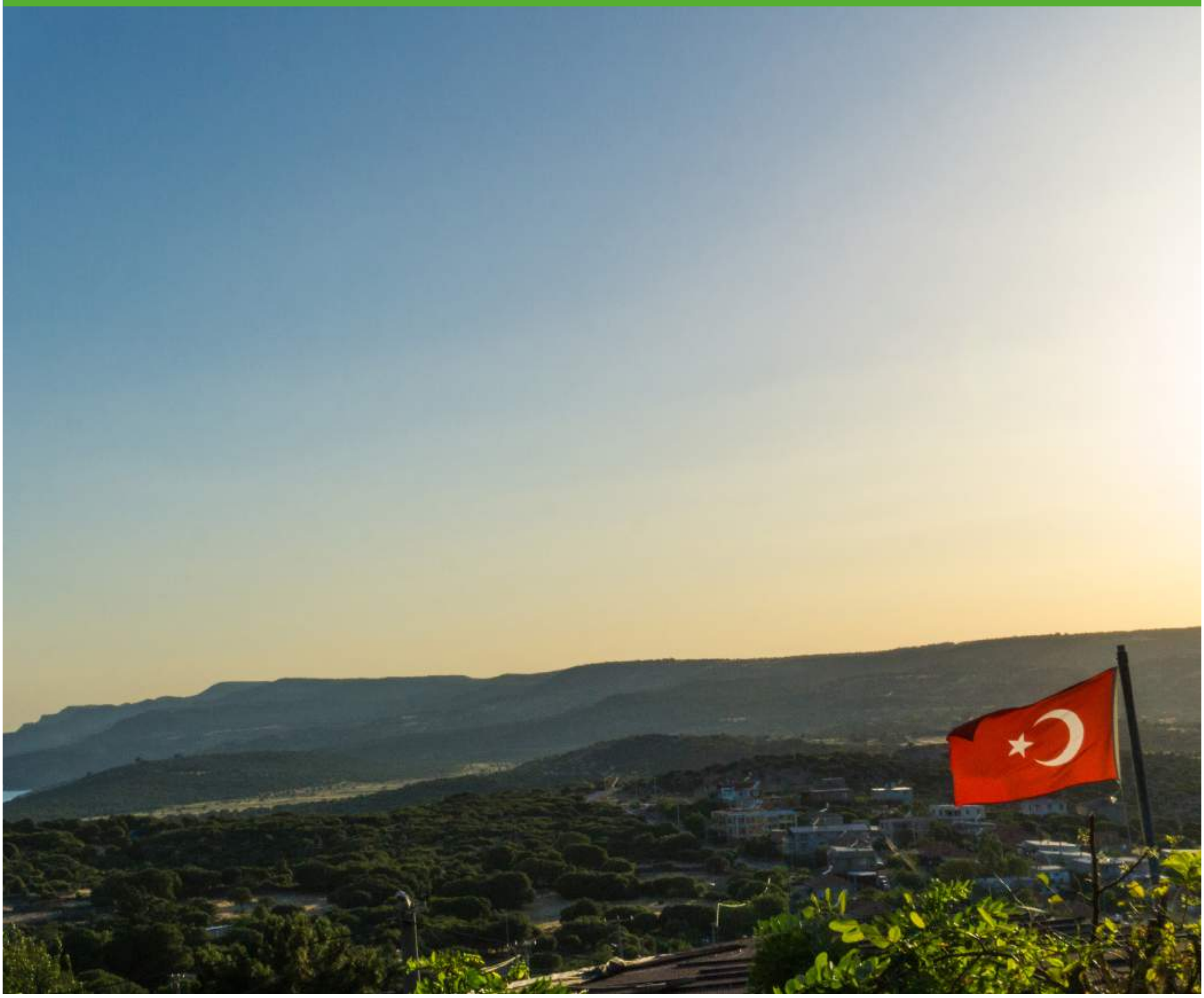
Doing Business in Turkey

This document describes some of the key commercial and taxation factors that are relevant on setting up a business in Turkey.



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Background

The country's population is 80 million people as of 31 December 2017. The large cities include Ankara (capital city), İstanbul, İzmir, Adana, Bursa and Antalya. Turkey has 55 national airports.

Choice of Legal Form

Limited Liability Company

The most usual types of limited liability companies are the limited company and the joint stock company.

	Limited Company (Ltd.Sti.)	Joint Stock Company (A.S.)
Minimum Capital	TL 10.000-	TL 50.000-
Board of directors required	Yes	Yes
Residence in Turkey / EU required for management or board of directors	Yes	Yes

The share capital can be paid as cash funds or be provided by contributions in kind, such as goodwill, fixes assets, stocks, debtors etc. Contributions in kind must be evaluated by qualified experts.

In general all requirements with respect to taxes, accounting and auditing are the same for the limited and joint stock company.

The annual report is subject to auditing independent auditors for company of public ownership, and booking records are subject to auditing by a state authorised public accountant or a registered accountant.

For groups of companies the filing of a consolidated finacial statement is mandatory only if the companies' shares are quoted to the Istanbul Stock Exchange Market (IMKB).

Branch / Representative Office

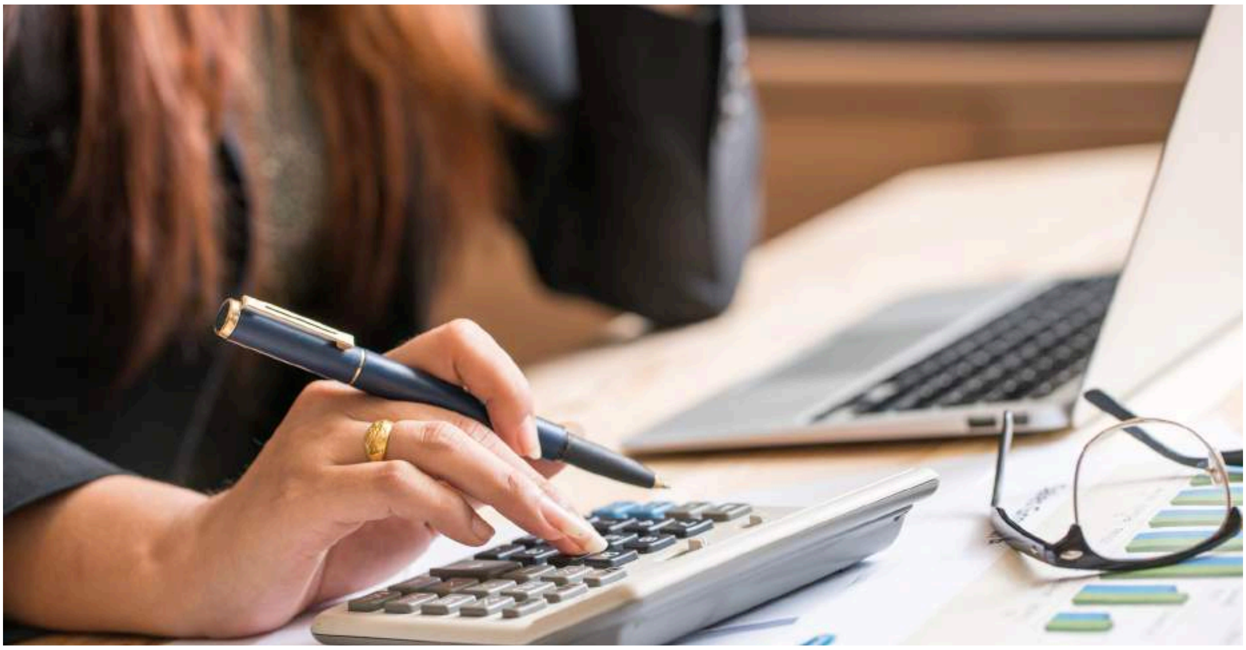
A registered branch or a subsidiary of a foreing company must be registered and meet the requirements of Turkish Company Law.

Audit Requirement

The following companies are required to have a statutory annual audit;

- Companies Quoted to to the Istanbul Stocks Exhange Market (IMKB) or other companies considered publicly held
- Companies exceeding two of the following conditions;
  - Total assets exceeding TL 35.000.000,-
  - Total Net Turnover exceeding TL 70.000.000,-
  - Total Employees exceeding 175 people
- Banks, factoring, leasing companies and other financial institutions, insurance companies and media companies, foundations, associations, oil, gas, electricity companies exceeding different limits.

Taxation



Corporation Tax

The Corporate Income Tax Act Comprises as taxable entities the limited company (Ltd. Sti.), incorporated company (A.S.), a registered branch or a subsidiary of a foreing company. The corporate tax rate is % 20 (% 22 for 2018-2019-2020). The advance tax is prepaid during the current year in four instalments on quarterly basis during the period and the final corporate tax return is filed and paid in April following the period. Tax losses can be carried forward up to 5 years.

The taxable base is the worlwide income for Turkish tax residents while the nonresidents are subject to tax only on their income derived in Turkey. A company is resident if its management and control is in Turkey.

The corporate tax is charged on a company' s profits defined as income and taxable capital gains. In principle all expenses are deductible if incurred in producing or maintaining business income including annual depreciation an operating equipment or buildings.

Dividends from a subsidiary are tax exempted without any limitations on share percentage. Choosing group taxation (losses of one company set off against profits of the other companies) is not allowable.

Dividend Payments

15% withholding tax is to be paid on distributions from a Turkish company. (Resident tax payer). 15% withholding tax is to be paid (whether distributed or not) from a Turkish company (Non resident tax payer).

Branch Profits Tax

Turkish branches of foreing companies are subject to Turkish income tax under the Corporate Income Tax Act.

Personal Income Tax (Pay as you earn)

As a resident, an individual will be taxable on his or her worldwide income in the same manner as any person living in Turkey. On the other hand, a non-resident is generally only subject to Turkish taxation on income that is “sourced” in Turkey.

Capital Gains Tax

Capital gains are normally taxed as income. Capital gains on bonds and other financial claims or debts are taxable income. Losses in foreign currency are deductible. Losses in Turkish currency are deductible depending on the agreed interest rate. Capital gains on real estate are tax liable as well while losses can be set off exclusively against capital gains on other real estate.

If the gain exceeds approximately TL 34.000.-(2018) then is should be declared together with other securities and estate income.

Land Tax

Buildings within the territory of Turkey are subject to building tax. The building tax taxpayer is the owner of the building as its owner. There is a partial exemption of 25% of the tax value of buildings or apartments used as residences.

This partial exemption applies for five years from the following the year when construction was completed.

The tax bas efor the building tax is the tax value of the building. The tax value is the value recorded at the Land Registry. The rate of tax is generally 0.2% altough the rate falls to 0.1 % for buildings used as residences. These rates may be increased in a rate of 100 % within the frontiers of metropolitan municipality and contiguous regions as defined by law.

Value Added Tax (VAT)

VAT is a turnover tax that is levied at every stage of the sale and purchase of goods and services within Turkey. The general VAT rate is 18 % on the sales price, howewer reduced rates are applied fort he deliveries of some goods and services (1 % and 8 %)

Tax Treaties

There exist around 82 tax agreements, see appendix 1 for list of countries.

Allowances

Depreciation

The assets used in a company for more than a year are subject to depreciation.

The Ministry of Finance issued a comminique, which announces the useful lives according the types of the fixed assets.

On buildings used for commercial purposes, including Office buildings, an annual capital allowance of 2-10 % is deductible. Machinery and equipment are depreciated with a maximum of 50 %. Depreciation rates are doubled by using accelerated depreciation method.

The fixed assets can be depreciated on annual basis, only passenger cars should be depreciated starting from the month they have been acquired.

Acquired intangible rigts such as goodwill, know how, patents, trademarks, copyrights can be depreciated during a period of 5 years.

Employment

Social Security/Unemployment Taxes

Social security contributions are payable by employees and self-employed persons. The rate is 37.5 % (45% for high risky sectors) from the cell fixed regularly (15.221,40 TL during for 2018).

Employment of Foreign Personel

For the employment of the Foreign Personnel, residence and work permits should be obtained.

Medical

Taxation of wage/salary income is based on the following Schedule. These rates are announced annually by the Ministry of Finance. The income tax tarif for each year is announced in the form of Communiques under Article 103 of the Income Tax Law.

2018 income tax rates for individuals' salary gains are as follows.

Exceeding TL approx.	Not Exceeding TL	Rate on Excess
0	14.800-	15%
14.801-	34.000-	20%
34.001-	80.000-	27%
80.001-	-	35%

Stamp Duty is applied at 0,759 % on the gross salaries of both full taxpayers and limited taxpayers.

Withholding Taxes

Interest

The tax on the income of fully liable tax payer is calculated by applying the progressive tax rates disclosed in (6.4). If , after the deductions and axemptions allowed by law a capital gain remains to be declared, this is declared in 25 th of March of the following year through an annual income tax return.

Tax paid through withholding an each type of income is deducted from the income tax calculated on the tax return. If there is no income which must be declared via a tax return, the tax paid trough witholding is considered as final tax.

Share Certificate Divident Income

This is subject to divident withholding tax. Under the corporate tax legislation, companies must pay 15 % withholding tax on the dividends that they distribute to fully liable tax payer. There is an exclusion mechanism for half part of dividend income and other half is declared if the total gain exceeds approximately TL 30.000.- together with interest income.

Interest and Trading Income from Treasury Bills and Government Bonds

The interest income from government bonds and treasury bills is subject to withholding tax. The rate of withholding applicable on the interest gains derived from government bonds and treasury bills issued after October 1, 1998 is zero percent. Such income is declared if it exceeds TL 34.000.-.

For securities that are denominated and indexed in foreign currency, foreign Exchange

differences and index differences are not subject to tax. Trading income from goverment bonds and treasury bills is declared if the amount exceeds TL 30.000.- together with other security trading gains. Acquisition value may be at CPI rate, except fort he month in which it is sold.

Dividends

Non-resident individuals are not obliged to submit tax returns for their share certificate dividend income, whatever the amount is. Such income is subject to dividend withholding. The dividend withholding rate is determined in the double tax treaty between Turkey and the country where the individual lives. If there is no double tax treaty between Turkey ans that country, the tax to be paid is decided in line with Turkish tax laws. The withholding rate on dividends is 15% and it is the responsibility of the resident companies which distributed the dividends.

Transfer Pricing

Under the Transfer pricing (TP) rules, the arm's length principle and OECD TP guidelines has been incorporated in the article 13 of Turkish Corporation Tax Law and documentation requirements are obligated for the taxpayers in order to support the methods to be applied in determination of the arm's length price. The TP rules aim to improve the Turkish tax system in a manner defining the standards to apply in transfer pricing dealings between related parties.

Arm's Length Principle

Under the arm's length principle within the legislation related parties must set the transfer prices for purchase and sale of goods and services as if they would have been agreed between unrelated parties.

Related Parties

A comprehensive definition of "related party" for transfer pricing purposes in introduced as part of the TP rules. Accordingly, dirct or indirect attachment in the management or control is included in the related party definition in addition to shareholder/ownershiprelations. Besides transactions with foreign entities which are based in tax heavens or in jurisdictions that provide harmful tax regimes will also be regarded as related party transactions.

Adoption of methods defined in line with OECD guidelines

The TP rules define the following transfer pricing methods for determination of arm's length transfer prices:

- Comparable uncontrolled price method (CUP),

- Cost plus method,
- Relase price method, and;
- Other methods defined by the company itself as most appropriate to use in determination of the arm's lenght price.

Three methods mentioned under TP rules are traditional transaction methods that have been comprehensively explained by OECD Guidelines as generally accepted methods for determination of the arm's length prices. Depending on the circumstances, a choice of these three accepted methods has to be made by Turkish taxpayers. On the other hand; if above mentioned methods can not be used by the company for certain situations, the taxpayer will be free to adopt other methods. This means companies can also choose other methods such as at below mentioned:

- Profit split Method
- Transactional Net Margin Method

Documentation Requirements

The legislation introduced documentation requirements as part of Tp rules where in Turkish taxpayers should keep the documentary evidence within the company in case of any request by tax authorities. The documentation must represent how arm's length price has been determined and the methodology that has been chosen by use of any fiscal records and calculations, charts available at the taxpayer.

According to the General Communique, all tax-payers shoulds submit the form " Transfer Pricing Controlled Foreign Corporation and Thin Capitalization" as an attachment of annual corporate tax return.

On the other hand, all the tax-payers that are registered to " Major Tax-Payers Tax Office" are obliged to prepare an annual TP Report for their related party transactions in the given format in the appendix number 3 of Communique and submit this report with the below mentioned supportive information and documents, when demanded by the Turkish tax authorities. TP report obligation for tax-payers that are registered to other tax offices I is only limited to transactions with non-resident related parties. The related report should be prepared until the submission date of the Corporate Income Tax Return and be submitted when asked by the Tax Directorate and the inspectors.

On the other hand, the corporate tax payers that are registered to other tax offices should also prepare the information and documents that are shared below for the transactions with the related parties that are resident in Turkey. The related information and the documents should be able to be submitted when asked by the Tax Directorate and the inspectors.

The transfer pricing report, detailed information and documents about the company and its transactions have to be ready for submittal to the Tax Authority in the case of a claim. The related documents and information must be declared in Turkish translation if they written in foreign languages.

Thin Capitalisation

Thin capitalisation is regulated in the article 12 of the Corporate Tax Law. If the percentage of the going into debts from stockholders or from persons related to the stockholders exceeds 300 % of the shareholders' equity; the borrowing will be considered as thin capital.

The ratio of the loans from related parties to shareholders' equity will be considered as three to one. Except for the credits received from financial organizations that provide credits only to related companies, 50 % of the credits received from related banks and similar organizations is to be taken into account when making thin capitalisation calculations. The credits received just from these organizations will not be considered as thin capital until the amount of the borrowing exceeds 600 % of the shareholders' equity.

The scope of the term "related parties" consists of shareholders and the persons who are related with the shareholders that own %10 or more shares, voting rights or right to receive dividends of the company.

The term " the related with the Shareholders" is defined as:

- A corporation whose shares or voting rights or right to receive dividends are owned directly or indirectly at the %10 by the Shareholder.
- A corporation or an individual that directly or indirectly owns at least % 10 capital, voting rights or rights or right to receive dividends of the Shareholder or a corporation in relation to the Shareholder.

In the case of the acquisition of shares listed in the Istanbul Stock Exchange, it is stated tahat at least %10 shareholding will be required for the borrowings from the shareholders or related persons, who become related parties due to acquired lised shares.

The equity capital is the equity of the corporation at the beginning of the fiscal year. The equity capital represents the total amount of the shareholder's equity. In determination of the rates related to thin capitalisation lending shareholders and the persons related to the shareholders will be jointly taken into account. Not only the interest paid or accrued, but also the foreign exchange losses and other similar expenses calculated from the credits which are considered as thin capital; are considered as undeductible for corporate tax purposes.

The borrowing which will not be considered within the scope of thin capitalisation are also cited as follows;

- Loans received from third parties based on nın-cash guarantees provided by the shareholders or persons related with the shareholders.
- Loans that are obtained by related parties from banks and other finance institutions or from capital markets and that are wholly or partially onlent by the same with the same conditions.
- The borrowings of the banks operating in the scope of Banking Law numbered 5411.
- Financial leasing companies, the financing and factoring companies operating regarding lending operations, and the borowings of the mortgage financial institutions from the shareholder or the banks that banks that may be related to the shareholders regarding these activities.

The interest paid or accrued and similar payments on thin capital are re-classified at the end of the related tax year as dividend distributed. In order to prevent double taxation, previously calculated taxation for lender who received interest should be amended.

For company that uses thin capital, there will be an additional tax assessment with penalty for the interest and similar payments for withholding tax over dividend distribution. In order to make adjustments in the lender company, the assessed taxed at the borrower company are required to be finalised and paid.

Turkish Commercial Code

Common Concepts Related to Corporate Law

Single Shareholder Joint Stock Company ("AS") and Single Member Partnership with Limited Liability ("Ltd S")

Single shareholder AS and single member Ltd S may either be incorporated or if shareholders/partners of an AS or a Ltd S incorporated by and among multiple shareholders/partners diminishes to a single partner or shareholder, the firm may legally continue its activities.

The single shareholder or partner may solely use all powers of the GA and may adopt all resolutions; however all resolutions adopted in the name of the GA must be specified as GA resolutions and must be in writing.

Group of Companies

Group of companies, which is created for the specific purpose of managing more than one capital stock company according to predetermined and concrete policies within the context of controlling relationships, has been regulated for the first time in Turkish law by this new Code. The concepts of a controlling company, which sustains control, and a dependent company which is under control have been clearly defined and legal status of these companies and their relationships have been specified.

Structural Changes in Companies

The Commercial Code has regulated the structural changes in the companies, in other words (i) division, (ii) merger and (iii) conversion, under several articles.

Turkish Accounting Standards and IFRS, Turkish Accounting Standards Board and New Form of Commercial Books

Significant changes have been made regarding commercial books and the provisions thereof related to the financial statements of capital stock companies and the Group and to the Board's annual reports. The provisions related to bookkeeping obligation, inventory, opening balance sheet, financial statements, balance sheet principles, prohibition of capitalization, provisions, prepaid expenses and deferred income, valuation, custody and disclosure has been effectived starting from 1 July 2012. (IFRS rules are only applicable for the companies and institutions which are subject to audit mentioned in article 3.)

Joint Stock Company

Incorporation of an AS

The Commercial Code introduces a simple and original system that allows for public incorporation. The responsibility arising from incorporation has also been regulated by effective provisions. The incorporation will be audited by the operational auditor. The person who audits the certain transactions of the AS such as incorporation, capital increase and decrease, merger, division, conversion and issuance of securities is called an operational auditor.

Closely Held AS, Publicly Held AS and Publicly Traded AS

The Commercial Code has also introduced provisions for single shareholder AS, publicly held AS and fully publicly held AS whose shares are listed on the stock exchange .

Capital and Shares in an AS

The Commercial Code has accepted two capital systems for all ASs regardless of whether or not they are publicly held: basic capital and registered capital. The adoption of the registered capital system, the acceptance in and dismissal from the system are left to the regulations of the Turkish Ministry of Industry and Commerce. The Ministry will issue the regulations required by the dynamism of the subject.

Shares may be in cash or in-kind. The prohibition that shares corresponding to capital inkind may not be transferred for a period of two years does not exist in new Turkish Commercial Code. A share without a nominal value is not recognized. The minimum nominal value is Kurus 1.

The Commercial Code recognizes privileged shares. However, contrary to the current Turkish Commercial Code, the privilege concept has been defined. Privileged voting right has been restricted.

AS's Acquisition of its Own Shares or Acceptance Thereof as Pledge

The Turkish Commercial Code, to a great extent, has loosened the prohibition on an AS's acquisition of its own shares or acceptance thereof as pledge in accordance with the Second Directive of the EC, called the "Capital Directive", under company law.

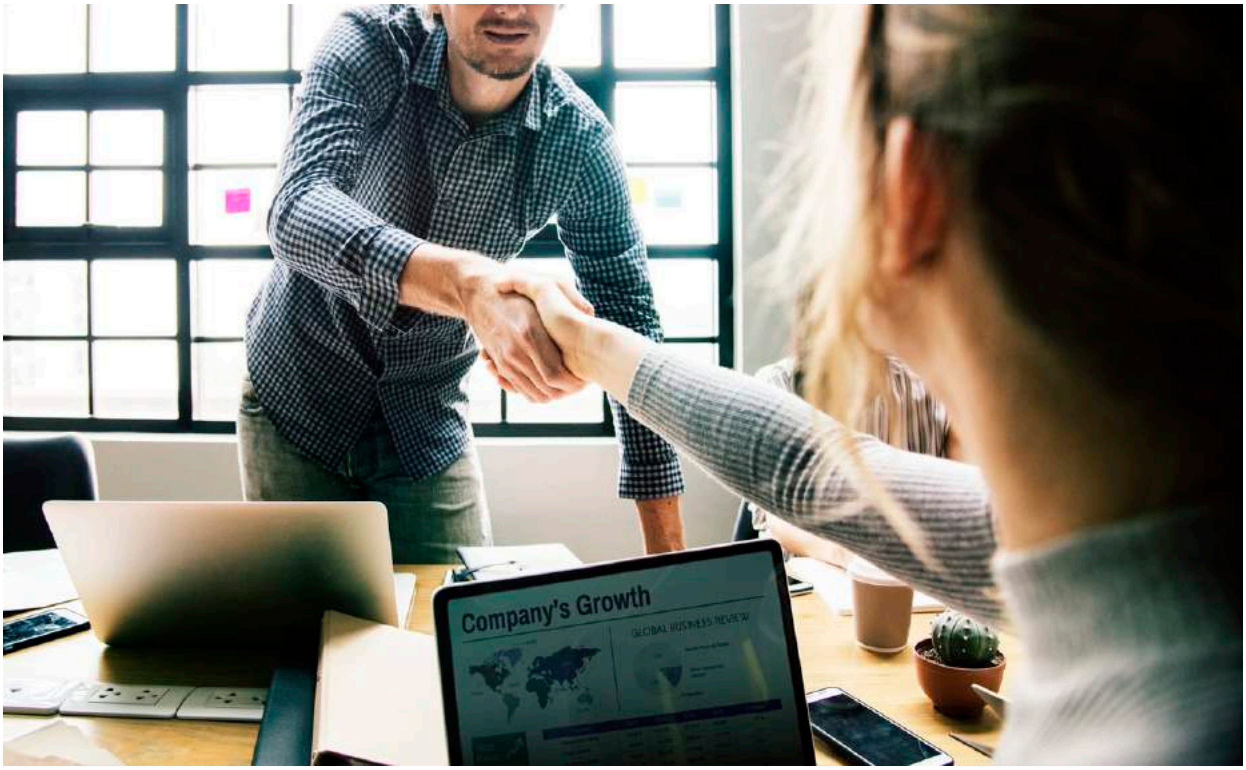
The regime that new Turkish Commercial Code accepts is based on broad and functioning opportunities that may bring ease to the business world. The new Turkish Commercial Code specifically has protected companies whose shares are listed on the stock exchange against manipulation.

Board of Directors of AS ("the Board")

The possibility for a single member Board has been introduced into Turkish law. The possibility for a legal entity to become a Board member has been brought. The legal infrastructure that enables the representation of shareholder groups in the Board has been established.

General Assembly (GA)

The non-delegable and exclusive authorities of the GA are listed collectively. While indicating these authorities, exceptions such as the capital increase and issuance of securities that are particularly related to publicly held AŞs are mentioned. The parties who are authorized to call the GA to a meeting are re-defined. The auditor's power to call a meeting has been excluded. Furthermore, an obligation is included for the arrangement of an internal regulation by the AŞ relation to the management of the GA meetings by the meeting chairmanship.



Capital Increase

The New Turkish Commercial Code has improved the known methods through innovations in relation to the capital increase in the AŞ and also has enriched this transaction with new types. The improvements are the legalizations of capital increase in an authorized capital system and capital increase through internal funds besides the known capital increase types as basic capital increase. On the other hand, conditional capital increase is a new concept.

In this type of capital increase, the capital is increased neither upon a Board decision nor through a GA resolution, and the capital increase may not be subscribed by particular people and the basis of the capital increase is a provision of the articles of association.

Responsibility

The New Turkish Commercial Code has regulated the legal and the criminal responsibilities arising from various transactions, decisions, declarations or documents of ASs.

Partnership with Limited Liability (Ltd Sti)

The new Ltd Sti has departed from general partnership, in contrary to the existing Turkish Commercial Code and has almost resembled a small size AS. The minimum capital is 10.000 (ten thousand) TL.

Incorporation

With the new Turkish Commercial Code, a single member Ltd has been allowed and incorporation has been simplified.

Increase of the Financial Power

It has been set forth that the capital share is paid at once, i.e. installments have been removed. Since the system in which the total value of the capital shares is to be paid at once has been introduced, default and its results have been eliminated.

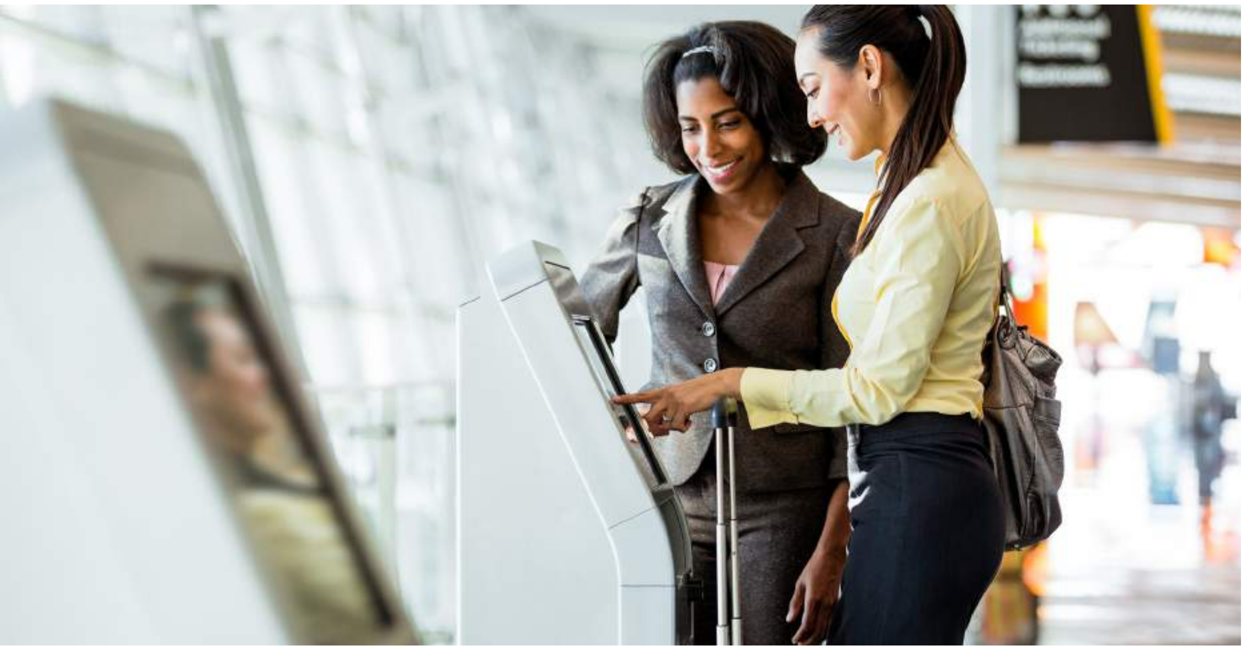
Appendix I, Double Taxation Treaties

Albania	India	Norway	United States
Algeria	Indonesia	Oman	Uzbekistan
Australia	Iran	Pakistan	Yemen
Austria	Ireland	Poland	
Azerbaijan	Israel	Portugal	
Bahrain	Italy	Qatar	
Bangladesh	Japan	Romania	
Belarus	Jordan	Russia	
Belgium	Kazakhstan	Saudi Arabia	
Bosnia & Herzegovina	Korea (Republic of)	Serbia	
Brazil	Kosovo	Singapore	
Bulgaria	Kuwait	Slovakia	
Canada	Kyrgyzstan	Slovenia	
China	Latvia	South Africa	
Cyprus	Lebanon	Spain	
Czech Republic	Lithuania	Sudan	
Denmark	Luxembourg	Sweden	
Egypt	Macedonia	Switzerland	
Estonia	Malaysia	Syria	
Ethiopia	Malta	Tajikistan	
Finland	Mexico	Thailand	
France	Moldova	Tunisia	
Georgia	Morocco	Turkmenistan	
Germany	Netherlands	Ukraine	
Greece	New Zealand	United Arab Emirates	
Hungary	Northern Cyprus (Turkish Republic of)	United Kingdom	

This document is provided by AMT S.M.M.M A.S. as a general overview of matters to be considered when setting up an overseas business in Turkey. It is essential to take advice on specific issues. No liability can be accepted for any action taken or not taken arising from the information provided in this publication.

If you are setting up a business in Turkey, the members of DFK International can help you to achieve this efficiently. You will receive practical advice on business issues, tailored to meet your objectives, from experienced business advisers.

For further information on the services available from the DFK member firms in Turkey please see overleaf.



Last updated February 2019

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