
Circular on Stamp Duty of Agreements Revised in Accordance With Decree No: 85

Summary

With the Circular No: 22 (“Circular”) of Revenue Administration dated 22.11.2018, explanations were made regarding the application of stamp duty on the agreements revised according to the Decree No:85. Upon fulfilling some conditions stated in the Circular, the revised agreements shall be exempted from stamp duty. The Circular also includes explanations regarding application of stamp duty where the exemption would not be applicable and examples on the calculation.

With the Decree no.85, which was published and became effective on 13.09.2018, an amendment has been made in Decree No.32 on the Protection of the Value of Turkish Currency (“Decree No. 32”). By this amendment, certain restrictions have been regulated with regards to certain contracts signed between Turkish residents. According to the Decree no.85, prices of the agreements and other payment obligations arising from those agreements cannot be agreed upon in foreign currency or indexed to foreign currency. Furthermore, under the Decree No.32 contract prices in foreign currency of the restricted agreements that are entered into before the execution date of this amendment (13.09.2018) and still in force, are required to be re-determined by the parties in 30 days as Turkish Lira. (Please find our [Bulletin on the table showing the agreements prices in which cannot be determined in foreign currency or directly or indirectly indexed to foreign currency](#)).

Following the aforementioned development, the Circular of Revenue Administration, which includes explanations regarding the application of stamp duty on the agreements revised according to the Decree No:85, has published on 22.11.2018. Under the Circular, if all the following conditions are met, no stamp duty shall arise over the revised agreements;

- ✓ If there is not a change in the clauses of the relevant agreement (e.g., extension of time, change in party, addition of new business etc.) other than the clause regarding price,
- ✓ If the total amount of the agreement in Turkish Lira following the revision does not exceed the amount of the first agreement in foreign currency multiplied by the foreign currency selling rate determined by the Central Bank of Republic of Turkey on the issuance date of the revised agreement,
- ✓ If there is a reference made to the main (original) agreement.

On the other hand, if there is no change in the other clauses of the relevant agreement and the price included in the revised agreement exceeds the amount to be determined in accordance with the foreign currency selling rate of the Central Bank of Republic of Turkey on the issuance date of the revised agreement, the exceeding amount shall be subject to stamp duty, provided that the stamp duty of the original agreement has not been paid from the maximum amount. Otherwise, (i.e., if the stamp duty is paid from the maximum amount for the original agreement), no stamp duty shall be applied from the revised agreement providing that the conditions mentioned above are met.

On the other hand, it is reminded in the Circular that if there is a change in the other clauses of the relevant agreements or a new agreement is signed to replace the original agreement, stamp duty would arise.

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