the Corporate Tax Law. The Revenue Administration is responsible for the enforcement and collection of tax.

Turkey Quick Tax Facts for Companies	
Corporate income tax rate	20%
Branch tax rate	20%
Capital gains tax rate	20% (partial exemption in certain cases)
Basis	Worldwide
Participation exemption	Yes
Loss relief	
– Carryforward	5 years
– Carryback	No
Double taxation relief	Yes
Tax consolidation	No
Transfer pricing rules	Yes
Thin capitalization/interest restriction rules	Yes
Controlled foreign company rules	Yes
General anti-avoidance rule	Yes
Tax year	Calendar year or fiscal year
Advance payment of tax	Yes
Corporate tax return due date	By the 25th day of the fourth month after the end of the accounting period
Withholding tax	
– Dividends	15%
– Interest	0%/10%
– Royalties	20%
– Branch remittance tax	15%
Capital tax	No, but a contribution equal to 0.04% of contributed capital is payable to the competition board
Stamp duty	0.189%-0.948%

Social security contributions	20.5% (employer); 14% (employee)
Unemployment benefit contribution	2% (employer); 1% (employee)
Property tax	Varies
Transfer tax	4% of the acquisition/transfer value
Payroll tax	15%-35%
Bank and insurance transaction tax	5%
Resource utilization support fund	Varies
Telecommunications tax	5%/15%/25%
Special consumption tax	Varies
VAT	18% (standard rate); 1%/8% (reduced rates)

3.2 Residence

A company is resident in Turkey if its legal seat or place of management is in Turkey.

3.3 Taxable income and rates

The income and earnings of corporations, limited liability companies, Turkish branches of foreign entities and public enterprises are subject to corporate income tax. There are two classes of corporate taxpayer:

- *Full taxpayers* (residents) are companies whose main business offices or legal centers, as stated in the articles of association, are in Turkey. Such companies are taxed on their worldwide income, with a foreign tax credit granted for foreign tax paid up to the amount of Turkish tax attributable to the foreign income.
- *Limited taxpayers* (nonresidents), such as branch offices whose legal head office and business center are located abroad, are subject to tax only on income derived in Turkey. Business income of a branch is subject to the standard rate of corporate income tax but other income may be subject to withholding tax.

The central government imposes tax on corporate profits. Provincial or municipal authorities do not impose income taxes, but they levy other taxes, such as tax on real property.

The corporate income tax rate is 20%. As noted in section 2.1 above, in addition to the corporate income tax, branches of foreign companies are subject to a 15% branch profits tax imposed on after-tax profits remitted to a foreign head office.

Taxable income defined

All profits derived in earning income are included in taxable income, with the exception of dividends qualifying under the participation exemption. Under the participation exemption, dividends paid by a resident company to another Turkish company are exempt from corporate income tax in the hands of the recipient (the exemption is also available to a nonresident company, to the extent the dividends are attributable to a Turkish permanent establishment or branch).

Exemptions from corporate income tax also apply to qualifying income derived from operations in TDZs and free trade zones, and for ships registered in the International Ship Registry of Turkey.

Holding company regime

Turkey operates a holding company regime. Under the regime, dividends paid to a Turkish company are exempt from corporate tax and withholding tax. Where a Turkish company holds shares in a foreign company, the dividend income will be exempt if certain requirements are met. Capital gains derived from the sale shares in a Turkish company are 75% exempt in certain cases and if the shares in a foreign subsidiary are sold, a full exemption from corporate tax may be available. The following requirements must be met for a Turkish company to qualify as an international holding company:

- the Turkish company must be a corporation (i.e. an A.S.);
- at least 75% of the total assets (excluding cash items) of the Turkish company must comprise foreign participations held for a continuous period of at least one year;
- the Turkish company must hold at least 10% of the capital of each foreign participation;
- the dividends must be remitted to Turkey by the date the corporate income tax is due; and
- the foreign participation must be in the form of a corporation or limited liability company.

Deductions

Net business income is determined by deducting expenses relating to operating a business from the gross income realized by the business. All ordinary and necessary expenses paid or incurred for the generation and maintenance of income may generally be deducted in computing taxable income, to the extent that they are attributable to the income.

The following principal expenses are deductible for corporate tax purposes:

- general operating expenses (wages, pensions, interest and royalty payments);
- travel and related expenses;
- taxes on real property, stamp duties and various local taxes;
- depreciation;
- costs of issuing share certificates and expenses related to the formation and registration of an enterprise;
- losses incurred during the previous five years;
- donations to approved charities and for the construction of schools, hospitals and organizations conducting scientific research (other donations may be deducted up to 5% of the company's gross profits; in the case of donations over 5%, the excess will be nondeductible); and
- 100% of R&D expenses.

Costs incurred by headquarters located abroad may be allocated to Turkish branches and deducted in accordance with the arm's length principle, provided the costs are directly related to the commercial activities of the Turkish branch.

Depreciation

Both the double declining balance and the straight-line depreciation methods are acceptable and commonly used. A taxpayer that initially chooses the declining balance method for an asset may switch to the straight-line method, but a taxpayer who begins with the straight-line method is not permitted to switch to the declining balance method.

Depreciation rates to be applied for fixed assets are determined and announced by the Ministry of Finance through communiqués based on the asset's "useful life." The maximum depreciation rate is 50%.

Reserves

Firms must contribute 5% of net pretax income to a legal reserve annually until the reserve reaches 20% of paid-in share capital; a second reserve is formed by setting aside 10% of declared dividends annually.

Losses

Tax losses may be carried forward for five years but may not be carried back, except where the company is liquidated.

3.4 Capital gains taxation

Capital gains derived by a company are generally taxable as ordinary income for corporate income tax purposes. However, an exemption from corporate income tax is granted for 75% of capital gains derived from the sale of domestic participations and immovable property, provided the

company's ordinary business does not involve the trading of domestic participations or immovable property and the following conditions are satisfied:

- the property has been held for at least two years;
- the gains from the transaction are kept in a special fund account under "shareholders' equity" for five years following the year of sale;
- the exempt profits are not transferred within the specified period to another account (except for transfers to the capital account by way of a capital injection); and
- the sales revenue is collected by the end of the second calendar year following the year of sale.

Capital gains derived from the sale of foreign participations that have been held for at least two years by an international holding company resident in Turkey are exempt from corporate income tax. To qualify as an international holding company, the following requirements must be met:

- the Turkish company must be a corporation (i.e. an AS);
- at least 75% of the total assets (excluding cash items) must be comprised of foreign participations held for a continuous period of at least one year;
- the Turkish company must hold at least 10% of the capital of each foreign participation; and
- the foreign participation must be in the form of a corporation or limited liability company.

3.5 Double taxation relief

Unilateral relief

A tax credit is granted for foreign tax paid, up to the amount of Turkish corporate income tax attributable to foreign income. Any part of the credit that cannot be used in a particular year may be carried forward to the following three years but the foreign tax credit is limited to the Turkish corporate income tax attributable to the foreign income. The foreign tax paid must be documented through foreign tax office receipts approved by the Turkish consulate in the country in which the foreign tax was paid.

Specific conditions apply to foreign tax credits relating to dividends received by resident Turkish companies from their foreign participations.

Tax treaties

Turkey has a broad tax treaty network, which uses the exemption or credit method to eliminate double taxation. Turkey tends to follow the OECD model convention in its treaty negotiations and has included a mutual agreement procedure and an exchange of information procedure in all its income tax treaties.

According to rulings issued by the tax authorities, to obtain benefits under a tax treaty, tax must first be withheld; a refund will be issued after documentation (e.g. a residence certificate) is provided.

Turkey Tax Treaty Network			
Albania	France	Luxembourg	Serbia**
Algeria	Georgia	Macedonia	Singapore
Australia	Germany	Malaysia	Slovakia
Austria	Greece	Malta	Slovenia
Azerbaijan	Hungary	Moldova	South Africa
Bahrain	India	Mongolia	Spain
Bangladesh	Indonesia	Montenegro**	Sudan
Belarus	Iran	Morocco	Sweden
Belgium	Ireland	Netherlands	Switzerland

Bosnia-Herzegovina	Israel	New Zealand	Syria
Brazil	Italy	Northern Cyprus	Tajikistan
Bulgaria	Japan	Norway	Thailand
Canada	Jordan	Oman	Tunisia
China	Kazakhstan	Pakistan	Turkmenistan
Croatia	Korea (ROK)	Poland	Ukraine
Czech Republic	Kuwait	Portugal	United Arab Emirates
Denmark	Kyrgyzstan	Qatar	United Kingdom
Egypt	Latvia	Romania	United States
Estonia	Lebanon	Russia	Uzbekistan
Ethiopia	Lithuania	Saudi Arabia	Yemen
Finland			
** The treaty with the former Serbia and Montenegro continues to apply.			

3.6 Anti-avoidance rules

Transfer pricing

Turkey's transfer pricing rules are generally in line with the OECD transfer pricing guidelines. The rules apply when transactions (i.e. the sale or purchase of goods, services or intangibles) between related parties (both resident and nonresident) are not determined in accordance with the arm's length principle. In such cases, profits arising from the transaction will be deemed to be a "constructive dividend" subject to both corporate income tax (20%) and dividend withholding tax (15%).

The transfer pricing rules provide for the three traditional methods listed in the OECD guidelines (comparable uncontrolled price, cost plus and resale price methods). Other acceptable methods include profit-based methods (profit split method and transactional net margin method), or another method determined by the taxpayer that proves to be the "best method" based on the taxpayer's particular circumstances. Taxpayers are required to select and use the most appropriate transfer pricing method that provides them with an arm's length price based on the facts and circumstances of their transactions.

Taxpayers are required to prepare an annual transfer pricing documentation report in Turkish in accordance with the domestic transfer pricing documentation rules, to support their transfer pricing. An annual transfer pricing documentation report for each year must be prepared and made ready for submission (in case of an official request by the tax authorities) by the deadline for filing the annual corporation tax return.

Corporate taxpayers that are registered with the large taxpayer office must prepare an annual transfer pricing report with respect to both domestic and cross-border related party transactions. Those registered with other tax offices must prepare the annual report only with respect to their cross-border related party transactions.

Taxpayers registered with the large taxpayer office also must include in their annual transfer pricing report their transactions with related parties (including branches) in free trade zones (FTZs) and their branches abroad. Corporate taxpayers operating in FTZs must prepare an annual transfer pricing report with respect to domestic related party transactions.

It is possible to apply for an advance pricing agreement (APA) from the Ministry of Finance to determine the transfer pricing method with respect to cross-border related party transactions. The selected method will apply for a maximum of three years, provided the conditions at the time the APA is concluded remain unchanged. APAs can be unilateral, bilateral or multilateral.

Thin capitalization

The thin capitalization rules apply where loans from shareholders or related parties exceed a 3:1 debt-to-equity ratio at any time in an accounting period. Loans from related-party banks or financial institutions will not trigger the rules unless the amount of the borrowing exceeds six times the shareholder equity. Related parties, for these purposes, are defined as shareholders and persons related to shareholders that own, directly or indirectly, 10% or more of the shares, voting rights or rights to receive dividends of the company. The equity amount is that determined in accordance with the Tax Procedures Code at the beginning of the accounting period.

Where the debt-to-equity ratio is exceeded, interest payments, foreign exchange losses and any relevant related expenses corresponding to the excess portion will be deemed to constitute a hidden profit distribution or remittance of profits (in the case of nonresidents operating in Turkey through a permanent establishment/branch) on the last day of the accounting period in which the conditions for application of the thin capitalization rules are satisfied. Such expenses are nondeductible and subject to dividend withholding tax at the 15% rate. (A tax treaty may reduce the rate of dividend withholding tax to 10% or 5%, depending on the country of residence of the recipient of the dividends.)

The following loans are not considered to constitute thin capital:

- loans from third parties under a noncash guarantee provided by shareholders or related parties;
- loans granted by shareholders or related parties that obtain loans from third-party banks, financial institutions or capital market institutions and grant loans to the related parties under the same conditions as the loans obtained from the third-party banks/financial institutions (i.e. “pass-through loans”); and
- loans received by financial leasing and factoring companies from related banks, provided the loans are obtained for the financing of their main operations in accordance with legislation governing their operations.

Controlled foreign corporations

- The controlled foreign corporation (CFC) rules are triggered when a Turkish resident company controls, directly or indirectly, at least 50% of the share capital, dividends or voting power of a foreign entity and the following conditions are satisfied:
- 25% or more of the gross income of the CFC is comprised of passive income, such as dividends, interest, rents, license fees or gains from the sale of securities that are outside the scope of commercial, agricultural or professional income;
- the CFC is subject to an effective tax rate lower than 10% in its country of residence; and
- the annual total gross revenue of the CFC exceeds the foreign currency equivalent of TRY 100,000.

If all of the above requirements are met, the profits of the CFC will be included in the profits of the Turkish company in proportion to the Turkish company's share in the capital of the CFC, regardless of whether the profits are distributed and will be taxed at the corporation tax rate (currently 20%).

General anti-avoidance rule

Turkey has a general anti-abuse rule (GAAR) that relies on the “substance-over-form” principle and allows the tax authorities to disregard the form of a transaction where it is clear that the taxpayer is attempting to avoid tax.

In addition to the GAAR, another anti-avoidance rule provides for the imposition of a 30% withholding tax on certain payments made to residents in low-tax jurisdictions/tax havens.

3.7 Administration

Tax year

The tax year is the calendar year or a fiscal year. It is possible to request a special accounting period from the Ministry of Finance.

Filing and payment

Corporations are required to pay advance corporate tax based on their quarterly profits at a rate of 20%. Advance corporate income tax payments made during the year are offset against the final corporate tax liability of the company, which is determined in the annual return. Advance corporate tax returns must be submitted by the 14th day of the second month following the end of the quarterly period and the tax is payable by the 17th day of the same month. Any excess payment may be offset against other tax liabilities; if there are no other liabilities, the taxpayer may request a refund.

A corporate income tax return must be filed by the 25th day of the fourth month after the end of the company's accounting period. Corporate income tax is payable by the end of the month in which the tax return is due (i.e. by the end of April for companies using the calendar year as the fiscal year). However, the Ministry of Finance may extend the filing deadline.

Withholding tax returns must be filed with the local tax office by the end of the 23rd day of the following month and tax must be paid by the end of the 26th day of the month in which the return is submitted.

Consolidated returns

Turkish tax law treats every company in a group as an independent unit. No provision is made for affiliated companies to file a consolidated return or to surrender losses to another company within the group; each entity is taxed separately.

Statute of limitations

In general, the statute of limitations for the assessment and collection of tax is five years, starting from 1 January of the year following the year to which the tax liability/payment term relates. There are some exceptions to the general rule, including, but not limited to, those related to the type of taxes, the nature of the work, liquidation and conditional exemptions. The statute of limitations for collection stops in certain cases, such as payment, execution of seizure, notification of payment order, securing of the tax liability, etc.

Tax authorities

The Turkish tax authority is the Revenue Administration, which is established at the national level and is responsible for the collection of tax and enforcement of the tax law in Turkey.

Advance rulings

A taxpayer may request from the Ministry of Finance (or from the authorities designated by the Ministry) an advance ruling on its fiscal situation and on questions that it would consider ambiguous and as causing uncertainty with respect to the application of tax. The responsible authorities will issue the ruling as a written notice or in a circular.

3.8 Special rules for shipping industry

Ships registered in the International Ship Registry of Turkey are entitled to a number of exemptions:

- an exemption from corporate income tax on income derived from the operation and transfer of ships;
- agreements concluded for purchases/sales, mortgage registration or freight related to ships, as well as loan agreements relating to ships, are exempt from stamp duty, banking and insurance transaction tax; and
- wages and remuneration paid to employees working on ships and yachts are exempt from income tax and from any duties.

4.0 Withholding taxes

4.1 Dividends

Dividends paid to a Turkish resident entity or to a Turkish branch of a foreign company are not subject to withholding tax. Dividends paid to a nonresident company are subject to a 15% withholding tax, unless the rate is reduced under a tax treaty.

4.2 Interest

Interest on loans payable to foreign states, international institutions, foreign banks and foreign corporations that qualify as financial entities in their country of residence and that provide loans to the public (not only to the companies in a specific group), is subject to a 0% withholding tax. A 10% rate applies to interest paid on loans from nonresident entities that are not authorized/qualified as “financial entities” or that provide loans only to specific group companies.

4.3 Royalties

Royalties paid by a Turkish company to another Turkish company are not subject to withholding tax. However, such payments made to a nonresident in respect of copyrights, patents and trademarks are subject to a 20% withholding tax, unless the rate is reduced under a tax treaty.

4.4 Branch remittance tax

A remittance of branch profits to a head office is subject to a 15% withholding tax, applied on the taxable branch profits after the deduction of corporate income tax.

4.5 Wage tax/social security contributions

Salary paid by an employer in Turkey is subject to withholding tax at source at the relevant progressive rates, which range from 15% to 35%. Social security premiums are calculated as a percentage of gross salary and are payable by both the employee and the employer: 14% for the employee and 20.5% for the employer, up to an upper earnings level of TRY 6,961.50 for the period from 1 January 2014 to 30 June 2014 and TRY 7,371.00 for the period from 1 July 2014 to 31 December 2014. There also is an unemployment contribution scheme, with premiums of 1% for the employee and 2% for the employer.

4.6 Other withholding taxes

Professional service fees paid to a resident or nonresident are subject to a 20% withholding tax if the services are provided in Turkey or the payment is made in Turkey.

A 20% withholding tax is levied on payments made to a nonresident for the lease of immovable property if the property is located in Turkey or the relevant rights are used in Turkey.

5.0 Indirect taxes

5.1 Value added tax

VAT is imposed on the supply of most goods, the provision of services and on imports. The standard rate is 18% (including finance leasing transactions); a reduced rate of 8% applies to basic foodstuffs, clothing, medical products and devices, books, education services provided by private schools, accommodation services and other items; and a 1% rate for journals, newspapers, agricultural products sold as raw material, deliveries of “used”/second-hand cars, deliveries of houses with an area of up to 150 square meters and other items specified by decree. Certain supplies are exempt.

A reverse charge VAT of 18% applies to payments made by Turkish resident entities to nonresidents for professional services or the use of intangibles (e.g. royalties, licenses or know-how), or on the sale of such rights.

There is no turnover threshold for VAT registration in Turkey. Any person or entity engaged in an activity within the scope of the VAT law must notify the local tax office where its place of business is located or, if there is more than one place of business, the same tax office at which the business is registered for income/corporation tax purposes.

There is no separate VAT registration in Turkey for businesses that are not registered for income/corporation tax purposes. Nonresident entities selling goods into Turkey will not be required to be VAT-registered if they do not have a permanent establishment or representative in Turkey but the importing Turkish resident will be required to pay VAT upon the customs clearance.

A reverse charge VAT mechanism requires resident companies to calculate VAT on payments abroad. Under this mechanism, the Turkish company or customer must calculate and pay VAT to the relevant tax office on behalf of the nonresident company (foreign company). The domestic company treats this VAT as input VAT and offsets it against its VAT due in the same month; such VAT is carried forward where it is not offset in the same month.

Companies normally declare and pay VAT on a monthly basis. VAT returns must be filed with the local tax office by the end of the 24th day of the following month and payments must be made by the 26th day of the month in which the VAT return is filed.

VAT grouping is not permitted in Turkey.

5.2 Capital tax

A compulsory contribution of 0.04% of any monetary contribution upon incorporation and subsequent increases in share capital is payable to the Competition Board.

5.3 Real estate tax

Real property tax is broken down into “building tax” and “land tax,” with rates on the assessed value of 0.1% for buildings used for housing, 0.2% for buildings used for purposes other than housing, 0.3% for vacant land allocated for construction purposes and 0.1% for land outside municipal areas. These rates are doubled for land and buildings located within the municipal limits of the largest cities, such as Istanbul, Ankara and Izmir. The real property taxes are payable annually, in two installments (the first in March, April or May and the second in November).

Areas/buildings exempt from the real property tax include energy transmission lines; stations that are an integral part of pipelines used for the transmission of natural gas, crude oil and similar energy resources; shipyards; specified types of building used in agricultural production; land/buildings owned by the state, municipalities, public universities and associations established for the public benefit; and land/buildings owned by consulates and embassies.

Real estate property tax paid by companies is deductible from the corporate income tax base.

5.4 Transfer tax

A 4% transfer tax (duty) on the sale of real property is payable by both the buyer and the seller (2% to be paid by the buyer and 2% by the seller).

5.5 Stamp duty

Stamp duties apply at the following rates: 0.948% on contracts (including a monetary amount), guarantees and mortgages; 0.189% on rent contracts and 0.569% on bid decisions made by public authorities. Fees are due on court transactions, public notary documents, land registration and trade registration. Receipts for advance payments made by public organizations are subject to stamp tax at 0.948%.

Stamp tax is also withheld from salaries at 0.759% of the gross salary amount. Employment service agreements are exempt from stamp tax, as are the establishment of a company or investment fund and capital increases and agreements to be concluded for the purpose of tax-free mergers, takeovers and de-mergers.

5.6 Customs and excise duties

Turkey has been part of a customs union with the EU since 1 January 1996, as a result of which Turkey's import and export regimes conform to EU regulations. Customs duties are levied at the time of importation on the customs valuation and according to the Customs Tariff Position Numbers. Special regimes apply, for example, for bonded warehouses, inward and outward processing, temporary imports, etc.

5.7 Environmental taxes

Municipality tax for environment cleaning is levied on residential and commercial buildings; the tax is levied at fixed amounts (i.e. ranging between TRY 19 and TRY 2,875 for 2014) that change annually. The resident of the building (either the landlord or the tenant) is liable for the environmental tax. The landlord is responsible for making a compulsory contribution to the municipality at a rate of 10% of the annual accrued real estate tax for the protection of immovable cultural property. The contribution is levied through the real estate tax.

5.8 Other taxes

Special consumption tax

A special consumption tax (SCT) applies on the import or delivery of specific categories of product by their manufacturers. The SCT replaced various excise taxes and, unlike VAT, is charged only once by the party that becomes liable as a result of the occurrence of the taxable event for affected products. SCT is included in the price of goods sold to consumers and is treated as a cost item by the purchaser. The following types of product are subject to SCT:

- oil products and by-products such as solvents, lubricating oil;
- motor vehicles;
- alcoholic beverages, tobacco and tobacco products; and
- luxury goods.

Different SCT rates, fixed SCT amounts or both may be applied, depending on the type of the product. SCT filing periods vary depending on the type of product.

Banking and insurance transaction tax

Banking and insurance transactions are generally exempt from VAT but they are subject to a 5% banking and insurance transaction tax (0% on foreign exchange transactions).

A contribution to the resource utilization support fund is levied. Banks are required to withhold 3% on the principal amounts of foreign-denominated loans with an average maturity of less than one year and on interest accrued for TRY-denominated loans irrespective of their maturity. A contribution is also required, at 1%, on the principal amount paid on foreign currency loans borrowed from abroad with an average maturity period of between one and two years; where the

average maturity period is between two and three years, a 0.5% rate applies. No contribution is payable on such loans where the average maturity period exceeds three years.

Telecommunications tax

A 25% telecommunications tax is levied on mobile communication services, a 15% tax applies to cable TV and satellite broadcasting and a 5% tax applies to internet services.

6.0 Taxes on individuals

6.1 Residence

Individuals resident in Turkey for a continuous period (including temporary absences) of more than six months in any calendar year are, in principle, treated as resident taxpayers. Individuals that qualify as residents are subject to tax in Turkey on their worldwide income unless a tax treaty provides for a specific exemption. Foreign nationals who are on assignment in Turkey for a specific business project or mission, or those in Turkey for holiday or educational purposes, are not regarded as residents, even if they stay for more than six months.

Salaries of both Turkish and foreign employees of a liaison office (established and operating in Turkey with the permission of the GDFI) that are paid by the head office in foreign currency transferred from abroad, are exempt from income tax in Turkey.

Turkey Quick Tax Facts for Individuals	
Income tax rate	15%-35%
Capital gains tax rates	0%/15%-35%
Basis	Worldwide income
Double taxation relief	Yes
Tax year	Calendar year
Return due date	Between the first and 25th day of March of the following calendar year
Withholding tax	
- Dividends	15
- Interest	10%-18%
- Royalties	20%
Net wealth tax	No
Social security	14% (employee); 20.5% (employer)
Unemployment Benefit Contribution	1% (employee); 2% (employer)
Inheritance/gift tax	1%-10% (inheritance); 10%-30% (gift)
Property tax	Varies
Stamp tax	0.759%
VAT	18% (standard rate); 1%/8% (reduced rate)

6.2 Taxable income and rates

Taxable income

In general, individuals residing in Turkey are liable for personal income tax on all of their income obtained from within and outside Turkey. Individuals who do not reside in Turkey, but who receive part of their income from Turkey, are subject to income tax only on Turkish-source income.

Income tax is levied on the following types of income:

- income from commercial activities;
- income from agricultural activities;
- income from professional activities;
- salaries and wages;

- income from immovable property;
- dividend, interest and royalty income; and
- other income (including capital gains).

Deductions and reliefs

Various deductions and allowances are permitted for each type of income. Medical and educational expenses, as well as pension and private health insurance expenses and certain donations, are deductible in computing taxable income.

Rates

The base tax rate on wages is 15%, which increases progressively to a top marginal rate of 35%.

Tax base (TRY)	Tax (%)
0 - 11,000	15
11,001 - 27,000	20
27,001 - 97,000*	27
Over 97,000*	35

*Instead of TRY 97,000, the maximum base will be considered as TRY 60,000 for earnings other than wages.

For resident individuals, dividend income derived from shares (stock certificates) in Turkish entities is subject to withholding tax at a rate of 15%, which may be credited against the income tax. Half of the gross dividend income received from Turkish entities is exempt from income tax. If the remaining half (plus other income, other than salary derived from a single employer) exceeds the annual filing threshold (TRY 27,000 for fiscal year 2014), this half of the dividends must be reported on the annual income tax return (with a credit available for any tax withheld on the dividends). For nonresident individuals, dividends from Turkish companies are subject to a final 15% withholding tax.

For resident individuals, the withholding tax imposed on interest on securities, income from trading of securities and interest on deposits (described below) is a final tax, and a taxpayer is not required to report this interest on the annual tax return:

- interest income related to government bonds and treasury bonds is subject to a 10% withholding tax;
- gains from sales of government bonds and treasury bonds are subject to a 10% withholding tax;
- interest income related to private sector bonds issued in Turkey is subject to a 10% withholding tax;
- gains from sales of private sector bonds are subject to a 10% withholding tax, provided the bonds are issued in Turkey through banks or intermediary institutions;
- dividend income acquired from a lease certificate is subject to a 10% withholding tax;
- gains from sales of a lease certificate are subject to a 10% withholding tax;
- repo income is subject to a 15% withholding tax; and
- interest income earned on bank deposit accounts is subject to a 10%-18% withholding tax, depending on the maturity period and currency.

The same withholding tax rates generally apply to payments to a nonresident individual.

Royalties paid to a resident individual are subject to a 20% withholding tax, which is a final tax if the taxpayer's income (other than salary derived from a single employer) is less than the yearly filing threshold. Royalties paid to a nonresident are subject to a final 20% withholding tax.

Capital gains derived from the sale of securities and capital market instruments are subject to income tax (except for the gains described above that are subject to a final withholding tax). However, gains derived from the following are exempt from income tax:

- securities acquired without consideration,
- the sale of share certificates of resident corporations that have been held for more than two years; and
- the sale of share certificates of resident corporations traded on the Istanbul stock exchange and sold after a one-year holding period (exempt until 31 December 2015).

Regardless of the holding period, gains derived from the sale of intangible rights, capital gains from the sale of shares/participations in limited liability companies and gains derived from the sale of an enterprise that has ceased operations, are subject to income tax. Gains on the sale of immovable property within five years of the date of acquisition, if acquired after 1 January 2007 (within four years if acquired before that date) also are subject to income tax.

In determining the taxable gain, the acquisition cost is adjusted for inflation by the increase in the producers' wholesale price index between the date of acquisition and the date of sale in certain cases.

6.3 Inheritance and gift tax

Inheritance and gift tax is levied on all persons who receive property situated in Turkey or belonging to a Turkish national. Items acquired as gifts or through inheritance are subject to gift tax at rates between 10% and 30% or inheritance tax at rates between 1% and 10% of the appraised value of the item.

6.4 Net wealth tax

Turkey does not levy a net wealth tax.

6.5 Real property tax

The municipalities levy real estate tax on the value of land and buildings situated in the country. The rate varies depending on the use of the land.

6.6 Social security contributions

Employees are required to contribute to the social security system at a rate of 14% – 5% for health insurance and 9% for disability, retirement and life insurance. The contributions are paid by the employer via withholding. Employees are also required to contribute 1% of their social security base to the unemployment insurance fund.

6.7 Other taxes

A stamp tax of 0.759% is applied on the gross salary amount.

6.8 Compliance

The tax year for individual income tax return filing is the calendar year. The filing and payment schedules vary according to the type of income.

Income tax is withheld at source from a wide range of payments, including employment income. Employees are generally not required to submit an annual individual income tax return if the tax withheld at source constitutes final taxation. If an individual's only source of income is salary from one employer, the individual is not required to file an annual income tax return. However, if the individual works for more than one employer, the salary received from the other employers must be declared in the annual return if those salaries exceed the filing threshold (TRY 27,000 for fiscal year 2014). Certain other types of income (e.g. dividends and royalties) must also be declared in the annual return if the taxpayer's income (other than salary derived from a single employer) exceeds the filing threshold.

Individuals earning business or professional income must file an annual income tax return.

Each individual must file an individual income tax return; joint assessments are not permitted.

Individuals must generally file their income tax return by 25 March of the following year. The income tax must be paid in two equal installments by the end of March and July. However, individuals earning commercial and/or professional services income are required to make advance income tax payments based on 15% of the quarterly profits shown in their quarterly income statements, which must be declared by the 14th day of the second month following the end of the quarter and paid on the 17th day.

If the advance income tax payments during a year exceed the actual income tax liability declared on the annual return, the excess may be credited against other tax liabilities and any remainder may be refunded to the taxpayer.

7.0 Labor environment

7.1 Employee rights and remuneration

The main relevant legal framework is Labor Law 4857. In addition, Law 2821 covers union activities, whilst Law 2822 addresses collective bargaining, strikes and lockouts. Teachers, military personnel, police and civil servants (i.e. any person directly employed by the state) may not organize a union. Laws 2821 and 2822 have the unusual feature of requiring that companies bargain with the national leadership of unions, rather than with a factory representative of the union. Labor law forbids discrimination in the workplace, whether in recruitment or remuneration, on the basis of sex, race, religion, language or belief.

Working hours

The maximum normal work week is 45 hours from Monday to Saturday. Some companies spread the working hours over six days and others over five days, with two days off. Provided both the employee and the employer agree, work hours can be spread unevenly over working days, provided they do not exceed 11 working hours on a single day. Overtime may not exceed three hours per day on 90 separate days (i.e. 270 hours) per year. It is not uncommon for companies to apply to their local labor authority for an extension of this limit—a change that is incorporated into the relevant collective agreement. Overtime is not allowed in underground work (such as mining). Overtime calls for an additional premium of 50% of the regular work wage for weekdays, and 100% for Sundays and holidays.

7.2 Wages and benefits

The monthly minimum gross wage is determined as TRY 1,071 (from 1 January-30 June 2014) and TRY 1,134 (from 1 July-31 December 2014).

Fringe benefits are relatively high (30%-40% of salary for blue collar workers and 25%-30% for white collar workers). The offering of share options and pension schemes to top executives is available in Turkey. Most companies have also begun offering private health insurance and pension plans.

Other benefits include 14 legal and religious holidays (up to 24 days, under some contracts). Paid holiday leave of 14 working days is available after one year of service, rising to 20 working days after five years of service and 26 days after 15 years of service. Employees aged 18 years or younger and those aged 50 years or older are entitled to at least 20 days of paid holiday per year. Female employees are entitled to 16 weeks paid maternity leave and have the right to take up to six months in additional unpaid leave after the 16-week maternity leave period.

Voluntary fringe benefits vary considerably by region. Certain benefits are set in every collective agreement (e.g. religious holidays); other benefits are common: e.g. free meals or lunch vouchers; year-end bonuses; family allowances and financial help for marriage, birth, sickness or death; and clothing and transport payments. Foreign-owned firms generally offer the same types of benefit as domestically owned firms.

Social security

All employees must belong to a social security scheme that includes work-related accidents and illness, sickness, pregnancy, disability (invalidity), old age and death. To be covered under the Turkish scheme, an individual must be employed by an employer resident in Turkey on an employment contract basis. (Assignment contracts are also acceptable if the rights and liabilities, period, tasks, termination conditions, etc., are clarified in the contract.) If an individual is seconded from a country that has signed a social security agreement with Turkey, the individual can apply for a certificate of coverage from the social security administration of his/her home country, and then remain subject to his/her home country scheme for the period stated in the social security agreement. Individuals from countries that have not signed a social security agreement with Turkey will be covered by the Turkish social security scheme.

7.3 Termination of employment

Severance pay is granted upon death, dismissal, military service and voluntary termination by female employees within one year from date of their marriage or retirement at a maximum of one month of salary for each year worked. The maximum severance pay is normally supplemented by a “severance-pay notice” compensation, which is written into the collective agreement. The law does not require severance pay if a worker is dismissed for dereliction of duty but in practice, dismissed workers receive severance pay unless their dismissal is related to a cause such as theft.

Minimum notice is two to eight weeks, depending on the length of service. The law normally poses no significant problems in dismissing workers. Turkish GAAP allows companies to accrue severance pay/termination indemnities. Severance pay provisions are not tax deductible unless they are paid to the employee.

As mentioned above, unemployment insurance is financed by monthly payments of a 1% deduction from the employee’s salary, up to a monthly maximum of TRY 69.61 (from 1 January-30 June 2014) and TRY 73.71 (from 1 July-31 December 2014) and a further monthly payment, equivalent to 2% of the employee’s social security payment from the employer, up to a monthly maximum of TRY 139.23 (from 1 January-30 June 2014) and TRY 147.42 (from 1 July-31 December 2014). The state also covers 1% of the unemployment premium. These amounts are to be contributed in addition to the normal social security payments.

There are no special rules addressing layoffs.

7.4 Labor-management relations

Negotiations for public sector wages take place directly between the leaders of the “Turk-Is Union” and the government. The collective bargaining procedure is complex, with free collective bargaining in most sectors. Collective agreements cannot be less than a year or more than three years. In practice, agreements normally are written for two years.

Turkish law and the labor court system require collective bargaining before a strike. The law specifies a series of steps a union must take before it may legally strike, and a similar series of steps before an employer may engage in a lockout. In a dispute, the law requires management and unions to draw up a new collective agreement within six days of negotiations. If they fail to do so, they must appoint a government arbitrator who has 21 days to reconcile the sides. If the arbitrator also fails, the union may strike. The strike may start during the next 60 days, as long as the union gives at least six days’ notice to management. Once a strike is declared, the employer may respond with a lockout. If the employer chooses to remain open, it is prohibited from hiring strike breakers or from using administrative personnel to perform jobs normally done by the striking workers.

7.5 Employment of foreigners

All foreign nationals to be employed by resident companies are required to obtain a work permit issued by the Ministry of Labor and Social Security. In addition, a work visa and a residence permit must be obtained from the Ministry of Internal Affairs to work and reside in Turkey. Foreign nationals should apply for the work permit abroad—before they start work in Turkey. Foreign nationals who already have been granted residence permits in Turkey that are valid for at least six months for any reason, except training, may apply for a work permit from the Ministry of Labor and Social Security within this period.

Work permits are granted to technical and administrative personnel, provided the applicant has “sufficient technical and administrative knowledge” for the relevant vacancy. Work permits may also be issued to foreign representatives of branch offices to set up a branch in Turkey.

A work permit applicant must complete a foreign personnel application form and supply a copy of his/her passport certified by a notary public, supporting documents regarding the nationality of the foreign partner representative, a copy of the marriage certificate (if the foreign person is married to a Turkish citizen), copies of diplomas certified by a public notary and other information and documents as deemed necessary. Also, the employee must submit a petition requesting the work permit, addressed to the Ministry of Labor and Social Security, and a balance sheet and income statement for the preceding year that are approved by the relevant tax office. For legal entities that will employ a foreign expert as an engineering/architecture contractor or for consultancy services,

a copy of the contract executed with the foreign personnel and payroll evidencing that a Turkish engineer/architect has been employed must be provided, as well as other information and documents deemed necessary. In general, independent professionals such as engineers, doctors, nurses, lawyers and architects must submit additional documents, such as commitments or registers to trade associations.

Following the issue of a work permit, the foreigner must apply for a residence permit to the relevant section of the Police Department.

8.0 Deloitte International Tax Source

The Deloitte International Tax Source (DITS) is a free online database that places up-to-date worldwide tax rates and other crucial tax information within easy reach.

Connect to the source and discover:

A database that allows users to view and compare tax information for 65 jurisdictions that includes –

- Corporate income tax rates;
- Historical corporate rates;
- Domestic withholding tax rates;
- In-force and pending tax treaty withholding rates on dividends, interest and royalties;
- Indirect tax rates (VAT/GST/sales tax); and
- Information on holding company and transfer pricing regimes.

Guides and Highlights – Deloitte's Taxation and Investment Guides analyze the investment climate, operating conditions and tax systems of most major trading jurisdictions, while the companion Highlights series concisely summarizes the tax regimes of over 150 jurisdictions.

Tax publications – Global tax alerts and newsletters provide regular and timely updates and analysis on significant cross-border tax legislative, regulatory and judicial issues.

Tax resources – Our suite of tax resources includes annotated, ready-to-print versions of holding company and transfer pricing matrices; a summary of controlled foreign company regimes for the DITS countries; an R&D incentive matrix; monthly treaty updates; and expanded coverage of VAT/GST/Sales Tax rates.

Webcasts – Live interactive webcasts and Dbriefs by Deloitte professionals provide valuable insights into important tax developments affecting your business.

DITS is free, easy to use and readily available!

<http://www.dits.deloitte.com>

9.0 Office locations

To find out how our professionals can help you in your part of the world, please contact us at the offices listed below or through the “contact us” button on <http://www.deloitte.com/tax>, or visit the Deloitte Turkey site at http://www.deloitte.com/view/en_TR/tr/index.htm

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