

Omnibus Law No. 7186

July 2019

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Law No. 7186 Amending Certain Laws and Income Tax Law (“**Omnibus Law**”) was published in the Official Gazette No. 30836 (repetitive edition) dated 19 July 2019. This alert summarizes important novelties that the Omnibus Law brought to the Banking Law No. 5411¹, Capital Markets Law No. 6362², and Electricity Market Law No. 6446³.

1. Amendments to the Banking Law – Financial Restructuring

The Banking Regulation and Supervision Agency has already issued the Financial Debts Restructuring Regulation to assist troubled borrowers to restructure their loans, mainly due to devaluation of the Turkish Lira. In addition, Financial Restructuring Framework Agreement has been prepared and signed with the relevant creditor institutions. However, the need for a law on the financial restructuring, which would serve as the legal basis for the Regulation and the Framework Agreement, has been long discussed in the market.

The Omnibus Law added “Temporary Article 32” to the Banking Law No. 5411 in order to provide a legal ground for financial restructuring (“Restructuring Article”). Important novelties that are brought by the Restructuring Article can be summarized as follows:

- In addition to the banks, financial leasing, factoring and finance companies, and other financial institutions; special purpose vehicles and investment funds that are established by the creditors for debt collection purposes are also listed as creditors.
- It is explicitly provided that write-offs of the principle amount and other receivables or reduction of collaterals for the purposes of financial restructuring do not constitute embezzlement.
- Certain tax exemptions and other incentives are introduced, such as exemption to (i) the stamp tax, (ii) the resource utilization support fund, (iii) the banking and insurance transaction tax, (iv) and other levies and charges including the legal charges. However, if the debts of a debtor become subject to financial restructuring again within two years, mentioned tax exemptions and incentives will not apply.

The Restructuring Article will be effective for two years following its effective date (19 July 2019) and the President is authorized to extend this period for another two years.

¹ Published in the Official Gazette No. 25983 (Repetitive), dated 1 November 2005.

² Published in the Official Gazette No. 28513, dated 30 December 2012.

³ Published in the Official Gazette No. 28603, dated 30 March 2013.

2. Amendments to the Capital Markets Law

The Omnibus Law added paragraph (4) to the Article 31 of Capital Markets Law No. 6362 in order to extend the scope of documents which show acknowledgement of debt under the Article 68(1) of Bankruptcy and Enforcement Law No. 2004. Accordingly, the documents issued by the Central Securities Depository of the Turkish capital markets (MKK) and given to the beneficiaries due to default of the issuers regarding relevant debt instruments will be deemed as acknowledgement of debt. This amendment became effective on 19 July 2019.

3. Amendments to the Electricity Market Law

a. Extension for Connection Agreements of License-Exempt Power Plants

The Omnibus Law added "Temporary Article 25" to the Electricity Market Law No. 6446 in order to provide 120-day time extension for completion of the license-exempt renewable energy based generation facilities which have an installed capacity up to 5 MW and which have not been completed in due time. This amendment became effective on 19 July 2019.

Energy Market Regulatory Authority ("EMRA") published an announcement regarding the same on 22 July 2019 on its web-site and stated that implementation of Temporary Article 25 does not require a separate individual notification from EMRA.

b. Extension for Renewable Energy and Domestic Coal Based Facilities

The Omnibus Law added "Temporary Article 26" to the Electricity Market Law No. 6446 in order to extend the validity periods of the rights and obligations arising from the transfer agreements and electricity sale agreements of the renewable energy resource area projects or domestic coal power plants which have been previously tendered out. This time extension provides an additional 36 months for completion of the relevant projects. The amendment became effective on 19 July 2019; however, it will be applicable as of 17 January 2019.

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