THE INCOME TAX GENERAL COMMUNIQUÉ SERIES NO. 257

Belge türü	Tebliğ
Kanun	GELİR VERGİSİ KANUNU
Tebliğ grubu	GELİR VERGİSİ GENEL TEBLİĞLERİ
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Temporary Article 67, which was added to the Incomer Tax Law through Article 30 of the law numbered 5281, contains provisions relating to the taxation of the gains derived from the alienation and the retention of the marketable securities and other capital market instruments, and the taxation of the deposit interests, repo gains and the income that is derived from the private finance institutions.
The explanations relating to the concerned regulations constitute the subject matter of this Communiqué.

1. Legal Regulation

The regulations provided in Temporary Article 67, relating to the gains derived from the alienation and the retention of the marketable securities and the other capital market instruments, to gain effectiveness during the period between 01/01/2006 _ 31/12/2015, are as follows:

TEMPORARY ARTICLE 67 _ 1) The Banks and the intermediary institutions shall apply withholding tax at a rate of 15% on the types of income mentioned below, at quarterly periods:

a) The difference between the purchase price and the sales price of the marketable securities and other capital market instruments, to purchase and sale of those they have acted as intermediaries;

b) The difference between the purchase price and the redemption value of the marketable securities and other capital market instruments, to purchase of those they have acted as intermediaries, in case that the underlying securities are redeemed;

c) The periodical returns on the marketable securities and other capital market instruments, to which they act as intermediaries to their collection (that are not contingent on any marketable security or any other capital market instrument).

d) Gains derived from loan transactions of marketable security and other capital market instruments which they act as intermediary.

In case of the partial alienation of the same type of marketable securities or other market instruments which are purchased at different dates, the purchase price to be taken as basis of the assessment of the withholding tax is determined through the application of the first-in-first-out method. In the event that any security or other capital market instrument is alienated prior to its purchase, the first purchase transaction subsequent to the date of alienation is taken as basis in the determination of the amount to be considered as the withholding tax base.At transactions in the same day, weighted average method may be used. The brokerage commissions that are paid on account of the purchase and sale transactions, and the Banking and Insurance Transaction Tax (BITT) are taken into consideration during the determination of the withholding tax base.
In cases when more than one purchase and sale transaction is made for the same type of marketable security or other type of capital market instrument within the same quarterly period, for purposes of the application of withholding, all these transactions are taken into consideration as a single transaction. The losses arising from the purchase and sale of the same type of marketable security or other types of capital market instrument are allowed for deducting against the withholding tax base of the subsequent periods, conditional not exceed one year. For the determination of the withholding tax base**,** the equivalent value of the purchase and sale price of the marketable securities or other types of capital market instruments indexed to foreign currency, gold or any other asset in New Turkish Lira (YTL) as of the date of the transaction is taken as basis. Meanwhile, in cases when the underlying marketable security or other capital market instrument is issued in a foreign currency, the foreign exchange differences are not taken into consideration during the determination of

03.01.2006	Purchase of Share	10.000	5	50.000
02.02.2006	Purchase of Share	5.000	4	20.000
08.05.2006	Sale of Share	6.000	6	36.000
09.05.2006	Purchase of Share	8.000	4.5	36.000
12.05.2006	Sale of Share	12.000	5	60.000
22.05.2006	Purchase of Share	20.000	5.5	110.000

According to the first-in-first-out method, the cost value corresponding to the stocks sold by Mr. (A) on 08.05.2006 amounts to (6,000 x 5=) 30,000 YTL, and the cost value corresponding to the stocks that he has sold on 12.05.2006 amounts to [(4,000 x 5) + (5,000 x 4) + (3,000 x 4,5) =] 53,500 YTL. According to the first-in-first-out method, the witholding base related to the stock sales transaction realized on 08.05.2006 is (36.000-30.000=) 6.000 YTL and the witholding base related to the sales transaction realized on 12.05.2006 is (60.000-53.500=) 6.500 YTL. In such a case, Bank (X) shall apply a withholding tax at a rate of 15 % over the capital gains (6.000 YTL and 4.500 YTL) generated by Mr. (A), for each transaction.

Both in the present example and in the other subsequent examples, it is assumed that the purchase and sale amounts also include the brokerage charges.

When marketable security or other capital market instruments are given as a guarantee or be subject to loan transactions, mentioned securities are considered in client portfolio. However, securities which are subject to loan transaction in cost calculation are assumed to out of portfolio, whereae securities which are given as a guarantee are assumed in portfolio.

Example:

Transactions which is done by Mr. (A) in X Intermediary Institution is as follows.

Share	Transaction	Item	Residue	Price
Akbank	Purchase	100	100	2
Akbank	Lending	-40	60	2
Akbank	Giving Guarantee	-60	0	2
Akbank	Purchase	100	100	3
Akbank	Sale	-100	0	4

Purchase cost of 100 shares which are sold = 60*2 +40*3

=240 YTL

Tax Base = Sale Price _ Purchase Cost

= 100*4 _ 240

= 160 YTL