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Presidential Decree On The Approval Of
The Multilateral Competent Authority
Agreement On The Automatic Exchange
Of Financial Account Information Has Been
Published



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**PRESIDENTIAL DECREE ON THE
APPROVAL OF THE MULTILATERAL
COMPETENT AUTHORITY AGREEMENT
ON THE AUTOMATIC EXCHANGE OF
FINANCIAL ACCOUNT INFORMATION
HAS BEEN PUBLISHED**

Presidential Decree numbered 1965 was published on the Official Gazette dated 31.12.2019, which is related to the approval of the “**Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information**” signed in Paris on 21.04.2017 (hereinafter referred to as “Agreement”). The Agreement will enter into force following the completion of the domestic legal processes pursuant to Article 7 of the Agreement.

The Agreement envisages that the information will be **automatically exchanged on annual basis**. According to the Agreement, the notifications to be made by various “**financial institutions**”, including banks, custodial institutions, insurance companies and investment banks (including mutual funds), will include the following information:

- ✚ The name, address, TIN(s), jurisdiction(s) of residence and date and place of birth (for real persons) and, in the case of any entity that is an account holder and that, after application of the due diligence procedures, is identified as having one or more controlling persons that is a reportable person, the name, address, jurisdiction(s) of residence and TIN(s) of the entity and the name, address, jurisdiction(s) of residence, TIN(s)

and date and place of birth of each reportable person,

- ✚ The account number or functional equivalent in the absence of an account number,
- ✚ The name and IN of the reporting financial institution,
- ✚ The account balance or value including, as of the end of the reporting period, if the account was closed during such year or period, the closure of the account,
- ✚ For any **custodial account**, the total gross amount of interest, dividend, and other income generated with respect to the assets held in the account, and paid or credited to the account during the relevant reporting period
- ✚ For any **depository account**, the total gross amount of interest paid or credited to the account during the relevant reporting period,
- ✚ For other account types, total gross amount paid or credited to the account holder during the relevant reporting period, which is generated through sales or payments of financial assets, or total gross amount of any redemption payments made to the account holder during the relevant reporting period.

On the other hand, two different dates has been determined as the starting time for the exchange of information. **September 2018** is determined for new accounts and **September 2018 or September 2019** are determined based on the date of determination that the existing account is in the scope of mandatory exchange of information. Accordingly, the relevant information will



be subject to exchange **within 9 months** following the end of the relevant calendar year.

The developments regarding the process of signing the Agreement and the arrangements introduced with the Agreement are summarized as follows.

I. DEVELOPMENTS ON AUTOMATIC EXCHANGE OF INFORMATION

Exchange of financial information has been initiated with the **Foreign Accounts Tax Compliance Act – FATCA** which was published by Ministry of Finance of the USA on 2010. Financial institutions outside of the USA are obliged to report the assets of their US taxpayer customers to the American Revenue Administration with the legislation of FATCA. The regulation basically aims to ensure that all US taxpayers' income will be recorded. In this respect, it attracted the attention of other countries, acting with the motive to protect tax revenues.

"Mutual Administrative Assistance Agreement in Tax Matters" which was signed by the Republic of Turkey during the G-20 summit held in Cannes, France on 03.11.2011 was approved by the law published in the Official Gazette on May 20th 2017. The relevant agreement stipulates the clauses with the aim of the fight against tax avoidance and evasion by a comprehensive cooperation between the countries. In addition, the agreement, prepared under the leadership of the Council of Europe with the Organization for Economic Cooperation and Development (OECD) and signed by many countries, constituted the legal basis for the reporting to be made under the common reporting standard.

"Financial Information in Tax Matters Concerning Automatic Exchange Standards" (Common Reporting Standard - CRS) was published in 21.07.2014 and Turkey has committed to comply with these standards in the same year.

Presidential Decree numbered 1965 was published on the Official Gazette dated 31.12.2019, which is related to the approval of the **"Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information"** signed in Paris on 21.04.2017. The Agreement will enter into force following the completion of the domestic legal processes pursuant to Article 7 of the Agreement.

II. MUTUAL ADMINISTRATIVE ASSISTANCE AGREEMENT

"Mutual Administrative Assistance Agreement in Tax Matters" which was prepared under the guidance of Organization for Economic Cooperation and Development (OECD) and Council of Europe was signed by Turkey on 03.11.2011 date along with many other countries. Turkish Parliament confirmed the approval of the agreement with Law no. 7018 which was published on the Official Gazette on 20.05.2017. The relevant agreement was approved by the Council of Ministers Decree numbered 2017/10969 which was published on the Official Gazette dated 26.11.2017. The enforcement date of the agreement in domestic law has been determined as 01.07.2019 by the Council of Ministers Decree numbered 2018/11790 and dated 26.06.2018.



In order to fight against tax loss and evasion, the relevant agreement stipulates a comprehensive cooperation between the parties on following matters:

A. Exchange of Information

Although a comprehensive exchange of information is foreseen in the agreement, this change is generally based on demand (exchange of information on demand). Accordingly:

- ✚ At the request of the Applicant State, the requested State shall provide any information included in the scope of the agreement to the Applicant State; if the available information in the requested State is not sufficient to meet the request, that State will take the necessary measures to provide the requested information.
- ✚ The parties will automatically exchange some information (Automatic information exchange).

B. Assistance on Tax Inspections

The agreement stipulates that one of the parties will initiate tax inspections abroad within the scope of concurrent tax inspections. According to this;

- ✚ In cases where international tax loss and evasion are suspected, simultaneous tax inspections can be made.
- ✚ At the request of the competent authority of one of the parties, the competent authority of the other State may allow the authorities of the applicant party to be in an

appropriate part of a tax inspection in the requested state.

C. Assistance on Tax Collection

The agreement also stipulates to take steps towards the protection and collection of tax claims. According to this;

- ✚ At the request of a State, the requested State will take the necessary steps to collect the tax which is demanded by applicant State
- ✚ In addition, even if the tax liability is not finalized, the applicant has the right to demand that the other State take necessary measures to secure its tax.

D. Assistance on Notification

The agreement enforces the notification of all other documents relating to the taxes, including judicial orders, to the applicant party at request.

III. MULTILATERAL COMPETENT AUTHORITY AGREEMENT ON THE AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION

“Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information” which was signed in Paris on 21.04.2017 and approved in the domestic law by the Presidential Decree numbered 1965 which was published on the Official Gazette on 31.12.2019 stipulated that financial information based on the Agreement will be automatically exchanged on annual basis.



“Multilateral Competent Authority Agreement on the Automatic Exchange of Financial Account Information” signed in Paris on 21.04.2017 is a framework agreement which ensures that each signatory countries have full control over on exchange relationship and the implementation of the privacy and personal data protection standards.

The legal basis of the Multilateral Competent Authority Agreement is the 6th article of the Mutual Administrative Assistance Agreement on Tax Issues, which enables automatic exchange of information between the parties within the framework determined by the Common Notification Standard (CRS).

A. Frequency of Exchange and Information to be Subject to Notification

The Agreement envisages that the information will be **automatically exchanged on annual basis**. According to the Agreement, notifications to be made by various “**financial institutions**”, including banks, custodial institutions, insurance companies and investment banks (including mutual funds), include the following information:

- ✚ The name, address, TIN(s), jurisdiction(s) of residence and date and place of birth (for real persons) and, in the case of any entity that is an account holder and that, after application of the due diligence procedures, is identified as having one or more controlling persons that is a reportable person, the name, address, jurisdiction(s) of residence and TIN(s) of the entity and the name, address,

jurisdiction(s) of residence, TIN(s) and date and place of birth of each reportable person,

- ✚ The account number or functional equivalent in the absence of an account number,
- ✚ The name and IN of the reporting financial institution,
- ✚ The account balance or value including, as of the end of the reporting period, if the account was closed during such year or period, the closure of the account,
- ✚ For any **custodial account**, the total gross amount of interest, dividend, and other income generated with respect to the assets held in the account, and paid or credited to the account during the relevant reporting period
- ✚ For any **depository account**, the total gross amount of interest paid or credited to the account during the relevant reporting period,
- ✚ For other account types, total gross amount paid or credited to the account holder during the relevant reporting period, which is generated through sales or payments of financial assets, or total gross amount of any redemption payments made to the account holder during the relevant reporting period.

Annex A of the Agreement determined the list of countries which will be excluded from the exchange of information. The scope of the list on Annex A has not been completed by Turkey yet.

These notifications will be made by various “**financial institutions**”, including **banks, custodial institutions, insurance**



companies and investment banks (including mutual funds).

B. Notification Date

Notification date is determined on the Agreement as **following 9 months after the end of the calendar year** of the relevant accounts, starting from the dates as follows:

- ✚ **September 2018** for financial accounts (new accounts) opened by the reporting financial institution after 01.07.2017
- ✚ **September 2018** for high value individual accounts held by the reporting financial institution as of 30.06.2017, **September 2018 or September 2019** according to the date when the account is determined as an account subject to mandatory notification for low value individual accounts and entity accounts.

C. Enforcement of the Agreement

The Agreement will enter into force in Turkey, following the completion of internal legal processes. Accordingly, Turkey will provide following information to **"Coordinating Body Secretariat" of OECD** after the implementation of relevant legislation, which requires to apply "The Common Reporting Standards" as soon as possible:

- ✚ Confirming the necessary laws in place to implement the Common Reporting Standard and specifying the relevant effective dates with respect to Preexisting Accounts, New Accounts, and the application or completion of the

reporting and due diligence procedures;

- ✚ Presenting countries to be listed in Annex A;
- ✚ Specifying one or more methods for data transmission including encryption (Annex B);
- ✚ Specifying safeguards, if any, for the protection of personal data (Annex C);
- ✚ Attaching the completed confidentiality and data safeguard questionnaire, to be included in Annex D; and
- ✚ A list of the Jurisdictions of the Competent Authorities which Turkey intends to apply this Agreement with (Annex E).

This Agreement will come into force between two Competent Authorities **on the later** of the following dates:

- ✚ The date on which the second of the two Competent Authorities has provided notification to the Coordinating Body Secretariat including listing the other Competent Authority's Jurisdiction pursuant to the Agreement and,
- ✚ The date on which the Convention has entered into force and is in effect for both Jurisdictions.

King Regards,

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