

Taxation and Investment in Turkey 2011

Reach, relevance and reliability



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1.0 Investment climate

1.1 Business environment

Turkey is a secular democratic state. The President is elected by Parliament for a four-year term. The Prime Minister is appointed by the President.

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 a strong economy. Turkey's economy is driven primarily by private consumer demand. 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 in recent years, with automotive and iron and steel being the major export items, while oil and natural gas are major import items.

Price controls

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

Turkish legislation prohibits unfair competition and specific laws have been enacted to protect competition (i.e. Anti-Dumping Law and Law on 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 (non-renewable) 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 without examination, which is not guaranteed by the government and is valid for only seven years. (Protection under the latter may be converted to full patent protection upon completion of the requisite search.) The Copyright Law provides for a protection period of 70 years from the death of the author, and there are severe penalties 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 (and 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

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

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).

Istanbul is the major financial center.

1.4 Foreign investment

The Turkish government encourages foreign investment, and 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 (a new Commercial Code will become effective as from 1 July 2012).

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.

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. Applications should be made to the General Directorate of Foreign Investment (GDFI). Liaison offices are granted renewable permits for three years, but they may not engage in commercial activities in Turkey or enter into partnerships with other companies in the country. Liaison offices are not permitted to claim any money transfers except the residue arising as a result of termination or liquidation.

Permission is not required for other investments, whether direct or portfolio, or 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 any foreign-owned companies to the 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 orient investments in line with international commitments and in conformity with the objectives of Development Plans and Annual Programs. Incentives specifically designed to encourage investment can be classified as follows:

- Investment incentives;
- Export-oriented incentives; and
- Other tax/nontax incentives.

Investment incentives include a reduced corporate income tax rate on earnings derived from investments in specified sectors and regions and an exemption from customs duties, VAT, the land allocation for investment and social security, and loan support. To qualify, an investment certificate must be obtained before the investment is initiated and the investment amount must exceed a specified threshold.

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

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

R&D incentives

Under the Corporate Income Tax Law, companies that conduct approved R&D activities and universities and entities specialized in R&D activities can benefit from an allowance equal to 100% of the R&D expenditure, in addition to a deduction of the expenditure itself. Any unused expenditure may be carried forward to be used in future years.

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%.

Technology investment zones

According to the Technology Development Zones Law, Technology Development Zones (TDZ) may be formed by private sector companies within 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 Turkey.

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

The following tax exemptions are available through TDZ Law:

- *Operating company:* Profits derived by a TDZ operating company are exempt from income and corporate income tax until 31 December 2013.
- *Individuals/entities operating in TDZ:* Individuals or entities that carry out R&D and software development activities within a TDZ are also exempt from income and corporate income taxes on their income derived from such activities until 31 December 2013.
- *Salaried R&D personnel in TDZ:* Salaries of the personnel employed in a TDZ to carry out R&D and software development activities are exempt from all types of tax until 31 December 2013.
- *VAT exemption:* Deliveries of software (for systems management, data management, internet, mobile and military command control applications, etc.) developed as a result of the activities carried out in a TDZ are exempt from VAT until 31 December 2013.

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 of Turkey.

The Turkish Lira is fully convertible, at least from the Turkish side, to the extent the country 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 or special finance houses. 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 Turkish Lira or another foreign currency to their parent companies, participations 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 opt for the limited liability company (*limited sirket* (LS)) or the corporation (*anonim sirket* (AS)). The AS is ordinarily for larger projects because it is afforded more local equity financing from many shareholders, and banks prefer it for credit purposes. The AS is thus popular with foreign investors, especially for manufacturing ventures. However, 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 take the AS form.

A new Commercial Code that will become effective on 1 July 2012 will change some of the rules relating to company formation and operation.

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, including 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 to the relevant Trade Registry Office should be submitted along with the required documents. After the application is processed, the company receives its "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
- Prior to establishment, registration with the local tax office must occur.

Forms of entity

Requirements for an AS and LS

Share capital. AS: Minimum capital of TRY 50,000. In addition to cash, capital in-kind may be supplied in forms such as imported capital goods, services or technical know-how, in which case a valuation of the assets contributed would be necessary. Firms must contribute 5% of net pretax income to a legal reserve annually until it reaches 20% of paid-in share capital; a second reserve is formed by setting aside 10% of declared dividends annually. LS: Minimum capital of TRY 5,000. Other provisions are the same as for an AS.

Founders, shareholders. AS: Minimum of five founders; no maximum. LS: Minimum of two founders or partners; maximum 50. There are no nationality requirements with either form.

Board of directors. AS: Board with at least three members, each holding at least one share. No limitations on nationality or residence. LS: Not required.

Management. AS: An AS is governed by a board of directors. LS: An LS is governed by managers.

Taxes and fees. AS/LS: During the process of a capital increase, 0.04% of the amount that will be increased must be paid as a contribution to the Competition Council. 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 shares. AS: Shares held by foreigners must be registered with the GDFI. Ordinary shares are usual; preferred shares are available. Multiple vote shares are permitted, and nonvoting shares are available. 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*: The only permissible type of share is the participation share. 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 a majority of 75%. *LS*: An ordinary annual partners' meeting must be held within three months of the end of the financial year.

Branch of a foreign corporation

The procedures for setting up a branch office are similar to those for setting up a corporation or 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 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 on only income derived from Turkey.

A branch office must be operated by a fully authorized commercial representative residing in Turkey.

A permit is required to open a liaison office and such offices may not engage in commercial activities in Turkey or enter into partnerships with other companies in the country.

2.2 Regulation of business

Mergers and acquisitions

Mergers and takeovers of companies with a total market share of more than 25% or a total sales volume of more than TRY 25 million must be approved by the Competition Protection Council.

Monopolies and restraint of trade

The Competition Law does not define a monopoly, but 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 others, acts that directly or indirectly fix purchase or selling prices or any other trading conditions; limit or control production and markets; 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 and in accordance with the accounting principles explained in Accounting System Application Communiqués (Turkish GAAP). Statutory books must be retained for five years. There are currently initiatives for harmonization with International Financial Reporting Standards (IFRS) through the Capital Market Law as well as the Commercial Code.

The Commercial Code prescribes that the accounting systems of Turkish enterprises be set up in conformity with Turkish Accounting Standards, which will be further enforced according to the internationally accepted financial standards

3.0 Business taxation

3.1 Overview

The principal taxes imposed on companies doing business in Turkey are corporate income tax, withholding tax, value added tax (VAT), special consumption tax, banking and insurance transaction tax and stamp duty. There are no significant potential tax benefits to organizing as a local limited liability company rather than a branch.

Turkey has a holding company regime under which there is no corporate tax or withholding tax on dividends paid between resident companies. There is no tax consolidation in Turkey. Each company within a group of companies is taxed separately. Dividends received by a Turkish company from a foreign company also may be exempt from corporate tax provided certain requirements are met. A 75% exemption is available for capital gains on the sale of shares in a Turkish company; a full exemption is available for the disposition of shares of a foreign company.

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

There are two classes of corporate taxpayers:

- *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; and
- *Limited taxpayers* (nonresidents), such as branch offices whose legal head office and business center are abroad. These companies are subject to tax only on income derived in Turkey.

Tax on corporate profits is imposed by the central government. Provincial or municipal authorities do not impose income taxes but they do levy other taxes, such as a tax on real property. The corporate tax rate is 20%.

Taxable income defined

Resident companies with unlimited liability are taxed on worldwide income. A foreign tax credit is granted for foreign tax paid up to the amount of Turkish tax attributable to the foreign income. Nonresident companies are subject to tax only on income derived from Turkey.

As a rule, all profits derived in the earning of income are included in taxable income, with the exception of dividends qualifying under the Turkish 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. Dividends received from a nonresident company are exempt from corporate tax (foreign participation exemption) if the following conditions are satisfied:

- The nonresident payer is a corporation or limited liability company;
- The Turkish recipient has owned at least 10% of the paid-in capital of the payer for a continuous period of at least one year as of the date of the distribution;
- The profits out of which the dividends are paid were subject to a foreign income tax of at least 15% (20%, if the main activity of the payer is the provision of financing, including financial leasing, insurance services or investment in securities); and
- The dividends are remitted to Turkey by the date the corporate tax return is due.

Deductions

All ordinary and necessary expenses paid or incurred for the generation and maintenance of income generally may be deducted in computing taxable income to the extent 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 subject to corporate income tax); and
- 100% of research and development (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 declining balance and the straight-line 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%.

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 generally are taxable as ordinary income for corporate income tax purposes. However, 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:

- At least 75% of the total assets (excluding cash items) 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; and
- The foreign participation must be in the form of a corporation or limited liability company.

An exemption from corporate income tax is granted for 75% of capital gains derived from the sale of participations and immovable property that have been held for at least two years if the gains from such transactions are recorded in a special fund under "shareholders' equity" and the sale revenue is collected by the end of the second calendar year following the year of sale.

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 amount 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 use 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 in all its income tax treaties a mutual agreement procedure and an exchange of information procedure.

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. residence certificate) is provided.

Turkey Tax Treaty Network			
Albania	Georgia	Malaysia	Singapore
Algeria	Greece	Moldova	Slovakia
Austria	Hungary	Montenegro	Slovenia
Azerbaijan	India	Morocco	South Africa
Bahrain	Indonesia	Netherlands	Spain
Bangladesh	Iran	New Zealand	Sudan
Belarus	Ireland	Northern Cyprus	Sweden
Belgium	Israel	Norway	Syria
Bosnia-Herzegovina	Italy	Oman	Tajikistan
Bulgaria	Japan	Pakistan	Thailand
Canada	Jordan	Philippines	Tunisia
China	Kazakhstan	Poland	Turkmenistan
Croatia	Korea	Portugal	Ukraine
Czech Republic	Kuwait	Qatar	United Arab Emirates
Denmark	Kyrgyzstan	Romania	United Kingdom
Egypt	Latvia	Russia	United States
Estonia	Lebanon	Saudi Arabia	Uzbekistan
Ethiopia	Lithuania	Serbia	Yemen
Finland	Luxembourg	Netherlands	Tajikistan
France	Macedonia	New Zealand	

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 and 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 "disguised profit distribution through transfer pricing" 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), as well as methods to be determined by the taxpayer that prove to be the "best method" based on the taxpayer's particular circumstances. Finally, taxpayers are required to select and use the most appropriate transfer pricing method that provides them with the arm's length price based on the facts and circumstances of their transactions. Taxpayers are required to maintain documentation to support their transfer pricing.

It is possible to obtain 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 entered 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 the right to receive dividends of the company. The equity amount to be determined in accordance with the Tax Procedures Code at the beginning of the accounting period will be the equity considered for purposes of determining whether the thin capitalization rules apply.

Where the debt-to-equity ratio is exceeded, interest, foreign exchange losses and any relevant related expenses will be deemed to constitute a hidden profit distribution or a remittance of profits (in the case of nonresidents operating in Turkey through a permanent establishment/branch) as of 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 non-cash guarantee provided by the shareholders or related parties;
- Loans granted to shareholders or related parties where the loans are obtained from third-party banks, financial institutions or capital market institutions and that are granted to related parties under the same conditions as if obtained from 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 currently at the 20% Turkish corporation tax rate.

General anti-avoidance rule

Turkey has a general anti-abuse rule (GAAR) that relies on the "substance-over-form" principle and that 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.

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 of the second month following the quarterly period and the tax is payable by the 17th of the same month. Any excess payment may be offset against other tax liabilities, and 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 payment deadline.

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

Consolidated returns

Turkey does not allow the filing of consolidated returns. Each company in a group must file its own corporate tax return.

Statute of limitations

The general statute of limitations for the assessment and the collection of tax is five years, starting from 1 January immediately after the due date of the tax return.

Tax authorities

The Turkish tax authorities are 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 their fiscal situation and questions that they would consider equivocal and 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 Other taxes on business

None

4.0 Withholding taxes

4.1 Dividends

Dividends paid to a Turkish resident entity (i.e. Turkish holding company) 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, or 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” and that provide loans only to specific group companies.

4.3 Royalties

Income derived from the sale or transfer of intangible assets such as copyrights, patents and trademarks, royalty payments and payments for professional services such as consulting, supervision, technical assistance and design fees are subject to a 20% withholding tax. The withholding tax on the sale or transfer of intangibles may be reduced under a tax treaty and the withholding tax on payments for professional services may be eliminated under a 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 amount after the deduction of corporate income tax from taxable branch profits.

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 27%. 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 19.5% for the employer, up to an upper earnings level of TRY 5,177.40 for the period 1 January 2011 to 30 June 2011 and TRY 5,440.50 for the period 1 July 2011 to 31 December 2011. There also is an unemployment contributions scheme, with the premiums being 1% for the employee and 2% for the employer.

5.0 Indirect taxes

5.1 Value added tax

VAT is imposed on the supply of most goods and the provision of services and on imports. The standard rate is 18% (including finance leasing transactions), with reduced rates of 8% applicable to basic foodstuffs, clothing, medical products and devices, books, education services by private schools, accommodation services and other items, and 1% 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 m² and other items as specified by decree. Certain supplies are exempt. Companies normally declare and pay VAT on a monthly basis.

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

VAT returns must be filed with the local tax office by the 24th of the following month and payments made by the 26th day of the month in which the VAT return is filed.

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 buildings 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 1.5% transfer tax (duty) on the sale of real property is payable by both the buyer and the seller.

5.5 Stamp duty

Stamp duties apply at the following rates: 0.825% on contracts (including a monetary amount), guarantees and mortgages; 0.165% on rent contracts; and 0.495% 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 0.825%.

Stamp tax also is withheld from salaries at 0.66% 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 1996, as a result of which Turkey has conformed its import and export regimes 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 17 and TRY 2,500 for 2011) that change annually.

5.8 Other taxes

Special consumption tax

A special consumption tax (SCT) applies on the import or delivery of specific categories of products 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 products 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, sometimes 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 generally are exempt from VAT, but they are subject to a 5% service tax (0% on foreign exchange transactions).

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.

Motor vehicle tax

Company-owned motor vehicles are subject to motor vehicle tax.

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 resident 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 more than six months.

Salaries of employees (Turkish or foreign) 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.

6.2 Taxable income and rates

Taxable income

Only the central government levies personal income tax.

Taxable income of individuals includes income from a business or profession, income from employment, benefits in-kind and investment income (i.e. dividends, interest, royalties, rents, etc.).

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%. For tax year 2011, income from dividends is subject to tax if it exceeds TRY 23,000.

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%, and inheritance tax 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 the following rates: 14%, which covers 5% for health insurance and 9% for disability, retirement and life insurance. The contributions are paid by the employer via withholding. Employees also are required to contribute 1% of their social security base to the unemployment insurance fund.

6.7 Other taxes

A stamp tax of 0.66% is applied on the gross salary amount.

6.8 Compliance

The tax year 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 generally are not required to submit an annual individual income tax return if the tax withheld at source constitutes the final tax burden. If an individual's only source of income is salary from one employer, the individual is not required to file an annual 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 the salaries received from the other employers exceed TRY 23,000 for the year.

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

Individuals generally must 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 refunded to the taxpayer.

7.0 Labor environment

7.1 Employees' rights and remuneration

The main legal framework is Labor Law 4857. In addition, Law 2821 covers union activities, and 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, whether in recruitment or remuneration, in the workplace 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 in mining). Overtime calls for an additional premium of 50% of the regular work wage for weekdays and 100% on Sundays and holidays.

7.2 Wages and benefits

The monthly minimum gross wage is determined as TRY 796.50 (1 January–30 June 2011) and TRY 837 (1 July–31 December 2011).

Fringe benefits are relatively high (30%-40% for blue collar workers and 25%-30% for white collar workers). The offering of share options and pension schemes to top executives is applied in Turkey, and most companies have 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 18 or younger or those 50 or older years are entitled to at least 20 days 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: monies paid before permissions and the two religious holidays of eight days each year and payment for fuel. Other benefits are common: 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 benefits 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, the individual must be employed by an employer resident in Turkey on an employment contract basis. (Assignment contracts also are 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, 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 agreements. The law does not require severance pay if a worker is dismissed for dereliction of duty, but in practice dismissed workers always 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 Generally Accepted Accounting Principles allow 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 maximum of TRY 47.43 per month) and a further payment, equivalent to 2% of the employee’s social security payment from the employer (up to a maximum of TRY 94.86 per month). Also, 1% of the unemployment premium is covered by the state. 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 are normally 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 also may 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 for engineering/architecture contractor or 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 as 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 issuance of a work permit, the foreigner must apply for a residence permit to the relevant department (that handles foreigners) of the Police Department.

8.0 Deloitte International Tax Source

Professionals of the member firms of Deloitte Touche Tohmatsu Limited have created the Deloitte International Tax Source (DITS), an online resource that assists multinational companies in operating globally, placing up-to-date worldwide tax rates and other crucial tax material within easy reach 24/7.

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www.dits.deloitte.com

9.0 Office locations

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