

Amendment to the Health PPP Law

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The Law No. 7186 Amending Certain Laws and Income Tax Law (“**Amending Law**”) which includes, among others, amendments to the Health PPP Law No. 6428 (“**Health PPP Law**”), published in the Official Gazette and became effective on 19 July 2019.

1. Contract Price Definition

The Health PPP Law already provides that the term “Price” means the total price to be paid to a contractor in consideration of availability of the facilities (“Availability Price”) and provision of the services (“Service Price”).

The Amending Law additionally brought a definition for the term “Contract Price” which states that the Contract Price means the total net present value of the Price to be paid during the operational term. The calculation method for the “net present value” is to be provided under the secondary legislation.

2. Decrease in the Contract Price

Article 4(9) of the Health PPP Law states that the project agreements can be amended with the approval of the Minister of Health in case (i) a force majeure event, state of emergency or any other event which affects implementation of the agreement occurs, or (ii) an amendment is required in order to ensure due implementation of the agreement.

Prior to the Amending Law, change in the Price/Contract Price was not allowed under these circumstances. The Amending Law amended Article 4(9) of the Health PPP Law in order to allow to make decreases in the “Contract Price” within the scope of the changes in the project agreements under the above mentioned circumstances. In addition, it paves the way for readjustment of the base and ceiling values determined for the Availability Price under the project agreements.

3. Existing Projects

The Amending Law states that mentioned amendments will be applicable for the existing projects which have been tendered and/or contracted before its effective date.

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