

Client Alert

**FIRST TURKISH BILATERAL AGREEMENTS
ON AUTOMATIC EXCHANGE OF INFORMATION
ENTERED INTO FORCE**



CENTRUMCONSULTING
International Consulting and Transfer Pricing Services

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In 2018, the Turkish National Assembly passed a law ratifying the Convention on Mutual Administrative Assistance in Tax Matters. The OECD had also issued a notification that Turkey was the 88th country to sign "the Multilateral Competent Authority Agreement on Automatic Exchange of Information".

In this regard, Turkey also released a Cabinet Decree, determining that the Convention on Mutual Administrative Assistance in Tax Matters will be applicable as of July 1, 2018.

Under the Turkish legislation, to initiate automatic exchange of information on the financial accounts, it is also required that a bilateral agreement is signed with the countries, being a party to the Multilateral Competent Authority Agreement on Automatic Exchange of Information and such agreements are approved by the President with a Presidential Decree.

First bilateral agreements on automatic exchange of information

In the last days of 2018 (December 28) Turkish President approved the bilateral agreements on automatic exchange of information, by two separate Presidential Decrees published in the Official Gazette. Accordingly, Turkey signed a bilateral automatic exchange of information agreement on the financial accounts with Latvia and Norway. These two agreements came into effect as of the signature date on 20 December 2018.

Under these two agreements, information on the financial accounts held by tax residents of Turkey, Latvia and Norway will be automatically exchanged among these countries as of financial year of 2018. Also, under these two bilateral agreements automatic exchange of information on the financial account will be completed within 9 months after the respected financial year is closed.

Bilateral agreements also state that information related to financial year 2017 is

expected to be exchanged by the signatory parties before the end of 2018. Although there is no information available in this sense, we understand that Turkish, Latvian and Norwegian tax authorities will likely exchange information on the financial accounts of 2017, as well.

In general, the following information must be reported under these two bilateral agreements:

- ✚ in the case of any entity that is an account holder and a reportable person: the name, address, jurisdiction(s) of residence and TIN(s); in the case of any Entity that is an account holder and that is identified as having one or more controlling persons that is a reportable person,
- ✚ the account number (or functional equivalent in the absence of an account number),
- ✚ the name and identifying number (if any) of the reporting financial institution; and
- ✚ the account balance or value (including, in the case of a cash value insurance contract or annuity contract, the cash value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account.

Besides, in the case of "Custodial Account", "Depository Account" or any other account, further information is required to be reported by the financial institutions (the FIs).

Draft secondary legislation will likely be finalised in 2019

Bilateral agreements signed by Turkey with Latvia and Norway refer the OECD's Common Reporting Standard for the implementation rules. In 2018, Turkish tax authorities prepared a draft communiqué adapting the OECD's common reporting standard (CRS) into Turkish tax legislation. However, this secondary legislation has not been finalised, yet.

As this legislation is finalised, the FIs will be obliged to regularly inform the Revenue



Administration of Treasury and Finance Ministry about the financial accounts of non-residents in Turkey on a yearly basis.

Under the draft communiqué, following FIs will be subject to reporting obligations:

- ✚ Custodians;
- ✚ Deposit institutions;
- ✚ Investment institutions; and
- ✚ Insurance companies.

The financial accounts subject to reporting are those held by the FIs, such as:

- ✚ Depository accounts;
- ✚ Custodial accounts;
- ✚ Equity and debt interest in certain investment entities;
- ✚ Cash value insurance contracts; and
- ✚ Annuity contracts.

According to the draft general communiqué;

- ✚ Reporting is required on compulsory accounts,
- ✚ Reporting on financial accounts will be made by the FIs until the end of May 31 of the calendar year following the respected reporting year; and
- ✚ Reporting will be electronically delivered by the FIs to the Turkish Revenue Administration.

The FIs will make reporting through the "BTrans Electronic System of the Revenue Administration". According to this, the FIs that have a reporting obligation will first obtain their username and password through the B-Trans system.

Based on this, we believe that the final legislation on automatic exchange of information will bring significant obligations to the FIs in Turkey. For that reason, it is advisable that the FIs fulfil their due diligence obligations in accordance with the disclosures in the draft communiqué.

Expectations on automatic exchange of information on the financial accounts

From the official announcement of Swiss tax authorities released last week, we are informed that Turkish tax authorities are also negotiating to sign bilateral agreements on automatic exchange of information with

Switzerland. This also indicates that Turkey is doing same with other competent tax authorities.

As we consider the number of signatory countries to the Multilateral Competent Authority Agreement on Automatic Exchange of Information, we expect that Turkey will initially negotiate and sign a bilateral agreement with countries, that Turkey has more economic activities and relationships.

Accordingly, we expect that Turkey in particular will initially sign bilateral agreements with the EU, OECD and G-20 countries to meet its international commitments for automatic exchange of information in time. In 2019, it is also possible for Turkey to sign similar agreements with other jurisdictions which committed to automatically exchange of financial accounts.

Finally, we advise that all Turkish individuals and companies holding overseas financial accounts take necessary actions to be compliant with the CRS, as it will potentially have an impact on these parties from a tax point of view.

Please contact us for our Client Alert and further details on automatic exchange of information on the financial accounts.



Dr. Burçin GÖZLÜKLÜ

Founding Partner, Sworn-in Financial Advisor
Email: burcin.gozluklu@centrumauditing.com
Phone: +90 (212) 267 21 00



Ramazan Biçer

Partner, Consulting Services Leader
E-mail: ramazan.bicer@centrumauditing.com
Phone: +90 (212) 267 21 00

