

AMENDMENTS TO THE FREE ZONES AND CUSTOMS LAW IN TURKEY

The Draft regarding the amendment of Free Zones Law and the Customs Law is approved by the Turkish Grand National Assembly (TGNA) and became a law numbered 5810 on 12.11.2008 (the “Law”). The Law was sent to the Presidency on 14.11.2008 in order to be announced in the Official Gazette. The 15 days period for either accepting and announcing the Law by the President or returning the same to TGNA to be re-discussed, has started from the date of delivery of the Law to the Presidency which was 14.11.2008,.

With the Law; the establishment purposes of the Free Zones have been re-considered by evaluating the activities in those areas within the past twenty years period, and the vision of the Free Zones has been determined as; to encourage investments and production which are export oriented, to speed up the direct foreign investments and technological entree, to encourage the enterprises to export and to develop the international trade.

Another arrangement of the Law is to determine the Free Zones Coordinating Committee for the evaluation of the operations in those areas, specify the strategies for the development in Free zones and make suggestions respectively. The purpose of setting up the Coordinating Committee of Free Zones is to develop the free zones by dealing with the problems with the joint decision of the public units of this Committee.

According to the Free Zones Law numbered 3218, while an operation certificate was granted for 30 years period for the companies which were involved with the construction of building or their facilities by leasing lands in Free Zones, and an operation certificate was granted for 20 years period for the rest of the users whose operation was not related to production of goods; with the approval of the Law numbered 5810, it has been granted to the investors who operate in the Free zones to lease the lands and buildings owned by the Treasury up to 49 years by directly or granting a right of easement. Moreover, with the Law it has been decided that, operation permits shall be provided by Undersecretariat of Foreign Trade and not any more by Government Planning Organization Undersecretariat.

The 4th article of the Law numbered 3218 together with its title has been amended; and the principle which specifies that “*the operations which shall be rendered in the free zones will be determined by the High Planning Committee instead of Economic Acts High Coordinating Committee and the authorities given to the public corporations and establishments regarding the pricing, quality and standards shall not be applicable without the claims of the production companies in the Free Zones*” is accepted.

Amending the first sentence of the 6th Article of the Law numbered 3218 by the Law, the definition of the free zones has been revised and the consistency with the Customs Law has been intended. In other words, the conflicts between the Customs Legislation and the Free Zones Law have been also abolished with the law no 5810. Furthermore, with the Law, it has been decided to consider the Free Zones as an area out of the Turkey Customs Zones in terms of customs regime but to consider the Free Zones as an area in the Turkey Customs Zone in terms of origin provisions *until the date of full membership to the European Union*. Major

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purposes of the Law are: to achieve the consistency with the Customs Law, to simplify the entry of the daily needs and expending goods to the Free Zones especially in the areas where large scale production firms such as the shipyards by increasing the principal amount of the export transactions of Turkey origin goods from 500 USD to 5000 USD. The government especially indicates that this new provision would be off beneficial for the region of Ege Free Zones where the works are predominantly regarding the production of goods.

While the income tax exemption granted for the employees who work in free zones was applicable until the end of 2008; the Law brought a new provision which removes the difficulties that the companies, especially the manufacturer companies, might encounter by stating that *“the income tax exemption granted for the employees who work in free zones shall be applicable until the end of the taxation period of the full membership to the European Union.”* According to the Law, in order to benefit from this exemption the companies should import %85 of their FOB amounts. In other words, with the acceptance of the said Law, the tax payers who import minimum %85 of their FOB amounts of the goods produced in Free Zones shall be exempted from income tax from the wages of their employees. However, by inserting a provision to the Law during the General Assembly it has been ruled that the Council of Ministers can reduce the stated amount to %50.

With the acceptance of the Law, *“until the end of the taxation period of the full membership to the European Union”*, the incomes of the tax payers arising from the sale of the goods which those tax payers have produced in Free Zones area is exempted from income and/or corporation tax. However, as stated in the Law, this exemption shall not be effected to the taxation provisions stated under item (b) of the article 94/1 of the Income Tax Code numbered 193, and articles 15 and 30 of the Corporate Tax Code numbered 5520.

Finally, the last advantage granted by the Law with regards to the taxation is that *“until the end of the taxation period of the full membership to the European Union”* the transactions and issued documents regarding the activities rendered in Free Zones shall be exempted from stamp duty and fees.