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# Law on Restructuring of Certain Receivables

Elvan İnanlı, June 2021

## Brief Summary-Law on Restructuring of Certain Receivables

Bill of Law on Restructuring of Certain Receivables and Making Amendment to Some Laws has been discussed and accepted in the General Assembly of TBMM.

- With this Law, certain arrangements were made about:
  - Restructuring of specified receivables,
  - Settlement of disputed receivables,
  - Assessments to be made after the transactions that are in examination and assessment phase,
  - Increasing of taxable amount,
  - Corrections in the records and accounting procedures,
  - Reassessment of depreciable assets.

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## **A. SCOPE OF RESTRUCTURING**

### 1. Receivables that are generally included

- The following will be included in the structuring process under the Law:
  - Taxes and tax penalties,
  - Certain administrative fines,
  - Adequate pay debts,
  - Contributions payable for the protection of immovable cultural assets,
  - Customs duties and administrative fines imposed in connection with that tax,
  - Insurance premiums, community insurance premiums, retirement deduction and due payable to the establishment, unemployment insurance premium, social security support premium,
  - Secondary receivables accruing in connection with the above mentioned public receivables such as all kinds of interest, increase, delay interest, default interest, penal interest and delay penalty.

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### 2. Maturity period of the tax receivables

Accordingly, the procedure will be as follows for the periods before 30.04.2021 and for the statements that must be submitted until this date in connection with declarable taxes:

#### **Income and corporation taxpayers subject to annual statement obligation**

In the restructuring of public liabilities, taxation periods for the 2020 calendar year and prior years are covered and the taxation period for the 2021 calendar year is not covered.

No special arrangement has been made by the Law in connection with the entities subject to special account periods. But it may be said after taking into account general provisions herein that for the entities subject to special account, any special account periods closed and any deadline for the statements ending on 30.04.2021 will be covered, while others after that date will not be covered.

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### Taxpayers obliged to submit monthly statements

Taxpayers obliged to submit monthly tax statements for certain taxes such as value added tax and withholding for income tax,

- The taxation period of March 2021 and prior periods are covered,
- The taxation period of April 2021 is not covered.

### Taxes relating to year 2021 but accruing before 30.04.2021

According to the arrangement made, the first installment of the motor vehicle tax

- that was deemed to have accrued in year 2021 will be covered (while the second installment payable in 2021 will not be covered).
- Real estate tax and environmental cleaning taxes payable for the worksite and for other types of buildings will not be covered.

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## Tax penalties

- Tax penalties imposed in connection with the original tax, it will be determined whether they are covered or not depending on the taxation period in which the tax must be paid.
- But in case of penalties imposed not in connection with the original tax, it will be checked whether they are related to the assessments made before 30.04.2021 (including this date).

## Customs Duties

- The Law stipulates as follows for the customs duties:
  - Customs duties for which customs liability arises under the Customs Law No. 4458 and other relevant laws before the date of 4/30/2021 (including this date), and which are followed by the collection departments affiliated to the Ministry of Customs and Trade according to the provisions of Law No. 6183, are covered.
  - Administrative fines, and
  - Interests, increases and default interest receivables are covered.

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## **B. RESTRUCTURING OF DEFINED RECEIVABLES**

### 1. Public receivables to be generally paid and deleted

- According to the arrangements made, as of the publication date of the Law (including this date);
  - Concerning all taxes that are due but not paid or taxes whose deadline has not yet expired,
  - 50% of the tax penalties imposed not based on the original tax which is due but not paid or whose deadline has not yet expired,
  - 50% of the tax penalties imposed due to participation,
  - Concerning all customs duties that are due but not paid or taxes whose deadline has not yet expired,
  - 50% of the administrative fines imposed because of customs liability without any connection with the original customs duty,
  - 30% of the administrative fines imposed based on the customs cleared value of the goods and all of the original customs duties, if any,
  - If the amount calculated according to Domestic PPI until the publication date of this Law is paid instead of delay interests and increases to be calculated for these public receivables, then

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### • **B) RESTRUCTURING OF DEFINED RECEIVABLES**

- Penalties based on the original tax,
- Remaining 50% of the tax penalties imposed not based on the original tax which is due but not paid or whose deadline has not yet expired,
- 50% of the tax penalties imposed due to participation,
- Remaining 50% of the administrative fines imposed because of customs liability without any connection with the original customs duty,
- 70% of the administrative fines imposed based on the customs cleared value of the goods, and
- Any interests, default interest and delay penalties relating to the taxes and customs duties will not be paid.



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- C) INCREASING THE TAXABLE AMOUNT AND TAXES**

1. Increasing the taxable amount in Corporation tax

If taxpayers of the corporation tax increase their corporation taxable amount declared in the relevant years with the rates indicated in the below table, no annual corporation tax examination will be made about them for the years in which the increase was made, and another assessment will not be made later in respect to these years. If there is no taxable amount on the statements given in connection with the years during which the increase is made or if no statement has been given, minimum taxable amounts to be increased are determined in the Law. Details of the aforementioned amounts are given in the following table.

Year	Taxable Amount Increase Rate	Minimum Taxable Amount Increase (TL)	Ratio of Tax Payable over the Increased Taxable Amount
2016	35	94,000	20
2017	30	99,600	20
2018	25	105,800	20
2019	20	112,400	20
2020	15	127,500	20

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### **C) INCREASING THE TAXABLE AMOUNT AND TAXES**

- 15% will be taken into account instead of 20% in the calculation of taxes for the taxpayers who paid their corporation taxes on a timely basis like the income tax.
- However, there are certain important issues in increasing the corporation taxable amount which are given in short hereunder:
  - 50% of the losses incurred in relation to the years in which taxable amount was increased shall not be deducted from the profits in 2021 and in the following years.
  - In connection with the taxation periods in which the taxable amount was increased, assessments made and finalized before publication of this Law will be taken into account together with the statement of the relevant period. Any assessments not yet finalized as of the publication date of this Law will not be taken into account.
  - The minimum taxable amounts determined for the relevant years in respect of the taxpayers who operate in a partial period due to the reasons such as start-up and shut-down will be calculated taking into consideration the number of months (month fractions being assumed as a full month) during which they have been in operation.

### C) INCREASING THE TAXABLE AMOUNT AND TAXES

- It is not possible to set off the taxes paid through withholding before against the taxes calculated over the increased taxable amounts.
- The amounts which may be deducted from the taxable amount in the following years due to exception and discounts and the previous year losses cannot be deducted from the increased taxable amounts.
- Audits and assessments can be made with regard to requests by taxpayers who increased their taxable amount for the refund of the taxes which they have previously paid by way of collection to the account of corporation tax.
- If the companies have earnings benefiting from the investment discount exception subject to withholding at the rate of 19.8%, it is compulsory for them to benefit from the taxable amount increase option available in the relevant years in respect to the taxes withheld over these earnings and incomes in order to avoid tax examinations and assessments.
- If the earnings and incomes listed in the above paragraph were not declared on the tax statement, in order to avoid tax examinations and assessment, it is compulsory that withholding amounts related to these earnings and incomes must be declared until 31.08.2021, and the corporation taxable amount must be increased for these years provided that it is not less than 50% of the minimum taxable amount.

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- **C) INCREASING THE TAXABLE AMOUNT AND TAXES**

- 2. Increasing in income / Corporation Tax Withholding

If additional tax is paid by using the below rates over the annual total of the gross amount of the payments determined to be subject to withholding, a withholding income tax examination will not be made with respect to these payments in connection with these taxation periods.

- Payments covered are as follows:
  - Fee payments indicated in clause (1) of
  - Article 94 of the Income Tax Law,
  - Payments indicated in clause (2) and made for jobs completed by freelancers
  - Progress payments made for long-term construction work as indicated in clause (3)
  - Rental payments indicated in clause (5)
  - Payments made to farmers as indicated in clause (11)
  - Payments made to parties benefiting from the exemption granted to tradesmen as indicated in clause (13)

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- **C) INCREASING THE TAXABLE AMOUNT AND TAXES**

- Progress payments for long-term construction work as indicated in clause (a) of the first paragraph of article 15 of the Corporation Tax Law
- Rentals paid to the cooperatives as indicated in clause (b)
- Progress payments for long-term construction work as indicated in clause (a) of the first paragraph of article 30 of the Corporation Tax Law.

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### • C) INCREASING THE TAXABLE AMOUNT AND TAXES

- Progress payments for long-term construction work as indicated in clause (a) of the first paragraph of article 15 of the Corporation Tax Law
- Rentals paid to the cooperatives as indicated in clause (b)
- Progress payments for long-term construction work as indicated in clause (a) of the first paragraph of article 30 of the Corporation Tax Law.

Increase rates to be made for the covered payments are given in the following table.

Year	Increase Rate in Fee Payments (%)	Increase Rate in Payments to Freelancers and Rental Payments (%)	Increase Rate in Progress Payments for Long-Term Construction Work (%)
2016	6	6	1
2017	5	5	1
2018	4	4	1
2019	3	3	1
2020	2	2	1

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- **C) INCREASING THE TAXABLE AMOUNT AND TAXES**

- Tax calculated by applying the rates indicated on the above table over the annual total of the gross amount relating to the above mentioned payments which are indicated in the tax statements given as of years shall be paid. No withholding income or corporation tax examination and assessment will be made against the taxpayers making this increase for these payments to be made in the relevant periods.
- Several issues are also summarized about the withholding income tax increase.
  - The application to be made if no tax statement was given in any period of the year in which increase was made or if no tax statement was given only in certain periods is detailed below.
  - If those taxpayers who want to increase the taxable amount start up or shut down business, the application shall be made for the taxation periods during which they were in operation (month fractions being considered as a full month).

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- **C) INCREASING THE TAXABLE AMOUNT AND TAXES**

- The assessments which are carried out and finalized prior to the date of publication of this Law in relation to the taxation periods for the year in which taxpayers want to increase the taxable amount shall be taken into consideration together with the tax return for the relevant period.
- It is not possible to consider the main wage amount that serves as the basis for a taxable amount increase and the income tax amount paid as expense or cost item in determination of the income or corporate taxable amounts.
- No exception or discount will be applied to the income tax calculated after benefiting from the income (withholding) tax increase.



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### • C) INCREASING THE TAXABLE AMOUNT AND TAXES

#### 3. Increase in the Value Added Tax

If additional tax is paid with the rates indicated in the following table over the annual total of the value added tax calculated in the tax statements submitted, no value added tax examination and assessment will be made for the relevant periods.

<b>Year</b>	<b>Rate of Increase (%)</b>	<b>Year</b>	<b>Rate of Increase (%)</b>
2016	3	2019	2
2017	3	2020	2
2018	2.5		

Several issues are also summarized about the value added tax increase.

- It is compulsory for taxpayers to make an increase for the entire taxation periods of the year taken as a basis for increase.
- The assessments which are carried out and finalized prior to the date of publication of this Law in relation to the taxation periods for the year in which the taxpayers want to increase the taxable amount shall be taken into consideration together with the tax return for the relevant period.

### **C) INCREASING THE TAXABLE AMOUNT AND TAXES**

- Concerning the tax examinations to be carried out in the taxation periods coming after the years for which the increase demand was made, examination and assessment may be made for the value added tax carried forward to the next periods during the taxation periods in which increase demand was made. In the examinations conducted with respect to the value added tax carried forward to the next periods, no assessment shall be recommended for the periods in which an increase demand was made.
- In determining the taxable amounts for the value added tax, income tax or corporate taxes which are paid, expense or cost elements shall not be taken into consideration, no deduction may be made from the payable value added taxes or the same shall not be refunded.

### **C) INCREASING THE TAXABLE AMOUNT AND TAXES**

#### 4. Statement and Payment Period

- The increase to the taxable amount or taxes must be paid until 08/31/2021.
- Tax calculated or increased must be paid in a maximum of six equal installments. If these taxes are not paid in the manner stipulated by this Law, default interest shall be charged over the period of delay and it will not be possible any more to benefit from this article.
- The Law also stipulated that a 10% discount be made and no coefficient be applied over the taxes accruing as a result of the taxable amount or tax increase if they are all paid in advance during the payment period determined for the first installment.

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### **D) CORRECTION IN THE ACCOUNTING RECORDS**

- Within the scope of that arrangement, the following facilities are provided:
  - Recording the goods, machines, equipment and fixtures that are available in the company but not entered in the records,
  - Making correction transactions for the goods, machines, equipment and fixtures that are not available in the company but already entered in the records,
  - Making correction transactions for the cash balances that are not available in the company but already entered in the records,
  - Making a correction to the amount of net receivables arising between the due from partners and due to partners which are not available
- in the company but already entered in the records.

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### D) CORRECTION IN THE ACCOUNTING RECORDS

- Taxation results of the application are summarized below.

<b>Subject</b>	<b>Tax to be calculated / transaction to be performed</b>
<ul style="list-style-type: none"><li>• Recording the goods, machines, equipment and fixtures that are available in the company but not entered in the records</li></ul>	<ul style="list-style-type: none"><li>• Economic assets shall be declared to the tax office and entered in the books with the current amounts determined by the taxpayers or the occupational organizations to which they are affiliated.</li><li>• Such declaration must be made until 08/31/2021.</li><li>• Tax shall be calculated with the rate of 4% over the amount of declared machines, equipment, goods and fixtures with respect to printed books and periodical publications, and it shall be calculated by half of the relevant rate with respect to other goods. Tax calculated shall be declared on a separate tax statement in the capacity of the responsible party and shall be paid during the statement submission period.</li><li>• This tax which is paid on the machines, equipment and fixtures cannot be discounted from the value added tax calculated. The tax paid on the commodities is discounted according to the general principles.</li><li>• If declared goods are subject to Special Consumption Tax (ÖTV), such tax shall be calculated over the equivalent amount as of the date of declaration and shall be paid under a separate tax statement.</li><li>• A special provision account is opened for the assets recorded. The provision set aside for the goods is considered as a capital item, whereas the provision set aside for other assets is considered as accumulated depreciation.</li></ul>

# Brief Summary-Law on Restructuring of Certain Receivables

## D) CORRECTION IN THE ACCOUNTING RECORDS

- Taxation results of the application are summarized below.

<b>Subject</b>	<b>Tax to be calculated / transaction to be performed</b>
<ul style="list-style-type: none"><li>• Deleting records for the commodities, machines, equipment and fixtures that are not available in the company although entered into the records</li></ul>	<p>Until 08/31/2021, commodities, machines, equipment and fixtures that are not available in the company although entered in the records will be deleted from the records after issuing an invoice and all kinds of taxation obligations are fulfilled.</p> <p>The VAT payable shall be paid in three equal installments provided the first installment is paid during the tax statement submission period.</p> <p>The gross profit rate determined according to the current year's records in respect to the same type of goods shall be taken into account in the issue of invoice and in the fulfillment of the taxation obligation for these commodities. For other assets, the current amount to be determined by the taxpayer itself or by the occupational organizations to which they are affiliated will be taken into account.</p> <p>No retrospective tax penalty or default interest shall be applied..</p>

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## D) CORRECTION IN THE ACCOUNTING RECORDS

- Taxation results of the application are summarized below.

<b>Subject</b>	<b>Tax to be calculated / transaction to be performed</b>
<ul style="list-style-type: none"><li>• Correcting the cash balance seen in the records as of 12/31/2020 but not available in the company,</li></ul>	<ul style="list-style-type: none"><li>• It shall be declared to the tax office until 08/31/2021 in order to correct the records.</li><li>• Tax at the rate of 3% of the corrected amount shall be paid.</li></ul>

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## D) CORRECTION IN THE ACCOUNTING RECORDS

- Taxation results of the application are summarized below.

<b>Subject</b>	<b>Tax to be calculated / transaction to be performed</b>
<ul style="list-style-type: none"><li>• Correcting the account due from partners seen in the balance sheet as of 12/31/2020 but not available in the company,</li></ul>	<p>It shall be declared to the tax office until 08/31/2021 in order to correct the records.</p> <p>Tax at the rate of 3% of the corrected amount shall be paid.</p>



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# Your Team

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**Elvan İnanlı, CPA**  
Partner  
+90 5324141157  
Elvan.inanli@crowe.com.tr



**Serhat Çevik, CPA**  
Principal  
+90 5357116838  
Serhat.cevik@crowe.com.tr

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**Taner Özlem, CPA**  
Partner  
+90 5326175237  
Taner.ozlem@crowe.com.tr



**Serap Sipahi, CPA**  
Principal  
+90 5359698155  
Serap.sipahi@crowe.com.tr