



## The New Duty Free Shops Regulation

The Regulation on Duty Free Shops (the “**Regulation**”) was published in the Official Gazette numbered 30148 and dated 8 August 2017 and abolished the former Regulation on Duty Free Shops published in the Official Gazette numbered 26318 and dated 13 October 2006 (the “**Former Regulation**”).

The Regulation introduces significant changes to current regulations by setting forth new criteria for duty-free shops and such shops’ warehouses and imposes new restrictions on the consumers. These amendments will enter into force as of 8 September 2017. The most important changes introduced by the Regulation are as follows:

### **Preliminary Permit and Permit Process**

The Regulation introduced a comprehensive amendment in relation to the authorization process. While there was no preliminary permit process in the Former Regulation, a preliminary permit process to operate duty-free shops and warehouses is introduced in the Regulation. The preliminary permit process is essentially a process to assess whether there is a need for such duty-free shop/warehouse at the relevant border and if that is the case, whether the relevant facility meets the physical requirements.

During the preliminary permit process, it is mainly assessed whether **(i)** the respective facility meets the physical criteria to operate as a shop or as a warehouse, **(ii)** the border satisfies necessary number of passengers and **(iii)** a duty-free shop is needed at such border. If all criteria stated above are met by the facility, a preliminary permit will be granted to the applicant.

The grant of such preliminary permit by the General Directorate of Customs to the applicant does not mean that the duty-free shop and warehouse opening and operating permits will also be granted to the applicants. Following the obtaining of the preliminary permit, the applicants must apply to the relevant customs office in order to acquire a permanent opening and operating permit. Under the Regulation, permanent permits will be granted for five years and their term will be extended for additional five year terms upon request. Once such a permit is granted, companies must commence their operations within six months following the permit date.

### **Minimum Paid-In Capital, Reserve and Accrued Income Tax Amount**

Under the Former Regulation, the total capital and reserve threshold for the joint stock corporations (“**JSC**”) and limited liability partnerships (“**LLP**”) was TRY 500,000 while the threshold for the simple average of the accrued income tax for the past five years was TRY 20,000. The Regulation increased the thresholds for these values. In accordance with the amendment introduced by the Regulation, the JSCs and LLPs wishing to operate a duty-free shop and/or a warehouse must have **(i)** a minimum capital plus reserve of TRY 1,000,000 and **(ii)** an average accrued income tax of TRY 50,000 for the past five years.

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The companies which obtained their permanent permits before 8 September 2017 will have to fulfill the capital requirements stated above within one year following the entry into force of the Regulation. If these companies fail to fulfil the capital requirements within this interim period of one year, their operations will be suspended until they meet the statutory capital requirements.

## **Provision of Guarantee**

The Regulation sets forth two types of guarantees in order to secure the payment of customs duty of the goods sold in the duty-free shops and/or goods stored in warehouses and public receivables. The companies may provide a guarantee for each good or they may provide a lump sum guarantee for all of the goods at once.

If a guarantee is provided for each good separately, the amount will be paid for each set of purchased goods. However, if the guarantee is provided as a lump sum, the amount will be paid at once for all the goods. The Regulation also sets out a threshold for lump sum guarantees; the duty-free shops selling alcoholic beverages and/or tobacco products must provide a lump sum guarantee of TRY 1,000,000 and duty-free shops not selling alcoholic beverages must provide a lump sum guarantee of TRY 600,000 on an annual basis.

Additionally, the companies operating more than one duty-free shop or warehouse have the option to benefit from lump sum guarantee, if they provide TRY 8,000,000 guarantee to the Ankara Customs Accounting Directorate covering all of the duty-free shops and warehouses.

## **New Restrictions Imposed by the Regulation**

The Regulation also imposes new limitations regarding the scope of the shopping at the duty-free shops. For instance, in case of a purchase via credit card, the passenger must use her/his own credit card or the credit card of the passenger who he/she is travelling with. In addition, the Regulation sets out new standards for informative signs located within the duty-free shops. The duty-free shops must provide informative signs in the facility in Turkish, English and in the language of the neighbor country for the land borders and in Turkish, English and Arabic languages at air and sea border gates.

Moreover, an electronic notification obligation will be imposed on the companies with the entry into force of the Regulation. All deliveries related to the duty-free shops and warehouses under the inspection of the same General Directorate of Customs will be recorded through an electronic system and the details of each delivery (*e.g. dates of delivery, customs declaration, code, type and amount of the product etc.*) and must be recorded by this system through electronic notification. There will be a transition period for the establishment of these systems and the dates will be announced by the Ministry of Customs and Trade.

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