Buying an Existing Turkish Company or Part Ownership Thereof in Turkey

In order to buy an existing Turkish company or part ownership in Turkey, the General Directorate of Foreign Investment shall be officially informed about any share transfer to the foreign investors.

Please note that buying an existing company or part ownership requires a detailed due diligence, tax planning and well-structured contractual terms to protect the buyer’s interest and to minimize the legal risks you may confront. For this reason, please do not hesitate to contact us for further-detailed guidance in Turkey.

Share transfers in Limited Liability Companies

In order to complete a share transfer in a Limited Liability Company, the parties have to comply with a rigid procedure. The notarization of the share transfer agreement and the approval of share transfers by the general assembly with the affirmative votes of majority of the shareholders are required. In addition, the registration and announcement of the new share transfer at the local trade registry office is also required.

Any restriction on the transfer of the shares to third parties or the other shareholders can be imposed under the articles of association.

The purchase of the shares is subject to the stamp tax (%0.95) and VAT (%18). VAT would be excluded where the transferor had possessed the related shares for a period of at least two years.

New shareholders of a Limited Liability Company are jointly and severally liable against previously unpaid public receivables such as taxes, duties, levies and charges if the company is unable to make the required payments.

Share Transfers in Joint Stock Companies

In order to complete a share transfer in a Joint Stock Company, the endorsement and transfer of share certificates (in the bearer form) are required. If the company has not issued any share certificates, the transfer of the shares shall be completed within the share ledger of the company.

The notarization of the share transfer agreement as well as the registration and announcement of the new share transfer at a local trade registry office is not required.

Joint Stock Companies can disapprove the transfer of the shares (that are not quoted on the stock exchange) by using their takeover right.

A company can only reject the transfer of shares that are quoted on the stock exchange where the articles of association explicitly restrict the transfer exceeding a given limit.

Moreover, Joint Stock Companies can reject a share transfer where the transferee's ability to pay is doubtful, or the transferee has not paid the requested deposit to the joint stock company.

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The transfer of share certificates is exempted from stamp tax and other duties and charges except for VAT (%18). Where the transferor has held the related shares for a period of at least two years, VAT will be excluded.

For shares quoted on the stock exchange, there are no tax liabilities including VAT, as a result of the transfer of the shares.

Unlike Limited Liability Companies, the shareholders of Joint Stock Companies are not personally liable for any unpaid taxes and other fiscal liabilities that cannot be collected from the entity.

"The legal representatives" of a Joint Stock Company are personally liable for any unpaid taxes and other fiscal liabilities that cannot be collected from the entity. Not only the legal representatives who are in office at the time a public receivable is due but also those who were in the office at the time of the occurrence of the fiscal obligation would be jointly and severally liable.

Where a director(s) is appointed as a fully authorized board member to represent the company or a manager(s) is appointed to represent the company, the directors in the board of directors would not be personally liable for any unpaid taxes and other fiscal liabilities.

Investing in Stock Market

Where international or bilateral treaties are in place between Turkey and the investor's country of origin, the related terms of that treaty will principally be applied, to the extent possible.

In accordance with the Turkish Double Taxation Act, the investors residing in Holland, USA and Belgium are exempted from the income tax liability arising out of the gains derived in the stock exchange.

Investors who are the residents of England, Germany and France may only be liable for the income tax provided that they had possessed the shares for a period of less than a year.

Squeeze –out

In Private Companies

Where shareholders directly or indirectly own and hold at least 90 % of capital shares and voting rights in a capital company, the controlling shareholders may apply to the court for the squeeze out of the minority shareholder(s), if the minority shareholder(s) prevents the company from running its business, do not act in good faith, create perceptible disruption or act in a reckless manner.

Since the squeeze out right can solely be implemented by a court decision, %90 percentage must be preserved until the date of the court decision. The share value to be paid to the minority shareholder(s) will be determined by the court. The controlling shareholders may purchase the shares of the minority shareholders at stock-exchange value. If such a value does not exist the share value may be determined through the net value (the balance sheet value), or through a value to be determined based on a commonly accepted method.

In Public Companies

Controlling shareholders holding 95 % of the total voting rights of a publicly held company posses the right to squeeze out the minority shareholders.

Controlling shareholders shall exercise squeeze-out right within a period of three months upon having the % 95 ownership of voting rights. Where the three months period is over, the controlling shareholders' right to squeeze out terminates and an additional share purchase is needed to renew the squeeze-out right.

For listed entities, the squeeze-out price is determined based on the arithmetical average of the 30 days weighted average of the stock price. For unlisted entities, a valuation report shall be prepared to determine the fair value of the squeeze-out price.

Upon the approval of the Capital Market Board and the payment of squeeze out price, BIST will resolve the delisting of the listed entity. For publicly held companies that are not listed on the BIST, the shares shall be submitted to the corporation by the shareholders, and duly cancelled.

The squeeze out right can be exercised by minority shareholders against controlling shareholders as well.

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