

Draft Law on Digital Service Tax (DST)

According to the draft law submitted by the ruling party on 24/10/2019 to the Turkish Parliament; turnover generated from certain digital services shall be subject to 7.5% Digital Services Tax (“**DST**”) in Turkey.

Who is the tax-payer of DST?

Companies providing digital services, which are in the scope of the DST are the tax payers of DST. These companies are either entities having statutory seat in Turkey or entities established abroad having no permanent establishment (such as branch office) in Turkey. In the absence of permanent establishment in Turkey, counter party to the digital services falling within the scope of the DST or intermediaries for payment shall pay the DST as withholding agent.

What are the digital services in the scope of DST?

Services subject to DST are as follows;

- a) All kinds of advertising services offered in the digital media,
- b) The sale of computer programs, applications, music, video, games, etc. in the digital media and the use of such materials in the digital media or services offered in the digital media for the use of such materials in electronic devices,
- c) Operation services of digital media platforms where users can interact with each other,
- d) Intermediary services provided in the digital media for the services listed above.

Which digital service companies are exempt from DST?

Companies generating digital service revenue (turnover) of less than 20 Million TRY in Turkey or less than 750 Million Euro worldwide in the preceding fiscal period are exempt from DST. In order to become tax-payer of DST in current fiscal period, digital service companies are required to satisfy these criteria in the preceding fiscal period.

However, in case these turnover criteria are met within the current fiscal period, the DST exemption ceases and the digital service tax liability starts from the fourth month following the taxation period when such criteria are satisfied. In determining whether the turnover criteria are satisfied, the cumulative turnover amounts realized at the end of the quarterly periods of the fiscal year are taken into consideration.

DST exemption would start again for following fiscal period if DST taxpayers fall below one of the two turnover criteria for two consecutive fiscal periods.

Digital services tax exceptions

Turnover derived from the following services provided in the digital media are except for DST.

a) The treasury share paid by mobile phone companies to the Undersecretariat of Treasury at a rate of 15% of their monthly gross revenue,

b) The treasury share paid by telecommunication companies providing telecommunication services over the networks of mobile phone companies at a rate of 15% of their monthly gross revenue

c) Certain digital services which are currently within the scope of Special Communication Tax are not subject to DST. Such services are mobile electronic communication services, transmission services of radio and television broadcasts via satellite platform and cable environment, cable, wireless and mobile internet service provider services and other electronic communication services not covered by these services,

d) All kind of services provided by banks in accordance with the Banking Law No. 5411 such as; deposit acceptance, credit opening, collection and transfer of money, custody services, credit card issuance, check-note transactions etc.,

e) Sale of products developed as a result of R&D activities in R&D centers established within the framework of R&D Law No. 5746, and services provided for these products,

f) Payment services made within the scope of Payment Services and Electronic Money Institutions Law No. 6493 such as; money transfers, payment instruments issuance etc.

Turnover derived from tax except digital services mentioned above shall not be taken into account in the calculation of turnover criteria (TRY 20 million in Turkey and € 750 million worldwide).

The Tax Base of DST

The tax base of DST is the revenue generated from digital services that are subject to DST. If the revenue is determined in foreign currency, foreign currency denominated revenue amount will be converted to TRY with the Turkish Central Bank's official foreign exchange buying rate at the date when revenue is accrued.

No expenses, costs or taxes shall be taken into account when determining the tax base of DST. Tax credits and other kinds of tax paid shall also not be deductible from DST. DST paid by digital service providers may be taken into account as an expense for corporate tax purposes.

DST is levied by tax office when monthly tax returns are submitted by taxpayers or withholding agents. Digital service providers, who are taxpayers, or digital service recipients, who are withholding agents, are obliged to submit monthly tax returns to the tax office by the end of the following month and to pay DST within the same period.

Failure to pay DST

Digital service providers who fail to fulfill DST obligations (submission of tax returns and payment obligations) in due time shall be notified by the competent tax office. Such notification shall also be announced on the website of the Turkish Revenue Administration. If such obligations are not fulfilled within 30 days following the announcement on the website of Turkish Revenue Administration, access to the online services provided by such digital service providers shall be blocked by the Turkish Information Technologies and Communication Authority.

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