Client Alert | Tax

New Tax Rates Applicable to Bond and Sukuk Income, Tier II loans and securitizations

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Withholding tax rates on income derived from Eurobonds and lease certificates issued outside of Turkey, on interest payments of Tier II loans and securitization financings; as well as BITT applicable to securitizations backed by mortgage-covered bonds have been amended by a Presidential Decree.

The Presidential Decree no. 842 ("**Decree**") was published in the Official Gazette dated 21 March 2019 and numbered 30721.

Withholding tax rates applicable to issuances of Eurobonds and lease certificates outside of Turkey

The Turkish tax legislation provides for a sliding scale of withholding tax on interest payments under Eurobond issuances and income payments under lease certificates (for resident and non-resident investors, corporate or real persons). Accordingly, until the amendments introduced by the Decree, at least five-year maturity was required for a withholding tax of 0% to apply to interest and income obtained from Eurobonds and lease certificates issued by Turkish issuers abroad.

The Decree now enables Eurobonds and lease certificates issued outside of Turkey to benefit the application of 0%, to the extent they have a maturity of three years or more. By reducing the maturity from five to three years, the Decree aims at easing bond issuances abroad by Turkish issuers.

The table below presents the withholding tax rates applicable to Eurobonds and lease certificates issued abroad before and after the Decree:

Maturity of Eurobond or lease certificate	Previous WHT rate	New WHT rate
up to 1 year	10%	7%
between 1 and 3 years	7%	3%
between 3 and 5 years	3%	0%
longer than 5 years	0%	

The withholding tax is the final taxation in Turkey for non-resident investors.

Withholding tax applicable to Tier II loans and loans obtained through securitizations

The withholding tax rate applicable to interest payments:

i. on Tier II loans obtained by banks; and

ii. loans obtained through a securitization transaction, which is backed by an income stream or pool of assets, by banks or other institutions;

has been reduced from 1% to 0%.

Banking and Insurance Transaction Tax Applicable to Income Obtained from Asset Backed Securities

As it was explained in GKC Partners'[1] client alert dated 06 December 2018 that the Capital Markets Board had amended the Communiqué on Asset and Mortgage-Backed Securities, to enable issuances of Asset Backed Securities ("**ABS**") backed by mortgage covered bonds ("**MCB**") issued by Turkish banks. This amendment was followed by a first issuance of ABS backed by MCBs by the Asset Finance Fund founded by the Turkish Development and Investment Bank (*Türkiye Kalkınma ve Yatırım Bankası A.Ş. Varlık Finansmanı Fonu*) at the end of November 2018.

The Decree introduces a change in the Banking and Insurance Transaction Tax ("**BITT**") rate relating to the periodical revenues arising from these ABS issued by asset finance funds. Accordingly, the BITT rate applicable to the periodical revenues (excluding the revenues corresponding to the ABS amount exceeding the underlying MCBs) arising from the ABS purchased by banks, having previously issued the MCBs backing such ABS, is set at 1%. This is particularly relevant in the context of the Communiqué, which requires such issuer banks to retain 5% of the ABS issued by the asset finance funds.

The revenues exceeding the amount of underlying MCBs will continue to be subject to 5% BITT.

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[1] White & Case works with GKC Partners in professional association on matters of Turkish law.