Setting up your Business in Turkey
Issues to consider

Turkey is located as a bridge between two continents and in close proximity to Europe, the Middle East and the Caucasus. The proximity to the Balkans and the rest of Europe as well as to the growing emerging markets in Central Asia, the Middle East and North Africa creates unique business opportunities. The experience of more than 7000 foreign capital establishments, including over 100 of the Fortune Top 500 companies, confirms Turkey as an important investment location and export platform.

However there are a number of issues which you must consider when you are looking to set up your business in Turkey. This document takes you through some of the common questions we come across and gives you practical information about the issues you need to consider.

What type of Business Structure should we use?

There are advantages and disadvantages to all of them, and there is no one correct answer, it's all dependent on your specific business circumstances and needs. A brief overview of the main structures is below:

Establishment (a branch of your overseas business)

The branch is represented by the branch representative based on the power of attorney to be issued by the parent company in case the representative of the branch is a foreign national, he/she should have a valid residence permit in Turkey.

The branches are subject to official liquidation process, which is minimum 12 months. Additionally, there will be also tax and accounting requirements to be filled in under the Turkish Laws.

In terms of corporate tax liability a branch is subject to same rates as a subsidiary company.

Limited Company:

Capital stock companies such as joint stock companies and limited liability companies can be established with one shareholder.

At the time of establishment of a capital stock company such as a A.Ş. or Ltd., founders shall be obliged to prepare and sign a statement that is pursuant to the principal of integrity and in accordance with content stated within the Turkish Commercial Code (TCC).

In accordance with the New TCC, the below companies will be subject to independent audit starting from 2016;

Total Assets: minimum TRY 40 million
Net Sales: minimum TRY 80 million
Employee number: minimum 200

The minimum capital requirement for a limited liability company is 10.000 TL. Nevertheless, the Council of Ministers is empowered to raise the minimum capital amount requirement. It is also possible to allocate the number of shares freely among the shareholders. The capital amount is divided into shares each with a minimum nominal value of TL 25 or its multiples.

The minimum amount of capital required for establishing a joint stock company is 50.000 TL, with a minimum nominal value of 1 Kurush, however, for the joint stock companies that are open to public thus adopt a registered capital policy, the minimum amount of capital is 100.000 TL. Nevertheless, the Council of Ministers is empowered to raise the minimum capital amount requirement in order to establish a joint stock company.

How much Corporation Tax will the business pay?

Current Corporation Tax rate in Turkey is 20%.

Tax payers whose legal or business centres are in Turkey, are subject to taxes on their worldwide income. If both of the legal and business centres are not in Turkey, then the company is qualified as non-resident and is subject to tax only on income generated within Turkey. The legal centre is shown in the Articles of Association and the business centre is the place where business activities are concentrated.

Turkish companies must calculate their taxable income by starting with the income included in their annual statements and then make the adjustments required by the tax laws. Non-deductible expenses are added, whilst the tax exempt income and losses carried forward are deducted.

What if we use Turkey to set up our holding company?

Dividends received by a Turkish company from a resident corporate taxpayer are not taxed in the hands of the recipient company. The exemption is also available to the non-resident companies to the extent that the dividends are attributable to a Turkish permanent establishment or branch. Dividends received by the companies from founder's shares that give a participation right to the profit of another resident company and from other redeemed shares are exempt from corporate taxation. Capital gains are not covered under this exemption.

Dividends received from participations outside Turkey are exempt from corporate taxation if certain conditions are valid. These are, generally, among others, (i) the participation rate has to be at least 10 %, (ii) the participation should have been held at least for 1 year, and (iii) foreign tax burden is at least 15 %, (iv) gain should be transferred to Turkey until the date of filing of corporate tax return of the fiscal year in which the relevant gain is obtained. Capital gains upon disposal of shares in foreign participations are not covered under this exemption. Under the same conditions, foreign branch profits may also eligible for this exemption.

What if we make cross-border transactions between group companies?

In Turkey, transfer pricing provisions have been stated under the Article 13 of Corporate Tax Law under the heading "disguised profit distribution via transfer pricing". The Transfer Pricing Communique No. 1 regarding disguised profit distribution via Transfer Pricing, dated November 18, 2007 sets details about implementation of the rules. Transfer Pricing Communique No. 2 was released as a supplementary document to the first communique on April 22, 2008.

The transfer pricing regulations in Turkey are created in line with the principles established by the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. If a taxpayer enters into transactions regarding sale or purchase of goods and services with related parties, where the prices are not set in accordance with arm's length principle, then related profits are considered to be distributed in a disguised manner through transfer pricing. Such disguised profit distributions through transfer pricing are not accepted as tax deductible for corporate income tax purposes.

What Employment Taxes and Social Security will need to be paid?

If an individual is resident in Turkey then they are subject to Turkey tax laws. A foreign individual sent by a foreign company established abroad to carry out business on its behalf in Turkey who has notified the Department of Social Security that he is insured abroad will not be subject to Social Security deductions in Turkey.

Turkey has agreements with Germany, Austria, Belgium, Denmark, Sweden, Libya, Norway, UK, Switzerland, Netherlands, France, T.R.N. Cyprus, Azerbaijan, Romania, Albania, Bosnia Herzegovina, Czech Republic, Georgia, Canada, Quebec and Macedonia, Luxembourg, Bulgaria, Italy, Portugal and Spain. In case of individuals who are nationals of one of the above countries, which have social security tantalization agreements, the provisions of the above agreements have to be considered to determine their social security status in Turkey. Except in the cases referred to above, a foreigner employed by a Turkish company is liable for full Social Security deductions as is the case for a Turkish national.

Current Personal Income Tax rates in Turkey are:

Band of income (TRY)	Tax rate(%)
0-12.600	15
12.600-30.000	20
30.000-110.000	27
Over 110.000	35

Employers and employees also have to pay Turkey social security, which is called Social Insurance:

Current Social Security rates are:

Short term social Security branches including occupational accidents and diseases (varies according to the job)	-	2%	2%
Disability, Old Age, Death	9%	11%	20%
General Health Insurance	5%	7.50%	12.50%
Total Minimum	14%	20.50%	34.50%
Unemployment Insurance	1%	2%	3%

It is the employers' legal responsibility to pay over employee's tax and social security deductions to the Turkish tax authorities.

Turkey has a Reciprocal Agreement with the USA, EU countries and many others whereby when an overseas national of those countries is seconded to the Turkey for a defined period of time and continues to pay social security in their home country, then the employer and employee are exempt from paying Turkey social security.

What is Value Added Tax (VAT) and should the business be registered?

VAT applies to the following transactions:

- The supply of goods or services in the course of performing commercial, industrial, agricultural, or independent professional activities made in Turkey by a taxable person.
- Goods and services imported into Turkey
- Deliveries and services arising from other activities specifically stated in law.

A taxable person is any person or legal entity that has VAT liability in Turkey. Any entity that has a fixed place of business or regularly carries out commercial or professional activities in Turkey must register in Turkey. VAT registration is granted automatically by the tax office when a business registers for corporate income tax purposes.

Reverse charge: The reverse charge applies if certain supplies subject to Turkish VAT are made by a person that is not resident in Turkey or that does not have a permanent establishment or headquarters in Turkey. It is a form of self-assessment for VAT through which the recipient of a supply of services accounts for the tax. The reverse charge applies to the following services performed by non residents without a fixed place of business in Turkey:

• Services of independent professionals, such as engineering, consulting, data processing, and provision of information
• Transfers of copyrights, patents, licenses, trademarks, know-how, and similar rights
• Import commissions
• Interest payments made to foreign entities other than banks and financial institutions
• Rentals
• Transfer or assignment of the right to use capacity for the transmission, emission, or reception of signals, writings, images, sounds, or information of any nature by wire, radio, optical or other electromagnetic systems
• Other services not specified in this list but utilized in Turkey

In Turkey, the following VAT rates are applied:

• Standard rate: 18%
• Reduced rates: 1% and 8%

The standard VAT rate applies to all supplies of goods or services, unless a specific measure provides for a reduced rate or exemption.

Can we provide Share option plans to our staff?

Many companies see Share Option plans as being an important way of attracting, motivating and retaining key staff.

Turkey has a number of "approved" share option plans which give tax benefits to employees and employers alike and it is often possible to adapt an overseas stock option plan to fit into one of these "approved" plans.

However this is a very technically complex area and careful planning needs to be undertaken as soon as share option plans are being considered for implementation in Turkey.

How else can we compensate our employees?

Turkey has a very comprehensive range of compensation and benefit options available for companies to offer their employees.

Pensions, private medical insurance, life and disability cover are now commonplace benefits provided by many Turkish businesses to their workforce.

Flexible benefit packages are also gaining in popularity, giving employees options on how they wish to "spend" their benefits allowance; which can range from "purchasing" additional holiday entitlement to obtaining full family medical cover.

To discuss your requirements please contact the International Office on +44 (0) 1245 449266 or email us directly.

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