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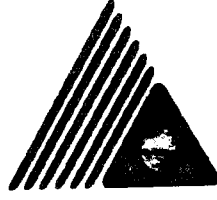
**TAXATION OF FINANCIAL INSTRUMENTS IN TURKEY**

**by**

**Irfan Huseyin YILDIZ**

**Submitted to the Graduate Institute of Social Sciences in  
Partial Fulfillment of the requirements for the degree of  
Master of Business Administration**

**İSTANBUL - 2005**



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## ABSTRACT

The content of financial markets, their kinds, characteristics, operation of financial system, and the taxation of financial markets are complicated in Turkey. The positions of financial organizations in a financial system and their individual characteristics are explained and their taxation process is described in this thesis by using tables and graphs.

Financial institutions and their place in financial system are explained. Financial institutions are considered as direct tax payers. Also investment funds, investment trust, individual retirement funds and insurance companies, from this point of view, are discussed. This is how the financial system operates; The ones who make the financial transaction are subjected to taxation. The tax load imposed on the financial earnings acquired by means of the financial instruments may either encourage or deter the persons who both demand and supply such financial instruments.

In this thesis, compared to the banking sector financial investment market is not yet developed because of tax and intervening party costs and other complex issues. Other dilemmas can be named as transparency, market discipline, company and investor know-how that can be solved in the long run. In Turkey, as of now, investors that come to Stock Exchange Bureau have no purpose of becoming a partner or receiving dividends of that company. Furthermore, companies in Stock Exchange Bureau have no intention to create an atmosphere for them. So it should not be expected for Stock Market to grow and improve only by speculative trade of shares.

On the other hand, it is vitally important to collect taxes from income and gains that are obtained from financial instruments of national and international flow of funds. That is why in Turkey, many exemptions are applied to tax collection. Besides not having enough savings and not using them effectively in productive areas budget deficit are inevitable. In Turkey, due to the administrative, legal, political and economic risks, the issue of taxation of financial income and gains is highly important. In contrast, in recent years, implemented structural reforms and regulations to join into the European Union have caused serious expectations on reducing these risks.

Insufficient accumulation of capital, undeepened financial markets and weak financial instruments. Increases of tax load collected from properties and services ruins the price mechanism. Thus, although there are increasing indirect tax rates, it has never been possible to collect more tax in totals just because of tax base narrowed. This is why the conclusion we attained from the regression formula certifies the interpretation of this thesis.

## ÖZET

Türkiye’de finansal piyasaların kapsamı, türleri, özellikleri, finansal sistemin işleyişi, dolayısıyla finansal piyasaların, finansal kurumların ve finansal enstrümanların vergilendirmesi karmaşık bir durum arz etmektedir. Bu çalışmada, bütün bu yapı aşamalı olarak ve tablolar da kullanılmak suretiyle anlaşılır bir şekilde açıklanmıştır.

Finansal kurumların, finansal sistem içindeki yerleri ve her birinin özelliklerine yer verilmiştir. Finansal kurumların, dolaysız vergi mükellefi veya sorumlusu oldukları, kurumlar vergisi ve kar payı dağıtımına bağlı vergi tevkifatı yükümlülüğü üzerinde durulmuştur. Ayrıca, yatırım fonları, yatırım ortaklıkları, bireysel emeklilik fonları ve sigorta şirketlerinin bu genel çerçeve içinde, getirilen vergi muafiyetleri ve istisnalar nedeniyle özellik arz eden durumları, leasing şirketlerinin değerlendirme hükümleri yönüyle özellikli durumları, halka açık şirketlerin ise kar payı dağıtımını yönüyle tabi oldukları özel hükümler açıklanmıştır. Finansal sistemin temel işleyişi; finansal işlemleri yapanlar ve bu işlemlerden gelir veya kazanç sağlayanlar; yaptıkları işlemler veya elde ettikleri kazanç ve iratlar nedeniyle vergi yükümlüsü olmaktadır. Ancak, finansal enstrümanlardan sağlanan gelir ve kazançlar; gerçek kişiler açısından gelirin elde edildiği kaynağa göre, “menkul sermaye iradı” veya “diğer kazanç ve iratlar” olarak gelir vergisine konu edilirken, tüzel kişiler açısından ticari kazanç sayılmakta ve kurumlar vergisine konu edilmektedir.

Bu çalışmamızda, bankacılık kesimi ile karşılaştırıldığında menkul kıymetler piyasasının ülkemizde gelişmemesinin, vergi ve benzeri aracılık maliyetlerinin hayli ötesinde sorunlardan kaynaklandığı ortaya çıkmıştır. Bunlar, ancak orta ve uzun vadede çözülebilecek kurumsallaşma, şeffaflık, istikrar, piyasa disiplini, şirket ve yatırımcı kültürü gibi yapısal sorunlardır. Türkiye’de halihazırda menkul kıymetler borsasına gelen yatırımcı, hisse senedini aldığı şirkete ortak olma veya temettü geliri elde etme gayesi gütmemektedir. Zaten Borsaya açılmış olan şirketler de buna zemin sunmamaktadırlar. Dolayısıyla sadece spekülatif saikle yapılan işlemlerle, menkul kıymetler borsasının çok daha fazla gelişmesi beklenmemelidir.

Öte yandan, ulusal ve uluslar arası fon akımlarını sağlayan finansal enstrümanlardan elde edilen kazanç ve iratların vergilendirilmesi özel bir önem arz etmektedir. Bu nedenle vergi sistemimizde finansal kazanç ve iratların vergilendirilmesine ilişkin, genel düzenleme dışında, bir çok istisna ve muafiyet öngörülmüştür. Ülkemizde tasarrufların yetersizliği yanında ikinci önemli bir sorunun da, bu birikimlerin ekonomik kalkınmaya hizmet edecek alanlara kanalize edilmesinde yaşanmaktadır. Yüksek seviyedeki idari, hukuki, siyasi ve ekonomik risk payı nedeniyle, ülkemizde finansal kazanç ve iratların vergilendirilmesi, özel önemini korumaktadır. Buna karşın, son yıllarda AB’ye tam üyelik amacı doğrultusunda yapılan yapısal reformlar, sözü edilen riskleri giderme konusunda ciddi bir beklenti yaratmıştır.

Buna karşın, kamu bütçesi açıklarını kapatmak ve faiz dışı fazla hedefini tutturmak için, giderek daha fazla dolaylı vergilere yüklendiğimiz bir sürece girmiş bulunuyoruz. Elbette, dolaysız vergi tabanının giderek daralmasında, tasarrufların üretime ve ticarete yönelme yerine, daha güvenli kamu finansal enstrümanlarına yönelmiş olmasının büyük payı vardır. Buna rağmen, toplam vergi gelirlerinin bileşimindeki bu değişikliği, önemli bir hastalığın belirtisi olarak kabul etmek gerekir. Çalışmamız, bu tezimizi doğrulayan bir regrasyon çalışmasıyla sonlandırılmıştır.

## INTRODUCTION

Turkey's new economic development strategy after 1980 suggests that the fund surpluses in the developed countries will be directed towards to the developing countries and will greatly contribute to their development. However, the international freedom resulting from liberal market based political and legal arrangements and the speed caused by the data processing and communication technologies make difficult the tracing and control of capital transfers in the increasingly globalizing world economies and greatly limit the utilization of the foreign exchange rate as a economical political means. When in 1989 the capital movements in Turkey also became free , the domestic savings became totally foreign savings. Within that process, the foreign exchange rate was subjected to a devaluation because of the sudden capital inputs and outputs in high amounts. With the new global and competitive financial model, the financial system became more effective and productive but on the other hand, the fragility of financial system increased. Especially, in the developing countries, the financial system is under more liquidity risk because of the insufficiency in capital accumulation.

With the opportunities provided by the financial system and financial instruments, a fund flowing from the saving holders towards the ones who demand saving is ensured, securities can be converted to liquidity, prices of securities are established, a payment system is created, various financial services are being given and the effective collection of funds and economical sources can be made. In all such processes, the tax load imposed by the financial instruments plays an important role. On the other hand, this system may work with the legal and financial arrangements by using the financial instruments required by the financial organizations and financial markets. The financial organizations can be defined as institutions that act as a mediator in operation of the said financial system. We may define the financial instruments as the instruments that ensure and carry the said fund flowing. For this reason, a financial system works effectively only if it is the integral part of the whole system. The tax load imposed on the financial earnings acquired by means of the financial instruments may either encourage or deter the persons who both demand and supply such financial instruments. Because of the high fund demand of the public and private sectors that need great amounts of capital in Turkey , the provisional applications, except the general principles in taxation of financial earnings, did not suddenly disappear and taxation of the financial instruments in Turkey became more complex. This thesis study on that matter consists of mainly four sections.

In the first section, concepts, definitions and evaluations on financial instruments are given. The financial instrument concept is described in detail and the kinds, legal statuses and characteristics of the financial instruments included in the Turkish legal provisions are examined. The basic concepts contained in the Turkish Trade Law, Capital Market Law and Tax Laws are explained. Then, the evaluation principles on financial instruments registered in the active assets of companies are examined.

In the second section, the content of financial markets, their kinds, characteristics, operation of financial system, and after taxation of financial markets are explained in general, the positions of financial organizations in a financial system and their individual characteristics are explained and their taxation process is described.

In the third section, the taxation of financial earnings and incomes acquired by means of financial instruments with respect to taxpayer categories is given in detail. Then, in case the narrow and actual taxpayers gain earning and income from the said financial instruments, what the general determinations are related to considering of such earnings and incomes as “movable capital income” or “other earnings and incomes “ will be explained. Besides, the individual characteristics of financial instruments with respect to their categories are explained and the status of taxation to be made in every aspect such as the determination of tax amounts, deduction rate and cost price indexing application and declaration and exemption limits against to agreements on preventing double taxation is clearly stated. Following this, the principles on presenting annual declarations by the full actual taxpayers and reflecting their incomes in yearly declarations are explained by examples. The periods for presentation of declarations and tax payments are also given. With this regard, the mediation costs of the financial sector that acts as a mediator for the circulation of financial instruments are explained.

In the fourth section; it is shown that Turkey increasingly uses taxes to close the public budget deficits and obtain the out of interest surplus target and it is found out that the savings that are directed to less risky public financial instruments rather than production and trade has a negative effect in reducing the indirect tax base. The direction of the financing of public expenditures to indirect taxes and the great volume of hot money in that financing is accepted as an important illness symptom and we made a regression study to verify this thesis.



## SECTION ONE

### CONCEPTS, DEFINITIONS AND EVALUATIONS ON FINANCIAL INSTRUMENTS

#### 1. FINANCIAL INSTRUMENT (TOOL) CONCEPT

**The Financial Instrument:** An agreement that is a financial asset for one party is a financial obligation or capital means for the other party. Accordingly, **financial assets** mean the cash stock, the right acquiring cash or other financial asset acquiring right from the other party or the right to mutually change the financial instruments or the capital instrument of the other party (share certificate) . **Financial obligations** mean the obligation to transfer cash or other financial asset to the other party or the right to mutually change the financial assets resulting from an agreement: <sup>1</sup>

As it is seen, in financial markets, the persons who demand funds give a certificate or registered asset to the persons who supply funds , showing the receivable or partnership rights of the party resulting from the fund trade. The financial assets other than the cash banknote stock occur depending on an agreement and there exists either a financial obligation or other financial asset included in the agreement. The persons who demand funds subject to a liability as a result of the documents /certificates they give. Accordingly, financial markets are the markets where the legal documents that are expressed as financial assets are bought and sold. The financial instruments form the financial actives for the persons who hold them and the financial debts for the persons who release them in the market. In other words, the financial actives are the images of funds presented in the market and the financial debts are the images of fund demand met through the market as reflected in the balance sheet. <sup>2</sup> For this reason , the financial instrument or financial tool to be stated in our thesis hereinafter we will refer to financial assets (actives). The instruments used in money markets are the notes and deposits. The capital market tools are the partnership securities (share certificates) and loaning securities (bonds, debentures). <sup>3</sup> The financial instruments give a right to its holder to obtain a cash flow in the future. That cash flowing may be the equivalence of a debt or the resulting interest given by the saving holder for operating purpose (direct financial instrument) or be a dividend income obtained by the saving holder by purchasing any share certificate of the company after he accepts to be a partner of that company (indirect financial instrument).

#### A. The Bank Law

In the Bank Law, the financial assets are classified in four groups; purchase-sell purposed financial assets, financial assets to be kept at hand by date of maturity, the financial assets ready to be sold, and bank sourced credits and receivables.

#### B. The Turkish Trade Law

In the Turkish Trade Law , the definition of securities is not made. However, according to the document definition made in Article 557of the Turkish Trade Law<sup>4</sup>, the legal documents are defined as non-assignable to others and they contain all the notes such as notes in bearer's name, registered notes and promissory notes. With that definition, legal documents consist of all the financial instruments used in the money and capital markets. The main characteristics of legal documents are as follows.

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1.4389 Ministers Law article3

2.Serpil CANBAS-HATICE DOGUKANLI, "Financial Markets", Beta Dist.Sept 2003, 3. Edt.pp.13

3.Nuray KONDAK, "Introduction to Marketable Security Markets", Der Publ. Istanbul,1999,pp 29

4.Dtd July 9,1956 Official Newspaper

- A legal document (negotiable securities) is a note. For this reason, unless a written text exists, it is not a legal document.
- A legal document contains a right. Unless a right exists, it is not a legal document
- A legal document depends on a shape. That shape is not the proof of a legal document but its correctness obligation.
- A note not containing legal elements is not a legal document.
- A legal document has a circulation ability. This circulation is provided by means of endorsement and delivery. Besides, the assignment of a receivable is a legal procedure that ensures also the transfer of legal documents.
- In a legal document, the right and legal rules are assigned together.

Accordingly, starting from the capital market financial instruments, by taking into consideration all the financial system we may list the principal financial instruments as follows.

### **C. The Capital Market Law**

The securities are not defined in the Turkish Trade Law. However, in the Article 3 of the Capital Market Law, securities are defined and the tools of the capital market are given in two categories ; securities and other capital market tools. The basic documents used in comparison of supply and demand in the capital market are the securities.

According to the definition of securities made in the Article 3 of the Capital market law, securities are a legal document that ensures a value, partnership or creditor status, represents some definite amount, used as an investment tool, provides periodical income, issued in series with same statements and of which conditions are determined by the Capital Market council. Accordingly, the documents that are deemed as securities have six important characteristics:

- They provide a partnership right or a creditor status.
- They represent some definite amount
- They are used an investment tool
- They provide annual or six-month periodical income
- They are issued in coupons representing some definite amount or its multiples.
- They are issued in series and have same statements and expressions.

In that case, the basic financial instruments of capital markets are : share certificates and bonds that are called as securities.

The documents, other than the securities, of which conditions are determined by the Capital market Council, are defined as “ Other Capital Market tools “ or “other securities “. The “Other securities “ include as an investment tool the followings;

- The profit and loss partnership documents
- Participation and joining notes
- Bank bonds
- Financing bonds
- Securities on assets
- General finance partners and foreign capital market tools.
- Investment fund joining documents

## **II. CAPITAL MARKET FINANCIAL INSTRUMENTS**

According to the definitions and explanations given above, the collective capital market tools are as follows:

- Share certificates
- Share certificate derivatives
- Provisional documents
- New share purchasing coupons
- Bonds
- Bond derivatives
- Bond interest coupons
- Treasury bonds
- Participation benefit notes
- Non-voting share certificates
- Profit and loss partnership certificates
- Bank bonds
- Bank guarantee bonds
- Financing bonds
- Securities on assets
- Income partnership notes
- Immovable certificates
- Movable investment fund participation documents
- Nightly depository
- Stocked securities certificates and
- Other capital market tools

As it is seen, the capital market instruments subject to SPK mainly consist of share certificates and bonds.

## **III. OTHER FINANCIAL INSTRUMENTS**

- Money, banknote
- Deposits book
- Deposits certificates
- Commercial notes
- Insurance policies and retirement contracts
- Forward, Swap, Futures and Option agreements

## **IV. EVALUATION OF FINANCIAL INSTRUMENTS OWNED BY BUSINESS ENTERPRISES**

### **A. General Evaluation**

The evaluation is a process realized to determine the value of an economical asset in a definite period or time.<sup>6</sup> In the Article 258 of the Tax Law, evaluation is defined as the determination and appreciation of economical assets related to calculation of tax value.

In evaluation, the values of economical assets on days and at times determined in the tax laws are taken into consideration.<sup>7</sup> In evaluation, each of the economical assets are considered individually. To evaluate the same kind commodities and low valued commodities collectively is acceptable.<sup>8</sup> Accordingly, evaluation is expression of the value of active and passive items in an organization on a definite date- on evaluation date- in a currency.<sup>9</sup> By multiplying the value obtained as a result of measuring, counting or weighting to a unit value , that economical asset is determined in a currency.

#### **1. Evaluation according to the Turkish Trade Law**

In the Article 75/2 of the Turkish Trade Law it is stated that“ all the actives are registered on the value they possess for operation latest on the date of balance sheet. The assets are calculated according to the current stock exchange value and all the receivables, except the non-collected ones or disputed ones, according to their nominal value. “. In the 75/3 article of TTK it is stated that” all the debts are registered on their nominal value even though they are conditional and termed. “. In this way, the evaluation of both the actives and passives above their current market value is prevented. Both provisions prevent distribution of capital as a dividend by showing the profit higher than the current one and protect the persons who have receivables from the business enterprise and the third persons who will give credit.<sup>10</sup>

On the other hand, according to the Article 462 of TTK on arrangement of documents, the legal document with definite stock exchange value can only be registered in the balance sheet according to its current value determined at last one month before the balance sheet date. With regard to current market value of legal documents in foreign stock exchange markets, the difficulties experienced during the transfer of their values are also taken into consideration.

According to the document definition made in the Article 557 of the Turkish Trade Law, the legal documents are defined as non-assignable to others and they contain all the notes such as notes in bearer’s name, registered notes and promissory notes. With that definition, legal documents consist of all the financial instruments used in the money and capital markets. The main characteristics of legal documents are as follows.

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6. Ahmet EROL, “Marketable Securities Income Valuing-1” Tax Payer , Issue:98, Feb 2001 pp.196

7. Dtd Jan 01, 1961 10703-10705 Official Newspaper , article 259 of Tax Law

8. Dtd Jan 01, 1961 10703-10705 Official Newspaper , article 260 of Tax Law

9. Umit ATAMAN, Transactions on end of Period in Accounting, Istanbul 1992, pp.19

10. Umit ATAMAN, a.g.e., pp.26



- A legal document (negotiable securities) is a note. For this reason, unless a written text exists, it is not a legal document.
- A legal document contains a right. Unless a right exists, it is not a legal document
- A legal document depends on a shape. That shape is not the proof of a legal document but its correctness obligation.
- A note not containing legal elements is not a legal document.
- A legal document has circulation ability. This circulation is provided by means of endorsement and delivery. Besides, the assignment of a receivable is a legal procedure that ensures also the transfer of legal documents.
- In a legal document, the right and law are together assigned.

According to the definition of securities made in the Article 3 of the Capital market law, securities are a legal document that ensures a value, partnership or creditor status, represents some definite amount, used as an investment tool, provides periodical income, issued in series with same statements and of which conditions are determined by the Capital Market council. Accordingly, the documents that are deemed as securities have six important characteristics:

- They provide a partnership right or a creditor status.
- They represent some definite amount
- They are used as an investment tool
- They provide a periodical income
- They have multiplied qualification
- They are issued in series
- They have same statements
- Their conditions are determined by the capital market council
- They have a legal document qualification

## **2. Evaluation according to the Capital Market Law**

The detailed explanations about evaluation are given in the XI/I serial numbered announcement on principles and rules related to Financial tables and reports in the capital market executed by the Capital market Council. <sup>11</sup> The application standards related to the financial tables are given in the second part of the announcement. According to the article 21 of the said announcement on evaluation of securities; the securities acquired for provisional purposes are registered with its acquisition cost. However, business enterprises may record the expenses they made depending on the purchasing price in the account item of “ expenses and losses from other activities”. In calculation of acquisition cost, it is obligatory to apply one of the movable or weighted averaging cost methods. The securities are evaluated separately in series by depending on the said cost methods. The share certificates put into transaction in stock exchanges and other organized markets are evaluated on average of weighted average prices that are established within 5 working days before the balance sheet date, provided that all the other provisions given in that article will be reserved. With regard to share certificates obtained within 5 working days before the balance sheet , the lowest one from the acquisition cost and the weighted average price established on the balance sheet date is evaluated.

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11. Dtd Jan 29,1989 20064 Official Newspaper

### 3. Evaluation according to the Tax Law

In the 258<sup>th</sup>-290<sup>th</sup> articles of the tax law, principles on evaluation of economical assets are defined. The evaluation in the 258 of VUK, the evaluation is described as “ appreciation and determination of economical assets related to calculation of tax values”. Besides, according to the 261<sup>st</sup> article of VUK, the evaluation is made according to the kind and content of the economical asset as follows.

- Cost value
- Current Stock exchange value
- Saving value
- Recorded value
- Nominal value
- Tax value
- Current market value
- Similar kind value and fee

#### a) Cost Value

The cost value expresses the total of payments made to acquire an economical asset or to increase its value and all the other related expenses.<sup>12</sup>

#### b) Current Stock exchange value

The current stock exchange value expresses the average values of transactions in the stock exchange on the final transaction day before evaluation of securities registered in both securities stock exchange and foreign exchange stock and trade stock exchanges. In cases clear instability occurs in prices except the normal transactions, the Ministry of Finance has the authority to take the average current value within 30 days following the evaluation instead of final transaction day.<sup>13</sup>

#### c. Saving Value

The saving value is the actual value offered for the holder on the evaluation date of an economical asset.<sup>14</sup>

#### d. Recorded value

The recorded value is the account value shown in the accounting registers of an economical asset.<sup>15</sup>

#### e) Nominal value

The nominal value is the value written on all kinds of notes and bonds.<sup>16</sup>

#### f) Current market value

Current market value is the normal purchasing and selling value on the evaluation day of an economical asset.<sup>17</sup>

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12.Dtd. Jan 10,1961 10703-10705 Official Newspaper, Article 262 of Tax Law Code

13. Dtd. Jan 10,1961 10703-10705 Official Newspaper, Article 263 of Tax Law Code

14. Dtd. Jan 10,1961 10703-10705 Official Newspaper, Article 264 of Tax Law Code

15. Dtd. Jan 10,1961 10703-10705 Official Newspaper, Article 265 of Tax Law Code

16. Dtd. Jan 10,1961 10703-10705 Official Newspaper, Article 266 of Tax Law Code

17. Dtd. Jan 10,1961 10703-10705 Official Newspaper, Article 266 of Tax Law Code

## **B. Evaluation of Securities**

The basic documents used in comparison of the supply and demand in the capital market are called as securities. As our subject is taxation of financial instruments, we will make the evaluation of financial instruments within the scope of Tax law.

Until the date of 4369 no law modification, all the securities were evaluated with purchasing value. For this reason, such an evaluation did not reflect the actual value of securities on the evaluation date. Under the 279<sup>th</sup> article of VUK modified with 4369 no law, the evaluation of securities was rearranged.<sup>18</sup>

According to that article; “ the investment fund participation certificates consist of share certificates of the companies of which at least 51% of their fund portfolio established in Turkey will be evaluated according to their purchasing value and all the other securities according to the current stock exchange value. If no current stock exchange value exists or if it is understood that the current stock exchange value is established collusively, the evaluation related value is calculated by adding the part of income to be obtained on its due date (including the rate of exchange differences) , corresponding to the period between the acquisition date to the evaluation date, to the purchasing value of securities. However, the securities that have not any current stock exchange value, of which output depends on the loss and profit of the holder and impossible to calculate as date of evaluation are evaluated according to the purchasing value.” As it is seen in the said article, in evaluation of VUK securities, three evaluation criterion are accepted ;

- Purchasing value
- Current Stock exchange value
- Yield- by calculating its yield until the date of evaluation, to add it to the purchasing value.

The building and land plot from the economical assets or other assets not stated in that section are evaluated with their tax values and others with current stock exchange value (if any) or their recorded values (if any) or with their similar kind values.<sup>19</sup> Accordingly, the following principles are suggested related to the evaluation securities included in the business enterprises.<sup>20</sup>

- The share certificates included in the business enterprises will be evaluated with their purchasing price.
- The investment fund participation certificates consist of the share certificates of companies founded in Turkey, at least 51% of their fund portfolios included in the economical business enterprise, will be evaluated with their purchasing price.
- All the securities other than the stated ones above will be evaluated according to the current stock exchange value.
- If no current stock exchange value exists or if it is understood that the current stock exchange value is established collusively, the evaluation related value is calculated by adding the part of income to be obtained on its due date (including the rate of exchange differences) , corresponding to the period between the acquisition date to the evaluation date, to the purchasing value of securities.

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18.Dtd July 29,1998, Official Newspaper

19.Dtd Jan 10,1961 10703-10705 article 289 of Tax Law

20.Declaration Guide(2004), MHUD, 2nd Edition,Istanbul,27.02.2004, pp.887

-the securities that have not any current stock exchange value, of which yield depends on the loss and profit of the holder and impossible to calculate as date of evaluation are evaluated according to the purchasing value.

According to the provision of the said article, three evaluation measures are suggested depending on the kind of securities registered in the actives of economical business enterprises.

-Purchasing price measure

The definition of purchasing price is not included in the Tax law. However in practice, the purchasing price is the value paid to the seller for acquisition of an economical asset.

- Current Stock exchange value measure

The current stock exchange value is defined in the 263<sup>rd</sup> article of the Tax Law. Accordingly, the current stock exchange value expresses the average values of transactions in the stock exchange on the final transaction day before evaluation of securities registered in both securities stock exchange and foreign exchange stock and trade stock exchanges. Ministry of Finance has the authority to take the average current value within 30 days following the evaluation instead of final transaction day.<sup>21</sup>

- Prorate yield measure

If no current stock exchange value exists or if it is understood that the current stock exchange value is established collusively, the evaluation related value is calculated by adding the part of income to be obtained on its due date (including the rate of exchange differences) , corresponding to the period between the acquisition date to the evaluation date, to the purchasing value of securities. Though the securities do not have any fix yield on the evaluation date, the rate of exchange difference to occur at the end of evaluation to be made for the foreign currency shown in securities will be registered in the profit-loss account.

## **1- Securities evaluated with purchasing price**

### **a- Evaluation of Share Certificates**

The share certificates will be evaluated with purchasing price according to the 279<sup>th</sup> article of the Tax law. Whether a share certificate is issued by any company in Turkey or abroad is not an important factor with respect to evaluation process. The financing expenses resulting from acquisition of share certificates and the rate of exchange difference are not added to the purchasing price of share certificates. Such payments are registered as expense.

### **b- Evaluation of investment fund participation certificates**

The monies collected from the public against the participation certificates, and the assets established in account of certificate holders to operate the portfolio of capital market instruments, immovable estates, gold and other precious mines according to the principle of risk distribution and confident property are called as “investment fund”. Though the fund has not any judicial personality, the assets are kept separate from the assets of founder.

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21. Dtd. Jan 10,1961 10703-10705 Official Newspaper. Article 263 of Tax Law

The investment fund participation certificate is a legal document indicating the rights of certificate holder against to founder organization and showing the share number of certificate holder in the fund. It may be arranged in bear's name or be promissory notes. The participation certificates do not have nominal values.

According to the 279<sup>th</sup> article of the Tax law, in order the investment fund participation certificates can be evaluated with purchasing price;

At least 51 % of the fund portfolios must consist of share certificates

Such share certificates must be issued by the companies that are founded in Turkey.

The participation certificates other than the above stated ones must be evaluated according to the current stock exchange value. However, the investment fund participation certificates have not been put into transaction in the stock exchange in Turkey yet. The value of such certificates is announced daily by the companies issuing them and they may be converted to money at any time.

#### c. Evaluation of the profit-loss partnership certificates

The profit-loss partnership certificates are the securities issued by the joint stock companies that may be sold inside and outside of the country to meet the necessary financing requirements for the activities in a manner profit and loss will be shared.

In the 279<sup>th</sup> article of the Tax law, it is stated that the securities of which yield depends on the profit and loss of the issuing company and is impossible to calculate as date of evaluation will be evaluated with the purchasing price. The yields of the profit and loss partnership certificates depend on the profit and loss of the issuing company and can not be calculated as date of evaluation.

#### d. Evaluation of the securities in same kind but with different purchasing price

A business enterprise may have securities in same kind but are purchased under different prices. In evaluation of such securities, if the serial and order numbers of securities acquired within the period can be determined for each purchasing, each lot must be evaluated with different purchasing price.

## **2- Securities evaluated according to the current stock exchange value**

### a- Evaluation of Treasury bonds

The state domestic loaning notes of which fix term is less than 1 year are called as treasury bonds. No coupon exists for the treasury bonds. They are issued according to the discount principle. The amount on the bond indicates the money to be paid on the due date ,including the principle money and interest. For this reason, the yield of treasury bonds is fix and can be calculated previously. The Treasury bonds are put into transaction at İstanbul Securities Stock Exchange and they do not have any current market value.

### b-Evaluation of state bonds

The state domestic loaning notes of which fix term is more than 1 year are called as state bonds. The amount on the state bond indicates the actually indebted value. The interest payment is made on the actually indebted amount against to coupons. The Treasury bonds are put into transaction at Istanbul Securities Stock Exchange and they do not have any current market value.



According to the 279<sup>th</sup> article of the Tax law, the state bonds must also be evaluated according to the current stock exchange value.

### **3-Securities of which prorated yield will be calculated**

The securities that cannot be evaluated according to the current stock exchange value will be evaluated by calculating their prorated yields. If the securities to be evaluated with the calculation of their yields as date of evaluation are issued in a foreign currency or in a manner indexed to a foreign currency, their foreign exchange differences must be included in the prorated yield on evaluation date.

#### **a. Evaluation of private sector bonds**

The loaning notes with equal nominal values and same statements issued by the joint stock companies to meet their financing requirements are called as bonds.

For the issuance of the bonds other than the bonds of the Public establishments, it is mandatory to act in conformity to the arrangements suggested in the Capital market Law.

The interest payments of bonds are made depending on annual, six-month or three-month coupons. The yield from the bonds may be either fix or be connected to a variable with definite interest rate. According to the 279<sup>th</sup> article of the Tax law, the private sector bonds are evaluated according to the current stock exchange value or if no current stock exchange value exists, their prorated yields for the related period are calculated and they added to the purchasing price for evaluation.

#### **b. Evaluation of financing bonds**

The financing bonds are the short-term notes issued by the joint stock companies to meet their short-term financing needs. The nominal amount on the financing bonds consists of the principle money and interest. According to the 279<sup>th</sup> article of the Tax law, the financing bonds are evaluated according to the current stock exchange value or if no current stock exchange exists, their prorated yields for the related period are calculated and they added to the purchasing price for evaluation.

#### **c. Evaluation of bank bonds and bank guarantee bonds**

These are the bonds issued by the Investment and development Banks and joint stock companies to meet their financing needs. The yield obtained from such securities is fix.

According to the 279<sup>th</sup> article of the tax law, they must be evaluated according to the current stock exchange value with respect to income tax, corporate tax and provisional tax. However, such bonds are not put into transaction at İstanbul Securities Stock Exchange. So, they do not have any current stock exchange value.

#### **d. Evaluation of securities on assets**

These are the securities issued by the general financing partners, banks, financing companies and organization authorized to financial leasing against their receivables resulting from their own commercial transactions or receivables they will collect according to the S.P.K regulation. They may be issued according to the discount basis or periodical and variable interest payment conditions. According to the 279<sup>th</sup> article of the tax law, they must be evaluated according to the current stock exchange value with respect to income tax, corporate tax and provisional tax.

#### e. Evaluation of income partnership notes

The income partnership notes are issued by showing some part of a public infrastructure such as bridge and barrage as in income for a definite period of time. For this reason, its yield varies depending on income of the said public infrastructure. The incomes of such notes are obtained 2 times a year against coupons. The notes are issued in bear's name. The note holders may return the notes to the related bank at any time before their due date and take back their money with incurring interest on them. According to the 279<sup>th</sup> article of the Tax Law, they must be evaluated according to the current stock exchange value. However, though they may be put into transaction at İstanbul Securities Stock exchange, that market is not active. The income partnership purchasing and selling is rarely realized.

#### f. Evaluation of Euro Bonds

These are the bonds issued by means of a trade union consists of multi-national banks and other financial organizations for purpose of making selling to any country other than the country that issues the bond. The countries that issue such bonds may meet their financial needs from the international markets in this way.

Though the said Euro-bonds are sold to persons abroad, the persons or organizations reside in the country may also purchase them.

They are also evaluated according to the current stock exchange value. As they do not have any current stock exchange value at İstanbul Securities Stock exchange, the evaluation is made by calculating their prorate yields and then they are added to the purchasing price.

### C-Evaluation of Other Financial Instruments

#### 1. Using of Turkish currency in records and documents

The 125<sup>th</sup> article of VUK suggests keeping of books and records in Turkish and using of Turkish currency in the said records and documents.<sup>22</sup> However, the following exemptions are arranged under the same article of the law. Accordingly, records in other languages may be kept in addition to Turkish records and such records may be registered in other books to be certified on condition that the tax amount will not be changed. Though using of Turkish currency in books and records is obligatory, the documents may also be arranged in foreign currencies on condition that their corresponding amount in Turkish currency will be indicated. The Ministries Council has the authority to give permission to the companies of which paid-in capital as date of the book registration for the related period – the paid-in capital separated for Turkey of the companies established abroad – is at least 100 million USD or its equivalent Turkish Lira and of which at least 40% of their capital, residence, legal business head office are not in Turkey to keep their records in any foreign currency other than the Turkish currency . The Ministries Council has the authority to decrease half or increase two times that rate and limit separately for the sectors.

#### 2.Evaluation of Turkish Currency

Except the foreign currencies, the cash registries will be evaluated according to their nominal values.<sup>23</sup> Besides, checks arranged in Turkish currency will be evaluated according to their nominal values.<sup>24</sup>

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22.Dtd.July31,2004 25539 Official Newspaper, article 7

23.Dtd.Jan10,1961 10703-10705 Article 284

24.Dtd.Jan10,1961 10703-10705 Article 266

### 3. Evaluation of foreign currencies

The foreign currencies are evaluated according to the current stock exchange value. If it is understood that the current stock exchange value is collusive, the rate of exchange to be applied in evaluation is determined by the Ministry of Finance. This article also applies to receivables and debts with or without note in foreign currency. According to the 281<sup>st</sup> and 285<sup>th</sup> articles of VUK, they may be reduced according to the value on evaluation date. However, in cases no interest rate is indicated on the note, the London Interbank Interest Rate (LIBOR) valid on the date of evaluation is considered. <sup>25</sup>

As no free foreign money stock exchange has been established in our country yet, the evaluation is made according to the dates determined by the Ministry of Finance at the end of each year.<sup>26</sup> Besides, the rate of exchanges announced by the Ministry of Finance at the end of three-month provisional tax periods are considered in evaluation of receivables and debts in foreign currency and current foreign exchange at the end of provisional tax periods. The effective purchasing rate of exchanges applies to the cash foreign currencies of taxpayers. However, no effective rate of exchange exists, the foreign exchange purchasing rate is considered.

The foreign exchange purchasing rates apply to non-cash foreign monies. The foreign monies to be evaluated in this manner are the letters, notes and other legal documents arranged in foreign currency. The foreign monies kept in bank accounts are evaluated according to the foreign exchange purchasing rate. Besides, as it is stated in the 210 serial numbered general announcement of the Tax Law , unless not foreign exchange rate is announced by the Ministry of Finance on evaluation date, the rates announced by the T.R Central Bank are considered. In such evaluations, the effective purchasing rate of exchange must apply for the effective kind foreign monies ;otherwise, the foreign money purchasing rate- and for the foreign exchange monies , the foreign exchange purchasing rate must apply.<sup>27</sup> Finally, the increases or decreases occur as a result of evaluation of the foreign monies according to the said foreign exchange rates are registered in the period-end profit or loss account as a foreign exchange profit or loss.

### 4.Evaluation of the foreign currency used as a capital

According to the 215<sup>th</sup> article of VUK modified with the 7<sup>th</sup> article of 5228 no Law published in the Official Journal numbered 25539 and dated 31.07.2004; The Ministries Council has the authority to give permission to the companies of which paid-in capital as date of the book registration for the related period – the paid-in capital separated for Turkey of the companies established abroad – is at least 100 million USD or its equivalent Turkish Lira and of which at least 40% of their capital, residence, legal business head office are not in Turkey to keep their records in any foreign currency other than the Turkish currency .<sup>28</sup>

Besides, according to the same article, the business enterprises who are given permission to keep their records in any currency other than the Turkish currency by the Ministries Council will convert their transactions made in Turkish currency to the related currency according to the T.R Central Bank's foreign exchange purchasing rate on the realization date of transaction of the values of economical assets and tax amount of such business enterprises will be determined according to the registered currency and be declared by being converted to the Turkish currency according to the foreign exchange rate on the first day of the month when the declaration to be given. So, in this way, the business enterprises where the taxpayer



partner has minimum 40% share and that has minimum 100 million USD paid-in capital will not subject to decreases in their capitals resulting from the rate of exchange difference ,in other words the rate of exchange increases resulting from the capital will be kept out of tax.

Such taxpayers will use Turkish Lira in their tax payment, take out and returning transactions, and as long as they keep their records in other currencies, they will not be able to make inflation correction according to the (A) sub-paragraph of 298<sup>th</sup> article. In case they begin to keep their records in Turkish Lira, they will not be able to get use the provision of the said article.

#### 5.Evaluation of receivables and debts with or without note in foreign currency

According to the 3<sup>rd</sup> sub-paragraph of 280<sup>th</sup> article of VUK, in evaluation of receivable and debt notes in foreign currency, the rate of exchanges to be determined by the Ministry of Finance will be considered. Besides, the said notes may be reduced according to the value valid on the evaluation date. This provision is valid for the receivables and debts with or without note in foreign currency. The receivables bound to undue notes may be reduced according to the value on the evaluation date. However, in cases no interest rate is indicated on the note, the London Interbank Interest Rate (LIBOR) valid on the date of evaluation is considered.

According to that provision, in evaluation of the receivable or debt notes in foreign currency, the rate of exchange determined by the ministry of Finance will be used and besides, the said notes will be able to reduced according to the value on the evaluation date. In other words, rediscount may be separated. For the separation of rediscount, the following conditions must be fulfilled.

- It will be bounded to a receivable or debt note
- The note will be fixed term.
- On evaluation date, the note will not be due.
- The receivable note will not be a guarantee or accommodation bill
- The receivable or debt note will be registered in actives

If the receivable notes are subjected to rediscount, the debt notes (if any) must also be subjected to rediscount. In case the interest rate is explained in the note, the interest rate on the note will be considered; otherwise, the London Interbank Interest Rate (LIBOR) valid on the date of evaluation is considered. During the calculation to be made, the internal discount method must be used. Accordingly, the discount amount included in note will be calculated according to the formula given below. In the formula, (F) states the discount amount, (A) ; nominal value of note, (m) ; the interest rate in cent, and unless the interest rate is written, the London Interbank rate and (t); the day number remains for collection of note, that is the fixed term.

F:  $A - (Ax 360 / (360 + m xt))$

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25.Dtd. Jan 10,1961 10703-10705 Official Newspaper. Article 280 of Tax Law Code

26.Dtd.Jan 22,2004 25354 Official Newspaper.Article 327 of Tax Law Code

27.Dtd.Aug 07,1991 20953 Official Newspaper. Article 210 of Tax Law Code

28.Ministry is authorized to increase and decrease the rate by two.

#### 6. Evaluation of receivables and debts with or without note in Turkish currency

The receivables are evaluated with their recorded value. The receivables bound to undue note may be reduced according to the value on the evaluation date. If the interest rate is given on note, the rate on the note is used: otherwise, the official discount rate of the T.R Central Bank applies. The bankers, banks and insurance companies evaluate their receivables according to the official interest rate determined by the T.R Central Bank.<sup>29</sup>

The debts are evaluated with their recorded value. The receivables bound to undue note may be reduced according to the value on the evaluation date. If the interest rate is given on note, the rate on the note is used: otherwise, the official discount rate of the T.R Central Bank applies. The bankers, banks and insurance companies evaluate their receivables according to the official interest rate determined by the T.R Central Bank.

The taxpayers who reduce their receivable notes according to the value on evaluation date have to apply same procedure for their debt notes.

As it can be understood, in principle the receivables and debts with or without note in Turkish Lira are evaluated with recorded value. The rediscount of a debt that is bound to note means to add the difference between the recorded value and the value on evaluation date to the period figure. In this way, the receivable or debt bound to note is evaluated with its saving value. The persons who apply rediscount in their receivables notes must also apply the same procedures for their debt notes. Besides, the joint stock companies whose share certificates are put into transaction in stock exchange have to apply the rediscount transaction.

#### a-Discretionary situation of the Rediscount transaction and its calculation

The taxpayers out of banks, bankers and insurance companies and the companies of which share certificates are not quoted at the stock exchange will have an option right to whether to subject their undue receivable and debt notes to rediscount according to the Tax Law.<sup>30</sup> In contrary this, according to the 1 No General Announcement on Accounting System Application, the rediscount application for such taxpayers is mandatory. However, such an obligation is only valid in determination of commercial profit. In calculation of rediscount amount of both the receivable and debt notes, the internal discount method is suggested. According to the current legal statuses, the necessary conditions for the rediscount procedure are as follows.

- It will be bounded to a receivable or debt note
- The note will be fixed term.
- On evaluation date, the note will not be due.
- The receivable note will not be a guarantee or accommodation bill
- The receivable or debt note will be registered in actives<sup>31</sup>

Under such conditions, the receivable notes can be subjected to rediscount and debt notes to prediscount.

The interest rate to be applied on rediscount procedure

- The interest rate indicated on the note
- The official interest rate determined by the T.R Central bank
- The interest rate applied by the banks, bankers and insurance companies

specifically on their receivables and debts.<sup>32</sup>

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29.Dtd.Jan 10,1961 10703-10705 Official Newspaper. Article 281 of Tax Law Code

30. Dtd. Jan 10,1961 10703-10705 Official Newspaper. Article 281 of Tax Law Code

31.It is not required to discount on every period.

32.Dec 26,1992 21447 Official Newspaper

According to the 26<sup>th</sup> article of the announcement on the principles and rules related to the Financial Tables and reports in the capital market published by the Capital market Council, in the financial tables and reports to be arranged by the partnerships and mediator establishments subject to Capital market law, “ the receivables and debts with note will be subjected to rediscount procedure”. In the rediscount procedure, the interest rate suggested for the said receivable and debt notes will be applied, otherwise the rediscount rate to be determined by the T.R Central Bank will be applied.

The discount interest on rediscount procedures to be performed against the notes to be due at last within 3 months will be annually 43% and the interest rate to be applied in advance procedures will be annually 58%. Such rates became valid as date of 08.10.2003. <sup>33</sup>

The internal discount method is based on the calculation of the discount amount on the current value of note by considering the day difference until the due date on the note and interest-discount limit. The following formula is used in calculation of the discount amount.

$$F = A - \left( \frac{A \times 360}{(M \times T) + 360} \right) = \frac{A \times M \times T}{M \times T + 360}$$

F: The calculated discount amount  
A: nominal value of note  
T: the day number until the due date of note  
M: Interest( discount) rate

According to the 281-285<sup>th</sup> articles of the Tax law, the rate on the note will be used as the interest-discount rate, but unless such a rate is explained, the interest rate of the T.R Central Bank applied on the short-term advance procedures will be used. However, in receivable and debt notes in foreign currency, if an interest rate is indicated on the note, that rate will be used, otherwise the London Interbanks interest rate valid on the evaluation date will apply.

**b- The rediscount situation of fixed term checks**

According to the 707<sup>th</sup> article of the Turkish trade law, “ the check is paid when it is seen.”<sup>34</sup> A check that is presented to receive the payment before the drawing date is paid on the drawing date. “. As it can be understood from that provision, check is a payment tool not a credit tool and it does not include any fixed term legally. According to the 281<sup>st</sup> article of the Tax Law, the receivables bound to a undue note may be subjected to rediscount. If a check, that must be used as a payment tool and be paid when it is seen, is arranged with a fixed term upon a mutual will demand, this process does make the check a receivable note or policy. However, rediscount procedure may be applied to determine the commercial profit. In that case, the rediscount amount that is calculated and registered as expense will be considered as an expense not legally acceptable in determination of the tax figure. As a consequence, checks are put into transaction as cash in practice. For this reason, the ones in TL currency are evaluated according to their nominal value and the ones in foreign currency according to the foreign exchange purchasing rate determined by the T.R Central bank. <sup>35</sup>

33.Discounting and rates, Oct 16,2003 Dtd World Gazette

34.Oct 8,2003 dtd 25253 Official Newspaper

35.Interest rate is %48. Aug 10, 2003 dtd 25253 Official Newspaper

## **7. The Credit interests of which due date drops in the following year**

The credits may be in Turkish or foreign currency. Credits are generally used in two types. In the first credit type, both the principal and interest calculated on the principal are paid on the due date. Such credits are generally used as spot credits. The other credit type is the interest payable credits. In such a credit use, the principal, together with its interest, is arranged in installments without waiting the due date of credit and its back payment can be made.

In interest payable credits, whatever the due date of the credit is, the banks and other finance establishments accrue interest on the credit account in every three or six months. In spot kind credits, the interest accrual is made on the due date of credit.

59/1-c article of 5228 no law and 285<sup>th</sup> article of Tax law were modified and to the first sub-paragraph of the article the statements of “ the debts are evaluated with their recorded values.<sup>36</sup> The debts base on the deposits or credit agreements are considered together with their interests to be calculated until the date of evaluation” are added. Accordingly, in evaluation of credits owned by the business enterprises, the interests proceeded until the date of evaluation must also be taken into consideration. Such an evaluation will be made both in arrangement of year-end balance sheets and determination of the provisional tax figures.

Besides, the credit loans drop in the following year will be evaluated according to the 280<sup>th</sup> article of VUK and the resulting difference will be taken into consideration in determination of the period earning as a rate of exchange income or expense.

On the other hand, according to the 281<sup>st</sup> article of the Tax law under the title of receivables, the banks have to evaluate their credit receivables with the saving value at the end of periods. “To reduce to the value on the evaluation date “ statement in the article means to evaluate the related value with its saving value. According to the 264<sup>th</sup> article of the Tax law, the saving value is a value offered to its holder on the evaluation date of an economical asset. In practice, the saving value and evaluation procedure is called as rediscount process and is generally accepted. Besides, the banks evaluate their credit receivables in foreign currency at period ends according to the 280<sup>th</sup> article of VUK and they register the rate of exchange differences as income. The rate of exchange to be taken consider in evaluation is not the rate determined by the ministry of Finance but the foreign exchange purchasing rate determined by the Central bank and used in credit applications of banks.

## **8. Evaluation of deposit accounts of which due date will drop in following year**

59/1-b The Article of 5228 no law and 281st article of Tax law were modified and to the first sub-paragraph of the article the statement of “ the receivables base on the deposits or credit agreements will be considered with their interests to be calculated until the date of evaluation “ is added.<sup>37</sup> This provision became valid on its publishing date of 01.01.2004 according to the 61/2 article of 5228 no law. Accordingly, in evaluation of fixed term deposits owned by the business enterprises, the interests proceeded until the date of evaluation must also be taken into consideration. Such an evaluation will be made both in arrangement of year-end balance sheets and determination of the provisional tax figures.

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36.July 31,2004 dtd 25539 Official Newspaper

37.July 31,2004 dtd 25539 Official Newspaper

In the above section, the concepts, definitions and evaluation provisions on financial instruments are given and the concept of financial instrument according to the Turkish trade Law, Capital market law and tax laws is explained in detail. Besides, the kinds, legal statuses and characteristics of the financial instruments are examined individually. Especially, with respect to determination of earnings of the business enterprises, the evaluation provisions on financial instruments registered in actives of business enterprises are explained in detail because they are very important in establishing tax figures.





## SECOND TWO

### FINANCIAL MARKETS AND TAXATION OF FINANCIAL INSTITUTIONS

#### 1. FINANCIAL MARKETS

The reason of existence of financial markets in an economy is that the economical units (individuals, business enterprises and state) can not provide saving- investment balance among them. In that case, an institutional mechanism that arranges fund exchanging among the economical units that have fund surplus and the economical units that have fund deficiency is required. The financial markets are the markets consist of institutions and instruments that ensure relation between the economical units that have saving deficiency (investment > saving) and the units that have saving surplus ( investment<saving) .<sup>38</sup>

**The schema of a financial system (Table 1)**

Investment and Financing instruments	Saving holders (persons who supply fund)	Legal- Managerial Order
	Auxiliary Organizations (persons who are mediators in fund flowing)	Work regulating
1. Cash money	1. Banks	1. Principles
2. Deposits	2. Intermediate Institutions	2. Rules
3. Bank money	3. Securities investment partners	3. Audit
4. Credit	4. Securities investment fund	
5. Social Security Funds	5. Securities stock exchange	
6. Cooperative sources	6. Social Security Organizations	
7. Bonds	7. Insurance companies	
8. Share certificates	8. Cooperatives	
9. Mortgaged debt and Income notes	9. Investment clubs	
10. Public share certificates	10. General finance partners	
11. Income partnership notes	11. Risk capital investment partnership	
12. State internal loaning note	12. Rating Company	
13. Securities on assets (VDMK)	13. Bartering and Saving companies	
14. Stored Securities certificates	14. Portfolio management companies	
	15. Investment Consultancy companies	
	16. Securities Centers depended on mortgage	
	17. Financing companies	
<b>MONEY MARKET</b> Market where short-term fund supply and demand meets.	<b>INVESTORS-CONSUMERS</b> (persons who demand fund)  <b>INTEREST RATE</b>	<b>CAPITAL MARKET</b> Market where short-term and long-term fund supply and demand meets.

38.CANBAS, DOGUKANLI, a.g.e. p.1

As it can be understood from the general schema of financial system, the financial markets may be defined as markets that present the funds of persons who have fund surplus (ones who supply fund) to the utilization of persons who have fund deficiency (ones who use funds). On the other hand, if we include the institutions that organize fund flowing between the persons who use funds and who supply funds, instruments that provide such a flow and legal and managerial rules that regulate them, the resulting structure is called as financial system. As it can be understood from the definition, the financial system is a concept broader than the money and capital markets that also include such markets.<sup>39</sup>The financial system has three basic elements; there are ;

- The persons who supply fund and who demand fund
- Financial instruments (tools) and
- Financial institutions

#### **A. The Basic function of financial markets**

The basic function of financial markets;

1. To establish a channel between the ones who want to loan the inactive funds in their possession and the ones who look for a financial source
2. To invest money and liquidity
3. to create a payment system
4. to perform services such as insurance, banking and private retirement systems
5. to present alternatives for the portfolio preferences of investors

With the opportunities provided by the financial markets, a direct fund flowing from the saving holders to ones who demand saving is insured, the securities are converted to liquidity, prices of securities are established, payment system is created, various financial services are given and the effective tax deduction of funds and economical sources are ensured.

#### **B. Financial Money Kinds**

Financial markets consist of many interconnected sub-markets. Financial markets may be classified in various types depending on the period of exchanged funds that will be kept by the persons who demand them, organizing degree of such markets or realized transactions and fund users.

1. Organized markets and unorganized markets

The markets of which financial activities are carried out under legal and managerial rules, that have a definite physical and official place and work under the control of relevant institutions and organization are called as “organized markets”. The financial activities that are carried out independently from a definite rule or place under the control of relevant institutions and organizations are called as “unorganized markets” or “on-counter markets” like a Banking system and İstanbul Securities Stock Exchange.

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39.IMKB, Sermaye Piyasası&Borsa Temel Bilgiler Kılavuzu, IMKB Publishing, İstanbul 2002, p.3

## 2. Primary markets and secondary markets

The markets where the companies that issue securities such as share certificates and bonds for the first time in the market and the saving holders meet directly or by means of banks and mediator institutions are called as “Primary Markets”. The secondary markets are the markets where the securities are purchased and sold (second-hand) independently from the companies that issue such securities.

## 3. Share certificates market and bond market

The markets where the share certificates are purchased and sold are called as share certificates market. The purpose of that market is to ensure the movement of securities among the mediator institutions that are the members of stock exchange. The market where the bonds and debenture bonds other than the share certificates are purchased and sold is called as “Bond-Debenture bonds market”. The bond and debenture bond market in Turkey became active on 17.06.1991 at İstanbul Securities Stock Exchange.

## 4. Money Market and Capital Market

### a) Money market

The financial markets are divided into two parts ; money markets and capital markets. Though no definite distinction exists between the money markets and capital markets, in general the market where the short-term financial assets less than one year are put into transaction is called as money market and the market where the long-term financial assets more than one year are put into transaction is called as capital market.<sup>41</sup> With that respect, the funds obtained from the money market where short -term fund supply and demand meets are generally used in financing of revolving assets of business enterprises as a credit. In money markets, the securities with maximum one-year fixed-term that are put into transaction at the secondary market, commercial notes and similar legal documents, except the credit and deposits transactions, are used. Generally, their sources are formed with various deposits. Besides, the money market may be divided into two parts such as;

- Organized money market
- Unorganized money market

The organized money market means the markets where the transactions are made according to some definite rules. These are the Turkish Republic Central Bank Open Market, the Turkish republic Interbank Money Market, Takasbank Stock Exchange Money Market, the Turkish Republic Central Bank Interbank Foreign Exchange Market. As it can be understood, the organized money markets mainly express the banking system. So, the most important institution of the money market is the banks. The cash need of business enterprises are mostly meet by the commercial banks.

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41. Sadi Uzunoglu, Money and Foreign Currency Markets, Litterateur Publishing, İstanbul March 2003, pp.28



The unorganized money market expresses the market remaining out of the organized money market. These are TL market, Interbank Nightly deposit market, Interbank foreign exchange market, Free foreign exchange market and similar ones. The unorganized money market, also called as on-counter money market, the instruments such as policy, bond and check are used.

#### b) Capital market

The capital market is the market where the medium and long-term fund supply and demand meets. The capital market has a narrower and more technical characteristic than the financial market concept and is generally included in the financial market concept.<sup>42</sup> The most typical and determinant characteristic of the capital market when compared to money market is that it generally consists of long-term funds. The funds obtained from that market (equity capital or foreign capital) are generally used in financing of fixed assets of business enterprises such as building, machinery, equipment etc.<sup>43</sup> In short, the funds obtained in the capital market are very useful in meeting of the fix capital requirements.

The primary market is the market where the companies issuing the securities such as share certificates and bonds and the saving holders directly meet, though the banks and other institutions act as mediators. The most important institutions in that market are investment funds and joint stock partners open to public. The secondary market is a market where securities are converted to money when the persons who buy the securities issued in the primary market want to reconvert them to money.

## II. FINANCIAL INSTITUTIONS

Financial institutions express the organizations that are founded to present financial services such as to assure financing by means of loaning or other ways, carry out insurance or capital market activities or act as a mediator in money transfer transactions and the development and investment banks and financial holding companies.<sup>44</sup> The financial institutions are the associations of which basic actives greatly consist of financial instruments ( direct or indirect) and that mainly obtain their incomes from the transactions related to the financial instruments.<sup>45</sup> The financial institutions (mediators) that are one of the most important elements of the financial system carry out their activities on direct and indirect financing processes. They borrow the primary and secondary securities of final borrowers and issue the securities to be put in the portfolios of the final lenders or purchase-sell them. So, they act as a mediator between the parties in the market. The final borrowers are the individuals or associations who want to spend any amount more than their incomes for the real sources and finance their additional expenditures by means of borrowing process. When a borrowing process is realized, the borrowers have to present a security or make an agreement against it. The financial institutions act as a mediator in that fund flowing and by selling the funds they provide in interest rates higher than the rates they are imposed , they ear money from such activities. However, the financial institutions may experience problems in that process resulting from none repayment of the lent credits, fluctuations in interest rates and sudden liquidity needs.

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42. Ahmet Erol, A. Ercan Yıldırım, Menkul Kıymetlerin Vergilendirilmesi, Yaklaşım Publishing, Ankara, Şubat 2001, p.20

43. Muharrem Ozdemir, Finansal Yönetim, Gazi Kitabevi, Ankara, 1997, p.467

44. Kredi Kuruluşları Kanunu Tasarısı, BDDK p.2

45. Canbaş, Doğukanlı, a.g.e., p. 113

But, not all the financial institutions are the credit associations. Only the banks and private finance institutions make activities as credit associations.

Besides, the banks, private finance institutions, insurance companies, factoring companies, leasing companies, stock exchange mediator institutions and investment partnerships – financing institutions- have to be founded as joint stock companies.

According to the 2<sup>nd</sup> article of Corporation Income Law<sup>46</sup>, the investment funds established according to the 2499 no Capital market law<sup>47</sup> are deemed as a capital company in application of Corporation income law and Income Tax Law. According to the foreign capital code, the investment funds subject to narrow taxpaying for the exclusive activity of portfolio operation in Turkey will be considered like investment funds in GVK and KVK applications according to the capital market law. In the 204<sup>th</sup> article of the Tax law regulating the Expense Tax records of insurance companies, modified with 59/1-a article of 5228 no law, the statement of “ Bank, banker and insurance companies “ changed to the statement of “ Bank ( unless otherwise is stated in the tax laws application, the private financing institutions are called as bank), banker and insurance companies”.<sup>48</sup> Accordingly, the main financing institutions , funds and partnerships are as follows;

- Banks
- Private Financing Institutions
- Insurance companies
- Factoring companies
- Leasing (financial leasing) companies
- Joint stock companies open to public
- Mediator institutions
- Investment funds
- Individual retirement investment funds
- Investment partnerships

### III. TAXATION PRINCIPLES OF FINANCIAL MARKETS

The Turkish Tax System is established on four main groups with respect to tax sources. Accordingly, the tax incomes, individual and institutional incomes are obtained from commodity and service deliveries, foreign trade operations and wealth. The individual incomes are subject to income tax and incomes and earnings obtained under institutional base subject to Corporation income. The share of income tax in total tax incomes is about 23%. In practice, the income tax is collected by means of presenting annual declarations and/or at source.

In reality, the income tax taxpayers and institutional tax taxpayers have to pay provisional (cash) tax in three-month periods. The cash tax rate is 20% for income tax taxpayers and 30% for institutional tax taxpayers. (it is 33 % for 2004 year). The taxes paid in cash may be deducted from the taxes to be paid on annual declarations. If the persons whose taxes are collected at source have to declare their incomes and earnings subject to tax taken from them by means of deduction, they have the right to deduct such taxes paid by means of deduction from the income or Corporation income to be calculated on declaration. However, in some cases, the taxes paid at source may come to position of final tax liability for the taxpayers.

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46. Official Gazette, 10.06.1949 dtd no.7229

47. Official Gazette, 30.07.1981 dtd no.17416

48. Official Gazette, 31.07.1981 dtd no.25539

According to legal definition of Bank and Insurance Transaction Tax included in the “ Taxes taken from commodities and services”, this tax is imposed on the monies taken in cash or to the account as a result of the operations and proceedings under any title performed by the persons or companies subject to that tax and the taxpayers are also liable for that tax. With respect to financial market transactions, the individuals and companies who carry out such transactions and who gain income and earning as a result of such transactions may be a taxpayer as they gain income and/or earning from the works they perform. The incomes and earnings obtained from financial instruments are subject to taxes different for individuals and institutions.

### **The earnings obtained from the financial markets and the relevant transactions**

They are the subject of ;

1. Income tax and tax deduction at source (withholding tax)
2. Corporation income
3. Bank and Insurance transactions tax
4. Stamp duty
5. Charges
6. Deduction on Source Utilization Supporting Fund
7. Valuable paper price
8. And other taxes depending on their characteristics

While the immunities provided with regard to tax applications create some definite and provisional opportunities in time for the saving holders, the regulations made occasionally may effect the developments in that field multi -directionally. The inevitable target must be to make the savings contributable to the economical life in a reliable manner for the establishment and development of financial markets. Recently, the different taxation methods especially applied on financial instruments negatively effect the financial institutions and financial markets in our country. For this reason, by depositing savings to the securities, the public widely and effectively must contribute to the economical development.

### **IV. THE EARNING DETERMINATION AT FINANCIAL INSTITUTIONS IN GENERAL**

The Banks, private financial institutions, insurance companies, factoring companies, leasing companies, stock exchange mediator institutions, investment fund and partnerships have the joint stock company qualification. Besides, when the joint stock companies open to public distributed a profit share, the tax deduction at source application was in lower rate for them when compared to companies not open to public. This application was ended and now all the joint stock companies whether to open public or not have the same liability with respect to Corporation income and tax deduction at source application (withholding tax). All such associations also subject to liabilities imposed on the joint stock companies in addition to the liabilities they subject to according to their own private laws. As major banks in Turkey open to public, they subject to Capital Market Law. The Joint stock companies are one of the leading institutions that subject to Corporation income according to the 2nd article of Corporation income law.

According to the 13<sup>th</sup> article of Corporation income, the Corporation income is calculated on net corporation earning obtained within a period by the taxpayer associations –mainly by the joint stock companies.<sup>49</sup>

In determination of the net corporation earning, the provisions of Income Tax Law on earning apply. According to the 38<sup>th</sup> article of Income Tax Law no 193, while the earning is determined depending on the balance sheet basis, the provisions of Tax Law on evaluation apply.

All the earnings of full liable associations (movable capital income, etc) are considered as commercial earning and the provisions of VUK on evaluation apply on them. Accordingly, all the earnings and incomes obtained by the full liable associations are considered as a corporation earning and subject to Corporation income. However, the earnings and incomes obtained by the actual persons subject to Income tax depending on the source they are acquired.

## **V. TAXATION MADE UNDER THE STRUCTURE OF FINANCIAL INSTITUTIONS**

### **A. Corporate Tax**

According to the 15<sup>th</sup> article of Corporation income law, the rate of Corporation income is determined as 30%. Besides, the fund share application taken in rate of %10 on that tax became null. However, according to the provisional 32<sup>nd</sup> article of Corporation income, in taxation of 2004 -year corporate earnings and the other earnings subject to provisional tax, the rate of Corporation income and provisional tax will be 33 %.<sup>50</sup> The said 33% rate is a temporary application valid only for the 2004-year earnings and provisional tax figures. On the other hand, with the regulations made in the Corporation income and income tax laws, the taxation of corporations is made in two phases. In the first phase, the Corporation income in rate of 30 % is taken on the earnings of corporation.<sup>51</sup> In the second phase, in case the corporation earning is distributed, the income tax in the rate of 10 % is collected at source whether that earning is exempted from the corporation tax or not.<sup>52</sup> The addition of non-distributed profits and re-evaluation funds to the capital is not considered as profit distribution. Besides, the profit distributions made by the full liable associations to

- full liable associations
- narrow liable associations that obtain a profit share by means of a business place permanent representative office in Turkey will not subject to withholding tax.

“The Corporation income declaration is presented to the related tax office by the taxpayer within 15 days of the fourth month following the account closing month.”

### **B. The tax deduction at source related to profit share distribution**

The associations, in case the corporate earning is distributed in the second phase after the taxation of corporate earning is made, have to make tax deduction and withholding on the distributed corporate earning. The tax deduction depends on the condition for profit distribution. If the association does not make any profit distribution and keeps it as an extraordinary reserve fund, no withholding tax is paid. As the addition of profit to the capital is not considered as profit distribution, the withholding tax is not applied (tax deduction at source).<sup>53</sup>

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49. Article 5422 of Corporate Tax Law Code. Last section of bend 13th.

50. Temporal article 5035 of Corporate Tax Law dtd 25.12.2003.

51. General communiqué of corporate Tax Code no. 81

52. Article 5035 of Corporate Law. Before that it was stated as in the month of fourth month

53. Amendment in Income Tax Law. Article 94/6-b was amended on 09.04.2003 by article 4842



According to the Tax Law, 94<sup>th</sup> article, first clause, 6<sup>th</sup> article, (b) sub-paragraph, the application of making distinction between the exception earnings and normal earnings of associations becomes null and besides, the different profit share application in companies open to public and not open to public is removed, and so the taxation on profit shares of both companies is made in the same rate.

-Accordingly, the income tax deduction at source will be made on the profit shares that are defined in the Income Tax law, 75<sup>th</sup> article, second paragraph, (1) (2) and (3) subparagraphs distributed by the full liable (taxpayer) associations to the

- full liable actual persons
- entities who are not the income and Corporation income taxpayers
- entities who are exempted from the income and Corporation income
- narrow liable actual persons
- narrow liable associations
- Accordingly, profit shares issued to founders' share certificates and other share certificates and all the payments made to share holders as an interest or under any other title and the profit shares of share certificates in all kind, including the profit shares paid to investment funds participation certificates established according to the Capital Market
- The profit shares distributed by the capital companies to their partners including the profit shares of limited company partners, business partnerships partners and the earnings distributed by the cooperatives
- The profit shares given to the Chairman and members of the Board will be subject to withholding ( tax deduction at source).

The profit shares of the full Corporation income taxpayers that get profit share from the full liable associations and the narrow taxpayer associations that get profit share by means of a business place or permanent representative office in Turkey and who will declare their profit shares by adding their corporate earning will not be subject to tax source, and when the said profit shares are distributed to the above stated actual or judicial persons, the tax will be collected on the distributed part.

On the other hand, the withholding (tax deduction at source) imposed depending on the profit distribution will be performed depending on transferring of earning to the center in case of narrow taxpayer. If the narrow taxpayer taxpayers who present annual or special declaration according to the Income tax law transfer their movable capital incomes to the head center according to the Income Tax law, article 75, second paragraph, (4) sub-paragraph, the tax deduction at source will be made on that transferred amount. However, for the tax deduction at source on the profit shares to be distributed to the narrow taxpayers who are the part of a country that has a double taxation agreement with our country, the rates and principles stated in that agreement will be valid.

## **VI. TAX MEASURES TAKEN FOR PURPOSE OF ENCOURAGING THE CAPITAL MARKET**

From the date of 1982, when the studies to establish a capital market in Turkey were made, various measures have been taken to encourage development of the market. Within that frame, the encouragement's that are applied to develop the capital market are as follows;

### **A-Supply Directional Incentives**

Though there exist encouraging regulations related to the issuance of share certificates in our tax system, there are not regulations on incentives related to the issuance of private section loaning instruments. Within that frame, while 10% income tax withholding is taken on the yield of private section loaning instruments, the state internal loaning notes are not subject to any income tax withholding. When the provisional 55<sup>th</sup> article of Income Tax Law, valid until the date of 31.12.2004, is examined, it is seen that the nightly deposit incomes are not included in the declaration and the public securities are encouraged. Besides, the exceptional regulation applied on the state bonds and treasury bonds issued between the dates of 26.07.2001 and 31.12.2004 is an arrangement made to encourage the public section loaning instruments. The interests paid to private section bonds, financing bonds and other loaning instruments may be recorded as expense during determination of the earning of the association who realizes the loaning and this is an encouraging arrangement with respect to the loaning instruments as no change occurs in the partnership structure of the association when compared to share certificate issuance.

However, the rates of income tax withholding applied to the yields of private section loaning instruments are higher than of the public section loaning instruments and this narrows the demand on such instruments. For this reason, the private section associations can only find financing opportunity by supplying their share certificates to the public. The investment partnerships and investment funds that have a very important place among the capital market institutions are exempted from the Corporation income because of their earnings they get portfolio operation. The most important purpose of such an application is to encourage the supply and demand on securities by means of institutional investments.

### **B-Demand Directional Encouragement**

In our existing tax regulations, some movable capital incomes are kept out of declaration. These are ;

1. In current practice, the share certificate purchasing and selling earnings and the purchasing and selling earnings on the share certificates that are not sold for more than 3 months after they are bought are not subject to declaration.
2. The earnings and incomes obtained from some financial instruments are exempted from declaration until the date of 31.12.2004.
3. The earnings and incomes obtained from some financial instruments are not declared unless they exceed the determined limit.
4. Only a deduction rate applied part of earnings and incomes to save them from inflation subject to declaration
5. Special exemption rates are suggested for the treasury bonds and state bonds.
6. On the other hand, no regulation encouraging the B type funds that include long-term public loaning instruments in the portfolio exists.

Finally, the financial instruments do not differ much with regard to their kinds, legal statutes and characteristics. Besides, their number increases against the changing financial needs. However, with regard to taxation of financial earnings and incomes obtained from the financial instruments, the regulations in the Turkish Tax Law are very complex. For this reason, the supply and demand encouragements must be acknowledged.

## SECTION THREE

### TAXATION OF FINANCIAL INSTRUMENTS

#### 1. TAXATION OF FINANCIAL EARNINGS AND INCOMES AT SOURCE

Within the Turkish Tax Law System, the taxation of earnings and incomes obtained from the financial instruments is realized in two phases. In the first phase, the said earnings and incomes are taxed (collected) at source when they are paid in cash or to the account. In the second phase, the said incomes and earnings are taxed by being declared by the entities that obtain such incomes and earnings.<sup>54</sup> The other distinction is that; the incomes and earnings obtained by waiting the due dates of financial instruments other than commercial, agricultural and professional activities are called as "Movable Capital Earning" and the earnings and incomes obtained from the purchasing and selling of the said financial instrument without waiting their due dates are called as "Other earnings and incomes".<sup>55</sup> The other sub-distinction is called as "value increase earning". The 75<sup>th</sup> article of the income tax law defines the earnings such as dividend, interest, lease etc obtained from the capital composed of values that may be represented with cash capital or money other than the commercial, agricultural and professional activities as a movable capital earning and besides, it is stated that whatever the source of some income elements is, they are considered as movable capital earning. The definition of movable capital earning in the Income Tax Law is broader than the definition of securities in the Capital Market Law. This also includes all the financial instruments in the financial system.

Accordingly, the earnings and incomes from the financial instruments must be obtained from the instruments other than the commercial, agricultural and professional activities by waiting the due dates of such instruments. In cases when the earnings and incomes from the financial instruments contribute to the establishment of commercial, agricultural or professional activities, they may be evaluated according to the earning scope they are included. However, according to the existing legal regulations, the earnings and incomes from the financial instruments subject to tax deduction at source whatever their content is. According to the 7,8,9 and 14 sub-paragraphs of first paragraph of 94<sup>th</sup> clause of the Tax law, the persons or associations who make payments on

- All kinds of bonds and treasury bond interests
- Interests on deposits
- Profit shares and nightly deposit incomes paid against the profit and loss partnership certificate

have to make tax deduction (withholding). According to the 94<sup>th</sup> clause of GVK, the tax deduction will mainly contain the incomes obtained by the taxpayers of income tax. However, according to the provisions of the said article in the parenthesis, except the exemptions we give below, withholding must also be made on the incomes obtained by the institutions, unions and foundations that are not taxpayers. Accordingly, the tax deduction at source will be made on the payments made to economical business enterprises and business partnerships owned by capital companies, cooperatives, economical public institutions, union and foundations of which earnings subject to Corporation income, except the situations given below.

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54. Official Gazette 06.01.1961 dtd 10700 Income Tax Law, article 75

55. Official Gazette 06.01.1961 dtd 10700 Income Tax Law, article 80

#### **A- Institutions of which earnings and incomes will not be subjected to deduction at source**

According to the 7,8,9 and 14 sub-paragraphs of first paragraph of 94<sup>th</sup> clause of GVK (in parenthesis), all the bond and treasury bond interests, deposit interests, profit shares paid against the profit and loss partnership certificate and nightly deposit incomes and deposit incomes made to the unions and foundations founded by laws, and to chambers, stock exchanges, profession organizations and their superior establishments, political parties, retirement and assistance unions that are considered as unions or foundation in tax applications though in fact they are not will not subject to income tax deduction. These are ;

##### **1- Narrow Taxpayer Institutions**

The payments to be made to such institutions subject to tax deduction according to the 24<sup>th</sup> clause of the Corporation income.

##### **2- Institutions exempted from the Corporation income**

The payments to be made to the institutions that are exempted from the Corporation income according to the 7<sup>th</sup> article of the Corporation income law and to the special provision in the other laws will not subject to tax deduction at source (like cooperatives).

##### **3- The unions and foundations having their own law and the similar ones**

The tax deduction at source will be made on the payments to be made to the foundations and unions that are exempted from the tax. However, the tax deduction at source will not be applied on the payments to be made to the unions and foundations founded by laws, and to chambers, stock exchanges, profession organizations and their superior establishments, political parties, retirement and assistance unions that are considered as unions or foundation in tax applications though in fact they are not. The foundations and unions founded by laws mean the unions and foundation that have their own incorporation laws.

##### **4- The Institutions and associations other than the stated ones above**

- a) The Public institutions and associations
- b) Universities
- c) Organized Industrial Zones judicial personalities
- d) The local management unites founded within the frame of 1580 and 3030 numbered laws
- e) The Service Organizations such commercial building, apartment and Site management that are not the judicial personalities

#### **B. Withholding rates with respect to financial earning and income kinds**

With the resolutions numbered 2003/6575 and 2003/6577 published by the Ministries Council, the withholding rates made according to the 94<sup>th</sup> article of GVK and 24<sup>th</sup> article of KVK were changed in some financial instrument income payments.<sup>56</sup> With the law on making modifications at some laws numbered 4842, many tax regulations were made and under the same law, the fund share application was ended as date of 01.01.2004. It was aimed to compensate the losses resulted from removal of fund share at some business enterprises.

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56. Official Gazette 30.12.2003 dtd 25332



## 1- Withholding rates made according to the 94<sup>th</sup> article of the Income Tax Law<sup>57</sup>

The withholding rates related to the financial instruments are given below. The withholding rates to be made according to the 94<sup>th</sup> article of GVK that became valid as date of 01.01.2004 are given by including the modifications made under the resolutions of the Ministries Council and the rates applied before such modifications. The modifications are valid for the payments to be made after the date of 01.01.2004 and the validity dates for our subject are given in 1 no footnote. The updated list showing the withholding kind, the related article and paragraph numbers, the final governmental decree number determining the withholding rates and withholding rates as date of 30.12.2003 is given below.

### Payments subject to tax deduction at source according to the 94<sup>th</sup> article of GVK (Table 2)

Payment type	Related clause	Related Conseil Ministres No	Former withholding rate %	New withholding rate %
- From the investment funds or earnings of partners	94/6-a-i	03/6577	-0-	-0-
- From A type funds and immovable and risk capital investment fund and partnerships	94/6-a-ii	03/6577	10	10
- From B type funds				
- from the profit shares distributed by the full liable institutions to the full liable actual persons, the ones who are not the taxpayer of income and Corporation income and who are exempted from that tax as stated in the 1,2,and 3 no sub-paragraphs of the 75 <sup>th</sup> article.	94/6-b-i	03/6577	10	10
- from the profit shares distributed by the full liable institutions to the narrow taxpayer actual and judicial persons ( except the persons who gain a profit share by means of a business place or permanent representative office in Turkey), and to the narrow taxpayers who are exempted from the income and Corporation income as stated in the 1,2,and 3 no sub-paragraphs of the 75 <sup>th</sup> article	94/6-b-ii	03/6577	10	10
From the part of movable capital incomes transferred to the head	94/6-b-iii	03/6577	10	10

center of the narrow taxpayer institutions that give annual or special declaration as stated in the 75/4 article of GVK				
From the incomes obtained from the securities issued by TKİ and KOİ and Privatization Administration and from all the bond interests and treasury bond interests	94/7	RATES	LISTED	BELOW
-from interests imposed on Turkish lira deposits accounts	94/8-b-c	03/6577	16	18(2)
-from interests imposed on deposits accounts in bearer's name and registered ones			16	18(2)
-In demand deposits and noticed accounts			14	16(2)
-In 3-month fixed term accounts			10	12(2)
-In 6-month fixed term accounts				
-In fixed term accounts up to 1 year	94/8-d	03/6577	6	7(2)
-In 1 year or longer fixed term accounts				
- from the interests paid to monies evaluated in the stock exchange money market by the mediator institutions founded according to the Banks and 2499 no Capital Market Law	94/8-d	03/6577	16	18(2)
-from others (for instance, Interbanks deposit )			-0-	-0-
- from interests imposed on foreign exchange deposits accounts and profit shares paid to foreign exchange participation accounts by private financial institutions	94/8-d	03/6577	16	18(2)
-in fixed term accounts up to 1 year	94/8-d	03/6577	-0-	-0-
-in 1 year or longer fixed term accounts( 360 days for the private financial institutions)				
-Profit shares paid to credit providers without interest	94/9-a-b	03/6577	16	-0- (3)
-Profit shares paid against the profit and loss partnership certificate	94/9-a-b	03/6577	16	18(3)

-Profit shares paid against the profit and loss participation account by the Private Finance Institutions. In 3-month fixed term accounts -In 6-month fixed term accounts -In fixed term accounts up to 1 year -In 1 year or longer fixed term accounts	94/9-c	03/6577	16 14 10 6	18(3) 16(3) 12(3) 7(3)
-benefits gained as a result of purchasing and selling commitment on securities or their acquisition or selling commitments (nightly deposit incomes)	94/14	03/6577	20	22(4)
The commission fees in valuable paper and stamp duty selling	94/13-b	03/6577	20	20
- judicial personality retirement unions , assistance unions and retirement and insurance companies	94/15-a	03/6577	15	15
- from payments made to people who leave without paying premium, dues or contribution fee for a ten year period	94/15-b	03/6577	10	10
- from payments made to people who pay a contribution fee for a ten year period but leave without gaining retirement right from the individual retirement system , who pay premium or dues for a period of ten year from the other insurance organizations and unions, and who leave because of the obligatory reasons such as death, disability or liquidation. - from payments made to people who gain a retirement right from the individual retirement system and who leave because of the obligatory reasons such as death, disability or liquidation.	94/15-c	03/6577	5	5

The modifications made to withholding rates according to the a, b, c, d, e and f subparagraphs of 7<sup>th</sup> paragraph of the 94<sup>th</sup> article of GVK and their dates are given below.

2) For the fixed term accounts (time deposits) opened or renewed as date of 31.12.2003 and the interests to be paid on such accounts after that date.

3) For the opened or renewed as date of 31.12.2003 and profit shares to be paid on such demand deposits after that date.

4) Nightly deposit transactions made as date of 31.12.2003

## 2- Withholding rates made according to the 24<sup>th</sup> article of Corporation income Law

The withholding rates related to the payment of financial instrument incomes according to the 94<sup>th</sup> article of GVK are given above. Besides, withholding has to be applied on payments of some financial instrument incomes to be made narrow taxpayer institutions according to the 24<sup>th</sup> article of KVK. The rates of withholdings to be applied according to the 24<sup>th</sup> article of KVK are valid for the payments to be made as date of 01.01.2004. The validity dates for our subject are given in 1 no footnote. The updated list showing the withholding kind, the related article and paragraph numbers, the final governmental decree number determining the withholding rates and withholding rates as date of 30.12.2003 is given below.

### Payments subject to tax deduction at source according to the 24<sup>th</sup> article of KVK (Table. 3)

Payment type (payments made to narrow taxpayer foreign institutions)	Related Conseil of Ministres	Former withholding rate %	New withholding rate %
Financial Lease Payments	03/6575	1	1
Income obtained from all kinds of debenture interests and treasury bond interests and securities issued by the Collective Dwelling Administration, Public Partnership Administration and Privatization Administration	03/6575	* previous table rates apply	* previous table rates apply
Deposits interests Interests imposed on foreign exchange deposits accounts and profit shares paid to Foreign Exchange Participation Accounts by the Private Finance Institutions -In fixed term accounts up to 1 year -In 1 year or longer fixed term accounts	03/6575	18 16	24(2) 18(2)

- From interests imposed on the deposits accounts in bearer's name and registered ones	03/6575	16	18(3)
-In demand deposits and noticed accounts		16	18(3)
-In 3-month fixed term accounts		14	16(3)
-In 6-month fixed term accounts		10	12(3)
-In fixed term accounts up to 1 year		6	7(3)
-In 1 year or longer fixed term accounts			
- from the interests paid to monies evaluated in the stock exchange money market by the mediator institutions founded according to the Banks and 2499 no Capital Market Law	03/6575	16	18(2)
-from others (for instance, interbanks deposit )	03/6575	-0-	-0-
-Profit shares paid to credit providers without interest	03/6575	16	0(3)
-Profit shares paid against the profit and loss partnership certificate	03/6575	16	18(3)
-Profit shares paid against the profit and loss participation account by the Private Finance Institutions.	03/6575		
In 3-month fixed term accounts			
-In 6-month fixed term accounts		16	18(3)
-In fixed term accounts up to 1 year		14	16(3)
-In 1 year or longer fixed term accounts		10	12(3)
		6	7(3)
-All kinds of receivable interests interests to be paid for the credits taken from foreign states, international institutions or foreign banks and institutions	03/6575	-0-	-0-
-from others	03/6575	10	10
Movable capital incomes stated in the 75/10 article of GVK (discount values taken as a result of all the discounted notes – interests paid to factoring organizations abroad )	03/6575	10	12
-benefits obtained as a result of	03/6575	20	22(4)



acquisition or selling of movable assets under back-purchasing (reverse nightly deposit) selling commitment (nightly deposit incomes)			
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- 1) See table 3
- 2) For the fixed term accounts (time deposits) opened or renewed as date of 31.12.2003 and the interests to be paid on such accounts after that date.
- 3) For the opened or renewed as date of 31.12.2003 and profit shares to be paid on such demand deposits after that date.
- 4) Nightly deposit transactions made as date of 31.12.2003

If we refer to the taxpayers of Corporation income; according to the 44<sup>th</sup> article of Corporation income, the withholding applied taxes imposed on earnings included in the declaration according to the Corporation income law and Income tax law are deducted from the Corporation income calculated on the declaration. If the deducted amount is more than the Corporation income calculated on declaration, the surplus is returned to the taxpayer. However, the surplus collection to be returned will be deducted from the income tax without amount limitation and necessity of examination report that must be paid according to the 6/b paragraph of the 94<sup>th</sup> article of the Income Tax law upon the demand of taxpayers. The detailed explanations below are made for the taxpayers of the income tax.

## **2. THE DECLARATION AND TAXATION OF MOVABLE CAPITAL INCOMES BY THE FULL LIABLE ACTUAL PERSONS**

### **A. Movable capital incomes**

#### **1- The General Definition of Movable Capital Income**

The definition of securities is not given the Income Tax law but only the definition movable capital income is made.<sup>57</sup> “the taxation of incomes obtained from the investment instruments such as profit share, state bond and treasury bond interest, nightly deposit is given in the Income Tax law under the title of “Movable Capital Incomes”. According to the 75<sup>th</sup> article of GVK, the profit share obtained by waiting the due dates of the financial instruments other than the commercial, agricultural and professional activities, interests, leases and similar incomes of the actual persons are expressed as movable capital income.<sup>58</sup> Besides, according to the 75<sup>th</sup> article of GVK, some incomes may be accepted as movable capital income without considering their sources.

57. Official Gazette 24.04.2003 dtd 25088

58. Mehmet SARITAS, Ismail Ergunes, “Menkul Sermaye İratlarında Vergileme, (I/79), 21.02.2003, p. 1

## 2- Incomes accepted as movable capital incomes without considering their sources

In the 75<sup>th</sup> article of the Income tax, the general identification of movable capital income is made and in the second paragraph it is stated that some incomes may be accepted as movable capital income whatever their sources are.<sup>59</sup> According to the general definition, a capital that may be represented with cash or money is an obligation for the movable capital income and in situations given in the second paragraph of the 75<sup>th</sup> article, the type of source is taken into consideration. For instance, the income elements obtained from the financial instruments such as founders' share certificates acquired against the labor and organization ability but are not the equivalence of a cash capital are considered as movable capital income according to the 75<sup>th</sup> article. These are ;

- Profit shares of share certificates in all kind
- Earnings resulting from the participation shares
- Profit shares issued to the chairman and members of Boards  
(However, in case the above stated profit shares are not distributed to the full liable s or narrow taxpayer actual persons but are added to the capital, such profit shares are deemed as distributed)
- The part remaining after the corporation income tax is deducted of the corporation earning before the deductions and exemptions in case of narrow taxpayers.
- The bond and Treasury bond interests and incomes obtained from the securities issued by the Collective Dwelling and Public Partnership Administration and Privatization Administration.
- All the interests on receivables
- Deposit interests
- Incomes obtained from the undue coupons of share certificates and bonds
- The monies received against the transfer and selling of profit shares of participation certificates not accrued in name of their holders yet.
- The discount values taken against all kinds of discounted notes
- The profit shares paid to the creditors without interest, profit shares paid against the profit and loss partnership certificate and profit shares paid against the profit and loss participation account of private finance associations.
- Incomes obtained with nightly deposit and reverse deposits
- Tax receivable ( the tax receivable previously considered as movable capital income in the 13<sup>th</sup> paragraph of the 75<sup>th</sup> article of GVK was removed under the law no 4842)
- Payments made by the retired unions with judicial personality, assistance unions and retirement and insurance companies
- Interests and dividends paid by foreign currency

## 3. Situations not considered as movable capital income

In the 75<sup>th</sup> article of the Income tax, the situations that may not be considered as movable capital income are stated. The followings are considered as movable capital incomes.

- a) Values obtained against selling of securities such as share certificates and bonds with or without coupon<sup>60</sup>
- b) Earnings obtained from transfer and selling of participation shares<sup>61</sup>
- c) Monies received against amortization of securities and participation shares partly or completely and premiums given as a result of amortization

59. Irfan Huseyin YILDIZ, Income Tax Declaration Guide, Aksam Gazette, 2003 Free Attachment March 2004, p. 11

60. If buying includes coupons, purchasing value is considered as marketable capital income.

61. Shared capital selling value, if includes profit shares, for the seller this amount is considered as marketable capital income.

Here, the positive difference between the purchasing value and selling value is taxed as an income element included in the “other earning and income group”. However, as it can be understood from the expressions in the parenthesis, when the share certificates and bonds are sold with their due coupons, if the coupon values are in position that may be independently collected, the part corresponding to the coupon value is considered as a movable capital income for the seller. In whole selling of the participation share, if the selling value is partly accrued in name of seller , that part is considered as the movable capital income for the seller.

#### 4- Movable Capital Income- Commercial Earning Limit

The commercial and agricultural activity requires cash capital. The commercial or agricultural earning results from the organization based on labor and organization ability. The same situation may be valid for some professional operations. In all such cases, though there exists a capital element in basis, the obtained income element is not considered as movable capital income.<sup>62</sup> According to the 75<sup>th</sup> article, movable capital income requires the capital, composed of values that may be represented with cash or money, to be obtained from the activities other than commercial, agricultural and professional activities. For instance, any interest obtained from the bond included in the balance sheet of a business enterprise is considered as movable capital income. According to the 94<sup>th</sup> article, the entity making the interest payment must apply tax deduction. However, according to the final paragraph of the 75<sup>th</sup> article, it is considered as an element of the commercial earning and it is evaluated as a commercial earning.

#### 5. The characteristics of the income tax on obtaining

In order to be able to understand clearly what the obtaining is in movable capital incomes, the characteristics of personal incomes subject to tax and the Principles of Tax Law on obtaining of incomes must be known well.

##### a) Characteristics of personal incomes subject to tax

The incomes subject to tax according to the income tax law must have the following characteristics;

- the income must be personal
- the income must be annual
- the income must be real and net
- the income must be obtained in hand

The event leading to tax has the same meaning with arising of tax receivable. In order the taxation can be made, in other words for arising of tax receivable, the event leading to tax must be realized. To determine the establishment of tax receivable, one of two alternative conditions must realize. First of such alternative conditions is that the event related to tax as determined by the tax laws must occur. The second condition is that the legal situation must be completed. With respect to income tax, the event leading to tax is the acquisition of income. The acquisition is determined according to different principles depending on the kind of each earning and income. given below.

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62. State Council, 4th chamber. Dtd 28.11.1970, E.1969/6921, K.1970/714

The different principles with regard to acquisition of tax are:<sup>63</sup>

- Accrual principle
- Legal saving principle
- Economical saving principle
- Collection principle

## 6- Acquisition in movable capital income

The acquisition process in movable capital income is completed when the legal and economical saving opportunity arises. Though the main measure is the economical saving (expresses that the income and transactions lead to income were presented to the service of income holder), as its determination is difficult, the legal saving is considered. When the income becomes legally demandable by the income holder, it is accepted that the economical savings also arises. In movable capital incomes, the acquisition may also be determined according to the actual saving. This situation occurs as an actual event. In fact, though the actual saving is the final phase following the legal and economical saving, an income that has not any legal and economical saving may be included in the actual saving. In that case, acquisition is determined according to the actual saving. The acquisition in income tax is determined under different principles according to the kind of earning and income.

The acquisition of income in commercial and economical earning is bound to realization (accrual) principle. For this reason, when the income elements that are defined as movable capital income in the Income Tax law establish in the commercial operation structure, the realization principle must be considered in determination of whether the income is acquired or not.

## B. Liability in movable capital income

### 1- Full Liable Actual Persons

The full liable actual persons are the residents and citizens in Turkey. In principle, they are taxed on whole of their incomes and earnings they acquired inside and outside of Turkey.<sup>64</sup> The persons who are deemed as the residents in Turkey are the persons who reside in Turkey more than six months in one calendar year.<sup>65</sup> However, though the businessmen, scientists, experts, officials, press members who come to Turkey for a definite duty or business and other foreigners who come to Turkey for purpose of examination, collection, rest or travel stay in Turkey for more than six months, they are not deemed as the residents in Turkey. As the persons who are deemed as the residents in Turkey are the full liable persons, they will be taxed on their movable capital incomes they acquired inside and outside of Turkey. The Turkish citizens who reside in foreign countries because of the works assigned to them by the institutions, organizations and associations in Turkey and the persons who are liable for the income tax or similar tax resulting from their earnings and incomes they acquired will not be taxed on their earnings and incomes separately.

### 2- Narrow Liability

The actual persons who are not residents in Turkey are considered as narrow taxpayers. The narrow taxpayers are only taxed on the incomes and earnings they acquire in Turkey.

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63. Tax law Code, article 19

64. Tax Law code, article 19 about residence.

65. Temporal absences donot effect residence period in Turkey.



According to the income tax law, the acquisition of movable capital incomes for the narrow taxpayers requires the capital to be invested in Turkey. According to the 6<sup>th</sup> article of the said law, the movable capital incomes obtained against the capital investment in Turkey by the narrow liable persons are included in the scope of income tax.

### **C- Determination of net amount in movable capital incomes**

For determination of net amount of movable capital income included in the scope of income tax, the expenditures made for preservation of the securities like storing and insurance fees, the collection expenses of profit shares and interests, stamp duties and charges paid for the securities and their incomes must be deducted from the gross movable capital income. The expenses to be deducted from the gross amount for determination of net amount in movable capital incomes are given as follows in the 78<sup>th</sup> article of the income tax law.<sup>66</sup>

1. Expenses made for preservation of securities like storing and insurance fees
2. The collection fees of dividend shares and interests – the expenses made for administration of company like participation to the meetings of company personally or by proxy cannot be deducted from income
3. all the taxes and charges paid for the securities and their incomes –the income tax may not be deducted from income- for instance, the stamp duty paid for the securities and their incomes .

The point that must be paid attention with regard to income tax is that the taxes taken by means of deduction and the tax receivables on profit shares obtained from institutions will not be exempted from the tax figure in annual declarations. Additionally, they will be deducted from the taxes calculated on declaration. The persons who take dividends and interest coupons before their due date will deduct the purchasing value from the value they collect in determination of net amount related to selling. However, the income element so obtained is not considered as a movable capital income. The interests related to the indebteding resulting from acquisition of securities that ensure movable capital income such as share certificate, bond, participation certificate are not deducted as an expense in determination of net amount. According to a resolution taken by the fourth office of the State Council because of an incompatibility in the past, the indebteding interest related to the acquisition of a share certificate not related with the scope of an activity though it is included in the balance sheet is not considered as an expense.

Some part of the movable capital incomes obtained in 2004 and the other part , unless it exceeds some definite amount, will not be declared in annual declaration.

### **D- Declaration in movable capital incomes**

As a general principal, when the movable capital incomes are paid in cash or to the account in a year, they are subjected to withholding by the persons who make the payment. However, in some cases, the movable capital incomes may not be deducted at source. Besides, the withholding rate may be zero as in the interests of state bonds and treasury bonds. In some situations, the withholding may be a final taxation in movable capital incomes.

1. The General declaration limit in movable capital incomes that are taxed by means of withholding

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66. 28.11.1970 dtd E.1969/6921, K 1970/7141 no statement of the Court.



If the gross amount of movable capital incomes obtained in 2004 by the entities that are taxed by means of deduction at source exceeds 14 milliards Lira,<sup>67</sup> they will give a declaration. If the gross totals of movable capital incomes and immovable capital incomes (including the profit share , the fees obtained from more than one employers (except the highest fee income taken from an employer) who are subjected to withholding in 2004 do not exceed 14 milliard Lira, they will not be declared. Even if a declaration is given for the other incomes, such incomes will not be included in the declaration. If the total of said incomes exceeds the declaration limit, a declaration will be given for total of such incomes. In the circular published by the Ministry of Finance, General Directorate of Incomes, in determination of the said 14 milliard-Lira limit, the fee taken from an employer is not included in the calculation but only the fees taken from more than one employers are included in the calculation.

## 2. General declaration limit in movable capital incomes not subjected to withholding

The 2004 year general declaration limit in movable capital incomes not subjected to deduction at source is 750 millions Lira.<sup>68</sup> In case the movable capital incomes not subjected to tax deduction at source exceed 750 millions Lira limit, they must be declared in annual declaration in any way. The 14 milliard lira limit for the movable capital incomes subjected to withholding and 750 million lira limit for the movable capital incomes not subjected to withholding (deduction at source) is not an exemption but limits related to whether the income will be declared or not.

On the other hand, according to the legal regulations that were valid in 2004, regardless the amount of some movable capital incomes taxed by means of deduction at source, they may not be declared with the annual declaration , and even if a declaration is given for any other incomes, such incomes will not be included in the declaration.<sup>69</sup> According to the explanation made by the Minister of Finance, that application will also continue in 2005 year but the stability will be ensured for the rates of withholding made at source on movable capital incomes.

## **E. The movable capital incomes that will not be declared regardless of their amounts**

The amount of incomes given below will not be declared regardless their amount and be not included in the declaration given because of other incomes.<sup>70</sup>

1. The bank deposit interests (TL, foreign exchange)
2. the profit shares paid to creditors without interest , the profit shares paid against the profit and loss partnership certificate and the profit shares paid against the profit and loss participation account by the private finance institutions  
nightly deposit incomes profit shares paid for certificates of the participation to securities investment funds
3. The incomes on securities subjected to deduction at source and obtained because of the personal insurance policies arranged as date of 07.10.2001 will not be declared whatever their amount is and such incomes will not be included ih the declaration issued because of other incomes.

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67. For 2003 limit was 12 million TL

68. For 2003 this limit was 600 million TL.

69. Sane regulation was in force and valid in 2003.

70. Temporal article 55 was added to Income Tax Law-4444

4. The profit shares obtained by the actual person partners in profit distribution transactions realized by the associations by adding their profits to the capital
5. The movable capital incomes of narrow liable actual persons taxed by means of deduction at source –including the profit shares obtained by the associations
6. The movable capital incomes obtained by the Turkish citizens who live abroad by being given a working or residing permit for more than six months –including the profit shares obtained from the associations-will never be declared in any way.

**F. Movable capital incomes that will remain out of tax with the deduction rate application**

According to the 76<sup>th</sup> article of 4369 no Income tax law and 5, 6, 7, 12 and 14<sup>th</sup> paragraphs of the 75<sup>th</sup> article, the part of movable capital incomes to be calculated depending on a definite deduction rate will remain out of tax. As it is stated in the law, to ensure the inflation free declaration of said movable capital incomes, the deduction rate is applied and the part corresponding to that deduction rate is not declared.

**The inflation deduction;** the inflation deduction rate in 2003 year was 57.5.<sup>71</sup> The inflation deduction rate in 2004 year is expected to be 43.8.<sup>72</sup>

According to the tax law, the inflation deduction rate is found by dividing the reevaluation rate determined in November 2003- October 2004 period to the combined interest rate established in Treasury bond and State bond tenders. Accordingly, it is possible to estimate the inflation deduction rate for 2004 year. 2004 year reevaluation rate is announced as 11.2 percent. The 2004 year combined average interest rate is announced as 25.59 percent according to the weighted average and as 25.83 percent according to the arithmetical average. In that case, the ministry of Finance will consider the weighted average as 25.6 and the 2004 year inflation deduction will be  $(11.2/25.6=)$  43.8 percent. (GVK Md 76/2). It is expected that the Ministry of Finance will announce that rate in December month with a general notification. Accordingly, the movable capital incomes that must be declared by applying the deduction rate are as follows:

**Of the second paragraph of the 75<sup>th</sup> article of the income law;**

1. the bond and treasury bond interests in all kind and the interests and incomes of securities issued by the collective Dwelling Administration , Public Partnership Department and Privatization Administration as stated in the 5<sup>th</sup> sub-paragraph ,
2. the receivable interests as stated in the 6<sup>th</sup> sub-paragraph
3. the deposit interests as stated in the 7<sup>th</sup> sub-paragraph
4. the profit shares paid to the creditors as an interest , the profit shares paid against the profit and loss partnership certificate and the profit shares paid against the profit and loss participation account by the private finance institutions as sated in the 12<sup>th</sup> sub-paragraph
5. the nightly deposit as sated in the 14<sup>th</sup> sub-paragraph
6. the profit shares obtained from the securities investment funds and partnerships, risk capital investment funds and partnerships and immovable investment funds and partnerships.

The above said movable capital incomes stated in the 7, 12, 14 paragraphs of the 75<sup>th</sup> article of GVK and the profit shares paid to certificates of participation to the securities investment funds are kept out of taxation during the annual declaration on 01.01.1999- 31.12.2004 period according to the 55<sup>th</sup> article of GVK. For this reason, as the said movable capital incomes will not be declared regardless their amount, it is meaningless to apply a deduction rate them. On the other hand, with regard to taxation of interests on notes and treasury bonds stated in the 5<sup>th</sup> sub-paragraph, second paragraph, 75<sup>th</sup> article of the income tax , the incomes obtained from the securities issued by the Collective Dwelling Administration and Privatization Administration , all the interests on receivables and the profit shares obtained from the securities investment partnerships in the annual declaration, the amounts remaining after the deduction in rate of 43.8 % will be considered ( that rate was 57.5 % for 2003 year). As we will explain in detail below, if the remaining amount after the deduction rate (43.8%) is applied for the movable capital incomes exceeds 750 millions lira for the interests on receivables and 14 milliards lira for the other ones, the declaration will be given. Besides, an exemption is suggested for the interests on state bonds and treasury bonds.

The deduction will be made only in taxation during the annual declaration. No deduction will be applied in taxation made through withholding. Besides, in movable capital incomes declared by applying a deduction rate, only the tax part deducted at source as reflected in the declaration will be entered into account. In other words, the tax deduction made on part corresponding to the deduction rate of the earning and income will be entered into account. In case no declaration is required, the taxes previously deducted at source from such incomes will not be returned and they will be final tax.

On the other hand, in declaration of movable capital incomes obtained from securities indexed to foreign exchange, gold or other value and securities issued in foreign currency, it is impossible to apply a deduction rate. Besides, no deduction rate applies to movable capital incomes included in the commercial business enterprises.

#### **G- Movable capital incomes to be declared in case its amount exceeds 14 milliards TL**

In case the total of gross amounts of some movable capital incomes that are obtained in 2004 year and taxed by means of deduction at source exceeds 14 milliards TL, they will be declared.<sup>73</sup> In determination of whether the total of the said movable capital incomes exceeds 14 milliards TL or not, the part of movable capital incomes that remain after the deduction rate and exemption is applied must be considered, and in case such incomes must be declared, the part that remain after the deduction rate and exemption is applied must be declared. The earning subject to deduction at source in rate of zero is deemed as subjected to withholding. These are;

- 1- The bond and Treasury bond interests in all kind and the interests and incomes of securities issued by the collective Dwelling Administration, Public Partnership Department and Privatization Administration
- 2- Profit shares obtained from the full liable associations

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71. Article 341 of Tax Law Code Procedures

72. Dtd. 22.01.1999 no. 23588 Official Newspaper article 220, Income Tax Bulletin

73. This limit was 12 billion TL for the year 2003

In addition to the deduction rate application on state bonds and treasury bonds given above, they are also given exemption right. The movable capital incomes not to be declared regardless their amounts will not be taken into consideration in calculation of the said 14 milliards TL limit.

#### **H- Returns on stocks and bonds to be declared in the case aggregate sum exceeds 750 million TL**

In case the aggregate sum of the returns on stocks and bonds and appreciation profits required in the year of 2004 withheld tax reduction and not the subject of implementation of exemption, exceeds 750 million liras<sup>74</sup>; it will be declared by annual statement as follows:

- 1)The profit of shares acquired by dormant partners from Comandite Companies
- 2)The interests of any receivables
- 3)The revenues obtained by sales of coupons of stocks and bonds undue
- 4)The pecuniary and commodities obtained by delivery and assignment of share profits yet not accrued on behalf of holder of participation stocks.
- 5)Renumerations in discounts by any discounted note
- 6)The interest incomes acquired from off-shore banking and bank accounts abroad on the basis of foreign currency.
- 7)Other returns on stocks and bonds acquired abroad

The above aggregate sum of 750 million, is determined as particular rate but not exemption. This rate will be determined in respect of above mentioned revenues and aggregation sum of returns of stocks and bonds and real estates where of there is not exemption and not withheld

#### **I - The declaration of Revenues of State bonds and Treasure bonds**

Revenues may be obtained by either waiting for the maturity or may be obtained purchase-sales earnings by selling those bonds. The latter is defined as appreciation profit of purchase-sales earnings, while the former that the interest revenues obtained is returns on stocks and bonds, according to our tax regulations.

##### **1) Bonds issued after the date of 26.07.2001**

For the interests of State Bonds (ST) and Treasure Bonds (TB) issued between the dates of 26.07.2001 and 31.12.2004 in accordance with the provisional article of 59 of Income Tax Law, there is a timely limited exemption until the date of 31.12.2006.<sup>75</sup> The amount of exemption is 50 billion for a year of 2001. Every year will be increased by previous year's revaluation coefficient. In this respect, the amount is of 76.600.000.000 liras for a year of 2002; 121.794.000.000 liras for a year of 2003; 156.505.290.000 liras for a year of 2004. To the extent, the interest revenues obtained in the year of 2004 from State Bonds and Treasure Bonds, issued between the dates of 26.07.2001 and 31.12.2004, are first calculated by discounting 43.8 % of inflation reduction rate, then the exemption of 156 billion 505 million 290 thousand is applied to the amount after the reduction.<sup>76</sup>

This interest revenue will not be declared, if the balance amount does not exceed 14 billion. For this calculation ,the interest revenue of total sum of 303 billion 390 million 195 thousand 729 lira for 2004 year ,should be declared.

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74. This limit was 600 million TL for the year 2003

75. Income Tax Law temporary Article 59

76. Discount Rate: %57,5- Exemption Amount:121 Billion and 794 million TL for the year 2003

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The said exemption of 156 billion 505 million 290 thousand is reduction rate ,in respect of interest revenue and amount found after the cost value adaptation ,will be applied to in respect of earnings obtained by disposal appreciation profits. In addition ,this exemption will be applied to aggregate interest revenues and miscellaneous earnings because of disposal. Which earnings will be applied to the exemptions, will be determined by tax payer with its own discretion. In case a real person has both interest revenue and disposal revenue (buying-selling SB and TB) and the aggregate sum exceeds the limit of exemption.

The exemption is valid for the earnings acquired by real person and will not imply to the revenues of commercial institutions, to the extent, when the interest revenue acquired in the year of 2004 from the SB and TB issued after the date of 25.07.2001, exceeds 303 billion 390 million 195 thousand, it will be declared within 01-15 March 2005; if it does not exceed, then is not to be declared. The Family members will be of benefit of declaration limit separately.

## **2)The bonds issued before 26.07.2001**

The declaration is not necessary for the balance amount not exceeding 14 billion after the application of reduction rate 43,8 % as the exemption of 156 billion 505 million 290 thousand will not be implemented for the revenues acquired in the year of 2004 from the State Bonds and Treasure Bonds issued before 26.07.2001<sup>77</sup>

## **3)Eurobonds**

It is stated that the exemption rate of 156.505.290.000 for the 2004 which is in the provisional article 59 of Income Tax Law ,will be utilized for the interest revenues and appreciation profits obtained from the Euro bonds on the basis of foreign currency sold in the markets abroad deemed to be State Bonds according to corollary proclaimed by Revenues Department of Finance Ministry. The reduction rate at the returns on stocks and bonds obtained from this kind of bonds as some authors stated that eurobonds are a kind of interior debenture issued on the basis of foreign currency and the exemption at the provisional article of 59 of Income Tax Law will not be applied.

Those are subject to be withheld of 10% rate as they are not interior loaning bills. Resembling this, the exemption at the provisional article of 59 will not imply to the appreciation profits obtained from as a result of disposal of stocks and bonds.<sup>78</sup>

## **J- The taxation of Dividends and Declaration**

The stoppage on dividends will be at the row of dividend distribution without considering whether there is an exemption of Corporation gains forming resource to dividends. The sole 10 % of stoppage rate has been adopted as of corporation types. In the case that, the profit is added to equity capital, the stoppage will not be applied as the addition of profit to equity capital can not be deemed to be dividend distribution.

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77. For the year 2003, this limit was 28 billion 235 million TL

78.Mustafa DAKIN, Taxation of Income from Eurobonds, Tax World 2004, Issue Aug. Pp.80-91



On the other hand, the half of dividends obtained from full fledged tax payer is exempted from income tax in accordance with amendment on the law no.4842, furthermore, the whole stoppage executed on the dividend aggregate sum, including the sum exemption will be taken into account together with the calculated on the dividend declared. The balance amount after the set off will be rejected and returned in accordance with general regulations.

The execution tax receivables has been abolished as set off of actual stoppage made on dividend earnings.

Thus;

1-The half amount of dividends obtained in the year of 2004 is to be exempted and **if the half of the remaining amount exceeds 14 billion,**<sup>79</sup> tax payers will give declarations, paying attention to 10 % stoppage executed, to calculate it, going up to gross from net account and a half of dividend earnings will be taken into account. For the calculation of gross profit from the dividends. executed 15 % income, tax deductions on distributed before the date of 24.03.2003 , 15% rate should be taken into account.

2- The execution of “inflation reduction” for dividend earnings has not been provided in our income Tax Law. This possibility may be for dividends obtained from “investment trusts”

3-To determine whether the limit excessive of 14 billion declaration rate, the said half of dividend has been set off, considering wages obtained from several employers, miscellaneous returns on stocks and bonds, and real estate earnings, the aggregate sum must be taken into account.

4-As provisional regulations; the set off and the rate of 19,8 % will be executed from the earnings utilizing the exemption of investment allowance connected with the incentive certificate for investments issued for the applications made before 23.04.2003 and the earnings utilizing investment allowances that the calculation has been made on the investments realized before the same date and that turned over to subsequent period as the earnings are insufficient.

5-Any set off on earnings will not be executed in case, that these corporations distribute their earnings obtained in the account period at the date of 31.12.1998 and previous dates.

6-The corporations will not be subject to stoppage concerning profit distributing as they had been subject to the stoppage previously ,in case that those corporations distribute earnings exempted from corporation tax belonging to years of between 1999 and 2002. But, these dividends obtained will be subject to income tax on annual basis. The 1/9 portion of declared sum will be added to the net dividend obtained and the half of sum calculated accordingly will be declared as income subject to tax. The amount of annual declaration of 1/5, will be entered on income tax calculated upon this amount at the annual declaration. The same implementation will be valid to the extent that the corporations have chosen the provisional article 61 of income tax law, distribute the earnings withheld and utilized investment allowance.

7-The above said applicable principles ( article a) will be valid in case that corporations distribute their earnings subject to corporations tax for the years between 1999 and 2002

8-Also earnings on the basis of 1999 year's investment allowance will be subject to the applicable principles as they are deemed to be the earnings subject to corporations tax of which the lawsuits have been won.

The above principles will be similarly applicable concerning the declaration of those dividends distributed and obtained but natural persons in case that the tax payers of corporation tax have obtained by directly or intermediation of participants.

At the determining whether the limit excessive of aggregate sum of 14 billion declaration rate for returns on stocks and bonds, the balance left must be declared after reduction rate and exemption is exercised in case that those revenues are to be declared considering the balance portions left after the implementation of reduction and exemption.

#### **K. Exemption of Individual Pension**

The 25 % of payments made for whom acquired pension rights from individual pension scheme system and persons left the system because of compulsive reasons like death, disability and liquidation and 10 % of payments made for whom paid contributions for 10 years to the insurance companies registered in Turkey and headquarters in Turkey and persons left for compulsory reasons like death, disability or liquidation and whole payments made by single premium annual income assurance companies are exempted from income tax.

#### **L.Exhibits**

The above stated revenues<sup>79</sup>, dividends obtained from investment trust companies and interest of assorted state bonds and treasure bond will be beneficiary of reduction rate execution. Furthermore, the interest of state bonds<sup>80</sup> and treasure bonds is beneficiary for exemption. On the other hand, at the calculation of declaration limit of 14 billion will not be paid attention at the above mentioned revenues of returns on stocks and bonds which are not to be declared. Whatever the amount will be, the annual declaration will not be filed for returns on stocks and bonds obtained in one calendar year and not exceeding aggregate sum of 750 million, and not subject to the execution set off will be taken into account in case that, the returns on stocks and bonds on which set off is executed, together with stocks and bonds on which set off is not executed are obtained together.

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79.Except the ones that printed indexed to foreign currency and gold

80.Treasury Dept. Has taken a few firms wages here to calculate.

**The declaration of returns on stocks and bonds obtained in 2004 calendar year  
( Table. 4)**

<b>Resource of revenue</b>	if declared
Stocks and bonds obtained in 2004 year and subject to tax deduction written income tax law article 7,12 and 14 ( savings interest, profit share of loans without interest and earnings of repurchasibles) profit shares paid for participation bills of investment trust.	not declared whatever the amount
<b>Resource of revenue</b>	if declared
<b>Gross aggregate total except above</b>	
Returns on stocks and bonds not exceeding 14 billion subject to tax deductions, dividends obtained from institutions	not declared
Returns on stocks an bonds exceeding 14 billion: subject to tax deductions, dividends obtained from institutions	to be declared
Returns on stocks an bonds not exceeding 14 billion subject to tax deductions, dividends obtained from institutions and if exceed total 12 billion wages obtained from several employers and real estate revenues	to be declared
<b>Returns on stocks and bonds not subject to tax deductions</b>	<b>if exceed 600 million to be declared</b>
Revenues exceeding 14 billion ,interest of every kind of State Bonds < included Eurobonds > stated in Income Tax Law article 75 section 2 paragraph 5 and treasure bonds interests obtained from the housing council, public investment council privatizing council <sup>81</sup>	reduction rate executed if the balance after execution of 156,5 billion to be declared .
<b>The interests of receivables</b>	<b>reduction rate executed, if balance exceed 750 million to be declared.</b>
Dividends exceeding 14 billion of total gross aggregate sum after reduction rate executed obtained from investments trust	amount after reduction rate execution to be declared
Revenues exceeding 14 billion declaration rate and obtained stocks and bonds on the basis of foreign currency, gold the others and issued on basis of foreign currency	to be declared without reduction rate

81. There are some contrary opinions that eurobond cannot benefit from 156,5 billion TL exemption

**M-The declaration and fiscalization of other financial earnings and revenues acquired by full fledged tax payer.**

The other earnings and revenues are the 7<sup>th</sup> component of tax income. Though the expression of other earnings and revenues sound that other whole earnings not entering to initial 6 income component, the legislative is not it seemed to be. They have been put in the hand as two different groups of revenues numbered in the row to be taxed in the context of the other earnings and revenues and casual earnings. Thus, the revenues not entered in those rows are not staying out of income tax content. The taxation principle for only the revenues numbered at the provisional article 56 by making regulations of law number 4444 are adopted.

The taxation principle are adopted for only the revenues numbered in the provisional article of 56 by making arrangement of Law numbered 4444. As last, the arrangements made by the law dated 07.01.2000 numbered 4783<sup>82</sup> effected on 01.01.2003 and the arrangements in the provisional article 56 with some amendment have been entered to income tax law article 80 repeatedly article 80 and 81 repeatedly article 81 and 82. Therefore, the arrangements made by the law numbered 4783 will be the basis for the taxation of the other earnings, revenues in the year of 2003 and 2004. The concept of definition by counting income components to be taxed of the other earnings and revenues, has been brought up by arrangement to be executed on revenues of 2003 and 2004, made in the income tax law article 80 repeatedly 80 and 81 repeatedly 81 and 82 by the law number 4783. The other earnings and revenues comprise two different income components as appreciation profits and casual profits.<sup>83</sup>

The earning of appreciation profits taxable is the earnings obtained from the disposal of goods and rights counted in the text of article. The disposal means sale of said goods and rights delivery and assignment against a remuneration in exchange, publicisation and staking equity capital to the companies. Casual earnings means arrangements including taxation of revenues obtained from casual acts not supplying continuity. We will take care of related dimensions, our subject of fiscalisation appreciation profits where of the earnings and revenues obtained by purchasing and selling without maturity for financial instruments, took place basically.

Appreciation profit earnings have been counted as 6 paragraphs in the repeated article 80 of Income Tax law .The revenues and earnings arising from the disposal of financial instruments counted in this paragraph is to be taxed as appreciation profit earnings.

**1.Resource being Financial Instruments for Becoming Profit Earnings.**

Earnings by disposing stock and bonds except securities dealing in security exchange markets founded in Turkey and kept in hand for three months and securities kept in hand for a year or more belonging institutions of full fledged Tax Payer –the Cabinet is authorized to increase three moths duration up to 1 year or decrease to legislative duration again. As it can be seen, the taxation of securities as appreciation profit earnings are applied in two different basis as securities and the other stocks and bonds except securities. Thus, earnings obtained by disposing the securities or financial instruments –stocks and bonds –out of securities before the maturity, are subject to the taxation as appreciation profit earnings.

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82.Dtd 09.01.2003 Official Newspaper

83. Income Tax Law article 80/2

In this respect, resource being financial instruments to appreciation profit earnings are: Securities, participating shares, bonds, treasury bonds, stocks and bonds issued by Housing Council, Publication Council, Privatization Council, the Bills of Income Partnership, Financial notes, Bank notes, bonds on basis of assets, A typed investment fund participation certificates, the undue coupons of securities and bonds, the profit shares yet not accrued on behalf of holder, any bills, deeds discountable and resembling may be so on.

The other stocks and bonds which have specific meanings except securities, constitute public deeds, as the exemptions included; are indicated below.

## **2. Determination of Appreciation Profit earnings**

Net earnings is proposed as the earning to be taxed of appreciation profit under the Income Tax Law repeated article 81. The said net earning on appreciation profit is calculated that the cost value of goods and rights disposed with the outlays taxes, levies paid in responsibility of seller because of disposal is discounted from the aggregate sum against the benefit represented in any pecuniary and commodity for disposal.

Thus, in determining the earnings of appreciation profit arising from disposing securities and the other stocks and bonds, one has to pay attention to remuneration in acquisition of those securities and bonds, and outlays like commissions taxes levies at the time of buying and selling. In case said acquisition cost is not certified, the nominal values written on the securities and bonds are deemed to be acquisition cost.<sup>84</sup>

When the securities acquired by adding the inner company resources on the equity capital, the cost of those securities are calculated by dividing cost values of securities owned previously, by total security number owned after the increase of equity capital. In case that there are several appreciation profit arising from sale of such goods and rights, earnings of those, are determined together.

On the other hand, In case that there will be several buying and selling for securities and bonds The losses and profits will be taken in to account together, therefore, provided that the procedure is performed within same year, the losses aroused from a transaction may be entered on to losses and profits together. But the losses aroused in the group of other earnings and revenues can not be entered on to profits aroused from the other income resources<sup>85</sup>. Earnings obtained from the disposal of preference rights, are not subject to taxation as they can not be deemed the earning subject to taxation.

## **3. Finding Basis on Appreciation Profit Earning and Purifying the difference of foreign currency rate.**

To purify the partition of earnings from inflation on the appreciation profit earning, providing a "basis" method to cost value has been brought up. This method is used both securities with goods and rights The value of economic item, can be calculated on the basis of acquisition value on which an addition is made according to increases of TEFE of State Statistics Institutions. The only method used at goods and rights except securities and bonds is providing a "basis" for.

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84. Income Tax Law article 81/4 -266

85. Income Tax Law article Bulletin dtd. 21.01.2003



The purifying the difference of foreign currency rates: the earnings of appreciation profit arising from currency rate are to be taken into account at the determination of appreciation profit earnings arising from the disposal of securities and bonds acquired against pecuniary and commodity capital brought in to Turkey themselves by getting permission from relevant authorities under the foreign capital regulations for restricted tax payers.

#### **4.Exemptions on appreciation profit earnings**

##### **a. General exemption**

The partition of 12 billion for appreciation profit earnings obtained in 2004 year is exempted.<sup>86</sup> Therefore the earnings under 12 billion Declaration is not to be needed and should the declaration is filled for the causes of other revenues, These revenues will not be included.

On the other hand, for the earnings exceeding exemption limit ,full fledged tax payer natural persons are to be filled declaration. The exemption sum for the relevant year of 2004, is determined as 12 billion lira for both appreciation profit earnings and casual earning However, 156 billion 505 million 290 thousand Lira exemption provided is to be exercised to the interests of state bonds and treasure bonds issued after 26.07.2001. 12 billion Lira general exemption will not imply to said appreciation profit earnings as provided that the exemption will be applied together to the appreciation profit earnings obtained from buying and selling these papers.

##### **b. Obtained from the disposal of state bonds .and Income Partnership Notes.**

Earnings exceeding the segment of 12 million Lira of which earnings obtained from the disposal purified from inflation, exceeding 12 billion Lira is to be declared. In the case that the state bonds and income partnership notes are disposed in the year 2004 before the termination date no matter how long they are kept in hand, should these bonds have been issued from the date 26.07.2001, The exemption will be 156 billion 505 million Lira in Lieu of 12 billion Lira. The 156 .billion 505 million for the year 2004 of exemption both total interests and sales earnings of state bonds and treasure bonds and treasure bonds issued between the date 26.07.2001 and 31.12.2004 will be out of taxation.<sup>87</sup>

Thus, after getting TEFE basis actual earnings will be exempted from taxation. The exemption will be executed to both revenues aggregate sum and will not imply to interest, and buying-selling earnings separately. The tax payers will split the exemption rate for both income group accordingly.<sup>88</sup>

The 156.505.290.000Lira exemption will be exercised to Public notes issued abroad called Eurobonds according point of view of Finance Ministry. Some authors predict on the contrary. The solution of ministry on the basis of specific formulation does not seemed to avoid of risks. How can a jurisdiction give a verdict is not clear whereof the auditors offer to put extra taxation on tax payers based on this contrary point of view. The specific formulation of finance ministry will only save tax payers from penalties.

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86.For the year 2003, amount was 11 billion.

87.ITL article 88, dtd 21.01.2003 bulletin.

88.For the year 2003, amount was 10 billion TL.

## **5.Taxation for the Earnings Obtained from the Disposal of securities .**

Disposal of securities whether included in the subject of Appreciation Profit earnings varies according to these items whether as gratuitous acquisition or not. Furthermore ,the duration stipulate for the taxation as appreciation profit earnings of which the earnings obtained from the disposal of securities, has been differently made out according to that the securities whether deal with security exchange market founded in Turkey and that the security whether belongs to a full fledge tax payer corporation Thus,

- a) Earning arising from disposal of securities acquired as gratuitous item -without paying-is out of taxation
- b)Earning from the sale after three months from the acquisition of securities dealing with IMKB is out of taxation.
- c) Earnings obtained from the securities not belonging full fledged tax payer corporations not dealing with IMKB that has been kept in hand for 1 year and sold, is out of taxation
- d) Any duration for buying and selling of securities of incorporated companies abroad is not a matter.
- e) Should the aggregate sum of after purifying from inflation by providing cost basis for the earnings obtained from buying and selling in three months time of the securities dealing with IMKB, exceed 12billion exemption limit, this excessive over 12 billion is to be declared. In case that several securities like securities and /or public notes are bought and sold during the year ,the earnings of those are to be calculated together should a loss incurred from the buying and selling the securities or the sales of other stocks and bonds, these losses included, are to be discounted from aggregate sum of earnings. Should the result incurs as a matter of loss, This loss may not be entered on the other income components.

The purifying earnings from inflation "increasing Cost = TEFE basis " method is used for earnings obtained from buying and selling securities and public notes .At this circumstance "Inflation Reduction Rate " is even not a matter. The cost of securities from the date acquired excluded the month securities disposed is increased by TEFE rate for each month.<sup>89</sup>

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89.Income Tax Law, article 81

## Exhibits

**The Other Earnings and Revenues Obtained 2004 Calendar Year.  
Table. 5**

Resource of earning and revenues	if declared
IMKB securities buying – selling earnings. Kept in hand longer than 3 months	no way to be declared
IMKB securities buying _selling earnings kept in hand less than 3 months	not declared
IMKB securities buying selling earnings exceeding net sum 12.billion kept in hand less than three months	After purification segment exceeding 10billion is to be declared
Public notes buying and selling earnings notes exceeding net amount 12 billion or 156 .5 billion no matter duration kept in hand.	Not declared
Public notes buying-selling earnings exceeding net amount 12 billion or 156,5 billion no matter the duration kept in hand	After purification the amount exceeding over exemption is to be declared.
IMKB securities kept in hand less than 3 months and public notes no matter duration ,buying and selling earnings are together: not exceeding net amount exemption rate.	not declared
Exceeding net amount exemption rate	After purification balance exceeding exemption is declared.
Kept in hand over a year other full fledged tax payer buying-selling earnings	no way is to be declared.
Kept in hand less than a year other full fledged tax payer buying-selling earnings.	After purification balance Exceeding exemption rate is to be declared.
Securities abroad buying-selling earnings	After purification balance Exceeding exemption rate is to be declared.

As it can be seen through above explanations, in Turkish Tax Legislation, a particular regime on earnings and revenues obtained from financial instruments not included non-commercial activities in order to get it attractive for demands of financial instrument of saving holder natural person tax payers especially for high financial needs of public because of insufficiency in capital commodity, has been established.

These earnings and revenues obtained by either waiting for the maturity of it or before the maturity of financial instruments, are adopted as returns on stocks and bonds or appreciation profit earning, thus subject to taxation exemptions and reductions in both situations have been settled on different basis. Some rate and exemption will be taken into account for determining taxable amount earnings and revenues subject to said taxation are shown below Exhibit. Furthermore, TEFE increase rates used at determination of Appreciation profit earnings- cost finding in basis method have been enclosed at the end of my work

**A Few Reduction, Exemption, Revaluation Rates ( Table. 6)**

**EXEMPTION RATES OF OTHER EARNINGS AND REVENUES**

**REDUCTION RATE EXECUTED TO SOME RETURNS ON STOCKS AND BONDS**

( Appreciation profit earning and casual earnings) ( purify.)

Years	Exception amounts	Years	Exception amounts
2004	12.000.000.000	2004	43,8 %
2003	10.000.000.000	2003	57,5 %
2002	3.500.000.000	2002	87,4 %
2001	3.500.000.000	2001	50,7 %
2000	3.500.000.000	2000	151 %

**EXEMPTION RATES OF STATE BONDS AND TREASURE BONDS ISSUED ( Table. 7)** **EXEMPTION RATE OF HOUSE RENT**  
**26.07.2001**

Years	Exception amounts	Years	Exception amounts
2004	174.033.882.430	2004	1.800.000.000
2003	156.505.290.000	2003	1.500.000.000
2002	121.794.000.000	2002	950.000.000
2001	76.600.000.000	2001	700.000.000
2000	50.000.000.000	2000	630.000.000

**REVALUATION RATES**

2004	Revaluation rate of year (TPL-Tax procedure law) General circular no: 341	11,2 %
2003	Revaluation rate of year (TPL-Tax procedure law) General circular no: 325	28,5 %
2002	Revaluation rate of year (TPL-Tax procedure law) General circular no: 310	59 %
2001	Revaluation rate of year (TPL-Tax procedure law) General circular no: 301	53,2 %
2000	Revaluation rate of year (TPL-Tax procedure law) General circular no: 288	56 %
1999	Revaluation rate of year (TPL-Tax procedure law) General circular no: 279	52,1%
1998	Revaluation rate of year (TPL-Tax procedure law) General circular no: 267	77,8 %
1997	Revaluation rate of year (TPL-Tax procedure law) General circular no: 259	80,4 %
1996	Revaluation rate of year (TPL-Tax procedure law) General circular no: 252	72,8 %

### **III.FINANCIAL EARNINGS AND REVENUES OBTAINED FROM FOREIGN COUNTRIES**

Full fledged tax payers natural persons, have to give an annual declarations for whole earnings and revenues obtained in Turkey and abroad and also include in this declaration the other revenues notwithstanding that their taxes are withheld whatsoever the amount and qualification may become this compulsiveness is applicable to all revenues obtained in foreign countries. Therefore, should the earnings subject to income tax obtained in foreign countries in the year of 2004 but full fledged tax payer natural persons, are not included in exemption rate and exceed amount of 750 million as well, those are to be declared in the case that the earnings obtained in foreign countries but could not be brought in Turkey without its own discretion are certified , these revenues will not be deemed revenues that they obtained in that year.

In this position, said revenue will be deemed revenue obtained of the year that tax payer can save this revenue as of the year obtained and will be declared in annual declaration. The earnings obtained in foreign countries that tax payer can govern legislatively and actually did not bring it in Turkey with own discretion. This revenue will be declared by annual declarations as the year's revenue governed.

But, if there is an agreement preventing double taxation between the country in which financial revenue obtained and Turkey, these provisions of agreement will be executed. On the other hand, the set off of taxes paid in foreign countries from the taxes that of taxation has been made according to declaration of earnings and revenues obtained from financial instrument abroad, will be executed under the basis stated in income tax law article 123.

### **IV: RESTRICTED TAX PAYERS AND THE STATUS OF TURKISH CITIZEN ABROAD**

Restricted tax payer means that the natural person not residing in Turkey but obtains a part of their revenues in Turkey is to be subject to taxation on earnings and revenues. Natural persons not residing in Turkey that they have no residence in Turkey and stay less than six months permanently in a calendar year. However, persons come to Turkey for a certain work or business, scientists, experts, officers, media reporters and resembling persons came for education, treatment, travel and the persons withheld in Turkey for the causes of arrestment, conviction or illness even though they stay in Turkey longer than 6 months can not be deemed settled down in Turkey.

For a revenue to be taxable obtained in Turkey, priority, these provisions of agreement may be looked at if there is an agreement preventing double taxation in their resident country. The stipulation of obtaining of earning and revenues in Turkey from financial instruments in respect to natural persons subject to restricted tax payments, that equity capital has been invested in Turkey and returns of security, stocks and bonds or appreciation profit earnings must be obtained<sup>90</sup>. Earning and revenues to the extent that business or procedure incurring these earnings and revenues executed in Turkey or revalued in Turkey, may be deemed obtained in Turkey.

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90.Income Tax Law article 7



## **A. Compulsives of Income tax annual declaration for restricted tax payment**

Natural persons in restricted tax payment have to give annual declaration for commercial earnings with agricultural earning determined on actual method, self-employed person's earnings not tax withheld returns on securities and bonds and earnings of real estate. Even though, there may not be earnings commercial as agricultural activities, the annual declaration is to be filed and consequence of activities should be indicated. In other cases, withholding at resource is in lieu of final taxation.

## **B. Declaration earnings and revenues obtained from financial instruments at restricted tax payments**

Restricted tax payer natural persons are not to be declared annually, for the revenues indicated

below in case, they give declaration for other revenues and these revenues will not be included. Thus earnings and revenues obtained in Turkey:

### **Fully taxed in Turkey by set off:**

- 1) Wages
- 2) Earnings of self employment or professional earnings
- 3) Returns on stocks and bonds
- 4) Real estate earnings.
- 5) Dividends obtained from corporation or institution not taxed in Turkey by set off.

### **Not taxed in Turkey by stoppage:**

- 1) Agricultural earnings not determined in actual method
- 2) Other wages
- 3) Other earnings and revenues
- 4) Balanced segments of within exemption rate of earnings and revenues are not to be declared annually.

Furthermore, earnings arising from currency exchange rate difference will not be taken into account for the calculation of appreciation. Profit earning arising from the disposal stocks and bonds and participation certificates acquired against pecuniary or commodity capital, they brought by themselves to Turkey by getting permission relevant authorities according to foreign regulations restricted tax payers- including corporations- consequently, it's stipulated that appreciation profit earnings arising from the disposal of returns on stocks and bonds. These items or shares obtained against exclusively these stocks and bonds or participation certificate obtained in Turkey of such tax payer should be.

The earnings arising from foreign currency exchange rate should be paid attention for the calculation of commercial earnings to the extent that these tax payers involve with buying-selling stocks and bonds continuously. The difference between remuneration in Turkish Lira calculated in accordance with T.R. Central Bank, foreign currency buying rate acquisition date of these bonds or securities against foreign capital allocated for acquisition of stocks and bonds or participation shares, and remuneration in Turkish Lira calculated in accordance with T.R. Central Bank, foreign currency exchange buying rate, the same amount of foreign capital at date of disposal of the bonds and securities, will be taken as basis for the calculation of earnings arising from foreign currency rate differences.<sup>91</sup>

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91. Income Tax Law article 81

As it is seen, the declaration for returns on stocks and bonds taxed by set off, whatsoever the amount may be, will not be filed. The revenues of stocks and bonds not taxed by set off in Turkey, will be declared in an individual declaration and for determination of taxable amount – amount to be declared, the provisions about purification from inflation will be taken to attention. For other earnings and revenues of Restricted tax payer natural persons, Annual declaration is not a matter and for these, individual declaration will be filed.

### **C- The Status of Turkish Citizen abroad**

Turkish workers gone abroad are deemed to be fully fledged tax payer initially, then, Turkish citizen lived longer than 6 months abroad by getting permission for accommodation on work, have been deemed to be restricted tax payer.<sup>92</sup>

For that reason, the said earnings and revenues of Turkish citizens living abroad longer than 6 months and have accommodation and work permit and taxed by income or similar taxes for earnings and revenues obtained in the countries where they are, will not be re-taxed except for the persons being abroad for the job belonging to the above mentioned corporation and institutions. These are fiscalized in respect of earnings and revenues obtained in Turkey, on the basis of restricted tax payment. As it was explained above; The income obtained in Turkey of Turkish Citizens will be fiscalized on the basis of restricted tax payment only are :

wages fully taxed by set off, self-employment earnings, returns on stocks and bonds and earnings of real estate, profit shares obtained from corporations “other earnings and revenues”- Appreciation profit earnings or casual earnings- For these, the annual declaration will not be given and in case, declaration will be given for other revenues which will not be included.<sup>93</sup>

Declaration will be filed for wages not taxed by set off, self-employment earnings, returns on stocks and bonds and earnings of real estate.

### **D-Individual and Private Declaration of Restricted Tax payer**

As restricted tax payer natural persons have to file individual declaration for some earnings revenues not been set off at resource in this case, Restricted Tax payer corporations have to file private declaration, Earnings and Revenues except for returns on stocks and bonds not fiscalized by set off.<sup>94</sup>

In case that earnings and revenues of foreign corporation subject to Restricted tax payment except for royalties, privilege, patent likewise intangible rights from “other earnings and revenues” in the Income Tax law article 80. or casual earnings obtained from transportation corporations subject to restricted tax payment, are to be declared in a private form declaration directly to tax office.<sup>95</sup>

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92. Dtd 14.03. 1973 numbered 14476 bulletin

93. Income Tax Law article 86/2

94. Income Tax Law article 101

95. Corporate Tax Law article 22

## **V- VALUATION IN RESPECT OF PREVENTING DOUBLE TAXATION AGREEMENTS FOR FINANCIAL EARNINGS AND REVENUES**

Income Tax Law has split its tax payer natural persons in two segments as full fledged tax payers fiscalized for the revenues both outside and inside Turkey, Restricted tax payers fiscalized for the revenues obtained in Turkey.

Turkish and foreigners settled down in Turkey(Whose residences are in Turkey and staying longer than 6 months permanently- residence basis-), Turkish citizens have accommodations in foreign countries for the reasons of business of said office, institution, organizations and corporations that have headquarters in Turkey, are deemed fully fledged Tax payer and indicated that They will be fiscalized for total earning and revenues obtained in or outside Turkey. Should income tax and resembling be paid in these countries for the incomes obtained foreign countries by fully fledged tax payers.

Thus, there will be a set off from taxes calculated in Turkey in order to prevent double taxation. Prevention Agreements for double taxation are possibly defined as the reconciliation that both countries voluntarily made for their taxation rights on the basis of bilateral sovereignty in the case that the person who obtained the incomes differ from the place where incomes obtained . Prevention Agreement may limit taxation authorities because they are over the inner regulations in the case that foreign countries adopted same principles bilateral, it may be possible to get accrual of taxation at the same amount of counterpart and Turkey.

In order to avoid this situation which means double taxation, many agreements have been fixed with Turkish Republic bilaterally in the framework of OECD agreement model. International double taxation is that two or more states are fiscalized same tax payer connected with the same incident and resembling taxation. In Turkish taxation Code, Interests and dividend earnings, earnings obtained from financial instruments are fiscalized as returns on stocks and bonds as well as the earnings obtained from the disposal financial instruments except commercial activities are fiscalized as appreciation profit earnings.

The authorities of relevant states have been collided with one another for the reason of financial earnings and revenues obtained at the maturity or buying and selling financial instruments, the frequency and magnitude of acquisition of convenience of international capital revolution. These positions are the matters to avoid double taxation thus providing preventive provisions in detail at the agreements these matters are to be eliminated. The applicable preventive Agreement for double taxation. The countries, Turkey have been fixed Agreements in regard of prevention double taxation, the laws, approved these agreement and decrees, to get affected are as follows.

### **The applicable preventive Agreement for double taxation.**

The countries, Turkey have been fixed Agreements in regard of prevention double taxation, the laws, approved these agreement and decrees, to get affected are as follows:

			official papers published	Execution in regard of taxation		
	Side State	Date, fixed	agreement Date-no	Date Effective	Date Started	
1)	Austria	03.11.1970	01.08.1973 - 14612	24.09.1973	01.01.1974	
2)	Norway	16.12.1971	21.12.1975 - 15445	30.01.1976	01.01.1977	
3)	South Korea	24.12.1983	02.10.1985 - 18886	25.03.1986	01.01.1987	
4)	Jordan	06.06.1985	15.07.1986 - 19165	03.12.1986	01.01.1987	
5)	S. Arabia	11.01.1989	02.07.1990 - 20566	09.08.1990	01.01.1987	1
6)	Tunisia	02.10.1986	30.09.1987 - 19590	28.12.1987	01.01.1988	
7)	Romania	01.07.1986	21.08.1988 - 19906	15.09.1988	01.01.1989	
8)	Holland	27.03.1986	22.08.1988 - 19907	30.09.1988	01.01.1989	
9)	Pakistan	14.11.1985	26.08.1988 - 19911	08.08.1988	01.01.1989	
10)	England	19.02.1986	19.10.1988 - 19964	25.10.1988	01.01.1989	
11)	Finnland	09.05.1986	30.11.1988 - 20005	30.12.1988	01.01.1989	
12)	N.C.T.R	22.12.1987	26.12.1988 - 20031	30.12.1988	01.01.1989	2
13)	France	18.02.1987	10.04.1989 - 20135	01.07.1989	01.01.1990	
14)	Germany	16.04.1985	09.07.1986 - 19159	31.12.1989	01.01.1990	3
15)	Sweden	21.01.1988	30.09.1990 - 20651	18.11.1990	01.01.1991	
16)	Belgium	02.06.1987	15.09.1991 - 20992	08.10.1991	01.01.1992	4
17)	Denmark	30.05.1991	23.05.1993 - 21589	20.06.1993	01.01.1991	
18)	Italy	27.07.1990	09.09.1993 - 21693	01.12.1993	01.01.1994	
19)	Japan	08.03.1993	13.11.1994 - 22110	28.12.1994	01.01.1995	
20)	U.A.E	29.01.1993	27.12.1994 - 22154	26.12.1994	01.01.1995	5
21)	Hungary	10.03.1993	25.12.1994 - 22152	09.11.1995	01.01.1993	
22)	Kazakhstan	15.08.1995	08.11.1996 - 22811	18.11.1996	01.01.1997	
23)	Macedonian	16.06.1995	07.10.1996 - 22780	28.11.1996	01.01.1997	
24)	Armenia	04.04.1994	05.10.1996 - 22778	26.12.1996	01.01.1997	
25)	Cezayir	02.08.1994	30.12.1996 - 22863	30.12.1996	01.01.1997	
26)	Mogholistan	12.09.1995	30.12.1996 - 22863	30.12.1996	01.01.1997	
27)	Ç.H.C.	23.05.1995	30.12.1996 - 22863	30.12.1996	01.01.1997	
28)	India	31.01.1995	30.12.1996 - 22863	30.12.1996	01.01.1994	
29)	Malesia	27.09.1994	30.12.1996 - 22863	31.12.1996	01.01.1997	
30)	Egypt	25.12.1993	30.12.1996 - 22863	31.12.1996	01.01.1997	
31)	Polonia	03.11.1993	30.12.1996 - 22863	01.04.1997	01.01.1998	
32)	Turkmenistan	17.08.1995	13.06.1997 - 23018	24.06.1997	01.01.1998	6
33)	Azerbaycan	09.02.1994	17.06.1997 - 23032	01.09.1997	01.01.1998	

1 Anlaşma yalnızca Akit Devletlerin hava taşımacılık faaliyetleri dolayısıyla alınan vergilere uygulanacaktır.

2 Anlaşmanın 5 inci maddesinin 2 nci fıkrasının (h) bendinin 2 nci fıkrası, 11 nci maddesinin 3 üncü fıkrasının (c) bendi ve 14 üncü maddesinin 2 nci fıkrası gereğince bir Akit Devlette vergilendirilmeyecek olan kazanç ve iratlar hakkında 01.01.1987 tarihinden itibaren başlayan vergilendirilme dönemleri için yürürlüğe girmiştir.

3 Anlaşmanın deniz ve hava taşımacılığına ilişkin hükümleri 01.01.1983 tarihinden itibaren uygulanmaya başlamıştır.

4 Anlaşma uçakların uluslararası trafikte işletilmesinden sağlanan kazançlar yönünden 01.01.1987 tarihinden itibaren elde edilen gelirler üzerinden alınan vergilere uygulanacaktır.

5 Anlaşma hava taşımacılık faaliyetlerinden elde edilen gelirler ile bu kazançlar için açtırılan mevduat hesabı dolayısıyla elde edilen faiz gelirleri için 01.01.1988 tarihinden itibaren uygulanacaktır.

6 Anlaşma hükümleri mütcahitlik yönünden ise 01.01.1998 tarihinden itibaren uygulanacaktır.

34)	Bulgaristan <sup>5</sup>	07.07.1994	15.09.1997 - 23111	17.09.1997	01.01.1998	
35)	Ozbekistan	08.05.1996	07.09.1997 - 23103	30.09.1997	01.01.1997	
36)	A.B.D. <sup>6</sup>	26.03.1996	31.12.1997 - 23217	19.12.1997	01.01.1998	
37)	Russia	24.07.1996	22.04.1998 - 23321	29.04.1998	01.01.1999	
38)	Ukraine	27.11.1996	22.04.1998 - 23321	29.04.1998	01.01.1999	
39)	Israel	14.03.1996	24.05.1998 - 23351	27.05.1998	01.01.1999	
40)	Slovakia	02.04.1997	03.10.1999 - 23835	02.12.1999	01.01.2000	
41)	Kuveyt	06.10.1997	28.11.1999 - 23890	13.12.1999	01.01.1997	
42)	Russia	15.12.1997	17.12.1999 - 23909	31.12.1999	01.01.2000	
43)	Indonesia	25.02.1997	15.02.2000 - 23965	06.03.2000	01.01.2001	
44)	Litany	24.11.1998	10.05.2000 - 24045	17.05.2000	01.01.2001	
45)	Hirvatistan	22.09.1997	10.05.2000 - 24045	18.05.2000	01.01.2001	
46)	Moldavia	25.06.1998	25.07.2000 - 24120	28.07.2000	01.01.2001	
47)	Singapore	09.07.1999	18.07.2001 - 24466	27.08.2001	01.01.2002	
48)	Kırgızistan	01.07.1999	12.12.2001 - 24611	20.12.2001	01.01.2002	
49)	Tacikistan	06.05.1996	24.12.2001 - 24620	26.12.2001	01.01.2002	
50)	Sudan	26.08.2001	17.09.2003 - 25232	14.10.2003	01.01.2004	
51)	Chech. Rep.	12.11.1999	15.12.2003 - 25317	16.10.2003	01.01.2004	
52)	Bangladesh	31.10.1999	15.12.2003 - 25317	23.12.2003	01.01.2004	

## VI. ANNUAL DECLARATION AND ACCUMULATION FOR FULL FLEDGED TAX PAYMENT

### A- In principle.

Tax payers have to give annual declaration and to accumulate these revenues in annual declaration for the revenues and earnings obtained from resources provided in the income tax law article 2 unless otherwise any provision, Merchandisers, Farmers, professional self-employers are to give annual declaration even though did not obtain earnings from their commercial agricultural and professional activities. These acts imply to the partners of Open Company and dormant partners of Commandite Company including activity and liquidation period of companies.<sup>96</sup>

To the extent, the earnings and revenues obtained in foreign countries in the year tax payers have transferred in to their accounts in the year tax payers have governed those in case that tax payers have disability transferring the amounts out of its discretion and have certified the situation are deemed to be obtained

### B- The revenues not to be annually declared.

In addition to above regulations in general, fully fledged tax payers natural persons are not to give annual declaration for the following revenues in a year of 2004, in case they give annual declaration for other revenues then, they will not include those revenues to this declaration.<sup>97</sup>

96.Amendment on Income Tax Law article 86.

97.For the year 2003, this limit was 12 billion TL



- 1) Agricultural earnings not fiscalized in actual method, payments made by charity funds written in this law article 75/15 and assurance companies and earnings and revenues being in exemption rates
- 2) Wages obtained from single employer and fiscalized by set off. Wages obtained from several employers fiscalized by set off in Turkey, returns on stocks and bonds and earnings of real estate on the rule the total taxable amount not exceeding 14 billion (except expressed in paragraph 1 and 2)
- 3) Returns on stocks and bonds and earnings of real estate not subject to set off and exemption not exceeding aggregate sum 750 million and obtained in one calendar year.

To the extent, saving interests being set off, profit shares remuneration in participation in loss and profit paid by private finance corporations, profit shares remuneration in loss and profit certificate, profit shares paid for participation certificates of repo revenues and securities fund.

### **C-Acquisition of several income component altogether.**

The explanations have been made above in general that whether the annual declaration will be filed supposing the income to be declared constituted of one income component.

However, a revenue of one person may constitute more than one income component. The explanations on which revenues will be included are taking place following chapters.

#### **1) In fully fledged tax payment.**

As it's seen previous explanations, inclusion to annual declaration varies depending on qualification of income.

As the declaration for some revenues is compulsory for the amount whatsoever may be, some revenues are not included in declaration whatsoever the amount may be. A decision is to be made up for the revenues whether the declaration will be given by checking up the conditions.

#### **a) The revenues will be included in declarations.**

The annual declaration is to be given for the following revenues ( except the segments within the exemption rate)

- Commercial earnings legalized in actual method
- Commercial earnings fiscalized in simple method
- Agricultural earnings fiscalized in actual method
- Self employer, professional earnings.
- Earnings and revenues exceeding 12 billion
- Wages not fiscalized by set off ( except other wages)
- Wages fiscalized by set off obtained from several employers and the aggregate amount obtained after one employer exceeding 14 billion
- Returns on stocks and bonds and earnings of real estate, fiscalized by set off and aggregate amount exceeding 14 billion.

As it was expressed previously, annual declarations are to be given even though there are no earnings from their commercial agricultural and professional activities.

**b) The revenues not included in declarations**

To summarize it, the declarations are not to be given for the revenues took place below obtained in the year 2004 in accordance with the provisions in the income tax law.

- a) Agricultural earnings not fiscalized in actual method
- b) Savings interests tax deducted
- c) Profit shares remuneration in participation account for less and profit by private finance corporations tax deducted
- d) Repo revenues tax deducted
- e) Profit shares paid to participation certificates of securities investment fund
- f) Returns on stocks and bonds obtained due to the personal assurance policies issued 07.10.2001
- g) Profit shares due to the earnings distribution before the ending periods of the year 31.12.1998 and previous dates of corporations
- h) Profit shares obtained consequently profit distribution made by adding corporation's profits to equity capital.
- i) The segment of earnings and revenues within exemption rate
- j) Returns on stocks and bonds, and earnings of real state, not subject to execution of exemption and set off not exceeding aggregate sum 750 million.
- k) wages fiscalized by set off obtained from single employer.
- l) wages fiscalized by set off obtained from several employer and the aggregate sum obtained after one employer exceeding 14 billion
- m) Returns on stocks and bonds and earnings of real estate fiscalized by set off and total amount not exceeding 14 million.

In case, The annual declaration is to be filed for the other revenues, These revenues will not be included in annual declaration.

## 2) Restricted Tax Payment

The revenues to be entered on the declaration paying attention to the explanations in regard of each income component at restricted tax payment.

### D- Submission of Annual Declaration and Tax Collection

The declaration of a calendar year will be submitted until the evening of 15<sup>th</sup> day of March according to the regulations made. The income tax calculated on the basis of declaration will be paid within the month of March and July.

In case that the incomes are only commercial earnings determined on simple method, the declaration will be submitted until evening of 15<sup>th</sup> day of March, then, the income tax calculated on the basis of declaration will be paid in two equal fraction in February and June.

### E- Patterns

#### Pattern 1

Mr (D) obtained rent earning of workplace, saving interest and rent earning of House. Totally fiscalized in the year of 2004.

Rent Earning of Workplace	8.000.000 TL
Rent earning of House	3.000.000 TL
Saving Interest	10.000.000 TL

Earning of Savings will not be declared whatsoever amount might be as it is out of declaration until 31.12.2004

In accordance with the regulations, Income of Law numbered 4783 and 50035, Tax Law provisional article 55. The exemption rate of 1,8 billion will be discounted from house rent earning and Balance amount will be declared in any case.

Rent earnings of workplace will not be entered on declaration as aggregate sum of real estate earnings not exceeding  $(8 \text{ billion} + (3-1,8) = 1,2 \text{ billion}) = 9,2 \text{ billion}$  14 billion exemption rate.

#### Pattern 2

Mr. (H) disposed a part of 700 billion treasure bond acquired on 10,10,2003, for 800 billion on 20.02.2004 and obtained 350 billion interest revenue from the residuary within the year 2004 when it is due.

The issuing date of said Treasure bond is 25.07.2002.

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98. For the year 2003, house rent exemption was 1,500,000,000 TL

Mr (H) may utilize cost inflation purification method concerning appreciation profit earnings. On the other hand, the exemption rate of 12 billion placed in repeated article will not be exercised anymore. As the exemption of 156 billion 505 million 290 thousand for interest earnings of state bonds and treasure bonds issued on 26.07.2001 for 2004 in accordance with provisional article 59 of income tax Law will be exercised to Appreciation profit earnings.

TEFE Rates : September 2003 : 7,173,3 / January 2004 : 7.576,5

Increase coefficient  $(7.576,5/7.173,3 =) 1,056;$

Purified Cost Value : 739.200.000.000  
 $(700.000.000.000 \times 1.056)$

Appreciation Profit Earning $(800.000.000.000 - 739.200.000.000 =)$	60.800.000.000
Interest of Treasure Bond	350.000.000.000
Amount corresponding to Reduction rate $(350.000.000.000 \times \%43,8=)$	153.300.000.000
The earnings of Interest of Treasure Bond $(350.000.000.000-153.300.000.000=)$	196.700.000.000
Aggregate total income $(60.800.000.000 + 196.700.000.000 =)$	257.500.000.000
Exemption	156.505.290.000
<b>Amount to declare</b>	<b>100.994.710.000</b>

Mr. (H) will exercise reduction rate on interest revenue, inflation purification method on appreciation profit earnings obtained by disposal then subtract the 156.505.290.000 from calculated amount thus will declare the remaining 100 billion 994 million 710 thousand.

### Pattern 3

Obtaining rent earnings of work place and returns on stocks and Bonds beside wages from several employers

Mr. (T) wages and rent earnings of workplace are fiscalized by offset.

Revenues of Mr. (T) are as follows :

Wages from 1 <sup>st</sup> employer	47.000.000.000
Wages from 2 <sup>nd</sup> employer	5.500.000.000
Wages from 3 <sup>rd</sup> employer	6.200.000.000
Rent earning of Workplace	9.600.000.000

Interest revenue (after exemption and reduction) of Treasure Bond issued on 26.07.2001 after 6.000.000.000 TL

Except for the wages obtained from first employer, the aggregate amount of other wages (5,5 billion + 6,2 billion) 11,7 billion liras not exceeding declaration limit, the wages will be declared.

#### Pattern 4

the declaration of dividends within the context of Income Tax Law article 62.

As a result of Earnings acquired in the context of Law numbered 4325 1999 years by (Y) incorporation was distributed in 2004 year and Associate Mr. (N) obtained 27 billion net dividend. Mr. (N) has no revenues to declare. Concerning this earnings no offset was made in profit distribution phase, thus, income tax due by Mr. (N) is calculated as follows :

Net Amount of dividend obtained	27.000.000.000
1/9 of dividend (27.000.000.000 x 1/9)	3.000.000.000
Amount of dividend	30.000.000.000
Amount not to be declared (30.000.000.000 x ½)	15.000.000.000
Amount to declare	15.000.000.000
Calculated Income tax	3.500.000.000
Amount for Offset 1/5	3.000.000.000
Tax due	500.000.000

As fund share was abolished from the date 01.01.2004, No fund share will be calculated, no reduction and return will be made for fund share deduction.

#### Pattern 5

Declaration of dividend obtained from two corporations

Miss (M) obtained 20 billion lira dividend from the securities of (Z) corporation. These two dividends obtained from two companies have been offset by 10% by two companies and tax offset is 4 billion lira. Gross amount will be based on calculation to be made and Declaration is to be made as follows :

Total Dividend amount (Gross)	40.000.000.000
Exemption amount (40.000.000.000 x ½ )	20.000.000.000
Amount declared	20.000.000.000
Tax calculated	5.000.000.000
Offset tax	4.000.000.000
Income tax due	1.000.000.000



Supposing that different offset rate is applicable for the corporations and this was made before 24.04.2003 and (Y) corporation is a public company. These dividends obtained in 2003 year are to be declared in 2004 as follows :

Tax offset by (Y) corporation is  $(20.000.000.000 \times 5\% =)$  1 billion lira

Tax offset by (Z) corporation is  $(20.000.000.000 \times 15\% =)$  3 billion lira and In addition fund was calculated on these amount.

Thus, the declaration of dividend obtained from the securities of (Y) (Z) corporation.

Total Dividend amount (Gross)	40.000.000.000
Exemption amount $(40.000.000.000 \times \frac{1}{2})$	20.000.000.000
Amount declared	20.000.000.000
Tax calculated	5.150.000.000
Offset tax	4.000.000.000
Income tax due	1.150.000.000

As fund share was abolished from date 01.01.2004, No fund share will be calculated, no reduction and return will be made for fund share deduction.

#### **F- The fundamental principle of Annual Declarations and combination of Revenues**

Decision making in the framework of said below concerning Annual Declaration and Combination of revenues .

First of all, the income components obtained will be evaluated alone and the components to be liable of filing annual declaration alone from earnings and revenues acquired from different income components will be unified in annual declaration.

Should each income component be out of compulsives of declaration as it is taken in hand alone, then no unification is needed. Should Returns on stocks and bonds and earnings of real estate under offset in Turkey in accordance with the article 1/C after the amendment of article 86 of the income tax Law with the law numbered 4842 be evaluated alone, if there is no need for filing it , However, the aggregate income amount taxable – except a and b paragraphs of this article- exceeds the amount took place at the second slice of tariff written article 103. They will not be unified in declaration.

Full-fledged Tax payers who are compulsory to file it by annual declaration for commercial, agricultural and professional earnings and Restricted tax payer filing annual declaration will unify in declaration the earnings and revenues which are liable to file it only annually in regard of above explanations.

### **G- The combination of revenues and status of family members.**

As the article 93 with the headline 'Family Man declaration' of Income tax law abolished by the law 4369 with the date 29.07.1998.

The situation of family member acquiring earnings- wife and child will be evaluated separately in the light of above explanation from the year of 1998 and in case that there is a presence of a revenue to declare annually; the declaration will be made out and signed in the name of family member obtained the earning. In the case that the person liable to file the declaration is teenager or restricted or not descriptive, the filing will be made out in the name of a person who obtained the revenue and will be signed in the name of those persons by parent, guardian or trustee authorized for representation and should be stated in declaration that what capacity is utilized.

### **VII. FILING AND PAYMENT PERIOD FOR ANNUAL, WITHOLDING TAX AND PROVISIONAL TAX DECLARATION.**

The period of filing annual declaration, filing and payment of taxes withheld which are compulsory, have been re-arranged as to be in effect from the date of 01.01.2004 by the amendments of laws no 4842 and 5035 at the income tax law article 92,98, 119 and repeated article 120. According to these arrangements, the information for the period of filing annual declaration, the period of filing and payment withholding taxes in accordance with income tax law article 94 as follows;

#### **A. The period of filing annual declaration.**

The declaration relevant to 1 calendar year, the persons under simple method is to be filed until the evening of 15<sup>th</sup> February of following year and for the others declaration is to be filed until the evening of 15<sup>th</sup> March. According to amendment, the declaration for 2004 revenue under simple method is to be filed within 1-15 February 2005 and for the others is to be filed within 1-15 March 2005.

#### **B. The period for provisional tax.**

The declaration of provisional tax is to be declared to relevant tax offices until the evening of 10<sup>th</sup> of second month following the relevant, the period of relevant three months and will be paid until the evening of 17<sup>th</sup> day according to the amendment by the law numbered 5035 at the income tax law repeated article 120.

Thus, provisional tax declaration for October – December 2004 period is to be filed within 1-10 February 2005 and the tax accrued is to be paid until the evening of 17<sup>th</sup> day of same month.

### **C. Period of filling and the payment of the declaration of withhold monthly**

The persons who are obliged to withhold according to amendment by 5035 of the Income tax law article 98 are to be filed the declaration of the payments made in a month or profits and revenues accrued, taxes are to be paid until the evening of 26<sup>th</sup> day. The declaration of withhold tax for the term of 2004 December is to be filed to until the evening 20.01.2005 and the taxes are to be paid until the evening of 26.01.2005.

As said exercise's in effect on the date 01.01.2004

### **D- Period of filling and payment of the declaration of withhold three monthly**

By the amendment made in the paragraph of the article 98 income tax law.

Declarations of withhold for the three months term are to be filled until the evening of 20<sup>th</sup> being the evening of 23<sup>rd</sup> of January April, July and October as it is valid on 01.01.2004.

Thus, the declarations of three month's term of 2004 are to be filled to the tax officers until the evening of 20<sup>th</sup> of the month following each term, and the taxes are to be paid until the evening of 26 of the same month.

As a result of amendment of law numbered 4842 and 5035 for the filing and payment of taxes withheld, the declaration belonging to October, December is to be filed and until the evening of 20.01.2005 and the taxes are to be paid until the evening of 26.01.2005

## **VIII. THE INDIRECT TAXES COLLECTED FROM ROAMING OF FINANCIAL INSTRUMENT, TRANSACTION TAXES AND FUNDS.**

On the other hand, the transaction taxes collected under financial transactions and other duties beared by the person who demands funds from financial markets, are acquired and collected at resource and reflected to the customers. The transaction taxes and the other financial duties collected under financial transactions and being fiscalised at source while earnings and revenues are obtained from financial instruments, have been fundamental component of broker's cost defined as the difference between the fund utilizing of banks and the fund collecting costs. Consequently, even if the financial companies mediate these financial duties, those costs are reflected on persons demanding fund and supplying funds.

### **A - Transaction Tax of Banking and Assurance**

#### **1- In general TTBA**

In financial field & markets , Transaction Tax of Banking and Assurance, (TTBA) collected under Expense Tax Law No:6802 is a transaction tax substituted by value added Tax Banks and Bankers companies pay transaction tax of banking and assurance. The persons who deal loaning under the law No:2279, do continuously any of above said service and transaction and stock exchange brokers companies are deemed to be Bankers in regard of exercises of this law. The money collected in pecuniary or account whatsoever the name of the benefit of themselves for the transactions whatsoever the way, it may be done are subject to transaction tax of banking and assurance.

## **2- Exchange Expenditure Tax or Exchange Transaction Tax.**

The assessment of Bank and Assurance Tax under the Law No:6802 article No:28 is of pecuniary written article No:28 and the amount of Exchange Turnover on Transactions of buyings-sellings is assessment of this tax.

## **3- There are also exemptions from Tax or Exchange Transaction Tax.**

### **4- TTBA rates.**

The general rate on TTBA is %15. The rate on Exchange Transaction is 1/1000 of assessment in accordance with the law of capital market No:2499. The cabinet is authorized to re-determined these rates, for savings transactions of Interbanks, Transactions Exchange Pecuniary market of intermediate companies founded in accordance with the capital market Law No:2499 and other bank and assurance transactions separately down to %1, and for interbanks transaction, down to zero %.

## **B- Stamp Tax**

The papers written on the enclosure (1) of Stamp Tax Act, No 488 are subject to stamp tax. The term papers mean that the documents to be submitted in order to substantiate or determine any evidence any or matter and the documents to be written and signed or to be put facsimile signature or mark. To the extend the documents issued in the foreign embassy and consulates in Turkey and abroad, when submitted to officials in Turkey to do transaction of take over and turn over and in any way taking benefit of any provision, are to be fiscalised.

### **I- Paper Subject to Stamp Tax**

No (1) Exhibits, significant financial instrument tools subject to stamp tax are as follows.

Exhibits indicated No 1 ( Table .7 )

#### **1- Papers Related to Covenant**

1- Contract, Undertakings, deed assignment .

- a) Document contains a certain pecuniary.
- b) Document not contains a certain pecuniary.

2- Deeds of Indemnification , warranty , pledging.

- a) Documents contain a certain pecuniary
- b) Documents not contain a certain pecuniary

3- Letter of Consolidation and reconciliation.

- a) Documents contain a certain pecuniary
- b) Documents not contain a certain pecuniary

4- Letter of Cancellations

- a) Documents contains a certain pecuniary or corresponding to document contains a certain pecuniary.
- b) Others.

## **II. Papers utilized on commercial transaction**

- 1- Receipts
- 2- Deed of Pledge
- 3- Deed of Submission
- 4-Deed of Transport
  - c- Bill of lading
  - d- Deed of maritime lending
  - e- Deed of mortgage

### 5- Commercial Documents

- a) Commercial Deeds
- b) Letter of credits and mails.
- c) Origin certificate
- d) Transportation, payments, shipment delivery collection orders between banks merchandisers

## **III. Receipts and others papers**

- g. Advanced payment receipts
- j. Receipts for borrows

### **D. Special Transaction Tax.**

Education Contribution and Special Transaction Tax on a kind of declarations statements, Tickets , License and transactions, have not been collected anymore.

Education Contribution was abolished on 01.01.2004 by law No:5035 . As the law No:4481 stated that special transaction tax is to be collected as much as education contribution share. Then, accordingly, special transaction tax was abolished on 01.01.2004.

### **E- Remuneration in precious paper.**

The remuneration in precious paper was determined by the circular No:21 of Finance Ministry under the law of precious papers getting it in effect on 01.01.2004

Then, remuneration in precious paper will be governed according to circular published by Ministry of Finance.



## IX- THE VOLUME OF FINANCIAL SECTOR MEDIATING TO FINANCIAL INSTRUMENTS

We consider that the banking segment constitutes the spinal of finance sectorans is fundamental supplier of financial inter mediating services. Financial sector has a clamping significance in actual economy and getting monetary and financial policies processed.

Corporational Distribution of Aggregate Assets in Turkish Finance Sector.

( Table. 8 )

(2002 year end )	( Rate % )
Savings Banks	% 88, 2
Development and Investment Banks	% 4, 2
Private Finance Corporation ( PFC )	% 1,8
Assurance and Reassurance companies	% 2,6
Leasing companies	% 1,6
Factoring Companies	% 1,0
Exchange Market Intermediate Companies	% 0,6
<b>Total</b>	<b>% 100</b>

## SECTION FOUR

### RELATIONSHIP BETWEEN TAX REVENUES, LOANING AND PUBLIC EXPENDITURES

When we make a row of crashes Turkey has faced in recent history : The devaluation in 1986 interest crash of 1988, The devaluation of 1994 crash in 1998, the regression in economy by %6,4. And lately the bloody February burst out in 2001 started in November of 2000 unbreakably. Insufficient accumulation of capital, shallow financial markets and weak financial instruments. These points have significant representation on how current gap and public budget gap will be financed. Thus, those two crashes have been named as banking crash or financial crash. In order to be able to overcome last two crashes a second stand-by agreement had to be made with IMF following February 2001.

Before the maturity of first year of three years standby agreement. The policy of lessening expenditure and descending inflation have caused physical constant investment stopped and the value added narrowed.

(Table 9.) Top 13 people who declared the biggest amount of Income Tax ( Million TL)

Taxpayers Name	Income Kind	Declared Amount	Payable Tax	City
Talip Kahraman	M.S.İ.	44.835.800	20.163.210	Ankara
Aydın Doğan	M.S.İ.	32.543.614	14.609.594	İstanbul
Izzet Bayraktar	M.S.İ.- G.M.S.İ.	25.273.851	11.360.332	İstanbul
NA	M.S.İ.	25.229.601	11.340.420	İstanbul
M. Rahmi Koç	M..S.İ.	22.290.555	9.122.357	Ankara
Yahya Akel	M.S.İ.	21.058.584	9.463.463	İstanbul
Şevket Sabancı	M.S.İ.	18.527.959	8.311.599	İstanbul
NA	M.S.İ.	17.233.223	7.742.050	İstanbul
Erol Sabancı	M.S.İ.	12.854.880	5.270.739	İstanbul
Yalçın Sabancı	M.S.İ.	11.751.719	5.275.373	İstanbul
Semahat S. Arsel	M.S.İ.	11.630.244	5.141.982	İstanbul
Oğuz Gürsel	Tic. Kaz.	10.975.383	4.926.022	Ankara

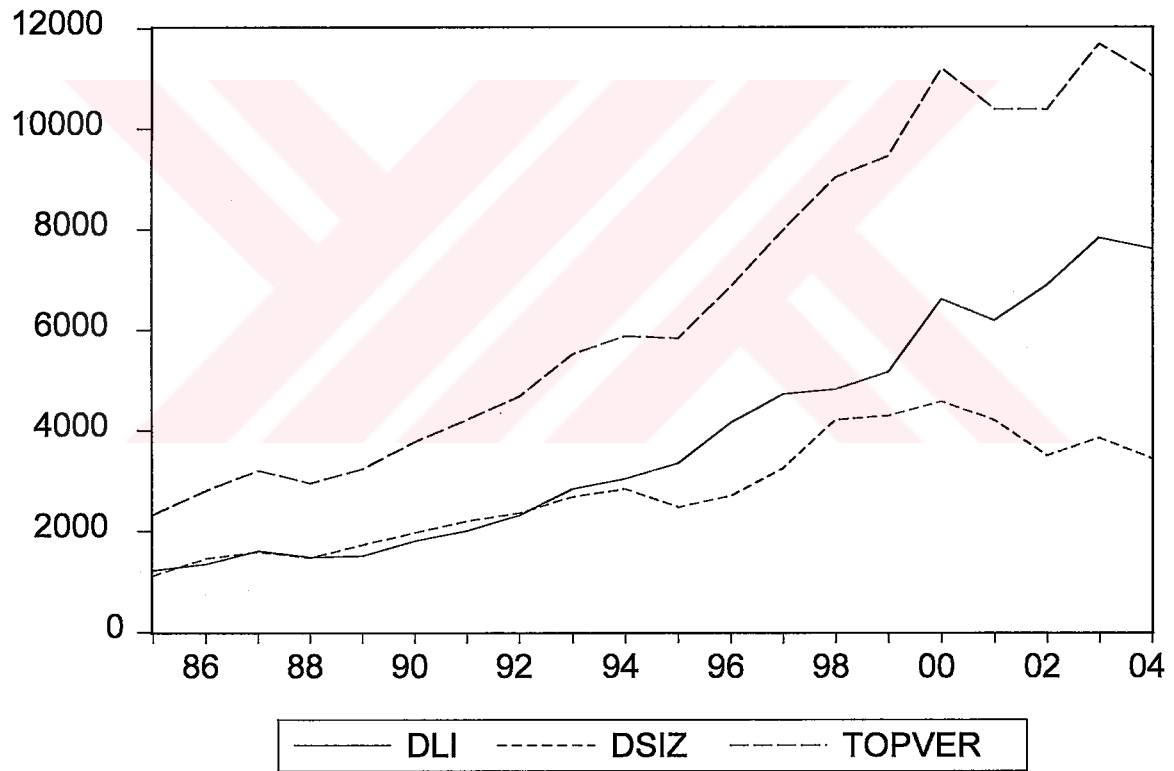
**(Table. 10 )** Comparison of Plenary numbers of Last 20 years. ( million YTL)

MILYAR TL					
Years	Indirect Taxes	Direct Taxes	Indirect/Total Taxes	Direct/Total Taxes	Annual TEFE
1985	1.218,51	1.110,28	0,52	0,48	1,64
1986	1.344,97	1.457,71	0,48	0,52	2,13
1987	1.614,73	1.591,06	0,50	0,50	2,82
1988	1.488,84	1.468,06	0,50	0,50	4,81
1989	1.508,36	1.728,82	0,47	0,53	7,89
1990	1.808,75	1.968,07	0,48	0,52	12,02
1991	2.010,82	2.200,68	0,48	0,52	18,67
1992	2.319,66	2.358,78	0,50	0,50	30,27
1993	2.835,65	2.676,60	0,51	0,49	47,94
1994	3.040,27	2.837,33	0,52	0,48	100,00
1995	3.353,92	2.475,14	0,58	0,42	186,03
1996	4.156,91	2.699,82	0,61	0,39	327,28
1997	4.728,53	3.246,96	0,59	0,41	595,01
1998	4.820,97	4.209,53	0,53	0,47	1022,42
1999	5.167,40	4.291,33	0,55	0,45	1564,93
2000	6.610,10	4.578,00	0,59	0,41	2369,85
2001	6.184,20	4.198,18	0,60	0,40	3830,33
2002	6.879,96	3.491,98	0,66	0,34	5749,60
2003	7.830,74	3.850,94	0,67	0,33	7219,36
2004	7.613,80	3.439,72	0,69	0,31	8150,61

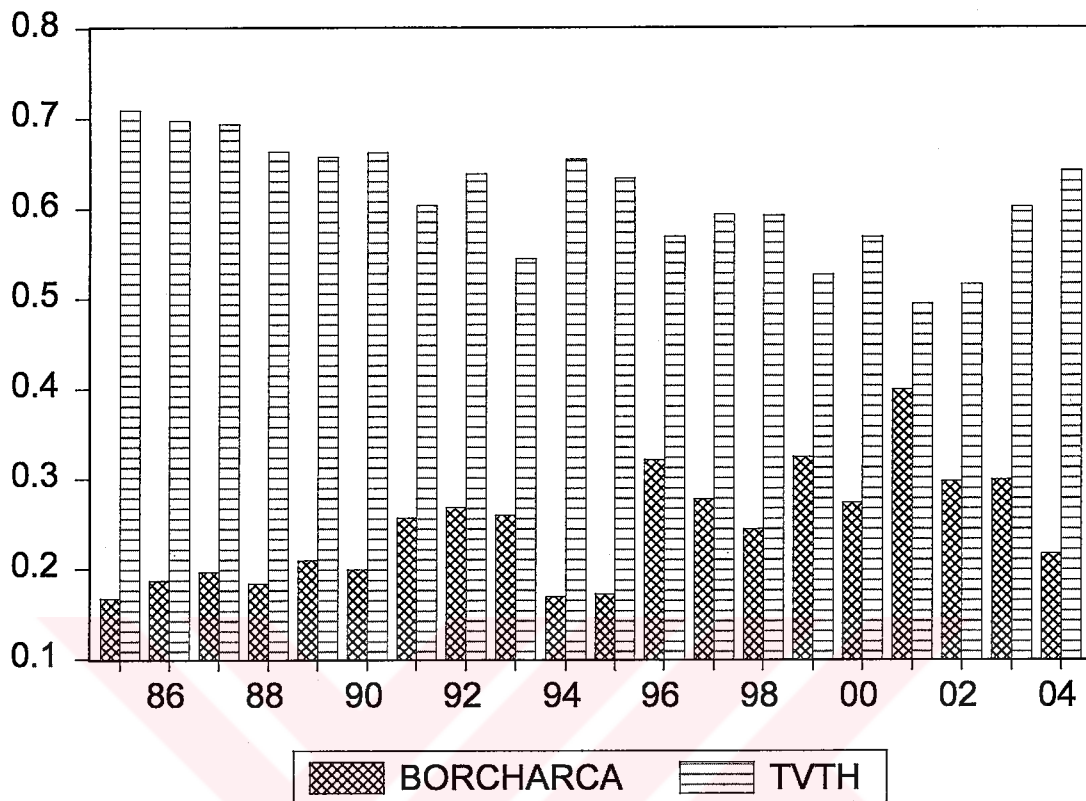
(Table 11.) Comparison of Plenary numbers of Last six years. ( million YTL)

Years	Indirect Tax	Indirect/Total Taxes	Direct/Total Taxes	Direct/Total
2000	11.363.785.000	%59,1	10.503.316.000	%40,9
2001	18.103.195.000	%59,6	15.647.635.000	%40,4
2002	30.063.990.000	%66,4	19.343.160.000	%33,6
2003	43.926.990.000	%67,1	5.716.037.000	%32,9
2004	70.349.545.000	%69,2	31.311.646.000	%30,8
2005 (Predicted)	77.617.176.000	%72,8	28.999.824.000	%27,2

Graph 1: Changes in direct and indirect taxes of all aggregate taxes in actual digits.



**Graph 2: Debts / Total Taxes & Total Taxes / Total Expenditures**



**A- REGRESSIONS OF DIRECT TAXES WITH TOTAL TAX COLLECTION**

$$\text{TOTAL TAX} = C(1) * \text{DIRECT TAX} + C(2)$$

Substituted Coefficients:

$$\text{TOPLAMVERGİ} = 2.84383651 * \text{DSIZ} - 1324.729744$$

Method: Least Squares

Date: 04/25/05 Time: 22:46

Sample: 1985 2004

Included observations: 20

Variable	Coefficien t	Std. Error	t-Statistic	Prob.
DSIZ	2.843837	0.237598	11.96912	0.0000
C	-1324.730	708.9410	-1.868604	0.0780
R-squared	0.888379	Mean dependent var	6620.803	
Adjusted R-squared	0.882178	S.D. dependent var	3242.012	
S.E. of regression	1112.828	Akaike info criterion	16.96184	
Sum squared resid	22290966	Schwarz criterion	17.06141	
Log likelihood	-167.6184	F-statistic	143.2599	
Durbin-Watson stat	0.449772	Prob(F-statistic)	0.000000	



## B- REGRESSIONS OF INDIRECTS TAXES WITH TOTAL TAXES

$$\text{TOTAL TAX} = C(1)*\text{INDIRECT TAX} + C(2)$$

Substituted Coefficients:

$$\text{TOPLAMVERGİ} = 1.417546666*\text{DLI} + 1196.058165$$

Dependent Variable: TOPVER

Method: Least Squares

Date: 04/25/05 Time: 22:48

Sample: 1985 2004

Included observations: 20

Variable	Coefficien t	Std. Error	t-Statistic	Prob.
DLI	1.417547	0.053805	26.34587	0.0000
C	1196.058	237.5265	5.035473	0.0001
R-squared	0.974723	Mean dependent var	6620.803	
Adjusted R-squared	0.973319	S.D. dependent var	3242.012	
S.E. of regression	529.5653	Akaike info criterion	15.47663	
Sum squared resid	5047909.	Schwarz criterion	15.57620	
Log likelihood	-152.7663	F-statistic	694.1047	
Durbin-Watson stat	0.525834	Prob(F-statistic)	0.000000	

When we look at the affecting coefficients of these two regressions, both direct and indirect taxes, total tax incomes, we can recognize a meaningful relationship between both direct-indirect tax incomes and total tax incomes. However, the crucial point here is that we attain the conclusion which indicates that direct tax incomes effect the total tax incomes when compared to indirect tax incomes. In this respect, while the increase at one unit direct tax is able to increase total tax only 1,42 unit, increase, however, at one indirect tax increases total tax 2,84 unit. On the other hand, where the relationship between indirect tax incomes and total taxes decreases continuously, the relationship between direct tax incomes and total tax values increases more and more. Therefore, where the coefficient of concinnity between indirect tax incomes and total tax incomes is R-Square=0.89, the coefficient of concinnity, on the other hand, between indirect tax incomes and total tax incomes is R-Square=0,97.

As it can be understood from the foregoing chart, the graphic and regression, both for increasing total tax incomes and for preventing the decrease at indirect taxes in years to be reason for an increase, this time direct tax incomes have been increased. The coefficient of direct taxes collected from properties and services such as VAT and SST according to tax incomes was 52% in 1985, however, in 2004 this coefficient has increased to 69%. In order to do this, direct tax coefficients have been increased and new ones such as Special process taxes are developed. In 2005 tough, this coefficient is foreseen as 73%. However, we see that total real tax incomes have not increased at all in 5 years. Because, the increases of tax load collected from properties and services ruins the price mechanism, the said high rated direct taxes, being a subject subject for negotiation between buyer and seller, have caused occurring of the economic activities at continuously increasing rate, however, except records. Thus,

although there are increasing indirect tax rates, it has never been possible to collect more tax in totals just because of tax base narrowed. This is why the conclusion attained from our regression formula certifies this interpretation of ours. Direct tax incomes has less effect on total tax incomes when compared to indirect tax incomes. Furthermore, one of the important reasons of the increase in indirect taxes has created an increasing record. What we can say then is that the fast indirect collection need and will of politic decree in a short term, has narrowed the indirect basis of taxation which are long-termed and have more elasticity of income.

## II- THE RELATIONSHIP AMONG TAX INCOMES, DEBTS AND TOTAL PUBLIC EXPENDITURES

With the removal of the existing limit in public borrowing in 1983, an attempt of financing the public expenditures, which are at the continuously increasing rate, with debt was performed. In the economy that is enhanced by going into debt, and applying more tax incentives. The increase of expenditures is aimed, therefore, it is assumed that more tax may be collected by becoming bound by restrictions of more economy. However, this assumption is not in conformity with numbers show at the chart below.

**(Table. 12) Coverage rates of total real taxes and real public debts to Total Real Public Expenditures. ( Billion TL)**

YEARS	Total Taxes	Real Debt	Public Expenditure	Tax/ Expenditures	Debt/ Expenditures	Annual TEFE
1985	2.328,792	549,0599	3.282,8069	0,7094	0,16725	1,64
1986	2.802,682	752,7901	4.017,8530	0,6976	0,18736	2,13
1987	3.205,784	908,8711	4.619,7998	0,6939	0,19673	2,82
1988	2.956,895	818,7972	4.455,9107	0,6636	0,18376	4,81
1989	3.237,178	1.031,4626	4.924,9457	0,6573	0,20944	7,89
1990	3.776,822	1.138,7285	5.700,8804	0,6625	0,19975	12,02
1991	4.211,501	1.790,0385	6.975,8805	0,6037	0,25660	18,67
1992	4.678,437	1.963,8256	7.323,4351	0,6388	0,26816	30,27
1993	5.512,247	2.630,2760	10.121,3992	0,5446	0,25987	47,94
1994	5.877,600	1.519,2500	8.972,9600	0,6550	0,16931	100
1995						186,03



	5.829,055	1.583,0937	9.195,7801	0,6339	0,17215	
1996	6.856,732	3.873,5061	12.038,9937	0,5695	0,32175	327,28
1997	7.975,492	3.731,7629	13.429,6405	0,5939	0,27788	595,01
1998	9.030,496	3.725,9663	15.243,6639	0,5924	0,24443	1022,42
1999	9.458,729	5.830,5314	17.946,2501	0,5271	0,32489	1564,93
2000	11.188,103	5.380,7503	19.664,7999	0,5689	0,27362	2369,85
2001	10.382,381	8.384,8901	20.984,9044	0,4948	0,39957	3830,33
2002	10.371,936	5.980,8686	20.085,8552	0,5164	0,29777	5749,6
2003	11.681,682	5.804,1516	19.399,7824	0,6022	0,29919	7219,36
2004	11.053,517	3.731,9503	17.201,1738	0,6426	0,21696	8150,61

#### A- EXPENDITURE COVERAGE RATE OF DEBTS

EXPENDITURE COVERAGE OF DEBTS = C(1)\*TVTH + C(2)

Substituted Coefficients:

Expenditure Coverage of Debts = -0,8835199714\* Coverage of Total Expenditures by Total Tax + 0,7882753229

Dependent Variable: Borçların harcamaları karşılama oranı

Method: Least Squares

Sample: 1985 ile 2004 yılları arası

Included observations: 20 yıl

Variable	Coefficien t	Std. Error	t-Statistic	Prob.
TVERGİ/T.HARC AM	-0.883520	0.114789	-7.696932	0.0000
C	0.788275	0.070757	11.14066	0.0000
R-squared	0.766968	Mean dependent var		0.246321
Adjusted R-squared	0.754022	S.D. dependent var		0.062921
S.E. of regression	0.031206	Akaike info criterion		-
				4.001743
Sum squared resid	0.017529	Schwarz criterion		-
				3.902170
Log likelihood	42.01743	F-statistic		59.24276
Durbin-Watson stat	2.412919	Prob(F-statistic)		0.000000

## B- COVERAGE RATE OF TOTAL EXPENDITURES BY TOTAL TAX

$$TVTH = C(1)*DEBTEXPENDITURE+C(2)$$

Substituted Coefficient:

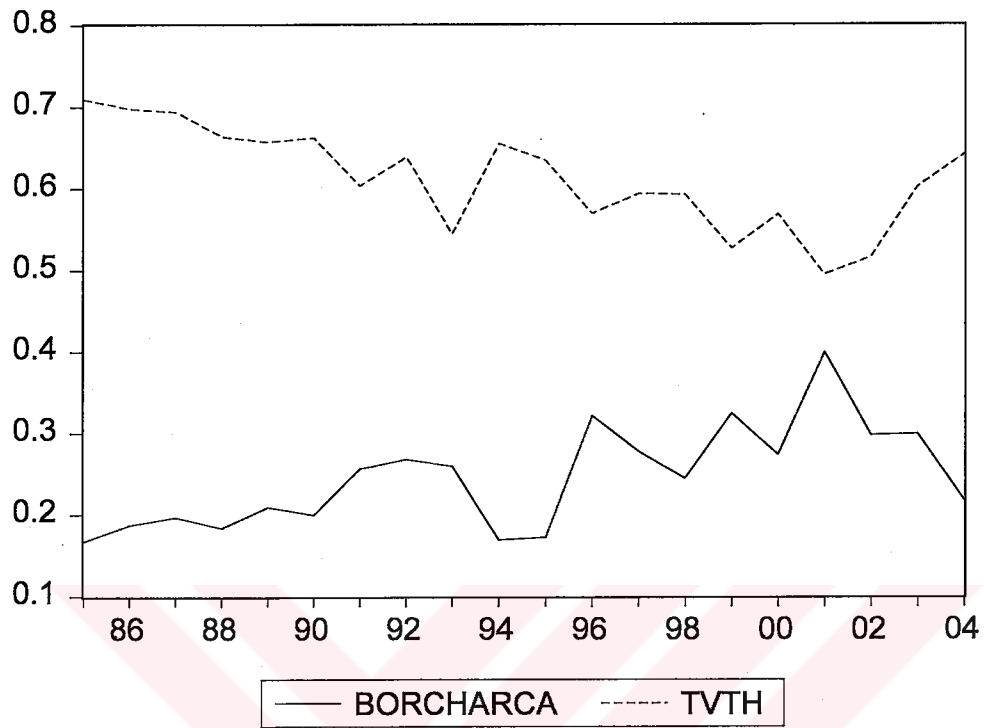
$$TVTH = -0,868082765*DEBTEXPENDITURES + 0,8272305113,$$

Dependent Variable: TVTH  
 Method: Least Squares  
 Date: 04/25/05 Time: 23:04  
 Sample: 1985 2004  
 Included observations: 20

Variable	Coefficien t	Std. Error	t-Statistic	Prob.
BORCHARCA	-0.868083	0.112783	-7.696932	0.0000
C	0.827231	0.028629	28.89489	0.0000
R-squared	0.766968	Mean dependent var	0.613403	
Adjusted R-squared	0.754022	S.D. dependent var	0.062369	
S.E. of regression	0.030933	Akaike info criterion	-	4.019370
Sum squared resid	0.017223	Schwarz criterion	-	3.919796
Log likelihood	42.19370	F-statistic	59.24276	
Durbin-Watson stat	2.059840	Prob(F-statistic)	0.000000	

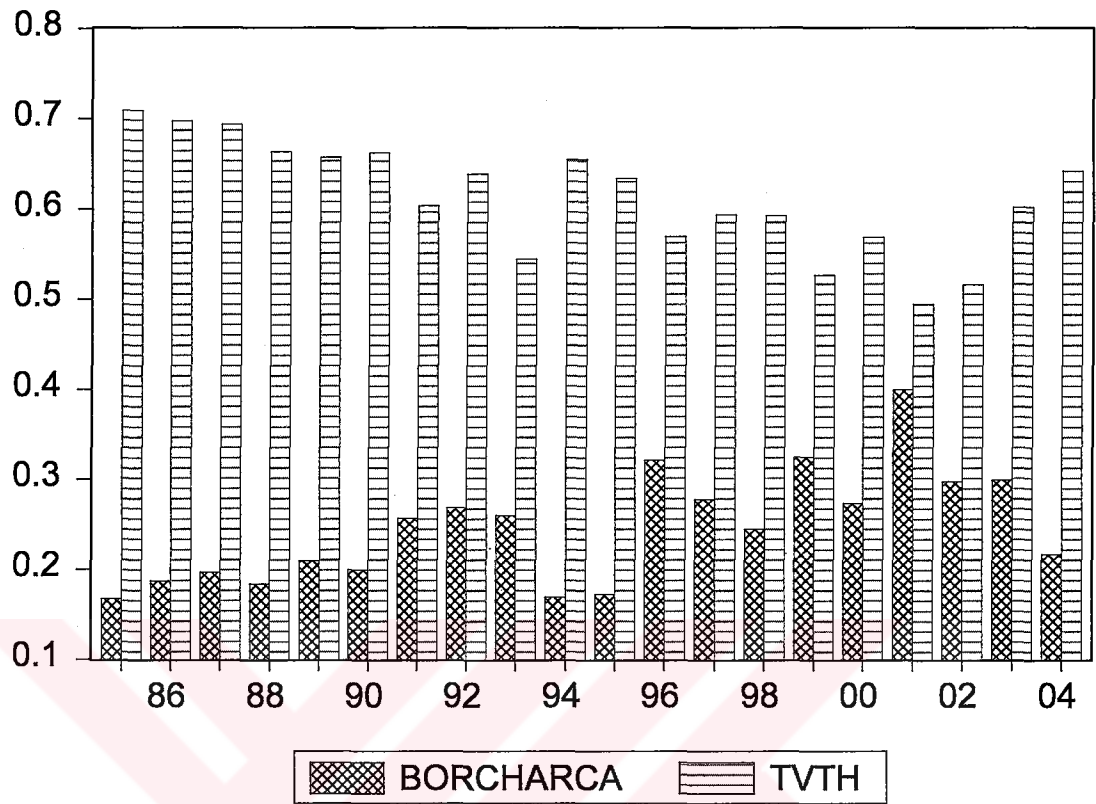
There is a relationship between debts and taxes according to our regression formula. Therefore, one unit increase rate of going into debt versus total expenditures has increased the expenditures rate of total tax incomes at 0,87 unit. Moreover, when we look at the model, we find this model meaningful and can see that there is a high correlation between debts and taxes. R-Square equals 0,77. As this regression result created on the basis of last 20 years clearly shows, because of the increases arising from economics revival and expenditures by going into debts, the base of the tax incomes has not enhanced and no increase has been gained in tax incomes in reality. In this context, here is the claim by American economist Arthur Laffer, with the Laffer curve. As in zero rated tax tariff, neither with 100% rated tax tariff any tax will be collected. This is just because people will change their mind if they pay the most of they earn by working to tax. In contrast, they will work and get paid more with less tax rates and therefore, the model based on more tax collecting assumption has never worked in Turkey. Forasmuch as, Turkey tried to apply this model by going into debts more and more tax incativity in 1980's. However, while attaining this conclusion, we suggest that the completing items such as fiscal management's effectivity, technologic infrastructure's adequacy, politic will's stability, tax estimation's opperativeness and the weakness of public structure should be evaluated together.

**Graph 3. Debt / Total Expenditures & Total Taxes /Total Expenditures**





**Graph 4. Debt / Total Expenditures & Total Taxes /Total Expenditures ( In bars)**



## 1- CONCLUSION

After the financial markets scopes, types, characteristics, the operativeness of financial system and the taxation of the financial market have been announced in Turkey, the position financial corporations in the financial system and the characteristics of each of these has become clearer. Considering that all earnings and revenues obtained by full fledged tax payer corporations which are to be deemed earnings of corporations, are subject to corporations tax, emphasis has been put on corporation tax and profit distribution. In addition, investment funds, investment associations, the circumstances of the general framework of individual pension schemes funds, and assurance companies, exemptions brought out, provisions of revaluation of Leasing companies, and special provisions of public companies in regard of profit distribution have been briefly expressed. Thus, the persons doing financial transactions and getting gains, income receivers from what they have done, may well be tax payers. For the banking system, the security exchange market has not sufficiently developed in Turkey is due to factors other than resourced from beyond the costs of taxes and intermediation activities.

On the other hand, since we could have not attracted sufficient in overfunds to Turkey we are not able to hinder our insufficient capital accumulations to run away.

Nevertheless, the lack of current transaction depends on Turkish Lira, actual production, technological development and qualified labor force, employment, income distribution with gray and invisible segments displays a panoramic photograph Turkey. A situation has been reached so that public programs can not be met financially such as education, health, accommodation environment, and justice, in order to catch the 6.5% surplus except interest over collecting indirect taxes. This variation in the combination of aggregate tax taken as the symptom of a significant illness.

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## Education

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- Bursa Erkek Lisesi	Literature	1979
- Ankara University Siyasal Bilgiler Fakültesi,	Economics	1985
- Yeditepe University MBA	Business Administration	Present

## Experience

<u>Date</u>	<u>Place</u>	<u>Title</u>
1985 – 1991	T.C. Maliye Bakanlığı Hesap Uzmanlar Kurulu	Tax Inspector
1991 – 1992	Çukurova Holding	Auditing Coordinator
1992 – 1996	Birleşik Uzmanlar Yeminli Mali Müşavirlik A.Ş. (partner)	Head Auditor
1996-	IHY Denetim Danış. YMM A.Ş. Executive Board	Partner Head Auditor
1998-	Akşam Gazetesi –Economy	Columnist