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TURKEY INTRODUCES DIGITAL SERVICES TAX

Turkish parliament has passed a bill to impose tax on digital service providers. The tax will be effective as of the beginning of the third month the bill is published in the official gazette. The digital service providers will have to pay 7.5% digital services tax (“DST”) on their revenue generated from the services they provide in Turkey, if they exceed the revenue thresholds mentioned in the tax bill.

We would be delighted to prepare a case and company specific assessment, compliance and action plan if you think you will be affected by the new DST. Please contact us at info@consulturk.com.tr.

Which services are subject to DST?

- **all kinds of online advertising services** (including advertising controlling and performance measurement services, services relating to the transmission and management of user data, technical services in relation to the presentation of the advertisements),
- **the sale of audio, video or any kind of digital content in the digital environment** (including computer programs, applications, music, video, games and applications within games and all relevant content) or any services performed in the digital environment that enable such content to be listened, watched, played in the digital environment; recorded or used in the electronic devices,
- **digital environment provision and management services that allow the users to interact with each other** (including the services that are performed to allow or facilitate the sales of goods or services among the users),
- **intermediary services performed in the digital environment relating to the services listed above.**

When is a service deemed to be provided in Turkey and therefore subject to DST in Turkey?

The DST is only applicable for services provided in Turkey and only the revenues generated from the services provided in Turkey are taxed. The services will be deemed to be provided in Turkey in the following scenarios:

- the services are provided in Turkey,
 - the services are benefited from in Turkey,
 - the services are performed aiming the persons in Turkey,
 - the services are paid for in Turkey; or if the payments for the services are made outside Turkey but the payment is accounted in the books of a person making the payment or a person which the payment is made on behalf of such person in Turkey.
- ❖ **EXCEPTION:** Online advertising services that are performed aiming the persons located outside Turkey.

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Which services are excluded from DST?

The services below are excluded from DST:

- services subject to Treasury share payment (e.g. services provided by telecommunications operators who are authorized by Information and Communication Technologies Authority of Turkey (“ICTA”) and pay Treasury share payment for such services),
- services subject to the Special Communication Tax (e.g. electronic communication services provided by operators who are authorized by ICTA),
- banking services under Banking Law,
- products and services developed from R&D activities in specified R&D centers in Turkey,
- payment services within the scope of Payment Services Law.

Thresholds

The digital service providers whose annual revenue in the previous accounting period **equal to or exceed both of the revenue thresholds below (“Thresholds”)** are subject to DST:

- **TRY20m** revenue generated from services provided in Turkey,
- **EUR750m** (TRY equivalent) revenue generated from services provided worldwide.

If the total annual revenue of the digital service provider is below one of the Thresholds listed above, the digital service provider will be exempted from the DST.

The consolidated revenue of the group shall be taken into account in relation to the revenue thresholds above.

The quarter-end digital service revenues shall be considered on a cumulative basis in the determination of whether the thresholds are exceeded.

If the digital service revenues of the taxpayers are below one of the thresholds above for **two consecutive accounting periods**, the DST exemption is applied.

The digital service providers must satisfy the notification and documentation obligations imposed by Ministry of Treasury and Finance in order to benefit from the exemption.

What is the rate and tax base of the DST?

The rate of DST is **7.5%**.

The tax base is the **total revenue generated from the services listed above which are provided in Turkey** (*please see above for when is a service deemed to be provided in Turkey*).

- If the revenue is calculated in FX, its TRY equivalent (according to official FX buy rate announced by the Central Bank of Turkey) at the time the revenue is generated is taken into account.
- No deductions of expenses, costs or taxes is allowed in the DST tax base.

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- The revenue is subject to DST **regardless of how it is named** (e.g. sales fee, service fee, transaction fee, subscription fee, commission fee).
- **The collection of the revenue is irrelevant** in the calculation of the tax base. The digital service providers will have to pay DST over their total gross revenues even if they have not yet collected the relevant amounts.

When will the DST be declared and paid?

The digital service providers will assess whether they exceed the Thresholds above in the previous accounting period (*i.e. revenues in the 2019 calendar year for digital service providers who accept calendar year as their accounting period when the DST first enters into force in 2020*).

If they exceed the Thresholds, they will have to pay DST as of the fourth month the Thresholds are exceeded (*e.g. if the Thresholds are exceeded as of the financial statements dated 31 December 2019, the digital service provider will be subject to DST as of April 2020*).

The DST is declared and paid **monthly**.

The digital service providers will submit their DST tax statements for the relevant month and pay the accrued DST (*i.e. 7.5% on the TRY equivalent of the revenue generated in Turkey from digital services listed above*) **until the end of the following month**.

Do the digital service providers still have to pay DST if they are not a tax resident in Turkey?

Yes, the DST will apply regardless of whether the digital service providers have a residence, workplace or a permanent establishment in Turkey.

If the digital service provider who is required to pay DST is not a tax resident in Turkey, the Ministry of Treasury and Finance is authorized to hold (i) parties to such transactions (*e.g. customers*) or (ii) those who act as an intermediary of such transactions or payments (*e.g. banks or payment service providers*), responsible to withhold and pay DST. In such case, the party responsible to withhold and pay DST will submit the DST tax statement and pay such tax.

Is the DST deductible from Income/Corporate Tax Base?

Yes, the digital service providers can deduct the DST they pay from their income/corporate tax base.

What happens if the digital service providers do not submit their tax statements or pay the DST on time?

The authorized tax office may notify the digital service providers or their legal representatives in Turkey to comply with their requirements and the notification will be announced on the official website of Revenue Administration of Turkey.

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The Ministry of Treasury and Finance is authorized to block access to services provided by the relevant digital service provider in cooperation with ICTA, if such digital service provider does not satisfy

its obligations within 30 days as of the date of the announcement on the official website of the Revenue Administration of Turkey, until the digital service provider fully complies with its obligations.

Please contact us at info@consulturk.com.tr for a case and company specific assessment, compliance and action plan on the new digital services tax.

This guide has been prepared for general information purposes. It is not meant to serve as legal advice in any manner. It is only a brief outlook of the topic. It is not and does not aim to be comprehensive. It only provides information on certain significant points of the topic and should not be used without a specific legal advice for the relevant case.

This guide has been prepared as of 27 November 2019 therefore is based on the bill passed by the parliament and does not provide for any further legislation or practice changes after such date. The legislation may have been amended before it is published in the official gazette. CONSULTURK does not have any obligation or requirement to update this guide or its beneficiaries in any case.

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