

BDO TAX BULLETIN



Bulletin Date : 20.04.2020
Bulletin No : 2020/007

LIMITATION OF PROFIT DISTRIBUTION STIPULATED BY LAW NO.7244 (PROVISIONAL ARTICLE 13 ADDED TO THE TURKISH COMMERCIAL LAW NO.6102)

1. THE AMENDMENT:

With the [Law No.7244 on the Amendment of Certain Laws with the Law on the Reducing of the Effects of the Coronarvirus \(Covid-19\) Outbreak on Economic and Social Life \(Law\)](#), legal regulations have been made on profit distribution regulations. The Law was published in the Official Gazette dated 17.04.2020 and numbered 31102.

With Article 12 that came into force on the date of publication of the Law (on April 17, 2020), the following provisional article was added to the Turkish Commercial Law No.6102:

“PROVISIONAL ARTICLE 13- (1) In equity companies, only 25% of the net profit for the 2019 could be decided to be distributed; previous years’ profits and free reserves cannot be distributed and the general assembly cannot authorize the board of directors to distribute advance dividend. This paragraph does not apply to the companies which the governments, special provincial administrations, municipalities, villages and other public legal entities and funds with more than 50% of its capital belonging to the public, directly or indirectly, own more than 50% of their capital. The President is authorized to extend and shorten the period stated in this paragraph for three months.

BDO Yayıncılık A.Ş.

Eski Büyükdere Cad. No.14
Park Plaza Kat:4
34398 Maslak/İstanbul
Turkey

Tel: +90 212 365 62 00
Fax: +90 212 365 62 02
e-mail: bdo@bdo.com.tr
www.bdo.com.tr

BDO Yayıncılık A.Ş., a Turkish joint-stock company and a member of BDO International Limited which is a UK company limited by its guarantee, is part of the BDO network of independent organisations.

Total revenues of BDO International’s global network reached USD 9.6 billion in 2019. BDO operates in 1,809 offices in more than 167 countries and employs 88,110 people worldwide, including partners providing audit and consulting services.

This Bulletin, prepared with care and meticulousness, contains opinions in a broad sense and should be considered as a general guide. In case of special circumstances, applications should not be made on the basis of this publication without professional advice and assistance. In order to discuss the effects of these issues on your particular situation, you can get in contact with BDO Yayıncılık A.Ş. Due to the damages that may arise because of certain actions or not to act based on the information in this publication, BDO Yayıncılık A.Ş. and its partners, employees and authors do not accept any liability or responsibility.

(2) If the general assembly has determined to distribute profit for the financial year of 2019 but the shareholders have not yet been paid wholly or partially, the payments for the portion exceeding 25% of the net profit for 2019 shall be postponed until the end of the period specified in Paragraph 1.

(3) Ministry of Commerce is authorized to determine the exceptions regarding the equity companies within the scope of this article and the procedures and principles regarding the implementation, by taking the opinion of the Ministry of Treasury and Finance.”

2. SCOPE OF THE LIMITATION OF PROFIT DISTRIBUTION:

According to the amendment;

From the publication of the Law until September 30, 2020, only up to 25% of the profit for the 2019 period can be decided to be distributed, and cash profit distribution decision cannot be taken for the part exceeding 25%.

Until September 30, 2020, previous years' profits and free reserves cannot be subject to distribution. In other words, a 100% distribution limitation will be valid until September 30, 2020 for profits and free reserves¹ regarding the periods before 2019.

Until September 30, 2020, general assembly cannot authorize board of directors to distribute advance dividends.

If the distribution of dividends for the financial year of 2019 was decided and the shareholders were paid in excess of 25% of 2019 profits prior to the publication of the Law, there is no action to be taken under this article. However, if the profit distribution was not made or partial payment was made even though the profit distribution was decided, payments for the part exceeding 25% of the net profit for 2019 are postponed until September 30, 2020.

If the distribution of an amount below 25% of the profit of 2019 was decided and this amount was distributed prior to the publication of the Law, the distribution of the remaining part to cover the 25% can be decided from the publication of the Law until 30.09.2020.

If the distribution of previous years profits and free reserves before 2019 was decided prior to the publication of the Law but this distribution was not made until the publication of the Law, no distribution can be made until September 30, 2020.

¹ Free reserves refer to the reserves that are decided to be allocated by the general assembly, except for the part of the general legal reserves exceeding half of the capital or issued capital and those separated by Law and contract.

3. COMPANIES IN AND OUT OF THE SCOPE OF THE LIMITATION:

Limitation of profit distribution was introduced for equity companies. According to the Turkish Commercial Law, equity companies consist of Limited Liability Companies, Joint Stock Companies and Commandite Companies whose Capital is Divided into Shares.

Partnerships and Turkish branches of foreign companies are not within the scope of limitation

4. AUTHORIZATION:

The President is authorized to extend and shorten the limitation period, which is until 30.09.2020, up to three months. In other words, The President can end the limitation on 30.06.2020 or extend it until 31.12.2020.

Ministry of Commerce, on the other hand, is authorized to determine the exemptions regarding the equity companies, which are included in the scope of the limitation and procedures and principles about the implementation by taking the opinion of the Ministry of Treasury and Finance.

Kind regards.