Law No. 7440 – Tax Amnesty, Voluntary Tax Base Increase, Tax Debt Restructuring, Correction of Some Accounting Records and Additional Corporate Tax

The new law not only brings in tax amnesty, tax debt restructuring, voluntary tax base increase and correction of some accounting records but also levies a new and one-time tax for the corporate taxpayers *(which is also named by the public as the "earthquake tax").*

In accordance with Law No. 7440, which was promulgated in the Official Gazette on **March 12th 2023**, the taxpayers can restructure their outstanding tax payables, finalize their tax disputes under ongoing tax audit or tax litigation phases, insure their tax risks by voluntary tax base increase and adjust their accounting records without facing any penalty or interest. With the new Law, the corporate taxpayers *(some of them are exempt)* are subject to an additional one-time tax *(known by the public as **earthquake tax)*** of 10% which will be applied on the total of the exemptions and the deductions on their corporate tax returns of fiscal year 2022, and on the tax bases which are subject to reduced corporate income tax rates. The **deadline** for benefiting from the provisions of the Law No. 7440 is **May 31st 2023.**

Restructuring of the outstanding tax debts

Law No. 7440 allows the taxpayers to restructure their outstanding tax debts *(also other public receivables like taxes, customs taxes, social security insurance premiums, various administrative fines, and associated interests)* and pay in instalments *(up to 48 months)* only the tax itself without its accrued penalties as the penalties are deleted. The interests on the unpaid taxes are not deleted,

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however they are restructured with a reduced rate *(Producer Price Index)* which is in the favour of the taxpayers. If the full amount of the restructured debts is paid at once *(without any instalments)*, then only 10% of the restructured interest is paid since 90% of the interest is deleted in such a case. The taxpayers can make their applications for restructuring their tax debts which have already been accrued as of March 12th 2023.

Finalizing tax disputes under tax audit and tax litigation phase

According to the provisions of the Law No. 7440, the taxpayers can finalize their tax disputes with the tax authority which are in tax audit or tax litigation phases by paying the reduced amount of the taxes claimed by the tax authority, together with the cancellation of the penalties and restructured interests.

In order to finalize tax litigation process according to Law No. 7440, the stage of the lawsuit is important since there are different provisions of the Law that regulates how to finalize the lawsuits depending on their stages. The taxpayers who benefit from these provisions must withdraw their court appeals latest by May 31st 2023, and waive the right to sue the tax assessments.

In addition, if the taxpayers settle with the tax authority for their tax liabilities - which might come out from the ongoing tax audits as of March 12th 2023 - by paying 50% of the taxes which are claimed in the tax audit process. In such a case, the taxpayers do not pay any penalty or interest as the penalties are renounced and the interests will be applied with a reduced rate *(according to the Producer Price Index)*.

Closing the last five years to a tax audit in the future via voluntary tax base increase

According to the new Law, the taxpayers can close their past fiscal years **2018, 2019, 2020, 2021** and **2022** to any possible tax audit by increasing their past years' tax bases. When the taxpayers increase their tax bases, they will not be subject to

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any tax audit in the future for the related years and for the type of the tax that they voluntarily increase their tax bases provided that the taxpayers pay the related additional taxes on their increased tax bases. The taxpayers can increase their corporate income tax, VAT and some withholding tax *(withholding taxes on salary income, self-employment income, rent income, dividend income, long term construction works etc.)* bases and can close these tax types and related periods into a possible tax audit in the future. The voluntary tax base increase is a tax institution that can be considered as a type of tax insurance for the taxpayers for eliminating their tax risks. However, it is also worth to state that the corporate taxpayers, who increase their corporate income tax bases voluntarily for the past years, will not be able to carry forward 50% of their tax losses *(for fiscal year 2022, 100% of the losses cannot be carried forward, and the taxpayers will not be able to be refunded for the excess amount of prepaid corporate income tax which they have paid via their preliminary corporate income tax returns during fiscal year 2022)*.

Correction of some accounting records

With the Law No. 7440, it is possible for the taxpayers to correct some of the accounting records given below by paying the advantageous amounts mentioned in the new Law. The taxpayers can correct their below records by:

a) Booking the fair market value records of the commodities, machinery, equipment, and fixtures which are not included in the books, although they actually and physically exist. *(The VAT rate that is reduced by the half of the normal rate will be applied)*

b) Removing from the records the commodities, machinery, equipment, and fixtures that are present in the book records although they do not actually exist *(This process can be managed by issuing invoices)*

c) Correcting the petit cash account *(3% tax is paid on the petit cash balance)*

d) Correcting the shareholder's receivable account *(3% tax is paid on the shareholder's receivable balance)*

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Additional tax on deductions and exemptions

The Law No. 7440 levies a new tax for the corporate taxpayers which is calculated by applying 10% to the deductions and exemptions on the corporate income tax return of fiscal year 2022, and on the tax bases which are subject to reduced corporate income tax rate. This additional tax will be paid in two instalments *(latest by April 30th 2023, and August 31st 2023).*

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