



TAX BULLETIN 02-09

WHAT DOES THE NEW LAW NUMBERED 5838 BRING ABOUT ?

A stimulus package of law numbered 5838, announced at the Official Gazette dated 28.02.2009, numbered 27155, has been put into effect. Consisting of 24 articles all together, this law has made so many changes and brought many new regulations on the tax and the other laws. Amendments and regulations aforementioned can simply be grouped in two main parts:

1-Reduced corporate tax application for the earnings derived from investments with incentive certificate

2-Investment location allocation for the investments for which reduced corporate tax rate will be used.

In addition to those mentioned above, some other important amendments have been made on the various tax laws

1-Reduced Corporate Tax Rate

The regulation has been put into effect on 28.02.2009. With the said regulated article 32/A, the main characteristics of the new regulation can be summarized as follows:

*Tax payers have to have investment incentive certificate from the Undersecretary of Treasury

*Corporations operating in finance and insurance business, joint ventures, investments in the scope of the laws numbered 4283 and 3996, and investments based on mineral research and exploration permits can not apply reduced corporate tax rate application.

* "Contribution rate to investment" will be announced by the Cabinet for the investments based on investment incentive certificate. This rate will be determined for each group of cities and will not exceed 25 % for each group. But, for the investments more than 50 million Turkish Liras, the rate will not exceed 45 %.



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* After determining the contribution rate, those rates is applied to the investment amount. The result is named as "contribution amount to investment". Up to the point that the tax advantage created by reduced tax rates on the earnings from the investments with incentive certificate reaches to the "contribution amount to investment", those earning will be taxed at reduced tax rates. For example:

| | |
|---|----------------|
| The amount of investment with incentive certificate | 50.000.000.-TL |
| The determined participate rate | 40 % |
| The contribution amount to investment ($50 * 0,40 =$) | 20.000.000.-TL |
| The reduced tax rate | 10 % |

As is seen from the example above, up to the amount of earnings derived from the investment reaches to ($20.000.000 / 0,10 =$) 200.000.000,-TL, reduced corporate tax rate to be applied to the earnings will be 10 %.

*The Cabinet have the authority in determining the reduction at corporate tax rate.

*The reduced tax rate application begins at the advance tax period on which the investment comes into the operation stage partially or completely

*In the event that the investment is transferred before operation stage, the corporation who takes over the investment has the advantage of reduced tax rate application with the same conditions.

*In the event that the investment is transferred after the operation stage, the corporation who transfers the investment can benefit from the reduced tax rate up to the transfer date. After the transfer date, the company who takes over the investment can apply the reduced tax rate for the remaining part of "contribution amount to investment".

*Reduced tax rate application is not only for corporate tax payers but also income tax payers.

2-Land Allocation For Investments:

With new regulation added to the law numbered 4706, those who have the right to use reduced tax rates on the earnings derived from the investments with incentive certificate, are given a right of easement on public lands for forty nine years. The main characteristics of the regulation can be summarized as follows:



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*In order to have the forty nine years right of easement of an immovable belonging to the state, it is necessary for a corporation to have an investment incentive licence and apply the reduced corporate tax rate mechanism in the scope of article 32/A in the corporate tax law.

*In the organized industrial zones within the boundaries of the territory where the investor demands an investment location, there should not exist an empty parcel.

*Total amount to be invested in should be in accordance with the current values of immovables demanded.

*A certain number of workers should be employed and this condition has to be performed for five years from the date on which the investment comes into operation.

*In exchange for the right of easement for the first year, 3 % of property tax value of the said immovable is paid.

At the end of the period of easement right, except for machinery and equipment, the other plant and premises have to be transferred to the owner of the immovables.

OTHER VARIOUS TAX LAW AMENDMENTS

1-According to the 10'th article of the law, numbered 5838, tax payers (both income and corporate tax payers)

-who operate in textile, clothing, apparel, leather and leather products sectors

-who move their production facilities to the cities (determined by the Council of Ministers) up to the 31.12.2010

-who employ at least 50 workers, will benefit from reduced corporate tax rate (minimum corporate tax rate after the reduction will be 15 %) on the earnings derived from those facilities. It will be applied for five years beginning from the taxation period following the year the facility has been moved. This regulation has been put into effect on 28.02.2009.

2-According to the 10'th article of law numbered 5838, portfolio management companies who manage portfolios of foreign mutual funds whose participants or founders are not unlimited individual tax payers or corporate tax payers have not been regarded as "business centre" but " permanent representative" of those mutual funds. Thus, foreign mutual funds aforementioned are taxed as limited corporate tax payers and on the earnings derived from the transactions in Turkey.

3-The special communication tax levied on cable, wireless and mobile internet service providing has been reduced from 15 % to 5 % . (Article No: 14)



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4-According to the article no: 32/8, effected from 01.03.2009, the gains derived from capital market transactions of investment trusts and mutual funds have been exempted from the bank and insurance transaction tax.

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