

BİLGİLENDİRME NOTU: 7326 SAYILI YAPILANDIRMA (KASA-ORTAKLAR CARİ-STOK-SABİT KIYMET-ÖDENMEMİŞ BORÇLAR VB) BAŞVURU TAKVİMİ:

Ref: [7326 duyuru.pdf \(gib.gov.tr\)](#)

İlgili Madde ve Kapsam	Başvuru Alma İşlemleri	Yapılandırma Dosyası Düzenleme ve Vergi Dairesince Tahsilat İşlemlerinin Yapılması
7326 Sayılı Kanun 2 nci Madde - Kesinleşmiş Alacaklar	11.06.2021 tarihinde itibaren vergi daireleri ve İnteraktif Vergi Dairesi üzerinden alınmaktadır.	23.6.2021
7326 Sayılı Kanun 3 üncü Madde - Kesinleşmemiş veya Dava Safhasında Bulunan Alacaklar	11.06.2021 tarihinde itibaren vergi daireleri tarafından alınmaktadır.	30.6.2021
7326 Sayılı Kanun 4 üncü Madde - İnceleme ve tarhiyat safhasında bulunan işlemler	11.06.2021 tarihinde itibaren vergi daireleri tarafından alınmaktadır.	30.6.2021

Matrah ve Vergi Artırımı ile İşletme Kayıtlarının Düzeltilmesine İlişkin Beyanname/Bildirimler	Beyanname Kabul	Yapılandırma Dosyası Düzenleme ve Vergi Dairesince Tahsilat İşlemlerinin Yapılması
7326 Sayılı Kanun 4 üncü Madde – Pişmanlıkla veya Kanuni Süresinden Sonra Kendiliğinden Verilecek Beyannameler	30.6.2021	30.6.2021
7326 Sayılı Kanun 5 inci Madde – Matrah ve Vergi Artırımı	30.6.2021	30.6.2021
7326 Sayılı Kanun 6 ncı Madde – İşletme kayıtlarının düzeltilmesi	30.6.2021	30.6.2021
7326 Sayılı Kanun 11 inci Madde – Yeniden Değerleme (Taşınmaz) VUK Geçici 31 inci Madde	7.7.2021	7.7.2021

7326 Sayılı Yapılandırma Kanunu

Bazı Alacakların Yeniden Yapılandırılması ile Bazı Kanunlarda Değişiklik Yapılmasına İlişkin 7326 sayılı Kanun 9 Haziran 2021 tarihli ve 31506 sayılı Resmi Gazete’de yayımlanarak yürürlüğe girmiştir.

Söz konusu Kanun ile;

- Vergi dairesine ödenmemiş vergi ve diğer borçların tamamı ile bunlara bağlı gecikme zamları ve faizleri yerine Yİ-ÜFE (Yurt İçi Üretici Fiyat Endeksi) oranında güncelleme yapılarak hesaplanan borcun ödenmesi,
- Vergi aslına bağlı cezaların (vergi ziyayı) tamamen silinmesi,
- Vergi aslına bağlı olmayan usulsüzlük ve özel usulsüzlük cezalarının %50’sinin silinmesi,
- Ödenmemiş Motorlu Taşıtlar Vergisinin aslı ile bunlara bağlı faizler yerine Yİ-ÜFE oranında güncelleme yapılarak hesaplanan borcun ödenmesi,
- Trafik para cezaları ve diğer idari para cezalarının tamamı ile bunlara bağlı faiz, gecikme faizi ve gecikme zamları yerine Yİ-ÜFE oranında güncelleme yapılarak hesaplanan borcun ödenmesi,
- Öğrenim ve katkı kredisi alacaklarının tamamı ile bunlara bağlı gecikme zamları yerine Yİ-ÜFE oranında güncelleme yapılarak hesaplanan borcun ödenmesi,
- Dava konusu yapılan; vergi tarhiyatları, vergi cezaları ve idari para cezaları gibi ihtilaflarının sulh yoluyla sonlandırılması,
- Vergi incelemesi ve takdir işlemleri devam eden alacakların yapılandırılması,
- Matrah veya vergi artırımında bulunan ve şartları yerine getiren mükelleflere ilişkin olarak vergi incelemesi ve tarhiyatı yapılmaması,
- İşletmede mevcut olduğu hâlde kayıtlarda yer almayan ya da kayıtlarda yer aldığı hâlde işletmede bulunmayan emtia, makine, teçhizat, demirbaşlar ile kasa mevcudu ve ortaklardan alacakların beyan edilmesi ile işletme kayıtlarının gerçek duruma uygun hale getirilmesi,
- İhtirazi kayıtla verilen beyannameler üzerine tahakkuk etmiş olan vergilerin yapılandırılması,
- Yapılandırılan tutarların peşin veya ikişer aylık dönemlerde 36 aya kadar taksitler halinde ödenmesi,
- Peşin ödemelerde Yİ-ÜFE oranında hesaplanan tutardan ayrıca %90 indirim yapılması,
- Trafik para cezaları ve diğer idari para cezalarının peşin ödenmesi halinde asıllarında %25 indirim yapılması,
- Taksitli ödeme seçeneği tercih edilmesi halinde ilk taksitin süresinde ödenmesi şartıyla, ikinci taksit ödeme süresi içinde geri kalan taksitlerin tamamının ödenmesi halinde;

- Yİ-ÜFE oranında hesaplanan tutardan ayrıca %50 indirim yapılması,

- Trafik para cezaları ve diğer idari para cezaları asıllarında %12,5 indirim yapılması,

- Matrah veya vergi artırımını sonucunda tahakkuk eden vergilerin tamamının ilk taksit ödeme süresi içerisinde peşin olarak ödenmesi durumunda vergilerden %10 indirim yapılması,
- Yapılandırılan borçları anlaşmalı bankaların banka kartı ve kredi kartı ile ödenmesi,
- Uygulanan hacizlerin Kanun kapsamında yapılan ödemeler nispetinde kaldırılması,
- 7256 sayılı Kanunu ihlal etmiş olanlar ve devam eden borçların yeniden yapılandırılması,
- 6183 sayılı Kanun kapsamında tecili devam eden borçların yeniden yapılandırılması,

gibi çok önemli imkan ve kolaylıklar getirilmiştir.

Bu imkanlardan faydalanmak için **31 Ağustos 2021** tarihine kadar başvuru yapılması gerekmektedir.

Diğer taraftan, 7326 sayılı Kanununun 10 uncu maddesinin altıncı fıkrasına göre, Kanunun yayımlandığı 9/6/2021 tarihine kadar araç muayenesini yaptırmamış olanların, muayenenin yaptırılması gereken tarih ile Kanunun yayımlandığı tarih aralığına Yi-ÜFE aylık değişim oranları, Kanunun yayımından muayenenin yaptırıldığı tarih aralığına da aylık %0,75 oranı dikkate alınarak hesaplanacak tutar ile muayene ücretini ödemek suretiyle 31/12/2021 tarihine kadar (bu tarih dâhil) muayenelerini yaptırmaları halinde, muayenede gecikilen süreler için hesaplanması gereken aylık %5 fazlanın tahsilinden vazgeçilecektir.

Ayrıca, tam mükellefiyete tabi ve bilanço esasına göre defter tutan gelir ve kurumlar vergisi mükellefleri kanunun yürürlüğe girdiği tarih itibarıyla aktiflerine kayıtlı bulunan taşınmazlar ile amortismanına tabi diğer iktisadi kıymetlerini (sat-kirala-geri al işlemine veya kira sertifikası ihracına konu edilen taşınmaz ve iktisadi kıymetler hariç) **31/12/2021** tarihine kadar maddede yer alan kapsam, şart ve hükümlere uymak koşuluyla yeniden değerlendirme imkanı getirilmiştir.

Recent development

Law No. 7326 on Restructuring of Certain Receivables and Amendments to Certain Laws ("**Law No. 7326**"), which includes provisions regarding the restructuring of various public receivables including tax receivables, has come into effect by being published in the Official Gazette dated 9 June 2021.

What does the law introduce?

Tax amnesty law covers tax receivables related to the periods before 30 April 2021, the delay interest and tax penalties derived from these tax receivables, and other penalties not derived from a tax principal.

1. Finalized tax receivables

Please note the following regarding tax receivables not paid on time and tax receivables of which the payment period had not expired as of 9 June 2021 (inclusive), which is the publishing date of the Law No. 7326:

- If the entire unpaid part of the tax principals and the amount to be calculated, instead of delay interest, based on the monthly Domestic Producer Price Index ("**D-PPI**") rates applied until 9

June 2021 is paid within the periods and procedures stipulated in the Law No. 7326, the entire tax penalty and delay interests will be written off.

- If 50% of the tax penalties, which are not derived from a tax principal or that arose from participation, and the amount to be calculated, instead of delay interest, based on monthly D-PPI rates applied until 9 June 2021 is paid within the periods and procedures stipulated in the Law No. 7326, remaining 50% of the penalty and the entire delay interests will be written off.

2. Tax receivables that are not finalized or are in litigation

a) Tax assessments in litigation before first degree courts or whose deadline for filing a lawsuit had not expired as of 9 June 2021

If 50% of the tax principal and the amount to be calculated, instead of delay interest, over 50% of the tax principal based on monthly D-PPI rates applied until 9 June 2021 is paid within the periods and the procedures stipulated in the Law No. 7326, remaining 50% of the tax principal and entire tax penalty (including the delay interest and other penalties derived from a tax principal as well as the delay interest pertaining to these penalties) will be written off.

Taxes under reconciliation, taxes where the reconciliation date is not determined or taxes where reconciliation could not be reached and the deadline for filing a lawsuit has not expired fall within the above scope.

b) Tax assessments whose deadline for filing an appeal or objection did not expire, those that are in appeal or in correction of decision, or those whose deadline for the correction mechanism did not expire

In these situations, the amounts written off depend on the last court decision rendered before 9 June 2021 as to the cancellation, approval or reversal. In this regard:

- In case the last decision cancels the tax assessments, if 10% of the tax principal and the amount to be calculated, instead of delay interest, over 10% of the tax principal based on monthly D-PPI rates applied until 9 June 2021 is paid within the periods and procedures stipulated in the Law No. 7326, remaining 90% of the tax principal and entire tax penalties (as well as remaining 90% of the penalties that are not derived from a tax principal if the remaining 10% thereof is paid) will be written off.
- In case the last decision approves the tax assessments or approves them with amendment, if entire approved tax principal, 10% of the reversed tax principal and the amount to be calculated, instead of delay interest, based on monthly D-PPI rates applied until 9 June 2021 is paid within the periods and procedures stipulated in the Law No. 7326, remaining 90% of the tax principal and entire tax penalties (as well as remaining part of the penalties that are not derived from a tax principal if 50% thereof is paid) will be written off.
- In case the last decision reverses the decision, if 50% of the tax principal and the amount to be calculated, instead of delay interest, over 50% of the tax principal based on monthly D-PPI rates applied until 9 June 2021 is paid within the periods and procedures stipulated in the Law No. 7326, remaining 50% of the tax principal and entire tax penalties (as well as remaining 75% of the penalties that are not derived from a tax principal if 25% thereof is paid) will be written off.

- In case the last decision is on a partial approval and partial reversal:
 - For the approved part, if entire approved tax principal, 10% of the reversed tax principal and the amount to be calculated, instead of delay interest, based on monthly D-PPI rates applied until 9 June 2021 is paid within the periods and procedures stipulated in the Law No. 7326, remaining 90% of the tax principal and entire tax penalties (as well as 50% of the penalties that are not derived from a tax principal if the remaining part thereof is paid) will be written off.
 - For the reversed part, if 50% of the tax principal and the amount to be calculated, instead of delay interest, over 50% of the tax principal based on monthly D-PPI rates applied until 9 June 2021 is paid within the periods and procedures stipulated in the Law No. 7326, remaining 50% of the tax principal and the entire tax penalties (as well as 75% of the penalties that are not derived from a tax principal if the 25% thereof is paid) will be written off.

3. Taxes under tax audit or assessment

Tax audits and assessments initiated but not completed by 9 June 2021 will continue to be carried out without prejudice to the provisions of the Law No. 7326 regarding tax base increases.

If 50% of the tax principal, assessed as a result of a tax audit initiated before 9 June 2021 and concluded until that date, and the amount to be calculated, instead of delay interest, over 50% of the tax principal based on monthly D-PPI rates applied until 9 June 2021 is paid within the periods and procedures stipulated in the Law No. 7326, remaining 50% of the tax principal and entire tax penalties (as well as 75% of the penalties that are not derived from a tax principal if the 25% thereof is paid) will be written off.

4. Tax base increase mechanism

The Law No. 7326 also introduces a tax base increase mechanism for income/corporate income tax, VAT and certain withholding taxes.

Tax base increases made based on the below explanations would not prevent tax audits or valuation procedures that are initiated before 9 June 2021. However, if the tax audits and the valuation procedures initiated for the taxpayers, who increased their tax base, are not completed until 2 August 2021 (inclusive), these proceedings will not continue. The audit and the valuation procedures occur when the audit reports and valuation commission decisions are reverted to the tax offices' records.

a) Corporate income tax base increase

If taxpayers increase their corporate income tax base by no less than: (i) 35% for 2016; (ii) 30% for 2017; (iii) 25% for 2018; (iv) 20% for 2019; and (v) 15% for 2020 as of 31 August 2021, no corporate income tax audit will be conducted and no other assessment will be made regarding the corporate income tax for those taxpayers.

The increased tax base will be subject to a corporate income tax rate of 20%. This rate is reduced to 15% if the taxpayers: (i) filed their corporate income tax return in due time for the fiscal year of which they want to increase the corporate income tax base; (ii) duly paid the taxes accrued; and (iii) do not benefit,

for these taxes, from the provisions provided for tax receivables at the litigation stage or finalized tax receivables provided in the Law No. 7326.

If the taxpayers declared in their corporate income tax returns of the years they wish to increase the tax base that they are operating at a loss or no tax base is incurred due to reductions and exemptions, or if they did not file any corporate income tax return at all, the tax bases to be considered for the taxation and the increased tax bases cannot be less than: (i) TRY 94,000 for 2016; (ii) TRY 99,600 for 2017; (iii) TRY 105,800 for 2018; (iv) TRY 112,400 for 2019; and (v) TRY 127,500 for 2020.

b) VAT increase

If taxpayers declare the VAT, which is determined by no less than: (i) 3% for 2016; (ii) 3% for 2017; (iii) 2.5% for 2018; (iv) 2% for 2019; and (v) 2% for 2020 over the sum of the calculated VAT amounts in the tax returns that the taxpayers filed for each of the taxation periods, as a tax increase until 31 August 2021, no VAT audit or VAT assessment will be conducted for those taxation periods.

5. Business records correction

The Law No. 7326 allows taxpayers to correct their business records without triggering any tax assessment, tax penalty or delay interests.

a) Commodity, machinery, equipment and fixed assets not recorded in the company's books but physically held in the enterprise

Income and corporate income taxpayers may declare these assets to their tax office through an inventory list that details the assets and their fair market values, determined by themselves or the professional organizations they are associated with, by 31 August 2021. The assets included in the declaration will not be subject to depreciation.

The VAT to be calculated based on half of the price of commodity, machinery, equipment and fixed assets should be declared with a separate return within the reverse charge mechanism and paid in due time.

b) Recorded assets that are not physically present in the enterprise

Income and corporate income taxpayers may correct their business records for their recorded assets that are not physically present in the enterprise by (i) issuing an invoice including the gross profit rate determined according to the current year's figures for the same type of commodity and (ii) fulfilling the related tax liabilities until 31 August 2021.

c) Recorded cash balance and receivables from shareholders that are not present in the enterprise

Corporate income taxpayers may correct their business records regarding the cash balance and receivables from shareholders recorded in their balance sheet as of 31 December 2020, which are not present in the enterprise, by declaring them to their registered tax office until 31 August 2021. 3% withholding tax will be calculated over the declared amounts and paid within the period for filing the tax return.

6. Payment methods

To benefit from the restructuring opportunity, taxpayers should apply to their tax office by 31 August 2021. Taxpayers may pay the amounts calculated under the Law No. 7326 either in cash at once or in installments.

If taxpayers prefer to pay in installments, they should make the payment in maximum of 18 equal installments on a bi-monthly basis as of September 2021. In that case, taxpayers should choose the installment options among 6, 9, 12 or 18 equal installments during the application. The amount to be paid will be multiplied by: (i) 1.09 for the 6 equal installments option; (ii) 1.135 for the 9 equal installments option; (iii) 1.18 for the 12 equal installments option; and (iv) 1.27 for the 18 equal installments option.

If entire calculated amount is paid in cash at once within due time for the first installment, above ratios will not be applied and 90% of the amount calculated, instead of delay interest, based on monthly D-PPI rates applied until 9 June 2021 will be written off.

Conclusion

The restructuring opportunity introduced by the Law No. 7326 aims to provide relief to taxpayers facing financially hard times due to the COVID-19 pandemic and an additional income for the Treasury. We recommend that taxpayers falling within the scope of the law take action by considering their current positions.

Ref: [Hub - Baker McKenzie \(lexology.com\)](https://www.lexology.com)